VOLUME II OF II

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC 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

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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).

A. Yes.

Q. And you took care of him until your parents came home, right?

A. Yes.

Q. When did your parents come back?

A. I have no idea. Before Christmas, I know that.

Q. Before Christmas?

A. Yeah.

Q. Where were they?

A. Florida, Disneyland, with my niece Phoebe.

Q. But they didn't come back that same day or the next day?

A. Huh-huh. They didn't want to ruin my niece's first time in Disneyland.

Q. Okay.

SOLICITOR MCGINNIS: Thank you, Kerrin.

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

CROSS-EXAMINATION

KERRIN COOK BY MR. BURTON:

Q. So you -- you were cutting Minor's hair; is that right?

A. Uh-huh.

Q. So could you see how much of the scalp or the back of the head, or the sides of the head?

A. All of it.
Q. All of it?
A. Uh-huh.
Q. Did you see any bruising ---
A. No, sir.
Q. --- on Minor's ears?
MADAM COURT REPORTER: Is that a yes?
A. No, sir.
BY MR. BURTON:
Q. Did you see any bruising on the back of her head?
A. No, sir.
Q. Did you see any bruising on the scalp?
A. No, sir.
Q. Did you see any bruising on Minor's forehead?
A. Right there, yes.
Q. Okay.
A. Yeah. But it was -- you could tell it was an older bruise.
MR. BURTON: Let the record show that the witness is pointing to the bridge of the nose ---
BY MR. BURTON:
A. Yeah, the --
MR. BURTON: --- a little above the bridge of the nose.
(WITNESS INDICATED TO HER FACE/NOSE.)

THE COURT: Okay.

A. And it kind of came down the side, and there was like a cut right there, and a little, tiny --

Q. Can you tell what right there means, because the court reporter can't --

A. Sorry. On the side of her nose, I'm not sure whether it was left or right, there was a tiny cut on the side of her nose, towards the top.

Q. Could you see Minor's bare legs or bare arms on that day?

A. No, it was cold.

Q. Oh.

A. All the kids were fully clothed, the pants and long-sleeved shirts.

Q. Did you see anything at all concerning about Minor?

A. No, not at all.

Q. Did Minor show any fear toward Kayla at all?

A. Not at all. Never have.

Q. In any of the times that you have been over or seen Kayla with Minor, did she appear to treat Minor any different than she treated her own children?

A. No.

Q. And when you got there, the fight pretty much was over with, and ---

A. Uh-huh.

Q. --- and Scotty was gone, right?
A. Yeah.
Q. Uh-huh.
A. I tried to convince my sister to leave him, and she said that she wouldn't leave Minor.
Q. Uh-huh. Did Kayla tell you when Scotty got back from wherever he was?
A. No, I don't believe so. I think I just kind of called her and was like, hey, are we still getting pizza; or texted her, I don't remember. And she's like, no, Scotty's home. Didn't -- didn't tell me like, hey, this or that. Just no, we're okay, we're having dinner.
Q. But she did tell you Scotty was home?
A. Yeah.
Q. And do you remember what time that was?
A. Uh-huh.
Q. Was it evening?
A. I would say, like, 4:00 or 5:00, yeah. Later on in the evening. It could've even been later.
Q. Are you -- are you aware whether or not Kayla brought Wyatt to your parents' house, or Phoebe and Wyatt to your parents' house?
A. Later that night?
Q. Yes.
A. Yes. Because she had to bring Phoebe to my parents'

house to --

Q. Do you know what time she left, approximately?

A. I wasn't home.

Q. Okay. But she did tell you that she brought Phoebe and Wyatt to your parents' house?

A. Yeah. As well as when I got home, Phoebe was there, so.

Q. Okay.

A. And my parents had told me.

Q. So logically, if Kayla left with Phoebe and Wyatt, then Minor would've been alone with Scotty, right?

A. Uh-huh

SOLICITOR MCGINNIS: Objection, your Honor. She is not in the house.

THE COURT: Overruled.

BY MR. BURTON:

Q. And if you don't know, you don't know, but do you know what time Kayla got back to the house?

A. I do not.

Q. Now, when Kayla comes to your parents' house to drop off the kids, I mean that's not an unusual thing, is it?

A. Normally, it's Scotty and Kayla, and all three of the kids whenever they bring the kids over.

Q. Do you know why Minor didn't go with the other kids?

A. Huh-huh.

Q. Well, generally speaking, when Kayla comes to the house to drop the kids off, does she kind of settle the kids in, or chat with your parents, or you, or anything like that?

A. Very little. She just comes, drops them off, says she loves them; you know, she'll be back, here's this, here's that; book bag, diapers, everything like that, and then just kind of leaves.

Q. Okay. When you were there, did the kids show you their Christmas presents and things like that?

A. My sister showed me their Christmas presents, the kids. They weren't wrapped yet, so.

Q. Oh, really.

A. Yes. The kids couldn't know.

Q. Did it appear that there were any fewer presents for Minor than there were for the rest of the kids?

A. Definitely not.

Q. Uh-huh.

A. My sister actually took the money that my father gave her for Christmas and bought their presents.

Q. For all three kids?

A. All three of them, uh-huh.

Q. And Kayla then -- while you were there, she made chicken nuggets and tater tots for all three kids?

A. Uh-huh.

Q. And does Kayla do anything to try and teach the kids manners?

A. Yes. So my sister said that her and Scotty both had taught the kids that they can't get up from the table until they have finished eating all their food. Wyatt, being I believe two at the time, kind of just nibbled a little bit and then ran around, and she was like, whatever. Gave the rest of the food to Minor. Minor ate all of her plate, as well as Phoebe, and then when they were done, they were to pick up their plates and put them in the sink. They didn't have to wash it off, just go put it in the sink.

Q. Were you able to observe Minor's appetite?

A. She ate every -- she ate her plate and my nephew Wyatt's plate. Yeah, it was fine.

Q. Anything unusual about Minor's behavior at the dinner table?

A. No. The only thing unusual about her is, towards the end we were watching *Ice Age*, like towards the end of my visit we were watching *Ice Age*, and she came and sat on my lap, and literally kind of cuddled up right here. And I was like, let's sing our ABC's. And she would wait for me to say the ABC's so she could repeat it back. And I was like, for a three-year-old, normally they know their ABC's, and my sister was like, we've been working on them. You know, apparently because of the mother situation, you know,

they had just kind of been working on her learning things. So my sister seemed to pay more attention to her learning than anything else.

Q. And do you go by any nickname with the kids?

A. Pippy.

Q. Uh-huh.

A. I'm Aunt Pippy.

Q. Does that include Minor?

A. Minor didn't really talk that much.

Q. Okay.

A. So Minor couldn't say much, and she didn't really see me a whole lot. She just -- I had known her beforehand, so she just kind of knew my face. I don't think she really knew who I was, in relation to the other kids or my sister. See me as a random person around, here and there.

Q. The way she acted toward you, was that any different from any other time you've been around her?

A. No. Sweet baby all around.

Q. And you know who Bossman is, don't you?

A. The dog.

Q. The dog?

A. Yes.

Q. Big dog?

A. Seems to be a ninety-five, eighty-five pounds of huge pit bull, yes.

Q. Okay. And had you observed, or did Kayla tell you anything about the dog ever knocking Minor down?

A. Yes, and that's how she said she got the bruise on her face. She kept the dog in the kennel in the kitchen while the kids were out. She said she wouldn't let the dog out while the kids were out, because he would knock Minor down, and he was really hyper, really rough, with all the kids at least Minor. The other two, they fell down too, as well, I guess.

Q. Now, did Kayla ever tell you that because of her small size that Minor was the ---

A. Yes.

Q. --- most common victim of the dog's hyperactivity?

A. Yes. That he would be more apt to knock her down and go play with her and be rough house with her, rather than the other two kids.

Q. Did you ever speak to Scotty about the dog and -- okay.

A. Barely spoke to Scotty throughout my sister's entire relationship with him.

Q. All right. And I've got a note that you knew Minor since her second birthday?

A. Uh-huh.

Q. So at least a year you knew Minor?

A. Yeah. I -- I had stayed with Michelle, which is

Minor's mother, for like, maybe two months when I was dating someone else, during the move.

Q. And was your sister particular about things like bedtimes and meals and so forth like that?

A. For the most part, yeah. She's always told me that they have, you know, dinner, bath time, bedtime. And to this day, we still follow that rule with my niece and my nephew to what they've been used to their whole life.

Q. Did you ever witness or -- or discuss with your sister about what sort of discipline was used on the children?

A. My sister, I've never seen her discipline the children. You know, time out. Never raise a hand, never nothing. Just no, don't do that.

Q. Any of the children?

A. No. They were all too young.

Q. Did your sister ever tell you that she wanted to leave Scotty?

A. Uh-huh.

Q. Did she tell you why?

A. Well --

SOLICITOR MCGINNIS: Objection, your Honor. This isn't a statement against her interests.

THE COURT: Say that again?

SOLICITOR MCGINNIS: This is a self-serving statement, not a statement against interests.

MADAM CLERK: I'm not sure we have --

THE COURT: I think it's not going to be here until about 12:30 or so.

THE BAILIFF: The jury's coming back in.

(JURY RE-ENTERS COURTROOM AT 12:05 P.M.)

THE COURT: All right, sir.

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

THE COURT: All right. Thank you, sir.

Re-direct?

SOLICITOR MCGINNIS: No, your Honor.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Please, your Honor.

THE COURT: Thank you, ma'am.

(WITNESS LEAVES WITNESS STAND.)

MR. BURTON: She's under subpoena by us, but --

THE COURT: Do you want me to make her stay?

MR. BURTON: We have the right to re-call her, that's all I was saying.

THE COURT: Okay. Do you want her to stay?

MR. BURTON: Not for today, your Honor.

THE COURT: Okay. Thank you, sir. May I see the attorneys up here, please?

(BENCH CONFERENCE, OFF THE RECORD, OUT OF HEARING OF THE JURY AT 12:06 P.M.)

THE COURT: All right, sir.

Would you bring the jury back?

THE BAILIFF: The jury's coming back in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 12:16 P.M.)

THE COURT: Ms. Campbell.

SOLICITOR CAMPBELL: Thank you. The State would call Timothy Scotty Schroeder.

(WHEREUPON, TIMOTHY SCOTT SCHROEDER, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

TIMOTHY SCOTT SCHROEDER BY SOLICITOR CAMPBELL:

Q. You go by Scottie?

A. Yes, ma'am.

Q. How old are you, Scottie?

A. Twenty-five.

Q. Where are you from?

A. Indian Land, South Carolina.

Q. And you lived in the Lancaster area your whole life?

A. Yes, ma'am.

Q. Where did you go to high school?

A. Indian Land High School.

Q. And did you graduate?

A. No, ma'am.

Q. How far did you go in school?
A. Tenth grade.
Q. Have you been working most of your adult life?
A. Yes, ma'am. My whole adult life.
Q. What do you do?
A. Landscape.
Q. Before you did landscape exclusively, did you have another job?
A. At one period of time.
Q. Do you have any children?
A. I had one. Minor.
Q. And how did you know Minor's mother?
A. I met her whenever we were fifteen in high school.
Q. When you were fifteen years old?
A. Yes, ma'am.
Q. And did you all have a relationship from fifteen on, or how did that happen?
A. We had a relationship from fifteen on, up until Minor was born. And then, recently, after that took place, we split up.
Q. Did Minor's mother have problems?
A. Yes, ma'am.
Q. What kind of problems?
A. Drug problems.
Q. When was Minor born?

A. [redacted].

Q. And did you initially have custody of her?

A. Not initially, no. Her mother did.

Q. But were you active in Minor's life, her whole life?

A. Yes, ma'am, the whole life.

Q. And who did Minor spend the majority of time with?

A. She spent the majority of time with me.

Q. With you?

A. Yes, ma'am.

Q. Before I get into more specifics, let me ask you this. You go by the name of Scotty?

A. Yes, ma'am.

Q. But you're Timothy -- what's your middle name?

A. Scott.

Q. Schroeder?

A. Yes, ma'am.

Q. Who is Scott Schroeder?

A. My father.

Q. And who is your mother?

A. Tracy Schroeder.

Q. And typically, and I'm talking about back around this time period, how did you communicate, say, with your father or your mother?

A. During this time? We really didn't communicate. The most I could communicate was over a phone, using WIFI from

my workplace.

Q. Okay. Did you have a Facebook account back in December of 2000?

A. I had, but it wasn't active. I didn't even know the password.

Q. How did you communicate through Facebook, then?

A. Kayla Cook's Facebook.

Q. When this happened, did you have a phone?

A. Yes, ma'am.

Q. Did Kayla have a phone?

A. Yes, ma'am.

Q. Did either of your phones have service on them?

A. No, ma'am.

Q. When did you meet Kayla Cook?

A. I want -- we officially met March 3rd.

Q. March 3rd of what year?

A. 2017.

Q. And how did you all meet?

A. Facebook.

Q. And did you all have something in common that kind of brought you together?

A. Yes, ma'am.

Q. What was that?

A. My ex was dating her ex.

Q. And when you say your ex, who is that?

A. Michelle Bigham.
Q. Michelle Bigham?
A. Yes, ma'am.
Q. And who is Michelle Bigham in relation to Minor?
A. Her mother, her biological mother.
Q. And you said her ex, who are you talking about, her?
A. Kayla Cook.
Q. And who is her ex?
A. Eddie Hartman.
Q. Eddie who?
A. Hartman.
Q. Hark?
A. Hart-man.
Q. Hartman, sorry. And when you all met in March 3rd, Eddie was dating Michelle?
A. Yes, ma'am.
Q. They were both your exes?
A. Yes, ma'am.
Q. And you had a child with Michelle?
A. Yes, ma'am.
Q. Did Kayla have a child with Eddie?
A. Yes, ma'am.
Q. And which child was that?
A. Wyatt, her youngest son.
Q. You said you met through Facebook. When did you have

your first face-to-face encounter?

A. I want to say, like, two days, three days afterwards, so March 5th or 6th, something like that.

Q. How did your relationship develop?

A. It developed slowly, but we -- I mean we -- I thought of her as, you know, a good person, and I mean it went from there. We soon moved in together, probably like three to five months afterwards, after meeting.

Q. You moved in together?

A. Yes, ma'am.

Q. And during that time period, when you first met Kayla in those months right before you all moved in together, did you -- where was Minor?

A. She -- well, at first she was with me, and then Michelle didn't like Kayla, so Michelle was trying to keep Minor from me, because essentially I was with her, with Kayla.

Q. And where were you living when you first met?

A. I was living with my parents, 7 --

Q. Where is that?

A. [redacted] Henry Harris Road?

Q. Henry Harris Road?

A. Yes, ma'am.

Q. And where is that here in --

A. It's in Indian Land.

Q. In Indian Land?
A. Yes, ma'am.
Q. Where was Kayla living?
A. With her parents, in Belair, Rocksburg Road.
Q. Rocksburg Road?
A. Yeah.
Q. And so, for the first several months you all are dating, you had Minor?
A. Yes, ma'am.
Q. But that started to change a little bit as your relationship developed?
A. Yes, ma'am. Actually, my birthday week May 4th. The week of ---
Q. May 4th?
A. --- the -- yes, the week of my birthday. That's whenever Michelle, her biological mother, Minor's biological mother, had essentially took Minor from me, so.
Q. And did you all have any formal custody arrangements?
A. No, ma'am, no formal. Just me and her talking.
Q. And up until you started dating Kayla, that had worked?
A. Yes, ma'am.
Q. At some point, did you move out of your parents' house that Spring?
A. Yes, ma'am.

Q. Where did you move to?
A. [redacted] Warren Court.
Q. Warren Court?
A. Warren Court.
Q. And what part of town is that in?
A. It's the same part of town. It's right across from Indian Land Elementary.
Q. And when you moved in there, what type of house was this?
A. It was a -- it was a trailer with a room added onto it.
Q. A trailer with a room added?
A. Yes, ma'am.
Q. And when you moved in there, was [redacted] with you?
A. Yes, ma'am.
Q. So during this time period, even though she didn't like Kayla, would [redacted] go back and forth?
A. Yes, ma'am.
Q. Once you moved in the trailer, at some point it was you and [redacted], right?
A. Yes, ma'am.
Q. Did more people move in?
A. Yes, ma'am.
Q. Who?
A. Kayla, Phoebe, and Wyatt.

Q. Did you develop a relationship with her children?
A. Yes, ma'am.
Q. And what kind of relationship was that?
A. At first it was kind of like, I mean I don't know how to put it, but it ended up becoming, like, me as a stepfather.
Q. Once you moved into the trailer on Warren Court, how long were you all there?
A. We're at Warren Court, I want to say -- I want to say three months or four. Three or four months.
Q. But at some point, did you all have to move ---
A. Yes, ma'am.
Q. --- somewhere else?
A. Yes, ma'am.
Q. And why was that?
A. It was -- it was a power problem in a log cabin, and my power was too high. My landlord wouldn't help us, so I moved back in with my parents.
Q. Okay. Let me back up. You first were in the trailer?
A. Yes, ma'am.
Q. And you just said the word log cabin.
A. Yes, ma'am. We -- we moved to a log cabin because I wanted more space, since her kids had -- her and her kids had moved in -- moved in.

Q. Because you all had been cramped??
A. Yes, ma'am.
Q. So at some point -- how long were you all in the trailer at first? Do you remember, approximately?
A. That was two months.
Q. And then you moved into?
A. The log cabin, which was next door.
Q. Which was next door?
A. Directly next door.
Q. And then, how long did you all stay there? Do you know?
A. I want to say a month and a half. I know I -- I know I paid rent for one month, and then I got the power bill. And then me and the landlord had got into a disagreement on how to go about that, so.
Q. And at some point you moved -- you -- I think you already testified, back with your parents?
A. Yes, ma'am.
Q. Do you remember approximately what time of year that was?
A. It was the end of summer.
Q. End of summer?
A. Towards the end -- towards the end of summer. Yes, ma'am.
Q. Were Kayla and her children still living with you?

A. Yes, ma'am.
Q. And where was Minor over that summer?
A. Minor was with her mom the majority of the time.
Q. The majority of the time?
A. Yes, ma'am.
Q. After you moved back in with your parents, where did Kayla move?
A. With me.
Q. With your parents?
A. Yes, ma'am.
Q. So about September, say, you all were in with your parents?
A. Yes, ma'am.
Q. At some point towards the end of August, first -- middle of September, that time period, did DSS become involved?
A. Yes, ma'am.
Q. In your all's life?
A. Yes, ma'am.
Q. And tell the jury how that occurred.
A. Someone had called DSS on the biological mother, Michelle Bigham, and her drug -- using drugs around my daughter.
Q. And at some point did a family member of yours go and get Minor?

A. Yes, ma'am.
Q. And who was that?
A. Tracy Schroeder, my mother.
Q. And where did she take Minor once she got her?
A. She brought her home.
Q. But Minor had visited with you some that summer; is that correct?
A. Yes, ma'am.
Q. And how long had she been with her mother before Tracy went and got her? Do you know??
A. A consecutive two weeks.
Q. Two weeks?
A. Yes, ma'am.
Q. And when she got home at that point, did you notice something about Minor had changed?
A. Yes, ma'am.
Q. And what was that?
A. Her hair was, like, it was falling out.
Q. It was falling out?
A. Yes, ma'am.
Q. And what did you all do as far as treatment for her hair?
A. My mother took her to a doctor to see if anything could be done, or what was causing it.
Q. At some point, did DSS come and make contact with you

after Minor had moved back in with you?
A. Yes, ma'am.
Q. And when was that approximately? Do you know?
A. Not really. It was shortly after. Latrice Good came to the house and spoke with me.
Q. Sometime after Minor was back home ---
A. Yes, ma'am.
Q. --- with you?
A. Yes, ma'am.
Q. So at this point, living in the house, in your parents' house, who all was there?
A. It was my father, Scott Schroeder; my mother, Tracy Schroeder; myself; Kayla Cook; Phoebe, Minor, and Wyatt.
Q. And were you there when DSS came out and met with you all?
A. Yes, ma'am.
Q. And at that point what was the status of Michelle interacting with Minor, pursuant to DSS's involvement?
A. Just visitation, and my mother was over the visitation.
Q. And why was your mother put over visitation?
A. Because me and her did not get along. Me and Michelle did not get along.
Q. And what was the aggravating factor in your life that had changed that Spring before that Michelle got mad about?

A. Kayla Cook.
Q. So did you understand the terms of how it was supposed to work?
A. To be honest, the DSS worker really didn't go over much. I remember -- I recall signing a piece of paper, stated my custody rights for Minor, but apparently that didn't make it back to DSS.
Q. But no matter what, DSS was good with you and Kayla and the children living with your mother and father?
A. Yes, ma'am. At all times.
Q. And specifically, what was your mother's role as far as Michelle went and Minor's visitation?
A. My mother was to supervise.
Q. And did she do that over the Fall?
A. Over the phone?
Q. Over that Fall?
A. Oh, yeah.
Q. I'm sorry. And you already mentioned it, but in October your mother took her to the doctor?
A. Yes, ma'am.
Q. And had she made attempts to get a followup appointment with the dermatologist for Minor?
A. I'm pretty sure she did make an attempt for a followup.
Q. So how long did you all stay in your parents' house

before leaving?

A. We stayed there until November, whenever we moved to Heath Circle.

Q. And do you remember approximately what date in November you moved to Heath Circle?

A. I want to say 14th, but I can't be positive?

Q. Around the middle?

A. Around the middle. Yes, ma'am.

Q. Okay. Prior to you leaving your parents' house, did DSS come and make what's called a home visit?

A. Yes, ma'am.

Q. And do you remember the name of the person that was making that visit? If you don't, that's fine. Okay.

Who all moved into the Heath Circle?

A. Myself, Kayla Cook, and the three children, Minor, Phoebe, and Wyatt.

Q. Your mother didn't come?

A. No, ma'am.

Q. And why was that?

A. Between her having to help my father take care of his father and just, I mean, us being crowded, I told her, you know, there was no sense in it. She would've been there from 10:00 at night until 4:00 in the morning, and the kids were asleep the whole time she would've been there.

Q. So DSS was aware that you and Kayla were with the

children the rest of the time?

A. Yes, ma'am.

Q. Is Kayla Cook, was she working at this point?

A. No, ma'am.

Q. And when did she quit work?

A. Over the summertime.

Q. And why was that?

A. Between -- both of us couldn't afford daycare services for all the children. Basically, one of our checks was going to daycare services, and the other one was, you know, taking care of all the bills.

Q. So who made the decision for Kayla to stay home during the day and take care of the kids while you worked?

A. It was a mutual decision, but I mean it was mostly her. She did want to.

Q. And that Fall, where were you working?

A. That Fall, I was working at Independent Fence.

Q. Independent Fence?

A. Yes, ma'am.

Q. And where is that located?

A. It was located in Indian Land. They're currently shut down.

Q. And at the time, who was the manager, the person that kind of ran it?

A. My supervisor was Mark.

Q. Mark?
A. I can't really remember his last name, but.
Q. What kind of work did you do there?
A. I was a powder coater. I powder coated fences, gates.
Q. And did you have a regular schedule, or could it vary sometimes?
A. It varied sometimes. You know, I could -- I could come in earlier and leave earlier.
Q. So when you moved into Heath -- and where is Heath Circle?
A. Heath Circle's in the middle of Lancaster, literally about three streets down from here.
Q. Okay. So when you all were moved in there, what was Kayla's primary focus as far as what she did all day?
A. She -- she was supposed to take care of all the kids, make sure that they were okay.
Q. Did you become aware of an incident involving Minor that took place before Thanksgiving?
A. Yes, ma'am.
Q. Were you there when it happened?
A. No, ma'am.
Q. And what happened to Minor?
A. From what I was told is that she fell off the bed, onto possibly a toy, and sprained her arm.
Q. Which bed did she fall off of?

A. The one in the back bedroom, the girls' bedroom.
Q. The girls' bedroom?
A. Yes, ma'am.
Q. And that's the one -- the bed that's on the floor?
A. Yes, ma'am.
Q. And did you notice any kind of injury?
A. Yes, ma'am.
Q. And how did you find out about what happened to her?
A. Through Kayla.
Q. Did you seek treatment for your child's injury? What was the injury, first?
A. It was a swollen arm with a little bruise right at the elbow.
Q. Was it painful for Minor?
A. I mean, I asked her. She said, I'm okay, Daddy. But I mean, I would guess yes.
Q. Was Minor a very verbal child?
A. Sometimes. Depends on what you're doing.
Q. Were you all planning on getting her into a special program?
A. Yes, ma'am.
Q. And what was that program?
A. For -- to try to catch her up on her speech and her learning before she actually went to school.
Q. And when was that supposed to take place?

A. The following year.
Q. The first of the next year?
A. Well, we hadn't actually, like, set a date, but it was -- we were looking into it for the following year.
Q. What treatment did you all get for Minor's arm?
A. Basically we just kept it wrapped up.
Q. Why didn't you seek medical treatment?
A. I trusted her -- Kayla Cook's word.
Q. Did you yourself try to see if it was broken?
A. Yes, I looked at it. I mean, to me it didn't -- I was moving it. You could watch her sit there and play with toys, you know what I'm saying? And I mean, she -- every once in awhile she'd complain about it. I'd give it a kiss and she'd say, I'm all right, Daddy, and go back and go play.
Q. Who administered medication to the children in your all's household?
A. Kayla Cook.
Q. When was Minor's birthday?
A. [redacted] -- her birthday was in [redacted], but it was 2017.
Q. So she was how old, then?
A. She was turning three.
Q. And did you all do anything to celebrate her birthday?
A. Yes, ma'am. We had a birthday party.

Q. And where did that take place?
A. In my home.
Q. And who all was there at the birthday party? You don't have to name everybody, but general.
A. My family, neighbors, and that was it.
Q. Did you all have a dog in the house?
A. Yes, ma'am.
Q. Where did you keep the dog?
A. He -- well, whenever I was there, he roamed free. But he usually stayed in a crate, I guess, whenever I was gone, is what I was being told.
Q. The next day after Minor's birthday party, did your mother come by and get Minor?
A. Yes, ma'am.
Q. And why was she coming by to get Minor that day?
A. For visitation for Michelle Bigham.
Q. And was Minor gone for a period -- did you go with them?
A. No, ma'am.
Q. Once she left, do you remember approximately how long they were gone?
A. I'd say -- I'd say two hours.
Q. Couple of hours?
A. Couple of hours.
Q. And what time of day was that?

A. During the day. About midday.
Q. And was that the last time Michelle had visitation?
A. Yes, ma'am.
Q. And each and every time Michelle had visitation, who was present?
A. My mother, Tracy Schroeder.
Q. I want to turn your attention to December 6th, that Wednesday after Minor's birthday. Did -- did you see DSS that day?
A. Yes, ma'am.
Q. And where did that take place?
A. At my home on Heath Circle.
Q. And who came -- just explain to the jury kind of what happened that evening.
A. I was running late. I came home. She had -- DSS lady had just pulled up whenever I pulled up. And I had to go pay the rent to my landlord, so I went in the house, grabbed my money and went and paid the landlord. The DSS lady and Kayla Cook was already speaking whenever I walked back in the home. And basically, Kayla Cook spoke to the DSS lady the whole time. I don't even think I said anything to her.
Q. Was Minor there that day?
A. Yes, ma'am.
Q. Was Phoebe there?

A. Yes, ma'am.
Q. Wyatt?
A. Yes, ma'am.
Q. I'm going to turn your attention to the weekend starting December 16th, that weekend when all this happened.
A. Yes, ma'am.
Q. The 16th, I think, was a Saturday?
A. Yes, ma'am.
THE COURT: May I interrupt you? I'm sorry.
SOLICITOR CAMPBELL: That's okay.
THE COURT: I think we probably need to take a break here ---
SOLICITOR CAMPBELL: Perfect.
THE COURT: --- if that's okay.
Sir, I'm going to let you step down, but you can't speak with anybody about your testimony.
Okay, sir, you may step down.
(WITNESS LEAVES WITNESS STAND.)
THE COURT: Mr. Foreman, lunch is here and I didn't want it to get cold. So if you'd go back with the bailiff, and they'll show you what you need to do. I think it's in the Grand Jury room; is that right?
THE BAILIFF: I think they're going to eat in the jury room, I believe, Judge.

understand, I mean, about those other bad acts. It's just not -- it doesn't meet the rule standard, okay.

MR. BURTON: I really will try my best, your Honor.

THE COURT: And then you're just going to have to stand up and object.

MR. BURTON: I will object if the Solicitor will object ---

THE COURT: All right. Oh, I know you will.

MR. BURTON: --- before we cause any problems with the case.

THE COURT: All right. Okay. That being said, you ready to cross-examine?

You were finished with Mr. Schroeder? You were not finished with Mr. Schroeder?

SOLICITOR CAMPBELL: No, sir.

THE COURT: Okay. Would you bring him back in, please?

(WITNESS REENTERS COURTROOM/RETAKES THE WITNESS STAND.)

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 01:35 P.M.)

THE COURT: All right, Ms. Campbell.

SOLICITOR CAMPBELL: May it please the Court?

DIRECT EXAMINATION

TIMOTHY SCOTT SCHROEDER BY SOLICITOR CAMPBELL:

Q. Mr. Schroeder, before we went out, let me back up a little bit for a second. Back in October, while you were living, I believe that would be at your mother and father's house?

A. Yes, ma'am.

Q. At some point did you and Kayla break up?

A. Yes, ma'am.

Q. And how long did that last?

A. A week, five days.

Q. And what did -- after five days, what did you all decide to do?

A. We decided we'd get back together.

Q. So she came back to the house?

A. I don't know if she directly came back to the house, but I'm pretty sure she did come back to the house before we went to Heath Circle.

Q. I want to turn your attention to that December 16th, that Saturday. At some point that day, did Minor go off with Kayla somewhere?

A. Yes, ma'am.

Q. Where did they go?

A. Toys 'R Us.

Q. Toys 'R Us?

A. Yes, ma'am. Before it shut down.

Q. And what was the purpose of them going there that day?

A. To get Christmas gifts.

Q. And who were they buying Christmas gifts for?

A. The children; Phoebe, Wyatt, Minor all of them.

Q. And what were you doing while they were shopping?

A. I was watching Phoebe and Wyatt.

Q. Did you work that day?

A. I don't -- I don't believe I did.

Q. I want to turn your attention to that Sunday.

A. Yes, ma'am.

Q. Did you have to go to work that Sunday?

A. Yes, ma'am.

Q. And prior to going to work, did something happen between you and Kayla?

A. Yes, ma'am.

Q. And what was that?

A. We got into a -- an argument that ended up into a fight.

Q. And when you say it got into a fight, what happened?

A. She -- she turned around, hit me in the face; I pushed her off of me. And then, whenever I realized that I had my hands on her, let go of her immediately, and then she continued to strike me.

Q. And did she actually strike you?

A. Yes, ma'am.
Q. Where?
A. In the face, multiple times.
Q. And at any point were -- were you bleeding in the face?
A. Not bleeding, but I did have a scratch on my face, yes.
Q. And where did that take place in the house?
A. The kitchen.
Q. Where were the children?
A. In the living room.
Q. Did you hit her?
A. No, ma'am.
Q. But you did do what to her?
A. I grabbed her arms and pushed her off me.
Q. And you said you realized you had grabbed her?
A. Yes, ma'am.
Q. And that's when you did what?
A. Let go of her.
Q. What was the fight about?
A. Originally, it was, she was yelling at the kids. I took it that she was yelling at Phoebe, and she was yelling at Phoebe way too much. And I said something to her, and apparently she didn't like it.
Q. Did that take place before or after you went to work

that day?
A. Before.
Q. And about what time did you end up going to work?
A. I left right after that, and it must've been like Ten o'clock or something like that. I mean, I know I was kind of late going to work. Can't remember exact time.
Q. And why were you having to go to work on the weekend?
A. My job was to ensure -- I was a powder coater, and that was the second step to -- we had another shop that put the vinyl fences together, and I had to make sure they were all powder coated so the guys at the other shop could work on Monday.
Q. And that just -- there was some extra work that had to be done?
A. Yeah, I had to make sure that they had work to do on Monday.
Q. How long did you stay at work that day doing the powder coating?
A. I'd say like five hours. Roughly.
Q. About what time was it when you got home; do you remember?
A. Not really. It was still daylight outside.
Q. Was it in the afternoon, late afternoon?
A. Afternoon.
Q. Afternoon sometime?

A. Yes, ma'am.
Q. And when you got home, who was there?
A. Kayla and all the kids.
Q. And at that point, how were you and Kayla interacting?
A. We didn't interact at all. I went to the kitchen and got something to drink, and walked in the back room and built Wyatt's new bed.
Q. And what kind of bed was that?
A. It was a castle bed, the castle children's bed.
Q. And when you say you built it, what did you have to do?
A. I had to literally take it out of the box and put it all together.
Q. Did it come with instructions?
A. Yes, ma'am.
Q. And where you building the toddler bed?
A. It was -- it's my bedroom, but it's the bedroom across from -- from the girls' bedroom.
Q. Where were the kids while you were doing this?
A. They were all sleeping on a couch.
Q. What happened next that afternoon?
A. They woke up. I remember I was still building the bed, and then they had came in the bedroom, and the closet was open. The Christmas presents were in the closet, so I told them to leave. And then, Wyatt stayed with me in

there while I built the bed. Then we moved the bed into Wyatt's room.

Q. Uh-huh.

A. And then, I think I watched a movie while Kayla made dinner.

Q. And at that point how were you and Kayla getting along?

A. Fine. No arguments.

Q. Had she gotten over it?

A. Yes, ma'am.

Q. Had you gotten over it?

A. Yes, ma'am.

Q. About what time was it when you all had dinner that night; do you remember?

A. I'd say it was a little bit later than usual, but like, probably like 5:30, 6:00, something like that.

Q. And who all was there for dinner?

A. Me, Kayla, and the kids.

Q. And did you all typically all eat in the same area, or how did that work?

A. The living room. Minor and Wyatt would sit at the -- the table, and then Phoebe would sit in the floor, and I -- me and Kayla would be on the couch.

Q. And that evening, did Kayla need to take Phoebe somewhere?

A. Yes, ma'am.
Q. What was that about?
A. She needed -- her parents were taking Phoebe to Disney World the next day, so she was going to drop Phoebe off.
Q. Okay. And was she planning on taking just Phoebe, or -- excuse me -- anyone else with her?
A. She was planning on taking all the kids.
Q. Did something happen that made her not take one of the children?
A. Yes, ma'am.
Q. What was that?
A. Minor pottied on herself, and we pretty much had to completely undress her and clean her. So instead of redoing that, she went ahead and took the kids.
Q. And you said we had to undress her and clean her?
A. Yes.
Q. Who was doing that?
A. I was doing the majority of it. Kayla did come in and -- with -- she had went and picked out the clothes and came back, and then I dressed Minor.
Q. And that night, you cleaned her up?
A. Yes, ma'am.
Q. And how did you clean her up?
A. Baby wipes.
Q. Typically -- was Minor potty-trained?

A. Somewhat.
Q. Did she have accidents?
A. Yes, she still had accidents; she's three.
Q. And when she would have an accident, typically would you all discipline her?
A. A type of discipline, time-out, yes.
Q. And you just put her in time-out?
A. Yes.
Q. And that evening when she had the accident, before you cleaned her up and everything, did you discipline her?
A. Yes, ma'am.
Q. And how did you do that?
A. We sat her on the toilet and told her to go finish pottying, and that was pretty much it, time out.
Q. So time out that evening was while she was on --
A. The potty.
Q. And were you in there with her?
A. Yes, ma'am.
Q. Did you spank her that night for doing that?
A. No, ma'am.
Q. Did Kayla?
A. Yes, ma'am.
Q. And how many times did she pop her?
A. Twice.
Q. And was that before or after she went on the toilet?

A. It was after.
Q. And in you all's household, what was the typical discipline for the children?
A. Time out was usually what it was. In that household, at that point in time, I had pretty much backed out of all discipline. Like, I mean I didn't -- I didn't whip the children. I didn't tell them to go in time out, that was Kayla's thing.
Q. But you had done that before, but at that point you weren't?
A. Yes, ma'am.
Q. And how did you clean her up that night, I'm sorry?
A. Baby wipes.
Q. Once she was clean, did you dress her?
A. Yes, ma'am.
Q. Was Kayla there when you were doing that, or had she left?
A. She was leaving, in the process of leaving.
Q. And did she take Wyatt with her or did she leave him?
A. She took him.
Q. And what did you put on her that night?
A. It was a -- from my recollection, it was a yellow jumper, like onesie.
Q. A onesie?
A. Zip-up onesie with a button on top.

Q. Uh-huh. And did you put any underwear on her, or any Pull-Ups or anything of that nature?

A. I think I put underwear on her, yes.

Q. Did anyone in the household use Pull-Ups?

A. I think we might have started Wyatt on Pull-Ups; I'm not sure.

Q. And once you got Minor dressed, was everybody else gone?

A. Yes, ma'am.

Q. What did you all do?

A. Me and Minor went and sat on the couch and watched the beginning of *King Kong*.

Q. And about how long did you watch the movie that night?

A. Not sure, but it was like, before it started getting that -- like, with the -- the movie kind of had a bad part in it, and right before that we -- I took her to bed.

Q. And about what time was that; do you know?

A. I'm gonna say Eight o'clock.

Q. Close to 8:00?

A. Yes, ma'am.

Q. And at that point did you put Minor to bed?

A. Yes, ma'am.

Q. And where did you put her in the bed?

A. I went to the back bedroom, her bedroom, and laid her in the bed; and I did lay down with her for a little bit.

Q. In you all's house, typically how many beds were there?

A. There was -- at that time there were two, because I built Wyatt's bed.

Q. Okay. But before you built the second bed?

A. One.

Q. Where did everybody sleep?

A. The kids slept in the bedroom, and there was a pull-out Futon couch deal, and that's where I slept the majority of the time.

Q. Where did Kayla sleep?

A. She was back and forth.

Q. Between the kids?

A. And me, laying beside me, yeah.

Q. And that night, you put Minor down in the bed -- in the pink bedroom ---

A. Yes, ma'am.

Q. --- I think is a way to describe it. Once she went to sleep, what happened next; or you put her to sleep?

A. Laid down with her, and then I got up, and I went and I washed a few dishes. And then, by that time Kayla had arrived with Wyatt. Wyatt was still awake. Gotten him out of the car, put him in the bedroom with Minor, lay both of them down. Minor did pop her head back up. I told her to go back to bed. And then, I think I put both of them down,

walked out of the room, and maybe watched a little bit of a movie before I laid back down on the Futon.

Q. And do you remember about what time it was they got home?

A. I want to say it was Nine o'clock, because I was upset about what time she was coming back home.

Q. Did you get mad at her again?

A. No. No, no, no, no, no.

Q. And why would you be upset at what time she was coming home?

A. It was Nine o'clock at night, and she had a one-year-old in the car.

Q. Did Wyatt go back to sleep?

A. I think he tried to walk out the room one time, but I told him go back to bed, and he went back to bed.

Q. And was Minor asleep at that point?

A. Yes, ma'am.

Q. Let me back up a minute. When you were cleaning Minor ---

A. Yes, ma'am.

Q. --- did you take off all her clothes?

A. Yes, ma'am.

Q. Did you look at her entire body?

A. Yes, ma'am.

Q. Did she have any bruising here in the abdomen area?

A. No, ma'am.
Q. Did she have any bruising across the backs of her legs?
A. No, ma'am.
Q. Did you notice any bumps on the back of her head?
A. No, ma'am.
Q. Did you notice any bruising to her face?
A. There were two bruises on her face. One in the middle of her eyes, in the middle of her eyes, and then one at the corner -- I would say the right-top corner of her head.
Q. And I want to turn your attention back to that week before, that Thursday or Friday. Did you become aware of an incident involving your dog?
A. Yes, ma'am.
Q. And how did you become aware of that?
A. By Kayla Cook.
Q. And when did you become aware of that?
A. Whenever I got home from work that day.
Q. And do you remember if it was Thursday or Friday, or Wednesday, or whatever?
A. I don't really remember; I can't remember.
Q. Was it several days before?
A. It was several days before, yes, ma'am.
Q. And what type of injuries did Minor have after the dog knocked her down?

A. That was the bruise on her head, and then there's also -- I do recall one on her hand, very light though; and then that was it.

Q. Did Kayla at any time tell you that she had accidentally stomped the child when she was saving her from the dog attack?

A. Absolutely not.

Q. And in those two days before, including that last night, did you ever see this large --

A. No, ma'am.

Q. That night, after you went back and watched the movie, where did you all sleep? Where did everybody sleep that night when you all went to bed?

A. I started to sleep on the Futon, but Kayla had talked me into laying down with the kids.

Q. Okay. So you just had the two kids at that point?

A. Yes, ma'am..

Q. Okay. And you all all slept in the same bedroom.

Why did she want you all to sleep in the same bedroom?

A. I don't know. I can't really recall why.

Q. What was the heat like in your house?

A. Oh, it was poor, it was poor. It was -- I had -- I had basically one big space heater for the living room, and then a space heater for wherever the kids were going to be we kept that space heater with them.

Q. And that night, you all were all in one room?
A. Yes, ma'am.
Q. Where was everybody in the bed that night?
A. Minor was farthest to the wall, Wyatt was in between her and Kayla, Minor and Kayla. Kayla was on the end of the outside of the bed, and I was at -- laying -- I was laying at the foot of the bed ---
Q. So you were ---
A. --- along the ---
Q. --- kind of perp --
A. --- along all their feet.
Q. Perpendicular?
A. Yes, perpendicular.
Q. And that's how you all slept?
A. Yes, ma'am.
Q. Did you have to go to work the next day?
A. Yes, ma'am.
Q. That night, when you were putting Minor to sleep, did you have a conversation with her about going to work?
A. Yes, ma'am.
Q. What was that?
A. She asked me if I would -- she asked, Daddy, are you going to work, and I said, yes, tomorrow. And she said no, no, Daddy, stay -- stay here. And I told her I had to go, and then she just rubbed my face and said I love you,

Daddy, and you know, me and her talked back and forth a little bit more. I ultimately told her that she had to go to bed, it was getting late.

Q. The next morning, what time did you get up?

A. I -- I -- this was odd, because I got up earlier than usual, but I did. I made myself a cup of coffee and let my dog out, and then let -- let him come back in, and I went to leave for work.

Q. About what time that was you left the house?

A. 6:30.

Q. 6:30 a.m.?

A. Yes, ma'am.

Q. What time did you have to be at work?

A. Really, they -- they said only by -- I had to be by there by Eight o'clock, but I got there early that day. I think I arrived at 7:30.

Q. When you get to work on that day, as every day, do you have to clock in?

A. Yes, ma'am. There's a time clock up underneath the security camera.

Q. Prior to leaving for work that day, did you have any conversations with either Minor or Wyatt or Kayla?

A. No, ma'am.

Q. What did you do before you left?

A. I walked in the room, said bye, y'all, love y'all, and

then I left. And like I said, I -- I made me a cup of coffee and let Boss out.

Q. And when you left, did Minor appear blue or purple, or anything like that?

A. No, ma'am.

Q. And did you actually look at her before you left?

A. I saw her visually with my eyes sleeping.

Q. Once you clocked into work that morning, was it a normal morning for you at work?

A. Yes, ma'am.

Q. And that day for lunch, did you make some plans to meet somebody?

A. Yes, ma'am.

Q. And who were you going to meet that afternoon ---

A. My father ---

Q. -- or that --

A. --- Scott Schroeder.

Q. And how did you communicate with him?

A. Over Facebook, but I was using Kayla Cook's Facebook.

Q. And explain that to me. Basically, how do you -- were you messaging him or calling him, or how did that work?

A. Messaging him.

Q. And did you do that through your phone?

A. Yeah.

Q. And did you and Kayla have separate phones.

A. Yes, we had separate phones.
Q. But you would use her account?
A. The phone that I had was previously hers; I just used it.
Q. Because it was already on there?
A. We needed a -- I mean, I needed a phone while I was at work; and then yes, her Facebook was on it. I didn't know my password or anything, so I didn't attempt to log out and log into my own.
Q. And as far as when you would message your father, how is he listed on Facebook?
A. Scott Schroeder.
Q. Scott, no i.e.?
A. No, ma'am, just Scott.
Q. And in fact, did you go and meet him that day?
A. Yes, ma'am.
Q. And do you know approximately what time that was?
A. He goes on break at 12:00, so it was -- it was like, right around 12:00.
Q. And does he work near you?
A. Yes, ma'am.
Q. And where were you all meeting for lunch that day?
A. QT, in Indian Land.
Q. The QT in Indian Land?
A. Yes, ma'am.

Q. Is that like, a gas station?
A. Yeah, Quick Trip. Sorry.
Q. Okay. And in fact, did you meet with him?
A. Yes, ma'am.
Q. That day, shortly before noon, were you aware that Kayla was messaging your father?
A. Yes, ma'am.
Q. Did you become aware of that before or after you found out about Minor?
A. Before.
Q. While you were having lunch with your father, what happened?
A. Me and him had lunch. Regular -- regular old day, and then my mom -- well, actually I tried to call Kayla Cook back; she had messaged my father. Tried to call her back and there was no answer.
Q. And that would've been sometime after noon?
A. Yes, ma'am. It would be after ---
Q. After 12:00 o'clock?
A. --- 12:00 o'clock, yes. And then, I believe I sent her a short message saying, I love you guys and I'll be home soon. And then, shortly after that my mother, Tracy Schroeder, called my father, asking if I was around him.
Q. And then what happened?
A. She said that my house --

Q. Who was she talking to at this point?
A. My father. He had the phone on speaker.
Q. Okay. So you were able to hear it?
A. I was able to hear. All I heard was two things, and I took off running.
Q. What did you hear?
A. Your house is wrapped in caution tape, and one of the children are in the hospital.
Q. What did you do?
A. I ran from QT to the shop; went inside the shop, grabbed my keys, went back out to the car, booked it to Lancaster.
Q. To Springs?
A. Yes, ma'am.
Q. It's got a different name now, but Springs Memorial?
A. Yes, ma'am.
Q. And once you got there, what did you do?
A. I immediately went to the front, and the next thing I know there's a police officer coming out, and he -- whenever they said -- whenever the police officer came out, they kind of was like, go with him. And then he -- we were walking down the hallway and I asked him, I was -- I was like, what happened. He was in a brown uniform, investigator's uniform, I guess. And immediately I thought something had happened between my dog or something, and he

-- he said something had happened, there was a incident in the bathtub with your daughter. And I immediately kind of was flustered and was, like, wanting to ask more questions, but at that time the nurse had walked out of the room and told me that Minor was not breathing on her own. And I ran in the room, and -- and I saw Minor.

Q. Was Kayla in the room when you got there?

A. Yes, ma'am.

Q. Did you speak to her?

A. No, ma'am.

Q. Did she speak to you?

A. Maybe. I wouldn't -- I can't recall because I wasn't paying attention to her.

Q. What were you doing?

A. I was paying attention to my daughter. I was holding my daughter's feet and begging for her life.

Q. What were you saying; do you remember?

A. I do. I watched the video, but I was -- I was telling her to breath, you know, come back. And then, towards the end, I was begging God to trade lives, take my life, not hers.

Q. At some point did you say something to the effect of telling that this was your fault?

A. Yes, ma'am.

Q. Why did you say that?

A. I'm a father. My job is to protect her, and I -- at that moment I felt like I failed, and I felt like it was my fault.

Q. And you were in the room when they called the code?

A. Ma'am?

Q. You were in the room when the doctor said they couldn't do anything else?

A. Yes, ma'am.

Q. And then, were you allowed to stay in the room with her?

A. For a limited amount of time, yes.

Q. Was Kayla in there with you?

A. Ye -- for an even shorter period, yes.

Q. That afternoon, did they even allow you to hold her?

A. No, ma'am.

Q. That afternoon, did you go to the police department?

A. Yes, ma'am.

Q. How did you get there?

A. I drove. With a police escort essentially.

Q. Had you spoken to Kayla at this point?

A. No, ma'am.

Q. Once you got to the police department what happened?

A. I sat there, felt like forever, and then they called me back and interrogated me.

Q. Did they advise you of your rights?

A. Yes, ma'am.
Q. And did you agree to talk to them?
A. Yes, ma'am.
Q. And then, did you talk to them and answer their questions?
A. Yes, ma'am.
Q. Were you completely truthful with them about everything?
A. Not everything, no.
Q. What weren't you truthful with them about?
A. One was the fight that happened previously that -- the morning before.
Q. What did you tell them happened to your face?
A. I said --
Q. Because that's what they were asking about, right?
A. Yes, ma'am. I told them that a piece of metal had came up off of a saw and scratched my face.
Q. And then, later did you tell the truth?
A. Yes, ma'am.
Q. When was that?
A. The day after Minor's funeral.
Q. And why did you wait 'til the day after Minor's funeral?
A. Because the -- I understand what had happened. I did put my hands on Kayla Cook, and I believed that I was going

to be charged with domestic violence and they'd throw me in jail for it, and I wouldn't have been able to bury my daughter.

Q. You talked to them for a good period of time that day?

A. Yes, ma'am.

Q. And then, what did you do once they finished talking to you?

A. After they finished talking to me they released me, told me they'd be in contact with me. Ms. Sims gave me her card, and I walked out and I looked out in the parking lot. I didn't see nobody, but then out of the corner or my eye I saw my mom, and everything kind of hit me right there, that it was all real.

Q. Where did you go that night?

A. To my grandfather's house.

Q. And that's where you stayed?

A. Yes, ma'am.

Q. Did you try to find out what happened to Minor?

A. Yes, ma'am.

Q. What did you do to try to find out?

A. I went and asked all the neighbors what they had seen, heard, anything.

Q. Did you try to get in touch with Kayla?

A. Yes, I did.

Q. And how did you try to get in touch with her?

A. Calling her. I also went and saw Kerrin and asked where she was going to be at, and if she could get in contact with me, please tell me something, and I never heard back from her.

Q. She never responded to you?

A. No, ma'am.

Q. She's never talked to you?

A. No, ma'am.

Q. Did you ever see Kayla pull a blanket out from under Minor that morning?

A. No, ma'am.

Q. When -- there's been some talk about Minor. Did she try to like, eat her own poop, or what was that about?

A. To be honest, I really don't know what it was about. The only thing I could guess is that she was trying to hide it.

Q. She was trying to hide it from you all?

A. Yeah.

Q. And had Kayla ever told you the story about stepping on Minor?

A. No, ma'am.

Q. The day after Minor's funeral, did you go back to the police station?

A. Yes, ma'am.

Q. And what kind of information were you trying to get?

A. Was -- that I was trying to get? I mean, basically what the police were trying to get. I mean, I just wanted to know what happened to my daughter.

Q. And you talked to them then?

A. Yes, ma'am.

Q. Did they also ask you about the hole in the door ---

A. Yes, ma'am.

Q. --- in one of the bedrooms?

A. They did.

Q. And at first you told them it was from moving furniture or something?

A. Yes, ma'am.

Q. What really happened?

A. Me and Kayla were kind of arguing. She went to go slam the door, stuck my foot out, and my foot went through the door.

Q. Did you ever think Kayla was abusing your child?

A. No, ma'am.

Q. And has she ever -- did you find out where Kayla went after this happened?

A. Yes, ma'am.

Q. And during the period of time that she was there, did she ever reach out to you and tell you what happened?

A. No, ma'am.

Q. Kayla Cook, do you see her here in the courtroom?

A. Yes, ma'am.

Q. Can you describe her for the jury?

A. Wearing a black shirt, sitting next to the gentleman, the bald gentleman with the suit.

Q. At the Defense table?

A. Yes, ma'am.

SOLICITOR CAMPBELL: Your Honor, may the record reflect he's identified the defendant.

THE COURT: So reflects.

(WITNESS IDENTIFIES DEFENDANT AT DEFENSE TABLE.)

THE COURT: Cross-examination.

CROSS-EXAMINATION

TIMOTHY SCOTT SCHROEDER BY MR. BURTON:

Q. So, Mr. Schroeder, I mean everything in your life is somebody else's fault, isn't it? Some girlfriend --

SOLICITOR CAMPBELL: Objection, your Honor.

A. No, sir.

SOLICITOR CAMPBELL: We can't hear him.

THE COURT: Would you speak up, please, sir?

BY MR. BURTON:

Q. Everything that bad happens in your life is somebody else's fault, right?

A. No, sir.

Q. I mean, didn't you testify that your bad relationship with Michelle was Kayla's fault?

A. I don't think I said that.
Q. The power bill problem, that was the landlord's fault?
A. It was.
Q. Kids not going to the doctor, that was Kayla's fault?
A. I never said that.
Q. And paperwork with DSS not going away, well that's DSS's fault?
A. I never said that.
Q. The fight that you had on the 17th, that's Kayla's fault?
A. Yes, it was.
Q. The hole in the door, the bottom of the door, that's Kayla's fault?
A. Never said that.
Q. The only thing that you said was your fault was when you were in the hospital, right?
A. I don't understand the question.
Q. And you were alone with Phoebe on the evening of the 17th of December 2017, between the hours of Six or Seven and whatever you said, to Ten o'clock, Nine o'clock?
A. I think you've got the wrong child.
Q. Beg your pardon?
A. You said Phoebe.
Q. Did I say Phoebe? I apologize. I meant to say Minor.
A. Yes, I was alone with my daughter.

Q. Okay. And with regard to the arm, I mean you obviously saw there was a problem there, right?
A. I saw swelling and a small bruise.
Q. And it wasn't going away, was it?
A. The bruise went away, the swelling went down.
Q. Uh-huh. But not immediately; it took awhile, right?
A. Swelling probably would take awhile to go down.
Q. And why didn't you get treatment for your daughter?
A. I trusted Kayla Cook by saying that it was just a sprain.
Q. Did you have anything to do with the DSS ---
A. No, sir.
Q. --- case that was going?
A. No, sir.
Q. There was a gas heater in the house, right?
A. Yes, sir.
Q. How come it wasn't on?
A. Because I did not have enough money to pay the bill.
Q. And Monday when you got up, how long were you in the house before you left for work?
A. I would say roughly, from the time I got up to the time I left, anywhere from twenty-five to thirty minutes.
Q. And did you kiss Minor goodbye before you went to work?
A. No, I did not.
Q. And when you found out that Minor was eating her poop,

I mean wouldn't that be something that you'd want to get some -- I mean, that's not a normal thing. Don't you think that's something you'd want to get to the bottom of?

A. Well, I tried, but I don't know how you would go about solving that problem, other than between me and the child.

Q. Well, I mean there's a world of doctors out there, right?

A. That is true, but which doctor do you take her for, for eating poop?

Q. Well -- well, I think, in answer to your question, I'd take her to, first of all, a general practitioner. If they think they need to go somewhere else, then they would ---

A. Maybe I should have ---

Q. --- refer her?

A. --- but I did not.

Q. I see that you did not. And you had no reason to think that Kayla was abusing Minor, did you?

A. No, sir.

Q. Did you tell police that when Minor came back from visiting Michelle she had bumps, things like ant bites, in her hair?

A. No, I did not.

Q. No? Do you remember being videotaped while Sergeant Sims was speaking to you and interrogating you?

A. Yes, sir.

Q. And the first video, at about twenty-five minutes and twenty-three seconds, you didn't tell Sims that Michelle returned her with bumps like ant bites in her hair?

A. No, sir. I said that her hair was falling out.

Q. Sorry?

A. I said her hair was falling out.

Q. Bumps and ant bites?

A. I do not recall saying that.

Q. But it's possible you could've said that?

A. I don't think so.

Q. Okay. And you told Sergeant Sims if there were marks or bruises on Minor it would've been just from the arm --

A. Excuse me? Excuse me, I did not hear your question.

Q. I'm not sure if the judge wants me to pause.

THE COURT: No, I accidentally hit my mic, I'm sorry.

MR. BURTON: Okay. I saw you pull the rule booK out.

THE COURT: No, sorry.

BY MR. BURTON:

Q. When Sergeant Sims asked you if you'd noticed any marks or bruises recently on Minor that you told her that just the arm and the dog incident?

A. Yes, sir.

Q. Did you testify that -- or tell Sergeant Sims that Minor was bouncing on a full-sized trampoline and hit her head?

A. No.
Q. No?
A. No, sir.
Q. And you didn't tell Sergeant Sims that there was a bruise all the way across her forehead?
A. There was a bruise across her forehead, but not from jumping on the trampoline.
Q. All right. Let me rephrase it then, from falling off the trampoline.
A. She didn't fall off the trampoline.
Q. Okay. Some other activity involving a trampoline?
A. Yes, sir.
Q. You're saying yes, that she hit her head?
A. Yes.
Q. Okay. And didn't you tell Sergeant Sims that not only the lie about the flying sheet metal that caused the mark on your face, but I mean you also said another lie, that Mark, a co-worker or boss, saw it happen?
A. Yes.
Q. And that on the second video, at about thirteen minutes and fifty-one seconds, did you say that you kissed Minor goodbye on the morning of the 18th?
A. I do not recall.
Q. So if I play that video, you wouldn't hear anything to that effect?

A. I just said I do not recall.
Q. And Special Agent Baird, do you remember talking to her, too?
A. Yes, sir.
Q. And she asked you if you ever knew of Kayla to hurt Minor. Do you remember what your answer was?
A. My answer was no.
Q. And same question, Phoebe and Wyatt?
A. My answer was no.
Q. Do you remember Sergeant Sims asking who the punisher in the home is?
A. Yes.
Q. And what was your answer?
A. I don't know if she said punisher, but -- I mean, I wouldn't put it as punisher. But no, I do not recall my answer.
Q. Okay. Would you believe me if I said the answer was me, meaning yourself?
A. Yeah, but I wouldn't have answered that question, punisher.
Q. I'd be happy to play the tape for you. You think maybe you want to think about it a little?
A. I said yes.
Q. I'm a little hard of hearing. Could you speak up a little bit?

A. I said yes.
Q. Thank you. And when you returned later, after the December 18th interrogation or whatever you call it with Sergeant Sims, you were again asked, did you ever think Kayla would do something to Minor. And didn't you answer no, I don't think she would ever do something to Minor?
A. Yes, I did answer that.
Q. And didn't you say that you never thought in your whole life that Kayla would harm Minor?
A. Yes.
Q. And that she loved Minor just like the other kids?
A. I do not recall what I said in that statement, but yes that's what I was saying, yes.
Q. And did Sergeant Sims ask you about the hole in the door?
A. Yes, she did.
Q. And did you say that you kicked it in because you were mad at Kayla?
A. I kicked it in while she slammed it, simultaneously.
Q. Okay, that's what you're saying now?
A. Excuse me?
Q. That's what you're saying now. But I'm asking if you said it then the way I just asked?
A. Most likely.
Q. And on the fourth video, did you tell Sergeant Sims

that -- that you never saw Kayla treat Minor differently from the other kids?

A. Yes, I did.

Q. And on the fifth video you said the only lie was the scratch on your -- the only lie you told was the scratch on your face?

A. Yes, sir.

Q. Okay. And that's a lie in itself, isn't it?

A. How?

Q. Well, I just asked you about several other things that you lied about and your answer was yes.

A. You didn't ask me about several other things.

Q. All right.

A. You asked me about the --

Q. I'll withdraw the question.

A. Yeah.

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

THE COURT: Yes, sir.

(PAUSE.)

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

THE COURT: Thank you. Re-direct?

SOLICITOR CAMPBELL: Just one issue.

RE-DIRECT EXAMINATION

TIMOTHY SCOTT SCHROEDER BY SOLICITOR CAMPBELL:

Q. He asked you about the trampoline?

A. Yes.

Q. When did that take place?

A. Springtime.

Q. And we'll get into this now. In the Springtime?

A. Yes, ma'am.

Q. And where did that take place?

A. At the log cabin.

Q. And who was present when Minor got injured that time?

A. Kayla Cook, and also multiple people. What I was told was that her sister Tosha and her mother Janice was also there.

Q. But Kayla Cook was there?

A. Yes, ma'am.

Q. You weren't there for that, either?

A. No, ma'am.

Q. And the injury, he asked you about how it occurred, what was your understanding of how the injury occurred?

A. That she was running towards the trampoline as they were building the trampoline. She tripped, fell, and hit her head on a post.

Q. And who told you that?

A. Kayla Cook.

SOLICITOR CAMPBELL: I don't have anything further.

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

THE COURT: Thank you, sir. You may step down.

MR. SCHROEDER: What do I do with my cup?

THE COURT: Sir?

MR. SCHROEDER: What do I do with my cup?

THE COURT: Just leave it there. Mr. Schroeder, we're going to ask you to stick around. Okay, sir?

MR. SCHROEDER: Yes, sir.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Call your next witness, please.

SOLICITOR CAMPBELL: The State would call Donna Money. Your Honor, may we check outside for just a second?

THE COURT: Okay.

(WHEREUPON, DONNA MONEY, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DONNA MONEY BY SOLICITOR CAMPBELL:

Q. Can you state your name?

A. Donna Money.

Q. And where are you employed?

A. I'm currently employed at the South Carolina Law Enforcement Division, also known as SLED.

Q. What do you do there, ma'am?

A. I'm a forensic scientist in the DNA case work department.

Q. And can you tell the jury basically what you do in the DNA department?

A. I perform forensic DNA analysis on submitted evidence, items, and known standards; conduct comparisons; calculate statistics; issue reports and testify in court.

Q. Can you tell this jury a little bit about your education and your training in the field of DNA analysis?

A. I received a bachelor's degree in science, in forensic science, from the Pennsylvania State University in 2011.

Q. And have you had any training in the field of DNA?

A. When I was hired on at SLED, I underwent a year-and-a-half-long training program under a qualified analyst. This program included running analyses on practice samples, training samples, competency samples, a written exam, oral exam, report writing exam, and a mock court. Upon being certified to perform analyses in our case work department, I am required to have at least eight hours of continuing education, per the FBI.

Q. And have you testified before as an expert on DNA analysis?

A. Yes.

Q. And how many times have you been qualified in that area, ma'am?

A. Twenty-nine times.

SOLICITOR CAMPBELL: Your Honor, at this time I'd

offer her as an expert in DNA analysis.

MR. BURTON: No objection, your Honor.

THE COURT: All right. Ladies and gentlemen, as I've told you more than once during the trial, experts are allowed to give their opinion; and also experts' are judged as any other witness in this case. It is stipulated that this witness is an expert in the field of forensic DNA analysis.

BY SOLICITOR CAMPBELL:

Q. Ma'am, did you receive certain standards in relation to the SLED lab number L1719040?

A. Yes.

Q. And were some of those blood standards?

A. Yes.

Q. And why would you get either a blood standard or what's known as a buccal swab? What's a buccal swab?

A. It's when you collect the skin cells inside of somebody's cheek, using a cotton swab.

Q. And why do you get, like, what, blood or a buccal swab from someone? What's the purpose in getting those items?

A. Those are used to conduct comparisons against any known profiles that are developed from submitted evidence items.

Q. In addition to that, did you also get what's known as a DNA kit from Minor [redacted]?

A. I received a sexual assault evidence collection kit from Minor [redacted].

Q. And what items were in that sexual assault kit that you did testing on?

A. May I refer to my report?

Q. Please do.

A. That kit contained a set of swabs from the vaginal area, the oral cavity, and the rectal cavity.

Q. And one of the standards you received, either the blood or otherwise, was from Minor [redacted] herself; is that correct?

A. Yes.

Q. And did you do any testing on the swabs you just mentioned that you received from the CSC kit?

A. Yes.

Q. And when you CSC, what are we talking about?

A. Criminal sexual conduct kit.

Q. And what testing did you do?

A. I performed DNA analysis on all three sets of swabs: the vaginal, oral, and rectal swabs.

Q. Did you also do testing to get a profile from Minor [redacted]'s blood?

A. Yes.

Q. And once you get the profile from the blood, did you make any comparisons with the profiles you got from the

swabs?

A. Yes.

Q. And what were your findings?

A. For SLED Item 22.1, which were the vaginal swabs, the DNA profile developed was consistent with the DNA profile of Minor [redacted].

For SLED Item 22.2, which were the oral swabs, the DNA profile developed was consistent with the DNA profile of Minor [redacted].

Then the swabs collected from the rectal area, which was SLED Item 22.3, those came back as well as being consistent with the DNA profile of Minor [redacted].

Q. So in doing all of your testing and being able to compare it initially just to the victim's profile, was there any foreign DNA in the swabs you tested?

A. No.

Q. And is that indicative of there being no sexual assault as far as you could tell?

A. There wasn't any foreign DNA present.

Q. Do you didn't find any evidence of anyone else? No one else's DNA was there?

A. Correct.

Q. So did you have to do any further testing?

A. Based on one step of our process that indicated that there may have been no DNA there, I performed something

known as YSTR analysis on the rectal swabs, and once that analysis was completed, no DNA -- no YSTR DNA profile was developed from that.

Q. So essentially, you're -- you found no evidence of any sexual assault?

A. Correct.

Q. Thank you.

SOLICITOR CAMPBELL: I don't have anything further.

MR. BURTON: No questions, your Honor.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Please, your Honor.

THE COURT: Thank you, ma'am. You are excused.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR MCGINNIS: The State calls Mark Abrams.

(WHEREUPON, MARK ABRAMS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

MARK ABRAMS BY SOLICITOR MCGINNIS:

Q. Good afternoon, Mr. Abrams.

A. Hello.

Q. Can you state your name, for the record?

A. Mark Allen Abrams.

Q. And where do you work currently.

A. I currently work at DLS Re-trading in Indian Land.

Q. And where did you work prior to that in the December

2018 time period?

A. Independent Fence Distributors in Fort Mill.

Q. Okay. Do you remember the street address of that place?

A. Oh. 9500 Henry Harris, I believe.

Q. Okay. And geographically, where is it located? You said Indian Land?

A. Yes.

Q. Okay. When you were there, what was your role?

A. I was the gate shop manager.

Q. So were you responsible for hiring, supervising employees?

A. I was, yes.

Q. In the time period of December of 2017, did you have an employee named Timothy Scott Schroeder?

A. Yes.

Q. And did you know him by Scotty?

A. I did.

Q. Okay. At our request, did you look at Scotty's time sheets for that time period?

A. I will.

Q. Specifically, what day were we looking at?

A. Monday, the 19th, I believe.

MR. NIELSON: Your Honor, could you instruct the witness to speak up? I can barely hear him.

THE COURT: Yeah, would you mind speaking in - and maybe just pull your chair up and speak into that microphone, please, sir.

A. Monday, the 19th, I believe.

Q. If I said Monday, the 18th, would that sound right?

A. Yes, yes.

Q. Okay. And did you, in fact, pull a time sheet for him on that day?

A. Yes.

Q. Okay. I'm going to hand you what's been marked State's, I believe 225.

Is that right, Madam Court Reporter?

225, for identification purposes. Does that document look familiar to you?

A. Yes.

Q. And what is that?

A. That is Scotty Schroeder's time sheet.

Q. And what does it show for the day December 18th, 2017?

A. He clocked in at 7:22 a.m.

Q. And were you at work on that date?

A. Yes, ma'am.

Q. Do you recall seeing Scotty that day?

A. Absolutely.

Q. Do you recall seeing him come in in the morning?

A. Yes.

Q. And was he there for the entire day?
A. As the time sheet will show, he left right around break time.
Q. And does the time sheet show he clocked out?
A. It was either break time or lunchtime. It has been, you know, quite some time.
Q. Does the time sheet show him as clocking out that day?
A. It does not.
Q. What do you -- what is your recollection of the events of that day?
A. We were on break, and our business was part of a parking lot that was shared with Quick Trip.
Q. Okay.
A. And Scotty was at Quick Trip getting a snack or a drink or whatever. And he had received a phone call that his home was surrounded by police and emergency vehicles, and he came running down that hill in his white suit that he, you know, wears while he's in the powder booth, the powder coat booth. He told me that was all the details I had of the situation, and I said by all means, go home. He did not clock out, obviously.
Q. Did you see him at work that morning?
A. Did I see him at work that morning? Absolutely.
Q. Was he there for the entire morning?
A. Yes, ma'am.

Q. Did you see him take any smoke breaks?
A. Maybe one or two. They -- you know the work process was real demanding, and you know, I could always hear what they were doing and see what they were doing. So yeah, they would, you know, take a smoke break here and there, but it was always while they were still working.
Q. And would it be fairly quick?
A. Yes.
Q. Was there anytime during that morning that Mr. Schroeder was not at your workplace, other than when he went to the Quick Trip?
A. No.

SOLICITOR MCGINNIS: I don't have anything else, your Honor.

THE COURT: Cross-examination.

MR. BURTON: No questions.

THE COURT: May this witness be excused?

SOLICITOR MCGINNIS: Please, your Honor.

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

(WITNESS LEAVES THE WITNESS STAND.)

SOLICITOR MCGINNIS: Your Honor, I apologize; I should move State's 225 into evidence.

MR. BURTON: No objection, your Honor.

THE COURT: It's admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 225, IDENTIFIED AND

MARKED, RECEIVED INTO EVIDENCE.)

SOLICITOR MCGINNIS: Beg the Court's indulgence, your Honor.

(PAUSE.)

SOLICITOR MCGINNIS: Your Honor, at this time the State would call Jennifer Cochran.

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

DIRECT EXAMINATION

JENNIFER COCHRAN BY SOLICITOR MCGINNIS:

Q. Good afternoon, Ms. Cochran.

A. Hello.

Q. Can you state your name, for the record?

A. Jennifer Cochran.

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

A. I live at [redacted] Heath Circle.

Q. And who lives there with you?

A. Me, my mother, my husband, and my daughter.

Q. Who is your mother?

A. Earlene Cochran.

Q. And what's your daughter's name?

A. Chloe Smith.

Q. Okay. And did you all all live there in December of 2017?

A. Yes, ma'am.

Q. Are you familiar with Kayla Cook?
A. Somewhat. They didn't live there very long, so I'm somewhat familiar. I don't know her that well.
Q. So you're familiar with her in the context of her being your neighbor?
A. Yes.
Q. Okay. Did you know Kayla to have any children?
A. Yes.
Q. How many did she have?
A. Three.
Q. Do you remember their names?
A. Minor, Phoebe, and Wyatt.
Q. And how old was your daughter at the time that Kayla lived there?
A. She was seven.
Q. And did she play with Kayla's children?
A. Yes, ma'am.
Q. Describe a little bit about how the children would play together. Where would they play?
A. They would usually play wherever the toys were in the living room or the bedroom.
Q. And is that at Kayla's house, at your house?
A. Kayla's.
Q. Okay. About how often would your children play together?

A. Like, a couple times a week. It would usually be during the weekdays.

Q. Okay. Did you ever let Chloe go over there without you being present?

A. No.

Q. Okay. Do you remember whether they had a pet in the house?

A. They had a dog.

Q. What kind of dog was it?

A. I --

Q. Do you remember?

A. I think it was a pit, but I'm not sure. I never interacted with the dog or anything.

Q. Why did you never interact with the dog?

A. I'm scared of big dogs.

Q. Okay. So where was the dog when you were there?

A. In a crate.

Q. Did you ever see the dog knock any of the children down?

A. No. He was always put up when I'd be there.

Q. How about from your house, did you ever see him knock any of the children down outside?

A. No.

Q. Okay. And there's been some testimony in this case about an arm injury. Do you remember Minor having a hurt

arm?
A. Yes, it was swollen.
Q. Do you remember whether you and Chloe were there when the arm was injured?
A. We were not.
Q. Okay. You weren't in the house, and Chloe, with Minor at all?
A. No.
Q. Okay. Talk about any other punishment, did you ever see Kayla discipline any of the children?
A. Time out.
Q. Can you tell me about -- well did she do that to all children, all three of them?
A. Most of the time I just seen Minor ---
Q. Okay.
A. --- be in time out.
Q. Can you tell me about the time out that she put Minor in? Did it strike you as unusual in any way?
A. Sometimes I felt it was kind of excessive, but I mean besides that, not really.
Q. And when you say excessive, what do you mean by that?
A. Like, too long.
Q. Okay. About how long would she put Minor in time out when you thought it was excessive?
A. I don't remember, like, an exact time length.

Q. I mean, would you say five minutes, ten minutes, thirty minutes; longer than that?

A. Like, thirty minutes.

Q. Okay. Do you know how old Minor was at this time?

A. I think she was still two.

Q. Okay. Two to three?

A. Yeah.

Q. And she put her in time out for thirty minutes. Did you ever see any marks or bruises or anything like that on Minor?

A. A few bruises. There was one on her head, and I noticed the one on her arm.

Q. And when was the one on her head that you noticed?

A. I don't remember exactly.

Q. Okay. Was it close to the time of her death, or longer ago?

A. It was probably a little bit before.

Q. A little bit before? Okay. Do you remember when the last time was that you saw Minor before her death?

A. I'd say probably about four or five days.

Q. Okay. And wouldn't that be, like you testified earlier, on a school day, maybe the kids played together?

A. Yeah.

Q. And was she okay at that time?

A. Yeah.

Q. Did you ever see Minor interact with her dad?
A. Yeah, she loved her dad.
Q. Can you describe their relationship, Minor and her father?
A. I know she always got excited when he would be around, and she'd run up to him; because even when he wasn't around she would ask where he was when he'd be at work.
Q. And again, did you ever see the dog knock Minor down outside?
A. No.
Q. Did you ever see the defendant step on Minor outside?
A. No.
Q. Stomp on her?
A. No
Q. Kick her in any way?
A. No, I didn't witness anything.
Q. Thank you.

SOLICITOR MCGINNIS: Please answer anything Mr. Burton may have.

THE COURT: Cross-examination.

MR. BURTON: Beg the Court's indulgence.

CROSS-EXAMINATION

JENNIFER COCHRAN BY MR. BURTON:

Q. Ms. Cochran, you didn't live at [redacted] Heath Circle, did you?

A. No. Absolutely not.

Q. And did you keep a constant watch on [redacted] Heath Circle all the time?

A. No.

Q. So the dog could've knocked Minor down and you just weren't around to see it?

A. Hypothetically it could've, but I mean, like I said I don't watch other people's houses all the time, so.

Q. Okay. Do you remember -- I'm not sure if it was Sergeant Sims or Sergeant Johnson, but one of the two came to talk to you at the house, shortly after Minor's death?

A. Yes.

Q. And I don't recall you telling them anything about marks or bruises on Minor then. Is that just something you remember better now, or?

A. No, I absolutely did say something about it before.

MR. BURTON: Thank you.

THE COURT: RE-direct.

SOLICITOR MCGINNIS: No, your Honor.

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

(WITNESS LEAVES WITNESS STAND.)

THE COURT: You need a break? Okay, let's take about a ten-minute break.

Mr. Foreman, take your jury to the jury room.

(JURY EXITS COURTROOM AT 02:44 P.M.)

THE COURT: So you all need, what, about ten minutes or so, fifteen?

SOLICITOR CAMPBELL: Yes, sir.

SOLICITOR MCGINNIS: Yes, sir.

SOLICITOR CAMPBELL: Your Honor, to let you know, we think we're gonna put up one more witness, and then we'll rest.

THE COURT: Okay.

(COURT IN RECESS AT 02:44 P.M.)

(COURT BACK IN SESSION AT 02:57 P.M.)

THE COURT: Is the State ready to go?

SOLICITOR CAMPBELL: The States ready, your Honor.

THE COURT: Defense ready?

MR. BURTON: Yes, your Honor.

THE COURT: Let's bring the jury in, please, sir.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 02:59 P.M.)

SOLICITOR CAMPBELL: May it please the Court?

THE COURT: Yes, ma'am.

SOLICITOR CAMPBELL: The State calls Agent Trista Baird.

(WHEREUPON, TRISTA BAIRD, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

AGENT TRISTA BAIRD BY SOLICITOR CAMPBELL:

Q. Agent Baird, where are you employed?

A. The South Carolina Law Enforcement Division, commonly known as SLED.

Q. And what do you do there?

A. Right now I'm a lieutenant in the child fatality unit; we're under the special victims unit. And I supervise the Pee Dee and the Low Country.

Q. Tell the jury, as lieutenant in the child fatality unit, what your duties include.

A. The child fatality unit at SLED, we are mandated by law to investigate all child deaths. That's ages seventeen and under, and it's anything that is not natural or disease process, and it's not traffic fatalities.

Q. Okay. And you said you were mandated by law. Is there a statute that actually outlines your duties?

A. There is.

Q. But you are part of SLED, the overview; is that right?

A. That's right.

Q. And do your duties include assisting local agencies when a child fatality occurs?

A. That's right. In most of our counties we have what's called a child death investigation task force set up, and that allows us to be paged out when the child -- when a

child has died, or when there is a near death of a child, and then, we respond to the scene and we assist as needed by local agencies. We can be requested by local police, sheriffs, or coroners.

Q. And can you tell this jury a little bit about your training and your education in the field of law enforcement, and then specifically about child abuse?

A. Sure. So I have a bachelor's degree from Winthrop University in psychology and sociology; and I have a master's in criminal justice from the University of Cincinnati. I started policing in 2007, with the Rock Hill Police Department. I was on patrol with the street crimes unit. I did our professional standards, and then beginning in 2010 I started in the detective division and I investigated child abuse and vulnerable adult abuse. And then, in 2013 I came to SLED, and I went straight to the child fatality unit, and I've been there ever since.

Q. And have you attended any kind of specialized training as far as child abuse, child fatalities are involved?

A. I have. So some of those classes are advanced child exploitation investigations; best practices in child maltreatment investigations; child abuse and fatality; child abuse; neglect in special needs population; child fatalities dealing with abuse of head trauma; identifying and reporting child abuse and neglect; multi-disciplinary

child abuse investigative teams; child death investigations from the death to the courts; child sex trafficking; cold case homicide investigations; crimes against children; interview interrogation; medical child abuse; medical legal death investigations; child abuse investigations; multi-disciplinary team trainings.

I've been to investigative interviews specifically for child abuse investigations; investigating and prosecuting child homicides; advanced detective; death investigations; vulnerable adult abuse and child death investigations; and unexpected child death investigations such as SIDS, unsafe sleep or homicide.

Q. So you've had a lot of training?

A. I have.

Q. And approximately how many years have you actually been involved in investigating child abuse and child mistreatment cases?

A. Since 2010.

Q. So about nine years now?

A. Yes, ma'am.

Q. And what area were you assigned to as part of your team?

A. Right now?

Q. Back when this happened. I'm sorry.

A. In 2017 I was a special agent with child fatalities,

and I was assigned to the Piedmont region.

Q. Okay. So back in 2017, you were actively involved in the investigation. Have you been promoted since then?

A. I have.

Q. And now you're a lieutenant?

A. Yes, ma'am.

Q. And your duties are a little bit different?

A. Right. I supervise five agents that investigate child deaths.

Q. I'm going to turn your attention back to December the 18th of 2017. Were you sent out on a call at Springs -- what used to be Springs Memorial?

A. I was.

Q. And what kind of information did you get on the front end?

A. Lieutenant Hall with Lancaster Police Department called, and he said that a three-year-old had died and was at -- they were at the hospital, and he requested my assistance.

Q. And did you respond to Lancaster that day?

A. I did.

Q. Were you in the Lancaster area, or did you have to come from somewhere else?

A. I traveled from York County to Lancaster.

Q. And once you got to Lancaster, what, if anything, did

you do?

A. As soon as I got to Lancaster I went to the hospital and I met with Sergeant Sims.

Q. And was she the other kind of lead investigator in this case, besides you?

A. She was.

Q. And once you got with Sergeant Sims, what did you do?

A. After we met at the hospital, then we left and we went to the scene, and we did a walk-through with our crime scene unit. And then after we left the scene, we went to the police department, where we interviewed Scotty Schroeder, Kayla Cook, and Tracy Schroeder.

Q. And at that point in your investigation, had the autopsy been done?

A. It had not.

Q. When did that take place?

A. It was the next day, on December 19th.

Q. And is that pretty standard in cases such -- in any death case?

A. It is.

Q. And at that point, you can't say what was told to you, but did you have pretty limited information?

A. We did.

Q. But had you been informed, or had you observed the child yourself at the hospital?

A. I observed Minor myself at the hospital.
Q. And based on what you observed, was this considered a possible homicide case?
A. That's right. We had a three-year-old that we had -- it was unknown cause of death, and she had bruises covering her body. And so, it was pretty limited, but I did see the bruises and injuries on her.
Q. You said after that, that you went to the scene, and then you ultimately ended up at the police department?
A. Yes, ma'am.
Q. And you and Sergeant Sims were kind of working hand-in-hand?
A. We were.
Q. And at that point did you all formulate a plan on who you needed to talk to first?
A. We did.
Q. And who were those people?
A. We talked with Scotty Schroeder, Tracy Schroeder, and Kayla Cook.
Q. And did you take them in any particular order, or did you just start with one and keep going?
A. I don't remember which order we talked to them in. I think Kayla was last.
Q. Kayla was last. And then you talked to Tracy and Scotty before you talked to Kayla?

A. Right.
Q. Okay. And that day, were those interviews recorded?
A. They were.
Q. And did both of you participate in these questioning?
A. We did.
Q. And prior to talking to Timothy Scotty -- he goes by Scotty, right?
A. Right.
Q. Did you advise him of his rights?
A. Sergeant Sims did, and I was present for it.
Q. And why did you all do that?
A. Well, we did not know what we had, but we knew that we were going to be asking about a child death, and just out of abundance of caution we went ahead and read everyone their *Miranda* rights.
Q. Okay. And I want to show you what's been marked as State's Exhibit 226. Do you recognize this?
A. I do.
Q. And what is that?
A. It is the *Miranda* warning form that we used for Scotty Schroeder.

SOLICITOR CAMPBELL: And your Honor, at this time we'd offer 226 into evidence?

THE COURT: Any objection?

MR. BURTON: No objection, your Honor.

THE COURT: Admitted.

(WHEREUPON, STATE'S EXHIBIT NO. 226, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY SOLICITOR CAMPBELL:

Q. And referring to this, did you go through what's known as his *Miranda* rights to assure he understood his rights, and to protect him ---

A. We did.

Q. --- as you are a potential defendant in this case?

A. Can you repeat that? Sorry, I didn't hear you.

Q. If he was a potential -- he was someone you all were looking at closely?

A. Right.

Q. And in the same way you did later on with Ms. Cook, you advised him of his rights?

A. That's right.

Q. But was anyone under arrest at this point?

A. No, ma'am.

Q. And did you all take a statement from Tracy Schroeder that afternoon?

A. We did.

Q. And without saying what she said to you, did you get information that was later used in your investigation?

A. We did.

Q. Then you talked to Scotty Schroeder; is that correct?

A. That's right.
Q. And was he also able to provide you with certain -- we can't say what he said, but certain information?
A. He did.
Q. And finally, did you talk to Kayla Cook?
A. We did.
Q. And was that recorded?
A. Yes, ma'am.
Q. And the recordings that have been played in the courtroom over the last two days, does that pretty much reflect what all happened with Kayla Cook that day?
A. Yes, ma'am.
Q. And you actually participated in those?
A. I did.
Q. And at one point there was a question about something you said to Kayla Cook, the Defense attorney asked about being in her place, knowing how she felt watching her child die. Did that ever take place in that interview?
A. No, ma'am.
Q. What did take place?
A. I was explaining to her that I had three children of my own, which I do, and that I understood how it was when one was bothering you, like she said Wyatt was, and trying to get you distracted, not being able to take care of all of them at one time, and one pooping in their pants and

having to wipe it up. I was explaining that I understood that. I never said that I understood what it was like to watch my child die.

Q. Okay. And I'll get back to her interview in a minute.

The next day, on the 19th, what did you do?

A. I attended the autopsy at Newberry Hospital.

Q. And at that point was your role just to ensure photographs were taken and things of that nature?

A. That's right. And to be present for it in case the pathologist had questions.

Q. So you could help with the history?

A. That's right.

Q. And you did that that day?

A. Yes, ma'am.

Q. Later that day, did one of the officers involved in the case also talk to Mindy, or Miriam Myers?

A. Lieutenant Hall did.

Q. And was she able to give you information that -- you can't say what she said, but was she able to give you information you included in your final analysis of this case?

A. Yes, ma'am.

Q. Did you find out that same day that Kayla -- the day before, did Kayla indicate where she would be staying that night when she got out?

A. She indicated that she was not going to go back to the house, I think, she could go to her mom's or neighbor's.

Q. And the next day, on the 19th, and after the conversation with Mindy, did you become aware of where Kayla Cook was?

A. Yes, ma'am.

Q. Where did she go?

A. She went to the hospital.

Q. Where?

A. In Charlotte. She initially went to CMC Main, and then went to a different hospital. I believe Davidson.

Q. After that?

A. Right. Carolina Medical Center at Davidson.

Q. The next day, on December the 20th, what did you do?

A. Sergeant Sims and I interviewed Kayla's sister Kerrin, as well as Kerrin's boyfriend, Joshua Serrano. And also that day, I went up to Independent Fence, where Scotty was working, and I picked --

Q. You can't say -- but did you get information from them?

A. I did.

Q. And did you make contact with a man named Mark Abranms, or one of his workers?

A. I did. Yes, ma'am.

Q. That day, was Wyatt sent to be examined?

A. He was.

Q. And were there any injuries or marks or bruises on Wyatt that were determined from that examination?

A. There were none.

Q. He had none?

A. None.

Q. Did you also make contact with DSS?

A. I did.

Q. And had you become aware at that point -- what did you become aware at that point about DSS's involvement in this case?

A. I had actually spoken to them on the 18th and knew that they had a open case at the time. And so, that's part of our task force and child death protocol; we always work with DSS. And so, on the 20th I had just gotten back in touch with them, and we were sharing information on the case.

Q. I want to turn your attention to December the 27th. Did you get any records that day?

A. I did.

Q. What records did you get that day?

A. I got the pediatrician records from the Children's Clinic.

Q. And I believe those would be the records from Doctor

Cruz, who testified earlier?

A. That's right.

Q. And is it important in these cases to get medical records, all the medical records, pertaining to the children?

A. It is.

Q. And did you do that?

A. I did.

Q. Moving your attention to December the 28th, what did you do?

A. I went to the Palmetto Citizens Against Sexual Assault Center and observed a forensic interview.

Q. And a forensic interviewer, what are they trained to do?

A. Forensic interviewers are just trained interviewers that talk to children.

Q. And you can't say what she said, but was Phoebe able to give the interviewer some information about this case?

A. She was. The forensic in --

MR. BURTON: Objection, your Honor. None of what Phoebe said is admissible in this court under criminal.

SOLICITOR CAMPBELL: We agree.

THE COURT: I understand that, and to the extent she's going to say what she said I'd sustain it. But if she's just asking preliminary it's okay. So overruled.

SOLICITOR CAMPBELL: We are. We're going directly from the case, your Honor.

Q. Was she able -- you can't say what she said at all, okay? But was she able to give you information?

A. Yes. The forensic interview, along with all the other evidence in the case, reinforced the fact that Kayla Cook did cause Minor's death.

MR. BURTON: Objection, your Honor. This is ridiculous.

THE COURT: Would you take the jury to the jury room?

(JURY EXITS COURTROOM AT 03:14 P.M.)

THE COURT: You can't do that. That's -- that's back-dooring what was said all day long. You can't do that, you know that.

SOLICITOR CAMPBELL: Your Honor, in reading this it says that he based all his information, he did not directly relate any statements made by the child so I had the opportunity to cross-examine and that --

THE COURT: Say that again??

SOLICITOR CAMPBELL: And they said that -- to challenge the State's witness they said that they got information from the child and then took action, which was getting an arrest warrant. And they said that was okay.

THE COURT: Are you talking about the home?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: I understand that. But that's -- what you just asked, and the way you asked it, was saying what they told you, effectively violating the hearsay rule, and that's what the objection is.

MR. BURTON: The objection is, she said that it indicated that Kayla did it.

THE COURT: I got your objection.

MR. BURTON: I don't think we can come back from that.

THE COURT: Well. You making a motion for a mistrial?

MR. BURTON: I have to, your Honor. I really don't want to.

THE COURT: Well, I --

MR. BURTON: I hate to, but I just think that what Baird said we have to.

THE COURT: Well let me tell you that this doesn't manifest the necessary -- it's not manifested necessarily at this juncture, I'll give a curative instruction. I'll strike that answer from the record, and I'll tell the jury they're not to consider it.

If you have any additional curative instruction you'd like me to consider, I will. But I will not and shall not grant a mistrial based on what I just heard, okay?

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

MR. BURTON: In order to protect the record, I must

accept your curative instruction, but I would have to say that I don't think that's enough.

THE COURT: Well, that's fine. And you have to meet your standards. Do you have any suggestions for instruction you'd like me to give?

MR. BURTON: I guess just strike the -- strike anything regarding the forensic interview from the record.

THE COURT: Well, that's ---

MR. BURTON: That's --

THE COURT: --- that's not a curative instruction, that's just the action I'll take and I'm going to strike the response to the last question is what I'm going to do, okay?

MR. BURTON: Well, not okay, but I have to accept that.

THE COURT: Do you want me to give a curative instruction; yes or no?

MR. BURTON: I have to accept your offer, yes.

THE COURT: Okay. So do you have any suggested language?

MR. BURTON: I think -- I think you should have to say that nothing could -- that you strike the last answer from the record, and that -- I'd have to read Chroma a little bit, but I think it says to the effect that nothing can be considered but ---

THE COURT: I got it, I got it.

MR. BURTON: --- the behavior of the child and so forth.

THE COURT: I am going to strike the last response. I'm going to tell the jury in my curative instruction that they may not and shall not consider that response at all in their deliberations.

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: And then we will go forward, okay?

SOLICITOR CAMPBELL: Yes, sir.

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

SOLICITOR CAMPBELL: Your Honor, right before they come in, do you want to leave out the part where she went to North Carolina to arrest her?

THE COURT: I don't have a problem with that. I have a problem with after she talked to the people at the forensic evaluators that she turned around got an arrest warrant --

THE BAILIFF: The jury's coming back in.

THE COURT: Hang on, hang on for a second.

SOLICITOR CAMPBELL: I just know you didn't want --

THE COURT: Well, its something along those lines.

SOLICITOR CAMPBELL: The evidence of flight, and I know what you're doing here. I'm talking about we're getting ready to get into --

THE COURT: Oh, oh, oh, I'm sorry.

SOLICITOR CAMPBELL: They get an arrest warrant for her, and then she actually goes to North Carolina ---

THE COURT: That's fine.

SOLICITOR CAMPBELL: --- and followed -- when she gets out of the - but I don't want to violate your flight part.

THE COURT: Right.

SOLICITOR CAMPBELL: So I just thought that if I could instruct her, so we don't make another mess-up, which was my fault. That she can say she went to North Carolina, and law enforcement there affected the arrest on her behalf ---

THE COURT: Right.

SOLICITOR CAMPBELL: --- in whatever county. But just don't say you followed her from the hospital. Would that be sufficient?

THE COURT: That's fine with me.

SOLICITOR CAMPBELL: Okay.

THE COURT: I don't see anything

MR. BURTON: It was already in evidence that she was arrested in ---

THE COURT: Yeah.

MR. BURTON: --- in North --

THE COURT: All right.

SOLICITOR CAMPBELL: I just didn't want to bring in that they followed them and all that, because you had ruled

earlier you didn't think that was admissible.

THE COURT: Okay. All right, sir.

THE BAILIFF: The jury's coming back in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:19 P.M.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, the witness's last response to the question posed to her is stricken from the record. You may not and shall not consider it at all in your deliberations, when you're told to begin your deliberations. And that's your job to make sure that's not part of the jury's deliberation, okay, sir?

All right. You may continue.

SOLICITOR CAMPBELL: Thank you, your Honor.

Q. That day on the 28th, did you also speak to a DSS case worker and make plans to talk to her?

A. I did.

Q. And what was her name?

A. Jennifer Adams.

Q. I want to turn your attention to November -- I mean December 29th. At this point had an arrest warrant already been obtained for the defendant, Kayla?

A. Yes, ma'am.

Q. And do you remember what date the arrest warrant was actually obtained?

A. I believe it was December 19th.
Q. The next day, did you travel to North Carolina?
A. I did. On the 29th.
Q. And with the help of North Carolina law enforcement, were you all able to affect an arrest of Ms. Cook at that time?
A. We were.
Q. And where did that take place, the arrest?
A. It was in King's Mountain in Cleveland County, North Carolina.
Q. Over the next several weeks did you continue to collect various -- get search warrants and things for records in this case?
A. I did.
Q. At some point, had the phones from certain people been collected in this case?
A. They were.
Q. And what phones were those?
A. The phones of Tracy Schroeder, Scotty Schroeder, and Kayla Cook.
Q. And did you make attempts to get those phones downloaded, or basically dumped, is what it's called?
A. We did.
Q. Turning your attention to January 9th, did you receive certain records in this case?

A. I did.
Q. And what kind of records were those?
A. They were from Facebook.
Q. And were you able to review some of those?
A. I was.
Q. I'll get back to that. January 11th of 2018, did you have a meeting with Doctor Lamb?
A. I did.
Q. And did you do your initial presentation with her for the case?
A. I did.
Q. And then, she was later provided with additional documents; is that correct?
A. That's right.
Q. And over the next month or two did you continue to collect things such as the autopsy and other reports in this case?
A. Yes, ma'am.
Q. You were present for all of Kayla's statements?
A. Yes, ma'am.
Q. And even the one at the end, the last one with the two gentlemen in there, you were actually observing that?
A. I was.
Q. And when reviewing those statements, were -- did you also have an opportunity to review, like, photographs from

the crime scene?

A. I did.

Q. And all the other evidence in the case?

A. That's right.

Q. And are there some inconsistencies that you could point out to the jury?

A. Sure. One of the things that Kayla told us was that she had put the pajamas that she had taken off Minor into the washing machine, that she hadn't washed those yet. And in the photographs you can see that the -- the clothes had been spun as if they were -- had -- they had been washed.

She also said that she wrapped Minor in a purple blanket with stripes and flowers, and after that she put her on the couch, and that the blanket would still be on the couch. But we actually found that blanket in the girls' bedroom on the girls' bed.

She said that she normally, when Minor had an accident, that she would put her in the shower and have her stand in a cheerleading pose with her bottom facing the shower head, and clean her bottom off that way. This time, that wasn't what she did.

She -- she told us that she got the poop out of the bathtub with the blue towel, and then she threw that towel in the trash can. When we looked at the crime scene photos, the blue towel was actually under the Cheetos bag

that she said that Wyatt had been eating Cheetos earlier in the morning, and the Cheeto bag was on top.

Back to the blanket's on the couch, she said she had wrapped her in two blankets to warm her up, and then put her on the couch. There was actually just a sleeping bag on the couch, there weren't any blankets.

And she had said that she wasn't sure where her phone was, it could've been in Wyatt's room, where she had put it on the dresser listening to music. And then later, she said again that she had just ran for help because she didn't know where her phone was. Her phone was actually on the couch by the front door.

And then, on the calendar in the kitchen, she had written that her -- that Minor's bottom was hurting; and then, in her statement she mentioned that she thought that could be possible molestation. In the messages, we later found out that it was -- that she was probably constipated. She was talking about that she had a bowel movement on the 19th, just two days later after that.

She also mentioned that there was a picture of Minor and her grandmother between the couches, by the tree and a candle. There were no pictures there, and we could not find that photo.

And then, just the inconsistency that she said that Minor woke up that morning and played with Wyatt, and then

she initially smelled that Minor had a bowel movement, and that she sent her from -- to the bathroom from playing with Wyatt. And she even says that Minor was helping her to say where to move toys and furniture, and then later on said no, actually she just got up that morning and went straight to the -- to the toilet.

Q. Did she also indicate something about her phone, as far as she didn't know where it was?

A. Right. She said she didn't know where it was, that it could've been on the -- the dresser, where she had left it playing music.

Q. And how did she actually alert people in this case?

A. She ran out the front door.

Q. And that's when she made contact with whom?

A. The neighbors.

Q. And where was her phone actually located?

A. When you walk in the front door, it was on the arm of the couch. Right as you walk in, the couch was to the right, and it was right there.

Q. And the evidence that was introduced by Investigator Simpson, does that indicate the last time she used that phone?

A. It was.

Q. And what time was that?

A. That was at 11:55 a.m.

Q. That same day?
A. That same morning, yes.
Q. Which would've been how -- in reference to when she ran out approximately the front door?
A. Probably right before, because 911 was called at 12:04 p.m.
Q. And at that 11:55 message, did she -- what was she trying to do? What was she doing?
A. She asked Scott Schroeder, Scotty's dad, are you -- are you with Scotty.
Q. And in reviewing her records as far as when you're using Facebook as an avenue to contact people, can you call them?
A. You can if they have a Facebook account.
Q. And did she obviously know how to call people, as when you review of her records?
A. She did. She used it to make phone calls sometimes.
Q. But at 11:55 a.m., nine minutes before the 911 call, she just messaged Scotty's dad, is Scotty with you?
A. Yes.
Q. And people that don't have service on their phone, are they typically still able to call 911?
A. Yes, ma'am.
Q. There was a CSC kit that was collected in this case?
A. Yes, ma'am.

Q. And why was that?
A. She did have the injury that was close to her pelvis, and we also did not have a cause of death. And so, I just requested that Doctor Ross, the pathologist, just to please do one, out of an abundance of caution. It's also not uncommon in, you know, suspicious child deaths.
Q. And to be clear, she was not sexually assaulted?
A. No, she was not.
Q. At any time during your interviews with Ms. Cook, did she mention, as she was going through the time line again and again, that she was messaging her -- Scotty's father ten minutes before, or five minutes before she ran out the front door?
A. No, she never told us that.
Q. In reviewing Kayla's statements as far as the injuries, what was the most significant injuries in your review of that and her explanation?
A. She actually said the two most significant things that had ever happened to Minor was that she fell off the bed, and she went down the front steps.
Q. Did she give you any information about the bruise on the abdomen?
A. She did. She told us the dog had knocked her down, and that when -- knocked her down the front steps, and when Kayla went to pick her up from that fall, she

accidentally stepped on her trying to pick her up.

Q. Did she try to explain what happened to her right arm?

A. She said that at some point before her birthday that she had fallen off the bed.

Q. Did she indicate whether or not there were other people there?

A. I believe she said the neighbor and her daughter were there.

Q. Did she indicate the injury to her left foot, how that might've happened?

A. She said that she thought that it could've been on Saturday, but that Wyatt bit Minor on the foot.

Q. And as you got further and further into the interview, did she start coming up with scenarios to try to explain?

A. She did, a couple of things. She said that at the gas station on Saturday night that she tripped and fell, and when she tripped Kayla had pulled her back up. And she also said that a lot of her bruises, when she came back from Michelle's, her mom's, and then at one point she held her finger too tight when crossing the road.

Q. Finally, in reviewing the information that's in evidence from Facebook, at one point during the interview does she say what she did when she first woke up that morning?

A. She did. She said that when she woke up that morning

that she began playing on Facebook on her phone, in the bed.

Q. And during the interview was she ever very specific at all about time periods that morning?

A. No.

Q. Were you able to review the Facebook records and figure out exactly what time, it's in evidence, that she actually used Facebook that morning when she said she woke up?

A. We were. It was at 7:40 a.m.

Q. 7:40 a.m.?

A. Yes, ma'am.

Q. And then, the next time we've got something on Facebook is the message to Scotty's father?

A. Right.

Q. And that's at 11:55 a.m.?

A. Yes, ma'am.

Q. And again, what time was the 911 call?

A. 12:04 p.m.

Q. The person that you talked to that night, Kayla Cook, and that was ultimately charged in this case, do you see her here in court?

A. Yes, ma'am.

Q. Will you point her out for the jury?

A. In the black shirt.

Q. Sitting at the Defense table?

A. Yes, ma'am.

SOLICITOR CAMPBELL: Your Honor, may the record reflect she's identified the defendant?

THE COURT: So reflects.

(WITNESS IDENTIFIES THE DEFENDANT.)

THE COURT: Cross-examination.

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

AGENT TRISTA BAIRD BY MR. BURTON:

Q. So this Kayla Cook we're talking about is the same Kayla Cook that you watched the videos of her, extremely upset at the hospital, and crying and freaking out, all that stuff?

A. Yes, sir.

Q. The same Kayla Cook that complained about the heat in the interview room, and that she was confused, couldn't think straight, under great stress, is that the same Kayla Cook?

A. Yes, sir.

Q. Uh-huh. And that same Kayla Cook is going to be worried about whether the pj's were in the washing machine or not?

A. I didn't say she was worried about it, that's just

what she told us.

Q. And wrapped in a purple blanket found in the bedroom. I mean, you don't know what happened after the blanket was taken off of Minor, do you?

A. Well, the crime scene was secured by the police department.

Q. But before the policemen -- police department got there, there were lots of people in there seeing to Minor and all that kind of stuff?

A. Yes, sir.

Q. And the blue towel under the Cheetos bag.

A. Is that a question?

Q. Well, I mean you recognize what I'm talking about, right?

A. Yes, sir.

Q. Okay. I mean you don't know -- you don't know when each of those items was put in the trash. I mean, you know, the -- couldn't the blue towel be put in there and then sometime later the Cheetos bags, even though that doesn't fit the time frame of when she was using the Cheetos and the -- and the towel?

A. Sure. Yes, sir.

Q. Uh-huh. And correct me if I'm wrong, but those pictures of the phone, it's kind of stuffed between couch cushions.

A. If I remember, like, it was on the arm of the chair, and it just slipped down.
Q. Hum.
A. It's not -- it wasn't stuck, I could see it.
Q. So it could easily avoid somebody's notice; isn't that correct?
A. I'm sorry?
Q. It could easily have avoided somebody's notice, couldn't it?
A. Sure.
Q. On the -- the phone message from 11:55, did you check the IP address on that?
A. I don't have it in front of me, but we do have it.
Q. Okay. Do you recall checking the IP address?
A. I'm not sure if I did.
Q. Okay. And if you didn't, the call could've come from someplace else, couldn't it?
A. It was from Kayla Cook's Facebook account to Scott Schroeder, and it said, are you with Scotty.
Q. But notwithstanding, I asked you to answer my question.
A. What was the question? I'm sorry.
Q. The question is, could it have come from some other account, some other phone?
A. If they had used Kayla Cook's Facebook account, ---

Q. Uh-huh

A. --- yes, sir.

Q. Okay. But if the IP address showed a different IP address than --

A. If they were using Kayla Cook's Facebook account, yes, sir.

Q. Okay. Now, you testified that the Facebook message from 7:40 a.m., on December 18th, from Kayla Cook?

A. That wasn't a message, that was actually using the IP address, and that was 12:40 UTC, and 7:40 a.m. And that was the IP address that Investigator Simpson gave us that came back to the Lancaster address.

Q. Uh-huh.

A. That was a frequent use with that Facebook account.

Q. Okay. My question here, though, is -- when I get up of the morning I often check my -- my Facebook account before I get out of bed. I mean, couldn't that have been a possibility that she was using that without the kids being up that morning?

A. That's what we were saying is that she told us that she got on Facebook as soon as she woke up, and that was the first activity that she used on Facebook that day, was at 7:40 a.m.

Q. But that doesn't mean that ---

A. So --

Q. --- that doesn't mean that the kids were up at that time, does it?

A. The Facebook records -- no, she just told us that she had given Wyatt the little lamp toy ---

Q. Uh-huh.

A. --- and had handed him that, and that she was on Facebook. But no, I -- the Facebook information alone does not say if the children were awake.

MR. BURTON: The last question I've got, your Honor, is about the picture of Minor and her grandmother that the lieutenant testified that it wasn't there. Told my client -- that my client that it actually was there, and I would have to look through the hundreds of pictures to -- to check that out. I'd ask the Court to indulge us to do that.

THE COURT: Consult with the State and see if they can tell you. Tell them what you're looking for and see if they know what it is, if it's in evidence.

MR. BURTON: Might I show the picture to my client?

THE COURT: Sir?

MR. BURTON: May I show the picture to my client?

THE COURT: Sure.

(PAUSE.)

MR. BURTON: Thank you, your Honor. I have no further questions.

THE COURT: All right. Thank you.

SOLICITOR CAMPBELL: Just one quick followup.

THE COURT: Yes, ma'am.

REDIRECT EXAMINATION

AGENT TRISTA BAIRD BY SOLICITOR CAMPBELL:

Q. On the Facebook account, in your investigation, how many people were actually using that Facebook account to message?

A. Two.

Q. And who were they?

A. Kayla Cook and Scotty Schroeder.

Q. And the message at 11:55 says what?

A. Are you with Scotty.

Q. And it's sent to whom?

A. To Scott Schroeder.

Q. Who is Scotty's father?

A. That's right.

Q. Are you with Scotty?

A. Yes, ma'am.

SOLICITOR CAMPBELL: I don't have anything further.

THE COURT: Thank you, ma'am. You may step down.

(WITNESS LEAVES WITNESS STAND.)

SOLICITOR CAMPBELL: Your Honor, I think the State would rest at this time with a caveat. Can I check the exhibits just to make sure everything's in that we think

is?

THE COURT: Okay. I tell you what, then. Let's take an afternoon break, and she's going to go through the exhibits. And I think -- you say that you think the State rests?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: Okay. She's going to make sure they have everything accounted for, the State is. When they say they rest, that means that they've presented their case in chief. When they do that I have to take up some administrative matters outside of your presence, and then we'll go over some matters and then proceed with the Defense case, okay? Just so you know where you are. If you would go back to the jury room, please.

(JURY EXITS COURTROOM AT 03:14 P.M.)

THE COURT: Thank you, sir. Before you check those, and before we do directed verdict motions, do you have any prior criminal charges against Ms. Cook that you intend to impeach her with, should she testify?

SOLICITOR CAMPBELL: No, sir.

THE COURT: Very good. All right. Ms. Cook, would you stand up, please, ma'am? Would you raise your right hand?

(WHEREUPON, KAYLA COOK, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

(LANCASTER GENERAL SESSIONS COURT FOR LANCASTER COUNTY, SOUTH CAROLINA, IN SESSION FRIDAY, AUGUST 16, 2019, ON THE RECORD AT 09:00 A.M.)

THE COURT: All right, anything from the State before we get started?

SOLICITOR CAMPBELL: No, sir.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

THE COURT: All right. Have you spoken with your client about whether she wishes to testify today?

MR. BURTON: I have, your Honor.

THE COURT: Okay. And does she?

MR. BURTON: She does, your Honor.

THE COURT: Very good. Who's going to be your first witness?

MR. BURTON: It would be Jennifer Adams of the Department of Social Services.

THE COURT: Jennifer Adams?

MR. BURTON: Yes, sir.

THE COURT: Okay. Very good.

Would you bring the jury in?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 09:06 A.M.)

THE COURT: Good morning, ladies and gentlemen.

Before we get started, let me ask if anyone has read, heard, or seen anything about this case during the break; if so, would you raise your hand?

(NO RESPONSE.)

THE COURT: Very good. All right, we're about to start the Defense side of the case.

Counsel, are you ready to call your first witness?

MR. BURTON: Yes, your Honor, I am.

THE COURT: Please do so.

MR. BURTON: I call Jennifer Adams to the stand.

(WHEREUPON, JENNIFER ADAMS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

JENNIFER ADAMS BY MR. BURTON:

Q. Would you state your name, for the record, please?

A. Jennifer Rose Adams.

Q. If you would, speak into the microphone, please.

A. Okay.

Q. Uh-huh. And where did you work in December of 2017?

A. With the Lancaster County Department of Social Services.

Q. And do you work there any more?

A. No, sir.

Q. Were you the case worker on a case involving Michelle Bigham, Scotty Schroeder, Minor [redacted]?

A. Yes, sir.
Q. And what were your duties with that case?
A. I was with family preservation, so I was checking in with the family each month, to see how things were going on both sides with mother and father.
Q. Once per month?
A. Yes.
Q. And did you have occasion to meet with the family in December of 2017?
A. Yes, sir.
Q. Do you remember the date?
A. I believe it was the 7th of December.
Q. And why were you involved in the case? What was the problem that caused your involvement in the case?
A. I believe the initial case came in as drug abuse on Michelle's side.
Q. Uh-huh
A. It's been two years, so I can't remember.
Q. I understand. In prior -- in prior visits, you remember Minor , right?
A. Yes, sir.
Q. Did she show any fear of anybody she was living with?
A. No, sir.
Q. And during your visits, with respect to Minor -- Minor and Kayla, or Michelle or anybody else, did she

call anyone Mommy?

A. She called Kayla Mommy.

Q. Called Kayla Mommy. Did you hear her call her Mommy multiple times?

A. Yes, sir.

Q. And in your opinion, was Minor small for her age, or large for her age?

A. I couldn't tell.

Q. Okay. In any of your visits, did you see Kayla Cook treating any of the kids different from any of the other kids?

A. No, sir.

Q. And was Kayla working on potty training Minor?

A. Yes, sir.

Q. Did Minor in fact go potty when you were there in December?

A. Yes, she did.

Q. And where was the dog during your visit in December?

A. I believe it was in the kitchen, in a crate. He was locked up.

Q. All right. And in your December visit or any other visit, did you suspect anything going on with respect to abuse of Minor, or anything kid?

A. No, sir.

Q. And was -- if you had observed this, say so; and if

you haven't, say so as well, but was Minor a good eater?

A. Every time I seen her eat, she was picky, so.

Q. Was she vocal, would she ---

A. Uh-huh.

Q. --- would sh articulated her needs and concerns?

A. Yes.

Q. Was she shy, or was she outgoing and active?

A. She was very outgoing, very active.

Q. Did she appear to be scared of anyone in the house?

A. No, sir.

Q. Scared of Kayla Cook?

A. No, sir.

Q. And what did she call Timothy Schroeder?

A. Daddy.

Q. Did you notice anything strange about her hair when you went for the December visit?

A. It was starting to grow back.

Q. Did you notice anything strange about Minor 's arm?

A. I did. When I went to leave, I went to give Minor a hug goodbye, and she kind of shied away when I touched her arm on the back here. And I had asked her what happened, and she told me she was jumping on the bed --

SOLICITOR CAMPBELL: Objection, your Honor, to hearsay.

THE COURT: Sustained.

BY MR. BURTON:

Q. Did she cry when you touched the arm?

A. No, sir.

Q. Did she holler out or anything?

A. No, sir.

Q. Did you see any bruises on any of the children?

A. No, sir.

Q. Minor in particular?

A. No.

Q. Did she appear clumsy to you, or not clumsy?

A. She was clumsy, just your average two-year-old at the time. She was about to turn three.

Q. Did you attach any importance to the arm at the time?

A. No.

Q. And what sort of actions did you see Minor perform to Kayla? Did she hug Kayla?

A. Yes. She would give Kayla hugs; she gave Tracy hugs. She hugged everybody. She wanted me to know who everybody was.

Q. Did she hug Kayla because Kayla asked her to, or did she hug her on her own?

A. On her own.

Q. On her?

A. On her own.

Q. On her own?

A. Yes, sir.

Q. Did you ever experience any jealousy over -- by Kayla over Minor, in any way?

A. No.

Q. All right. And during your December visit, was Tracy Schroeder present?

A. Yes, sir.

Q. During other visits, was Tracy Schroeder present?

A. Yes.

MR. BURTON: Thank you, your Honor. That's all I have for this witness.

THE COURT: Cross-examination.

SOLICITOR CAMPBELL: Yes. Thank you, your Honor.

CROSS-EXAMINATION

JENNIFER ADAMS BY SOLICITOR CAMPBELL:

Q. Ms. Adams, you were the case worker. When were you actually assigned to the case?

A. I believe it was October.

Q. October? Can you talk a little louder? It's hard to hear in here.

A. It was in October, I believe.

Q. And what was the initial complaint in this case? Why did DSS become involved?

A. I believe it was due to the mother Michelle using drugs in the presence of Minor .

Q. There was a report of that?
A. Yes.
Q. And because of that, DSS became involved?
A. Yes.
Q. And were you also aware that when DSS became involved, that they decided that, at some point down the road, in October, to give custody to Tracy Schroeder?
A. That's correct.
Q. And why was custody given to Tracy Schroeder rather than Scotty?
A. Michelle's request.
Q. And who was it that Michelle didn't want to be around her child?
A. Kayla.
Q. He asked you about the hair that you observed, and it was growing back in when you observed it in December?
A. Yes.
Q. And you had seen the child a month earlier, and the hair was growing in as well, right?
A. Correct.
Q. Were you aware that Michelle was upset about the child's hair, and had asked about what was going on and what caused her child's hair to be coming out?
A. I don't remember.
Q. You mentioned that your visit was on December 7th, ---

A. Uh-huh, I believe so.
Q. --- but if I told you it was December 6th, you wouldn't dispute that?
A. No, ma'am.
Q. Do you remember telling me on one occasion that Minor was totally devoted to her father?
A. Yes, she loved Timothy.
Q. And the focus of your DSS case was Michelle?
A. Correct.
Q. And in fact, was Michelle allowed to have any unsupervised visitation starting in mid-to end of September, through December, with her daughter?
A. Yes, ma'am.
Q. And who was to supervise that visitation?
A. Tracy.
Q. And did she do it?
A. Yes.
Q. And finally, on December 3rd, was that the last visitation Michelle was allowed to have with Minor?
A. I don't know exact --
Q. Well, you were the case worker, right?
A. Yes. I don't know if --
Q. The date?
A. Yeah.
Q. But in early December, she was no longer allowed to

have visitation?

A. It could be, I can't remember. I don't know if that was the birthday. I'm not sure.

Q. But as far as you know, Tracy always supervised visitation with Michelle?

A. That's correct.

Q. And that did happen?

A. Yes.

Q. Do you remember in mid-November that the households were splitting up?

A. Yes.

Q. And at that point did you receive a series of texts from Tracy?

A. Yes.

Q. And what was she trying to text you about?

A. Me and Tracy texted a lot, so.

Q. Okay. Specifically, was she making sure it was okay for Kayla to take care of Minor while she was at work?

A. Yes.

Q. And in fact, you knew Tracy wouldn't be in the home, except for a few hours during the night?

A. Correct.

Q. And that was good with you and DSS?

A. Yes.

Q. And you actually gave her permission for that?

A. Yes.

Q. And again, Michelle's concerns were not about Scotty, they were about Kayla?

A. Correct.

Q. Your first home visit was I believe in October?

A. When I initially got the case, Tracy and Minor came to the actual DSS center, so my first visit was to Tracy's house, and that may have been the November visit.

Q. November. I may have mis-spoke. November?

A. Yes.

Q. Okay. And that took place at Tracy's house?

A. Correct.

Q. And where was that?

A. I think it's Henry Harris Road.

Q. And you mentioned that Minor was very verbal?

A. Yes. She -- for a two-year-old, she would talk to me.

Q. And did you know that she was actually going to be getting some special classes because she was non-verbal?

A. No, I did not know that.

Q. And would it be fair to say that you and Kayla bonded during these visits?

A. Yeah. We built a rapport.

Q. And in fact, your focus in these visits was on Kayla, because you all got along really well?

A. Correct.

Q. How was Minor dressed when you saw her?
A. The December visit I remember she had long sleeves and long pants on, tennis shoes. And in the November visit I can't remember the shirt, but I believe she had pants on.
Q. Okay. Long pants, long sleeves?
A. Possibly.
Q. Did you undress her?
A. No, ma'am.
Q. And in fact, how did you become aware of the problem with the arm?
A. I went to hug her goodbye.
Q. So did Kayla, who is her primary caretaker all day long, ever tell you about that before that?
A. Not until that day.
Q. And what did Kayla tell you happened?
A. That she fell off the bed.
Q. That she fell off the bed?
A. Uh-huh.
Q. Did you inspect the home to see how many beds were there?
A. Yes.
Q. And how many were there?
A. Its been a long time. I believe there was three bedrooms. I can remember the children's room having a lot of stuff in it.

Q. Uh-huh.

A. And I believe there might have been a toddler bed, and I remember a queen-size bed, but I can't remember too much more.

Q. You don't remember? Do you remember that it was just the mattress on the floor?

A. It could've been.

Q. Did you unclothe Minor and look at her?

A. No, ma'am.

Q. Because if you had, you would've then seen the swelling in the arm?

A. Correct.

Q. And when you wrote up your report about your visit, you wrote about Kayla, and that she was a good provider and everything, because you all had bonded?

A. Yes.

Q. Did you even put in your report about the injury to the arm?

A. Yes, ma'am.

Q. It was in your report?

A. I believe so.

Q. Do you want to see it?

A. I can check my notes if that's okay.

Q. Check your notes, if you don't mind.

A. I'm sorry, they're not in there.

Q. There's no mention of the injury?

A. No.

Q. Why didn't you put that in your report?

A. I believe at the time when it had happened, my nephew had just went through the same thing, and he was jumping on the bed and hurt himself, and I just didn't over think it.

Q. Did you think it would look bad on Kayla?

A. No.

Q. And literally, when Minor would see her dad, her face would light up, and he was her world?

A. Yes.

SOLICITOR CAMPBELL: Thank you.

MR. BURTON: Brief redirect?

THE COURT: Yes, sir.

REDIRECT EXAMINATION

JENNIFER ADAMS BY MR. BURTON:

Q. Now, your testimony today in court, are the answers that you gave to me because you and Kayla bonded, or because that's what the truth was?

A. It's the truth. We built a rapport while I was working with them.

Q. But none of your answers today were because you bonded with Kayla?

A. Not like a best friend relationship. It was, I had to

build a rapport with my client.

Q. Right, right. But what I'm getting at is, the State asked you about bonding with Kayla, ---

A. Okay.

Q. --- and you took an oath to tell the truth.

A. Correct.

Q. Did you tell the truth today?

A. Yes, sir.

Q. Okay. You said that Tracy was supposed to be there between the hours of when she went to work and when she came home from work, right?

A. Correct.

Q. Did you come to learn whether or not she was there most of the time?

A. No, not until after.

Q. Didn't come to know?

A. Not until after the case, this case, became --

Q. But at some point, did you come to realize that she wasn't complying?

A. No, sir.

Q. Okay. And did it appear to you that it was any secret in the household that Minor had a sore arm?

A. No.

SOLICITOR CAMPBELL: Objection, your Honor. How would she know if there was a secret?

THE COURT: I sustain that. It calls for speculation.

MR. BURTON: Thank you, your Honor.

Q. Do you know if anybody else reported the arm?

A. No, sir, not I'm aware of.

MR. BURTON: That's all, your Honor. Thank you.

THE COURT: May this witness be excused?

MR. BURTON: Yes, your Honor.

SOLICITOR CAMPBELL: Thank you.

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

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Next witness please, sir.

MR. BURTON: Thank you, your Honor. I call Doctor Nicholas Batalis to the stand.

(WHEREUPON, NICHOLAS BATALIS, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR NICHOLAS BATALIS BY MR. BURTON:

Q. State your name, for the record, sir.

A. My name is Nicholas Ike Batalis.

Q. And what's your profession?

A. I'm a forensic pathologist.

Q. Where are you employed?

A. I'm employed at the Medical University of South Carolina down in Charleston.

Q. And how long have you been -- are you licensed in South Carolina?

A. Yes, I do. I have a license to practice medicine in the state of South Carolina.

Q. Can you tell the jury what licenses you hold in South Carolina?

A. It's a license to practice medicine.

Q. Specifically forensic pathology?

A. A medical license itself is not limited to one particular field or another. It's just a general license to practice medicine in the state. My certifications by the American Board of Pathology, they're the ones that actually certify us to which particular field you're certified in. I'm board-certified in anatomic pathology, clinical pathology, and forensic pathology by a national organization.

Q. And how long have you been practicing forensic pathology?

A. I've been in my position on faculty at MUSC for the entirety of my career, and that's been just over eleven years.

Q. And have you testified in court before?

A. Yes. I've been qualified as an expert witness probably fifty to seventy-five times in South Carolina, and I believe twice in Texas, and twice in North Carolina.

Q. Okay. And do you normally testify for the Defense?
A. The vast majority of my experience in court has been testifying for the -- for the solicitor. I'm testifying to the findings in autopsies in which I perform. I believe out of all the time that I've testified in court, there's only been one other time that I was called by the Defense.
Q. And when was the last time you testified for a solicitor?
A. Just within -- Wednesday afternoon of this week.
Q. Of this week?
A. Yes.
Q. Okay. And I have your C.V. here, and it's pretty lengthy. Could you hit some of the highlights of your training and so forth?
A. Sure. I went to -- obtained my undergraduate degree at Butler University in Indianapolis, Indiana. I then went on to attend medical school at Indiana University School of Medicine. After completing my four-year degree there, I then came to MUSC for my training in general pathology. So general pathology would be looking at tissue to determine if there's cancer, infection.

Also, a pathologist oversees the clinical laboratory, so if you have blood drawn, the pathologist would be the one who would be overseeing the laboratory, working with your physician, to interpret those results. After that

four-year program, I took an examination to become board-certified in general pathology; then went on to complete a one-year fellowship or specialty training in forensic pathology at the Dallas County Medical Examiner's Office in Dallas, Texas.

Again, after completing that year of training, I passed another examination to become board-certified in forensic pathology, at which time I took my current position. Over the last ten years, I've been active in the forensic community, with committee work, organizations. I have numerous publications. I teach a great deal to medical students and other trainings.

Q. Have you won some awards for your service in teaching?

A. I've won several teaching awards but from the medical school and medical students.

Q. Have you lectured a number of times?

A. Yes. I have -- in my job at MUSC, I essentially wear three different main hats. One is as a forensic pathologist performing autopsies; one is as an educator, so teaching medical students in basic pathology and forensic pathology; and the third hat is as an administrator, where I help oversee the training program. So our pathologists who are in training, working to become certified, I oversee that program.

Q. And have you been published?

A. I have. I think there are somewhere around fifty publications over the years.

MR. BURTON: I would offer Doctor Batalis as an expert in forensic pathology.

THE COURT: Any voir dire? You stipulate to this expertise?

SOLICITOR CAMPBELL: I have no problem.

THE COURT: All right. Very good. All right, ladies and gentlemen. I will remind you that witnesses are allowed to give their opinion in the area of their expertise. This witness is stipulated to be an expert in the field of forensic pathology. He will be allowed to give his opinion in that area. Expert testimony is like any 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 deserves.

All right, sir.

MR. BURTON: Thank you, your Honor.

Q. Are you being paid to be here, Doctor Batalis?

A. The Medical University is being reimbursed for my time working on the case, yes.

Q. And how much an hour is the University being reimbursed for your time?

A. Approximately five hundred dollars an hour. For the travel up here, it would probably be half that, so about -

probably two-fifty doing the travel.

Q. All right. And was any particular outcome suggested to you when I asked you to look at this case?

A. No.

Q. And can you tell the Court what materials were provided to you to testify today?

A. Sure. All the materials I received came from Mr. Burton. This included many of the files relating to the autopsy, including the coroner's report, the autopsy report itself. The death certificate; photographs that occurred during the autopsy; and also x-rays that were obtained during the autopsy.

In addition to the kind of autopsy-focused materials, there were also medical records dating back to, I believe, the child's birth, up until the final day with the -- where she was treated at the hospital. There were some records from the Lancaster Police Department, and then also from SLED. I believe that was everything there would be.

Q. Did I -- did I give you some police reports so you could get a overview of the case history?

A. Yes.

Q. Okay. Did you look at those?

A. I did.

Q. Okay. And you looked at the autopsy that Doctor Ross performed?

A. I did. That was really the focus in my review. All the information is important, but really as a forensic pathologist my main focus was on the autopsy report, the photos, kind of everything that revolved around that.

Q. And I sent you some slides, too, right, from the -- a cassette?

A. Yes. I apologize, that was the one thing that I failed to mention. There were also re-cuts of slides that were submitted during the autopsy; so pieces of tissue that were taken to examine under a microscope. I was sent recuts of those slides to examine.

Q. If I showed you the slides, would you recognize them?

A. I would. I believe I have some of them here.

Q. Okay. I just wanted to make sure what you had was the same thing as State's Exhibit 35. If you looked at those could you tell if those are the same or not?

A. I can take a look. So, what's been provided as, I believe you said State's Exhibit 35, are just two of the slides that I examined. I examined seven slides, so we have Slides F and G here; I examined Slides A through G. Additionally, these are -- seem to have a different label. The slides in the report I believe were labeled FA17-1112, and these slides were labeled FA15-1112. So there are some differences.

Q. Would that indicate they are from a different autopsy?

A. It's possible, or they could have been mislabeled. Again, I can't speak to that.

MR. BURTON: I'd ask that the slides that Doctor Batalis has be marked as Defendant's Exhibit, I think, 2.

THE COURT: You want to just -- you just want to mark them?

MR. BURTON: Yes, your Honor.

THE COURT: You're not going to admit them?

MR. BURTON: Well, at some point I will. I mean, if they can be admitted now, that's fine.

Thank you, sir.

MADAM COURT REPORTER: Is this what you want marked?

MR. BURTON: Yeah, why not. Same thing as that, right, with a clip on it.

MADAM COURT REPORTER: 1.

MR. BURTON: Okay.

MADAM COURT REPORTER: Defense 1. Yes, sir.

MR. BURTON: I would ask that these slides be entered into evidence as Defense Exhibit 1.

THE COURT: Any objection?

SOLICITOR CAMPBELL: No objection.

THE COURT: Admitted.

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 1, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

BY MR. BURTON:

Q. Can you tell the Court what you found when you examined all of these, the slides and the photos and the autopsy and other materials?

A. Sure. So overall, it appears that the autopsy performed by the original pathologist was -- was fairly complete and mostly well-documented, in the report and with the photographs that were taken during the course of the autopsy.

Further, I agree with many of the findings and conclusions of the original pathologist, including the fact that this is a, you know, young child of three years old that had several injuries, bruises on the body, and the death is certainly concerning, and ultimately due to a traumatic injury.

At the same time, there are some critical differences, an opinion that I have with the original pathologist, including relating to the ultimate cause of this child's death. Initially, I originally said, the autopsy was pretty thoroughly conducted. There were a couple of what I would consider fairly critical procedures that were not done in this case that could've provided very important information in determining the cause and manner of death.

Q. Could you tell the jury what procedures those were?

A. Sure. I'll start with the evaluation of the arm.

During the course of the autopsy, x-rays, full-body x-rays, were performed of the body, which is standard procedure. And what was found was a -- what was called a healing fracture of the right arm. It's not clear whether this evaluation was made by the pathologist or a radiologist, but admittedly, looking at the x-ray, there is -- there does appear to be an apparent fracture of the right arm. But that -- the evaluation should not stop there.

In a case like this, we want to get every detail we can about any injuries. So in this case, really the gold standard at autopsy would've then been to remove that arm, that right humerus bone, examine it. After your done you would strip away all the muscle and fat; grossly do sectioning of it to put pieces underneath the microscope. This can help to date that fracture, to help determine when it occurred.

Now, we're not that specific we can't say down to the minute, the hour, or even day, but if you examine the fractures with a microscope, you may be able to get an idea of whether it's been a couple of days, it's been a couple of weeks, or it's been a couple of months. So you can narrow it down more than just kind of saying it's a healing fracture.

And so -- and again, we're not for sure that this was an inflicted injury or not, but in this case it's certainly

a concerning injury. And so, I think the more information would've been very helpful, so it definitely would've -- it would've done more of an examination of that right arm.

More importantly, again given that the cause of death was stated to be due to head trauma, there were two fairly critical examinations that weren't done in the work-up of the head injury. The first thing was that the eyes were not -- it was not documented that the eyes were removed or examined. So one thing that's fairly, you know, common practice in cases of suspected head trauma, there's an evaluation of the eyes, and so this would include the nerves that lead from the brain to the eyes; and then actually sectioning the eyes themselves to see if there are any hemorrhages in the eyes; specifically the retina, the back part of the eye, as these can be indications of potential abuse, and also of increased -- increased pressure in the head.

So in any case of suspected child abuse with head trauma, it's standard practice to do an evaluation of the eyes. And along those same lines, the other procedure wasn't -- it was I guess sort of attempted was a histologic, or microscopic, evaluation of the brain. I believe, in looking over the slides, there were only two pieces of brain that were submitted, and there were not special stains to really help elucidate that there were

injuries present in the brain.

Again, typically, if this case was to be done in our institution, we are fortunate to have consultants on hand, but we would've saved this brain for a week or two, so it would become better fixed. We then have neuropathologists, so a pathologist who has specialized in brain pathology, we would examine it in coordination with them, to help notice any fine differences that maybe we -- that we couldn't pick up. This would include a more extensive examination under the microscope, so more than just two pieces of brain. And often, sometimes injuries in the brain, you can't necessarily just see them with your own eyes, or a normal stain that we use. So often would be a work-up that includes some additional stains that can help bring about neurological injury that's present.

And so, again, from the materials I reviewed, what was documented, that wasn't done. Again, it was kind of a cursory neurological examination of the brain, microscopic examination of the brain, that frankly did not show any -- any injury. So those are really the three procedural things was not examining the fracture of the arm microscopically; not examining the eyes for hemorrhages; and then not doing any more detailed examination of the brain.

Q. And did you agree with Doctor Ross that the main

cause of death was the cerebral edema, the swelling of the brain?

A. That's the main point of contention I would have with the case. There -- specifically, I disagree with the contention that there is significant edema to begin with; and then furthermore that the head trauma was not the ultimate cause of death in this case. I base that opinion on essentially the description of the cerebral edema was, I believe, one or two lines in the report that mentioned there was cerebral edema; so swelling of the brain with uncal herniation. So that's where part of the brain from the top part of the brain kind of gets pushed down or pushed out of place, because the brain is -- basically runs out of room and has nowhere to go, so it gets pushed out of the way.

There were two photographs that were taken of the brain, one that showed the top surface of the brain, and this, to me, looked essentially like a normal brain. When you look at a brain, the surface is almost like if you take your finger, so you have what they call gyri so these kind of rounded surfaces; and then soft side so there could be grooves between them. So a typical brain, you kind of have this kind of scalloped edge where you go up and down, up and down. When there's really severe cerebral edema, you lose that. Essentially, the brain becomes totally

flattened all the way around.

And then looking at the picture of the brain, you can fairly clearly see there the still soft side and gyri are delineated which would say if there's any edema there, it's certainly not significant enough to have done killed the child.

Additionally, there was another photograph of the bottom part of the brain that was -- that was taken, and this is the one that, if it was present, would show that herniation. So if the top part of the brain got pushed down below, you tend to see grooves, or sometime hemorrhages or bruising where that brain has been displaced.

And again, the picture of the undersurface of the brain appears to be perfectly normal. There's no significant grooving to really suggest or confirm that there was that herniation. So the -- I definitely think the fact that the -- the presence of significant cerebral edema is in dispute. Again, if -- if there's anything there, it's minimal.

The other thing is, there's really very minimal other evidence of significant head trauma, certainly there are. We've talked about head trauma, we want to see kind of a constellation of injuries. What -- what all do we see that could've added up to say there was enough trauma that acted

on this brain to kill the child. Certainly in this case, there were several bruises or contusions. There were a couple on the back of the head, a couple on the forehead, but that was essentially it.

There were no skull fractures present. So we don't always see that in deaths due to head trauma, but if you have a skull fracture it certainly would take severe force. That talks about how much force was enacted upon the child, we didn't have any in this case.

The other thing that we typically see in almost all deaths due to head trauma would be bleeding around the brain. So around the brain we have kind of three different areas, and there was no blood mentioned in any of those areas, and the pictures at autopsy were perfectly plain. So there's no --no skull fractures; no evidence of bleeding around the brain; and again, getting back to the eye exam, there's no documentation that there's any hemorrhage around those -- the nerves leading to the eyes; and the eyes, you know, they apparently were not examined.

So essentially, the only evidence of head trauma we have are just a couple of scalp contusions, which again is not a normal thing. Contusions can happen, you know, they could be inflicted, they could occur in other -- other instances, but a scalp contusion by itself would not explain the death of this child.

Q. And there appears to have been a significant amount of other bruising on the child, right?

A. Yes, there was.

Q. And can you tell how old those bruises are from any evidence that you've been provided?

A. So, yeah, first of all I say that when looking at the -- the -- the photographs of the child, again there are numerous injuries on the child, including the extremities, the trunk, and the head. One thing that's important to remember is that not all -- we don't know that all these contusions occurred at the same time, or were necessarily inflicted by another individual.

As a two- or three-year-old child, they will fall into things, they bump into things. So certainly I don't believe that all those contusions were due to that type of things, but we have to acknowledge that a couple of them could've been.

Additionally, this child was resuscitated by medical personnel for somewhere between an hour, an hour and a half. And in Doctor Ross' report, she mentioned that there was a lip lesion that was likely due to resuscitation injuries, and also an injury to the liver. But I don't think we can say that those are the only two injuries that occurred during resuscitation. There were a couple of scrapes under the chin that could very easily be due to

intubation. There were some bruising on the chest that could be due from chest compressions.

Again, it's essentially impossible to say whether they occurred during her resuscitation or not, but it would be dangerous to assume they all occurred being inflicted by another individual.

And again, specifically to dating bruises, essentially we're not that great at it as a scientific community. There's been attempts made to look at these under the microscope and try and see some factors, to try and break it down, whether it's two hours old, you know, twelve hours old, two days old, and we're not that great at it.

Really, the best kind of judge we have for dating a bruise is the color of the bruise. And so, generally bruises will become kind of reddish-purple or blue initially. Then, as the bruise starts to break down, the blood products get broken down, it'll have more of a brownish-green appearance, before finally fading away.

Q. All right. And did some of those bruises appear to be older bruises, by their color?

A. Yes. The -- some of the bruises on the chest, I believe were described as being brown in color. In the photographs it did appear to be brown. The bruise that was most striking was the one on the lower right side of the abdomen, where the right, kind of, right side of the groin.

That was a -- the largest bruise that was on the body, and that bruise had a very distinct coloration to it. There's some areas of light pink, there's some areas of dark purple, there's some areas of greenish-brown, so that tells us that bruise did not occur that morning. That would've taken some time. I don't know if it was three days, two days, one day, but it's going to take some time to get that variation in color. Again, that was the main bruise on the lower side of the abdomen.

Q. Is it possible to prove that any of these bruises occurred that morning?

A. It is not.

Q. There was one bruise that was very significant, wasn't there?

A. Yes. I believe that was the one I was describing on the lower side of the abdomen.

Q. Okay. And can you tell us what you believed caused Minor [redacted]'s death?

A. Yes. As I said before, I disputed the fact that I do not think cerebral edema due to head trauma caused the death, but I did think it was a traumatic death. So my opinion of this death is due to the abdominal injury and retro-peritoneal hematoma. So the bruise we just talked about on the lower right side of the abdomen, again had that kind of varied color appearance; it was documented in

the autopsy that basically right underneath that skin bruise, there was bruising of the -- hemorrhage into the abdominal muscle, the muscular wall of the abdomen.

There was I think two hundred and fifty milliliters of fluid, bloody fluid, in the abdomen. And to put that in frame, her blood volume would be maybe a liter to a liter and a half. So at least twenty-five percent of her -- her blood volume was -- was in that abdominal cavity.

But that didn't stop there, it wasn't just the fresh blood. In looking at the photographs and descriptions of the report, that the blood tracked all the way back to what we call the retro-peritoneum. So it wrapped around the bowel, and even towards the back, around the musculature.

So in a small child that weighed somewhere between twenty-five and thirty-five pounds, you can bleed quite a bit into that space that it could cause death. And so, there's a continuous line of injury from that older-looking abdominal bruise, down to the retro-peritoneal hematoma, and I believe that's what caused her death.

Q. Is that -- could that possibly be -- have been incurred in the morning of December 18th?

A. I don't believe so. Again, the main factor would be due to the coloration of the -- the bruise on the skin that clearly shows, you know, three or four different colors.

Q. To the best of your knowledge, how long prior to the

morning of December 18th was that bruise inflicted?

A. The -- again I can't, you know, nail it down to the hour, but I'd say it was at least the prior day. It could even been up to a couple days before that.

Q. Is it fair to say that it was unlikely that it occurred that morning?

A. Yes.

Q. And I think -- were there three or four different colors to that -- to that bruise?

A. Yes. It kind of had a -- there was some dark -- some were dark purple areas, and again some pinkish areas, and some kind of more greenish-brown-type areas.

Q. Does anything that you saw in your examination support a theory that Minor died of a beating between the hours of, say, 8:00 and 12:00, the morning of December 18th?

A. No.

Q. Looking at the picture of the -- the pictures of the blood in the retro-perineum, do you think a pediatrician would be qualified to -- to determine --

SOLICITOR CAMPBELL: Objection, your Honor.

THE COURT: Sustained.

MR. BURTON: Thank you, your Honor.

Beg the Court's indulgence a moment.

THE COURT: Yes, sir.

MR. BURTON: Thank you very much, Doctor Batalis.

Please answer any questions the State may have.

CROSS-EXAMINATION

DOCTOR NICHOLAS BATALIS BY SOLICITOR CAMPBELL:

Q. Good morning, Doctor. I don't think we've met.

A. Good morning. I don't believe so.

Q. So -- and you talk faster than I do, so I just want to go back over little things, because I might have missed something when you were talking.

A. Sure.

Q. Basically, it is your opinion that this child died from the abdominal injury?

A. Yes.

Q. And you are basing -- are you dating that entire injury, the internal injury and the bruise, from the color of the bruise?

A. The -- the bru -- the color of the bruise gives us the best information of the -- of the dating of the injury, so, yes.

Q. So you are before this jury, telling them that you can date bruises from their appearance?

A. The best way to date -- again, as I said originally, we're not dating bruises, but what we do know is the coloration and changes of the bruise does occur over time. So, yes, we are able to glean some information from the coloration of the bruise.

Q. Some information?
A. Yes.
Q. But each person bruises differently; you would agree with me?
A. They do.
Q. And each person -- like, if I kicked -- someone kicked me in the stomach, or someone kicked you in the stomach, the bruise might present differently?
A. It -- it could present differently, yes.
Q. Even with the same force?
A. Yes.
Q. And people heal differently; is that correct?
A. Yes.
Q. Some people heal quickly, their bruises go away within a day.
A. It may be --
Q. Depending on the significance of the bruise.
A. It may be possible.
Q. And isn't that why, traditionally, you can't date bruises from their appearance?
A. In general, you can. Again, in general ---
Q. In general.
A. --- you have to look at specific characteristics. So if you have a purple bruise, yeah, I can't say that happened two hours ago, it happened last night, it happened

yesterday morning. But if you can see that color gradation, that does tell you that it's been some time, because there's been time for that blood to be broken down. That's not going to occur within a couple hours.

Q. And I want to be straight here. Your testimony today is that this injury, including the bruise and everything underneath, happened one to several days prior?

A. Correct.

Q. And she would -- and it would've been inflicted then. But your testimony is she died from that?

A. Correct.

Q. So there's no dispute in your mind that she died from that injury?

MR. BURTON: Objection, that's argumentative.

THE COURT: Overruled.

A. I'm sorry, could you rephrase?

Q. There's no dispute in your mind that she died from that injury?

A. Correct.

Q. And describe the depth of this injury, this type of injury. How deep was it within this three-year-old's body?

A. The force of the injury extended from the surface of the skin, down towards the -- again, the retro-peritoneal space, which is towards the -- towards the back of the body.

Q. It went through her entire body, almost?
A. More than half, I would say.
Q. What kind of force would've had to been happening to cause that injury?
A. It would've been -- it would've been a very significant force.
Q. And when you say significant force, what does that mean? I know that's a medical term, but what does that mean for me, you know, the -- I'm not that smart.
A. And again, I don't think we can place a specific pounds-per-square-inch-type thing. You know, there --
Q. And I'm not asking that.
A. But it's not something that would be just from tripping over your feet and falling to the ground. This -- again, something here would have to be, you know, falling off of, you know, a balcony down onto a rail; being kicked; being stomped; a punch. Again, it could be a fall, but again it would have to be from some height, or into something firm.
Q. But this is the type of injury you might see in a high-speed car wreck?
A. It could be, yes.
Q. And once this injury was delivered to this child, and is it your testimony all this is from this blood?
A. Correct.

Q. And you would agree with me that, with some children, even though they get a significant abdominal injury, they may not even have a bruise on their outer skin?

A. Correct.

Q. That happens?

A. It does.

Q. But in this case, we have a significant bruise.

A. We do.

Q. How much would that hurt?

A. I can't quantify how -- how much pain someone might feel.

Q. Once this injury that ultimately caused her death happened, would she have been in pain?

A. I would expect her to be in some sort of pain. But again, I can't place myself in her mind set.

Q. Doctor, you wouldn't agree with me that bleeding out in your abdomen is a painful, painful way to go?

A. No, I mean there's not necessarily any pain associated with bleeding into your abdomen. The pain would be from the contusion to the skin.

Q. So the pain just would've been from the contusion to the skin, she wouldn't have been in pain internally?

A. Not --

Q. That's your testimony?

A. That would be my best estimation. Again, I can't

place myself in what she was feeling.
Q. So if she received this blow from whomever three days earlier, she wouldn't have been in any significant pain?
A. She may not have been.
Q. And she would have been functioning perfectly as she bled out?
A. She could've been. Again, with these retro-peri -- it's different -- she didn't have a aortic injury or a heart injury. So we see somebody shot or stabbed in a major blood vessel, they bleed out very quickly. In this situation with this retro-peritoneal bleedings, they tend to be more slower bleeds that build up over time, so she may not have been aware that this was happening. We often see this where people kind of reach a critical point, and then become symptomatic.
Q. And how long would she have been symptomatic before she died, in your opinion? And when you say symptomatic, what does that even mean?
A. Symptomatic from blood loss would be the behavior would be what we call attended, maybe start to kind of lack energy, become a little more listless, because you -- you're losing that blood that's flowing through your body, providing oxygen to your brain and your organs. If you're losing that into that retro-peritoneal space, your blood volume goes down and you could become kind of fatigued or

attended and it could be.

Q. So symptomatic, she would've been lethargic? What did you say? I'm sorry.

A. Yeah, she could've been lethargic, or a term that is just another way of saying lethargic ---

Q. Okay.

A. --- fatigue. Those would be the most -- probably the most common cited complaints when they're having a slow bleed over time.

Q. And how long would she have been lethargic and not functioning well, prior to this death?

A. That's impossible to say. Everybody's going to kind of reach a critical threshold differently. Some people may never present with signs that they recognize or others recognize, others may occur but you can't place a specific time.

Q. Not like you can with bruises?

A. I never place a specific time with bruises.

Q. And Doctor, you've written articles on forensic pathology in general, as far as adults go, anyway?

A. I have. I've written articles regarding both adults and children.

Q. And one was *Forensic Autopsy of Blunt Force Trauma*?

A. Yeah, that was an on line chapter, yes.

Q. And in this you said, as previously mentioned, I'll

find it further in your article, the age of contusions and abrasions occur can only be determined in a general manner.

A. Correct.

Q. When you reviewed these slides, some of these slides were from the actual injuries themselves, the bruising?

A. Yeah, that part was unclear. There were slides that showed soft tissue with some blood in it. I did not see a summary documented anywhere of where those came from, but -- so I examined tissue that were of some bruises, but I can't say where they were from.

Q. But they didn't show any signs of any healing.

A. Well, when it comes to bruising, the first thing that we can really legitimately, as far as dating goes, is two to three days out, where you have cells come in called macro fibers that will start to chew up the blood and become present. So when you see those, again you feel reasonably comfortable that you're two to three days out at that point. That's really the first reliable indicator that we have.

Q. So you would agree with her finding in her autopsy -- it's in her autopsy that her microscopic findings were that they were recent. Or does that not work for you?

And if you missed that, I'd be glad to show it to you.

A. Yeah, I can see the sentence that it has here. The tissue that was submitted does appear, for the most part to

be recent; which again, would be less than two to three days, because we're not seeing those -- those macro figers that I'm speaking of. That being said, you can do a test that was not done that can -- its an iron stain that can help identify those macro figers, so they didn't appear under the normal stain. But we don't know -- we can't confirm they weren't there. But by being recent, I would say they occurred within the last two to three days.

Q. Well, you aren't up here telling this jury that you didn't get enough information to come up with this -- with your opinion?

A. No, I'm not.

Q. Okay. And when you wrote this article about being careful about, you know, dating bruises and stuff, you were -- you were -- it was for the medical community to say, be careful about trying to date bruises from how they appear.

A. Being specific about it, correct.

Q. Doctor, why did you not want to meet with me before this trial?

A. I was never contacted by you.

Q. You were never told I wanted to talk to you?

A. No.

Q. No one ever let you know that I wanted to talk to you when you made that decision?

A. Made what decision?

Q. Not to talk to me?

A. I never knew you existed until today, I'm sorry.

Q. I'm aware. And wouldn't it be normal course that you would be open to talking to either side, be it the State or the Defense?

A. Certainly.

Q. But that didn't happen in this case?

A. No.

MR. BURTON: Your Honor, could we have a side bar?

THE COURT: Mr. Foreman, would you please go back to the jury room, please?

(JURY EXITS COURTROOM AT 10:02 A.M.)

THE COURT: All right. Mr. Burton. No. I'm putting you on the record. I don't want a side bar, that's why I sent the jury out.

MR. BURTON: All right. Thank you, your Honor.

Ms. Campbell and I talked about doctors.

THE COURT: Speak up, please.

MR. BURTON: When we were preparing for trial, Ms. Campbell and I talked about doctors; and Ms. Campbell -- and I asked for Doctor Lamb's and Doctor Durso's contact information, and indicating I wanted to talk to those doctors. Ms. Campbell asked me if -- if I minded if -- if she contacted Doctor Batalis. And I told her yes, I mind, but you can talk to him if you want to; I can't stop you

from talking to him.

And then, later on after the discovery conversations were going on, I think it was Melissa that indi -- that sent me and email saying we will honor your desire for us not to talk to Doctor Durso. So she's trying to -- trying to mislead the Court here about contacting Doctor Batalis.

THE GOURT: Is there an email saying we will not do it?

SOLICITOR CAMPBELL: Yes, sir. That we would not do it at his request.

THE COURT: Do what?

SOLICITOR CAMPBELL: Because he told us not to.

MR. BURTON: I didn't tell her anything, your Honor. I said --

THE COURT: Look, this is -- besides it's a collateral issue. Let's move forward.

SOLICITOR CAMPBELL: I'll move forward.

THE COURT: Bring the jury in.

THE BAILIFF: The jury's coming back in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 10:06 A.M.)

SOLICITOR CAMPBELL: Thank you, sir.

Q. Doctor, you aren't telling this jury that this injury could have happened from a fall in the bathtub, are you?

A. No, I'm not.

Q. And would you agree with me that this injury was an inflicted injury? Absent a history of some type of accident.

A. I can't say whether it was inflicted or not. Again, I -- as I earlier stated, it would've been a significant injury. Again, whether it was an accident or inflicted, it would require significant force, but I can't say how that force was occurred.

Q. Would you agree with me that if someone were undressing this child and that bruise had been there for, as you said, a day or more, that it would be obvious if you undressed her?

A. I can't say what it would look like over time, because bruises will evolve.

Q. Well, let me back up. I thought they looked worse to begin with and then faded, according to you?

A. I said they evolve, they change over time.

Q. How do they look at first?

A. I'm sorry?

Q. How do they look when they're first inflicted?

A. Most bruises, again, as we said, it's not exact, will have a more blueish-purple discoloration, and then as you mentioned, kind of fade to a greenish or brownish color.

Q. Well if someone were undressing this child right after this injury was inflicted, according to your testimony,

wouldn't it have been obvious?

A. First of all, I can't state to whether it would be obvious for somebody else observing the child. Also, it would not be immediately after the injury, Bruises do take some time to develop. So after the injury it would at least take several hours for the -- for the bruise to -- to develop. So again, I can't speak for what somebody else would've evaluated.

Q. So now you're saying people don't bruise for several hours after injury?

A. Bruises take time to develop.

Q. And with every person it's different, isn't it, Doctor?

A. There will be some variation from person to person.

Q. And some people can show bruises immediately. This is common sense.

A. You can show evidence of injury early in the course, but again, to really get a fully developed bruise usually it's gonna take longer than that.

Q. And at some point prior to her death, she would've been symptomatic?

A. She might've been yes.

Q. Well, just prior to her death, in the hours prior to her death, if this bleeding happened the way you said it did, wouldn't she have been lethargic, not wanting to get

up, not moving, not able to follow instructions?

A. She could've been. Again, people will vary. Some people may exhibit those signs for longer periods; others can present with more of a sudden type-scenario.

Q. And Doctor, you are board-certified, I believe, in forensic pathology?

A. Yes. Anatomic pathology, clinical pathology, and forensic pathology.

Q. I'm sorry, I didn't mean to minimize. But for purposes of this -- you're in three different areas?

A. I have three different certifications, correct.

Q. Certifications. Okay. And there's no doubt that you are a board-certified forensic pathologist?

A. Correct.

Q. And is there such a thing as a board-certified pediatric forensic pathologist?

A. No, there's not.

Q. But you would agree with me, in medicine there are different specialized areas, just as yours, that are important? I mean, would you agree with that, that specialties -- specialists are there for a reason?

A. I can agree to that, yes.

Q. Because they have more expertise in a certain area than other people?

A. They might.

Q. Like, a family doctor may not have the same expertise as an intensive care doctor?

A. That would be correct.

Q. And that's the reason for sub-specialities?

A. Presumably, that's one of the reasons, yes.

Q. And you would agree with me that children are different from adults?

A. In many ---

Q. In the medical community.

A. --- in many, many ways, correct.

Q. And that's why we have pediatricians?

A. Yes.

Q. And that's why you have adult doctors?

A. Correct.

Q. Internal medicine, whatever you want to call it?

A. Correct.

Q. And then, even within the pediatric community, there are sub-specialists, just like in the forensics community. I mean, in the pathology community?

A. Correct.

Q. Like, in the pathology community, you can have an anatomic versus a clinical, versus a forensic? And there are probably some more specialties I don't know about.

A. Correct. Yeah, there's probably fifteen or twenty or so.

Q. And in the pediatric world, you are aware that there are specialists?

A. Yes.

Q. There are pediatricians?

A. Well, yeah, they're not specialists, but yeah.

Q. General; kind of like a general pathologist?

A. Right.

Q. Okay. And then you go further in, and you become more specialized?

A. Correct.

Q. There are like, intensive care, pediatric intensive care?

A. Right.

Q. Intensivists? You have neonatal people that specialize in newborns?

A. Correct.

Q. You have pediatric radiologists?

A. Correct. They're -- they're radiology trained, but with a pediatric training.

Q. Because again, children are different, and treatment of children is different from adults?

A. In many cases, yes.

Q. And that's the reason for the specialties?

A. Again, I don't know all of the different reasons, but that would make sense.

Q. And just to be clear, you don't have any degrees in -- as a pediatrician?

A. I have no certifications as a pediatrician, no.

Q. And are you aware that there are child abuse pediatricians?

A. I am.

Q. And what's the purpose of having a child abuse pediatrician, sir?

A. Again, it's not my daily practice, but my impression is that they -- we have a program at MUSC, so if there are children that present to the hospital, whether in the emergency room or the clinic, that are suspected for abuse, they will conduct a work-up to determine if that's the -- if it's likely that occurred.

Q. And they have even individualized training as far as attending autopsies and looking at children after death, and everything like that?

A. Every training program's different, so I can't ---

Q. You aren't familiar?

A. --- I can't attest to ---

Q. Okay. I'm sorry.

A. --- a specific individual's training.

Q. But just to be sure, you aren't a board-certified child abuse pediatrician?

A. I am not.

Q. And you aren't certified in any way by the American Academy of Pediatrics?

A. No.

Q. And Doctor, let me clear up one thing. You said -- you said everything you reviewed in this case in coming to your decision?

A. I believe so, yes.

Q. And so, you didn't consult with anybody else?

A. No, I did not.

Q. Did you consult with Doctor Ross?

A. I did not.

Q. Did you consult -- did you know about a Doctor Lamb that was involved in this case?

A. I was provided one of the SLED documents, I believe it was an agent report, that was for the time line, and they mentioned talking to a Doctor Lamb, but I did not speak with her, or him or her.

Q. And did you talk with Doctor Durso?

A. I did not.

Q. And have you ever served at the SLED -- the Child Fatality Review Board?

A. I have not.

Q. Do you know what that is?

A. I could guess based on the name, but I don't know specifically.

Q. And do you know that board is mandated by law?
A. No.
Q. Did you know that in every child death, SLED has to go in and investigate?
MR. NIELSON: Objection, your Honor. He said he doesn't know anything about this board.
THE COURT: Sustained. Let's move forward, please.
BY SOLICITOR CAMPBELL:
Q. Do you know that it is mandated by law for a child abuse doctor to be called in to look at every child death in this state?
A. Again, I'm not familiar with the law.
Q. Even though the majority are accidental or disease?
A. As stated, I'm not familiar with the law.
Q. But you didn't consult with any of those doctors?
A. I did not.
Q. At your own hospital, you have pediatric child abuse doctors that are consulted in every child death in that region?
A. I don't know. We have child abuse pediatricians. I don't know what they are consulted on and what they're not.
Q. You didn't want to consult with them?
(NO RESPONSE.)
Q. When were you contacted on this case?
A. I believe it was sometime in March or April of this

year.

Q. In March or April?

A. I believe so.

Q. When did you receive the slides?

A. The slides came later in the course. I believe they came within the last -- I would guess within the last six weeks or so.

Q. Maybe in the last month?

A. That would be within the last six weeks, so.

Q. How much did this child weigh?

A. I don't believe it was documented in the autopsy report. And there was a clinic visit, I believe, from October, that I think she weighed eleven kilograms, which is somewhere around twenty-five pounds. I think the coroner's report stated that she was thirty-five pounds, but again, I didn't see that in the autopsy report.

Q. And as far as consulting with any experts in pediatrics, you didn't do that?

A. I did not.

Q. And just finally, you're basing your opinion on the appearance of the bruise?

A. I'm basing my opinion on the totality of everything I reviewed.

Q. Thank you.

SOLICITOR CAMPBELL: Nothing further.

THE COURT: Re-direct?

MR. BURTON: Brief re-direct.

SOLICITOR CAMPBELL: Your Honor, may I, one more matter. I'm sorry.

THE COURT: It's all right.

BY SOLICITOR CAMPBELL:

Q. Finally, Doctor, from your own article, the same one I referred to earlier, you say, much has been written about the dating of blunt force injuries; is that correct?

A. I wrote that several years ago. I can't say exactly what's in it.

Q. Do you want to review it?

A. If you'd like me to.

Q. Let me just read you -- that in this, you mentioned that you should review the histologic findings, in adjunct to the gross impression that that's important.

A. It can be, yes.

Q. And you also said that you need to be careful when dating contusions?

A. Correct.

Q. Thank you.

SOLICITOR CAMPBELL: I don't have anything further.

THE COURT: Re-direct?

MR. BURTON: Very briefly, your Honor.

REDIRECT EXAMINATION

DOCTOR NICHOLAS BATALIS BY MR. BURTON:

Q. The Solicitor asked you a lot about symptoms and things like that, that might have arisen from this blunt force trauma of the groin area, right?

A. She did.

Q. Can you put yourself in Minor [redacted]'s shoes to answer those questions about how much pain she would be in, and all these other symptoms she mentioned?

A. I can't. Everybody can perceive these things differently.

Q. And when you saw the pictures of the bruise, is it fair to say that that bruise was fully developed at that time?

A. If you -- are you referring to the bruise on the abdomen?

Q. Yes.

A. Certainly that bruise, again, did have the -- I don't want to use the term fully developed, but it did have, again, the kind of the brownish-green coloration to it, which would again say that it had been there some time.

Q. And pediatric pathology, that's not a recognized specialty, is it?

A. Pediatric pathology is a board-certified specialty. That focuses more on cancer, non-forensic autopsy. So evaluating children for if they have multiple congenital

anomalies or birth defects, a pediatric pathologist would really specialize in those type of things, not the -- not in the forensic aspect.

Q. Again, the Solicitor brought up the subject of a pediatrician testifying, regarding the -- the age of the bruise and the time that it would take for the person to die. Is she qualified to testify to that?

SOLICITOR CAMPBELL: Objection, your Honor.

MR. BURTON: She opened ---

THE COURT: I sustain.

MR. BURTON: --- the door --

THE COURT: No, she did not. Overruled. I sustain that objection.

MR. BURTON: Thank you, your Honor. That's all the questions I have of Doctor Batalis. Thank you.

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

MR. BURTON: Yes, your Honor.

THE COURT: Thank you, sir.

DOCTOR BATALIS: Thank you, your Honor.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: Would you call your next witness, please, sir?

MR. BURTON: Your Honor, could I leave the room for about three minutes, so I can --

THE COURT: Yes, sir. Let's do this, let's take a

witness?

MR. BURTON: I am, your Honor.

THE COURT: Thank you. Would you bring the jury out?

THE BAILIFF: Yes, sir. The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 10:41 A.M.)

THE COURT: Would you call your next witness, please, sir?

MR. BURTON: Thank you, your Honor. I call Kayla Cook to the stand.

(WHEREUPON, KAYLA COOK, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

KAYLA COOK BY MR. BURTON:

Q. Would you state your name, for the record?

A. Kayla Marie Cook.

Q. And are you the Defendant in this case?

A. Yes, sir.

Q. And how old are you?

A. I'm twenty-seven.

Q. Where do you live?

A. I live currently in Charlotte, North Carolina.

Q. Okay. And do you live with anybody?

A. Yes. I do have a roommate. I live with Whitney Lombardo.

Q. And do you have any children?

A. Yes. I have two.

Q. And what are their names?

A. Phoebe H. and Wyatt C..

Q. And how far did you go in school?

A. I completed high school. I graduated and I started college.

Q. Okay. Please speak closer to the mic if you could.

A. Sorry.

Q. And what high school did you go to?

A. Indian Land High School.

Q. And what college?

A. USCL. University of South Carolina, here in Lancaster.

Q. Okay. Do you -- you have an employment history?

A. I do. I have several different backgrounds in my employment history, my most recent working for Charlotte Pain Associates.

Q. I couldn't hear what you said.

A. I have several different things in my background. I've worked since I was a teenager, so I have several different little areas, but my most recent is for Charlotte Pain Associates.

Q. And what did you do there?

A. I was a medical assistant.

Q. Okay. And how long did you work there?
A. For almost a year.
Q. Okay. Let's talk about when you met Minor for the first time. Did you meet Minor before you met Scotty?
A. Yes, sir.
Q. Tell us a little bit about that.
A. When I first met Minor, she was probably about one or two years old. I met her through her mother, Michelle Bigham, and she was at my son's father's house, they were living there. So I met her from a very young age.
Q. And what's the father's name?
A. Timothy Scott Schroeder.
Q. No, no, no. Not Minor's, but the father of the child.
A. Of my son?
Q. Right.
A. Edward Hartman.
Q. Okay. And how did you meet Timothy Scott Schroeder?
A. Through Facebook. My son's dad told me that he was a good guy, so I trusted him, and I messaged Scotty back. He originally messaged me, so we met online.
Q. And how many times had you messaged back and forth before you actually met him in person?
A. I -- I do not know. I apologize.
Q. Okay. And about when was that?
A. That was about in March of 2017.

Q. Okay. And after that, did you date for awhile.

A. Yes. We -- we ended up meeting in person, and we -- we've dated on and off between -- between maybe the end of March to December.

Q. Okay. And when were you reacquainted with Minor once you started dating Mr. Schroeder?

A. I seen -- on our first date I seen him drop off Minor when I was dropping my kids off with Edward. We was dropping Minor off with Michelle, her biological mother. And when I had first gone over to his parents' house where they were living at, I got to see her again, and my kids and her had a play, and she had already known me and them, so it was a good time just us having fun.

Q. Was Minor living with Mr. Schroeder, or living with Ms. Bigham?

A. I believe that they had a agreement, they were -- she was going back and forth.

Q. And at some point did you move in with Mr. Schroeder?

A. Yes. I believe it was towards the end of April or the beginning of May 2017.

Q. And where was your first home with Mr. Schroeder?

A. It was on Warren Court.

Q. In --

A. That's in Indian Land, I apologize.

Q. Okay. And what kind of -- what kind of a dwelling was

that?

A. It's more of like, a camper with an addition onto it. So it definitely had two bedrooms. It was supposed -- it was originally for him and Minor.

Q. How long did you live there?

A. I believe about a month and a half.

Q. And what happened then?

A. And then the house next door was a two-story cabin, became available, and I had loved it from the beginning. I seen it, and it was much bigger; three bedrooms, so we could all fit into it, and we moved next door.

Q. And who moved in with you?

A. It was me, my children, and Timothy Scott Schroeder and Minor.

Q. How much was Minor with you at that residence?

A. Minor was more with us at the cabin than she was when we were living in the camper like trailer thing. She was more so -- she was still in between him and Michelle at that -- at that point.

Q. Wasn't a full-time resident in the house?

A. No.

Q. Did you have any problems at that house?

A. We had some problems. The refrigerator took a lot of the energy supply, so it raised our power bill up extremely high. So that was probably would've -- the only things I

can currently think of.

Q. And how come you're not living there? What caused you from there, if, in fact, you moved from there?

A. We actually ended up not being able to afford it. I -- I had to quit my job, and Scotty was the only one working. I had to stay home with the kids, and he couldn't afford the extra four hundred dollars a month, on top of the extremely high power bill.

Q. And what kind of a dwelling was that?

A. It was a cabin. It was a two-story cabin.

Q. All right. And where did you move after -- after that?

A. After we left the house because the power got shut off, we moved to, I believe back to Tracy and Scott -- Big Scott's -- his father's house, on Henry Harris in Indian Land.

Q. Okay. And was Minor in the house with you?

A. I believe -- I believe this is when Michelle had gotten Minor back. She had came and taken Minor back. She had the police come meet Scotty at the house, and let him know that he had to return Minor to Michelle.

Q. So in the house was Mr. Schroeder's father and mother; Mr. Schroeder; yourself; and Phoebe and Wyatt?

A. Yes. Also, they had a family friend named Frank that lived there as well.

Q. Okay. And what kind of dwelling was it?
A. It was a double-wide trailer.
Q. Pretty crowded, or was there --
A. Yeah. Yeah, definitely. It only had three bedrooms.
Q. All right. And was there some DSS involvement?
A. Yes. I believe in September DSS got involved with Michelle Bigham and Minor, and DSS -- that's where they originally started coming to, is on Henry Harris, when we got Minor back.
Q. All right. Was that the safety plan?
A. The safety plan was for Minor to be with Tracy Schroeder, which is her maternal grandmother, Scotty's mom. She was supposed to -- she was supposed to get kinship care, so she was supposed to be in her care.
Q. Okay. And what happened with that house?
A. The house actually ended up -- the payments weren't made on the house or on the lot, so they ended up losing the home, so Scotty and Minor didn't have anywhere to go.
Q. And what -- does a title loan have any significance?
A. Yes. I actually put up my -- my Saturn Vue for a title loan so that we could get a residence here in Lancaster. I already had moved out of Tracy's house sometime in October. So at the end of November, I put my vehicle up for a title loan so Minor and Scotty would not be on the streets, and that we would all have a place to live

together.

Q. And when was the last -- where was the last -- the next place that you lived?

A. When we moved back in together, it was right here on [redacted] Heath Circle, in Lancaster.

Q. [redacted] Heath Circle, that's the dwelling where ---

A. I lost Minor, yeah.

Q. --- the events of this case occurred?

A. Yeah.

Q. Okay. And when did you move in?

A. Towards the end of November. I don't -- I apologize, I don't know the specific date.

Q. Okay. And how were things when you moved in at Heath Circle?

A. I was excited, the kids were excited. We were all together again. You know, Scotty was excited we finally had our own place, enough room. The girls had their own bedroom. At the time, Wyatt didn't have his toddler bed, so we made his room into the toy room, which on the diagram I believe might've been Bedroom No. 1. But we were excited. There was kids in the neighborhood, so it was a new, fresh start kind of thing for us.

Q. And was Minor living there with you?

A. Yes, she was.

Q. The whole time?

A. Yes, she was.

Q. From mid-November? Okay. And fair to say you pretty much, at that point, had everything you wanted?

A. We were trying. We didn't have everything. I mean, you know, we had struggles. We only had one parent working, making three hundred dollars a week, got three kids to feed, but we had enough. We were definitely -- we blessed to be able to do the things that we were able to do.

Q. Okay. And you pretty much had a nuclear family there, and you had somebody that worked and somebody that took care of the house?

A. Yes.

SOLICITOR CAMPBELL: Objection to the leading, your Honor.

THE COURT: Overruled. Go ahead.

BY MR. BURTON:

Q. All right. Well, okay, what did Timothy do while you were living in the Heath Circle house?

A. He would work during the days.

Q. And was that -- I mean, where did he work?

A. Independent Fence in Indian Land off of Highway 521.

Q. Was he working there in November when you first moved in?

A. Yes, I believe so.

Q. And he was working there right up until you left [redacted] Heath Circle?

A. Yes, he was, as far as I know.

Q. And what were you -- what were your duties?

A. Mommy duties. I stay at home. I was more of a home -- at home and wife/mom kind of thing. I took care of the house, took care of the kids, took care of the dog, so, just stay-at-home mom.

Q. Did you enjoy being a stay-at-home mom?

A. I actually -- I ended up loving it. I loved being with the kids, being able to help them, would develop mental, being able to teach them things, because previously I worked all while they was little. So it was amusing to me to be able to stay at home with all of them and really enjoy being with them.

Q. In your life, what's the thing that you are best at?

A. I always thought the only thing I was ever meant to be was to be a mom, because that was the only thing I was ever really good at, was that being with them.

Q. Okay. And did you enjoy being a mom to all three kids?

A. Oh, definitely. Of course. They're -- those babies are my life, all of them.

Q. Did you treat Minor any differently than you treated Phoebe or Wyatt?

A. Absolutely not.
Q. Did you love Minor?
A. Of course, with all of my heart. And I still do.
Q. What did Minor call you?
A. Mommy.
Q. When was the first time she called you Mommy?
A. When I had her, when she was little. She would -- she had just started kind of talking a little bit, and she called everybody Mommy at that point. She didn't really know how to differentiate people, so everybody was Mommy then. It just kind of stuck, and she's always called me that.
Q. Okay. And what were your basic duties around the house while Mr. Schroeder was at work?
A. I played with the kids; got them dressed. I would -- we would do arts and crafts, Playdoh; feed them; cooking; making sure the house was clean; taking the dog out, making sure he was fine. Just taking care of the house and taking care of the kids.
Q. Was the dog the only pet?
A. Yes.
Q. And what was the dog's name?
A. His name was Bossman.
Q. Uh-huh. And when Mr. Schroeder was at work, where was Bossman?

A. If we had company, I would put him in his -- we have a very large dog crate I obtained from my parents. I would put him in there just so -- because they brought their kids over to play with my kids, and I didn't want anything -- them getting knocked over and what not. And some of my neighbors were -- one of my neighbors was afraid of dogs, and she came over daily, so I would always put him up, just in case.

Q. And was Bossman a rambunctious dog, or a quiet dog?

A. Oh, he was definitely loud. He was originally an outside dog, so when we moved to Heath Circle we brought him inside, because we tried to create this little chain for him outside so he could run around, and it didn't end up working. He broke it, so we kept him inside.

Q. When he broke the chain, was he a pretty strong dog?

A. Oh, yeah. He's a large pit bull.

Q. By large, do you have any idea how much he weighed?

A. I cannot say for certain how much he weighs.

Q. But in the scale of small dog, medium dog, large dog, where would he fit?

A. Definitely large.

Q. Was he free in the house during the day if you didn't have neighbors?

A. Yes, usually he was -- yeah. Unless, like, he wanted to go lay down. I mean, the crate stayed open for him to

go in there and lay down. He had his food right there, so. He was free to come and go as he wanted, and then I'd take him outside.

Q. And did the children enjoy playing with Bossman?

A. Oh, yes. My son absolutely adores dogs, and Phoebe was off in her own little world. Minor would play with him a little bit. She was a little bit more fragile, so -- and he was a little rough. You know, like I previously said, he's an outside dog. Wyatt didn't care if he was rough or not; Wyatt loved it. He would try and even -- the dog, so. They had -- they had fun with him. I mean, he wasn't a big problem usually. He was just kind of, you know, rough a little bit.

Q. Did he know his own strength around the children?

A. Yeah, to an extent. He wouldn't, like roll over on them or anything like that; he would never bite them. As much as I would think he would, you know, know his own strength as a dog, he was just a dog.

Q. Specifically around Minor, how was he?

A. He was fine. I mean, she gets knocked down, you know, by him, but that's only because he's a big dog and was bigger than Minor, you know. So that was probably the only difference.

Q. Did Minor enjoy playing with Bossman?

A. I'm not entirely sure she -- she'd play with him here

and there, but it was mostly Wyatt, my son, that loved playing with Boss, so that's -- Minor loves animals, so I mean -- particularly kitties, but Boss is really big, and Wyatt was more the wild child, so he and Boss got along perfectly well.

Q. And Wyatt was about one and a half?

A. Yes.

Q. And Minor just turned three?

A. Yes. She turned three on [redacted].

Q. And regarding the size of these children, how much smaller was Wyatt than Minor, if any?

A. Oh, they were like, literally the same size. They wore the same clothes, same shoe size, everything.

Q. And can you describe Wyatt's and Minor's interaction in the home?

A. Yes. Wyatt is a boy. Boys tend to be a little bit more aggressive. They play all the time. But Minor's the sweetheart of the kids. That's -- Phoebe personality was a sweetheart, and then Wyatt is the, you know, monster like, he's the -- the wild child. But they -- they loved each other. They call each other Sissy and Bubba. They do, they look at each other no differently than their own blood brother and sister, so she was literally one of my kids.

Q. Did -- did Wyatt know his own strength around Minor?

A. I don't think he ever -- I don't know. He only-- he's

-- he's a baby. He's gonna smack and pull your hair, the same way as anybody he'll do it to.

Q. Did he ever bite Minor?

A. Yeah. He -- oh, he bites. He -- he won't any more but yeah, he -- he's always had a biting problem. And it was really me, anybody he could get his mouth on, so yeah.

Q. Tell us about Phoebe's interaction with Minor.

A. Phoebe learned to be a big sister from McKenzie, which is Edward's oldest daughter, which is my son's half-sister. So Phoebe loved the Mommy role, she's my little mama. She loved to help take care of the kids; she loved to be the dictator. She was the oldest, and she absolutely thought it was the coolest thing in the world. So she definitely -- she'd play with her, like show her how to do things, brush her hair, all kinds of stuff.

Q. And how did Phoebe interact with Wyatt?

A. Oh, goodness. They -- that's her little baby. She would try to pick him up, and he did not want anybody picking him up, that is, a child, or really too many people besides me and immediate family around him. He did not like them picking him up. But they -- they're -- they're -- they've been best friends since day one. She used to lay her head on my stomach when I was pregnant, so they're best friends, still.

Q. Wyatt and Phoebe treat Minor just like a sister?

A. Yeah. That's -- that's their sister. They treated her normally, like they would treat each other.

Q. Did you try and establish some rules around the house for the adults and the kids?

A. We just kind of went with the flow. We -- Scotty had certain things like you can't leave the table until you're finished with your food. And we just kind of just went with the flow. I mean, you know, we try to teach the kids, don't bite, don't pull hair, don't push, don't -- you know, shove, don't hit, don't throw toys at each other. And we try with them, you know. We do a pickup game, but we try to, you know, make it fun.

Q. And when you served the kids meals, tell us about that.

A. We have a table, and I'm pretty sure you all might have already seen it. It was a wooden table with two chairs, and Phoebe would sit in the left chair, and Minor would sit in the right chair. And I would take the black ottoman little one thing in the living room and push it against the front of the table, and put Wyatt's little Mickey Mouse chair that was in the living room on top of it so they could eat together.

Q. When everybody was sitting for dinner, did everybody eat together 'til everybody was finished?

A. Not always. I mean, as adults we probably got done

first, but I'd always pick up afterwards, so. Yeah, but he could walk up and get out and take a smoke break or anything, or -- I mean, I could, too, so. The kids had a -- they sat together and waited 'til each one of them were done.

Q. For the two older kids, did you ever try and teach them any sense of responsibility?

A. Yes, definitely. They knew like, that they couldn't reach the sink, but they could toss their plates and stuff clear into the sink and make it. They would throw away things if they were done with it or, you know, just trash they would pick it up and throw it away. They would pick up their toys, so they definitely did. My son won't even copy them so. They all knew. They -- they were very good kids.

Q. You've seen the pictures of the scene after -- or when SLED came in and took pictures of the inside of the house, right?

A. I've seen some of them, yes.

MR. BURTON: Might I have a couple of exhibits?

Q. Let me show you State's Exhibit 133.

THE COURT: 133?

MR. BURTON: Yes, your Honor.

BY MR. BURTON:

Q. Can you tell the jury where that picture, where in the

house, that picture?

A. This is the girls' bedroom door of where in the house is. Sorry. That's it, right there.

Q. This door right here?

A. Yeah.

Q. Okay. Is there anything significant about that picture?

A. Yeah, there's a hole in the bottom of the door.

Q. Did you cause that hole?

A. Absolutely not. No.

Q. Was there damage to any other door in the house?

A. Yes. Wyatt's door had a hole in it where I had put his little name tag thing over it for Wyatt's room. There's a hole in that door. There's a hole in the door in the closet that, when you first came in, there was a small hall right there. And I believe we had to have the bathroom door replaced because there was a hole in that one as well.

Q. Did you create those holes?

A. No, absolutely not.

Q. Do you recall earlier today we called Jennifer Adams to the stand?

A. Yes, sir.

Q. And do you recall the December 6th visit that she talked about?

A. Yes.
Q. Besides yourself, who else talked to Jennifer Adams during that visit?
A. Tracy, Scotty, and the kids.
Q. Okay. Not just you?
A. No, no. She has to talk to all of us. We all talk to her. I mean, it would be kind of awkward if we were just sitting there quiet. My -- she plays great with my kids and all of them.
Q. All right, let's move on a little bit to closer to Minor's death. You recall the Sunday, December 17th?
A. Yes.
Q. Can you describe what happened that day?
A. We got up in the morning -- I don't remember the time. We -- I was cleaning the house, playing with the kids. Scotty was cleaning up the living room. Fussed at everyone for not helping, so he started to clean up the living room for me. I was putting them down for, I believe a nap, and me and Scotty got into an argument which altered in an altercation. And then, he had left due to the altercation, and my --
Q. Let me stop you right there. Tell us some of the details about the altercation.
A. Now we -- he had started arguing with me, yelling at me in the living room, and that's where all three of our

children were, so I don't like arguing with my kids, I don't want them seeing that. They don't like seeing Mommy getting yelled at, at all. So I had started walking into the kitchen, and next thing I knew, I'm walking and Scotty grabbed me from --

Q. Let me stop you right there.

A. Okay.

Q. What caused -- what, if anything, caused Scotty to get mad at you?

A. I was trying -- the kids were all getting onto the couch, and Wyatt had thrown his little blanket on the floor. And so, I was looking at Wyatt, and I had reached down behind me to grab the blanket, and as I picked it up and grabbed it, Minor had been standing with one foot on it, and she had tumbled over. So he got mad at me because he thought -- he was like, hey, you know, you need to be more careful. I had no idea that she was even standing on it, so we had gotten into that argument.

Q. Did you have any intention for Minor to fall?

A. Absolutely not. Absolutely not.

Q. Continue with the --

A. So I had walked into the kitchen, and he had came from behind me and grabbed me by back of my arms right here, and he slammed me into the side wall. He actually ended up hitting me so hard into the wall that the shower curtain

fell in the bathroom next door. The next -- in the next room. And then he had turned me around, and I had grabbed his face because I thought he was going to start hitting me, and shoved him off me. And as I did, my nails scratched his cheek right here, I believe, just a little marks.

Q. And how tall are you?

A. I'm five-five.

Q. And how tall is Mr. Schroeder?

A. I believe he's six foot?

Q. Fair to say he's considerably larger than you are?

A. Yes.

Q. It's fair he's considerably stronger than you are?

A. Definitely.

Q. All right. Continue on with Sunday.

A. Well after that, Scotty had finally just -- he ended up leaving, because I was visibly upset. I was ready to leave him. I was ready to take all three of the kids and leave. I called my little sister and asked her to come get us. I said, come over --

Q. Let me stop you there. What's your little sister's name?

A. I'm sorry. Kerrin Cook.

Q. Can you spell her name?

A. K-e-r-r-i-n.

Q. Okay.

A. And so, I called my little sister to come over, and asked her to hurry up and come over immediately. You know, she was a good thirty, forty-five minutes away from us, so it took her awhile to get there. By the time she had came I was already calmed down, so she -- so I was fine. The fight was over, Scotty had gone, I had diffused. I -- I was gonna stay. Aall of our stuff was there, the kids were fine, we -- I -- we were a family, you know. That's all I wanted them to have is a family.

And so, I diffused. So Kerrin was playing with the kids, and I Facetimed her boyfriend at the time, and he had talked to me, the kids, and her. And she had decided to cut Minor's hair, and Minor got super-excited about it. And we sprayed her hair down and Kerrin cut it for her so it would all be one length. As many people have told you, she -- it was different lengths, just because it was -- some of it was growing back. She thought it was awesome, she thought it was beautiful, she thought it was the greatest thing.

And Phoebe, my oldest, wanted her hair cut, too, so aunt Pippy, which is Kerrin, pretended to cut her hair. And afterwards, my little sister ended up leaving. Me and the kids played for a little while, and then we had laid down on the couch to watch a movie again, and Scotty --

Q. Let me stop you there. Now, Kerrin, about what time did she leave the house?

A. I have no idea what time it was.

Q. Okay. Was Scotty still at work?

A. To the best of my knowledge he was.

Q. Was there any overlap between the time was Kerrin was there and Scotty was there?

A. Yeah. No. They came and went separately. My family doesn't get along with him, so they try to avoid him as much as possible.

Q. Okay. So watching a movie?

A. Yes. So we're all laying down watching a movie, he comes in. I believe he went to the kitchen, and then he went through straight through the back bedroom, where Wyatt's bed was in a box, still. It was his Christmas present from my parents. They let us have it so he would have his own bed, his big boy bed, at our new house. And he was surprised we were putting it together, I guess to fix, try to mend what had just happened. And while we were laying down, the maintenance man for the neighborhood came over to put up stuff on the windows.

Q. Let me stop you there. What did he put on the windows?

A. Plastic.

Q. You mean the sheet plastic?

A. I -- I have no idea what sheet plastic is.
Q. That's all right.
A. It's just plastic to keep the house insulated.
Q. Got you.
A. It was December, so you know, it's December, it's cold. And -- and then --
Q. Let me pause there. Let me ask you, did Scotty appear to be still annoyed over the previous incident?
A. We just kind of avoided each other, because I wasn't quite sure if he was still angry with me. I was diffused. We don't like to prolong things, and especially because Bryan had ended up showing up. We don't like to argue or fight in front of other people.
Q. Okay. Continue.
A. So Bryan ended up leaving at one point, and Scotty came out and told me he was working on the bed. And so, we had snuck back there to see it, and we moved it into the toy room, and the kids were so excited about it. I had made dinner at some point, we ate. And then we were getting the kids ready, bath and then ready for -- to go to my mom's, so we could take Phoebe up to my mom's. I was going to take all three kids with me, and I ended up only being able to take Phoebe and Wyatt. Minor ended up using the restroom on herself, so I couldn't take her.
Q. Stop there. Number one, or Number two?

A. Number two. She ended up pooping on herself.
Q. Can you speak up?
A. I'm sorry. She ended up pooping on herself.
Q. Okay.
A. And so, Scotty usually does the disciplinarian of the house. I'm Mommy, so I kind of like to be the favorite kind of thing. I like to be the sweet one, come run to Mommy whenever you're hurt kind of thing. And my kids still do it to this day. And so, I had gone to take my kids into the living room. I'm like, sorry, baby, you can't come now, Daddy doesn't want you to come because you messed yourself, you know. So he had taken Minor into the bathroom, closed the door, and -- you know cleaning her up.

While I was in the living room with the kids, I heard her cry, so I had gone in there and Scotty was actually whipping Minor with a belt. And we -- I'd seen that, I grabbed Minor and I was like running out. I got her, it's okay, it's okay. So I grabbed Minor and took her back to the bedroom and got her dressed for bed. And I helped her into the bed and was like, baby, please don't get up. And I turned on the lava lamp for her so she could have a nightlight, and I was just like, please just stay in bed. You know, obviously he's aggravated, don't get out of bed. She was in time out, going to bed early. I mean, it technically wasn't too early. So that's where I -- I had

left Minor, came back into the living room, and Scotty had been putting the jackets on Phoebe and Wyatt. And we ended up leaving right after that, and they got their jackets on and put them in the car, and I ended up leaving with my two children, to go to my parents' house.

Q. What was the purpose of the trip to your parents' house?

A. My daughter Phoebe was going to Disney World the next day with my mom and dad. So I'm getting up at, you know, Five o'clock in the morning and taking her down there, I just was going to take her the night before.

Q. Was it common for the kids to visit with your parents?

A. Definitely, yes. My daughter, especially. She'd tell Mommy that she's only going to spend two nights with Mommy and five nights with Mamaw and Papaw, which is my mother and father.

Q. Okay. Do you recall the time that you left to --

A. I have no idea the exact time.

Q. Okay. And did Wyatt go with you?

A. Yes, he did.

Q. But not Minor?

A. Yeah. I wasn't allowed to take Minor.

Q. I'm sorry?

A. I wasn't allowed to take Minor because she messes herself.

Q. Who said?

A. Well, Scotty said she couldn't go because she had messed her pants.

Q. Okay. All right.

A. And then, when we got -- well, I spent a little too long at my mom and dad's house and was there for a couple hours. It was nice to see them. My daughter was going to be gone for a week for Disney World, so I just wanted to make sure that I could say bye and everything first. You know, lovings, I wanted to see what she was taking so she could show me. And then I ended up coming back home --

Q. Let me stop you there. How long do you estimate you were at your parents'?

A. Anywhere between two and three hours.

Q. All right.

A. And I told Scotty that I was going to -- I was just going there and dropping Phoebe off, and I'd be right back. So by the time I got home, he had met me outside as I was getting out of the car, and he was angry with me for being gone for too long. But he started arguing with me, and Wyatt was asleep in his car seat by this time, so he helped me get Wyatt out of his car seat, and we took him into the house, into the girls' bedroom, which is the back bedroom. I got my own diagram, but I'm sure you guys know which one it is by now.

But we took him back there because Minor was still in the bed. And he had told me that she had gotten up while I was gone. And this is before we had walked in the house, and I was like, well where's she at? And he was like, well I put her back there. So I mean, I got it, she was in bed. I knew to check on her or anything. I always put Wyatt in next door, took his little pants off. I believe she used the diaper probably, and we walked out and we hung out, just sat the two of us, just spending time together. And then, I decided at one point to go back in there and lay down, and Scotty came in some point that night, and lay down next to me, and we all just went to sleep.

Q. When you returned from your parents' house ---

A. Uh-huh.

Q. --- was Minor already in bed?

A. Yes. When I came back inside to take Wyatt to lay in bed with her, she was back in bed. She was laying face-down toward --

Q. And she stayed in bed until the following morning?

A. Yes.

Q. Okay. And did you have occasion to bathe the two girls on Sunday?

A. On Sunday? I bathe them every day, so yeah.

Q. So you had seen Minor unclothed on Sunday, right?

A. Yes.

Q. Did you see anything that alarmed you??
A. No. She still had her little bruises on her little face, but nothing else.
Q. Do you recall what time Scotty woke up on Monday morning?
A. No. I don't know what time he woke up.
Q. Why -- why didn't you know?
A. He gets up and goes to work. I'm used to him getting up and going out, you know. It's just a normal thing.
Q. Okay. Is it normal for you to sleep later than Scotty does because he has to be at work so early?
A. Oh, yeah. He definitely gets up before me. Unless he's off, and then I'm up with the kids before him. But yeah, he always gets up really early for work.
Q. Do you know -- do you know what occurred between the time that Scotty woke up and the time he left for work?
A. No, sir.
Q. When you wake up in the morning, is it common for you to look at Facebook?
A, Yeah. I just log on a few seconds. I get up before the kids, or minutes, or however long 'til they get up.
Q. For you to look at Facebook, is it necessarily necessary for you to be out of bed?
A. No, I just lay down and -- I mean, I can be anywhere and open up Facebook.

Q. When you woke up on Monday morning, December 18th, at that point was that anything but a plain old ordinary day?
A. Yeah, to me nothing was different. I had no idea anything was going to be different that day. Woke up like a regular day, started the day regular. I had no idea anything like that would be happening.
Q. Okay. And who's the first child that normally gets up, if there is a normal child that gets up?
A. Wyatt.
Q. Uh-huh.
A. He's up early sometimes. Or like, he usually gets up -- I feel like he can smell me sometimes, or scent me. Like, if he knows that Mommy's doing something or trying to sneak away, he's going to wake up. So he -- he woke up first.
Q. With -- with Minor, did she get up on her own?
A. I -- you really have to really tell Minor, like hey, honey, time to get up, you know, or; you know, hey Minor, you gotta go potty? You know, let's go potty. She doesn't really get up unless you tell her hey, it's okay to get up.
Q. Is that anything unusual with Minor?
A. No. She's been like that since I've known her.
Q. All right. And can you tell what happened after you brought Minor to the potty?
A. Well, I don't take Minor to the potty. Me and Wyatt

were just playing in the bed because he had gotten up, and I felt like we had been laying there too long messing around. So I'm like hey, Minor are you awake? And she was like eh, you know, like don't want to get up. And I was like, all right baby, well you got to go potty, go potty. And the bed wasn't wet, so I didn't think she had used the bathroom at all.

So she climbs off the bed and just goes to the bathroom, like normal. Everything was normal. And I get up and go to the kitchen, and Wyatt trails after me, and I just start moving dishes in the sink around. And I'm just assuming Minor does the same thing she ever -- always does, she's taking off her jammies and getting on the toilet.

Q. Okay. And did it -- was anything unusual happen with Minor?

A. Not at that point, no.

Q. No?

A. She was completely normal.

Q. Okay. And what about when Minor went to potty?

A. Minor sat on the potty, and I -- I had ended up going back in there. And when I came in there, I asked her if she was done, and she told me yes, Mommy; you know. And I think she said I'm done, yes I'm done, and she had slid off. So when she had slid off there was, you know, she had got a little bit of smear of poop on the rim of the toilet,

and I looked in and she hadn't pooped, so I realized it was on her, you know. And when I looked down it was in her panties and her onesie that she had taken off on the floor. So I was like, okay, girl, you know, you got to stay. You know, I handed her, you know, some wet wipes, and I was like, go ahead, try to clean it off, you know; and I started some bath water for her. And that's when I took her panties and her onesie out into the kitchen to throw the panties away, and to put the onesie into the washing machine.

Q. What did you do next?

A. I came back in and Minor had smeared it all over the rim of the toilet and everywhere, so I just started cleaning it up after her. I mean, she was only three. I didn't expect her to actually clean the whole poop off the toilet.

Q. Let me stop you there. Did you make some attempt to kind of teach her?

A. Yeah, well I just have her clean it up, you know, like, well, I attempted to allow her to clean it up, to show hey, you know, you can do this.

Q. Did you expect her to really do a good job?

A. No, absolutely not. She's three, she's not going to be able to clean all of it up.

Q. And then?

A. And then she just -- I cut off the water, and she had slid into the toilet -- I'm sorry, into the bathtub, and --

Q. Let me stop you there. How deep was the water in the bathtub?

A. Not very deep. To her belly button, which is like, way up underneath the little thingie, the stopper in the tub.

Q. And was the stopper in good working order?

A. Our tub drains out a little bit at a time. Even if you have the stopper up, the water slowly drains out. So plenty of times we've had to refill the water while they're in the bathtub, just because of the fact that it will drain out.

Q. And how hot was the water?

A. It was about lukewarm. I don't like them to be in hot baths. They're kids, I don't want them to be scalding hot, I don't want them to get hurt. And definitely not in a cold bath and sitting there in December, and they don't do cold baths. Its not a swimming pool, it's a bathtub.

Q. Did you see any bruise on Minor?

A. I did. I noticed the abdominal bruise on Minor when she slid off the toilet.

Q. And did that concern you?

A. I have seen bruises on the kids, particularly Minor, before. And it is something that happens, and I've learned

not to ask questions too much. Sometimes she won't even tell me so.

Q. Did you seek any medical treatment for that bruise?

A. I didn't think I had to. I didn't know it was significant whatsoever.

Q. All right. Continue.

A. She had slid into the tub, and I -- like I said, I had turned around to go ahead and put her onesie, her pink onesie with the fairies on it, and then throw away her panties. Wyatt's trailing after me, Bossman's running around, she's in the tub, so I start moving stuff from the bedrooms to make Wyatt's bedroom into his bedroom instead of a toy room, and then to surprise Phoebe when she got home, that her and Minor's room is all theirs now, and it's changed around and everything, so I had started doing that.

At some point I had heard, like, a little thud. I had thought it was the dog, maybe, just jumping off the couch. He lays up there all the time, so I just thought maybe he had just jumped off. It wasn't like a big bang, it was just a thud. And not until I realized that I had not been in and out of the bathroom checking on Minor, and that I hadn't heard anything from her, was -- that's when Wyatt had came in from the bedroom, and I was on the floor doing toys right after I heard the thud, and he started pulling on me. He was pulling on my clothes and stuff, and I'm

like, you know, chill out, let's -- you know. And he was crying, so I was like, what's going on? And I realized I hadn't checked on her.

At that point I had gone in the bathroom, and Minor was laying on her back, and she had, you know, both her hands, like, on the side of the tub. The water had drained out pretty significantly. And she goes through these moments when -- they're kind of like spells where she acts a little different, and been happening since possibly the summer, so I thought this was another one of those. Her pottying on herself is always the first thing that starts that, and then she stops talking to people. Like, she stops, you know, interacting; she doesn't want to play with kids and stuff like that, so.

I thought it was just really the only thing wrong with her I didn't know anything was going on whatsoever. And then I was like ---

(WITNESS MUMBLING.)

A. --- what are you doing, you know, you been in here, you know. So I thought she was just playing with me, you know. So I pick her up, and I'm like all right, you know, and I seen that she had used the bathroom in the tub, again. It was kind of weird that she was pooping a lot, but at the time I didn't really think about it too much. I just thought maybe she wasn't finished. I started wrapping

her up in the towel. I had just picked her up out of the tub, wrapped her in a towel, and Myrica, my neighbor, had knocked on the door.

Q. Let me stop you right there. Do you recall how long it was between the time you put Minor in the tub and the time you took her out of the tub?

A. No, I don't.

Q. Okay. Continue.

A. Myrica knocked on the door. I had gone to the door, and I told her that I was busy. I thought Minor might've fallen in the tub at that point when I thought about the thud. So I had -- I told her I'd come and get her in a minute. I had closed the door and gone back in, and when I came back in Minor laid down on the bathroom floor. Wyatt was in there with her. I just -- I just thought she was just, you know, going through a spell. So we help her clean up the poop that was still on her. She never ---

(WITNESS MUBLING.)

Q. Let me stop you right there. Did her pooping on herself and pooping in the tub and all that, did that anger you?

A. No, no. I mean, she's a kid; she poops on herself sometimes. I mean, my son poops on himself every day.

Q. Uh-huh.

A. So it -- I mean, I felt she wasn't doing anything

wrong and when she's using the bathroom.

Q. Was Minor breathing at that time?

A. Yes. She was breathing, she was looking at me and everything, like she would when she goes through her spells. She just -- she just looks at me. And she wasn't talking, she'd stopped talking. And I didn't think it was anything different. I didn't think anything was wrong. I leaned her up to clean her back and the poop off of her butt, and when I had leaned her up, I had realized that she was cold. And I was like, all right, I've got to hurry because you're cold, maybe because you've been in the bathroom on the floor, you know.

Q. Let me stop you there. It was -- there was gas heat in the house ---

A. Yes.

Q. --- wasn't there? Was the gas heat working?

A. No, it was turned off. We couldn't afford it.

Q. Okay. So was the house cold?

A. Parts of the house, yes.

Q. The part where Minor was?

A. It -- it was -- it was cold. I don't remember where the heaters were, so I can't tell you exactly how cold it is.

Q. Was the only heat in the house from the two space heaters?

A. Yes.

Q. Okay. All right.

A. Okay. So I noticed Minor was cold, and I was trying to clean her up really quick. I was like, Oh, I got put some clothes on you, you know, you're cold. Didn't think it was anything but, you know, her just being cold. She wasn't ice cold, it was nothing unnormally cold. So I started cleaning her up, I cleaned her up real quick. I took her in the bedroom, and I just laid her down and real quickly put a sweater on her, and some pants and socks, just helping her out, you know.

And I'm like, well Mommy's going to wrap you up, you know, if you're still cold, you know, you can go lay down. And she was just watching me. She wasn't doing really too much of anything, she was just kind of watching me, just letting me do it for her. So I was like, okay, good, Mommy's got this, you know. And then I had taken her into the living room, and I had laid her on the couch, start to play a movie for her, and I had gone back into the kitchen to make Wyatt noodles. I guess he had given his French toast sticks to the dog. And not until I came back out of the kitchen -- okay, I had the noodles on the table, and I heard Minor making a really weird noise, like a -- a gurgling noise. And at this point I just ran over to her, and I was like, what's going on? You know, like what's --

you know, why are you making the noise? I've never heard her make this noise in my life before, never heard anybody make this noise. And I noticed that one of her -- one of her eyes was -- kind of gone lazy. And I was like, she doesn't have lazy eyes. Her eyes were normal, baby-blue eyes, you know?

And I started freaking out, and I thought maybe some water cleaning the tub had got into her lungs somehow, like she swallowed it or something. So I -- I try to do, you know, I thought like a CPR thing. I've never done CPR in my life. I've never had anybody fall out in front of me. I'm not certified, I have no idea; I was just doing what I thought I should do at the moment. And I had blown into her mouth, and she had taken a breath, and she paused, she didn't want to do that. And I figured out something was going on, you know, something was wrong . . .

Q. I'm sorry, I couldn't hear you, and I'm sure the jury might not have either.

A. That is when I realized that something was wrong with Minor, and I ran outside to my neighbor's house, and I don't remember who it was out there, I just went screaming that Minor wasn't breathing.

(WITNESS CRYING.)

A. And I just ran back in. And Minor was still laying there on the couch, and Mindy pulled her down onto the

floor and laying her out in the living room, and I seen Myrica was calling 911. And I'm yelling Minor, Minor, will you, you know, Minor, Minor, what's wrong, what's wrong? And they kept telling me I'm in the way. Somebody still -- Mindy leaned her head down and put her ear on Minor's chest. She had pulled her shirt up, I believe, and she said she's still got a heart beat but it's fading. She's breathing but it's fading.

And I - I'm with you, you know help me, help me, what's going on? And Minor - get away from here. And they yelled at me to get out of the way, so I moved behind her, and I held her head in my lap, and I held her hair in my lap. And I don't know what was going on, I just remember boots running in taking -- picking up Minor and running out with her. And at that point nothing was going on, like, nothing. I couldn't see, I didn't know what was wrong with Minor. All I knew was I had to follow her, and Myrica took me immediately to the hospital with her.

Q. Let me stop you right there. What was the time frame from when everybody got up, until the boots came in?

A. I have no idea.

Q. Okay. All right. Then what happened?

A. Then we got to the hospital. And they -- they had put me in some room. I don't really remember everything that went on in the room. I see on the video, I mean that's

what I guess happened, you know. All I remember is being in a room with Minor and just screaming to her. And I kept saying, this is taking too long, this is taking too long, what's wrong with her? And asking everybody what's going on, what's going on, why isn't anybody helping her? Because to me, nobody was helping, and I'm screaming, and all these people around me, and like nobody's telling me anything, and my kid's just laying on a table. And I'm yelling somebody do something. And they were clearly working on her, but like, she wasn't waking up. And I just -- I --

Q. And I mean, you saw the videos, right? Pretty much what was happening, right?

And while you were in the room with Minor, were you sitting down or standing up?

A. I was all over. They kept trying to make me sit down, because I was screaming and crying and hyperventilating or whatever. I don't know. They kept making me sit down, but I kept getting up, and they kept yelling at me for getting up. And I'd get up to grab Minor, and -- and they kept yelling at me for it. I mean, you got so much going on right there, you don't think about sitting down. You don't think about staying in a chair, so.

Q. And when they pushed you back down, did you say anything?

A. Yeah, they kept -- they kept pushing me back in the chair, and I kept forgetting to stay in the chair. So when I got up I was like, I'm sorry, you know, because they pushed me back down.

Q. And you hear on the tape somebody saying, Daddy's home. Who is -- or Daddy's here. Who is saying that?

A. I -- I thought that she wanted -- for me that she might mean that for Scotty.

Q. And when you were in the room where they were working on Minor, at the beginning, did you think she was still alive?

A. I thought she was alive. I thought they could've saved her. I did everything to try to save her.

(WITNESS CRYING AND MUMBLING.)

SOLICITOR CAMPBELL: I'm sorry, your Honor, I can't hear her. If she could speak plainer?

THE COURT: Could you speak in the microphone, please, ma'am?

A. I'm sorry. I thought she was still alive. I thought they could save her. I thought that's what they were supposed to do, you know. I tried everything. I tried, I had ask to help. I had no idea that she -- I was losing her.

Q. All right. After -- after they pronounce Minor dead, where do they take you?

A. They take me back to the same room, the same room, I guess the one they put me in.

Q. And after you left the hospital, were you taken somewhere?

A. Yeah, to the police station.

Q. And what happened at the police station?

A. I was there for hours. And then I got questioned, and then, you know, I left. You want me to talk about the interviews?

Q. Well, we're going to get to that.

A. Oh, okay.

Q. When they brought you to the police station, did they bring you right into the interview room?

A. No. They take me past -- in a conference room, I'm assuming. I don't know how big it was. It was just a large conference room.

Q. We're not going to go all through these -- these interviews that everybody saw. But were you ever comfortable in that interview room?

A. The interview -- no, absolutely not.

Q. Why?

A. I was trying to figure out what was going on, what had happened to Minor. I had absolutely no idea. Nobody was telling me anything. I kept asking questions, and nobody would answer me. I had no idea what's going on. And I was

hoping that if I talked to them that they -- they would help me figure it out, they would let me know, you know. I was raised to believe that the police are the ones that help you, that they're the ones that are supposed to, you know, protect and serve you.

And as I'm trying to do that, I'm freaking -- I just lost my kid, and I'm freaking out, and they're just asking me like, just the same kind of questions differently, and it just -- I was hot and uncomfortable. I had been up for hours. Like, I have no idea how many hours. It was just -- it was completely uncomfortable. It was -- and I didn't know -- I didn't end up gaining anything and realizing anything about it. They just lead me believe certain things that they wanted me to say. And as they're telling me and I'm repeating it, so I'm like it must be true. You know, you guys are supposed to be the ones to tell me. So it's gotta be true if you said it, so, I was just repeating things that they kept telling me.

Q. Were you ever concerned for yourself?

A. No. I didn't even think about myself. I didn't think twice about myself. I was so enwrapped in her, in Minor, and I still didn't even -- I couldn't grasp that she was even gone, still. I kept asking where she was.

Q. And were they trying to force you into some kind of a time line about what happened that morning?

A. They kept asking me times, and I had no idea of any of the times. I didn't know a time line. They suggested times, so I just went with their time. That's all that -- I mean I figured I had to say something. They kept making me try to go to a time line, and I didn't know one.

Q. And did you remember any better then than you remember now what happened in those morning hours?

A. Yes. I -- I mean I think about it every day. It doesn't go away. Constantly. It's with you all the time.

Q. And at the end of the interview, they let you go, right? They didn't put you under arrest or anything like that?

A. No. They told me Scotty left a key for me to come home, and I was kind of scared to go home. I didn't want to be in the house. I just lost my kid, and I don't have to go in there, and she wouldn't be there. I didn't know if Scotty was there. I was worried he would say -- he would be mad at me if I said anything wrong during the interview about him. So I was afraid he might be there, and then us getting into another argument or anything.

Q. And did they take you someplace?

A. The police took me home. Scotty had taken my vehicle, so -- which is normal, he always has my vehicle. So then, they ended up having to taking me home. I asked them to search the house before I would go in, and then I couldn't

because I wasn't comfortable going in. And the neighbor, Matt, who's Mindy's husband, you know, when they informed me to get my clothes and stuff, and -- and obviously I followed him in a little bit, but I had to turn around and leave cause I couldn't ask him to stay in there, and I -- I went to Mindy's house for the night, next door.

Q. All right. And where did you go -- you didn't want to stay at [redacted] Heath Circle, so where -- where did you go?

A. I was hoping to go to my mom and dad's. I just wanted to go home to my mom and dad's. I wanted to be with my kids. I needed to be with my family. I didn't want to be anywhere near Scotty. But DSS -- I wasn't around my children at that moment, because they didn't know what happened. They couldn't -- nobody knew what actually was wrong -- what had happened with Minor, so I couldn't go home. So I stayed with Mindy, and she ended up taking me to the hospital in North Carolina.

Q. Let's back up and talk a minute about your children. When Myrica -- and to refresh the jury's mind, she was the African-American lady that took the stand.

A. She was right there. She was with me through everything that day. She came to the hospital, she took me to the hospital. She was there through all of it for me.

Q. And is she the one that called 911?

A. Yes, I believe so. She -- I didn't know who called

'til afterwards, but yeah, she was the one.

Q. And Phoebe was at Disney World with your parents, or?

A. Yeah. Phoebe was on the way to Disney World.

Q. But Wyatt was there?

A. Yes, my son was there.

Q. And who took care of Wyatt while everybody was going to the hospital??

A. Mindy. Mindy did. Mindy and her husband took care of my son 'til my sisters got there.

Q. Do you know -- do you know what happened with Wyatt after you went to the hospital?

A. Myrica called several times to check on her children, and she gave -- she always would check on Wyatt for me. So as soon as she would get off the phone I'm like, where's Wyatt; is he okay; is he good. In the midst of everything I still -- I still had to make sure -- I still would think about my son, make sure he was okay. I've never left my kids with strangers before. But at that moment, in that time, I completely and I had been with her like, how do you leave your kid, you know, that's going to the hospital and you don't know what's wrong with her. You can't. And I didn't even think about taking my son with me, I just turned around and I remember them telling me that they got him, so I just trusted them.

Q. Did Wyatt at some point end up at your parents' house?

A. Yes. My sister came and got him.
Q. I'm sorry?
A. My sisters, Kerrin and Tasha both came and got them. Him, I'm sorry.
Q. Okay. And are your kids still with your parents?
A. Yes, they are. They're at home with my mom and dad. Well, my mom and dad are here today, but they're with my big sister Tasha.
Q. All right. And did anybody go into the house, the [redacted] Heath Circle house, after you were dropped off from the police department?
A. Well, the police off -- the two police officers that brought me home, and Matt, has recently been there.
Q. Who's Matt?
A. Mindy's husband. And then, after that, I have no idea who's been at that house. I haven't seen the house since.
Q. What did you do when -- when you got to Mindy's house?
A. I stayed up with Mindy and Matt. I couldn't sleep, couldn't eat, couldn't do anything. I just stayed up and cried.
Q. At some point did you call your mother?
A. Yeah. The night -- well it was already the next day when I got home. It was about 3:00 a.m., on the night --
Q. I'm sorry, I'm hard of hearing. What time did you say it was?

A. I didn't get back to the house 'til a little after 3:00 a.m., from the police station, on the 19th, which is the day after obviously. And obviously I guess that sometime that -- later that morning I called my mom, and I -- I told my mom I felt like Coleman who is one of my friends who shot and killed himself and committed suicide.

And my mom told me try to not call my doctor, that -- and told Mindy that I had to call my doctor immediately. And Mindy was like, well I heard you say it's on my phone I have -- I called my doctor's office. I didn't talked with my doctor, I talked to the nurse, and they told me I needed to go to the hospital immediately, that they were going to call 911. And I was -- I'm not going back there.

(WITNESS MUMBLING.)

A. And all I knew was Mindy was going to take me to a hospital. I didn't ask which one, I just didn't want to go to Springs Memorial.

Q. Let me stop you there. So you called your mom and told her that you felt like Coleman. Were there any other feelings that you had at that time?

A. I just wanted -- I was just -- I was suicidal. I just -- all I could think of was that I needed to be with Minor, like how is she going to get along up there, you know? Like, how do you leave them alone? Like, one of my kids is gone. And I didn't want her to be alone. And that's all I

could think of.

Q. Okay. And you had started to say that Mindy was taking you someplace?

A. She ended up taking me to North Carolina, to CMC Main, which is in uptown Charlotte, maybe. And they involuntarily committed me, and I ended up having to go to Davidson in North Carolina, Davidson Behavioral Health --

Q. Let me ask you a really stupid question. Why didn't they just take you to Springs?

A. Because that would -- I refused to go to Springs. I couldn't go to Springs.

Q. Whose choice was it to take you to CMC Charlotte?

A. Mindy's choice?

Q. You did -- fine with you?

A. I didn't even know which hospital -- I didn't care what hospital, just as long as it wasn't Springs.

Q. And what happened when you got to CMC Charlotte?

A. She took me to the emergency room, and they involuntarily committed me.

Q. All right. They involuntarily committed you to where?

A. They involuntarily committed me to the hospital originally, until I was -- since I was they transport me to Davidson Behavioral Health, where I was involuntarily committed for eleven days.

Q. Okay. What kind of hospital is CMC Davidson?

A. It's the Davidson Behavioral Health, it's a mental ward.

Q. A mental hospital?

A. Yes.

Q. All right. And what happened during your stay at CMC Davidson?

A. I was still trying to figure out where I had gone wrong as a parent -- I had just experienced one of the worst things that anybody could ever go through in their entire life. . . .

(WITNESS MUMBLING VERY LOW.)

A. And they were trying to make me -- help me learn how to grieve and stuff, and try to get through it, which is impossible, completely impossible. So I just had to do what they told me to do.

Q. Okay. And what day did you get out of the hospital?

A. I got out of Davidson on December 29th.

Q. Okay. And did your sister meet you?

A. She picked me up. Her and Joshua, her boyfriend at the time.

Q. Okay. What was the next significant thing that happened to you?

A. We were --

Q. Well let me stop you there. Were you arrested?

A. Yes, I was arrested when we got to -- I was supposed

to be staying in Kings Mountain. We had already notified the -- the South Carolina police department and DSS that I was staying in North Carolina, in Kings Mountain and they had the address and everything. So we headed right on over there, and then when I had got there there was a black SUV that had pulled up. And as I got out of the car I'd seen them so, I ended up getting arrested there.

Q. All right. Then you ended up back in Lancaster, right?

A. Yes. On January 2nd.

Q. Let's go back to the life at [redacted] Heath Circle for just a minute.

A. Okay.

Q. Who was the boss of the house, if any?

A. Well, Scotty's the man of the house. I mean there was a traditional, you know, I do the women things, the cooking, the cleaning, the taking care of the kids, and you know, Daddy has the rest of the stuff; he's the man.

Q. And did you even have your own key to the house?

A. I believe we have had two, but we really didn't use two because I would have mine on my key chain, but he always took my car, so I didn't really need it. I was always at home, unless I went to, like, the store or something, like -- or my mom's.

Q. Okay. Earlier, when you -- when you were testifying,

do I remember you saying Scotty left a key for you?

A. Yeah, at the police station.

Q. Yeah. So then, you didn't have your own key?

A. Yeah, it was on my key chain, which he took with him, because he took my car.

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

(PAUSE.)

BY MR. BURTON:

Q. I think we heard on the video you saying that the kids were driving you crazy. Can you explain a little bit?

A. I mean -- are you talking about a specific --

Q. Is that --

A. --- one?

Q. Is that normal for a household with three kids in it?

A. Our home is, yes. They're all different. They're, you know, you gotta do differently with each one of them. Some of them are more sensitive. My son is like my mom, he's always attached to me, so. It gets chaotic. You know, it's hard to kind of get everything done before Scotty gets home with three kids, but it's every day, you know. You do it every day. It's something that becomes part of your life.

Q. Did you know anything -- did you notice anything strange about Minor's right arm?

A. Whenever she had hurt it, at first it wasn't swollen

or anything, but it started again because, you know. And she had came back to me later on and I was sitting on the couch with Jennifer Cochran the neighbor and she had grabbed her wrist and kind of like pulled up her elbow, and she told me it hurt. And I was like, well come here, you know. And so, I put her on my lap and she just laid on me, and I continued to talk with Jennifer, just rubbed her back. I thought she was just hurt.

Q. And did Minor ever cry or complain about her arm?

A. She would. I -- she would complain about it, like if she used it too much playing, or just roughhousing with the kids, or -- or if she laid on it. Like, if she would sleep on it, it would hurt her when she got up. One time on Thanksgiving, Scotty's cousin had grabbed her by both arms to throw her in the air, and it had been hurt previously to that so when he had done it, she screamed.

Q. And when Minor's hurting, is she quick to complain, or slow to complain?

A. It just depends on how or what she gets hurt about. Like, even if it's something little, you know. I don't know. She would, sometimes she would and other times, sometimes I'd have to ask her what happened, you know.

Q. Did she have a high tolerance for pain?

A. I --

Q. More than the other two kids?

A. I don't know.

Q. Okay. Let me -- let me ask you a tough question.

Did you cause the death of Minor ?

A. Absolutely not.

Q. You're under oath here.

A. I am under oath, and I refuse to be charged with something that I did not commit. And I would never hurt any one of my children; absolutely not.

Q. Were there times you tried to take Minor out of difficult situations?

A. Of course, of course. There was times where Minor s -- there was things going on, and I always wanted to protect Minor. I always wanted her to have somebody in her life where she felt comfortable, so when she would have those moments, I would hold her. And I'm like, Mommy's got you, Mommy's got you. There was an incident where I sat there and I promised Minor, I sat on her bed on Henry Harris and I promised Minor that I'd never let anybody else hurt her again. And I think that's one of the hardest things that I ever did.

Q. And what was your way of disciplining the children?

A. I mean, they didn't really do a whole lot of time outs. My older daughter, you try to put her in time out, she'll scream. I used to be a cheerleader, so to me, like, I was just -- I would spread their legs and just put their

palms on the floor for a couple seconds, you know, or maybe a minute. It was just a cheerleading pose. Then Wyatt would do it just because they were doing it, but nothing really. I might pop Wyatt's hand a little bit, like if he's throwing stuff or hitting the girls, or pulling their hair, you know. But not really after that.

Q. Did you cause any of the bruises on Minor that were shown in the pictures?

A. No, absolutely not. Absolutely not.

Q. Not a single one?

A. No. None that I'm aware of. I don't do anything. I mean, I can't explain every single bruise on there. I don't know where every single one of them had come from. But no, I did not cause anything on her. I would never physically harm any of my children.

Q. And did you love Minor?

A. I love Minor with all my heart, and I still do. I love her.

Q. Did you cover for anybody over Minor's death?

A. I -- I just didn't want to imply anything or say -- I didn't know, you know. And to this day I don't know how she got the bruises, so I can't say that I know what or who caused them.

Q. Do you remember when Sergeant Sims asked you, would you go to jail for him?

A. Yes, I do. Yes, I do.

Q. Do you recall your answer?

A. Uh, I said no.

Q. Okay. All right.

MR. BURTON: Thank you. Please answer any questions that the Prosecution might have for you.

A. Okay.

THE COURT: Let's take about another ten-minute break. All right, if you'd take the jury to the jury room.

(JURY EXITS COURTROOM AT 12:07 P.M.)

THE COURT: All right. You can step down, but you can't talk to anybody about your testimony, okay?

Mr. Burton, I've been thinking. I think I cut you off prematurely a minute ago about those slides.

MR. BURTON: Yes, sir.

THE COURT: I'm going to let you say what you want to say, and I apologize to you. I think I was probably premature and wrong to cut you off.

MR. BURTON: No problem.

THE COURT: So, go ahead.

MR. BURTON: Well, the -- Doctor Batalis pulled the slides out, and -- and he looked at them, and he -- he told me that there were fewer slides in here than -- than in the slides that I sent. I got these slides from Newberry Pathology, and the case number is FA17-1112, which

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 12:23 P.M.)

THE COURT: All right. Cross-examination.

SOLICITOR CAMPBELL: May it please the Court?

THE COURT: Yes, ma'am.

CROSS-EXAMINATION

KAYLA COOK BY SOLICITOR CAMPBELL:

Q. Ms. Cook, I believe the last set of questions that were just asked of you is, you answered that you would never hurt any of your children?

A. Correct.

Q. And those are your -- I don't want to misquote you, that's what you said?

A. Correct.

Q. And just for clarification for the jury, today, what you testified to, is that what happened, really happened?

A. Correct.

Q. So your testimony today is the truth, according to you?

A. Correct.

Q. And you aren't uncomfortable or hot or anything?

A. No.

Q. Okay. And you told the jury that your life was being a mother. You were a good mother, I think is how you described yourself?

A. I said that all I wanted to be was a good mom.
Q. Okay. And so, you tried really hard?
A. Yes, ma'am.
Q. And that involves long days, sometimes when children are sick?
A. Yeah, long days anytime.
Q. Not sleeping well, because you're always listening to make sure the kids are okay?
A. Yeah.
Q. Because probably, you know as being a mother, especially to young children, you're always listening for them crying or screaming out or anything like that?
A. I mean, I notice whenever they -- they do.
Q. Okay. So there's no doubt that you would listen for them?
A. Yes.
Q. You mentioned when you got to the hospital, you were -- you were kind of frustrated because they weren't doing enough?
A. I was a lot of things when I got to the hospital.
Q. But you were frustrated that you thought they should be doing more for Lily?
A. I was --
Q. And if I don't -- if you don't like my word, change it.

A. I was like, everything at one time. It's like your entire world falling apart and you can't grasp it. It's like trying to hold water between opening hands.

Q. But you were a little angry with them, frustrated, didn't think they were doing enough, something to that effect? It's what you testified to.

A. I just wanted them to save her.

Q. And then, you said you that you were brought up to think that law enforcement was there to help you?

A. That's how I was brought up. I was raised to believe that law enforcement always tell the truth, that they -- they're honest, that they help you. I was always to believe in the police.

Q. But just like at the hospital, law enforcement in this case, according to you, didn't do it?

A. I wasn't frustrated with the police officers. I actually asked for Ms. Sims.

Q. You actually what?

A. Asked for Ms. Sims at one point in the hospital.

Q. You asked for her?

A. Yes.

Q. Let's talk about what you said at the hospital. Right there at the end, when the doctors quit working on Minor, you were yelling out, I'm sorry. And I think your testimony was, you were saying, I'm sorry, because you

stood up?

A. No. My testimony was asked about the chair incident, why it -- why I said I was sorry when I got up out of the chair, and that's because they didn't want me to keep getting up out of the chair.

Q. I can barely hear you. I am so sorry, I'm old.

A. Because I -- I talk soft. I'm sorry.

Q. Thank you. You said you were sorry because you got up out of the chair?

A. I was questioned about being sorry about being in the chair. My testimony was brought in them wanting me to stay in the chair.

Q. But you --

A. It wasn't about me saying I'm sorry at the end of the video.

Q. To be fair, what's on the video is accurate?

A. What's on the video is accurate. But that was not what I was answering for.

Q. And listening to you, your last job, I believe you said, was working for a doctor's, or a pain clinic?

A. Charlotte Pain Associates. I worked for two doctors.

Q. For two doctors there?

A. Yes, ma'am.

Q. And you were a nursing assistant?

A. No, ma'am. I was a medical assistant.

Q. I'm sorry. A medical assistant.
A. Right.
Q. And the primary goal at a pain center like that is to do what?
A. Treat chronic pain patients.
Q. So you learned how to manage pain?
A. Actually, unfortunately, I was the front desk person. So I didn't have anything to do with any of the chronic pain parts.
Q. So you just worked at a pain clinic?
A. Yeah, I just worked at a pain clinic.
Q. Okay.
A. I have no certification whatsoever.
Q. So you weren't a medical assistant?
A. I was a medical -- I was labeled as a medical assistant, but I'm not a certified medical assistant. You can still assist in a -- in a clinic as a medical assistant. You're hired on as a medical assistant, but when you're a certified medical assistant, you can help with the doctors in the rooms, and I wasn't certified, so that's what I was referring.
Q. So you answered the phone?
A. I checked patients in, checked them out. I handled medical records, stuff like that.
Q. So you had access to the medical records?

A. Yes, ma'am.
Q. Okay. And let's just be clear, too. I want to clear up a few things. Your neighbors, Mindy, Myrica, Earlene, did you have anything against them, or did they have anything against you?
A. No. I haven't talked or spoke to any of them.
Q. But you don't know of any reason they would say stuff that wasn't true?
A. No.
Q. And you mentioned after this happened, and Mindy talked about it a little bit, that next day you -- you said you didn't even go to sleep?
A. No, I laid down.
Q. And that's when you called your mom?
A. Yeah. I called my mom off Mindy's phone because I handed my phone over to Ms. Sims.
Q. And when you called your mom on Mindy's phone, you basically told her that you were thinking about suicide?
A. Yeah, that I was suicidal.
Q. Is that fair?
A. Yes.
Q. And of course, your mom was alarmed?
A. Yes. She --
Q. And she said to call the doctor?
A. Yes. My mom's dealt with this before, so she

definitely wanted me to call my doctor immediately.

Q. And you did that?

A. Yes, ma'am.

Q. And your doctor advised you you needed to go to the hospital?

A. The nurse did. Yes, ma'am.

Q. I'm sorry, the nurse did. I apologize.

A. No, I'm fine.

Q. And then you went to the hospital, right?

A. Yes. Mindy took me to the hospital.

Q. And when you got there, you told them what you were feeling?

A. Yes, ma'am.

Q. And based on that, they started doing paperwork for an involuntary commitment?

A. Yes, ma'am.

Q. And I believe your testimony was, you were there for eleven days?

A. I was in Davidson Behavioral Health for eleven days.

Q. So at first you were where, at the hospital?

A. CMC Main. Yes, I spent the night there before being transferred.

Q. Before they could get you a bed?

A. Yes, ma'am.

Q. Is that fair?

A. Yeah. As much as I know.
Q. And then while you were there for those eleven days, were -- those people helped you?
A. No, not really at all.
Q. They didn't do anything?
A. They tried -- no, they tried. They did -- I had four different therapists that all worked together but I only seen the psychiatrist once, I believe once or twice. And honestly the people that were there were more helpful for me.
Q. They weren't helpful, either?
A. No, I said the people, the other patients, were more helpful for me than the actual staff.
Q. So while you were there, you communicated with other patients?
A. Yes, ma'am. It's co-ed so we're all together.
Q. While you were there, did you, as part of your therapy, talk to people about what you were feeling and what you were going through?
A. Yes, to an extent.
Q. Did you talk to them about what had happened with Minor?
A. Yes. But I really didn't know exactly what had happened at this point, so to me all I could say was that I just lost my daughter.

Q. So you don't recall giving them details about what happened?

A. No. I was under a lot of medication, and I had just lost her.

Q. And were you even able to go to the funeral?

A. No, ma'am. I was not able to go to the funeral.

(WITNESS WHISPERING/MUMBLING.)

Q. And did that upset you? And in fact, when you were talking to one your therapists, you stated that you couldn't go to the funeral, because you needed to be alone when you went to her grave site?

A. No, I don't remember --

Q. Because then it would be real?

A. No.

Q. And that was on December 24th?

A. I don't remember that at all.

Q. And you continue to say, I would've -- they buried her, meaning Minor, with her Christmas gifts. And you then made the comment, I would've given the gifts to my daughter, referring to your four-year-old.

A. Absolutely not.

Q. And during that conversation you were smiling and calm?

A. No. Absolutely not.

Q. You did not say that?

A. No. That's ridiculous, and none of our conversations were recorded whatsoever.

Q. And do you remember talking to another therapist while you were there, talking about what had happened with Minor? And that you had left the child unattended on a towel next to the tub for a few moments, and upon returning found the child unresponsive, and she later died at the hospital?

A. No, I don't remember any of that.

Q. Do you remember trying to cry while you were telling them what happened, as you were processing your feelings?

A. No, I don't -- I tried --

Q. But that you didn't have any visible signs of tears?

A. No, I don't -- I -- like I just told you, I don't really remember a lot from that.

MR. NIELSON: Objection. All of these are coming up notes from a therapist. These are not necessarily her exact words, these are the therapists' thoughts that are hearsay. They are -- they are not admissible. None of these notes by a therapist are admissible. They're not her words, we don't --

THE COURT: Hang on. Would you go to your jury room, please, sir?

(JURY EXIT COURTROOM AT 12:33 P.M.)

THE COURT: Under 803(4) aren't statements to a medical provider for purposes of diagnosis an exception to

that they thought, based on the amount of marks, based on the marks that were there, that it -- that they did not believe that she had the ability to leave them, it would be Scotty who left them there. That's what they would testify to. So if one's --

THE COURT: Hang on, stop, stop. Have you talked to her parents?

SOLICITOR CAMPBELL: No.

THE COURT: I tend to agree with Mr. Nielson, quite frankly, if that's going to be the case. It would be -- first of all, misleading but under 403, I think she did open the door a little bit, but not to -- I'm going to sustain this objection.

SOLICITOR CAMPBELL: That's why I wanted to bring it up, Judge, before --

MR. NIELSON: Thank you, your Honor.

THE COURT: All right.

SOLICITOR CAMPBELL: I just wanted to bring it up beforehand so we didn't --

THE COURT: And I'm glad you did. Thank you.

THE BAILIFF: The jury's coming in.

THE COURT: Yes, sir.

(JURY RE-ENTERS COURTROOM AT 12:40 P.M.)

BY SOLICITOR CAMPBELL:

Q. And Ms. Cook, initially, it was an involuntary

commitment; is that correct?

A. I'm sorry?

Q. Initially, it was an involuntary commitment to the hospital?

A. Yes, ma'am. It was involuntary the entire time I was there.

Q. The entire time?

A. Yes, ma'am.

Q. Well, I want to show you this document. Do you remember on December 22nd of '17 signing a consent for inpatient psychiatric treatment?

A. Yes, this allows me to be treated.

Q. On a voluntary basis.

A. It doesn't say voluntary.

Q. That's what it says at the top, ma'am.

A. I don't -- I see where it's marked on voluntary about discharged from the hospital. And one of these say involuntarily.

Q. I know it doesn't. That's because it's voluntary.

A. This -- I wasn't given an involuntary form to sign. I was given ones to sign, but to my knowledge this is the only kind of form signed. I didn't know that there was another form to sign.

Q. Can you just read the top of it?

A. Which part? Because --

Q. The label. The -- the heading?
A. I, Kayla Cook, knowing I have a condition --
Q. No, no, no. Just let me stop you. The heading above that.
A. Consent for inpatient psychiatric treatment.
Q. Okay. And then, the next lines says, you, Kayla Cook.
A. Knowing that I have a condition requiring hospital care or -- blank -- for the above-named person, knowing that he or she is suffering from a condition requiring hospital care do hereby voluntary consent to such hospital care. But I didn't sign that one.
Q. Okay. That's enough.
A. So I signed the first one. I didn't sign the one that says voluntarily.
Q. The one where that you signed the x next to it, it says voluntary ---
A. I didn't --
Q. --- adults?
A. They had already put the x there, and there was only three options, and all of them say voluntary. I was unaware that there was another form to be signed. That was the form I was given and was supposed to have got signed, that was allowing me to receive treatment.
Q. On a voluntary basis.
A. I didn't know there was any other kind. They gave me

no indication that there was another sheet to sign. All that they told me was, it was for inpatient treatment. As long as I wanted to be treated, I had to sign it.

Q. When you were being discharged from the hospital eleven days later, did you request anything ---

A. No.

Q. --- once you were out in the community again?

A. Did I request anything?

Q. Did you tell them that you thought that you would -- that parenting classes might help you?

A. No. Not to my knowledge.

Q. Let's talk a little bit about Minor's injuries. There was some testimony about an incident that took place on a trampoline?

A. Yes. Scotty said that.

Q. That was the summer before, right?

A. I think that was the summer of 2017.

Q. Before this happened?

A. Yes.

Q. Okay. And who all -- who was there when that happened?

A. Me, Scotty, Wyatt, and Minor.

Q. You weren't there with your mother and your sister?

A. My brother's deceased, and no.

Q. Your mother and your sister.

A. Oh. No, parents -- my mother and my sister were not there. My mother hardly ever came over there.

Q. Well, let's move on to, were you there when she hurt her arm, when she fell off the bed?

A. Yes, both Scotty and I were there.

Q. Both you and Scotty were there?

A. Yes, ma'am.

Q. Why did you tell the police that the neighbors were there?

A. Because Jennifer Cochran came over afterwards with Chloe.

Q. Do you remember telling them that she was there during, and then at one point right after it had happened, and she knew about it?

A. I don't remember. I can't recollect to my video, but I could've possibly told them she was there, but ---

Q. That she was there?

A. --- I didn't know if she was there afterwards, because Jennifer was sitting down when Minor came up to me. And I was talking to Jennifer while I held Minor.

Q. But you specifically said Chloe was there, not Jennifer.

A. Chloe is always there when Jennifer is there. You can ask. Both her mother and her grandmother stated that they did not go anywhere -- Chloe does not go anywhere without

them except to school.

Q. Would you agree with me that's what you said on the video?

A. When? What?

Q. That Chloe was there.

A. I said that Chloe was there on the video? I would have to read -- watch it. I don't know.

Q. Do you recall talking to the police about the next injury, which was when the dog knocked her down the stairs?

A. Yeah. I do remember talking about that, yes.

Q. And I listened to your testimony today, and I didn't hear anything about how you stepped on her when the dog knocked her down the stairs. In fact, I didn't hear anything about the dog knocking her down the stairs.

A. Nobody asked me about the dog knocking her down the stairs 'til just now.

Q. Did you step on her?

A. No, ma'am.

Q. Why did you tell first, hospital people, then police, over and over and over, that the reason the bruise was on her abdomen was because you stepped on her, like, four days prior?

A. I only told the agent that once and it's only because that was all I could think of.

Q. Why were you having to think of anything?

A. Because I didn't know how it had gotten there, and I didn't want them to suspect Scotty as an abuser.

Q. Because you were protecting Scotty?

A. Yes, ma'am.

Q. Did you ever once after this hap -- so you were protecting Scotty the whole time?

A. Yes, ma'am.

Q. When this happened, before it happened, and after it happened?

A. Yes, ma'am.

Q. While you were in Davidson?

A. Yes, ma'am. I didn't really talk about Scotty at Davidson, I don't believe.

Q. At any point did you ever reach out to this man that you loved so much you would protect him?

A. No, ma'am.

Q. At any time did you ever reach out to any of the family members?

A. No, ma'am.

Q. At any time did you try to interview the neighbors to find out what happened to Minor?

A. No, ma'am.

Q. At any time did you even ask, police, or anyone else what happened to Minor?

A. No, I was advised not to talk to police.

Q. Who advised you of that?
A. My mother.
Q. So you made up this story that was so convincing, you even pointed out what boot you were wearing when you stomped on this child, according to you?
A. I only have a couple pairs of boots, and that's all I could think of was the brown ones that I was wearing. Which, in the pictures, you can check that all my boots are the same round tip.
Q. And then, the day of her death, why would Myrica say that when you came to the door, you had something to attend to with your children?
A. Because that was her perception of what had happened that day. I can't say.
Q. Why would Mindy say -- I'm sorry, I don't mean to cut you off.
A. I'm sorry. I don't know why they would say. I can't testify for what they say, or why they were saying it.
Q. Would you agree that's what they said?
A. What did Mindy say? I can't agree to it until I hear you say that she said something.
Q. You also stated that you've never treated any of the children differently?
A. Yes, ma'am.
Q. So no one would say that was -- would perceive that?

A. No, nobody has.

MR. NIELSON: Objection. She can't testify as to what other people would say.

THE COURT: Sustained.

BY SOLICITOR CAMPBELL:

Q. And you don't dispute Scotty got up early that morning and went to work?

A. Yes.

Q. And --

A. I don't know what time, but I know he gets up and goes to work.

Q. And were you still asleep while he went to work?

A. As far as I can recollect, yes, ma'am.

Q. And while you were sleeping, who was in the bed with you?

A. Phoebe -- I'm sorry. Wyatt and Minor.

Q. How far away from you were they?

A. Wyatt was laying right up against me, and Minor was right on the other side of Wyatt.

Q. So you could literally touch both of them?

A. If I had my arm around them, yes. But I had turned in the middle of the night to hug on Scotty.

Q. So you had your back to them?

A. Yes.

Q. But if anything had happened to them that morning, you

would've felt it or heard it, wouldn't you?
A. Yes.
Q. Why didn't you tell the police back when you were first talking about this, about Scotty whipping Minor's butt that night when she pooped?
A. Because he whipped her.
Q. You just didn't think that was important to tell them?
A. I did tell them, in my interview. Because Trista Baird asked me with what, and I paused and looked at her, and then I lied and said that, with his hand. You are more than welcome to check my video if you'd like.
Q. So you're pretty familiar with the video?
A. I'm pretty -- I remember parts of it. And we did just watch some of it.
Q. And your testimony is that you bathed the two girls on Sunday, and you didn't see anything?
A. Yes, ma'am.
Q. And your testimony is, the next morning Minor was able to get up?
A. Yes, ma'am.
Q. Undress herself?
A. Yes, ma'am.
Q. Walk to the bathroom?
A. Yes, ma'am.
Q. Get on the toilet?

A. Yes, ma'am.
Q. Get back off the toilet?
A. Yes, ma'am.
Q. And attempt to clean it?
A. Yes, ma'am.
Q. Why were your stories to the hospital and the police different from those?
A. What story are you referring to?
Q. When you talked about you got up and were playing you didn't know. Why is there any variation in that?
A. Whenever I said that the kids were playing that day.
Q. Uh-huh.
A. That was the only difference in that was only because I couldn't think properly. I was going through the worst possible thing and the most traumatic thing ever. And to me, I'm just trying to piece something together, like a puzzle, like if it was all jumbled up. I was trying to think of anything and everything that I could piece together, and I just -- I couldn't think properly.
Q. And when your testimony now here today is that you saw that bruise you just didn't think it was significant?
A. Yeah. I had seen bruises, like I said previously, on any of the kids.
Q. Did you see the marks on the backs of her legs?
A. No, I did not.

Q. Did you see the bruising to the front of her face?
A. Yes. I could see the bruise on her forehead.
Q. Did you see the bruising on the back of her head?
A. No, ma'am.
Q. Did you see the bruising to her arms?
A. No, ma'am.
Q. But now your testimony is you did see the bruising to the abdomen, you just didn't think anything about it. And then, when you were confronted with the bruising of the abdomen at the hospital, you took the blame for it?
A. Yes, I did.
Q. And you dispute you were on Facebook when you woke up that morning?
A. No. I was on Facebook that morning.
Q. So the time line of 7:40-something that morning would be accurate?
A. 7:40-something, yes; because the -- Preston I believe, said that it was about 7:42, location and my IP address was Lancaster, South Carolina. That would be me.
Q. Usually when you all would -- when Minor would poop on herself, you would either clean her up with wipes, or you would put her in a shower and make her stand in a position, and shower her off?
A. I would just have her put her butt up, like a cheerleading pose up was, and then I would move the shower

head just to clean off her butt, so I didn't have to touch it with my hand.

Q. Why, on this occasion, did you put her in her -- in a tub where she would sit in her own poop?

A. I just put her in the tub so she could clean herself up.

Q. So she could clean herself up?

A. Yes.

Q. So this is the one time you did it differently?

A. No, this isn't the only time she sat in the tub and cleaned herself up.

Q. You mentioned you had no concept of time?

A. No -- yeah, I mean I'm a stay at home mom and just do. You know, I mean there's no reason I have to significantly look at times. There's no reason that I'm thinking I have to write down times significantly.

Q. So while Minor was in the tub, you can't say how long she was in there?

A. No, ma'am.

Q. Do you know if it was -- what you did while Minor was in the tub?

A. I just know I moved things around.

Q. Did you feed Wyatt?

A. I don't know.

Q. Because at some point there was some Cheetos. Did you

feed him Cheetos that morning?

A. I believe that I gave him the Cheetos when -- probably making the French toast, but I can't say for certain.

Q. And did you give him the French toast?

A. Yes, but I believe he gave that to the dog.

Q. And did you then give him some Ramen noodles?

A. Right.

Q. And at some point in there, you go and get Minor out of the tub?

A. Right.

Q. And she's lying down. And how much water's in the tub at that point?

A. I believe it was underneath her ears, but I cannot be for certain. So I -- I --

Q. Several inches, or can you estimate?

A. I don't know. I don't know.

Q. And you take her out of the tub?

A. Uh-huh.

Q. And she's wet?

A. Yes.

Q. And you dry her off?

A. Yes.

Q. With what towel?

A. Two towels. There was a blue towel and a pink towel. The pink towel was hers.

Q. The pink towel, then, is what you used?
A. I used two towels.
Q. Okay. What was the other towel?
A. The blue towel.
Q. The blue towel. So you dried her off with the blue towel and the pink towel?
A. Yes.
Q. And then you said you cleaned up the poop in the tub?
A. At some point.
Q. And you don't know when you did that?
A. No, I -- I can't tell you exactly when I did that.
Q. Was the poop floating in the tub?
A. I have no idea.
Q. And then, I think you testified that you dried her off and you dressed her, to warm up, because she was cold?
A. Right.
Q. But she was breathing ---
A. Right.
Q. --- according to you? And she continued to breathe, and you placed her on the couch?
A. Right.
Q. And at that point is when you made Wyatt noodles?
A. Uh-huh.
Q. That's your testimony here today?
A. Yes, ma'am.

Q. How much time is passing from the time when Myrica knocked on the door until you go and call for help?

A. I have no idea.

Q. And you said you noticed she was kind of gasping and one of her eyes went lazy?

A. No. I said she made a weird noise, and that's when I had gone over there and I noticed that one of her eyes had gone kind of lazy, and I had freaked out because I heard the noise. So that's when I tried blowing in her mouth and do what I thought was CPR.

Q. And at that moment is when you realized something was wrong?

A. Right. After I had tried to blow in her mouth, and she took a gasp, a pause, I realized something was wrong, and that's when I ran out of the house.

Q. So why didn't you call 911?

A. I didn't --

Q. The phone was right there.

A. My phone -- I didn't even know where my phone was, and I still didn't know until I seen those pictures where it was in between the couch cushion. And to me, as a mom, I'm going to get the most immediate help, and the only thing I could think of was running outside, because I knew in my neighborhood, every -- somebody's outside.

Q. And you ran outside screaming?

A. Yes, ma'am.

Q. But Mindy didn't hear you 'til you grabbed her arm?

A. I don't know when Mindy heard me.

Q. Let me ask you this. What point after seeing she wasn't breathing and getting upset did you text Scott, his father, at 11:55, is Scotty with you?

A. Well, technically that came from Fort Mill, South Carolina. Your witness testified that at 11:50 that -- :55 that it was accessed from an IP address in Fort Mill, South Carolina, so that was not me who texted that message.

Q. That's not what the witness testified to, but the point is, why would Scotty text his own father, is Scottie with you?

A. I don't know.

MR. NIELSON: Objection. She can't testify as to why Scottie would do anything.

THE COURT: Sustained. Rephrase your question.

BY SOLICITOR CAMPBELL:

Q. Did the text indicate that someone was trying to find out if Scottie was with Scott?

A. As far as I know, yes.

Q. But you're denying making that?

A. Yes, ma'am. I did not send that message.

Q. And then when you got to the hospital, they put you in a room?

A. Yes, ma'am.

Q. And you've talked about that a lot. Were you mad they put you in that room?

A. No, I was just freaking out about Minor.

Q. And then, everything's on video, and the stories you told them?

A. Yeah.

Q. And you said that what you've said here today is the truth, not what you said then?

A. Right. I was in a panic about Minor first of all, so you see whatever you can. That's why Myrica was talking for me most of the time.

Q. And then you went to the police station, and you were disappointed in how you were treated by the police?

A. I wasn't even thinking about them honestly. I was just thinking about Minor.

Q. And you had already been at the hospital, where you were disappointed with how they were treating you there, they kept shoving you in a chair?

A. Honestly, I wasn't even focused on anybody else besides Minor.

Q. And then you went to Mindy's house and stayed the night. And then you got --Mindy ended up driving you to the hospital?

A. Yes.

Q. Where you were disappointed with how they treated you as well?

A. I mean, I wasn't feeling anything towards any of them.

Q. Your house was clean?

A. My house is always clean.

Q. Very clean.

A. That I always clean every single day, before Scott gets home.

Q. And it's important to you to have a clean house?

A. No, it's just something that I do before he gets home. Makes him feel better.

Q. Well you specified you got mad at Scotty for not cleaning up the living room.

A. Yeah, while I was cleaning up the rest of the house. He doesn't usually clean. Sometimes he helps me.

Q. And that morning, Wyatt was -- because you talk about it over and over -- Wyatt was all over you, wasn't he? He was screaming.

A. Yeah, he does it. He's a baby. He's always all over me. Like I said he's --

Q. And you even said today, I'm looking back on it, Minor kept pooping, things weren't going well that morning.

A. Which I did not realize that she was pooping excessively until much later on, after I lost her. We were talking about when months later, when I'm trying to

put everything together.

Q. Do you think you're the victim here?

A. No, absolutely not. I just lost Minor. I mean, we all lost Minor.

Q. Minor was a Daddy's girl?

A. Yeah. Minor loves everybody. She --

Q. She loves everybody?

A. Yeah, she does. She's really sweet. Minor would talk to anybody.

Q. Yeah, she would.

A. She would.

MR. NIELSON: I'm going to object to that last comment the Solicitor made in saying who she --

THE COURT: Over ruled. Redirect??

REDIRET EXAMINATION

KAYLA COOK BY MR. BURTON:

Q. Was your goal to make the house a good, comfortable place for the family to live?

A. Yes.

Q. And do you consider yourself a good housekeeper?

A. I try to be, yes.

Q. Uh-huh. Did you do anything to clean up the house, just to -- because you knew the police would be in there?

A. No. Absolutely not. I clean my house every single day. It's like, literally a habit, so. I run the vacuum

every day.

Q. I noticed -- I noticed the stove. The stove, the range in the kitchen.

A. Uh-huh.

Q. Okay. At my house the stove is just kind of all covered with black stuff. But yours is just perfectly pristine, isn't it?

A. I don't remember.

Q. Your stove, it's all the porcelain, the white porcelain?

A. The white part of it?

Q. Yeah.

A. I mean, yeah, I wipe it down every time I use it. I -- it's a habit.

Q. And if that was dirty, it would take a long time to clean it, wouldn't it? You couldn't just do that in a few minutes because you knew police were coming?

A. Right.

Q. Let's go back to the emergency room for just a minute.

And you were there, and when they pushed you down in the chair you said, sorry, right? Did you ever hear Scotty say sorry while he was in there?

A. I -- I really don't remember too much of Scotty saying anything, just because I wasn't focused on what he was saying.

Q. In respect to -- for the phone, why didn't you just look all around for your phone?

A. Because that would've taken more time than running next door, or running outside screaming, I need help. I knew that if I needed help, I could get it immediately with the people that are there, rather than having to search a whole house for a phone.

Q. And in effect, wasn't that the case; there were people out there?

A. Yes.

Q. And when the Solicitor asked you about the dog bruise and the motivation you said was you didn't want to -- what was it that you didn't want to have happen?

A. About the abdominal bruise about the dog?

Q. Yeah. Were you covering up?

A. I was -- I didn't want Scotty to get in trouble, because I didn't know where it came from.

Q. Okay. Why did you think it would matter whether -- why do you think that would matter?

A. Because I know it didn't come from me, and the only other person there was him.

Q. Yeah.

A. She had been alone with him the night before, and I didn't see it before I left. So I had seen it that morning.

Q. I think your term was that you didn't want to reveal Scotty as an abuser. Is that fairly what you said?

A. Yes.

Q. Is that the only time?

A. No.

Q. I think the Solicitor asked you about the first thing that happened after your release. What exactly was that?

A. I'm sorry?

Q. What exactly was the first thing?

A. Me, Kerrin, and Josh went to the house in Kings Mountain I was supposed to stay in.

Q. And the ---

A. And then --

Q. --- next significant thing?

A. I was arrested.

Q. Okay.

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

Thank you, your Honor. That's all the re-direct I have.

THE COURT: Thank you. Thank you, ma'am. You may step down.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: All right. Mr. Foreman, we're going to go ahead and break for lunch, and we will be back -- I'm going to ask you to leave your notepads in the jury room. And if

THE BAILIFF: The jury's coming in.

THE COURT: All right.

(JURY RE-ENTERS COURTROOM AT 03:33 P.M.)

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, thank you for your patience. We were waiting to have some people who didn't know they were going to be here today, so thank you again for that.

Would you call your next witness?

MR. BURTON: The Defense rests, your Honor.

THE COURT: Okay. Very good. Defense has rest.

We'll keep those motions and we'll get those in just a few. Do you have any reply?

SOLICITOR MCGINNIS: The State does, your Honor.

THE COURT: Okay.

SOLICITOR MCGINNIS: We call Barbara Hazel to the stand.

THE COURT: Come around please, sir. Or please, ma'am.

(WHEREUPON, BARBARA HAZEL, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

BARBARA HAZEL BY SOLICITOR MCGINNIS:

Q. Good afternoon, Ms. Hazel.

A. Good afternoon.

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

A. Barbara Hazel.

Q. And where do you work?

A. Newberry Pathology Group.

Q. Okay. And I'm going to hand you what's been marked as State's Exhibit 35. Can you take a look at what's inside this envelop?

(WITNESS COMPLIES.)

Q. Are you familiar with those?

A. It's slides. Yes, ma'am.

Q. Okay. And are those slides from Newberry Pathology Associates?

A. They are.

Q. Can you tell me just very briefly the process on how those slides are made?

A. The paraffin blocks for these were in the Newberry County Memorial Hospital lab.

Q. Uh-huh.

A. We called over there and ask them to do re-cuts, which is what these are. The originals are still at our office. They do the re-cuts and send them over, and then we send them to whoever has requested them. We've had several requests, I think, on these.

Q. Okay. And are these slides labeled when they're created?

A. Sometimes they are. These were labeled, yes.

Q. Okay. And how are they originally labeled when they're made? Is it a sticker, or is it a label?

A. No. On the -- it's penciled -- it's written on the slide. The lab writes it. You can see underneath here that that's the number that the lab at the hospital puts on it.

Q. Okay. And then, at some point subsequent to that, is another label attached?

A. Yes, ma'am.

Q. Okay. And if you open that and pull one of those slides out, what does the label say?

A. The label says, FA15-1112F.

Q. Okay. Are you familiar with an autopsy with that number?

A. No. We -- in 2015, we only did a thousand and thirty-six autopsies, so this could not be one of ours.

Q. Okay. If you flip the slide over, can you see from the back another autopsy number?

A. Yes. I see FA17-1112F.

Q. Okay. What would explain the discrepancy between the label and the actual --

A. A clerical error in the office.

Q. Okay.

A. Just a labeling error.

Q. Okay. And I'm also going to hand you what's been

marked as Defendant's Exhibit 1. Can you take a look at these?

A. Yes, ma'am.

Q. And what are those?

A. These are slides from FA17-1112.

Q. And without using a microscope or anything like that, can you compare the two sets of slides and see if they're visually the same?

A. Yeah, I can. Let's find one. F, that I just had out. And I can pull F out of here. Yes, ma'am. They're the same.

Q. You can look at them side-by-side and tell they're the same?

A. The same.

Q. And again, are both of them originally marked with what autopsy number?

A. FA17-1112.

Q. So that would indicate these are from the same autopsy, right?

A. They are. Yes, ma'am.

Q. Perfect. I don't have any further questions for you, Ms. Hazel.

A. All right.

THE COURT: Cross-examination.

MR. BURTON: No, your Honor.

THE COURT: May this witness be excused?

MR. BURTON: Yes, your Honor.

SOLICITOR MCGINNIS: Please, your Honor.

THE COURT: Thank you, ma'am, for coming in. You're excused today.

(WITNESS LEAVES WITNESS STAND.)

THE COURT: All right. Call your next witness, please.

SOLICITOR CAMPBELL: Thank you. The State would call Doctor Durso.

(WHEREUPON, AMY DURSO, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

DIRECT EXAMINATION

DOCTOR AMY DURSO BY SOLICITOR CAMPBELL:

Q. Doctor Durso, where are you employed?

A. I'm employed by Professional Pathology Services in Columbia, South Carolina, as a forensic pathologist.

Q. And what is a forensic pathologist?

A. So, a forensic pathologist is a medical doctor who has specific training not only in the field of pathology, but in the field of forensic pathology, which is the studying of bodies, mostly after death. We study patterns of injury, a lot of patterns of injury, and illness; and we mainly do autopsies, which is looking at the body after death to not only determine the cause of death, but also to

document any injuries, illnesses, any other pertinent information.

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

A. Sure. So I got my bachelor's degree in psychology from Emory University. I then went to medical school where I got my four-year medical degree at the University of North Carolina in Chapel Hill. After I went to UNC I then did a four-year residency training program, so after med school, at Wake Forest University in the fields of anatomic and clinical pathology. I then stayed on an additional year at Wake Forest to do a fifth year there, to do a fellowship specifically in the field of forensic pathology.

Q. And have you been qualified before as an expert in forensic pathology?

A. I have.

Q. And approximately how many times have you been qualified? Do you know?

A. Maybe forty, forty-five times by now.

SOLICITOR CAMPBELL: Your Honor, at this time we'd offer her as an expert in forensic pathology.

THE COURT: Any voir dire?

MR. BURTON: Just very, very briefly, your Honor.

CROSS-EXAMINATION-VOIR DIRE

DOCTOR AMY DURSO BY MR. BURTON:

Q. Doctor Durso, I'm -- you're not certified in pediatric pathology, are you?

A. I don't believe there is a certification in pediatric pathology.

Q. Okay. I would accept her qualifications in forensic pathology.

THE COURT: All right. Is it forensic pathology?

DOCTOR DURSO: Yes, sir.

THE COURT: Okay. Mr. Foreman, as you've heard repeatedly through this trial, experts are allowed to give an opinion in the area of their expertise. This witness is stipulated to be an expert in the area of forensic pathology. She will be allowed to give her opinions in that area. Expert testimony is like any other testimony you may hear in this case. You may accept it, you may reject it, and give it as much weight as you think it deserves.

Ms. Campbell.

SOLICITOR CAMPBELL: Thank you.

BY SOLICITOR CAMPBELL:

Q. And Doctor, in the course of your education, your training, and your working, have you kind of dealt a lot with child death?

A. Unfortunately, yes. I had several child abuse cases of my own that were my autopsy cases, both in residency

training and in the nine years I've been practicing forensic pathology in Columbia, South Carolina. I've also sat on the Child Fatality Review Board for the state of South Carolina, appointed by the governor. I sat on that from 2011 to 2014, when I handed over to my new trainee that has taken over there since.

Q. And who has taken over since?

A. Doctor Monroe.

Q. And he's actually someone that came under your tutelage?

A. Yes.

Q. And does he still consult with you on a regular basis?

A. Yes.

Q. In addition to Doctor Monroe consulting with you, are you aware of what a child abuse pediatrician is?

A. I am.

Q. And do you know a Doctor Lamb?

A. I am, yes, familiar with her.

Q. And other doctors in her group?

A. Yes.

Q. And do they consult with you regularly?

A. Yes.

Q. And in this case, did Doctor Lamb consult with you?

A. Yes, she did.

Q. Did you receive certain records in this case?

A. I did.

Q. And certain photographs?

A. I did, yes.

Q. Can you kind of tell the jury what all you received and reviewed it?

A. Sure. I received a CD with numerous hospital and scene photographs. I received an additional CD with autopsy photographs from Newberry Pathology. I received the autopsy report from Newberry Pathology; the SLED crime scene report summary; the SLED laboratory report; a report by an investigator, J.M. Sims; death certificate; the Lancaster Coroner's Office case report; pediatric records; and records from Springs Memorial Hospital; and later from SLED Agent Baird I received re-cuts of the slides, the histologic slides; and an additional containing the post-mortem x-rays.

Q. So you got the x-rays, the slides, the autopsy, and the photographs?

A. Yes.

Q. As well as, did you get any other records; birth records, medical records on the child?

A. Right. So the birth records and the medical records all were received.

Q. As well as part of the investigative file?

A. Yes.

Q. And I want to show you what's been marked as State's Exhibit 35. Are these the slides that were turned over to you, and that you reviewed?

A. Yes.

Q. And I don't know where it is right now, but did you also get the x-rays that were taken in this, a copy of those?

A. Yes. They were on a CD, yes.

Q. And before I go any further, were you available to consult with the Defense in this case?

A. Yes.

Q. And have you consulted with the Defense on other cases?

A. Yes.

Q. And is that unusual for you?

A. No, not unusual at all. If they ask to meet with me, I'm happy to.

Q. Turning your attention to the photographs, which I'm not going to pull up again, in the external examination of this child, were there injuries that were significant to you as far as possible child abuse?

A. Yes. There were numerous contusions over the body, which is immediately concerning just that this could be, you know, kind of battered child; or there's suspicion of child abuse. So from there, you know, we would kind of --

we would still do our standard autopsy, but with that in our head we would be looking very closely for internal injuries and whatnot.

Q. And when you first saw the photographs from the hospital and the autopsy, those denoted some bruising, I believe?

A. Yes. There was bruising on the head, on multiple locations. So you know, we do look at three-year-olds, they can move around; they can run, jump, fall down. And when we get concerned is when there's not just one bruise, but there are bruises on multiple surfaces, so that can't just be from one single fall. And this child, looking at the autopsy and the emergency room photos, had numerous bruises over her head.

She also -- she had bruises on the back, both sides; I think the temple on one side. There were just numerous bruises, under her chin, on her face, and she had a little scleral hemorrhage and a left orbital contusion, so she almost had a little hint of a black eye on the side. And then, she also had some bruising on her right ear, almost looked like someone grabbed your ear and pulled really hard. So just that alone is very concerning for non-accidental trauma, which means that someone inflicted this trauma intentionally on this child.

Q. And you haven't even talked about the legs yet?

A. Right.

Q. And was the bruising on the leg of a significant pattern to you?

A. Well, the back of the legs had, it looked like almost with linear bruising going across the back of the knees on both legs. I wondered if she had been smacked with something. Again, there was numerous bruising on the legs. There was also bruising on the arms, and I think even some bruising on one of the hands, as I recall.

Q. But I want to talk today mostly about the cause of death in this case.

A. Yes.

Q. Were there two significant areas of her body that sustained internal injury more significantly?

A. Well, right. So the head's always significant because that's an important part, your brain. I mean, it's easily damaged. But what really I focused on most in this case is the abdomen. So reviewing the photos, she did have at least one large bruise on her lower abdomen. It was very, very dark in color, so she definitely received a strong blow to that right-lower part of her abdomen.

But there was also significant injury when you open up her abdomen for the internal part of the examination for the actual autopsy, the internal part. And there was blood, loose blood, liquid blood, in her abdominal cavity;

that is never normal. And with this age group -- so with a three-year-old, this isn't an infant, this is a three-year-old, they tend to have more patterns of injury, because they're harder to pick up and throw where you get a lot of the head injuries. But they get kicked and stomped on, so you tend to see more abdominal injuries in this case, which is exactly what she had.

She had a caustic injury in her abdominal area where she had bruising and laceration to her liver. She also had a lot of hemorrhage around her intestines on that right side, extending back behind the soft tissue on this area. And these are scary injuries, I think probably more for the child abuse pediatricians, because sometimes they don't even leave bruises on the outside. She did have one bruise on the lower abdomen. It's possible she was kicked more than one time, other times, you know. So when you bruise, you know, if you have a lot of fat or adipose tissue, it's solid, that's going to get crushed first, and that's going to cause a lot of bruising.

But this is a skinny little girl. She -- I looked up her medical records, and she weighed about twenty-five pounds at her last visit in October of 2017, about two months before her death, so she wouldn't have had a lot of adipose tissue. So as far as kicks to the stomach -- arc over alignment of the pelvic bones, it's possible they

wouldn't have even left a bruise. But she had significant bleeding within her abdominal cavity. Doctor Ross, who performed the autopsy, measured it to be two hundred and fifty milliliters. And so, I calculated Minor 's total blood volume based on her weight in October, and looking at the picture she looked like she'd weigh about the same, about twenty-five pounds. So she would've had about eight hundred and forty-seven de-liters of blood. That's less than a liter of blood in her whole body, she's a small child.

So basically, you can lose about forty percent of your blood before it's fatal. So forty percent of her blood volume is three hundred and thirty-eight milliliters, which is about one point four cups of liquid. So if you think a measuring cup, one and a half, about, is what she could've lost before she died. And over a cup was just the liquid blood that Doctor Ross recovered from her abdomen, and that primarily appeared to have come from her liver, and also some of the intestines in that area.

Q. So the amount that was able to be measured was a cup in and of itself?

A. Yes.

Q. But was there bleeding in other parts of her body that could've contributed as well?

A. Right. So anywhere she's bleeding at this point is

contributing to this blood loss that's fatal in this case. She had fatal blood loss, internal bleeding. So not just that, but she's -- she's little, so every little blood drop counts. And so, all of those bruises around her head, all of the bruises on her abdomen, her legs, her arms, all of that could've contributed. Or did contribute.

Q. And as far as the finding of any kind of swelling in her brain, was there swelling in her brain?

A. There was mild swelling, and it could've been a combination of the blows to the head, as well as just the fact that she's lost a lot of blood and her -- she's not getting adequate blood flow to her brain, and she's losing blood quickly into her abdominal cavity.

Q. And Doctor, did you also, in reviewing the x-rays, see about a fracture in one of her limbs?

A. Right. I believe it was the right humerus, the right upper arm bone. It had a healing fracture. There was evidence of healing on the x-ray, so that wasn't something that had just happened.

Q. And would the healing fracture, would that have been consistent with like, two to four weeks earlier?

A. Yes.

Q. Okay. That you observed. Doctor, once a person is dead, do they bruise any more?

A. No. You can have post-mortem hemorrhage, but it's not

a bruise, no.

Q. The Defense attor -- these injuries that you observed all over her body, could those have been inflicted by an eighteen-month-old?

A. No.

Q. By a four-year-old?

A. No.

Q. By a dog?

A. No.

Q. Did the arm cause or contribute to her death?

A. No, I don't believe it did. It would've been painful, but it did not lead to this episode of bleeding.

Q. The fracture of the arm, could you describe it to the jury?

A. I just -- I only saw it on x-rays, and then there was some bruising in -- around it. But it looked kind of older. Like I said, the x-rays showed evidence of healing around it, so that is something that she would've broken probably weeks ago.

Q. Would it have been painful?

A. Extremely, yes. Broken arms are painful. I don't know if anyone's ever broken a bone, but it is very painful to break a bone.

Q. Was there further testing that could've been done that would've dated that more specifically?

A. Yes. So typically, in my practice, when there are broken bones, especially in a child abuse case, we would remove that bone. We would re-x-ray it, and we would fix it in formalin and decalcify it, so we actually take the calcium out of the bone so that we can actually cut it; put it on slides and look at it under the microscope so we can more accurately date it.

Q. But does that affect your findings in this case in any way?

A. No. I don't believe the broken arm, I think that was a more remote injury. The injuries that killed her I think were acute. There were -- it was the acute bleeding that she had, mainly in the abdomen, but all of these bruises would've contributed. Anywhere she's bleeding at that time with blood loss would've contributed, but this acute bleeding in her abdomen is what's most significant, from my review of this case.

Q. And basically, as far as any of the slides that were provided to you, too, does that have more to do with the bruising or what? Were there also brain slides?

A. Right. So there were slides were done with all of -- of the lungs, heart; skeletal, muscle, and soft tissue. So that was from some of the bruises, because even after you peel back the abdominal wall under that large bruise on her abdomen, there was actually bruising into the muscle

underneath; and then, even under that, on the soft tissue. So there were some sections that appeared with that. The liver, pancreas, the appendix, the kidney, the intestines, lots of soft tissue and skin and fat, as well as four sections of the brain.

Q. And what are you looking for as far as dating bruises when you're looking at the histology there?

A. It's very unfortunate. You can't -- you can't outright date a bruise. I think any forensic pathologist that's been through any training can tell you that. We wish we could, but pretty much it's an inexact science, which is why I would never feel comfortable saying that this bruise happened at this time.

So I look -- you can look at -- if you're looking at it in person, you can look for, like, yellow discoloration, and you can say well, that's probably a little bit older. Photographs I'm very leery of just because the lighting can make stuff look yellow when it's not yellow. And so, for this case, because I only had access to photographs, I did not do the actual autopsy, I concentrated more on the slides that I was provided with, the histologic sections, and there were numerous sections of soft tissue showing hemorrhage, as well as hemorrhage in the liver and hemorrhage around the bowel, and none of it had what we call hemosiderins. So hemosiderin is what forms when blood

breaks down. It's a yellow pigment that's from the breakdown of blood, the bilirubin and such in there and as it breaks down, the blood breaks down after it's been there. So basically what we say is, if it's -- if you see hemosiderin it's probably more than eighteen hours; if you don't see hemosiderin, it's less than eighteen hours. But we can't give a more exact time frame than that.

Q. And in Doctor Ross's autopsy, I think she said that they appear to be recent in her review of micro -- is that the correct --

A. Yes. I believe she did, yes.

Q. And is that correct terminology?

A. Yes. So again, you can say recent, not recent, but you can't give a time frame --

Q. You just said the ones that she looked at appeared to be about the same age?

A. Right. They -- none of them had hemosiderin. I looked at all of them. None of them had hemosiderin, even the sections from the liver, from all the fresh blood and bleeding around her intestines, there was no hemosiderin. So I can say that for certainty it was less than eighteen hours.

Q. And is it in any way reliable to say that you can look at a bruise and tell how old it is?

A. Unfortunately, no. That's just not possible in the

field of forensic pathology, it's -- it's not a -- we rely on science, and that would not be scientific.

Q. And in this case, you also mentioned the abdomen.

A. Right.

Q. And you mentioned that there was pooling of blood?

A. Yes.

Q. And do some peo -- do some injuries bleed out faster than others?

A. Yes. So it depends on how vascular, which means how many blood vessels there are, based on the thing that got injured, the part of the body. So obviously, you know, I deal a lot with gunshot wounds. A gunshot wound to the heart's going to bleed very quickly, because it's pumping out blood. But unfortunately, the liver is also very vascular.

The liver bleeds very easily because basically it has major vessels going through it, because it detoxifies all of your blood; and between every liver cell there's a little track of where red blood cells are tracking through. Siameseoids is what we call them. So injuries to the liver also bleed very quickly. We see child abuse victims, but also car accident victims, with liver injuries and blood starts to pool very quickly.

Q. And were any of these internal injuries to her, in her head or anywhere else, secondary to CPR?

A. No. Absolutely not, no. The injury to the liver and the bowel down there is classic child abuse injury, especially for a child her age. She's not an infant, she's a young child.

Q. And looking at the photographs from the internal injuries on her abdomen, I'm going to show you State's Exhibit 11 and 12, is the appearance of the blood, the notes made by the doctor, was there any clotting?

A. No, there was no clotting at all, and where it's pooling at the bottom, there is absolutely no clotting. And typically, I mean we can see clotting within, you know, even twenty, thirty minutes. So there was no clotting, and just the degree of hemorrhage in this case, and the injuries that were present, she would've bled out, you know, within the hour after sustaining these injuries.

Q. Once she sustained these injuries, would she have been symptomatic in any way?

A. Yes, very much so. It's increasing pressure in the abdominal cavity, and it would've been extremely painful, like sharp abdominal pain, bent over. And she's three, she's going to be crying and very upset, and in a lot of pain.

Q. Did you also review the records from the hospital?

A. I did.

Q. As far as the resuscitation attempts?

A. Yes. They did CPR, yes.
Q. And was there any activity in the heart when she got there?
A. It said they were like little blips, maybe, but nothing, like, sustainable for she was -- they never got a heartbeat back, no.
Q. But if this child have been dead, she would've been dead within hours of this happening? Tell me what your opinion is on that.
A. So just to have any kind of cardiac blip or activity or all, it would have had to been, yeah, recently, died within the past hour or two.
Q. And Doctor, in your expert opinion what was the primary -- there were other contributing, but what was the primary cause of death in this child?
A. So it would be the -- the blood loss from the blunt force injuries, but primarily to the abdomen, but I would include every place she's bruised and beaten, because that's all contributing to this blood loss.
Q. And how long would she have been able to survive after sustaining -- after this injury was inflicted?
A. Especially to the liver and abdomen, I wouldn't think she would make it an hour. I would say one hour or less. Just the degree of bleeding, no clotting, and then it would've been very painful. She would've been very much

crying, and as she loses blood she's going to pass out, lose consciousness, and then die.

Q. I'm going to show you -- you talked about how a child could sustain an injury internally, and there may be no bruising?

A. Yes.

Q. And did I ask you to review this forensic autopsy of blunt force trauma?

A. Yes.

Q. And who wrote that?

A. It looks like the primary author is Nicholas Batalis.

Q. Nicholas Batalis?

A. Yes, M.D.

Q. And I show you this page. And does it talk about abdominal injuries of a child?

A. It does.

Q. And what does that say?

MR. BURTON: Your Honor, I think this is pitting one witness against another.

THE COURT: Bolstering, you can't bolster or pit them. You understand that?

SOLICITOR CAMPBELL: I think --

THE COURT: I hadn't heard the question yet, but --

SOLICITOR CAMPBELL: I'm just asking what the article says about abdominal injury.

THE COURT: Okay. Go ahead.

A. I'll just read. It says, a child may have little or no evidence of injury on the skin, yet have devastating internal injuries.

Q. And again, it says on that first line that's highlighted?

A. It says, as previously mentioned, the age of contusion and abrasions occur can only be determined in a general manner.

Q. And as far as the injury, the internal injury, how long would that have happened before her death?

A. Within the hour before she died, for sure. I mean, just that amount of bleeding, she's a little girl; it doesn't take much. Like I said, one point four cups is all she needed to lose, and I can easily get there between the -- just the liquid blood alone that's in her abdominal cavity, as well as all of the hemorrhage that is documented in these photographs around her intestines. Even without the extra bruising, you know, that's enough right there.

SOLICITOR CAMPBELL: Thank you, Doctor.

MR. BURTON: Thank you, your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

DOCTOR AMY DURSO BY MR. BURTON:

Q. Doctor Durso, you had said as I think every

pathologist, and even Doctor Lamb said that it's hard to date bruises.

A. Right.

Q. And that would go to all the bruises on Minor's body, right?

A. I agree.

Q. So nobody could really prove that those bruises were caused between the late morning hours of December 18th, 2017, could they?

A. No, they couldn't.

Q. And Doctor Lamb testified that there were other ways that the abdominal -- abdominal bruise could've been caused, and she gives a specific example. For example, an auto wreck.

A. Right.

Q. Okay. And I think you testified it was obviously child abuse. But there are -- there are other reasons that could explain that?

A. Right. But she didn't have any of the outward signs of a car accident; she wasn't in a car.

Q. That wasn't my point. My point was that other things could cause it?

A. Right. Any -- so it's a blunt force injury. So anything that causes sharp -- not a sharp, a hard blunt surface to come against and crush her skin there, breaking

the blood vessels. So it's a blunt force injury, yes. But like I said, the pattern is not consistent with a fall, it's not consistent with a car accident, especially since she wasn't in a car, so.

Q. Would you agree that some children can bleed out faster than others?

A. It depends on their size exactly. So you can lose less blood as a child, as a smaller child. They have less blood volume, so they do bleed out faster, yeah.

Q. And some kids are more symptomatic than others, aren't they?

A. It depends on the injury. I would think any three-year-old that had fatal abdominal injury would be huddled over in pain.

Q. Okay.

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

THE COURT: Thank you, sir. Re-direct?

SOLICITOR CAMPBELL: No, sir.

THE COURT: May this witness be excused?

SOLICITOR CAMPBELL: Thank you.

MR. BURTON: Yes, your Honor.

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

(WITNESS LEAVES WITNESS STAND.)

(LANCASTER GENERAL SESSIONS COURT IN SESSION MONDAY, AUGUST 19, 2019 AT 09:36 A.M.)

THE COURT: Good morning, please be seated.

All right, anything on behalf of the State before we get started?

SOLICITOR CAMPBELL: Your Honor, the only thing I have is in your homicide by child abuse definition in your charge and when it talks about harm to the child's physical health is inflicted or allowed to be inflicted on the child physical injury, in the statute it also says including excessive corporal punishment.

THE COURT: So, that's on page 1 of my charge?

SOLICITOR CAMPBELL: Yes, your Honor, your homicide by child abose or neglect on page 1 in the second paragraph.

THE COURT: It says harm to the child's physical health and welfare means that the defendant either afflicted or allowed to be inflicted on the child physical injury --

SOLICITOR CAMPBELL: Including excessive corporal punishment is how the statute reads.

THE COURT: Including excessive corporal punishment?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: Anybody disagree with that?

MR. BURTON: I don't have the statute in front of me but I assume the Solicitor is correct about that.

THE COURT: All right. Anything else?

SOLICITOR CAMPBELL: Just one matter I wanted to put on the record, your Honor. As far as -- there was mention of the forensic interview --

THE COURT: I'm sorry? The forensic interview?

SOLICITOR CAMPBELL: As far as the forensic interview, I just want to put this on the record. In opening statement I believe the Defense said no one ever saw Kayla hit this child. In her cross-examination of Sergeant Sims, he asks her about whether or not there were any witnesses that ever saw her hurt the child, your Honor. Then we brought it up with Trista Baird, but it was stricken from the record.

Your Honor, in her testimony on Friday, this defendant said she would never hurt a child. I would just note from the forensic interview that Phoebe, her own child, was interviewed, and she talked about that there were times when the mom would take care of her and Minor and Wyatt. During these times Minor would be punished by her mother with a belt, and when she would hit her with the belt it would leave marks on or about Minor's body.

Your Honor, we felt we didn't -- we chose not to put it up, not to push the record, but we just wanted to put that on the record, to make it clear, for purposes that we did think it would be admissible.

SOLICITOR CAMPBELL: Good morning. The first thing I want to do on behalf of the state of South Carolina, the citizens of Lancaster, is to thank you for your service in this case. I think as you have come to realize over the last few days, this is a very important case. I know some of the evidence, a lot of the evidence we have presented has been difficult to view, difficult to perceive. But you've been very attentive and paid attention, and we really do appreciate it on behalf of the State.

Now, I'm going to talk a little bit right now about the law in the case, and then you're going to hear from Mr. Burton and he's gonna talk to you about his theory of the case, and then I'll have the opportunity to get up here and reply to what he says. If I misquote the law, it's not intentional, but you take the law as the judge gives it to you. And in that same vein, if either side mis-characterizes the facts, you remember; because the roles in this courtroom were defined, and there's a reason for that.

The State's role is to present to you all the admissible, relevant evidence as far as who inflicted the injuries that caused Minor's death. The Defense's role, very simply, to defend his client to the best of his ability. And the judge's role is to determine the admissibility of the evidence, what you're allowed to hear; and ultimately he will be the one that will tell you what

the law is that you must apply to the facts as you find them.

But ladies and gentlemen, no one's going to dispute the most important role in this courtroom is yours. Each of you individually, and once you go back to that jury room, collectively, because you must determine the ultimate issue in this case: who hurt Minor.

And I want to apologize if I've done anything to offend you, Ms. McGinnis has done anything to offend you. At times there's been legal wrangling, you've been sent out of this courtroom time and time again, because the form of the question is wrong. At times I've been clumsy, sloppy in questioning, and I apologize. Please don't hold that against Minor [redacted].

Criminal cases are unique. The defendant, as she should, has an absolute right to confront each and every witness against her. You haven't heard any depositions that have been taken in this case; you heard about reports generated by doctors, by law enforcement. You've heard about some videos that aren't admissible, only those with the defendant are. But the law recognizes that she should have the right to confront the witnesses, so live testimony is necessary.

And the reason for that is very simple, because you must determine the credibility of each and every witness,

the believability. So they must come before you, so you can make an evaluation as to who is being truthful, who is being forthright, or who has the expertise that is necessary in this case.

Now, the burden of proof is on the state of South Carolina to prove this defendant guilty beyond a reasonable doubt. And the judge is going to define that for you, what is reasonable doubt. And as the judge will tell you, a reasonable doubt is the type of doubt that would make a conscientious and sincere person, honest person, hesitate to act.

But the law goes a little bit further than that, because proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. But in criminal cases, they recognize, there are very few things in this world that we know with absolute certainty, and in a criminal case the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced, just firmly convinced of the defendant's guilt, you must find her guilty. If, on the other hand you think that there is a real possibility that she's not guilty, then you should give her the benefit of the doubt and find her not guilty. Again, proof that leaves you firmly convinced.

The law recognizes that we can't possibly overcome

every possible doubt, but proof that leaves you firmly convinced. Although I submit, ladies and gentlemen, in this case, with this evidence, we have overcome every possible doubt, but that's not the level we have to get to.

You have one indictment, you have one charge to consider. The judge will charge you on what the law is in this state; it's called homicide by child abuse. It's a specific law created for cases such as this. It's not murder, it's not manslaughter, it's homicide; it's a killing, by child abuse. And very simply, ladies and gentlemen, the judge will charge you, a person's guilty of homicide by child abuse if the person causes the death of a child under the age of eleven -- nobody's going to dispute Minor was three -- while committing child abuse, or, neglect.

The law recognizes, there's a special duty that we owe our children. There's a special level of care, be it by abuse or neglect, and the death occurs under circumstances manifesting in extreme indifference to human life. And ladies and gentlemen, it doesn't get more extreme, more indifferent, than Minor 's last hour on this planet.

The law goes further and defines, what do we mean by child abuse and neglect. It means an act or omission. It can be the act of inflicting the injury, or it can be the

omission of not getting her help, and I submit in this case it's both, by any person who causes harm to the child's physical health or welfare. Minor was beaten from head to toe. There wasn't a part of her body that she didn't attack.

The law goes further. What is harm to a child's health and welfare? It's when a person inflicts or allows to be inflicted. It doesn't even have to be the actor, it allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment. Minor pottied on herself, and she made sure she knew that wasn't acceptable. So it can be the infliction or allowing to inflict upon a child physical injury, including excessive corporal punishment, or, it can be fails to supply the child with adequate food, clothing, shelter, or healthcare.

Myrica, Eleven o'clock. Over an hour 'til she panics. It doesn't have to be both, by the way; listen carefully to the judge. We only have to prove that one of these occurred, although in this case more than one occurred; or it could be an abandoning the child.

Manifesting itself with extreme indifference to human life. The judge will tell you, what is extreme indifference? It's a mental state akin to intent, characterized by a deliberate act culminating in death.

And by the very definition, it can be the act or the omission of the act.

And I submit, ladies and gentlemen, in this case, with these facts, in this courtroom, this is homicide by child abuse. This is the reason the statute was created.

Now, the judge will tell you, there are two kinds of evidence in this world, and he'll talk to you about there's direct evidence. And the easiest way for me to think of it is it's kind of the evidence that you perceive through your senses; what you see, touch, feel, smell, that's direct evidence, typically called eyewitness testimony.

And the judge will also tell you there's another kind of evidence, it's called circumstantial evidence, or indirect testimony. And circumstantial evidence is the kind of evidence that kind of requires deduction. In this case, who was the only person, the only adult, besides the dog and the eighteen-month-old, with Minor when the injuries were inflicted?

An example of circumstantial evidence, let's say you get up -- go to bed at night and you look out the window, and the ground is bare, you can see the grass. And you wake up several hours later, and you look out that same window, and you see that there's snow all over the ground. A reasonable person deduces that it snowed overnight. That is a reasonable way of interpreting that what was

perceived. It's a deduction.

Now, the Defense might get up here and say no, somebody went to Virginia and got a snow maker and brought it in, and sprayed it all over --

MR. NIELSON: Objection, your Honor. This is burden shifting, and I think she's commenting on the facts throughout the entirety of this argument.

THE COURT: I'll sustain that objection.

Let's move forward, please, ma'am.

SOLICITOR CAMPBELL: Deduction from the facts. The judge will charge you that when we rely on circumstantial evidence, the circumstances must be consistent with each other, and when taken together point conclusively to the guilt of the accused. And I submit, ladies and gentlemen, in this case, with these facts, there is only one inference.

Now, in this case you're also going to hear that there was a voluntary statement, and the judge will charge you that, in considering a voluntary statement, there's a statement that was alleged to have been made by the defendant, and it has been admitted into evidence by the Court in this case. And while the Court has determined that the statement is admissible, you, the jury, must make the ultimate decision of whether or not the defendant made the statement. If the defendant did make the statement,

you must go further and determine whether or not the statement made by the defendant was voluntary and of her own free will; not caused by pressure or force, threats, coercion, or intimidation, or by hopes or promises of leniency, or reward of any kind.

In this case, ladies and gentlemen, she went to the police station, she was advised of her rights. And why is that important? Because the law recognizes that there are several matters you can consider in determining whether or not a statement is voluntary. The age of the defendant. Was she young, fifteen, fourteen, thirteen? You can consider whether the defendant's lack of education; she almost finished college. You can consider whether the defendant had the ability, mental ability or capacity; her I.Q. or intelligence; her background; the environment; the length of detention, did it happen over days; the nature of the questioning.

And finally, most importantly, the judge will tell you whether or not she received her advise of rights, commonly referred to as *Miranda* rights; that she had the right to an attorney. If she couldn't afford one, one would be appointed. That she had the right to refuse the questioning, that she could stop at any time. The language the judge will give you specifically.

And I submit, ladies and gentlemen, you have it on the

video what rights were gone over. Those were the *Miranda* rights. She wanted to talk. There's no question this is voluntary.

You also heard from a series of expert witnesses, and I want to talk to you a little bit about credibility in a second, but when a person is up here, and as the judge told you every time, as he should, that an expert witness, because of certain training, and certain education, may have a right to tell you opinions; because lay-witnesses like me can't give opinions. They're able to give you an opinion based on their training and their education. And all I ask in this case, because you consider every expert just the same way you do any other witness, use your common sense, do they have the training necessary, are they a specialist in the field they're talking about, are they a specialist with children. You consider their testimony the same as any other witness.

And the final thing I want to talk to you about is credibility, believability; because you have the expert for the Defense, and the experts for the State, who have different conclusions.

You have this defendant who's given multiple versions of the events of that morning. So the judge will tell you when a witness elects to take the stand, that you have the job of judging credibility. You can consider their

demeanor; were they forthright or hesitant in their testimony; is it consistent with the other testimony; is it consistent with the other evidence. You can consider whether a witness came forward; did they continue to come forward. You can consider bias, prejudice, something to gain, something to lose, is there a reason they may testify one way. You can believe part of the testimony, none of the testimony, or all of the testimony; it's up to you. You can believe one against many, or many against one.

I beg you to judge the credibility of the witnesses in this case. The neighbors, law enforcement, the doctors; judge their credibility.

The Defense has absolutely no obligation to put up a case. The burden is on the State, where it should be. But once they elect to put up witnesses, you judge them just the same way you do the State's witnesses. And that's all we ask of you, because when we consider the credible, believable evidence in this case, there is one verdict that is just, and that's all we ask of you. Thank you.

THE COURT: Mr. Burton.

CLOSING STATEMENT BY MR. BURTON:

MR. BURTON: Judge McIntosh, Counselors, ladies and gentlemen of the jury. In the opening I told you that this case is about common sense. And this case is still about common sense, what rings true, what rings false.

The State just said that the Defense put up witnesses. Well, there's a -- there's a difference between the State's job and my job. My job is to present a zealous defense for any defendant that -- that I represent. The State's job is to be the ministers of justice here. The State didn't put up a single exculpatory witness, a single favorable witness; they left that up to me, so consider that, ladies and gentlemen.

It's been a long week for us. I've been doing this a long time, and this is the longest criminal trial of my legal career, and I'm tired. I'm sure you're tired, too. It's been long. You couldn't control when you could arrive, you couldn't control when you could go home, you couldn't control when you went to lunch, you couldn't control when the breaks were, and you were shuffled in and out of the courtroom for what must've seemed many times as no good reason to you, but it's all worthwhile. I can tell you that, because your job here is one of the most important civic duties there is. It's very important.

We live in a great country, we live in America, where we have freedom. We pay less money in taxes than most any other civilized country does, and there's a lot more things that make our country great. But one of the things -- the key things that makes it great is that nobody in the United States can be convicted of any crime unless twelve people

find that they're guilty beyond a reasonable doubt.

We hear a lot of jokes about our legal system, lawyer jokes and -- and outrageous verdicts in civil cases and so forth. And our legal system is not a perfect legal system, but our legal system is the best legal system ever devised in the entire world. I've lived in various countries, been to various countries otherwise, and I can tell you from what people tell me that our legal system is the envy of the world. It's not the envy of the world because of Judge McIntosh or Ms. Campbell or me. It's the envy of the world, like I said, because nobody can be convicted of a crime unless a jury finds them guilty, that high standard of reasonable doubt, ladies and gentlemen.

And today is the most important day in Kayla Cook's life. And in a few minutes, I'm going to sit down and shut up, but I'm not going to be the last person you're hear from today. The last person you're going to hear from today is one of the prosecution lawyers is going to be able to talk to you last. Why? Because they have the reasonable doubt, that's fair, okay. But in view of that, I invite you to take notes of what I say, because I'm not going to be the last person that you hear from. And I've kind of got a scripted argument, I'm sorry, I'm seventy-one years old, my short-term memory is poor, and I'm kind of stuck to that. So I ask you to forgive me for that.

In my opening I made you some promises, if you recall. I promised you the State would not prove their case beyond a reasonable doubt; I promised you that the key in this case, like the *Sherlock Holmes* story I told you, it's not what you do see in this case, but what you don't see in this case. I promised you that you would -- no witness would take the witness stand and tell you that they saw Kayla Cook abuse any child. I promised you that no witness would take the stand who would tell you that Kayla Cook did any harm to Minor whatsoever. I promised you that no witness would take the stand and testify that Kayla didn't love Minor. I promised you that no witness would take the witness stand and tell you that Kayla Cook wasn't concerned about Minor.

All the evidence in this case is -- is focused on the late morning hours of December 18th, 2017. Even the indictment that you'll have in your jury room with you will say, on or about December 18th, 2017. Nobody believed that -- nobody who took the witness stand believed that Kayla Cook was abusing Minor. You remember that even the father, Timothy Scott Schroder, said he didn't believe that Kayla would do something like what she's charged of doing. Even Tracy Schroder, the grandmother, testified essentially to the same thing; that she couldn't conceive of Kayla abusing Minor. So ladies and gentlemen, I kept my promise.

Another thing I promised you is that what the police would do, as they do in every case I've been involved in, is they pick who they believe was the suspect that did it. They pick their main suspect, they give a hundred percent of their effort to gathering evidence on that suspect. They ignore everybody else who might be a suspect in this case. They thought that Minor was alone with Kayla Cook, and Wyatt, during those late-hour -- late morning hours of December 18th.

And what do they do? They put their blinders on. They looked at this case with tunnel vision, as I told you they would, except that she wasn't the only adult in the house on the morning of December 18th. You remember that Scotty Schroeder was there from the time he woke up, until the time he left for work. They didn't pay any attention to that. No consideration that the injuries might've occurred sometime earlier to that. They based their entire case on the late morning of December 18th, 2017.

They couldn't -- they couldn't consider that maybe some accident occurred to this small, delicate little girl. And lastly, and most importantly, they didn't consider what the medical evidence proves, that Minor might've already had a mortal injury to her. And no matter what Kayla Cook did or didn't do in those morning hours, there wasn't a thing she could do to save Minor's life. She was dying, and there

wasn't anything that could be done.

The fact that the police work focused on the premise that Minor [redacted]'s injuries occurred during the late morning of December 18th, their case, their foundation, was built on sand. It was built on sand, and the medical evidence washed that foundation away.

Another reason why the police work was faulty is that it was based on the autopsy. They thought it was head trauma. They didn't consider anything else. Other pathologists took the stand besides the one that did the autopsy, and no other pathologist agreed that it was the head injury that caused Minor [redacted]'s death.

They never charged Scotty Schroeder with domestic violence, even after he admitted he was afraid that he might be arrested and miss Minor [redacted]'s funeral. Faulty because Kayla was the only -- the only suspect they focused on, and the arrest was based on the autopsy report, which was dis -- I'm sorry -- was disputed by every other pathologist. What did they do? They dragged this distraught woman into a small, hot room, in shock, suffering from grief, and experiencing the worst day any mother could have.

During the interview, trained investigators sitting right there knew how to get what they want. They were using every trick in the book to get Kayla to -- to confess

to this. They used repetition; they cut her off; they kept her in there for hours; they used the good cop/bad cop technique; and they used empathy. Empathy means oh, we know how you feel. Kept trying to force Kayla into their own time line, and Kayla tried to please them. She did. But they didn't consider her time line at all. They considered only their own time line, and nothing in those five hours of video that you watched points to Kayla Cook's guilt.

Now, any of these videos, if you want to see parts of them or all of them again, the Court would be happy to show them to you. Other police interviews that they did? They interviewed pretty much anybody who could have knowledge of the case. Not a speck of evidence came out of that, that pointed toward Kayla Cook hurting Minor [redacted]. It was all my fault; that's what Timothy Schroeder had to say at the hospital. Yeah. Nothing. The entire police investigation was built on sand, and in came the water to wash it away, because of the doctors.

Why was there more than one pathologist and a pediatrician called in this case? The reason is because the medical evidence, for some reason, was in disarray. They had Doctor Ross, who did the autopsy, they somehow, apparently didn't like what Doctor Ross had to say. Otherwise, why would you call anybody else? You got what

you needed, right? Doctor Ross testified that the head trauma was the -- was the proximate cause of Minor's death; and also that the retro-peritoneal hemorrhage was a contributing factor, and that Minor died in minutes.

Well, two other pathologists and a pediatrician testified. Neither pathologist agreed that the head trauma was the cause of death. Doctor. Durso told you that the swelling was minor. Doctor Batalis went through in great detail with you, with the pictures that -- that showed why the head trauma didn't cause Minor's death. Both the pathologists said that the groin injury was the cause of death. Pathologists disagreed about the age of the big bruise that caused the retro-peritoneal hemorrhage. Doctor Batalis said that it happened two to three days ago.

Well, why is that important? If you take it out of December the 18th, that brings in a whole lot of other people that might've caused harm to Minor. Doctor Durso testified that it happened much sooner than that, and she testified that there was no clotting; that that was one of the reasons you could tell that it didn't happen two to three days before that.

Now, consider this, ladies and gentlemen. This autopsy was done twenty-four hours after Minor's death. Doctor Durso testified as if it happened -- as if the autopsy happened right after the death. Twenty-four hours,

that sets it back at least twenty-four hours with no clotting. Get my point there? Autopsy done twenty-four hours later, no clotting. That means that there couldn't have been any clotting twenty-four hours ahead of that, into the 17th of December and possibly later. If there was no clotting after twenty-four hours, why couldn't there be no clotting after thirty-six hours, or forty-eight hours, or seventy-two hours? I don't know.

And the more times that you don't know, there's a mathematical equation: I don't know equals reasonable doubt every time. Every time you say well, we don't know, that equals reasonable doubt. And like the solicitor said, you have to resolve every doubt in Kayla Cook's favor.

Again, common sense. You're going to have these difficult-to-look-at pictures, and I'm sorry about that. But if -- if you look at that bruise, everybody here has life experience, nobody's going to tell you you have to abandon your life experience, but just look at that bruise and ask yourself, could that bruise have developed to that extent in a couple of hours? If that causes doubt, you must resolve that in the Defendant's favor, if it's a reasonable doubt.

The State felt that they had to consult additional doctors, okay. Doctor Lamb, she's not a pathologist, she's a pediatrician. A pediatrician's job is to treat living

children. She was allowed to testify as to the aspects of pathology, which is something she is not trained to do. She works in the same clinic as Doctor Durso, and I submit to you that she relied much more on what -- on Doctor Durso's advice that she let on when she was testifying to you. She didn't talk about the symptoms that Doctor Batalis said would be there. She testified that the head trauma was the cause of death, and also the retro-peritoneal hemorrhage. I mean, she kind of covered all of the possible bases there, contrary to what the two other pathologists, much more qualified doctors who are pathologists, had to say.

And I would argue that Doctor Lamb's testimony be accorded very little weight in this case. And like the solicitor said that you are the judges of how much -- how much weight to give every witness' testimony, and how much weight to give any of the -- any of the physical evidence in the case. And if all of that causes you any doubt, well again, you have to resolve that in the defendant's favor, if it's a reasonable doubt.

Other doctors. Doctor Durso, very good witness for Kayla Cook. Put an end to the testimony that the head trauma was the cause of death minus one. Right now I submit to you to just push that head trauma right out of the case, it doesn't really matter. Two very competent

pathologists testified that that was not the cause of death. They both agreed that the groin injury was the cause of death, and we talked about the clotting as well. At least twenty-four -- it pushes the case at least twenty-four hours earlier than December 18th, 2018.

The best evidence we got from Doctor Durso was that she said that nobody could say that Kayla Cook -- let me back up. Nobody can say that those bruises that were found on Minor occurred during the morning hours of December 18th. All of the doctors testified that bruising is very hard to date. After all of the State's doctors -- well, not all of them -- after several of them, not all pathologists took the stand, we put on one doctor; one imminently qualified Doctor Batalis. He is a professor, he's published. In fact, his publications are sort of worthy of his competence and qualifications that even the solicitor used some of his -- his writings in this case, which further bolsters the belief that he was probably the best-qualified doctor that took the stand.

All the State's doctors were doctors that testified almost exclusively for the Prosecution. And guess what? So did Doctor Batalis. Doctor Batalis testified that he testified between fifty and seventy times for the -- and almost all for the Prosecution. He testified that this was the second case that he had testified for the Defense. And

in fact, he told you that earlier in last week that he testified in Charleston for the Charleston County Solicitor's Office. Showed you in detail about the brain swelling, went through all the expected symptoms that would've been there if the problem was head trauma, and -- and none of them were present. Agreed that bruises were difficult to date. Told the Court that the color of the bruise was the best way to date a bruise. And you can see for yourself in the pictures that this -- this big round bruise, it's got yellow on the edge, it's got red, it's got purple. It's got all kinds of colors, which -- which tend to tell its age.

And again, common sense would tell you that that bruise couldn't develop in the time that the State wants you to believe that it did. He testified that it occurred two to three days earlier, or at least the day before, and the Solicitor challenged him about that with some of his own writings about dating bruises exactly. And he said that well, he didn't make the bruises exactly, or the bruise exactly, he said the bruise was caused in the preceding days. Why is that important? It brings in Scotty and other people who may be around Minor before the December 18th morning hours.

And with Doctor Batalis' testimony, some of the puzzle pieces start to fall into place in this case, which were

kind of odd and didn't really fit before, under the State's theories, because everybody mentioned symptoms about Minor. Well, I mean she started that morning with kind of uncontrolled defecation. It -- if her system was shutting down because of the retro-peritoneal hemorrhage, that kind of -- that kind of falls into place with the blood loss. We don't know -- we don't know how fast the blood congregated in her peritoneal area; we just don't. And we don't know what caused it to slow or accelerate or anything.

And what does, I don't know, mean? I don't know means reasonable doubt in this case. The eyes being strange, the heart stopping, all symptoms of a -- of a body shutting down, and not a thing -- not a thing that Kayla Cook could've done about it.

Medical evidence is key. It proves that Minor's mortal injury occurred prior to the late morning hours of 12/18, and -- and it shows that nothing Kayla could do to save Minor. And both pathologists said some people more symptomatic than others, and Minor wasn't a complainer, which is a piece of the puzzle that falls into place too. That -- you know, that doctors testified that that probably would've been painful, and that -- that's that.

Let's talk a minute about some of the other witnesses in the case. Do you remember Michelle Coats? She was the

nursing supervisor in the case, and she so ridiculously testified that Kayla was crying without tears. Also, I think somebody else, maybe Agent Baird, said something about crying without tears. Let me draw your attention to one of the emergency room videos. There were a lot of them, a couple of them, and here was poor Minor being worked on, trying to save her life, and Kayla was there in the chair, kind of on the left and Scotty showed up, and Kayla was crying, she was distraught; she was hysterical.

And you remember the one where Myrica, remember the African-American lady that took the stand, the neighbor? She was in there, she was rubbing Kayla's back and comforting her in the ER. And you watch at one point where Myrica pulls out a handkerchief, and she wipes the tears off of Kayla Cook's face. And who's standing right next to Kayla Cook and Myrica while she's wiping the tears? Michelle Coats.

Also draw your attention to the -- and you can watch that video if you want. There's no problem with that. You notice when I -- when the solicitor asked her questions she was very forthcoming with her answers. When I asked her questions, she made a long pause before answering, trying to think of some way she could answer my questions without giving favorable testimony to -- for Kayla Cook. She said the thermometer would read below 95 degrees. And you

recall that the thermometer wasn't the first thing or the taking of the temperature of Minor, it wasn't the first thing that was done in the hospital. The -- her emergency room doctor testified, as well as, I think, the nurse Christy Blackmon, that the priority was clearing the airway. After all, they thought this was a drowning situation, they -- they didn't think it was anything else, and that's how they started to treat it.

And the thermometer -- or the temperature taking was done after all of the things that they thought were much more important were taking place there, and the thermometer couldn't read any temperature below 95 degrees. And I'll remind the Court that the human -- normal human temperature is 98.6. So it's just a matter of three -- 3.6 degrees cooler than that, it wouldn't read anything. And I asked her whether a 94.9 temperature would have read, and she really didn't even seem to know that 94.9 was a lower number than 95. All of that I argue that Michelle Coates' testimony be given no weight at all.

Like I said already, the ER doctor, he testified priority was clearing the airway. They thought they had a drowning. Only evidence we have of the actual time of death of Minor is 1:32 in the afternoon. And the doctor also testified that he noticed that Kayla Cook was highly upset when everything was going on.

Next was Christy Blackmon. She admitted that Kayla Cook was just freaking out. And I'm sorry I can't come up with a better word for that, but that's what I have in my limited vocabulary, but she was hysterical and freaking. She admitted that the chest compression were rigorous, that -- that they believed that Kayla Cook was Minor 's mother when she came in, and thought it was an accidental drowning.

Some of the neighbors testified. I don't know if there's a lot of importance to their testimony other than this was a little kind of self-contained neighborhood. It was a little cul-de-sac that has a dozen different -- twenty houses, all the same, all little boxy houses like you've seen in the picture, all very close together. The neighbors seem to have a pretty good rapport with each other. They were outside a lot, they talked a lot with each other. There were frequent visitors to Kayla Cook's home.

And the worst thing anybody ever said about Kayla Cook was that they sometimes believed she used a little more time out than they thought was necessary. None of them ever said they saw Kayla hit Minor or do any -- any harm to Minor other than the time out.

Myrica, her testimony was a little bit more important. She lived there with the others. She was friends with

Kayla, she brought her laundry over for Kayla to wash for her sometimes. And she testified that she lived there for about two years; testified that Minor was a small, delicate girl, quiet. And she testified that Kayla Cook was very concerned about Minor once Minor started to exhibit these strange symptoms, and greatly concerned for Minor. She was just -- Kayla was hysterical freaking out. And another thing she said was, she never saw Kayla treat Minor any differently than any of the other kids in the house.

And several witnesses said, I think, that Kayla told them that the dog ran out of the house and knocked Minor over, and at the time that's all the evidence we had was just because Minor -- or Kayla said it, but Merica said that she actually saw the dog knock Minor over. You know, this was a -- I don't know how -- it was a big dog. Minor weighed like, thirty-five pounds. If it was a ninety-pound dog, that would be almost three times Minor's size. So people -- a lot of people said well, the dog couldn't possibly do anything, but I submit to you that a dog three times Minor's size could.

That Minor cried, that -- that she saw Kayla pick Minor up after that. Myrica was the one that called 911, and after the police left with Minor until taking her to the hospital, that Myrica grabbed Kayla and drove her to the hospital.

Todd Schenck was the next person; or her was the next person that I thought whose testimony was important, the SLED photographer. He test -- he photographed Kayla Cook's hands, and there were no marks on Kayla Cook hands. On the other hand, Timothy Schroeder had that mark on his face. We'll talk about that a little bit later.

The -- others, there's a couple of pictures of damaged doors in the house. Who do you think damaged those doors, Kayla Cook? Did Wyatt damage the doors? I don't think so.

Tracy Schroeder, Minor's grandmother. Her testimony shows that her instincts were to protect herself from blame, and she's lied to the police to make that happen. I would argue to you that she cared more for herself than telling the truth about Minor. She's the only other person charged in this case, and she also lied about, kind o a minor thing, but a lie is a lie, that -- that she didn't talk to Jennifer Adams, the DSS worker, who you heard late in the case. So I would give -- I would argue to you that you should give Tracy Schroeder's testimony no weight at all.

Scotty Schroeder, it appears that the apple doesn't fall too far from the tree. He lied about a lot of things. He lied to the police, just like his mother did. Lied about the fight with Kayla; about the fight was bad enough that he would be arrested for domestic violence. Yet he

tells the jury, you folks, that -- that all he did was keep Kayla from hitting him. How would that -- how would that cause him to be subject to being arrested for a DV? The only reason was is because he was lying. Told the jury that the hole in the bottom of the door was Kayla slamming it in his foot, not him kicking the door. He keeps lying to avoid looking bad.

And nothing's ever Scotty Schroeder's fault, nothing. The door, that was Kayla. The fight, that was Kayla's fault. The gas not being on, that was the landlord's fault. Getting arm treatment for Kayla, that's -- that's Kayla's fault, and that's the Department of Social Service's fault. Losing the DSS paper, that's DSS's fault. Having a bad relationship with Michelle, the child's biological mother, that's Kayla's fault. Lied about the cut on his face. Not only did he -- did he lie about -- about Kayla, he concocted this elaborate story that he went to work and a piece of metal shot up from his face and -- and caused it; and later admitted that -- lying about it that that occurred during the fight with Kayla on the 17th.

He, too, lied about not talking to Jennifer Adams - DSS. He never claimed that the defendant was treating Minor any differently, never thought Kayla would abuse Minor. He was alone with Minor during the evening hours of the 17th,

while Kayla was taking Phoebe to the parents' house so she could go with the parents to Disney World the next day. And Minor was in bed when Kayla returned, so Kayla had no opportunity to see Minor from about Seven o'clock when she left to the parents' house, until she returned at 9:00, and then Minor was in bed. She didn't get her up. Next time she would have an opportunity to see her was in the next morning, the 18th, when she undressed Minor to take a bath.

Kerrin Cook, the little sister of Kayla, she came to the house after the fight. She trimmed up Minor's hair after Michelle cut it badly. Testified that Minor was slow to come out, testified that Minor never showed any fear of Kayla or anybody else. She testified that the dog was a crazy-acting dog around Minor and -- and at times was mean to Minor.

We called Jennifer Adams, the DSS case worker, or family preservationist, as they like to be called now, I guess. They met once per month. She testified that Minor showed no fear of Kayla during any of the visits, and in particular the visit on December 6th or 7th, whichever it was. Tracy made it appear and gave the impression that she lived there, but Tracy never lived there. She testified that Minor called Kayla Mommy. Testified that Minor was hugging on Mommy, testified that she never saw Kayla treat Minor any differently than any of the other children. She

testified she never suspected any abuse by Kayla Cook. Testified that Minor was a good eater, vocal, outgoing, unafraid of anybody, but clumsy, from watching her. Testified about the arm, that that really didn't cause her any concern. Never saw any jealousy or different treatment of Minor And I would argue to you that she should testify -- or you should give Jennifer Adams' testimony great weight in this case.

Kayla Cook, she had everything she wanted, pretty much. She was doing the only thing that she believed that she was good at; she was raising three children. She had a home, modest, but three-bedroom home, big enough space for everybody. She had a boyfriend she loved. She had a -- had two children of her own. She had Minor who she loved. What reason would she have to put that in jeopardy on December 18th? She had no reason at all. On that day the nightmare began that will never end.

She wanted -- she wanted Minor to recover and be okay again. If a child is acting funny -- and the solicitor made a lot about this time between when Myrica showed up the first time and when she called for help. If a person has a child that's acting strange, and young children do from time to time act different, what is it that the mother wants? What the mother wants is for everything to be okay again. What the mother wants is for the child to recover,

and to be Minor again. And I think that's, from the evidence, what Kayla Cook was doing.

Unfortunately, Minor was dying, and there wasn't a thing that Kayla Cook could've done about it. She wanted their family life to be just what it was. She'd have given everything for the family life to be back to just what it was.

She was interviewed in that small, hot room for hours. Her story changed a little bit to protect what was left of her home life. Never tried to deflect blame from herself, because she didn't do anything wrong, or at least that she thought she was doing the best she could at the time. She was taken to a mental hospital, out of her mind with grief. The Solicitor challenged her with things she remembered from the hospital, but I mean how can you expect that woman to remember what she might've said to a medical doctor when she was under that kind of pressure and grief and -- and I guess what you could call a mental illness, because that's what was checked on the form.

She was in shock, the worst day any mother can imagine. In the interview, she wanted to know what the police knew and she was willing to tell them anything she knew to find out what happened to Minor Yes, she lied to protect Scotty. She was afraid of what he might to if she got -- what Scotty might do to her if -- if she got Scotty

in trouble. How do I know that? I know that because she asked the police to make sure that Scotty wasn't home after the interview, when they brought her back to [redacted] Heath Circle, after her interview.

Cross-examination by the State she stuck to her answers. Solicitor Campbell challenged her, trying to get her to change her story. The testimony included Scotty was the -- Scotty was the -- was the master of the house. He controlled everything. Kayla Cook didn't even have a key to the house. Scotty was the disciplinarian of the kid - kids. Saw Scotty whip Minor with a belt. Kayla was gone from the house for two hours or more the night before December 18th. She wanted to take Minor too, to go to the parents' with Wyatt and Phoebe to drop Phoebe off, but Scotty wouldn't let her.

Again, no evidence proves that Kayla Cook caused Minor's death. No witness took the stand and said that Kayla struck Minor except for a pop on the butt. No witness took the stand and said they saw Kayla abuse any child. No witness took the stand and said that she treated Minor any differently. No witness said Kayla Cook didn't love Minor.

Evidence shows Kayla was trying her best to save Minor. Evidence shows that she was crying for Minor to be okay. Evidence shows that she did cry real tears for Minor. Evidence shows that she was not the killer of Minor, but to

the contrary, that she was the protector of Minor from harm from others, any others.

Homicide by child abuse, in short, requires the State to prove beyond a reasonable doubt that Kayla Cook inflicted or allowed to be inflicted physical injuries. The State did not. Death occurred under circumstances showing an extreme indifference -- or extreme indifference to human life, which is akin to intent, characterized by a deliberate act, the State did not.

Evidence shows that Kayla Cook did everything to protect Minor. Any act by Kayla Cook was to preserve life, not to take life. And please remember that your verdict is based on the facts, not the evidence that you've had to show -- you were shown lots of pictures, some of which are very hard to look at. You were showed some videos that were very, very hard to look at. I mean, human nature, it can't help but to affect you, but I ask you to -- to put any emotions you have aside and make your decision on the facts; or more importantly, the absence of facts.

You have a right to respect in this courtroom. You have the right to have the judge give you respect by making you comfortable and giving you the breaks you need and so forth, and he has. You have the right to have the lawyers in the case, myself, Mr. Nielson, and the prosecution lawyers, to put on a good case. They're not here to have

you here for nothing, and we have. But most important, you should demand the respect of your fellow jurors.

You're going to be in the jury room deliberating, all twelve of you, and some of you may have some ideas that may not be the same as other jurors. And I ask you to demand the respect of your fellow jurors. Each and every one of your opinions is valid and worthy of consideration by the other jurors, and I ask you to demand their respect.

There are some things that you can and can't do in this case when you deliberate. You must decide the case as finders of fact. You must decide this case without sympathy, passion, or emotion. In this case that won't be easy, I guarantee it. Sometimes justice is hard. There are some things you can do. You can honor your oath as jurors, and keep the promise you made to the world, that you would decide the case on the facts, and not convict Kayla Cook unless the evidence leaves you firmly convinced that Kayla Cook's guilty. And by that I mean evidence beyond a reasonable doubt.

You can put your conscience on the line, you can obey your oath, and those are not small things. And I've done a lot of cases, and in this case it's probably more difficult than maybe all of the cases that I've tried in my legal career. I kept my promise, I ask you to please keep yours, and render the only verdict that's possible in

this case of not guilty. Thank you, ladies and gentlemen.

Thank you, Judge.

THE COURT: Yes, sir. Ms. Campbell.

SOLICITOR CAMPBELL: May it please the Court?

CLOSING STATEMENT BY SOLICITOR CAMPBELL:

SOLICITOR CAMPBELL: Let's make one thing clear. The judge will tell you that, in fact, unlike he just said, you do have to base your verdict on the evidence that's before you. Listen carefully to the judge as he charges you, because that is exactly what you base your verdict on, the evidence in this case.

You know, as I started to prepare for this case, I tried to kind of anticipate what the Defense says, and in a homicide by child abuse typically it's either an I.D. question, you've got the wrong person, or it was just accidental; it wasn't really abuse that caused the child's death. But this case is unique as I've listened to opening arguments and watched cross-examination, because it's kind of changed and gone all over the place.

First, it was accidental, the fall, I stepped on her accidentally. Remember that part? Then, at the end of the interview, she starts blaming other people; oh, Scotty popped her on the butt when he had her in time out the night before. The dog is rough; Wyatt, he likes to bite. Phoebe and the kids, they all play rough. Well, I might

have accidentally pulled a blanket out from under her that day. Oh, when we were shopping she might have fallen.

And the most interesting thing the Defense just said is a lie is a lie. Nobody has lied more than Kayla Cook, and I submit the only reason she had to lie was because the truth convicts her. You will have the videos back there. There are no less than eight different versions in the video, and here we are a year and a half later, and Friday there was one more. The truth doesn't help her.

And he talks about how Scotty lied about the scratch on his face and the fight with Kayla. He did. And he lied about initially for a second, and then changed it, how the door got broken. But Scotty didn't lie about what happened that day that was important to Minor's life. And then, as I've listened to closing argument, and to all the witnesses he just went through that you aren't supposed to believe, this is just a huge conspiracy. The police, oh, my Gosh, they're in on it. They had tunnel vision.

Ladies and gentlemen, you had advise of rights. They were focused on the two caretakers first. They didn't know which one. There was no autopsy when they were talking to them. They advised both of them of their rights, and charged appropriately. The police are in on it, and then further, the doctors, the nurses at Springs Hospital. Remember, you're supposed to disregard anything Michelle

Coats said because she was front and center in this attempt to save Minor's life. But because he doesn't like what he says, you're supposed to disregard it?

Once we heard testimony on Friday, hey even the doctors in the treatment center she got involuntarily committed, and subsequently voluntarily committed, they weren't good to her either. Her neighbors, good friends, they turned on her. It's a huge conspiracy to frame poor, innocent Kayla Cook. But if that doesn't work, just go hire a doctor from Charleston, who isn't a specialist in children, and I don't quite get his logic there. He talked about how his doctor was imminently qualified, more qualified than anyone else.

You heard from the doctor, this mandated by law, there's a law that says they have to consult with child abuse pediatricians because the legislature recognizes how important these cases are and how specialized they are. Ironically, he talked about how the police didn't do their job, ladies and gentlemen. I submit, unfortunately for Kayla Cook they did their job, every bit of it.

The legislature recognizes that a general pathologist may not have the expertise necessary in these cases, so that they get -- they made a law to consult with child abuse specialists. That's the reason the American Academy of Pediatrics created the specialty. And I submit, his

version of what Doctor Lamb said to you, I don't know what courtroom he was in, and I'll get back to that.

So if their doctor doesn't work, then I guess Kayla just takes the stand and comes up with yet another version of what happens, to try to explain things. Because by now she knows Myrica said she didn't step on the dog -- on the child when the dog knocked it over.

Ladies and gentlemen, I want to talk about the facts, the testimony, and again please, I beg you, you remember the testimony. It doesn't matter what I say or what he says, but it does matter what the testimony was. Please remember what all you heard from that stand.

Now, I want to talk about some of the witnesses in this case quickly, and I'll go through them. You heard from Earlene Cochran. She was there that day, she was outside. She went running up there and she tried to help Minor. She helped do CPR while Minor was on the floor. She touched her, she was cold to the touch. And remember what she said about Minor and how Minor felt about her daddy, my daddy, my daddy; because the one common thing here, and think about this, if Kayla gets mad at Scotty, what better way to exact punishment than to harm the thing he held most precious?

Myrica Jenkins, she's the one who called 911, but what's important about her, and at the hospital in that

very first video, Myrica's there helping her. She's screaming, Kayla is, and the doctors are asking her what happened. Remember the first thing? The bruise, I stepped on her three days before, three to four days before, because she knows the bruise is a problem. And ladies and gentlemen, if you think of injury that literally goes all the way through your body doesn't present right away, at Eleven o'clock she goes over there and knocks on the door, and Kayla says, not now, I'm busy with the kids.

And remember at 12:04, Myrica Jenkins is calling 911. She saw Minor the day before, and Minor was fine. Even the defendant, when she testified this time with this version, she says the abdominal bruise was there, but she said none of those other marks were there that morning. She can't even keep it straight. She saw the dog knock Minor down the step, that Minor was fine afterwards, and that she never stepped on her, so that story's got to go. But most importantly she said that Scotty worshiped the ground that Minor walked on, always had.

You heard from another neighbor, Mindy Myers. Remember, she'd been out, walked to the store, was on her way back. Stopped at the neighbor's house, was going to go get her a cigarette? She was walking into her door, and she doesn't hear her when she's screaming, but Kayla comes up and grabs her by the hand as she's walking in her own

door, in Mindy's own door, and says, I got a problem, Minor's not breathing. She goes over there, she starts working on Minor right away, CPR, where she left her when she's not breathing, as her phone was there on the same couch. Minor was cold. She tried to do CPR. She ended up taking Wyatt so Myrica and Kayla could go to the hospital. Kayla came back and stayed with her and her husband that night.

The next day, Kayla announced, I'm going to commit suicide. So Kayla calls her mother, who says oh, you should call the doctor, and they end up going to a North Carolina hospital. When she observed in the weeks before Minor's arm, that it hurt, remember ouch, she was trying to get her up on the potty, and then she laughingly told her oh, Minor's telling people Mommy did that. Jennifer Cochran, the neighbor down the street that lives with Earlene; Earlene's daughter, her daughter's Khloe. Khloe is older but has some developmental issues. Remember in the video, when she's talking about how Minor fell off the bed? And she said oh, Khloe was there. Jennifer says that's not true. So the lies, they just keep building.

She said Scotty loved Minor, and Minor always asked, is Daddy there, is Daddy going to be home, when is Daddy coming. Again, that special bond.

You remember Kerrin Cook. She cut her hair the day

before. Her own sister who said there was absolutely nothing wrong with Minor the day before. She goes over there, and this is important because they had that fight that morning, and there's no doubt Scotty said he put his hands on her and pushed her up against the wall. And ironically the only one injured is Scotty, but that's neither here or there, he knew that was wrong. He told you that was wrong, he shouldn't have ever put his hands on her.

He leaves to go to work, and Kayla Cook is furious. She calls up her sister, you get over here. I don't know how she calls, but she called her, according to them. And when Kerrin gets there, she's still mad but she's cooled down. They cut Minor's hair, Minor is fine. She even knew Minor's mother Michelle. Remember, she lived with her for an amount of time? She lived with her for several months because Michelle was a family friend of the Cooks. Remember, that's how Kayla and Scotty met was because Michelle was dating Wyatt's father.

She said that she, you know, was like, angry, Kayla was angry, but she was getting over it. But Kerrin even told her to leave, according to Kerrin. Kerrin's the one that shows up later and takes Wyatt because remember, Phoebe and the grandparents are down at Disney World, where they stayed for the rest of the week.

You heard from Mark Abrams. He's the manager, the owner, of the International Fencing place where Scotty worked, and he's important because he puts Scotty there at 7:22 a.m., and you've got him clocking in. And he's there all day, there's no dispute about that. Nobody's disputing that. That from the time Scotty left the house around 6:30 that morning, until he got the phone call at the QT, Scotty's not at home. And we've got other time lines that matter in that time period.

You heard from Tracy Shroeder, and there's no doubt she misrepresented to DSS, and she's charged with it, that she was living there. Kayla didn't want her there. Kayla was in charge, this is her house. One of the neatest houses I've ever seen. She's obsessed with neatness. And she talks about -- he talked about I mean you can't believe anything Tracy said. And the main thing she said was she wasn't there. The last time she saw her was on the 6th, and that's when the DSS worker was there. And you can't believe anything the Schroeders said because they lied? Well, Kayla's part of that lie, too. On the 6th when the DSS worker showed up and they bonded, Kayla's saying oh, yeah, we're following the safety plan. But that doesn't matter.

And you heard from Scotty Schroeder, Timothy Scott Schroeder, Scotty. He told you what happened the day

before the fight, that he went to work, he came back, and he put the toddler bed together. And there are little things that ring true with this, think about it, they're corroborated. Like the picture where the directions for the toddler bed are out on the chest, just little things that corroborate. He said Minor, they were getting ready to go, they ate dinner, and then as they were getting ready to leave, when Kayla was getting ready to leave, she planned on taking all three of them, but Minor messed on herself.

They have issues with potty training, and I submit, ladies and gentlemen, three-year-olds have issues with potty training. Kayla popped her a couple times, he put her in time out on the toilet because he didn't think she'd finished. He cleaned her up with some wipes, and he put her in a onesie, which we don't know where that went. Wonder why? And he put her to bed around 8:00, after they watched Hong Kong before the scary part.

And when he was in that hospital, he told you, he said, this is my fault, because he's responsible. That was his child, and he fought for Minor her whole life; because Minor had been exposed to things Minor shouldn't have been. And all he wanted to do was take care of Minor. He fought for her. And the last thing Minor said to him was, Daddy please don't go to work tomorrow. That'll haunt him.

They came home, he put Wyatt in the bed. The four of

them slept in the bed. He got up around 5:30 or 6:00, put the dog out, and went to work, and that's the last time he ever saw his child alive. He told you the reason his mother got custody was because Michelle didn't want Kayla around her child; Michelle, who knew Kayla, and that's the reason that Tracy came into the picture. The last time Michelle had any contact with her child was December the 3rd, the day after her birthday.

He talked to the police after being advised of his rights, after leaving the hospital. He continued to try to find out what happened to his child the next day. Went out talking to neighbors, what happened, what happened, I need to know. Called Kayla repeatedly. She never reached out. Went back to the police, talked to them again the day after the funeral, so he could clear up what he said. Talked to them again. He needed to know what happened to his child, because he knew what he hadn't done. He reached out.

You heard from law enforcement, Dale Johnson, Lieutenant Melton. Sergeant Sims got there first. When they touched this child they knew it wasn't good, and they took her immediately to the hospital. You heard from Jeanette Jennings; she had some body camera, most of which is duplicates of what Sergeant Sims has. And you heard from Sergeant Sims, and she told you about the investigation.

SLED responded to the hospital, the Lancaster Police Department was involved, because they were doing a thorough examination. And they talked to Scotty that day, and they talked to Tracy that day, and they talked to Kayla. And I'm not going to go through all the versions that she gave you about who got up, who had breakfast, if she went straight to the bathroom, if she was playing in the next room, when Wyatt got Cheetos. But during the course of their investigation, they're just trying to find the truth. And she left that day, and that's when she went to the house, and the next day she decided she needed to say she was committing suicide, and go to a hospital outside the state.

You heard from Agent Todd Schenk. He photographed the scene --

MR. NIELSON: Objection, your Honor. I'm going to have to renew our objections about flight with what the Solicitor just said.

THE COURT: Overruled.

SOLICITOR CAMPBELL: You heard from Agent Todd Schenk from SLED. He went, he processed the scene, he took photographs, he collected the evidence, he took photographs at the hospital. And you heard from Agent Preston Simpson, and his testimony at first didn't seem to be that important. And we've put in evidence that was admissible;

it's been redacted because it's not admissible, about a text that day. And remember when I was asking Kayla about it and she says no, no, no, no, that's the wrong IP address. But that's not the testimony, because the testimony is they had one Facebook account and they both used it; and that there were two IP addresses that logged on that day.

But remember when Investigator Simpson told you that sometimes you have to look at the content to determine which one was using it, because there's not an IP address attached to this. And you have the actual document, thank goodness, because what it significant? And when you do these times, he told you, you have to subtract five hours to get the correct time. So you can tell from these documents that we've submitted that Facebook -- because this is important, because in her statement she says when she woke up that morning -- and remember how she keeps wanting to wake up later and later and later?

Facebook she signed on, and the IP address goes to Lancaster, South Carolina, which is where Heath Circle is. It's 7:50-something, you have the documents. And then you'll see, later in the morning, an IP address that goes to Fort Mill, where Scotty's signed on that same account, around 11:50 that morning. And then, after that, you have one message -- text -- I don't know, whatever that language

is. The author says Kayla Cook, and it's her Facebook account next to it. And then you see it's on the 18th of December, 2017, at 16:55 UTC time. And when you subtract 16:55 and you subtract five from that, you get 11:55. And at 11:55 that morning, when she's supposedly panicking because Minor's laying there with a, how did she put it, a lazy eye? She's texting Scott Schroeder, Scotty's father, she knew they had plans for lunch, is Scotty with you?

And then her testimony is that in the next four to five minutes she doesn't know where her phone is, she can't call 911, and she has to go speeding out; but she can text Scott Schroder, as Minor is gasping her last breath? Scotty with you? Because she needs to really kind of explain this one, just like she's always explained everything.

You heard from Agent Young, this was not a poison case. And this was just to show that the police did their job. Unfortunately for her they did do their job, they did a great job in this case. You heard from Agent Young. He was able to tell you about there being marijuana metabolites in both Kayla and Scotty's blood, that they weren't under the influence at the time it was drawn; but there was no poison of any sort in the milk, and that Minor didn't have any drugs in her system, or alcohol.

You heard from Donna Money. They did do a CSC kit, just to be safe, as they should. It came back negative,

there was no evidence of it.

And you heard from Lieutenant Baird, and she and Sergeant Sims did their job. They pursued everything.

And then you heard from medical personnel. And ladies and gentlemen, I beg you, consider the credible medical evidence by the experts who actually specialize, or have special training, in this area. That's all we ask. Because you heard from the doctor -- the nurses at the hospital about Minor's condition when she presented, about what they went through to try to save this child, and you have a video of what went on.

I don't know why he wants you to discount Michelle Coats' testimony. All she did was basically verify what's on the video. Christy Blackmon: She was the one that went in there and talked to Kayla and got the first story. I think another nurse, a male nurse, also went in. I'm not sure which one was first or second.

You heard from Doctor Vinuya who basically ran the code, everything they tried to do to save Minor. That they ran it even longer just so Scotty could get there, but they always do because children are so precious.

You heard from Doctor Cruz, Minor actually did go see the doctor in October. Remember on the video when she's saying, you know, that something had happened to Minor and no one would take her to a doctor? Tracy took her to the

doctor two months before.

You heard from Doctor Ross, her observations. Luckily, she did document the things that are important. You know, the doctor -- they got a doctor to come in and say well, they didn't take the bone out and do some kind of microscopic thing to it, so that they could verify histologically that something happened to the arm. Well, the arm didn't cause her death. But she did do the cut-downs, which unfortunately you're going to have to see, that showed that the bruisings were recent. And ever doctor but theirs agrees that bruising can't be dated.

But what is significant to them? You have to look at the history of when anyone saw bruises. And according to whichever story you want to believe from her, there was no bruising on the backs of his legs, no, - now she says Scotty did whip her with a belt. That was the final story, sorry. But she still said that morning she didn't see any bruises other than the abdomen.

And look at her in that ER, it's funny. Because the first thing she says is, I accidentally stepped on Minor when I was saving her from the dog. She even offers her boot, but she knows that she went too far with that one.

You heard from Doctor Susan Lamb, and I beg you to judge her credibility. Her specialty is this case. This case is why her specialty was created, this and ones like

it, so that they could come in here, through their training. And he said she hasn't had any training, she told you she trained. She went to autopsies, she learned all that. You remember, I'm not going to repeat it to you, you remember what she said. She got up here and she testified, and ladies and gentlemen, she didn't have a dog in this fight. She doesn't know who was with who at what time. She doesn't know Kayla Cook or Scotty Schroeder. She's unbiased, she's unprejudiced. They consulted with her on the front end of this case, because they're mandated by law to do it, and because it's the right thing to do, thank God.

And when they consulted with her -- and I don't know where he came up with the fact that she said the head injury caused the death. She said both were severe injuries; the primary cause was the abdo -- the injury to the abdomen, and that this child would've died within the hour, she said within two at the most, to give her any benefit. But you remember her testimony, please.

And you heard from Doctor Durso, who, as she told you, unfortunately got expertise in this field because she had to perform so many autopsies on children that had been murdered, or had homicides involved, that she served on the review board, the statewide review board for children dying from homicidal incidents. Served on it for four years,

that her mentee, the guy she trained, took over after her, and he still consults with her. Doctor Lamb went and consulted with her to get it right.

And I submit, ladies and gentlemen, and unfortunately, they did. And the only person that could possibly do this is the person that keeps changing her story, because it doesn't work any more.

In looking at everything she said, and I'm not going back all through her stories, but you know what stuck out to me a little bit, and these are kind of some minor things maybe, why did she give her a bath that day? She test -- she talked on the video about how they always just showered her off in a cold shower. Why was she giving her a bath? Why would you take a child who has poop all over her rear-end and sit her in it, in some water?

And then, somehow the blue towel where she cleans it up afterwards, was the drain. Does it even make sense in her version? Does the physical evidence match? The text message to Scotty Schroeder, is Scotty with you. And as they're withdrawing treatment around 1:32 that day, she's yelling, I'm sorry. In her interviews she talks as they confront her with the injuries, and I'll go over those in a second, just briefly, all of the sudden, well there's a fall while they were shopping. Remember? Near some convenience store.

Well, she might've pulled the blue blanket out from under her, and that's one reason Scotty got mad at her. Well, she stepped on her when the dog knocked her down, that was an accident. She fell off the bed, that was an accident. Wyatt bites, the children play rough, that's all an accident. The one common denominator, it seems like, when Minor has accidents, is Kayla Cook.

And most telling is, as she is distraught and suicidal, and she goes to North Carolina and is there for eleven days, not once did she reach out to Scotty, who she's protecting. Not once does she reach out to the police to find out about what happened about this child she loved so much. She didn't have to reach out because she knew, and it wasn't good.

The time line of events, and then I'll finish up. Sometime before Thanksgiving, according to the testimony, the fall from the bed, she has a broken arm. The doctors testified how painful that would be. And I haven't gone over what all the doctors told you, because they said it better than I ever can. You remember what they said to you. December 3rd, the day after her birthday, was the last time Michelle had any visitation. December 6th is the DSS visit where Jennifer Adams, who doesn't even put in her report the child has a broken arm, showed up and said that she was mostly engaged in talking to Kayla.

December 14th through 15th is the day that the fall occurred with the dog. Then, December 16th they went shopping, another fall occurs; or not. December 17th, and I want to look at the 17th and 18th time-line. The night before, Seven o'clock, she takes the kids. She's home by 9:00, and I'm doing ballparks here. Minor's asleep, Wyatt's put in bed asleep. They go to sleep that night. And the Defense gets up here and they talk about well, we don't know what happened. Well, Kayla was sleeping next -- not next to her, but next to Wyatt, in the bed.

And then they say well, we don't know what happened that morning between 6:00 and 6:30? Kayla even had to admit that she would've known if anything happened that morning. She was sleeping next to her in the bed. And let me tell you, the type of beating this child took doesn't happen quietly.

She's still mad at him; they'd had the fight. She gets up the next day. Scotty leaves for work around 6:30. If you look at the evidence we put in, on the Facebook she logs in around 7:40 a.m. 7:22, Scotty's already clocked into work. At 11:00 a.m., Myrica went over there; I'm busy with the kids. At 11:55, the message, is Scotty with you? At 12:04, 911 call. By 12:14 they're at the hospital, and at 1:32 they call it.

That day she woke up, she's still mad, Wyatt is

screaming. And look at the interviews; he's all over me; he keeps messing with me. That's what she keeps saying over and over about Wyatt, she had dropped off even the day before. The next day it should be easier for her. There's only two kids now. And what happens? That Minor, how dare she, messed on herself again? And what better way to get back at Scotty, and to teach her a lesson she'll never forget. Her head hit hard -- something hard, four or five times, on the back of the head. The bruising on the arms, you can see the fingerprints in various places on her body. You have the evidence.

The beating on the back of her legs wasn't enough. She was going to make sure Minor never messed up again. This time -- remember, she didn't cry much? This time she was going to cry. And did she stomp her? Did she beat her? Did she take something and hit her? We don't have to prove the order or which instrument she used, or that her hands don't have injuries, neither did Scotty's. All we have to prove is that she inflicted these injuries, or she knew the injuries were inflicted and she didn't do anything about it.

And I submit, ladies and gentlemen, in this case, in this courtroom, the evidence is overwhelming. Nobody wants to think anyone would do this to a child, but unfortunately in our experience, child abuse is the type of crime that

takes place in secret, behind closed doors. And as I thought, who does this, unfortunately we know there are all kinds of people that commit child abuse, people entrusted with the care of children.

All we ask is that you hold her responsible for her decisions. We don't have to prove she intended to kill Minor, we just have to prove that she showed extreme indifference. And I submit, ladies and gentlemen, if this isn't extreme indifference, what is?

Kayla Cook counted on the fact that Minor would just come back. She counted on the fact that it would never be that bad, Minor could take a beating. She was stoic. She counted on the fact that, even if she died, no one would bother to investigate this properly; they weren't important people.

She counted on the fact that even if it got investigated properly, no prosecutor's office would want to prosecute it. And she counted on the fact that, even if she got arrested, she could talk her way out of it.

I submit, ladies and gentlemen, she miscalculated. Hold her responsible for her decisions. That's all we ask.

CHARGE TO THE JURY BY THE COURT:

THE COURT: All right. Mr. Foreman, ladies and gentlemen of the jury, now that you've heard the arguments and closing statements by the attorneys, it's my job to

charge you the law that you must apply to the case.

Mr. Foreman, I anticipate it will be roughly 25 or 30 minutes. Give or take a little bit, we've been going a couple hours, would you like to take about a ten or fifteen minutes' break before I charge you on the law?

MR. FOREMAN: Yes, your Honor.

THE COURT: Let's do that. Would you leave your pads here in the courtroom, please, sir, and we'll bring you back in about ten, fifteen minutes.

(JURORS EXIT COURTROOM AT 11:25 A.M.)

THE COURT: All right. Let's take about a fifteen-minute break.

(COURT IN RECESS AT 11:26 A.M.)

(COURT BACK IN SESSION AT 11:44 A.M.)

THE COURT: Please be seated.

By the way, the clerk is amenable to lunch and it should be here be here around a quarter 'til 1:00. So, anybody have a problem once it gets here they bring it straight into the jury?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 11:49 A.M.)

CHARGE ON THE LAW:

THE COURT: All right. Ladies and gentlemen, now it's time for me to charge you the law that you must apply in

this case. I will warn you in advance I'm not neither intelligent or articulate enough to recite all the rules off the top of my head, so some of it may be read to you, I apologize to you in advance. I know that's fairly dull to have that done, but there are very important points of law that I'm gonna risk my not pronouncing it correctly.

Also, ladies and gentlemen, frequently, around the state when we're trying cases, juries will ask for additional evidence to be presented. Let me tell you, at this juncture all the evidence that is going to be admitted as evidence has been. There will be no more evidence admitted, okay?

Also, I'm not allowed to comment on the facts or interpret the facts in this case, that would be your job and yours alone.

Now, ladies and gentlemen, my instruction -- instructions, rather -- are in three phases, in three parts. The first part would be the general rules that define and control your duties as jurors, and quite frankly will be the longest aspect of my charge. Then I'll give you the law, the substantive law of homicide by child abuse. It's spelled out in Code Section 16-3-85(a). And then, I'll give you a few points about your deliberations; and Mr. Foreman, I'll go over the verdict form and instruct you how to fill it out.

Now, at any time if anyone cannot understand me or cannot hear me, I want you to immediately raise your hand. I will stop and I will go over it again, so see that you do. Okay? With that being said, if you recall at the beginning of this case, I told you that you are the judges of the facts. You're the sole judges of what the facts are. And you'll determine what the facts are and in other words what your verdict is going to be from all the evidence that you've heard here in this courtroom to the facts as you find them to be. It is your job and your sworn duty to apply the law as I give it to you. You must follow the law as I give it to you. You may not and shall not be concerned with what you think it should be or what it shouldn't be.

I'll tell you that if I'm incorrect in my announcement of the law to you, I will be corrected by an appellate court in Columbia, South Carolina.

Also, ladies and gentlemen, you must not and shall not be influenced by any personal likes or dislikes, opinions, prejudice, or undue sympathy that you may have for one side of this case or the other. And what that simply means is, you are to make your decision based on the testimony and evidence presented during this trial and according to the law as I give it to you. Now, if you recall, when you took your oath at the beginning of this case, you swore or

affirmed to do just that.

Also, ladies and gentlemen, these instructions are equally important. You may not single out certain aspects of this charge and apply the things that you agree with, and not apply things that you may not agree with. They're all equally important.

Now, ladies and gentlemen, as I've told you, you and you alone are the judges of the facts, and you will determine what the facts are by evaluating and weighing the evidence. Now, when we say weigh the evidence, obviously you can't weigh evidence in the literal sense. It is entirely a mental process that you will go through in your deliberations, and you will use your common sense and sound judgment in walking through and discussing the testimony and the evidence, and to hopefully reach a unanimous verdict in this case.

So that leads me to, what is evidence? As I've told you, the sworn responses from the witnesses is evidence. The questions posed is not evidence, but the responses by the witnesses is evidence, whether it be on direct examination or cross-examination, or re-direct, that, the responses to those. Also, the exhibits that will be sent back to you is evidence.

Now, Mr. Foreman, I'm informed that if the jury wants to look at any of the videos involved in this matter, if

you would just simply make a note to give it to the bailiff, and I'll give you more about how to do that in just a minute, we'll bring you back here in the courtroom, and you can watch it as long and as many times as you want to. The reason being, we don't have a clean computer and other things may be on it, so we need to bring you back out here so we can play it for you and control certain things. Okay?

Now, ladies and gentlemen, what is not evidence? First, the arguments by the attorneys, whether it be in opening statements or the closing statements, is not evidence. It's not to minimize the importance of what any of these attorneys may have told you, but it is not evidence. They're not sworn, they're not put on the witness stand and subjected to cross-examination. If at any time your collective memory differs from what any or all of these attorneys may have told you at some point during this trial, your memory of that point will rule. Okay?

Also, Mr. Foreman, just because something may appear in one of your jurors' notes doesn't mean it trumps another juror's memory of that issue. That's why there are deliberations, you will just have to hash those issues out.

Ladies and gentlemen, the questions by the attorneys themselves, again, is not evidence. Also, as I've told

you, the lawyers have an ethical obligation to object anytime he or she feels like there is improper evidence being proffered, or improper procedure is being followed. This case is no different. The fact that there were objections raised in this case, and to the extent I let you stay here in the courtroom and listen to my rulings on those objections, is not and shall not be a part of your deliberations.

Mr. Foreman, if any of your jurors tries to interject the fact there were objections being raised, or my rulings on those objections, it is your duty to make sure that is not part of the jury's deliberations. Okay, sir?

Also, ladies and gentlemen, any evidence that has been stricken from the record, and there is some stricken from the record, may not be considered by you in this case. You must treat it as if it was not presented at all.

And finally, ladies and gentlemen, anything that you may have seen or heard when the trial was not in session may not be considered by you, which simply means that you are to determine the testimony, and you will determine what the facts are, from the testimony and evidence in this courtroom.

Now, ladies and gentlemen, there are two types of evidence that we recognize in South Carolina. We recognize direct evidence, and we recognize circumstantial evidence.

Direct evidence is fairly straightforward. It's evidence that directly proves the existence of a fact. It does not require deduction or inference. For example, if the issue in a case was whether or not I ran a stop sign, and my law clerk testifies that he saw me run that stop sign, that would immediately establish the issue; in fact, you don't have to infer anything from it. That is direct evidence.

Circumstantial evidence is a little trickier. Circumstantial evidence is a proof of a chain of facts and circumstances indicating the existence of a fact. In other words, it does require inference, it does require deduction.

Mr. Foreman, the inference being reached by the jury, or the deduction being made by the jury, can't be conjecture or surmise. But the laws, ladies and gentlemen, make many of the crimes in this state may be proven by circumstantial evidence, just like they may be proven by direct evidence. The law makes no distinction between the weight or the value to be given either direct evidence or circumstantial evidence.

However, to the extent that the State relies on circumstantial evidence, all of the circumstances must be consistent with each other, and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt. If the circumstances merely portray the

defendant's behavior as suspicious, then the proof would have failed.

Ladies and gentlemen, the State has the burden of proving the defendant guilty by proof beyond a reasonable doubt, whether or not it relies on direct evidence, circumstantial evidence, or a combination of the two.

Now, Mr. Foreman, ladies and gentlemen of the jury, in deciding what the facts are in this case, you must determine and you must consider all of the evidence that's been presented to you. In doing this, you must decide which testimony you wish to believe, and whether or not there's any testimony you wish not to believe. You may disbelieve all or part of any witness's testimony who has appeared before you. You can believe all of a witness's testimony.

In making this determination is what we refer to as the credibility of the witnesses, I'm going to list some factors for you that you may consider in making this determination. This is not an exhaustive list. First, you can ask yourself, was the witness able to see or hear or know about things about in which the witness testified about. You can ask yourself how well was the witness able to recall and describe the subject of their testimony. You can consider how a witness acted while they were on the witness stand; in other words, their demeanor. Also, you

can ask yourself, is there some reason that a witness would want to give testimony that would help or hurt one side or the other. Did that witness have an interest in the outcome of the case, or any bias or prejudice concerning a party or issue involved in the case.

You can consider how reasonable a witness's testimony was in light of all the other testimony, and whether or not that witness' testimony had been contradicted by what that witness said at another time; by other evidence in the case; or by other testimony in this case.

Now, Mr. Foreman, those are just some of the facts that you may consider in determining the credibility or the believability of the testimony in this case. Of course, when you're sworn in, you do not check your common sense at the door, and you should not check your common sense in this case. You should use those things that, in your day-to-day lives, you find indicative of truthfulness, as well as indicative of lack of truthfulness.

Now, one thing you may not do, Mr. Foreman, is add up the number of witnesses who may have appeared on behalf of one side of this case or the other in making this determination.

I remind you, ladies and gentlemen, that normally witnesses may are not allowed to give their opinions. They're limited to what they felt, they saw, they smelled,

or they heard. However, because of education or experience, people may be qualified as expert witnesses. In such events, they are allowed to give their opinion. Expert testimony should be judged as any other testimony you've heard in this case. You may accept it, you may reject it, you may give it as much weight as you think it deserves; considering the witness's education, their experience, their reasons for their opinion, and all the other evidence in this case.

Now, Mr. Foreman, ladies and gentlemen, this is the indictment in the case. It will not go back to the jury room, it is not evidence. The fact that this defendant was arrested, charged, and indicted is not evidence of her guilt. It does not raise an inference, nor a presumption of her guilt. That piece of paper is simply the charging mechanism which the State uses to bring her before this court, in a trial, and a determination by you, the jury, of her guilt or her innocence.

In fact, in this case, the defendant has said, I am not guilty. And that plea places the burden upon the State of South Carolina to prove her guilt by proof beyond a reasonable doubt. I'll tell you, ladies and gentlemen, that a person charged with committing a criminal offense in South Carolina is never required to prove himself or herself innocent. And I'll tell you that it is an

important rule of law that no matter what the seriousness of the charge may be, the defendant will always be presumed to be innocent of the crime for which they had been indicted, unless and until you, the jury, are satisfied of guilt by proof beyond a reasonable doubt.

Now, this presumption of innocence, ladies and gentlemen, does not end when you go back in your jury room and begin your deliberations. It remains with the defendant unless and until you, the jury, are satisfied with guilt beyond a reasonable doubt. In the words of lawyers, the presumption of innocence is like a robe of righteousness that's placed around the shoulders of the defendant, where it remains until it has been stripped by evidence satisfying you of guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory, it's not just a nice legal phrase. It is a substantial right which every defendant is entitled, unless you, the jury, are satisfied with guilt beyond a reasonable doubt. So that leads me to the definition of reasonable doubt. Let me go over it with you again.

A reasonable doubt is the kind of doubt that would cause a reasonable, sincere, honest and conscientious person to hesitate to act in an important matter in your own affairs. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. With

that being said, ladies and gentlemen, there are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of all of the evidence, you are firmly convinced of the defendant's guilt, it is your duty to find her guilty. On the other hand, if you think there is a real possibility that the defendant is not guilty, then you must give her the benefit of the doubt and find her not guilty.

Ladies and gentlemen, a reasonable doubt may arise from the evidence, or is may arise from the lack of the evidence, and the defendant is entitled to every reasonable doubt that may arise in a case. And what that simply means, ladies and gentlemen, that if, upon any issue of fact essential to a conviction, and a verdict of guilt for the offense for which she has been indicted, if you have any reasonable doubt as to how that issue should be resolved, it is your duty to resolve it in favor of the defendant.

Ladies and gentlemen, a statement alleged to have been made by the defendant has been admitted to evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the defendant made the

statement. If the defendant did make the statement, you must determine whether the statement was made by the defendant voluntarily, and of her own free will. This means that the statement was not caused by pressure, force, fear, threats, coercion, or intimidation; or by hope or a promise of leniency; or a reward of any kind. In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning.

Some of the factors that you must consider are the age of the defendant; the defendant's education or lack of education; the defendant's mental ability or I.Q.; the defendant's capacity; the defendant's background and environment; the place and length of detention; the nature of the questioning and the advice or lack thereof to the defendant of her constitutional rights, including but not limited to the right to remain silent; that any statement could be used against her in a court of law; the right to have a lawyer present; that if she could not afford a lawyer, a lawyer would be appointed to represent her without any cost; and that she could stop making a statement at any time.

Ladies and gentlemen, you must carefully consider all of the surrounding circumstances before you give any weight to an alleged statement. Now, the State has the burden of

proving beyond a reasonable doubt that the alleged statement was voluntary. If you determine that it was voluntary, you may give the statement any further consideration that you deem proper. You must consider what weight, if any, should be given to the alleged statement. If you determine that the alleged statement was not a free and voluntary statement of the defendant, you should not consider the statement at all.

Now, Mr. Foreman, ladies and gentlemen, those are the rules that define and control your duties as jurors. The next aspect of my charge will be the law of homicide by child abuse. Again, as stated in Code Section 16-3-85(a).

Ladies and gentlemen, the defendant is charged with homicide by child abuse. The State must prove beyond a reasonable doubt that the defendant caused the death of a child under the age of eleven, while committing child abuse or neglect. Child abuse or neglect is an act or failure to act which causes harm to the child's physical health or welfare.

Harm to the child's physical health or welfare means that the defendant either inflicted or allowed to be inflicted on the child physical injury, including the use of excessive corporal punishment. Failed to supply the child with adequate food, clothing, shelter, or health care, and this failure caused a physical injury or

condition which caused death; or abandoned the child, causing the child's death.

The State must also prove beyond a reasonable doubt that the death occurred under circumstances showing a extreme indifference to human life. Extreme indifference is a mental state akin to intent, characterized by a deliberate act culminating in death.

Now, Mr. Foreman, ladies and gentlemen, that is the substantive law. I do not send my charge back to the jury room. I want you to focus on what the facts are and what your verdict's going to be. If at any time you want me to re-charge you on any aspect of my charge, I'd be willing to do it as many times as you like. Okay, sir?

And that leads me to the last part of my charge, and that is some considerations about being a juror. First, when you went through the voir dire process, you either expressly or by your silence represented that you could be fair and impartial to both the State and to the Defense in this matter, and they have a right to expect the same of you, and I have the right to expect the same of you.

You are not partisans, you are not advocates. You are the judges of what the facts are, and you must determine what those facts are based on the testimony and evidence you heard here in this courtroom, and according to the law as I give it to you.

When you are instructed to begin your deliberations, you should use your experiences in life, your common sense and your sense of logic and reason, and in walking through the testimony and the evidence, and to hopefully reach a unanimous verdict.

Deliberation is defined as this: it is a careful consideration, weighing up with a view to a decision. Now, regardless of what any of you may think about our jury system, I would submit to you that the genius of the system is that it allows twelve men and women such as yourselves, who have different backgrounds, who have had different life experiences, perspectives, to listen to the testimony, to listen to the evidence, to listen to all of the arguments by the attorneys, and then to go back and to consider all the evidence, and to ultimately reach a verdict.

You are to consider all of the testimony and the evidence carefully and courteously, and discuss it in a calm, informed, and courteous manner. You are to listen to other people's points of view. Let your fellow jurors tell you why they have their points of view, and walk through and discuss all of the evidence amongst yourselves. You are not to be in a big hurry. This is an important case for the State, this is an important case for the defendant. This is their only time in court. They do not have a chance to have a second bite at the apple.

Now, in order for your verdict to stand, it must be unanimous. That means all twelve of you must agree. With that being said, each of you must decide this case on your own. Do not change a firmly held belief as to the weight of the evidence solely to appease your fellow jurors. On the other hand, if deliberations convinces you that it's the right thing to do, do not be afraid to change your opinion as to the weight of the evidence if it is -- if you think that the right thing to do.

Now, Mr. Foreman, if at any time the jury needs anything, I'm going to ask you to write it down, write your question on whatever it is, sign it. Knock on the door, give it to the bailiff, and we will receive it here and react accordingly. The only thing you do not do is ever let us know where the jury stands numerically; whether it's six-six, eight-four, some other numerical combination. That's solely up to the jury. Okay, sir?

But if you have any questions or anything you need, write it down and we'll respond here in the courtroom, okay?

With that being said, any additions or exceptions to my charge from the State?

SOLICITOR CAMPBELL: No, sir.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

THE COURT: Okay, very good. All right. You alternates --

MR. BURTON: Your Honor, I'm sorry. I mis-spoke. I'd like to renew a motion I made earlier.

THE COURT: Okay, that's -- that's considered made, and overruled.

All right. Our two alternates, I'm going to ask that you go back to the jury room, get your personal belongings, and I'm going to let you go in my chambers. The rest of you go back to your jury room. Do not begin your deliberations yet. In just a minute one of the bailiffs or the clerk is going to bring back all the exhibits and the verdict form, and they will tell you then to begin your deliberations.

Now, Mr. Foreman, once the jury has reached a verdict, it's your job to fill out the verdict form. The options that appear on here have to be in some order, so the order in which they appear is of no consequence. But the options are as follows: that she was charged with homicide by child abuse under Indictment 2018-GS-29-1659. We, the jury, unanimously find the defendant not guilty. If that is the jury's decision, you will simply check the line next to that option, and you'll sign the jury form. Okay, sir?

The second option is, as to the charge of homicide by child abuse under the same indictment number, we, the jury,

unanimously find the defendant guilty. Again, if that is the jury's unanimous decision, you would check that option and then sign the verdict form. Once it's signed and filled out, I'm going to ask you to fold it over and crease it, keep it in your possession. Do not give it to a bailiff, I'll collect it here in the courtroom. But once you reach your verdict, knock on the door and let the bailiffs know so we can bring you back into the courtroom. Okay, sir?

If you would, go back with the bailiff now to the jury room, and if my two alternates would come back out.

By the way, excuse me, we're sending lunch in to you. She allowed about quarter 'til 1:00, they'll just bring it back in. Once they bring it in, stop your deliberations. Don't deliberate in front of anyone else, okay. Go ahead.

(JURY EXITS COURTROOM TO DELIBERATE AT 12:15 P.M.)

THE COURT: All right. Just for the record, you might want to articulate what those objections are to the charge.

MR. BURTON: Yes, your Honor. Thank you very much.

THE COURT: Yes, sir.

MR. BURTON: I would argue to your Honor then and now that there is evidence the defendant knowingly aided and abetted another person to commit child abuse.

THE COURT: Under Section --

MR. BURTON: There is plenty of evidence that there

Then I'm going to ask you to take it back and tell them to begin their deliberations.

MADAM CLERK: Yes, sir, I will.

MR. BURTON: Thank you, your Honor.

THE COURT: Thank you very much.

(ALL ATTORNEYS REVIEWED ALL EXHIBITS RECEIVED INTO EVIDENCE AND MADE AVAILABLE TO THE JURY FOR DELIBERATE.)

MR. NIELSON: Your Honor, without her leaving the courtroom, can she go back and sit with her family while deliberations are going on?

THE COURT: You may, but you may not leave the courtroom. Okay?

MR. NIELSON: Okay. Thank you, your Honor.

MR. BURTON: Thank you, your Honor.

THE COURT: Is that a problem?

(COURT AT EASE AT 12:20 p.m.)

(COURT BACK IN SESSION AT 03:11 P.M.)

THE COURT: Please be seated.

All right, guys, the jury wants me to re-charge homicide by child abuse, with including the definition of extreme indifference, okay? So I intend just to go over the charge that I did, unless somebody has a better idea?

Okay. Bring the jury out.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:15 P.M.)

THE COURT: All right, Mr. Foreman, ladies and gentlemen, my understanding is the jury wants me to re-charge homicide by child abuse, including the meaning of extreme indifference; is that correct?

MR. FOREMAN: Yes, sir.

THE COURT: Okay, very good.

The defendant is charged with homicide by child abuse. The State must prove beyond a reasonable doubt that the defendant caused the death of a child under the age of eleven while committing child abuse or neglect. Child abuse or neglect is an act, or failure to act, which causes harm to the child's physical health or welfare. Harm to the child's physical health or welfare means that the defendant either, one, inflicted or allowed to be inflicted on the child physical injury, including using excessive corporal punishment; or two, failed to supply the child with adequate food, clothing, shelter, or health care, and this failure caused a physical injury or condition which caused death; or three, abandoned the child, causing the child's death.

The State must also prove beyond a reasonable doubt that the death occurred under circumstances showing an extreme indifference to human life. Extreme indifference is a mental state similar to or akin to intent,

characterized by a deliberate act culminating in death.

Mr. Foreman, does that respond to the jury's inquiry?

MR. FOREMAN: Yes.

THE COURT: Okay. Very good. Any additions or exceptions from the State to the charge?

SOLICITOR CAMPBELL: No, sir.

THE COURT: From the Defense?

MR. BURTON: No, your Honor.

THE COURT: All right. Sir, if you would, would you go back to your jury room and resume your deliberations?

(JURY EXITS COURTROOM AT 03:18 P.M.)

THE COURT: Okay, guys, we're at ease.

(COURT AT EASE AT 03:18 P.M.)

(COURT BACK IN SESSION AT 03:25 P.M.)

THE COURT: Counsel, we have a verdict.

MR. NIELSON: Let me get my co-counsel down here.

THE COURT: All right.

SOLICITOR CAMPBELL: While we're waiting, I didn't know if you wanted to maybe address the audience about outbursts?

THE COURT: I always do.

SOLICITOR CAMPBELL: Okay, good. Thank you.

THE COURT: All right. Ladies and gentlemen, this is mainly to the people out in the gallery. I know this has been an emotional case, and it's been a hard-tried case,

but I'm going to ask that you refrain from any outbursts in regards to what the verdict may be. That being said, let's bring the jury in.

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:28 P.M.)

THE COURT: Mr. Foreman, my understanding is that the jury has reached a verdict; is that correct?

MR. FOREMAN: Yes, your Honor.

THE COURT: Is it unanimous?

MR. FOREMAN: Yes, your Honor.

THE COURT: Do you have the verdict form with you?

MR. FOREMAN: Yes, your Honor.

THE COURT: Would you pass it to the Clerk, please?

(VERDICT RECEIVED UP BY THE COURT.)

THE COURT: Thank you, sir.

THE CLERK: Yes, sir. Indictment Number 2018-GS-29-1659, the *State of South Carolina versus Kayla Cook*, Defendant, homicide by child abuse -- as to the charge of homicide by child abuse, we, the jury, unanimously find the defendant guilty. Signed by Patrick Lyons, Juror No. 112, as Foreman, August 19th, 2019.

Ladies and gentlemen, of the jury, if this be your verdict, say so you all by the raising of your right hands.

Let the record reflect, all jurors raised their right

hands.

(ALL JURORS COMPLIED BY RAISING THEIR RIGHT HAND.)

THE COURT: Thank you, sir. All right. Ladies and gentlemen of the jury, you have been here for over a week, and I want to thank you, not for your verdict, as the Court is never concerned with what your verdict is, but that you followed the directions from me, and you paid attention to the attorneys and the witnesses in the course of this trial. It's not been an easy trial, and it's been a little bit lengthy. So I want to thank you for your civic duty and your willingness to serve.

I know it's never easy to sit in judgment of anyone, but without you the system does not exist. The rule of law just breaks down. It can't operate without citizens like yourselves who are willing to do their civic duty.

I in just a moment am going to sentence this lady, but you're more than welcome to stay in the courtroom, you're more than welcome to leave the courtroom. If you choose to leave, you will be escorted out by my bailiffs, or with somebody that's another court personnel, and if you'd like to stay here you're more than welcome to do so, whatever you prefer. If you want to go, you may do so now.

(ALL JURORS REMAINED IN THE JURY BOX.)

THE COURT: Very good. All right. Did you prepare me a sentencing sheet?

SOLICITOR MCGINNIS: Yes, your Honor, we have one.

THE COURT: Yes, ma'am.

SOLICITOR NEWMAN: Your Honor, may we approach?

THE COURT: Yes, sir.

(BENCH CONFERENCE, OFF THE RECORD, OUT OF THE HEARING OF THE JURY/COURTROOM AT 03:32 P.M.)

THE COURT: All right. Ladies and gentlemen, we have someone who has a right to be present, and there's going to be some questions for them if they want to be here. If you'd go back to your jury room, if you want to come back out for sentencing, and before I do we'll bring you back in the courtroom, but if you'll go with the bailiff please, sir. Leave your note pads in the jury room.

(JURY EXITS COURTROOM AT 03:32 P.M.)

THE COURT: If you all would let me know, please.

(COURT AT EASE AT 03:33 P.M.)

(COURT BACK IN SESSION AT 03:39 P.M.)

THE COURT: Please be seated.

SOLICITOR CAMPBELL: Your Honor, as soon as she gets in here and she signs, we'll be ready to go.

THE COURT: Okay.

(DEFENDANT REENTERS COURTROOM.)

THE COURT: All right. Come around, please, ma'am.

SOLICITOR CAMPBELL: Your Honor, the jury --

THE COURT: Could you bring the jury in, please?

Isn't the range on this, twenty to life?

MR. NIELSON: Yes, your Honor.

THE COURT: That's correct?

THE BAILIFF: The jury's coming in.

THE COURT: Thank you, sir.

(JURY RE-ENTERS COURTROOM AT 03:41 P.M.)

THE COURT: All right. Mr. Burton, Mr. Nielson, would you bring your client around, please, sir?

Ms. Campbell, does Ms. Cook have any other criminal record?

SOLICITOR CAMPBELL: No, sir.

THE COURT: No? Anything else other than that I haven't heard that you want to add on behalf of the State?

SOLICITOR CAMPBELL: Your Honor, just on behalf of the State, I would -- the family has given me a few photos. I've shown them to the Defense of her. I know they weren't admissible during the trial, but they did want you just to see what Minor looked like.

THE COURT: Okay.

SOLICITOR CAMPBELL: Additionally, your Honor, there are family members that would like to address the Court at the appropriate time.

THE COURT: Absolutely. On both sides of the courtroom.

SOLICITOR CAMPBELL: Okay.

THE COURT: If you have any, Mr. Burton, as well.

SOLICITOR CAMPBELL: And I just know in the first two or three rows over on this side of the room, your Honor, are family members, and some law enforcement people that were interested in the outcome of this case. And may I approach?

THE COURT: Yes, ma'am. Have you seen those photos?

MR. BURTON: I have, your Honor.

THE COURT: All right. Thank you.

(PHOTOS RECEIVED UP BY THE COURT.)

THE COURT: Would you bring the people who want to speak on behalf of the victim in this case?

SOLICITOR CAMPBELL: Yes, sir.

THE COURT: All right. Ma'am, would you tell us your name, for the record?

A. Tammy Jacobson.

THE COURT: Okay. Ma'am, how do you spell your last name?

TAMMY JACOBSON: J-a-c-o-b-s-o-n.

THE COURT: Okay. Be glad to hear from you.

TAMMY JACOBSON: I am Minor great-aunt. During this time it's been very hard for our family. We first off would like to ask for the maximum sentence of life; for one, because we are life without Minor. We have -- today was the first day of Lancaster County Schools, four-year-

old preschool that my niece will not be able to attend. We will not be able to see her sweet sixteen. We will not be able to know how her first date went.

My nephew Scotty will not be able to walk his daughter down the aisle on her wedding day. She did not get to enjoy life as she should've. Her last Halloween she wanted to be a police officer. We have honored that since. Last Christmas and every Christmas going forward, I have set up to do a fund-raiser to, in her name, so that people can give to foster care kids, foster homes, and help other kids that are in need. We will continue as a family to do this for the life of us. I just at this point would like to see that she gets the maximum. Thank you.

THE COURT: Thank you, ma'am.

What's your name, for the record, please?

A. Kimberly Schroder.

THE COURT: Schroeder?

KIMBERLY SCHROEDER: Yeah.

THE COURT: Okay.

KIMBERLY SCHROEDER: She was my niece.

THE COURT: Okay.

KIMBERLY SCHROEDER: She was the happiest little girl I've ever met, and I used to babysit her with my two boys, and she was always around me. She'd come on the weekends and we'd take her out for Icee dates, and she'll never get

to like, grow up with her cousins. She'll never get to play with them, she'll never really know who she is, and I feel like we were robbed of that experience. And like her aunt said, she'll never get to go on her first date, she'll never get to be the flower girl at my wedding. So I feel like she should get life, because she destroyed our lives. Not just my brother, not just my mother, but everyone on this pew, she's destroyed our lives.

SOLICITOR CAMPBELL: Your Honor, we did speak to Michelle Bighum. She does not wish to address the Court at this point. I think she's just too emotional, as well as Scotty, who you heard from during the trial. I think it's just a little overwhelming at this point.

The only thing I would note, your Honor, is, I've been doing this a long time, and the injuries on this child were from head to toe. It wasn't like there was one moment where she lost it and hurt her. She beat her to death, literally. And we just think that that makes this homicide by child abuse case one of the most heartbreaking I've ever seen. The child suffered.

THE COURT: Thank you. All right, Mr. Burton, be glad to have you speak, and anyone on behalf, including Ms. Cook as well if she'd like to.

MR. BURTON: Thank you, your Honor. I would point out to the Court what wasn't admissible in court, but is a

factor in Ms. Cook's life here, is that she has cancer. She has cancer -- recurrent spindle-cell sarcoma, meaning they operated on it and she still has it. They found a node on her lung that they -- they were going to do a biopsy, I guess, very soon on her, but it hasn't been done yet. They were -- the doctors were concerned and leaning toward that being malignant, your Honor. So that would -- that would mean she was already diagnosed by doctors as in Stage 3 cancer. If it's starts to spread into other parts of her body, that makes it Stage 4 inoperable, your Honor.

I would ask you to factor that in, that maybe life means something a lot different to Kayla Cook than it would to some defendants, your Honor, and we'd beg your Honor to give her a chance to -- to have a life after the Department of Corrections.

I would just say that, that in combination with none of the doctors in the case agreeing much that maybe she ought to have the benefit of the doubt, and not be sentenced to life in prison in this case.

I would ask your Honor, she's been on house arrest for a good amount of time now, your Honor, and I would ask your Honor to kindly give her credit for the time; the time she was in jail since the arrest, 'til she got out on bond; and I guess essentially from the day she got arrested 'til today, if your Honor would give her credit for being on

house arrest.

I discovered actually, during the time the jury was deliberating, and my prior investigator's file, a notebook that was written by Kayla during her time at Davidson on the 22nd of December, before she knew she was going to be arrested or -- or have to go through a trial, a letter that she wrote to Minor. A very short letter, if your Honor will indulge me.

THE COURT: Yes, sir.

MR. BURTON: "My sweet Minor Bug, I miss you so much. I can hear your voice all the time. I pray for you. I don't want you to be alone and afraid, I'm right here whenever you need me. I'm having a lot of trouble letting you go. I'm in a hospital trying to get help. Everything reminds me of you, especially your adorable little grin. I pray that you're okay. I want you to know that I'm so sorry for not saving you. I tried so very hard, and in the end God took you in His hands. If I could turn back the time, I would never have left your side. You mean the world to me. I'm so thankful you -- I'm so thankful to call you my daughter. Your brother and sister do not know yet, but I pray that you can check on them throughout the years. Daddy misses you so much, sweetie. It's so hard to think of you not being with us every day. I want you to know that I had the best time of my life raising you. You

made me so happy and full of joy. You've changed my life completely, and I'll never regret being your mom. I wish I could have done more. I'm so very sorry. I love you with every bit of my broken heart. Fly high, my angel, always, Mommy."

I think at this time the sister, Kerrin Cook, might like to say something.

THE COURT: Would you state your full name for the record again, please, ma'am?

KERRIN COOK: I'm Kerrin Cook and my sister is Kayla Cook.

THE COURT: I need you to speak up, please. I don't think myself or the court reporter heard you.

MR. BURTON: The microphone, pick it up.

KERRIN COOK: I'm Kerrin Cook. I'm Kayla Cook's little sister.

THE COURT: Okay.

KERRIN COOK: And I've, my whole life, looked up to my older sister, one of two. And with no feelings against the jury, I maintain my sister's innocent. I love her. She loved her children, all three of them, and I would ask you, considering her condition and her children, the minimum sentence.

THE COURT: All right, thank you, ma'am.

Is there anyone else?

MR. BURTON: No, your Honor.

THE COURT: All right. Does your client wish to say anything?

MR. BURTON: I don't know that she's in much of a condition to, but I would allow her the opportunity.

THE COURT: I'll give her the opportunity. Would she like to have some water, or take a minute, or did she want to say -- yes, I think somebody else is about to.

Yes, ma'am? Would you state your name, for the record?

A. Whitney Lombardo. Whitney Lombardo.

THE COURT: Would you spell that first name and last name?

WHITNEY LOMBARDO: W-h-i-t-n-e-y.

THE COURT: Whitney. Okay. Lombardo.

WHITNEY LOMBARDO: Lombardo, L-o-m-b as in boy, a-r-d-o.

THE COURT: Okay. Thank you, ma'am. I'd be glad to hear from you.

WHITNEY LOMBARDO: Yes. I've been -- I've known Kayla for a good seven years now, and I have been the one that she has been living with for the past seven months. It's unfortunate that the jury, I believe, did not get to know about Kayla's medical condition. She is at Stage 3 at this present moment. She has -- I have taken her to the

hospital many times since she has been living with me, with no -- no cure available. Chemo will not be able to cure her. She has had radiation. Unfortunately the radiation has not worked. She is about to go into Stage 4. She has gotten more lymph nodes in her neck that have gone deeper; now they've gone into her chest.

I have been primarily the caregiver for her for the past seven months, and have taken her to the emergency room several times, and I just ask that you take this into consideration that she has a terminal -- terminal cancer.

How long she has we have not heard yet unfortunately. Now on the 27th she has a PET scan scheduled, and I just want to bring it to the attention that Kayla doesn't have much time left. And I would just ask in your name, Honor, to take that into consideration. Thank you.

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

All right. Ms. Cook, do you have anything you want to add?

KAYLA COOK: Please I'd like to repeat that I do love Minor no matter what.

(DEFENDANT MUMBLING.)

KAYLA COOK: I will never be the monster that they're trying to make me out to be. And I don't know if I can show this to you guys but this is Minor's finger painting.

(DEFENDANT MUMBLING/DISPLAYING A PICTURE.)

KAYLA COOK: When me and the kids did it together. But I'll always love Minor, no matter what. I've never done anything to hurt any of my kids, especially Minor. And all I did was want to save her. And this is the . . .

THE COURT: All right. Anything further?

MR. BURTON: Just, your Honor, that twenty years means a whole lot more to Kayla Cook than twenty years would mean to most other people, your Honor. And I would ask you to sentence her to the minimum sentence.

THE COURT: Have you explained to Ms. Cook that she has ten days, excluding today, to appeal the verdict and sentence that will be imposed?

MR. BURTON: I have, your Honor.

THE COURT: Very good. All right. First, Ms. Cook, I'm sorry that you have the health condition that you do. That's unfortunate, but this case is unfortunate, and I thought your conduct in this case was very callous, that you had no remorse. You've shown no remorse throughout the course of this trial.

I can't imagine the pain that this child was in the day of her death, and before her death. Your conduct was truly reprehensible, heinous. Your letter to her that you just read, or that was read by your attorneys, much like the rest of your conduct in this case, is contrived and calculated, and designed to show that you're not at fault

when you, in fact, are at fault.

I thought the facts in this case were overwhelming. Life is the only appropriate, and I'm going to sentence you to life in prison. Good luck to you.

(DEFENDANT EXITS COURTROOM VIA HOLDING CELL DOOR.)

THE COURT: All right. Ladies and gentlemen, of the jury, you're free to go.

Our bailiff, would you make sure they get these pictures back.

THE BAILIFF: I will, your Honor.

THE COURT: Here's these pictures back.

SOLICITOR CAMPBELL: Thank you.

(WHEREUPON, COURT'S EXHIBITS NO. 13, 14, PREVIOUSLY IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

THE COURT: All right. Sine Die.

(COURT ADJOURNED MONDAY, AUGUST 19, 2019 AT 03:50 P.M.)

STATE OF SOUTH CAROLINA	)	**IN THE GENERAL SESSSIONS COURT**
COUNTY OF Lancaster	)	**SIXTH JUDICIAL CIRCUIT**
	)	WARRANT No. 2017A2920300657
STATE OF SOUTH CAROLINA,	)	
	)	
VS.	)	**MOTION to SUPRESS**
	)	
Kayla M. Cook,	)	Healing Fracture of Arm
	)	
DEFENDANT.	)	

1. The Defendant, by and through her undersigned counsel, requests this Court to require the State to proffer any evidence they may have that proves beyond a reasonable doubt that the healing fracture of Minor [redacted]'s arm was inflicted by the Defendant.

2. The uncontroverted evidence in this case indicates that the arm fracture was most likely caused by a fall from a bed no less than weeks before Minor's death. No other cause has been suggested by two of the State's doctors who have ventured an opinion regarding the fracture, but to the contrary, one doctor opined that the injury could have been from a fall from bed/mattresses.

3. If the State possesses any evidence that connects the Defendant with Minor's arm injury, the Defendant asks this court to require the State to proffer such evidence

4. Should the State fail to produce evidence which directly connects the Defendant with the Minor [redacted]'s arm fracture, The Defendants prays that his court will suppress any testimony, recorded information or photographs regarding Minor [redacted]'s arm.

Respectfully Submitted

August 12th, 2019

Ross A. Burton
Assistant Public Defender
Sixth Judicial Circuit

1550 | SMS - Outbox | SMS

Description:

From: [redacted] **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:42:02 AM

To: [redacted]

Remote party: [redacted]

Direction: Outgoing Read status: Read Deleted: No

[redacted]

1551 | SMS - Inbox | SMS

Description:

From: [redacted] **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:38:07 AM

To: [redacted]

Remote party: [redacted]

Direction: Incoming Read status: Read Deleted: No

[redacted]

1552 | SMS - Outbox | SMS

Description:

From: Tracy Schroeder **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:37:37 AM

To: [redacted]

Remote party: [redacted]

Direction: Outgoing Read status: Read Deleted: No

[redacted]

1553 | SMS - Inbox | SMS

Description: Its a bad sprain, nothing is broken. So

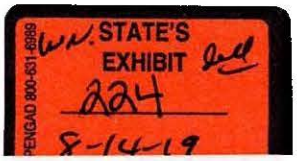
From: Kayla Cook <+18033571247> **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:36:21 AM

To: Tracy Schroeder

Remote party: Kayla Cook <+18033571247>

Direction: Incoming Read status: Read Deleted: No

Its a bad sprain, nothing is broken. So she has to keep the wrap on it and take it easy. She hurt it worse at grandmas so shes been laying down and not using it just take her to eat or something small so shes not playing on it. No park.



1554 | SMS - Outbox | SMS

Description: [redacted]

From: [redacted] **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:25:28 AM

To: [redacted]

Remote party: [redacted]

Direction: Outgoing Read status: Read Deleted: No

[redacted]

1555 | SMS - Outbox | SMS

Description: [redacted]

From: [redacted] **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:23:57 AM

To: [redacted]

Remote party: [redacted]

Direction: Outgoing Read status: Read Deleted: No

[redacted]

1556 | SMS - Outbox | SMS

Description: What did the doctor say? Is it broke or

From: Tracy Schroeder **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:20:39 AM

To: Kayla Cook <+18033571247>

Remote party: Kayla Cook <+18033571247>

Direction: Outgoing Read status: Read Deleted: No

What did the doctor say? Is it broke or sprained? You know her moms gonna ask.

1557 | SMS - Outbox | SMS

Description: [redacted]

From: Tracy Schroeder **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:19:25 AM

To: [redacted]

Remote party: [redacted]

Direction: Outgoing Read status: Read Deleted: No

[redacted]

1558 804

1 | SMS - Inbox | SMS

Description: Her arm has been checked out. Do not tak

From: Kayla Cook <+18033571247> | **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:18:55 AM

To: Tracy Schroeder

Remote party: Kayla Cook <+18033571247>

Direction: Incoming | Read status: Read | Deleted: No

Her arm has been checked out. Do not take the bandage off and do not mess with it.

1559 | SMS - Inbox | SMS

Description:

From: [redacted] | **Time stamp (Atlantic Time -04:00):** 11/25/2017 10:17:59 AM

To: Tracy Schroeder

Remote party: [redacted]

Direction: Incoming | Read status: Read | Deleted: No

[redacted]

1560 | SMS - Inbox | SMS

Description:

From [redacted] | **Time stamp (Atlantic Time -04:00):** 11/25/2017 9:50:14 AM

To: Tracy Schroeder

Remote party: [redacted]

Direction: Incoming | Read status: Read | Deleted: No

[redacted]

1561 | SMS - Inbox | SMS

Description:

From: [redacted] | **Time stamp (Atlantic Time -04:00):** 11/25/2017 9:50:12 AM

To: Tracy Schroeder

Remote party: [redacted]

Direction: Incoming | Read status: Read | Deleted: No

[redacted]

CAN you review for JURY

- HOMICIDE by child ABUSE
- EXTREME indifference

Pat Lyon

@ 3.10



ARREST WARRANT

2017A2920300657

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LANCASTER

THE STATE
against

KAYLA COOK
Address: [redacted] HEATH CIRCLE
LANCASTER SC 29720
Phone: _____ SSN: _____
Sex: F Race: W Height: _____ Weight: _____
DL Sta[redacted] L#: _____
DOB: [redacted] Agency ORI#: SC0290100
Prosecuting Agency: LANCASTER PD
Prosecuting Officer: DET. SGT. SIMS
Offense: HOMICIDE BY CHILD ABUSE
Offense Code: 2356
Code/Ordinance Sec. 16-03-0085(A)(1)(B)(1)

This warrant is CERTIFIED FOR SERVICE in the
☒ County/ ☐ Municipality of
Lancaster. The accused is to be arrested and brought before me to be dealt with according to law.

_____ (L.S.)
Signature of Judge

Date: 12/29/17 10:26 AM
Date Time

RETURN

A copy of this arrest warrant was delivered to defendant KAYLA COOK on 1-2-18

_____
Signature of Constable/Law Enforcement Officer

RECEIVED DEC 19 2017

RETURN WARRANT TO:
LANCASTER MUNICIPAL COURT
405 E ARCH ST//PO BOX 1149
LANCASTER SC 29721

AFFIDAVIT

Form Approved by S.C. Attorney General April 21, 2003 SCCA 618

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LANCASTER

Personally appeared before me the affiant DET SGT J M SIMS who being duly sworn deposes and says that defendant KAYLA COOK did within this county and state on 12/19/2017 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LANCASTER) in the following particulars:

DESCRIPTION OF OFFENSE: 16-03-0085(A)(1)(B)(1) / HOMICIDE BY CHILD ABUSE

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 12/18/2017 KAYLA MARIE COOK DID COMMIT THE OFFENSE OF HOMICIDE BY CHILD ABUSE AT THE LOCATION OF [redacted] HEATH CIRCLE WHICH IS IN THE CITY LIMITS OF LANCASTER. AT 12:04 P.M. OFFICERS RESPONDED TO THE ABOVE LOCATION IN REFERENCE TO A THREE (3) YEAR OLD CHILD (Minor [redacted]) WHO WAS UNCONSCIOUS AND NOT BREATHING. THE VICTIM WAS RUSHED TO THE HOSPITAL WHERE SHE WAS LATER PRONOUNCED DECEASED. NUMEROUS BRUISES WERE OBSERVED ON SEVERAL PARTS OF THE VICTIM'S BODY. COOK STATED TO INVESTIGATORS THAT SHE WAS ALONE SINCE 7A.M. CARING FOR THE VICTIM WHILE THE VICTIM'S DAD WAS AT WORK. COOK STATES SHE PUT THE VICTIM IN THE BATH AND WHEN SHE CAME BACK AND CHECKED ON HER, Minor WAS LYING FACE UP IN THE TUB UNRESPONSIVE BUT LOOKING AROUND AND BREATHING. AUTOPSY RESULTS STATE Minor DIED FROM CEREBRAL EDEMA WHICH WAS DUE TO A BLUNT FORCE TRAUMA/INJURY TO HER HEAD AND THAT VICTIM DIED WITHIN MINUTES OF THIS HEAD INJURY. COOK STATED IN HER STATEMENT THAT THE VICTIM WAS NOT ACTING RIGHT AND WAITED TO HAVE A NEIGHBOR TO CALL 911. COOK DID CAUSE THE DEATH OF THE CHILD WHILE COMMITTING CHILD ABUSE OR NEGLECT AND DEATH OCCURRED UNDER CIRCUMSTANCES MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE.

Signature of Affiant Sgt Jodo M Sims

Affiant's Address 405 E ARCH ST//PO BOX 1008
LANCASTER SC 29721
Affiant's Telephone 803-283-1174

STATE OF SOUTH CAROLINA
☐ County/ ☒ Municipality of
LANCASTER

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER IN THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on 12/19/2017 defendant KAYLA COOK did violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of LANCASTER) as set forth below:

DESCRIPTION OF OFFENSE: MURDER / HOMICIDE BY CHILD ABUSE (20Y TO LIFE)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to the law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me on 12/19/2017 Time
Date

_____ (L.S.)
RONDA H PARKER

Judge Code: 6820

Judge's Address P. O. BOX 1149
LANCASTER SC 29721
Judge's Telephone 803-285-7622

Issuing Court: ☐ Magistrate ☐ Municipal ☒ Circuit

ORIGINAL

Case: 2017-18257

896

WITNESSES

Sims – LPD #17-18257

Baird – SLED #55-17-0239

Trista Baird

B Small

ARREST WARRANT NUMBER/DOA

2017A2920300657 (DOA- 1-2-18)

ACTION OF GRAND JURY

TRUE BILL

Amanda Helms

Foreperson of Grand Jury

Date: JUN 20 2019

VERDICT

Guilty

Foreperson of Petit Jury

Date: 8-19-19

AMENDED

DOCKET NO. 2018-GS-29-1659

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

JUNE TERM 2019

THE STATE

vs.

KAYLA COOK

2019 JUN 20 AM 11:07

Amended Indictment for

Homicide by Child Abuse

SC Code: § 16-3-85(A)(1)

CDR Code: 2356

Class: Felony EXM

897

STATE OF SOUTH CAROLINA)
)
COUNTY OF LANCASTER)

AMENDED INDICTMENT

At a Court of General Sessions, convened on June 20, 2019, the Grand Jurors of Lancaster County present upon their oath:

HOMICIDE BY CHILD ABUSE

That Kayla Cook did in Lancaster County, South Carolina, on or about December 18, 2017, cause the death of Minor [redacted], a child under the age of eleven, while committing child abuse or neglect upon the child, and the child's death occurred from cerebral edema and/or hemmorage to the abdominal area, resulting in blunt force trauma to the head and/or abdomen, under circumstances manifesting the defendant's extreme indifference to human life in violation of §16-3-85(A)(1) of the *Code of Laws of South Carolina, (1976), as amended.*

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Randy E. Newman, Jr., SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Lancaster)
STATE VS.)
Kayla Marie Cook)
AKA:)
Race: WHITE Sex: F Age: 27)
DOB: [redacted] SS#: [redacted])
Address: [redacted] Heath Circle)
City,State,Zip: Lancaster, SC 29720)
DL#: [redacted] SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2018GS2901659
A/W#: 2017A2920300657
Date of Offense: 12/19/2017
S.C. Code § : 16-03-0085(A)(1)(B)(1)
CDR Code #: 2356

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Murder / Homicide by child abuse (20Y to Life)

in violation of § 16-03-0085(A)(1)(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2356
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 102600 SC Bar# Kayla Cook Defendant _____ Attorney for Defendant 7537 SC Bar#

WHEREFORE, the Defendant is commited to the ☒ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of Life days/months/years or ☐ under the **Youthful Offender Act** not to exceed _____ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$ 128.75

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk: Jeff Hammond
Court Reporter: Wanda Nelson
Presiding Judge: [signature]
Judge Code: 2155
Sentence Date: 8-19-19

SCCA/217 (07/2016)

900

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

RECEIVED
Jun 25 2021
SC Court of Appeals

Respectfully Submitted,

s/*Susan B. Hackett*
Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 25th day of June, 2021.