

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Chester County

Brian M. Gibbons, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRYL QUAN TRAVIS DAMOND WILSON,

APPELLANT

APPELLATE CASE NO. 2019-001551

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT #50 (CD).

1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2018-GS-12-00314
5 State of South Carolina
6 Vs.
7 Darryl Quan'Travis Damond Wilson
8
9 Chester, South Carolina
10 September 3-6, 2019
11 Before the Honorable Brian M. Gibbons
12 APPEARANCES
13 For the State: Candice Lively, Kaitlyn Easler
14 For the Defendant: Jim Boyd
15
16 Reported by: Michael C. Watkins
17 Official Court Reporter
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1 provide an opinion as to any kind of specific intent,
2 obviously that's left up to the jury. Also the homicide by
3 child abuse statute very clearly says that it's an act
4 that's done with extreme indifference to human life, that's
5 what they intend to testify to. And then any other
6 additional information with regards to intent would come
7 from the definitions that have been used in case law, but it
8 would not come from the witness stand, Your Honor.

9 THE COURT: All right. So that motion is granted then
10 with consent.

11 MS. LIVELY: With consent, exactly. I just wanted to
12 be sure that -- they're going to hop around it but they will
13 not actually talk about specific intent.

14 THE COURT: Right, that's a matter left for the jury.
15 Of course, intent is -- and that's based on circumstantial
16 evidence and things that the jury can infer from hearing
17 everything. But certainly you're not objecting to -- well,
18 are you objecting to the qualifications of these witnesses
19 as experts? Do you intend to voir dire them?

20 MR. BOYD: Probably not, Your Honor.

21 THE COURT: All right. We'll deal with that as it
22 comes up, but at this time and moment that's granted by
23 consent. All right. What's the next one, Jackson versus
24 Denno?

25 MR. BOYD: And also, Your Honor, the admissibility of

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1 any statements made by the defendant. Again, he was --
2 before he got out on bond he was in jail for several months,
3 I think. He was -- during that time there were numerous
4 jail calls recorded when he talked to other people,
5 basically volumes of it like the other evidence, and I would
6 ask for a determination before any such statement comes in
7 as also to its relevance and admissibility before it's
8 published to the jury.

9 THE COURT: All right. Is the State ready to proceed
10 on that issue?

11 MS. LIVELY: Sure, Your Honor. And I will tell you
12 that there -- the word volumes doesn't even kind of scratch
13 the surface. So what we did was we provided a breakdown to
14 my SLED agents as to the ones that they listened to that
15 they felt were relevant for issues in this case, and I did
16 email that call list to Mr. Boyd so he would have an idea.
17 So does he -- those are the only ones that I'm planning on
18 possibly addressing. Are there any of those -- are you just
19 saying you don't want any of them in? I want to be real
20 clear. Kind of like with the text messages and the Facebook
21 stuff.

22 MR. BOYD: Well, there are some I would think that I do
23 not. We can go through the ones I object -- are you
24 intending to introduce all of those?

25 MS. LIVELY: No.

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1 MR. BOYD: I mean, all of the ones that you thought
2 were relevant, that's --

3 MS. LIVELY: I will play the ones, Your Honor, that we
4 think are relevant.

5 THE COURT: Okay. And then I'll listen and see if
6 there is any -- and I'll make a determination as to whether
7 or not they're introduced.

8 MS. LIVELY: Thank you.

9 THE COURT: I think that's best for the record, let's
10 go ahead and do it now and get it done. Well, let's -- I
11 have Court's Exhibits 1 through 5. These are the proffered
12 text messages. Do you want to go ahead and deal with that?

13 MS. LIVELY: Yes, sir. In Court's Exhibit Number 1, I
14 think it's very relevant, it tells whenever the bio-mom is
15 dropping the child off for her visitation. She actually is
16 about --

17 MR. BOYD: I have no objection to Number One.

18 THE COURT: All right. Court Exhibit Number 1 there's
19 no objection to.

20 MR. BOYD: Okay. Then we've got the one that's Court
21 Exhibit 2. This is the one that does talk about potty
22 training. This is from July of 2017, July 28th of 2017
23 where he's talking about he doesn't want her to wear pampers
24 anymore, bla, bla, and you see it's from Trab Wilson, Trab
25 is the defendant. Your Honor, it's the State's position

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1 based on information that we have also in jail calls that
2 this was a situation where the defendant became frustrated
3 during the potty training process with this child. There is
4 several discussions throughout both the jail calls as well
5 as in text messages and Facebook posts that he couldn't
6 handle the potty training of this child. Even Ekeria Foote
7 addressed that in her last interview with SLED, that the
8 child had had an accident potty training on the morning that
9 we believe was close in time to the injury that caused her
10 death, so we believe that to be very relevant. It shows
11 that there just wasn't from any type of -- even if we're not
12 going towards any kind of an intent, what we do have to show
13 is that we've got someone here who had an issue that was
14 causing him to lash out at the child and it's very obvious
15 in --

16 THE COURT: And who is the text message to?

17 MS. LIVELY: The text message is to -- that's between
18 Tornita, which is the biological mother. He is basically
19 telling -- they're both kind of talking back and forth about
20 he wants her to wear panties and he doesn't want her to wear
21 Pampers anymore.

22 THE COURT: Okay.

23 MS. LIVELY: Because this was something -- they don't
24 live together so it was kind of one of those things where
25 they were both trying to potty train the child and had

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1 different opinions about how quickly she should get it.

2 THE COURT: Okay.

3 MS. LIVELY: All right. So that's Number 2.

4 THE COURT: All right. Mr. Boyd, what's the defense's
5 position on Number 2?

6 MR. BOYD: I don't think that's -- we're talking about
7 messages that were on July the 28th, this was October the
8 31st, November the 1st when **Minor** died. All
9 he's doing -- he's complaining about the child not being
10 potty trained. I mean, I don't see the relevance of that.
11 They're trying to speculate because he -- the child was not
12 potty trained at that time somehow that's relevant to him
13 beating the child or something of that nature. It's just --
14 there's no connection here. I mean, there's no parent that
15 doesn't get frustrated or likes to have a child using the
16 bathroom in their pants, I've been through it myself, but --
17 and everybody as a parent has. And this is actually, Your
18 Honor -- this is July the 28th, so we're looking August,
19 September, two months prior, so I don't see this as relevant
20 at all.

21 THE COURT: All right. Any further argument from the
22 State on Court Exhibit 2?

23 MS. LIVELY: Yes, sir, Your Honor. It's our position
24 once again that it's extremely relevant. Because what it
25 does is also Dr. Lamb can testify that in general that

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1 certain triggers have been shown to be what causes parents
2 to possibly lash out at their children, from things like
3 excessive crying, potty training issues, inability to
4 actually make them eat, all of these different things that
5 were going on. And everything that's going to be talked
6 about in regards to this child from what our investigation
7 has shown is that she was a perfect child. There were no
8 issues except for the potty training issue, which was an
9 issue between the bio-mom and the defendant, and even Ekeria
10 Foote, who was his girlfriend at the time. So Your Honor, I
11 think it is extremely relevant, and to show how long it had
12 been going on I think is even more important. The child was
13 only two and a half years old whenever she died, but he was
14 already saying she needs to be wearing her panties, she
15 doesn't need to be wearing Pampers. And also that type of
16 wanting the child to be potty trained that soon, that early.
17 The unrealistic expectations of someone who thinks that if I
18 just put panties on her she's going to get it.

19 THE COURT: What about Court Exhibit 3, 4 and --
20 Court's Exhibit 3 is closer to the time frame in question?

21 MS. LIVELY: Yes, sir. Number 3 -- the relevance of
22 Number 3, Your Honor, is that during -- and we'll
23 probably -- this will cross over into the statements by the
24 defendant. He clearly says that he has never whooped,
25 touched, laid a hand on any child, much less his own. But

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1 in these text messages, Your Honor, to Ekeria, which is his
2 girlfriend right before the time they actually got **Minor** at
3 their house, he is telling her to whoop her daughter's butt,
4 that's **Mi'honesty F.**, who is the one who actually lives
5 with them in the house on White Oak at the time. So this
6 clearly goes to show that this is someone who one minute
7 he's saying, "I've never laid a hand on my child, anybody's
8 child and I wouldn't do it, I wouldn't whoop anybody," and
9 he's saying, "Whoop her ass."

10 THE COURT: All right. What's the defendant's position
11 on Number 3? I'm going to come back to 2 with my decision
12 after I hear all them.

13 MR. BOYD: Okay. Your Honor, on Number 3 he's not even
14 talking about this child, **Minor**, in this case. He's
15 talking with a girlfriend about her daughter, Mi'honesty
16 apparently. What he's complaining it looks like, "Why do
17 you let other people whip her? You're the mama, you should
18 do that." He's not advocating whipping and he says -- so
19 he's talking about somebody named Teco done whipped her and
20 I don't see the relevance of this to **Minor**. He's
21 having a -- whether he's philosophically for corporal
22 punishment or not is not relevant. It's no indication here
23 he's advocating abuse to a child. The reason -- they're
24 talking about engaging in the corporal punishment of Mia but
25 talking about a different child. He's not saying he has

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1 ever done it here, he's talking about her doing it, and he's
2 complaining about her letting other third parties engage in
3 corporal punishment on a child. So I don't see any
4 relevance to that at all.

5 THE COURT: Any reply by the State on that?

6 MS. LIVELY: Just as I sated before, Your Honor, he
7 clearly stated that he wouldn't whoop anybody's child
8 including his own, and he was living in the home with
9 Mi'honesty at that time and was basically a guardian
10 caregiver for her whenever Ekeria was going to work, so he
11 had access to discipline her as well.

12 THE COURT: All right. Number 4?

13 MS. LIVELY: And Number 4, is whenever he's talking
14 to -- this is a text message from the defendant to the
15 biological mother where he's saying, "I don't know what
16 happened. When I checked there was throw-up on the bed, my
17 baby probably choked." Just showing that he's trying to
18 coming up with reasons that he died.

19 MR. BOYD: Your Honor, I don't object to Number 4.

20 THE COURT: All right. Number 4 is in. Number 5?

21 MS. LIVELY: And Number 5 is a statement that he made,
22 it looks like he's responding to text messages on -- yeah.
23 This is from a cell phone, Tornita Adams, he's saying, "I
24 swear to God she gone live through me. I swear to God I
25 said I hope they don't think I did it. Then she had that

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1 burn mark when she fell her" -- that should be, I guess,
2 nose -- "lord." And that was done on the day after the
3 child had actually died. Which once again, Your Honor,
4 he's -- the -- in his statement that he gave to police later
5 on he very clearly was made aware that the nose mark of this
6 child was not present at the time whenever he actually got
7 the child on Saturday night, and that becomes a really big
8 issue in regards to injuries the child sustained while in
9 his care.

10 THE COURT: All right. Number 5 from the defense?

11 MR. BOYD: Your Honor, I don't object to Number 5.

12 THE COURT: All right. Number 5 is coming in then.

13 All right. So we're talking about Number 2 and 3. All
14 right. Number 1 is coming in by consent, Number 4 and
15 Number 5 by consent. All right. I'm going to grant the
16 defendant's motion to suppress as to Court Exhibit 2. I
17 find that it's too remote, it's more prejudicial than
18 probative. As to Number 3, however, I am going to deny the
19 defendant's motion to suppress that, I will allow the State
20 to introduce that. Okay. All right. Now, going back to
21 the Denno.

22 MR. BOYD: Your Honor, before we do that, can I bring
23 up one other matter?

24 THE COURT: Yes, sir.

25 MR. BOYD: In arguing this motion she mentioned what

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1 Dr. Lamb is going to testify to. This may not be the
2 appropriate time to raise that, but I certainly would object
3 to her talking about triggers and that type of thing, I
4 think that's speculative. She's going into what triggers
5 other people, it's not specifically him. It's -- and I
6 don't think that's relevant. It is certainly unduly
7 prejudicial to allow her to testify to what triggers other
8 people to commit child abuse.

9 THE COURT: And it very well may be, I'll just have to
10 make that determination after I hear her testimony. I mean,
11 I want to hear her voir dire -- I mean, her qualifications,
12 that will kind of be -- I'll have to make that determination
13 later on a contemporaneous standpoint. So just renew your
14 objection at that time and I will make a decision then. All
15 right. Any other issues regarding the text messages? Okay.

16 MS. LIVELY: We do have Facebook messages, Your Honor,
17 not many but we have --

18 THE COURT: See if he consents. If he doesn't then
19 we'll make a copy of the ones he doesn't consent to.

20 (Break in proceedings.)

21 MS. LIVELY: Your Honor, we're going to mark these as
22 well as before. If you'll give me just a moment. He only
23 objects to one so we're going to be able to put the others
24 in, and I'll address it. It's another one about potty
25 training and that kind of thing. So when he brings it back

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1 I will give you a copy --

2 THE COURT: I just want to make a good record so we'll
3 make them each individually like we did before.

4 MS. LIVELY: Do you want me to cue up some of the jail
5 calls?

6 THE COURT: Yeah.

7 MS. LIVELY: The first message, Your Honor, they're
8 identified in a call log whenever you look at them on the
9 disc. So what we do is we actually pull up the number, and
10 the number on this one is 552424, it gives you the date that
11 the conversations occurred. This one happened March 2nd of
12 2018. And just for the record, the defendant was actually
13 arrested for these charges on February the 9th of 2018, so
14 he had been in jail for that period of time whenever this
15 recording was taken. And what I did was, the conversations
16 are very long. It starts out with the disclaimer that, you
17 know, this message is going to be recorded, all the usual
18 stuff that's on there notifying the defendant and whoever
19 he's talking to that this information is being recorded. So
20 I'm going to pull this one up. And what we did, Your Honor,
21 was scroll through to find what we wanted to play, because
22 otherwise it would take forever in each one of these calls.

23 (At this time the jail call was played.)

24 MS. LIVELY: That's what the State wants to do. Your
25 Honor, he's talking about his sisters, Kamiya

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1 (phonetically), was pregnant who had to find out who the
2 father was and he said it will be like what Nita did to me,
3 which is the mother of the child, make him take a --
4 according to him, take a blood test and look where it got
5 me.

6 THE COURT: All right.

7 MR. BOYD: Your Honor, I don't see the relevance of
8 that. That has nothing to do with this case that he had to
9 take a blood test.

10 THE COURT: All right. What's the relevance of that,
11 Madam Solicitor?

12 MS. LIVELY: The relevance of it, Your Honor, is it
13 shows -- his child is dead and he's more worried -- he's
14 like, "Look what it got me taking a paternity test." Yeah,
15 he's got a dead daughter now. I think that shows a lack of
16 remorse of this defendant, that he had his child die just
17 four months ago and he's sitting here talking about, "yeah,
18 you know what, doing that blood test" -- he doesn't say
19 anything about loving his child and he's sad that she's
20 gone, he's just saying, "Look what it got me, I'm in jail
21 now charged with killing her," whatever. I think it's
22 extremely relevant. And he's talking to Ekeria Foote, who
23 is the mother of his child that she had that baby while he
24 was locked up. I mean, you know, I just don't see how it
25 can be considered not relevant when we're looking at someone

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1 who has his child in his care and custody --

2 THE COURT: What's it probative of?

3 MS. LIVELY: It is probative to show, Your Honor, the
4 lack of actual --

5 THE COURT: Extreme indifference to --

6 MS. LIVELY: Yeah. He did not have a level of
7 connection with this child to where he could control his
8 anger whenever this happened to this child, whenever the
9 child didn't do something that he expected her to do. And
10 it shows the level of disconnection by him saying, "Yeah, I
11 took a blood test, look where it got me." That, Your Honor,
12 shows that level of disconnection he had with his child and
13 how he could harm her the way he did and wake up the next
14 morning and just keep on going.

15 THE COURT: All right. Defense motion to suppress is
16 denied on that one.

17 MS. LIVELY: All right. Your Honor, there was another
18 recording, this one was under call number 622126, date
19 4/4/2018.

20 (At this time the call was played.)

21 MS. LIVELY: "Lord, forgive me, I hate I was the
22 daddy." Same argument as before, Your Honor.

23 THE COURT: Same argument as relevance from the
24 defense?

25 MR. BOYD: Yes, Your Honor. I mean, this one goes --

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1 he is talking about a child dying and saying he hates he was
2 the daddy. I don't see the relevance of that.

3 THE COURT: Defense motion to suppress that statement
4 is denied. When I say that, I have balanced the probative
5 value versus the prejudicial effect under a 403 analysis and
6 find it's more probative than prejudicial and therefore I
7 will allow it to come into evidence for the purpose of the
8 record. See, this is why I said 2:00.

9 MS. LIVELY: All right. Your Honor, this one is going
10 to be mentioned 541894.

11 (At this time the recording was played.)

12 MS. LIVELY: Your Honor, he's just talking about a
13 couple of days after the baby died he just wants it over
14 with, he wants it over and he wants to get that phone back.
15 Once again he's showing that his concern and his focus is
16 not about the child and his lack of attachment to this
17 child.

18 THE COURT: All right. Same argument?

19 MR. BOYD: Same argument, Your Honor. In this
20 particular case he's talking about just wanting this
21 investigation to be over and would like to get his phone
22 back. That's not showing indifference, it's showing about
23 talking about the investigation.

24 THE COURT: All right. Defense motion to suppress that
25 audio statement is denied.

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1 MS. LIVELY: Another one that we have, Your Honor -- it
2 will just be two more, Your Honor. This one, 558948.

3 (At this time the recording was played.)

4 MS. LIVELY: Once again, Your Honor, telling her to
5 whoop My, My is Ekeria's daughter that was living with the
6 defendant and Ekeria at the time whenever **Minor** died. And
7 both the defendant -- well, the defendant in his statement
8 stated that he would never touch his kid or anybody else's
9 kid, he never whooped them or anything. So once again that
10 goes to show that he was being untruthful.

11 MR. BOYD: When was this -- what was the date of this?

12 THE COURT: This one was March 5th, 2018, less than a
13 month after he was arrested for the homicide.

14 MR. BOYD: I mean, he's talking about the other child
15 recommending somebody use corporal punishment, I don't see
16 the relevance of that.

17 THE COURT: All right. Objection is overruled. The
18 defendant's motion to suppress that statement is denied.

19 MS. LIVELY: All right. One more, Your Honor.

20 THE COURT: Again, I think it's more probative than
21 prejudicial, certainly the jury should be allowed to hear
22 that.

23 (At this time the recording was played.)

24 MS. LIVELY: Okay. Your Honor, what the defendant was
25 doing at that time, this was just a couple of weeks after he

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1 had been arrested, he's talking about the arrest and he's
2 talking about the blunt force trauma to the abdomen and he's
3 trying to say that it was actually that her appendix burst
4 and that they got it wrong. Just that he's trying to make
5 some type of an excuse or accident or medical reason as to
6 why the child died other than he did it. That would be the
7 relevance of that one.

8 MR. BOYD: I don't object to that one, Your Honor.

9 THE COURT: All right.

10 MS. LIVELY: I think we're good on that. We're not
11 going to go through anymore of them. I think under the
12 circumstances the ones the State has offered at this time
13 would be the extent of it.

14 THE COURT: Was there audio or a written statement made
15 by the defendant to law enforcement?

16 MS. LIVELY: Your Honor -- yes. He gave -- well, let
17 me put it this way, on the day whenever he showed up at the
18 hospital he was not in custody, they were just interviewing
19 everybody to find out what happened to the child. That was
20 audio and video recorded at the hospital of the defendant by
21 SLED Agent Baird as well as Lolita Fourney was there. That
22 was given to the defense. That was the just what happened,
23 has she been sick, those type of things. And then the next
24 thing they did was on November 3rd, which was two days after
25 her death, they did a reenactment. They had it at the home

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1 nobody was present --

2 THE COURT: Well, it goes to third party guilt, though,
3 and there's a certain threshold or standard you have to meet
4 in regards to third party guilt, so I follow the State's
5 logic on that. Let me hear your argument on that.

6 MR. BOYD: Well, it's relevant certainly to where
7 certain marks could come from. I mean, it's admitted
8 without question that certain marks on **Minor**, certain scars
9 on **Minor** didn't happen while with my client, I think that's
10 undisputed, and whether these marks are indicative of abuse
11 can be certainly relevant as to who was abusing **Minor**. The
12 fact that other children in the home are also potentially
13 being abused I think is relevant to the issues of whether
14 the injuries happened there or with my client.

15 THE COURT: All right. Coming back to the State.

16 MS. LIVELY: Yes, sir, Your Honor. That's the danger
17 of when you start opening up the threshold of how far out
18 we're going to go. Because what we have is those other
19 marks that are on **Minor** have been identified as, yes, she
20 would get mosquito bites and that would be handled by
21 putting whatever on the mosquito bites. There were a burn
22 mark on her leg, which the mother actually admitted to
23 happening at her house. The defendant noticed it whenever
24 **Minor** got to his house Saturday night and so did Ekeria and
25 that was documented as well. Now, that burn mark on the leg

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1 was stated to have been accidental, and it could have been
2 accidental or not, we don't know. So that is the only thing
3 that was on the child that was of somewhat of a concern for
4 Dr. Lamb when she saw it. Now, she did notice, okay,
5 there's other little marks and, you know, things on her
6 skin. But they did a radiological exam, there was no
7 healing rib fractures or anything like that, no trauma to
8 the head that was internal. There was some scrapes.
9 Everything that she saw that related to what caused her
10 death was very clearly from the abdominal injury. So what
11 you have is if there's other things that we can't clarify as
12 to where they came from, who did it and when, then we have a
13 real problem, because it then it goes into that third party
14 guilt issue at the exclusion of the defendant who could have
15 done it, and it also doesn't relate to her death.
16 Specifically her death was based on the blunt force trauma
17 to her abdomen, nothing else. A lot of times when we have
18 these child death cases we've got the healing rib fractures,
19 we might have subdural hematomas in the head from shaking,
20 all of these other things. We don't have that here. We
21 have one event that clearly has been documented, and I don't
22 think that even his pathologist is going to disagree with
23 that. Timing-wise, yes. But in regards to what killed this
24 child we don't have any evidence that any of those other
25 marks have anything to do with what happened to her whenever

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1 she died.

2 THE COURT: All right. Let me think about this and
3 I'll think about it over the lunch recess. Y'all
4 mentioned -- and I'll announce my decision prior to starting
5 the trial. Y'all told me there was some photos. Do
6 y'all -- why don't y'all talk during the lunch recess and
7 show him what you intend to offer, see if y'all can agree.
8 What you can agree on we'll mark as Court's Exhibits, we'll
9 go through them the way we did the text messages and I'll
10 decide whether they can come in or not. Some I may not be
11 able to make that decision with the pathologist not being
12 here today and we'll just defer to that.

13 MS. LIVELY: Yes, sir.

14 THE COURT: All right. We're down for lunch, we'll see
15 y'all in an hour.

16 (A lunch break was taken.)

17 THE COURT: We're still waiting on a couple of jurors.
18 I will go ahead and put my decision on State's motion in
19 limine to exclude the DSS investigation of the victim's
20 siblings on the record. After doing some further research
21 and further deliberations I am respectfully going to deny
22 the State's motion in limine to suppress and allow that
23 evidence in, okay? What's the next matter?

24 MS. LIVELY: Well, Your Honor, I would like to be able
25 to add the children as witnesses. Obviously they're minors,

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1 but I still believe that based on your ruling that at this
2 point in time the State would have to call them, because
3 otherwise they're forensic interview -- I would want that to
4 come in and I can't do that without the children.

5 THE COURT: All right. What is the defense's position
6 on that?

7 MR. BOYD: Your Honor, if she wants to call them she
8 can call them.

9 THE COURT: Any objection to amending the State's
10 witness list then to allow her to call as potential
11 witnesses the children involved?

12 MR. BOYD: No, I have no objection to that. As long as
13 the -- I think the jury could be asked before if they know
14 these children, and I doubt if they do. I don't think
15 they're from Chester County.

16 THE COURT: Can you give me the names of the children
17 so I can voir dire the trial jury on that?

18 MS. LIVELY: Brother 1 [REDACTED], Brother 2 [REDACTED] and
19 Mi'honesty F. [REDACTED] (all phonetically.)

20 THE COURT: Okay. You can have somebody write that
21 down for me, I can't spell that. Thank you.

22 MS. LIVELY: Your Honor, I did -- now that I think
23 about it too, Travis Pauls was the DSS caseworker out of
24 Lancaster County. One of the voir dire questions I did have
25 was whether or not anybody had been investigated by DSS

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1 or -- I can't remember exactly what my question was, but
2 since he's the one who actually did the investigation then
3 we probably need to add him as well. Travis Pauls. He's
4 out of Lancaster County, he works with DSS.

5 THE COURT: Okay. Any objection to that?

6 MR. BOYD: No objection.

7 THE COURT: All right. Without objection. Oh, autopsy
8 photos before I bring the jury in.

9 MS. LIVELY: Your Honor, he didn't agree to any except
10 for one of the torso pictures. I went ahead and had all of
11 them marked.

12 THE COURT: All right. Number eight.

13 MS. LIVELY: Which one is number eight, Your Honor?

14 THE COURT: That's the picture of the face?

15 MS. LIVELY: Yes, sir, Your Honor.

16 THE COURT: Why is that --

17 MS. LIVELY: It's critical. It's an injury that
18 occurred to this child. And I will show, Your Honor, I
19 haven't marked these yet but I'll do it. At the time that
20 she was out at Halloween she had no marks on her face, that
21 was the night before she died. It is actually listed as
22 evidence of injury on the autopsy report, and we can clearly
23 show it was during the time whenever the child was in the
24 care of the defendant and his girlfriend.

25 THE COURT: All right. What's your argument as to

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1 number eight?

2 MR. BOYD: Well, Your Honor, number eight shows an
3 injury to the child's nose. It's unquestioned, I think,
4 that that injury was not connected -- well, it wasn't a
5 cause of death or connected to the death. The death was
6 blunt trauma to the abdomen. The injury, this injury, also,
7 I think the evidence will show, did not even occur at the
8 same time as the blunt force trauma to the abdomen. I think
9 all of the testimony will be that -- apparently probably
10 before she had gone trick or treating the injury occurred,
11 and the fact that she got some injury that's of unknown
12 origin, we don't know how that got there, that she got some
13 injury after that is not relevant. And certainly it may be
14 able to be testified to, but to just show a photograph of
15 her after she's dead with the injury I think is unduly
16 prejudicial.

17 THE COURT: All right. Coming back to the State. How
18 is this more probative than prejudicial if the fatal blow is
19 the blow to the stomach?

20 MS. LIVELY: Because what it shows, Your Honor, is that
21 while the child was in the defendant's care, the girlfriend
22 stated -- and she will testify to this and she has given
23 interviews to this, that the child did not have any injuries
24 to her face before she went to bed on Halloween night. That
25 night is whenever the defendant and the child were left

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1 alone before she died of the abdominal injury the next
2 morning. So yeah, the facial injury does not go along with
3 this, but what it shows is it shows a continuous course of
4 conduct where he is trying to say, "I don't know what
5 happened. Nothing happened in my care. I wouldn't hurt the
6 child. I didn't do anything."

7 THE COURT: That supports the State's theory of extreme
8 indifference.

9 MS. LIVELY: Absolutely.

10 THE COURT: All right. Defense motion to exclude or to
11 suppress 8 is denied. All right. Number 9. That's the
12 picture of -- I don't want to show this around family
13 members.

14 MS. LIVELY: If it's the torso picture, what we did was
15 if there is three -- I'm not sure if there's three of them
16 up there, but it's my understanding from talking to Mr. Boyd
17 he said that he would agree to one of them, so --

18 THE COURT: All right. I've got -- all right,
19 defense -- Court's 9 is a bigger one. Court's 10 is the
20 picture of the abdomen with what appears to be a rectangle
21 indentation around it.

22 MS. LIVELY: Yes, sir. What I did was I cropped out
23 the face of the child to make it less graphic for purposes
24 of having it possibly shown to the jury. One of them, the
25 larger one, which goes almost down to her genital area, the

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1 State wanted to have that one in because it obviously shows
2 injuries to the lower abdomen up through her abdomen, all
3 the way up closer to her chest. And the second one, which
4 actually shows where EMS would have put the pads on the
5 child in relation to where the bruising is, I wanted to show
6 that that was separate from anything from any kind of CPR
7 that would have been done on the child. So that's the
8 reason that one is closer to the chest that has the
9 rectangular sticker mark on it, that's the reason why the
10 State wanted those two in.

11 THE COURT: All right. And Mr. Boyd, on Court's 9 and
12 10, what is the defense's position?

13 MR. BOYD: Your Honor, I don't object to one showing
14 bruises. I think to show more is duplicative, that was my
15 objection.

16 THE COURT: Well, I'm going to allow both of them in
17 over defense's objection, you are protected in the record.
18 All right. Courts's -- I guess the remaining are all
19 pictures of internal organs. And what's the reason for
20 that, Solicitor?

21 MS. LIVELY: Because she died from internal bleeding,
22 and if we don't show the tear to the mesentery and the
23 hemorrhage to the pancreas, there's no way for the jury to
24 understand what the heck we're talking about. We're talking
25 about organs. There's no way to clean this up. I even

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1 responsibility to determine the guilt or innocence of the
2 defendant, and your verdict must be unanimous and it must be
3 based solely on the evidence as it's presented to you during
4 this trial and on the law as I instruct you at the close of
5 the trial. Thank you again for your attention. Please pay
6 close attention as the lawyers make opening statements.

7 Thank you very much. Madam Solicitor?

8 MS. LIVELY: Yes. Thank you, Your Honor. Good
9 afternoon. Thank y'all for your patience. And I'm just
10 going to ask you to give me just a second, I didn't want to
11 interrupt Your Honor while he was talking. I did want to
12 pull something up, though, because I think it will help all
13 of you follow along with what the Court is going to ask you
14 to do at the end of this case whenever you've had the
15 opportunity to hear all of the facts and evidence.

16 (Break in proceedings.)

17 MS. LIVELY: As I said earlier, my name is Candice
18 Lively, I'm the Deputy Solicitor here in Chester County.
19 And unfortunately whenever I meet a lot of people it's in
20 circumstances where it's the worst times of their life. And
21 in this particular case back in November of 2017, actually
22 October 31st, Halloween, a tragedy happened here in Chester
23 County, and anytime a child dies it's tragic. And what we
24 have in this particular case is a situation where you are
25 going to hear evidence from medical professionals who are

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1 going to tell you without any question this child died from
2 an event, blunt force trauma to her abdomen, that caused her
3 to lose her life. So what's going to happen in this
4 particular case is you're going to hear circumstantial
5 evidence about where the child was and how she was feeling
6 during some different times based on individuals who were
7 her caregivers. So let me tell you who those people are so
8 you can kind of know what to expect when you're hearing from
9 people talk about this case. **Minor** was two and a half
10 years old when she died. Her mother is Tornita Adams, she
11 lives in Lancaster, she has three young boys who were
12 **Minor**'s half siblings. Those three young boys lived
13 full-time with their mother and they were **Minor**'s bigger
14 brothers. **Minor** was her only daughter. The defendant was
15 **Minor**'s biological father. His name is Darryl Travis
16 Wilson, he also goes by the nickname of Trab, which you will
17 probably hear during this case. He would get **Minor** on
18 occasion. And he was actually living with his girlfriend,
19 Ekeria Foote, at the time when **Minor** died. Ekeria lived
20 here in Chester. The defendant is from Rock Hill, his
21 family lives there and that's where he had lived prior to
22 meeting Ekeria. Ekeria and him started living together, and
23 she was actually pregnant with their child at the time
24 whenever **Minor** died. Now, she lived in a home off of White
25 Oak Street here in the City of Chester. So **Minor** at two and

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1 a half years old, the evidence will show, was dropped off
2 here in Chester on a Saturday night to be there for the next
3 few days until Halloween, that was October the 28th in 2017.
4 You will hear testimony from witnesses who while they had
5 **Minor** there that she was playing, she was eating, and the
6 testimony will show that she was acting normal. She stays
7 with them, the defendant and Ekeria, Sunday, Monday, Tuesday
8 is Halloween. You're going to hear testimony that at
9 Tuesday the 31st is when the first indication that maybe
10 something is wrong with **Minor** starts to be recognized by her
11 caregivers. She throws up a liquid that just looks green,
12 she throws up more during the day. Now, by the next
13 morning, November the 1st, 2017, at 8:24 a.m. she wasn't
14 breathing, no heartbeat. And you will hear from the EMT's
15 and you will hear from law enforcement as to what they saw.
16 Nobody knew what happened to **Minor** except for the person who
17 injured her and caused her death. And here is something I
18 want you to think about, the State is going to prove to you
19 beyond a reasonable doubt that the defendant committed an
20 act of child abuse that caused her death. Child abuse
21 happens in private, ladies and gentlemen. Child abuse -- if
22 we see it, somebody at a store or entering a restaurant that
23 doesn't typically happen. Sometimes we have nannie cams or
24 something like that and mics. The reason we have a statute
25 like this in South Carolina, homicide by child abuse, is

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1 because child abuse in and of itself is one of those
2 situations where you don't necessarily have to prove the
3 person intended to kill the child. So here is what our
4 statute says, and this is why I show it to you. Typically I
5 don't do that at the very beginning but these statute --
6 this statute is so important for you to understand. Because
7 as you hear the evidence in this case I want you to connect
8 it to what this statute is saying, caused the death of a
9 child under the age of 11, we have a child who is two and a
10 half years old, while committing child abuse or neglect, and
11 the death occurs under circumstances manifesting an extreme
12 indifference human life. It's kind of complicated, but
13 that's why we have to bring in medical experts. And you
14 will hear from a pathologist as well as a medical expert,
15 what is extreme indifference to human life. Some type of
16 act of abuse that if someone, a reasonable person saw it
17 would know it was harmful to the child. And then under part
18 A, what is harm, inflicts or allows to be inflicted upon the
19 child physical injury including injury sustained as a result
20 of excessive corporal punishment. So ladies and gentlemen,
21 think about that, you know, when you hear things -- and Your
22 Honor is right, you know, you come in here as jurors and you
23 think, "Oh, I've seen this stuff on TV," I watch it on TV
24 too and I understand that, and how you kind of can get
25 wrapped up in the fact that, you know, everything has got to

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1 fit perfectly. Child abuse unfortunately is very messy, and
2 children often times, because they are no longer here to
3 tell us what happened, it's the medical evidence that gets
4 us to understand how she died. It may not explain why a
5 person would do this to that child, but it will explain how
6 she died. So keep that in mind. I thank you for your
7 attention, and I will be back to talk to y'all at the end of
8 the case. Thank you.

9 THE COURT: Thank you, Madam Solicitor. Mr. Boyd?

10 MR. BOYD: May it please the Court?

11 THE COURT: Yes, sir.

12 MR. BOYD: Good afternoon. The Judge told you a little
13 bit about presumption of innocence, and I think we have all
14 heard that term throughout our lives and we have given it
15 lip service, but I want you to think about what it really
16 means. What presumption of innocence means in the context
17 of a criminal case like this is that a person like Darryl
18 Wilson who is charged with a crime does not have to come
19 into the courtroom and prove to you that he's innocent. The
20 State has the burden of proving his guilt. He doesn't have
21 to prove anything. Now, in other words, presumption of
22 innocence means the prosecution has to prove he did it, he
23 doesn't have to prove he didn't do it. The Judge told you
24 that the standard of proof that must be reached is proof
25 beyond a reasonable doubt. And what that means is that the

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1 prosecution will have to show you evidence that convinces
2 you beyond any reasonable doubt, there will be a lot talked
3 about reasonable doubt at the end of this case and closing
4 arguments with the Judge's instruction, I think the Judge
5 has told you, reasonable doubt is the kind of doubt that
6 would cause a reasonable person to hesitate to act, and
7 there will be more about that later. But it is not a
8 question of whether it is suspicious, it's not a question of
9 whether Darryl Wilson could have done this, it's not even a
10 question of whether he probably did this, it's the question
11 of whether the prosecution can prove beyond any reasonable
12 doubt that he is guilty. Now, I want to look at some
13 reasonable doubts that everyone, including the prosecution,
14 would agree have to be ruled out in order to convict Darryl,
15 these all have to be ruled out as logical possibilities.
16 The first reasonable doubt the State must rule out is that
17 someone else caused the injury to **Minor**. The second
18 reasonable doubt the State must rule out is that **Minor**'s
19 death was not the result of an intentional act, but the
20 result of an accidental injury. Let's look at reasonable
21 doubt number one. The pathologist, who you'll hear from,
22 Dr. Monroe, who conducted the autopsy, I believe, will tell
23 you that the injury that occurred to her, which her
24 mesentery was injured by blunt force trauma, that was the
25 cause of her death. It was blunt force trauma to the

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1 abdomen that caused her death. He will testify that this
2 injury occurred from a half a day to a day and a half before
3 her death. This is not the type of injury that occurs and
4 somebody immediately falls over and dies, it's the kind of
5 injury that takes a period of time to do. Her death
6 occurred on November the 1st, the day after Halloween and
7 based on the time she was last seen alive and the time she
8 was found not breathing, between around 3:30 a.m. in the
9 morning and a little after 8:00 a.m. in the same morning.
10 That put the possibility of the injury occurring, if you go
11 by Dr. Monroe a day and a half, that would put the
12 possibility of the injury occurring somewhere between
13 October 30th, which would have been Monday at 3:30 p.m., and
14 8:00 p.m. on October the 31st. The testimony will show that
15 Darryl was not with **Minor** that entire time. I think the
16 testimony will show and the evidence will show that
17 approximately from Halloween on the 31st at approximately
18 3:30 until at least about 5:30 he was not with them during
19 that period of time, and then again from about 5:30 to about
20 8:00 p.m. he was not with them. If there was a real
21 possibility that the injury occurred during that time frame
22 then you cannot convict. We will also present a medical
23 expert to you, Dr. John Wren, who is a pathologist from
24 Spartanburg, and he will testify that the injury which
25 caused her death occurred anywhere from 48 hours beforehand

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1 until up to five days beforehand. Now, this would put the
2 injury occurring between 8:00 p.m. on Monday and
3 approximately 3:30 p.m. on the Friday before that, but **Minor**
4 did not come to stay with Darryl until approximately
5 11:30 on Saturday night. So if there's a reasonable -- real
6 possibility that the injury occurred before she arrived then
7 you cannot convict. Let's look at reasonable doubt number
8 two. **Minor** died of blunt force trauma to the abdomen as I
9 said, no one knows the cause of the blunt force trauma. It
10 may have been an intentional act, it may have also been an
11 accidental injury. If there's a real possibility this
12 injury occurred as a result of an accident then you cannot
13 convict. Now, we can't prove that Darryl didn't do this, we
14 can't prove he is innocence and we don't have to prove that.
15 The State does not win by showing one version of what may
16 have happened is possible when other versions of what could
17 happen are also possible. In other words, you have to
18 interpret every piece of evidence in Darryl's favor as long
19 as logically possible to do so. If you strictly apply that
20 simple test your verdict should be easy. Thank you.

21 THE COURT: Thank you, Mr. Boyd. State ready to call
22 its first witness?

23 MS. LIVELY: Yes, Your Honor.

24 THE COURT: All right.

25 MS. LIVELY: The State would call Johnny Roddy.

JOHN CARLISLE RODDY - DIRECT

1 THE COURT: All right. Mr. Roddy.

2 The witness, JOHN CARLISLE RODDY, was first duly sworn

3 And testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LIVELY:

6 Q Mr. Roddy, please tell the jury where you are currently
7 employed.

8 A Chester County 911.

9 Q How long have you been with Chester County 911?

10 A Almost 20 years.

11 Q And when you work in Chester County 911, are the actual
12 calls that come into 911 recorded?

13 A Yes, every call is recorded.

14 Q Every call. So if a call comes in, does it actually
15 attach to a particular case number or does that happen after
16 the fact once the case starts?

17 A That's after the fact.

18 Q Did you have an opportunity to learn about a case that
19 occurred back in November of 2017 involving a call to 911
20 for a child in distress?

21 A I did.

22 Q And whenever you learned of that, did you actually pull
23 the information for the State regarding the 911 call that
24 was made on that day?

25 A I did.

JOHN CARLISLE RODDY - DIRECT

1 Q All right. I'm going to show you what has been marked
2 as State's Number 10. And if you would please just confirm
3 that that particular disc has documentation on it as to what
4 date it is related to and the case it's related to?

5 A It does.

6 Q It is the case involving the defendant, Darryl Wilson;
7 is that correct?

8 A That's correct.

9 Q All right. And do you know the defendant, Darryl
10 Wilson?

11 A No, I don't.

12 Q Have you had heard the recording itself?

13 A I have.

14 Q And is it an accurate representation of the call that
15 came in on the morning of November 1st of 2017?

16 A That's correct.

17 Q Okay. And one other thing I want to ask you. Whenever
18 you actually get these 911 calls, do you also document
19 through some type of a report the timing that calls come in
20 and what dispatch actually does in response?

21 A We use what is known as a CAD, it is Computer Aided
22 Dispatch. As soon as that call comes in, all of that
23 information -- if it comes in from a home phone it has
24 automatically the telephone number and the location where it
25 comes from. If it comes from a cell phone we will ass the

JOHN CARLISLE RODDY - DIRECT

1 caller where they are and we put that address in, the
2 telephone number that was used to call and also subsequent
3 information.

4 Q Once all of that information comes in to you, do you
5 document it in a report?

6 A Yes.

7 Q All right. Now, I'm just going to show you for
8 purposes of you refreshing your recollection what time the
9 particular call in this case came in to dispatch?

10 A Okay.

11 Q After reviewing the CAD report, when did the actual 911
12 call come into dispatch on November 1st, 2017?

13 A At 8:24 and 19 seconds.

14 Q Okay. And is that a.m. or p.m.?

15 A That's a.m.

16 MS. LIVELY: Your Honor, the State would move State's
17 Exhibit Number 10 into evidence at this time.

18 THE COURT: Any objection?

19 MR. BOYD: No objection.

20 THE COURT: Without objection introduced into evidence
21 and permission to publish.

22 MS. LIVELY: Thank you, Your Honor.

23 (The 911 call was received as State's 10.)

24 MS. LIVELY: Your Honor, I apologize, it seems we're
25 having some technical difficulties.

JOHN CARLISLE RODDY - DIRECT

1 THE COURT: Let's go ahead and take a midafternoon
2 recess then. Ladies and gentlemen, don't talk about the
3 case. Head on back to your jury room, get some refreshments
4 and we'll get you back out here momentarily. Thank you.

5 (The jury left the courtroom.)

6 THE COURT: Anything before we bring the jury in?

7 MS. LIVELY: No, sir.

8 MR. BOYD: No, sir.

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

10 (The jury returned to the courtroom.)

11 THE COURT: All right. All members of the jury are
12 present, I think we have it working. Thank you, ladies and
13 gentlemen. Solicitor?

14 MS. LIVELY: Thank you, Your Honor.

15 (The 911 CD was played.)

16 Q Now, Mr. Roddy, when someone calls in 911, is that a
17 normal request for the operator to say please stay on the
18 line?

19 A Correct, yes.

20 Q Can you actually put the 911 operator on hold while
21 you're on the phone with them? Is that possible?

22 A I'm sorry, rephrase that question for me.

23 Q Just for instance, if I'm on the phone with 911 and I
24 see someone calling in, can I click over and answer that
25 call?

JOHN CARLISLE RODDY - DIRECT

1 A Only one person is answering that call at a time if
2 that's what you're asking me.

3 Q Okay. Like for instance, if I'm the one that's calling
4 911, I'm the one that needs help and then someone starts
5 calling me on my phone, my phone number, can I click over
6 like and say, "Hey, 911 hold on a second, I've got an
7 incoming call." Can I do that?

8 A Possibly from a cell phone you probably could but I'm
9 not really sure. On our end, no.

10 Q So once the dispatch, the 911 operator is on the phone
11 with that individual then they stay on that call.

12 A They're on a call.

13 Q When do they typically come off of a call?

14 A Either when the caller disconnects or we can't get any
15 response from them, or we have given them final instructions
16 in what to do.

17 Q Okay. How about whenever EMT or law enforcement show
18 up?

19 A That's usually when it will disconnect is when -- if
20 someone else is there to take over that is a first responder
21 or an officer or someone is medically trained.

22 Q Thank you.

23 MS. LIVELY: No further questions. Answer any
24 questions that the defense may have.

25 THE COURT: Mr. Boyd?

WARD BRITTON LINEBERGER - DIRECT

1 MR. BOYD: I have no questions of this witness.

2 THE COURT: Thank you, sir. You can step down and you
3 are free to leave.

4 MS. LIVELY: The State would call Brett Lineberger to
5 the stand.

6 The witness, WARD BRITTON LINEBERGER, III, was first
7 Duly sworn and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q Mr. Lineberger, will you please pull your microphone
11 close to you so we can hear you? Thank you. Please tell
12 the jury where you're currently employed.

13 A Chester County EMS.

14 Q And how long have you been with Chester County EMS?

15 A About 26 years.

16 Q And what are your duties there at EMS?

17 A I am the Director of EMS and a paramedic.

18 Q So do you still go out on calls whenever a 911 call
19 comes in?

20 A Sometimes.

21 Q And whenever you actually go out on a call, is it just
22 yourself or do you typically go from another individual from
23 your team?

24 A No, there's almost always two people.

25 Q All right. Now, Mr. Lineberger, on November 1st of

WARD BRITTON LINEBERGER - DIRECT

1 2017, did you learn about a situation where EMS was needed
2 at the home of a possible child in distress on, as I said,
3 November 1st, 2017 in the City of Chester?

4 A Yes.

5 Q Tell the jury what you recall the call was about and
6 what you did when you got there.

7 A So it was right at shift change and all of the other
8 units were out, so I was coming in -- I had just come in to
9 work, Tyanne was already there, Richard Mack, I think, was
10 coming in, he is the shift supervisor that day. And a call
11 came in -- a phone call and I hear Tyanne answer and she
12 comes out and said that there was possible unconscious and
13 unresponsive, and so we, the three of us, got into the
14 ambulance and responded.

15 Q Do you have documentation as to when you received that
16 information?

17 A The call was received 8:24, dispatched at 8:25, and we
18 were on scene at 8:28.

19 Q Thank you, that's my next question. When you got on
20 scene at 8:28 was that a.m.?

21 A Yes, ma'am.

22 Q When you got there at 8:28 a.m., tell the jury what it
23 is that you saw when you got there.

24 A I was the first one coming in through the door and I
25 was directed to the room.

WARD BRITTON LINEBERGER - DIRECT

1 Q Who directed you?

2 A I think the father was there that directed us. I
3 came -- I went through the door, the bed was across the room
4 with the headboard to the left, and the child was on the
5 bed. And I went over -- I went over to the bed and knelt
6 down to start checking the baby.

7 Q All right. And what were you looking for when you were
8 checking her?

9 A Looking to see if it was a pulse, looking to see if the
10 baby was breathing and color, temperature, that kind of
11 stuff.

12 Q And what did you document in regards to your initial
13 assessment of the child?

14 A The patient was not breathing and did not have a pulse.

15 Q And how about her body temperature, how did she feel to
16 you on that morning?

17 A She was in a blanket. She was kind of warm on the core
18 and cool on the extremities.

19 Q So what did you actually do at that point?

20 A So Tyanne Perry was the other paramedic, she came in
21 behind me because I think she had grabbed the jump bag, and
22 I said, "She's not breathing, she doesn't have a pulse."
23 Tyanne reached over top of me and grabbed her and then went
24 out the door and was doing her CPR, you know, mouth to mouth
25 on the way out to the truck.

WARD BRITTON LINEBERGER - DIRECT

1 Q Why didn't you start CPR at that moment for any reason?

2 A I was actually considering calling it. I was actually
3 considering stopping any attempts at resuscitation because,
4 again, she was apneic, she was pulseless, she was kind of
5 cool on the extremities, which means I think she had an
6 extended down time. I think she had been passed away for
7 awhile.

8 Q Okay. So after Tyanne reached over and grabbed the
9 child, what did the two of you do?

10 A We went out to the ambulance, started our procedures,
11 ALS procedures.

12 Q Whenever that happened, did you ever while you were at
13 the house speak to the -- you said the father was there, or
14 believed to be the father?

15 A Yes.

16 Q Did he provide you any information about what happened
17 whenever he came -- when you came into the home?

18 A I think he said she had been -- that she had vomited
19 and she did have vomitus on her chest. I think he said she
20 had vomited and he tried to breath into her mouth or
21 something, and that was -- I don't remember much else from
22 that.

23 Q Okay. And whenever you got into the ambulance who all
24 was there with you?

25 A It was me and Tyanne Perry, Richard McIlveen, and then

WARD BRITTON LINEBERGER - DIRECT

1 Heath Caviness showed up from the fire department.

2 Q And where did the defendant's father go at that point,
3 did you know?

4 A I don't know.

5 Q So what did your team do at that point?

6 A So we're doing chest compressions and get an IV
7 established and suctioning the airway of the baby.

8 Q And whenever you were doing these procedures, are these
9 standard when you're trying to resuscitate an individual?

10 A They are.

11 Q At any point in time did she become responsive to your
12 attempts?

13 A No.

14 Q At any point in time, did she actually -- did you get a
15 pulse on **Minor**?

16 A No.

17 Q And you mentioned that there was a suction that was
18 done. What happened whenever you tried to place the tube in
19 for a suction?

20 A Richard McInveen was the one that intubated, and he was
21 the one that suctioned, so he had to suction out the airway
22 first before intubating.

23 Q Did you actually witness that?

24 A I'm sure I saw it but everyone has a different job to
25 do while they're doing it.

WARD BRITTON LINEBERGER - DIRECT

1 Q All right. Now, after all of the attempts were made at
2 resuscitation, about how long did it take you to get to the
3 hospital, the ER?

4 A We left the scene at 8:36 and we were at the hospital
5 at 8:40.

6 Q And whenever you got to the hospital at 8:40, what did
7 you do next?

8 A We transferred the patient to the bed in the trauma
9 room and the nursing staff took over.

10 Q Okay. After the nursing staff took over, did you have
11 any other contact or anything else dealing with this
12 particular child?

13 A I don't recall whether I stayed in the room or whether
14 I left the room, because there was a lot -- generally
15 speaking there's a lot of people in the room, so --

16 Q I understand. Whenever you -- when you were in the
17 back of the ambulance and y'all attempted resuscitation,
18 were any of her -- did she have on any clothes at that time?

19 A She had on a pair of pajama pants, and then she had a
20 top on. We removed the top and, like I said, it had some
21 vomituous on it.

22 Q Was there anything on her body that you noticed at that
23 time?

24 A Her upper body was model (phonetically), her skin on
25 her upper body was model.

WARD BRITTON LINEBERGER - DIRECT

1 Q Explain to us what that looks like.

2 A It's kind of grayish/yellowish. It's just showing
3 where there is lack of oxygen, lack of blood supply to the
4 skin.

5 Q And let's just be clear, you're actually a certified
6 EMT; is that right?

7 A Paramedic.

8 Q And so you do not make any conclusion as to any issue
9 relating to what happened to the child; is that fair?

10 A No.

11 Q All right. And at that time did you or any of your
12 colleagues have any idea as to whether the child had been in
13 any kind of an accident or anything at all that could have
14 led to her being in that condition?

15 A Not from what we could tell.

16 MS. LIVELY: Thank you. Answer any questions that the
17 defense may have.

18 THE COURT: Mr. Boyd?

19 CROSS EXAMINATION

20 BY MR. BOYD:

21 Q When you said kind of warm in the core, what did you
22 mean by that?

23 A The core -- the core part of her body was warmer than
24 her extremities.

25 Q Okay. And is there a significance to that?

WARD BRITTON LINEBERGER - CROSS

1 A It kind of gives us an idea as to how long somebody has
2 been without a pulse, because the longer that you're
3 pulseless the colder that the body gets.

4 Q Again, you said the cold affects the extremities first
5 and then comes to the core?

6 A Well, she was in a blanket and she had clothes on.

7 Q But eventually the whole body would get cold; is that
8 correct?

9 A Yes, sir.

10 Q From that can you extrapolate how long it had been
11 since she stopped breathing, or are you able to do that?

12 MS. LIVELY: Well, I would object, Your Honor. He's
13 not qualified to make that conclusion, Your Honor.

14 THE COURT: Objection noted.

15 MR. BOYD: Well, my question was is he qualified.

16 A No, I'm not qualified.

17 MR. BOYD: I have no further questions.

18 THE COURT: All right. Anything else?

19 MS. LIVELY: No, sir.

20 THE COURT: Thank you, sir, you can step down.

21 MS. LIVELY: Tyanne Perry.

22 The witness, TYANNE PERRY, was first duly sworn and
23 Testified as follows:

24 DIRECT EXAMINATION

25

TYANNE PERRY - DIRECT

1 BY MS. LIVELY:

2 Q Ms. Perry, please tell the jury where you work.

3 A Chester County EMS.

4 Q How long have you worked there?

5 A 25 years.

6 Q And in working there, what are your basic duties?

7 A I'm a shift supervisor. I'm the training coordinator
8 for the whole county, and I work a 24 hour shift.

9 Q So you actively do respond to calls that come in
10 through 911 for --

11 A Yes, ma'am.

12 Q Now, Ms. Tyanne, did you receive information on the
13 morning of November 1st of 2017 regarding a possible
14 unresponsive child?

15 A Yes, ma'am.

16 Q Please tell the jury what you did in response to that
17 call.

18 A 911 called because all the units were busy and wanted
19 to know if we had an available unit to respond to an
20 unresponsive, unsure on breathing status of a two year old.
21 At that time me, Britt Lineberger and another medic that was
22 at the station jumped into one of the other units and
23 responded.

24 Q And we've already heard testimony from Mr. Lineberger.
25 You received the call about 8:24 that morning?

TYANNE PERRY - DIRECT

1 A Yes, ma'am.

2 Q And again, how quickly were you able to arrive on
3 scene?

4 A Three minutes, three and a half.

5 Q Thank you. When you got there, Ms. Perry, please tell
6 the jury what you observed.

7 A We pulled up on scene, the father was standing outside
8 waiting on us, led us to a bedroom in the front of the
9 house. I remember going through the front door and going
10 through the left if I remember are correctly. The child was
11 laying on the bed, it was kind of a dark room, you couldn't
12 see a whole bunch in there. He was saying that she had been
13 sick during the night and then when he went to check on her
14 he couldn't get her awake.

15 Q Who arrived in the room first?

16 A Britt Lineberger.

17 Q And whenever you arrived -- so did you arrive after
18 him?

19 A Yeah, probably 30 or 45 seconds later.

20 Q And when you got there, Ms. Perry, tell the jury what
21 you did at that point.

22 A Britt was still standing over the child assessing the
23 child, he told me she was not breathing, no pulse. At that
24 time I scooped her up, went straight to the unit.

25 Q And whenever you scooped her up and took her to the

TYANNE PERRY - DIRECT

1 unit, what were you doing at that point?

2 A CPR.

3 Q All right. And where was the father when you started
4 CPR?

5 A In the bedroom with us.

6 Q And at any point in time when you were leaving, did you
7 have any conversation with him about what he was going to
8 do?

9 A Leaving the scene?

10 Q Yes.

11 A Once we got everything in the back of the unit going
12 and all of the assessments going for the child, I went
13 around to the side and shut the side door and I asked the
14 father if he was going with us and he said no.

15 Q All right. So he said no.

16 A Yes.

17 Q Was there anybody else there for the child other than
18 the defendant whenever you got there that morning?

19 A There was another lady that walked up that said she was
20 the grandmother.

21 Q Did you speak with her?

22 A Yes. She was standing beside him when I asked.

23 Q So once you learned is, what is the goal at that point
24 once the child is in the ambulance?

25 A To go.

TYANNE PERRY - DIRECT

1 Q And did y'all leave immediately?

2 A Yes.

3 Q How long does it take you to get back to the hospital?

4 A We departed the scene at 8:36 and got to the hospital
5 at 8:40.

6 Q All right. Now, Ms. Perry, at any time while **Minor** was
7 in the back of the ambulance, did she ever become
8 responsive, get a pulse or start breathing again?

9 A No.

10 Q Did you do everything you could?

11 A Yes.

12 Q And if you would, please, do you have your actual EMS
13 report in regards to the care of **Minor** on the way to the
14 hospital in your hands?

15 A Yes, ma'am.

16 Q Is that what you have? And who else was there with you
17 other than Britt Lineberger who we've already heard from?

18 A Richard McIlveen was another paramedic.

19 Q And were you there whenever he attempted to intubate
20 the baby?

21 A Yes, ma'am.

22 Q Tell the jury what you saw.

23 A There was a little bit of vomit on her shirt. He had
24 to suction her mouth out because it had vomit in it, and
25 then he intubated her with no trouble.

TYANNE PERRY - DIRECT

1 Q After that happened once again, was there any type of
2 signs of life by **Minor**?

3 A No, ma'am.

4 Q When you got to the hospital what did you do?

5 A As we come out of the back of the truck we continued
6 CPR, continued breathing for her, had the monitor on the
7 stretcher with us, drove her to the hospital and then
8 transferred care over to the staff.

9 Q And once you transfer care over to the staff, do you
10 stay around or did you leave?

11 A No, ma'am, we helped.

12 Q You helped. All right. And while you were helping,
13 how long do you recall helping to try to get some type of a
14 response from **Minor**?

15 A Ten minutes or so, I don't remember exactly.

16 Q And was she eventually determined to be deceased?

17 A Yes, ma'am.

18 Q While you were there and assisting with the hospital
19 individuals, did you ever have the chance to talk to any of
20 the family members, specifically the defendant? Let me just
21 ask you that. Did you ever have the chance once you were at
22 the hospital to talk to the defendant about what could have
23 happened to **Minor**?

24 A I never talked to him directly. I did go into the
25 waiting room of the family room when Dr. Loman went in there

TYANNE PERRY - DIRECT

1 with him to tell him that she was deceased.

2 Q So Dr. Loman can give us that information.

3 A Yes, ma'am.

4 MS. LIVELY: Thank you. Please answer any questions
5 that the defense may have.

6 THE COURT: Mr. Boyd?

7 MR. BOYD: I have no questions for this witness.

8 THE COURT: Thank you, ma'am. Push that microphone
9 out. You are free to leave. Call your next witness.

10 MS. LIVELY: Yes, Mandy Williams.

11 The witness, MANDY WILLIAMS, was first duly sworn and
12 Testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LIVELY:

15 Q Ms. Williams, please tell the jury where you work.

16 A I work at now it's MUSC Health Chester Medical Center,
17 formerly Chester Regional Medical Center.

18 Q And how long have you worked there?

19 A Four years.

20 Q And what were your duties at the hospital?

21 A I am ER coordinator, ER RN.

22 Q And how long have you been a RN?

23 A Ten years.

24 Q All right. So Ms. Williams, were you working on the
25 morning of November 1st, 2017 when a child was brought into

TYANNE PERRY - DIRECT

1 the ER who was unresponsive?

2 A Yes, I was.

3 Q All right. And please tell the jury what you recall in
4 regards to when that first happened on that morning.

5 A That morning we received a call from EMS on our radio
6 saying they were bringing in a child that was unresponsive.
7 I actually met EMS at the doors, took them straight back to
8 trauma three, Dr. Lowman, our ER physician, he followed
9 behind me. Immediately we knew she had no pulse, EMS was
10 giving us a report stating she was asystole when they
11 arrived at the home. So myself and two other RN's and
12 Dr. Loman, we started ACLS protocol. She never did regain a
13 pulse or any breaths. We didn't even know her name, there
14 was no adult with her, so I was running the code at the
15 front of the bed and I asked EMS, you know, "What's the
16 child's name?" We didn't know her name and they didn't know
17 her name, and I asked where the adult was and they said that
18 they opted to stay home, would not ride in the EMS truck
19 with the child.

20 Q And I'm going to back you up for just a minute. What
21 is ACL --

22 A That's our advanced life saving protocol.

23 Q And you also mentioned another word, you said asystole.
24 What does that mean?

25 A No heart beat.

TYANNE PERRY - DIRECT

1 Q No heartbeat. And I'm going to back you up for just a
2 minute. You said whenever you talked to EMS that when they
3 arrived on scene she was already asystole; is that right?

4 A I think -- it was about 8:20 when they said that they
5 arrived to the house and they had no heart rate then. So we
6 knew we had a child coming in with no heart rate, which is a
7 high alert for us.

8 Q That's what I was curious as to how your response
9 changes when you have a child with no heartbeat.

10 A Yeah.

11 Q And you said that you were there with the doctor, Isom
12 Loman; is that correct?

13 A Yes.

14 Q So he was the physician on scene with you?

15 A That's correct.

16 Q Now, Ms. Williams, whenever you actually have a
17 situation where anyone comes in, do you provide your nurse's
18 notes as well as any type of reports in order to document
19 what happens?

20 A Yes.

21 Q And in your nurse's notes, have you had the opportunity
22 to review those regarding how the child -- the information
23 you received regarding what could have happened to the
24 child?

25 A Yes, I did. Actually when the father finally -- he did

TYANNE PERRY - DIRECT

1 come into the ER and, you know, we allowed the family to
2 come back, and he said that she had vomited a couple times
3 the night before because it was Halloween, and she had been
4 trick or treating and he thought she had got some tainted or
5 bad candy. And so we just thought -- that's where we went
6 with the bad candy because we didn't know.

7 Q Okay. All right. So at that time you had no idea as
8 to what caused her to stop breathing.

9 A No, we had none.

10 Q Now, did the defendant also provide you with
11 information as to the last time he actually observed the
12 child looking well?

13 A Yeah. Because I asked -- one of the important
14 questions we always ask is when was the last time the child
15 was seen well so we can calculate what's happened in
16 between, and he said about 2:30 that morning he checked on
17 her and she was sleeping.

18 Q So he told you he checked on her at 2:30 a.m.?

19 A Yeah. Can I look at my notes?

20 Q Absolutely.

21 A Yeah. I said, "Per conversation with the biological
22 father the patient vomited twice last night prior to going
23 the bed, and last seen well was at 2:30."

24 Q Did you have any other type of contact with the child
25 after the child was actually pronounced deceased?

TYANNE PERRY - DIRECT

1 A Yes. I actually -- it was myself and the coroner, we
2 prepared the body and put her in the body bag, yes.

3 Q And was there anything else that you noticed in regards
4 to the child as a nurse that you noticed in regards to her
5 as you were looking at her, if anything?

6 A Yeah. Because by the time -- I mean, anytime we have a
7 child it's very traumatic for the staff as well as the
8 family, and so it was just myself and coroner. So some time
9 had passed, and after time passes you start -- sometimes the
10 body will reveal things, and on her lower abdomen -- I can
11 put my hand on her abdomen and my hand would fit above, like
12 handprints were on her lower abdomen bruising.

13 MS. LIVELY: Okay. Thank you. Answer any questions
14 the defense may have.

15 THE COURT: Mr. Boyd?

16 CROSS EXAMINATION

17 BY MR. BOYD:

18 Q Good afternoon.

19 A Hey.

20 Q So the father reported she had thrown up the night
21 before.

22 A Correct.

23 Q And then you said he said that she had seen her at
24 about 2:30 in the morning?

25 A Uh-huh.

TYANNE PERRY - CROSS

1 Q And she was sleeping at that time?

2 A Yes.

3 Q Okay. You said you saw like some bruising on the lower
4 abdomen?

5 A Yes.

6 Q Okay. Did you see bruising anywhere else?

7 A Her legs had a few bruises on it. When we were doing
8 CPR, which was in the chest area, you know, that -- we don't
9 touch the abdomen, and time had passed and when I was in
10 there by myself -- because you're preparing a child and you
11 want to do it as sacredly as you can. So when I picked her
12 up the light hit it and I looked at the coroner and I said,
13 "There's bruising here," and it was just obvious. I could
14 put my hands on the abdomen and it fit, and then she had
15 bruising on her lower legs also.

16 Q When you say your hands like this?

17 A Like if she's laying supine I could just like this
18 (indicating) the fingerprints would fit.

19 Q Okay. And did you see any other bruising on her chest
20 or anywhere else?

21 A No, I did not.

22 Q Okay. And you said you saw some other marks on her
23 legs?

24 A Yes.

25 Q What did you see there?

ISOM LOWMAN - DIRECT

1 A When did I see them?

2 Q No, what did you see.

3 A I just saw some bruising on her I think it was inner
4 thighs.

5 Q Okay. Did you notice any marks on her face?

6 A No, I did not.

7 MR. BOYD: That's all I have.

8 THE COURT: Thank you, ma'am. Push that microphone
9 forward. Thank you very much.

10 MS. LIVELY: Isom Lowman.

11 The witness, ISOM LOWMAN, M.D., was first duly sworn
12 And testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LIVELY:

15 Q Dr. Lowman, please tell the jury where you're currently
16 employed.

17 A MUSC Chester Medical Center.

18 Q And do you work in the emergency room?

19 A I do.

20 Q And how long have you worked in the emergency room?

21 A Since 1980.

22 Q All right. And you're actually a M.D., correct?

23 A That is correct.

24 Q Now, Dr. Lowman, in working in the ER, do you have
25 situations that come in, traumatic situations involving

ISOM LOWMAN - DIRECT

1 people who are trying to be resuscitated?

2 A Yes, ma'am, I do.

3 Q All right. And sometimes in regards to when that
4 occurs, even whenever a person may be in a really bad
5 condition, do y'all continue resuscitation, or attempts to
6 resuscitate a patient?

7 A Yes, ma'am, we do.

8 Q All right. And the reason why I ask you that is
9 because I want to ask you about the morning of November 1st,
10 2017 involving a young child by the name of **Minor**. Do
11 you recall when that child showed up at your ER?

12 A Yes, ma'am.

13 Q All right. If you would please tell the jury what you
14 knew by the time that the child actually got there and what
15 was going on whenever you saw the child.

16 A Okay. Well, the paramedics usually will call us and
17 report, let us know what type patient they have. What I
18 knew was that there was a patient that was a child that was
19 in full arrest, cardiac respiratory arrest and was being
20 resuscitated by the paramedic via ACLS protocol.

21 Q And we've already heard from your nurse who was talking
22 about what your protocol is in a traumatic event. Is that
23 your highest level whenever someone shows up without a
24 heartbeat?

25 A Highest -- it's most difficult probably.

ISOM LOWMAN - DIRECT

1 Q Okay. I'm sorry, please tell me if I said it wrong.

2 So the child is there. Was there any time that you actually
3 witnessed her become responsive or regain a pulse?

4 A No, ma'am.

5 Q What did you actually observe in regards to her
6 condition for possibilities of resuscitation when you saw
7 her?

8 A Well, when she arrived in the emergency room, of
9 course, she was -- attempts at resuscitation had already
10 begun by the paramedic. She was intubated, she had IV
11 access, and they were ventilating for her and they were
12 doing chest compressions. On evaluation of this child she
13 had no pulse and she had no spontaneous respiration, no
14 respiratory effort at all. And her pupils were dilated.

15 Q Dr. Lowman, what about neurologically? Was there any
16 brain activity at that point?

17 A Not that we could tell from physical exam, and there
18 were muscular activity. But I couldn't -- she couldn't -- I
19 don't think she had any brain activity based on the fact
20 that her pupils were dilated and affixed.

21 Q And once all of this took place, what is your next step
22 in regards to determining whether the patient continues to
23 get resuscitative efforts, or if there's nothing else that
24 can be done?

25 A Well, we give it a reasonable attempt. We make sure

ISOM LOWMAN - DIRECT

1 we're oxygenating the child as best we can. We do cardiac
2 compression and we give drugs, and we reevaluate as to
3 whether there's any return of respiratory efforts or cardiac
4 activity. We do this for a reasonable period of time
5 depending on the situation.

6 Q Did you have the opportunity to talk to any of the
7 family members, specifically the father, about the condition
8 of the child the night before?

9 A What we got from the father, I think, and I'm not sure
10 if I got it specifically or my nurses obtained the
11 information that the child had vomited a couple of times the
12 night before, and had gone -- I think had gone trick or
13 treating or something like that.

14 Q Because the night before was Halloween, right?

15 A Right.

16 Q And when you saw her it was November the 1st, right?

17 A Right.

18 Q Now, once you got this information, did you also
19 determine when the last time the child was seen well?

20 A I think it was documented as maybe 2:30 in the morning.

21 Q And who was it that reported that she was observed as
22 being well?

23 A I think Mandy did.

24 Q And did she document who had told her that?

25 A I'm not sure, maybe the father.

ISOM LOWMAN - DIRECT

1 Q But she's already testified, I was wondering if you
2 knew.

3 A Right.

4 Q Now, I'm looking through some of the records. Did you
5 have an opportunity to actually review the records from the
6 ER? Because I know it's been almost two years now.

7 A Not really.

8 Q But do you remember this case however?

9 A I remember the case, yes, ma'am, I do.

10 Q All right. One of the things I wanted to show you and
11 just ask, if you could -- if it'll refresh your
12 recollection. I'm going to show you and, please, just
13 excuse some of my notes. I'm going to ask you what
14 something means. I show you this. Just read that to
15 yourself, and then I'm going to ask you what that is.

16 A Possibly 1.5 centimeter bruising sporadic on the right
17 upper quadrant extending to the right lower quadrant.
18 Abrasion noted on the mid-forehead and nose.

19 Q Okay. Thank you, Dr. Lowman. All right. So when you
20 say -- and this is just in comparison to medical terms, when
21 you say right upper quadrant, what are you talking about?

22 A Right upper quadrant of the abdomen.

23 Q Of the abdomen.

24 A Yes, ma'am, right below the diaphragm.

25 Q Can you point to yourself so we can just see?

ISOM LOWMAN - DIRECT

1 A Yes, ma'am (indicating.)

2 Q Okay. So right down here?

3 A Right below the diaphragm.

4 Q And so some bruising was noted?

5 A Yes, ma'am.

6 Q And then how about the face?

7 A There's an abrasion noted on the forehead that was --

8 and the nose.

9 Q Okay. What time did you document as the time of death

10 of **Minor** ?

11 A I don't know.

12 Q I'm sorry, let me show this to you.

13 A I don't remember.

14 Q I apologize.

15 MS. LIVELY: If I may approach again, Your Honor.

16 THE COURT: Yeah.

17 Q And I'm sorry, my notes are on there. But the last

18 sentence. If you could tell the jury when that time of

19 death was called.

20 A Time of death was 0854.

21 Q So 8:54, is that a.m.?

22 A That's a.m.

23 Q Once the time of death is called by you, Dr. Isom, what

24 is the next step that you do in regards to notification to

25 the family?

ISOM LOWMAN - CROSS

1 A We notify the family and we notify the coroner. We
2 don't really let the family see the patient unless the
3 coroner says it's okay in a case like this that comes in
4 basically DOA, so we call the coroner and the coroner tells
5 you what we may or may not do.

6 Q All right. And at that point in time, was the family
7 allowed to see the child?

8 A I don't think so. I think it was after the coroner
9 came.

10 MS. LIVELY: All right. Thank you, Dr. Lowman, please
11 answer any questions that the defense may have for you.

12 THE COURT: Mr. Boyd?

13 CROSS EXAMINATION

14 BY MR. BOYD:

15 Q When you say 8:54 is the time of death, does that
16 actually mean the time y'all quit trying to revive?

17 A Yes, sir.

18 Q And so the actual death could have been some time
19 earlier than that.

20 A Yes, sir, that's correct.

21 MR. BOYD: All right. That's all of the questions I
22 have.

23 THE COURT: All right. Thank you, sir, you are free to
24 leave.

25 MS. LIVELY: Stephanie Bishop.

STEPHANIE BISHOP - DIRECT

1 The witness, STEPHANIE BISHOP, was first duly sworn
2 And testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Please tell the jury who you are.

6 A I am Stephanie Bishop, I was the deputy coroner.

7 Q How long did you work as deputy coroner?

8 A I was deputy coroner for almost three years.

9 Q Was that here in Chester County?

10 A Yes, ma'am.

11 Q Did you have to have special training in order to work
12 as deputy coroner?

13 A Yes, ma'am. I went to -- we had the Coroner's Academy
14 and it was a once a year training. And then we had to
15 continue our continuing education of 21 hours, if I'm not
16 mistaken, of more as education after that.

17 Q And was any part of that education about investigating
18 child deaths?

19 A Yes, ma'am.

20 Q All right. And did you have the opportunity in
21 November of 2017 to actually come into contact with a child
22 by the name of **Minor** ?

23 A Yes, ma'am.

24 Q Please tell the jury what information you received in
25 regards to needing to respond to this particular situation.

STEPHANIE BISHOP - DIRECT

1 A The day the call come in I was dispatched through the
2 coroner, which I worked under him. I had to go back to the
3 office -- I had to go to the office first and get our car,
4 and I was to meet at the ER due to a child fatality. So I
5 went in and the coroner was already there, I went in and we
6 assessed the child. After the physicians and the nurses got
7 finished taking care of her then it was turned over to us.

8 Q Okay. And what is it that you and the elected coroner,
9 Mr. Tinker, what is it that you are supposed to do once it's
10 turned over to you?

11 A Once it's turned over to our department we go in and
12 assist the death to see what the cause of death was. And
13 then once you investigate the cause of death, if you see
14 nothing out of the norm or you don't have any reason to
15 suspect that it is foul play involved, then if you have foul
16 play involved then we call in our local and our state agents
17 and they would help come into help investigate. But other
18 than that, if it was just a natural event we would go and we
19 would do the death certificate and call the funeral home,
20 and from then on that's where it went.

21 Q When a child dies in the State of South Carolina, is
22 there a specific protocol you have to follow?

23 A That's correct. When a child fatality -- well, when a
24 child death has occurred we have so many hours to call --
25 no. Actually we call SLED right then and SLED comes over,

STEPHANIE BISHOP - DIRECT

1 and we have to fax over paperwork to SLED. And pretty much
2 you stand -- and your local law enforcement also comes in,
3 so everybody kind of works together, takes each other's
4 back, whichever needs to be done then it's handled.

5 Q And are you a part of the investigation at that point?
6 Whenever SLED comes in, do you remain a partner in it?

7 A Yes, ma'am. We usually assist if they need anything,
8 any additional information, whatever. However we can help
9 them that's what we do.

10 Q And when you arrived on that morning, did you have any
11 information provided to you whatsoever as to the cause of
12 death for this particular child?

13 A No, ma'am.

14 Q So at that point when you don't have let's just say for
15 instance an obvious gunshot wound to the head --

16 A Uh-huh.

17 Q -- you don't know, what is the next thing that you do
18 in order to further find out the cause of death?

19 A Pretty much just assess what you have. The body, what
20 you have, whatever you see you write it down. If you have
21 any kind of suspicion always call somebody and they will
22 come in, like SLED, they'll come in and help you. If you're
23 not sure, autopsies. It's further investigation.

24 Q Now, in this particular case whenever you got involved,
25 what information did you document initially regarding the

STEPHANIE BISHOP - DIRECT

1 condition of the child whenever you got there?

2 A When you go in you just kind of start from head to toe,
3 you document what you see. If you see scratches or you see
4 bruises or you see -- you know, if she has got a -- it's --
5 a bone marrow catheter, if she's got that how did it happen,
6 you know. Just try to figure out anything you can possibly
7 go with to see.

8 Q Let me be specific, I'm sorry. In regards to this
9 child, specifically **Minor**, whenever you got there, what if
10 anything did you document in regards to the condition of the
11 child's body. Do you recall?

12 A Yeah. When you see -- I mean, a kid -- it's hard, but
13 you see her and she's got an abrasion on her nose. She had
14 some head -- superficial kind of wounds on her head. So
15 once you see already there's bruising, scabs, scrapes,
16 bumps, then you just start going from head to toe. Then she
17 had some bruising on the abdomen. She had a burn mark on
18 her leg, then like scarring. So you just -- all of that it
19 takes effect then, it's just not a natural -- something just
20 tells you it's not natural.

21 Q Okay. I'm going to show you State's Exhibits 2, 5 and
22 9, which are actually already in evidence. I'm going to ask
23 that you look at these pictures. Does that adequately
24 represent what you saw in regards to **Minor** when you
25 got there that day?

STEPHANIE BISHOP - DIRECT

1 A Yes, ma'am.

2 Q All right. And in the first picture you had mentioned
3 some abrasions on the face. Is that the picture that you
4 are talking about and the injuries?

5 A Yes, ma'am.

6 Q All right. And then the second picture, what is it
7 that is documented in that second picture?

8 A Well, the bruising. Like right up underneath her rib
9 cage, there was some bruising right up near under the
10 sticker and the wire.

11 Q Did you ever speak to the defendant or anyone who was a
12 caregiver for **Minor** while you were at the hospital?

13 A I did.

14 Q All right. Who did you speak to?

15 A I spoke to the father.

16 Q And what did he tell you about her condition?

17 A He really didn't say much other than it was Halloween
18 candy. His mom was out there with him and she stated the
19 same thing, it was the Halloween candy.

20 Q Okay. And did they give you any other information as
21 to a possibility of other sicknesses, injuries, accidents or
22 anything like that?

23 A No. No other -- nothing.

24 Q Okay. Now, after you got involved and actually you
25 said you recognized **Minor** in those pictures, after that was

STEPHANIE BISHOP - DIRECT

1 an autopsy actually requested?

2 A Yes, ma'am.

3 Q All right. Did you remain involved with this case
4 through when the autopsy was performed?

5 A Yes, ma'am.

6 Q All right. And after the autopsy was performed, did
7 you also stay involved for a reenactment by both the
8 defendant and his girlfriend back at the house?

9 A Yes, ma'am.

10 Q And when you did that, who all was there at the house
11 with you for those reenactments, do you recall?

12 A It was the city police and SLED.

13 Q And Ms. Bishop, did you end up actually going to the
14 autopsy or not?

15 A Yes, ma'am.

16 Q All right. And so while you were at the autopsy, was
17 there finally a determination made as to whether it was as
18 to how the child -- whether or not the child was injured?

19 A Yes, ma'am.

20 Q And once you learned that information, what did you
21 know at that point in regards to what you -- what the
22 furthering of the investigation would have to do?

23 A It was not a natural cause of death, it was caused --

24 MR. BOYD: Your Honor, I'm going to object.

25 THE COURT: Hang on, ma'am. What?

STEPHANIE BISHOP - DIRECT

1 MR. BOYD: I'm going to object to that conclusion, that
2 wasn't responsive to the question.

3 MS. LIVELY: Yes, Your Honor. I asked her what was the
4 next step that she had to go after she learned about not
5 necessarily how the child died, but the fact that it was
6 non-accidental.

7 THE COURT: Objection sustained. Just go ahead and
8 rephrase your question.

9 MS. LIVELY: All right.

10 Q So at that point in time -- you had mentioned before
11 that you go in on these cases to determine whether it's
12 natural and you call the funeral home.

13 A Right.

14 Q After the autopsy, if it comes back and it's not a
15 natural finding, what's the next step you have to do?

16 A From then if you've got a pathologist that has stated
17 what the cause of death was and it was not natural, and they
18 will state and tell you that it is, you know, a death by
19 another cause, and they will tell you whether it's homicide
20 or suicide. So once it is -- if it is stated that it is a
21 homicide then that's when our local and state agents take
22 over from there and we're pretty, you know, still there for
23 their back.

24 Q But you're no longer -- are you ever the lead in
25 pursuing the actual cause of death and then the declaration

STEPHANIE BISHOP - DIRECT

1 of manner of death?

2 A Not whenever a pathologist does it because of his
3 degree and his credibility that he makes that call.

4 Q Yes, ma'am. So that is for a pathologist.

5 A Right.

6 Q Now, on November 3rd of 2017 then, were you assisting
7 with the reenactments that I asked you about before with
8 SLED and the city PD?

9 A Pretty much I assisted. I didn't really play a big
10 part but I was there just in case something was needed or
11 they needed any kind of assistant or --

12 Q Okay. And after that part of the initial
13 investigation, Ms. Bishop, did you have any other
14 involvement with this particular case?

15 A Not really. Just kept following up with it since we
16 did have the beginning of the case. We would just try to
17 followup and make sure that still our agents didn't need
18 anything else.

19 MS. LIVELY: Thank you very much. Answer any questions
20 the defense has. And Your Honor, may I publish these to the
21 jury?

22 THE COURT: Yeah. Well, wait, Mr. Boyd, any questions
23 for this witness?

24 CROSS EXAMINATION

25

STEPHANIE BISHOP - CROSS AND REDIRECT

1 BY MR. BOYD:

2 Q I believe you said there's protocol to call SLED
3 anytime a child dies; is that correct?

4 A Yes, sir.

5 Q And you followed that protocol?

6 A Yes, sir.

7 Q And basically initially when you went to the hospital
8 you had no information as to the cause of death; is that
9 correct?

10 A No. We didn't have no -- all we had was unresponsive
11 and not breathing, that's the only thing we get.

12 Q All right.

13 MR. BOYD: I think that's all I have.

14 THE COURT: All right. Permission to publish granted.

15 (Break in proceedings.)

16 REDIRECT EXAMINATION

17 BY MS. LIVELY:

18 Q And Ms. Bishop, just one more thing. Were you there at
19 any point in time whenever SLED had their crime scene
20 individuals go out there to take pictures at the home?

21 A No, I wasn't there.

22 Q I just wasn't sure, it wasn't in the records so I just
23 wanted to be sure that wasn't -- so you did not actually go
24 into the home on the day of the child being removed?

25 A No.

LOLITA FOURNEY - DIRECT

1 Q And at that time whenever you received the call, what
2 information did you have regarding the condition of the
3 child?

4 A Mr. Tinker just advised me that a child had came in
5 unresponsive, and that he felt that he needed me to come
6 out. Also he advised me that he had contacted SLED also.

7 Q Okay. And just to be sure, I didn't ask anyone before
8 this, but SLED, what does that stand for?

9 A South Carolina Law Enforcement Division.

10 Q Okay. And in child fatality cases, is it normal for
11 them to be called in to assist with an investigation?

12 A Yes, ma'am.

13 Q And who was it that actually responded from SLED in
14 regards to this particular case?

15 A Agent Baird.

16 Q Agent Baird.

17 A Yes, ma'am.

18 Q Now, whenever Agent Baird arrived, did the two of
19 you -- where did you respond to? Let me back up. Where did
20 you go?

21 A To at that time Chester Regional Medical Center.

22 Q And whenever you got there, tell the jury what the
23 scene was like whenever you got there.

24 A When I got there there were individuals out in the
25 parking lot. I went to the side entrance and went straight

LOLITA FOURNEY - DIRECT

1 to -- the nurse advised me which room the baby was in and I
2 went in there.

3 Q All right. Who else was in that room?

4 A Coroner Tinker, and I think Stephanie was there then
5 too.

6 Q And while you were in there, did you actually observe
7 the child?

8 A Yes, ma'am.

9 Q And what did you observe?

10 A The baby was laying on the bed unresponsive.

11 Q And had the time of death been called at that point?

12 A Yes, ma'am.

13 Q Did you have the opportunity to speak to any of the
14 family members while you were at the hospital?

15 A Yes, ma'am. I was advised of who her father was, we
16 spoke to him. And they had told me that her mother was
17 there, who I later found out was Ekeria, I done forgot the
18 last time.

19 Q Foote?

20 A Foote, yes, ma'am, Ekeria Foote. Then later I found
21 out she was not the mother, she was the girlfriend of Mr.
22 Wilson.

23 Q And did you have any information as to who the last
24 people were who saw **Minor** alive?

25 MR. BOYD: Your Honor, I'm going to object to that as

LOLITA FOURNEY - DIRECT

1 hearsay at this point.

2 THE COURT: Repeat your question.

3 Q Did you talk to anyone, any of the caregivers who had
4 last seen the child when she was still okay?

5 THE COURT: All right, objection overruled.

6 A Yes, ma'am, the father and Ms. Foote.

7 Q And when was the last time that the defendant told you
8 that he saw the child, I guess, either okay or that she
9 seemed okay?

10 A He said when he made her go to bed and that was the
11 last time he had talked to her.

12 Q And how about at that time did you know who all was
13 living in the home with the child where **Minor** was staying?

14 A The father advised us that it was him, Ms. Foote and
15 Ms. Foote's daughter.

16 Q And how old was Ms. Foote's daughter at the time?

17 A I think around eight or nine.

18 Q And when did you actually have the opportunity to meet
19 **Minor**'s biological mother?

20 A She came to the hospital also.

21 Q That morning?

22 A Yes, ma'am.

23 Q Now, Lieutenant Fourney, while you were there and in
24 regards to what you observed on the child, was there
25 anything that gave you concern at that point?

LOLITA FOURNEY - DIRECT

1 A Yes, ma'am. Because she had a bruise on her forehead
2 and her nose, and we also -- there was also a bruise on her
3 leg, and upon looking at her body there was some bruising on
4 the right side.

5 Q Okay. At that time had you -- did you have any
6 information as to what could have happened to the child?

7 A No, ma'am.

8 Q So once -- and you said that SLED was called in; is
9 that right?

10 A Yes, ma'am.

11 Q And Agent Baird responded from SLED. What did y'all do
12 next?

13 A We did speak with the father and then we spoke with
14 Ms. Foote.

15 Q And when you spoke to the father, the defendant,
16 Mr. Wilson, was that actually recorded?

17 A Yes, ma'am.

18 Q And was -- where was that actual interview held?

19 A In one of the rooms at the hospital.

20 Q Was anyone under arrest at that point?

21 A No, ma'am.

22 Q Was anyone in custody at that point?

23 A No, ma'am.

24 Q All right. So at that time, what kind of an interview
25 was this that you were conducting?

LOLITA FOURNEY - DIRECT

1 A At that particular time we was just trying to find out
2 who had been with **Minor** within the last 24 hours. We were
3 trying to figure out, you know, just what may have happened
4 to her.

5 Q Okay. All right. I'm going to show you a disc and ask
6 you if you recognize this in regards to the interview at the
7 hospital.

8 A Yes, ma'am.

9 Q All right. And once again, that recording was audio
10 and video recorded, is that fair to say?

11 A Yes, ma'am.

12 Q And did you do anything to alter it or change it in any
13 way from the time that you actually did the interview to
14 when it was put on that disc?

15 A No, ma'am.

16 Q All right.

17 MS. LIVELY: Your Honor, this is one of the statements
18 we discussed in regards to the --

19 THE COURT: All right. Without objection?

20 MR. BOYD: No objection.

21 MS. LIVELY: Introduced into evidence.

22 (The disc was received as State's 28.)

23 Q You said you responded to the Chester Regional Medical
24 Center. At what point did you go to the home that **Minor** was
25 staying in those days?

LOLITA FOURNEY - DIRECT

1 A That was later on. That was after we had spoken to Ms.
2 Foote and Mr. Wilson.

3 Q All right. And whenever you went there, was the actual
4 house secured?

5 A Yes, ma'am. Upon receiving the call from Coroner
6 Tinker I advised or instructed Sergeant Moss to go to the
7 residence and secure the residence.

8 Q So once that took place, did you -- was that whenever
9 you arrived at the home and actually was able to enter the
10 home at that time?

11 A Yes, ma'am. That was after we left the hospital, yes,
12 ma'am.

13 Q All right. And what did you do while you were actually
14 at the home?

15 A Well, a search warrant was obtained for the residence
16 and SLED agents came up and did the search of the residence.

17 Q And were you actually walking through when SLED was
18 there doing -- actually basically taking in the crime scene
19 and taking pictures?

20 A Not at first. Like the outside of the house we took
21 pictures, I don't think they actually took those pictures,
22 but I was on the inside.

23 Q So whenever you were inside, did you actually collect
24 any items that were later placed into evidence at your city
25 evidence room?

LOLITA FOURNEY - DIRECT

1 A Yes, ma'am.

2 Q All right. What were those items that you actually
3 secured?

4 A Within the residence there was the sheet, the twin bed
5 sheet that **Minor** was laying on. It was a comforter, a twin
6 comforter that was collected. There was another item. I
7 definitely remember those two, but I think it was a third
8 item collected also. And then I collected the cell phones
9 later on from Mr. Wilson and Ms. Foote.

10 Q And if I showed you that evidence status report, would
11 that help you refresh your recollection as to what it was
12 that was actually secured by you?

13 A Yes, ma'am.

14 Q All right. I think you mentioned a comforter and a
15 sheet. What other items were actually taken in by you?

16 A A pink and blue sleeper.

17 Q So those three items?

18 A Yes, ma'am.

19 Q Were any clothes actually taken into evidence?

20 A Just the sleeper, comforter and the bed sheet.

21 Q Okay. Now, once you spoke to you said Ekeria Foote and
22 defendant, Mr. Wilson, were any of their items actually
23 obtained at that time from them?

24 A Not at the hospital. They were obtained later on, Ms.
25 Foote's cell phone and Mr. Wilson's cell phone.

LOLITA FOURNEY - DIRECT

1 Q So you did actually get their cell phones.

2 A Yes, ma'am.

3 Q And at that time, did they sign a consent for you to
4 receive those cell phones?

5 A Yes, ma'am.

6 Q Did you have any other contact with those cell phones
7 once you actually placed them into evidence?

8 A No, ma'am. Our evidence clerk turned them over.

9 Q Okay. Now, Ms. Foote, you mentioned that you were
10 there for the -- or maybe you didn't. Let me ask you, were
11 you there for the reenactments on November 3rd, 2017?

12 A Yes, ma'am.

13 Q And who was it that actually did reenactments for SLED
14 and yourself?

15 A Mr. Wilson and Ms. Foote.

16 Q And whenever you do a reenactment, is that something
17 that's actually audio and video recorded?

18 A Yes, ma'am.

19 Q So you audio and video recorded the defendants as well?

20 A Yes, ma'am.

21 Q And at that time, was there -- did you have additional
22 information at that time as to what had happened to **Minor**?

23 A No, ma'am.

24 Q And did you actually go to the autopsy?

25 A I didn't.

LOLITA FOURNEY - DIRECT

1 Q You did not. I'm going to show you the same thing as
2 before, I'm going to show you a disc and ask you if you
3 recognize what is on that disc and if it involves the
4 reenactment of the defendant?

5 A Yes, ma'am.

6 Q All right.

7 MR. BOYD: No objection.

8 THE COURT: Without objection received into evidence.

9 (The disc was received as State's 29.)

10 Q And about how long was the reenactments written on
11 there that actually took place on the defendant?

12 A Are you talking about how many days later?

13 Q Okay. How many days later was it done?

14 A The first reenactment was done on November 3rd.

15 Q And so were both of those reenactments of the
16 girlfriend as well as the defendant done on the same day?

17 A Yes, ma'am.

18 Q All right. Now, after you actually did the
19 reenactment, did you learn anymore information as to what
20 could have happened to **Minor** within the last 24 hours before
21 she died? Did you learn anything else from what the
22 defendant showed you?

23 A Not much. He just pretty much said, you know, what had
24 happened that night, he made her go to bed. And after
25 getting the other child ready for school that he noticed

LOLITA FOURNEY - DIRECT

1 later on that **Minor** didn't get up.

2 Q Now, whenever he was talking about what had happened
3 that next day, was there ever any mention as to him being
4 concerned about her being sick or anything like that?

5 A He didn't. He explained that she had thrown up the
6 night before, that she really wasn't eating, that she went
7 trick or treating, and she had came back and that he did
8 give her some of her candy to eat late that night.

9 Q I'm going to show you what's already in evidence as
10 State's 11 through 25. And I've already let you actually
11 review these, Ms. Fourney. Are those the pictures of the
12 outside of the home as well as the interior of the home
13 where **Minor** was staying over those four days?

14 A Yes, ma'am.

15 Q And was -- is the room that she was staying in, was
16 that documented in there as well?

17 A Yes, ma'am.

18 Q And when you looked at the sheets and the -- in the
19 children's room, what did you see?

20 A On the sheet, there was a big stain on the sheet. Mr.
21 Wilson had said also that she had thrown up, so --

22 Q Did he say what it looked like when she threw up?

23 A I think he said a greenish substance I think is how he
24 put it.

25 Q Did he tell you when he called the mother, the

LOLITA FOURNEY - DIRECT

1 biological mother, to tell her that **Minor** was sick?

2 A I know we talked about that, I can't remember exactly
3 what time he called her. But I know that he did advise me
4 that he made several attempts to call Ms. Foote.

5 Q Okay. Ms. Foote. Ms. Foote, though, is his
6 girlfriend, correct?

7 A Yes.

8 Q After you received the defendant's phone and were able
9 to look at some of the information that came off of it, did
10 you find any pictures of **Minor** from the night whenever --
11 from Halloween?

12 A Yes, ma'am. I was shown these pictures, yes, ma'am.

13 Q And those pictures, who actually posted those pictures,
14 do you recall?

15 A I think he said he did.

16 Q If you don't remember that's fine. I just want -- have
17 you seen those photos?

18 A Yes, ma'am.

19 Q And did you document when those photos were actually
20 taken?

21 A Well, per Mr. Wilson he said the date of Halloween,
22 which was October 31st.

23 Q October 31st. All right. Okay. And do you know who
24 the other child is that's in State's Exhibit Number 27?

25 A That's Ekeria Foote's daughter.

LOLITA FOURNEY - DIRECT

1 Q Ekeria Foote's daughter. Now, Ms. Fourney, or
2 Lieutenant Fourney, after all of the preliminary
3 investigation took place, did you also assist in
4 interviewing some other witnesses from the family members
5 both on the defendant's side as well as the biological mom's
6 family?

7 A Yes, ma'am.

8 Q And were all of those interviews recorded and
9 documented for the case file?

10 A Yes, ma'am.

11 Q All right. And after all of this information that you
12 obtained, was there any information that the child had been
13 in any type of a serious accident?

14 MR. BOYD: Your Honor, I'm going to object to that.
15 She's referring to different interviews and anything said in
16 those interviews could be hearsay.

17 THE COURT: Objection overruled.

18 Q Based on your investigation, did you receive any
19 information that the child had been in an accident?

20 A Ms. Adams, the biological mother, did advise us about
21 the scar that was on -- or burn mark, however you want to
22 put it, that was on I think it was the left leg of **Minor**.

23 Q After your investigation and everything that you
24 reviewed, did you have any information as to a serious
25 accident that caused the injury that led to her death?

LOLITA FOURNEY - DIRECT

1 MR. BOYD: Same objection.

2 THE COURT: Objection noted, overruled.

3 A Say that again, ma'am.

4 Q After your full investigation, did you have any
5 information regarding whether or not she had been involved
6 in a serious accident, or some type of accident that led to
7 the injury that caused her death?

8 A No, ma'am.

9 Q Okay. I'm going to show you -- when was the last time
10 that you formerly talked to the defendant, Mr. Wilson, about
11 this case, do you recall?

12 A I think it was February the -- it was the 8th, I
13 believe, 2018.

14 Q Okay. So about four months from the time that **Minor**
15 died, right?

16 A Yeah, a little over three months.

17 Q And was that interview at that time -- where was that
18 interview conducted?

19 A At the law enforcement center on Dawson Drive.

20 Q And at that time was the defendant actually Mirandized
21 before the conversations took place?

22 A Yes, ma'am.

23 Q And was that interview audio and video recorded as
24 well?

25 A Yes, ma'am.

LOLITA FOURNEY - CROSS

1 Q I'm going to show you two discs, 11 and then 12, and
2 ask you if you recognize the two discs involved in that
3 particular interview?

4 A Yes, ma'am.

5 Q All right. And are those the discs that contained the
6 full statement of the defendant on that day?

7 A Yes, ma'am.

8 Q And at the time, who was it that actually went through
9 his Miranda rights with him?

10 A I think I did.

11 Q All right. And did he sign off on the form stating
12 that he would provide a statement to you and Agent Baird?

13 A Yes, ma'am.

14 Q And is that what those discs actually contained?

15 A Yes, ma'am.

16 Q Okay.

17 MS. LIVELY: Your Honor, the State would offer State's
18 30.

19 THE COURT: Any objection?

20 MR. BOYD: None.

21 THE COURT: Without objection admitted into evidence as
22 State's next in order.

23 (The disc was received as State's 30.)

24 MS. LIVELY: Just one moment. Thank you. Lieutenant
25 Fourney, please answer any questions that the defense may

LOLITA FOURNEY - CROSS

1 have for you.

2 THE COURT: Mr. Boyd?

3 CROSS EXAMINATION

4 BY MR. BOYD:

5 Q Lieutenant Fourney, you helped -- or you and SLED were
6 involved in this investigation; is that correct?

7 A Yes, sir.

8 Q Okay. And you said you went to the Chester Hospital
9 and at that point you talked to Darryl Wilson; is that
10 correct?

11 A I did, yes, sir.

12 Q Okay. And that was recorded; is that correct?

13 A Yes, sir.

14 Q So anything that he said would be better seen by
15 looking at or listening to the video rather than your
16 memory, would you agree with that?

17 MS. LIVELY: Your Honor, I just object to her
18 speculating as to what his statement would be better, I
19 think he would have to answer that question.

20 THE COURT: All right. Objection overruled, just
21 answer the question. It's cross examination.

22 A Say that again.

23 Q Whatever Darryl Wilson said to you would be better
24 recorded by the actual recording rather than your memory,
25 would you agree with that?

LOLITA FOURNEY - CROSS

1 A The entire interviews? Probably, yes, sir.

2 Q And I believe three interviews were conducted of him;
3 is that correct? One at the hospital, one at his home and
4 then another at the police station; is that correct?

5 A At the law enforcement center, yes, sir.

6 Q The law enforcement center, all right. And basically
7 the photograph of -- did you take these photographs or did
8 someone else take them? I'm referring to the photographs of
9 the inside of the home.

10 A SLED.

11 Q SLED did? Okay. And the photograph of **Minor** and her
12 and Mi'honesty, the other girl that was trick or treating,
13 that was actually on Darryl's phone; is that correct?

14 A That was, yes, sir.

15 Q Okay. So he had taken that picture to send, I believe,
16 to the mother, is that correct, showing her dressed up for
17 Halloween?

18 A Yes, sir.

19 Q Okay. Now, concerning the bruising on the leg or the
20 mark on the leg, you determined that was not there, that was
21 already there earlier; is that correct?

22 A Based on what Ms. Adams said, yes, well, Ms. Adams and
23 Ms. Foote.

24 MR. BOYD: Okay. Thank you. That's all of the
25 questions I have.

ANNA JAGGER - DIRECT

1 THE COURT: All right. Thank you, ma'am, you may step
2 down. Call your next witness.

3 MS. LIVELY: Yes, sir, Your Honor. The State would
4 call Anna Jagger.

5 THE COURT: This is the last witness for the day?

6 MS. LIVELY: This is the last witness for the day, yes,
7 sir.

8 The witness, ANNA JAGGER, was first duly sworn and
9 Testified as follows:

10 DIRECT EXAMINATION

11 BY MS. LIVELY:

12 Q Ms. Jagger, where do you work?

13 A Chester Police Department.

14 Q And how long have you worked there?

15 A Since 2002, and I had a break for four years and came
16 back 2016.

17 Q During your employment there, have you ever worked as
18 the evidence custodian?

19 A Yes, since 2017.

20 Q All right. And did you have the opportunity to receive
21 some evidence that was logged in by Lieutenant Fourney on
22 the case 2017-1379 involving a child death?

23 A Yes, I did.

24 Q And would you please let the jury know what items were
25 actually provided to you by Lieutenant Fourney?

ANNA JAGGER - DIRECT

1 A There were five different items. Two of the items are
2 phones, one is an I-phone 7 Plus, had the serial number.
3 One is a ZTE cell phone. One item is a bed sheet with
4 multiple colors. The next item is a twin bed comforter.
5 And the last item is a pink and blue sleeper with lettering
6 on it.

7 Q All right. I'm going to -- so in this particular box
8 here, is this where all of the items from that particular
9 case are being held?

10 A Yes, ma'am.

11 Q And if I could just have you step down, we'll do it
12 right here close to the microphone. And have you clearly
13 identified what's in each one of these bags so that we can
14 have them marked, okay?

15 A Yes, ma'am.

16 Q All right. This first bag here, which is item number
17 D?

18 A That's going to be the twin bed comforter.

19 Q All right. If we could --

20 THE COURT: Any objection?

21 MR. BOYD: No objection.

22 THE COURT: Without objection introduced in evidence as
23 State's next in order.

24 MS. LIVELY: State's 31.

25 (The comforter was received as State's 31.)

ANNA JAGGER - DIRECT

1 Q Item number C, what was collected in item number C?

2 A Item C is a bed sheet with multiple colors.

3 MS. LIVELY: This would be State's 32, Your Honor. The
4 State would move to introduce this into evidence at this
5 time as well.

6 MR. BOYD: No objection.

7 THE COURT: Without objection introduced.

8 (The bed sheet was received as State's 32.)

9 Q And then item number E, letter E.

10 A That's going to be a pink and blue sleeper with
11 lettering on it.

12 MS. LIVELY: This would be State's Number 33.

13 THE COURT: Any objection?

14 MR. BOYD: No objection.

15 THE COURT: No objection, State's next in order.

16 (The bed sheet was received as State's 33.)

17 Q All right. And then the final items that we have here,
18 if you could please just tell the jury what these items are
19 in your possession.

20 A Item 4831 is going to be the I-phone 7 Plus. Item 4832
21 is the ZTE cell phone.

22 MS. LIVELY: And, Your Honor, the State is not going to
23 put these into evidence at this time, all of the information
24 has already been taken from the cell phones, it's my
25 understanding, without the defendant's objection.

1 MR. BOYD: That is correct.

2 MS. LIVELY: Okay. All right. Thank you. So I just
3 wanted it actually identified so we'll just leave that. You
4 can have a seat in the witness stand.

5 Q And Officer Jagger, did you have any other items other
6 than the ones you read on the evidence sheet that you had,
7 any chain of custody with in regards to this particular
8 case?

9 A No, no more items.

10 MS. LIVELY: Thank you. That's all from the State for
11 this witness.

12 THE COURT: Any questions of this witness?

13 MR. BOYD: No questions.

14 THE COURT: Thank you, ma'am, you may step down and you
15 are free to leave. Any further witnesses for the day?

16 MS. LIVELY: Not for today, Your Honor.

17 THE COURT: All right. Now is a great time to take a
18 recess, right on the nose at 5:00 p.m., just remember that,
19 ladies and gentlemen. All right. Before I let y'all go for
20 the day -- and we'll start back at 9:30 in the morning,
21 okay? I want you in your jury room at 9:30 tomorrow
22 morning. Remember the instruction I gave you concerning
23 your activities away from the courthouse, don't talk to
24 anybody about this case. If someone persists in talking to
25 you about it let me know and I'll take care of it. Don't do

DARREN MONROE - DIRECT

1 (Break in proceedings.)

2 THE COURT: All right. Is the State ready to call its
3 next witness?

4 MS. LIVELY: We are, Your Honor. The State would call
5 Dr. Darren Monroe to the stand.

6 THE COURT: All right.

7 The witness, DARREN MONROE, M.D., was first duly sworn
8 And testified as follows:

9 DIRECT EXAMINATION

10 BY MS. LIVELY:

11 Q Dr. Monroe, where are you currently employed?

12 A I'm employed in Columbia, South Carolina.

13 Q And what do you do? What is your employment?

14 A I am a forensic pathologist. One of my titles is
15 Deputy Medical Examiner for Richland County.

16 Q And how long have you been in that position, Dr.
17 Monroe?

18 A Just over five years.

19 Q And about how many autopsies would you say, just
20 approximately, have you performed in your job?

21 A Almost 2,000.

22 THE COURT: Sir, speak up for me, please.

23 THE WITNESS: Sure.

24 Q If you need to pull the microphone any closer to you,
25 it's just the acoustics, once we get back here it's just

DARREN MONROE - DIRECT

1 kind of hard to hear you. All right. Dr. Monroe, what is
2 your educational background in order for you to become a
3 forensic pathologist?

4 A I completed undergraduate and graduate school, and then
5 went to -- went through four years of medical school at the
6 end of which I graduated a doctor. Then I completed another
7 four year residency in pathology, which is just a
8 specialized number of years of training in pathology alone.
9 And then I completed on top of that a one year fellowship
10 specifically in forensic pathology.

11 Q And when you say specifically in forensic pathology,
12 what's the difference between pathology and forensic
13 pathology?

14 A So pathology is taking the basic science of what we
15 know in medicine to diagnose disease. And forensic
16 pathology is just a small part of pathology actually, and
17 that's using our medical knowledge to investigate what
18 happened when people die. So we come up and we try to find
19 the cause of death and identification and other related
20 things.

21 Q Okay. Would it be fair to say that you take additional
22 information into consideration based on whether there's an
23 investigation or what may be going on behind the death of a
24 particular person?

25 A Yes, we take all information into account.

DARREN MONROE - DIRECT

1 Q Now, Dr. Monroe, you said that you've been in Richland
2 County in this position for about five years?

3 A Yes.

4 Q Have you ever been qualified as an expert in forensic
5 pathology?

6 A Yes, multiple times.

7 Q And have you testified specifically in court regarding
8 that -- I know you said qualified, that could be through
9 depositions. Have you testified in court before?

10 A Yes, I have.

11 MS. LIVELY: Your Honor, at this time the State would
12 offer him as an expert in the field of forensic pathology.

13 THE COURT: Any objection?

14 MR. BOYD: No objection.

15 THE COURT: All right. Ladies and gentlemen, let me
16 speak to you a little bit about what an expert is, and I do
17 so qualify him to be an expert. When somebody testifies in
18 court they can typically only testify about what they saw,
19 heard, smelled or something of that nature. However, there
20 is an exception for a witness which is called an expert
21 witness, because an expert witness once qualified can
22 testify in the form of an opinion, okay? Because of the
23 expert's field of knowledge or their study or the their
24 expertise they have some particularized skill and they are
25 able to testify in that form of an opinion. Now, just

DARREN MONROE - DIRECT

1 because an expert testifies and gives an opinion does not
2 mean you have to accept that expert's opinion, it's simply
3 something for you to consider when you get all of the
4 evidence and give it the weight and credibility you believe
5 it deserves, okay?

6 MS. LIVELY: Thank you, Your Honor.

7 Q Dr. Monroe, did you have an opportunity in November
8 of -- it was actually November 2nd, 2017 to perform an
9 autopsy on a child by the name of Minor [REDACTED]?

10 A Yes, I did.

11 Q And what information was originally provided to you
12 regarding possible scenarios as to how she died?

13 A The initial information that I received was that she
14 had been sick and throwing up within the past day or so
15 before death, and that's basically all I have.

16 Q And typically whenever you go in with autopsy, if it
17 had been just for instance in your experience, if the child
18 had been in a car accident or had suffered a major fall to
19 some extent, would that information be helpful to you in
20 conducting your examination?

21 A Yes.

22 Q But either way as a pathologist, what is it that you're
23 doing whenever you go in for each one of these autopsies?

24 A We treat each case as the unique case that it is, and
25 we go through a certain protocol for all of our cases, and

DARREN MONROE - DIRECT

1 that just helps ensure that we don't miss anything and we do
2 a thorough case on each --

3 Q And that's kind one of the things is you don't
4 necessarily -- I'm asking as an expert, do you focus in on
5 what you've been told or do you just look at the body and go
6 and follow your normal procedures in the autopsy process?

7 A We certainly take into account all of the information
8 that we receive, and then we do have standard procedures,
9 like I said, on how to conduct the autopsy. And, you know,
10 you have to take what you find at autopsy along with any
11 clinical information and historical information such as a
12 car wreck or whatnot, and you have to put all of that
13 together in order to come up with the right cause of death.

14 Q Okay. Now, Dr. Monroe, you've already told us what
15 information you did get provided. Did you have a date of
16 her actual death?

17 A The date of her actual death was November 1st, 2017.

18 Q And the information that was provided to you, what was
19 the approximate time that was documented as her time of
20 death?

21 A Her time of death was officially called as 8:54 in the
22 morning.

23 Q So when this particular autopsy was assigned to you,
24 when did you conduct your autopsy on the body of **Minor**
25 ?

DARREN MONROE - DIRECT

1 A The autopsy took place the next day, on November 2nd.

2 Q Now, before we get into the details of the autopsy, for
3 the purpose of the jury understanding what we're going to be
4 talking about, what was your conclusion as to what caused
5 the death of the child, Minor [REDACTED]?

6 A The cause of death for Minor [REDACTED] was blunt trauma of
7 the abdomen.

8 Q Blunt trauma of the abdomen.

9 A Yes.

10 Q And in your medical opinion and based on the
11 information provided to you regarding this child, was the
12 blunt trauma to her abdomen from an accidental injury or
13 inflicted?

14 MR. BOYD: Your Honor, I'm going to object to that,
15 that calls for speculation.

16 THE COURT: Objection overruled.

17 A The injuries were non-accidental, they were inflicted.

18 Q Non-accidental inflicted. Tell the jury in your
19 experience when you would have seen an injury such as the
20 one that she sustained in a child or even an adult, what
21 type of a mechanism could have caused it?

22 A The level of injury present was something that you
23 would expect to see from a major accident such as a car
24 wreck.

25 Q Did you have any information she was in a car wreck?

DARREN MONROE - DIRECT

1 A No.

2 Q So what is the first step in your examination in doing
3 the autopsy, Dr. Monroe?

4 A The first part of the autopsy is doing the external
5 examination, and that's where we look over the body and we
6 document things like height and weight and hair color and so
7 forth. We document any medical intervention, clothing,
8 things like that. We also document any external evidence of
9 injury that we find.

10 Q And once you actually have done this, do you put that
11 in your final autopsy report?

12 A Yes.

13 Q So let's look at the -- oh, one other thing. What
14 about a radiological or like x-rays of the child's bones, is
15 that done as well?

16 A Yes, it was. We took x-rays of her entire body, and
17 that's just looking for remote and acute broken bones.

18 Q Okay. And when you do that if there were any injuries
19 like healing bone fractures or anything like that, would you
20 have documented those in your autopsy?

21 A If there were any present I would have documented them,
22 yes.

23 Q Did **Minor** have any documentation or did she -- let me
24 take that back. Did **Minor** have any signs of previous bone
25 injuries that you documented in your report?

DARREN MONROE - DIRECT

1 A No, she did not.

2 Q She did not. Okay. Now, Dr. Monroe, continuing on
3 with the external examination, you said you're looking at
4 the entire body, how the child comes to you. When you're
5 doing that, do you look at whether or not what the age of
6 the child is and the information you have regarding the
7 weight of the child and height and things like that?

8 A We do document those.

9 Q You do document them. And based on her age, was there
10 anything that -- how did you describe her in your external
11 development?

12 A She was normally developed.

13 Q Okay. All right. So other than her being deceased,
14 was her body, from what you could tell before going into
15 your internal, did she appear to have been a healthy child?

16 A She appeared to be a developmentally healthy normal
17 child.

18 Q Now, were there anything that you documented in your
19 initial external examination regarding scars or anything
20 else like that, was all of that actually put into your
21 report?

22 A Yes, it was.

23 Q Okay. And you can actually refer to your report if you
24 have it with you. Do you have a copy of your report?

25 A I do.

DARREN MONROE - DIRECT

1 Q All right. So Dr. Monroe, if you would just please
2 just list to the jury the external injuries that you
3 documented within your autopsy report.

4 A So external injury wise she had a number of things.
5 The most obvious initially was an abrasion, or a couple of
6 abrasions on the forehead area, an abrasion on the tip of
7 the nose, and that's just a scrape. She also had a number
8 of bruises, which we call contusions, just bruises on the
9 right side, mostly the right side of her torso, chest and
10 abdomen.

11 Q All right. And once again those are actually listed in
12 your autopsy report, correct?

13 A They are.

14 Q All right. In regards to the external documentation
15 that you did, Dr. Monroe, I'm going to show you State's
16 Exhibits 34, 35 and 36, and just look at each one of those
17 three, please. Do you recognize those photos?

18 A Yes, I do.

19 Q And are those photos, do they actually reflect the
20 injuries that you're discussing in regards to the external
21 injuries you documented in your report?

22 A Yes. These are the injuries that I just described and
23 that are documented in the report.

24 Q Can you see that, Dr. Monroe?

25 A Yes.

DARREN MONROE - DIRECT

1 Q All right. So you said that the marks that are on her
2 face, where did you document those?

3 A All of the injuries are documented in the report.

4 Q As evidence of injury.

5 A As evidence of injury, yes.

6 Q And in your medical expertise, was there any type of
7 conclusion as to what was going on with the injuries to her
8 face?

9 A No.

10 Q All right. So as a part of what you do in your
11 autopsy, are you documenting everything in order just to
12 make sure that it is properly preserved to draw a final
13 conclusion?

14 A Yes.

15 Q All right. Now, the other injuries -- now, you have
16 two more photos with you. Will you tell me what the numbers
17 of those are again if you don't mind?

18 A These are numbers 35 and 36.

19 Q Can you see that?

20 A Yes.

21 Q If I can grab those from you since I know which ones
22 you have and also that one as well. Thank you. Okay. So
23 what we're looking here at Number 35, will you explain to
24 the jury in this particular picture what it is that you
25 documented as external evidence of injury?

DARREN MONROE - DIRECT

1 A Toward the top of the picture you can see some
2 red/purple discoloration on her chest and upper abdomen area
3 where she's pointing to. Yes. Those are bruises.

4 Q And in your expert medical opinion as a pathologist,
5 does any of these bruises appear to be what you would call a
6 pattern?

7 A There's not a very distinct pattern to them.

8 Q All right. We do have circular injuries to her which
9 you did document, however.

10 A Yes.

11 Q Okay. Now, do you date bruising?

12 A No.

13 Q And why is that?

14 A You can't date a bruise. There's no way to tell if
15 it's brand new or two days old or one day old or three or
16 four or five.

17 Q Okay. So in your medical opinion you're not dating
18 these contusions, you're just documenting that they are
19 there.

20 A Correct.

21 Q Okay. And once again on this particular picture we can
22 see where there appears to be something stuck to the child's
23 body.

24 A Yes.

25 Q Could you please explain to the jury what that was?

DARREN MONROE - DIRECT

1 A That is the outline of a defibrillate pad, it's part of
2 medical intervention when they were attempting to
3 resuscitate **Minor**. That's after we pulled it off at
4 autopsy, it just leaves a little mark where it had been
5 stuck on.

6 Q Okay. And we had a picture earlier from the ER, but
7 that -- you would have actually taken that off yourself at
8 the autopsy.

9 A Right.

10 Q Okay. Now, were any of these bruises consistent with
11 any resuscitative efforts by the EMS team?

12 A The ones towards the very top of the chest are
13 potentially due to resuscitation efforts.

14 Q Okay. All right. Now we're going to move to the
15 next -- okay. This is State's Exhibit 36. All right.
16 Please tell the jury what we're seeing in this picture.

17 A This picture just shows more contusions down the right
18 side of her chest and abdomen.

19 Q And what about down into this area, what area are we
20 looking at here?

21 A That is the lower part of the right side of the
22 abdomen.

23 Q All right. And all of these contusions were actually
24 documented in your autopsy as evidence of internal injury,
25 correct?

DARREN MONROE - DIRECT

1 A Yes.

2 Q All right. And once again at that time did you have
3 any idea as to whether what you're seeing on the external of
4 the child had anything to do with the cause of her death?

5 A Not at that time, no.

6 Q Not at that time. Okay. Now, Dr. Monroe, once you've
7 actually done the external list of the evidence of injury,
8 and you've already told me about resuscitative and all of
9 that. Let's talk about once you've done the external and
10 you've looked at her entire body, every single thing that
11 you look at and you see whether you believe it's accidental
12 or inflicted you listed, is that a fair statement?

13 A That's correct.

14 Q All right. So after you've documented these injuries,
15 what is the very next step in your autopsy?

16 A Once the external examination is complete then we make
17 a large incision on the front of the body and that allows us
18 to get in and examine the internal organs.

19 Q And what is that incision called just for reference
20 purposes?

21 A It's called a Y incision, like the letter Y because
22 that's the shape that it has. It comes down like this and
23 then down straight in the middle.

24 Q So once you started that part of your examination on
25 **Minor**, what was the first thing that you noticed?

DARREN MONROE - DIRECT

1 A The first thing that we noticed was free blood within
2 the abdomen.

3 Q Is that unusual? I don't know anything about blood in
4 the abdomen, is it supposed to be there?

5 A That is abnormal, yeah. That is indicative that
6 something got injured somehow and it's bleeding into your
7 abdomen. There's not normally blood there.

8 Q Now, I'm going to show you what is already in evidence
9 as State's 37. I'm just going to put it up kind of quickly
10 and have you explain to the jury what it is we're seeing and
11 then I'll take it off. So once again you've done the
12 incision, correct?

13 A Yes.

14 Q And so you're internally looking at what area of her
15 body?

16 A This is the inside of the abdomen specifically.

17 Q And actually I just remembered I do have something that
18 may assist. And what I may do is I will have you, if you
19 don't mind, I'm going to get an easel, if you don't mind --
20 this is just for demonstrative purposes. This is the
21 digestive system, and I'm going to just put right here so
22 whenever I show the area on the screen then I'll pull it
23 down and you can point it out to the jury, okay, what we're
24 talking about.

25 A Sure.

DARREN MONROE - DIRECT

1 Q All right. So you've done the incision, you're looking
2 at her internal organs and you said that you saw free blood.

3 A Yes.

4 Q Okay. And I'm going to show this to you. Is that what
5 you saw whenever you did your initial incision?

6 A Yes, it is.

7 Q And once again you said that was concerning to you.

8 A Yes.

9 Q All right. If you would hold up that picture then if
10 you don't mind.

11 MS. LIVELY: Your Honor, may the witness step down?

12 THE COURT: Yeah, sure.

13 Q All right. So the picture that I showed you just now,
14 Dr. Monroe, please point out to the jury where -- what part
15 of the body that you were actually examining.

16 A That picture was from this area right here, and this is
17 the small intestine or small bowel, it's right here.

18 Q So right here, the lower part of her torso. Okay. And
19 if you'll just stand there for a second, I've got a couple
20 of other questions to ask you, it might just kind of help
21 you. After you saw the free blood in her abdomen, at that
22 point in time what is the next step that you do in actually
23 doing your internal examination?

24 A What we do is systematically take out each organ and
25 look at it and examine it one by one.

DARREN MONROE - DIRECT

1 Q And that's what you did obviously with **Minor** as well,
2 correct?

3 A Correct.

4 Q And then as you're actually removing the organs and
5 doing your examination, tell the jury what the next thing
6 that you actually documented as being a potential injury to
7 **Minor**.

8 A The next thing was down here again involving the small
9 intestine, there was a number of contusions or bruises of
10 the bowel itself. There was a hematoma of the large bowel
11 in this area right here which is just the start of the large
12 bowel. And there was also a tear in the mesentery. The
13 mesentery is what supplies blood to your bowels and
14 intestines and it kind of anchors them also to the back of
15 your body, it holds them in place as well.

16 Q So in this particular picture can we see where the
17 mesentery is in this picture?

18 A It's very small here, but you can see the tube of the
19 intestine itself, but then it's got this tissue on the back
20 of it holding it together, it's kind of apparent here.
21 There's a little bit apparent here on some of the other
22 diagrams.

23 Q Okay. And, Dr. Monroe, whenever you pulled out these
24 organs, what was the next thing that you noticed as being --
25 or that you documented as being an injury to **Minor**?

DARREN MONROE - DIRECT

1 A Like I said, she had a number of contusions which are
2 just bruises of the small valve. She had a tear in the
3 mesentery, which is actually better illustrated here in this
4 picture. It's this highly vascular tissue that just
5 connects up to the bowel and holds it in place and gives it
6 blood. She also had an injury around her pancreas, which is
7 kind of higher up in the abdomen. Right here is where the
8 stomach would be but it's hidden by the large bowel. And
9 then behind that is the pancreas. So you can imagine the
10 large bowel is kind of right here going across, the stomach
11 is a little bit behind it, the pancreas is even behind that.
12 This shows the pancreas right here, and this kind of shows
13 where it is in relation to the liver, and the stomach would
14 be right above it. So it's a very deep organ. It's as far
15 back as you can get inside of your body.

16 Q So let me ask you about the injury to her mesentery.
17 You said it's highly vascular. What is just (inaudible
18 because of someone coughing) as to what that means?

19 A It has got a lot of blood vessels to it, it supplies
20 your vessels.

21 Q So when that is torn what happens?

22 A There's going to be bleeding.

23 Q Bleeding. And once again, would that explain the free
24 blood that you saw in -- when your initial incision?

25 A Yes.

DARREN MONROE - DIRECT

1 Q All right. What kind of -- what would cause such an
2 injury or torn mesentery?

3 A This was a blunt forced injury.

4 Q And is it something that a child could get from a fall
5 or from wrestling with a sibling? What kind of injury are
6 we talking about?

7 A The degree of these injuries is not consistent with
8 just a fall or just wrestling with another child or anything
9 like that.

10 Q What kind of force would it take for a torn mesentery
11 and hemorrhage to a pancreas?

12 A The amount of force necessary to create these injuries
13 is, you know, coming with an extreme disregard for the
14 safety and wellbeing of the person. It's a high amount of
15 force to cause those injuries.

16 Q Okay. And can you tell from what you were doing in
17 your examination of her organs, could you tell whether it
18 was, one, either a blow or a blunt force trauma, or two or
19 whatever, is there any way to differentiate that?

20 A There is no way to be for certain, it could be one
21 impact, it could be multiple.

22 Q All right. And then in looking at the blood that was
23 the free blood in her body as well as the tear in the
24 mesentery and the hemorrhage in the pancreas, was there any
25 way for you to look at that and tell how old the injury was?

DARREN MONROE - DIRECT

1 A Yes, there was.

2 Q Okay. And please tell the jury within a reasonable
3 degree of medical certainty in your opinion the very
4 earliest that you believe is more probable that that injury
5 took place and out as far as you can go?

6 A So based on the gross findings, which is just what we
7 can see with our eyes as well as the microscopic findings
8 when I made slides and I look at them under the microscope,
9 I can tell from the certain reaction that the tissue goes
10 through when it's trying to heal, I can date it to it's
11 within two or three days.

12 Q Okay. All right. So the extreme forceful blow to her
13 abdomen area would have happened in two to three days?

14 A Yes.

15 Q Okay. Then what about the -- you said something about
16 the granulation. What does that mean?

17 A So when your body is injured it will try to start
18 healing itself, and the first thing that happens is
19 inflammation and then granulation, and that's just the
20 body's healing process and it is on a continuum. The first
21 thing that happens is some acute inflammatory cells come in
22 and then a little while later some different sorts of cells
23 come in, and it's just part of the healing process, it goes
24 along a predictable timeline.

25 Q And is all of this documented through medical research

DARREN MONROE - DIRECT

1 and peer review articles regarding how the body heals itself
2 in those types of timelines?

3 A Yes, it is.

4 Q It is. Okay. And did you use that information in
5 order to form your professional medical opinion regarding
6 the timeline of when she would have received that fatal
7 blow?

8 A I did.

9 Q All right. Thank you. You can have a seat, I'm going
10 to ask you a few more questions. Dr. Monroe, you just
11 testified that it would take an extreme force in order to
12 cause the tear to the mesentery. Was the tear to the
13 mesentery actually documented during autopsy?

14 A Yes, it was.

15 Q And I'm just going to show you a couple of more
16 pictures for you to explain to the jury what it is that
17 you're talking about, okay? If you could please tell us
18 what it is that we're seeing here and then I'll pull the
19 picture off.

20 A Okay. We're looking at a portion of the small
21 intestine and the part of the mesentery, and that was torn.

22 Q Am I pointing to where the tear was?

23 A Yes.

24 Q Okay. And real quickly the redness and everything
25 here, was that a part of the documented injury to the

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1 mesentery, what we're seeing?

2 A Yes. The dark black is all hemorrhage or bleeding.

3 Q Okay. Now, after you've done the autopsy, is there
4 another step that you go through in regards to looking at
5 the organs in order to document injury to, in particular,
6 this child?

7 A Yes, there is.

8 Q All right. What do you do? Tell the jury.

9 A So in this case I retained the parts of the bowels that
10 were injured and placed them in a certain chemical called
11 Formalin which helps preserves the tissue, and it also helps
12 firm up the tissue as it fixes in that chemical, and then
13 later I can go back and do a more precise dissection and
14 examination.

15 Q Okay. And were pictures taken of the later -- after
16 the organs came out of Formalin were those pictures
17 documented as well?

18 A Yes, they were.

19 Q So I'm just going to show -- it is actually three more
20 photos and ask you to explain to the jury what the
21 significance are of these pictures and how it helps to
22 explain the injuries to **Minor**. In this particular picture,
23 what is it that you're showing to the jury?

24 A So that is a loop of small intestine, and you can see
25 in the middle portion there, that's part of the mesentery.

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1 Q In here?

2 A Yes.

3 Q In the center. All right.

4 A All of the dark areas that you see there, that's
5 hemorrhage and contusions, that's multiple bruises is what
6 you're looking at.

7 Q And that would be a result of the blunt force trauma
8 that you testified to earlier, is that fair to say?

9 A Yes.

10 Q Now this one, Dr. Monroe, I'm sure you're going to have
11 to explain the significance of it so I'm just going to plug
12 this in. Please tell the jury what we're looking at at this
13 point.

14 A So that is a picture of the very start of the large
15 valve, or the colon. What you can see there is the forceps,
16 the tweezers holding up the appendix, which is irrelevant in
17 this, but if you follow that down you get into the wall of
18 the colon itself and you can see the dark black hemorrhage,
19 that's actually a pocket of blood which we call a hematoma.
20 It's just where blood has collected because it has bled so
21 much and so it just forms a pocket of blood.

22 Q All right. So it bled so much that it actually
23 collected there in the bowel.

24 A Correct. It's actually on the outside of the wall of
25 the valve.

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1 Q Okay. And then the final picture. Please explain to
2 the jury how this relates to injury to **Minor**'s abdomen.

3 A That is a closer picture of the tear in the mesentery
4 itself. Again, you can see the dark black where it has
5 bled.

6 Q So all of that is from the actual tear.

7 A Yes.

8 Q And I'm going to go back to the pancreas, Dr. Monroe,
9 because you mentioned something. You said that the pancreas
10 is pretty far back in relation to placement of our organs,
11 is that a fair assessment?

12 A Yes.

13 Q All right. So did you notice any hemorrhage in the
14 pancreas as well?

15 A Yes. There was hemorrhage around the head of the
16 pancreas, which is kind of in the middle of the body and it
17 abuts the spinal column.

18 Q So it's up against your spine.

19 A Yes, very, very close.

20 Q All right. So what level of force would it take to
21 tear through the mesentery and then actually hemorrhage the
22 pancreas?

23 A It would take a very high level of force.

24 Q Would that come from corporal punishment?

25 A That would come from in this case an absence of a

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1 violent accident such as a car wreck that I kind of
2 mentioned earlier, this is an inflicted injury with extreme
3 force.

4 Q And how would the -- and you mentioned the granulation
5 is how you're able to kind of give a timeline of when the
6 injury was inflicted. What about the pancreas, was there
7 also granulation and cell organization in the pancreas?

8 A Yes. The injury around the pancreas and to the
9 pancreas had the same findings microscopically.

10 Q So based on it having the same findings
11 microscopically, would you also give us an idea of the date
12 that you would put on that in regards to when it would have
13 been inflicted?

14 A So with the findings being the same with the mesentery
15 tear and the injury around the pancreas, you know, it's --
16 they happened in a very close proximity in time.

17 Q Dr. Monroe, what about her kidneys and the area around
18 her kidneys? Did you have any findings of internal injury
19 to those organs?

20 A There was some hemorrhage around one of the adrenal
21 glands, which they're perched on top of your kidneys which
22 are also in the very back of your body, and they're somewhat
23 protected by your rib cage in the back. So they're also
24 very deeply located.

25 Q Very deeply located, all right. Now, you mentioned the

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1 granulation, did you actually refer to a medical book to try
2 and explain even to myself as well as SLED Agent Baird where
3 you were coming up with your conclusions?

4 A Yes, I did.

5 Q And I'm going to actually -- if I may approach. Is
6 this the actual book that you used in explaining to myself
7 as well as Agent Baird where you came up with that timeline?

8 A Yes, that's one source.

9 Q Okay. And if I gave this back up to you, could you use
10 it to refer to your opinions that you've given to the jury?

11 A Yes.

12 Q Okay. So Dr. Monroe, in referring to that book, how
13 does that help you to give us the timeline in regards to
14 when **Minor** actually received the blow to her abdomen?

15 A So this particular section of the book describes the
16 timeline of the healing process that I described a little
17 while ago. It gives a breakdown in terms of time, number of
18 days where you see certain reactions when you're looking
19 under the microscope.

20 Q Okay. And so this was something after you actually
21 looked through the microscope and then looked at your book
22 to come up with a time frame you were able to kind of put
23 those together.

24 A Yes.

25 Q All right. Is there a chart that actually reflects

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1 what you used in order to come up with your opinion?

2 A There is a diagram, yes.

3 Q A diagram? Okay. Thank you. And would that diagram
4 help you explain to the jury your timeline that you're using
5 in this particular case regarding when the infliction of
6 injury would have occurred on Minor ?

7 A Yes, it would.

8 Q Okay. All right. Now, Dr. Monroe, I am showing you a
9 diagram. Is that the diagram that you referred to in your
10 textbook regarding how you came up with your opinion as to
11 when the child would have been injured?

12 A Yes, it is.

13 Q Okay. It's the same thing. All right. So if you
14 would, please, Dr. Monroe, explain to the jury what it is
15 that you're looking at and kind of how it fits in laymen's
16 terms with your timeline.

17 A Sure. So this graph shows what you're seeing under the
18 microscope versus time, so you can see the bottom line is
19 labeled days.

20 Q Okay. So we've got .1, .3 and then we've got one,
21 three, ten, 30 and 100, correct?

22 A Right.

23 Q So starting here in the blue, what are we seeing at
24 this point?

25 A So right there at the very start of the graph is when

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1 the injury occurred.

2 Q Okay. So here is where there's an injury. So it comes
3 up and it's showing inflammation. So what is the next step
4 that we see as we proceed up into one day.

5 A So what you're seeing there in blue, that blue hump, is
6 the first kind of inflammation that happens, and that's the
7 earliest cells that come in called neutrophils and they're
8 the first responders so to speak, and they are present for a
9 couple of days. And then a little while later, half a day
10 to a day another certain type of cell comes in calls a
11 macrophage, it's a different inflammatory cell, part of the
12 healing process, and they come in a little bit later, and
13 that's that pink hump in the middle there that you see.

14 Q So right in here is where you're starting to see less
15 of this cell and you're starting to work towards the
16 granulation.

17 A Correct.

18 Q All right. So once we get out to about let's just say
19 three days here, at this point are we seeing anymore of the
20 inflammation at this point, those cells?

21 A Those first inflammatory cells should be mostly gone by
22 three days, and in this case we still have a lot of them
23 under the microscope.

24 Q So let me just stop you there. So when you're saying
25 you still have a lot of them under the microscope, in your

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1 medical opinion then that would be still within the time
2 frame of time of infliction of injury into less than a day.

3 A Potentially.

4 Q Potentially. Okay. If I misstate it please correct
5 me, I'm just trying to understand. Okay. So you're still
6 seeing a lot of inflammation, or those types of cells from
7 inflammation at that point.

8 A Yes.

9 Q What's the next thing you're seeing that plays into
10 your timeline?

11 A So the next thing was that second type of inflammatory
12 cell that comes in a little bit later called the macrophage,
13 and there were also plenty of those. So we're in a good
14 overlap period between the two.

15 Q So in your medical opinion, does that show that her
16 body was actually trying to heal itself?

17 A Yeah. This is all part of the healing process.

18 Q All right. Okay. So as it's trying to heal itself
19 you're seeing both the inflammation from the time the wound
20 is inflicted into the granulation tissue, correct?

21 A Yes.

22 Q And it stops here at -- the very minimum part is at
23 three days, is that based on your testimony earlier?

24 A Yes.

25 Q All right. Well, at that point, though, we're not

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1 seeing anymore of the inflammatory cells, or the cells from
2 the inflammation, is that a fair statement?

3 A You would not see them to the degree that they're
4 present in this case.

5 Q So to the degree that those particular cells are seen
6 in this case, what is that significance for you in regards
7 to trying to say more likely than not when the inflicted
8 injury occurred?

9 A So just the presence of both of them and how much --
10 both types of cells and how much of both were there, it puts
11 us in a range of about two to three days.

12 Q Okay. Outside of the three days, would it even be
13 remotely -- I'm trying to think of the best way -- outside
14 of three days, would you expect to see the amount of
15 inflammation cells that you saw in **Minor**?

16 A No, I would not.

17 Q You would not. All right. And your opinion based upon
18 a reasonable degree of medical certainty was that based on
19 the number of cells and the inflammation, she was still in
20 your medical opinion within the -- around the time of
21 infliction to no more than three days.

22 A Yes. Still part of that first phase of inflammation,
23 yes.

24 Q That first phase where it starts to go in the
25 granulation.

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1 A Right.

2 Q All right. Now, Dr. Monroe, you did the autopsy on
3 November the 2nd, 2017. And once again, what was the date
4 of death for the child?

5 A The date was November 1st.

6 Q November 1st. And the information that you had in
7 regards to the time of death that was actually called
8 officially was again -- was it 8:54, I think?

9 A Yeah, 8:54 in the morning.

10 Q All right. So if you wouldn't mind, I'm actually going
11 to ask you to step down again and we're going to do a
12 demonstration for the jury if you don't mind in regards to
13 your timeline.

14 MS. LIVELY: Your Honor, may the witness step down,
15 please?

16 THE COURT: Yeah.

17 MS. LIVELY: We'll do just like we did before.

18 Q Okay. Dr. Monroe, before I actually officially write
19 it with a sharpie we're going to use a pencil, okay? So what
20 we have is we do know the time of death was 8:54 a.m., okay?
21 So we can all agree that that was the documented time of
22 death in regards to the official call of her death, correct?

23 A Yes.

24 Q All right. Just make sure you speak up so that they
25 can hear you. So by using your chart in regards to the

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1 granulation, if you would -- well, let me -- if I provided
2 you with information that the last time, or the last
3 witnessed person who was a caregiver of the child stated
4 that she was sitting up in the bed around 3:30 a.m. that
5 morning, okay? If I provide you with that information,
6 where would you start to put your timeline as to when the
7 inflicted injury would have occurred? Let's back it up
8 based on the days.

9 A Each line here going up and down, this represents
10 midnight, and then 8:54 in the morning would be about right
11 here, 3:00 in the morning would be about right there.

12 Q Okay. All right. So we're about 3:00 in the morning
13 here. Okay. So we're at about 3:00 a.m., which is the last
14 documented time from witnesses that she was sitting up in
15 the bed. Now, back us into 24 hours before then as your
16 first day timeline wise.

17 A So if we go back one day from the time of death between
18 here and here that would put us about right there. So that
19 would be one day prior to death.

20 Q All right. So we'll put that right there. And that is
21 Halloween the 31st. So what we have then is we've already
22 gotten into based on your testimony, we're here at one day,
23 which is inflammation cells as well as the healing -- the
24 attempt to heal granulation cells; is that right?

25 A Yes.

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1 Q Okay. Thank you. I hope I'm getting that right. So
2 this is one day. Well, take us then to two days.

3 A Two days would put us about right there.

4 Q So two days would put us about right here on Monday the
5 30th. So now we're moving into that time frame where we
6 have mostly granulation tissue at the exclusion of the
7 inflammation cells. And if I'm saying that wrong please
8 correct me.

9 A At two days there's going to be more granulation
10 tissue, more of the macrophages, that second type of cell
11 than that first type of cell.

12 Q And at the time you actually did your analysis or
13 your -- when you did -- when you looked at the cells you
14 said there was still a significant amount of inflammation
15 cells whenever you did your microscopic analysis; is that
16 right?

17 A Yes.

18 Q There was. Okay. All right. So now we're looking at
19 about three days out, so that would put us about right here
20 on Sunday the 29th.

21 A Right.

22 Q Okay. Now, what is the problem with pushing it out any
23 further whenever you look at what your microscopic findings
24 were regarding the inflammatory cells that were still
25 present in her tissue?

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1 A So further out from three days I would not expect to
2 see nearly as many of that first type of inflammatory cell.
3 You can always see scattered cells of almost all different
4 types in the whole process. But going beyond three days,
5 those first type of inflammatory cells, they literally die
6 and are eaten up by the second type. So by that time
7 they're really rare.

8 Q Okay. So within a reasonable degree of medical
9 certainty based on your microscopic findings as well as your
10 findings during the internal injuries to **Minor**, was
11 the inflicted injury between the timeline we put Sunday the
12 29th through right before or maybe between the 31st and the
13 1st, whenever she was last seen sitting up in the bed?

14 A Yes. The injury occurred some time in this period.

15 Q Okay. All right. Thank you, please have a seat. Now,
16 was there any evidence of a trauma to her abdomen that was
17 from an old injury?

18 A No, there was not. Not more remote than we're talking
19 anyway within a couple of days.

20 Q And was there any injury to her a appendix? Was her
21 appendix burst?

22 A No, her appendix was fine.

23 Q All right. So I'm just going to ask you just some
24 final -- just make sure I tie everything up. Did you test
25 to see whether she had any kind of natural disease or

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1 genetic problem that could have led to this internal
2 bleeding?

3 A There was no evidence of any other sort of disease. I
4 did a special stain just to rule out one entity and that was
5 completely negative.

6 Q So no disease, no genetic deformities or any problems.
7 What about toxicological findings? Was there anything that
8 was internally inside of her that could have made her bleed
9 out?

10 A We take blood for toxicology testing in all autopsy
11 cases, and in this case there was nothing detected at all.

12 Q All right. So within a reasonable degree of medical
13 certainty, was the injuries to **Minor**'s abdomen the result of
14 an extreme blunt force trauma?

15 A Yes, it was.

16 Q And you've already said it wasn't her appendix
17 bursting, correct?

18 A Correct.

19 Q Within a reasonable degree of medical certainty, could
20 that level of injury occur from her tripping and falling?

21 A Not at all.

22 Q So based on your findings and all of the information
23 you had outside of this particular event, was it the result
24 of an accident?

25 A This was non-accidental, this was inflicted.

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1 Q And could the blow to her abdomen, which also went deep
2 enough to cause contusions on her pancreas, could that have
3 been done by a child?

4 A No.

5 Q And Dr. Monroe, when you came in you actually brought
6 in with you an article from 2017 regarding the type of wound
7 healing that we have talked about here today at length with
8 the jury. Did you have an opportunity to review this
9 particular article?

10 A Yes.

11 Q And based upon your medical opinions that you've
12 provided to us, is that a medical opinion regarding your
13 timeline of when **Minor** would have had the inflicted injury
14 to her, does it correlate, or does it match what the medical
15 profession as well as peer review articles show?

16 A Yes, it shows exactly the same thing. The article
17 didn't have a diagram like that, but it shows the same exact
18 timeline.

19 Q The same timeline. Okay. All right. One moment.

20 MS. LIVELY: One moment, Your Honor.

21 THE COURT: Yes.

22 (Break in proceedings.)

23 Q And I've asked a lot about the post information that
24 you found as in at the time of death. Could you give us any
25 information from your experience what a person who had this

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1 kind of injury, what their normal reactions would be to
2 something like this?

3 A There would certainly be pain and probably vomiting.

4 Q Okay. Pain and vomiting.

5 A Uh-huh.

6 Q Would you expect that person to be normally functioning
7 for days?

8 A No.

9 Q More than three days?

10 A Definitely not.

11 Q Definitely not. Okay.

12 MS. LIVELY: Thank you. Please answer any questions
13 that Mr. Boyd has for you. Thank you, Dr. Monroe.

14 THE COURT: All right, Mr. Boyd, your witness.

15 CROSS EXAMINATION

16 BY MR. BOYD:

17 Q Dr. Monroe, I believe you have -- do you have your
18 autopsy report in front of you?

19 A Yes.

20 Q I want to ask you about some of the other findings that
21 you had on the exterior of **Minor**. And basically, first off,
22 I believe you -- the blunt head trauma, you talk about the
23 abrasions on the forehead and the abrasion on the nose, now,
24 these injuries had nothing to do with her death; is that
25 correct?

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1 A That's correct. She had some contusions and abrasions
2 on the tip of her nose that had nothing at all to do with
3 her death.

4 Q And you can't date when these occurred; is that
5 correct?

6 A No.

7 Q Okay. And you can't testify as to whether or not they
8 occurred at the same time as the blunt force trauma to the
9 abdomen.

10 A Correct.

11 Q Okay. And you also noticed, I believe, an abrasion of
12 the left lower leg; is that correct?

13 A Yes.

14 Q And did this appear to be a scrape or burn or something
15 of that nature?

16 A It appeared to be an abrasion. An abrasion is just
17 what we call a scrape.

18 Q Okay. And again, you couldn't date that abrasion
19 either; is that correct?

20 A No.

21 Q Now, I think you noted a number of the -- of scarring
22 on her. And basically scars are injuries that's already
23 healed; is that correct?

24 A That's right.

25 Q Okay. So for an injury to have scarred it's not

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1 something that would have occurred in the last few days; is
2 that correct?

3 A Correct.

4 Q You noted numerous what you call punctuate round scars
5 over the legs. And just describe, what's a punctuate round
6 scar?

7 A So I describe them as punctate round scars, they're
8 just small little rounds scars, pretty tiny.

9 Q Okay. But those had healed and now there were scars;
10 is that correct?

11 A Right.

12 Q Okay. And you also noted linear scars on the left
13 forearm; is that correct?

14 A Yes. There were a number of small linear scars on the
15 left forearm, left upper arm, right forearm and left foot.

16 Q And what's a linear scar?

17 A That's just a thin line of a scar.

18 Q Okay. What kind of things can make a linear scar?

19 A It can be from a bad abrasion or a cut.

20 Q All right. And you said there was also some scars on
21 her left cheek; is that correct?

22 A Yes.

23 Q Okay. And she also had a linear scar of the left jaw
24 line; is that correct?

25 A Yes.

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1 Q And a linear scar on the left upper chest?

2 A Yes.

3 Q Okay. And all of those were injuries that had healed
4 and it formed scars; is that correct?

5 A Right.

6 Q And again, those wouldn't have happened in the last few
7 days; is that correct?

8 A Correct.

9 Q All right. Now, as far as the bruising you noted, I
10 think you showed a picture of that, I believe you testified
11 that you cannot give a time frame in which the bruises
12 occurred; is that correct?

13 A That's correct.

14 Q Okay. You can't testify that the bruises were
15 inflicted at the same time as the blunt force trauma that
16 caused the death.

17 A I can't say with certainty, no.

18 Q Okay. And as far as the bruises are concerned, I
19 believe you said the two on the upper chest were potentially
20 from resuscitation efforts; is that correct?

21 A Right.

22 Q Okay. Now, you said the other bruises were not --
23 would not be. What is the basis for that opinion?

24 A The bruises in the center of the chest are where they
25 would do compressions. In an adult they would use their

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1 whole hand like this to compress the chest when they're
2 trying to resuscitate you. In a child you don't do that,
3 you're using -- depending on the age and size of the child
4 you're using just fingers or maybe more or less of your
5 fingers just depending on the size of the child. There's
6 no -- nothing is done during resuscitation compression-wise
7 on the abdomen.

8 Q Okay. Now, you're assuming from that that the person
9 who is attempting resuscitation is trained and knows what
10 they're doing; is that correct?

11 A That would be the assumption.

12 Q So someone who is not trained and doesn't know what
13 they're doing could inflict other types of bruises; is that
14 correct?

15 A Potentially.

16 Q And I believe the small and round bruises would be
17 consistent with **Minor** being grabbed by hands; is that
18 correct?

19 A Potentially.

20 Q And I believe you said you can't tell if one or -- if
21 there was one blow or more than one blow that caused the
22 blunt force trauma; is that correct?

23 A Right. I can't say with certainty if it was one blow
24 or multiple blows, I can say that they happened in close
25 proximity of time.

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1 Q Okay. But it could have been one, it could have been
2 more than one.

3 A Right.

4 Q Okay. Have you read any medical literature that told
5 what the most common cause of a torn or ruptured or damaged
6 mesentery is?

7 A In what situation?

8 Q Well, what's the most common cause they see it? When
9 someone comes to the hospital or emergency room with that
10 that type of injury, what's the most common cause if you
11 know?

12 A For a child at this age the first thing that comes into
13 your mind with a mesentery tear is abuse, inflicted trauma.

14 Q What about just generally people, what's the most
15 common cause?

16 A Bad accidents, car wrecks, things like that.

17 Q Have you seen any literature that basically it's a
18 seatbelt injury is the most common cause?

19 A I have not.

20 Q Do you know of any studies that have measured the
21 amount of force that's necessary to inflict this type of
22 injury?

23 A Not offhand.

24 Q So you don't know, you know, going back -- I don't know
25 if you saw the Rocky movie where he fought Drago, the

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1 Russian, and he could punch with a certain PSI or something,
2 you don't know of any measurements that measured that kind
3 of amount of force that's necessary to cause this type of
4 injury.

5 A No.

6 Q And basically the -- are you aware of any studies that
7 show that falls cause this type of injury?

8 A No, unless it's a fall from a great height.

9 Q Okay. What about a fall onto an object?

10 A Potentially.

11 Q All right.

12 A But you would have to be going at a very high rate of
13 speed and trip and fall, that's not going to happen from a
14 two year old just tripping and falling onto something.

15 Q How about a stump or some object like that, falling
16 down on it?

17 A Likely not.

18 Q Do you know how much -- do you know the physics of how
19 much force would be caused by that kind of fall as opposed
20 to somebody punching?

21 A Again, it's impossible to say to put a number on it,
22 how many pounds of force is necessary to cause the sort of
23 injury. It's an extreme amount of force.

24 Q But you have no idea how much --

25 A I can't give you a number.

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1 Q Do you ever read the Emergency Medicine Journal?

2 A It has been many years.

3 Q Okay. Are you familiar with that publication?

4 A Yes, I know it exists.

5 Q Okay. Do you know whether in the articles it
6 recommends that the diagnosis of mesenteric injury should be
7 considered even in patients who sustain only minor abdominal
8 trauma?

9 A I couldn't quite hear you.

10 Q Okay.

11 MS. LIVELY: Your Honor, may we get a copy of this if
12 he's going to be referring to it so that my witness can
13 actually look at it as he's actually addressing him?

14 MR. BOYD: Absolutely. I just have one copy.

15 MS. LIVELY: We'll get one. I just think it is more
16 fair for him to be able to look at it.

17 Q I'll go on. I want to ask you a little bit about the
18 timelines in this situation. And now I'm probably going to
19 murder some of these words I'm going to pronounce so if
20 you'll correct me on those. Basically when there's an
21 injury a type of white blood cell of the immune system
22 called macrophage --

23 A Macrophage.

24 Q -- they come to the area; is that correct?

25 A Yes.

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1 Q And basically the purpose of those cells is to remove
2 dying or dead cells and cellular debris; is that correct?

3 A They do a lot of things among removing old dead tissue
4 and dead cells, yes.

5 Q And when there's early signs of inflammation there is
6 something called -- is it neutrophils.

7 A Neutrophils, that's right.

8 Q And they come to the area during inflammation; is that
9 correct.

10 A Yes.

11 Q And then they're actually ingested by the macro --

12 A The macrophages.

13 Q And the first wave of the macrophage after the injury,
14 they come in after the first approximately 48 hours; is that
15 correct?

16 A About, yeah.

17 Q Okay. And then they stimulate the appearance of the
18 macrophage; is that correct?

19 A Well, the neutrophils are the first cells to come in,
20 and then within about a day or two the macrophages come in.

21 Q And the macrophils (sic) ingest the neutrophils; is
22 that correct?

23 A The macrophages will eventually ingest the neutrophils,
24 because the neutrophils go through a process called
25 apoptosis, which just the cells are literally killing

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1 themselves because their job is done.

2 Q And the macrophils (sic) create the granulation tissue;
3 is that correct?

4 A The macrophages are an important part of the
5 granulation tissue coronation process, but not the only
6 cell.

7 Q And I think basically in your dating of the -- if I'm
8 correct from your testimony, you wouldn't see inflammation
9 cells to the extent you saw them if the injury was older
10 than three days; is that correct?

11 A If the injury was older than three days I would not
12 expect to see that many neutrophils, that first line cell
13 present.

14 Q So you're looking at -- if the date of the death was on
15 the morning of November the 1st, and that was a Wednesday,
16 you're going back Tuesday, Monday, Sunday, the early morning
17 hours of Sunday would be the latest part of your time
18 period; is that correct?

19 A I think that's two to three days, yeah.

20 Q I want to show you this article. Now, I'll give you a
21 minute to look over that. It's just a page and a half, I
22 think.

23 (Break in proceedings.)

24 A Okay. I haven't read every single word but I glanced
25 over it.

DARREN MONROE - REDIRECT

1 Q But the bottom line of this said that a diagnosis of
2 mesenteric injury should be considered even in patients who
3 sustain only minor abdominal trauma; is that correct?

4 A That's the conclusion of this article, yes.

5 Q And that's from an emergency standpoint; is that
6 correct?

7 A Right.

8 Q And basically they were basing that on a case study of
9 a 63 year old man who had this type of injury from being hit
10 by his three year old grandson's head while playing; is that
11 correct?

12 A That's what it says.

13 Q And let me just as -- what was the name of the textbook
14 you were referring to? You've got it right there.

15 A This textbook is called the Pathologic Basis of
16 Disease, but it's commonly referred to as Robbins.

17 Q Robbins.

18 A R-o-b-b-i-n-s.

19 MR. BOYD: Thank you. That's all of the questions I
20 have.

21 THE COURT: Redirect?

22 MS. LIVELY: Yes. Thank you, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. LIVELY:

25 Q Now, Dr. Monroe, first of all you're not an ER doctor,

DARREN MONROE - REDIRECT

1 are you?

2 A I'm not.

3 Q And then also in regards to the article that he showed
4 you, it appears on the second page it says, "If the
5 mesenteric laceration is minimal the patient can be managed
6 conservatively." Do you see that on page two at the top, or
7 page -- it's listed page three but it's actually --

8 A Yes, I see that.

9 Q Was the injury to **Minor**'s mesentery minimal?

10 A It was not minimal.

11 Q And then also in regards to **Minor**'s injury, was it just
12 her mesentery that was actually torn?

13 A It was not just her mesentery that was actually torn,
14 there were other injuries. There were contusions that were
15 removed, you know, some distance away from the tearing in
16 the mesentery. There was also the injury to the pancreas,
17 the pancreas area, and those are far removed from each
18 other. I think defense mentioned a potential scenario of a
19 child tripping and falling onto maybe a thin post.
20 Certainly if the area of which you're falling on is smaller
21 then the pressure is going to be greater than if you fell on
22 something that was wider. Forces are distributed over a
23 larger area, and we're just not seeing something from a
24 small impact in this case, given that the pancreas is so far
25 away from where these other injuries occurred. You've got a

DARREN MONROE - REDIRECT

1 lot of space there to cover.

2 Q Okay. A lot of space to cover and depth through her
3 torso, is that fair to say?

4 A Yes.

5 Q And he also asked you in a child this age what is the
6 most common cause for that child to have a torn mesentery,
7 and what did you tell us?

8 A Well, it would depend on the scenario. Outside of a
9 known traumatic and accidental injury such as a car wreck or
10 a fall from a great height, the first thing that you would
11 think of with any sort of internal abdominal injury of a
12 child was abused inflicted injury.

13 Q And he asked you about the scars on her body and in
14 regards to the ones that had healed. Were some of those
15 like little scars on her legs, would those be consistent
16 with possibly healing bug bites?

17 A They could potentially be healing bug bites or a sort
18 of rash that healed eventually.

19 Q Okay. Dr. Monroe, even looking at those scars and some
20 of the bug bites, within a reasonable degree of medical
21 certainty, did they have anything to do with the blow to her
22 stomach that led to her death?

23 A None of the scars have anything to do with her death.

24 MS. LIVELY: Thank you, no further questions.

25 THE COURT: Recross on that?

DARREN MONROE - REDIRECT

1 MR. BOYD: No.

2 THE COURT: Thank you. Ladies and gentlemen, let's
3 take a brief recess, thank you, sir, you may step down.
4 Y'all head on back to your jury room, don't talk about the
5 case.

6 (The jury left the courtroom.)

7 THE COURT: All right. We're in recess.

8 (A recess was taken.)

9 THE COURT: All right. Anything else before we bring
10 the jury?

11 MS. LIVELY: Yes, Your Honor, the State is ready.

12 (The jury returned to the courtroom.)

13 THE COURT: All right. All members of the jury are
14 present. Ladies and gentlemen, I know what time it is, this
15 will be the last witness for the morning before we take our
16 lunch recess, okay? Call your next witness.

17 MS. LIVELY: Thank you, Your Honor. The State would
18 call Tornita Adams to the stand.

19 The witness, TORNITA ADAMS, was first duly sworn and
20 Testified as follows:

21 DIRECT EXAMINATION

22 BY MS. LIVELY:

23 Q Ms. Adams, please tell the jury who **Minor** was in
24 relation to you.

25 A **Minor** was my two year old daughter.

TORNITA ADAMS - DIRECT

1 Q Do you have any other children?

2 A Yes. I have three boys; **Brother 2**, who is nine, **Brother 1**,
3 who is seven, and **Brother 3** who is six.

4 Q Do you have any other little girls?

5 A No, ma'am, **Minor** was my only girl.

6 Q How old was she when she died?

7 A Two.

8 Q And who is her father?

9 A Travis, Mr. Wilson.

10 Q The defendant?

11 A Yes.

12 Q Now, when you became pregnant, did you know who the
13 father was?

14 A No. It was between Mr. Wilson and my boys' father.

15 Q Okay. What is your boys' father's name?

16 A Charles Mobley.

17 Q Charles Mobley? And what are your sons' last name?

18 A Mobley.

19 Q So all three of them are Charles' sons?

20 A Yes, ma'am.

21 Q Now, when you became pregnant with **Minor**, did you
22 approach the defendant about the possibility that he was the
23 father?

24 A Yes. I sent both of them a text message.

25 Q All right. And what happened?

TORNITA ADAMS - DIRECT

1 A They both said they wasn't the father and denied a DNA
2 test.

3 Q Was a DNA test ever done?

4 A Yes. Mr. Wilson and his family snuck and did a DNA
5 test.

6 Q I'm sorry, I didn't really hear that. You said that Mr
7 Wilson --

8 A Yes. Him and his family snuck and did a DNA test one
9 day when they had my baby.

10 Q They snuck and did a DNA test?

11 A Yes.

12 Q All right. How did you find out about that?

13 A His sister, Laderika (phonetically.)

14 Q So what were the results of the DNA test?

15 A I didn't see the results but they said that he was the
16 father.

17 Q And did you respect that and allow him to see **Minor**?

18 A Yes, I did.

19 Q Okay. What was your relationship like with the
20 defendant? Were y'all close, or what kind of relationship
21 did you have with him?

22 A We wasn't close, I would say we was just messing
23 around.

24 Q And so whenever **Minor** ended up being born, was your
25 relationship with the defendant just so that he could see

TORNITA ADAMS - DIRECT

1 the child?

2 A Yes.

3 Q All right. Now, were the two of you under any type of
4 a court order about who had visitation and when or anything
5 like that?

6 A No, ma'am.

7 Q All right. So how did you decide when the defendant
8 would get to see **Minor**?

9 A He would ask me could he see **Minor**, or I asked him did
10 he want to get **Minor** and we would just go from there.

11 Q All right. Now, Tornita, let me take you back a
12 minute. Where do you live right now?

13 A In Lancaster, South Carolina.

14 Q How long have you lived there?

15 A All of my life.

16 Q All of your life, all right. And whenever you met the
17 defendant, where was he living?

18 A In Rock Hill with his mother.

19 Q With his mother, all right. And do you remember about
20 when he would have moved to Chester?

21 A No, I don't remember.

22 Q All right. When he started visiting with **Minor**, was he
23 still living in Rock Hill?

24 A Yes, he was.

25 Q And about how old was **Minor** at that point?

TORNITA ADAMS - DIRECT

1 A I would say she was like almost a year.

2 Q And whenever you would take **Minor** to the defendant's
3 house, was it just him alone with **Minor** or were there other
4 people -- other family members there?

5 A It was other family members there.

6 Q All right. Did you have any concerns at that point
7 regarding him being able to care for a baby?

8 A No, ma'am.

9 Q All right. Why is that?

10 A He never showed me that he was doing any type of harm
11 to her or nothing.

12 Q Okay. But you didn't really know him, did you?

13 A No, ma'am.

14 Q All right. Did you have any relationship with his
15 sister and his mother?

16 A Yes.

17 Q Well, what about that? How was that?

18 A I was closer to Laderika than any of them.

19 Q All right. Laderika?

20 A Yeah. She was there when I first had **Minor** and I came
21 home.

22 Q All right. So were you friends with his sister,
23 Laderika, or y'all just were kind of contacts or what?

24 A I would say we were just contacts.

25 Q And so just to back up and make sure that I'm sure, so

TORNITA ADAMS - DIRECT

1 did you go -- ever go to DSS for a paternity test on the
2 defendant for your daughter, **Minor**?

3 A No, ma'am.

4 Q At anytime was he actually -- how did y'all work out
5 support for the child, like child support, those type of
6 things since DSS wasn't involved?

7 A It wasn't no type of like child support. I just asked
8 him to get things, or he just got things on his own.

9 Q And how about his sister and his mom, did they ever buy
10 things for **Minor**?

11 A Yes, they did.

12 Q Now, how was **Minor** with her brothers, were they close?

13 A They was real close, especially her and **Brother 3**.

14 Q And **Brother 3**, was -- is he the youngest one?

15 A Yes, he's the baby.

16 Q All right. Now, did **Minor** have any other brothers or
17 sisters that did not belong to you?

18 A Yes, she had other brothers.

19 Q She had another brother?

20 A Uh-huh.

21 Q And who was that?

22 A Carson.

23 Q All right. So Carson. And where -- who is Carson?

24 A That's Travis' other son.

25 Q Travis' other son? Okay. And how old -- what age was

TORNITA ADAMS - DIRECT

1 Carson in relation to **Minor**?

2 A They were like a couple of months apart.

3 Q Did you know Carson's mother?

4 A No. I didn't know her but I had heard of her.

5 Q Okay. But you did know that **Minor** had another half
6 brother?

7 A Yes.

8 Q Do you know if she ever spent any time with him?

9 A When Carson -- when Mr. Wilson would have her.

10 Q And let me ask you about **Minor**. Was she a pretty easy
11 baby?

12 A Yes. She was outspoken, outgoing, she danced, sing.
13 She would brighten up anybody's day.

14 Q And how about her appetite, was she a good eater?

15 A She was greedy.

16 Q And what was her first food? By the time she was
17 eating -- let's see, was she eating people food obviously by
18 two years old?

19 A Yes.

20 Q What was her first food?

21 A Chicken nuggets and french fries.

22 Q Now, at what point did you start taking **Minor** to a
23 different location, which that being Chester, whenever the
24 defendant moved? Do you remember about when that was?

25 A No.

TORNITA ADAMS - DIRECT

1 Q Okay. How did you know where to go?

2 A He would tell me.

3 Q All right. And whenever you actually brought **Minor**,
4 who all was at that place where you were dropping the child
5 off, do you recall?

6 A Travis, his girlfriend and her daughter.

7 Q All right. And now, do you remember the girlfriend's
8 name?

9 A Yes, Ekeria.

10 Q Do you remember her daughter's name?

11 A Mi'honesty.

12 Q How old was Mi'honesty around the time when you started
13 taking **Minor** around there?

14 A I really don't know.

15 Q Well, let me ask you an easier question, do you know if
16 she was school age or was she still not in school yet?

17 A School age.

18 Q All right. So like early school age or was she nine or
19 ten years old?

20 A I would say about nine or ten.

21 Q Okay. Now, Tornita, whenever you would take **Minor** over
22 there, did **Minor** ever act like she didn't want to go, or was
23 she attached to you and didn't want to get out of the car?

24 A No. She was happy to see her daddy.

25 Q All right. So she was happy to see her daddy. What

TORNITA ADAMS - DIRECT

1 about Ekeria?

2 A Ekeria would never come outside to get her out of the
3 car, it would always be him.

4 Q He's her dad. Did that bother you that Ekeria didn't
5 come out?

6 A No.

7 Q What was your relationship like with Ekeria?

8 A We never really had a relationship, we just talked off
9 the sake of **Minor**.

10 Q You talked just for the sake of **Minor**.

11 A Yes.

12 Q Now, what was the relationship -- what was going on
13 between Ekeria and the defendant around the time whenever
14 you dropped **Minor** off around Halloween?

15 A Nothing that I know of.

16 Q Do you know whether she has had a child since then?

17 A Yes, she had a little boy.

18 Q She had a little boy? And do you know who the father
19 of that little boy is?

20 A Mr. Wilson.

21 Q The defendant?

22 A Yes.

23 Q All right. And do you know whether Ekeria was pregnant
24 at the time that you dropped **Minor** off in October of 2017?

25 A Yes.

TORNITA ADAMS - DIRECT

1 Q Now, Tornita, whenever you -- before you dropped off
2 **Minor** for those four days, as parents, did you ever talk to
3 the defendant about how y'all were going to punish her if
4 she wasn't paying attention or if she wasn't doing something
5 right? Did y'all ever talk about parenting issues?

6 A No.

7 Q So did you know how, if at all, he would punish **Minor**
8 if she needed to be taught a lesson?

9 A No.

10 Q Okay. Whenever you were -- when you had **Minor** at your
11 house -- first of all, tell the jury who all lives with you
12 at your house in Lancaster.

13 A Me, my three sons, my grandma and my aunt.

14 Q And your aunt? Okay. What is your grandma's name?

15 A Edith Mae.

16 Q What's your aunt's name?

17 A Clara.

18 Q Do you work?

19 A Yes.

20 Q So when you're working who watches the children?

21 A My grandma and my aunt.

22 Q Your grandma and your aunt. All right. So let's go
23 back to that. Whenever you would actually either punish or
24 try to teach your kids a lesson, what was your form of
25 punishment?

TORNITA ADAMS - DIRECT

1 A I will take like a phone, a video game or put them in
2 timeout.

3 Q At anytime did you actually use corporal punishment,
4 which means like did you spank them or use any type of
5 either --

6 A A pop on the hand.

7 Q A pop on the hand?

8 A Uh-huh.

9 Q What about your Aunt Clara and your grandmother, do you
10 know how they would actually punish the children if they got
11 out of line?

12 A They will probably pop them on the hand too.

13 Q All right. Now, did you have any concerns at that time
14 regarding what was going on with **Minor** or your three boys
15 whenever left for work?

16 A No, ma'am.

17 Q All right. And anytime whenever you took **Minor** -- got
18 **Minor** back from the defendant, did you have any concerns
19 regarding how she looked or how she was feeling?

20 A No, ma'am.

21 Q All right. So at this point in time in October of
22 2017, how was **Minor**'s health?

23 A She was fine, healthy, up to date on her shots.

24 Q Up to date on her shots. So who was the one that took
25 her to the doctor?

TORNITA ADAMS - DIRECT

1 A I was.

2 Q If she was sick, who would take her to the ER or to the
3 doctor?

4 A I would.

5 Q And if -- had the defendant ever called you to tell you
6 that **Minor** was not feeling well or you needed to come pick
7 her up at anytime?

8 A No, ma'am.

9 Q All right. Now, let me ask you about this, we talked
10 about the parenting with the punishing and that type of
11 thing. By the time that **Minor** went that weekend of
12 October the 28th, were you attempting to potty train her?

13 A Yes.

14 Q Well, tell the jury about that.

15 A It was like we could never be on a schedule because I
16 would be doing one thing, then when she would go somewhere
17 else they would be doing another, so she wasn't fully potty
18 trained. But she would tell you after the fact she had used
19 the bathroom.

20 Q So after she had an accident she would come and tell
21 you.

22 A Yes.

23 Q So she was about -- what was her date of birth?

24 A **[REDACTED]**.

25 Q **[REDACTED]**. So she was about two and a half actually

TORNITA ADAMS - DIRECT

1 then in October of 2017.

2 A Yes.

3 Q All right. So at that time -- and you were potty
4 training. About how long had you been working with her
5 potty training by then?

6 A I would say about a couple of months.

7 Q And was she getting it?

8 A No, she really wasn't.

9 Q She wasn't? All right. So when you would take her to
10 the defendant's house, what would you actually leave with
11 him in order to deal with the potty training issue?

12 A Pullups.

13 Q Pullups? All right. So just tell the jury, was she
14 out of diapers by then?

15 A Yes.

16 Q She was?

17 A Yes.

18 Q Okay. So did you ever leave diapers for him to put on
19 **Minor** in October of 2017?

20 A No.

21 Q All right. Now, what about her -- what about panties?
22 Was she wearing panties by then?

23 A Sometimes she would want to put them on top of the
24 pullup but not by herself.

25 Q So she -- you would put the pullup on her and then she

TORNITA ADAMS - DIRECT

1 would want to put on panties.

2 A Yes.

3 Q All right. Now, so was there ever a situation where
4 you were trying to get the defendant to do it the same way
5 you were doing it in regards to how to have her potty
6 trained?

7 A Yes, but he told me he wasn't buying no more pullups.

8 Q When you dropped her off in October of 2017, did you
9 leave some pullups with her?

10 A Yes.

11 Q So just in case you went ahead and put them in there.

12 A Yes.

13 Q All right. Now, let me move on to the next thing.
14 There was some discussion about -- we've talked about timing
15 in this case so I'm going to actually ask you a couple of
16 questions. About what time was it whenever you actually
17 took **Minor** and dropped her off before Halloween, do you
18 remember?

19 A About 10:30.

20 Q About 10:30. So who was it that actually got **Minor** and
21 drove her into Chester?

22 A I did.

23 Q I'm going to show you what's been marked as Court's
24 Exhibit Number 1. I'm going show it to you and look at
25 that. Have you seen that before?

TORNITA ADAMS - DIRECT

1 A Yes.

2 Q All right. And is that -- are those communications
3 between you and the defendant who -- what's his nickname?

4 A Trab.

5 Q Trab, T-r-a-b?

6 A Uh-huh.

7 Q Yes?

8 A Yes.

9 Q I'm sorry, you have to answer out loud so he can get
10 it. So that's between you and Trab. What is going on in
11 that conversation that's documented on that piece of paper?
12 What were you telling him?

13 A That I'm on 72 to drop **Minor** off.

14 Q And that was what night again?

15 A October the 28th.

16 Q Okay. The 28th. But it's on this piece of paperwork.

17 A Yes.

18 MS. LIVELY: Your Honor, we're going to change this to
19 State's Exhibit Number 1.

20 THE COURT: Any objection to the document coming in?

21 MR. BOYD: None, Your Honor.

22 THE COURT: Without objection State's next in order.

23 MS. LIVELY: I'm sorry, it is not, it's going to be
24 State's 42, Your Honor.

25 (The photo was received as State's 42.)

TORNITA ADAMS - DIRECT

1 Q Did you know what their plans were for Halloween
2 whenever you dropped **Minor** off?

3 A No. All I knew is he was going to take her trick or
4 treating.

5 Q And while she was there did you have any communications
6 with her through him calling you, face time or anything like
7 that?

8 A I talked to her maybe once.

9 Q All right. Now, before you dropped **Minor** off, tell the
10 jury how she was acting.

11 A She was in the car dancing, singing from Lancaster all
12 of the way to Chester. She was a happy baby.

13 Q And whenever -- earlier that day how was **Minor** acting?

14 A Fine. Singing, dancing.

15 Q All right. And where were her brothers?

16 A We was all at home.

17 Q You were all at home?

18 A Yes.

19 Q And on that day did **Minor** and your boys have lunch
20 together?

21 A Yes.

22 Q And at that time did **Minor** eat her lunch?

23 A Yes.

24 Q Did she throw up at any point in time that day while
25 she was with you?

TORNITA ADAMS - DIRECT

1 A No.

2 Q If she had thrown up what would you have done?

3 A Took her to the hospital.

4 Q Now, Tornita, whenever you took her to the defendant's
5 house, why did you take her so late that night?

6 A Because he had asked for her, I didn't think it made a
7 difference what time.

8 Q So were you having any trouble with your car at that
9 time?

10 A No.

11 Q Did you have a friend with you whenever you drove with
12 **Minor**?

13 A Yes, my cousin.

14 Q And you had your phone with you obviously.

15 A Yes.

16 Q And by that time, how many times did you travel to
17 Chester to drop her off?

18 A Once.

19 Q So you knew the way.

20 A Yes.

21 Q Now, once you dropped her off you said you talked to
22 her maybe once?

23 A Uh-huh.

24 Q When was the next time you heard anything -- did you
25 ever hear anything about **Minor** being sick while she was with

TORNITA ADAMS - DIRECT

1 the defendant?

2 A No.

3 Q Had you seen her -- how long had it been since you had
4 seen her throw up from being sick?

5 A It was awhile.

6 Q Awhile?

7 A Uh-huh.

8 Q So at that time you had not heard that she was -- she
9 had thrown up two or three times.

10 A No.

11 Q Did the defendant ever send you any pictures of **Minor**
12 while she was over at his house?

13 A He sent me the Halloween picture.

14 Q He sent you the Halloween picture? I'm going to show
15 you State's Exhibit Number 26 that's in evidence, and I'm
16 going to ask you if this is the picture of **Minor** from
17 Halloween.

18 A Yes.

19 Q Who bought that outfit for her, Tornita, do you know?

20 A No, I don't.

21 Q Okay. So is that the last picture that you saw of your
22 child before she died?

23 A Yes.

24 Q When did you learn that your daughter had died?

25 A November 1st.

TORNITA ADAMS - DIRECT

- 1 Q Where were you?
- 2 A At work.
- 3 Q What did you do?
- 4 A I left work and came to Chester.
- 5 Q When you got to Chester, where did you go?
- 6 A To the hospital, Chester Regional.
- 7 Q Were you by yourself?
- 8 A A lady from work dropped me off.
- 9 Q Who did you first see when you got there?
- 10 A Mr. Wilson, he was standing outside.
- 11 Q What did he tell you?
- 12 A Nothing.
- 13 Q So did you know what was going on with your child?
- 14 A All I know was that she wasn't breathing.
- 15 Q So what did you do then?
- 16 A I walked on the inside, and his family was sitting off
- 17 to one side and the nurse was like, "This is her mother."
- 18 And I asked her what was wrong with my baby and nobody never
- 19 said anything.
- 20 Q Over the next few months, Tornita, did you have any
- 21 information on how your baby died?
- 22 A No.
- 23 Q How long did it take before you learned what the
- 24 medical reasons were for her dying?
- 25 A She died in November, I found out in February.

TORNITA ADAMS - DIRECT

1 Q When you found out, how did that make you feel?

2 A Hurt, lost, angry.

3 Q Tornita, I need to ask you a few difficult questions,
4 okay? Did you ever punch or kick your child?

5 A No, I didn't.

6 Q Whenever all of this happened, did the Department of
7 Social Services get involved with your family?

8 A Yes, they did.

9 Q Have you ever been investigated by the Department of
10 Social Services until that time?

11 A No, I haven't.

12 Q And were your children in school?

13 A Yes.

14 Q So had you ever been investigated by law enforcement
15 about anything involving your children?

16 A No.

17 Q So when DSS got involved with your kids, what ended up
18 happening? What was their finding?

19 A That my three boys were physically abused by me, my
20 grandma and my aunt.

21 Q And was there a finding by DSS in regards to **Minor**?

22 A No, ma'am.

23 Q So the finding was in regards to your three boys.

24 A Yes.

25 Q Did you lose your sons for a period of time?

TORNITA ADAMS - DIRECT

1 A Yes, they was gone for seven months.

2 Q Do you have them back?

3 A Yes, I do.

4 Q And how are things now?

5 A We have our days but we're doing good.

6 Q How are your boys doing without their sister?

7 A I think the baby boy is the most hurt because they were
8 the closest, but they miss her.

9 Q Now, you've already testified that when you dropped her
10 off that she had been playing, dancing that day, and you
11 also said that she had eaten with her brothers.

12 A Uh-huh.

13 Q Was there any -- had she taken a horrible fall or
14 anything that caused any injuries to her that day?

15 A No.

16 Q Now, there's also been some testimony about a burn mark
17 on her leg.

18 A Yes.

19 Q Will you please tell the jury what you told -- how you
20 explained what was going on with that burn mark on her leg?

21 A I was in the living room and **Minor** ran by the iron and
22 it hit her leg.

23 Q Where was the iron?

24 A On the floor.

25 Q On the floor? Okay. And did you put anything on it to

TORNITA ADAMS - DIRECT

1 treat it?

2 A Yes, some Neosporin.

3 Q Now, I'm going to show you a couple of pictures and
4 just ask if you recognize -- did you ever get to see **Minor**
5 one she was back in the room at the hospital?

6 A Yes. They gave me -- I had to stand at the door and
7 look.

8 Q But they did let you look at her?

9 A Yes.

10 Q And whenever you saw her, could you see her very well?

11 A No.

12 Q After she passed, did you ever see any pictures that --
13 of **Minor** that were taken after she passed?

14 A Yes, when I came down in February.

15 Q In February that's when you found out that she had died
16 from some type of blow, blunt force trauma?

17 A Yes.

18 Q I'm going to show you a couple of pictures. Well,
19 first I'll show you this one. You had mentioned the burn
20 mark on her leg, I'm just going to show you State's Exhibit
21 Number 9 and just ask you if you recognize what that is?

22 A Yes, it's the burn mark.

23 Q It's the burn mark?

24 A Yes. But it's like they picked at it.

25 Q It looks -- say that again, I'm sorry.

TORNITA ADAMS - DIRECT

1 A It's like someone picked the skin off of it.

2 Q Picked the skin off of it. Okay. All right. Now, you
3 already said that she didn't fall whenever she was with you
4 that day before you dropped her off, and I just showed you
5 the picture of her at Halloween. I'm going to show you this
6 other picture and I'm going to ask you, do you recognize the
7 marks to her face?

8 A No.

9 Q Did those scratches on her face happen while she was in
10 your care?

11 A No, ma'am.

12 Q Were they on her face Saturday whenever you dropped her
13 off to the defendant?

14 A No, ma'am.

15 Q Are you the one that gives your daughter baths?

16 A Yes.

17 Q And I've got to ask you this question, okay? In
18 State's Number 36 when you gave her a bath before she left,
19 did she have any of those marks on her? Do you need a
20 break? I've only got a couple questions for you, I'm sorry.

21 A It's fine.

22 Q The marks on her legs --

23 (Break in proceedings.)

24 MS. LIVELY: Your Honor, can we take a break?

25 THE COURT: Yeah. Ladies and gentlemen, head on back

TORNITA ADAMS - CROSS

1 my decision. Are we ready to proceed then?

2 MS. LIVELY: Yes, sir.

3 (The jury returned to the courtroom.)

4 THE COURT: All right. All members of the jury are
5 present. Madam Solicitor, you may resume your testimony.

6 MS. LIVELY: Your Honor, actually I don't have any
7 further questions for this witness. So Ms. Adams, if you
8 don't mind just please answer any questions that the defense
9 may have for you, okay?

10 THE COURT: Thank you. Mr. Boyd?

11 CROSS EXAMINATION

12 BY MR. BOYD:

13 Q Ms. Adams, I just have a few questions. I want to ask
14 you, I believe you gave an interview with SLED with Ms.
15 Baird and Ms. Fourney; is that correct? Do you remember
16 that?

17 A Yes.

18 Q And that's when they told you what the cause of **Minor**'s
19 death was, do you remember that?

20 A Yes.

21 Q Now, I want to ask you concerning just a few things
22 about your relationship with Trab. I believe you said you
23 never had any problem as far as visitation with him. If he
24 asked for visitation you basically let him see her; is that
25 correct?

TORNITA ADAMS - CROSS

1 A Yes.

2 Q You had no concerns that anything was wrong when she
3 was at Trab's; is that correct?

4 A Yes.

5 Q Okay. And, in fact, if you had thought she was being
6 abused there you certainly wouldn't have let her go to see
7 Trab; is that correct?

8 A Yes.

9 Q Okay. When you got **Minor** back from Trab -- she would
10 be there for days and days sometimes; is that correct?

11 A Yes.

12 Q And when she came back to you, you never saw any
13 indications that she was being mistreated, did you?

14 A No.

15 Q Okay. And when she -- you never saw any marks or
16 anything like that on her after she got back from Trab's.

17 A No.

18 Q And I believe if you thought that somebody was doing
19 something mean to her she would tell you about it; is that
20 correct?

21 A Yes.

22 Q Okay. So as far as, you know, **Minor** going back between
23 you and Trab, y'all had a good working relationship on that;
24 is that right?

25 A Yes.

TORNITA ADAMS - CROSS

1 Q Now, I wanted to ask you about a few things they asked
2 you about concerning some marks that were on **Minor**. I think
3 you -- they found some marks on her leg, you understand
4 that, and I believe you've previously stated to law
5 enforcement those were from mosquito bites; is that correct?

6 A Yes.

7 Q Okay. And there was a scar on the left side of her
8 face, and I believe you said she got that when she fell
9 playing or something at one point?

10 A Yes, playing with her brothers.

11 Q Okay. And also there were some -- there was a scar on
12 the left top of her shoulder and I think you told law
13 enforcement that you knew about that but you weren't sure
14 how she got that; is that correct?

15 A I don't remember.

16 Q Okay. Did the -- and the marks on the arm I believe
17 you said that she got those from playing outside; is that
18 correct?

19 A Yes.

20 Q And there was a mark or a sore on the left side of her
21 face from playing outside; is that correct?

22 A Yes.

23 Q You had mentioned also that some time within the week
24 before she went to see Trab that she had -- outside playing
25 or something she had fallen and hit her head on a stump; is

TORNITA ADAMS - CROSS

- 1 that correct?
- 2 A I don't recall.
- 3 Q Okay. And who was -- now, at the time in 2017,
- 4 October, who was living at your home?
- 5 A Me, my grandma, my aunt and my boys.
- 6 Q And what is your grandma's name?
- 7 A Edith Mae.
- 8 Q And who is your aunt's name?
- 9 A Clara.
- 10 Q Okay. And your -- what are your three boys' names?
- 11 A **Brother 2**, **Brother 1** and **Brother 3**.
- 12 Q And who was the oldest?
- 13 A **Brother 2**.
- 14 Q And how old is he?
- 15 A Nine.
- 16 Q So at that time he was seven, would that be right?
- 17 A Yes.
- 18 Q And who was the next to the oldest?
- 19 A **Brother 1**.
- 20 Q And how old is he?
- 21 A Seven.
- 22 Q And he was five then?
- 23 A He was about to be eight in September, so yes.
- 24 Q Who was the youngest?
- 25 A **Brother 3**.

TORNITA ADAMS - CROSS

1 Q Okay. And how old is **Brother 3**?

2 A He is six.

3 Q So he would have been four back then?

4 A Uh-huh.

5 Q And I believe you stated that you don't remember
6 telling anything about falling -- that **Minor** had fallen
7 about a week ago and hit her head on a stump?

8 A I don't recall.

9 Q Do you recall that happening?

10 A No, I don't remember.

11 Q Would it help refresh your memory if you can listen to
12 that part of your interview?

13 A Yes.

14 Q Okay. Hold on just a minute.

15 (Break in proceedings.)

16 MR. BOYD: May I approach, Your Honor?

17 A Yes, sir.

18 Q If you would look at this if you don't mind. I'm just
19 going --

20 (Break in proceedings.)

21 (At this time the video was played.)

22 MS. LIVELY: Your Honor, I would like to offer to play
23 it on here. I understand he's publishing this as a prior
24 inconsistent statement, I don't have a problem with playing
25 just that piece. Just because I believe --

TORNITA ADAMS - CROSS

1 THE COURT: Yeah. I can't hear it and I am five feet
2 away.

3 MR. BOYD: It's approximately 9:55 into the statement.

4 (The video was played.)

5 Q Does that refresh your memory about that happening?

6 A Yes.

7 Q Okay. So she had fallen and hit her head on a stump;
8 is that correct?

9 A Yes.

10 Q And that caused a mark on her forehead.

11 A Yes.

12 Q Now, as you testified earlier you have all of your
13 children now; is that correct?

14 A Yes.

15 Q Okay. And there was a finding by DSS of physical abuse
16 on each one of your boys; is that correct?

17 A Yes.

18 Q Okay. And the finding was against you, your
19 grandmother and your aunt; is that correct?

20 A Yes.

21 Q Okay. And your children went away from you you said
22 for seven months?

23 A Yes.

24 Q And you have gotten them back at this time; is that
25 correct?

TORNITA ADAMS - CROSS

1 A Yes.

2 Q Okay.

3 MR. BOYD: Thank you. That's all of the questions I
4 have.

5 THE COURT: Any redirect?

6 MS. LIVELY: Not from the State, Your Honor.

7 THE COURT: All right. Thank you, ma'am, you may step
8 down. The State can call its next witness.

9 MS. LIVELY: Yes, sir, Your Honor.

10 MR. BOYD: Your Honor, I do have one objection about
11 this testimony.

12 THE COURT: You want to have it heard before?

13 MR. BOYD: You have not heard this.

14 THE COURT: Do you want to have it heard now?

15 MR. BOYD: Yes.

16 MS. LIVELY: Y'all come up here.

17 (A bench conference was held.)

18 The witness, JARED CASTELLANI, was first duly sworn

19 And testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LIVELY:

22 Q Mr. Castellani, where do you work?

23 A I am a -- I work at the South Carolina Law Enforcement
24 Division.

25 Q And what are your job duties there?

JARRED CASTELLANI - DIRECT

1 A I'm a forensic toxicologist.

2 Q And how long have you been a forensic toxicologist?

3 A Just over five years.

4 Q And have you had special education and training in
5 order to be a forensic toxicologist?

6 A Yes, I have.

7 Q All right. And tell the jury what that is.

8 A I have my Bachelors of Science in Biochemistry from the
9 University of Scranton, and a Master of Science in Forensic
10 Science from Arcadia University. When we are hired on at
11 SLED we go through a toxicology training program as well.
12 That begins with learning how evidence is intake -- evidence
13 intake occurs at the lab, followed by learning the ins and
14 outs of blood alcohol testing, which takes about
15 approximately six months. We analyze previously analyzed
16 samples to verify that we are running or performing the
17 blood alcohol analysis correct. We learn about the
18 pharmacology of alcohol. In addition we have to take
19 competency tests and proficiency tests and also a mock trial
20 in order to be deemed certified in alcohol analysis.

21 Q And do you also do analysis of drugs as well?

22 A Yes, that occurs right after that. It's takes
23 approximately about a year to get through that training. It
24 begins with drug screens and then with analyzing samples and
25 you confirming -- basically determining how much of a

JARRED CASTELLANI - DIRECT

1 substance is present in an individual. In addition to that
2 we also learn about the pharmacology of licit and illicit
3 substances.

4 Q And have you ever been qualified as an expert in
5 forensic toxicology?

6 A Yes, I have.

7 Q Okay.

8 MS. LIVELY: Your Honor, at this time we would offer
9 Mr. Castellani, Jared Castellani, as an expert in the field
10 of forensic toxicology.

11 MR. BOYD: No objection.

12 THE COURT: All right. Ladies and gentlemen of the
13 jury, you remember what I instructed you about what an
14 expert witness can do.

15 MS. LIVELY: Thank you, Your Honor.

16 Q Now, you have a case that you worked under SLED lab
17 number L1716640 where certain items were brought to you for
18 testing, do you recall that?

19 A Yes.

20 Q And that's actually why you are here today is in
21 response to a subpoena to testify from that particular case;
22 is that correct?

23 A Yes, it is.

24 Q All right. Now, Mr. Castellani, would you please tell
25 the jury how -- what items that you actually received under

JARRED CASTELLANI - DIRECT

1 that SLED lab number and who those items came from?

2 A Would I be able to see the report to refresh my memory?

3 Q Yes, you can see mine. There you go.

4 A We received two separate items. The first item was
5 admission serum labeled Wilson, Darryl. And then a second
6 item which was admission blood labeled Ekeria Foote.

7 Q And so those items, whenever they come to you, are they
8 packaged in a particular way to guarantee that the items are
9 not contaminated?

10 A Yes.

11 Q All right. And were those items that you received,
12 were they intact and did you have any concerns about
13 contamination?

14 A No, I did not.

15 Q What were your results of toxicological analysis of the
16 item from Darryl Wilson?

17 MR. BOYD: Your Honor, at this time I would put my
18 objection on the record.

19 THE COURT: All right. Objection overruled.

20 A The sample was negative for ethanol. And then a drug
21 screen was performed where it screened positive for
22 marijuana, so we did confirmatory testing that was found to
23 have tetrahydrocannabinol, which is the pharmacal active
24 substance in THC. That had a level of 2.2 micrograms per
25 liter, and an 11 Carboxine in tetrahydrocannabinol, a level

JARRED CASTELLANI - DIRECT

1 of 32 micrograms per liter.

2 Q That sounds really interesting, but could you break it
3 down for us as to about how much that would be? Or is there
4 no way for you to do it, as in the levels that were within
5 the body, the levels of THC as to when that would have been
6 consumed. Let me be --

7 A Just based off the toxicology report I wouldn't be able
8 to tell you when an individual consumed the -- or smoked or
9 consumed the marijuana.

10 Q Okay. Thank you. I think you answered it just the way
11 I asked. How about Ekeria Foote? What was the result of
12 your toxicological exam regarding the sample sent to you
13 from her?

14 A It was negative of ethanol and it had a negative drug
15 screen.

16 Q All right. So in your expert opinion, the only one
17 that you received that had any type of drugs present was
18 from the defendant, Darryl Wilson?

19 A Yes.

20 MS. LIVELY: Thank you. Answer any questions that the
21 defense may have.

22 THE COURT: Mr. Boyd?

23 CROSS EXAMINATION

24 BY MR. BOYD:

25 Q So negative for ethanol, that means it was no

JARRED CASTELLANI - CROSS

1 indication alcohol had been consumed; is that correct?

2 A Correct.

3 Q Okay. And as far as the marijuana you said you
4 couldn't tell from that report when that was consumed.

5 A That's correct.

6 Q So is there a time frame which that can happen?

7 A There are various variables that would have to be
8 considered whether an individual was -- whether it was a
9 first time use or if they are a chronic abuser of marijuana,
10 so I wouldn't be able to narrow it. It could be anywhere
11 from within the day to weeks.

12 Q So it could be weeks ago.

13 A It could be, yes.

14 MR. BOYD: Okay. Thank you. I have no further
15 questions.

16 THE COURT: All right. Thank you, sir, you may step
17 down, you are free to leave. The State can call its next
18 witness.

19 MS. EASLER: State calls Erica Foote.

20 The witness, ERICA FOOTE, was first duly sworn and
21 Testified as follows:

22 DIRECT EXAMINATION

23 BY MS. EASLER:

24 Q Hi, Ms. Foote, how are you doing today?

25 A Fine, how are you doing?

ERICA FOOTE - DIRECT

- 1 Q Fine. Were you subpoenaed to be here today?
- 2 A Yes, ma'am.
- 3 Q Did you want to come testify?
- 4 A Did I want to?
- 5 Q Yeah. Did you want to? Not really. Can you tell us
- 6 where you reside?
- 7 A Ma'am?
- 8 Q Where do you live?
- 9 A [REDACTED] White Oak, Chester, South Carolina.
- 10 Q Did you live there in 2017?
- 11 A Yes, ma'am.
- 12 Q You did? You lived there in 2017?
- 13 A Yes, ma'am.
- 14 Q Do you recall speaking about this case with SLED?
- 15 A Yes, ma'am.
- 16 Q Can you tell us when you first saw Minor on
- 17 October 28th of 2017?
- 18 A Yes, ma'am. Her mother brought her over at Ekeria's
- 19 house around 11 or 12.
- 20 Q All right. Was she sleeping then?
- 21 A Yes. She was -- she had her eyes open but she was
- 22 still asleep.
- 23 Q When was the next time you saw Minor?
- 24 A The next day when they went to Wendy's to get some
- 25 food.

ERICA FOOTE - DIRECT

1 Q What day was that?

2 A I think maybe the 28th, the next day. Her mother
3 brought her in that Saturday night, so that Sunday, I think.

4 Q Do you recall telling SLED that it was October 31st,
5 Halloween?

6 A Oh, yes, ma'am. Yes, ma'am.

7 Q Okay. Did they bring the food to your house?

8 A Yes, ma'am.

9 Q What did they bring you?

10 A A four for four.

11 Q A four for four? Did the kids have food, and Ekeria?

12 A Uh-huh. All the kids had four for fours.

13 Q Was **Minor** eating?

14 A They had got her a burger with fries. She was eating
15 her burger, well, trying to eat it, but she wasn't --

16 Q She wasn't eating? Is that strange for her not to eat?

17 A Uh-huh, she liked to eat.

18 Q She likes to eat. What happened after she was trying
19 to eat?

20 A She started throwing up green stuff on my living room
21 floor.

22 Q What did you do after she started throwing up?

23 A We called her daddy from the house and told him that
24 she wasn't feeling good, and I got the stuff and started
25 cleaning it up.

ERICA FOOTE - DIRECT

1 Q All right. What color was the vomit?

2 A Green.

3 Q Did you ask -- did you talk to Mr. Wilson about the
4 color of the green stuff?

5 A Yeah. And he's like, well, he don't think the Kool-Aid
6 was -- the Hawaiian Punch was like that because he had put
7 some -- that's what she had to drink, her and the kids had
8 it.

9 Q They all had Kook-Aid?

10 A Uh-huh.

11 Q Now, you did see **Minor** in her Halloween costume and
12 earlier that day on Halloween.

13 A Uh-huh.

14 Q Did you notice any marks on her face?

15 A (Shakes head no.)

16 Q No? I'm going to show you a picture of what's been
17 marked as State's Exhibit 2. Did you see these marks on her
18 face?

19 A No, ma'am.

20 Q I'm going to show you another picture, what's been
21 marked as State's Exhibit 26. Is this how you remember
22 seeing **Minor** on Halloween?

23 A Uh-huh. Yes, ma'am.

24 MS. EASLER: Thank you. Please answer any questions
25 that the defense has for you.

ERICA FOOTE - CROSS

1 THE COURT: Mr. Boyd?

2 CROSS EXAMINATION

3 BY MR. BOYD:

4 Q Ms. Foote, do you sort of live behind where Ekeria
5 lives?

6 A Yes, sir.

7 Q And so you were there when **Minor** came that Saturday
8 night; is that correct?

9 A Yes, sir.

10 Q And you think it was about between 11 and 12 sometime.

11 A Yes, sir.

12 Q So it was late at night when she came.

13 A Yes, sir.

14 Q And then you saw her on Halloween, which would have
15 been Tuesday the 31st; is that right?

16 A Yes.

17 Q Okay. And basically when she was at your house when
18 she threw up, that was before trick or treating; is that
19 correct?

20 A Yes.

21 Q Okay. And Ekeria, that's your sister, right? So
22 you're Erica and she's Ekeria just to keep things straight.

23 A Yes, sir.

24 Q And Ekeria brought her over at that time; is that
25 correct?

ERICA FOOTE - CROSS

1 A Right.

2 Q And they had been to Wendy's and brought some burger,
3 fries, that type of thing. And then that's when **Minor** threw
4 up at that time.

5 A Right.

6 Q And after she threw up you saw her a little later; is
7 that correct?

8 A Yes. Once they had -- yeah. I think that they had
9 their Halloween costumes on.

10 Q You saw her -- and she wasn't dressed in Halloween
11 costumes when she was at your house and threw up.

12 A Yes, sir.

13 Q And you saw her later after she had gotten dressed for
14 Halloween, for trick or treating.

15 A Yes.

16 Q And I believe you had described to law enforcement that
17 at that point she seemed fine; is that correct?

18 A Yes, sir.

19 Q Okay. And was about to go trick or treating and I
20 think you described she was laughing at that time; is that
21 correct?

22 A Yes, sir.

23 Q All right. And comparing **Minor** to Mi'honesty, she
24 wasn't -- she wasn't as active a child anytime as
25 Mi'honesty, was she?

EKERIA FOOTE - DIRECT

1 A No. She played a whole lot. She liked to play a whole
2 lot but she wasn't active as Mi'honesty.

3 Q And Mi'honesty, there's been some testimony how old she
4 was Mi'honesty was four years old at that time.

5 A Right.

6 Q Because I think there's been some testimony she was
7 eight or nine, but she was four at that time; is that
8 correct?

9 A Right.

10 MR. BOYD: Thank you. That's all of the questions I
11 have.

12 MS. EASLER: No further questions.

13 THE COURT: All right. Thank you, ma'am, you may step
14 down.

15 MS. EASLER: Can she be excused from her subpoena?

16 THE COURT: Yeah, you are free to leave. Call your
17 next witness.

18 MS. LIVELY: Ekeria Foote.

19 The witness, EKERIA FOOTE, was first duly sworn and
20 Testified as follows:

21 DIRECT EXAMINATION

22 BY MS. LIVELY:

23 Q Hey, Ekeria, how are you?

24 A I'm doing good.

25 Q Pull that microphone down, we need to make sure

EKERIA FOOTE - DIRECT

1 everybody can hear you, okay? Thank you. Now, Ekeria, were
2 you subpoenaed to be here today?

3 A Yes, ma'am.

4 Q Was it your choice to be here today?

5 A No, ma'am.

6 Q All right. Now, Ms. Foote, was there a time when you
7 and I met recently to talk about the fact that I was going
8 to call you as a witness in this case?

9 A Yes, ma'am.

10 Q And what concerns do you have in regards to testifying
11 here today?

12 A Nothing.

13 Q Okay. And you understand the only thing I have asked
14 you to do is the same thing you have done is swear to tell
15 the truth, correct?

16 A Yes, ma'am.

17 Q Now, you knew **Minor**, right?

18 A Yes, ma'am.

19 Q And how did you know her?

20 A I was dating her daddy.

21 Q You were dating her dad. And is her dad the defendant,
22 Darryl Trab Wilson?

23 A Yes, ma'am.

24 Q And how else do you know the defendant, Darryl Wilson?

25 A I was going with him, he's my child's father.

EKERIA FOOTE - DIRECT

1 Q And when was your child born?

2 A He was born [REDACTED].

3 Q So [REDACTED] of [REDACTED]. So at the time, the last time that
4 you were around **Minor** alive, how far along were you in your
5 pregnancy?

6 A From the door to like the bed, about where the stand is
7 at.

8 Q I'm sorry, you misunderstood. How many months were you
9 pregnancy-wise whenever the last time you had **Minor** in
10 your --

11 A Six months.

12 Q Six months. Okay. I'm sorry. Now, let me ask you, do
13 you have any other children?

14 A Yes, I have **Mi'honesty F.** [REDACTED].

15 Q And is the defendant her father?

16 A No.

17 Q All right. So the only child the two of you have
18 together is the little boy that you were just now
19 mentioning?

20 A Yes, ma'am.

21 Q All right. Now, Ms. Foote, whenever you met the
22 defendant, where was he living?

23 A He was living in Rock Hill.

24 Q All right. Who did he live with?

25 A His mother.

EKERIA FOOTE - DIRECT

1 Q And at that time, were you aware of the child that he
2 had from Tornita Adams?

3 A Yes, ma'am.

4 Q And how long did you date before he actually moved to
5 Chester to be with you?

6 A About four months, three.

7 Q Okay. And before he moved in with you, was there ever
8 a time when you would be at his house and he would have
9 **Minor** for visitation?

10 A At his house in Rock Hill? Yes.

11 Q All right. And whenever he ended up moving in with
12 you, what is your address?

13 A **████** white Oak Street in Chester.

14 Q And how long have you lived at **████** White Oak Street?

15 A Four years.

16 Q And do you have family nearby?

17 A Yes, ma'am.

18 Q Who lives close to you?

19 A My mother stay in front of me and my sister stay on the
20 other side, and one of my sisters stay behind me, and my
21 grandmom stay at the top of the street.

22 Q Okay. And Ms. Foote, just for purposes of the jury
23 understanding, can you see your mom's back porch from your
24 house?

25 A Yes.

EKERIA FOOTE - DIRECT

1 Q Okay. So you can walk to her house, no problem.

2 A Yes.

3 Q Now, how long have y'all kind of lived in that one area
4 altogether?

5 A My mama lived there all of her life, and my grandmom
6 and my sisters, we moved there around the same time.

7 Q Okay. Now Ms. Foote, what is your mom's name?

8 A Jacqueline Caldwell.

9 Q And did she ever help you taking care with Mi'honesty?

10 A Yeah, sometimes.

11 Q Now, whenever you started dating the defendant and he
12 moved to Chester to live with you, did you have an
13 opportunity to have **Minor** stay at your house?

14 A Yes.

15 Q How often would she actually come to your home?

16 A Like every two -- probably every two weeks or every
17 other weekend.

18 Q And did you have any communication with Tornita Adams
19 trying to arrange visitation, or did that happen between the
20 defendant and Ms. Adams?

21 A That happened between them.

22 Q Did you have any type of contact with Tornita Adams?

23 A No. She just tell me like that she's happy that I got
24 to know **Minor** and how **Minor** loved us.

25 Q Okay. All right. So your relationship then with the

EKERIA FOOTE - DIRECT

1 exchanges for visitation, there were no problems is what
2 you're telling me.

3 A No problems.

4 Q All right. So the weekend of right before Halloween,
5 that was October the 28th, 2017, what was the arrangement
6 for y'all getting **Minor** that weekend?

7 A I had wanted her to go trick or treating with Mi
8 because we was supposed to be going to the jailhouse, they
9 had something at the jailhouse and I asked him could he see
10 could he get her, and she supposed to have came that Friday
11 but she didn't come until like late Saturday night.

12 Q And when you say Mi, are you referring to your --

13 A Mi'honesty.

14 Q Just so the jury knows, that's her nickname?

15 A Yes, ma'am.

16 Q So you're saying that you wanted to get **Minor** so that
17 she could go trick or treating with Mi'honesty?

18 A Yes.

19 Q Were Mi'honesty and **Minor**, did they play well together?

20 A Yes.

21 Q All right. And so whenever you ended up getting her on
22 Saturday, about what time of night did she get there?

23 A Around I want to say no later than 10:30.

24 Q When she got there was she awake in the --

25 A She was asleep in the car but she had woke up when she

EKERIA FOOTE - DIRECT

1 got in the house.

2 Q Okay. And what did she do whenever she got in the
3 house?

4 A She sat on my leg, and I asked her -- that's when I
5 recognized the bruises on her leg.

6 Q Okay. Now, I'm just going to ask you, you can't tell
7 me what **Minor** said, okay, because that's hearsay. So you
8 noticed a mark on her leg.

9 A Uh-huh.

10 Q And did you say anything to the defendant about it?

11 A Yes.

12 Q All right. And did either one of you contact Ms.
13 Tornita Adams about it or anything?

14 A No.

15 Q Other than that whenever **Minor** was there, did she go to
16 bed like normal that night, that first night that she was
17 there?

18 A Yes.

19 Q So the next morning would be Sunday morning,
20 October the 29th. What plans did y'all have for that day?

21 A I think we just was at the house. I went to my mama's
22 house later on that evening but we didn't go anywhere.

23 Q All right. Now, back then in October of 2017, were you
24 working anywhere?

25 A I was working at Shutterfly.

EKERIA FOOTE - DIRECT

1 Q And what were your hours like whenever you were working
2 at Shutterfly?

3 A 4:00 in the morning until 4:00 in the evening.

4 Q All right. And was that everyday that you worked
5 there, or what were your days usually like?

6 A Monday through Thursday.

7 Q Okay. So every time that you went to work, were you
8 always there the full day?

9 A On Tuesday I got off at 9:00 -- well, they let us off
10 at 8:30.

11 Q I'll get to that in just a minute, let me just back up.
12 So your normal hours will be from four to four?

13 A Yes, ma'am.

14 Q So you said on Sunday y'all just kind of hung around
15 the house. Who all was there with you at the house?

16 A I can't remember.

17 Q Was the defendant there?

18 A Yes.

19 Q Was **Minor** there?

20 A Yes.

21 Q Was Mi'honesty there?

22 A Yes.

23 Q And you were there.

24 A Yes.

25 Q All right. You said that you went to your mom's house

EKERIA FOOTE - DIRECT

1 later?

2 A Later on that day.

3 Q Were Mi'honesty and **Minor** playing okay that day?

4 A Yeah.

5 Q How about **Minor**, her appetite, tell us about that. Did
6 she like to eat?

7 A Yeah, she loves to eat.

8 Q And did she eat that day like she normally does?

9 A Yes.

10 Q On Sunday? All right. So that night when you said you
11 went over to your mother's house, do you remember what y'all
12 did?

13 A No.

14 Q Were there any other cousins or any other young kids
15 over there other than Mi'honesty and **Minor** on that Sunday
16 night?

17 A Emarion (phonetically) my nephew.

18 Q How old is Emarion?

19 A He's nine. He was nine at the time.

20 Q And who is Emarion's mother?

21 A Latoya Caldwell, my sister.

22 Q And does Latoya live in that area as well?

23 A Yeah.

24 Q So she's one of the sisters there in that group.

25 A Yeah, she's stay right in front me.

EKERIA FOOTE - DIRECT

1 Q So Emarion was there playing with the girls. Now, on
2 that night, do you remember if you gave Minor and Mi'honesty
3 a bath on that Sunday night?

4 A I can't remember. I can't remember.

5 Q All right. And if you can't remember I understand,
6 it's been awhile. But at any point in time, let me just ask
7 you this, while Minor was there, was there at least one
8 night where you gave her and your daughter, Mi'honesty, a
9 bath?

10 A Yes.

11 Q All right. Okay. So without question you know that
12 one of those nights you gave them a bath.

13 A Yes, ma'am.

14 Q And whenever you gave Minor a bath other than the mark
15 that you saw on her leg, did you see any type of scrapes to
16 her nose or forehead?

17 A No, ma'am.

18 Q All right. And did you see any type of bruising on her
19 stomach or on her hip?

20 A No, ma'am.

21 Q All right. So after -- let's move into Monday. Monday
22 on -- that would be the 30th, October 30th, okay?

23 A Uh-huh.

24 Q So would you have worked that Monday?

25 A Yes, ma'am.

EKERIA FOOTE - DIRECT

1 Q All right. So on a normal morning whenever you worked,
2 was Mi'honesty at that time actually enrolled in school?

3 A Yes, ma'am.

4 Q She was?

5 A Yeah.

6 Q So what would a normal morning be, if you would just
7 tell the jury, whenever you got up to leave, what time do
8 you normally wake up in the morning?

9 A I normally wake up at 2:30 to get to work, I leave out
10 of the house around 2:45, no later than 2:50. And I cut on
11 the light and I stand by the door and I make sure like
12 they're asleep and I'll walk out the door.

13 Q So you cut on the light and make sure they're asleep.
14 Who are you referring to?

15 A Well, Mi'honesty if she's there by herself, but if both
16 of them are there I'll cut on the light.

17 Q So you cut on the light, check and make sure they're
18 there and then you go to work.

19 A Yes, ma'am.

20 Q Do you do anything to prepare Mi'honesty for a school
21 day before you leave?

22 A I do that at night.

23 Q Okay. What do you do?

24 A I get her school clothes out and make sure she get her
25 homework and then take her bath and then make her go to bed.

EKERIA FOOTE - DIRECT

1 Q So in the morning who is in charge of getting
2 Mi'honesty up and getting her ready for school?

3 A She usually put her clothes on herself, and then
4 Darryl, he'll take her -- well, my mama usually be at the
5 stop sign waiting on her, her or her sister, and she'll run
6 up to the bus stop and wait for the bus.

7 Q So you mentioned Darryl. So while he was living there,
8 did he often walk Mi'honesty to your mom's house to get on
9 the bus?

10 A Yes.

11 Q All right. And once again, that's just a few --
12 several feet?

13 A Yes.

14 Q I'm asking you.

15 A Yes, ma'am.

16 Q All right. So once that happens then where does the
17 defendant go usually after that?

18 A I don't know, I'll be at work.

19 Q But **Minor** was at home at your house, correct? Isn't
20 that what you said?

21 A Yes.

22 Q Were there any other adults there?

23 A In my house?

24 Q Yeah.

25 A No.

EKERIA FOOTE - DIRECT

1 Q So it's just the defendant and **Minor**.

2 A Yes.

3 Q So during the day, were you aware of anyone else that
4 was there with the defendant and **Minor** until your daughter
5 got back from school?

6 A No.

7 Q Did he ever tell you that he had any visitors or anyone
8 that was at the house during that day?

9 A No.

10 Q All right. So your information from living there and
11 being with the defendant was it was only him and **Minor** there
12 that day?

13 A Yes.

14 Q So about what time do you remember getting home on that
15 Monday, October 30th?

16 A I usually leave work -- well, we got off and have to
17 clock out at 4:00, so no later than 4:45.

18 Q And actually, Ekeria, do you remember that SLED,
19 whenever they got involved in this case, they actually
20 pulled your work records to see when you were clocking in
21 and out?

22 A Yes.

23 Q So those records would clearly reflect exactly when you
24 got there and when you got out?

25 A Yes.

EKERIA FOOTE - DIRECT

- 1 Q So you get off on that Monday, October 30th. And when
2 you get home, who was at your house?
- 3 A That Monday?
- 4 Q Uh-huh.
- 5 A I can't remember, I don't think nobody.
- 6 Q So where was the defendant and **Minor**?
- 7 A They was there. I thought you mean like somebody else.
- 8 Q No. Just who was actually in the house when you got
9 there?
- 10 A Just them two.
- 11 Q Just them two. Okay. And where was Mi'honesty?
- 12 A Well, Mi'honesty was there too.
- 13 Q Okay. So when you got home on Monday, what were **Minor**
14 and Mi'honesty doing?
- 15 A I can't remember.
- 16 Q Well, let me ask you this, was there anything -- did
17 **Minor** act abnormally? Was she throwing up? Was there
18 anything going on with her on that Monday, October the 30th?
- 19 A No, ma'am.
- 20 Q All right. And did you have any guests that came to
21 your house that night?
- 22 A His mother.
- 23 Q What is his mother's name?
- 24 A Anissa.
- 25 Q Anissa Gordon?

EKERIA FOOTE - DIRECT

- 1 A Yes.
- 2 Q So whenever his mother came over that night, why was
- 3 she coming over?
- 4 A She was bringing her trick or treating costume.
- 5 Q For who?
- 6 A For **Minor**.
- 7 Q So did you kind of plan for her to come over that
- 8 night?
- 9 A Yeah, she had already said she was coming.
- 10 Q All right. And what did you do to prepare for her
- 11 coming over that night?
- 12 A I had already made the kids some hot dogs.
- 13 Q Did you make anything else to go with those hot dogs?
- 14 A No.
- 15 Q Did y'all have anything to put on top of the hot dogs?
- 16 A Chili and ketchup and mustard.
- 17 Q And the reason why I asked you this, I'm just curious,
- 18 with all that you had, did **Minor** eat that night?
- 19 A Yes.
- 20 Q She did. Did she have any trouble eating her food
- 21 whatsoever?
- 22 A No.
- 23 Q Did she throw up?
- 24 A No.
- 25 Q Did she eat like she normally does?

EKERIA FOOTE - DIRECT

1 A Yeah.

2 Q Was she playing with Mi'honesty that night?

3 A Yes.

4 Q And was there anything at all regarding her behavior
5 and how you knew her that was -- that gave you any concerns
6 about how she was feeling?

7 A I mean, she was normal but I could tell like she wasn't
8 herself.

9 Q Okay. What's like herself?

10 A Like happy, just jumping around, and her and Mi running
11 through the house.

12 Q Okay. And was she excited whenever she got the
13 Halloween costume?

14 A Yes.

15 Q Did she want to put it on right away?

16 A Yes, her and Mi'honesty.

17 Q All right. So was Emarion there that night?

18 A No, not that night.

19 Q Okay. So the defendant's mom was there, she brings the
20 costume, **Minor** eats you said fine, and she doesn't seem
21 quite herself. Was she ever a little bit shy when other
22 people were around?

23 A Yes.

24 Q All right. But she still was playing with Mi'honesty.

25 A Yes.

EKERIA FOOTE - DIRECT

1 Q Now, was that the night, do you remember -- you said
2 that you know you gave her a bath at least one of those
3 nights. Do you remember if that was the night that you gave
4 them a bath together?

5 A I know she got in there Monday night with her.

6 Q So she got in there Monday night. So the night before
7 Halloween Mi'honesty and **Minor**, you remember them having
8 baths.

9 A Uh-huh.

10 Q That's a yes?

11 A Yes, ma'am.

12 Q Okay. So on October the 31st, the next morning, all
13 right, tell the jury what time you had to get up to go to
14 work again.

15 A At 2:30.

16 Q At 2:30. So the same thing as the Monday morning.

17 A Yes.

18 Q And was the process the same thing, meaning you left
19 clothes out for Mi'honesty?

20 A Yes.

21 Q Did you have any -- did you get any kind of calls from
22 the defendant that there was anything different about that
23 morning getting Mi'honesty up to your mom's, everything --
24 was everything okay as far as you knew?

25 A Yes, ma'am.

EKERIA FOOTE - DIRECT

1 Q All right. Now, what happened in regards to you
2 staying at work all day that day, or your normal hours, I'm
3 sorry. What happened in regards to you staying your normal
4 hours?

5 A That Tuesday?

6 Q Yes, that Halloween.

7 A We didn't have any work.

8 Q You didn't have any work?

9 A No.

10 Q So when that happens then what will they do?

11 A They send you home.

12 Q They sent you home. Do you remember about what time it
13 was that you got sent home that day?

14 A My first break, it was 8:30.

15 Q And where is the Shutterfly where you work?

16 A In Fort Mill.

17 Q So how long does it take you to get from the Shutterfly
18 back home?

19 A Like 35 to 40 minutes.

20 Q So about what time was it when you actually got home
21 then on that Tuesday, which was Halloween morning?

22 A Around 9:15.

23 MS. LIVELY: May we approach for just a minute, Your
24 Honor?

25 THE COURT: Yes.

1 prejudicial. It is relevant to the State's case. And
2 again, that's a credibility determination for the jury to
3 infer when they get all of the evidence, so it's upon that
4 basis I made my decision. All right. Are we ready for the
5 jury?

6 MS. LIVELY: We are.

7 THE COURT: Let's bring them in.

8 (The jury returned to the courtroom.)

9 THE COURT: Madam Solicitor, you may resume your
10 questioning.

11 MS. LIVELY: Thank you, Your Honor.

12 BY MS. LIVELY:

13 Q Ms. Foote, I'm going to show you what has been marked
14 as State's Exhibit Number 43 and just ask you to just take a
15 look at this and tell me if you recognize it as being
16 records involving you and your work.

17 A Yes.

18 Q Okay. Now, on those two forms --

19 MS. LIVELY: Your Honor, I did show this to Mr. Boyd,
20 it's State's Exhibit Number 43, we would offer it into
21 evidence at this time.

22 THE COURT: Without objection?

23 MR. BOYD: No objection.

24 THE COURT: Introduced.

25 (The records were received as State's 43.)

1 Q So Ms. Foote, the first page is actually the top page
2 here that we're looking, that's your week ending what?

3 A October the 29th of 2017.

4 Q And then the next page, if you could just tell the jury
5 what this is the week ending?

6 A November the 5th.

7 Q November the 5th, okay. So you agree that this is your
8 name on this particular work record.

9 A Yes, ma'am.

10 Q Make sure you speak up, okay? Because the jury needs
11 to hear you.

12 A Yes, ma'am.

13 Q Now, on the 30th, which was that Monday, you stated
14 that you left for work, you usually leave around did you say
15 2:50 a.m. or --

16 A In the morning?

17 Q Yes.

18 A Yes.

19 Q Okay. So on this particular day, that Monday, I'm
20 going to point out to you, I know it's kind of hard to see,
21 what time did it show that you actually clocked in on that
22 day?

23 A 4:29.

24 Q 4:29 a.m. Okay. And then on that same day, I'm going
25 to point to it again, on that Monday, what time does it show

1 you clocking out?

2 A 11:50.

3 Q 11:50 a.m.?

4 A What was that, Monday?

5 Q Monday. Did you want to doublecheck?

6 A Yes.

7 Q Here is the date. Do you still stand by those numbers?

8 A I thought I worked the whole day that Monday, but --

9 Q And that's fine. It has been two years, I understand,
10 that's why I'm asking you these questions, okay?

11 A Yes, ma'am.

12 Q All right. So on October the 31st, 2017, I'm going to
13 show you that date which is right below it. Could you look
14 and tell me what time it has you clocking in there?

15 A 4:25.

16 Q 4:25 a.m. And you did state that you did leave early
17 that day.

18 A Yes, ma'am.

19 Q Or they shut you down early.

20 A Yes, ma'am.

21 Q I'm going to show you this number here or this time.
22 What time did you actually clock out?

23 A 8:49.

24 Q A.m.?

25 A Yes, ma'am.

1 Q Okay. Thank you. Now, 8:49 a.m. So by that time on
2 that day you had already testified that it takes you about,
3 what was it, 30 or 35 minutes for you to get home?

4 A Uh-huh.

5 Q So on October 31st whenever you got off early or you
6 left because there was no more work to do at 8:49, so about
7 what time did that put you getting home?

8 A I can't remember. It was right along -- I don't
9 remember.

10 Q That's fine. Okay. So we'll just add 35 minutes to
11 that. So probably around 9:30, 9:25?

12 A Yes, ma'am.

13 Q Okay. So when you got home on Halloween, all right,
14 when you got there who was there?

15 A **Minor** was in the bed in Mi'honesty's bed and Darryl was
16 in the bed.

17 Q And I'm just going to show you because we want to be --
18 so the jury can kind of have a visual. These are already in
19 evidence, Ekeria, so I'll going to show you this first.
20 State's Exhibit Number 11, I'm going to ask you, is this the
21 house at **█** White Oak Street?

22 A Yes, ma'am.

23 Q So this is where you were living when **Minor** died.

24 A Yes, ma'am.

25 Q All right. Now, when **Minor** was at your house, where

1 did she normally sleep?

2 A In the bed with Mi'honesty.

3 Q In the bed with Mi'honesty. I'm going to show you
4 State's Exhibit Number 15 and ask you whose bed is that?

5 A Mi'honesty.

6 Q That's Mi'honesty's bed?

7 A Yes.

8 Q So whenever **Minor** was spending the night or staying for
9 days, she would stay in that twin bed with Mi'honesty?

10 A Yes.

11 Q Okay. And where would you sleep, Ekeria?

12 A In my bed in my room.

13 Q In your bed in your room. Where would the defendant
14 sleep?

15 A In the bed with me.

16 Q Were there times whenever as you got further along in
17 your pregnancy that he didn't stay in the bed with you?

18 A He would watch TV in the living room.

19 Q Okay. All right. And when he watched TV in the living
20 room would he sometimes fall asleep there?

21 A Sometimes.

22 Q Now, on October the 31st you're back and you said that
23 **Minor** was asleep in Mi'honesty's bed.

24 A Yes.

25 Q All right. What did you do whenever you -- when you

1 got home?

2 A That day or --

3 Q That day on October the 31st, what did you do once you
4 got home?

5 A I said that both of them was sleeping and I got in the
6 bed and I scrolled Facebook, then I fell asleep.

7 Q And once again, you were about six months pregnant, is
8 that what you testified to earlier?

9 A Yes.

10 Q All right. So you scrolled through Facebook and fell
11 asleep. How long did you sleep, about how long?

12 A It was like 1:00, no later than 2:00.

13 Q All right. So when you woke up at 2:00, was the
14 defendant and **Minor** still there?

15 A Yes.

16 Q All right. And while you were asleep at any point in
17 time did someone come in and wake you up for any reason?

18 A No.

19 Q All right. So from the time you fell asleep between
20 9:30 and after until about 2:00, did you see **Minor** at all
21 during that time?

22 A Not until I woke up.

23 Q Not until you woke up. When you woke up tell the jury
24 what **Minor** was doing, what you remember.

25 A I can't remember. I think she was in the living room.

1 Q Okay. What did you do?

2 A I asked her was -- well, I said I was going to do her
3 hair, so I got the bow box and sat her on my leg and I
4 started doing her hair.

5 Q And how did she act?

6 A She was like -- she wasn't normal.

7 Q Okay. And tell the jury exactly what you mean she
8 wasn't normal, what did she do?

9 A She was the same way as she was -- I said she was
10 Monday, she just wasn't normal. But she sat on my leg and I
11 did her hair, and then she rubbed my stomach and then she
12 laid back on me, I was about done then.

13 Q All right. So whenever she laid -- when she rubbed
14 your stomach, was that unusual?

15 A Yes, ma'am.

16 Q All right. So did you talk to the defendant about
17 this?

18 A No.

19 Q You didn't? All right. So you don't remember telling
20 him that you thought that was odd that she was sitting on
21 your stomach?

22 A Yes, I did tell him that.

23 Q And what did you tell him in regards to what was going
24 on with **Minor**?

25 A I just told him that she probably didn't feel good

1 because that's unusual for her to rub my stomach.

2 Q Did you actually personally see her eat anything at all
3 that day up until the time you took her to Wendy's?

4 A No.

5 Q Did you personally see her drink anything that day with
6 your own two eyes before you went to Wendy's and got her
7 something to drink?

8 A No.

9 Q So who was the only person that you were aware of that
10 supposedly fed **Minor** that day?

11 A Darryl.

12 Q And did he tell you that?

13 A I didn't ask.

14 Q And so Ekeria, once you finished doing **Minor**'s hair,
15 about what time was it at that point, do you remember?

16 A I can't remember.

17 Q That's fine. What was the next thing that happened as
18 you were getting ready for the trick or treating that night,
19 what was the next thing that you did?

20 A We went to -- well, we went to Wendy's. Well, I picked
21 my daughter up and my nephew and we went to Wendy's, and
22 then we came back and went to my sister's house, and I got
23 their food and she didn't want none.

24 Q Who is she? Be real clear.

25 A **Minor**, I'm sorry. I can't remember did she take her a

1 piece of the fry or not, but she just -- me and my sister
2 was talking and she ended throwing up. We were talking and
3 she had threw up. My daughter had told me that she threw
4 up. So we turned and we seen that she threw up, and I went
5 outside to get Darryl and tell him she had threw up.

6 Q What did the throw up look like?

7 A It was green.

8 Q It was green. Do you know whether she had drank any
9 Kool-Aid or anything before going over to your sister's
10 house?

11 A We had Kool-Aid in the refrigerator because Darryl
12 always made Kool-Aid.

13 Q What color was the Kool-Aid?

14 A I can't remember.

15 Q You can't remember? What flavor was it that the kids
16 like?

17 A I buy all types.

18 Q Now, whenever she threw up, did you see any food in
19 this green liquid?

20 A No.

21 Q After that happened -- so did **Minor** end up eating
22 anything?

23 A No. Because I got pizza later on that night after
24 trick or treating.

25 Q Okay. Well, I'll ask you about that in just a minute.

1 So she threw up. And were you concerned enough to call her
2 mother at that point?

3 A No. Because me and her don't talk unless Darryl talks
4 to her.

5 Q Did you talk to the defendant about calling his
6 mother -- I mean, her mother?

7 A Yes.

8 Q So do you know whether he made a call or not?

9 A No, I don't know.

10 Q Okay. Did he give you a reason why he may not have
11 called?

12 A No. He just said that she probably drunk the Kool-Aid,
13 the Kool-Aid that he had gave her.

14 Q He was talking about **Minor**?

15 A **Minor**.

16 Q Did he tell you why he didn't call Tornita about **Minor**
17 being sick?

18 A No, I didn't ask.

19 Q Okay. So then was there any point in time that y'all
20 actually went to a store that day to get ready for
21 Halloween?

22 A Yes. I went to Wal-Mart to get my daughter a costume.

23 Q Was that before you went to Wendy's or after?

24 A That was after.

25 Q That was after Wendy's?

- 1 A Yeah.
- 2 Q So after -- who all went with you to Wal-Mart?
- 3 A Me, Mi'honesty, **Minor** and Emarion.
- 4 Q And whenever you went to Wal-Mart about how long were
- 5 you there, do you remember?
- 6 A Just long enough to get -- let her look for a costume
- 7 and then we left out.
- 8 Q And how was **Minor** acting whenever y'all went to
- 9 Wal-Mart?
- 10 A She was just walking behind me with the kids.
- 11 Q At any point in time did she refuse to walk on her own?
- 12 A No.
- 13 Q Were you watching what Emarion was doing while y'all
- 14 were at Wal-Mart?
- 15 A Well, he was right there looking for a costume too.
- 16 Q Okay. Did you ever see what he was doing while he had
- 17 **Minor** with him?
- 18 A No.
- 19 Q Would it help you if I showed you a video from Wal-Mart
- 20 as to what was going on whenever y'all were there? Will it
- 21 refresh your memory?
- 22 A Yes.
- 23 Q Okay. Let's do that. Do you remember what time you
- 24 were at Wal-Mart, Ekeria?
- 25 A No, ma'am.

1 Q Well, we will help you with that, too. All right.

2 Now, Ekeria whenever -- can you see who this is over here in
3 this corner?

4 A No, ma'am.

5 Q I'm going to start playing it, okay? And tell me as it
6 comes into view if you recognize who that is, okay?

7 A Okay.

8 Q And I don't know at the bottom if you can see, 16:00,
9 that would be 4:00. Who are those people?

10 A Me, Emarion and --

11 Q You're going to have to talk into that microphone.

12 THE COURT: Yeah, talk --

13 A Me, Emarion, **Minor** and Mi'honesty.

14 Q So who is that?

15 A Mi'honesty.

16 Q Who is this?

17 A Me.

18 Q Who is that?

19 A Emarion.

20 Q And who is that?

21 A **Minor**.

22 Q So would you agree that was at 4:00 on that day based
23 on the time stamp for October the 31st?

24 A Yes, ma'am.

25 Q Okay. Does that sound about right?

- 1 A Yes, ma'am.
- 2 Q Now, once y'all got into -- once y'all walked into
- 3 Wal-Mart -- let's scroll to that time again. There we go.
- 4 All right. Tell me who you're seeing whenever those doors
- 5 open up. Who is that?
- 6 A Me.
- 7 Q Okay. Who is the tall girl in the pink?
- 8 A Mi'honesty.
- 9 Q Who is the little boy?
- 10 A Emarion.
- 11 Q And is that **Minor** here?
- 12 A Yes.
- 13 Q All right. Now, do you remember what Emarion did with
- 14 **Minor** that day?
- 15 A All I seen was him pick her up.
- 16 Q Right. Okay. And did he carry her for most of the
- 17 time that y'all were at Wal-Mart?
- 18 A I can't remember. I mean --
- 19 Q All right. Can I show you another frame of him still
- 20 holding her, will that refresh your recollection?
- 21 A I mean, he probably did, I don't remember.
- 22 Q Okay. That's why I'm asking you, do you need me to
- 23 show you another frame of him holding her to remind you?
- 24 A No, ma'am.
- 25 Q And I know it's been a long time, that's why I'm

1 showing you this, okay?

2 A Yes, ma'am.

3 Q Now, Mi'honesty was in that visual as well. She was
4 running around. I mean, everybody could just kind of see it
5 for themselves, is she a pretty bubbly active --

6 A Yeah, she take ADHD.

7 Q She does take it, so she's pretty hyper. And normally
8 does **Minor** try to keep up with her if she can?

9 A Yes.

10 Q She does? Okay. But in that particular video at 4:00
11 on October 31st, she was wanting Emarion -- she reaches up
12 to Emarion to be held, doesn't she?

13 A Yes, ma'am.

14 Q Is that unusual?

15 A No, Emarion is always holding her.

16 Q Well, whenever y'all went trick or treating that night,
17 didn't you end up holding her for most of the way as well?

18 A Yes, ma'am.

19 Q And why was that?

20 A Because she didn't want to get down.

21 Q She didn't want to get down.

22 A She was scared of the clowns, too, but she didn't want
23 to get down.

24 Q She didn't want to get down? Okay. And based on how
25 you know **Minor**, she was -- you were pretty close with **Minor**,

1 is that fair?

2 A Yes, ma'am.

3 Q Would she want to stay with you when she came and --

4 A Yeah.

5 Q So would she want to be close to you whenever she was
6 at your house?

7 A Yes, ma'am.

8 Q And so that night, was she still not feeling well based
9 on what your observations were of her?

10 A Yes. She still wasn't feeling good.

11 Q So was she being her normal **Minor** ?

12 A No.

13 Q All right. So whenever you took her trick or treating
14 you were six months pregnant, but you held her?

15 A Yes, ma'am.

16 Q Did she act tired or sleepy during that time?

17 A She acted sleepy.

18 Q She did act sleepy. When y'all were at Wal-Mart, was
19 she yawning or acting sleepy at that time?

20 A I can't remember.

21 Q You can't remember? Okay.

22 (Break in proceedings.)

23 Q I'll get to that in just a second. About how long were
24 y'all at Wal-Mart?

25 A Just enough time to get the costumes.

1 Q And then once you got back to -- where did y'all go
2 after you left Wal-Mart?

3 A I think home.

4 (Break in proceedings.)

5 Q I'm going to show you about four minutes into the
6 Wal-Mart video, okay?

7 A Okay.

8 Q And I would like for you to point yourself out again to
9 the jury. All right. Who is coning in from the bottom?

10 A Emarion -- at the bottom, the last one?

11 Q Right.

12 A Me.

13 Q All right. And four minutes in, four minutes later
14 after y'all were there, who is still holding **Minor**?

15 A Emarion.

16 Q Who is that?

17 A Mi'honesty.

18 Q Okay. Now, who is this little one here?

19 A **Minor**.

20 Q What is she doing right there? Is she --

21 A I couldn't see.

22 Q You couldn't see? Right there.

23 A Yes.

24 Q So she was acting drowsy, tired. Is that a yes?

25 A Yes, ma'am.

1 Q Thank you. And that was at 16:12 that day. So if I --
2 I could show you some more, but does this sound about right,
3 that y'all left around 4:15?

4 A Yes, ma'am.

5 Q All right. So you head back and you've got your
6 costume for Mi'honesty, and do you put -- do you get -- I'm
7 sorry. Ekeria, do you get **Minor** dressed, or who gets her
8 dressed for Halloween?

9 A I think he put her clothes on and I put Mi'honesty's.

10 Q I'm going to show you State's Exhibit Number 26 which
11 is already in evidence, okay?

12 A Yes, ma'am.

13 Q Is this the picture of **Minor** before y'all went trick or
14 treating?

15 A Yes, ma'am.

16 Q I'm going to show you State's Exhibit Number 2, okay?

17 A Yes, ma'am.

18 Q And in State's Exhibit Number 2, I want you to tell me,
19 were these marks from her face on her at the time of this
20 Halloween picture?

21 A No, ma'am.

22 Q Had you seen those pictures on her face when she was
23 dropped off by Tornita Adams that Saturday night?

24 A Yes, ma'am.

25 Q So these were on her face?

1 A No. I'm saying -- I thought you said if I would have
2 seen them on her face. No, ma'am.

3 Q And you did not see those marks on her face?

4 A No, ma'am.

5 Q When was the first time you saw these marks on **Minor**'s
6 face?

7 A When I had the interview.

8 Q When you had the interview?

9 A Yes.

10 Q With law enforcement?

11 A Yes.

12 Q Okay. Was that when you found out how **Minor** died?

13 A Yes.

14 Q Did it surprise you when you learned how **Minor** died?

15 A Yes, ma'am.

16 Q Now, that night you went trick or treating you said you
17 held **Minor** while y'all went trick or treating, correct?

18 A Yes, ma'am.

19 Q About what time did y'all actually get home?

20 A Around -- it was around eight something, I don't know.

21 Q When did you go and get -- you had mentioned earlier
22 about getting pizza and I told you we would come back to it.
23 When did you get pizza that night?

24 A After we got done trick or treating we had went to
25 Pizza Hut where my sister and them was, but she was already

1 acting like she was sleepy so I took her back to the house
2 and me and Mi'honesty went back and got the pizza.

3 Q All right. So who did you leave **Minor** in the care of
4 at that point?

5 A She was laying on the couch with Darryl.

6 Q With Darryl, with the defendant. And whenever you left
7 her there, did she seem tired? Was she still sleepy at that
8 point?

9 A Yes, ma'am.

10 Q And at that time had you seen her try to eat anything
11 else since she had thrown up at your sister's house?

12 A No, ma'am.

13 Q So whenever you came back with the pizza, did you try
14 to get **Minor** to eat at that point?

15 A Yes, ma'am.

16 Q What happened?

17 A She shook her head no.

18 Q Did she get sick again that night?

19 A Yes.

20 Q How many more times did she throw up?

21 A I think just -- well, she threw up on the floor and she
22 threw up by the trash can.

23 Q Okay. So twice?

24 A Yes.

25 Q What did that vomit look like?

1 A It was green.

2 Q By the time she threw up the third time that night,
3 what did -- were you concerned?

4 A Yes, ma'am.

5 Q All right. So did you call her mother?

6 A No, ma'am, I don't have her number. I had told him to
7 call her but he said that her car was broke or something. I
8 guess she had told him her car was broke, I don't know.

9 Q So you did tell him to call her mother.

10 A Yes.

11 Q So were you worried about her at that point?

12 A Yes. Because I wanted to take her to the hospital.

13 Q Okay. And why did you want to take her to the
14 hospital?

15 A Because every time I go and take mine's to the hospital
16 they always ask for a social security card, so I thought
17 that since we didn't have it they wasn't going to see her.
18 But he said that -- and I asked him to call for a social
19 security card.

20 Q Ekeria, whose decision was it to not take her to the
21 hospital that night, was it yours or the defendant's?

22 A The defendant.

23 Q Okay. Thank you. If it was your daughter, would you
24 have taken her to the hospital?

25 A Yes, ma'am.

1 Q Thank you. So after the -- after she threw up the
2 third time, did she end up getting a bath that night with
3 Mi'honesty?

4 A I can't remember.

5 Q All right. So about what time did you end up going to
6 bed, do you recall?

7 A No. It was just after -- I had a headache so it was
8 after I took my shower.

9 Q All right. When you went to bed that night, who else
10 had gone to bed at that point?

11 A Mi'honesty was in the bed.

12 Q Mi'honesty was in the bed. The bed that I just showed
13 you the picture of.

14 A Yes.

15 Q Where was **Minor**?

16 A She was still laying on the couch asleep.

17 Q And where was the defendant?

18 A He was in the other chair across from her.

19 Q All right. So in the same room with **Minor**.

20 A Yes.

21 Q And whenever you walked out of that room at that point
22 had you seen any marks on her nose or her or forehead at
23 that point?

24 A No, ma'am.

25 Q When you gave her a bath, whether it was Monday or

1 Sunday, did you see any of these marks on her body?

2 A No.

3 Q No?

4 A No, ma'am.

5 Q If you would have seen those marks, would you remember?

6 A Yes, ma'am.

7 Q Thank you. What did the defendant -- what did he call

8 **Minor**? Did he call her **Minor**, or what names did he call

9 her?

10 A **Minor**.

11 Q Did he ever call her **Minor**?

12 A Sometimes.

13 Q Well, let me ask you this, what about dealing with

14 things like potty training, was **Minor** going through potty

15 training at that point?

16 A Yes.

17 Q Were you involved in any of that or was that just

18 between the defendant and her mother?

19 A That was between them.

20 Q And so do you know whether or not he actually was

21 trying to have her potty trained?

22 A Yes. They would always say they wanted her to get on

23 the panties.

24 Q Did you have any diapers at your house?

25 A No. Just the ones that she comes with.

1 Q All right. So does she come with diapers or does she
2 come with pullups?

3 A I can't remember.

4 Q All right. So you never were the one that actually
5 would change her pullup, was it just the defendant?

6 A Sometimes.

7 Q And during the day -- whenever you woke up that day on
8 October the 31st, did the defendant tell you that he had
9 any -- that **Minor** had an accident that day?

10 A Yes.

11 Q All right. Well, tell us about that. What did he tell
12 you?

13 A He just said she had used the bathroom in her clothes.

14 Q And was that frustrating for him?

15 A I mean, no, it was just -- he just wanted her to use
16 the bathroom.

17 Q So he wanted her to use the bathroom. How did **Minor**
18 act whenever she would have an accident and he would talk to
19 her -- he would say something to her, how did she act? Just
20 from -- I'm not saying what she said, just what you told us
21 how she acted whenever she had an accident.

22 A Like when a man voice say something she would act
23 scared.

24 Q Okay. So you saw that yourself.

25 A Yes.

1 Q And was that mainly from the potty training?

2 A Yes. That's the only time she would act scared.

3 Q Was whenever she would have an accident.

4 A Yes.

5 Q Did he tell you he had to give her a bath when she had
6 that accident?

7 A I can't recall.

8 Q So do you know how **Minor** ended up with a diaper on her
9 when she ended up at the hospital the next day when she
10 died?

11 A No, ma'am.

12 Q Did you put the diaper on her?

13 A No, ma'am.

14 Q Now, what time did you wake up that morning that you
15 had to go to work on November 1st of 2017?

16 A I sat my clock for 2:30 so I had to get up around that
17 time.

18 Q And what did you do? You've told us what a normal
19 morning would be, please tell the jury what you did that
20 morning.

21 A Well, I take my bath at night so I just brush my teeth
22 and put my clothes on, and I cut on the light and look in
23 the room and then I walk back out the door.

24 Q And when you cut on the light and looked in the room
25 that night, was anything different?

1 A No, she was just sick. She was just sitting up in the
2 bed.

3 Q Who was sitting up in the bed?

4 A **Minor**.

5 Q All right. And normally is she sitting up in the bed
6 at 3:00 in the morning?

7 A No, ma'am.

8 Q So she was sitting up in the bed. What did you say, if
9 anything?

10 A What did I say?

11 Q Yeah. What did you do, what did she say?

12 A I asked her why she was still up and he she shrugged
13 her shoulders. And then I told her, I said, "Lay back
14 down," and she smiled and laid back down.

15 Q She smiled and laid back down?

16 A Yes, ma'am.

17 Q Was that the last time you saw her alive?

18 A That was the last time I seen her.

19 Q Tell the jury what happened that next morning. How did
20 you learn what was going on with **Minor**?

21 A I had texted him to make sure Mi'honesty was woke and
22 he said that she was getting ready and he was fixin' to let
23 her go up the street with my mama, and I told him that my
24 mama was waiting on her up the street. And then I asked him
25 was **Minor** still asleep and he said yes, and then that's when

1 I got the call at work.

2 Q Who called you?

3 A Darryl.

4 Q And what did he tell you?

5 A That she wasn't breathing.

6 Q Had he called -- did he tell you he had called 911?

7 A Yes, ma'am.

8 Q How long was that phone call that you were on with him?

9 A It wasn't even probably two minutes, one minute.

10 Q And where did you go once you got off that phone call?

11 A I clocked out and came right to the hospital.

12 Q When you got to the hospital what did you learn?

13 A That she had passed away.

14 Q At anytime from the time that she passed away on

15 November the 1st, 2017, up until February, did you have any

16 idea as to what caused her to die?

17 A No, ma'am.

18 Q When was the first time that you heard of the autopsy

19 results?

20 A When the DSS lady came and told me about the autopsy it

21 was around.

22 Q All right. And did you actually have an opportunity to

23 do what's called a reenactment with SLED and law enforcement

24 to show them the day before **Minor** died?

25 A Yes, ma'am.

1 Q Do you remember doing that?

2 A Yes, ma'am.

3 Q And that reenactment that was -- do you remember if it
4 was like a week after or a couple of days after she had
5 passed?

6 A I think it was like a week.

7 Q And in that reenactment, would you agree that that --
8 what you did during that particular reenactment would be
9 close in time to whenever **Minor** had actually passed away?

10 A Yes, ma'am.

11 Q Because you had mentioned some today that you are
12 having difficulty remembering some of the details; is that
13 right?

14 A Yes, ma'am.

15 Q Now, whenever you were actually -- you were still with
16 the defendant up until about when, Ekeria?

17 A Until August of last year.

18 Q All right. And so are y'all together now?

19 A No, ma'am.

20 Q And why not?

21 A Just problems.

22 Q Y'all still obviously have a son together, correct?

23 A Yes.

24 Q And right now is he able to see the child with some
25 supervision?

1 A Yes, ma'am.

2 Q Now, let me ask you this, you had mentioned before that
3 he lived with his mom, do you know whether that's where he
4 is living now?

5 A Yes, ma'am.

6 Q And I'm just going to ask you if you could drop off --
7 what is your son's name?

8 A Quan'Travis.

9 Q And do you have a nickname for him?

10 A Q-jay.

11 Q And I've asked you this before so I'm going to ask you,
12 okay? If you could drop off Q-jay and leave him with Trab
13 and his mother wasn't there, grandmother, nobody else was
14 there, just him and Q-jay at the house, would you feel
15 comfortable doing that?

16 MR. BOYD: Your Honor, I'm going to object to this
17 question.

18 THE COURT: Sustained.

19 Q Who watches Q-jay for you if you're not able to, if
20 you're working?

21 A He goes to daycare --

22 Q He goes to daycare?

23 A -- or my daddy.

24 Q All right. And whenever -- in regards to Mi'honesty,
25 whenever y'all were living together, did she ever go to any

1 kind of daycare or after school care or anything like that?

2 A Yes. She was going but I stopped her from going.

3 Q You did stop her from going?

4 A Yes, ma'am.

5 Q Okay. So the time when you were still with the
6 defendant then, whenever Mi'honesty would get off from the
7 school bus, would she go to your mother's house?

8 A She would go to my mother's or my grandmama's.

9 Q Mother's or grandmother's? Okay. So the child that
10 would be left alone with the defendant would be **Minor**?

11 A Yes.

12 MS. LIVELY: One moment, please.

13 (Break in proceedings.)

14 MS. LIVELY: All right. Thank you, Ms. Foote, please
15 answer any questions that the defense may have.

16 THE COURT: All right. Mr. Boyd, your witness.

17 CROSS EXAMINATION

18 BY MR. BOYD:

19 Q During the time that you and Darryl were together you
20 never saw him use physical discipline on **Minor**, did you?

21 A No, sir.

22 Q Okay. You never saw him spank her.

23 A No, sir.

24 Q Do anything like that; is that correct?

25 A No, sir.

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1 Q Didn't use physical discipline on her at all.

2 A No, sir.

3 Q And you were together with he and her a lot; is that
4 correct?

5 A Yes.

6 Q Okay. And you, in fact, never saw him use physical
7 discipline on any child.

8 A No, sir.

9 Q Never disciplined Mi'honesty physically.

10 A No, sir.

11 Q You never saw him overreact to a situation.

12 A No, sir.

13 Q And everything you saw, his interaction with **Minor**,
14 that he was a good dad with her; is that correct?

15 A Yes, sir, he was.

16 Q She enjoyed being with him?

17 A Yes, sir.

18 Q Okay. And as far as Mi'honesty was concerned, of
19 course, he reacted well with her; is that correct?

20 A Yes, sir.

21 Q She enjoyed being around Darryl.

22 A Yes, sir. She never had a daddy figure in her life so
23 she always looked at him as her daddy.

24 Q Okay. And they had a good relationship.

25 A Yes.

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1 Q Now, you said **Minor** wasn't acting herself that weekend;
2 is that correct?

3 A Yes, sir.

4 Q Okay. She got there on Saturday night; is that
5 correct?

6 A Yes, sir.

7 Q Okay. And it was, you know, about 11:30 p.m. or so?

8 A Yes, sir.

9 Q Shortly before midnight.

10 A Yes, sir.

11 Q You don't know where she had been before that time.

12 A No, sir.

13 Q And after you got back home -- well, she came to your
14 home; is that correct?

15 A Yes, sir.

16 Q So her mother brought her to your home.

17 A Yes, sir.

18 Q And she came in. Did she immediately go to sleep?

19 A She was already sleeping when she got there, but she
20 was still tired. You could tell when she was sitting on my
21 lap she was still tired.

22 Q Now, I want to ask you about -- now, that Monday you
23 went to work and I think according to the records you got
24 off at 11:50 a.m., is that correct?

25 A Yes, sir.

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1 Q And basically were you at home with **Minor** and Darryl
2 during that time?

3 A Yes, sir.

4 Q At some point you said, was it Sunday you had gone
5 over -- you had gone somewhere with **Minor** and Mi'honesty?

6 A Up to my mama's house.

7 Q So you, Mi'honesty and **Minor** went over to your mama's
8 house.

9 A Yes, we walked over there.

10 Q How far is your mother's house from where you were
11 living?

12 A Probably right here to the door.

13 Q So it's not very far.

14 A No, it's not.

15 Q Now, did Darryl go with you then?

16 A No.

17 Q Okay. Do you know where he was?

18 A He was on the porch.

19 Q Okay. Now, was it your practice to give Mi'honesty and
20 **Minor** a bath together?

21 A Yes, I always did.

22 Q Okay. So basically Darryl didn't give the bath, you
23 did that.

24 A I want to say that Monday I did.

25 Q Okay. But what was the usual practice when **Minor** was

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1 there?

2 A They would eat and then -- at nighttime?

3 Q Yeah.

4 A They would eat and get a bath and then go lay down.

5 Q And was it typical for them to get a bath together?

6 A Yes. They liked to play in the tub with the little
7 toys that they had, yes, sir.

8 Q All right. And you were the one that would give them
9 the bath then, right?

10 A Yes.

11 Q Okay. You recall them -- I think actually Agent Baird
12 talked to you at the hospital that morning of **Minor**'s death,
13 do you remember that?

14 A I remember.

15 Q You were actually lying in a bed at the time, is that
16 correct, in the hospital and she talked to you?

17 A Yeah.

18 Q Do you recall at that time stating that -- referring to
19 Halloween night that you put them in the tub about 8:30
20 together?

21 A I don't recall.

22 Q Do you recall again in that same interview saying
23 around 8:30 you gave a bath and you put the clothes on?

24 A I can't remember. I don't know which night I was --
25 like what night I put them in a bath together. I knew I

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1 had, they had to take a bath together but I don't know which
2 night. I know one night she didn't get in the tub.

3 Q Okay. But you don't remember at this point which night
4 that was?

5 A No, sir.

6 Q Would your memory be more accurate the day after than
7 it would be now?

8 A The day of the hospital?

9 Q Yes, the day after her death.

10 A I can't say, because they had gave me some medicine
11 that day, so --

12 Q Okay.

13 A I would say no.

14 Q All right. Let me -- would it help you recall if you
15 could see the interview?

16 A About when we was at the hospital?

17 Q Yes.

18 A I mean, I probably said it but I don't remember what
19 day I put them in the bath together, but I know one night I
20 did.

21 Q Okay. Well, do you remember saying that you had put
22 them in the tub about 8:30 together?

23 A Yes, sir.

24 Q Okay. Now, let me ask you about the time frame on
25 Halloween. You had gotten off work; is that correct?

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1 A Yes, sir.

2 Q Now, you stated that you went to Wendy's and then y'all
3 went to Wal-Mart. Are you sure you didn't go to Wendy's
4 before you went to Wal-Mart?

5 A Yeah. I went to --

6 Q Because you were at Wal-Mart, according to the video,
7 between about four to 4:16, 4:17, so that was that
8 afternoon.

9 A Yes. I went to Wal-Mart first and then I went to
10 Wendy's, because we went back to my sister's house.

11 Q Okay. So you went to Wendy's and then you went to your
12 sister's house.

13 A Yes.

14 Q So you left home and Travis, or Darryl, didn't go with
15 you to Wendy's; is that right?

16 A No, sir.

17 Q And when you were at -- after Wal-Mart, is that when
18 you went by Wendy's?

19 A Yes, sir.

20 Q You didn't come home first?

21 A No. I went to Wendy's and then I went to my sister's
22 house, she stayed right behind us.

23 Q Yeah. My question was you went to Wal-Mart.

24 A Uh-huh.

25 Q Okay. And at Wal-Mart there was Mi'honesty with you,

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1 **Minor** was with you and your nephew was with you; is that
2 right?

3 A Yes, sir.

4 Q And then after you left Wal-Mart you went to Wendy's.

5 A Yes, sir.

6 Q And you didn't go home between Wendy's and -- between
7 Wal-Mart and Wendy's.

8 A No, sir.

9 Q Okay. And then you went from there to your sister's
10 house.

11 A Yes, sir.

12 Q And that's when at Wendy's you were -- I'm sorry, at
13 your sister's house, that's when **Minor** first threw up; is
14 that correct?

15 A Yes, sir.

16 Q And before she threw up, I believe you said she didn't
17 have an appetite at that point.

18 A No.

19 Q Okay. You don't know whether she had eaten anything
20 earlier that day.

21 A No, sir.

22 Q Okay. Do you remember in the hospital interview you
23 stating that she had eaten some fries but wouldn't eat the
24 burger?

25 A That's what I said. I can't remember did she eat the

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1 fries or -- but I know they didn't come out when she threw
2 up.

3 Q So she may have eaten some fries but they didn't come
4 out.

5 A Yes.

6 Q And basically, was it just kind of green liquid, it was
7 liquidly?

8 A Yes, sir.

9 Q Okay. And after it was -- after your sister's you came
10 back home; is that correct?

11 A Yes, sir.

12 Q Okay. The kids got dressed for Halloween.

13 A Yes, sir.

14 Q Was **Minor**, was she interested in going trick or
15 treating at that point?

16 A When I asked her did she want to go trick or
17 treating -- because I could tell that she wasn't herself
18 after she had threw up, I said did you want to go trick or
19 treating and she shook her head yeah, so I told him to put
20 her clothes on.

21 Q So you got Halloween costumes on. I think Darryl took
22 that photograph, is that correct, and sent it to **Minor**'s
23 mother.

24 A Yeah.

25 Q And Darryl didn't go trick or treating with you.

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- 1 A No, sir.
- 2 Q I think y'all left -- I think you'd said earlier, what,
3 did you leave about 5:30 or so to go trick or treating?
- 4 A Yes, sir.
- 5 Q And you got home about eight.
- 6 A I don't know if it was 5:30 or not.
- 7 Q Six or --
- 8 A It was -- I know trick or treating started at six, so
9 it might have been along in there.
- 10 Q All right. And it was after that you came back home;
11 is that correct?
- 12 A Yes.
- 13 Q It was sometime during the evening **Minor** threw up
14 again; is that correct?
- 15 A That night.
- 16 Q And when you said she threw up in the floor in the
17 trash can, was that almost simultaneously like she threw up
18 and then immediately threw up in the trash can?
- 19 A Yeah. She -- well, I wasn't in there, I wasn't in the
20 room when she threw up, and that's when my daughter said,
21 "**Minor** is throwing up." And I walked in there and he was --
22 Darryl was already in there. And she -- after he said she
23 threw up on the floor he told her to stand by the trash can
24 and she threw up. It wasn't a lot but she like spitting up
25 in the trash can.

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1 Q So it wasn't a tremendous amount at that point.

2 A No.

3 Q You were shown some video of the Wal-Mart, and I would
4 like you to take a look at a little more of that if you
5 would.

6 MR. BOYD: If the State would be so kind as to put that
7 back on.

8 (Break in proceedings.)

9 Q And Ms. Foote, are you looking for the Halloween
10 costume at that time?

11 A Yes, sir.

12 Q Okay. And **Minor** is walking at that time; is that
13 correct? She's not being carried at 4:07; is that correct?

14 A Yes, sir.

15 MR. BOYD: And then if you would look back at 4:11.

16 Q And that's what was shown earlier at the diabetics
17 about 4:11:35. There went your nephew; is that correct?

18 A Yes, sir.

19 Q That's Mi'honesty; is that correct?

20 A Yes, sir.

21 Q She was walking at that time; is that correct?

22 A Yes, sir.

23 MR. BOYD: And you can cut that one off. Now, if you
24 would go to face care at 4:12, about 4:12:40.

25 MS. LIVELY: What time?

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- 1 MR. BOYD: That would be 4:12:40.
- 2 Q Now, that's you; is that correct?
- 3 A Yes.
- 4 Q That's Mi'honesty, correct?
- 5 A Yes.
- 6 Q That's **Minor** walking; is that correct?
- 7 A Yes, sir.
- 8 Q That's you again; is that correct?
- 9 A Yes.
- 10 Q Mi'honesty again. And **Minor** is carrying something, she
- 11 hands it to your nephew; is that correct?
- 12 A Yes, sir.
- 13 Q It looked like a cookie or something she had given him?
- 14 A Yes.
- 15 MR. BOYD: You can cut that one. On the last one if
- 16 you could show it, it looks at 4:13 at nail care.
- 17 Q That's you; is that correct?
- 18 A Yes.
- 19 Q Mi'honesty again and **Minor**. And that looks like the
- 20 same thing, she's handing him something; is that correct?
- 21 A Yes.
- 22 MR. BOYD: All right. That's all.
- 23 Q And so basically -- and when you exited **Minor** walked
- 24 out to the car, didn't she?
- 25 A Yes, sir.

EKERIA FOOTE - CROSS

1 Q And so basically **Minor** was walking around most of the
2 time. So you knew she wasn't feeling real good but she was
3 walking around, she was active, she hadn't thrown up yet at
4 that time; is that correct?

5 A No.

6 Q And she had been -- the entire time since you had got
7 her she hadn't been totally herself, she wasn't her usual --
8 as active as she usually is.

9 A No, sir.

10 Q Now, she's never as active as Mi'honesty; is that
11 correct?

12 A No, sir.

13 Q Mi'honesty actually -- doesn't she have to take some
14 medicine? She's a little ADD?

15 A Yes, sir.

16 Q Okay. That morning when you got to the hospital you
17 saw Darryl there; is that correct?

18 A Yes.

19 Q Was some other family members there also?

20 A I don't think they had got there, I think it was just
21 my grandmama.

22 Q All right.

23 A I don't think they had got there yet.

24 Q Okay. Your grandmom was there?

25 A Yes.

EKERIA FOOTE - CROSS

1 Q And was Darryl upset at that time?

2 A Yes.

3 Q Very upset?

4 A Very.

5 MR. BOYD: That's all of the questions I have.

6 THE COURT: Any redirect?

7 MS. LIVELY: Nothing further for this witness, Your
8 Honor.

9 THE COURT: All right. Thank you, ma'am, you may step
10 down. Ladies and gentlemen of the jury, let's stand up and
11 stretch a little bit. Do y'all need to take a break? Are
12 y'all okay? Call your next witness.

13 MS. LIVELY: Thank you, Your Honor. The State calls
14 Dr. Susan Lamb.

15 The witness, SUSAN LAMB, M.D., was first duly sworn
16 And testified as follows:

17 DIRECT EXAMINATION

18 BY MS. LIVELY:

19 Q Dr. Lamb, please tell the jury where you are currently
20 employed.

21 A So I'm employed at Prisma Health Richland, Palmetto
22 Health USC down in Columbia.

23 Q And how long have you worked in that position?

24 A Four years.

25 Q And what are your duties as working in that particular

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1 field?

2 A So I am the division director of child abuse and
3 neglect. So I work as a child abuse pediatrician seeing
4 patients in the hospital, in the ER, in the clinic. I also
5 lead a team there of medical providers who serve in the same
6 field of child abuse and neglect.

7 Q Did you have any special education and training in
8 order to become a child abuse pediatrician?

9 A Certainly. So just like any other medical doctor I did
10 my undergrad, then I went on to medical school. Then I
11 became a board certified pediatrician doing a pediatric
12 residency. And then to practice in child abuse and neglect
13 is a specialty just like cardiology, nephrology. So I did
14 three years of training specifically in child abuse and
15 neglect, which was a fellowship. And then at the end of
16 that I took my boards, and so I'm board certified in both
17 pediatrics and child abuse and neglect pediatrics.

18 Q Well, let me ask you, have you ever been qualified as
19 an expert in court in the field of pediatrics and child
20 abuse pediatrics?

21 A Yes, I have.

22 MS. LIVELY: Your Honor, at this time the State would
23 offer Dr. Susan Lamb as an expert in pediatrics as well as
24 child abuse pediatrics.

25 MR. BOYD: No objection.

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1 THE COURT: Without objection. Ladies and gentlemen,
2 remember, an expert can testify in the form of an opinion.

3 MS. LIVELY: Thank you, Your Honor.

4 BY MS. LIVELY:

5 Q Now, Dr. Lamb, were you actually notified of a child
6 fatality that occurred in Chester County back in November of
7 2017?

8 A I was.

9 Q All right. And just so the jury can understand, are
10 you a part of a response type of team that responds to child
11 fatalities within the state?

12 A Certainly. So in a case of an unexpected child death
13 state law requires that we have a fatality review. And the
14 members of that review include law enforcement, DSS, the
15 coroner's office, the solicitor's office, and then a child
16 abuse pediatrician board certified as well. So I'm
17 responsible for responding to any unexpected deaths in the
18 Midlands or the Pee Dee region of South Carolina.

19 Greenville covers the upstate, MUSC covers the low country.

20 Q All right, Dr. Lamb. So were you involved in this case
21 from the very beginning whenever **Minor** died?

22 A Certainly. So a rapid review happens within ten days
23 of the death, so I was involved beginning at that point.

24 Q And as you just stated, would that include a review
25 along with other people such as the coroner, SLED agents and

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1 other medical professionals?

2 A Certainly. So EMS who responded to the scene, anyone
3 else, fire department and such. So it's a multidisciplinary
4 team effort, every person has a piece of the puzzle. So the
5 goal is to rapidly get everyone in the same room to make
6 sure that we're covering all of our bases, that we know
7 what's going on, and that any steps that needs to be taken
8 are taken at that point.

9 Q And Dr. Lamb, once you start to gather this
10 information, do you also gather all of the medical history
11 involving the child who has actually died?

12 A Certainly. So generally afterwards sometimes the
13 coroner's office, sometimes SLED or law enforcement, they
14 gather all pediatric records, autopsy records, the ER
15 records, EMS records. So all of that is collected, and
16 generally I'll work with them, they'll send it to me, I'll
17 review. It's kind of an ongoing conversation as the
18 investigation kind of proceeds in the case where there is a
19 concern that something has happened to a child.

20 Q When you had the opportunity -- well, did you see those
21 records? Were they provided to you in this particular case
22 regarding **Minor**'s history?

23 A Yes.

24 Q They were. All right. And once you reviewed -- did
25 you review her birth records as well as her pediatric

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1 wellness checkups?

2 A So it was mostly her pediatric wellness checkups. In a
3 two and a half year old it's highly unlikely anything from
4 birth would still be pertinent. The pediatrician would note
5 if there's any congenital defects, ongoing medical records
6 or such. So I think in this case I didn't review the birth
7 records, but everything necessary would have been in the
8 pediatric records.

9 Q All right. And being a pediatrician and especially
10 board certified in child abuse pediatrics, after reviewing
11 her pediatric records, could you give an opinion as to
12 whether she was meeting her growth expectations and other
13 types of expectations in regards to development?

14 A Certainly. She was a normal toddler, developing
15 normally, no significant medical issues, no medicines that
16 she needed to take. She was a very healthy young child.

17 Q So after reviewing the medical records, were you
18 concerned about any type of potential genetic disorders that
19 may have not been caught in regards to this two and a half
20 year old child before she died?

21 A No. She was a healthy child.

22 Q Now, Dr. Lamb, we've come almost two years now. Would
23 you please tell the jury through your involvement in this
24 case and your investigation of everything in this case, how
25 did **Minor** die at the time that she actually passed

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1 November 1st of 2017?

2 A So I concurred with the pathologist's finding after
3 looking at the autopsy and the autopsy photos and
4 everything, she died of blunt force trauma to her abdomen,
5 which caused injuries to various organs, and then bleeding
6 into her actual abdominal cavity. So she would have -- a
7 significant amount of her blood volume would have gone into
8 her abdomen, her blood pressure would have dropped and she
9 would have died from those injuries.

10 Q Now, have you ever treated a child who survived from
11 this type of an injury?

12 A Yes.

13 Q And tell me about that.

14 A So when children have blunt force trauma to their
15 abdomen, if they're brought in early, quickly for
16 intervention, if we know that they had trauma to their
17 abdomen it's relatively survivable there. Sometimes they
18 need surgery, sometimes they don't. They're pretty
19 miserable little kids because they've got blood and injury
20 there. They don't look good, they don't feel good there.
21 But there are several cases where there's been accidental
22 injury and abuse of injury that I've seen with abdominal
23 trauma.

24 Q All right. And whenever the injury that **Minor** suffered
25 with an actual -- you've reviewed the autopsy obviously,

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1 you've already said that.

2 A Yes, I have.

3 Q So the injury that she suffered to the tear to her
4 mesentery, if it's not treated, is the ultimate result what
5 happened to **Minor**, her death?

6 A Yes. And the mesentery is really rich in the blood
7 vessels. It has all of the blood vessels that supply your
8 intestines there. So once you tear it and the blood vessels
9 start bleeding into that abdominal cavity it's highly fatal
10 if it's left untreated, because a lot of your blood volume
11 can go into your abdomen, there's a lot of space there. So
12 then your blood is in there, it's not pumping, your blood
13 pressure drops, you're not getting oxygen in your blood to
14 your brain, to your heart, to your other organs and things
15 just keep spiraling down and down until you ultimately die.

16 Q Now, Dr. Lamb, tell the jury what -- in your medical
17 opinion, what symptoms would you expect a child with these
18 types of injuries to actually start to exhibit?

19 A So certainly. Once you take blunt force trauma to your
20 abdomen you become quickly symptomatic. So if we're talking
21 about a delay, maybe a minute, a couple of minutes, maybe
22 hour or so before you start showing symptoms, but once you
23 start suffering that trauma directly to your abdomen your
24 intestines are shocked, they're not moving things through,
25 they're not moving. You're going to have pain in your

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1 abdomen so you're not going to be running or jumping.
2 Anything that jostles your abdomen is going to be irritated
3 because you have that blood in your abdomen that's
4 irritating everything. You're not -- you know, often times
5 people will curl up in a fetal position to kind of protect
6 that area, they don't want anything touching it, they're
7 definitely not eating or drinking. You're going to lose
8 your appetite very quickly, and then you're going to start
9 vomiting because things aren't moving through your
10 intestines as well. And then once you begin to bleed out
11 internally, then your blood pressure drops and you get
12 sleepy, you get lethargic, you may fall unconscious.
13 Sometimes if you have lack of oxygen to your brain you'll
14 seize, you'll have funny breathing, and then ultimately you
15 die from those injuries.

16 Q Now, in regards to some of those symptoms, I'll just
17 kind of ask you, if someone with that type of an injury were
18 to try to eat or was encouraged to eat or drink, what would
19 likely happen?

20 A Maybe they take a bite or two just because they might
21 think that they're hungry there, but very quickly they would
22 vomit afterwards, they wouldn't want to take anything else.
23 Even liquids moving through would be painful and so they
24 would just not take anything. It's kind of like the
25 symptoms you have when you have an appendicitis. We call it

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1 the cheeseburger sign, if a person can eat a cheeseburger
2 there is nothing wrong in their abdomen. So a lot of times
3 we will ask patients if they want to eat and if they're
4 sick, they're like, "No, I don't want anything."

5 Q All right. Now, you've heard testimony as well as
6 you've had updates from looking at records that **Minor** was
7 vomiting up green liquid. What does that tell you as a
8 pediatrician?

9 A So if there's no content in the stomach so your bile
10 that comes in from your liver or your gall bladder, all of
11 that in your lower intestine beyond the stomach, that's
12 where it's produced. So if nothing is moving through your
13 intestines, it just is sitting there and so that's when you
14 start vomiting up green stuff, which is bile. Stomach acid
15 is that yellow stuff. So that means nothing was moving
16 through her intestines at that point, she didn't have
17 anything in her stomach so she hadn't eaten for hours there,
18 and so it was just sitting there and that's what she was
19 vomiting up.

20 Q Now, would an injury that **Minor** suffered regarding the
21 tear to her mesentery be a painful injury?

22 A Yes. So blood is not supposed to be in your abdomen,
23 it's very irritating there, so the minute you get blood
24 coating on your organs, intestines or such you're in pain
25 with your abdomen.

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1 Q Did you see any medical evidence that the child
2 suffered from an appendicitis which could have caused her to
3 become sick and/or die?

4 A No. So her appendix was actually seen at autopsy, it
5 was still there, it had no signs of infection, so she
6 definitely did not have an appendicitis.

7 Q All right. Now, you've mentioned the autopsy report.
8 Did you go through that report in detail in regards to what
9 Dr. Monroe evidenced as external injury to the child?

10 A Yes, I did.

11 Q I'm going to actually grab those photos and provide
12 them to you. I'm going to show you several photos from the
13 autopsy, there are about eight of them. I'm going to ask
14 you individually about each one. Do you have a copy of the
15 autopsy, or do you need it in order to refer to for external
16 injuries?

17 A I don't have a copy of it. If I have a question I can
18 ask you.

19 Q That's fine. I'll be glad to pull it if you need. So
20 Dr. Lamb, first of all in regards to the child's torso area,
21 in looking at the torso area and the evidence of injury
22 there, tell the jury in just looking at the picture, and I'm
23 going to pull it up, but go ahead and just look at it. All
24 right. Okay. So if you'll just refer to that picture, just
25 tell me what the number was on the back of it so we can be

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1 clear on the record.

2 A Thirty-five.

3 Q State's Exhibit 35. So this is a picture of **Minor** at
4 autopsy. Please tell the jury based on your medical
5 expertise as a child abuse pediatrician, what, if anything,
6 gives you concerns about what you're seeing on her torso?

7 A So when you look here there's that -- the red and
8 purple marks are bruising on her chest and her abdomen.
9 Now, the big rectangular looking thing, that's where the EKG
10 pad to try to shock her was, so that's not an injury. But
11 as you're looking at it, a child with bruising to the torso
12 and the abdomen, that's not normal accidental play, or
13 accidents there. Those are protected areas of the body
14 where children are not normally injured. And then when you
15 look closer, particularly on her -- the upper chest there
16 you can see those round bruises, the purple ones, so that's
17 a pattern injury that we recognize in child abuse and
18 neglect, that's caused by adult fingertips or knuckles. So
19 those that you're looking at, the front of her chest there,
20 so that's a pattern injury, so that let's me know what
21 impacted her chest.

22 Q Now, Dr. Lamb, there's been some discussion about the
23 child receiving some form of CPR when they did attempt to
24 resuscitate her, but she was asystole, which my
25 understanding from hearing testimony meant she had no pulse

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1 and she wasn't breathing by the time the EMS got there.

2 Based on that EMS information and your experience as a child
3 abuse pediatrician, would these bruises have been from CPR
4 attempts?

5 A No. So first of all when you're doing CPR on a two and
6 a half year old you're using the palm of your hand, it's
7 only on infants that you hold your hands around them and use
8 your thumbs. So you shouldn't have fingertips or knuckle
9 prints on the front of the chest, too. And in order to
10 bruise you have to have a blood pressure, your heart has to
11 be pumping. So bruising happens when you get trauma, the
12 blood vessels break and the blood pumps through and then
13 leaks out around it, so once your heart stops beating and
14 you no longer have a blood pressure, you don't bruise at
15 all. So if you're dead/dead, you know, no heartbeat,
16 dead/dead you're not bruising, so these could not have come
17 from CPR.

18 Q I'm going to show you a larger picture of the torso,
19 which actually kind of comes down a little bit further here.
20 Tell us what you're seeing in regards to these marks on her
21 body, and what, if anything, in your medical opinion would
22 give you concern regarding possible abuse.

23 A So in this picture you can still see those round little
24 marks on her chest, but now you can see one in the center of
25 her abdomen almost where your pointer is there just above

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1 it, that round bruise there. So again, that's an adult
2 fingertip or knuckle mark over the abdomen, which is
3 certainly not where you would be doing CPR or anything else.
4 And then you have a bruising extending all of the way down
5 her abdomen to her hip bone. So again, normal childhood
6 accidents happen, they play, they scrape their knees, they
7 hit their chin, you know, they hit their elbows, they may
8 scrape their palms as they're falling, but this is not what
9 you see in kids with normal accidents or play.

10 Q And so in your medical opinion as a child abuse
11 pediatrician within a reasonable degree of medical certainty
12 you would actually state that these are inflicted injuries.

13 A Yes.

14 Q Now, there's been a lot of testimony about some
15 markings that were actually documented on the face of the
16 child, okay? And you have that picture as well?

17 A Yes.

18 Q And just tell us what the number is so we can be clear
19 for the record.

20 A This is 34.

21 Q Okay. State's Exhibit 34. Now, in regards to the
22 evidence of injury, one of the things that Dr. Monroe told
23 us was he documents everything, whether -- it's just
24 anything he's got to actually document that's out of the
25 norm for the child. In regards to these marks on **Minor**'s

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1 face, do you have any information as to whether or not those
2 were the result of abuse or neglect?

3 A So when you're looking at the tip of the nose and the
4 forehead, they can be from childhood accidents. These are
5 abrasions so the top layer of the skin has been removed. So
6 if a child falls on their face and doesn't brace out with
7 their palms it's possible to get these from an accidental
8 mechanism. Now, again, you like to have a history to go
9 with it, someone who saw the child trip and fall or heard
10 them fall in another room and they ran out and they were
11 bleeding, you know, clearly some history of what had
12 occurred. In cases where there are other inflicted
13 injuries, could someone shove this child down and inflict
14 these injuries? Yes. But based on the injury itself I
15 can't say one way or another unless someone gives a history
16 of what occurred.

17 Q All right. Thank you. Now, moving along into the
18 autopsy, you talked about the child being uncomfortable or
19 sensitive to the area with blood now seeping into the
20 abdomen; is that correct?

21 A Yes.

22 Q Have you had the opportunity to see the pictures of
23 internal examination by the pathologist, Dr. Monroe?

24 A Yes, I did.

25 Q So in regards to whenever he first did the Y incision,

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1 that particular picture -- I'm going to refer to that one,
2 I'm going to pull it up real quick and then take it back
3 quick. In regards to that particular picture, what, as a
4 child abuse pediatrician, concerns you in regards to what
5 we're seeing in that picture?

6 A Sure, and it's Exhibit 37.

7 Q Thirty-seven, thank you. So the jury will know what
8 you're referring to. So in that particular picture, tell us
9 what we're seeing.

10 A So as soon as you cut into the abdomen there you cut
11 through the muscle, and he's kind of holding the intestines
12 out of the way, and all of that black kind of mess is blood
13 that's in her abdomen there. So that's free blood coating
14 her intestines, coating her organs inside. And so obviously
15 it shouldn't be there whatsoever, and that obviously caused
16 her death in that she was bleeding out internally.

17 Q And then I'm going to show you -- the mesentery you've
18 already talked about has a lot blood vessels and it has a
19 lot of blood flow. So I'm going to show you, what was the
20 actual area that was torn that Dr. Monroe determined
21 received the most significant blunt force trauma?

22 A You mean on the mesentery?

23 Q On the mesentery, yes, I'm sorry.

24 A I would have to look at his autopsy report. I don't
25 know specifically where he said on the mesentery.

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1 Q Okay. Well, I'm going to show you this picture and
2 just ask you if this is consistent with the picture that you
3 have regarding the tear.

4 A Yeah. So this is 38?

5 Q Yes.

6 A So this is -- you can see all of the blood throughout
7 the mesentery there, so it's been torn and then it's been
8 leaking out. So this is part of the large intestine, the
9 small intestine kind of hanging out there. There's the
10 cecum where the appendix would be. And so this is kind of
11 in the center of the abdomen where that mesenteric tear
12 would be.

13 Q And Dr. Monroe has already testified he did place
14 organs in Formalin in order to do further examination and
15 look at the tissue. Did you have an opportunity to review
16 that information as well?

17 A Yes, I did.

18 Q So I'm going to show you this particular picture here.
19 And what is it that you're seeing here? And you'll just
20 mention what that State's Exhibit is, please.

21 A This is 39. So this is a section of the small
22 intestine here, and so it has changed colors because it has
23 been put in a preservative there, so that's why it looks
24 different. But you can see the blood here, and so that's
25 again the mesentery where the intestines would have been

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1 attached there. And then you can also see on the bottom
2 curve that discoloration there, that's bruising actually in
3 the intestine itself.

4 Q And this is here at the bottom, Dr. Lamb?

5 A There at the bottom there. And so Dr. Monroe, I think
6 he referred to it as a hematoma, which is just a bruise, a
7 collection of blood there in the actual wall of the
8 intestine.

9 Q Did you see this picture in regards to evidence of
10 injury as well of internal injury?

11 A Yes. So that's 40. So this is where he's cut into the
12 intestine. So what he's showing here is that that dark
13 discoloration, that bruise or hematoma is extending into the
14 wall of the intestine. So this would be an injury that the
15 intestine itself is injured and so things aren't moving
16 through at that point. The blood swelling keeps things, you
17 know, kind of closes off the center of the intestine so
18 things can't move through as well.

19 Q Now, what, if any, history did you have as to possible
20 mechanisms that could have caused the tear to her mesentery
21 and the trauma to her pancreas?

22 A So when we were talking with law enforcement, obviously
23 they're the ones who do the investigation, they get witness
24 statements, they talk to people. There was no significant
25 accidental injury that was provided by any of the caretakers

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1 to account for these injuries.

2 Q If you saw an injury like this that was inflicted on a
3 child her size -- or let me just say, that actually
4 presented in a child that size and you did not have a
5 history of a car accident or a fall from a very high
6 location, as a child abuse pediatrician what would your
7 initial conclusion be?

8 MR. BOYD: Your Honor, I'm going to object to the
9 initial --

10 THE COURT: Y'all approach real quick.

11 (A bench conference was held.)

12 THE COURT: All right. Objection sustained.

13 Q Dr. Lamb, if you have no medical history that the child
14 was in a car accident or fell from some large distance
15 impacting her abdomen area, within a reasonable degree of
16 medical certainty as a child abuse pediatrician, what would
17 your conclusion as to the cause of her injury?

18 A My conclusion would be that she suffered inflicted
19 blunt force trauma to her abdomen.

20 Q Inflicted. Does that mean within a reasonable degree
21 of medical certainty in your language as a pediatrician,
22 would that mean non-accidental trauma?

23 A Yes. I use a different term, but non-accidental trauma
24 is commonly used in the ER records and everything else.

25 Q So inflicted. And is an inflicted blunt force trauma

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1 considered abuse in your world as a child abuse
2 pediatrician?

3 A Yes. So inflicted injury means someone did something
4 to the child. So unless they did it for some reason to save
5 the life of the child or do something there, then it often
6 is physical abuse.

7 Q All right. Dr. Lamb, would you agree that often you're
8 seeing children who have suffered from all different types
9 of injuries whether inflicted or accidental, and these
10 things happen often times in the privacy of someone's home?

11 A Certainly. So the majority of injuries that children
12 sustain are at their home.

13 Q All right. And in this particular case in regards to
14 what happened to **Minor**, you've already said the caregivers
15 didn't give any type of accidental injury as an explanation,
16 correct?

17 A Yes.

18 Q So whenever we look at the type of injuries that **Minor**
19 had internally, the injuries included the mesentery tear; is
20 that correct?

21 A Yes.

22 Q Also there was trauma to her pancreas, correct?

23 A Yes, the peripancreatic. So the tissue surrounding the
24 pancreas had hemorrhages as well.

25 Q Why would that be significant to you as a medical

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1 professional in the field of child abuse pediatrics that
2 there was that type of an injury to her pancreas?

3 A So where the pancreas sits it's in the center of your
4 abdomen, it's right over your spine. So when kids suffer
5 blunt force trauma to the abdomen, direct blows, the
6 pancreas is very commonly injured in inflicted abusive
7 injuries, where it's not as commonly injured in accidental
8 injuries. So the fact that there's tissue surrounding the
9 pancreas, that tissue being injured indicates that there was
10 a direct blow to that center of her abdomen that slammed the
11 pancreas and the tissues surrounding it up against her spine
12 as well.

13 Q And when -- whenever you reviewed all of this
14 information and, you know, there's -- the question then
15 comes is what type of force, or how much force would it take
16 on a child her stature to inflict such an injury that she
17 sustained?

18 A Certainly. And that's always a tough question to
19 answer, because no one is going to do a study where we
20 inflict injuries on children at increasing levels of force
21 until we find out what causes those injuries, so we look to
22 the accidental research there. And we look at the high
23 speed motor vehicle accidents or the ATV accidents with
24 children, and those give us an approximation of how much
25 force it would take to inflict this degree of injury onto a

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1 child. So I can say, you know, it's well in excess of
2 normal parenting, normal accidents, we're talking high
3 velocity significant amounts of force with direct trauma to
4 the abdomen.

5 Q Would the blow that would result in the type of
6 injuries that she sustained, if a reasonable person were
7 observing this take place, would that be of concern
8 regarding the type of blow that the child was receiving?

9 A Certainly. So if you observed this type of injury to a
10 child you would fear for the child's life.

11 Q Now, back to how the child would have been acting.
12 You've already said she wouldn't be -- the child would have
13 difficulty eating or drinking because of the blood in her
14 stomach or intestines. You also mentioned that she would be
15 somewhat lethargic. In a two and a half year old child, do
16 you often have to use, whenever you ask about pain, certain
17 kind of charts that has like smiley faces and unhappy faces
18 on it?

19 A Sometimes we try. Two and a half year olds are
20 difficult, they just maybe like how the face looks. So
21 generally we have to rely on caretakers to tell us when the
22 child is not acting themselves there, because they don't
23 really understand, they just know they're in pain. They may
24 not understand how much or what's going on with them.

25 Q All right. So even if the child is walking around at

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1 the point that you saw on the Wal-Mart video, because I know
2 you were in here, where **Minor** is walking around, it's about
3 4:00 in the afternoon, do you have any question in your mind
4 within a reasonable degree of medical certainty that even
5 with her walking around she had already suffered some type
6 of injury from the information you had?

7 A So given the history that she wasn't eating, she had
8 started vomiting bile very near to that time, even walking
9 around she very likely was injured at that point.

10 Q Okay. All right. And, Dr. Lamb, within a reasonable
11 degree of medical certainty, could you tell us if the child
12 received this injury, the one that you know based on all of
13 the medical evidence that she died from, would she have been
14 able to be normal in eating five days out from receiving
15 that injury?

16 A I'm sorry, I don't understand the question.

17 Q Say she was injured five days before she died.

18 A Uh-huh.

19 Q Would she have been playing, eating and acting normal
20 up until the time that she passed five days later?

21 A Absolutely not. Once she sustained that injury she was
22 not going to be eating, she was not going to be drinking,
23 she wouldn't be her normal self immediately after that
24 injury. So if you look back at the history and look at when
25 she was eating and drinking and doing that, she was not

SUSAN LAMB - DIRECT

1 injured at that period. So we often times rely on when it
2 goes from normal to not normal, and in that window is when
3 you know what happened to that child.

4 Q And whenever you come in as a child abuse pediatrician
5 and you have to provide an opinion within a reasonable
6 degree of medical certainty, often when you do so, are you
7 able to give a more clear timeline than say a pathologist
8 who is looking at the body after the child is already
9 deceased?

10 A Certainly. So generally when you're looking at
11 microscopes or organs or as such it's a wider window than
12 what I can get to based on history. So when we get history
13 from caretakers, particularly maybe caretakers that is a
14 grandparent or someone who was not kind of invested in what
15 was going on we can narrow that time frame down really
16 closely based on when that child was normal and when that
17 child was not normal.

18 Q Okay. All right. Dr. Lamb, I'm going to show you --
19 there's been some testimony from Dr. Monroe when he was here
20 about backing up the time frame with regards to when his
21 medical opinion was would have been furthest out that she
22 would have sustained this injury, and I'm going to ask you
23 if you don't mind to step down and we will go through this
24 with the jury. There's a nice blank board, so let me catch
25 you up to when this is. Now, Dr. Lamb, the information that

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1 we have pretty consistently from the witnesses and through
2 text messages is the child was dropped off Saturday,
3 October 28th, between around 10:30 and 11:00 on that
4 evening, okay?

5 A Okay.

6 Q All right. So at that time when I had Dr. Monroe
7 testify, he did give us the time of death. Were you aware
8 that the time of death was actually called at 8:54 a.m. on
9 the 1st?

10 A Yes. When I looked at the ER records they noted time
11 of death.

12 Q They noted time of death. Okay. And did you also
13 review the information through caretakers that stated the
14 last time someone saw **Minor** either well or awake?

15 A Yes.

16 Q All right. And if you would look here actually and see
17 that we've actually documented that at approximately
18 3:00 a.m. on the 1st.

19 A Yes.

20 Q Is that your recollection based on your involvement as
21 well?

22 A Yes. And I was sitting in the courtroom when Ekeria
23 said **Minor** sat up in her bed, looked at her and made some
24 kind of statement and she was told to go back to bed and lay
25 down. So that's the last time she was moving, and sitting

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1 up means you're alive.

2 Q Okay. So at the bare moment of 3:00 a.m. we know the
3 child is still alive, sat up, and then we know -- we also
4 know that 911 was called around 8:24 that morning by the
5 defendant, okay? So she dies, we have her official death
6 here at this time. Now, did you also hear as to when the
7 child started to exhibit vomiting symptoms?

8 A Certainly. So I know -- so she vomited I believe on
9 Halloween at the time -- when Wendy's -- she wasn't eating
10 her Wendy's. She went over to aunt's -- well, dad's
11 girlfriend's sister's house there. So she wasn't eating,
12 she was vomiting at that point on Tuesday afternoon, so she
13 was clearly injured at that point.

14 Q So at that point we're looking at Tuesday afternoon.
15 Were you in here when I showed and when Mr. Boyd showed some
16 of the Wal-Mart video?

17 A Yes, I was here.

18 Q And the timing for that was between about 4:00 until
19 4:15 that day.

20 A Right. And she went directly to Wendy's after that and
21 she wasn't eating, and then she vomited the bile there, so
22 it's in that period.

23 Q So how far back in your opinion within a reasonable
24 degree of medical certainty would you believe she had
25 sustained an inflicted injury to her abdomen?

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1 A So if I recall Ms. Foote's --

2 Q Ekeria Foote?

3 A No.

4 Q Erica Foote.

5 A Erica Foote's testimony there were chili cheese dogs
6 the night before and she ate all of those there. So a two
7 and a half year is not downing a chili cheese dog with those
8 kind of abdominal injuries and not vomiting. So she had --
9 so by two independent people, Ekeria Foote and her mother
10 there, **Minor** was not injured as of Monday evening when she
11 was eating dinner.

12 Q Okay. And also some of the testimony and documentation
13 that was provided was that no bruising was noticed on the
14 evening of Monday the 30th. Were you in here for whenever
15 Ekeria testified to that?

16 A Yes. So she wasn't certain of when the bath was,
17 whether it was Monday night or Tuesday night, but today she
18 said that it was Monday and that she stripped the child down
19 and didn't see any bruising on her abdomen. So you can't
20 look at a bruise and tell how old it is just by looking at
21 it, it's an old wives tale there, it's really hard to wrap
22 your head around. But once you have bruising there's
23 something there. It may change color, it may get bigger, it
24 may expand, but once that injury is sustained it is present,
25 it just may change color and get darker over time. So

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1 generally we ask when caretakers dressed the child, bathed
2 the child and stripped them down and looked at them, and
3 that helps us time when bruising occurred as well.

4 Q All right. Thank you, Dr. Lamb. Dr. Lamb, when the --
5 let me just ask you some scenarios and you give me your
6 opinion within a reasonable degree of medical certainty as
7 to whether these sound as possible mechanisms as to how the
8 child could have been injured. Playing and running around
9 with her brothers and then falling on a stump.

10 A No.

11 Q Wrestling with her brothers and possibly being hit or
12 kicked by one of her brothers.

13 A No, not based on the ages.

14 Q And also in your medical opinion within a reasonable
15 degree of medical certainty, would an adult have to have
16 been the one to inflict this type of injury on a child?

17 A Certainly. So those pattern bruises on her chest and
18 abdomen, the round oval ones, it's adult sized fingertips or
19 knuckles. So could an adult sized child possibly do it?

20 Yes. But then we're talking about teenagers. And I believe
21 Ekeria testified it was seven, five and two, four, of the
22 brothers.

23 Q Tornita Adams, the biological mother.

24 A Tornita Adams, sorry.

25 Q That's fine. Okay. For instance, if there was some

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1 medical history that there had been a car accident and she
2 was in the car accident, would there also and be some type
3 of seat belt mark or injury to her body?

4 A Certainly. So when you have blunt force trauma to the
5 abdomen you would get a different pattern of bruising, like
6 the bruising literally of the outline of the belt across the
7 abdomen and across the chest there, or if she was in a car
8 seat, that type of restraint.

9 Q And, Dr. Lamb, in your research, one of the things that
10 you do is to try to determine ways to prevent child abuse
11 that -- on children whenever they are actually presented to
12 you whether in your practice and they're still alive or even
13 after a child becomes deceased.

14 A Yes, it's a part. We obviously want to help families
15 make better choices with regards to their children and
16 prevent anything further from happening, and in a deceased
17 child we want to protect the siblings and the other times we
18 want to protect the living children.

19 Q And in your experience as a child abuse pediatrician,
20 are there critical years whenever children are more likely
21 to be susceptible to possible abuse?

22 A So if you look at the statistics children are more
23 likely to die of abuse, of physical abuse less than --

24 MR. BOYD: Your Honor, I'm going to object to this,
25 it's going to statistics. I don't think it's relevant to

SUSAN LAMB - DIRECT

1 this case.

2 THE COURT: Sustained. Move on.

3 Q Dr. Lamb, in regards to -- you had mentioned earlier
4 that the type of blow that was inflicted on **Minor**, if a
5 reasonable person actually observed it they would
6 immediately know that the child was in some type of -- would
7 be in either distress or physically injured.

8 A Yes.

9 Q And in regards to that type of a blow occurring and
10 what a reasonable person would acknowledge, would there be
11 some level of harm to this child which would be immediately
12 obvious to the person who did it?

13 A Certainly. So when there's blunt force trauma to the
14 abdomen you may knock the breath out of someone, they may
15 curl up, they may fall on the floor in pain, so once the
16 blow is struck the child would immediately respond to that.

17 Q Okay. And once again within a reasonable degree of
18 medical certainty, is that the reason why you are telling
19 this jury that this was not an accidental blow to the child?

20 A Certainly. So if there's some other accidental history
21 that hasn't come forward I'm happy to review it at this
22 point, but it would have to be a very significant accident.

23 MS. LIVELY: One moment, please.

24 (Break in proceedings.)

25 MS. LIVELY: Thank you so much, Dr. Lamb. If you'll

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1 please answer any questions that the defense has for you.

2 THE COURT: Mr. Boyd?

3 CROSS EXAMINATION

4 BY MR. BOYD:

5 Q So Dr. Lamb, just to make sure of the time frame you're
6 giving, I understand the time frame you're giving. You're
7 saying because **Minor** was eating on Monday the injury
8 happened some time after that.

9 A Yes. Since she was eating the chili cheese dogs Monday
10 evening she was not injured at that point.

11 Q Okay. And you can't give a time frame any better than
12 that but that she was injured after that.

13 A So I can tell you when she was acting injured when they
14 went to Wendy's the following day, so that narrows your time
15 frame from dinner on Monday through 4:15, 4:17 on Tuesday.

16 Q Well, some time -- whatever time she wouldn't eat at
17 Wendy's, the first time she threw up was shortly after that,
18 she was injured by then.

19 A Yes.

20 Q So within that time frame somewhere in there the injury
21 occurred.

22 A Yes.

23 Q Okay. Now, the bruising itself, you can't tell that
24 that was connected to the injury that caused the fatality.

25 A No. It's possible that she suffered two assaults.

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1 Q All right. And you can't tell how many actual blows
2 caused the fatal injury.

3 A No, I cannot.

4 Q Now, concerning bruising, are you saying that bruising
5 on the chest of a child, stomach of a child is never
6 something that happens in play, it's not normal?

7 A So it depends on the accidental history. There is an
8 unusual accidental history, so you need something like that.
9 Children who get hit in the chest with a baseball will get a
10 chest bruise, however you have a history of the kid getting
11 hit, getting knocked down with that. So you have to match
12 the history to the bruising that you see. If it's a general
13 accidental history of they were just playing with their
14 siblings and they might have got those bruises, that's not
15 an unusual accidental history that would account for these
16 bruises.

17 Q And abrasions aren't necessarily indication of abuse;
18 is that correct?

19 A Are you referring to the facial abrasions?

20 Q That's correct.

21 A Yes. So in those cases they are in areas that could
22 have been from an accident.

23 Q Okay. Let me ask you -- I want to ask you about some
24 of the other findings in the autopsy. According to the
25 autopsy, **Minor** had linear scars on the left forearm, right

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1 forearm and left foot. Are linear scars of concern?

2 A Certainly. So anytime you have a patterned injury,
3 linear or curvilinear, loop shaped, nature doesn't create
4 patters, so I'm concerned that an object with the same
5 pattern, something that with a linear edge struck the
6 child's skin, which would be concerning for an inflicted
7 injury.

8 Q Okay. And would the same be true of the linear scar on
9 the left jaw line?

10 A Yes.

11 Q And how about the linear scar on the left upper chest?

12 A Yes, same thing.

13 Q And she also had an abrasion of the left lower leg; is
14 that correct?

15 A She did lower legs, those are very non-specific
16 findings.

17 Q All right. You also examined **Minor**'s brothers; is that
18 correct?

19 MS. LIVELY: Your Honor, I'm just going to object to
20 that question. If we may approach, this is something we
21 addressed on the record earlier.

22 (A bench conference was held.)

23 THE COURT: Objection sustained.

24 Q When looking for a -- looking at possible abuse, do you
25 also look at a history, whether there's other indications of

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1 abuse on a child?

2 A Certainly. So in the case of an autopsy you're looking
3 for old bruises, old fractures, old head injuries, they look
4 at all of that on that child.

5 Q Okay. And do you look at reports by people of whether
6 a perpetrator has been seen abusing the child, things of
7 that nature?

8 A So we talk to caretakers, witnesses, they provide
9 statements as well as the rapid fatality reviews, DSS and
10 law enforcement are present. So if there's some past
11 history with any of the caretakers or the family, that
12 information is considered as well.

13 MR. BOYD: That's all of the questions I have. Your
14 Honor, I do have a matter with this witness out of the
15 presence of the jury.

16 THE COURT: Thank you. Any redirect?

17 MS. LIVELY: Just one moment. No further questions,
18 Your Honor.

19 THE COURT: All right. Thank you, ma'am, you may step
20 down. All right, ladies and gentlemen of the jury, we're
21 going to go ahead and recess for the day. Give me one
22 second. All right. I want you back in your jury room
23 tomorrow morning at 8:45, we're going to get started a
24 little earlier tomorrow morning and we can keep things
25 moving. Y'all have a great evening. Remember my

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1 instructions to you, while you're away from court you cannot
2 talk with anybody about this case, nor can you do any
3 independent research on this case. That means don't go on
4 social media looking for information, don't go on Google
5 looking for information, don't read newspaper accounts of
6 this case, listen to any news accounts of this case. Your
7 verdict must solely be from the evidence received in this
8 courtroom, okay? Thank you very much. Have a good evening,
9 see you tomorrow at 8:45.

10 (The jury left the courtroom.)

11 THE COURT: All right. Madam Witness, you can come on
12 back up here. All right. I sustained an objection by the
13 State, you wish to proffer some testimony?

14 MR. BOYD: I do, Your Honor.

15 THE COURT: All right. Mr. Boyd?

16 MR. BOYD: All right.

17 BY MR. BOYD:

18 Q Dr. Lamb, did you examine **Minor**'s -- have occasion to
19 examine **Minor**'s brothers that lived in the home?

20 A Yes, I did.

21 Q Okay. And what date did you do that?

22 A I was subpoenaed for **Minor** so I don't have my file on
23 the other children. If you would like to provide me with my
24 reports I can refer to them at this point. So I saw them on
25 11/10/2017.

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1 Q Okay. As far as findings on Brother 2, how old was he at
2 the time of your examination?

3 A He was seven years of age.

4 Q Did you make any physical findings on Brother 2?

5 A Yes. So he had an accidental scar on his right
6 eyebrow, and then multiple scars on the right side of his
7 face that went from his ear to his neck. The neck is a
8 protected area and so the findings were suspicious for
9 physical abuse on Brother 2.

10 Q Okay. And did you also examine Brother 1?

11 A Yes. Do you have his report?

12 Q I do. What were your findings for him?

13 A So he had linear and curvilinear pattern scars on his
14 face, forearm, his calf, his abdomen, chest and thigh. And
15 so he -- in conjunction with his forensic interview I made a
16 finding of physical abuse.

17 Q Did you also examine Brother 3?

18 A I did.

19 Q What were your findings on Brother 3?

20 A He had a linear scar on his thigh that was concerning
21 for physical abuse if there was no accidental history.

22 MR. BOYD: That's all of the questions I have.

23 THE COURT: All right. Thank you. I still sustain my
24 objection. You are protected in the record, Mr. Boyd.

25 Anything further today?

ANISSA GORDON - DIRECT

1 The witness, ANISSA GORDON, was first duly sworn and
2 Testified as follows:

3 DIRECT EXAMINATION

4 BY MS. LIVELY:

5 Q Ms. Gordon, what is your relationship to Darryl Wilson?

6 A I'm his mother.

7 Q Okay. And where do you live?

8 A In Rock Hill. [REDACTED] Monroe Street, Rock Hill, South
9 Carolina.

10 Q And how long have you lived there, Ms. Gordon?

11 A In Rock Hill?

12 Q Yes, ma'am.

13 A All of my life.

14 Q All right. And how old is your son, the defendant?

15 A He's 30 years old.

16 Q Now, Ms. Gordon, do you have any other children?

17 A Yes, I do.

18 Q And until the defendant actually moved in with Ekeria,
19 was he living with you in Rock Hill?

20 A Yes, me and my husband.

21 Q You and your husband. All right. And how many
22 children does he have?

23 A Three.

24 Q What are their names?

25 A Minor [REDACTED], Carson Wilson and Quan'Travis

ANISSA GORDON - DIRECT

1 Wilson, Q.J.

2 Q And actually **Minor** is the **Minor** we've been talking
3 about this week; is that right?

4 A Yes, ma'am.

5 Q Okay. Now, how old was she whenever she died, Ms.
6 Gordon?

7 A She was a little over two years old.

8 Q And did you have the opportunity to visit with her on
9 occasion while she was at your home visiting with her dad?

10 A Yes.

11 Q And whenever you would visit with her, just tell the
12 jury what kind of child **Minor** was.

13 A **Minor** was a outgoing little baby. She didn't run
14 like -- you know, every child is their own individual. She
15 was, you know, walked slowly, talks slowly. She was a sweet
16 baby, always smiled, you know, always -- she played. She
17 was a good little girl, sweet baby.

18 Q Yes, ma'am. And what did -- did she have a name that
19 she would call you?

20 A Yes.

21 Q What was that?

22 A Gamma.

23 Q Gamma? All right. Now, at about two and a half years
24 old, was she talking pretty good yet or was she trying to
25 talk, do you remember?

ANISSA GORDON - DIRECT

1 A Yes, she could talk.

2 Q She could talk. All right. And at that time was she
3 potty trained?

4 A No, not really.

5 Q Not really? All right. And what about just, you know,
6 everything else as a two and a half year old child, was she
7 kind of a normal toddler? I mean, you've raised kids, I'm
8 just asking.

9 A Yes, ma'am. Like I said, all children are their own
10 individual.

11 Q Okay. So was she -- at any point in time in your care,
12 did you ever have to take her to the doctor or the hospital?

13 A No, I didn't. I don't think I'm authorized to do that.

14 Q But did you as a mother ever have concerns that she was
15 sick while she was in your care where you had to take her to
16 the doctor or the hospital?

17 A She always had a runny nose. I didn't -- she always
18 had a cold and a runny nose.

19 Q All right. As a two and a half year old she had a
20 runny nose.

21 A Yes.

22 Q But it was nothing where -- I'm just trying to ask you
23 a simple yes or no question and that is, did you ever have a
24 situation where she was either so sick that you felt like
25 you needed to take her to the doctor or the hospital?

ANISSA GORDON - DIRECT

1 Just -- that's all I'm asking.

2 A No.

3 Q Okay. Thank you. Now, Ms. Gordon, do you remember
4 being interviewed after **Minor** died by law enforcement who
5 were trying to investigate what happened to the baby?

6 A Yes.

7 Q Will you please tell -- well, let's go back for a
8 minute, so you do remember that. Do you remember if it was
9 audio and video recorded?

10 A Lieutenant Fourney recorded it with her cell phone.

11 Q Yes, ma'am. All right. Do you remember about when
12 that was that they did that audio recording on the phone,
13 audio/video recording?

14 A It was the month of December, I don't remember the
15 exact date.

16 Q Yes, ma'am. So December. So that would have been
17 maybe a little over a month from when **Minor** died?

18 A Yes, I guess so.

19 Q All right. She died on November 1st, 2017, correct?

20 A Correct.

21 Q Now, Ms. Gordon, let me take you to the weekend
22 whenever **Minor** was -- the last weekend she was alive before
23 11/1/2017. Did you have an opportunity to visit with **Minor**
24 some time before Halloween?

25 A Yes.

ANISSA GORDON - DIRECT

1 Q All right. And please tell the jury when you actually
2 visited and where you went?

3 A I visited that Monday before Halloween. I went to I
4 think South White Oak Street, I can't remember the address,
5 but it's South White Oak Street to Ekeria Foote's house.

6 Q All right. And had you worked that day?

7 A Yes.

8 Q So what time did you actually leave and head to
9 Chester.

10 A I got there at 7:30.

11 Q And when you got there did you have anybody with you at
12 that time?

13 A Yes, I did, my granddaughter, Audrey.

14 Q And how old is Audrey?

15 A She's four.

16 Q Was Audrey, did she use to play with **Minor**?

17 A Yes, that's her best friend.

18 Q That was her best friend. Okay. So you said you got
19 to Chester at Ekeria's house at 7:30. Who was there at
20 Ekeria's house that night?

21 A Ekeria, my son, Darryl, and Mi'honesty.

22 Q All right. And when you got there, just tell the jury
23 what the scene was of what was going on whenever you
24 actually got to the house.

25 A Ekeria was sitting in the recliner, Darryl opened the

ANISSA GORDON - DIRECT

1 door and let me in, **Minor** was sitting at the living room
2 coffee table eating a hot dog when I got there.

3 Q All right. And do you know --

4 A Excuse me, and Mi'honesty, she was sitting on the
5 chair, in her little chair beside Ekeria.

6 Q Thank you. So you come in, and do you know who had
7 cooked that night?

8 A No, I don't.

9 Q All right. But there was food there.

10 A Yes.

11 Q And did you actually get to eat dinner with everybody?

12 A Yes, I did.

13 Q All right. And whenever you ate dinner, was **Minor**
14 there with you?

15 A Yes. She was sitting at the coffee table.

16 Q Did you sit at the coffee table with her?

17 A Yes, I sat on the chair. The coffee table was in the
18 middle front of the couch, the sofa.

19 Q Yes, ma'am. And so did you eat at that point?

20 A Yes, ma'am.

21 Q So what all did you see **Minor** eat that night?

22 A She ate a half a hot dog.

23 Q All right. Did she have any chips?

24 A No.

25 Q You don't remember saying she also had chips?

ANISSA GORDON - DIRECT

1 A No, I don't remember saying that. But I ate the chips.

2 Q But after she ate that hot dog, do you know whether or
3 not she got sick or had any problems keeping it down?

4 A No.

5 Q All right. So while you were there, did she vomit or
6 have -- or seem ill at any point?

7 A No, she didn't vomit.

8 Q And actually, how was she acting whenever you got
9 there? How was **Minor** acting?

10 A She was sitting in the chair eating.

11 Q Okay. All right. And I understand that, and thank
12 you. But I'm asking about her -- you know, was she acting
13 happy, sad? You actually mentioned that in your statement.
14 If you don't remember I can play it for you.

15 A Yes.

16 Q You want me to play it? You don't remember?

17 A Yes, I do remember, she was playing. I mean, she was
18 playing with the kids after she ate, but you told me to
19 answer the question, so yes.

20 Q I understand. So when she was sitting at the table and
21 she first saw you, how did she act?

22 A Happy to see me.

23 Q That's what I was trying -- I'm sorry, I should have
24 been clear. So she was happy to see you and she was eating,
25 correct?

ANISSA GORDON - DIRECT

1 A Yes.

2 Q All right. And so after you actually ate, how much
3 longer did you stay there at the house?

4 A I left at 10:30 that night.

5 Q All right. So you were there from 7:30 until 10:30.

6 A Yes.

7 Q Were you there whenever -- do you recall -- let me ask
8 you this, do you recall if the girls received a bath that
9 night?

10 A Yes, they did.

11 Q And were you there for the bath or did you stay out and
12 talk to your son?

13 A We were sitting in the living room and the doors
14 opened, with the bathroom you can look right there because
15 it's so small on the inside.

16 Q Right. So you could actually see in the bathroom. So
17 were you able to see that the girls were in the bath?

18 A Yes, ma'am.

19 Q All right. When the girls were -- who was actually
20 giving them a bath?

21 A Ekeria Foote.

22 Q And did all three girls get a bath or was it just her
23 daughter and **Minor**?

24 A All three.

25 Q All right. And when they're in the bath how did they

ANISSA GORDON - DIRECT

1 normally act?

2 A Playing in the bathtub.

3 Q Playing in the bathtub. All right. So typical little
4 girls, would you agree?

5 A Yes.

6 Q All right. Now, at that time up until you said you
7 left at 10:30, did you ever see **Minor** throw up or vomit
8 before you left?

9 A No, ma'am.

10 Q And when you said you saw her eating the hot dog, did
11 that hot dog ever come back up in your presence?

12 A No, ma'am.

13 Q All right. Now, Ms. Gordon, you said you could see the
14 girls in the bathtub and Ekeria was giving them a bath on
15 that Monday night. So when you left at 10:30, was that the
16 last time that you saw **Minor** before she passed?

17 A Yes, ma'am.

18 Q And tell the jury, you know, what was the plan for
19 Halloween that you were aware of?

20 A I didn't know any plans.

21 Q All right. But was **Minor** staying through Halloween is
22 what I meant to ask.

23 A Yes, ma'am.

24 Q All right. So -- oh, and there was something else I
25 meant to ask you. Whenever you went over there that night,

ANISSA GORDON - DIRECT

1 did you take something for **Minor**?

2 A Yes, I did.

3 Q And what did you take for her?

4 A Her Halloween costume, some shoes and some clothes.

5 Q All right. And when you showed **Minor** that Halloween
6 costume, how did she react?

7 A She was smiling.

8 Q She was smiling. Does she like the color pink?

9 A Yes.

10 Q And you've seen some of the video of **Minor** on the day
11 of Halloween and then, of course, that costume. That
12 costume that we've seen the picture of, is that the one that
13 you bought for her?

14 A Yes, ma'am.

15 Q All right. And how about the little boots that she was
16 wearing, the pink boots, where did they come from?

17 A They used to be my granddaughter, Audrey's.

18 Q Yes, ma'am. And you brought those with you that night
19 as well, right?

20 A Yes, ma'am.

21 Q Okay. So **Minor** has on that outfit. And I'm actually
22 going to bring up that picture again. And I apologize, we
23 have got several pictures so give me a second. I'm going to
24 get them to look through it for me so I can keep questioning
25 you. Okay. Now, when you were there that night you said

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1 that she was happy to see you.

2 A Yes.

3 Q And was there anything at all at that point that gave
4 you concern that she may be sick when you were there that
5 night?

6 A No, ma'am.

7 Q And did you see pictures of **Minor**? Did you see the
8 pictures of **Minor** on Halloween?

9 A Yes, I did.

10 Q All right. And I'm going to show you State's Exhibit
11 Number 26.

12 MS. LIVELY: If I may approach, Your Honor?

13 THE COURT: Yes.

14 MS. LIVELY: Thank you.

15 Q Here you go. All right. Now, Ms. Gordon, tell the
16 jury what that picture means to you in regards to the outfit
17 that you bought.

18 A It means a lot to me, it's my grandbaby.

19 Q Yes, ma'am, I'm sorry. Now, who sent you that picture?

20 A My son.

21 Q All right. Now, do you know whether or not he went
22 trick or treating with them that night?

23 A No, he didn't. We don't trick or treat.

24 Q I understand, yes, ma'am. And I was about to ask you
25 if you had anything to do with trick or treating that night

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1 as well. Where were you that night?

2 A I had to work.

3 Q Yes, ma'am. All right. And you did mention that in
4 your interview. Now, Ms. Gordon, I'm just going to retrieve
5 that from you. Thank you, ma'am. Do you remember about
6 what time you got that photo?

7 A No, I don't.

8 Q And that's fine. Do you know if it was while you were
9 at work or after you had gotten off of work? Does that help
10 you out a little bit?

11 A It was after I got off from work. Because I worked
12 from home and I couldn't log -- it was on my cell phone so I
13 didn't open it up until I logged out.

14 Q Yes, ma'am. I understand. Thank you. All right.
15 Well, let me back you up just a little bit in regards to --
16 in regards to when **Minor** was born. How did you come to know
17 that **Minor** was actually Travis' child?

18 A I felt it from the beginning but we had a DNA test
19 done.

20 Q And when you say we had a DNA test done, could you just
21 explain exactly what was done?

22 A What you mean, how it was done?

23 Q Yeah. Okay. Did y'all go to a doctor or to a medical
24 facility for a DNA test to be done?

25 A No, ma'am.

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1 Q All right. Did you ask Tornita if you could do a DNA
2 test on the baby?

3 A Yes, ma'am.

4 Q And had she actually come to you and said that she
5 wanted -- or she believed that either Travis or the father
6 of her sons were **Minor**'s father?

7 A Yes, ma'am.

8 Q All right. So after that was actually presented to
9 you, tell me how the actual DNA test itself took place.

10 A We had -- she brought **Minor** to my residence on a Friday
11 and I had her on that weekend. And I had asked Tornita --
12 we had already discussed about a blood DNA test months
13 earlier and she said whenever we were ready that she would
14 be ready but she wasn't paying for it. So I went to
15 Walgreens and bought the DNA kit that you do the mouth swab
16 of the child and the father and you put it in the envelope
17 and you mail it off and pay for it with your credit card,
18 and my mother paid for it with her credit card.

19 Q Okay. Now, Ms. Gordon, was it clear to you as the
20 defendant's mother that this was an unplanned pregnancy?

21 A I don't know. To me -- well, from what I guess it is
22 unplanned.

23 Q All right. And how often, if at all, did the defendant
24 tell you he regretted taking the DNA test?

25 A He never told me that, he was happy.

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1 Q Okay. And when the defendant was ever detained, did
2 you ever visit him while this case was pending?

3 A Yes, I did.

4 Q And in those conversations, did you ever discuss with
5 him about how he felt about having taken that DNA test?

6 A No, I didn't.

7 Q So you don't recall that?

8 A No.

9 MS. LIVELY: Court's indulgence, Your Honor.

10 THE COURT: Yes.

11 (Break in proceedings.)

12 Q Ms. Gordon, while you visited the defendant while he
13 was detained, did your mother, or his grandmother, also go
14 along on this visit?

15 A Yes, ma'am.

16 Q All right. And do you recall about when that was that
17 you went there and spoke with him?

18 A I used to go see him every week until they changed, you
19 know, about us coming.

20 Q Yes, ma'am. All right. But you do recall actually --
21 you said you went and met with him about every week that you
22 could, correct?

23 A Yes, ma'am.

24 Q Once again, you don't remember him ever saying that he
25 regretted or was sorry he was the father?

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1 A No, ma'am.

2 (An audio recording was played and stopped.)

3 MR. BOYD: Your Honor, I'm going to object to this.

4 THE COURT: Hold on. Yes?

5 MR. BOYD: I'm going to object to this on the previous
6 grounds I stated earlier.

7 THE COURT: Okay. Objection noted and objection
8 overruled.

9 MS. LIVELY: Thank you, Your Honor.

10 (The audio recording continued playing.)

11 Q Do you remember now?

12 A No, ma'am, that's not my voice.

13 Q No. Wasn't that your son's voice.

14 A Yes, but my voice was not on there.

15 Q Is that your son's voice?

16 A Yes. That's my son's voice but he wasn't talking to
17 me. I don't know who he was talking to at the visit.

18 Q And didn't you say that you did visit him every week,
19 you and sometimes the grandmother?

20 A Yes, his sisters, Ekeria.

21 Q Okay. When you got to the hospital, did you have the
22 opportunity to see **Minor**?

23 A No, I didn't.

24 Q I'm going to show you State's Exhibit Number 2.

25 MS. LIVELY: If I may approach, Your Honor?

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1 THE COURT: Yeah.

2 Q I'm going to show you that. Just take a look at that.

3 Do you see on her face, there's some marks on her face?

4 A Yes, ma'am.

5 Q When you were there that Monday night, did you see any
6 of those marks on her face?

7 A The ones on her forehead.

8 Q How about on her nose and on right here.

9 A I only see the ones on her forehead here and her nose.
10 I didn't see the one on her nose but I seen these here on
11 the forehead. Like I told them in the interview, it was
12 like up side her head, a scratch.

13 Q All right. I'm going to show you then the picture of
14 her from Halloween. So you're saying that you did see a
15 scratch at the top of her head.

16 A Yes, on the side of her head.

17 Q What about the one in the middle of her forehead, Ms.
18 Gordon?

19 A No, ma'am.

20 Q Thank you. So the small one on the side is the one
21 that you had seen.

22 A Yes, ma'am.

23 Q All right.

24 MS. LIVELY: Thank you, Ms. Gordon, please answer any
25 questions that the defense may have for you.

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1 CROSS EXAMINATION

2 BY MR. BOYD:

3 Q Was Darryl always involved in Minor's life?

4 A Every since she -- well, yes, sir. Like how many
5 months?

6 Q No. I mean from the time she was born and able to come
7 visit and --

8 A Yes, sir, he was.

9 Q And Minor visited with you and Darryl when he was
10 living with you?

11 A Yes, sir.

12 Q Okay. Was Darryl glad to see Minor when she would
13 visit?

14 A Yes, sir.

15 Q Okay. Was there anybody making him let her visit?

16 A No, sir.

17 Q Did he want to visit with her?

18 A Yes, sir.

19 Q Was Minor glad to see him?

20 A Yes, sir.

21 Q Was Minor glad to see you?

22 A Yes, sir.

23 Q And basically how did Darryl act around Minor?

24 A He always act happy, always glad to see his kids, doing
25 things with them.

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- 1 Q Okay. Did he play with her?
- 2 A Yes, sir.
- 3 Q Now, Darryl has another son, or a son also, named
- 4 Gordon; is that correct?
- 5 A No, his name is Carson.
- 6 Q Carson. I meant Carson, I'm sorry. So Carson lives in
- 7 Great Falls; is that correct?
- 8 A Yes, sir.
- 9 Q Okay. Did Carson come visit Travis too?
- 10 A Yes, sir. He used to come every other weekend as well.
- 11 Q And did Darryl have a good relationship with Carson?
- 12 A Yes, he did.
- 13 Q Play with him?
- 14 A Yes.
- 15 Q As far as discipline, did you ever see Darryl use
- 16 corporal punishment to spank **Minor**, or use any physical
- 17 force on **Minor**?
- 18 A No, sir.
- 19 Q Did you do anything to **Minor** physically, use physical
- 20 force at anytime?
- 21 A No, sir.
- 22 Q Never spanked her?
- 23 A No, sir.
- 24 Q Did Darryl ever spank her?
- 25 A No, sir.

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1 Q Did you ever see him use a belt or a switch or anything
2 else on **Minor**?

3 A No, sir.

4 Q How about Carson, did he ever spank Carson?

5 A No, sir.

6 Q Did he ever use a belt, switch or anything like that on
7 Carson?

8 A No, sir.

9 Q Okay. What kind of demeanor does Darryl have? Was
10 he -- is he hot tempered?

11 A No, sir, he's easy going.

12 Q All right. Did you ever see him react to anything
13 **Minor** did in an inappropriate manner?

14 A No, sir.

15 Q Did you ever see him react with Carson in an
16 inappropriate manner?

17 A No, sir.

18 Q Okay. Now, he also has a child by Ekeria who wasn't
19 born at the time of the death of **Minor**; is that correct?

20 A That's correct.

21 Q Okay. And what is that child's name?

22 A His name is Quan'Travis Wilson.

23 Q And does Darryl see Quan'Travis?

24 A Yes, sir.

25 Q And I believe you're there when he sees him; is that

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1 correct?

2 A Yes, sir, she brings him to me.

3 Q And do you ever -- have you ever seen him spank that
4 child?

5 A No, sir.

6 Q Have you ever seen him react inappropriately with that
7 child?

8 A No, sir.

9 Q How did you learn that -- well, let me back up a
10 minute. Did you find out that morning of November the 1st
11 that **Minor** was going to the hospital?

12 A Yes, sir.

13 Q How did you find out?

14 A Darryl called me.

15 Q All right. Did Darryl seem upset when he called you?

16 A Yes, sir, he could barely talk.

17 Q All right. Did you go to the hospital?

18 A Yes, sir.

19 Q Was Darryl there when you got there?

20 A Yes, sir.

21 Q Were there any other relatives of **Minor** that had
22 already gotten there, too?

23 A No, sir.

24 Q Where were you when you learned -- where were you when
25 he called you?

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- 1 A I was at home logged in at work.
- 2 Q Okay. And what do you do for work?
- 3 A I was working from home for AARP, I'm a work at home
4 agent. And also I had got a part-time job working at Circle
5 K as a customer service representative.
- 6 Q But you were at home at that time?
- 7 A Yes, sir.
- 8 Q Was that in Rock Hill?
- 9 A Yes, sir.
- 10 Q Did you immediately go to the hospital?
- 11 A Well, my daughter came and picked me up, I called her.
- 12 Q Okay. And you and she both went to the hospital?
- 13 A Yes. And my mother and my other daughter, Laderika
14 (phonetically) Robinson.
- 15 Q And when you got there to the hospital, did you see
16 Darryl?
- 17 A Yes, sir.
- 18 Q Did you learn that **Minor** had already passed?
- 19 A Yes, sir.
- 20 Q What was Darryl's demeanor at that time?
- 21 A Hysterical, just crying and just sad.
- 22 Q Okay. Now, you said you got **Minor** at various times.
23 Did **Minor** ever come to your house for Christmas?
- 24 A Yes, sir. She spent her second Christmas at my house.
- 25 Q And was that Christmas Eve and Christmas Day or just

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1 when --

2 A Yeah. She spent three days there for Christmas, she
3 brung in Christmas there.

4 Q All right. And are there other times she spent at your
5 home?

6 A Yes, sir.

7 Q How about other special occasions?

8 A We had her two year old birthday party, she had a pool
9 party at my house for her birthday.

10 Q How about Father's Day, did Darryl get to see her
11 Father's Day?

12 A I can't remember was she there Father's Day or not, but
13 she was there every other weekend and some holidays.

14 Q Okay. Did **Minor** ever seem fearful of Darryl?

15 A No, sir.

16 Q Did you notice when she -- when **Minor** came from her
17 mother's house, the autopsy found some marks and scarring on
18 her arms and some things on the legs. Did you ever see
19 those type of things when she came from her mother?

20 A I saw the little marks and stuff on her legs. And her
21 mother told me they were mosquito bites but I didn't see the
22 burn until he went down there Monday when I went to take the
23 Halloween costume and stuff to her, that's when I saw the
24 burn on her leg. And I asked Darryl about it and he told me
25 he didn't know how it got there but it was already there

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1 when she came.

2 Q How about, did you ever notice any marks on her arms?

3 A No, sir. I didn't look at her arms like that when I
4 was down there.

5 Q Okay. How about at other times she came to the house,
6 did you remember anything -- any marks from when she came --
7 not necessarily that weekend but any other times?

8 A I can't remember.

9 Q All right. Now, they've asked you about a conversation
10 that you said it wasn't you with your son but you recognized
11 your son's voice. I would like -- if the State would back
12 up to near the start of that jail visit I would like to play
13 another part of it.

14 MS. LIVELY: It's a pretty long call. Does he have an
15 idea of where?

16 MR. BOYD: I do. It's approximately one minute 30
17 seconds into the call.

18 MS. LIVELY: Okay. Is this going to be like a prior
19 inconsistent statement? I don't know what you're asking.
20 Before I just play it, Your Honor, I would like to know what
21 it is we're proffering here at this point.

22 MR. BOYD: He's talking about how keeping **Minor**'s
23 picture and being upset about --

24 THE COURT: Okay. It's in evidence.

25 MS. LIVELY: Yes, that's fine. I was just wondering

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1 what I'm supposed to be listening for here.

2 THE COURT: I don't know, I haven't heard it yet. But
3 it's in evidence so he can request that it be played.

4 (The audio was played.)

5 Q Is that your son's voice there?

6 A Yes, sir.

7 Q And he's talking about having pictures of **Minor** and
8 Carson.

9 A Yes, sir.

10 Q Do you know -- she asked you about did you ever take
11 **Minor** to the doctor. Do you know if **Minor** -- if her mother
12 had a Medicaid card or anything of that nature?

13 A No, I don't. I don't know.

14 Q Okay. Were you ever provided with any kind of Medicaid
15 card or insurance card or anything like that for a doctor?

16 A No, sir.

17 MR. BOYD: Thank you. That's all of the questions I
18 have.

19 MS. LIVELY: No further questions, Your Honor.

20 THE COURT: All right. Thank you, ma'am, you may step
21 down. The State can call its next witness.

22 MS. LIVELY: Yes, Your Honor. The State would call
23 SLED Agent Will Thrasher to the stand.

24 THE COURT: Okay.

25 The witness, WILL THRASHER, was first duly sworn and

WILL THRASHER - DIRECT

1 Testified as follows:

2 DIRECT EXAMINATION

3 BY MS. LIVELY:

4 Q Agent Thrasher, how long have you worked with the South
5 Carolina Law Enforcement Division?

6 A Almost two years.

7 Q And what, if any, special division do you work in at
8 SLED?

9 A I work in the special victim's unit in the child
10 fatalities department.

11 Q And in that particular department, do you have a
12 supervisor that you work along side of?

13 A I do.

14 Q And who is that?

15 A My supervisor is Lieutenant Chappelear (phonetically)
16 but I work with Trista Baird.

17 Q All right. And at the time of the death that we've
18 been discussing this week, **Minor**, who were you working
19 along side during the investigation of this case?

20 A Special Agent Baird.

21 Q Special Agent Baird? All right. And how did you and
22 Special Agent Baird actually become involved in this
23 particular child fatality?

24 A I received a call from her explaining that we had an
25 incident in Chester and I responded to Chester.

WILL THRASHER - DIRECT

1 Q And where are you actually located, normally where
2 would you be?

3 A In Columbia.

4 Q All right. So you had to drive to Chester in order to
5 arrive on the scene.

6 A That's correct.

7 Q So where did you go? When I say on scene, did you go
8 to the house or did you go to the hospital?

9 A To the hospital.

10 Q And when you arrived at the hospital, tell the jury
11 what you saw.

12 A I saw family members, obviously a bunch of other
13 agencies, the coroner's office, DSS was present and hospital
14 staff.

15 Q And when you first pulled up, did you see anybody
16 from -- that you know now is a part of this case?

17 A I did, I saw the defendant standing outside.

18 Q But did you know he was the father at that moment?

19 A I did not.

20 Q So when you went inside and you said you saw those
21 other individuals, what did you learn once you got inside
22 the hospital?

23 A I learned that a two year old had passed away.

24 Q At that time did you have any information medically or
25 any kind of forensic evidence as to what could have happened

WILL THRASHER - DIRECT

1 to the child?

2 A No, ma'am.

3 Q So at that point, what is the next -- the procedure for
4 you and Agent Baird in assessing what you need to do next?

5 A Well, we start doing interviews to ensure that we get a
6 complete and thorough investigation for any child fatality.

7 Q Okay. And what is one thing that you want to do
8 whenever you first start talking to the individuals who may
9 have been her caregivers?

10 A The first thing?

11 Q Uh-huh?

12 A We try and build a timeline for the last 24 to 48
13 hours, depending on the situation.

14 Q How important is it for you to determine who had access
15 to the child?

16 A Very.

17 Q All right. And were you able to get somewhat of a
18 timeline from the people you interviewed at the hospital?

19 A We were.

20 Q All right. So who were the two caregivers for **Minor**,
21 let's just even go back 48 hours up until the time of her
22 death?

23 A The defendant and his girlfriend, Ekeria Foote.

24 MR. BOYD: At this point I'm going object. He's
25 talking about information he got from people at the hospital

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1 so he's talking about hearsay at this point.

2 THE COURT: The objection is hearsay.

3 MS. LIVELY: I'm sorry?

4 THE COURT: The objection is hearsay.

5 MS. LIVELY: Your Honor, we're establishing where he --
6 what next steps he took in the investigation in order to
7 lead him up to the -- you know, what happened to the child.
8 I think this is just preliminary information.

9 THE COURT: All right. Objection overruled. It's not
10 offered for the truth of the matter asserted, objection
11 overruled.

12 Q So who were you able to determine were the caregivers
13 of the child from 48 to 24 hours prior to her death?

14 A The defendant and his girlfriend, Ekeria Foote.

15 Q Okay. And who were the people that actually told you
16 that?

17 A The defendant and his girlfriend, Ekeria Foote.

18 Q Thank you. All right. So -- and were they interviewed
19 at the hospital?

20 A They were.

21 Q And at that time, was anybody in custody or a suspect
22 or anything like that?

23 A No, ma'am.

24 Q All right. And at that time did you know how the child
25 had died?

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1 A No, ma'am.

2 Q So this preliminary investigation, was it just a fact
3 gathering part of your process?

4 A It was.

5 Q All right. Now, in regards to -- in regards to the
6 defendant at the hospital, was that also audio and video
7 recorded, do you recall?

8 A It was.

9 Q And I'm going to show you what has already been marked
10 as State's Exhibit Number 28, and I believe this one is in
11 evidence. I'm going to show you this and ask you if you
12 recall having that recording of the defendant done at the
13 hospital?

14 A Yes, ma'am.

15 Q All right. And once again, this is the preliminary
16 investigation of a child death, correct?

17 A That is correct.

18 MS. LIVELY: Your Honor, at this time I would like to
19 publish this to the jury.

20 THE COURT: Okay. Permission to publish, it's in
21 evidence.

22 (The video was played.)

23 Q Now, Agent Thrasher, after you got this preliminary
24 statement from the defendant, the next steps at that point
25 are for you and Agent Baird to do what?

WILL THRASHER - DIRECT

1 A Interview others and to schedule an autopsy.

2 Q All right. And was an autopsy scheduled pretty quickly
3 in this case?

4 A It was, it was the following day.

5 Q And were you present for that autopsy?

6 A I was.

7 Q And while you were at the autopsy -- this was with Dr.
8 Monroe, correct?

9 A Correct.

10 Q And at the time of the autopsy -- when you go to an
11 autopsy, does the pathologist often give you a conclusion
12 before he even does his final report?

13 A He'll give you a preliminary conclusion.

14 Q A preliminary conclusion. So whenever you get this
15 preliminary conclusion, does it assist you in making the
16 decisions in what you need to do next and the next steps in
17 your investigation?

18 A It does.

19 Q So at that time whenever you were at the autopsy, what
20 was the preliminary finding at that time?

21 A That **Minor** had died from blunt force trauma to the
22 abdomen.

23 Q And based on the information that you had, was it an
24 accidental or a non-accidental injury?

25 A Non-accidental.

WILL THRASHER - DIRECT

1 Q Once you received that information, does that change
2 the nature of your investigation at that point?

3 A It does.

4 Q All right. But at that moment do you have any -- do
5 you actually have a suspect or someone that you focus in on
6 at that time?

7 A No, ma'am.

8 Q All right. And once again, the autopsy was the 2nd so
9 it was the day after **Minor** died, right?

10 A That's correct.

11 Q So the next steps that you go through, you said you
12 interview people. Would you interview the immediate family
13 members of the **Minor**?

14 A We would.

15 Q How about her biological mother, Tornita Adams?

16 A We did.

17 Q Was that audio and video recorded?

18 A It was, yes, ma'am.

19 Q And how about Ekeria and the defendant? After we just
20 now saw the statement of the defendant at the hospital, how
21 about Ekeria and the defendant in the next few days, did you
22 do an additional interview or audio/video recording of them?

23 A We did. We do a video reenactment with the caregivers
24 that are present to give an idea of what happened that day.

25 Q All right. Is that helpful to you to understand what

WILL THRASHER - DIRECT

1 was going on with the child right before the time that she
2 dies?

3 A It is.

4 Q So you did that with both the defendant and Ekeria?

5 A That's correct.

6 Q All right. And where did you actually do the
7 reenactment?

8 A At Ekeria Foote's house.

9 Q And would you always do the reenactment at the home
10 where the child was found in distress?

11 A We tried to.

12 Q And also as a part of the investigation at that point,
13 had SLED crime scene been called in?

14 A I believe they did the initial search warrant for the
15 home on the 1st.

16 Q And whenever SLED crime actually goes to the home,
17 whether they know it's a crime yet or not, what kind of
18 things do they do?

19 A They look for anything that could be relevant in a
20 child fatality; child's belongings, clothing, things like
21 that.

22 Q And how about photographs? Do they actually photograph
23 the entire home?

24 A Absolutely.

25 Q And typically hundreds of photos, correct?

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1 A Yes, ma'am.

2 Q Okay. All right. Now, Agent Thrasher, while that part
3 of the investigation was going on we saw in the video here
4 that the defendant consented to a blood draw at the
5 hospital.

6 A That's correct.

7 Q And once again, is that a standard procedure that you
8 do in a child fatality?

9 A Yes, ma'am.

10 Q Now, who actually got the blood and secured it for it
11 to be tested?

12 A I transported it down to SLED's laboratory.

13 Q And the toxicologist who testified yesterday from SLED,
14 was he the one that actually received those vials from you?

15 A He was.

16 Q All right. Now, Agent Thrasher, you mentioned a minute
17 ago the reenactments that were done. Were those
18 reenactments helpful to you in setting up additional
19 information from your timelines?

20 A They were.

21 Q And did you and Agent Baird actually use that timeline
22 and go back to your medical professionals to try to
23 determine what had happened to **Minor**?

24 A Yes, ma'am.

25 Q Well, let's talk about that. Who all were you

WILL THRASHER - DIRECT

1 consulting with other than Dr. Monroe regarding **Minor**'s
2 death?

3 A We consulted with Dr. Lamb, who is the child abuse
4 pediatrician.

5 Q And she's the one who testified late yesterday?

6 A She did.

7 Q And is it a normal process in the child fatality
8 investigation to bring in a board certified child abuse
9 pediatrician to review?

10 A Yes, ma'am, it is. We try bring in as many people as
11 possible to try to help tell the story.

12 Q And by that time you had had the reenactments, the
13 statement from defendant and somewhat of a timeline of the
14 caregivers, is that a fair assessment?

15 A Yes, ma'am.

16 Q And did you have a preliminary meeting with Dr. Lamb in
17 regards to the findings of Dr. Monroe as well?

18 A We met with her at the review, the child fatality
19 review that we held a few days after this.

20 Q And when you do a child fatality review, who all is in
21 the room? Just generally, you don't have to give me their
22 names.

23 A Typically it's EMS or fire that first responds, local
24 law enforcement, coroner's office, DSS, SLED, child abuse
25 pediatrician, the solicitor's office, anyone that could be

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1 involved in a child fatality investigation.

2 Q And how important is it for you to be able to quickly
3 gather this information to try to see what happened to the
4 child?

5 A It's very important.

6 Q So at that time the information that you had -- we've
7 already heard Dr. Lamb testify, were you able to narrow down
8 the timeline for you and Agent Baird in order to focus in on
9 who may have had access to the child when she received the
10 fatal blow?

11 A We were.

12 Q Okay. So this was after reenactments, after statements
13 that you had at that point.

14 A Yes, ma'am.

15 Q Did you also request cell phone records?

16 A We did.

17 Q Who did you request those records from?

18 A We requested the phone records from the defendant,
19 Ekeria Foote and Tornita Adams.

20 Q And were you the one that actually got the search
21 warrants for those items to be -- I'll call the
22 terminology -- it's called a cell phone dump but it's like
23 an extraction of the phones?

24 A Yes, ma'am.

25 Q So were you able to get the extractions of those phones

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1 from all three of those phones?

2 A We were.

3 Q And in regards to phone records, what kind of
4 information are you pulling off of phones as in -- it's like
5 a small computer, is that a fair assessment?

6 A It's fair.

7 Q So are you able to get Facebook messaging?

8 A It depends on the phone but not typically.

9 Q So in order for you to get any Facebook posts or
10 messaging, what do you have to do?

11 A You have to get a warrant for Facebook records.

12 Q And did you do so?

13 A We did.

14 Q And did you receive Facebook records involving
15 messaging and posts over the period of time before **Minor**
16 died?

17 A We did.

18 Q And were those actually extracted and do you have
19 copies of those?

20 A I do, yes, ma'am.

21 Q All right. Now, after you received that information
22 through the cell phones, were you able to fill in some other
23 time frames that assisted you with the timeline before the
24 baby died?

25 A We were.

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1 Q All right. I'm going to just show you a few of those
2 and I'm going to try to do it in order of -- I'm going to
3 show you what has been marked now as State's Exhibit Number
4 44. It's kind of hard to see, but I'm going to ask you if
5 you recognize that document?

6 A I do, yes, ma'am.

7 Q All right. And is that a cell phone extraction that
8 you were able to pull off of a phone?

9 A It is.

10 Q Okay. And could you please tell us the date of that
11 particular extraction?

12 A The date that we got the extraction?

13 Q No, I'm sorry. The date that's actually identified as
14 when the text or message actually was done.

15 A October the 25th, 2017.

16 Q All right. And who is the actual message to or from or
17 whatever?

18 A It's a conversation between the defendant and Ekeria
19 Foote.

20 Q All right.

21 MS. LIVELY: Your Honor, the State would move State's
22 Exhibit Number 44 into evidence at this time.

23 MR. BOYD: Your Honor, I'm going to object on the
24 grounds previously stated.

25 THE COURT: Objection noted and objection overruled.

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1 (The text message was received as State's 44.)

2 Q So State's Exhibit Number 44 is in evidence. Agent
3 Thrasher, let me kind of jump ahead a minute. Were you
4 present during any conversation with the defendant where
5 corporal punishment or any kind of punishment was discussed
6 with the defendant?

7 A Yes, ma'am.

8 Q All right. And in those conversations, was there any
9 discussion as to whether or not he would physically punish
10 **Minor**?

11 A There was.

12 Q All right. And what did he tell you?

13 A That he did not.

14 Q He did not. All right. And is that something that you
15 documented?

16 A Absolutely.

17 Q All right. So in this particular text exchange, will
18 you please read it for the jury so they'll know what we're
19 talking about?

20 A The defendant says, "Why you let other people whoop
21 her? You're the mama, you whoop her ass and quit playing
22 all the time." I believe Ekeria then responds, "It won't
23 help, you know, no matter how many times I whoop her." And
24 then the defendant responds, "So what other people whooping
25 her gone do? Nothing. How many times Teco done whooped her

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1 ass."

2 Q Okay. Thank you. Is one of the questions that you
3 would normally ask caregivers just standard what, if any,
4 corporal punishment you use on your children, correct?

5 A Sure.

6 Q And is corporal punishment legal in South Carolina?

7 A It is.

8 Q So you just ask that question and he denied whipping
9 Minor, correct?

10 A Yes, ma'am.

11 Q And that statement doesn't actually state anything
12 about him whipping Minor, correct?

13 A It doesn't.

14 Q But you still collect that information as a part of
15 your investigation, correct?

16 A Yes, ma'am.

17 Q All right. Now, as you're getting all of this other
18 information off of the cell phones, off of Facebook, once
19 again, you had mentioned that it kind of helps you with
20 timelines.

21 A That's correct.

22 Q All right. I'm going to show you now Court's Exhibit
23 Number 7, and it's actually some multiple attachments, and
24 I'm just going to ask you how this -- I'm going to show it
25 to you and just ask you if you recognize it first and then

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1 I'll have it marked.

2 A I do.

3 Q You do? All right. And did these records actually
4 come as a result of your search warrant for Facebook
5 extraction and cell phone extraction?

6 A It did.

7 Q All right.

8 MR. BOYD: No objection to this one, Your Honor.

9 MS. LIVELY: It's State's Number 45.

10 THE COURT: Are you moving that into evidence?

11 MS. LIVELY: Yes.

12 THE COURT: All right. Without objection admitted into
13 evidence.

14 (The text message was received as State's 45.)

15 MS. LIVELY: Thank you, Your Honor.

16 Q Would you just please tell me who the conversation is
17 being -- who is having that conversation and what the
18 relevance was for you in this investigation?

19 A This looks like records from Ekeria Foote's Facebook.
20 And the relevance is that it helped establish that timeline
21 that we're trying to nail down.

22 Q All right. So on that -- what is the date on those
23 messages so that we can know when it was that she -- what
24 date you're focusing on at that point?

25 A This is October the 31st, 2017.

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1 Q So this is Halloween Day.

2 A That's correct.

3 Q All right. The information that you had at that point
4 regarding her work schedule was -- what time did she get off
5 of work on that morning, the 31st, do you recall?

6 A I don't recall the exact time.

7 Q Do you recall about what time that -- you were in here
8 yesterday -- that she said she got home approximately?

9 A About 9:30, I believe.

10 Q So are you able to look at that and kind of get an idea
11 when the last time she sent any kind of message or texts
12 where you note that she had to have been awake at that
13 point?

14 A Yes, ma'am.

15 Q Okay. Tell the jury, the one right after she got home,
16 about what time that was that she actually sent a message
17 showing that she wouldn't have been napping yet?

18 A It looks like around 9:22 a.m.

19 Q Okay.

20 A She makes a comment about "When you off early, back to
21 the bed."

22 Q And at that point in time when is the next thing that
23 you have that shows some type of activity for Ekeria on
24 October the 31st after she's -- after that 9:22 message?

25 A There are a few other little comments to that same post

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1 for the next few minutes, and then there is nothing until
2 about 12:22 p.m. that day.

3 Q And what are you seeing around 1:22 p.m. that day?

4 A She is responding to a question sent by another person.

5 Q Another person. Okay. So that's activity from Ekeria
6 at about 1:22 p.m.

7 A That is correct.

8 Q All right. So what we have from Ekeria is -- that time
9 frame where she said that she was taking a nap. Does it fit
10 with the evidence in regards to what you pulled off of her
11 phone?

12 A It's consistent.

13 Q It's consistent. All right. Thank you. Now, were
14 there any other -- it looks like in regards to this you also
15 pulled some information off of the defendant's phone; is
16 that correct?

17 A That is correct.

18 Q All right. And in regards to the information that you
19 pulled off of the defendant's phone, what was the timeline
20 that you requested or that you had to get search warrants
21 for that information to come in? Do you remember what the
22 dates were? Because when you sent out the search warrant
23 you have to say "Please send me the information from this
24 date to this date off of this person's phone."

25 A Right.

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1 Q So based on the information in your investigation at
2 that point, where did you start the timeline for the search
3 warrant and where did you stop at?

4 A The time when **Minor** was supposed to have been coming to
5 the defendant's house.

6 Q So did you also -- so you said that you pulled it from
7 the defendant, Ekeria, and from Tornita, who is the
8 biological mother.

9 A That is correct.

10 Q All right. So in the other Facebook posts and things,
11 did you have stuff that came up from the defendant after --
12 right after the child had died?

13 A Yes.

14 Q Okay. All right. Was the defendant actually
15 communicating with Tornita Adams over the next couple of
16 days?

17 A Yes, ma'am.

18 Q And in regards to what he was saying, was there at any
19 point in time in those conversations -- will you just
20 actually -- just read through those for us so the jury can
21 just hear some of the conversation between him and Tornita.

22 A Okay. This was on -- the defendant is talking to
23 Tornita Adams. He says, "I love you, too. I'm so hurt. I
24 swear to God I am trying to throw up, nothing is going to
25 come up. I haven't eaten since yesterday."

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1 MR. BOYD: Could we get a time frame for that message?

2 THE COURT: Sir, is there a time frame?

3 Q Yes. Is there a time on there, Agent Thrasher?

4 A Yes. It looks like it was on the 2nd of November of
5 2017.

6 Q Thank you. And are they actually conversing back and
7 forth at that point?

8 A They are.

9 Q And what else did he discuss, or what other things did
10 he say to Tornita in that exchange?

11 A He says that he swears to God that he is hurting, he's
12 going to have to get his baby's face on his chest.

13 Q Okay. And what else?

14 A He asked God what did he do wrong to deserve this.

15 Q Thank you. Now, yesterday we watched some of the
16 actual Wal-Mart videos. Were those extractions done based
17 on your request, or yours and Agent Baird's?

18 A Yes, ma'am.

19 Q Okay. Once again, was this very helpful to you in
20 being able to establish a timeline from the date before she
21 died?

22 A It was.

23 Q Okay. And you watched those videos while we were all
24 in here reviewing the child, **Minor**, at Wal-Mart with Ekeria,
25 correct?

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1 A Yes, ma'am.

2 Q And I'm just going to show you some still shots off of
3 there and just ask you if these are consistent in regards to
4 what we saw on the video.

5 A They are.

6 MS. LIVELY: Your Honor, I'm going to have these marked
7 collectively as the next State's Exhibit. Actually the
8 Wal-Mart videos have already been played for the jury, these
9 are just still shots pulled off of it so that we don't have
10 to pull up the video every time the jury may want to see it.

11 THE COURT: All right. Well, show them to Mr. Boyd.

12 MR. BOYD: No objection.

13 MS. LIVELY: Thank you.

14 THE COURT: In without objection.

15 (The photos were received as State's 46.)

16 Q Now, thank you, Agent Thrasher. So were you able then
17 to see at that point what time they had been at Wal-Mart,
18 all of them the night before --

19 A Yes, ma'am.

20 Q -- or October the 31st. So that had been documented as
21 well. What other information did you -- were you able to
22 get any other type of concrete information regarding
23 Halloween and the timing that everybody went out that night?

24 A We were able to obtain Ekeria Foote's work records to
25 show her attendance.

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1 Q Okay. And you also received that Halloween picture, is
2 that fair to say?

3 A That's correct.

4 Q All right. So that was actually something that was
5 on -- it was a social media post; is that right?

6 A That's correct.

7 Q Now, after getting all of that information, at what
8 point in time did you and Agent Baird actually come back
9 together and determine that you may have enough information
10 at that point for a suspect and a possible arrest?

11 A Can you repeat the question?

12 Q Sure. At what point -- how many months did it take you
13 to complete your investigation?

14 A The investigation began on November the 1st of 2017,
15 and I believe we made an arrest on February the 9th of 2018.

16 Q And so based on everything in your investigation who
17 was caring for **Minor** at the time she would have suffered the
18 trauma?

19 A The defendant.

20 MR. BOYD: Your Honor, I'm going to object to that.
21 That's a totally --

22 THE COURT: Hang on. Y'all approach.

23 (A bench conference was held.)

24 THE COURT: All right. Objection overruled. You can
25 repeat your question.

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1 Q So based on your investigation over those four months,
2 who was caring for **Minor** at the time that she suffered that
3 trauma?

4 A The defendant.

5 Q And in all fairness, who else would have been a
6 caregiver around the time those days that she could have
7 suffered that trauma?

8 A Ekeria Foote.

9 Q Ekeria Foote. All right. Who was it that actually
10 conducted a final interview of the defendant before an
11 arrest was made?

12 A Special Agent Baird.

13 Q Agent Baird. So I'll talk to her about that. After
14 the actual arrest was made, did you do any
15 additional investigating or did you keep up with what was
16 going on in the case until today?

17 A Yes, ma'am.

18 Q And how did you do so?

19 A By listening to jail calls that the defendant made
20 while he was incarcerated.

21 Q And were there several jail calls?

22 A There were.

23 Q So how did you actually go through those jail calls and
24 find information that was relevant to this particular case?

25 A We listened to as many as we possibly could and took

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1 notes.

2 Q And took notes, all right. And was that information
3 provided to the State?

4 A It was.

5 Q I'm going to ask you just on a few of these calls we're
6 going to discuss them.

7 MS. LIVELY: Your Honor, I'm going to go and show the
8 defense which once it was that we're going to discuss.

9 (Break in proceedings.)

10 MS. LIVELY: Your Honor, I'm going to move to enter the
11 five jail calls that we requested to be moved into evidence
12 prior -- outside of the presence of the jury, I have
13 mentioned that to Mr. Boyd.

14 THE COURT: All right. Now is a good time to take a
15 midmorning recess, ladies and gentlemen of the jury. If
16 y'all will head back to your jury room, don't discuss the
17 case, we'll get you back out here just momentarily.

18 (The jury left the courtroom.)

19 THE COURT: Are you objecting to these?

20 MR. BOYD: I am.

21 THE COURT: Didn't we already --

22 MR. BOYD: We had a hearing on those, yes, sir.

23 THE COURT: We've had a hearing.

24 MS. LIVELY: Yes, sir.

25 THE COURT: So you'll make your contemporaneous

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1 objection and I'll rule and we will go from there. All
2 right, we're in recess.

3 (A recess was taken.)

4 THE COURT: All members of the jury are present. Madam
5 Solicitor, you may resume your questioning.

6 BY MS. LIVELY:

7 Q Right. Before we broke, Agent Thrasher, I was asking
8 you about some of the communications and you mentioned that
9 you did listen to jail calls, correct?

10 A That's correct.

11 Q Before I get into that, because I just wanted to make
12 sure that I put all of these in that we've looked at
13 previously. I'm going to show you -- this is actually a
14 cell phone extraction and I'm going to show you these and
15 ask you if you recognize these.

16 A I do.

17 Q Okay. And are those part of the records that you
18 actually received from your search warrants?

19 A They are.

20 Q Okay.

21 MS. LIVELY: Your Honor, the State would move State's
22 49 into evidence at this time.

23 MR. BOYD: No objection.

24 THE COURT: All right. Entered into evidence.

25 (The cell phone extraction was received as State's

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1 49.)

2 Q I'm going to show you actually what's on the second
3 page of this. And in this particular box here, could you
4 tell the jury first of all what is the date of that
5 communication, and who is that communication from?

6 A The date is November the 1st of 2017, and it was from
7 the defendant.

8 Q And what is he saying in that message?

9 A It says, "I swear to God she gonna live through me. I
10 swear to God I hope they don't think I did it. Then she had
11 that burn and mark when she fell on her nose. Lord."

12 Q Thank you. Agent Thrasher, you stated in regards to
13 the jail calls that there were several of them that you
14 actually reviewed, is that a fair statement?

15 A It is fair.

16 Q So I'm going to go through some of these and actually
17 ask you if you recall hearing these messages -- well, let me
18 just go ahead and ask you so that we can be very clear. In
19 regards to these messages, were they taken from a system at
20 the jail where the defendants are actually notified that
21 what they're saying can be recorded?

22 A They are.

23 Q And as a matter of fact at the beginning of each one of
24 these messages does it remind the person calling that their
25 phone call is being recorded?

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1 A Every time.

2 Q Every time. All right. So at that point, is this
3 while you're able to listen to their telephone calls?

4 A Yes.

5 MR. BOYD: Your Honor, I will make an objection to this
6 on the grounds previously stated.

7 THE COURT: Correct. Objection noted, objection
8 overruled.

9 MS. LIVELY: Thank you, Your Honor.

10 Q And did you take the time actually to go through these
11 messages and pinpoint a spot of information that was
12 concerning to you?

13 A I did.

14 Q All right. And so in that information -- so this is
15 not the complete phone call that we're going to be listening
16 to; is that correct?

17 A That is correct.

18 Q These phone calls can last how long?

19 A I believe the phone calls can last 15 minutes and the
20 jail visits can last 30 minutes.

21 Q Okay. So we're not going to listen to all of that,
22 correct?

23 A Correct.

24 (A phone recording was played.)

25 Q So what was he concerned about at that particular call?

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1 A Getting his cell phone back.

2 Q I'm going to show you in regards to that particular
3 call, it's documented through here as to, and I don't know
4 if you can see it from there, when the call actually taking
5 place. Can you see it from there?

6 A I cannot.

7 Q You cannot? If I told you it said February 26th of
8 2018, would that sound about right?

9 A That does sound about right.

10 Q Do you remember when the defendant was actually
11 arrested for this charge?

12 A On February the 9th, I believe.

13 Q Okay. Then there was one that's documented as
14 recording 552424.

15 (The phone recording was played.)

16 Q And in that particular recording once again was that
17 the --

18 A It was the defendant.

19 Q And what was he discussing at that point?

20 A He was discussing the paternity test that he took to
21 prove that **Minor** was his child.

22 Q And he's basically saying he wishes he wouldn't have
23 taken it.

24 A Yes. He said he wished he wouldn't have taken it
25 because "look what it got me."

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1 Q Just in the context of this particular call, Agent
2 Thrasher, you had already testified that some of the
3 information that you gathered is whether or not as caregiver
4 how they punish -- how a person would punish their child,
5 correct?

6 A Correct.

7 Q So when you were listening to the jail calls involving
8 the defendant, were some of those calls the ones to his
9 girlfriend, Ekeria Foote?

10 A They were.

11 Q And in those phone calls, was there ever a discussion
12 as to discipline of children?

13 A There was.

14 Q There was? All right. And is that -- is one of those
15 calls one of the ones that you documented in your
16 investigation?

17 A It is.

18 (The phone recording was played.)

19 Q Okay. That was one of the recordings I actually played
20 with the defendant's mother, that was one of the ones you
21 pulled?

22 A Yes, ma'am.

23 Q Okay. Thank you. I think there might be one more but
24 we're just going to go ahead and moved forward with this.

25 I'm going to show you what has been marked as State's

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1 Exhibits 47 and 48. In regards to the Wal-Mart videos, are
2 those the discs that were actually used to download those
3 videos that we watched earlier?

4 A They were.

5 MS. LIVELY: Your Honor, the State would move to admit
6 State's Exhibit 47 into evidence at this time.

7 MR. BOYD: No objection.

8 THE COURT: Without objection.

9 (The video was received as State's 47.)

10 Q And then one of the other ones, State's Exhibit Number
11 48, if you could identify that, please. You mentioned
12 earlier that reenactments were a standard process of your
13 actual investigation?

14 A That's correct.

15 Q Okay.

16 A These appear to be the reenactments.

17 Q Okay. And that's the reenactments of whom?

18 A Ekeria Foote.

19 Q Of Ekeria, okay.

20 MS. LIVELY: Your Honor, the State would move State's
21 Exhibit Number 48 into evidence.

22 MR. BOYD: I do object to Ekeria. It's a statement
23 outside --

24 THE COURT: Objection overruled.

25 MS. LIVELY: Thank you.

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1 (The video was received as State's 48.)

2 Q In regards to those reenactments, Agent Thrasher, do
3 you recall once again what the date was, how soon after
4 those were done?

5 A They were done on the 3rd.

6 MS. LIVELY: Your Honor, at this time the State is
7 going to want to publish those reenactments.

8 THE COURT: All right.

9 MS. LIVELY: That would be State's Number 29 (sic) and
10 State's Number 48.

11 THE COURT: Permission to publish granted, objection
12 noted.

13 (At this time the videos were played.)

14 Q And you also did a reenactment with the defendant.

15 A That's correct.

16 MS. LIVELY: Your Honor, unless anybody needs a break I
17 was just going to play this next one, it's about 17 minutes.

18 (The video was played.)

19 MS. LIVELY: That's all for this witness, Your Honor.
20 Please answer any questions that the defense may have, Agent
21 Thrasher.

22 THE COURT: All right. Mr. Boyd?

23 CROSS EXAMINATION

24 BY MR. BOYD:

25 Q Let me ask you, I'm referring to State's Exhibit 44,

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1 and that was a conversation between Darryl and Ekeria about
2 what's called whipping Mi'honesty; is that correct?

3 A May I take a look at it?

4 Q Yeah, certainly.

5 A That's correct.

6 Q Now, in that conversation there's nothing about **Minor**
7 in that conversation, is there?

8 A No, there isn't.

9 Q Okay. And, in fact, this is after -- this is after
10 **Minor** has already passed away; is that correct?

11 A No, sir, this was before.

12 Q This is before. Okay. That's October 25th; is that
13 correct?

14 A That's correct.

15 Q Okay. So it's about six days before; is that correct?

16 A Yes, sir.

17 Q Okay. And nothing about **Minor** in that. And basically
18 Darryl is criticizing Ekeria for letting someone else whip
19 her child; is that correct?

20 A He's saying that the mama should whip the child.

21 Q But he's talking about why are you letting other people
22 whip her, right?

23 A Right.

24 Q So he's complaining about her letting other people whip
25 her child, Mi'honesty; is that correct?

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1 A It appears so.

2 Q And he doesn't say anything about he himself whipping
3 Mi'honesty or doing any physical discipline of Mi'honesty.

4 A No, sir.

5 Q Okay. Now, we can put that back so we can keep it in
6 order. Okay. Now, let me ask you about the jail calls.
7 Every visit and every call somebody who is in the jail makes
8 is recorded; is that correct?

9 A That is correct.

10 Q Okay. And you obtained all of the recordings from
11 visits and phone calls made by Darryl before he got out on
12 bond; is that right?

13 A Yes, sir.

14 Q Okay. And while -- and those were numerous calls; is
15 that correct?

16 A Numerous.

17 Q He made a lot of phone calls; is that correct?

18 A He did.

19 Q I mean, there were sometimes five, six or more a day;
20 is that correct?

21 A That's correct.

22 Q The whole time he was in there; is that right?

23 A Yes, sir.

24 Q So out of all of those, that's hours and hours of phone
25 calls; is that correct?

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1 A It is.

2 Q Okay. Maybe as many as 40 or 50 hours of telephone
3 calls.

4 A I don't know the exact time.

5 Q But it was a lot, a tremendous amount.

6 A It was a lot.

7 Q And out of those you have I think -- some have been
8 played here. You had -- I think one was played and it was
9 on -- it's later in March, I believe, but he was talking
10 about the Wednesday about I guess police coming to the house
11 Wednesday or something and something about getting cell
12 phones back, do you remember that?

13 A I would have to look at the call or hear the call.

14 Q Well, you played it awhile ago. You don't remember
15 that?

16 A I do remember that.

17 Q Okay. If you remember that, he was referring to
18 wondering when he would get the cell phones back; is that
19 correct?

20 A Correct.

21 Q Okay. So what had happened is part of the
22 investigation, both he and Ekeria's cell phones had been
23 taken; is that correct?

24 A That's correct.

25 Q Okay. And, of course, do you know when they were

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1 taken?

2 A I believe we got them on consent on the 1st of
3 November.

4 Q Okay. So the day -- the same day that **Minor** died the
5 cell phones were taken; is that correct?

6 A I believe so.

7 Q Okay. And where they live they didn't have a land
8 line, did they?

9 A Not that I'm aware of.

10 Q Okay. So by taking the cell phones you're basically
11 taking their means of communication; is that correct?

12 A That's correct.

13 Q Okay. I mean, if they're going to call family, if
14 they're going to communicate with family unless they are
15 face to face present that's the way that they have to do it
16 by cell phone; is that right?

17 A That's correct.

18 Q And so he's wondering when he's going to get those cell
19 phones back so he can do that, the day after his child died.
20 And you found something unusual about that?

21 A I did.

22 Q Well, wouldn't any reasonable person in that
23 circumstance want to have their cell phone?

24 A I think there would be more important things to think
25 about.

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1 Q Well, certainly that doesn't mean he's not thinking
2 about other things, does it?

3 A No.

4 Q But one thing, wouldn't he want to call relatives?
5 Wouldn't he want to call his mother? Wouldn't he want to
6 talk to people?

7 A Sure.

8 Q Now, let me -- you played a video. There were -- you
9 showed a reenactment video of, I think, Ekeria at her home
10 just a few minutes ago. She also -- there was a video made
11 of her at the hospital, is that correct, referring to
12 Ekeria?

13 A That is correct.

14 Q Okay. Now, in the video we just saw she said that she
15 didn't give -- she didn't give **Minor** a bath, do you recall
16 that?

17 A On which night?

18 Q On Halloween night.

19 A Right, correct.

20 Q Okay. And have you looked at the video at the
21 hospital?

22 A I have seen it.

23 Q Okay. And at the hospital she did say that she --

24 MS. LIVELY: Your Honor, I would object to that. The
25 video is not in evidence and she's already testified as

WILL THRASHER - CROSS

1 to -- if he's going to want to enter it then I would just
2 ask that he identify it at this point.

3 THE COURT: All right. Have you got the video?

4 MR. BOYD: There is the video. Yes, I can --

5 THE COURT: Well, the objection is sustained at this
6 time, of course you can go from there.

7 BY MR. BOYD:

8 Q All right. As far as the conversations on the videos
9 made with Darryl, I think there was the video we saw at the
10 hospital; is that correct?

11 A Correct.

12 Q Okay. There was the reenactment; is that correct?

13 A That is correct.

14 Q And then there was another video; is that correct?

15 A Yes, sir.

16 Q Okay.

17 MR. BOYD: Your Honor, at this time I would like to
18 introduce the hospital video.

19 THE COURT: All right. Any objection to the video
20 coming in?

21 MS. LIVELY: Your Honor, just that first of all --

22 THE COURT: Well, hang on. Ladies and gentlemen, head
23 on back to your jury room, I've got a matter of law I need
24 to take up with the lawyers, don't discuss the case. And I
25 am ordering in lunch for you today so it will be here about

WILL THRASHER - CROSS

1 THE COURT: Yeah. It's already in evidence, go to the
2 point.

3 MR. BOYD: If the State will put that up.

4 THE COURT: Let's go ahead and do it so when the jury
5 comes out here they can see that and we can move on with
6 this witness.

7 MR. BOYD: I'm thinking that's on the one marked **Minor**

8 **[REDACTED]**

9 MS. LIVELY: I don't think I ever marked her hospital
10 statement so you're going to have to give me a minute
11 because I don't know where it is. If you could find yours
12 that would be great.

13 (Break in proceedings.)

14 THE COURT: Are we ready? All right. Bring the jury
15 in.

16 (The jury returned to the courtroom.)

17 THE COURT: All right. Mr. Boyd?

18 MR. BOYD: Your Honor, I would offer this as
19 Defendant's Exhibit Number 1, the interview of Ekeria at the
20 hospital.

21 THE COURT: All right. The State's objection is noted,
22 the State's objection is overruled. Permission to publish
23 granted.

24 (The video was received as Defense 1.)

25 MR. BOYD: Your Honor, we are 14 minutes in, we agree

WILL THRASHER - REDIRECT AND RECROSS

1 to cut it off.

2 THE COURT: All right. Mr. Boyd, you may resume
3 questioning.

4 BY MR. BOYD:

5 Q After looking at that video, does it appear that Ekeria
6 says she gave them both a bath that night?

7 A It does.

8 Q And I believe on that video she stated at that point
9 that **Minor** ate some fries but didn't eat the burger, do you
10 recall that?

11 A I think she did say that.

12 Q Okay.

13 MR. BOYD: All right. I have no further questions.

14 THE COURT: All right. Any redirect?

15 MS. LIVELY: Just briefly, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. LIVELY:

18 Q The defense asked you regarding the cell phones -- the
19 defendant talking about wanting to get his cell phones back.

20 A Yes, ma'am.

21 Q And your response was you thought there were more
22 important things that he should have been talking about.

23 A Correct.

24 Q All right. What would those be?

25 A Finding out how his daughter died.

1 Q And did he ever bring that up?

2 A No.

3 MS. LIVELY: Thank you.

4 MR. BOYD: Your Honor, I have --

5 THE COURT: Yeah.

6 RECROSS EXAMINATION

7 BY MR. BOYD:

8 Q Of course, the conversation -- he's talking about not
9 getting the cell phones back, he's talking to somebody
10 months later about that event; is that correct?

11 A That's correct.

12 THE COURT: Thank you, sir, you may step down. Let me
13 see the lawyers up here real quick.

14 (A bench conference was held.)

15 THE COURT: All right. Ladies and gentlemen, we're
16 going to go ahead and break for lunch. Like I said earlier,
17 it's going to be a working lunch, I have called -- Madam
18 Clerk has called in some lunch for us. My plan is to let
19 y'all eat lunch, you know, and have a break until about
20 let's say 1:15. You can't leave the courthouse grounds.
21 You can go out in the courthouse grounds if you need to make
22 a phone call or something like that. It's going to be a
23 working lunch. While you're back there certainly you can
24 talk about other things but you can't talk about this case
25 because you don't have all of the evidence in yet and I

1 haven't instructed you on the law, okay? So y'all head on
2 back to your jury room now and your clerk's staff will
3 assist in getting you your food and drink, okay?

4 (The jury left the courtroom.)

5 THE COURT: All right. We're down until 1:15, okay?

6 (A lunch break was taken.)

7 THE COURT: All right. Both the State and the defense
8 ready?

9 MS. LIVELY: Yes, Your Honor.

10 MR. BOYD: Yes, sir.

11 THE COURT: All right. Let's bring the jury in,
12 please.

13 (The jury returned to the courtroom.)

14 THE COURT: All right. All members of the jury are
15 present. Madam Solicitor, you may call your next witness.

16 MS. LIVELY: Yes. Thank you, Your Honor. The State
17 would SLED Agent Baird to the stand.

18 The witness, TRISTA BAIRD, was first duly sworn and

19 Testified as follows:

20 DIRECT EXAMINATION

21 BY MS. LIVELY:

22 Q Agent Baird, please tell the jury where you are
23 currently employed.

24 A South Carolina Law Enforcement Division commonly known
25 as SLED.

TRISTA BAIRD - DIRECT

1 Q And how long have you worked for SLED?

2 A For six years.

3 Q And specifically what field do you work in or what area
4 do you work in at SLED?

5 A I'm in the special victim's unit, and specifically the
6 department of child fatalities.

7 Q And how many child fatalities have you investigated at
8 this time in your career approximately?

9 A Approximately 100.

10 Q And in investigating those types of cases, have you had
11 specific training in regard to that?

12 A I have.

13 Q Did you have an opportunity to actually become involved
14 in the case obviously that we've been talking about for the
15 past couple of days involving the death of Minor [REDACTED]?

16 A I did.

17 Q Will you please tell the jury whenever you first got
18 notification of a child fatality and what you did?

19 A I received a call from the coroner's office, and when I
20 received a call I called Agent Thrasher and the two of us
21 reported to Chester Hospital.

22 Q Okay. That was on November 1st, 2017?

23 A It was.

24 Q And just in all fairness, Agent Baird, you've been in
25 here through every bit of the testimony here over the past

TRISTA BAIRD - DIRECT

1 couple of days, correct?

2 A I have.

3 Q Now, how long of an entire investigation -- how long
4 did the investigation for this case involving **Minor**'s death,
5 how long did it take?

6 A From November 1st until February.

7 Q Until February. All right. So when you first got on
8 scene -- so whenever you were at the hospital at that point
9 in time did you have any information as to the cause of
10 death for this child?

11 A I did not.

12 Q All right. So when you come in initially to do an
13 investigation, do you come in to just start gathering as
14 many facts as you can?

15 A We do.

16 Q And Agent Thrasher already kind of talked about your
17 preliminary interviews and things like that. The people
18 that you tend to focus on in regards to the condition of the
19 child right before her death are whom?

20 A The caretakers.

21 Q And based on the information that you collected
22 initially in this particular investigation, who were her
23 caretakers?

24 A That would be the defendant and the defendant's
25 girlfriend, Ekeria Foote.

TRISTA BAIRD - DIRECT

1 Q Specifically -- I'm going to back up because I realize
2 I didn't ask you this first. What is the time frame that
3 you're looking at just to kind of look at who had her most
4 recently the last time she was seen alive?

5 A Most recently was the defendant and his girlfriend,
6 Ekeria Foote.

7 Q And so when you start to kind of back track and go back
8 any further, who else had **Minor** before they were the
9 caregivers for her that weekend up until October 3rd?

10 A Her mother and her mother's family.

11 Q All right. So by that time you have everybody's name
12 that's involved, or is family members of the child.

13 A That's right.

14 Q All right. Did you go through and interview all of
15 those people?

16 A We did.

17 Q Were there several interviews with some of those
18 individuals?

19 A There were.

20 Q We've actually seen many of them, multiple of Ekeria as
21 well as the defendant, correct?

22 A That's right.

23 Q Okay. Now, the witnesses who have testified here in
24 the case this week, were those other individuals also
25 interviewed by you and Agent Thrasher?

TRISTA BAIRD - DIRECT

1 A They were.

2 Q Were those interviews also audio and video recorded?

3 A They were.

4 Q After you do these interviews, Agent Baird, what do you
5 do after the fact as you're trying to put all of this
6 information together?

7 A In any child death we try to build a timeline of the
8 last 24 or 48 hours, however far back we need to go. So I
9 re-watch the interviews and go through all of other records
10 that we obtained and I try to make a very detailed timeline,
11 as detailed as I can based on all of the information that we
12 have.

13 Q Okay. So I'm going to back you up then. So do you
14 begin working on this timeline immediately?

15 A I did.

16 Q So on November 1st, 2017, we saw the interviews at the
17 hospital with the defendant and Ekeria. Did you start kind
18 of a timeline at that point?

19 A I did.

20 Q All right. And after those interviews were completed,
21 when was the autopsy actually conducted?

22 A The next day.

23 Q When you went the next day to the autopsy, did you
24 receive additional information regarding what happened to
25 the child?

TRISTA BAIRD - DIRECT

1 A We did.

2 Q And what did you learn?

3 A We found out that she died of blunt force injury to the
4 abdomen.

5 Q And that blunt force injury to the abdomen, we've
6 already heard Dr. Monroe testify, based upon that conclusion
7 by the pathologist at that time, how did that change the
8 nature of the investigation?

9 A Dr. Monroe told us that it was inflicted and it was a
10 homicide, and so we shifted our investigation towards trying
11 to figure out what happened and who did it.

12 Q So once it takes that shift, what are some of the other
13 standard procedures that you do over the next -- very close
14 in time to her death for the next few days?

15 A We just gather as much information as we can. We
16 gather phone records, social media records, talk to any
17 family, anybody else that may have knowledge of the
18 incident. You know, in this case we did a neighborhood
19 canvas. We just talked to as many people as we can, and
20 again, work on that timeline trying to get it as detailed as
21 possible.

22 Q So in doing that, did you actually go to the house
23 where **Minor** died?

24 A I did.

25 Q And when you did so, had your -- the SLED crime scene

TRISTA BAIRD - DIRECT

1 individuals already been to the home?

2 A They had.

3 Q Now, the information that is provided or that is
4 obtained by your SLED crime scene investigators, is that
5 information provided to you as well?

6 A It is.

7 Q All right. So did you actually review all of the house
8 photos and everything that's actually included in that whole
9 crime scene file?

10 A I did.

11 Q All right. And I'm going to show you just a few more
12 pictures that haven't been put into evidence yet.

13 MR. BOYD: Without objection.

14 MS. LIVELY: So, Your Honor, the State is offering
15 State's 51 through 54 into evidence at this time.

16 THE COURT: Any objection?

17 MR. BOYD: No objection.

18 THE COURT: Without objection introduced.

19 (The photos were received as State's 51-54.)

20 Q And I'm going to ask you about those photos, Agent
21 Baird. Once you've actually reviewed the crime scene photos
22 taken by SLED, are there certain things that you might be
23 looking for based on the interviews that you had already
24 done?

25 A Yes.

TRISTA BAIRD - DIRECT

1 Q Okay. I'm not trying to confuse you. What I'm asking
2 is that -- remember when I asked you about doing the
3 interviews and you said you go back and you take notes, you
4 have a timeline.

5 A Right.

6 Q So in part of what you're doing in going back and
7 reviewing those interviews, does that cause you to go back
8 and look at some of those crime scene photos?

9 A It does.

10 Q So the information that you were being provided
11 regarding the child, **Minor**, in regards to her potty
12 training, what had you learned through your investigation at
13 that point?

14 A We were told that she was being potty trained and that
15 during the day she would wear panties and at night she'd be
16 in pullups.

17 Q Okay. And we've already heard testimony from a few
18 people this week as well. And so whenever you learned that
19 information, how important are the details regarding things
20 involving the child in a child death investigation?

21 A Very important.

22 Q Very important. Okay. So something like whether a
23 child is wearing a diaper or a pullup, was that important to
24 you in this particular case?

25 A It was.

TRISTA BAIRD - DIRECT

1 Q All right. So when you went back and you looked at the
2 crime scene photos and the four that I'm showing to you at
3 this point, did those stick out to you?

4 A They did.

5 Q And please tell the jury why.

6 A So we have in Exhibit 52 and 53, they show the trash
7 can that was in Mi'honesty and **Minor**'s bedroom. And then it
8 shows that some trash was taken out and then under it is a
9 diaper. And then in Exhibit 54 it's a picture of an open
10 diaper that appears to be soiled with urine.

11 Q And why did that stand out to you?

12 A We were told that she was in pullups and mostly didn't
13 have accidents, and so then we had a diaper that was full.

14 Q And when you got to the hospital -- I'm actually going
15 to retrieve those if you don't mind. When you got to the
16 hospital on November the 1st of 2017, did you observe the
17 child in the hospital room?

18 A I did.

19 Q All right. And what items was she wearing whenever you
20 observed her in the hospital room?

21 A It was a little white tank top, a diaper and some
22 pajamas bottoms.

23 Q At that point in time, though, did you have any
24 information as to the potty training issue that you
25 addressed later on with Tornita and the defendant?

TRISTA BAIRD - DIRECT

1 A No, I didn't.

2 Q Since that time have you documented that as an issue,
3 or something in your follow-up investigation?

4 A I have.

5 Q All right. Now, this timeline that you have, Agent
6 Baird, was it kind of a fluid timeline that you continued to
7 add to throughout the investigation?

8 A It was, yes.

9 Q And you stated that you went to the autopsy and learned
10 this was a homicide, what other information at that point
11 had you and Agent Thrasher been able to obtain that you used
12 to add into your timeline?

13 A We use all of the information that was given to us at
14 the hospital and in the reenactment.

15 Q And what about the cell phone records and Facebook
16 posts and all of that information regarding social media,
17 did you review that as well?

18 A We did. When we got that information we reviewed all
19 of it and then added that to the timeline as well.

20 Q What about work records from Ekeria Foote and Wal-Mart
21 videos and all of that?

22 A All of that, yes.

23 Q So all of this stuff that we have put together in the
24 past couple of days you actually went through over about
25 four months.

TRISTA BAIRD - DIRECT

1 A I did.

2 Q All right. So in doing that, did you come up with your
3 kind of as close as you get final timeline based on the
4 information provided from everyone in the case?

5 A I did.

6 Q All right. And how far back did you go in regards to
7 **Minor** was dropped off, about what time that was until the
8 time that she died?

9 A We were told that she was dropped off late that night,
10 maybe 10ish, 11ish, and then we went through the morning
11 that she went to the hospital.

12 Q Okay. So when you say the night she was dropped off,
13 specifically what night was that?

14 A Saturday night.

15 Q October the 28th?

16 A 27th or 28th. Yes, the 28th.

17 Q Okay. Just going to turn -- so Saturday was the 28th.
18 Okay. All right. As you continued to get information for
19 timelines in regards to things like work records and stuff
20 like that, that is -- are those records in anyway more
21 credible to you in regards to even what people have told
22 you?

23 A What those records do is give us a definitive time.
24 Recollection may not be perfect, but those would be a
25 definitive times were if a time stamp was on something.

TRISTA BAIRD - DIRECT

1 Q It's a record. It doesn't have a bias or any interest
2 in the case, is that a fair statement?

3 A That's fair.

4 Q So when you get that kind of information it's kind of
5 an easier thing, just like with the calls and text messages
6 the times that they come through that -- it's just it is
7 what it is, is that a fair statement?

8 A That's fair.

9 Q So you've gone through all of this information and you
10 came up with your timeline. Now, did you interview Tornita
11 Adams, **Minor**'s mom?

12 A We did.

13 Q And you heard her testify that once **Minor** died that she
14 actually had to cooperate with DSS in Lancaster regarding
15 her other three children; is that correct?

16 A That's right.

17 Q And you heard that there was a finding against her and
18 two of the other caregivers at her home as to physical abuse
19 to those three boys.

20 A That's right.

21 Q Did you consider that in your investigation?

22 A We did.

23 Q And after that -- so that was included in everything
24 that you had, is that a fair statement?

25 A I did, yes.

TRISTA BAIRD - DIRECT

1 Q And after you looked at everything you had, did you
2 include her as a possible suspect?

3 A We did.

4 Q What about Ekeria?

5 A We excluded her as well.

6 Q Well, let me ask you this, you stated that you went
7 back to the timeline whenever **Minor** was dropped off, which
8 was Saturday the 28th. So how were you able to exclude
9 Ekeria as a possible suspect?

10 A Because after we went back and reviewed all of the
11 information we had again after all of the records of the
12 interviews and the reenactments, everything that we did in
13 our timeline we can see when the symptoms began and who she
14 was with during that time and right before that.

15 Q Okay. And based on your investigation, when was that
16 time where you started -- where you felt that those symptoms
17 were indicative that the child was injured?

18 A I felt like the symptoms began once Ekeria woke up from
19 her nap and reported that **Minor** was not acting right.

20 Q And we've all heard that testimony in regards to when
21 **Minor** wasn't acting right, and we've heard other witnesses
22 testify as well. You considered all of that testimony?

23 A I did.

24 Q Did you consider the interview from the defendant's own
25 mother, Ms. Anissa Gordon, in making up your timeline?

TRISTA BAIRD - DIRECT

1 A I did.

2 Q Now, do you recall -- and you don't have to tell me an
3 exact number, but overall approximately how many different
4 interviews were conducted in this particular case? More
5 than ten?

6 A More than ten.

7 Q More than ten. I just wanted to get an approximate.
8 And were there other -- even after you went to the autopsy
9 and you had all of this information, when did you talk to
10 the defendant again closer in time whenever an arrest was
11 made? About what date was that, do you remember?

12 A February 8th.

13 Q February 8th. All right. When you talked to the
14 defendant at that time, was that actually audio and video
15 recorded?

16 A It was.

17 Q It was. And did you intend -- when you went into that
18 interview on that day to actually make an arrest I mean if
19 you didn't get some type of an admission or something like
20 that, was your plan to make an arrest that day?

21 A Not that day.

22 Q Who else did you interview that day, do you recall?

23 A Tornita Adams and Ekeria Foote.

24 Q So the biological mother, Tornita Adams, and Ekeria
25 Foote who testified for us already. Okay. Now, when you

TRISTA BAIRD - DIRECT

1 interviewed the defendant --

2 (Break in proceedings.)

3 Q I'm going to show you what's already in evidence as
4 State's Number 30. It's two different discs. Once again,
5 was his statement on February the 8th, 2018 audio and video
6 recorded?

7 A It was.

8 Q And on that particular interview, was he actually
9 Mirandized?

10 A He was.

11 Q And why did you go ahead and Mirandize the defendant.

12 A Based on our timeline and everything else, we knew that
13 he was the suspect in the case and we were not planning on
14 making an arrest, but we knew that we were going to
15 interview him and it was going to be more of an
16 interrogation than an interview.

17 Q And once he was Mirandized, did he stay and agree to
18 speak with you at that time?

19 A He did.

20 Q When was -- was he allowed to leave that day?

21 A He was.

22 Q When was he actually arrested for this crime?

23 A The next day.

24 Q After he was arrested -- I'm not going to play it right
25 this minute, but after he was arrested, let me just ask you,

TRISTA BAIRD - DIRECT

1 Agent Thrasher already discussed that there were jail calls
2 and other communications, did you continue to basically
3 investigate and listen to them throughout the time he was
4 detained or incarcerated?

5 A We did.

6 Q All right. And why did you do that, Agent Baird?

7 A We still wanted to get as much information as we could
8 so we continued to listen to as many as we could.

9 Q And Mr. Boyd has already even brought up the fact of
10 the volume of calls. Did y'all actually have an opportunity
11 to listen to every single phone call that was made by the
12 defendant while he was incarcerated?

13 A We did not. There were over 2,000 and we did not have
14 the time to do that, but we tried to listen to as many as we
15 could.

16 Q All right. And the same thing that Agent Thrasher was
17 talking about in regards to those phone calls, did you also
18 document the ones that kind of stood out to you in regards
19 to what was going on after his arrest?

20 A I did.

21 Q You did? And you've heard those jail phone calls, were
22 those the same ones that kind of stood out to you that I've
23 played for the jury already?

24 A There were.

25 Q Was there any other one -- I think there's one more

TRISTA BAIRD - DIRECT

1 that I haven't played yet that kind of stood out to you?

2 A It did, one more.

3 Q And what was the content of that particular call if you
4 remember? I think it was 530028. It's in evidence.

5 A Right. In this particular call he was discussing the
6 cause of death. He was telling someone that it was actually
7 because her appendix burst, and he also said that it was not
8 blunt force trauma to the abdomen.

9 Q Okay. And why did that stand out to you in regards to
10 what was going on in the case?

11 A Because no one ever told him that it was anything to do
12 with her appendix nor was it natural.

13 Q During the interview, which I'm going to publish to the
14 jury, during that interview of the defendant did you go
15 through the autopsy report with him?

16 A I did.

17 Q And is the actual cause of death listed and was it
18 given to him at that time?

19 A Yes, ma'am.

20 MS. LIVELY: Just a minute, please, okay?

21 (Break in proceedings.)

22 Q And also in the very beginning of your investigation,
23 were you given any type of accidental falls or reasons why
24 the child could have suffered this type of injury?

25 A No.

TRISTA BAIRD - DIRECT

1 Q Did you ever receive that kind of information from the
2 caregivers, whether it was Ekeria or the defendant?

3 A No.

4 MS. LIVELY: Your Honor, I can either publish the
5 statement at this time unless Mr. Boyd wants to go ahead and
6 cross examine the witness.

7 THE COURT: Any objection to her publishing the
8 document? It's already in evidence.

9 MR. BOYD: No objection.

10 THE COURT: All right.

11 MS. LIVELY: Your Honor, there is actually a lot of
12 dead time. I've got it marked on my actual review of the
13 tape, if I could fast forward through those parts it may get
14 us through it sooner, but if the defense has a problem with
15 that, I won't.

16 MR. BOYD: By all means do.

17 THE COURT: Okay.

18 MS. LIVELY: Yes, thank you.

19 (The video interview was played.)

20 Q Agent Baird, after you conducted the interview with the
21 defendant, did you go back through some of your other notes
22 again to just -- to try to gather your thoughts about what
23 the next thing was going to be?

24 A I did.

25 Q And tell the jury what you did and what your conclusion

TRISTA BAIRD - DIRECT

1 was at that point?

2 A So I went back through the timeline --

3 MR. BOYD: Objection to conclusion, Your Honor.

4 Q I'm not asking for any kind of a legal conclusion or a
5 medical conclusion, I'm just saying that what -- did you end
6 up arresting the defendant?

7 A I did.

8 Q So please tell the jury after the interview on February
9 the 8th what you did and how you came to the conclusion to
10 arrest the defendant. Maybe conclusion is a bad word, the
11 decision?

12 A I went back --

13 THE COURT: Objection overruled, go ahead and answer
14 the question.

15 MS. LIVELY: Thank you, Your Honor.

16 A I went back through the timeline and I listened to all
17 of the interviews at the sheriff's office that -- one of
18 which we just watched, I added to the timeline again. And
19 then we presented the case to the solicitor's office, and
20 then we agreed there was probable cause for the arrest.

21 Q And once again, the information that you had at that
22 time included everything that we've presented to the jury
23 over the past few days, correct?

24 A Correct, with the exception of the jail calls.

25 Q With the exception of the jail calls. All right. And

TRISTA BAIRD - DIRECT

1 were there other items in regards to the crime scene photos?
2 You'd already talked about the diaper that was documented in
3 the crime scene photos, were there other things in the crime
4 scene photos that were inconsistent with what the defendant
5 had told you?

6 A One of the things was that **Minor** was throwing up green,
7 and he said that at one point it was from the Kook-Aid, but
8 all of the Kook-Aid in the house was red and he told us it
9 was Strawberry.

10 Q So the little details like that -- you got into some
11 minute details in regards to each statement that you
12 received from the defendant, is that a fair statement?

13 A That's fair.

14 Q So everything -- you didn't leave anything out, did
15 you, Agent Baird?

16 A Tried not to.

17 Q Tried not to. Okay.

18 MS. LIVELY: Thank you answer, any questions the
19 defense may have.

20 THE COURT: Mr. Boyd?

21 CROSS EXAMINATION

22 BY MR. BOYD:

23 Q When you're determining whether to bring charges or
24 making an arrest, you're basically seeking a finding that's
25 probable cause to arrest someone; is that correct?

TRISTA BAIRD - CROSS

1 A Correct. And it's SLED's policy to present the case to
2 the solicitor's office before an arrest warrant is obtained.

3 Q But the standard is probable cause; is that correct?

4 A Yes, sir.

5 Q Okay. You're not making a determination there's proof
6 beyond a reasonable doubt.

7 A No, sir.

8 Q All right. And let me -- when you were questioning in
9 the interview -- the interrogation in which you were
10 questioning Darryl, you were using something called the Reed
11 Method; is that correct?

12 A I was just questioning him.

13 Q You hadn't studied the Reed Method of interrogation?

14 A I have been to the class before.

15 Q Of Reed?

16 A I have been to that class, yes, sir.

17 Q Okay. And basically that's a technique in which you
18 try to get someone to confess by minimizing their
19 involvement or minimizing their culpability.

20 A That is one of their techniques.

21 Q And that was a technique you were using, "I don't
22 believe you're a really bad person, you just didn't do it."
23 And that's a technique used to try to get people to come
24 forward and confess; is that correct?

25 A Yes, sir.

TRISTA BAIRD - CROSS

1 Q Okay. And in spite of that, I was sitting there
2 counting, you know, would it surprise you that 62 times
3 during that interview he said he didn't do it?

4 A That doesn't surprise me.

5 Q Sixty-two times. Now, you said in bringing these
6 charges you based it on a timeline; is that correct?

7 A Yes, sir.

8 Q And basically the medical evidence you'd received; is
9 that correct?

10 A The timeline was based on that and all of the other
11 evidence.

12 Q And if the medical evidence you have isn't correct as
13 the time of injury your case falls apart, doesn't it?

14 MS. LIVELY: Objection, Your Honor. She's not a
15 medical doctor to give that kind of conclusion.

16 THE COURT: Overrule, it's cross examination.

17 MS. LIVELY: Okay.

18 A We did base our timeline on everything on what the
19 medical experts told us.

20 MR. BOYD: That's all I have. Thank you.

21 THE COURT: Any redirect?

22 MS. LIVELY: No redirect, Your Honor.

23 THE COURT: All right. Thank you, ma'am, you may step
24 down. The State may call its next witness.

25 MS. LIVELY: Court's indulgence?

1 THE COURT: Okay.

2 (Break in proceedings.)

3 MS. LIVELY: Your Honor, at this time the State rests
4 its case.

5 THE COURT: The State rests. All right. Ladies and
6 gentlemen of the jury, now is a good time for a midafternoon
7 recess, y'all head on back to your jury room. Don't talk
8 about the case.

9 (The jury left the courtroom.)

10 THE COURT: All right. Mr. Boyd?

11 MR. BOYD: Yes, sir. Your Honor, at this time I make a
12 motion for a directed verdict of not guilty. The basis for
13 this motion is the State has rested its case on basically
14 circumstantial evidence, that my client was present at the
15 time of the injury therefore he must have done it. There's
16 no evidence -- other evidence connecting him, that he is the
17 person that did it, no witness testimony, nothing else
18 except the circumstantial case. Basically it's based on the
19 medical evidence as to the time of the injury. Dr. Monroe's
20 testimony was that the injury occurred from two days to
21 three days before the time of the injury. The evidence
22 shows that the time of the death was 3:30 a.m. to 8:30 a.m.
23 on November the 1st. If you go back two days, which that is
24 the time period, it would have -- extrapolating from that,
25 the injury occurred between 3:30 a.m. and 8:30 a.m. on

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1 The witness, JOHN DAVID WREN, M.D., was first duly
2 Sworn and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. BOYD:

5 Q Tell us your name, please.

6 A John David Wren.

7 Q Okay. And what is your occupation?

8 A I'm a pathologist, a medical doctor with a specialty in
9 pathology.

10 Q And where do you practice?

11 A I practice in Spartanburg, South Carolina. I've been
12 there since October the 18th, 1982 when I came directly out
13 of residency of the Medical University of South Carolina.

14 Q All right. Could you just give us your educational
15 background?

16 A I have a Bachelor's Degree, a Masters Degree and a
17 Doctor of Philosophy, commonly called a Ph.D, in Chemical
18 Engineering from Clemson, University. I have a M.D. Degree
19 from the Medical University of South Carolina. I graduated
20 in three years and three months, I graduated early because
21 of accelerating my classes. I started directly as a
22 resident in anatomic and clinical pathology at the Medical
23 University in February of 1979. I graduated with my class
24 in late May of 1979. As such I finished AP in clinical
25 pathology at the Medical University and did four years of

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1 that. While I was there I -- while I was in medical school
2 I did research in kidney pathology and presented papers with
3 the chairman of the department in the southeast. Then when
4 I started my anatomic residency, one of my first rotations
5 was forensic pathology. And at that time we had the
6 privilege if you did well in that you could actually take
7 medical examiner call, and as such I started doing that in
8 June of -- I'm sorry, July of 1980, I did that until the end
9 of January 1983, although I started to work in Spartanburg
10 in 1982. I had my family -- we didn't move until 1983, so I
11 would go home on the weekends and take medical examiner
12 call. I investigated probably 200 deaths in the -- I did
13 about 15 or 20 a month doing that. And about a year later
14 from 1980 I was given the opportunity to, with the
15 supervision of three board certified forensic pathologists
16 that were on the staff at the Medical University, and at
17 that time we were doing autopsies from all over the state
18 because there were only two other forensic pathologists in
19 the state, one was in Greenville the other was in, believe
20 it or not, Kingstree, South Carolina. We got autopsies from
21 all over the state that was sent down to Charleston, and one
22 weekend a month I was given the opportunity to under the
23 supervision of one of the pathologists who was on call, I
24 did autopsies with the assistance of the medical examiner
25 investigators at the Medical University, and during that

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1 time I did a couple of hundred autopsies. After I came to
2 Spartanburg I started doing autopsies for the coroner in
3 Spartanburg. I did them initially only on the weekends that
4 I was on call and occasionally a special autopsy if there
5 was a problem that the usual pathologist that might be doing
6 didn't feel like they were qualified to do them I would do
7 them. Beginning in about 1989 I started doing more and
8 more, and since that time, including at the Medical
9 University, I have done over 6,000 autopsies, some of them
10 are hospital autopsies. But I did anywhere from -- in the
11 last ten years I've done between 240 and 282 autopsies a
12 year.

13 Q And did you do autopsies until recently for the
14 coroner's office for Spartanburg?

15 A Yes. I acted basically as a medical examiner.
16 Although in this state the medical examiner system is only
17 approved now for counties that have 100,000 population, but
18 until recently it was 200,000, and when I came to
19 Spartanburg, Spartanburg's population was less than 200,000.
20 The only three medical examiner systems they had were in
21 Charleston County, Richland County and Greenville County.
22 But the coroner at that time in Spartanburg wanted somebody
23 to act as a medical examiner, which I did on an informal
24 basis. I reviewed cases, signed them out and then I did at
25 least half of the autopsies from 1989 until 2009 when I

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1 started doing them all, because the other guy that did the
2 coroner's case retired. So it was only me until the end
3 of -- the middle of May when I stopped doing them.

4 MR. BOYD: Your Honor, at this time I would offer
5 Dr. Wren as an expert in the field of forensic pathology.

6 MS. LIVELY: Your Honor, may I voir dire?

7 THE COURT: Yeah. Voir dire?

8 VOIR DIRE EXAMINATION

9 BY MS. LIVELY:

10 Q Doctor Wren, have you actually been board certified as
11 a pathologist?

12 A I've passed my AP boards on the first try in November
13 of 1984. I passed my clinical pathology boards on the first
14 try in 1987. And although I've been qualified as an expert
15 in forensic pathology, and I can name a lot of the counties
16 in the state, I'll try from memory. Anderson --

17 Q Sir, thank you. I wasn't necessarily asking, I was
18 just asking -- are you board certified as a pathologist?

19 A Yes.

20 Q Okay. Are you board certified as a forensic
21 pathologist?

22 A No.

23 Q And there is a difference, correct?

24 A Yeah, there's a difference.

25 Q Okay.

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1 A But you have to have APC -- at least the AP board
2 first, you don't have to have a CP board to be a forensic
3 pathologist.

4 MS. LIVELY: Your Honor, we have no objection to him
5 being qualified as a pathologist based on his board
6 certification.

7 THE COURT: All right. Is that how you want him to be
8 qualified?

9 MR. BOYD: Your Honor, I think he's also qualified as
10 an expert in field of forensic pathology.

11 THE COURT: Why don't you explore further and question
12 his credentials in regards to forensic pathology so I can
13 make a determination.

14 BY MR. BOYD:

15 Q Have you been qualified in the field of forensic
16 pathology in the courts in this state?

17 A Yes, sir, and I started naming them awhile ago.
18 Anderson County, Greenville County, Spartanburg County,
19 Cherokee County. I have done one trial in York County, I
20 believe. Fairfield County, Laurens County, Greenwood
21 County, Lexington County, Orangeburg, Dorchester, Colleton,
22 Beaufort, Charleston, Georgetown if I didn't say it, Dillon
23 and Colleton County, I might have said that one, too. And I
24 think that's the majority of them. About half of the
25 counties I testified in, and a lot of them were done when I

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1 was in the Medical University system.

2 Q And what does a forensic pathologist do?

3 A A forensic pathologist is a pathologist who does
4 medical legal autopsies. And the basic premise is to do a
5 medical legal investigation to try to correlate the
6 clinical -- I mean, the autopsy findings with the clinical
7 history, and as such they do a complete autopsy. Supposed
8 to do a complete autopsy, external and internal examination
9 as well as examination of all the body organs and do a
10 microscopic examination and actually prepare a report with
11 opinions.

12 Q And have you done that?

13 A Yeah. At least 5,500 I've done and made reports to the
14 coroner. And I've testified about 300 times in court.

15 MR. BOYD: Thank you. Your Honor, that's all.

16 THE COURT: Any further voir dire from the State on the
17 issue of forensic pathology?

18 MS. LIVELY: Yes.

19 BY MS. LIVELY:

20 Q And, sir, in regards to the forensic pathology, how
21 long ago did that become a field of expertise where you
22 could actually get board certified?

23 A Pardon?

24 Q How long has forensic pathology been out there as a
25 field of expertise among pathologists?

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1 A Oh, probably 100 years.

2 Q Okay. And with all of that and with your background
3 and expertise that you've been talking about, you've never
4 actually gone and been board certified in that specific
5 field, is that fair to say?

6 A That's correct. I had much more to do than -- as my
7 job. I was actually the president of our pathology group
8 shortly after I came to Spartanburg. I did the treasury and
9 I coded cases, and then I did the coroner's work
10 investigating cases, and actually advising him whether or
11 not an autopsy should be done. I gave him the choice of not
12 doing one, but I told him the ones that I thought should be
13 done in the case, and he would want me to do one if there
14 was an unusual case that he thought one should be done.

15 Q Yes, sir. Thank you. And you said one of the things
16 with forensic pathology that was in addition to pathology
17 itself was that you used the clinical autopsy findings along
18 with all of the other information that's been gathered in
19 the investigation on the legal side of it and you put it
20 together in a report; is that correct?

21 A Try to, yes.

22 Q You try to. Okay. I never got a report from this
23 case, so it seems --

24 A I never did the case.

25 Q I understand that. But you've reviewed the case; is

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1 that correct?

2 A Yes.

3 Q So in reviewing the case you've come up with a
4 conclusion without providing us a legal/autopsy clinical
5 comparison where you put everything together like a forensic
6 pathologist would do.

7 A Well, I was under the impression that's why I am here
8 today to give my opinions.

9 Q Yes, sir, it is why you're here today. But I want to
10 be sure that your opinion is based on what your actual
11 qualifications are. And no one is saying that you are not
12 qualified as a pathologist, my concern is I haven't seen one
13 of these reports that you say a forensic pathologist would
14 do if you were qualified and board certified in that field.

15 A Well, I don't know when the counselor told you I would
16 be testifying but you're welcome to get any cases I've done.

17 Q I'm worried about this case, sir.

18 A I've done child fatalities since the time I was at the
19 Medical University.

20 Q I understand. My concern is just that in regards to
21 what you just testified to in forensic pathology, the
22 information that you are -- if you're qualified in that
23 field that you would be providing would be based on the
24 investigative piece, autopsy clinical reports and putting it
25 all together, and what I'm saying is you haven't done that

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1 here. I don't have a report from you that shows your
2 conclusions and what you've done here and that's what my
3 question is.

4 A What's the question, why didn't I?

5 Q No. What I'm asking you in regards to, you are a
6 pathologist.

7 A Yes.

8 Q Yes. In regards to forensic pathology I asked you what
9 the difference was.

10 A Yes.

11 Q And my concern is that because you said forensic
12 pathology does take it to the next level where you apply the
13 clinical findings, everything in the autopsy to the legal
14 information in the investigation of the case, and then you
15 provide a report with those conclusions, that's what a
16 forensic pathologist does.

17 A That's correct, if you do the autopsy.

18 Q I understand. But if you're going to come in and
19 testify as to what your conclusions are as a forensic
20 pathologist and you haven't done all of those steps, then
21 that conclusion is not from someone who is a forensic
22 pathologist. That's the State's concern in regards to you
23 making that kind of conclusion.

24 MS. LIVELY: I have no objection, Your Honor, to him
25 being qualified as a pathologist, I think obviously he has

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1 that information, however, making the other conclusions as a
2 forensic pathologist, that is outside his field from his own
3 testimony.

4 THE COURT: All right. Objection overruled, he's
5 qualified. I'm going to qualify him as an expert in the
6 field of pathology over the State's objection. Ladies and
7 gentlemen, you'll recall that when an expert witness
8 testifies that expert can testify in the form of an opinion.
9 Now, just because a witness testifies in the form of an
10 opinion does not mean you have to accept that opinion, you
11 simply give it the weight and credibility you believe it
12 deserves when viewing all of the evidence as a whole. Thank
13 you. Mr. Boyd?

14 BY MR. BOYD:

15 Q Have you reviewed the autopsy report done by Dr. Monroe
16 on **Minor**?

17 A Yes, I have. I also reviewed the coroner's report on
18 the autopsy, I mean on the investigation, which I reviewed
19 that in detail also.

20 Q And have you also had an opportunity to review the
21 actual microscopic slides that were done by Dr. Monroe?

22 A I was provided the recuts of the cassette, or the
23 tissue samples that he took, I was provided recuts, I was
24 not provided with the original. There were eight
25 microscopic slides sent to me. And then there were two

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1 special stains with another slide that was actually a
2 controlled stain that he actually did, I have the originals
3 of those.

4 Q Okay. And have you looked and reviewed the autopsy
5 photographs?

6 A Yes, sir, the ones I was provided.

7 Q And have you also consulted with other physicians about
8 this case?

9 A I've consulted with some of the clinical physicians
10 about the question, the major question as to when
11 granulation tissue forms and these general and specialty
12 surgeons.

13 Q And have you also -- well, let me ask you this, are
14 these the kind of -- is this the type of records and
15 information reasonably relied upon by experts in your field?

16 A The grading and --

17 Q No. I'm just asking you are these the kind of reports
18 generally relied upon by experts in your field, what you
19 reviewed?

20 A Oh, that I reviewed, yes. That's basically what I
21 think the preceptor relied upon himself.

22 Q And did I ask you to try to determine a time frame of
23 the time of injury of **Minor**?

24 A Yes, sir.

25 Q Okay. And what have you done to try to determine that?

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1 A Well, I reviewed the slides, I read his autopsy report,
2 I reviewed the report in relation to the autopsies. And
3 then I -- long ago I realized that microscopic examination
4 and autopsies, particularly forensic autopsies, was probably
5 going to be very important so I started collecting papers
6 and looking at slides that I had myself and comparing them
7 with what was said. And so I do have references on dating
8 of injuries to people that die from trauma, and I relied on
9 that.

10 Q And so tell me what you did and how you formed your
11 opinion in this case.

12 A Well, I need to preface what I'm about to say by
13 several points that would have been brought up by several
14 pathologists. There's a pathologist named Nicholas Batalis,
15 he said in review of forensic autopsy of blunt force trauma
16 in Medscape on March 2nd of 2016, he stated that natural
17 deaths often have small abrasions and contusions. In
18 general the more repair present the longer the injury.
19 Another pretty prominent case I reviewed is called minor
20 blunt force trauma in the Emergency Medical Journal April
21 23rd of 2006 where there's a case of a grandfather who was
22 playing with his grandson and his grandson evidently hit him
23 in the stomach with his head, which is probably minor
24 trauma. And two days later he presented to the hospital
25 with no medical history other than some abdominal -- a

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1 little bit of abdominal pain and discomfort and he was found
2 to have a hemoperitoneum and a ruptured mesentery. So blunt
3 force trauma can be minor or it can be severe. Now, to
4 discuss what happens in wound healing is very complicated,
5 and there's overlap of all of the things that happened. In
6 other words, they don't happen -- one thing happen and then
7 another thing happen like that, they sort of overlap as they
8 go, and it depends on the severity of the wound as well as
9 whether it's a primary wound. For instance, a lot of the
10 research that's been done in healing of a wound is on
11 incised wounds by surgeons. Mostly it's involved with skin
12 in the underlying tissue under the skin, not the abdominal
13 organs or visceral organs themselves, and certainly very
14 little on soft tissue wounds. Now, there's a lot of
15 research and a lot of data on wounds after infarctions of
16 the heart, which is actually just necrosis after the heart
17 has had a heart attack, and those things that happen there
18 are very well documented. If one has a transmural
19 infarction, meaning that the tissue is killed all of the way
20 through the internal lining of the heart all of the way out
21 to the external lining and the person survives, as the wound
22 is beginning to heal or as you're beginning to recover from
23 it there are various time frames when inflammatory cells of
24 different types start to occur and start to show up. The
25 tissue is the weakest from five to seven days after the

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1 heart attack happens. It's not right when the heart attack
2 happens, it's when all of the cells have died and the
3 integrity is gone. So a person can have a ruptured heart
4 five or seven days after an infarction, that's the most
5 critical time if you have a heart attack is around five to
6 seven days when it could rupture if you happen to have a
7 transmural infarction. But at any rate, it also depends on
8 how much injury was in a certain place, how much hemorrhage
9 was in a certain place and a host of other factors. I can
10 go through the sequence of events that occurs and give a
11 time frame if it's necessary. But needles to say that's
12 what I did is I compared what I saw, what Dr. Monroe wrote
13 down, and I compared it to what he saw in the slides that I
14 saw, a copy of them. And so I have an opinion as to when
15 things could have happened.

16 Q Okay. Now, you agree that **Minor** died of blunt force
17 trauma to the abdomen that caused her mesentery -- an injury
18 to her mesentery.

19 A Yeah, there's no question about that.

20 Q Okay. So tell us how you arrived at your opinion as to
21 when the injury occurred?

22 A Well, in wound healing there are three main phases.
23 Some people --

24 Q Can I stop you there a second?

25 A Sure.

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1 Q Do you base the time frame on what you find in wound
2 healing?

3 A Yes.

4 Q How fast --

5 A Yeah, because it is a wound. Now, I must also preface
6 the fact on wound healing in that most of the research that
7 has been done has been done on animals. It's known that
8 humans heal a little bit slower than animals do, but this is
9 the best data we've had. You can't get somebody to agree to
10 an injury and then take the tissue out every couple of days
11 and see what's happening, it's kind of hard to get a
12 volunteer to do that. But anyway, the wound healing goes
13 through three phases. One is called the inflammatory phase,
14 which is one to three days, and it has three components; a
15 vascular phase, a hemostatic phase and a cellular phase.
16 The second is the proliferative phase, which can start
17 pretty quickly but it lasts ten to 14 days, and then the
18 remodeling phase. After all of the inflammatory cells and
19 all of the work has been finished the repair sort of
20 actually matures over the next couple of months. So once a
21 person -- after about two weeks after an injury occurs you
22 can't tell how long ago it occurred, you can just tell if
23 there's scar tissue there it happened from a wound. Now,
24 there are two types of wounds that have been studied. One
25 is called a primary intention in which an incised wound is

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1 made. And if anybody has ever cut themselves and had it
2 sewed up, they re-approximate the tissues close together,
3 there's no dead space in there, and if it's sterile it heals
4 rather quickly. In about five days the tissue is strong
5 enough to remove the sutures, unless it's certain places
6 where they wait ten days, but mainly about five days.
7 Secondary intention is when someone gets a wound and they
8 don't sew it up. Like if you cut yourself and say I don't
9 need to sew it, you try to keep it together, it will heal
10 somewhat by secondary intention. Another thing that happens
11 when people are operated on if they have some kind of insult
12 to the abdomen they will -- and they think they might be
13 septic, have a bacterial infection or they're heavy or they
14 have a lot of trauma there, they will actually loosely
15 connect the two tissues together, pack over it and let it
16 heal by what's called secondary intension, which is where a
17 lot of granulation tissue forms and it's known that it takes
18 a long time to heal. Sometimes they clean them and try to
19 keep them clean to where it doesn't get reinfected, and
20 eventually it will heal over and produce what people
21 commonly call proud flesh, which is -- it's not a good scar
22 but you can modify that at a later time. So those are the
23 things that happened. Now, when somebody has a wound occur
24 in about starting seconds later to a few, maybe up to a
25 minute, the vessels that are lacerated or cut will constrict

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1 and clot -- to help it clot off. A little bit later they'll
2 dilate and release tissue juices to actually get the
3 inflammatory cells to come to that response, they will
4 release various enzymes and -- that will attract the
5 inflammatory cells. And then the next part of that is
6 the -- and that occurs up to about ten minutes. And then
7 the delayed response occurs several hours, can start at
8 several hours and you get leukocytes, which is a general
9 term for the white blood cells and inflammatory cells. And
10 leukocytes are in the polymorphonuclear leukocytes, which
11 are formally called polys by pathologists and physicians;
12 lymphocytes, which help with the immune response to clear up
13 wounds and various other small amounts of granular sites,
14 which are eosinophils and basophils and those types. Now,
15 there are macrophages that come into a wound, but they think
16 they probably come from the fibrous -- the dormant
17 fibrocytes that are in the tissue. Now, in a mesentery, the
18 mesentery is mainly vessels and adipose tissue, fat tissue.
19 There are vessels that run through there. There's very
20 little supporting tissue but it's made of fibrous tissue and
21 it's very well spread out unless a person is extremely thin
22 and emaciated their fat cells lose their plumpness and you
23 get a higher concentration of it. But the things that
24 happened after that is -- polys come first, they marginate
25 against the vessel walls and they pour out into the tissues

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1 to try to repair. Then there are a few macrophages and
2 lymphocytes that come with it, but the ratio is about five
3 to one. As the process goes along the polys versus the
4 macrophages reverses to where there's only about a half a
5 one poly for every two macrophages, and then the
6 macrophages, which are the scavengers basically of the
7 tissues, they try to clean up the tissues. They ingest
8 blood if there's blood there, they degrade it and try to get
9 rid of it. They occur more last, and then the lymphocytes
10 occur. So when the polys start disappearing the macrophages
11 and lymphocytes come. So I compared to what Dr. Monroe said
12 about that, and also you get what's called
13 neovascularization or vascular proliferation, which he talks
14 about which is there, a considerable amount there in the
15 blood -- I mean, in the two places that he sampled. One he
16 sampled the colon near the cecum, I assume, and the small
17 intestine with the mesentery where the laceration was, which
18 he did not measure. I've seen pictures of it, it was a
19 pretty good sized laceration. And if he would have sampled
20 somewhere else it might have been a little bit different as
21 I told you earlier. But at any rate there is vascular
22 proliferation, there is macrophages there. There's necrosis
23 there, which decreases the -- it occurs in about 64 hours
24 when it finally becomes necrotic or a little bit later, so
25 that's at least two and a half days. So all of those things

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1 are there. And by the way, if you remember I told you that
2 time when the tissue is the least intact or has less
3 strength is in the granulation tissue there until the scar
4 tissue comes in, and the scar tissue starts with the
5 vascular proliferation and that causes granulation tissue.
6 The scar tissue comes from fiberglass that come into the
7 wound and they are usually dormant and they're small. The
8 fibrocytes are basically dormant after they've laid down
9 their normal collagen. And by the way, there are 11 types
10 of collagen in the body, only about four of them are very
11 significant, some they don't even know yet -- we don't even
12 know yet what we caused, but those four you can tell what
13 kind of tissue it is by looking at the fibrous tissue. Now,
14 if it's fresh tissue, if it's a fresh scar starting when the
15 granulation tissue starts, there's thin wispy bands of
16 collagen. I got very interested when I started doing
17 forensic autopsies into why tissues polarize with light.
18 You can take polarized light where all of the light comes
19 through and --

20 MS. LIVELY: Your Honor, I'm sorry, I have to object to
21 this point. This has been going on as a narrative, I forgot
22 the question --

23 THE COURT: Sustained. Sustained. I don't need any
24 argument. Ask the question, give an answer, ask a question,
25 give a answer, let's roll.

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1 Q So based on your findings you said what is the shortest
2 time from the time of death and the longest time from the
3 time of death that the injury to **Minor** occurred?

4 A Well, looking at the coroner's report and applying
5 general principles of pathology and the cooling of the body
6 the statement is made that her core temperature was 90
7 degrees, and I assumed it was around 8:30 or 9:00 in the
8 morning on November the 1st. Now, normal body temperature
9 is 98.6. So assuming that her body temperature was 98.6,
10 then the first hour a person under normal conditions not in
11 real cold weather, not in hot weather, their temperature
12 will go down one and a half degree, and a half of a degree
13 to a degree every hour thereafter until it reaches ambient
14 temperature, and it does is sort of asymptotic as it gets
15 cooler and cooler. But if you take one and a half degree
16 the first hour and then seven more hours and make eight and
17 a half degrees, so from 8:30 minus eight and a half, that's
18 around midnight. So in that case if you say that a person
19 cooled off as fast as they could, they might have been dead
20 at midnight, although I know that she was supposed to have
21 been seen at 3:25 a.m. Dr. Monroe stated that the
22 granulation tissue could have been at least three days old.
23 Now, three days from midnight on -- let's say midnight on --
24 well, go back to 3:00 a.m. or -- let's just say 4:00 a.m. on
25 the 1st. One day would be 4:00 a.m. on the 31st, two days

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1 would be 4:00 a.m. on the 30th, and three days would be
2 4:00 a.m. on the 29th. Now, she didn't get to the
3 defendant's house supposedly until around 10:00 to
4 11:00 that night. So that pulled the time back to where,
5 according to his results, it could have been -- the injury
6 could have occurred right after she got there. But, in
7 fact, granulation tissue occurs considerably later when all
8 of these things occurred, and I was trying to cover that.
9 But there is a --

10 Q Well, let me ask you this, just tell me, what is your
11 opinion as to when the -- to a reasonable degree of medical
12 certainty when the death -- when the injury most probably
13 occurred, the range and then explain how you arrived at
14 that.

15 A Well, I really think that there is evidence in the
16 microscopic slides that two events happened, and it can be
17 supported by observations in multiple cases. Number one is
18 that when you polarize this tissue that he sampled there is
19 old scar tissue there as well as new scar tissue. Now, I
20 told you before that old scar tissue will be two weeks old.
21 New scar tissue forms as the granulation tissue starts
22 forming, and generally speaking according to references in
23 histologic dating of microscopic diagnosis and preventive
24 pathology edited by Josh (inaudible) who by the way did much
25 of the work on Anna Nichole Smith and Sara Welsh has been

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1 on -- he's written several pathology books and had something
2 to do with Epstein's death investigation. They say that the
3 survival period of four to eight days after an injury that's
4 profuse and growth of new capillaires at four to five days,
5 that's what's there in the microscopic slides, and the
6 capillaires continued to proliferate until the 8th day. So
7 it could be as much as eight days. It could even be longer,
8 because from eight to 12 days there's a decrease in
9 inflammatory cells, which some of them are decreasing, and
10 the fiberglass in capillaires and increase in the number of
11 size of collagen fibers, they haven't started increasing in
12 size. So it's more likely it's been four to eight days I
13 would say since the initial insult happened, and then it's
14 well known, which I gave you an instance in solid tissue in
15 the heart that when necrosis is the heaviest, and there's a
16 place of necrosis very strong in this tissue. When that
17 becomes the weakest you can get re-bleeding and the vessels
18 can actually clot and dissolve and a person can re-bleed
19 then. Minor trauma can cause that. And so I think that the
20 initial insult was before this final thing that happened,
21 and it was somewhere between three and eight days before
22 that, and could have even been longer because there is old
23 scar tissue there. So that's my opinion.

24 Q So now there was testimony from Dr. Lamb, a
25 pediatrician, that after this initial injury that **Minor**

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1 wouldn't have been interested in eating, wouldn't have been
2 acting normal. And can you -- and can you address that?

3 MS. LIVELY: I would object, Your Honor. He's not
4 qualified as a child abuse pediatrician as to what a normal
5 child would be acting like. Maybe if some symptoms --

6 THE COURT: Sustained.

7 MS. LIVELY: Thank you.

8 Q Well, let me ask, somebody who has an injury of this
9 nature would -- and is having what you show, would they be
10 able to eat?

11 A I think what probably happens when she wasn't able to
12 eat was that -- and the green vomit that she had bile
13 probably from hypomotility of the small intestine from the
14 bleeding as it was starting, the re-bleed, and I think she
15 probably wouldn't want anything. Now, whether she would
16 complain of stomach pain or not -- I've given you an example
17 of where a guy was hit with minor trauma by his grandson and
18 he just had a little bit of pain but he had a mesentery
19 hemorrhage and he had an abundant amount of blood in his
20 abdomen, which evidently she didn't because her pictures
21 showed that her abdomen was not distended. Now, I agree
22 there's blood on the pictures, but how much it is I can't
23 tell you, and neither can Dr. Monroe, because he did not
24 measure it. It's normal for a pathologist to measure the
25 amount of blood, to give the measurements of every injury

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1 that it can. He doesn't tell anything about how much
2 mesentery was lacerated. I agree that it was a pretty good
3 bit there it looks like but there's no -- I can't tell you
4 how much it is because there's no frame or reference there.
5 So she probably didn't want to eat anything as this was
6 starting -- beginning to start again.

7 Q When you say start again, so just go through what
8 happened. There had been an injury --

9 A I think she had had an injury --

10 Q -- well, let me finish my question first. There had
11 been an injury and it's your testimony that a healing
12 process had started; is that correct?

13 A Yes, sir.

14 Q And then what happens during that and then what
15 happens?

16 A Well, the same thing I told you about that happens
17 anytime you get an injury, but like I told you, there are
18 areas that don't heal as well because they are more ischemic
19 than others. There were no bowel -- actual bowel
20 perforations so she didn't get peritonitis, although there's
21 inflammation along the -- which is the outside lining of the
22 bowel, it's exposed to the intraabdominal cavity, because
23 the bowel is nothing but a long tube that's folded up like
24 an accordion basically along the mesentery. And so there
25 was a weak place or either she got minor trauma again, and

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1 minor trauma could be most anything. There were abrasions
2 across her lower abdomen that he actually reported and are
3 shown there, and they are way down low, which you don't --
4 in my experience when I've seen blunt trauma but an adult,
5 it's more up in the upper abdomen usually above the naval
6 and this is much lower.

7 Q Now, did you also note injury to the pancreas area?

8 A He documents granulation tissue there, which there is.
9 He says that there is hemorrhage around the pancreas,
10 there's none in the pancreas at all, the pancreas looks
11 normal. And then he talks about there's hemorrhage around
12 the right kidney and adrenal gland. But the sections, if he
13 labeled them correctly, the hemorrhage is acute hemorrhage.
14 It is no inflammatory response at all around the left
15 adrenal, which is closer to the pancreas than the right
16 adrenal, much closer to the pancreas than the right adrenal,
17 so I think blood was dissecting out from somewhere out
18 toward the adrenal gland. And there's none in the kidney
19 either. The kidneys are okay. A lot of times you get
20 contusions on your kidneys with blunt force trauma and there
21 was none there. Now, I'm not arguing that there's not blunt
22 force trauma, I'm just giving my opinion as to what I think
23 happened. And I think that as far as what he's admitted and
24 documented, that it could be up to three days. That makes
25 it very close to the time the defendant received her, and it

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1 could be up to eight days when an initial insult occurred.

2 Q Okay. Does the injury to the pancreas or to that area,
3 does that appear to be in the same time frame?

4 A It's a lot like the other, yes, it's just not as
5 severe.

6 Q Okay. And do you have any opinion as to the amount of
7 force that would have been needed to be used to cause the
8 initial injury?

9 A I gave an instance where a guy was playing with his
10 grandson and there was minor trauma where he headbutted him
11 and he got a mesentery tear. It just depends on the
12 position people are in when it happens. And it can be slow
13 constant pressure or real severe quick pressure, it just
14 depends on what happened. There's no way to tell which one
15 happened.

16 Q The photographs -- and I'll show you -- well, let me
17 show you. I want to show you State's Exhibits 35 and 36,
18 which are photographs from the autopsy of **Minor**'s abdomen
19 and chest area. Is there any way to cause the -- tell the
20 cause of the bruising as shown there?

21 A Well, not knowing how the decedent was found you can
22 see on this one particularly --

23 Q All right. Which one -- look at the number when you do
24 that.

25 A Number 36. That there's blanched areas in the front of

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1 the chest that would indicate that the blood was not -- if
2 she were lying face down when she was found she had pressure
3 on her chest in that area where it's blanched. Because when
4 blood starts leaking out of the capillaires and lividity
5 starts forming, it will form where there is free space in
6 the gravity pull. So if you find lividity around a blanch
7 space then you would think the person was lying face down if
8 it was on the anterior surface. On the posterior surface,
9 the same thing. And in this case she does have lividity at
10 the time of autopsy. I've seen those autopsy pictures. But
11 she laid there from 9:00 in the morning on the 1st until
12 10:30 the next day, there's going to be lividity there then
13 and there's going to be blanching there. The other thing
14 that I see is three little -- two or three little evenly
15 spaced, which could be contusions from a hand or a finger,
16 it would have to be three if they're there. But the fact is
17 when he describes the internal findings, a forensic
18 pathologist is supposed to -- when they do the incision to
19 open the body they're supposed to section below the adipose
20 tissue that's under the skin and the dermis and leave the
21 muscles there to where you can see the muscles. And then in
22 my -- when I do an autopsy on a case that I think there
23 might be a contusion there I cut into the tissue -- the fat
24 tissue all of the way up to the dermis and see if I see any
25 hemorrhage, and a lot of times I don't. Then I will take a

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1 section of -- for instance, this area on number 35, I would
2 take a section there and see what was there, that wasn't
3 done as far as I can tell. Then to be absolutely complete,
4 which very few pathologists do, I'll admit it, I don't do it
5 very often either, but you're supposed to reexamine the body
6 24 hours after you finish the autopsy. Because injuries
7 will show up that are not there recognizable when you do the
8 autopsy because of settling of blood that has gone away just
9 from drainage from the tissue that's been cut across. So I
10 can't tell you whether these are real or not. If she was
11 lying face down they could be blotchy areas of subcutaneous
12 or intracutaneous blood, but he doesn't mention that so I
13 can't tell you anymore than it looks like there's a bruise
14 there. And there might be a couple down on the right side
15 but there's no mention of anything underneath it so I can't
16 tell you. He can't either, I don't guess, unless he did
17 that and didn't mention it.

18 Q Doctor, are the opinions you have given today been to a
19 reasonable degree of medical certainty.

20 A Yes, sir.

21 MR. BOYD: Thank you. Answer any questions the
22 solicitor may have.

23 THE COURT: Madam Solicitor?

24 MS. LIVELY: Court's indulgence.

25 (Break in proceedings.)

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1 CROSS EXAMINATION

2 BY MS. LIVELY:

3 Q Dr. Wren, whenever you worked as a -- or in your work
4 as a pathologist whenever you're actually doing cases, isn't
5 it standard that you actually do a full report of your
6 findings?

7 A That's a good one. That's what you're supposed to do.

8 Q Yes, sir. But you didn't do it in this case, did you?

9 A This is not my autopsy, ma'am.

10 Q I understand that. But you're coming in here giving an
11 opinion about an autopsy that's been done. Are you being
12 paid to be here?

13 A I guess I will be.

14 Q You guess? I mean, you're either --

15 A I didn't enter into a contract with Mr. Boyd.

16 Q Okay. So you're being paid?

17 A Just like I am if I testified for the coroner too.

18 Q I understand that. But what I'm saying is that because
19 it's not your autopsy, you're actually coming in here to
20 give an opinion regarding someone else's autopsy and
21 conclusions, is that a fair statement?

22 A That's a statement, yes.

23 Q All right. And in coming in and doing an opinion
24 regarding such a case, typically wouldn't you want to have a
25 report documenting your findings?

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1 A If they were asked for, yes, I would.

2 Q Okay. So you said that you were under a contract with
3 Mr. Boyd and --

4 A No, I said I haven't signed any type of contract with
5 him. He asked me to look at the case and give an opinion as
6 to what I thought happened.

7 Q So you're doing this for free?

8 A If he doesn't pay me I will be doing it for free.

9 Q Did you ask to be paid? I'm sorry, Doctor, it is just
10 a simple question. Are you planning on getting paid for
11 being here today?

12 A I would hope I get a couple hundred dollars maybe for
13 my time that I spent over here and taking vacation to come.

14 Q Yes, sir. Thank you, that was my question. Even how
15 much it is doesn't really matter, I just want to be sure.
16 Thank you. Now, you were in communication with Mr. Boyd
17 regarding the State's need to know what your opinion was
18 going to be, correct?

19 A No.

20 Q So you didn't talk to Mr. Boyd about that?

21 A No, I was talking with him. He hired me basically to
22 give an opinion to him, not to the State.

23 Q Okay. All right. I understand, that's fine. And --

24 A By the way, I've never given a report opinion on any
25 case that I consulted for the defendant anywhere in this

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1 state at all, and I have done it on cases that a deposition
2 was asked for.

3 Q Yes, sir. Now, Dr. Wren, you did get actual slides,
4 though, tissue slides from Dr. Monroe for you to review
5 because you've already testified about that.

6 A They sent me eight slides and then three special stain
7 slides, which I have the special stain slides because they
8 asked for them to be returned but I could keep recoats.

9 Q Okay. And you realize that the information that was
10 actually provided was based on the request made by the
11 attorney that that's what you had requested.

12 A Yes.

13 Q Okay. So in regards to communication and information
14 as provided in this case, the defense and I have been
15 communicating and I received this email from Mr. Boyd
16 regarding a conversation he had with you in this case. Are
17 you familiar with the conclusion that he gave me regarding
18 your opinion at that time?

19 A I can't read that.

20 Q Okay. I'll read it out to you. "I talked to Dr. Wren
21 this morning, August 29th of 2019, 9:59 a.m. His opinion is
22 that the injury that caused death occurred at least two days
23 before death and up to four to five days before death. This
24 is based on granulation tissue time."

25 A That's probably what I told him then.

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1 Q Right. And so what we're hearing from you today is
2 that now there was a reinjury scar tissue and we can push it
3 out to almost eight to 12 days.

4 A I said eight days basically in my opinion.

5 Q So you're changing your opinion again.

6 A Well, that's based on the literature now.

7 Q Well, the literature that I received from you through
8 your attorney was based on an article from 1976 where they
9 actually did research on guinea pigs. Are you talking about
10 the histological estimation of the age of injuries?

11 A No. That's an old -- that's Forensic Histopathology by
12 Jantzen.

13 Q Actually it's by Rocolio (phonetically.)

14 A Who?

15 Q This was handed to me by your attorney before you
16 testified.

17 MS. LIVELY: If I may approach, Your Honor?

18 THE COURT: Yeah.

19 Q So are you saying you did not give that to him?

20 A Yeah. I have given that to him, I gave it to him. I
21 tried to give it to him a couple days ago, I didn't give it
22 to him until last night.

23 Q Okay.

24 A That's the one I referenced as Perfer (phonetically)
25 and Welsh and other forensic pathologists, which some people

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1 may recognize the name contributed to this book and treatise
2 named Jerry Francisco and Thomas Noguchi (phonetically) who
3 were chief forensic -- chief medical examiners in Los
4 Angeles County and several others.

5 Q Okay. But once again, you did provide an opinion to
6 your attorney back on August the 29th, and now you're coming
7 in here and testifying to a different time frame in regards
8 to death.

9 A No. What I said was that the literature says it can
10 happen up to then. I told him at least five days, I
11 thought.

12 Q Okay. But you said two, three or up to five days.

13 A Correct. Depending on what literature you believe.

14 Q Well, I just want to know what we're seeing in the
15 tissue. I understand there's a lot of literature out there
16 and I respect that, Dr. Wren, but I want to know
17 specifically the tissue in the body that we're looking at
18 specifically regarding the child, **Minor**, in this case.

19 A Well, Counselor, evidently you didn't understand what I
20 said. I said that various areas have different ages, I
21 thought.

22 Q Okay.

23 A And I agreed with what Dr. Monroe found, that there was
24 granulation tissue there and there's old fresh scar tissue
25 formed, which is wispy thin areas if you remember me telling

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1 you about.

2 Q I do remember the wispy.

3 A And the thicker areas, which is older different type of
4 collagen, which occurs after the granulation tissue matures.

5 Q Okay. I'm going to show you State's Exhibit Number 5.

6 And if I could, I'm going to grab this one from you, Dr.

7 Wren, which actually is two that we have here, which is

8 State's 35 and 36. You're discussing in 35 and 36 how you

9 felt that what we're seeing on this is some lividity from

10 how the body had been laying but you don't know how the body
11 was found.

12 A I didn't say that. I said it depends on how the body
13 was found is the explanation, and what he found underneath
14 the skin.

15 Q All right. Well, let me show you then if this will
16 help you on the day that the child actually went to the ER,
17 I'm going to show you State's Exhibit Number 5. Does that
18 help you in seeing that those marks and injuries on the
19 child were already there?

20 A If it's at a different angle it might but there's still
21 that blank there.

22 Q Okay. Well, she got to the hospital around I think it
23 was like 8:50 a.m. the morning that she was found deceased.

24 A Well, she was pronounced dead at 8:54.

25 Q Yes, sir. Okay.

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1 A So what was the question?

2 Q The question was this, you were talking about depending
3 on how she was found you were going to give an opinion as to
4 --

5 A If she was found face down it can be from lividity. If
6 she wasn't and there's no hemorrhage underneath it I can't
7 explain what was there because there's no evidence of what
8 was there except -- these could be old areas that had
9 hemorrhaged before -- and have you never had an injury that
10 never did clear up to your normal skin color?

11 Q We'll talk about that later. This is what I want to
12 talk to you about. You were mentioning earlier, and I
13 documented it and this is why I'm asking you this question,
14 you had said in talking about that picture that when you're
15 looking at November 1st of 9:30 -- you said about 9:30
16 whenever you would have been looking at the child until the
17 autopsy on November the 2nd, which the autopsy was done
18 about 10:30, you're saying that what we're seeing on this
19 child's body in 35, I think you mentioned specifically, was
20 lividity.

21 A I said she had lividity in her back and around those
22 edges there that are not blanched.

23 Q Okay. So what about the situation that these are
24 bruises that were actually inflicted on the child?

25 A I'm going to say the same thing I said before. If

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1 there's no hemorrhage underneath it and he didn't take a
2 section I can't tell you whether there's a bruise or not, he
3 can't either. Because I take sections of things that look
4 like bruises that I want to know whether there's a bruise or
5 not.

6 Q I understand, Dr. Wren. And if the mystery -- because
7 a board certified forensic pathologist would look at all of
8 the history in regards to statements of caregivers, and they
9 both stated that the child had no damage or evidence of
10 bruising or anything to her body prior to the time whenever
11 they saw her that morning in the hospital, you would --

12 A If they said that then it could have happened during
13 resuscitation. It could have happened when she was lying
14 down. It could have -- now, the abrasions along her lower
15 abdomen are there, I don't know whether they were there
16 before then or not.

17 Q Okay. And that's what I'm saying is that if you had
18 the full picture based on going in with all of the
19 information and the interviews and documentation of
20 caregivers, you would have to consider that in coming up
21 with your conclusion, wouldn't you agree?

22 A If I believe everything everybody says.

23 Q Exactly. And can we always believe what the caretakers
24 are telling us?

25 A No.

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1 Q Absolutely not. So what we have is is we've got a
2 child that is in a caregiver's possession, and the only
3 information that we have at that point is what the person
4 who possibly killed the child is telling us.

5 A Well, you said caregivers.

6 Q Caregivers, caregiver.

7 A Well, it was just one of them.

8 Q Just one.

9 A If it was just one, yeah. But somebody didn't see her
10 in the last couple of days?

11 Q No. What if one person said that that child had been
12 with him the whole time?

13 A Well, that didn't happen the whole time, I don't think.

14 Q Just -- is that your answer?

15 A If he says she had been with him the whole time?

16 Q Uh-huh.

17 A And then what?

18 Q And none of these bruises were on her.

19 A Then you would have to prove to me those were bruises.

20 Q Okay. Had to prove that these were --

21 A It's the hemorrhage underneath the skin.

22 Q Okay. Even though that we're not talking about
23 lividity at the time of the autopsy, we're actually talking
24 about right after she was found dead and these marks are
25 here.

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1 A Lividity starts within four hours after you die.

2 Q Okay. Well, let's talk about that then. So we've got
3 a child, and the information that we have is that, from a
4 caregiver, the last time that she was seen -- we actually
5 have from two people that were there, one was from the
6 defendant, he said the last time he saw her she was okay at
7 2:30 a.m. on November 1st.

8 A Was what?

9 Q 2:30 a.m.?

10 A I said 3:25 was what I read by the coroner's report.

11 Q I can show you the ER doctor with the defendant's
12 statement if you would like.

13 A Which one are you going to believe?

14 Q Well, that's the problem Dr. Wren, that's why I'm
15 asking your opinion here. Because we're trying to narrow
16 down and that is exactly what I'm talking about, if you
17 don't have all of the information then how can you draw
18 these conclusions regarding when the child died?

19 A What's an hour?

20 Q I'm sorry?

21 A How much does an hour affect anything?

22 Q An hour is pretty critical whenever we're talking about
23 a dead child.

24 A I would extrapolate it back to the time when I thought
25 that these injuries could occur, and Dr. Monroe agreed, it

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1 could be up to three days. It comes back to very close to
2 the time the defendant received her, and as everybody knows
3 bruises do not show up immediately.

4 Q Yes, sir. All right. Okay. Can you see that, Dr.
5 Wren?

6 A Some of it.

7 Q The main thing I want you to look at, if you don't
8 mind, is the dates, okay?

9 A Okay.

10 Q So we have information from everybody in this case that
11 the child was dropped off on Saturday the 28th, probably the
12 earliest around 10:30 to around 11:00 p.m., okay?

13 A Got you.

14 Q Got it. So we can agree on that.

15 A Yeah.

16 Q So we've got the child is being dropped off. And then
17 I'm just going to tell you, these red marks here that are at
18 the top, which might be a little hard for you to see, those
19 were actually marked by Dr. Monroe whenever he was here for
20 his testimony, okay? And what we did was he actually
21 backdated it from the time -- the last known time when the
22 child either sat up in the bed or was seen active or awake,
23 alive in general, okay? So that was about 3:00 a.m. I know
24 you were saying 3:25, but we've kind of as an average
25 because we also had a statement from the defendant, 2:30,

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1 okay? So we back it up one day, that puts us into Tuesday
2 the 31st.

3 A At 3:00 a.m.

4 Q At 3:00 a.m. And then there were two days and then
5 three days. This was the furthest out that Dr. Monroe put
6 based on the granulation tissue, because he said there were
7 still so many inflammatory cells present in the tissue that
8 he said under those circumstances it would show that the
9 furthest out that it would be around 3:00 a.m. that Sunday
10 morning.

11 A When she started bleeding?

12 Q Whenever she received the inflicted injury and started
13 bleeding. That would be the earliest that he -- or the
14 furthest out that he would put it, but more likely than not
15 it was within this one to two day period.

16 A All right.

17 Q So in your opinion --

18 A So that's four hours from the time she got there.

19 Q Yes. So from the time she is in their care until the
20 time that she actually passed, which is between three --

21 A No. That was the time they said they saw her sitting
22 up in bed.

23 Q Right. Which would be between 3:00 a.m. and then at
24 some point in time, which the time of death was 8:54 a.m.

25 A No, that's not the time of death. That's the time she

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1 was pronounced dead.

2 Q Yes, by Dr. Isom Lowman, we have that on the record,
3 thank you. But that's why it says TOD on there, time of
4 death, because that's when he called it.

5 A Okay.

6 Q Okay. That was his term, not mine. Okay. So then
7 what we have, like I said is we had a 2:30 mark saying that
8 the defendant says that **Minor** was okay, and then Ekeria, the
9 girlfriend, sees the child sitting up in the bed around 3:00
10 a.m. The defendant gets up at 6:57 a.m., doesn't check on
11 the child. 911 is called around 8:24, and that's whenever
12 he goes in the room and he sees her sitting there -- or not
13 sitting there, but lying there and she is unresponsive.

14 A And no vital signs when EMS got there.

15 Q No, asystole.

16 A So she was dead then?

17 Q Yeah, she was dead at that point. And so any
18 resuscitative efforts at that point, they never actually got
19 any kind of response out of the child.

20 A When was the core temperature taken?

21 Q That wasn't my question to you, I will get to that in a
22 minute. All right. Thank you. So I'm going through
23 the autopsy, and you mention that Dr. Monroe did not
24 actually measure the injuries. But I'm looking through each
25 one of these and he's got measurements of linear scars, he's

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1 got measurements of abrasions to the forehead, three quarter
2 inch, a half inch abrasion to her face. So there are
3 measurements throughout there -- throughout the actual
4 autopsy showing where he documented exactly what size these
5 injuries were to the child.

6 A He gave you the external dimensions of them. Like I
7 said, there are instances where people -- where you can have
8 false positives. And like I also tried to point out there
9 was no hemorrhage beneath these areas so you can't tell when
10 they were there. Some of these the abrasions I admit are
11 pretty straight forward. The little contusions underneath
12 the forehead, which he sort of talks like -- he says a small
13 scalp contusion associated with the underlying forehead
14 abrasions, I've seen that picture and it couldn't be over at
15 the maximum three inches in diameter, probably not that
16 large. Because he doesn't have a time -- a scale to show
17 what it is and he doesn't measure that. That's more
18 important than what the abrasions are. The abrasions can be
19 incidental or not even associated with the trauma that
20 occurred to her abdomen. And then she's got these old scars
21 indicating -- she's got multiple old scars he talks about
22 that could have been -- evidently she's had a lot of trauma
23 in the past.

24 Q Okay. Well, she's also a two and a half year old girl
25 that's walking and running and playing, correct? And I'm

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1 not asking you to go back through and identify each and
2 every one of these scars, we've had testimony about that,
3 but she is a child running around, a toddler, and even her
4 father said she's clumsy.

5 A If she got them by falling, yeah. Some of those are
6 not normal places from falling.

7 Q I understand. I understand. That's why we're talking
8 about the abdomen and what actually resulted in her death.
9 So let's talk about the mesentery. The mesentery is full of
10 blood vessels. And you said that -- would you agree that
11 that particular area when it receives an injury, there's
12 going to be a concentration of blood that will leak out
13 based on the fact of the type of organ that it is? It's
14 very heavily vascular.

15 A Well, it takes blood to and from the small intestine
16 and the large intestine, yeah. Well, the mesentery is the
17 small intestine, the large intestine doesn't have that type
18 of mesentery.

19 Q So when you have that type of an injury, this
20 laceration, whenever you saw the picture of it, was pretty
21 substantial for such a small child, wouldn't you agree?

22 A But it had been taken out, too, so I can't tell which
23 was obviously the laceration and which was when they cut it
24 out.

25 Q Okay. So if I showed you some additional autopsy

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1 photos, which actually had the intestines still intact in
2 the child's body, would that help you?

3 A Well, it might.

4 Q It might? Okay. And once again, Dr. Wren --

5 A I thought I had seen all of the autopsy photos, though,
6 because Mr. Boyd brought me a tape with them.

7 Q All right. So you didn't see the internal -- the
8 organs before everything was pulled out, the blood that was
9 in her cavity --

10 A I didn't see any on that that I recall, or either there
11 wasn't that much. I didn't see any of the liver, I didn't
12 see any of the spleen, I didn't see any of the heart. I
13 think I might have seen a couple of the lungs but I'm not
14 sure I even saw that.

15 Q Okay.

16 A Because if I didn't see anything significant I probably
17 would have forgotten it.

18 Q All right. I'm going so show you State's Exhibit
19 Number 39 and State's -- well, 37 and 38. And 37, wouldn't
20 you agree that after -- that that was from the Y incision
21 and the free blood inside of her cavity, her abdominal
22 cavity is flowing out onto the autopsy table.

23 A I don't see any coming out on the autopsy table.
24 There's blood in there and there's postmortem changes of the
25 serosa there, I guess that's a stomach. I can't even

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1 tell -- I guess it looks -- I guess it's this -- I guess
2 it's in this manner.

3 Q Well, I'm sorry, Dr. Wren. The reason why it might
4 look that way to you is because we actually tried to redact
5 out the child's face in doing that. Do you need the full
6 picture in order for you to know what it is I'm referring
7 to?

8 A I know what you're referring to. Most of it is on the
9 right side here, because I think I can see her hip bones
10 here. There's blood there, but like I said, most
11 intraabdominal hemorrhages I've seen in children that died,
12 they had a distended abdomen. And I can guarantee you, the
13 pictures of her abdomen are not distended, so it is not
14 enough blood there to have distended her abdomen, and her
15 intestines have not dilated enough to distend that, that's
16 what I can tell you for sure.

17 Q And I guess that's where I'm kind of confused, because
18 we're all in agreement that blunt force trauma is what
19 killed this child.

20 A That's correct.

21 Q So the argument that her stomach was not distended, how
22 is that relevant to anything in regards to the fact that she
23 received blunt force trauma to her stomach, which actually
24 even reached the level of her pancreas and she died on
25 November the 1st? Why does that matter, the distended

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1 stomach?

2 A It would just say how much relative blood she had bled.
3 It didn't say anything about retroperitoneal hemorrhage, I
4 don't know how much was there. There's no picture of the
5 retroperitoneum. He didn't sample the retroperitoneum. I
6 guess he took it out when he had to take the kidneys out and
7 the pancreas, because they are retroperitoneal, so are the
8 adrenal glands. They're behind the pancreas, I mean, behind
9 the posterior lining of the abdomen.

10 Q Okay. Let me just ask you then so that I can be -- I
11 want to try to just bring it down just a little bit so I can
12 understand. We can agree this child received blunt force
13 trauma to her abdomen that caused her mesentery to tear and
14 she bled out and died.

15 A Yes.

16 Q Thank you. Can we agree that she also, whether it was
17 at the same time or not, had an injury to her pancreas,
18 which also had granulation tissue in it?

19 A Yeah. But like I said, it wasn't as severe as what was
20 seen around the single section of a small intestine. It has
21 a little bit of mesentery there but it has got a lot of
22 lymph nodes there, too. And those lymph nodes have an
23 ongoing what's called -- I don't remember the term right
24 now, but they have the macrophages and the terminal centers
25 are filled within inflammatory debris, they don't accumulate

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1 overnight.

2 Q Okay. And I wasn't asking which one was more severe, I
3 think the autopsy and the pictures speak for themselves. I
4 want just --

5 A Well, I don't know whether he got the section from the
6 pancreas from the tail of the pancreas. And like I said,
7 the hemorrhage I see is in the left adrenal, not the right
8 one that he says. He does have a section of the right
9 adrenal and there is absolutely nothing wrong with that one
10 if that's -- if he didn't get them mixed up. Now, I've
11 gotten them mixed up before and I'll give him the benefit of
12 the doubt, but that's what the autopsy report says.

13 Q Okay. And when you were describing the injury you said
14 you couldn't tell whether it was from slow constant
15 pressure, and I'm just going to do just like you did, and
16 you "or a punch," you would agree?

17 A Right. Force is equal mass times acceleration. If you
18 want to know how much force is applied to somebody, then you
19 have to take the mass of whatever applies the force and the
20 acceleration doing it. So if you have somebody that put
21 their knee on her, if that's what you want to propose, it
22 could be constant pressure, it's not very much. Or if you
23 want to say somebody hauled off and hit them with a two by
24 four and caused it, then you don't need that much mass, you
25 have to have a lot of acceleration. Who can tell. Nobody

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1 can tell, nobody knows.

2 Q Except the person that did it, correct?

3 A Nobody knows except God.

4 Q And the person that did it.

5 A I'm not saying a person did it. She could have fallen
6 on it, who knows. Because it has happened I say -- I've
7 told you before, I think it happened at two different times
8 and when it got weaker it started bleeding again. There's
9 granulation tissue of two different types there, fibrous
10 scar tissue of two different types.

11 Q Okay. Just like you're telling us a different time
12 today than the time you told your attorney on August 29th
13 whenever I asked for a copy of your report and your final
14 conclusion; isn't that correct?

15 A I'm just telling you what --

16 Q Is it different?

17 A -- the literature says, ma'am. I said my opinion was
18 that it could have happened anywhere from two to five days,
19 and I was given -- at that time he asked for a preliminary
20 opinion and I gave him the preliminary opinion based on --
21 partially on what Dr. Monroe said and what he had
22 documented. And then as I go through it more and more and
23 compare it to the literature it's not exactly right and I
24 made a mistake.

25 Q You made a mistake.

JOHN DAVID WREN - REDIRECT

1 MS. LIVELY: Thank you, no further questions.

2 THE COURT: Any redirect?

3 MR. BOYD: Thank you.

4 REDIRECT EXAMINATION

5 BY MR. BOYD:

6 Q So since August the 29th you did additional research;
7 is that correct?

8 A Yes, sir. I reviewed -- I've looked at these slides
9 probably 20 times and attempted to find out why he did one
10 of the stains, and I cannot find out still why he did CD1A
11 stain.

12 Q Now, let me ask you, there was a question asked to you
13 showing the timeline about the most inflammatory cells were
14 gone in three days and that's why Dr. Monroe says it
15 couldn't have happened after three days. Did you agree with
16 that?

17 A Well, when this is happening, as the hemorrhage goes on
18 then the inflammatory cells come again, they don't suddenly
19 say, "Well, I give up." They come again when you start
20 hemorrhaging again. So there are definitely macrophages
21 there that don't show up for a good while. There are a lot
22 of lymphocytes there which don't show up for even longer, so
23 it means that it has gone on for some time. And then she
24 gets another hemorrhage from maybe minor trauma or just a
25 place that's clotted breaking lose from -- when clot

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1 resolves. There's a lot of things that could have caused
2 her to re-hemorrhage.

3 MR. BOYD: Thank you, that's all.

4 THE COURT: All right. Thank you, sir, you may step
5 down. You're free to leave. All right. Let me see the
6 lawyers real quick.

7 (A bench conference was held.)

8 MR. BOYD: Your Honor, that is the case for the
9 defense.

10 THE COURT: All right, the defense rests. Anything in
11 reply from the State?

12 MS. LIVELY: Yes, Your Honor, we're going to have one
13 witness in reply and then that will be the State's case.

14 THE COURT: And we'll do that tomorrow morning then.

15 MS. LIVELY: Thank you.

16 THE COURT: All right. Ladies and gentlemen, we're
17 going to go ahead and break for today. It's been a long day
18 but it has been a very productive day, thank you for your
19 attention during this day. I want you back in your jury
20 room tomorrow morning at 8:45 so we can jump on it and
21 hopefully get everything finished, okay? Thank you very
22 much, have a great evening. Remember my instructions about
23 what you're to do and not to do while you're away. Thank
24 you very much.

25 (The jury left the courtroom.)

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1 present. Good morning, ladies and gentlemen, we will go
2 ahead and start. Madam Solicitor, you may call your reply
3 witness.

4 MS. LIVELY: Yes. Thank you, Your Honor. The State
5 with a call Dr. Darren Monroe.

6 The witness, DARREN MONROE, M.D., remained sworn and
7 Testified as follows:

8 DIRECT EXAMINATION

9 BY MS. LIVELY:

10 Q Thank you for coming back today. I'm just going to
11 briefly go through some questions for you. Yesterday we
12 had -- the defense called a witness, Dr. Wren, in regards to
13 the autopsy that was performed on Minor by you back on
14 November the 2nd of 2017, okay? And you and I discussed
15 this at large last night, correct?

16 A Yes.

17 Q All right. So I'm just going to ask you a few
18 questions regarding some of the issues that he brought up
19 during his testimony. One of the issues was, he stated that
20 the injury to the mesentery was a reinjury and that he saw
21 scar tissue in the slides showing that it could have been
22 from eight days to 12 days old. How do you respond to that?

23 A There is no scar tissue in the section.

24 Q And very clearly, did you do a very thorough tissue
25 examination as well as body examination to determine that?

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1 A Yes.

2 Q And within a reasonable degree of medical certainty,
3 Dr. Monroe, was this an old injury that had been reinjured
4 in some kind of way?

5 A No, it wasn't.

6 Q All right. Now, Dr. Monroe, there was mention that
7 there were very few autopsy photos for him to be able to
8 rely on for his opinion. You were there obviously whenever
9 the pictures were being taken, is that a fair statement?

10 A Yes.

11 Q And about how many photos were taken while this
12 examination was being done?

13 A Probably a couple hundred.

14 Q Couple hundred? Okay. One of the other things that
15 Dr. Wren brought up was the issues of **Minor**'s chest and how
16 the chest looked -- how **Minor** looked on her chest at
17 autopsy, and he actually referred to State's Exhibit Number
18 35. So I'm going to hand this one to you and show it to
19 you, which is a cropped photo of her torso, okay? And as
20 I'm asking you these questions I want you to explain
21 something to the jury. First of all, what is meant by
22 livor? He brought up livor and blanching in regards to her
23 chest.

24 A Livor is simply when you die you don't have blood
25 pressure anymore, so all of your blood settles to wherever

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1 you are. If you die on your back the blood will eventually
2 settle on the back, it will leave the top part of your body
3 and just go to the back. If a short time later you are
4 flipped over after you're dead, the blood will go down to
5 the other side. It's just with gravity.

6 Q All right. So in what you saw in regards to **Minor**
7 **[REDACTED]**, what was the information that you had in regards to
8 the livor and what we're seeing in that particular picture?

9 A Well, at autopsy one of the first things we do in the
10 external exam is look at rigor and livor, and rigor is just
11 the stiffness of the muscles after you die. Livor in this
12 case, what we're talking about is one of the earliest things
13 we examine as well, and it was fixed and on her back. And
14 when we say fixed, that means it's not blanchable. If you
15 press it with your finger and it's blanchable it will
16 squeeze the blood away and it will be a pale area where you
17 pressed, just like if you press on a fingernail it will
18 blanch. After awhile it will become fixed and you can't do
19 that.

20 Q All right. And in looking at a picture of what you're
21 seeing now in number 35, within a reasonable degree of
22 medical certainty is that livor or contusions?

23 A This is not livor, it's contusions.

24 Q Thank you. I'm going to show you also a State's
25 Exhibit Number 55 that's not in evidence and just ask you if

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1 you recognize this picture?

2 A Yes.

3 Q All right.

4 MS. LIVELY: Your Honor, the State would move State's
5 Exhibit 55 into evidence at this time. It's the back
6 picture.

7 MR. BOYD: Your Honor, I would object to that.

8 THE COURT: All right. Objection noted, objection
9 overruled, admitted into evidence.

10 (The photo was received as State's 55.)

11 Q Now, Dr. Monroe, how does that help you explain the
12 issue of livor and what we're seeing in State's Exhibit 35?

13 A This is a picture of **Minor**'s back, and it's just
14 demonstrating the areas of livor on her back.

15 Q Okay. All right. So in comparison to State's Exhibit
16 35, the livor is on her back and not her chest.

17 A Yes.

18 Q Okay. Thank you, sir. All right. Dr. Monroe, there
19 was testimony about whether or not you had done incisions to
20 confirm that these were actually contusions or bruising to
21 her body, which was from 35, we'll talk about that one
22 again, okay? When you do an autopsy, what is one of the
23 procedures you do whenever you're trying to determine
24 contusions on the skin?

25 A You can cut into them and that will show that it is

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1 indeed a contusion and not just a dark area of skin that --
2 or anything like that.

3 Q And did you do that with Minor ?

4 A Yes.

5 Q So out of the almost 200 photos, did you pick out just
6 a couple where you could explain this to the jury?

7 A There are a few.

8 Q Okay. I'm going to show you State's 56 and 57. Dr.
9 Monroe, please explain to the jury how that helps you in
10 your opinion within a reasonable degree of medical certainty
11 that what we're seeing in State's Exhibit 35 is bruising?

12 A So Exhibit 57, this photograph is from the autopsy and
13 it shows -- like I explained the other day, when we start
14 the autopsy we make a large incision on the chest and
15 abdomen, and then that allows us to get inside the body and
16 examine everything else. This incision was carried through
17 some of those contusions, not all of them, some of those
18 contusions on her chest and torso area, and this is just
19 showing the cut through some of those contusions, and you
20 can clearly see where the contusions are.

21 Q Okay.

22 MS. LIVELY: Your Honor, at this time the State would
23 move those two exhibits into evidence as well.

24 MR. BOYD: Your Honor, I would object pursuant to the
25 403.

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1 THE COURT: All right. Objection overruled, admitted
2 into evidence.

3 MS. LIVELY: Thank you.

4 (The photos were received as State's 56 and 57.)

5 Q The black and white photo, Dr. Monroe, what is that?
6 Does that just help to explain to the jury what you're doing
7 when you do these incisions?

8 A Yes. This black and white photo, Number 56, shows her
9 right arm and her right hand. And one of the things we do
10 at the end of the case and in cases such as this is called a
11 posterior Y incision and extremity cutdowns, and that's
12 where we cut into the back and the arms and the legs and
13 anywhere else we need to just to make sure there are no
14 other contusions. This is a photograph from that,
15 specifically the right arm, and it also shows -- it shows
16 the normal cutdown that we do into the arm right here to
17 look at the tissue, and it also shows on her hand about
18 right here. There was a dark spot, and I wasn't sure if it
19 was a contusion or not, so I cut into it and it was not, it
20 was just a dark spot.

21 Q And Dr. Monroe, on number -- I'm not sure which one it
22 is, let me approach you real quick just because you know
23 what it is you're looking at. Would you please circle on
24 here -- and I am referring to State's Exhibit Number 57,
25 will you circle in the actual tissue what you're talking

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1 about that is a contusion?

2 A Yes.

3 Q Okay.

4 A (Witness complies.)

5 Q Thank you. And once again 57, which is this one, that
6 is from the front when you went in and did the Y incision to
7 her chest, correct?

8 A Yes.

9 Q Dr. Wren mentioned that -- I had asked him about the
10 free blood in the abdomen of **Minor** when you cut into, or
11 when you did your Y incision, and he said that you should
12 have measured the blood, it didn't look like a lot of blood
13 and her abdomen would have been distended if she had a lot
14 of blood. Please explain that, if you can, so that I can
15 give it to the jury.

16 A Her abdomen would not necessarily be distended. It
17 would take her entire volume of blood to distend her
18 abdomen. A child of **Minor**'s weight, which was about
19 30 pounds, probably has a little over a liter of blood total
20 body volume. So even losing a couple of hundred milliliters
21 is fatal and that's not going to distend your abdomen.

22 Q All right. He mentioned that where the bruising was on
23 her chest was too high because if an adult punched a child
24 it should have been lower. What is your opinion on that?

25 A I have no idea what position she was in and relative to

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1 whoever did it, whoever inflicted the injury. She could
2 have been standing on a bed, she could have been -- the
3 person who did it could have been kneeling down. I have no
4 idea.

5 Q Thank you. Now, do you remember when I forwarded you
6 an email that had an opinion of Dr. Wren that the injury
7 causing death occurred at least two days before death and up
8 to four to five days before death?

9 A Yes.

10 Q You do recall that? All right. And he's basing that
11 on the granulation tissue time, okay? Now, Dr. Monroe,
12 you've already given your opinion within a reasonable degree
13 of medical certainty that it was up to -- it was like maybe
14 a day and a half or two days or three days at the outer
15 limit?

16 A Correct.

17 Q Is that still your opinion?

18 A Yes.

19 Q All right. Now, did you read some new literature to
20 change your mind since yesterday?

21 A My mind has not been changed.

22 Q Okay. Thank you. So he stated during his testimony
23 now that after reading the literature he has changed his
24 mind, it's possibly eight to 12 days from the time she
25 suffered the original injury, and he is basing that on the

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1 literature he took from a textbook that I sent you from
2 1976. Did you read that article?

3 A I read the pertinent areas of the article, yes.

4 Q And based on those pertinent areas of the article, do
5 you agree with his now changed opinion that this is eight to
6 12 days or do you stand with your opinion?

7 A I do not agree at all.

8 Q You don't? And when you red the textbook article, tell
9 the jury in generality what did it say.

10 A The article says the same thing as the articles and the
11 book that were presented the other day when I was
12 testifying.

13 Q Okay. All right. Dr. Monroe, what about you not
14 having saved the body for an extra day to do an additional
15 examination on her body?

16 A So again, at autopsy the livor was already fixed, it
17 was on her back side. And what he's referring to is if the
18 livor is not fixed already you can flip the body, as I
19 explained, and the blood will drain to the other side of the
20 body. What that can do sometimes is reveal other contusions
21 that were covered up by the livor. The livor was a purple
22 looking area on her back and could potentially look like a
23 contusion. So if you flip them over and the blood goes to
24 the other side, after awhile, come back the next day,
25 reexamine the other side it may or may not reveal contusions

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1 that might or might not be there. That was not done in this
2 case, because again, her livor was already fixed. We did
3 the posterior Y incision cutdowns and extremity cutdowns
4 which would have found them anyway.

5 Q And when you say posterior it means you went through
6 her back and her front.

7 A Her entire back and her front and her arms and legs.

8 Q Thank you. Just a couple of more questions. Then he
9 stated that based on her body temperature that was taken I
10 guess by EMS when they responded, he concluded that she died
11 at midnight on Halloween. So I'm going to ask you, do you
12 agree or disagree with that conclusion?

13 A It's possible she died at midnight. There's no way
14 to -- unfortunately this is not television, this is real
15 life, you cannot come up with a precise time of death, it's
16 impossible.

17 Q Okay. And is that the reason why in your opinion,
18 reasonable degree of medical certainty, you give that time
19 range of when based on your examination it could have
20 happened?

21 A Yes. The best way to estimate time of death is when
22 were they found dead and when were they last known to be
23 alive, that's the best way to estimate it.

24 Q Okay. Thank you. And the final question in regards to
25 force and the injury, he stated it wouldn't take much to

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1 reinjure her but you have already stated this was not a
2 prior injury.

3 A This was not a reinjury.

4 Q He said that she could have died from a fall or some
5 other accidental event.

6 A Yeah.

7 Q And then the last thing was it could have been
8 something like putting -- holding her down or putting the
9 knee on her abdomen for a period of time like a constant
10 pressure.

11 A Yeah. Constant pressure like that is not going to
12 cause these injuries.

13 Q So in your opinion within a reasonable degree of
14 medical certainty this was not an accident.

15 A This was not an accident, no. This was inflicted.

16 Q Within a reasonable degree of medical certainty this
17 was not an old injury that just opened back up.

18 A This was not an old injury.

19 MS. LIVELY: Thank you so much. Answer any questions
20 that the defense may have.

21 THE COURT: Mr. Boyd?

22 CROSS EXAMINATION

23 BY MR. BOYD:

24 Q I believe you said that you stuck with your opinion
25 about the age of the injury; is that correct?

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1 A Yes.

2 Q I believe that article you referred to I was given, The
3 Physiology Of Wound Healing; is that correct?

4 A I don't remember the exact title of the article. Are
5 you referring to the one that I brought?

6 Q Well, I'll show it to you and ask you if that's it.

7 A Yes.

8 Q I believe your opinion as to the outer limits of the
9 death was that you would not see inflammatory cells to the
10 extent you saw them after three days, was that correct?

11 A Right. I would not see the certain kind of
12 inflammatory cell past that time in the numbers that they
13 were present.

14 Q Would you disagree with what is in the article, you
15 cited page 475, which states that the inflammatory phase of
16 wound healing will persist as long as there is need for it
17 ensuring that all excessive bacteria and debris from the
18 wound is cleared?

19 A That's correct.

20 Q Okay. So if the inflammatory phase continues until all
21 excessive bacteria and debris as long as needed it can
22 certainly go beyond three days.

23 A It would depend on the wound.

24 Q Okay.

25 A I would like to point out that this is not an open

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1 wound exposed to the outside. This is inside her abdominal
2 cavity, which is normally a sterile environment. It's not
3 even involving the bowel, which -- the inside of the bowel,
4 which is not sterile. It's part of the mesentery. It's not
5 a bacteria heavy area, there's not going to be bacteria
6 there.

7 MR. BOYD: All right. Thank you. That's all of the
8 questions I have.

9 THE COURT: All right. Thank you, sir, may step down,
10 and you are free to leave.

11 MR. BOYD: Your Honor, before he leaves can we approach
12 for a minute?

13 THE COURT: Yes.

14 (A bench conference was held.)

15 THE COURT: All right. Does the State have any reply
16 witnesses?

17 MS. LIVELY: No, Your Honor, thank you. The State
18 rests.

19 THE COURT: On reply.

20 MS. LIVELY: On reply, yes, sir.

21 THE COURT: All right. Thank you. Ladies and
22 gentlemen of the jury, we have now completed the testimony
23 and evidence phase of the trial, all right? What is going
24 to happened next is the lawyers will make closing arguments
25 to you. Remember what I told you earlier a couple of days

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1 ago about closing arguments. Closing arguments, just like
2 opening statements, are not evidence, it's simply the
3 lawyers' chance to speak directly to you and try to convince
4 you as to whatever your verdict should be, all right? Do
5 y'all wish to take a short break prior to starting closing
6 arguments or do y'all want to go straight into it?

7 (A juror responded "straight.")

8 THE COURT: There you go. All right. Madam Solicitor?

9 MS. LIVELY: Yes, thank you, Your Honor. Thank y'all
10 so much for all of the attention that you've given. It has
11 been hard, I know it has been hard, but we have a child who
12 died here, and the level of importance of this case can't be
13 emphasized at all. You know, the thing whenever you have
14 these kind of cases that you have to bring so much
15 information in to a jury to understand what happened to a
16 child when it took the State at a minimum of four months to
17 make an arrest in the case and make a determination that,
18 yes, he killed his daughter. And there is no way that
19 anyone wants to believe a person would kill their own child.
20 I wake up everyday hoping I never have to try one of these
21 cases, I would be fine if I don't, but the reality is
22 children do die at the hands of adults. So we're here for
23 Minor this week. And remember whenever I first talked
24 to you in the very beginning before all of this information
25 was just loaded on top of you to take in without taking

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1 notes, just absorbing everything, I told you abuse happens
2 in private. Child abuse -- if it happens in public we would
3 know when it happened, we would know it when we saw it,
4 probably would call the police, probably call DSS and do
5 something about it, absolutely. But it happens in private.
6 And when that happens often times you won't find out about
7 it until (inaudible) and then we have to go back and put all
8 of those pieces together to make sense of not necessarily
9 why it happened, but that it happened, number one, and
10 number two, who had access to the child who could have
11 inflicted this injury. And that's it, it's not complicated
12 but it is. So what I wanted to do -- and I was actually
13 waiting for just a second but I don't want y'all to have to
14 wait any longer, what I'm going to do is I put it in a
15 Powerpoint and how that helps me to help make sure that I'm
16 telling you everything that you need to hear, and it keeps
17 me moving too. So child abuse happens in private, like I
18 said. Until a child dies we're not going to know. The only
19 person who knows for sure is the abuser. So let's talk
20 about that then today, who is the abuser and who has the
21 State shown had access to this child during the time
22 whenever our medical experts say this is when the injury
23 happened? Here is the thing, the defendant is not going to
24 tell you that he hit his child, punched her or kicked her,
25 he's not going to tell you that, because that would make you

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1 an abusive person who killed his child, so he doesn't tell
2 us that. But also here is the other thing, we can watch
3 from his -- either what he's doing or what he's not doing to
4 know he's telling us exactly what we already know, that he
5 did do it. He cannot see the damage to her organs. If we
6 punch someone in the face and they get a black eye or bloody
7 nose you're like, "Oh crap, how am I going to cover this
8 up?" You punch a child in the stomach, guess what? No one
9 is going to see it, no one is going to know that that child
10 has suffered an injury. So understand the circumstances.
11 This is a child who has major damage and there's no way that
12 we could know. Oh, but wait a minute, the child throws up
13 three times starting October 31st. Not normal throw up.
14 Every single person that talked about her throwing up said
15 it was green and runny. Okay. As a parent maybe the first
16 time kind of let it go and say, "All right, maybe she's not
17 feeling good, we'll see how she does." She throws up again,
18 and then she throws up again, by the time she throws up
19 three times Ekeria wants to get her to her mom, but he stops
20 her and says no. He's wanting to wait it out. If he waits
21 it out she will either get better, she'll get over it,
22 because the longer we wait that child is not going to a
23 doctor where the doctor might see the injury to her stomach.
24 That is what is going on. So not taking the child back to
25 her mom, don't take the child to the ER. When he woke up

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1 the next morning and got Mi'honesty up, 6:57 a.m., throw up
2 was on the bed. He gets Mi'honesty up, doesn't even check
3 on his child who had thrown up three times the night before,
4 and he goes there -- and you can look at the pictures from
5 the house, there's a huge stain on the sheet from vomit,
6 there's a stain on the pillow of vomit and he let's her lie
7 there. That's complete indifference, complete indifference
8 to your child. Doesn't check on her at all. All right. So
9 here is some things that I like to do is say okay, what can
10 we agree on? The State and the defense, what can we agree
11 on? So here is what we have. Everybody did testify that
12 **Minor** was in the care of the defendant and Ekeria Foote on
13 Saturday night between 10:25 and 11:00 p.m., that's when she
14 was dropped off by Tornita. Why do we know that? Because
15 we've actually got a text message, "I'm on 72, I'm on the
16 way, I'm going to drop her off." So everybody says it's
17 about 10:25 until she actually gets dropped off. She's
18 sleepy, she wakes up, they finally put her to bed. The
19 other thing that everybody agrees on is **Minor** was not potty
20 trained but they were working on it. **Minor** acting normal,
21 playing, eating on Sunday, that is October the 29th. **Minor**
22 was normal, playing, eating on Monday at 7:30 p.m. to
23 10:30 p.m. Who tells us that? The defendant's own mother.
24 "I got there, she was sitting at the coffee table eating a
25 hot dog. She was happy to see me. She was excited about

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1 the little Halloween costume. She was playing with
2 Mi'honesty and her other little" -- and her other
3 granddaughter. So these are things we can agree on.
4 Defendant called 911 at 8:24 a.m. How do we know that?
5 Because the 911 call tells us when it comes in. She was
6 asystole, meaning she did not have any -- she was not
7 breathing, no pulse. Autopsy was performed on the 2nd,
8 cause of death was blunt force trauma to the abdomen. We
9 all agree on that. So here is our witnesses. We called a
10 lot of witnesses. But every single one of them gave you one
11 piece of how they were involved in trying to either save
12 that child, the contact they had with that child before she
13 died, and then after she died having to go back and look at
14 who in that group of people who had access to that child in
15 that time frame killed her. So we've got our first
16 responders, emergency room, we have the RN. She came in and
17 was just like "I looked at her and I could see like
18 handprints on her." That's powerful. She has no -- nothing
19 to gain in this case. She is someone who is telling you her
20 observations. Then we've got local police, the coroner's
21 office. We have got Erica Foote. She was a very brief
22 witness, but remember, she was the sister of Ekeria. She
23 was there, she saw **Minor** on the 31st, and that's the first
24 time that **Minor** threw up was after they had gone to Wendy's.
25 She wouldn't eat her food, she was at Erica's house and

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1 that's the first time we see the green runny vomit. And
2 then our medical experts, which I'll get to in a minute.
3 Tornita Adams, **Minor**'s mom who testified, and then of
4 course, the defendant's mom. So here is the 911 call. Here
5 is the thing, I've probably listened to it 100 times, and in
6 all fairness y'all have had heard it pretty quickly and it's
7 a short call, but I need you to listen to it, and when it
8 gets close to 151 I want you to listen to what he tells the
9 dispatch. And remember, dispatch, who is trying to get
10 someone there to either save his child or help him with his
11 child, he hangs up. She says, "Don't hang-up," and he hangs
12 up. I'm going to listen to this, it's very important,
13 because what the State has to show is the indifference of
14 the person who harms his own child.

15 (The 911 audio was played.)

16 MS. LIVELY: "What in the hell is wrong with you,
17 **Minor**?" It's hard to hear. "Please stay on the line, sir."
18 He hangs up within seconds. These are people who are going
19 to try to save his child's life but he starts calling
20 Ekeria, asked her what to do, "You need to call the
21 ambulance." Does he call Tornita? No. He never called her
22 and told her her daughter was sick. The next call that she
23 got was not from him to tell her that her child was dead but
24 from his girlfriend. She never saw her again alive. All
25 right. Autopsy. Blunt force trauma to the abdomen. You

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1 heard Dr. Monroe testify, there were over 200 photos taken
2 at autopsy, a very thorough autopsy done based on his
3 thousands of autopsies that he has done. He's a board
4 certified forensic pathologist and he uses their best
5 practices and he takes in every single piece of information
6 in order to make a conclusion. Why is that important? And
7 I was not trying to nitpick yesterday, because these cases
8 are so important, if someone is a board certified forensic
9 pathologist this person has that additional level of
10 training, knowledge and experience to where they're going to
11 be able to come in here and say, "I took that into
12 consideration. I thought about some of the history, I
13 looked at some of what the investigators said. I put it all
14 together and that is how I came up with my conclusion." He
15 is not changing his mind. He's not coming in here and
16 saying, "Oh well, you know what, you're right, I made a
17 mistake." You made a mistake? A child is dead here. Look
18 at the information, be sure about what -- don't start
19 reading new articles and then change your mind right before
20 you come into the courtroom to talk to a jury who has to
21 make a decision. This is important. And that's exactly
22 what Dr. Monroe did. He evidenced all of the external
23 injuries to the child, scrapes to the face, bruising to the
24 torso, it wasn't livor. He's not looking to try to pin it
25 on somebody in particular. He's giving us the overall

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1 evidence that he sees objectively in his job. Internal
2 injuries. Torn mesentery, hemorrhaging to the pancreas.
3 Your pancreas sits on your spine. It is so far back that he
4 tore her mesentery and hemorrhaged her pancreas and freed
5 blood into the abdomen. And you heard Dr. Monroe tell you
6 today based on her size it would not take but 200
7 milliliters for it to be fatal to her, and she has a liter
8 of blood in her body. And I'm sorry, I've got to show you
9 these pictures, but that's what you need to see the
10 brutality of what this child went through. It was brutal.
11 She was in pain. It took her a significant -- I would think
12 even a minute would be significant in that kind of pain, it
13 took her a significant amount of time to die. Free blood in
14 the abdomen. I know it's hard to look at. I have to show
15 you that. That's a lot of blood in a tiny child's body and
16 it's flowing out, as soon as he opens her up he knows this
17 is what killed her, but let's prove it. Let's be sure, and
18 that's what he did. She was not walking around with all of
19 that blood in her stomach playing, eating, acting normal
20 with that tear where she couldn't put food in her stomach
21 because the mesentery was torn and the food had nowhere else
22 to go. That's how she was throwing up. By the time the
23 tear was there she was not going to be shoving a hot dog
24 down her throat. Within a reasonable degree of medical
25 certainty. Let me tell you, and actually the Judge, he made

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1 me say it whenever there were a couple of times when I
2 didn't say it that way, let me tell you why we use the term
3 within a reasonable degree of medical certainty. There are
4 very few things in medicine that are 100 percent, maybe that
5 someone is dead might be 100 percent. But what we do is we
6 ask that question within a reasonable degree of medical
7 certainty, can you give us this conclusion that is based on
8 your experience, your expertise, your knowledge? He told
9 you as a board certified forensic pathologist, this is what
10 he does, she died of blunt force trauma to her abdomen by an
11 inflicted blow or kick to the stomach with extreme force.
12 In other words if we're seeing this somewhere else through
13 an accident it's from a car accident, falling from a high
14 distance onto a protruding object, and then you probably
15 expect to see bruising from what that object was if she fell
16 on a poll. It's not from tripping or falling on a stump,
17 but if she did fall on such we would expect to see maybe
18 some outline of the stump. That did not happen. It was not
19 accidental, not inflicted by a child. It took force to get
20 all of the way into her pancreas, it took anger, it took
21 intent. It took someone who did a deliberate act that
22 caused her death, and it was not an appendicitis or disease.
23 No more than three days on 11/1 of '17, most probably one
24 and a half to two days, she was with no one other than the
25 defendant and Ekeria that whole time. We talked about the

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1 granulation of tissue. I'm not going to talk about it
2 because here is what we're going to do, I'm just going to
3 let you remember what Dr. Monroe said, y'all have been
4 listening, you've heard it, she had inflammation in the
5 cells there. I mean, you start pushing out to eight, 12
6 days or whatever and wounds and healing all of that stuff.
7 Ladies and gentlemen, this, as he said, was not a reinjury,
8 it was not a healing, there's no scar tissue. Now, the
9 child abuse pediatrician. Why did we bring in a board
10 certified child abuse pediatrician? What's great about
11 having access to someone with this kind of expertise is,
12 number one, they can consider what is normal for a child
13 developmentally at a particular age and that's important.
14 If she's two and a half years old, which she was then, we
15 know, okay, well, maybe she's starting to potty train, she's
16 walking so we would expect to see things. They actually
17 used kind of a term if they're moving they're cruising and
18 they're bruising. What they mean is, yeah, they're clumsy,
19 they might run into a table and are going to get knees,
20 arms, elbows, things like that that you would expect. And
21 remember, one of the things that she said was getting
22 injuries like the neck and chest area, the stomach area,
23 that's concerning because those are not areas where you
24 typically as a child should be running into things and
25 having those types of injuries. So I asked her specifically

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1 once again within a reasonable degree of medical certainty
2 what her opinion was regarding the trauma that **Minor**
3 suffered to her abdomen. She said it was the result of an
4 abusive act, and she said an inflicted injury. CPR does not
5 cause bruising to her torso. She did not have a blood
6 pressure, there was no blood flowing into her body at that
7 time, she was gone, so she's not going to bruise. She said
8 that bruising on **Minor** were like adults fingers and knuckles
9 from punching and hitting. Unfortunately for her expertise
10 she has to see a lot of this stuff both in children that are
11 living as well as children that die. She is not going to
12 give you that opinion on something this serious without
13 thinking back on her knowledge, the expertise that she has
14 in child abuse to be able to give you that kind of an
15 opinion. A torn mesentery and hemorrhage to the pancreas,
16 which is deep in the body, would require high force, a kick
17 to the abdomen. I specifically quoted that statement from
18 her because you need to understand, it wasn't an accident.
19 It wasn't just a slap. Anyone who would have seen what the
20 defendant did to **Minor** on that day or evening that he did it
21 would have immediately been like, "What the heck are you
22 doing? Oh my God, **Minor**, are you okay? Have you lost your
23 mind?" Timeline of inflicted injury. She actually narrows
24 this for us even further. Why? Because she has got that
25 experience. She knows as a child abuse pediatrician what

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1 the child could and would be doing with this type of an
2 jury. Timeline of it. Monday the 30th. She said after
3 there's documentation that she ate until she started
4 vomiting bile on Tuesday the 31st, so that puts us around
5 that time frame that I told you about from the defendant's
6 own mother, that she saw **Minor** eating that hot dog and she
7 kept it down. She said she didn't vomit, she never saw her
8 get sick, she never saw her throw up. She was playing,
9 happy, normal. That's the last confirmation we have from an
10 outside person as to **Minor** being normal. The next morning,
11 remember, ladies and gentlemen, that is October the 31st,
12 that's when all of the information coming out at that point
13 in time from Ekeria up until the time where we have the
14 throw up after Wendy's, she just wasn't acting right. She
15 just wasn't acting right. And who do we know was alone with
16 her while Ekeria was at work? The defendant. Who do we
17 know that while Ekeria took that long nap for almost four
18 hours when she got home being six months pregnant, who was
19 alone with her? The defendant. Who was there the entire
20 time all of those days even while Ekeria is six months
21 pregnant getting up at 3:00 in the morning to go and work
22 and come home and take a nap, who is alone with **Minor**? The
23 defendant. No one else. The only time Ekeria is alone with
24 her is at Halloween. And we've got hundreds of witnesses
25 here in Chester seeing her with little **Minor**, Emarion and

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1 Mi'honesty. So she said the symptoms, Dr. Lamb, vomiting,
2 lethargic, sleepy, not playing, not eating. If she tried to
3 eat -- there was some testimony there was pizza, there were
4 other kinds of candy, she was trying to eat. Remember, she
5 was a great eater. She was the first one to the table, she
6 wouldn't be able to keep it down. And what happened right
7 after she tried to eat the candy? She threw up twice.
8 That's from the defendant and from Ekeria. So witness
9 statements. I've already talked about the RN, Erica Foote,
10 so let's talk about this. Why did I make such a big deal
11 with these scrapes on her face when my own experts could not
12 even tell me that it was an abusive mark on the child? And
13 here is the reason why, ladies and gentlemen, remember how I
14 told you timelines are important? And also we're trying to
15 get at the truth, and the truth a lot of times are just
16 small little seeds of information that when you put it
17 together you have this ah-ha moment. "There is baby girl."
18 That was posted by Travis on the night right before she went
19 trick or treating, all right? And this is the next day.
20 That might have actually been the autopsy, not the hospital
21 picture, but either way y'all have all of that in your
22 evidence. Why is that significant? Here is his
23 explanation. It was there when we got her. That was.
24 Okay. If it was there when they got her, then why isn't it
25 on the Halloween picture? It wasn't there, okay? Tornita

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1 said she fell when she tripped on a stump. No, still not
2 there. "I asked Tornita about it," this was in his
3 interview on February of 2018, "she called me a mother F-er.
4 I told Ekeria you know how these bitches be. I don't know
5 how to respond to that." So he asked the mother whether or
6 not the child was hurt and she's going to cuss him out, and
7 then he's just like, "So I just don't ask anymore." So you
8 think your child may have been harmed in some kind of way
9 and you don't ask anymore? Indifferent. Indifference,
10 ladies and gentlemen. This is someone who does not have
11 that attachment to a child, he was indifferent to what is
12 going on with this child. Then he says, "I don't know what
13 happened." When Agent Baird put it in front of him and
14 said, "Okay, it's here. Now, you said it got there whenever
15 you got her. Well, show it to me? It wasn't on her face
16 earlier, how did she get it? I don't know, I didn't do it."
17 So then Agent Baird asks him, "How did Ekeria not see it
18 then if she had it when Tornita dropped her off?" Even the
19 defendant's mother said, "I showed it to her. Was this
20 there? No." Why is that important, ladies and gentlemen?
21 Because he's lying. He's lying about how that was there.
22 It wasn't there. It happened after that child went trick or
23 treating, Ekeria didn't see, it was after the baby had died.
24 Did he shove her down? Was he frustrated and tired? Every
25 time you see him in an interview he is yawning. He tested

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1 positive for marijuana, maybe that made him sleepy. But
2 that child got that injury to her face whether intentionally
3 or accidentally in his care and he lied about it like he
4 lied about everything else. Now, 911. "What the hell is
5 wrong with you?" EMS. "Do you want to ride with your child
6 to the hospital with the ambulance? No." On 2/18/18
7 interview. "Ekeria didn't do it." He was adamant, "Ekeria
8 didn't do it." Why? Because he knew he did it. She's
9 pregnant or she was having his child, and if nothing else
10 the one thing he did do was say she didn't do it. She was
11 normal Sunday the 29th, normal Monday the 30th, Tuesday
12 morning, only the defendant and **Minor** were there together
13 until 2:00 p.m. Ekeria was there but she was sleeping for
14 those four hours. She threw up at Erica's house, it was
15 green. Threw up two more times after trick or treating.
16 Here are the jails calls, and there were thousands of them
17 and I'm telling you, that's why we only played a few, but
18 here is some of the stuff that he said. You heard it and
19 you can ask to hear it later on. "I took a DNA test, look
20 what it got me." You have been arrested for the death of
21 your child and that is how -- those are the conversations
22 you are having? "Lord, I hate I was the daddy." Phone
23 message, text, "I hope people don't think I did it."
24 Whenever the interview was being done by Agent Baird she
25 confronts him about a text message that he sent saying about

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1 potty training **Minor**, "I will whoop her hips," and then him
2 saying -- you know, this was only two weeks after he'd been
3 arrested, you know, we were cooperating with the police but
4 that's what he was talking about, we were supposed to get
5 our phones back. And I was just going to let that lie, but,
6 you know, the question was asked and I think it's very
7 relevant here, when Agent Thrasher was asked about it he
8 said, you know, some people do want their phones back.
9 Yeah, they, do, I understand that, that's important, your
10 phones are important, your children are more important. He
11 said, you know, I just thought it was more important that I
12 would have asked who killed his daughter. But he didn't.
13 So what is reasonable? The State has to prove to you beyond
14 a reasonable doubt that he is the one who harmed this child.
15 What is the most reasonable conclusion that you can reach
16 with the evidence and facts presented? One thing with
17 reasonable doubt that I think gets people kind of bogged
18 down a little bit is, you know, the Judge is actually going
19 to tell you, if you're firmly convinced that he was the one
20 who abused his child and she died as a result of this, if
21 you are firmly convinced with all of the evidence that
22 that's what fits together then that's your conclusion and he
23 is guilty. When you look at all of those things that I'm
24 telling you in regards to Dr. Lamb, Dr. Monroe, who was
25 alone with the child, who had access to the child and who

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1 was always with her, it was always the defendant, even
2 whenever it was Ekeria it was with the defendant there too.
3 So the morning of Tuesday when Ekeria worked she came home
4 and [Minor] was asleep, she said that was unusual. Then as
5 soon as she woke up from her nap, "She's just not acting
6 right, Trab, she's just not acting right, you need to call
7 her mama. No. We'll worry about it tomorrow." So what is
8 in doubt? No doubt she was killed, I think we can all agree
9 on that. Someone else did it. Who? Tornita. She dropped
10 off [Minor] on Saturday night, [Minor] was fine, ate, drank
11 played, happy until Tuesday morning. So it's not reasonable
12 that she would have already had bleeding internally and been
13 able to do that until she died. Okay. What about Ekeria?
14 She did it. Look at the records. She worked every morning
15 and left the defendant alone with [Minor]. She wanted to call
16 [Minor]'s mom when she was vomiting, she even said, "I would
17 have taken her to the doctor if she was my child." She knew
18 [Minor] was a sick baby, he kept ignoring it saying, "Don't
19 call her mom." That's not reasonable. That's not
20 reasonable. And his actions show you why he did not want
21 medical intervention, he did not want to get caught. So the
22 only reasonable conclusion we have here is that he committed
23 an act of child abuse that resulted in the death of [Minor]
24 [REDACTED]. Tornita Adams got on the stand, she told you how she
25 had to go through an investigation from DSS whenever her

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1 daughter died, that's standard procedure, and they found
2 that her, along with grandmom and mom, were found to be
3 physically abusing the boys, and they were using switches
4 and belts and stuff like that to punish the children. There
5 was no finding against her in regards to **Minor**. And you
6 have been given every piece of evidence in this case,
7 whether that's good, bad or indifferent you need to know all
8 of the facts to make this decision. Now, she's a small
9 child. It would be obvious to any adult committing the act
10 that if you strike, hit or kick the child or hit her in the
11 stomach you would cause injury to that child, that's an
12 extreme indifference to human life. The difference between
13 our homicide by child abuse statute and murder is just that
14 there doesn't have to be like in murder malice and intent --
15 the intent level of "I want to kill you." Because in
16 homicide by child abuse cases our legislature as well as our
17 courts have upheld that statute understanding that child
18 abuse happens in private. A lot of times it's going to be
19 from a parent or guardian who loses it and makes a terrible
20 but violent decision and that child dies. That's why our
21 statute reads the way that it does. Is there any holes in
22 the State's case? I'm sorry we don't have a video of him
23 committing the crime. I'm sorry we don't have a confession,
24 but we know he wishes he wasn't the daddy, wished he
25 wouldn't have taken the paternity test. Tried to blame it

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1 on Tornita. Tried to say the vomit was Kook-Aid. It was
2 red, the vomit was green. So here is the statute. I showed
3 it to you when you first started this case, and I put it up
4 here again, because I'm telling you from all of the evidence
5 when you have a chance to review it you will be firmly
6 convinced beyond a reasonable doubt that the only person
7 that inflicted this blow on Minor was the defendant.
8 He committed an act of child abuse, it caused her death and
9 it was with an extreme indifference to human life,
10 completely indifference to human life. Ladies and
11 gentlemen, I'm going to finish in just one comment, but one
12 of the things the defense was asking on cross yesterday,
13 asked Agent Baird, "Can you count how many times he said he
14 didn't do it?" She said no. "Sixty-two times." How many
15 times did he ask who did it? Zero. Because he knew it was
16 him.

17 THE COURT: All right. Thank you, Madam Solicitor.

18 MR. BOYD: May it please the Court?

19 THE COURT: Mr. Boyd?

20 MR. BOYD: Good morning. During deliberations you'll
21 have three jobs. One of your jobs is to make a decision in
22 this case. Your second job is to make sure everybody in
23 your fellow jurors follow the law the Judge gives you. No
24 juror has a right to ask another juror to step outside the
25 law in making a decision, that would violate your oath as

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1 jurors. Your third job is to explain to each other the way
2 you feel about this case. I would like to suggest some ways
3 that will help you do that. Now, the Judge will charge you,
4 and we've talked about earlier, presumption of innocence.
5 It's not up to Darryl to come into this courtroom and prove
6 to you that he is innocent. It is up to the State to prove
7 that he is guilty. The Judge will tell you about reasonable
8 doubt. The burden is upon the State to prove guilt beyond a
9 reasonable doubt. The Judge will tell you that a reasonable
10 doubt is the kind of doubt that would cause a reasonable
11 person to hesitate to act. Well, what does that mean? Let
12 me give you an example. I have here a bottle of Tylenol.
13 Let's say that a reasonable person has a headache and needs
14 to take a Tylenol. Let's say that this bottle of Tylenol
15 has 500 tablets in it, out of those 500 tablets, 499 are
16 good Tylenol but one of them is cyanide, it's poison. Would
17 a reasonable person hesitate to act before taking one of
18 these tablets? The chances of getting the bad one is pretty
19 remote, but still, a reasonable person would hesitate to act
20 in those circumstances. Through a chart I'll show you about
21 reasonable doubt. In looking at reasonable doubt how sure
22 do you have to be to convict? And, of course, if you only
23 think there's a slight chance then you obviously can't
24 convict. If it's possible that Darryl is guilty you can't
25 convict, more likely than not you can't convict. If you

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1 find he is probably guilty you can't convict. If you find
2 he is very probably guilty you can't convict. Clear and
3 convincing evidence. In some cases there's a standard of
4 proof called clear and convincing evidence, and that
5 situation, for example, in family court, adultery has to be
6 proven by what they call clear and convincing evidence, but
7 reasonable doubt is beyond that. Clear and convincing
8 evidence of guilt is not even enough to convict. I gave you
9 the Tylenol example, a reasonable person would hesitate to
10 act in that circumstance, so it's beyond that. It's way
11 over here. You have to find beyond any reasonable doubt
12 that Darryl is guilty before you can convict. It comes down
13 to one question, did the prosecution logically rule out all
14 the reasonable doubts, the possibilities based on reason
15 that Darryl -- that favor Darryl. The prosecution either
16 did or did not rule those out. Now, I want to -- I know the
17 prosecution has a chart, I'm just -- show you a little
18 timeline, and I'm going to refer to that during argument a
19 little bit. If someone on the jury in deliberations says,
20 "Well, **Minor** was with Darryl," I want you to remind them
21 that different timelines come into play here based on what
22 the various experts said. Now, I think there's no doubt,
23 basically the time of death is approximately somewhere --
24 she was found dead about 8:24 a.m. So we know that she's
25 died at that time, at 3:35 approximately, 3:30 in the

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1 morning she was last seen alive. So death occurred
2 somewhere Wednesday morning between those times, don't think
3 there's an issue about that. Now, let's talk about Dr.
4 Monroe's testimony, the pathologist the prosecution called.
5 I believe his testimony, and you take it the way you heard
6 it, but it was that the time of death would be -- from the
7 death to the time of injury would have been two to three
8 days. So you're looking then at the injury occurring
9 somewhere around from 3:30 a.m. to 8:30 a.m. from sometime
10 Monday through Sunday. Now, Sunday outer limits that
11 Dr. Monroe said was three days, so that would put the injury
12 possibly occurring at some time in the early morning hours
13 of Sunday, 3:30. Now, Darryl received -- there is not much
14 dispute, or any dispute, that **Minor** came to him between
15 10:00 and 11:00 p.m. on Saturday night. So first off the
16 State has to prove or rule out that Darryl was the only
17 person who had access to **Minor** during that period of time,
18 from the time that Dr. Monroe said the time period in which
19 the injury could have occurred. Now, if you look at it, if
20 Dr. Monroe is just a few hours off on his estimate then
21 **Minor** is still with the mother from 10/11 p.m. to 3:30 a.m.,
22 it's a few hours, it's about a four hour period there. So
23 if Dr. Monroe is off by just four hours on his time when the
24 possible injury occurred, then it's possible the injury
25 occurred while the mother still had the child. Now, in that

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1 home that **Minor** lived there were three adults, all three of
2 those adults were indicated for physical child abuse on all
3 three of the other children who live in that home. There
4 were three young boys living in the home, all three of the
5 young boys were found to have been physically abused, all
6 three of the adults in that home were indicated to be the
7 abusers. Four hours here, **Minor** is still at the home of
8 abusers. **Minor** comes -- on the autopsy it shows scars, not
9 something recent, scars that had happened. Some of them
10 possibly can be explained by normal injuries of a child. I
11 think -- we talk about some being a linear scarring, that
12 the child abuse pediatrician, Dr. Lamb, talked about linear
13 scars can be suspicious or indicative of child abuse. Is it
14 reasonable that all the boys in the home were physically
15 abused but **Minor** living in that home was not? Is that not
16 enough to cause a reasonable person to hesitate to act in
17 this case? You have got a four hour period -- this is the
18 prosecution's pathologist, a four hour period here, and
19 **Minor** was at a home that where unquestionably child abuse
20 was going on during that time. Now, we look at Dr. Lamb's
21 timeline. Dr. Lamb's timeline was, "Well, it happened, we
22 know undisputedly about 7:00 p.m., I think it may have been
23 even 7:30, Darryl's mother came over, **Minor** was eating in
24 there." So Dr. Lamb basically said that's the time she was
25 acting normal, so it would have had to have happened some

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1 time between that time and the time that she was -- and I
2 would say 5:00 p.m, maybe give or take a little there when
3 she tried to eat and she threw up the next day on Tuesday,
4 Halloween, before she went trick or treating. Now, if she
5 is right, that it occurred between those two times then
6 Darryl was not with her the entire time. You say, well, you
7 know, she went to Wal-Mart, she was gone some time, and you
8 say, "Well, are you saying Ekeria did it?" No, I'm not
9 saying that. I certainly have no proof that she did it.
10 But there's also no proof that Darryl did it during that
11 time, but he wasn't with her 100 percent of the time. And
12 there's no proof that he did anything like this during that
13 period of time. But looking further on Dr. Lamb's
14 testimony, if you look at what she says that this would have
15 been a violent injury, **Minor** would have been sick, she
16 wouldn't have been acting like a normal child. Well, we
17 don't know. She's assuming **Minor** didn't eat breakfast or
18 lunch on Tuesday. There's really been no evidence that she
19 didn't. I think there's a statement by Darryl in one of the
20 interviews that, yes, **Minor** was eating Tuesday morning
21 breakfast and lunch, so if that's correct then it didn't
22 happen during that period of time, it happened after then.
23 Then we look at Wal-Mart, the video at Wal-Mart. Well, the
24 State says that **Minor** is not normal then. Well, you see the
25 video, yeah, she has to be picked up at one point when she

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1 first came in, not untypical, I submit, for a two year old.
2 But look, a few minutes later you see different portions in
3 Wal-Mart that she's walking around. She's not keeping up
4 with Mi'honesty whose running all over the place, but **Minor**
5 is walking by herself, she's holding a bag with a cookie in
6 it. She's acting, I submit, like a normal two year old in
7 Wal-Mart, the video shows that. This doesn't look like a
8 child that's just been a few hours ago beaten and sustained
9 an injury and is bleeding out at that point. This is not a
10 child that looks like she's bleeding out and about to die at
11 that point. So that's at Wal-Mart. Well, if she's normal
12 at Wal-Mart then if you go by Dr. Lamb's theory now, and I'm
13 not saying that Dr. Lamb is correct, I'm just saying going
14 by her theory then it would -- she's vomiting at about
15 5:00 p.m. there, the injury would have had to have happened
16 some time during that period and Darryl is not there. Now,
17 I'm not saying it happened during that period of time but
18 I'm saying by Dr. Lamb's theory if there was breakfast, if
19 there was lunch, she looks normal at Wal-Mart, she doesn't
20 look like a child that's in distress at Wal-Mart, she is
21 vomiting unquestionably green bile, so we know probably
22 whatever happened happened before that time. Something is
23 going on at that time but it had to have happened during
24 this period of time. Again, the kind of doubt that would
25 make your -- or the kind of thing that would make you

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1 hesitate to act. Let's look at -- then we have Dr. Wren.
2 And basically Dr. Wren's testimony says it could have
3 happened outside this period of time before Darryl got her.
4 Now, again, what are the circumstances around this that
5 makes it look like Dr. Wren's testimony maybe -- his opinion
6 was that **Minor** sustained an injury somewhere before she
7 arrived at that time, possibly could have been during this
8 time, most probably before she got to Darryl? Now, he
9 thinks the injury -- she received the injury, her body was
10 healing it up, and then for some reason unknown, whether it
11 was force or whether it just happened, about that time she
12 started -- it came lose basically for lack of a better word
13 and started bleeding. What is the evidence of that? Well,
14 you look at again the reasonableness of the injury being
15 inflicted on her, she was coming from a home that was
16 unquestionably abusive. There's no evidence that Darryl
17 ever abused a child. Everybody who testified, the mother,
18 Tornita Anderson, Ekeria Foote, Darryl's mother, everybody
19 agrees he was a good father. Nobody came forward and said
20 that they ever saw him abusing **Minor**, giving -- engaging in
21 corporal punishment on **Minor**, spanking her, whipping her,
22 anything like that. In fact, Tornita Adams said that **Minor**
23 looked forward to coming to Darryl's. She never saw any
24 indication after she had come there that **Minor** was scared.
25 **Minor** would come over there and be with Darryl and spend

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1 days and days and days, even -- you know, a child is usually
2 with the mother, but **Minor** was over at his house over
3 Christmas Eve and Christmas even. There's no evidence
4 presented that **Minor** was scared of him, that she didn't want
5 to be around him. She enjoyed being with him. We have the
6 picture of **Minor** dressed in a Halloween costume, Darryl
7 dressed her. Would a child want a father that had just
8 beaten her severely like they claimed he did, dressing her
9 for Halloween, going out for trick or treating? Then he
10 sends a picture out over Facebook, does that sound like an
11 abusive father, showing a picture of his child on Halloween?
12 Now, Dr. Wren -- you know, there's a lot of science involved
13 in this, granulation tissue and it forms at a certain time
14 and inflammatory cells are present at a certain time and the
15 doctors have testified about that. The doctors have a
16 disagreement about that. But in judging who you find more
17 credible in that, there's a disagreement between Dr. Wren
18 and Dr. Monroe, but I submit to you you have to resolve any
19 doubt in favor of Darryl. Because if Dr. Wren is right, if
20 he's correct then the injury could have occurred before
21 **Minor** got to Darryl. And even if there's a small
22 possibility of that, if it's a reasonable possibility that
23 the injury occurred before **Minor** got to Darryl then there's
24 a reasonable doubt. If Dr. Wren, who is an expert, he's
25 performed -- she said he's not board certified, he's done

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1 over 6,000 autopsies he said. He said he's been the -- he's
2 the person who does the autopsies, or until recently did all
3 of the autopsies for the coroner's office in Spartanburg,
4 that he's the one they called when somebody has been -- a
5 homicide has happened and somebody has been killed. He's
6 the person they called and he's the person that testifies
7 for the State in those circumstances. So if he's right, if
8 there's any -- a reasonable possibility he's right then
9 Darryl is entitled to a verdict of not guilty. Now, the
10 State talked about the bruises on the chest and the stomach.
11 One thing we don't know is we don't know when they happened.
12 Dr. Monroe says he couldn't date them, nobody can date them.
13 We also know that Dr. Monroe said you can't testify that
14 they were related to the fatal injury. And it's unclear
15 really when the body -- when her body was last seen in that
16 area. Now, Ekeria said at one point that she gave a bath on
17 Monday night and bruises weren't there on Monday night, that
18 she would have noticed it from the photograph she saw. But
19 then you saw the video of her interview the morning that
20 **Minor** died at the hospital less than 24 hours after the time
21 of death, and then -- and she's saying well -- she said
22 several times she gave her a bath on Tuesday night. Well,
23 if she didn't see any bruises on Tuesday night, then if they
24 weren't there at that time, somehow they got there after
25 that. But we know at that point the bruises weren't

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1 connected with the cause of death because we know that the
2 injury had occurred at least by that time, she was already
3 vomiting at that time so we know she had been injured at
4 that point but there may have been no bruises there. Is it
5 possible -- and they talked about the heart not beating. We
6 don't know if she had a faint heartbeat or not when
7 Darryl -- we know when EMS got there her heart wasn't
8 beating, but we know he was trying to perform CPR on her and
9 he describes breathing, and I think in the video it shows
10 him doing some pushing. We don't know how the bruises got
11 there. It's not up to the defense to prove everything. But
12 we know one thing, Darryl is not the one that gave her a
13 bath. He's not -- wasn't in a position to see the bruises
14 if it happened, because **Minor** took a bath with Mi'honesty
15 and she was given the baths by Ekeria, not by Darryl. The
16 marks on the face, they wasn't there when she went trick or
17 treating, they were there later. Again, the fatal injury
18 had occurred some time before those marks got there, they
19 have nothing to do with it. How she got those we don't
20 know. It's certainly a possibility, maybe it happened when
21 Darryl was trying to revive her, maybe she fell some time
22 during the night, it's all kinds of ways that could happen.
23 But it is certainly no evidence like the State would suggest
24 that that's somehow that Darryl abused her during the period
25 of time. There's certainly not punches or anything like

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1 that, they're scrapes, it looks like something from a fall
2 somehow. I wanted to talk a little bit about some of the
3 things that the State has said that seem to be important
4 that I submit to you are not important at all, I'm not going
5 to talk very long on those. But jail calls. Said about
6 look where it got me about taking a test. You know, he's in
7 jail locked up, he's talking about somebody else taking a
8 test and he says, "Look where it got me." You know, that's
9 trying to show indifference about that? I would suggest
10 not. Then in another jail call he says, "Wish I wasn't the
11 daddy." He's talking about a child has died and he wishes
12 wasn't a daddy of the child that died. But the State had an
13 opportunity to listen to thousands of jail calls, and these
14 are the ones they're picking out and saying this shows
15 something out of all of those calls. But on that very same
16 conversation in which he says, "Wish I wasn't the daddy," he
17 talks about -- if you go to the front of it, and we played
18 it for you, he's talking about how he keeps a picture of
19 **Minor** and his son, he has it there and looks at it, keeps it
20 under his bed in the jail cell along with a Bible he reads.
21 Now, that doesn't sound like a father who is indifferent to
22 the child or indifferent to the death of his child. Now,
23 you can go back and pick out points and things that Darryl
24 should have done, and I would submit he would say things he
25 should have done. The child is throwing up, and if she

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1 wasn't throwing up in the afternoon like they said it was at
2 night when she started -- or the evening she started
3 throwing up, and I think it was a second time that Ekeria
4 said to call her mother, it was late at night. He didn't
5 take her to the doctor, he didn't take her to the hospital
6 and that's something he has to live with, that something
7 that's regret. I mean, it's a judgment call, but it's not
8 an extreme indifference to human life. Unfortunately that
9 wasn't the best judgment call but it was a judgment call
10 that he has to live with. You know, that's unfortunate. I
11 can imagine how he feels about that, having a child die and
12 you could have taken him to the doctor and saved that child.
13 One time I had a sick dog in the middle of the night and was
14 thinking about whether to take it to the emergency vet or
15 not, chose not to and the dog died during the night, I felt
16 terrible about that. As a father I can't imagine how
17 horrible it would be to be in that circumstance. But that
18 was the judgment call, you know, didn't think the throwing
19 up was something that was going to kill her. And they said
20 he -- you know, the -- whether he should have hung up from
21 the 911, he'd given the address, they were coming, he was in
22 the middle of trying to revive her. Maybe that wasn't the
23 best judgment call but that doesn't show -- if it was
24 reckless indifference to human life he wouldn't be calling
25 911 in the first place. Whether he should have got in the

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1 ambulance with her, maybe so, but he -- you know, other
2 people were coming, he was riding up there with them, he
3 wanted them to get her there fast. You know, you can go
4 back and make mistakes he may have made, but they're saying
5 that he deliberately punched her, kicked her and did all of
6 those things. You know, there's other things maybe he
7 should have done, but he's not the person -- the State has
8 not proven he's the person that did this to **Minor**. You
9 know, I would submit it's possible he did this but we don't
10 have to prove -- the State has to -- we don't have to prove
11 he didn't do it, the State has to prove he did it. It is
12 possible he did it, it's also possible he didn't do it. A
13 not guilty verdict does not mean innocence, it's not a
14 declaration of innocence, a not guilty verdict only means
15 the State could not rule out reasonable doubt. It means not
16 proven, that's all. Like I say, it's possible Darryl did do
17 this but the prosecution does not win by showing just one
18 version, its version of reasonable doubt. It has to -- the
19 prosecution has to rule out other versions of what could
20 have happened, and I submit to you the State has not done
21 that and that Darryl is entitled to a verdict -- if you
22 follow the law Darryl is entitled to a verdict of not
23 guilty. Thank you.

24 THE COURT: Thank you, Mr. Boyd. Madam Solicitor,
25 briefly rebuttal.

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1 MS. LIVELY: Yes, sir. Thank you. I just want to make
2 sure that in regards to these types of cases there is no
3 winning, so it's not that the State wants to win. We want
4 for you to do your job and weigh all of the evidence, and
5 understand that the State has provided you with everything,
6 good, bad, ugly so that you can make that decision that he
7 is guilty, because he is. I'm just going to point out a few
8 things and I'm going to sit down so this case will be yours
9 and you can look at it and make your decision. First of
10 all, did the State have to rule out every single possibility
11 as to what could have happened to **Minor**? No. What we
12 have to show is what are the reasonable most likely ways
13 that she could have died. The only reasonable conclusion
14 based on what our experts have said, the medical evidence
15 clearly shows she died in his care period. The defense
16 expert, Dr. Wren, said she died at midnight. So I was a
17 little confused whenever I was just now hearing that the
18 death occurred between 3:35 a.m. and 8:24 a.m. on 11/1/17,
19 that's what the State has been trying to prove and that's
20 what we have been saying to you, but Dr. Wren said yesterday
21 she died at midnight, so he's disagreeing with his own
22 expert. We have to rule out anyone else had access to **Minor**
23 when she was injured. How about the fact you can't rule out
24 Darryl, her father, was with her the whole time, and he said
25 Ekeria didn't do it. So just some random violent person at

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1 Wal-Mart grab her and punch her and kick her and then hand
2 her back to Ekeria? No. Because we saw the Wal-Mart video.
3 So I've put on here all of the times whenever she not normal
4 vomits, vomits. And that's the thing, the normal at
5 Wal-Mart thing, the confusion that comes up whenever we look
6 at some of the stuff that the defense is doing, and I
7 totally understand what he's doing, he says she's walking
8 around at Wal-Mart, she's seems normal. Well, I have seen
9 two and a half years olds at Wal-Mart, and she just stood
10 there on a Halloween night in front of a bunch of candy in
11 front of costumes and didn't move, barely moving. But even
12 so, ladies and gentlemen, was she injured by that point in
13 time? Well, according to the defense expert she could have
14 been injured way back here, and then she was injured again.
15 So is she normal at Wal-Mart or is she not normal at
16 Wal-Mart? You can't just dissect these things based on
17 moments in time, that's why the State has to put it all
18 together because that is the only reasonable explanation
19 that makes sense as to what happened to her. Tornita, the
20 mention of the abuse. Yes, we brought it out in our case in
21 chief. Yes, she admitted it to you. And in talking about
22 her child, her good child, is how she referred to **Minor**, her
23 youngest, she was not found to be abusive to her child. Dr.
24 Wren said, "I looked at all of her pediatric records and
25 everything else in making my conclusion and did not see any

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1 indications, other than possibility some toddler scarrings
2 and other things that were inconclusive that she had been
3 abused by Tornita." And there was no finding by DSS, who
4 has a very low burden, not like reasonable doubt, where they
5 could have found against her. The only person that said
6 **Minor** ate this morning on the 31st? Defendant. And when
7 Ekeria woke up from her nap she said he had said she had
8 eaten, "I saw little bit of a ham sandwich in the kitchen."
9 She never saw her eat. The first time she saw her try to
10 eat she vomited green bile. Then Dr. Wren was saying, well,
11 she could have -- it could have even been a fall or
12 something if something comes loose. This child had 200
13 milliliters at least of blood in her abdomen that caused her
14 death. That's not something -- and there's absolutely no
15 medical evidence of it. The defendant and jail calls, why
16 are those significant? Well, because it's in relation to
17 having you get the full picture. I have to show
18 indifference to human life, and what we have is the
19 defendant saying things like exactly what I told, the
20 paternity test got me. Oh, and the interesting thing was
21 whenever Tornita asked him to take a paternity test he
22 didn't do it. They had to sneak and take **Minor** on a
23 weekend. Maybe they just wanted to do the test to see and
24 then decide how they were going to handle it. And who did
25 that? His sister and his mother. I mean, it just shows who

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1 was interested in that baby. It wasn't him, it was his
2 mother and sister. Who threw the birthday parties for her?
3 The mother. She's the one who was doing all of these
4 things. And the defendant was there, yeah, getting cute
5 pictures with his cute child. The defense did say we're not
6 saying Ekeria did it, and the State agrees, she did not do
7 it. And if you recall, one of the things he mentioned was
8 the bath thing on Tuesday night, whether or not there was
9 bruising there. If you remember whenever Ekeria was
10 testifying she said, "When I was at the hospital they gave
11 me medicine that morning." And Mr. Boyd said, "Well if I
12 told you -- if we were to listen to that interview from then
13 and what you're testifying to now, which one would be more
14 accurate?" And it actually surprised me, she said now, but
15 it was because they had given her medication at the
16 hospital. So then we played the reenactment of Ekeria and
17 she corrects herself in that reenactment on the 3rd and
18 says, "You know, no, I didn't give her a bath on the 31st.
19 I gave her a bath on the 30th with Mi'honesty" and the other
20 little girl that was there, "And on the 31st she started
21 throwing up again and Darryl just went ahead and put on her
22 sleep clothes." Darryl put on her sleep clothes, she did
23 not, Ekeria corrects herself. There were thousands of jail
24 calls, ladies and gentlemen, and it's excruciating to sit
25 there and just listen, and I will tell you those were

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1 provided to the defense as well. And no, he doesn't have to
2 prove his innocence, but there were several calls. We
3 picked out just a few to address the things that we knew as
4 the State to prove to you that we have the right person who
5 killed this child beyond a reasonable doubt, firmly
6 convincing information to all of you that he did it. Not
7 necessarily that he wanted to do it, but once he did it he
8 knew he had gone too far and he started lying about it, he
9 started making excuses. Didn't call the mother. He let her
10 die and he can't take that back and it is very sad. He is
11 guilty, ladies and gentlemen. Please look at all of the
12 evidence, it's going to be sent back to you. The Judge is
13 going to talk to you about this case, and thank you again
14 for all of the patience you've had with all of this
15 information.

16 THE COURT: All right. Thank you, Madam Solicitor.
17 Ladies and gentlemen, do y'all want a take a quick comfort
18 recess? It's going to take me about 15 to 20 minutes to
19 charge you on the law, I can either do it right now or if
20 y'all want to run back to the restroom or grab a refreshment
21 or something before I do that you can do that. What y'all
22 want to do? You want to do it now? Let's stand up and
23 stretch a little bit.

24 (Break in proceedings.)

25 THE COURT: All right, ladies and gentlemen, what I'm

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1 fixin' to do now is instruct you on the law that you must
2 use when you deliberate your verdict in this case. I would
3 ask the same level of attention that you gave to the lawyers
4 that you give to me so you can accurately be able to discuss
5 everything back in the jury room. So Madam Forelady,
6 members of the jury, you've heard the testimony and the
7 evidence and the arguments of both the State and the
8 defense, I will now explain to you the law that applies to
9 this case. Now, I have these charges written down, and I
10 have them written down because it's very important what I
11 tell you and I want to be as accurate as possible. I
12 promise you I'm not just going to try to sit here and read
13 them to you, I'll try to make eye contact with you as much
14 as possible so you can understand and follow me. Now, under
15 the constitution and laws of South Carolina you're the
16 finders of facts in this case. I don't have the right to
17 pass upon the facts or even express any opinion that I may
18 have as to what I think the facts are, because that's a
19 matter solely for you, the jury, to determine. It is your
20 duty to determine the effect, the value, the weight of the
21 evidence that's been presented during this trial. Now,
22 you're the sole judges of the credibility, that is the
23 believability of the witnesses who have testified, and of
24 the evidence which has been introduced during this trial.
25 Now, ladies and gentlemen, in passing upon credibility you

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1 can take into consideration many things such as the demeanor
2 and the manner in which a witness testified, whether or not
3 a witness had a reason to be biased or prejudiced, or
4 whether a witness' testimony was contradicted on the one
5 hand or supported or corroborated on the other hand. Now,
6 all of these things you will consider, bearing in mind that
7 you should give the defendant the benefit of any reasonable
8 doubt. It becomes your duty as jurors to analyze and to
9 evaluate the evidence and determine what evidence convinces
10 you of its value. Now, as the presiding judge, ladies and
11 gentlemen, I am the sole judge of the law of this case. It
12 is your duty as jurors to accept and to apply the law as I
13 now state it to you. If you already have an idea as to what
14 the law is or what you think the law ought to be and it
15 doesn't agree with what I tell you what the law is now, you
16 must abandon your idea because you are sworn to accept the
17 law and apply the law exactly as I state it to you. Now,
18 the indictment has charged this defendant with homicide by
19 child abuse. I will remind you that the fact that the
20 defendant was arrested, charged, there's been testimony that
21 he was in jail for awhile before he was released on bond,
22 and the fact that he was indicted in this case, that's not
23 evidence for you to consider as it relates to guilty or not
24 guilty, nor does it create any presumption or inference of
25 guilt, ladies and gentlemen. An indictment is simply the

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1 formal written instrument which contains a description of
2 the charge made against the defendant, that's the formal way
3 in which a case comes to court. Now, let's talk about
4 evidence. Ladies and gentlemen, there's generally two types
5 of evidence presented during a trial. You have what's
6 called direct evidence and you have what's called
7 circumstantial evidence. Now, direct evidence directly
8 proves the existence of a fact and does not require further
9 deduction, okay? That's something like eye witness
10 testimony, okay? Now, circumstantial evidence -- I'm going
11 to give you the law school definition and then I'm going to
12 explain it to you so you can understand it, okay?
13 Circumstantial evidence is proof of a chain of facts and
14 circumstances which indicate the existence of a fact. Now,
15 I don't want your eyes to glaze over, okay? What does that
16 mean, all right? For example, think about we're about to
17 get into fall and winter and your green lawns are going to
18 turn brown, okay, if you have grass like I do. So if on a
19 winter night before you go to bed you look outside and you
20 see brown grass on your lawn, you go to bed and you go to
21 sleep and you wake up the next morning you look out the
22 front door and behold, there's snow on the lawn with
23 footprints through it. Well, first of all you can infer it
24 snowed even though you didn't see it, okay? Secondly you
25 can infer that somebody has been working -- walking on your

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1 front lawn even though you didn't see it. See, these are
2 things you can infer, even though you didn't see it snow and
3 even though you didn't actually see somebody walk on your
4 lawn, that's a good way to think about circumstantial
5 evidence. Now, crimes may be proven by circumstantial
6 evidence, and the law makes no distinction between the
7 weight or value to be given either to direct evidence or
8 circumstantial evidence. Now, however, to the extent the
9 State relies on circumstantial evidence, all of the
10 circumstances must be consistent with each other and when
11 taken together point conclusively to the guilt of the
12 accused beyond a reasonable doubt. Now, if these
13 circumstances merely portray the defendant's behavior as
14 suspicious the proof has failed. The State has the burden
15 of proving the defendant guilty beyond a reasonable doubt.
16 Now, this burden rests with the State regardless of whether
17 the State relies on direct evidence, circumstantial
18 evidence, or some combination of the two. Now, the
19 defendant has pled not guilty to this charge, and that plea
20 places the burden upon the State to prove the defendant
21 guilty. Now, a person charged with committing a criminal
22 offense is never required to prove himself innocent. I
23 charge you, ladies and gentlemen, that it is a very
24 important rule of law that the defendant in a criminal
25 trial, no matter what the seriousness of the charge may be,

JURY CHARGE

1 will always be presumed to be innocent for the crime for
2 which the indictment was issued unless guilt has been proven
3 by evidence satisfying you of that guilt beyond a reasonable
4 doubt. Now, presumption of innocence does not end when you
5 begin your deliberations, but it accompanies the defendant
6 throughout the trial, throughout your deliberations until
7 you've reached a verdict of guilt based upon evidence
8 satisfying you beyond a reasonable doubt. Now, you can
9 imagine if you will a robe, just like the robe I'm wearing,
10 just imagine that presumption of innocence placed about the
11 shoulders, like a robe of righteousness placed about the
12 shoulders of the defendant which remains with him until it
13 has been stripped away by evidence satisfying you of his
14 guilt beyond a reasonable. Now presumption of innocence,
15 ladies and gentlemen, is not just a merely legal theory,
16 it's not just a legal phrase, it's a substantial right to
17 which every defendant is entitled unless you, the jury, are
18 satisfied of his guilt beyond a reasonable doubt. So what
19 is a reasonable doubt? I've said it 20 times already, what
20 is a reasonable doubt in the law? A reasonable doubt can be
21 defined as a doubt which makes an honest, **Brother 3**,
22 conscientious juror in search of a verdict to hesitate to
23 act. Now, proof beyond a reasonable doubt must therefore be
24 proof of such a convincing character that a reasonable
25 person would not hesitate to rely and act upon it in the

JURY CHARGE

1 most important of his or her own affairs. Now, proof beyond
2 a reasonable doubt can also be described as proof that
3 leaves you firmly convinced of the defendant's guilt. Now,
4 ladies and gentlemen, there's very few things we know in
5 this world with absolute certainty, and in criminal cases
6 the law does not require proof that overcomes every possible
7 doubt. So if based upon your consideration of the evidence
8 you are firmly convinced that the defendant is guilty, then
9 you must find him guilty. On the other hand if you think
10 there's a real possibility that he's not guilty you must
11 give him the benefit of the doubt and find him not guilty.
12 There were several expert witnesses in this trial. Now, the
13 rules of evidence ordinarily do not permit witnesses to
14 testify as to opinions or conclusions. There is an
15 exception, however, for witnesses which are deemed experts
16 in a particular field such as art, science, profession or
17 calling, that expert may state an opinion as to any relevant
18 and material matter of which they have been declared an
19 expert. Ladies and gentlemen, you should consider any
20 expert opinion received in evidence in this case, and like
21 any other evidence give it the weight you think it deserves.
22 An expert witness' testimony is to be given no greater
23 weight than that of other witnesses simply because they're
24 an expert. You're not required to accept an expert's
25 opinion even though it may not be contradicted. Now I

JURY CHARGE

1 instruct you, ladies and gentlemen, and emphasize to you
2 that the fact that the defendant did not testify in this
3 case is not a factor to be considered by you in any way in
4 your deliberations and in your consideration on the question
5 of guilt or innocence. It must not be considered by you in
6 any manner whatsoever. A defendant has the constitutional
7 right to remain silent, and the assertion of this right must
8 not be considered by you in your deliberations. I repeat,
9 under your oath you are to draw no conclusion whatsoever
10 from the fact that the defendant in this case did not
11 testify. The fact that he did not testify should not even
12 be discussed in the jury room. The burden of proof, as I
13 have stated to you, is on the State. The defendant is not
14 required to prove his innocence. The burden of proof
15 remains on the State to prove guilt beyond a reasonable
16 doubt. Now, a statement that's been made by the defendant
17 has been admitted into evidence in this case, there were
18 several statements. Now, while the Court has determined
19 that these statements were admissible, I instruct you,
20 ladies and gentlemen, that you must determine whether the
21 statement was made by the defendant voluntarily and of his
22 own free will. This means that the statement was not caused
23 by pressure, force, fear, threats, coercion or intimidation
24 or by hope or promise of leniency or a reward of any kind.
25 In determining whether or not a statement was voluntary you

JURY CHARGE

1 should consider both the characteristics of the defendant
2 and the details of the questioning. Some of the factors you
3 can consider are his age, his education or lack of
4 education, his mental ability or capacity, the defendant's
5 intelligence or IQ, the defendant's background or
6 environment, the place and length of detention, the nature
7 of the questioning and the advice or lack thereof to the
8 defendant of his constitutional right including but not
9 limited to the right to remain silent, that any statement
10 could have used against him in a court of law. The right to
11 have a lawyer present, that if he could not afford to hire a
12 lawyer, a lawyer will be appointed to represent him without
13 any costs, and that he could stop making his statement at
14 anytime. You must carefully consider all of the surrounding
15 circumstances before you give any weight to the statement.
16 The State has the burden of proving beyond a reasonable
17 doubt that the alleged statement was voluntary. If you
18 determine that this was a voluntary statement made by the
19 defendant you may give that statement any further
20 consideration that you deem appropriate and weigh it however
21 you want to weigh the evidence when you consider everything.
22 Now, there has been evidence presented that some witnesses
23 may have made prior statements which were not consistent
24 with their testimony in court. Now, you can use this
25 evidence to decide whether or not to believe that witness.

JURY CHARGE

1 You can also use that evidence of the earlier contradictory
2 statement to determine the credibility or believability of
3 those statements. It's up to you, ladies and gentlemen, to
4 decide whether to believe the earlier statements made or the
5 testimony given at trial. You may reject all of the
6 testimony of that witness or give all or part of the
7 testimony of that witness the weight you think it deserves.
8 Let's talk about intent and then I'll define homicide by
9 child abuse to you. Now, in order to establish criminal
10 liability, criminal intent is required. For example, the
11 mental state required to be proven by the State for a
12 particular crime might be purpose, intent, knowledge,
13 recklessness and criminal negligence. Now, criminal intent
14 must be proven by the State beyond a reasonable doubt, and
15 it's always a matter that must be determined by you, the
16 jury, from the circumstances surrounding a situation. Now,
17 there's no way to prove intent to a mathematical certainty,
18 there's no way that medical science can dissect a person's
19 brain and determine what the person had in mind. So the law
20 says criminal intent may be inferred from the circumstances
21 which have shown to have existed, and that's how you, the
22 jury, make the determination of whether or not the element
23 requiring intent was present. It's not necessary to
24 establish intent by direct and positive evidence, but intent
25 may be established by inference in the same way as any other

JURY CHARGE

1 fact by taking into consideration the acts of the parties
2 and all of the surrounding circumstances. Now, criminal
3 state is a mental state, a conscious wrongdoing. It's up to
4 you, ladies and gentlemen, to determine what the defendant
5 intended to do based on the circumstances which have been
6 shown to have existed. Criminal intent can arise from an
7 action or a failure to act. It may arise from negligence,
8 recklessness or an indifference to a duty, or to
9 consequences that is considered by the law to be equivalent
10 of criminal intent. Now, the defendant is charged with
11 homicide by child abuse. The State must prove beyond a
12 reasonable doubt that the defendant caused the death of a
13 child under the age of 11 while committing child abuse.
14 Now, child abuse is an act or failure to act which causes
15 harm to a child's physical health or welfare. Harm to the
16 child's physical health and welfare means that the defendant
17 inflicted or allowed to be inflicted on the child physical
18 injury. The State must also prove beyond a reasonable doubt
19 that the death occurred under circumstances showing an
20 extreme indifference to human life. Extreme indifference
21 has been defined as a mental state akin to intent, which is
22 characterized by a deliberate act culminating in death.
23 Now, let me say something, ladies and gentlemen, about your
24 deliberations. The word deliberation is defined as a
25 careful consideration weighing up with a view to a decision.

JURY CHARGE

1 Now, see, the genius of our jury system is that it allows 12
2 good people, both men and women, from differing backgrounds,
3 life experiences and perspectives to consider the evidence,
4 talk about it and ultimately reach a verdict. Now, the task
5 of a jury is called deliberations for a reason. You, the
6 jury, are to consider the evidence in this case carefully
7 and deliberately, discuss it in a calm, thorough and
8 courteous manner. Remember, you're not partisans or
9 advocates for one side or the other, you're the judges of
10 the facts. Your sole duty is to sort through the
11 information that you've received in this trial and find your
12 verdict from the evidence presented in this courtroom. The
13 supreme law of our land, the Unites States Constitution,
14 affords everyone a day in court and a fair trial, so this
15 case is very important to both sides because it is their
16 day. I charge you, ladies and gentlemen, to listen to the
17 views of your fellow jurors, carefully consider their
18 viewpoints and courteously discuss the evidence. Remember,
19 you're doing something deliberately, you're not in a big
20 hurry and you're tasked with the duty of utmost importance.
21 In conclusion, you've been selected by both the State and
22 the defense to be fair and impartial jurors. It is your
23 duty then in your deliberations to determine your verdict in
24 this case giving the defendant the benefit of every
25 reasonable doubt on this charge, and from the facts as you

JURY CHARGE

1 find them to be you take and apply the law which I've just
2 now given you and that's how you reach a verdict. I've told
3 you the standards you have to apply to the charge in the
4 indictment, you've heard the evidence, and ladies and
5 gentlemen, now you've heard the law. Now, whatever your
6 verdict is as to the indictment, guilty or not guilty, Madam
7 Forelady, you'll indicate it by marking the jury's decision
8 on the blank on the verdict form. It's quite simple, it
9 simply says as to indictment 18-GS-12-314, on the charge of
10 homicide by child abuse, we, the jury, find the defendant,
11 you either check not guilty or you check guilty, and then
12 you will sign it on here after certifying that y'all
13 unanimously agree to it. Because your verdict, ladies and
14 gentlemen, must be unanimous, that means all 12 of you must
15 agree to it. Madam Forelady, you can't fill out the verdict
16 form unless it's unanimous. So at this point in time you
17 are going to go back to your jury room, ladies and
18 gentlemen, but do not begin discussing the case -- hold on,
19 I need my alternates to stay in here -- don't start talking
20 about it until you've received the verdict form along with
21 all of the other evidence in this case, and once you get
22 that that's your signal that you can finally start talking
23 about the case among yourselves. Thank you very much, head
24 back to your jury room.

25 (The jury left the courtroom.)

JURY VERDICT

1 THE COURT: Any exception to the charge from the State?

2 MS. LIVELY: Not from the State, Your Honor.

3 THE COURT: From the defense?

4 MR. BOYD: None, Your Honor.

5 (The alternate jurors were dismissed.)

6 (The jury began deliberations and returned with a
7 Question.)

8 THE COURT: The jury just wants me to charge them
9 homicide by child abuse again. Rather than sending the
10 charge back, I mean, I just -- I think it's easier for me to
11 bring them back out here and read it to them. All right.

12 (The jury returned to the courtroom.)

13 THE COURT: All members of the jury are present. All
14 right. Ladies and gentlemen, you requested a description of
15 homicide by child abuse again, I'll read you the law as it
16 relates to what the charge is. The defendant is charged
17 with homicide by child abuse. The State must prove beyond a
18 reasonable doubt that the defendant caused the death of a
19 child under the age of 11 while committing child abuse.
20 Child abuse is an act or failure to act which causes harm to
21 the child's physical health or welfare. Harm to the child's
22 physical health or welfare means that the defendant
23 inflicted or allowed to be inflicted on the child physical
24 injury. The State must also prove beyond a reasonable doubt
25 that the death occurred under circumstances showing an

JURY VERDICT

1 extreme indifference to human life. Extreme indifference
2 has been defined as a mental state akin to intent
3 characterized by a deliberate act which culminates in death.
4 All right. That's the law of homicide by child, y'all
5 return to your deliberations. Thank you.

6 (The jury left the courtroom.)

7 THE COURT: Anything else? All right, we're in recess.

8 (The jury resumed deliberations and returned with a
9 Verdict.

10 THE COURT: All right. Let's bring the jury in.

11 (The jury returned to the courtroom.)

12 THE COURT: All right. Madam Forelady, it's my
13 understanding that the jury has reached a verdict.

14 THE JUROR: Yes, sir.

15 THE COURT: And is the verdict unanimous?

16 THE JUROR: Yes, sir.

17 THE COURT: All right. You can hand the verdict to my
18 bailiff, please. Madam Clerk, you may publish the verdict.

19 THE CLERK: Your Honor, this is case number
20 2018-GS-12-314, the State of South Carolina versus Darryl
21 Quan'Travis Damond Wilson, as a true verdict to
22 2018-GS-12-314 on the charge of homicide by child abuse, we,
23 the jury, find the defendant guilty. Certified by
24 foreperson Farrah Brown on September 6, 2019. If this is
25 your verdict please signify the raising of your right hands.

SENTENCING HEARING

1 THE COURT: Thank you, sir. Mr. Wilson, if you'll
2 please approach the bench. I will extend to you an
3 opportunity to say anything you would like to tell me.
4 Certainly I understand you disagree with the verdict but the
5 jury has spoken. Anything you would like to tell me in
6 regards to whatever sentence which I'm going to hand down?

7 THE DEFENDANT: No, sir. I would like to say I didn't
8 do this, they charged the wrong person. I never committed a
9 crime in my life, I wouldn't wait until I'm 30 to hurt my
10 child. That's all I can say.

11 THE COURT: Thank you, sir. All right. Having
12 considered the jury's verdict in this case and considering
13 all applicable circumstances which I've heard as well as the
14 tremendous discretion awarded to the Court in crafting a
15 sentence that responds to this entire situation, the
16 sentence of the Court is 40 years in the South Carolina
17 Department of Corrections. Good luck to you, sir.

18 (End of trial proceedings.)
19
20
21
22
23
24
25

DOCKET NO. 2018-GS-12-314

The State of South Carolina

County of Chester

COURT OF GENERAL SESSIONS

JUNE TERM 2018

THE STATE
vs.

Darryl Quan Travis Damond Wilson

RECEIVED
SEP 12 2019
SC Court of Appeals

WITNESSES

✓ Trista Baird (SLED)

ARREST WARRANT NUMBER/DOA

2018A1220100040 (DOA-2-9-18)

ACTION OF GRAND JURY

TRUEBILL

Foreperson of Grand Jury

Date: 6/5/18

VERDICT

TRUEBILL

Foreperson of Petit Jury

Date:

Indictment for

Homicide by Child Abuse

SC Code: § 16-3-85(A)(1)

CDR Code: 2356

Class: Felony EXM

STATE OF SOUTH CAROLINA)

INDICTMENT

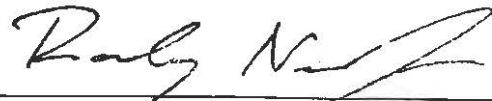
COUNTY OF CHESTER)

At a Court of General Sessions, convened on June 5, 2018, the Grand Jurors of Chester County present upon their oath:

HOMICIDE BY CHILD ABUSE

That Darryl Quan Travis Damond Wilson did in Chester County on or about or between October 31, 2017, cause the death of Minor [REDACTED], age two years, a child under the age of eleven, while committing child abuse or neglect upon the child, and the child's death occurred 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

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Chester
 STATE VS.
Darryl Quan Travis Damond Wilson

AKA: _____
 Race: BLACK Sex: M Age: 30
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Murder / Homicide by child abuse (20Y to Life)

INDICTMENT/CASE#: 2018GS12314

A/W#: 2018A1220100040

Date of Offense: 10/31/2017

S.C. Code § : 16-03-0085(A)(1)(B)(1)

CDR Code #: 2356

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

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 ☐ §17-25-45
 w/minor 1st or Lewd Act)

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: Lively, Candice 12123 Boyd, James SCB00824
 Lively, Candice SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 40 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	\$ 100.00
§ 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	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL

\$ 128.75

Clerk of Court/ Deputy Clerk: Sue H. Carpenter

Court Reporter: Mike Watkins

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

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: _____

SEP 12 2019

SC Court of Appeals

☐ 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.

Presiding Judge: [Signature]

Judge Code: 2168

Sentence Date: 9/6/19

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**Mar 10 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, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of March, 2021.