

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

May 26 2021

SC Court of Appeals

Appeal from Lexington County

Honorable Eugene C. Griffith, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DAVID L. STEADMAN,

APPELLANT

APPELLATE CASE NO. 2020-000336

RECORD ON APPEAL

ADAM SINCLAIR RUFFIN
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DAVID SPENCER
Senior Assistant Attorney General

Post Office Box 11549
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR APPELLANT

S.R. HUBBARD, III
Eleventh Judicial Circuit Solicitor

205 East Main Street
Lexington, SC 29072
(803) 785-8285

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 10-14, 2020	1
PRE-TRIAL MOTIONS	13
OPENING STATEMENT BY MR. MCNAIR	21
OPENING STATEMENT BY MS. ZMROCZEK	27
TESTIMONY	
SAVANNAH SHEPPARD	
Direct Examination by Mr. McNair	36
JOHN RYAN MCKINNEY	
Direct Examination by Ms. Mayes	40
Cross-Examination by Ms. Zmroczek	56
Redirect Examination by Ms. Mayes	65
Recross-Examination by Ms. Zmroczek	70
ZIKIA CHARMAINE SMITH	
Direct Examination by Ms. Mayes	72
Cross-Examination by Ms. Zmroczek	74
Redirect Examination by Ms. Mayes	75
SCOTT ZYLSTRA	
Direct Examination by Ms. Mayes	75
Cross-Examination by Ms. Zmroczek	83
Redirect Examination by Ms. Mayes	86
CHANDLER CLARDY	
Direct Examination by Ms. Mayes	87
Cross-Examination by Ms. Zmroczek	103
Redirect Examination by Ms. Mayes	113
Recross-Examination by Ms. Zmroczek	118
APRIL SYKES	
Direct Examination by Ms. Mayes	119
Cross-Examination by Ms. Zmroczek	123
MILES RAWL	
Direct Examination by Ms. Mayes	124
Cross-Examination by Ms. Zmroczek	132

Redirect Examination by Ms. Mayes.....	142
Recross-Examination by Ms. Zmroczek.....	145
DOUGLAS NOVAK	
Direct Examination by Ms. Mayes	146
Cross-Examination by Ms. Zmroczek	167
Redirect Examination by Ms. Mayes.....	173
Recross-Examination by Mr. Zmroczek	173
WILLIAM HERRING	
Direct Examination by Mrs. McNair	174
Cross-Examination by Ms. Zmroczek	176
JOSEPH ANDALORO	
Direct Examination by Mr. McNair.....	176
MOTION FOR A MISTRIAL	182
RULING BY THE COURT.....	187
TESTIMONY	
JOSEPH ANDALORO (CONT'D)	
Direct Examination by Mr. McNair.....	190
Cross-Examination by Ms. Zmroczek	219
Redirect Examination by Mr. McNair	261
Recross-Examination by Ms. Zmroczek.....	272
JANICE EDWARDS ROSS	
Direct Examination by Ms. Mayes	277
Cross-Examination by Ms. Zmroczek	294
Redirect Examination by Ms. Mayes.....	298
Recross-Examination by Ms. Zmroczek.....	299
BRENDA JOANNE SNELGROVE	
Direct Examination by Mr. McNair.....	300
THOMAS EDWARD DARNELL	
Direct Examination by Mr. McNair.....	304
Cross-Examination by Ms. Zmroczek	310
DONNA MONEY	
Direct Examination by Ms. Mayes	311
Cross-Examination by Ms. Zmroczek	314
Redirect Examination by Ms. Mayes.....	316

BRIAN TRAVIS	
Direct Examination by Mr. McNair.....	317
CHANTAY RAVENELL	
Direct Examination by Ms. Mayes	323
Cross-Examination by Ms. Zmroczek	328
Redirect Examination by Ms. Mayes.....	329
THOMAS ALVIN SMITH	
Direct Examination by Ms. Mayes	330
Cross-Examination by Ms. Zmroczek	352
SUSAN LAMB	
Direct Examination by Ms. Mayes	355
Voir Dire Examination by Ms. Zmroczek	359
Direct Examination by Ms. Mayes	361
Cross-Examination by Ms. Zmroczek	378
Redirect Examination by Ms. Mayes.....	388
JUSTIN ASHLEY	
Direct Examination by Ms. Mayes	392
MICHAEL PHIPPS	
Direct Examination by Mr. McNair.....	394
Cross-Examination by Ms. Zmroczek	402
STATE RESTS	411
MOTION FOR DIRECTED VERDICT.....	412
RULING BY THE COURT.....	420
TESTIMONY	
MARGARET-ANN SZALA	
Direct Examination by Ms. Zmroczek.....	421
COLLOQUY.....	422
TESTIMONY	
MARGARET-ANN SZALA (CONT'D)	
Direct Examination by Ms. Zmroczek.....	424
Cross-Examination by Ms. Mayes.....	430

CANDACE BERRY	
Direct Examination by Ms. Zmroczek.....	432
Cross-Examination by Ms. Mayes.....	438
Redirect Examination by Ms. Zmroczek	439
EDDIE PRESTIGIACOMO	
Direct Examination by Ms. Zmroczek.....	440
Cross-Examination by Ms. Mayes.....	442
GARY LEMASTER	
Direct Examination by Ms. Zmroczek.....	443
Cross-Examination by Mr. McNair	449
Redirect Examination by Ms. Zmroczek	450
JIMMY LEE DIXON	
Direct Examination by Ms. Zmroczek.....	452
Cross-Examination by Mr. McNair	456
JANICE EDWARDS ROSS	
Direct Examination by Ms. Zmroczek.....	458
Cross-Examination by Ms. Mayes.....	460
JOANNE SLOAN	
Direct Examination by Ms. Zmroczek.....	463
Cross-Examination by Ms. Mayes.....	471
DAVID LANCE STEADMAN	
Direct Examination by Ms. Zmroczek.....	473
Cross-Examination by Mr. McNair	504
MOTION FOR A MISTRIAL	518
RULING BY THE COURT.....	518
TESTIMONY	
DAVID LANCE STEADMAN	
Redirect Examination by Ms. Zmroczek	520
JENNIFER SETREE	
Direct Examination by Ms. Zmroczek.....	525
Cross-Examination by Ms. Mayes.....	530
DEFENSE RESTS	531
RENEWAL OF ALL MOTIONS.....	531

RULINGS BY THE COURT	532
TESTIMONY	
BRIAN TRAVIS	
Direct Examination by Ms. Mayes	534
Cross-Examination by Ms. Zmroczek	538
CLOSING ARGUMENT BY MS. MAYES	540
CLOSING ARGUMENT BY MS. ZMROCZEK	563
CLOSING STATEMENT BY MS. MAYES	574
MOTION FOR A MISTRIAL	578
RULING BY THE COURT.....	579
CHARGE ON THE LAW	580
OBJECTIONS TO THE CHARGE	599
ADDITIONAL CHARGE	601
RULING BY THE COURT.....	604?
VERDICT	606
JURY POLL.....	607
RENEWAL OF ALL MOTIONS AND MOTION TO SET ASIDE VERDICT.....	610
RULING BY THE COURT.....	610
SENTENCING	613
INDICTMENTS	616
STATE’S EXHIBIT NO. 1 (STATEMENT OF DEFENDANT)	618
STATE’S EXHIBIT NO. 2 (STATEMENT OF DEFENDANT)	620
STATE’S EXHIBIT NO. 4 (STATEMENT OF DEFENDANT)	626
CERTIFICATE OF COUNSEL	630

**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT NO. 5 (9-1-1 CALL)
DEFENDANT'S EXHIBIT NO. 6 (FORENSIC INTERVIEW)**

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
5 vs.) 2018-GS-32-01278
6 David Lance Steadman,)
7 Defendant.)

8

9

10 February 10th-14th, 2020
11 Lexington, South Carolina

12

13 B E F O R E:

14 The Honorable Eugene C. Griffith, Jr., Judge; and a Jury

15

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

17 Laura Suzanne Mayes, Deputy Solicitor
18 Robert E. McNair, III, Assistant Solicitor

19

20 On behalf of the State of South Carolina

21

22 Aimee J. Zmroczek, Esquire

23 On behalf of the Defendant

24

25

26 Stacy S. Johnson, RPR
27 Circuit Court Reporter

28

29

I N D E X

1		
2	WITNESS	PAGE
3		
4	Jury Selection	13
5	Pretrial Motion(s)	71
6	Joseph Andalaro (In-Camera)	
	Examination by Mr. McNair	125
7	Examination by Ms. Zmroczek	134
	Examination by Mr. McNair	134
8	Examination by Ms. Zmroczek	139
	Examination by Mr. McNair	150
9	Examination by Ms. Zmroczek	154
	Examination by Mr. McNair	157
10	Examination by Ms. Zmroczek	166
	Examination by Mr. McNair	173
11	Examination by Ms. Zmroczek	176
	Examination by Mr. McNair	178
12		
	Scott Zylstra (In-Camera)	
13	Direct Examination by Ms. Mayes	179
	Cross-Examination by Ms. Zmroczek	185
14		
	Douglas Novak (In-Camera)	
15	Direct Examination by Ms. Mayes	188
	Cross-Examination by Ms. Zmroczek	201
16		
	David Lance Steadman (In-Camera)	
17	Direct Examination by Ms. Zmroczek	214
	Cross-Examination by Ms. Mayes	229
18		
	Opening Statement	
19	By Mr. McNair	244
	By Ms. Zmroczek	250
20		
	Savannah Sheppard	
21	Direct Examination by Mr. McNair	259
22		
	Ryan McKinney	
	Direct Examination by Ms. Mayes	263
23	Cross-Examination by Ms. Zmroczek	279
	Redirect Examination by Ms. Mayes	288
24	Recross Examination by Ms. Zmroczek	293
25		

1	Zikia Smith	
	Direct Examination by Ms. Mayes	295
2	Cross-Examination by Ms. Zmroczek	297
	Redirect Examination by Ms. Mayes	298
3		
	Scott Zylstra	
4	Direct Examination by Ms. Mayes	298
	Cross-Examination by Ms. Zmroczek	306
5	Redirect Examination by Ms. Mayes	309
6	Chandler Clardy	
	Direct Examination by Ms. Mayes	310
7	Continued Direct by Ms. Mayes	332
	Cross-Examination by Ms. Zmroczek	337
8	Redirect Examination by Ms. Mayes	347
	Recross Examination by Ms. Zmroczek	352
9		
	April Sykes	
10	Direct Examination by Ms. Mayes	354
	Cross-Examination by Ms. Zmroczek	357
11		
	Miles Rawl	
12	Direct Examination by Ms. Mayes	358
	Cross-Examination by Ms. Zmroczek	366
13	Redirect Examination by Ms. Mayes	376
	Recross Examination by Ms. Zmroczek	379
14		
	Douglas Novak	
15	Direct Examination by Ms. Mayes	380
	Cross-Examination by Ms. Zmroczek	401
16	Redirect Examination by Ms. Mayes	407
	Recross Examination by Ms. Zmroczek	407
17		
	Will Herring	
18	Direct Examination by Mr. McNair	408
	Cross-Examination by Ms. Zmroczek	410
19		
	Joseph Andaloro	
20	Direct Examination by Mr. McNair	411
	Continued Direct Examination by Mr. McNair	453
21	Cross-Examination by Ms. Zmroczek	456
	Continued Cross-Examination by Ms. Zmroczek	475
22	Redirect Examination by Mr. McNair	499
	Recross Examination by Ms. Zmroczek	510
23		
24		
25		

1	Janice Edwards Ross	
	Direct Examination by Ms. Mayes	515
2	Cross-Examination by Ms. Zmroczek	532
	Redirect Examination by Ms. Mayes	536
3	Recross Examination by Ms. Zmroczek	537
4	Brenda Snelgrove	
	Direct Examination by Mr. McNair	538
5	Continued Direct Examination by Mr. McNair	542
6	Thomas Darnell	
	Direct Examination by Mr. McNair	545
7	Cross-Examination by Ms. Zmroczek	551
8	Donna Money	
	Direct Examination by Ms. Mayes	552
9	Cross-Examination by Ms. Zmroczek	555
	Redirect Examination by Ms. Mayes	557
10	Brian Travis	
11	Direct Examination by Mr. McNair	558
12	Chantay Ravenell	
	Direct Examination by Ms. Mayes	564
13	Cross-Examination by Ms. Zmroczek	569
	Redirect Examination by Ms. Mayes	570
14	Thomas Alvin Smith	
15	Direct Examination by Ms. Mayes	571
	Cross-Examination by Ms. Zmroczek	593
16	Susan Lamb	
17	Direct Examination by Ms. Mayes	601
	Voir Dire Examination by Ms. Zmroczek	604
18	Continued Direct Examination by Ms. Mayes	606
	Cross-Examination by Ms. Zmroczek	623
19	Redirect Examination by Ms. Mayes	633
20	Justin Ashley	
	Direct Examination by Ms. Mayes	642
21	Michael Phipps	
22	Direct Examination by Mr. McNair	644
	Cross-Examination by Ms. Zmroczek	652
23	Motion for Directed Verdict	662
24		
25		

1	Margaret Szala	
	Direct Examination by Ms. Zmroczek	676
2	Cross-Examination by Ms. Mayes	685
3	Candace Berry	
	Direct Examination by Ms. Zmroczek	687
4	Cross-Examination by Ms. Mayes	692
	Redirect Examination by Ms. Zmroczek	694
5	Eddie Prestigiacomo	
6	Direct Examination by Ms. Zmroczek	695
	Cross-Examination by Ms. Mayes	697
7	Gary Lemaster	
8	Direct Examination by Ms. Zmroczek	698
	Cross-Examination by Mr. McNair	704
9	Redirect Examination by Ms. Zmroczek	705
10	Jimmy Lee Dixon	
	Direct Examination by Ms. Zmroczek	709
11	Cross-Examination by Mr. McNair	712
12	Janice Edwards Ross	
	Direct Examination by Ms. Zmroczek	715
13	Cross-Examination by Ms. Mayes	717
14	Joanne Sloan	
	Direct Examination by Ms. Zmroczek	724
15	Cross-Examination by Ms. Mayes	732
16	David Lance Steadman	
	Direct Examination by Ms. Zmroczek	733
17	Cross-Examination by Mr. McNair	765
	Redirect Examination by Ms. Zmroczek	782
18	Motion for Mistrial	779
19	Jennifer Setree	
20	Direct Examination by Ms. Zmroczek	787
	Cross-Examination by Ms. Mayes	792
21	Motion for Directed Verdict	793
22	Brian Travis	
23	Direct Examination by Ms. Mayes	796
	Cross-Examination by Ms. Zmroczek	800
24		
25		

1	Closing Argument	
	By Ms. Mayes	811
2	By Ms. Zmroczek	835
	By Ms. Mayes	846
3		
	Motion for Mistrial	850
4		
	Charge of the Court	852
5		
	Verdict of the Jury	878
6		
	Motion to Set Aside Verdict/New Trial	882
7		
	Sentence of the Court	885
8		
	Certificate of Reporter	887
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	E X H I B I T S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
3	C-1	State's Photographs	876	
4	S-1	Statement of Defendant	88	428
5	S-2	Statement of Defendant	88	439
6	S-3	Advisement of Rights	88	448
7	S-4	Statement of Defendant	200	395
8	S-5	9-1-1 Call	241	261
9	S-6	Photographs	241	333
10	S-7	Photograph (Withdrawn)	241	
11	S-8	Photograph (Withdrawn)	241	
12	S-9	Photograph (Withdrawn)	241	
13	S-10	Photograph	241	333
14	S-11	Photograph	241	333
15	S-12	Photograph	241	333
16	S-13	Photograph	241	334
17	S-14	Photograph	241	334
18	S-15	Photograph	241	334
19	S-16	Photograph (Withdrawn)	241	
20	S-17	Photograph	241	334
21	S-18	Photograph	241	334
22	S-19	Photograph	241	301
23	S-20	Photograph (Withdrawn)	241	
24	S-21	Photograph	241	333
25	S-22	Photograph	241	333

1	S-23	Photograph	241	333
2	S-24	Photograph	241	334
3	S-25	Photograph	241	384
4	S-26	Photograph	241	384
5	S-27	Photograph	241	384
6	S-28	Photograph	241	384
7	S-29	Photograph	241	384
8	S-30	Photograph	241	384
9	S-31	Photograph	241	384
10	S-32	Photograph	241	384
11	S-33	Rolls of Tape	241	390
12	S-34	Silver Roll of Tape	241	390
13	S-35	Pieces of Tape (3)	241	390
14	S-36	Photo of Toddler Bed (Substituted)	392	393
15	S-37	LG Cell Phone	392	400
16	S-38	Samsung Cell Phone	392	400
17	S-39	Video Jail Call	392	453
18	S-40	Photograph	392	580
19	S-41	Photograph	392	580
20	S-42	Photograph	392	580
21	S-43	Photograph	392	580
22	S-44	Photograph	392	580
23	S-45	Photograph	392	580
24	S-46	Photograph	392	580
25	S-47	Photograph (Withdrawn)	392	

1	S-48	Photograph	392	580
2	S-49	Photograph	392	580
3	S-50	Photograph	392	580
4	S-51	Photograph	392	580
5	S-52	Photograph	392	580
6	S-53	Photograph	392	543
7	S-54	Photograph	392	579
8	S-55	Photograph (Withdrawn)	392	
9	S-56	Photograph (Withdrawn)	392	
10	S-57	Photograph (Withdrawn)	392	
11	S-58	Photograph	392	589
12	S-59	Photograph (Withdrawn)	392	
13	S-60	Photograph	392	589
14	S-61	Photograph (Withdrawn)	392	
15	S-62	Photograph	392	589
16	S-63	Photograph (Withdrawn)	392	
17	S-64	Photograph	392	589
18	S-65	Photograph	392	589
19	S-66	Photograph	392	589
20	S-67	Time Record	508	508
21	S-68	Photograph	515	520
22	S-69	Photograph	515	520
23	S-70	Sprint Phone Records	558	562
24	S-71	Diagram of Downstairs	575	599
25	S-72	Diagram of Upstairs	575	599

1	S-73	Blue Lightsaber	576	593
2	S-74	Red Lightsaber	576	593
3	S-75	Cell Phone Extraction	672	672
4	D-1	Photograph	89	119
5	D-2	Death Certificate	89	339
6	D-3	Crime Scene Log	89	
7	D-4	Photograph	89	403
8	D-5	Photograph	89	403
9	D-6	Forensic Interview	89	471
10	D-7	Photograph	89	481
11	D-8	Photograph	89	481
12	D-9	Photograph	89	
13	D-10	Photograph	89	481
14	D-11	Photograph	89	481
15	D-12	Photograph	89	481
16	D-13	Photograph	89	594
17	D-14	Photograph	89	689
18	D-15	Photograph	89	689
19	D-16	Photograph	89	689
20	D-17	Photograph	89	689
21	D-18	Photograph	89	345
22	D-19	Photograph (Withdrawn)	89	
23	D-20	Photograph	89	345
24	D-21	Search Warrant 7-31	464	
25	D-22	Search Warrant 8-3	642	

1	D-23	Photograph	642	689
2	D-24	Phone Images	642	657
3	D-25	Photograph	642	657
4	D-26	Phone Images	642	657
5	D-27	Phone Images	642	657
6	D-28	Phone Image	642	657
7	D-29	Phone Image	642	657
8	D-30	Phone Image	642	657
9	D-31	Photograph	642	657
10	D-32	Photograph	642	657
11	D-33	Photograph	642	657
12	D-34	Photograph	672	740
13	D-35	Time Records	672	702
14	D-36	Photograph	672	741
15	D-37	Photograph	672	
16	D-38	Photograph	672	744
17	D-39	Photograph	672	744
18	D-40	Photograph	672	
19	D-41	Photograph	672	
20	D-42	Photograph	672	
21	D-43	Photograph/Tax Bill	672	739
22	D-44	Photograph	672	727
23	D-45	Photograph	672	
24	D-46	Photograph	672	
25	D-47	Photograph	672	

1	D-48	Photograph	672	
2	D-49	Photograph	672	
3	D-50	Photograph	672	
4	D-51	Photograph	672	
5	D-52	Photograph	672	
6	D-53	Photograph	672	
7	D-54	Photograph	672	
8	D-55	Photograph	672	
9	D-56	Photograph	672	
10	D-57	Photograph	672	
11	D-58	Photograph	672	
12	D-60	Photograph	672	
13	D-61	Photograph	672	
14	D-62	Photograph	672	
15	D-63	Photograph	672	
16	D-64	Photograph	672	746
17	D-65	Photograph	672	746
18	D-66	Google Search	672	
19				
20				
21				
22				
23				
24				
25				

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

2 Your Honor, do you have a copy of the State's
3 indictment?

4 THE COURT: I have the indictment.

5 MS. ZMROCZEK: And I included it in -- as an
6 attachment to the motion.

7 MS. MAYES: And so I'm gonna address first the
8 rectal injury because that's completely separate from
9 the vaginal injury. The initial autopsy had noted some
10 abnormalities regarding the appearance of the rectum.
11 There was a rectal swab that was sent to SLED that was
12 presumptively positive for semen, however, they were
13 not able to extract a DNA profile. The State is not
14 offering that evidence. So just to be clear, we are
15 not offering evidence of a rectal injure. The State is
16 not offering evidence of that initial rectal swab that
17 was presumptively positive for semen because they were
18 not able to extract a DNA profile from that, so I want
19 that to be clear for the record.

20 Now what the evidence will be is that at autopsy
21 **Minor** presented with signs of asphyxiation which
22 are gonna be related to the tape that was placed over the
23 mouth, and I'll address that more in a moment, she had
24 numerous injuries to the head. She had physical bruising
25 -- physical bruises that were apparent to any reasonable

1 caregiver around the torso, the back and the chin, and,
2 Your Honor, our understanding of the evidence is that
3 some of those injuries may be attributed to some actions
4 that took place in the shower that occurred, I believe,
5 based on the witness statements, it would certainly be a
6 jury question based on the Defendant's own statements
7 that he was present for that. So that's -- that's a
8 jury question, Your Honor, regarding the physical
9 bruises. How and when they were obtained, we don't have
10 an exact timeframe on those. Those are gonna be up to
11 twenty-four hours, possibly forty-eight hours, or they
12 could be acute.

13 In addition to that, Your Honor, there are vaginal
14 injuries where at autopsy blood was found in the vaginal
15 canal and also present right at what's known as the
16 introitus, which would be the opening to the vagina, and
17 there was also some discoloration to the vagina that would
18 have been apparent to a caregiver who changes this child's
19 diaper. And so that's -- that's the evidence, Your Honor,
20 that the State maintains will be a jury question as to
21 neglect.

22 This is a case, Your Honor, where we don't know who
23 inflicted each of these injuries and we're not required
24 to prove that in a neglect scenario. So this is a
25 situation where the Defendant comes home, by his own

1 admission finds the child in medical distress, both he
2 and the mother discuss it and refuse -- basically fail
3 to notify medical authorities until 9:05 PM and at that
4 point when medical authorities arrive the child is
5 unresponsive and is not breathing, but by all accounts
6 in the Defendant's statements when he got home the child
7 was in medical distress but was breathing. He also
8 acknowledges that he was, quote, the last person to
9 change her diaper, which relates to which injuries would
10 have been visible.

11 He also has acknowledged in numerous statements that
12 he and the wife together gave the child a shower while
13 she was alive and these physical injuries would have been
14 apparent to any person observing those actions, so that's
15 -- that's where we are, Your Honor, with the way the
16 evidence shapes up in terms of being a jury -- a jury
17 question as to neglect. If a parent sees these injuries
18 and does not act in response to observing the injuries,
19 regardless of who caused the injuries, that's where the
20 medical neglect aspect comes into play, Your Honor.

21 And there is certainly gonna be evidence that their
22 actions in the shower, I believe his repeated statements
23 were that they were squeezing her, using some type of
24 compressive force on her in the shower to force her to
25 vomit because they thought that that would somehow help

1 her, but it would certainly be a jury question that those
2 actions contributed to some of the bruises that were
3 present at autopsy.

4 Now where the co-defendant is concerned, Your Honor,
5 she is Cynthia Lopez. She is also charged with homicide
6 by child abuse. She is represented by Jael Gilreath.
7 and the reason we don't have a joint trial is it is a
8 situation where both are pointing the finger at one
9 another. We would certainly have Bruton issues, as
10 well as conflicting theories of defense, and because of
11 that, Your Honor, the State has elected and I believe
12 ultimately we would have been required to sever those
13 cases and try them separately.

14 So there's lot of information here, Your Honor,
15 that be would a jury question. By all accounts it is
16 Cynthia Lopez that placed the tape over the child's mouth,
17 however, everything that occurred thereafter regarding
18 the medical neglect, the observations of the child in
19 medical distress and then the refusal to seek help for
20 that child and the apparent bruising and injuries to the
21 child where she would have been symptomatic, as well as
22 having all these physical injuries and the failure to
23 act is -- is all a jury question regarding David Steadman,
24 Your Honor.

25 THE COURT: Ms. Zmroczek, does that answer the

1 question as to their theory?

2 MS. ZMROCZEK: That -- that answers the question.

3 THE COURT: So there's no offering of evidence
4 regarding injury to the child's rectum and the swab.
5 That's not gonna be presented. That was one of your
6 concerns?

7 MS. ZMROCZEK: Well, it's gonna be presented, but,
8 yeah -- I mean, yes, I'm glad to know that. Since it
9 wasn't in there, I wasn't sure of the physical abuse
10 and neglect part, what they were talking about, so now
11 that she has clarified they are gonna talk about the
12 bruising on the body and --

13 THE COURT: I think she said bruising around the
14 vaginal area, as well as the head, face and torso.

15 MS. ZMROCZEK: Correct.

16 MS. MAYES: Yes, sir, Your Honor. And chin, yes,
17 sir.

18 MS. ZMROCZEK: Yeah, and chin.

19 THE COURT: And then the asphyxiation was another
20 aspect.

21 MS. ZMROCZEK: Right. Right. Right.

22 So that -- Your Honor, that does clarify. I just
23 -- what -- obviously you know in these cases where
24 there's this third-party guilt, I just want to make
25 sure that -- that when I'm -- when I'm discussing and

1 questioning about causation and those kinds of things
2 that -- that we go from there.

3 THE COURT: So the --

4 MS. ZMROCZEK: That -- that clarifies it.

5 THE COURT: -- aspects of clarification of the
6 indictment, you're now clarified?

7 MS. ZMROCZEK: Yes.

8 THE COURT: Very well. Okay. Good.

9 MS. ZMROCZEK: And that covers A and B, I think,
10 Your Honor.

11 THE COURT: Okay.

12 MS. ZMROCZEK: And then -- I think we could probably
13 do the speedy trial fairly quickly. I don't believe that
14 requires any witnesses either, Your Honor.

15 And I did file that motion. Like I said, we --
16 Mr. Steadman -- and even though it says David on
17 everything, that's just how the case was provided to me,
18 so that's how it is in my system, but he actually goes
19 by Lance and so I don't -- when I say Lance, that's
20 certainly what I mean. But Lance has been in jail since
21 August 15th of 2017, so 910 days. We've had four bond
22 hearings, Your Honor, and at every bond hearing, like I
23 said, this -- this issue of some sort of rape came up,
24 especially anal rape, and along with that came up --
25 which is the subject of another motion that we can do

1 MS. ZMROCZEK: I am -- I think we can do since --
2 based on Ms. Mayes' last statement, I think we can go
3 ahead and move to the 404(b) evidence since it's clear
4 that they're -- she made it very clear that they're not
5 going into that prior allegation, which was never
6 charged from ten years or however many years -- yeah,
7 nine years ago, but then she said we're not going into
8 that. I need to know if there are any other prior bad
9 acts that they intend to go into.

10 THE COURT: All right. I'm gonna let her answer
11 that after lunch.

12 MS. ZMROCZEK: Excellent.

13 THE COURT: We talked about stopping at 12:3.
14 We've gotten to good stopping point there.

15 Ms. Mayes, be prepared to answer that question of
16 other prior bad acts, 404(b) evidence perhaps.

17 MS. MAYES: I think I can do so really quickly
18 here, Your Honor. Other than the injuries that were
19 present at autopsy, which I've already explained it and
20 the defense is aware of, we do not pursue -- we do not
21 intend to pursue any of the prior injuries because we're
22 prohibited by caselaw for even going there.

23 THE COURT: Okay.

24 MS. MAYES: However, now if Ms. Zmroczek chooses
25 to go into -- I believe there was two broken legs, we

1 just want on the record that that's the defense strategy
2 and they're choosing to go into it.

3 MS. ZMROCZEK: Absolutely.

4 MS. MAYES: There's caselaw out there such as
5 Northcutt where we would not be able to get into that.

6 THE COURT: If the door gets opened, the door gets
7 opened.

8 MS. ZMROCZEK: Yeah, absolutely.

9 THE COURT: Very well.

10 Okay. How long would y'all like for lunch? I need
11 about an hour or so. I can start back at 1:30 or 1:45
12 or if y'all need all the way to two. Y'all tell me.

13 MS. ZMROCZEK: If we go to two, Your Honor, I may
14 -- we might be able to -- I think they were gonna try to
15 sort through some of the photos, so that might give us a
16 chance to look at them.

17 THE COURT: All right. I'll be back here at 1:45
18 and hopefully -- I want to give Ms. Johnson an ample
19 break, but if y'all have pictures y'all are gonna go
20 through and she can help you pre-number them, she would
21 like that, I think. Maybe? Okay.

22 Now here's what she doesn't want. No court reporter
23 wants this. Judge, here's fifty and she numbers them
24 and then you introduce five. Pick your five and give
25 those five to her and the other ones we'll number as we

1 THE COURT: Very well.

2 All right. Mr. McNair.

3 MR. McNAIR: Thank you, Your Honor.

4 May it please the Court?

5 THE COURT: Yes, sir.

6 MR. McNAIR: Most parents would die to protect
7 their children. Mr. Steadman watched as his child died.
8 He lived off of Nazareth Road with his wife, Cynthia, and
9 their three children; E.L. , who was 5; Minor who had
10 just turned four; and L.L. , who was two.

11 On July 31st of 2017, he got home from work that
12 day around 7:00 PM. When he got home, he found Minor
13 taped to her bed by her mother, gasping for air, with
14 vomit on her chest. And as Minor saw her daddy walk in
15 the room, surely she thought my daddy's here, surely
16 he'll save me. But not her daddy. Strangely he didn't
17 seem shocked by what he saw. He casually removed the
18 tape from her wrists, proceeded to take her to the
19 shower to wash the vomit off of her chest. But before
20 leaving the room he made sure to tell E.L. to pick
21 up his toys.

22 As Minor staggered down the hallway to the bathroom,
23 she collapsed to the floor. But even that didn't seem
24 to concern him. He just picked her up and carried her
25 the rest of the way. When he got her in the shower,

1 she continued breathing heavier like she had to vomit,
2 couldn't hardly stand up, couldn't hold her head upright.
3 He ignored all those signs, too. He and his wife started
4 pushing on her sides hard to force the vomit out of her,
5 and things just got worse.

6 He said he told his wife we should call a doctor,
7 but she didn't want to, so they didn't. And then as
8 little **Minor** , as her life began slipping away, as she
9 looked to the two people on this Earth who she should be
10 able to count on to save her, who should be willing to
11 save her at any cost, they just looked back at her and
12 watched. And as she lay on that shower floor breathing
13 her last breath, they walked away.

14 Is that extreme indifference to human life? That's
15 what we have to prove. They left her, that beautiful
16 little four-year-old girl laying on that shower floor
17 naked and alone. And when he left, he went and grabbed
18 him a beer, went to his living room to watch Netflix on
19 his phone. Ultimate Beastmaster. How appropriate.

20 According to him, sometime later his wife brings
21 **Minor** 's lifeless body into the living room where he was.
22 He made a halfhearted attempt to try CPR, but she had
23 vomit on her lips and that made him gag, so he turned
24 that over to Cynthia. They finally call 9-1-1 at 9:05 PM,
25 over two hours after he found her in that condition.

1 When first responders got there, she had no signs
2 of life, but they worked on her anyway. For over forty
3 minutes they tried everything they could to bring her
4 back. She died from what the pathologist ultimately said
5 was asphyxiation due to aspiration of her lungs. She
6 choked on her own vomit.

7 That's not some story I made up. That's what he
8 told law enforcement happened in his written statement
9 two weeks after she died, after his wife had been
10 arrested for her part in this, after he had had every
11 opportunity to tell the truth, after he knew exactly
12 what he was charged with, that's what he told the police
13 in his written statement. It makes you wonder if he's
14 willing to say that, what else is there?

15 Cynthia admits to the tape. She admits to putting
16 tape on **Minor** . She admits to at one point putting tape
17 over **Minor** 's mouth. But why are there bruises? Why is
18 there evidence of blunt force trauma to her head? Why
19 are there bruises all over her body? Why was he not
20 shocked when he walked in and immediately found her
21 taped up by his wife? Why did he take her to the shower
22 and run water over her when she was already having trouble
23 breathing? Why did he put a diaper on her dead body?
24 Why did she have evidence of vaginal trauma?

25 The bottom line, ladies and gentlemen, is we're

1 never gonna know exactly who did what in this case, but
2 it doesn't matter. It doesn't matter if Cynthia did the
3 taping and Cynthia did all the physical abuse. His
4 failure to intervene and seek medical attention for his
5 daughter makes him guilty all the same.

6 That's what he's charged with. He's not charged
7 with murder. He's charged with homicide by abuse or
8 neglect. We don't have to prove he intended to kill
9 **Minor** . We don't have to prove, like I said, that he
10 committed any of the physical abuse. All we have to
11 prove is that he failed to act and that resulted in her
12 death. And by his own admission he failed to act.

13 Make no mistake, ladies and gentlemen, Cynthia
14 Lopez's day in court is coming, but this week is
15 Mr. Steadman's day in court. And this is not a case
16 about either Cynthia Lopez is guilty or David Steadman
17 is guilty. They're both guilty.

18 Now he doesn't have to say a word during this trial.
19 They don't even have to put up a defense. The State has
20 the burden of proving him guilty, and that's fine. We
21 welcome that. But you know what would make him not
22 guilty of this charge? If **Minor** was dead when he got
23 home and he couldn't have done anything, but he's never
24 told that story. In all his multiple statements to law
25 enforcement he has always maintained that when he got

1 home **Minor** was alive and that he wanted to call a doctor,
2 but Cynthia didn't want to, so he choose not to.

3 So if you hear that story this week, that's gonna
4 be the first time that story's been told. But you can
5 use your common sense to decide who's believable and
6 who's not. And key parts of what he said about **Minor**
7 being alive are corroborated by the evidence. When first
8 responders got to the house around 9:14, **Minor** had wet
9 hair indicating she had been put in the shower like he
10 said and was alive. There was what appeared to be vomit
11 on the shower floor where they tried to force it out of
12 her like he said. And when EMS is working on her, they
13 don't note any sign of rigor in her jaw or extremities
14 like her fingertips. Well, you'd expect to see some
15 signs of rigor if somebody had been dead for a long
16 period of time, but she wasn't in rigor.

17 Now I'm sure at some point you're going to hear
18 that when she ultimately was transported to the hospital
19 later that night at 10:22 PM, I believe it was, she had
20 a body temperature of 91 degrees. And what you will hear
21 about that from doctors is there's no set formula to say
22 that just because that was her body temperature at 10:22
23 that you could estimate her time of death. You'll hear
24 doctors say there's just too many variables involved in
25 that to say exactly when somebody died based on body temp,

1 especially in children. So give that the weight that's
2 due. That's not absolute proof of anything, that's not
3 absolute proof of when she died. Just keep that in mind
4 when you hear that.

5 And ask yourselves throughout this trial, ladies
6 and gentlemen, what force, what force, could keep a
7 parent from trying to save their child? If somebody
8 found their child in the condition he describes, what
9 parent would hesitate to call for help? Even if a
10 parent found their child dead, they would try. They'd
11 still call and try. The firemen on this case worked
12 over forty minutes on a little girl they had never met
13 trying to bring her back. Why didn't Mr. Steadman react
14 that way? Ask yourselves that. There's a reason. Is
15 it to protect his wife or is it to protect himself?

16 Regardless of who points the finger at who in this
17 case, the ultimate decision that you're going to have
18 to make is simple. Did his failure to act result in
19 **Minor** 's death? And, ladies and gentlemen, he has
20 already answered that for you. He admits in his written
21 statement that if he had called 9-1-1 she would be alive
22 today. He's already admitted that.

23 We can't right a wrong. We can't bring her back.
24 Y'all probably rolled your eyes when you got summoned
25 for jury duty this week, but at the end of this case

1 you're gonna have the opportunity to do a noble thing.
2 Justice. We can do justice. That's all we ask is that
3 you speak the truth and you find him guilty.

4 THE COURT: Ms. Zmroczek.

5 MS. ZMROCZEK: Thank you, Your Honor.

6 May it please the Court?

7 THE COURT: Yes, ma'am.

8 MS. ZMROCZEK: Good morning.

9 **Minor** murdered -- was murdered by her mother.
10 I've known my colleagues a long time. We have done this
11 back and forth a lot. When I was appointed to this case
12 in September of 2017 and I read these statements and I
13 was like oh, gosh, what -- how horrible, and then I did
14 something that the State seems to refuse to want to do,
15 and that is look at the evidence. Because, ladies and
16 gentlemen, when you look at the evidence you'll find
17 that there are two victims in this case. **Minor** --
18 and you see all these officers in the court? They're
19 here to testify. You know what you don't see? Anybody
20 here for **Minor** because the person that's here for
21 **Minor** is her father, David Steadman. And because
22 he didn't know how to react to a situation that he walked
23 in, a nightmare of a situation, he's here.

24 What you'll learn is that the State and their
25 overzealous advocates declared that she was anally raped.

1 100 percent. I will get on the stand and testify says
2 Dr. Lamb. You know what we don't have? We don't have a
3 charge for rape. Because, you know what, when you look
4 at the science and you realize what that mother did
5 to this family -- and it's gonna be hard, it's going to
6 be hard, and when you realize what she did you'll see
7 why I'm up here very proudly, very proudly, defending
8 him. She murdered **Minor** .

9 Technology. There you go. All right.

10 So, ladies and gentlemen, if you'll bear with me,
11 I'm trying to use technology because it will get easier
12 hopefully. I know that they're on the little TVs. I'm
13 not quite sure why they are not on the big ones.

14 But, ladies and gentlemen, this picture that you
15 see, this is the family and the life that Lance always,
16 always wanted, but he can't have it because **Minor**
17 was murdered by Cynthia Lopez.

18 What the State is gonna tell you and stipulate to,
19 and you'll hear from other witnesses, is that David
20 worked every day. And you'll hear how he provided for
21 his family. How he would do everything. You'll see
22 pictures. You will become fully involved in their lives,
23 and there's a reason for that. Because nobody saw this
24 coming, especially Lance.

25 They're gonna stipulate that she, Cynthia, stuffed

1 this child full of food, who had a swallowing disorder,
2 and then she took tape -- they've already admitted she
3 took tape and she put it over her mouth. But then
4 that's not good enough because she's still crying, but
5 she could still get up, so you know what else she does?
6 She ties her to the bed with tape. And the State --
7 the State wants you to believe that between 5:30 and
8 6:00 that she was just fine until 7:00 PM when Lance
9 got home. They want you to honestly leave your common
10 sense somewhere else because what they want to say is
11 that this around her mouth and covering her nose she was
12 able to survive for an hour and a half. Or an hour if
13 we give Cynthia thirty minutes.

14 Ladies and gentlemen, it's just not possible. It's
15 not possible. Well, but he said so, and he said so in
16 his statement. He said a lot of things. You know why?
17 Because he comes home from work that day -- and you're
18 gonna see pictures from the day before where **Minor**, his
19 only daughter, is dressed outside at a playground at a
20 picnic with the family. Not one mark on her, not one
21 problem. Because that's the last time he saw her was
22 like that.

23 He comes home from work just like every normal day.
24 He has no idea that he's walking into a nightmare. He
25 comes home. He doesn't go straight into the kids' room

1 because that's not what he does every single day. He
2 comes home, takes his shoes off, talks to his wife, puts
3 his food in the microwave, and he notices his wife is
4 agitated and she's being rude, and he's like what's the
5 problem? **Minor** and the boys wouldn't stop, they wouldn't
6 stop fighting, I've had it with her. Okay. So he goes
7 down the hall to check on **Minor** and he walks in. She
8 had already taken the tape off by this point of the
9 mouth, so he walks into his four-year-old daughter taped
10 to the bed. And they say well, he didn't call 9-1-1.
11 Ladies and gentlemen, I didn't know that the family
12 handbook on how to react to that situation covered you
13 were supposed to call 9-1-1.

14 Ladies and gentlemen, what the evidence will show
15 is he did what any parent would do. He untaped her.
16 They say calmly because they want to, but they don't
17 know, they weren't there. And nowhere in any of his
18 statements will you see calmly. In fact, you'll hear
19 how upset he was, how distraught, how shocked,
20 bewildered, at what happened. He's just trying to get
21 her out of that bed and get her clean. He's gonna tell
22 you her diaper is full of feces. We have pictures of
23 it. They want to call it vomit, but they didn't bother
24 to collect it, they just took pictures of it.

25 7:00 PM. 5:30 to 6:00 was tape on her mouth covering

1 her nose, full of food with a swallowing disorder, and
2 they want you to honestly believe that she survived until
3 he got home from work and then did his things and then
4 went down the hall. That's what they want you to believe
5 because it's easy to play armchair quarterback because
6 they don't want you to get into his mind. Well, why
7 would he say these things? Why would he -- how would he
8 react? He was bewildered, he was shocked, and he was
9 confused. What happened? What happened? Nothing like
10 this has ever happened before. Well, she said she was
11 walking down the hall. Okay. Well, let's listen to the
12 doctors' testimony. And not the doctors that are
13 advocates, but the doctors who are medical doctors. You
14 get to make that choice because what you'll determine is
15 that **Minor** was murdered by Cynthia.

16 You're gonna learn about Lance. He was twenty-four
17 years old at the time. He grew up in a broken home. He
18 was determined not to live that way again. He married
19 his high school sweetheart. Married his high school
20 sweetheart. They had three children. He worked hard.
21 no criminal record. He was living his American dream.
22 And it was hard, it was paycheck to paycheck, it was
23 tough, but it was his. But she took that away from him
24 and then they took everything away from him. You'll see
25 the photographs. You'll see the timeline. You'll see

1 the photographs of **Minor** on the 30th. You'll see his
2 work records. You'll see his phone records.

3 Phone records are a funny thing, ladies and
4 gentlemen, because, again, it's easy, and I use that
5 term very lightly because none of this is going to be
6 easy because none of it is, but it is easy for us to
7 sit back and say well, I would have done this, I would
8 have done that, but when you look back and you look at
9 her phone records, which he didn't have access to
10 because he had his own phone, you'll get to see his,
11 too, he looks up video games, he looks up little outfits
12 for his daughter. Do you know what she's looking up?
13 How to kill kids. She's looking up other people who had
14 kids die in cars. She's looking up porn. She's talking
15 to her momma saying I ain't ever giving my kids -- or
16 momma -- her momma says I ain't ever giving the kids his
17 last name because all he has wanted to do is be a father
18 and he's not good enough for them.

19 Ladies and gentlemen, the medical evidence. You'll
20 hear the 9-1-1 call. You'll hear the fire and EMS. The
21 body was cold and blue. And -- and the State is going to
22 be like well, there was no rigor. It's funny how the
23 variables work when the body temperature, and actually it
24 was 10:22, not 10:43, but the body temperature is 91
25 degrees. But we're not supposed to believe that medical

1 evidence. But there was no rigor. That's the evidence
2 that we want you to focus on. All of this has variables,
3 ladies and gentlemen, and those variables are gonna be
4 affected by things like the temperature in the house.
5 And thank goodness the coroner took a picture of what it
6 was in the house, and you'll get to see that. You'll
7 get to unfortunately -- I say get. And, ladies and
8 gentlemen, I've been doing this a long time and it is
9 hard what you're gonna have to do and it's awful.

10 The judge was very, very clear in asking you are
11 you sure you can handle this because it's not going to
12 be fun and it's not going to be easy, but it is going to
13 be the right thing to do. You're gonna listen to the
14 interviews and you'll look at the information gathering
15 section. And -- and to their credit, they thought that
16 she had been sexually assaulted until they learned that
17 there was a perfectly good medical reason. Because when
18 momma puts this tape over her mouth and nose and she's
19 full of beans and food, guess where it has to go? It
20 can't go up. It goes deep, deep into her lungs and when
21 every medical personnel testifies, they're gonna tell
22 you her stomach was so protruded and hard because it was
23 going out. She suffered a rectal prolapse, a urethral
24 prolapse. It wasn't a sexual assault, but isn't it more
25 fun to put somebody behind bars and call them a sexual

1 assault manic, but here we are, no charges. So either
2 the State believes that somebody else assaulted her and
3 they're just letting them go or they concede because they
4 have not charged him.

5 Common sense, ladies and gentlemen. Common sense.
6 I would -- I would love to put this tape over my mouth
7 for an hour and a half, but I couldn't do it, and neither
8 could **Minor** . Neither could **Minor** .

9 He talked to you about what they have to prove and
10 it's so easy to say oh, we just have to prove he was
11 negligent. No, no, no. There's a big word that the
12 judge is gonna tell you about and that's why I wanted
13 to bring it up now so that you listen for the testimony
14 that helps you determine what was the cause of her death.
15 Because Mr. McNair and I agree on one very big point,
16 and that was if she was dead, he is not guilty.

17 Did he react the right way? I -- I don't know what
18 the right way is, but he didn't cause this death and he
19 couldn't have stopped it. He could have called 9-1-1,
20 he could have threw her in the car, he could have prayed
21 to any deity and it wouldn't have brought her back. And
22 that's a hard thing to accept, but they want him to accept
23 it because they start talking to him right away. And at
24 first they're just gathering information, but that minute
25 -- that morning of the 1st, less than twenty-four hours

1 after he's lost his only child and he's trying to figure
2 out what in the world happened, they're starting to ask
3 him about sexual assault. She was anally raped. Now --
4 now they'll concede the rectal prolapse, so now that's
5 why we're here in opening oh, she had vaginal bleeding.
6 Again, no rape charge. Causes. Listen for the causes.

7 I hate these cases. I hate them. And I hate it
8 for you because the pictures are going to make you want
9 to have someone pay and that someone is Cynthia Lopez.
10 He talks about justice and justice for **Minor**. Justice.
11 Justice, the right justice, is to recognize what the
12 State can't. That child was dead within minutes, within
13 minutes, that her mother put this over her mouth and nose
14 because, ladies and gentlemen, Cynthia Lopez murdered
15 **Minor**, and at the end of this trial we're gonna ask
16 you to find Lance not guilty. And we're going to give
17 you the science, not the emotion, but the science to be
18 proud to do that.

19 Thank you.

20 THE COURT: All right. Call your first witness.

21 MR. McNAIR: Your Honor, the State calls Savannah
22 Sheppard.

23 (Whereupon, Savannah Sheppard was duly sworn by the
24 Clerk of Court.)

25 THE CLERK: Once you're seated state your full name,

1 spelling your last, please.

2 THE WITNESS: Savannah Sheppard. Sheppard is
3 S-H-E-P-P-A-R-D.

4 SAVANNAH SHEPPARD,
5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. McNAIR:

8 Q. Ms. Sheppard, where do you work?

9 A. Lexington County 9-1-1.

10 Q. And what do you do there?

11 A. I'm a 9-1-1 dispatcher. I answer emergent and
12 nonemergent calls, process them through our computer system
13 and route them to the appropriate dispatches.

14 Q. Okay. How long have you been doing that?

15 THE COURT: Slow down.

16 THE WITNESS: I'm sorry.

17 THE COURT: That's all right. You can talk a
18 little slower. That's fine. Don't be nervous. It's
19 just us.

20 BY MR. McNAIR:

21 Q. How long have you been a dispatcher?

22 A. About two and a half years.

23 Q. All right. Were you working on July 31st of 2017?

24 A. Yes, I was.

25 Q. And did you take a 9-1-1 call that was placed from

1 [REDACTED] Nazareth Road on that date?

2 A. Yes, sir.

3 Q. All right. And what time did that 9-1-1 call in come
4 in?

5 A. 9:05.

6 Q. All right. Now do y'all maintain recordings of 9-1-1
7 calls that you receive for a period of time?

8 A. Yes.

9 Q. All right. Are those maintained in the ordinary
10 course of your business?

11 A. Yes.

12 Q. And are you able to access those calls on your system
13 and provide copies?

14 A. Yes.

15 Q. I'm gonna show you what's been marked as State's
16 Exhibit 5. Can you identify this disc?

17 A. Yes.

18 Q. And how can you identify it?

19 A. By my initials.

20 Q. Okay. And have you previously listened to this?

21 A. Yes.

22 Q. And is this a complete and accurate recording of the
23 9-1-1 call that you took on July 31st of 2017?

24 A. Yes.

25 MR. McNAIR: Your Honor, we'd offer State's 5 into

1 evidence at this point.

2 MS. ZMROCZEK: We already -- we already agreed.

3 THE COURT: State's 5 is in without objection.

4 (State's Exhibit Number 5, a 9-1-1 call, was
5 admitted into evidence.)

6 MR. McNAIR: Permission to publish, Your Honor?

7 THE COURT: Permission granted.

8 MS. ZMROCZEK: Technology is getting us both today,
9 Judge.

10 THE COURT: If I thought I could help, I'd come down
11 there and offer to help.

12 BY MR. McNAIR:

13 Q. Ms. Sheppard, while we're waiting, is [REDACTED] Nazareth
14 Road in Lexington County?

15 A. Yes, sir.

16 Q. You testified that that 9-1-1 call came in at 9:05;
17 is that correct?

18 A. Yes, sir.

19 Q. 9:05 PM?

20 A. Yes, sir.

21 Q. Now as you were talking, was it a female or a male
22 that called 9-1-1?

23 A. It was a female.

24 Q. Did she ever identify who she was?

25 A. No.

1 Q. Okay. At some point during the call did you -- or did
2 she put you on speakerphone?

3 A. Yes.

4 Q. All right. And what were you advising her to do?

5 A. CPR.

6 Q. Were you advising her how to do CPR?

7 A. Yes. I went through instructions and was counting and
8 -- I was counting the beats.

9 Q. All right. So you were -- you were telling her how to
10 do it?

11 A. Yes.

12 Q. Okay. And did you tell -- did you advise them to
13 continue doing CPR?

14 A. Yes.

15 MS. MAYES: It's ready.

16 (Whereupon, State's Exhibit Number 5 was played.)

17 BY MR. McNAIR:

18 Q. And, Ms. Sheppard, why did you advise her to continue
19 CPR until EMS and fire got on the scene?

20 A. It's our policy that we continue CPR until responders
21 can arrive.

22 MR. McNAIR: That's all the questions I have. Thank
23 you.

24 MS. ZMROCZEK: No questions, Your Honor.

25 THE COURT: You may step down.

1 (Witness excused.)

2 MS. MAYES: The State calls Ryan McKinney.

3 (Whereupon, John Ryan McKinney was duly sworn by
4 the Clerk of Court.)

5 THE CLERK: Have a seat right up there, please,
6 sir. Take your folder and have a seat up there. Once
7 you're seated state your full name, spelling your last
8 on the record, please.

9 THE WITNESS: All right. My name is John Ryan
10 McKinney, M-C-K-I-N-N-E-Y.

11 JOHN RYAN MCKINNEY,
12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. All right. I need you to pull the microphone just a
16 little bit closer to you.

17 A. Yes, ma'am. Is this better?

18 Q. Yes. Yes, it is.

19 Tell us a little bit about yourself. What type of
20 work are you in?

21 A. Yes, ma'am. I'm a firefighter with Lexington County
22 Fire Service. I've been with the department five years
23 now. It's a job that can be hard to do at times, but I'm
24 very happy to be available to try to make a difference when
25 I can.

1 Q. Tell us about your background and training that led
2 you to becoming a firefighter, including any type of
3 training you have as a first responder.

4 A. Yes, ma'am. When we initially start the process of
5 becoming a firefighter with Lexington County Fire Services,
6 we go through an extensive preschool program. It's
7 fourteen weeks. Within that we get our first responder,
8 EMR certification, which allows us to do basic life support
9 and comes with CPR certifications along with just learning
10 ways to intervene to help until we're able to get Lexington
11 County Emergency Medical Services on-scene. Within that we
12 also have extensive training in dealing with all sorts of
13 situations, whether they're fire service emergencies, motor
14 vehicle accidents, fire prevention. There's a whole
15 plethora of stuff that we are able to get training in and
16 we do training every shift and we take extensive classes
17 after the fact. You know, we're always encouraged to
18 continually expand our knowledge to help become the best
19 firefighters we can.

20 Q. So in addition to firefighting certification, what,
21 if any, type of certifications do you hold in CPR and
22 lifesaving measures?

23 A. Yeah, we -- we have the EMR first responder
24 certification. In addition, we have a CPR certification
25 as well that we go to, and we have recertifications in

1 that, you know, for the timeframe that we're legally
2 mandated by the State. We continually do that along with
3 having to do that stuff almost, you know -- almost every
4 shift, so it's something that we keep up with and train in
5 and maintain our knowledge base on that.

6 Q. All right. Now how does it work in terms of if a
7 call goes out, such as a 9-1-1 call in this case at 9:05 at
8 night, how is it determined whether or not fire responds in
9 addition to paramedics or EMS?

10 A. Because of that there's a whole lot of questions that
11 I would have to defer to our dispatch to answer that to
12 specifically determine what units are determined to go to
13 a certain call, but specifically if it's an advanced life
14 support required call, then they'll send what's required
15 of EMS and then a fire unit will be responded -- will be
16 dispatched as well. Because of our location around the
17 county a lot of times we're able to get there quicker than
18 the EMS units are just because of the amount of them and
19 where they are located at depending on where the call is.

20 Q. Now are you familiar, Firefighter McKinney, with a
21 call that came out for assistance from your 9-1-1 dispatch
22 communications center on July 31, 2017, at 9:05 PM?

23 A. Yes, ma'am, I am.

24 Q. How, if at all, did you go about responding to that
25 call with your fire unit?

1 A. Well, actually, ma'am, the station that I was working
2 at, Station 3, that call actually came out and Station 4's
3 primary, so that's -- they were the ones that were gonna be
4 closest to that call. Because of the nature of the call
5 being a cardiac arrest, we decided that we were probably
6 gonna need to help them on that call, so we did what we
7 call jumping the call where as soon as it was dispatched
8 over the radio system we listened to it just to make sure
9 that we understand -- or we are aware of what other calls
10 are going on around our immediate vicinity in our area. We
11 jumped that call to respond with Engine 4, so in that -- or
12 for that call it was Engine 4 and Engine 3 that responded
13 to that call and I was riding on Engine 3 that night.

14 Q. All right. And so let me ask you about the term you
15 used just a few moments ago, that the nature of the call
16 was a cardiac arrest. In layperson's terms, what are you
17 referring to?

18 A. The general understanding of that would just be that
19 the caller called in that the heart had stopped and the
20 patient -- and, you know, dispatch might be able to give
21 you a better definition as to how they code that call to
22 call it out as a cardiac arrest. It's just one of the
23 things that kind of pops up a flag when we're listening
24 to the radio that we might need to go and help and assist
25 them because with Engine 4 having two firefighters on their

1 truck and with Engine 3 having three, it just helps to have
2 more hands to make for a successful resuscitation.

3 Q. All right. Now this specific location of the call
4 being [REDACTED] Nazareth Road, what, if anything, can you tell
5 us about the proximity or distance from the scene of this
6 event to one of your fire stations?

7 A. With it being Station 4 as the primary call, that
8 means that they were the closest, but the driver of the
9 truck, he was actually working from a different shift, but
10 was working at that station, which is his normal station,
11 just he was able to realize that was pretty close to our --
12 to where our station was, so we were able to just have an
13 idea that we would be the next closest unit to respond to
14 that call.

15 Q. All right. And how close is that Station 4?

16 A. How close is Station 4 to the --

17 Q. Correct.

18 A. I couldn't give you a super accurate answer as far as
19 the geological distance without looking it up, but I know
20 that it's pretty close in comparison to -- well...

21 Q. To the scene?

22 A. From our station, yeah, to the scene.

23 Q. So who actually was the first person to arrive at
24 this residence for the purpose of rendering aid to the
25 four-year-old child?

1 A. Engine 4 was the first one to pull up, but we pulled
2 up almost immediately after them and I think that where we
3 parked was a little bit closer, we were able to identify
4 the actual house, and I was able to jump off the truck and
5 I was the first one in the door of the residence.

6 Q. All right. And when you say you were the first one
7 in the door, were any other first responders present inside
8 the home when you walked through that door?

9 A. No, I was the first one.

10 Q. Okay. And if you could tell us the time of your
11 arrival there at the scene as the first person at the
12 scene.

13 A. Our -- our arrival was at 9:14.

14 Q. 9:14 PM?

15 A. Yes, ma'am. 9:14 PM.

16 Q. All right. And when you walked through that door,
17 Firefighter McKinney, can you tell us whether or not anyone
18 in that home was doing CPR on **Minor** ?

19 A. I never saw anybody doing CPR on **Minor** .

20 Q. What did you observe when you walked in?

21 A. Immediately when I walked in the door, I was met at
22 the front entrance by a woman wearing a towel that seemed
23 upset. She guided me towards where I needed to go to the
24 right hand of the structure and found the patient laying on
25 the ground on her back. Nobody was there doing CPR as to I

1 saw when I arrived.

2 Q. All right. Now where was the mother of the child?

3 MS. ZMROCZEK: Objection. Speculation. Unless he
4 knows who the mother is.

5 MS. MAYES: I can lay that foundation.

6 THE COURT: All right. Lay the foundation.

7 BY MS. MAYES:

8 Q. Were you able to determine which person in the home
9 was the mother of the child? Did you ask for a history?

10 A. Yes, I did ask for a history once I began patient
11 care.

12 Q. Okay. And who actually gave you the history?

13 A. Eventually it was the person that seemed to be the
14 mother.

15 MS. ZMROCZEK: Again, Your Honor, if it's an
16 assumption, we would argue --

17 MS. MAYES: I can clarify that.

18 THE COURT: Do so.

19 BY MS. MAYES:

20 Q. Let me ask you this. What -- what were the
21 approximate ages of the females that you saw?

22 A. There was an older woman in a towel that I saw and
23 then there was a younger Hispanic woman and she was the
24 one that I was talking to or trying to talk to and get the
25 information from.

1 Q. Okay. So the woman you mentioned that had the towel,
2 was an older Hispanic female?

3 A. I don't remember her being Hispanic, but I do remember
4 her being older.

5 Q. Okay. And the woman who actually gave you what would
6 be known as the medical history for the child was the
7 younger female?

8 A. Yes, ma'am.

9 Q. And you said she appeared to be Hispanic?

10 A. Yes.

11 Q. All right. Was there also a white male present at the
12 scene?

13 A. Yes.

14 Q. All right. Why is it necessary in a situation like
15 this to ask persons present about a medical history?

16 A. In any of these type of emergencies, it's very
17 important to get as much information as possible to help
18 narrow down what could have happened, what could have
19 caused the incident. There's a lot of things that can
20 cause a heart to stop. In that situation when I arrived
21 on-scene, I found the patient laying on the ground. I saw
22 some vomit on the patient's mouth and I saw some vomit on
23 the ground. The patient was lying flat on their back. I
24 was trying to assess whether -- what the medical problem
25 might have been to cause the patient's current conditions.

1 Q. All right. And did you put out a request to persons
2 who were present in the room?

3 A. Yes, as soon as I arrived, you know, I recognized my
4 patient, cleared the area so we would have a functional
5 place to work on the patient. As I was assessing the
6 patient's vitals, I asked for a -- I asked for a history.
7 I asked, you know, just general questions about what we
8 would need, what happened, did you see this, you know, what
9 was happening prior to this, and I was met with -- with no
10 answers. It wasn't until there was a larger Hispanic male
11 in the house that kind of raised his -- raised his voice to
12 yell at the occupants to try to urge their cooperation and
13 give me information as to what happened to help with the
14 patient did I receive any information at all from the --
15 from the occupants there.

16 Q. All right. And for purposes of medical diagnosis
17 and treatment, what did you learn about the patient's
18 condition, if anything?

19 A. After I was able to actually get information from the
20 occupants of the house, I was told that the patient had
21 been fed, was just kind of walking around and then fell
22 down, and that's how -- that's how the patient was found.

23 Q. That she had eaten food and was walking around and
24 then collapsed?

25 A. Yes. I also observed that the patient's stomach was

1 distended, you know, much -- you know, very abnormally so.
2 You know, I asked specifically is the patient's stomach
3 normally like this, it looks pretty bloated, and I was -- I
4 was told that the patient gets like that whenever they eat.

5 Q. All right. And who was the person providing this
6 history that she had been walking around and then
7 collapsed?

8 A. The only person was the younger Hispanic woman that
9 was giving me information.

10 Q. All right. Did the white male at any point in time
11 during your presence there at the scene provide any
12 additional information about the child?

13 A. No, there was no additional information added.

14 Q. Now what can you tell us about **Minor** 's physical state
15 being the first responder there to treat her? Was she
16 breathing at all?

17 A. No. When I arrived, **Minor** was -- she was not
18 breathing. You know, I verified that with a stethoscope,
19 you know, I used my own eyes and ears to try to listen and
20 view for a -- for chest movement that would indicate her
21 lungs were filling up and deflating with air. I also used
22 something called an SpO2 monitor which reads the flow of
23 oxygen -- or the oxygen level of the blood, along with the
24 pulse rate, to verify and none of those showed me that she
25 had any signs of life or breathing in her.

1 Q. So what measures, if any, do you take when you arrive
2 and there's no breathing at all?

3 A. All right. The measures that I took, once I arrived,
4 you know, I recognized the vomit on her mouth and on the
5 floor and that immediately lets me know that there's
6 probably -- that she probably choked on her own vomit, so
7 my thought was to try to clear her airway that's probably
8 blocked. So with her being small, I was able to move her
9 over, you know, maintain her airway being open and try to
10 pat her back to try to get some of the vomit out of her
11 lungs and out of her throat so that we can try to clear her
12 airway. From there I flipped her back over, verified --
13 you know, continued -- or finished verifying her vitals
14 were not present and from there I started CPR.

15 Q. And what efforts had you made to actually clear her
16 airway?

17 A. What we do is something we do for kids of that size,
18 we flip her over on my arm, you know, having her head in
19 my hand maintaining an open airway so that the vomit has a
20 place to go if it's able to be expelled from her and in
21 that situation you hold her, flatten your arm at a downward
22 slope and pat her back so that some of the vomit could be
23 dislodged from her airway and then be expelled out of her
24 mouth and then from there we start chest compressions.
25 Chest compression also in themselves can create pressure

1 inside of the chest to expel the vomit because at that
2 point we need to get the heart beating again to try to
3 create recirculation of the blood so that we can try to
4 resuscitate her. From there we also put in an oral airway,
5 which holds open her airway, which went in pretty easily,
6 and from there we continued chest compressions while
7 breathing for her with a bag valve mask device.

8 Q. Okay. So you mentioned establishing an oral airway.
9 You, as a member of your fire unit, have that type of
10 equipment available?

11 A. Yes, ma'am.

12 Q. And then you also mentioned a bag valve mask.

13 A. Yes, ma'am.

14 Q. What's the purpose of that?

15 A. The oral airway is a plastic -- I guess a plastic
16 piece that we put into their mouth and it holds their
17 tongue back away from their throat so that we can make sure
18 their airway stays open while we are trying to push air
19 down into their lungs, you know, through the process of
20 doing CPR and that in itself is kind of like an I-beam, if
21 that makes sense, in that it's able to hold the throat open
22 and hold the tongue back while having an opening for the
23 air to travel and for vomit to then try to be expelled in
24 addition, you know, if that pressure is able to be made.
25 And then the bag valve mask device is something that we

1 put over the patient's mouth and it creates a seal and
2 from there it's attached to a -- it would look like a --
3 like a bag that we squeeze and that then puts air into the
4 patient's lungs and we do that in a certain order to create
5 circulation and breathing to try to circulate the blood and
6 then oxygenate it while breathing with the bag valve mask
7 and try to resuscitate the patient.

8 Q. Were you able to establish an airway?

9 A. Yes, we were.

10 Q. Based on your involvement in this case, how long did
11 you and other first responders remain there at the scene of
12 this residence on Nazareth Road before departing onto the
13 hospital?

14 A. It was -- we were there forty-five minutes.

15 Q. Do you have a notation as to the time that you would
16 have departed this scene?

17 A. Yes, ma'am. We -- we departed the scene to go to
18 Lexington Medical Center at 9:57 all while never stopping
19 our CPR. You know, we -- at that time we were still trying
20 to resuscitate the patient. You know, we had deemed our
21 best option was to try to get her to the hospital to see
22 if there was a better -- better or more tools that the
23 hospital might have to try to help the situation.

24 Q. All right. So 9:57 you departed the scene with EMS?

25 A. Correct. I rode in the back of the ambulance

1 continuing CPR all the way to the hospital.

2 Q. All right. So approximately forty-three minutes at
3 the scene?

4 A. Yes, ma'am.

5 Q. Is that your calculation?

6 A. Yes, ma'am.

7 Q. And then do you have any notations as to the time
8 that your ambulance with **Minor** inside arrived at Lexington
9 Medical Center?

10 A. We arrived at Lexington Medical Center at 10:21 PM.

11 Q. 10:21 PM?

12 A. Yes, ma'am.

13 Q. Now throughout this time that you and other first
14 responders at the scene were working on **Minor** there at the
15 residence, did you ever establish that she was able to
16 regain a heartbeat?

17 A. Not -- not outside of us doing CPR.

18 Q. Okay. Now you mentioned that you did CPR, as well as
19 a some other measures.

20 A. Uh-huh.

21 Q. The type of first aid that you're rendering, does that
22 involve blunt force injury to the patient?

23 A. No.

24 Q. I'm gonna ask you to take a look at some photos
25 yourself.

1 A. Yes, ma'am.

2 Q. And looking at what is State's 15 for identification
3 only at this time, is there anything you or anyone in your
4 presence would have done to cause those injuries to **Minor**
5 ?

6 A. There's -- there's nothing that we do that would have
7 that much of an impact.

8 Q. Okay. Now you mentioned that one of the things you
9 did was start an airway. How are you touching the patient
10 or what, I guess, are you able to determine about the
11 mobility of the patient's jaw in that situation?

12 A. Yes, in that situation we just kind of tilt the --
13 tilt the head backwards to try to straighten out the throat
14 so we can make sure that there's an easy passage for the
15 airway to get down into -- into the mouth and down the
16 throat and with that patient we were able to successfully
17 do that the first try.

18 Q. All right. And when you say successfully able to do
19 that the first try, who actually is the person touching
20 **Minor** 's face to insert the airway?

21 A. In that instance it was firefighter Gary Poole that
22 was putting the airway in while I was doing chest
23 compressions.

24 Q. All right. At any point in time did you observe any
25 resistance from her jaw?

1 A. No, nothing. We did not -- I don't observe any
2 resistance from the jaw when we were having that airway
3 put in.

4 Q. All right. And through your experience as a
5 firefighter and first responder, have you had the occasion
6 to arrive at certain scenes where a patient is already
7 presenting rigor?

8 A. Yes, ma'am.

9 Q. Rigor mortis?

10 A. Yes, ma'am.

11 Q. Did you observe any signs of rigor in **Minor** ?

12 A. No. I actually moved the patient around a decent
13 amount when I was moving her to try to help clear her
14 airway and I didn't have any -- I didn't feel any
15 resistance from her at all.

16 MS. MAYES: I beg the Court's indulgence.

17 BY MS. MAYES:

18 Q. And you said you observed some vomit in the area.
19 What room were you in in the house, Firefighter McKinney?

20 A. I was in the living room.

21 Q. And did all of your actions in this case take place in
22 that same room?

23 A. Yes, everything happened in that room until we moved
24 the patient for transport.

25 Q. And y'all remained there in that same room until **Minor**

1 was taken out to the ambulance?

2 A. Correct.

3 Q. Okay. Now you mentioned that the Hispanic female was
4 providing the medical history?

5 A. Correct.

6 Q. Did anyone else in that home ever provide additional
7 information about **Minor** 's condition?

8 A. No, that would -- all the information that I got was
9 from the Hispanic female.

10 Q. Okay. And the white male in the residence, did he
11 ever provide any information about **Minor** ?

12 A. No.

13 MS. MAYES: Nothing further.

14 MS. ZMROCZEK: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. ZMROCZEK:

17 Q. Good morning, Firefighter McKinney. I noticed that
18 you testified that -- right when you sat down that you're
19 proud to serve as a firefighter, right?

20 A. Yes, ma'am.

21 Q. But it's hard, right?

22 A. It is.

23 Q. You -- you have to respond to some tragic situations,
24 don't you?

25 A. Yes, ma'am.

1 Q. And you're a trained professional?

2 A. Yes, I am.

3 Q. You're trained -- you receive training on how to react
4 to those situations, right?

5 A. Yes, ma'am.

6 Q. Because, like you said, you went through an extensive
7 training program and some of that was how to respond in a
8 situation.

9 A. Yes, ma'am.

10 Q. Okay. So you were able to apply that training to this
11 tragic situation?

12 A. Yes, ma'am.

13 Q. You -- and also in your training you learn to write
14 reports?

15 A. We do some -- some report writing, but the report
16 writing is actually done by the officer on-scene.

17 Q. So in this case, did you write a report?

18 A. No, I did not write a fire report in reference to
19 this. I wrote a police report after the fact.

20 Q. Now that's unusual, right?

21 A. No, ma'am.

22 Q. How many police reports have you written?

23 A. I think -- I think three since I'd become a
24 firefighter.

25 Q. Three in five years?

1 A. Yes, ma'am.

2 Q. Okay. And you would agree with me that according to
3 your -- in your report in 2016-2017, that annual period for
4 the fire department, that 51 percent of y'all's calls were
5 to respond to rescue and medical?

6 A. I don't know those statistics on that. I'd have to
7 refer to maybe my public information officer for that.

8 Q. Okay. Is it -- is the majority of what you respond
9 to is medical assistance?

10 A. Yes, ma'am.

11 Q. Okay. And I'm not trying to tease you, but it's
12 something that you're familiar with?

13 A. Yes, ma'am.

14 Q. Okay. And you received training I think you said in
15 basic life support?

16 A. Yes, ma'am.

17 Q. Did you talk -- I didn't hear your education. How far
18 did you go in school?

19 A. I have some college.

20 Q. Okay. And so all of this specialized training you
21 received at -- it is the firefighting academy?

22 A. There's -- there's multiple places, but, yes, ma'am.

23 Q. Okay. And they make sure that you know how to do all
24 these things, right?

25 A. Yes, ma'am.

1 Q. All right. Are you also trained to recognize signs
2 of shock?

3 A. What sort of shock are you referring to? Medical
4 shock?

5 Q. Yes.

6 A. In a patient, yes, ma'am.

7 Q. Okay. All right. You noted -- so you did give a
8 statement in this case, one of the three that you've given,
9 right --

10 A. Yes, ma'am.

11 Q. -- in your career. But in this case you just gave
12 one, right?

13 A. Uh-huh.

14 Q. And actually it was with this gentleman right here?

15 A. Yes.

16 Q. Okay. And so he came and he sat down and he asked you
17 questions?

18 A. Yes.

19 Q. And then you provided him answers, right?

20 A. Yes, ma'am.

21 Q. Tell this jury what you said about the temperature of
22 the body.

23 A. I --

24 Q. Do you have your report with you? Do you have your
25 notes?

1 A. Yes, ma'am.

2 Q. Okay. You can refer to them if you want to.

3 A. I remember recollecting that the patient was cold,
4 you know, to the -- to the touch of the hand.

5 Q. Okay. All right. You said cold to the touch and then
6 you went on to say unusually cold, right?

7 A. Yes, ma'am.

8 Q. Okay. I mean, unusually cold.

9 A. I'd say colder than someone that was -- that was a --

10 Q. Well, and I certainly don't want to misquote you --

11 A. Yes, ma'am.

12 Q. -- so if I'm not using your words correctly --

13 MS. ZMROCZEK: And, Your Honor, may I approach as
14 I'm approaching? I'm sorry.

15 THE COURT: You may.

16 BY MS. ZMROCZEK:

17 Q. Is that your handwriting?

18 A. Yes, ma'am.

19 Q. Okay. Just review that and then I'll take it back
20 from you.

21 A. Yes, ma'am. I wrote in here that she was very cold.
22 I would describe it as unusually cold.

23 Q. Okay. All right. So those were your words?

24 A. Yes, ma'am.

25 Q. Okay. Very cold. Usually cold. How much training

1 have you received in forensic pathology?

2 A. None.

3 Q. Can you tell this jury when rigor sets in?

4 A. I couldn't give you an accurate description to the --
5 I guess as to how it -- how it sets -- how it sets in after
6 death, you know.

7 Q. After death, right? We know that. Okay.

8 A. It's one of the signs and symptoms we look at to be,
9 you know, signs incompatible with life.

10 Q. Right. And -- and you would agree that -- that the
11 professionals would also say that there are so many
12 variables that it could happen between one and eight hours?

13 A. I wouldn't -- wouldn't be able to testify to something
14 like that.

15 Q. Right.

16 A. I've seen obvious signs of rigor mortis setting in,
17 you know, but I didn't see it that day.

18 Q. Right. You would agree with me in your situations
19 where you've responded to people's homes and sometimes car
20 accidents that people don't act the same way every time to
21 trauma, right?

22 A. I'd say putting a blanket statement on something
23 like that would be something that you wouldn't do. In my
24 experience though most of the situations I've been in
25 like this have been met with a different set of emotional

1 circumstances of other parents.

2 Q. How many situations have you been in where -- where a
3 father has come home from work and finds his daughter taped
4 to a bed?

5 A. Probably none.

6 Q. Okay.

7 A. To my knowledge.

8 Q. So this would be a unique situation?

9 A. Yes.

10 Q. Okay. She asked you about the vomit that you
11 observed. You actually were very able to remember and
12 describe in your statement how much vomit you saw, right?

13 A. Yes, ma'am.

14 Q. And what did you describe?

15 A. I described about a spoonful or so.

16 Q. Okay. About a spoonful. And you were -- when you
17 were asked several times about describe the patient,
18 describe the body, and you certainly described the
19 temperature and no rigor, right?

20 A. Yes.

21 Q. What other signs of trauma, obvious trauma, did you
22 see? You saw the distended stomach, right?

23 A. Yes, ma'am.

24 Q. And that's you said unusual?

25 A. Yeah, it's not normal for somebody to have a distended

1 stomach.

2 Q. You even made a comment in your -- your notes, you
3 wrote it down, that you didn't think that the woman was
4 being forthcoming, the mother, didn't you?

5 A. I don't think that was exactly what I said.

6 Q. What did you say?

7 A. I think what I said I was -- I had a difficult time
8 getting information from anybody.

9 Q. Okay.

10 A. So not -- not specifically just from the mother, but
11 nobody was giving me information readily.

12 Q. Okay. You described thinking maybe it could be --
13 because you saw some vomitus that you did the back slaps?

14 A. Yes, ma'am. Correct.

15 Q. Can you demonstrate -- can you demonstrate on the
16 witness stand how you do those? And pretend that that's --
17 your arm like that's the baby. I know you're -- I remember
18 from my lifeguard days.

19 A. All right. What we do when we do the back slaps, you
20 pick up the child, hold it at a slightly downward angle
21 placing the child's head in your hand right here keeping
22 the airway in the opening of your hand so that it can have
23 an open airway so they -- if it needs to expel anything
24 it's able to, but a slightly downward angle. From there
25 we'd just give it some slight pats on the back and try to

1 help dislodge anything, you know, similar to the pats that
2 you would give a baby like trying to burp them.

3 Q. And can you demonstrate how hard?

4 A. (Demonstrating.)

5 Q. And that was gonna get -- and that was gonna clear the
6 airway?

7 A. It seems to when a baby's trying to get burped. It's
8 about -- about the similar -- generally the same pressure.

9 Q. Okay. And then you put her back down and began -- or
10 continued --

11 A. Continued my patient assessment verifying the vitals.

12 Q. And did you notice -- did you write in your notes any
13 obvious signs of trauma or bruises?

14 A. Nothing that I noticed offhand, but I also wasn't
15 looking -- looking for anything dramatic in that sense.
16 I was more-so trying to get more information as to what
17 happened in that situation as to why the child was there.

18 Q. But you performed CPR the entire way to the hospital,
19 right?

20 A. Yes, ma'am.

21 Q. Okay. So you were right up in her face, right?

22 A. Uh-huh.

23 Q. Okay. And you were performing the compressions?

24 A. Yeah. I mean, other than the time that I flipped her
25 over to do the back pats while I was inside the residence.

1 She remained on her back as we did CPR.

2 Q. And just the last question I have for you.

3 A. Yes, ma'am.

4 Q. And you had said on direct that you were trying to get
5 information because there are many things that can make a
6 heart stop, right?

7 A. Well, yeah.

8 Q. One of those things would be when someone puts tape
9 over a child's mouth and nose, isn't it?

10 A. I don't know if I said tape over the child's mouth,
11 but if someone was aspirating on their own vomit, you know,
12 creating a -- creating an inability to breathe, that would
13 definitely cause the heart to stop.

14 MS. ZMROCZEK: Thank you.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. All right. Just a few questions to follow up on that.
18 One of the things that defense counsel just asked you is
19 the situation at the scene and your responses, it's not
20 like other cases you worked with a critically ill child,
21 what do you mean by that?

22 A. In speaking to reference the emotional response that
23 I get into that usually the parents are frantic, you know,
24 almost to the point where they're being unhelpful, but most
25 -- most of the time they're always trying to give us more

1 -- almost more information than we need going back, you
2 know, to the beginning with the history of the child,
3 what's happened to them. In that situation as I was asking
4 questions, you know, there was -- there was no response
5 being -- being given to me until one of the -- one of the
6 -- there was a larger Hispanic male that entered the
7 residence yelled at the parents to give me information to
8 help with the patient did I get any information at all and
9 at that point it was still a small amount from the Hispanic
10 woman. And during the -- during our efforts to resuscitate
11 the patient, one of the things that could help is just
12 putting something up underneath the patient's neck or head
13 area to help keep the airway straight while we're breathing
14 for the patient with the bag valve mask.

15 Q. Kind of like a head prop?

16 A. Yeah. Like, you know, it could be some type of towel
17 or a shirt depending where the patient was laying and at
18 one point in time I asked the -- I'd asked for one and I
19 remember how weird the response was that I got from the
20 father to be -- he just was nonchalant about trying to find
21 something. Anything would have worked, but I just needed
22 something, you know, and I wasn't able to leave the patient
23 to get it.

24 Q. All right. And what did it take to get a response
25 where something was brought to you to be a head prop?

1 A. I just had to keep asking for it over and over to try
2 to get it and usually that situation is just met with, you
3 know, extreme urgency to get me anything.

4 Q. And at any one -- at any point in time did anyone at
5 that scene inform you that the child had been taped to the
6 bed?

7 A. No, I -- I was never informed of that.

8 Q. Did anyone at the scene ever inform you that the child
9 had been placed in a shower?

10 A. No.

11 Q. Did anyone ever inform you that the child had been
12 forced to vomit?

13 A. No.

14 Q. Now I'm gonna show you that photo again, which is
15 State's 15 for identification, regarding the question that
16 defense counsel asked you about the type of measures you
17 take to clear the airway.

18 A. Yes.

19 Q. All right. Does that require hitting a child above
20 the buttocks?

21 A. No.

22 Q. Is that something you would have ever done?

23 A. No, it's not.

24 Q. And in doing the compressions, tell us what type of
25 compressions you were doing on **Minor** , who was four.

1 A. We were -- because of her size, she was -- she was
2 abnormally small for her size, so I actually did not know
3 her age. Because of her size we decided to do one-handed
4 compressions with a -- with just two fingers. She didn't
5 need to have, you know, the normal two hands like we would
6 for an adult or even a teenager, so.

7 Q. And can you show us what you mean by that?

8 A. You just -- you take your one hand and you're able to
9 use your two fingers to manipulate the sternum to try to
10 create pressure on the heart to beat, so that's it.

11 Q. And in that situation, would you expect to leave
12 bruises on the sternum?

13 A. Not -- no, I would not expect it to leave bruises on
14 the sternum from doing that.

15 Q. Would you expect that to result in bruises to the
16 torso or to the sides or underneath the arms of the child?

17 A. No, I wouldn't -- I wouldn't expect that.

18 Q. And did you do anything that would have caused
19 significant impact to the child's face or chin?

20 A. No, it's -- whenever we're handling any patient we're
21 always using -- being as gentle as possible.

22 Q. Now one of the questions you got just a few moments
23 ago was did you observe any bruises on **Minor** . In the
24 situation you were in when you walked in that door that
25 night, what was your focus?

1 A. My focus was on a reported cardiac arrest. We arrived
2 on-scene, you know, with the expectations of trying to
3 start CPR as soon as possible, you know, no matter what the
4 causes were of it to try to help mitigate any damage that
5 might occur from the lack of blood flow in the body so that
6 we could possibly try to resuscitate successfully.

7 Q. And given your -- your duties with CPR, were you
8 examining her from head to toe for bruises?

9 A. With CPR that's not exactly the first thing that we
10 would look at. You know, our concern more-so is to
11 immediately start resuscitation efforts so we can get that
12 recirculation going.

13 Q. And what do you remember about how **Minor** was dressed
14 when you arrived and were observing her?

15 A. I remember all she was wearing was a diaper.

16 Q. And at that point in time when you're doing the
17 chest compressions and establishing the airway, are you
18 turning her over to look at any bruises on the buttocks
19 or back?

20 A. Not -- when I did turn her over, that was not my
21 goal was to look for bruising on her back. Usually
22 there's not trauma in a cardiac arrest of that nature, so
23 that's not something that we initially would immediately
24 looked for.

25 MS. MAYES: Thank you. Nothing further.

1 MS. ZMROCZEK: Very briefly, Your Honor.

2 THE COURT: Very briefly.

3 RECROSS EXAMINATION

4 BY MS. ZMROCZEK:

5 Q. Firefighter McKinney --

6 A. Yes, ma'am.

7 Q. -- you are certainly not trying to tell this jury that
8 Lance didn't care, right? Is that what you're trying to
9 tell them?

10 A. I have no ability to determine that information.

11 Q. Right. Because he just as well could have been in
12 complete shock, right? You don't know.

13 A. I couldn't say.

14 Q. So when you use words like nonchalantly, that's just
15 your observation?

16 A. Yes, ma'am. Of course.

17 Q. Okay. And she asked you about the bruises on the
18 torso and things like that. If someone is deceased, they
19 can't get any more bruises, can they?

20 A. I'm not a -- I would not be able to answer that
21 question.

22 Q. You wouldn't know that either. And then on page four
23 of your statement, Detective Andaloro asked you is there
24 anything else I should know, right?

25 A. Yes, ma'am.

1 Q. Okay. And so you were trying to give him all the
2 information you had?

3 A. Yes, ma'am.

4 Q. And did you -- where in that -- where in any of these
5 pages did you tell him that the hair was wet?

6 A. I did not.

7 MS. ZMROCZEK: That's all I have, Your Honor.

8 THE COURT: All right. You may step down.

9 (Witness excused.)

10 THE COURT: All right. We're in need of a break,
11 so step in the jury room, take a few minutes, and I'll
12 have you back in here in about ten to fifteen minutes.
13 Remember you can't discuss the case.

14 (Whereupon, the jury retires to the jury room at
15 11:04 AM.)

16 THE COURT: All right. We'll take about ten
17 minutes or so.

18 (Recess taken at 11:05 AM.)

19 (Back on the record at 11:16 AM.)

20 BAILIFF: All right. Court's back in session.
21 Come to order.

22 THE COURT: Are y'all ready for the jury?

23 MS. MAYES: We are, Your Honor.

24 THE COURT: All right. Bring in the jury.

25 MS. MAYES: Your Honor, may we approach?

1 THE COURT: Sure.

2 (Proceedings held at the bench; not reported.)

3 (Whereupon, the jury returns to the courtroom at
4 11:19 AM.)

5 THE COURT: All right. Call your next witness.

6 MS. MAYES: The State calls Zikia Smith.

7 (Whereupon, Zikia Charmaine Smith was duly sworn
8 by the Clerk of Court.)

9 THE CLERK: Once you're seated speak up loud and
10 clear. State your full name, spelling your last, please.

11 THE WITNESS: My full name is Zikia Charmaine Smith.
12 Last name is spelled S-M-I-T-H.

13 ZIKIA CHARMAINE SMITH,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. All right. And, Ms. Smith, if you could pull that
18 microphone just a little bit close to you.

19 A. Okay.

20 Q. Tell us a little bit about yourself. Where are you
21 employed?

22 A. I am an EMT basic employed with Lexington County EMS.

23 Q. All right. And how long have you been with emergency
24 medical services here in Lexington County?

25 A. For almost three years.

1 Q. All right. Tell us about your background and training
2 that led you to become an EMT.

3 A. I did about six months of training for EMT basic. I
4 decided to become an EMT because I wanted to work more with
5 patients so I feel like I'm making a difference.

6 Q. All right. And can you tell us what, if any,
7 involvement you had as a first responder on the night of
8 July 31, 2017, involving four-year-old **Minor** ?

9 A. Okay. I was the EMT basic on Unit 8 with my partner,
10 Margaret Szala. When we responded on the scene, I provided
11 compressions and I also provided oxygen via a bag valve
12 mask to the child.

13 Q. All right. And at any point in time were you able to
14 establish a heartbeat for **Minor** that night?

15 A. No.

16 Q. What, if anything, Ms. Smith, stands out to you about
17 **Minor** and what you saw about her?

18 A. The thing that stood out to me was that her hair was
19 wet. We weren't sure why, but me and my partner discussed
20 it and we were just wondering why her hair was wet.

21 Q. All right. And how close were you to **Minor** to observe
22 her wet hair?

23 A. While I was bagging her, I was right over her head.

24 Q. And regarding that, can you tell us whether or not it
25 was her whole head or all of her hair that was wet?

1 A. It was all of her hair.

2 Q. All right. Now in addition to that, what, if
3 anything, did you observe about any signs of rigor or rigor
4 mortis in **Minor** ?

5 A. There was none.

6 Q. Did you ever observe any stiffness when she was being
7 intubated or rolled over or anything of that nature?

8 A. No.

9 MS. MAYES: Nothing further, Ms. Smith.

10 CROSS-EXAMINATION

11 BY MS. ZMROCZEK:

12 Q. Ms. Smith, you how much training do you have in rigor,
13 in identifying it?

14 A. I'm not an ex -- expert, but we go through whether to
15 know -- so we can know to identify it when we go to calls
16 and -- calls for cardiac arrest and --

17 Q. And that can happen between one and ten hours -- or
18 eight hours, right?

19 A. I'm not an expert.

20 Q. Okay. So you don't know. And the thing that stood
21 out to you was her wet hair?

22 A. Yes.

23 Q. What about all of those bruises?

24 A. I didn't notice any bruises at the time.

25 MS. ZMROCZEK: Thank you.

REDIRECT EXAMINATION

BY MS. MAYES:

Q. When you're in the process of I think you said the valve mask CPR, are bruises your priority at that moment?

A. No.

Q. What was your priority?

A. Providing oxygen to the patient and providing compressions. That's what I was trained to do. That's my job.

MS. MAYES: Thank you, Ms. Smith.

THE COURT: You may step down.

(Witness excused.)

MS. MAYES: The State calls Scott Zylstra.

THE CLERK: Place your left and raise your right.

(Whereupon, Scott Zylstra was duly sworn by the Clerk of Court.)

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

THE WITNESS: Scott Zylstra, Z, as in zebra, Y-L-S-T-R-A.

SCOTT ZYLSTRA,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. MAYES:

Q. All right. I want to start by asking you a little

1 bit about yourself. Where are you employed and in what
2 capacity?

3 A. Currently I'm employed at Lexington County Sheriff's
4 Department and I'm a detective in major crimes.

5 Q. And how long have you been in the major crimes
6 division?

7 A. Going on -- I just believe I passed my two and a half
8 year mark.

9 Q. All right. Now I want to take you back to 2017,
10 specifically July 31st of 2017. What type of work were
11 you doing for the Lexington County Sheriff's Department at
12 that point in time?

13 A. I was a master deputy for the road patrol.

14 Q. All right. And how long have you actually been a law
15 enforcement officer?

16 A. A total of -- April will be eleven years with the
17 sheriff's department.

18 Q. All right. And tell us what your job was as the
19 master deputy for that region.

20 A. I -- I was basically -- there's a sergeant and then
21 myself, so I would be a co-supervisor for the deputies --

22 Q. All right.

23 A. -- along with -- with answering calls.

24 Q. Tell us, Detective Zylstra, how it is you ended up at
25 this residence on Nazareth Road on the night of July 31,

1 2017.

2 A. I was dispatched by our dispatch center in relation to
3 a cardiac arrest.

4 Q. And what happened next?

5 A. Upon my arrival on-scene, I did observe fire personnel
6 and EMS already on-scene. I entered the -- the residence
7 and upon entering the residence, I did observe fire and EMS
8 personnel providing lifesaving techniques.

9 Q. All right. What happened after that?

10 A. EMS transported the juvenile, **Minor** , to
11 Lexington Medical Center. Upon their departure I spoke
12 with the Defendant, David Lopez, the father, and asked him
13 what happened.

14 Q. All right. And do you have a notation as to the name
15 of the father in this case?

16 A. I do.

17 Q. Are you familiar with the name David Steadman?

18 A. Yes, sir, I am.

19 Q. Is that the same person?

20 A. It is.

21 Q. All right. I'm gonna show you what is State's 19 for
22 identification and ask you whether or not you recognize
23 this?

24 A. That is the residence I responded to.

25 Q. Is this a fair and accurate representation of how it

1 appeared on the night of July 31st?

2 A. Yes, ma'am.

3 MS. MAYES: State's 19 for evidence.

4 THE COURT: Any objection?

5 MS. ZMROCZEK: No objection.

6 THE COURT: State's 19 is admitted without
7 objection.

8 (State's Exhibit Number 19, a photograph, was
9 admitted into evidence.)

10 BY MS. MAYES:

11 Q. Now I want to move along and ask you when you say that
12 you stayed there at the scene and the father of the child
13 stayed at the scene, where had the mother of the child
14 gone?

15 A. The mother went to the hospital with **Minor** as she was
16 transported to the hospital.

17 Q. All right. And what time was it that you arrived,
18 Detective Zylstra?

19 A. According to the CAD report, I arrived on-scene at --
20 it would be 9:28 PM on July 31st.

21 Q. And then while the father -- well, first of all, let
22 me clarify this. Were there other children there at the
23 residence as well?

24 A. There was. There was the brother of -- of **Minor**
25 asleep in their bedroom.

1 Q. All right. And so is it your understanding the
2 father stayed behind because of the young children in the
3 residence?

4 A. That's correct.

5 Q. All right. And at this point in time, did you even
6 know what had occurred with **Minor** ?

7 A. No, ma'am.

8 Q. And what is the purpose of you actually following up
9 to ask any questions?

10 A. Basically I'm just on a factfinding to find out what
11 happened --

12 Q. All right.

13 A. -- so I can notate it in my report.

14 Q. All right. And when you say factfinding, what kind of
15 questions are you asking?

16 A. Basically I'm asking what happened to Mr. Steadman and
17 he relayed some events to me and then as he relayed those
18 events, I would just confirm that everything would be true
19 and accurate to the best of everybody's memory.

20 Q. So when you're asking him what happened, did you note
21 exactly what he said to you regarding anything that night
22 with **Minor** ?

23 A. Yes, ma'am. I do note in my incident report -- and
24 I'll read it straight from the incident report. I note
25 that David was crying and very distraught and kept saying,

1 and I have it in quotations, I should have done more.

2 Q. All right. What else, if anything?

3 A. David actually stated that he got home from work
4 between 6:30 and 7:00 PM and as normal the children were
5 already in bed. David stated that he had gone to check on
6 **Minor** and **E.L.** . When he did so he observed to be
7 awake and she told him she was thirsty.

8 Q. All right. When you say observed to be awake, who's
9 he talking about?

10 A. The -- **Minor** .

11 Q. So **Minor** was awake and said she was thirsty?

12 A. Yes, ma'am.

13 Q. And what happened next according to Mr. Steadman?

14 A. David went and got her a glass of water to drink and
15 then went to watch television. According to David, there
16 was nothing out of the normal with **Minor** . David stated
17 that his other child, **L.L.** , was awake so he had him in
18 the living room with him. David stated that he heard his
19 wife scream and jumped up to see what -- what was wrong.

20 Q. When you asked about -- or when the statement was made
21 nothing out -- and the response was nothing out of the
22 normal with **Minor** , is that something that you specifically
23 asked about, whether anything appeared to be abnormal that
24 night?

25 A. No, ma'am. I do not believe so.

1 Q. And that indication that there was nothing out of the
2 normal with **Minor** came from whom?

3 A. That was Mr. Steadman.

4 Q. When he talked about getting her -- bringing her a
5 glass of water because she was thirsty, did he indicate
6 that anything abnormal was happening at that time?

7 A. No, ma'am.

8 Q. And when he stated that he went to watch television,
9 did he state how long that was or what time that was during
10 the night that he went to watch television?

11 A. I did not make any reference in the report to that. I
12 -- I do not remember.

13 Q. All right. What, if anything, does he say occurred
14 after he described watching TV and that there was nothing
15 out of the normal with **Minor** ?

16 A. David stated that he heard his wife scream and he
17 jumped up to -- to see what was wrong. He then saw **Minor**
18 lying in the hallway and she was slightly blue. David
19 grabbed **Minor** and brought her into the living room and
20 immediately began CPR and had his wife call 9-1-1.

21 Q. At any point in time, Detective Zylstra, did he ever
22 mention to you that **Minor** had been taped to a bed that
23 night?

24 A. No, ma'am.

25 Q. Did he ever mention to you that he had given **Minor** a

1 shower?

2 A. No, ma'am.

3 Q. Did he ever mention to you anything about giving Minor
4 a shower to force her to vomit?

5 A. No, ma'am.

6 Q. What happened next?

7 A. David stated that when he began CPR Minor did have
8 some contents from her stomach come up, which he had to
9 clear. David stated he ran next door to get relatives to
10 help and ran back to continue CPR and EMS soon arrived.

11 Q. All right. Was there an indication that there were
12 some relatives who lived nearby?

13 A. There was.

14 Q. All right. Now I want to move along and ask you about
15 any other involvement of law enforcement at the scene
16 at this point. What was the next step in terms of law
17 enforcement's involvement?

18 A. So basically the watch commander as well responded
19 and based on the facts and having a four-year-old with
20 complications and the type of call that we responded to,
21 he immediately called to have the major crimes detectives
22 and CSI respond and I basically created what's called a
23 crime scene log.

24 Q. All right. So after your arrival -- CSI meaning crime
25 scene investigation?

1 A. That's correct.

2 Q. As well as the major crimes unit?

3 A. That's correct.

4 Q. They did arrive there at the scene?

5 A. Yes, ma'am.

6 Q. And then do you recall whether-- if at any point
7 after your conversation with Mr. Steadman he went onto the
8 hospital?

9 A. I do not remember, but I'm -- I don't remember.

10 Q. Okay. At this point when you said you started the
11 crime scene log, was the scene turned over to major crimes
12 division?

13 A. Yes, ma'am.

14 MS. MAYES: Thank you. Nothing further at this
15 time.

16 CROSS-EXAMINATION

17 BY MS. ZMROCZEK:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. You stated -- right at the very beginning when you
21 sat down, you said that the reason that you get facts is
22 to confirm that they're true and accurate. Is that -- if
23 I misheard you, please correct me.

24 A. Yes. We -- we learn what -- what happened. Obviously
25 we weren't there so we want from the individuals who were

1 there to tell us what happened.

2 Q. So people have lied to you before, haven't they?

3 A. Yes, ma'am.

4 Q. All right. So you -- you're not saying that that
5 statement was true? You don't have --

6 A. I don't -- at that time I had no reason to believe
7 that anything he was telling me was not true.

8 Q. Right. But what you do is that -- you're a detective
9 in major crimes, right?

10 A. At that time I was a master deputy.

11 Q. Okay. As a master deputy, if someone you pull over --
12 that means you're on the road, right?

13 A. That's correct.

14 Q. Okay. You pull somebody over on the road at four in
15 the morning because they're in the long lane, right?

16 A. Yes, ma'am.

17 Q. And so you want to find out what's happening, right?

18 A. Sure.

19 Q. And one of your questions is there's a strong odor of
20 alcohol coming from the car, sir, or ma'am, have you been
21 drinking?

22 A. That would -- possibly if I smelled the odor of
23 alcohol, yes, ma'am.

24 Q. Okay. And if they say no, is that a true statement?

25 A. Sometimes it could be, sometimes it couldn't be.

1 Q. Right. Sometimes it could be and sometimes it
2 couldn't be?

3 A. Yes, ma'am.

4 Q. And when -- sometimes when people go through an
5 unimaginable, horrific experience, they don't handle it
6 the way that -- how do people handle a horrific tragic
7 experience in your line of work?

8 A. Well, I think what you were going to say is we all
9 handle things such as tragedy and bad news and stuff
10 different ways.

11 Q. Well, I'm not gonna say that, I mean, but in your
12 experience would you agree with me if I did say that?

13 A. Yes, ma'am.

14 Q. Okay. So there's no one way to respond to any
15 situation?

16 A. No, ma'am.

17 Q. Okay. And so you've said that he had told you he got
18 home about 6:30 or 7:00?

19 A. Yes, ma'am. That's correct.

20 Q. Okay. And what time did he go check on **Minor** ?

21 A. I don't know that he stated a specific time. He
22 basically -- in my report I wrote that David stated he got
23 home from work between 6:30 and 7:00 PM and as normal the
24 children were already in bed.

25 Q. Okay. And so do you -- so when he then said he went

1 to check on her, you didn't ask him any follow-up questions
2 about well, what time was that?

3 A. No, ma'am.

4 Q. Okay. But he did say per normal they were in bed when
5 he got home from work?

6 A. That's correct.

7 Q. And he did say he got home between 6:30 and 7:00?

8 A. That's correct.

9 Q. And in your experience now, I know not then, but now
10 in major crimes when people tell you things, you want --
11 you want to corroborate them, right?

12 A. In major crimes, yes, ma'am.

13 MS. ZMROCZEK: Thank you. No further questions,
14 Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. MAYES:

17 Q. In response to that, Detective Zylstra, let me ask
18 you do you expect a parent to provide you with an accurate
19 history when they have an injured child?

20 A. Yes, ma'am.

21 Q. Was that the purpose of your questions?

22 A. Yes, ma'am.

23 MS. MAYES: Nothing further.

24 THE COURT: All right. You can step down.

25 (Witness excused.)

1 MS. MAYES: The State calls Chandler Clardy.

2 (Whereupon, Chandler Clardy was duly sworn by the
3 Clerk of Court.)

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

6 THE WITNESS: Chandler Clardy. Last name's
7 C-L-A-R-D, as in David, Y.

8 CHANDLER CLARDY,
9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. MAYES:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. Or good morning.

15 A. Good morning.

16 Q. Tell us a little bit about yourself. Where do you
17 work?

18 A. I'm employed with the Lexington County Coroner's
19 Office. I've been employed there for roughly a little over
20 three years now.

21 Q. All right. And, Mr. Clardy, I'm gonna need you to
22 pull that microphone a little bit closer to you.

23 A. Is that better?

24 Q. Yes, that's better.

25 A. Okay.

1 Q. What do you do with the coroner's office?

2 A. My job is to figure out cause and manner of death.

3 Q. All right. And how long have you been working in that
4 capacity where you're actually having the opportunity to
5 observe patients who are deceased?

6 A. I would say roughly in three years at least a hundred,
7 if not more, response calls.

8 Q. Tell us about your background and training that led
9 you to be a member of the coroner's office.

10 A. I have some college education. I worked in a funeral
11 home for seven years. At the coroner's office we're
12 required sixteen hours of continuing education every year.
13 That's a minimum. We normally exceed that. There's no
14 specific training each year. It's kind of whatever class
15 is available.

16 Q. All right. And what is your specific job title at the
17 Lexington County Coroner's Office?

18 A. Just a deputy coroner.

19 Q. All right. And as deputy coroner, what type of
20 training is received specifically about identifying things
21 such as rigor mortis?

22 A. That is something that's learned on the job, as well
23 as certain training classes that we attend every year that
24 do discuss things like that.

25 Q. Now why is it that the coroner's office becomes

1 involved when there is a death of a child under unexplained
2 circumstances?

3 A. Anything that's -- anybody that's not on hospice
4 it's required obviously to respond to the scene. Child
5 deaths are always taken a little bit further than normal
6 investigations. You get more involved and more questions.

7 Q. And is it normal if you have an unexplained death
8 for the coroner's office to become involved alongside law
9 enforcement?

10 A. Correct.

11 Q. And so does that also include stages of the
12 investigation such as the autopsy?

13 A. That's correct.

14 Q. And what about actually responding that night, the
15 night of this event?

16 A. Well, any time you have a child fatality, one of us
17 goes to the hospital if -- if the child is transported.
18 Coroner Fisher always attends with us there at the hospital
19 and we also have someone who goes to the residence and
20 stays there until we can get that processed as well, so
21 you have multiple people involved with this investigation
22 on our end it of it.

23 Q. So I want to start at the beginning, Deputy Coroner,
24 and ask you how or what notes you have about how you first
25 became involved in the case of **Minor** .

1 A. So on July 31, 2017, at 10:50 PM, I received a text
2 message from dispatch. That's how we're notified of calls.
3 The nursing supervisor there at the hospital was needing
4 to report the death of **Minor** . I then contacted the
5 nurse supervisor who gave me brief information about the
6 death and from that point I contacted Coroner Fisher, as
7 well as my chief deputy, Candace Berry, and then I made my
8 way to the hospital.

9 Q. All right. Do you have notes as to what time, Deputy
10 Coroner, you arrived at Lexington Medical Center on
11 July 31st?

12 A. Yes, ma'am. I arrived at 11:25 PM.

13 Q. 9-1-1 was called at 9:05 PM. This is roughly
14 two hours and twenty minutes later that you arrived?

15 A. Yes, ma'am.

16 Q. All right. Take us through your first involvement
17 there at the hospital with **Minor** .

18 A. So I arrived at 11:26 PM. I entered the emergency
19 department and met with the nursing supervisor. From there
20 she gave me a brief rundown as to what she knew at the
21 time.

22 Q. And without saying what anybody else said to you, did
23 you have an opportunity to meet the parents of **Minor** ?

24 A. Not at first. That was after our body assessment.

25 Q. Okay. So I want to go through the steps of what your

1 involvement was. The first thing you did after speaking
2 with the nurse was what?

3 A. We began taking photographs.

4 Q. All right. And specifically did you take photographs
5 of **Minor** ?

6 A. I did.

7 Q. Now during that process, how, if at all, are you
8 examining her physically?

9 A. We look at the entire body from head to toe, front
10 and back. We look for signs of injuries, trauma, possible
11 causes of death and things of that nature.

12 Q. And is that something you're trained in as well?

13 A. Yes, ma'am.

14 Q. Take us through what you observed after your arrival
15 at 11:25 during your patient assessment or your assessment
16 of **Minor** ?

17 A. So **Minor** had long brown hair, brown eyes, had her
18 own teeth, and her fingernails were mixed between short and
19 medium length. No polish on the fingernails or toenails.

20 Q. All right. And let me ask you this. What, if
21 anything, did you have an opportunity to observe about her
22 physically? Did you look at any signs of rigor? And by
23 that I mean rigor mortis.

24 A. We do look for that, but there were no signs of rigor
25 mortis present. We do look for the jaw, the neck, arms and

1 legs, and no signs of rigor mortis was present.

2 Q. And you said that's the jaw, the neck and what else?

3 A. Arms and legs.

4 Q. And you're actually conducting that physical
5 examination that yourself?

6 A. Correct.

7 Q. And touching those parts of the body such as the jaw?

8 A. Correct.

9 Q. Now moving on, Deputy Coroner, did you have an
10 opportunity to speak with the parents of **Minor** ?

11 A. I did.

12 Q. Okay. And I want to ask only about the information
13 they provided for that night, the night of July 31st.

14 A. Would you like me to speak -- because the mother
15 responded first and then I spoke to Mr. Steadman.

16 Q. So when you spoke with the mother, was the Defendant,
17 David Steadman, present for that?

18 A. He was.

19 Q. And did you ask the mother what had occurred with
20 **Minor** that night?

21 A. We did.

22 Q. And what, if anything, did she state had occurred that
23 night with **Minor** ?

24 A. She had stated that **Minor** had eaten dinner, refried
25 beans and rice. She had got her clothing soiled, so she

1 took her clothes off. Mom went to the bedroom to try to
2 get some other clothing, she heard a thump or a thud as
3 she states, and that's when she found **Minor** unresponsive.

4 Q. All right. And throughout that history that's
5 provided by the mother, Cynthia Lopez, David Steadman was
6 present for that conversation?

7 A. Correct.

8 Q. Did he ever tell you anything differently than that?

9 A. No, ma'am.

10 Q. And then did you have an opportunity to question
11 Mr. Steadman directly about what he said occurred with
12 **Minor** ?

13 A. Yes, ma'am.

14 Q. What, if anything, do your notes indicate he stated
15 occurred with **Minor** ?

16 A. Mr. Steadman stated that **Minor** had a big appetite. He
17 explained that **Minor** played normally, had two brothers, so
18 she did play rough.

19 Q. All right. So you're -- what room are you in at the
20 hospital?

21 A. What's considered the -- at the time it was the larger
22 family consultation room. It's now the only consultation
23 room in the ER.

24 Q. All right. So there -- there in the family room he
25 tells you that she plays rough with her brothers?

1 A. Correct.

2 Q. Had you asked anything about that?

3 A. Not specifically.

4 Q. After telling you that she plays rough with her
5 brothers, what, if anything, else did he say had occurred
6 that night with **Minor** ?

7 A. Well, Mr. Steadman stated that he got home from work
8 around 7:00 PM. Normally the kids are asleep by then. He
9 said when he arrived at the house he went inside and he
10 used the bathroom, fixed a place of food, placed it into
11 the microwave, and stated that **Minor** said she was thirsty.
12 He gave her some water and then proceeded to the couch with
13 the youngest child to watch Netflix, and he did mention
14 that was the last time he physically saw **Minor** alive.

15 Q. So just to clarify, his indication was that he gotten
16 home around 7:00 that night?

17 A. Yes, ma'am.

18 Q. And then I think you said he went to the bathroom?

19 A. Yes, ma'am.

20 Q. Fixed a plate of food?

21 A. Yes, ma'am.

22 Q. And then **Minor** said she was thirsty?

23 A. Correct.

24 Q. Did he say he brought her water?

25 A. Yes.

1 Q. What exactly did he state to you in that regard?

2 A. He stated he gave **Minor** some water because she
3 stated that she was thirsty.

4 Q. All right. And then what, if anything, did he state
5 he did next?

6 A. Following that, he then went to the couch with the
7 youngest child, **L.L.** , and watched Netflix.

8 Q. Now throughout your questioning of him about **Minor**
9 that night, did he ever indicate anything out of the
10 ordinary with **Minor** ?

11 A. No, ma'am.

12 Q. Did he ever indicate that **Minor** had been tied to a
13 bed?

14 A. No, ma'am.

15 Q. Did he ever indicate that she had been taken into the
16 shower or forced to vomit?

17 A. No, ma'am.

18 Q. So his indication was that she was alive and drinking
19 water?

20 A. Yes, ma'am.

21 Q. Now you mentioned taking photographs. I'm gonna show
22 you some photographs for identification only at this time.

23 For identification only at this time, you said that
24 while you were at the hospital you were taking photographs?

25 A. Yes, ma'am.

1 Q. I'm gonna ask you whether or not you recognize these
2 items, being State's Exhibit 6, State's Exhibit 7, State's
3 Exhibit 8, State's Exhibit 9, State's Exhibit 10, State's
4 Exhibit 11, State's 12, 21, 22, and 23.

5 A. I do.

6 Q. Who took those photographs?

7 A. I did.

8 Q. And are each of those photographs a fair and accurate
9 representation of how you observed **Minor** that night on
10 July 31, 2017, in the emergency room of LMC?

11 A. Yes, ma'am.

12 Q. And was this during the same point in time that you
13 were checking her physically for signs of rigor?

14 A. Yes, ma'am.

15 Q. Now after that night, what, if any, other involvement
16 did you have in the case as deputy coroner?

17 A. I also attended the autopsy.

18 Q. Did you have an opportunity to take photographs at the
19 autopsy?

20 A. I did.

21 Q. Is that routine for the Lexington County Coroner's
22 Office in a child fatality situation like this?

23 A. At this time it was, yes, ma'am.

24 Q. And especially in a situation that is an on-going
25 investigation?

1 A. Yes, ma'am.

2 Q. I'm gonna show you what is State's Exhibit 13, 14,
3 15, 16, 17, 18, and 20, and ask you whether or not you
4 recognize these photographs?

5 A. Yes, ma'am, I do.

6 Q. Could you tell us whether those are a fair and
7 accurate representation of photographs of **Minor** at
8 the time of her autopsy?

9 A. That is correct.

10 Q. Do you have information regarding the date of **Minor**'s
11 autopsy?

12 A. Yes, ma'am.

13 Q. What was the date and time of the autopsy for **Minor**
14 **Lopez**?

15 A. August 1, 2017, at 9:30 AM.

16 Q. So that would be the very next morning at 9:30?

17 A. Yes, ma'am.

18 Q. And where did that autopsy occur?

19 A. Newberry Pathology Associates.

20 MS. MAYES: Your Honor, if we may approach?

21 THE COURT: You may.

22 (Proceedings held at the bench; not reported.)

23 THE COURT: All right. We've got some legal issues
24 to put on the record regarding the photographs, so I'm
25 gonna take those up and then I'm gonna eat lunch, but

1 (Whereupon, the witness returns to the witness
2 stand.)

3 BAILIFF: Are you ready, sir?

4 THE COURT: Yes, sir. Bring them in.

5 (Whereupon, the jury returns to the courtroom at
6 1:58 PM.)

7 THE COURT: All right. We're ready to continue
8 on.

9 I remind you you're still under oath.

10 Ms. Mayes.

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

12 CONTINUED DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Now you had indicated that you were present there at
15 the hospital arriving at 11:25 and you took photographs of
16 **Minor** ?

17 A. Yes, ma'am.

18 Q. Looking here at State's 21, 22, 23, 11, 12, 6, and
19 10, who took these photographs?

20 A. I did.

21 MS. MAYES: And all in evidence at this time,
22 Your Honor.

23 MS. ZMROCZEK: Wait a minute.

24 THE COURT: 6 is in.

25 MS. ZMROCZEK: Yeah. Yeah. Yeah. Sorry. I

1 can't read my own handwriting on this.

2 THE COURT: All right. Fair enough. Without
3 objection they're admitted.

4 (State's Exhibit Numbers 6, 10, 11, 12, 21, 22,
5 and 23, photographs, were admitted into evidence.)

6 BY MS. MAYES:

7 Q. And then also the next morning you arrive for the
8 autopsy?

9 A. Correct.

10 Q. And were you able to take photographs of that process
11 as well?

12 A. I was.

13 Q. I'm gonna show you what is State's 24 and ask you --
14 which is one I don't believe you saw before, but I'm gonna
15 ask you whether or not you recognize that and ask if that's
16 a fair and accurate representation of your findings at
17 autopsy?

18 A. It is.

19 Q. State's 18, State's 15, State's 14, State's 17, and
20 State's 13.

21 A. I recognize all of them.

22 Q. Are they all a fair and accurate representation of
23 what you observed at autopsy?

24 A. It is.

25 MS. MAYES: All of those for evidence as well,

1 Your Honor, including 24.

2 MS. ZMROCZEK: Uh-huh.

3 THE COURT: As to the prior hearing, without
4 objection.

5 (State's Exhibit Numbers 13, 14, 15, 17, 18, and
6 24, photographs, were admitted into evidence.)

7 THE COURT: Just so y'all understand, there were
8 numerous photographs taken and the parties agreed to
9 more or less these eighteen or twenty, I didn't count
10 them specifically, but they're a representation of a
11 larger number.

12 Y'all will have all the photographs, whatever is
13 admitted into evidence, in the jury room with you.
14 Look at them as long as you want. They may publish
15 some of them. You will see them again in the jury room,
16 so understand that.

17 BY MS. MAYES:

18 Q. Looking here at State's 21, this being a photograph
19 taken there at the hospital emergency room, what, if
20 anything, is being depicted in this photograph, Deputy
21 Coroner?

22 A. That is some sort of abrasion.

23 Q. All right. And on what part of the body is this
24 located?

25 A. The head.

1 Q. Okay. And then State's 22?

2 A. That's the same thing, an abrasion.

3 Q. And, again, what part of the body?

4 A. The head.

5 Q. Now at autopsy, State's 14, what, if anything, did
6 you observe around the neck, ear and hair of **Minor** ?

7 A. There's still vomit present.

8 Q. State's 13. What, if anything, was observed in this
9 photograph and why did you photograph that?

10 A. Because there is a noticeable bruise underneath the
11 chin.

12 Q. State's 17. Why, if at all, did you photograph
13 anything in this image?

14 A. Just to show how bloated the stomach was, as well as
15 you can see the outline of where the AED pads and other
16 things that were removed from the skin.

17 Q. All right. Now this being the next morning at
18 autopsy, what, if anything, are we observing in these areas
19 where there's some discoloration?

20 A. You've still got noticeable signs of mottling
21 throughout the arms and legs, as well as bruising was more
22 apparent the next day.

23 Q. And why may mottling occur?

24 A. Mottling is basically when the heart stops beating,
25 your blood pressure slowly drops and it starts within the

1 feet and works its way up through the legs and arms, and
2 that's what kind of gives you that kind of reddish purple
3 discoloration within the veins.

4 Q. Can you tell us whether or not bruising was also
5 observed in **Minor** 's torso or abdomen area?

6 A. I believe in some other photos. This one I can't --
7 I can't clearly tell.

8 Q. Okay. I'm gonna show you what is State's 15. What,
9 if anything, of interest did you observe in this photo?
10 I'll give you a chance to look at it with the naked eye.
11 Was there bruising apparent in State's 15?

12 A. There is.

13 Q. Okay. And using that pointer, can you show us where
14 you observed bruising to **Minor** ?

15 A. Do you mind showing me where the pointer is really
16 quick?

17 Q. (Indicating.)

18 A. Thank you.

19 So you have bruising along the upper -- upper buttocks
20 region, lower back. You also have some minor kind of cuts,
21 lacerations there on the left butt cheek.

22 Q. And was that apparent as you're observing her in
23 person?

24 A. That was observed the day of autopsy.

25 Q. Okay. And then I'm gonna show you what is State's 17.

1 Can you tell us whether or not there was bruising along the
2 torso area as well?

3 A. It appears so.

4 MS. MAYES: Nothing further at this time, Your
5 Honor.

6 MS. ZMROCZEK: Did she say nothing further?

7 THE COURT: Nothing further.

8 MS. ZMROCZEK: I'm sorry. Thank you.

9 CROSS-EXAMINATION

10 BY MS. ZMROCZEK:

11 Q. It's deputy coroner, right?

12 A. Yes, ma'am.

13 Q. Deputy Coroner, you stated on direct, the very first
14 thing out of your mouth, what is your job as the deputy
15 corner?

16 A. Cause and manner of death.

17 Q. Okay. So tell this jury what the cause of death was.

18 A. The death was listed as aspiration due to the -- the
19 vomiting.

20 Q. Okay. Was there more than one cause?

21 A. I would -- it's not in my notes here.

22 Q. Okay. And so the cause of death, meaning what caused
23 her death, was aspiration due to vomiting, right?

24 A. Yes, ma'am.

25 Q. And tell the jury what -- what is manner of death?

1 What does that mean?

2 A. Manner of death is -- basically you have five
3 different manners. You have natural, homicide, suicide,
4 undetermined -- I think I'm missing one -- accidental.

5 Q. Okay. And -- and so what was the manner of death?

6 A. I don't have it in my notes here, so I can't answer
7 that.

8 Q. Okay. Part of your responsibilities as the deputy
9 coroner is y'all report information to the Department of --
10 to DHEC?

11 A. Yes.

12 Q. Okay. And why do you do that?

13 A. DHEC is the one who oversees all the death
14 certificates, cause of death, manner of death; therefore,
15 we are the ones who list the cause and manner of death,
16 send it to DHEC, they finalize that and send it back to the
17 funeral home for the family to obtain.

18 Q. Okay. And so the only things that you are responsible
19 for on the death certificate are the cause?

20 A. Cause, manner and sometimes the -- the time of
21 occurrence.

22 Q. Okay. And then there's an area on there for describe
23 how the injury occurred. Who fills that out?

24 A. Ultimately Coroner Fisher has the final say as to what
25 goes on that death certificate.

1 Q. Okay. And you've seen this death certificate, right?

2 A. I have.

3 Q. Okay.

4 MS. ZMROCZEK: And, Your Honor, I'm referring to
5 Defense Exhibit 2, which we would now move into evidence
6 under the judicial notice rule.

7 THE COURT: It will be so entered without objection.

8 MS. ZMROCZEK: Thank you.

9 (Defendant's Exhibit Number 2, a death certificate
10 blowup, was admitted into evidence.)

11 BY MS. ZMROCZEK:

12 Q. Okay. So this -- this is the death certificate,
13 right?

14 A. Yes, ma'am.

15 Q. And I think you said Coroner Fisher. She's the
16 elected official, right?

17 A. Yes, ma'am.

18 Q. And she -- she's the one who actually is responsible
19 for this to make sure it's accurate before it goes, right?

20 A. Yes, ma'am.

21 Q. Okay. So under cause of death, read to the jury what
22 those are.

23 A. You have asphyxia, aspiration of vomitus, immobility,
24 restrained to bed with taped over the mouth.

25 Q. Okay. So there are four causes listed here, right?

1 A. Yes, ma'am.

2 Q. Okay. So the first one is asphyxia. Tell the jury
3 what that means.

4 A. Asphyxia is basically she couldn't breathe.

5 Q. Okay. Let me ask you this. Do you have the training
6 to -- to tell this jury how long somebody can have tape
7 over their mouth before they stop breathing?

8 A. I cannot.

9 Q. Okay. The second one is asphyxiation of vomitus.
10 What's that mean?

11 A. Basically that's just choking on the vomit.

12 Q. Okay. And then C, immobility, what does that mean?

13 A. Basically she wasn't able to move at all.

14 Q. Okay. And D, restrained to bed with tape over mouth.
15 I think that probably speaks for itself, right?

16 A. Yes, ma'am.

17 Q. And that's listed right there under cause of death,
18 restrained to bed, right?

19 A. Yes, ma'am.

20 Q. With tape over the mouth?

21 A. Yes, ma'am.

22 Q. Okay. And then it goes on and has several different
23 boxes, and I believe Box Number 43, describe how the injury
24 occurred.

25 A. Restrained to bed with tape, tape over the mouth.

1 Q. Restrained to bed with tape over mouth. So on this
2 official State document it's telling us that she died for
3 these reasons?

4 A. Yes, ma'am.

5 Q. Okay. I want to talk about your report for a little
6 bit because you went through it, and part of your job as
7 the deputy coroner is to make sure that you provide
8 accurate and complete and true reports, right?

9 A. Correct.

10 Q. Okay. Because, for example, when you come here to
11 testify to this jury you want to make sure that they have
12 all of the information to make their determination, right?

13 A. That's correct.

14 Q. Okay. So -- and you went through it in detail, but
15 you left out a couple of things that I want to talk about,
16 okay?

17 A. Okay.

18 Q. So you said that there's no rigor, right?

19 A. Correct.

20 Q. And tell me how -- when does rigor set in?

21 A. It all depends. There's a bunch of different
22 circumstances, but normally you can see it within about
23 two hours is when you can noticeably see it. It starts
24 within the jaw and goes to the neck, arms and legs.

25 Q. Okay. And you said normally, it depends, right, so

1 can you say to any degree of scientific certainty?

2 A. No, too many factors have to play into it.

3 Q. Too many factors, right?

4 A. (Nods head.)

5 Q. And -- but you did -- but rigor is not the only thing
6 that you're trained to spot, right?

7 A. Correct.

8 Q. And what's that? What am I looking for?

9 A. We look for obviously rigor mortis, livor mortis.

10 Q. I'm sorry, livor mortis?

11 A. The technical term's livor mortis.

12 Q. Okay. What's that? Tell the jury what that means.

13 A. Livor mortis, or also you'll hear people call it
14 liv-er mortis, it's basically once the heart stops beating,
15 the blood, there's gravitational pooling. So if somebody's
16 laying on their back, the blood's gonna settle to their
17 back; if they're laying on their front side, it's gonna go
18 to the front side. That's what livor mortis is considered.

19 Q. Okay. And you made a note of that in your report,
20 right?

21 A. I did.

22 Q. Okay. And what does your note say?

23 A. Rigor mortis was not present; however, livor mortis
24 was present on the posterior along the right leg, left arm,
25 and lateral on the chest and abdomen with slight blanching.

1 Q. Okay. Now there were some -- there were some
2 lifesaving -- extreme lifesaving measures in this case,
3 right?

4 A. Correct.

5 Q. You had -- or when you went to the -- when you
6 responded to the hospital, you said Coroner Fisher was with
7 you?

8 A. Yes, ma'am.

9 Q. Okay. And so you were -- you prepared the narrative
10 for this, right?

11 A. Yes, ma'am.

12 Q. So did you and Coroner Fisher make a determination
13 that CSI needed to come to the hospital?

14 A. Yes.

15 Q. Okay. And why did y'all make that determination?

16 A. Because she's four years old. Any -- nobody just dies
17 at four years old.

18 Q. Okay. And what did CSI for Lexington County Sheriff's
19 Department do? Did they come running?

20 A. No.

21 Q. I'm sorry?

22 A. They did not.

23 Q. Okay. And, in fact, they told you why they were not
24 -- and I'm not asking you to repeat it, but they told you
25 why -- why they weren't gonna come to the hospital,

1 correct?

2 A. Correct.

3 Q. Okay. And you noted that in your report?

4 A. Yes, ma'am.

5 Q. Okay. You also got some information regarding some
6 medical problems that **Minor** had, right?

7 A. Correct.

8 Q. And what were -- did she have a -- she had a -- not
9 did she. She had a swallowing disorder, right?

10 A. It was stated she had difficulty swallowing.

11 Q. And, in fact, one of the things that you do as a
12 coroner is -- is get medical records, right?

13 A. Correct.

14 Q. And so did you -- you did receive medical records
15 regarding that she had a swallowing disorder?

16 A. Without those on me, I can't -- I can't attest to
17 that.

18 Q. All right. You notified -- you spoke with the
19 parents?

20 A. I did.

21 Q. You spoke with my client?

22 A. It was myself and Coroner Fisher.

23 Q. Okay. And when was that?

24 A. That was following the body exam at the hospital.

25 Q. Following the body exam at the hospital, but before

1 the autopsy?

2 A. Correct.

3 Q. Okay. And what did you tell them at that time?

4 A. That it's currently unknown.

5 Q. Okay. You didn't say hey, there's a lot of bruising
6 on this body?

7 A. We always wait for the autopsy to be completed before
8 any information is given out.

9 Q. Okay. So -- so you didn't tell anybody?

10 A. No.

11 MS. ZMROCZEK: I think these are already in
12 evidence, Your Honor, Defendant's 18 and 20.

13 THE COURT: We discussed those at the hearing.
14 Those were gonna be without objection from the State,
15 18 and 20.

16 MS. MAYES: (Nods head.)

17 (Defendant's Exhibit Number 18 and 20, photographs,
18 were admitted into evidence.)

19 BY MS. ZMROCZEK:

20 Q. And you recognize those photos?

21 A. I do.

22 Q. Okay. I want to talk about 18 and then I'll show it,
23 but you keep saying -- a lot of people were saying about
24 the stomach. Is that -- is that how it appeared?

25 A. It is, yeah.

1 Q. Okay. It was extremely bloated?

2 A. Abnormally bloated, yes.

3 Q. Okay. And that's 18. And this is 20, right?

4 A. Yes, ma'am.

5 Q. And we see still some of the lifesaving apparatus,
6 right?

7 A. Correct.

8 Q. But what also do you see?

9 A. Vomit present in the mouth and nose.

10 Q. Mouth and nose. Okay. So that means that it was
11 coming out of her mouth and her nose when -- at some point?

12 A. Correct.

13 Q. Okay. Can it do that with tape on it?

14 A. No.

15 Q. Okay. We talked about how liver -- livor mortis, I
16 know, how it forms after the heart stops beating, right?

17 A. Correct.

18 Q. How long -- and that's cardiac arrest, right?

19 A. Any -- anytime the heart stops.

20 Q. Anytime -- anytime it stops?

21 A. (Nods head.)

22 Q. So how long can the brain survive without oxygen?

23 A. That would have to be referred to a medical doctor.

24 Q. Okay.

25 MS. ZMROCZEK: I beg the Court's indulgence.

1 THE COURT: Yes, ma'am.

2 MS. ZMROCZEK: Oh, sorry. Just one more thing.

3 BY MS. ZMROCZEK:

4 Q. You were looking at the State's pictures regarding the
5 injuries to the head?

6 A. Yes, ma'am.

7 Q. And are those your gloves, and this is State's 21, or
8 is somebody holding that for you?

9 A. That would be coroner Fisher holding.

10 Q. Okay. So in order for you to see this and to
11 photograph it, somebody had to manually move the hair?

12 A. Correct.

13 Q. Okay.

14 A. In order for that photograph to be taken, correct.

15 Q. Right. And it's the same with State's 22?

16 A. Correct.

17 MS. ZMROCZEK: Thank you.

18 THE COURT: Redirect?

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

20 REDIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. Okay. So defense was asking you about the official
23 document, the death certificate. Now do you prepare that
24 yourself?

25 A. I do not. Ultimately cause of death will come from

1 the pathologist. Coroner Fisher will oversee all of the
2 paperwork from the pathologist and make the decision
3 whether she agrees or not and will list a cause of death.

4 Q. All right. Now when we're talking about a cause of
5 death in terms of asphyxia, aspiration of vomitus,
6 immobility, restrained to bed with tape over the mouth,
7 that night that you're at the hospital in that family room
8 interviewing Cynthia Lopez and David Steadman did he ever
9 suggest any of those things being wrong with **Minor** ?

10 A. No.

11 Q. Did you ever hear anything about tape at all?

12 A. No.

13 Q. Restrained to a bed?

14 A. No.

15 Q. Did he tell you she had been vomiting?

16 A. Not in my report.

17 Q. He told you she was thirsty and wanted water and he
18 gave her water?

19 A. Correct.

20 Q. Now in terms of the livor mortis or rigor mortis that
21 you were being asked about a few moments ago, what does
22 that look like on the body?

23 A. It is a bluish purple kind of discoloration.

24 Q. And looking here at your photographs from that night
25 at the emergency room, do you see indications of the livor

1 mortis in any of these photos you took looking at 23 and
2 10?

3 A. 23 shows the livor mortis, 10 shows the mottling.

4 Q. Okay. This will be 23. That is -- what do you call
5 that in your terms?

6 A. That is the livor mortis.

7 Q. Taking a look at 10.

8 A. All of that is considered mottling.

9 Q. Okay. What is the time period in which you expect for
10 livor mortis to appear after the heart stops beating?

11 A. It can technically begin as soon as the heart stops,
12 but typically we see it within thirty minutes to two to
13 three hours.

14 Q. All right. So it can begin as soon as the heart stops
15 beating?

16 A. Correct.

17 Q. It can be almost instantaneous?

18 A. Pretty much.

19 Q. And then, in addition, I believe you said normally
20 you would expect it within thirty minutes?

21 A. Within thirty minutes you should start seeing signs
22 of livor mortis.

23 Q. Okay. And I believe your testimony under
24 cross-examination was that it starts in the legs?

25 A. The livor mortis?

1 Q. Uh-huh.

2 A. That's wherever -- it depends on the body positioning.
3 Mottling starts in the legs.

4 Q. Okay. And all of your photos and your observations
5 were after 11:25 PM?

6 A. Correct.

7 Q. With 9:05 PM being EMS time, so at least two hours and
8 twenty minutes after the 9-1-1 call?

9 A. That's correct.

10 Q. Is that all consistent with what you would expect for
11 a patient who was first receiving treatment at 9:05 PM with
12 no heartbeat?

13 A. It's fairly accurate.

14 Q. Was what you observed consistent with what you would
15 expect in a patient who had been without a heartbeat for
16 two hours and twenty minutes?

17 A. Yes.

18 Q. And about the rigor that defense counsel was asking
19 you about, rigor normally starts where first?

20 A. In the jaw.

21 Q. And in this particular case, no signs of rigor in the
22 jaw?

23 A. No signs of rigor.

24 Q. One of the questions you got asked is how long for
25 rigor. In a child, when would you normally expect rigor to

1 start to appear?

2 A. There's a lot of -- a lot of things that can affect
3 rigor mortis. Sometimes you can see it -- if somebody has
4 a seizure, it's instant. You can see them, they'll be
5 fully locked up. Natural death, something unknown, you
6 kind of would expect roughly two hours to start seeing it
7 within the jaw and then it just progresses from there.

8 Q. Okay. Is two hours a fair estimate of when you would
9 expect to see it in the jaw?

10 A. It's fairly accurate, yes.

11 Q. And you checked **Minor** 's jaw?

12 A. Yes.

13 Q. And then I believe one of the questions that you got
14 asked by defense counsel was can it be as long as six
15 hours. What would it take for you in your experience to
16 expect for rigor to be delayed by six hours? What are
17 those kind of situations?

18 A. Well, of course, with rigor, like I said, a lot of
19 things affect it. The cooler the environment is, it's
20 gonna slow the process down; the hotter it is, it's gonna
21 speed things up. So average, we look at a standard 75
22 degree temperature, you would expect to see, like I said,
23 rigor within two hours would be noticeable within the jaw.
24 Six hours you should see it within the jaw, neck and arms
25 and possible the legs.

1 Q. And this was July?

2 A. Yes.

3 MS. MAYES: Thank you. Nothing further.

4 MS. ZMROCZEK: Briefly, Your Honor.

5 RECROSS EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. You said you would expect to see it within two hours,
8 right?

9 A. Yes, ma'am.

10 Q. And you can say that with any certainty?

11 A. Typically with most cases that I've worked within
12 two hours it is noticeable that there is some rigor.

13 Q. Okay. So all these variables that she talked about,
14 tell us what the time of death was then.

15 A. That was pronounced by a doctor?

16 Q. I understand that was pronounced by a doctor, but when
17 did she actually die?

18 A. Due to the doctor pronouncing, we don't do that.

19 Q. Okay. Right. But you -- you are not qualified to
20 tell this jury when she died, right? We can speculate
21 two hours, four hours, six hours. You don't know all the
22 variables, do you?

23 A. Correct. I'd defer to a pathologist.

24 Q. Right. And she asked you about whether or not this
25 document can get filed with the State and you said that

1 Coroner Fisher has to approve it, right?

2 A. Correct.

3 Q. And, in fact, if she disagrees she can get another
4 opinion, right?

5 A. Correct.

6 Q. Do we have another opinion in this case?

7 A. No.

8 Q. I'm sorry?

9 A. No.

10 Q. Okay. So there's no other opinion about the causes
11 of death being asphyxia, aspiration of vomiting,
12 immobility, restrained to the bed with tape over the mouth,
13 and the injury occurred because she was restrained to the
14 bed, tape over the mouth? No other document filed in the
15 State, right?

16 A. Not that I'm aware of.

17 MS. ZMROCZEK: Thank you.

18 THE COURT: You may step down.

19 (Witness excused.)

20 MS. MAYES: The State calls April Sykes.

21 (Whereupon, April Sykes was duly sworn by the
22 Clerk of Court.)

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

25 THE WITNESS: April Sykes, S-Y-K-E-S.

1 APRIL SYKES,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. Good morning -- or good afternoon at this point,
6 Agent Sykes. Tell us a little bit about yourself. Where
7 are you employed?

8 A. I'm an agent with the South Carolina Law Enforcement
9 Division, commonly known as SLED.

10 Q. I'm gonna need you to pull the microphone up directly
11 to you there. Tell us about your work with SLED.

12 A. I have seventeen years of law enforcement. I became
13 certified in 2002. I began work at the West Columbia
14 Police Department. I did everything from dispatch to
15 patrol to investigations to victim advocacy to starting
16 their SVU unit. I then came to the judicial -- circuit
17 solicitor's office where I worked in four counties for
18 four years as a victim advocate and investigator. Then I
19 got transferred to SLED, took a job there, and I began my
20 career there six years ago roughly. And essentially what
21 we do, we do investigations in the middle part of the
22 state. So there are ten counties that we work and it's any
23 kind of investigation that's not covered by a specialty
24 unit.

25 Q. And you said that you are with the State Law

1 Enforcement Division for how long?

2 A. I've been with SLED for six years.

3 Q. All right. What, if any, type of training do you have
4 in cases involving child witnesses?

5 A. So when I began my career in law enforcement, in 2004
6 attending a course called Finding Words, which is a course
7 designed to teach law enforcement or DSS personnel on how
8 to interview children as witnesses and victims, and so that
9 was in 2004, so I've been doing interviews with children
10 for about sixteen years.

11 Q. All right. I'm gonna ask you specifically about this
12 case, Agent Sykes, and whether or not you're familiar with
13 a child by the name of E.L. , who was five years
14 of age in July of 2017?

15 A. That's correct. I was asked to conduct an interview
16 on E.L. on August the 7th, 2017, when he was five years
17 of age at the time.

18 Q. Where did that interview take place?

19 A. It took place at what we call a child advocacy
20 center. When these children are interviewed, we want them
21 to come to child friendly facility versus, you know, a law
22 enforcement station, and these advocacy centers are pretty
23 much a one-stop shop for children who have witnessed
24 something violent or been subject to abuse and neglect.
25 They can get medical care, they can get counseling and they

1 can give interviews, so it was actually held at an advocacy
2 center.

3 Q. Now when the interview is done is anyone else allowed
4 in the room with you and the child?

5 A. No, barring a translator no one is ever allowed in
6 the room. That's how the training throughout the state
7 of South Carolina is because you want an uncontaminated
8 interview. The interview itself is neutral, it is
9 non-leading, and it's a factfinding interview done by a
10 trained professional.

11 Q. And in this particular case, can you tell us whether
12 or not the parents, being Cynthia Lopez and David Steadman,
13 were present in the room or even to observe that interview?

14 A. No one was in the room. The only people that are
15 allowed to observe those interviews are people within the
16 criminal justice system that have a vested interest in
17 the child such as DSS or mental health, a child fatality
18 investigator or crime scene investigator or investigator.

19 Q. All right. And were the parents able to observe it at
20 any point?

21 A. Not that day.

22 Q. Okay. Now moving forward, did you conduct an
23 interview with **E.L.** ?

24 A. I did.

25 Q. Following that interview what, if any, action did you

1 take in this case?

2 A. I contacted the CSI unit at the Lexington County
3 Sheriff's Department. They were not present during that
4 interview and I just wanted to share the information that
5 the interview had provided me.

6 Q. All right. And do you recall who it was you contacted
7 with -- with the CSI division at the Lexington County
8 Sheriff's Department?

9 A. I did. It was Sergeant Doug Novak.

10 Q. And do you remember the approximate date that you
11 contacted him for follow-up?

12 A. I believe it was two days later. It was before my
13 final report was issued, so I couldn't give him a copy of
14 the report, but I wanted to make sure that he was aware.

15 MS. MAYES: Thank you. Nothing further at this
16 time, Your Honor.

17 CROSS-EXAMINATION

18 BY MS. ZMROCZEK:

19 Q. That interview was videotaped?

20 A. Yes, ma'am. As is required by law, it has to be video
21 and audio recorded.

22 Q. And that was -- that same video has been turned over,
23 right?

24 A. Yes, ma'am.

25 Q. Okay. And that's the only videotape?

1 A. Yes, ma'am.

2 Q. Okay. Along with -- with being interviewed in a
3 forensic interview, they also have a medical exam?

4 A. They -- they can have a medical exam.

5 Q. Okay. But that's -- you just do your -- you're
6 just in charge of the interview?

7 A. I just do the interview. I'm certainly not prepared
8 to do a medical exam.

9 MS. ZMROCZEK: Thank you. No further questions.

10 THE COURT: You may step down.

11 (Witness excused.)

12 MS. MAYES: The State calls Sergeant Miles Rawl.

13 (Whereupon, Miles Rawl was duly sworn by the Clerk
14 of Court.)

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

17 THE WITNESS: Miles Rawl, R-A-W-L.

18 MILES RAWL,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. MAYES:

22 Q. All right. Sergeant Rawl, tell us a little bit about
23 yourself. Where are you employed?

24 A. I am a detective sergeant for Lexington County
25 Sheriff's Department. I've been there since 2007.

1 Q. All right. And how is it that you became involved in
2 major crimes?

3 A. On the date of August the 10th, 2017, I received
4 information through Sergeant Novak, I was actually the
5 on-call major crimes sergeant for that Friday evening, and
6 I received information through Sergeant Novak that there
7 had been some development regarding the death investigation
8 that occurred on July 31st, 2017.

9 Q. All right. Regarding **Minor** ?

10 A. Yes, ma'am.

11 Q. And can you tell us whether this before or after

12 **E.L.** received that forensic interview that we
13 just heard about?

14 A. It would have been after the forensic interview. I
15 think Agent Merrill -- I'm sorry, Agent Sykes had contacted
16 Sergeant Novak and provided him with that information.

17 Q. All right. And following the contact between that
18 SLED agent and Sergeant Novak here in the courtroom, what,
19 if any, action did major crimes take?

20 A. At that point in time there had been disclosure
21 through the forensic interview that --

22 Q. All right. Is --

23 A. Go ahead. I'm sorry.

24 Q. Please continue.

25 A. There had been information disclosed in the forensic

1 interview that deemed another search warrant at the
2 residence at [REDACTED] Nazareth Road in the Lexington area of
3 Lexington County.

4 Q. All right. A search warrant of the residence that
5 **Minor** had resided in --

6 A. That's correct.

7 Q. -- with the parents? And what date was that search
8 warrant executed?

9 A. August 10, 2017.

10 Q. And ultimately did you arrive there as a major crimes
11 unit sergeant?

12 A. I did. My arrival time was at 5:30 PM, which was
13 about an hour or so after they had been conducting the
14 search warrant.

15 Q. And upon your arrival, did you learn whether or not
16 any physical items of interest had been recovered from the
17 residence?

18 A. Yes, ma'am.

19 Q. And what specifically did you learn had been
20 recovered?

21 A. Tape that **E.L.** had described during the forensic
22 interview.

23 Q. Now what action did you take upon learning this?

24 A. Upon learning that I got with Sergeant Novak, who was
25 actually privy throughout the investigation. I had -- my

1 part had only came in in August 2010 {sic} when I was on
2 call. At that point in time Sergeant Novak had more
3 information regarding the case, he and I discussed it, and
4 then at that point in time we pulled -- well, while
5 standing by David Steadman actually pulled up in the yard
6 and at that point in time Sergeant Novak and I interviewed
7 him.

8 Q. All right. And what is the first thing you recall
9 about approaching the Defendant in this case, David
10 Steadman, about what had been discovered inside the home?

11 A. After Sergeant Novak and I began questioning him, he
12 made a statement to the fact that he arrived home about
13 7:00 PM on the night of July 31, 2017, and he had made
14 contact with his wife who was frustrated during that day.
15 At that point in time he stated he went --

16 Q. All right. Will you slow down.

17 A. I'm sorry.

18 Q. And this is August 10th?

19 A. That's correct.

20 Q. Now at the very outset of the interview, Sergeant
21 Rawl, what, if anything, did you ask him after you learned
22 that the tape had been found?

23 A. After we had questioned him about the tape, at that
24 point in time he stated that my wife had **Minor** tied to the
25 bed.

1 Q. All right. And what action did you take upon hearing
2 that?

3 A. At that point in time learning that information, I
4 pulled out my advisement of rights card and I advised
5 Mr. Steadman of his Miranda warnings.

6 Q. And do you have a copy of that card with you today?

7 A. I do.

8 Q. Can you read slowly for purposes of the court
9 reporter, but advise us what exactly you informed
10 Mr. Steadman of on that date of August 10th when you were
11 at the residence.

12 A. Okay. You have the right to remain silent. Anything
13 you say can and will be used against you in a court of law.
14 You have the right to talk to an attorney or have him or
15 her present with you while you're being questioned. If you
16 cannot afford to hire an attorney, one will be appointed to
17 represent you before any questions if you want. You can
18 decide at any time to exercise these rights and not answer
19 any questions at any time or make any statements. Do you
20 understand these rights as I've explained them to you.
21 Having these rights in mind, do you wish to talk to us now.

22 Q. And based upon your observations, did it appear that
23 Mr. Steadman understood those rights?

24 A. He did.

25 Q. Did the Defendant ever refuse to participate in an

1 interview?

2 A. He did not.

3 Q. Did he agree to participate in the interview?

4 A. He did.

5 Q. Did you promise him anything in exchange for an
6 interview?

7 A. I did not.

8 Q. Did you or Sergeant Novak threaten or coerce him in
9 any way to participate in that interview?

10 A. We did not.

11 Q. Based upon those observations, did his waiver of those
12 rights appear to be free and voluntarily given?

13 A. Absolutely.

14 Q. And what happened next after -- after he agreed to
15 speak with you after hearing his Miranda rights?

16 A. After reading his rights, we began talking to him
17 about the night of July 31, 2017. We had him walk us kind
18 of through that afternoon. At that point in time, he
19 stated he arrived home at approximately 7:00 PM. He made
20 contact with his wife, Cynthia, who seemed aggravated. She
21 stated that they were aggravated based on the fact that
22 **E.L.**, Minor and **L.L.** were fighting and basically
23 that **Minor** had been hitting **E.L.** with a saber light.
24 At that point in time, he stated he had to go to the
25 restroom. He went to the restroom and then went and

1 checked on the kids. At that time he went up and found
2 **Minor** taped to her bed.

3 Q. All right. So his statement was he came home, his
4 wife was aggravated, then he went to the restroom and then
5 he checked on the kids?

6 A. That's correct.

7 Q. And now he states he found **Minor** tied?

8 A. That's -- taped at that time.

9 Q. And what did he report next?

10 A. He stated that she had vomit on her chest and she was
11 breathing very slow and heavy. He stated that her eyes
12 were -- pupils were dilated and her stomach was really big.
13 He stated that he pulled the tape off immediately, carried
14 her to the bathroom thinking she may have to throw up more.
15 He stated that both he and Cynthia were able to squeeze
16 **Minor** 's stomach to get more vomit out. He describes **Minor**
17 as lifeless but breathing very slow and heavy.

18 Q. All right. So his description of her breathing slow
19 and heavy, was that in conjunction with his description of
20 her as lifeless?

21 A. That's correct.

22 Q. Did he ever report that she wasn't breathing?

23 A. No, ma'am.

24 Q. What, if anything, did he report next?

25 A. At that point in time after taking her to the

1 bathroom, he stated that they tried to wash her off. She
2 laid there on the bathroom floor unresponsive and he and
3 Cynthia, his wife, get into an argument over her condition.
4 He leaves, picks up L.L. a few hours late -- or like an
5 hour or two later and then goes to the couch and begins to
6 watch Netflix on his phone.

7 Q. Did he ever report to you that he had called 9-1-1?

8 A. He stated that he had not called 9-1-1. He had wanted
9 to call 9-1-1 to take Minor to the hospital, but Cynthia
10 told him she would be all right.

11 Q. All right. And his indication to you is that he
12 thought she would be all right?

13 A. That's correct.

14 Q. And after he left the bathroom with Minor, he went
15 where, to what room of the house?

16 A. To the living room with L.L. to watch Netflix on
17 his phone.

18 MS. MAYES: I beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 BY MS. MAYES:

21 Q. Can you tell us whether or not at this point he agreed
22 to provide a written statement?

23 A. At that point in time he did agree to provide a
24 written statement. Cynthia was actually inside the
25 residence at a different -- inside the residence per our

1 request so we could separate them to speak to them. I
2 had Detective Schirra and Sergeant Novak and, I think,
3 provide the written -- work with him providing the written
4 statement.

5 Q. And can you tell us whether or not this is all
6 following the waiver of Miranda that you've already
7 described, the waiver of Miranda that you described at the
8 outset?

9 A. Yes.

10 Q. Okay. At any point in time did he invoke those
11 Miranda rights --

12 A. He did not.

13 Q. -- or ask that questioning stop?

14 A. He did not.

15 Q. Based upon your observations, he was still
16 communicating freely with all of you?

17 A. Yes, ma'am.

18 MS. MAYES: Nothing further at this time.

19 CROSS-EXAMINATION

20 BY MS. ZMROCZEK:

21 Q. Good afternoon, Sergeant Rawl. How are you?

22 A. Good. And you?

23 Q. Great. I want to ask you first about -- so you're a
24 detective sergeant?

25 A. That's correct.

1 Q. Is that -- is that a higher rank or what does that
2 mean?

3 A. Basically I supervise a group of detectives.

4 Q. You supervise a group of detectives?

5 A. Yes, ma'am.

6 Q. Okay. And do y'all have policies and procedures that
7 you follow?

8 A. We do.

9 Q. And what happens if you don't follow those policies
10 and procedures?

11 A. You could have a written reprimand, whatever the case
12 may be, counseling.

13 Q. Why are they important?

14 A. To make sure that we're doing everything accurately,
15 correctly to the best of our ability.

16 Q. Because -- so that's how we want to make sure that our
17 work is judged, right?

18 A. That's correct.

19 Q. And so you -- I just want to make sure I understand.
20 You did show up to the residence that day?

21 A. On the date of August the 10th?

22 Q. Yes, August the 10th.

23 A. Yes, ma'am.

24 Q. What time did you get there?

25 A. About 5:30.

1 Q. Okay. And what time is that in military time?

2 A. 17:30.

3 Q. Okay. And tell the jury what a crime scene log is.

4 A. A crime scene log is something -- basically it's
5 initiated -- once a road officer responds out to a 9-1-1
6 call and it appears to be circumstances that detectives or
7 the coroner's office may be responding out to, at that
8 point in time we would come out and we begin a log to
9 indicate that -- who all came in the crime scene area,
10 which is usually taped off by crime scene tape.

11 Q. Okay. And it's important to do that because when
12 there is a crime and a road deputy -- I don't know if you
13 were here, but there was one that was created that night of
14 that emergency, right? And I'm talking about the 31st, not
15 the 10th right now.

16 A. I wasn't there, so -- but --

17 Q. Okay. You don't know? Okay. But because if people
18 are there they might have information and we can talk to
19 them, right, or they could --

20 A. Generally in a crime scene, yes.

21 Q. -- or they could be manipulating or moving things and
22 we want to make sure that doesn't happen, right?

23 A. First responders or whatever the case may be.

24 Q. Right. So was there a crime scene log the day y'all
25 went?

1 A. No, ma'am.

2 MS. ZMROCZEK: What number am I on?

3 THE COURT REPORTER: It would be 3.

4 BY MS. ZMROCZEK:

5 Q. So in your policies and procedures for a crime scene
6 sign-in or crime scene log, what are you required to put on
7 there?

8 A. Location, case number, date, time that the crime scene
9 logs begin and the time that the crime scene log ended, as
10 well as names and their times in and out of the taped off
11 area.

12 Q. Okay. So I'm gonna show you what's been marked for ID
13 at Defendant's 3. Is that a -- is that a crime scene log?

14 A. That is a crime scene log, yes, ma'am.

15 Q. Okay. What day was that created?

16 A. On this form it don't show.

17 Q. Okay. Is there another form that goes with that?

18 A. The officer's report.

19 Q. Okay. And so do we know who created this?

20 A. No, ma'am.

21 Q. Do we know where this crime scene was?

22 A. Well, actually Detective Zylstra created it. I
23 remember him testifying to that.

24 Q. Okay. And you're sure that that was the one he
25 created?

1 A. Based on what he testified to.

2 Q. Is Detective Zylstra's name on there?

3 A. No, ma'am.

4 MS. ZMROCZEK: I'm just gonna leave this marked as
5 ID at this point, Your Honor.

6 THE COURT: Okay.

7 BY MS. ZMROCZEK:

8 Q. So you go there. Do you recall if there was a crime
9 scene log that day?

10 A. On?

11 Q. August 10th.

12 A. To the best of my ability, no, ma'am.

13 Q. Okay.

14 A. We usually do not do crime scene logs for additional
15 search warrants.

16 Q. That would be unusual, right?

17 A. Yes, ma'am.

18 Q. Okay. And you -- we were talking about while you were
19 there you received information that led y'all to go back
20 and look for tape?

21 A. That's correct.

22 Q. Okay. Let me ask you this. If someone doesn't tell
23 you the truth in an on-going investigation, can they be
24 charged with that?

25 A. As far as to --

1 Q. Is it a crime to lie to the police?

2 A. Not in itself.

3 Q. Not in and of itself?

4 A. (Shakes head.)

5 Q. Okay. You and Detective Novak speak to Lance. I know
6 everybody's calling him David, but are you familiar that he
7 goes by Lance?

8 A. Yes, ma'am.

9 Q. Okay. So you speak -- I'm not trying to confuse you.
10 So you speak with Lance that day, right?

11 A. Uh-huh.

12 Q. And he was cooperative?

13 A. That's correct.

14 Q. Okay. And this was about ten days now after the death
15 of his daughter?

16 A. Yes, ma'am.

17 Q. Okay. And he tells you that he, again, got there at
18 7:00. Do you have any reason to doubt that?

19 A. No, ma'am.

20 Q. And, in fact, that's been something that's been
21 consistent throughout all of these statements, right?

22 A. Yes, ma'am.

23 Q. And then Detective Novak asked about the tape. Do
24 you recall what prompted him -- do you remember what the
25 question was?

1 A. I do not.

2 Q. Okay.

3 A. I think it was more along the lines of tell us about
4 the tape.

5 Q. Okay. And he never said tape on the mouth, right?

6 A. No, ma'am.

7 Q. Okay. But he said that he found her taped to the bed?

8 A. That's correct.

9 Q. And that her eyes were dilated?

10 A. Yes, ma'am.

11 Q. And that she was heavily breathing and also lifeless?

12 A. His statements, yes, ma'am.

13 Q. Okay. And so y'all asked him what time he got home
14 and he said -- did he say he immediately walked back to the
15 room?

16 A. No.

17 Q. Okay. About how long did it take for him to get
18 there?

19 A. I think he and Cynthia had a conversation regarding
20 the activity with the kids, how she was frustrated, he had
21 to go to the restroom and then -- and then he went upstairs
22 to check on the kids.

23 Q. Okay. So did you ever ask him about a timeframe of --
24 wait, he went upstairs to check on the kids?

25 A. Or he went -- I'm sorry. He went to check on the

1 kids.

2 Q. Okay. And did you ever -- did you ever say wait, what
3 time was this?

4 A. I did not.

5 Q. Okay. And did you ever ask what his demeanor was like
6 when this happened?

7 A. What his demeanor was on that night?

8 Q. On that night.

9 A. No, ma'am.

10 Q. Okay. And he even told you about with a conversation
11 that he had had with his wife about being taped to the bed,
12 right?

13 A. Yes.

14 Q. Okay.

15 A. That's what led to their argument.

16 Q. I'm sorry?

17 A. Yes, that's what led to their argument when **Minor** was
18 laying on the bathroom floor.

19 Q. Okay. And how long did he relate to you that **Minor**
20 had been taped to the bed?

21 A. I'm not sure if he put that in his written statement,
22 but I -- I don't recall a verbal account to what he said.

23 Q. Okay. Well, tell this jury how long Cynthia told you
24 she was taped to the bed.

25 A. According to her, she was taped to the bed around five

1 or 6:00 PM.

2 Q. And he got home at seven?

3 A. That's correct.

4 Q. And the tape that you found -- you've seen it, right?
5 You were there?

6 A. I don't know if I've seen it actually or not to be
7 honest.

8 Q. Okay. Somebody else collected it --

9 A. That's correct.

10 Q. -- and sent it off for testing, right?

11 A. Uh-huh.

12 Q. Okay. But you know that there was tape found
13 consistent with that?

14 A. Yes, ma'am.

15 Q. Okay. And she told you that sometime between five and
16 six is when she had taped **Minor** to the bed?

17 A. That's what -- her words, yes, ma'am.

18 Q. Her words. He used -- in your report, you used the
19 word -- he relates the word "lifeless" several times,
20 right?

21 A. Numerous times, but breathing.

22 Q. Okay. **L.L.** was two at the time?

23 A. I'm not exactly sure.

24 Q. Okay. That's okay. When you spoke with Cynthia, she
25 eventually told you that she put the tape on the mouth as

1 well, right?

2 A. Toward the end of the interview, yes, ma'am.

3 Q. Okay. Did you make note of Lance's demeanor when he
4 was having this conversation with you?

5 A. In my report I did not.

6 Q. Okay. Did you make note of Cynthia's demeanor when
7 she was having this conversation with you?

8 A. I did.

9 Q. And what did you -- tell this jury what your notes
10 were.

11 A. I said that Cynthia did not show any emotion during
12 our interview. She was not crying and never got upset
13 during our questioning.

14 Q. What time did she tell you that Lance came home from
15 work that day?

16 A. 7:00 PM.

17 Q. What did she tell you about what -- what made her mad
18 about Lance helping **Minor** ?

19 MS. MAYES: Objection, Your Honor. I believe we're
20 going beyond the stipulation at this point.

21 MS. ZMROCZEK: It's a statement against interest,
22 Your Honor.

23 THE COURT: I'm not sure what your question is.
24 Rephrase it, please.

25 MS. ZMROCZEK: Okay.

1 BY MS. ZMROCZEK:

2 Q. Did Cynthia relate anger in her discussions with Lance
3 and **Minor** ?

4 A. Yes.

5 Q. After that conversation on that day, what did you do
6 with Cynthia?

7 A. Placed her under arrest.

8 Q. And charged her with?

9 A. Homicide by child abuse.

10 MS. ZMROCZEK: No further questions. Thank you.

11 THE COURT: Redirect?

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

13 REDIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. So to clarify, Sergeant Rawl, Cynthia Lopez was
16 charged with homicide by child abuse in this case as well;
17 is that right?

18 A. That's correct.

19 Q. And I believe the question you got was were you part
20 of the interview of Cynthia Lopez?

21 A. I was.

22 Q. I'm gonna show you a document and ask you whether or
23 not you recognize it for purposes of refreshing your
24 memory.

25 A. Yes, ma'am.

1 Q. What was the timeframe that was reported by Cynthia
2 that she had taped **Minor** to the bed?

3 A. 5:30, 6:00 PM.

4 Q. Now one of the questions that you were just asked was
5 whether or not you established a timeframe for the events
6 that David Steadman was telling you about; that he had got
7 home, **Minor** was tied to the bed, but he said he got home at
8 seven, his wife was aggravated, he goes to the restroom and
9 then he checks on the kids?

10 A. Yes, ma'am.

11 Q. What, if anything, was he doing prior to calling 9-1-1
12 based on the information David Steadman provided to you?

13 A. He stated that he had grabbed **L.L.** and was watching
14 Netflix on his phone prior to calling 9-1-1.

15 Q. Well, can you refer directly to your report?

16 A. (Witness complies.)

17 Q. And how and when did he tell you that he first learned
18 that **Minor** was not breathing?

19 A. When Cynthia had -- after -- while sitting there
20 watching Netflix on his phone with **L.L.** an hour or two
21 later, Cynthia came in the room yelling with **Minor** stating
22 she was not breathing at that time.

23 Q. And then did your report indicate how long according
24 to Mr. Steadman it took to actually call 9-1-1 throughout
25 that night?

1 A. So the time of his arrival was 7:00, the 9-1-1 call,
2 I don't know if I have that paperwork, but it was around
3 9:00.

4 Q. All right. Did you question Mr. Steadman directly
5 about the 9-1-1 call? And you can refer to your report.

6 A. I did. He stated that --

7 Q. Did you ask him if he thought to call 9-1-1?

8 A. I did, and he actually stated that he did want to call
9 9-1-1, Cynthia did not want to. He did not want to call
10 9-1-1 in addition because he stated that he did not want to
11 lose his wife.

12 Q. All right. And then what, if anything, else did he
13 state in that regard?

14 A. That they waited two hours before calling 9-1-1.

15 Q. And what, if anything, did he acknowledge based on
16 your report?

17 A. He acknowledges that he should have called 9-1-1 upon
18 finding **Minor**, but stated that they did not know what to do
19 as he was aggravated with Cynthia and did not think to do
20 so.

21 Q. Did not think to do so referring to what?

22 A. Call 9-1-1.

23 Q. So is it your understanding that he learned that
24 **Minor** was not breathing before he watched Netflix or after
25 Netflix?

1 A. After Netflix.

2 Q. And then the call to 9-1-1 was after he watched
3 Netflix?

4 A. That's correct.

5 MS. MAYES: Nothing further.

6 RECROSS EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. She asked you about your report, just very briefly.
9 When you -- homicide by child abuse or murder or death,
10 those are all offenses that -- that Lexington County lists
11 as offenses, right?

12 A. That's correct.

13 Q. What was the offense listed in this case on your
14 report?

15 A. On the supplemental report, it lists sex offense,
16 sexual assault with object.

17 MS. ZMROCZEK: No further questions.

18 THE COURT: You can stand down.

19 (Witness excused.)

20 MS. MAYES: The State calls Sergeant Doug Novak.

21 (Whereupon, Douglas Novak was duly sworn by the
22 Clerk of Court.)

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

25 THE WITNESS: Douglas Novak, N-O-V-A-K.

1 DOUGLAS NOVAK,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. MAYES:

5 Q. All right. Tell us a little bit about yourself.

6 What's your you current rank?

7 A. Lieutenant.

8 Q. All right. And you're a lieutenant over what
9 division?

10 A. I'm over patrol of the West Region, which consists of
11 Lexington, Batesburg, Gilbert, Red Bank area.

12 Q. All right. And can you tell us what your experience
13 was at the sheriff's department prior to your promotion to
14 lieutenant?

15 A. I was the sergeant over forensic services, which
16 included evidence, crime scene investigation and the drug
17 lab.

18 Q. All right. What can you tell us when you were
19 sergeant at the time about your involvement in this case
20 with **Minor** ? Did you receive a call from Agent Sykes,
21 who we heard from earlier, who conducted the forensic
22 interview?

23 A. Yes, I got phone call from Ms. Sykes on April {sic}
24 10th informing me that her preliminary interview had
25 been completed and her preliminary report was done and she

1 had additional information to pass on.

2 Q. And what, if anything, did you do upon learning that
3 additional information?

4 A. I went to our crime lab and inspected the bed.

5 Q. All right. What, if anything -- when you say you
6 inspected the bed, what bed?

7 A. It was the bed that **Minor** slept in that we had
8 taken pursuant to a search warrant prior.

9 Q. All right. And when you say that you went and
10 inspected it, what, if anything, did you see at that time,
11 Sergeant Novak?

12 A. I found white gray tape on the white -- on the armrest
13 or -- I'm not sure how -- what you want to call it on the
14 bed.

15 Q. All right. Where at on the child's bed?

16 A. It would have been the side railings as if you were --
17 it's on the side railing up near her head part.

18 Q. All right. What, if anything, did you do before going
19 to the evidence room and making this observation about

20 **Minor** 's bed?

21 A. After I made that observation, I went and spoke to my
22 lieutenant at the time and informed him what I had located.

23 Q. And what did you do next?

24 A. A search warrant was prepared for the house.

25 Q. All right. And at this point in time had either

1 Cynthia Lopez or David Steadman been arrested?

2 A. No, ma'am.

3 Q. Were they still residing at the home?

4 A. Yes, ma'am.

5 Q. And what, if anything, did you observe -- were you
6 present for the execution of that search warrant?

7 A. On August 10th, yes.

8 Q. Tell us what occurred when you arrived.

9 A. When I arrived, Cynthia Lopez was inside the residence
10 and I informed her that we had another search warrant for
11 her house and we were doing an additional search.

12 Q. All right. And what occurred next? Did you go in the
13 house?

14 A. Ma'am?

15 Q. Did you go inside the house?

16 A. Yes, I did.

17 Q. Were you present with other CSI officers inside that
18 house?

19 A. Yes, ma'am.

20 Q. What, if anything, did you observe once you were in
21 there?

22 A. I'm sorry?

23 Q. What, if anything, did you observe once you were in
24 there?

25 A. There were numerous things that were observed. I

1 located items that were inside trash cans that were
2 suspicious to me, clothing, brand new clothing that had
3 been folded up and put in a trash can, a bottle of
4 Melatonin that was placed in a trash can, and pieces of
5 tape that appeared that they were placed over -- that could
6 have been over top of her mouth.

7 Q. I'm gonna show you some photographs and ask you
8 whether or not you recognize them, and please take your
9 time.

10 A. Yes, ma'am.

11 Q. Sergeant Novak, were you present for the recovery of
12 all of these items that are depicted in these photographs?

13 A. Yes, ma'am.

14 Q. And are these photographs a fair and accurate
15 representation of the search warrant that you observed on
16 August 10th --

17 A. Yes, ma'am.

18 Q. -- of 2017?

19 A. Yes, ma'am.

20 Q. At the home of both the Defendant, David Steadman, and
21 Cynthia Lopez?

22 A. Yes, ma'am.

23 MS. MAYES: Your Honor, at this time this would
24 be for evidence. These are items State's Exhibits 25,
25 26, 27, 28, 29, 30, 31, 32.

1 MS. ZMROCZEK: I haven't seen them. I mean, I'm
2 sure I've seen them, but not these.

3 No objection.

4 THE COURT: Items State's Exhibits 25, 26, 27,
5 28, 29, 30, 31, 32 all in without objection.

6 (State's Exhibit Numbers 25 through 32, photographs,
7 were admitted into evidence.)

8 BY MS. MAYES:

9 Q. I'm gonna start here with 25, Sergeant Novak. This
10 is, of course, on the 10th, so we are eleven days now past
11 the date of **Minor** 's death, correct?

12 A. Yes, ma'am.

13 Q. What are we looking at here in State's 25?

14 A. This is the laundry room that consisted of a washer
15 and a dryer.

16 Q. All right. And then ultimately can you tell us
17 whether or not during the search of that house there was
18 a search for rolls of tape?

19 A. Yes, there was.

20 Q. Specifically were you trying to match that tape or
21 find similar tape to what you observed on **Minor** 's bed?

22 A. Yes, ma'am.

23 Q. I'll show you what's State's 26 and ask you whether or
24 not you recognize this item?

25 A. Yes, I do.

1 Q. Was that found inside the residence?

2 A. I'm sorry?

3 Q. Was that found inside the residence?

4 A. Yes, ma'am.

5 Q. State's 27.

6 A. Yes, ma'am. It was found within -- I believe that's
7 in the bathroom.

8 Q. Now what, if any, search did you do outside of the
9 residence?

10 A. I went through all the trash cans and any trash bags
11 that were outside.

12 Q. All right. And for what purpose?

13 A. To try to locate any additional evidence or collect
14 anything that may be vital to the investigation.

15 Q. When you started going through trash bags, what
16 condition were they in?

17 A. I'm sorry?

18 Q. When you started going through trash bags, what
19 condition were they in?

20 A. It seemed like they had been there a little while.
21 One of the trash cans had water in the bottom of it, so I
22 assumed it had rained and had been there a while. Some of
23 them had numerous diapers still inside of it, so it seemed
24 like they had been there a while.

25 Q. All right. Can you tell us whether the items in the

1 trash bag were exposed to dirt and other elements?

2 A. Yes.

3 Q. I'm gonna show you what is State's 28 and ask you what
4 is depicted in this photograph and where you were at when
5 this was taken?

6 A. Yes, that is tape that's similar to what was on
7 **Minor** 's bed.

8 Q. State's 29.

9 A. The same one -- same thing.

10 Q. These two items that we just looked at, 28 and 29,
11 came from where at the residence?

12 A. That was outside I believe to the left of the -- to
13 the right side of the house.

14 Q. All right. What had these items been in prior to your
15 recovery?

16 A. Trash can, trash.

17 Q. Just like a plastic trash bag?

18 A. Yes, ma'am.

19 Q. And State's 30 depicting an item which is noted with
20 the Number 5 placard.

21 A. Yes, ma'am. That shows the other items that would
22 have been in the trash bag.

23 Q. And another look here closer up of 5.

24 A. Yes, ma'am.

25 Q. Based upon your observations there at the scene, did

1 this tape appear to be similar to what you observed on
2 Minor 's bed?

3 A. Yes, ma'am.

4 Q. State's 32, where did you recover that?

5 A. That is from one of the green thirty gallon trash cans
6 that you would put outside that you'd put trash bags in and
7 it was underneath all the -- I think there were two other
8 trash bags in there that were floating in water.

9 Q. This particular item was floating in water?

10 A. In water.

11 Q. And all of these items that we just looked at here,
12 can you tell us whether or not they were actually recovered
13 as evidence in this case?

14 A. Yes, I believe so.

15 Q. All right. And was that for the purpose of being
16 submitted to the State crime lab?

17 A. I'm sorry, I couldn't hear you.

18 Q. Was that for the purpose of being submitted to the
19 State crime lab?

20 A. Yes, ma'am.

21 Q. I'm gonna show you what is State's 35, 33 and 34, and
22 ask you whether or not you recognize any of these items?

23 Now at that time you were sergeant of what unit?

24 A. Forensic services.

25 Q. Can you tell us what the procedures are within the

1 crime lab that you have there at the Lexington County
2 Sheriff's Department for maintaining evidence?

3 A. When a piece of evidence is collected, it's sealed and
4 initialled by the person that collected it. It would be
5 turned into the evidence room and stored in a secure place
6 until it's to be processed. If we're sending it out to an
7 outside agency, there's vouchers that would show the date
8 and time that we sent it out to the outside agency.

9 Q. Can you tell us whether all of those procedures and
10 protocols were followed in this case regarding this
11 evidence that you recovered at the scene?

12 A. Yes, they were.

13 Q. Starting here with State's 34, which is in a plastic
14 bag, what are we looking at in this photograph? I mean,
15 this item.

16 A. That is silver tape that was one of the pictures that
17 we found in the bathroom.

18 THE COURT: Which number is that?

19 MS. MAYES: Yes, sir, Your Honor. This is
20 State's 34.

21 BY MS. MAYES:

22 Q. This is State's 35. I'm gonna ask you whether or not
23 you recognize this and, if so, how? And if you could,
24 please, break the seal.

25 A. The handwriting on it states that it is Item Number 5

1 and several pieces of tape together from outside trash can.

2 Q. And I see debris falling from this item. Why is that,
3 Sergeant Novak?

4 A. There's numerous debris on the tape and it's coming
5 off the tape.

6 Q. And when you -- when we talk about debris, what was
7 this tape surrounded by inside that trash bag?

8 A. Garbage and different items that were in the trash
9 can.

10 Q. Did that also include dirt?

11 A. Yes, ma'am.

12 Q. Is this item what we observed in photographs just
13 moments ago?

14 A. Yes, ma'am.

15 Q. This being State's 33. I'm sorry, State's 35.

16 THE COURT: It was identified as State's 35
17 earlier; is that right?

18 BY MS. MAYES:

19 Q. Is that correct?

20 A. Yes, ma'am.

21 Q. All right. And if you could, please, tell us what
22 is in State's 33.

23 A. It says it's a roll of tape. I need to open it to
24 determine which one. This is a roll of tape that appears
25 to be the same as on the bed.

1 THE COURT: What number is that?

2 THE WITNESS: 33.

3 THE COURT: 33.

4 MS. MAYES: I believe all are in evidence at this
5 time, Your Honor.

6 THE COURT: 33, 34 and 35 are all admitted without
7 objection.

8 MS. ZMROCZEK: Absolutely.

9 THE COURT: They are in.

10 (State's Exhibit Numbers 33, rolls of tape; 34,
11 a silver roll of tape; 35, pieces of tape, were admitted
12 into evidence.)

13 BY MS. MAYES:

14 Q. Now **Minor** 's bed you mentioned had been seized by law
15 enforcement on what date?

16 A. I'll refer to my notes. I believe it was the first
17 day, the first search warrant on the 31st.

18 Q. Were -- were search warrants executed on previous days
19 leading up to August 10th?

20 A. Yes, ma'am.

21 Q. Did that include at least two search warrants of the
22 residence?

23 A. Yes, ma'am.

24 Q. Up until that date of August 10th, had David Steadman
25 ever made yourself or any other law enforcement officer

1 aware that tape had been involved in this case?

2 A. Not to my knowledge.

3 Q. Were you present for any interviews with David
4 Steadman following your discovery of the tape on August 10,
5 2017?

6 A. Yes, ma'am.

7 Q. Particularly the interview we just heard about that
8 was conducted by Sergeant Rawl, were you present for that?

9 A. Yes, ma'am.

10 Q. Were you present for the waiver of his Miranda rights?

11 A. Yes, ma'am.

12 Q. Did that appear to be free and voluntary?

13 A. Yes, ma'am.

14 Q. Following that, can you tell us whether or not he
15 agreed to provide a written statement?

16 A. Yes, he agreed to provide one and did provide one.

17 Q. All right.

18 THE COURT: We've been going for a while. Let's
19 take a break before we go any further.

20 MS. MAYES: Yes, sir.

21 THE COURT: The jury needs a break and I know I
22 do. So step in the jury room and have a few minutes.
23 Don't talk about the case and I'll have you back out
24 here shortly.

25 (Whereupon, the jury retires to the jury room at

1 3:26 PM.)

2 (Recess taken at 3:26 PM.)

3 (Back on the record at 3:41 PM.)

4 (State's Exhibit Numbers 36 through 66 was
5 marked for identification.)

6 BAILIFF: All rise. Court's back in session.

7 THE COURT: Are we ready for the jury?

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

9 BAILIFF: Are you ready, sir?

10 THE COURT: Yes, sir. Bring them.

11 (Whereupon, the jury returns to the courtroom
12 at 3:43 PM.)

13 BY MS. MAYES:

14 Q. Sergeant Novak, I'm gonna ask you to step down and
15 take a look at the next exhibit, what is marked at
16 State's 36.

17 MS. MAYES: I believe there's no objection, Your
18 Honor.

19 MS. ZMROCZEK: That's correct, Your Honor.

20 THE COURT: What's that now?

21 MS. ZMROCZEK: 36.

22 THE COURT: What is it?

23 MS. ZMROCZEK: The toddler bed.

24 THE COURT: Y'all want to introduce the bed?

25 MS. MAYES: For identification at this time,

1 Your Honor, but he will be testifying from it.

2 THE COURT: I don't want to put a heavy burden on
3 the clerk to have to keep up with that. I don't mind
4 it coming in, but can we agree that just pictures of it
5 be substituted in the clerk's file so she doesn't have
6 to maintain it?

7 MS. MAYES: Absolutely.

8 THE COURT: All right. Go ahead.

9 THE CLERK: Thank you, Your Honor.

10 (State's Exhibit Number 36, toddler bed/photograph,
11 was admitted into evidence.)

12 BY MS. MAYES:

13 Q. Sergeant Novak, tell us what we're looking at here and
14 what you observed when you went and checked the evidence
15 room on August 10th?

16 A. This is **Minor** 's bed, her toddler. I went -- it was
17 stored in our crime lab and I went over to look for the
18 tape that was on the side rail to see if I could verify and
19 it was here on the right, my right, I found tape on the
20 guardrail.

21 Q. Thank you. You may return.

22 A. (Witness complies.)

23 Q. Now you mentioned you were present for the reading of
24 those Miranda rights to the Defendant on August the 10th?

25 A. Yes, ma'am.

1 Q. And then I'm gonna show you what is State's Number 4
2 and ask you whether or not you recognize that item?

3 A. Yes, I do.

4 Q. And how so?

5 A. This is the Lexington County Sheriff's Department
6 statement form that Mr. Steven provided that night.

7 Q. David Steadman?

8 A. Steadman, yes.

9 Q. And can you tell us whether or not you were present
10 and it -- you were present for any portion of this
11 regarding the question and answer session?

12 A. I was present for the question and answering that's
13 on Page 3 through 4.

14 Q. All right. And are your initials on that statement?

15 A. Yes, ma'am.

16 Q. On what pages?

17 A. All four pages.

18 Q. All right. And can you tell us whether Mr. Steadman
19 appeared to still be freely and voluntarily participating
20 in the interview until the end?

21 A. Yes, ma'am.

22 Q. Can you tell us whose handwriting the statement is
23 in?

24 A. The statement's in Mr. Steadman's.

25 Q. All right. And can you tell us whether at any time

1 he withdrew the statement or elected to make additional
2 changes to the statement or anything in that regard?

3 A. No, he did not.

4 MS. MAYES: Your Honor, this would be State's
5 Exhibit 4, being the statement of David Steadman, dated
6 August 4, 2017.

7 THE COURT: Subject to pre-trial hearings, it's
8 admitted.

9 MS. ZMROCZEK: What's the number?

10 MS. MAYES: 4.

11 (State's Exhibit Number 4, a written statement,
12 was admitted into evidence.)

13 BY MS. MAYES:

14 Q. I'm gonna show you this document and ask you whether
15 or not you recognize that document?

16 A. Yes, I do.

17 Q. Does that appear to be a fair and accurate copy of
18 State's 4?

19 A. Yes, ma'am.

20 MS. MAYES: We request permission to publish at
21 this time, Your Honor.

22 THE COURT: You may publish.

23 BY MS. MAYES:

24 Q. Starting here at the body of the statement after the
25 Miranda rights, can you slowly, Sergeant Novak, tell us

1 what, if anything, David Steadman disclosed in this written
2 statement on August 10th?

3 A. He stated that he had come home from work --

4 Q. And you can read directly from the statement, please.

5 THE COURT: Read it slowly.

6 A. I, David Lance Steadman, came home from work, in
7 parentheses, Hoover Buildings, a little before 7:00 PM on
8 Monday, the 31st of July, 2017. I walk inside my house,
9 in parentheses [REDACTED] Nazareth Road, put my car keys down
10 on the table, see my wife on the couch, in parentheses
11 looking aggravated, watching television. I asked her, in
12 parentheses Cynthia Lopez, how she was and how were the
13 kids. She said she was good, just aggravated with the
14 kids, in parenthesis Emili --

15 Q. E.L. .

16 A. -- yeah, Minor and L.L. , but the kids are fine.
17 They were just fighting, and he scratched out and
18 initialled DS above, upstairs, and scratched out again
19 and DS above, today and Minor was hitting E.L. with
20 the light bar, in parentheses, with the piece you normally
21 hold. I go to my bathroom in my room and pee. Then I go
22 and check on the kids. When I get to the kids' room,
23 E.L. was awake and on his bed and Minor was tied to
24 her bed with tape. There was throw-up on her and she was
25 only in a diaper. I immediately take the tape off her

1 wrist and pick her up. Her pupils were severely dilated
2 and her stomach was really big. **Minor** was breathing very
3 slow and very heavy. Crossed out again with his initials
4 above it. I asked my wife how long was she there and why
5 she was tied up to her bed like that. My wife said she
6 was tired of **Minor** hitting her brother and being mean to
7 him. I said to her that you're not supposed to tie any
8 kid up period. We take her to the bathroom because when
9 she was breathing hard, I thought she needed to throw up
10 more. We were able to squeeze some vomit out of her and
11 she was still breathing slow. We washed it off of her.
12 Another cross out with his initials above. **Minor**
13 did not look all right. I wanted to call 9-1-1 and
14 take her to the hospital. My wife got mad and said no,
15 she's fine, and that I always give in to the kids,
16 especially **Minor**. We argued about it and both got mad
17 and just, I believe, walked away. I went to the bedroom
18 where my wife went and I picked up my two-year-old **L.L.**
19 and went into the living room to watch Netflix on my
20 phone. We watched Netflix for a while, then my wife yells
21 my name, in parentheses Lance, and I sat **L.L.** and my
22 phone down on the couch. She brings **Minor** into the living
23 room. She says **Minor** 's not breathing. **Minor** is pale and
24 not breathing. I take **Minor** from my wife and lay her down
25 on the couch to attempt CPR. The couch was too soft, and

1 his initials above that, so I laid her on the floor and
2 attempt CPR again. There was vomit coming out of her
3 mouth. I gagged. My wife takes over CPR. I put **L.L.**
4 in his bed and tell my wife to call 9-1-1. She does and
5 I got her mom, in parentheses Sonia Lopez, to help, so I
6 say I be right back, I'm going to get your mom, then I ran
7 as fast as I could to get her mom two houses away, then
8 ran as fast as I could back. My wife was still on the
9 phone with 9-1-1 and still attempting CPR. Not long after
10 Sonia arrived with her husband, in parentheses Jose
11 Medrano. The fire department arrived on-scene and took
12 over CPR. Then the paramedics and officer arrived. They
13 tried to help for over forty minutes and they decided to
14 take her to the hospital. Sonia's husband took **L.L.**
15 next door to their son's house and Sonia and my wife went
16 to the hospital where they pronounced **Minor** dead. Upon
17 arrival at Lexington Hospital, I was told to stay home to
18 be with **E.L.** while he was asleep. Later the officer
19 asked me -- asked they can look in the house. Later I
20 went to the hospital to be with Cynthia and drive her home.

21 Q, Detective Novak; A, David Steadman. Question.

22 Q. All right. Now let me ask you about this -- this
23 portion. The Q portion is who?

24 A. That is myself.

25 Q. And the answer section?

1 A. Is Mr. Steadman.

2 Q. All right. And who's writing out the questions?

3 A. I write the questions and he writes the answers.

4 Q. All right. Please continue.

5 A. Question: How long did it take to call 9-1-1? About
6 two hours. Question: Why so long? Answer: I was scared
7 to face the truth. Question: Did you sexually assault
8 **Minor** ? Answer: No, I did not sexually assault **Minor** .

9 Question: How does your wife discipline the children and
10 **Minor** ? She has popped her in the mouth, popped her with a
11 belt, popped her -- put her in the corner. Question: Did
12 you give this statement freely and voluntarily without any
13 promises? Answer: Yes.

14 He initials and then I cross off the rest of it,
15 end of statement, with my initials and his signature
16 closing out the statement and he signs the bottom.

17 Q. And ultimately did he sign each page of this
18 statement?

19 A. Yes, ma'am.

20 Q. Now in addition, did you have an opportunity to
21 request any electronic-type evidence in this case?

22 A. Yes.

23 Q. And who did you request that from?

24 A. From Ms. -- from Mr. Steadman and Cynthia Lopez.

25 Q. I'm gonna show you what is State's 37 and 38 and ask

1 you whether or not you recognize these items. For what
2 purpose were these phones requested?

3 A. I -- I request phones any time there could be
4 additional evidence that could be on them that would be
5 pertinent to the investigation.

6 Q. All right. And based upon your observations, did
7 both Mr. Steadman and Ms. Lopez provide those phones
8 voluntarily?

9 A. Yes. The first phone I'm opening -- that I opened was
10 a Samsung cell phone that belonged to Cynthia Lopez.

11 Q. All right. And that's State's 36?

12 A. 38.

13 Q. And I'm gonna show you what is State's 37.

14 A. 37 is an LG black and silver cell phone that belonged
15 to David Steadman.

16 Q. And were both of these items maintained as items of
17 evidence by the sheriff's department?

18 A. Yes, ma'am.

19 MS. MAYES: Your Honor, this would be State's 37
20 and 38 for evidence.

21 MS. ZMROCZEK: Without objection, Your Honor.

22 THE COURT: 37 and 38 in without objection.

23 (State's Exhibit Numbers 37 and 38, cell phones,
24 were admitted into evidence.)

25 MS. MAYES: Nothing further of Sergeant Novak

1 at this time.

2 CROSS-EXAMINATION

3 BY MS. ZMROCZEK:

4 Q. Sergeant Novak, you were not at the residence the
5 evening of July 31st, were you?

6 A. No, ma'am.

7 Q. Okay. I'm gonna show you Defendant's 3. Do you
8 recognize this?

9 A. Yes, ma'am.

10 Q. What is that?

11 A. It's a crime scene log.

12 Q. Okay. From when?

13 A. There's not a date on it, so I'm not sure.

14 Q. Okay. Is your name on it?

15 A. Yes, ma'am.

16 Q. And what time does it say you were at the crime
17 scene?

18 A. 1700 hours, which would be 5:00, until 2100, which
19 is 9:00.

20 Q. Okay. But you don't know where it was and you don't
21 know --

22 A. I don't know what date or when it was, no.

23 Q. Okay. So I want to talk to you about first becoming
24 involved in this case. She asked you a lot about your
25 report and statements and did Lance ever tell you about the

1 tape before eleven or ten and a half days, right?

2 A. Correct.

3 Q. Okay. So you actually had an opportunity to talk to
4 him just a few hours -- and by a few, maybe twelve or so
5 -- after **Minor** had died, right?

6 A. Correct.

7 Q. And tell the -- tell the jury what his demeanor was
8 like.

9 A. He was concerned and grieving for his child.

10 Q. He was distraught, right?

11 A. Yes.

12 Q. Okay. Can you tell me or this jury what is the
13 appropriate response to coming home and finding your child
14 taped to a toddler bed?

15 A. If it was me?

16 THE COURT: Wait. Wait.

17 MS. MAYES: I would object, Your Honor.

18 MS. ZMROCZEK: Let me -- I'll rephrase. I'll
19 rephrase the question.

20 THE COURT: You already asked him was he there
21 that night --

22 MS. ZMROCZEK: Right. Right. Right. He said
23 he --

24 THE COURT: -- so move onto something else.

25 MS. ZMROCZEK: Yes, I'll move on.

1 BY MS. ZMROCZEK:

2 Q. Let me ask you this. You -- you go back on the 3rd?

3 A. Yes, ma'am.

4 Q. Okay. And you collect some more evidence or y'all do?

5 A. Yes, ma'am.

6 Q. Okay. And then as a result of the forensic interview
7 you go back on the 10th, right?

8 A. Correct.

9 Q. Okay. And I think we have a few of the pictures in
10 but, I wanted to show you Defense 4 and Defense 5. Did
11 you also take these pictures or were they also -- do you
12 recognize these?

13 A. Yes, ma'am.

14 Q. And do they fairly and accurately represent what you
15 collected on the 10th?

16 A. Yes, ma'am.

17 MS. ZMROCZEK: Your Honor, at this time we'd move
18 Defense 4 and 5 in, please.

19 MS. MAYES: No objection.

20 THE COURT: Defense 4 and 5 without objection.

21 (Defendant's Exhibit Numbers 4 and 5, photographs,
22 were admitted into evidence.)

23 BY MS. ZMROCZEK:

24 Q. Why are you holding it like that?

25 A. I'm holding it where I can open it up and determine

1 what it is.

2 Q. Okay. And when you said that you were looking for
3 tape and that you found tape, you said that it looked like
4 it went right over the mouth, right?

5 A. Appeared to be, yes.

6 Q. Okay. The same with 5?

7 A. Yes, ma'am.

8 Q. Okay. You -- finally on the 10th Lance tells you
9 that he found -- he found her with tape on the wrists?

10 A. Correct.

11 Q. Okay. Did he ever tell you he found tape the her
12 mouth?

13 A. Not to my knowledge.

14 Q. Okay. Who told you they put tape on the mouth?

15 A. Cynthia Lopez.

16 Q. Okay. And what time did she tell you she did that?

17 A. The time that she put it on or what time she gave
18 me the statement?

19 Q. No, no. What time did she put it on?

20 A. I believe in her statement between five and 6:00 PM.

21 Q. Okay. And what time did she tell you David got
22 home?

23 A. Approximately 7:00 PM.

24 Q. Everyone keeps saying David, so I'm just trying to
25 keep it the same. Approximately 7:00 PM?

1 A. Yes, ma'am.

2 Q. And what time did David say he got home?

3 A. Approximately 7:00 PM.

4 Q. And when you went out there on the 1st, you were
5 investigating in addition to the tod -- to **Minor** 's death,
6 a sexual assault?

7 A. Yes, ma'am.

8 Q. Okay. And your notes reflect that -- the information
9 you received through your investigation, that it was a
10 hundred percent sure that **Minor** was sexually assaulted?

11 A. Correct.

12 Q. And that would be testified to under oath per your
13 report?

14 A. Correct.

15 Q. Okay. And, in fact, even on the 10th, I think the
16 statement that we saw, you were, again, asking Lance if
17 he had sexually assaulted **Minor** ?

18 A. Yes, ma'am.

19 Q. Okay. And then you were present for the question and
20 answer part, right?

21 A. Yes, ma'am.

22 Q. So -- and this is State's 4. It took two hours to
23 call 9-1-1. Why so long? I was scared to face the truth.
24 Did you ask any follow-up questions?

25 A. No, ma'am.

1 Q. Did you say Lance, were you scared to face the truth
2 that your wife killed your child?

3 A. No, ma'am.

4 Q. You didn't ask him that?

5 A. No, ma'am.

6 Q. What's the crime for lying about somebody being dead?

7 A. I'm not sure what you're going with.

8 Q. Is there a crime?

9 A. For lying about someone's dead?

10 Q. Right.

11 A. I'd have to review the law book to determine that.

12 Q. Okay. Let me ask you this. If on the 1st or any
13 other time after that Lance had told you about taking
14 **Minor** 's wrists off of the bed, would that have changed
15 the fact that Cynthia put tape on her mouth for somewhere
16 between an hour and a half an hour?

17 A. Would it change the fact of what happened?

18 Q. Right.

19 A. No.

20 Q. Okay. Would it -- would it make **Minor** any more dead
21 or any more alive?

22 A. No.

23 Q. Okay. Would it make her cause of death of
24 asphyxiation, aspiration of vomitus, immobility and
25 restrained to a bed, would it make it any less true?

1 A. No.

2 Q. And those were all Cynthia's actions?

3 A. Yes.

4 MS. ZMROCZEK: I have no further questions.

5 REDIRECT EXAMINATION

6 BY MS. MAYES:

7 Q. And, Sergeant Novak, you're aware of how and why
8 David Steadman was charged in this case, correct?

9 A. Yes.

10 Q. Is he charged with lying?

11 A. No.

12 Q. Is he charged with giving false information to
13 police?

14 A. No, ma'am.

15 Q. Is he charged with obstruction of justice?

16 A. No, ma'am.

17 Q. Is it your understanding that medical neglect is
18 included in this charge?

19 A. Yes, ma'am.

20 MS. MAYES: Nothing further.

21 THE COURT: You may step down now.

22 MS. ZMROCZEK: I just have one question.

23 RECROSS EXAMINATION

24 BY MS. ZMROCZEK:

25 Q. If somebody's already dead and you don't call 9-1-1,

1 is that medical neglect?

2 A. No.

3 MS. ZMROCZEK: Thank you.

4 THE COURT: You may step down.

5 (Witness excused.)

6 MR. McNAIR: The State calls Will Herring.

7 (Whereupon, William Herring was duly sworn by the
8 Clerk of Court.)

9 THE CLERK: Once you're seated state your full
10 name, spelling your last, please.

11 THE WITNESS: William Herring, H-E-R-R-I-N-G.

12 WILLIAM HERRING,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. McNAIR:

16 Q. Mr. Herring, where do you work?

17 A. Securus Technologies.

18 Q. And what does Securus do?

19 A. Maintain equipment for inmate telephones, video and
20 communications for prisons.

21 Q. And does Securus have a contract with Lexington County
22 Detention Center?

23 A. Yes, sir.

24 Q. And as a result of that contract, does Securus
25 maintain records of all the recordings of all the calls

1 made to and from Lexington County Detention Center?

2 A. Yes, sir.

3 Q. Including video chats?

4 A. Yes, sir.

5 Q. All right. And have you testified as custodian of
6 records for Securus in the past?

7 A. Yes, sir.

8 Q. All right. As custodian of records you have access to
9 all of those recordings?

10 A. Yes, sir.

11 Q. I'm gonna show you what's been marked as State's 39.
12 Can you identify this disc?

13 A. Yes, sir.

14 Q. All right. And is that a fair and accurate copy of
15 a recording that was obtained from Securus on August 14th
16 of 2017?

17 A. Yes, sir.

18 Q. And does Securus change or alter the content of the
19 videos in any way?

20 A. No, sir.

21 Q. They're maintained as they occur?

22 A. Yes, sir.

23 MR. McNAIR: Your Honor, at this time we're
24 just offering State's Exhibit 39 for ID purposes only.

25 MS. ZMROCZEK: As long as it's for ID purposes.

1 THE COURT: 39's for ID purposes only.

2 MR. McNAIR: No further questions. Thank you.

3 MS. ZMROCZEK: Briefly.

4 CROSS-EXAMINATION

5 BY MS. ZMROCZEK:

6 Q. Mr. Herring, how long does Securus keep your
7 recordings?

8 A. It depends on the facility. It can be from one year
9 to three years. Lexington County is one year.

10 Q. Okay. And even though you don't have the actual
11 recordings, do you still have the logs?

12 A. Yes, ma'am.

13 Q. Okay. And --

14 MS. ZMROCZEK: Those are all the questions I have.
15 Thank you.

16 THE COURT: All right. You may step down.

17 (Witness excused.)

18 MR. McNAIR: Your Honor, the State calls Detective
19 Andaloro.

20 (Whereupon, Joseph Andaloro was duly sworn by the
21 Clerk of Court.)

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

24 THE WITNESS: Joseph Andaloro, A-N-D-A-L-O-R-O.

25 JOSEPH ANDALORO,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MCNAIR:

4 Q. Detective Andalaro, will you tell the jury a little
5 bit about your background in law enforcement.

6 A. Yes, sir. I've been with the Lexington County
7 Sheriff's Department since 2011. I started with Richland
8 County in 2005 and then transferred over to the sheriff's
9 department in Lexington. I currently serve as a detective
10 in property crimes. I served in the capacity of major
11 crimes for three and a half years, prior to that narcotics,
12 and also some community policing.

13 Q. All right. And what position were you in back in
14 July of 2017?

15 A. I was in the major crimes team on one of our catch-all
16 teams that investigates, you know, anything from homicide,
17 to armed robbery, sexual assaults, things of that nature.

18 Q. Okay. And were you ultimately assigned as the lead
19 investigator on this case?

20 A. Yes, sir, I was.

21 Q. Tell the jury about how you initially became involved
22 in this case.

23 A. I received a phone call from Lieutenant Prestigiacamo
24 in reference to a four-year-old child that was lifeless
25 and being transported to Lexington Medical Center by EMS.

1 I called Detective Burrell and confirmed with him that he
2 was responding to Lexington Medical Center. Detective
3 Lyons went to the sheriff's department and I asked him to
4 stand by for probable cause and a description of the house
5 so they could obtain a search warrant of the residence.
6 CSC Smith was contacted and advised to respond to the scene
7 with myself.

8 Q. All right. So you went to the scene that night?

9 A. That is correct.

10 Q. What time did you get on-scene?

11 A. I arrived on the scene at approximately 10:43 PM at
12 [REDACTED] Nazareth Road in the Red Bank or Lexington area of
13 Lexington County.

14 Q. All right. Was the victim, **Minor**, still
15 on-scene when you got there?

16 A. She was not.

17 Q. Were the parents?

18 A. David was.

19 Q. Mr. Steadman was there?

20 A. That's correct.

21 Q. And did you make contact with him that night?

22 A. I did. I made contact with Mr. Steadman. He was on
23 the front porch and family was there and I took him -- I
24 asked him if he was willing to speak with me in my vehicle.

25 Q. Okay. And he did he agree to speak with you?

1 A. He did. I let Mr. Steadman sit in the front passenger
2 seat in my vehicle and I obtained a verbal statement from
3 him at the time.

4 Q. At the time that you initially spoke to Mr. Steadman,
5 did you -- what did you know about this case?

6 A. Not very much. I just obtained some brief information
7 from Master Deputy Zylstra about who was present and age of
8 the victim child and that she was transported.

9 Q. All right. So it was just an unexplained death of a
10 child at that point?

11 A. Unexplained death of a four-year-old child.

12 Q. All right. And Mr. Steadman agreed to speak with you?

13 A. Absolutely.

14 Q. And what did you ask him about?

15 A. I just asked him about what happened and when he came
16 home and things like that, if he could tell me, you know,
17 the incidents that happened that evening.

18 Q. All right. So you spoke to him on July 31st of 2017,
19 correct?

20 A. Correct.

21 Q. All right. At 10:43 is when you say you got on-scene?

22 A. That's right.

23 Q. And after speaking to him, did you take notes of your
24 conversation with him and what he said?

25 A. Yes, sir, I did.

1 Q. And are those -- is that in your report?

2 A. It is.

3 Q. Refer to your notes and please tell us what he told
4 you about what happened.

5 A. Yes, sir. He got home around 7:00 PM. He gave a cup
6 of water to **Minor** and changed her diaper.

7 Q. Gave water to **Minor** -- **Minor** ?

8 A. Correct, and changed her diaper. The back left
9 bedroom is where **E.L.** and **Minor** sleep on their own
10 beds.

11 Q. Okay.

12 A. **L.L.** sleeps in a playpen in the parents' bedroom.
13 Around 8:00 PM David went to the couch to watch Netflix and
14 have one beer.

15 Q. Went to couch to watch Netflix?

16 A. Correct, and drink a beer. He took his son, **L.L.** ,
17 with him to the living room.

18 Q. Okay.

19 A. His wife, Cynthia, went into the bedroom by herself
20 and watched Netflix. Cynthia went to check on the kids and
21 found **Minor** in the hallway near the bathroom not breathing.

22 Q. All right.

23 A. David put her on the couch first and then on the floor
24 and attempted CPR --

25 Q. All right.

1 A. -- chest compressions and mouth to mouth. Minor
2 was pale slash blue. Beans got in his mouth when he did
3 CPR. Cynthia called 9-1-1 on his phone, phone number
4 803-497-2410. Minor ate beans and tortilla earlier
5 before he arrived home from work. Mr. Steadman works for
6 the Hoover Building Company that's on Two Notch Road.
7 Cynthia's brothers live next door at [REDACTED] Nazareth Road,
8 Cynthia's parents live two doors down at [REDACTED] Nazareth
9 Road.

10 While I was interviewing Mr. Steadman, his mother,
11 Felicia Connelly, showed up. I let Mr. Steadman get out
12 of the car and hug and see his mother and talk with her.

13 Q. All right. Stop right there.

14 A. Yes, sir.

15 Q. So at 8:00 PM he was on the couch watching Netflix and
16 then he said Cynthia found Minor in the hallway sometime
17 after that and brought her into the living room where he
18 was?

19 A. Correct.

20 Q. And that's when he learned that she was dead?

21 A. Correct. That's what he was providing to me at that
22 time.

23 Q. All right. And during your interview with him in your
24 patrol car, his -- his mom walked up?

25 A. That's right.

1 Q. And you allowed her to step out and give her a hug?

2 A. That's right.

3 Q. And did you talk to him again in the presence of his
4 mother?

5 A. Yeah, we actually were outside my vehicle near the
6 back or rear of my vehicle and I asked them about Minor 's
7 medical conditions.

8 Q. All right. Did he provide you a medical history for
9 Minor ?

10 A. They both did. David's mother was beside him, but
11 they advised me that Minor was born at twenty-four weeks as
12 a premature baby, weighing in at one pound eight ounces.
13 Minor spent the first five months of her life in the
14 hospital. Minor has brittle bones and has broken both of
15 her legs at different times. Minor had a G-tube.

16 MS. ZMROCZEK: Your Honor, I think we have a matter
17 of law.

18 THE COURT: All right. Step in the jury room and
19 I'll have you back out here shortly. We have to take up
20 something.

21 (Whereupon, the jury retires to the jury room at
22 4:17 PM.)

23 MS. ZMROCZEK: Your Honor, at this time we move
24 for a mistrial. We specifically, in front of that
25 witness, not only in front of these -- and I'm not

1 blaming them, but in front of that witness it was not
2 to be brought up.

3 MR. McNAIR: Judge, I didn't advise him not to say
4 anything --

5 MS. ZMROCZEK: It wasn't -- I'm not yelling at
6 him. It doesn't matter. The jury has heard it.

7 MR. McNAIR: I think it can be -- I think it can
8 be cured. I mean, there's no allegation of misconduct
9 there. It's just that she had a -- she had a broken
10 leg.

11 MS. ZMROCZEK: All they need, Your Honor, is to
12 know that -- it doesn't matter who broke it. If they
13 have information that she broke both of her legs or
14 that both of her legs were broken in mom's care solely,
15 then they'll say he -- he knew that she was gonna come
16 home and kill her or he knew that she was dangerous or
17 she -- or he was recklessly endangering her life by
18 leaving this child with her.

19 We specifically made -- I made it a point this
20 morning to say we are not bringing it up.

21 MR. McNAIR: I think in conjunction with the
22 brittle bones comment and stuff like that, it doesn't
23 indicate really foul play. I think it can be cured.
24 It would probably draw more attention to it to even
25 give the jury a curative instruction.

1 Your Honor, and let me -- let me also say this.
2 There's gonna be testimony that what they're calling
3 mottling on one of the legs is actually because she did
4 have a cast on and did have a broken leg, so there's to
5 be medical testimony to explain why one leg shows what
6 appears to be mottling. It's, in fact, because that
7 leg was broken and she'd had a cast on it, so that's
8 gonna be part of the medical testimony in the case. So
9 I don't think this really taints it to the point where
10 we need to grant a mistrial.

11 THE COURT: Well, here's -- is there gonna be
12 medical testimony to explain some of her -- the
13 premature birth and some of the medical problems she
14 had that were impacted by what happened to her here?

15 MR. McNAIR: No, sir. That was a -- a repeated
16 statement I know the parents made to law enforcement
17 and others about her being born premature.

18 THE COURT: Okay. I think what we do is this.
19 The past medical history is not an issue and -- because
20 there was not any testimony -- or representation in
21 statements as to how the leg was broken. I know
22 firsthand my child stepped on a picture frame on a
23 hard floor and broke his leg because he was on
24 medication for epilepsy because his bones were brittle.

25 MS. ZMROCZEK: Here's the problem, Your Honor,

1 and it's twofold. One, in two plus years on this case
2 I have been provided zero medical testimony or any
3 notation except for somebody mentioning it today, which
4 is why I didn't put that picture in, that this mottling
5 was from a cast. So I don't know who's gonna say it
6 because it has never been provided to me. Never. In
7 two and a half years -- or two years and couple of months.
8 No, actually it's two and a half now.

9 And the other thing, Your Honor, is this. Is that
10 we made certain -- I'll withdraw my second issue at this
11 time, but, I mean, my first and biggest issue is they
12 claim that there's gonna be medical testimony and I
13 don't know from whom it's gonna be. I've never received
14 any --

15 THE COURT: And what -- and what would be the
16 purpose of the medical testimony saying that that
17 mottling on that leg was because there was a cast on
18 it when the child had a broken leg?

19 MR. McNAIR: Yes, sir.

20 MS. MAYES: Judge, we don't expect that to happen,
21 Your Honor, unless that issue -- unless that issue is
22 raised, that that leg appears to be different and
23 something along that line, that is something that would
24 need to be explained. There's a noticeable difference
25 in that leg. I think the cast had come off within the

1 last several weeks. So I don't even know that it will
2 get to that. Obviously this is not something that we
3 want to pursue and we thought that the witnesses
4 understood that.

5 MS. ZMROCZEK: I remember my second point. There
6 is no medical testimony that she ever had brittle bones,
7 so to proffer that --

8 THE COURT: The only medical testimony is his
9 mother said it.

10 MS. ZMROCZEK: I mean, but he said she had brittle
11 bones and she didn't have a cast on. The reason for
12 the difference in the legs as per Dr. Hall is because
13 there's an inter-bone IV that they were just pumping
14 full of IV and it was just sticking in the leg and
15 that's exactly what Dr. Hall said when we met with him,
16 which is why one leg is bigger than the other. It
17 doesn't have anything to do with a cast. She wasn't
18 even wearing a cast.

19 It's neither here nor there. I mean, this whole
20 issue has been about time of death, time of death and
21 everybody talking about rigor and whatnot, and it's just
22 incredibly prejudicial to -- to the client because all
23 they need is one reason to -- to find him guilty of some
24 medical neglect.

25 THE COURT: The State's not gonna argue or present

1 any testimony to that end, that he is grossly negligent,
2 negligent or any type of causation that his letting her
3 care for her own children is a cause of death, are they?
4 Are you?

5 MR. McNAIR: No, sir. Or that he should have been
6 aware of that prior to July 31st.

7 THE COURT: Does that help you, Ms. Zmroczek?

8 MS. ZMROCZEK: I mean --

9 THE COURT: I think you're anticipating something
10 happening. If it doesn't happen, then this will be a
11 nonissue, but I think a curative instruction is the
12 medical history of the child given to this detective is
13 really not relevant, what's relevant is what happened
14 that day, the 31st of July, and I'm gonna instruct the
15 State to stick to what happened that day and progress
16 forward.

17 MS. ZMROCZEK: And just to protect myself, I'll
18 note my objection.

19 THE COURT: Okay. That's what I'm gonna do.

20 All right.

21 MS. ZMROCZEK: I mean, an additional -- the other
22 issue, Your Honor, is that all the other investigators
23 that have testified about what he said and all this
24 medical stuff, all of the other officers have been able
25 to keep that out, so now it's like oh, were they lying,

1 you know, who do we believe more. When credibility
2 comes down to it, it's, you know, I mean --

3 THE COURT: Well, he's the only one that talked
4 to him that night at the house. Everybody else was
5 talking --

6 MS. ZMROCZEK: But he's throughout -- I mean,
7 yeah, he's throughout all of the statements. I mean,
8 he appears in several of the different statements.

9 THE COURT: Because this medical history of the
10 child was given to him July 31st in the front seat of
11 his trunk, wasn't it?

12 MS. ZMROCZEK: Uh-huh. Yes, sir.

13 MR. McNAIR: And his mother was with him providing
14 that as well.

15 MS. ZMROCZEK: Right, it was the mother. I mean --

16 THE COURT: There was no -- there was other
17 investigator to bolster it or change it or --

18 MS. ZMROCZEK: All of the reports reflect that. I
19 mean, it's been said to all of the investigators, but
20 they've just been able to follow the rules.

21 THE COURT: Okay. I'm gonna give them a simple
22 instruction that the past medical history provided is
23 not gonna be -- I mean, thus far asphyxiation has been
24 all the testimony or focus to the cause of death and
25 a leg issue has not been raised at all in my estimation.

1 MS. ZMROCZEK: And it's the medical negligence --
2 and maybe what would make -- I mean, I still have to
3 preserve my objection, but maybe it will be a little
4 easier to swallow if -- if their medical neglect is
5 because their -- it's their position that she was alive
6 and that -- when he got home at 7:00.

7 THE COURT: I think that's got to be their position.
8 So far the testimony is that they believe they're gonna
9 prove that the child was alive, albeit maybe in distress,
10 the child was alive and he didn't do everything a
11 reasonable person would do to render aid from that point
12 forward, from 7:00 forward or whatever time he got, if
13 it's 6:59, but so far consistently it's been said about
14 seven.

15 MS. ZMROCZEK: I think it was 6:58, but, yeah.

16 THE COURT: Whichever, but, you know, the evening
17 of July 31st arrival home from work forward, not in the
18 past.

19 Okay. Bring in the jury.

20 I'm gonna attempt a curative instruction that the
21 past medical history is not relevant.

22 BAILIFF: Are you ready, sir?

23 THE COURT: Yes, sir. Bring them in.

24 (Whereupon, the jury returns to the courtroom at
25 4:28 PM.)

1 THE COURT: All right, folks. Just a brief
2 instruction. The parties discussed a bunch of aspects
3 of this case prior to trial. Y'all's issue to decide
4 and questions of fact to answer are what happened on
5 the day of July 31st as a result of whatever happened
6 that day. Prior medical history is really not relevant,
7 there was some mention of that, but y'all's focus is on
8 the events of July 31st and since.

9 All right. Your objection is noted for the
10 record. We'll continue on.

11 MR. McNAIR: Thank you, Your Honor.

12 BY MR. McNAIR:

13 Q. All right. Detective Andaloro, after talking to
14 Mr. Steadman on the night of the 31st, what was your next
15 action on this case? Did you attend -- or when was the
16 autopsy?

17 A. The autopsy was on August 1, 2017, at Newberry
18 Pathology Associates in Newberry, South Carolina.

19 Q. And what time was the autopsy?

20 A. The autopsy was in the morning, I believe.

21 Q. All right. So that was the following morning?

22 A. Yes, sir. I did not attend.

23 Q. All right. Were you made aware of certain findings
24 from autopsy?

25 A. I was. CSI Snelgrove attended the autopsy and she

1 advised me of some questionable bruises noticed by her and
2 Dr. Ross.

3 Q. And after learning about the bruises from autopsy,
4 what was your next action?

5 A. We held a meeting based off of the information that we
6 received with several people.

7 Q. All right. Did you -- did you go back to speak with
8 Mr. Steadman a second time?

9 A. I did after speaking with Dr. Lamb.

10 Q. Okay. And who's Dr. Lamb?

11 A. Dr. Lamb is -- specializes in pediatrics and deals
12 with child death and injuries.

13 Q. She's a forensic pediatrician?

14 A. Correct.

15 Q. She's an expert in that area?

16 A. That's correct.

17 Q. All right. And she was brought in in this
18 investigation?

19 A. She was.

20 Q. And was she sent stuff to review?

21 A. She was sent photos, that's correct.

22 Q. Okay. And after the autopsy did you speak with her
23 concerning the case?

24 A. I did on the phone.

25 Q. Okay. And was that on August 1st?

1 A. That's correct.

2 Q. And where were you when you spoke to her?

3 A. I was in Sergeant Novak's Tahoe. Him and I were
4 headed to [REDACTED] Nazareth Road to do a welfare check.

5 Q. Okay. Now you were going to the residence of
6 Mr. Steadman, correct?

7 A. That's correct.

8 Q. All right. Did you have an opportunity to speak with
9 him on August 1st at his residence?

10 A. I did.

11 Q. Where did you speak to him?

12 A. I spoke with him in Sergeant's Novak's Tahoe.

13 Q. All right. What did you tell him you wished to speak
14 to him about?

15 A. I asked him if he was willing to speak with us. I
16 asked him if he would come to Sergeant's Novak's vehicle
17 and provide a written statement for me. He walked with
18 us to my vehicle. I told him he could sit in the front
19 passenger seat of the vehicle and he provided me with a
20 written statement.

21 Q. All right. So he voluntarily agreed to go with you
22 to your vehicle, correct?

23 A. That's correct.

24 Q. He wasn't under arrest or in custody at that time?

25 A. He was not.

1 Q. Okay. And what did you ask him about?

2 A. I just asked him for basically further information,
3 further factfinding in reference to the night of the 31st
4 of July.

5 Q. Okay. Why is it important to talk to the parents in
6 cases like this?

7 A. Because the parents are gonna know -- you know, the
8 caregivers or the parents are gonna know who has access to
9 their children, who's with their children, where their
10 children's at. Basically the information that I'm trying
11 to get out of them, they're typically the people that have
12 the most information for us to find out.

13 Q. And is it important to talk to anybody who may have
14 been around the child within twenty-four hours or so
15 proceeding their death?

16 A. That's correct.

17 Q. All right. I'm gonna show you what's been marked
18 as State's Exhibit 1. Did Mr. Steadman actually -- did
19 Mr. Steadman provide you with a written statement on that
20 day, August 1st?

21 A. Yes, sir, he did.

22 Q. All right. Let me show you State's Exhibit 1. Do
23 you recognize that?

24 A. I do. It's the statement that he provided.

25 MR. MCNAIR: All right. Your Honor, at this time

1 we'd offer State's 1 into evidence.

2 THE COURT: Pursuant to a pre-trial hearing,
3 State's 1 admitted.

4 (State's Exhibit Number 1, a written statement of
5 Defendant, was admitted into evidence.)

6 BY MR. MCNAIR:

7 Q. All right. Do you have a copy of that statement up
8 there with you?

9 A. I do.

10 Q. All right. Would you read -- just read the statement
11 out loud for the jury?

12 A. Yes, sir, I will. Q and A. Q, Det. Andalaro. A,
13 David Steadman.

14 Q. All right. So do you write -- did you write the
15 questions on this form?

16 A. I did. Everything in blue is mine and everything in
17 black is David Steadman's.

18 Q. All right.

19 A. Q: What happened at your residence located at [REDACTED]
20 Nazareth Road on 7-31-17, and then he started. I got home
21 from work at Hoover Buildings at around 7:00 PM. My wife,
22 Cynthia Lopez, was watching TV in the living room. I went
23 to pee in my bathroom, came back to the living room to ask
24 how her and our kids' day was. My wife said good to both
25 questions. Just kids playing and fighting. The kids, in

1 parentheses, E.L. , Minor and L.L. , were all supposed
2 to be sleeping at that time. We try to send them to bed at
3 a decent time. I went back to check on them. E.L.
4 and Minor was awake laying down in their own bed. I made
5 E.L. pick up some toys he was hiding by his bed and
6 Minor said she was thirsty. I gave her some water. She
7 drank it. She just looked really tired and exhausted, I
8 assumed from playing with her brothers. I left the room as
9 my wife was coming down the hallway. Everything was fine.
10 My wife and I went to the living room and sat down for a
11 little bit and I made my dinner. Talked about adding my
12 father, David Ray Steadman, to my car insurance policy. My
13 wife and I both agree to wait on that. My wife went to our
14 bedroom. My son, L.L. , was up there, so I picked him up
15 and brought him to the living room with me so he wasn't
16 crying in his bed. I couldn't finish my food, so I put it
17 in the microwave, grabbed a beer out of the fridge, sat
18 down with my son on the couch and started watching Netflix
19 on my phone with him. In parentheses, Ultimate Beast
20 Warrior. We finished an episode. I finished my beer,
21 threw it away, sat down and continued watching Netflix
22 with my son. We started another episode and not long after
23 that my wife screams my name. Lance, in parentheses. I
24 got my son down and my phone. I look up and she says,
25 parentheses, Minor 's not breathing. She found her in the

1 hallway. I grabbed **Minor** from my wife and laid her on the
2 couch, tried CPR, the couch was too soft, so I laid **Minor**
3 on the living room -- living room floor. I then grabbed
4 **L.L.** and put him in his bed so he didn't have to see
5 what we were doing. When I was putting **L.L.** in his bed,
6 I told my wife to call 9-1-1. She did. As soon as I came
7 back in the room, I tried more CPR and stuff was coming out
8 her mouth, so the operator said turn her on her side to
9 help get it out of her system. So we did as the operator
10 -- I panicked and ran to get my mother-in-law, parentheses
11 Sonia Lopez, two houses down. I told her to come fast,
12 **Minor** 's not breathing. Then I ran back to my house where
13 my wife and **Minor** were on the floor. She was still
14 attempting CPR, not giving up, and **Minor** was not breathing
15 still. As soon as Sonia walked in, the fire department
16 came in and took over trying to help **Minor** . Then the
17 paramedics and cops showed up. They were there for about
18 forty to fifty minutes trying different things to bring up
19 a pulse on **Minor** and nothing happened. They went -- they
20 went to the hospital, my wife and Sonia went with. I
21 stayed at the home because my oldest was still sleeping.

22 Q. Thank you. So this statement he gave you on
23 August 1st, was that pretty much consistent with what he
24 told you on July 31st, that **Minor** was alive when he got
25 home at 7:00 PM?

1 A. That's correct.

2 Q. All right. And that he learned that she was dead
3 after watching Netflix?

4 A. That's correct.

5 Q. Did you have another -- well, before I get there, did
6 he make any verbal statements in your presence when you
7 were there that day on August 1st that were not in his
8 written statement?

9 A. He did. He made a statement with his wife Cynthia
10 on the front porch.

11 Q. All right. And what -- what statement was that and
12 who made the statement?

13 A. The statement was made by Cynthia.

14 Q. And was that in -- was he standing there?

15 A. He was.

16 Q. Did he disagree with what she said?

17 A. He did not.

18 Q. Okay. What does Cynthia say?

19 A. Cynthia, it should be noted, she told us **E.L.**
20 said hold my wee-wee to **L.L.** , his two-year-old brother.
21 Both parents told us they questioned him about this, but he
22 would not say where he learned that from.

23 Q. All right. Was that in response to any questions you
24 asked?

25 A. No.

1 Q. Okay. Now after that time did you have another
2 opportunity to speak to him later that day?

3 A. I did.

4 Q. And where was -- where was that at?

5 A. That was at Lexington County Sheriff's Department
6 headquarters located 521 Gibson Road, Lexington.

7 Q. Okay. And what was the purpose of you talking to him
8 at that time?

9 A. To talk with him further just to continue to get more
10 information.

11 Q. And did he agree to meet with you?

12 A. He did.

13 Q. And how did he get to the sheriff's department?

14 A. They drove up on their own, both him and Cynthia.

15 Q. Okay. What did you ask him at that point?

16 A. At that point, myself and Detective Burrell met with
17 them. We actually spoke -- we spoke to Cynthia first. We
18 then brought David into the interview room and David wanted
19 to tell us that the only thing he left out in his original
20 story was that they washed **Minor** off in the shower because
21 she was throwing up. After they gave her a shower is when
22 they changed her diaper and sent her back to her bed and to
23 sleep.

24 Q. Okay. Was that the first time you'd ever heard about
25 a shower in this case?

1 A. It was.

2 Q. And he said after they gave her a shower, they changed
3 her diaper and then sent her back to her bedroom to sleep?

4 A. He did. And then he repeated that he told us that he
5 was the last one to change Minor 's diaper.

6 Q. Okay. Did he say anything regarding E.L. again?

7 A. David told us that E.L. told his brother to hold
8 my wee-wee the same day that Minor died.

9 Q. On the same day that Minor died, E.L. told L.L.
10 to hold his wee-wee?

11 A. Correct.

12 Q. And that he also told you, you testified to, that he
13 was the last one to change Minor 's diaper?

14 A. That's correct.

15 Q. Okay. Is that the first time during the course of
16 this investigation that you ever heard about a shower?

17 A. It is.

18 Q. Or vomiting?

19 A. Yes.

20 Q. Now after August 1st, was another search warrant
21 executed on the house, on August 3rd?

22 A. There was a search warrant on August 3rd, that's
23 correct.

24 Q. Were you involved in that search warrant?

25 A. I responded to that search warrant before it was

1 closed out, but I wasn't there when it was initially
2 executed or started.

3 Q. All right. And is that when this toddler bed that's
4 sitting right here was obtained?

5 A. That's correct.

6 Q. All right. And when -- was E.L. sent to what's
7 called a forensic interview?

8 A. He was. He was sent to an advocacy center.

9 Q. What was the date of that interview?

10 A. One moment. It was August 7, 2017, he went to the
11 Dickerson Center.

12 Q. All right. And did you attend that interview?

13 A. I did.

14 Q. Now so you were present for that and you heard what he
15 told April Sykes, the forensic interviewer?

16 A. That's correct.

17 Q. After that interview, was anything of evidentiary
18 value obtained in this investigation?

19 A. There was.

20 Q. What was it?

21 A. Well, there was a subsequent or additional search
22 warrant at the loca -- at the residence at [REDACTED] Nazareth
23 where they recovered some tape, I believe some diapers,
24 different trash, things were taken from trash cans.

25 Q. And that was on August 10th?

1 A. That is correct.

2 Q. All right. Were you present for that search warrant?

3 A. I was not.

4 Q. Were you present for the interviews that were
5 conducted on August 10th?

6 A. I was not.

7 Q. Okay. Were you made aware and given copies of those
8 interviews?

9 A. Yes, sir, I was by Sergeant Rawl.

10 Q. And when was Cynthia Lopez arrested in this case?

11 A. She was arrested August 10th. I think the warrant was
12 obtained the morning of the 11th, but she was basically
13 taken into custody then.

14 Q. And when was Mr. Steadman arrested?

15 A. The arrest warrant was obtained August 15th and he was
16 arrested that same day.

17 Q. Okay. And that was after you had reviewed the
18 forensic interview and all the statements?

19 A. Yes, sir. After I received the statements that were
20 obtained on the 10th, I looked up those statements and
21 watched the video of the forensic interview with **E.L.**
22 and I wrote an arrest warrant for David Lance Steadman.

23 Q. And what was the basis of that warrant?

24 A. The basis of the warrant was for -- one moment,
25 please. The basis for the warrant was for neglect; that he

1 failed to render medical aid, provide any help for his
2 daughter **Minor** after coming home, finding her taped to the
3 bed, breathing in a bad condition, leaving her in a shower
4 where he -- and all these kind of things happening a long
5 period of time prior to rendering -- calling 9-1-1,
6 rendering aid. Basically the neglect aspect was why I
7 wrote an arrest warrant for him.

8 Q. And during all of your conversations with him, did you
9 ever threaten him?

10 A. No, sir, I did not.

11 Q. And did he ever tell you that **Minor** was dead when he
12 got home?

13 A. Never. She was always alive.

14 Q. In all of his communications with you he always
15 maintained that she was alive?

16 A. She was always alive, yes, sir.

17 Q. Now Ms. Zmroczek was asking about how things are coded
18 on the incident reports.

19 A. Yes, sir.

20 Q. And she brought up that it was coded sexual assault on
21 one of the supplemental reports. Can you explain to the
22 jury how things are entered into the incident report and
23 why they pop up a certain way?

24 A. Absolutely. So the initial report that Master Deputy
25 Zylstra at the time wrote up has a Page 1 and on that

1 Page 1, the front page of the incident report, you can
2 list multiple offenses. Depending on what the offense
3 is, it automatically categorizes those offenses as one,
4 two, three, four, however many you have. In this case,
5 the initial incident was coded as a death investigation.
6 Sexual offense, sexual assault with object, was added later
7 after the information in the investigation.

8 Q. Now that was added after speaking to Dr. Lamb?

9 A. Correct.

10 Q. Okay. After autopsy?

11 A. Correct.

12 Q. Okay. And, you know, why does it say just sexual
13 assault on the supplemental reports after the initial
14 incident report?

15 A. Right. So all the supplemental reports done by
16 detectives or others that participated or CSI is only gonna
17 list the first offense because there's only so much space
18 in that block in our system, so whatever that first offense
19 was which, like I said, on this report Offense Number 1 is
20 sex offense, the Number 2 is death investigation death,
21 it's only gonna show the first one in all the supplemental
22 reports.

23 Q. Okay. Now after -- you testified you arrested
24 Mr. Steadman on August 15th; is that correct?

25 A. That is correct.

1 Q. When you arrested him, did you read him what's known
2 as his Miranda rights?

3 A. I did.

4 Q. And how -- how did you do that?

5 A. I read it to him off a card.

6 Q. Okay. And after you arrested him, did y'all go
7 anywhere?

8 A. We did. We rode -- myself, Detective Burrell and
9 Sergeant Barry Sowers rode in his vehicle to the Lexington
10 County Sheriff's Department and we escorted him straight
11 into the -- one of the interviews rooms there at the
12 sheriff's department.

13 Q. Okay. And when you got him to the sheriff's
14 department, did you advise him of his Miranda rights again?

15 A. I did.

16 Q. How so?

17 A. I advised him directly off of a Lexington County
18 Sheriff's Department statement form.

19 Q. All right. Did you read his rights to him? I'll show
20 you State's Exhibit 2.

21 A. Yes, sir. Prior to talking to David about anything,
22 Detective Burrell actually read David's arrest warrant
23 to him and provided him with a copy of the arrest warrant
24 at 5:32. I then read David his Miranda rights straight
25 off this form that he was handed, which I recognize, at

1 5:34 PM. I started at the top portion of the statement
2 form. It should be noted in the top section of the form
3 David wrote that he completed twelfth grade and put his
4 initials next to it that he could read and write.

5 Q. All right. You can stop there.

6 A. Yes, sir.

7 Q. After you read him his rights, did he acknowledge that
8 he understood those rights?

9 A. He did.

10 Q. How so?

11 A. By initialling. All the DS's in black are his
12 initials.

13 Q. Okay. And prior to giving or getting a statement
14 from him, he was actually read the language of the arrest
15 warrant?

16 A. Yes, that's correct.

17 Q. All right. And this is a statement that he wrote on
18 August 15th of 2017?

19 A. That's correct.

20 MR. McNAIR: Your Honor, we'd offer State's 2 into
21 evidence at this time.

22 THE COURT: State's 2 will be admitted subject to a
23 pre-trial hearing and ruling.

24 (State's Exhibit Number 2, a written statement of
25 Defendant, was admitted into evidence.)

1 BY MR. McNAIR:

2 Q. All right. And what is the format of this statement?

3 A. The format is in a question and answer format and so
4 it has a Q and A right there below the Miranda warnings and
5 it says Q, Detective Andalaro for me; A, David Lance
6 Steadman. Everything in blue like my initials next to
7 Miranda in that portion and the questions are mine and
8 everything in black, the A's, the answers, were done by
9 Mr. Steadman.

10 Q. All right. Let's go ahead and read this statement.

11 A. Yes, sir. Q: When you came home around 7:00 PM on
12 7-31-17, how long was it before you checked on the kids?

13 About ten to fifteen minutes after I arrived home. Q: Who
14 all did you check on and what did you find when you checked
15 on them -- checked them? A: I checked on **L.L.** first in
16 my bedroom. He was asleep. Then I went down the hall into
17 the other kids' room to check on **E.L.** and **Minor**. They
18 both were awake on their separate beds. **Minor** was

19 restrained by tape to her headboard. Q: Where on **Minor**'s
20 body was there tape? A: The tape was on her wrist. Each

21 wrist was taped to her headboard in each corner. That's
22 the only tape that I seen on her. Q: Describe the tape

23 that was on the bed and on **Minor**. A: The tape that
24 was on **Minor** was the tape I borrowed from my wife's father.

25 The tape was white with a slight clear tint about one inch

1 and a half wide, window seal tape. Q: When you found
2 **Minor** in her bed on 07-31-17 after you came home from
3 work, was she responsive? Explain. A: When I found **Minor**
4 in her bed, she looked at me. She was breathing heavy with
5 throw-up on her chest. She moved after I took the tape
6 off, but her movements were slow. Q: When you got the
7 tape off **Minor**, where did you and **Minor** go? A: When I
8 took the tape off **Minor**'s wrists, she sat up and Cynthia
9 and I took her to the hallway bathroom to wash the throw-up
10 she already had on her. Before I left their room, I told
11 **E.L.** to pick up the toys by his bed and he did when we
12 took **Minor** to the shower. **Minor** was acting weird to me.
13 She was walking different from how she normally walks. It
14 was more stagger steps and her balance was off. She fell
15 in the hallway, so I picked her up under her armpits and
16 proceeded to the hallway bathroom with Cynthia. I placed
17 her in the middle of the shower and she was still breathing
18 heavy like she wanted to vomit. She couldn't get anything
19 out so Cynthia and I push on her sides to help. **E.L.**
20 finishes with picking up his toys and says he's done. I
21 told him to go to bed and goodnight. **Minor** got more
22 throw-up on her and her hair from leaning forward so we can
23 push on her sides to help. Afterwards Cynthia turns on the
24 shower to rinse the throw-up off, then she sits on the
25 bathroom counter, I sit on the floor, and ask **Minor** what's

1 wrong. Minor says thirsty, in quotes. I ask Cynthia to
2 get her some water and she didn't want to. We get into an
3 argument on how I always give into the kids when they want
4 things. Minor 's eyes were really dilated, so I asked her
5 what's wrong. She said wrong, quotes. I told Cynthia that
6 she looked -- I'm not sure what he wrote there -- scared.
7 She looked scared, so I asked Minor if she was scared. She
8 said yes, quote. I asked why she was scared. She said
9 upstairs, quote. I asked her what is she scared of
10 upstairs. She said E.L. hit me, quote. I asked
11 Cynthia if E.L. hit her hard or if Minor was lying.
12 Cynthia said all three kids were hitting each other
13 upstairs. I asked E.L. to come back to me so I could
14 ask him if he was being mean to Minor and Cynthia told me
15 to leave him alone, then we back to arguing about Minor
16 because I wanted to take her to the doctor but Cynthia said
17 Minor didn't need a doctor. I asked her why and she said
18 there's nothing wrong with Minor . I told Cynthia we needed
19 to take her to see if she's sick. She said Minor was going
20 to be fine. I leave the bathroom with Minor still in the
21 shower with the water off. Cynthia follows and I go to
22 pick up L.L. and Cynthia goes to our bed in our bedroom.
23 I take L.L. to the living room, sit him on the couch, go
24 to the kitchen, get a beer out of the fridge and go back to
25 L.L. on the couch and lay down propped up by the arm of

1 the couch. I reach over to the coffee table and pick up my
2 phone and turn on Netflix to watch Ultimate Beastmaster.
3 L.L. laid on my chest and watched it with me. After a
4 while Cynthia yells my name and brings Minor in the living
5 room. She says Minor 's not breathing and she wasn't
6 breathing and she was more pale than she normally was. I
7 lay Minor on the couch and tried CPR. The couch was too
8 soft for CPR, so I laid her on the floor. Cynthia shoves
9 the coffee table out of the way so I can lay Minor down. I
10 attempt more CPR, but there's more -- but Minor had more
11 throw-up on her lips so I was gagging and Cynthia took
12 over. I pick L.L. up and take him to his bed so he
13 didn't have to see Minor like that. When I picked up
14 L.L. to take him to his bed, Cynthia tells me to call
15 9-1-1, but I was already away from my phone and headed to
16 our bedroom to lay L.L. down, so I told her to call
17 9-1-1 and she did. The operator told her to turn Minor on
18 her side if she had throw-up in her mouth like it was
19 wanting to come out. I didn't know what else to do, so I
20 ran as fast as I could to and from Cynthia's mom's house
21 two doors down to get her mom because I thought she could
22 help. When I got back home, Cynthia was still on the phone
23 with 9-1-1 doing CPR. Cynthia's mom comes in and sees
24 Minor on the floor -- sees Minor and turns away crying.
25 Her husband comes in and looks, then he turns to Cynthia's

1 mom to comfort her, then the fire department arrives and
2 takes over lifesaving methods. Not long the paramedics
3 arrive to help, then a police officer. I watched them for
4 what seemed like forever trying to save **Minor**. Number
5 popped up on the monitor, but went to zero off and on for
6 forty minutes. I told Cynthia -- Cynthia's dad to take
7 **L.L.** because he was awake hearing this and he took
8 **L.L.** next door to Cynthia's brother's house. After
9 forty minutes the paramedics say they are taking her to
10 the hospital. Cynthia's mom told me to stay with **E.L.**
11 since he was asleep and she and Cynthia went to the
12 hospital where they pronounced **Minor** dead upon arrival.

13 Q: How long was **Minor** in the shower until Cynthia, wife,
14 called you telling you **Minor** was not breathing? About
15 1.5 hours. Q: How long was **Minor** in the shower naked?

16 A: About one hour and forty-five mins. Q: Why did you
17 not call 9-1-1 when you found **Minor** taped to her bed with
18 vomit on her and breathing slowly? A: I did not call
19 9-1-1 when I found **Minor** because I wanted answers from my
20 wife and when she was telling me there was nothing wrong
21 with her when I wanted to take her to the hospital after
22 we argued, I assumed she would take her the next day.

23 Q: Did you feel like **Minor** was having a serious medical
24 problem? A: Yes. Q: At what point in time on 7-31-17
25 did you feel like **Minor** was having a serious medical

1 problem? A: I felt like Minor was having a serious
2 medical problem when she was in the shower not being able
3 to hold her body upright and her head upright. Q: Did you
4 call 9-1-1 at that time? A: No, I didn't. Q: Who called
5 9-1-1 and how long was it after you felt Minor was having a
6 serious medical problem? A: I told Cynthia to call 9-1-1
7 on my phone, 803-497-2410, because it was closest to her at
8 that given moment. About hour and thirty to forty-five
9 mins. Q: When did you put a diaper on Minor on
10 07-31-17? A: I put a diaper on Minor after Cynthia
11 brought her body in the living room and told me to. Q:
12 When you came into the bedroom and got the tape off Minor ,
13 was she alive? A: Yes. Q: When Minor was in the shower,
14 was she alive -- oh, when you carried Minor to the shower,
15 was she alive? A: Yes. Q: When Minor was in the shower,
16 was she alive? A: Yes. Q: Did Minor say anything to you
17 when she was in the shower? A: Yes. Q: Was Minor alive
18 when you and Cynthia walked out of the bathroom and she was
19 left naked in the shower? A: Yes. Q: Do you believe
20 that Minor would still be alive today if you called 9-1-1
21 when you found her with vomit on her breathing slowly and a
22 big stomach in her bed? A: Yes. Q: Is there anything
23 else you think I should know? A: Yes. If I could talk to
24 my daughter in any way, I would tell her I'm sorry for not
25 taking action.

1 Q. Now based on the statement that he gave here, was it
2 your understanding that **E.L.** had seen them while they
3 were in the shower with **Minor** ?

4 A. That's correct. From the forensic interview.

5 Q. And this is the final written statement that he ever
6 gave, correct?

7 A. It is.

8 Q. And this was after Cynthia had been arrested?

9 A. It is.

10 Q. And she was in -- in jail, right?

11 A. That's right. She'd been in jail for five days.

12 Q. And you read him his warrant --

13 A. We did. Detective Burrell.

14 Q. -- that stated it was charging him with neglect?

15 A. That's correct.

16 Q. And he gave this written statement after that?

17 A. After that, that's correct.

18 Q. Admitting that if he'd called 9-1-1 that **Minor** would
19 be alive today?

20 A. That's correct.

21 Q. Now in his initial statement to you on July 31st, he
22 had told you that he changed **Minor** 's diaper. Was it when
23 he got home?

24 A. One moment. Yeah, when he gave her the cup of water,
25 he changed her diaper.

1 Q. And in this statement he said he changed her -- put a
2 diaper on her after she was dead?

3 A. That's correct.

4 Q. Now after this -- this interview, did you have one
5 more opportunity to speak with him?

6 A. I did.

7 Q. What date was that?

8 A. That was on August 18, 2017.

9 Q. All right. And who was present for that interview?

10 A. Myself and Sergeant Rawl.

11 Q. Where was that interview conducted?

12 A. We escorted him over from the Lexington County
13 Detention Center where he was at to the Lexington County
14 Sheriff's Department next door to an interview room.

15 Q. Did you read him his Miranda rights?

16 A. I did.

17 Q. Did he acknowledge he understood those rights?

18 A. Actually Sergeant Rawl read his Miranda rights off an
19 advisement of rights form.

20 Q. In your presence?

21 A. Yes, that's correct.

22 Q. And did he acknowledge he understood his rights?

23 A. He did.

24 Q. How so?

25 A. He acknowledged them -- if I could see the form to

1 help.

2 Q. (Hanging.)

3 A. He acknowledged them by signing after it states I have
4 read the statement of my rights and I understand what my
5 rights are. He also acknowledged after the waiver of
6 rights that he did not want a lawyer present, he understood
7 what he was doing, that no promise or threats had been made
8 to him, no pressure or coercion of any kind were used
9 against him.

10 MR. McNAIR: All right. Your Honor, we'd offer
11 State's Exhibit 3 into evidence.

12 THE COURT: Without objection the waiver of rights
13 form.

14 (State's Exhibit Number 3, Advisement of Rights
15 form, was admitted into evidence.)

16 BY MR. McNAIR:

17 Q. After reading him his rights, what did y'all ask him?

18 A. After his rights were read, Sergeant Rawl asked David
19 about telling Sergeant Novak and him one story and telling
20 Detective Burrell and I a subtly different story.

21 Q. And what was the difference that y'all were asking
22 about? Did he tell Detective Rawl that he had carried
23 **Minor** to the shower?

24 A. Sergeant Rawl told David that David told him that he
25 carried **Minor** to the bathroom.

1 MS. ZMROCZEK: Your Honor, there's so much hearsay
2 in there I don't even know where to object.

3 THE COURT: Yes, don't -- don't read it. Just
4 answer his question.

5 THE WITNESS: Yes, sir. Sorry, Your Honor.

6 THE COURT: That's all right.

7 THE WITNESS: The difference is about was she
8 carried to the bathroom or did she -- you know, did she
9 kind of stumble or walk on her own to the bathroom.

10 BY MR. McNAIR:

11 Q. All right. What was his response to that?

12 A. David paused and told us that she did take -- that she
13 did talk and she did take a few steps.

14 Q. All right. So he reaffirmed that she was alive
15 walking and talking when he got home?

16 A. That's correct. He paused again --

17 Q. Hold on. One second.

18 A. Yes, sir.

19 Q. You can read the next statement. Well, we'll stop
20 right there, okay?

21 A. Yes, sir.

22 Q. Now have you viewed a videoconference involving --
23 well, let me just ask you this. I'm gonna show you
24 State's 39 for ID. Have you had the opportunity to view
25 this video?

1 CONTINUED DIRECT EXAMINATION

2 BY MR. McNAIR:

3 Q. Detective Andaloro, I think where we left off
4 yesterday, I was asking you about State's 39 and were you
5 able to obtain a recorded video of Mr. Steadman speaking
6 to his wife, Cynthia Lopez, on August 14, 2017?

7 A. Yes, sir, I was.

8 Q. And did you download that video in its original
9 format?

10 A. I did.

11 Q. All right. And did you change or alter it in any way?

12 A. No, not at all.

13 MR. McNAIR: Your Honor, at this time we'd offer
14 State's 39 in evidence.

15 MS. ZMROCZEK: No objection.

16 (State's Exhibit Number 39, a video jail call,
17 was admitted into evidence.)

18 MR. McNAIR: Permission to publish, Your Honor?

19 THE COURT: Yes, sir.

20 (Whereupon, State's Exhibit Number 39 was played
21 for the Court and jury.)

22 BY MR. McNAIR:

23 Q. Detective Andaloro, this video is from August 14th,
24 correct?

25 A. That's correct.

1 Q. And that was the day before he gave that written
2 statement to you on August 15th?

3 A. That's correct.

4 Q. And when was Cynthia arrested?

5 A. She was arrested on the 10th.

6 Q. All right. So she was in custody at this time?

7 A. She was.

8 Q. But he was not?

9 A. That's correct.

10 Q. All right. He made a reference to Ms. Wilgus. Who is
11 she?

12 A. She's an employee with DSS.

13 Q. All right. Was DSS involved in this case after
14 **Minor** 's death?

15 A. Yes.

16 Q. All right. Is that standard procedure in a case like
17 this that involves allegations of abuse or neglect?

18 A. Yes, sir, it is.

19 Q. And on this video was -- was his quote I wish I didn't
20 listen to you and called a doctor?

21 A. Yes, he said that.

22 Q. And is that consistent with what he told you August
23 15th about wanting to call a doctor?

24 A. It is consistent with his statement to me on the 15th.

25 Q. Now moving on, during the course of your investigation

1 did you learn where the Defendant worked?

2 A. I did.

3 Q. And where was that?

4 A. It was at the Hoover Building -- Builders at 1120 Two
5 Notch Road in the Red Bank area of Lexington.

6 Q. And was he working on July 31, 2017?

7 A. He was.

8 Q. Was he working at the Hoover location or somewhere
9 else?

10 A. He was working at another location.

11 Q. Do you have in your notes what location he was working
12 that day?

13 A. Yes, if you will give me a moment. I apologize. I'm
14 trying to find the right interview. All right. Here it
15 is. They were at 1310 Ray Price Road, Leesville, South
16 Carolina, 29070, and that was the only job site that day
17 according to the boss.

18 Q. Okay. Now have you -- what's the quickest route to
19 get from Hoover to his house on Nazareth Road?

20 A. So the quickest route to get from the Hoover building
21 to his residence would be --

22 MS. ZMROCZEK: Your Honor.

23 THE COURT: What's the relevance?

24 MR. McNAIR: I think it will be established later,
25 Your Honor.

1 THE COURT: Okay.

2 BY MR. McNAIR:

3 Q. Have you driven from Hoover to his residence?

4 A. I have.

5 Q. And what route did you take?

6 A. I took a right out of the Hoover company building or
7 Hoover company, came up to South Lake Drive at the light
8 and took a left, proceeded down South Lake and took a right
9 on Nazareth, so just took two turns, a left on South Lake
10 and a right on Nazareth Road, and then his house is on
11 Nazareth Road, [REDACTED].

12 Q. All right. Did you document what the mileage was?

13 A. I did. 5.6 miles.

14 Q. 5.6 miles?

15 A. Yes, sir.

16 Q. And how long did it take to you get from Hoover to his
17 house?

18 A. It took me nine minutes twelve seconds and
19 thirty-seven milliseconds.

20 Q. Okay.

21 MR. McNAIR: That's all the questions I have at
22 this time. Please answer any questions Ms. Zmroczek has.

23 CROSS-EXAMINATION

24 BY MS. ZMROCZEK:

25 Q. Thirty-seven milliseconds?

1 A. Yes, ma'am.

2 Q. Wow. You were very detailed in making sure that you
3 documented that, right?

4 A. I used a stopwatch that showed that.

5 Q. Were you very detailed in everything that you did in
6 this case to make sure that you had all the information?

7 A. I was as thorough as I could be.

8 Q. Okay. So, Detective Andaloro, you don't have any
9 medical evidence that disputes that she, **Minor**, died from
10 asphyxiation, right? That's her cause of death.

11 A. I don't have any -- can you rephrase that?

12 Q. You don't have anything to dispute that. You're not
13 disputing that she died of asphyxiation?

14 A. I'm not, that's correct.

15 Q. Tell the jury who put that tape on **Minor**'s mouth.

16 A. According to the investigation and the statements,
17 Cynthia Lopez did.

18 Q. Do you -- do you have any information to dispute that?

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

20 Q. Okay. Tell the jury at what time that tape was put on
21 her mouth.

22 A. I'm not sure exactly what time it was put on her
23 mouth.

24 Q. Okay. But during your thorough investigation, what --
25 what is the timeframe that you've been provided?

1 A. Timeframe would be 5:30, 6:00 range.

2 Q. Okay. Any evidence to dispute that?

3 A. No, ma'am.

4 Q. Any evidence to dispute what time Lance got home from
5 work that day?

6 A. Any evidence to dispute what time he got home?

7 Q. Yes.

8 A. Like what time are you saying he got home?

9 Q. You tell us. You did a thorough investigation. What
10 time did he get home?

11 A. Sometime before seven is what the investigation
12 revealed.

13 Q. Sometime before seven?

14 A. Around seven or slightly before.

15 Q. Okay. Around seven or just a little before, right?

16 A. Yes, ma'am.

17 Q. Okay. And do you -- do you dispute that? Is your
18 testimony today that that's what the evidence shows?

19 A. As far as I know, yes, ma'am.

20 Q. Okay. So you don't dispute that between 5:30 and 6:00
21 tape was placed over this four-year-old's mouth and that
22 she was taped to that little bed that we saw yesterday,
23 correct?

24 A. Tape was on her face. I'm not sure exactly how it was
25 affixed or if it was over her mouth completely.

1 Q. I'm sorry?

2 A. I said I'm not sure exactly how the tape was placed
3 over her face or her mouth.

4 Q. Okay. So your testimony is today that you don't know
5 where the tape was?

6 A. No, ma'am.

7 Q. Okay. Well, what --

8 A. Maybe it's the way you asked the question. If you
9 could rephrase it.

10 Q. Okay. Why don't you tell me where the tape was to the
11 best of your investigation?

12 A. The information we received is that Cynthia put tape
13 on her face or mouth area and her wrists.

14 Q. Okay. Face or mouth area. Are you saying that her
15 mouth was not covered or it was covered or you don't know?

16 A. I'm saying that she told us that she put tape over her
17 mouth --

18 Q. Okay.

19 A. -- but I don't know as I wasn't there.

20 Q. Okay. Who else told you that? Where else did you
21 hear that?

22 A. What do you mean where else did I hear that?

23 Q. About tape over **Minor** 's mouth.

24 A. Besides the mother?

25 Q. Yes.

1 A. That's the only place we heard.

2 Q. There was no other witness that -- that provided that
3 information?

4 A. Oh, yes, ma'am. E.L. during the forensic
5 interview.

6 Q. So a five-year-old told someone else --

7 A. Not me, correct.

8 Q. -- that was a recorded conversation, which we're about
9 to watch?

10 A. Yes, ma'am.

11 Q. But you were there while we had that -- while they had
12 that conversation, right? You got to watch that recorded
13 interview?

14 A. I did.

15 Q. Okay. And that's where you first learned about tape
16 on her mouth?

17 A. Correct.

18 Q. Okay. And when you first got assigned to this case,
19 I think you said you were in major crimes, right?

20 A. That's correct, ma'am.

21 Q. Okay. Tell the jury what major crimes does.

22 A. Major crimes investigates major crimes that happen
23 against persons in the county.

24 Q. Okay. What -- what are the forms of investigation?
25 How do you investigate major crimes?

1 A. How do we investigate major crimes?

2 Q. Yes. Take us through a step-by-step so we know.

3 A. Okay. I'm not sure where you want me to go with
4 that. Basically as a major crimes detective you are
5 either assigned a case, sometimes we respond to scenes,
6 sometimes we don't depending on the nature of the case,
7 but ultimately if you respond out to a scene, if it's an
8 active scene and you're requested to respond out, you work
9 in conjunction with road deputies, other first responders,
10 try -- basically try to gather information. You're trying
11 to put the pieces of the puzzle together basically more or
12 less.

13 Q. Okay. So you're putting the pieces of the puzzle
14 together?

15 A. Yes, ma'am.

16 Q. So how do we do that?

17 A. By gathering information.

18 Q. All right. And you gather information by speaking
19 with witnesses?

20 A. Yes, ma'am.

21 Q. And you want to make sure that you speak to everyone
22 at the scene?

23 A. You want to try to speak to anyone that could have any
24 knowledge about the incident you're investigating, that's
25 correct.

1 Q. Okay. And in this case you spoke to all of the
2 firefighters, right?

3 A. Yes, ma'am, I believe.

4 Q. Okay. Not just the one that testified this week, but
5 you've spoken to four of them?

6 A. I'd have to confirm it's four, but I spoke to several
7 of them, yes, ma'am.

8 Q. Okay. You can confirm. I'll wait. I certainly
9 don't want to put words in your mouth, so if I misstate
10 something, that's why I want to make sure.

11 A. I actually spoke with five.

12 Q. Okay. So there were five?

13 A. Yes, ma'am.

14 Q. All right. And each of them gave a description of the
15 scene?

16 A. I did a statement in question answer format with them
17 and I met with each of them, that's correct.

18 Q. So they described what they saw as far as the body,
19 they gave -- some of them gave even very detailed
20 descriptions about the color of the body and those types of
21 things, right?

22 A. Yes, ma'am. They answered the questions I asked them.

23 Q. Okay. And then you spoke with three EMS personnel?

24 A. Yes, ma'am.

25 Q. Okay. And then you spoke with Lance?

1 A. Yes, ma'am.

2 Q. All right. And then there was an executed -- a search
3 warrant that was executed, right?

4 A. Yes, ma'am. There were three search warrants of the
5 residence.

6 Q. Okay. Well, I -- I was kind of trying to go in
7 chronological order, but that's okay.

8 A. Absolutely.

9 Q. Okay. So on the 31st, what -- in that search warrant
10 you have to swear to a judge about what kind of evidence
11 you're looking for, right?

12 A. What's that?

13 Q. When you get a search warrant, you have to swear about
14 the reason that you're looking for and what you're looking
15 for, you have to tell that to a magistrate?

16 A. Yes, ma'am. Well, and you can be getting it from a
17 magistrate or potentially a circuit court judge depending
18 on what kind of search warrant, but, yes, ma'am, you'd be
19 swearing to an affidavit or the probable cause to search
20 for whatever items.

21 Q. Okay. What were the items that you put that you were
22 looking for according to your search warrant on the 31st?

23 A. If I had a copy of the search warrant, that would be
24 helpful.

25 Q. Do you have a copy of it or do you need one?

1 A. I need one.

2 Q. Okay.

3 (Defendant's Exhibit Number 21 was marked for
4 identification.)

5 MS. ZMROCZEK: Your Honor, just for ID purposes
6 I have marked 21, the search warrant.

7 BY MS. ZMROCZEK:

8 Q. So what were the -- what were the items that you told
9 the magistrate that you -- not you, someone from your team,
10 told them that you were searching for?

11 A. Yes, ma'am. To clarify, I didn't tell the magistrate
12 anything. I was at the scene. Detective Albert Lyons,
13 the description of the property that he put in the search
14 warrant was evidence sought in the search includes, but is
15 not limited to, any and all trace and physical evidence to
16 include, but not limited to, hair, clothing, pants, shoes,
17 shirts, jackets and hats, blood, biological evidence,
18 saliva, serological, fibers, latent prints, papers, notes
19 and credit cards, financial documents, receipts, gift
20 cards, debit cards, wallets, electronics, to include cell
21 phones and iPods, which can assist in the investigation of
22 a child death. Visual photographs will be taken of the
23 scene.

24 Q. Okay. So it was a wide range of information that you
25 -- that you were looking for?

1 A. Yes, ma'am.

2 Q. And when you first execute a search warrant, you don't
3 have a lot of information. You're not quite sure what to
4 look for or what's pertinent to your investigation, right?

5 A. Depending on what the preliminary investigation has or
6 what you get from road deputies, that's correct. Sometimes
7 you have more information and sometimes you have less.

8 Q. Okay. But one -- but one of the groups of things was
9 like biological and serological and that kind of evidence,
10 right?

11 A. Yes, ma'am.

12 Q. So evidence of vomitus or fecal matter, all of those
13 things could help?

14 A. Potentially they could.

15 Q. Okay. And how long have you been in major crimes?
16 How long on July 31st of 2017 had you been in major crimes?

17 A. 2017, I believe -- I believe a year. About a year.

18 Q. Okay. How many -- how many major scenes -- how many
19 death scenes had you worked?

20 A. I can't tell you. Several either as a lead or as a
21 backup.

22 Q. Okay. In that -- in that first year when you were
23 with major crimes?

24 A. Yes, ma'am. I worked several homicides in the first
25 week.

1 Q. Okay. Great. And you -- going back to the
2 information gathering, so you talk to people and then
3 you do a search warrant, right?

4 A. Correct.

5 Q. Also, like we just saw, you get to download jail phone
6 calls and video visits, right?

7 A. Sometimes. Yes, ma'am.

8 Q. Sometimes?

9 A. Yes, ma'am.

10 Q. But in this case you -- you actually provided -- you
11 actually downloaded several jail calls and video visits,
12 right?

13 A. Yes, ma'am. Some of us have access to Securus, which
14 is what we watched. They have both video and phone call
15 formats or platforms that are on different servers or
16 different websites and allow you to view them and, if you
17 want, download them.

18 Q. Okay. But only -- only police. I can't do that,
19 right?

20 A. That's correct.

21 Q. Okay. Only police can do that?

22 A. Yes, ma'am.

23 Q. So there were several -- and jail phone calls and
24 video visits provide, especially right when people are
25 arrested, provide some valuable information, don't they?

1 A. That's correct.

2 Q. It's an incredible discovery tool because people are
3 able to talk about what's going on and they're just --
4 they're really upset about being in jail and they'll just
5 say all kinds of things, right?

6 A. People tend to talk when they're on a phone call or
7 video call, yes, ma'am.

8 Q. Okay. And, in fact, with this video visit that we
9 just watched, she was actually speaking, we just couldn't
10 hear what she was saying, right?

11 A. Correct.

12 Q. Okay. It wasn't just him talking?

13 A. Yes, ma'am.

14 Q. Okay. And how many video visits did you watch?

15 A. I'm not sure, ma'am. That was three -- almost three
16 years ago, but I watched a few of them when it was closer
17 to David being locked up, around that time.

18 Q. Okay. But you didn't provide all of those?

19 A. No, ma'am.

20 Q. Just the ones that you thought were relative?

21 A. Ones that I wanted to preserve because the system only
22 keeps them for a year typically.

23 Q. Right. So -- so the same with the phone calls, the
24 jail phone calls as well, right?

25 A. Yes, ma'am. That would be a normal practice and

1 procedure.

2 Q. And we're talking thousands of phone calls over a
3 period of three years?

4 A. Right, and we constantly have cases coming in, so even
5 with this case, I could have another death, another armed
6 robbery, whatever's still coming in, so we can't sit there
7 and listen to jail phone calls and download all of them as
8 they come in each time.

9 Q. All right. But you could download them and save them
10 off servers so that they would be available to, say, the
11 defense attorney, right?

12 A. That's not our normal practice, ma'am. We don't do
13 that.

14 Q. Okay. But you could do that.

15 A. You could do a lot of things. We don't do that.

16 Q. Right. So when you pick the ones that -- that you
17 want to download, after a year they're not available
18 anymore; is that right?

19 A. That's correct.

20 Q. So in opening statements, I believe Mr. McNair said
21 the first time you're ever gonna hear him say that she
22 was dead when he got home is on this stand -- or in this
23 courtroom, but you didn't listen to those jail phone calls
24 and we didn't have an opportunity to listen to them, did
25 we?

1 A. I spoke to him in person. I didn't feel it was
2 necessary to listen to every phone call that was made.

3 Q. Okay. You listened to every phone call that was made?

4 A. No, ma'am. I said I didn't think it was necessary to
5 listen to every phone call that was made by David because I
6 spoke with him in person so many times.

7 Q. Right. I understand that you didn't think that it
8 was necessary, but then it makes it difficult for him to
9 corroborate that statement if we don't have the phone
10 calls, right?

11 A. Potentially, I guess.

12 Q. Okay. What is corroboration?

13 A. Do you want me to define it?

14 Q. If you -- if you don't mind.

15 A. Okay. Basically using something to back up something
16 else.

17 Q. Okay. Or to verify?

18 A. To verify, to confirm.

19 Q. Okay. Because sometimes, especially in your line of
20 work, people don't tell you the truth?

21 A. People don't tell the truth in every line of work.

22 Q. I'm sorry, in what?

23 A. I said people don't tell the truth in every line of
24 work, ma'am.

25 Q. In every line of work, right. But -- but in yours,

1 when you're trying to solve a crime and you want to verify
2 something, you have listen to what they say and then go
3 back to see if there's physical evidence or phone calls
4 or something to either confirm or deny that information,
5 right?

6 A. Yes, ma'am.

7 Q. So let me ask you this. Did you locate any chain
8 saws?

9 A. I don't recall locating any chainsaws.

10 Q. Okay. Sometimes -- and I believe that you provided
11 your CV to me, right?

12 A. My CV to you?

13 Q. Yes. You provided your CV?

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

15 Q. Okay. You received training from your various sheriff
16 departments that you've worked for?

17 A. Various trainings, yes, ma'am.

18 Q. Okay. You received trainings on how to testify in
19 court?

20 A. Yes, ma'am.

21 Q. Okay. You received trainings on how to recognize
22 people in distress?

23 A. How to recognize people in distress? We have training
24 on dealing with people. I don't know that I had a specific
25 one on that.

1 Q. Okay. When you spoke with Lance, what was his
2 demeanor on the night of the 31st?

3 A. On the very first time I spoke with him at the scene?

4 Q. Yes.

5 A. He seemed calm. I mean, upset, but calm.

6 Q. Upset, but calm?

7 A. Yes, ma'am.

8 Q. I want to talk about this video visit. So you were
9 there -- not video visit, excuse me, forensic interview.

10 A. Yes, ma'am.

11 MS. ZMROCZEK: Your Honor, I believe Defense
12 Exhibit 6 is allowed to be entered into evidence without
13 objection.

14 MR. McNAIR: Without objection, Your Honor.

15 THE COURT: Without objection 6 is in.

16 (Defendant's Exhibit Number 6, a forensic
17 interview, was admitted into evidence.)

18 BY MS. ZMROCZEK:

19 Q. And this is a copy of that forensic interview?

20 A. I've never seen that before, but, yes, ma'am.

21 Q. Okay. I mean, have you seen -- you saw the interview
22 itself --

23 A. Yes, ma'am.

24 Q. -- so if we place it in you could certainly at the
25 very beginning let us know if that's not correct, right?

1 A. That's correct.

2 MS. ZMROCZEK: Okay. Your Honor, at this time I'd
3 like to publish the forensic interview.

4 THE COURT: I'll explain to the jury, this video
5 they're gonna show is an interview of the child, the
6 brother, and it is conducted in kind of a child friendly
7 environment and the interviewer asks open-ended questions
8 so it doesn't suggest answers, so y'all get to see it,
9 okay?

10 MS. ZMROCZEK: And, Your Honor -- one thing that
11 you'll get to do also at the end of the case is not just
12 have to sit here and listen to all of us, you'll actually
13 get to take all of this evidence back with you. You'll
14 have --

15 MR. McNAIR: Your Honor, objection to talking to
16 the jurors directly.

17 THE COURT: Yeah, I think I told them that. If
18 you want me to instruct them on that, let me do that.

19 MS. ZMROCZEK: You can do it, Your Honor.

20 THE COURT: Okay. All the evidence, all the
21 videos, y'all get to see them again. And if you need a
22 computer in the jury room, you'll get one and you can
23 look at them until your heart's content. That's what I
24 think everybody goes to wondering, how do I get the
25 video. The computer has nothing on it, therefore, we

1 can send it back with a video player. It's as simple
2 as that.

3 MS. ZMROCZEK: Thank you, Your Honor.

4 (Whereupon, Defendant's Exhibit Number 6 was
5 played.)

6 BY MS. ZMROCZEK:

7 Q. Okay. Before we go any further, I just want to
8 confirm now that you can see it, is this the -- is this
9 the interview that you saw?

10 A. Yes, ma'am. That's E.L. and Agent Sykes with
11 SLED.

12 Q. Okay. And that's E.L. ?

13 A. Yes, ma'am, it is.

14 Q. Age five?

15 A. Yes, ma'am, at the time.

16 Q. Thank you.

17 A. You're welcome.

18 (Whereupon, Defendant's Exhibit 6 continued
19 playing.)

20 MS. ZMROCZEK: Your Honor, if I may just
21 fast-forward for when they return?

22 THE COURT: Uh-huh.

23 MS. ZMROCZEK: Your Honor, I think the next minute
24 is just them leaving the room.

25 THE COURT: Okay. Fair enough.

1 11:39 AM.)

2 THE COURT: All right, Detective. You're still on
3 the stand and you're still under oath.

4 THE WITNESS: Yes, sir.

5 THE COURT: All right. Ms. Zmroczek.

6 MS. ZMROCZEK: Thank you.

7 CONTINUED CROSS-EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. Detective Andalaro, so we just watched that video.
10 That was the same video that were you were present for,
11 right?

12 A. Yes, ma'am.

13 Q. And, in fact, a little bit toward the end we see a
14 note being slid under the door. Who was that -- that note
15 was slid by you, right, or written by you?

16 A. It may have been. Yes, ma'am.

17 Q. Okay. Because before you set up these interviews, the
18 interviewers have some background information about the
19 case?

20 A. Yes, ma'am. They have a preliminary -- the incident
21 report available and some basic information.

22 Q. Okay. And then that way you can kind of help guide
23 their questions to get the answers -- or to try to get
24 answers?

25 A. Correct.

1 Q. Okay. So specifically that note that you slipped in
2 asked about if he'd ever -- if he, **E.L.** had ever seen
3 **Minor** sleeping in the hallway?

4 A. She asked him that after the note came in.

5 Q. Okay. And you would agree with me that there weren't
6 always time references scheduled in that interview, right?
7 Like sometimes she said well, you know, when you were
8 eating dinner, but she didn't say that night. It wasn't
9 that focussed, agreed? The video speaks for itself, right?

10 A. Yes, ma'am.

11 Q. Okay. So -- and, in fact, in speaking for itself, it
12 also -- we got to see a little bit of the drawings, right?

13 A. Correct.

14 Q. So when he starts off and he draws mom and she's
15 really big, do you recall that?

16 A. No, ma'am. I remember he drew his family.

17 Q. Okay. And you don't remember watching that part of
18 it?

19 A. (Shakes head.)

20 Q. He said -- or he had a speech impediment?

21 A. Yes, ma'am.

22 Q. How many times did you actually have an opportunity to
23 speak with him?

24 A. To speak with **E.L.** ?

25 Q. Yes.

1 A. I didn't speak with **E.L.** except at -- briefly at
2 DSS.

3 Q. Okay. Did you take any notes of that -- of that
4 conversation?

5 A. I wasn't really asking any questions to him, just --

6 Q. Okay. So he starts off -- or when he starts talking
7 about **Minor** 's death, he said she got cut up by a chain saw,
8 right?

9 A. Yes, ma'am, on the video it said that.

10 Q. Okay. There's certainly no evidence that she was cut
11 up by a chain saw, is there?

12 A. That's correct.

13 Q. Okay. He also said mom said no water.

14 A. He did say that. That's correct.

15 Q. He was asked numerous times who put the tape on
16 mommy's mouth -- or on **Minor** 's mouth, right?

17 A. Ms. Sykes did ask a lot of questions several times I
18 think for clarity, yes, ma'am.

19 Q. Okay. And every time who -- who was that response?

20 A. Every time who was the response to what, ma'am?

21 Q. For who put the tape on the mouth.

22 A. His mom.

23 Q. Okay. And, in fact, she would ask a question and she
24 would say when they put the tape on, but he never wavered,
25 it was always mom, right?

1 A. Yes, he said mom put the tape on the mouth.

2 Q. Okay. I'm gonna show you -- as the lead investigator,
3 are you responsible -- are you responsible for sending
4 items to be tested?

5 A. I can request that items be tested. We work as a
6 team, so there's multiple people in that decisionmaking,
7 my boss, other detectives. We springboard with one
8 another.

9 Q. Did you send items to be tested?

10 A. We did request some items to be tested. I believe
11 the solicitor's office also requested items to be tested.

12 Q. And did you get results back?

13 A. Did we get results back?

14 Q. Yes.

15 A. Yes, ma'am.

16 Q. Okay. When did you get those results back?

17 A. I would have to see the reports.

18 Q. All right. You received fingerprint testing?

19 A. I didn't receive fingerprint testing.

20 Q. You've never seen any fingerprint results in this
21 case?

22 A. Do you have a report you want to show me?

23 Q. I do, but as the lead investigator I just want to
24 clarify that your testimony is you've never seen the
25 results of the fingerprint testing?

1 A. I mean, if you could show me the report I can answer
2 that better.

3 Q. Sure.

4 MS. ZMROCZEK: I beg the Court's indulgence.

5 THE COURT: Sure.

6 A. There's a copious amount of paperwork in a case of
7 this nature.

8 Q. I'm sorry?

9 A. I said there's a copious amount of paperwork in a case
10 of this nature.

11 Q. But you knew that the trial was this week, right?

12 A. Yes, ma'am.

13 Q. Okay.

14 MR. McNAIR: Your Honor, it might speed things up
15 if she would ask the detective exactly what item of
16 evidence she's talking about being tested.

17 BY MS. ZMROCZEK:

18 Q. The item -- the tape was specifically tested for
19 fingerprints; is that correct?

20 A. That's correct. I apologize. There's a lot of papers
21 here, ma'am.

22 Q. Uh-huh.

23 A. Yes, ma'am, I believe I had looked at this in a PDF
24 format at one point. It was done by Agent Darnell with
25 SLED back in 2019.

1 Q. Okay. And I won't ask you his results. We'll let him
2 testify to that.

3 A. Yes, ma'am.

4 Q. Thank you. And one of the reasons that you send
5 things for testing is, again, it helps corroborate or -- or
6 not what you've been told, right?

7 A. It can, yes, ma'am.

8 Q. Okay. Because what you're, again, trying to do is not
9 just base everything off of what people tell you, right?

10 A. Yes, ma'am. I said it can because sometimes there's
11 not enough for it to go for further testing by the policies
12 and procedures at SLED, so sometimes we test that and the
13 results may not be enough by the procedures or policies,
14 whether it's blood or fingerprints, the ridge line of a
15 fingerprint, so it can. But just because it comes back
16 with no result doesn't mean it's one way or the other.

17 Q. Right. Right. It doesn't mean one way or another,
18 but when it does come back with results it certainly means
19 one way or the other, right?

20 A. It provides us information, yes, ma'am.

21 Q. Okay. Scientific results, unlike testimony, they are
22 what they are, they're not biased. I mean, either --
23 they're not subjective.

24 A. Correct.

25 Q. Okay. So I'm gonna show you Defendant's 7, 8, 10, 11

1 and 12, and ask if you recognize those?

2 A. Yes, ma'am. I didn't take these. I believe these
3 were taken -- I'm honestly not sure. I mean, it could have
4 been CSI or SLED. It could have been CSI Snelgrove or
5 SLED, but it's tape that was recovered during a search --
6 search warrant at the residence.

7 Q. And I know that you didn't take them, but do they
8 fairly and accurately represent what the tape was and how
9 it was measured?

10 A. Yes, ma'am, it appears it is.

11 MS. ZMROCZEK: Your Honor, at this time we would
12 move Defendant's 7, 8, 10, 11 and 12 into evidence.

13 MR. MCNAIR: No objection.

14 THE COURT: No objection. Defendant's Exhibits 7,
15 8, 10, 11 and 12 are admitted.

16 (Defendant's Exhibit Numbers 7, 8, 10, 11, and 12,
17 photographs, were admitted into evidence.)

18 BY MS. ZMROCZEK:

19 Q. Okay. And so when we started off this morning there
20 was a little confusion about where on the face or mouth the
21 tape was located, right?

22 A. It wasn't confusion. It was the way you were asking
23 it, ma'am.

24 Q. Okay. I'll try to ask it a little more clear.

25 A. Yes, ma'am.

1 Q. So this -- and this is Defendant's 12. Again, when
2 we have a ruler and measurements with the tape it helps
3 provide more clarity of the size of things, right?

4 A. Yes, ma'am. It's trying to show the scale to
5 something.

6 Q. The scale of something. And this was the tape that
7 was consistent with coming off of **Minor** 's mouth?

8 A. We believe it may be. Yes, ma'am.

9 Q. Okay. I know that you did not appear for all of the
10 search warrants, but you certainly have seen the pictures,
11 right?

12 A. Yes, ma'am, I've seen pictures from all the search
13 warrants.

14 Q. And in a unique situation like this where you have on
15 the 31st, on the evening, there were some pictures taken by
16 -- several pictures taken by CSI for Lexington County?

17 A. Correct.

18 Q. And then also independently the coroner's office took
19 their own set of pictures?

20 A. I heard that testimony, yes, ma'am.

21 Q. You haven't seen those pictures?

22 A. I've seen those pictures as well, yes, ma'am. I --

23 Q. Okay. Huh? Sorry. Go ahead.

24 A. I was just saying I apologize.

25 Q. No. No. No need. So the -- the coroner pictures,

1 some of them are similar and some of them are different
2 than Lexington County's, right?

3 A. In what way, ma'am?

4 Q. In -- for example, in Lexington County's we don't
5 have a picture of the thermostat in the house, but in the
6 coroner's case we do.

7 A. I'd have to look at the discs. I mean, there's
8 hundreds of pictures --

9 Q. There are.

10 A. -- which you know and have seen as well.

11 Q. These are -- and I put them in folders because there
12 are hundreds of pictures as you said, right?

13 A. Correct.

14 Q. So we don't want to get them mixed up.

15 A. Yes, ma'am.

16 Q. Do you recognize Defendant's 26?

17 A. I believe I've seen that before, yes, ma'am.

18 Q. Okay. And that would be the thermostat?

19 A. Yes, ma'am.

20 MS. ZMROCZEK: And, Your Honor, it's just for ID
21 at this point.

22 THE COURT: Okay.

23 MS. ZMROCZEK: I'm throwing things around.

24 BY MS. ZMROCZEK:

25 Q. But, again, pictures could also help corroborate, for

1 example, if someone gives a statement and says that they
2 came home and put their food in the microwave and then we
3 happen to have a picture of the food in the microwave, that
4 would corroborate their statement, right?

5 A. Yes, ma'am, it could.

6 Q. Okay. We look for things for consistency and internal
7 inconsistencies. What's an internal inconsistency?

8 A. I'm not sure what you're asking, ma'am.

9 Q. Okay. So let's talk about Lance's -- one of his
10 final statements. He said she was slowly breathing, she
11 was lifeless. That would be an internal inconsistency,
12 right?

13 A. Are you referring to the statement on the 10th?

14 Q. Yes.

15 A. Yes, ma'am. I just wanted to make sure because there
16 were several.

17 Q. Yeah, there are several.

18 A. That's right.

19 Q. And let's talk about that for a minute. So obviously
20 on the 31st you're just trying to gather information, but
21 it's very chaotic, right?

22 A. Yes, ma'am.

23 Q. I mean, it's less than an hour that his daughter has
24 been murdered and you're asking him questions to try -- to
25 try to find out what happened.

1 A. Yes, ma'am. That's typical in a situation like that.

2 Q. Okay. The next interview that you conducted was the
3 next morning, so around 9:30?

4 A. It was the next day on the 1st of August.

5 Q. Okay. And that was after you and Detective Novak had
6 been on a telephone call with Dr. Lamb?

7 A. That's correct.

8 Q. And Dr. Lamb related to you, and you rely on that
9 information, that there was a 100 percent that she was
10 sexually assaulted anally and vaginally?

11 A. Dr. Lamb did state that.

12 Q. Okay. And so at this point your focus not only shifts
13 from a death to a sexual assault as well?

14 A. A possible sexual assault, yes, ma'am.

15 Q. 100 percent is what she says, right?

16 A. That's what she said.

17 Q. And that's what you relied on?

18 A. I used that information, yes, ma'am.

19 Q. Okay. And so now the shift is not only the death,
20 but this sexual assault, so the first time that Lance hears
21 about that is from you less than twelve hours after his
22 daughter was murdered?

23 A. I'm not sure the exact time. It was the next day on
24 the 1st of August, yes, ma'am.

25 Q. Okay. All right. And just to be clear, there's been

1 no arrests made in any sexual assault?

2 A. No warrants were issued or obtained for a sexual
3 assault, that's correct.

4 Q. Okay. But you also requested DNA testing?

5 A. DNA testings was done on several items, yes, ma'am.

6 Q. Okay. Specifically in connection with the assault?

7 A. Yes, ma'am, with this case.

8 Q. Okay. Nothing came back to Lance?

9 A. No, ma'am.

10 Q. Okay. And, in fact, of all the testing, and I'm not
11 gonna ask you for the results because obviously the SLED
12 agents can interpret to that, but generally all the testing
13 and all of the forensic items that were done nothing came
14 back to Lance, right?

15 A. Yes, ma'am, that's correct. Nothing specifically came
16 back to him from the testing done at SLED.

17 Q. Okay. Now we heard about -- in the interview about
18 poppa, right? Poppa gave me the -- they got the tape from
19 poppa?

20 A. Correct.

21 Q. Tape is obviously a big piece of evidence in this
22 case. When did you interview poppa?

23 A. I did not.

24 Q. And you know he was on the scene that night?

25 A. He was.

1 Q. Okay. Was that a choice? Why did you not interview
2 him?

3 A. I interviewed his wife and the three brothers next
4 door, but with the language barrier and -- it just never
5 came up. He never came with on the voluntary interviews
6 we did with Sonia or with the brothers next door at 1725
7 when I interviewed them on the 4th. He wasn't there, he
8 was still at work, so I wasn't going to his work to
9 interview him.

10 Q. Okay. And he was still at work. Who else was at work
11 that night?

12 A. At which night?

13 Q. July 31st.

14 A. No, I was speaking of August 4th, ma'am.

15 Q. Okay. Well, let's talk about July 31st.

16 A. Sure.

17 Q. You spoke with Gary Lemaster?

18 A. Yes, ma'am, I did.

19 Q. And who is -- tell the jury who Gary Lemaster is.

20 A. Okay. Can I refer to my notes, ma'am?

21 Q. Absolutely.

22 A. All right. I met with on the 9th of August Gary
23 Lemaster at Hoover Buildings, Incorporated.

24 Q. And you can't say what he said, but --

25 A. Yes, ma'am. Of course. He's David Lance Steadman's

1 boss -- or was at the time.

2 Q. At the time he was?

3 A. That's correct.

4 Q. Because, in fact, he was arrested at his business
5 location?

6 A. That's correct.

7 Q. All right. So -- and been in jail ever since?

8 A. As far as I know, yes, ma'am.

9 Q. Okay. And so he -- he not only gave you a statement,
10 but he provided you documentation, didn't he?

11 A. He did provide me -- yes, ma'am. I took a written
12 statement from him. I did a question and answer.

13 Q. Okay. And you also received a time card from that
14 day?

15 A. I believe he provided me a piece of paper with some
16 information on times or it was in the Q and A.

17 Q. Okay. And, again -- and even to make sure to know how
18 far it was from Hoover to Nazareth, you drove that down to
19 the millisecond, right?

20 A. Correct.

21 Q. All right. Good. So you also -- we also heard about
22 phones that were collected; is that correct?

23 A. Yes, ma'am, I believe we did.

24 Q. How many telephones did you collect in this case?

25 A. How many did I collect?

1 Q. How many -- let me rephrase the question. How many
2 telephones were collected in this case?

3 A. Okay. So the answer to the second question you
4 asked -- if I could see the property report section just
5 to confirm, I don't want to tell you the wrong number, it
6 would be helpful. I know that Sergeant Novak collected
7 two; David Steadman's and Cynthia Lopez's.

8 Q. Okay. Well, let's talk about that for a minute.
9 Sergeant Novak, who we heard from yesterday, he collected
10 Lance's and Cynthia's and that was on -- do you recall what
11 date? I'll make it easy for you. That was on August 3rd;
12 is that correct? And I'll hand you the property report
13 just to help clarify.

14 A. August 3, 2017. That's correct.

15 Q. Okay. What time did he collect those?

16 A. He wrote down the time he collected them as 4:15.

17 Q. In the morning or in the afternoon?

18 A. It's shown 4:15, but I was with him when he collected
19 them. It was in the afternoon.

20 Q. Okay. And then I believe it was right after the
21 emergency protection hearing so that would have been a
22 court hearing.

23 A. Yes, ma'am. It was here in this building, ma'am.

24 Q. Okay. And what time was it -- what time were those
25 phones logged into evidence?

1 A. It says 8:01.

2 Q. 8:01?

3 A. It says AM, ma'am. It says 04:15 was the time they
4 were taken and 08:01, which would be eight in the morning.

5 Q. Right. And what date was that logged in? That would
6 be the next day?

7 A. On the -- it's shown on the 4th of August, ma'am.

8 Q. Okay. So from August 3rd around 4:15 PM to August 4th
9 around -- did you say 8:00?

10 A. It's showing 8:01 -- 8:01 AM, yes, ma'am.

11 Q. -- 8:01 AM, those phones were not logged into
12 evidence?

13 A. According to the form. You'd have to ask Sergeant
14 Novak.

15 Q. Certainly. But we want to make sure, especially as
16 the case investigator, as the lead case agent, that
17 policies and procedures are followed, right?

18 A. Yes, ma'am.

19 Q. Especially with digital evidence.

20 A. Yes, ma'am.

21 Q. Because digital evidence, especially in this day and
22 age, has a lot of information.

23 A. Yes, ma'am.

24 Q. And so if phone records later show that a voicemail
25 was checked sometime after 4 PM, but before 8 AM, we would

1 like to know who checked that voicemail, right?

2 A. Correct.

3 Q. You received a lot of digital information from those
4 downloads. What date did you recall getting those
5 downloads?

6 A. I don't recall the specific date --

7 Q. Okay. They were --

8 A. -- but CSI Phipps I believe is the one that did the
9 extractions on both phones.

10 Q. And when CSI Phipps, I know he'll testify later, but
11 when he downloads the phones he puts all of the information
12 on a CD, correct?

13 A. Yes, ma'am. If it will fit on a CD, that's correct.

14 Q. And he gives it to you.

15 A. He does provide me a copy.

16 Q. Okay. And then -- not just a copy because you
17 also went through it and told him what items that you
18 specifically wanted evaluated, correct?

19 A. No, ma'am.

20 Q. You did not do that?

21 A. What items I wanted evaluated from him to evaluate
22 from the extraction? I'm not sure what --

23 Q. Right. Yeah. So when you get the extraction you
24 have, like, web searches, photos, text messages, all these
25 things that you can select, right?

1 A. No, ma'am, I don't recall that and I know he has a
2 couple of different options of extractions, a physical and
3 a logical. I'm not an expert in that, you'd have to ask
4 him about that, but he provides what he can get off --
5 retrieve off the phone based off if we have a valid search
6 warrant.

7 Q. Okay. So you never ask him about -- or you never
8 direct him what to look for?

9 A. I can't say I didn't have a conversation saying what
10 we were looking for on the phone.

11 Q. I'm sorry?

12 A. I said I can't say two and a half or three years ago I
13 didn't have a conversation about what we're hoping to find
14 off the phone with the person extracting it.

15 Q. Okay. Did you write any notes about it?

16 A. I may have. I'm not seeing it. It may be oversight.
17 I'm not sure.

18 Q. Okay. All right. So let me ask just -- as we're
19 winding down, let me just ask you a couple of questions.
20 Did you receive a copy of the death certificate?

21 A. Did I receive a copy of the death certificate?

22 Q. Have you seen the death certificate?

23 A. When you -- yesterday.

24 Q. That was the first time you saw it?

25 A. Did I ever see the -- well, I get the -- I get a copy

1 of the pathology report and the coroner's report, so that's
2 typically what we use.

3 Q. Okay. Because you're trying to find out what's the
4 cause of this death, right?

5 A. Yes, ma'am. We always -- in any death investigation,
6 even if it's -- whatever it's ruled, we get copies of that
7 in conjunction with our investigation of what they did.

8 Q. And, Detective Andalaro --

9 A. Yes, ma'am.

10 Q. -- how long -- is it important for you to know,
11 especially in a case like this, how long someone can
12 survive with tape covering their mouth and nose?

13 A. Is it important to know how long someone can survive?
14 Yes, ma'am.

15 Q. Because, in fact, with the evidence that we have, we
16 know that tape was put between 5:30 and 6:00 and he gets
17 home at 6:58 or a little before 7:00, right?

18 A. We don't know when the tape was put. That's what the
19 mom told us.

20 Q. We don't, but the information that you have says 5:30
21 to 6:00?

22 A. That's what the mom said in her statement.

23 Q. The mom who admitted to putting the tape on?

24 A. Yes, ma'am. I don't think she checked her watch when
25 she did it.

1 Q. Okay. So -- okay. So she didn't check her watch.
2 Did you interview any people to -- to learn about customs
3 and habits and when her children were fed every day?

4 A. I didn't ask specific times or what times. She has
5 young children like I do. I think she feeds them when she
6 feeds them, when she can.

7 Q. Okay. So when you feed -- you have young children.
8 Do they get fed at random times or is it pretty consistent?

9 A. It all depends on what's going on. Anyone that has
10 young children, if you have events after school or whatnot,
11 it's typically in a range, probably a two hour range.

12 Q. Okay. So -- but we don't have any information about
13 that?

14 A. Nothing specific on that besides what you said, no,
15 ma'am.

16 Q. Okay. But certainly it's important. In a case like
17 this, you would want to at least try to find out that
18 information, wouldn't you?

19 A. I don't believe specific times were given by Cynthia
20 or by David.

21 Q. I understand. Well, 5:30 to 6:00 was the times given?

22 A. Besides that, yes, ma'am.

23 Q. Right.

24 A. Yes, ma'am.

25 Q. And then 7:00. So there were specific times given?

1 A. There were some, but as far as -- you asked Cynthia --
2 or what time they normally they ate dinner. I don't
3 believe that was answered or asked.

4 Q. Right. That was a few questions ago, but the next
5 question I asked --

6 A. Yes, ma'am.

7 Q. -- and I'll make sure I ask it clearly. In an
8 investigation with the death of a child and you later learn
9 ten or eleven days after the death that there was tape put
10 on by one perpetrator, but you're gonna charge another
11 perpetrator based on his statements?

12 A. Based on -- based on his statements, based on
13 **E.L.**, putting her alive in the shower, saying that she
14 was crying.

15 Q. Okay. So based -- and that's what I wanted to clear
16 up. So we have based on Lance's statements and then based
17 on the five-year-old saying she was crying in the shower.
18 What else did we base his arrest on?

19 A. We based it on the time -- the length of time that it
20 took between when he got home according to his statement,
21 Cynthia's statement, the grandma's, talking with Sonia,
22 David was there for a long period of time prior to calling
23 9-1-1, so it was for the neglect.

24 Q. I understand that that time was important --

25 A. Yes, ma'am.

1 Q. -- but that seems to be more important than learning
2 about the time when the tape was put on.

3 A. No, ma'am.

4 Q. Because in truth and in fact, if he had been honest
5 and told you that she was dead, he couldn't have been
6 arrested for this, correct?

7 A. Hypothetically if that was his --

8 Q. No, not hypothetically. I mean, if that's what he had
9 told you he couldn't have been arrested.

10 A. Just if he said that wouldn't determine alone whether
11 he was arrested or not.

12 Q. You cannot arrest some -- or you cannot convict
13 someone of homicide by child abuse if they were dead when
14 you got home.

15 A. That's not what you asked. You said if he said she
16 was dead.

17 Q. Okay.

18 A. Just like you stated earlier, he could lie and she
19 could have been alive.

20 Q. Right, which is why we want to get evidence to try to
21 find out about that, right?

22 A. Yes, ma'am.

23 Q. So it all comes down to the medical evidence.

24 A. No, ma'am.

25 Q. It doesn't?

1 A. Rephrase your -- ask me in a different way.

2 Q. If the medical evidence contradicts his verbal
3 statement --

4 A. I think what you're getting at is if **Minor** was, in
5 fact, dead prior to coming home would he have been charged
6 with homicide by child abuse?

7 Q. Right.

8 A. No, he wouldn't. The reason he was is because she was
9 based off my investigation and all the information we had
10 and that's why he was charged with neglect or not getting
11 -- rendering aid immediately.

12 Q. I understand. I got that.

13 A. Okay.

14 Q. Part of following your policies and procedures it
15 talks about what the physical evidence may do and why it's
16 so important, right? Would it help you to see a copy of
17 that?

18 A. Sure.

19 Q. What are -- what are the reasons in Lexington County's
20 policies and procedures that we make sure we get to all the
21 physical evidence?

22 A. Would you like me to read it, ma'am?

23 Q. Absolutely.

24 A. Physical evidence may colon prove that a crime has
25 or has not been committed, place a suspect in contact with

1 the victim or a crime scene, establish the identity of a
2 person associated with a crime, exonerate the innocent,
3 corroborate testimony, cause suspects to make admissions or
4 even confess when confronted with that evidence, be much
5 more reliable than eyewitnesses to a crime because it does
6 not lie, forget or become confused, it is absent -- in its
7 absence provides useful information to the investigator
8 about the suspect, can assist in the development of MO's or
9 show similar MO's. I apologize. It's very small. Forgive
10 me.

11 Q. That's right. And MO is modus operandi, right?

12 A. Yes, ma'am.

13 Q. Okay. So one of those things that you read was it can
14 make a suspect confess, right?

15 A. When confronted with that, yes, ma'am.

16 Q. And, in fact, when confronted your suspect, Cynthia,
17 confessed, right?

18 A. Yes.

19 Q. And she gave you the time, 5:30 to 6:00?

20 A. That's what she said. Yes, ma'am.

21 Q. Okay. So it can also exonerate the innocent?

22 A. Yes, ma'am, it does have that ability.

23 Q. How many times did you meet with Dr. Ross, who is
24 the forensic pathologist, who would be an expert asking her
25 how long someone would survive with tape on their mouth?

1 A. How -- did I meet with Dr. Ross? No, ma'am.

2 MS. ZMROCZEK: No further questions, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. McNAIR:

5 Q. When confronted with the tape after the forensic
6 interview, Mr. Steadman also confessed, too, didn't he?

7 A. He did. He confessed.

8 Q. He confessed to **Minor** being alive when he was home,
9 he confessed to seeing the tape, he confessed to taking
10 her to the shower while she was alive, correct?

11 A. He did.

12 Q. He confessed to trying to force vomit out of her in
13 the shower with his wife?

14 A. He did.

15 Q. He confessed to then leaving her to die in the shower?

16 A. That's -- that's exactly correct. That's right.

17 Q. And he confessed to then watching Netflix and not
18 calling 9-1-1 for a long period of time, right?

19 A. That's what he told me.

20 Q. And that was all after you -- y'all confronted him
21 about the tape that came as a result of **E.L.** 's
22 interview, correct?

23 A. That is correct.

24 Q. Now **E.L.** was five years old during that interview,
25 right?

1 A. That is correct. At the time of the interview he was
2 five years old.

3 Q. Ms. Zmroczek asked you about corroboration and what
4 that means.

5 A. She did.

6 Q. Had y'all ever heard or did you know anything about
7 tape prior to that interview with E.L. ?

8 A. We did not.

9 Q. But that was ultimately corroborated by both parents
10 admitting to tape, correct?

11 A. And Sergeant Novak finding tape on the bed.

12 Q. And finding tape at the house?

13 A. Absolutely. At the house that matched.

14 Q. So what E.L. said was corroborated?

15 A. It was. That's correct.

16 Q. E.L. said that both parents put her in the
17 shower --

18 A. That's right.

19 Q. -- where she vomited.

20 A. Yes, that's what he said.

21 Q. And that both parents were mad at her.

22 A. Yeah, he said both parents were mad.

23 Q. And that both parents said shut that shit up.

24 A. Correct.

25 Q. And at least the part about all of them being in the

1 shower together, that's corroborated by the Defendant's
2 statement himself, right?

3 A. That's correct.

4 Q. He told you that for the first time on August 1st in
5 a verbal statement that they had put **Minor** in the shower,
6 correct?

7 A. Yes, he said that's the only thing he left out on the
8 first -- the first statement.

9 Q. He told Novak and Rawl that on August 10th that they
10 both --

11 MS. ZMROCZEK: Your Honor, I would object to
12 leading.

13 THE COURT: Sustained.

14 BY MR. McNAIR:

15 Q. What did he tell Novak and Rawl on August 10th about
16 the shower?

17 A. Could I refer to his statement?

18 Q. Sure.

19 A. I have it here, I believe. Hang on one second. Yeah,
20 I have it right here. Just one moment. We -- we take her
21 to the bathroom because when she was breathing hard, I
22 thought she needed to throw up more. We were able to
23 squeeze some vomit out of her and she was still breathing
24 slow.

25 Q. All right. And what did he tell you on August 15th

1 about the shower?

2 A. When we took **Minor** to the shower, **Minor** was acting
3 weird to me. She was walking different from how she
4 normally walks. It was more stagger steps and her balance
5 was off. She fell in the hallway. I picked her up under
6 her armpits and proceeded to the hallway bathroom with
7 Cynthia. I placed her in the middle of a shower and she
8 was still breathing like she wanted to vomit. She couldn't
9 get anything out, so Cynthia and I pushed on her sides to
10 help.

11 Q. Again, is that consistent with what **E.L.** said in
12 his forensic interview?

13 A. Yes, ma'am, it is. I mean, yes, sir.

14 Q. Yes, sir. So that -- that also is corroborated; is it
15 not?

16 A. It is.

17 Q. And what did -- what did Mr. Steadman tell you about
18 **E.L.** and seeing them in the shower in his written
19 statement on August 15th? Look at the bottom of Page 2.

20 A. **E.L.** finished picking up his toys and said he's
21 done. I told him to go to bed and goodnight. **Minor** got
22 more throw-up on her in her hair.

23 Q. All right. So that -- that -- based on this
24 statement, does that indicate that **E.L.** -- that he
25 spoke to **E.L.** while they were in the bathroom?

1 A. That's correct.

2 Q. Again, corroborating that **E.L.** saw them in the
3 bathroom, correct?

4 A. That's how I interpret it, yes, sir.

5 Q. **E.L.** in his forensic interview said mom said no
6 water, correct, while they were in the bathroom?

7 A. That's correct.

8 Q. Refer to the written statement on August 15th, page 3.

9 A. Yes, sir.

10 Q. Start with the third line down what Mr. Steadman said
11 about asking Cynthia about water.

12 A. I sit on the floor and ask **Minor** what's wrong. **Minor**
13 says thirsty. I ask Cynthia to get her some water and she
14 didn't want to. We got into argument on her -- on how I
15 always give into the kids when they want things. **Minor** 's
16 eyes were --

17 Q. All right. So, again, **E.L.** stated mom said no
18 water. Mr. Steadman is saying he got into an argument with
19 Cynthia about wanting to give **Minor** water, correct?

20 A. That's correct. I saw the same thing.

21 Q. That's also corroborated?

22 A. That's correct.

23 Q. **E.L.** said the tape came from poppa. Now what is
24 your understanding of who poppa is?

25 A. Poppa was the grandfather.

1 Q. Cynthia Lopez's father?

2 A. That's correct.

3 Q. All right. Refer to your statement -- or the
4 statement of Mr. Steadman on August 15th, page 2, where you
5 asked him to describe the tape that was on the bed and on

6 **Minor** . What was his answer to that?

7 A. His answer was the tape that was on **Minor** was the tape
8 I borrowed from my wife's father. The tape was white with
9 a slight clear tint about one and a half inch wide. Window
10 seal tape.

11 Q. It was tape that he borrowed from poppa?

12 A. Correct.

13 Q. Now **E.L.** also testified that tape was in his
14 mom's bathroom. Where was -- where was that bathroom?
15 Where was the master bathroom? Was that the bathroom that
16 Mr. Steadman also used?

17 A. That's correct.

18 Q. On State's 27 from the search warrant on August 10th,
19 where's this tape located?

20 A. That was -- I wasn't present, but it's shown in the
21 photographs it was located in the bathroom on the counter
22 where he said it would be.

23 Q. And that's the bathroom in the bedroom where the
24 Mr. Steadman and Ms. Lopez stayed?

25 A. That's correct.

1 Q. And that's just sitting on the counter, correct?

2 A. That's correct.

3 Q. Now she asked you whether -- about Cynthia admitted to
4 putting the tape on between 5:30 and 6:00 and whether you
5 had any evidence to the contrary, but before we get to that
6 did you ever have any indication of how long the tape was
7 on the mouth?

8 A. No.

9 Q. Did you ever have any indication of when the tape was
10 actually removed?

11 A. No, sir.

12 Q. All right. And didn't Cynthia also give a statement?

13 MS. ZMROCZEK: Your Honor, we may have a matter of
14 law.

15 MR. McNAIR: No, we can approach, Your Honor.

16 (Proceedings held at the bench; not reported.)

17 BY MR. McNAIR:

18 Q. Cynthia Lopez also stated that they all ate dinner
19 together around 7:00 PM that night, correct?

20 A. Yes, I believe that was what she had originally told
21 Detective Burrell at the hospital.

22 Q. I'll show you --

23 A. Thank you.

24 Q. And don't read it. I'm just asking you yes or no.

25 A. Yes, that's what she stated to Detective Burrell.

1 Q. That they all ate dinner together at 7:30 on the night
2 of Minor 's death?

3 A. That's correct.

4 Q. And that Mr. Steadman was present?

5 A. Correct.

6 Q. All right. So is she a reliable source of when the
7 tape was put on the mouth?

8 A. No, sir.

9 Q. And in the forensic interview, E.L. said they all
10 ate dinner together, including his dad, didn't he?

11 A. He did.

12 Q. So that aspect of what Cynthia said was corroborated
13 by E.L. ?

14 A. Correct.

15 Q. So if they ate dinner together at 7:30, she wasn't
16 dead prior to Mr. Steadman getting there, was she?

17 A. That's correct.

18 Q. E.L. was also asked if anybody ever told him not
19 to talk to the police and what was his response to that?

20 A. His dad did.

21 Q. And it was unclear -- let's go back to the night of
22 and did mom and dad ultimately go to the hospital that
23 night?

24 A. Mom was already at the hospital or en route before I
25 arrived on the scene. That's correct. And that's from the

1 statement you showed me that Detective Burrell obtained
2 from her.

3 Q. All right. And did Mr. Steadman ultimately go?

4 A. He did. He left after my interview with him.

5 Q. And what happened to E.L. and L.L. when the
6 parents went to the hospital?

7 A. What happened to them?

8 Q. That night. Does Mr. Lopez or Mr. Steadman have
9 relatives who live nearby?

10 A. They do. The brothers live next door and grandfather
11 and grandma.

12 Q. All right. And did the kids ultimately go stay with
13 them that night?

14 A. Yes, that's my understanding.

15 Q. Now she also asked you about whether you talked to the
16 Defendant's boss, Gary Lemaster, and whether he provided
17 you with a timecard of the Defendant's work hours on that
18 day.

19 A. That's correct.

20 Q. Do you recall that?

21 A. I do.

22 Q. And based on that time card, when did the Defendant
23 get off of work that day?

24 A. Do you have a copy of that? I don't believe it's --

25 Q. Do you have it in your report?

1 A. Give me one moment. I believe it may be in my report.

2 Okay. He provided me with a --

3 Q. Do you have it?

4 A. Yes, ma'am -- sir. I apologize. I have it. Do you
5 want me to go ahead and tell you?

6 Q. Hold on for one second.

7 A. Yes, sir.

8 MR. McNAIR: Can you mark this, please.

9 (State's Exhibit Number 67 was marked for
10 identification.)

11 BY MR. McNAIR:

12 Q. I'm gonna show you what's been marked as State's
13 Exhibit 67. Do you recognize this?

14 A. Yes, sir, I do.

15 Q. Is that what Mr. Lemaster provided you with?

16 A. He did.

17 MR. McNAIR: Your Honor, we'd offer State's
18 Exhibit 67 in evidence at this time.

19 THE COURT: Any objection?

20 MS. ZMROCZEK: Oh, no objection. Please.

21 THE COURT: Okay. State's 67 is in without
22 objection.

23 (State's Exhibit Number 67, time records, was
24 admitted into evidence.)

25 BY MR. McNAIR:

1 Q. All right. Based on what he provided you, when did
2 Mr. Steadman get off of work?

3 A. He provided me that he started work at seven and he
4 finished work at 5:45 PM. He explained to me that Jimmy
5 Dixon was his crew leader for that job. They'd only done
6 one job that day. He said that Jimmy arrived back and that
7 Lance rode with him.

8 THE COURT: Wait. Wait. No. No.

9 THE WITNESS: I'm sorry.

10 THE COURT: I don't want him reading the statement.
11 That's hearsay. I mean, it's in. I don't want him --

12 MS. ZMROCZEK: It is in evidence, right.

13 THE COURT: Huh?

14 MS. ZMROCZEK: It's in evidence.

15 THE COURT: Sure. But the jury can read it.

16 THE WITNESS: It's different than what's on the
17 form. I'm sorry.

18 THE COURT: I'm not talking to you.

19 MS. ZMROCZEK: Thank you, Your Honor.

20 THE COURT: All right. Ask questions. I don't
21 want statements read.

22 MS. ZMROCZEK: I appreciate it.

23 BY MR. McNAIR:

24 Q. Based on your investigation, when did Mr. Steadman
25 arrive back at Hoover?

1 A. He arrived back at 6:15 PM approximately.

2 Q. 6:15 PM. And when you drove the route from Hoover to
3 his house, it took you less than ten minutes?

4 A. That's correct.

5 MR. McNAIR: That's all the questions I have,
6 Your Honor.

7 RECROSS EXAMINATION

8 BY MS. ZMROCZEK:

9 Q. When you drove that route, what time of day was it?

10 A. It was early afternoon.

11 Q. Okay. So it wasn't at 6:00 in Lexington traffic?

12 A. It wasn't at 6:00, no, ma'am. That's correct.

13 Q. Okay. And also before you drove that route, did you
14 unpack the truck and prepare it for the next day?

15 A. I wasn't in a truck.

16 Q. Okay. I want to talk about corroboration and this
17 corroborates **E.L.** 's statement, right?

18 A. Yes.

19 Q. This isn't the tape that was used, is it?

20 A. It corroborates what he told Agent Sykes about tape
21 being in the bathroom.

22 Q. Let me rephrase the question. This isn't the tape
23 that was used, right?

24 A. I don't believe that's the tape that was used.

25 Q. No, because that would be State's 26; isn't that

1 correct?

2 A. Yes, ma'am, I believe that's correct.

3 Q. And that was found in the kitchen underneath the
4 counter, right?

5 A. Yes, ma'am.

6 Q. Okay. So corroboration seems to be what you want it
7 to be, right?

8 A. No, ma'am.

9 Q. All right. Then let's corroborate the rest of
10 **E.L.** 's statements. Did you find that chain saw that
11 she was cut up with?

12 A. I didn't look for a chain saw, ma'am.

13 Q. Okay. Was **Minor** cut up with a chain saw?

14 A. No, she wasn't.

15 Q. How does that -- then that maybe lessens his
16 corroboration a little bit, doesn't it?

17 A. No, ma'am. He's a five-year-old.

18 Q. He's a five-year-old?

19 A. Yes, ma'am.

20 Q. And how does that not lessen his corroboration?

21 A. It doesn't lessen his corroboration to me as I viewed
22 the forensic interview.

23 Q. Okay. So even a grown woman saying they ate dinner
24 at 7:30, that doesn't corroborate -- that was used to say
25 that her statement's not credible. That's what -- that's

1 what Mr. McNair said, right?

2 MR. McNAIR: Your Honor, she can't -- she can't
3 testify to what I meant.

4 THE COURT: Yeah.

5 MS. ZMROCZEK: Okay.

6 THE COURT: Re -- move on to the next question.

7 MS. ZMROCZEK: I will.

8 THE COURT: That question was a little confusing
9 for the Court.

10 THE WITNESS: Thank you.

11 BY Ms. ZMROCZEK:

12 Q. When asked on redirect about establishing credibility
13 and corroboration, what were you asked to base that on?

14 A. Information that he was -- showed me.

15 Q. Okay. So 7:30 -- if they're eating dinner at 7:30,
16 then that means that he didn't wait two hours to call
17 9-1-1, right?

18 A. It would have been a little over an hour and a half
19 probably then.

20 Q. Okay. So that -- that will change the facts a little
21 bit. Also he asked you about did -- was **E.L.** told to
22 lie by his father and he said -- or who told you not to
23 talk to the police and he said my dad and then the very
24 next question right after that she said so your dad told
25 you not to talk to the police and he said no. You would

1 agree with me that's what the video reflects?

2 A. That is what the video reflects.

3 Q. Okay. So I guess what's important, Officer, is that
4 we look at everything in totality and not just piecemeal,
5 right?

6 A. Yes, ma'am.

7 Q. Okay. Because one thing that E.L. said is that
8 mom came back in the room after she put the tape on. He
9 says that right there in his forensic interview, right?
10 When asked who came back in the room, did anybody come back
11 in the room? Mom.

12 A. It was a fifty-one minute video we just watched --

13 Q. Okay.

14 A. -- so I don't know which part you're specifically
15 asking about.

16 Q. All right. He also said that he said she did go back
17 to sleep and she didn't move. E.L. said that --

18 A. Ma'am?

19 Q. -- and that would corroborate her being dead. It
20 could?

21 A. It would just be the same as she went back to sleep.

22 Q. And didn't move, right?

23 A. He stated that during the forensic interview, yes,
24 ma'am.

25 Q. He also said my dad protects me.

1 A. He did say that.

2 MS. ZMROCZEK: No further questions.

3 THE COURT: All right. You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 (Witness excused.)

6 THE COURT: All right. I want to discuss some
7 timing with the lawyers.

8 (Proceedings held at the bench; not reported.)

9 THE COURT: All right. The next witness is gonna
10 be lengthy because it's the pathologist. Anyway, y'all
11 will get to hear that then. I want to go ahead and give
12 you lunch now and so it's twenty-seven minutes till. If
13 y'all can get back at 1:45, that will give you a long
14 hour, an hour and ten minutes. Is that enough time you
15 think to get in and out of the courthouse?

16 All right. I want to try to have you in at 1:45.
17 Remember you can't discuss the case. So I'll see you
18 back here at 1:45, okay?

19 (Whereupon, the jury was excused for lunch at
20 12:32 PM.)

21 THE COURT: All right. I'll see y'all back here
22 at about 1:40.

23 MS. ZMROCZEK: Thank you.

24 (Whereupon, a luncheon recess was taken at
25 12:33 PM.)

1 (Back on the record at 1:45 PM.)

2 (State's Exhibit Numbers 68 and 69 were marked
3 for identification.)

4 BAILIFF: All rise. Court is back in session.

5 THE COURT: All right. Are we ready for the jury?
6 They're all back.

7 MR. McNAIR: Yes, sir.

8 MS. ZMROCZEK: (Nods head.)

9 (Whereupon, the jury returns to the courtroom at
10 1:45 PM.)

11 THE COURT: Ms. Mayes.

12 MS. MAYES: Yes, sir, Your Honor. The State calls
13 Dr. Janice Ross.

14 (Whereupon, Janice Edwards Ross was duly sworn by
15 the Clerk of Court.)

16 THE CLERK: Have a seat, Doctor. Once you're
17 seated state your full name, spelling your last, please,
18 ma'am.

19 THE WITNESS: Janice Edwards Ross, R-O-S-S.

20 JANICE EDWARDS ROSS,

21 having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. MAYES:

24 Q. Good afternoon, Dr. Ross.

25 A. Good afternoon.

1 Q. Tell us a little bit about yourself. Where are you
2 employed and in a what capacity?

3 A. I am the -- employed by Newberry Pathology Associates,
4 which used to be in Newberry, South Carolina, until the end
5 of 2018. Now I'm in Charleston, South Carolina. I am a
6 physician. I have had four years of college, four years of
7 medical school and over five years of training in the field
8 of pathology. In the field of pathology we learn how to
9 identify diseases by using the microscopes like for cancers
10 and heart disease and we learn how to do an autopsy to find
11 the cause of death.

12 I'm further trained in the field of forensic
13 pathology, which teaches us how to identify patterns of
14 injury, identify cause of death and the manner of death.
15 Cause of death is just what it says, what caused the
16 death, and the manner of death is how that death came
17 about, whether natural disease, accident, suicide,
18 homicide, and sometimes we can't tell, so it would be
19 called undetermined.

20 Q. Now did you have --

21 MS. MAYES: Your Honor, at this time the State
22 would offer Dr. Ross as an expert in the field of
23 forensic pathology.

24 MS. ZMROCZEK: We do not challenge her
25 credentials.

1 THE COURT: All right, folks. What that means is
2 Dr. Ross because of her experience and training in the
3 field of forensic pathology -- so she's being offered
4 as an expert in the field of forensic pathology?

5 MS. MAYES: Correct, Your Honor.

6 THE COURT: -- she can offer opinions. In most
7 cases a witness is only allowed to testify as to what
8 they did, what they saw, what was present to them, they
9 can't give opinions as to why. An expert does not have
10 that restriction. They can say it's my opinion that
11 because in that field of expertise, so she is qualified
12 in the field of forensic pathology to provide those
13 opinions.

14 BY MS. MAYES:

15 Q. Now, Dr. Ross, did you have an occasion to perform
16 the autopsy on **Minor** ?

17 A. Yes.

18 Q. And tell us a little bit about that. Do you have a
19 copy of both your report and your amended report with you?

20 A. I do.

21 Q. How old was **Minor** at the time of the autopsy?

22 A. Four years old.

23 Q. And can you tell us the exact date and time of that
24 autopsy?

25 A. It occurred on October {sic} 1, 2017, at 9:30 AM.

1 Q. And do you have the date of birth for Minor on that
2 document?

3 A. Yes, I was told it was [REDACTED] 2013.

4 Q. All right. Now first I want to ask you a little bit
5 about Minor. Do you have the means to measure height, as
6 well as estimate weight?

7 A. Yes.

8 Q. What, if anything, did you determine how tall Minor
9 was and her approximate weight?

10 A. She measured thirty-six inches in height.

11 Q. So three feet tall?

12 A. Three feet. And we didn't -- we don't have a scale in
13 the morgue, so we estimate. We estimated the weight as
14 forty-five pounds.

15 Q. All right. What was she wearing when she arrived
16 there at the autopsy?

17 A. She was nude, but accompanying her separately was a
18 sweater with some vomitus on it and a wet diaper.

19 Q. Okay. And do you have any notations about the diaper
20 itself? Was she wearing the diaper?

21 A. No, it was off the body.

22 Q. Okay. And regarding your examination of her body,
23 what, if anything, did you observe during the physical
24 exam?

25 A. Well, first of all, her stomach was -- abdomen,

1 stomach, lay term stomach, was greatly distended and she
2 had multiple bruises that we can get into later. Because
3 of -- because it was a child, we do total body x-rays also
4 to see if there's any recent injury, fractures.

5 MS. MAYES: And, Your Honor, may we approach?

6 THE COURT: You may.

7 (Proceedings held at the bench; not reported.)

8 BY MS. MAYES:

9 Q. Now you mentioned, Dr. Ross, that your physical exam
10 resulted in some findings. What did you observe about
11 **Minor** physically?

12 A. Externally?

13 Q. Uh-huh.

14 A. A distended abdomen and a small circular bruise
15 underneath the chin and a bruise in the mid back that was
16 visible externally.

17 Q. Okay. I'm gonna show you these documents, which are
18 State's 68 and State's 69, and ask you whether or not you
19 recognize them and, if so, how?

20 A. Yes, this is a -- Number 68 is a photograph of the
21 bruise under the chin and the number is from our autopsy
22 number. And on the back is -- a picture of the back is
23 Exhibit 69 that shows a couple of bruises; one just above
24 the buttocks and one in the mid back.

25 Q. Okay.

1 MS. MAYES: And these would be for evidence, Your
2 Honor, 68 and 69.

3 MS. ZMROCZEK: No objection.

4 THE COURT: Without objection, the two photos,
5 State's Exhibit 68 and 69 are admitted.

6 (State's Exhibit Number 68 and 69, photographs,
7 were admitted into evidence.)

8 BY MS. MAYES:

9 Q. Now, Dr. Ross, did you actually have the occasion in
10 your report to detail those observations about the
11 bruising? In other words, whether they appeared to be
12 patterned or non-patterned?

13 A. Yes, they were really not -- not patterned. They were
14 generally circular, but nothing specific as to a weapon.
15 Sometimes if you're hit like with a specific weapon, a rod
16 or a baseball bat, it will show you the pattern, but a
17 circular bruise I've seen -- that I saw with **Minor**
18 didn't have any specific pattern.

19 Q. Okay. And specifically talking about the bruises
20 here to the back, can you tell us whether or not a patient
21 bruises once they're deceased?

22 A. No, they don't.

23 Q. Okay. And then, again, the bruise here under the
24 chin --

25 A. Correct.

1 Q. -- would a bruise like this be sustained if the
2 patient were already deceased and the heart had stopped
3 beating?

4 A. No.

5 Q. Now once you started an internal examination, what, if
6 anything, did you find regarding any additional contusions?

7 A. We found several bruises, again, circular across the
8 back of her head and on the right side of the head, so
9 there were approximately eight separate bruises which means
10 eight separate inflictions of injury. There were also --
11 the two bruises on the back as we could see externally,
12 there were also a few small circular bruises on the -- on
13 the sides of the back as we looked underneath the skin.
14 Sometimes you can't see a bruise on the outside of the
15 skin, but if you kind of separate the skin up and look at
16 the -- the fat underneath, you can see the bruise.

17 Q. All right. So I want to ask you a little bit more
18 about that. Now these photographs are already in evidence,
19 State's 21, State's 22, taken by the coroner's office, but
20 that part of the head, being the scalp, how do you go about
21 examining what is actually underneath where there may be
22 abrasions?

23 A. We can -- in the process of getting the brain out of
24 the skull, we section the scalp behind the ears and reflect
25 it to show underneath and that's when we could see the --

1 the bruises.

2 Q. Okay. And how many do you approximate did you observe
3 around **Minor** 's head once the scalp was reflected so that
4 you could observe the underneath?

5 A. Approximately eight.

6 Q. And would those all be separate injuries?

7 A. Yes.

8 Q. Now how, if at all, Dr. Ross, do you go about
9 determining if those are accidental injuries versus
10 nonaccidental injuries, such as an inflicted injury?

11 A. Well, just the pattern -- well, there's no pattern,
12 but just the -- the fact that there were several different
13 separate bruises indicates multiple injuries. In other
14 words, if you -- if you fall and you hit your head, you
15 only -- should only have one injury, one bruise. So
16 because there were multiple and they were separate, it's
17 consistent with multiple separate inflictions of injury.

18 Q. Okay. Now the head injuries that you observed, how
19 may a patient, especially a child patient, how may symptoms
20 be displayed? Would vomiting be one of the symptoms?

21 A. Well, eventually, yeah. Well, furthermore, when we
22 looked at the brain, the brain was swollen and sometimes
23 you get what we call closed-head injuries, in other words,
24 an injury -- a blunt force injury to the head, which causes
25 bruising but no skull fracture, but it will cause brain

1 damage and brain swelling, and when the brain swells it
2 cuts off a lot of nerve innervation and that eventually
3 could cause vomiting.

4 Q. Okay. So that's a slower process in terms of the
5 brain swelling as a result of those injuries you observed?

6 A. It can -- it can happen over minutes or many minutes.

7 Q. Okay. In this particular series of injuries, did you
8 see what's known as a subdural hematoma?

9 A. No.

10 Q. And did you see a skull fracture?

11 A. No.

12 Q. Okay. So this is some type of blunt force injury?

13 A. Yes.

14 Q. Okay. But not enough to cause the subdural hematoma
15 or the subarachnoid hematoma?

16 A. Correct.

17 Q. And from that can you determine whether or not the
18 patient would lose consciousness or may they remain
19 conscious?

20 A. Well, as the brain swells, you get a headache,
21 dizziness and then become unconscious.

22 Q. Okay. So that would be a series of symptoms?

23 A. Yes.

24 Q. Now is there any way for to you determine when those
25 head injuries occurred?

1 A. No.

2 Q. And regarding any other injuries to **Minor** , what, if
3 anything, did you observe about the vaginal area?

4 A. There was some bloody fluid in the -- basically the
5 out -- well, the vaginal area that's pretty much close to
6 the exterior with a little bit of abrasion. But, again,
7 there was no pattern to it.

8 Q. Okay. And that was on the outside of the genitalia?

9 A. Well, as you're going into the vagina.

10 Q. At the entrance of the vagina?

11 A. At the entrance of the vagina, yes.

12 Q. Now did you also have a chance to observe other parts
13 of **Minor** 's body such as the bladder, the urethra and the
14 kidneys?

15 A. Yes, we looked at those.

16 Q. Did all of that appear normal to you?

17 A. Yes.

18 Q. What else, if anything, did you observe during your
19 examination of **Minor** ?

20 A. Her lungs were heavy with edema, fluid, and there
21 was a small amount of visible food material in the upper
22 airway, but we follow up, we take small pieces of tissue
23 to look at under the microscope, and that's -- the slides
24 have to be processed so we don't see those until several
25 days after the autopsy itself, and when I looked at the

1 microscopic lung I could see food material deep into the
2 lung tissue.

3 Q. So let me ask you about that. When you first issued
4 your report, what was the date of that report?

5 A. That was mailed out on August 4, 2017.

6 Q. Okay. So on August 4, 2017, that would have been four
7 days roughly -- or three days after your autopsy on the
8 1st?

9 A. Correct.

10 Q. And were you able to determine a cause of death at
11 that time?

12 A. No, I wanted more history and I needed to know more
13 -- more about the microscopic evidence, previous medical
14 history and toxicology.

15 Q. All right. And was toxicology done in this case?

16 A. Yes.

17 Q. And just when we say toxicology, we're talking about
18 any types of drugs or substances in the bloodstream?

19 A. Correct.

20 Q. And ultimately you got those results back?

21 A. Yes.

22 Q. And was there any indication of abnormalities there?

23 A. No.

24 Q. And so what are some of the microscopic studies that
25 you did after your first report on the 4th?

1 A. Well, we take sections of each organ, just little tiny
2 pieces, and the only thing I really saw abnormally was the
3 food in the stomach and the reaction to it. When there's
4 a foreign material in lung tissue, there's an immediate
5 reaction of edema, which is watery fluid, that further
6 fills the lung spaces.

7 Q. All right. Now looking at that, are you able to
8 determine when the materials may have begun to enter into
9 the airway?

10 A. No.

11 Q. All right. Even microscopically you can't determine
12 that?

13 A. No.

14 Q. And when you talk about the fluid process, where does
15 the fluid process occur?

16 A. It exudes out of the circulatory system. So the
17 water part of the blood will go out into the tissue itself
18 outside of the circulatory system and into the tissue as a
19 reaction and as an attempt -- the body's attempt to prevent
20 further injury.

21 Q. All right. So other than your microscopic findings
22 where -- and describe to us what exactly your microscopic
23 findings were.

24 A. Again, small fragments of food deep into the lung
25 tissue.

1 Q. Okay. So on your first report that was dated
2 August 4, 2017, were you able to render a cause of death
3 at that time?

4 A. No.

5 Q. And as time went by, ultimately did the coroner's
6 office confer with you at some point?

7 A. Yes.

8 Q. And specifically Coroner Fisher?

9 A. Yes.

10 Q. And did Coroner Fisher make you aware of a statement
11 that had been obtained in this case regarding tape on
12 **Minor** 's mouth at some point?

13 A. Yes.

14 Q. All right. And were you able to take that into
15 consideration as well?

16 A. Yes.

17 Q. In conjunction with your microscopic findings?

18 A. Yes.

19 Q. And ultimately did you make a determination as to
20 cause of death after the coroner's office conferred with
21 you?

22 A. Yes.

23 Q. And what was that, Dr. Ross?

24 A. That it was asphyxia, which is a lack of oxygen, due
25 to aspiration of gastric contents due to the immobility of

1 the patient due to the duct tape -- or tape over the mouth.

2 Q. All right. Now in the information that was shared
3 with you, do you know how long the tape was on the mouth?

4 A. No.

5 Q. And do you know when it was removed?

6 A. No.

7 Q. Do you know who was present when it was removed?

8 A. Well, I was told the -- the statements of the -- of
9 the father, yes.

10 Q. Okay.

11 A. So that's all I had to go on.

12 Q. All right. And who provided those to you?

13 A. The coroner, I think.

14 Q. Okay. Were you also -- have you had the opportunity
15 to review any other evidence in this case such as a video
16 call between the two co-defendants?

17 A. No, I have not.

18 Q. Okay. So with that in mind, Dr. Ross, are you able
19 to reach a determination as to when **Minor** died on July 31,
20 2017?

21 A. Not exactly, no.

22 Q. All right. And when we talk about things like
23 mottling, can you first just tell us what's meant by that
24 term?

25 A. It's kind of a purple discoloration of the skin caused

1 by decreased circulation, decreased blood pressure. It
2 can occur while somebody's dying when their blood pressure
3 is down so low that you're not getting circulation. You
4 usually see it in the legs first of all.

5 Q. All right. So it can actually occur before the heart
6 even stops beating --

7 A. Yes.

8 Q. -- if the blood pressure's low enough?

9 A. Yes.

10 Q. And then after death can it occur even within minutes?

11 A. Yes.

12 Q. So is mottling alone enough for you to reach a
13 determination as to time of death?

14 A. No.

15 Q. What about livor mortis, also known as liv-er mortis?

16 A. There are too many variables. The time of death is
17 very difficult to identify.

18 Q. All right. And based on your microscopic findings,
19 there were particles in the lungs?

20 A. Yes.

21 Q. Now the airway itself, the trachea and the larynx, did
22 you have an indication in your report as to whether that
23 passageway was open?

24 A. It was pretty much open. There were still a few
25 fragments of food in there, but the -- I reviewed the EMS

1 report, too, and saw that they were having to take a lot of
2 vomitus out of the mouth and the upper airway in order to
3 get their tube in the airway.

4 Q. Okay. The King airway tube that they utilized?

5 A. Yes.

6 Q. Okay. Despite that, Dr. Ross, was there ever an
7 indication of a complete obstruction regarding **Minor** ? By
8 that I mean that the airway had been completely obstructed?

9 A. I don't -- I can't -- I don't know because it was
10 taken, removed. Most of it was removed.

11 Q. But there's never been any medical report indicating a
12 complete obstruction?

13 A. No, the only thing that EMS saw was going into the
14 mouth, so.

15 Q. Okay. Now -- and a medical device was used with **Minor**
16 called the BVM bag. Tell us what that is.

17 A. It's just a bag put over the mouth that forces the air
18 into the lungs.

19 Q. Okay. It's the bag itself is squeezed to mechanically
20 provide an airway?

21 A. Yes.

22 Q. All right. That process, Dr. Ross, can also push
23 particles into the lungs; is that correct?

24 A. It can if there's -- again, if there's a lot of
25 vomitus left in the upper airway, it can push it down. I

1 don't know that it could push it all the way down into the
2 bottom of the lungs.

3 MS. ZMROCZEK: I didn't hear that, Your Honor.

4 THE WITNESS: I don't think that it could have
5 pushed the food as far down as to the bottom of the lungs.

6 MS. ZMROCZEK: Thank you.

7 BY MS. MAYES:

8 Q. And do you know, Dr. Ross, how long the BVM bag was
9 used on **Minor** ?

10 A. I don't.

11 Q. And do you know -- were you aware they were there for
12 forty-three minutes at the scene with the BVM bag?

13 A. I don't recall that.

14 MS. MAYES: I beg the Court's indulgence.

15 THE COURT: Yes, ma'am.

16 BY MS. MAYES:

17 Q. Now ultimately what did you determine to be the cause
18 of death?

19 A. The asphyxia due to the aspiration.

20 Q. Aspiration?

21 A. Uh-huh.

22 Q. And what about the manner of death, Dr. Ross?

23 A. Homicide.

24 Q. All right. So when we talk about a homicide, is it
25 always an act or can it also be an omission or failure to

1 act?

2 A. Yes, it's the death of a person at the action or
3 inaction of another.

4 MS. MAYES: Thank you. Nothing further.

5 CROSS-EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. Good afternoon.

8 A. Afternoon.

9 Q. How long have you been testifying as a pathologist?

10 A. Forty-three years.

11 Q. And so this is -- you come and you testify for the
12 State generally --

13 A. Yes.

14 Q. -- in cases? And so you're -- in your position
15 though, you're not an advocate one way or the other, are
16 you?

17 A. Not at all.

18 Q. Okay. So you just look at the science and tell what
19 the science shows, right?

20 A. Correct. Yes.

21 Q. And in your expert opinion, you cannot give a time of
22 death?

23 A. Correct.

24 Q. So let's work backwards then. How long would it take
25 -- so the food -- there was a lot of questions about the

1 bag valve mask and could it push that food all the way down
2 deep into the lungs.

3 A. Yes, it could push it down. How deep, I'm not sure.

4 Q. Okay. But in this case, if a child -- how much -- she
5 had 100 cc of stomach contents?

6 A. Correct.

7 Q. How much is that?

8 A. A little over a cup.

9 Q. A little over a cup.

10 A. A cup and a half maybe.

11 Q. Left in her stomach?

12 A. Yes.

13 Q. Okay. And so the information that you received is
14 that there was tape put over her mouth and nose. Have you
15 had an opportunity to see that?

16 A. I saw a picture of it earlier.

17 Q. Okay. So you did see a picture of the tape?

18 A. When I was doing the case, yes.

19 Q. So how long -- once this tape is put over a mouth and
20 nose, how long can -- is there any other way to breathe?

21 A. Well, I think -- it looked like there was a way for
22 her to breathe through her nose in the picture I saw.

23 Q. And would that be that tiny little hole right there?

24 A. Yes.

25 Q. Okay. And even if -- even if there were that tiny

1 hole, about how long would it take to get that food down
2 deep into her lungs?

3 A. Well, once your vomit is not going out, it gets in the
4 mouth and the person is obliged to breathe so they breathe
5 it in, so it happens within seconds.

6 Q. Okay. So it could happen within seconds?

7 A. Correct.

8 Q. Okay. And, in fact, I think that you put on your --
9 on the final certificate of death that the whole process
10 could have happened within minutes?

11 A. Correct.

12 Q. Okay. We had -- tell the jury what dysphasia is.

13 A. It's an inability to speak because of brain injury.

14 Q. Okay. And I might be confusing the word. What's a
15 swallowing disorder?

16 A. You had to ask me. I can't remember.

17 Q. Okay. If someone has a swallowing disorder, would
18 that -- how would that affect their reaction to tape being
19 over their mouth?

20 A. Well, it wouldn't have any reaction to the tape being
21 over the mouth, but if you have brain injury or nerve
22 injury so that you can't swallow, you can aspirate your
23 food. A normal person like those of us in the -- in the
24 courtroom today won't aspirate and die from vomiting, but
25 if you have an inability to swallow or nerve damage, brain

1 damage with nerve damage, then you can aspirate.

2 Q. How long can -- typically does someone survive without
3 oxygen?

4 A. Well, if you look at hanging deaths, they're
5 unconscious within seconds and dead within five minutes or
6 so, four or five minutes.

7 Q. Would someone that had tape over their mouth even with
8 a little slit and -- would they -- and food particles deep
9 into their lung, would you expect them to after being found
10 -- after some period of time, would you expect them to be
11 walking around?

12 A. No.

13 Q. Would you expect them to be talking?

14 A. No.

15 Q. Would you expect them to be asking for water?

16 A. No.

17 Q. I want to talk about water for a moment. What else
18 did you find in your -- you did additional studies in
19 addition to the slides?

20 A. Yes, we do a chemical analysis on the fluid from the
21 eye to show electrolytes and the fluid -- the electrolytes
22 in **Minor** indicated severe dehydration.

23 Q. And how long does that take?

24 A. In a small person like that, they lose fluids because
25 they have more surface body -- body surface than weight, so

1 they can lose fluid quite fast.

2 Q. Okay. And so in your -- in your final conclusion the
3 child choked due to immobility, meaning she could not move?

4 A. Correct.

5 Q. And would arm placement have anything to do with that?
6 Were you aware that she was taped to a toddler bed with her
7 arms over her head?

8 A. It would complicate things, yes.

9 Q. Complicate meaning speed it up?

10 A. Yes.

11 Q. Make it more difficult to breathe?

12 A. Yes.

13 Q. And, again, I think that you said that -- on direct
14 that it would for this minor child or -- yeah, the minor
15 child to asphyxiate before she passed away, she would be
16 unconscious within a few seconds if she's not getting blood
17 or oxygen to the brain and it would take a few minutes for
18 her to die?

19 A. Correct.

20 Q. And that's your -- and that's your opinion to a
21 reasonable degree of medical certainty?

22 A. Yes.

23 MS. ZMROCZEK: Thank you.

24 REDIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. And, Dr. Ross, you don't know when she vomited,
2 correct?

3 A. Correct.

4 Q. And under the scenarios of the varying histories that
5 have been provided in this case, you don't know if she was
6 in a bedroom or in the shower when that occurred, do you?

7 A. Correct.

8 MS. MAYES: Nothing further.

9 MS. ZMROCZEK: And just briefly.

10 RECROSS EXAMINATION

11 BY MS. ZMROCZEK:

12 Q. The mobility would be from -- the immobility would be
13 from being restrained?

14 A. Correct.

15 MS. ZMROCZEK: Thank you.

16 THE COURT: Dr. Ross, thank you very much. Safe
17 travels back to Charleston.

18 (Witness excused.)

19 MR. McNAIR: Your Honor, the State calls Brenda
20 Snelgrove.

21 (Whereupon, Brenda Snelgrove was duly sworn by
22 the Clerk of Court.)

23 THE CLERK: Have a seat, please, ma'am. Once
24 you're seated state your full name, spelling your last,
25 please.

1 THE WITNESS: Brenda Joanne Snelgrove,
2 S-N-E-L-G-R-O-V-E.

3 BRENDA JOANNE SNELGROVE,
4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. McNAIR:

7 Q. Investigator Snelgrove, give the jury a little bit of
8 your background in law enforcement.

9 A. I started out in Newberry County as a road deputy. I
10 was there for approximately four years and then I started
11 at Lexington County in 2015 in crime scene, and I've been
12 there since.

13 Q. All right. And how did you first become involved in
14 this case?

15 A. I was asked to respond to the autopsy of the victim.

16 Q. And that was on August 1st of 2017?

17 A. Yes, sir.

18 Q. All right. And why did you go to the autopsy?

19 A. To take photographs, collect any evidence if there was
20 any, such as clothing if that was gonna be needed.

21 Q. Okay.

22 MS. ZMROCZEK: Your Honor, may we approach?

23 THE COURT: Uh-huh.

24 (Proceedings held at the bench; not reported.)

25 THE COURT: All right. I've got to put something

1 MR. McNAIR: There's the bruise. That shows a
2 bruise not depicted in any of the photos that I know
3 of.

4 MS. ZMROCZEK: Let's compare it to this one and
5 see. It's right there.

6 THE COURT: Okay. I'll let him publish that.
7 That's -- that's not that graphic.

8 Okay. Bring them in.

9 (Whereupon, the jury returns to the courtroom at
10 2:25 PM.)

11 THE COURT: All right, folks. We were about to
12 submit more pictures and we already had one in somewhere.
13 The problem solved itself when we realized it was already
14 in evidence.

15 So, Solicitor, you can continue on.

16 MR. McNAIR: All right. Thank you.

17 CONTINUED DIRECT EXAMINATION

18 BY MR. McNAIR:

19 Q. Investigator Snelgrove, you testified you attended the
20 autopsy on August 1st?

21 A. That's correct.

22 Q. And did you observe bruising on **Minor** Lopez?

23 A. I did.

24 Q. Did you take pictures of those bruises?

25 A. I did.

1 Q. Let me show you what's been marked as State's 53. Do
2 you recognize this?

3 A. Yes, sir.

4 Q. Is this a picture that you took at autopsy?

5 A. It is.

6 MR. McNAIR: All right. Your Honor, we'd offer
7 State's Exhibit 53 at this time.

8 THE COURT: I'll admit it. It's a close-up of
9 one already in, but I'll admit it. And the defense is
10 protected on that in case they want to be. Subject to
11 defense's objection, but that picture is similar.

12 (State's Exhibit Number 53, a photograph, was
13 admitted into evidence.)

14 BY MR. McNAIR:

15 Q. And, Investigator Snelgrove, why did you take this
16 particular picture?

17 A. It's a picture of the bruise.

18 Q. And other than attending the autopsy, what else did
19 you do on this case?

20 A. I also executed a search warrant at the residence and
21 I did two extractions.

22 Q. Okay. What -- were you present for the August 10th
23 search warrant?

24 A. Yes.

25 Q. Okay. And while you were there, did you have an

1 opportunity to observe the bedroom where **Minor** slept?

2 A. I did.

3 Q. What did you observe about her bedroom?

4 A. The room was completely cleaned out except for a
5 bucket, a pan that you pour the paint in and a rolling
6 paintbrush, I believe.

7 Q. All right. Did you -- was there any furniture in the
8 room?

9 A. There was no furniture.

10 Q. And what was the condition of the walls?

11 A. The wall had just recently been painted except for a
12 picture that looked like it was drawn by a child.

13 MR. McNAIR: Okay. I have no further questions.
14 Thank you.

15 MS. ZMROCZEK: I have nothing.

16 THE COURT: All right. You may step down.

17 (Witness excused.)

18 MR. McNAIR: I beg the Court's indulgence.

19 Your Honor, the State calls Tom Darnell.

20 (Whereupon, Thomas Edward Darnell was duly sworn
21 by the Clerk of Court.)

22 THE CLERK: Have a seat, please, sir. Once your
23 stated state your name, spelling your last, please.

24 THE WITNESS: My name is Thomas Edward Darnell.
25 Last name spelled D-A-R-N-E-L-L.

1 THOMAS EDWARD DARNELL,
2 having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. McNAIR:

5 Q. Agent Darnell, where are you employed?

6 A. I work at SLED in the forensic laboratory here in
7 Columbia.

8 Q. And how long have you been with SLED?

9 A. About twenty-five or so years.

10 Q. In what particular field do you work in?

11 A. I am currently in the latent print or the fingerprint
12 laboratory.

13 Q. Now how many times have you been qualified as an
14 expert in that field?

15 A. In excess of one hundred and fifty times statewide, a
16 couple of occasions out of state as well.

17 MR. McNAIR: Your Honor, at this time we'd offer
18 Agent Darnell as an expert in the field of fingerprint
19 and palmprint examinations.

20 THE COURT: Any voir dire?

21 MS. ZMROCZEK: No, Your Honor. We do not challenge
22 his expertise.

23 THE COURT: Okay. That's the same deal. He's
24 an expert in the field of fingerprint analysis and
25 comparison, so he can offer his opinions in that field

1 of expertise because of his training and experience in
2 that field.

3 All right. Continue on.

4 MR. McNAIR: Thank you, Your Honor.

5 BY MR. McNAIR:

6 Q. Agent Darnell, will you explain to the jury what a
7 latent fingerprint or palmprint is?

8 A. First of all, the word "latent" means hidden or
9 visible. A latent print is a print that may be left on an
10 item on its surface when it's touched by someone. When I
11 say it may be left, there are several factors that -- that
12 will help it stay behind on a surface. Things such as
13 perspiration, the condition of the surface, those sorts of
14 things, but basically a latent is a hidden or invisible
15 print that requires some development technique to be able
16 to see it.

17 Q. All right. What is a -- what's known as an inked
18 print?

19 A. An inked print would be a known print. In other
20 words, you've got the person in front of you and you're
21 taking a -- basically a copy of their actual prints that
22 they have, that they were born with, and those -- those
23 patterns are transferred onto a card to use for further
24 comparison.

25 Q. All right. And is it possible for somebody to touch

1 something and not leave a fingerprint or palmprint?

2 A. Yes, it is.

3 Q. Now did you examine certain items in this case?

4 A. I did.

5 Q. I'll show you, first of all, what's been marked as

6 State's Exhibit 35 and take a look at that.

7 A. Yes, sir. State's 35 is a plastic -- it's a plastic
8 bag that bears the laboratory number, item number and my
9 initials. This would be some of the tape that I processed
10 for prints.

11 Q. All right. And are you aware that was tape that
12 was recovered from the residence of the Defendant in this
13 case?

14 A. Yes, sir. Based on the information provided to the
15 laboratory, it was part of this case.

16 Q. All right. And what analysis or examination did you
17 perform on that item?

18 A. On the tape itself, it was -- it was -- when I
19 received it, it was inside this paper bag all sealed up
20 with evidence tape. It was wadded up and so what I -- what
21 I was asked to do was to process it for latent prints and
22 also I was asked to collect any possible DNA that might be
23 on the tape itself. So what I typically do whenever I have
24 a wadded up piece of tape, I generally swab it, both sides
25 of it, before I start to try to separate it because keep in

1 mind I'm trying to process for latent prints and I'm also
2 trying to do touch DNA or DNA of some sort, so I swabbed it
3 before I started to separate it. And that's what I did in
4 this case. I swabbed both sides, then I separated it and
5 tried to process it for latent prints.

6 Q. All right. So what did you do with the swabs?

7 A. The swabs, once I -- once I collect them, I simply
8 let them air dry. And keep in mind whenever I collect the
9 swabs, I'm wearing gloves and lab coats and, you know,
10 protective gear. I don't want to contaminate anything.
11 So I let those swabs air dry and once they air dry, I
12 will seal them in an envelope, put my initials on the seal
13 and then they're packaged to be transferred to the DNA
14 department for further examination.

15 Q. All right. Were you able to obtain any fingerprints
16 off of that item?

17 A. No, I was not.

18 Q. All right. How would the fact that something was
19 submerged in water or had debris on it or things like that,
20 how would that affect your ability to obtain fingerprints?

21 A. Well, the thing to understand about fingerprints is
22 that they're extremely fragile. They're about 98 to 99
23 percent moisture. They're very fragile. In fact, one of
24 the processes that -- that most people are familiar with
25 when they watch television shows, how they use fingerprint

1 brushes and black powders and those kind of things. Even
2 the mere stroke of a fingerprint brush could damage a
3 print. So they're very fragile, so anything that comes in
4 contact with it has the potential to -- to damage it, to
5 obliterate it, and even possibly cause the print not to be
6 there.

7 Additionally, this item, when I received it, it was --
8 it had a lot of -- as my notes reflect, it says I have a
9 lot of dirt and debris all over the tape, so it was very --
10 it wasn't in great condition when I received it, so. But,
11 yes, prints are very fragile and it does not take much to
12 damage a print.

13 Q. Okay. I'm gonna show you State's 33, which has
14 been testified to as a roll of tape recovered from the
15 residence. Did you analyze this item?

16 A. Yes, I did.

17 Q. All right. And did you have, I guess, known prints
18 of the Defendant from his arrest on this charge and the
19 prints of Cynthia Lopez to compare any fingerprints you
20 obtained to?

21 A. Yes, I did.

22 Q. And what -- what conclusions did you reach regarding
23 that roll of tape?

24 A. When I received that roll of tape, again, it was in
25 a sealed container when I received it. I processed it

1 with various techniques and I was able to develop three
2 areas of fingerprints that were identifiable on the tape.
3 There were -- in addition to the three areas that were
4 identifiable, there were also additional -- there were
5 other areas of prints that I was able to detect that were
6 not -- that were not suitable for comparison. Of the ones
7 that were suitable for comparison, I was able to identify
8 the left ring and left middle finger of a Cynthia Estrada
9 Lopez. And then the third area that was identifiable was
10 actually a piece of a palm print and the result on that
11 was it was inconclusive with Cynthia Estrada Lopez and
12 inconclusive with David Lance Steadman. And the reason
13 it was inconclusive is because the standards that I had
14 weren't sufficient enough to be able to compare to either
15 person.

16 Q. And by standards, you mean the inked prints you had
17 from their arrests were not clear enough to compare to what
18 you found on the tape?

19 A. That's correct. For that -- for that particular area,
20 for that print.

21 Q. For that particular area. You mentioned there were
22 other areas where there were possible prints on that roll
23 of tape?

24 A. Yes, sir. There were -- additional areas of
25 fingerprint evidence was observed once I processed it and

1 those areas were not suitable for comparison, which simply
2 means there just wasn't enough quality, there wasn't enough
3 clarity, there wasn't enough detail there for me to be able
4 to compare those areas with anyone. Those areas of prints
5 that I'm referring to that were insufficient were on the
6 outside of the roll, as well as on the inside of the roll,
7 which is typically a paper on the inside of the roll, so
8 there were areas that I could not compare to anyone.

9 MR. McNAIR: All right. Thank you, Agent Darnell.
10 That's all the questions I have.

11 THE WITNESS: Thank you.

12 CROSS-EXAMINATION

13 BY MS. ZMROCZEK:

14 Q. Are any two person's fingerprints the same?

15 A. No, ma'am.

16 Q. Okay. And is there any way to plant fingerprints on
17 an item?

18 A. Well, I guess you could get creative, you know, but
19 it's not something that we typically see.

20 Q. All right. And the matches that you did find in this
21 case all came back to who?

22 A. The two that were identifiable -- or actually three
23 were identifiable, two of them were identified to Cynthia
24 Estrada Lopez.

25 MS. ZMROCZEK: Thank you.

1 THE COURT: All right. You can step down.

2 (Witness excused.)

3 MS. MAYES: The State calls Donna Money.

4 (Whereupon, Donna Money was duly sworn by the
5 Clerk of Court.)

6 THE CLERK: Have a seat, please, ma'am. Once
7 you're seated state your full name, spelling your last,
8 please.

9 THE WITNESS: Donna Money, M-O-N-E-Y.

10 DONNA MONEY,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MAYES:

14 Q. Good afternoon, Agent Money. Tell us a little bit
15 about yourself. Where do you work?

16 A. I am currently employed at the South Carolina Law
17 Enforcement Division, also known as SLED, in the forensic
18 laboratory in the DNA casework department.

19 Q. Is it possible for you to estimate how many times
20 you've testified previously as an expert in the field of
21 DNA analysis as a State Law Enforcement Division crime lab
22 specialist?

23 A. Over thirty times.

24 MS. MAYES: And, Your Honor, at this time the State
25 would offer Agent Money as an expert in the field of DNA

1 analysis.

2 MS. ZMROCZEK: Without objection.

3 THE COURT: Again, this agent from SLED is qualified
4 to testify as an expert in DNA analysis because of her
5 training, expertise and experience.

6 BY MS. MAYES:

7 Q. Now, Agent Money, in this case did you receive
8 particular items for DNA analysis involving tape?

9 A. Yes.

10 Q. And how did you in your report describe that tape that
11 came to you?

12 A. May I refer to my report?

13 Q. Sure.

14 A. I received SLED Item 7.1, which were swabs from
15 Item 7, described as wadded pieces of tape prior to
16 separation.

17 Q. All right. So these were wadded up pieces of tape?

18 A. Based on the description, yes. I only received swabs.

19 Q. All right. And the swabs had been taken from the
20 wadded pieces of tape by another officer?

21 A. They were taken by a latent print individual, Tom
22 Darnell.

23 Q. The agent we just heard from?

24 A. Yes.

25 Q. And were those submitted to you for DNA analysis?

1 A. Yes.

2 Q. From the swabs of that wadded up tape, were you able
3 to develop a DNA profile?

4 A. I was not able to.

5 Q. And had you been made aware that the tape was found in
6 a trash bag?

7 A. I was made aware that it was discovered in some type
8 of container.

9 Q. Okay. And how, if at all, may biohazards and
10 elements, including water, affect your ability to recover
11 DNA?

12 A. Elements, water, extreme heat or extreme cold, for
13 instance, can inhibit the ability to develop a DNA profile.
14 They may potentially degrade the DNA or, for instance, with
15 water could wash the DNA away.

16 Q. All right. And would you necessarily expect to find
17 DNA when an item has been exposed to water?

18 A. Typically I wouldn't expect great results. I'm not
19 saying that it's a complete impossibility, but the
20 likelihood of something being developed is probably very
21 low.

22 Q. All right. Now in addition to the tape, were other
23 items submitted for analysis as well, such as clothing
24 items and things of that nature?

25 A. Yes, several large items were submitted to SLED at a

1 later date.

2 Q. All right. And based upon your knowledge of the case,
3 did any of those items have serological value or serology
4 value in order to determine a DNA profile?

5 A. The items that were submitted that were subjected to
6 serological testing didn't result in any positive results.

7 MS. MAYES: Nothing further.

8 CROSS-EXAMINATION

9 BY MS. ZMROCZEK:

10 Q. Good afternoon, Agent Money.

11 A. Good afternoon.

12 Q. Did you -- when you work in the serology or the DNA
13 department, you have testing, but you also keep a log of
14 your communications and your notes?

15 A. Yes, we keep it in something called the narrative.

16 Q. In the narrative. So any time you have a conversation
17 with someone, that gets recorded; is that correct?

18 A. Yes.

19 Q. I'm asking about were you asked to do any DNA testing
20 on an object?

21 A. Is it more specific than an object?

22 Q. Sure.

23 A. I had a conversation with a special agent regarding
24 what possibly may have transpired at the time of the
25 alleged crime, but no items were submitted after this

1 conversation.

2 Q. As an expert, do you rely on those conversations to --
3 to know what you're possibly gonna test or not test or what
4 could yield DNA and what couldn't?

5 A. I mean, when we have conversations with investigators
6 and solicitors, it's just giving us some background
7 information on the circumstances of the case and ultimately
8 when we go in we're not gonna keep that in mind and if
9 something doesn't make sense go oh, it's because this
10 happened. We try to keep an open mind.

11 Q. You try to keep an open mind, right?

12 A. Uh-huh.

13 Q. And you were asked to -- or you were talking about if
14 there were any -- if it would be possible to recover any
15 DNA from a foreign object that may have been used in a
16 sexual assault by the mother; is that correct?

17 A. Yes.

18 Q. And what was your response to that?

19 A. May I read from --

20 Q. Oh, sure.

21 MS. MAYES: And, Your Honor, she can read to
22 herself.

23 THE COURT: That's right.

24 And that's her report, correct?

25 MS. ZMROCZEK: Yes.

1 BY MS. ZMROCZEK:

2 Q. Were you able to give an opinion of whether or not a
3 foreign object could -- could result in foreign DNA?

4 A. If an object was used on an individual, in my expert
5 opinion it would not yield DNA because an object does not
6 contain human cells.

7 MS. ZMROCZEK: Thank you.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q. And, Agent Money, what you were just asked by defense
11 counsel, do you have any knowledge as to who committed the
12 sexual assault in this case?

13 A. No.

14 Q. Did it appear that law enforcement has direct
15 information as to who that would be?

16 A. The information provided, I have no opinion.

17 Q. And whether it's a penis or an instrument or a finger
18 or anything else?

19 A. I can't offer an opinion.

20 Q. And was that known or shared with you by law
21 enforcement?

22 A. We were provided information that there were possible
23 -- there were possibilities on what may have transpired,
24 but I have no opinion on exactly what transpired.

25 MS. MAYES: Nothing further.

1 MS. ZMROCZEK: Nothing.

2 THE COURT: You may step down.

3 (Witness excused.)

4 (State's Exhibit Number 70 was marked for
5 identification.)

6 MR. McNAIR: Brian Travis.

7 (Whereupon, Brian Travis was duly sworn by the
8 Clerk of Court.)

9 THE CLERK: Once you're seated state your full name,
10 spelling your last, please.

11 THE WITNESS: Brian Travis, T-R-A-V-I-S.

12 BRIAN TRAVIS,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. McNAIR:

16 Q. Sergeant Travis, will you tell the jury about your
17 background in law enforcement.

18 A. Yeah, I am a sergeant of the Lexington County
19 Sheriff's Department in the professional standards
20 division. I started there at the sheriff's department in
21 2007 as road patrol, I then moved up to FTO, property
22 crimes detective, major crimes detective and intelligence
23 analyst before my current role.

24 Q. All right. And prior to becoming sergeant, did you
25 regularly analyze cell phone records to do what's known as

1 cell tower mapping?

2 A. Yes, for six and a half years I worked in the
3 intelligence unit with a primary focus on communications
4 intelligence.

5 Q. All right. And will you tell us a little bit about
6 your background and training in that field.

7 A. So I have been -- I've gone through training and
8 certification by Pen-Link, which is one of the companies
9 that create the software. Also GeoTime. I've also been
10 in training with the International Association of Crime
11 Analysts, the International Association of Law Enforcement
12 Intelligence Analysts. I've also developed a course for
13 cell phones for patrol usage and I've presented that course
14 two times.

15 Q. All right. Have you testified as an expert in general
16 sessions court before?

17 A. I have.

18 Q. How many times?

19 A. Nine times.

20 MR. McNAIR: All right. Your Honor, at this time
21 we'd offer Sergeant Travis as an expert in cell record
22 analysis and cell tower mapping.

23 THE COURT: Any voir dire?

24 MS. ZMROCZEK: No, Your Honor.

25 THE COURT: All right. Sergeant Travis is being

1 offered as an expert in cell records, cell data, cell
2 tower analysis and cell tower mapping. Correct?

3 MR. McNAIR: Yes, sir.

4 THE COURT: Okay.

5 MR. McNAIR: Thank you, Your Honor.

6 BY MR. McNAIR:

7 Q. Sergeant Travis, will you explain to the jury just
8 how you're able to obtain location information from phone
9 records?

10 A. Yeah. Cell phone companies record everything that
11 come through your -- through your phone to their system and
12 one of the things they provide is when we request those
13 records from the company under a search warrant they give
14 us back the calls you made, then depending on the company
15 there might be text message information, Internet usage
16 information, and then they also provide where their towers
17 are located that you're using. We're able to use that
18 information to show what area you're in when -- or a
19 person's in when making a phone call.

20 Q. All right. And based on that information, can you
21 tell exactly where somebody is?

22 A. No, it's not an exact location. What it tells us, it
23 tells which tower it is and we'll know exactly where that
24 tower is based off of longitude and latitude and then it
25 tells us which sector of the tower you're using. And the

1 tower is broken down into three sectors and it tell us
2 which direction based on a 360 degree azimuth what
3 direction of that tower you're on.

4 Q. All right. And typically do you hit on the tower
5 that's closest to where you are?

6 A. Generally, usually geographic is your main thing and
7 then there's other factors that can cause that to not be
8 it, but the vast majority of the time it's just gonna be
9 wherever you're physically closest to.

10 Q. All right. And is there any general rule of thumb on
11 tower range?

12 A. The best I've heard it described as, nobody will give
13 you specific numbers, is two to ten miles.

14 Q. All right. And have you reviewed Sprint phone records
15 belonging to the Defendant in this case for phone number
16 803-497-2410?

17 A. I have.

18 Q. I'm gonna show you State's 70. Take a minute and look
19 at those and tell me whether or not those are the records
20 that you reviewed.

21 A. They are.

22 MR. McNAIR: Your Honor, we're offering State's 70
23 into evidence at this time under the certified business
24 records exception.

25 MS. ZMROCZEK: Your Honor, I did receive the proper

1 documentation and we have no objection.

2 THE COURT: State's Exhibit 70 is admitted without
3 objection.

4 (State's Exhibit Number 70, Sprint records, were
5 admitted into evidence.)

6 BY MR. McNAIR:

7 Q. All right. Based on the Sprint records that you
8 reviewed and looking -- I guess are you aware that the
9 Defendant worked at Hoover Construction?

10 A. I was advised that.

11 Q. Located at 1120 Two Notch Road?

12 A. Correct.

13 Q. All right. And did you look at activity on those
14 records between hours of 5:30 and 6:30 on July 31, 2017?

15 A. I did.

16 Q. All right. And at any point do you see cell activity
17 near that location of Hoover Construction?

18 A. I did at 6:05 PM.

19 Q. At 6:05 PM?

20 A. Uh-huh.

21 Q. That's the first activity you saw on a tower near
22 Hoover Construction?

23 A. During -- yes, in the afternoon.

24 Q. Okay. Did you see -- when was the -- did you see any
25 activity prior to that?

1 A. I'd have to look back at the records, but there was a
2 large gap in timeframe during the day. There was some
3 movement out in a different area of the county, but it was
4 not near Hoover that early.

5 Q. Okay. So is it your opinion that at 6:05 PM is the
6 first time he was near Hoover Construction based on his
7 phone records?

8 A. Yeah, in the afternoon at least.

9 Q. That afternoon, yeah. We're talking about July 31st.

10 A. Correct.

11 Q. Now when was the next tower information or activity
12 that you saw on July 31st?

13 A. I believe it was 6:58.

14 Q. All right. And where was that tower located?

15 A. As Longs Pond Road.

16 Q. And are you aware of where the Defendant lived?

17 A. [REDACTED] Nazareth Road.

18 Q. All right. And is that tower near that location?

19 A. At the time of the incident, that would have been the
20 closest tower to that residence.

21 Q. All right. Is it your opinion that's the tower he
22 would have -- that he would hit off of if he was at his
23 house?

24 A. Yeah. I looked at the historical records to see where
25 the most common towers were and that was the most common

1 tower and it's been my experience and training that
2 whenever you have a tower that's hit more than any other,
3 it's generally your home tower or your work tower.

4 Q. Okay. And that's the tower he hit more than any
5 other?

6 A. Uh-huh.

7 Q. Close to his house?

8 A. Correct.

9 Q. And that hit that you saw was at 6:58 PM on July 31st?

10 A. Correct.

11 MR. McNAIR: That's all the questions I have.

12 Thank you.

13 MS. ZMROCZEK: No questions, Your Honor.

14 THE COURT: You may step down.

15 (Witness excused.)

16 MS. MAYES: The State calls Chantay Ravenell.

17 THE CLERK: Once you're seated state your full name,
18 spelling your last, please.

19 (Whereupon, Chantay Ravenell was duly sworn by the
20 Clerk of Court.)

21 THE WITNESS: Chantay Ravenell, R-A-V-E-N-E-L-L.

22 CHANTAY RAVENELL,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. MAYES:

1 Q. Good afternoon. Tell us a little bit about yourself.
2 What kind of work are you currently doing?

3 A. I'm a first grade teacher in Charleston county.

4 Q. All right. And before you became a teacher, tell us
5 what agency you worked with.

6 A. I worked at Lexington County Department of Social
7 Services as a foster care worker.

8 Q. And as a foster care worker, when you become involved
9 with children who have been referred to your agency, can
10 you tell us whether or not you sometimes meet with the
11 parents of those children?

12 A. Yes, we do. Usually within twenty-four to forty-eight
13 hours we will sit up a meeting with the family in order to
14 discuss visitation, possible relatives that the child could
15 be placed with and also to see if they have any background
16 information where we could refer to the foster parents as
17 far as if they're kept in county. If the children are
18 placed in county, then they can go to the same doctor's
19 office and we get like background information from the
20 parents.

21 Q. All right. And can you tell us whether or not in
22 the summer of 2017 you had an occasion to take part in an
23 interview with the Defendant, David Steadman?

24 A. Yes.

25 Q. Now at this point had he been arrested?

1 A. No, ma'am.

2 Q. So where did this interview take place?

3 A. At the DSS office.

4 Q. And did he come into the DSS office to speak with you
5 voluntarily?

6 A. Yes.

7 Q. And who else was present for that interview?

8 A. The investigator, Melissa Wilgus.

9 Q. And she was a DSS investigator?

10 A. Yes.

11 Q. And what date did this occur, Ms. Ravenell?

12 A. May I refer to my notes?

13 Q. Absolutely.

14 A. August 14, 2017.

15 Q. All right. And do you have the approximate time that
16 Mr. Steadman came into the DSS office to meet with you?

17 A. 10:00 AM.

18 Q. Now do you recall whether anyone was with him when he
19 came in?

20 A. Yes, Sonia, Lopez Cynthia Estrada Lopez's mother.

21 Q. So that would be the mother of Cynthia Lopez?

22 A. Yes.

23 Q. And can you tell us whether or not you obtained
24 background information from the Defendant about what
25 occurred the night that **Minor** died?

1 A. Yes.

2 Q. And what, if anything, did he report to you and
3 Ms. Wilgus?

4 A. David reported that he got home roughly before
5 seven --

6 Q. I'm gonna need you to slow down slow enough for the
7 court reporter to type this down, but please continue.

8 A. David stated he got home roughly before seven.
9 Cynthia was home watching TV and aggravated. He stated
10 Cynthia told him **Minor** was hitting the boys with the
11 lightsaber.

12 Q. All right. So let me stop you right there. So the
13 report was that **Minor** had been hitting her brothers with a
14 lightsaber?

15 A. Yes.

16 Q. And what did he state next?

17 A. He stated when he went back to check on **Minor**, she was
18 awake with **E.L.**, but had tape on her.

19 Q. All right. So he's indicated that she's awake?

20 A. Yes.

21 Q. What, if anything, did he indicate after that?

22 A. He stated he took the tape off her wrists and asked
23 Cynthia how long **Minor** had been taped down. He reported
24 Cynthia told him for a while, but she had been checking on
25 her. She just wouldn't be quiet.

1 Q. He was reporting that Cynthia had been checking on
2 **Minor** after the tape was put on?

3 A. Yes.

4 Q. What else did he say?

5 A. He reported Cynthia told him for a while. He said
6 that he saw that **Minor** was off and she --

7 Q. Let me ask you about that. When you use the word
8 "off", whose word was that?

9 A. David Steadman's.

10 Q. And how do you know that was his word when he said
11 off.

12 A. Based off of the notes in front of me.

13 Q. Was that word in quotes?

14 A. Yes.

15 Q. All right. What, if anything, else did he state about
16 **Minor** ?

17 A. She had vomit on her and he took **Minor** to the bathroom
18 to get cleaned up. He stated at that point he and Cynthia
19 got into an argument and he wanted Cynthia to call the
20 doctor and was hoping she would take **Minor** to the
21 pediatrician the next day.

22 Q. Okay. So the plan was for her to take **Minor** to the
23 doctor the next day?

24 A. Correct.

25 Q. What, if anything, else did he state about **Minor** 's

1 condition?

2 A. He stated he thought everything was fine, that **Minor**
3 was just sick. He didn't think anything of it. He stated
4 he gave **Minor** water and he was aggravated. He went outside
5 while Cynthia stayed inside. He stated he didn't think to
6 call. David reported whenever he was watching Netflix with
7 **L.L.**, he reported Cynthia said she found **Minor** in the
8 hallway. He stated the biggest thing now is that he's
9 unable to sleep and he should have called the doctor
10 sooner.

11 Q. All right. And the reference to he should have called
12 the doctor sooner was made by who?

13 A. David Steadman.

14 Q. And did he state what time it was that he was watching
15 Netflix?

16 A. No, he didn't.

17 Q. Was that before or after he had removed the tape from
18 **Minor** ?

19 A. According to the notes, it was -- he reported it after
20 he removed the tape.

21 MS. MAYES: Thank you. Nothing further.

22 CROSS-EXAMINATION

23 BY MS. ZMROCZEK:

24 Q. Ms. Ravenell, your -- so your report indicates that
25 Cynthia told him that the tape had been on for a while?

1 A. Correct.

2 Q. And that she looked off?

3 A. No, my notes reflect David said he stated that **Minor**
4 was off.

5 Q. Right. He stated that, right?

6 A. Correct.

7 Q. And did you ask for any further explanation on that?

8 A. No, ma'am.

9 Q. Okay. And are you familiar with -- that's a different
10 question for somebody else. When he said when he went
11 outside, was that right after he found her?

12 A. It was after he took her to the bathroom and got her
13 cleaned up.

14 Q. Took her to the bathroom, got her cleaned her up and
15 went outside?

16 A. Correct.

17 MS. ZMROCZEK: Thank you.

18 THE WITNESS: You're welcome.

19 REDIRECT EXAMINATION

20 BY MS. MAYES:

21 Q. And his indication is that after she was cleaned off,
22 did he think anything of it? What did he state about her
23 condition after he cleaned her off?

24 A. He stated that he thought everything was fine and that
25 **Minor** was just sick.

1 MS. MAYES: Thank you. Nothing further.

2 THE COURT: Thank you. You may step down.

3 (Witness excused.)

4 MS. MAYES: The State calls Tom Smith.

5 (Whereupon, Thomas Alvin Smith was duly sworn by
6 the Clerk of Court.)

7 THE CLERK: Once you're seated state your full
8 name, spelling your last, please.

9 THE WITNESS: My name is Thomas Alvin Smith,
10 S-M-I-T-H.

11 THOMAS ALVIN SMITH,
12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. MAYES:

15 Q. All right. Tell us a little bit about yourself.
16 Where are you currently employed?

17 A. I'm currently employed at the South Carolina Criminal
18 Justice Academy. I'm an instructor there.

19 Q. All right. And how long have you been there?

20 A. I actually just started there. I started on the 6th
21 of January.

22 Q. What type of work did you do before you joined the
23 criminal justice academy?

24 A. Prior to joining the criminal justice academy, my law
25 enforcement career actually started while I was serving in

1 the United States Army. I applied for and was accepted
2 into the U.S. Army Criminal Investigation Division Command
3 where I served for six and a half years as a special
4 investigator conducting various felony investigations.
5 After serving for six and a half years there, I exited the
6 Army and I joined the Lexington County Sheriff's Office
7 where I served six years. Four of those years I was in
8 the crime scene unit. Between the Lexington sheriff's
9 department and the U.S. Army I have about ten years of
10 crime scene experience.

11 Q. All right. And tell us how you came involved in this
12 case regarding **Minor** .

13 A. On the evening of the 31st of August {sic}, I received
14 a telephone call at approximately 22:11 hours in reference
15 to a child who was found unresponsive. The lieutenant at
16 the time over major crimes requested I respond to the
17 scene. I arrived on the scene at approximately 22:50
18 hours.

19 Q. So I'm going to slow you down right there if I can.
20 And, again, this is the night that this occurred on
21 July 31st?

22 A. Yes.

23 Q. And your time of arrival there at the scene? And tell
24 us, again, the address there at the scene.

25 A. Yes, I arrived at [REDACTED] Nazareth Road, in Red Bank,

1 Lexington, South Carolina, at approximately 22:50 hours.

2 Q. And in layperson's terms?

3 A. I apologize. That would be 10:50 at night.

4 Q. Now when you arrived, were other officers already
5 there, Agent Smith?

6 A. Yes, by the time I arrived -- the first thing I did,
7 I spoke to the major crime investigator that was already
8 there on the scene, and then I also spoke to Deputy
9 Zylstra, who was the first responding deputy, a road
10 deputy, to the scene.

11 Q. All right. And is it your understanding that law
12 enforcement had remained at the scene after EMS left with

13 **Minor** ?

14 A. Yes, I was -- in my conversation with the first
15 responding officer, I had been given the impression and
16 was under the understanding that law enforcement had
17 secured the scene and the scene had been maintained by law
18 enforcement until my arrival.

19 Q. Now at this point in time, Agent Smith, do you have
20 any background from the parents about what may have
21 occurred with **Minor** ?

22 A. No, I did not have any direct contact with the
23 parents.

24 Q. And you're CSI or crime scene investigation, but at
25 this point did y'all even have information that it was a

1 crime?

2 A. No, at this time I was informed by both the watch
3 commander who was on-scene, as well as Deputy Zylstra and
4 the -- and major crimes that we're looking at a possible
5 accidental asphyxiation and that child had some medical
6 history. That's all the information I had to go on when
7 I began my processing of the scene.

8 Q. So you're not aware of anything regarding tape or
9 child abuse, correct?

10 A. Correct.

11 Q. So tell us what, if anything, you observed when you
12 first walked in.

13 A. The first thing I observed is -- well, let me start
14 over. When we first arrive on-scene, one of the first
15 things that we do is we begin photographing the scene.
16 We want to photograph the scene in as pristine of a
17 condition as we find it when we arrive there, so we want
18 to photograph it before we start searching, before we
19 start moving stuff. As we processed through the house and
20 everything, one of the first things I noticed is that the
21 house looked clean and well kept. In the living room area,
22 I could tell where furniture and all had been moved and
23 pushed up against the wall and there was a purple blanket
24 in front of a television stand in that general area --
25 or not a blanket, I think it was a towel actually, I

1 apologize, in that area and all. I also saw what looked
2 to be vomit or food. I had been told by the first deputy
3 on-scene that CPR had been performed by both EMS and fire
4 prior to transporting the deceased, and that would be
5 something that you would normally see with CPR, and so
6 continued processing and photographing throughout the rest
7 of the house.

8 Q. All right. Now did you also have the occasion to draw
9 a diagram of both the upstairs and downstairs area of the
10 home?

11 A. Yes, I did.

12 Q. I'm gonna show you this diagram and ask you whether or
13 not you recognize it and whether that's a fair and accurate
14 representation of the diagram that you originally drew by
15 hand?

16 A. Yes, it is.

17 Q. One thing we'd like for you to do is if you could note
18 on there where the laundry room is and this would be before
19 we offer the item.

20 (State's Exhibit Number 71 and 72 were marked for
21 identification.)

22 MS. MAYES: Your Honor, this would be State's 71,
23 being the downstairs, and State's 72, being the
24 upstairs.

25 MS. ZMROCZEK: May we approach just a second?

1 THE COURT: Uh-huh.

2 (Proceedings held at the bench; not reported.)

3 THE COURT: All right. I need to put one thing
4 on the record. Y'all step in the jury room and we'll
5 take a break now. We're due one. We started back at
6 a quarter till two and it's now ten minutes after
7 three, so.

8 (Whereupon, the jury retires to the jury room at
9 3:09 PM.)

10 THE COURT: All right. We'll stand at ease for a
11 few minutes and send some Coke-Colas back.

12 (Recess taken at 3:10 PM.)

13 (Back on the record at 3:24 PM.)

14 (State's Exhibit Numbers 73 and 74 were marked
15 for identification.)

16 BAILIFF: Court come to order. Court is now back
17 in session.

18 THE COURT: Are we ready for the jury?

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

20 THE COURT: All right. Go get them.

21 BAILIFF: Are you ready, sir?

22 THE COURT: Yes, sir.

23 (Whereupon, the jury returns to the courtroom at
24 3:26 PM.)

25 THE COURT: All right, Ms. Mayes. Continue on.

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

2 BY MS. MAYES:

3 Q. And you had identified both of these diagrams as being
4 diagrams that you're familiar with in this case, correct?

5 A. Correct.

6 Q. I'm gonna ask you if you can step down briefly and
7 describe to us what we're looking at in State's 71, which
8 is going to be the downstairs area of this residence.

9 A. So when you entered into the door, and the door's
10 centered here, you have the kitchen on this side, you had
11 the shelves and everything, the sink underneath here and a
12 refrigerator on that wall -- or in this area. You had a
13 large dining room table here. This is the living room.
14 And as I had talked about earlier in my statement, I told
15 you furniture had been moved up against the wall, that's
16 what I'm talking about. There was a coffee table and all
17 that had been pushed up over here, the couches had been
18 pushed back against the wall. Right here along this wall
19 there was an entertainment stand with a flat-screen TV on
20 it. Right in front of it, right around in here on the
21 floor, like I said, there was a purplish towel and there
22 was some biological -- it appeared to be vomit that was
23 here on the floor. And when you exited out of the living
24 room, you entered into the main hallway which combines all
25 the bedrooms together. The master bedroom was the first

1 with the master bath behind and to the rear of it. This is
2 a shared bathroom for visitors, as well as the children.
3 This is children's bedroom here. They had a large closet
4 there and a laundry room was at the end of the hallway and
5 this is an exit door that led out to the porch that was
6 attached.

7 Q. Thank you. You may return.

8 A. (Witness complies.)

9 Q. Going back to the night that you first were called
10 there to the scene, the parents were at the hospital and
11 law enforcement officers are there, did you have a search
12 warrant at this point to begin a search?

13 A. I got on-scene and I was on-scene for a little bit
14 prior to receiving the search warrant, but, yes, one was
15 eventually obtained and I processed the house and conducted
16 my search off of that search warrant.

17 Q. And officers had maintained that scene from the time
18 of the first officer's arrival while EMS was still there?

19 A. Yes. Deputy Scott Zylstra was the first deputy
20 on-scene and he then had maintained that until -- well,
21 actually he had maintained it, if I'm not mistaken,
22 throughout the entire night, but there were deputies on
23 the scene from the time that he arrived there and until I
24 arrived there and started processing the scene.

25 Q. So this would be -- the photographs that you mentioned

1 would be photographs of the scene as it was found by law
2 enforcement that night even while EMS was still there
3 working with **Minor** ?

4 A. Correct.

5 Q. I'm gonna show you a series of photographs and ask you
6 whether or not you recognize them beginning with 42, 40,
7 41, 51, 50, 52, 48, 49, 43, 44, 46, 45, and 54.

8 A. Yes, these are all photographs that I took.

9 Q. Are these all a fair and accurate representation of
10 the scene as you found it on the night of July 31, 2017,
11 Agent Smith?

12 A. Yes.

13 MS. MAYES: All right. Thank you. Your Honor, at
14 this time the State would offer these photographs as
15 evidence. I believe there's no objection.

16 MS. ZMROCZEK: There is no objection, that's
17 correct.

18 THE COURT: No objection to -- call the numbers out
19 one more time, Ms. Mayes.

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

21 42, 40, 41, 51, 50, 52, 48, 49, 43, 44, 46, 45,
22 and 54.

23 THE COURT: There's no 53?

24 MS. MAYES: Not in this group, Your Honor.

25 THE COURT: All right. Very well. So the

1 pictures just listed and identified are admitted
2 without objection.

3 (State's Exhibit Numbers 40, 41, 42, 43, 44, 45,
4 46, 48, 49, 50, 51, 52, and 54, photographs, were
5 admitted into evidence.)

6 BY MS. MAYES:

7 Q. Agent Smith, we're gonna start here with this
8 photograph. If you could tell us what area of the home
9 we're looking at as you found the scene that night.

10 A. This area is the living room that I had discussed.
11 This the entertainment stand with the TV that was on it.
12 This is this coffee table that I talked about that had
13 obviously been pushed up out of the way and the chairs had
14 been pushed back against the wall as well. I mentioned a
15 purple towel that was on the floor. This is here. And the
16 -- what appeared to be vomit was here on the floor. Due to
17 the floor and the tile and the texture and all it really
18 blends in and I wasn't able to get a really good photograph
19 of the detail of that.

20 Q. Next would be State's 40. What area of the home are
21 we looking at here?

22 A. That would have been in the kitchen and we had been
23 told that -- or I had been told that she had been eating
24 beans. We found a bowl of partially eaten beans in the
25 kitchen and just photographed it to document that it was

1 there.

2 Q. And, again, 41?

3 A. It's just a close-up photograph of the exact same
4 bowl.

5 Q. I want you to take a look now at 51. What area of the
6 home is this?

7 A. That's the last bedroom in the back corner. This is
8 the children's bedroom. The children's bedroom consisted
9 of this little adaptable bed and a twin size bed with the
10 foundation on the floor and a mattress on top of it.

11 Q. And what was your understanding of whose room this
12 was?

13 A. I understand this to be the deceased's room, as well
14 as the older brother's room.

15 Q. **E.L.** ?

16 A. Yes.

17 Q. I'm gonna show you what is 50.

18 A. This is just another photograph of the exact same
19 room. Just -- the first photograph that we saw was as you
20 entered through the doorway. This photograph is in the
21 back corner photographing the bed into the next corner.

22 Q. And then 52.

23 A. This is just in the opposite corner photographing in.
24 One of the things that we want to do when we take these
25 photographs since they are the first photographs and how

1 we found the scene before we begin searching, one of the
2 things that we want to do is photograph all the way around
3 the room. That way you get every angle on the -- on the
4 furniture, every angle of items and all that are in the
5 room, and this is part of that photography of me going into
6 each corner and taking those photographs.

7 Q. Now as you're looking at **Minor** 's room, did you observe
8 any obvious signs vomit in the bed?

9 A. No, I did not observe anything on the bed. I didn't
10 observe anything on the floor either.

11 Q. In terms of a trail leading out of the bed like
12 towards the hallway or the bathroom?

13 A. No, there did not appear to be anything on the floor
14 leading from the bedroom to the bathroom.

15 Q. And if you had observed something like that, would
16 that have been additional photographs?

17 A. Yes, we would have photographed that additionally.

18 Q. Now I want to take a look at 48. What room are we
19 looking at here?

20 A. So this is the laundry room at the very end of that
21 hallway. This is the exterior door that I talked about or
22 mentioned earlier that led off onto a porch.

23 Q. And now 49.

24 A. A photograph of the laundry room as we found it that
25 -- or as it was that evening.

1 Q. And so, again, on this evening, July 31, 2017, had
2 there been any disclosure by any person in that family yet
3 about any type of tape being involved with **Minor** ?

4 A. No, the entire time that I was on-scene processing it
5 to include telephone communications with the coroner's
6 office that was at the hospital, as well as investigators
7 at the hospital who were in contact with the doctors and
8 family, there was nothing pertaining to injuries, there
9 was nothing pertaining tape or anything else.

10 Q. Tell us what, if anything, you observed in this
11 photograph that you took of the laundry room on the night
12 of July 31st.

13 A. After they started speaking of tape and everything, I
14 went back and reviewed my photographs from the first night.
15 In those photographs we observed a white roll of duct tape
16 here on the dryer, as well as a ball of tape here on the
17 dryer, which is just outside of the children's bedroom.

18 Q. So those items had been placed there on the dryer
19 prior to the arrival of law enforcement on the night of
20 July 31st?

21 A. Correct.

22 Q. And what is that item beside the roll of tape? What
23 does that appear to be?

24 A. This?

25 Q. Yes.

1 A. That is a rolled up -- it looks like somebody had a
2 large piece of a roll of tape and they just crumpled it up,
3 rolled it up, and put it on top of the dryer.

4 Q. Now you mentioned that you didn't see any obvious
5 biological matter in Minor 's bedroom. Was there any other
6 place other than the living room that you told us about
7 that you did observe some type of biological matter?

8 A. Yes, there was some sort of matter in the shower of
9 the children's bedroom. And this is a picture from the
10 doorway of the children's bedroom. There's a shower here,
11 a toilet and a counter -- counter with a single sink in it.
12 Right here in the corner there's a dirty clothes basket and
13 I believe in this same area there was two children's like
14 training potties.

15 Q. I'm gonna show you what is State's 54.

16 A. There we go.

17 Q. What do you observe in this photograph?

18 A. Just the children's potty, there's a diaper here.
19 Again, the shower, tub -- or shower, not tub, but the
20 shower, toilet and sink.

21 Q. All right. Now was there a bathtub in this bathroom?

22 A. No, there was not.

23 Q. Only the stand alone shower?

24 A. Correct.

25 Q. I'm gonna ask you if you can --

1 MS. MAYES: Your Honor, if he may step down and
2 describe further what we're observing in 46 and 45.

3 THE COURT: You certainly may.

4 (Whereupon, the witness steps down from the witness
5 stand.)

6 THE WITNESS: So when I stepped into the bathroom
7 and got light into the bathroom so that I could see, in
8 the back corner of the shower was a large clump of matter
9 and it was fairly consistent, fairly packed, and then
10 there was -- so this is the largest piece here that I saw
11 and as you see there's a piece, there's some more here,
12 more in the grout throughout the -- throughout the shower
13 area.

14 BY MS. MAYES:

15 Q. All right. What about other areas of the shower such
16 as the drain?

17 A. They're not as visible, but there was some in -- in
18 that area. I think there's a piece right there, but
19 probably from about there back there was matter up there
20 on the -- on the floor.

21 Q. I'm gonna show you 45.

22 A. This is just a close-up photograph. You know, I
23 talked about the main piece being here and then we've got
24 small -- we got it into the grout, as well as on the tiles.

25 Q. Now, Agent Smith, does SLED accept vomit, feces, items

1 of that nature for analysis?

2 A. So in my training -- as I said, I originally was in
3 the Army as a special agent there. While there I had the
4 opportunity to attend a special agent laboratory training
5 course. That course is a week long and what they do is
6 they bring every element of the lab, all the different
7 areas of specialities, computer, forensics, DNA, trace,
8 toxicology, firearms and all, and you can get a day, day
9 plus, depending on how much they had to show you, to go
10 through what they're able to do with evidence and what
11 they're able to -- to get from that evidence and how that
12 helps your case.

13 THE COURT: Wasn't the question did they test or
14 not?

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

16 THE WITNESS: Oh, I apologize. No, they do not.

17 BY MS. MAYES:

18 Q. So was any of this matter collected based on SLED's
19 acceptance guidelines?

20 A. No, it was not. It was photographed where it was and
21 documented that it was there present on the scene.

22 Q. All right. I'm gonna show you what is Defense
23 Exhibit 20 and ask you whether you've had a chance to
24 observe that photo or similar photos?

25 A. Yes, I have.

1 Q. And can you tell us whether or not this photo,
2 being Defense Exhibit 20 --

3 MS. ZMROCZEK: Your Honor, we would object to him
4 making an opinion based on what --

5 MS. MAYES: I can rephrase it.

6 THE COURT: Rephrase it just to what he's testified
7 to -- or what he's qualified to testify to.

8 MS. MAYES: Thank you. You may return back.

9 THE WITNESS: (Witness complies.)

10 BY MS. MAYES:

11 Q. Based upon your observations there at the scene, did
12 you see anything different about what you observed in the
13 shower and what was depicted in that photograph?

14 A. They appeared consistent to me.

15 Q. Now I'm gonna show you what is State's 43 and ask you
16 when this photograph was taken as well?

17 A. I believe that was taken on the 31st as well.

18 Q. And I'll give you a chance to look at it. Are these
19 photographs all from the same group that night?

20 A. Yes, they're all from the same group of that evening.

21 Q. Okay. Do you see any type of drinking device depicted
22 there in the children's bathroom?

23 A. There was a cup here on the counter.

24 Q. Now after you went in and took these photographs on
25 the night of July 31st, did law enforcement have the

1 occasion to go back to that residence on Nazareth Road and
2 conduct any additional search warrants other than the one
3 that we've already heard about on August 10th where tape
4 was recovered from the residence?

5 A. Yes. In between the 1st when I left and the 10th
6 when Investigator Snelgrove responded out there for a
7 search warrant, I did -- I conducted a second search
8 warrant on that residence.

9 Q. All right. I'm gonna show you a group of photographs,
10 being 58, 60, 62, 64, 65, and 66, and ask you whether or
11 not you're familiar with those photographs?

12 A. Yes, ma'am. These are all photographs that I took
13 when I returned and conducted the second search warrant on
14 the residence.

15 Q. All right. And give us the date of that next search
16 warrant, please.

17 A. That was conducted on the 3rd of August.

18 Q. Prior to the search warrant where the tape was
19 discovered, correct?

20 A. I'm sorry?

21 Q. Prior to the search warrant where the tape was
22 discovered?

23 A. Correct.

24 Q. All right. And were items collected from the
25 residence on this night, on August 3rd?

1 A. Yes, we collected evidence on that evening.

2 MS. MAYES: And, Your Honor, at this time State's
3 60, 62, 58, 64, 65, and 66 are offered as evidence. I
4 believe there's no objection.

5 THE COURT: Any objection?

6 MS. ZMROCZEK: No objection.

7 THE COURT: No objection, I believe 58, 60, 62,
8 64, 65, and 66. Did I did miss any?

9 MS. MAYES: That's correct, Your Honor.

10 THE COURT: Admitted without objection.

11 (State's Exhibit Numbers 58, 60, 62, 64, and 65,
12 photographs, were admitted into evidence.)

13 BY MS. MAYES:

14 Q. Looking here at 60, now we see it with a placard.
15 What was the first date that the toddler bed was actually
16 retrieved as evidence?

17 A. The toddler bed was taken as evidence on the 3rd of
18 August when I conducted my second search warrant. That's
19 the reason there's a placard right here. Whenever we go
20 to collect photographs, in order to make sure that our
21 evidence is in line with our photographs and in line with
22 our documentation, we put what's called an evidence placard
23 or evidence card on it. That way we can keep it straight
24 throughout our notes. And this is my -- my placard showing
25 it was the first piece of evidence I collected.

1 Q. All right. And then State's 62?

2 A. So when we returned on the 3rd, the towel that was on
3 the floor of the -- of the living room was now in the
4 bathroom. It was photographed and collected as Item 4.

5 Q. Is this one of the items that was submitted to SLED
6 for analysis that Agent Money mentioned just recently?

7 A. I do not know. It was not my responsibility for that,
8 so I don't know how that -- what transpired with that.

9 Q. I'm gonna show you what is State's 64 and ask you
10 where these items were found on August 3rd?

11 A. Yes, this photograph is of the dining room area.
12 That's where the chairs are coming from. These items were
13 found in the trash inside the door. When we started
14 searching through the trash, we found several items of
15 clothing. We pulled those out of the trash, photographed
16 them and collected them as evidence.

17 Q. All right. The item with the purple dots, what type
18 of item is that?

19 A. It's a little girl's dress.

20 Q. I'm gonna show you what is 65 and ask you how you
21 recognize that?

22 A. 65, we showed the first floor of the residence and all
23 earlier. On top of the first floor over the living -- or
24 over the kitchen and over the dining room, there's actually
25 an upstairs that you get to from the stairs. At the top of

1 the stairs on the left side of the stair -- left side of
2 the hallway, is a bedroom that looks -- or appears to be
3 converted over as a toy room. There's all sorts of
4 different toys and things to play with and all in there.
5 Amongst that was a blue lightsaber toy.

6 Q. I'm gonna show you what is State's 66.

7 A. In the same room was a -- again, this time it's just
8 a red lightsaber toy.

9 Q. I'm gonna show you these two items, which are already
10 marked. They are State's 73 and 74 and ask you if you
11 recognize them and, if so, how?

12 A. This is my packaging from when I collected the
13 evidence. It bears the item number that it was collected
14 under, as well as the case number, a brief description of
15 what the item is and then on the back it also has my date
16 and initials on it showing that I'm the one that sealed
17 this package.

18 Q. All right. Can you tell us if these lightsabers were
19 collected as evidence, being the blue one and the red one?

20 A. Yes, they were photographed and collected as evidence.

21 Q. And once they were collected as evidence, did you have
22 the opportunity to test them for the possible presence of
23 blood?

24 A. Yes. I received a request to check -- sign them out
25 of the evidence room and check them. Upon signing them out

1 of the evidence room, I proceeded to do first a visual --
2 well, I first photographed them. I then conducted a visual
3 inspection of them. After conducting a visual inspection
4 of them, I used an alternate light source and goggles and
5 attempted to locate blood or any other biological matter
6 on them, which was negative. Then out of a source of
7 precaution, I swabbed the lightsabers and conducted a
8 phenolphthalein test on them, which turned -- which was
9 negative.

10 Q. And a phenolphthalein test, is that also for the
11 presence of blood?

12 A. Correct.

13 Q. Now I want to take a look at this photograph, which is
14 State's 58. That laundry room where you had seen the tape
15 on the night of July 31st, did you have a chance to go back
16 and rephotograph that on August 3rd?

17 A. Yes. We rephotographed the house in the exact same
18 way we did on the first night just showing the difference.
19 This photograph is one of the photographs -- or is the
20 photograph of the laundry room as it was found on the 3rd
21 of August.

22 Q. Any signs of tape, the rolled up tape or the boggled
23 up tape in that photograph?

24 A. No. You can -- you can see that those items had been
25 removed from on top of the dryer.

1 Q. The lightsabers that you have right up there as
2 evidence, what type of material are they made out of?

3 A. They're plastic.

4 Q. These are toys for children?

5 A. Yes.

6 MS. MAYES: This would be 73 and 74 for evidence,
7 Your Honor.

8 MS. ZMROCZEK: Without objection, Your Honor.

9 THE COURT: 73 and 74 are admitted without
10 objection.

11 (State's Exhibit Numbers 73 and 74, lightsabers,
12 were admitted into evidence.)

13 MS. MAYES: Nothing further at this time, Your
14 Honor.

15 CROSS-EXAMINATION

16 BY MS. ZMROCZEK:

17 Q. Agent Smith --

18 A. Yes.

19 Q. -- I'm gonna show you what's been marked as
20 Defendant's 13 and ask you if that's also a picture that
21 you recognize?

22 A. Yes, it is.

23 Q. Okay. And that was taken on July 31st?

24 A. 31st into the 1st, but, yes, during the first search
25 warrant.

1 Q. Search warrant number one. Okay.

2 MS. ZMROCZEK: Your Honor, at this time we would
3 move Defendant's 13 into evidence.

4 MS. MAYES: No objection, Your Honor.

5 THE COURT: Defendant's 13 in without objection.

6 (Defendant's Exhibit Number 13, a photograph, was
7 admitted into evidence.)

8 BY MS. ZMROCZEK:

9 Q. So, Agent Smith, one of the things that you do in
10 crime scene is that you -- you want to get a lot of
11 different angles, right?

12 A. Yes.

13 Q. Okay. So, in fact, you're taught to kind of take
14 like an overview, if we were taking a crime scene of the
15 jury, which we're not, but an overview, right?

16 A. Correct.

17 Q. And then you want to get a little bit closer, right?

18 A. Correct.

19 Q. And a little bit closer?

20 A. Correct.

21 Q. So that way we can kind of see what -- if there's
22 anything of importance?

23 A. Correct.

24 Q. And so this is like you're closer in the shower,
25 correct?

1 A. Correct.

2 Q. Okay. And you're certainly not -- I'll move on. You
3 also took pictures that showed like the kind of before and
4 after. Like there were items that were present in the
5 room, in the laundry room, which is right outside the door
6 of the children's room, right?

7 A. I'm sorry. Can you repeat?

8 Q. I'll try. So you took pictures on the 31st into
9 the 1st where there was a roll of tape and some wadded up
10 tape?

11 A. Yes.

12 Q. Okay. And then -- and then that was on the 31st into
13 the 1st and then when you went back on the 3rd, you took
14 same pictures of the laundry room and those items were not
15 there, right?

16 A. Correct.

17 Q. Okay.

18 MS. ZMROCZEK: Your Honor, I don't have any further
19 -- oh. No, I don't have any further questions.

20 MS. MAYES: Nothing further, Your Honor.

21 THE COURT: You may step down.

22 (Witness excused.)

23 MS. MAYES: The State calls Dr. Susan Lamb.

24 MS. ZMROCZEK: Your Honor, we have a matter of law
25 we need to take up at this time.

1 (Back on the record at 4:02 PM.)

2 BAILIFF: All rise. Court's back in session.

3 THE COURT: All right. State's 71, 72 are in
4 without objection because we did have a bench conference
5 and didn't get to it.

6 (State's Exhibit Numbers 71, upstairs diagram,
7 and 72, downstairs diagrams, were admitted into
8 evidence.)

9 THE COURT: All right. If the jury's ready, we're
10 ready.

11 BAILIFF: Are you ready, sir?

12 THE COURT: Yes, sir.

13 (Whereupon, the jury returns to the courtroom at
14 4:04 PM.)

15 THE COURT: All right. Call your next witness,
16 Ms. Mayes.

17 MS. MAYES: Yes, sir, Your Honor. The State calls
18 Dr. Susan Lamb.

19 (Whereupon, Susan Lamb was duly sworn by the
20 Clerk of Court.)

21 THE CLERK: Have a seat, Doctor. Once you're
22 seated state your full name, spelling your last, please.

23 THE WITNESS: My name is Dr. Susan Lamb, L-A-M-B.

24 SUSAN LAMB,

25 having been duly sworn, testified as follows:

1 DIRECT EXAMINATION

2 BY MS. MAYES:

3 Q. All right. And, Dr. Lamb, we're gonna need you to
4 pull that microphone up a little bit closer to you.

5 A. Better?

6 Q. Yes. Can you tell us about yourself? What type of
7 doctor are you?

8 A. So I am a pediatric subspecialist. The name of my
9 specialty is child abuse and neglect, so I evaluate
10 children where there have been some concern for abuse
11 or neglect in their life.

12 Q. All right. And tell us about your educational
13 background and training that led you to become a doctor.

14 A. Closer? So I did my undergraduate degree at Johns
15 Hopkins University. I have a BS in molecular and cellular
16 biology. I then went on to UVA to do my medical school.
17 I graduated medical school and went on to do my pediatric
18 residency, which is three years long, at Norfolk,
19 Virginia, at their children's hospital. After becoming
20 a Board-certified pediatrician, I then went on and did
21 three years additional training in child abuse and neglect,
22 and so I'm also Board-certified in that field as well and
23 that's how I practice.

24 Q. All right. And when you say that's how you practice,
25 as a pediatrician with a certification in child abuse and

1 neglect, where are you employed here in South Carolina?

2 A. Certainly. So I'm employed by the agency that
3 keeps changing names. I was hired by Palmetto Health
4 USC Medical Group. It's now Prisma Health. It's
5 associated with the children's hospital here in town, so
6 I'm in the group of subspecialists and my colleagues are
7 pediatric cardiologists, pediatric urologists, pediatric
8 nephrologists. We're all the specialists who take care
9 of children mostly in the Midlands region who need
10 subspecialty care.

11 Q. All right. And as a forensic pediatrician, is it
12 possible for you to estimate how many patients you see on
13 a yearly basis?

14 A. So generally a full load is about four hundred
15 patients a year that we'll evaluate for each provider.
16 There I see a couple less than that because I have some
17 other work. I lead our division and I'm also in charge of
18 the regional program as well and so I have to do a lot of
19 travelling and I do a lot of fatality cases as well because
20 of my subspecialty.

21 Q. All right. Now have you testified previously as an
22 expert in the courts of this state as a forensic
23 pediatrician?

24 A. I have.

25 Q. And, Dr. Lamb, does that include in your subspecialty

1 of child abuse and neglect?

2 A. Yes, generally I'm qualified as an expert in the
3 name of my Board, which is child abuse and neglect, and I
4 testify to that.

5 Q. Now you mentioned that you also have fatality cases.
6 How, if at all, are you involved in this state in the
7 review of child fatality cases?

8 A. Certainly. So the State passed a law stating that
9 if a child dies at home or from a cause that's not known,
10 for whatever reason, or if the Department of Social
11 Services has touched this family any time within the
12 last year, they passed a law saying that everyone has to
13 get together within ten days of the death and we need
14 to review it, and it has to be people from DSS, law
15 enforcement, the solicitor's office, a child abuse
16 pediatrician, the pathologist, and we all have to be in
17 the same room talking to one another about the case
18 within ten days of that child's death. So by law I'm
19 involved in many of the cases for the Midlands and then
20 part of the Pee Dee region where they don't have a child
21 abuse pediatrician, I also travel out there and help them
22 with some of their cases. So there's only two of us for
23 the Midlands and part of the Pee Dee region who does this
24 work, so I -- I, unfortunately, do it a lot.

25 MS. MAYES: Your Honor, at this time the State

1 would offer Dr. Susan Lamb as an expert in the field of
2 pediatrics, including child abuse and neglect.

3 THE COURT: Any voir dire?

4 MS. ZMROCZEK: Please, Your Honor.

5 THE COURT: Yes, ma'am.

6 VOIR DIRE EXAMINATION

7 BY MS. ZMROCZEK:

8 Q. Dr. Lamb, I was provided your curriculum vitae and it
9 lists beginning -- several lectures that you have presented
10 throughout the country, right?

11 A. Yes.

12 Q. Okay. And those lectures all -- or let's see. We
13 have a lecture with genital examinations?

14 A. Yes.

15 Q. Lectures with fractures?

16 A. Yes.

17 Q. Gaming and childhood injuries?

18 A. That's not -- that was a presentation related to a
19 research project I did that's talking about video games.

20 Q. Okay. And then you have one on failure to thrive and
21 neglect, nutritional neglect?

22 A. Nutritional neglect.

23 Q. Okay. And that relates to not receiving the proper
24 amount of nutrition?

25 A. Yes.

1 Q. Okay. You have abusive head trauma?

2 A. Yes.

3 Q. Several more on genital anatomy?

4 A. Yes.

5 Q. And bruises?

6 A. Yes.

7 Q. Case scenarios and suspected child abuse?

8 A. Yes.

9 Q. The big three child abuse?

10 A. Yes.

11 Q. And medical evaluation of physical and sexual
12 assaults, right?

13 A. Yes.

14 Q. Okay. Do you have any subspecialty training in
15 forensic pathology?

16 A. So if you're talking about pathology, yes, we do. As
17 part of our Board certification, we're required to work on
18 cases. We have many children that we start working on
19 their cases in the hospital and then we see them all the
20 way through, so I'm very familiar with the pathology suite
21 with autopsies, with the findings there because it's
22 important for us -- it doesn't stop at death. These cases
23 will continue and so we need to see it all the way through
24 for our cases, so I work very closely with medical
25 examiners and we have lectures, we have all of that.

1 Q. And -- that's okay. So you don't do those on your
2 own?

3 A. No, I don't perform autopsies.

4 Q. So you would defer those to the pathologists?

5 A. Defer what?

6 Q. Defer performing the pathologies and making the
7 pathological findings?

8 A. Yes. Physically doing the autopsies, doing the slides
9 and such, that's their area of expertise.

10 MS. ZMROCZEK: I have no further questions, Your
11 Honor. We don't object.

12 THE COURT: So no objection to her being qualified
13 as an expert in the field of pediatrics with a specialty
14 of child abuse and neglect.

15 MS. ZMROCZEK: That's correct.

16 CONTINUED DIRECT EXAMINATION

17 BY MS. MAYES:

18 Q. And, Dr. Lamb, as you just mentioned part of the
19 component as a pediatrician in your field is to also review
20 child fatality cases where death occurs?

21 A. Yes. We're mandated by the law in South Carolina
22 and that's part of our fellowship training because
23 unfortunately some kids don't make it to the hospital and
24 so we can't just say no, we won't assist. We have to be
25 trained, specially trained, on how to do that and so that's

1 incorporated into those three years of extra training that
2 we do to become subspecialists.

3 Q. Now as a pediatrician you treat patients who are
4 living?

5 A. Yes. I prefer them that way.

6 Q. Okay. And when you're dealing with patients who are
7 children who are alive, how do you go about determining a
8 diagnosis, treatment, things of that nature?

9 A. So I'm a pediatrician like any other pediatrician, so
10 when you go in you start talking to the family, you get a
11 history from them. If the child is verbal, you talk to
12 them. You get a past medical history, you find out what
13 runs in the family. You get social history of where they
14 live, where they've travelled. You do a physical exam
15 looking over them, then you decide if you want any x-rays,
16 any scans, any lab work, and then you put all that together
17 into a diagnosis and an assessment and then a treatment
18 plan there. So what other pediatric practices do we do
19 just as well.

20 Q. And does that also include treatment of children who
21 are critically ill?

22 A. Yes. So we respond to children's hospital, so a good
23 number of my patients come to me in clinic, just regularly
24 scheduled, but we take call and so if a child shows up in
25 the ER or gets admitted to the children's hospital or ends

1 up in the pediatric ICU, the treatment team calls us just
2 like any other consultant and they ask us to come and
3 assist, and so we go throughout all of the children's
4 hospitals. So I see everyone from the healthy kid walking
5 into my office to a kid on a ventilator in the ICU with
6 very significant injuries and then everything that shows up
7 in between.

8 Q. All right. Did you have an opportunity in this case,
9 Dr. Lamb, to review the autopsy findings of **Minor** ?

10 A. I did.

11 Q. And did that also include photographs taken both at
12 autopsy and at the emergency room by the coroner's office?

13 A. Yes, I reviewed them.

14 Q. And were you involved in a child fatality review
15 regarding **Minor** as well?

16 A. Yes. So the State protocol was activated in this
17 case, so there was a meeting of all those people I listed
18 before all in one room at the Lexington County Sheriff's
19 Office.

20 Q. All right. I'm gonna show you some photographs,
21 Dr. Lamb, which are State's 68, 69, and 53, and ask you
22 whether or not you're familiar with those findings in
23 **Minor** 's case?

24 A. Yes, I am.

25 Q. Now what can you tell us, Dr. Lamb, about bruising

1 and whether bruising occurs prior to death and after death?

2 A. Okay. So bruising is when there's blunt force trauma
3 to your skin. When something strikes it, it fractures that
4 blood vessel and your blood leaks out into the tissue
5 around it, and that's the coloration that you see that
6 makes a bruise there. It can be a lot, it can be a little.
7 If you're darkly skinned, it can take time for it to show
8 up through the skin. If you're, you know, glow-in-the-dark
9 like me, it doesn't take -- you can see the discoloration
10 there. But essentially your blood has to be pumping, your
11 heart has to be pumping because if you fracture that vessel
12 and there's no pressure behind it, it just kind of stops
13 there. So you have to have your heart beating and your
14 heart pumping to create a bruise in an individual. That's
15 contrary to kind of the myth about it, that bruising
16 appears after death. It may become more apparent because
17 as your blood settles in your body and drains out, you
18 might see it better underneath the skin over time, but it
19 was always there when your heart was pumping and you had a
20 blood pressure and the blood ooze out of the vessel there.
21 It just becomes more obvious as things settle in your body.

22 Q. All right. What, if anything, can you tell us about
23 Minor , your observations of Minor 's abdomen?

24 A. So in the pictures that were taken at autopsy and then
25 also in the statements from fire and EMS who came to the

1 scene, the one consistent thing was that her abdomen was
2 very distended, it was very tense and kind of domelike out
3 there.

4 Q. All right. What, if any, opinion do you have to a
5 reasonable degree of medical certainty as to the cause or
6 causes of that distended abdomen in **Minor** ?

7 A. So in a distended abdomen, that's more than what you
8 just get after eating there, and when we looked at her past
9 medical issues and such, that wouldn't account for it, but
10 when you have some kind of either injury to the abdomen
11 that kind of impacts your intestines and so they also kind
12 of puff up and distend there, you can get that tense
13 abdomen. You can get it if there's blood or something else
14 in the abdomen as well, but in **Minor** 's case on the autopsy
15 report they remarked that that abdomen was very distended
16 and then when they cut in, all the intestines inside are
17 distended as well. They're all kind of looking as if
18 they've had some kind of trauma and they're, you know, this
19 size when they should be this size.

20 Q. All right. And can you tell us what, if anything, you
21 observed about **Minor** 's vaginal area?

22 A. So on the autopsy report, it's noted that there was
23 frank blood, the blood that you can see with your naked
24 eye, you didn't have to have a special lamp to look for
25 it at her vaginal opening, and so they took photos of her

1 genital area and there's very clearly an injury there.
2 It's a cut. Kind of -- I'm gonna have to do this in the
3 air. So where the outer lips meet together, those outer
4 labia, there's a point right there and so from there kind
5 of going in towards the vaginal opening is where that
6 kind of cut or injury is and you can see it. It's -- the
7 injury is noted on the autopsy report and then they took
8 photographs that show that injury as well.

9 Q. And did that include the presence of blood?

10 A. Yes. So they noted -- you can see it in the picture
11 and they also on autopsy noted that there was blood they
12 could see with their naked eye at the vaginal opening
13 there.

14 Q. How, if at all, may that be apparent to a caregiver
15 for **Minor** ?

16 A. So in **Minor** 's case, she still was having diapers,
17 pull-ups, something, and a family member, a caretaker,
18 still would be wiping her. At this age kids aren't that
19 great at wiping themselves and so when a child is in a
20 diaper, a caretaker probably would have noticed it when
21 they go to wipe the area and you look and there's some
22 blood on it. Maybe if the diaper is really clean you might
23 see specks of blood in the diaper itself. And that open
24 cut, when you go to wipe, it hurts. It's just like an open
25 cut on your skin or anywhere else where you go wipe it, so

1 sometimes kids will jump, try to get away, ow, that hurts,
2 you know, don't wipe there, things like that.

3 Q. Now did you also have a chance to observe what would
4 be the urethra or the opening to the bladder?

5 A. So it's not remarked on in the autopsy report and I
6 can't see it clearly in the pictures.

7 Q. And how, if at all, can you distinguish what you
8 observed from something like a urethral prolapse?

9 A. Well, they're in different areas. When the lips
10 come together, the urethra is hiding up under the hood
11 like where the clitoris is up there, then you have the
12 vaginal opening, then you have the area where the lips
13 come together where I've seen that injury, so it's at two
14 different areas of the genitals. Urethral prolapse is
15 where the tissue of the urethra kind of pooches out and so
16 it's up here underneath the clitoris. If there was a
17 really bad urethral prolapse, it would be hanging down kind
18 of in the front of the vagina and like that opening and we
19 couldn't see that on the pictures.

20 Q. And can you tell us whether or not you have an opinion
21 to a reasonable degree of certainty as to what you observed
22 was a natural occurrence or some type of inflicted trauma?

23 A. Regarding the genital injury?

24 Q. Yes.

25 A. So where the injury is it's between the outer lips, so

1 that's not a normal accidental injury. So if a kid falls
2 on a balance beam or on the playground or something, it
3 hits those outer lips right there, that's called a straddle
4 injury, and that's very common, but for something to miss
5 those lips and actually make it into the area heading
6 toward the vagina, that's a penetrating injury there and
7 so that would be an inflicted injury. Now how someone
8 inflicted it, what inflicted it, I wasn't there, I don't
9 know, but I can tell you that it went between lips and it
10 was a penetrating injury into her genitals.

11 Q. Now what, if anything, did you review regarding
12 emergency medical services and the type of aid that was
13 rendered to **Minor** ?

14 A. Certainly. So there are run sheets, so when fire
15 first got there and what they did and what they saw and who
16 said what and then when EMS got there a couple -- a little
17 bit later what they did for her and then in the transport
18 through the ambulance to Lexington Medical Center ER where
19 she was also treated there, so we have that documentation
20 about what was done by medical personnel.

21 Q. What, if any, type of alternative airways were
22 established for **Minor** as part of her first responder
23 treatment?

24 A. So to help her breathe, you know, one of her big
25 problems was she was not breathing when they got to the

1 house and there was some vomit there and they saw -- EMS
2 calls it a partial obstruction, so when they tried to look
3 at where she was breathing, there was some vomit on part of
4 it but not all of it, so they would have sucked all of that
5 out with one of those suction tubes. And then first she
6 would have had that mask over her face and nose where you
7 squeeze it and it forces air in there for breathing and
8 then they very quickly moved to an airway, you know, a tube
9 that slides back and goes in, and so by the time you get to
10 her autopsy photos you can see she has that breathing tube
11 that's kind of taped where she was breathing, so those are
12 the kind of airways she had each time. You start with the
13 mask, make sure you can get air in there, clear everything
14 out, then move to the tube because it's a more technical
15 thing to do and so someone who has paramedic training or
16 is in the ER has to put those -- those airways in.

17 Q. How, if at all, may the bag, the mechanical valve
18 mask, affect any particles that may be in the airway?

19 A. So, you know, you're covering all of the mouth and
20 the nose, so they would have sucked everything they could
21 have seen or was up here in the airway, but if there were
22 smaller pieces kind of down here if you were pushing air
23 in, it would have pushed them further into kind of the
24 airways of the lungs down here. Because you can only get
25 a suction tube, you know, so far back in the neck. Once

1 you suck all of everything out there, whatever else is
2 below kind of gets pushed down, but that's why you do the
3 bag to make sure there's nothing blocking, you know, down
4 past where you can suction and do your -- they would have
5 been looking to see that her chest was rising and falling
6 and they were able to get air into her lungs.

7 Q. All right. Tell us how -- how a child is treated in
8 the emergency room by a pediatrician if that child has
9 suffered some type of ingestion or aspiration of food
10 particles.

11 A. Certainly. So kids choke on things quite often there
12 and so the first thing that you do is you look and see if
13 you can see it and so that's where EMS is talking about if
14 they could -- they could see some of the vomit, but it
15 wasn't blocking her whole airway, it was just part of it,
16 so they sucked that out. Then you're gonna try to bag and
17 give them ventilation and see if you can get air into the
18 lungs. If there is that peanut or that edamame or that
19 penny or that nickel that just perfectly fits a child's
20 airway, the minute you try to bag and do it the air can't
21 get in and so you know there's something sitting down
22 there. So then you turn them over, do the Heimlich for
23 kids, which involves, you know, back blows and such. You
24 try to get -- push below and get that to pop up. Now if
25 you can get air in with bagging, then you put in a

1 breathing tube there. With her abdomen so distended, you'd
2 drop a tube in her stomach to try to start sucking air out
3 of that so that her stomach will go down somewhat, and so
4 the real important thing is getting them breathing, getting
5 them oxygen, making sure -- and then once you get to the
6 hospital you'll get antibiotics to try to combat any
7 infection from those food particles that are down in your
8 lung and you'll be put on a ventilator and supported that
9 way.

10 Q. And how important, if at all, is the timeliness of
11 getting medical care to a child who has aspirated?

12 A. I mean, seconds matter. So every second that you're
13 not breathing, that oxygen is not getting to your lungs,
14 it's not getting to your brain, it's not getting to the
15 rest of your body and so your organs start failing, they
16 start taking blood away from your organs to try to push it
17 up towards your brain and your heart to try to keep you
18 alive, and so this is where -- you know, why we teach
19 people CPR and why we teach them the Heimlich because
20 seconds matter there. That's why we look at EMS and fire
21 run sheets because when seconds matter you can't have
22 fifteen minutes to get from where you are at your station
23 out to where a kid is because seconds is oxygen, oxygen is
24 brain tissue. The more brain tissue you lose, the more
25 devastating you're gonna be, so it's an immediate

1 response-type of situation.

2 Q. Now what if there isn't a complete blockage but just
3 a -- a partial blockage, but the airway is still impaired?
4 Tell us what type of provisions are necessary to treat a
5 child in that scenario.

6 A. So in those scenarios, some oxygen is coming in, so
7 it prolongs, so you get some oxygen so you have some blood
8 flow, you have some blood flow to the brain and the heart,
9 so it's a slower process where your body is trying to
10 compensate and trying to compensate and it keeps going
11 downhill and as less oxygen gets to your heart, it doesn't
12 pump as well. As it doesn't pump as well it's not able to
13 pump to your brain as well. If your brain is dying, your
14 lungs and heart are not working as well and so you do this
15 kind of slow spiral down, so you need that breathing tube,
16 you need to clear that obstruction, you need to give them
17 blood if they need blood, you need to give pressures to
18 support their blood pressure there. So where there's any
19 type of obstruction and any kind of choking episode, you
20 need to do things.

21 Q. In the field of pediatrics, have children been
22 successfully treated who have aspirated?

23 A. Yes. So we have a whole constellation of kids, you
24 know, the NIC-U graduates who have some issues with their
25 airways and suck and swallow, oftentimes they will have

1 what we call chronic aspiration where you have to be very
2 careful, they'll cough up something too big or when they
3 get sick they can't handle their mucus. This is something
4 that we treat all the time in the hospital and we try to
5 manage for our kids. So, unfortunately, as we have more
6 NIC-U graduates, it's kind of a common pediatric problem
7 that happens and then in other kids who are healthy it
8 happens when they get something in their airway.

9 Q. Are these symptoms symptoms that would be readily
10 apparent to a child's caregiver?

11 A. I mean, absolutely. If you're not breathing, you
12 know, a child is panicking, their eyes are going wide,
13 they're turning colors, they're not able to breathe, so
14 they're not able to walk, they're not able to talk, they're
15 not eating, and so you would very quickly realize something
16 is not right with my kid, they're not even looking at me
17 or, you know, doing normal -- people do this, you know,
18 they grab there. So particularly in older kids who are
19 able to do more, you notice it more because suddenly they
20 were playing and now it went quiet or they were eating and
21 now not a peep is coming out of them and so it's a very --
22 you know, it changes there. In babies it's harder to tell
23 because they breathe, suck, swallow, they aren't doing as
24 much, but certainly in older kids if you know your child,
25 you know that they're having issues.

1 Q. And what symptoms would you expect to a reasonable
2 degree of medical certainty if the child has suffered a
3 partial obstruction whether due to vomit or food particles?

4 A. So they're gonna cough. They're gonna try -- their
5 body is gonna try to clear that obstruction, so they're
6 gonna cough. Maybe they're bending over to try to kind of
7 self-Heimlich and get something out, they may be grabbing,
8 they're turning colors. So as their body isn't able to get
9 oxygen, they're going pale, then they're going blue, you
10 know, you get the blue around the mouth, you get the blue
11 on the fingertips. Then as blood flow isn't coming to
12 their brain, you know, they certainly aren't talking to
13 you, then they're going to not be able to walk, they're
14 gonna fall unconscious and then they kind of keep going
15 down until you end up at death.

16 Q. All right. And if there are particles in the lungs
17 but not a complete obstruction, what is the type of
18 symptomology that you would expect for a child in that
19 scenario?

20 A. So if it's in up here, they're still gonna cough, like
21 try to clear it there. They're also not gonna be able to
22 take deep breaths. It's gonna hurt somewhat to try to do
23 that and so their breathing will get funny. It will either
24 get really shallow and too fast or they'll try to take deep
25 breaths and stop and do that, so their breathing pattern

1 will definitely change. As the oxygen isn't pumping,
2 they're gonna turn colors as well. And so it just -- if
3 you have a partial obstruction, everything happens, it
4 just happens slower. And maybe they are able to take some
5 breaths, but their breathing is not normal, either faster,
6 shallower, and then as they get more injured, you know,
7 shallower and longer as well.

8 Q. Okay. And can aspiration occur if a child is forced
9 to vomit?

10 A. So, I mean, kids have gag reflexes as well, but,
11 yes, if a child is injured or sick and not able to protect
12 their airway, if they're vomiting a lot and they suck it
13 back, you know, you can have that going on. Particularly
14 if a child is not well at the beginning and then they're
15 vomiting and their brain isn't protecting them from
16 sucking it back, it could kind of get worse and keep going,
17 spiraling.

18 Q. What, if anything, did you determine regarding the
19 diagnosis of dehydration with **Minor** ?

20 A. So with dehydration, you know, your body tissue starts
21 to break down, but it's really odd, like your electrolytes
22 in your eyes stay the same. They're as when you die. So
23 we can look at the electrolytes in your eyes and see kind
24 of how hydrated or dehydrated you were at the time, so the
25 pathologist who did the autopsy noted that when she checked

1 her electrolytes in her eyes she was dehydrated, but that
2 just indicates that she was sick for a period of time to
3 get into that state of dehydration.

4 Q. Is dehydration a treatable condition in an emergency
5 room?

6 A. Certainly. I mean, that's where the big IV bags and
7 poles and you see people putting the huge IV into a little
8 kid and squeezing that bag to try to get the fluids into
9 them. It also helps their blood pressure and their blood
10 circulating around so then that helps oxygen get to the
11 brain so maybe you start making a little progress climbing
12 back up the ladder towards being healthier and well.

13 Q. And in an emergency room, what, if anything, is done
14 to treat a child for what's called cerebral edema or
15 swelling of the brain?

16 A. So swelling of the brain is a balancing act because
17 there's -- this is a closed surface so any swelling is
18 really dangerous, so we give medication to try to decrease
19 that swelling, to try to pull that swelling out of the
20 brain, so that's something that's done in the ICU and
21 that's where you'll see monitors that actually go through
22 the skull to monitor the swelling there and they'll have
23 multiple IV's in them so that we can very carefully balance
24 their blood pressure with their pressure in their head, but
25 there are medications and therapies that we can do to help

1 that.

2 Q. All right. Have you seen cerebral edema successfully
3 treated in a hospital?

4 A. Yes. So many children who have suffered some kind of
5 trauma there, ATV accidents are always really rough on kids
6 if they hit their head, and so several -- and then also
7 inflicted traumas to their head. They make up a large
8 portion of the kids who come through our PIC-U and some of
9 them do very well, some of them don't. It kind of depends.

10 Q. And if first responders are called when a child is
11 still breathing, how, if at all, may that affect a child's
12 prognosis?

13 A. So obviously the earlier you're called the more you
14 can intervene the better the child has. So say your brain
15 is swelling. I can help you by just bagging you faster
16 and making your oxygen go up and your carbon dioxide go
17 down. So immediately if all I have in the field is just a
18 bag, I can start making a difference right from that second
19 and trying to stabilize you so that we can then get you to
20 the hospital where the pediatric neurosurgeon is and the
21 pediatric intensivist is, so we start, you know, and we put
22 in those large IV's to try to get your blood pressure up,
23 so that -- so anything that can be done earlier, faster,
24 better has a better prognosis and chance. It's just like a
25 stroke or a heart attack, you know. The person who's found

1 immediately and given resuscitation does a lot better than
2 the person who's home alone that has anything happen to
3 them and they don't -- a family member doesn't find them
4 until later and they've been in that state kind of getting
5 sicker and sicker.

6 Q. And, finally, can aspiration, including particles in
7 the lungs, be successfully treated in an emergency room?

8 A. Yes, we -- we treat those quite often.

9 MS. MAYES: Thank you. Nothing further.

10 CROSS-EXAMINATION

11 BY MS. ZMROCZEK:

12 Q. Dr. Lamb, you reviewed, I think you said, the ER
13 records?

14 A. Yes, from Lexington Medical Center.

15 Q. Okay. And do you recall them taking a body
16 temperature?

17 A. I know that -- I am not sure. I remember a
18 temperature, but I don't know who took it along the way.
19 I'd have to see the report in front of me.

20 Q. Sure. Did you bring a copy or do you need to look at
21 mine?

22 A. If you have a copy, that would be helpful. Is it in
23 my report?

24 Q. I believe it is, but you relied on these records when
25 you --

1 A. Yes, I did.

2 Q. Okay. Here we go.

3 A. So her temperature on 7-31-2017 at 22:23 was
4 91 degrees Fahrenheit.

5 Q. 22:23 is 10:23?

6 A. Yes.

7 Q. Okay. PM?

8 A. Yes.

9 Q. And 91 degrees?

10 A. Yes.

11 Q. And then you also read the treating emergency
12 physician's notes?

13 A. I did.

14 Q. Okay. And, in fact, how does he describe when she
15 arrived at the emergency room?

16 A. Do you want me to start at where EMS arrived?

17 Q. No, just when she arrived at the emergency room.

18 A. Okay. When she arrived at the emergency room, her
19 pupils were fixed and dilated and her upper half of her
20 chest, shoulders, face were cyanotic. She had dependent
21 lividity of her legs, her abdomen was distended and
22 tympanic.

23 Q. And what does tympanic mean?

24 A. So tympanic is hollow, so when you hit on it it's like
25 a tympany drum.

1 Q. And it's hard, correct?

2 A. No.

3 Q. Okay.

4 A. Distended and firm would be hard. Distended and
5 tympanic means that when you strike it with your finger it
6 sounds hollow.

7 Q. All right. And if someone has their mouth with
8 masking tape put over it and so the air can't come out,
9 where's the air gonna go?

10 A. Are you talking about a one-way valve where you can
11 take air in and can't take air out or are you saying
12 there's no air in or out?

13 Q. There's no air in or out because -- and this is
14 Defendant's 8, tape is covering the mouth?

15 A. If there's no air in or out, there's no air going
16 anywhere.

17 Q. So when they put it in, is someone's still gonna try
18 to breathe? Breathing is a natural reaction, right?

19 A. Yes, your brain makes you breathe, but I'm confused
20 as to the question of where the air's coming. So is
21 someone trying to put air in them?

22 Q. No, if they're -- if they're trying to breathe or if
23 they're maybe able to get a tiny little bit of air through
24 some little slit.

25 A. Uh-huh. Where does it go?

1 Q. Right.

2 A. Down into the lungs.

3 Q. Okay. And then you were also familiar that in 2015
4 she had a fluoroscope swallowing study? Did you review
5 those records as well?

6 A. No, I didn't review all her past medical records.

7 Q. Okay. Well, I'll hand these to you.

8 A. So they put her on a regular diet with thin liquids.
9 They did say to make sure she doesn't aspirate and just
10 take small sips or bites and keep her upright and they
11 recommended some speech therapy to help her with her
12 swallowing.

13 Q. Okay. And so they said to -- recommended to keep her
14 upright?

15 A. Yes. That was June 10th of 2015 when she would have
16 been less than two.

17 Q. Okay. And when did you become -- so you were part of
18 that emergency team meeting, right?

19 A. I was.

20 Q. Okay. And you reviewed photographs at that time?

21 A. Yes. So at that time there had been an autopsy and
22 so we had scene photographs from the first passthrough of
23 the scene, we had the autopsy photographs, we had the ER
24 records and I believe at that time there were initial
25 statements from the family about what had occurred.

1 Q. Okay. And at that time you recall telling
2 investigators that the bruising inside her anus and
3 vaginal area you were 100 percent confident that she had
4 been sexually assaulted prior to her death?

5 A. So those -- I diagnosed sexual abuse with her there.
6 I explained those findings there. Those meetings are
7 meant to help guide the investigation and such so the
8 -- yes, she did suffer sexual abuse at that time, but
9 there's no written report because we don't have all the
10 information at ten days after a death. Like there's still
11 things that come on and so sometimes we still have to
12 revise what had happened, which is why before this, once
13 all the information was in, the solicitor asked me to look
14 at everything and prepare a report.

15 Q. And so in looking at everything, you received the --
16 you received the information about the mother placing tape
17 over her mouth?

18 A. So that was in mother's statement, yes.

19 Q. Okay. And also that her arms were over her head?

20 A. So it was hard to tell from the statement. She was
21 taped to the bed and restrained, but I also had the
22 forensic interview from the child and he was talking about
23 taped to her abdomen and side and so it was very hard to
24 figure out. I knew she had had her wrists taped from all
25 of the statements, they agree with that, but how her arms

1 were was not really clear from the statements that were
2 written.

3 Q. Right. And in watching the forensic interview when he
4 demonstrated how her arms were --

5 A. I reviewed the report. I didn't watch the entire
6 forensic interview.

7 Q. Oh, so you didn't watch it. And you did read the
8 amended autopsy report after Dr. Ross was able to view
9 those slides?

10 A. Yes. So once she had done further studies and I
11 believe after some more statements, she amended her final
12 autopsy diagnosis.

13 Q. And that included what notations of the -- actually if
14 you will just review the case history.

15 A. So this is Dr. Ross's report, so amended case history.
16 This four-year-old Hispanic female was allegedly found
17 unresponsive by her mother on 7-31-2017 in her bedroom
18 early in the PM. She was last seen alive that same date
19 approximately an hour earlier and allegedly she had
20 thrown up and dirtied her shirt. The mother confessed
21 to taping the victim's mouth and tying her to the bed.
22 Apparently she was in that position for some time. There
23 was also a delay in getting this victim medical treatment
24 after being found unresponsive.

25 Q. And also when you have that aspiration in her lungs as

1 you saw, you wouldn't disagree that it would take seconds
2 for her to stop breathing?

3 A. So it all depends on where the vomit was in her airway
4 and whether it partially blocked her airway or fully
5 blocked her airway. So, no, if you just say aspiration,
6 that doesn't mean it's a seconds process. It can be an
7 hours process.

8 Q. And that was actually the second diagnosis. Certainly
9 you've seen the death certificate, right?

10 A. Yes, I have.

11 Q. And it lists aspiration as the second cause?

12 A. So it's -- let me -- it's a little awkward here.

13 Q. Sorry.

14 A. So the first cause is asphyxia. Asphyxia just means
15 lack of oxygen. So it also has -- always has to be tagged
16 to due to. Asphyxia due to suffocation, asphyxia due to
17 strangulation, asphyxia due to choking, so the two go
18 together. You can't have asphyxia just like, I don't know,
19 there wasn't oxygen. It always has to have a secondary and
20 that's the aspiration of vomitus.

21 Q. And then what's the third and fourth?

22 A. The third and fourth are immobility and restrained to
23 bed with tape over mouth. So each one says asphyxia due to
24 aspiration of vomitus, due to immobility, due to restrained
25 to bed with tape over mouth.

1 Q. You testify in court cases often?

2 A. Yes, I do.

3 Q. Often for the State?

4 A. So I've been subpoenaed by both sides there and so we
5 testify for whoever requests our assessment.

6 Q. And you're certainly being paid for that time?

7 A. No, I'm not paid for that time.

8 Q. Okay. Do you recall being subpoenaed by our office as
9 well?

10 A. Yes, I was subpoenaed by both offices in this case.

11 Q. Okay. And do you recall sending a fee schedule over?

12 A. Yes. So that money is for the time I'm not seeing
13 patients and so that money comes out and goes directly to
14 the Department of Pediatrics to provide services for kids.
15 So it doesn't matter if I testify twenty times or two
16 times, my salary stays the exact same. So I do not get
17 paid for that time, but my employer requests payment for
18 the time I'm not in the office and seeing patients so that
19 they can keep taking care of other patients.

20 Q. And how long did you do the case review on in this
21 case?

22 A. How long ago?

23 Q. No. No. No. How much time did you spend on it?

24 A. Do you mean for the report?

25 Q. Sure.

1 A. So the report with all the collected information
2 probably was about four to six hours of work to look
3 through all the photographs, all the reports, the autopsy
4 and everything that had been created there.

5 Q. And were you provided copies of the tape that was
6 found and identified to be placed over her mouth?

7 A. Yes. So I did receive some scene photographs, not all
8 of them, from every scene. They had kind of selected out
9 the ones that were pertinent there and sent them onto me.

10 Q. Okay. And can you testify to a medical degree of
11 certainty if someone is not able to breathe because their
12 mouth and nose are covered how long it would take for them
13 to be without oxygen?

14 A. So, again, I would testify that it depends how -- what
15 the obstruction is, whether you can get some air in or out
16 and then we could make some determination perhaps.

17 Q. So in this case not only do we have the vomitus and
18 the food, we have in a position that is supine, right?
19 Lying down?

20 A. Yes, she was lying down.

21 Q. Arms -- and I know that you didn't watch the video,
22 it's unclear, but either at least restrained to the side or
23 somewhere?

24 A. Yes.

25 Q. And additionally tape over the mouth?

1 A. Yes, that's what's reported that occurred.

2 Q. With a diagnosis of a -- of swallowing issue?

3 A. So she didn't have a swallowing issue at four years
4 of age that I saw was reported in the medical records.

5 Q. You never -- okay. Did you ever see where they had
6 cleared that up?

7 A. So I do have medical records that came from other
8 evaluations. This child was a premature infant and so she
9 did grow out of several of her issues there.

10 Q. Right, and those issues dealt with she had a feeding
11 tube when she was in the NIC-U, right?

12 A. Right. And she also had that swallowing that then
13 they worked with speech therapy and she graduated from and
14 had a normal diet.

15 Q. And what date do you have that graduation as?

16 A. So we have a later evaluation there from 2017.

17 Q. Okay. And then -- and she -- this occurred in July of
18 2017, right?

19 A. Yes, that's July 31st, and then the swallow study was
20 -- that you presented was June 10th of 2015.

21 Q. And your notes reflect that she had graduated from her
22 class in 2017?

23 A. So we had an instance where we -- someone interacted
24 with her and spoke with mother and father about her medical
25 diagnosis and they reported that she had graduated and was

1 normal at that time.

2 Q. And, finally, you were talking about how seconds and
3 minutes matter?

4 A. Yes.

5 Q. And are you aware of how long it took for the first
6 responders to arrive on-scene?

7 A. Seven minutes.

8 MS. ZMROCZEK: Thank you.

9 REDIRECT EXAMINATION

10 BY MS. MAYES:

11 Q. Dr. Lamb, defense counsel was just asking you about a
12 scenario where the mouth and nose were covered?

13 A. Yes.

14 Q. You had an opportunity to review statements of the
15 Defendant in this case?

16 A. Yes.

17 Q. As well as Cynthia Lopez?

18 A. Yes.

19 Q. As well as the forensic interview report of E.L.
20 ?

21 A. Yes, I reviewed them all.

22 Q. Was there ever any indication that Minor 's nose
23 was covered?

24 A. No. So it's described as covering the mouth with a
25 single piece of tape that was a rectangle.

1 Q. I'm gonna show you what is in evidence as State's 32.
2 So under the scenario that defense counsel just asked you
3 about, if someone has their mouth covered, can the nose
4 still provide oxygen?

5 A. Yes.

6 Q. And what can you tell us about the question you got
7 about the body temperature at 10:23 PM being 91 degrees,
8 10:23 PM with 9-1-1 being called at 9:05 PM? So roughly
9 one hour and eighteen minutes from the time 9-1-1 is
10 called, what, if any, variables can you tell us go into a
11 drop in body temperature?

12 A. So body temperature, it's hard to tell how far it's
13 gonna drop after you pass away. It depends on are you
14 clothed, are you not, have you been placed in water, which
15 leeches heat away from the body, have you not, have you
16 been laying up against a surface such as tile that leeches
17 body heat away, have you not -- had someone wrapped you up
18 in something and, you know, snuggled you close to their
19 body so that their body temperature is going into yours.
20 It definitely varies. In cases where kids drown in pools
21 or bathtubs is a classic example of where it's really hard
22 because that water is leeching that temperature away from
23 them and so they get very cold even though it may be a hot
24 day and it's also because they're unclothed and they're
25 just radiating heat. So it's not an exact science of once

1 you die every hour you're gonna drop one degree there.
2 You have to take in multiple variables that occur and so
3 91 degrees means you're cold, you're probably dead at that
4 point, but how far before there's a lot of variables that
5 could come into play.

6 Q. And can you tell us whether or not you received a
7 history in **Minor** 's case that she had been left in a shower
8 naked prior to 9-1-1 being called?

9 A. Yes. So in both mother and father's written
10 statements they said it was at least an hour that she was
11 in the bathroom since they had last saw her and were
12 cleaning her up and when mother came out and said she's not
13 breathing and 9-1-1 was called.

14 Q. And, Dr. Lamb, based on everything you have reviewed
15 in this case, is it known exactly when the aspiration
16 occurred with **Minor** ?

17 A. No. So when you're talking about aspiration here,
18 there were episodes where people saw vomit on her, there
19 were episodes where they were cleaning her up and yet was
20 vomiting, but it's multiple times. Even as they're doing
21 the 9-1-1 call, they're pushing and she's vomiting and
22 they're telling them to clean out her mouth, so we don't
23 have a good time of this is exactly when this aspiration
24 happened and that was the one aspiration in this multiple
25 scenario that ended her life.

1 Q. And is it known based on everything you reviewed when
2 the tape was removed from **Minor** ?

3 A. So based on the histories that are provided, the tape
4 was removed by father after he had come home.

5 Q. All right. Is there an exact known time for that?

6 A. Both mother and father in their statements put his
7 arrival at 7:00 PM; however, after he comes into the house
8 and when he checks and when the tape is removed somewhat
9 varies between the statements.

10 MS. MAYES: Thank you, Doctor. Nothing further,
11 Dr. Lamb.

12 MS. ZMROCZEK: Nothing further, Your Honor.

13 THE COURT: You may step down.

14 THE WITNESS: Am I released?

15 THE COURT: You are.

16 THE WITNESS: Thank you.

17 MS. MAYES: No objection from the State, Your Honor.

18 (Witness excused.)

19 MS. MAYES: May we approach?

20 (Proceedings held at the bench; not reported.)

21 THE COURT: All right, folks. We're done for the
22 day. Y'all step in the jury room, put your stuff away,
23 have a good evening. Remember you can't discuss the
24 case and we'll deal with some more testimony in the
25 morning. Have a good evening.

1 MS. MAYES: Yes.

2 THE COURT: All right. Bring the jury.

3 (Defendant's Exhibit Numbers 22 through 33 were
4 marked for identification.)

5 (Whereupon, the jury enters the courtroom at
6 9:37 AM.)

7 THE COURT: All right. Sorry. We had to deal
8 with a little issue about a reluctant witness and a
9 supervising attorney and so I've sent for the attorney
10 to come explain to me why the witness is reluctant.

11 Anyway, hopefully I don't have to compel their
12 attendance, but that's between me and the witness.

13 Call your next witness.

14 MS. MAYES: The State calls Justin Ashley.

15 (Whereupon, Justin Ashley was duly sworn by the
16 Clerk of Court.)

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

19 THE WITNESS: My name is Justin Ashley. Last name,
20 A-S-H-L-E-Y.

21 JUSTIN ASHLEY,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. MAYES:

25 Q. And where are you currently employed?

1 A. I'm currently employed at the Lexington County
2 Sheriff's Department.

3 Q. All right. And what type of work do you do there?

4 A. I've currently been involved in the investigations
5 unit for approximately three years.

6 Q. All right. And does that include major crimes
7 division?

8 A. Yes, ma'am.

9 Q. And were you working in that division in 2017?

10 A. Yes, ma'am.

11 Q. Detective Ashley, did you have the opportunity to
12 attend a search warrant which was executed at [REDACTED] Nazareth
13 Road on August 10, 2017?

14 A. Yes, ma'am, I did.

15 Q. And were you present when evidence in that case was
16 collected?

17 A. Yes, ma'am.

18 Q. I'm gonna show you what is State's Exhibit 32 and ask
19 you whether or not you're familiar with that item?

20 A. I am, ma'am.

21 MS. MAYES: Already in evidence, Your Honor.

22 BY MS. MAYES:

23 Q. And, Detective Ashley, did you observe this item of
24 evidence in -- with your -- with your naked eye?

25 A. Yes, ma'am.

1 Q. And can you tell us whether this photograph accurately
2 depicts that tape as it was recovered that day from [REDACTED]
3 Nazareth Road?

4 A. Yes, it does.

5 Q. Does that include the opening there in the middle of
6 it?

7 A. Yes, ma'am, it does.

8 MS. MAYES: Thank you. Nothing further.

9 MS. ZMROCZEK: We have nothing, Your Honor.

10 THE COURT: All right, Detective. You may be
11 seated -- or, I mean, you may be excused.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 MR. McNAIR: Your Honor, the State calls Mike
15 Phipps.

16 (Whereupon, Michael Phipps was duly sworn by the
17 Clerk of Court.)

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

20 THE WITNESS: Michael Phipps, P-H-I-P-P-S.

21 MICHAEL PHIPPS,

22 having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. McNAIR:

25 Q. Investigator Phipps, where do you work?

1 A. I work at the Lexington County Sheriff's Department.

2 Q. What is your current position there?

3 A. I'm a forensic technology examiner.

4 Q. All right.

5 A. I examine digital evidence.

6 Q. Are you on any special task force as well?

7 A. I am. I belong to the South Carolina Electronic
8 Crimes Task Force.

9 Q. Now as part of your job, do you regularly analyze
10 digital devices like cell phones?

11 A. Yes, I do.

12 Q. All right. And you do what's known as phone
13 extractions?

14 A. Yes, sir.

15 Q. All right. Can you explain to the jury what a phone
16 extraction is?

17 A. When you extract data off of a phone, we use a
18 hardware device specifically designed to attach to the
19 phone, pull that data off of the phone without altering the
20 data that's recovered from the device. It uses forensic
21 tools that are scientifically proven to render those
22 results, it doesn't change the results, and then that data
23 is analyzed with software to carve out things like text
24 messages, photos, communications from third-party apps you
25 may install on your phone. Just basically everything on a

1 phone just like it was a computer.

2 Q. All right. And what's your back -- background and
3 training in doing cell phone extractions?

4 A. I've been examining cell phones since 2007. I've had
5 numerous courses totalling over 700 hours of instruction
6 since then in digital evidence and processing digital
7 evidence.

8 Q. All right. And how many times have you been qualified
9 as an expert in this field before?

10 A. I believe it's fourteen now.

11 MR. McNAIR: Your Honor, at this time we'd offer
12 Investigator Phipps as an expert in the forensic
13 examination of digital devices, including cell phones.

14 MS. ZMROCZEK: We do not challenge any expertise
15 from Mr. Phipps.

16 BY MR. McNAIR:

17 Q. All right. Did you --

18 THE COURT: Hang on. That's a long qualification,
19 so I want to make sure I've got it right. Forensic
20 examination of --

21 MR. McNAIR: Digital devices.

22 THE COURT: -- digital devices.

23 All right, folks. He can offer opinions in the
24 field of forensic examination of digital devices,
25 basically cell phones and computers, but in this case

1 I think he said he's focussing on cell phones.

2 Fair enough. Good enough. He's so qualified.

3 MR. McNAIR: Thank you, Your Honor.

4 BY MR. McNAIR:

5 Q. Investigator Phipps, in this case did you perform
6 an extraction on a phone that was known to belong to
7 Mr. Steadman?

8 A. Yes, sir, I did.

9 Q. And was that phone number 497-2410?

10 A. Yes, sir, it was. It was an LG phone.

11 Q. I'm gonna show you what's been marked as State's
12 Exhibit 37. Take a look at that.

13 A. Yes, sir. This is the same thing.

14 Q. All right. Now after extracting the information off
15 of that phone, were you able to isolate and produce a
16 report showing the text messages between Cynthia Lopez and
17 Mr. Steadman on July 31st of 2017?

18 A. Yes, sir, I was.

19 Q. All right. And were you able to verify that the date
20 and time information on the phone was correct?

21 A. Yes, sir, it was.

22 Q. And how were you able to verify that?

23 A. Through the operating system and the software that was
24 used tells you whether the phone was synced to the service
25 provider's network, so it auto updates.

1 Q. All right.

2 MR. McNAIR: Your Honor, at this time we'd offer
3 that report into evidence subject to redactions that
4 we have discussed with defense counsel that we are
5 currently working on, so we plan to introduce that at
6 a later time.

7 THE COURT: I think the foundation has been laid for
8 its introduction --

9 MS. ZMROCZEK: Right. Yes.

10 THE COURT: -- subject to the redactions. So the
11 redacted report will be admitted when you get it ready.

12 MR. McNAIR: Yes, sir.

13 THE COURT: All right.

14 MS. ZMROCZEK: And I told them as long as I could
15 see what those were, yes.

16 THE COURT: Sure.

17 BY MR. McNAIR:

18 Q. Now were you also tasked with looking for information
19 on this phone concerning any evidence of Netflix activity
20 on July 31st of 2017 between the hours of 7:00 PM and
21 9:00 PM?

22 A. Yes, sir, I was.

23 Q. And did this phone have Netflix on it?

24 A. It did. It had the Netflix app installed on it.

25 Q. All right. And when is the first time that you see

1 any evidence of Netflix activity between that timeframe on
2 the phone?

3 A. I would have to have my timeline report that I
4 generated if you have a copy of that that I could
5 reference.

6 Q. (Handing.)

7 A. The Netflix app was accessed on July 31, 2017, at
8 8:26 PM.

9 Q. 8:26 PM?

10 A. Yes, sir.

11 Q. All right. And did you see any other activity after
12 that time?

13 A. The next activity on the device was an outgoing phone
14 call to 9-1-1.

15 Q. And what time was that?

16 A. That was at 9:05 PM.

17 Q. Okay. And how is Ms. Lopez saved as a contact on the
18 Defendant's phone?

19 A. Again, I don't have any of the documents in front of
20 me. I'd have to have something to reference.

21 Q. And are you aware that her number is 556-0159?

22 A. Yes. The phone number 803-556-0159 had the custom
23 name of Sugar Bear associated with it within the device.

24 Q. Okay. All right. Based on the report that you have
25 up there, can you read to us the texts between Mr. Steadman

1 and Ms. Lopez on July 31, 2017?

2 A. You want me to begin at 12:32?

3 Q. I would begin at the beginning of that day, the first
4 text.

5 A. There's an outgoing text message to the phone
6 identified as 803-556-0159, Sugar Bear, that just says hey.
7 That's followed up by an incoming response of hey back. An
8 outgoing smiley face emoji, outgoing, saying how are
9 you. We are not talk -- we are not taking lunch, just a
10 quick break. Can't call insurance for dad. Then an
11 incoming response I'm okay, but okay, just doesn't make
12 sense why he needs to be on the policy tomorrow, but he so
13 -- but he so get paid till Thursday and you know then would
14 want him to pay tomorrow, so I don't know. That's followed
15 up by another incoming, but I will call and ask. My phone
16 is acting up, is being slow. An outgoing response to the
17 same phone oh, no, we will get you a new phone and me an
18 impact drill. Incoming response of no, I'm fine with the
19 phone. I just need to reset it. Did you ask about the
20 drill.

21 And the reason I'm having to pause is there's
22 multiples here I'm having to sort through. Let's see.

23 There's an outgoing response okay, baby. Incoming
24 response did you ask about the drill.

25 Q. Can you -- can you just give us the times of those

1 texts prior to reading them?

2 A. Yeah. The -- the last, did you ask about the drill,
3 occurred at 10:42 PM on the 31st.

4 Q. 10:42 PM or AM afternoon?

5 A. PM, afternoon. I'm sorry, 12. Did I say 10?

6 Q. You said 10.

7 A. I'm sorry. I misspoke.

8 Q. 12:42?

9 A. 12:42 PM. Then at 12:43 PM, an outgoing, Gary ignored
10 me today, so I'll get the 100 Cobalt impact drill with a
11 battery and a bit kit. A response -- incoming response of
12 how much is that at 12:44. An outgoing response of almost
13 two hundred at 12:45. And then incoming response of and
14 where -- and when where you get it at 12:46. An incoming
15 response at 12:47, okay. An outgoing response at 12:48 of
16 an emojiicon kissy face. At 12:48 an outgoing love you mean
17 it. At 12:49 an incoming why are you saying this question
18 mark. You never say that to me question mark. What did
19 you do question mark. What are you -- what are you
20 planning question mark. What are you hiding from me
21 question mark.

22 Q. And that was the response of Ms. Lopez to him saying
23 love you mean it?

24 A. That is correct, at 12:49 PM. Then an outgoing at
25 12:51 nothing besides the fact that I still want to buy you

1 something for your birthday. At 12:52 an incoming response
2 I'm telling you you don't have to do anything. Then his
3 outgoing response at 12:52 but I want to. Then an incoming
4 response at -- the next text message is an incoming at
5 7:58 PM that reads you always leaving.

6 Q. All right. So just to be clear, there was a gap in
7 activity or communications between 12:52 PM and 7:58 PM?

8 A. That's correct.

9 Q. And the text you just read, you always leaving, at
10 7:58 PM, that was a text from Ms. Lopez to the Defendant?

11 A. That is correct, an incoming to the phone, the LG
12 phone. The response -- outgoing response at 7:59, I
13 checked the mail. An incoming response at 8:00 PM, always
14 leaving. And then that's the last text message on there.

15 Q. Okay.

16 MR. McNAIR: That's all I have, Investigator Phipps.
17 Please answer any questions Ms. Zmroczek has.

18 CROSS-EXAMINATION

19 BY MS. ZMROCZEK:

20 Q. Good morning.

21 A. Good morning.

22 Q. Investigator Phipps, you extracted how many phones in
23 this case?

24 A. We looked at three phones.

25 Q. Okay.

- 1 A. I believe -- yes, three phones.
- 2 Q. All right. So you just read some text messages off of
- 3 Cynthia's phone, right?
- 4 A. Those were the LG phone.
- 5 Q. Okay. So off David's phone?
- 6 A. Right.
- 7 Q. But you also downloaded Cynthia's phone, which was the
- 8 -- you get into a foreign language with all this. Is this
- 9 -- is this the cover sheet that you did for that report?
- 10 A. It is.
- 11 Q. Thank you.
- 12 A. It's indicating a Samsung Model FPHL phone.
- 13 Q. And when you extracted that Samsung, it's over -- you
- 14 get over 5,000 pages of information?
- 15 A. Yes, there's quite a bit of data.
- 16 Q. All right. So that information includes Google
- 17 searches?
- 18 A. It can, yes.
- 19 Q. And like we saw, like application accessories?
- 20 A. Right. Any activity potentially can be logged on the
- 21 device, your interactions with the phone, the applications
- 22 on the phone doing certain things.
- 23 Q. And the way -- I guess the way that phones are today,
- 24 it carries all kinds of information?
- 25 A. Right, it logs quite a bit of information.

1 Q. Now I want to talk a little bit about the phones when
2 you -- when you first get them and you extract them. What
3 do you do with all that information? Do you put it on a
4 CD, do you --

5 A. Oh, the information recovered from the phone?

6 Q. Yes.

7 A. Yeah, it's -- the raw data that's recovered from the
8 device is archived onto a server in our lab and it's
9 maintained there as evidence.

10 Q. Okay. And then what happens? Do you go and you pick
11 and choose what -- what pictures or things to identify or
12 how does that work?

13 A. No, we -- we produce as comprehensive of a report as
14 is possible and we turn that over to the investigator and
15 other interested parties to look at it themselves and
16 determine what's relevant to their case.

17 Q. And so in this case, did you turn it over to the
18 investigator?

19 A. Yes.

20 Q. And that would have been this investigator right here,
21 Investigator Andaloro?

22 A. Yes, ma'am.

23 Q. Okay. And so he then does what with that information?
24 Does he guide you on what to look for?

25 A. Sometimes I get responses back for clarification if

1 they don't understand something they're seeing in the data,
2 then, yes, I'll get a question back asking can you explain
3 this or what does this mean in relevance to everything
4 else.

5 Q. And you got that in this case as well, right?

6 A. Yeah, there were some back and forth.

7 Q. In fact, they asked you to target some specific times?

8 A. Yes, ma'am.

9 Q. Okay. And that was this detective?

10 A. I don't have a recollection from 2017 the back and
11 forth, but recently in trial prep there was some back and
12 forth with the solicitor's office.

13 Q. Certainly. But prior to the solicitor's office being
14 involved, you had been dealing with the detectives?

15 A. That's correct.

16 Q. All right. And I'm gonna show you -- while he's
17 looking at those, in addition, you downloaded an iPhone,
18 an Apple iPhone, correct?

19 A. Yes, ma'am.

20 Q. And that belonged to Sonia Lopez or Sonia Medrano?

21 A. I believe that's what I was advised, but I don't have
22 any direct knowledge.

23 Q. Okay.

24 MR. McNAIR: No objection, Your Honor.

25 BY MS. ZMROCZEK:

1 Q. I'm gonna show you what's been marked 24 through 33
2 and ask you if you can look at those and recognize them.
3 Do you recognize those?

4 A. It appears to be photos from the iPhone, yes, ma'am.

5 Q. Okay. And would this have been a report that -- or
6 this would have been information that you would have
7 provided?

8 A. Yes.

9 Q. Okay. And do they fairly and accurately depict what
10 would have been pulled from your report?

11 A. Yes, ma'am.

12 MS. ZMROCZEK: Your Honor, at this time we would
13 move 24 through 33 into evidence.

14 THE COURT: No objection?

15 MR. McNAIR: Right.

16 THE COURT: Tell me again the foundation. This
17 Sonia --

18 BY MS. ZMROCZEK:

19 Q. Sonia Lopez, you weren't advised who she was, right?

20 A. No, ma'am.

21 Q. So if you were just handed a phone and told it was
22 Sonia Lopez, would that be -- it would be related with this
23 case, it was with this case number, right?

24 A. Correct.

25 Q. And you wouldn't have any way of knowing that she's

1 the mother of Cynthia Lopez?

2 A. Unless it was in the affidavit, whatever was
3 originally written in the affidavit, would be pretty much
4 the only information I had in the very beginning.

5 Q. Okay. And, in fact, sometimes you have to have
6 affidavits, which are search warrants, but sometimes people
7 just -- they just allow you to -- they sign a release so
8 that you can download their phones; is that correct?

9 A. That is correct.

10 THE COURT: All right.

11 Defendant's 24 through 33, which I understand are
12 photo images from Sonia Lopez's iPhone, who's the mother
13 of --

14 MS. ZMROCZEK: Who is the maternal grandmother of
15 **Minor** .

16 THE COURT: -- maternal grandmother of **Minor** ,
17 they're admitted without objection.

18 MS. ZMROCZEK: Thank you.

19 (Defendant's Exhibit Number 24 through 33,
20 photographs, were admitted into evidence.)

21 BY MS. ZMROCZEK:

22 Q. All right. I'm putting up what is Defendant's 24.
23 Now can you explain to the jury what they're looking at
24 here?

25 A. Well, as you would imagine your device, you're capable

1 of taking photos on the device, it maintains them in
2 various file folders on the device. In this instance,
3 there's a particular item that's been highlighted. I think
4 that's 422 if I can see that correctly.

5 Q. Okay.

6 A. And then in the right-hand column it's showing you a
7 little bit larger version of the image, the file name for
8 the image and then some metadata about that image.

9 Q. This is the metadata?

10 A. In this case, it's showing an Apple iPhone is what
11 took the photograph and then the capture time, date and
12 time, that the photo was taken.

13 Q. All right. Now the capture time of July 30, 2017,
14 at 1:33:24 PM, so that was the time that the picture was
15 actually taken from the phone? Not like -- you didn't take
16 it from the phone, but the phone was taking the picture?

17 A. Correct.

18 Q. And so -- so that -- and that information, when you
19 download the phone, you cannot change that, you cannot
20 alter that at all, right?

21 A. That's correct.

22 Q. Okay. So this picture, and I think I have a larger
23 image of it here, Defendant's 25, so -- all right. So this
24 picture is the picture that we see a portion of right
25 there, correct?

1 A. I'll take your word for it, yes, ma'am.

2 Q. Here we go.

3 A. All right.

4 Q. So we can't see her whole face in the little snippet,
5 right, but when you have the --

6 A. Well, as far as the actual same photo, it appears her
7 arm's in a slightly different position on the right arm, so
8 it may not be the exact same image, but it's probably from
9 the same series.

10 Q. All right. So they have a series of photos. All
11 right. So Defendant's 26. Again, so you have the little
12 bitty one here, right?

13 A. Correct. Yes, ma'am.

14 Q. And then you have a slightly bigger version and then
15 with the metadata?

16 A. Correct. Yes, ma'am.

17 Q. Okay. And, again, metadata reflects the date and time
18 that they were taken?

19 A. It does.

20 Q. Okay. And that's done with -- you do that with
21 several different photos?

22 A. Yeah, the software documents all the encoding whether
23 -- if there's metadata present it shows you.

24 Q. Okay. And, in fact, you even printed off a couple of
25 -- this is Defendant's 28. Or you didn't print, you

1 generated reports, so it will -- it will actually have the
2 image number, right?

3 A. Yes, ma'am.

4 Q. Okay. And so all of these images and all of that
5 information would come from the date -- that same date that
6 it was logged in on the phone, correct? So it would be --

7 A. The metadata -- the metadata is gonna reflect the date
8 and time the image was taken. There's other dates and
9 times that could show when it was copied or moved or sent
10 to somebody.

11 Q. Or downloaded.

12 A. But the metadata itself, if there's any data recorded
13 within the metadata field and it shows a capture time,
14 that's gonna be the actual time the image was taken on that
15 device.

16 Q. And also you can't -- once the phone is extracted and
17 you're taking it down, you can't go in and -- and retouch
18 any of these photos and take away any bruises that were
19 there or anything like that, so these photos are exactly as
20 they were on the phone, correct?

21 A. Yes, ma'am.

22 Q. Okay. And this is Defendant's 32. It's a little hard
23 to see with the glare. And then Defendant's 33. And so
24 when these photos are taken, these are -- you know,
25 depending on how the camera is angled, but these are

1 exactly as the person would appear on that date?

2 A. Yes, ma'am.

3 Q. And, again, these were taken at July 30th at 1:30 --
4 around 1:30 in the afternoon?

5 A. (Nods head.)

6 Q. Thank you. In addition to text messages and call
7 logs, like you said, there are also Google searches and --
8 and other application accessories that you can find on a
9 phone?

10 A. Right. Like your -- your web activity. If you're
11 using the Chrome app on your phone, then it's gonna have a
12 database that logs that activity.

13 Q. Okay. And, like I said, there were over 5,000 pages,
14 so there's a wealth of information within those?

15 A. That's correct.

16 MS. ZMROCZEK: Thank you. I have no further
17 questions, Your Honor.

18 THE COURT: Any redirect?

19 MR. MCNAIR: Nothing further, Your Honor.

20 THE COURT: Detective, you may step down.

21 (Witness excused.)

22 MS. MAYES: At this time, Your Honor, the State
23 will rest.

24 THE COURT: All right, folks. I've got to do some
25 things on the record, prior legal issues, so y'all step

1 in the jury room, have your break, and I'll have you back
2 in here in just a few minutes.

3 (Whereupon, the jury retires to the jury room at
4 10:06 AM.)

5 THE COURT: All right, Ms. Zmroczek. Do you want
6 to --

7 MS. ZMROCZEK: Thank you.

8 Your Honor, at this time we would move for a
9 directed verdict under Rule 19. And I'm sorry I didn't
10 have an opportunity to print the cases off for you, but
11 there are two cases that I would like for you to maybe
12 have your law clerk pull up and read.

13 The first one is State v. Hepburn. And, Your
14 Honor, this is an Eighth Circuit case that Your Honor
15 did not hear, but --

16 THE COURT: I'm familiar with it. I've dealt with
17 parts of it in the bond and whatnot. I remember.

18 MS. ZMROCZEK: Okay. All right. So you're familiar
19 with the facts of Ms. Ashley Hepburn and her partner,
20 Richard Lewis, who were both charged in the death of a
21 child. That case went all the way through trial. They
22 were convicted. It went obviously through the Court of
23 Appeals to the Supreme Court where it was overturned,
24 Your Honor, for this very -- this very same kind of
25 information. What they're saying is on a Rule 19 you

1 have to have substantial circumstantial evidence of the
2 death being involved.

3 The second -- and I'll explain why that they both
4 apply. The other case was out of Charleston, Your
5 Honor. It was State v. Palmer, P-A-L-M-E-R, and Gorman,
6 G-O-R-M-A-N. Ms. Julie Gorman and Mr. Robert Palmer
7 were also grandparents, both charged with the death of
8 an infant within their care.

9 In both of those cases, Your Honor, there was a
10 -- there was an inability to determine who caused the
11 injury. I think that we're past that in this case. I
12 think that we have determined who caused the initial
13 injury in this case, and that would be the tape. I know
14 that there's been lot of discussion about some bruises,
15 there's been a lot of discussion about sexual assault,
16 but none of those, A, have -- the sexual assault most
17 certainly hasn't been proven, and we don't deny that
18 there were bruises about the head and face of -- of
19 **Minor** as the forensic pathologist said yesterday when
20 she, you know, peeled back the head, which thank goodness
21 we didn't have to see.

22 But, Your Honor, the cause of death was asphyxiation
23 due to aspiration due to immobility because she was
24 restrained and, Your Honor, when you look at -- at the
25 evidence that was provided, so specifically from Dr.

1 -- or Detective Andaloro's testimony, well, he's here
2 because he didn't call 9-1-1 fast enough and that would
3 have saved her, which is why we put up the pathologist
4 -- or we didn't, they put up the pathologist, the
5 forensic pathologist, and she was very clear. I asked
6 her several times how long with the tape over the mouth
7 and the deepness of the -- of the --

8 THE COURT: Food particles.

9 MS. ZMROCZEK: -- the aspiration in the lungs,
10 right, would that take. She said she would have been
11 without breath within seconds, she would have been --
12 she would have been deceased within minutes. And, Your
13 Honor, the testimony also is that between five and six
14 or even more narrower, 5:30 and 6:00, the Defendant --
15 the co-defendant, Cynthia Estrada Lopez, put that tape
16 on that child's mouth. She admitted to it. You saw the
17 forensic interview where he even shows and talks about
18 it. He talks about how mom came back in the room. And
19 then, Your Honor, my client as very well established,
20 and we even have his work records here for later if this
21 doesn't get past directed verdict, but he did not get
22 home until 6:58, 7:00 PM. Even they put up a record
23 yesterday that showed that his phone pinged at 6:58 PM.
24 Your Honor, that would indicate at the very best, let's
25 say it was 6:00, that means from 6:00 to 6:58 as far as

1 the evidence in this record that she was there with tape
2 on her mouth. That's fifty-eight minutes. Even -- even
3 if you want to believe Dr. Lamb's testimony and you want
4 to believe that this -- that this hole right here was
5 somehow positioned underneath her nostril, even though
6 her arms were restrained over her head as shown in the
7 forensic video, which was unknown to Dr. Lamb, even if
8 you want to believe that Dr. Lamb still said it would
9 take up to twenty, thirty minutes, possibly an hour, all
10 right? So at that point, Your Honor, even -- even with
11 her testimony we still feel like the State has not met
12 their burden.

13 I objected to the indictment for clarity and I
14 believe that as the trial has gone -- at first it was
15 still much more broad when we began, I feel like it's
16 been narrowed down. It's not that we don't know who
17 caused the injury. You know, there's all this talk
18 about bruises and sexual assault, again, not applicable
19 here because what is applicable here is what caused her
20 death. What caused her death was being restrained by
21 that tape, immobilized in that bed, and that all occurred
22 as a result of Cynthia Lopez. I think the evidence has
23 more than substantially proved that, even in the best
24 light to the State, and for those reasons, Your Honor,
25 we would ask for a directed verdict.

1 THE COURT: All right. Ms. Mayes.

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

3 And it is a jury question. I want to distinguish
4 Hepburn and also from what I know about Palmer, but I
5 certainly know about Hepburn. In that case, Your Honor,
6 there was no neglect. That's a case that came down to
7 who inflicted the injury. Here by the Defendant's own
8 admission, he willfully saw the child in medical distress
9 and did not call for help. His final statement that's
10 in his own handwriting, he acknowledges that the child
11 was breathing, was vomiting and in medical distress, and
12 he leaves her in the shower and goes into the living
13 room and it's approximately 1.5 hours later in his own
14 handwriting that he is alerted by his wife that the
15 child is not breathing and that 9-1-1 is called. He
16 acknowledges in that statement that he recognized the
17 signs of medical distress, that he should have called
18 for help and that he did not do so. He goes so far as
19 to say that in his mind if he had done so that she would
20 still be alive.

21 And, Your Honor, we know that tape was put on the
22 child's mouth at some point by the mother; however, the
23 Defendant in his statements never acknowledges that
24 there was tape on her mouth when he unrestrained her.
25 In fact, he goes as far as to say in his written

1 statement that he only saw tape on the wrists and that's
2 when she was unrestrained.

3 So there's a lot of information here obviously
4 that only the co-defendant would know as to when the
5 tape was removed, but by every single account that the
6 Defendant has given when he found her and unrestrained
7 her wrists, there was no tape on her mouth according to
8 his statement and that she was still alive and was
9 breathing and was in need of medical care. And, Your
10 Honor, it's in that final statement where he describes
11 he and his wife having an argument and actually leaving
12 the child at that point without the necessary medical
13 care, so based on all of that, Your Honor.

14 On the neglect issue, which is covered under the
15 statute, that would be a jury question. And the way the
16 statute is set forth and the way the indictment alleges
17 for purposes of the statute is child abuse or neglect
18 that causes the death, and that means an act or omission
19 by any person which causes harm to the child's physical
20 health or welfare. Harm is defined pursuant to the
21 statute as the failure to provide a child with adequate
22 healthcare, which causes a physical injury or condition
23 resulting in death.

24 THE COURT: Your response.

25 MS. ZMROCZEK: Just briefly, Your Honor.

1 And obviously, you know, if we have to, we will make
2 this again after he testifies, but the testimony that
3 they want to rely on comes through statements that were
4 over fourteen days of repeated questioning that involved
5 sexual assault that they kept telling him was there and
6 there and there, but that's neither here nor there.

7 Regardless of what he said you cannot overcome the
8 scientific testimony that was put on by the State and
9 the scientific testimony is that tape over her mouth
10 causes death within -- well, stop breathing within
11 seconds and within minutes regardless of whether he --
12 what his emotional state was or why he wrote those
13 statements or not, it does not overcome the scientific
14 evidence and the scientific evidence is what shows that
15 she could not have survived more than a few minutes.

16 MS. MAYES: That would be making the assumption
17 that -- of when vomiting occurred with tape on the mouth
18 and we don't know when it was removed. He says it's not
19 there and she's still alive. By all accounts from the
20 symptomatology of the child, there was some type of
21 aspiration, but there was never a complete obstruction
22 of the airway by all accounts of both -- of the Defendant
23 and what we know of his multiple statements is that the
24 child died at some point in the shower.

25 MS. ZMROCZEK: And just briefly, Your Honor, and

1 we could argue this all day long, and that's not the
2 intention, but the cause of death as written on the
3 official State form doesn't say in the shower, it
4 doesn't say -- what it says is aspiration, asphyxiation
5 of vomitus, immobility, restrained to bed with tape over
6 mouth. That's what caused it. You know, the fact that
7 she was dead and put in the shower because a man freaks
8 out and, you know, finds that, doesn't -- should he have
9 acted differently, probably, but that doesn't get past
10 the scientific evidence that their forensic pathologist
11 says was the cause of death. I mean, even taken in --
12 let's say that she removes the tape right before he gets
13 home, you know, like the doctor said it would have been
14 within seconds and minutes. So that means that he should
15 have walked -- in the State's best theory, in the light
16 most favorable to the State, he should have walked in the
17 door, known -- even though you saw pictures today from
18 twenty-four hours earlier that there was nothing wrong
19 with this child, and that he should have known to walk
20 in, go back to the bed because this woman just somehow
21 did this to this child.

22 And, I mean, even by the accounts -- his own
23 accounts in the statements that they put in, he comes
24 in, fixes dinner, grabs a beer, which was several times
25 discussed, puts his food in the microwave, he eats. That

1 right there accounts for several minutes. So even if
2 she was still alive -- in their reality still alive and
3 restrained to the bed while he was in the house, again,
4 that falls under Gorman and Hepburn. Just because he was
5 in the house, he -- there was nothing he could have done,
6 nor did he know, and there's nothing that he -- because
7 he didn't do, because he didn't walk into the house,
8 that that's stretching this requirement under homicide
9 by child abuse, as soon as somebody walks in the door
10 they better start checking on their child because if
11 something's happened to them because of the actions of
12 whomever else was in the house, then they're going to be
13 charged and convicted of this crime.

14 THE COURT: Based on my understanding of Hepburn,
15 I think there's substantial circumstantial evidence for
16 this to get to the jury, so respectfully I'm gonna deny
17 your motion. I'm certain you'll renew it after you
18 present some of your side and perhaps then we'll revisit
19 the issue again, so.

20 I've been listening throughout the trial because I
21 know exactly what this is, it's a circumstantial evidence
22 case, and that's what it is, and so I've been anticipating
23 the motion, I mean, so.

24 All right. That's my ruling. I'm gonna step down
25 for a minute. I've got to speak to Judge McLeod and I'll

1 Margaret-Ann is hyphenated. Middle name is Dominica.

2 Last name Szala, S-Z-A-L-A.

3 MARGARET-ANN SZALA

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. Good morning. And can you let the jury know where you
8 work?

9 A. I'm an Lexington County EMS paramedic.

10 Q. And what are your duties as a Lexington County EMS
11 paramedic?

12 A. I'm a Lexington County paramedic crew chief, meaning
13 the truck is my responsibility. Daily duties include
14 checking off the truck, making sure we have all of our
15 equipment, making sure the equipment is functional, and
16 being on call, meaning if my unit is dispatched, we have
17 less than sixty seconds to get en route. We have to notify
18 the dispatch communicator that -- where we're going and
19 what we're going to. Any additional notes will be provided
20 on our computer module in our truck. If we have questions
21 regarding those notes or any additional information, those,
22 too, will be provided, and if we have a specific question
23 we can contact our dispatch to get further information.

24 Q. Okay. Thank you. And you had an opportunity to
25 respond to Nazareth Road on July 31st?

1 A. Yes, ma'am.

2 Q. Okay. And how do you -- how do you get to where
3 you're going? How do you know that you have to go
4 somewhere?

5 A. We all -- both crew members wear radios,
6 walkie-talkies. If we're not physically in the truck,
7 then -- well, any receiver that has the dispatch channel
8 will be notified. Unit -- in this case Unit 8, emergency
9 traffic, and then whatever the signal or the nature code
10 is, whether it's chest pain or in this case cardiac arrest,
11 and we have sixty seconds to be in the truck and moving the
12 wheels.

13 MS. ZMROCZEK: Actually, Your Honor, may we approach
14 for just one moment?

15 THE COURT: Sure.

16 (Proceedings held at the bench; not reported.)

17 THE COURT: Y'all step in the jury room. I've got
18 a matter I need to take up very quickly. I don't believe
19 we'll be as long as we were last time. Don't talk about
20 the case.

21 (Whereupon, the jury retires to the jury room at
22 10:47 AM.)

23 THE COURT: I think for the purposes of this, leave
24 them back there five minutes.

25 Ma'am, the parties, both sides, the lawyers, have

1 stipulated that one issue's not gonna be discussed about
2 the condition of the child and that was an issue with
3 the legs --

4 THE WITNESS: Okay.

5 THE COURT: -- being fractured or whatnot. You
6 weren't told that?

7 THE WITNESS: Correct.

8 THE COURT: And so you need to be told that.

9 THE WITNESS: Okay.

10 THE COURT: So all your questions will be asked
11 with regard to the condition of the child, but there's
12 to be no mention of the legs and their condition being
13 broken.

14 THE WITNESS: Okay. What about --

15 THE COURT: That's not an issue in the case.

16 THE WITNESS: Okay. So what about the skin?

17 MS. ZMROCZEK: When I was just rereading her
18 report, that's when I saw that she said that her leg
19 had been in a cast and that's why I stopped.

20 THE WITNESS: Okay. But the skin is appropriate,
21 just not the -- maybe the size or the fact that it was
22 broken?

23 MS. ZMROCZEK: Right.

24 THE COURT: All right.

25 Okay. We'll stand at ease for a couple of minutes

1 while the jury sits down and catches their breath.

2 (Recess taken at 10:49 AM.)

3 (Back on the record at 10:50 AM.)

4 (Whereupon, the jury returns to the courtroom at
5 10:51 AM.)

6 THE COURT: I don't know whether to apologize or
7 y'all will thank me for giving you so much exercise
8 today. You're gonna get your steps in today, so sorry
9 about that, but it was necessary. I had an issue to
10 address and we did and we're ready to go.

11 Ms. Zmroczek.

12 MS. ZMROCZEK: Thank you.

13 BY MS. ZMROCZEK:

14 Q. Ms. Szala, so -- I forgot where we left off. So you
15 received a call and then you go out to the location?

16 A. Correct.

17 Q. All right. And who did you meet there? Who was --
18 did y'all get assistance from other people in the county?

19 A. We did. When a call is dispatched, depending on
20 its acuity level, meaning the nature of it, additional
21 resources are dispatched automatically. Given the nature
22 of this call, multiple fire units were dispatched, my
23 supervisor was dispatched, my unit was dispatched and I
24 believe law enforcement was dispatched as well.

25 Q. Okay. So in your ambulance you say that you prepare

1 the truck or you make sure that the truck is ready to go.

2 What kind of equipment do you have in the truck?

3 A. We have --

4 Q. That you needed specifically for this case.

5 A. We have breathing tools and equipment, everything
6 from just two-prong tubing that is attached to oxygen,
7 everything to a tube that we place in somebody's trachea
8 to breathe for them.

9 Q. Okay. So you have a wide range of materials --

10 A. Yes, ma'am.

11 Q. -- to assist somebody when they're not breathing?

12 A. Correct.

13 Q. Now when you -- when you arrived, fire was already
14 working on the patient?

15 A. Fire and my supervisor were both on-scene.

16 Q. Okay. So your supervisor actually drove in a separate
17 vehicle?

18 A. Correct.

19 Q. Okay. He didn't come in on the truck with you?

20 A. Correct.

21 Q. Okay. So there were two of y'all in the truck?

22 A. Correct.

23 Q. So when you get in, what were your responsibilities?

24 A. So just like every other call, we go on and we make
25 sure that we have what my crew needs. There may have been

1 some communication over the radio as to -- I don't recall
2 specifically, but typically if a supervisor and EMS
3 personnel are there, they'll be like okay, we need this and
4 this, so you don't bring duplicate equipment, you get what
5 we need off of the truck, so he's already got stuff in
6 there, and any additional equipment we bring with us. We
7 survey the scene once we get on-scene to make sure we have
8 an appropriate way to get off of the scene so we're not
9 blocking ourselves or anyone else in. We make note of
10 individuals that are there that we see. Peruse based on
11 nonverbal communication the door or entryway and then end
12 up at patient's side.

13 Q. Okay. What did you notice about the patient's face?
14 What were her -- specifically her eyes.

15 A. Throughout the -- the call, and it's in my report,
16 we monitor involuntary responses. One of the things that
17 we check, and I noted in the report approximately --
18 later on in the call, about twenty or thirty minutes
19 into the call, I noted the pupil reaction, which is an
20 involuntary response, so we measure to see if there is a
21 response or isn't. It's not -- it's usually indicative
22 of responsiveness in terms of the brain and the one -- one
23 I noted in my report, that they were fixed and dilated,
24 meaning they didn't move to light or change and that the
25 actual pupil was stationary, it didn't move, it didn't get

1 bigger or smaller when examined.

2 Q. It was just -- it was just remaining what it was?

3 A. Yes.

4 Q. Now you provided airway assistance; is that correct?

5 A. That was one of the things that I did.

6 Q. Okay. And explain how you do that. How does that
7 work?

8 A. Well, we're all -- we practice how we play, we play
9 how we practice, so generally we all have roles. Those
10 roles can be more than one per person or if you have
11 multiple responders you can have just one role. When I
12 walk in, I pretty much take on the role as an assistant
13 paramedic. My -- my supervisor was pretty much the head
14 paramedic there. He was in charge of establishing the
15 interosseous access, meaning that's the way we deliver
16 medication, and then my partner and I established the
17 airway.

18 Q. And the medication -- I'll cut you off real quick.
19 The medication -- interosseous means in the bone, right?

20 A. Correct.

21 Q. And that medication, what was that?

22 A. Medication we administered predominately was
23 epinephrine.

24 Q. Epinephrine. Okay.

25 A. In terms of my role, I checked the airway. We used

1 suction because there was emesis around her mouth, emesis
2 meaning vomit, and her chest. So we prepared to suction,
3 got the device ready, made sure it was working, and then
4 rather than an ET tube, which is traditionally used in like
5 an ER or OR setting, we used a King airway which is similar
6 in its effort to stabilize the airway, it just doesn't go
7 into the trachea, it sits on top of the supraglottis, it
8 sits in the back of the throat, with two different cuffs.

9 Q. So there's nothing physically going down her throat or
10 pushing anything down her throat?

11 A. I mean, we use a -- we use a tongue depressor or
12 something to move the tongue out of the way, if necessary.
13 If the tube or the airway in this case is the appropriate
14 size and the cuffs are deflated prior to entry and you lube
15 it up, it should slide in without any obstructions. And
16 then depending on manufacturer and age and size and weight
17 of the patient would -- therefore there's an appropriate
18 corresponding tube size or airway size, and in this case we
19 used a size two which we would inflate with whatever the
20 manufacturer said via syringe for the cuff to make sure it
21 stays.

22 Q. All right. So you applied -- I think you called it a
23 King apparatus?

24 A. Yes, that's the manufacturer's name.

25 Q. Okay. And then to actually do the breathing, what do

1 you use?

2 A. Well, on top of the tube there's another device,
3 which is an end-tidal CO₂, carbon dioxide, device that's
4 connected to our monitor. It measures the percentage of
5 carbon dioxide that is expelled by the lungs after each
6 breath or during CPR. And then on top of that is a BVM,
7 a bag mask device.

8 Q. A bag valve mask?

9 A. Uh-huh.

10 Q. So that's what -- I want to talk about that. So --
11 and that -- if I imagine it pictured like I've seen on TV,
12 it's one of those that you squeeze?

13 A. Uh-huh. It is.

14 Q. Okay. And so how much -- I know you don't know the
15 pounds per square inch, but how much pressure are you
16 applying when you squeeze that?

17 A. Well, there's different sizes. In this case, it
18 would have been a pediatric size that we keep in our bag.
19 For that size you would only need one hand. Within the
20 mechanism that's attached to the top of the airway device,
21 any additional air that is not necessary, meaning there is
22 what they call a popoff valve, so if it exceeds what is
23 necessary for that particular size BVM, then it is expelled
24 outward and not delivered to the child.

25 Q. And not delivered to the child. So you have just this

1 little -- and I guess just in my mind because you always
2 see it on TV, but this one is actually -- it's a pediatric
3 size, so you just use one hand to inflate?

4 A. Generally. It's small enough to use with just one
5 hand.

6 Q. Okay. And then it has the kind of extra protection so
7 we're not forcing air?

8 A. Correct.

9 MS. ZMROCZEK: Okay. I believe those are all the
10 questions I have. Thank you. Please answer any the
11 State may have.

12 CROSS-EXAMINATION

13 BY MS. MAYES:

14 Q. And you guys were actually at the scene working on
15 **Minor** for forty-three minutes; is that right?

16 A. I don't have the specific timeline, but if you're
17 speaking from when the first people were on-scene, I
18 believe my supervisor got there at 21:19:21 and we departed
19 the scene approximately 21:57.

20 Q. And fire -- the fire crew was actually there already
21 providing CPR and necessary medical care to **Minor** when you
22 guys walked in?

23 A. When my supervisor, walked in.

24 Q. And they had arrived at 9:14, so that's roughly
25 forty-three minutes that you guys were -- were there at

1 the scene. How long were y'all using the bag valve mask
2 there at the scene?

3 A. Well, fire was using it as soon as they got there
4 as just the mask and oral airway to slide the tongue out
5 of the way to provide ventilations that way, so in the
6 context from that point all the way until we arrived at
7 the hospital was technically a BVM used. Once -- first
8 on the mask on her face itself and then the second via
9 the King airway.

10 Q. All right. And then the EMS arrival time at LMC was
11 10:21 PM, correct?

12 A. I've actually got -- in my notes it says we arrived at
13 approximately 10:18.

14 Q. Okay. So that is well over an hour of this device
15 being used on **Minor** ?

16 A. Correct.

17 Q. And, of course, you had to because in this situation
18 when you guys arrived by that point she wasn't breathing at
19 all, correct?

20 A. Correct.

21 Q. And one of the things you recalled is that **Minor** 's
22 hair was wet when you arrived?

23 A. Correct.

24 Q. And I think you described it as her whole head was
25 wet?

1 A. Correct.

2 MS. MAYES: Thank you, Ms. Szala. Nothing further.

3 MS. ZMROCZEK: Nothing further, Your Honor.

4 THE COURT: You may step down.

5 (Witness excused.)

6 MS. ZMROCZEK: And, Your Honor, may she be excused
7 from her subpoena?

8 THE COURT: She may be.

9 MS. ZMROCZEK: We call Candace Berry.

10 (Whereupon, Candace Berry was duly sworn by the
11 Clerk of Court.)

12 THE CLERK: Have a seat, please. Once your seated
13 state your full name, spelling your last, please.

14 THE WITNESS: My name is Candace Berry, B-E-R-R-Y.

15 CANDACE BERRY,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ZMROCZEK:

19 Q. And, Ms. Berry, tell the jury where you work.

20 A. Lexington County Coroner's Office.

21 Q. And what are your duties there?

22 A. My primary duty is to respond to death scenes and
23 investigate deaths.

24 Q. And when you -- and we heard earlier from another
25 member of your office, so there are multiple people that

1 respond from your office?

2 A. That's right.

3 Q. Some go to the hospital and some go to the scene?

4 A. Correct.

5 Q. And in this case where did you go?

6 A. The scene. The home.

7 Q. Okay. About what time did you get there?

8 A. It was approximately 11:30 -- 11:34, I think.

9 Q. Okay. In the evening?

10 A. Right.

11 Q. And the evening of July 31st?

12 A. Yes, ma'am.

13 Q. And when you were there, what kind of roles -- once
14 you get to the scene, what do you do?

15 A. Primarily I entered the scene with law enforcement
16 and photographed the scene as thoroughly as possible
17 taking overall photos and specific ones depending on the
18 circumstances.

19 Q. And do you recall how many pictures you took in this
20 case?

21 A. Over two hundred.

22 Q. There were over two hundred photos taken, correct?

23 A. Yes.

24 Q. And you're trained similarly to CSI? Like you said,
25 you take overall and then you get closer and then you also

1 identify specific -- specific areas of interest, right?

2 A. Yes, ma'am.

3 Q. Okay. And, in fact, in this case y'all didn't note if
4 you took pictures of the entire house?

5 A. Correct.

6 Q. Okay. I would like to show you what's been marked as
7 Defendant's 14, 15, 16 and 17, and ask if you recognize
8 those?

9 A. Yes, ma'am.

10 Q. Okay. And are those pictures that you took that
11 evening?

12 A. Yes, ma'am.

13 Q. And as well as 23?

14 A. Yes, ma'am.

15 Q. Okay. And do those pictures fairly and accurately
16 represent the scene as you saw it that evening?

17 A. Yes.

18 MS. ZMROCZEK: Your Honor, at this time we'd move
19 Defendant's 23, 17, 16, 15 and 14 in.

20 MS. MAYES: No objection.

21 THE COURT: 14, 15, 16, 17, and 23, defense exhibits,
22 are admitted without objection.

23 MS. ZMROCZEK: Thank you.

24 (Defendant's Exhibit Numbers 14, 15, 16, 17, and 23,
25 photographs, were admitted into evidence.)

1 BY MS. ZMROCZEK:

2 Q. Now I'm gonna start with -- and I'm gonna put it up
3 here so it will show up there for you. I'm gonna start
4 with Defendant's 16. Tell the jury what they're looking at
5 here.

6 A. The thermostat.

7 Q. I'm sorry?

8 A. The thermostat.

9 Q. And that is where, located inside the house?

10 A. Inside the home, yes.

11 Q. Now did you move the thermostat at all or did you
12 adjust it?

13 A. No, ma'am.

14 Q. Okay. So when you walk in, that's one of the things
15 that you want to document is the temperature or the
16 location of what the thermometer is at -- or thermostat is
17 in the room, correct?

18 A. Yes.

19 Q. Okay. And, again, you took -- so these very small
20 pictures are just a sampling of all the ones that you took.
21 It was very thoroughly documented, correct?

22 A. Correct.

23 Q. All right. Defendant's 17, what are they looking at
24 here?

25 A. That's inside the microwave in the home.

1 Q. All right. So what you do is you look at things that
2 are like -- you opened the fridge. Do you recall that?

3 A. Yes.

4 Q. Do you recall what was in the fridge? Was it full or
5 empty or --

6 A. It was -- it was full.

7 Q. It was full?

8 A. Uh-huh.

9 Q. And you actually documented in your notes -- because
10 one of the things that you do is to talk about the overall
11 appearance of the house?

12 A. Yes, ma'am.

13 Q. What did you note about the overall appearance of this
14 house?

15 A. I believe I said it was generally well kept, not
16 extraordinarily clean.

17 Q. Okay. Well, I think there was some construction going
18 on.

19 A. Yeah, minor renovations, I believe.

20 Q. Minor renovations that were going on, but it was
21 overall well kept?

22 A. Right.

23 Q. There were certainly items of construction throughout
24 the house?

25 A. Yes, ma'am.

1 Q. Okay. Defendant's 14. Again, this is one of the
2 bedrooms that you located?

3 A. Yes, ma'am.

4 Q. All right. And when you go in has -- now at this
5 point has -- is Mr. Smith with Lexington County CSI
6 still there? Are you kind of working around each other?

7 A. We work together.

8 Q. Okay. To make sure y'all are documenting what you
9 need to document?

10 A. Right.

11 Q. And then Defendant's 15, right?

12 A. Yes.

13 Q. And this is just as you saw it. You didn't add or
14 delete anything from there?

15 A. Correct.

16 Q. Okay. And finally Defendant's 23.

17 A. Yes, ma'am.

18 Q. Okay. And that was the laundry room located right
19 outside of the bedroom?

20 A. Yes.

21 MS. ZMROCZEK: I believe those are all of the
22 questions I have for you. Please answer any questions
23 the State may have.

24 CROSS-EXAMINATION

25 BY MS. MAYES:

1 Q. Good morning. And you are part of the coroner's
2 department just like Chandler Clardy who we heard from
3 earlier in the case?

4 A. Yes, ma'am.

5 Q. And he actually went to the hospital specifically to
6 examine **Minor** and at that time y'all separated out so that
7 you could go to the house and take the photographs that
8 we've seen?

9 A. Yes, ma'am.

10 Q. And while you're there at the house taking those
11 photographs, law enforcement was there, too, correct?

12 A. Yes.

13 Q. And at that point in time were you in communication
14 with Coroner Fisher and Mr. Clardy who were at the hospital
15 actually speaking with the Defendant?

16 A. I'm sure at some point, but I don't think there was
17 any significant communication. I don't -- I don't think
18 there was anything like that in my report.

19 Q. And, of course, you're at the scene taking photos, but
20 you had not learned or heard anything about tape at this
21 stage in the case, correct?

22 A. That's correct.

23 Q. That had never been disclosed to the coroner's office,
24 correct?

25 A. That's correct.

1 Q. One of the things that you noted in your report is
2 that **Minor** had -- based on the history you were given,
3 **Minor** had eaten beans and tortillas for dinner?

4 A. Yes, ma'am.

5 Q. And also drank some water?

6 A. Yes, ma'am.

7 MS. MAYES: Thank you. Nothing further.

8 THE COURT: You may --

9 MS. ZMROCZEK: I just have one more question.
10 I'm sorry.

11 THE COURT: That's okay.

12 REDIRECT EXAMINATION

13 BY MS. ZMROCZEK:

14 Q. She was asking you about your report and the scene.
15 You noted that there were pets there?

16 A. Yes.

17 Q. Okay. And, in fact, I think -- how did you describe
18 the pets?

19 A. I was told it was a very, very tame Pit Bull and
20 Chihuahua.

21 Q. Okay. So very, very tame?

22 A. That's what they told me.

23 Q. Typically when you go to scenes and there are animals,
24 are there concerns of safety or --

25 A. Yes.

1 MS. MAYES: Objection to relevance.

2 MS. ZMROCZEK: Thank you. Nothing further.

3 THE COURT: All right. You can step down. You're
4 free to go.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 MS. ZMROCZEK: Your Honor, we would call Eddie
8 Prestigiacomo.

9 (Whereupon, Eddie Prestigiacomo was duly sworn by
10 the Clerk of Court.)

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

13 THE WITNESS: Eddie Prestigiacomo,
14 P-R-E-S-T-I-G-I-A-C-O-M-O.

15 EDDIE PRESTIGIACOMO,

16 having been duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. ZMROCZEK:

19 Q. Detective -- I guess is it officer now? It was
20 detective. Tell me what your rank is.

21 A. I'm a lieutenant.

22 Q. Lieutenant. Thank you. Lieutenant Prestigiacomo, how
23 long have you been with Lexington County?

24 A. I've been with Lexington County for twenty-five years.

25 Q. And in 2017 what were your duties?

1 A. I was a lieutenant over the major crimes unit.

2 Q. What does being a lieutenant over the major crimes
3 unit involve?

4 A. I would oversee day to day operations of major crimes
5 that were being currently investigated by the detectives
6 and sergeants in that unit.

7 Q. Okay. And in doing so, are you kind of like the
8 director of where people go or what people do? Is a case
9 assigned to you or is it assigned to somebody else?

10 A. Cases are assigned to detectives --

11 Q. Okay.

12 A. -- and we oversee to keep in the loop of what's
13 happening, to facilitate any resources they may need.

14 Q. Okay. And y'all often kind of have like team
15 meetings?

16 A. Yes.

17 Q. Okay. In this case, do you recall -- do you recall
18 being involved at least as the lieutenant in this case?

19 A. Yes, ma'am.

20 Q. Okay. And did you have an occasion to speak with
21 Cynthia Lopez?

22 A. I did.

23 Q. All right. When you were speaking to Cynthia Lopez,
24 did you have an occasion to discuss specific bruises that
25 you -- that were noted to **Minor** ?

1 A. Yes.

2 Q. And what were you told about those bruises?

3 A. During the conversation with Ms. Lopez, she mentioned
4 she was at **Minor** 's funeral and noticed bruises on her face
5 and she elaborated and got upset mentioning to me that she
6 feels like she caused those bruises during CPR during the
7 night that the incident took place.

8 MS. ZMROCZEK: Thank you. Please answer any
9 questions the State may have.

10 CROSS-EXAMINATION

11 BY MS. MAYES:

12 Q. And you actually obtained a statement on that,
13 correct?

14 A. Yes, ma'am.

15 Q. Let me show you this for the purpose of refreshing
16 your memory. She -- well, let me just ask you. She
17 indicated that her mother was present during that CPR
18 event, correct, being Sonia Lopez?

19 A. She mentioned that her mother agreed with her that she
20 was doing it too hard to cause the bruises.

21 Q. All right. So we're talking about the CPR event that
22 occurred when 9-1-1 was called and her mother came over
23 while waiting for EMS, correct?

24 A. That's correct.

25 MS. MAYES: Nothing further.

1 MS. ZMROCZEK: No further questions. Thank you.

2 THE COURT: You may step down.

3 (Witness excused.)

4 MS. ZMROCZEK: Your Honor, we would call Gary
5 Lemaster.

6 (Whereupon, Gary Lemaster was duly sworn by the
7 Clerk of Court.)

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

10 THE WITNESS: Gary Lemaster, L-E-M-A-S-T-E-R.

11 GARY LEMASTER,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. ZMROCZEK:

15 Q. Mr. Lemaster, tell the jury where you work.

16 A. Hoover Building Systems of Lexington.

17 Q. And what do you do at Hoover Building?

18 A. I'm a project manager. I handle eight crews; five
19 building crews, two concrete crews and a door company.

20 Q. And what does Hoover Buildings do?

21 A. We put up pole buildings, wood frame, metal siding all
22 over the place. You've probably seen quite a few of them.

23 Q. All right. Do you know -- do you know Lance Steadman?

24 A. I do.

25 Q. How do you know Lance?

1 A. I've known Lance for about fifteen years. My wife
2 and his mother are really good friends, so he was with his
3 daddy when I got with her. I didn't see him for a couple
4 of years and he started coming around. A great kid as
5 far as I'm concerned. We did a lot of things together,
6 birthday parties. He's been to my house, I've been to
7 their house. I know his uncle, aunts, brothers and
8 sisters.

9 Q. Do you know his children?

10 A. I do.

11 Q. Had you had an opportunity to see and interact with
12 his children?

13 A. I did.

14 Q. Had you had an opportunity for him -- to watch him
15 interact with his children?

16 A. I did.

17 Q. How would you describe his interaction with his
18 children?

19 A. I think he was a great father to be quite honest with
20 you. We did, like I said, a bunch of birthday parties and
21 every time we was there, I have two children of my own,
22 his brothers, his kids, we all played together. Me and
23 Lance was outside throwing footballs, playing basketball,
24 you know, cornhole, you name it. We were always outside
25 dealing with the kids. I never seen him once lay a hand

1 on them and that's many -- many years going.

2 MR. McNAIR: Your Honor, objection.

3 THE COURT: Okay. Ask your next question.

4 MS. ZMROCZEK: Thank you.

5 BY MS. ZMROCZEK:

6 Q. You -- in addition to knowing his family and observing
7 that, you also were his employer?

8 A. That's correct.

9 Q. And where -- when did he come to work for you?

10 A. I'm not sure on the exact day I hired him. He had
11 worked with Ms. Lopez's family and he was tired of them
12 running over him so to speak, so I told him I'd give him a
13 job. I hired him and he was great fit.

14 Q. Okay. And when he -- what were the hours that we
15 would work for your company?

16 A. Generally we ask everybody to be at work about 6:30,
17 6:45. Time starts at seven. Depending on the area we
18 work, he would get paid one way. So we work anywhere from
19 about two hours out. So if they left the job at five, they
20 wouldn't get back until six if we were an hour out.

21 Q. Okay. And I'm gonna show you what's already in as
22 State's 67 and that would be a daily timesheet.

23 A. That's correct.

24 Q. And that timesheet was from July 31st of 2017,
25 correct?

1 A. That's correct.

2 Q. And you had an opportunity to provide that to
3 Detective Andaloro?

4 A. I did.

5 Q. Okay. And in that -- in that timesheet we note about
6 the start time which you have written down as what?

7 A. The start time is 7:00, however, he should have been
8 there about 6:45.

9 Q. Okay. And then what about the end time?

10 A. Ending time, they put 5:45, which means is when they
11 left the job in Leesville. They would not have returned
12 back to Hoover Buildings until 6:15 that evening taking a
13 forty-five minute lunch.

14 Q. So they worked in Leesville --

15 A. That's correct.

16 Q. -- so they would park at your -- is that West
17 Columbia?

18 A. Yes, they come to our office and ride in our trucks.

19 Q. Okay. And so they would ride in y'all's trucks?

20 A. That's correct.

21 Q. Okay. Now when they got back, what were their
22 responsibilities as far as -- like did they just hop out
23 of their truck and go home?

24 A. Basically depending on the timeframe, yes, because the
25 gates would be locked when they get back, so they're to

1 pull their crew truck in a stall, lock the door, get in
2 their vehicles and go home.

3 Q. So they have to take care of their truck first?

4 A. They have to put it away and lock the doors, correct.

5 Q. Okay. Perfect. Now the -- Defense 35, I'm gonna show
6 you this and ask if you recognize it?

7 A. I do.

8 Q. Okay. And what is that?

9 A. This is our daily schedule. This is how we keep track
10 of all the guys we have. If they come to work, when they
11 were sick, when they were out and what jobs that they were
12 on, and this is the timesheets from previous dates.

13 Q. Okay. And does that fairly and accurately represent
14 what was in your business records?

15 A. Yes. Yeah, that's what we do every day.

16 MS. ZMROCZEK: Your Honor, at this time we would
17 move Defendant's 35 in.

18 THE COURT: Defendant's 35?

19 MR. McNAIR: No objection.

20 THE COURT: No objection?

21 MR. McNAIR: No objection.

22 THE COURT: No objection. Defense 35 is in.

23 (Defendant's Exhibit Number 35, time records, were
24 admitted into evidence.)

25 BY MS. ZMROCZEK:

1 Q. Okay. I'm putting Defence 35 up there. So what you
2 have are the names of the workers and are they divided into
3 -- how are they divided?

4 A. That's our crews. Divided into crews.

5 Q. Okay. So they'd go to different locations?

6 A. That's correct.

7 Q. Okay. And so if they're not available, then you would
8 put that?

9 A. It's either off or out or sick or whatever, yes.

10 Q. Okay. So Mr. Steadman obviously showed up that
11 Monday. Did you hear from him that evening?

12 A. I did not hear from him that evening.

13 Q. Okay.

14 A. I had a text in the morning, I believe.

15 Q. You had a text in the morning --

16 A. Uh-huh.

17 Q. -- that there -- that he was not gonna be able to come
18 to work?

19 A. Yes, stating that **Minor** had passed away and he would
20 not be at work.

21 Q. Okay. All right. And so when we see the hours --
22 like you keep this all the time, right?

23 A. That's correct.

24 Q. And how long had he worked for you approximately?

25 A. I'm not a hundred percent to be quite honest with you.

1 Q. Okay. Let me ask you this. When he was working, did
2 he ever call out sick?

3 A. I'm sure he did once or twice, but he was a great
4 worker.

5 Q. Okay. And, in fact, we have had conversations since.
6 Is he someone that you would rehire?

7 A. Yes.

8 MS. ZMROCZEK: Thank you. Please answer any
9 questions the State may have.

10 CROSS-EXAMINATION

11 BY MR. McNAIR:

12 Q. All right. Mr. Lemaster, you are a family friend of
13 Mr. Steadman?

14 A. Yes, sir.

15 Q. And, in fact, didn't he just get hired on July 18th of
16 2017?

17 A. That's probably correct.

18 Q. All right. So just a week or two prior to this
19 incident then?

20 A. There you go.

21 Q. And you have no knowledge of what happened on
22 July 31st do you --

23 A. I don't.

24 Q. -- inside his house?

25 A. No, sir.

1 Q. Okay. Now have you been to his house before?

2 A. The only time I've been to his house was after this
3 had happened and we took them some food.

4 Q. Okay. And his house is about ten minutes from Hoover
5 Construction, isn't it?

6 A. Ten, fifteen, yes, sir.

7 Q. All right. So if he got back to work at 6:15 and,
8 like you said, left shortly thereafter, he'd be home by
9 6:30, wouldn't he?

10 A. No earlier than 6:30.

11 MR. McNAIR: Thank you.

12 THE COURT: You may step down.

13 MS. ZMROCZEK: Your Honor, I have one question, a
14 follow-up from that.

15 THE COURT: All right.

16 MS. ZMROCZEK: Thank you.

17 THE COURT: Sit back down.

18 MS. ZMROCZEK: Sorry.

19 REDIRECT EXAMINATION

20 BY MS. ZMROCZEK:

21 Q. Mr. Lemaster, he said that he had just started working
22 for you in July again. Had he actually worked for you
23 previous to that?

24 A. No, this was the first time he had actually worked
25 directly for me.

1 Q. Oh, you hadn't rehired him from before?

2 A. He was actually in the truss plant.

3 Q. Okay.

4 A. I don't have any doings with the truss plant. That's
5 a separate manager.

6 Q. It's a separate manager?

7 A. Same company.

8 Q. There you go.

9 A. Different division.

10 Q. Okay. So he had worked for Hoover --

11 A. So he had worked in the truss plant and they let him
12 go for missing days, I think, or something other, and I
13 hired him back on the pole building side, so he was
14 actually manufacturing trusses and then I moved him out to
15 the actual building crew.

16 MS. ZMROCZEK: Thank you. That's all the questions
17 I have.

18 THE COURT: All right. Step down.

19 (Witness excused.)

20 MS. ZMROCZEK: Your Honor, I beg the Court's
21 indulgence.

22 THE COURT: Uh-huh.

23 Are y'all good?

24 MS. ZMROCZEK: Your Honor, I'm sorry. I'm just --

25 THE COURT: If you need to check on a witness, then

1 MS. ZMROCZEK: That's what I thought too because in
2 the morning it will be fresh.

3 The COURT: All right. Bring the jury.

4 MS. MAYES: One moment, Judge. As to the recalling
5 of Dr. Ross, we do object unless it's on a new issue.
6 Ms. Zmroczek has indicated that it is, it has to do with
7 trauma or condition of the stomach, and so we just want
8 to make sure that it's not a recalling on issues already
9 testified to.

10 MS. ZMROCZEK: We're not gonna rehash everything,
11 but they gave specific testimony about the cause of the
12 distension, but...

13 THE COURT: All right. Bring in the jury.

14 (Whereupon, the jury returns to the courtroom at
15 11:34 PM.)

16 THE COURT: All right. Ms. Zmroczek, call your
17 next witness.

18 MS. ZMROCZEK: Thank you, Your Honor. We call
19 Jimmy Dixon.

20 (Whereupon, Jimmy Lee Dixon was duly sworn by the
21 Clerk of Court.)

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

24 THE WITNESS: My name's Jimmy Lee Dixon, D-I-X-O-N.

25 JIMMY LEE DIXON,

1 having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. ZMROCZEK:

4 Q. Okay. And, Mr. Dixon, I know that you have some
5 hearing issues, right?

6 A. Yes, I do, ma'am.

7 Q. Okay. So I'm not screaming at you, but I'll keep my
8 voice up just so you can hear, okay?

9 A. Yes, ma'am.

10 Q. Okay. Mr. Dixon, what do you do for work?

11 A. I put up pole buildings, work construction.

12 Q. Okay. Are you kind of considered -- are you in charge
13 of a crew?

14 A. I -- back then I was in charge of a crew. I'm still
15 in charge of a crew, but I work for myself now.

16 Q. Okay. So now you -- and we're talking about July 31,
17 2017.

18 A. Yeah, I worked at Hoover's then.

19 Q. Okay. And what was your job -- what were your job
20 duties?

21 A. I was a crew chief and showed everybody how to --
22 teach them how to build the buildings and stuff.

23 Q. Okay. And I want to go back to July 31st of 2017. Do
24 you remember that day?

25 A. I had problems remembering it until they told me where

1 I was at, then I could remember a little bit of it back
2 then.

3 Q. And, in fact, would it refresh your memory if you
4 remember if Lance cut the wrong piece of sheet metal that
5 day and you had to fuss at him?

6 A. I don't know if I can remember that because I cut a
7 few of them myself all the time still.

8 Q. Okay.

9 A. So accidents do happen.

10 Q. So what kind of work do y'all do?

11 A. We like build houses, build barns, stores, churches
12 out of these things. We build all kind of buildings out of
13 these pole buildings.

14 Q. So you meet at Hoover -- y'all met at Hoover?

15 A. At Hoover's, yes, ma'am.

16 Q. And then what truck would y'all get into it?

17 A. A double cab, a crew cab truck, full of tools and all
18 that, ladders and everything.

19 Q. All right. And then you would go to the site?

20 A. Go to the site, yes, ma'am.

21 Q. And this site you recall was in Leesville?

22 A. Yeah, about Leesville right there or Gilbert,
23 whichever one, right in that area.

24 Q. Okay. And did y'all take a lunch or anything that
25 day?

1 A. Yes, ma'am.

2 Q. Okay. Did anybody leave the site that day?

3 A. We went to lunch. Ran down to the store on 378 and
4 come back.

5 Q. Okay. So nobody left independently?

6 A. No, unh-unh.

7 Q. Okay. And then when you got back, do you recall when
8 you returned back to Hoover?

9 A. I remember one day, but the other day I think -- one
10 day we cleaned out the truck and one day we just come in
11 and I just parked the truck because the gates were locked.

12 Q. Okay. But on that day do you recall the gates being
13 unlocked?

14 A. I don't know if it was that day or the day after.

15 Q. Okay. So it was one of those days?

16 A. It was one of them days we did unload the truck, but I
17 can't remember which one.

18 MR. McNAIR: Your Honor, are we -- what day are we
19 even talking about? I mean, that day --

20 MS. ZMROCZEK: Okay. Let me rephrase. I will get
21 more clear for you.

22 BY MS. ZMROCZEK:

23 Q. When I say that day, I'm talking about on Monday,
24 July 31st, okay?

25 A. Monday, I don't recall we unloaded the truck then

1 because most time I ain't got no trash on Monday. I unload
2 it all on Friday.

3 Q. Okay. So you unloaded on Friday?

4 A. I would unload on Friday, but I think Tuesday we did
5 unload.

6 Q. Okay. All right. And so -- but when you would go to
7 the -- when you would go to the facility, you would go and
8 then everybody would ride together and then everybody would
9 come back?

10 A. Right.

11 MS. ZMROCZEK: Thank you. Please answer any
12 questions the State may have.

13 CROSS-EXAMINATION

14 BY MR. McNAIR:

15 Q. So on Monday y'all wouldn't have unloaded the truck.
16 Y'all just got there and went on your way?

17 A. We went to work and I think the gates might have been
18 locked then. I don't remember so I don't want to say
19 definitely, but I know one of them two days we did clean
20 out the truck and one day I think the gate might have been
21 locked or something like that.

22 Q. Which is usually on Monday?

23 A. Monday I think it might have been locked.

24 Q. Okay. And y'all just got back and just gone separate
25 ways?

1 A. Well, about every time I got back, like I said, we'd
2 go back and I'd lock up the truck and lock up the gates and
3 all that and make sure everybody's got a ride home before I
4 leave.

5 Q. I thought you said the gate was locked?

6 A. Well, I've got another gate where we park our trucks
7 in. Because the main gate there is where I would go in to
8 unload the trash and then we got a gate where we park the
9 trucks.

10 Q. Okay. So everybody else would leave first and you'd
11 stay behind to unload it?

12 A. Well, no. All of us would go back there and clean it.
13 I would make everybody help me clean my truck out in the
14 evening.

15 Q. Okay. And that usually happens on Tuesday?

16 A. That was on Tuesday. I can't hardly hear you that
17 good down there anyway.

18 MR. MCNAIR: Okay. Thank you.

19 MS. ZMROCZEK: No further questions, Your Honor.

20 THE COURT: All right. You're done, Mr. Dixon.

21 THE WITNESS: All right. Thank you.

22 (Witness excused.)

23 MS. ZMROCZEK: Your Honor, we are just waiting on
24 the arrival of our last witness before lunch. I know
25 that she's going to be here shortly.

1 can sit here and watch us meander around.

2 Okay. We'll stand at ease. So if y'all want to
3 stand up and stretch, you can. You don't have seatbelts
4 on, but you can't talk about the case and you can't talk
5 to anybody here. You can talk to me.

6 (Pause in proceedings.)

7 THE COURT: Ma'am, are you Stephanie Sturkie?

8 JUROR NUMBER 193: Yes.

9 THE COURT: Do you want to be my foreperson?

10 JUROR NUMBER 193: Sure.

11 THE COURT: Ms. Sturkie is the foreperson.
12 Stephanie Sturkie is the foreperson. She just got
13 elected unanimously.

14 (Pause in proceedings.)

15 THE COURT: All right. All are present. We'll
16 continue on.

17 Ms. Zmroczek, call your next witness.

18 MS. ZMROCZEK: Thank you. We recall Dr. Janice
19 Ross to the stand.

20 THE COURT: Dr. Ross, come forward and I'll remind
21 you you're still under oath.

22 JANICE EDWARDS ROSS,

23 having been previously sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. ZMROCZEK:

1 Q. Thank you, Dr. Ross. I know that we were talking and
2 the weather all of a sudden got treacherous out there --

3 A. A few minutes out from here.

4 Q. -- and the sky fell open. I wanted to recall you just
5 to clarify some -- I'm not gonna rehash all your testimony
6 yesterday, but I wanted to specifically ask about the
7 stomach, what you viewed and what you viewed as the cause
8 of -- of that. Do you recall how you described the
9 abdomen?

10 A. Yes, the abdomen was quite protuberant and tympanic,
11 like a drum, indicating a lot of air inside and upon
12 opening the abdomen you could see that the intestines were
13 full of air.

14 Q. Okay. How does that happen?

15 A. When a person dies, the bacteria inside the intestines
16 are still alive and they eat and they reproduce and
17 whatever and they produce -- when they're eating their
18 food, then they produce gas. This is what happens when
19 somebody drowns and they're on the bottom of a lake or
20 whatever, the bacteria will grow and produce gas in the
21 intestines so that the person floats at that point. We
22 see this all the time where the intestines are full of air.

23 Q. And that's -- and that's what you saw in relation to
24 this examination?

25 A. Yes.

1 MS. ZMROCZEK: Thank you. Please answer any
2 questions the State may have.

3 CROSS-EXAMINATION

4 BY MS. MAYES:

5 Q. Dr. Ross, you are certainly aware of other reasons
6 that the abdomen can be distended, correct?

7 A. There are some. If a tumor is blocking the passageway
8 or whatever, but in this case there was no other -- no
9 evidence of a blockage or trauma.

10 Q. And you said that there was no evidence of trauma.
11 You are aware of other photographs that were taken during
12 the autopsy that did depict bruising along the torso,
13 correct?

14 A. Yes, but there was no bruising on the internal organs.

15 Q. And what you're saying then is that Minor 's stomach
16 had air in it, correct?

17 A. Air in the intestines.

18 Q. Okay. The intestines had air. And that can result
19 from gasping for air or swallowing air as well, correct?

20 A. It can be, but the stomach wasn't that full of air.
21 It did have food in it and some air, but not like the
22 intestines.

23 Q. All right. I'm gonna show you a document and ask you
24 whether or not you recognize it.

25 A. Yes.

1 Q. And specifically looking at Lines 25 --

2 A. Yes.

3 Q. -- through Line 5 of the next page.

4 A. Yes.

5 Q. And you're familiar with that?

6 A. Yes.

7 Q. And that was prior -- prior testimony that you gave,
8 correct?

9 A. Correct.

10 Q. And you recall stating previously that air, it looked
11 like the cause of Minor 's stomach being distended was due
12 to her having air in the stomach?

13 A. Stomach is a lay term talking about the abdomen. The
14 stomach itself doesn't have that many -- doesn't have
15 bacteria in it, so it had some air in it, but not like the
16 intestines.

17 Q. And just to reiterate, you see a lot of dead bodies,
18 correct?

19 A. Yes.

20 Q. And not every body -- every dead body ends up with a
21 distended abdomen like you saw in Minor 's case, correct?

22 A. Not all of them, but a lot of them do.

23 Q. Okay. Do you recall your prior testimony that the
24 distension -- the level of distension in Minor 's stomach
25 was abnormal?

1 A. Yes.

2 MS. MAYES: All right. Thank you.

3 MS. ZMROCZEK: I have no further questions, Your
4 Honor. And may she be released?

5 THE COURT: Dr. Ross, thank you for coming back
6 up.

7 (Witness excused.)

8 THE COURT: All right. Anticipating your wanting
9 the lengthier witnesses this afternoon, we'll break for
10 lunch now.

11 Would 1:30 be appropriate or is 1:15 too quick?

12 MS. ZMROCZEK: Either one is fine, Your Honor. I
13 don't think even at 1:30 won't put us past -- anywhere
14 near five.

15 THE COURT: All right. Y'all be back here -- I'm
16 gonna try to be back here at 1:20. I want to start at
17 1:30 sharp, okay? Don't talk about the case.

18 (Whereupon, the jury was excused for lunch at
19 11:56 AM.)

20 THE COURT: All right. 1:20.

21 (Whereupon, a luncheon recess was taken at
22 11:56 AM.)

23 (Back on the record at 1:25 PM.)

24 BAILIFF: All rise. Court is back in session.

25 THE COURT: Y'all have a seat.

1 and spell your last.

2 THE WITNESS: Joanne Sloan, S-L-O-A-N.

3 JOANNE SLOAN,

4 having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. ZMROCZEK:

7 Q. Ms. Sloan, please tell the jury a little bit about
8 yourself; how old are you, where you're from, where you
9 grew up.

10 A. I'm forty years old. I live in Lexington County. I'm
11 Lance's cousin.

12 Q. Your Lance's cousin?

13 A. Yes, ma'am.

14 Q. And how -- how long have you known Lance?

15 A. His entire life.

16 Q. All right. Were y'all close when you grew up? Tell
17 the jury a little bit about how y'all grew up together.

18 A. Yes, we were close. I thought of him at first like a
19 little brother and then as I got older I thought of him
20 like a son and he's the reason I wanted to have kids.

21 Q. He's the reason you wanted to have kids?

22 A. Yes.

23 Q. So I notice that you're in a condition now where you
24 use a wheelchair and have oxygen. Tell the jury a little
25 bit about were you -- was your health always like this?

1 A. No, ma'am. Probably about four years or so ago, I
2 fell and injured my knees and then after being cooped up
3 with my knees the rest just kind of went downhill and my
4 health got worse over the past couple of years.

5 Q. Okay. So we're here to talk about Lance and Cynthia.
6 Do you know Cynthia?

7 A. Yes, ma'am, I do.

8 Q. Tell the jury how you know Cynthia.

9 A. She married my cousin Lance.

10 Q. Okay. And talk to the jury a little bit about your
11 relationship with Cynthia.

12 A. My relationship with her?

13 Q. Yes.

14 A. From her being with my cousin Lance we kind of became
15 friends.

16 Q. Okay. And did you -- did you consider both of them
17 friends?

18 A. Yeah.

19 Q. Okay.

20 A. Yes, ma'am, I did.

21 Q. All right. Did you have regular visits with Cynthia
22 and the children?

23 A. Oh, yes, ma'am.

24 Q. All right. Tell the jury a little bit about that.

25 A. We would get together during the summer or the

1 weekends when the kids didn't have school, we would just
2 get together for the kids to play, watch movies, have
3 little dinners together.

4 Q. And how old are your children?

5 A. Now currently my oldest is sixteen and my youngest is
6 nine.

7 Q. Okay. So your youngest is nine?

8 A. Yes, ma'am.

9 Q. So at the time she would have been -- was it he or
10 she?

11 A. She.

12 Q. -- she would have been five or six?

13 A. Yes, ma'am.

14 Q. Okay. And so around the same ages of --

15 A. I think she's a little bit older than E.L. .

16 Q. A little bit older than E.L. . And -- but y'all
17 were able to interact and spend time together?

18 A. Oh, yes, ma'am.

19 Q. And, in fact, I'm gonna show you Defense 44 and ask if
20 you recognize this picture.

21 A. Yes, but that was taken at a different location than
22 we were -- where we originally ended up being.

23 Q. Okay. But you're familiar -- you recognize this
24 picture?

25 A. Yes, ma'am.

1 Q. And when it was taken?

2 A. Yes, ma'am. Halloween.

3 Q. Halloween. And does it fairly and accurately
4 represent the evening of Halloween?

5 A. Yeah.

6 MS. ZMROCZEK: Okay. Your Honor, we would at this
7 time move Defendant's 44 in.

8 MS. MAYES: Object to relevance from October.

9 MS. ZMROCZEK: What we're establishing is her
10 history and her ability to --

11 THE COURT: The State's not gonna challenge that.
12 Is this the only picture of a familial relationship?

13 MS. ZMROCZEK: Yes.

14 THE COURT: I'll allow it over the objection and
15 since that's gonna be the only one. I know we had
16 pictures on the phone of the day before.

17 MS. ZMROCZEK: Right.

18 THE COURT: So it will be admitted.

19 (Defendant's Exhibit Number 44, a photograph,
20 was admitted into evidence.)

21 BY MS. ZMROCZEK:

22 Q. So this is a picture -- tell the jury what they're
23 looking at here.

24 A. That was taken -- we had -- me and my kids stopped
25 by their house earlier and they had plans to meet up with

1 his mom and the two taller children, that's his brother
2 and his sister, and then the two small ones are his kids.
3 And then from there we were meeting up at my uncle's house
4 because he lived in a little housing development.

5 Q. And so all of y'all met up together?

6 A. Yes, ma'am.

7 Q. And your children were as dressed as well?

8 A. Oh, yes, ma'am.

9 Q. So y'all were able to do a lot of things with your
10 families?

11 A. Yes, ma'am, we did.

12 Q. All right. When you would visit the kids during --
13 were your kids in school?

14 A. My oldest was. My youngest I think was in
15 kindergarten at that time.

16 Q. Okay. So I think you said during the summers you
17 would get together with Cynthia and the children?

18 A. Yes, ma'am, we'd get together during the day.

19 Q. Okay. So during the day was Lance there?

20 A. No, ma'am.

21 Q. Where was he?

22 A. He was always working.

23 Q. Okay. And were you able to communicate and to spend
24 enough time around Cynthia to kind of learn her routines?

25 A. Yeah.

1 Q. Okay.

2 A. I would say, yeah.

3 Q. What do you have knowledge about when she normally fed
4 and put the children to put bed?

5 A. I know like with my kids because my oldest was in
6 school and she was in a higher grade, I'd wait until she
7 finished schoolwork like during the year and then we'd go
8 over, and that would usually run probably between five and
9 six, and they would be in the bed by then.

10 Q. So you would witness them being in the bed by then?

11 A. Yes, ma'am.

12 Q. Okay. And, in fact, we got a bunch of phone records
13 and you on July 31st were having several conversations,
14 text conversations, with Cynthia; is that correct?

15 A. Yes, ma'am.

16 Q. Tell the jury why that was.

17 A. On August 1st, we were planning to go to Sam's.
18 It's a wholesale club that you can buy in bulk and to my
19 knowledge Cynthia had never been, so I had a membership so
20 I was taking her and the kids with us to go.

21 Q. Okay. And so you had planned that routine?

22 A. Yes, ma'am.

23 Q. All right. When you had witnessed the kids going to
24 bed sometime around 6:00, did you ever witness Lance come
25 home from work?

1 A. He would come home later, yes, ma'am.

2 Q. He would come home later?

3 A. Yes, ma'am.

4 Q. So you would be still be at the house?

5 A. Yes, ma'am.

6 Q. And what was -- what was his routine? What would you
7 see him do?

8 A. He'd come in, put his stuff up, like take his boots
9 off. If he had lunch or something, he'd put whatever he
10 had left up and then he would get ready for dinner and sit
11 down and eat and talk with us.

12 Q. Okay. And how often do you think you experienced that
13 with them?

14 A. A lot. Several times a week.

15 Q. And did -- so on the 31st, do you recall the last
16 conversation that you had with Cynthia?

17 A. I -- I don't remember if I called or texted her, but I
18 had -- I remember asking her if we could come over because
19 sometimes we like to just pop in unannounced, but with
20 everything that she had going on and then -- because she
21 says she was cleaning and stuff, and then me and the kids,
22 I was gonna see if we could get together just for a little
23 while, but she said she had some stuff -- that she was
24 cleaning and stuff, so we didn't go by there.

25 Q. So you didn't go by there?

1 A. No, ma'am.

2 Q. But you did have plans for the next day?

3 A. Yes, ma'am. We were supposed to get together earlier
4 that morning.

5 Q. Did you get together earlier that morning?

6 A. No, we did not.

7 Q. How did you learn -- and you can't tell me what
8 anybody else told you, but what did you learn either that
9 night or the next morning?

10 A. That night Lance's mother had called me and normally
11 I wouldn't answer the phone because, one, I didn't know
12 the number, two, it was late at night, but she called, I
13 answered and I couldn't make out exactly what she was
14 saying, so she put Lance on the phone and he told me that
15 they were on their way to the hospital.

16 Q. He had told you that that evening?

17 A. Yes, ma'am.

18 Q. Do you recall what his demeanor was on the phone?

19 A. Panicky. I would I say panicky.

20 Q. Okay. And even though you spent a lot of time with
21 Cynthia and the children, did you ever have an opportunity
22 to witness Lance's relationship with his children?

23 A. Oh, yeah.

24 Q. And tell the jury a little bit about that.

25 A. He was like a big kid. I mean, that's the best way to

1 describe him. I mean, he would just get down and get on
2 the floor and play with the kids. He played with my kids.
3 He would just have fun. I mean, he wasn't like how some
4 parents they get home from work and they don't want nothing
5 to do with the kids. He was -- if the kids were up, he --
6 and we were there, I'd see him play with them.

7 Q. Okay.

8 A. I mean, he made time to play with the kids and be with
9 the kids.

10 MS. ZMROCZEK: Please answer any questions the
11 State may have.

12 CROSS-EXAMINATION

13 BY MS. MAYES:

14 Q. So there's times you'd see come home from work and the
15 kids are still -- still up, correct?

16 A. Usually if it's a Friday night that's when they would
17 stay up.

18 Q. All right. You just testified there were multiple
19 occasions that you observed the kids up when he'd come
20 home.

21 A. On the weekends, yes, ma'am.

22 Q. Now you don't know what time he got home from work on
23 July 31st of 2017, do you?

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

25 Q. And you weren't at the residence on the night that

1 **Minor** died, were you?

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

3 MS. MAYES: Nothing further.

4 MS. ZMROCZEK: We have nothing further.

5 THE COURT: Ma'am?

6 MS. ZMROCZEK: I have nothing further.

7 THE COURT: All right. We're gonna try to help
8 you get down.

9 (Witness excused.)

10 THE COURT: All right. When she gets back around,
11 she'll be allowed to come back in the courtroom during
12 the testimony.

13 All right. Call your next witness.

14 MS. ZMROCZEK: Thank you. We call Lance Steadman.

15 THE COURT: All right. Mr. Steadman, come forward
16 and be sworn.

17 (Whereupon, David Lance Steadman was duly sworn by
18 the Clerk of Court.)

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

21 THE WITNESS: My name is David Lance Steadman. Last
22 name, S-T-E-A-D-M-A-N.

23 DAVID LANCE STEADMAN,

24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. ZMROCZEK:

2 Q. Lance, how old are you?

3 A. I'm currently twenty-seven years old.

4 Q. Okay. Where -- where did you grow up?

5 A. I'm from Cayce, South Carolina, but I grew up in
6 Gaston, South Carolina.

7 Q. You grew up in Gaston, but you're from Cayce?

8 A. Yes, ma'am.

9 Q. Do you have any brothers and sisters?

10 A. Yes, ma'am. I have brothers on my father's side of
11 the family and brothers and sisters on my mom's side of the
12 family.

13 Q. Now when you grew up, tell the jury a little bit about
14 your family, your parents. Were they together, were --

15 A. My -- my parents are still married to this day, but
16 they've been separated since I was a baby.

17 Q. So did you spend time in two different households?

18 A. Yes, ma'am.

19 Q. All right. You went to school?

20 A. Yes, ma'am.

21 Q. Where did you go to middle school?

22 A. Middle school, I went to Sandhills Middle School.

23 Q. All right. Where did you go to high school?

24 A. High school, I went to three different high schools;
25 Swansea High School, in Swansea, Airport High School, and

1 White Knoll High School where I finished off and graduated.

2 Q. Okay. So where did you meet Cynthia Estrada Lopez?

3 A. I met Ms. Estrada Lopez my junior year when I first
4 came to White Knoll High School.

5 Q. And what grade was she in?

6 A. She was a sophomore. Tenth grade.

7 Q. So she was a year younger than you?

8 A. Yes, ma'am.

9 Q. All right. And had you had many girlfriends before
10 that?

11 A. No, ma'am.

12 Q. All right. What -- what kind of relationship did you
13 and Cynthia develop?

14 A. At first we were classmates, so we became friends.
15 Then I actually started to really like her more and we
16 started fully -- full on dating my senior year, beginning
17 of my senior year.

18 Q. Okay. So y'all were dating. Did she have an
19 opportunity to meet your family?

20 A. I don't believe she met me family right away.

21 Q. Okay. Did you have an opportunity to meet her family?

22 A. Yes, ma'am.

23 Q. And after a while, what happened with y'all's
24 relationship?

25 A. We -- we had a pretty up and down relationship

1 coming out of high school and separating and getting back
2 together, it was back and forth, but ultimately in the end
3 we -- we did get married. It was after we had our third
4 child together.

5 Q. Okay. So you did get married?

6 A. Yes, ma'am.

7 Q. And where did you get married?

8 A. Here in Lexington. I cannot remember the place, but
9 it was right across from the elementary school beside a
10 funeral home. I forget the place's name.

11 Q. Okay. You said you got married after your third
12 child?

13 A. Yes, ma'am.

14 Q. So you have three children?

15 A. Yes, ma'am.

16 Q. Tell the jury a little bit about your children.

17 A. My oldest, his name is **E.L.** . He was born
18 [REDACTED] 2012. I was nineteen years old at the time. I
19 was out of high school. She was a junior. She did not
20 complete high school due to having **E.L.** . We had **Minor**
21 **Isabella Lopez** [REDACTED] 2013. I was currently -- I can't
22 exactly remember where I was staying, it was back and forth
23 from my mom's to where my dad was staying, and me and
24 Ms. Lopez were also staying at a motel, the Knights Inn in
25 Cayce. And then after we -- her mom helped us get on our

1 feet, she helped us get a place and a car, we had L.L.

2 March 28, 2015.

3 Q. So on March 28, 2015, when you had L.L. , where were
4 you living?

5 A. I was living in -- off of Sandy Springs Lane in Red
6 Bank, South Carolina.

7 Q. Okay. And then where did you move to?

8 A. [REDACTED] Nazareth Road.

9 Q. And did you purchase that home?

10 A. We paid a mortgage. Her mom and her family helped us
11 put a good down payment on the house. That way we could
12 have something to grow into and grow old with.

13 Q. Okay. And describe what kind of house it was.

14 A. It looked -- it looked small from the outside. You
15 wouldn't be able to tell that there was a second story
16 unless you looked from the side of the house, but as you
17 walk in, you've got the kitchen on your left, the dining
18 room on your right. You move into the living room.
19 Directly across from the living room is the stairs leading
20 upstairs. They go to a bonus room and a playroom.
21 Originally it was a single room, but when we moved in we
22 made it two split rooms. Down the hallway is a bathroom,
23 the hall bathroom. Straight down is the laundry room where
24 the back door is. Beside the laundry room is E.L. 's
25 and Minor 's bedroom, and L.L. shared a bedroom with me

1 and Cynthia. He slept in a playpen slash crib at the foot
2 of our bed.

3 Q. And so what kind of background with work did you
4 have?

5 A. I have a variety of background work. I've done
6 warehouse work with Amazon through the temp services,
7 Little Caesars. My family had a business, Steadman Tree
8 and Lawn, Incorporated, I've worked for off and on as a
9 kid up to an adult. I've worked for her family, Lopez
10 Framing, LLC, and I've also worked for Hoover Building
11 Systems.

12 Q. Okay. And what kind of work did you do when you were
13 with -- working for her family?

14 A. Working for her family, it was doing construction and
15 I was building houses, framing houses.

16 Q. Okay. All right. And I'm gonna show you Defense 43.

17 MR. McNAIR: No objection.

18 MS. ZMROCZEK: Okay.

19 BY MS. ZMROCZEK:

20 Q. Do you recognize that photograph?

21 A. Yes, ma'am, I do.

22 Q. Okay. Does that fairly and accurately represent
23 paperwork showing the ownership of your house?

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

25 MS. ZMROCZEK: Your Honor, at this time we would

1 move Defendants's 43 into evidence.

2 THE COURT: 43 is admitted without objection.

3 (Defendant's Exhibit Number 43, a tax bill, was
4 admitted into evidence.)

5 BY MS. ZMROCZEK:

6 Q. Okay. So who was in charge of paying bills in your
7 house?

8 A. Well, since I married into a Hispanic culture, they
9 kind of imbedded in my head that I'm the man, I'm the one
10 who works and brings in the money and she's the wife, she's
11 the one that takes care of the house, the bills and the
12 kids.

13 Q. Okay. So is that kind of the relationship that y'all
14 had?

15 A. Yes, ma'am.

16 Q. Okay. And were you able to provide enough money to --
17 for your family?

18 A. Yes, ma'am.

19 Q. I'm gonna show you Defense 34 and ask you if you
20 recognize this picture?

21 A. Yes, ma'am, I do. It is a collage picture of my kids,
22 me, my wife happy.

23 MS. ZMROCZEK: Okay. Your Honor, at this time we
24 would move Defense 34 into evidence.

25 THE COURT: Any objection?

1 MR. McNAIR: No objection.

2 (Defendant's Exhibit 34, a photograph, was admitted
3 into evidence.)

4 BY MS. ZMROCZEK:

5 Q. All right. Do you have a social media account, Lance?

6 A. Yes, ma'am. I do have a Facebook account. I did have
7 Twitter, but I don't remember the password.

8 Q. All right. So on Facebook, would this be the -- the
9 background for your Facebook picture?

10 A. Yes, ma'am.

11 Q. Okay. And you said it's a collage of everyone in your
12 family, right?

13 A. Yes, ma'am, it is.

14 Q. All right. So we have here who?

15 A. Right there is my wife, Cynthia Estrada Lopez.

16 Q. Okay. And here?

17 A. That is me and my oldest, E.L. .

18 Q. All right.

19 A. That is Minor laying on the floor on a
20 pallet with her older brother, E.L. .

21 Q. All right. And then up here?

22 A. That is E.L. and his little sister, Minor . And
23 that is Cynthia, E.L. and Minor .

24 Q. Okay. How -- how did -- having this family, how did
25 that make you feel about your life?

1 A. It made me feel that I was doing -- I was doing good
2 as a human working and providing like I was supposed to.

3 Q. Okay. I'm gonna show you Defense 36. Do you
4 recognize that photo?

5 A. Yes, ma'am, I do.

6 Q. Okay. That fairly and accurately depicts what?

7 A. It -- it shows me and my wife kissing.

8 MS. ZMROCZEK: Okay. Your Honor, at this time we'd
9 move Defense 33 in.

10 MR. MCNAIR: No objection.

11 THE COURT: 33 is in without objection.

12 MS. ZMROCZEK: I'm sorry, 36. Did I say 33? I
13 meant 36.

14 THE COURT: 36 is in then.

15 (Defendant's Exhibit Number 36, a photograph, was
16 admitted into evidence.)

17 BY MS. ZMROCZEK:

18 Q. Okay. So that's you and your wife kissing?

19 A. Yes, ma'am.

20 Q. How -- I want you to talk a little bit about your
21 relationship with Cynthia. Did y'all -- did you get along?

22 A. We did not get along all the time. I feel like every
23 couple doesn't get along every time and that was us. We
24 had our disputes.

25 Q. Okay. In fact, we heard some text messages that were

1 read into the record this morning, Defendant's -- State's
2 75, where there's back and forth, and I'll publish that.
3 It's a little bit hard to read, but what did -- did she
4 plug you in her phone as?

5 A. Normally in her phone I am Pookie Bear and in my phone
6 she is my Sugar Bear.

7 Q. Okay. So that's how y'all had the other listed in
8 your phones?

9 A. Yes, ma'am. Except whenever she was mad at me, I
10 would become Asshole.

11 Q. But that's not -- that's not how you were labeled in
12 her phone on this day at least?

13 A. No, ma'am.

14 Q. So did y'all have what you'd consider a normal
15 relationship?

16 A. Yes, ma'am.

17 Q. Okay. And you got married in what year?

18 A. 2015. A month after L.L. was born.

19 Q. Okay. A month after L.L. was born. And he's your
20 third child, yes?

21 A. Yes, ma'am.

22 Q. Okay. And I'm gonna show you Defense 38 and 39. Do
23 you recognize those photos?

24 A. Yes, ma'am.

25 Q. Okay. And do they fairly and accurately depict --

1 what do they fairly and accurately depict?

2 A. It shows pictures -- 39 shows me holding **Minor** when
3 she was at the hospital NIC Unit at Palmetto Health
4 Richland after she was born and 38 shows her also at
5 Palmetto Health Richland in the NIC Unit.

6 MS. ZMROCZEK: Okay. Your Honor, at this time
7 we'd move Defense 38 and 39 into evidence.

8 MR. McNAIR: Your Honor, I see a large stack of
9 photos right there. I mean, where is this going to
10 end? Are we going all the way back to the birth in the
11 timeline up until now?

12 THE COURT: The two pictures of the birth, are you
13 objecting or are you just --

14 MR. McNAIR: I'm -- yeah, I'm objecting. It's
15 cumulative and it's not even in the timeframe of this
16 incident.

17 MS. ZMROCZEK: And, Your Honor, there was talk
18 about her birth and her being in the NIC Unit.

19 THE COURT: There was and so I'm gonna allow these
20 two.

21 Are you about done with the family pictures?

22 MS. ZMROCZEK: I've got a few more, but I'll --
23 yes.

24 THE COURT: Okay. They're admitted subject to
25 objection, but I'm concerned about cumulativeness.

1 MS. ZMROCZEK: Certainly. I hear you.

2 (Defendant's Exhibit Numbers 38 and 39, photographs,
3 were admitted into evidence.)

4 BY MS. ZMROCZEK:

5 Q. All right. So 38 you said was her in --

6 A. Yes, ma'am. Her in the NIC Unit at Palmetto Health
7 Richland.

8 Q. Okay. And then 39?

9 A. Was a picture my wife took of me holding her at
10 Palmetto Health Richland.

11 Q. And now did she have health issues when she was born?

12 A. Yes, ma'am. She was born premature at twenty-four
13 weeks.

14 Q. Okay. So she was born premature?

15 A. Yes, ma'am.

16 Q. Did she then develop any -- any health issues as a
17 result of that or that y'all had to address?

18 A. Yes, ma'am. She had trouble swallowing when she was
19 at Richland Palmetto Health. She had a G-tube, a feeding
20 tube, that was in her stomach. Then she also had a little
21 scar on her stomach from something they called a Nissen to
22 help her with swallowing due to her being premature.

23 Q. Now she eventually -- what eventually happened to that
24 tube?

25 A. Actually we were staying at Park Place Apartments in

1 West Columbia. The doctor always told us if we had a
2 problem to call him. Well, we was holding her, the G-tube
3 come out so we freaked out and called him and he said if it
4 come out and there was no blood or nothing, she was sitting
5 up, she was fine, and she hasn't had a problem with it.

6 Q. Okay. Do you recall a time that you ever took her to
7 Lexington Medical Center for a swallow study?

8 A. I -- I do recall, but I don't remember when.

9 Q. Okay. All right. You don't remember exactly what
10 year?

11 A. No, ma'am.

12 Q. Okay. I want to talk about --

13 MS. ZMROCZEK: These are the last pictures that
14 I'll put in, Your Honor.

15 Q. -- 64 and 65.

16 A. I recognize these photos, 64 and 65.

17 Q. From what day?

18 A. August 30th.

19 Q. Or July 30th?

20 A. Excuse me. July 30, 2017.

21 Q. Okay. And do they fairly and accurately represent
22 July 30, 2017?

23 A. Yes, ma'am. July 30, 2017, was a family get-together
24 at her mom's house.

25 MS. ZMROCZEK: All right. Your Honor, at this time

1 we'd move 64 and 65 in.

2 MR. McNAIR: No objection.

3 THE COURT: These are the day before the incident?

4 MS. ZMROCZEK: The day before the incident, yes, sir.

5 THE COURT: They're admitted without objection.

6 MS. ZMROCZEK: Thank you.

7 (Defendant's Exhibit Numbers 64 and 65, photographs,
8 were admitted into evidence.)

9 BY MS. ZMROCZEK:

10 Q. And this is Defendant's 64. Now this is a Sunday,
11 right?

12 A. Yes, ma'am, it is.

13 Q. Okay. Were you -- what was your work schedule?

14 A. With her family or with Hoover?

15 Q. With you. What was your work schedule?

16 A. My work schedule was typically Monday through Friday
17 and I'm off on the weekends.

18 Q. So if you worked Monday through Friday, what did you
19 do on the weekends?

20 A. If my wife did not want me to do anything around the
21 yard, as in cut the grass or trim bushes or anything, then
22 I would be spending time with them. We would go to the
23 parks. My cousin Joannie would come over, we'd go to the
24 park or we'd just all eat and have lunch at the house.

25 Q. And on this day, what are you carrying in those bags?

1 A. Those are -- that is food that we got from San Jose's
2 in Red Bank to go.

3 Q. Okay. And where was this located? Where were y'all
4 celebrating? And now I'm showing you Defendant's 65.

5 A. Both photos are two doors down from my house at
6 [REDACTED] Nazareth Road at her mother's house.

7 Q. Okay. So it's all on the same property?

8 A. Yes, ma'am.

9 Q. And so this is the day before the 31st, right?

10 A. Yes, ma'am.

11 Q. And was **Minor** having any problems or experiencing any
12 problems?

13 A. No, ma'am.

14 Q. Did she have any marks on her?

15 A. No, ma'am.

16 Q. Was she having trouble going to the restroom?

17 A. No, ma'am. I mean, she was still wetting her diaper,
18 but she tried to let us know whenever she wanted to use the
19 bathroom. Sometimes it was after and she had used the
20 bathroom in her diaper.

21 Q. Okay. And was she -- and was she able to eat okay?

22 A. Yes, ma'am, she was.

23 Q. Okay. What kind of -- of food did she like? Was she
24 picky eater, was she a normal eater?

25 A. **Minor** wasn't a very picky eater. We -- we let her

1 have too much junk food, so she loved junk food. It was
2 hard to get her off it, but she loved chicken tenders,
3 chicken nuggets, chicken in general. She didn't really
4 like burgers or anything.

5 Q. All right. I want to talk about -- going back to
6 State's 75. So on July 31st, which was a Monday, what time
7 did you get up if you recall?

8 A. I do not recall getting up, but most likely I got up
9 around 5:30, 6:00 to get prepared to go to work.

10 Q. Okay. Were any of your children in school?

11 A. Yes, ma'am, **E.L.** was.

12 Q. Okay. Did he do -- was he in pre-K or --

13 A. He was in 5-K at Deerfield Elementary.

14 Q. All right. And so -- but you would get up and get
15 ready for work?

16 A. Yes, ma'am.

17 Q. Did you drive your vehicle to work?

18 A. Yes, ma'am. There would be times where she needed the
19 vehicle, so she drove me to work, but typically I drove the
20 vehicle to work.

21 Q. Okay. And so we have a group of text messages here
22 and so -- we're not putting them up there. I'll hand them
23 to you just so I can ask you some questions about them, but
24 when you're doing your work did you have your phone? Did
25 you talk a lot to anybody while you were doing your work?

1 A. Not during work. They frowned on that, but during
2 breaks they didn't care.

3 Q. Okay. So we have some breaks. We see some text
4 messages around 12:30 to 1:00; is that correct?

5 A. Yes, ma'am.

6 Q. All right. And I particularly want to ask you --she
7 said -- you said something about I love you or something
8 like that, right?

9 A. Yes. Yes, ma'am.

10 Q. Okay. And then she had -- what kind of response did
11 she have?

12 A. I sent to her in a text saying love you mean it on my
13 lunch break and she sent back to me saying why are you
14 saying this, three question marks. You never say that to
15 me, two questions marks. What did you do question mark.
16 What are you planning question mark. What are you hiding
17 from me question marks.

18 Q. What was your relation to that?

19 A. It was -- it was weird because I tell her every day
20 when I come home from work and at lunch break, hey, baby, I
21 love you, how's the kids, how are you doing.

22 Q. Okay. So that -- that was something out of the
23 ordinary?

24 A. Yes, ma'am.

25 Q. All right. You go onto discuss her -- was her

1 birthday coming up? You don't have to read them. I was
2 just -- was her birthday coming up?

3 A. Yes, ma'am, her birthday was.

4 Q. So when you get home -- well, actually let's talk
5 about that. You get back to Hoover and then tell the jury
6 kind of what happened. What did you do that day when you
7 got -- when you got back to Hoover?

8 A. When we get back to Hoover, if we have trash on the
9 back of the truck, Hoover does not typically like for us to
10 have a dirty truck as in keeping the trash on the truck, so
11 they would like for us to empty out the truck. There's no
12 garbage disposal at the job site, so they have on-site at
13 Hoover Building Systems their own garbage cans for trash
14 and recycling materials.

15 Q. What do you remember about that day when you got back?

16 A. I remember unloading the truck with Jimmy Dixon,
17 another fella named Zack, another fellow named Danny --
18 Daniel before getting in my car and cranking it up, warming
19 -- turning on the AC to cool the car off.

20 Q. Okay. Because this was July 31st --

21 A. Yes, ma'am.

22 Q. -- in West Columbia. You -- what did you do next?

23 A. I leave Hoover after I get in my car and the AC on
24 nice and chill and I head home.

25 Q. Okay. Talk to the jury a little bit about what

1 happened when you got home that night.

2 A. On the night of July 31st when I come home, I pulled
3 into my driveway. To me it's a normal day coming home at
4 the moment. I come inside, take my boots off. The first
5 thing I see is the food was on the stove and it was cold.
6 Everybody has already eaten. My wife is sitting on the
7 couch watching -- she's watching TV. She was really
8 watching some Real Housewife episode. I can't remember
9 which one. She looked pretty ticked off and aggravated, so
10 as I'm walking by her, I say how are you, she didn't say
11 anything, so I go to our master bedroom that has our
12 bathroom and use the bathroom because the normal thing I do
13 when I come home is I use the bathroom. And as I'm walking
14 to the bathroom, my youngest, **L.L.** , he's in his crib and
15 he's sleeping. I come back out, I sit on the couch and she
16 says dinner's cold, it's on the stove, make your own plate.
17 That's -- that's unusual because normally she'll have a
18 plate ready for me to come home to. When I asked her
19 again, what was wrong she just said she was tired of the
20 kids fighting, that **Minor** was being mean to the boys and
21 they were hitting each other with the lightsabers, but she
22 said **Minor** was holding the lightsaber upside down with the
23 blade end and hitting the boys and **E.L.** had told her
24 that.

25 Q. And so we had seen a picture earlier of -- Defendant's

1 17.

2 A. Yes, ma'am.

3 Q. What -- what is that plate?

4 A. That was my plate I put in the microwave.

5 Q. Okay. Did you ever get it out of the microwave?

6 A. I -- I did.

7 Q. Okay. You did?

8 A. I did. I put it back in the microwave.

9 Q. Okay. So you had eaten?

10 A. Yes, ma'am.

11 Q. And then you put it back in?

12 A. (Nods head.)

13 Q. Why did you put it back in?

14 A. I mean, I tried to eat. I really wasn't that hungry
15 and, to be honest, I get tired of eating beans all the
16 time.

17 Q. So then what did you do next?

18 A. I grabbed a beer from the refrigerator and then I
19 continued back to sit down and have a conversation with
20 Cynthia.

21 Q. Okay.

22 A. And I asked where the boys -- or, excuse me, where the
23 boys were and **Minor**. Of course, I already saw **L.L.**
24 sleeping. She said they're all sleeping, at least **E.L.**
25 and **Minor** should be in the bedroom sleeping.

1 Q. Okay. Was there ever a problem that you knew of of
2 **Minor** not staying in her bedroom?

3 A. No, ma'am. **Minor** was scared of my wife.

4 Q. She was what?

5 A. Scared of my wife.

6 Q. Scared of her?

7 A. Yes, ma'am.

8 Q. All right. So she -- when did you make it down to
9 that room?

10 A. When I asked Cynthia where was the kids and what were
11 they doing and she told me the kids better be sleeping in
12 their room, she said that she had taped **Minor** to the bed.
13 I didn't believe her. I thought she was just aggravated,
14 running her mouth talking, and when I go back there right
15 after she said that, the first thing I see is **E.L.**
16 sitting on his bed, a couple of toys by his bed and a toy
17 on his bed playing with it. Hey, dad. Hey, son. I walk
18 into the room -- I walk in the room and **Minor** 's taped to
19 her toddler bed, both wrists to the headboard.

20 Q. And there -- I guess there was some question about
21 that, so I want to see if I can show you a picture so you
22 can show us exactly what, okay?

23 I'm showing you State's 60. Actually, let me show it
24 down here so you can point to it and we can -- so where was
25 she taped?

1 A. Minor was laying on her back with just a diaper.
2 There was no sheet, no blanket, nothing on her bed, just
3 her wearing a diaper that was full. She had vomit on her
4 chin, her neck and her chest and right up under her.

5 Q. And where were her hands?

6 A. Her -- her hands were taped right here on both sides.

7 Q. All right. So you're saying right here on both
8 sides?

9 A. Yes, ma'am.

10 Q. Okay. And E.L. was sitting up?

11 A. Yes, ma'am.

12 Q. What did you do?

13 A. I went straight to the bed and I yelled my wife's
14 name, Cynthia, for her to come in there. She came in
15 there, asked me what the problem was. The problem is you,
16 Cynthia, taped Minor to the bed.

17 Q. Now did you ever see tape on her mouth?

18 A. No, ma'am, there was no tape on her mouth.

19 Q. Okay. So you didn't know about that?

20 A. I did not know about the tape on her mouth until it
21 was brought up at an interview between the detectives
22 and I.

23 Q. Okay. So how did you get the tape off?

24 A. Cynthia pulled the tape off. I did not. She tore it
25 and she wadded it up and left with it. I don't know

1 exactly what she did with it. I told **E.L.** to clean up
2 his toys that he had in the room. That's not something
3 that -- he shouldn't have been witness to that. That's not
4 something that should have happened period.

5 Q. And what did you do with **Minor** ?

6 A. When I -- when I come in and seen **Minor** , her eyes were
7 open, so I automatically assumed that she was awake. And
8 when I get closer to her, her eyes were open, but she was
9 not alive, she wasn't breathing. I -- I lied to the police
10 in my statements when I said that.

11 Q. Why did you lie to the police?

12 A. I was shocked. I had just come home from work feeling
13 like it's a normal day.

14 Q. Were you --

15 A. Every time I come home from work, if my kids are
16 awake, they're fine, they're up running around. If I come
17 home and they're sleeping, they're sleeping. I've never
18 had this problem with my wife ever.

19 Q. How did you -- what did you do with **Minor** after you
20 took her out of the bed?

21 A. After I went to go pick her up, she had a lot of throw
22 up still in her mouth and her mouth was slightly open, so
23 I took her to the shower and got Cynthia to turn on the
24 shower water to try to clean up the throw-up off of her.
25 Cleaning the throw up off was hard. You could barely push

1 on her stomach and the throw-up would just come up, a
2 mixture of chewed beans, a mixture of whole beans and --

3 Q. What did you do with her diaper at that time?

4 A. Her diaper was still on her at the time when the water
5 was on. I did not put a new diaper on her until the fire
6 department had pulled in. When I put a diaper on her, all
7 I did was take the old one off and throwed a new one on. I
8 didn't -- I didn't even wipe.

9 Q. Did you leave her in the shower? What happened next?

10 A. An argument started between me and my wife about **Minor**
11 in the bedroom. She never said to me how long **Minor** was
12 like that. She just said a little while. A little while
13 could mean anything to anybody, but she never gave me an
14 appropriate answer because I wanted to know why was **Minor**
15 like that, what did you do to her, what happened. She --

16 Q. What were you trying to do with **Minor** in the shower?

17 A. I was -- I was trying to cleanse her off.

18 Q. Okay. What did you want to happen?

19 A. I wanted to be able to get all the throw-up off of her
20 and out of her so she could probably breathe.

21 Q. Okay. Where was **E.L.** during all of this?

22 A. **E.L.** during this was picking up his toys like I
23 asked him to. He was back and forth to his room and going
24 up the stairs to put the toys up in the playroom.

25 Q. Now why did you tell him to pick up his toys?

1 A. I did not want him to further see his sister like
2 that.

3 Q. Okay. So when you're fighting what happens next?

4 A. Cynthia tells me that -- over and over everything's
5 okay, I'm freaking out for no reason, Minor 's fine, I'm
6 giving into the kids, I always give into the kids on
7 everything, I always give Minor what she wants. Every --
8 everything was not fine.

9 Q. Thank you. Where was L.L. ?

10 A. L.L. was asleep in his crib.

11 Q. Okay. Did he ever wake up?

12 A. He did wake up after a while after the argument
13 because where the bathroom was, it was bathroom, then our
14 bedroom closet and then basically him right there in our
15 bedroom.

16 Q. So what happened next?

17 A. While we were arguing in the bathroom, she wouldn't
18 give me no kind of answer, no anything to help, but I knew
19 E.L. was there and he saw something. So I asked her if
20 she would bring me a cup of water. She said I didn't need
21 a cup of water, there was no need for a cup of water, and I
22 tried calling E.L. into the bathroom and ask him and
23 that's when she yelled at E.L. and told him to go
24 finish picking up his fucking toys.

25 Q. And then what happened?

1 A. Then I told E.L. it was okay, that he could go
2 back to bed. I told him goodnight, I love you. I got mad
3 arguing with Cynthia and I walked out of the bathroom.

4 Q. What did you do next?

5 A. I don't remember fully what happened right then, but I
6 remember L.L. crying around that time and me asking her
7 to pick him up and her saying I'm home from work now, I can
8 take care of the kids, so I picked L.L. up. As I picked
9 him up, I didn't want to put him back down, I was scared.
10 I didn't know what my sons had witnessed that day. I don't
11 know what else my daughter had went through that day. I
12 picked L.L. up and brought him to the couch. I pick up
13 my phone and the first thing I do -- I do I hit Netflix and
14 immediately it comes up on Netflix, it automatically loaded
15 on my phone, was a show that had like dinosaur thing called
16 Ultimate Beastmaster on the front. L.L. did click on it
17 and we decided to watch that and he calmed down and stopped
18 crying laying on my chest. I did not -- I did not want to
19 let go of holding him. I didn't properly think.

20 Q. The next text message we see is her saying you're
21 always leaving. What's that in reference to?

22 A. In reference to me walking away.

23 Q. Okay.

24 A. I'm not a -- I'm not a person -- I don't like to
25 fight. I don't like drama. I'll argue and if it gets to

1 a certain level, I'll walk away and --

2 Q. Lance, let me ask you this. Why didn't you call 9-1-1
3 when she was in the shower?

4 A. I should have called 9-1-1 immediately.

5 Q. Was she alive?

6 A. No, ma'am.

7 Q. But why do you keep saying that you should have
8 called?

9 A. Just looking back at what I saw whenever I went to
10 my kids' room, seeing **Minor** how she was, I wish I didn't
11 freak out like I did and just went straight to my phone.

12 Q. So when the police got there that night, you talked
13 to Detective Andaloro?

14 A. Yes, ma'am.

15 Q. Okay. And did you tell him the truth?

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

17 Q. What was your state of mind that night?

18 A. My state of mind, I was scared, I was shocked, I was
19 panicky.

20 Q. Have you -- had you walked into a situation like that
21 before?

22 A. No, ma'am. Never.

23 Q. All right.

24 A. I never expected to.

25 Q. So you go to the hospital and then what happens next?

1 A. First, it was my wife, she went to the hospital with
2 her mom. They told me that only one of us could ride and
3 E.L. was at the house still. L.L. , I had sent him
4 next door with my father-in-law. After I sent E.L.
5 next door was whenever Detective Andaloro allowed me to go
6 to the hospital and I rode with my mom.

7 Q. Now the next day when you meet with detectives, did
8 something change?

9 A. What exactly do you mean?

10 Q. Were they asking you questions about anything
11 different?

12 A. Yes. Yes, ma'am.

13 Q. Okay. So tell the jury about that.

14 A. They kept asking questions and trying to gather
15 information of what exactly happened that night.

16 Q. Now did you know exactly what had happened to her?

17 A. No, ma'am. I still do not know.

18 Q. Did you learn about the tape at this time?

19 A. No, ma'am.

20 Q. Okay. So what kind of questions were they asking you?

21 A. They were asking me questions about a -- they said my
22 daughter was sexually assaulted and they wanted to know
23 what happened.

24 Q. All right. Did you know anything about that?

25 A. No, ma'am.

1 Q. Had you ever seen any evidence of that?

2 A. No, ma'am.

3 Q. Were you being accused of that?

4 A. They accused me of possibly doing it or having prior
5 knowledge to -- of seeing it.

6 Q. And had you had -- so had you even had time to grieve
7 at this point?

8 A. No, ma'am.

9 Q. All right. Were you getting any answers -- any
10 answers out of Cynthia?

11 A. No, ma'am. She kept saying the same thing, that **Minor**
12 was fine, everything was okay. Obviously it wasn't.

13 Q. Did you -- did you want **Minor** to be fine?

14 A. Yes, ma'am. The last time I saw my daughter alive was
15 the day before right before she went to bed.

16 Q. You didn't see her that morning before you left?

17 A. No, ma'am.

18 Q. We've heard several statements where you keep telling
19 the police, you know, that you got home at seven, around
20 seven --

21 A. Yes, ma'am.

22 Q. -- that you took your shoes off, made food, went to
23 the restroom. When you finally learn about the tape, tell
24 the jury a little bit about how that came out. Well, you
25 knew about the tape. You didn't know about the tape on the