VOLUME I OF II

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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lancaster County
R. Lawton McIntosh, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

KAYLA MARIE COOK,

APPELLANT

APPELLATE CASE NO. 2019-001417

RECORD ON APPEAL

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PAGES 1 - 500

INDEX

INDEX i

TRIAL TRANSCRIPT DATED AUGUST 12-16, & 19, 2019 1

MOTION TO SUPPRESS EVIDENCE OF A BROKEN ARM 11

OPENING INSTRUCTIONS BY THE COURT 20

OPENING STATEMENT BY MS. MCGINNIS 31

OPENING STATEMENT BY MR. BURTON 34

TESTIMONY

EARLENE COCHRAN
Direct Examination by Ms. McGinnis 44
Cross Examination by Mr. Burton 50
Redirect Examination by Ms. McGinnis 53

DAVID MELTON
Direct Examination by Ms. Campbell 54
Cross Examination by Mr. Burton 61

DALE JOHNSON
Direct Examination by Ms. McGinnis 62
Cross Examination by Mr. Burton 70
Redirect Examination by Ms. McGinnis 71

MICHELLE COATS
Direct Examination by Ms. Campbell 72
Cross Examination by Mr. Burton 85

ALEXANDER VINUYA
Direct Examination by Ms. McGinnis 91
Cross Examination by Mr. Burton 116
Redirect Examination by Ms. Campbell 125

CHRISTY BLACKMON
Direct Examination by Ms. Campbell 127
Cross Examination by Mr. Burton 137

JEANETTE JENNINGS
Direct Examination by Ms. Campbell 140
Cross Examination by Mr. Burton 147

MIRIAM MYERS
Proffer Examination by Ms. Campbell 150

JODI SIMS
Direct Examination by Ms. McGinnis 158

RULING BY THE COURT ON THE ADMISSIBILITY OF THE BROKEN ARM 176

TESTIMONY

JANICE ROSS
Direct Examination by Ms. Campbell 180
Cross Examination by Mr. Burton 215
Redirect Examination by Ms. Campbell 222
Re-Cross Examination by Mr. Burton 224

JODI SIMS
Direct Examination by Ms. McGinnis (Continued) 227
Cross Examination by Mr. Burton 258
Redirect Examination by Ms. McGinnis 281
Re-Cross Examination by Mr. Burton 286

PRESTON SIMPSON
Direct Examination by Ms. McGinnis 289

MYRICA JENKINS
Direct Examination by Ms. Campbell 302
Cross Examination by Mr. Burton 313

TODD SCHENCK
Direct Examination by Ms. Campbell 315
Cross Examination by Mr. Burton 373

MIRIAM MYERS
Direct Examination by Ms. Campbell 376
Cross Examination by Mr. Burton 389

TRACY SCHROEDER
Direct Examination by Ms. McGinnis 393
Cross Examination by Mr. Burton 418
Redirect Examination by Ms. McGinnis 422
Re-Cross Examination by Mr. Burton 423

CARMINA CRUZ
Direct Examination by Ms. McGinnis 424

Cross Examination by Mr. Burton 429

DALE JOHNSON
Direct Examination by Ms. McGinnis 431
Cross Examination by Mr. Burton 434
Redirect Examination by Ms. McGinnis 440

SUSAN LAMB
Direct Examination by Ms. Campbell 443
Voir Dire Examination by Mr. Burton 444
Direct Examination by Ms. Campbell (Continued) 447
Cross Examination by Mr. Burton 475
Redirect Examination by Ms. Campbell 482
Re-Cross Examination by Mr. Burton 486

QUINTAS YOUNG
Direct Examination by Ms. Campbell 488
Cross Examination by Mr. Burton 496

KERRIN COOK
Direct Examination by Ms. McGinnis 497
Cross Examination by Mr. Burton 501

TIMOTHY SCHROEDER
Direct Examination by Ms. Campbell 512
Cross Examination by Mr. Burton 561
Redirect Examination by Ms. Campbell 570

DONNA MONEY
Direct Examination by Ms. Campbell 571

MARK ABRAMS
Direct Examination by Ms. McGinnis 576

JENNIFER COCHRAN
Direct Examination by Ms. McGinnis 581
Cross Examination by Mr. Burton 586

TRISTA BAIRD
Direct Examination by Ms. Campbell 589

MOTION FOR MISTRIAL 603

RULING BY THE COURT 603

TESTIMONY

TRISTA BAIRD
Direct Examination by Ms. Campbell (Continued) 607
Cross Examination by Mr. Burton 617
Redirect Examination by Ms. Campbell 622

STATE RESTS 622

TESTIMONY

JENNIFER ADAMS
Direct Examination by Mr. Burton 625
Cross Examination by Ms. Campbell 630
Redirect Examination by Mr. Burton....637

NICHOLAS BATALIS
Direct Examination by Mr. Burton 639
Cross Examination by Ms. Campbell 659
Redirect Examination by Mr. Burton....680

KAYLA COOK
Direct Examination by Mr. Burton 682
Cross Examination by Ms. Campbell 739
Redirect Examination by Mr. Burton....768

DEFENSE RESTS 772

BARBARA HAZEL
Direct Examination by Ms. McGinnis 772

AMY DURSO
Direct Examination by Ms. Campbell 776
Voir Dire Examination by Mr. Burton....777
Direct Examination by Ms. Campbell 778
Cross Examination by Mr. Burton 795

CLOSING ARGUMENT BY MS. CAMPBELL 800

CLOSING ARGUMENT BY MR. BURTON 809

REPLY CLOSING ARGUMENT BY MS. CAMPBELL 834

CHARGE ON THE LAW 855

JURY QUESTION....874

RE-CHARGE ON THE LAW 875

VERDICT 877

SENTENCING 890

MOTION TO SUPRESS HEALING FRACTURE OF ARM 891

STATE'S EXHIBIT #224 (SMS OUTBOX) 892

COURT'S EXHIBIT #14 (JURY NOTE) 895

ARREST WARRANT 896

INDICTMENT AND SENTENCE SHEET 897

CERTIFICATE OF COUNSEL 900

THE FOLLOWING EXHIBITS ARE ON FILE WITH THE COURT:

STATE'S EXHIBITS #14-33 (AUTOPSY PHOTOS); STATE'S EXHIBIT #36 (USB DRIVE W. COOK INTERVIEW).

State of South Carolina., County of Lancaster.	In the Court of General Sessions for Lancaster Case No.: 2018-GS-29-01659
State of South Carolina., Plaintiff., -vs- Kayla Marie Cook., Defendant.	Transcript of Record Trial Volume I

August 12-16, 19, 2019
Lancaster, South Carolina

B-E-F-O-R-E:

The Honorable R. Lawton McIntosh, Judge, and a jury

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To The Honorable Daniel D. Hall

MS. BOYER: 21, sir.

THE COURT: Okay. 21. All right, is there anyone else?

(COURT RETURNS TO THE BENCH.)

THE COURT: All right, Mr. Clerk, I'm gonna find the remainder of the pool is qualified to serve.

May I see the attorneys up here, please.

(BENCH CONFERENCE OFF THE RECORD AT 10:50 A.M.)

THE COURT: All right, ladies and gentlemen, we are about to go through jury selection in the first trial of this matter for this week that is scheduled.

This is the case of The State of South Carolina versus Kayla Cook who has been indicted for homicide by child abuse. We will ask you some questions relative to this case and it is vitally important, let me remind you, that if a question pertains to you that you give us the information we're requesting and if you do not understand what's being ask, or you do not hear what's being ask, that you immediately stand up and let me know so I can try in my feeble best to make sure that you do understand the question.

The first question, ladies and gentlemen, is has anyone ever been related by blood or marriage to Kayla Cook.

Is Ms. Cook here? Would you stand up please, ma'am?

THE COURT: Okay. How about from the State?

SOLICITOR MCGINNIS: No.

THE COURT: Well since we're here then let's just go ahead and knock it out here. Is that all right?

MADAM COURT REPORTER: Judge, I don't mean to interrupt you, sir, but I would rather do it in the courtroom.

THE COURT: You would?

MADAM COURT REPORTER: I would. I want this record -

THE COURT: Well then far for getting in the way of the court reporter then. We'll go up there in the courtroom.

MADAM COURT REPORTER: Thank you, sir.

THE COURT: You're welcome. And you always so bashful. Well let's go up to the courtroom.

Let me for the record though, what are the issues that are remaining that we need to resolve?

SOLICITOR CAMPBELL: Your Honor, I believe there is an amendment to the indictment and then the Defense has filed a number of motions that we received last Friday. They are motions to suppress certain evidence on - -

THE COURT: Those are the four different motions?

SOLICITOR CAMPBELL: Yes, sir. The only thing is we did on the one motion he has about the coroner's office, I did want the coroner's office to be here for that. In just

anticipating it to take all morning to do that we had the coroner's office coming in here at 2:00. We can make a quick call to see if they can get up here - -

THE COURT: Well based on our chambers meeting I wasn't certain the Defense intended to make that motion.

Do you intend to make that motion?

MR. BURTON: I do, your Honor.

THE COURT: All right. Then we'll let you make it.

Do we have everybody present now or did you say they're not here?

SOLICITOR CAMPBELL: I said I had them scheduled to come in at Two o'clock. If I can make a phone call or two I can probably get them

THE COURT: And the reason I'm going over this with you, I want to kind of gauge about when we want to let this jury go and come back. I really - I don't think that what we have today is gonna last throughout the afternoon. I want to move this case along.

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: If we bring them back at Three o'clock does that give us enough time or no?

SOLICITOR CAMPBELL: Three or 3:30. I do know he wants to put up testimony - -

MR. BURTON: That would be fine. Either one is fine with me.

SOLICITOR CAMPBELL: - - -- of at least one and we may be putting up testimony for the coroner's office.

THE COURT: Okay.

SOLICITOR CAMPBELL: So I just - -

THE COURT: I'm gonna bring them back at Three that way - 3:30, if they sit down for a few minutes that won't hurt anything.

SOLICITOR CAMPBELL: Okay.

THE COURT: All right. Thank you, guys. So let's move everything up - - Yes, sir.

MR. BURTON: One thing I'd like to ask your Honor is that Ms. Cook is out on bond. She's been out on bond for about six months now. She's here.

THE COURT: She had a ankle monitor?

MR. BURTON: She does, your Honor. I would ask your Honor to let us know whether your Honor will let her out, continue the bond during the trial. The bondsman, I called him on Friday, he says she's been doing great. She's been calling in. He's willing to take responsibility for her. He's on vacation this week but I've got his cell phone number where he could assure - -

THE COURT: Well even if it's a technical matter now that she has shown up for jury selection that bond has ended.

MR. BURTON: I understand that.

THE COURT: But he's saying he'll continue on and be responsible?

MR. BURTON: Yes, your Honor.

THE COURT: Any problem with that?

SOLICITOR CAMPBELL: Your Honor, she did have a prior motion to revoke and she was revoked for a violation of the conditions of bond on a prior occasion and she served thirty days on that. We would have a concern especially because in this courthouse the jurors, and she, they come in the same doors. In addition, your Honor, we do feel like that even though, I mean under the law, once the case is called, I believe once actually sworn, her bond is down and I don't know of any provision that gives that even if the bondsman would be willing to do that.

MR. BURTON: Many judges have done it, your Honor.

THE COURT: Well I know many judges have done that; that don't mean it's necessarily right.

SOLICITOR CAMPBELL: This is a homicide by child abuse. She is facing life or a minimum - -

THE COURT: Let me think about that quite frankly.

What I will tell you, Ms. Cook, that if I allow you to not stay in the detention center during the course of this trial, you don't show back up, then this case will be continued in your absence, okay. So make sure you understand that. And if there is any word of you have any

kind of communication with any of these jurors then that will be dealt with as well. Okay.

All right. Are we ready to move it up to the courtroom? Let's go do that.

(COURT AT EASE AT 12:46 P.M.)

(COURT BACK IN SESSION AT 01:00 P.M.)

THE COURT: Okay.

SOLICITOR CAMPBELL: It says occurred from cerebral edema and or hemorrhage to the abdominal area commonly resulting. It says in blunt force trauma it should be resulting from blunt force.

THE COURT: Any objection to that

MR. BURTON: No, your Honor.

THE COURT: That's granted.

SOLICITOR CAMPBELL: Thank you.

THE COURT: There is also a *Jackson v. Denno* hearing and then we have Defense Motion to Suppress four different areas; is that correct?

MR. BURTON: Yes, your Honor.

THE COURT: Any other motions we need to deal with from the State's perspective?

SOLICITOR CAMPBELL: No, your Honor. In chambers also though there was information they wanted a witness they were -

THE COURT: That's correct. That's a DSS person?

Great.

MR. BURTON: And this is the involuntary commitment order because with the block checked she's mentally ill and dangerous to self or others.

THE COURT: All right, sir.

(WHEREUPON, COURT'S EXHIBITS NO. 4 AND 5, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: Anything further from the Jackson Denno perspective from you, Mr. Burton?

MR. BURTON: No, your Honor.

THE COURT: Anything further from the State with regard to *Jackson Denno*?

SOLICITOR CAMPBELL: No, sir.

THE COURT: Let me say this, I'm gonna find that while I feel like Ms. Cook and most reasonable people would not felt necessarily they have a right to leave during the questioning process; that that custodial interrogation that she was properly given Miranda when she waived. The video that we looked at was sometime around noon or closer to One o'clock in the afternoon and the interrogation from what I can believe started about 9:00 p.m. at night into the Three or around 3:00 a.m.

That puts the interrogation being in the neighborhood of about five, five and a half hours and it took place at the police department. I do note that the Defendant

towards the end of the second DVD said it was a little hot, small, damp in the room or somewhere along those lines but up until that time it was roughly I would say two and a half to three hours there's no complaints.

As far as the continuity of the interrogation she was given two breaks. I noticed that she never ask for any breaks. I did not see any evidence on those films -- I'm not saying she didn't -- I just personally did not see her -- that may have been taken off out of camera sight when she'd get up and move around but she was given some freedom to movement.

In this case the Defendant has high school and some college education. She has -- she is twenty-two some odd years of age. There was nothing during the interview that showed to me that there was any kind of physical condition that we need to be concerned with and nothing being presented.

As to the mental health aspect of the Defendant, obviously she was upset as shown by the video. But I don't know that I can't say that it raises to such a degree as to make any voluntariness on her part inappropriate or unavailable to her. I mean obviously if the State contends she was responsible for the death of this child you would be upset. If you weren't you'd equally be upset but you're looking at roughly six or seven hours later when she was

given her interview to law enforcement or at least after 1:00 to 9:00. I can tell you that she seemed fairly well composed during the course of that five hour or five and a half interview. I didn't see anything that showed that indicated to me in the two times that I watched it she had any kind of mental health issues that would prevent her from giving a voluntary statement.

And quite frankly I believe that if there was some type of mental health issue that would have prevented her from giving a voluntary statement you would need to establish that though some type of expert testimony, not through asking me to speculate as to what's going on which I will not do.

I don't know her background and experience but I will note that there were no misrepresentations by law enforcement to her during the course of this interview. There were no threats of violence or promises of leniency. This case does not involve isolation of a minor from their parents. And the Defendant by her own admission was not under the influence of any alcohol and or drugs.

Now, I do note that in the third DVD which is at roughly the fifth hour, fourth hour, or whatever it is, the interrogation that there was some fairly stern questioning of her and that's not volative of her ability to give a fair statement in this matter or a voluntary statement in

this matter. And its just pointing out the obvious they are very -- obvious inconsistencies in her statement throughout the course; therefore, I'm going to find that her interrogation is admissible.

There is a concern about some aspects of that that leads me to the suppression hearing as to the broken bone in her arm.

Now, Ms. Campbell, I do have some real concerns about that. Do you intend -- and I'm not asking you to try your case in front of me, well, at this juncture, let me put it that way.

Is there anything that you intend to do to establish that this arm was broken not from the fall down the stairs caused by the dog or from a jump from a bed and was actually committed at the hands of this defendant?

SOLICITOR CAMPBELL: The evidence we would intend to put forth on that, your Honor, as far as proving what actually happened is that again Kayla Cook was the only one that had - was in the presence of the child at the time the event occurred.

THE COURT: Let me ask you this, the time of the incident that caused her death, I mean obviously that broken arm didn't cause her death, right?

SOLICITOR CAMPBELL: No, your Honor. However the child, there is a pediatric forensic pediatrician in this

case and she would say that that could because all the injuries happened when Ms. Cook is alone with the child, that that did come into play as to some of her findings because she has to get a history.

In addition, your Honor, it's not so much that the child -- we aren't gonna sit there and say the child didn't fall and break her arm. It's the fact that Ms. Cook then did not take the child to get any treatment for the broken arm which would have been according to our experts very very painful. There is a lot of medications, children's medications in the home. In addition to that, your Honor, not only did she not seek treatment, she lied to other people about having got the treatment for the child.

At one point there are text back and forth when she and the grandmother of the child about how the child had been seen and that it was just a sprain, she didn't need anything further, so it's more under that context that we're proceeding than even trying to say that she caused the break.

The forensic pediatrician will say, yeah, it could be from child abuse or it could be from a fall.

THE COURT: Well that's not the standard. You have to say to a reasonable degree of medical certainty even though this is a criminal case do you not?

SOLICITOR CAMPBELL: That it --

THE COURT: Could. The jury's not allowed to engage in speculation so we can't -- any testimony by an expert it only allows a jury to speculate, it's not admissible, right?

SOLICITOR CAMPBELL: Yes, sir, I agree with that. We're going into it more. Child abuse -- she didn't get the proper care for the child.

THE COURT: Right.

SOLICITOR CAMPBELL: And that would be the aspect of it that we think is relevant to this case as a pattern of abuse in the days coming before this.

THE COURT: Roughly how many -- not roughly -- how many witnesses do you intend to bring up this testimony from? It sounds like more than one.

SOLICITOR CAMPBELL: As far as the findings or what --

THE COURT: Well the fact that I heard you say there was a text or something to some grandmother or something she said I got treatment for this. According to what you're telling me she hadn't so I'm certain that may come in through the expert.

SOLICITOR CAMPBELL: No that does not come in. As far as lay witnesses maybe two. Probably two different witnesses. There was a DSS worker who also saw the child after the break occurred and there was a conversation

between she and Ms. Cook about how it was just a sprain.

THE COURT: Would you do me and favor or just proffer that testimony and let me know when you're about to use it. I want to hear it ---

SOLICITOR CAMPBELL: We won't mention it in opening.

THE COURT: --- outside the presence of the jury.

Okay. So right now your motion to suppress the broken arm and related testimony I'm gonna grant the first aspect that you proffer her testimony ---

SOLICITOR CAMPBELL: Right.

THE COURT: --- before I make a ruling. I'm gonna hold the rest of it under advisement until I able to better see it and hear it, okay?

MR. BURTON: Fair enough, your Honor.

THE COURT: Fair enough. All right, the next motion you had to suppress is a forensic interview of a Phoebee H. [redacted], the defendant's four-year-old daughter. Okay.

MR. BURTON: All I ask on that, your Honor, is that the State be held to the limits that the Chroma case --

THE COURT: That seems reasonable to me.

SOLICITOR CAMPBELL: We think that's reasonable.

THE COURT: Well that's granted. Okay, pictures. I guess you're referring to the gallery of people who are having t-shirts or photographs of the victim in this case.

That will not happen. If there anybody out in the

gallery --

SOLICITOR CAMPBELL: We've already advised our people that they cannot have pins, pictures, anything of that nature.

THE COURT: Good. Is there anybody in the courtroom that doesn't understand that that you're not allowed to display t-shirts, photographs or other images of the victim in this case while you're here in the courtroom?

(NO RESPONSE.)

THE COURT: Okay. Now the use of pictures by the State is a different matter.

MR. BURTON: Absolutely, your Honor. At some point we have to agree --

THE COURT: And obviously to the extent they show the alleged abuse or neglect they will have a right to do it and they may be gruesome. I also read your motion to include photographs by the State of the victim before her injuries occurred. Is that what you're asking me to prohibit?

MR. BURTON: Well I may leave it to what your Honor said before but, you know, is a picture --

THE COURT: Well that's not gonna happen.

MR. BURTON: Yeah.

THE COURT: But as far as the State doing that at some point in their case, I mean that doesn't cause me as near

as much heartburn. Are you asking that I exclude that?

MR. BURTON: Well I just don't want to like an easel with a big picture of Minor who was a beautiful girl, you know, the jury to look at because --

THE COURT: I think your point that that doesn't go to any elements of the case and to prove it the State has to make is a good point. Are you planning on presenting any photographs of the child?

SOLICITOR CAMPBELL: No, your Honor, we're not planning to -- but I will say there was a video of the child the day before this occurred that we think is relevant because you can see a bruise on her forehead which ever one mentions but there is no bruising any where else that you can see. It was taken by Ms. Cook when she cut her hair the day before which we think is significant as far as because one of the big points of contention in this case is how long before the injuries were inflicted that the child died.

MR. BURTON: I don't think they've turned that video over to me, your Honor.

THE COURT: Sir?

MR. BURTON: I don't believe they've turned that video over to me yet.

SOLICITOR CAMPBELL: Its on the cell phone dumps we provided to you. I'll be glad to show it to you.

MR. BURTON: I'll take a second look. I assume you're not gonna bring that up today?

SOLICITOR CAMPBELL: No.

THE COURT: Did you file a Rule 5?

MR. BURTON: Yes, your Honor.

THE COURT: Brady?

MR. BURTON: Yes, your Honor.

THE COURT: Well if you gonna use it in your case in chief that has to - -

SOLICITOR CAMPBELL: We've given it to him, your Honor. I'll be glad to pull it up and show it to him, like its dumped.

You agree you've got the dumps?

MR. BURTON: Yeah, yeah. And it could well be, your Honor. It just wasn't labeled that way.

SOLICITOR CAMPBELL: It was not pulled out separately from the entire phone dump.

THE COURT: All right. If there is a problem you let me know and I'll -- as you know I want to try to expedite this case, not actually indict it but keep it moving.

MR. BURTON: Yes, your Honor.

THE COURT: But not at the expense of due process.

All right. So if you have a problem please let me know.

And the same goes to you, Ms. Campbell, as far as the

State goes. So if you feel anything about that tape is improper then you'll just need to raise the objection then. I'm gonna grant your motion as to the gallery and both the folks in the courtroom.

Any use by the State of video or otherwise you'll have to raise an objection at that time.

MR. BURTON: Yes, sir.

THE COURT: All right. Mr. Burton, I think you misquote on the next one that has the State that would proffer by proof beyond a reasonable doubt that the bruises were caused by the defendant, but that's not the standard that has to be met in this case is it?

MR. BURTON: No, your Honor.

THE COURT: I mean as I -- I mean if you continue this I think you're wrong.

MR. BURTON: I just don't think the State has any evidence that Kayla Cook produced any bruise at all on the child and I'd like to see that evidence.

THE COURT: That's probably more for directed verdict motion issue than anything else. But again, you been a lawyer longer than I have and if you feel like there is something inadmissible I'm gonna presently deny it with the requirement that you spontaneously object if you think you need to. Fair enough?

MR. BURTON: All right, your Honor.

THE COURT: I may disagree with you and I'll assume that for each one of these I don't rule with you or the State you all, both of you object to my rulings, okay.

The coroner issue.

MR. BURTON: The coroner issue, yes, sir.

THE COURT: Now do we have here for the testimony that I think that somebody said they wanted to do some testimony on this case?

SOLICITOR CAMPBELL: Your Honor, I think to make the record clear because the representations at this motion are inaccurate, just so that we clear that up to make sure that we're all talking about the same time line.

I've got the coroner herself, the elected coroner here as well as the assistant coroner who worked this case.

THE COURT: Okay. Bring them around please.

SOLICITOR CAMPBELL: The State would call Karla Knight-Deese.

(WHEREUPON, KARLA-KNIGHT DEESE, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION-PRETRIAL

KARLA KNIGHT-DEESE BY SOLICITOR CAMPBELL:

Q. Ma'am, can you state your name?

A. Karla Knight-Deese.

Q. And where are you employed?

(WHEREUPON, COURT'S EXHIBIT NO. 10, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: Go ahead and bring them in please, sir.

(PETIT JURY REENTERS COURTROOM AT 03:32 P.M.)

THE COURT: All right, Mr. Bailiff, would you pass out those pads and pens for me please, sir.

And while he's doing that, you're No. 112; is that correct?

A. Yes, sir.

THE COURT: And I'm sure he's told you but if you would if you would use that seat each time we come in and out of the courtroom and our three alternates if you'll use those top seats where you are now that helps me keep up with some administrative functions.

The rest of you can sit where you like other than those seats each time we come in and out of the courtroom.

Also, I think everyone requested pad and pen to use in the course of this trial. If you would, follow the following procedure for me. If we're taking a break such as in the afternoon, not lunch break or not over night break, if you'll leave your pads in the seats here in the courtroom. If we're going to lunch, or we go on a break for the evening, take your pads back to the jury room so they can be secured and kept under lock and key, okay.

All right, ladies and gentlemen, as you heard we're

about to start the trial of the case of the State of South Carolina versus Kayla Cook. I don't know if any have ever been involved in a trial before whether it be civil or like this case criminal but I would suspect however that each and everyone of you has watched on TV or at the movies something that reports to be a criminal trial or a civil trial. Let me dispel what you're about to engage in is nothing like you've seen on TV; it's nothing like you've seen at the movies. Trials are not entertainment but they are very slow, they are very deliberate and they are very methodical.

They are about entertainment but a fundamental part of our democracy.

Now, ladies and gentlemen, attorneys when they are sworn in, when they take the bar and then pass it are sworn in. They take an oath that they will zealously represent their clients interest in the courtroom in any proceeding and you can expect no difference from any of these attorneys in this case. They are also officers of this court. What that means is you can expect them that they will be professional; that they will be courteous and competent in their dealing with another and in their dealing with me and also any witness who may appear before you in these proceedings.

Now, you just took an oath a minute ago where you

swore or affirmed that you would be fair and impartial and try to reach a unanimous verdict in this matter. That means that the State and the Defense and the parties, the court and all the members of this court, have a right to expect of you that you would be fair; that you will be impartial and ethical in your dealings in this matter as jurors.

Now what I tell you now is not the law that you will apply in this case. That will be given to you, Mr. Foreperson, at the end of the case before you're told to begin your deliberations. Basically I'm giving you a basis road map so that you will understand where you are throughout the course of this case and at any given day and time.

Now, everyone who requested pads and pens have them, right? Now let me warn you something about pad and pens. In just a minute I'm gonna tell you about your role as judges of the facts, one of the functions you will play. And any roles that you will have to form is to make a determination on what testimony you want to believe and whether or not there's any testimony you wish not to believe. So if you become so engrossed in taking your notes that you miss somebody's reaction while they're testifying here in the courtroom, you may miss something that'd be highly indicative to you or indicative to you as

to whether or not their testimony should be believed or whether it should be disbelieved, so I would just encourage you to be cautious on that.

Also, Mr. Foreman, the fact that some issue may appear on one of your juror's notes doesn't mean it trumps somebody else's memory on that issue. Some people are better note takers, some people are better listeners. That's why they're called deliberations and you will have to hash that issue out at the time that it's appropriate for you to begin your deliberations.

Now as you've been told in this case the Defendant has been arrested and charged and indicted for homicide by child abuse. To that charge the Defendant has said I'm not guilty. The burden will be on the State of South Carolina to prove each and every element of this charge by proof beyond a reasonable doubt before you may find her guilty or find her not guilty.

Now I will give you a definition of what a reasonable doubt is in just a minute but I will remind you the fact that this defendant has been arrested, charged and indicted, as shown by this document is not evidence of her guilt. It does not raise an inference no r a presumption of her guilt. It's simply the mechanism which the State has brought her before this court and for a trial and a determination of guilt or innocence.

In this case and in all criminal cases the burden is always upon the State to prove the defendant's guilt by proof beyond a reasonable doubt. She says I'm not guilty therefore the presumption of innocence has attached to her and it will remain with her throughout the course of this trial, and into your deliberations unless and until you are satisfied of her guilt by proof beyond a reasonable doubt.

So let me give you a quick idea of what a reasonable doubt is. A reasonable doubt is the kind of doubt that would cause a conscieanous honest and sincere person to hesitate to act in an important matter in their own affairs. It is proof that leaves you firnly convinced of the defendant's guilt.

Now that being said there are a few things that we know in life with absolute certainty and the law does not require the State to over come every certainty that may occur in a case. At the end of the case when you are told to begin your deliberations if you are firmly convinced of the defendant's guilt it will be your duty to find him guilty. On the other hand if you think there is a real possibility that she's not guilty, it will be your duty to give her the benefit of the doubt and find her not guilty.

Now if you've ever been involved in a civil case the burden of proof is by what we call a preponderance or greater weight of the evidence. If you imagine a set of

scales in a civil case the party who has that burden of proof, if they make tilt ever so slightly, ever so slightly in their favor they would have met their burden of proof. In criminal cases the burden is much higher. It's the strongest or the highest burden of proof we recognize in our jurisprudence.

Now, ladies and gentlemen, it will be your duty to determine whether or not the State has met it's burden of proof at the end of this case when you're told to begin to your deliberations.

Now, as I said to you earlier you will judge what the facts are in this case. You are the sold judge of what the facts are and what that simply means is you will determine what your verdict in this case is going to be. If I do anything throughout the course of this trial that seems to indicate to you how you are to find the facts or the verdict you are to reach I'm gonna ask and I'm also going to instruct you to disregard it. Our state constitution does not allow any trial judge to have an opinion or to state or comment about the facts of a case. You and you alone will determine what the facts are in this case. And you will make that determination by evacuating and weighing the evidence that you hear from the sworn testimony on the witness stand, as well as any exhibits that I allow into evidence.

In just a minute the State is going to give you an opening statement and the defendant may but is not required to give you an opening statement because the burden remains on the State. What these lawyers tell you in opening statement is no evidence. They are not sworn, they're not subjected to cross-examination. Its helpful and it's not to minimize the importance of what they tell you but it's not evidence. The questions they ask is not evidence. Any objections they may raise throughout the course of this trial is also not evidence.

And finally their closing statements what they tell you is not evidence. The only true evidence Mr. Foreman, that you may consider as such are the responses from the witnesses to the questions ask as well as any exhibits allowed into evidence.

Now at the end of the day you will make the determination which testimony you wish to believe and which not to believe and you will base your verdict based on the testimony you hear here in the courtroom uninfluenced by anything you see outside the courtroom.

Ladies and gentlemen, the law that makes you the sole judges of what the facts are makes me the sole judge of the law. So, any more that I can invade your sole providence as being the fact finders in this case which I cannot do and no one can you may not invade my providence as being

the instructor on the law. You must accept the law as I give it to you and you may not, and you shall not be concerned with what you think it should be but only what it is. I will tell you if I make a mistake in charging you on what the law in this case is or throughout my initial rulings throughout this case there is a Court of Appeals or a Supreme Court who will correct my errors of law.

Now, you may not begin your deliberations from this point forward until you are instructed to do so. Sometimes juries don't quite understand what deliberations are. What that means is you cannot talk with anybody about this case from henceforth until you are discharged. If you are married; you have a significant other, or child, or best friend, or any friend, or anyone, you cannot talk with them about this case. It doesn't matter if it's face to face; it doesn't matter if it's by way of text communications, or any form of communications that I'm not sophisticated enough to understand, you may not engage in it about this case.

Likewise, you can't talk to another about this case unless and until you're instructed to begin your deliberations. Quite often we'll see jurors make comments to one another about an objection that was levied during a case and my rulings on that or something that happened throughout the course of the testimony. That is considered

deliberations. Do not speak with anyone about this case until you are told to begin your deliberations. And that's only when you can speak with yourselves about it. Do not speak with any third parties about this case until you've been discharged from the trial in this matter.

Also I am required to tell you that in each and every trial you may not engage in what is called independent jury research. That is, you may not look up anything about any participant in this case whether it be the lawyers, witnesses, the defendant, the Clerk of Court staff or myself and my law clerk, until after the case is over.

We want you to make your decision based on the testimony and the evidence you will hear here in the courtroom uninfluenced by any outside sources.

Also, if there happens to be any media about this case in any form, whether it be on TV, radio, news print, Pod cast, or some other type of transmission that I'm not sophisticated enough to understand, you may not read, listen to it or hear it until you've been excused from the trial of this matter.

I will ask you each and every morning before we begin whether or not anyone has read or heard or seen anything about this case. And while court is not in session whether you had spoken with anybody about this case, or if anybody has attempted to speak with you about this case.

Now if somebody does attempt to speak with you about this case, as soon as practically possible you will bring it to my attention and I will deal with it and correct it, okay.

Now, Mr. Foreman, with that being said, if you ever have a need to communicate with the court I'm gonna ask that you follow the simple procedure in which you just did. You write it down, you sign your name, you tell me what the issue is, or pose the question that you want to ask and I will receive it here. You will give it to the bailiff and we will respond to it accordingly. Okay, sir?

Also, trials are not endurance contest. If at any time you need a break, any of you, if you'll just get word down to your foreman or flag me down we'll break. If I call you back before you are ready to come back, say we need to have additional time.

Also, if any of you can't hear, or see, any of the proceedings or if you can't understand what's being said raise your hand; we will stop and we will have it repeated and we'll unblock your view but it's important and it's critical to both sides of this case, to the State and to the Defense, that not only that you see but you understand what the trial and what the testimony is about in this case.

In every trial, and in this case as well, there will

be an opening statements. I told you the State will open, the Defendant may but is not required to. What thee attorneys tell you is not evidence. After opening statement there will be the second phase which would be the presentation of the evidence. After the close of the State's - excuse me, has the burden of proof so they will go forward. The Defense has the right to follow and the State has the right to reply to that if there is any presentation of evidence on their part.

Now, after the close of the presentation of the evidence there will be closing statements by the attorneys. I will then charge you on the law that will apply to the case and then after that you'll be told to begin your deliberations. Up until that time do not engage in deliberations in any form or fashion.

That being said, finally ladies and gentlemen, the attorneys have an ethical obligation to object anytime there is proceedings or improper procedure of evidence being proffered. I can anticipate there would be objections in this case. The fact that there are objections raised and to the extent I'll let you stay here in the courtroom and see what my rulings are to those objections, it's not the proper subject of your deliberations. Suffice it to say that's simply the process that's followed in every case whether it be civil or

criminal.

Mr. Foreman, if anyone tries to interject that into your deliberations or make any comments about that earlier it will be your responsibility to make sure it's not done.

Do you understand?

MR. FOREMAN: Yeah.

THE COURT: That being said, any additions or exceptions to my opening instructions from the State?

SOLICITOR CAMPBELL: No, sir.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

THE COURT: The State ready for opening statements?

SOLICITOR MCGINNIS: Yes, your Honor.

THE COURT: Yes, ma'am.

SOLICITOR MCGINNIS: May it please the Court.

THE COURT: Yes, ma'am.

OPENING STATEMENTS BY SOLICITOR MCGINNIS:

SOLICITOR MCGINNIS: Mommy. That's what three year old Minor called her killer. A mommy is supposed to love a child, care for a child, protect a child, keep them safe from harm. But in this case mommy inflicted a vicious beating that caused Minor's death.

And this, ladies and gentlemen, is mommy. This is the Defendant, Kayla Cook.

My name is Melissa McGinnis and along with Luck

Campbell we represent the State of South Carolina and we're gonna prove to you this week beyond a reasonable doubt that the Defendant, Kayla Cook, is guilty of homicide by child abuse.

Homicide by child abuse is defined as causing the death of a child under eleven years of age while committing child abuse or neglect and that the death occurred under circumstances manifesting extreme indifference to human life. Child abuse or neglect is an act or an omission which causes harm to the child's physical health or welfare.

In this case the State will prove that not only did Minor suffer a severe and brutal beating on the morning of her death, but that the defendant failed to call for help for Minor until it was too late. You're gonna hear testimony and see evidence that Minor was covered in bruises head to toe at the time of her death. The majority of those bruises happened when the Defendant was the only adult around.

You're gonna hear from several doctors this week including a forensic pediatrician and the medical examiner who performed the autopsy on Minor's body. There were two major injuries that caused this child's death. A head injury and an abdominal injury. The head injury was caused by multiple blows to Minor's head causing swelling of her

brain known as cerebral edemia. The abdominal injury was so severe it caused a laceration to her liver and internal bleeding.

You're gonna hear that these injuries could not have happened by accident. Minor would have been symptomatic immediately and while her death didn't occur immediately it would have occurred pretty quickly within an hour or two at the most.

You're gonna hear from neighbors that lived on Heath Circle here in Lancaster that morning that tried to save Minor's life. You're gonna hear from first responders who came to the scene when they saw Minor's situation they scooped her up and rushed her to the emergency room without even waiting for an ambulance. You're gonna hear how they performed CPR and gave Minor oxygen in the front seat of a patrol car while going to the hospital.

You're gonna hear from an emergency room doctor and from nurses that tried that morning in vain to bring Minor back to life. You're also gonna hear about the Defendant's two biological children who at the time of Minor's death Minor covered head to toe in marks and bruises, the Defendant's two children had not a scratch on them. You're gonna hear from the Defendant through a series of interviews; you're gonna hear how her story changes minute to minute. You're gonna hear how she remembers minute

details: the color of a bowl her son ate out of, the color of a bath towel she used and where she hung it back up. To how when they ask her what happened to Minor she tells them she has a bad memory and she doesn't know.

The evidence this week is gonna show you that Minor suffered abuse at the hands of the Defendant. Minor who had turned three years old just two weeks before her death. The evidence is gonna show you that Minor sustained a traumatic beating on December 18th, 2017 and that it caused her death. And you're gonna hear that the Defendant was the only adult home when this happened.

The evidence is gonna show you that Minor's death came at the hands of this defendant and that the only appropriate closure to this case is giong to be to find her guilty of homicide by child abuse. Thank you.

THE COURT: Mr. Burton, does the Defense wish to have an opening statement?

MR. BURTON: Yes, your Honor, I have an opening statement.

OPENING STATEMENT BY MR. BURTON:

MR. BURTON: This case is about -- it's really about common sense. What rings true, what rings false. Nobody, not the prosecutor or the judge is gonna tell you that you can't apply your common sense and life experience to the evidence that you're gonna hear from the witness stand.

This case is a tragedy. There's no sugar coating it. There's a dead child. Picture this. Here is a young woman, that young woman.

(DEFENDANT'S ATTORNEY POINTS TO DEFENDANT.)

MR. BURTON: She has a life, she has a life with her boyfriend and her boyfriend's daughter who happens to be Minor and her own two kids; Phoebe age four, Wyatt age one and a half. They lived in a little tiny house at [redacted] Heath Circle in Lancaster.

There were two adults in that home, not just the one that Ms. McGinnis told you about. There were two adults. The first adult Timothy Schroeder who got up early for work the morning of December the 18th, the day Minor died. He don't know what happened in those early hours of the morning. He left for work. Kayla and her children slept in until roughly Nine o'clock. I think that's what the evidence will show.

And when she woke Minor up Minor had defecated in her pants and that wasn't a particularly uncommon thing ever since she got home from a visit from her mother who is a meth addict. And Kayla trying to teach a little bit of responsibility to Minor had her go on the potty. She finished her business but really didn't quite finish her business. She slid off the toilet, left a little on it and Kayla had her clean it up. And of course she had then to

run a little bit of bath water, about four to six inches, not enough that would cause any problem, and put Minor in the tub of luke warm water.

And here's this little tiny house. It had a gas heater on one end of the house. That's all the heat the house had. So it was kind of pretty cold in some of those side rooms including the bathroom.

And Wyatt was kind of on her nerves, the one and a half year old who was about the same size actually as Minor, because Minor was real tiny for her age. And at some point Kayla noticed something just a little bit not right with Minor. She got her out of the tub, she dried her off, she dressed her. And then she noticed I think one eye kind of going the other way. And unbeknownst to that young woman there Minor was already dying from an injury that occurred earlier in that day.

You're gonna hear from a competent pathologist later here when it's our turn to put on our case. She did not die from injuries that morning. She died from an injury that occurred earlier. And you'll find that earlier, the evening before, Kayla brought her kids or one of her kids to her parents house. And Timothy Scott Schroeder, Minor's father, was alone with the child all that time.

What happened during that time, what happened I don't know, I don't know. But the State doesn't know what

happened during those hours between 9:00 and about noon December 18th when they claim Kayla beat the child to death. They just don't.

Yes, ladies and gentlemen, the evidence will prove that the injury that was caused Minor's death did not occur in the late morning hours of December 18th, 2017 as the State would have you believe.

And I'll tell you a little story about building houses that you can build a house pretty cheap if you start laying a foundation on the ground on sand. And you can build even a better house if you dig down to the bedrock and you build the foundation starting with the bedrock. Of course it's gonna cost a lot more money, but the first time it rains, the house built on the sand washes away because sand shifts. The house that's built on bedrock stays sturdy. And the Stat's case is built on sand and we're gonna show you how that sand is gonna gradually shift away.

The State had said that Minor died from a cerebral edema which means swelling to the brain. She also said that Minor died of abdominal hemorrhage and their doctor the pediatrician is gonna say that's what killed Minor, the hemorrhage. Our physician is gonna say the hemorrhage, that's what killed Minor. Both of those doctors disagree with the autopsy - physician Doctor Ross who said that the primary cause of death was the edema. But these other

doctors will disagree with that.

At some point the State appeared to realize that maybe the original autopsy physician didn't quite get it right. Our doctor will testify to you, and I believe at least one of their other doctors will testify, that Minor could have survived the cerebral edema. I know at least the doctor that we're gonna put up on the stand will testify to that effect. So what did the State do? Hu oh, we got a little problem with this autopsy. What did they do? They hired more doctors. They hired at least another pathologist who I haven't heard mentioned yet. They hired this pediatrician so they're scrambling from evidence to show you that they can prove what they say they can prove.

You see those cracks forming in the foundation of that house built on sand? That's what that is. Our physician will tell you that Minor could have survived the blunt trauma to the heard. The State will agree with the state doctors that the age of any kind of bruises is very very hard to tell. Every doctor I've talked to will tell you that. We don't know if those bruises, the state doesn't know if those bruises occurred during the hours of 9:00 and 12:00 the morning of December 18th, 2017. They just don't know. They can't prove that to you by any standard I don't believe.

The key will tell you what you will already know when

you see some of the pictures which were are gonna be a little bit difficult to see or to watch. But using your common sense once again you'll see that some of those bruises are old bruises. And nobody will testify that any of those bruises necessarily occurred during the morning of December 18th.

Why is that important? Well their whole case is based on that morning. If we take it out of this morning we bring in a whole lot of other suspects, one in particular. There was one other adult in that house.

Let me tell you something else about what I've learned in my lengthy legal career, and that's that there's a couple of things that the police do that they do in absolutely every case. I can't think of a single exception. What they do is they decide who the bad guy is in the case. Whether they do that prematurely, whether they do that with a lot of thought I don't know. But in every case they pick a suspect, they devote a hundred percent of their effort to prove that that suspect is guilty. They do everything they can to make that stick to that suspect and they ignore anyone else even if there's some pretty good reasons. And we're gonna give you some pretty good reasons to suspect other suspects in this case.

Another thing I've never really understood is the police can lie in their investigation. But if you lie to a

policeman, you get arrested for it. Now nobody's ever been able to give me a satisfactory reason why that's the case.

There's really choices of two suspects in this case I think. There is Kayla and there's Timothy Scott Schroeder who's right in the gallery there you heard. One a good mom, a good mom who everything she had of any value to her was in that little house at [redacted] Heath Circle. The other one a father who has a history. We will prove to you that he has a history some of which out of his own mouth of abusing women and children and property.

Choose the good mom why? I don't know. I think a lot of that had to do because the police were working off of faulty evidence. The evidence they believed was that whatever happened happened in those early morning or late morning hours of December 18th.

I'll tell you another little very short story because I'm a big fan of the Sherlock Holmes stories. And there's one that's called Silver Blaze. It's about horse racing in England and Sherlock Holmes said to his sidekick Watson isn't it strange about the dog barking in the night? And Watson says but Holmes, the dog didn't bark in the night. And Holmes says, that's what was strange.

The point of me telling that story is in this case it's not so much what you're gonna see; it's what you're not gonna see in this case. I've gone over all the

evidence. Everything should be turned over to me. If the State has any evidence that will contradict what I'm gonna say, I don't know about it. I may be in for a surprise but what I know at this point is no witness will come forward and tell you that Kayla Cook struck any child other than maybe a quick pop on the butt.

No witness will say they saw Kayla Cook abuse Minor. No witness will say that they saw Kayla Cook harm Minor on that day or any other day. No witness will say that Kayla Cook was anything but a good mom. Every witness will say that when she disciplined any of these children including Minor that she preferred time out and that's all the kind of discipline they saw other than a quick pop on the butt -- every witness.

No witness will connect Kayla Cook to any bruise on Minor. There is no DNA evidence in this case, no fingerprints, no nothing. No witness will say that Kayla Cook didn't love Minor. No witness will say that she wasn't concerned about Minor. No witness will say they believed that Kayla Cook was abusing the child. And there is no blood anywhere. I mean, come on, if they believed that there was a beating wouldn't it be all kinds of blood. Could say that maybe the blood was washed off but there's not towels with blood. No anything like that.

Like the judge said a little bit earlier that one of

the things that makes our country a fantastic country to live in is because nobody is convicted of any crime unless some jury says so. Nobody is punished unless a jury says so. Nobody has a criminal record unless a jury says so. And as Kayla Cook sits there she has no criminal record.

The key thing in this case that makes our country good is the civil duties that jurors are charged with that requires the jury to require that the State prove every element in every case beyond a reasonable doubt based solely on the evidence in the case. Not on emotion and there's gonna be a lot of it in this trial; not that you're to award anybody, not to punish anybody. And sometimes justice can be hard. Sometimes we got to say that there's this child that ought to be living today that isn't, but there just isn't any evidence to convict anybody today on that.

And when I went to law school I thought I knew a little bit about the law. But on the first day of law school I learned something very important to me in my legal career that there's two parts to any crime. There's the act itself and there's a mental state. A mental state can sometimes can be intent; sometimes can be negligent, but in this case, in this case ladies and gentlemen, the mental state required in this case is depraved indifference to human life. I'll say that again. Depraved indifference to

human life. The State has to prove every bit of that extremely high standard to each and every one of you here.

The judge said a few things about reasonable doubt and everything he said was right. But at the end of this trial in order to convict Kayla Cook you can't be suspicious of her guilt. You can't believe she might be guilty. You can't believe she's probably guilty. You can't believe she's most likely guilty. You can't say she's almost certainly guilty. You have to, like the judge said, you have to believe in her guilt beyond a reasonable doubt. You must be firmly convinced of her guilt.

And like the judge said you can correct anything the judge does. You can correct anything I do.

SOLICITOR MCGINNIS: Objection.

THE COURT: I sustain that.

MR. BURTON: Thank you, your Honor.

So you have to be firmly convinced both that Kayla Cook killed Minor [redacted] and she did it with depraved indifference to human life.

Again, anything the police tells you is gonna be based on what happened that morning. That's the foundation of sand and the sand is gonna wash away. It's your job to find facts from the evidence and please, consider what rings true and what rings false. Thank you, ladies and gentlemen.

THE COURT: Call your first witness please.

SOLICITOR MCGINNIS: The State calls Earlene Cochran to the stand.

(WHEREUPON, EARLENE COCHRAN, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

EARLENE COCHRAN BY SOLICITOR MCGINNIS:

Q. Good afternoon.

A. Good afternoon.

Q. Make sure you speak into the microphone so everyone can hear you, okay?

A. Okay.

Q. Please tell the court your name.

A. My name is Earlene Cochran.

Q. And where do you live, Ms. Cochran?

A. I live with my daughter at [redacted] Heath Circle.

Q. And is that here in Lancaster?

A. Yes, ma'am.

Q. Okay. How long have you lived there?

A. A little over two years.

Q. A little over two.

A. Going on right at three years now.

Q. And you said you lived there with your daughter. Anybody else?

A. And her husband and my grandchild.

Q. And do you know the defendant in this case Ms. Cook?
A. Barely.
Q. Okay. How do you know her?
A. My granddaughter would play with Scottie's daughter.
Q. Okay.
A. And her two children after she got out of school in the evenings.
Q. And where would this happen?
A. At their house.
Q. And that was also on Heath Circle?
A. Uh-huh.
Q. And Scottie's daughter, who is that?
A. That's Minor.
Q. That's Minor. So you knew Minor. Tell me about the last time you saw Minor.
A. She came outside.
Q. When you say she?
A. Kayla came outside screaming - -
THE COURT: Could you speak into the microphone please?
A. I'm sorry. She came outside screaming that Minor's not breathing, Minor's not breathing. I was standing outside of my daughter's house and I was smoking a cigarette and I just dropped my cigarette, my cigarettes and everything, and I took off running to go up there to

try to help.

Q. So you ran up towards the defendant's house?

A. Yeah.

Q. Okay. What did you see when you got there?

A. Mindy had got there. That was the lady that lived beside of them.

Q. Okay.

A. Mindy had got there just about maybe a minute or two before I had. And by the time I got there Mindy was putting her in the floor, was laying her down in the floor.

Q. And when you say she this time?

A. With Minor.

Q. Okay. Where was Minor when you got there?

A. She was laying against the wall on the couch.

Q. So, you get her on the floor.

A. Uh-huh.

Q. And then what?

A. The first thing we did was check to see if she had a pulse.

Q. Okay. Did you feel one?

A. No she had no pulse.

Q. Did you have any medical training at that point?

A. I had CPR. I've took some nursing.

Q. So no pulse?

A. She was not breathing.

Q. Okay.
A. She was very cold. Just to the touch she was very cold.
Q. Okay.
A. And we started doing CPR on her.
Q. Okay.
A. And after we started -- after I started, I started with chest compressions and Mindy was doing the breast.
Q. Okay. Was there anybody else in there with y'all?
A. Yes. She - Kayla was standing against the wall with her son Wyatt and I don't know where the little girl was.
Q. Okay.
A. And a neighbor that lived down below them was in there and the little boy was screaming. Me and Mindy I think it at the same time get the baby out of here.
Q. Okay. Did someone call 911?
A. My daughter did.
Q. Okay. And so after 911 was called, you're doing chest compressions, what happened next?
A. We -- me and Mindy both kept doing the CPR until — matter of fact the rescue squad - the EMT's or whatever - they hadn't got there yet and about - I think it was a state police officer, I'm not gonna swear to it, but I think it was a police officer he grabbed Minor up and they stated doing the chest compressions and they took her. But

we didn't stop until somebody got there to take over.
Q. Okay. So when the police got there they scooped her up. Where did they take her to?
A. To the hospital.
Q. Did they take her to an ambulance or to --
A. No, they took her and put her in a car and took her straight to the hosptal.
Q. Okay. Tell me about the last time you had seen Minor before that day.
A. My daughter like I said would take you know Chloe that's my granddaughter -- she would go play you know for a little while up there. Usually ever evening. She loved Kayla's children.
Q. Okay.
A. And she loved Minor.
Q. And did you see -- did you see Minor right before this or --
A. Yeah.
Q. How far would you say about before the death happened?
A. A few days.
Q. How did she look at that time?
A. One of her arms was swollen.
Q. Okay. How about any other injuries, any other --
A. She had some bruises on her face.
Q. Okay. And then did you ask the defendant what

happened to her?

A. Yeah, she said she fell.

Q. Did she say anything else about how she fell, what happened?

A. Huh-huh. She never did say.

Q. Okay. Did you ever have an opportunity to see Minor interacting with her dad?

A. Oh, she loved her daddy.

Q. Tell me how she would interact with Scottie?

A. She'd see Scottie coming and she would throw those little arms up in the air and holler my daddy, my daddy. Even when Scottie wasn't there and I would be there with Jennifer she'd talk about my daddy, my daddy, you know, did you see my daddy.

Q. So the last time you saw Minor was the morning of her death; is that right?

A. Yes.

Q. And describe again what she looked like and felt like to you when you came in that house.

A. When I came in and we - well after working with her she was so cold. She was just ice cold. It's like you - like many had said you'd reached and got a glass or a cup out of or out of the refrigerator. She was cold and clammy to the touch.

Q. And did she --

A. Her eyes were set.

Q. Did she appear to you to be breathing?

A. She was dead.

SOLICITOR MCGINNIS: I beg the Court's indulgence.

Q. What was Minor wearing when you saw her?

A. She had on a long sleeved little top. I don't think it was a sweat suit though. I think it was just like a tee shirt but it was long sleeves. And she had on little sweat pants and socks.

SOLICITOR MCGINNIS: Thank you, Ms. Earlene.

Please answer anything the Defense has for you.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

EARLENE COCHRAN BY MR. BURTON:

Q. You never saw Kayla hit Minor did you?

A. No.

Q. You never saw Kayla Cook abuse her in any way did you?

A. Other than time outs, no.

Q. Time out?

A. Yeah.

Q. And I think you told Sergeant Sims that time out was generally what you observed ---

A. Yeah.

A. --- Kayla use for punishment for all the kids, right?

A. Yeah.

Q. Okay. And you don't know what happened that morning do you?

A. Other than her coming out hollering that Minor's not breathing ---

Q. But earlier than that ---

A. --- and me going to help.

Q. --- you weren't --

A. No.

Q. You weren't there, you weren't around?

A. No.

THE COURT: Hang on. Let her finish before you begin to ask --

MR. BURTON: I apologize, your Honor.

Q. And Khloe went over there frequently didn't she?

A. You mean after school?

Q. After school. And quite - -

A. She'd keep her there but she'd stay about an hour.

Q. Quite frequently though?

A. Well not that -- not quite but usually she would cry. Khloe's autistic and Khloe didn't have a lot of friends too but she would cry when she didn't get to see Minor and the girls.

Q. And Jennifer is your granddaughter or daughter?

A. Jennifer is my daughter.

Q. Your daughter. Okay. And neither you nor Jennifer had any concerns about Khloe going over there?
A. Khloe is never left.
Q. Ma'am?
A. Khloe is never left.
Q. I don't understand.
A. She always has an adult by her - with her.
Q. Okay.
A. Either me or my daughter.
Q. But none the less she was there playing with the children, right?
A. Yeah.
Q. Okay.
A. She's always supervised.
Q. And you testified about the arm. You don't know how that happened do you?
A. She said she fell. We ask.
Q. Okay.
A. Because her arm was swollen twice the capacity of her other arm.
Q. And you don't have any reason to disbelieve that that's what happened do you?
A. That's a matter of opinion.
Q. Okay. I mean so you've got some facts to present that it happened some other way?

A. I don't have any facts.

Q. Ah, okay.

A. Like I said it's just a matter of opinion.

Q. All right. And you remember talking don't you to Sergeant Sims do you?

A. Uh-huh. Yes.

Q. And is everything that you said to Sergeant Sims the truth?

A. Yeah. I have no reason to lie about anything.

Q. And you told her that you never saw Kayla Cook spanking Minor?

A. No. I've never seen hit any of the children.

MR. BURTON: I beg the Court's indulgence a moment. Thank you, your Honor.

THE COURT: Redirect.

REDIRECT EXAMINATION

EARLENE COCHRAN BY SOLICITOR MCGINNIS:

Q. Just briefly, Ms. Cochran. Just to clarify, was Khloe ever allowed to go over to Kayla's house without you or your daughter?

A. No. No.

Q. There was always one of you?

A. There was always one of us with Khloe always.

Q. Okay.

SOLICITOR MCGINNIS: No further questions.

THE COURT: Thank you. May this witness be excused?

SOLICITOR MCGINNIS: Yes, your Honor.

MR. BURTON: Fine with the defense, your Honor.

THE COURT: All right. Thank you, ma'am, you're excused.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: Call your next witness please.

SOLICITOR CAMPBELL: May it please the Court.

The State calls David Melton.

(WHEREUPON, DAVID MELTON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

LIEUTENANT DAVID MELTON BY SOLICITOR CAMPBELL:

Q. And, Lieutenant Melton, where are you employed?

A. The city of Lancaster Fire Department.

Q. And what do you do -- the fire department?

A. Yes, ma'am.

Q. And what is your rank with the city of Lancaster Fire Department?

A. Currently right now the training captain. That day I was Lieutenant, shift Lieutenant.

Q. So what were your duties back - let's turn it back to December of -- before I get there though, do you have any training as a first responder?

A. Yes, ma'am.

Q. Can you tell this jury a little bit about your training and your education?

A. Its just a first responder type level. Its just basic CPR, Medical 02 administer, basic vitals and stuff like that.

Q. When you talk about CPR, that's resuscitative ---

A. Yes, ma'am.

Q. --- or thing.

A. Yeah.

Q. And do you talk with children and with adults or mostly with adults?

A. It's both. We do a refresher every year with CPR training to be recertified every year.

Q. And specifically do you -- you mentioned that you carry 02. Is that oxygen?

A. Yes, ma'am.

Q. And are you trained in how to administer oxygen whether it be a child or an adult?

A. Yes, ma'am.

Q. And as a first responder are you and as part of the fire department called out kind of in the same manner when a 911 call goes out?

A. Yes, ma'am.

Q. I want to turn your attention back to December 18th of 2017. Were you working that day?

A. Yes, ma'am.
Q. And did you respond to a certain call that morning or late morning into probably around noon?
A. Yes, ma'am.
Q. And what kind of call was that?
A. It was a unconscious child address.
Q. Were you given an address?
A. Yeah. Heath Circle.
Q. And were you familiar with the Heath Circle area?
A. Yes, ma'am.
Q. And as a first responder in getting that call that day what did you do?
A. Just like any other medical call. I mean obviously you're more heightened I guess on a child -- they did say it was a child unconscious.
Q. Uh-huh.
A. So obviously your mind sets a little different versus, you know, a normal medical call so we got there as quick as we can.
Q. Okay. And approximately how long did it take you to get there that morning? Do you remember?
A. Not exactly. I mean it was -- its not that far from our main station off of Arch Street.
Q. Okay.
A. So just a matter of minutes though.

Q. And when you got there was anybody else already there?
A. Yes, ma'am. The police was already there because I drive big fire trucks so it's kind of hard to get it to park so once I got it stopped and out the po9lice went to the other entrance. They were there sooner than I was. We got there about the same time when they were walking in.
Q. So certain officers got there right before you did?
A. Yes, ma'am.
Q. And then you got there and you stopped your truck and then you proceeded where?
A. Up to the door. I grabbed my medica1 stuff that were needed, a medical bag, the -- they didn't know what was gonna encounter so our protocol is grab first our bag, first aide bag, and 02 and the AED and run up to the door and that's when they were coming out with her.
Q. Okay. And you said they were coming out with her. Who is her?
A. A child. A small child.
Q. A small child?
A. Yeah.
Q. And you said they were coming out. Who was running out of the door with her in their arms?
A. It was the police that were there.
Q. Do you know Sergeant Sims?
A. Yes I do.

Q. Was she one of the ones?
A. Yes, ma'am.
Q. And who else was there?
A. Dale Johnson.
Q. Dale Johnson. And were saying anything as they were running out of the door with the child? How did the child appear?
A. Just limp. They had her in their arms running out and she was just limp.
Q. About what if anything did you do?
A. I ask what can I do because they were going to take her by the patrol car and then Dale yelled out grab -- so I grabbed - I mean my 02 bag to try to -- while Jodi was doing CPR in the front seat of the car.
Q. And whose car did y'all get in?
A. Dale's.
Q. And you said that Jodi; is that Sergeant Sims who's sitting here?
A. Yes, ma'am.
Q. And who was driving when y'all got in the car?
A. Dale Johnson was driving.
Q. And where were you?
A. I was in the back seat.
Q. And what if anything was being said amongst all of y'all at this point about the child's condition?

A. Other than they just -- I mean I heard 'em say that the child had already soiled herself or that she already had.

Q. Soiled herself?

A. Yeah. So then we was just trying to - she was doing CPR. I was gonna try and administer oxygen as we was going.

Q. And you heard the fact that the child had soiled herself, did that alarm you as a first responder?

A. Well other than just being unresponsive.

Q. You said that Sergeant Sims was trying to - was doing CPR on the child?

A. Yes, ma'am.

Q. And what were you doing?

A. Trying to administer oxygen.

Q. How were you doing that?

A. I was trying to do it with the 02 mask with oxygen as we were going to the hospital.

Q. Were you all doing everything you could to try to save this child?

A. Yes, ma'am.

Q. And as you were going to the hospital did they actually set up escorts to get you there faster?

A. Yes, ma'am.

Q. And how does that work?

A. They just radio ahead to other officers that were working and they would just coordinate with the -- going through intersections so we wouldn't have to really stop all the way and then help with the traffic congestion and stuff.

Q. Prior to you leaving the house did EMS ever show up?

A. If I do remember once we passed 'em as we were going to the hospital.

Q. Once you got to the hospital what if anything did you all do?

A. They just ran in to the door to the entrance to the ER where the ambulances go. That's where we pulled up at and they went in to the ER.

Q. And at that point was she transferred over to the medical staff in the emergency room?

A. Yes, ma'am.

Q. During the time that you were in the car with her and observing her and administering the oxygen did she ever show any signs of life?

A. No, ma'am.

Q. While the child was with y'all did y'all do everything you could to try to save her?

A. Yes, ma'am.

Q. Once the child had gotten to the emergency room what did you do at that point?

A. I just stayed back and just got my medical stuff up and I -- my truck was gonna pick me up from the hospital.

Q. Did you ever actually put your hands on the child other than put a mask on?

A. No, ma'am.

Q. So you didn't actually feel ---

A. No, ma'am.

Q. --- her or anything like that? Did you actually ever make any contact with anybody that was living in the house, or in the house that day?

A. No, ma'am. As soon as I got there I got in the car with them and left.

Q. So you never actually went into the house?

A. No, ma'am.

SOLICITOR CAMPBELL: Thank you, your Honor. I don't have anything further.

THE COURT: Cross-examination.

MR. BURTON: Just a couple of questions, your Honor.

CROSS-EXAMINATION

LIEUTENANT DAVID MELTON BY MR. BURTON:

Q. The Solicitor ask you if you put your hand on the child. Are you aware that before you arrived and maybe after there were people that did put their hands on the child?

A. Obviously, yeah.

Q. Almost certainly, right?

A. Yeah.

Q. And don't you think it might have been better to wait for trained EMS people to get there to try and revive Minor rather than untrained police rushing her to the hospital?

A. Well I ask -- I guess that's gonna be an opinion.

Q. Okay.

A. I mean.

THE COURT: Redirect?

SOLICITOR CAMPBELL: None.

THE COURT: May this witness be excused?

MR. BURTON: Okay with the Defense, your Honor.

THE COURT: Thank you, sir, you may be excused.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Next witness please.

SOLICITOR MCGINNIS: The State calls Sergeant Dale Johnson.

(WHEREUPON, DALE JOHNSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

SERGEANT DALE JOHNSON BY SOLICITOR MCGINNIS:

Q. Good afternoon, Sergeant Johnson. Could you state your name and where you currently work for the record?

A. Dale Johnson, Fort Mill Police Department.

Q. And prior to that were you employed with the Lancaster

Police Department?

A. Yes, ma'am.

Q. How long did you work here in Lancaster?

A. A little over thirteen years.

Q. And were you working at the Lancaster Police Department on December 18th of 2017?

A. Yes, ma'am.

Q. What was your -- I guess your rank, your role at that time?

A. I was a Detective Sergeant.

Q. Do you remember responding to a call on Heath Circle the morning of December 18th?

A. Yes, ma'am.

Q. And tell me how was it that you came to go to this home. Was police presence requested or?

A. It was not. Myself, Sergeant Sims, as well as some of the other investigators were sitting in our office. We often scan EMS, Sheriff's Office, our channel, then we heard it come over the EMS channel --

Q. And when you say scan a channel, break that down a little bit. Tell me what you mean by that.

A. On our walkie talkies that we talk, communicate back and forth on. We scan those channels just listening to kind of what they got going on. For instance its just like this.

Q. Okay. So you heard the call come out for EMS?
A. Correct. EMS had gotten a call for an unconscious unresponsive three year old and they give the address. And at that time myself and Sergeant Sims we go out the door and get in my patrol car.
Q. And why did you decide to respond to this call?
A. Because I knew from where the call was where we were we would probably get there before EMS.
Q. Okay.
A. And we can do some sort of life saving measures prior to them getting there.
Q. Because you would be classifed as a first responder; is that right?
A. Correct, Yes, ma'am.
Q. So you have some medical training all be it limited.
Okay. So when you get to the scene what happens?
A. I was the second one on scene. At the time Lieutenant Hall who is now Captain Hall he had pulled up and he was on the front right corner of the house actually in the grass area. I pulled down in front of the house. Myself and Sergeant Sims actually get out of the car and run to the first house there which we were getting waived to. I do not remember who was actually waiving me toward that residence but we ran into the residence, Sergeant Sims being behind me, you know, me being first.

Once I go into the house you can see Minor laying on the floor, arms were straight out, she was fully dressed.

Q. And who else was in the room at that time?

A. I can't remember exactly who all was in there.

Q. Okay.

A. Because once I went in I was focused, you know, on the patient, on Minor. Once I got up, you know, to her, you know, I done a few chest compressions and at that point I just decided that I wasn't gonna wait for EMS.

(WITNESS CRYING.)

Q. And when you walked in the room were some neighbors attempting CPR on her at that point?

A. Yes, ma'am.

Q. So you decided you're not gonna wait for EMS, you scoop up the child?

MR. BURTON: Objection, your Honor. The Solicitor is using leading questions.

THE COURT: I'm sorry?

MR. BURTON: Leading questions; your Honor.

Leading questions.

SOLICITOR MCGINNIS: I'll rephrase.

Q. What did you do after you picked her up?

A. I done a few chest compressions and I picked her up and at that point I looked at Sergeant Sims and I told her that we were just gonna take her.

Q. Okay.

A. Because we could probably get her there faster than EMS could get to the scene.

Q. Okay.

A. So I picked her up. I had my hand behind her head. She was limp.

(WITNESS CRYING.)

A. I carried her to my car. Jodi got - well Sergeant Sims got in the passenger seat and I laid Minor in her lap.

Q. Okay. And at some point did you encounter Captain Melton, Officer Melton?

A. I did. As I was getting in the car he ran up to me and he did ask me like is there anything I can do? Do you want me to get in the car and give her oxygen, and I said yeah, at this point anything can help. And I got in the driver's seat come over the radio and told the shift lieutenant and the officers that were working the shift that day I told them then I was like clear me some intersections. And then I left there with lights and sirens on my detective's vehicle and then took her to the hospital.

Q. Okay. And were the intersections cleared for you?

A. Absolutely.

Q. And do you recall at all passing the ambulance?

A. That I don't. I was so focused on not getting in a

wreck on the way there that, you know, I just knew the intersections were clear and I drove to the hospital.

Q. Okay. When you got to the hospital where did you pull in?

A. I pulled straight into the ambulance bay. Where the ambulances would normally back in I just pulled my car in there at an angle that way Sergeant Sims could just get out of the vehicle and just hand her to the nurses on scene.

Q. Okay. Did you call anybody else during your travel to the hospital other than patrol to block off the intersections?

A. Right. I had called -- I advised dispatch over the radio to call the ER and let them know what we were in route with and if they would to have somebody on standby once we got there.

Q. Okay. And what time of day is this all happening? Is it daylight, is it dark?

A. It's daylight.

Q. Okay. Do you remember approximately what time?

A. I don't.

Q. So once you get to the hospital what happens next?

A. Once we got to the hospital Sergeant Sims handed Minor to the nurses that were on scene. They take her in a room and begin working on her. I go in there just to kind of check the status of her, you know, within a few minutes of

being there, and that's when I observed all the bruises on her.

Q. Okay.

A. Once I observed the bruises, the larger one being on her stomach area, I noticed those and I called Lieutenant Hall who was still on scene and advised him, you know, what we had there.

Q. Okay. When you say on scene what do you mean?

A. At the residence on Heath Circle.

Q. Okay. And so based on that are you -- do you know what Lieutenant Hall did?

A. From my understanding he what we call is just lock the house down. He secured the residence because at that point, you know, we were treating it as a crime scene.

Q. Okay. So you said when you went back in to check on Minor you saw the bruises. Describe how she looked, what she was wearing when you got to the house.

A. If I can remember correctly it was pajamas that she had on and those were dry. She was dry. If I can remember correctly her hair was still wet. It wasn't like dripping wet. It was like it had been either partially dried off as if you'd gotten, you know, your little girl out of the bath and just dried her hair briefly.

Q. Okay. Describe the pajamas. Was it a night dress, was it shorts and shirt? What was it?

A. It was actually a long sleeve shirt and long sleeve pants. Or correction on the pants.

Q. And when you got to the hospital I guess at some point how did you -- did they remove the clothing? Tell me how you came to see the bruises.

A. As soon as they took her into the ER room, the first room to the left, as soon as they took her in there they immediately cut her clothes off of her so they could start attaching and doing whatever they needed to do.

Q. And can you describe again what you saw on Minor's body that caused you concern?

A. The first bruise that I saw which was the largest and that it stuck out the most to me was the bruise that was right here like right around her belly button area.

(WITNESS DEMONSTRATED.)

A. Into her pelvic area.

Q. Okay. When you were doing the chest compressions or in the car, did you see any signs of life from Minor?

A. No I didn't.

Q. Did you ever see or feel her breathe, take a breath?

A. I didn't.

SOLICITOR MCGINNIS: No further questions. Please answer anything Mr. Burton may have.

CROSS-EXAMINATION

SERGEANT DALE JOHNSON BY MR. BURTON:

Q. Now, Sergeant Johnson, you don't have any idea what happened to Minor do you?
A. No I don't, not at the time.
Q. When you say not at the time, I mean anything else would have been what somebody else told you, right?
A. Or what I heard.
Q. Well. Okay. And you testified that Minor had PJs on that were dry.
A. Yes, sir.
Q. And hair wet?
A. Yes, sir.
Q. So that would mean she probably would have been dried off fairly close in time to when you saw her.
A. I don't know the time frame of it. I just knew she was dry and her clothes were dry.
Q. All right. Where did you say you work now?
A. I'm a Fort Mill police officer.
Q. Okay. And what happened with your employment with Lancaster County?
A. I decided to leave.
Q. Okay.
A. To go to a different agency.
Q. Voluntarily?
A. Correct, yes, sir.
Q. And you weren't ask to resign?

A. No, sir.

Q. Do you have any issues with the armed services?

A. No, sir.

Q. Okay.

MR. BURTON: Thank you very much.

THE COURT: Redirect.

SOLICITOR MCGINNIS: Briefly.

REDIRECT EXAMINATION

SERGEANT DALE JOHNSON BY SOLICITOR MCGINNIS:

Q. Sergeant Johnson, prior to your being a law enforcement officer here were you in law enforcement somewhere else?

A. I was a military police in the Marine Corp.

Q. And when you decided to leave Lancaster what was that for?

A. I had taken an overseas job.

Q. And what happened with that?

A. The details came out with it and I wasn't satisfied with those. It didn't -- it wasn't the best situation for my family so I decided not to go and then was out of law enforcement for a few months and then -- I'm sorry, go ahead.

Q. But that was a decision you made?

A. Correct.

Q. You were never terminated?

A. No.

Q. You were hired at Fort Mill. Did you have any problems with that hiring process?

A. No, ma'am.

SOLICITOR MCGINNIS: I don't have anything further.

THE COURT: Thank you, sir. Any reason this witness can't be excused?

SOLICITOR MCGINNIS: No, your Honor.

THE COURT: Thank you, sir, you're excused.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR CAMPBELL: May it please the Court.

THE COURT: Yes, ma'am.

SOLICITOR CAMPBELL: The State would call Michele Coats.

(WHEREUPON, MICHELLE COATS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

MICHELLE COATS BY SOLICITOR CAMPBELL:

Q. Ms. Coats, where are you employed?

A. I'm employed at MUSC Health Lancaster formerly Springs Memorial Hospital.

Q. And what do you do there?

A. I am the nursing supervisor.

Q. A nursing supervisor?

A. Yes, ma'am.

Q. And can you tell this jury a little bit about your education and your training as a nurse?

A. I graduated nursing school in 1989. I have been a nursing supervisor at the same hospital going on seventeen years I believe. I am a BLS instructor; I am ACLS certified, I am a PALS - PALS certified and I am NRT certified.

Q. Okay.

A. And that's by American Heart.

Q. And specifically as far as the resuscitative certification you have what is the PAL certification?

A. That's Pediatric Advanced Life Support and that's per American Heart guidelines.

Q. And you also mentioned some other letters that I'm not familiar with.

A. Yes, ma'am. NRT which is Neo-natal resuscitation. It's an advanced course for our newborns.

Q. As well as adult?

A. As well as - and I'm also ACLS certified which is an advanced cardiac life support and that's for our adults.

Q. And you mentioned that you're a nursing supervisor, what department do you supervise?

A. I am over the entire hospital, ma'am.

Q. The entire hospital?

A. Yes, ma'am. I'm hospital administration.

Q. So you have risen through the ranks and now you're in charge of all the paperwork?

A. Yes, ma'am. I am the administration whenever their not there. I work Saturday and Sunday days 12 Monday days 12.

Q. Okay.

A. Yes, ma'am.

Q. Do you also run the emergency room on occasion?

A. We assist in the emergency room. As nursing supervisors we don't work in one particular area. We work everywhere. We respond to all codes. That's part of our job description.

Q. I want to turn your attention back to December the 18th of 2017. Were you working that day?

A. Yes, ma'am.

Q. And I want to show you some notes and ask first if you recognize these, it might help you.

A. That is my Code Sheet. We fill out a Code sheet on every cardiac arrest or respiratory arrest. And this is a DHEC issued BRT.

Q. And is that the Code Sheet you used that day?

A. That is correct, yes, ma'am.

Q. And that day shortly after noon did you get what was called the code blue?

A. Yes, ma'am.

Q. What's a code blue?
A. Code blue is when you got -- you have someone coming in in cardiac arrest meaning that you don't have a heart beat or the patient is not breathing.
Q. And were you there when that patient presented that morning?
A. Yes, ma'am.
Q. That afternoon actually.
A. Yes, ma'am.
Q. And what time did Minor [redacted] come into your ER?
A. 12:14 p.m.
Q. 12:14 p.m?
A. Yes, ma'am.
Q. So that's shortly after noon?
A. Yes, ma'am.
Q. And do you remember how she got there?
A. Yes, ma'am. The detectives was -- I've got it documented Jodi and Dale. They brought the patient in through the ambulance EMS. We actually had a heads up. The emergency room was notified that they did have a child cardiac arrest coming in.
Q. Is that helpful for you all?
A. That is very helpful for us, yes, ma'am, because it's announced over the PA system and everybody responds to the emergency room. The Code team actully responds to the

emergency room.

Q. So before Minor even got to the hospital which was just a few minutes, you all were in palce ready to go?

A. That is correct, yes, ma'am.

Q. Tell the jury what happened when she first got there.

A. So when she got there Dale and Jodi brought her in.

They put her on the stretcher. Anytime you have someone in cardiac arrest you want to expose them so we had to cut her clothes off. We cut her clothes and removed her. Children we have to actually measure them and it's called a Broselow tape. So we put out a Broselow tape and it goes the length of her body and then you can determine what your drug dosage is based off that Broselow tape.

Q. And are you the only one doing anything with Minor at that point or how many people are actually involved in this process?

A. I have listed -- I have the names of the people that were in the Code. Do you want me to --

Q. Sure.

A. I have six, seven, eight, nine, ten, about twelve people were in that room.

Q. And were some of those doctors?

A. Yes, ma'am.

Q. As well as other specialist?

A. Yes, ma'am. We had a respiratory therapist that

responds to all codes as well as our radiology tech as well as lab and our nurses.

Q. And that morning you mentioned that you used a tape so you can get dosages of her drugs which kind of estimates a body?

A. Yeah, it estimates. The Broselow card is divided into sections based on body weight and you do it by the length of the child and her Broselow tape, I have it documented that it was an orange, so you go to the orange drawer and you can pull out all that you need because we had to, you know, do IVs and stuff on her.

Q. And all of that was being done kind of ---

A. Yes, ma'am.

Q. --- symotaneously?

A. Yes, ma'am.

Q. In addition to that what else were you all doing for her?

A. In addition to getting the medicines Doctor Vinuya was intubating. He was doing airway. I'm actually in charge of the crash cart whenever we have codes so I get people exactly what they need. I draw up the drugs to be administered. I'm the control person over the cart and the nurses are the ones that's actually working with the patient that does CPR and administers the medicines.

Q. And you mentioned that when she -- when she came in

were y'all doing compressions on the child at first?

A. Compressions were being done yes, ma'am.

Q. And you mentioned that Doctor Vinuya, was he the emergency room doctor ---

A. He was the ---

Q. --- in charge that day?

A. --- emergency room doctor. He was the one that intubated. She come in at 12:14 and she was intubated, had an airway in. When I say intubated, having an airway in by 12:17, three minutes later.

Q. Were there any other measurements or documented things such as temperature or anything like that?

A. Yes, ma'am. I have on there -- you have a protocol that you have to go by based on what your cardiac rhythm is showing. On arrival to our emergency room she was in PEA which is you've got the electrical activity of the heart but you have no heart beat. That's what PEA is. So she absolutely did not have a heart beat, she just had the electicial impulses. On into the code we tried to get a temperature on her. We were unable to even get a registred rectal temp on her. Any child that would have — that's what you want to do is get a rectal temp and her's would not even register.

Q. And is that significant to you?

A. That is very significant to me because that tells me

that she's been down for quite some time.
Q. And how - what's the lower level that you can't get a temperature any more like you couldn't read?
A. Our thermometers they will register at -- I believe 95 is the lowest that our thermometers will register so that means her temperature was below 95 degrees.
Q. And could it have been lower than that?
A. It absolutely could have been. Our -- its our equipment, it will not go any lower than 95.
Q. And how -- did you actaully ever put your hands on her when you were doing the tape and everything?
A. I did not put my hands on the - on the patient. I - again I was the controller of the cart. When ever you do the tape you just roll it out, you don't have to touch the patient, ---
Q. Okay.
A. --- you just roll it out and get their height and that's what it's based on.
Q. Once everyone was working on her continue to say what all y'all tried to do that day.
A. We gave -- ever three to five minutes per our house protocol you can give effie. We never max out on that drug so we were given effie three -- every three to five minutes.

Do you want me to count the doses of effie that we

gave? Do I need to do all that?

Q. No you don't. You were continually doing that ever few minutes?

A. Yeah, we were continuing to do that every three to five minutes. We gave Bicarb. At one point she was in defib, the electrical activities, so we actually had to shock her. We shocked her at 70 jewels. I think it was just one time is what I have noted. She went back into her PA rhythm. Again, we never obtained a pulse on her not one time.

Q. So she never took a breath ---

A. Never took a breath ---

Q. --- had a pulse ---

A. --- never --

Q. --- her heart never beat?

A. Huh-huh.

Q. And did you continue to try to save her that afternoon?

A. Absolutely yes, ma'am.

Q. At some point did you actually get an IV in her to get the meds in faster?

A. We actually put our IV in the bone. It's called a intraosseous. It's an IV that you can actually put into the bone and you can give your medications through there so we actually started an IO on her. The IO was started at

12:17, and again, she arrived at 12:14. We did -- thankfully we had the heads up so we were able to prepare for her and have everything ready.

Q. During the course of all this going on, and it goes on for a while, right?

A. Yes, ma'am. She arrived in our emergency room at 12:14. Time of death was documented at 13:32.

Q. And is that the point at which you all ---

A. That's the point ---

Q. --- quit administering --

A. --- at which we quit, yes, ma'am. Doctor Vinuya was in there and Doctor Vinuya was talking to the dad -- I have documented. And he explained that we're just not getting her back and we would need to stop at some point. We still continued; that was at 13:25, we still continued until 13:32.

Q. And in your business is it important to get a history of what may have happened to the child in order for y'all to get the correct --

A. I'm sorry, pardon me?

Q. Is it important to get a history on a child?

A. Yes, ma'am. It absolutely --

Q. When I say history what do we mean?

A. You want to know if there's been any trauma to the child. You want to know what happened. Children don't

just go into cardiac arrest.
Q. That day did she present -- when she first came in were there any family members that came in with her?
A. We thought that Kayla was her mother. In the information she gave us led us to believe that she was her mother.
Q. Did you later find out that wasn't true?
A. We did find out later on that prior -- I mean during the code we thought she was the mom.
Q. And at some point later you found out she wasn't?
A. Yes, ma'am, that is correct.
Q. But she had come in shortly after the child got there?
A. Yes, ma'am, that is correct.
Q. And was she accompanied by anyone? Do you remember?
A. There was an African American woman that was with her that day.
Q. And were you all able to obtain a history from Kayla Cook as to what she said had happened with the child that morning?
A. Christy Blackmon did. I did not. My responsibility was for the crash cart. That was where my duties were.
Q. But she was able to give y'all information --
A. She was able to give us information, the information that was brought out and to the code because we have a nurse that talks to the parent, or in this case the person,

and we try to gather information and it is brought back our code so we can determine the treatment. And it was said that she fell in the bathtub. She went in or she was giving her a bath, she heard a boom or something, she went back in, Kayla[sic] was laying on her back with her knees drawn up.

MR. BURTON: Your Honor, I'm would object. This is all hearsay testimony, what she heard from some other people.

THE COURT: Sustain then.

SOLICITOR CAMPBELL: Okay. I'll get --

Q. Christy Blackmon actually talked to her directly?

A. That is correct.

Q. Okay.

A. Yes, ma'am.

Q. Based on that were you all looking for signs of say drowning or something of that effect?

A. Yes, ma'am.

Q. Were there any?

A. No, ma'am, not to my knowledge.

Q. And in fact when you got that -- you can't say what you heard -- but when you got that information did it stand out to you as to how the child presented?

A. Yes, ma'am.

Q. And why was that?

A. Bruising all over.
Q. Before you saw the bruising what was she wearing?
A. She was wearing clothes. She was in clothes. She was fully clothed, dry clothes.
Q. And as the clothes were removed when she initially got there, what did you observe that you just mentioned the bruising?
A. She had bruising on her upper extremities. There was bruising in her pelvic region. She had bruising on her leg, I remember seeing that.
Q. And that was immediately visible to you?
A. Yes, ma'am.
Q. Did you have a chance to observe Ms. Cook that day when she was there?
A. Yes, ma'am.
Q. What stood out to you?
A. Lack of emotion.
Q. Did she appear to be crying?
A. Did she appear to be what?
Q. Crying.
A. She tried to make her -- well I can't say that. Yes.
Q. But what was suspicious to you?
A. There was no tears.
Q. And at times while she was in there during the code, did she kind of deflect attention?

A. That is correct. She -- like she hyperventilated.

And I actually left -- not left the room -- but while they were doing CPR I went over to her to try to get her to calm her breathing down because she was trying to hyperventilate.

Q. And that stood out to you?

A. Yes, ma'am.

Q. And why?

A. It was not about her.

Q. And your focus was on?

A. The baby, my three-year-old patient.

SOLICITOR CAMPBELL: Thank you. Please answer any questions . . .

CROSS-EXAMINATION

MICHELE COATS BY MR. BURTON:

Q. Now, Ms. Coats, Minor was a tiny little girl wasn't she?

A. Can you speak up, sir?

Q. Minor was a tiny little girl wasn't she? I mean you just said you measured her.

A. Yeah. Yeah. I measured her according to my Broselow tape, sir.

Q. Yeah, uh-huh. And the chest compressions that were being done on her, those were pretty rigorous weren't they?

A. You want to compress on a child where you can get

the heart beating.

Q. I just would ask you to answer a direct question.

But the compressions --- '

A. Yes.

Q. --- were very rigorous, right?

A. They have to be ---

Q. Okay.

A. --- on the chest, sir.

Q. Okay. And she was being intubated, right?

A. That is correct.

Q. Okay. And that could account for any kind of damage around the mouth couldn't it?

A. Sir, I am not qualified to intubate so I'm canoot answer that question.

Q. Well you're certainly qualified enough to testify about how Kayla Cook was and you're not testifying - capable of testifying about a - -

SOLICITOR CAMPBELL: Objection, your Honor.

THE COURT: Rephrase that question. That's argumentative.

MR. BURTON: Okay. I withdraw the question, your Honor.

THE COURT: All right, sir.

BY MR. BURTON:

Q. You testified that there was no rectal temperature

above 95 degrees, right?

A. What I testified was our monitor would not obtain a rectal temp above 95.

Q. Okay. So, if the child's temperature was 94.9 degrees it wouldn't register, right?

A. I don't know what the manufacture guidelines is for our monitor at the time. I would have to do research on that, sir.

Q. Well, gee, I may be hard of hearing but I thought you testified that it wouldn't register --

SOLICITOR CAMPBELL: Objection, your Honor, to the comments.

THE COURT: Over rule. Go ahead.

BY MR. BURTON:

Q. All right, so normal temperature is 98.6, right?

A. That is correct.

Q. And that's only what, 2.4 degrees higher than what wouldn't register on the thermometer?

A. If a oral temperature ---

Q. It's a real simple question.

A. --- is 98.6 and I'm telling you that it wouldn't register at below 95. That's 3.6 degrees, sir.

Q. And you testified that there was an IV into the bone?

A. Yes, sir, it's called a Intraosseous.

Q. Okay. And that would leave a mark on Minor wouldn't

it?

A. It was in the -- let's see, I wrote it down -- in the left leg, sir.

Q. Left leg. And I think you testified that there were other IVs.

A. No, sir. They started or they started an IO in the right leg, it's just below the knee.

Q. Uh-huh.

A. That IV was not working so they started this second IO on the left leg.

Q. Okay.

A. Just below the knee.

Q. All right. Now somebody ---

A. The shinbone.

Q. --- somebody that's in loco parentis of a little girl and is the female parent, wouldn't that make her her mother?

A. I can't answer that. I don't have a female child.

Q. Okay. And Kayla, she was hysterical during that whole time wasn't she?

A. She hyperventilated.

Q. Okay.

A. She appeared to be crying but no tears.

Q. But she was hollering Minor, I'm here, I'm here. Mommy's here, didn't she, all throughout that time?

A. I don't recall that, sir.

Q. Okay. All right.

MR. BURTON: Beg the Court's indulgence for a moment.

(PAUSE.)

Q. Was Kayla in the room the whole time that Minor was being worked on?

A. I cannot recall. I don't think she was in there when Christy was talking to her but I cannot recall.

Q. And she was taken to a room beside the room where Minor was initially, right?

A. I wasn't the one that took her so I can't say where she was, sir.

Q. All right. Did you meet with the Solicitor before this case?

A. Yes, sir.

Q. And you discussed the case with the Solicitor?

A. I did not. She did ask me questions. I was given my code sheet just as a reference to refer to since it was two years.

Q. Okay.

A. Or going on two years.

MR. BURTON: That's all the questions I have, your Honor.

THE COURT: Redirect?

SOLICITOR CAMPBELL: No, sir.

THE COURT: All right, May this witness be excused?

All right. Thank you, ma'am.

(WITNESS LEAVING WITNESS STAND.)

THE COURT: May I see the attorneys up here?

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 05:00 P.M.)

THE COURT: All right, Mr. Foreman, ladies and gentlemen of the jury, we're gonna break for the day. I'm gonna see if it's any reason why all of our jurors can't be back in the jury room and ready to start at nine o'clock.

Everybody able to do that?

(POSITIVE RESPONSE FROM JURORS.)

THE COURT: Very good. If you would take your note pads and leave them in the jury room. Let me remind you not to speak with anybody about this case. Do not read, hear, receive anything about it. I'll ask you about it in the morning. I hope you have a nice evening.

(JURY EXITS COURTROOM ON EVENING RECESS AT 05:03 P.M.)

THE COURT:

(COURT IN EVENING RECESS AT 05:04 P.M.)

All right, anything from the State before we break for the afternoon?

SOLICITOR CAMPBELL: No, sir.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

(JURY RE-ENTERS COURTROOM AT 09:13 A.M.)

THE COURT: All right. Good morning, ladies and gentlemen of the jury. Before we get started, let me ask if anyone has read, heard, or seen anything about this case during the break. If you have, raise your hand.

(NO RESPONSE.)

THE COURT: Have you spoke with anyone about this case in any form or fashion, or has anyone attempted to speak with you about this case in any form or fashion?

(NO RESPONSE.)

THE COURT: Excellent. Thank you very much.

The State ready to call their next witness?

SOLICITOR MCGINNIS: Yes, your Honor. The State calls Doctor Alexander Vinuya.

(WHEREUPON, ALEXANDER VINUYA, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR ALEXANDER VINUYA BY SOLICITOR MCGINNIS:

Q. Good morning, Doctor.

A. Good morning.

Q. Could you state your name and where you work, for the record?

A. Alexander Vinuya, M.D. I work at previously PMC Springs Memorial Hospital, now MUSC Lancaster.

Q. How long have you worked there at Springs?

A. Since 2009.

Q. Okay. And how long have you been in the medical field?

A. Finished residency in 2006.

Q. And can you give us just a little bit of your background, where you went to medical school, where you did your residencies, things like that?

A. I did medical school overseas in the Philippines, where I was originally born and raised; and did my residency training in Michigan in family practice. And during my last years of the residency I was doing a lot of moonlighting in the ER and transitioned mostly to ER full-time.

Q. Okay. And since you've been at Springs, where have you worked?

A. Apart from the emergency department at Springs, I've worked at various emergency departments in North and South Carolina and other states.

Q. So your practice has been emergency medicine since --

A. It's full-time emergency medicine since 2007.

Q. Great. And do you have to have any specific training outside of your residency program with emergency medicine?

A. There is an emergency medicine residency, but actually in the current politics of medicine there's not enough physicians that are emergency medicine boarded to staff

every single emergency department in the U.S. So actually you'll see that a lot of primary care-boarded physicians, internal medicine, pediatrics, family practice, are actually staffing a lot of the emergency departments.

Q. Okay. What are you boarded in?

A. I'm boarded in family practice.

Q. Okay.

SOLICITOR MCGINNIS: Begging the Court's indulgence for one second.

Judge, at this time I'd like to qualify Doctor Vinuya as an expert in the field of medicine.

THE COURT: Emergency medicine?

SOLICITOR MCGINNIS: I mean medicine in general, your Honor.

THE COURT: In general practice medicine, or just medicine?

SOLICITOR MCGINNIS: Yes, sir. Just medicine.

THE COURT: All right. Do you stipulate to his expertise in the field of medicine?

MR. BURTON: In emergency medicine, we sure would, your Honor.

THE COURT: Well, I think she was wanting to expand it to medicine in general.

SOLICITOR MCGINNS: Emergency medicine is fine, your Honor.

THE COURT: Emergency medicine. Okay.

Will you stipulate to that, Mr. Burton?

MR. BURTON: Emergency medicine, yes, your Honor.

THE COURT: Very good. All right.

Mr. Foreman, ladies and gentlemen of the jury, normally witnesses may not give their opinion in cases, except in very limited circumstances. They are limited to testifying to what they saw, they felt, they smelled, things of that nature. However, a person, because of their education and experience, who has picked up a specialty or expertise in an area that may be helpful to you, the jury, once they are qualified is allowed to give their opinion in the area of their expertise.

In this case it's stipulated that this witness is an expert in the field of emergency medicine. He will be allowed to give his opinion in that area. I'll tell you that expert testimony is like any other testimony you'll hear in this case. You may accept it, you may reject it, or give it as much weight as you think it deserves.

Counsel.

SOLICITOR MCGINNIS: Thank you, your Honor. May I approach the witness?

THE COURT: Yes, ma'am.

BY SOLICITOR MCGINNIS:

Q. Dr. Vinuya, I'm handing you these documents in case

you need them to refresh your memory. Do you recognize that?

A. Yes. This is the -- yeah, EMR record of the case in question.

Q. Okay. And what date did this incident occur on?

A. It's got December -- I'm sorry. Looking for the date of this. December 18.

Q. Okay. And were you the doctor that was in the emergency room that day?

A. Yes.

Q. Okay. Do you recall a patient by the name of Minor [redacted] coming into the ER?

A. Yes. She was not coming, she was brought into the ER.

Q. Okay. And how was she brought in?

A. She was brought in by the Sheriff's Department at that time.

Q. Okay. And do you remember which door she came in?

A. She came in through the ambulance bay doors.

Q. Okay.

A. Not through the normal ambulance EMS crew, that she was actually brought in by I think the Sheriff's patrol officer when I saw him rushing in but was bringing that patient in.

Q. Okay. And where did she go when she was brought in?

A. She went to our trauma bay.

Q. Okay. Were you all prepared for Minor to come in that day?

A. This was very, very short notice. I think there may have been some voice over com, I'm not even correct on saying that, but because usually you will have some forewarning, a couple of minutes. This was not that much.

Q. Okay. And when Minor presented, how old was she, approximately?

A. I believe she was four years old.

Q. If I said three, would that --

A. Three? I'm sorry, three.

Q. Okay.

A. I'm looking at the record.

Q. And when she came in, what -- what was the case presented as?

A. Cardiac arrest in a pediatric patient. I was under the initial impression, from the history, that she -- it was a near-drowning, slash drowning event.

Q. Okay.

A. At home.

Q. And where do you get this history from?

A. This was from the -- I believe the officer who was bringing this patient in initially, in the first minutes.

MR. BURTON: Objection, your Honor. That calls for a hearsay response.

THE COURT: Overruled. Go ahead.

SOLICITOR MCGINNIS: Thank you.

Q. I'm sorry, can you repeat your answer on that one?

A. I believe the initial history was obtained from the officer who was bringing the child in.

Q. Okay. And did your medical staff ultimately take a history from a person who accompanied her?

A. Yes. Later on, as the resuscitation efforts were progressing, we were trying to clarify what was going on with the patient at that time.

Q. Okay. And do you know who came in with the child?

A. Again, brought in by the officer, but there was a -- at that time believed to be the mother of the child. Later, I found out that she was not the biologic mother of the child, and then I believe I spoke with a neighbor of the patient -- of the patient's mother as well.

Q. Okay. And so, you say a possible drowning. Do you remember what gave you that idea?

A. That was a reply that was given to me, that -- that it was -- that she was in the bathtub, and had -- I believe she had slipped and fell in the bathtub, and at that point had a near-drowning or drowning event.

Q. Okay. How was she clothed when she came in?

A. That was kind of a little suspect for me, because she was fully clothed. Usually, I would suspect that, you

know, I have a six-year-old daughter, if that had happened, I would probably just have wrapped her in a towel and called 911, or rushed off. But if I was going to bring someone by my vehicle that way, they'd just be wrapped in a towel. But it was kind of different that she was clothed fully.

Q. And when you say fully clothed, can you describe?

A. She had a top and her bottom on.

Q. Okay. Do you remember is she had socks or shoes?

A. I don't recall right offhand.

Q. Okay. So when the child came in and was placed on the bed, what are the first steps that your team does?

A. It's always ABC.

Q. Okay.

A. Airway, breathing, circulation.

Q. Okay.

A. She was not breathing. She -- and she had no pulse. She had no heartbeat, and the monitor, she was essentially flat-lined when we threw that on, and she was very cold.

Q. Okay. When you say very cold, can you describe that a little bit more in detail?

A. So that, in -- in practice, and when someone comes in in cardiac arrest and without breathing, without a pulse, kind of figure out how warm the body is in terms of how long that person may have been down in a cardiac arrest.

And if they're fairly warm then -- then it's been fairly recent, and there's a higher likelihood of -- of successful resuscitation.

Q. Okay.

A. Because their down time presumably is less.

Q. Okay. And in Minor 's case?

A. The fact that she was cold is -- put the likelihood that resuscitation efforts would not be successful.

Q. Okay.

A. And be -- made me think, anyways, that she was probably down longer than I would thought -- had thought. There -- the question a little bit was, like, how much does -- if this was truly a near-drowning event, can, you know, she be colder from that. But the fact is that she was pretty cold.

Q. Okay. Do you recall if your team tried to get a temperature on Minor? Would that be standard protocol?

A. That is the standard protocol, but the -- to do a rectal temperature on a patient in cardiac arrest, that's not the priority.

Q. Okay. Do you know if it was ultimately done?

A. It was ultimately taken afterwards, but this was further on in the -- the resuscitation efforts.

Q. Okay. So when you first get her in, you said -- tell me again what ABC is?

A. Airway, breathing, circulation. It's basically assessing, hey, is this person's airway blocked at all.

Q. Uh-huh.

A. And B, are they breathing on their own. And C, are they having the spontaneous heartbeat.

Q. Okay. What do you do to assess those three things?

A. So, airway, you look to see, are they opening their mouth, can they open their mouth, is their tongue obstructed, do we have to facilitate that airway; and in this case I did.

Q. Okay. What did you do to facilitate that?

A. By putting in an endotracheal tube, basically doing a intervention to place a plastic tube through their mouth and through their airway, so that we can start bagging them or putting -- introducing oxygen into their lungs. And again, this was, for me, a little bit more intent on doing this because of the -- my initial suspicion, or that this is a drowning, near-drowning, or what I was told. Then, usually, we -- we hope that, in kids, unlike adults, they are more in an airway issue or a breathing issue than it is a circulation issue.

Q. Okay.

A. Unlike adults who have cardiac arrest, most kids who go in cardiac arrest are -- it's a respiratory problem that, if you can fix that, then their heart might follow,

and you can get them back.

Q. Okay. So airway is your first priority in a child ---

A. Right.

Q. --- presenting in this situation.

A. Right.

Q. Okay. And in this case you said you did do the tube on her?

A. So, we had the tube. And -- and then, the breathing is we're attaching the -- we call it BVM, or bag valve mask, to the endotracheal tube so that we can start, again, putting oxygen into their lungs ---

Q. Okay.

A. --- from the respiratory therapist. And then, C is circulation. That's CPR.

Q. Okay.

A. That's basically compressing their heart to get blood flowing through their body.

Q. Okay. And all of that was done in this case?

A. All of that was done. That is -- that is standard resus, and then -- and then, after that we do interventions. Medical interventions, giving epinephrin, following up pathway. We call it PALS, that is pediatric advanced life support; that is standard of care ---

Q. Okay.

A. --- for everyone to basically run through the

algorithm of -- in this case she was what we call asystically or basically flatlined on the monitor. So in this case, the only thing we could essentially do is CPR and give epinephrin ---

Q. Okay.

A. --- or adrenaline, to kind of restart the heart and jump-start the heart.

Q. Okay.

A. There were flickers of what we call V-fib, or -- which is where the heart is quivering. And if that was true, then that patient can get a de-fibrillation ---

Q. Okay.

A. --- or a shock as --

Q. And was that done for Minor?

A. That was done for her because there were -- from looking at the monitor there were points where I thought that she was going into ventricle fibrillation.

Q. Uh-huh.

A. So I went ahead and had the -- the de-fibrillation done or shock done.

Q. Okay. Let's go back to the epinephrin. Do you give one dose of that, do you give multiple?

A. You give multiple doses and you give one dose, continue CPR; let the epinephrin circulate through with CPR, and -- and then reassess after various intervals to

see if there's any cardiac activity, so.

Q. And how do you do that assessment?

A. Well, in tradition, it's been to just, you know, for a pulse, listen for a heart rate. But nowadays, we're kind of advancing to using ultrasound a lot in resuscitation, so we have an ultrasound machine that we have in the emergency department, and we use that to basically see if there's any cardiac activity.

Q. And did you use that on Minor that day?

A. I did that on Minor that day.

Q. Okay. What did the ultrasound show?

A. There was -- I was not sure if there was some -- during the time of V-fib, that she had some quivering or -- but it didn't seem like she had sustainable, what we call contractility. Her heart may have been moving, but it was not enough to generate a good squeeze of her heart to initiate a pulse, and without that, that -- you can't have circulation.

Q. Okay.

A. And the other part of it is that sometimes if you give adrenaline or epinephrin as a injection, you'll -- an adult child, you -- you -- either patient, either age, you might see effects of the medication alone. But without sustained contractility, I mean, you can't -- the medicine may be making the heart move, but it's not making it squeeze

right, so.

Q. Okay. And so, in this case?

A. It may have been happening that what I was seeing on ultrasound was just quivers of her heart, but not sustained contractility.

Q. Okay. So you worked on Minor for quite some time that morning; is that right?

A. I worked on her longer than -- than most.

Q. Okay. And why was that?

A. The reasoning for me was that, one, I wasn't sure of the time frame completely.

Q. Uh-huh.

A. And that pediatric drowning events, again, based on that presumption this was a drowning event, there had been a lot of cases I've heard of that they can have been resuscitated within after even an hour of down time ---

Q. Okay.

A. --- because of the resilience of pediatric patients and their heart being young, again, if you can fix the lungs, maybe the heart will follow suit. And I've heard of anecdotal evidence that, in cases across the country, where patients have been down for a long time; again, more than the usual thirty, forty minutes that we usually do a cardiac arrest, to see if they will revive, especially in a pediatric patient.

Q. Okay. And the fact that this was a pediatric patient ---

A. Uh-huh

Q. --- that makes you treat it a little bit differently as well; is that right?

A. Yes. Yeah, I don't like children dying in my ER.

Q. Okay. So -- so about how long did you ultimately perform lifesaving measures?

A. I believe it was like, about an hour and a half, and part of the -- the other -- the third line of thought was that I understood that the father -- around that time, during the course of the resus, I had heard that the father was not present or if he was on his way, and I wanted to have the father know that hey, we were doing what we can to get his child back, and at least do a -- see what was going on with his child, instead of him coming in and hey, this child's dead. So I did not want to pronounce right away. Again, and also in the back of my head, still wanting to see if we can get this child back.

Q. During this close to an hour and a half, did you ever see any signs that -- that your resuscitation was working, that Minor was coming back?

A. Out of those brief ultrasound and monitor ventricular fibrillation or quivering, not really.

Q. Okay.

A. And so, again, the more -- the more the resuscitation progresses, and as you hit a twenty-minute, half-hour mark, then the prognosis gets worse. And neurologic function is actually the big thing is in an adult we worry about neurologic function after roughly eight to ten minutes down ---

Q. Uh-huh.

A. --- from having, let's say a cardiac arrest, they had a big heart attack. In this case, a child, again, may have more reserve.

Q. Uh-huh.

A. Again, based on what I was just telling you guys that are now in this case and when it's not -- when we're not getting any good contractility of the heart around that half-hour mark, then it becomes more dismal.

Q. Okay. And then, again, you did almost three times that?

A. Yeah. I did almost three times that.

Q. Okay. So I want to get back a little bit to the drowning. You initially were kind of presented this as a possible drowning?

A. Yes.

Q. Would your treatment have been different of Minor if you had been given a different history, a history of a fall or a head injury, or anything like that?

A. If there was suspect for a head injury and I was worried about a head bleed then I may have given a medication called Mannitol to decrease what we call intra-cranial pressure. If there's bleeding in the brain and it's pushing the brain, then I would -- this medicine may help try to decrease that pressure. How successful that would be in a resuscitation, not sure. Again, probably falls back on the ABC's, but that would be an intervention if I knew beforehand ---

Q. Okay.

A. --- if that was something to entertain.

Q. And if --

A. I didn't -- I didn't suspect that in her completely because her pupils were equal, but they were what we call fixed and dilated.

Q. Okay.

A. So that means that if we're worried about a primary head bleed, you get one pupil that's what we call blown. But in this case, her pupils appeared equal, so that's -- given the -- the history I was presented, it kind of was secondary at best at that time.

Q. Okay. And when you said pupils were fixed and dilated, what -- what does that indicate?

A. It means that -- basically that -- that neurologic death has -- has occurred.

Q. And were Minor pupils fixed and dilated?
A. On presentation, yes.
Q. And that, in layman's terms, that means when she came in, right?
A. Yes.
Q. Okay. And again, let's get back to what she was wearing. She was fully clothed. Do you recall if she was wet anywhere, if her clothing was wet?
A. No. Her clothing was not wet.
Q. Okay. But Minor herself, you said, was cold to the touch?
A. Uh-huh, yes.
Q. Okay.
A. When we took off her clothing to start our resus, then she was pretty much cold all over.
Q. Okay. And about how long does it take for a child to get cold all over?
A. Probably about -- for her -- for that extent of cold ---
Q. Uh-huh.
A. --- probably at least thirty minutes.
Q. And when -- when I'm asking you this, is that thirty minutes since an incident happened -- thirty minutes --
A. It's thirty minutes since the incident happened.
Q. Okay. And would that be thirty minutes with no blood

flow to her extremities?

A. With --

Q. Can you just go a little bit more into how the body gets that cold?

A. So your body will, when you are in trauma, your body's mechanism is to shunt all your blood from your arms and legs, which are not necessary, and shove to it into your heart and brain. That is your body's survival response. And so, when you start getting in -- again, I'll go back to an example of an adult -- in cardiac arrest, heart attack -- who is a warm body, you witness arrest in the area of ten minutes ---

Q. Um-hmm.

A. --- that the extremities start getting cold during the resus around the twenty-minute, half-hour mark, you'll -- you'll see the -- if it's failing, that the arms and legs start getting cold. And then, after that, then the trunk, which is basically your pelvis, torso, chest, back, they start getting cold. In her case, in Minor's case, she was cold already in her central part of her body, the torso and -- and pelvis.

Q. So -- and that's what takes the longest to get cold?

A. That takes the longest to get -- she was already cold in her extremities, she was already cold in her torso, so.

Q. Okay. And when you say thirty minutes, would that be

a minimum, or?

A. At minimum.

Q. Okay.

A. Yeah.

Q. So based on your experience, she could've been down for --

A. Oh, longer.

Q. Longer, okay.

A. Yeah.

Q. So ultimately Minor was pronounced dead in the ER; is that correct?

A. Yes.

Q. Do you recall the time of that?

A. I think -- I usually -- that's the most specific time. What is you put, it's like, I think it was 13:32 if I'm not mistaken, time that I refer to was just most of the times in the EMR are off, up until the time that I pronounce and in this case I pronounced at 13:32.

Q. 13:32?

A. Yeah.

Q. So after Minor -- death is pronounced, what happens after that?

A. So in any patient death is you leave the body as is for the coroner.

Q. Okay.

A. And then, we don't extebate, we don't remove the tube, we don't do any further investigation, we don't move the body at all, so that the coroner can do their job.

Q. Okay. And in this case, because it's a pediatric patient ---

A. Uh-huh.

Q. --- that's just been deceased, are the parents allowed to spend time with her?

A. In non-trauma cases not involving the coroner. But again, they are either able to see but not touch.

Q. Okay. And in this case, after Minor had died, were you able to observe any other trauma to her body?

A. Oh, during our resus itself there was a large, I think, palm -- my palm-sized, what I call contusion ---

Q. Uh-huh.

A. --- or bruising on her lower abdomen, pelvis area.

Q. Okay. So you noticed that during the resuscitation?

A. That was obvious during the resus.

Q. Okay. Did you notice anything else after the resuscitation?

A. I think there -- I made comment on a bruising on her right arm.

MR. BURTON: Judge, your Honor. I'm sorry, but I need to put on the record and renew my objection to one of the -- my pretrial motions.

THE COURT: Wait a second.

Would you go to the jury room, please, Mr. Foreman, while we take up a matter outside of your presence?

(JURY EXITS COURTROOM AT 09:36 A.M.)

THE COURT: All right, sir.

MR. BURTON: My motion to suppress the bruises was made in limine, and I think, to protect the record, I have to renew that motion on the record during the case in chief. Unless this -- Madam Solicitor can show that the defendant caused any of those bruises and which -- which bruises, that that would be irrelevant. It would be highly prejudicial, and not at all probative of her -- her guilt in this case, your Honor. And --

THE COURT: I'm overruling that objection. Now, let me ask you this while -- that's why I sent the jury out -- are you intending to put up any information about the arm fracture?

SOLICITOR MCMANNIS: Judge, I believe Mr. Burton opened the door to that yesterday. He asked one of the witnesses about the arm, do you know how she hurt the arm, do you know if Kayla hurt the arm.

THE COURT: So before you do let's do it in a proffer, okay? Let me hear it and -- and then we can argue back and forth. Don't let it come out first, okay?

SOLICITOR MCMANNIS: Yes, sir, your Honor. I think

Doctor Vinuya's testimony would be that he noticed the arm was swollen, but that was it. I don't intend to ask him any additional questions.

THE COURT: That has been in evidence, for sure?

SOLICITOR MCMANNIS: Yes, sir.

THE COURT: Okay.

SOLICITOR MCMANNIS: I don't intend to go in any further. He has no personal knowledge of that, so.

THE COURT: And I have to look back in my notes, but I'm not so sure that the bruising Or the swelling of the arm wasn't a response to information that was elicited in your case in chief. But I'm not sure about that, I have to look back at notes. I'm not saying - I have it in my notes.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: Okay. We clear?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: All right. Bring the jury back.

MR. BURTON: Your Honor, when the solicitor does ask about the arm --

THE COURT: Sir?

MR. BURTON: What if -- if Melissa does ask Doctor Vinuya about the arm?

THE COURT: I'm not hearing you.

MR. BURTON: I suspect that Ms. McGinnis might ask

about the arm. I'm not sure --

THE COURT: She said that she was going to ask him about the swelling of the arm, and I told her that would be acceptable.

MR. BURTON: Okay. So I guess I would probably save a little time by renewing that motion at this time, too.

THE COURT: That's noted, for the record, and you ask -- Im not so sure about the cause of the break or the fact that there's no proof that it was done by the defendant. And that -- but the fact that it's a swollen arm is different from the fact that there was a fracture there.

Okay?

MR. BURTON: Okay. I would just say I ---

THE COURT: I understand.

MR. BURTON: --- disagree with your Honor, but if your Honor overrules my objection ---

THE COURT: That's fine.

MR. BURTON: --- I have to accept that.

THE COURT: Okay. Thank you, sir.

MR. BURTON: Thank you, your Honor.

THE COURT: All right. Let's bring them in.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 09:43 A.M.)

THE COURT: Solicitor.

BY SOLICITOR MCGINNIS:

Q. Thank you, Doctor. I'm going to ask you that last question again. Other than the bruise on her abdomen, did you notice any other injuries to Minor after your resuscitation was over?

A. I noted a bruising to -- as I comment on my note here, on the right bicep, there was a bruising on the right bicep.

Q. Okay. Did you notice any other on her face or upper extremities, or anything else?

A. No obvious ones that I would have noted, compared to the bruising on her abdomen and arm.

Q. Okay. And after you're done with your treatment of Minor, do you stay in the room, do you assist the coroner in any way, or?

A. No. I let -- the coroner is independent of my efforts in the emergency department, and I -- unlike a trauma where there was successful resuscitation, where I got a patient's heart and lungs back again, and they're breathing and having a pulse and whatnot, only after that time do I start reassessing other body parts, injuries, in full, in total, because of the -- I've now the time to look at all that.

Q. Right.

A. But in this case, when you have an unsuccessful resuscitation with coroner involvement, then you don't do

any -- you don't turn the patient over or anything like that any more to look for anything. In a trauma similar to, like, penetrating bullets into someone, and you revive them and they're stable, then you can, you know, start looking for entry-exit points and other lesions or injuries.

Q. Okay. But in this case?

A. In this case, not a full post-mortem exam was done. We leave that to the coroner.

Q. Okay. So by -- by you or anyone in the hospital, there's no examination after she's been pronounced dead?

A. After no.

Q. Okay.

SOLICITOR CAMPBELL: Beg the Court's indulgence. Doctor Vinuya, please answer any questions Mr. Burton might have for you.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

DOCTOR ALEXANDER VINUYA BY MR. BURTON:

Q. Could you explain to the jury, Doctor, what a retroperitoneal hemorrhage is?

A. Retroperitoneal hemorrhage. So that is basically bleeding in the posterior or the back aspect of your body. How we divide your abdomen is in the front versus the back.

Retroperitoneal usually refers to the kidney areas where you're bleeding around those areas, and hemorrhages is blood collection like that.

Q. And can a person -- or let's say a three-year-old person bleed out their entire blood supply, or enough to cause death from a retroperitoneal hemorrhage?

A. You could potentially bleed -- it's a major area where you can bleed into.

Q. And you don't doubt that that large bruise in the pelvic area could have caused a retroperitoneal hemorrhage?

A. Do I doubt that it could have caused a retroperitoneal hemorrhage?

Q. Exactly.

A. I would think about an intra-abdominal injury, given that bruising.

Q. Certainly possible?

A. It's possible.

Q. Okay. Now, any of the injuries that you saw on Minor [redacted], you don't know anything about who or what might've caused those?

A. I mean, the only thing, I -- I had referenced because it was a obvious bruise on the -- on the abdomen that, you know, everyone could see. During that time, I believe I asked the stepmother, or -- I don't know how to refer to

her, so I'm sorry -- at that time about what had happened there, and that's when I find that story about her accidentally -- around the child during some type of dog attack or kind of alluded of.

Q. So --

A. That was the only thing that I heard about or attained directly from her.

Q. Could it easily have happened as an accident, or on purpose, either one, right? I mean, you can't tell by looking at the bruise, can you?

A. It's hard to say.

Q. Thank you. As far as the age of bruises, that bruise or any bruise ---

A. Uh-huh.

Q. --- isn't it a fact that without a physiological examination that you really can't tell how old the bruise is?

A. I'm not a pathologist, but I would say that I don't think that in practice that you take a skin sample or biopsy of every single bruise in every single patient. I think that there is some evidence to -- medical evidence to say that how they practice in forensic medicine is that they look at the -- the -- by the -- there's a natural progression of bruising, and they can tell by looking at the different appearances of a bruise how old it may be,

and not necessarily require looking at the skin under a microscope, unless you're --

Q. But isn't the histology the best way to date a bruise?

A. That would probably be the -- what we call the gold standard, but to do that in every aspect of medicine, like diagnosing a heart attack, because like you can't -- I'm sorry, I keep on going back to something simple that some lay people cannot understand, that you can -- unless you put a heart cath in every single patient, you are never going to see everything. But you don't -- we don't do that in every single patient.

Q. All right. And can you explain to the jury what histology means?

A. Histology is the study of cells. And so, we take samples, again, looking at cells under a microscope, and from there they can determine various aspects. In this case as he's referring to the degrees or ages of how a cell has died over a certain time frame.

Q. Okay. And some of the injuries that might've been noticed on Minor could've -- could've been achieved by resuscitive efforts, couldn't they?

A. Again, everyone in terms of standard of care and PALS resuscitation, everyone is treated the same way. You always go with the ABC, regard -- the ideology is helpful, but we have to get the heart and lungs working in any case,

regardless of the ideology. But the -- again, the emphasis on -- on drowning was a little bit more, for example, in an adult who is in cardiac arrest. The -- the heart kind of takes more precedence, so we don't intubate them right away, because whatever mask or that EMS has on them, we have some time to see but we can continue our heart resuscitation. But in a pediatric patient, again, the more likely cause is respiratory. So we have to address along this first and foremost, compared to an adult.

Q. But clearly, Minor was intubated at some point, right?

A. Oh, yeah, she was intubated fairly quickly, correct.

Q. And if the evidence were to show that she had a slight laceration of the lip area, could the intubation easily have caused that?

A. It could've done that.

Q. And both Kayla and Timothy Schroeder were in the room during most or all of the resuscitive efforts, weren't they?

A. She was there primarily -- again, I prolonged the resus, because I think he came much later on in the resuscitation.

Q. It was just a simple question, they were there, right?

A. Yeah, they were there.

Q. Okay. And both of them were highly upset, weren't they?

A. Yes. From what I could observe, yes.

Q. Just curious, Doctor, when -- when they're in there and the resuscitative efforts taking place, on a monitor there was some kind of little activity showing. Would that have been the flickering, quivering ---

A. Yes.

Q. --- and so forth ---

A. Right.

Q. --- that you were talking about?

A. That's correct. The fibrillation, in hopes that, again, I have more hope sometimes in any patient where we can defibrillate or shock them, because that -- that defibrillation might reset their heart to get back to working again, versus when you have a flatline, or what we call PA, or a flatline, then they -- the prognosis is much poorer compared to a shock -- what we call a shockable rhythm. A shockable rhythm in this case, if it was true V-fib or V-tach, what we call ventricular tachycardia defibrillation its kind of essentially the same, with -- that they can -- if you can shock that heart and reset it, then you hope that that heart will come back.

Q. All right. So when the flickering and quivering and all were going on ---

A. Uh-hh.

Q. --- is it possible that at that time -- and this is an

awkward question -- that Minor was not a hundred percent dead?

A. A hundred percent dead.

Q. Well, I -- like I said, I really don't know how to phrase that. But I'm trying to get at ---

A. Uh-huh.

Q. --- I mean, it was a -- was there still some possibility that she could've been revived?

A. I mean, in all phases of resus we hope that we can revive someone, whether they were flatlined, or v-fib, v-tach, or what we call PEA, or pulseless lack of activity, all four of those ways of dying, we have the protocols because we hope that we can resuscitate these patients and --

Q. Right. And you testified that you didn't suspect that the head injury was the cause of death, you suspect that --

A. I wasn't suspecting any head injury at that time. Actually, I -- I was actually much -- after the fact that I was made aware that was a possibility --

Q. I can't let you testify --

A. Right.

Q. --- to what you were made aware of.

A. Right. Right. Correct. So I did not suspect any head injury. I was thinking that this was a -- again, a drowning, near-drowning event, based on what was presented

to me.

Q. Okay. And let's see. You testified a lot about the cold ---

A. Uh-huh.

Q. --- nature of Minor's body when she got there. If the evidence were to show that this was in a house that had gas heat that wasn't working, a few space heaters to heat it a little bit, would that contribute to how cold the body was before ---

A. Not to ---

Q. --- she got to the hospital?

A. --- this extent.

Q. Okay. What about the water? Let's say that the water was lukewarm and the water got cold that Minor was in, in the bathtub. Could that contribute to the coldness of her body?

A. Again, contribute, but I don't believe to this extent.

Q. Okay. And you testified right at the beginning that your priority was not the body temperature. Your body -- your priority was the airway and so forth, right?

A. Right, right.

Q. So it was some time, then, before the -- before the temperature was taken, which showed to be lower than 95 degree, right?

A. I would have to check with the nursing record on that

as to when they obtained it, whether axillary or how they obtained a -- the temperature.

Q. Yeah, I wish you would. Can you do that now?

A. I can do that now.

(PAUSE.)

A. I'm trying to find out where it is. I'm sorry, I don't see it right offhand.

Q. Let me -- let me take a shortcut here. Could it have been half an hour after Minor had arrived?

A. Half an hour -- I don't understand the question.

Q. Between the time she arrived at the hospital ---

A. Uh-huh.

Q. --- and the temperature was taken, could it have been as long as thirty minutes?

A. From the time that she arrived to the hospital to the time that we took a temperature?

Q. Uh-huh.

A. Yes, it could've been that long.

Q. Okay. And that would account for the thirty minutes that you testified earlier ---

Q. Uh-huh

Q. --- when the solicitor asked you about how long it would take her to get that cold; is that right?

A. Yeah, but it doesn't make sense, though, because she's already cold, tactile.

Q. I totally agree that it doesn't make sense.

A. Right.

Q. And Timothy Scott Schroeder was allowed to be with

Minor after she was -- she was declared dead, right?

A. I believe so, yeah.

Q. And he was hanging over her and talking to her, and all that kind of stuff, right?

A. That, I don't know.

Q. Okay.

MR. BURTON: Beg the Court's indulgence a moment. Thank you, your Honor. That's all I have.

THE COURT: Re-direct?

SOLICITOR MCGINNIS: Briefly.

REDIRECT EXAMINATION

DOCTOR ALEXANDER VINUYA BY SOLICITOR CAMPBELL:

Q. Doctor Vinuya, you testified it could have been thirty minutes before you took her temperature, correct?

A. Uh-huh.

Q. But did you put your hands on her as soon as she came in?

A. Yes, definitely.

Q. And how did she feel when she came in?

A. Oh, she felt cold, much more than thirty minutes.

Q. And when you say cold, let me ask you to be specific. Do you mean cool, do you mean --

A. No, cold.
Q. Cold. Okay. Did you make efforts to warm her up?
A. Af -- during the resus, but it -- you're balancing putting on heating blankets or running warm IV versus redoing CPR, and the cold, the fact is, usually you start treating that afterwards.
Q. Okay. So your first priority ---
A. Before --
Q. --- is to try to get this child --
A. Heart and lungs working.
Q. Okay. But when she came in, she was cold to the touch?
A. That's correct.

SOLICITOR MCGINNIS: Thank you, Doctor Vinuya.

MR. BURTON: No re-cross, your Honor.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Yes, sir. We ask that he be excused from his subpoena.

MR. BURTON: No objection, your Honor.

THE COURT: Thank you, sir.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Call your next witness, please.

SOLICITOR CAMPBELL: At this point, the State calls Christy Blackmon.

(WHEREUPON, CHRISTY BLACKMON,

BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

CHRISTY BLACKMON BY SOLICITOR CAMPBELL:

Q. Ms. Blackmon, where are you employed?

A. MUSC Lancaster Health formerly Springs Memorial Hospital.

Q. And what do you do there?

A. I'm a clinical charge nurse in the emergency room.

Q. And what do your duties include as a clinical charge nurse in the emergency room?

A. Kind of running the flow of the emergency room and if something critical comes in then it is my responsibility to make sure that that critical patient is taken care of and the appropriate people are present.

Q. I'm going to turn your attention back to December the 18th of 2017. Were you working that day?

A. Yes.

Q. And did you all receive information that there was a three-year-old on the way in that was not breathing?

A. I don't remember if we received a phone call or if we were made aware when the child was brought through the back door, the ambulance bay, by the police officers.

Q. But you did participate in her care that day?

A. I did.

Q. And what was your role in trying to revive Minor that

day?

A. I was present at the initial efforts with trying to revive her as far as CPR, medications, that kind of thing. And then, I was also responsible for obtaining some of the information to figure out exactly what happened.

Q. Do you remember what time she actually came in the emergency room that day?

A. If I remember correctly, from the records it was around 12:14.

Q. How did she present?

A. She was in full cardiac and respiratory arrest, meaning she was not breathing, and she did not have a pulse. The officers were doing chest compressions when they brought her in the back door.

Q. And do you remember anything about how warm or cold she was that day?

A. She was very cold to touch.

Q. And upon making your assessment of her, when she came in did she have any clothing on?

A. She did. To my recollection she had a top, pants, and socks, I believe.

Q. Okay. And as part of her treatment, was that clothing removed almost immediately?

A. Yes. That clothing was removed.

Q. And at that point were you able to make an assessment

about other injuries on this child?

A. Early on in the resuscitative efforts, we did notice a bruise to her lower abdomen, groin area.

Q. Okay. And when you say lower abdomen, groin area, is that where CPR was being done on her, or was that another part of her body?

A. No, chest compressions are done on the chest. It was much lower.

Q. And you also mentioned that part of your role that day was to get what's called a history?

A. Correct.

Q. And is that for purposes of medical diagnosis to aid you all in getting information?

A. That is correct. It's to aid in how we treat the patient.

Q. And that day did you try to get some information from a woman named Kayla Cook, who came in with the child?

A. I did attempt to get information from her as to what happened prior to her arrival to the emergency room.

Q. And initially, what did you all think her relationship was with this child?

A. She presented herself to me as the mother.

Q. And when you were trying to get information, did you actually have a face-to-face conversation with her?

A. I did.

Q. And where did that take place?

A. Where our -- where you come in the ambulance bay, to the left-hand side is a EMS room. And at this point they had, they being two officers, and Kayla were in that room, with a neighbor that had come in with her, and that's where I went and got the information.

Q. And how did this call -- it initially came in with the officers who brought the child in, how was it classified as a possible --

A. We were informed, I believe by the officers, when they came in --

MR. BURTON: Objection, your Honor.

THE COURT: Sustained, this is 403. Rephrase your question, please.

SOLICITOR CAMPBELL: Your Honor, we would say this is an exception to the hearsay rule for the purposes of medical diagnosis.

THE COURT: Just -- just one second.

Mr. Foreman, would you go back to the jury room please, sir?

(JURY EXITS COURTROOM AT 10:05 A.M.)

THE COURT: All right, Ms. Campbell, I'd be glad to hear from you.

SOLICITOR CAMPBELL: Your Honor --

THE COURT: I'm not sure how criminal or non-criminal

would be for purposes of medical diagnosis. Is that what the classification was a possible criminal?

SOLICITOR CAMPBELL: No, sir.

THE COURT: Okay. Well --

SOLIGITOR CAMPBELL: I'm sorry, I was stating that she was presented as a drowning.

THE COURT: Oh. I see.

SOLICITOR CAMPBELL: And then, she did have a face-to-face conversation with Ms. Cook, which would be a statement against interests that we're going to go into a summary of.

THE COURT: I anticipate -- I saw Mr. Burton jump up when you said -- I mean we were informed so he was worried about the hearsay problem, but you're trying to say this was a possible drowning?

SOLICITOR CAMPBELL: That's true. And then, afterwards, your Honor, just so we can go further out, we are going into their assessment. They did an ---

THE COURT: Your --

SOLICITOR CAMPBELL: --- abuse assessment on the child as well ---

THE COURT: Your objection --

SOLICITOR CAMPBELL: --- that is their observations.

THE COURT: Your objection is overruled. That comes in under 803(4).

MR. BURTON: Thank you, your Honor.

THE COURT: Bring the jury, please.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 10:08 A.M.)

SOLICITOR CAMPBELL: May it please the Court?

THE COURT: Yes, ma'am.

BY SOLICITOR CAMPBELL:

Q. Ms. Blackmon, when the initial information that was related to you, what type of event had precluded this, that you all were given information about?

A. The officers informed us that it was a drowning of the child.

Q. In a bathtub, I believe?

A. Correct.

Q. Or a possible drowning?

A. Correct.

Q. And that was the initial information you got. And then you made contact with the person who represented herself to be the mother of the child?

MR. BURTON: Your Honor, I hate to keep objecting, but these leading questions, that's three in a row. I wish the solicitor would ask --

THE COURT: That's -- Overruled. Go ahead.

BY SOLICITOR CAMPBELL:

Q. You made contact with the Ms. Cook ---

A. Yes.

Q. --- you testified. And can you relate to the jury basically what she was able to relate to you that day?

A. Sure. I went into the room with the officers, and with Kayla, who told me that she was the mother. I explained to her that we were working on Minor, that she was not breathing, did not have a heartbeat at that time, and that we needed to see if she could tell us what had happened.

At that point she informed me that the child had been in the bathtub, that she had put her in some lukewarm water, that she heard a big boom, went back into the bathroom, and found the child floating in the bathtub. I then asked, because we had noticed the bruise on her lower abdomen at that point, I did ask her how that bruise had occurred. We were trying to determine if there was trauma that was not initially reported. And I was informed by her that a dog had pushed her over two days prior, and that she, being Kayla, had stepped on the child when she was trying to get to her.

Q. Specifically, did you ask her anything about what time, or what time that morning, this had all occurred?

A. I did. I did try to determine a time frame, and Kayla was unable to give me the time frame. But there was another lady in there that identified herself as a

neighbor, that did state that she went to Kayla's home, knocked on the door. I don't remember what she was going over there for, but Kayla had -- according to this lady, Kayla had told her that something had happened, and that she needed to come back. That neighbor informed me that that was around 11:00 o'clock, and that that's when they think that the accident originally occurred, as far as accident being a possible drowning.

Q. Once you had gotten that information, did you then go back and relate it to the doctors and the people working?

A. I did. I went back into the -- where we were working on Kayla, and informed them of what I had been told.

Q. And did they continue to try to resuscitate the child?

A. They did.

Q. And ultimately, did the father, or the person identified as the father of the child, show up?

A. Yes.

Q. And sometime after that, was -- did Doctor Vinuya call the code?

A. Yes.

Q. And when I say call the code, what does that mean?

A. That means that we stopped our resuscitative efforts because we were not getting a pulse, or she was not breathing on her own. So the child -- once it is stopped that means that the child is dead.

Q. Did you all make any efforts to try to warm the child up while resuscitation was going on?

A. I believe we did attempt to put some -- well, we did put some warm blankets on her to try to warm her up.

Q. Based on your observation of the child, did you make a note in your notes about some areas of concern that you observed on the child's body?

A. Yes.

Q. And what areas were those?

A. I don't want to say anything incorrect. Can I review ---

Q. Sure.

A. --- a piece of the chart to make sure I give the correct information because they were several areas.

Q. And you -- these are -- I'm handing you your notes?

A. Yes.

Q. You actually dictated these notes from another nurse; is that correct?

A. That is correct.

Q. And in that, do you summarize some of the injuries you were able to see?

A. Yes. There is a note where we saw some swelling to the elbow and upper -- right-upper arm; a bruise to the left arm; and a large bruise to the right groin. And in the neglect screening that we do there's also noted an

area to the left ear.
Q. To the left ear?
A. I think that's what it says.
Q. It's on a prior page.
A. I don't see it on these two pages that I have.
Q. I think I gave you the wrong page that has it. I apologize.
A. Yeah. There we go. Excuse me. It's the right ear. Bruising to the right ear, the right arm, and multiple areas of the abdomen.
Q. And that's just what you saw from her lying there?
A. Correct.
Q. And you didn't turn her over to observe any other bruises?
A. No.
Q. After Doctor Vinuya called the code, were the parents allowed to remain in with -- the people you thought were the parents -- allowed to remain in with the child for a period of time?
A. Yes, they did. They were allowed to stay in the room, with the police present, with the understanding that they could not pick her up and they could not handle her.
Q. And why is that?
A. Because it was a death in the emergency room, and the coroner would be involved, and they make all of the calls

from that point; to make sure their investigation is as it needs to be.

SOLICITOR CAMPBELL: Thank you, ma'am. We don't have anything further.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

CHRISTY BLACKMON BY MR. BURTON:

Q. And you were asking these questions of Kayla when she first came into the emergency room, right?

A. Correct.

Q. Okay. And she was first put not in the little room where Minor was, she was put in kind of a side room with a copy machine and some other administrative kind of things in there?

A. She was placed in the EMS room.

Q. Is that -- does that meet my description of that room?

A. It's -- it's a room right beside the trauma bay where EMS goes, and there's chairs and things of that nature in there.

Q. It's a little room roughly the same size as the room that Minor was in?

A. The room was smaller.

Q. Smaller. Okay. And can you describe Kayla's behavior when you encountered her?

A. She was upset. She was crying. It took a little bit of effort to kind of get her to calm down to talk to me.

Q. She was essentially freaking out during that time, wasn't she?

A. She was -- she seemed to be very upset.

Q. And she seemed very concerned about Minor and what was going to happen to Minor, right?

A. She did not ask a lot of questions, but she did allow me to tell her what was going on, and she did answer the questions I asked.

Q. Okay. As far as -- as far as her telling you that Minor was her mother, she didn't tell you she was her biological mother, did she?

A. No, biological was never part of the question or the answer.

Q. So the answer is no, she didn't say she was the biological mother?

A. The answer is no.

Q. Okay. And so, somebody that's in local parentis with a child and they're the female member of the family, aren't they essentially their mother?

A. I don't know the home situation, so I don't know how to answer that question for you.

Q. Well, here's the home situation. There were --

SOLICITOR CAMPBELL: Objection, your Honor. I don't

think he can --

THE COURT: I sustain that objection.

MR. BURTON: Thank you, your Honor.

Q. And you've testified that the parents were allowed in the room, right? Does that include Kayla Cook?

A. Kayla and ---

Q. After the death.

A. --- Kayla and the father were both allowed into the room.

Q. Okay. And the reason they're cautioned about touching or handling Minor was because that could compromise the coroner's examination if they did?

A. That is correct.

Q. Something like that?

A. That is correct.

Q. Okay.

MR. BURTON: I beg the Court's indulgence.

THE COURT: Yes, sir.

MR. BURTON: Thank you, your Honor. That's all.

THE COURT: Thank you. Re-direct?

SOLICITOR CAMPBELL: No, sir.

THE COURT: Okay. May this witness be excused?

SOLICITOR CAMPBELL: Thank you, your Honor.

MR. BURTON: No problem.

THE COURT: All right. Thank you, ma'am. You're

excused.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Call your next witness.

SOLICITOR CAMPBELL: The State calls Jeanette Jennings.

(WHEREUPON, JEANETTE JENNINGS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

JEANETTE JENNINGS BY SOLICITOR CAMPBELL:

Q. Ms. Jennings, where are you employed?

A. Lancaster Police Department.

Q. And what do you do at the Lancaster Police Department?

A. Currently, I'm assigned to the Special Operations Division. I've been at that position for almost a year since January. Previously, I worked for the patrol division since 2011.

Q. And so, back in December of 2017, you were working patrol?

A. Yes, ma'am.

Q. And did you have an occasion to become aware of a three-year-old that was basically not breathing, that was being transported to the hospital?

A. Yes, ma'am.

Q. And can you describe to the jury that day what your

role was?

A. Yes, ma'am. On the 18th of December, I believe the lieutenant over in special operations division at the time came over the radio that they were responding to an incident on Heath Circle, an unconscious child.

Q. Uh-huh.

A. They actually got there before any of my patrol guys got there, and stated they were going to go take the child via police car to the hospital, just to speed up the process, so my role was to assign officers to help get them there quicker, i.e. close down intersections with blue lights to help them get to medical care quicker.

Q. And did you do that?

A. Yes, ma'am.

Q. And once you did that, where or what did you do next?

A. I got to the hospital, again, after the special operations personnel did, and from that point on, I just facilitated who was going to secure the scene, once we determined that it was going to be a scene, due to the -- the nature of the incident. So I facilitated some of my officers that I was in charge of to secure the scene, as well as help with body-cam footage of interviews.

Q. Okay. And let me say this. You facilitated some of your officers to secure the scene?

A. Yes.

Q. What was the scene you're referring to?
A. The residence on Heath Circle, [redacted] Heath Circle.
Q. So you went to the hospital, and then other officers went to the house?
A. Yes.
Q. And what were they doing at the house while you were at the hospital?
A. As I arrived to the hospital, Sergeant Sims informed me to lock down the residence. So what they do -- anytime we create a scene is secure it, and then an officer starts a log of people that go in and out of that location.
Q. And how is it typically secured?
A. With tape, crime scene tape.
Q. Crime scene tape.
A. I'm sorry.
Q. And that was being done at your direction, but you weren't there for that?
A. No, ma'am.
Q. Did you stay at the hospital for a period of time that day?
A. I did.
Q. And what did you do while you were at the hospital?
A. I primarily stayed in the room while the resuscitation attempts were happening. I did leave several times to make phone calls, to make sure everything was okay. Again, I

was running patrol at the time and we had other things going on. So primarily I was in the -- the trauma room, as well as the EMS room, and then I stood by while investigators did their investigating with the people that they wanted to talk to.

Q. And that day, did you have what's called a body cam on you?

A. Yes, ma'am. I did.

Q. What is a body cam?

A. It's a device that every officer has that's attached to our person. Anytime we arrive to a scene or do anything police-related, we are demanded by policy to activate it.

Q. And that day at the hospital, did you activate your body cam at any point?

A. Yes, ma'am.

Q. And when was that?

A. At the hospital.

Q. And what part -- what were you recording?

A. I was recording the resuscitation attempt, as well as I recorded when several people were spoken to. I don't recall exactly how many people I recorded that got spoken to.

Q. Okay. And you had an opportunity to review those body cams at some point?

A. Yes, ma'am.

Q. And do those fairly and accurately depict what was going on as you were recording that day?
A. Yes, ma'am.
Q. And was anybody else there at the scene recording at the same time you were?
A. Yeah, there were multiple officers on scene recording.
Q. I mean at the hospital scene.
A. Yes.
Q. Yes. And so, they were recording as well?
A. Yes, ma'am.
Q. Including Sergeant Sims?
A. Yes, ma'am.

SOLICITOR CAMPBELL: Your Honor, at this time --

Q. And were those body cam recordings put on a disc, for purposes of this hearing?
A. Yes, ma'am, they were.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer State's Exhibit No. 1 into evidence.

THE COURT: Any objection?

MR. BURTON: I'd make a hearsay objection, your Honor. It's a out of court statement.

THE COURT: All right. Mr. Foreman, would you go to your room, please, sir?

(JURY EXITS COURTROOM AT 10:24 A.M.)

THE COURT: Did I understand you, Ms. Campbell, to say

that this is a compilation of all the body cams that were in the hospital?

SOLICITOR CAMPBELL: No, your Honor. The purpose of this is just so we can't -- they can not say we left anything out. These are some of the body cams at the hospital. Some have Ms. Cook on them, others show the resuscitation events as they are. We are not publishing hers, we are offering them into evidence, and then --

THE COURT: Say that again, please.

SOLICITOR CAMPBELL: We aren't going to publish them at this point, because they're kind of duplicative of some of the ones that Sergeant Sims did.

THE COURT: Okay.

SOLICITOR CAMPBELL: But their present sense impression res gestae, recorded recollection, excited utterance. I mean, --

THE COURT: And to the extent that they have a general capturing of people's conversations and comments outside the scope of this defendant, I think that there may be some validity behind the hearsay objection. I just have to look at them. Okay? I'm going to allow it in with the reservation, but you're not going to publish it now, right?

SOLICITOR CAMPBELL: I'm not publishing it now.

THE COURT: All right. Any further -- if you want to expand your hearsay objection?

MR. BURTON: Well, I don't -- I don't think I can object to the portions of the video that show Kayla Cook. But all the rest of it is just -- it's just highly prejudicial, your Honor. And at least Lieutenant -- other than what she's filmed on Kayla Cook really is kind of no relevance at all to proving any element of this case.

THE COURT: Yeah. Without me looking at it, I can't make a call, so.

SOLICITOR CAMPBELL: I can let you review them. If we have to redact it later, we will.

THE COURT: Yeah.

SOLICITOR CAMPBELL: Is that okay?

THE COURT: If you don't mind. I'm going to allow it in, subject to it being not allowed in. Okay? But it -- that's with the reservation that it not being published to the jury right now, until I have a chance to review it.

Okay?

SOLICITOR CAMPBELL: That's great.

THE COURT: All right. Thank you.

THE BAILIFF: Jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 10:28 A.M.)

THE BAILIFF: Your Honor, may I approach?

THE COURT: Yes, sir.

Ms. Campbell and Ms Jennings, if you would pull

closer, I think the jury, or some of the jury, is having a hard time hearing the questions and the answers. Okay?

SOLICITOR CAMPBELL: Okay. Your Honor, at this time we'd offer State's Exhibit No. 1 into evidence.

THE COURT: Okay. Admitted. Subject to prior ruling.

(WHEREUPON, STATE'S EXHIBIT NO. 1, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR CAMPBELL:

Q. And Officer, again, there were other peo -- were there other people there that day that were recording as well?

A. Yes, ma'am.

SOLICITOR CAMPBELL: Thank you, your Honor. I don't have anything further of this witness.

THE COURT: Okay. Cross-examination.

CROSS-EXAMINATION

JEANETTE JENNINGS BY MR. BURTON:

Q. Do you recall, when you went into the hospital, I believe Kayla was in a side room when you first got there?

A. I don't remember exactly when I first got there where she was.

Q. Okay. You don't remember her being in a side room at some point during your --

A. She was at some point.

Q. Oh, she was?

A. When I first got there I don't remember where she was.

Q. Okay. All right. And she was just plain freaking out, wasn't she?

A. Define freaking out.

Q. Well, crying and screaming, and what's going on, what's going on?

A. She was visibly ---

Q. All kinds of --

A. --- upset to me, yes, sir.

Q. Thank you, ma'am. Thank you for answering my question.

THE COURT: Re-direct?

SOLICITOR CAMPBELL: Nothing further, your Honor.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Please.

MR. BURTON: Yes, your Honor.

THE COURT: Thank you, ma'am.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: How long is your next witness?

SOLICITOR CAMPBELL: Longer than this one.

THE COURT: Longer?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: Be more than thirty minutes, you think?

SOLICITOR CAMPBELL: Probably with cross, I would think so.

THE COURT: Okay. Let's do this. Mr. Foreman, let's

go ahead and take our early morning break. I don't want to get you in middle of a witness and have you break in the middle of it. If you need anything our bailiff will get it for you. If you would, I'm gonna remind you, please leave your pads in the courtroom unless we're breaking for lunch or breaking for the evening, when we have breaks. We will resume in a about fifteen minutes, okay.

(JURY EXITS COURTROOM AT 10:30 A.M.)

(COURT IN RECESS AT 10:31 A.M.)

(COURT BACK IN SESSION AT 10:48 A.M.)

THE COURT: All right. Ms. Campbell, anything from the State before we proceed?

SOLICITOR CAMPBELL: Yes, your Honor. Our next witness is Ms. Miriam Myers.

THE COURT: Miriam Myers?

SOLICITOR CAMPBELL: She's a neighbor that was there the day when Minor died, and helped with it. Your Honor, she does have information, and she's from out-of-state. She has information about the arm that I think I need to proffer first ---

THE COURT: Okay.

SOLICITOR CAMPBELL: --- about what she was told by Kayla about the arm injury.

THE COURT: Right.

SOLICITOR CAMPBELL: That would be pretty important.

THE COURT: Okay. Come around, please, ma'am.

(WHEREUPON, MIRIAM MYERS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION - PROFFERED

MIRIAM MYERS BY SOLICITOR CAMPBELL:

Q. Ms. Myers, I want to turn your attention back to December the 18th of 2017. Where were you living at that time?

A. At [redacted] Heath Circle.

Q. [redacted] Heath Circle?

A. Yes, ma'am.

Q. If you could get really close to that microphone, because it's hard to hear in here.

A. Sorry.

Q. And I'm guilty of this too. And did you know Kayla Cook?

A. Yes, ma'am.

Q. And how did you know Kayla?

A. She was our next-door neighbor.

Q. And how long had you known Kayla and Scottie?

A. Since they moved in.

Q. Since they moved in?

MR. BURTON: Your Honor, I'm having real difficulty hearing Ms. Myers.

THE COURT: Sir?

MR. BURTON: I'm having real difficulty hearing Ms. Myers.

THE COURT: Okay. Are you hot?

MR. BURTON: Oh, I'm sorry, your Honor.

THE COURT: All right. Would you speak up, please, ma'am?

THE WITNESS: Yes, sir.

SOLICITOR CAMPBELL: Thank you, your Honor.

Q. Did -- at some point while they were living next door, did you become aware that Minor had hurt her arm?

A. Yes, ma'am.

Q. And tell the judge how you knew about that.

A. I had seen Minor walking around like this, holding her arm -- her arm and elbow, and Kayla told me that Minor had hurt it by falling off the bed, and that she was telling people Mommy did it, and pointing at Kayla.

Q. So Kayla told you that Minor said what?

A. That Minor was telling people Mommy did it, and pointing at Kayla.

THE COURT: Okay.

BY SOLICITOR CAMPBELL:

Q. Did you ever observe the child actually in pain from the arm?

A. Yes. I had helped her in the bathroom at one point, and I accidentally hit it, and she went ow, ow, ow, ow, ow!

So, her -- like, I was helping her onto the potty, and I -- her elbow was right there, and.

Q. And was this within a couple -- two or three weeks of Minor dying?

A. Yes, ma'am.

SOLICITOR CAMPBELL: Your Honor, that's the extent of what -- she's also got some more testimony, but about that day, but not that.

THE COURT: What's your position on that?

MR. BURTON: Well, your Honor, I think there's no doubt that -- that Minor's arm was broken. It's just a matter of we really don't know when, and we really don't know how, or at least we don't know that Kayla Cook had anything to do with the broken arm. Plus, Kayla saying that Minor said Mommy did it, Mommy -- the solicitor has made a great point that Mommy is really Michelle Bigham and not Kayla Cook. I just don't think that that is fair testimony.

THE COURT: You know, Ms. Campbell, I do have some real problems with it. Number one, I mean the deceased making statements, I don't know of any hearsay exception for that and if there is tell me. But the more concerning thing is, under the statute for homicide by child abuse -- give me that -- it appears that the abuse ultimately has to result in death. And there's no question in this case that

this broken arm did not cause this child to die, right?

SOLICITOR CAMPBELL: It can come from abuse and/or an act or omission.

THE COURT: Right. But the death. It's death, right?

SOLICITOR CAMPBELL: Yes.

THE COURT: So the point being, I mean we have sufficient -- I mean there's a lot of evidence that this child had other cause -- of the cause of her death from something else other than this broken arm, so I'm not sure that it falls under the statute.

But for the sake of argument, for the sake of argument, even if it does fall under the statute, I mean it seems to me that the probative value is gonna be outweighed by the prejudicial impact of this information and that it's hearsay from the decedent.

SOLICITOR CAMPBELL: If we could use this proffer, if I can loop back around, because there's a couple cases, your Honor, if I could hand up ---

THE COURT: Yeah.

SOLICITOR CAMPBELL: --- for you to review, just to see if it would ---

THE COURT: Yeah, sure.

SOLICITOR CAMPBELL: --- affect your ruling possibly ---

THE COURT: I'll look at anything you give me.

SOLICITOR CAMPBELL: --- under a 404(b) analysis.

THE COURT: Okay.

SOLICITOR CAMPBELL: Because in homicide by child abuse, like sexual abuse --

THE COURT: You're talking about prior bad acts?

SOLICITOR CAMPBELL: Yes.

THE COURT: Okay.

SOLICITOR CAMPBELL: And I think that -- but we don't have a problem with this testimony being played at a later date for them perhaps.

THE COURT: But let me ask you this. So these the ---

SOLICITOR CAMPBELL: I'm much hampered because she's from out of state.

THE COURT: --- convicted prior bad acts, correct?

SOLICITOR CAMPBELL: Yes.

THE COURT: So you have to have clear and convincing evidence that they occurred by or were caused by the defendant. Do you disagree with that?

SOLICITOR CAMPBELL: That they occurred, or, or ---

THE COURT: Not that they occurred, but --

SOLICITOR CAMPBELL: --- in the defendant's presence. But part of the bad act is that she doesn't get treatment for them. That's the part that, to me, is admissible. The -- can I --

THE COURT: You know, let me think about it.

SOLICITOR CAMPBELL: Okay.

THE COURT: Because here's the -- really, the concern that I have. If you look under just on the general charge on homicide by child abuse, it says harm to a child's physical health or welfare means that the defendant either inflicted, or allowed to be inflicted, on the child physical injury.

SOLICITOR CAMPBELL: Uh-huh.

THE COURT: We have some evidence of that. Failed to supply the child with adequate food, clothing, shelter, or healthcare, and that's what you're arguing under for this testimony. But under that part, it has a conjunctive, and this failure caused a physical injury or condition which caused death.

SOLICITOR CAMPBELL: And we're saying that her failure was ongoing, just like that day where she doesn't get help for her immediately. Which you haven't heard the testimony yet, but there's an hour from 11:00 to 12:00, we know that the child, according to another witness, is already been hurt, and she doesn't get her any help.

In addition to that, your Honor, there's additional testimony that's coming in about -- it's -- but it's a 404(b) analysis I'm making at this point. And that's what, in the cases of *Holder* and *Martucci*, which are two homicide by child abuse cases ---

THE COURT: Okay.

SOLICITOR CAMPBELL: --- I think are the most recent ones, as well as even *Smith*, which is the most recent homicide by child abuse case. If I could get --

THE COURT: Say that again, please.

SOLICITOR CAMPBELL: *State versus Smith*.

THE COURT: Right.

SOLICITOR CAMPBELL: If I could let you just review those and see if that would affect you in any way.

THE COURT: Yeah. Would you hand them up to my law clerk, and I'll certainly do that.

SOLICITOR CAMPBELL: Yes, sir. I think they're upstairs.

THE COURT: They are? Or if you would, at some juncture, go ahead and do that. Now, I heard you tell -- say that this witness is from out-of-state? As we sit here right now, I would exclude this evidence. I'm not going to do that until I read those cases, so how do you want to deal with her testimony? Do you want to set her down?

SOLICITOR CAMPBELL: Do we like put her up yet tomorrow? We could --

You gonna be here through tomorrow?

THE WITNESS: I'm gonna be here until at least Friday.

SOLICITOR CAMPBELL: Okay. Why don't we stand down, then, Judge, and let me hand up those cases?

THE COURT: That would be, I think, the best way of course.

Do you have any objection to that, Mr. Burton?

MR. BURTON: No, your Honor.

THE COURT: All right. Thank you, sir.

Ma'am -- do you want to do it now, or do you want to wait until the jury comes back in to step her down? How would you prefer?

SOLICITOR CAMPBELL: We haven't called her yet, so I think it would be cleaner just to let --

THE COURT: That's right, you didn't.

Ma'am, you may step back down.

THE WITNESS: Okay.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Who will be your next witness?

SOLICITOR MCGINNIS: Sergeant Sims will is going to be the next with -- Sergeant Sims will be the next witness, your Honor.

THE COURT: Okay. Hang on for a second, let's get the jury out here.

SOLICITOR MCGINNIS: Before we do that, Judge, we do intend to publish body cam through Sergeant Sims. Do you want to go ahead and hear an argument about that?

THE COURT: Have you looked at these body cams, Mr. Burton?

Sims.

THE COURT: Oh, that's right. That's right. Okay.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 11:31 A.M.)

THE COURT: All right. Ms. McGinnis, you can call your next witness.

SOLICITOR MCGINNIS: Thank you, Judge. The State would call Sergeant Sims.

(WHEREUPON, JODI SIMS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

SERGEANT JODI SIMS BY SOLICITOR MCGINNIS:

Q. Good morning, Sergeant Sims.

A. Good morning.

Q. Could you state your name, just for the record?

A. Jodi Sims.

Q. And where do you work?

A. I work at the Lancaster Police Department.

Q. What's your role at the police department?

A. I'm a Detective Sergeant.

Q. Okay. How long have you been there?

A. At the police department?

Q. Uh-huh.

A. Since 2008.

Q. Okay. And how long have you been a detective?

A. I believe it's about almost five years. It will be five years in November.

Q. Okay. And were you employed in that capacity on December 18th of 2017?

A. I was.

Q. And did you respond to the call involving Minor [redacted] on that date?

A. I did.

Q. Where was that call?

A. [redacted] Heath Circle.

Q. And is that in the city of Lancaster?

A. Yes, it is.

Q. Okay. How did you respond? How did you become aware of the call?

A. So whenever we're on our radio, we listen to other channels. I particularly listen to EMS and fire, because I like to know what's going on in the county. So I heard the call come over EMS channel about a child unresponsive, not breathing, and the address was [redacted] Heath Circle, so I knew it was in our jurisdiction. Sergeant Johnson and I typically rode together a lot, so we automatically ran to the car together. He drove and I rode in the passenger seat, so we went to the house.

Q. And when you got there, what did you see?

A. We were the first ones there. I think Lieutenant Hall at the time was also very close behind us. Sergeant Johnson ran in the house first, and I ran in second. I remember seeing several people in the living room. I remember seeing a child laying on the floor, a couple people over her. I remember seeing Kayla standing up against the wall with -- holding Wyatt and crying. And I attempted to talk to her, but Sergeant Johnson was attempting to -- to take over CPR.

I think he got a couple pumps in before he decided to go ahead and take Minor to the hospital, so he told me to come on, let's go. At that point we ran out the door. He was holding Minor, and I got in the passenger seat. He handed me Minor. As he was running around the car to get in the driver's seat, Lieutenant Melton, with the fire department, ran up with his medical bag and got in the back seat. While I was sitting in the passenger seat up front, I -- I was holding Minor in my arm doing chest compressions with my right hand, and her head was on my elbow.

Q. Let me stop you there, Sergeant Sims.

A. Okay.

Q. How -- when -- that was the first time you touched Minor, when she was put in your lap?

A. That's right.

Q. How did she feel when she was put in your lap?

A. She was very limp, and I could feel how cold she was when her head was on my arm.

Q. Okay. And you are a first responder, correct?

A. Yes.

Q. As part of being a first responder, you have some -- some very limited medical training?

A. I do.

Q. What is that?

A. Every year at the police department, we are certified in basic CPR.

Q. And is that for children or adults, or both?

A. Yes. They -- they go through infants, children, and adults whenever they certify us in CPR at the police department.

Q. So at the -- you're currently certified in CPR?

A. I am.

Q. And at this time ---

A. Yes.

Q. --- you also current on your certification? So you -- you're doing CPR. You mentioned somebody else was there in the car with you as well?

A. Yes. Sergeant Johnson was driving, and Lieutenant Melton, with the fire department, was in the back seat.

Q. And what was Lieutenant Melton doing from the back seat?

A. He had the oxygen and the mask that goes over the nose and mouth, to give her oxygen while I was doing chest compressions.

Q. And would that be, like, in lieu of mouth-to-mouth?

A. Right.

Q. Okay.

A. Instead of giving breaths with your mouth.

Q. Okay. So Sergeant Johnson drove you all to where?

A. Straight to the hospital.

Q. Okay. What happened when you got to the hospital?

A. He pulled directly into the ambulance bay, right up to the -- the entrance where an ambulance would stop and take their patients in, rather than the public entrance. I jumped out, I was carrying Minor. I ran inside and put her on the bed. There were lots of other nurses and -- and people around, but I continued chest compressions until they took over.

Q. Do you recall during that ride calling -- you or Sergeant Johnson calling to the hospital?

A. I don't recall, but I was focused.

Q. Okay. But when you got to the hospital, were they ready for you?

A. They were, yes.

Q. Okay.

THE COURT: Would you speak into the microphone?

THE WITNESS: Yes, sir. I'm sorry.

BY SOLICITOR MCGINNIS:

Q. So on that day, what were you wearing?

A. I was wearing my uniform. It's a just by way of pants it has cargo pockets and a collared shirt but it was long-sleeved. It's really thin.

Q. And is part of your uniform a body-worn camera?

A. Yes, it is.

Q. And at that time, back in 2017, how long had you all had those cameras?

A. They were fairly new. I couldn't give you exact date, but it was really new ---

Q. Okay.

A. --- technology that we got.

Q. But you did have it on that day?

A. I did.

Q. At some point did you activate that body cam?

A. I did. I remembered to activate it after I laid Minor down and finished chest compressions. That's when I remembered I actually had it.

Q. Prior to that, you didn't have it activated at the house?

A. I did not.

Q. How did things happen at the house? I mean, were you there for a long period of time?

A. No, it was very quick. Three minutes, tops.
Q. Okay. And that's from?
A. From arrival, running into the door, scooping her up, and jumping in the car ---
Q. Okay.
A. --- and taking off.
Q. Okay. So you had your body-worn camera on, and you activated it at some point at the hospital?
A. I did.
Q. What did you record at the hospital that day?
A. So whenever I activated my camera Kayla was in the other room talking -- or I don't know if the doctor or a nurse was in there yet, but I walked in there where she was at, because I was going to do the same thing, just try to get a little history of what was going on, but the nurse had walked in as well, so I was recording that.

Once that was finished, she went into the room where Minor was being worked on, so I was in there with her for that, the entire time, too. I stepped out a few minutes, just to make some phone calls or talk to other people; but for the most part I was in the room with the doctor and Minor and Kayla.
Q. And what is your focus or your purpose for recording -- why did you turn the body camera on?
A. Well, it's our policy, anytime we're out on a call,

we're supposed to turn them on.

Q. And in preparing for this trial, have you had an opportunity to review some of your body camera footage?

A. I have.

Q. Have you reviewed, in fact, all of your body camera footage?

A. I have.

Q. Was that put on a disc, for purposes of this hearing today?

A. Yes, it was.

Q. And I have the disc in the computer already, but did you see it this morning?

A. I did.

Q. And it was in this, marked State's Exhibit 2?

A. Right.

SOLICITOR MCGINNIS: Judge, at this point I'd like to enter State's 2 into evidence.

THE COURT: Subject to prior rulings, it's admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 2, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

SOLICITOR MCGINNIS: Judge, at this time I'd like to go ahead and publish some of the videos.

THE COURT: Okay.

SOLICITOR MCGINNIS: Beg the Court's indulgence.

THE COURT: Sure.

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, before I get into this, let me ask you, is there something different about the beginning of these body cam videos?

A. Yeah. Whenever I hit the button, it automatically backs up thirty seconds prior to me hitting the button. But there's no audio, so the first thirty seconds you can see what's going on, you just can't hear it. So you'll actually see me hit the button with my finger, and that's when the audio starts.

Q. Thank you. And again, before I start, these videos are fair and accurate representation of what happened that day, what you observed personally?

A. That's right.

(WHEREUPON, STATE'S EXHIBIT NO. 2, PUBLISHED TO THE JURY AT 11:41 A.M.)

BY SOLICITOR MCGINNIS:

Q. Was that the first time you were able to speak with the defendant that morning?

A. That's right.

Q. So let's go over what she told you had happened at that point.

A. Uh-huh.

Q. Or she was telling the nurse and you were present for.
A. Okay.
Q. And do you have notes that you're reviewing?
A. I do, I took notes.
Q. Okay.
A. As you seen on the video, she told us that Minor was in the tub, by herself, after breakfast. She heard a bang, and when she went to go check on her she found Minor lying in the tub face-up, but breathing.
Q. Did she approximate how much water was in the tub?
A. Yes, she did. She told me, or the doctor, I was in there, that there were about six inches of water, which she used her hands to show. She said not much.
Q. And then, was a time frame given?
A. Yeah. When we were asking how long ago this happened, the -- the neighbor on the video told us that it had to be about an hour, because she knocked on the door around 11:00.
Q. Okay. And then, Kayla told her what at that point; the neighbor?
A. That she had to come back because something had happened.
Q. Okay. So that's the -- that's the first statement you get from the defendant about what's happening?
A. Right.

Q. And at that point, why are you getting this statement from her?

A. Just to see what was going on. I mean.

Q. And what -- medical personnel needed this information too; ---

A. Right.

Q. --- is that right?

A. Yeah.

Q. Okay. After you get the statement, is she allowed into the room where they're working on Minor?

A. She was.

Q. Okay. And is that what this next video is going to reflect?

A. It did.

Q. And again, this thirty seconds of silence is a feature of the body camera?

A. Right.

THE COURT: Is this still Number 2?

SOLICITOR MCGINNIS: No, sir. This is the second video, your Honor. This is what we discussed.

(WHEREUPON, SECOND VIDEO PUBLISHED TO THE JURY AT 11:48 A.M.) (PAUSE AT 12:15 P.M.)(VIDEO CONTINUES TO BE PUBLISHED.)(VIDEO STOPS AT APPROXIMATELY 12:18 P.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, after the first video, where the

defendant talks to that first nurse, she has an opportunity to talk to another nurse; is that right? Would that be Christy Blackmon?

A. Right.

Q. And you were present for that statement as well, right?

A. I was.

Q. And that time what did -- what does she say happens?

A. I'm sorry, I just don't want to get the two mixed up. She told her the same thing, that after breakfast she put her in the tub, heard a bang; after awhile went and checked on her, found her lying face-up in the tub.

Q. Does she give a little more detail in that second one?

A. Yes. She describes how she was laying on her back, with her legs folded up like a frog.

Q. And does she describe bath water?

A. She does. She says it was not over her face.

Q. Does she describe the temperature of the water?

A. She told me it was lukewarm, or she told the nurse at the time.

Q. Okay. I believe the nurse also asks her about a bruise she sees; is that right?

A. She did. She asked her about the bruise she saw on her lower pelvic area.

Q. And what did Kayla say happened at that time?

A. She said that she accidentally stepped on her when she was trying to pick her up after the dog knocked her down the steps.

Q. Did she say about when that was?

A. I think she said a couple a days ago.

Q. Okay. Did she talk about how long it was in between the incident and calling 911, or do you get that detail mostly from the neighbor?

A. Mostly from Myrica.

Q. But I believe the defendant does talk about what she does after she gets the child out of the tub, right?

A. Yeah, she dried her off and dressed her.

Q. Okay. At some point, obviously Minor is pronounced dead. Were you present for that?

A. I was.

Q. What happened after the doctor ultimately said, this is time of death?

A. At that point I think they pretty much left the room and allowed Kayla and Scottie to have a little bit of time with Minor.

MR. BURTON: Objection, your Honor. The solicitor asked a question that clearly is getting into an area you've already ruled on that's --

THE COURT: Overruled. Go ahead.

BY SOLICITOR MCGINNIS:

Q. Can you repeat that?

A. Yeah. They were allowed to spend a little bit of time with Minor, with the understanding that they weren't supposed to alter anything, take any tubes out or anything like that.

Q. Were they allowed to touch her?

A. They were touching her, yes.

Q. Okay. But they were not allowed to --

A. They couldn't pick her up. They couldn't alter anything, take any stickers off, or move anything whatsoever. They were to leave her the way she was.

Q. And were you present during this time?

A. I was.

Q. Was either the defendant or the child's father alone with the child at any point after she had been pronounced deceased?

A. No.

Q. Since this was a child, what would -- what was your protocol, as far as next steps after she was pronounced dead?

A. Anytime there's a child death, it's mandated that you contact the State Law Enforcement Division, as well as, obviously, the Coroner's Office. But there has to be an investigation done anytime it's an unattended child death under -- under -- I think it's seventeen and under it is

mandated it has to be investigated.

Q. Okay. And so, was that done in this case?

A. It was.

Q. And who responded to that call?

A. SLED Agent Trista Baird along with another SLED Agent Will Thrasher.

Q. Okay. And based on your experience, does SLED have specialists in child death?

A. They do. That's what they do, that's what they're assigned to, so they do that every day. That's their specialty so they have a great deal more experience with child fatalities than I do.

Q. And when you called them, when did they come?

A. Immediately. I don't remember exactly what time they arrived, but it was at the hospital after she was pronounced.

Q. Okay. And did the coroner respond as well?

A. The coroner did respond.

Q. And you were present at the hospital for all this?

A. I may not -- I don't remember the exact time the coroner got there, but I was there at the same time the coroner was there as well.

Q. And you said it would -- it's state law that there's an investigation done for a child's death?

A. Right.

Q. Did the Lancaster Police Department investigate it with SLED? How does that work?

A. It -- we work together. As the local agency I take the lead as far as the initial report, paperwork and such. SLED helps with the crime scene because they have a -- a larger toolbox, basically, and they have a lot more technology and skills, so they took over the -- the crime scene process. Agent Baird and I worked together on the interview process as far as with Scottie and Kayla.

Q. And let's talk about the interview process. Who all did you have an opportunity to interview as a part of this investigation?

A. A lot of people. I interviewed Kayla, Scottie, numerous times; grandmother Tracy Schroeder. Other officers talked to the neighbor Mindy. I spoke with a DSS worker. I spoke with the neighbor, Earlene, as well as another officer spoke with Jennifer. I may be leaving some out, but there were a number of people that were spoke to or interviewed in reference of this case.

Q. Did you have the opportunity to interview any of the defendant's family members?

A. I did. I spoke with sister Kerrin.

Q. Okay. Anyone else?

A. Yeah. Her boyfriend at the time, Josh Serrano.

Q. So is it fair to say that you -- you conducted a

fairly thorough investigation of this case?

A. Yes.

Q. Okay.

SOLICITOR MCGINNIS: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

SOLICITOR MCGINNIS: Judge, may we approach?

THE COURT: Yes, ma'am.

(BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF THE JURY, AT 12:26 P.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, I'm going to play one more video from the hospital that day, and ask you if it's a fair and accurate representation.

A. Okay.

(WHEREUPON, VIDEO PUBLISHED TO THE JURY AT 12:28 P.M./VIDEO STOPS AT 12:37 P.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, what was the defendant saying after they stopped working on Minor?

MR. BURTON: I'm sorry, Judge, but, I mean I think everybody saw the video. It's just a -- to bolster the video recording we just seen.

THE COURT: Overruled. Go ahead.

A. She was saying, I'm sorry.

Q. Thank you.

SOLICITOR MCGINNIS: Judge, I think now may be a good time for a lunch break, based on the next piece of testimony I believe will come from Sergeant Sims.

THE COURT: Very good. Mr. Foreman, ladies and gentlemen of the jury, let's go ahead and have a lunch break now. If you would take your notepads to the jury room and leave them during the lunch break, I'm going to excuse us until Two o'clock, and we'll resume testimony at that point.

(JURY EXITS COURTROOM ON LUNCH RECESS AT 12:38 P.M.)

THE COURT: All right. You can step down, Officer. You can't talk to anybody about your testimony over the lunch break, okay.

OFFICER SIMS: Yes, sir.

THE COURT: Thank you.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Anything else, Ms. McGinnis, before we break for lunch?

SOLICITOR MCGINNIS: Your Honor, briefly, with regard to the defendant's interviews that I believe you viewed prior to the beginning of the trial, there's a couple of things in there that we believe needed to be redacted out.

THE COURT: One was the lie detector.

SOLICITOR MCGINNIS: The mention of the polygraph, your Honor, as well as at one point the defendant -- or I

THE COURT: Okay.

SOLICITOR MCGINNIS: --- and then -- and put the fifth video in, with him, if that's suits Mr. Burton.

THE COURT: All right. Very good. Now, we bring him back, you're going to have to cross-examine him, I think, okay.

MR. BURTON: Oh, I guarantee it, your Honor.

THE COURT: All right, guys. Anything further, Ms. McGinnis, before we break for lunch?

SOLICITOR MCGINNIS: Beg the Court's indulgence one second.

SOLICITOR CAMPBELL: Judge, out of an abundance of caution, and you've still got the ruling on the actual break in the arm coming in. However, in this -- these interviews she talks about how the child hurt her arm. There's no mention of it being broken, but this was a sprain.

THE COURT: Well, you know, I've been thinking about that. Thank you for bringing that up. It seems to me that if what you are trying to do is introduce this as an ongoing pattern, or a pattern of -- what's the term -- intentional indifference, or whatever the terminology, the intent behind the statute goes, if there is some limiting -- extreme indifference, thank you. If there is some limiting instruction, meaning number one we're not

presenting this to show that this was that the defendant, in fact, caused this break; we're not doing -- we're certainly not saying that this break caused death, we're presenting this for the limited purpose of showing that there was an indifference to her care by her failure to give care, then I'll allow it in with that instruction.

SOLICITOR CAMPBELL: Thank you.

MR. BURTON: Wouldn't they have to lay a foundation that shows that she had something to do with that break, though? And the evidence is --

THE COURT: The idea behind it, Mr. Burton, I -- what I was saying is that they're saying that it's the failure in light of the injury to get medical care meets the intent aspect of the statute under extreme indifference and that's the reason it's being introduced, with the instruction being made to the jury that we're not saying she did it, we can't prove that she did it, and we're not -- hang on -- and we're not saying that -- and we're certainly not saying it caused her death, because it didn't. But it's only for the failure to obtain appropriate health care. Go ahead.

MR. BURTON: As long as it's clear that it's failure to ---

THE COURT: Right.

MR. BURTON: --- pursue medical care.

THE COURT: And I think Mr. Nielson is about to do a

back flip over here wanting to talk to you, so.

MR. NIELSON: Can I have one minute, your Honor?

THE COURT: Yeah.

(PAUSE.)

MR. BURTON: Mr. Nielson has a good point that the solicitor has implied numerous times that Kayla Cook isn't the mother of the child. Mothers have duty of great character of children. You're not her mother, what duty does she have? The solicitor can't have it both ways.

THE COURT: That argument is going nowhere. She was the primary caretaker of that child, she was the only adult in the house. She had the obligation to do it. So if you want to proffer that, that's fine; but that goes nowhere.

MR. BURTON: Well, I would also -- I would ask the Court then to limit the State from implying that she wasn't the mother of the child.

THE COURT: She wasn't the mother of the child. Why would I do that?

MR. BURTON: Like I said, the State's wanting it both ways.

THE COURT: You think on a mother -- No it doesn't. I disagree with you vehemently. If I have a child of three years old in my primary care and I'm the only adult in the house, I do have obligation to take care of that child. And to insinuate otherwise is just not right. Okay?

MR. BURTON: Okay, your Honor.

THE COURT: All right. Thank you. Let's -- anything else, Mr. Burton, before we go to lunch?

MR. BURTON: No, your Honor.

THE COURT: All right. We'll break until 2:00.

SOLICITOR MCGINNIS: Thank you, your Honor.

(COURT IN LUNCH RECESS AT 12:46 P.M.)

(COURT BACK IN SESSION AT 2:00 P.M.)

THE COURT: All right. Please be seated.

May I have the attorneys come up here, please?

(BENCH CONFERENCE, OFF THE RECORD, AT 2:00 P.M.)

(IN CHAMBERS CONFERENCE, OFF THE RECORD, AT 2:02 P.M.)

(COURT AT EASE AT 2:02 P.M./BACK IN SESSION AT 2:12 P.M.)

THE COURT: Please be seated. All right, I want to put a couple of things on the record, and when I do I want the State and Defense counsel to fill in or correct anything I omit to say or state incorrectly. It came to my attention on return from lunch that one of the jurors had incidental contact with the defendant in this matter, and I've identified that juror number -- juror number for the parties. You all still have that number?

SOLICITOR MCGINNIS: 168.

THE COURT: Anyway, after a bench side bar with Counsel, it was my idea or thought that we interview her

testimony. Because sometimes trials are like herding cats, we are stopping that. We're going to bring in another witness for the State. And then, after they are concluded, they will resume with Sergeant Sims' testimony, so you'll understand. All right.

SOLICITOR CAMPBELL: Thank you, your Honor.

THE COURT: Ms. Campbell?

SOLICITOR CAMPBELL: May it please the Court?

THE COURT: Yes, ma'am.

SOLICITOR CAMPBELL: The State calls Doctor Ross.

THE COURT: For the record, any additions or exceptions to my instructions to the jury?

SOLICITOR CAMPBELL: None from the State.

MR. BURTON: None, your Honor.

THE COURT: Thank you.

(WHEREUPON, JANICE ROSS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR JANICE ROSS BY SOLICITOR CAMPBELL:

Q. Doctor Ross, what do you do for a living?

A. I'm a forensic pathologist.

Q. And as a forensic pathologist, what does that mean?

A. First of all, I'm a doctor, so I've had four years of college and four years of medical school, and four-plus years of training in pathology. The field of pathology is

a discipline, as opposed to pediatrics or surgery, where we learn how to identify diseases by looking at tissue under the microscope, and using laboratory work, blood work.

A forensic pathologist is further trained to do autopsies in a forensic manner such that we identify patterns of injury, document those patterns of injury, take photographs, take fluids for toxicology, and prepare all of these materials for a court of law.

Q. Can you tell this jury a little bit, additionally, about your education and your training in the field of pathology, and ultimately forensic pathology?

A. Yes. I went to the University of South Carolina for my bachelor's degree. I graduated from Upstate Medical Center in Syracuse, New York with my M.D., and I did training in pathology there. I'm board-certified in three areas of pathology, including anatomic clinical and forensic pathology.

Q. And what's the difference between anatomic clinical versus forensic pathology?

A. Anatomic pathology is a pathologist who works in a hospital, which I've done, and we look at tissue from surgery to -- to diagnose like cancers and leukemias. And a clinical pathologist uses -- oversees the laboratory in the hospital, and uses blood work, urinalysis, et cetera, to help diagnose diseases. Forensic pathologist brings in

the legal matter of doing the forensic autopsies.

Q. And are you board-certified in any of these areas of pathology?

A. All three, yes.

Q. All three?

A. Yes.

Q. And how long have you been board-certified as a forensic pathologist, specifically?

A. Since 1985.

Q. And have you testified before as an expert in court as a forensic pathologist?

A. Yes.

Q. And how many times have you been qualified as a forensic pathologist in court?

A. Over two hundred times in South Carolina.

Q. Over two hundred times in South Carolina?

A. Yes.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer her as an expert in forensic pathology.

THE COURT: Any voir dire?

MR. BURTON: No, your Honor. I know Doctor Ross's --

THE COURT: So you will stipulate to her expertise?

MR. BURTON: Yes, sir.

THE COURT: Thank you very much.

All right, ladies and gentlemen, let me remind you

that witnesses normally cannot give their opinion in cases under limited circumstances. However, in this case it's stipulated that Doctor Ross is an expert in the field of forensic pathology. She will be allowed to give her opinion in that field. Expert testimony is like any other testimony you will hear in this case. You may accept it, you may reject it, and give it as much weight as you think it should have.

All right, Ms. Campbell.

SOLICITOR CAMPBELL: May it please the Court?

Q. Doctor, I want to turn your attention back to December of 2017. Did you perform an autopsy on a young lady, a three-year-old named Minor [redacted]?

A. Yes.

Q. And when did you actually receive the body from the morgue to --

A. December -- December 19th.

Q. The 19th?

A. 2017.

Q. And is that unusual for there to be a day after before the autopsy is done?

A. It's not unusual, no.

Q. And prior to doing your autopsy, are you provided certain information to help you, to help guide you as far as your autopsy goes?

A. Yes.
Q. And that's called a case history?
A. Yes.
Q. And were you -- did you receive a case history in this case?
A. Yes, I did.
Q. And did you use that information in guiding you in your autopsy?
A. Yes.
Q. Okay. Prior to making any incisions as far as doing the autopsy, did you do what's called an external examination?
A. Yes, I did.
Q. And what kind of evidence are you looking for when you do your external examination?
A. Any patterns of injury or evidence of natural disease. We -- in a situation like this, with a child, we also do total body x-rays.
Q. And that was done in this case?
A. Yes.
Q. And we'll get back to those. Basically, starting, I guess, with the head and what your observations were when you first came in contact, can you tell the jury what you observed from this child?
A. Yes. Externally, she had multiple bruises that were

sort of circular and small, maybe half an inch in diameter; one in the right forehead, one -- two in the left forehead, one to the right of the high -- right eye -- I'm sorry, the left eye. The right eye was contused, also. And there was a contusion, an abrasion, to the right of the lips, and a contusion underneath the chin.'

Q. Did you note any kind of injury to her eyes?

A. There was a contusion of the eyeball itself on the right.

Q. And I want to show you some photographs that were actually taken the day before. I show you State's Exhibit No. 14. Does this fairly and accurately depict the contusion in the eye that you observed?

A. Yes.

SOLICITOR CAMPBELL: And your Honor, at this time we'd offer State's Exhibit 14 into evidence.

THE COURT: Any objection?

MR. BURTON: Yes, your Honor, I object to all the photos as being more prejudicial than probative. The jury's not doctors, they don't know anything about what these photos depict.

THE COURT: Overruled. It's admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 14, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR CAMPBELL: Thank you.

Q. And Doctor, I point, can you show me where you actually see?

A. In the white of the eye on the right side. This also shows a small bruising on the right side of the lips.

Q. And those are the -- some of the injuries you just previously mentioned?

A. Yes.

Q. And even though you saw her a day later, this is how it appeared when you saw her?

A. Yes.

Q. And these injuries were significant enough for you to note in your autopsy findings?

A. Yes.

Q. You also mentioned some bruising, I believe, to the forehead area?

A. Yes.

Q. And I'm going to show you what's been marked as State's Exhibit No. 24; first ask if you recognize that.

A. Yes.

Q. And is that one of the bruises you were referring to?

A. Yes. It's difficult to see, but it's there.

Q. Right here?

A. Yes.

Q. And it's of a little different color. What -- it's more of a yellowish color?

MR. BURTON: Your Honor, I'm gonna ask that the solicitor not to ask leading questions.

THE COURT: Sustained. Rephrase your question.

BY SOLICITOR CAMPBELL:

Q. What color is it?

A. It's -- it's more blue, actually. The color of bruises depends on the depth. If it's real deep in the tissue, it can be very recent but it might look yellowish or blue, because of the way light is reflected through the skin. So in order to -- you can't age a bruise but in order to look at it you take sections of it under a microscope.

Q. And we'll get to that in a minute. I also want to show you a number of other photographs, so I don't have to put them all in separately, and ask you to look through these, and just ask you, do these fairly and accurately depict the exterior injuries you noted, or some of the exterior injuries you noted on this child?

A. Yes, they do.

Q. And would these be of assistance in explaining your findings to the jury?

A. Yes.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer State's Exhibits 15 through 33 into evidence.

THE COURT: Any objection?

MR. BURTON: Are those the ones that -- let me see those.

SOLICITOR CAMPBELL: I just showed them to you.

MR. BURTON: Yeah. I just wondered which set of them they are. Yeah. Okay. Well, I would make the same objection under Rule 403, your Honor, that they're far more prejudicial than probative in this case.

THE COURT: I'm going to overrule your objection and find that I've viewed those and it doesn't -- would not result in the jury making a decision on an improper basis, and it'd be part of the case -- the State's case in chief in proving this case if they're admitted. Okay.

Go forward please, ma'am.

SOLICITOR CAMPBELL: Thank you.

(WHEREUPON, STATE'S EXHIBIT NO. 15 THROUGH 33, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR CAMPBELL:

Q. Let me back up a bit. You started talking about that there was a laceration of the mid-upper lip?

A. Yes.

Q. And you quote that that's what got very little reaction. What does that mean?

A. Without reaction, it means that there's -- it may be a post-mortem injury. The blood is not circulating, so you don't get a bruise and a lot of hemorrhage.

Q. And that was going to be my next question. Can you brui -- after death does your body continue to bruise even though it gets injury ---

A. No.

Q. --- of the skin?

A. No. You might -- you might see bruises better that were made before death because blood settles by gravity, so you might see an accentuation of some of the bruising, but you don't bruise after death.

Q. So if people doing CPR, say, on a child that was already expired, wouldn't nec -- would not leave any kind of bruising?

A. Correct.

Q. But you mention in this that this could possibly be a post-mortem injury, the one to the lip?

A. Yes. In the tracheal tube, the breathing tube was right next to it.

Q. You also mentioned when I showed you State's Exhibit 14 an injury to the outer premise of her lips.

A. Yes.

Q. And what was that?

A. It was just a small abrasion. Abrasion is just a scrape of the surface of the skin.

Q. Did you also notice some bruising to the forehead area?

A. Yes.
Q. Moving on to her ears, did you observe anything of significance to you in this -- on this child?
A. Yes. There was a bruise behind the right ear, again of the right ear itself.
Q. And finally, as far as her head went, did you notice anything anywhere else on her head?
A. During the aut --
Q. On your external examination?
A. On the external, no.
Q. Do you remember anything to the chin area?
A. Yes. There was a small bruise underneath the chin.
Q. Did you take some measurements as far as how large this child was?
A. Yes. She measured thirty-five inches in height.
Q. And did you then continue with your examination as far as the neck area?
A. Yes. It was a small, non-patterned abrasion in the interior neck just to the right of the midline.
Q. And when you say a non-patterned abrasion, what does that mean?
A. It means it's just an abrasion that doesn't have any pattern of a certain weapon, like a hammer or rod. So it's a --
Q. And when you say abrasion, what does that mean just

for my edification?

A. Again, a surface -- a scrape of the surface of the skin.

Q. A scrape to the surface of the skin?

A. Yes.

Q. So that would be different from the bruising we're talking about?

A. Correct.

Q. Did you do an examination of her chest area?

A. Yes. There were seven small, circular bruises in the chest, in the lower area.

Q. And were those significant to you?

A. Yes.

Q. Why is that?

A. They were on both sides and in the midline, and it was separate -- they were separate injuries.

Q. And would those be consistent with anything in your experience?

A. No. Again, they were -- didn't have a specific pattern. They were small and circular. It could've been fingers, knuckles.

Q. Something of that nature?

A. Something of that nature.

Q. Did you also examine the abdomen area?

A. Yes.

Q. And did you find anything of significance in the -- near her groin?

A. There was a large bruise in the right groin that was sort of triangular shaped, and probably measured up to an inch and a half in the greatest dimension.

Q. How big was it? I'm sorry.

A. About -- up to an inch and a half in the greatest dimension.

Q. Once you had examined the torso in the front, did you then proceed on to some of the extremities?

A. Yes.

Q. And specifically on the upper extremities of the arms, what were your findings?

A. The back of the -- of the arms, there were little circular bruises, again on the backs of both elbows; and of the left-upper arm, and the back of the left hand.

Q. So there was bruising on her arms and one of her hands?

A. Correct.

Q. Did you note anything on the right arm that caught your attention?

A. Just the bruising.

Q. Did you notice any swelling?

MR. BURTON: Objection, your Honor. Leading question.

THE COURT: Sustained.

A. Yes, I did, and --

MR. BURTON: Objection, your Honor.

THE COURT: No, no. No, no. Rephrase the question, please.

BY SOLICITOR CAMPBELL:

Q. Did you notice anything else on her arm?

A. Yes. There was swelling of the right-upper arm, and by x-ray we saw that there was a -- a healing fracture of that bone called the humerus.

Q. When you say the arm was broken ---

A. It had been.

Q. --- what bone was actually broken?

A. The humerus.

Q. And which bone in the arm is the humerus?

A. The upper arm.

Q. This one?

(SOLICITOR DEMONSTRATED.)

A. Yes.

Q. And this was on her right arm?

A. Right, yes.

Q. And were x-rays done, you said, of her entire body?

A. Yes.

Q. And that told you what?

A. That was -- that was the only fracture we saw.

Q. You mentioned when you testified a minute ago that you

called it a healing fracture?

A. Yes.

Q. And do you estimate any kind of time period where it would consist of with having been murdered??

A. Difficult to say exactly. A few weeks.

Q. A few weeks? Did you then examine the lower extremities?

A. Yes.

Q. And what were your findings there?

A. On the backs of both legs were some -- some linear marks, bruises, and one that was kind of semi-circular. And when we cut into those areas we could see that there was deep bruising underneath.

Q. And those were on both legs?

A. Yes.

Q. Did you notice anything else on the legs?

A. Just the -- those marks looked like they were made by something thin, like a -- a wire or cord, or something like that.

Q. Did you then proceed to examine her back area?

A. Yes.

Q. And what did you find when you examined the back?

A. There was a somewhat semi-circular bruise over the mid -- on the left shoulder blade non-specific pattern.

Q. And when you say non-specific pattern, it just means

what?

A. It just means there's no pattern of a certain weapon that I could tell.

Q. I'm going to show you, that these photographs previously put into evidence illustrate some of the injuries you've talked about?

A. Yes.

Q. And we've looked at the eye. I want to show you State's Exhibit No. 15. What does that show, ma'am?

A. This is the back of the right ear where those little bruise.

Q. And then, State's Exhibit 16 is what part?

A. The outside of the right ear, which shows a bruise.

Q. And is that how it appeared when she -- when you were performing your autopsy?

A. Yes.

Q. I'm going to show you State's Exhibit No. 18. What does that show?

A. That shows the right side of the patient. You see a bruise on the right upper arm, and a bruise in the right groin; and you can see one of the bruises on the chest area.

Q. The arm, and then the groin, and one bruise on the chest that I point out?

A. Yes.

Q. I show you State's Exhibit No. 22. What does that show?

A. That shows the -- under the chin. It shows the contusion under the chin. It also shows the abrasion just to the right of the lips.

Q. And again, State's Exhibit No. 27.

A. Again, it shows the abrasion on the right side of the lips.

Q. State's Exhibit 23 and 25, what do they show?

A. It shows some contusion on the left ear, also. There that's -- be the more vague.

Q. And State's Exhibit No. 26?

A. That, again, is the right ear.

Q. State's Exhibit No. 28, what is that? 29.

A. That is the bruise on the upper right arm, both of them.

Q. And you mentioned earlier that you -- that -- what was significant about this arm when you took x-rays?

A. Well, that part of the arm was swollen, but it's difficult to tell just on -- if you didn't -- if you don't have a picture to compare the two arms. But that appeared larger. It's more swollen than the left.

Q. And what were your findings when you did your x-rays?

A. Healing fracture of the right humerus, right bone.

Q. And was the fracture, where was it on the upper -- the

upper arm bone?

A. In the middle of the shaft.

Q. I'm going to show you State's Exhibit No. 30. Do you recognize that?

A. That's the back of the left hand, a bruise there.

Q. I show you State's Exhibit No. 33.

A. That shows the right side of the patient with the abrasion-contusion, on the side of the chest.

Q. State's Exhibit No. 32?

A. That is the right upper leg but it shows some contusion in the groin there.

Q. And then, some -- what's that down there?

A. It's a vague, a little pinpoint abrasions --

Q. And then, State's Exhibit No. 31?

A. 31 is the backs of the legs, showing those linear marks and one semi-circular mark.

Q. And again, in your opinion that's consistent with what?

A. A thin linear object like a wire, coat hanger, something like that.

Q. State's Exhibit No. 21 and 19 show what parts of her body?

A. The front of the legs and the interior waist area, groin area.

Q. And then, here?

A. That's in the left lower abdomen.

Q. You can orient it by this lead here.

A. That's --

Q. The orange lead.

A. Okay. Yes.

Q. Let me try to hold this a little better. Orange lead down there, and then this is a closeup.

(STATE'S EXHIBIT 21 AND 19 PUBLISHED BEFORE THE JURY BY SOLICITOR CAMPBELL.)

Q. Now then, Doctor, State's Exhibit 17 and 20 show what area?

A. That's the groin area, showing the large, somewhat triangular-shaped bruise of the right groin.

Q. Before doing your actual dissection of the body, did you do what's called a cut-down on certain areas or looking for information?

A. Yes. We do that after the internal examination, actually.

Q. Afterwards?

A. Yes.

Q. And what areas did you actually do that in order to look at something microscopically? What's the purpose of that?

A. We look underneath the skin of the back and the backs of the legs, look for further bruising, as sometimes on the

surface you don't see the bruise, but if you look underneath the skin you can see it. If it's -- if it's so deep you can't see it on the surface.

Q. So, bruising can be so deep that you can't even see it on the skin?

A. Yes.

Q. And is that unusual for that to be in the abdominal area, to have that type of bruising?

A. No.

Q. And when you did your dissection of the skin areas on the legs, and is that where you did it in this case?

A. Yes.

Q. What were your findings?

A. Well, that those bruises on the surface went deep down into the fatty tissue, into -- to the muscle.

Q. And how did they appear to you to be?

A. Recent. That's all I can say.

Q. Recent?

A. Yes.

Q. There's no -- and when you say recent, what factors do you consider when saying recent versus an older wound?

A. Well, micros -- I look at them microscopically, also which helps. A bruise, like I say, eternally it depends on the light source and the -- the depth of the bruise. Microscopically, you see a bruise is the release of red

blood cells into the tissue. And for some time those red blood cells stay intact, and they eventually will break down, and then you get other cells reacting to that. This occurs over variable time frames, so you can't say exactly how long the bruise was there. But in all the bruises that I looked at microscopically, I took samples of bruises from the scalp, legs, chest; they all had the same appearance. They had all the -- the red blood cells were intact, and there was no reaction to them.

Q. Okay. You didn't actually do any to the face area?

A. I don't cut into the face, no.

Q. But to the scalp, and we're talking about the back of the head?

A. Yes, when we reflected the scalp we saw additional bruises, again somewhat circular, in the -- the back of the head.

Q. And once you had finished with your external examination you're talking about, you start to do your actual internal examination; is that correct?

A. Correct.

Q. Prior to doing that, did you try to make an examination of her scalp area, back here?

A. Well, it was in the process. After we reflected the scalp to -- to look at the brain, then we saw evidence of bruising, so we shaved the hair off the back of the head

and saw additional -- those additional bruises.

Q. I'm going to show you what's been marked as State's Exhibit No. -- I'm going to show you State's Exhibits 3 through 13.

A. Uh-huh.

Q. And I'm going to ask if you recognize these photos.

A. Yes.

Q. And do those fairly and accurately depict some of the stages of your autopsy that day with Miss Schroeder?

A. Yes.

SOLICITOR CAMPBELL: At this time I'd offer State's Exhibits 3 through 13.

THE COURT: Have you seen those?

MR. BURTON: I have, your Honor.

THE COURT: State your objection.

MR. BURTON: The same 403 objection, they're far more probative than -- or far more prejudicial than probative, and I don't think any member of the jury is qualified to analyze those photos.

THE COURT: All right. I'm going to make the same ruling I did before.

MR. BURTON: Thank you, your Honor.

THE COURT: Their admitted. Three through?

SOLICITOR CAMPBELL: Thirteen.

THE COURT: Thirteen

(WHEREUPON, STATE'S EXHIBIT No. 3 THROUGH 13, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR CAMPBELL:

Q. Once you cut open the chest, can you tell the jury what your findings were as far as any major areas of injury you have to the torso?

A. I found a lot of hemorrhage around the -- part of the large intestine, where the appendix is, in the right lower quadrant. It was underneath that big bruise in the right groin.

Q. And that was the trauma you found there?

A. Yes.

Q. Did you have any other findings as far as other injury in that area, or symptom -- evidence of other injury?

A. Well, we -- we saw some hemorrhage in the middle of the liver, which may or may not have been due to the resuscitation.

Q. Would it be consistent with anything other than resuscitation?

A. You can get a bruise in the liver from being hit in the abdomen, which the -- the skin over the abdomen is flexible, so it won't necessarily show a bruise externally, but you can have bruising on the internal organs.

Q. Did you find any fluid in her abdominal cavity?

A. Yes.

Q. Can you tell the jury about that and what significance it has?

A. There was some blood-tinged fluid in the right chest, which --

Q. You said blood-tinged fluid?

MR. BURTON: Your Honor, I didn't hear what Doctor Ross said.

A. Blood-tinged fluid --

THE COURT: Just one second, please, ma'am.

Sir?

MR. BURTON: I didn't hear what Doctor Ross was starting to say about fluid in the abdominal cavity.

THE COURT: Do you mind speaking into the microphone a little closer? Pull it a little bit closer to you.

A. Yes. I'm looking to make sure I tell you -- tell you how much, the correct -- it was 250 cc's of blood-tinged fluid in the abdomen.

Q. Were there any other fluids that you found in the chest area?

A. Some similar fluid in -- in both chest cavities.

Q. And what were the amounts of fluid you got out of those chest cavities?

A. In the left chest it was 300 cc's, and a hundred cc's in the right chest.

Q. And then, you said two hundred and fifty cc's in the

lower abdomen?

A. Correct.

Q. How does -- how would these areas come to have this liquid, fluid, in them?

A. Probably from heart failure during the process of dying, there's fluid that backs up.

Q. And were these the same areas where you saw the injuries to the liver and to the other areas you've described?

A. Just in the abdomen. The abdomen may be related to the injury in the right groin.

Q. And that's where you found the 250 cc's of blood-tinged fluid?

A. Yes.

Q. Did you find any hemorrhage that was significant in your findings in the abdomen area?

A. Yes. The abdomen is covered by a membrane. It's like -- kind of like Saran Wrap. It's called the peritoneum. So we found blood in the -- what's called the retro-peritoneum, retro means the back of, the back of the peritoneum, in the -- around the right lower quadrant where that bruise was. It was a lot of hemorrhage in the soft tissue there.

Q. And that would be in the back side of the abdomen?

A. No, the front. It's front -- internally, in the

front. Around the appendix, in that area.
Q. But it extended all the way through?
A. To the back of the pelvic area, basically.
Q. So, hemorrhage there?
A. Yes. And it's hard to measure because it's in tissue.
Q. But it was significant, ultimately, in your findings?
A. Yes.
Q. Okay. I'm going to move onto, did you also examine the head?
A. Yes.
Q. Let me back up. As far as any other of her organs, did you examine those as well?
A. Yes.
Q. And were there any findings significant as far as cause of death or injury?
A. None.
Q. Okay. Did you ultimately, though, examine her head?
A. Yes.
Q. And I believe you mentioned that you ultimately would -- tell the jury how you actually go about examining the head, and ultimately the brain.
A. Yes. We make an incision on the back of the head, behind the ears, and we reflect the scalp backwards -- or forwards and backwards, and take the top of the skull off, to look at the brain.

Q. And you mentioned before that when you did that, you found some areas that were -- that you were able to go back and look at?

A. Yes.

Q. As far as injury, blunt-force trauma to the head?

A. Yes.

Q. I'm going to show you State's Exhibit No. 6. What does that show?

A. This is the -- the back of the scalp. It's probably hard to orient, but on the -- the undersurface of the scalp it shows a -- a bruise, a couple of bruises.

Q. And the bruises are the darker areas?

A. The dark, bluer area, yes.

Q. And ultimately, when you went back, you said you shaved the head?

A. Yes, that's the --

Q. State's Exhibit No. 5?

A. That's the external surface of the scalp.

Q. And what's significant about this to you?

A. It shows multiple bruises.

Q. Can you count how many right there?

A. At least four.

Q. At least four?

A. Uh-huh.

Q. And what would cause this type of injury to a three-

year-old?

A. A blunt force injury. Either something hitting the head or -- or the child hitting something. But it has to be small, like a knuckle or finger. And because there are so many in both sides of the back of the head, it would be more than -- more than just one incident.

Q. So let me ask you this. If it was a single fall, if a child falls, could it inflict all those injuries?

A. No.

Q. Did you find any injury to the brain?

A. Yes. The whole brain was swollen. It shows by having a flat surface. The brain is closed in a tight box. It's -- it's -- there's no way out. So when the brain swells, the top of the brain is flattened against the inside of the skull, and that causes the brain itself to be flat. And the only way -- the only hole big enough to put some tissue through is where the spinal cord comes down. It's called a framing magnum. So when the brain swells, it pushes the membrane down into that hole, and causes a problem with that area. The midbrain has to do with areas concerning respiration, breathing, and heartbeat.

Q. I'm going to show you State's Exhibit No. 7 and 8.

Do these show the brain as it was reflected?

A. Yes. That's -- No. 7 is the surface -- the top surface of the brain, and then No. 8 is the bottom of the

brain.

Q. You mentioned the swelling. That came out?

A. Yes.

Q. And is that reflected in these?

A. Yes.

Q. And brain swelling can cause death?

A. Yes.

Q. I'm going to show you State's Exhibits No. 10.

Do you recognize that?

A. Yes.

Q. And what is that?

A. That's the left side of the chest, showing a bruise.

Q. Showing a bruise?

A. Yes.

Q. So this is just an example of one of the bruises you observed ---

A. Yes.

Q. --- once you cut in?

A. Yes. After the skin is resected back.

Q. State's Exhibit No. 9, what is that showing?

A. That's after the skin has been reflected back, underneath that bruise in the right groin.

Q. So the bruise ---

A. So the --

Q. --- in the right groin?

A. Yes.
Q. This is how it looked underneath, and it's what you were talking about?
A. Yes.
Q. And this injury, how painful would that be?
A. It would be significant.
Q. And when you say significant, what do you mean?
A. Because it was -- it was hard enough to injure the organs inside the abdomen, underneath.
Q. So it actually injured the organs underneath it?
A. Yes.
Q. And would a three-year-old be symptomatic as far as pain, showing pain immediately?
A. Yes.
Q. I'm going to show you State's Exhibit 11 and 12. What do those show?
A. Those shows a -- the bruising, the hemorrhage around the large intestine.
Q. When you say hemorrhage, what does that mean?
A. It's bruising, basically. It's blood outside of the circulatory system.
Q. And that's what you see in these?
A. Yes, in No. -- the 12 --
Q. Sorry.
A. Number 12, that -- that little worm-like thing is the

appendix.

Q. I'm going to show you State's Exhibit No. 13.

What does this show?

A. Those are the cuts we made in the skin of the back of the backs of the legs, to show how deep the bruising went.

Q. And is this some of the stuff you examined microscopically?

A. Yes.

Q. And what did that indicate to you?

A. Recent injury.

Q. All right, Doctor, No. -- State's Exhibit 3.

What does that show?

A. Again, that shows some contusion of the right eye.

Q. And finally --

A. Bruise of the right eye.

Q. State's Exhibit 4?

A. Is that laceration of the upper lip and the bruise underneath the chin, and the abrasion just to the right of the lips.

Q. And would all of this have been caused by being intubated?

A. Did -- the laceration may have been, but -- but the other two, no.

Q. And when you say the other two, which two are you talking about?

A. The bruise under the chin and the abrasion to the right of the lips.

Q. And Doctor, in order to get bruising, how does one typically get bruising?

A. From an injury that crushes the -- the small capillaries, the blood vessels underneath the skin, and causes red blood cells to be released into the tissue and it shows as a bruise.

Q. So you've heard the term blunt-force trauma?

A. Yes.

Q. And is that consistent with your findings here?

A. Yes.

Q. What were the two major areas of injury you found on this child?

A. The swelling of the brain and the hemorrhage in the lower -- right-lower abdomen.

Q. And those injuries, once they had been inflicted, what -- would the child have exhibited any kind of symptoms, symptomatic?

A. Well, as far as the swelling in the brain, the child would've gone through maybe headache, and then some nausea and vomiting, lethargy, disorientation, and then become unconscious. And if you have the child looked at at the hospital or medical area soon enough, treatment can be performed, and they could -- could survive that.

Q. They could?
A. Yes.
Q. But how soon would they have had to sought treatment?
A. Once you start having symptoms of, especially unconsciousness. But before that, you have disorientation and disorient -- lethargy, nausea and vomiting.
Q. And how long would it have taken this child to die from these injuries?
A. It varies. Could be half an hour, hour, even up to two hours.
Q. Up to two hours of the -- given -- being generous?
A. Yes.
Q. But within two hours she would've died?
A. I believe so.
Q. And as far as your findings, as far as the mechanism of death, what were the two areas you thought contributed to her death?
A. The cerebral edema, due to the beating -- due to the blunt force injury to the head; and this was contributed to by the hemorrhage in the abdomen.
Q. Which is basically the internal bleeding being from blunt force trauma?
A. Yes.
Q. Would these injuries have been painful?
A. Yes.

Q. Doctor, I want to show you State's Exhibit No. 34. You said you did a full-body x-ray?

A. Yes.

Q. And I show you this. Would that be the x-rays?

A. Yes.

Q. And then, we can open this, State's Exhibit 35. You want to look at those? Got any scissors? Got it.

A. These are slides we make. Take little section of each organ and the bruises, and then they're made into slides so that you can look at them under a microscope.

Q. And that's what you're referring to when you look at things microscopically?

A. Correct.

Q. And you were able to determine they were recent bruises?

A. Yes.

SOLICITOR CAMPBELL: Your Honor, at this time we offer State's Exhibit 34 and 35.

THE COURT: Any objection?

MR. BURTON: No objection, your Honor.

THE COURT: Admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 34 AND 35, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR CAMPBELL: Thank you, Doctor.

Please answer any questions the Defense may have.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

A JUROR: Judge?

THE COURT: Just one second. Hang on.

A JUROR: My back teeth are floating. Can I run to the restroom?

THE COURT: Let's do this. Let's take about a ten-minute break. Yes, sir. Let's go ahead. Leave your books here in the courtroom. All the jury needs to stay together.

(JURY EXITS COURTROOM ON RECESS AT 03:12 P.M.)

THE GOURT: All right. Doctor, you can step down, you can't discuss your testimony.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: All right. Let's take about a ten or fifteen-minute break.

MR. BURTON: Yes, sir.

(COURT IN RECESS AT 03:12 P.M.)

(COURT BACK IN SESSION AT 03:24 P.M.)

THE COURT: Please be seated. Bring the jury in.

(WITNESS RETAKES THE WITNESS STAND.)

THE BAILIFF: Yes, sir. The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:25 P.M.)

THE COURT: All right, Mr. Burton, cross-examination.

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

DOCTOR JANICE ROSS BY MR. BURTON:

Q. Doctor Ross, you work for -- or worked at the time for Newberry Pathology?

A. I still do. I own the corporation.

Q. I see. Okay. And who are you paid by?

A. Newberry Pathology Associates, my own -- myself.

Q. Do they have a contract with the Solicitor's Office or law enforcement, or?

A. No, we -- we have no contract. We just do autopsies at the request and authorization of the coroner.

Q. And how much did you bill for this autopsy?

A. Nineteen -- let's see. Probably eleven hundred dollars.

Q. Eleven hundred dollars? And you testified that you testified in court more than two hundred times?

A. Yes.

Q. How many times have you testified for the Defense?

A. Maybe once.

Q. None?

A. Once.

Q. Once? So a hundred and ninety-nine for the prosecution, and once for the defense?

A. Correct.

Q. Okay. And you -- you -- you issued this FA 721112 autopsy report, right?

A. Yes.

Q. And you just testified to a whole lot of things that just weren't included in that report. Do you have other notes or other documentation?

A. I have my diagram and my photographs.

Q. Okay. So everything else came out of your memory?

A. No, it's -- it's here.

Q. I'm sorry?

A. It's in my pictures and -- I'm not sure what you're referring to.

Q. Well, I have this report, and there were many, many things, for example the entire histology that you say that you conducted on these bruises and so forth. Not a single mention in that report, not a single mention in any of the pictures. I mean, why am I hearing this for the first time?

A. I'm sorry. I didn't have the -- I didn't write it up and have me -- should be written up in a separate page.

Q. Did you at some point write it up?

A. I don't have the file with me. I don't ---

Q. So, you --

A. --- believe so. But in the summary, I say that the

microscopic evaluation documents, the gross findings.

Q. So everything else you've testified for that's not in the report is stuff that you're relying on your memory from December 19th, 2017?

A. I reviewed them all before the Court today.

Q. And by them all, are you talking only the report and the photographs?

A. And the slides.

Q. And the slides?

A. Microscopic slides, yes.

Q. Okay. And all of these injuries you talked about from a strictly medical point, viewpoint, there's no way to say who committed those injuries on Minor [redacted], is there?

A. No, sir.

Q. And you testified that some of these bruises wouldn't show up as well, or show up at all on -- on Minor if she was living, right?

A. Correct.

Q. Okay. So whoever was looking at Minor may not have seen a number of these bruises, right?

A. Correct.

Q. Again, the Solicitor kind of asked you this question, and I really never thought that I got a clear answer, but you testified that some injuries appeared to you to be

recent, right?

A. Yes.

Q. Okay. And again, by recent, are we talking minutes, hours?

A. Well --

Q. Days?

A. Well, you can't date a bruise, so it could be -- it could be minutes, it could be hours, it could be a couple of days.

Q. So your testimony is, it's difficult to tell the age of bruises, right?

A. Yes. Correct.

Q. Now, the -- the groin injury that we've seen pictures of, the triangular bruise?

A. Yes.

Q. And you mentioned in your report that one of the causes of her death was the retro-peritoneal hemorrhage?

A. Correct.

Q. There's no doubt, is there, that that bruise is connected to the retro-peritoneal hemorrhage, right?

A. Yes.

Q. And isn't it true that other things can cause a cerebral edema, other than blunt force trauma?

A. Yes.

Q. For example, prolonged hypoxia, that could cause a

cerebral hemorrhage?

A. Yes, drowning.

Q. Possibly even resuscitation measures?

A. I don't -- not -- I've never seen it to this extent ---

Q. Okay. You don't doubt that ---

A. --- with resuscitation.

Q. --- it's a possibility, though, do you?

A. Resuscitation can give you some.

Q. Uh-huh. And of the brain tissue, how many slides did you prepare?

A. I think there's one slide with brain tissue.

Q. One slide with brain tissue?

A. I believe so.

Q. And when you performed the histology on these, this was sometime after the autopsy. Wasn't that what you testified to?

A. We take sections at the autopsy and put them in what we call cassettes, and the histologist will make slides from those cassettes. So, they're -- they're taken at the time of autopsy and looked at within a week or so, whenever the slides come out.

Q. Okay. Now, when you looked at some of these slides, and especially the bruising slides, did you use any special stains, any immunohisto -- histochemical stains to help you

identify the age of the bruises?

A. No, I -- I don't know that that would help age the bruise.

Q. Okay. Did you consult a neuro-pathologist, maybe, to look at this brain tissue?

A. No, I did not.

Q. Reading your report, I don't see that there's any mention of any hemorrhaging around the -- the brain.

A. There was not.

Q. Okay. Not epidural, subdural subarachnoid?

A. No.

Q. No blood?

A. No blood.

Q. No skull fracture?

A. No.

Q. I mean, isn't that a little bit odd for a three-year-old to die from blunt force trauma with no evidence of skull fracture, any evidence of trauma to the cervical spine, or intercranial bleeding from a baby?

A. No. It's called -- what we call a closed-head injury. The external injury of -- is reflected by the bruising. Will cause your head to go back and forth, and your brain inside goes back and forth, also, and can damage the -- the brain.

Q. But with all due respect, my question was, is it

common for a three-year-old to die without those symptoms that I just mentioned?

A. I don't know how common it is. Usually you see some hemorrhage, yes.

Q. Uh-huh. Did you perform any electrolyte analysis?

A. On the vitreous we did, yes.

Q. Pardon me?

A. We do electrolyte analysis on the vitreous, the fluid in the eye.

Q. Uh-huh. And is that --

A. That when you do it on the blood after death it's no good. It's -- it's abnor -- it's all going to be abnormal, because the person's dead.

Q. Is that documented anywhere in the --

A. Yes.

Q. Where?

A. It's in the -- it's in my file.

Q. In your file?

A. I have it here.

Q. Could I see your file?

A. I thought I had it. I guess I don't have it. But we do run fluid on the eye to look for, for instance, diabetes or that kind of abnormality.

Q. And I think you testified that some of the injuries were from resuscitation?

A. It could be, yes.

Q. Uh-huh. And could that have been the bruise and the abrasion on the bottom chin?

A. I don't think so.

Q. Okay. The pinpoint abrasion lateral to the right side of the mouth?

A. It's possible.

Q. One of the nurses testified earlier that they did a bone I.V. on Minor. Wouldn't that leave some kind of mark somewhere?

A. Sometimes, yeah. You see a needle puncture wound, but there was no -- they must've taken the needle out.

Q. Uh-huh. Do you have any kind of summary of the tissues that are in -- are in the -- the recuts??

A. No.

Q. No?

MR. BURTON: Beg the Court's indulgence for a second. Thank you, your Honor. That's all the questions I have.

THE COURT: Re-direct.

SOLICITOR CAMPBELL: Just a few, your Honor.

REDIRECT EXAMINATION

DOCTOR JANICE ROSS BY SOLICITOR CAMPBELL:

Q. He asked you about some bruises may not be apparent. You explained about how you'd get a bruise in the abdomen.

Do you remember that?

A. Yes, it would --

Q. It may not show on the skin?

A. Yes. Or if they're real deep they won't necessarily show on the skin.

Q. And in this case, you had some bruising or hemorrhaging that was very deep inside this child's body?

A. Around that -- around the right lower quadrant of the abdomen, yes.

Q. But the bruising that has been shown to the jury, that would have been apparent to anybody. That didn't just develop after death, did it?

A. No. It didn't develop -- it would have been apparent.

Q. And in fact, once the child has died, even if you do CPR for an hour and a half, it's not going to cause any bruising if they aren't breathing and they aren't living?

A. Correct.

MR. BURTON: One or two re-cross.

SOLICITOR CAMPBELL: Wait, wait.

Q. And then, the slides that we showed you earlier are the slides that you looked at microscopically, as noted in your report, correct?

A. Yes.

Q. And finally, you also have to eliminate any kind of

natural cause from this child's death?

A. Yes.

Q. And did you actually send off a sample for toxicology?

A. Yes.

Q. And how did that come back?

A. Negative for everything; for drugs of abuse and alcohol.

Q. Did this child die from natural causes?

A. No.

Q. What did she die from?

A. Pretty --

Q. Blunt force trauma?

A. Blunt force trauma, yes.

Q. Thank you.

MR. BURTON: Thank you, Doctor.

RECROSS-EXAMINATION

DOCTOR JANICE ROSS BY MR. BURTON:

Q. The retro-peritoneal hemorrhage, an injury like that in itself could cause death, couldn't it?

A. If it bleeds enough. It was hard -- because it's in the tissue I couldn't measure the amount of blood, but it was a fairly significant -- it would at least make the person weak and maybe sleepy.

Q. Okay. So just in general, it could easily cause death. Somebody could bleed out, couldn't they, from that

kind of an injury?

A. Yes.

MR. BURTON: Thank you, Doctor.

THE COURT: All right. May this witness be excused?

SOLICITOR CAMPBELL: Thank you, your Honor.

MR. BURTON: I just kind of have an issue that Dcotor Ross appears to have discovery materials that I don't have.

THE COURT: Hold on a minute. Hang on, hang on a minute.

Would you and your jury go to your jury room?

(JURY EXITS COURTROOM AT 03:40 P.M.)

THE COURT: Are you referring to the electrolyte analysis?

MR. BURTON: Well, and the other paperwork I saw in front of Doctor Ross. All we were given was the autopsy report and the cassette -- slides made from the cassettes.

THE COURT: All right. Well, I tell you what. If you would, would you give your file --

Mr. Burton, I'm going to let you look at it.

MR. BURTON: Uh-huh.

THE COURT: If you feel like you need to call her back and question her about any aspect of that file, you can do so. Why was that not given over?

SOLICITOR CAMPBELL: Your Honor, we received everything from the Coroner's Office and were assured that

because we couldn't get enough specimen. Also, on Page 5 of my report, Paragraph 3, it states that microscopically all contusions appear recent and of similar age. Please let me know you got this, so.

THE COURT: All right. I'm going to let you think about that overnight and see how you want to respond, if at all.

MR. BURTON: I'm pretty sure I don't want to respond, at all, your Honor.

THE COURT: Okay. All right. Now, you ready?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: Okay. Would you bring the jury in?

Mr. Burton, you ready?

MR. BURTON: Yes, your Honor.

THE COURT: Thank you.

THE BAILIFF: Jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 04:11 P.M.)

THE COURT: All right. Ladies and gentlemen, I remind you that we stopped testimony in the middle of Sergeant Sims earlier, we will recall her back to the stand.

Sergeant Sims, would you come back around, please?

(WITNESS RETAKES THE STAND.)

THE COURT: Sergeant, you're still under oath. Okay?

SERGEANT JODI SIMS: Yes, sir.

SOLICITOR MCGINNIS: May it please the Court, Judge?

THE COURT: Yes, ma'am.

DIRECT EXAMINATION

SERGEANT JODI SIMS BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, we left off after Minor had been pronounced dead at the hospital. Remind the jury again what happens next after she's pronounced deceased.

A. That's when everybody left the room except for myself and Kayla and Scottie, and they were allowed to spend a little time with her before the coroner got there.

Q. And after that, essentially does your investigation begin at that point?

A. Well, yes. It had already began at the house. You go in and ask for the house to be put up in crime scene tape and nobody allowed in or out, so it basically started already.

Q. Okay. After everything at the hospital was done, what did you have the opportunity to do next, that specific day?

A. That specific day I went to the house, and was there with crime scene -- with the SLED crime scene, and basically assisted them with their gathering of evidence and take photographs, and.

Q. Okay. Will you speak into the microphone for us?

A. Yes, sorry.

Q. That's okay. And then after that, what did you do

next?
A. After that, I responded back to the station in order to conduct the interviews.
Q. And who did you interview that night?
A. I interviewed the grandmother, Tracy Schroeder. I interviewed the father, Scottie Schroeder, as well as Kayla Cook.
Q. When you interviewed Kayla Cook, where did you -- where did that interview take place?
A. It took place in our interview room at the police department, which is here in Lancaster.
Q. Are those rooms audio and video recorded?
A. Yes, they are.
Q. Were the interviews in this case audio and video recorded?
A. Yes, they were.
Q. Have you reviewed those videos in preparation for trial?
A. I have.
Q. Are you familiar with a flash drive that those videos have been placed on for the purposes of this hearing?
A. Yes, I am.
Q. And are those fair and accurate representations of your interviews that night with the defendant?
A. Yes.

Q. Okay.

SOLICITOR MCGINNIS: Judge, at this time we'd ask that the flash drive being marked as State's 36.

THE COURT: Thirty-six?

SOLICITOR MCGINNIS: Thirty-six, yes, sir.

THE COURT: Thirty-six.

SOLICITOR MCGINNIS: And entered into evidence.

THE COURT: Subject to prior hearings and rulings, I'm going to find that they're admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 36, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

BY SOLICITOR MCGINNIS:

Q. Now, when you interviewed Kayla, how do you start your interviews in this kind of situation?

A. Well, we -- we didn't know what we had. We had no idea. We -- we just knew that there was a child who had passed away. So to err on the side of caution, I went ahead and read her *Miranda* rights, which is something --

Q. Was Kayla under arrest?

A. No, she was not under arrest.

Q. Okay. But you still read her her rights?

A. I did.

Q. And how do you generally read those rights?

A. We have a printed out piece of paper, and I allow them to read along as I read it, and it's sectioned off into each sentence, and it's the entire rights. And then, at the bottom there is another section called your waiver of rights. So I read the whole thing to her while she is reading along with me, and I have her initial beside each sentence, and then sign at the bottom if she agrees to speak with me.

Q. And in that case, did this happen?

A. Yes, it did.

Q. I'm going to show you what's been marked as State's 37. Do you recognize that?

A. Yes, I do.

Q. And what is that?

A. This is the *Miranda* form that I filled out and she initialed and signed the night of the interview.

Q. And what does that form indicate to you?

A. That she was willing to speak with me, without an attorney present at the time.

Q. And did you go through each of those rights individually?

A. I did.

Q. Did she indicate as you went through that she understood?

A. Yes.

Q. Do you often explain some of the words on there, just to make sure people understand?

A. I do. And in the waiver of rights there's some words saying no pressure or coercion, and a lot of times I'll explain or ask if they understand what those words mean, because I don't want them to misunderstand anything.

Q. And in this case did you do that, to the best of your recollection?

A. I did.

Q. Okay. And did she indicate her understanding?

A. She understood.

Q. Okay.

SOLICITOR MCGINNIS: Judge, at this time I'd like State's 37 to be moved into evidence.

THE COURT: Any objection?

MR. BURTON: None, your Honor.

THE COURT: Admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 37, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR MCGINNIS: Thank you, Judge. Judge, at this time I'd like to play the videos that would be State's 36.

THE COURT: Okay.

(STATE'S EXHIBIT NO.36, PUBLISHED TO THE JURY AT 04:17 P.M./VIDEO STOPS AT 05:09 P.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, with your interview room videoed, can you explain to me why this video stops at that point?

A. Yes. So we use a -- just a cam-corder. It's portable, and the memory card only holds so much. So every -- I think it's like fifty-two minutes or so, it stops it and puts it onto another video. So it's one continuous video, but the file is so big that it splits it up into several different files.

Q. And that's typical of every interview you do ---

A. Every single one.

Q. --- that's over whatever that time is?

A. Over, like, fifty-two minutes.

THE COURT: May I stop you there, Ms. McGinnis? Are those on loops of fifty-two each segment?

SOLICITOR MCGINNIS: Yes, sir, your Honor.

THE COURT: Okay. Just one second.

Mr. Foreman, I notice it's a few minutes after 5:00. I don't mind in asking to go a little bit longer, but I don't know what plans you and the jury have made as for after 5:00 today. Would you take your jury back to the jury room and see if they would be willing to Six o'clock or right around that time frame? If you're not, that's quite all right, okay. I'd ask you to go to your jury room.

(JURY EXITS COURTROOM AT 05:10 P.M.)

(COURT IN SIDEBAR WITH THE BAILIFF.)

THE COURT: Ms. McGinnis, we have at least one juror who has a commitment they need to get to, so they want to stop now.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: Let's go ahead and call it a day.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: You're going to get your testimony done at some point, until such time you are under subpoena.

SERGEANT JODI SIMS: Yes, sir.

THE COURT: All right.

Would you bring the jury back in?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 5:14 P.M.)

THE COURT: All right, Mr. Foreman, my understanding is because of prior commitments, you wish to stop for the day; is that correct?

MR. FOREMAN: Yes, sir.

THE COURT: Okay. And that's quite all right. Is there any reason why our jury can't be here and start trial at 9:00 o'clock in the morning?

And if possible, if its not it's okay, but if it is possible, and since this is going to be a little bit longer, I'd like to try to go until at least 6:00 o'clock,

THE COURT: Okay. Thank you.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: I'm sorry about that.

SOLICITOR MCGINNIS: No, that's fine. I think it was Court's Exhibit 2.

THE COURT: Wanda's got it. She'll know.

MADAM COURT REPORTER: I'll figure it out.

SOLICITOR MCGINNIS: Okay.

MADAM COURT REPORTER: Thank you, ma'am.

SOLICITOR MCGINNIS: Judge, I believe Ms. Campbell may have had another motion to make about taking the defendant into custody for the remainder of the trial.

THE COURT: I had my law clerk -- we're gonna address that, but before we do, a issue that's come that I want to address, that issue about the broken arm. With that testimony it's been admitted at this juncture, over Mr. Burton's objection.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: I told you that I was going to let it in under a limited instruction, and at some point I want you to think about it, when and how do we give that limited instruction. Okay? My thoughts are, if it comes up during the course of this tape, maybe we stop it and say that you've heard testimony here, testimony elsewhere, that this minor child had a broken right -- is it femur, or whatever?

SOLICITOR MCGINNIS: Humerus. Yes, sir.

THE COURT: Humerus, excuse me. And that testimony has not been admitted for the purposes of saying that the defendant did it, prove that she did it, or that it was the cause of her death, because it was not. But it's -- it's admitted for the sole purposes of the issue of failure to -- alleged failure to obtain medical treatment. Something along those lines, okay?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: Any other thoughts I'll be glad to entertain.

SOLICITOR MCGINNIS: Would it be possible to get the proposed limitation in writing, just to review it prior --

THE COURT: I would prefer it be in writing. If you have some maps and try to do it off the top of his head your gonna have a problem, okay?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: All right. Now, let me say this to the defendant, that your being out on bond has caused problems in this trial. Not because you are not acting right, but it's causing problems. I am very inclined to revoke this bond that is somewhat nefarious anyway, and let her stay -- be detained throughout the remainder of this trial. I'll be glad to hear from you, but we've already lost one juror because of contact.

(LANCASTER GENERAL SESSIONS COURT IN SESSION WEDNESDAY, AUGUST 14, 2019 AT 09:04 A.M.)

THE BAILIFF: All rise. Court's now in session.

THE COURT: Good Morning. Please be seated.

All right, Ms. Campbell, anything from the State before we get started this morning?

SOLICITOR CAMPBELL: No, sir.

MR. BURTON: No, your Honor.

THE COURT: Thank you, sir. All right.

Would you bring the jury in?

THE BAILIFF: Yes, sir. The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 09:06 A.M.)

THE COURT: All right, Mr. Foreman, ladies and gentlemen of the jury, good morning. I hope you had a nice evening. Before we get started, let me ask you if anyone has read, heard, or seen anything about this case; if so, would you raise your hand?

(NO RESPONSE.)

THE COURT: Have you spoken to anyone about this case, or has anyone attempted to speak with you about this case; if so, would you raise your hand?

(NO RESPONSE.)

THE COURT: Thank you very much. Excellent.

I think we still have Detective Sims.

SOLICITOR MCGINNIS: Yes, sir, your Honor.

THE COURT: Will she come -- would you call her back around, please?

SOLICITOR MCGINNIS: Sergeant Sims.

(WITNESS RETAKES THE STAND.)

THE COURT: Detective, you're still under oath, okay.

SERGEANT SIMS: Okay. Yes, sir.

DIRECT EXAMINATION - CONTINUES

SERGEANT JODI SIMS BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, just to refresh the jury's recollection, the interview video we played yesterday stopped at about fifty-two minutes. Can you explain again why it stops at that time?

A. Because the -- the interview was quite lengthy, and the card cannot hold but so much, so it splits it up into segments; but it's still one complete interview.

Q. So you interviewed Ms. Cook one time, it all took place consecutively?

A. Correct. I never stopped the recording. It was recording the entire time. The camera just breaks it up into smaller files.

Q. Great. Thank you.

(STATE'S EXHIBIT NO. 36, PUBLISHED TO THE JURY AT 09:08 A.M.)(VIDEO STOPS AT 09:47 A.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, to the best of your recollection, is the rest of this video, what -- what is in the rest of this video?

A. We were out of the room and she's sitting in -- in the interview room.

Q. Okay. Do you recall if you stepped back in to talk to her? You step back in to talk to her at one point; is that right?

A. Yes.

(VIDEO RESUMES AT 09:49 A.M./STOPS AT 09:56 A.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, at this point what did you -- what did you do when you all left this room?

A. I took her to the restroom, I allowed her to use the restroom. She washed her face, she fixed her hair, and then we came back.

Q. And the camera was running the whole time, continuously?

A. Yes.

(VIDEO RESUMES at 09:58 A.M.)(VIDEO STOPS AT APPROXIMATELY 10:38 A.M.)

SOLICITOR MCGINNIS: Judge, I have just one more video for right now.

THE COURT: We need to take a break for a few minutes.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: I think it's a good time.

All right. Mr. Foreman, let's take a morning break.

If you would leave your pads here in the courtroom, we'll be with you in just a few minutes.

(JURY EXITS COURTROOM ON RECESS AT 10:39 A.M.)

THE COURT: Let's take about fifteen minutes, please.

MR. BURTON: Thank you, your Honor.

SOLICITOR MCGINNIS: Thank you, Judge.

(COURT IN RECESS AT 10:40 A.M.)

(COURT BACK IN SESSION AT 11:02 A.M.)

THE COURT: Please be seated.

All right, Ms. McGinnis, you ready to proceed?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: Mr. Burton?

MR. BURTON: Yes, your Honor.

THE COURT: Would you bring the jury in?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 11:03 A.M.)

(STATE'S EXHIBIT NO. 36, VIDEO RESUMES TO BE PUBLISHED TO THE JURY.)(VIDEO STOPS PLAYING AT 11:53 A.M..)

BY SOLICITOR MCGINNIS:

Q. And at this point do you go back in that room?

A. No, I don't think I went back in the room.

Q. Did anyone else interview Kayla that evening?

A. Sergeant Johnson and another officer went in.
Q. Okay. And did you observe that interview?
A. From the -- from our office, yes.
Q. But you weren't present or participating in that -- the final interview for that?
A. Right.
Q. Okay. Who was in there with you in that room?
A. In the interview it was Agent Baird.
Q. Is this Agent Baird at the table right here?
A. Right.
Q. And I think you had testified before that you all were -- your investigations were kind of going at the same time; is that right?
A. That's right.
Q. Okay. All right, so that's a lot of information the defendant gave you; is that right?
A. Yes.
Q. Let's go back to the hospital. What did she tell you at the hospital happened that morning to Minor?
A. At the hospital, she said she put Minor in the tub after breakfast. She was cleaning the room and then heard a loud bang, and when she went to check on Minor she was laying in the tub, face-up, but breathing. She talked about there was approximately six inches of water in the tub. She talked about the neighbor knocking on the door,

and she told her to come back later because something had happened. She basically gave the general story of Minor getting in the tub after she pooped on herself.

Q. Okay. Did she say how long she was in the tub?

A. I don't think she gave a specific time frame then, at the hospital, but she said not long.

Q. Okay. So then, the day progresses, and then you're able to interview the defendant at the police station?

A. That's right.

Q. And at this time, what was the defendant's status? Was she under arrest, was she brought in in handcuffs?

A. No, she was -- she was not under arrest, and she was never in handcuffs.

Q. Okay. And at any point during this interview would she have been free to leave if she said, I've got to go, I need to go home?

A. Yes.

Q. Okay. Did she, after the final interview that you were not participating in, where did she go?

A. She left the station. I never had any contact with her after that.

Q. But she did not go to the detention center?

A. No.

Q. She was not placed under arrest that night?

A. No.

Q. Okay. All right. So when you get to the police station, who else do you interview that night?
A. We interviewed Tracy Schroeder, which is the grandmother, as well as Scottie Schroeder, which is the father.
Q. Okay. And then you speak with the defendant?
A. And then -- yes. She was last.
Q. Then, over the next several days, who do you speak with?
A. I spoke with Scottie, I think two more times, and I spoke with Tracy one more time.
Q. Uh-huh.
A. I interviewed the DSS case worker, I interviewed Kerrin, the sister.
Q. Uh-huh.
A. I interviewed Josh Serrano, who was Kerrin's boyfriend at the time.
Q. Uh-huh.
A. I was present for a phone interview with Scottie's boss. Sergeant Johnson was conducting the interview that I was there for it and it was over the phone. I can't recall everybody. I'd have to go through my notes, but I interviewed a lot of people.
Q. Do you remember speaking with any of the neighbors?
A. Yes. I spoke to Earlene Cochran.

Q. Okay. And you mentioned Sergeant Johnson. What was he to you at that time?

A. We were both investigators in the special operations division, and like I said yesterday, we frequently rode in the same car a lot and worked closely together.

Q. Are you aware of Sergeant Johnson interviewing anybody else in this investigation?

A. Yes. He did speak with Mindy. I was not present for that, but he did record it.

Q. Okay. Anyone else, neighbor-wise?

A. Yeah. He spoke with a Jennifer Cochran, which is Earlene's daughter. He was speaking with her while I was speaking with Earlene.

Q. Okay. Let's talk about Minor's biological mom. Did you speak with her?

A. I never spoke with her, no.

Q. Did you attempt to speak with her?

A. We did attempt to speak with her. I never spoke with her, but I'm pretty sure Captain Hall, he was a lieutenant at the time, spoke with her over the phone. I don't know that he specifically asked her any specific questions.

Q. Okay. But you did make an attempt?

A. Yes.

Q. Through your investigation, when was the last time the biological mom had seen the child?

A. Let me look that up.

Q. I guess to save you some time, was it recent? Was it within the last week?

A. I remember Tracy talking to me about taking her to -- to meet with Michelle which is --

MR. BURTON: Objection, your Honor. That's a hearsay response.

THE COURT: Sustained.

BY SOLICITOR MCGINNIS:

Q. Without saying what anyone said, do you have a date, or an approximate date?

A. Sometime near Minor's birthday.

Q. And do you remember what that date was?

A. [redacted] is Minor's birthday.

Q. So it would've been the start of December?

A. Right.

Q. Okay. So she -- did you determine whether or not she could be involved in this child's death?

A. She could not. She had not seen her.

Q. Okay. Were there several other people that you discussed potentially interviewing?

A. Yeah. We talked about interviewing Eddie -- I can't remember his last name. It's the biological father of one of Kayla's other children.

Q. Okay.

A. I did attempt to set up an interview with him, but he just did not show.

Q. Okay. All right. So it's fair -- would it be fair to say you spoke to a good number of people in this investigation?

A. Yes.

Q. Okay. And would that be standard for any investigation for you?

A. Yes.

Q. Before you make any determination of someone's -- whether they should be charged, I mean describe -- describe what you try to do. Are you -- do you -- do you just --

A. Typically, in any investigation I'm involved in, I look at the facts, speak with any potential witnesses, anybody I think would have any information for me, gather it all together. And typically I will take it to a judge to see if they think there's enough probable cause to issue an arrest warrant in the case.

Q. And is that what you did in this case?

A. Yes.

Q. Okay. So let's get back to her interviews at the police station there.

A. Okay.

Q. So when she first sits down with you all in that interview room, what did she tell you happened? Did she go

-- does she go into more detail at that point?

A. She does. She goes into more detail. She talks about waking up. She told Minor to go potty. She laid in the bed -- the first time she told me that Minor and Wyatt were playing while she cleaned.

Q. Okay.

A. Then, she smelled poop while they were playing, and she -- that's when she realized she had pooped herself, and she took her into the bathroom and ran a lukewarm bath.

MR. BURTON: Your Honor, I'm sorry. I would object to this line of questioning. The video was shown over a number of hours to the jury. The jury heard all of the videos. I don't think Sergeant Sims should be allowed to bolster what was seen on the video. It's essentially a cheap closing statement at this point.

THE COURT: All right. Thank you, sir. It's overruled.

A. Okay. She said she was cleaning up when she thought she heard Wyatt fall. She realized Minor was quiet and checked on her. That's when she found her laying on her back, like a frog. Said she was looking her right in the eyes, but was breathing.

Q. Did she give you a time frame at that point?

A. I don't think she gave me a time frame at that point.

Q. Okay. Did she say what she did after she got Minor out

of the tub?

A. I'm pretty sure that she said she dried her off.

Q. And then did --

A. And that's ---

Q. Then did what?

A. --- when the neighbor knocked on the door.

Q. Okay. And then, after she dried her off?

A. She dressed her and took her into the bedroom, got a blanket and took her into the living room and put her on the couch.

Q. Did she do anything with her -- her other child?

A. She was talking about how Wyatt was following her around, screaming and crying the whole time. She talked about making him some Ramen noodles while Minor was laying on the couch.

Q. Okay. And did that statement change as you go through your conversation with her?

A. Certain parts did change.

Q. Okay.

A. Not about Wyatt, though.

Q. Okay. What changed?

A. Some of the things that did change throughout the story were whether or not she told Minor go potty. She talked about how Minor and Wyatt were playing, then she talked about how that wasn't true. She told her to get up

and go to the potty immediately after she got out of bed. She talked about how she didn't know Minor had pooped herself until she slid off the toilet and -- and smeared it on the toilet. She changed up several times about how many times Minor had actually used the restroom on herself that morning. It's just a lot, so there's several things that she changed up on that morning.

Q. How about breakfast?

A. She talked about how Minor -- she fed them -- I got it wrote down. She did tell me that Minor and Wyatt were eating breakfast at one point. She only mentioned that one time, though. That --

Q. And then, did that change in her next ---

A. Yeah.

Q. --- statement?

A. It did. Then, she talked about how she only fed Wyatt.

Q. Okay. Does she say how many times she fed Wyatt or how many things he ate that morning?

A. Yeah. She talked about him eating French toast, she talked about him eating Cheetos, and then she talked about him eating Ramen noodles.

Q. Okay. And did she mention feeding Minor that morning, other than the first time?

A. Not other than the first time, no.

Q. Okay. How about how long Minor was in the tub? Does that change?

A. It does change. One time she told me ten to fifteen minutes, tops. The next time she told me it couldn't have been more than an hour. I think finally at the end, we determined and agreed that it was somewhere between 9:00 and 9:30 when she actually was placed in the tub, and somewhere around 11:00 when she got her out of the tub.

Q. So the range of time she tells you goes from what?

A. From ten to fifteen minutes, tops, and then at the end between 9:00 and 11:00, so, two hours.

Q. Okay. How about when she found Minor? Does that story change as well?

A. No. She always says that she was laying on her back in the tub when she found her. She says that she was looking at her and breathing, and did not have water over her face.

Q. Did she give different statements about what happened after she got Minor out of the tub?

A. She talks about laying her in the floor, drying her off. I believe she talks about how Minor was still laying in the floor when the neighbor knocked on the door, and she went and answered the door. She talks about getting her dressed and taking her to the bedroom. She also talks about getting her dressed and taking her to the living

room, wrapping her in a blanket.

Q. At the beginning does she talk about Minor being a little more alert as far as helping ---

A. She --

Q. --- get out of the bath?

A. She did say Minor was holding her head up at one time, but she denied that she was ever talking or doing anything else.

Q. How about holding onto Kayla? Does she ever mention that Minor held onto her getting out of the tub, versus her scooping out of the tub?

A. Not that I remember.

Q. Okay. All right. How about until she noticed or realized that something was wrong and that she needed help? Does she give different stories about that?

A. Can you say that again?

Q. Between the time she gets out of the tub or when she realizes something is wrong, does she give different statements about that time period?

A. She talks about putting her on the couch and then making Wyatt some noodles. She talks about not realizing something was wrong until she heard her making a gurgling sound.

Q. Okay. How about Kayla attempting some sort of resuscitation on her, does that change?

A. She -- she didn't mention that to us until a little while into the interview, but she does say she pressed on her chest. She said -- she didn't tell us at first, but then she told us that she put her fingers over her nose and blew into her mouth.

Q. Does she ever mention the fingers over the nose again?

A. No, she only mentioned it once.

Q. How about Minor spitting anything up?

A. She did talk about having spit on the side of her mouth at one point, but she mentioned it twice, I think.

Q. Over several statements?

A. Over -- yes. At least eight different statements ---

Q. Okay.

A. --- or versions of events.

Q. How about that time period in between getting Minor out of the tub and going for help, does she give different versions of that?

A. First she says she's not sure. She relies on what the neighbor says. She says the neighbor said it was an hour, but she denied it was an hour; said it couldn't a been that long. She says it took from the time the neighbor knocked on the door to the time she was making Wyatt some noodles.

Q. Does she reference the time it took to make the

noodles?
A. Yeah. She said three minutes in the microwave.
Q. Okay. What time did the 911 call come in? Do you remember?
A. Yeah. We received the call at 12:04.
Q. Okay. All right. Let's go back to before Minor gets in the tub. Remind me again, at first she says Minor was playing and pooped on herself?
A. Yes.
Q. Then, does she change that course of events?
A. She does. She said -- she changed it to say that she made Minor go directly to the potty from the bed, and that's when she put her in the bath. That's when she realized she had pooped herself.
Q. And then, when she starts talking about sliding off the toilet, does she add in anything else at that point?
A. She talks about how she noticed that there was a smudge on the toilet, that's how she realized that Minor had pooped herself. She talked about how she was going to make her clean it up because she wasn't going to do it that time, and she started her bath water for her.
Q. And was that mentioned at first?
A. No.
Q. Okay. How about how cold Minor was?
A. She mentioned that every time.

Q. Does she give different -- a different version about how cold she was, whether she noticed any symptoms of her being cold, anything like that?

A. At one point she mentioned that she noticed her shivering, but that was towards the end of the statement. She never mentioned that until the very end of the statement.

Q. Okay. How about whether she normally leaves the children in the tub alone or not? Does that change over the course of her statement?

A. She mentioned at one point she would put them all in together and didn't leave them, and then at some point she talked about how Minor and Phoebe would bathe alone, but she never left Wyatt alone.

Q. Okay. How about getting in and out of the tub on her own? Did she give you a firm statement on that?

A. She said that Minor could do it, but she didn't let her do it.

Q. And did that change, or was that pretty firm?

A. That was -- she -- that was only mentioned I think once.

Q. Okay. How about Minor speaking that morning?

A. She said she was fine.

Q. Okay. Does she -- does she ev -- does she mention Minor speaking at all?

A. She talks about her saying ow, when she woke up, and was on her arm.
Q. Okay. And at some point she mentions her playing with Wyatt?
A. Yeah. At the first statement she gave me, said she was up and playing with Wyatt.
Q. Okay. And then as you get later in the interview, how does she describe Minor that morning?
A. Minor was quiet, is what she said.
Q. Okay. Does she at one point indicate she did not speak?
A. Yes. Once she got her out of the tub, she never spoke to her.
Q. Okay. How about how long they were up, or they were awake before they got up? Does she -- I think at the end she gives you a time period?
A. Yeah. She guessed that she was up between 8:00 or 9:00 that morning.
Q. Okay. Does she say at one point how long she laid there before she had told Minor to potty?
A. I think she did, I just don't remember what she said.
Q. Okay. How about earlier in her statement, what does she say she does with Wyatt while she's laying in the bed?
A. She said when she woke up Wyatt was up, so she wanted to lay there for a little while. She handed him a little

lamp that was at the bedside to play with and some other toys to -- to satisfy him while she laid there.

Q. Okay. What does she mention she did laying in the bed that morning?

A. She was looking on her Facebook, on her phone.

Q. Okay. So after this interview, this long interview, do you continue your investigation?

A. Yes.

Q. Okay. What happens the next day after this interview is done?

A. She had an autopsy, and --

Q. When you say, she?

A. Minor had an autopsy. I'm sorry.

Q. Okay. After an autopsy, what do you receive from either the coroner's office or the medical examiner?

A. We received the preliminary autopsy results.

Q. Would that include a death certificate?

A. No, it's just preliminary. Death certificate comes later.

Q. Okay. So ultimately through your investigation, what were you able to determine with regards to this defendant?

A. The next morning after the autopsy -- I'm sorry, I just want to bring it up, because I want to read it. I don't want to mess up the -- the wording. The preliminary immediate cause was cerebral edema with blunt force injury

of the head.

Q. Is there an interval on that?

A. It says approximate interval onset to death was minutes.

Q. Okay. Based on your investigation, who was in the house that morning within that interval?

A. Kayla and Wyatt.

Q. So what was your conclusion based on that?

A. That Kayla was the only one there at the time of her death, and was the only one that could have caused her death.

Q. So what did you do next?

A. I consulted with everybody that was involved in the investigation, and we presented it and was able to secure an arrest warrant for Kayla.

Q. Okay. And on that arrest warrant, does it cite the cause of death?

A. Yes, it does.

Q. And where do you get that from?

A. I got that from that preliminary autopsy report that was given to us directly after the autopsy.

Q. Okay.

SOLICITOR MCGINNIS: Beg the Court's indulgence.

Q. After you obtained the arrest warrant was the defendant arrested immediately?

A. No.

Q. Did you find out where the defendant was?

A. I did. She --

MR. BURTON: Objection, your Honor. I think we have a motion that hasn't been ruled on yet regarding that.

THE COURT: Just one second. Would you go to your jury room, please, sir?

(JURY EXITS COURTROOM AT 12:14 P.M.)

THE COURT: What was your question again, please?

SOLICITOR MCGINNIS: Did Sergeant Sims find out where she was in North Carolina.

THE COURT: Say that again.

SOLICITOR MCGINNIS: Did Sergeant Sims find out where she was in North Carolina.

THE COURT: All right.

MR. BURTON: That in itself is okay. But what happened after she left --

THE COURT: I'm going to tell you, I'm not convinced that this evidence that you're contending that shows evidence of flight is very strong at all, if there -- and I don't see anything objectionable about saying where she was when she was picked up.

SOLICITOR MCGINNIS: The --

THE COURT: If you go further, I think it's problematic.

BY SOLICITOR MCGINNIS:

Q. Thank you, Sergeant Sims. The last question, I believe, was, after you obtained an arrest warrant for the defendant, did you determine where -- where the defendant was?

A. Yes. She was in North Carolina.

Q. Okay. Was the arrest warrant ultimately served on her?

A. It was. She was arrested by Cleveland County Sheriff's Office on December the 29th of 2017.

Q. Okay. And then, was she ultimately brought back here to Lancaster County?

A. She was.

Q. Okay.

SOLICITOR MCGINNIS: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

SOLICITOR MCGINNIS: Please answer anything Mr. Burton has.

THE COURT: Cross-examination.

MR. BURTON: Beg the Court's indulgence.

Paper handling is not one of my strengths.

CROSS-EXAMINATION

SERGEANT JODI SIMS BY MR. BURTON:

Q. Okay. Sergeant Sims, who had actual custody of Minor?

A. It was Tracy Schroeder, through DSS.

Q. Okay.
A. Had an agreement through DSS.
Q. So you're telling this jury that neither Timothy Scott Schroeder nor Kayla Cook had custody of Minor?
A. I'm telling you that DSS signed an agreement with Tracy Schroeder to be the kinship caregiver.
Q. Okay. Do you know any details about that?
A. That Tracy was to be with Minor ---
Q. Uh-huh.
A. --- in the presence of Scottie.
Q. Okay. So Scottie had no unsupervised visits with Tracy Schroeder?
A. Are you asking me if that's what the agreement says, or if he actually had it?
Q. Well, we know he actually had some, but I'd like to know what the agreement says.
A. Let me pull the agreement up. Okay. On the agreement it says that Tracy will supervise all visits with Michelle at Tracy's discretion. On the back it says that Minor will be sharing a room with her father, Timothy, and girlfriend. They're going to -- they were staying with Tracy and her husband, which is Scott Schroeder's parents.
Q. Do you know if that actually happened?
A. It may have happened at one time, but at the time of the incident it was not happening.

Q. Okay. Do you know if it happened when the DSS worker was scheduled to visit or not?

A. Yeah. There was a DSS worker that did visit the Heath Circle home.

Q. Uh-huh. Uh-huh.

A. And I'm pretty sure Tracy was there. I'd have to look it up. But I know that a DSS worker visited the home with Scotty and Kayla.

Q. And are there any co-defendants in this case?

A. Yes.

Q. Okay. And who is the co-defendant?

A. Tracy Schroeder.

Q. What was Tracy charged with?

A. She was charged with unlawful conduct towards a child.

Q. And why was she charged with that?

A. Because she did not supervise the visits as she was supposed to.

Q. And is that case still pending?

A. I'm not -- I don't know.

Q. Okay. Now, you heard me in my opening tell this jury that -- that in my view, police pretty much did the same thing every time, that they focused on one suspect ---

A. Uh-huh.

Q. --- and they put a hundred percent of their effort into finding enough evidence on that one suspect to get

probable cause for the arrest warrant and on from there, right?

A. I did hear you say that, yes.

Q. Okay. And isn't that exactly what happened in this case?

A. No. I arrested Tracy in this case ---

Q. Uh-huh.

A. --- and I interviewed several people, not just Kayla.

Q. Okay. You interviewed them?

A. Uh-huh.

Q. Uh-huh. There's none other that you thought might be a pretty good suspect in this case?

A. I didn't know who could be the suspect. That's why I interviewed a lot of people.

Q. Uh-huh. After your interviews you still didn't think there might be somebody else that may -- would make a pretty good suspect in this case?

A. Not after I received the preliminary autopsy report.

Q. And you were assuming that that preliminary autopsy report is correct?

A. I have to. That's what I have.

Q. Okay. So if it was proven that it wasn't, would maybe other people come in as suspects in this case?

A. I guess anything's possible. I don't -- I don't know what you're asking me.

Q. Okay. Of all the people that you interviewed, is there anybody that said that they saw Kayla Cook strike or abuse Minor in any way, other than maybe a pop on the butt?

A. Not intentionally, no.

Q. Well, you tried hard to answer that question.

A. Uh-huh.

Q. You realize you took an oath as an officer ---

A. Uh-huh.

Q. --- to serve and protect. And among those you're serving and protecting is also Kayla Cook.

A. I understand that. What I was trying not to reference was the --

SOLICITOR MCGINNIS: Objection, your Honor.

THE COURT: Just stop. Mr. Foreman, would you go to the jury room, please?

(JURY EXITS COURTROOM AT 12:27 P.M.)

THE COURT: State your objection.

SOLICITOR MCGINNIS: Your Honor, I believe Sergeant Sims is trying to work within the confines of -- in this case there's a forensic interview where the defendant's daughter says that she has seen her mother strike Minor and leave marks and bruises. We have instructed Sergeant Sims that, at this point, she cannot testify to that. She did not observe the forensic interview, but she is familiar with that. So I think she is working within the confines

of the law and what she is and isn't allowed to say. So I don't know that Mr. Burton can --

THE COURT: If he opens the door, she can answer it. And you back up --

MR. BURTON: My question, though --

THE COURT: And I think you're going into information that is entirely inappropriate, too. This other co-defendant, I think that's entirely objectionable, not relevant to this case. I'll give you wide latitude because you're entitled to it, but you start opening doors they're going to walk right through it. You understand that?

MR. BURTON: Yes, your Honor.

THE COURT: I --

MR. BURTON: I asked her -- I asked her if she interviewed anybody that said --

THE COURT: You said you -- I thought you said you know. You said did she?

MR. BURTON: Did she interview anybody ---

THE COURT: Okay.

MR. BURTON: --- that saw Kayla strike --

THE COURT: I'm just cautioning you, be careful. Okay?

MR. BURTON: Okay.

THE COURT: And listen, you got to do what you got to do, I understand that. But listen, it's not going to be --

you can't give the impression when I've ruled you can't get in there that's it's not there. Okay? Do you understand what I'm saying?

MR. BURTON: Not exactly.,

THE COURT: I'm sorry.

MR. BURTON: Uh-huh.

THE COURT: We know that there's someone who can say that the child -- I think it's the ladies back here and I saw her come in this morning, said that Mommy is the one that broke my arm. That's the testimony.

Is that not right, Ms. McGinnis?

SOLICITOR MCGINNIS: There's that testimony, Judge. The defendant's biological daughter also had a forensic interview. The forensic interviewer elicited from her the defendant's daughter saw the defendant hit Minor and leave marks, she was mean to Minor when Daddy wasn't around. So there is a person who has seen the defendant abused Minor.

MR. BURTON: That wasn't my question.

SOLICITOR MCGINNIS: I think he's very dangerously pushing, your Honor.

THE COURT: Well, let me tell you. I understand you need to represent your client, but at the same time, when you're trying to leave the impression that there's nothing out there that indicates that this lady did any of this stuff, that's -- you're getting real close to letting it

come in. Okay? I'm just warning you.

MR. BURTON: Thank you, your Honor.

THE COURT: All right. Let the jury come back, please, sir.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 12:32 P.M.)

THE COURT: Mr. Burton.

MR. BURTON: Thank you, your Honor. May it please the Court?

Q. Let's talk about first the -- Ms. McGinnis' direct exam after we've watched the video. You had testified that Kayla Cook was free to leave during that interview, right?

A. Yes, sir.

Q. I mean, didn't you and Special Agent Baird give her every impression that she was not free to leave?

A. I never said that to her, no.

Q. I know you never said that, but I'm talking about the impression.

A. I can't speak on what impression she gave. I gave her ample opportunities to take breaks.

Q. I'm talking about the impression that you and Agent Baird gave to Kayla Cook.

A. I never said she could not leave.

Q. Okay. All right. Your testimony was that the last time that Minor was with her biological mother, Michelle, was around Kayla's -- or Minor's birthday, around the 2nd of December?

A. It was sometime around there, yes.

Q. That's probably two weeks before she died?

A. Her birthday was [redacted], and she died on the 18th.

Q. Roughly.

A. So, yeah, about two weeks.

Q. Okay. You testified about the time in the tub. I mean that was kind of your determination, right?

A. That came directly from her interview.

Q. Well, I mean didn't you say she was a little wishy-washy about it?

A. I gave the earliest time she told me and the latest time she told me.

Q. You testified that -- that Kayla said that she was feeding Wyatt French toast, I think?

A. Yes, sir.

Q. And I just want to make sure that the jury understands that you weren't implying that she was feeding Wyatt and not Minor, because she said that she was making Ramen noodles while -- after Wyatt was fed, right?

A. She mentioned the very initial statement that Minor

and Wyatt were eating. That was the only time she mentioned Minor eating at all.

Q. Okay.

A. She did mention Wyatt eating French toast and Cheetos and Ramen noodles.

Q. Okay. So you're not trying to say that Kayla was feeding her own child, but not feeding Minor?

A. No, just stating what she told me.

Q. Okay. And when the testimony about the time between the injury and death, you said that it was minutes, based on something you had learned.

A. The preliminary autopsy report?

Q. Whatever it was you were testifying from.

A. That's what I'm telling you.

Q. Okay.

A. The preliminary autopsy report.

Q. And you -- you were in the courtroom when Doctor Ross was testifying?

A. Yes.

Q. Okay. And from what Doctor Ross testified to, it wasn't necessarily minutes, right?

A. What do you mean?

Q. Well, I mean, Doctor --

A. Can you be more specific? I'm sorry.

Q. Doctor Ross never testified that it was minutes.

Doctor Ross testified that bruises were hard to date and so forth like that, and she never said minutes. And from the -- the entirety of her testimony it appeared that the death wasn't within minutes, that it could've been a later time, or even a much later time. You may not agree with me, but that's what I'm asking, if that was your impression or not.

A. If I remember correctly, she said two hours, tops.

Q. Okay. So, then, not minutes? I mean, you're just saying what the report said ---

A. Right.

Q. --- but in -- but that was designed to make this -- to imply to the jury that -- or mislead the jury into thinking it was minutes or otherwise, why would you say that?

A. Are you asking me a question?

Q. I think I'll withdraw the question. And the date of the arrest warrant you testified was that Minor was killed on December 18th, right?

A. Yes.

Q. Okay. And your entire investigation, is it not, based on what you believed the date of the death was, December 18th?

A. Yes.

Q. Okay. And when you were talking to Kayla, whether

she was free to leave or not, I mean, you know, you used all the common police tactics to get her to say something incriminating, didn't you? Such as cutting her off, speaking over her, repetition, trying to get her to say something different the second time you asked, all those kind of things didn't you?

A. I use tactics. I'm not agreeing that I use tactics to try to get her to say something that wasn't true.

Q. I didn't -- I didn't say that.

A. What --

Q. But I said, I mean occasionally you cut her off when she was trying to tell you something, right?

A. Possibly.

Q. Okay. Often, you asked her to repeat things, right; that you had already asked before?

A. Yes.

Q. Okay. And you use -- you used repetition, right?

A. Yes.

Q. You used occasional confrontation, or you and Special Agent Baird?

A. I don't -- I don't describe it that way. I don't think I was using confrontation. I think I was pointing out things that were not consistent.

Q. Let me just give you an example that comes to mind there that -- remember when one time, when you said you and

Baird were going to leave the room ---

A. Uh-huh.

Q. --- and when we come back, we want you to fill in those gaps.

A. I made a request.

Q. Well, that was pretty much a confrontation, wasn't it?

A. No.

Q. Okay. And she complained several times about it being hot in the room, about it being claustrophobic?

A. Yes.

Q. I mean isn't that kind of a typical thing when you see people being interrogated and any kind of police officer, it's usually in a really tiny room, and I don't know about the temperature, but I mean the police are there, kind of invading your personal space and all that. I mean isn't that kind of a police tactic?

A. That's the room that we have at our department to use. I don't have any control over the room.

Q. Okay. But you don't -- you don't doubt that it was hot in there ---

A. No, it was hot.

Q. --- and the room was really small?

A. Yes.

Q. Okay. And this is a woman -- the jury saw those videos in the hospital about her freaking out, for lack of

a better word, over -- over Minor and them working on Minor, and all that kind of stuff. And she told you several times that, my kid just died right in front of me, didn't she?

A. Yes.

Q. And how do you expect a woman like that, in that kind of mental state, to not be confused about what she's talking about?

A. I explained in the video if I'm telling a story about what happened to me, I don't have to think about it, I already know.

Q. Do you think that's what she's really thinking about a few hours after her kid died right in front of her?

A. Yes.

Q. You think so?

A. Uh-huh.

Q. Okay. And she didn't hesitate for a second to give you anything you asked her for right at the start, did she?

A. As far as her phone or -- or anything else, no.

Q. Well, you -- the first thing you asked her for was, we're going to do this, right? We're going to ask you to sign this form; you know, are you willing to do that? She didn't even hesitate for half a second, did she?

A. No, she didn't.

Q. No. And she did what you asked her, right?

A. She did.
Q. And about the phone, she didn't stop and think through, hmm, what might be on that phone I don't want Sergeant Sims to know, she didn't hesitate a bit about that, did she?
A. No.
Q. And she testified that Scottie, Timothy Scott Schroeder, doesn't do well with all those -- with all three kids, didn't she?
A. I don't remember her saying that.
Q. All right. And she testified that -- or she said on the video that Wyatt bites and pulls Minor's hair sometimes? A. She did say that.
Q. Yeah. And you're aware that there's a ninety-pound pit bull, Bossman, living in the house, too, right?
A. Yes.
Q. Uh-huh.
A. I don't know his weight.
Q. Well, I don't know his weight, either, but I mean its -- I got that from somewhere. But a large Pit bull?
A. Yes.
Q. Uh-huh. And she said that with all the well-meaning citizens that came in and tried to revive Minor that there was some forceful handling of Minor during the CPR, right?
A. I didn't see any of the neighbors do anything

forceful.

Q. I didn't ask you that, I asked you whether Kayla told you that.

A. She did say that.

Q. Uh-huh. And she also said things about Minor exhibiting some abnormal behavior, like eating poop and pooping kind of what seems to be uncontrollably, right?

A. She had mentioned those, yes.

Q. Uh-huh. And she said that Scottie's afraid of taking Minor to the doctors.

A. She did say that.

Q. Yeah. And in fact, there's a DSS case ongoing, right?

A. Yes.

Q. Or there was at the time ---

A. There was.

Q. --- a DSS case ongoing. And -- and reading between the lines, I mean do you think that could be because Scottie just didn't want to lose his chance --

SOLICITOR MCGINNIS: Objection. I think that calls for speculation.

THE COURT: Sustained.

BY MR. BURTON:

Q. And when I say DSS case, at the time there was no DSS case involving Kayla, was there?

A. No.

Q. The DSS case was involving Scottie and Michelle, right?
A. It was -- yes.
Q. Okay. But she did say that Scottie didn't want anybody taking Minor to the doctors, right?
A. She said that, yes.
Q. Okay. Uh-huh. And she said that Jennifer Adams, the DSS case worker, visited the house, and she saw bruises, but didn't arouse any suspicion about abuse, right?
A. Yes.
Q. And she said that Scottie got mad at her for pulling a blanket that caused Minor to tumble over, and that -- that Scottie slammed her against the wall on Sunday, right?
A. She said that.
Q. Uh-huh. And she also said that Scottie spanked Minor on Sunday for pooping in her pants, right?
A. That wasn't the initial statement, but she did say that after awhile.
Q. And she said that Scottie never takes responsibility for anything, didn't he -- didn't she?
A. I don't remember that.
Q. I believe it was on Video 4. Can you think back to Video 4, see if you see anything to that effect?
A. I didn't write anything down.
Q. Okay. And she also says that, when you asked her

about whether her kids were abusing Minor, her answer was, they're kids.

A. She said that.

Q. What do you take her meaning of it to be?

SOLICITOR MCGINNIS: Objection. She can't speculate on the defendant's meaning.

THE COURT: I sustain that.

BY MR. BURTON:

Q. And she mentioned something about her fingers not being pruny, like they might be if she was in the water for a long time?

A. She said she couldn't remember them being pruny.

Q. Okay. Let's talk about -- and you said you interviewed Scotty Schroeder, right?

A. I did.

Q. And by that, I mean Timothy Scott Schroeder?

A. Yes, the father.

Q. The father, right. At first, he told a little bit of a story about --

SOLICITOR MCGINNIS: Objection. It's hearsay.

THE COURT: Let him finish his question, please.

BY MR. BURTON:

Q. Did Mr. Schroeder ever lie about anything that he told you when you interviewed him?

A. Yes.

Q. What did he lie about?
A. How he got the scratch on his face, as well as a hole in the door.
Q. Okay. All right. Did Kayla say that, with regarding to spanking the kids, that it was generally Scottie?
A. She said several different times. She talked about sometimes he would pop her. She also mentioned he did not like to spank her.
Q. Didn't she also tell you that if it was something little, that she'd kind of give them time out or something, and if it was something big they would wait for Daddy to get home, right?
A. She did say that.
Q. At the first part of the interview she told you that she felt really weird, and that she was crying so much her eyes were falling out?
A. Yes.
Q. Feels all dried up?
A. Yes.
Q. And when asked who normally does the whipping, Kayla said it's usually Scottie?
A. She did say that.
Q. And at some point, you and Special Agent Baird were talking about the kids, their own kids. Maybe it was Special Agent Baird ---

A. It was her.
Q. --- was talking about her own kids. She said we know what it's like to be in your position, didn't she?
A. She said that.
Q. Okay. But she doesn't know what it's like to have a child die right in front of you, does she?
A. I don't know if she's had a child die in front of her or not.
Q. Okay. And at least a few times, both you and Agent Baird said that, we're not saying you're a bad mom.
A. Yes.
Q. And about in the middle of the second video, she says it's hot in here, I feel weird, my kid just died in front of me?
A. Yes.
Q. And a little further into the video she said, Scottie's afraid to take her to the hospital because he just got her from DSS?
A. Right.
Q. And a little further on, saying -- beginning of Video 3 she said, she apologized for jumbling things up, my child just died in front of me. Isn't that what she said?
A. Yes.
Q. And about a minute later, she complained again, small room, hot, a lot of stuff going on?

A. Are you asking me?
Q. She said that?
A. She did say that.
Q. And then, about, oh, I guess seven minutes into the third video, you asked her if she needed a break, and you did take a break, right?
A. I asked her several times, yes.
Q. And what -- what did you perceive that led you to believe she needed a break?
A. I felt hot myself. We had been there several hours. I needed a break myself, to be honest.
Q. And a little past the middle of the third video, Kayla told you that Scottie gets angry at things and doesn't do anything with the kids?
A. She did say that.
Q. And she said, right after that, with Scottie it's always other people's fault?
A. Yes.
Q. And that's when she said that Scottie grabbed her from behind -- he's a big guy, hit me into the wall?
A. Are you asking me if that's when she said it in the video?
Q. That's -- no, I'm asking you if she said that.
A. She did say that.
Q. And a little later she said, he can be abusive

sometimes, but nothing to horrible.

A. She said, verbally abusive.

Q. Sorry?

A. She said he can be verbally abusive sometimes.

Q. I didn't -- I didn't hear --

I'm told by my co-counsel that that's right, said verbally. Just want to clear that up. And you asked her a couple of questions about bath mats in the bedroom?

A. Yes, sir.

Q. Why would you think that there would be anything on her mind about bath mats?

A. Because we found the bath mats missing, and then found them in the hamper later.

Q. I mean, the -- her kid had just died. What's she going to be thinking about bath mats for?

A. I don't know. That's why I asked her.

Q. And she said that -- I think this is maybe on the fourth video, about twenty-three minutes in -- that she begged Scott -- Scott, Tracy and -- Scottie, Tracy, and Scott, to let her take Minor to the hospital, but they wouldn't let her?

A. Yes.

Q. And she said she was crying her eyes out over that?

A. Yes.

MR. BURTON: Beg the Court's indulgence for a second.

THE COURT: Yes, sir.

(PAUSE.)

BY MR. BURTON:

Q. And you visited that neighborhood, didn't you, Sergeant Sims?

A. Yes, sir.

Q. And this is a kind of a little cul-de-sac of really tiny houses, all the same, spaced very close together, right?

A. Yes, sir.

Q. I mean, maybe not twenty feet between the houses, give or take?

A. I don't --

Q. Yeah. And she said, also, or there's evidence that the neighbors heard nothing that morning.

A. I don't know what you're talking about. When are you referring to?

Q. Well, I mean, as part of your investigation, was it revealed that the neighbors heard nothing when all this was supposedly going on in this really close-in neighborhood?

A. I don't remember asking them that specific question.

Q. Okay. And you had said during the interview that Scottie had said that it was all his fault?

A. Yeah, at the hospital. Yes.

MR. BURTON: That's all, your Honor. Thank you very much.

THE COURT: Thank you.

SOLICITOR MCGINNIS: Briefly, your Honor.

REDIRECT EXAMINATION

SERGEANT JODI SIMS BY SOLICITOR MCGINNIS:

Q. Sergeant Sims, per your investigation, did you get medical records from Minor's pediatrician?

A. Yes.

Q. Did those --

A. I received them, I didn't request them. Agent Baird requested them.

Q. But you received those?

A. I did receive them.

Q. Are you familiar with them somewhat?

A. Yes.

Q. Do they reflect a visit to the doctor in October of 2017?

A. Let me pull it up. You said October?

Q. Yes.

A. I have one from October 17th of 2017.

Q. But does it say who accompanied the child that day?

A. Accompanied by the grandma.

Q. Do you know who the grandmother is in this case?

A. I don't. It --

Q. Who had custody of Minor at that time?
A. Tracy Schroeder had custody at that time.
Q. Okay. So Tracy took her to the doctor in October?
A. Yes.
Q. Okay. Let's talk about the DSS investigation. The last time that Michelle, the biological mom, saw Minor, who else was present?
A. Tracy Schroeder.
Q. Was she present the entire time?
A. Yes.
Q. Do you remember at all what they did?
A. If I remember right, they went to McDonald's.
Q. A public place?
A. A public place, yes.
Q. Do you know when the last time was that Tracy saw Minor?
A. I do have that written down.
Q. And I don't need a specific date. Give me a time range from the day of her death, how far back was it?
A. The day after her birthday, so about two weeks.
Q. Two weeks? Okay. And the DSS records, did DSS ever say whether it was okay for Kayla to babysit Minor?
A. I'd have to look for --
MR. BURTON: That would call for hearsay, your Honor.
THE COURT: Overruled. That was brought up.

BY SOLICITOR MCGINNIS:

Q. And without finding it in the records, to save you some time, are you aware whether DSS said that was okay at some point?

A. I -- whenever I spoke with the DSS worker, she did talk about how Kayla was babysitting, yes.

Q. So DSS was okay with that?

A. Yes.

Q. To the best of your knowledge. Okay. Now, let's talk about, Mr. Burton referenced the believed date of death.

What day was Minor pronounced dead?

A. December 18th of 2017.

Q. Okay. And who was alone with Minor that morning?

A. Kayla and Wyatt.

Q. So the only adult was the defendant?

A. Yes.

Q. Was she alone with Minor within minutes of the injury that would have caused her death?

A. Yes.

Q. Was she the only one there within two hours of the death?

A. Yes.

Q. So regardless of the interval that has been given in this case, who was with the defen -- or with the victim at that time?

A. The only adult there was Kayla Cook.

Q. Okay. As far the injuries to the child, were there any bite marks or teeth marks?

MR. BURTON: Object. I'm not sure she's in a position to answer that, your Honor.

THE COURT: I'm sorry, what was your objection?

MR. BURTON: That she's not in a position to answer that. I'm not sure she ever fully examined the body for bite marks, or would even know a bite mark if she saw one.

THE COURT: To the extent her investigation can say so, I'll let her answer, but only to that extent.

A. I do not recall seeing any bite marks, and I do not recall Doctor Ross saying there were any bite marks on her body.

Q. Okay. Thank you. As far as the time that the defendant was in the interrogation room, or the interview room, what do you call it? Interview room, interrogation room?

A. Yeah, the interview room.

Q. Okay. When you first took a break, did you offer a break to the defendant?

A. Yes, I did.

Q. Did she take that break at the first opportunity?

A. No.

Q. What did she do?

A. She stayed in there --

Q. When --

A. She asked to talk to me. She said no, but I want to talk to you.

ed in there --

Q. When --

A. She asked to talk to me. She said no, but I want to talk to you.

Q. Okay. Did you ultimately give her a break?

A. Yes.

Q. Did you offer her other breaks?

A. Yes.

Q. Did she ever take you up on them?

A. No. Only once.

Q. Did you attempt to take other breaks?

A. Yes.

Q. Did you and Agent Baird, in fact, take other breaks?

A. Yes.

Q. And did the defendant decline to do so?

A. Right.

Q. Okay.

SOLICITOR MCGINNIS: Beg the Court's indulgence. I don't have anything further.

THE COURT: All right.

MR. BURTON: Just a couple re-cross, your Honor.

THE COURT: All right. Briefly.

RE-CROSS-EXAMINATION

SERGEANT JODI SIMS BY MR. BURTON:

Q. And after -- and before one of the breaks, you and Baird or Agent Baird said something to the effect that, when we come back in here you got to -- you better be ready to tell us the truth, right?

A. I said something like that, but not exactly --

Q. All right. I don't expect you to --

A. I didn't say, you better be.

Q. Uh-huh.

A. I said -- I don't remember exact verbatim, but I know I did not say, you better be ready.

Q. Uh-huh. And several times you and Agent Baird were kind of forcing Kayla into your own time line there, telling her, oh, the pieces don't fit, and all this kind of stuff, correct?

A. I was giving her what she gave me. I was repeating what she told me.

Q. Well, didn't you or she at least a couple times say things don't add up?

A. Yes.

Q. Okay. Now, when DSS said it was okay for Kayla to babysit, that was with the assumption that Tracy was living there, and Tracy and Scottie went to work and Kayla was

there babysitting, right?

A. Right.

Q. DSS never said that Kayla could babysit when it was just Scottie living there?

A. Right. Tracy was supposed to be there.

Q. And it's not exactly true that Kayla was the only adult in the house that morning; Scottie was there from the time he woke up until the time he left for work, right?

A. Yes.

Q. And we don't know what happened during that time, do we?

A. I know what time he left for work.

Q. Right. But you don't know when he got up, you don't know what his actions were between the time ---

A. No.

Q. --- he got up and left?

MR. BURTON: That's all, your Honor. Thank you, sir.

THE COURT: Thank you. You may step down.

SERGEANT JODI SIMS: Thank you.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Mr. Foreman, ladies and gentlemen, let's go ahead and take a lunch break. If you could leave your pads in the jury room. Be back in the jury room about 2:15, we'll resume the trial at that time.

(JURY EXITS COURTROOM ON LUNCH RECESS AT 01:06 P.M.)

THE COURT: I don't want you distracting the jury, I really don't. If you want to get me -- if you get a doctor's statement, please? Okay.

Bring them in.

THE BAILIFF: The jury's coming in.

(JURY RE-ENTERS COURTROOM AT 02:24 P.M.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen, you asked a question that the defendant sometimes has a mask and sometimes she doesn't. The defendant has a medical condition; she feels that it's healthier for her to wear a mask quite frankly, so. It happened too yesterday, but I've inquired that the mask be removed, and that's until I have some further evidence that its required that it's a requirement for her. But that's not the issue in this case. You are not to consider that. The issue in this case is what this trial's about, so please don't linger on that issue, okay? All right. Very good.

Would you call your next witness?

SOLICITOR MCGINNIS: Yes, your Honor. State calls Preston Simpson to the stand.

(WHEREUPON, PRESTON SIMPSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

INVESTIGATOR PRESTON SIMPSON BY SOLICITOR MCGINNIS:

Q. Good afternoon, Investigator. Can you state your name, for the record?
A. It's Preston Simpson.
Q. And where do you work?
A. The Lancaster County Sheriff's Office.
Q. How long have you worked at the Sheriff's Office?
A. I've been there for five years now.
Q. And what's your current role?
A. I'm an investigator with our investigations division.
Q. What type of cases do you primarily investigate?
A. Currently, right now, I mainly investigate -- I get sexual assaults, sex crimes, things of that nature, and also crimes against children.
Q. As part of that role, do you have occasion to look at a lot of digital social media, cell phones, things of that nature?
A. Yes, ma'am. They come up in a lot of investigations.
Q. Okay. And in this case specifically, did you have the opportunity to help a police department with some digital -- some phones in this case?
A. I did.
Q. All right. I'm going to hand you what's been marked as State's 200 and 201, for identification. Do you recognize those?
A. Yes, ma'am.

Q. What are those? Let's start with Item 200.
A. Which -- oh, I'm sorry. 200 is a -- it looks like a LG phone dump of Tracy Schroeder's cell phone.
Q. Okay. And have you reviewed that prior to this hearing?
A. I have.
Q. And it a fair and accurate representation of the extraction you performed on that -- Tracy Schroeder's cell phone?
A. Yes, ma'am.
Q. Or what was represented to you as Tracy Schroeder's cell phone. How about 201?
A. 201, it is a -- looks like an extraction of Timothy Scott Schroeder's cell phone.
Q. Okay. Did you perform that extraction as well?
A. I did.
Q. And did you review that before this hearing?
A. Yes, ma'am.
Q. And is it a fair and accurate representation of the extraction that you did on that cell phone?
A. Yes, ma'am.
Q. All right. I'm going to hand you also what's been marked as State's 199. Can you identify that?
A. It's a CD that says Facebook records. It has Scottie, Tracy, and Kayla.

Q. And have you had an opportunity to review that ---
A. I have.
Q. --- prior to this hearing as well?
A. I have.
Q. Okay. And does it fairly and accurately depict what Facebook returns from a search warrant done on either accounts?
A. Yes, ma'am.
Q. Okay. And you have specifically -- have you had an opportunity to review some of those Facebook records?
A. I have.
Q. Okay. I'm going to hand you State's 202. Can you identify that for me?
A. This looks like a -- like a Facebook return from a search warrant that was issued to Facebook for account for Kayla Cook.
Q. Okay. Does it have a user identifier on there?
A. It does. It actually has, I guess -- Facebook identifies accounts in several different ways, and there's at least two that I see here on how to identify her account.
Q. Okay. Is there an identifying number?
A. There is. It is -- do you want me to read the number?
Q. Please.

A. It's 100003783316320.
Q. Okay. When Facebook sends responses to search warrants, do they authenticate those responses?
A. They will authenticate the records for you.
Q. How do they do that?
A. Now, or during this time frame?
Q. During that time frame.
A. During this time frame, you would have to essentially request an authentification letter. My experience recently has actually provided the identification record with a return to the search warrant.
Q. Okay. And have you reviewed a certificate of authenticity for this one?
A. I have.
Q. I'm going to hand you State's 203. Can you identify what that is?
A. It is a certificate of authenticity of domestic records of regularly conducted activity.
Q. Okay. And what account identifier does it have on there?
A. This is in reference to the Account 100003783316320.
Q. Is that the same number as the one you read before?
A. It looks like the identical one.
Q. And does that correspond to the account of Kayla Cook?
A. Yes, ma'am.

Q. Okay.

SOLICITOR MCGINNIS: Judge, at this time I'd move State's 202, the Facebook IP log, and the 203, authenticity certificate, into evidence.

THE COURT: Any objection?

MR. BURTON: I think we've agreed that it is authenticated.

THE COURT: I'm sorry?

MR. BURTON: I think that we've agreed that the Facebook is properly authenticated.

THE COURT: Properly authenticates it. So you don't -- you don't object to their admissibility?

MR. BURTON: Well, I didn't say that.

THE COURT: Okay. Well, do you have an objection, is my question.

MR. BURTON: To 3 -- Not to 3220, I don't.

THE COURT: So that -- you don't object to the admission of the certificate of authenticity?

MR. BURTON: No. No, your Honor, I don't.

THE COURT: Okay, sir. How about Exhibit 202, the Facebook return?

MR. BURTON: As long as we're talking about the same page. 3220?

THE COURT: Would you show him what we're talking about please.

SOLICITOR MCGINNIS: One moment.

MR. BURTON: No objection to State's Exhibit 202.

THE COURT: Okay, thank you. 202 and 203 are admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 202 AND 203, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR MCGINNIS: Okay.

BY SOLICITOR MCGINNIS:

Q. On 202, can you specifically look at the bottom of the page? What does that reflect?

A. That's vague, I'm sorry, the bottom of the page?

Q. The bottom of the page, what is reflected in that?

A. Are you referring to the IP addresses?

Q. Yes.

A. There's -- looks like the last -- off the address that was provided, according to the -- I guess the time frame requested during the search warrant.

Q. Okay. And on -- if you look on the second page, what do you notice about some of these IP addresses?

A. They're -- they're essentially the same IP address, up until at a certain time. Obviously it goes to the -- the last IP address that you see on the first page that you just mentioned.

Q. And you say there's one that repeats?

A. There is.

Q. When was the last login at that address, that IP address, rather?
A. The -- the last one is at 12:40:42, UTC.
Q. Okay. Tell me about UTC.
A. It's the Universal Time Code.
Q. And what's the purpose of a universal time code?
A. It's like a true time, I guess is what they argue it is. You know, obviously, for us here on the east coast, we have to, you know, add -- or may have to subtract the time to ultimately get to what it is in Eastern Standard Time.
Q. Okay. And what do you subtract to get to the accurate Eastern Standard Time during this time of year?
A. During this time of year it would've been five hours.
Q. And when I say this time of year, I mean December.
A. Correct.
Q. Okay. So that 12:42, what would that be in east coast time?
A. 7:40:42.
Q. 7:40:42. And is that a.m. or p.m.?
A. That's going to be a.m.
Q. Okay. Did you have an opportunity to perform a search on the IP address, to try to locate where it corresponds to?
A. Yeah, I did. While we were viewing them, obviously you can investigate IP addresses, and there's website --

you know, publicly available information to geolocate an IP address by plugging it in, which I did for these IP addresses.

Q. Okay. And did you print out a printout of that?

A. I did.

Q. Okay. I'm going to show you State's 205. What is this document?

A. This is a printout from MaxMind, which is a site -- a publicly available site that you can use to investigate, I guess, a location of where a IP address is. This one was the IP address of 67.197.202.186. And it geolocated to the area of Lancaster, South Carolina.

Q. Okay. And that IP address, is it reflected in those IP logs?

A. It is.

Q. And how often is it reflected?

A. Through -- here --

Q. Compared to other IP addresses ---

A. Okay.

Q. --- how often?

A. A significant amount. Just from, I guess, looks like from my review here, the pages I have, it's the most common IP address associated with the account.

Q. And what would that suggest to you?

A. That this is pro -- I mean, I guess a place where they

were very frequent, and had access to -- or they could access Facebook via the Internet at this location.

Q. So is it fair to say that they accessed Facebook from this particular location fairly frequently?

A. I would say that's accurate.

Q. And that would be in Lancaster, you testified?

A. Yes, ma'am.

Q. And are you aware of where the defendant lived in this case?

A. The -- in the Lancaster Police Department jurisdiction.

Q. Okay. So would that in the city of Lancaster?

A. That would be.

Q. Would that correspond with the IP address information?

A. Yeah, it would correspond. I mean, it's basically saying it's Lancaster, South Carolina. Obviously, that could be, you know, different within Lancaster, but yeah.

Q. But somewhere in Lancaster that is accessed frequently?

A. That's correct.

Q. Okay. How about the next IP address that was the access to Facebook on December 18th of 2017?

A. Can you repeat the question? I'm sorry.

Q. What is the next IP address that accessed Facebook on December 18, 2017.

A. It's 208.104.125.193.
Q. And did you have an opportunity to search that IP address as well?
A. Yes, ma'am, I did.
Q. Did you provide us with a printout of that IP address as well?
A. I did.
Q. I'm going to show you State's 206. Do you recognize that?
A. I do.
Q. And what is that?
A. It's a -- as I mentioned a minute ago, the site, publicly available site that I used in order to investigate where the location of the IP address may be used. I did the same thing with the IP address I just mentioned, the last one. That 208.104.125.193, and it geolocated to the area of Fort Mill, South Carolina.
Q. Okay. What time was that login?
A. That was at 16:50:08 UTC.
Q. Okay. And what would that correspond to?
A. It would be 12:50.
Q. So you minus five hours?
A. Or 1:50, I'm sorry. In my --
Q. 11:50?
A. 11:50. Sorry.

Q. It's minus five hours; is that right?
A. Yes. That is correct.
Q. From 16:50?
A. Yes, that's how it would be 11:50. I apologize.
Q. Okay. And you said that was -- where does that IP address geolocate to?
A. That would be Fort Mill, South Carolina.
Q. Okay. Are you familiar with where the victim's father in this case worked?
A. In -- what I understand is Indian Land.
Q. And do Indian Land and Fort Mill share a ZIP code?
A. They -- they do.
Q. Okay. Do they butt up against each other?
A. That's correct.
Q. Do you -- are you familiar with the mailing address of the business where he worked?
A. Not off the top of my head, no.
Q. Okay.

SOLICITOR MCGINNIS: Judge, at this time I'd like to move State's 206 and 205 into evidence, the IP addresses.

MR. BURTON: Could I see what --

SOLICITOR MCGINNIS: Yes.

MR. BURTON: No objection, your Honor.

THE COURT: 205 and 206 are admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 205 AND 206,

IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR MCGINNIS:

Q. All right. Finally, I'm going to hand you what's been marked State's 204. Can you identify what this is?

A. It's a -- looks like a thread of messages between the account of Kayla Cook and the account of Scott Schroeder.

Q. Okay. Do you know who Scott Schroeder is in this case?

A. I was advised it was the, I guess, the defendant's boyfriend's father.

Q. Okay. And is there a message sent from Kayla to Scott Schroeder at a certain -- are there messages at that point sent from Kayla to Scott Schroeder?

A. Yes, ma'am, there are.

Q. What is the most recent message between the two?

A. From the account of Kayla or the account of Scott?

Q. From the account of Kayla.

A. Are you with Scottie?

Q. And what time does that say?

A. 16:55:08 UTC.

Q. And that time would correspond to what time in Eastern Time?

A. It would be 11:55.

Q. And is that a.m., or p.m.?

A. That's going to be a.m.

Q. And what's the date on that?

A. That is 12-18 of 2017.

Q. And what day did the child die in this case?

A. I believe it was the 18th, from my understanding.

SOLICITOR MCGINNIS: Begging the Court's indulgence for one moment.

Judge, I would move State's 204 into evidence. I have nothing further for this witness.

MR. BURTON: If I could see the --

THE COURT: Yes, sir.

MR. BURTON: Some of these are from Scott Schroeder, which I would argue would be hearsay, your Honor.

THE COURT: I'm sorry?

MR. BURTON: I would argue the messages from Scott Schroeder would be hearsay.

THE COURT: What's your response?

SOLICITOR MCGINNIS: Judge, I believe the records have been authenticated.

THE COURT: That just means they are what they are.

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: That doesn't mean they're admissible.

SOLICITOR MCGINNIS: I'd be happy to redact the hearsay portions.

THE COURT: Would that satisfy your objection?

MR. BURTON: It would, your Honor.

THE COURT: All right. Then, they're admitted, subject to the redactions.

(WHEREUPON, STATE'S EXHIBIT NO.204, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR MCGINNIS: Thank you, your Honor. I have no further questions for this witness.

MR. BURTON: I have no questions.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Yes, sir, your Honor

THE COURT: Thank you, sir.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR CAMPBELL: The State would call Myrica Jenkins.

(WHEREUPON, MYRICA JENKINS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

MYRICA JENKINS BY SOLICITOR CAMPBELL:

Q. Ms. Jenkins, do you currently live here in Lancaster?

A. I don't.

Q. And what state do you live in?

A. North Carolina.

Q. Did -- at one point did you ever live in Lancaster?

A. I did.

Q. And where did you live?

A. I lived on Heath Circle.

Q. Oh Heath Circle?

Q. Uh-huh.

A. If you can talk right into the microphone, it's hard to hear in here, okay.

A. I lived on Heath Circle.

Q. And how long did you live on Heath Circle?

A. About two years.

Q. And what was the number of the house you lived in on Heath Circle?

A. [redacted].

Q. And describe to the jury kind of how Heath Circle goes, and how many houses are kind of in that little area.

A. It looks like a little U. It was about -- about maybe ten to thirteen houses altogether within -- within that street. It's a little -- it's a short street. You go in one way, come out the other way.

Q. Who did you live there with?

A. My husband and my children.

Q. And how many children do you have?

A. At the time, I had four.

Q. And how old were your children when you were living there?

A. Nine, five, two, and I had a newborn.

Q. And I want to turn your attention back to December of 2018. Is that when you were living there?

A. Yes.
Q. And how long had you been there at that point?
A. I had been there for almost two years at that time.
Q. So you moved out of there shortly thereafter?
A. Yeah.
Q. Did you ever get to know Kayla Cook or Scottie Schroeder while they were living there?
A. I did.
Q. And approximately how long were they there before we're what going to talk about what happened? Do you remember?
A. About a month.
Q. About a month?
A. About a month.
Q. And did you -- how did you meet them?
A. They were new neighbors, and so we -- everybody just kind of introduced themselves. And they had children, we had children, so we talked.
Q. Okay. And did you become familiar with any of their children?
A. Wyatt --
Q. Scottie --
A. Wyatt and Minor, and I think Kayla has another child.
Q. An older girl?
A. Older -- yeah.

Q. Okay. So you met them on different occasions?
A. I met them around the same time. I don't -- I can't remember for sure if I met the older girl; I just know she goes have an older girl.
Q. And did you ever have an opportunity to observe Minor?
A. I have.
Q. And can you describe her for the jury?
A. She was real petite, real small, kind of delicate, real quiet.
Q. And I want to turn your attention to December of that 2017 year, and that week before. Did you have an occasion to see Minor?
A. Uh-huh. I have.
Q. And do you remember anything happening to Minor that week before she died?
A. As far as I know, I know the dog -- their dog knocked her over at one point.
Q. And were you out there that day when that happened?
A. Yeah, I was at my -- I was outside my house.
Q. And what brought your attention to what happened?
A. She cried, and I -- and I looked over and I seen Kayla picking her up and taking her inside.
Q. So you actually saw Kayla go over and pick her up?
A. I did.
Q. And at that point, when Kayla -- where did -- where

did this event take place?

A. In front of their house.

Q. Was it on the porch, on the grass, or where?

A. In the front of the porch area.

Q. And when that happened, you saw Kayla actually pick her up?

A. I did.

Q. And go over to her?

A. I did.

Q. At any point did she step on her?

A. No.

Q. Did she stomp on her?

A. No.

Q. Did she punch her?

A. No.

Q. And in fact, did you have an occasion to see Minor later that day, after this had happened?

A. I did.

Q. And what was her condition at that point?

A. She looked fine.

Q. Did you notice any visible injury, or anything she was complaining of?

A. I didn't.

Q. When was the next time you saw after that -- and do you know how long this was before the day Minor died?

A. Not -- not --
Q. Not specifically?
A. Not specifically, no.
Q. Was it days, though?
A. Yeah, it's been days. It had been days.
Q. I want to turn your attention to that morning, the 7 -- the 18th, excuse me, of December. Did you have an occasion to go over to Kayla's house that morning?
A. Yes, I went over somewhere mid-morning.
Q. Mid-morning?
A. And I knocked on the door, just to, you know, go over and talk to her. She was new, so -- and we had kind of got acquainted, so I knocked to, you know, see what she was doing.
Q. And did anybody respond when you knocked on her door that morning?
A. Yeah. Kayla answered the door.
Q. And what happened when Kayla answered the door?
A. She told me she was kind of busy, and that she would come back later and get me; she was trying to handle the kids, and then I walked away from her.
Q. Okay. So she said she was kind of busy?
A. Yeah, she was real busy.
Q. And she would get with you later?
A. Yeah.

Q. And do you remember exactly what time that was?
A. It had to been somewhere after -- close to the afternoon. About 11:00-ish.
Q. About 11:00?
A. Yeah, about 11:00-ish.
Q. And I'll get back to it, but if you remembered back then when it was, you would have had a better memory then?
A. Yeah.
Q. Okay. And so, at that point where did you go?
A. I went home. I only lived two doors down, so I just walked back to my house and sat outside.
Q. And what was the next thing that caught your attention that morning?
A. I was sitting outside talking to my husband, and I saw Kayla come outside and run to our neighbor's house.
Q. Can you speak up just a little? I know this is hard.
A. I'm sorry.
Q. I know it's hard. I'm sorry.
A. She ran outside.
Q. Kayla?
A. Kayla ran outside, ran to our neighbor's house, and knocked on the door. Mindy opened the door, our neighbor, and I don't know -- I wasn't there to hear what was being said between the two, but she looked like she was in a state of panic, Kayla did. And so, I said to my husband

something looked like it went badly wrong. They both ran to the house, and I followed shortly after.

Q. Okay. And you said they ran into the house, whose house did they run to?

A. Kayla's, Kayla's house.

Q. And did they go inside the house?

A. They did.

Q. And what did you do?

A. I ran in shortly after, like almost immediately after.

Q. And when you got inside, tell the jury what you saw.

A. Minor was laying on the couch.

Q. Uh-huh.

A. And she said that she didn't know, she didn't think she was breathing. Earlene, our other neighbor, ended up coming inside, also, and noticed that she wasn't breathing so I said I was calling 911. And from there, the operator on 911 instructed us to try to attempt to get her back breathing. So I gave instructions from the operator to Mindy to try to resuscitate her.

Q. And did Mindy do what you were telling her to do?

A. She did.

Q. And where was Minor at this point?

A. She was laying on the living room floor.

Q. Okay. And do you know who had moved her to the floor?

A. No. I -- I -- honestly, I couldn't tell you at the

moment.

Q. But when you came in, she was on the couch?

A. Yes.

Q. And did you actually put your hands on Minor?

A. I didn't.

Q. But you're the one that actually called 911?

A. Yes.

Q. And you did that without any prompting, you just saw what was going on and thought it was necessary?

A. Yes.

Q. What happened next that you remember?

A. I -- while we're doing the 911 call they -- I guess they dispatched an officer, the fire truck, and the ambulance to come. The officer showed up first, two officers in one car.

Q. Uh-huh.

A. Somebody had explained to them what was going on, and after about a few moments they said they were taking too long, and that they were going to just go ahead and take her to the hospital.

Q. And at that point, did they grab Minor?

A. Yes. One of the officers grabbed Minor, and they ran to their car. I grabbed Kayla and we ran to my car, and drove straight to Springs Memorial.

Q. So you actually drove her there?

A. I did.
Q. And did you all actually follow the police car?
A. Yeah, we did.
Q. Once you got to the hospital, what happened?
A. Once I got into the hospital, they took us straight to a room in front of where Minor was, or right next to it; and then we went into the room where Minor was.
Q. And when you were put in the front room, was anybody actually working on Minor at that point?
A. Yes.
Q. Okay. So she was getting medical attention?
A. She was.
Q. Were you present when an officer or doctors or nursing professionals came in to talk to Kayla?
A. Yes.
Q. And was she able to relate to them a story about what happened?
A. Somewhat, yeah.
Q. And in fact, I think at one point you actually participated and helped with times and things like that --
MR. BURTON: Objection. Leading question, your Honor.
THE COURT: Rephrase.
BY SOLICITOR CAMPBELL:
Q. Did you participate in that conversation as well?
A. I did.

Q. Did you stay at the hospital, did you leave, or what happened then?

A. I -- I did stay until Scottie got there, and then I left.

Q. And while you stayed until Scottie got there, what were you doing?

A. I kind of stood kind of away from the bed, right behind Kayla, who was sitting in a chair.

Q. And what were you trying to do by being there?

A. I was just trying to keep her calm, and we were still trying to find Scottie.

Q. Do you remember how much time passed between the time you first went and knocked on the door, and then when she came out of the house?

A. About maybe an hour.

Q. Do you remember if Minor was dressed or clothed when you went over there that day?

A. She was fully dressed.

Q. And do you remember what she was wearing?

A. It looked like pajamas. Pajamas.

Q. Did she look wet to you?

A. No, she didn't look wet to me.

Q. Did you have observa -- or times to observe Minor's relationship with her daddy?

A. I have.

Q. And what was their relationship like?

A. She loved him. He was really gentle with her, and very patient with her. I've never heard her cry. I barely heard her talk. And she had a very soft voice, so he took time to pay attention to what she said.

Q. And you never observed either one of them abuse Minor?

A. Never.

Q. But she had a special relationship with her father?

A. She did.

SOLICITOR CAMPBELL: Thank you.

MR. BURTON: Thank you, your Honor. May it please the Court?

CROSS-EXAMINATIN

MYRICA JENKINS BY MR. BURTON:

Q. So you were a neighbor of Kayla's, right?

A. Yes.

Q. And it's fair to say, isn't it, that this was a really kind of close-knit neighborhood, wasn't it?

A. I wouldn't necessarily call it close-knit, but.

Q. Well, I mean you and Mindy and Kayla ---

A. Yeah, we all knew each other.

Q. --- and Scottie all had a good -- good relationship and were friends?

A. Yeah, everybody's familiar with everybody.

Q. Okay. And did it appear to you that observing Kayla

that she was greatly concerned about what was going on with Minor?

A. Yes.

Q. And I mean, would it be fair to say she was just freaking out over what was happening to Minor?

A. Yes.

Q. And that carried over from the car to the little room in the hospital and all that?

A. Yes.

Q. Did you ever see Kayla treat Minor any differently than the other two children?

A. I didn't.

Q. And you were with Kayla, comforting, rubbing her shoulders and all that in the hospital, while they were working on Minor, right?

A. Yes.

Q. Okay. And she was crying most of the time, wasn't she?

A. Yes.

Q. Did you see tears in her eyes?

A. Yes.

Q. In fact, one time, on one of the videos, you can be seen to be rubbing the tears from her eyes. Do you remember that?

A. Yes.

Q. Okay.

MR. BURTON: Beg the Court's indulgence.

Thank you, your Honor.

THE COURT: Re-direct.

SOLICITOR CAMPBELL: None, your Honor.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Thank you.

THE COURT: Thank you, ma'am.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR CAMPBELL: The State would call Todd Schenck.

(WHEREUPON, TODD SCHENCK, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

TODD SCHENCK BY SOLICITOR CAMPBELL:

Q. Agent Schenck, where are you employed?

COURT REPORTER: Madam Solicitor.

Just a minute, Judge.

Madam Solicitor, you turned your back on me; I don't know the witness's name that you called. Could you repeat the name?

SOLICITOR CAMPBELL: I'm sorry. His name is Todd Schenck.

COURT REPORTER: Thank you, ma'am.

SOLICITOR CAMPBELL: Uh-huh.

BY SOLICITOR CAMPBELL:

Q. Agent Schenck, where are you employed?

A. With the South Carolina Law Enforcement Division, also known as SLED.

Q. And how long have you been employed at SLED?

A. Almost six years now.

Q. What do your duties at SLED include?

A. I'm a crime scene investigator for the State.

Q. And as a crime scene investigator, what do you do?

A. So our job is to -- we get called out across the state, so we go help local agencies where we can, or even our own agency, when they need us. We show up, document crime scenes, collect evidence, make sure we are taking good documentation; notes, sketches, different things we can do to try to preserve the evidence that we find; deem what's pertinent and collect what we need to from the crime scene.

Q. Can you tell this jury a little about your education and your training ---

A. Yes.

Q. --- as a crime scene investigator?

A. So I graduated from the Citadel in 2013, and then I've been employed with SLED since November of 2013. And our training consists -- it's about a year-long, in-house training program where you're going to crime scenes.

You're also having -- there's different sections, so there's a photography section, evidence collection section, footwear section. Each section you're going to prove that you're competent on-scene.

There's written tests, there's reading that's involved, there's competency tests where you have to actually go prove that you can collect the evidence how you're -- how you're supposed to. At the end of the training, there's an all-encompassing test that says you, in fact, know what you're doing.

There's a mock crime scene where your training agent will actually set up a scenario, find evidence, put it -- you know, or set evidence aside, make sure you document the scene correctly, collect everything that was deemed pertinent. And you have to -- as a trainee, you have to explain why you collect certain things, why you didn't collect certain things, what you saw on the scene.

There's also, you know, mock trials where you have to go to court and practice going to court. And then, once all that's done, there's also external classes where we go to a forty-hour long bloodstain pattern analysis course, or a forty-hour long shooting reconstruction course, photography courses, so it's in-house training with external training. Once you've completed all those different types of trainings, then they deem you competent

to run a crime scene by - as it intake cases.

Q. And even since your initial training that you've just described, does your training continue?

A. It does. Yes, ma'am.

Q. On a yearly basis?

A. We do -- we try to do in-house training. We also go to external training. This last year, I went through a forty-hour shooting reconstruction class; and so, yes, it does continue training.

Q. And have you been qualified as an expert in crime scene investigation before?

A. No, ma'am, I've not.

Q. And this is your first time testifying on this ---

A. For --

Q. --- you've testified before?

A. I have testified before. Yes, ma'am.

Q. Okay. Let me ask you this. I want to turn your attention back to December the 18th of 2017. Did you respond to a call here in Lancaster?

A. Yes, ma'am, I did.

Q. And what kind of call were you responding to that day?

A. We were told that there was a deceased child, and so we were going to come and help process the crime scene.

Q. And initially, were you informed of what -- of where

the crime scene was?

A. We were told it was at a house, a residence, at 14 --

Beg your pardon, may I refer to my notes?

It was at [redacted] Heath Circle, in Lancaster, South Carolina. Oh, I'm sorry, [redacted]. I'm sorry.

Q. Okay. There we go. [redacted]?

A. Yes, ma'am.

Q. And was that where you were initially headed?

A. We were initially headed there, but en route we were told that the victim was taken on to a local hospital, so we went there first.

Q. And you say we, who was with you that day?

A. My partner, Dalila Jasic.

Q. And you mentioned you were asked to respond to a different location first?

A. Yes, ma'am, we were.

Q. And what was that?

A. That -- that was the Springs Memorial Hospital, located at 800 West Meeting Street in Lancaster.

Q. And what was the reason you were being diverted there first?

A. We were told the victim had been taken to the hospital, and she was still at the hospital; so we went to document her with photographs and see if there's anything we needed to collect from her, prior to going to the

initial scene.

Q. What time did you get there that day?

A. So we got on-scene, it was -- I believe it was 13:48, but give me one second.

Q. And you prepared a report this case?

A. I'm sorry?

Q. You prepared a report?

A. Yes, ma'am, I did.

Q. And that's what you're referring to?

A. Yes, ma'am. This is what I'm referring to.

Q. Okay.

A. We arrived on scene at approximately 13:48, and it was about sixty-four degrees when we got there.

Q. Sixty-four degrees that day?

A. Yes, ma'am.

Q. Once you got there, did you meet up with any agents or law enforcement?

A. Yes, ma'am, we did. We met with our child fatality unit folks, and also personnel from the Lancaster Police Department.

Q. And at that point, you can't say what they said to you, but were you provided kind of a history to help you ---

A. Yes, ma'am.

Q. --- guide you as far as what you were doing?

A. Yes, ma'am.
Q. Once you were there, what did you do?
A. So the first thing we do is we meet with the investigators, get any pertinent information we can get, to help kind of direct us as to what we're looking at. And then, we'll take photographs of the victim, and at this point this is when we took photographs of the victim.
Q. And where were you taking those photographs that day?
A. We were in the emergency room. I don't remember what the room number was, but we were in a -- I believe it was an emergency room at Springs Memorial Hospital.
Q. And what's the purpose of you taking photographs that day there at the emergency room?
A. It's just to document the victim as we saw her at the time of the incident; or at -- not at the time of the incident, I'm sorry. It was at the time we saw her, it's to document what we saw on scene.
Q. And I'm going to show you what's been marked as State's Exhibit 14 through 33. Oh, before I get to that, was anybody assisting you that day?
A. Yes, ma'am. My partner, Dalila Jazic.
Q. Okay. State's Exhibits 13 through 33, do you recognize those photographs? They're already in evidence?
A. Yes, ma'am, I do.
Q. And were those photos taken by you that day?

A. Yes, ma'am, they were.
Q. And do those fairly and accurately depict how the child appeared that day when you got there?
A. Yes, ma'am, they do.
Q. And I'm going to show you some additional photographs, which is State's Exhibits 38 through 46, and first just ask you to look at those, and then State's 177.
A. Yes, ma'am.
Q. And do those photographs fairly and accurately depict what you saw that day?
A. Yes, ma'am, they do.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer State's Exhibits 38 through 46, and 177, into evidence.

THE COURT: Any objection.

MR. BURTON: Absolutely, your Honor. Same objection as the others that --

THE COURT: Okay. Just ---

MR. BURTON: --- an awful lot of emotional --

THE COURT: --- one second.

Would you take the jury to the jury room, please?

(JURY EXITS COURTROOM AT 03:03 P.M.)

THE COURT: May I look at them?

SOLICITOR CAMPBELL: Sure.

THE COURT: I assume that you're saying that they're

SOLICITOR CAMPBELL: If I'm working it, it won't work. It's like I can kill a copier faster --

THE COURT: Got you.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:33 P.M.)

SOLICITOR CAMPBELL: Thank you.

BY SOLICITOR CAMPBELL:

Q. Sir, I want to show you what's been marked as a number of photographs, which is 14 through 33. And are those photographs that you took that day at the hospital?

A. Yes, ma'am.

Q. And after taking those photographs, did you use a certain technique to try to enhance the quality of some of your photographs?

A. We did.

Q. And what was that?

A. It's called an alternate light source, or an ALS is what we call it. If you -- like a black light type deal. It's just a different wavelength of light to help bring out different details of different things. So different wavelengths are good for different processes. Some wavelengths are better to bring out blood, some are better to bring out bruises.

Q. And in this case, did you also photograph that process

when you were able to eliminate in a little different detail some of the bruises?

A. Yes, we were. We did.

Q. And I'm going to show you State's Exhibits 45 through -- well, excuse me, 42, 43, 44, 46, and 45 -- they're out of order, sorry.

A. That's okay.

Q. Are those also photographs you took that day using that ALS?

A. ALS. Yes, ma'am.

Q. ALS ---

A. They are.

Q. --- source?

SOLICITOR CAMPBELL: And your Honor, may the witness step in front of the jury?

THE COURT: Yes, ma'am.

(WITNESS LEAVES WITNESS BOX.)

BY SOLICITOR CAMPBELL:

Q. I'm going to show you State's Exhibit No. 14. And this, what type of injury were you trying to show in this photograph?

A. You can see the red on the victim's eye. That's what we were trying to document, the discoloration of the eyeball.

Q. And you said eyeball. So it was actually on the

eyeball itself?

A. Yes, ma'am.

Q. State's Exhibit No. 15, what does that show?

A. It shows bruising on the ear and behind the ear of the victim. And there's a scale there that's to show size.

Q. State's Exhibit No. 16, is that the same ear but a different part of it?

A. Yes, ma'am. That's the right ear, but that's just looking at it without moving the ear.

Q. And why did you think it was necessary to document both sides of this ear?

A. Just because of the -- the bruising on both sides, and then behind the ear on the -- on her head itself.

Q. State's Exhibit No. 17, what part of the body does that show?

A. This is right underneath the belly, more towards her -- her --

Q. Groin?

A. Groin. Thank you. Her groin. And that was just closer.

Q. I'm going to show you State's Exhibit No. 18.

What marks are shown on there?

A. So, from here you can see the bruising on the chest, on her arms, on her -- the groin area. You can see a

little bit here on the legs, on the rear of the leg.
Q. It's kind of an overview?
A. Yes, ma'am. That's what that's for. That's just to kind of show the general -- what we saw.
Q. I show you State's Exhibit No. 19.
A. This is on her -- I believe this is her left thigh and it's the bruising ---
Q. Can you orient it from the ---
A. --- I believe --
Q. --- the other side?
A. Yeah, that's it. So its gonna be on her -- yes. This right here.
Q. State's Exhibit 21?
A. Now if -- this right here is looking at a closeup of this area here. And that's just the bruising, and you can see the leaf tear underneath the leaf on the leg side.
MR. BURTON: Can I see?
SOLICITOR CAMPBELL: You have this.
MR. BURTON: Yeah, but I didn't hear what he said what it was.
BY SOLICITOR CAMPBELL:
Q. State's Exhibit 21, anyway, what is that?
A. This is the same bruise with a scale, right above her groin.
Q. Okay. And this material down at the bottom, what is

that?

A. It appears to be fecal matter.

Q. State's Exhibit No. 22?

A. This is showing the victim's chin and her lips, and you can see the bruising underneath the chin.

Q. State's Exhibit No. 23?

A. This is her left ear, again showing the bruising on the side of the ear and behind the ear.

Q. State's Exhibit 24?

A. This is her forehead. You can see the bruise on the right side of her forehead.

Q. State's Exhibit 25 and 26?

A. Those are both just closer-up photos of the bruises behind the ears, on both sides.

Q. Both sides. State's Exhibit 27?

A. This is showing the bruising on the eye, and then near her nose. You can see there's a little bruise.

Q. And here on the corner?

A. Yeah, and on her lips, in the corner of her mouth.

Q. State's Exhibit No. 28.

A. This is showing the right arm on the bicep. You can see a little bit either on the back, on the -- on her side, and down the hips. And again, you can see the chin and the ear, the bruising of the ear, too.

Q. And State's Exhibit No. 29?

A. That's a closeup of this bruise here on her right arm.
Q. So this shows the swelling, as well as the bruising?
A. Yes, ma'am.
Q. State's Exhibit No. 30?
A. That is the left hand, and you can see the bruising on the back of the hand and the wrist area.
Q. State's Exhibit 31?
A. This is showing the back of the victim's legs and the different discoloration and bruising on the back of the legs.
Q. State's Exhibit 20 -- 32, excuse me.
A. This is the front of the victim's right leg, and you can see the little marks near the scale.
Q. State's Exhibit 33?
A. This would be the victim's right side, looking at the ribs, down to the hips.
Q. Once you were able to get the light out, is there anything you have to do in the room to make this work? How does it work?
A. So we turn the lights off.
Q. Uh-huh.
A. And then we use our flashlight and an orange filter in front of the camera to document the photo -- or to document the victim. And we usually put the camera on a tripod because it's a longer exposure, to absorb the light

in a different color light.

Q. I want to show you State's Exhibit No. 45. What areas of her body does this show?

A. So this is her chest and her chin, and the bottom of her head.

Q. And what is eliminated there that come -- that stands out?

A. So, really you're looking at the neck, and you can see around her lips and her eyes, the bruising. You can see the bruising down here on her chest.

Q. And when you turned her over were you able to illuminate some bruising that wasn't apparent on State's Exhibit 46, on the back?

A. Yes, ma'am. You can see the --

Q. What's the square area?

A. So, the square, it's a -- I forget the proper term for it, but it's a medical device that they use to try to take a reading from her to see if she's breath -- I think it's a ------ and that -- according to --

Q. That's not --

A. The square itself, no. But the bruising underneath and up on her back is what we were trying to show.

Q. And that was able to show up better in this format?

A. We tried to, yes, ma'am. The ALS is good at trying to show the bruising.

Q. State's Exhibit No. 44?

A. So this is, again, this is her ear. This is -- this would be her left ear, and you can kind of see a little bit better the -- the bruising.

Q. State's Exhibit 43?

A. This is showing the bruising, you can see it on her leg, her lower stomach here, and then the big one above her groin.

Q. State's Exhibit 42?

A. This is behind her right ear, and you can even see there's bruising -- or you can see the bruising behind the ear, and then a little bit of discoloration there, but it's really the ear.

Q. Okay. You can sit down.

(WITNESS RETAKES THE WITNESS STAND.)

Q. While at the hospital, did you collect any evidence while you were there that day, you and your partner?

A. Yes, ma'am. We collected the victim's clothing.

Q. And I'm going to show you what's actually in evidence as State's Exhibits 209, 211, and 212, and first ask if you recognize these?

A. Yes, ma'am. And these have my initials and seal tape on them.

Q. So they're still sealed?

A. Yes, ma'am, these are still sealed.

Q. And what are those items that you collected in the hospital that day from the victim?

A. So this is going to be a pair of multi-colored socks, a pair of underwear, a shirt, and they're -- the only other thing we collected was the pair of pants.

Q. And are those all the items you collected that day?

A. There's a pair of pants that --

Q. That I missed?

A. Yes, ma'am.

Q. Certainly.

A. It should say Item 4 on it, from my items.

Q. You're right. Sorry. I show you State's Exhibit 210.

THE COURT: What's that number?

SOLICITOR CAMPBELL: 210, your Honor.

THE COURT: Thank you.

A. Yes, ma'am.

Q. And those are the items you collected that day?

A. Yes, ma'am.

Q. And starting with whatever you think is appropriate, can you pull them out?

A. Sure. Can I stand up?

(WITNESS STOOD.)

A. So I'm going to start with -- these are the pair of socks that we collected from the victim.

THE COURT: Would you identify the exhibit number,

please?

A. Yes, sir. This is Exhibit 212.

THE COURT: Thank you.

(STATE'S EXHIBIT NO. 212 REMOVED FROM EVIDENCE BAG.)

Q. And those were the socks you collected from her?

A. Yes, ma'am, they are.

Q. And this would've been the clothing that she was wearing when she was at the hospital?

A. Yes. She was not -- when we saw her, she did not have the clothing on her, so this is what we were --

Q. Provided?

A. Yes.

Q. By hospital personnel?

A. I believe -- I believe it was from -- I want to say it was sitting on -- give me one second.

Q. No problem.

A. I think they were just there in the room. I don't think anyone had custody of them, and we just went ahead and took them.

Q. Okay. But those were from the victim?

A. Yes.

Q. Okay.

A. You want gloves?

Q. No.

A. Okay.

Q. What else was she wearing that day?
A. So, next was a pair of underwear.
MR. NIELSON: Your Honor, could you have him identify the number --
A. Yeah, I'm sorry.
MR. NIELSON: Thank you, your Honor.
A. This is 209. Sorry.
THE COURT: 209?
A. 209, yes, sir.
BY SOLICITOR CAMPBELL:
Q. And that was how they appeared when you collected them that day?
A. Yes, ma'am.
Q. Did you request any further testing be done on those -- on that item?
A. No, ma'am.
Q. Do you all have any testing at SLED for just what's obviously fecal matter?
A. No, ma'am.
Q. Okay.
A. Do you want to --
Q. You can leave those on top of the bag.
A. Okay.
Q. Thank you.
A. Uh-huh.

Q. The next?
A. This is State's Exhibit 211.
Q. Uh-huh.
A. And it's a gray in color shirt.
Q. And that's what you collected?
A. Yes, ma'am.
Q. And then, finally, the fourth item you collected from the victim?
A. This would be State's Exhibit 210, and this is a pair of gray pants.
Q. And what size are those?
A. These are size 2T/NP2.
Q. Okay. You can sit down.

(WITNESS RETAKES WITNESS STAND SEAT.)

Q. Once you had collected those items, were you pretty much finished there at the hospital?
A. Yes, ma'am.
Q. And where did you go next?
A. We went to the residence where the victim lived, at [redacted] Heath Circle.
Q. And what time did you leave the hospital and go to [redacted] Heath Circle?
A. We cleared the hospital at approximately 15:43, which is 3:43 in the afternoon, and we got on-scene at 3:4 -- 3:49, at the residence.

Q. And what was the temperature when you got there that day?

A. About 64 degrees.

Q. Once you got there, did you meet up with any law enforcement personnel?

A. Yes, ma'am. It's standard practice that we'll meet with the local agencies, or our child fatality, or both, and kind of discuss what's been told and what we know about the scene.

Q. Prior to going into the house, was any kind of warrant obtained?

A. Yes, ma'am. We did get a search warrant for the -- I believe they provided a search warrant. Yes, ma'am, they did.

Q. So there was a search warrant for the house prior to you entering?

A. Yes, ma'am, there was.

Q. And what was the scene like at the house that you were going to that day?

A. I'm sorry?

Q. What did the scene look like that you went to that day at the house?

A. It was just a normal -- I believe it was a green in color house. It was a single-story home with a green color paneling, and it just -- nothing strange about it.

Q. And when you went to the house that day, and when you go to any crime scene, do you try to -- how do you take pictures?

A. So what we do is, when we show, we want to document the entirety of the scene, so we'll take photographs of the outside of the residence, all the way around, three hundred and sixty degrees, so you can kind of see the entire building. And then, we work our way into the crime scene, and we do -- we start with what's called overall photographs, which is just to establish where everything is.

Once we find something important, we'll work into mid-range and closeup photographs. Mid-range just means it's -- this is what I'm looking at, this piece of evidence is what I'm looking at, in relation to something fixed in a room, like a corner of a room, so you kind of know where it is in the room.

And then, a closeup would show specifically the piece of evidence we're looking at. But normally, when we start, it's -- you do photographs of the entire property, or the residence, to kind of show what the outside looked like before we even go in.

Q. Okay. And I show you Items No. 47 through 58, I believe. Are those kind of a panoramic view of the outside of the house?

A. Yes, ma'am. This is looking at the front of the house, and then --

Q. What number is that?

A. This is State's Exhibit 47.

Q. May I see that?

A. Yes, ma'am.

Q. So this is the front of the house. And what's the address again?

A. It's [redacted] Heath Circle.

Q. And that's here in Lancaster County?

A. Yes, ma'am.

Q. What's next?

A. The next one is kind of a photo of the front door. This is State's Exhibit 48.

Q. Thank you.

A. And it's kind of showing the porch, the steps involved on the porch, from the street.

Q. Okay. What's your next one?

A. This is State's Exhibit 49, and this is a corner of the shot -- or corner of the residence, showing the front porch, the steps, and then the side of the residence.

Q. And is there any particular reason you'd go to one side versus the other first?

A. No, ma'am. I usually work right-to-left, so I -- and I try to keep consistent with the way I work scenes.

Q. Okay. Continue.

A. All right. This is State's Exhibit 50, and this is showing the front-left of the residence, kind of -- this is showing the front porch and the corner -- the -- I forget what -- if it's north corner. This would be the southeast corner of the residence.

And then, State's Exhibit 51 is a photo of the front of the residence, looking down Heath Circle.

Q. So that would be looking down this direction?

A. Looking -- yes, ma'am.

Q. The drains on, the pipe here, part of the house?

A. Yes, ma'am.

Q. And that's actually Heath Circle?

A. Yes, ma'am.

Q. Okay. What's your next?

A. State's Exhibit 52. This would be of the east side of the residence, showing the porch and that side.

Q. Is that another one in the same area?

A. It's 53. Yes, ma'am. This is kind of showing more of the road of Heath Circle.

Q. And this residence, is it -- are there residences on both sides, or what?

A. No, ma'am. It's just -- it would just be on the west side of the residence.

Q. The lower side?

A. Yes, ma'am. State's Exhibit 54 is, I'm up on a hill, kind of photographing back down towards the residence, and this is the -- my cardinal directions are great today -- what is maybe, I guess, the southwest corner.

Q. Okay.

A. And then, 55 is the same ---

Q. Same --

A. --- just kind of showing more of Heath Circle.

Q. And you said that it's only got a house on one side. What is this area?

A. It appeared to be an empty lot.

Q. Next to it?

A. Yes, ma'am.

Q. What's your next one?

A. This is State's Exhibit 56, and it's showing the back side of the residence.

Q. Just a general over view?

A. Yes, ma'am.

Q. And when you're taking these photographs, this was right after Minor had died, so.

A. Yes, ma'am.

Q. You don't have any more information than what was initially reported?

A. No, ma'am.

Q. And those are some of the photographs you took of the

outside of the house?

A. Yes, ma'am.

Q. Specifically, did you take any closer-ups of the front porch area?

A. I may have. I don't remember.

Q. If I show you State's Exhibit 57, 58, 59, 60, and 61, do you recognize those?

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

Q. Okay. And I'm showing you State's Exhibit 57.

A. That's a -- that, again, the front por -- the front of Heath Circle, looking at the front of the residence.

Q. And then, 59?

A. That's on the porch, looking back towards the front of the porch.

Q. And are those the front steps?

A. Yes, ma'am.

Q. And in this house, how you went into it was a little bit unique?

A. Yes, ma'am. You went down a couple steps and then back up a couple steps of the porch before you got to the front door.

Q. And then, in a corner, I believe, 60 and 61, what's inside the trash can?

A. Dog food.

Q. And where was that located?

A. That would be on the front porch.
Q. Okay. And again, you try to document everything?
A. Yes, ma'am.
Q. Once you documented the outside of the house, do you then proceed to go inside?
A. Yes, ma'am.
Q. And I want to show you State's Exhibits Number 62 through 78, first ask you to look through those and see if you recognize them?
A. Yes, ma'am. I do.
Q. And what do those depict?
A. This is the living room, the front room when you enter the residence. It was -- there is the couch, and -- it was the living room; and these are depicting that living room.
Q. And you said that's the front room when you go in?
A. Yes, ma'am.
Q. And taking the first one, State's Exhibit Number?
A. 62.
Q. What does that show?
A. That shows the front door, looking back out the front door.
Q. So that's just the opposite of what we've just shown the jury?
A. Yes, ma'am.
Q. Okay. The next one?

A. Is State's Exhibit 63. And this is just looking in at the couch in the living room.
Q. And where would the front door be in this picture?
A. It would be behind me, where I'm taking the photo.
Q. Behind you, where you're taking the photo?
A. Yes, ma'am.
Q. And what kind of furniture is in this front room?
A. It just appears to be a couch, a coffee table, and like a little footstool. And I think there was a desk and a T.V. in there as well. There was a Christmas tree. There was a little table. I believe it's a fireplace that the T.V. sat on, and then a little children's-type table.
Q. Okay.
A. This is 60 --
Q. Taking them in order.
A. Okay. That's State's Exhibit 64, showing the couch.
Q. And --
A. 65, another angle showing the couch.
Q. What's next?
A. 66 is still in the living room. It shows a Christmas tree, the T.V., and the other side of the couch and the child's table.
Q. And the child's table you're talking about is this right here?
A. Yes, ma'am.

Q. And what's on that table?
A. There's a cup, and I believe it was just -- I don't remember what else was on it. But let's see.
Q. You gonna look?
A. Yes, ma'am. There's a cup and a bowl. A child's cup and a child's bowl.
Q. Okay.
A. Next is 67, and this is showing that there's a fork on the floor, next to the footstool.
Q. And at that point did you know whether or not this may have any significance?
A. No, ma'am.
Q. So you ultimately collected the fork?
A. We did.
Q. Okay.
A. And then, this is State's Exhibit 68, showing a cell phone.
Q. Let me back up. Where was that located, if you can show me on State's Exhibit No. 65?
A. So that would've been right here on the ground. It's kind of dark in this photograph, but you can see it right here.
Q. Well -- and the -- moving on to State's Exhibit 68.
A. Oh, the cell phone, I'm sorry. The cell phone's over here on the armrest of the couch.

Q. And where is that located, like my finger is covering up the door, it was right here?
A. Yes, ma'am. It was right near the front door.
Q. And that's the front door. So that's where the cell phone was when you got there that day?
A. Yes, ma'am. Next is 69, or State's Exhibit 69, and it's just the front of the cell phone, and then --
Q. Once you had removed it?
A. Yes, ma'am.
Q. Okay.
A. And then, State's Exhibit 70 is the rear side or the back side of the cell phone.
Q. It just shows both sides of the cell phone?
A. Yes, ma'am. 71 is as you look in the front door, towards the back of the residence; and 72 is another angle of that.
Q. What's down here?
A. So that's the hallway that goes back to the bedroom.
Q. And that comes directly off the living room?
A. Yes, ma'am.
Q. And that goes back to the bedroom, right?
A. Yes, ma'am.
Q. Were there any bathrooms in this house?
A. There was one. Yes, ma'am. 72 is showing more of an angle down the hallway.

Q. Okay.
A. And 73 is showing the -- when you walk into the front door, the wall directly to your left.
Q. Continue.
A. State's Exhibit 74 and 75 are both showing the closet that's in the living room, right off that room.
Q. 74 and 75, and that's this closet?
A. Yes, ma'am.
Q. And did you collect anything of significance in there?
A. No, ma'am.
Q. But you documented it?
A. Yes, ma'am.
Q. Okay.
A. State's Exhibit 77 is a little table next to the couch, between the Christmas tree. It's showing what's in there, a child's seat.
Q. And what was in here?
A. Nothing, I recall. Is that the one -- okay. There's a dog collar in that -- it's that black leather -- I don't remember if it was leather, but it's the black strap right there with the -- it looks like it's got dots on it. That was a dog collar. And then, State's Exhibit 78 is standing near the child's table, looking down the hallway to the rest -- rest of the residence.
Q. Okay. And that's just looking down the hallway?

A. Yes, ma'am.
Q. And that's the living room area?
A. Yes, ma'am.
Q. And then I want to move to the kitchen, showing you State's Exhibits 79 through 83, and then 179 and 180. Do you recognize those?
A. Yes, ma'am, I do.
Q. And what area of the house does that show you?
A. So this is showing the kitchen of the residence.
Q. And when you walk in the front door, or in the living area, where is the kitchen?
A. So the kitchen -- as you walk in the kitchen, the area is slightly to the left, behind it.
Q. Okay. I want to show you a diagram, State's Exhibit No. 221, which is in evidence. Is this a diagram you prepared?
A. Yes, ma'am. It is.
Q. And what does this have on it?
A. This is a -- it's just a overall layout of the residence; so it's got where the location of the living room is, the bedrooms, the bathroom, the kitchen.
Q. And would this be helpful in you explaining which --
A. Yes, ma'am.
Q. --- rooms you were in showing the jury?
A. Yes, ma'am.

SOLICITOR CAMPBELL: Can we have an easel?

Your Honor, may the witness step on over here?

THE COURT: Yes, ma'am.

SOLICITOR CAMPBELL: Thanks.

(WITNESS LEAVES WITNESS STAND.)

Q. And you have to talk real loud so the court reporter can hear you.

A. Yes, ma'am.

Q. Okay. Let's you and I trade places so you can be heard.

A. Okay.

Q. Showing -- can the jurors see? Describe the house and walk through it.

(WHEREUPON, STATE'S EXHIBIT NO. 221, PREVIOUSLY IDENTIFIED AND MARKED AND RECEIVED INTO EVIDENCE, PUBLISHED TO THE JURY.)

A. Okay. So this is the front porch where we were showing the photographs. This is the living room. This is where the cup was, the fork, the dog collar, and this is the living room. Once you come down the hallway, the kitchen is back up this way, and this is the rear door of the residence.

Coming further down the hallway you've got Bedroom 1, which is just -- I usually just start and designate bedrooms, what numbers, to kind of make it easier when

you're looking at the photographs and the scene, and the sketch. Then you come down to the bathroom; then you come further down and you've got Bedroom 2 and 3, with different things in closets.

Q. And were the kitchen area, those are the photographs in your hand?

A. Yes, ma'am.

Q. And it's showing the jury, can you walk them through, kind of, what you saw as you entered the kitchen, what areas it's showing?

A. Yes, ma'am. This is State's Exhibit 79, and this is walking straight --

Q. You have to show everybody.

A. Okay. As you walk through this door, that's what we saw. It's the microwave and the counter.

Q. Okay.

A. State's Exhibit 80, this is showing -- this is looking from over by the kitchen door, looking into and over the stove at the refrigerator.

State's Exhibit 81 is again looking from this corner at the dog cage and the washer and dryer machine.

Q. Was the dog there?

A. Yes, ma'am. He was in the crate or cage.

Next is State's Exhibit 82, and this is showing the back door and the sink in the kitchen.

Q. And was there anything unwashed when you got on the scene?

A. Yes, ma'am. There's -- on the right side there was several dishes in the sink.

This is State's Exhibit 83. This is a closer photo showing the microwave, the knife block, the cabinets, the sink; just kind of showing what all's in the kitchen.

State's Exhibit 179 is as you're standing over by this door, in front of the washing and drying machine. This is looking towards that trash can, and this is that trash can that is designated in the diagram.

Q. And that's how it was when you got there that day?

A. Yes, ma'am. State's Exhibit 180, this is looking into the trash can when we opened it up.

Q. So all the photographs you're talking about were taken before, and then you go back ---

A. Yes, ma'am.

Q. --- and take certain -- open certain items?

A. Correct.

Q. Room by room?

A. Yes, ma'am.

Q. And in this case you opened the trash can in the kitchen?

A. Yes, ma'am.

Q. And what's in the top of that trash can?

A. There's a bag of cheese puffs.
Q. And did you take -- did you eventually go back and -- since we're in this room -- and get some items?
A. Yes, ma'am. We ended up -- what we do is, when we document a trash can or anything that has items within it, we'll take several photos and, more or less, layer by layer, work your way down, so you're not missing anything as you're taking items out of the trash can.
Q. Okay. And starting with 180, is that how it appeared when you first opened it up?
A. Yes, ma'am, it is.
Q. And the item that's on the top is what?
A. It's a -- it's a orange and blue bag of cheese puffs.
Q. And at that time did you know of its significance?
A. No, ma'am.
(WITNESS RETURNS TO WITNESS STAND.)
Q. And then, I show you State's Exhibit No. 84.
What's been removed at that point?
A. So at this point we've removed the cheese puffs, and again we're into the lid of the trash can, and we're just working our way down, searching through the trash can.
Q. The next item you can see, is this the condition -- what is this item, this blue?
A. It's a blue towel.
Q. And is that the condition it was before you removed

it?

A. Yes, ma'am.

Q. And then, once you removed it, I'll show you 85, 86.

Is that kind of how it looked laid out?

A. Yes, ma'am. We lay it out and try and look for any -- anything on it, to look for discoloration or anything that's not supposed to be there.

Q. State's Exhibit No. 87, what is this, and 88?

A. That is when we open I tall the say up you can see that there is suspected fecal matter on the towel itself. And then, State's Exhibit 87, was -- it came out of the towel.

Q. And then, State's Exhibit 89 and 90 are ---

A. Again, they're showing the towel.

Q. --- same towel?

A. Yes, ma'am.

Q. As you went further into the trash can, did you find some children's clothing?

A. Yes, ma'am, we did.

Q. I'm going show you State's Exhibits No. 91.

What are those?

A. Those are two pairs of child's underwear that we found in the trash can.

Q. And did they have anything on them that caught your attention?

A. Inside, there was suspected fecal matter.
Q. And then, closeups, 92 and 93; and then, 94 and 96 are what you were just talking about?
A. Yes, ma'am.
Q. And 97 is a closer-up of one of those?
A. Yes, ma'am.
Q. Further down, in State's Exhibit No. 98.
A. Again, we just go layer by layer and look for anything that we think could be deemed necessary or important to the case.
Q. And then, ultimately ---
A. We found --
Q. --- in 100 and 101, you see some --
A. Some form of hair in the bottom of the trash can.
Q. Okay. And is that pretty much -- and them some of your photographs from the kitchen?
A. Yes, ma'am.
Q. Was there a calendar on the wall in the kitchen?
A. Yes, ma'am, there was.
Q. And did you ultimately collect that?
A. I did not collect it, but we did document it. We photographed it, and then while we were on-scene ---
Q. There?
A. --- Lancaster Police Department took it.
Q. Okay. I'm going to show you State's Exhibit No. 113.

What does this show?

A. That shows a -- it looks like hanging eggs on the hallway, and it would be on this wall here.

Q. And that's looking down the hallway?

A. Yes, ma'am.

Q. And on the left side, if you're walking down the hallway, are two rooms?

A. Yes, ma'am.

Q. And which rooms are those?

A. Bedroom 1 and 3.

Q. 1 and 3?

A. Yes, ma'am.

Q. And then, what's on the right side?

A. The bathroom and Bedroom 2.

Q. Bedroom Number 1, I'm going to show you State's Exhibits No. 164 and 165. Where were those photographs taken?

A. Those were taken from the hallway-kitchen area, looking into the bedroom.

Q. And this item here in the middle, what is it?

A. It appeared to be a child's bed.

Q. State's Exhibit 166, 167?

A. This is just as you walk in the room. Again, I start one direction, work another, and just try to document everything that's in that room, and that's what that's

showing.

Q. And 108 is a good --

A. Kind of overall, the bed and what was in the bedroom.

Q. State's Exhibit 169 and -- 109 and 110, sorry.

A. This is in the bedroom, looking back towards -- in the background you can see the kitchen. So it's looking from the bedroom, back towards the bedroom door.

Q. And finally, I believe there's a closet?

A. Yes, ma'am.

Q. Did you document that?

A. Yes, ma'am. Those are the photographs of the closet.

Q. Okay. And did you collect anything of significance in there?

A. Not that I recall. No, ma'am.

Q. Moving on. I'm going to show you what's been -- what's on your diagram as Bedroom 3, which is where?

A. Bedroom 3 is right next door to Bedroom 1, on that same side of the residence?

Q. On the corner?

A. On the -- it's the corner on the front side.

Q. Okay. Show you State's Exhibit No. 129.

What does that show?

A. That's a photograph just showing into the bedroom.

Q. That's a little hard to see on that one.

A. It is.

Q. But as you walked in the bedroom in State's Exhibit No. 130, what is this?

A. It looked to be a little floor space heater.

Q. And I think you took it from an angle. What's -- what angle is that?

A. That's in the bedroom, looking back towards the hallway.

Q. And the heater, did you document the reading on the heater that day?

A. Yes, ma'am. I did photograph it, and I believe it was 86 degrees.

Q. And does it appear to be operable since it's lit up?

A. Yeah. And from what I remember, you could hear it running.

Q. State's Exhibit No. 133 and 134 show?

A. That's the one -- 133 is showing the bedroom door, and 134 is the closet door of the bedroom.

Q. In that bedroom, do you recall how many beds were in there?

A. I think there was one.

Q. I'm going to show you State's Exhibit No. 135.

Do you recognize that?

A. Yes, ma'am. That's the bed.

Q. And is that bed on box springs, or how is it located?

A. No, ma'am. It's located on the floor.

Q. I'm going to show you State's Exhibit No. 136. What does that show?

A. That shows between the bed and the dresser, looking in the bedroom.

Q. And then State's 134, you said this was the closet door?

A. Yes, ma'am.

Q. Okay. And what is over here?

A. It appeared just to be child's -- like, a little bin with some sort, or an end table?

Q. Okay. Does it corroborate with 135?

A. Yes. The pink blanket you can see in both photographs.

Q. Okay.

A. So the bed would be to the left of the photograph on the right.

Q. And is there a little pink lamp on that?

A. There is.

Q. 137.

A. Showing the closet, inside of the closet.

Q. And 138, and one -- well, 138.

A. 138's showing that wall behind the bedroom door.

Q. 139 and 140 are about the same?

A. Yes. And that's showing -- I believe that's the closet door, on the other side of the closet door.

Q. And 141?
A. It's showing the bed and the table next -- or the chest next to the table -- or the bed, excuse me.
Q. And when you looked in this room, especially in that bed, did you notice any -- observe and fecal matter that you documented?
A. No, ma'am.
Q. Did you observe any other kind of body fluids, such as vomit, or anything else?
A. No, ma'am.
Q. And that was Bedroom 3, correct; on the diagram?
A. Yes, ma'am.
Q. Once you had finished with the overall in Bedroom 3, did you then look in some of the drawers?
A. Yes, ma'am, wedid.
Q. I'm going to show you State's Exhibit No.
Was there a dresser in Bedroom 3?
A. Yes, ma'am, there was.
Q. And is that shown on there?
A. It'd be right here, at the foot of the bed.
Q. And when you opened up that dresser, what did you observe?
A. So we opened it up, there was some child's clothes, and there was a little bit of a med -- or there was a medicine bottle in there, too.

Q. And I believe State's 145 shows a closeup of that medicine bottle?
A. Yes, ma'am.
Q. And then, State's 143, what were those items you found?
A. Several -- or there was a couple belts that were found in that drawer. Or in that chest.
Q. In the chest in one of the drawers?
A. Yeah. It was in one of the drawers in the chest.
Q. And 144?
A. Again, showing those belts.
Q. And this was in the room?
A. Bedroom 3. It was the front corner bedroom.
Q. And it had children's clothes in it?
A. From what I remember. I don't remember.
Q. Okay. And let's finish the bedrooms. Bedroom 2 is located on which side of the house?
A. It would be on the back side of the residence. So as you come down the hallway, it would be on your right.
Q. And what's the room next to it?
A. The bathroom.
Q. Okay. State's Exhibit No. 114 just shows in the hallway?
A. Yep.
Q. And then, State's 115 and 116 ---

A. These are looking into the bedroom.
Q. --- what is the orientation on those?
A. So this is from the bedroom door, looking into the bedroom.
Q. Were there any beds in this room?
A. No, ma'am. Not that I remember.
Q. State's Exhibit 117, and then 118?
A. Just, again, overalls of the room, showing what is in the room.
Q. And 119?
A. It shows the closet in that back corner and the tables in that corner of the bedroom.
Q. And 120?
A. This is looking from that corner, or from the back corner of the bedroom, towards the bedroom door, and showing the closet as well.
Q. 121 and 122?
A. This is in the opposite corner where we just were, showing the closet; and then, in that one looking towards the front of the bedroom door again.
Q. And what items were in the closet, what type of items?
A. A bunch of shoes and clothes.
Q. And then, finally, 123 and 124?
A. This is showing the wall, when you walk into the bedroom it would be the wall on your right, and there's two

chests and a hamper in the middle.

Q. And 125?

A. This is showing in the closet.

Q. And what's this down at the bottom of the closet?

A. A pair of boots.

Q. So those were actually partially outside the closet?

A. Yes, ma'am.

Q. And again, 126 and 127 show the interior closet?

A. Yes, ma'am.

Q. And did you find an unloaded rifle in the closet?

A. Yes, ma'am.

Q. And you documented that as well?

A. Yes, ma'am.

Q. Were there any items of evidence that you collected in this room?

A. Yes, ma'am. From the hamper.

Q. And that's the hamper that was between the two dressers?

A. Yes, ma'am.

Q. Let me back up a little. State's 146 and 147, do you remember what those are?

A. It looks like instructions to a bed.

Q. And you did find a child's bed in that front bedroom, the first bedroom we talked about?

A. Bedroom 1, yes, ma'am.

Q. The hamper's in State's No. 148?
A. Yes, ma'am.
Q. And 149 is --
A. Yes, ma'am.
Q. Once you started pulling things out of the hamper -- I'm going to show you State's Exhibit No. 152 and 153.

What are those items that were in the hamper that day?

A. That was a blue mat that appeared to go around the toilet.
Q. State's Exhibit No. 154?
A. It was another blue bathroom mat.
Q. A different one?
A. Yes, ma'am. It was rectangular in shape.
Q. And those were found inside the hamper in the --
A. Bedroom Number 2.

MR. BURTON: Your Honor, if the Solicitor would like Agent Schenck, please identify the photos instead of doing them herself.

THE COURT: I'm sorry?

MR. BURTON: If the Solicitor is explaining to the jury what the photos are, and I wish she would let the agent do that.

SOLICITOR CAMPBELL: I'm sorry, your Honor. I'm just trying to keep things moving. I'll be careful.

Q. State's Exhibit 155, what does that show?

A. That's a pair of jeans that was in the hamper.
Q. And 156?
A. Another pair of jeans that were in the hamper.
Q. And 157?
A. Those are driver's license that came from those jeans from the hamper.
Q. And whose name is on the driver's license?
A. Kayla Marie Cook.
Q. And State's Exhibit 150 and 151?
A. This is a sock we found with some sort of yellow substance on it.
Q. And what was the consistency of that?
A. Mayonnaise, slime-ish. It was -- it's hard to describe.
Q. Item -- were there any washing machines or dryers located in this house?
A. Yes, ma'am, in the kitchen.
Q. And I forgot to pull this out from being in there.
Did you ever photograph any of those items?
A. We photographed them as they stayed in the machines, but we didn't -- I don't remember taking them out and photograph the individual items of clothing.
Q. I'll show you State's Exhibit No. 158.
Do you recognize that?
A. Yes, ma'am. That's a photograph looking into the

washing machine.

Q. And how did that appear that day?

A. It appeared that there was just clothes in there, and that's how we found it.

Q. Was there anything significant about the appearance?

A. No, ma'am.

Q. Do you recall if they were wet or dry, or . . .

MADAM COURT REPORTER: I'm sorry, ma'am. Could you repeat that? I can't hear you.

SOLICITOR CAMPBELL: I'm sorry.

A. I don't remember if they were wet.

Q. I'm going to turn your attention to the bathroom.

State's Exhibit No. 160, what does that show?

A. That shows from the hallway, looking into the bathroom, and the bathroom sink.

Q. And how many bathrooms were in this house?

A. Just one.

Q. I show you State's Exhibits No. 161 and 162.

A. These are, again, just showing overall photographs of the bathroom, showing the toilet and the tub; and the sink.

Q. State's Exhibit No. 163, where is that in the bathroom?

A. That's between the sink and the wall, and that's a hamper.

Q. Do you know what was in that hamper?

A. There was a pink towel.
Q. State's Exhibit 164, and then 165?
A. This is showing the top and the bottom of the sink and what's underneath the sink.
Q. State's 166?
A. This is showing the toilet next to the tub in the bathroom??
Q. State's Exhibit 167 and 168?
A. This is looking into the tub, and you can see there's -- there was a little bit of brown water. Well, what -- it appeared to be water, but there was a brown liquid at the bottom of the tub when we got there.
Q. State's Exhibit 169 and 170?
A. Again, these are both just showing the tub.
Q. 171?
A. This is showing the hanging basket on the shower head in the tub.
Q. And there was a shower head there, right?
A. I believe so. Yes, ma'am, there is.
Q. And then, State's 172, what does that show?
A. That's showing the -- she had, like, a -- or they had a cabinet shelf above the toilet.
Q. What is this thought?
A. That looks like a towel, a child's towel.
Q. State's Exhibit 173?

A. This is looking into the toilet, and you can see there's paper or some sort of paper product in the bottom of the toilet.

Q. And again, State's 174; '74 and '75?

A. This is showing the pink towel that was in the hamper next to the sink.

Q. And did you make any observations as far as that?

A. No, ma'am.

Q. And where was this located?

A. This was in the hamper next to the sink, between the wall.

Q. And State's 176, where are those items taken from?

A. I believe they were from under the sink, and we're just documenting what type of medicines they had.

Q. Okay.

THE COURT: Counsel, let's take about a ten-minute break.

SOLICITOR CAMPBELL: Thank you.

THE COURT: Mr. Foreman, while you are back in the jury room, will you check with your jurors and see if they're available to work through about 6:00 o'clock tonight? Thank you, sir.

(JURY EXITS COURTROOM AT 04:30 P.M.)

THE COURT: You can step down, just don't talk to anybody. Don't talk about your testimony.

SOLICITOR MCGINNIS: Yes.

THE COURT: Is that okay with you, Mr. Burton?

MR. BURTON: Yes, your Honor, it is.

THE COURT: Okay. Remind me, please, if you don't mind, Ms. McGinnis?

SOLICITOR MCGINNIS: Yes, sir, your Honor.

THE COURT: All right. Thank you.

SOLICITOR MCGINNIS: Thank you so much.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 04:43 P.M.)

THE COURT: Does the jury have a problem working until around 6:00 o'clock tonight?

MR. FOREMAN: No, your Honor.

THE COURT: Thank you so much. All right.

SOLICITOR CAMPBELL: May it please the Court?

BY SOLICITOR CAMPBELL:

Q. Agent, you testified you collected certain items that were also photographed, and I'm going to show you State's Exhibit No. 217. Do you recognize that?

A. Yes, ma'am, I do.

Q. Is that one of the items you collected?

A. Yes, ma'am.

Q. What is that item?

A. This is a pair of underwear from the trash can in the

kitchen.

Q. And those photographs -- you took photographs of those as well?

A. Yes, ma'am.

Q. Then, State's Exhibit No. 216?

A. This is the red pair, this would be the pink pair. So these are both the underwear from the trash can in the kitchen.

Q. Okay. And then, finally, State's Exhibit No. 220, what is that? It's already in evidence.

A. This is the blue in color towel from the trash can next to the sink in the kitchen.

Q. Okay. I'm going to show you State's Exhibit No. 207. What is that item?

A. This is the calendar that was hanging on the wall in the kitchen.

Q. And ultimately that was collected by another agency, but it was in your photographs?

A. Yes, ma'am.

Q. Finally, State's Exhibit No. 218, do you recognize that?

A. Yes, ma'am. This is the fork that was in the living room next to that footstool.

Q. And you collected that, that day as well?

A. Yes, ma'am.

Q. Finally, I want to show you Items 215, 214, and 219, and ask if you recognize these.

A. Yes, ma'am. 215 is the blue in color bath mat from Bedroom 2. 219 is the white sock from the bedroom, with the -- it had the yellow substance on it. And then, 214 is the bath mat from Bedroom -- from the hamper in Bedroom No. 2.

Q. Additionally, there at the house, I believe you testified there was a cup on a table in one of the -- in the front room?

A. Yes, ma'am, there was, on a child's table.

Q. Did you collect anything from that?

A. We did collect that.

Q. And what was the purpose of collecting that?

A. So, normally we take anything that has -- that the child could have drank, because we weren't -- we weren't sure of what the cause of death was at this point. So we took the cup, so that we could have it sent and processed by our toxicology department, to see if there was anything in the cup that was not supposed to be there that the child could have drank.

Q. And that would've been forwarded to what department?

A. Our toxicology -- or I believe it was our toxicology; it might have been trace. Give me one second.

Q. Okay.

A. The cup was sent to our toxicology department.
Q. And is that pretty much what you did at the scene that day at the house?
A. Yes, ma'am.
Q. Okay. Once you had -- what time did you finish up there?
A. We cleared the residence at approximately 5:57, on -- or 17:57.
Q. Which is?
A. Which is 5:57 p.m.
Q. Thank you.
A. On the 18th.
Q. Once you left there, where did you go?
A. We went to the police department.
Q. And what were you going there for?
A. We went to photograph Kayla Cook and Timothy Schroeder.
Q. And I'm going to show you a series of photographs, 181 through 198. Do you recognize these?
A. Yes, ma'am, I do.
Q. And what are these?
A. These are photographs of Timothy Schroeder and Kayla Cook at the police department.
Q. On what date?
A. This would still be on the 18th of December 2017.

Q. I'm going to show you State's Exhibit 181 and 182. What does that show?

A. That shows Timothy Schroeder, and then a closeup of his face.

Q. And was there anything of significance on his face?

A. Yes, ma'am. He had -- I believe it was on his right cheek, he had some sort of discoloration.

Q. And were there any other points of injury that you noted as you photographed him?

A. Not that I remember, no, ma'am.

Q. And did you photograph his hands as well?

A. Yes, ma'am.

Q. And was there anything on those?

A. No, ma'am, not that I remember.

Q. And finally, State's Exhibit No. 188.

A. This is, because there was some sort of discoloration on his right cheek, we put a scale, just to show the size of it, in the photograph as well.

Q. Did you also photograph Ms. Cook that day?

A. We did.

Q. I'm going to show you State's Exhibit No. 189 and ---

A. That's --

Q. --- and 190.

A. Those are both of Kayla Cook.

Q. And approximately what time was it when you took these

photographs?
A. We arrived at the police department at approximately 17:59, which is real close to 6:00 o'clock; or it's 5:59 p.m., so sometime after then, before we left the police department at 7:11 p.m. So sometime between 6:00 and 7:00-ish.
Q. Did you also photograph her hands as well?
A. We did, yes, ma'am.
Q. Was there anything significant on them?
A. No, ma'am.
Q. State's Exhibits No. 195 and 196, anything significant there?
A. No, ma'am. Well, from what I remember is, we were looking to see if she had any bruising or anything on her legs, and there was -- I don't remember there being anything significant.
Q. Finally, 197 and 198.
A. Those are just -- we photograph tattoos when we photograph folks.
Q. So in your report, do you -- did she have any injuries that you noted?
A. The only thing that we saw was she had pointed out some things on her neck that we documented with photographs, but that was it.
Q. But those weren't injuries?

A. No, ma'am.
Q. Okay. Did anyone actually go to the autopsy the next day from SLED?
A. Yes, ma'am. One of our agents in crime scene, Margaret Polly, went to the autopsy.
Q. And would she have been the one to collect items from the autopsy that might be later processed at SLED?
A. Well, the doctors collect them, or whoever the pathologist will collect them but then they transfer them to our agents, who then transfer them to me.
Q. And what items did you ultimately receive in this case?
A. From her, I got two gray-topped tubes of blood that we normally send to toxicology, for them to do any testing, see what all's in the victim's bloodstream. Then we've got a bottle of brain tissue; a bottle of liver tissue; one lavender tube, which we use as a blood standard. It goes to our DNA department. We got three brown envelopes containing swabs from the rectum, the vagina, and the oral cavities, for semen, from Minor [redacted]. We call it a criminal sexual conduct kit, a CSC kit; a brown envelop containing four swabs from the vagina, for DNA analysis, from Minor [redacted]; and then two brown envelopes containing two swabs each, with rectal -- each from the rectal and oral cavities of the victim.

Q. And are those items pretty much standard in a child homicide?

A. Yes, ma'am.

Q. Did you collect any DNA evidence or DNA swabs at the scene?

A. No, ma'am, we didn't.

Q. Why not?

A. Everybody lives in the house that we were looking at, and it -- everything was right there, so it didn't make sense to photograph -- or, I'm sorry, to collect DNA swabs. There's no information that led us into thinking that we needed to, and all -- you know, with everyone being over the victim from her, it's -- it didn't make sense for there to be any DNA that we needed to collect.

SOLICITOR CAMPBELL: Beg the Court's indulgence.

Thank you. I don't have anything further.

CROSS-EXAMINATION

AGENT TODD SCHENCK BY MR. BURTON:

Q. Just a few questions, Agent Schenck.

A. Yes, sir.

Q. Just so the jury fully understands the pictures of Kayla's hands, there weren't any marks ---

A. Not that I remember.

Q. --- on them at all?

A. No, sir.

Q. And I'm not going to dig the pictures out right now, I'll save those for later. But you encountered two damaged doors in the house, didn't you, and photographed them?
A. Yes, sir.
Q. One damaged at the bottom, and one damaged right above the middle?
A. I remember the one on the bottom. I'd have to look at the photographs to remember the one --
Q. You know definitely there's one in there just for the sake of --
A. I believe they were -- I believe both doors had damage to them.
Q. Okay. And the house had a central gas system that was right at the end of the hallway, didn't it?
A. There was some sort of metallic object. I wasn't sure what it was.
Q. Yeah. So if I suggested to you it was a gas heater, I mean you didn't try and operate it or anything?
A. No, sir.
Q. And the tub that looked at, that was a cast-iron tub. That wasn't a nice plastic tub or anything, was it?
A. I don't remember or know what the tub was made of, sir.
Q. Okay. And inside the toilet, if I were to tell you those were wet wipes, would that agree with pretty much

what you saw?

A. I couldn't tell you what type of paper product was in the bottom of the toilet.

Q. Could -- that's what it could've been, though, right?

A. It ver -- it could've been.

Q. And the solicitor asked you about the cup toxicology, but she didn't ask you about were there any results of the toxicology on the cup.

SOLICITOR CAMPBELL: Objection, your Honor. I can't.

MR. BURTON: I'm sorry.

THE COURT: All right. Did you get that? Did you ask -- I'm sorry I didn't catch it. What was the --

MR. BURTON: I'll just withdraw it, your Honor.

THE COURT: Okay.

SOLICITOR CAMPBELL: Its not admissible.

THE COURT: All right. Go ahead.

MR. BURTON: Let's see. That's all the questions I have. Thank you.

THE COURT: All right. Very good. Any re-direct?

SOLICITOR CAMPBELL: No, sir.

THE COURT: All right. Thank you, sir. May this witness be excused?

SOLICITOR CAMPBELL: Please.

THE COURT: Thank you.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR CAMPBELL: The State would call Miriam Myers. And I believe she's in the hallway. It'll take us just a second.

THE COURT: Okay.

(WHEREUPON, MIRIAM MYERS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

MIRIAM MYERS BY SOLICITOR CAMPBELL:

Q. Ms. Myers, are you from Lancaster?

A. Lancaster, Pennsylvania.

Q. Okay. So you're from Lancaster, Pennsylvania?

A. Yes, ma'am.

Q. Okay. And where are you living right now?

A. Lancaster, Pennsylvania.

Q. How long have you been living there?

(No response.)

Q. Are you nervous today, a little bit?

A. I am. I'm sorry. Weaver just turned eight. Minus the nine months we lived here in Lancaster, we've lived there for eight years.

Q. Maybe I should proceed to that. When did you live here in Lancaster, South Carolina?

A. Okay. I lived here in the year 2017 I'd say from February.

Q. And where were you living in Lancaster?

A. Heath Circle. [redacted] Heath Circle.

Q. [redacted]?

A. Yes, ma'am.

Q. Who were you living with on Heath Circle?

A. My husband and my five children.

Q. Your five children?

A. Yes, ma'am.

Q. Did you ever meet a young woman named Kayla Cook?

A. Yes, ma'am.

Q. Did you meet Scottie Schroeder?

A. Yes.

Q. And what was their relationship as you knew it?

A. They were dating, together, and they were living in the same household.

Q. And did they live in the neighbor --

MR. BURTON: I'm sorry, your Honor. I couldn't hear what she said.

A. I'm sorry. They were dating; they lived together in the same household.

Q. And where were they living -- were -- what town were they living in?

A. The house next door.

Q. To you?

A. Yes.

Q. On Heath Circle?

A. Yes, ma'am.
Q. And what kind of relationship did you develop with Kayla and Scottie once they moved in?
A. We developed a small friendship. I mean, it was new. They were only there for so long, but yeah.
Q. And that was my next question. Had they been there very long?
A. No, they had only been there about a month.
Q. Did you know whether or not they had any children?
A. Yes, ma'am. There were three between the two of them.
Q. Three?
A. Yes.
Q. And do you remember their names or how old they were?
A. Yes. Wyatt, at the most, I'd say was eighteen months at the time. He was very young. Phoebe would've been I'd say five at the time. And Minor had turned three on [redacted], exactly a month before my birthday. Yes.
Q. It was a month before your birthday?
A. Yes. [redacted] was her birthday.
Q. And did you actually go to her birthday party?
A. Yes, ma'am.
Q. And where did that take place?
A. In their home.
Q. I want to turn your attention to the morning of December the 18th. Were you home that day?

A. Yes.
Q. And what were you doing that morning before things kind of caught your attention?
A. First, I was just hanging out with my husband and my daughter. Our youngest was the only one that was at home at the time. And I went down the road to the Dollar General. On my way back --
Q. So you had gone to the store that morning?
A. Yes. I just walked down to the Dollar General. It's only a couple blocks.
Q. So you were outside of the neighborhood?
A. Yes.
Q. Okay. And you said you were coming back. I'm sorry I interrupted you.
A. Oh, that's fine. Yes. I was coming back, and I had seen my neighbor, Laura.
Q. Laura?
A. Yes. She lives at the top of the hill, and ---
Q. Okay.
A. --- she had asked me for a cigarette, and I said I'd go home and grab one, and that's what I was doing.
Q. So you were going to go home and get her a cigarette, I think you said?
A. Yes, ma'am.
Q. And what did -- did you do that?

A. I was stopped, but I went into my house. I was talking to my husband, telling him how I was getting her a cigarette. And as I was closing the door behind me, Kayla came up and grabbed the door at the same time that I was closing it.

Q. And where were you; were you walking in or out of the door?

A. I was walking into the door and shutting it behind me.

Q. What door was this?

A. This is our front door.

Q. Okay. So you were walking through the front door?

A. Yes, ma'am.

Q. And who came up behind you?

A. Kayla.

Q. And what did she do?

A. She grabbed the -- she kind of grabbed my hand and the door at the same time because we were still coming in. And she was like, Mindy, I need your help right now; Minor's not breathing, Minor's not okay, so I need your help, something's wrong.

Q. Was that the first moment you noticed her was when she grabbed you?

A. Yes, ma'am.

Q. You didn't hear her before that?

A. No.

Q. You didn't see her before that?
A. No.
Q. And that was as you were walking in your door?
A. Yes, ma'am.
Q. What happened as she said that to you about needing help?
A. We both just started running towards her house.
Q. What happened when you got to her house?
A. I walked in and I saw Minor on the couch, with the blanket pulled up to here.
(WITNESS DEMONSTRATED.)
Q. Okay. And what was Minor doing?
A. She was just laying there. She wasn't moving.
Q. What happened next?
A. I walked closer, and I saw that Minor was blue, like, blue. She was very blue. I pulled the blanket off of her, and I started just poking everywhere for a pulse. And I slapped her feet a couple of times, that's what they teach you to do in CPR. When you're trying to revive a baby you just slap the bottom of their feet. And then, I couldn't get anything from her, no breath signs, no heartbeat, nothing and I started poking at -- like, I pulled her shirt up, and I started poking at her abdomen to see if I could get any heat, because she was ice cold. I was trying to see if I could get any heat ebbing out of anywhere.

Q. What happened next?
A. I decided to move her onto the floor because she was in a bad position to get an airway. So I moved her onto the floor, and I did a head tilt jaw thrust to get the airway open.
Q. You did what? I'm sorry.
A. It's a head tilt jaw thrust. It's when you push the jaw forward, and it helps open up the airway.
Q. Have you had some training in this area?
A. Yes, ma'am. I took CPR when I was in high school, and then I was a lifeguard at Big Kahuna's Water Park in Destin, Florida.
Q. So you've actually had training in CPR?
A. Yeah.
Q. So you know how to do it correctly?
A. It's been awhile since I've had the training, but yes.
Q. So you were trying to open up her airway?
A. Yes, ma'am.
Q. And at some point did you start trying to administer CPR to her?
A. Yes, ma'am. Right after I opened her airway, I had started, and then our other neighbor, Earlene, had come in, and she, I guess, had been a nurse in a previous life, and started helping with chest compressions while I did breaths, so.

Q. And at some point, did some more people come into the room?

A. I mean, with Earlene came half the neighborhood, yeah.

Q. And did law enforcement ever show up?

A. Yes. Marika was on the phone with 911, and law enforcement came in like a tornado. They were in the room for probably three seconds, and they decided to take her to the hospital right then and there.

Q. And did you go with them to the hospital?

A. No, ma'am.

Q. Did you stay there at the scene?

A. Yes. I stayed there, and I took care of Kayla's youngest, Wyatt, until her sisters were able to get here to pick -- get there to pick him up.

Q. And how long did you stay with Wyatt that day?

A. Quite a few hours. I'm sorry, I don't particularly remember the exact time line. Everything was such -- slow and fast all at once.

Q. Do you remember how Minor was dressed that day when you got over there?

A. Yeah. It was like a little -- little sweat outfit.

Q. Prior to this day, when was the last time you had seen Minor?

A. Probably the week before.

Q. The week before?

A. Yeah. It had been quite a little bit since I had seen them.

Q. Okay.

SOLICITOR CAMPBELL: Your Honor, may we approach?

THE COURT: Yes, ma'am.

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 05:04 P.M.)

THE COURT: Ladies and gentlemen, the evidence you're about to hear, with regard to --

It's the right humerus; is that correct?

SOLICITOR CAMPBELL: Correct, sir.

THE COURT: Is to be received by you for the limited purpose, and the only purpose towards whether the State has met what the elements, the statute towards the elements, the statute requiring extreme indifference. I'll charge you about that later, but any consideration of this testimony following in just a moment must be limited to that purpose and that purpose only. Okay.

SOLICITOR CAMPBELL: Thank you.

THE COURT: Any additional requests to charge?

MR. BURTON: No, your Honor. Although I renew my objection over --

THE COURT: Right. It's noted, for the record. Thank you, sir.

BY SOLICITOR CAMPBELL:

Q. You go by Mindy?

A. Yes, ma'am.

Q. Mindy, in the weeks prior to this, had you had some interaction with Minor?

A. Yeah, in the weeks prior, yes.

Q. Okay. And had you noticed that she had something wrong with her arm?

A. Yes, ma'am.

Q. Can you tell the jury about that?

A. I went over there one day and the kids were playing, and Kayla had said that she hurt her arm. And then, when I was in the bathroom -- or I'm sorry. I had taken Minor to the bathroom at one point because Kayla asked for some help, and I put her on the potty, and I accidentally hit her arm; and she said, ow, ow, ow, ow, ow!

Q. And did Kayla tell you how that had happened?

A. Kayla told me she fell off the bed.

THE COURT: I'm sorry, I missed the response.

Step up here if you can.

Come here, Mr. Burton.

(BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF THE JURY AT 05:07 P.M.)

BY SOLICITOR CAMPBELL:

Q. The judge has ruled you can say it all.

A. Okay. All right. That's just so I didn't --

Q. Don't say anything else about what Minor said.
A. Yes. Minor -- Kayla told me that Minor was saying that -- and she was saying Mommy did it, and pointing to Kayla. That's what Kayla had said. That Kayla had said --
Q. That Kayla told you that?
A. Yes. Kayla told me. I had not -- I have not -- I had not heard Minor say that, Minor never said that to me, but that's what Kayla was saying.
Q. And that's what Kayla told you about what Minor said about the arm?
A. Yes.
Q. You stayed with Wyatt most of the day that day?
A. Yes, sir. Yes, ma'am. Sorry.
Q. And then, at some point did somebody come and get Wyatt?
A. Yes.
Q. And who was that?
A. Kayla's sisters. I don't remember both of their names. One of them is Kerrin.
Q. Okay. And that day, into that evening, did you have any further contact with Kayla or with Scottie, or anybody?
A. Not until early in the morning.
Q. And tell the jury about that. Where were you, and what happened?

A. I was asleep, but I guess Kayla got dropped off at three o'clock in the morning, around there. And my husband was outside smoking a cigarette, and he went over, and she was -- from what he described, she was a mess. She was over there crying, couldn't even walk into her house. So he went in with her to help her get some things out, and then he let her stay on our couch.

Q. Okay. And did she stay the night?

A. Yes, ma'am.

Q. And the next day, was she still at your house?

A. Yes, ma'am.

Q. And while she was there, did she say anything about her mental state?

A. She started talking about harming herself and killing herself, and wanted to be with Minor

Q. And what did you do as a result of that?

A. I think I had convinced her to call her mom, and I think that's how it all started, and then her mom convinced her that we should take -- go to the hospital. I had been saying that I felt that way, and her mom helped convince her to -- to do that.

Q. And again, this is the next day?

A. Yes, ma'am.

Q. And did you, in fact, take her to the hospital?

A. Yes, ma'am.

Q. And what hospital did you take her to?
A. I took her to Charlotte, the one -- the big one in Charlotte that I can't remember the name of. She had specifically asked not to go to Springs because that's where Minor died.
Q. Did you talk with police that same day?
A. Yes, ma'am.
Q. And kept them informed about what was going on?
A. Yes, ma'am.
Q. And also about what you knew, pretty much?
A. Yes, ma'am.
Q. And once left her in Charlotte, did you have any further contact with her?
A. No, ma'am.
Q. And sometime shortly thereafter, you all moved?
A. Yes, ma'am.
Q. And why did you all move down here to begin with?
A. My parents live around here.
Q. Okay. But you're from Lancaster, Pennsylvania?
A. Yes.
Q. Okay. The person you know as Kayla, do you see her here in the courtroom?
A. Kayla Cook?
Q. Yeah.
A. Yes, ma'am.

Q. Could you point her out to the jury? Seated at the table with two men here?

A. Yes, she's the one with the blue shirt on.

Q. Okay.

A. Nodding her head.

SOLICITOR CAMPBELL: I don't have anything further, your Honor.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

MIRIAM MYERS BY MR. BURTON:

Q. Mindy, do you remember talking to me on the telephone?

A. I'm sorry, it's hard to remember your face from the phone. I'm sorry, I don't.

Q. No? Do you remember somebody that identified themselves as Kayla's attorney ---

A. Yes.

Q. --- who called you on the phone?

A. Yes, sir.

Q. And do you remember talking to that attorney?

A. Yes, sir.

Q. Okay. And you'd also kind of briefly talked to Sergeant Johnson?

A. Yes.

Q. Uh-huh.

A. I don't know if that was -- I believe that's the police officer that had me in his car.

Q. And when he put you in the vehicle with him ---

A. Yes.

Q. --- and talked with him ---

A. Yes, that was him.

Q. --- a couple minutes. And you testified pretty much the same way you just testified, that when Kayla encountered you she was frantic and ---

A. Yes, sir.

Q. --- begging for help? To change subjects a little bit, and if you don't remember anything about this or the people I'm talking about, but did you happen to witness an incident where Wyatt's dad came to the house?

A. Yes.

Q. Okay. Could you tell us a little bit about that?

A. I guess Scottie had to leave or wasn't there for some reason, and Kayla asked me just to come outside, to make sure that everything was okay. When he came and --

SOLICITOR CAMPBELL: Objection, your Honor, as to relevance on this line of questioning.

THE COURT: What's the relevance of this line?

MR. BURTON: There's an issue that -- I don't know what she's going to say, but there was some incident between Timothy Scott --

THE BAILIFF: The jury'S coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 05:17 P.M.)

BY MR. BURTON:

Q. Okay. I just have one more question for you, Mindy.

A. Okay.

Q. And you do remember talking to me, and also Sergeant Johnson. I was just going to ask you, you didn't mention that about Kayla saying that Minor said that Mommy did it to either one of us, did you?

A. I remember the day that I spoke to the police officer, when -- the day Minor passed. They had actually told me that Minor's arm was broken; they said, do you remember --

Q. Who told you?

A. The officers.

Q. All right. I'm afraid I can't let you testify to what ---

A. Well, so --

Q. --- the officers said.

A. No, I was just saying -- so I remember being confused by what they said. I only knew Minor hurt her arm. I didn't know. So I -- I think I may have answered those questions incorrectly because they were saying one thing, and I was on a different page. Does that make sense?

Q. I think I'll leave it right there.

A. Okay.

Q. Thank you.

THE COURT: Redirect?

SOLICITOR CAMPBELL: No, sir.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Please.

THE COURT: Thank you, ma'am.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Will you call out the name of your next witness, please, ma'am.

SOLICITOR MCGINNIS: The State would call Anna Henson next?

THE COURT: Anna?

SOLICITOR MCGINNIS: Henson.

THE COURT: Anna Henson. Now, this is the witness we need to do voir dire on; is that right?

SOLICITOR MCGINNIS: Potentially, your Honor.

THE COURT: Okay. But we're going to do some proffer first; is that right?

SOLICITOR MCGINNIS: Yes, sir.

THE COURT: State -- one second, please.

I have to take some matters outside your presence. I need to hear it before we go further. Go back to your jury room for a few minutes please.

(JURY EXITS COURTROOM AT 05:19 P.M.)

THE COURT: Okay.

SOLICITOR MCGINNIS: She wasn't. --

THE COURT: Okay.

SOLICITOR MCGINNIS: Judge, is Ms. Henson excused? May she be excused?

THE COURT: Yeah, I didn't -- Yes, ma'am, you are excused. Thank you.

SOLICITOR MCGINNIS: Thank you. All right. Your Honor, I believe she's ready if we want to --

THE COURT: Okay. Good.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 05:34 P.M.)

THE COURT: Would you call your next witness, please, ma'am?

SOLICITOR MCGINNIS: Yes, sir, your Honor. The State would call Tracy Schroeder to the stand.

THE COURT: Come around.

(WHEREUPON, TRACY SCHROEDER, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

TRACY SCHROEDER BY SOLICITOR MCGINNIS:

Q. Good afternoon, Ms. Schroeder. How are you?

A. Hi.

Q. Please state your full name, for the record.

A. Tracy Hill Schroeder.
Q. And who was Minor [redacted] to you?
A. She's my granddaughter.
Q. Okay. At the time this incident occurred in December of 2017, where were you living?
A. I was living with my father-in-law and my husband.
Q. And prior to that, where were you living?
A. I was living with my husband, my son, Kayla, her two kids, and my granddaughter.
Q. And who is your son?
A. Timothy Schroeder.
Q. And is that Minor's father?
A. Yes.
Q. So, tell me the names of the people who were living in that house with you, if you don't mind.
Q. My husband, Scott Charles.
Q. Uh-huh
A. My son, Timothy Scott, Kayla.
Q. Is Kayla in this room today?
A. Yes. She's right there.
Q. Can you describe what she's wearing?
A. She's got a blue shirt on, long hair.
Q. Who else?
A. Her two children.
Q. Uh-huh.

A. Phoebe and Wyatt.
Q. Okay.
A. Minor.
Q. Uh-huh.
A. And myself.
Q. Okay. And while you all were all living together, did DSS become involved in your life with regards to Minor?
A. Yes.
Q. How did they become involved?
A. Well, I was told that they were looking for Michelle.
Q. I'm going to stop you right there.
A. I know.
Q. You can't say ---
A. I --
Q. --- anything anyone else told you.
A. Well.
Q. Let me do it this way. Was there an issue with Minor's biological mother?
A. Yes.
Q. And what was that issue?
A. That someone called.
Q. And do you know specifically what the contents of their report, the report that was made, was?
A. Drug use.
Q. Drug use. Okay. And did you become aware through DSS

that Michelle was not being compliant with them?
A. Yes.
Q. Okay. And so, at some point, what did DSS do, with regards to Minor?
A. They didn't do anything until after I went and got Minor.
Q. But ultimately, did DSS place Minor in your custody?
A. They came to the house and spoke to my son and Kayla.
Q. Okay. And about what time of year was this that this happened?
A. The end of Au -- it was either the end of August or the first of September, because it was before my vacation.
Q. Okay. And when DSS came out to the house and talked to Scottie and Kayla, what did they do after that with regard to Minor's custody and care?
A. Nothing, until October.
Q. Okay. And when did they -- what did they do in October.
A. I went down there in October and signed the kinship paper.
Q. Okay. And what was your understanding of kinship care?
A. My understanding of it at the particular time was, is to keep -- keep peace between my son and Michelle, and let Minor go -- be supervisor over watching Michelle with Minor.

Q. Okay. And Michelle is?
A. Her mother.
Q. Her biological mother?
A. Her biological mother, yes.
Q. Okay. So for some period of time after this paperwork was signed, did you supervise visits with Michelle?
A. Yes, I did.
Q. Okay.
A. I --
Q. How many?
A. Every week, unless -- unless Michelle didn't show up.
Q. Okay. So then, at some point in the Fall, you moved in with your father-in-law and your husband?
A. Yes.
Q. Tell me about why you moved in with them.
A. Because he -- he had went to the hospital earlier -- a few -- I think it was in October, I can't quote you on -- be quoted on that, because he fell. He spoke to my husband, asked my husband if we could move in. We discussed it over probably about a month, between the two of us, and then we decided, yes, that we would do that, and let our home go back.
Q. Okay. So you moved in to care for your father-in-law?
A. Yes.
Q. For the most part?

A. Yes.
Q. Okay. And what was your father-in-law's position on having children live there with him?
A. He said no children, that me and my husband could come only.
Q. Okay. And why was that?
A. Well, he was on oxygen, and he had an oxygen tube.
Q. Was he elderly at this point?
A. Yes.
Q. How old?
A. I think he was seventy -- I can't tell you how old he was.
Q. Okay.
A. I know he was in late seventies.
Q. So at this point, you moved in with them. Where did Kayla and Scottie and the children go?
A. They went to Heath Circle.
Q. Okay. And had you changed that kinship agreement with DSS at all?
A. No. Because I intended on doing -- going to Heath Circle.
Q. Okay. And who said that you couldn't go?
A. Between my husband and my son, they said it was better on me and my health to stay with my husband.
Q. Okay.

A. Because I was -- I had told DSS that I was going to be at Heath Circle between 10:00 p.m. and 4:00 a.m., because I worked. And Kayla was -- watch the babies while I worked.

Q. And did you get permission from DSS for her to watch the --

A. They knew it. Yes.

Q. And they -- let me -- I want to be clear on what they gave you permission for. Was that while Scottie was at work, or while you and Scottie were at work?

A. What do you mean?

Q. Was Kayla allowed to be with the children only when you were around, or with neither you nor Scottie around?

A. Well, I leave at 4:00 a.m. in the morning; he left at 6:00 a.m. in the morning. I didn't get -- I wouldn't have gotten back to the house 'til around 10, and he got home around 4:00, so.

Q. And DSS was aware of these times?

A. Yes.

Q. And they gave permission for Kayla to stay with the children?

A. Yes.

Q. During the day?

A. Yes.

Q. Without any other supervision?

A. Yes.

Q. Okay. And how about Michelle? Are the visits still going on at this point?

A. Yes.

Q. At what point did -- I guess, when was the last time Michelle saw Minor?

A. To my recollection, it was the day after her birthday, on that Sunday, when I took her to go see her.

Q. Uh-huh. Where did you all go?

A. Well, we went to Bojangle's.

Q. Okay.

A. I picked Michelle up at where she was staying at. We went to Bojangle's, and then I took her back, and she showed Minor her birthday gifts.

Q. Okay.

A. And I took Minor home.

Q. Was Michelle ever unsupervised with Minor on that day?

A. No.

Q. Was she ever unsupervised with Minor during any of your visits with her?

A. No.

Q. Okay. All right. Now, let's get back to DSS.

Did you meet with the DSS worker in this case?

A. I seen her at Heath Circle.

Q. Okay. Did she come to your house at one point as well?

A. Yes, yes. I forgot about that one.
Q. Okay.
A. And we already had boxes stacked up, we were getting ready to move when they finally came in November.
Q. Okay. Do you remember when in November?
A. I don't know what the day -- it was early November.
Q. Early November. Okay.
A. It was either -- yeah, it was either the last week of October, early November. It was in that area.
Q. Okay. And did you make them aware at that time that you were moving?
A. Yes. And that's when -- I'm not sure, but that's -- because I don't -- I didn't talk to them. I stood behind, and Scottie and Kayla did all the talking. I never really talked in-depth with DSS.
Q. Okay. But did you have communications with the case worker ---
A. Yes.
Q. --- via text, via phone calls, ---
A. Yes.
Q. --- things of that nature?
A. Yes.
Q. And at that point did you -- what did you tell DSS about where you'd be living?
A. Well, I was supposed to go back down to Heath Circle

between 10:00 and 4:00.

Q. Okay. And that's what you represented to DSS that you'd be doing?

A. Yes.

Q. Okay. And did you, in fact, do that?

A. No.

Q. Okay. So that was at the visit in November. Did you have another visit with DSS?

A. Yes. We had one in December.

Q. And when was that?

A. Shortly after her birthday. I think it was the Wednesday after her birthday, or it could be the Wednesday before.

Q. Okay.

A. I don't --

Q. So early December?

A. It's a blur.

Q. Early December?

A. Yes, early December.

Q. And where did that visit take place?

A. At Heath Circle.

Q. Okay. Were you present for that visit?

A. Yes.

Q. What representations did you make at that time about where you were living?

A. Yes, I told them that I was staying there between 10:00 and 4:00.

Q. And were you staying there between 10:00 and 4:00 at that time?

A. No.

Q. Okay. At that visit, did you have a lot of conversations with the DSS worker?

A. No, I did not.

Q. Who did she mostly talk to?

A. Kayla.

Q. Okay. When was the last time you saw Minor?

A. At that visit.

Q. At that visit? So that would --

A. It should've been the one after her birthday, yes.

Q. Okay. Did you see Minor on her birthday?

A. Yes, I did.

Q. Did you go to her birthday party?

A. Yes, I did.

Q. And where was that held?

A. At her home, at Heath Circle.

Q. At Heath Circle? Okay. And then, the last time you saw her would've been that DSS visit?

A. Yes. If it was on the 6th, yes. If it was on the day that I was told that it was, because I cannot remember whether it was before or after her birthday. I do know

that I seen her that Saturday, and I do know I seen her that Sunday when I took her to see her mother.

Q. Okay. So shortly -- shortly after her birthday would've been the last time?

A. Yes.

Q. So is that fair enough about the same dates?

A. Yes.

Q. Okay. So let's -- let me ask you one thing first. When you had custody of Minor in October ---

A. Uh-huh.

Q. --- did you ever take her to any appointments?

A. Yes.

Q. Where did you take her?

A. I took her to, I think it's called Palmetto Pediatrics. It's next to Mackey Family Practice, up in Indian Land.

Q. Okay. Was that -- you said pediatrics. Was that Minor's regular doctor?

A. Yes.

Q. And what did you take her in for?

A. For her hair loss.

Q. Can you describe that hair loss?

A. It was in patches. She had patches of hair missing in places.

Q. And when did you notice this hair loss?

A. It got significant. Probably it -- it's hard to say. Between, I would say, August and September.
Q. Okay.
A. But it wa -- it was growing back.
Q. Okay.
A. By the time I got the doctor's appointment ---
Q. Okay.
A. --- to take her to him.
Q. Okay. So you took her into ---
A. Yes.
Q. --- the doctor? Did Kayla ever ask you to take Minor to the doctor at any other time?
A. No.
Q. Did she ever beg you to take her to the doctor any other time?
A. No.
Q. Did she ever cry her eyes out about not being able to take Minor ---
A. No.
Q. --- to see a medical doctor? Okay. Sometime around Thanksgiving, did you become aware of an injury that Minor had?
A. Yes.
Q. What was that injury?
A. Her arm.

Q. And did you ask Kayla about what happened?

A. I asked Kayla and my son about it.

Q. Okay. And what did they tell you?

A. That it was a sprain, and they were keeping it wrapped.

MR. BURTON: Your Honor, I think we're in dangerous territory here about the arm.

THE COURT: You all step up here, please.

(BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF THE JURY, AT 05:48 P.M.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, let me remind you, any testimony with regard to the right humerus, or the right arm, is being received solely for the purpose of whether or not the State has presented any evidence with regard to the intent required under the statute for extremely indifference.

I'll charge you further that you may not consider it as being -- this arm being caused by the defendant. That is not in the evidence towards that regard, and that -- and there's no evidence that that arm had anything to do with this child's ultimate death. Okay?

Any exceptions to my instruction to the jury from the State?

SOLICITOR MCGINNIS: No, your Honor.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

THE COURT: Thank you.

BY SOLICITOR MCGINNIS:

Q. Did you at some point exchange text messages with Kayla about Minor's arm?

A. I think I did. I don't -- I can't remember that far back. I'd have to --

Q. I'm going to show you State's 2 --

SOLICITOR MCGINNIS: Beg the Court's indulgence, your Honor. I'm sorry.

(WHEREUPON, STATE'S EXHIBIT NO. 224, PREVIOUSLY MARKED FOR IDENTIFICATION.)

BY SOLICITOR MCGINNIS:

Q. 224. And I ask you to start with this one.

A. Uh-huh.

Q. And then, it goes from the bottom, up so their --

A. So you want me to read it?

Q. Read it to yourself, if you don't mind, and see if that refreshes your recollection.

(WITNESS COMPLIES.)

A. Yes.

Q. And what is that that you just read?

A. I read a text message that looks like it's from Kayla.

Q. And who is it to?

A. Me.
Q. And what does that text message say?
A. It says, her arm --
THE COURT: Do not publish it until it's admitted into evidence.
SOLICITOR MCGINNIS: I apologize.
A. So I don't have to read it, or do I?
THE COURT: No, ma'am, not yet.
SOLICITOR MCGINNIS: No, ma'am.
A. Oh, okay. Sorry.
Q. I'm going to ask you to flip to the next page. Do those look like they are texts from your phone between you and Kayla?
A. Yes.
Q. And did you turn your phone over to law enforcement the day this happened, or the day after?
A. Yes.
Q. Did you consent to search?
A. Yes.
Q. Did you give them consent to search your phone?
A. Yes.
Q. To the best of your knowledge, did they, in fact, search your phone and download its contents?
A. Yes.
Q. And these text messages appear to be what was on your

phone at the time you turned it over to law enforcement?

A. Yes.

SOLICITOR MCGINNIS: Judge, at this time I'd move State's 224 into evidence.

THE COURT: Over the objection.

MR. BURTON: I'd have to renew my objection, your Honor. The Rule 403 objection that there's no -- no connection between Kayla Cook and the broken arm, and that it's more prejudicial than probative.

THE COURT: All right. Overruled. It's admitted. You may publish it now.

SOLICITOR MCGINNIS: Thank you.

(WHEREUPON, STATE'S EXHIBIT NO. 224, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR MCGINNIS:

Q. Can you read that first text message that you already looked at?

A. On the first -- the --

Q. The very first one you looked at on the back page.

A. The back page? Oh, okay.

Q. These go from the bottom up so they're in reverse order.

A. Okay. "Her arm's being checked out do not take the bandage off and don't mess with it."

Q. And let me just clarify. Does it say her arm is being

checked out, or her arm has been?

A. Been.

Q. Past tense?

A. Past tense, b-e-e-n.

Q. Okay. Flip to the next page. Do you send a message to Kayla inquiring further about the arm? I can point it out if that would make it easier for you.

A. Yes. It says, "what did the doctor say? Is it broke or sprained? You know her mom's gonna to ask."

Q. Okay. Next page. Do you -- does Kayla respond to you about what the doctor said?

A. "Oh, okay. I thought you were coming by yourself, lol."

Q. Go to the next --

A. Let -- "I'll let you know" -- well, no, that was me. I'm sorry.

Q. Flip to the next page. It should be the one from Kayla.

A. All right.

Q. The very front page.

A. The very front page. I'm sorry.

Q. You're fine.

A. The first one?

SOLICITOR MCGINNIS: May I approach the witness, your Honor?

A. Yeah. I'm sorry. This is confusing. This one, or this one?

Q. This one from Kayla to you.

A. Oh, okay. "It's a bad sprain, nothing is broke. So she has to keep it wrapped and take it easy, it hurts it at worse at -- it -- she hurt it worse at Grandma's, so she's been laying down and not using it, and it just to take her -- just take her out to eat or something small. So not playing on -- not playing on it -- no park." Excuse me, I'm sorry. I don't read very fluently.

Q. So what impression did you get from those text messages from Kayla?

MR. BURTON: I'm sorry, Judge. That calls for speculation.

SOLICITOR MCGINNIS: I'm asking --

THE COURT: No, that she asked for her impression. Overruled.

BY SOLICITOR MCGINNIS:

Q. What did that suggest to you about what Kayla did?

A. She didn't take her to the doctor, it doesn't look like, because she just don't want -- I don't know.

Q. Did you ask her what the doctor said?

A. Yes, I did.

Q. And did she give you a response?

A. It's a bad sprain, is all I got from her.

Q. And that was in response to your question about the doctor, correct?

A. Yes.

Q. Do you know if she ever took Minor to a doctor?

A. No, I don't.

Q. You don't know, or no, she did not?

A. I don't know, and from my understanding, no, she did not.

Q. Did you ever take Minor to the doctor?

A. No, I didn't.

Q. And why was that?

A. I don't know.

Q. Did Kayla suggest to you that she had --

A. That she was okay.

Q. That she had had it checked out?

A. Yes.

Q. And Kay --

A. And she was okay.

Q. And where was Minor the majority of the time during this time period?

A. With her and my son.

Q. With Kayla and your son?

A. Yes.

Q. Okay. Let's go to the day that we're here about today, the day Minor died.

A. Yes.
Q. How did you become aware that there was a situation going on?
A. The landlord called me, and --
Q. And without saying what he said, did he cause you some concern?
A. Yes.
Q. And what did you do as a result of that?
A. I called my -- I called my husband and asked if Scotiey was with him, and do you all -- did you all need to get -- they were closer than I was.
Q. Okay.
A. I work in Concord.
Q. And so, did you get a hold of your husband that day?
A. Yes, I did.
Q. And who was he with when you talked to him?
A. He was with my son.
Q. And what did -- do you know what they did as a result of your phone call?
A. Hightailed it to Lancaster.
Q. What did you do after that?
A. Hightailed it Lancaster.
Q. And where did you do when you got to Lancaster?
A. I went straight to the hospital.
Q. What happened at the hospital?

A. I sat in the waiting room.

(WITNESS CRYING.)

Q. Did you see Minor that day?

A. No, I did not.

Q. Did you have a chance to speak with your son at the hospital?

A. No. I didn't see my son until about 11:30 or twelve o'clock midnight.

Q. And where did you first see Scottie that day?

A. Standing out in the middle of the parking lot at -- at the police station.

Q. Did he tell you what happened?

A. He walked out, white as a ghost, hit his knees when he seen me. I had to basically carry him to my mother's car to sit him down. No, he didn't speak to me; all he did was cry.

Q. And did you talk to the police that night?

A. Yes, I did.

Q. And when you talked with them, did they ask you about where Minor was, where Minor should've been?

A. Yes.

Q. What did you tell them at first?

A. At first, I told them I was staying there between 10:00 and 4:00.

Q. And was that true?

A. No.
Q. Did you tell them another story that night?
A. Yes. That I was there between 10:00 and 4:00.
Q. But after you told them that, did you tell them the truth?
A. Yes.
Q. How soon after?
A. You all have a video of it. I think it's about three minutes in.
Q. Okay. Did you lie ---
A. If that.
Q. --- about anything else that night to the police?
A. No.
Q. So, Tracy, remind me again, when was the last time you saw Minor?
A. It was -- it was at the DSS visit or the Sunday after her birthday. I cannot remember which day. You'll have to look at my -- when I was off of work, because I got off of work a little early to -- to come to Lancaster. I had to work ---
Q. And so, that --
A. --- it was -- it was -- I know it was her -- the weekend of her birthday.
Q. Okay. And despite what the DSS required, were you living there with her?

A. No.
Q. As a result of that, were you charged with anything?
A. Yes.
Q. What were you charged with?
A. Neglect.
Q. Is that charge still pending?
A. Yes.
Q. Have I promised you anything, or has anyone promised you anything to do with that charge to have you testify today?
A. No.
Q. Why are you here testifying?
(WITNESS CRYING.)
A. Because I love my granddaughter, and I want to know what happened to her.
SOLICITOR MCGINNIS: Beg the Court's indulgence. I don't have anything further.
THE COURT: All right. Mr. Foreman and ladies and gentlemen, I imagine we'll be awhile here, so I'm going to go ahead and call today. And if you -- is there any reason you can't be here at nine o'clock in the morning?
Very good. If you would, leave your pads in your jury room, and we'll resume with cross-examination at 9:00 a.m.
Thank you.
(JURY EXITS COURTROOM ON EVENING RECESS AT 06:00 P.M.)

THE COURT: You can step down. Do not speak with anybody about your testimony during the break. Okay?

THE WITNESS: Excuse me?

THE COURT: You may not speak with anybody about your testimony, okay? Thank you.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Just for scheduling purposes, I've talked with our clerk, and he's agreeable to us having quote, unquote, working lunch tomorrow. They're going to order lunch and we're going to take a quick, maybe twenty, thirty-minute break for the jury, and just keep on hammering through.

Do you have any idea, roughly, how many witnesses you have?

SOLICITOR MCGINNIS: Judge, I think our last estimate was maybe seven or eight more, but I don't want to tell you that, firmly because I don't have my list down here.

THE COURT: Okay. But it's not forty-four, right?

SOLICITOR MCGINNIS: No, sir.

THE COURT: All right. We'll see you all tomorrow morning. Thank you.

MR. BURTON: Thank you, your Honor.

SOLICITOR MCGINNIS: Thank you, your Honor.

THE COURT: Thank you.

(COURT IN EVENING RECESS AT 06:01 P.M.)

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

TRACY SCHROEDER BY MR. BURTON:

Q. Ms. Schroeder, you understand that I'm the defense attorney, right?

A. Yes.

Q. And if I do my job, I've kind of got to ask you some -- some pretty tough questions. You understand that, don't you?

A. Yes.

Q. First off, you admitted to the Solicitor that you lied at one time?

A. Yes.

Q. And isn't it true that the first four questions that you were asked by Sergeant Sims, each one of them was a lie, wasn't it?

A. To be honest with you, I can't remember what the questions were.

Q. Let me see if I can refresh your memory. Do you remember talking to her on December 18th, right? You remember talking to Sergeant Sims on December 18th?

A. Yes.

Q. Okay. And when you were asked about how often you lived there, you said every other night or so at 4 -- let

me back up. You were supposed to be, by the DSS safety plan, living at [redacted] Heath Circle, right?

A. Yes.

Q. Okay. And you told Sergeant Sims that you stayed there every other night or so, based on her first question, right?

A. Yes.

Q. Okay. And that was a lie?

A. Yes.

Q. And she asked you what was the last time you stayed there, and you said last night, and that was a lie wasn't it?

A. Yes.

Q. And she asked you what time did you get there, and you said about midnight, and that was a lie, wasn't it?

A. Yes.

Q. And then you said, I think, you went in to check on them, then went to your father-in-law's house, you know, went to your father-in-law's house, left, and went over to [redacted] Heath Circle. And that was a lie, right?

A. Yes.

Q. And you remember the -- State's Exhibit 224, the text messages that ---

A. The back-and-forth --

Q. --- Ms. McGinnis talked to you about?

A. Yes.
Q. Okay. And the State implied that those were from Kayla, right?
A. They were from her phone.
Q. This is what we're getting to right here.
A. Yes.
Q. On your vide -- on the video that -- when you talked to Sergeant Sims, you said that you didn't know which one of them was talking to you.
A. Yeah.
Q. But you knew that both of them used the same phone from time to time?
A. Yes.
Q. Okay. So it wasn't necessarily Kayla Cook who sent you these SMS's; it could easily had been Scottie, right?
A. Yes.
Q. And Sergeant Sims heard you. I didn't attach any importance to it until I ran through it again last night, but -- but she knew that you said that, right?
I'll withdraw that question. And when she asked you if you ever suspected Kayla of anything untoward, toward the kids, you said not really, right?
A. That's right.
Q. And you said on the video that you had no inkling of -- that something was going on?

A. Yes.
Q. And you have testified that all of you, meaning yourself, Scottie, all three kids, and Kayla, plus maybe other people, lived at the address on Henry Harris Road?
A. Yes.
Q. Okay. You never saw Kayla do anything mean toward the children did you?
A. No.
Q. And there's a reason why DSS does what they do, isn't there?
A. Yes.
Q. To protect kids?
A. Yes.
Q. And not only did you lie, but I mean, your behavior was dishonest, too, wasn't it? For example, you said you didn't live there, yet every time the DSS case workers came to visit, you happened to be there, right?
A. The one time, yes.
Q. The one time? Okay. And that was being dishonest, wasn't it?
A. Yes.
Q. And DSS entrusted you for a very important duty which you shirked. Several people paid a high price, and one person paid the ultimate price; isn't that right?
A. Yes.

Q. And Minor could be still with us, couldn't she, if you had done your duty?

A. I don't think so.

Q. Okay.

MR. BURTON: Thank you, your Honor. That's all the questions I have.

THE COURT: Redirect.

SOLICITOR MCGINNIS: Briefly, your Honor.

REDIRECT EXAMINATION

TRACY SCHROEDER BY SOLICITOR MCGINNIS:

Q. Tracy, did you ever hurt Minor?

A. No.

Q. Did you see Minor on December 18th?

A. Yes. Well, no. Not 18th, no. No, I did not --

Q. The day she died, did you see Minor?

A. No. No.

Q. Before she died that morning?

A. No.

Q. After she died at the hospital?

A. No.

Q. Did you get permission from DSS to be out of -- to leave Minor with Kayla when you were not present?

A. Yes.

Q. What hours were you allowed to leave her, leave Minor, with the defendant?

A. From 10:00 to 4:00. 10:00 p.m. to 4:00 a.m., was the times that I was supposed to be at the home.

Q. So from what time were you not expected to be there?

A. The times between those.

Q. 4:00 a.m. to 10:00 p.m.?

A. From 4:00 a.m. to 10:00 p.m.

Q. You've been in the courtroom during this trial, right?

A. Yes.

Q. Do you know what time Minor died?

A. I think it was 1:30-something.

Q. Were you supposed to be with Minor at that time?

A. No.

Q. Were you supposed to be with Minor that morning?

A. No.

SOLICITOR MCGINNIS: I don't have anything further.

MR. BURTON: One re-cross question, your Honor.

RECROSS-EXAMINATION

TRACY SCHROEDER BY MR. BURTON:

Q. Despite that -- the fact that you were allowed to go to work and not be with Minor during those times, had you been living there every day during the times you were supposed to be there, you would've -- you would've seen any kind of problems that would've occurred between Scottie or the kids or the dog or Kayla, right?

SOLICITOR MCGINNIS: Objection. I think he's asking

her to speculate on what she would've seen.

THE COURT: Sustained.

MR. BURTON: Thank you, your Honor.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Yes, your Honor.

THE COURT: Thank you, ma'am. You may step down.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Call your next witness, please.

SOLICITOR MCGINNIS: The State would call Doctor Cruz, Doctor Carmina Cruz.

(WHEREUPON, CARMINA CRUZ, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR CARMINA CRUZ BY SOLICITOR MCGINNINS:

Q. Good morning, Doctor Cruz.

A. Good morning.

Q. Can you state your full name, for the record?

A. Carmina Cruz.

Q. And where do you work?

A. I work at the Children's Clinic in Lancaster in India Land.

Q. And what do you do at the Children's Clinic?

A. I'm a pediatrician.

Q. Okay. And did you see a patient named Minor [redacted] at some point at your clinic?

A. I did.

Q. When did you first see Minor ?

A. I -- can I refer to my chart so I can give you the accurate dates?

Q. Yes. Thank you.

THE COURT: Doctor, would you speak into the microphone?

A. I first saw her on December 8, 2014.

Q. And what was Minor 's date of birth?

A. Sorry. Her date of birth is [redacted].

Q. So you saw her from -- from the start, right?

A. I -- I saw her on December 8th, but she was seen December the 6th, for the first time, in our clinic.

Q. Okay. So your clinic has been treating Minor since she has been born?

A. Right after discharge from the hospital.

Q. Okay. And was she seen during the pendency of her life as well, she wasn't just seen one time with you?

A. Right. She was seen several times at the clinic.

Q. Okay. So you were her primary physician?

A. Yes.

Q. And did you have an occasion to see Minor in October of 2017?

A. I did.

Q. What was that date?

A. The day?
Q. The date, yes, ma'am.
A. Oh, the date. October 17, 2017.
Q. Okay. And who brought her in that day?
A. It was her grandmother.
Q. Okay. And what was the reason that the child was brought to see you?
A. She was brought in because she was losing her hair.
Q. Okay.
MR. BURTON: I'm sorry, I couldn't hear what the doctor said.
A. Oh. She was losing her hair. For hair loss.
MR. BURTON: Oh, her hair.
BY SOLICITOR MCGINNIS:
Q. And did you observe that when you examined the child?
A. I did.
Q. Did you do a full examination of the child that day?
A. I did.
Q. How did she appear to you at that time?
A. She appeared -- she was well. I mean, she looked well.
Q. Okay. And how about the hair?
A. She did have diffused thinning of her hair.
Q. Okay. And can you explain what diffused thinning of hair means?

A. That means that over -- there were no partic -- I mean, the hair loss was generalized.

Q. So it was all over her head?

A. So there were no patches of hair loss; it was generalized.

Q. Okay. Did you weigh Minor at that visit?

A. Did I weigh her?

Q. Yes.

A. Yes.

Q. And what was her weight?

A. Let me look. She weighed 11.3 kilos.

Q. And approximately how many pounds is that?

A. That would be about twenty-three.

Q. Okay. Would it be fair to say she was fairly small for her age?

A. She was -- I did -- her. She was right there at the third percentile.

Q. And educate me. I don't have kids, so I don't know what that means.

A. Okay.

Q. Is that small or large?

A. So that was in the lower limit of normal.

Q. The lower limit of normal. Okay. Do you recall, or does your note reflect, why the grandmother brought Minor in that day?

A. She was concerned that Minor was losing her hair.
Q. But I mean, the grandmother versus the mother?
A. I'm sorry?
Q. Or a parent.
A. Can you repeat the question?
Q. Does it reflect why the grandmother versus one of the parents brought her in?
A. Oh. Yes, I -- she said that she had custody of the kid at -- from Minor at the time.
Q. Okay. Perfect.

SOLICITOR MCGINNIS: Beg the Court's indulgence just one moment.

THE COURT: Sure.

BY SOLICITOR MCGINNIS:

Q. As far as the hair loss, what diagnosis did you make at that time?
A. At the time, it was a general -- it was just a general diagnosis of alopecia.
Q. Okay. And that's hair loss?
A. Hair loss, yes.
Q. Okay. What did you do as far as followup for that condition?
A. Well, first of all I ordered some lab work.
Q. Okay.
A. Blood tests at that time. And then, she was asked to

-- to come back in two months -- two weeks ---

Q. Okay.

A. --- to discuss the results. And we -- I also mentioned the possibility for dermatology appointment.

Q. Okay. Did you get the results from the blood tests?

A. I did.

Q. And what did they reflect?

A. Everything was normal.

Q. Okay. Did you see the patient again two weeks later?

A. No.

Q. Okay. Did you -- do you know if you or your office made a dermatology appointment for the patient?

A. I was trying to make the dermatology appointment after I spoke -- after seeing the patient on re-check.

Q. Okay.

SOLICITOR MCGINNIS: I don't have anything further for Doctor Cruz, your Honor.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

DOCTOR CARMINA CRUZ BY MR. BURTON:

Q. And the grandmother, that was Tracy Schroeder, right?

A. All I have in my notes is, it says grandmother, so I can't --

Q. Do you recall if it's the lady in the blue sweater

back there in the gallery, or not.

A. I'm -- I'm not sure.

Q. Okay. All right. And she told you she had custody, right?

A. Yes, sir.

Q. Okay. And let me -- there's been a lot of talk about Mommy and mother and all. Let me clear one thing up. When we're referring to the mother, we're referring to the biological mother, right?

A. Yes, sir.

Q. Okay. And not the defendant, Kayla Cook, right?

A. Yes.

Q. Thank you.

MR. BURTON: That's all the questions, your Honor.

THE COURT: Redirect.

SOLICITOR MCGINNIS: No, your Honor.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Yes, sir, your Honor.

THE COURT: All right. Thank you, Doctor, you're excused.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR MCGINNIS: Judge, at this time the State would call Dale Johnson to the stand, Sergeant Dale Johnson. In fact, beg the Court's indulgence for one minute, to get the --

(WHEREUPON, DALE JOHNSON, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

SERGEANT DALE JOHNSON BY SOLICITOR MCGINNIS:

Q. Sergeant Johnson, you were here the other day; refresh the jury's recollection about what your involvement was with this case.

A. EMS had gotten a call in reference to an unconscious, unresponsive three-year-old, the address on Heath Circle. Myself and Sergeant Sims responded to that location. I picked Minor up from the living room floor, took her to my police car and myself, Sergeant Sims, and firefighter David Melton transported Minor to the hospital.

Q. And at some point after that, did you have the opportunity to interview the defendant in this case?

A. I did. I spoke with her briefly.

Q. And where did that interview take place?

A. At the Lancaster Police Department ---

Q. Is that -- I'm sorry.

A. --- in the interview room.

Q. In the interview room?

A. Yes, ma'am.

Q. Was it audio and video recorded?

A. Yes, ma'am.

Q. And does that audio and video recording a fair and

accurate representation of what your interview was with the defendant that day?

A. Yes, ma'am.

Q. Okay.

SOLICITOR MCGINNIS: Judge, the jury's monitors are not on. Could we send them to the jury room for just a moment to get the monitors turned on?

THE COURT: All right. Mr. Foreman.

(JURY EXITS COURTROOM AT 09:28 A.M.)

(COURT AT EASE.)

THE BAILIFF: The jury's coming back in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 09:31 A.M.)

MR. BURTON: I would ask that they show the whole tape -- whole beginning of the tape if they're going to show any of the tape.

SOLICITOR MCGINNIS: I apologize, your Honor.

THE COURT: Okay.

SOLICITOR MCGINNIS: We discussed this earlier.

(WHEREUPON, STATE'S EXHIBIT NO. 36, - COOK INTERVIEW - PUBLISHED TO THE JURY AT 09:33 A.M./STOP AT 10:05 A.M.)

BY SOLICITOR MCGINNIS:

Q. Sergeant Johnson, why did you all switch up interviewers at that point?

A. In my opinion, it would be that she had gotten

comfortable with Sergeant Sims and Agent Baird --

MR. BURTON: Your Honor, his opinion doesn't matter in the slightest in this case.

THE COURT: Overruled. Go ahead.

A. She had gotten comfortable with Sergeant Sims, as well as Agent Baird and myself. And Agent Thrasher just felt like we would go in there and talk to her, and see if we would get a different variation of what had taken place.

Q. Is that something that you all do often when interviewing subjects or suspects, or ---

A. We do ---

Q. --- when interviewing?

A. --- when it comes to long interviews such as this we do try that.

Q. Did you get a different story from her?

A. That time, I -- I don't a hundred percent remember the other stories that were given to Sergeant Sims. I would have to refer back to her entire supplement to know exactly what was said prior to myself and Agent Thrasher going in there.

Q. Did you threaten her in any way?

A. No, not at all.

Q. Did you coerce her in any way to talk to you?

A. I did not.

Q. Did you come in and ask her to tell you the truth?

A. Correct.

SOLICITOR MCGINNIS: I don't have anything further, Sergeant Johnson.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

SERGEANT DALE JOHNSON BY MR. BURTON:

Q. So let's see if I got this scenario straight. That young woman had been in that sweat box for about four hours, up until the point when you came in, right?

A. That sweat box was your opinion, correct?

Q. That sweat box is my opinion, just like you ---

A. Okay. All right.

Q. --- voiced your opinions.

A. Okay.

Q. And the first four hours were kindly, Sergeant Sims, and empathetic Special Agent Baird, they were getting nowhere with her. Then comes the hammer blow, there comes Sergeant Johnson in there --

SOLICITOR MCGINNIS: Objection. Is that a question, your Honor?

THE COURT: Ask a question.

BY MR. BURTON:

Q. Isn't it a fact that, in comes Sergeant Johnson; he's

the hammer blow. They weren't getting anywhere, but here he comes, this aggressive male, two males, in fact, in there. And I mean, we're going to get it out of her now, you know, she's not gonna wiggle through this. I mean that was the police tactic --

SOLICITOR MCGINNIS: Objection, your Honor.

THE COURT: Go ahead. Overruled.

BY MR. BURTON:

Q. So this is kind of what may be referred to as the good cop/bad cop type of approach to interrogating a suspect; isn't that right?

A. If that's your opinion.

Q. Well, yes, in fact, it is my opinion.

A. Okay. Well, I don't agree with your opinion.

Q. Well, what do you call the tactic where the nice cops start out, and then, if needed, the bad cop comes in? What do you call that?

A. I don't paint myself as a bad cop.

Q. I'm not saying you're a bad cop. I'm just saying that's the technique; you know, the nice cops, and then in comes the aggressive cop.

A. I -- looks like the comic book character you just painted me out to be is coming in as tthe hammer. I ask firm and direct questions.

Q. And you sure did.

A. None were foul and abusive.

Q. Uh-huh. Well, again, isn't that your opinion whether you were abusive or not?

A. That's fact. You just watched it.

Q. I did just watch it. So did the jury.

A. Yes.

THE COURT: Listen, you're going to answer the question.

SERGEANT DALE JOHNSON: Yes, sir.

THE COURT: And you're gonna ask a question. We're not going to have this argumentative going back and forth.

It's over. Okay?

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

BY MR. BURTON:

Q. Let me first discuss a little bit about Ms. McGinnis' direct examination. You were asked if she gave a different variation, and you say well, you're not sure, that you didn't remember. But I mean, you said right at the beginning that -- that you were there watching all four hours, right?

A. It was roughly a little over three hours, yes, sir.

Q. Is that true, or just --

A. I just said yes, sir.

Q. Okay. And I'm a little confused. Was it nine -- nine

different versions, or eleven different versions that -- that --

A. I don't recall.

Q. And there's nothing new on that video, is there, that -- to add to the previous four hours, is there?

A. Not that I recall.

Q. Uh-huh. And you notice that here's this woman at her most vulnerable. She's in that hot room. She said that several times; not just to you, but everybody else, right?

A. If you say so.

Q. Well, it --

A. I mean, she said it to me once.

Q. I realize my hearing isn't all that good, but at three minutes to go, didn't she say, this room is hot and claustrophobic, and I'm all sweaty?

A. I just said, she said it to me once.

Q. I'm just asking if you -- if she said what I just asked about ---

A. I just --

Q. --- if she said that?

A. I'm agreeing with you. I say I'm -- I'm saying yes.

Q. Okay. So here -- here she is, at her most vulnerable. She's puking her guts out just before you came in. Probably had more too but you were in the room there. I mean, how could anybody be more vulnerable at that point

to a bully coming in there and trying to -- trying to force a confession out of her?

A. I don't know who the bully is.

Q. And you used all the other police tactics there to try and confuse a defendant that's trying to tell the truth. You cut her off several times, right?

A. Right.

Q. You changed the subject while she's trying to answer the question to another subject?

A. I'm trying to get a time line.

Q. But what you're trying to get is your time line; isn't that true?

A. No, I'm trying to get a time line of what took place.

Q. But the time line was yours, 8:30 to 10:00. She never said anything about 8:30. She never said anything about any particular time she got up in any of the videos, did she?

A. That's why I used the word, roughly, when I referred to times.

Q. I really couldn't --

A. That's why I used the word roughly when I referred to the times, when asking her the questions.

Q. But, I mean, the times are very important in this case. I mean, you don't doubt that do you?

A. No, not at all.

Q. So, I mean, that the real time line could be about anything; 9:30 to 10:00? Anything really, right?

A. Correct. That's why I referred to it as roughly.

Q. Okay. And you -- you told her that -- preferring, I think, to the true facts of the case, is we'll know tomorrow, won't we?

A. Correct.

Q. Okay. And that didn't faze her at all, did it?

A. Not that I recall.

Q. Regarding the Christmas presents, I mean you really don't know how many of the Christmas presents were for Minor or Phoebe or Wyatt, do you?

A. I don't.

Q. Could easily be one-third for each of them, couldn't it?

A. Possibly.

Q. And you asked her about -- you know, you confronted her about, well, you know about the towel color, but you don't know about everything else. Would somebody really know what the color of the towels are in the house that they live in full-time? Oh, my gosh! I mean, isn't that something that somebody ought to -- ought to know, and would know?

A. I can't remember what color towel I dried off with this morning.

Q. Okay. Well, that has to do with you and not Kayla, right?

A. You said a normal person.

Q. And did you see what pictures were in the house?

A. Not that I recall.

Q. And if I told you that one -- two pictures in the house, one of Kayla's kids and her parents and one of Tracy and Minor, I mean you can't contradict that, can you?

A. No, sir.

MR. BURTON: Beg the Court's indulgence just one moment.

Q. Why did you make a point about asking her why there were no pictures of Minor in the house, but pictures of her kids, if you didn't know what pictures were in the house?

A. Again, I can't recall.

Q. Okay.

MR. BURTON: Thank you.

Thank you, your Honor.

THE COURT: Redirect.

SOLICITOR MCGINNIS: Briefly.

REDIRECT EXAMINATION

SERGEANT DALE JOHNSON BY SOLICITOR MCGINNIS:

Q. Did you have another agent in that room with you?

A. I did.

Q. Who was that?

A. Agent Thrasher.
Q. Do you know if he went to the house that day?
A. To the best of my knowledge, he did. I can't say a hundred percent.
MR. BURTON: That's gonna be hearsay, your Honor, of what Thrasher did or didn't do.
THE GOURT: Say that again, please.
MR. BURTON: I mean, wouldn't that be a hearsay objection, that she's asking what Thrasher did? I mean, he would need to lay some foundation for how -- what
THE COURT: Well, besides that, it's not responsive to his cross-examination.
SOLICITOR MCGINNIS: I believe it is, your Honor.
THE COURT: You think so?
SOLICITOR MCGINNIS: Yes, sir.
THE COURT: Overruled. Connect it up, please.
BY SOLICITOR MCGINNIS:
Q. Was Special Agent Thrasher asking questions in this video as well?
A. Correct, yes.
Q. Could it have been his voice asking about the photos in the house?
A. Correct. Yes, ma'am.
MR. BURTON: I would object, your Honor. Unless something different from the Solicitor told me earlier --

THE COURT: What is your objection?

MR. BURTON: That she's talking about what questions that Agent Thrasher was asking. And --

THE COURT: I understand that, I don't need a narrative. What is your objection?

MR. BURTON: My objection is, Thrasher isn't here. Anything that Thrasher asked would be hearsay.

THE COURT: Overruled. Go ahead.

SOLICITOR MCGINNIS: That was all the questions, your Honor.

THE COURT: Okay.

SOLICITOR MCGINNIS: That's all the questions I have, your Honor.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Yes, please, your Honor.

MR. BURTON: Yes, your Honor.

THE COURT: Thank you, sir.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Call your next witness, please.

SOLICITOR CAMPBELL: May it please the Court, the State calls Doctor Susan Lamb.

(WHEREUPON, SUSAN LAMB, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR SUSAN LAMB BY SOLICITOR CAMPBELL:

Q. Doctor Lamb, where are you employed?
A. I am employed by Prisma Health Midlands, Palmetto Health USC Medical Group, down in Columbia.
Q. And what do you do there?
A. I'm a child abuse pediatrician.
Q. And what is a child abuse pediatrician?
A. So just like any other pediatric sub-specialty, pediatric cardiologist, pediatric nephrologist, I'm a pediatric child abuse and neglect specialist. So I see children where there's any concern for any form of maltreatment, so it's a sub-specialty in pediatrics, and then you do three years of specialized training in child abuse and neglect.
Q. And speaking of your education and training, can you tell the jury a little bit about that?
A. Certainly. So I did my undergraduate degree at Johns Hopkins University. I then went on to do my medical school at University of Virginia. After that, I did my pediatric residency and became board-certified in pediatrics. After that, I did my fellowship in child abuse and neglect and then board-certified in that field as well.
Q. And how long have you been board-certified as a child abuse expert?
A. Three and a half years, I believe.
Q. And when it's saying you're a child abuse expert, is

it sometimes referred to as a forensic pediatrician?

A. Certainly. That was the term about a decade or more ago, but some people still use them interchangeably. I just use the name of my board because that's kind of generally accepted by the American Academy of Pediatrics.

Q. And have you been qualified or testified before as an expert in this area?

A. Certainly.

Q. And approximately how many times have you been qualified and or testified as an expert in child abuse pediatrics?

A. Approximately seventy times.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer her as an expert in child abuse pediatrics.

THE COURT: Any voir dire?

MR. BURTON: Voir dire, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION VOIR DIRE

DOCTOR SUSAN LAMB BY MR. BURTON:

Q. Now, you testified that you were a pediatrician, right?

A. I am board-certified in pediatrics and in child abuse and neglect.

Q. I don't see anything on here where you're board-certified in forensic pediatrics.

A. So forensic pediatrics is an old term, so child abuse and neglect is the term of the board, so that's the term that we use.

Q. So you're claiming that essentially you're -- you're qualified in forensic pediatrics?

A. So forensic pediatrics is the old term. Some people use them interchangeably.

Q. Okay. And you've been licensed four years, right?

A. Medical license?

Q. Well, licensed in South Carolina. I'm sorry.

A. In South Carolina for four years, yes.

Q. Right. Uh-huh. And pediatrics, I mean isn't that the science of living children?

A. Pediatrics, or?

Q. Well, I mean we have pediatrics. I mean, that's living children. And then we have pathology, that's deceased children, right?

A. So in child abuse and neglect, we have specialized training in child fatalities as well. So living children are certainly the majority of my practice, but child fatalities related to child maltreatment are part of the training in child abuse and neglect, and part of my practice.

Q. And can you explain to the jury your qualifications in pathology?

A. I'm not a pathologist.

Q. All right. And did you ever examine Minor [redacted] in her lifetime?

A. No. She was deceased when I became involved.

Q. Uh-huh.

MR. BURTON: Your Honor, I think Doctor Lamb is a very nice person, and she's probably an excellent pediatrician, but I don't see how she's qualified to testify in pathology, your Honor.

THE COURT: Well, she's not. She asked to be qualified in the area of child abuse pediatrics. I find she is qualified in that area, and she will be allowed to testify in that area.

MR. BURTON: Thank you, your Honor.

THE COURT: Ladies and gentlemen, I'm going to remind you about expert witness testimony. Normally a witness must testify about what they saw, they heard, they smelled, or they felt. Normally, people cannot give their opinion; however, experts who have been qualified in the area can give their opinion. In this area, I've found that this witness is an expert in the field of child abuse pediatrics. She will be allowed to give her opinion in that area. Expert opinion is like any other testimony you will hear in this case. You may accept it, you may reject it, or give it as much weight as you think it deserves.

Ms. Campbell.

SOLICITOR CAMPBELL: Thank you, sir.

DIRECT EXAMINATION

DOCTOR SUSAN LAMB BY SOLICITOR CAMPBELL:

Q. He just asked you about how long you had been practicing in South Carolina. Prior to that, where were you practicing?

A. I was practicing during my residency and fellowship in Virginia.

Q. Okay. And so, have you been qualified not only in the courts of South Carolina, but other courts as well?

A. Certainly. I've been qualified in Virginia, North Carolina, and South Carolina.

Q. And this is the area of child abuse?

A. Yes.

Q. And you also mentioned that part of your training is living child-abuse victims, but you mentioned that a substantial part is also with fatalities?

A. Certainly. So child abuse pediatricians, because of our expertise in injuries to living children, we also get involved in cases where children may make it to the hospital, but then ultimately pass away. So our sub-specialty is very pertinent to cases where a child may have died from inflicted injury or something related to that. So in fellowship we attend autopsies, we work very closely

with medical examiners, with pathologist. It's part of our continuing education to keep up in the field related to that.

And then, state statutes also require that we're involved in child fatality cases because our expertise is helpful because we see living children and inflicted injuries, and what happens to them, and so, we can help in these cases.

Q. And you just mentioned what my next question was.

There's state law that actually mandates you become involved in child fatalities?

A. Certainly. So in the state of South Carolina, the law mandates that a child abuse pediatrician, a board-certified child-abuse pediatrician, be involved in the review of any unexpected child deaths, to help inform what's going on, and also the safety of other children. So they're called rapid fatality reviews, and they occur within ten days of an unexpected child death. So this is a substantial part of what I do in the state of South Carolina. I'm responsible for the Midlands region and the Pee Dee region of South Carolina, and my counterparts in Greenville and MUSC cover their territories as well.

Q. So in your practice in Columbia, which is based in Columbia?

A. Yes, ma'am.

Q. Are there more forensic pediatricians other than yourself?

A. Certainly. So there are two other foren -- child abuse pediatricians there; my partner, Doctor Alex Young, and Doctor Olga Rosa who runs the entire statewide program.

Q. And you also mentioned that other areas of the state -- your partner actually runs the statewide program?

A. Doctor Rosa does.

Q. And what program is that?

A. It's the South Carolina Child Advocacy Medical Response System so we have an over arching body for the whole state that makes sure that the standards are kept, that everyone who's practicing in child abuse and neglect have training, have peer review. We submit all of our reports into that database, so it keeps a very high standard of practice, which is excellent for the children.

Q. In addition to you being mandated to become involved in all child fatalities, specifically is there an additional law concerning DSS fatalities?

A. Certainly. So part of the rapid fatality reviews are if DSS has had any involvement in a family within the past year, whether the death appears to be natural or not, because there is some sort of history, the death still gets reviewed, because DSS has had some involvement, and we want to take those situations very seriously, because something,

you know, might have gone wrong.

Q. And he also asked you about whether or not you were a pathologist.

A. Yes.

Q. Is there such a thing as a pediatric pathologist?

A. No, there are forensic pathologists.

Q. Okay.

A. They're -- we work very closely with them on these cases. They're also part of the reviews that we do.

Q. And is there what's called a fatality review board here in South Carolina?

A. The state fatality?

Q. Uh-huh.

A. Yes. So all fatalities, once they've been investigated and closed by the SLED Child Fatality Unit, go to the State Child Fatality Advisory Committee, to review all the deaths. We make recommendations to the governor, to the bodies, about what's going on with the children in South Carolina, what kind of things might be preventable, what would be the best ways to try to protect our children, and so I chair that committee, and have for two years.

Q. Just because a child dies while under a DSS order of some sort, does that mean it's going to be a homicide, necessarily?

A. No, certainly not. The majority of cases we review

are, you know, tragic accidents, sometimes a medical cause there. And so, by and large, the majority of our cases are not homicides or inflicted injury there. But with the statute, we have to review them all and see, kind of, what has happened. But the homicides are by far the smallest proportion of the cases that we review.

Q. Fortunately.

A. Fortunately.

Q. And is it important in a case for you to get different records to review?

A. Certainly. So whenever we become involved, we want to look at prenatal records, pediatricians' records, the hospital records, EMS records, autopsy photos, autopsy reports, toxicology reports, witness statements that investigators obtained. All of that is provided and reviewed in these cases.

Q. And I want to turn your attention to this case. As mandated by law, did it come to your attention?

A. Certainly. It came to my attention when SLED became involved in the case. Agent Baird and I had conversations about this once it had occurred.

Q. And before you make a final determination, is it uncommon for you to have interaction with the agents, to kind of get a history and things of that nature, and to review all the records? Does that take a period of time?

A. Yes. So obtaining records from the pediatrician, from the ER. And there are multiple witness statements that are collected, so it's a long process to review everything. We start within, you know, by a goal, ten days of the review -- the fatality, but then it takes a long time to collect all of that information. And I'm not an investigator. I don't call up families. That's not my job. And so, I rely on the information that investigators and every -- the pathologist, everyone else, collects, to give to me for review.

Q. And is it important to get a history of the time leading up to the child's death?

A. Certainly. So the history is vital in these cases. When you're doing an autopsy or pathology, you can say, you know, is something fresh, is something not; and I leave that to the pathologist. But I'm the expert in, kind of, symptoms of injuries, and when a child would becomes symptomatic, what would occur there, how fast things would happen. So a lot of that depends on witness statements, histories, when were injuries visible, when were they not, when was the child having symptoms, when were they not. And so a lot of that comes from witness statements, things from law enforcement or DSS as they speak to the families or caretakers.

Q. And you also mentioned that you even get, like, birth

records, their pediatric records, and things of that nature?

A. Certainly. So we want to always look for any undiagnosed medical conditions, if there were prior injuries or incidents that were going on, accidental histories, if something else occurred. In infants, you know, less than one, it's very important to locate the birth records, could something be related to birth trauma or such, so we look at all of that.

Q. And in this case, did you receive a number of records and/or photographs?

A. Yes, I did.

Q. Did you receive, also, information as far as the history leading up to this?

A. Certainly. So the SLED agents and investigators, they give summaries of the witness statements, so I had that. I had the pediatric records, and I also had the ER records, in addition to photographs from the hospital. Once Minor had been pronounced deceased autopsy photos, the autopsy report as well. So kind of a totality of the records.

Prior to this, I had all of that.

Q. So you had pretty much all of the records that you needed in this case to review?

A. Certainly.

Q. And Doctor, in reviewing the records and taking them

in whatever order you think's appropriate, can you go through basically some of the injuries you observed from the photographs, and as well as that were noted in the autopsy?

A. Certainly. So starting when we were reviewing the EMS records and the hospital records, it was very apparent when Minor came in that she had bruising to her body that was concerning. That kind of raised the concern there. She had bruising around her eyes, bruising on her ears. She had a large bruise on the right-lower part of her abdomen that was quite pronounced, bruising on her chest.

And then on her legs she had what we call pattern injuries, so these are injuries that are shaped like a loop, or a linear shape. So nature doesn't create patterns there, so those were very concerning that they had been inflicted in some manner. So that was kind of the external injuries that were apparent when she was, you know, scooped up, with CPR, during that, and then in the hospital as well.

And then, those injuries were correlated on autopsy as well. She has multiple impact sites to her head, so bruises on the back of her skull; the ear bruising was confirmed; the bruising around her eyes was confirmed; the bruise on her chin; bruising on her chest. And then that massive bruise that was on the right-lower abdomen.

The bruising and injury actually extended all the way through the abdomen, so when you reflect back the skin, there was muscle hemorrhage. Then, when we lift up the muscle, there was hemorrhage to the intestines laying underneath that. And then, there was a massive, what we call a retro-peritoneal hemorrhage that's behind, kind of, the abdomen, where your kidneys and things sit in the back, so there was a massive amount of blood there as well.

And then it confirmed the patterned injuries, loop-shaped injuries, linear injuries, that were on her -- the backs of her legs, and kind of around her thigh.

Q. And on the autopsy were these also -- or at least the torso and the leg and arm injuries, confirmed microscopically?

A. Certainly. So when we --

MR. BURTON: Objection, your Honor. This would get into pathology. I don't think she's qualified to testify to the histology of the -- of the coroner's --

THE COURT: What was your question again, please?

SOLICITOR CAMPBELL: That it was confirmed microscopically.

THE COURT: Overruled. Go ahead.

SOLICITOR CAMPBELL: Thank you.

A. So when an autopsy is done, there are several things on the skin. You want to make sure when you see

discoloration that it's actually a bruise, so you cut into the skin to see hemorrhage underneath there. And then the pathologist can take sections and look and see if it's, you know, fresh blood, if there's older there, and so the pathologist did do that in this case.

Q. And her -- if her opinion was there were recent bruises -- can you actually date a bruise down to the exact moment it happened?

A. Certainly not. You know, recent can be minutes, it can be a couple of hours or more, so we essentially base it on history when we're talking about bruises. So bruises will change color, but once the trauma has occurred to the skin, it's kind of red and swollen there, and then it gets deeper in color. So we base it on caretaker histories, you know; when did you see this, when did you not. So who was changing the child's clothes, changing their underwear, giving them a bath, when did they see the injuries present, and when did they not.

And so, we, you know -- pathology can say it's fresh, and then we depend on the history of caretakers to say okay, you were dressing this child and putting them in their pajamas, did you see the bruising or not, at that point, and we kind of time it based on that.

Q. But if there had been microscopically other signs, it could -- you could say it's definitely older, but these are

recent?

A. Yes. So its -- you're talking more in days, you know, the blood breaks down, you get kind of -- it's called homosiderin staining; technical term, but it means that it's older. And the pathologist didn't report any of that.

Q. Once a child or a person is dead, can -- does the -- is there any more bruising that happens to the skin?

A. No. So once you're dead, you don't have a blood pressure. And so, bruising happens when the blood vessels fracture, and then blood leaks out into the surrounding tissue. So once you nor -- your heart is no longer pumping, you know, even if blood vessels break, the blood doesn't go anywhere; you have no pressure.

So it's a myth that bruising, you know, appears after a death. That's just a process where the body gets paler, and so you just see it more at that point. But you don't bruise once you're dead and you're heart's not pumping.

Q. In this case, you mentioned the outer bruising that was noted and everything, and then the cut-downs there microscopically, did you review the autopsy talking about -- and review the photographs about the internal injuries in this case?

A. Certainly. So we were talking about the hemorrhages around the intestines there, the retro-peritoneal hemorrhage with a large volume of blood that bled into that

space, and then I think it mentioned earlier, she also had swelling of her brain as well that's called cerebral edema.

That was also a very significant injury.

Q. So in your opinion, Doctor, as far as the cause of her death, what were the two areas that were both significant to you as far as causes of death?

A. Certainly. So a retro-peritoneal hemorrhage, you can bleed your entire blood volume into that space. So once you have a hemorrhage back there, that is a fatal cause of death. But also, cerebral edema will cause death, particularly in children where they're older because they're sutured, you know, their soft spots have all closed. And so, if there's swelling of the brain, the only place for it to go is out the hole where your spinal cord comes. So if things swell, your brain goes down that hole and you're dead. So there were two very significant injuries that would have led to her death.

Q. And in this case, do you have an opinion as to -- let me ask you this. When a person receives injuries such as these two significant ones, taking them one at a time, would they become symptomatic, or -- that term's been used, symptomatic, what does that mean?

A. Certainly. So when we're talking about bleeding into the abdomen, so, you know, you're not supposed to have any blood in there, in the retro-peritoneal space or around the

abdomen, so it's very irritating. So it's almost like when you have someone that -- if you know someone who has appendicitis or something there, you know, you're curled up in a ball; you're not eating, you're not drinking, you don't want to walk, you don't want to move, because there's so much pain in your abdomen.

So once that injury occurs, and there was blood in her retro-peritoneal space, Minor would've been symptomatic. She wouldn't have been walking, talking, you know, moving normally. She would've been curled up in a fetal position, miserable there. And then, when you talk about the head injury, once you have that cerebral edema, you have neurologic symptoms, so that can be, you know, being lethargic, not waking up, being super irritable and crying; wouldn't, again, have been walking, talking, cleaning anything up because you have a significant brain injury.

So that's where -- you know, we know the injuries were acute, but then we base it on the history of when was she normal, when was she doing everything a three-year-old should've done, and when was she not normal; and that kind of times those fatal injuries.

Q. But even without the history as far as these injuries that were inflicted on this child, and what kind of force are we talking about to cause the injury to the abdomen?

A. So injury to the abdomen is a significant force.

Obviously we can't do studies where we injure kids and see how much force is going to, you know, take it. But we're talking about things like a car accident going seventy miles per hour or more with a blunt -- with a blow directly to the abdomen.

So, you know, I see kids all the time with normal accidents, normal play, you know, that sort of thing, and this is not a normal childhood accident, trip, fall, something falls on you. Another scenario that we've seen this is in crush injury. So say a child has a T.V. that falls directly onto their abdomen; that would be the kind of force we're talking about to cause this abdominal injury.

Q. And the head injury, the brain swelling.

A. Now so, that again, we're talking significant amounts of force. So I see kids all the time who fall, bump their heads, the parents notice a soft spot or something there, and they bring them in. So this is not normal play, this is not a playground accident. Again, we're talking, you know, things like a fall from a second-story window or higher, you know, a significant motor vehicle accident, those types of forces. So the term we always fall back on is in excess -- well excess of normal parenting play or accidents there.

Q. Would these injuries, any of them, be consistent with

a fall, say in a bathtub?

A. So when you talk about like falling back in the bathtub, you know you could fall forward; you get a bruise on your forehead. You could fall backwards and get more on your bruise, maybe, you know, a small skull fracture or such, but the totality, you know, the cerebral edema, the multiple impact sites to her head, that is not consistent at all with a slip-and-fall in the bathtub.

Q. Could a dog have inflicted the injuries you observed on this child?

A. No. Lots of children have dogs. You know, they get small bruises on their thighs, sometimes they have bite marks or different things there. But aside from some of the small non-pattern bruises there, maybe on your thighs or such, that could be from the dog; but not this abdominal injury, not this head injury. That wouldn't have been caused by any dog, no matter the size.

Q. And some -- in that same vein, could an eighteen-month-old have inflicted these injuries?

A. No. We're talking about significant forces here. You know, an eighteen-month-old is smaller than the three-year-old. They're -- they're, you know, running somewhat, but they don't have the balance or the force to do anything like that.

Q. And any child under the age of five would they have

been able to do this?

A. No. I mean, it always is different when you're talking about teenagers and caretakers, they're practically adult size, but until you're almost adult size, you're not going to be able to generate the amount of force to cause these fatal injuries.

Q. Okay.

SOLICITOR CAMPBELL: Beg the Court's indulgence.

THE COURT: Yes, ma'am.

SOLICITOR CAMPBELL: Where are the photographs from -- are these all the photographs?

Thank you, ma'am. Thank you very much.

MADAM COURT REPORTER: Yes, ma'am.

BY SOLICITOR CAMPBELL:

Q. Doctor, in fatalities such as this, there's also been testimony that a CSC kit was done on this child.

A. Yes.

Q. Is that unusual?

A. No --

Q. Even if there are no signs of any abuse?

A. No, it often is performed, just because we don't know until autopsy. You lose evidence with time, with transfer of body and such. And also, in this case, there was bruising on the lower abdomen, so anytime you have anything near the genitalia, it's just prudent to do it, just in

case -- documenting - because you can't go back and redo it.

Q. Did you make an assessment as to this child suffering child abuse?

A. Yes, I did.

Q. And I'm going to show you -- hand you some of the photographs if you can look through those -- and before you talk to the jury -- and see if some of those would help in explaining your assessment.

MR. BURTON: Your Honor, could I see which photographs the Solicitor is showing to Doctor Lamb?

THE COURT: Are those in evidence?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: So if you can step up and look at them.

SOLICITOR CAMPBELL: Thank you. I appreciate it.

MR. BURTON: Thank you, your Honor. A few of them are autopsy photos, and --

THE COURT: Sir?

MR. BURTON: A few of the photos are autopsy photos. I don't think --

THE COURT: If they're in evidence she can use them.

MR. BURTON: Thank you, your Honor.

MADAM COURT REPORTER: Judge, autopsy photos State's 3 through 33, are autopsy photos; 3 through 33.

THE COURT: Thank you, ma'am.

MADAM COURT REPORTER: Yes, sir.

SOLICITOR CAMPBELL: Thank you.

BY SOLICITOR CAMPBELL:

Q. Doctor Lamb, I'm taking these in whatever order you want to as far as your assessment.

May she step in front of the jury? Thank you.

(WITNESS LEAVES WITNESS STAND.)

A. Certainly. So separating out the injuries that -- you know, the forehead bruise that --

Q. Can you speak up a little bit, so the court reporter can hear you?

A. Sorry. Taking -- looking at the injuries that possibly could've happened in a child who's three and running around in play, separating out those, these are the injuries that are clearly inflicted or abusive on this child. So here in this photograph --

Do you need me to call out the number?

(WITNESS RESPONDING TO COURT REPORTER.)

MADAM COURT REPORTER: Please.

A. Yeah. So in Photograph Number 15, you can see that there's ear bruising, here both behind her ear and on the corner of her ear there. And this is a picture of the same ear in 16, so you can see the extensive bruising in her ear there. So the ears are protected areas over the body. They're flat up against the head, so it takes direct

trauma to that ear. And when you fall, you hit your shoulder, you hit your forehead, you might hit your, you know, part of the chin or the cheek, but you don't hit this protected area of the body. And so, she also had bruising -- this is No. 23 -- on the other ear as well. So those are clearly inflicted injuries that occurred to this child.

Q. And when you say inflicted, in what manner could that be inflicted?

A. So it's blunt force trauma. So what I've seen in cases where someone has told me what happened, it's either kind of the old-fashioned boxing of the ears, where they hit a kid upside the head; or it could be grabbing the ear and pulling the child around. So those are very common histories with ear bruising.

Q. In child abuse?

A. In child abuse. And this is a picture, 25, of the same ear where there's bruising in the back. So she had bruising both behind the ear and in front on both ears.

26 is just another picture where there is that bruise behind.

And then, in this picture, this is No. 27. So this is a subconjunctival hhemorrhage there. So when we see these in children, this implies direct blunt force trauma to the eye, if there's no history of violent vomiting or some injury that would cause those blood vessels to burst. The

eye is a protected area. You know, if you fall onto a floor, a flat surface, you aren't going to get in the socket itself. So unless there's some history of a baseball flying directly into a child's eye or something like that, this is also an inflicted injury that's physically abusive as well.

Looking at No. 22, so this is a bruise underneath the chin there. So when kids fall they bust their chins open all the time, but they hit it here. They don't get under the fleshy part of the chin. And when you have this round, oval about one centimeter in diameter, that's consistent with adult fingertips or knuckles, so that's another pattern that we identify as physically abusive as well in children.

Moving on to the legs. So this is 31. This is what I was talking about earlier with the loop and the linear marks here. So you can clearly see this loop right there, and this linear mark here on that leg. So that implies something with a linear edge was made with that linear bruise, and then something that can be looped over. The edge of a belt, a charger cord, something was used to strike this child on the back of her legs as well. And there's other linear bruises here and more loop marks up on the thigh, so these are clearly abusive injuries, you know, someone inflicted on this child.

And then in this one I want to show you, this is No. 5. So when we talk about falling back in the tub, I was talking about you would get, like, one bruise there. But then, when you start counting up the number of bruises on the back of her head, this is multiple blunt force traumas to the back of her head there. So the sheer number of these make it consistent with physical abuse and an inflicted injury, not a simple fall. You know, if you're going to fall, you're going to get one; you know, you're not going to get five, on the back of the skull there.

Q. And looking through the rest of these while you're standing, if you don't mind, as far as the two major areas of injury as far as illustrating that to the jury, can you go through and pick that out, what would help you?

A. Certainly. Did you want to see which ones I picked out before?

MR. BURTON: Proceed.

A. Okay. So this is No. 6. So this is just with the scalp back, showing that bruising on the underside of the scalp and the skin, so those are just those impact sites again. And then, this is a picture of the brain, and it just shows the swelling there. It's hard if you don't routinely look at brains to tell whether it's abnormal, but you know it was swollen at that time.

And then, in this series of injuries, so this is her

abdomen, so they reflected back the skin --

MR. NIELSON: Can I get the number you're on?

DOCTOR LAMB: I'm sorry. No. 9.

MR. NIELSON: Thank you.

A. So this is the skin that has that hemorrhage there from the lower abdomen, and then this is the muscle where the hemorrhage is as well. And then, once they slice the muscle in No. 11, these are the intestines. And so, these red areas are the areas of hemorrhage there. So the blunt force trauma went through, got the skin, got the muscle, impacted the intestines.

And then, on No. 12, you can see this huge collection of blood where she's just bled out into that space in the back of the abdomen as well. And so, this is, you know, one -- the other of the fatal injuries for this child.

Q. Anything else you need to show? Okay. Retake your seat.

(WITNESS RETAKES THE WITNESS STAND.)

Q. Doctor, I'll show you State's Exhibit No. 13.

You talked about how you can tell if bruises are recent. Does that reflect one of the procedures as far as looking at that?

A. Yes. So in 13, so this is where, you know, you have the discoloration, but you want to make sure it's bruising and so, you slice to see that hemorrhage underneath, into

the fat, and that's how you confirm that it is bruising.

And then, they would've taken samples here to look at under a microscope, to know that it's all fresh blood.

Q. And Doctor, in your opinion, as far as this child's death, what were the two major contributing factors?

A. So those were the two major injuries; the retro-peritoneal hemorrhage from that blunt force trauma to the front of her abdomen, and then the cerebral edema, the swelling in the brain.

Q. And can you tell the jury, in your expertise, how long could this child have survived these injuries once they were inflicted?

A. So the retro-peritoneal hemorrhage, we're talking minutes to an hour; you know, two at the outside. So you're going to bleed out very quickly into your abdomen, so this is not something that would last for hours to a day or more before you're dead from that injury.

The cerebral edema, again we're talking minutes to hours there. That's a little bit -- could extend a couple more hours there. But again, you look at symptomology, because once the injury happened, she wouldn't have been normal.

Q. From either of these injuries?

A. From either of these injuries, yes.

Q. But from the abdominal area, at the most she could

have survived was two hours?

A. Yes.

Q. And from the cerebral, maybe another two hours on top of that?

A. Yes.

Q. And in your opinion, which injury was the primary factor in this case?

A. So the retro-peritoneal hemorrhage would have killed her very quickly. It was, you know -- and it was more significant, just in severity, than the cerebral edema and the impacts to the -- the head. But the two would have fed on one another, making each one worse.

Q. And once these injuries were inflicted, what would her demeanor have been like?

A. She would have been very ill-appearing, so she wouldn't have been walking, she wouldn't have been talking. She couldn't have eaten, she couldn't have climbed anywhere. She would've been, you know, curled up, not wanting to move, not looking around, not interacting normally.

Q. Did you also become aware that, at autopsy, there was a fracture in her arm?

A. Yes.

Q. And to be clear, that did not contribute to her death?

A. No, it did not. It was healing at the time of her

death, so it had -- it had occurred at least two weeks prior.

Q. At least two weeks prior. What were her stomach contents at death?

A. So the pathologist reported that there were no stomach contents at time of death.

Q. Once a person or a child dies, is there a process called rigor mortis that occurs at some point?

A. Certainly. So once you are die -- once you're dead and your blood stops pumping; your temperature starts dropping; you become cold, and then rigor sets in, and that's that stiffening of all the joints and muscles there.

Q. And approximately -- does it vary how long it takes with rigor?

A. It does. So it depends on what the temperature is, what the body temperature is, the environment, so it can vary how long that takes.

Q. But typically, what's a typical amount of time?

A. Hours. A couple of hours.

Q. A few hours?

A. Yes.

Q. And once rigor sets in, if a person's attempting to perform life-saving procedures, are they able to say, intubate a child?

A. No. So you know, one of the places rigors sets in

first is in the jaw. So if you're trying to open the mouth to put in a breathing tube, which is intubation, it's very difficult once someone is in a state of rigor. And so generally that's noted in the medical records that they weren't able to open the jaw, or they had difficulty doing it.

Q. And was there any mention of that in these records?

A. No, they successfully intubated Minor.

Q. And I believe she presented at the hospital around 12:15 that day?

A. I'd have to refer to the EMS, but that sounds correct.

Q. Okay. And if that's right, what kind of time period, using that as well, would these injuries have been inflicted prior to that?

A. So the retro-peritoneal hemorrhage, if you state, you know, two hours at the offset from when she presents at 12:15, 11:15, 10:15, is where you're tracing back to where the injury would've occurred at that point.

Q. And there's also a term called lividity. What is that?

A. So once you're dead, the blood begins to settle in the body until it settles into whatever part of you is laying down. And so, some -- it develops almost before rigor happens, and that just tells us when we're reviewing cases, looking at the hospital photos, if there's lividity or

rigor, that it's -- that this child has been dead for an extended period of time hours there.

Q. Was there any indication other than the probably three to four-hour period prior to this, was there any indication of lividity or rigor that said it would've happened before that?

A. No. So there was not lividity or rigor noted on the photographs, or in the ER physician's notations, anything kind of in those emergency documentations.

Q. So she would've sustained those injuries that morning?

A. Yes.

Q. As far back as four hours from the Twelve o'clock, but that would've been it?

A. So if you say four hours from the Twelve o'clock with the head injury there, that's -- that would be consistent. Two hours with the abdominal injury at the outset.

Q. And your opinion, the abdominal injury would've been primary?

A. Yes.

Q. So these didn't happen the night before?

A. No. So in order to make the history fit for the night before, you know, if Minor, I believe, you know, went to bed at Seven to Nine o'clock the night before, she would've been found cold, dead, in rigor, with lividity, that morning, if she had been injured at that -- at that point.

Q. And Doctor, you've met with Agent Baird on this case?
A. Yes.
Q. As mandated by law?
A. Yes.
Q. And you've met with me?
A. Yes, I have.
Q. A couple times in preparation?
A. Yes.
Q. And did you also meet with the Defense attorney?
A. I did.
Q. And is that uncommon for you to do?
A. No. So as expert witnesses, I routinely speak to any interested attorneys, guardian ad litems, anyone who's involved in the case and give them, you know, my findings and what has occurred.
Q. Because you aren't trying to hide anything?
A. No.
Q. And have you ever been, like, subpoenaed by defense attorneys before?
A. I have.
Q. And when you met with him, you gave him any information he wanted?
A. Yes. We met in my office and I provided him with essentially everything that I'm telling you all today.
Q. Is there anything else significant about this case

that I haven't asked you?

A. I don't believe so.

Q. Minor's last couple hours, what were those like for her?

A. Bleeding internally is a painful way to go. She would've been in agony.

SOLICITOR CAMPBELL: Thank you.

CROSS-EXAMINATION

DOCTOR SUSAN LAMB BY MR. BURTON:

Q. Thank you for meeting with me. It was a very -- very enjoyable time. Primarily, though, you testified for the prosecution, just because of your contract with SLED and all, right?

A. Yes, I testify more for the DSS attorneys or Solicitor's in cases.

Q. And I think you had characterized the proximate cause of the death as the retro-peritoneal hemorrhage, right?

A. Yes, I did.

Q. Okay. How many cc's of blood are there in a three-year-old's body about the size of Minor?

A. I'm trying to remember. An adult has five liters, so I think it's about four liters.

Q. So four liters.

A. Uh-huh.

Q. That would be four thousand cc's?

A. Yes.
Q. Okay. And did you read in the autopsy report where Doctor Ross said that she found two hundred and fifty cc's of blood ---
A. I --
Q. --- in the cavity?
A. I did read that.
Q. Okay. Now, you testified too, that you look at the history of the -- of the case, as well as the medical evidence, right?
A. Yes.
Q. Okay. And you assume that the history that's presented to you is correct, right?
A. So I base the history on what's provided to me. We keep the case open for the entire duration, so as other statements come in, other history, we always revise our opinion at that point.
Q. Okay. And should the jury find from the evidence that the case history report has some inaccuracies, that might affect the accuracy of your work on the case, too, right?
A. So if there's different history that's provided, I'm happy to assess that here, but you know we can only base what people tell us there.
Q. True. But I mean, isn't it -- would that be a yes or a no?

A. Yes.
Q. Okay.
A. If the history is -- is changed, then we would need to consider that.
Q. Now, you're here to testify about child abuse, right?
A. Yes, that's my expertise.
Q. Right. And here, this case involves whether or not the defendant killed the child by child abuse, right?
A. I'm sorry, I don't understand the question.
Q. Well, I mean that's just what the indictment in the case says, and that's what the law says that the State has to prove to the jury in order for them to convict the defendant of homicide by child abuse. Not that you just -- I mean I'm not saying she abused any child, but I'm saying quite the opposite. But -- but it has to be proven that it's by child abuse, that the killing occurred by child abuse.
A. I'm not familiar with the law. I'll leave that ---
Q. Okay.
A. --- to you.
Q. If you accept that what I'm telling you as -- as -- as true, any of these bruises and any of these -- these, except for the retro-peritoneal hemorrhage bruise, or the bruise that caused the retro, none of those would've killed Minor, would they?

A. No, they would not.
Q. And your testimony is that it's very, very difficult to date bruises, right?
A. So it's based on the history to date bruises, and then the pathologist saying whether it's acute or not. I can't date bruises by just looking at them.
Q. Okay. I'm not trying to be a smart guy, but you testified that the -- the injury to the sclera could've been caused by a baseball?
A. So that's an example of a case that I had, so it's just direct blunt force trauma to the eye socket itself.
Q. But that would indicate that, other than child abuse, there are other possibilities that could've caused that injury?
A. Certainly. So we look at any accidental causes. That's why the history is so important. If anything had occurred, what the child has been, you know, involved in, other causes there.
Q. Do you know if there were any tests conducted on the blood that was found in the retro-peritoneal hemorrhage that would help indicate how old the blood was?
A. So that's not something that's routinely done in autopsy. So you do look at the abdomen and see if there's any biprosis, if there's any signs of infection, something that would say it was older. But when you have blood in

the space, there's nothing to determine that needs to be done to show it's acute there.

Q. But wouldn't it be greatly helpful in this case to determine how long after the injury was inflicted that the child died?

A. So the blood was acute, so when you do autopsy, if it is old, then it's clotted, it's there, so you can tell by just looking at it when you cut into it. So this was all fresh blood when they cut into it. There was no other test necessary to say that it was fresh.

Q. The autopsy was conducted the day following the death, right?

A. Yes.

Q. Uh-huh. And you recall speaking with Special Agent Baird about the case?

A. Yes, I did.

Q. Uh-huh. And with respect to the broken arm, I think when I talked to you, you agreed that what was written in her report was that the arm could well have been from falling off a bed?

A. Yes. So the fracture pattern of that arm could have been caused by a fall. It could've been accidental.

Q. And you also -- I also see in Agent Baird's report that just because somebody feels cold doesn't mean they're dead, right?

A. So you're referring to the notes with Agent Baird?
Q. Because lowering body temperature may cause heart rate and respirations to lower, and they could appear as someone is dead when they are not.
A. So we were looking at how long they had done CPR on Minor in the hospital. And from medical practice, you're not dead until you're warm and dead, because being cold can slow your heart rate, slow your respirations, to where it appears that you're not. So that's why they worked on her for so long is, they had to warm her so that, you know, they could confirm that there was no little heart activity that they were missing. So that was the comment I had made with Agent Baird about why they did CPR and lifesaving measures for such a long time in the ER.
Q. So could I take it a yes that just because someone feels cold doesn't mean they're dead?
A. No.
Q. Uh-huh. And the hospital isn't in the practice, are they, of working on a patient unless they think there's some possibility that the patient can revive?
A. So, no, that's not necessarily true. In child cases, you oftentimes work on them very -- for an extended period of time because it's so hard when a child dies. You need to let the fam -- even if you know they're already gone, you need to do everything so that the family feels that

everything has been done, every possibility was met, which is why children are not normally pronounced deceased in the field by EMS. You take them to ER and you work on them, so that the family feels that sense of closure, everything was done that could've been done.

Q. And you recommended that a neuropathologist look at the slides made from the cassettes?

A. Certainly. So when we're looking at brain injury, it's always helpful to have someone who specializes in looking at the brain section, to see if there's something else there that points to what kind of injury, what kind of mechanism was going on there. So because of the cerebral edema, I did make that recommendation at the beginning, speaking with Agent Baird.

Q. Do you know if a neuropathologist was consulted or not?

A. So a neuropathologist wasn't, but a very experienced forensic pathologist who does a lot of neuropsychology was, Doctor Durso with Prisma Health Pathology in Columbia.

Q. Do you know if a radiologist was consulted to look at the x-rays of the body and the brain?

A. When I met with Doctor Durso I believe they had reviewed all the x-rays. I don't know if it was a pediatric radiologist or not.

Q. Okay. And you didn't see any skull fracture in any of

the evidence that you had or any of the materials that you had looked at, did you?

A. No. So when they did the autopsy, they did not find any skull fractures.

Q. Was there any trauma to the cervical spine?

A. Not that was noted on autopsy.

Q. Wouldn't you normally find that? I mean, isn't that where the brain goes if it swells?

A. So, no. So the spinal cord and the brain is where you would have the brain coming out. But the cervical spine, that's, you know, the muscles and such going around there.

So, no, you wouldn't necessarily have cervical spine injuries if your brain swells and you herniate.

Q. And you didn't see any intra-cranial hemorrhages or retinal hemorrhages, did you?

A. So that wasn't noted on autopsy there.

Q. Okay.

MR. BURTON: Beg the Court's indulgence for a moment.

(PAUSE.)

MR. BUTRON: Thank you, your Honor.

THE COURT: Re-direct?

SOLICITOR CAMPBELL: Yes, sir.

REDIRECT EXAMINATION

DOCTOR SUSAN LAMB BY SOLICITOR CAMPBELL:

Q. Doctor, you did consult -- and I forgot -- an

experienced pathologist in this case?

A. Yes.

Q. And he asked you about how long they worked on this child at death and being able to time it and everything. Were there -- when they were trying to resuscitate this child, were there some signs of -- flickers, I guess, of life?

A. Certainly. So she had ventricular fibrillation, and also pulse-less electrical activity noted when they were doing her EKG, looking at her heart, activity. So there was still something there implying that she had died recently.

Q. And when you say recently, what time period are you talking about?

A. Minutes. Maybe up to thirty minutes. But if you're dead, dead, it doesn't matter how much you do, you're not going to get electrical activity in the heart.

Q. And as far as the history of the case, that's important to you as far as the infliction of some of the bruises of the child?

A. Certainly. So when you're talking about the history and who was around the child at the time, knowing that when they were looking at her she had some electrical activity in her heart --

MR. BURTON: Your Honor, I don't believe there are

correct re-direct questions. They're not based on any of my cross.

THE COURT: What's your response to that?

SOLICITOR CAMPBELL: Your Honor, he asked about the history, and it's important to consider the history and the things, and I just want to make it clear to the jury that we're talking about the history as far as seeing abuse, versus these two injuries that caused her death.

MR. BURTON: And your Honor, I --

SOLICITOR CAMPBELL: That's the only reason I'm going into it.

MR. BURTON: The case history I talked about was the police reports.

THE COURT: I'll allow it. Go ahead.

SOLICITOR CAMPBELL: Thank you.

Q. Okay. You can continue.

A. Sorry, I forgot the question at this point.

Q. As far as the case history and as far as seeing bruising. But in this case, as far as the -- what are two major contributors to her death?

A. The retro-peritoneal hemorrhage and the brain injury, the swelling.

Q. And he asked you about child abuse. Would the blow that it caused to cause the damage to her abdomen be child abuse?

A. Certainly. If there is no plausible accidental history, such as that car accident, that crushing injury from a T.V., you know, something like that. If there's no history of that, then yes, this was physically abusive; it was inflicted upon her.

Q. And I believe your testimony were, these were inflicted injuries on this child?

A. Yes.

Q. And the blows to her head, the multiple blows to her head, would those be considered child abuse?

A. Yes.

Q. In the absence of a seventy-mile-per-hour car accident?

A. Yes. Or, you know, multiple impacts to her head from something else. Even a car accident isn't gonna give you six impact sites on the skull.

Q. And the fact that the autopsy occurred the next day, does that in any way affect your findings, or a pathologist's findings?

A. No. So that's standard procedure.

Q. And in your opinion, when were these injuries inflicted upon this child?

A. So within minutes to an hour, at the outside two within her death. And then, since she, in the ER, had some electrical activity in her heart, there's no lividity, no

rigor, you know we're talking within those two hours of when she presented.

SOLICITOR CAMPBELL: Thank you. I don't have anything further.

RECROSS-EXAMINATION

DOCTOR SUSAN LAMB BY MR. BURTON:

Q. So with reference to the -- the big bruise, I mean you mentioned one other possibility that could've caused the bruise that wasn't in the case history. And the case history, in my case, I mean the police reports and stuff, right?

A. So the witness statements, yes.

Q. Okay. But if there were witness statements left out that could plausibly explain that, then it's a possibility it could've been from something other than child abuse?

A. Certainly. And if there are those histories, I'm welcome to review them right now.

Q. Okay. I don't have anything, but the police are the ones that did the case histories, not me. And there is evidence in the case, but --

SOLICITOR CAMPBELL: Objection, your Honor.

THE COURT: Sustained.

MR. BURTON: Thank you, your Honor. That's all.

THE COURT: Thank you. May this witness be excused?

SOLICITOR CAMPBELL: Thank you, your Honor.

THE COURT: You may be excused.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: All right, Mr. Foreman, ladies and gentlemen, let's take a morning break now.. If you'll leave your pads here in the courtroom, we will come back in about ten minutes.

(JURY EXITS COURTROOM AT 11:18 A.M.)

THE COURT: Could I see one of our bailiffs back here?

MADAM COURT REPORTER: You want this on the record, Judge?

THE COURT: No, that's fine.

(COURT IN RECESS AT 11:19 A.M.)

(COURT BACK IN SESSION AT 11:34 A.M.)

THE COURT: All right, is the State ready?

SOLICITOR CAMPBELL: State's ready, your Honor.

THE COURT: Defense ready?

MR. BURTON: Yes, your Honor.

THE COURT: Would you bring the jury in?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 11:35 A.M.)

THE COURT: Call your next witness.

SOLICITOR CAMPBELL: May it please the Court, the State would call Quintas Young.

(WHEREUPON, QUINTUS YOUNG,

BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

QUINTAS YOUNG BY SOLICITOR CAMPBELL:

Q. Agent Young, where are you employed?

A. South Carolina Law Enforcement Division, commonly known as SLED.

Q. And what is SLED?

A. It's the State Law Enforcement Division.

Q. And what happens at SLED?

A. Investigations. I'm in forensics particularly, toxicology.

Q. And so, you're what's known as a forensic toxicologist?

A. Yes.

Q. And what is that, sir?

A. As a forensic toxicologist, I'm responsible for analyses of biological specimen; blood, brain, urine. And we analyze those to detect the presence or absence of drugs, alcohol, poison, and we interpret those findings for coroners, pathologists, and courts of law.

Q. Can you tell this jury a little bit about your education and your training?

A. Yes. I have a bachelor's degree in chemistry from the University of South Carolina, a master's in health administration from Webster University. I've been at SLED

almost thirteen years. Once hired, I began the blood-alcohol portion of my training, which entailed me analyzing five hundred previously-analyzed samples, where I had to come within a five percent of the reported range. I attended -- sorry -- we had oral and written exams on interpretation of impairment, the different -- I can't talk -- the different volatiles that we look for in blood alcohols. And once you are found competent, you have to do a mock court session.

From there, you begin your drug training, which takes anywhere from six months to another year. And when I was hired it was a little different. It's a little different now, but when I was hired you essentially shadowed the senior analyst on each drug class. You attended classes with the senior analyst, who once again talked about impairment. And once you're found competent, you once again go through a mock court, and from there continued education; seminars, annual meetings with the Society of Forensic Toxicologists, webinars. But we continue training. And that's -- I've been -- yeah, that's what I do.

Q. Okay. And have you been qualified before as an expert in forensic ---

A. Yes.

Q. --- toxicology?

A. Yes, ma'am.

Q. And approximately how many times have you been qualified?

A. Roughly thirty.

SOLICITOR CAMPBELL: Your Honor, at this time we would offer as an expert in forensic toxicology.

THE COURT: Voir dire?

MR. BURTON: No objection, your Honor.

THE COURT: All right. Ladies and gentlemen, I'll remind you of what I've told you before about expert witnesses. This gentleman is going to be stipulated to be an expert in the field of forensic toxicology. All right.

SOLICITOR CAMPBELL: May it please the Court?

Q. Sir, did you receive certain samples for you to do some testing on in SLED Case Number L1719040?

A. I did.

Q. And first, can you tell the jury what samples you actually received that you were doing testing on?

A. We received a blue bottle said to contain a white substance, and three -- three blood samples. And on the child, blood, as well as liver and brain tissue.

Q. So the first sample you mentioned was a blue cup?

A. Yes.

Q. And was there a substance inside the blue cup?

A. Yes.

Q. And what kind of testing were you asked to do on that

substance within that blue cup?

A. So what we do is, we have a test that we call a general drug screen, which is essentially a way for us to separate its present state and pull out any drugs that would be present, but in this case there were none.

Q. There were no drugs present in that?

A. Correct.

Q. So as far as you know, it was some type of milk substance?

A. Correct.

Q. You also mentioned that you received certain samples from the victim in this case, Minor [redacted]?

A. Yes.

Q. And what samples were those, sir?

A. That was blood, brain, and liver, I believe.

Q. And did you test all those samples, or which ones, in making your determinations?

A. In this case we only -- well, I only analyzed the blood. The only way --

Q. Is that pretty standard?

A. That is. Blood is the preferred sample. We would analyze the brain and liver tissue if we ran out of blood sample; or if, for some reason -- well, a lot of cases we only get brain and liver tissue.

Q. But in this case you did get blood?

A. Right. But in this case we got blood, yes.

Q. And what kind of testing were you doing on Minor [redacted]'s blood that day, what were you looking for?

A. All right. So the way cases work when they come to SLED, or toxicology, we run a blood alcohol analysis, where we look for four different volatiles, but specifically ethanol, which is your drinking alcohol. That is normally the first test that is done.

The second test is a drug screen. It contains a panel of drugs that are commonly known to be abused. Methamphetamine, amphetamine, cocaine, opiates, benzodiazepines, and the list goes on. But that's normally the second thing that's done. And depending on the case, in this -- in this case, because it's a child fatality, we do an extra step where -- I just referred to, we did with the cup. It's called a general drug screen, where we cover substances that would not be covered under that previous drug screen.

Q. So the first drug screen you talked about looks for what's basically illegal drugs?

A. Right.

Q. But in this case, you also did an additional drug screen to look for what, maybe prescription or other type drugs?

A. Correct. Correct.

Q. And what were your findings when running all those tests on Minor [redacted]'s blood?

A. It was completely negative.

Q. So there were no blood -- there were no toxins or poisons or drugs in her system at the time of her death?

A. Correct.

Q. You also received, I believe, you said three more blood samples?

A. Yes.

Q. And taking those in whatever order you want.

A. We received a sample on Kayla Cook.

Q. And what, if any, drug screens or any screens you ran on her?

A. The same tests, the blood alcohol and the drug screen. The blood alcohol was negative. The drug screen came back positive for marijuana. So in that case we would go an extra step and confirm exactly how much marijuana is present, or --

Q. Did you do that?

A. Yes.

Q. And what was your determination there?

A. In this case, we found eleven carboxy-tetrohydrocannabinol, which is a metabolite of parent THC. Parent THC is the active component of marijuana. Carboxy THC is an inactive metabolite, which just shows previous

use.

Q. And when you say previous use, can you date exactly how long before this?

A. It really depends on frequency of use. For a novice user, somebody smoking for the first time, a day, two days. Someone who smokes every day, it can go weeks, maybe a month.

Q. But there was no active metabolite in her system?

A. Correct, correct.

Q. And that would've put it closer in time to the time the blood was drawn?

A. Yes. The presence of parent THC and one other metabolite, which is active, would've shown in a more frequent -- not frequent, a more recent use.

Q. But in this case you can just say it would've been from one to ---

A. It -- yeah, it's ---

Q. --- to three weeks?

A. --- really no way to determine how far back or when.

Q. Did you also get a sample from Timothy Schroeder?

A. Yes.

Q. Timothy Scott Schroeder?

A. Yes.

Q. And what, if any, tests did you perform there?

A. Same testing, and he also screened positive for THC.

And I confirmed, once again, the carboxy THC, which is the metab -- inactive metabolite.

Q. Okay. So it's the same inactive metabolite you just talked about with Ms. Cook?

A. Correct.

Q. And what, if anything, can you tell this jury about how long before he had been smoking marijuana?

A. It's the same interpretation. It just depends on frequency of use.

Q. So it could've been as much as a day earlier from the time it was drawn?

A. Correct.

Q. To a couple of weeks?

A. Correct.

Q. Okay. And finally, did you receive one final blood sample?

A. Yes, for Tracy Schroeder.

Q. Tracy Schroeder?

A. Yes.

Q. And did you run any tests on that?

A. It's the same blood alcohol and drug screen, and that came -- both of those came back negative.

Q. So the only things that anyone tested positive for were Kayla Cook and Timothy Schroeder?

A. Correct.

Q. And as far as Minor was concerned, hers was negative?

A. Correct.

SOLICITOR CAMPBELL: Beg the Court's indulgence.

That's all I have, your Honor.

THE COURT: Cross-examination.

CROSS-EXAMINATION

QUINTAS YOUNG BY MR. BURTON:

Q. So Mr. Young, there was nothing concerning at all about the toxicology on Minor ?

A. That's correct.

Q. And with Timothy Schroeder and Kayla Cook, we really just don't know how long before the death of Minor that they smoked marijuana?

A. That is also correct.

Q. No way to know -- no suggestion that they were under the influence of marijuana on December 18th when Minor died?

A. That is correct.

Q. Thank you, sir.

MR. BURTON: That's all I have.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Thank you, your Honor.

THE COURT: Thank you, sir.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR MCGINNIS: The State would call Kerrin Cook.

(WHEREUPON, KERRIN COOK, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

KERRIN COOK BY SOLICITOR MCGINNIS:

Q. Good morning, Ms. Cook.

A. Good morning.

Q. Can you state your full name, for the record?

A. Middle, too?

Q. Just first and last is fine.

A. Kerrin Cook.

Q. Okay. And how are you related to the defendant?

A. My younger sister.

Q. Okay. Did you have an occasion to go visit your sister on the day before Minor's death?

A. Uh-huh. The 17th, on Sunday.

Q. Move in a little closer to the mic.

THE COURT: Would you speak into the microphone?

A. The 17th, on Sunday.

Q. Okay. Why did you go over there that day?

A. My sister called me, frantic, in the morning. She said that her and Scottie had gotten into a fight, and he had slammed her against the wall, and she asked me to come over because she just needed her sister; she needed family.

Q. And did she call you, or did she send you a message?

A. I really can't remember. I want to say she called me,

but it might've been a message. It was through Facebook, I know that.

Q. Okay. And did you go over there that morning?

A. Yes.

Q. About what time?

A. I'm gonna say 10:30, maybe 11:00.

Q. Okay. And who was there with Kayla that day?

A. It was Kayla, Phoebe, Wyatt, and Minor.

Q. And how was Minor when you saw her that day?

A. She was just fine. All of the kids when I first walked in were playing in the playroom, which was, I guess, Bedroom 1 on the diagram. Nothing too off. Minor did seem like, kind of, in her own world, but I hadn't seen her in so long, so it -- I didn't know of anything going on. I know that her mother had stopped coming to see --

Q. Let me stop you there. So overall, Minor was fine?

A. Yeah, she was totally fine.

Q. Okay. What did you do with Minor that day?

A. So I had seen her hair and how it had been different lengths, and the patches and everything like that. And I was like, Minor, you want me to cut your hair? And she was like, yeah, cut my hair. So --

Q. So did you, in fact, cut her hair?

A. Uh-huh. I put a little towel around her, let her come sit up next to me on the couch, and just cut around, just

make it at least as close as possible the same length as I could.

Q. Okay.

A. Just right below her cheekbones.

Q. And while you were there, did you talk to anybody else?

A. Just my sister, and then my boyfriend at the time, Joshua Serrano, Facetime'd us.

Q. Okay. And did he talk with you?

A. He talked with me and the kids. Minor was kind of running around playing, so my niece Phoebe and my nephew Wyatt were more into the camera and filters, and all that other fun stuff kids like.

Q. Okay. How did Minor look when you were there?

A. She -- like, I questioned the bruise on her face, because I hadn't seen that.

Q. Uh-huh.

A. My sister had said, you know, the dog had knocked her down.

Q. Uh-huh.

A. And at the time of my interview with the police, I forgot that she had -- my sister had showed me her arm. And it looked -- it didn't really -- didn't really cause an alarm for me.

Q. Did you see any other marks or bruises on her?

A. Saw nothing.
Q. So you saw the face and the arm?
A. Uh-huh.
Q. Okay. What time did you leave that day?
A. 1:00, maybe. I was only there for a couple hours, three or four hours, maximum.
Q. Okay.
A. We were actually -- me and my boyfriend at that time, were going to come back and have pizza. And then, I guess when Scotty got home, it kinda -- not -- didn't happen.
Q. Okay.
A. But Scotty wasn't there when I showed up.
Q. Okay. And again, when you saw Minor that day, she was fine?
A. Uh-huh.
Q. Okay.
SOLICITOR MCGINNIS: Beg the Court's indulgence.
Q. The next day, did you go back to your sister's house?
A. Not during the -- like, afterwards. I was at work, and I got the call from DSS, Anna Henson, to come pick up my nephew; which I went to the neighbor's house, not that house.
Q. So you -- okay. So you went back to the neighborhood?
A. Yeah.
Q. And then, did you pick up Wyatt that day?