

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

JAMES ALLEN JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000600

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,

PLAINTIFF,

-VS-

JAMES JOHNSON,

DEFENDANT.

2011-GS-23-07262

JUNE 3, 2013

TRANSCRIPT OF RECORD

BEFORE:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

APPEARANCES:

KRIS HODGE, ESQUIRE
ATTORNEY FOR THE STATE

DOROTHY MANIGAULT, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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JURY VOIR DIRE

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

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107	Lynn, Casey J	W	M				x

June 3, 2013

1

2

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

3

4

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

5

6

7

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

8

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

9

THE COURT: The State's ready?

10

MS. HODGE: Yes, sir.

11

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

12

13

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

14

15

16

17

18

19

20

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

21

22

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

23

24

25

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

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

4 THE COURT: Two alternates?

5 MS. MANIGAULT: I agree, Your Honor.

6 THE COURT: Strikes, ten and five?

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

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

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

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

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

22 MS. HODGE: Azzara, I believe, Azzara.

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

25 MS. HODGE: Yes, Captain Vandermosten.

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

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

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

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

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

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

23 THE COURT: Yeah. Breach of trust, also.

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

1 strikes, enhanced drug charges, property offenses.

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

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

6 MS. MANIGAULT: Okay.

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

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

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

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

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

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Jury Voir Dire

13

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

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

15 (No response.)

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

19 (No response.)

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

24 (No response.)

25 THE COURT: Thank you, there is no response.

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

21 (No response.)

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

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

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

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

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

10 THE JUROR: Thomas Livsey.

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

16 THE JUROR: No, sir.

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

19 THE JUROR: Yes, sir.

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

22 THE JUROR: Yes, sir.

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

25 Is there any member of the jury panel expressed or

1 formed an opinion in any way about the facts in this case?

2 If so, would you please stand?

3 (No response.)

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

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

10 THE JUROR: No, I do not believe so.

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

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

19 Yes, sir, your name, please?

20 THE JUROR: Michael Rostin.

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

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

25 THE COURT: Retired?

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Jury Voir Dire

17

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

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

5 Yes, ma'am, your name, please.

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

8 THE COURT: In Greenville County?

9 THE JUROR: Yes, sir.

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

13 THE JUROR: Doris Adams, Doris Mobley.

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

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

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

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

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

14 (No response.)

15 THE COURT: Thank you, there is no response.

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

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

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19

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

4 THE JUROR: Doris Adams. Doris Mobley.

5 THE COURT: Okay.

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

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

10 THE JUROR: I don't think so.

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

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

14 THE COURT: Do you have any hesitancy at all?
15 When you say I don't think, do you know or do you believe
16 ---

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

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

21 THE JUROR: Uh-huh (affirmative).

22 THE COURT: Thank you very much.

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

25 THE JUROR: 2.

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

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

5 THE JUROR: No, I don't.

6 THE COURT: And why is that?

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

12 THE COURT: You're Mr. ---

13 THE JUROR: Lashford, 96.

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

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

18 THE COURT: Against what?

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

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

25 THE JUROR: No.

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Jury Voir Dire

21

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

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

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

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

14 THE COURT: That's your reason?

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

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

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

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

25 THE JUROR: All right.

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

4 THE JUROR: (Stands).

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

7 THE JUROR: Hicks, Sonia Hicks.

8 THE COURT: All right. Thank you very much.
9 At this time, I'm going to ask the attorneys, if you
10 would, please stand and introduce yourself to the jury.

11 Ms. Hodge.

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

16 THE COURT: Ms. Manigault.

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

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

24 (No response.)

25 THE COURT: Is there a member of the jury panel

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23

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

4 (No response.)

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

9 (No response.)

10 THE COURT: Thank you, there is no response.

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

25 (No response.)

1 THE COURT: Thank you, there's no response.

2 Any other questions, from the State?

3 MS. HODGE: Nothing from the State, Your Honor.

4 THE COURT: From the Defense?

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

7 THE COURT: All right. Let's empanel a jury.
8 Strikes will be five for the State and ten for the
9 Defendant.

10 THE CLERK: When I call out your number and your
11 name, could you please stand up, bring your things with
12 you, turn around and face out towards the audience.

13 Juror number 184, Amanda Wilson. What says the State?

14 MS. HODGE: Please present the juror.

15 THE CLERK: What says the Defense?

16 MS. MANIGAULT: Please swear Ms. Wilson.

17 THE CLERK: I'm sorry?

18 MS. MANIGAULT: Please seat Ms. Wilson.

19 THE CLERK: Ms. Wilson, take your things and go
20 have a seat in the jury box, please.

21 Juror number 164, Zakary Theus. What says the State?

22 MS. HODGE: Please present the juror.

23 THE COURT: What says the Defense?

24 MS. MANIGAULT: Please seat the juror.

25 THE COURT: If you'd please have a seat in the

1 jury box. Thank you.

2 Juror 191, Benjamin Ford. What says the State?

3 MS. HODGE: Please present the juror.

4 THE CLERK: What says the Defendant?

5 MS. MANIGAULT: Please seat the juror.

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

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

8 MS. HODGE: Please present the juror.

9 THE CLERK: What says the Defense?

10 MS. MANIGAULT: Please seat the juror.

11 THE CLERK: Juror number 138, Angela Prince.

12 What says the State?

13 MS. HODGE: Please present the juror.

14 THE CLERK: What says the Defendant?

15 MS. MANIGAULT: Please seat the juror.

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

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

18 MS. HODGE: Please present the juror.

19 THE CLERK: What says the Defendant?

20 MS. MANIGAULT: Please excuse the juror.

21 THE CLERK: You're excused.

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

23 MS. HODGE: Please present the juror.

24 THE CLERK: What says the Defendant?

25 MS. MANIGAULT: Please excuse the juror from this

1 case.

2 THE CLERK: You're excused.

3 Juror number 49, Christopher Ellisor.

4 MS. MANIGAULT: Number 109?

5 THE CLERK: 49.

6 MS. MANIGAULT: 49.

7 THE CLERK: What says the State?

8 MS. HODGE: Please present the juror.

9 THE CLERK: What says the Defendant?

10 MS. MANIGAULT: Please excuse the juror from this

11 case.

12 THE CLERK: Thank you.

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

14 MS. HODGE: Please excuse this juror.

15 THE CLERK: You may have a seat.

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

17 MS. HODGE: Please present the juror.

18 THE CLERK: What says the Defendant?

19 MS. MANIGAULT: Please excuse the juror from this

20 case.

21 THE CLERK: You may have a seat.

22 Juror number 82, Melissa Hunnicutt. What says the

23 State?

24 MS. HODGE: Please present the juror.

25 THE CLERK: What says the Defendant?

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

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

5 MS. HODGE: Please present the juror.

6 THE CLERK: What says the Defendant?

7 MS. MANIGAULT: Please swear the juror.

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

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

10 MS. HODGE: Please present the juror.

11 THE CLERK: What says the Defendant?

12 MS. MANIGAULT: Please excuse the juror.

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

15 MS. HODGE: Please present the juror.

16 THE CLERK: What says the Defendant?

17 MS. MANIGAULT: Please excuse the juror.

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

20 MS. HODGE: Please present the juror.

21 THE CLERK: What says the Defendant?

22 MS. MANIGAULT: Please seat the juror.

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

24 Juror number 175, Denise Vaughan. What says the

25 State?

1 MS. HODGE: Please present the juror.
2 THE CLERK: What says the Defendant?
3 MS. MANIGAULT: Please seat the juror.
4 THE CLERK: You may have a seat in the jury box.
5 Juror number 158, Phillip Solesbee. What says the
6 State?
7 MS. HODGE: Please present the juror.
8 THE CLERK: What says the Defendant?
9 MS. MANIGAULT: Please seat the juror.
10 THE CLERK: You may have a seat in the jury box.
11 Juror number 7, Monica Anderson. What says the State?
12 MS. HODGE: Please present the juror.
13 THE CLERK: What says the Defendant?
14 MS. MANIGAULT: Please excuse the juror.
15 THE CLERK: You may have a seat.
16 Juror number 165, Anton Thomas. What says the State?
17 MS. HODGE: Please present the juror.
18 THE CLERK: What says the Defendant?
19 MS. MANIGAULT: Please seat the juror.
20 THE CLERK: You may have a seat in the jury box.
21 Juror number 92, Audrey Jordan. What says the State?
22 MS. HODGE: Please present the juror.
23 THE CLERK: What says the Defendant?
24 MS. MANIGAULT: Please excuse the juror.
25 THE CLERK: Juror number 2, Doris Adams. What

1 says the State?

2 MS. HODGE: Please present the juror.

3 THE CLERK: What says the Defendant?

4 MS. MANIGAULT: Please excuse Ms. Adams.

5 THE CLERK: Juror number 123, Kellon Navarre.

6 What says the State?

7 MS. HODGE: Please excuse this juror.

8 THE CLERK: Juror 169, Patrick Tillman. What

9 says the State?

10 MS. HODGE: Please present the juror.

11 THE CLERK: What says the Defendant?

12 MS. MANIGAULT: Please seat the juror.

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

14 Juror number 86, Angela Izaguirre. What says the

15 State?

16 MS. HODGE: Please present the juror.

17 THE CLERK: What says the Defendant?

18 MS. MANIGAULT: Please swear the juror.

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

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

21 two alternates.

22 THE CLERK: Juror number 117, Stephanie Milner.

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

24 again?

25 THE CLERK: 117. What says the State?

1 MS. HODGE: Please present the juror.
2 THE CLERK: What says the Defendant?
3 MS. MANIGAULT: Please seat the juror.
4 THE CLERK: Juror number 28, Evan Bryson. What
5 says the State?
6 MS. HODGE: Please excuse this juror.
7 THE CLERK: You may have a seat.
8 Juror number 107, Casey Lynn. What says the State?
9 MS. HODGE: Please present the juror.
10 THE CLERK: What says the Defendant?
11 MS. MANIGAULT: Please seat the juror.
12 THE CLERK: You may have a seat.
13 THE COURT: Are there any matters we need to take
14 care of from either side as far as selection of the jury in
15 this case? From the State?
16 MS. HODGE: Not from the State, Your Honor.
17 THE COURT: From the Defense?
18 MS. MANIGAULT: Nothing from the Defense, Your
19 Honor.
20 THE COURT: Ladies and gentlemen, I'll let you go
21 back down to the jury assembly room. There'll be further
22 instructions for you there as to when you need to call back
23 or either check back in. Thank you very much for your
24 patience with us today. You're excused at this time.
25 If you'll just wait a minute, I'll talk to you.

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

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

1 sitting in a jury box.

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

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

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

3 Trials take place in stages. The lawyers normally
4 start out by making an opening statement to you, give you
5 an overview of what they would expect you to be alerted to
6 during the trial. After that, there'll be the exchange of
7 evidence, testimony and examination and cross-examination,
8 then the lawyers will have a chance to address you in a
9 closing statement, then I'll instruct you on the law.

10 Until that happens, you shouldn't be discussing the case
11 with each other or with anyone else. We're going to take a
12 lunch break soon and you may decide to have lunch with one
13 of your fellow jurors, to get to know the juror. You may
14 have a business associate, family member, run home to get a
15 bite to eat. You're obviously going to have curious loved
16 ones, hey, did you get picked? What's the case about.
17 Wanting to have all that information. You certainly can
18 tell your family and friends that you've been selected for
19 a jury. But it would be improper for you to talk about
20 what you've heard or what the case is about or what I
21 called out on the case. You can certainly tell them it's a
22 case involving the allegation of a homicide by child abuse,
23 but you shouldn't get into any details of what the case is.
24 People often want to give you advice or give you
25 information or, let me tell you what I know about that.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 MS. HODGE: No, Your Honor.

11 THE COURT: All right. Your motion is noted.

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

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

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. That motion is denied.

21 MS. MANIGAULT: Thank you, Your Honor.

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

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

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

9 MS. MANIGAULT: That was on the 30th.

10 THE COURT: 30th, okay.

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

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

22 MS. HODGE: No, sir.

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

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

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

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

9 MS. HODGE: No, sir.

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

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

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

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

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

3 MS. HODGE: Yes.

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

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

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

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

13 MS. HODGE: Yes, sir.

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

17 MS. HODGE: Yes, Your Honor.

18 MS. MANIGAULT: Yes, Your Honor.

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

21 MS. MANIGAULT: Yes, sir.

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

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

1 there is a competency finding.

2 THE COURT: A report, right?

3 MS. HODGE: Yes, sir.

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

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

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

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

12 THE WITNESS: I so affirm.

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

15 THE WITNESS: I'm Richard Lesesne Frierson.

16 DR. RICHARD FRIERSON,

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MS. MANIGAULT:

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

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

1 ordered.

2 Q. All right. And have you conducted criminal
3 evaluations before -- ever, before seeing James Allen
4 Johnson?

5 A. Yes.

6 Q. And how many competency evaluations have you
7 conducted?

8 A. I would be estimating; fifteen hundred.

9 Q. And how long you been doing this?

10 A. Since 1993.

11 Q. All right. And you have testified in Court before?

12 A. Yes.

13 Q. And you've been qualified to do evaluations?

14 A. Yes.

15 Q. Did you conduct an evaluation on James Allen Johnson
16 on September 11, 2012?

17 A. Yes.

18 Q. And what was your finding for Mr. Johnson during that
19 evaluation?

20 A. Finding concerning?

21 Q. Concerning his condition to stand trial?

22 A. Okay. Yes, he was evaluated on September 11th with
23 someone from the Department of Disabilities and Special
24 Needs and we opined that Mr. Johnson is currently competent
25 to stand trial.

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1 Q. And did you have an opportunity to review any of his
2 previous mental health counseling or records?

3 A. I did. We looked at his prior contacts with the
4 Greenville Mental Health Center, as well as some records
5 from the detention center where he is on medications for
6 depression. And we looked at school records.

7 Q. And at the time of your evaluation, was he on
8 medication at that time?

9 A. Yes.

10 Q. And what kind of medication was he on?

11 A. He was taking two medicines to treat a condition
12 called major depression, Celexa or Citalopram; it's an
13 antidepressant medication. And also another medication
14 called Trazodone, which is also an antidepressant
15 medication that's usually used to help people sleep.

16 Q. Okay. How was his response to you in evaluating him
17 or your questioning him? Was he cooperative, was he vague,
18 was he un-attentive?

19 A. He was very cooperative. Every occasion that I've
20 seen him, he appeared to try to give the best effort to
21 assist with the evaluation.

22 Q. In your evaluation, did he appear to understand the
23 questions you were asking him?

24 A. Yes.

25 Q. And to you, was he giving appropriate answers for

1 those kinds of questions?

2 A. Yes.

3 Q. Did he give you any information on his background or
4 history, family history?

5 A. Yes. But we also had spoken with his mother who
6 provided a social history about his childhood, those sorts
7 of things. But that was augmented with his self-report.

8 Q. And I think somewhere it's noted in the report that he
9 may be borderline mental retardation?

10 A. Actually, I believe he has intellectual disability or
11 mental retardation; not borderline, I think. All of his
12 prior measured IQs from his school years are below seventy,
13 which is a requirement for mental retardation. He has had
14 concurrent deficits in his adaptive functioning; his
15 ability to function like a normal person would. And has
16 been receiving disability for this since childhood. So his
17 ability to hold competitive employment and those sorts of
18 things, it's impaired by his intellectual functioning.

19 Q. And his intellectual impairment, would that hamper him
20 from knowing right from wrong?

21 A. Not in and of itself, no.

22 Q. So would there be anything that you discovered in his
23 social history, family history, combined with an
24 intellectual impairment, hamper him from understanding
25 right from wrong?

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

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

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

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

23 A. I saw him briefly today.

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

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

6 Q. All right. Thank you.

7 **CROSS-EXAMINATION**

8 **BY MS. HODGE:**

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

13 A. And profound.

14 Q. --- and profound?

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

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

23 A. Yes.

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

1 fluid?

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

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

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

23 Q. Right.

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

1 in managing his money. That's something he cannot do.

2 Q. Okay. And you did not administer any IQ tests during
3 this evaluation? You were basing your findings on previous
4 IQ tests?

5 A. Yes. He's had numerous IQ tests done as a childhood
6 -- during his childhood. And I relied on those.

7 Q. Did you know how far he went in school and if he did
8 -- and you mentioned working. Did he tell you that he'd
9 worked anywhere or done anything like that?

10 A. Yes. If you'll bear with me. He attempted to work
11 cleaning trailers at a welding shop. And that's where he
12 was fired because he was told his work was too slow. He
13 left school, according to him, in the eleventh grade.
14 However, the last IEP we were provided from the Greenville
15 County School District was from 1998. He would have been
16 fourteen around that time. And I don't believe it was
17 eleventh grade. It doesn't really -- these records are
18 very confusing and I spent a lot of time looking at them,
19 but this was from a middle school.

20 Q. And that's what you were provided. So do you know or
21 do you have reason to believe there's nothing else out
22 there or you're just not ---

23 A. I have reason to believe there's nothing else out
24 there.

25 Q. Okay.

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

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

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

10 Q. Prior?

11 A. Arrests.

12 Q. Okay.

13 A. For assault and battery in 2010; for petit larceny in
14 2007; for public disorderly conduct and possession of drug
15 paraphernalia in 2005.

16 Q. So prior involvement in the judicial system?

17 A. Yes.

18 Q. Thank you.

19 MS. HODGE: That's all I have.

20 THE COURT: Any redirect?

21 MS. MANIGAULT: None, Your Honor.

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

24 Does either side believe they might need him later?

25 Is he under subpoena to be here for the trial?

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

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

5 MS. MANIGAULT: No, sir.

6 THE COURT: Thank you. You may be excused.

7 All right. Anything else on this issue?

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

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

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

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

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

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

24 THE WITNESS: I swear.

25 THE CLERK: Have a seat. Please state your name

1 for the record.

2 THE WITNESS: My name is Carl Mathias.

3 CARL MATHIAS,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MS. HODGE:

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

9 A. Yes, ma'am.

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

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

13 Q. And did you hear over the radio a call, an emergency
14 call, a 9-1-1 call for a pediatric child choking on May
15 25th, 2011?

16 A. Yes, ma'am.

17 Q. And did you respond to that call?

18 A. Yes, ma'am.

19 Q. And what capacity were you responding?

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

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

25 A. No, ma'am.

1 Q. It's just you were close, and they ---

2 A. I was walking down the hall going out to my patrol
3 car, heard the call over the radio. Since it was so close,
4 and I didn't know if EMS was there, I felt it was my
5 responsibility to make sure that that child was okay.

6 Q. And when you -- did you arrive at the residence
7 shortly thereafter?

8 A. Yes, ma'am.

9 Q. And what did you do on arrival?

10 A. When I arrived I saw the EMT fastly walking down the
11 driveway with the child in his hand. And the child
12 appeared to be lifeless. And I met -- there were several
13 people out in the yard at the time and I met the mother of
14 the child. And the mother basically said that, you know,
15 she wanted to go to the hospital. I said, well, let's go
16 back inside because there's going to be a uniform patrol
17 deputy that's going to be on scene and he's going to be
18 leading this investigation. So we went inside. And this
19 young -- this gentleman was in the living room at the time.
20 And I asked the mother what happened? And she said, well,
21 my daughter was drinking tea and she choked and she
22 couldn't breathe. I didn't ask this gentleman any
23 questions. He just said, I don't know what happened. I
24 was in the bathroom. And I don't remember if he said he
25 was shaving or using the bathroom. And I said, well, where

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

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

7 A. No, ma'am.

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

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

13 Q. So he spoke to you freely, voluntarily?

14 A. Yes, ma'am.

15 Q. You were dressed in uniform?

16 A. Yes, ma'am.

17 Q. Knowing you were a police officer?

18 A. Yes, ma'am.

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

21 A. No, not that I recall.

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

24 A. No, ma'am.

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

1 as to this witness.

2 **CROSS-EXAMINATION**

3 **BY MS. MANIGAULT:**

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

6 A. No, ma'am.

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

9 A. That's right.

10 Q. And that's it?

11 A. That's right.

12 MS. MANIGAULT: No further questions?

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

14 THE COURT: You may step down.

15 MS. HODGE: The State would call investigator
16 Autrey.

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

20 THE WITNESS: I swear.

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

23 THE WITNESS: Jennings Autrey.

24 **JENNINGS AUTREY,**

25 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

DIRECT EXAMINATION

1

2 BY MS. HODGE:

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

6 A. I was.

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

9 A. I did.

10 Q. And what were you responding there for?

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

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

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

1 the victim's mother.

2 Q. And at this point, were you there to arrest either the
3 mother or the Defendant or anyone involved in this case?

4 A. No, ma'am.

5 Q. And when you -- did you ask to speak to the Defendant
6 during this time?

7 A. I did. I was there to obtain their personal
8 information. Then I spoke with him and asked him to tell
9 me what happened.

10 Q. At that time was he free to tell you he didn't want to
11 talk?

12 A. Absolutely, yes, ma'am.

13 Q. Were you -- did you identify yourself as a law
14 enforcement officer?

15 A. I did and I was wearing a gun and badge, as well.

16 Q. And did he agree to speak to you freely and
17 voluntarily?

18 A. He did.

19 Q. And what did he tell you at that point?

20 A. He said that he was using the restroom, he was in the
21 bathroom and he heard the victim's mother call for help and
22 told him to call 9-1-1. So he said he jumped up and ran to
23 the living room area and he called 9-1-1.

24 Q. Did he state that he didn't know anything else or see
25 anything else, something to that effect?

- 1 A. Correct. Correct. He said that he did not see
2 anything except for the victim lying on the floor and then
3 the mother doing CPR.
- 4 Q. So he denied any knowledge of how the child came to be
5 in the hospital?
- 6 A. Correct. Yes, ma'am.
- 7 Q. At that time, did you then make any arrest of them or
8 take custody of them?
- 9 A. I did not.
- 10 Q. Did you write that statement, have him write that
11 statement or did you write it?
- 12 A. I did not. It was completely verbal.
- 13 Q. And did you put it in a report?
- 14 A. I did. Yes, I did. It was in a supplemental.
- 15 Q. Thank you. As to the first statement that you talked
16 to the Defendant verbally at the hospital. Did you also
17 then -- were you also involved in a written statement taken
18 from the Defendant on June the 2nd, 2011?
- 19 A. I was.
- 20 Q. And tell me, was he in custody at that time?
- 21 A. When we first initially spoke with him, no, ma'am, he
22 was not. And then once we continued that at some point he
23 was.
- 24 Q. All right. So he had not been arrested?
- 25 A. He had not.

1 Q. He was not in custody, initially?

2 A. Had not.

3 Q. And where was this statement taken from?

4 A. It took place at the LEC, Law Enforcement Center, in
5 the CID Division, homicide office.

6 Q. And do you know how the Defendant got to the CID?

7 A. I believe he was driven there by two other deputies
8 from the sheriff's office.

9 Q. And were you present when he arrived?

10 A. I don't believe so. I believe they already had him
11 there; we responded, he was already there.

12 Q. And who was with you?

13 A. Investigator Miller. I'm sorry.

14 Q. That's all right. And once you and Investigator
15 Miller located him at the LEC, who did most of the talking?

16 A. Investigator Miller.

17 Q. Okay. So you're just there as a witness?

18 A. I was there as a witness, yes, ma'am.

19 Q. Okay. And while you were witnessing this interview at
20 the beginning, the Defendant was not in custody?

21 A. He was not.

22 Q. He was not handcuffed?

23 A. He was not.

24 Q. Was he free to say, I want to go. I don't want to
25 talk to y'all?

1 A. Yes, ma'am.

2 Q. Was there an arrest warrant in hand at this point?

3 A. No, ma'am.

4 Q. And was he advised of his *Miranda* rights at this
5 point?

6 A. At that point, no, ma'am.

7 Q. And what did he say -- well, let me back up one
8 question. Did he speak freely and voluntarily ---

9 A. He did.

10 Q. --- with Investigator Miller?

11 A. He did, yes, ma'am.

12 Q. All right. And what did he tell Investigator Miller
13 at this point?

14 A. Again, he started out about how he -- in the bathroom.
15 Again, the victim's mother yelled at him that **Victim**, the
16 victim, was not breathing and that he needed to call 9-1-1.
17 He went on to say he had never seen the mother be mean to
18 the victim or her sibling. When the topic of the victim's
19 biological father came up, he hinted that he did not like
20 him because he didn't want to be involved with the victim's
21 life. And then as it went on, we talked to Ann. And he
22 said that Ann had questions about calling 9-1-1 because
23 there was possibly some illegal substances in the residence
24 and she was scared that the kids -- the children would be
25 taken away.

1 Q. There was what in the residence?

2 A. There may have possibly been marijuana. I said
3 illegal substance. But marijuana.

4 Q. Oh, illegal substance, marijuana?

5 A. Yeah.

6 Q. Okay.

7 A. She was afraid the kids would be taken away. And then
8 he said that he called 9-1-1 and the victim's mother was
9 just sitting there crying. And that's ...

10 Q. All right. And how was his demeanor while he was
11 relaying this information?

12 A. At that time he was calm. Again, just talking at that
13 time.

14 Q. All right. And was somebody writing this down? Were
15 you taking notes?

16 A. At that time, no, when that happened.

17 Q. Okay. What happened to make things change? Did
18 something happen?

19 A. Well, once he started talking, he continued talking
20 about how he wanted the child to have help, he wanted to
21 have help, wanted peace. Then went back to the incident
22 location again, as far as the incident that had happened.
23 And he said that he never hurt [Victim], the victim, that he
24 knows of. He swore he never beat the girls, [Victim] and
25 her sibling. He said he was not being truthful about

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

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

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

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

19 A. I was.

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

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

25 A. It is.

1 Q. And are you listed on this form as a witness?

2 A. I am.

3 Q. All right. Can you please tell the Court what rights
4 the Defendant was advised of at this time?

5 A. His *Miranda* rights, do you want me to read them now?

6 Q. Yes, please. Tell me what you told him.

7 A. It says, before we ask you any questions, you must
8 understand your rights. You have the right to remain
9 silent. Anything you say can be used against you in Court.
10 You have the right to talk to a lawyer for advice before we
11 ask you any questions and to have him with you during
12 questioning. If you have no money to pay a lawyer's fee,
13 the court will appoint one to represent you without cost if
14 you wish. If you decide to answer questions now without a
15 lawyer present, you will still have the right to stop
16 answering at any time. You also have the right to stop
17 answering any time until you talk to a lawyer. The next
18 section is the Waiver of Rights. It says, I've read the
19 statement of my rights and I understand what my rights are.
20 I am willing to make a statement and answer questions. I
21 do not want a lawyer at this time. I understand, though,
22 what I am doing. No promises or threats have been made to
23 me and no pressure or coercion of any kind has been used
24 against me. And coercion is circled because Investigator
25 Miller explained it to him. And it was circled so -- and

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

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

5 A. He did.

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

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

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

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

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

18 A. No, ma'am.

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

21 A. Yes, ma'am.

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

24 A. He did.

25 Q. Did he do this freely and voluntarily?

1 A. Yes, ma'am.

2 Q. Did anybody threaten him, force him, pressure him in
3 anyway to waive his rights?

4 A. No, ma'am.

5 Q. Was anything promised to him to get him to waive his
6 rights?

7 A. No, ma'am.

8 Q. Any mention of working out a bond or plea offer or
9 anything like that?

10 A. No, ma'am.

11 Q. Anything like, give you something to eat, something to
12 drink, cigarettes, anything like that?

13 A. No, ma'am.

14 Q. All right. Was anything withheld from him, such as a
15 bathroom break, or food or water, anything like that?

16 A. No, ma'am.

17 Q. In your opinion, did he freely, voluntarily,
18 knowingly, intelligently waive his rights?

19 A. Yes, ma'am.

20 Q. And did he then freely and voluntarily continue to
21 speak to Investigator Miller?

22 A. He did.

23 Q. And at that point what was his -- has his emotional
24 state charged?

25 A. It did a little bit. He was a little more emotional.

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

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

4 A. I'll read his statement.

5 Q. Okay.

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

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

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

23 A. Uh-huh (affirmative).

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

25 A. I did.

1 Q. And did someone read the statement to him or was he
2 given the statement to read to himself.

3 A. It was read aloud and then he had a copy to follow
4 along.

5 Q. All right. And did he initial after -- or at the
6 beginning and the end of each paragraph?

7 A. He did.

8 Q. So there are at least one seventeen or eighteen of his
9 initials on this page?

10 A. Yes.

11 Q. All right. And then did he sign this statement at the
12 bottom as well?

13 A. He did.

14 Q. Was he given the opportunity to make any corrections
15 or changes?

16 A. Yes.

17 Q. Did he choose to do that?

18 A. No.

19 Q. Now, did he ever tell you or Investigator Miller that
20 he couldn't read?

21 A. No, ma'am.

22 Q. Did you talk about anything about his educational
23 background or anything like that?

24 A. At the beginning of the statement it says, I have a
25 twelfth grade education and I can read and write. And that

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

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

8 A. No, ma'am.

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

12 A. No, ma'am.

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

15 A. No, ma'am.

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

18 A. Yes, ma'am.

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

21 A. Yes, ma'am.

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

23 A. No, ma'am.

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

1 A. He was, yes, ma'am.

2 Q. So he was not free to leave after he signed this
3 statement?

4 A. That is correct.

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

7 A. Yes, ma'am.

8 **CROSS-EXAMINATION**

9 **BY MS. MANIGAULT:**

10 Q. Did you ask him any questions about any of his
11 statements that he made to you after it was made? For
12 instance, no matter what happens, I'm going to be the bad
13 one. Then she can get her daughter back?

14 A. No, ma'am, I did not.

15 Q. Did you ask him to explain what that meant?

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

17 Q. And while you were sitting there, did anybody else ask
18 him to explain?

19 A. Not that I recall, no, ma'am.

20 Q. And I believe you said that he was already positioned
21 in the room when you got there?

22 A. He was at the office. I don't remember if he was
23 sitting in the exact chair that he sat through the whole
24 process, but he was already there.

25 Q. Okay. Did you have an opportunity to observe him walk

1 about, during this ---

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

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

6 A. No, ma'am.

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

8 A. No, ma'am.

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

11 A. Yes, ma'am.

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

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

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

19 A. Correct, correct. Yeah.

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

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

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

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

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

6 A. I believe that's correct.

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

8 A. I believe that's correct.

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

11 A. No, ma'am.

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

14 A. No, ma'am.

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

16 A. I did, yes, ma'am.

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

19 A. No, ma'am.

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

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

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1 Q. Okay. So he was not trying to recline as if he was
2 trying to overcome a condition or anything like that?

3 A. I don't believe so, no, ma'am.

4 Q. And I believe you said you read the statement out
5 aloud or somebody did?

6 A. Uh-huh (affirmative).

7 Q. And he was given a copy to read along with you?

8 A. Correct. And then he initialed at the beginning and
9 end of each paragraph.

10 Q. And even before he signed the statement, did he ask
11 for an attorney or state he wanted to speak to an attorney?

12 A. No, ma'am.

13 Q. Did anybody jump up and hit the desk or beat the desk
14 and threaten him in the room?

15 A. No, ma'am.

16 Q. How large is the interview room?

17 A. It has six desks in it so you're probably talking
18 fifteen by twenty, maybe. It's a pretty good sized room.

19 Q. And you said that in your observation he was speaking
20 and communicating well in response to the questions?

21 A. Yes, ma'am.

22 Q. And he related to the questions and answered them
23 appropriately?

24 A. Yes, ma'am. Yes, ma'am.

25 Q. And I think you said you had no concerns that he

1 didn't understand what was going on?

2 A. No, ma'am.

3 Q. Thank you.

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

5 And the State would call Sergeant Miller.

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

9 THE WITNESS: I do.

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

12 THE WITNESS: Christopher Miller.

13 CHRISTOPHER MILLER,

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MS. HODGE:

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

20 A. I was.

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

23 A. I did.

24 Q. Which was [REDACTED] Fewes Chapel Road?

25 A. Yes, that's correct.

1 Q. And was the Defendant or anyone present at the scene
2 when you arrived there?

3 A. No. I was advised that they had went to the hospital.

4 Q. Did you stay and then process the scene and go on to
5 the hospital as well?

6 A. I did.

7 Q. Once at the hospital, did you make contact with the
8 Defendant, Mr. Johnson?

9 A. I did eventually.

10 Q. Did some other things before that?

11 A. Right.

12 Q. Okay. And was he at the hospital in the waiting area?

13 A. He was.

14 Q. Did he agree to talk to you that night?

15 A. Yes. I asked him if he would come with me back to the
16 office and he agreed to ride with me and I took him back to
17 my office.

18 Q. At this point did you identify yourself as an
19 investigator, officer?

20 A. I did. And, of course, I was wearing my badge and a
21 gun.

22 Q. And explain to him what you wanted to talk about, the
23 condition of the child?

24 A. Yes.

25 Q. And that you'd been informed that only he and the

1 mother had been at home when this child went unresponsive?

2 A. That's correct.

3 Q. Along with a two and a half year old?

4 A. With the other sibling, yes.

5 Q. Okay. And did he agree to come with you to the law
6 enforcement center?

7 A. He did.

8 Q. Did he have any qualms or questions or ask you if he
9 had to go or, anything like that?

10 A. No, I went and advised him that he was not in custody
11 and that he did not have to go with me, but this was just,
12 you know,, part of my investigation. That I needed to talk
13 to everyone that was there at the house.

14 Q. And had you already talked to the mother before
15 speaking to him?

16 A. Yes, because she was there when I walked into the
17 pediatric ICU unit. She was one -- other than the
18 investigator, she was one of the first people that I
19 encountered. He was not in that area at the time.

20 Q. And did he freely and voluntarily go with you in your
21 car to the law enforcement center?

22 A. He did.

23 Q. Did he appear to understand what all was going on and
24 where you were going?

25 A. Sure.

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

3 A. Not a lot.

4 Q. A fairly quiet ride?

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

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

9 A. Yes.

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

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

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

16 A. No, ma'am.

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

19 A. No, ma'am.

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

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

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

1 A. That's correct.

2 Q. And where did you go once you got to the law
3 enforcement center?

4 A. We went back to my desk in the homicide section of the
5 investigations office.

6 Q. And what happened then?

7 A. I asked him to have a seat at my desk and then we
8 began to talk. And I asked him to give me a little
9 background about his and Ann, the mother's, relationship,
10 and he told me that. And then I asked him, you know, tell
11 me the days events of this day. And then after he verbally
12 gave me his account of that day and what led up to **Victim**
13 becoming unconscious, at that point, then I asked him could
14 I take a written statement and he agreed.

15 Q. All right. And so as he's talking to you, in your
16 opinion, is he telling you about the events of the day and
17 his relationship and that history freely and voluntarily,
18 knowingly, intelligently?

19 A. Yes. He's just sitting -- it's a casual conversation.
20 He's sitting in a chair. I always offer people water,
21 coffee. You need to go to the bathroom or anything, you
22 know, to make them comfortable.

23 Q. And then this two-page written statement dated -- to
24 be honest, I don't think it actually has a date on it. But
25 this two-page written statement would have been the one you

1 had prepared after speaking to him?

2 A. Yes, this is it.

3 Q. Okay. And during this time did he give you any
4 background about his education or things like that?

5 A. Yes. I always start my statements out with, I refer
6 to additional particulars and I'll state them to you. Then
7 I always ask birth days, Social Security, where they were
8 born, where they grew up, where they went to school. If
9 they're under the influence of any type of drugs or
10 alcohol. If they're aware of what they're saying. And
11 that they have given permission for me to type their
12 statement.

13 Q. All right. And did he state he was under the
14 influence of drugs or alcohol?

15 A. He said he was not.

16 Q. Did you have any concerns that he may be under the
17 influence of drugs or alcohol?

18 A. I did not smell any alcohol beverages or did not
19 detect any, you know, behavior that would be indicative of
20 being on drugs, or any dilated pupils or anything like
21 that.

22 Q. All right. And then did he talk about some kind of
23 schooling?

24 A. He did. Said that he had went to Berea High School.

25 Q. All right.

1 A. But graduated from R&E in Columbia.

2 Q. Okay. And do you ask him on this one, does this one
3 have the date -- the thing about how they went in school?
4 That one's different?

5 A. Yeah. That one's different.

6 Q. Okay. That's a suspect statement and this is a
7 witness statement?

8 A. Yes, that's correct.

9 Q. Okay. So he's being treated as a witness at this
10 point?

11 A. As a witness, yes.

12 Q. All right. And it's a two-page typed statement?

13 A. Correct.

14 Q. Okay. And did you read the statement back to him
15 after you had finished typing it?

16 A. I do. My procedure is to print a copy and let the
17 Defendant or the witness, whatever type statement it is,
18 let them look at it. And if there's any corrections that
19 need to be made as I'm reading it and they're reading at
20 the same time, they can let me know. And then I give them,
21 usually a red pen to circle any mistakes that -- maybe
22 typos or something that I've done. And he agreed to the
23 statement.

24 Q. Okay. He didn't make any corrections or do anything?
25 And did he sign this statement?

1 A. He did.

2 Q. Acknowledging that that was what he had said and the
3 basis of y'all's conversation?

4 A. That's correct.

5 Q. At this point did you feel any need to place him in
6 custody or arrest him?

7 A. No. Because at that time it was still -- it was too
8 early in the investigation to know exactly what had
9 happened to the child.

10 Q. All right. And was he free to leave the law
11 enforcement center?

12 A. Yes. In fact, I offered to give him a ride back to
13 the hospital, which he took me up on.

14 Q. Okay. So you drove him back to the hospital?

15 A. And dropped him off at the front.

16 Q. All right. Do you know about how long you guys spent
17 talking on this instance?

18 A. Probably talking, it was probably about an hour and a
19 half, two hours, somewhere in there.

20 Q. Okay.

21 A. With the ride and everything.

22 Q. Right. Okay. Did you then speak to him again anytime
23 during your investigation before June the 2nd of 2011?

24 A. No, I did not.

25 Q. And on June 2nd of 2011, did you ask someone to locate

1 him so you could talk to him again?

2 A. I did. I asked Deputy Jimmy Wilson who was cross-
3 training with us in the homicide unit at that time, and
4 Investigator Wayne Campbell, who was also a homicide
5 investigator, I asked them if they would try to locate Mr.
6 Johnson, as we'd been given a possible address by Ann, the
7 baby's mother. And that was [REDACTED] Pine Log Ford Road, Lot
8 Number [REDACTED], and that's where they found him.

9 Q. All right. At this point, was he free to tell Deputy
10 Wilson and Investigator Campbell that he didn't want to
11 come and talk, and he didn't want a ride to the LEC,
12 anything like that?

13 A. Yes. He was advised again that we were still
14 conducting our investigation and we had some further
15 questions we would like to ask.

16 Q. And did he freely and voluntarily come down to the LEC
17 to talk to you again?

18 A. He did. He was not placed in handcuffs. He was not
19 given *Miranda* rights. He was just advised that it was just
20 another questioning, basically is all it was.

21 Q. All right. And do you have a recollection of what
22 time this might have been when you start speaking to Mr.
23 Johnson?

24 A. It was probably some time right before ten o'clock.
25 When we got back to the office he was with Investigator

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

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

8 A. No, ma'am.

9 Q. Did you have a warrant already secured?

10 A. No.

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

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

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

17 A. He was.

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

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

23 Q. Okay. And did Deputy Wilson stay?

24 A. He did.

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

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

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

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

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

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

14 A. That's correct.

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

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

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

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1 initialed it.

2 Q. And he also signs it?

3 A. And then he signed.

4 Q. Okay. And you signed it as well?

5 A. That's correct.

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

8 A. Yes.

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

12 A. He did.

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

16 A. Absolutely. He understood.

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

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

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

1 A. No, ma'am.

2 Q. Withhold anything from him that he may have asked for?
3 Water, bathroom, cigarette, food?

4 A. No. I provided the bathroom and offered him drink and
5 food. He refused.

6 Q. So in your opinion, he freely, voluntarily, knowingly,
7 intelligently waived his rights to talk to you?

8 A. Yes, ma'am.

9 Q. All right. And then did he continue talking freely
10 and voluntarily?

11 A. He did.

12 Q. And you made mention that you talked to him really
13 nicely. Are there different investigative or interrogative
14 techniques used by police officers?

15 A. There are. There's sympathy, you know, you
16 understand, you know, sometimes as he said, that accidents
17 happen. And I told him I know that sometimes accidents
18 happen. And that we do things sometimes that we don't
19 intend to happen. Sometimes we lose our temper. And then,
20 you know, sometimes we just -- you know, I explained that I
21 have kids and, you know, that I know what it's like to have
22 a kid that's crying that just will not stop. And, you
23 know, and that I understood where he was -- why he was so
24 frustrated.

25 Q. And so that was the tactic that you took. You never

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

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

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

9 A. Yes.

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

13 A. That was accurate.

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

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

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

24 A. No.

25 Q. You made mention in here about not being on

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

3 A. No.

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

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

9 Q. Each paragraph?

10 A. Each paragraph.

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

13 A. No, ma'am.

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

16 A. I did.

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

19 A. He did.

20 Q. What were those statements?

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

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

4 Q. Rumored in jail?

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

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

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

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

12 A. That's correct.

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

15 A. Yes, ma'am.

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

19 A. No, ma'am.

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

22 **CROSS-EXAMINATION**

23 **BY MS. MANIGAULT:**

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

1 A. It was ruled June the 2nd, is what I was advised by
2 the -- I got a call from the coroner's office.

3 Q. All right. So you were advised that it was a homicide
4 before you had him picked up? Before you had James Allen
5 Johnson picked up?

6 A. Yes.

7 Q. You knew that the coroner had made the decision, this
8 was a homicide?

9 A. Right.

10 Q. Now, when you first encountered him, did you see him
11 walking into the area or did you observe him walking at all
12 on June 2nd before you began your interview?

13 A. He was, like I said, he was already there with two
14 other deputies and they were just sitting around casually,
15 just talking when I arrived.

16 Q. Did you say that you moved to your desk, that he moved
17 -- did he ever walk towards your desk or ...

18 A. Yeah, they were in the area where the white collar
19 units work, which is a big open area.

20 Q. Yeah.

21 A. And like I said, they were sitting around in their
22 chairs and so I took him back to my office where my
23 computer's at.

24 Q. All right. And did you observe James Allen Johnson
25 stumbling or hesitating in his stride when he was walking

1 back to your office?

2 A. No, ma'am.

3 Q. Did he appear to not be steady on his feet or anything
4 like that?

5 A. No. He appeared fine to me.

6 Q. So when you began your interview process, did you
7 notice that he may have been dropping off into sleep or not
8 being -- paying attention to you or what you were saying?

9 A. No, ma'am.

10 Q. Did he ever rest his head on the desk or act like he
11 didn't feel well or was maybe ---

12 A. I'm sorry. I didn't to cut you off. The only point
13 was when he began the confession, he dropped his head and
14 told me he was not a bad person. And that was the only
15 time that I noticed -- and then he did it after that, but
16 not prior to that.

17 Q. But dropping his head while sitting in the chair, but
18 not necessarily laying his head on your desk?

19 A. No, ma'am.

20 Q. Okay. So when you observed him initially on May 25th
21 at the hospital and had some short conversation with him,
22 and then you observed again on June the 2nd at your office,
23 was there any change in his behavior or did he seem ---

24 A. He seemed more calm.

25 Q. More calm on which day?

1 A. June the 2nd.

2 Q. On June 2nd?

3 A. Than he was on May the 25th.

4 Q. All right. So you noticed on May 25th that he was
5 maybe not as calm as he was on June 2nd?

6 A. That's correct.

7 Q. All right. And you said you didn't smell no alcohol?

8 A. No, ma'am.

9 Q. Okay. And did he ask to go to the restroom or did you
10 advise him that he could go or ...

11 A. No, I always ask everyone to make sure that they're
12 taken care of and that they're comfortable.

13 Q. And he asked to go to the restroom after the interview
14 had started and y'all took a break?

15 A. No, the interview had already started and then I --
16 we'd been talking for about forty-five minutes to an hour
17 and then when he refused food, drink, I said, well, do you
18 want to go to the bathroom? And then he said he did.

19 Q. Okay. When he came back from the bathroom, did his
20 behavior change or his speech pattern change or anything
21 different?

22 A. No, ma'am.

23 Q. All right. So when you had him brought in, you said
24 that your investigation was continuing. So at that time,
25 was he a suspect?

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1 A. He was a person of interest, just like the mother,
2 Ann, was.

3 Q. Okay. And a person of interest is different from a
4 suspect?

5 A. That's correct.

6 Q. Now, you testified that you gave a *Miranda* warning
7 after James Johnson said that he had hit the child in the
8 head with a toy?

9 A. Yes. Well, then he went into, you know, about she was
10 crying and that he put his hands over her face to keep her
11 quiet or try to make her be quiet. At that point in time,
12 I knew it was time to end -- to read him his rights. It
13 was time to end the interview and read him his rights.

14 Q. Okay. But before that you proceeded like you did on
15 the previous interview, that you were just talking to him
16 as a witness?

17 A. As a witness.

18 Q. But you had talked to Ann, Georgia Ann Sprouce,
19 several times prior to June the 2nd, correct?

20 A. Yes, ma'am.

21 Q. And she had changed her statement several times and
22 she had now changed her statement to say that James Johnson
23 was -- may be the perpetrator in this child's death?

24 A. She changed the statement that he was the one in the
25 room with the child instead of her. But at that time, I

1 still want to know who's telling the truth.

2 Q. So at that time, you still didn't know who was telling
3 the truth?

4 A. Yes. I mean, I'm still conducting my investigation to
5 try to determine exactly what happened.

6 Q. And I believe you said that, one point of -- that you
7 started your conversation was you wanted to know from him
8 who was in the room?

9 A. Yes.

10 Q. At what point. And did he ever tell you that he
11 wanted an attorney?

12 A. No, ma'am.

13 Q. Did he ever act like to you that he could not -- was
14 not reading along with you or could not understand anything
15 you were saying?

16 A. No. I made sure that he understood. That's why I had
17 him initial each paragraph and then each sentence on the
18 *Miranda* Warning.

19 Q. All right. So before he went to the restroom, he did
20 not ask for an attorney?

21 A. No, ma'am.

22 Q. And when he came back from the restroom and you
23 started giving him his *Miranda*, he did not want an
24 attorney?

25 A. No, ma'am.

1 Q. And you made sure he understood that and he initiated
2 it?

3 A. Yes, ma'am.

4 Q. Did you ask him what he meant by, no matter what
5 happens I'm going to be the bad one, then she can have her
6 daughter back. Did you ask him what that meant?

7 A. No.

8 Q. To explain that to you?

9 A. I didn't.

10 Q. And I believe you testified earlier -- I couldn't hear
11 some of the testimony because the Solicitor wasn't up here
12 at the mike -- but I believe you testified earlier that you
13 asked him specifically about drugs or alcohol when you read
14 this top part of the statement to him, ---

15 A. Yes.

16 Q. --- was he on any drugs or alcohol?

17 A. That's just a standard procedure that I do with all
18 statements.

19 Q. Okay. But you asked him that verbally?

20 A. Yes.

21 Q. You didn't just let him read it?

22 A. No, ma'am.

23 Q. Okay. And his response to you that he was not on any
24 drugs or alcohol?

25 A. That's correct.

1 Q. Whether prescription or otherwise?

2 A. That's correct.

3 MS. MANIGAULT: No further questions.

4 THE COURT: Any redirect.

5 MS. HODGE: No, sir.

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

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

10 THE COURT: Anything from the Defense?

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

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

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

17 THE WITNESS: Yes, I do.

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

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

22 JAMES ALLEN JOHNSON,

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MS. MANIGAULT:

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1 Q. Okay. Speak a little louder or sit close to the mike.

2 And, Mr. Johnson, you've heard the testimony of Sergeant

3 Chris Miller. Do you remember talking to Sergeant Miller?

4 A. The first time I remember. And I remember a little

5 bit in the other one, but I don't really remember the whole

6 thing.

7 Q. Okay. Do you remember when you met him at the

8 hospital and that they took -- they took a statement from

9 you. Do you remember that?

10 A. Yeah, I remember that.

11 Q. All right. Do you remember talking with him on June

12 the 2nd?

13 A. Not the whole thing, no.

14 Q. Not the whole time. Do you remember any officers --

15 how did you get to the law enforcement center?

16 A. Two deputies come to the house and told me I had to go

17 with them.

18 Q. Okay. Now, whose house were you at, at that point?

19 A. I was at Josh's house.

20 Q. Who is Josh?

21 A. My brother's neighbor.

22 Q. Okay. And who else was at the house when the officers

23 came to get you?

24 A. Josh's friends and his mother and step-father.

25 Q. Okay. Now, what kind of condition were you in when

1 they came to get you?

2 A. Me and Josh was in the room smoking -- I was smoking a
3 little bit of reefer, and I had some Xanaxes. I was taking
4 them that day. I'd already been passed out for several
5 hours. I woke up and I took me a couple more, because Josh
6 come in and said, I'm going to smoke a bowl. So I was
7 going to smoke a bowl with him. And his deputies came and
8 I told them, hold on a minute because I had to go back in
9 there. I still had the reefer in my pocket. I went back
10 in there and gave it -- and give it to Josh.

11 Q. And did you have anything else in your pocket?

12 A. I had a few Xanaxes left.

13 Q. And how many Xanaxes would you say that you'd taken
14 that day?

15 A. I'd say I probably took about ten.

16 Q. Okay. That was before the deputies came to get you?

17 A. I took three more when I went to the bathroom.

18 Q. When you went to the bathroom where?

19 A. While he was interrogating me.

20 Q. Okay. While you were at the detention center talking
21 to ---

22 A. Yes.

23 Q. --- Investigator Miller at that time ---

24 A. Yes, ma'am.

25 Q. --- when you went to the bathroom, you took three

1 Xanax pills?

2 A. Yes, ma'am.

3 Q. Now, could you understand what the investigator was
4 saying to you, Investigator Chris Miller, this gentleman?

5 On June 2nd did you understand that when he went over these
6 rights forms, the *Miranda*? He read you your rights. Do
7 you remember that?

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

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

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

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

21 A. Yes, ma'am.

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

25 A. Yes, ma'am.

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1 Q. This is your writing?

2 A. Yes, ma'am.

3 Q. Do you remember doing that?

4 A. No.

5 Q. Okay. On the bottom of the page it says, sign.

6 There's a word circled, coercion. Is that your initial
7 there?

8 A. Coercion?

9 Q. The word is coercion. Did you initial under that
10 word? Is that your initials?

11 A. That ain't my initials because it's not JAJ.

12 Q. So you didn't put your initial right there under the
13 word coercion?

14 A. I can't remember, ma'am, to be honest with you.

15 Q. Okay. On the line that says sign, there's a name,
16 James Johnson written. Did you write that?

17 A. It looks like my handwriting.

18 Q. Okay. Do you remember doing that?

19 A. No, ma'am, I don't.

20 Q. All right. Do you remember another officer being in
21 the room, Officer Autrey, along with Investigator Chris
22 Miller?

23 A. The one that was sitting up here, the skinny guy?

24 Q. Yes.

25 A. I remember him sitting beside a camera.

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1 Q. Beside a camera?

2 A. Yes, ma'am.

3 Q. Okay. Were you under the impression that your
4 interview was being recorded?

5 A. I thought it was.

6 Q. Now, I'm going to show you the statement that they
7 have said was written on June 2nd, okay? That's a
8 statement and it has eighteen places where your initials
9 appear. Did you put those initials there?

10 A. Looks like my handwriting.

11 Q. On every spot? Look at every spot and tell me whether
12 you put it there?

13 A. Yeah, that looks like my handwriting.

14 Q. Okay. And at the bottom it has a place for signature.
15 And there's a name written James Johnson. Did you sign
16 that?

17 A. That's my handwriting.

18 Q. Okay. So did you read this statement? Was this read
19 to you?

20 A. I can't remember if it was. Alls I know is that's my
21 handwriting; that's the way I write.

22 Q. Okay. Do you remember the officer telling you that
23 you have the right to talk to a lawyer?

24 A. No, I don't remember.

25 Q. That you didn't have to talk with him. You had a

1 right to talk to a lawyer?

2 A. I can't remember that.

3 Q. Did you ever ask him for a lawyer?

4 A. I can't remember that either.

5 Q. Okay. You remember him telling you that if you didn't
6 have money for a lawyer, that he would make sure that one
7 was appointed for you; do you remember that?

8 A. (Negative nod.)

9 Q. Do you remember them saying to you anything you say
10 can be used against you in court?

11 A. No, I don't remember that. I remember everything from
12 the first statement that I made at his office, when he come
13 to the hospital. But I can't remember nothing after that
14 -- the house that day.

15 Q. All right. The first statement you made was on May
16 25th, 2011 from the hospital; is that correct?

17 A. Yes, ma'am. I had been up for several days, couldn't
18 sleep. So I'd been trying -- I'd been taking Benadryl and
19 Benadryl, all kind of stuff trying to sleep. But I'd been
20 worried about **Victim**, that people was telling me she's
21 getting better, but I hear from other people that she's
22 not.

23 Q. Okay.

24 A. So I couldn't sleep.

25 Q. All right. On May 25th, were you taking Xanax on that

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1 day?

2 A. No, ma'am, I wasn't.

3 Q. Were you smoking marijuana on that day?

4 A. Not then I wasn't.

5 Q. During that day, wasn't there some ---

6 A. Earlier that day we was all smoking weed.

7 Q. We was all smoking weed. Okay. That was at the house
8 where the incident happened to **Victim**?

9 A. Yes, ma'am.

10 Q. Okay. But you're saying that you took a bunch of
11 Xanax and smoked weed on June 2nd. So is that a reason for
12 you not remembering that you signed -- gave a statement?

13 A. Yes, ma'am. I got my check June 1st and I blowed my
14 money on stuff -- I was trying to sleep and stuff. I
15 couldn't take it. My mama come over to my brother's house
16 and alls I was doing was crying and stuff. I couldn't
17 sleep.

18 Q. Okay. Let me ask you this. There is a part on this
19 statement that you said it looks like you signed it. It
20 says, no matter what happens I'm going to be the bad one.
21 Then she can have her daughter back. What did that mean?

22 A. That means everybody -- and nobody ever had really
23 liked me that much no way. I mean, I don't think any of --
24 anybody in her -- her friends or anybody really liked me
25 because I was younger. I don't know. I don't understand

1 it. I don't think they liked me.

2 Q. All right. Now, you're telling the Court today that
3 you had taken ten Xanax and smoking marijuana ---

4 A. Yes, ma'am.

5 Q. --- on June 2nd before the officers picked you up and
6 you went to the detention center?

7 A. Yes, ma'am.

8 Q. All right. Now, the officer has testified that he
9 asked you specifically were you on any drugs or medication
10 or have you drank any alcohol? And you told him, no.

11 A. I was scared that I would get in more trouble if I
12 told him I was on any drugs or anything.

13 Q. Okay. So there's a part on here that says that you
14 threw a toy and hit **Victim** in the head. Do you remember
15 telling him that?

16 A. No, ma'am.

17 Q. Do you remember telling him that she started crying
18 and she started screaming and you tried to calm her down;
19 you remember that?

20 A. No, ma'am, I don't remember it.

21 Q. You don't remember telling him she kept crying and
22 screaming so that you covered her mouth until she quit
23 crying?

24 A. No, ma'am.

25 Q. You don't remember any of that?

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1 A. From what y'all have told me, that's it.

2 Q. All right. Do you remember telling the officer a
3 story that she got choked on tea?

4 A. I remember that story.

5 Q. And that that story was told to the officer on May
6 25th, 2011?

7 A. Yes, ma'am.

8 Q. Okay. So why would you tell the officer, I'm sorry
9 for the problems. Or did you tell them that?

10 A. I don't remember telling them that.

11 Q. Do you remember telling them, I'm sorry God created
12 me?

13 A. No, ma'am.

14 Q. Do you remember telling them I don't deserve to live?

15 A. I don't remember none of that.

16 Q. So the statement that was read, that you don't
17 remember making this statement?

18 A. I was happy with Ann. I was wanting to marry her. I
19 was going to try to help her get her divorce so I could
20 marry her and try to help her raise her kids.

21 Q. All right. Thank you.

22

CROSS-EXAMINATION

23 **BY MS. HODGE:**

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

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

3 A. (Affirmative nod.)

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

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

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

11 A. Yes, ma'am.

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

14 A. (Affirmative nod.)

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

19 A. Yes, ma'am.

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

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

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

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

8 A. Yes, ma'am.

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

12 A. No, ma'am.

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

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

1 minute. And I went back in ---

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

3 A. Yeah.

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

5 A. Yeah.

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

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

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

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

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

20 A. Yeah.

21 Q. Okay.

22 A. And then I went to the bathroom.

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

25 A. Probably about five minutes.

1 Q. All right. And when you got out of the bathroom, then
2 you came back into the office area with Investigator
3 Miller, is that right when things started happening?

4 A. I started, started feeling really calm. Real, real,
5 real calm. And now I -- and then I just can't remember
6 what was said there. I couldn't remember it when I woke up
7 in the jail. I couldn't remember why I was there.

8 Q. You're saying your memory left you as soon you walked
9 out of the bathroom and went in the room with Investigator
10 Miller ---

11 A. I don't remember nothing from that -- from when I went
12 in there.

13 Q. Okay.

14 A. I don't remember it.

15 Q. Thank you.

16 THE COURT: Any redirect?

17 MS. MANIGAULT: No, Your Honor.

18 THE COURT: All right. Thank you, sir. You may
19 step down. Any other witnesses from the Defendant?

20 MS. MANIGAULT: Your Honor, just a short witness.
21 His brother Alex who observed him an hour before he was
22 arrested.

23 THE COURT: That'll be your last witness?

24 MS. MANIGAULT: Yes, sir.

25 THE COURT: All right. Bring him in

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

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

5 THE WITNESS: Yes.

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

8 THE WITNESS: My name is Alex Lee Johnson.

9 ALEX LEE JOHNSON,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MS. MANIGAULT:

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

14 A. Thirty.

15 Q. Where do you live?

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

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

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

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

20 A. Yes.

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

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

25 Q. Who's your neighbor?

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1 A. Josh.

2 Q. Josh what?

3 A. His last name is Tony. I mean, her husband's name
4 Tony and Sherry Stanton.

5 Q. Okay. And when you saw your brother at Josh's house,
6 what was he doing?

7 A. Him and Ann was over there and then I think that girl
8 that they was staying with come and picked them up later on
9 in a green Honda.

10 Q. Okay. What was he doing at Josh's house, anything?

11 A. I don't know. They was in the house. I wasn't over
12 there. I wasn't over there.

13 Q. All right. Did you see your brother before he got
14 taken to ---

15 A. He come over to my house later on that evening, he was
16 heavily intoxicated. I told him he couldn't come over --
17 come into my house right then. I told him to go the
18 neighbor's house and sleep it off.

19 Q. Okay. You keep mumbling and dropping off. He came
20 over to your house?

21 A. Yeah, he come over to my house about a hour before the
22 police come and got him.

23 Q. Okay. And what was his condition?

24 A. He was heavily intoxicated. He was staggering around,
25 falling around everywhere. Fell off my porch and

1 everything.

2 Q. Okay. Did you smell alcohol or anything on him?

3 A. I can't recall if I smelled alcohol, but I know he was
4 intoxicated.

5 Q. Okay. So did you know what he was taking? Did you
6 see him take anything?

7 A. I knowed for a fact he does drugs, illegal drugs,
8 smokes marijuana. I knowed that. So that's what I figured
9 he was doing.

10 Q. So you know for a fact he was smoking marijuana. Did
11 you know anything about the Xanax?

12 A. I know that he takes Xanaxes sometimes, from time-to-
13 time. I didn't know for a fact if he had any on him, but I
14 know he had -- that he smoked marijuana and stuff.

15 Q. Okay. So you said it was about an hour before the
16 police came to pick him up from the neighbor's house ---

17 A. Yeah.

18 Q. --- he was heavily intoxicated?

19 A. Yes.

20 Q. All right. Thanks. Have a seat.

21 THE COURT: Have a seat. She's got cross-
22 examination.

23 CROSS-EXAMINATION

24 BY MS. HODGE:

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

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1 A. All right.

2 Q. But that was one hour before the police came; is that
3 correct?

4 A. Yes.

5 Q. Okay. And how much time did you spend around him,
6 just enough to see him stagger and stumble?

7 A. I'd say I was out in the yard with him for a little
8 bit and then I told him I had to go. And he went to the
9 neighbor's.

10 Q. He went over to Josh's?

11 A. Yes.

12 Q. So you were not at Josh's ---

13 A. No, I wasn't at Josh's.

14 Q. --- when the police showed up?

15 A. No.

16 Q. Or any of that?

17 A. All I know, he called me when the Investigator -- when
18 he was down there at the Investigator Office.

19 Q. When he was down at the Investigator's Office, he
20 called you from ---

21 A. His cell phone. While they was arresting him, they
22 let him make a phone call on his phone.

23 Q. Okay.

24 A. He called me and told me he was being arrested.

25 Q. Okay.

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

5 Q. How old is he?

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

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

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

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

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

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

20 A. No.

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

22 A. Yes.

23 Q. All right. And you understood that?

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

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1 phone; he's being arrested.

2 Q. Okay. All right. Thank you.

3 THE COURT: All right.

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

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

8 MS. HODGE: No, Your Honor.

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

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

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

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

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

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

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

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

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

22 THE COURT: How long is it?

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

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

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1 We're not going to ---

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

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

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

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

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

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

8 You may swear the jury, madam clerk.

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

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

15 (WHEREUPON, the jury was duly sworn.)

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

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

20 **OPENING STATEMENT**

21 **BY MS. HODGE:**

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

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

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

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

25 The evidence is going to show that the Defendant,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 **OPENING STATEMENT**

12 **BY MS. MANIGAULT:**

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

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

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

24 THE COURT: The State may call its first witness.

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

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1 calls Renee Buford.

2 THE CLERK: Raise your right hand.

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

5 THE WITNESS: I will

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

8 THE WITNESS: Rhonda Renee Buford.

9 RENE E BUFORD,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MS. HODGE:

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

14 A. Greenville County Sheriff's Office.

15 Q. And how long have you been with them?

16 A. Eighteen years.

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

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

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

22 A. Yes, I was.

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

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

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

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

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

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

19 A. Yes, it is.

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

22 A. Yes, we were.

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

25 A. Okay.

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1 Q. Did you just come to Court a few moments ago and
2 listen to a copy of what was in State's Number 1?

3 A. Yes, I did.

4 Q. Okay. And what is that or what was inside of here?

5 A. It was a CDR. The disk in here and it had the case
6 number on it, along with my initials where I listened to it
7 and the date, today's date where I viewed it and verified
8 it corresponded with our CAD report of the incident itself.

9 Q. So is it a copy of the 9-1-1 call that was placed on
10 the date of this incident that we're here about?

11 A. Yes.

12 Q. All right. And the case number being 2011-74615?

13 A. Yes, it was.

14 Q. Okay. And were there any alterations or deletions or
15 anything amended in that recording?

16 A. No, there was not.

17 Q. So it's a true and accurate copy?

18 A. Yes, ma'am.

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

21 THE COURT: Any objection?

22 MS. MANIGAULT: None, Your Honor.

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

25 (WHEREUPON, State Exhibit Number 1 was admitted into

1 evidence.)

2 MS. HODGE: Thank you, Your Honor.

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

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

11 MS. HODGE: At this time we'd like to publish the
12 9-1-1 call.

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

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

17 A. Yes, ma'am.

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

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

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

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

24 THE COURT: Without objection ---

25 MS. MANIGAULT: No objection.

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

2 MS. HODGE: The State calls Phillip Reynolds.

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

6 THE WITNESS: I do.

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

9 THE WITNESS: Phillip Bradley Reynolds.

10 PHILLIP REYNOLDS,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. HODGE:

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

15 A. Lake Cunningham Fire Department.

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

20 A. Yes, ma'am.

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

23 A. Five years.

24 Q. And is that your full-time job?

25 A. Yes, ma'am.

1 Q. So what are your duties and responsibilities there?

2 A. We run medical, fire and any type of rescue operations
3 in our district.

4 Q. Where are you located?

5 A. Greer, South Carolina, along Highway 101.

6 Q. And would [REDACTED] Fews Chapel Road be in your
7 jurisdiction or district?

8 A. Yes, ma'am.

9 Q. Tell me what type of training or certifications you
10 have for firefighting and emergency response?

11 A. We go through an extensive fire academy down in
12 Columbia or around the area. And it's about three hundred
13 hours basic firefighting techniques and things. We also
14 have our first responder. At the time, I was an EMT and
15 that was another three hundred and something hours of
16 classroom and practical work as well.

17 Q. All right. Did you have an occasion to respond to
18 service on May 25th, 2011 on [REDACTED] Fews Chapel Road?

19 A. Yes, ma'am.

20 Q. And why were you responding there?

21 A. We were dispatched to a choking call.

22 Q. What time did that call come in?

23 A. At three twenty-two is when we were dispatched.

24 Q. Is that afternoon or evening?

25 A. I'm sorry. Evening.

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1 Q. In daylight?

2 A. Yes, ma'am.

3 Q. Okay. Not three twenty-two in the morning or
4 anything?

5 A. P.M.

6 Q. P.M., okay. And what time did you guys get there?

7 A. Three twenty-six P.M., within ---

8 Q. So approximately four minutes, five minutes?

9 A. Three, yeah, four minutes.

10 Q. Who was with you that day?

11 A. Our driver was engineer Jerry Bonham and a fellow
12 firefighter, Matt Horne.

13 Q. And were y'all driving the fire truck or something
14 else?

15 A. Yes, ma'am, we were in our Engine two, Station two,
16 near Blue Ridge High School.

17 Q. And who was there when you arrived?

18 A. There was a car up the driveway with three other
19 children inside the vehicle and there was a woman -- I'm
20 not sure exactly who she was -- in the driveway, near the
21 car at the time we arrived on scene.

22 Q. And what did you do when you got there?

23 A. I got out and proceeded up the driveway while Matt
24 Horne retrieved the equipment out of the truck. As I
25 approached, she rounded the back corner and I saw the front

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

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

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

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

19 A. Yes, ma'am.

20 Q. Okay. What are those pictures of?

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

25 Q. And that's Number 2?

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1 A. And this is the living room in which we entered and
2 found the child in the floor.

3 Q. Okay. That would be State's Number 3 and State's
4 Number 4?

5 A. Yes, ma'am.

6 Q. And are these true and accurate depictions of the
7 house and the room that you entered?

8 A. Yes, ma'am.

9 MS. HODGE: At this point we would move to admit
10 State's 2, 3, and 4.

11 THE COURT: Any objection?

12 MS. MANIGAULT: No objection, Your Honor.

13 THE COURT: Without objection, Exhibits 2 through
14 4 admitted and may be published.

15 (WHEREUPON, State Exhibit Numbers 2, 3 and 4 were
16 admitted into evidence.

17 MS. HODGE: Thank you, Your Honor.

18 Q. This is State's Number 2. I think this is working.
19 If you will, tell us where your truck -- if you can see or
20 if you need to move down, that's fine, too. Just make sure
21 you keep your voice up if you want to get down from the
22 seat. But where did the fire truck pull up or where did
23 you get out and then where did you go?

24 A. The road -- Fews Chapel Road actually ran more -- I
25 guess it would be down here. I mean, way down here. You

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

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

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

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

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

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

3 A. Yes, ma'am.

4 Q. --- kind of chopped up?

5 A. Yes, ma'am.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 Q. Did you know a name or anything?

16 A. I asked and they told me her name was **Victim**, at the
17 time.

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

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

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

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

8 A. Yes, ma'am.

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

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

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

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

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1 Q. Was it unusual to you how they were responding?

2 A. It was a flag.

3 Q. So what did you actually do for the child?

4 A. It's hard to tell right here, but there were some
5 towels laying in the living room area. I took those and
6 folded them and them under the child. A child, unlike an
7 adult, has a harder time maintaining their airway when you
8 do a head tilt chin lift. You have to have something
9 underneath the back just to kind of raise their back up
10 because their head's larger. You know, it's larger in
11 proportion to their body. So I folded the towels and set
12 them there. And I realized that that wasn't enough to
13 stabilize her airway. So there were some unused diapers
14 over here and I just took a couple more of those and placed
15 them under there and it made her airway just kind of fall
16 open to where it would stabilize on its own. At that time,
17 the airway was secured as far as that goes. And I started
18 to breath for the child. Matt was doing compressions. And
19 we got through maybe one round of two and thirty and the
20 paramedics walked in.

21 Q. And when you and/or Matt were giving the air -- were
22 doing the breathing, were you able to get air in?

23 A. Yes, ma'am. We had adequate rise and fall of the
24 chest. And I was able to move that and -- yes, ma'am.

25 Q. So did that signify anything to you about the airway?

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

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

12 A. I'm sorry. I assumed that.

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

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

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

18 A. Correct.

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

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

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

3 Q. Okay. Your main focus is giving care?

4 A. Correct.

5 Q. Not investigating what happened?

6 A. Correct.

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

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

25 Q. And as you -- go ahead.

1 A. No, go ahead.

2 Q. As you did that, did you see the Defendant or the
3 mother come back around?

4 A. No, ma'am. We went out the back door the way we came
5 in and I never saw them.

6 Q. And what did you do after you put the child in the
7 ambulance?

8 A. Well, we went to the ambulance and I laid the child
9 down and turned over care to the medics. They stated that
10 they needed to driver her to the hospital. And I
11 volunteered to drive them to the hospital. So I jumped in
12 the driver's seat and ...

13 Q. Did y'all head out?

14 A. Headed out.

15 Q. Straightaway?

16 A. Yes, ma'am.

17 Q. All right. Had any police officers arrived by the
18 time you were taking the child to the ambulance?

19 A. When we were leaving the resource officer from Blue
20 Ridge High School, which is not even two minutes down the
21 road from the residence, he was there and I briefly noticed
22 him. And I think there was another patrol car there as we
23 were leaving. And I'm not sure who that was.

24 Q. Did you speak to any police officers to tell them what
25 was going on?

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

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

7 A. Yes, ma'am.

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

10 A. Yes, ma'am.

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

13 A. Correct.

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

16 A. No, ma'am.

17 Q. How about anything on the face or forehead?

18 A. No, ma'am.

19 Q. And what about her nose or mouth area?

20 A. No, ma'am.

21 Q. What about her back or her sides?

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

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

1 ---

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

8 Q. And which hospital did you guys go to?

9 A. Greer Memorial Hospital.

10 Q. So the closest facility?

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

13 Q. You were just told to drive?

14 A. Yeah, I was just told to drive.

15 Q. You were just going where you were told?

16 A. Yes, ma'am.

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

19 A. That's correct.

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

22 A. Yes, ma'am.

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

25 THE COURT: You may cross-examine the witness.

1 MS. MANIGAULT: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. MANIGAULT:

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

6 A. Yes, ma'am.

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

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

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

15 A. Yes, ma'am.

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

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

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

1 A. No, ma'am.

2 Q. Now, did you ask any questions to Mr. Johnson?

3 A. No, ma'am. The information he gave me voluntarily.

4 Q. Voluntary statement. And did the mother ever say
5 anything to you about what happened to the child?

6 A. No. She just asked me if the child was going to be
7 okay.

8 Q. Now, you stated that when you went into the room, your
9 first general impressions were -- your observation was the
10 mother was doing heel compressions on the chest and ---

11 A. Correct. She was using the palm ---

12 Q. Palm?

13 A. Palm ---

14 Q. Palm.

15 A. --- heel technique where you use the palm of the hand.

16 Q. Okay. The palm of the hand. And Mr. Johnson was
17 doing mouth-to-mouth?

18 A. Yes, ma'am, that's correct.

19 Q. All right. Thank you.

20 MS. HODGE: I have no further questions.

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

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

24 THE COURT: Any objection?

25 MS. MANIGAULT: No objection.

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

3 MS. HODGE: The State calls Matt Horne.

4 THE COURT: This witness may be excused.

5 MS. HODGE: The State calls Phillip Reynolds.

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

9 THE WITNESS: I do.

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

12 THE WITNESS: Matthew Horne.

13 MATT HORNE,

14 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

15 DIRECT EXAMINATION

16 BY MS. HODGE:

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

18 A. Lake Cunningham Fire Department.

19 Q. How long have you been with them?

20 A. This November will be four years.

21 Q. And is that your full-time job?

22 A. Yes, ma'am, it is.

23 Q. Are you also in the military?

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

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

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

8 Q. So were you employed in that same capacity back on May
9 25th, 2011?

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

11 Q. And did you have an occasion to respond to [REDACTED] Few's
12 Chapel Road?

13 A. Yes, ma'am, I did.

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

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

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

18 A. Yes, ma'am, we did.

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

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

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

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

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

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

18 A. Yes, ma'am.

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

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

22 Q. Okay. If you need that.

23 A. All right.

24 Q. And you were bringing in the equipment?

25 A. Yes, ma'am.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 A. No, ma'am.

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

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

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

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

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

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

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

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

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

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

1 A. No, ma'am, there was not at the time.

2 Q. And after loading the patient into the ambulance were
3 any police officers arriving?

4 A. I know the police officers got there. As far as time
5 lapse, I don't remember if they got there before the
6 ambulance left or after they left. I do recall them being
7 there, though.

8 Q. And what was your part once the child was placed in
9 the ambulance? What were your duties after that?

10 A. Pretty much my responsibility was just to go back
11 inside the residence, clean up all of our supplies, get all
12 of our stuff restocked on the truck in case we got another
13 call.

14 Q. And so you did go back inside the residence?

15 A. Yes, ma'am. I went back in to retrieve our medical
16 bag, our oxygen cylinder, any other supplies we may have
17 left laying around, got that stuff up. And then the EMS
18 chase truck that showed up, I drove his truck back to our
19 Station Two, because he rode in on the ambulance with the
20 other two paramedics.

21 Q. Now, let's talk about the CPR techniques again and
22 these bruises that you observed on the child. Is there, in
23 your opinion, any way you or Firefighter Reynolds placed
24 any of the bruises about the child's head or face while
25 doing CPR?

1 A. No, ma'am.

2 Q. How about anything on the chest or sides or back of
3 the child?

4 A. No, ma'am.

5 Q. How about anything inside of the child's mouth? Would
6 y'all have done any type of injury trying to do CPR?

7 A. No, ma'am.

8 Q. And once you drove that truck, chase truck, back to
9 y'all's firehouse, was that the end of your involvement in
10 this case?

11 A. Yes, ma'am, it was.

12 Q. And when you were back inside the house cleaning
13 things up, was any adult in the room with you or talking to
14 you, asking you questions or anything like that?

15 A. I remember speaking with one of the adults. Honestly,
16 I can't recall if it was inside the house or not. That's
17 when I found out that the child had supposedly choked on
18 some tea. And I looked in the cup with one of the officers
19 and we seen no ice. In one of the cups, I can't tell you
20 honestly which one of these two it was in this picture, but
21 we was told the blue cup beside the chair, and both of
22 those beside the chair are blue. Neither one of them had
23 any kind of ice in it. And one of them did have a little
24 bit of tea in it. But there was nowhere where you could
25 see that any had been spilled or anything of that nature.

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

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

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

6 A. Yes, ma'am.

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

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

11 MS. MANIGAULT: None.

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

14 MS. HODGE: The State would call Alex Kay.

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

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

19 THE WITNESS: I do.

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

22 THE WITNESS: Joseph Alexander Kay.

23 ALEX KAY,

24 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

25 DIRECT EXAMINATION

1 BY MS. HODGE:

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

4 A. Okay.

5 Q. Who do you work for?

6 A. Greenville County EMS.

7 Q. And how long have you been with them?

8 A. Twelve years.

9 Q. And is that your full-time job?

10 A. Yes.

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

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

21 Q. That probably covers it for now.

22 A. Yeah.

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

25 A. Yes.

1 Q. Had all those trainings and certifications at that
2 time?

3 A. Yes.

4 Q. All right. And were you called to respond to [REDACTED]
5 Fews Chapel Road?

6 A. I was.

7 Q. And how did that call come in?

8 A. It came in as a choking. I was on the quick response
9 vehicle, which is the chase vehicle that he referred to
10 previously. It has all the equipment that an ambulance has
11 on it, with the exception of it doesn't have the capability
12 to transport. Generally, they're put in outlying areas to
13 first respond and get a paramedic on scene quicker than an
14 ambulance could maybe respond. They're strategically
15 placed throughout the county to minimize the response
16 times.

17 Q. All right. And is this location off Fews Chapel Road,
18 is that in Greenville County?

19 A. Yes, ma'am.

20 Q. Okay. And what time did the call come to you guys?

21 A. We received the call at fifteen twenty, which is
22 three-twenty in the afternoon.

23 Q. And what time did you get on the scene?

24 A. I arrived on scene at fifteen twenty-nine, which would
25 be three twenty-nine, approximately eight minutes after I

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

6 Q. And who else was coming with the truck?

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

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

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

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

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

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

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

10 A. Sure.

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

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

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

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

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

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

6 A. No. No.

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

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

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

12 A. I did not see any children.

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

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

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

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

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

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

24 A. It didn't.

25 Q. The cardiac arrest and what you were seeing?

1 A. No, no, it did not.

2 Q. And do you remember about -- did you actually check
3 the pulse on the child?

4 A. I did. I did a quick check. I did a pulse check and
5 at that point there was no pulse, but they were doing
6 adequate CPR. And like I said, I made the ultimate
7 decision to go ahead and start towards the truck.

8 Q. Did you actually touch the body of the child?

9 A. I did.

10 Q. And was she clothed, didn't have any clothes on?

11 A. The only thing she had on was a diaper. She was pale,
12 from what I could tell from the dark. It was, like I said,
13 dark. But she was pale and she was also, what we call
14 diaphoretic, which is wet. Kind of -- she wasn't warm.
15 She was cool to the touch. Actually, I pulled my glove
16 back to get -- because sometimes the gloves will kind of
17 hinder you from getting a good sense. I pulled my glove
18 back from the palm of my hand and just touched it to her
19 body and she was cool to the touch.

20 Q. And did any of those adults that were outside ever
21 make it in that you're aware of?

22 A. I never saw anybody inside.

23 Q. Did you ever actually talk to any of them?

24 A. I did not.

25 Q. How about, how would you characterize their demeanor

1 or what you saw?

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

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

13 A. I did, yes.

14 Q. And then what happened?

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

25 Q. Okay. So who got into the ambulance?

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

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

9 A. No.

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

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

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

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

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

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

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

1 Q. Did you intubate this child?

2 A. I did not, no.

3 Q. Okay. Did another paramedic?

4 A. Paramedic Clardy did, and I was watching over.

5 Paramedic Clardy was the primary care giver, but me being
6 there first, I had taken an -- just kind of an overview of
7 the call. And there's always one person that kind of looks
8 at all different aspects of it to make sure you're not
9 missing anything. While other paramedics are doing
10 procedures, you're kind of making sure that you're not
11 missing anything. And that's basically what my job was, my
12 role was. I was a secondary provider, but I was making
13 sure nothing was being missed.

14 Q. And so you did observe Paramedic Clardy intubate the
15 child?

16 A. He did. He intubated the child correctly and did the
17 correct procedure, in the correct manner, the correct
18 depth. I mean, everything was, everything was textbook.

19 Q. And could intubating the child have caused a tear in
20 the child's frenulum?

21 A. There was not enough force. There was not -- he
22 didn't apply enough force to do that, no.

23 Q. How about the -- now, did you administer any meds or
24 give an IV to the child?

25 A. I did. I put what's called a intraosseous infusion,

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

9 Q. And did she ever regain a pulse?

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

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

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

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

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

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

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

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

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

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

24 **CROSS-EXAMINATION**

25 **BY MS. MANIGAULT:**

1 Q. When you arrived at the home, the firefighters were
2 the people doing the CPR and the chest compressions?

3 A. That is correct.

4 Q. So you did not witness the mother or James Johnson do
5 anything?

6 A. No, I did not.

7 Q. All right. Thank you.

8 MS. HODGE: That's all I have.

9 THE COURT: Thank you, sir. You may step down.

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

11 MS. MANIGAULT: No objection.

12 THE COURT: Without objection the witness may be
13 excused.

14 Ladies and gentlemen, let's take a short break now.
15 I'll let you go back to your jury room. I'll remind you
16 again, don't discuss the case. We'll take a little more
17 testimony this afternoon and try to leave in the next hour
18 or so at least. You may retired back to your jury room.

19 Everyone else, please remain seated.

20 (WHEREUPON, the jury exited the open court at
21 approximately 4:26 P.M.)

22 THE COURT: Solicitor, how many more witnesses
23 did you intend to call or how many short ones or long ones?
24 I was just trying to work our schedule out.

25 MS. HODGE: I mean, I have three that could go

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

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

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

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

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

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

12 MS. HODGE: Yes, sir.

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

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

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

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

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

24 THE WITNESS: I will.

25 THE CLERK: Please have a seat and then state

1 your full name for the record.

2 THE WITNESS: James P. Clardy.

3 JAMES CLARDY,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MS. HODGE:

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

8 A. I work for Greenville County EMS.

9 Q. How long have you been with them?

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

11 Q. And do you have any previous law enforcement

12 experience before that?

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

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

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

20 Q. And did you also respond to the call at [REDACTED] Fewes
21 Chapel Road?

22 A. I did.

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

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

1 Q. Who were you with?

2 A. I was with -- Cory Trotter was my partner that day.

3 Q. And were y'all driving an ambulance?

4 A. We were driving the transport truck, the ambulance
5 that day.

6 Q. And when you arrived at thirteen thirty-one, or excuse
7 me, at three thirty-one, what did you see on arrival? What
8 were you doing?

9 A. I was driving the ambulance. We had -- en route we
10 had gotten the call as a choking call. We have on-board
11 computers in the truck, which gives us detailed
12 information. As our dispatch gets information, they place
13 that information in the computer. We got the information
14 there's a child choking. And then we were updated
15 somewhere during the transport that the child was choking
16 on tea, I believe is what the information said. Somewhere
17 shortly after that, as we're approaching Few's Chapel off of
18 Highway 14, we got updated information that said it was a
19 cardiac arrest, which was kind of surprising to me that it
20 went from a choking on tea to a cardiac arrest. That's not
21 normal for -- most of the time, if somebody chokes on a
22 liquid, the airway clears up. You know, it doesn't
23 normally lead to a cardiac arrest. As we approached Few's
24 Chappel, I noticed a fire truck sitting on the roadway.
25 The QRV or the quick response vehicle in the driveway. We

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 Q. Was the child clothed or have anything on?

1 A. No. The child was stripped down to simply a diaper.

2 Q. Did anyone attempt to get in the ambulance as you were
3 getting in or as y'all were leaving?

4 A. No, which I also found very odd that -- you know,
5 normally, even on adult patients, a lot of times people --
6 especially, you know, on pediatric patients, parents
7 especially come to the back of the truck and want to ride
8 in the back. And nobody came to the back of the truck. We
9 closed both back doors. The side door had been closed, I
10 believe, by one of the firefighters. And I opened the back
11 door up or I opened the side door up, stuck my head out,
12 looked at the firefighter and I said, is anybody riding
13 with us? And the firefighter, to my recollection looked
14 around and said, I don't guess. We closed the door and I
15 said we're out. We're leaving.

16 Q. And then did you -- as you said, you were in the
17 captain's chair, were you doing some type CPR things to the
18 child?

19 A. At the time I was providing bag valve ventilations and
20 preparing to intubate the patient. We had supplemental
21 oxygen hooked up. Paramedic Trotter was performing CPR,
22 performing compressions. Paramedic Kay was kind of
23 performing a support role, preparing to get the IO,
24 intraosseous IV, set up and getting intubation equipment
25 ready so that we could intubate the patient, secure the

1 airway.

2 Q. And when you intubate, do you make sure the airway is
3 clear, there's nothing blocking it or lodged in there?

4 A. We do. I would look -- to perform intubation, you
5 make visual, you know, you visualize the vocal cords, so
6 you're looking all the way down the airway into the vocal
7 cord area. And we had what's called Magill forceps set up.
8 Being that it had been a choking, we were prepared to clear
9 an airway had there been an obstruction. Everybody had
10 already said -- the firefighters and Paramedic Kay had
11 already said that we had good ventilations, that there was
12 chest rise and fall. There did not appear to be any type
13 of obstruction in the airway, but we were prepared to deal
14 with an obstruction. When we did the laryngoscopy and
15 looked directly into the vocal cords, there was nothing,
16 nothing present. The child had a clear airway.

17 Q. When you're intubating, do you use any amount of force
18 or pressure on the top of the mouth or the top lip that you
19 could have caused any injury the frenulum?

20 A. No. During intubation, all the -- the only part of
21 manipulation is you use the laryngoscope blade to move the
22 tongue out of the way of the way of the airway, and to open
23 the airway, manipulating the lower mandible or the lower
24 jaw.

25 Q. And were you successful in intubating?

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

22 Q. And you guys made it to Greer and transferred custody
23 of **Victim** over to the doctors there?

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

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

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

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

1 Q. And did that end your involvement with [Victim] ?

2 A. At that time that ended our involvement.

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

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

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

9 MS. MANIGAULT: None.

10 THE COURT: Officer Clardy, you may be excused.

11 MS. HODGE: The State calls Deputy Carl Mathias.

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

15 THE WITNESS: I swear.

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

18 THE WITNESS: Carl Mathias.

19 **CARL MATHIAS,**

20 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

21 **DIRECT EXAMINATION**

22 **BY MS. HODGE:**

23 Q. Deputy Mathias, who do you work for?

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

25 Q. How long have you been with Greenville County

1 Sheriff's Office?

2 A. Thirteen years.

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

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

6 Q. And what duties does that entail?

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

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

11 A. Just me.

12 Q. And is that high school located near [REDACTED] Fews Chapel
13 Road?

14 A. The address is 2151 Fews Chapel Road.

15 Q. For the high school?

16 A. Yes, ma'am.

17 Q. Okay. So just down the road?

18 A. Yes, ma'am.

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

20 A. Yes, ma'am.

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

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

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

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

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

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

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

22 Q. Did you see the Defendant at the residence?

23 A. No, ma'am.

24 Q. What did you do then?

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

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

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

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

1 didn't add up.

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

5 A. Yes, ma'am.

6 Q. So he heard what she was saying?

7 A. Yes, ma'am.

8 Q. And he distanced himself from her?

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

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

17 A. Yes. Yes.

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

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

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1 Q. Were you there in any type of investigative capacity
2 or were you trying to get statements or what was your role?

3 A. No, no. I was there just to give aid to the child if
4 the child needed aid, as well as if there was a crime
5 scene, I would secure it.

6 Q. Did a uniform officer then show up while you were
7 there?

8 A. Yes, ma'am. Deputy Azzara showed up a few minutes
9 after I got there. And I walked near the door where we
10 walked in and I briefed him of basically what I thought
11 happened.

12 Q. And did you get a good look at the child, other than I
13 know you said it was lifeless. But did you get to see any
14 -- up close?

15 A. I didn't see anything, no. No.

16 Q. And was Deputy Azzara going to be the lead officer on
17 the scene?

18 A. He was the lead, yes, ma'am. He would be the one to
19 determine whether or not there would be a crime and secure
20 it and contact CID.

21 Q. Did you notice -- when you said outside, did you see a
22 child?

23 A. I think it was a younger child.

24 Q. Did you attempt to talk to anybody else outside?

25 A. No, ma'am. No, ma'am.

1 Q. And did you stay around even after Deputy Azzara
2 showed up?

3 A. I stayed until Deputy Azzara made the determination
4 whether or not to allow the family to go to the hospital,
5 and then I left.

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

8 MS. MANIGAULT: Thank you.

9 CROSS-EXAMINATION

10 BY MS. MANIGAULT:

11 Q. You said you arrived at around three-thirty P.M.?

12 A. Yes, ma'am.

13 Q. Three thirty-one?

14 A. Yes, ma'am.

15 Q. And when you made it inside the house, the child ---

16 A. Was already gone.

17 Q. Was already gone?

18 A. Yes, ma'am.

19 Q. All right. But you did see the child being

20 transported by the firefighter to the ambulance?

21 A. I saw the firefighter carry the child -- he was
22 already out of the house and carrying -- actually walking
23 rather fast to the ambulance.

24 Q. All right. And you say you saw people outside. Do
25 you happen to recall about how many you saw outside?

- 1 A. I'm guessing four maybe.
- 2 Q. Okay. Or where they were standing?
- 3 A. Right where the mother was. It was close to the
- 4 mother.
- 5 Q. Close to the mother. Was she close to the house or
- 6 near the ambulance?
- 7 A. She was probably about fifty feet away from the house.
- 8 Q. And did the mother approach you, start a conversation
- 9 or you went to her?
- 10 A. She approached me and asked me when she could go to
- 11 the hospital.
- 12 Q. All right. And that's when you told her that she
- 13 could not go?
- 14 A. Correct.
- 15 Q. And when you went inside, you saw James Johnson
- 16 sitting on the couch?
- 17 A. Yes.
- 18 Q. All right. And did he make any indication to you that
- 19 he wanted to go to the hospital too?
- 20 A. No.
- 21 Q. You testified they were wondering when they could go
- 22 to the hospital. Who's the they?
- 23 A. I'm saying the mother. The mother was the one that
- 24 was -- the vocal person of trying to go to the hospital.
- 25 Q. Okay. So your earlier testimony was not the correct?

1 It was just the mother?

2 A. As best as I can recall.

3 Q. Okay. And you said that you did not ask Mr. Johnson
4 any questions, but he volunteered a statement to you that
5 he was in the bathroom?

6 A. Yes, ma'am.

7 Q. And that he didn't now what happened?

8 A. Correct.

9 Q. And did he say anything else to you after that?

10 A. I can't recall.

11 Q. Okay. Thank you.

12 MS. HODGE: No further questions.

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

15 MS. HODGE: And may he be excused?

16 MS. MANIGAULT: No objection.

17 THE COURT: Without objection this witness may be
18 excused.

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

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

24 THE WITNESS: I do.

25 THE CLERK: Please have a seat and then state

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1 your full name for the record.

2 THE WITNESS: Kevin James Azzara.

3 KEVIN AZZARA,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MS. HODGE:

7 Q. Deputy Azzara, who do you work for?

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

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

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

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

12 A. Presently, I'm assigned as an investigator with vice
13 and narcotics. I investigate methamphetamine laboratories.

14 Q. And back on May 25th, 2011, what were your duties with
15 the sheriff's office?

16 A. At that time, I was in the uniform patrol division.

17 Our primary duties are to respond to calls for service.

18 Q. Were you working first shift, second shift?

19 A. We were on day shift.

20 Q. Day shift, all right. And what area of Greenville?

21 A. That day, I was working in the Taylors area. We refer
22 to it B-area number two.

23 Q. And did you receive a call for service at [REDACTED] Few's
24 Chapel Road?

1 A. I did.

2 Q. What was that call in reference to?

3 A. The call was in reference to a medical assist of a
4 child choking.

5 Q. Did the call come straight to the sheriff's office or
6 was it routed to the sheriff's office?

7 A. Generally, what happens is they go -- a medical call
8 will go to EMS first and then will be sent to us as well.

9 Q. And do you know what time you received the call for
10 service?

11 A. We believe the call for the sheriff's office came in a
12 three twenty-three in the afternoon.

13 Q. And so it was for medical assistance. Did you have
14 any more information than that?

15 A. Just that there was a child choking.

16 Q. And what time did you end up arriving at Few's Chapel
17 Road?

18 A. I arrived at three forty-four.

19 Q. And was there any ambulance or fire trucks there when
20 you arrived?

21 A. To the best of my recollection when I arrived, I
22 remember seeing a fire truck. The ambulance had already
23 let. And Deputy Mathias was on scene still.

24 Q. All right. Did you notice any other people, civilians
25 outside?

1 A. There were some people milling around. I remember
2 seeing some children there. It was kind of a frantic,
3 everybody rushing to their cars trying to get to the
4 hospital.

5 Q. All right. And there was a car that they were trying
6 to get in to leave?

7 A. I recall there being a vehicle there at that time.

8 Q. And how about the Defendant, do you recall seeing the
9 Defendant when you were there?

10 A. I did. After I spoke to Deputy Mathias about what was
11 going on, he brought me inside the house and put me in
12 contact with the child's mother and the Defendant, who at
13 the time, I asked them what happened. They said they were
14 in the living room and the child walked over to the table
15 where there was a glass of tea, took a drink of tea,
16 started choking, threw up and then that's when they called
17 9-1-1 and began CPR.

18 Q. All right. And who was doing the talking mostly?

19 A. The mother.

20 Q. And what was her name?

21 A. Georgia Ann Sprouce, I believe.

22 Q. Okay. And was the Defendant, Mr. Johnson, was he
23 saying anything to you at that time?

24 A. He didn't say too much. About the only thing he said
25 -- I remember him saying was that are we going to be in

1 trouble. I told him, well, if everything is like you said,
2 the child just choked on something that's out of your
3 control and that's what happened, then, no, of course,
4 you're not going to be in trouble.

5 Q. How about the mom, did she say anything else to you,
6 other than relaying the story about tea?

7 A. That's what she told me. She was very concerned about
8 wanting to go to the hospital. Being that the child had
9 already left and there was no reason to hold them there at
10 that time, I said, why don't you go to the hospital and be
11 with your child and make sure everything's okay there. And
12 generally, what our practice is, if a medical call comes in
13 and the victim has already left the scene via ambulance to
14 the hospital, if there's a further investigation to be
15 done, we would go to the hospital and do it there, if there
16 was a problem with the situation.

17 Q. So you were doing kind of a cursory, initial view, but
18 you didn't get a chance to actually see this child?

19 A. Right. I never saw the child. I never even got a
20 chance to talk to the people who rendered aid to the child,
21 because they had already left by the time I had arrived on
22 scene.

23 Q. So you had limited knowledge about her medical
24 condition?

25 A. Correct.

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1 Q. And for a uniform patrol officer, that would not be a
2 case that you would then further investigate? It would be
3 something that you pass on to ---

4 A. No, I called and I briefed my sergeant and at that
5 point he said, well, stay there. And he was going to send
6 CID out. I don't know if he had talked to the people at
7 the hospital or not and gotten further information at that
8 point.

9 Q. How long do you think that you were at the house
10 speaking to the Defendant and to Ms. Sprouce?

11 A. Maybe about five, ten minutes, just enough to get the
12 version of events of what happened and say, okay, go ahead
13 and go to the hospital and see how their kid's doing.

14 Q. And did they leave as soon as you said they could go?

15 A. Yes.

16 Q. All right. And did someone from CID show up to the
17 house?

18 A. Yes.

19 Q. Okay. Who was that?

20 A. That was Investigator Miller.

21 Q. And did anyone else come to the house while you were
22 there?

23 A. I believe the coroner came eventually and a forensics
24 person came. I'm not sure who that was.

25 Q. Does the coroner generally come on child or pediatric

1 calls?

2 A. At that point, we thought we might have something
3 serious after speaking with the people at the hospital,
4 learning that there was other issues going on. So I
5 believe they just erred on the side of caution and sent
6 somebody out there to document the scene.

7 Q. Okay. But when you were speaking to the mother and
8 the Defendant, you had not spoken to medical personnel,
9 firefighters, EMS, nobody?

10 A. No.

11 Q. So you really were kind of in the dark about ---

12 A. Right. As I said, it was a hectic scene, as you can
13 imagine with something happening to a child. And I can't,
14 you know, blame the paramedics or firefighters for wanting
15 to get them -- get out of the scene and get to the hospital
16 as quickly as possible.

17 Q. Once Investigator Miller showed up on the scene, did
18 that scene transfer over to him?

19 A. Correct.

20 Q. And someone you said from forensics showed up while
21 you were there too?

22 A. Yeah. I believe that was Lendway, I want to say.
23 Yeah. Sergeant Lendway.

24 Q. And is that somebody that you called to come out to
25 the scene or is this something that Investigator Miller is

1 now in charge of ---

2 A. I'm fairly sure it was Investigator Miller who called
3 him.

4 Q. And did you keep the house secure after the Defendant
5 and the mother left?

6 A. Yes.

7 Q. Any other adults or children come into the house that
8 you're aware of?

9 A. Not to my knowledge.

10 Q. Did you speak to any other witnesses in the case?

11 A. No.

12 Q. Did you ever talk to the Defendant or the mother again
13 with regard to this case?

14 A. No.

15 Q. So that ended your involvement?

16 A. Yes.

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

18 A. Yes, ma'am.

19 **CROSS-EXAMINATION**

20 **BY MS. MANIGAULT:**

21 Q. Deputy, you stated that when you went into the house,
22 the mother was talking to you and the Defendant was
23 present?

24 A. Yes.

25 Q. But all the comments or statements came from the

1 mother?

2 A. Correct.

3 Q. And you testified that she said they were in the
4 living room area and saw the child drink the tea?

5 A. Yes.

6 Q. Did she tell you who the they were? Was she talking
7 about herself and somebody else?

8 A. I was assuming she was talking about her and the
9 Defendant, since they were the only two standing there.

10 Q. Okay. So they were the only two there and they said
11 they both were in the living room area when they saw the
12 child -- when she saw the child drink the tea and choke?

13 A. Correct.

14 Q. You stated that you released them after about five or
15 ten minutes to go to the hospital?

16 A. Yes.

17 Q. All right. Thank you.

18 THE COURT: Any redirect?

19 MS. HODGE: No, Your Honor.

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

22 THE COURT: Ladies and gentlemen, we've perhaps
23 reached a good time to break for the evening. I don't know
24 how long the next witness may take, but this will be a good
25 time to end our case for today. We have more testimony

1 obviously to be heard. There might be more exhibits to be
2 offered. I don't know that, but either way I remind you
3 again that you shouldn't be discussing the case, forming
4 any impressions about the case, doing any kind of research
5 about the case. Not listening to any news coverage about
6 the case. The high commitment you've made, ladies and
7 gentlemen, needs to be observed and that's for the
8 commitment that you're going to make a factual decision
9 about this case from what happens in this courtroom and not
10 from extraneous matters that you may hear about. Let your
11 family know that I've instructed you, you're not to talk
12 with them about it or if you're out with some friends
13 tonight. Again, you'll certainly be able to share your
14 experience with those, but while this case is in progress
15 is not the time to do that. I'm sure you'll fulfill the
16 commitment that you've made to both the State and to Mr.
17 Johnson concerning that.

18 We'll be ready to start back at nine o'clock in the
19 morning. I have some more matters I need to take care of
20 this afternoon. So this will be a good time for you to
21 leave. If you will be back in your jury room at nine
22 o'clock in the morning, we'll be ready to proceed then.
23 Have a good evening, ladies and gentlemen.

24 Everyone else, please remain seated.

25 (WHEREUPON, the jury exited the open court at

1 approximately 5:18 P.M.)

2 THE COURT: All right. We will be at ease until
3 nine o'clock in the morning.

4 MS. HODGE: Thank you, Your Honor.

5 (WHEREUPON, the court stood at recess in this case for
6 the day.)

7 June 4, 2013

8 THE COURT: There are no matters we take care of
9 before we start the trial?

10 MS. HODGE: I don't believe so, Your Honor.

11 THE COURT: All right.

12 MS. MANIGAULT: No, Your Honor.

13 THE COURT: Please bear in mind, too, the clock's
14 not working. I think some of the jurors have already
15 noticed that, looking at it.

16 (WHEREUPON, the jury entered the open court at
17 approximately 9:18 A.M.)

18 THE COURT: All right. Ladies and gentlemen,
19 we're now ready to start with the trial of the case.
20 Solicitor, you may call your next witness.

21 MS. HODGE: Thank you, Your Honor. The State
22 calls Crystal Inman.

23 THE CLERK: You may come forward and put your
24 left hand on the bible and raise your right.

25 Do you solemnly swear or affirm to tell the truth, the

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1 whole truth and nothing but the truth, so help you God?

2 THE WITNESS: Yes.

3 THE CLERK: Thank you. Please have a seat. And
4 then please state your name for the record.

5 THE WITNESS: Crystal Marie Inman.

6 CRYSTAL INMAN,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MS. HODGE:

10 Q. Ms. Inman, tell us a little bit about yourself. How
11 old are you?

12 A. Twenty-eight.

13 Q. Are you married?

14 A. Yes.

15 Q. And who's your husband?

16 A. Mark Inman.

17 Q. Do you have any children?

18 A. Yes, three.

19 Q. Okay. And I'm going to need you to speak up just a
20 little more and into the mike, okay?

21 A. Okay. Yes. I have three children.

22 Q. All right. How old are they?

23 A. Twelve, nine and five.

24 Q. Boys, girls?

25 A. Two boys and one girl.

- 1 Q. And are they in school today?
- 2 A. No.
- 3 Q. They're out of school already?
- 4 A. Yes, half-days so they didn't go today.
- 5 Q. Okay. But all of them are school-aged, I guess?
- 6 They're all in ---
- 7 A. All of them but my little girl. She don't start until
- 8 next year.
- 9 Q. Do you work currently?
- 10 A. No, ma'am.
- 11 Q. You stay at home with the kids?
- 12 A. Yes, ma'am.
- 13 Q. And have you worked before?
- 14 A. Yes.
- 15 Q. What kind of jobs have you done before?
- 16 A. Dunkin Donuts, mostly fast food.
- 17 Q. Okay. Have you lived in Greenville most of your life?
- 18 A. Yes, ma'am.
- 19 Q. And do you know the Defendant, Mr. Johnson?
- 20 A. Yes, ma'am.
- 21 Q. Tell us how you know him?
- 22 A. The first time I met him was at my friend Denise's
- 23 house. And that was about two and a half, three years ago.
- 24 Q. Did you go to school with him or anything?
- 25 A. No, ma'am.

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- 1 Q. And is Denise related to Ann Sprouce?
- 2 A. Yes, ma'am, that's her sister.
- 3 Q. Okay. Do you know Ann?
- 4 A. Yes.
- 5 Q. Were you and Ann friends growing up?
- 6 A. Childhood friends, yes, ma'am.
- 7 Q. And how long have you known her?
- 8 A. Ever since I was like nine years old. We was
- 9 childhood friends forever.
- 10 Q. All right. Back in May of 2011, where were you living
- 11 at the time?
- 12 A. [REDACTED] Fews Chapel Road.
- 13 Q. Was that a house y'all were renting or leasing or were
- 14 y'all buying it?
- 15 A. Yes, ma'am, we was renting it.
- 16 Q. Who all lived in that house when you first got there?
- 17 A. Me and my husband and my three kids.
- 18 Q. At some point did the Defendant ever come and stay
- 19 with you at that house?
- 20 A. Yes, ma'am.
- 21 Q. Tell us how that came to be?
- 22 A. Ann was living in an apartment on a White Horse Road
- 23 and her power had got turned off. And she asked me if they
- 24 could come stay and I told her, yeah.
- 25 Q. Had you been keeping up with Ann? I mean, as y'all

1 grew up, did y'all keep in touch?

2 A. For a while we didn't speak for three or four years.

3 And then when she got out of the Serenity House, when she

4 got her apartment, I got back in touch with her.

5 Q. Had she gone up to North Carolina or something during
6 some of that time?

7 A. Yes. That's when she was with [Minor 1]'s daddy.

8 Q. Okay. And did she have her children with her when she
9 came to stay with you on Fews Chapel Road?

10 A. Yes, ma'am.

11 Q. Which children did she have?

12 A. [Minor 1] and [Victim].

13 Q. Do you know how old [Minor 1] and [Victim] were at the
14 time?

15 A. [Victim] was one and [Minor 1] was two.

16 Q. So little?

17 A. Yes, ma'am.

18 Q. All right. And your daughter was how old at that
19 point?

20 A. Three.

21 Q. Were they close? Did they play together?

22 A. Oh, yes, especially her and [Minor 1]. They were
23 really close.

24 Q. Okay. I'm going to show you a few pictures and see if
25 you can tell us what these are pictures of. I'm showing

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1 you what's been marked State's Number 5 through State's 22.

2 If you would just look at them as a group for me and then
3 we'll go specifics with some questions.

4 A. (Reviews State's Exhibits 5 through 22).

5 Q. So what are these pictures of, just in general?

6 A. Pictures of the house and the living room and the
7 bedrooms that we slept in and the bathrooms, and just
8 outside of the house.

9 Q. An overview of the house?

10 A. Yes, ma'am.

11 Q. And is this how the house looked and the inside of the
12 house looked on May 25th of 2011?

13 A. Yes, ma'am.

14 Q. So it's true and accurate depictions of that house?

15 A. Yes, ma'am.

16 MS. HODGE: At this point, we would move to admit
17 State's 5 through 22.

18 THE COURT: Any objection?

19 MS. MANIGAULT: No objection, Your Honor. We've
20 reviewed them.

21 THE COURT: All right. Without objection
22 Exhibits 5 through 22 are admitted into evidence and may be
23 published to the jury.

24 (WHEREUPON, State Exhibit Numbers 5 through 22 were
25 admitted into evidence.)

1 MS. HODGE: Thank you, Your Honor.

2 Q. Crystal, I'm just going to put a few of them up there.

3 Actually, they'll come up behind you on this.

4 MS. HODGE: And I'm going to see if we can turn
5 off that one light, see if they'll show up a little better,
6 Madam Bailiff. That's a little bit better. Y'all think
7 that's a little bit better?

8 Q. All right. And what is this picture of? This is
9 State's Number 5, Crystal?

10 A. It's the picture of the outside of my house and the
11 driveway.

12 Q. All right. And where would you normally park your
13 car?

14 A. Normally, I would park in both spaces. But normally,
15 most of the time, I would park up -- you go behind where
16 these vehicles is sitting, near the back porch.

17 Q. Okay. And I'm going to let you -- this little dot you
18 can use to help you out. Just when you turn away, make
19 sure you speak loud enough. So let me show you State's
20 Number 6. What is that?

21 A. This was the back of the house. This is the section I
22 was talking about that I usually park right here. In this
23 section right here, near the back door.

24 Q. Okay. Would you pull up on the grass or gravel or
25 whatever that was?

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1 A. Yes, ma'am.

2 Q. Is that the door that y'all would normally go into?

3 A. Yes, ma'am.

4 Q. All right. Does this house have a lot of doors?

5 A. Yes, bunches.

6 Q. All right. Showing you State's Number 7. And what is
7 that showing?

8 A. When you went in the door, also, that we used all of
9 the time, that is what I fixed up as a playroom. It had a
10 TV and a futon where they would go play their games.

11 Q. Okay. And is that the futon?

12 A. Yes, ma'am.

13 Q. Okay. And I'm showing you State's Number 8. And is
14 that the same room and the TV over there?

15 A. Yes, ma'am. That's the same room and then the laundry
16 room right beside it.

17 Q. All right. And showing you State's Number 9. Where
18 is this picture taken from? Are you standing in that room
19 we just looked at?

20 A. Yes, ma'am. Looking straight out of that door, you
21 would go into the kitchen.

22 Q. Okay. And what is this over here on the side?

23 A. It is the steps that took you down to the basement.

24 Q. Okay. Was that door normally open like that?

25 A. No, ma'am. It was usually closed and locked. We had

1 a deadbolt at the top of the door because they was young
2 children.

3 Q. Okay. Are the steps pretty steep?

4 A. Yes, ma'am.

5 Q. And what's underneath there or down there?

6 A. When you first go down, it's like -- just like one
7 little bitty room. And then it turns to your right.
8 There's a door right there and then it was like a big --
9 looked like you could use for a living room with a big
10 fireplace and all that.

11 Q. Okay. Did anybody stay down there or live down there?

12 A. No, ma'am.

13 Q. And I'm going to go back a couple of pictures to
14 Number 6. Is there a door that goes into that downstairs
15 room?

16 A. Yes, ma'am.

17 Q. Is that the door right there?

18 A. Yes. Right there.

19 Q. All right. And State's Number 10. Is this the other
20 side of the kitchen?

21 A. Yes, ma'am.

22 Q. Okay. And are there -- is there something right
23 beyond this little table right here, this microwave table?

24 A. Yeah. That's the door that takes you into the living
25 room.

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1 Q. And I'm going to show you State's Number 11. Oops,
2 that one's sideways. What was this?

3 A. That was mine and my husband's room.

4 Q. And I see a bunch of blankets and stuff on your bed.
5 What were those for?

6 A. Most of the time, all three of my children still to
7 this day will sleep on the couch or make a pallet in the
8 floor. They ain't never really been the type to sleep in
9 their own room. So that was from the pallets that they had
10 slept in.

11 Q. And where would they put their -- make their pallets
12 in that house?

13 A. In the living room.

14 Q. All right. And showing you State's Number 12. Which
15 room was that?

16 A. That was the master bathroom in my bedroom.

17 Q. Did Ann or the Defendant or would the girls ever use
18 your bathroom?

19 A. Hardly ever. I recall the girls taking a bath a few
20 times in there, but other than that they would use the
21 other bathroom.

22 Q. There was another bathroom?

23 A. Yes, ma'am.

24 Q. Okay. And State's Number 13, this is still part of --
25 or you tell me.

1 A. Yeah. That's still part of my restroom, the master
2 bathroom.

3 Q. All right. And let me show you State's Number 14.
4 What is this showing?

5 A. That would be if you was coming out of my bedroom door
6 and it would take you straight down the hallway into the
7 other two bedrooms and the bathroom.

8 Q. Okay. And where in your home were the Defendant and
9 the girls and Ann staying?

10 A. You go straight down that hallway into the two back
11 bedrooms and that's where they was staying.

12 Q. All right. I'm showing you State's 15. What was
13 that?

14 A. That was the other restroom I was talking about, in
15 the hallway.

16 Q. Okay. Is it -- I'm showing you back on 14. Is it
17 straight ahead or off to the side?

18 A. To your right where the door's at.

19 Q. Okay. So that was in this bathroom, State's 15.

20 Okay. And I'm going to show you State's Number 16. What
21 was that?

22 A. That was the same restroom in the hallway.

23 Q. All right. And the restroom that primarily Ann and
24 the Defendant would use?

25 A. Yes. Yes, ma'am.

1 Q. All right. And State's Number 17.

2 A. And that was one of the bedrooms. That was the
3 bedroom Ann and the Defendant stayed in.

4 Q. All right. And there's a bunch of stuff on the floor
5 and around in here. What kind of stuff is that?

6 A. Crayons, toys and stuff that they had been playing
7 with earlier that day.

8 Q. All right. And who would be playing with that stuff?

9 A. [Minor 1] and [Minor 3].

10 Q. And [Minor 3] is your daughter?

11 A. Yes, ma'am.

12 Q. All right. And showing you State's Number 18.

13 A. That is the same bedroom that Ann and the Defendant
14 stayed in.

15 Q. Okay. And then I'll show you State's Number 19?

16 A. This was the bedroom that [Victim] and [Minor 1] stayed
17 in.

18 Q. Okay. Was that room connected to the room that is
19 shown in State's Number 17?

20 A. Yes, ma'am.

21 Q. Okay. Where was that bedroom that the girls stayed
22 in, the little girls.

23 A. Right there when you step up through the door. You
24 had to go through that room to get to the room where the
25 girls stayed.

1 Q. Okay. So there's a little step right here?

2 A. Yes, ma'am. It's step ups.

3 Q. Okay. And is this whole thing carpeted down here
4 though?

5 A. Yes, ma'am.

6 Q. All right. And was the room that they -- 19, was this
7 the room that their girls, Ann's girls, stayed in?

8 A. Yes, ma'am.

9 Q. Okay. Was that room also carpeted?

10 A. Yes.

11 Q. And then I'm showing you State's Number 20?

12 A. That was the living room.

13 Q. Okay. Where would this picture be taken from?

14 A. Standing in the door at the kitchen.

15 Q. Is that where the room you're talking about son's also
16 and daughter would make the pallets and sleep on?

17 A. Yes, ma'am.

18 Q. Okay. And how about State's 21?

19 A. That is also the living room. But in that view you
20 would be standing near the window, taking a picture towards
21 the kitchen.

22 Q. Okay. Did this room have a door also that went from
23 the outside into this room?

24 A. No.

25 Q. So you would have to enter through the kitchen ---

1 A. Yes, ma'am.

2 Q. --- was the only way you could get into this room.

3 Okay. So everybody had their own places to be and stay
4 when they were living with you?

5 A. Yes, ma'am.

6 Q. Was the intention that they were going to actually
7 live with you or what was the arrangement originally?

8 A. No, ma'am. They was just going to stay for a little
9 while. She said she was either going to try to get their
10 power turned back on at the apartment or the Defendant got
11 a check or they was going to try to get a place to live
12 when he got his check.

13 Q. Okay. So this was a temporary arrangement?

14 A. Yes, ma'am.

15 Q. Okay. Now, back in May of 2011, were you working at
16 the time?

17 A. Yes, ma'am. I was working at Dunkin Donuts in
18 Travelers Rest.

19 Q. Did you work everyday or how did that go?

20 A. I would work every day but two days a week. I would
21 get two days a week off.

22 Q. Would you go early morning or evening or during the
23 day?

24 A. I was early. I had to be there at like four o'clock
25 in the morning most of the time.

1 Q. All right. How about your husband, did he work during
2 this time?

3 A. Yes, ma'am. He worked at Hawkin's Towing.

4 Q. And does he still work for them?

5 A. Yes, ma'am.

6 Q. Now, how about Ann, did she work at all during this
7 time?

8 A. No, ma'am.

9 Q. Or how about the Defendant, did he have a job or go to
10 work during this time?

11 A. No, ma'am.

12 Q. What would -- tell us what your normal type day was
13 when Ann and the Defendant were staying with you during
14 this couple week period?

15 A. We'd get up and get my kids ready. My husband would
16 take them to school. I would go to my mom's. My
17 grandmother lives with my mom. She takes care of her. So
18 I stayed at my mom's house a lot, helping them out, taking
19 them to the doctor or to the grocery store. And I would
20 stay there until almost time to get my boys. Then I would
21 leave and go get in the school line and then come home and
22 cook and clean.

23 Q. That was kind of the basic routine?

24 A. Uh-huh (affirmative). Yes, ma'am.

25 Q. And what about Ann and the Defendant, what would they

1 be doing, do you know, while you were gone?

2 A. No, ma'am.

3 Q. Did they have a car, either of them?

4 A. No, ma'am.

5 Q. So would they be staying around your house mostly?

6 A. Yes.

7 Q. Did you observe Ann and the Defendant with the girls?

8 A. Yes.

9 Q. Did you see anything initially that gave you any
10 concern with either Ann or with the Defendant, with her
11 girls?

12 A. At the time, no, ma'am.

13 Q. In your opinion, did it appear that Ann or the
14 Defendant treated one or the other girls better or
15 differently than the other?

16 A. Yes, ma'am. I thought that Parker favored [Minor 1] a
17 little more over than [Victim] because him and [Victim]'s
18 father ---

19 MS. MANIGAULT: Your Honor, I object to anything
20 -- conclusions that she's drawn.

21 THE COURT: All right. I sustain the objection.
22 She can certainly talk about her observations, but ...

23 MS. HODGE: All right.

24 Q. Did you notice -- and who is Parker? First of all,
25 who is Parker?

1 A. Him, right there.

2 Q. Okay. That's what you call him?

3 A. Yes, ma'am. I know him by Parker. That's what I've
4 always called him.

5 Q. You've never called him James or Allen or anything
6 like that?

7 A. No, ma'am.

8 Q. Okay. So when you just said Parker, I just wanted to
9 make sure who we were talking about. And you observed
10 Parker being -- treating [Minor 1] more favorably?

11 A. Yes, ma'am.

12 Q. Was there anything specific that you saw him do?

13 A. He would just baby her a lot more and pay more
14 attention to her than he would [Victim].

15 Q. Okay. At this time, were the girls, [Minor 1] and [Victim]
16 [Victim] -- was that her nickname as well? [Victim]'s nickname?

17 A. That's what I've always -- that's what I always called
18 her, [Victim], yes, ma'am.

19 Q. Were these girls still in diapers at the time?

20 A. Yes, ma'am.

21 Q. All right. Both of them?

22 A. Yes.

23 Q. Now, about [Victim], was she able to walk during this
24 time?

25 A. Yes, ma'am.

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1 Q. And how about was she able to eat and drink on her
2 own?

3 A. Yes, ma'am.

4 Q. Did she appear to be a normal, healthy one-year-old?

5 A. Yes.

6 Q. Typical?

7 A. Uh-huh (affirmative).

8 Q. Okay. Did you ever see Ann hit either of the girls?

9 A. I've seen her discipline them and like put them in a
10 corner, but other than hitting them, no, ma'am.

11 Q. Spanking them or ---

12 A. Maybe a pop on the hand and put in a corner, you know,
13 that's all I've ever seen Ann do.

14 Q. All right. And how about the Defendant, did you ever
15 see him hit either of the girls?

16 A. Really, the same for the Defendant. I seen him
17 discipline them and put them in the corner and just pop
18 them on the hand.

19 Q. So there was nothing that you saw personally happen
20 that gave you concern or thought you needed to report or
21 talk about or anything like that?

22 A. No. No, ma'am.

23 Q. During the time that Ann and the Defendant and the
24 girls were staying with you, would there be a time or times
25 that Ann would go with you somewhere? Y'all would go do

1 random things?

2 A. Yes, ma'am. A couple of times she rode with me to my
3 mom's house and she would leave the girls there with the
4 Defendant.

5 Q. Okay. Do you have any idea how many times that was?

6 A. I recall maybe three at the most. Most of the time, I
7 would go by myself to my mom's and they would stay at home
8 because, of course, when I pick kids up there wouldn't be
9 enough room for everybody to ride.

10 Q. And when you and Ann returned from one of the times
11 that y'all had been gone, did you ever notice anything
12 unusual or suspicious regarding [Victim]?

13 A. I noticed a bruise on her forehead that looked like a
14 beaded bruise across her head, yes, ma'am.

15 Q. Did you ask or inquire about that?

16 A. Yes, ma'am. I did ask the Defendant and he said that
17 Ann's daughter [Minor 1] had hit [Victim] in the head with a
18 beaded bracelet -- I mean, necklace. And at the time it
19 seemed like that's what happened because ---

20 MS. MANIGAULT: Your Honor, I object to any
21 conclusion she's drawn.

22 THE COURT: I sustain the objection.

23 Q. Okay. And that's what he told you?

24 A. Yes, ma'am.

25 Q. [Minor 1] had hit her with the beaded necklace?

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1 A. Yes, ma'am.

2 Q. Was there a beaded necklace in the house?

3 A. Yes, ma'am.

4 Q. Okay. What kind of beaded necklace was it?

5 A. It was like a -- I don't know what they call a Mardi
6 Gras.

7 Q. Mardi Gras, the plastic?

8 A. A lot of beads around it. Yes, ma'am.

9 Q. Okay. And did you ever personally see [Minor 1] hit
10 [Victim] with a beaded necklace?

11 A. No, ma'am.

12 Q. Did you see -- and how -- can you give us a time frame
13 about when that bruising happened in relationship to when
14 [Victim] died?

15 A. Two and a half, three weeks after that.

16 Q. And how about any other bruising on [Victim]. Did you
17 see anything else that gave you cause for concern?

18 A. Yes. A week maybe after that, I had seen a bruise
19 between her eyes on her head.

20 Q. And did you ask anyone about that?

21 A. Yes, ma'am. And they said that she fell on ---

22 MS. MANIGAULT: Your Honor, I object. There's no
23 establishment that the Defendant was present or said
24 anything.

25 THE COURT: I sustain the objection.

1 Q. Who did you ask and who answered your question?

2 A. I asked the Defendant and he said that she had fell
3 off the step-down in the back bedroom.

4 Q. Okay. And is that the step-down that we were showing
5 in State's Number 17? Is this what he was referring to?

6 A. Yes, ma'am.

7 Q. Okay. And do you know how long before [Victim] died
8 that you saw that bruise in the middle of her head?

9 A. I don't recall. It was maybe a week or so before
10 that.

11 Q. Did you think that you needed to tell anyone about
12 those couple of instances?

13 A. No, ma'am.

14 Q. Did you take it for what it was worth?

15 A. Yes, ma'am.

16 Q. For what you were told?

17 A. Yes, ma'am.

18 Q. Did you ever see [Victim] fall down that little step
19 back there?

20 A. No, ma'am.

21 Q. Were you ever told by the Defendant that she had
22 fallen down outside, on some steps outside?

23 A. No, ma'am.

24 Q. Were you ever told that she fell down outside on the
25 pavers leading up to the steps?

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1 A. No, ma'am.

2 Q. Were you ever told anything else by the Defendant
3 about how she got her injuries?

4 A. No, ma'am.

5 Q. Okay. So let's go to talk about May the 25th of 2011.
6 Tell the jury what you were doing that day, what you recall
7 about that day?

8 A. My husband had got up and got my kids ready for
9 school. Me and the Defendant and kids got up around nine.
10 We fed the girls breakfast. And we -- I was going to
11 Mauldin to get a child support check for my oldest son and
12 I asked Ann if she wanted to ride with me, and she said,
13 yeah. So she went with me. And that was me and my
14 daughter and her two girls. The Defendant did ride with us
15 too, but we had dropped him off at a friend's house named
16 Josh in Travelers Rest. Went to Mauldin. And then after I
17 left Mauldin we come straight back, got the Defendant and
18 went home.

19 Q. Do you have any idea about what time you got home?

20 A. It was twelve-thirty or so, around -- sometime about
21 twelve-thirty.

22 Q. And what happened when you got back to the house?

23 A. Me and my daughter eat a sandwich and eat some lunch
24 and stuff and used the restroom and then I left to go get
25 my boys from school.

1 Q. And what school were they going to?

2 A. Heritage Elementary in Travelers Rest.

3 Q. So what time did you normally have to leave to go get
4 them?

5 A. Between one-fifteen or one-thirty because it was so
6 far from the house down to go get them, so I always left
7 early to get in the school line early.

8 Q. And when you left to go get them, did you take anybody
9 with you? Ann or the girls or the Defendant?

10 A. My daughter, **Minor 3**. That's the only one that went
11 with me.

12 Q. So who was left at the house when you went to go pick
13 your boys up?

14 A. Ann, the Defendant, and the two girls.

15 Q. Do you know or recall what they were doing when you
16 left?

17 A. I don't recall.

18 Q. Would the girls -- did you know the girls to take naps
19 or anything?

20 A. Yes, ma'am.

21 Q. Were they still doing that?

22 A. Uh-huh (affirmative).

23 Q. Did you know or remember if they ate with you and your
24 daughter lunch or anything like that?

25 A. I don't recall really.

1 Q. When you were with [Victim] that day, how was she?

2 A. She was fine. She was acting normal. I mean, she was
3 happy, laughing, playing. She was perfectly fine when she
4 was with me.

5 Q. So did you go pick up your boys from school?

6 A. Yes, ma'am.

7 Q. And where did you go after that?

8 A. I picked them up. I go pick one of my friends up,
9 too, during the day to pick her little girl up. And we
10 picked my children up and her little girl. And I took my
11 friend back home and then I went home.

12 Q. Do you have any idea what time it was when you got
13 back home?

14 A. Between three and three thirty.

15 Q. And what happened when you got home?

16 A. I pulled up in the driveway and Ann come running
17 outside saying that [Victim] had got choked on tea.

18 MS. MANIGAULT: Your Honor, I object to anything

19 ---

20 THE COURT: I -- wait just a moment.

21 MS. MANIGAULT: I object to anything that Ann or
22 anybody told her when the Defendant was not present.

23 THE COURT: All right. I'll sustain.

24 Q. Don't tell us what Ann said to you but what did you
25 do?

1 A. I had went in the house and seen [Victim] laying in the
2 floor. And her lips was already turning blue then. And I
3 had seen throw-up beside her. And the Defendant was in
4 there, bent over her doing CPR. And Ann was on the phone
5 with 9-1-1.

6 Q. And when you got there, they were already on the phone
7 with 9-1-1?

8 A. Yes, ma'am.

9 Q. And where was she? Where was [Victim]

10 A. She was in the living room.

11 Q. Okay. I'm going to put up State's Number 20. Where
12 did you see [Victim] and the Defendant when you came in?

13 A. Right there.

14 Q. And you said you noticed the throw up. Where was
15 that?

16 A. Like right beside her, in this area.

17 Q. Was it a lot? Did you notice a lot, a large amount or
18 a small?

19 A. It was a small amount.

20 Q. Do you remember what [Victim] happened to be wearing
21 that day?

22 A. I think it was just a diaper when I returned back
23 home.

24 Q. Had she had clothes on earlier in the day when y'all
25 had gone down to Mauldin?

1 A. Yes, ma'am. She had like a top dress thing on with a
2 green bow.

3 (WHEREUPON, State Exhibit Number 23 was marked for
4 identification.)

5 Q. Let me show you State's Number 23. What is this a
6 picture of?

7 A. This is a picture of the dress that [Victim] had on
8 earlier that day.

9 Q. All right.

10 MS. HODGE: At this time we'd move to admit
11 State's Number 23 into evidence.

12 MS. MANIGAULT: No objection, Your Honor, we've
13 reviewed it.

14 THE COURT: All right. Without objection,
15 Exhibit 23 is admitted and may be published.

16 (WHEREUPON, State Exhibit Number 23 was admitted into
17 evidence.)

18 MS. HODGE: Thank you, Your Honor.

19 Q. This is the top that you recall her wearing earlier in
20 the day; is that correct?

21 A. Yes, ma'am.

22 Q. And I don't know if you can see it from there. I'm
23 going to take it down off the projector and show it to you.
24 Do you know -- when you saw her, when you left her earlier
25 in the day, did it have any of this around it, this stain

1 type thing on it?

2 A. I don't recall.

3 Q. All right. So once you come into the room and see
4 what's going on, what do you do?

5 A. I run outside to call my mother to come and pick my
6 kids up.

7 Q. Well, tell me about that. Had your children come into
8 the house with you?

9 A. No, ma'am. They stayed in the car.

10 Q. And did you tell them to stay in the car or ---

11 A. Yes, ma'am.

12 Q. Did you know that something was going on?

13 A. Yes, I did when I pulled up and she had come running
14 out.

15 Q. Okay. Now, [Minor I], do you remember seeing [Minor I]
16 at the house?

17 A. No, ma'am. I don't recall seeing her when I went in.

18 Q. When do you recall seeing her?

19 A. After I had called my mother I had went down to the
20 basement. Because like I said, my kids was in the car. So
21 I went to the basement, opened the basement door in the
22 bottom and my kids got out and we was down there. And I do
23 recall [Minor I] being down there, but I just can't remember
24 how she got down there.

25 Q. What was your mental state at this time?

1 A. I was all to pieces. I was hysterical, just didn't
2 know what to do.

3 Q. And did your mom live close by?

4 A. Yes, ma'am.

5 Q. And, I'm sorry. Did you say why you had called her?

6 A. Yes, ma'am. To come pick up the kids.

7 Q. And where was she going to take the kids?

8 A. Back to her house.

9 Q. When you were there down in the basement, did the
10 police or ambulance or fire trucks, anything, show up?

11 A. Yes, ma'am. I remember the fire truck showing up
12 first and then the ambulance.

13 Q. Had your mom come to get the kids at this point or not
14 yet?

15 A. Yes, ma'am.

16 Q. Did she take them away, right away?

17 A. No, ma'am. She stayed maybe ten or fifteen minutes.

18 Q. Did she bring any other adult with her or was she by
19 herself?

20 A. It was her and her next door neighbor, Kelly.

21 Q. Okay. And where did she and Kelly and you mostly stay
22 during this time?

23 A. In the basement.

24 Q. Would you have gone outside at all?

25 A. I don't recall going outside.

1 Q. All right. What happened while you were down in the
2 basement?

3 A. Ann had come down to the basement, standing there.
4 She wasn't really saying much, wasn't really crying. And I
5 remember looking at her, telling her that she needed to be
6 upstairs with her child. And I recall the Defendant being
7 down there too, but he mostly just stayed by himself to the
8 side, like outside the basement door.

9 Q. Did he appear to be upset?

10 A. Not really.

11 Q. Did you ask Ann anything about what happened?

12 A. Yes, ma'am. And then that's when she told me that ---

13 Q. You don't have to tell me what she said, but the same
14 thing she said as she came out?

15 A. Yes, ma'am.

16 Q. And did you ask the Defendant about what had happened?

17 A. No.

18 Q. Tell us then what you saw happen next?

19 A. I remember them carrying [Victim] out and my mom was
20 still there at the time. And she was very upset when she
21 seen them carry [Victim] out.

22 Q. And would you children have seen that too or possibly
23 seen that?

24 A. Yes, ma'am, possibly.

25 Q. What about [Minor 1]?

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1 A. Possibly. I don't really recall, but she might have.

2 Q. She was around the same area with your kids?

3 A. Yes, ma'am.

4 Q. Down in the basement area?

5 A. Yes.

6 Q. All right. So what happened then after they took Nay
7 Nay to the ambulance?

8 A. The police was there by the time and they spoke with
9 me briefly and spoke with Ann and the Defendant. And I
10 remember them telling her that she couldn't get in the
11 ambulance so we had to wait there for a little while. And
12 then when the police told her that it was fine to go, I
13 took them to the hospital.

14 Q. Had Minor I and your children gone with your mom by
15 that time?

16 A. Yes, ma'am.

17 Q. So tell us about going to the hospital?

18 A. We got in the car and we was going to Greer Memorial.
19 There was really nothing going on in the car. Nobody was
20 really talking or anything.

21 Q. There was no discussion about what had happened or
22 anything like that?

23 A. No, ma'am.

24 Q. How about emotions, was there anything -- anybody
25 upset or ---

- 1 A. Yes, ma'am. Ann was crying.
- 2 Q. How about the Defendant?
- 3 A. I don't recall.
- 4 Q. Were they talking to each other?
- 5 A. No, ma'am.
- 6 Q. Did you ask anymore questions in the car?
- 7 A. No, ma'am.
- 8 Q. Which hospital did y'all go to?
- 9 A. Greer.
- 10 Q. And how long did y'all -- or what happened at Greer?
- 11 A. We got there and we was there maybe ten or fifteen
- 12 minutes and then they had informed us that they was
- 13 transferring her to Greenville Memorial.
- 14 Q. Did you also drive them to Greenville Memorial?
- 15 A. Yes, ma'am.
- 16 Q. And in the car was there any type conversation going
- 17 on?
- 18 A. No, ma'am.
- 19 Q. Nothing between you and Ann?
- 20 A. No, ma'am.
- 21 Q. Nothing between the Defendant and Ann?
- 22 A. No, ma'am.
- 23 Q. And do you have any idea what time you may have gotten
- 24 to Greenville Memorial?
- 25 A. I don't recall right now.

1 Q. What happened when you got to the hospital?

2 A. We went in and I went to the waiting room and as soon
3 as we got there, I remember the police already being there.
4 They took Ann back and talked to her, and then shortly
5 after they spoke with me and the Defendant. Me and him was
6 out in the big waiting room.

7 Q. Did they speak to y'all together or separately?

8 A. Separately.

9 Q. And at that point did you give a written statement of
10 any kind or was it just oral, just talking?

11 A. It was just talking.

12 Q. And did you see the Defendant speaking to police
13 officers at that time?

14 A. Yes.

15 Q. Were you and the Defendant talking to each other or
16 hanging out at all during this time in the waiting area?

17 A. No, ma'am.

18 Q. Any reason why not?

19 A. No. He was following me around, trying to talk to me,
20 but I really didn't say much to him. And I recall the
21 Defendant walking around talking about how **Victim** would
22 always just fall and fall, all the time.

23 Q. He was saying that she would just fall and fall, all
24 the time?

25 A. Yes, ma'am.

1 Q. Did you ever see Ann again that night?

2 A. No, ma'am.

3 Q. She stayed back in the smaller, I guess, waiting area?

4 A. Yes, ma'am.

5 Q. That's where [Victim] was?

6 A. Yes.

7 Q. Did you get to go back and see [Victim] that night?

8 A. No, ma'am.

9 Q. Did the Defendant stay in the waiting area during that
10 time that night?

11 A. Yes.

12 Q. Did you leave the hospital at some point?

13 A. Yes, ma'am.

14 Q. Do you have any idea what time it was?

15 A. I'm not sure.

16 Q. Where did you go? What did you do?

17 A. I left and went to my mom's to pick the kids up. I
18 remember when I got there [Minor 1] was kind of upset,
19 asking for her Mom and crying and didn't, you know -- acted
20 like she didn't want to go to sleep. So I called Ann's
21 sister, Marie, to see if she would come and get [Minor 1].
22 And at that time she told me to ---

23 MS. MANIGAULT: Your Honor, I object to anything
24 that anybody said.

25 MS. HODGE: Your Honor, this is not for the truth

1 of the matter asserted. This is why the grandmother got
2 the child. It's a sequence of events.

3 THE COURT: All right. I'll allow the answer to
4 this question.

5 A. Okay. And Marie had told me then to take [Minor 1] to
6 her grandmother Tina at the hospital.

7 Q. And do you have any idea what time you're talking now?

8 A. Ten-thirty, eleven o'clock. It was pretty late.

9 Q. And so what did you do as a result of talking to
10 Marie?

11 A. I just got there and Tina and her husband was there
12 and I give her [Minor 1]. We really didn't speak long and
13 then we left.

14 Q. Okay. And was the Defendant still there when you got
15 there with [Minor 1]?

16 A. Yes.

17 Q. Did you talk to him or did he try to talk to you?

18 A. No, I did not speak with him. But when me and my
19 husband was going towards the car, he was following us,
20 asking us if we could give him a ride. And my husband
21 said, no, and we left and went home.

22 Q. Did you ever see the Defendant again after that?

23 A. No.

24 Q. Is that the last communication you had with him?

25 A. Yes, ma'am.

1 Q. Now, he had been staying in your house. Did he ever
2 come and get his stuff from your house?

3 A. No.

4 Q. Was he allowed to come back to your house?

5 A. If he wanted to come get his stuff, yes, ma'am.

6 Q. Okay. Was he allowed to come back and stay at your
7 house?

8 A. No, ma'am.

9 Q. How about Ann, was she allowed to come back and stay
10 at your house?

11 A. No, ma'am.

12 Q. Did you let her come get her stuff?

13 A. Yes, ma'am.

14 Q. Did you talk to Ann much after this?

15 A. Not much. I went back to the hospital the day they
16 took [Victim] off of the machine. But I really didn't speak
17 with her much. She was with [Victim]'s daddy, Mark. And
18 Mark had asked me if Ann could come back to the house and
19 stay and I told him, no. And he said, well, can she come
20 get her stuff? And I told him yes.

21 Q. Was this pretty upsetting for you?

22 A. Yes, ma'am.

23 Q. Now, the person that you say you call Parker, James
24 Johnson, is he present in the courtroom today?

25 A. Yes, ma'am.

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1 Q. Okay. And can you identify him for the jury?

2 A. Yes, ma'am. He's sitting right there.

3 Q. Sitting at the Defense table?

4 A. Yes, ma'am.

5 Q. In the purple shirt?

6 A. Yes, ma'am.

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

9 **CROSS-EXAMINATION**

10 **BY MS. MANIGAULT:**

11 Q. Ms. Inman, were you aware that Ann told Parker not to
12 go back to your house?

13 A. No, ma'am.

14 Q. Now, at the -- when the ambulance came, you were
15 there?

16 A. Yes, ma'am.

17 Q. And you were there when the fire responders came?

18 A. Yes, ma'am.

19 Q. So you got back to the house before they got there?

20 A. Yes, ma'am.

21 Q. And you stated that you heard the police tell Ann that
22 she could not go in the ambulance?

23 A. Yes, ma'am.

24 Q. She had to wait there?

25 A. Yes.

1 Q. Now, you said you were down in the basement. Was the
2 basement door that was seen in one of the State's Exhibit,
3 was that unlocked and open?

4 A. Yes, ma'am.

5 Q. Okay. And did you come into the house through the
6 basement door?

7 A. No.

8 Q. All right. You came into the house through the back
9 door?

10 A. Yes, ma'am.

11 Q. And how many steps up? How many steps at the back
12 door?

13 A. Three.

14 Q. Three. And how many steps -- is there a front
15 entrance?

16 A. Yes.

17 Q. Okay. And when you entered that front entrance, how
18 many steps is that?

19 A. In the front, maybe seven.

20 Q. Seven. And that front door, when you open into the
21 house, what room would you step into?

22 A. Through the front, you would step into the kitchen.

23 Q. You would step into the kitchen?

24 A. Yes, ma'am.

25 Q. And when you go in the back door, what room would you

1 step into?

2 A. The game room where the futon and stuff was at.

3 Q. All right. And the game room with the futon and a
4 picture showed the laundry room?

5 A. Yes.

6 Q. How far was the kitchen from that room?

7 A. You turn right, go through the door and it takes you
8 straight into the kitchen.

9 Q. So the front door from the back door is like halfway
10 through the house?

11 A. Yes.

12 Q. Now, you said that when you entered you saw -- when
13 you went into the living room area after you had gotten
14 into the house, you saw Ann and, you called him Parker ---

15 A. Yes, ma'am.

16 Q. --- into the living area? They were in the living
17 area?

18 A. Yes, ma'am.

19 Q. They were in the area where **Victim**, that's what you
20 called the baby.

21 A. Yes, ma'am.

22 Q. And **Victim** was lying on the floor; is that right?

23 A. Yes, ma'am.

24 Q. And who was doing CPR?

25 A. The Defendant.

1 Q. Okay. Did you observe how he was doing? Did he have
2 his hands closed, open, one hand, two hands?

3 A. I don't -- because when I see it, I was just so upset,
4 that's when I run outside.

5 Q. Okay. And you testified that there was some throw-up
6 next to **Victim**. How large would you say the throw-up spot
7 was? Was it the size of a grapefruit or the size of an
8 orange?

9 A. It was about this big on the carpet.

10 Q. About a little bigger than a grapefruit?

11 A. Yes, ma'am.

12 Q. Okay. And you are pretty sure that was throw-up?

13 A. Yes, ma'am.

14 Q. And when you entered the living, Parker was doing CPR.
15 And what was Ann doing?

16 A. She was standing beside him on the phone with 9-1-1
17 trying to direct him to what to do.

18 Q. All right. And how long did you stay to observe that?
19 Minutes, seconds?

20 A. Just a few seconds.

21 Q. A few seconds?

22 A. Yes, ma'am.

23 Q. And when you left the room you went where?

24 A. I went outside in the front yard to call my mother.

25 Q. Were there any other adults outside in the front yard

1 when you went out there?

2 A. No, ma'am.

3 Q. Now, you said Ann came down to the basement. Did she
4 come down to the basement while the fire responders and/or
5 EMS was still there?

6 A. Yes, ma'am.

7 Q. And do you recall how long she stayed down in the
8 basement?

9 A. Probably five or ten minutes.

10 Q. Okay. And I believe you testified that Parker came
11 down to the basement also?

12 A. Yes, ma'am.

13 Q. How long did he stay in the basement?

14 A. I really don't recall.

15 Q. You don't recall. All right. When Ann came to the
16 basement, how was she acting?

17 A. She was barely crying. I mean, she wasn't all upset
18 like I would have been if that would have been my child
19 laying there.

20 Q. And you said you told Ann to go back upstairs with her
21 child?

22 A. Yes, ma'am.

23 Q. And when you told her that, did she go back upstairs?

24 A. Yes, ma'am.

25 Q. I believe you said you saw the fire responder carry

1 Victim out?

2 A. Yes, ma'am.

3 Q. Were you still in the basement or were you outside at
4 that point?

5 A. I was standing at the basement door.

6 Q. Okay. So did he come through the back door or the
7 front?

8 A. The back door.

9 Q. So the fire responder came out the back door?

10 A. Yes, ma'am.

11 Q. All right. You said that there was no conservation in
12 the car on your way to Greenville Hospital?

13 A. No, ma'am.

14 Q. All right.

15 MS. MANIGAULT: No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MS. HODGE: No, sir.

18 THE COURT: Thank you. You may step down, Ms.

19 Inman.

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

21 THE COURT: Any objection?

22 MS. MANIGAULT: None, Your Honor.

23 THE COURT: All right. Without objection the
24 witness may be excused from the subpoena.

25 MS. HODGE: The State calls Doug Smith.

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1 THE CLERK: Come forward and put your left hand
2 on the bible and raise your right.

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

5 THE WITNESS: Yes.

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

8 THE WITNESS: Douglas Smith.

9 DOUGLAS SMITH,

10 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MS. HODGE:

13 Q. Mr. Smith, were you previously employed with the
14 forensic division of the Department of Public Safety back
15 in May of 2011?

16 A. Yes.

17 Q. And how long were you a forensic officer?

18 A. Just a little under eight years.

19 Q. Okay. What were your duties with forensics?

20 A. Typically, locate, collect and preserve physical
21 evidence related to a crime scene.

22 Q. Okay. I'm going to ask you to speak up or push that
23 microphone up just a little bit. I'm having a hard time
24 hearing you.

25 A. Is that better?

1 Q. Much better. Thank you. All right. And so were you
2 called to take some photographs in this case that we're
3 here on today, the State versus James Johnson?

4 A. Yes.

5 Q. All right. And what were you asked to do?

6 A. Just document through digital still images any visible
7 injuries to the Defendant. I'm sorry, to the victim.

8 Q. To the victim? All right. And who was the victim, do
9 you remember?

10 A. [REDACTED] Victim [REDACTED] was the name I was provided.

11 Q. Where did you go?

12 A. Greenville Memorial Hospital, PEDS Unit, that's PEDS
13 ICU.

14 Q. Do you know what time you arrived there?

15 A. About seven o'clock P.M.

16 Q. And tell us what you did while you were there?

17 A. I spoke briefly with an investigator Hoover. He
18 requested just digital still images of the victim. I
19 obtained a consent to photograph from who I was advised was
20 the victim's mother. I went in and secured as many digital
21 images I possibly could. They were still -- the victim was
22 on a respirator and was still being attended to by a nurse.
23 So I tried to be as least obtrusive as possible.

24 Q. Would a nurse or a doctor have assisted you in being
25 able to take these pictures?

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1 A. Typically, yes, they do. But due to the age and the
2 nature of this, being on a respirator, we didn't move the
3 baby at all. I took pictures around what they were doing.

4 Q. All right. Let me show you ...

5 MS. HODGE: I'm sorry. I haven't had these
6 marked yet.

7 (WHEREUPON, State Exhibit Numbers 24 through 33 were
8 marked for identification.)

9 Q. All right. I show you what's been marked State's
10 Number 24 through 33. If you can identify those as a group
11 for me, just in general what those are.

12 A. These would be digital still images that I obtained on
13 May 25th, 2011 from Greenville Memorial, Room Number 5619.

14 Q. And the child is [REDACTED] Victim ?

15 A. Yes.

16 Q. Are these true and accurate representations of how she
17 looked at that date and time?

18 A. Yes.

19 MS. HODGE: At this time we'd move to admit
20 State's 24 through 33.

21 THE COURT: Any objection?

22 MS. MANIGAULT: Yes, sir. Brief sidebar?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, Ms. Hodge and Ms. Manigault approached the
25 bar.)

1 MS. HODGE: Your Honor, after our discussion at
2 sidebar the State moves to admit States Number 28, 29, 30,
3 31, 32, and 33.

4 THE COURT: Did you want Exhibit 24?

5 MS. HODGE: Oh, I'm sorry.

6 THE COURT: That's all right.

7 MS. HODGE: 24. That's the room number.

8 MS. MANIGAULT: Okay.

9 MS. HODGE: And Number 24.

10 THE COURT: Any objection to those exhibits?

11 MS. MANIGAULT: No objection, Your Honor. At the
12 sidebar, I objected to the pictures and the Court has
13 addressed that issue.

14 THE COURT: All right. Those have been excluded?

15 MS. MANIGAULT: Yes, sir.

16 THE COURT: All right. You may proceed.

17 Exhibits 28 through 33 and Exhibit 24 admitted.

18 MS. HODGE: Yes, sir.

19 (WHEREUPON, State Exhibit Number 24 and State Exhibit
20 Numbers 28 through 33 were admitted into evidence.)

21 Q. I'm showing, Mr. Smith, what's been marked as State's
22 Number 4 [verbatim]. What is the significance of that
23 picture?

24 A. That would be the room number of the PEDS ICU Unit.

25 Q. Is that ---

1 A. That is the room number in which I was called to
2 respond to.

3 Q. And I show you State's Number 28. What's the
4 significance of this photograph?

5 A. To show the bruising to the forehead and the bridge
6 and the eyes, the bridge of the nose and the eyes.

7 Q. I'm showing you State's Number 29.

8 A. To elaborate on the bruising to the forehead. It's a
9 little bit of swelling to the forehead, the bridge of the
10 nose, around the eyes as well.

11 Q. And is there something here?

12 A. Yeah. Additional bruising on the chest.

13 Q. Was your job to do overall pictures as much as you
14 could without moving ---

15 A. Correct. Take overall pictures, take closeup pictures
16 with and without scale, which is just a little L-ruler to
17 show the size of the bruise. You take a closeup of a
18 bruise, it could be this big. If you don't put a scale
19 next to it, it could look this big. You get the best
20 representation you possibly can of the sheer size of it.

21 In this case you take overall pictures on top, all sides
22 and to scale as many of the injuries as you possibly can.

23 Q. I'm showing you State's Number 30. What's the
24 significance on this picture?

25 A. Light bruising on the right flank of the victim.

- 1 Q. And is that here?
- 2 A. Yes. The right flank would be the side of the rib
3 cage.
- 4 Q. Is there anything down here?
- 5 A. Redness to the sides of the legs.
- 6 Q. State's Number 31?
- 7 A. Additional bruising to the opposite side on the left
8 flank, a little bit lower than the right side.
- 9 Q. State's Number 32?
- 10 A. That would be redness on the outside of the right
11 knee.
- 12 Q. And State's Number 33?
- 13 A. That was redness that I was advised potentially could
14 be from fire ant bites to the back side of the left leg,
15 just right around the back side of the thigh.
- 16 Q. Did you remove the child's diaper at all ---
- 17 A. No, I did not.
- 18 Q. --- to take any photographs?
- 19 A. No, I did not.
- 20 Q. Or take any pictures of the back?
- 21 A. No.
- 22 Q. How about on the inside of the child's mouth?
- 23 A. No.
- 24 Q. Were you able to photograph any ---
- 25 A. No. With the respirator on, no pictures were taken.

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Tina Rollins - Direct Examination by Ms. Hodge

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1 The only extremities that were moved were the legs. We did
2 not want to interfere with the respirator at all.

3 Q. Was that the only duty you were asked to perform in
4 this case?

5 A. Yes.

6 Q. Thank you. Please answer any defense questions.

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

8 Thank you.

9 THE COURT: Thank you. You may step down.

10 THE WITNESS: Thank you.

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

12 MS. MANIGAULT: No objection.

13 THE COURT: Without objection. Thank you. You
14 may be excused.

15 MS. HODGE: The State would call Tina Rollins.

16 THE CLERK: Put your left hand -- raise your
17 right.

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

20 THE WITNESS: Yes.

21 THE CLERK: Would you please have a seat and
22 state your full name for the record.

23 THE WITNESS: Tina Ann Rollins.

24 TINA ROLLINS,

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 DIRECT EXAMINATION

2 BY MS. HODGE:

3 Q. Ms. Rollins, tell us a little bit about yourself. How
4 old are you?

5 A. I'm fifty-one.

6 Q. And are you currently married?

7 A. No, ma'am. I live with my boyfriend.

8 Q. And how long have you been with your boyfriend?

9 A. Seven years.

10 Q. Do you have any children?

11 A. I have five girls.

12 Q. And what are their ages and names?

13 A. Ann is 32; Marie is 31; Denise is 26; Heather is 20;
14 and **Minor 6** is 15.

15 Q. And how about grandchildren?

16 A. I have three grandchildren.

17 Q. And what are their names?

18 A. I have one that we call him little **Minor 2**; he's
19 seven. And then I have **Minor 1**, she'll be five in July.
20 And then I had **Victim**.

21 Q. And were all those children your daughter Ann's
22 children?

23 A. Yes, ma'am.

24 Q. And Ann is Ann Sprouce; is that correct?

25 A. Yes, ma'am.

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- 1 Q. What was her maiden name?
- 2 A. Sprouce.
- 3 Q. That's her name. Did she get married?
- 4 A. Yes. She married Mark Carter.
- 5 Q. But she didn't take his last name?
- 6 A. No, she kept Sprouce.
- 7 Q. She kept Sprouce, okay. And are you currently working
- 8 anywhere?
- 9 A. No, ma'am. I'm disabled.
- 10 Q. Do you take care of Minor 1?
- 11 A. Yes, ma'am.
- 12 Q. And what kind of work have you done in the past?
- 13 A. I've worked as a nursing assistant. I was head
- 14 bookkeeper for Winn Dixie. And my last job, I was
- 15 assistant manager for Walmart.
- 16 Q. And when did you become disabled?
- 17 A. In 2006 or '07.
- 18 Q. Not that long ago?
- 19 A. No, ma'am.
- 20 Q. All right. Do you know the Defendant in this case?
- 21 A. Yes, ma'am.
- 22 Q. And how do you know him?
- 23 A. I had met him through my daughter Ann. I had seen him
- 24 at her apartment.
- 25 Q. Did you know what kind of relationship they had? Was

1 it friends or more than friends?

2 A. She had told me they were boyfriend and girlfriend.

3 Q. Do you know about when they may have started dating?

4 A. I believe it was somewhere around 2011.

5 Q. All right. In the beginning, middle, end, do you have
6 any idea?

7 A. I'm going to say the beginning or maybe the last of
8 December. I'm not sure about the date.

9 Q. How long did they date?

10 A. Not that -- up until that happened.

11 Q. Until [Victim] died?

12 A. Yes, ma'am.

13 Q. Now, how many times do you think you met the
14 Defendant?

15 A. Maybe a handful. I would just go over there to pick
16 up the children and I would leave. Usually, I didn't stay.

17 Q. And where would you go and pick the children up?
18 Where was this?

19 A. Her apartment on Whitehorse Road.

20 Q. Whitehorse Road?

21 A. Yes, ma'am.

22 Q. All right. I'm going to ask you to make sure you
23 speak up too. You may want to get into that microphone a
24 little bit. And you said you'd pick up the children. Was
25 that something you normally did?

1 A. Yeah. I picked up [Minor I] really more than I'd pick
2 up [Victim]. But I did go over there and pick them -- would
3 pick the children up from the home.

4 Q. And what would you do with them?

5 A. That was something I had always done.

6 Q. Okay. Helping out Ann?

7 A. Uh-huh (affirmative).

8 Q. Would you take them to spend the night with you or
9 just ---

10 A. Usually, she spent the weekends with me.

11 Q. So mostly [Minor I] or [Minor I] and [Victim]?

12 A. I'd pick up [Victim] some, but it was mostly [Minor I]
13 that would always want to go. She'd be jumping up and
14 down, want to go with grandma.

15 Q. Okay. And did you ever do any visiting in the home
16 with Ann and the Defendant?

17 A. No, not really. I wouldn't stay no longer than five
18 or ten minutes, mainly just picking up and dropping off.

19 Q. All right. Whenever you would get [Victim], did you
20 ever notice any unusual bruises or anything that gave you
21 cause for concern?

22 A. No. I had picked up [Minor I] one time and I had asked
23 my daughter, because she had a bruise on her, and she said
24 that she ---

25 MS. MANIGAULT: Your Honor, I object to any

1 discussion about ---

2 THE COURT: Sustain the objection.

3 Q. You observed a bruise on [Minor I], is what you're
4 saying?

5 A. Uh-huh (affirmative).

6 Q. And you did ask Ann about it?

7 A. Yeah. Parker was there, too, at the time.

8 Q. Okay. Without saying what they told you, after you
9 talked with them, did you feel the need to call anybody or
10 report any ---

11 A. No. What she had said seemed pretty logical if you
12 knew [Minor I].

13 Q. Okay. All right. Something that didn't raise a red
14 flag to you?

15 A. No.

16 Q. But how about [Victim], anything on [Victim]?

17 A. No. The last time I took [Minor I] home I asked where
18 [Victim] was and they said she was sleeping. So I didn't
19 bother her.

20 Q. When was the last time you saw [Victim] before she
21 died?

22 A. The weekend of Easter.

23 Q. And was Easter in April that year?

24 A. Yes, ma'am.

25 Q. So would it be fair to say a month, six weeks,

1 something like that before she died?

2 A. Yes, ma'am.

3 Q. At some point did Ann move from that apartment on
4 Whitehorse Road?

5 A. Yes, ma'am, she did. I later learned that she had
6 moved in with Crystal.

7 Q. Were you keeping in touch with Ann on a regular basis?

8 A. I was up until the Defendant moved in. And then her
9 phone got turned off and she didn't have a way to call me.

10 Q. And did you -- other than Easter, after Easter, did
11 you ever go over or go visit?

12 A. No, ma'am, because shortly after that is when they let
13 the apartment.

14 Q. Did you have any idea when they left the apartment at
15 the time they left, where they had gone?

16 A. No, ma'am, I did not.

17 Q. And you were out of contact with Ann during this time?

18 A. Yes, ma'am.

19 Q. Did you know Crystal?

20 A. Yes, ma'am. I've known her and her family for all my
21 life, really.

22 Q. Did you know where Crystal lived at that time?

23 A. No, ma'am.

24 Q. Do you recall May the 25th, 2011?

25 A. Yes, ma'am.

1 Q. Tell me what you recall about that day?

2 A. I was standing in my kitchen getting ready to cook
3 dinner and my daughter Marie called and she told me that
4 [Victim] had choked on tea and I needed to go to the
5 hospital.

6 Q. Do you remember what time of day that was?

7 A. It had to have been between four-thirty and a quarter
8 till five because my boyfriend always got home about five-
9 thirty and I always had dinner ready when he walked in the
10 door.

11 Q. Okay. Were you in the midst of getting dinner ready?

12 A. Yes, ma'am. I had the potatoes going and the pork
13 chops ready to go in the pan.

14 Q. And what did you do when you got that call?

15 A. I immediately shut everything off.

16 Q. Did you ask anything of your daughter Marie about

17 [Minor 1] or was it just that comment ---

18 A. I think it was just that conversation. Best I can
19 recall, it was just that conversation about [Victim] and we
20 ended it because she was getting to the hospital herself.

21 Q. And what happened then?

22 A. Joe came home and we left and went to the hospital.

23 Q. And tell me what happened when you got there?

24 A. When I got there, we was in the waiting room and the
25 Defendant was in there. And my ex-husband, Ann's father,

1 her uncle, her aunt, Marie was there. They was just all
2 kind of sitting around wondering, you know, what happened.
3 And we was going over this story with Ann choking -- you
4 know, saying the baby choked on tea. And they wouldn't let
5 me go back because they were still talking to Ann. And
6 when I first got there, they were still talking to Crystal
7 and ---

8 Q. Did you ever try and ask the Defendant what happened?

9 A. I never spoke to him.

10 Q. Did he ever come up to you to try to talk to you ---

11 A. No, ma'am.

12 Q. --- or explain anything or ---

13 A. No, ma'am.

14 Q. --- console?

15 A. No, ma'am.

16 Q. And when you got there, Ann was not out in the waiting
17 area so you couldn't talk to her?

18 A. No. Uh-uh (negative).

19 Q. And you were not allowed to go see [Victim]; is that
20 what you're saying?

21 A. No, ma'am. They wouldn't let anybody go back at that
22 time.

23 Q. All right. Where was [Minor 1]?

24 A. [Minor 1], I was told, was at -- Crystal had said after
25 she got done talking with the detective that Crystal's

1 mother had her. So I didn't have to worry about her
2 because she was with her mother.

3 Q. Okay. She with Crystal's mom?

4 A. Yes, ma'am.

5 Q. All right. Now, at some point did you get [Minor I]
6 that night?

7 A. Yes, ma'am. Crystal had called and said -- had called
8 my daughter Marie and said that she couldn't do anything
9 with [Minor I], she was crying. And she thought it would be
10 best if she just brought her to her. And Marie had to work
11 the next morning so I told them to bring her to me.

12 Q. And where were you when you -- when you said, bring
13 her to me, where were you?

14 A. I was at the hospital.

15 Q. Okay. And what time did -- or did you eventually get
16 to -- get custody of [Minor I] or get a hold of [Minor I]
17 that night?

18 A. Yes, ma'am. Crystal brought her to me. It was late.
19 Like she said, it was about ten thirty, eleven o'clock or
20 so before I got [Minor I].

21 Q. And when you got her, what did you do?

22 A. I held her real close. And we left the hospital
23 eventually and took her home.

24 Q. And was she awake, asleep, how was she?

25 A. She was still awake but she was groggy. You could

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1 tell she was tired. She was dirty. You could tell she'd
2 been outside playing.

3 Q. And did she got to sleep in the car?

4 A. Yes. She went to sleep on the way home.

5 Q. Eleven o'clock, is that late for a two and a half year
6 old?

7 A. Oh, yeah. That's late for me.

8 Q. So tell me about getting her home. What did you do
9 when you got home?

10 A. When I got her home, I washed her off because it was
11 so late, I just -- I didn't want to give her a bath. So I,
12 like she was groggy anyway. And I just washed her off and
13 we went -- I laid down with her.

14 Q. Where did she sleep that night?

15 A. She slept with me.

16 Q. And is there a reason that she slept with you?

17 A. She was crying. She said **Victim** was sick. She asked
18 for her mother.

19 MS. MANIGAULT: Your Honor, I'm going to object
20 to anything the child has said. There was no established
21 that my client was present during this conversation.

22 MS. HODGE: Your Honor, we may need to take a --
23 I wanted to be heard on a legal argument.

24 THE COURT: All right. Ladies and gentlemen,
25 we'll take a legal matter up now. It might be time for a

1 break for you anyhow. I'm going to ask you to go back to
2 your jury room. Let me remind you again while you're back
3 there, you shouldn't be discussing the case.

4 Sometimes when you're back in the jury room you may
5 find that you need something from the clerk's office, from
6 the bailiffs, later, a legal question. I'm going to
7 appoint Mr. Thomas as the foreperson of the jury.

8 Sometimes when matters come up, someone may need to call
9 and check on a child, whatever it may be, the foreperson
10 will just be the liaison with the Court, the one to contact
11 the bailiff and write out whatever the need is. It may be
12 a cup of coffee or a thermostat adjustment, whatever, I
13 don't know what it is. But whatever the juror needs, then
14 that foreperson will just write out the need, give it to
15 the bailiffs and we'll try to take care of that need.

16 Ultimately, what the foreperson will do will be the one who
17 will facilitate the discussion when the case is concluded
18 and all the evidence is in and I've instructed you on the
19 law, then the foreperson will be the one who will make sure
20 every juror has his and her say into the view of the facts
21 and on behalf of the jury, write out the verdict form. So
22 we've already designated seats for the two alternates so
23 they know where they're going to be sitting. The
24 foreperson will occupy the seat on the front row closest to
25 the witness stand here. So the rest of you, as you come

1 and go, you may want to sit on the front row, the back row,
2 the left side or the right side. That's certainly all
3 right. We'll take care of this matter. You take a short
4 break. We'll hopefully call you back in just a few
5 moments. You may retire to your jury room.

6 (WHEREUPON, the jury exited the open court at
7 approximately 10:31 A.M.)

8 THE COURT: All right. I gather from the last
9 question the State intends to elicit some testimony from
10 **Minor 1**?

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

12 THE COURT: What is it?

13 MS. HODGE: The State would intend to ask Ms.
14 Rollins about a statement that **Minor 1** made. The State
15 contends that this is excited utterance, exception to
16 hearsay. There is a case, South Carolina versus -- or the
17 State versus Sims. And I apologize, I don't have a copy of
18 the case but I can give your clerk a cite. It's 348 SC 16.
19 It's a Supreme Court case from 2002. And, Your Honor, as
20 the Court obviously knows, the basis for this hearsay
21 exception is that a person is under the stress of a
22 startling event, that the statements that they make are a
23 result of non-reflection, not having the opportunity to sit
24 and think through and deduce and they're less likely to be
25 fabrications. So they do have that trustworthiness, that

1 indicia of reliability.

2 In this case the child is two and a half years old. I
3 submit to the Court and, again, based on *State versus Sims*
4 that she didn't have the development ability, cognitive
5 abilities to be creating, deducing and fabricating things.
6 That she was making statements that were spontaneous, that
7 were due to her being under the stress of this traumatic
8 event. Courts have held that even though significant
9 lapses in time occur between the event and the statement,
10 that does not throw the statement out just because of
11 length of time. There are cases -- not South Carolina, but
12 I do have numerous cases from other states where Courts
13 have looked at even days later a child's statement being
14 admissible as an excited utterance.

15 Your Honor, there's nothing I can imagine more
16 traumatic than a child, who the evidence shows, was in the
17 room at the time of this incident occurring, watching her
18 baby sister be hit, be suffocated, be struggling against
19 that, then to spontaneous vomit and die, then to have mom
20 and boyfriend panicking, to have firemen, EMS, policemen,
21 to then be swooped away to a non-relative, to a friend's
22 house and then to only be able to really feel comfortable
23 enough to disclose when she's finally in the presence of
24 the trusted caretaker, who the grandmother and Minor 1
25 obviously had a very close bond. So it's the State's

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1 contention it's her statement, which we had not actually
2 gotten to the statement that I was expecting the witness to
3 talk about, which that -- so I can give you the context of
4 that statement.

5 THE COURT: Well, why don't you make a proffer
6 now.

7 MS. HODGE: Yes, sir.

8 THE COURT: If you'll just ask the questions and
9 then we'll get the answer.

10 MS. HODGE: Yes, sir.

11 Q. Ms. Rollins, after you put [Minor 1] to bed, I believe
12 you've already stated in your testimony that she was crying
13 and you were sleeping with her. The next morning, what
14 happened when you woke up?

15 A. My daughter [Minor 6] had got on the bus to go on to
16 school. And I told her we would pick her up from school on
17 our way to the hospital and stuff, because I had to take
18 [Minor 1] back to the Julie Valentine Center. And I was --
19 got -- [Minor 1] had got up and she was eating breakfast and
20 I was going through my daily -- trying to go through my
21 daily routine best I could. And I went to give [Minor 1] a
22 bath and after the bath, I'm standing there drying her off
23 and [Minor 1] says to me, [Victim] choked on tea. She does
24 her hands in the motion of drinking tea. And she says, tea
25 all over [Victim]. And then she says, Parker did this,

1 covered her nose and mouth. And then she said, boom, boom,
2 boom. I immediately got her dressed. We went and picked
3 up my daughter. I never said a word. I have never said a
4 word to anybody, other than the detectives at the hospital,
5 of what that child said to me, and the lady over at the
6 Julie Valentine Center.

7 Q. Were you asking [Minor 1] what happened?

8 A. We were not discussing nothing, except what we were
9 doing that day. I told her we were going to pick up [Minor 6]
10 from school. And I was explaining to her that we were
11 going by the hospital to check on [Victim]. And we were
12 going back to the Julie Valentine Center. But I didn't
13 tell her Julie Valentine Center. What I told her was we
14 were going to see Nicole. She had took up with a lady
15 named Nicole from over there.

16 Q. Okay. So this was not a questioning or interrogating
17 or ---

18 A. I never questioned the child, no, ma'am.

19 Q. It's a statement that she made to you. And this was
20 the next morning after she had been through this event
21 during the day, at the other lady's house at night,
22 practically asleep when you got her; but upset. And then
23 this is the next morning, the first opportunity that she's
24 awake and y'all are actually communicating?

25 A. Yes, ma'am.

1 Q. And did you attempt to ask her any more questions
2 after ---

3 A. No, ma'am. I didn't ask her because I really didn't
4 want to know the answers.

5 MS. HODGE: Thank you, Your Honor. That would be
6 what we would intend to elicit from this witness.

7 THE COURT: Are there any examination you want to
8 make of this witness just as to these statements?

9 MS. MANIGAULT: No, sir.

10 THE COURT: Obviously, I'll allow you to cross-
11 examine?

12 MS. MANIGAULT: I have an argument though.

13 THE COURT: Be glad to hear from you, Ms.
14 Manigault.

15 MS. MANIGAULT: May it please the Court, Your
16 Honor. The excited utterance exception, I do not believe
17 that this statement would fit into that. And the reason
18 being that the incident happening to **Victim** happened
19 around three P.M. or maybe four on May 25th, 2011. And
20 that the testimony of Ms. Rollins says that she did not
21 talk to her about the events. That's what she offers to
22 the Court. And **Victim** [verbatim] gives this alleged
23 utterance to her the following morning on the 26th, while
24 she's preparing her and has told her that they're going to
25 the hospital.

1 Your Honor, the issue is this, is that the child is
2 two and a half years old. They took the child to the
3 Valentine Center for an interview twice. The two and a
4 half year old, [Minor 1], never confirmed anything that was
5 testified here today. The interviewer asked [Minor 1] what
6 is boom, boom, boom. She did not respond, did not answer
7 the question. She was not -- it is my opinion that she
8 cannot qualify as a witness to know the difference between
9 right and wrong. She does not talk that well. In the
10 interview, you have to struggle to understand what she's
11 saying. So the fact that grandmother is saying she said,
12 boom, boom, boom. She said, [Victim] choked on tea. She
13 said Parker then held her nose. The child never said any
14 of that in the Valentine Center interview. And her name is
15 not on the witness list so I'm assuming that they didn't
16 plan to call her. I'm also assuming that they didn't plan
17 to try to introduce that Valentine -- Julie Valentine
18 Center interview, because we're going to object to that on
19 various reasons. So, Your Honor, I don't believe that this
20 fits within the excited utterance exception.

21 THE COURT: Was her scheduled appointment at
22 Julie Valentine that morning relating to this or some other
23 incident?

24 MS. HODGE: Actually, I think Ms. Rollins is a
25 little bit confused on the timing. She made this

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1 statement, this utterance in the morning following the
2 event. When Ms. Rollins went to the hospital, like she was
3 planning, she told the police at the hospital what the
4 child had told her. At that point, they made an
5 appointment to send her. So the utterance was first. Then
6 they set up an official interview for the child, which
7 those are not -- she's a witness to a case, those are not
8 admissible under the statute anyway. They were an attempt
9 to learn more information. So those appointments were
10 after the statement was made. But I do believe that it
11 does fall under the excited utterance exception.

12 And as I said, there are many, many other cases in
13 other states that have elongated time periods. State
14 versus Sims said approximately twelve hours had elapsed in
15 this case, and explained that even statements after
16 extended periods of time can be considered excited
17 utterance as long as they're made under continuing stress.
18 The court pointed out stress from a startling event lasting
19 a longer amount of time than would be likely to occur if
20 the child had been an adult. And then they cited a Utah
21 case in the South Carolina case, *State versus Cude*, C-U-D-
22 E, excitement generally last longer in children and
23 fabrication is less likely. The South Carolina Court went
24 on to say that because of the child's age and the severity
25 of the event, the court determined those factors in favor

1 of the State. And the statement was admitted as an excited
2 utterance.

3 MS. MANIGAULT: Your Honor, may I make a comment?
4 Your question was, was she taken to the Julie Valentine
5 Center as it related to this case to try to get some more
6 information about what she said. The answer is yes.

7 THE COURT: All right. I thought I heard the
8 testimony that during the bath ---

9 MS. MANIGAULT: Yes, sir.

10 THE COURT: --- they already had a scheduled
11 appointment at Julie Valentine and that was what confused
12 me. But that was not the case.

13 All right. Let's take a short break and I'll make a
14 decision. Ms. Rollins, you can step down while we take a
15 break. You're not to discuss your testimony with anyone
16 while we're taking the break. We'll take about a ten-
17 minute break and we'll be ready to proceed.

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

20 THE COURT: Okay. I have reviewed the case you
21 cited, Solicitor, as well as some other cases, *State v.*
22 *Washington, Latimer*, and others. Weighing the factors of
23 whether the statement is related and was under stress and
24 whether it was caused by the stress, I find, weighing the
25 equities and certainly in light of *Crawford* and its

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1 prodigy, I believe the statement should not be allowed in
2 this case. In light of the other factors that may have
3 been in play in this with the time lag of hearing other
4 people's conversations going back and forth, I'm not sure
5 under the totality of circumstances this would be credible
6 as required under the law. So I will not allow the
7 statement to be in under the Rules of Evidence 803(2).

8 Anything else?

9 Ms. Rollins, you may come back around. I want to
10 remind you, you're still under oath.

11 MS. HODGE: So that she's clear on your ruling,
12 Your Honor, ---

13 THE COURT: Right.

14 MS. HODGE: I'm just going to make sure she's
15 clear on your ruling.

16 THE COURT: All right. If our jury's ready you
17 can have them come back in.

18 (WHEREUPON, the jury entered the open court at
19 approximately 11:21 A.M.)

20 THE COURT: All right. Solicitor, you may
21 continue your examination of the witness.

22 MS. HODGE: Thank you, Your Honor.

23 Q. Ms. Rollins, I think when we broke you were stating
24 that you had given a bath to Minor 1 that next morning?

25 A. Yes, ma'am.

1 Q. And don't say anything that [Minor 1] said, but you and

2 [Minor 1] had a conversation?

3 A. Yes, ma'am.

4 Q. Did you attempt in anyway to question [Minor 1] about
5 anything?

6 A. No, ma'am.

7 Q. And after you gave her a bath, what did y'all do?

8 A. We left and went and picked up my daughter at school
9 and proceeded on to the hospital.

10 Q. And tell me about what happened when you got to the
11 hospital?

12 A. I got to go back to see the baby.

13 Q. Was that the first time you had gotten to see her?

14 A. No, ma'am. The detectives had came and got me the
15 night on the 25th and let me go back for just a moment.

16 Q. All right. So when you went to the hospital the next
17 day, on the 26th, you got to go back there?

18 A. Yes, ma'am.

19 Q. And was anybody else back there when you went?

20 A. Ann and Mark was back there. [Victim] s daddy.

21 Q. And who is Mark?

22 A. [Victim] s daddy.

23 Q. Okay. And were there police officers still around and
24 at the hospital during this time?

25 A. Yes, ma'am. Detective Chris Miller and Detective

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1 Autrey, I believe that's his name, they were both still
2 there.

3 Q. Okay. Did they -- either one of them attempt to speak
4 to you about this case?

5 A. I spoke them.

6 Q. You spoke to them?

7 A. Yes, ma'am.

8 Q. All right. And, again, without saying anything

9 [Minor I] said, did you approach them about something that
10 was said to you by [Minor I]?

11 A. Yes, ma'am, I did.

12 Q. Okay. And you gave them that information?

13 A. Yes, ma'am. I gave them a statement?

14 Q. All right. And was that a written a statement?

15 A. I believe, yes, ma'am, it was.

16 Q. Okay. And where was that taken?

17 A. It was taken in the hospital in one of the little
18 rooms that they had set up there, I guess for questioning
19 and stuff.

20 Q. All right. And as a result of talking to police and
21 telling them what you did, did you have to do anything
22 after you left the hospital that day?

23 A. Yes, ma'am. We took [Minor I] to see -- over to the
24 Julie Valentine Center.

25 Q. And that was at the request of a police officer?

1 A. Yes, ma'am.

2 Q. And did anybody go with you over there?

3 A. Me, [Minor 1], [Minor 6] and Joe, all went, because I was
4 not able to drive.

5 Q. Okay. And were you able to be with [Minor 1] while she
6 was over there or was that separate?

7 A. No, ma'am. It was totally separate. They wouldn't
8 allow me to go back and hear anything that she said.

9 Q. Okay. And about how long did y'all stay there?

10 A. We was there a good bit because they broke for lunch
11 and I don't know what time it was. I don't recall the
12 times. But I do remember Joe went out and got us some
13 lunch.

14 Q. Now, during this time, did you actually have custody
15 of [Minor 1], had you been given ---

16 A. Not at that time, I did not. They had just give me
17 like, I guess like what you call temporary custody.

18 Q. Okay. DSS was involved?

19 A. Yes, ma'am. DSS was involved.

20 Q. So there was an official transfer of temporary custody
21 of [Minor 1] to you?

22 A. Yes, ma'am.

23 Q. Okay. And then after finishing up at Julie Valentine
24 Center that day, did you have to go back again with

25 [Minor 1] ?

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1 A. Yes, ma'am. We went back several -- on several
2 different occasions.

3 Q. Did you ever get to speak to Ann or get any
4 information -- without telling me what she said, did you
5 ever question Ann about what happened to [Victim]? What did
6 you say? You can tell me what you said.

7 A. The very first night on the 25th when it happened and
8 the detectives let me go back momentarily, my daughter met
9 me at the door of [Victim]'s room. I did not give that
10 child a motherly hug. I hugged her. Do you want me to say
11 what I actually said?

12 Q. Sure?

13 A. I said, what the hell happened? Because I knew they
14 were lying.

15 MS. MANIGAULT: Your Honor, I'm going to object.

16 THE COURT: I sustain the objection as to the ---

17 Q. You were not being a supportive ---

18 A. No, ma'am, I was not.

19 Q. --- mom.

20 A. No, ma'am.

21 Q. You were angry?

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

23 Q. That is the first time you had seen Ann since Easter?

24 A. Yes.

25 Q. Or had you seen Ann before?

1 A. No, I hadn't seen her after that because that's when
2 she moved to Crystal's and I didn't see her.

3 Q. Now, did [Minor 1] eventually come into your full
4 custody?

5 A. Yes, ma'am, she did.

6 Q. All right. During the time that [Victim] was still in
7 the hospital -- well, tell me this. When did [Victim] die?

8 A. They took her off life support on the 27th.

9 Q. And during that time was Ann still out and about?

10 A. Yes, ma'am.

11 Q. Where was she staying? Did you know where she was
12 staying then?

13 A. After they took [Victim] off life support, Ann was to
14 stay with her aunt, Joyce Sprouce.

15 Q. Did you see Ann anymore after that?

16 A. She came to the house two or three times with Mark
17 Gore. He brought her there to see [Minor 1] because she had
18 to have supervised visitation. She could not be left alone
19 with [Minor 1].

20 Q. And then at some point did Ann get arrested?

21 A. Yes, ma'am.

22 Q. Okay. And do you know where she was when she got
23 arrested?

24 A. She was at Candy's. Her friend Candy's house.

25 Q. Is that in Greenville or ---

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1 A. Well, at the time, I thought it was in Travelers Rest,
2 but it was actually somewhere toward Greenwood, Laurens.

3 Q. And did you ever see the Defendant again after that
4 brief time in the hospital the first night?

5 A. No, ma'am.

6 Q. Did he ever come to you or try to talk to you or
7 anything like that after all this incident?

8 A. No, ma'am.

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

11 THE COURT: You may cross-examine the witness.

12 MS. MANIGAULT: Your Honor, I don't have any
13 questions. Thank you.

14 THE COURT: All right. Thank you, ma'am. You
15 may step down.

16 MS. HODGE: May she be excused from her subpoena?

17 THE COURT: Any objection.

18 MS. MANIGAULT: None.

19 THE COURT: Without objection, the witness may be
20 excused.

21 MS. HODGE: Thank you, Your Honor. The State
22 would call Georgia Ann Sprouce.

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

25 Do you solemnly swear or affirm to tell the truth, the

1 whole truth and nothing but the truth, so help you God?

2 THE WITNESS: Yes, ma'am.

3 THE CLERK: Okay. Come forward and have a seat
4 and then state your full name for the record.

5 THE WITNESS: Georgia Ann Sprouce.

6 GEORGIA ANN SPROUCE,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 DIRECT EXAMINATION

9 BY MS. HODGE:

10 Q. Ms. Sprouce, tell us a little bit about yourself. How
11 old are you?

12 A. I'm thirty-two.

13 Q. All right. And are you currently living at the
14 detention center?

15 A. Yes, ma'am.

16 Q. And are you in there on charges resulting from this
17 case?

18 A. Yes, ma'am.

19 Q. Homicide by child abuse, aiding and abetting and
20 accessory after the fact?

21 A. Yes, ma'am.

22 Q. Are you currently legally married?

23 A. Yes, ma'am.

24 Q. To who?

25 A. Mark Carter.

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1 Q. All right. And have you been separated from him?

2 A. Yes, ma'am. We've been separated now for about a good
3 two, three years.

4 Q. Okay. And do you have any children?

5 A. Yes, ma'am.

6 Q. Tell me who your children are?

7 A. I have three children. The deceased, which is Victim

8 Victim. She would have been three years old this year.

9 My oldest daughter is four. Her name is Minor 1.

10 And my son, Minor 2, who is eight.

11 Q. All right. And Minor 1, that's your child

12 with your husband that you're still legally married to,

13 Mark Carter?

14 A. Yes, ma'am.

15 Q. Okay. And where is your son? Where does he live?

16 A. He lives in Hendersonville with his grandparents.

17 Q. Is his dad from up there?

18 A. Yes, ma'am.

19 Q. Did you ever marry his dad?

20 A. No, ma'am.

21 Q. Did you ever -- you were still married to Minor 1's

22 dad, so you did not marry Victim's dad?

23 A. No, ma'am.

24 Q. All right. Where did you grow up?

25 A. I grew up in Blue Ridge. It's outside of Greer. It's

1 a small town. I went to school there at elementary school

2 and continued to go to school at Blue Ridge Middle.

3 Q. And did you go to high school?

4 A. No, ma'am.

5 Q. Why didn't you go to high school?

6 A. Oh, by the time I had finished eighth grade in middle
7 school, I was already to the point where I was on drugs and
8 I was having to maintain taking care of my other two
9 sisters, which was a little hard. And so the drugs took
10 over my capability of even going to school.

11 Q. All right. Who are your parents?

12 A. My parents is Tina Rollins and my dad is Thomas
13 Sprouce.

14 Q. How about -- you said you would take care of your two
15 sisters. Are you the oldest?

16 A. Yes, ma'am.

17 Q. Who are your sisters?

18 A. Marie Sprouce and Denise Sprouce.

19 Q. And how much younger than you are they?

20 A. Me and Marie's about maybe a year apart. Me and
21 Denise, she was born in '86. So I'd say she was -- we're
22 probably about maybe seven years apart.

23 Q. And did your parents divorce?

24 A. Yes, ma'am.

25 Q. And who did y'all live with?

1 A. We lived with my father and his mother and my aunt.

2 Q. And were you a primary caretaker once your parents
3 divorced?

4 A. My grandma and my aunt took care of us up until I was
5 thirteen years old. And my grandma passed away. So,
6 therefore, it left me with me and my daddy and my other two
7 sisters. And sometimes, you know, my aunt would help what
8 she could. But she was working third shift so there wasn't
9 much she could do. And the rest of the time, you know, I
10 was left to either clothe them, bathe them, you know,
11 whatever just that had to be done. Cooked, washed their
12 clothes.

13 Q. So you dropped out of school?

14 A. Yes, ma'am.

15 Q. Okay. And how old were you when you stopped going to
16 school?

17 A. I was sixteen years old when I dropped out of school.

18 Q. Did you take up working somewhere?

19 A. No, not at that time I did not.

20 Q. Did you just live in the home still?

21 A. Yes, I did until I met this guy. He was twenty-nine.
22 I moved in with him, and continued to live there with him,
23 I guess, for about a year and a half. And after that, I
24 moved back in with my daddy to where I stayed there, I
25 guess, for about another year and a half with my dad. And

1 moved in with my mother.

2 Q. Have you ever worked anywhere in your life?

3 A. Yes, ma'am. I've worked at Arby's and Gaddy's. I've
4 worked at Sonapress. I've worked at Spinx. I've worked at
5 numerous places.

6 Q. Tell me about meeting your son's father as far as, you
7 know, when in your life was this or how old were you when
8 you had your first child, your son?

9 A. When I first had my son, I was twenty-four.

10 Q. And were you living in Greenville then?

11 A. No, ma'am. I was living in North Carolina,
12 Hendersonville.

13 Q. And how about when you had [Minor I], how old were you
14 and where were you at that point?

15 A. I had [Minor I] four years after I had my son. So
16 about 2008, I would think. I was living in North Carolina
17 still.

18 Q. And is that when you and [Minor I] s dad got married?

19 A. Yes, ma'am.

20 Q. Is he from up there?

21 A. Yes, ma'am.

22 Q. What about [Victim], tell us about when -- how old you
23 were, where you were, when you had her?

24 A. I was living down here. I had moved to North Carolina
25 for probably a good nine months. And then I moved back

1 from up there to back down here. And I was living with my
2 sister Denise and her husband whenever I gave birth to
3 [Victim].

4 Q. Now, when you gave birth to [Victim], was there DSS
5 involvement?

6 A. Yes, ma'am.

7 Q. And tell us about that?

8 A. DSS got involved because [Victim] tested positive for
9 marijuana. And so they automatically stepped in and took
10 [Victim] from me, straight from the hospital. And about a
11 week later I went to court and was -- had to have [Minor I]
12 took from me. October the 14th is whenever I got accepted
13 into Serenity Place and I done that whole nine months.

14 Q. Okay. Well, let's back up a little bit, okay? So the
15 reason DSS came in and took [Minor I] and [Victim] was
16 because [Victim] tested positive for marijuana?

17 A. Uh-huh (affirmative).

18 Q. Were you smoking marijuana while you were pregnant?

19 A. Yes, ma'am.

20 Q. And that's how she tested positive?

21 A. Yes, ma'am.

22 Q. And you were the sole caretaker or custodian of
23 [Minor I] at that time, too?

24 A. Yes, ma'am.

25 Q. And DSS took custody of her as well at that time.

1 What were you required to do by DSS?

2 A. I was required to go to Serenity Place, finish
3 Serenity Place, which I did. I graduated in nine months.

4 Q. Well, tell us what Serenity Place is. Some people
5 might not know what that is.

6 A. It's a place for mothers and for kids that are young.
7 But it's basically for mothers who are on drugs. And ---

8 Q. I'm sorry. So Serenity Place is a drug rehab place?

9 A. Yes, ma'am.

10 Q. And it allows you to have your children, as well,
11 there?

12 A. Yes, ma'am.

13 Q. Do you live there?

14 A. Yes. You live there until your time's up. It's, you
15 know, like I said, a six to nine-month program. After you
16 finish, they help you get into housing, they give you
17 Section 8. You attend NA meetings.

18 Q. Okay. During this time you stayed cleaned? You
19 weren't doing any drugs?

20 A. Yes, ma'am.

21 Q. Is it a strict program?

22 A. Yes, ma'am.

23 Q. Do they drug test you a lot?

24 A. Yes.

25 Q. Okay. I'm going to step back a minute. When DSS

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- 1 became involved and took the girls, was there ever an
2 indication that you were being physically abusive to the
3 girls?
- 4 A. No, ma'am.
- 5 Q. It was because of the drugs?
- 6 A. It was -- every time that I've had my kids took, it's
7 been because of drugs. It's never been because of physical
8 abuse, nothing.
- 9 Q. And during this time does a DSS caseworker or a
10 treatment worker, somebody keep up with you while you're in
11 Serenity Place?
- 12 A. Yes, ma'am. Each time that I've had a DSS case, it
13 has been -- I've had it open for two years each time I've
14 had one. And each two years that I've had my DSS cases, I
15 have cleaned off, you know, all my years with them of not
16 no physical abuse, no bruises, no -- barely even a cut or a
17 scrape.
- 18 Q. So it's more you having a problem with drugs, not
19 being able to take proper care or supervision or protection
20 of your kids?
- 21 A. Yes, ma'am.
- 22 Q. Okay. And when DSS is involved they meet with you and
23 they look at your kids; is that right?
- 24 A. Yes, ma'am, they do. They meet with you once a month,
25 if not twice a month. It just depends on how, you know,

1 how involved they are with you. My caseworker or Victim's
2 case met with me at least twice a month, if not three times
3 a month.

4 Q. And at the same time you were living inside of a
5 facility, a treatment facility?

6 A. Yes, ma'am.

7 Q. And where are your children when you're in the
8 facility? What are they doing?

9 A. While you're doing -- attending group therapy and
10 things like that, they are at a daycare, which is inside
11 the facility. So you know where they're at at all times.
12 If, you know, if a kid goes to crying and you think it's
13 yours, you're more than welcome to get up and go check on
14 that kid.

15 Q. So it's located actually where you would be?

16 A. Yes, ma'am.

17 Q. Okay. Now, you said you graduated from there?

18 A. Yes, ma'am, I did.

19 Q. So what do you have to do to graduate?

20 A. In order to graduate you have to attend so many NA
21 meetings because one weekend we get, you know, a choice to
22 go home. The next weekend we get a choice to go to an NA
23 meeting or stay there. I went to every NA meeting I could
24 possibly go to. That was my major thing. I loved my NA
25 meetings. They were -- they kept me clean. They kept me

1 from snapping, you know. They kept me from having too much
2 stress, because I had a lot of stress just because, you
3 know, I had an apartment when I got out.

4 Q. All right. Well, let's start there. Let's talk about
5 when you graduated? When did you graduate? Do you
6 remember the day, the year?

7 A. Graduated 2010.

8 Q. Do you remember what month in 2010?

9 A. The beginning of June, I believe.

10 Q. Okay. While you were in Serenity Place, did your mom
11 come over and see you?

12 A. Yes, ma'am.

13 Q. Okay. So you were on good terms with your family?

14 A. Uh-huh (affirmative).

15 Q. And then when you graduated in June, Junish, 2010,
16 where did you move to?

17 A. I moved to Gressett Landing Apartments on Whitehorse
18 Road.

19 Q. Okay. And was that through the help of Serenity
20 Place?

21 A. Yes, ma'am. I got Section 8 through Serenity Place.

22 Q. Okay. So that's government type housing?

23 A. Yes, ma'am.

24 Q. All right. And who moved into the apartment with you
25 when you first graduated?

1 A. First it was just me and my two kids.

2 Q. Okay. And [Minor I] and [Victim] ?

3 A. Yes, ma'am.

4 Q. All right. And so how old were they at that time?

5 A. [Minor I] was about a year and a half old. [Victim] was
6 about ten months.

7 Q. All right. At some point while you were in your
8 apartment, did you meet the Defendant?

9 A. Yes, ma'am.

10 Q. All right. Tell us about that?

11 A. I met the Defendant through my sister Denise. I had
12 gotten a telephone call from her one night and she stated
13 that the Defendant had ---

14 MS. MANIGAULT: Your Honor, we object to anything
15 her sister said.

16 THE COURT: Sustain the objection.

17 Q. So you met him through your sister Denise?

18 A. Yes, ma'am.

19 Q. You and Denise had some phone conversation?

20 A. Yes, ma'am.

21 Q. And as a result of that phone conversation did you
22 meet the Defendant in person?

23 A. Yes, ma'am.

24 Q. Okay.

25 A. The very next day I met the Defendant in person.

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1 Q. Okay. Where did you meet him?

2 A. I met him at my sister's and her boyfriend's house.

3 Q. And tell us what happened from meeting him?

4 A. I met him there. Me and my friend, Tasha, we left
5 from there, took him back to my apartment. Me and Tasha
6 had planned on taking him back home the next day and we did
7 not.

8 Q. Okay. At this point would you say y'all were
9 boyfriend/girlfriend, or what was the relationship?

10 A. At this point, yeah.

11 Q. Okay. So within about a day of meeting him, he stayed
12 at your apartment and just continued to stay?

13 A. Yes, ma'am.

14 Q. And who was Tasha?

15 A. Tasha is a friend of mine that I met at Serenity
16 Place. She did not graduate, but she wanted to continue to
17 go to NA meetings and she needed a place to stay and I told
18 her that she could come and stay with me. And me and her
19 continued to do our NA meetings together. We chaired some
20 NA meetings together. And then that's when I met the co-
21 defendant and I went downhill.

22 Q. Now, before meeting him, had you been dabbling in some
23 drugs?

24 A. Yes, ma'am, I had.

25 Q. But you were still attempting to go to these meetings?

1 A. Yes, ma'am.

2 Q. So how long do you think you stayed clean once you got
3 out of Serenity Place?

4 A. Once I got out of Serenity Place, I stayed a year
5 clean and then I relapsed.

6 Q. And so tell us -- now, did you know any of -- did you
7 know the Defendant before you ever met him?

8 A. No, ma'am. No, ma'am.

9 Q. So just meeting him ---

10 A. Yes, ma'am.

11 Q. --- did y'all hit it off kind of off-the-bat?

12 A. Yes, ma'am.

13 Q. And the girls were living with you and he was now
14 staying with you, too?

15 A. Yes, ma'am.

16 Q. Okay. Were you holding down a job anywhere at this
17 point?

18 A. No, ma'am.

19 Q. And how about him, was he working anywhere?

20 A. No, ma'am.

21 Q. So how were you guys -- well, did you have a car?

22 A. No, ma'am.

23 Q. How were you guys living?

24 A. I was getting FI, which is family independence. I was
25 also getting child support from Victim's daddy and

1 [Minor 1] s daddy. And I had -- you know, my Section 8 paid
2 for my rent. My light bill, I got like a twenty-nine
3 dollar check every month to cover what part of it I
4 couldn't cover.

5 Q. And how about the Defendant, how was he supporting
6 himself or contributing to the house?

7 A. As far as I knew, he had a disability check.

8 Q. Now, when -- how long did you and the Defendant and
9 the girls live in that apartment on Whitehorse Road?

10 A. We lived there for about two months, I would say.

11 Q. During the time that he started living with you, were
12 there times that you would ever leave him alone with the
13 girls while you went and did something?

14 A. Yes, ma'am.

15 Q. How often do you think that would happen?

16 A. I left him one time with the kids because I had went
17 to a funeral with a friend of mine. And I had left the
18 kids there with him for about a week.

19 Q. And when you came back from that did you have any
20 worries or suspicions about ---

21 A. No, ma'am.

22 Q. --- [Victim] or anything happening to her?

23 A. No, ma'am.

24 Q. Okay. And after that time that you left him with the
25 kids, did you then continue to leave and do things?

1 A. Yes, ma'am.

2 Q. All right. What kind of things would you go and do?

3 A. After I left my apartment and moved in with Crystal,
4 there were times I would leave one of the kids, if not both
5 of the kids with him, and go with Crystal to pick up her
6 kids from school.

7 Q. All right. And tell me -- so you guys left the
8 apartment at some point?

9 A. Yes, ma'am.

10 Q. And why did you leave the apartment and where did you
11 go?

12 A. Parker and my neighbor, I guess you would say, had
13 gotten into a physical altercation due to the fact of
14 Parker slapping my daughter in the back.

15 Q. And what did you do from that point? Did you decide
16 to move or ---

17 A. From that point, we had decided to stay, but then
18 Crystal showed up and I didn't -- you know, she had offered
19 us to come stay with her. And I was not sure because, you
20 know, what had happened. I was really, you know, scared
21 from that point on to even be in the apartment complex. So
22 I left and moved in with Krystal and her husband Mark
23 Inman.

24 Q. All right. Who all was living at their house at that
25 time?

1 A. At the time it was me, Crystal, the co-defendant and
2 Mark Inman and Crystal's four kids -- three kids, I mean,
3 and my two kids.

4 Q. Okay. So was the house big enough for everybody to
5 have a place to stay?

6 A. Yes, ma'am.

7 Q. Was it your intention to stay in there or to stay at
8 her house forever?

9 A. No, it was my intentions to get a trailer that her dad
10 had -- you know, that was in behind her dad. And her dad
11 had said something about it being empty. So we were going
12 to try to rent it. And we had went and talked to her dad
13 about it. And her dad had, you know, said that he would
14 talk to the landlord about it and let us know.

15 Q. So this was just kind of a temporary resting spot?

16 A. Yes, ma'am.

17 Q. But you ended up staying there for how long?

18 A. We wound up staying there for two months.

19 Q. And while you were staying there -- I think you just
20 answered this question, but there were times that you would
21 go off with Crystal to pick up the kids from school or
22 whatnot and leave the Defendant with your girls?

23 A. Yes, ma'am.

24 Q. Was there any time while y'all were at Crystal's that
25 you came back from leaving him with the kids that you

1 noticed anything on [Victim] that gave you any cause for
2 concern?

3 A. Yes, ma'am. There was a bruise on her forehead that
4 looked like she had been hit with something. And I asked
5 him, you know, what happened. And every time I would ask
6 him what happened, he would repeatedly tell me that either
7 she fell or one of the other kids had hit her.

8 Q. Was there specifically one on the side of her head
9 that you noticed?

10 A. Yes, ma'am.

11 Q. Do you remember asking the Defendant about where that
12 came from?

13 A. Yes, ma'am. And supposedly, it came from a beaded
14 necklace, a Mardi Gras necklace.

15 Q. Okay. And who did he supposedly say did that?

16 A. He said that [Minor 1] did that.

17 Q. When you were with your children, did you ever see
18 [Minor 1] hit [Victim] with a beaded necklace in the head?

19 A. No.

20 Q. Now, they were children. Would they get in arguments?

21 A. Oh, yeah. I mean, children do. Yeah, they all the
22 time tried to take each other's toy, but ...

23 Q. But did you ever see anything like beating on the head
24 or anything like that of [Victim] by [Minor 1]?

25 A. No.

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1 Q. Okay. What about by any of Crystal's kids?

2 A. No.

3 Q. Was there another time that you had come home after
4 leaving the Defendant with Victim that she had something
5 more in the middle of her head?

6 A. Yes, ma'am.

7 Q. Okay. And did you ask about it?

8 A. (Witness crying).

9 Q. Would you like some water?

10 A. Yes, please.

11 Q. Okay. So did you ask about a bruise that you saw in
12 the middle of her forehead?

13 A. Yes, ma'am. And he said that she supposedly fell down
14 trying to come out of the bedroom.

15 Q. Did he ever at any time tell you that she had fallen
16 down outside?

17 A. Yeah. There was one occasion where she had fell down
18 the steps and hit the stepping stone.

19 Q. Did you see that happen?

20 A. No, ma'am.

21 Q. Did you see a mark on her?

22 A. Yes, ma'am.

23 Q. And was that -- who told you that she fell down out
24 there?

25 A. He did.

1 Q. Okay. You weren't with her when that happened?

2 A. No, ma'am, I was not with her.

3 Q. How close in time to [Victim]'s death did these
4 injuries start showing up?

5 A. Within a week's time.

6 Q. When he would tell you that she fell or [Minor I] hit
7 her, what did you do about that?

8 A. I kind of brushed it off because, you know, nine times
9 out of ten, yeah, she is clumsy. So I figured that she did
10 fall.

11 Q. What about the thing with the beaded necklace, did you
12 really believe that?

13 A. In a way, no, I didn't.

14 Q. After these several bruises on her head started
15 appearing, was there another time that you would have left
16 him to take the care of the girls or left him alone?

17 A. Yes, ma'am.

18 Q. Before we get there, tell me about [Victim]. Was she
19 still in diapers?

20 A. Yes, ma'am.

21 Q. And was [Minor I] still in diapers?

22 A. Yes.

23 Q. Were you trying to potty train her at that point?

24 A. She had started learning from Crystal's little girl.
25 She would, you know, want to sit on the toilet.

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1 Q. And can you tell me if **Victim** was able to eat food on
2 her own?

3 A. Yes, ma'am.

4 Q. Was she eating solid food, not just baby food?

5 A. Yes, ma'am.

6 Q. And how about, was she able to drink out of a cup or a
7 sippy cup?

8 A. She was able to drink out of a sippy cup. And then
9 sometimes she would try to drink out of the big cup.

10 Q. All right. She wasn't on the bottle or anything
11 anymore?

12 A. No.

13 Q. Was she walking at this time?

14 A. Yes, ma'am.

15 Q. Was she able to get around pretty good?

16 A. Yes.

17 Q. Did she have any serious health problems or any type
18 of special needs?

19 A. No. The only thing was that she was born with a heart
20 murmur. That was it. But she was cleared from her
21 cardiologist.

22 Q. All right. And had she been cleared from her
23 cardiologist for a long time?

24 A. Yes, ma'am. She was cleared from him right before we
25 left Serenity Place

1 Q. All right. So otherwise she was just a normal,
2 average one-year-old little girl?

3 A. Yes, ma'am.

4 Q. Now, was the Defendant ever allowed to discipline the
5 girls?

6 A. He was to a certain extent. But the one thing I did
7 not allow was him standing them in the corner and making
8 them stand on their tippy toes. When he would do that, I
9 would make them get out of the corner.

10 Q. Okay. So that was the discipline that you were aware
11 of?

12 A. Yes.

13 Q. And did you ever personally witness him hit **Victim** ?

14 A. I witnessed it once. When we were at a neighbor's
15 house where he violently popped her on her hand.

16 Q. Did you ever see him hit her in the head or face?

17 A. No, ma'am.

18 Q. What about in the back or the bottom?

19 A. No.

20 Q. And when you disciplined her, what would you do?

21 A. I popped her on her hand or I barely popped her on her
22 butt, but that was it.

23 Q. Would this be over the diapers or under the diapers?

24 A. It would be over the diaper.

25 Q. Did you ever hit her in the face?

1 A. No, ma'am.

2 Q. Or in the body?

3 A. No, ma'am.

4 Q. Did you ever pinch her ears or do anything like that?

5 A. No.

6 Q. Did you observe the Defendant to treat one of your
7 daughters better than the other daughter?

8 A. Yes, ma'am.

9 Q. And which ---

10 A. He would always treat [Minor I] better than he did

11 [Victim]. [Minor I] was his pick over [Victim]. When [Victim]
12 would go to crawl up in the chair with me and him, he would
13 push her away. He never wanted her to come close.

14 Q. Did that bother you?

15 A. Yeah.

16 Q. When [Victim] died and they took her to the hospital,
17 did she have some bites on her, do you know?

18 A. Yes, ma'am. They were from ant bites where she had
19 sit on that ant hill outside of Crystal's house.

20 Q. Now, were you out there and saw that happen?

21 A. No, ma'am.

22 Q. Okay. Who had her when the ant bites happened?

23 A. He did.

24 Q. Where would you have been?

25 A. I was in the house at that time.

1 Q. And how did you know she had ant bites?

2 A. He come in saying that she had sat on an ant hill.
3 And, you know, he started telling me to take her diaper off
4 because he had believed that some had crawled up in her
5 diaper. So I took her diaper off and made sure that there
6 wasn't none up in, you know, her private areas, and there
7 was not.

8 Q. How long before she died did that happen?

9 A. I want to say three or four days.

10 Q. Is this in the same time frame that you're seeing some
11 of these random bruises popping up as well?

12 A. Yes, ma'am.

13 Q. Let's talk about May 25th, 2011. I want you to tell
14 me what you remember getting up from that morning and we'll
15 go forward.

16 A. I got up that morning around nine o'clock. Crystal
17 had to go to Mauldin to pick up her oldest boy, **Minor 4**
18 child support money from his father. We left, I would say,
19 probably around nine-thirty, ten o'clock that morning. We
20 dropped ---

21 Q. Who is we, tell me about who all ---

22 A. Me and Crystal. It was me, Crystal, my two girls, her
23 little girl, **Minor 3**, the co-defendant and it was her uncle.
24 We had dropped her uncle off at his daughter's house. And
25 then we dropped the Defendant off at his friend's house.

1 And then me, Crystal, my two kids and her daughter left and
2 wet to Mauldin to pick up her son's child support.

3 Q. And what did you do after that?

4 A. After that, when we came back, we stopped by the
5 Defendant's friend's house and picked him up from there
6 and went back to Crystal's. And when we got back to
7 Crystal's house, I fed [Victim] and [Minor 1] a peanut butter
8 sandwich and Crystal fed [Minor 3] a peanut butter sandwich.
9 Crystal had asked me to go with her that day to pick up
10 [Minor 4] and [Minor 5], and I told her no, because I was too
11 high and I was tired.

12 Q. Okay. And so what happened next?

13 A. So after [Minor 1] and [Victim] eat, I laid them down to
14 take a nap because they were both fussy from the long car
15 ride all day. So I laid them down and I had told, you
16 know, him that I was going to lay down. I laid down. He
17 laid in the bed beside me, got up when the girls got up and
18 took them into the living room. [Minor 1] was the first one
19 awake. And she always banged on the door when she woke up,
20 so that's how we knew she was up. So he got her and
21 [Victim] and I started to get up and he told me, no, to
22 continue to sleep that he would watch them. So I continued
23 to sleep and let him watch them. I can remember [Minor 1]
24 coming into the room and trying to wake me up. And I
25 wouldn't get up, because normally when she come in there to

1 wake me up, it was, you know, just to be woke up. And,
2 like I said, I was high and I was tired. So I just kind
3 of, you know, nudged her off. About maybe thirty minutes
4 after she came in to wake me up, he come in to wake me up
5 and tell me that my little girl wasn't breathing.

6 Q. Did you wake right up?

7 A. Yes, ma'am.

8 Q. So what did you do when he said that?

9 A. When he told me that she wasn't breathing, I jumped up
10 off the bed and took off running into the living room to
11 where she was at. By the time I reached the living room,
12 she was already turning purple around the lips.

13 Q. Was she -- where was she?

14 A. She was laying in the living room floor on Crystal's
15 rug.

16 Q. Do you remember if she had any clothes on at that
17 time?

18 A. No, ma'am, I don't remember.

19 Q. Do you remember taking -- did she have clothes on when
20 she laid down for a nap?

21 A. Yes, ma'am.

22 (WHEREUPON, State Exhibit Numbers 34 and 35 were
23 marked for identification.)

24 Q. Ms. Sprouce, do you remember -- I'm showing you
25 State's Number 34 and 35. Do you remember if she was

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1 wearing either of those items of clothing?

2 A. Uh-uh (negative).

3 Q. You don't recall? And were those -- would that have
4 been her top, with the little green bow around it?

5 A. No.

6 Q. You don't remember? Okay. All right. And do you
7 recall if those shorts were her shorts?

8 A. Yeah.

9 Q. Those were her shorts?

10 A. Uh-huh (affirmative.)

11 Q. Okay. Do you remember her shorts being on over her
12 diaper?

13 A. No, ma'am.

14 Q. Did you remove anything of her clothing when you
15 walked in there?

16 A. No, ma'am.

17 Q. So tell us what -- what did you do when you got in
18 there?

19 A. When I got in there, I proceeded to give her CPR
20 because she was not breathing.

21 Q. Was she making any kind of sounds?

22 A. No.

23 Q. What was the Defendant doing?

24 A. Nothing. Not a thing.

25 Q. Did you think that you needed to call for help at some

1 point?

2 A. Yes, ma'am.

3 Q. And how did that -- tell me about that. How did that
4 happen?

5 A. I had asked him to call 9-1-1 and he had called 9-1-1
6 the first time. We got disconnected the first time. And
7 the second time, before we went to call 9-1-1, he said, no,
8 because he had to hide the pot.

9 Q. Okay. Was there some pot in the house?

10 A. Yes, ma'am.

11 Q. And whose pot was it?

12 A. It was Crystal's.

13 Q. Okay. Had you been smoking that pot?

14 A. Yes, ma'am.

15 Q. Had the Defendant been smoking it that day, too?

16 A. Yes, ma'am.

17 Q. So he said he needed to clean it up. Did you see him
18 do anything?

19 A. No.

20 Q. Where was it normally kept?

21 A. It was normally kept in Crystal's living room in a
22 night stand drawer.

23 Q. And did you see him move anything from that night
24 stand drawer?

25 A. I was busy giving Victim mouth-to-mouth. I wasn't

1 even paying him no attention.

2 Q. Did she have anything on her face or anything on her
3 as far as any kind of throw-up or any kind of brown stuff?

4 A. No. When I started to give her mouth-to-mouth, I
5 heard a noise. When I heard that noise, I rolled her over
6 on her back to pat her on her back. A little bit came up
7 on my pants and on the rug. I thought since that had come
8 up she was going to breathe.

9 Q. Did the Defendant tell you how she got to be that way?

10 A. Yes, ma'am.

11 Q. What did he say?

12 A. He told me that she choked on tea.

13 Q. Did you ask a lot of questions at this point?

14 A. At this point I asked him how did she, you know, how
15 did she get like that? He said that she choked on tea. At
16 that point, I did not care. I was just wanting her to
17 breathe.

18 Q. When you said you were doing CPR, what were you doing?

19 A. Mouth-to-mouth and chest compressions.

20 Q. Had you been taught that at Serenity Place or
21 somewhere else?

22 A. I had been taught that previous to having my son, who
23 was premature. And I had to learn that through having him.

24 Q. And how -- what kind of compressions were you doing on
25 her chest?

1 A. Kind of like this right here.

2 Q. With your fingertips in the middle?

3 A. Yeah.

4 Q. Were you trying to breathe into her mouth too?

5 A. Yes, ma'am.

6 Q. Did you notice the bruising and stuff on her face and
7 head at that time?

8 A. (No verbal response.)

9 Q. Did you ever open her mouth or see any injury inside
10 her mouth?

11 A. No, ma'am.

12 Q. How did you do the mouth-to-mouth?

13 A. I just opened up her mouth, you know, to where I could
14 fit my mouth over her mouth long enough for me to get air
15 into her lungs.

16 Q. And what was -- I guess what was the Defendant doing
17 while you were doing that?

18 A. The Defendant was trying to scream over the top of the
19 9-1-1 operator to where I could not hear her. I asked him
20 several times to shut the F up. And he would not shut up.
21 He just continued to holler over the top of her that we had
22 already did that. We had already did that.

23 Q. Okay. So at some point you were able ---

24 A. Yes, ma'am.

25 Q. Somebody called back to 9-1-1?

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1 A. Yes, ma'am.

2 Q. And who talked to the 9-1-1 operator?

3 A. I did.

4 Q. Was it on the speaker phone or was it ---

5 A. Yes, ma'am.

6 Q. So the Defendant could hear what they were saying and
7 what you were saying?

8 A. Yes, ma'am.

9 Q. And was there -- before you got on the phone with
10 9-1-1 was there some discussion of what to tell them?

11 A. Yes, ma'am.

12 Q. Okay. Tell me about that.

13 A. He had told me to tell them that she choked on tea or
14 else I would be thought of as a bad mother.

15 Q. Did you believe that?

16 A. Yes, ma'am.

17 Q. And why did you believe that?

18 A. Because I was stupid, for one. For two, I was scared.
19 I had never been in trouble before. So I didn't know
20 anything about this. I didn't ...

21 Q. As you were doing CPR, what's happening? Is **Victim**
22 doing anything?

23 A. No.

24 Q. How about **Minor 1**, where's **Minor 1**?

25 A. **Minor 1** is standing over the top of me, looking at me.

1 Q. Did the ambulance or a fire truck or somebody finally
2 show up?

3 A. Yes.

4 Q. Were you trying to do CPR the whole time until they
5 showed up?

6 A. Yes, ma'am.

7 Q. What did you do once they showed up?

8 A. Once they showed up, I allowed him to take over.

9 Q. What did the Defendant do?

10 A. I don't even remember.

11 Q. Did you and he have any more conversations after that?

12 A. No, ma'am.

13 Q. Did they take [Victim] in the ambulance?

14 A. They took [Victim] straight to Greer hospital me where
15 me, Crystal and the Defendant had met with them at Greer
16 Hospital. That gave me a chance to tell her bye as they
17 airlifted her to Greenville.

18 Q. Well, let's back up just a little bit, all right?

19 Once the firemen and the ambulance people get there and
20 they're trying to help [Victim], are you having any
21 conversations with the Defendant?

22 A. No, ma'am.

23 Q. Are you asking him anymore questions about how she got
24 that way?

25 A. No, ma'am.

1 Q. Are you telling the ambulance or the firemen what he
2 told you?

3 A. Yes, ma'am.

4 Q. About how she got that way?

5 A. Yes, ma'am.

6 Q. At some point did you tell them that he was actually
7 in the bathroom?

8 A. Yes, ma'am.

9 Q. Well, why did you say that?

10 A. Because at one point, he did leave and go into the
11 bathroom.

12 Q. One point before they got there?

13 A. Yes, ma'am.

14 Q. And once they took [Victim], were you allowed to leave
15 the house?

16 A. No, ma'am, I was not.

17 Q. Did you have to talk to some police officers?

18 A. Yes, ma'am.

19 Q. Did you tell them the same story that he told you?

20 A. Yes, ma'am.

21 Q. But you were stating that you, in fact, were in the
22 room?

23 A. Yes, ma'am.

24 Q. Okay. Why were you saying that?

25 A. Because I was scared. I mean, I had another little

1 girl that was standing there watching everything and I was
2 terrified.

3 Q. In the car ride to the hospital, who all's going to
4 the hospital?

5 A. Me, Crystal and the Defendant.

6 Q. Are y'all having any conversation in the car?

7 A. No, ma'am.

8 Q. Did you try to ask him anymore questions about what
9 happened?

10 A. No, ma'am.

11 Q. Did he try to tell you anything else?

12 A. No, ma'am.

13 Q. And you guys go to Greer?

14 A. Yes, ma'am.

15 Q. And you don't stay at Greer very long?

16 A. No, ma'am. We stayed there for probably five or ten
17 minutes.

18 Q. And then she got transferred; is that correct?

19 A. Yes, ma'am. She got transferred to Greenville.

20 Q. Were there any police officers at the Greer Hospital
21 that were trying to ask any questions or talk to you?

22 A. No, ma'am.

23 Q. When you go to Greenville, how do you get to
24 Greenville Hospital?

25 A. Crystal.

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1 Q. How about in the car, what's going on in the car?

2 A. Nothing. I'm not talking to nobody but Crystal.

3 Q. Okay. And what are y'all talking about?

4 A. Just that I wish I had been there.

5 Q. Is he trying to talk to you; are you trying to talk to
6 him?

7 A. He tried to talk to me, I believe, on one other
8 occasion before we got to the hospital or he tried to touch
9 me on my shoulder. And I told him not to touch me and I
10 was not talking to him.

11 Q. So when you get to the hospital, tell us what happens?

12 A. When we get to the hospital they automatically
13 separate me and him both. They put me into a little room,
14 I guess, which they would call the family conference room.
15 And while they worked on **Victim** and, you know, got her
16 situated in her room, I was not able to see my daughter
17 until after I gave a statement.

18 Q. Do you remember who you talked to at the hospital?

19 A. No.

20 Q. But it was a police officer?

21 A. I do not remember anybody other than Chris Miller and
22 Detective Jennings.

23 Q. And Detective Jennings, did you talk to him and give
24 him a statement or was it investigator Miller?

25 A. I gave Investigator Miller one. And if I'm not

1 mistaken, I believe I did give Jennings one. I can't

2 remember. There were so many that day.

3 Q. Were a lot of people asking you what happened?

4 A. Yes, ma'am.

5 Q. Doctors asking what happened?

6 A. Doctors, DSS workers, police, investigators.

7 Q. And did you maintain this story about seeing her choke
8 on tea?

9 A. Yes, ma'am, I did.

10 Q. And at some point did you start to change that story?

11 A. Yes, ma'am, I did.

12 Q. Tell us about that?

13 A. The second day, I changed my story to being in the
14 kitchen when it happened. The last day that I was
15 questioned, I finally told that I was not in the room when
16 it happened, that I was actually asleep when it happened.

17 Q. Why did you change your story and say you were in the
18 kitchen when it happened?

19 A. I can't even answer that because I don't even know
20 myself. I guess I was just scared that they would somehow
21 find out the truth. And ...

22 Q. And what was the truth?

23 A. The truth was that I was laying in the bed asleep when
24 all of this happened?

25 Q. That you'd basically sloughed your kids off for him to

1 watch?

2 A. Yes, ma'am.

3 Q. And that [Victim] had some suspicious bruises before in
4 his care?

5 A. Yes, ma'am.

6 Q. Was any of that going through your head at the time?

7 A. At the time, a lot of things were going through my
8 head. A lot.

9 Q. You thought it'd be best to say you were actually
10 right there?

11 A. Yeah.

12 Q. And what made you finally tell the truth about being
13 asleep?

14 A. Finally, the day that I told the truth was the day
15 that Detective Miller and Detective Jennings picked me up
16 from the mortuary.

17 Q. From where?

18 A. The mortuary.

19 Q. The mortuary. Did that play into why you told them
20 about being asleep?

21 A. Yes, ma'am.

22 Q. And was that the truth?

23 A. Yes, ma'am.

24 Q. How did you feel after you told them that?

25 A. I felt like a weight had been lifted, like I had just

1 finally told the truth and that she was finally free to go
2 and be in heaven.

3 Q. Now, Ann, you have plead homicide by child abuse,
4 aiding and abetting; is that correct?

5 A. Yes, ma'am.

6 Q. And that's what you were charged with; is that
7 correct?

8 A. Yes, ma'am.

9 Q. You were also charged with accessory after the fact
10 and that case hasn't been disposed of yet; is that correct?

11 A. Yes, ma'am.

12 Q. And you have been promised nothing in regard to any
13 type sentence that you would receive?

14 A. Nothing at all. Nothing at all.

15 Q. And you could possibly get anywhere from ten to twenty
16 years; is that right?

17 A. Yes, ma'am, it is.

18 Q. Has the State -- anyone with my office promised you
19 any type of sentence?

20 A. No, ma'am.

21 Q. Ann, did you put your hand over [redacted] Victim's mouth and
22 suffocate her?

23 A. No, ma'am, I didn't.

24 Q. Did you hit her in the head or the face?

25 A. No, ma'am.

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1 Q. Did you ever hit her about the body?

2 A. No.

3 Q. Pinch her ears?

4 A. No.

5 Q. Grab her ribs?

6 A. No, ma'am.

7 Q. Leave bruises on her upper buttocks or back?

8 A. No, ma'am.

9 Q. Now, is the person that you left in charge of **Victim**
10 that day while you were sleeping on May 25th, is he present
11 in Court today?

12 A. Yes, ma'am.

13 Q. And is that the person you know as Parker?

14 A. Yes, ma'am.

15 Q. James Allen Johnson?

16 A. Yes, ma'am.

17 Q. And identify him for the jury, please?

18 A. (Indicating.)

19 Q. The man sitting at the Defense table with the purple
20 shirt?

21 A. Yes, ma'am.

22 Q. Have you and Mr. Johnson had any communication after?

23 A. No, ma'am.

24 Q. Even after that very first ---

25 A. No.

1 Q. --- car ride or anything?

2 A. No, ma'am.

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

5 **CROSS-EXAMINATION**

6 **BY MS. MANIGAULT:**

7 Q. Ms. Sprouce, wasn't there a finding made against you
8 by Family Court on September the 18th, 2009 for physical
9 neglect and physical abuse of your two children?

10 A. No, ma'am. That was only for drug use.

11 Q. The finding was, if I presented the court order, you
12 would dispute the court order?

13 A. Yes, ma'am.

14 Q. All right. And was there a finding made on March 20,
15 2012 for physical abuse of **Victim**, substantial risk for
16 **Minor 1** and central registry for child abuse?

17 A. No, ma'am. That was just drug related.

18 Q. That finding was not made against you?

19 A. No, ma'am.

20 Q. All right. On March 20, 2012 did you arrived from the
21 detention center in a police car with James Allen Johnson
22 to Family Court?

23 A. Yes. We rode in the van together, yes, ma'am.

24 Q. So you did have contact with him, other than what you
25 told the Solicitor?

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1 A. She knows about that, too.

2 Q. Okay. But you just you didn't have any further
3 contact with him?

4 A. Well, I meant, other than riding in the van, yes,
5 ma'am.

6 Q. Did y'all have a conversation while you were riding in
7 the van?

8 A. He told me that he was sorry for what he did.

9 Q. And you told him that you were in this situation
10 because of him ---

11 A. No, ma'am.

12 Q. --- or because of yourself?

13 A. No, ma'am.

14 Q. You didn't tell him that it was your fault, what
15 happened to the baby?

16 A. No, ma'am.

17 Q. All right. On the 25th of May you said that you were
18 too high and tired. What were you high from?

19 A. Marijuana.

20 Q. Okay. Where did you get the marijuana from?

21 A. My friend.

22 Q. Who's your friend?

23 A. Crystal.

24 Q. What's her last name?

25 A. Inman.

- 1 Q. And that's where you were staying?
- 2 A. Yes, ma'am.
- 3 Q. All right. And so how much marijuana had y'all smoked
- 4 that day?
- 5 A. We had been smoking -- probably five bowls.
- 6 Q. What's that?
- 7 A. Like a pipe, weed pipe.
- 8 Q. Oh, okay. And so you smoked five different times?
- 9 A. Uh-huh (affirmative).
- 10 Q. Did you take anything else? Did you take any pills or
- 11 anything?
- 12 A. No, ma'am.
- 13 Q. Any other kind of drugs?
- 14 A. No, ma'am.
- 15 Q. Okay. And when you talked with the police officers on
- 16 the 25th, you told them that you hadn't had any drugs;
- 17 isn't that correct?
- 18 A. No.
- 19 Q. You told investigator Miller, you told Officer Autrey
- 20 that you had not done any drugs?
- 21 A. Not that I can remember.
- 22 Q. You didn't tell them that?
- 23 A. Not that I can remember.
- 24 Q. Okay. Now, when you gave a statement on the 25th, you
- 25 told Officer -- Investigator Miller and Sergeant T.W. Jones

1 that you were in the room when [Victim] choked on tea; is
2 that right?

3 A. Yes, ma'am.

4 Q. You were in the room with [Victim] by yourself. Is
5 that what you told them?

6 A. No, ma'am. I did not tell them I was in there by
7 myself.

8 Q. Who else was in there?

9 A. I told them the co-defendant was in there as well.

10 Q. Who?

11 A. The Defendant.

12 Q. Okay. On your statement dated May 25th, you told them
13 that the Defendant was in the room?

14 A. From my understanding, yes, ma'am.

15 Q. Okay. And at any point did you tell them that you had
16 been in the kitchen. This is your first statement. Did
17 you tell them that you were in the kitchen that day?

18 A. No, the first statement I did not. That was the
19 second statement.

20 Q. Okay. The next statement you told them that you were
21 -- the first statement you said you were in the living room
22 with [Victim] when she choked on tea?

23 A. Yes, ma'am.

24 Q. And you tried to raise her arms up; is that right?

25 A. Yes, ma'am.

1 Q. The next time you talked to them, you told them that
2 you were in the kitchen?

3 A. Yes, ma'am.

4 Q. And the next time you talked to them, you told them
5 that you were in the bedroom ---

6 A. Yes, ma'am.

7 Q. --- sleeping? So you've changed your statements about
8 three or four times talking to the investigators; is that
9 correct?

10 A. Yes, ma'am, I did.

11 Q. All right. I'm going to show you a statement that's
12 dated May 25th. It has a signature that says Ann Sprouce,
13 to see whether that's your signature?

14 A. Yes, ma'am, it is.

15 Q. Okay. Would you take just a couple of moments to
16 review that statement.

17 A. (Reviews document.)

18 Q. And this was the statement that you gave on that day?

19 A. Yes, ma'am.

20 Q. Did they review your statement with you before you
21 signed it?

22 A. Not that I can remember.

23 Q. They didn't review your statement. So you signed it
24 without reading it or it being read to you?

25 A. I can't remember.

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1 Q. Okay. All right. In your statement you said that
2 Crystal went to take her uncle to pay a water bill at about
3 eleven clock. That was in here; right?

4 A. Yes, ma'am.

5 Q. And said, after we dropped her uncle off at his
6 daughter's house, we dropped James off at his friend
7 Josh's; is that right?

8 A. Yes, ma'am.

9 Q. You went to Mauldin; is that right?

10 A. Yes, ma'am.

11 Q. All right. So all of that part of the first part of
12 the day is true?

13 A. Yes, ma'am.

14 Q. Okay. So when were y'all smoking the marijuana, where
15 in here?

16 A. We had been up all day smoking marijuana, ma'am.

17 Q. Okay. So you were smoking marijuana before eleven
18 o'clock in the morning?

19 A. Yes, ma'am.

20 Q. And had you smoked marijuana the previous day,
21 evening?

22 A. Yes, ma'am.

23 Q. Okay. And Crystal Inman was smoking marijuana with
24 you?

25 A. Yes, ma'am.

1 Q. All right. You said, then we went home and fed the
2 kids a peanut butter sandwich. We laid them down to take a
3 nap. That's the two girls?

4 A. Yes, ma'am.

5 Q. Your daughters?

6 A. Yes, ma'am.

7 Q. When they got up around three or three-thirty, they
8 were in the living room playing. Who was that?

9 A. My two girls.

10 Q. [Victim] and [Minor 1]?

11 A. Yes, ma'am.

12 Q. All right. And you said, [Victim] walked over to the
13 coffee table and grabbed my tea. Was that in your
14 statement?

15 A. Yes, ma'am.

16 Q. That's what you told the officers?

17 A. (Affirmative nod.)

18 Q. This is on May 25th?

19 A. (Affirmative nod.)

20 Q. She opened her mouth and turned the plastic cup up and
21 started drinking. Is that in your statement?

22 A. Yes, ma'am.

23 Q. That's what you told them?

24 A. (Affirmative nod.)

25 Q. Then she got choked and set the cup on the table.

1 That's what you told them; right?

2 A. (Affirmative nod.)

3 Q. All right. The cup was pink and plastic. And then
4 you talk about one of the officers picked the cup up when
5 they arrived. It says, I raised her arms up and she kept
6 choking. That's what you said; is that right?

7 A. (Affirmative nod.)

8 Q. I need a yes or a no?

9 A. Yes.

10 Q. All right. And then you talk about how you were
11 taught to do CPR, that you raised her arm and patted her on
12 the back; is that right?

13 A. (Affirmative nod.)

14 Q. Is that a yes or a no?

15 A. Yes, ma'am.

16 Q. You said she threw up some of the tea and some phlegm
17 came out?

18 A. Yes, ma'am.

19 Q. I let her stay on my arm a minute and I realized she
20 wasn't breathing. That's what you said?

21 A. (Affirmative nod.)

22 Q. Then I laid her on the floor. I was trying to give
23 her CPR. That's what you said; is that right?

24 A. Yes, ma'am.

25 Q. I yelled for James. Is this James?

1 A. Yes, ma'am.

2 Q. Who was on the toilet when I realized she wasn't
3 breathing. That's what you told the officers in this
4 statement?

5 A. Yes, ma'am.

6 Q. He came in there and brought the phone. So in this
7 statement, you told the police that James, Parker, was in
8 the bathroom?

9 A. Yes, ma'am.

10 Q. And you had to yell for him to come in the room; is
11 that right?

12 A. Yes, ma'am.

13 Q. He dialed 9-1-1. That's what you said in this first
14 statement?

15 A. The first time that we called 9-1-1, yes, ma'am, he
16 was the one that dialed 9-1-1.

17 Q. Okay. And you talked to the lady and she was telling
18 you how to do CPR. But before you called 9-1-1, you were
19 already doing CPR; is that correct?

20 A. Yes, ma'am.

21 Q. And what was James doing?

22 A. To my recollection, I don't even know.

23 Q. Okay. So he wasn't doing -- helping you with CPR?

24 A. No, ma'am.

25 Q. Okay. Did he help you with CPR when you got on the

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1 phone with the 9-1-1 operator?

2 A. Yes, ma'am.

3 Q. So he was helping you at that point?

4 A. Yes.

5 Q. Okay. Did you have to tell him what to do and how to
6 do it?

7 A. Yes, ma'am.

8 Q. All right. And you said, I was giving her chest
9 compressions, mouth-to-mouth. So you had to manipulate her
10 mouth to open it; correct?

11 A. Yes, ma'am.

12 Q. And the chest compressions were done how?

13 A. With my fingertips.

14 Q. Use that book to show me, that Bible right there, to
15 show me how you did the fingertip compression?

16 A. Like this. (Demonstrating.)

17 Q. Hold it up so the jury can see how you did it.

18 A. (Witness complied.)

19 Q. Okay. In one of these statements you said that you
20 hit her in the back several times?

21 A. Yes, ma'am. I do remember that.

22 Q. Okay. And you hit her as hard as you could?

23 A. No, ma'am.

24 Q. Okay. What were you doing hitting her in the back?

25 A. I was trying -- because when she started choking up

1 the stuff I would just barely hit her so that way she could
2 get whatever was in there up.

3 Q. Okay. Was she standing, laying in your arms or what?

4 A. I had her laying over my arm, yes, ma'am.

5 Q. Okay. All right. Then you said she was gasping for
6 air. You just testified that she was -- you came in the
7 room and she was doing that?

8 A. Yeah. When I came into the room, she was blue.

9 Q. Okay. But in this statement, you said she was gasping
10 for air; is that right?

11 A. Okay. When I gave her CPR, that's whenever she
12 started sounding like she was going to throw something up,
13 so I hit her on the -- patted her on the back to see if I
14 could get it to come up. At that time, when I couldn't get
15 it to come up, and I laid her back down on the floor, it
16 sounded like she was trying to gasp for air, like the last
17 breath that she took.

18 Q. Okay. Did you tell the lady on the 9-1-1 tape that?

19 A. No, ma'am, I did not.

20 Q. Okay. You said you then turned her on her side. I
21 continued to do CPR until the ambulance got there and they
22 took over. James and I switched back and forth doing CPR
23 as we were on the phone with EMS; correct?

24 A. Yes, ma'am.

25 Q. All right. And you told them that **Victim** fell down

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1 the steps, the front steps of the house that Sunday?

2 A. Yes, ma'am. That's what he had told me.

3 Q. And that's what you told the officers? This is your
4 statement.

5 A. Uh-huh (affirmative).

6 Q. And you told them that she hit her head on a cement
7 block?

8 A. Yes, ma'am.

9 Q. And she had a bruise over -- on her forehead and on
10 the eye from that fall?

11 A. Yes, ma'am.

12 Q. And you talk about the necklace. You told them on
13 Tuesday [Minor I] hit her with a toy car on both sides of
14 her forehead?

15 A. That I don't remember.

16 Q. Did you get to see your statement?

17 A. Yes, ma'am.

18 Q. You saw it in here?

19 A. Yes, ma'am.

20 Q. And you signed this statement, right?

21 A. (No verbal response.)

22 Q. So you told them that [Minor I] had hit her with a toy
23 car on both sides of her forehead? They were in the
24 playroom and by the time I got there, she had hit her
25 twice. You don't remember saying that?

1 A. No, ma'am, I don't.

2 Q. Then you talk about [Victim] having bite marks on her
3 left arm and some fire ant bites. Did you see how she got
4 the bite marks, other than the fire ant bite marks?

5 A. No, ma'am, I did not.

6 Q. All right. Did she have some other bite marks on her
7 body?

8 A. Not that I knew of, no, ma'am.

9 Q. She didn't have any bite marks on her upper shoulder,
10 the back part?

11 A. Not that I knew of, no, ma'am.

12 Q. You didn't ever bite her ---

13 A. No, ma'am.

14 Q. --- trying to teach her a lesson about biting ---

15 A. No, ma'am.

16 Q. --- [Minor 1] ?

17 A. No, ma'am.

18 Q. You never did that?

19 A. Nope.

20 Q. All right. Now, you have testified to the Court that
21 you noticed bruises about a week before May 25th?

22 A. Yes, ma'am.

23 Q. Okay. So would that include the time that you related
24 to them that she fell down the front steps?

25 A. Yes, ma'am.

1 Q. I think you also stated that you didn't beat your
2 children, you didn't spank them?

3 A. No, ma'am, I did not say I didn't spank them.

4 Q. Okay. What did you say?

5 A. I said that I popped her on the diaper and I popped
6 them on the hand.

7 Q. On the hand?

8 A. Yes, ma'am.

9 Q. All right. And did you use the corner or time out?

10 A. Yes, ma'am. They were use to time out.

11 Q. I believe you said your oldest child, who is **Minor 2**,
12 is eight year olds, lives in North Carolina with his
13 grandparents?

14 A. Yes, ma'am.

15 Q. And who has custody of **Minor 1** at this point?

16 A. At this point my mother does.

17 Q. And that's Ms. Tina Rollins?

18 A. Yes, ma'am.

19 Q. You met James Johnson through your sister Denise; is
20 that right?

21 A. Yes, ma'am.

22 Q. And you met him one day and you took him home
23 immediately with you that day?

24 A. Yes, ma'am.

25 Q. And he stayed with you from that day forward?

1 A. Yes, ma'am.

2 Q. And you considered -- I think you told the Solicitor
3 that you considered yourself boyfriend and girlfriend after
4 the first day?

5 A. Yes, ma'am.

6 Q. All right. Do you recall telling the police that you
7 had stated you were clean, that you hadn't done any drugs
8 that day or, you know, for a while since because you were
9 clean and you were still going to NA meetings?

10 A. No, ma'am, I do not recall that.

11 Q. You don't recall that?

12 A. I remember telling them that I had been a year clean
13 and then I relapsed. Yes, ma'am, I did.

14 Q. Okay. That was during the second or third interview,
15 because it wasn't the first one?

16 A. It was the second or third one. I can't recall.

17 Q. Okay. So you had told them that you were clean and
18 then you had to come back and tell them that you had lied
19 to them because you had done drugs that day?

20 A. Yes, ma'am.

21 Q. And had done drugs previously?

22 A. (Affirmative nod.)

23 Q. You had lived with Crystal Inman, you say, about two
24 months?

25 A. Yes, ma'am.

1 Q. All right. Now, you stated that you noticed bruises
2 showing up on [Victim] on her head and face. You don't
3 recall telling them that [Minor 1] hit her with the two toy
4 trucks on both sides?

5 A. No, ma'am. I don't recall.

6 Q. But you noticed bruises on [Victim], but you still left
7 her to be taken care of by James Johnson?

8 A. Yes, ma'am. Because every time I asked him he said
9 that either she fell or one of the kids had hit her.

10 Q. Okay. How many times did you violently pop [Victim] or
11 [Minor 1] on their hands?

12 A. I never violently popped them on their hands.

13 Q. Okay. Did you violently pop them on the backside ---

14 A. No, ma'am, I did not.

15 Q. --- on the diaper?

16 A. No, ma'am.

17 Q. So you're telling the Court and this jury that the
18 bruises on her does not come from you at all?

19 A. No, ma'am.

20 Q. Do you remember telling Investigator Miller that
21 [Victim] would sit in Parker's lap, but wouldn't sit there
22 for a long period of time. He would kiss on her. Do you
23 remember saying that?

24 A. No, ma'am.

25 Q. When your mother Tina Rollins picked up [Minor 1], did

1 she always take [Victim] with her?

2 A. No, ma'am.

3 Q. Okay. Was she showing favoritism to [Minor I]?

4 A. No, ma'am. She just couldn't handle both of them at
5 one time.

6 Q. Well, how long was she picking up [Minor I] by herself?

7 A. [Minor I] and [Victim] both got the same amount of time
8 with my mother.

9 Q. Okay. Do you remember telling one of the officers,
10 either Autry or Miller, that you were outside with [Victim]
11 when she got the ant bites?

12 A. No, ma'am, I do not recall that one.

13 Q. You don't recall that. But in that same statement you
14 did say that you were the one that removed the diaper and
15 cleaned the ants off?

16 A. Yes, ma'am.

17 Q. Okay. Weren't you the person that suggested not
18 calling 9-1-1 right away so you could clear up the
19 marijuana?

20 A. No, ma'am, I was not.

21 Q. Weren't you afraid that DSS would take your kids
22 again?

23 A. No. The only reason why I was afraid that they would
24 take them again is because of what had happened, not
25 because of the marijuana.

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1 Q. Okay. But the first time they took your kids was
2 because of marijuana; is that right?

3 A. Yes, ma'am.

4 Q. And the second time was because of marijuana,
5 according to your statement?

6 A. Yes, ma'am.

7 Q. So when were you at the mortuary, you said -- was that
8 June 2nd?

9 A. Yes, ma'am.

10 Q. And so the officers picked you up at the mortuary and
11 took you to the hospital or to the detention center?

12 A. No, they brought me down here to the detention center.

13 Q. And that's when you gave them the statement -- the
14 portion of the statement that you testified to today?

15 A. Yes, ma'am.

16 Q. And in that statement you're saying that you were
17 asleep?

18 A. Yes, ma'am.

19 Q. In the bedroom?

20 A. Yes, ma'am.

21 Q. And James, Parker, is the one that came in the room to
22 wake you up?

23 A. Yes, ma'am.

24 Q. All right. Do you recall telling the officers at any
25 time that the two -- one of the girls had come to the door

1 and knocked on the door to wake you up?

2 A. I had told them that I remembered [Minor I] coming in
3 to the room and trying to wake me up. Yes, ma'am.

4 Q. Okay. You do remember telling them that?

5 A. Yes, ma'am.

6 Q. Now, you're saying that you had -- about thirty
7 minutes after [Minor I] had tried to wake you up, that's
8 when Parker came in; is that what you're saying?

9 A. That is my time recollection. I mean, I didn't have a
10 clock so ...

11 Q. Okay. So how long had you been sleeping?

12 A. I can't really say. There was not no clock so I can't
13 really tell.

14 Q. Okay. But you insist today that you were sleeping?

15 A. Yes, ma'am.

16 Q. Did you ever tell the officers, as you testified
17 today, that the Defendant had laid down in the bed beside
18 you?

19 A. Yes, ma'am.

20 Q. Okay. And when you got into the room, according to
21 today's testimony, [Victim] had on no clothing?

22 A. None.

23 Q. But when you gave the first statement, she had on
24 clothing?

25 A. That I do not recall.

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1 Q. When you gave any of the previous three or four
2 statements, was there any testimony that [Victim] was
3 standing in front of the Defendant?

4 A. There was one occasion, yes, ma'am.

5 Q. Okay. There was one occasion when you said that?

6 A. Yes, ma'am.

7 Q. All right. And she was standing close to him or not
8 close?

9 A. Not close.

10 Q. Okay. And who did you ride with when you went to the
11 Greer Hospital?

12 A. I rode with Crystal Inman.

13 Q. Okay. And ---

14 A. And the Defendant.

15 Q. And did Crystal Inman then take you to the Greenville
16 Hospital?

17 A. Yes, ma'am.

18 Q. All right. Today you're saying that you told the
19 police in the first three or four statements those stories
20 about the baby choking on ice because you were stupid?

21 A. Yes, ma'am, and because I was scared.

22 Q. You were scared?

23 A. Yes, ma'am.

24 Q. And that you just didn't know about anything. So I
25 don't understand why you would tell them that if it's not

1 the truth?

2 A. Because I did not know what had happened until they
3 had done the autopsy and then I was informed on what had
4 happened.

5 Q. So you were trying to cover for yourself?

6 A. I don't understand what you're ---

7 Q. You were trying to cover any involvement that you had?

8 A. I had no involvement in that.

9 Q. Okay. These are your children?

10 A. Yes, ma'am.

11 Q. And wouldn't it have been much better if you'd told
12 the officer, Investigator Miller or Autrey, that you just
13 didn't know what happened from the very beginning?

14 A. Yes, ma'am.

15 Q. Okay. So you just lied the whole -- three days ---

16 A. Yes, ma'am.

17 Q. --- while your daughter's lying in the hospital you're
18 lying?

19 A. Yes.

20 Q. So you were more concerned about yourself than ---

21 A. No, ma'am.

22 Q. --- about your daughter?

23 A. I was scared for my other child.

24 Q. You were concerned for your other child?

25 A. Yes, ma'am.

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1 Q. What does that mean?

2 A. I was scared of losing her altogether. I was scared
3 that DSS would step in and take her and I would never see
4 her again.

5 Q. But you'd been involved with DSS at least three
6 different times; is that correct?

7 A. Yes, ma'am.

8 Q. DSS in North Carolina for your son, **Minor 2**? DSS in
9 South Carolina twice for your two girls?

10 A. (Affirmative nod.)

11 Q. But I believe you said that y'all -- when you went to
12 the Greenville Hospital that you and Parker or James
13 Johnson was immediately separated into different rooms?

14 A. Yes, ma'am.

15 Q. And out of the four stories that you told the police
16 officers, the one that you're attesting to is the one
17 you're telling today?

18 A. Yes, ma'am.

19 Q. Thank you.

20 THE COURT: Any redirect?

21 MS. HODGE: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MS. HODGE:

24 Q. Ann, you talked to firemen and EMS on the 25th; is
25 that right?

1 A. Yes, ma'am.

2 Q. And then you had to talk to police when you got to the
3 hospital; is that correct?

4 A. Yes, ma'am.

5 Q. And you're trying to be as cooperative as possible; is
6 that right?

7 A. Yes, ma'am.

8 Q. Are you scared about what's going on?

9 A. Yes, ma'am.

10 Q. What could potentially happen to you and to [Minor 1]?

11 A. Yes, ma'am.

12 Q. And so you're talking and you're telling them this
13 story about the tea?

14 A. Yes, ma'am.

15 Q. And then the whole while [Victim] a's still in the
16 hospital and being treated and on life support?

17 A. Yes, ma'am.

18 Q. And then the next day the officers want to talk to you
19 again. And you're still trying to be cooperative; is that
20 right?

21 A. Yeah.

22 Q. And you're telling them a lot of things?

23 A. There was a lot of things going through my head at
24 that time. But I couldn't not get them to stop so I could
25 just ---

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1 Q. They weren't letting up on you, were they?

2 A. No.

3 Q. They wanted to know because this just wasn't making
4 sense; is that right?

5 A. Yes, ma'am.

6 Q. So they were coming to you constantly wanting to know,
7 are you sure about this? What about this?

8 A. Yes, ma'am.

9 Q. Would that be fair to say? And you kept talking?

10 A. Yes, ma'am.

11 Q. And you kept telling your story and it kept growing?

12 A. Yes, ma'am.

13 Q. And then Ms. Manigault asked you some things and you
14 said, I don't remember that. I don't remember that. Could
15 there be things that you said that at that point that were
16 lies that you just don't remember?

17 A. There could be. Possibly, yes, ma'am.

18 Q. And so the second day they're back on you wanting to
19 know what happened?

20 A. Yes, ma'am.

21 Q. At this point you start talking about that, yes, in
22 fact, you had used again?

23 A. Yes, ma'am.

24 Q. Now, it would have been bad had they showed up and
25 known you had been using right away with this incident with

1 [Victim]; is that right?

2 A. Yes, ma'am.

3 Q. That would look bad for you?

4 A. Yes, ma'am.

5 Q. That probably would have got [Minor I] taken?

6 A. Yes, ma'am.

7 Q. So they're still on you, they're still talking, you're
8 still trying to be cooperative?

9 A. Yes.

10 Q. And you're starting to tell some truth now?

11 A. Yes, ma'am.

12 Q. Starting to let your guard down some?

13 A. Yes, ma'am.

14 Q. And then by the third day, which is the 27th now,
15 you're talking to Investigator Miller again?

16 A. Yes, ma'am.

17 Q. And you start removing yourself a little bit from
18 knowing what's going on?

19 A. Yes, ma'am.

20 Q. Is he pressing you with medical information? Telling
21 you these things aren't making sense?

22 A. He started telling me that some stuff didn't add up to
23 prove my story. And the more he told me that, the more I
24 started letting my guard down and started to tell the
25 truth. Yes, ma'am.

1 Q. And then [Victim] was pronounced dead?

2 A. Yes.

3 Q. And had to be buried or go to the mortuary? And they
4 came in and actually got you from the mortuary?

5 A. Yes, ma'am, they did.

6 Q. What was burning in you to tell them at that time?

7 A. I wanted to tell the truth. I wanted to quit
8 dragging, not myself, but her through the mud. I mean, it
9 was bad enough that I had lost her, but I was letting
10 something take a hold of me that shouldn't have. And I
11 should have started being honest from the get-go and I know
12 that.

13 Q. Now, let's talk about this van ride. I think we
14 established once you and the Defendant kind of got out of
15 the car at that hospital that first day, no more talking?

16 A. No more talking

17 Q. No more getting together?

18 A. No more getting together until ---

19 Q. Well, now you were in a van that you had no control
20 over what van you were in?

21 A. No, ma'am, sure did not.

22 Q. And going to Family Court?

23 A. Yes, ma'am.

24 Q. For your hearing in regard to [Minor I]?

25 A. Yes, ma'am.

1 Q. And that was some time over the last year? In the
2 last year?

3 A. Yes, ma'am.

4 Q. Did you have any idea who else would be in that van?

5 A. No, ma'am, I did not.

6 Q. Had there been any communications about trying to get
7 in the same car to ride to court together?

8 A. No, ma'am, there was not.

9 Q. And in that van ride did you speak to the Defendant?

10 A. No, ma'am, I did not.

11 Q. Did he speak to you?

12 A. He kept taunting me with telling everybody in the back
13 van that he was sitting with, I guess, all guys, because
14 that's, you know ---

15 Q. They kept you separate, the girls from the guys?

16 A. Yeah. They kept us separate from the guys. And he
17 kept telling them how good our sex life was and how good I
18 was in bed and how I was the best he had ever had. And
19 things ---

20 Q. And all these things you could hear?

21 A. Yeah. Yes, ma'am.

22 Q. And then did he say something to you about **Victim**?

23 A. He told me on the way back when it was just me and him
24 in the van, he had told me that he was sorry for what he
25 had did. That he did not mean to and kept on with dumb

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- 1 stuff like, you know, he was sorry and that he hoped I
2 would forgive him and so on and so on.
- 3 Q. And what was the -- was -- the court case about
4 [Minor I] s custody?
- 5 A. It was about [Minor I] s custody and a little bit about
6 ---
- 7 Q. [Victim] s death?
- 8 A. Yes, ma'am.
- 9 Q. All right. And he's not the biological dad of
10 [Victim] ?
- 11 A. No, ma'am.
- 12 Q. Who is the biological dad?
- 13 A. The biological dad of [Victim] is Mark Gore.
- 14 Q. And did the Defendant like Mark Gore?
- 15 A. No, ma'am.
- 16 Q. Did they have some issues with each other?
- 17 A. Yes, ma'am.
- 18 Q. And that is a result -- he didn't know Mark Gore until
19 he met you?
- 20 A. Yes, ma'am.
- 21 Q. And knew that Mark was [Victim] s daddy?
- 22 A. Yes, ma'am.
- 23 Q. And he and Mark didn't get along?
- 24 A. No, ma'am.
- 25 Q. And you never told in any of your statements that

1 **Victim** choked on a piece of ice, did you?

2 A. No, ma'am.

3 Q. You told tea?

4 A. Tea.

5 MS. MANIGAULT: Your Honor, I object. This is
6 going further than ---

7 MS. HODGE: I believe Ms. Manigault asked about
8 the ice.

9 THE COURT: Overruled.

10 MS. MANIGAULT: No, I did not.

11 MS. HODGE: I'm sorry.

12 Q. Ms. Manigault gave you a statement that you said the
13 child choked on ice?

14 A. Yes, ma'am.

15 Q. Is that true? Did you ever say ice?

16 A. No, ma'am.

17 Q. It was always tea?

18 A. Tea.

19 Q. And tea was something that y'all drank?

20 A. Yes, ma'am.

21 Q. Thank you, Ms. Sprouce.

22 A. You're welcome.

23 THE COURT: Thank you, ma'am. You may step down.

24 THE WITNESS: Thank you.

25 THE COURT: Mr. Foreman, ladies and gentlemen,

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1 this would be a good time for us to take a lunch break.
2 I'll ask, again, remind you while you're out for lunch, out
3 and about, not to discuss the case. Don't let anyone
4 discuss the case with you. The case is still in progress.
5 Of course, there's more testimony to be heard. Have a good
6 lunch and if you'll be back at two fifteen, we'll be ready
7 to start at that time.

8 Everyone else, please remain seated while the jury
9 departs.

10 (WHEREUPON, the jury exited the open court at
11 approximately 12:55 P.M.)

12 THE COURT: All right. We'll be at ease until
13 two fifteen.

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

16 THE COURT: Are you ready to proceed Solicitor?

17 MS. HODGE: Yes, sir.

18 THE COURT: All right. If our jury's ready have
19 them come in, Ms. Fryer.

20 (WHEREUPON, the jury entered the open court at
21 approximately 2:26 P.M.)

22 THE COURT: Solicitor, you may call your next
23 witness.

24 MS. HODGE: Thank you, Your Honor. The State
25 calls Dr. Croswell.

1 THE CLERK: Come forward and put your left hand
2 on the bible and raise your right.

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

5 THE WITNESS: I do.

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

8 THE WITNESS: My name is Mary Fran Ratchford
9 Croswell.

10 MARY FRAN CROSWELL, MD,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MS. HODGE:

14 Q. Dr. Croswell, what kind of a physician are you?

15 A. I am a child abuse pediatrician.

16 Q. And where are you currently employed?

17 A. I'm employed by the Greenville Health System.

18 Q. How long have you been with them?

19 A. I have been employed there since 2006.

20 Q. Please tell us about your educational background?

21 A. I received my undergraduate degree from Wake Forest
22 University. I received my medical degree from University
23 of Louisville.

24 Q. And what type of specific medical training or
25 pediatric training do you have?

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1 A. I did a pediatric residency at the Greenville Health
2 System. And then have done further studies in the field of
3 child abuse.

4 Q. All right. And are you board certified in pediatrics?

5 A. Yes, I am.

6 Q. Is there a sub-section of that for child abuse
7 pediatrics?

8 A. I'm double board certified in general pediatrics and
9 child abuse pediatrics.

10 Q. And approximately how many patients do you believe
11 that you've examined or treated in your career?

12 A. Several thousand.

13 Q. And in your specialized field of child abuse
14 pediatrics, does that deal with physical abuse and sexual
15 abuse also or just one or the other?

16 A. It deals with all sorts of child maltreatment.

17 Q. Does that include neglect as well?

18 A. It does.

19 Q. And how many years have you been practicing in the
20 specialty of child abuse pediatrics?

21 A. Six years.

22 Q. And how many physical abuse exams do you think you've
23 conducted on children over those years?

24 A. I would estimate about sixty physical abuse
25 examinations a year for the past six years; so over three

1 hundred.

2 Q. Are you part of the hospital system that's also called
3 their forensic pediatric area?

4 A. I am employed within the division of forensic
5 pediatrics child abuse and neglect.

6 Q. All right. And what does that division do? What's
7 its main purpose?

8 A. We are consulted on any cases where there is concern
9 of some form of child maltreatment, physical abuse, sexual
10 abuse or physical neglect.

11 Q. And are you called in to examine people that come into
12 the ER or to doctors' offices? What does it entail?

13 A. We have both an inpatient and outpatient role. When a
14 child is admitted to the hospital with injuries concerning
15 for physical abuse, we are consulted to help determine the
16 work-up that's needed to assess for non-accidental trauma
17 versus some other form or a medical condition that would
18 mimic child abuse. In the outpatient setting, we receive
19 referrals from law enforcement, Department of Social
20 Services, other physicians, for concerns that we can do in
21 the outpatient setting at the Julie Valentine Center.

22 Q. So do you conduct some of your work or your exams at
23 the Julie Valentine Center?

24 A. Correct. All of my outpatient assessments are done at
25 the Julie Valentine Center.

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1 Q. And that's a contract basis with the hospital system?

2 A. Correct.

3 Q. Okay. And when you're called in for concerns of
4 possible child abuse, what percentage of those cases do you
5 actually say, this is child abuse, this is not?

6 A. So, you know, all of the cases that are referred to me
7 are suspected child abuse cases. And only about sixty-five
8 percent of those cases do I say that it's indicated for
9 abuse. Approximately twenty-five percent of those it's
10 indeterminate, being that you can't tell based on the
11 physical exam or the evaluation that I have done alone.
12 And then about ten percent attribute to some other medical
13 condition that can mimic abuse.

14 Q. And so if any child presents to the hospital system in
15 Greenville County, you and/or who else would be in charge
16 of coming to assess that?

17 A. I have one partner, Dr. Nancy Henderson, and we take
18 turns being on call. And so it would be one of the two of
19 us.

20 Q. Have you taught any seminars or conferences related to
21 child physical abuse or sexual abuse or maltreatment?

22 A. Yes, I have. I've spoken at both local and state-wide
23 conferences on child abuse.

24 Q. And are you a member of any associations that deal
25 with child abuse?

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1 A. Yes, I am.

2 Q. What are those?

3 A. I am a member of the American Academy of Pediatrics
4 Section on Child Abuse. I'm a member of the American
5 Professional Society on the Abuse of Children. I'm a
6 member of the Helfer Society, which is a honorary society
7 for child abuse pediatricians. I am a member of a state-
8 wide network of child abuse providers called the South
9 Carolina Child Advocacy Medical Response System.

10 Q. All right. And have you ever been qualified in Court
11 as an expert in the area of pediatrics or child abuse
12 pediatrics?

13 A. Yes. I have been qualified as both.

14 Q. And how many times?

15 A. I would estimate twenty-five times.

16 Q. In what courts?

17 A. In both Family and Criminal Courts in South Carolina.

18 Q. Thank you.

19 MS. HODGE: At this time, Your Honor, the State
20 would move to admit Dr. Croswell as an expert in pediatrics
21 with a specialty in child abuse pediatrics.

22 THE COURT: Any voir dire of this witness or any
23 objection?

24 MS. MANIGAULT: None, Your Honor. No objections.

25 THE COURT: Thank you. Ladies and gentlemen, let

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1 me just explain to you briefly. Normally a person who
2 comes and testifies in court, they can't give their
3 opinion. They can testify to what they saw or heard or
4 smelled or other matters that they observed. But there is
5 an exception to that rule when someone, because of their
6 qualification or by education or experience or otherwise,
7 is permitted to give an opinion in that field of expertise
8 and to give the reason for that opinion. The fact that a
9 witness is qualified as an expert and can give an opinion,
10 that doesn't mean that you must accept the opinion as
11 evidence. Like all other evidence, you treat it and use it
12 the way that you see fit.

13 You may proceed, Solicitor.

14 MS. HODGE: thank you, Your Honor.

15 Q. Dr. Croswell, were you called to examine a child named
16 [REDACTED] Victim back on May 26th, 2011?

17 A. Yes, I was.

18 Q. All right. And how old was this child?

19 A. She was twenty months old at the time.

20 Q. What was the purpose of your examination?

21 A. There were concerns for non-accidental trauma based on
22 her presentation to the hospital. So I was consulted to
23 help evaluate for any injuries and to guide the medical
24 assessment for non-accidental trauma.

25 Q. Non-accidental trauma. And where was she when you

1 conducted your examination?

2 A. She was a patient in the pediatric intensive care unit
3 at the Children's Hospital of the Greenville Health System.

4 Q. And what was her condition at that time?

5 A. She was critical.

6 Q. Had you been given a little bit of background
7 information from the physicians in regard to how she
8 presented and what the treatment plan was already?

9 A. Yes. I had received a phone call from one of the
10 pediatric residents who helped manage her care while she
11 was in the PICU. And they had advised me of their concerns
12 and her current status at the time.

13 Q. So what was your first step in this case?

14 A. Anytime I receive a consult, I try to review any
15 available information that I have leading up to the
16 presentation to the hospital. So I reviewed the ER visit,
17 had reviewed the laboratory studies that had already been
18 done, the radiologic studies that had already been done,
19 and any observations by any other medical team members.

20 Q. Do you attempt to get a history also from the care
21 giver?

22 A. Yes. So after reviewing all records I speak to the
23 care giver. In this particular case, it was her mother,
24 father and her maternal grandmother.

25 Q. And who was the mother?

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1 A. I don't have the names. I just have mother.

2 Q. Would Georgia Ann Sprouce be possible?

3 A. That would be possible.

4 Q. Okay. And do you have a name for the dad that you
5 spoke to?

6 A. No, I do not.

7 Q. But it was biological dad?

8 A. It was biological dad.

9 Q. And the grandmother was paternal or maternal?

10 A. Maternal.

11 Q. The mother's mother. All right. Tell me what you did
12 next?

13 A. So after -- from the care givers I take an extensive
14 medical history to include their past medical history, any
15 medical condition she may have had, any previous
16 hospitalizations or surgeries. I take a detailed
17 developmental history, family history and social history
18 prior to doing my physical examination.

19 Q. Tell us about the past medical history that you took
20 into consideration from **Victim**?

21 A. So her mother described that after **Victim** had been
22 born that physicians in the newborn nursery had heard a
23 heart murmur. And she had a -- and she was evaluated
24 further by a cardiologist. Based on that information, I
25 was able to review the medical records from that time and

1 she had had a slow heart rate in the newborn nursery and
2 they had done an extensive work up, which was negative for
3 any cardiac or heart condition. She had followed up with a
4 cardiologist when she was three weeks old and released from
5 the care of cardiology at that time.

6 Q. Did she have any other significant medical history
7 that you found important to check into?

8 A. No.

9 Q. How about developmental history?

10 A. They described her as a normal toddler. She was able
11 -- she was walking independently and was trying to run.
12 There were no concerns from a developmental standpoint.

13 Q. All right. How about did you know if she was eating,
14 drinking, doing those types of basic activities?

15 A. Yes. They had described her eating a peanut butter
16 sandwich and a pop tart earlier in the day, drinking from a
17 sippy cup, as well.

18 Q. And then did you obtain a family history?

19 A. Yes, I did.

20 Q. And what did you learn about that?

21 A. There was no family member that was diagnosed with any
22 specific bleeding disorder, but mother did describe that
23 she bruised easily and had heavy menstrual cycles and had
24 been diagnosed with borderline anemia previously.

25 Q. And that was as to the mother, not the child?

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1 A. To the mother, correct.

2 Q. And how about the child, was there any testing or
3 further examinations conducted to see if the child had any
4 type of bleeding disorder or bruised easily?

5 A. Yes. Based on -- the child had some initial
6 laboratory studies due to the bruising that she presented
7 with, to look for any underlying bleeding disorder.
8 Because of the history that mom provided, I recommended
9 additional tests to look for a not uncommon medical
10 condition that can cause easy bruising, that is a genetic
11 condition. And so those laboratory studies were ordered
12 based on that history.

13 Q. And what was the result of that?

14 A. Those were normal.

15 Q. She was normal. So she did not have some special
16 disorder that made her bruise easy?

17 A. Correct.

18 Q. And then I believe you said you obtained a social
19 history?

20 A. Yes.

21 Q. Okay. And what was that and why is that important?

22 A. A social history is just trying to understand a little
23 bit about the child's living conditions and her living
24 environment to assess for risk factors, assess for other
25 children in the home that could potentially be at risk.

1 Q. Was there anything of significance that you found in
2 your social history?

3 A. That they had currently been -- they had been living
4 in their current residence just for a couple of weeks.
5 There had been prior involvement with Department of Social
6 Services. There had been -- Victim had tested positive
7 for marijuana when she was born and was in foster care for
8 a few weeks to a month after she was born. The police had
9 been involved the previous week with the family due to one
10 of the children being found -- the two-year-old sister
11 being found walking outside the home alone. They denied
12 any other law enforcement involvement with the family.

13 Q. So what was your next step after you obtained the
14 pertinent information from the care givers and medical
15 records?

16 A. At that point, I did a physical examination on
17 Victim.

18 Q. What did your physical exam consist of? What exactly
19 is it that you are able to do?

20 A. It is a head-to-toe physical exam looking at all parts
21 of her body.

22 Q. Did she have some life support equipment, a ventilator
23 or things, hooked up to her?

24 A. Yes, she did.

25 Q. Were you able to remove any of that stuff?

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1 A. No, I was not.

2 Q. So tell us what you did? And, actually, let me bring
3 this up. This might assist you and the jury.

4 (WHEREUPON, State Exhibit Number 36 was marked for
5 identification.)

6 Q. I'm showing you State's Number 36. Do you recognize
7 this?

8 A. Yes, I do.

9 Q. Okay. What is that?

10 A. It is a body diagram with the skin findings that I
11 documented during my physical exam on **Victim**.

12 Q. Okay. And is this a copy of your original?

13 A. Yes, it is.

14 Q. All right. Is this a true and accurate copy?

15 A. Yes, it is.

16 MS. HODGE: At this time, we would move to admit
17 State's Number 36.

18 MS. MANIGAULT: Your Honor, there's no objection.
19 We have reviewed it.

20 THE COURT: All right. Without objection Exhibit
21 36 is admitted and may be published to the jury.

22 (WHEREUPON, State Exhibit Number 36 was admitted into
23 evidence.)

24 MS. HODGE: Thank you, Your Honor.

25 Q. All right. Dr. Croswell, I'm going to put this up

1 here. Is the laser pointer still up there? Do you see --
2 yes, right underneath your file I think there's a laser
3 pointer.

4 A. Okay.

5 MS. HODGE: If you could hit one of those lights
6 and see if we can get just a little ... Thank you.

7 Q. And I'll move it as need be.

8 A. Okay.

9 Q. So if you would go through your physical examination
10 and then point to anything on State's 36 that assists.

11 A. So just kind of general, overall assessment. The
12 patient was intubated, which means she had a breathing tube
13 in her mouth. She was unresponsive to stimuli, which
14 implies severe neurologic injury. On her head and neck
15 examination, her pupils, which are the black part of the
16 eye, were fixed and dilated, which means -- again,
17 indicates neurologic injury. The sclera, which are the
18 white parts of the eye, were clear and white. Using a
19 basic ophthalmoscope, which is a piece of equipment to look
20 in the backs of the eyes, I was not able to appreciate any
21 hemorrhages or bleeding in the backs of the eyes at that
22 time. Her ears, the internal part of the ears were normal.
23 On the left ear, which I guess is going to be right here,
24 she had a one and a half centimeter by point six centimeter
25 bruise along the medial part of the lateral ear. So the

1 medial part would be the inside of the ear facing the
2 skull. And she also had visible, you know, bruise on the
3 external portion of the ear. I was not able to examine her
4 mouth because she was intubated and had these pieces of
5 tape on either side keeping the tube in place. Didn't want
6 to disrupt that. Her neck appeared normal. Her heart was
7 beating regularly with no murmur appreciated, which is just
8 additional heart sounds. Her lungs were clear. Her
9 stomach, up here, normal. Her genital area also appeared
10 normal. Her extremities, she was able -- I was able to
11 move them through the full range of motion passively. And
12 then the skin. So I will start on the forehead up here.
13 There were five bruises. The first was a two by two
14 centimeter bruise on the right forehead. And then there
15 were three very small bruises in a linear pattern right
16 there. And then on this lateral -- left lateral part of
17 her forehead, she had a one and a half by one centimeter
18 bruise. Above the nose in between the eyebrows there was a
19 two by one point seven five centimeter red/purple bruise.
20 In the left infraorbital space, which is the space below
21 the eye, there was a one and a half by point five
22 centimeter bruise. And then -- excuse me. I think that
23 was the left. And then the right she also had a bruise in
24 that space that was two and a half centimeter by point five
25 centimeter. As well as one small one lateral to that that

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1 measured one centimeter. And then this tape that I pointed
2 to earlier was covering some of her skin. So I was unable
3 to visualize the skin under those areas. Underneath the
4 right tape, there was a bruise that extended below there
5 for about point five centimeters. In her right upper
6 quadrant of her abdomen, she had a point five by point
7 seven centimeter bruise. And then on her right flank here,
8 she had a two by point seven five centimeter bruise. On
9 her left arm right here -- excuse me. This is the one I --
10 right here she had an oval shaped bruise with central
11 clearing, consistent with a bite mark, which measured three
12 and a half centimeters by two centimeters. On the back
13 here, she had a cluster of four circular bruises measuring
14 from point five to one point five centimeters in diameter.
15 On her buttocks, on her left buttock here, there was a six
16 centimeter by point five centimeter purple bruise and there
17 was a one centimeter by one and a half centimeter bruise
18 underneath that. On her -- the backs of her thighs there
19 were multiple small red papules or bumps, and that was
20 indicated by these little dots here. And then we have this
21 one and a half by point five centimeter purple bruise on
22 the left ear. On the left interior upper arm here there
23 was a one and a half centimeter bruise. And on the -- I
24 think we need to go up to see the top photos.
25 Q. Okay.

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1 A. On the chest wall -- I'm sorry. Let's see. On the
2 chest wall, I think those have already been described. On
3 the right lower leg, there were extensive areas down here
4 of ecchymotic bruises, which just means large bruises.
5 Those were around the site of an intraosseous line, which
6 is something that the hospital would have put into her to
7 try to gain access for fluids in an emergency situation.

8 (WHEREUPON, State Exhibit Numbers 37, 38 and 39 were
9 marked for identification.)

10 Q. Let me show you what's previously been admitted as
11 State's 28, 29, 30, 31, 32 and 33. Is that how you recall
12 **Victim** looking when you did your examination?

13 A. Yes.

14 Q. I show you State's Number 37, 38 and 39. Tell us what
15 State's 37 and 38 are showing; 37 and 38?

16 A. 37 is showing a red bruise on her right ear, on the
17 part that's exposed on the outside. On the Exhibit Number
18 38, it appears that this is the back part of the ear of the
19 left ear.

20 Q. Okay. Right ear, left ear?

21 A. Uh-huh (affirmative). Correct.

22 Q. And did you observe those injuries when you were doing
23 your examination?

24 A. Yes.

25 Q. And then State's Number 39, what is that showing?

1 A. It shows her buttocks with the red bumps that are
2 consistent with the ant bites, as well as a bruise over her
3 buttocks.

4 Q. And the diaper has been taken off to take that
5 photograph or pulled down?

6 A. Correct. Yes.

7 Q. And are these true and accurate representations of the
8 injuries you saw on her?

9 A. Yes, they are.

10 MS. HODGE: At this time, we'd move to admit 37,
11 38 and 39.

12 THE COURT: Any objection?

13 MS. MANIGAULT: No objection, Your Honor. We've
14 reviewed them.

15 THE COURT: Without objection 37, 38 and 39 are
16 admitted and may be published.

17 (WHEREUPON, State Exhibit Numbers 37, 38 and 39 were
18 admitted into evidence.)

19 MS. HODGE: Thank you, Your Honor.

20 Q. I'm going to show you State's Number 37, which, again,
21 not the best glare in here. But which ear is that and
22 where is the injury?

23 A. This is the bruises noted on the right ear. And,
24 again, it's hard to see in the overhead projection. But
25 this kind of darker area that's represented on the screen

1 appeared to be a bruise during the examination.

2 Q. All right. And then State's Number 38?

3 A. To orient you, this is the tape from the breathing
4 tube. So her mouth is up here. This is her left ear that
5 is now folded forwards. And, again, you can see this area
6 that is a bruise.

7 Q. What did these ear bruises signify to you?

8 A. When considering bruising in children, there are
9 certain sites and locations of bruising that we know are
10 commonly associated with accidental injury. So, commonly
11 on children you see bruises on the fronts of their lower
12 legs. In toddlers, you can see bruising commonly on the
13 forehead because of the nature of their daily activity.
14 Bruising on the ear is very atypical for accidental injury,
15 and always raises red flags for an abusive injury. So
16 these two bruises in particular were very concerning to me.

17 Q. And I'm going to show you State's Number 39. What's
18 the injury there? And what significance does that have to
19 you?

20 A. So, again, this is -- to orient you, the legs and the
21 feet are going up that direction. Her trunk is bent at the
22 hip. And so these are her buttocks and this is her right
23 buttock. And in this area right here, there was a linear,
24 kind of oval shaped bruise over the buttock area. Again,
25 the buttocks typically are -- they're soft tissue, they're

1 fatty tissue and typically can absorb a lot of force
2 without leaving any signs of injuries. So bruising on the
3 buttocks is uncommonly seen in accidental injury, but much
4 more commonly seen in an inflicted injury.

5 Q. Let's continue on this same route with State's Number
6 28. What injuries -- are there any specific, not the
7 totality here, but specific injuries that again are red
8 flags for you for non-accidental trauma?

9 A. When evaluating for non-accidental trauma, you know,
10 we look at bruises in isolation. We look at bruises
11 collectively. So, you know, in total she has numerous
12 bruises of her face. Taking them in isolation, as I
13 mentioned before, we've done studies on well children and
14 we know that well children in normal everyday play can
15 sustain bruising to the forehead. It's the other soft
16 tissue areas of the face that are less commonly associated
17 with accidental bruising. So bruising over the cheeks,
18 over the nasal bridge were of more concern for non-
19 accidental trauma.

20 Q. And how about to the State's Number 30 to the side
21 here, is that usual, unusual?

22 A. So this appeared -- so this is her head, her arm and
23 this is her right side. There were a series of bruises --
24 not connection, but kind of in a patterned appearance that
25 were concerning for a hand print or fingertip print

1 injuries.

2 Q. Is that common in non-accidental trauma cases?

3 A. Yes.

4 Q. And how about State's Number 31? Can you see that?

5 A. Again, these were bruises over her abdomen or her
6 stomach. Abdominal bruising, again, is not
7 characteristically associated with accidental injuries.
8 Most common bruises that occur in accidental injuries are
9 over a boney prominence. In the stomach, there's -- it's
10 very difficult to get that compression of the vessels to
11 the point that they actually break and bleed causing a
12 bruise in this area. So bruising over the abdomen is of
13 significant concern for inflicted trauma unless there's
14 known accidental trauma to have been able to cause that
15 injury.

16 Q. Were you given sufficient previous history to explain
17 all these various bruises?

18 A. The only bruises -- the explanations that were
19 provided were for the forehead bruises. I was told that
20 the child had fallen going up some stairs a week prior.

21 Q. So none of these other on the body, abdomen, other
22 facial ones?

23 A. There was no mechanism provided to explain that
24 bruising.

25 Q. Did you make a diagnosis of the child at this point as

1 far as -- I'm guessing your diagnosis is whether to
2 indicate for abuse or non-abuse. Is that ...

3 A. Well, at this point in time we were still gathering a
4 lot of information. And so I had heightened concern for
5 the possibility of non-accidental trauma due to the number
6 and location of her bruises and wanted further assessment
7 into any possible medical explanation that may explain it,
8 specifically the studies that were referred to previously.

9 Q. The blood disorder studies?

10 A. Right.

11 Q. All right. And were you -- I think you've already
12 answered this, but were you able to do an examination
13 internally of her mouth?

14 A. No, I was not.

15 Q. And if you had been able to do that and if you would
16 have learned that upper frenulum had been torn, would that
17 also weigh into your findings or your impressions?

18 A. It would have added further support to the possibility
19 of non-accidental trauma.

20 Q. And what does that signify to you, a torn frenulum?

21 A. It implies some type of blunt force trauma to the
22 mouth, either from a punch or from some type of forceful
23 application, suffocation type of injury.

24 Q. Now, is -- it's been talked about, this child's
25 prognosis. What was the child's prognosis at this point?

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1 A. It was very poor.

2 Q. And was she able to live off of any of the machines?

3 A. No, she was not.

4 Q. In your history did you get any information that
5 possibly another child inflicted any of these injuries on
6 her?

7 A. Yes, I did. The mother had said that some of the
8 bruising on the forehead was due to the two-year-old sister
9 hitting her with some beads on her forehead.

10 Q. In your opinion, could a two-year-old have used
11 plastic beads to inflict these linear bruises that we're
12 showing here in State's 29?

13 A. I think it would be very atypical and unusual for it
14 to be caused by a two-year-old.

15 Q. Did you have a total count or number of bruises; were
16 you able to come up with that?

17 A. There were approximately twenty-eight bruises that I
18 counted on her body.

19 Q. And what were your recommendations at the conclusion
20 of this, your initial exam?

21 A. Based on some information provided to me by the
22 maternal grandmother about something her two-year-old
23 sibling had said, I recommended that the two-year-old
24 sibling have a forensic interview to provide further
25 history.

1 Q. I'm going to stop you right there. What does that
2 mean? What is a forensic interview and what does that ---

3 A. A forensic interview is a way that children can be
4 interviewed by law enforcement in a very child-friendly way
5 and in a child-friendly location at the child advocacy
6 center. It's to gather as much information and details as
7 age appropriately as a child can provide about a situation
8 that they may have observed.

9 Q. So you made a recommendation to law enforcement that
10 the sister be interviewed at the Julie Valentine Center,
11 the child advocacy center?

12 A. Correct.

13 Q. Okay. I'm sorry. Go ahead with your next one.

14 A. I made recommendations on the specific blood test for
15 von Willebrand's antigen and ristocetin cofactor, which is
16 the labs to assess for the bleeding disorder. And then
17 recommended a hair strand drug test due to the previous
18 history of drug abuse in the family.

19 Q. Once you made those recommendations, what was your
20 next step in this case?

21 A. I returned the following day to reevaluate the child.
22 And at that point, she had already been declared brain
23 dead. So I did not do a further physical examination on
24 her. Did make some recommendations on having law
25 enforcement assess the types of cardiopulmonary

1 resuscitation efforts that were given to see if any of
2 those could account for any of the bruising, which would be
3 atypical if done correctly. But just wanted to make sure
4 that we had considered all possibilities.

5 Q. All right. And if firefighters and EMS providers had
6 done CPR as they were supposed to, would you have seen --
7 or would you expect to have seen any forehead bruising?

8 A. I would not expect to see.

9 Q. A torn frenulum?

10 A. Would not expect to see.

11 Q. Bruising about the torso, the abdomen, the flanks?

12 A. Would be very atypical.

13 Q. Did you have another part in this case, a small part
14 in this case?

15 A. Yes, I did. The two-year-old sibling did have a
16 forensic interview. And based on some concerns of law
17 enforcement, I did do a medical assessment on the two-year-
18 old sibling as well.

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

20 A. Yes, it did.

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

23 **CROSS-EXAMINATION**

24 **BY MS. MANIGAULT:**

25 Q. Dr. Croswell, I know you said that if CPR was

1 administered correctly there would not be any bruising?

2 A. Correct.

3 Q. And were you informed that the mother had done CPR as
4 well as EMS and the firefighters?

5 A. Correct. I was.

6 Q. You noted that there were twenty-eight bruises on the
7 body?

8 A. Correct.

9 Q. From your assessment for concerns, was it your
10 conclusions that all twenty-eight bruising was caused by
11 non-accidental injury?

12 A. No, I could not make that conclusion.

13 Q. All right. Thank you.

14 **REDIRECT EXAMINATION**

15 **BY MS. HODGE:**

16 Q. Dr. Croswell, did the mother -- did you ask the mother
17 how she performed CPR?

18 A. Yes, I did.

19 Q. And what did she tell you or show you?

20 A. She -- from my medical report I quote. She
21 demonstrated how she gave CPR using her fingertips and
22 pushing in the patient's right upper quadrant below the
23 costal margin, which is below the rib cage, still in the
24 stomach area. Once in contact with the 9-1-1 operator she
25 was told to use the heel of her hand over the patient's

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1 sternum, which is the breast bone here. She said she gave
2 rescue breaths and that she and James would switch off
3 performing CPR in the same manner.

4 Q. Any of the injuries that you noted on **Victim** give you
5 cause for concern that mom may have put them there doing
6 her CPR efforts?

7 A. I think there was the one bruise that was located in
8 the right upper quadrant that I think could be related to
9 CPR administered inappropriately due to the force
10 application in that area.

11 Q. Just that one?

12 A. Just that one.

13 Q. Thank you.

14 THE COURT: All right. Thank you, Doctor. You
15 may step down. Any objection to the witness being excused?

16 MS. MANIGAULT: None, Your Honor.

17 MS. HODGE: No, sir.

18 THE COURT: All right. Thank you. You may be
19 excused.

20 MS. HODGE: The State calls Investigator Jennings
21 Autrey.

22 THE CLERK: Raise your right hand.

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

25 THE WITNESS: I do.

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

3 THE WITNESS: Jennings Autrey.

4 JENNINGS AUTREY,

5 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

6 DIRECT EXAMINATION

7 BY MS. HODGE:

8 Q. Investigator Autrey, who do you work for?

9 A. The Greenville County Sheriff's Office.

10 Q. And how long have you been with them?

11 A. Six years.

12 Q. What are your primary duties today with the sheriff's
13 office?

14 A. Currently, I'm a sergeant with the administrative
15 services division. I'm over the public affairs office as a
16 sergeant, as well as our accreditation process.

17 Q. And what other duties or responsibilities did you have
18 with the sheriff's office prior to that?

19 A. I was a white collar investigator at the time.

20 Q. Okay. And how did you have an occasion to become
21 involved in a homicide by child abuse case?

22 A. I showed an interest in working with Investigator
23 Miller and I was on call that week so Sergeant Jones asked
24 me to respond to the hospital on this day.

25 Q. To assist Investigator Miller?

1 A. That's correct.

2 Q. And when did you get the call and what did you do?

3 A. It was shortly -- right around the time I was getting
4 off of work. I think it was probably between four and four
5 thirty. Sergeant Jones called me and ask me to respond to
6 the CAT Scan area of Greenville Memorial Hospital due to a
7 twenty-month-old being transported there. My job there was
8 to determine, I guess a little bit, the -- oh, the medical
9 condition of her at that point in time.

10 Q. Was it questionable what her medical condition was up
11 until then?

12 A. It was, yes, ma'am.

13 Q. And who was this child that you were ---

14 A. It was [redacted] Victim [redacted].

15 Q. Tell us what happened when you got to the hospital?

16 A. Once I arrived and met with Dr. Seigler and the
17 nursing staff there in the CAT Scan area, some tests were
18 conducted. We then walked with [redacted] Victim [redacted] -- she was on a
19 stretcher -- up to the PICU unit, the PEDS, and that's when
20 I was awaiting for additional investigators to respond that
21 the mother and the defendant and one of the friends ---

22 Q. And I'm going to ask you to keep your voice up.

23 A. Okay. I apologize.

24 Q. You kind of dropped off towards the end of that.

25 A. Sorry about that.

1 Q. Thank you. So when you got there, the mother,

2 Defendant and other family members were not there yet?

3 A. Correct. Correct.

4 Q. All right. And was that part of your task also to

5 locate them or ...

6 A. Well, again, my primary goal was there to determine
7 the medical condition and to report to Investigator Miller.

8 And while I was waiting on them to arrive, they came

9 walking down the hallway. So at that point in time the

10 Defendant and the friend, I believe it was Crystal, were

11 asked to wait in the waiting area. And then I was able to

12 speak briefly and gather some preliminary information from

13 the mother.

14 Q. Okay. Was that Ann Sprouce?

15 A. It was, yes, ma'am.

16 Q. And was the male the Defendant, James Johnson?

17 A. Yes. He was there as well. He and Crystal were asked

18 to wait in the waiting area.

19 Q. Okay. And did you take a statement from the mother at
20 this point?

21 A. There was no written statement. It was basically a
22 gathering of preliminary information. Her asking, hey,
23 what happened? And she gave me a brief synopsis of what
24 happened and why they were at the hospital.

25 Q. And based on what she told you, what did you do next?

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1 A. I then spoke with Investigator Hoover who had arrived
2 at that time. And I then also informed Investigator Miller
3 of what had happened at that point.

4 Q. And what was the child's condition? What were you
5 being told at that time?

6 A. She was on a breathing machine and she was laying in a
7 hospital bed.

8 Q. Did they think that she might recover or no?

9 A. At that time, no, ma'am.

10 Q. All right. So after speaking to Ms. Sprouce, did she
11 stay back in the area, away from where the Defendant and
12 Crystal were?

13 A. Yes, ma'am. I believe so, yes, ma'am.

14 Q. And is anybody allowed to go back in the PICU Unit?

15 A. At that time, no one was allowed to go back there. I
16 think immediate family, and that's hospital rules, so
17 that's ---

18 Q. That wasn't because of the police?

19 A. No, correct.

20 Q. That was just the hospital's policy?

21 A. Correct. I believe so, yes, ma'am.

22 Q. And there's a larger waiting area?

23 A. Yes, ma'am.

24 Q. And that's where the Defendant and Crystal were?

25 A. Yes, ma'am.

1 Q. All right. So what did you do after speaking to the
2 mother?

3 A. Well, I then spoke with the Defendant and gathered
4 some information from him. And then I asked him again to
5 explain to me what happened and again why they were there.

6 Q. All right. At this point was the mother or the
7 Defendant, were they even considered as suspects in this
8 case?

9 A. No, ma'am. This was just very early on in the stage
10 of the investigation and we were trying to figure out what
11 was going on.

12 Q. And was the Defendant free to tell you he didn't want
13 to talk to you or he didn't have anything to say?

14 A. Yes, ma'am. Absolutely.

15 Q. Did he understand that you were a law enforcement
16 officer?

17 A. Yes, ma'am, he did. I was wearing a gun and badge,
18 so, yes, ma'am.

19 Q. Did you identify yourself also as with the sheriff's
20 office?

21 A. I did. I did. Uh-huh (affirmative).

22 Q. All right. And were you able to communicate with him,
23 talk to him?

24 A. Absolutely. Yes, ma'am.

25 Q. So he knowingly, freely, voluntarily spoke to you?

1 A. Yes, ma'am. He did.

2 Q. What did he tell you at this point about what happened
3 to the child?

4 A. At that time he said that he was in the restroom when
5 he heard Ann, the mother, holler for him to call 9-1-1. So
6 he said he jumped up and ran to the living room and did as
7 she had asked. He said that he did not see anything except
8 for **Victim**, the victim, lying on the floor. And Ann, the
9 mother, doing CPR.

10 Q. So he told you he was in the bathroom and he didn't
11 see anything?

12 A. Correct.

13 Q. All right. What was his demeanor while he was talking
14 to you?

15 A. He didn't show a whole lot of emotion. At that time,
16 he was relatively calm and so he would carry on a
17 conversation.

18 Q. And you were able to talk intelligently to him?

19 A. Absolutely. Yes, ma'am.

20 Q. Didn't have a problem communicating?

21 A. No.

22 Q. He understood what you were asking about?

23 A. Yes, ma'am.

24 Q. And you ---

25 A. He seemed to, yes, ma'am.

1 Q. Okay. And you understood what he was telling you
2 about the scenario?

3 A. Yes, ma'am.

4 Q. And once you finished talking to him, was he free to
5 go?

6 A. Yes, ma'am, he was.

7 Q. And do you know where he went?

8 A. That, I do not know. I don't know where he went to.

9 Q. All right. Did you take a written statement at this
10 time or was this just oral?

11 A. No, ma'am. That was all verbal.

12 Q. What did you do next?

13 A. I then -- I spoke with Crystal and asked her what she
14 knew of the incident. She said that she was not home at
15 the time. She went to go pick her children up from school.
16 And when she arrived back home Ann came out and told her
17 that the victim was not breathing. And then EMS showed up
18 and they went to the hospital.

19 Q. Okay. And did you take a written statement from her?

20 A. I did not.

21 Q. Was she considered a suspect or anything at this
22 point?

23 A. Again, it was a preliminary investigation so we were
24 just trying to figured out what was going on.

25 Q. But she was not in the home at the time that it

1 happened according to her?

2 A. Correct.

3 Q. All right. And did you talk to any other people that
4 could potentially be witnesses?

5 A. While I was at the hospital I received two phone calls
6 or the hospital received two phone calls at the desk area
7 there where the nurses gather in the PICU. One was from --
8 -

9 Q. Without saying what they said, just who did you get
10 the calls from?

11 A. One was from, her name was Mary Sutherland, said
12 someone who was well acquainted with [Victim]'s family. And
13 then a Phillip Reynolds with Lake Cunningham Fire
14 Department, I believe, and he responded to the scene.

15 Q. You spoke with both of them ---

16 A. Both of them by telephone. By telephone.

17 Q. Did either one of those need to come and talk to you
18 to give you a statement?

19 A. At that time, no. I took their information to where
20 if we needed to speak with them later to gather more
21 information we could do so.

22 Q. And how about anyone else? Did you talk to anyone
23 else at the hospital that night?

24 A. I spoke with Ann's sister and the mother in the
25 waiting room and they provided me with their phone numbers

1 in the event we needed to speak with them as well.

2 Q. So you're pretty much doing preliminary work right
3 now?

4 A. Correct, yes, ma'am.

5 Q. Okay. And then you report all of your findings back
6 to Investigator Miller?

7 A. Investigator Miller. Yes, ma'am, that's correct.

8 Q. And did that end your involvement on that day, May
9 25th?

10 A. It did, yes, ma'am.

11 Q. So tell us, what was your next step in this case?

12 A. The next step was May 26th, 2011 about three-thirty, I
13 responded back to the hospital at the request of
14 Investigator Miller, where I made my way to the PEDS Unit
15 again, critical care to where some of the [REDACTED] Victim's family
16 were gathered at that time.

17 Q. And what did you do while you were there?

18 A. While I was standing there talking with Investigator
19 Miller and another investigator, Ms. Sprouce came up to us,
20 Georgia Ann Sprouce, and said that she needed to talk with
21 Investigator Miller. And then she motioned for all of us
22 to accompany them to a little small family waiting area.

23 Q. Was the Defendant at the hospital that day?

24 A. No, he was not. No, ma'am.

25 Q. And did you and Investigator Miller go and speak to

1 Ms. Sprouce at that time?

2 A. We did, yes, ma'am.

3 Q. And was this a statement, like a formal statement, or
4 what was this?

5 A. Again, we asked -- she said she wanted to talk to us
6 so we went in there. And it was audio recorded, the
7 conversation that we had at that time. And, again, it was
8 just telling us the events of what had happened.

9 Q. At this point, was it different from what she had she
10 had said to you ---

11 A. It was.

12 Q. --- earlier?

13 A. It was. It was a little bit.

14 Q. And how had it changed?

15 A. I believe initially when I spoke with her the first
16 day, she had said that -- I think she was -- hang on one
17 second. I think she said that she was with **Victim** in the
18 living room area. And the second time we spoke with her,
19 she said that she was in the kitchen area when this
20 happened.

21 Q. And after -- how long did that statement go on? How
22 long did she talk to y'all?

23 A. Maybe between thirty minutes and an hour. I'm not
24 real sure as far as how long that took place.

25 Q. And was she considered a suspect at this point or ---

1 A. No, ma'am.

2 Q. --- was she still free to go.

3 A. She was free to leave. Yes, ma'am. She was free to
4 leave at any time.

5 Q. Talking to y'all freely and voluntarily?

6 A. Correct.

7 Q. What else did you do in this case that day.

8 A. After that, I spoke with [Victim]'s grandmother, Tina
9 Rollins.

10 Q. All right. And were you instructed to talk to her
11 about something or did you just see her and want to get a
12 statement from her?

13 A. I don't remember exactly how I came about talking to
14 her. I know she was at the hospital and it may have been
15 something Investigator Miller had asked me to do. Again,
16 because I was trying to help him out with this case.

17 Q. Okay. Keep your voice up for me.

18 A. All right.

19 Q. So you took a statement from ---

20 A. Tina ---

21 Q. --- the grandmother?

22 A. Yes. Tina Rollins, correct.

23 Q. All right. Was anybody else present when you were
24 talking to her?

25 A. I don't believe so. I think it was just she and I and

1 then we went to a smaller room and she spoke with me there.

2 Q. And after talking to her, did you advise Investigator
3 Miller what she had told you in her statement?

4 A. I did. I did.

5 Q. And then was there anyone else that you talked to on
6 that day?

7 A. I also spoke with Mark Gore, who is [REDACTED]'s
8 biological father.

9 Q. And did he place himself there at the time?

10 A. No, he had said he was not at the incident location,
11 no, ma'am.

12 Q. Okay. Was he involved frequently in the child's life
13 or do you know?

14 A. I don't know. I'll have to go back and look at this
15 and see. I don't believe he was.

16 Q. The child did not live with him?

17 A. Correct. Correct.

18 Q. All right. After speaking with Mr. Gore, the child's
19 dad, what else, if anything, did you do on May 26th?

20 A. After I spoke with both those individuals, both
21 interviews were recorded and I provided that information to
22 Investigator Miller and that was all I did on the 26th.

23 Q. Okay. And what was your next step in this case?

24 A. The next day on the 27th, I responded to the Julie
25 Valentine Center. I think it was Investigator Miller who

1 had told me that a forensic interview was going to be done
2 with [Minor I] and so that was my job for that day. And
3 that was about eleven thirty that morning.

4 Q. All right. And how old was [Minor I] at the time, do
5 you know?

6 A. I believe she was about two. Two, two and a half,
7 somewhere around there.

8 Q. And what was your purpose in going to Julie Valentine
9 Center. Were you actually going to speak to the child?

10 A. No, I was not. I was just going to, I guess, just be
11 a witness and view on a monitor separate from where they
12 were actually doing the interview.

13 Q. Is that a -- if you know, is that a common practice
14 with children, victims or witnesses, to have them
15 interviewed at Julie Valentine Center?

16 A. Yes, ma'am.

17 Q. So you or Investigator Miller would not typically try
18 to talk to a two and a half year old?

19 A. No.

20 Q. A two year old?

21 A. No.

22 Q. And did you stay and observe the whole interview?

23 A. I did. I did.

24 Q. And at the conclusion of that, what, if anything, did
25 you do?

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1 A. At the conclusion of the interview, I believe Ms.
2 Rollins and one of the nurses took [Minor 1] to the
3 bathroom. And, again, additional bruising on [Minor 1] was
4 brought up.

5 MS. MANIGAULT: Your Honor, ---

6 Q. Don't say anything about that.

7 A. I'm sorry. My apologizes.

8 MS. MANIGAULT: --- I'm going to object to that
9 testimony.

10 THE COURT: I sustain the objection.

11 MS. MANIGAULT: May we sidebar?

12 THE COURT: Yes.

13 (WHEREUPON, Ms. Hodge and Ms. Manigault approached the
14 bar.)

15 Q. Investigator Autrey, after you finished up over at
16 Julie Valentine, what was your next step in this case?

17 A. The next step again is report the findings from that
18 day's events to Investigator Miller.

19 Q. And did that conclude your work on this case on that
20 date? I think you're talking about May the 27th now?

21 A. That's correct, yes, ma'am.

22 Q. Okay. When was the next time that you assisted on
23 this case?

24 A. Would have been June 2nd.

25 Q. And what did you do on June 2nd?

1 A. Myself and Investigator Miller and another deputy
2 responded to the actual incident location and met with
3 Crystal Inman where a statement was obtained from her.

4 Q. Okay. And that was a formal statement at this time?

5 A. Correct.

6 Q. You had previously spoken to her orally but now you're
7 doing a written statement?

8 A. Correct.

9 Q. And once that statement was obtained, what did you do?

10 A. We then located the mother, Georgia Ann Sprouce, and
11 she was located at, I think it was Wood Mortuary in Greer.
12 And we met with her and ask her if she'd be willing to come
13 to the law enforcement center and speak with us and she
14 voluntarily came with us.

15 Q. Was she free to tell you she didn't want to come? She
16 could have said no?

17 A. She was.

18 Q. All right. She was not under arrest or anything?

19 A. She was not. She was not.

20 Q. At this time was she considered a suspect?

21 A. No, ma'am. Again, there were still some parts of the
22 story that didn't add up and we were trying to, again,
23 obtain further information.

24 Q. All right. And did she come ride with you to ---

25 A. She did.

1 Q. --- the law enforcement center?

2 A. She did.

3 Q. And then did she speak freely, voluntarily to you and
4 Investigator Miller?

5 A. She did.

6 Q. Was there anyone else in the room with her when she
7 was talking to y'all?

8 A. There was -- at the law enforcement center there was
9 myself, Investigator Miller and then Deputy Jimmy Wilson
10 who was cross-training at that time.

11 Q. And at this point did she give another statement?

12 A. She did.

13 Q. Did her statement change from her previous two
14 statements?

15 A. It did. It did.

16 Q. And at this time, what had changed?

17 A. She then said that she was actually sleeping in the
18 bedroom and then the Defendant came and woke her up and
19 said that the victim was not breathing.

20 Q. What was her -- how was she acting? What was her
21 demeanor during this time?

22 A. She was calm at first. And then as she began to give
23 the account she became more emotional, several outburst of
24 crying. And then she was very emotional.

25 Q. Did she get confronted with the possibility or the

1 thought that she might be the person that did this or was
2 it still left very open?

3 A. It was still open. Again, saying that basically some
4 of the, I guess, the facts or the accounts not adding up.
5 And she was being told that you need to tell us the truth
6 of what happened.

7 Q. Just pressing her for whatever the truth is?

8 A. Correct. The truth, yes, ma'am.

9 Q. Was she placed under arrest after that interview?

10 A. She was not. She was actually taken back to the
11 mortuary by myself and Investigator Miller.

12 Q. Now, what y'all's next step?

13 A. We'd been told that the Defendant had been located by
14 an Investigator and Deputy Wilson and that he was willing
15 to come speak with us at the law enforcement center. So
16 myself and Investigator Miller responded back to the law
17 enforcement center to speak with him.

18 Q. And do you have any idea what time of day we're
19 talking about now?

20 A. I'm not sure. It's getting towards the late
21 afternoon, evening time by that point.

22 Q. All right. Did you personally go to the residence to
23 locate the Defendant?

24 A. I did not.

25 Q. Did you transport the Defendant?

1 A. I did not.

2 Q. Did you and Investigator Miller just go to the law
3 enforcement center?

4 A. We did. We met them there and he was already there.

5 Q. The Defendant was already there?

6 A. The Defendant, yes, and the other deputies were
7 already there.

8 Q. Okay. And was he at that time under arrest?

9 A. No, he was not.

10 Q. Was he going to be placed under arrest?

11 A. No, he was not.

12 Q. Had a warrant been secured for him?

13 A. No, ma'am.

14 Q. So was he free to say, hey, I don't want to go, or I
15 don't want to talk to y'all?

16 A. Yes, ma'am.

17 Q. Y'all couldn't have done anything about that?

18 A. No.

19 Q. And when you encountered him at the law enforcement
20 center, did he appear to understand who y'all were and
21 where he was?

22 A. Yes. Yes, he did.

23 Q. Understand what you wanted to talk to him about?

24 A. Yes, ma'am.

25 Q. Okay. Who was taking the lead during discussions with

1 the Defendant at this point in time?

2 A. Investigator Miller.

3 Q. So you're basically a witness?

4 A. I'm there as a witness, yes, ma'am.

5 Q. And in your opinion was the Defendant there freely and
6 voluntarily?

7 A. Yes, ma'am.

8 Q. Did he ever ask to leave?

9 A. No, ma'am.

10 Q. Did he ever say I don't want talk. I want to go?

11 A. No, ma'am.

12 Q. And was he able to communicate with Investigator
13 Miller as well?

14 A. Yes, he was.

15 Q. Able to talk to each other?

16 A. Yes, ma'am.

17 Q. Did he answer questions presented to him directly?

18 A. He did.

19 Q. And they were in response to what was asked?

20 A. Yes, they were.

21 Q. Did he appear to you to be under the influence of any
22 drugs or alcohol?

23 A. He did not.

24 Q. As part of your law enforcement background, do you
25 typically come into contact -- or have you come into

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1 contact with people who are under the influence of drugs or
2 alcohol?

3 A. Yes, ma'am.

4 Q. All right. And did he appear to have any of those
5 symptoms or signs?

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

7 Q. All right. Did he freely, voluntarily, knowingly
8 agree to talk to y'all?

9 A. Yes, ma'am.

10 Q. So what happened? What did he start saying?

11 A. We started talking as far as -- kind of going back to
12 the incident as far as on May 25th. Talked about how they
13 got up that morning. And then as the day progressed, they
14 said they ate lunch, fixed them some lunch and then they
15 were in the room watching television. And then he said
16 while he was in the bathroom, the victim's mother, Ann,
17 yelled at him and said that the victim was not breathing
18 and that he needed to call 9-1-1.

19 Q. And that was essentially the same story or close to
20 the same story you had previously heard?

21 A. Correct.

22 Q. All right. And so he was maintaining that at first?

23 A. Yes. At first.

24 Q. And what happened next?

25 A. He started talking about how he had never seen the

1 mother be mean to the children. The topic of the
2 biological father of [Victim] came up. He had said that he
3 didn't like him very much because he didn't want to be part
4 of his daughter's life. He said they had argued about
5 calling 9-1-1 regarding the possible marijuana being in the
6 house. And he said that he then said, hey, we're going to
7 call 9-1-1. Then he started talking about how he wanted
8 the child to have help, to have help and peace.

9 Q. Did things start changing at that point?

10 A. They did. They did. His demeanor changed a little
11 bit and he became a little more emotional, kind of -- he
12 wasn't crying or anything, but he's -- I want to say he was
13 a little more serious. Kind of was sitting, had his elbows
14 on his knees and was talking to us.

15 Q. All right. And at this ---

16 MS. MANIGAULT: Excuse me, Your Honor.

17 THE COURT: Yes, ma'am.

18 MS. MANIGAULT: I would take this opportunity at
19 this point to renew my objection ---

20 THE COURT: All right. Your objection is noted
21 for the record.

22 MS. MANIGAULT: Thank you.

23 Q. Prior to him saying about he wanted the child to have
24 peace, had he maintained or said anything that Ann somehow
25 inflicted any of these injuries on this child? Did he ever

1 tell y'all that?

2 A. Again, as I said, he argued with her about calling 9-
3 1-1. He said that the marijuana was in the ashtrays and
4 Ann didn't want to call 9-1-1 because she was afraid the
5 children were going to be taken away.

6 Q. I guess my question is, did he ever tell you or did
7 you ever hear him telling Investigator Miller, Ann put
8 those bruises on that child or Ann caused that child to be
9 unconscious?

10 A. Uh-uh (negative). No.

11 Q. Anything specifically pointing to Ann's conduct, ---

12 A. Not that I recall.

13 Q. --- causing anything?

14 A. Not that I recall, no, ma'am.

15 Q. All right. And I'm sorry.

16 A. No, go ahead.

17 Q. And so when things start changing what happens? What
18 does he say?

19 A. He then said that he never hurt the victim that he
20 knows of. He swore that he never beat the girls. He would
21 play with them a lot. Then he said he wasn't being
22 truthful about something. He said he picked the victim up
23 and saw that she was not breathing and thought she was just
24 sleeping. He said that he wanted to be with her and he
25 wanted everyone to leave so he could have her. Then he

1 said, accidents happen. He said he wishes that she had
2 never went away. He then made a statement that he threw a
3 toy across the room and hit the victim in the head and she
4 started crying. The Defendant said that he then picked her
5 up, tried to calm her down. And he covered her mouth until
6 she quit crying. He then said that Ann was in the bed, so
7 he made up the tea story because he was scared.

8 Q. What happened with this interview at that point?

9 A. At that point in time, Investigator Miller stopped the
10 interview. Parker was then read and explained his *Miranda*
11 rights and asked if he wished to have his statement
12 documented. He did sign that Waiver of Rights and then he
13 did provide us with a sworn, written statement.

14 (WHEREUPON, State Exhibit Numbers 40 and 41 were
15 marked for identification.)

16 Q. I'm going to show you what's been marked as State's
17 Number 40. What is that?

18 A. It says, Your Rights at the top. It says Waiver of
19 Rights at the bottom. So it's explaining the rights, then
20 it's the Waiver of Rights if he chooses to speak with
21 investigators or law enforcement.

22 Q. Okay. And whose Waiver of Rights Statement is this?

23 A. It says James Allen Johnson, the Defendant.

24 Q. And were you present when the Waiver of Rights was
25 brought out ---

1 A. I was.

2 Q. --- and he was informed of that?

3 A. I was.

4 Q. And tell us what exactly he was informed of, what
5 rights?

6 A. It says before we ask you any questions, you must
7 understand your rights. You have the right to remain
8 silent. Anything you say can be used against you in court.
9 You have the right to talk to a lawyer for advice before we
10 ask you any questions, to have him with you during
11 questioning. If you have no money to pay a lawyer's fee,
12 the court will appoint one to represent you without cost if
13 you wish. If you decide to answer questions now without a
14 lawyer present, you will still have the right to stop
15 answering at any time. You also have the right to stop
16 answering at any time until you talk to a lawyer.

17 Q. And how -- did he appear to understand what his rights
18 were?

19 A. He did. And he actually initialed before each
20 sentence.

21 Q. Were you, again, just observing this?

22 A. Yes.

23 Q. Were you reading him the rights at all?

24 A. No, ma'am.

25 Q. Who was doing that?

1 A. Investigator Miller was reading it.

2 Q. And during this, did Investigator Miller stop after
3 every line and ask him to initial if he understood?

4 A. I don't recall exactly the process as far as if it was
5 done, I believe it was, to where he would pause and say,
6 hey, do you understand? And he would say, yes. And I
7 don't know if the initials took place then or if it took at
8 the end, but there was a pause as far as, do you understand
9 what's being read?

10 Q. And was there any discussion about his educational
11 background or any schooling or work or anything like that?

12 A. After the rights were done, then as far as on the
13 statement there is a section discussing the education
14 level.

15 Q. And after he initialed that he understood what his
16 rights were, did he then go on, on that form to waive his
17 rights?

18 A. He did.

19 Q. And what does that part state?

20 A. It says, I have read this statement of my rights and
21 understand what my rights are. I am willing to make a
22 statement and answer questions. I do not want a lawyer at
23 this time. I understand and know what I am doing. No
24 promises or threats have been made to me and no pressure or
25 coercion of any kind has been used against me.

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1 Q. And is coercion circled on there?

2 A. It is. And it is also initialed.

3 Q. Do you know why that was circled?

4 A. It was described to him and explained to him as far as
5 what coercion meant, by Investigator Miller. And then if
6 he understood it, then he initialed it.

7 Q. And did he sign that form acknowledging he wanted to
8 waive his rights?

9 A. He did.

10 Q. And about how long did it take for Investigator Miller
11 to go over his rights with him?

12 A. About ten minutes.

13 Q. And did he freely and voluntarily sign that form?

14 A. He did.

15 Q. Did he get promised anything if he would sign that
16 form, such as a low bond or just anything, a recommendation
17 to the solicitor?

18 A. No, ma'am.

19 Q. Was he threatened in any way that he'd better waive
20 those rights and talk?

21 A. No. No, ma'am.

22 Q. Was he -- was anything withheld from him that he may
23 have requested, such as food, water, bathroom break,
24 cigarettes?

25 A. No, ma'am. Nothing. Nothing.

1 Q. And did he then again freely, knowingly, voluntarily
2 say he wanted to give up those rights and continue talking?

3 A. Yes, ma'am, he did.

4 Q. And did he continue talking?

5 A. He did.

6 Q. And was this part of the conversation then taken down,
7 written down?

8 A. It was. It was typed and he again gave permission for
9 me to type it while Investigator Miller spoke with him.

10 Q. Okay. And on State's Number 40, is this the original
11 Waiver of Rights Form?

12 A. I believe so, yes, ma'am.

13 Q. Okay. Is there any alterations, deletion, admission
14 that you're aware of on here?

15 A. No, ma'am.

16 Q. Okay.

17 MS. HODGE: At this point we would move to admit
18 State's Number 40 into evidence.

19 MS. MANIGAULT: Subject to my previous objections
20 in the Jackson Denno Hearing.

21 THE COURT: All right. Subject to objection,
22 Exhibit 40 is admitted.

23 MS. MANIGAULT: Thank you.

24 (WHEREUPON, State Exhibit Number 40 was admitted into
25 evidence.)

1 Q. And I'm going to show you State's Number 41.

2 A. Uh-huh (affirmative).

3 Q. All right. And tell me what this is. Just in general
4 what is it?

5 A. It is a Suspect Statement Form.

6 Q. Okay. Is that different from a Witness Statement
7 Form?

8 A. It is.

9 Q. And what does the Suspect Statement Form have on the
10 top of it?

11 A. It says, basically it says, I, James Allen Johnson, do
12 hereby give freely and voluntarily this statement to
13 Investigator C.T. Miller and Investigator J. Autrey, who
14 have identified themselves to me to be deputies of the
15 Greenville County Sheriff's Office, Greenville, South
16 Carolina. I've been advised I do not have to make this or
17 any other statement and that I -- and that what I say can
18 be used against me in a court of law. I've been advised
19 that I have the right to counsel with an attorney of my
20 choice, that if I am financially unable to obtain an
21 attorney, the court will appoint an attorney to represent
22 me. I've not been threatened or promised any reward to
23 make this statement.

24 Q. And was that top portion of the statement read to him
25 as well before taking the statement?

1 A. Yes.

2 Q. When going over his Waiver of Rights Form, did he ever
3 ask to have an attorney?

4 A. No, ma'am.

5 Q. Did he ever say, I think I better stop. I think I
6 want a lawyer?

7 A. No, ma'am.

8 Q. Anything even remotely close to that?

9 A. No, ma'am.

10 Q. Okay. Just kept talking?

11 A. Yes, ma'am.

12 Q. All right. And how was his demeanor at this point?

13 A. Again, still he was -- I mean, he was alert. He was
14 talking to us again. It's not a whole, whole lot of
15 emotion. Again, just kind of sitting there, leaning
16 forward a little bit on his knees -- elbows on his knees,
17 talking to us.

18 Q. All right. And what did he go on to tell you after he
19 agreed to keep talking and after he waived his rights?

20 A. His statement is, it starts out as additional
21 particulars on Statement E. It says, my date of birth is
22 [REDACTED] 84. It has his Social Security Number. I
23 understand all the questions that Investigator Miller has
24 asked me. And I'm giving this statement free and voluntary
25 and I'm giving Investigator J. Autrey permission to type my

1 statement for me. I am not under the influence of any
2 drugs or alcohol. I swear that I never beat them. I
3 played with them all the time. There's something that I
4 haven't been truthful about. I picked her up and I saw
5 that she was not breathing. I thought she was just asleep.
6 I thought she was asleep. I was trying to get her back. I
7 just wanted to be with her, the baby. The rest could leave
8 if they would just let me have her. I've been there for
9 her if I knew what I was doing. I was in the bathroom but
10 -- and pauses -- I tried to be a daddy. I tried to correct
11 them when they were wrong so they wouldn't turn out like my
12 sorry family. I tried to take care of her. No matter what
13 happens, I'm going to be the bad one, then she can have her
14 daughter back. Accidents happen. There was a pause. I
15 haven't been on medication in a while at all. I wish she
16 hadn't never went away. I threw a toy across the room and
17 it hit her. It hit her in the forehead where there are all
18 the bruises. It was that day. If I didn't know she didn't
19 have a chance, I never would have thrown that toy. That's
20 what happened. I never would hurt a kid. I've helped
21 raise them. I don't deserve to live. I never should have
22 picked up that toy. That was the day before. I don't know
23 how those bruises got there. She started screaming. I was
24 just trying to calm her down. I kissed on her at first and
25 held her. She kept crying and screaming. I hadn't been on

1 my medication. People are going to hurt me. Ann and CO's.
2 I covered [Victim]'s mouth until she quit crying. Ann was
3 in the bed when this happened. I then went and told Ann
4 that [Victim] was not breathing. Ann came in the living
5 room and I told her that there was a glass of tea there and
6 I guess [Victim] drank it. I told Ann about the tea because
7 I was scared. I love them and always will. I'm sorry for
8 the problems. I'm sorry for God creating me. I'm sorry
9 for all of this. I've never been this kind of person
10 before. Please forgive me in time.

11 Q. And did he have an opportunity to -- are you typing
12 exactly the words he's saying?

13 A. Yes. As he's talking, I'm typing away; that's
14 correct.

15 Q. And did you print this statement out for him to
16 review?

17 A. I did.

18 Q. And was the statement gone over with him once it was
19 printed out?

20 A. It was. And then he initialed the beginning and end
21 of each paragraph showing that no changes were added to the
22 beginning, no changes were added at the end, that that's
23 what he said.

24 Q. All right. And he didn't make any corrections about
25 anything?

1 A. No, ma'am.

2 Q. All right. And did he sign the statement?

3 A. He did.

4 Q. And did you and Investigator Miller also sign the
5 statement?

6 A. We did.

7 Q. And what are you signing, in what capacity are you
8 signing?

9 A. I'm signing as a witness saying that I was there as
10 this statement was taken and that it is true.

11 Q. All right. Was he provided a copy of that statement
12 also?

13 A. He was.

14 Q. In there I believe he made a comment that he hadn't
15 been on his medication in a while, or medication in a
16 while. Do you know what medicine he was talking about?

17 A. I had no idea.

18 Q. Was there something about his mental condition that
19 gave you cause for concern?

20 A. No, ma'am, not at all.

21 Q. Able to communicate and talk to him?

22 A. He was able to communicate with us. I mean, yes,
23 ma'am. He sat there and conversed.

24 Q. Okay. About how long did this statement process last?

25 A. I figure maybe an hour, hour and a half. I don't

1 recall exactly. I think it was about an hour, hour and a
2 half.

3 Q. And was his mental state, physical condition, mental
4 condition, the same as it was when you had talked to him, I
5 guess, almost a week before this, when you talked to him at
6 the hospital?

7 A. It was, yes, ma'am. He was a little more emotional,
8 but as far as being able to carry on a conversation, tell
9 us what happened, it was the same.

10 Q. All right. Once the Defendant gave his statement, was
11 he free to leave?

12 A. No, ma'am. He was not.

13 Q. All right. What happened then?

14 A. Investigator Miller responded to the judge's office
15 and obtained an arrest warrant. The Defendant was then
16 served with that warrant and then walked over to the
17 detention center.

18 Q. And were you the person that actually served the
19 warrant on him?

20 A. Yes. Yes, I was.

21 Q. And so once he got to the law enforcement center that
22 night and gave his statement, that was it?

23 A. That's correct.

24 Q. He was under arrest?

25 A. Correct.

1 Q. And he was booked ---

2 A. Yes.

3 Q. --- into the detention center?

4 A. Correct.

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

6 A. It did. It did.

7 Q. Let me do one housekeeping matter. The Defendant's

8 statement, State's Number 41, is this the original

9 statement by the Defendant?

10 A. Yes, it is.

11 Q. All right. Do you know if there's any alterations or

12 additions or deletions from this one?

13 A. To my knowledge, no, there's not.

14 MS. HODGE: At this time we would move to admit

15 State's Number 41.

16 THE COURT: Subject to the objection.

17 MS. MANIGAULT: Thank you.

18 (WHEREUPON, State Exhibit Number 41 was admitted into

19 evidence.)

20 MS. HODGE: Thank you.

21 Q. Thank you, Investigator. Please answer any of Ms.

22 Manigault's questions.

23 CROSS-EXAMINATION

24 BY MS. MANIGAULT:

25 Q. I believe you said that you picked up -- you met with

1 the Defendant at the LEC in ---

2 A. Correct.

3 Q. --- late afternoon?

4 A. I don't remember exactly what time it was. Towards
5 the evening. So, yes, ma'am.

6 Q. Was the evening -- do you still have a copy of the
7 rights form before you?

8 A. I do. I do.

9 Q. The time on it says twenty-two-oh-two.

10 A. Correct.

11 Q. What does that mean?

12 A. That's ten-oh-two.

13 Q. Ten-oh-two?

14 A. Correct.

15 Q. So at that point, how long had you been with the
16 Defendant? That's ten-oh-two P.M.?

17 A. Correct. Yes, ma'am. Yes, ma'am. I don't recall how
18 long we had been there at that point. I mean, you're
19 looking at maybe an hour, hour and a half maybe.

20 Q. Maybe an hour?

21 A. Hour, hour and a half. I'm not real sure because I
22 don't recall what time we got there.

23 Q. So you'd been there an hour, hour and a half before
24 the rights form was read to him?

25 A. I believe so. Yes, ma'am.

1 Q. I believe your testimony regarding Ann Sprouce, you
2 said you had talked to her maybe twice?

3 A. I believe that's correct.

4 Q. On the 25th and then on June 2nd.

5 A. I believe I talked to her the 25th, gathered that
6 initial information ---

7 Q. Right.

8 A. --- and then she wanted to speak with all of us on the
9 26th, so I responded back about three thirty on that day.
10 So that's twice. And then we spoke with June 2nd. So
11 three.

12 Q. Okay. So three times?

13 A. Correct.

14 Q. However, the first time she was saying that James
15 Johnson was in the bathroom?

16 A. I believe so. That's correct.

17 Q. And she was in the room with the two girls?

18 A. Correct.

19 Q. The second time she was saying that she was in the
20 kitchen?

21 A. Correct.

22 Q. And James was in the room with the two girls?

23 A. I believe so. That's correct.

24 Q. And the third time she was saying that she was in the
25 bed?

- 1 A. Correct.
- 2 Q. And that James was in the room with the two girls?
- 3 A. Correct.
- 4 Q. Now, the first two times you spoke with her was at the
- 5 hospital?
- 6 A. Yes, ma'am.
- 7 Q. And then the last time was at LEC?
- 8 A. Correct.
- 9 Q. Law Enforcement Center?
- 10 A. Yes, ma'am.
- 11 Q. All right. When you spoke with James Johnson, did you
- 12 speak with him on the 25th, the first day the child was ---
- 13 A. Yes, ma'am. Gathering that preliminary information;
- 14 yes, ma'am.
- 15 Q. All right. And at that point, he told you that he was
- 16 in the bathroom ---
- 17 A. I believe so.
- 18 Q. --- and Ann was in the room with the girls?
- 19 A. I believe that's what he said. (Reviews notes.)
- 20 Yeah. That's correct.
- 21 Q. All right. Was it your initial interview on the 25th
- 22 with the Defendant or was it the interview on June 2nd when
- 23 you observed the Defendant talking with Investigator
- 24 Miller, that he told you that there was an argument about
- 25 calling 9-1-1 before the marijuana was moved?

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- 1 A. Let me see. (Reviews notes.) It was on the 2nd.
- 2 Q. It was June 2nd?
- 3 A. I believe so, yes, ma'am. Yes.
- 4 Q. So Mr. Johnson's information to you was that he wanted
- 5 to call 9-1-1 but Ann Sprouce wanted to wait because of the
- 6 marijuana?
- 7 A. Correct.
- 8 Q. All right. So in the LEC -- law enforcement interview
- 9 on June 2nd ---
- 10 A. Uh-huh (affirmative).
- 11 Q. --- along with Investigator Miller ---
- 12 A. Uh-huh (affirmative).
- 13 Q. --- does the Defendant in anyway appear to be sleepy
- 14 or was he slurring his words?
- 15 A. No, ma'am.
- 16 Q. Did you smell any alcohol about his person?
- 17 A. I did not smell any alcoholic beverage or anything
- 18 coming from his person, no, ma'am.
- 19 Q. Did his eyes appear to be dilated?
- 20 A. No, ma'am.
- 21 Q. Within this one hour to hour and a half or a little
- 22 more, did he ask to go to the restroom?
- 23 A. I don't believe he asked. I think Investigator Miller
- 24 actually offered, gave him the opportunity to go.
- 25 Q. So Mr. Johnson actually took a break at the suggestion

1 of Investigator Miller?

2 A. I believe that's how it occurred.

3 Q. And he went to the bathroom?

4 A. Yes, ma'am.

5 Q. And do you recall how long he stayed in the bathroom?

6 A. I don't. But Investigator Miller was with him when he
7 went.

8 Q. All right. The area where you were questioning him or
9 where he was being questioned, and you were typing ---

10 A. Yes, ma'am.

11 Q. --- how large is that area?

12 A. It's the homicide office. There's six investigators
13 that work back there, so you've got an eighteen feet wide
14 by about maybe eighteen, nineteen, twenty feet long.

15 Q. Okay.

16 A. So a pretty decent area.

17 Q. And while you were in that area, it was you,
18 Investigator Miller, Wilson and James Johnson?

19 A. I believe that's correct. Yes, ma'am. The four of
20 us.

21 Q. In the immediate are for questioning?

22 A. Yes, the four of us.

23 Q. When you met with James Johnson at the law enforcement
24 center, was he then a suspect?

25 A. He was a person of interest, maybe a possible suspect.

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1 But, again, he did not have to come speak with us. He was
2 free to leave at that time.

3 Q. He was a person of interest or maybe a possible
4 suspect?

5 A. Yes, ma'am. Again, there is ---

6 Q. All right. And did you ---

7 A. --- determine what was happening.

8 Q. Excuse me?

9 A. We were still trying to figure out what was going on.

10 Q. All right. And did you give him his *Miranda* warnings
11 or the rights when you started your interview with him?

12 A. The initial part, no, ma'am.

13 Q. So as you testified earlier, it was about an hour,
14 hour and a half before his *Miranda* rights were read to him?

15 A. I believe so, yes, ma'am.

16 Q. And when I say *Miranda* rights or your rights, you're
17 talking about the right to remain silent?

18 A. Correct.

19 Q. Whatever you say can be used against you in court?

20 A. Uh-huh (affirmative).

21 Q. You have the right to a lawyer. If you can't afford a
22 lawyer, one will be appointed.

23 A. Uh-huh (affirmative).

24 Q. If you decide that you want a lawyer during the
25 questioning, you can stop at any time? So you never did

1 read those rights to him -- or you didn't read the rights
2 to him in the beginning?

3 A. Correct.

4 Q. All right. And so after you talked with him an hour
5 and a half, then the rights were read?

6 A. Correct.

7 Q. All right. Did -- I may have asked you this, but did
8 James Johnson ask for an attorney?

9 A. No, ma'am.

10 Q. All right. Did he ever indicate to you that he didn't
11 want to talk to you anymore?

12 A. No, ma'am.

13 Q. You said he communicated?

14 A. Uh-huh (affirmative).

15 Q. Was he giving answer appropriate to the questions
16 asked?

17 A. Yes, ma'am.

18 Q. And you said he made the statement to you, accidents
19 happen?

20 A. Yes, ma'am.

21 Q. Did you ask him for an explanation of that statement?

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

23 Q. I believe you read in the statement that you said he
24 initialed and signed ---

25 A. Uh-huh (affirmative).

1 Q. --- one of the paragraphs started out with, I was in
2 the bathroom, but -- and then you said there was a pause.
3 Did you ask him about that statement? The part about, I
4 was in the bathroom?

5 A. I did not. No, ma'am, I didn't.

6 Q. And I believe you already answered the Solicitor, when
7 he talked about medication you didn't ask him about the
8 medication he was supposed to be on or off?

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

10 Q. All right. You said his emotional state changed. He
11 became a little more emotional with some questionings?

12 A. Correct. Yes.

13 Q. Did you have any concerns at all about James Johnson's
14 demeanor or appearance when you were talking to him?

15 A. No, ma'am.

16 Q. And the Solicitor asked you did his questioning or
17 answering remain the same as from May 25th to June the 2nd?

18 A. Right.

19 Q. His demeanor to you was about the same?

20 A. Yes, ma'am, it was.

21 Q. On May 25th had Ann Spruce or the Defendant tell you
22 that they had been smoking marijuana that day?

23 A. I don't believe so. I don't recall at all.

24 Q. Did Ann Spruce or the Defendant tell you they were
25 smoking marijuana the day before?

1 A. I don't recall. I don't think so.

2 Q. So there was no mention of drug uses by either Ann
3 Sprouce or James Johnson?

4 A. No, not that I remember.

5 Q. And I believe you said that your interview with Ann
6 Sprouce was taped, audio?

7 A. The one I believe is the 26th, maybe.

8 Q. On the 26th?

9 A. It was the second day I was at the hospital.

10 Q. Okay. 26th?

11 A. Yeah. I believe that's the one I'd spoken of.

12 Q. And was her on June 2nd taped?

13 A. Let me see. I don't recall off the top of my head on
14 that one.

15 Q. Did you tape anybody else's interview?

16 A. Yes, ma'am. It was Tina Rollins, I believe. And then
17 Mark Gore because I was in there by myself doing --
18 speaking with them.

19 Q. Okay. And when James Johnson was being interviewed on
20 June the 2nd, was his interview taped?

21 A. No, ma'am.

22 Q. All right. Thank you.

23 THE COURT: Any redirect?

24 MS. HODGE: Yes, sir.

25 REDIRECT EXAMINATION

1 BY MS. HODGE:

2 Q. The only change in demeanor or emotion that you saw in
3 the Defendant was when he started confessing what he had
4 done?

5 A. Yes, ma'am, leaned forward.

6 Q. He became more solemn, solemnner?

7 A. Yeah, solemn. A little more emotional. He may have
8 cried. I don't know. Because he was kind of leaning
9 forward.

10 Q. I'm ---

11 A. And he may have -- he just leaned forward, kind of
12 started just talking to us, putting his knees on his elbows
13 and he began talking.

14 Q. All right. And the audio taping of the discussion
15 with Ann at the hospital ---

16 A. Uh-huh (affirmative).

17 Q. --- when she said, y'all come here.

18 A. Right.

19 Q. Is that something that you did?

20 A. Yes.

21 Q. Did she know you were doing that?

22 A. I don't remember if she did or not. I don't think so.
23 I believe it was in my shirt pocket. But it was something
24 that we just kind of did.

25 Q. Was that a thing that y'all planned to do or did you

1 think, I think I should do this?

2 A. No, ma'am. I just went ahead and just started

3 recording it ---

4 Q. So that was your choice on your own to do that?

5 A. Yes.

6 Q. And you audio taped the two other statements of Tina

7 Rollins and Mark Gore because you were by yourself?

8 A. Yes. Correct. Correct.

9 Q. Now, the interview with Ann at the LEC, Investigator
10 Miller was in charge of that interview?

11 A. Yes, ma'am.

12 Q. When y'all got her from the mortuary?

13 A. Yes.

14 Q. Did he tell you or advise you to tape or not tape?

15 A. I don't recall. I don't believe so. I'll look back
16 through here and see because I don't recall off the top of
17 my head on that one. I don't believe so.

18 Q. And there were you present and Deputy Wilson was
19 present ---

20 A. Correct.

21 Q. --- as well as Investigator Miller?

22 A. That's correct.

23 Q. So the three of y'all?

24 A. Yes.

25 Q. All right. And the same thing for the Defendant's

1 statement on June 2nd, there were three of y'all present?

2 A. There were three of us, correct.

3 Q. All right. Thank you.

4 MS. HODGE: That's all from this witness.

5 THE COURT: Thank you. You may step down.

6 Mr. Foreman, ladies and gentlemen, let's take a break.

7 If you'll go back to your jury room. I remind you again

8 not to discuss the case. We'll take a short break and be

9 ready to proceed with the next witness in just a few

10 moments.

11 I'd ask that everyone else please remain seated while

12 the jury departs.

13 (WHEREUPON, the jury exited the open court at

14 approximately 3:56 P.M.)

15 THE COURT: All right. Let's take a short break.

16 (WHEREUPON, the court stood at recess for a short

17 break.)

18 THE COURT: All right. If our jury's ready have

19 them come in.

20 (WHEREUPON, the jury entered the open court at

21 approximately 4:22 P.M.)

22 THE COURT: The State may call its next witness.

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

24 calls Investigator Chris Miller.

25 THE CLERK: Raise your right hand.

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

3 THE WITNESS: I do.

4 THE CLERK: Please have a seat and state your
5 full name.

6 THE WITNESS: Christopher Todd Miller.

7 CHRISTOPHER TODD MILLER,

8 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MS. HODGE:

11 Q. I'm sorry. Sergeant Miller, who do you work for?

12 A. Greenville County Sheriff's Office.

13 Q. How long have you been with them?

14 A. I've been with the Sheriff's Office since 1999, but I
15 have a total of eighteen years of law enforcement
16 experience.

17 Q. And what are your current duties or responsibilities
18 with the Sheriff's Office?

19 A. I'm a supervisor in the criminal investigations
20 division. My job is to supervise employees, assess their
21 investigation, assign investigations, approve their
22 reports. I also keep up with their time cards,
23 inspections, evaluations, just general supervisory duties.

24 Q. What areas are you over?

25 A. I'm over auto theft and juvenile investigations and

1 also the victim witness advocates.

2 Q. Before you were promoted to this capacity, what did
3 you do?

4 A. I was a homicide investigator for seven years.

5 Q. And was that with the sheriff's office?

6 A. Yes. All with the sheriff's office.

7 Q. And what kind of training or educational background do
8 you have for a homicide investigation and now further on to
9 being sergeant?

10 A. I've been to the University of Louisville homicide
11 school. I've been to the University of Tennessee for a DNA
12 and evidence recognition. Also blood spatter analysis.

13 I've been to the -- I've been to Fox Valley Technical
14 College in St. Louis, Missouri, for child murder
15 investigations. And, also, I've been to numerous
16 supervisor schools and leadership schools.

17 Q. Back on May the 25th, 2011, were you assigned to the
18 case involving [REDACTED] Victim [REDACTED]?

19 A. Yes, I was the on-call homicide investigator. There's
20 six of us and we rotate every six weeks, so I was on call
21 that week.

22 Q. And what time did you receive a call to become
23 involved in this case?

24 A. It was around four twenty P.M., four thirty P.M., in
25 the afternoon.

1 Q. And what were you told at that time?

2 A. I was told that there was an unconscious child that
3 was twenty months old and that the preliminary
4 investigation was that she had choked on some tea.

5 Q. Were you updated as to what her condition was or her
6 prognosis at that point?

7 A. That she was unresponsive and that she had been taken
8 to the Greer Memorial Hospital by an ambulance.

9 Q. And what did you do?

10 A. I then, of course, responded. And at that time I was
11 advised that the coroner's office was already there at the
12 scene, so that prompted me to contact one of the
13 investigators in homicide and ask them to obtain a search
14 warrant. Because I was also advised that the parents or
15 the mother and the people there at the residence were no
16 longer there. So there was only a deputy on the scene. So
17 I asked Investigator Bailey to obtain a search warrant so I
18 could investigate the scene.

19 Q. All right. And what time do you believe you got to
20 the scene?

21 A. It was probably about a twenty, twenty-five minute
22 drive from the law enforcement center all the way out there
23 to Few's Chapel Road.

24 Q. And what did you do? What did you observe when you
25 got there?

1 A. When I got there, Coroner Cain was there. She was
2 outside in the driveway and she came up to me and briefed
3 me as to what was going on. And that the child had now
4 been airlifted to Greenville Memorial Hospital. There was
5 also a uniform patrol deputy car there, which was Deputy
6 Azzara.

7 Q. Would a coroner come out to a scene of a child choking
8 normally?

9 A. No. That, you know, prompted a little bit of
10 suspicion on my part, just the fact that she was there,
11 which she said that due to the fact that the child was ---

12 MS. MANIGAULT: Your Honor, we object to anything
13 that the coroner said because ---

14 THE COURT: Sustained.

15 Q. Do coroners normally show up on your crime scenes
16 unless there's a dead person or a soon-to-be dead person?

17 A. No. Only in those circumstances.

18 Q. Okay. And did you then speak to Deputy Azzara?

19 A. I did.

20 Q. Okay. Did you get a little bit of background
21 information?

22 A. Yes. He went into the fact that he had spoken with
23 the boyfriend, which was Mr. Johnson, and he had spoken
24 with Georgia Ann Sprouce, who he identified as the mother,
25 and said that they had told him that she had -- Victim

1 Victim, the victim, had choked on tea. And then I asked
2 him why he let the mother and father or the mother and
3 boyfriend go. Because our protocol would be to secure that
4 scene and to separate any witnesses and then call for an
5 investigator.

6 Q. So in your opinion, that was not a good call on his
7 part?

8 A. That was not a good call at all.

9 Q. To let them leave and be together?

10 A. No. That is not our protocol.

11 Q. All right. After speaking to him and learning that
12 information, what did you do?

13 A. At that point in time, I contacted our dispatchers to
14 have a forensics technician respond to process the scene
15 for me.

16 Q. And do you and forensics work together processing a
17 scene?

18 A. Yes. What we will do is I'll wait for forensics and
19 if the coroner's office is not there, I'll -- all three
20 agencies walk through at the same time. So the coroner,
21 forensics people and then myself will walk through the
22 scene all at one time so we can all make sure that we don't
23 disturb anything. You know, as little as possible.
24 Because you don't want too many people going into a crime
25 scene.

1 Q. Walking through your crime scene?

2 A. Right.

3 Q. All right. And who responded from forensics?

4 A. That would have been Sergeant Lendway, who was
5 Lieutenant Lendway at this time.

6 Q. All right. And what did you guys do as you walked
7 through?

8 A. As we're walking -- we do initial walk-through just,
9 you know, looking to see a review of the house and then
10 I'll, you know, point out things of interest and then
11 Sergeant Lendway at the time would point out some things
12 that he saw. And then he would begin -- after that, he
13 would start taking digital images of the house.

14 Q. All right. Did you have a lot of information to go on
15 as to where your scene was, where the actual crime scene
16 may have been?

17 A. I had no idea because there was no one there but
18 Deputy Azzara and Coroner Cain.

19 Q. And I think -- you've obviously sat through the case
20 and you've seen some of the State's pictures that were
21 introduced through Ms. Inman of the incident location, the
22 house; is that correct?

23 A. That's correct.

24 Q. Okay. And those pictures were taken by now Lieutenant
25 Lendway?

1 A. Yes, ma'am.

2 Q. All right. I'm going to show you just a few
3 additional, State's Number 34 through 46. And what are
4 these pictures showing? How are they different from what's
5 been presented already?

6 A. These are children's clothing.

7 Q. All right. That's State's Number 34?

8 A. Uh-huh (affirmative).

9 Q. And then State's Number -- and do they have something
10 signifying that law enforcement's now become involved?

11 A. Yes. These are placards that forensics use to
12 identify evidence.

13 Q. Okay.

14 A. And this also is an article of children's clothing.

15 Q. All right. And then State's Number 35?

16 A. Yes. Yes.

17 Q. That's State's Number 35.

18 A. Uh-huh (affirmative).

19 Q. All right. And then let's see, 42, 43, 44, 45, 46.

20 A. This is the living room and these are the placards,
21 which is State's 35, right here, which is an article of
22 clothing. And then there's another article of clothing.
23 And then "A" is where the suspected vomit was located.

24 Q. Okay. So you were informed that there was some
25 possible vomiting?

1 A. Well, actually, Sergeant Lendway or Lieutenant Lendway
2 and I found that ourselves.

3 Q. And documented that?

4 A. Documented that.

5 Q. Okay. And 43 showing that a little closer?

6 A. Yes.

7 Q. And then 44 is showing -- what's that?

8 A. That is a towel. It looks like it was folded up and
9 placed there, beside a diaper.

10 Q. Okay. And then 45?

11 A. These are three different -- there's two plastic cups
12 and a glass on the end table.

13 Q. Were you informed anything about the significance of
14 that or were you just guessing that that might be involved?

15 A. We were told that tea was involved and so we felt it
16 necessary to document that.

17 Q. Okay. And then State's 46?

18 A. It's just an overview of those cups, which they're
19 empty.

20 Q. Did you notice any areas on the carpet that you could
21 attribute to any type of drink being spilled or any ice
22 being on the floor or anything like that?

23 A. No. The only liquid spot was that one that I did find
24 there on the rug.

25 Q. All right. And are these photographs true and

1 accurate representations of how the scene looked once the
2 placards were added?

3 A. That's correct.

4 MS. HODGE: At this point we would move to admit
5 34 through 46.

6 THE COURT: Any objection?

7 MS. HODGE: 34 and 35. Okay. We must have
8 skipped some numbers. Oh, we did. Okay. Sorry. 42, 43,
9 44, 45, 46.

10 THE COURT: 42 through 46?

11 MS. MANIGAULT: Yes, sir.

12 THE COURT: And 34 and 35?

13 MS. MANIGAULT: Yes, sir. We reviewed that.

14 THE COURT: Without objection.

15 MS. MANIGAULT: Without objection.

16 THE COURT: They are admitted and may be
17 published.

18 MS. HODGE: Thank you.

19 (WHEREUPON, State Exhibit Numbers 34 and 35 were
20 admitted into evidence.)

21 (WHEREUPON, State Exhibit Numbers 42, 43, 44, 45 and
22 46 were marked and admitted into evidence.)

23 Q. Let me show you State's Number 35 and then we'll go to
24 34. State's 35. Can you see that?

25 MS. HODGE: Can you turn that one light off

1 again, Madam Bailiff.

2 Q. And what did you identify that to be?

3 A. That is an article of children's clothing. The best I
4 can see. It's kind of a bad view of it.

5 Q. Right. With all this technology, that's what it looks
6 like on the screen. Okay. And then State's Number 34,
7 which was the item that was significant to you in that one?

8 A. That was an article of children's clothing that also
9 had a suspected liquid on it.

10 Q. Okay. And did State's 35 or item G listed here, did
11 that have some suspected fluid or something on it?

12 A. It did.

13 Q. And were those items collected?

14 A. They were collected by Lieutenant Lendway.

15 Q. Okay. All right. So as I'm opening this up, tell us
16 -- about how long did you stay on the scene there?

17 A. I arrived at probably right around five o'clock,
18 somewhere in that time, because I left at four thirty and
19 the traffic was bad. So I left at -- I made a note that I
20 left at six fifty-eight P.M. So, I would have been there
21 about an hour and a half.

22 Q. Were there any other items of potential evidence that
23 you were able to find or anything else of interest in the
24 residence when you and Lendway were walking around?

25 A. Just the most significant were the clothing and the

1 cups, to our limited knowledge of what had taken place.

2 And then I also had the diaper collected, which is a

3 typical thing we do with babies and young children.

4 Sometimes you can do testing on the contents and find out

5 if there's some type of substance present that may have

6 killed the child.

7 Q. Did that ever happen? Did you ever have the diaper

8 tested for anything?

9 A. No, I had no reason to.

10 Q. And that would be something that you would do towards

11 the end of your investigation, as far as requesting certain

12 tests be done on certain items?

13 A. That's correct.

14 (WHEREUPON, State Exhibit Number 47 was marked for

15 identification.)

16 Q. I'm showing you what's been marked as State's Number

17 47. Is this the item that was portrayed in photograph G?

18 A. Yes, it is.

19 Q. Okay. And is it in substantially the same condition

20 as when it was collected?

21 A. It is.

22 Q. Photographed?

23 A. Uh-huh (affirmative).

24 Q. Okay. Is there some type of substance on the left

25 sleeve?

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1 A. There's still a brown tint to it.

2 Q. Okay. And did you ever ask for anything on this to be
3 tested or looked at?

4 A. No, I did not.

5 Q. Was there anything, in your opinion during your
6 investigation, that led you to believe you needed to test
7 anything on this?

8 A. No, I did not.

9 Q. And did it have that brownish substance when it was
10 collected?

11 A. Yes.

12 Q. Okay.

13 MS. HODGE: We would move to admit State's Number
14 47.

15 MS. MANIGAULT: No objection, Your Honor.

16 THE COURT: Without objection, Exhibit 47 is
17 admitted, and may be shown to the jury.

18 (WHEREUPON, State Exhibit Number 47 was admitted into
19 evidence.)

20 (WHEREUPON, State Exhibit Number 48 was marked for
21 identification.)

22 Q. State's Number 34 is on the projector, on the
23 overhead. And I'm going to show you what's been marked as
24 State's Number 48. Are these the little -- the bottoms
25 depicted in that picture.

1 A. That was of the bottoms. Yes, ma'am.

2 Q. And did they have those brown-type stains on them when
3 you saw them?

4 A. They did, and they still contain them.

5 Q. Okay. And these are in the same condition as when
6 they were collected, substantially?

7 A. That's correct.

8 MS. HODGE: We would move to admit State's Number
9 48.

10 MS. MANIGAULT: No objection, Your Honor.

11 THE COURT: Without objection. It may be shown
12 to the jury.

13 (WHEREUPON, State Exhibit Number 48 was admitted into
14 evidence.)

15 Q. Once you finished up at the incident location, where
16 did you go, what did you do?

17 A. Well, I had also asked for additional investigators to
18 assist me since I was in Greer and the victim had been
19 transported to the Greenville Memorial Hospital. So
20 Investigator Devin Hoover was on call as a backup to me.
21 So I called him and asked him to respond to the Greenville
22 Memorial Hospital. And then I called Sergeant Jones, who
23 was our Sergeant in homicide at the time, and asked him --
24 or advised him of what was going on. And then he, in turn,
25 asked Investigator Autrey, now Sergeant Autrey, to respond

1 to the hospital, as well.

2 Q. All right. And did they locate the mother and
3 boyfriend and/or any witnesses at the hospital?

4 A. Yes.

5 Q. Okay.

6 A. And they were reporting back to me while I was on
7 scene.

8 Q. While you were on scene?

9 A. Yes.

10 Q. And then you'd go on to the hospital yourself?

11 A. Right.

12 Q. And who did you speak to or what did you do when you
13 were at the hospital?

14 A. When I first arrived at the hospital, I passed the
15 family in the waiting area and I observed some, who I
16 assumed were family members. And then I also spoke with
17 Sergeant Jones just briefly, who was taking a statement
18 from Georgia Ann Spruce at the time. And then I spoke
19 with Investigator Hoover and Investigator Autrey.

20 Q. All right. And Sergeant Jones was talking to the
21 mother, Ann Spruce. Was she separated, away from other
22 people?

23 A. They were separated. There was a small, what they
24 call family waiting room there in the Pediatrics ICU, you
25 know, right there close to the room. And it's a fairly

1 small room with a computer in it and a few chairs. That's
2 where he was at, taking her statement.

3 Q. Did you sit in or observe or have anything to do with
4 that statement?

5 A. I went in there briefly after going into the room and
6 looking at Victim.

7 Q. So you actually did a look-over of the child yourself?

8 A. I did. And I spoke with doctors and I looked at
9 Victim, and then I went into the family room area and
10 spoke to Sergeant Jones. And then I spoke with Ms. Sprouce
11 because Sergeant Jones had wanted me to read over the
12 statement they had taken so far to see if there was
13 anything from the scene that he was not being advised of.

14 Q. So you had some information that he didn't have and he
15 was wanting you to come in and make sure everything was
16 answered to the best of the ability at that point?

17 A. That's correct.

18 Q. And was Ms. Sprouce free to leave or to not talk to
19 you at this point in time?

20 A. Yes. She was not in custody.

21 Q. Was she a suspect of anything at the time?

22 A. No, this is just preliminary investigation at this
23 point.

24 Q. All right. And based on what she said in her
25 statement as far as who may have been at the home when the

1 child came to be in this condition, what did you do?

2 A. At that point I went to locate the boyfriend, who I
3 was told was Mr. Johnson. And I was able to locate him.
4 And then I told him that I would like to speak to him. And
5 would he be willing to talk to me and give me a statement,
6 because we were conducting our preliminary investigation
7 and that we have to talk to everybody that's involved or,
8 you know, all family members, anyone who was there.

9 Q. All right. Was he free to tell you he did not want to
10 come or he did not want to talk to you?

11 A. Yeah. I advised him that he didn't have to, but it
12 would be very helpful in the investigation and I identified
13 myself. I was wearing my badge and gun and also handed him
14 one of my cards.

15 Q. And did he agree to come and talk to you?

16 A. He did.

17 Q And did he appear to understand who you were and what
18 you wanted to talk about?

19 A. Yes. And I advised him that I could give him a ride
20 and he agreed to ride with me.

21 Q. So he rode in your car. Is it a police car or an
22 unmarked car?

23 A. I have an unmarked Impala that just looks like a
24 normal car.

25 Q. Did he have to be handcuffed or anything like this at

1 this point or to ride with you or anything like that?

2 A. No. He was not in custody.

3 Q. Were you treating him as a suspect or as a witness at
4 this point?

5 A. He was a witness.

6 Q. So did he then come to the law enforcement center
7 with you freely and voluntarily?

8 A. Yes, ma'am.

9 Q. Did he appear to be under the influence of any drugs
10 or alcohol while you were talking to him?

11 A. No. He appeared fine on the way there. We didn't
12 talk about the case on the way there. We just made small
13 talk. And then I took him up to my office and had him sit
14 down at a chair at my desk and -- where we just casually
15 sat and talked.

16 Q. Did you feel the need to advise him of any *Miranda*
17 rights or anything like that at this time?

18 A. No. The only time that that would apply is when
19 they're in custody, and he was not in custody.

20 Q. Was he free to tell you that he wanted to go, he was
21 finished talking, that kind of stuff?

22 A. Yes.

23 Q. All right. Did he ever say anything like that during
24 this evening or this conversation?

25 A. No. He stayed and spoke with me and then gave me a

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1 written statement.

2 Q. How long do you think you and Mr. Johnson spoke on May
3 the 25th?

4 A. We left the hospital somewhere around nine P.M. And I
5 returned him to Greenville Memorial Hospital and let him
6 out in the front about ten thirty, I believe it was.

7 Q. So you were with him for about an hour and a half.
8 You were able to, again, talk to him, have a free-flow
9 exchange of information?

10 A. Yes.

11 Q. He was understanding the questions you were
12 presenting?

13 A. Yes. He understood.

14 Q. And you understood what he was saying back to you?

15 A. Correct.

16 Q. And then he gave you ---

17 (WHEREUPON, State Exhibit Number 49 was marked for
18 identification.)

19 Q. I want to show you what's been marked as State's
20 Number 49. Do you recognize that?

21 A. I do.

22 Q. Okay.

23 A. That is his original statement that he gave to me on
24 the 25th of May, 2011.

25 Q. All right. And are there any alterations, deletions

1 or any amendments to that?

2 A. No, there are not.

3 Q. It's substantially in the same condition as when you
4 took it from him on the 25th?

5 A. It's in the exact condition, other than the sticker.

6 Q. Other than the State's evidence sticker on there.

7 Okay.

8 MS. HODGE: And at this point, we would move to
9 admit State's Number 49 into evidence.

10 THE COURT: Any objection?

11 MS. MANIGAULT: No objection, Your Honor.

12 THE COURT: All right. Without objection,
13 Exhibit 49 is admitted into evidence and may be published.

14 MS. HODGE: Thank you, Your Honor.

15 (WHEREUPON, State Exhibit Number 49 was admitted into
16 evidence.)

17 Q. So what was Mr. Johnson telling you about this
18 incident back on May the 25th?

19 A. Well, I started asking about the day's events, you
20 know, what time he got up in the morning, what he did. He
21 advised me that he got up about six A.M. like every
22 morning, turned on the cartoons for the kids. Went into
23 the kitchen, made a pot of tea. Fed the kids. Changed
24 their diapers, took them outside to play. And then we put
25 them down for a nap. And he said on this day that he put

1 them down for a nap and the older sibling, [Minor I], got up
2 before [Victim] did. And then they were watching TV and
3 then he had to go into the bathroom. And he said while he
4 was in the bathroom that Ann hollered and said that [Victim]
5 [Victim], which is [Victim], was not breathing. And he said he
6 came out and found [Victim] unresponsive and Ann doing CPR.

7 Q. Okay. Did he actually say that there were other
8 people still at the house in this statement?

9 A. Just [Minor I] and Ann and [Victim].

10 Q. Okay. I would direct you to the middle of the -- are
11 you reading from his statement or from your supplemental?

12 A. I'm reading from the statement.

13 Q. Okay.

14 A. I'm just skipping around on it.

15 Q. Okay. Well, why don't you go ahead and read it as it
16 is, word-for-word?

17 A. Okay. Today I got up at six A.M. like we do every
18 morning. I cut on the cartoons for the kids. I went in
19 the kitchen and made a pot of tea. I fixed the kids some
20 peanut butter and jelly sandwiches. After that, I changed
21 their diapers again and then took them outside to play. I
22 put [Victim], [Victim] down on the ground by the sand. And
23 while I was getting [Minor I], [Victim] got into an ant pile.
24 I brought the kids back inside the house and wiped off the
25 ants and Ann changed [Victim] s diaper. I then laid both of

1 them down in separate rooms. Minor 1 always hits on Victim
2 Victim and takes stuff from her, keeping her up. I did not
3 let them go outside anymore. When Victim woke up, I made
4 some chicken patties and I gave Victim some of the
5 chicken. Minor 1 stayed asleep until about one thirty.
6 Minor 1 got up and I played with both of them and
7 Crystal's daughter Minor 3. She is three and a half years
8 old. I let them watch more TV and I went into the
9 bathroom. Ann hollered at me while I was in the bathroom
10 saying that Victim was not breathing. I went into the
11 living room and I saw Victim in the floor on her back.
12 Ann was trying to do CPR. Ann told me to help her by
13 holding her head up. I was calling the ambulance as she
14 was doing it, telling them how to get there and trying to
15 help Ann at the same time. I didn't know what else to do
16 but call the ambulance. I also tried to do CPR on Victim
17 and Ann was telling me how to do it. When I gave her
18 breaths, the tea came back up and the ambulance and police
19 arrived and took over. Ann said that Victim choked on the
20 tea and after that, she went unconscious.
21 Q. All right. So he didn't tell you anything about going
22 to his friend Josh's house in this statement, on this day?
23 A. No.
24 Q. In his sequence of events of the incident. He didn't
25 tell you anything about Crystal and Minor 3 actually being

1 gone when this incident occurred?

2 A. No, he did not.

3 Q. Okay. He, in fact, places Keylie at the residence and
4 he's allegedly taking care of her at the same time?

5 A. That's correct.

6 Q. He didn't tell you anything about anybody smoking any
7 marijuana or doing anything like that?

8 A. No, he did not.

9 Q. All right. And then in the next paragraph, what does
10 he go on to say?

11 A. Since we have been living with Crystal, which is
12 Crystal Inman, [Minor 1] has gotten meaner and will not
13 mind. She sticks her tongue out and won't do what she's
14 supposed to do. I don't believe in punishing kids. I
15 believe that you should talk to them and maybe put them in
16 the corner. [Minor 1] and [Minor 3] were fighting two days ago
17 and [Victim] got in the middle. And [Victim] hit her head on
18 the corner of the door and then fell down the drop-off to
19 the next room, right on her face. The bruises did not pop
20 up until the next morning. Ann and I have sat [Minor 3] down
21 and told her not to be mean to [Victim], but she's not our
22 kid, so there ain't much I can do. [Minor 1] is mean to Nay
23 Nay also. The kids have these Mardi Gras beads and
24 [Minor 1] hit [Victim] with it. It was broken and pink with
25 little round balls. [Minor 1] hit her head -- hit her in

1 the forehead with it and we took it away, hoping that she
2 would not find it again, but she did. We got it back and
3 Ann threw it away. Ann got anything like the beads and
4 necklaces and threw them away so they will not hurt each
5 other anymore. [Victim] has fell on some rocks in the back
6 yard before, too. [Victim] also ate a sucker today, about
7 an hour before this happened. I am trying to think of
8 anything else.

9 Q. So in this paragraph, he's saying that [Minor 1] and/or
10 [Minor 3] hit [Victim]?

11 A. Yes.

12 Q. Accounting for these bruises on the head. Are you
13 asking him specifically about where all these bruises came
14 from?

15 A. Yes.

16 Q. Okay. So he's attributing them to other children?

17 A. That's correct.

18 Q. And then he's also attributing them to the child
19 falling at various time?

20 A. Yes. That's correct.

21 Q. Okay. Did he ever say when you asked about the
22 bruises that Ann put them there herself?

23 A. No, never.

24 Q. All right. How about the next paragraph.

25 A. The next paragraph says, I tried my best to save my

1 future daughter and I can't handle losing something that I
2 love so much. I told Ann that it was our fault, what
3 happened to [Victim], because cups were made for kitchens
4 and not the living room. There was some heart-shaped toys
5 in the floor, like a heart-shaped bracelet at one time. I
6 don't know if she choked on that or not. I was in the
7 bathroom when this happened and I wish I could have been
8 there -- had been in there at the time to save her. [Victim]
9 [Victim] is a fussy baby and so is [Minor 1]. [Minor 1] is
10 fussier than [Victim]. [Victim] will clean up her toys, but
11 [Minor 1] will be over there whining. [Victim] fusses about
12 wanting a drink or a toy but not her diaper because we have
13 it changed before she has to cry. Sometimes Ann will pop
14 [Victim] on the hand if she will not mind. I have hit [Victim]
15 [Victim] on the hand when she will not go to sleep, but that is
16 all that we will do to them.

17 Q. All right. And so he's offering up some other
18 explanation here about the choking with some other bead or
19 something?

20 A. Yes.

21 Q. And then he talks about [Victim] being fussy. Is that
22 something that was asked or is that something that was
23 volunteered?

24 A. That's something I asked him about.

25 Q. Okay. And he said that she was fussy, and [Minor 1],

1 as well?

2 A. Yes.

3 Q. Why is that something that you ask about in cases like
4 this?

5 A. With child death investigation and possible abuse, a
6 lot of times a fussy child, the fact that they are fussy is
7 the reason for their abuse. People lose their minds, they
8 lose control.

9 Q. Lose their temper, get irritated?

10 A. Lose their temper, yes.

11 Q. And then on to the next paragraph.

12 A. The only thing I can remember was last Friday the cops
13 came to the door saying that [Minor 1] had been outside and
14 running around. I was in the bathroom shaving and did not
15 know that she had gotten out. I was looking for [Minor 1]
16 before the cops got there. I think she unlocked the bottom
17 lock on the door. [Victim] was still napping at the time.
18 The cops came in and checked the house for food and stuff.
19 They told me that it better not happen again, letting the
20 kids get outside without an adult.

21 Q. So on this incident he's describing -- he's also in
22 the bathroom when ---

23 A. He's in the bathroom again.

24 Q. All right. And then the final paragraph or -- yes,
25 final paragraph?

1 A. I did not do anything to cause [Victim] to go
2 unconscious today. I did not hit her or shake her or cause
3 what happened to her. I was in the bathroom when Ann told
4 me that [Victim] was not breathing. Ann is a good mother
5 and she would not do anything to hurt her either. I would
6 kill anyone that tried to hurt Ann's kids. I was hollering
7 and screaming at EMS because they were saying that they
8 could not understand what I was saying. This statement is
9 true and I understand that if I do not tell the truth to
10 you, I could be criminally charged. I swear to God that
11 I'm not hiding anything from you and I plan on building a
12 swing set and taking care of my babies. End of statement.

13 Q. Now, these were not his children?

14 A. No.

15 Q. These were Ann's kids, not his babies?

16 A. That's correct.

17 Q. Okay. And he indicates in here again that Ann did not
18 do anything?

19 A. Yes, he did.

20 Q. Okay. So once you typed that statement out, he had a
21 chance to read over it, make any corrections he wanted to?

22 A. Yes. I print a copy for the witness or defendant,
23 whoever I take a statement from. I print a copy for them
24 and also print a copy for myself and I will read it and let
25 them read as I'm reading. And let them make any

1 corrections. I usually will give them a red pen and tell
2 them to circle any typos or anything that they see that
3 they didn't tell me, you know. Whatever changes they want
4 to make, I let them make that change. So it will be their
5 statement.

6 Q. And once you concluded that process, did you, I think
7 you mentioned you drove him back to the hospital?

8 A. I did.

9 Q. At that point, was he a suspect or had you intentions
10 of arresting him at this point?

11 A. No, I did not.

12 Q. Are you still gathering information for your
13 investigation?

14 A. Still in the gathering stage.

15 Q. All right. So what was your next step?

16 A. My next step was -- I was still on call at this time,
17 so I had other calls to answer. And so I -- on the 27th of
18 May, I went back to the hospital and I met with Ann again,
19 and also Coroner Cain and Investigator Laura Jones, who was
20 in homicide at the time, also were there. And we spoke to
21 Ann Spruce again and I typed a statement on the hospital
22 computer, which was inside the family waiting room.

23 Q. All right. And during this conversation did some of
24 her story change?

25 A. Yes. And I talked to her first, before typing the

1 statement, and that was the reason for typing the statement
2 was because her story was changing. And it went from her
3 being in the room when [Victim] started choking to now she
4 was in the kitchen. And that Mr. Johnson was in the living
5 room with the children when [Victim] started choking.

6 Q. At this point was she becoming a suspect? Were you
7 getting concerned about her?

8 A. I was definitely starting to get concerned. She was
9 becoming a person of interest at that time.

10 Q. And how about the Defendant?

11 A. The Defendant, I had not talked to him again until
12 June the 2nd.

13 Q. All right. So you talked to him on the first night,
14 but the rest of the time you're speaking to Ann; for the
15 other times you were talking to a witness on the case, it
16 was Ann?

17 A. That's correct.

18 Q. And she gave you three or four statements?

19 A. She gave the first statement, she gave the recorded
20 statement to Investigator Autrey, and then she gave this
21 written statement. On the 27th, there was three different
22 statements from Ann.

23 Q. All right. When was the child pronounced dead?

24 A. On the 27th.

25 Q. Was this statement that you are talking about, typing

1 up Ann's statement, was that before or after the child had
2 been pronounced dead?

3 A. That was before.

4 Q. And do you know what time it was that they ended up
5 taking the child off life support.

6 A. I'll have to refer back to my report right quick.

7 Q. Was it about eleven in the morning?

8 A. It was, because I got there first thing. It was like
9 eight thirty, nine o'clock is when I first got to the
10 hospital.

11 Q. Had you been apprised of what was happening medically
12 with her as far as where this case was likely to end up or
13 what kind of was going to be the end result?

14 A. Yes. I knew when I went to the hospital on the 27th
15 that **Victim** was going to be taken off life support.

16 Q. All right. And once she was taken off life support --
17 do you have to request or is an autopsy automatically done
18 on any child that's deceased?

19 A. Any child that's deceased. Anybody that is young. I
20 mean, you know, even age thirty-five, they would conduct an
21 autopsy on them.

22 Q. All right. Okay. And do you know when the autopsy
23 was scheduled for?

24 A. It was scheduled for the next day on the 28th.

25 Q. All right. Do you attend autopsies?

1 A. I do. Especially in cases such as this.

2 Q. Did you attend this one?

3 A. I did.

4 Q. And when you're at the autopsy -- Dr. Michael Ward
5 performed this autopsy?

6 A. He did.

7 Q. Are you able to ask him questions and get his opinion
8 and start to form a little more evidence in your case?

9 A. Yes. He will talk to us as he's actually conducting
10 an autopsy. He will show us his findings as he's actually
11 doing the autopsy.

12 Q. So helpful for you to know where to go from that
13 point?

14 A. And sometimes we even assist as we're standing there,
15 to do things to help. So ...

16 Q. All right. So once you had learned of the autopsy
17 results, what did you do?

18 A. Once I learned of the autopsy results, I ---

19 Q. Well, let me back up. Did he rule this case a
20 homicide?

21 A. His preliminary findings were that it was a homicide.
22 And that **Victim** died from suffocation.

23 Q. Okay. So now that you have that medical information,
24 what was your next step?

25 A. My next step was to continue with the investigation

1 and to try to determine, through all the statements that
2 were taken, exactly, you know, what is going on. My --
3 excuse me for just a second. On June the 2nd is when I
4 asked Investigator Autrey and also Deputy Wilson, who was
5 cross-training with me. I was training him in homicide. I
6 asked them to go with me to Crystal Inman's house. Since
7 she'd been talked to the first night, I felt it was
8 important since it was her house that we get a statement
9 from her, see if she had any additional information.

10 Q. All right. And is that what you did?

11 A. Yes.

12 Q. The three of y'all went there?

13 A. We did. And I actually took the written statement.

14 Q. And took a written statement from her. Okay. And I
15 don't know if it's your voice as well or the microphone,
16 but it's dropping off just a tiny bit ---

17 A. Sorry.

18 Q. --- at the end. That's okay. And I know we're
19 getting tired, ears and mouths. So you took a statement
20 from Crystal. You talked to her and you got a written
21 statement?

22 A. Yes.

23 Q. And at that point, did she direct you to -- well, was
24 Ann at her house? Was Ann still living at her house?

25 A. No, not at that time. She said she had asked her to

1 leave.

2 Q. All right. How about the Defendant, was he still at
3 Crystal's house?

4 A. No, he was asked to leave, as well.

5 Q. And there were no arrest warrants or anything out for
6 Ann or the Defendant at this time?

7 A. No, there were not.

8 Q. And did you attempt to locate Ann then and take
9 another statement from her?

10 A. Yes. Because right after we interviewed Ms. Inman is,
11 I believe, when I got a call from Coroner Cain advising me
12 that Dr. Ward had ---

13 MS. MANIGAULT: Your Honor, I'm going to object
14 to anything that the coroner or Dr. Ward said or anybody
15 else.

16 THE COURT: I sustain the objection.

17 Q. You got a call from Coroner Cain and based on the
18 information you obtained from her, what did you do?

19 A. Then we began to look for Georgia Ann Sprouce again.

20 Q. All right. And does the coroner also get the autopsy
21 results?

22 A. Yes.

23 Q. Okay. Is that part of a separate investigation that
24 they kind of conduct like a parallel investigation; is that
25 accurate?

1 A. That's correct.

2 Q. Okay. So they're apprised of certain things the same
3 as you are?

4 A. Yes.

5 Q. And do y'all share information periodically?

6 A. Yeah, we always do.

7 Q. So after you talked to Coroner Cain, you decided you'd
8 speak to Ann again; is that correct?

9 A. That's correct.

10 Q. Okay. And did you do that?

11 A. Yes. We began looking for her. Went to a location
12 where we were told she was staying with a relative. We
13 were advised that she was at the Woods Mortuary in Greer,
14 so that's where we responded to and found her there.

15 Q. Was anybody with her at the time?

16 A. The biological father, Mark Gore, was there.

17 Q. And did you ask her to come speak to you at the LEC?

18 A. I did. And she agreed to come voluntarily. She was
19 told again, you know, there was no arrest warrants. It was
20 just we needed to continue with the investigation and that
21 we needed some more information.

22 Q. And tell us about what happened at that point?

23 A. At that point, we gave her a ride in my vehicle again.
24 And it was Investigator Autrey, Deputy Wilson and myself
25 and we went back to the law enforcement center and used

1 Sergeant Jones' office to conduct the interview. And we
2 talked to her again and I advised her of the results from
3 the autopsy. And told her I was -- you know, some of this
4 is just not making sense. We need the truth. And that's
5 when she changed her statement again.

6 Q. All right. What was her demeanor during this
7 interview?

8 A. She was very -- she was crying, upset. She was --
9 seemed to be more truthful than the other interviews.

10 Q. And did she finally tell you the truth or what she
11 said was the truth?

12 A. What she said was the truth was that she was asleep
13 and that she had been smoking marijuana and that she -- the
14 reason she didn't tell us that she was asleep when she
15 awakened by Mr. Johnson saying that Mr. **Victim** was not
16 breathing, was because of her prior dealings with DSS and
17 that she didn't want to lose her child. And that she was
18 just scared.

19 Q. Did you press her and ask her if she was, in fact, the
20 person that had injured, put all these bruises and/or
21 killed **Victim**?

22 A. Absolutely. I pressed her pretty hard.

23 Q. And how did she respond?

24 A. She responded by -- she was crying, you know, begging
25 and pleading with me, you know, to believe her, that she

1 would never hurt her child and that ---

2 MS. MANIGAULT: Your Honor, I object to anything
3 that he's saying that Ann Sprouce has said. She's
4 testified already.

5 THE COURT: I sustain the objection.

6 Q. So as a result of your speaking to her, pressing her,
7 did you, in fact, charge her that night?

8 A. No, I did not.

9 Q. When she gave you this third version of her events,
10 being asleep, what did you want to do at that point?

11 A. At that point, I felt that it was necessary to talk to
12 Mr. Johnson again.

13 Q. And you had not talked to him since the first night;
14 is that correct?

15 A. That's correct.

16 Q. Okay. All right. And so how did things end with Ann;
17 was she free to go?

18 A. Yes, she was. In fact, we gave her a ride back to the
19 mortuary.

20 Q. And was there something, you know, we'll be in touch
21 or how do you leave that?

22 A. I did. I told her that I would be back in touch, that
23 we were going to speak to Mr. Johnson again.

24 Q. All right. And what did you do at that point?

25 A. At that point I asked Deputy Wilson and Investigator

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1 Wynn Campbell, who is also a homicide investigator, to go
2 to the location where we were told we could possibly find
3 Mr. Johnson, and that's where they found him.

4 Q. And where was that, do you know?

5 A. That was on Pine Log Ford Road, I believe. [REDACTED] Pine
6 Log Ford Road, Lot Number [REDACTED]. And that's in Greenville
7 County.

8 Q. Okay. So you were not personally involved in getting
9 him to the law enforcement center?

10 A. No, ma'am.

11 Q. Okay. Investigator Campbell and Deputy Wilson?

12 A. Yes.

13 Q. And they went to that residence, is that your
14 understanding?

15 A. That's correct.

16 Q. And when did you finally meet up with the Defendant or
17 see him in person?

18 A. After we dropped Ms. Sprouce off at the mortuary, we
19 drove back to the law enforcement center and Investigator
20 Campbell and Deputy Wilson were already there with Mr.
21 Johnson.

22 Q. Was Mr. Johnson in custody at this point?

23 A. No. They were sitting around in the chair -- we have
24 -- investigators have chairs like those and they were just
25 sitting in the chairs, sitting around talking when I walked

1 in.

2 Q. And did you introduce yourself again?

3 A. I did.

4 Q. Did he recognize you?

5 A. He knew who I was.

6 Q. Remembered talking to you from before?

7 A. I believe so.

8 Q. All right. And in your opinion was he there talking
9 to you freely and voluntarily?

10 A. Yes, he was advised that it was just, again, we needed
11 more information.

12 Q. Were you able to communicate with him well on this
13 night?

14 A. Yes.

15 Q. All right. Do you have any idea what time it was that
16 we're talking now?

17 A. It was probably somewhere around eight, eight thirty.
18 Because it was in the later -- it was in the evening and it
19 wasn't quite dark yet, but it was starting to get dark.

20 Q. Okay. Have any problem understanding him or him
21 understanding you ---

22 A. No.

23 Q. --- as far as questions and answers went?

24 A. No.

25 Q. Did you have to repeat yourself a bunch of times?

1 A. Not at all.

2 Q. Did you have to redirect any of your questioning?

3 A. No, ma'am.

4 Q. And were his answers in response to what you were
5 asking?

6 A. Yes. They were clear and concise.

7 Q. Did he appear to be under the influence of any drugs
8 or alcohol while you were talking to him this time?

9 A. No, I didn't notice the smell of an alcoholic beverage
10 emanating from his body or dilated pupils that would be
11 consistent with someone using drugs. I didn't notice any
12 of that, bloodshot eyes or any of that.

13 Q. Slurred speech?

14 A. No slurred speech.

15 Q. Unsteady on his feet, anything like that? Did you
16 have an opportunity to see him stand or walk?

17 A. Yes. Because where they were originally at was in the
18 area where all the white collar crime investigators are.
19 And that's the big open area of the criminal investigations
20 division. My office was actually in the back and we had to
21 go all the way to the back of the office and through a
22 door. So he was able to walk just fine.

23 Q. And did he ever tell you, no, I don't think so. I
24 think I want to go or I don't think I have anything else to
25 say, anything like that?

1 A. Never.

2 Q. Never wanted to terminate the interview or stop
3 talking?

4 A. Not at all.

5 Q. And so in your opinion, he was talking to you freely,
6 voluntarily ---

7 A. Yes.

8 Q. --- knowingly?

9 A. He's not handcuffed. He's not strapped to a chair or
10 anything. He's just sitting there and we're talking
11 casually.

12 Q. Was he in the same state of mind, frame of mind, as he
13 was when you met with him back on May 25th?

14 A. Yes.

15 Q. Any marked differences between that first interview
16 you had with him for about an hour and a half and then this
17 interview?

18 A. He seemed a little less nervous than -- to me, than he
19 did the first time.

20 Q. A little bit more calm than he did the first time?

21 A. More calm. Yes.

22 Q. Okay. All right. And so what were y'all talking
23 about? Tell us what you said and what he said?

24 A. Well, I advised him that we needed to go back over
25 what he had told me the first time and the events of the

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1 day. And then I advised him that we had spoken with Ann
2 again and that there were some things we needed to clear
3 up. And some things, again, weren't adding up. And he
4 maintained his story that he had nothing to do with Victim
5 choking and he was in the bathroom. And the same story
6 about, you know, Ann was in the room with her when this
7 happened. She hollered for him. And we also talked a
8 little bit about the victim's father, Mark Gore. I asked
9 him about his relationship with him. And he said he didn't
10 like Mark Gore. He talked about since they'd lived with
11 Crystal Inman, that he felt that Georgia Ann had not been
12 as affectionate as she had been in the past. And he felt,
13 you know, like he wasn't getting the attention that he
14 needed. And so we continued to talk and it was pretty much
15 the same conversation. And we probably talked about an
16 hour. And the way I do things, when I'm interviewing
17 somebody, it's always trying to make them comfortable.. Ask
18 them, do they need any water, do they need coffee, do they
19 need anything to eat. We're provided a credit card in the
20 homicide unit so if we need to buy food for someone, we
21 will, you know. He refused anything to drink; he refused
22 food. So I said, well, you know, would you like to go to
23 the bathroom and he said he would. So I took him to the
24 bathroom. And that's the upstairs -- I took him to the
25 upstairs employee bathroom because the only public restroom

1 is downstairs and it's a long walk, so I just took him to
2 the employee bathroom.

3 Q. All right. Do you have to have a key card or
4 something to get in that one?

5 A. No, but it's -- the only -- you can't just let the
6 public go in there. You have to go in there with them. We
7 don't let anyone ---

8 Q. That's your policy?

9 A. That's our policy.

10 Q. Okay. So did you enter into the man's bathroom with
11 him?

12 A. I did.

13 Q. All right. And are there urinals or stalls or what?

14 A. There's two urinals and one stall and he used one of
15 the urinals.

16 Q. And did you observe him the whole time in the
17 bathroom?

18 A. I was in there with him. I didn't, you know, sit
19 there and stare. I was in there with him. And I could
20 observe his movements.

21 Q. Okay. All right. And did he do anything unusual in
22 the bathroom that gave you cause for concern?

23 A. No.

24 Q. And after using the bathroom, did y'all go back to the
25 interview room or to the area, your office?

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1 A. We went back to my office, yes.

2 Q. All right. And what happened at this point?

3 A. Went back to my desk, and I'd started talking to him
4 about being truthful. And was he being truthful about
5 being in the room with the victim when she went
6 unconscious. And, you know, I advised him of my findings
7 earlier in the day after talking with Ann. And that is
8 when Mr. Johnson started bending over in his chair and just
9 did like that -- just did like that, and just, you know, it
10 was like he was just -- I could tell he was sad. He was
11 sobbing a little bit. And he says that accidents happen
12 sometimes. And I told him that I understood. And I was
13 trying to be ---

14 Q. Can you speak in the microphone?

15 A. Yeah. I'm sorry. But I was -- he told me that
16 accidents happen sometimes. And I told him that I know
17 accidents happen sometimes. And I was being sympathetic
18 with him. I said, you know, sometimes things do happen
19 that, you know, we may not mean to happen, you know. Tell
20 me what you're talking about. And after pausing Mr.
21 Johnson stated that he got angry at **Victim** and that he
22 threw a toy across the room and hit her in the head with
23 it. And he said that he tried to make her stop crying and
24 that she wouldn't. And that he was afraid he was going to
25 wake Ann up or she was going to wake Ann up so he held his

1 hand over the victim's mouth until she stopped crying. And
2 that's when he said that she stopped breathing. And I got
3 him to demonstrate what he was talking about.

4 Q. At that point, you got him to demonstrate?

5 A. Yes.

6 Q. And what did he show you?

7 A. And then he showed me that he held his hands over her
8 nose and mouth and then I said, okay, that --- at that
9 point in time, I stopped the interview. And that's when I
10 knew -- at that point in time, he became in custody and
11 that's when I read him his -- when I printed up the *Miranda*
12 Warning Form and then I read him his rights.

13 Q. All right. And I believe that was already admitted
14 into evidence, State's Number 40. Tell us how you advised
15 him of his rights? What's your normal procedure?

16 A. My normal procedure is once I print out the form, even
17 though I know their name, I ask them their name, their
18 first, middle and last name, their date of birth and their
19 Social Security Number. And there's not a place for that
20 so I write it in there. I document the date and the time
21 and the case number, and when I start. And I started this
22 rights advisement at ten-oh-two, which the form says
23 twenty-two-oh-two, which that's military time for ten-oh-
24 two, P.M. And I have it where -- he was sitting like right
25 here at my desk. And I had it here, letting him read as I

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1 was reading it to him. And then I go over each sentence.
2 Before we ask you any questions, you must understand your
3 rights. I made sure that he understood that. Then I had
4 him put his initials in. And then I read the next
5 sentence, doing the same until we get to the bottom of
6 where it's his choice whether to waive his rights to talk
7 or not. And then I explain to him that if he wants to talk
8 to me without an attorney present, that I must read this
9 bottom portion to him. And then if he wishes to talk, that
10 that would be at the time he would sign the form. So the
11 bottom portion of this form reads, I have read this
12 statement of my rights and I understand what my rights are.
13 I'm willing to make a statement and answer questions. I do
14 not want an attorney at this time. I understand what my
15 rights -- I understand and know what I'm doing. No
16 pressure or threats have been made to me and no coercion of
17 any kind has been used against me. And I circle coercion,
18 because some people don't know what that word means, and I
19 advise them that that means there's no trickery, there's
20 no, you know, we're not going to get them to self-
21 incriminate themselves by using some kind of, you know,
22 dirty tactics or whatever you want to call it. And make
23 sure they understand that. And then I had him initial it.
24 Q. Okay. And so did he initial each line saying he
25 understood the rights that you'd advised him of?

1 A. He did.

2 Q. And then he signed the form saying that he wanted to
3 talk to you knowing that he didn't have to?

4 A. Yes.

5 Q. And knowing that he could have a lawyer if he wanted
6 to?

7 A. Yes.

8 Q. Did he ever ask you at any time to stop talking?

9 A. No.

10 Q. I don't want to talk anymore, I'm done?

11 A. No.

12 Q. After you advised him of his rights, he never asked to
13 stop?

14 A. No, he did not.

15 Q. Okay. How about did he ask to have an attorney
16 present?

17 A. He never asked for an attorney.

18 Q. Did he give any kind of even just, equivocal, maybe I
19 should have a lawyer or what do you think, anything like
20 that?

21 A. No, ma'am.

22 Q. No mention of that?

23 A. No mention at all.

24 Q. And he wanted to talk to you freely and voluntarily?

25 A. He did.

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1 Q. And did the conversation continue as it had been for
2 the previous hour and a half?

3 A. It did.

4 Q. And at that point did you ask him to go back over a
5 portion of the story or how did that go?

6 A. I did. We began a suspect defendant's statement at
7 this time. And he was read his rights again, which is at
8 the top portion. I believe Investigator Autrey read it. I
9 believe it's up here. We went over that again. And asked
10 him again, you know, was he doing this, you know, not under
11 the influence of any drugs or alcohol. He said he was not.
12 He gave permission for Investigator Autrey to type his
13 statement. And that he was giving it to us freely. And
14 then he began talking about -- would you like me to read
15 it?

16 Q. I think it's already read into evidence.

17 A. Okay.

18 Q. So I don't know that we need to necessarily ---

19 A. But he began through the day and then got to the part
20 where he admitted to holding his hands over **Victim**'s mouth
21 until she stopped breathing.

22 Q. Okay. Did you ever ask him or did you go back to the
23 first statement and ever say, man, you told me these things
24 at first. And now you're telling me this. Did you ever go
25 like comparison?

1 A. Not at this point.

2 Q. Or you just are asking him to tell you?

3 A. I'm asking him to give us a truthful statement this
4 time.

5 Q. Okay. All right. And once he gave that statement,
6 finished typing it up, he had an opportunity to read over
7 it? You went over it with him?

8 A. Went over each sentence, had him initial at the
9 beginning and ending of each paragraph, knowing that he
10 understood before I had him sign it.

11 Q. And did he make any changes or corrections to that?

12 A. He did not.

13 Q. And during this time, is he still alert, talking to
14 you, y'all are able to communicate?

15 A. Yes.

16 Q. Anything change about his mental state or affect from
17 that point forward?

18 A. He was upset.

19 Q. Was he more upset, saying ---

20 A. He was more upset. Like I said, he'd been sobbing and
21 appeared to be remorseful.

22 Q. And at that point did you take him into custody right
23 there?

24 A. He was in custody at that point.

25 Q. Right. He was not free to leave?

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1 A. He was not free to leave.

2 Q. All right.

3 A. He wasn't handcuffed, but he was not free to leave.

4 Q. All right. Did you obtain a warrant for his arrest?

5 A. Yes. I walked over to the night magistrate and

6 obtained a warrant for his arrest.

7 Q. All right. And did you then serve it on him?

8 A. Yes. Actually, Investigator Autrey did.

9 Q. And when you do that, they do come into your physical
10 custody; is that right?

11 A. Yes. He was handcuffed at that point in time and then
12 taken over to the detention center.

13 Q. All right. The detention center located next to the
14 law enforcement center offices?

15 A. Yes. It's a walk from my office.

16 Q. Okay. Was he making any statements to you during the
17 arrest process and/or the booking process?

18 A. He did. He continued to say things during the rest
19 of the procedures, about wishing that God had never created
20 him, that he did not deserve to live. I asked him if he
21 was suicidal and he stated that he would never kill
22 himself, but he knew that someone in jail will kill him
23 because of what he'd done. He said that he did not want
24 people to be mean to him or not to like him because he was
25 not a bad person.

1 Q. As far as him being placed in any certain location in
2 the detention center upon booking, did he ask you for some
3 specific place?

4 A. He did. He asked to be placed in isolation, which I
5 advised the detention center that he should be watched for
6 possible suicidal thoughts.

7 Q. All right. But why did he ask to be put in isolation?

8 A. Well, he again was afraid that people would find out
9 what he was there for and he was afraid they might hurt
10 him.

11 Q. So he was asking for a little protection?

12 A. Yes.

13 Q. Once you booked him into the detention center, did
14 that end your involvement on this date with your
15 investigation?

16 A. It did on this date.

17 Q. And what was the next step?

18 A. The next step was to deal with Georgia Ann Sprouce,
19 which I obtained a warrant for her on June the 7th for
20 homicide by child abuse, aiding and abetting, and also for
21 after the fact.

22 Q. Accessory after?

23 A. Accessory after the fact.

24 Q. And did you personally serve those warrants or were
25 you present when the warrants were served on her?

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1 A. Deputy Hawkins from the -- Craig Hawkins from the
2 warrant division, he actually located Ms. Sprouce and
3 served the warrants on her.

4 Q. And when was she arrested?

5 A. On June the 8th of 2011.

6 Q. So about five days later?

7 A. That's correct.

8 Q. Did you ever attempt to interview her again after she
9 was arrested?

10 A. I did not.

11 Q. And once she was arrested, did that end your
12 investigation in this case?

13 A. It did.

14 Q. Thank you. Let me make sure all my exhibits are moved
15 in.

16 MS. HODGE: Madam Court Reporter, am I ---

17 MADAM COURT REPORTER: You've got them all.

18 MS. HODGE: Okay.

19 Q. Please answer any of Ms. Manigault's questions.

20 A. Yes, ma'am.

21 THE COURT: You may cross-examine the witness.

22 MS. MANIGAULT: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 **BY MS. MANIGAULT:**

25 Q. Sergeant Miller, you did a -- what you call a report

1 on your June 2nd interview with James Johnson?

2 A. Yes, ma'am.

3 Q. And do you have a copy of your report up there?

4 A. I do. Let me locate it. I have two from June the
5 2nd.

6 Q. You got it?

7 A. Yes, ma'am.

8 Q. I want to ask you to look at page two, the last
9 paragraph and then read over to page three, the first
10 paragraph in that page. Just review it to yourself.

11 A. I have two from June the 2nd. One was where we went
12 and talked to Ms. Sprouce. And then the other one is where
13 we went and located Mr. Johnson.

14 Q. Okay. This is what I'm talking about with Mr.
15 Johnson. It says James Johnson. Have you got that one?

16 A. Okay, yeah. I've got that one right here.

17 Q. Okay. If you would review the last paragraph on page
18 two and the first paragraph on page three to yourself.

19 A. (Reviewing document.) Okay.

20 Q. Okay. And then actually go back to page two and
21 review the paragraph before that starts with, I then asked,
22 which would be the second paragraph on that page.

23 A. Okay.

24 Q. All right. Did James Johnson tell you on June 2nd
25 that Ann was biting both children?

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1 A. Yes, he did.

2 Q. All right. And so the response to the question did
3 she cause any of the marks on the children that you
4 answered no, would that be an accurate answer?

5 A. I had no evidence at that time that the child had been
6 bitten.

7 Q. Okay. This is on June 2nd. And you went to the
8 autopsy?

9 A. I went to the autopsy, yes, I did.

10 Q. And was there any mention of bites on the child's
11 shoulders, back or any part -- teeth marks?

12 A. Not that I recall. There could have been, but not
13 that I recall.

14 Q. All right. But Mr. Johnson did tell you about that on
15 June 2nd?

16 A. Yes, ma'am.

17 Q. All right. And up in the first paragraph, the last
18 four lines, please start with Ann said.

19 A. Yes.

20 Q. Have you read those four lines?

21 A. Hold on just one second. Yes.

22 Q. Okay. And Mr. Johnson did tell you that he had
23 forgotten to tell you that they had dropped him off at his
24 friend's house that same day?

25 A. Yes, he told me that in this statement.

1 Q. Okay. That he'd forgotten that in the first
2 statement?

3 A. Yes, ma'am.

4 Q. Now, was there anywhere in the statement -- you just
5 testified that Mr. Johnson got up and -- well, strike that.
6 You testified that Mr. Johnson demonstrated by holding his
7 hand over his nose and mouth?

8 A. No, not over his. He just showed me how he had his
9 hands.

10 Q. Okay. What were you talking about then?

11 A. He showed me that he had his hands over [REDACTED] Victim's nose
12 and mouth like this.

13 Q. Okay. And in your report does it say where she was
14 lying down or standing up or sitting in his lap or anything
15 like that?

16 A. It just says that he picked her up and tried to make
17 her stop crying.

18 Q. Okay. So you don't put necessarily everything in your
19 report that you testify to?

20 A. Not always.

21 Q. All right. Now, I believe you testified that you
22 talked to both Ms. Sprouce and Mr. Johnson on the 25th at
23 the hospital, when you arrived?

24 A. No, I did not talk -- well, yes, eventually I went and
25 found him and took him to my office.

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1 Q. And that statement is in that you read to the court's
2 hearing. And he was a witness, victim, suspect, what was
3 he on the 25th?

4 A. The 25th he was just a witness.

5 Q. All right. When you talked to him on June 2nd, what
6 was he at that point? Was he a suspect?

7 A. He was a person of interest, just as Ms. Sprouce was.

8 Q. Okay. Now, on June 2nd when -- you talked to Ms.
9 Sprouce first that day; correct?

10 A. Correct.

11 Q. And then you talked to him, to Mr. Johnson?

12 A. Correct.

13 Q. All right. And were you giving him information that
14 Ms. Sprouce had told you during that interview?

15 A. Eventually.

16 Q. Okay. And when did the coroner rule that the death
17 was homicide, what date?

18 A. That was June the 2nd.

19 Q. June 2nd?

20 A. Yes.

21 Q. Well, your previous testimony said May 28th, when the
22 autopsy was done?

23 A. That was preliminary. He'll do a preliminary but then
24 he'll -- when Dr. Ward does his report, it becomes final,
25 he does his final report.

1 Q. Okay. So he did a preliminary finding that the case
2 was a homicide?

3 A. Correct.

4 Q. All right. And you knew that, the preliminary finding
5 because attended the autopsy?

6 A. I knew it was a preliminary finding. But I -- there's
7 other things they have to do before they can give a final
8 ---

9 Q. I understand that. But you knew it was a preliminary
10 finding, is the question?

11 A. Correct.

12 Q. All right. Then you picked up Mr. Johnson as a person
13 of interest, not a suspect?

14 A. Correct.

15 Q. All right. And you talked to him about an hour, hour
16 and a half; correct?

17 A. Yes.

18 Q. All right. You said that you picked him up and you
19 started talking to him maybe eight or eight thirty at the
20 law enforcement center?

21 A. Yes. Investigator Campbell and Deputy Wilson picked
22 him up on Pine Log Ford Road and then I came to the office
23 and that's when I met with him.

24 Q. Okay. Your initial contact was between eight and
25 eight thirty?

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1 A. Yes, ma'am.

2 Q. All right. And I don't know the State's Exhibit, but
3 the exhibit where the State has entered for -- rights form.
4 This says June the 2nd. That's the rights form that you
5 used for James Johnson?

6 A. Yes, ma'am.

7 Q. And the time listed on that is twenty-two-oh-two.
8 What does that mean?

9 A. That is ten-oh-two P.M.

10 Q. Okay. So you -- so that verifies you had talked to
11 him between an hour and two hours before you advised him of
12 his rights?

13 A. That's correct.

14 Q. Now, at what point did you offer to take Mr. Johnson
15 -- allow him to use the restroom?

16 A. We're probably been talking about an hour, hour and a
17 half.

18 Q. And I think you testified that you accompanied him
19 into the men's room?

20 A. That's correct.

21 Q. When you came back from the men's room, you took him
22 back to your office; correct?

23 A. Yes, ma'am.

24 Q. What's the size of your office space?

25 A. There's six investigators that were in that office.

1 It has its own door. There's six hutches that we use for
2 desk so if you can imagine that. It's not a very large
3 room, but we were the only officers there at the time.

4 Q. So when you testified that you walked him back to your
5 office, you're talking about you walked him back to an area
6 of that space?

7 A. Yes, ma'am.

8 Q. Okay. So it was not a separate room?

9 A. It is its own -- well, it's -- it has a door that
10 separates it from the rest of the investigations division.

11 Q. Okay. So that room still holds six people?

12 A. Yes.

13 Q. Okay. Got you. Thank you. And when you went back in
14 to talk with him, he gave you additional information and
15 you stopped the interview?

16 A. That's correct.

17 Q. And you were telling the Court that is the point where
18 he became a suspect?

19 A. That is the point where I knew he was in custody.

20 Q. Okay. And you testified earlier on the May 25th day
21 he went voluntarily?

22 A. Yes, ma'am.

23 Q. Came voluntarily with you. Was there any indication
24 on June 2nd that he did not come voluntarily with you -- to
25 you with the other officers?

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1 A. No. Their statements to me were that he came free and
2 voluntarily and they advised him that he did not have to
3 come.

4 Q. Okay. Now, did you notice -- was there any indication
5 that Mr. Johnson was taking anything, drugs, legal or
6 illegal?

7 A. No, as I stated before I didn't notice anything.

8 Q. And you've already testified that you smelled no
9 alcohol?

10 A. That's correct.

11 Q. You testified that he was calmer than he was on May
12 25th? Is that accurate or am I wrong?

13 A. Yes. At first, he was. He was more calm.

14 Q. He was calmer. But did Mr. Johnson ask you for an
15 attorney?

16 A. No, ma'am.

17 Q. He never stopped you during the two and a half hours
18 to tell you that he needed -- he wanted an attorney?

19 A. No, ma'am.

20 Q. All right. I believe you testified that after you had
21 given him his rights, he continued to want to talk with
22 you?

23 A. Yes, ma'am.

24 Q. And he continued to talk with you for how long after
25 that?

1 A. Probably another hour or so. It took that long to
2 type the statement.

3 Q. All right. So that makes it about three and a half
4 hours?

5 A. Yes.

6 Q. And he never asked to go to the restroom or something
7 to drink until you invited him to go?

8 A. No, he did not. That's just standard procedure that I
9 always follow.

10 Q. Right. I understand that. Now, on State's Exhibit
11 Number -- I think it's 41.

12 A. Yes, ma'am.

13 Q. On 41, you took a statement and he says -- the third
14 paragraph says, I was in the bathroom, but --- did you ask
15 him -- did you try to have him clarify what he was saying
16 by I was in the bathroom?

17 A. I believe he told me that he was using the bathroom.

18 Q. Okay.

19 A. When he said he was in the bathroom.

20 Q. All right. The next statement down says, accidents
21 happen. Did you ask him to explain that?

22 A. That's when I told him, I said -- again, I said, I
23 know accidents happen. And then that's when we asked him
24 to tell us what he's speaking of. And that's when he began
25 to tell us again about what he meant by it.

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1 Q. Okay. And in here it says, I would never hurt a kid.

2 The next line. The one line.

3 A. Yes.

4 Q. All right. At that time, were you aware of how long
5 the parties were together -- had been together?

6 A. I knew they'd only been together a short time.

7 Q. Okay. There is a line, circled coercion on the rights
8 form, which was number 40. Did you circle that or did Mr.
9 Johnson circle that?

10 A. I circled it, pointed out that word.

11 Q. And why did you circle that?

12 A. So I make sure that everyone understands what coercion
13 means.

14 Q. Okay. And why would you have to explain to anyone
15 about trickery. Do the police try to trick somebody ---

16 A. No. I want them to know that that's not what I'm
17 about. I explain to them that I will not try to trick them
18 into anything, that I just want their version of what
19 happened and their statement.

20 MS. MANIGAULT: No further questions, Your Honor.

21 THE COURT: Any redirect?

22 MS. HODGE: No, Your Honor.

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

25 Mr. Foreman, ladies and gentlemen, I think you've

1 worked enough today. We're going to take an evening break.
2 I remind you again the importance of maintaining the purity
3 of the process. I don't know if there's going to be any
4 news coverage or folks wanting to talk to you about this
5 case. Remember while the case is in progress, you're not
6 to be influenced. You're not to listen to any news or read
7 any newspapers. Let your family or loved ones retain any
8 of that that you might think would be of interest, but
9 you're going to make a decision on what you hear inside
10 this room, not on the airwaves or through any other source.
11 That's the commitment you've made to these parties. I know
12 you'll fulfil that commitment.

13 Let's be ready to start back at nine o'clock in the
14 morning. Everyone be here and we'll be ready to proceed
15 with our next witness. I hope you have a good evening.
16 See you back tomorrow.

17 (WHEREUPON, the jury exited the open court at
18 approximately 5:43 P.M.)

19 THE COURT: All right. We'll be at ease until
20 nine o'clock in the morning.

21 (WHEREUPON, the court stood at recess in this case for
22 the day.)

23 **June 5, 2013**

24 THE COURT: Is everybody ready to proceed?

25 MS. HODGE: Yes, sir.

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1 MS. MANIGAULT: Yes, sir.

2 THE COURT: If our jury's ready you can have them
3 come in.

4 (WHEREUPON, the jury entered the open court at
5 approximately 9:08 A.M.)

6 THE COURT: Good morning, ladies and gentlemen.
7 We are now ready to proceed with the trial of the case.
8 Solicitor, you may call your next witness.

9 MS. HODGE: Thank you, Your Honor. The State
10 calls Dr. Michael Ward.

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

14 THE WITNESS: I do.

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

17 THE WITNESS: Michael Eugene Ward.

18 MICHAEL EUGENE WARD, M.D.,

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION

21 BY MS. HODGE:

22 Q. Dr. Ward, what's your profession?

23 A. I'm a physician and a forensic pathologist and I'm
24 employed as the Chief Medical Examiner for Greenville
25 County.

1 Q. All right. And can you give us your educational
2 background and prior work history?

3 A. I received my Bachelor's Degree in Biology from the
4 University of Alabama. I have a Master's Degree in
5 Forensic Science from the University of Alabama in
6 Birmingham. I received my Medical Degree from the
7 University of South Alabama in Mobile. I did a four-year
8 Anatomic Pathology Residency at the Medical University of
9 South Carolina in Charleston. And a one-year Fellowship in
10 Forensic Pathology at the University of New Mexico in
11 Albuquerque. I'm Board Certified by the American Board of
12 Pathology in both Anatomic and Forensic Pathology. I
13 worked two years as an Associate Medical Investigator in
14 Albuquerque following my Fellowship. And I've been here in
15 Greenville as the Chief Medical Examiner for eighteen
16 years.

17 Q. What are your primary duties as Chief Medical
18 Examiner?

19 A. My responsibilities are to investigate deaths that
20 occur in Greenville County to determine cause and manner of
21 death.

22 Q. And how do you go about doing that?

23 A. Using medical background, we generally do what we call
24 an autopsy, which is a detailed physical examination
25 performed on someone who has passed away. Following the

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- 1 autopsy and gathering that information, along with
2 historical information, we determine the cause of death.
3 And through investigation, the manner of death.
4 Q. How many autopsies do you think you've performed in
5 your career?
6 A. Well over five thousand.
7 Q. Have you been qualified in courts of law here in South
8 Carolina or any other States in regard to forensic
9 pathology?
10 A. Yes, I have.
11 Q. And approximately how many times have you been
12 qualified as an expert?
13 A. Over a hundred times.
14 Q. All right.
15 MS. HODGE: At this time, we would move to admit
16 Dr. Ward as an expert in forensic pathology.
17 THE COURT: Any voir dire or any objection?
18 MS. MANIGAULT: None, Your Honor.
19 THE COURT: All right. Without objection, he'll
20 be treated as an expert in forensic pathology.
21 MS. HODGE: Thank you, Your Honor.
22 THE COURT: You may proceed.
23 MS. HODGE: Thank you, Your Honor.
24 Q. Dr. Ward, did you conduct an autopsy on May the 28th,
25 2011?

1 A. Yes, I did.

2 Q. And who was the victim in that case?

3 A. The autopsy was performed on [Victim].

4 Q. And how old was [Victim]?

5 A. She was twenty months of age at the time of autopsy.

6 Q. Tell the jury what your normal process in conducting
7 an autopsy and then we'll go specific to [Victim].

8 A. The normal process is to perform an external
9 examination, which is to look at the body as it's received
10 in the autopsy facility, document any findings that are
11 present on the outside of the body that may represent
12 natural disease, congenital abnormality in the case of a
13 child like this or any trauma. We diagram that on paper,
14 as well as photographically. After the external
15 examination, we perform an internal examination, which is
16 basically a dissection of the head, thorax and abdomen.
17 And in this case, the back. Again, looking for any natural
18 disease that may be present, but mostly to document any
19 injuries that are present on the inside of the body that
20 may correspond to injuries on the outer surface of the
21 body.

22 Q. And those -- the findings from those two types of
23 exams, the external and the internal, play into your
24 determination of what the cause and manner of death is for
25 the child?

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1 A. That is correct.

2 Q. And did you prepare a diagram in the case involving

3 [REDACTED] Victim ?

4 A. I did.

5 Q. Do you have it with you?

6 A. I do. There is a diagram that is four views, front
7 back, right and left side. And then there is a diagram
8 that is four views of the head, so front, back, left and
9 right sides.

10 Q. All right. And these are the originals that you made
11 during the autopsy or near in time to the autopsy?

12 A. Yes, they are.

13 Q. Any alterations, deletions, admissions from these
14 pages since you've conducted the autopsy?

15 A. No, ma'am.

16 (WHEREUPON, State Exhibit Numbers 50 and 51 were
17 marked for identification.)

18 Q. And State's Number 51 is the diagram of the body and
19 State's Number 50 is the diagram of the head?

20 A. That is correct.

21 MS. HODGE: At this time, we moved to admit
22 State's 50 and 51.

23 THE COURT: Any objection?

24 MS. MANIGAULT: None, Your Honor.

25 THE COURT: Without objection, Exhibits 50 and 51

1 are admitted and may be published.

2 (WHEREUPON, State Exhibit Numbers 50 and 51 were

3 admitted into evidence.)

4 MS. HODGE: Thank you.

5 Q. Okay. So now walk us through, please, Dr. Ward, what

6 you did in regard to [Victim]. And if you would

7 like to tell me which diagram I should put up first, that

8 would ...

9 A. I would begin with the head diagram.

10 Q. Head diagram, State's Number 50.

11 MS. HODGE: Madam Bailiff, can you turn off one

12 little light, please? Thank you.

13 A. State's Exhibit 50 is a diagram showing four views of

14 the head. On the diagram is documented various injuries

15 that were present on [Victim]. Beginning on the right side

16 of her face, there are two separate, yet distinct areas of

17 bruising overlying the zygomatic part of the cheekbone here

18 on the right side. A bruise here and a bruise here. On

19 the left side are two separate areas of bruising within the

20 region of the left temple. On the forehead, on the right

21 side of the forehead was a patterned injury consisting of a

22 bruise with a skip space, a bruise with a skip space.

23 Here, which was one point four inches in length and here,

24 which was one inch in length. This is an area of pattern

25 bruising looking like -- it looked like a beaded pattern,

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1 if you will, such that the object that caused this was
2 circular, then a skip, circular and a skip. Much like a
3 beaded necklace, if you would. On the central forehead,
4 just above the bridge of the nose, is a almost one inch in
5 length contusion, and a separate contusion is present right
6 in the middle of the forehead. Here at the inner portion
7 of the left eye is a bruise that extends from here down
8 beneath the left eyelid, one inch in length. And it's a
9 little bit difficult to see; there's a bruise, just above
10 the right lip on the skin portion above the lip. And then
11 also a bruise involving the lip portion of the very central
12 portion of the lip. What is not diagramed is on the inside
13 of the mouth. On the mucosa or the inner surface of the
14 lip, where if I press my lip against my teeth, that part
15 would impact my teeth, there was an area of bruising
16 involving the central portion of the lip, just below this
17 area, but in an area that would correspond to the
18 underlying two front teeth. Also present on the inside of
19 the mouth involving the upper lip is an anatomical
20 structure we call the frenulum. And the frenulum is this
21 little piece of tissue that attaches the lip to the upper
22 gum. It's in the very midline of your lip. The frenulum
23 on **Victim** of the upper portion of her lip was torn. So
24 the tissue was torn and there was a small amount of
25 hemorrhage within the mucosa of the inside of her mouth.

1 After the external examination is performed and documented
2 and photograph, then we proceed to the internal
3 examination. Would you like to go there?

4 Q. Let me stop you as far as speaking about the bruising
5 of the lip and the torn frenulum. Do you also take
6 photographs during your autopsy?

7 A. Yes, I do.

8 Q. And do you take photographs of everything you do or --
9 as far as the entire autopsy procedure or just certain
10 pertinent parts?

11 A. On children, specifically, we photograph the total
12 body surface, so front, back, left and right sides. And
13 then we focus in on any injuries that we may find. So all
14 of these injuries would have been separately documented, as
15 were the injuries to the inside of the mouth.

16 (WHEREUPON, State Exhibit Number 52 was marked for
17 identification.)

18 Q. I'm showing you what's been marked State's Number 52.
19 What is that a photograph of?

20 A. It's a photograph of Victim. It has her distinct and
21 unique autopsy number A-11-212. And it is a photograph of
22 the upper inside of the upper lip showing the contusion or
23 the bruising of the mucosa and the torn frenulum.

24 Q. And that's a true and accurate representation of how
25 she looked at the time you took this photo?

1 A. It is.

2 MS. HODGE: We would move to admit State's Number
3 52?

4 MS. MANIGAULT: There's no objection, Your Honor.

5 THE COURT: Without objection. It may be
6 admitted and published.

7 (WHEREUPON, State Exhibit Number 52 was admitted into
8 evidence.)

9 Q. If you'll just tell us again which portions of her
10 mouth we're talking about and what ---

11 A. So for orientation, here are the eyes. This is a tag
12 that we use to demonstrate her autopsy number, the nose.
13 And this is the oral cavity. This is the upper lip, which
14 has been everted so that we're now looking at the inside of
15 the upper lip. Here are the two maxillary incisors or the
16 two front teeth. Here's an area of hemorrhage or bleeding
17 into the mucosa of the upper lip. And you can see that
18 this would correspond directly with the teeth beneath. And
19 right here is the frenulum. And this frenulum, although it
20 doesn't show it very well in a black and white photograph,
21 this frenulum is torn and there's hemorrhage right there
22 within the mucosa of the mouth within the region of the
23 frenulum.

24 Q. Would that tearing of the frenulum cause bleeding
25 inside the mouth?

1 A. Both this one and the tearing of the frenulum would
2 cause bleeding, yes.

3 Q. What does the tearing of the frenulum signify to you
4 during your autopsy?

5 A. That there was pressure placed against the upper lip,
6 basically covering the mouth, with pressure placed here,
7 causing bruising of the lip and then an upward displacement
8 of that pressure as this tissue is moved upward, tearing
9 the frenulum. So basically, pressure over the mouth. Not
10 just downward pressure, but pressure that ends up also
11 moving -- exerting itself upward, causing that tissue to
12 shift upward and to tear.

13 Q. Does it take a certain amount of force to do that?

14 A. Yes, it would. It would certainly take a fair amount
15 of pressure, holding the mouth closed, over the mouth and
16 then shifting or shoving the upper lip upward.

17 Q. And is that an injury that you have seen in your
18 experience with any type of CPR, resuscitation techniques?

19 A. Not with CPR, no, ma'am.

20 Q. All right. Let's go back to your -- I guess, did you
21 finish with State's Number 50, the head diagram? Have we
22 completed that?

23 A. That's all the external diagrams.. There's a
24 description of the internal injuries if you're ready to do
25 that.

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1 Q. Sure.

2 A. As part of the autopsy, not only do we do the external
3 examination, but we also perform an internal examination.

4 A performance of the internal examination of the head
5 basically involves an incision to the posterior portion of
6 the scalp here, with reflection of the skin forward. So
7 basically, we end up looking at the undersurface of the
8 scalp. When we looked at the undersurface of [Victim]'s
9 scalp, within this region here and along the front, there
10 was a continuation of this beaded type injury that were not
11 visible externally but were visible internally. So there
12 were five separate and distinct patterned contusions of the
13 undersurface of the skin, much like these that were present
14 in this direction here, on the undersurface of the scalp.

15 Q. Did [Victim] have hair covering the top of her scalp?

16 A. Yes, she did.

17 Q. Did you take photographs of the injuries underlying
18 the scalp?

19 A. Yes, we did.

20 (WHEREUPON, State Exhibit Numbers 53 and 54 were
21 marked for identification.)

22 Q. I show you State's Number 53 first. What is that?

23 A. State's Exhibit 53 is a photograph of the right side
24 of [Victim]'s head, with her hair slightly pulled up,
25 showing the previously described contusions of the right

1 forehead.

2 Q. And then what is State's Number 54?

3 A. State's Exhibit 54 is a photograph of the undersurface
4 of the scalp, the frontal scalp, showing the multiple
5 beaded injuries to the scalp itself.

6 Q. And are these true and accurate representations of how
7 she looked at the time of autopsy, aside from the fact that
8 they're black and white like the other photographs?

9 A. They are, yes.

10 MS. HODGE: At this time, we'd move to admit
11 State's 53 and 54.

12 THE COURT: Any objection?

13 MS. MANIGAULT: None, Your Honor.

14 THE COURT: Without objection. It may be
15 published.

16 (WHEREUPON, State Exhibit Numbers 53 and 54 were
17 admitted into evidence.)

18 Q. State's Number 53. This is -- go ahead.

19 A. I'm sorry. This is a photograph of the right side of
20 the head of **Victim**. Again, her unique autopsy number.

21 Her right eye, eyebrow, and basically the hairline here.

22 An area of bruising here. And, again, you don't represent

23 -- it's not represented well in this photograph, but there

24 was a beaded type pattern of injury through this region

25 here. But, again, there's a lack of injury that we see up

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1 within the hairline that will be demonstrated on the
2 reflection of the scalp.

3 Q. And I'm showing you State's 54?

4 MS. HODGE: What's with this glare here? Let me
5 try turning out one more light, Madam Bailiff.

6 Q. Okay. Well, I'll walk around and show the jury, if
7 you want to just ---

8 A. For orientation, this is the top of the head with the
9 scalp removed. This is the junction of the scalp with the
10 underlying skull.

11 Q. Right.

12 A. And this is the scalp that has been reflected forward.
13 So this is the scalp edge. And beneath the scalp now is
14 the nose and the eyes. And what you'll see when it's
15 demonstrated to you, is that going through the scalp here
16 are at least five separate and distinct areas of contusion
17 in a beaded-like pattern, where there's a bruise, skip
18 space, bruise, skip space, bruise. Again, traversing
19 across the scalp in this fashion.

20 MS. HODGE: Madam Bailiff, if you would turn on
21 the lights, I'm just going to pass the exhibit.

22 Q. If you would, please, continue on Dr. Ward?

23 A. The next step in this process would be to remove the
24 skull cap, basically the bones that cover the skull, in an
25 effort to view and retrieve the brain. There was no trauma

1 to the -- what we call the calvarium, or to the skull. And
2 once we looked at the underlying brain there was a swelling
3 of the brain, which is called cerebral edema. The brain's
4 response to any type of injury is to become swollen.
5 Victim's brain was swollen such that instead of having the
6 normal pattern of gyri and sulci, which are prominent
7 places and -- are hills and valleys, if you will, across
8 the surface of the brain, hers were all flat because it had
9 swollen so much that it had forced her brain stem down into
10 the foramen magnum, which is called herniation. So
11 basically Victim's brain responded to injury in such a way
12 that it eventually forced her brain down into the canal
13 where her spinal cord goes. We were able to demonstrate
14 that. There was no other trauma to the brain, there was no
15 contusion, there was no blood around the brain. So this
16 was best described as an anoxic brain injury, which
17 basically means her brain went without oxygen for a period
18 of time such that it subsequently became damaged, swollen,
19 and died.

20 Q. And what would cause -- what are some causes of that?

21 A. The most likely cause of that, given the injuries that
22 we have to the mouth region, is that she was suffocated.
23 That an object, most likely a hand, was placed over the
24 mouth and nose, obstructing the airway, unable to breathe,
25 lack of oxygen, subsequent brain injury. Anoxic brain

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1 injuries, the brain is not getting enough oxygen and it
2 swells and dies.

3 Q. Is there any certain length of time it takes for that
4 to occur?

5 A. Minutes. So this airway would have to be occluded for
6 at least a minute. We can -- adults can hold their breath
7 for a fairly long period of time. Children need more
8 oxygen than adults do so they can't do that as long. But
9 it would require at least a minute to two minutes of
10 obstruction of her airway prior to development of some sort
11 of cardiac arrhythmia, which would result also in loss of
12 oxygen to the brain.

13 Q. And the brain swelling you said, pressing down on the
14 brain stem, is that what sets cardiac arrest in motion or
15 how does that happen?

16 A. The cardiac arrest also occurs from lack of oxygen to
17 the brain. The brain has certain centers that control our
18 level of functioning, that control our arousal, our
19 interaction with society. But it also controls other areas
20 like breathing and heart rate. When those areas are
21 damaged because of lack of oxygen, then the central nervous
22 system control of your heart rate is lost and you can
23 develop a rhythm that no longer appropriately functions.
24 There was establishment of that cardiac rhythm back by
25 resuscitative personnel such that when she got to the

1 hospital she had a cardiac rhythm, but she did not have
2 brain functioning. She was brain dead.

3 Q. Okay. And what was the next thing you did in the
4 autopsy after examining the brain?

5 A. After looking at the region of the head, we progressed
6 down to the thorax and abdomen and the upper and lower
7 extremities, which is demonstrated in the following
8 diagram.

9 Q. I'm putting up State's 51.

10 MS. HODGE: We may need that one light off.

11 Q. And I can move it, Dr. Ward, if I need to move it,
12 left to right?

13 A. That's fine. State's Exhibit 51, again is the body
14 diagram of **Victim**. It shows certain pertinent details,
15 has her height and weight, eye color and things of that
16 nature. But it also shows injuries to the thorax and
17 abdomen and the extremities. The first one is an area of
18 bruising to the central portion of the chest, just to the
19 right of midline. There's an area of patterned bruising to
20 the right back near the side. One, two, three, four
21 separate contusions. There's an area of contusion to the
22 right buttock, to the back of the right leg, to the back of
23 the left hand, and to the left side here, and the left side
24 here. Three separate areas of bruising. There's a very
25 interesting area of bruising to the left upper arm, which

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1 are two opposing semicircular bruises, here -- sorry, my
2 hands are shaking -- here and here. These patterned -- and
3 basically, what we do is we look for injuries that a
4 twenty-month-old child may very likely have. And then we
5 look for injuries that children should not have and
6 generally do not have. And injuries that are present in
7 what looks like a pattern. And this looks like a pattern
8 injury here of one, two, three, four. And a pattern injury
9 to the left side, one, two three, which would be very
10 consistent with fingertips, as they grasp the side of the
11 child. These fingers leaving bruising in the skin of the
12 child. We dissected the thorax and abdomen, looking at the
13 lungs, the heart and the organs of the abdomen. There was
14 no trauma to the underlying visceral organs. There was no
15 trauma to the heart or the lungs. There was no direct
16 trauma to the brain. Again, indicating that this death was
17 that of suffocation, lack of oxygen to the brain, caused by
18 obstruction of her airway, not from blunt trauma.

19 Q. Now, people pick up their children a lot like this?

20 A. They do.

21 Q. So would you -- is that something you normally see or
22 does it take more force or pressure to leave those
23 fingertip type bruises?

24 A. This is not in the normal course of an event. This is
25 picking a child up, grasping it, squeezing them very hard

1 to leave distinct bruises in this fashion.

2 Q. And you commented on the interesting two semicircular
3 bruises on the arm, on the back of the arm. What are those
4 consistent with?

5 A. They are most consistent with a bite mark, where
6 someone has -- I'm having difficulty with the -- has bit or
7 bitten -- bit the back of her arm.

8 Q. And could you determine whether that would be adult-
9 sized, child-sized; is there a way to tell?

10 A. The width between this point and this point is more
11 narrow than we would expect to see with an adult. And it's
12 more consistent with a child.

13 Q. At the top, I think you said there were particulars
14 about her size and her height and weight. How big was
15 **Victim**? How tall and how much did she weigh?

16 A. She was twenty-three inches in length and weighed
17 twenty-nine pounds.

18 Q. So about two feet?

19 A. Correct.

20 Q. Is that about average size?

21 A. I think -- it was, yes.

22 Q. Okay. And tell us what your next step was then?

23 A. Well, following this is the dissection of the visceral
24 organs. We take sections of tissue, submit them for
25 microscopic examination, which is done several days after