

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 _____

3 JONATHAN QUISANO,)

No. 66816

4 Appellant,)

5 v.)

6 THE STATE OF NEVADA,)

7 Respondent.)

Electronically Filed
Feb 17 2015 09:20 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

8 _____

9 **APPELLANT'S APPENDIX VOLUME I PAGES 001-250**

10

11 PHILIP J. KOHN
12 Clark County Public Defender
13 309 South Third Street
Las Vegas, Nevada 89155-2610

14 Attorney for Appellant

STEVE WOLFSON
Clark County District Attorney
200 Lewis Avenue, 3rd Floor
Las Vegas, Nevada 89155

CATHERINE CORTEZ MASTO
Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(702) 687-3538

Counsel for Respondent

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JONATHAN QUISANO
Case No. 66816

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FILED

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

JUSTICE COURT
LAS VEGAS NEVADA

THE STATE OF NEVADA,

BY

DEPUTY

Plaintiff,

JAH CASE NO: 13F09094X

-vs-

DEPT NO: 12

JONATHAN QUISANO #5991702,

Defendant.

CRIMINAL COMPLAINT

The Defendant above named having committed the crime of MURDER (Category A Felony - NRS 200.010, 200.030, 200.508), in the manner following, to-wit: That the said Defendant, on or about the 6th day of June, 2013, at and within the County of Clark, State of Nevada, did then and there, without authority of law and with malice aforethought, willfully and feloniously kill KHAYDEN QUISANO, a minor child being approximately 3 years of age, by subjecting the said KHAYDEN QUISANO to acts of child abuse, to-wit: by striking the head and/or body of the said KHAYDEN QUISANO with his hands and/or other unknown object and/or by shaking him and/or by throwing him against a hard surface and/or by other manner or means unknown, all of which resulted in the death of said KHAYDEN QUISANO.

All of which is contrary to the form, force and effect of Statutes in such cases made and provided and against the peace and dignity of the State of Nevada. Said Complainant makes this declaration subject to the penalty of perjury.

6/7/2013

13F09094X/cas
LVMPD EV# 1306063235
(TK12)

13F09094X
CRM
Criminal Complaint
2587728



**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. QUISANO, JONATHAN

Lead Atty: Public Defender

6/11/2013 8:00:00 AM Arraignment

Result: Matter Heard

| | | |
|-----------------|-----------------|-------------------|
| PARTIES | State of Nevada | State of Nevada |
| PRESENT: | Attorney | Public Defender |
| | Attorney | Banks, Jeff |
| | Defendant | QUISANO, JONATHAN |

Judge: Sullivan, Diana L.
Prosecutor: Daskas, Robert
Court Reporter: MacDonald, Kit
Court Clerk: Westbay, Stephanie

PROCEEDINGS

| | | | |
|-------------------|------------------------|-------------------|-------|
| Attorneys: | Banks, Jeff | QUISANO, JONATHAN | Added |
| | Public Defender | QUISANO, JONATHAN | Added |

Hearings: 7/22/2013 9:30:00 AM: Preliminary Hearing

Events: **Arraignment Completed**

Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint

Public Defender Appointed

Defense waives the 15 day rule

Bail Stands

Bail motion to possibly be filed by defense for consideration

Motion for Disclosure of Non-Public Information

Objection by defense

State not taking a position on motion

Motion Granted

Court to provide redacted version of requested documents

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

**7/17/2013 8:00:00 AM Further Proceeding - Not
Calendared**

Result: Off Calendar

**PARTIES
PRESENT:**

Judge: Sullivan, Diana L.
Court Clerk: Westbay, Stephanie

PROCEEDINGS

Hearings: 7/24/2013 8:00:00 AM: Status Check

Events: **Motion to Continue - Defense**

*Request via email
Motion granted with no objection by State*

Future Court Date Vacated

7/22/13

Confidential Document

Email - Motion to continue

Court Return Date

Review Date: 11/14/2013

Date set at defense request for Custody Status check

Custody Status Slip (No Custody Change)

Las Vegas Justice Court: Department 12
LVJC_Criminal_MinuteOrder

Case 13F09094X Prepared By: westbays
7/17/2013 12:34 PM

Justice Court, Las Vegas Township
Clark County, Nevada

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

7/24/2013 8:00:00 AM Status Check

Result: Matter Heard

| | | |
|---------------------|-----------------|-------------------|
| PARTIES PRESENT: | State of Nevada | State of Nevada |
| | Attorney | Public Defender |
| | Attorney | Banks, Jeff |
| | Defendant | Quisano, Jonathan |

Judge: Sullivan, Diana L.
Prosecutor: Daskas, Robert
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

Hearings: 9/23/2013 8:00:00 AM: Status Check

Events: **Side Bar Conference Held**

at the bench

Comment

Discovery issues

Bail Reset

*Bail Reset to: \$100,000 / 100,000
By stipulation of parties*

Bail Condition

If released on bail, Defendant ordered to not reside at the residence of nor have contact with his other minor child, Khaysen Quisano

Continued by Stipulation of Counsel

for status check on discovery

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

9/23/2013 8:00:00 AM Status Check

Result: Matter Heard

| | | |
|-----------------|-----------------|-------------------|
| PARTIES | State of Nevada | State of Nevada |
| PRESENT: | Attorney | Public Defender |
| | Attorney | Lemcke, Nancy L. |
| | Defendant | Quisano, Jonathan |

Judge: Sullivan, Diana L.
Prosecutor: Staudaher, Michael
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

| | | | |
|-------------------|--|-------------------|-------|
| Attorneys: | Lemcke, Nancy L. | Quisano, Jonathan | Added |
| Hearings: | 10/8/2013 8:00:00 AM: OTHER | | Added |
| Events: | Continued by Stipulation of Counsel <i>Continued for status check discovery and resetting of preliminary hearing</i> | | |

Las Vegas Justice Court: Department 12
LVJC_Criminal_MinuteOrder

Case 13F09094X Prepared By: westbays
9/23/2013 2:23 PM

**RIM
MAGED
CW**

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

10/8/2013 8:00:00 AM OTHER

Result: Matter Heard

| | | |
|------------------------|--------------------|-------------------|
| PARTIES | Attorney | Lemcke, Nancy L. |
| PRESENT: | Defendant | Quisano, Jonathan |
| Judge: | Sullivan, Diana L. | |
| Prosecutor: | Staudaher, Michael | |
| Court Reporter: | MacDonald, Kit | |
| Court Clerk: | Meccia, Cherie | |

PROCEEDINGS

Hearings: 11/14/2013 9:30:00 AM: Preliminary Hearing

Added

Events: **Comment**

Discovery has been provided to Defense

Comment

Court date set at request of Defense

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

11/14/2013 9:30:00 AM Preliminary Hearing

Result: Matter Continued

| | | |
|-------------------------|-----------------|---------------------|
| PARTIES PRESENT: | State of Nevada | State of Nevada |
| | Attorney | Public Defender |
| | Attorney | Reed, Norman Joseph |
| | Attorney | Lemcke, Nancy L. |
| | Defendant | Quisano, Jonathan |

Judge: Sullivan, Diana L.
Prosecutor: Edwards, Michelle
Court Reporter: MacDonald, Kit
Court Clerk: Westbay, Stephanie

PROCEEDINGS

| | | | |
|-------------------|---|-------------------|------------------------|
| Attorneys: | Reed, Norman Joseph | Quisano, Jonathan | Added |
| Exhibits: | Document, Photograph, Etc. (ID: 1) | Photo | Admitted |
| | Document, Photograph, Etc. (ID: 2) | Photo | Court Custody - Active |
| | Document, Photograph, Etc. (ID: 3) | Photo | Admitted |
| | Document, Photograph, Etc. (ID: 4) | Photo | Admitted |
| | Document, Photograph, Etc. (ID: 5) | Diagram | Admitted |
| Hearings: | 11/21/2013 1:00:00 PM: Preliminary Hearing | | Added |
| | 11/22/2013 11:00:00 AM: Preliminary Hearing | | Added |
| Events: | Preliminary Hearing | | |
| | <i>Motion to Exclude Witnesses and potential witnesses by Defense - Motion Granted after a brief canvass the persons in the Courtroom</i> | | |
| | <i>States Witnesses:</i> | | |
| | <i>Michael Casey, Trauma Surgeon, testified under oath.</i> | | |
| | <i>Fireman, Timothy Kline, testified under oath.</i> | | |
| | <i>Captain Mickey Pedrol, testified under oath and identified the defendant in open Court.</i> | | |
| | <i>EMT Patrick Burkhalter, testified under oath and identified the defendant in open Court.</i> | | |
| | <i>Christina Rodriguez testified under oath.</i> | | |
| | Court Continuance | | |
| | <i>States case in chief continued due to time</i> | | |
| | Custody Status Slip (No Custody Change) | | |

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

11/21/2013 1:00:00 PM Preliminary Hearing

Result: Matter Heard

| | | |
|-----------------|-----------------|---------------------|
| PARTIES | State of Nevada | State of Nevada |
| PRESENT: | Attorney | Public Defender |
| | Attorney | Read, Norman Joseph |
| | Attorney | Lemcke, Nancy L. |
| | Defendant | Quisano, Jonathan |

Judge: Sullivan, Diana L.
Prosecutor: Edwards, Michelle
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

| | | | |
|------------------|--|--------------------|----------|
| Exhibits: | Document, Photograph, Etc. (ID: 6) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 7) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 8) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 9) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 10) | <i>UMC Records</i> | Admitted |

Events: **State Calls Witnesses**
Dr Arthur Montes and DEtective Dolphis Boucher tesitified under oath

Court Continuance
States case in chieg continued for additional witnesses

Future Court Date Stands
11/22/13

**Justice Court, Las Vegas Township
Clark County, Nevada**

Court Minutes



13F09094X State of Nevada vs. Quisano, Jonathan

Lead Atty: Public Defender

11/22/2013 1:00:00 PM Preliminary Hearing

Result: Bound Over

| | | |
|-----------------|-----------------|---------------------|
| PARTIES | State of Nevada | State of Nevada |
| PRESENT: | Attorney | Public Defender |
| | Attorney | Reed, Norman Joseph |
| | Attorney | Lemcke, Nancy L. |
| | Defendant | Quisano, Jonathan |

Judge: Sullivan, Diana L.
Prosecutor: Edwards, Michelle
Court Reporter: Delucca, Gerri
Court Clerk: Westbay, Stephanie

PROCEEDINGS

| | | | |
|------------------|--|-------------------|----------|
| Exhibits: | Document, Photograph, Etc. (ID: 11) | <i>Photograph</i> | Admitted |
| | Document, Photograph, Etc. (ID: 12) | <i>Photograph</i> | Admitted |
| | Document, Photograph, Etc. (ID: 13) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 14) | <i>Photo</i> | Admitted |
| | Document, Photograph, Etc. (ID: 15) | <i>Photograph</i> | Admitted |

**Justice Court, Las Vegas Township
Clark County, Nevada**

Events: Preliminary Hearing

States Witnesses: Dr. Lisa Gavin testifies under oath

State Rests.

Defendant Advised of His Statutory Rights and Waives the Right to a Sworn or Unsworn Statement

Defense Rests

Both parties make closing arguments

**Oral Motion by State to Amend Complaint by
Interlineation**

Motion denied - State rested their case

Bound Over to District Court as Charged

Review Date: 11/23/2013

With language stricken from line 15 as noted by the Court on the record

Oral Motion

Defense motion for Bail reduction

Objection by State

Motion granted

Bail Reset

Bail Reset to: \$70,000 / 70,000

Bail Condition - Only Release to

House Arrest if bail posted despite the nature of the charges. All other qualifications apply.

If released to House Arrest, defendant to have no contact with Khaysen Quisano.

Custody Status Slip (Remand to Custody)

District Court Appearance Date Set

12/3/13 at 9:30am

Case Closed - Bound Over

Plea/Disp: 001: Murder, 1st degree, sex asslt/abuse child < 14 [55203]

Disposition: Bound Over to District Court as Charged (PC Found)

ORIGINAL

EXMT

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
ROBERT J. DASKAS
Chief Deputy District Attorney
Nevada Bar #004963
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

2013 JUL -3 A 8:59

CLERK OF DISTRICT COURT
LAS VEGAS, NEVADA
CLERK

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

-vs-

JONATHAN QUISANO,
#5991702

Defendant.

CASE NO: 13F09094X

DEPT NO: 12

EX PARTE MOTION FOR RELEASE OF MEDICAL RECORDS

COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, Clark County District Attorney, through ROBERT J. DASKAS, Chief Deputy District Attorney, and moves this Honorable Court for an Order Releasing which includes protected health information being held by UNIVERSITY MEDICAL CENTER consisting of any and all medical records for patient KHAYDEN QUISANO, DOB: 9/18/09, concerning diagnosis, prognosis and/or treatment given or provided on or about 6/6/13, to be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case charging the crime of MURDER (Category A Felony - NRS 200.010, 200.030, 200.508)

Pursuant to 45 CFR 164.512(f), Movant represents that the information sought is relevant and material to a legitimate law enforcement inquiry; that the request is specific and

///

///

13F09094X
EXPMO
Ex Parte Motion
2071147

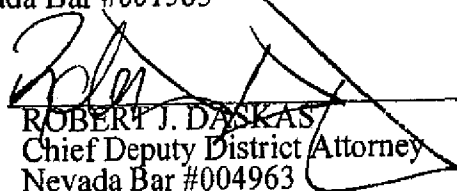


1 limited in scope to the extent reasonably practicable in light of the purpose for which the
2 information is sought; and that de-identified information could not reasonably be used.

3 DATED this 2nd day of July, 2013.

4
5 STEVEN B. WOLFSON
6 Clark County District Attorney
7 Nevada Bar #001565

8 BY

9 
10 ROBERT J. DASKAS
11 Chief Deputy District Attorney
12 Nevada Bar #004963
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ORIGINAL

1 **ORDER**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 ROBERT J. DASKAS
6 Chief Deputy District Attorney
7 Nevada Bar #004963
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

2013 JUL -3 A 9:39

CLERK OF COURT
CLARK COUNTY, NEVADA
BY _____

7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

9 THE STATE OF NEVADA,

10 Plaintiff,

11 -vs-

12 JONATHAN QUISANO,
13 #5991702

14 Defendant.

CASE NO: 13F09094X

DEPT NO: 12

15 **ORDER RELEASING MEDICAL RECORDS**

16 Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark
17 County District Attorney, by and through ROBERT J. DASKAS, Chief Deputy District
18 Attorney, that certain records containing protected health information are necessary for the
19 prosecution of the above-captioned criminal case are being held in the custody of
20 UNIVERSITY MEDICAL CENTER; that said information is relevant and material to a
21 legitimate law enforcement inquiry; that the application was specific and limited in scope to
22 the extent reasonably practicable in light of the purpose for which the information is sought;
23 and that de-identified information could not reasonably be used;

24 ///

25 ///

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13F09094X
ORD
Order
2671150



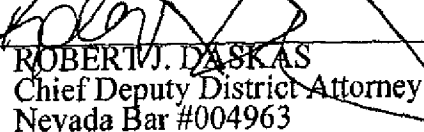
1 NOW THEREFORE, pursuant to 45 CFR 164.512(f), and GOOD CAUSE
2 APPEARING, UNIVERSITY MEDICAL CENTER, shall release to a representative of the
3 DISTRICT ATTORNEY'S OFFICE, any and all medical records concerning diagnosis,
4 prognosis, and/or treatment of KHAYDEN QUISANO, whose date of birth is 9/18/09, for
5 the time period 6/6/13.

6 IT IS HEREBY ORDERED.

7 DATED this ^{3rd} - 3 2013 day of July, 2013.

8 
9 JUSTICE OF THE PEACE
10

11
12 STEVEN B. WOLFSON
13 Clark County District Attorney
14 Nevada Bar #001565

15 BY 
16 ROBERT J. DASKAS
17 Chief Deputy District Attorney
18 Nevada Bar #004963
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● ORIGINAL ●

1 EXPT

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

2013 SEP 23 A 7 38

JUSTICE COURT
LAS VEGAS NEVADA

BY _____ DEPUTY

7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12 Plaintiff,

13 -vs-

14 JONATHAN QUISANO
15 #5991702

16 Defendant.

CASE NO: 13F09094X

DEPT NO: 12

17 EX PARTE MOTION FOR RELEASE OF HEALTH RECORDS

18
19 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,
20 through MICHAEL V. STAUDAHER, Chief Deputy District Attorney, and moves this
21 Honorable Court for an Order Releasing evidence being held by **CLARK COUNTY FIRE**
22 **DEPARTMENT** to include any and all correspondence, medical, billing and other records,
23 pertaining to the care, treatment and transport of any and all persons contacted at 4720 Trim
24 Water Court, Las Vegas, Nevada, on June 6, 2013 at approximately 1806 hours, be released
25 to a a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of
26 prosecuting the above referenced case. This order includes all incident logs, call logs,
27 identification of any involved personnel or persons at the scene, any event records including
28

13F09094X
EXPTD
Ex Parte Motion
2966465



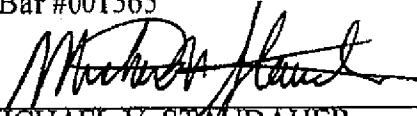
1 911/311 calls, radio traffic, diagrams, photographs taken and all other records pertaining to
2 this incident.

3 Movant represents that the information sought is relevant and material to a legitimate
4 law enforcement inquiry; that the request is specific and limited in scope to the extent
5 reasonably practicable in light of the purpose for which the information is sought; and that
6 information which does not reveal the individual's identity could not reasonably be
7 substituted for the information sought.

8 DATED this 18TH day of September, 2013.

9
10 STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565

11
12 BY


13 MICHAEL V. SPAUDAHER
Chief Deputy District Attorney
Nevada Bar #008273
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● ORIGINAL ●

1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

FILED

2013 SEP 23 P 2:56

JUSTICE COURT
LAS VEGAS, NEVADA

BY _____
DEPUTY

12 JUSTICE COURT, LAS VEGAS TOWNSHIP
13 CLARK COUNTY, NEVADA

14 THE STATE OF NEVADA,

15 Plaintiff,

16 -vs-

17 JONATHAN QUISANO
18 #5991702

19 Defendant.

CASE NO: 13F09094X

DEPT NO: 12

20 **ORDER RELEASING HEALTH RECORDS**

21 Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark
22 County District Attorney, by and through MICHAEL V. STAUDAHER, Chief Deputy
23 District Attorney, that certain evidence in Case No. 13F98984X, held in the custody of
24 **CLARK COUNTY FIRE DEPARTMENT** needs to be released to a representative of the
25 **DISTRICT ATTORNEY'S OFFICE** for the purpose of prosecuting the above referenced
26 case.

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13F09094X
ORD
Order
2970835



1 IT IS HEREBY ORDERED that the evidence in the custody of **CLARK COUNTY**
2 **FIRE DEPARTMENT** including any and all correspondence, medical, billing and other
3 records, pertaining to the care, treatment and transport of any and all persons contacted at
4 4720 Trim Water Court, Las Vegas, Nevada, on June 6, 2013 at approximately 1806 hours,
5 be released to a representative of the DISTRICT ATTORNEY'S OFFICE for the purpose of
6 prosecuting the above referenced case. This order includes all incident logs, call logs,
7 identification of any involved personnel or persons at the scene, any event records including
8 911/311 calls, radio traffic, diagrams, photographs taken and all other records pertaining to
9 this incident.

10 DATED this 23rd day of September, 2013.

11 Diana L. Sullivan
12 JUSTICE OF THE PEACE
13

14 STEVEN B. WOLFSON
15 DISTRICT ATTORNEY
16 NEVADA BAR #001565

17 BY

Michael V. Stauda
18 MICHAEL V. STAUDAHER
19 Chief Deputy District Attorney
20 Nevada Bar #008273
21
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ORIGINAL

FILED

STEVEN B. WOLFSON
Clark County District Attorney
Nevada Bar #001565
MICHAEL STAUDAHER
Chief Deputy District Attorney
Nevada Bar #008273
200 Lewis Avenue
Las Vegas, Nevada 89155-2212
(702) 671-2500
Attorney for Plaintiff

OCT 8 10 23 AM '13

JUDICIAL COURT
LAS VEGAS, NEVADA

BY _____
DEPUTY

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

CASE NO: 13F09094X

DEPT NO: 12

-vs-

JONATHAN QUISANO,
#5991702,

Defendant.

RECEIPT OF COPY

RECEIPT OF COPY of the following attached listing of documents in Case No.
13F09094X, DEFENDANT JONATHAN QUISANO is hereby acknowledged this
7th day of October, 2013.

ATTORNEY FOR DEFENDANT
JONATHAN QUISANO

BY *Sara J. Russo*

PREPARED BY:
STEVEN B. WOLFSON
District Attorney
Nevada Bar #001565

BY *Michael V. Staudaher*
MICHAEL V. STAUDAHER
Chief Deputy District Attorney
Nevada Bar #008273

RECEIVED
OCT 9 2013

13F09094X
RECOP
Receipt of Copy
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Produced on October 4, 2013:

1. **Discovery Designated "DA - Quisano" Bates numbers "1 → 36" (inclusive) – Autopsy Report**
2. **Photos – Autopsy – Khayden Quisano – Color – 243 Images**
3. **Discovery Designated "DA - Quisano" Bates numbers "37 → 69" (inclusive) – Clinical Psychological Evaluation – Hawaii**
4. **Discovery Designated "DA - Quisano" Bates numbers "70 → 94" (inclusive) – CPS Records – Hawaii**
5. **Discovery Designated "DA - Quisano" Bates numbers "95 → 135" (inclusive) – Medical Records – Khayden Quisano - Hawaii**
6. **Radiology Records – Films and Reader – Hawaii – 320MB**
7. **Discovery Designated "DA - Quisano" Bates numbers "136 → 292" (inclusive) – Medical Records – Khayden Quisano – COR UMC**
8. **Discovery Designated "DA - Quisano" Bates numbers "293 → 342" (inclusive) – Medical Records – Khayden Quisano – UMC Meds Provided to LVMPD**
9. **Photos – Crime Scene – LVMPD – Color - 673 Images**
9. **Discovery Designated "DA - Quisano" Bates numbers "343 → 362" (inclusive) – Search Warrant – Apple and Samsung Devices**
10. **Discovery Designated "DA - Quisano" Bates numbers "363 → 383" (inclusive) – Search Warrant – 4720 Trimwater**
11. **Transcriptions of the following interviews:**
 - **Interview – Carla Rodrigues – 06/06/13 at 2219 hours – 20 pgs**
 - **Interview – Christina Rodrigues – 06/06/13 at 2125 hours – 41 pgs**
 - **Interview – Jonathan Quisano – 06/06/13 at 2118 hours – 45 pgs**
 - **Interview – Lynelle Rodrigues – 06/06/13 ending at 2152 hours – 28 pgs**

- Interview – Mark Willingham – 06/06/13 at 2152 hours – 14 pgs
- Interview – Mickey Pedrol – 06/12/13 at 2053 hours - 10 pgs
- Interview – Patrick Burkhalter – 06/12/13 at 1900 hours – 12 pgs
- Interview – Timothy Kline – 06/12/13 at 2012 hours – 17 pgs
12. Discovery Designated “DA - Quisano” Bates numbers “384 → 385” (inclusive) – Arrest Report
13. Discovery Designated “DA - Quisano” Bates number “386” – Booking Photo – Jonathan Quisano
14. Discovery Designated “DA - Quisano” Bates numbers “387 → 392” (inclusive) – Case Report
15. Discovery Designated “DA - Quisano” Bates number “393” – Consent to Search – Christina Rodrigues
16. Discovery Designated “DA - Quisano” Bates numbers “364 → 395” (inclusive) – Diagrams – Crime Scene
17. Discovery Designated “DA - Quisano” Bates numbers “396 → 398” (inclusive) – Incident Recall
18. Discovery Designated “DA - Quisano” Bates number “399” – Hand Written Voluntary Statement – Jonathan Quisano
19. Discovery Designated “DA - Quisano” Bates numbers “400 → 403” (inclusive) – Las Vegas Fire Records
20. Photos – Crime Scene – Couch – Color – 5 Images

Please Note: The State formally invites the defense to review the State’s case file in the instant matter. This invitation is ongoing and is intended to make all discovery in the State’s possession available and accessible to the defense. In addition, the State, at the request of the defense, will facilitate a review of the case file information housed at the Las Vegas Metropolitan Police Department (LVMPD) under the following event number: #130606-3235. In addition, the State, at the request of defense counsel, will also facilitate access to all evidence at the evidence vault which has been impounded under event number: #130606-3235.

It is the desire of the State to provide the defense with full access to all discovery in the possession of the State. That access is available now.

1 The State acknowledges that its discovery obligations are continuing and
2 the State will make all subsequent discovery received, if any, available to
3 the defense in compliance with the requirements of NRS 174.235, as well
4 as Brady v. Maryland, 373 U.S. 83 (1963) and Giglio v. United States, 405
5 U.S. 150 (1972).

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The State also takes this opportunity to formally request reciprocal
discovery from the defense and for the defense to provide timely access to
any discovery that it intends to use at trial.

1 **EXPT**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

2013 NOV -7 P 1:08

JUSTICE COURT
LAS VEGAS, NEVADA

BY _____
DEPUTY

JUSTICE COURT, LAS VEGAS TOWNSHIP
CLARK COUNTY, NEVADA

11 THE STATE OF NEVADA,
12 Plaintiff,

13 -VS-

14 JONATHAN QUISANO
15 #5991702

16 Defendants.

CASE NO: 13F09094X

DEPT NO: 12

13F09094X
EXPMO
Ex Parte Motion
3134462



17 EX PARTE MOTION FOR RELEASE OF HEALTH RECORDS

18 COMES NOW, the State of Nevada, by STEVEN B. WOLFSON, District Attorney,
19 through MICHAEL V. STAUDAHER, Chief Deputy District Attorney, and moves this
20 Honorable Court for an Order Releasing evidence being held by **UNIVERSITY MEDICAL**
21 **CENTER** to include any and all correspondence, medical, billing and other records,
22 pertaining to the care and treatment of patient KHAYDEN QUISANO (DOB: 09/18/09),
23 concerning prognosis and/or treatment on or about 6/6/13, to be released to a representative
24 of the DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above
25 referenced case. This order includes any and all radiology reports and films, as well as any
26 records of tests or procedures performed, operative reports and findings and any images
27 obtained during the course of on or after the June 6, 2013 admission. This order also
28 includes any record of any subsequent admission and/or outpatient or other treatment

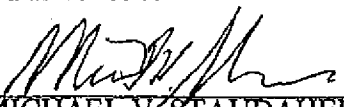
1 performed on or to patient KHAYDEN QUISANO on or after June 6, 2013 admission.

2 Movant represents that the information sought is relevant and material to a legitimate
3 law enforcement inquiry; that the request is specific and limited in scope to the extent
4 reasonably practicable in light of the purpose for which the information is sought; and that
5 information which does not reveal the individual's identity could not reasonably be
6 substituted for the information sought.

7 DATED this 7th day of November, 2013.

8 STEVEN B. WOLFSON
9 Clark County District Attorney
Nevada Bar #001565

10 BY

11 
12 MICHAEL V. STAUDAHER
13 Chief Deputy District Attorney
14 Nevada Bar #008273
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1 **ORDR**

2 STEVEN B. WOLFSON
3 Clark County District Attorney
4 Nevada Bar #001565
5 MICHAEL V. STAUDAHER
6 Chief Deputy District Attorney
7 Nevada Bar #008273
8 200 Lewis Avenue
9 Las Vegas, Nevada 89155-2212
10 (702) 671-2500
11 Attorney for Plaintiff

2013 NOV -7 P 1:10

JUSTICE COURT
LAS VEGAS, NEVADA
BY _____
DEPUTY

7 JUSTICE COURT, LAS VEGAS TOWNSHIP
8 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 -vs-

13 JONATHAN QUISANO
14 #5991702

15 Defendants.

CASE NO: 13F09094X

DEPT NO: 12

16 ORDER RELEASING HEALTH RECORDS

17
18 Upon the ex parte application and representation of STEVEN B. WOLFSON, Clark
19 County District Attorney, by and through MICHAEL V. STAUDAHER, Chief Deputy
20 District Attorney, that certain evidence in Case No. 13F09094X, held in the custody of
21 UNIVERSITY MEDICAL CENTER needs to be released to a representative of the
22 DISTRICT ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced
23 case.

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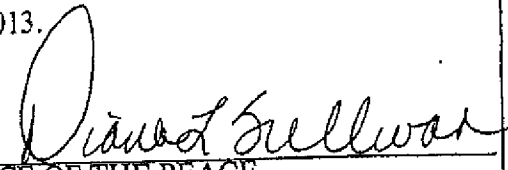
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13F09094X
ORD
Order
3134467




1 IT IS HEREBY ORDERED that the evidence in the custody of UNIVERSITY
2 MEDICAL CENTER including any and all correspondence, medical, billing and other
3 records, pertaining to the care and treatment of patient KHAYDEN QUISANO (DOB:
4 09/18/09), admitted on June 6, 2013, be released to a representative of the DISTRICT
5 ATTORNEY'S OFFICE for the purpose of prosecuting the above referenced case. This
6 order includes any and all radiology reports and films, as well as any records of tests or
7 procedures performed, operative reports and findings and any images obtained during the
8 course of or after June 6, 2013, admission. This order also includes any records of any
9 subsequent admission and/or outpatient treatment performed on or to patient KHAYDEN
10 QUISANO for the time period of on or after June 6, 2013.

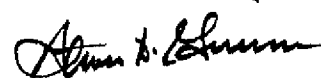
11 DATED this 7th day of November, 2013.

12 
13 JUSTICE OF THE PEACE
14

15 STEVEN B. WOLFSON
16 DISTRICT ATTORNEY
17 NEVADA BAR #001565

18 BY


19 MICHAEL V. STAUDAHER
20 Chief Deputy District Attorney
21 Nevada Bar #008273
22
23
24
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CLERK OF THE COURT

1 CASE NO. C294266

2

3 IN THE JUSTICE COURT OF LAS VEGAS TOWNSHIP

4 CLARK COUNTY, STATE OF NEVADA

5

6 STATE OF NEVADA,

7 PLAINTIFF,

8 VS.

9 JONATHAN QUISANO,

10 DEFENDANT,

11

12 REPORTER'S TRANSCRIPT OF PRELIMINARY HEARING

13 VOLUME I

14 BEFORE THE HONORABLE DIANA L. SULLIVAN, JUSTICE OF THE PEACE

15

16 THURSDAY, NOVEMBER 14, 2013

17 10:13 O'CLOCK A.M.

18

19 FOR THE PLAINTIFF:

MICHELLE EDWARDS,
MICHAEL V. STAUDAHER,
DEPUTY DISTRICT ATTORNEYS

20

21 FOR THE DEFENDANT:

NANCY L. LEMCKE,
NORMAN J. REED,
DEPUTY PUBLIC DEFENDERS

22

23

* * * *

24 REPORTED BY: KIT MACDONALD, C.S.R.
CERTIFICATE NO. 65

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I N D E X

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E X H I B I T S

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| MARKED | ADMITTED |
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EXHIBIT NO. 3
EXHIBIT NO. 4
EXHIBIT NO. 5

* * * *

1 LAS VEGAS, CLARK COUNTY, NEVADA, THURSDAY, NOVEMBER 14, 2013

2

3

10:12 O'CLOCK A.M.

4

5

* * * * *

6

7 **THE COURT:** ALL RIGHT. THIS IS THE DATE AND TIME FOR THE
8 PRELIMINARY HEARING OF JONATHAN QUISANO, 13F09094.

9 MR. QUISANO IS BEING CHARGED WITH A CATEGORY **A** FELONY,
10 MURDER, ALLEGEDLY COMMITTED ON JUNE 6TH OF 2013, PERTAINING TO
11 KHAYDEN QUISANO.

12 IS THE STATE READY TO PROCEED?

13 **MS. EDWARDS:** YES, YOUR HONOR.

14 **THE COURT:** CAN YOU STATE YOUR APPEARANCE FOR THE RECORD?

15 **MS. EDWARDS:** GOOD MORNING, YOUR HONOR, MICHELLE EDWARDS
16 FOR THE STATE.

17 **THE COURT:** THANK YOU. IS THE DEFENSE READY TO PROCEED?

18 **MS. LEMCKE:** WE ARE, YOUR HONOR. NANCY LEMCKE ON BEHALF
19 OF MR. QUISANO, AND -- UM -- ALONG WITH NORM REED.

20 **THE COURT:** ALL RIGHT. AND MR. QUISANO IS PRESENT, IN
21 CUSTODY, AT COUNSEL TABLE.

22 I HAVE TOLD COUNSEL THAT I MIGHT HAVE AN APPLICATION FOR
23 PROTECTIVE ORDER TO HANDLE, IT SHOULD TAKE FIVE MINUTE OR
24 LESS, REALLY, OTHER THAN INTERRUPTING THE PROCEEDINGS, WE'LL
25 JUST KEEP DRIVING ON.

1 SO MISS EDWARDS, YOU CAN CALL YOUR FIRST WITNESS.

2 **MS. EDWARDS:** YOUR HONOR, THE STATE CALLS MICHAEL CASEY.

3 I BELIEVE THE DEFENSE WANTED TO ADDRESS THE EXCLUSIONARY

4 RULE.

5 **MS. LEMCKE:** I DID.

6 YOUR HONOR, JUST -- IT'S MY UNDERSTANDING THAT THERE ARE

7 SOME -- UM -- INDIVIDUALS PRESENT IN THE COURTROOM, SOME OF

8 WHOM AT LEAST I KNOW HAVE GIVEN WITNESS STATEMENTS. WELL, I

9 SHOULDN'T SAY I KNOW, I BELIEVE MAY HAVE GIVEN A WITNESS

10 STATEMENT IN THIS CASE, AND MAY ULTIMATELY BECOME WITNESSES IN

11 THIS MATTER. SO TO THE EXTENT THAT THERE IS ANYBODY HERE --

12 UM -- RELATING TO THIS PARTICULAR CASE, I WOULD ASK THAT THEY

13 BE EXCLUDED FROM THE COURTROOM AT THIS POINT.

14 **THE COURT:** MISS EDWARDS?

15 **MS. EDWARDS:** NO OBJECTION.

16 **THE COURT:** ALL RIGHT. IF YOU -- SO, DO YOU KNOW WHO

17 THOSE PEOPLE ARE, BECAUSE THERE MIGHT JUST PEOPLE BE HERE

18 OBSERVING OR SUPPORTING.

19 **MS. LEMCKE:** YEAH, THAT -- THAT'S FINE. BUT IF

20 THEY'RE -- I DON'T KNOW, BECAUSE I'D HAVE TO ACTUALLY CANVASS

21 THE GALLERY, AND I HAVEN'T DONE THAT. BUT I DID ASK MY

22 CLIENT, JUST VERY BRIEFLY, IF THERE WAS ANYBODY THAT HE

23 RECOGNIZED, AND HE INDICATED THAT THERE WERE SOME FAMILY

24 MEMBERS HERE, AND I KNOW THAT THERE WERE SEVERAL FAMILY

25 MEMBERS WHO HAVE GIVEN WITNESS STATEMENTS, SO I CAN'T, WITHOUT

1 ACTUALLY GOING ONE BY ONE AND IDENTIFYING THEM, TELL YOU WHO'S
2 WHO, AND WHAT THEY MAY OR MAY NOT KNOW ABOUT THE CASE, BUT --
3 UM -- IF THE JUDGE --
4 **THE COURT:** OKAY. WELL, MISS EDWARDS SHOULD KNOW THAT --
5 **MS. EDWARDS:** YOUR HONOR --
6 **THE COURT:** -- WHO MIGHT BE POTENTIAL WITNESSES FOR THE
7 STATE OR THE DEFENSE.
8 **MS. EDWARDS:** YOUR HONOR, OF THE PEOPLE WHO REMAIN IN THE
9 COURTROOM, I AM NOT FAMILIAR WITH ANY OF THOSE INDIVIDUALS. I
10 DO KNOW THEY ARE FAMILY MEMBERS, THEY ARE NOT UNDER SUBPOENA
11 TODAY, THOUGH THEY MAY BE WITNESSES IN THE LONG RUN, DEPENDING
12 ON HOW FAR THIS CASE GOES.
13 **THE COURT:** HAVE THEY -- HAVE PEOPLE IN THE COURTROOM
14 TODAY PROVIDED WITNESS STATEMENTS?
15 **MS. EDWARDS:** NOT THAT I'M AWARE OF.
16 **MS. LEMCKE:** WELL, IT'S MY UNDER -- WELL, CAN I -- MAY I
17 ASK?
18 **THE COURT:** YES.
19 **MS. LEMCKE:** IS THERE ANYBODY HERE THAT'S RELATED TO THE
20 QUISANO MATTER? COULD YOU IDENTIFY YOURSELF? OKAY.
21 **THE COURT:** JUST --
22 **MS. LEMCKE:** OKAY.
23 **THE COURT:** -- CAN YOU PROVIDE YOUR NAMES? WE'RE TRYING
24 TO FIGURE OUT IF YOU NEED TO BE EXCLUDED FROM THE -- FROM THE
25 PROCEEDINGS OR NOT, SO --

1 MS. LEMCKE: I HAVEN'T MET WITH THE PEOPLE, THAT'S WHY I
2 JUST DON'T RECOGNIZE ANYBODY.

3 THE COURT: RIGHT, I UNDERSTAND.

4 COULD YOU PROVIDE US YOUR NAMES?

5 MR. SAN NICHOLAS: BILL SAN NICHOLAS.

6 MS. LEMCKE: I'M SORRY?

7 MR. SAN NICHOLAS: BILL SAN NICHOLAS.

8 MS. LEMCKE: OKAY. CAN I ASK, DID YOU -- HAVE YOU GIVEN
9 A WITNESS STATEMENT --

10 MR. SAN NICHOLAS: NO.

11 MS. LEMCKE: -- TO THE POLICE IN THIS -- OKAY.

12 MR. SAN NICHOLAS: NO.

13 MS. LEMCKE: AND YOUR NAME, PLEASE?

14 MRS. SAN NICHOLAS: VERNA SAN NICHOLAS.

15 MS. LEMCKE: AND HAVE YOU GIVEN ANY STATEMENTS OR
16 ANYTHING --

17 MRS. SAN NICHOLAS: NO.

18 MS. LEMCKE: -- TO THE POLICE REGARDING -- OKAY.

19 AND GOING DOWN THE LINE?

20 MR. RODRIGUES: PATRICK RODRIGUES, TINA'S DAD, CHRISTINA
21 RODRIGUES'S DAD.

22 MS. LEMCKE: OKAY.

23 MR. RODRIGUES: MY GRANDSON --

24 MS. LEMCKE: KHAYDEN?

25 MR. RODRIGUES: -- KHAYDEN.

1 **MS. LEMCKE:** KHAYDEN, OKAY. AND DID YOU GIVE A WITNESS
2 STATEMENT TO LAW ENFORCEMENT?
3 **MR. RODRIGUES:** NO.
4 **THE COURT:** YOU DID NOT?
5 **MR. RODRIGUES:** NO.
6 **MS. LEMCKE:** OKAY. UM -- GOING DOWN THE LINE.
7 **MS. D. RODRIGUES:** DENISE RODRIGUES.
8 **MS. LEMCKE:** AND YOU ARE?
9 **THE REPORTER:** I'M SORRY, I CAN'T HEAR HER.
10 **THE COURT:** SHE'S WITH HIM. SHE'S WITH THE GRAND --
11 GRANDFATHER.
12 **MS. LEMCKE:** AND -- UM -- DID YOU GIVE ANY WITNESS
13 STATEMENTS OR TAKE PART IN THE INVESTIGATION AT ALL?
14 **MS. D. RODRIGUES:** NO.
15 **MS. LEMCKE:** OKAY. AND MR. RODRIGUES, LET ME ASK THAT OF
16 YOU, DID YOU TAKE PART IN THE INVESTIGATION AT ALL? WERE YOU
17 CONTACTED BY LAW ENFORCEMENT AT ALL REGARDING THIS MATTER?
18 **MR. RODRIGUES:** I WAS CONTACT -- CONTACTED, I BROUGHT THE
19 KEYS TO THE HOUSE, BECAUSE I DON'T LIVE IN THAT HOUSE.
20 **MS. LEMCKE:** OH, OKAY. BUT YOU HAD KEYS THAT HAD ACCESS
21 TO IT?
22 **MR. RODRIGUES:** YEAH. BECAUSE I'M THE OWNER OF THE
23 HOUSE, SO YEAH.
24 **MS. LEMCKE:** OKAY. UM -- AND GOING DOWN?
25 **MR. WILLINGHAM:** MARK WILLINGHAM.

1 **MS. LEMCKE:** OKAY. I KNOW I HAVE A STATEMENT FROM
2 MR. WILLINGHAM.
3 OKAY. AND WHAT'S YOUR NAME?
4 **MS. L. RODRIGUES:** LYNELLE RODRIGUES.
5 **MS. LEMCKE:** AND DID YOU GIVE A STATEMENT TO THE POLICE?
6 **MS. L. RODRIGUES:** ONLY THAT NIGHT WHEN WE WERE THERE. I
7 MEAN --
8 **MR. WILLINGHAM:** WE WERE THERE THAT NIGHT.
9 **MS. L. RODRIGUES:** THEY WERE ASKING QUESTIONS.
10 **MS. LEMCKE:** THEY WERE, OKAY.
11 AND MR. WILLINGHAM, I DO BELIEVE I HAVE A TAPED
12 STATEMENT --
13 **MR. WILLINGHAM:** NO.
14 **MS. LEMCKE:** I HAVE A FILE ON YOU, INTERESTINGLY ENOUGH.
15 **MS. L. RODRIGUES:** I'M KHAYDEN'S GRAND AUNTIE, AND I
16 DIDN'T GIVE ANY.
17 **MS. LEMCKE:** ANY KIND OF STATEMENT, OKAY.
18 HAVE YOU BEEN CONTACTED AT ALL BY LAW ENFORCEMENT
19 REGARDING THIS MATTER?
20 **MS. L. RODRIGUES:** NO.
21 **MS. LEMCKE:** JUDGE, I GUESS MY POSITION WOULD BE THAT
22 ANYBODY WHO'S BEEN CONTACTED BY LAW ENFORCEMENT RELATIVE TO
23 THIS MATTER -- UM -- WHETHER THEY GAVE A FORMAL TAPED
24 STATEMENT OR NOT, BE EXCLUDED, JUST IN CASE THEY MIGHT HAVE
25 INFORMATION THAT MIGHT COME UP LATER AT TRIAL. I'D HATE TO

1 HAVE THEM SIT THROUGH AND HEAR ALL THE TESTIMONY THAT'S GOING
2 TO BE PROVIDED TODAY, AND HAVE THAT SOMEHOW OR ANOTHER, EITHER
3 INADVERTENTLY OR INTENTIONALLY IMPACT WHAT THEY MIGHT SAY
4 LATER. SO -- UM -- TO THE EXTENT THAT ANYBODY'S HAD CONTACT
5 WITH LAW ENFORCEMENT REGARDING THIS, I WOULD ASK THAT THEY BE
6 EXCLUDED.

7 AS TO THE OTHER FAMILY MEMBERS OR FRIENDS WHO HAVE NOT
8 BEEN CONTACTED BY LAW ENFORCEMENT IN ANYWAY, OR HAD ANYTHING
9 TO DO WITH THE RESPONSE -- UM -- ON THIS PARTICULAR CASE, THEN
10 I DON'T HAVE A PROBLEM WITH THEM STAYING.

11 **THE COURT:** OKAY. SO MR. WILLINGHAM AND THE PERSON
12 SITTING NEXT TO HIM.

13 **MR. WILLINGHAM:** SHE'S THE GRANDMOTHER.

14 **THE COURT:** SPEAKING LOW, I CAN'T REALLY HEAR A WORD, DID
15 THEY SAY THAT THEY -- UM --

16 **MR. WILLINGHAM:** WE WERE THERE THAT NIGHT.

17 **THE COURT:** -- SOMETHING WAS -- OKAY. I DON'T WANT YOU
18 TO LIKE JUST --

19 **MR. WILLINGHAM:** OH.

20 **THE COURT:** I DON'T WANT YOU TO LIKE TELL ME WHAT
21 HAPPENED, BUT I -- YOU WERE -- YOU MAY HAVE SOME INFORMATION
22 ABOUT THIS CASE?

23 **MR. WILLINGHAM:** WE PICKED UP MAIL, AND WE NOTICED THE
24 POLICE WERE THERE, AND WE STAYED OUTSIDE. WE DIDN'T HAVE ANY
25 INFORMATION ON THE CASE. WE WEREN'T --

1 **THE COURT:** AND THEY DIDN'T -- THEY DIDN'T INTERVIEW YOU?
2 **MR. WILLINGHAM:** NO.
3 **THE COURT:** THE POLICE DID NOT INTERVIEW YOU?
4 **MR. WILLINGHAM:** UM --
5 **MS. LEMCKE:** THEY DID.
6 **MR. WILLINGHAM:** WE -- WE TALKED TO --
7 **THE COURT:** LET ME SEE WHAT YOU HAVE, MISS LEMCKE.
8 **MR. WILLINGHAM:** WE WERE THERE THE WHOLE TIME.
9 **THE COURT:** OKAY. ALL RIGHT.
10 **MS. LEMCKE:** MAY I APPROACH?
11 **THE COURT:** YES.
12 **MS. LEMCKE:** THIS IS A DIFFERENT -- IS YOUR FIRST NAME
13 MARK?
14 **MR. WILLINGHAM:** YES.
15 **MS. LEMCKE:** OKAY.
16 AND, JUDGE, JUST FOR THE RECORD, I'M HANDING YOU WHAT
17 PURPORTS TO BE A TAPED STATEMENT INTERVIEW WITH DETECTIVE
18 KISSNER (PHONETIC) -- UM -- AND MR. WILLINGHAM.
19 (DISCUSSION BETWEEN MS. LEMCKE AND MS. EDWARDS.)
20 **THE COURT:** OKAY. SO YOUR REQUEST IS THAT MR. WILLINGHAM
21 BE EXCLUDED?
22 **MS. LEMCKE:** AND MR -- MA'AM, FORGIVE ME, BUT I JUST
23 CAN'T REMEMBER EVERYBODY'S NAMES. WILL YOU TELL ME YOUR NAME
24 AGAIN, PLEASE?
25 **MS. L. RODRIGUES:** LYNELLE RODRIGUES.

1 **MS. LEMCKE:** LYNELLE RODRIGUES?
2 AND I HAVE -- OKAY. I HAVE A STATEMENT, WOULD YOUR HONOR
3 LIKE TO SEE IT? I HAVE A TAPED STATEMENT --
4 **THE COURT:** YES.
5 **MS. LEMCKE:** -- AGAIN PURPORTING TO BE WITH DETECTIVE
6 KISSNER INTERVIEWING LYNELLE RODRIGUES, TOO, IF I MAY
7 APPROACH?
8 OKAY. AND LET ME SEE -- UM -- MR. RODRIGUES, TELL ME
9 YOUR FIRST NAME AGAIN?
10 **MR. RODRIGUES:** PATRICK.
11 **MS. LEMCKE:** PATRICK, OKAY.
12 **THE COURT:** AND THEY'RE RELATED TO KHAYDEN'S MOM?
13 **MS. LEMCKE:** YES.
14 **MS. EDWARDS:** YES.
15 **MS. LEMCKE:** THAT'S MY UNDERSTANDING.
16 **MS. EDWARDS:** AND, YOUR HONOR, I -- THEY AREN'T UNDER THE
17 STATE'S SUBPOENA TODAY, I HAVE HAD NO CONTACT WITH THEM OR
18 SPOKEN WITH THEM TODAY.
19 **MS. LEMCKE:** AND A CLARA RODRIGUES IS NOT HERE?
20 **MR. RODRIGUES:** NO.
21 **MS. LEMCKE:** AND MR. RODRIGUES, YOU WEREN'T -- YOU DIDN'T
22 HAVE -- YOU WEREN'T WITH THE KIDS THE DAY THAT KHAYDEN BECAME
23 SYMPTOMATIC? YOU WEREN'T ONE OF THE GRANDPARENTS THAT HAD --
24 **MR. RODRIGUES:** NO.
25 **MS. LEMCKE:** -- THE CHILD? OKAY.

1 **THE COURT:** UM -- I MEAN, OBVIOUSLY THESE ARE VERY
2 LENGTHY STATEMENTS, BUT JUST FINDING -- JUST READING -- UM --
3 BRIEFLY IN A CURSORY FASHION THEIR STATEMENTS, THEY MAY HAVE
4 INFORMATION ABOUT THE CASE, SO I'M GOING TO EXCLUDE LYNELLE
5 AND MARK WILLINGHAM.

6 **MS. LEMCKE:** OKAY.

7 **THE COURT:** I THINK THE REQUESTS ARE REASONABLE.

8 **MS. LEMCKE:** AND I APOLOGIZE, YOUR HONOR, FOR NOT BEING
9 MORE FAMILIAR, IT'S JUST THAT I HAVEN'T MET WITH ANY OF THE --

10 **THE COURT:** SO YOU DON'T KNOW WHO THEY ARE OR WHAT THEY
11 LOOK LIKE.

12 **MS. LEMCKE:** THAT'S WHY I DIDN'T KNOW, AND I -- YEAH, I
13 FEEL BAD HAVING TO ASK --

14 **THE COURT:** NOW IT DOESN'T SOUND LIKE -- UM --
15 MR. RODRIGUES SITTING HERE IN THE BLACK SHIRT, HE SAID
16 SOMETHING ABOUT PROVIDING KEYS TO THE HOUSE, BUT THAT WAS IT.
17 I THINK HIS NAME IS MR. RODRIGUES.

18 **MR. RODRIGUES:** PATRICK RODRIGUES.

19 **THE COURT:** IT DIDN'T SOUND LIKE HE -- YOU HAD ANY ISSUE
20 WITH HIM.

21 **MS. LEMCKE:** UM -- WITH THE COURT'S INDULGENCE. I -- I
22 DON'T THINK SO.

23 **THE COURT:** OKAY.

24 **MS. LEMCKE:** IF HE -- IF ALL HE DID WAS PROVIDE LAW
25 ENFORCEMENT KEYS TO THE HOUSE AND --

1 **THE COURT:** AND YOU DON'T HAVE A STATEMENT FOR HIM?
2 **MS. LEMCKE:** I DO NOT HAVE A STATEMENT FOR HIM.
3 **THE COURT:** AND HE'S SAYING HE DIDN'T TALK TO THE COPS,
4 OR DIDN'T GIVE A STATEMENT TO THEM, I SHOULD SAY. PROBABLY
5 HAD SOME PRELIMINARY INFORMAL ISSUES WITH THE POLICE.
6 **MS. LEMCKE:** YEAH. WITHOUT ACTUALLY LOOKING AT --
7 **THE COURT:** I MEAN NOT -- KEEPING IN MIND, TOO, I MEAN
8 IT'S AN OPEN COURTROOM, AND THESE WITNESSES -- I MEAN
9 PRELIMINARY HEARING STATEMENTS COULD BE MADE AVAILABLE TO
10 THE -- THE PRELIMINARY HEARING TRANSCRIPT COULD BE MADE
11 AVAILABLE TO THEM AT ANY TIME TO REVIEW, NOT TO SAY THAT IT
12 WOULD BE.
13 **MS. LEMCKE:** RIGHT.
14 **THE COURT:** BUT IT WOULD BE AVAILABLE FOR THEM --
15 **MS. LEMCKE:** RIGHT.
16 **THE COURT:** -- TO REVIEW, IF ANYBODY EVER REQUESTED OR IF
17 ANYBODY EVER PROVIDED IT TO THEM.
18 **MS. LEMCKE:** RIGHT.
19 **THE COURT:** SO IT'S NOT LIKE THEY'RE SCHEDULED TO TESTIFY
20 TODAY.
21 **MS. LEMCKE:** RIGHT.
22 **THE COURT:** SO --
23 **MS. LEMCKE:** YEAH. I -- I THINK WE'RE GOOD.
24 **THE COURT:** YEAH, I THINK SO, TOO.
25 OKAY. SO THE REMAINING CAN STAY, BUT I DO HAVE TO

1 EXCLUDE -- I AM GOING TO EXCLUDE THE OTHER TWO.

2 ALL RIGHT. SO WITH NO FURTHER ADO.

3 **THE CLERK:** PLEASE RAISE YOUR RIGHT HAND.

4

5 **MICHAEL CASEY,**

6 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY

7 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING

8 BUT THE TRUTH, TESTIFIED AS FOLLOWS:

9

10 **THE WITNESS:** I DO.

11 **THE CLERK:** THANK YOU, SIR, PLEASE HAVE A SEAT.

12 I DO NEED YOU TO STATE YOUR FIRST AND YOUR LAST NAME, AND

13 I NEED YOU TO SPELL BOTH FOR THE RECORD.

14 **THE WITNESS:** MY NAME IS MICHAEL CASEY. IT'S

15 M-I-C-H-A-E-L. LAST NAME, C-A-S-E-Y.

16 **THE COURT:** THANK YOU. YOU CAN PROCEED.

17 **MS. EDWARDS:** THANK YOU, YOUR HONOR.

18

19 **DIRECT EXAMINATION**

20 **BY MS. EDWARDS:**

21 **Q** WHAT IS YOUR OCCUPATION?

22 **A** I'M A TRAUMA SURGEON AT THE UNIVERSITY MEDICAL

23 CENTER IN LAS VEGAS.

24 **Q** HOW LONG HAVE YOU BEEN A TRAUMA SURGEON?

25 **A** SINCE 2007 ON STAFF.

1 Q FAIR TO SAY YOU HAVE SOME EDUCATION AND BACKGROUND
2 TO BECOME A TRAUMA SURGEON?

3 A YES. I CONTINUED RESIDENCY IN GENERAL SURGEON, AND
4 FINISHED A CRITICAL CARE TRAUMA FELLOWSHIP AFTER RESIDENCY WAS
5 FINISHED.

6 Q OKAY. AND WHERE DID YOU GET YOUR DOCTORAL DEGREE?

7 A ROSS UNIVERSITY SCHOOL OF MEDICINE.

8 Q WHEN WAS THAT?

9 A TWO THOUSAND.

10 Q WHERE DID YOU COMPLETE YOUR UNDERGRAD?

11 A UNLV IN '96, BEFORE I WENT.

12 Q HOW LONG WAS YOUR RESIDENCY?

13 A ABOUT FIVE -- IT'S SIX YEARS OF GENERAL SURGERY, AND
14 THEN ONE YEAR FOR CRITICAL CARE TRAUMA FELLOWSHIP.

15 Q AND ARE YOU ON A ROTATION AT U.M.C., OR HOW DOES
16 THAT WORK, AS FAR AS YOUR SCHEDULE AT U.M.C.?

17 A YES, I ROTATE TRAUMA SERVICES WITH ONE -- I'M ONE OF
18 EIGHT TRAUMA SURGEONS AT U.M.C., AND WE ROTATE TRAUMA 24 HOURS
19 A DAY, ALL EIGHT OF US THROUGH OUT THE MONTH.

20 Q AS THE TRAUMA -- AS ONE OF THE EIGHT TRAUMA SURGEONS
21 AT U.M.C., WHAT IS YOUR RESPONSIBILITIES WHEN YOU'RE ON DUTY
22 OR ON CALL?

23 A I RESPOND TO ANY TRAUMA ACTIVATIONS, OR ANY PEOPLE
24 THAT NEED SURGICAL INTERVENTION AT THE TRAUMA CENTER. WE HAVE
25 TO STAY IN HOUSE FOR THE 24 HOUR PERIOD WE'RE ON CALL, SO WE

1 PHYSICALLY STAY AT THE HOSPITAL FOR THE 24 HOURS, SO WE'RE
2 IMMEDIATELY AVAILABLE FOR ANY TRAUMAS.

3 Q OKAY. TO BECOME A TRAUMA SURGEON AND REMAIN A
4 TRAUMA SURGEON, DO YOU HAVE TO DO ANY CONTINUING EDUCATION?

5 A YES.

6 Q WHAT ARE THOSE REQUIREMENTS?

7 A I HAVE TO CONTINUALLY DO ATLS, WHICH IS ADVANCE
8 TRAUMA LIFE SUPPORT. I HAVE TO INSTRUCT, I HAVE TO TEACH FOR
9 THE AMERICAN COLLEGE OF SURGEONS, AND I HAVE TO MAINTAIN 40
10 CME'S A YEAR IN TRAUMA AND GENERAL SURGERY.

11 Q ARE YOU IN GOOD STANDING WITH THE NEVADA BOARD OF
12 MEDICAL EXAMINERS?

13 A YES, I AM.

14 Q IN YOUR WORK AS A TRAUMA SURGEON, APPROXIMATELY HOW
15 MANY PATIENTS DO YOU SEE IN ANY GIVEN WEEK?

16 A THEY VARY. UM -- WE DO THIS QUARTERLY, SO I'M
17 TRYING TO FIGURE OUT HOW TO DO THIS.

18 Q QUARTERLY WORKS IF THAT'S THE NUMBER YOU HAVE.

19 A I -- I SEE 340 PEOPLE QUARTERLY, ON AVERAGE, THAT I
20 ADMIT AND TAKE CARE OF.

21 Q AND OF THE PATIENTS THAT YOU SEE, ARE THEY PRIMARILY
22 ADULTS, PEDIATRICS, OR SOMETHING ELSE?

23 A WE DO ALL AGES. WE'RE A LEVEL 2 PEDIATRIC TRAUMA
24 CENTER, AND A LEVEL 1 ADULT TRAUMA CENTER, SO WE SEE ALL AGES
25 FROM BIRTH THROUGH THEIR EXISTENCE.

1 Q ON JUNE 6TH, 2013, WERE YOU WORKING AT U.M.C. AS A
2 TRAUMA SURGEON?

3 A YES.

4 Q IN WHAT -- DO YOU RECALL YOUR ROTATION WAS OR YOUR
5 SCHEDULE WAS THAT DAY?

6 A IT WAS FROM 7 A.M. ON THE 13TH UNTIL 7 A.M. ON THE
7 14TH.

8 Q I'M SORRY, WERE YOU WORKING ON JUNE 6TH OF 2013?

9 A I APOLOGIZE. YES, ON JUNE 6TH, THE DAY YOU'RE
10 TALKING ABOUT, I STARTED AT 7 A.M., AND FINISHED THE NEXT DAY
11 AT 7 A.M.

12 Q OKAY. NOW, DURING THE COURSE OF WORKING ON JUNE
13 6TH, DID YOU HAVE RESIDENTS OR A TEAM THAT WAS WITH YOU THAT
14 DAY?

15 A WE ALWAYS DO. WE'RE A TEACHING FACILITY, SO WE
16 ALWAYS HAVE A SENIOR RESIDENT AND A JUNIOR RESIDENT,
17 POTENTIALLY MORE THAN ONE OF EACH SET. SO I DID, IN FACT, I
18 HAD RESIDENTS THE WHOLE DAY.

19 Q AT SOME POINT IN TIME DID YOU COME INTO CONTACT WITH
20 A THREE YEAR OLD PATIENT -- UH -- THE EVENING OF JUNE 6TH,
21 2013?

22 A YES.

23 Q AND HOW DID THAT CHILD PRESENT TO THE HOSPITAL?

24 A THEY WERE CALLED AS A FULL TRAUMA ACTIVATION, WHICH
25 BASICALLY IS WHEN WE ACTIVATE A TRAUMA SERVICE THEY CALL, TELL

1 US THERE'S SOMEONE ARRIVING, SO THE TRAUMA TEAM HAS TIME TO
2 ARRIVE AT THE BAY BEFORE THE PATIENT DOES. I ARRIVED, THE
3 TRAUMA TEAM ARRIVES, MY RESIDENTS ARRIVE, THE
4 ANESTHESIOLOGIST, AND IN PEDIATRIC PATIENTS UNDER THE AGE OF
5 FIVE WE CALL A PEDIATRIC E.R. DOCTOR TO COME HELP US, OR THE
6 PEDIATRIC INTENSIVIST TO COME DOWN.

7 Q OKAY. WHEN YOU SAY THEY CALL, WERE YOU GETTING
8 REPORTS FROM THE FIRE DEPARTMENT, OR SOMEONE, AS TO A PATIENT
9 YOU SHOULD BE EXPECTING?

10 A THE TRAUMA ACTIVATION COMES BY WAY OF EMS TELE TO
11 THE CENTRAL OFFICE IN TRAUMA, AND THEN THEY INSTITUTE THE
12 CALLS THROUGH THE HOSPITAL.

13 Q DID YOU -- DO YOU RECALL RESPONDING TO A PATIENT
14 THAT NIGHT WHO WAS LISTED INITIALLY AS ULYSSES DOE?

15 A YES.

16 Q WHY WOULD THAT PATIENT BE LISTED ULYSSES OR ULYSSES
17 DOE?

18 A ANY PATIENT THAT COMES TO US WITHOUT THE ABILITY TO
19 TELL US WHO THEY ARE, WITHOUT PROPER IDENTIFICATION, OR
20 UNCONSCIOUS AND UNRESPONSIVE, IS ISSUED A DOE AS A GENERIC
21 NAME. FIRST NAME IS PICKED ON THE LETTER OF THE ALPHABET,
22 DEPENDING ON HOW MANY WE'VE SEEN THAT DAY OR THAT WEEK, AND
23 THEY'RE GIVEN A BIRTHDATE THAT'S ARBITRARY, WITH NO
24 INFORMATION.

25 THE INFORMATION THAT STAYS WITH THAT PATIENT WILL BE

1 HIS MEDICAL RECORD NUMBER AND THEIR ACCOUNT NUMBER, WHICH
2 STAYS INDEFINITELY THROUGH THEIR STAY IN THE HOSPITAL, EVEN IF
3 THE NAME OR BIRTHDATE CHANGE.

4 Q AS FAR AS THE ULYSSES DOE PATIENT WHO PRESENTED, DID
5 YOU HAVE ANY AC -- INTERACTION WITH THAT CHILD'S FAMILY?

6 A NO.

7 Q FAIR TO SAY WHEN THE CHILD ARRIVED YOU IMMEDIATELY
8 SET ABOUT WORKING ON THE CHILD?

9 A YES.

10 Q NOW, YOU SAID YOU HAD A TEAM OF RESIDENTS WITH YOU?

11 A YES.

12 Q OKAY. IN RESPONSIBILITY FOR THE PATIENT WHO CAME
13 IN -- OR FAIR TO SAY AROUND 6:50 THAT NIGHT?

14 A CORRECT.

15 Q WHO'S ULTIMATELY RESPONSIBLE FOR ALL MEDICAL
16 DECISIONS REGARDING THE PATIENT?

17 A I AM.

18 Q AND HOW DO THE RESIDENTS PARTICIPATE IN THE EFFORT?

19 A WE'RE A LEARNING AND A TEACHING INSTITUTION, SO
20 UNDER MY DIRECTION THEY WILL OBSERVE, AS JUNIOR RESIDENTS,
21 THEY WILL TAKE NOTES. MORE SENIOR RESIDENTS WILL PARTICIPATE,
22 STARTING I.V. LINES, ASSESSING PATIENTS, AND DRAWING LABS AND
23 THINGS OF THAT NATURE.

24 Q ONCE YOU WERE FINISHED WORKING ON THIS CHILD, WAS A
25 REPORT PREPARED?

1 **A** WHEN -- THE REPORT WAS NOT PREPARED UNTIL AFTER I
2 HAD COMPLETED EVERYTHING.

3 **Q** OKAY. SO AFTER EVERYTHING WAS -- ALL WAS SAID AND
4 DONE, A REPORT WAS PREPARED, CORRECT?

5 **A** YES.

6 **Q** AND THAT YOU SPECIFICALLY REFERRED TO A PATIENT
7 NUMBER OR AN ACCOUNT NUMBER THAT WOULD REMAIN THE SAME, FAIR
8 TO SAY?

9 **A** YES.

10 **Q** OKAY. AND WOULD THOSE NUMBERS BE CONTAINED ON THE
11 REPORT THAT YOU PREPARED?

12 **A** YES.

13 **Q** OKAY. AND THEN YOU SAID THE NAME AND THE BIRTHDATE
14 COULD CHANGE, CORRECT?

15 **A** YES.

16 **Q** AND OFFHAND DO YOU KNOW WHAT THE PATIENT NUMBER IS
17 FOR THAT DOE CHILD?

18 **A** NO.

19 **Q** WOULD YOU BE ABLE TO LOCATE IT ON THE REPORT IF YOU
20 WERE PROVIDED A COPY?

21 **A** YES.

22 **MS. EDWARDS:** MAY I APPROACH, YOUR HONOR?

23 **THE COURT:** YES.

24 **MS. EDWARDS:** JUST FOR PURPOSES OF THE PATIENT -- UM --
25 NUMBER, OR AT LEAST ONE OF THE NUMBERS THAT REMAIN WITH THE

1 PATIENT THROUGHOUT.

2 Q DO YOU HAVE THAT NUMBER?

3 A YES.

4 Q WHAT IS THAT NUMBER?

5 A I HAVE AN ACCOUNT NUMBER, WHICH IS 9929006949. AND

6 THEN I HAVE A MEDICAL RECORD NUMBER WHICH STAYS WITH THE

7 PATIENT INDEFINITELY. THE ACCOUNT NUMBER ONLY STAYS WITH THE

8 PATIENT THROUGH THEIR HOSPITAL STAY. IF THEY'RE READMITTED

9 THEY'LL GET A NEW ACCOUNT NUMBER, BUT MAINTAIN -- THAT MEDICAL

10 RECORD NUMBER WILL STAY INDEFINITELY WITH THEM.

11 Q OKAY. AND WHAT IS THE MEDICAL RECORD NUMBER?

12 A 0030013487.

13 Q NOW, AS FAR AS WHEN THIS PATIENT PRESENTED, DID YOU

14 DO AN EXAM OF THE PATIENT?

15 A YES, MA'AM.

16 Q OKAY. WHEN YOU FIRST SAW THE PATIENT, WHAT DID YOU

17 NOTICE?

18 A I WOULD HAVE TO GO BACK OVER MY NOTES.

19 Q WOULD IT REFRESH YOUR MEMORY TO REVIEW YOUR NOTES?

20 A YES, PLEASE.

21 Q AND IS THAT THE REPORT THAT I JUST SHOWED YOU WITH

22 THE NUMBERS ON IT?

23 A YES, MA'AM.

24 MS. EDWARDS: MAY I APPROACH, YOUR HONOR?

25 MS. LEMCKE: CAN I SEE THAT AGAIN?

1 BY MS. EDWARDS:

2 Q PLEASE REVIEW THAT TO YOURSELF AND LET ME KNOW WHEN
3 YOU'RE DONE.

4 A OKAY.

5 Q DOES THAT REFRESH YOUR MEMORY?

6 A YES, MA'AM.

7 Q OKAY. IF YOU'LL JUST TURN IT OVER FOR ME.

8 BASED ON YOUR REFRESHED MEMORY, WHAT DID YOU NOTICE
9 WHEN THE CHILD FIRST PRESENTED?

10 A THIS WAS A THREE YEAR OLD WHO'D BEEN INTUBATED BY
11 EMS. ARRIVED TO US UNRESPONSIVE, WITH PUPILS FIXED AND
12 DILATED.

13 Q WHAT DOES IT MEAN WHEN THE PUPILS ARE FIXED AND
14 DILATED?

15 A THE EYES ARE NO LONGER RESPONSIVE TO LIGHT. THEY
16 ARE DILATED OPEN, AND THEY DON'T RESPOND TO LIGHT
17 APPROPRIATELY. IT'S A CRANIAL NERVE RESPONSE.

18 Q OKAY. AND WHAT DOES THAT SIGNIFY TO YOU AS A TRAUMA
19 SURGEON?

20 A IT'S SIGNIFIES MANY THINGS. ONE THING IT SIGNIFIES
21 IS INJURY TO THE BRAIN, AND IT CAN SIGNIFY DAMAGE TO THE OPTIC
22 NERVES, OR THE GLOBE, IF IT'S UNILATERAL, BUT THIS WAS
23 BILATERAL.

24 Q OKAY. AS FAR AS -- OTHER THAN THE PUPILS, YOU SAID
25 THE CHILD WASN'T RESPONSIVE, CORRECT?

1 **A** YES.

2 **Q** WHEN YOU SAY THE CHILD'S NOT RESPONSIVE, WHAT DOES
3 THAT MEAN?

4 **A** WHEN THE CHILD NEEDED AN I.V., WE PUT AN
5 INTRAOSSEOUS LINE, WHICH IS A DEVICE WE DRILL INTO THE BONE TO
6 SUPPLY FLUID TO THE CHILD, OR ANYONE THAT NEEDS FLUID
7 IMMEDIATELY, AND THE CHILD DIDN'T RESPOND TO THAT STIMULATION,
8 HAVING THE BONE DRILLED.

9 **Q** FAIR TO SAY THAT WOULD BE PAINFUL?

10 **A** IT'S VERY PAINFUL.

11 **Q** OKAY. AND THE CHILD DIDN'T PROVIDE ANY RESPONSE
12 WHEN THAT PROCESS WAS DONE?

13 **A** NO.

14 **Q** OKAY. DID THE CHILD TALK AT ALL?

15 **A** NO, THE CHILD WAS INTUBATED.

16 **Q** OKAY. AND THAT WOULD HAVE BEEN DONE BY EMS,
17 CORRECT?

18 **A** YES, MA'AM.

19 **Q** NOW, THERE'S A GLASGOW COMA SCALE, CORRECT?

20 **A** YES.

21 **Q** WHAT IS THE PURPOSE OF THE GLASGOW COMA SCALE?

22 **A** GLASGOW COMA SCALE IS A STANDARD BY WHICH WE ARE
23 ABLE TO COMMUNICATE WITH OTHER PEOPLE MENTAL FUNCTIONING, OR
24 FUNCTIONING OF A HUMAN BEING. THE GLASGOW COMA SCALE YOU GET
25 A CERTAIN POINT SCALE FOR OPENING YOUR EYES, A SCALE FOR

1 SPEAKING, AND A SCALE FOR MOVEMENT. IF YOU DON'T DO ANY OF
2 THOSE THINGS, YOU GET ONE FOR NOT OPENING YOUR EYES, ONE FOR
3 NOT MOVING, AND ONE FOR NOT SPEAKING. SO THE LEAST YOU CAN BE
4 IS A THREE, THE MOST YOU CAN BE IS A 15.

5 SO BY THAT I MEAN, IT'S NOT MEANT TO BE A
6 COMPREHENSIVE SCALE TO SEE IF SOMEONE IS FUNCTIONING
7 CORRECTLY, IT'S JUST MEANT TO BE A RUDIMENTARY SCALE TO DEFINE
8 WHETHER THEY FUNCTION, AND AT WHAT LEVEL WE'RE LOOKING FOR
9 INJURIES.

10 Q AND WAS THIS GLASGOW COMA SCALE USED ON THIS
11 PATIENT?

12 A YES.

13 Q DO YOU RECALL THE GLASGOW COMA SCALE SCORE FOR THE
14 PATIENT?

15 A THE CHILD WAS A THREE.

16 Q AND SO THAT'S THE LOWEST YOU SAID?

17 A YES.

18 Q OKAY. YOU SAID THE CHILD WAS INTUBATED. DO YOU
19 KNOW -- UM -- IF THE CHILD HAD BEEN MECHANICALLY IN -- VENTED,
20 SO THE BREATHING WAS BEING DONE FOR THE CHILD BY A MACHINE?

21 A NOT BY A MACHINE. THEY WERE ASSISTED VENTILATIONS
22 WITH BAG MASK, VENTILATIONS WITH A BAG.

23 Q SO SOMEONE ELSE WAS SQUEEZING THE BAG TO DO THE
24 VENTILATION FOR THE CHILD?

25 A ASSISTING THE CHILD, YES.

1 Q OKAY.

2 FAIR TO SAY ONCE YOU RECEIVED THE CHILD, DID INITIAL

3 EXAM, YOU ORDERED ADDITIONAL TESTING?

4 A CORRECT.

5 Q WHAT KIND OF ADDITIONAL TESTING DID YOU ORDER?

6 A WE ORDERED LABORATORY. WE SENT OFF LABORATORIES, WE

7 SENT OFF -- AFTER ALL THE PROCEDURES WERE COMPLETED -- UM --

8 WE ORDERED A CT OF THE BRAIN, CT OF THE C-SPINE.

9 INITIALLY DURING THE FIRST -- DURING THE

10 RESUSCITATION PHASE WE ORDERED A CHEST X-RAY TO SEE IF THE

11 TUBE THAT WAS PLACED BY EMS WAS IN THE PROPER POSITION, AND WE

12 ORDERED CAT SCANS OF THE BRAIN, THE C-SPINE, THE ABDOMEN,

13 PELVIS AND THE CHEST.

14 Q IS THE C-SPINE THE SPACE BETWEEN THE LOWER LEVEL

15 PORTION OF THE HEAD AND THE TOP OF THE SPINE OF THE BACK?

16 A YES.

17 Q OKAY. YOU USED THE RESULTS OF ALL THESE IMAGINING

18 AND BLOOD WORK AND OTHER LABS THAT YOU ORDERED, TO COME UP TO

19 A DIAGNOSES OR PLAN FOR THE CHILD, CORRECT?

20 A CORRECT.

21 Q DID YOU EVENTUALLY RECEIVE THE REPORTS REGARDING ALL

22 OF THE LABS AND ORDERS THAT YOU MADE OF TESTS TO BE RUN ON THE

23 CHILD?

24 A YES.

25 Q DID YOU REVIEW THOSE?

1 **A** I DID.

2 **Q** OKAY. WAS THERE ANYTHING SIGNIFICANT TO YOU ABOUT
3 THE REVIEW OF THE CT SCAN OF THE HEAD?

4 **A** THE CT SCAN OF THE HEAD SHOWED A LINEAR SKULL
5 FRACTURE FROM THE LEFT OCCIPITAL REGION GOING TO THE FORAMEN
6 MAGNUM OF A CONDYLE, WHICH IS A POSTERIOR ASPECT OF THE SKULL
7 DOWN TO THE BASE OF THE SKULL.

8 **Q** FOR THE RECORD, THE WITNESS INDICATED WITH HIS LEFT
9 HAND ON THE LEFT --

10 **A** LEFT SIDE OF THE SKULL.

11 **Q** -- LEFT SIDE.

12 **A** FROM THE TOP TO THE BASE OF THE SKULL IN A STRAIGHT
13 FRACTURE, A LINEAR FRACTURE.

14 **Q** OKAY. AND THAT WAS BASED ON THE CT OF THE HEAD, YOU
15 SAID?

16 **A** YES, MA'AM.

17 **Q** OKAY. ANYTHING ELSE SIGNIFICANT IN THE CT OF THE
18 HEAD?

19 **A** THERE WAS EXTENSIVE INTRACRANIAL BLEEDING, WITH A
20 MIDLINE SHIFT, AND TENTORIAL HERNIATION, WHICH MEANS THAT
21 THERE WAS FLUID PUSHING -- BLOOD WAS PUSHING THE BRAIN DOWN.

22 **Q** WHAT DOES A MIDLINE SHIFT MEAN?

23 **A** THE BRAIN SITS IN THE CENTER PORTION OF YOUR
24 CALVARIA, THE BRAIN IN A SKULL, AND IT FLOATS. IF YOU PUT
25 SOMETHING ON IT, IT WILL TEND TO MOVE OPPOSITE THE SIDE THAT

1 IT'S BEING PUSHED FROM.

2 SO IF I'M PUSHING FROM THE RIGHT SIDE, FOR EXAMPLE,
3 I'D MOVE THE BRAIN FROM RIGHT TO LEFT. IF I PUSH FROM THE
4 LEFT, I MOVE IT FROM LEFT TO RIGHT. I CAN ALSO PUSH IT FROM
5 TOP TO BOTTOM, BECAUSE IT FLOATS, IT'S NOT REALLY ATTACHED, SO
6 IT COULD BE PUSHED AND MOVED AROUND, AND THIS BRAIN WAS PUSHED
7 LEFT TO RIGHT SEVEN MILLIMETERS.

8 Q OKAY. SO DOES THAT MEAN THAT THE INJURY THAT THE
9 CHILD SUSTAINED THEN WAS ON THE RIGHT SIDE OF THE HEAD?

10 A NO.

11 Q OKAY.

12 A THE LEFT SIDE, ACCORDING TO THE SKULL FRACTURE.

13 Q OH, RIGHT.

14 A AND IT SHIFTED THE BRAIN FROM THE LEFT SIDE, PUSHING
15 IT MORE TO THE RIGHT.

16 Q OKAY.

17 UH -- AS FAR AS THE CT IS CONCERNED, DID YOU --
18 UM -- YOU DESCRIBED -- I BELIEVE YOU DESCRIBED BLOOD THAT WAS
19 IN THE BRIAN; IS THAT CORRECT?

20 A CORRECT.

21 Q AND CAN YOU DESCRIBE FOR ME WHAT WOULD CAUSE THE
22 BLOOD THAT YOU OBSERVED OR WAS NOTED IN THE CT?

23 A TRAUMAS CAN CREATE BLOOD IN THE BRAIN. THE FRACTURE
24 OF A SKULL CAN CAUSE BLEEDING, IT CAN CAUSE A BRAIN TO BLEED.
25 INTERHEMISPHERIC BLOOD CAN BE CAUSED BY THE TEARING OF THE

1 SMALL VEINS AROUND THE BRAIN, AND ALL THOSE THINGS CAN
2 ACCOUNT -- BE ACCOUNTED FOR BY TRAUMA.

3 Q NOW, DID YOU, AT ANY POINT IN TIME, RECEIVE A REPORT
4 AS TO WHAT HAD HAPPENED TO THIS CHILD BEFORE PRESENTING TO THE
5 HOSPITAL?

6 A I RECEIVED THE EMS REPORT THAT THE CHILD HAD FALLEN
7 OFF THE BACK OF A LA-Z-BOY RECLINER ON TO A TILE FLOOR.

8 Q AND ARE YOU FAMILIAR, GENERALLY SPEAKING, WITH THE
9 SIZE OF A LA-Z-BOY RECLINER?

10 MS. LEMCKE: WELL, I'M GOING TO OBJECT TO GENERAL SIZE OF
11 A LA-Z-BOY RECLINER, I THINK THEY COME IN ALL SHAPES AND
12 SIZES, SO ...

13 THE COURT: SUSTAINED, SPECULATION.

14 BY MS. EDWARDS:

15 Q DID YOU FIND OUT EXACTLY HOW TALL OR APPROXIMATELY
16 HOW TALL THE RECLINER WAS?

17 A I ASKED THE DISTANCE OF HEIGHT THAT THE CHILD FELL
18 FROM, AND I WAS TOLD APPROXIMATELY 40 INCHES.

19 Q NOW, IN DOING -- GOING OVER THE IMAGING AND LABS
20 THAT YOU ORDERED, WAS THERE ANYTHING -- ANY OTHER INJURIES OR
21 SIGNIFICANT INJURIES THAT YOU NOTED THAT THE CHILD HAD
22 SUSTAINED?

23 A THERE WERE, ON THE CHEST X-RAY, INITIAL CHEST X-RAY
24 SHOWED A RIGHT MAINSTEM INTUBATION, WHICH WAS A MECHANICAL --
25 THE TUBE WAS PUSHED TOO FAR DOWN THE RIGHT SIDE FOR THE

1 VENTILATION, SO IT WAS WITHDRAWN BACK. THE CHEST CT AT THAT
2 TIME ALSO SHOWED PARIHILAR INFILTRATES, WHICH --

3 **THE REPORTER:** I'M SORRY, SAY THAT AGAIN?

4 **THE WITNESS:** PARIHILAR INFILTRATES. SORRY.

5 IT'S JUST MEANS SWELLING AROUND THE LUNG -- VASCULAR
6 SPACE IN THE LUNG. AND IN THE PRESENCE OF TRAUMA, YOU HAVE TO
7 CONSIDER THAT THESE ARE CONTUSIONS OR BRUISES DEVELOPING IN
8 THE LUNGS.

9 **BY MS. EDWARDS:**

10 **Q** DO YOU HAVE ANY INFORMATION AS TO WHETHER OR NOT THE
11 CHILD HAD VOMITED OR ASPIRATED?

12 **A** I'M UNAWARE.

13 **Q** OKAY.. ANYTHING -- UH -- ELSE THAT YOU FOUND
14 SIGNIFICANT IN THE REPORTS THAT YOU RECEIVED FOR THE ORDERS OR
15 LABS DONE ON THE CHILD?

16 **A** THE C -- WE CT'D THE CHEST AFTER THE FACT, AND WE
17 CT -- WHEN I SAY AFTER THE FACT, AFTER THE ENTIRE
18 RESUSCITATION TOOK PLACE.

19 I NEED TO COMMENT THAT DURING THE INITIAL
20 RESUSCITATION THE CHILD'S HEART STOPPED. AS WE GOT THE CHILD
21 WITHIN 10 MINUTES, 15 MINUTES OF ARRIVAL, THE CHILD'S HEART
22 STOPPED, IT SLOWED DOWN TO FULL ARREST, SO WE RESTARTED THE
23 HEART BY CPR AND DRUGS TO RESTART THE HEARTBEAT.

24 AFTER THE HEART WAS REESTAB -- REESTABLISHED, AND
25 BLOOD PRESSURE WAS REESTABLISHED, THEN WE PROCEEDED TO THE CAT

1 SCANS. SO THE CAT SCANS WERE NOT COMPLETED BEFORE THE CHILD
2 HAD STABILIZED.

3 Q OKAY. WHAT WOULD CAUSE A CHILD'S HEART RATE TO SLOW
4 DOWN TO THE POINT THAT YOU WOULD HAVE TO THEN USE CPR TO BRING
5 THE CHILD BACK?

6 A IN THIS CHILD'S CONDITION THE HEART WAS -- I'M
7 MAKING AN A -- NOW THIS IS GOING TO BE HOW I DESCRIBE THIS.
8 THE CONDITION THAT CAUSES HIL -- CHILD'S HEART TO SLOW DOWN
9 WAS A HERNIATION OF THE BRAIN, BEING PUSHED DOWN. THAT'S A
10 COMMON RESPONSE TO HERNIATION IS A SLOWING OF THE HEARTBEAT,
11 AND THE DROPPING OF THE BLOOD PRESSURE UNTIL THE HEART STOPS.
12 THAT HAPPENS IN ADULTS AND CHILDREN AS WELL.

13 Q NOW, WITH REFERENCE TO A CHILD'S BRAIN, FAIR TO SAY
14 A CHILD'S BRAIN IS DIFFERENT FROM AN ADULT BRAIN?

15 A IN WHAT CAPACITY?

16 Q UH -- IN HOW IT'S -- AS FAR AS THE HOW -- THE
17 CONSISTENCY OF IT WITHIN THE SKULL?

18 A IT -- I GUESS I DON'T UNDERSTAND THE QUESTION
19 COMPLETELY. I MEAN, THE CHILD BRAIN AND ADULT BRAIN ARE
20 ESSENTIALLY THE SAME AFTER THE AGE OF THREE.

21 Q OKAY.

22 A THEY'RE -- THE SKULL IS FIXED. THE BRAIN, ITSELF,
23 IS ATTACHED, AS IT'S GOING TO BE ATTACHED. WE DON'T DEVELOP
24 NEW ATTACHMENTS IN OUR BRAIN.

25 Q OKAY.

1 **A** WE DEVELOP MEMORIES, WE DEVELOP INFORMATION THAT WE
2 STORE, THAT CHANGES OUR BRAINS ARCHITECTURE, BUT THE PHYSICAL
3 SUBSTANCE OF THE BRAIN IS PRETTY CLOSE TO THE SAME.

4 **Q** OKAY. AND THAT HAPPENS AT THREE YEARS OLD YOU SAID?

5 **A** HAPPENS BY -- BY 18 TO 24 MONTHS.

6 **Q** OKAY. NOW, AS FAR AS THIS PATIENT IS CONCERNED, I
7 WANT TO TAKE YOU BACK TO THE SKULL FRACTURE. YOU DESCRIBED IT
8 AS BEING ON THE BACKSIDE OF THE LEFT SIDE -- OR THE LEFT SIDE,
9 BACK OF THE HEAD; IS THAT CORRECT?

10 **A** YES.

11 **Q** CAN YOU DESCRIBE A LINE OR LINEAR?

12 **A** IT'S A STRAIGHT LINE FRACTURE. IT WAS NOT --

13 **Q** OKAY.

14 **A** -- A FRACTURE THAT -- FRACTURES CAN BE STRAIGHT
15 LINES, CAN BE MULTIBRANCHED, THEY COULD BE STELLATE. THIS WAS
16 A SINGLE LINE FRACTURE TO THE SKULL.

17 **Q** OKAY.

18 NOW, CAN YOU -- DO YOU RECALL THE SPECIFIC MEDICAL
19 TERMINOLOGY OF HOW THEY DESCRIBED THE FRACTURE IN THE REPORT?

20 **A** NO, I'D HAVE TO LOOK AT THE RADIOLOGY REPORT.

21 **Q** WOULD THAT REFRESH YOUR MEMORY?

22 **A** YES.

23 **MS. EDWARDS:** MAY I APPROACH, YOUR HONOR?

24 **THE COURT:** YES.

25 **MS. LEMCKE:** CAN I JUST ASK -- UM -- WHAT REPORT WE'RE

1 REFERRING TO?

2 MS. EDWARDS: SORRY. IT WAS --

3 MS. LEMCKE: YOU CAN GIVE THE BATES STAMP NUMBER AND I'M
4 HAPPY TO JUST LOOK IT UP.

5 MS. EDWARDS: IT WAS THE CT OF THE BRAIN, WHICH IS BATES
6 NOS. 240 AND 241.

7 MS. LEMCKE: THANK YOU.

8 THE WITNESS: OKAY.

9 BY MS. EDWARDS:

10 Q DOES THAT REFRESH YOUR MEMORY?

11 A YES.

12 Q OKAY. AND CAN YOU TELL ME WHAT THE MEDICAL
13 TERMINOLOGY IS FOR THE FRACTURE THAT THE CHILD HAD ON HIS
14 SKULL?

15 A THEY'RE STILL DESCRIBING -- WHEN THEY DESCRIBE THE
16 VERTEX, THEY'RE TALKING ABOUT THE TOP OF THE SKULL. THEY'RE
17 TALKING ABOUT THE CONDYLE, WHICH IS THE BASE OF THE SKULL
18 WHERE THE CERVICAL SPINE ATTACHES AND THE FORAMEN MAGNUM, IT'S
19 THE SPINAL COLUMN INSERTION POINT. SO THIS SKULL FRACTURE
20 WENT FROM THE TOP OF THE SKULL TO THE CONDYLE, WHICH IS WHERE
21 THE SPINE ATTACHES, BUT DID NOT ENTER THE FORAMEN MAGNUM, THEN
22 IT WAS A STRAIGHT LINEAR FRACTURE.

23 Q OKAY. AND IT SAYS THE SPARING OF THE -- YOU JUST
24 SAID IT, I CAN'T REPEAT IT.

25 A FORAMEN MAGNUM.

1 Q OKAY. AND WHAT DOES THE FORAMEN MAGNUM DO?

2 A FORAMEN MAGNUM IS THE OPENING IN THE SKULL WHERE THE

3 SPINAL CORD AND THE BASE OF THE BRAIN COME INTO THE SKULL.

4 Q NOW, YOU WERE REPORTED FROM EMS THAT THE CHILD HAD

5 FALLEN FROM A RECLINER, CORRECT?

6 A CORRECT.

7 Q OR APPROXIMATELY 40 INCHES?

8 A CORRECT.

9 Q DID YOU REACH ANY CONCLUSIONS ABOUT THE INJURIES

10 THAT THE CHILD PRESENTED WITH, VERSUS THE -- BEING TOLD THAT

11 THE CHILD HAD FALLEN 40 INCHES?

12 A THE CHILD FALLING 40 INCHES ONTO A TILE FLOOR HAD A

13 SINGLE MARK ON HIS FOREHEAD ON THE LEFT FRONT OF HIS FOREHEAD,

14 BUT THE SKULL FRACTURE WAS ON THE TOP AND THE BACK, COMING

15 FROM THE TOP TO THE POSTERIOR ASPECT OF THE SKULL, AND DIDN'T

16 REPRESENT AN INJURY MARK THAT WAS CONSISTENT WITH THAT FALL.

17 Q OKAY. IF YOU WERE TO BE TOLD THAT THE CHILD SLIPPED

18 OVER THE BACK OF THE RECLINER OR THE COUCH AND LANDED ON THE

19 BACK OF HIS HEAD, WOULD THAT -- UM -- ALLOW YOU TO DRAW ANY

20 CONCLUSIONS AS FAR AS THE NATURE OF THE INJURY BEING

21 CONSISTENT OR INCONSISTENT WITH THAT ACCOUNT?

22 A IT WOULD BE MORE CONSISTENT THAN FALLING OFF ONTO

23 THEIR FACE.

24 Q OKAY. WHEN YOU SAY MORE CONSISTENT, CAN YOU PLEASE

25 ELABORATE?

1 **A** PEOPLE FALL AND THEY'LL -- WE SEE PEOPLE FALL, WE
2 DON'T ALWAYS WITNESS THE ENTIRE FALL, SO WE SEE WHAT THE
3 AFTERMATH OF THE FALL IS. SO IF SOMEONE SEES SOMEONE FALL AND
4 SAYS THEY FELL ON TO THEIR FACE, THAT'S WHAT I ACCEPT AS BEING
5 TRUE. HOWEVER, IF I FALL ON MY FACE, I EXPECT TO HAVE
6 INJURIES TO THE FRONTAL SINUSES, MY FACE, AND THE FRONT OF MY
7 CALVARIA SKULL, NOT THE BACK OF IT. SO IF I HAD FALLEN ON THE
8 BACK OF MY SKULL, THAT'S WHERE I'D EXPECT THE INJURY TO BE.

9 AND I HAVE ABRASIONS AND MARKS ON THE FRONT OF THIS
10 CHILD'S FOREHEAD, AND THE INJURIES ARE ON THE BACK OF THIS
11 CHILD'S SKULL.

12 **Q** OKAY. NOW, IF A CHILD IS POSITIONED ON A COUCH --
13 UH -- WITH THE FEET COMING BACK OVER THE COUCH WITH THE FEET
14 FIRST AND THE HEAD, AND SUPPOSABLY LANDS ON THEIR HEAD, WOULD
15 YOU EXPECT TO SEE THAT SIGNIFICANT OF AN INJURY FROM 40
16 INCHES?

17 **A** I WOULD HAVE TO SPECULATE, AND I WOULDN'T KNOW. THE
18 REASON I ASK FOR THE HEIGHT OF A CHILD AND THE HEIGHT OF THE
19 FALL, IS WE LOOK AT HEIGHTS AS BEING SIGNIFICANT IN SOMEONE
20 FALLING. WE CALL IT THE LD, OR LETHAL DEATH 50. FIFTY
21 PERCENT OF THE PEOPLE FALLING FROM THIS HEIGHT WILL SUFFER
22 DEATH AS A RESULT OF THAT FALL.

23 **MS. LEMCKE:** CAN I -- I APOLOGIZE, DOCTOR, FOR
24 INTERRUPTING. YOU SAID THIS HEIGHT, CAN YOU CLARIFY FOR ME
25 WHAT THIS HEIGHT IS?

1 **THE WITNESS:** I WILL.

2 AND EVERYONE'S DIFFERENT IN THEIR HEIGHT. IF SOMEONE IS
3 FOUR FEET TALL, FALLING 40 INCHES IS A GROUND LEVEL FALL. IF
4 SOMEONE IS 18 INCHES TALL, FALLING 40 INCHES IS TWICE THEIR
5 HEIGHT, ALMOST THREE TIMES THEIR HEIGHT, THAT FALL BECOMES
6 SIGNIFICANT. WHEN SOMEONE FALLS MORE THAN TWICE THEIR
7 PHYSICAL HEIGHT, THEN WE END UP IN AN AREA WHERE INJURY COULD
8 BE MORE SUBSTANTIAL THAN FALLING AT LESS THAN TWICE THEIR
9 HEIGHT.

10 SO IT'S SIGNIFICANT FOR ME ABOUT THE SIZE OF A CHILD OR A
11 SIZE OF AN ADULT, AND THE DISTANCE THEY FALL. NOT NECESSARILY
12 WAS IT 25 INCHES, 40 INCHES OR 70 INCHES, IT'S HOW TALL WAS
13 THE VICTIM WHO FELL COMPARED TO THE HEIGHT THEY FELL, AND
14 THAT'S HOW WE DETERMINE INJURIES PATTERNS.

15 **BY MS. EDWARDS:**

16 **Q** DID YOU ASCERTAIN THE HEIGHT OF THIS CHILD OR THIS
17 PATIENT?

18 **A** I DID, BUT DON'T REMEMBER, IT'S ON A BROSELOW TAPE
19 IN THE MEDICAL RECORDS, BUT I DON'T HAVE IT WITH ME.

20 **Q** IT'S ON A -- WHAT DID YOU CALL IT?

21 **A** WE MEASURE CHILDREN THAT ARE UNCONSCIOUS, WE MIN --
22 WE ADMINISTER ALL OF OUR DRUGS AND THERAPY BASED ON THEIR
23 WEIGHT, AND SINCE THEY'RE UNCONSCIOUS, WE MAKE AN ESTIMATE ON
24 A BROSELOW TAPE, WHICH IS A DEVICE WE LAY NEXT TO THE CHILD,
25 AND IT GIVES US A HEIGHT AND A WEIGHT. AND FOR THAT HEIGHT WE

1 HAVE A CERTAIN WEIGHT, SO WE CAN ADMINISTER DRUGS IN A SAFE
2 MANNER.

3 I WOULDN'T KNOW THE HEIGHT OFF THE TOP OF MY HEAD.

4 **MS. EDWARDS:** OKAY. COURT'S INDULGENCE.

5 MAY I APPROACH, YOUR HONOR?

6 **THE COURT:** YES.

7 **MS. EDWARDS:** JUST FOR THE RECORD AND FOR COUNSEL, IT'S
8 PAGE 150 -- OR BATES NO. 159 IN THE RECORD.

9 **THE WITNESS:** AND THIS FROM OUT PEDIATRIC I.C.U., I
10 SUSPECT, BECAUSE THIS IS A GROWTH CHART.

11 **BY MS. EDWARDS:**

12 **Q** OKAY.

13 **A** IT TELLS ME THAT THIS CHILD IS -- INCHES, IS
14 APPROXIMATELY 37 INCHES TALL, 37 AND A HALF INCHES TALL.

15 **Q** OKAY. UM -- SO KNOWING THAT THE CHILD IS ROUGHLY 37
16 AND A HALF INCHES TALL, HAVING REPORTEDLY FALLEN 40 INCHES,
17 YOU REFERRED TO THE FORMULA OF A LETHAL FALL VERSUS
18 SIGNIFICANT INJURIES BASED ON THAT. SO DOES THAT LEAD YOU TO
19 DRAW ANY CONCLUSIONS AS FAR AS THIS SPECIFIC CHILD FALLING 40
20 INCHES?

21 **A** THE INJURY PATTERN IS NOT CONSISTENT WITH THE HEIGHT
22 OF THE FALL --

23 **Q** OKAY.

24 **A** -- IN THIS PARTICULAR CHILD.

25 **Q** AT THE CONCLUSION OF THE TREATMENT OF THIS CHILD,

1 DID YOU COME UP WITH A MANAGEMENT PLAN FOR THE CHILD?

2 **A** ACTUALLY THIS CHILD -- YES. AND THIS CHILD I
3 ADMITTED -- UM -- AT THE END. AT THE RECEPTION OF ALL OF THE
4 PLANS, THE CAT SCANS, THE LABORATORY AND THE INFORMATION, I
5 DID A CLINICAL EVALUATION OF THIS CHILD AND FOUND THIS CHILD
6 TO BE CLINICALLY BRAIN DEAD.

7 **Q** WHAT DOES THAT MEAN?

8 **A** CLINICAL BRAIN DEATH IS WHEN YOU HAVE NO ACTIVITY
9 SUPPORTED BY THE BRAIN. YOU DON'T BREATHE, YOU DON'T MOVE, YOU
10 CAN'T HAVE PAINFUL -- IF I SIMULATE THEM WITH PAINFUL
11 STIMULATION THEY DON'T RESPOND. THEIR EYES DON'T WORK,
12 THEY'RE FIXED AND DILATED. THEY DON'T HAVE A COLD CALORIC.
13 WE PUT ICE WATER IN THE EARS, AND IT CAUSES THE BRAIN STEM TO
14 FUNCTION IN A CERTAIN WAY THAT MAKES THE EYES MOVE. HE HAD NO
15 ACTUAL CLINICAL BRAIN RESPONSE OF ANY KIND, SO I DETERMINED
16 THE CHILD WAS BRAIN DEAD.

17 AT THAT TIME I CALLED A NEUROSURGEON THAT
18 SPECIALIZED IN PEDIATRICS AND HAD HIM COME EVALUATE THE CHILD,
19 AS WELL, AND HE CAME TO THE SAME CONCLUSION.

20 **Q** AND DID YOU SPECIFICALLY DECLARE OR CALL THE
21 CLINICAL BRAIN DEATH INITIALLY ON THIS CHILD?

22 **A** NOT UNTIL AFTER ALL THE REPORTS AND EVALUATIONS CAME
23 THROUGH.

24 **Q** OKAY. AND DO YOU KNOW IF THE INITIAL -- UM --
25 CLINICAL BRAIN DEATH WAS CALLED AROUND -- UH -- 1945 HOURS?

1 **A** IT WOULD BE IN THE NOTE I WROTE.
2 **Q** I BELIEVE YOU HAVE IT WITH YOU, AS WELL.
3 **A** NO, IT WOULD BE A HANDWRITTEN NOTE.
4 **Q** OKAY. DO YOU --
5 **A** IT WOULD BE A HANDWRITTEN PROGRESS NOTE THAT I -- I
6 DON'T SEE IN FRONT OF ME.
7 **MS. LEMCKE:** THAT'S FINE.
8 **MS. EDWARDS:** MAY I APPROACH, YOUR HONOR?
9 **THE COURT:** YES.
10 **BY MS. EDWARDS:**
11 **Q** IS THAT THE HANDWRITTEN PART OF YOUR PROGRESS NOTE?
12 **A** THIS IS MY HANDWRITTEN PROGRESS NOTE.
13 **Q** OKAY. AND DOES THAT INCLUDE THE TIME THE INITIAL
14 BRAIN DEATH WAS CALLED?
15 **A** YES, MA'AM.
16 **Q** AND WHEN WAS THAT?
17 **A** NINETEEN-FORTY-FIVE ON 6/6, 2013.
18 **Q** OKAY.
19 **A** AND UNDERSTANDING THIS IS CLINICAL BRAIN DEATH, NOT
20 CONFIRMATORY BRAIN DEATH. THERE ARE DIFFERENCES IN A
21 HOSPITAL.
22 **Q** AND THERE'S PROTOCOL, CORRECT, FOR THAT?
23 **A** THERE IS.
24 **Q** WHAT IS THE PROTOCOL?
25 **A** IN A PEDIATRIC PATIENT THAT COMES IN UNRESPONSIVE,

1 IF THEY HAVE A CARDIAC ARREST, AND WE RESTART THEIR HEART, WE
2 WAIT 24 HOURS TO DO A CONFIRMATORY BRAIN DEATH STUDY. THE
3 REASON BEING IS STUNTING (PHONETIC) CAN SOMETIMES TAKE PLACE
4 IN CHILDREN LIKE THIS, AND YOU DON'T KNOW. THEY COULD BE
5 CLINICALLY BRAIN DEAD, AND APPEAR CLINICAL BRAIN DEAD, BUT NOT
6 BE BRAIN DEAD. THEY CAN GO ON TO HAVE FLOW AND FUNCTION DOWN
7 THE ROAD. SO CLINICAL BRAIN DEATH PRECEDES EVERYTHING, AND WE
8 FOLLOW IT WITH CLINICAL BRAIN DEATH EVALUATION STUDIES, SUCH
9 AS APNEA TESTS OR BLOOD FLOW, TO DETERMINE IF THERE'S FLOW TO
10 THE BRAIN OR THEY CAN FUNCTION. AND THOSE ARE DELAYED 24
11 HOURS AFTER RESTARTING THE HEART.

12 Q AND WAS THAT PROTOCOL FOLLOWED IN THIS CASE?

13 A YES.

14 Q SO FAIR TO SAY YOU ADMITTED THE CHILD TO THE
15 PEDIATRIC INTENSIVE CARE UNIT FOR THIS -- UNDER THIS PROTOCOL
16 OR POLICY?

17 A YES.

18 Q NOW, BACKING UP TO THE -- THE WAY THE CHILD
19 PRESENTED WHEN THE CHILD CAME TO THE HOSPITAL AND YOU FINDING
20 OUT -- UM -- THAT THE CHILD HAD REPORTEDLY FALLEN 40 INCHES.

21 DO YOU HAVE ANY OPINIONS, AS FAR AS THE TIMEFRAME,
22 FOR THE ONSET OF SYMPTOMS ONCE THE CHILD WOULD FALL FROM THAT
23 DISTANCE?

24 A UM --

25 Q SUCH AS RIGIDITY, SUCH AS NOT RESPONDING?

1 **A** THEY CAN BE INSTANTANEOUS. IF SOMEONE HAS -- IF
2 SOMEONE DIES IN A SCENE -- AT THE SCENE, THEY CLINICALLY
3 ARE -- THEIR BRAIN IS SEPARATED FROM THEIR SPINE OR THEIR
4 BRAIN DIES, THEY CAN HAVE BRAIN DEATH FROM THAT POINT FORWARD.
5 THEY CAN PROGRESS TO FURTHER PROBLEMS LIKE THE LOWERING OF THE
6 HEART RATE UNTIL IT FINALLY STOPS, THOSE TAKE GENERALLY WITHIN
7 HOURS TO DAYS. IT CAN BE A DELAYED PROCESS DEPENDING ON THE
8 HERNIATION PROCESS OF THE BRAIN.

9 UM -- BUT, YEAH, GENERALLY CLINICAL BRAIN DEATH
10 GENERALLY WITHIN MINUTES TO HOURS OF SOMEONE ARRIVING AT AN
11 INSTITUTION DECIDING THAT THEY HAD THAT TYPE OF INJURY.

12 **MS. EDWARDS:** I DON'T HAVE ANY MORE QUESTIONS. THANK
13 YOU, DOCTOR.

14 **THE COURT:** CROSS-EXAMINATION?

15 **MS. LEMCKE:** THANKS, YOUR HONOR.

16

17 **CROSS-EXAMINATION**

18 **BY MS. LEMCKE:**

19 **Q** DOCTOR, CAN YOU SEE -- YOU MENTIONED SOME OF YOUR
20 BACKGROUND AND YOUR MEDICAL TRAINING.

21 HAVE YOU DONE ANY WORK IN FORENSICS AT ALL?

22 **A** NO, MA'AM.

23 **Q** OKAY. AS PART OF YOUR -- UM -- ONGOING -- UM --

24 MEDICAL EDUCATION, DO YOU DO ANY -- UM -- REVIEW, ANY

25 JOURNALS, TREATISES OR ANYTHING OF THAT NATURE REGARDING SHORT

1 FALL INJURIES, TRAUMATIC BRAIN INJURIES, THAT TYPE OF THING?

2 **A** YES, MA'AM.

3 **Q** CAN YOU GIVE ME SOME OF THOSE?

4 **A** OFF THE TOP OF MY HEAD?

5 **Q** SURE.

6 **A** THE AMERICAN JOURNAL OF PEDIATRICS, JOURNAL OF
7 TRAUMA. WE'VE CITED THESE CASES. EVERY PEDIATRIC DEATH AND
8 EVERY DEATH IN OUR HOSPITAL IS PEER REVIEWED, TO DISCUSS THE
9 INDICATION FOR TREATMENT AND THERAPY, AND IF IT WAS
10 APPROPRIATE OR NOT APPROPRIATE. SO EVERY DEATH IN OUR
11 HOSPITAL IS PEER REVIEWED, AND AT OUR PEER REVIEW WE DISCUSS
12 ARTICLES THAT ARE CURRENT TO WHAT THAT INJURY PATTERN WOULD
13 BE.

14 **Q** OKAY. WHEN YOU TALK ABOUT CURRENT TO THE INJURY
15 PATTERN, ARE YOU TALKING ABOUT MORE THE TREATMENT END OR THE
16 CAUSATION END?

17 **A** THEY ARE -- THEY ARE INTERLINKED.

18 **Q** OKAY.

19 **A** SO WE'D NEED TO KNOW -- THE INJURY WOULD PRECIPITATE
20 A PATTERN OF TREATMENT. SO WE HAVE TO LOOK AT BOTH THE INJURY
21 AND THE TREATMENT PATTERN, BOTH. WE LOOK AT THE INJURY, AS
22 WELL AS, DID WE FOLLOW -- IF SOMEONE CAME IN, FOR EXAMPLE,
23 WITH A GUNSHOT WOUND, AND IT WAS TO A CERTAIN PART OF THEIR
24 CHEST, WE KNEW WHAT ORGANS COULD BE INJURED. NOT KNOWING THE
25 INJURY WOULDN'T HELP ME DO THE PATTERN OF TREATMENT. SO WE

1 DISCUSS BOTH THE INJURY, PATTERN OF INJURY AND THE TREATMENT
2 AND THE MECHANISM FOR BOTH.

3 Q OKAY. UM -- DO -- DO YOU GET INTO THE BIOMECHANICS
4 OF HEAD TRAUMA, AND WHAT FORCES ARE NECESSARY TO CAUSE A
5 PARTICULAR LEVEL OF HEAD TRAUMA?

6 A WE DO.

7 Q OKAY. AND CAN YOU TELL ME WHAT -- UM -- JOURNALS OR
8 PERIODICALS, OR WHAT INFORMATION THAT YOU REVIEW ON AN ONGOING
9 BASIS REGARDING THE BIOMECHANICS OF ...

10 A YES. THE AMERICAN SOCIETY OF NEUROSURGERY. IT'S
11 SPECIFICALLY UNDER WILLIAM SMITH, WHO'S OUR CHAIRMAN, BRINGS
12 US ARTICLES AND WE DISCUSS INJURY PATTERNS, FORCE, BECAUSE
13 THIS IS AN ONGOING DEBATE IN THE MEDICAL COMMUNITY ABOUT HOW
14 TO MANAGE THESE PARTICULAR INJURIES, AND WHAT WE DO, AND HOW
15 WE CAN DO BETTER TO DO THEM MORE APPROPRIATELY FOR PEOPLE.

16 Q OKAY. AND I UNDERSTAND BECAUSE YOU'RE A TREATING
17 PHYSICIAN, THEN YOU'RE SPENDING MORE TIME TREATING, I'M
18 GUESSING, THAN YOU ARE ACTUALLY TRYING TO DETERMINE WHAT THE
19 ACTUAL CAUSE IS. IN OTHER WORDS, WHEN AN INJURY IS PRESENTED
20 TO YOU, THE FIRST THING YOU WANT TO DO IS TREAT IT; IS THAT
21 CORRECT?

22 A CORRECT.

23 Q OKAY. UM -- AND THEN IN TERMS OF HOW THE INJURY MAY
24 HAVE BEEN CAUSED, ONCE YOU IDENTIFY WHAT THE INJURY IS AND --
25 UM -- WHAT MALADY IS EXISTING WITHIN THE PATIENT, DOES THAT

1 NECESSARILY -- UM -- BECOME WHAT YOU ARE -- UM -- WHAT'S GOING
2 TO DIRECT YOUR COURSE OF ACTION IN TERMS OF TREATING THE
3 PATIENT?

4 **A** ONCE I UNDERSTAND THE INJURY, AND I SEE THE
5 PATTERNS, THEN MY PRIMARY GOAL IS TREATING THE PATIENT, NOT
6 INVESTIGATING A PATTERN OF INJURY.

7 **Q** OKAY. CAN YOU TELL ME -- YOU'VE INDICATED, JUST
8 BRIEFLY, THAT YOU DIDN'T THINK THAT A 40 INCH FALL WOULD BE
9 CONSISTENT WITH -- UM -- WITH AN INJURY THAT YOU SAW IN --
10 UM -- IN KHAYDEN. OR ACTUALLY, YOU KNOW, FORGIVE ME, BUT --

11 **A** I ONLY KNOW HIM AS ULYSSES DOE.

12 **Q** ULYSSES, RIGHT, EXACTLY. OKAY. AND FORGIVE ME, FOR
13 THE REST OF THE PROCEEDING I'LL REFER TO HIM AS ULYSSES, JUST
14 BECAUSE THAT'S HOW YOU KNOW HIM.

15 DO YOU -- ARE YOU AWARE OF WHAT PHYSICAL PROPERTIES
16 YOU LOOK AT TO DETERMINE -- UM -- HOW ACCELERATION,
17 DECELERATION, VELOCITY, AND THAT TYPE OF THING, WHEN YOU HAVE
18 A TRAUMATIC BRAIN INJURY WITH SAY A THREE YEAR OLD?

19 **A** YES.

20 **Q** OKAY. AND WHAT WOULD SOME OF THOSE THINGS BE?

21 **A** THE DELTA V IN A CHILD OF MORE THAN 1.5, WHICH IS A
22 DECREASE IN THE DECELERATION VELOCITY, CHANGES THE ANATOMY OF
23 THE BRAIN SIGNIFICANTLY ENOUGH TO CAUSE INJURIES TO THE BRAIN.
24 YOU'D HAVE TO MAGNIFY THE FORCE OF GRAVITY, 9.8 KILOGRAMS PER
25 SECOND SQUARE, TO THE WEIGHT OF THE CHILD, THE DISTANCE THEY

1 FALL, AND THE DIRECTIONALITY THAT THEY FELL ONTO THE SURFACE,
2 AND WHETHER IT WAS ELASTIC OR NOT. A CARPETED SURFACE WOULD
3 TAKE LESS ENERGY THAN A TILE SURFACE TO BREAK SOMEONE'S
4 SKULL -- OR THE OTHER WAY AROUND, RATHER. TILE IS HARDER, SO
5 IT'S LESS ELASTIC.

6 THE PATTERN OF INJURY IN THE CHILD, NOT ONLY BEING A
7 BRAIN INJURY, BUT ALSO BEING PULMONARY CONTUSIONS, WHICH ARE
8 BRUISES OF THE LUNGS, ARE NOT CONSISTENT WITH A FALL OF 40
9 INCHES.

10 Q OKAY. AND I'M GOING TO GET INTO THE PULMONARY
11 CONTUSIONS IN JUST A MINUTE, BUT -- UM -- DO YOU TAKE INTO
12 CONSIDERATION, LIKE FOR EXAMPLE, LOADING CHARACTERISTICS?

13 A ARE YOU ASKING ME IF -- YOU MEAN IF SOMEONE JUMPS
14 INTO SOMETHING VERSUS A STATIC FALL?

15 Q YES.

16 A ABSOLUTELY.

17 Q OKAY. AND WHAT WOULD BE THE DIFFERENCE, THEN,
18 BETWEEN -- UM -- A STATIC FALL VERSUS -- UM -- SAY SOMEBODY
19 WHO JUMPS INTO A FALL?

20 A IT WOULD BE THE VELOCITY ACCELERATION OF THE MASS --

21 Q OKAY.

22 A -- WOULD CHANGE.

23 Q AND WHAT WOULD -- WHAT IMPACT WOULD THAT THEN HAVE,
24 IF ANY, ON -- UM -- THE INJURY THAT YOU MIGHT ULTIMATELY SEE?

25 A A LOADED INJURY WOULD INCREASE THE INJURY PATTERN.

1 Q OKAY. WHAT ABOUT ROTATIONAL FORCES?

2 A WE ARE CONCERNED WITH ROTATIONAL FORCES WHEN
3 CERVICAL SPINE INJURIES TAKE PLACE, AND ACTUALLY WE DO DISCUSS
4 THEM. WE LOOK AT ROTATIONAL INJURIES FOR CERVICAL SPINE
5 OCCIPITAL SEPARATION, AND THINGS OF THAT NATURE, IN ALL
6 PATTERNS.

7 Q OKAY. DO ROTATIONAL FORCES, CAN THEY HAVE AN IMPACT
8 ON THE SEVERITY OF -- OF TRAUMA TO THE SKULL, AND TO THE
9 BRAIN, ULTIMATELY, DEPENDING ON WHAT THOSE CHARACTERISTICS ARE
10 AT THE TIME OF IMPACT?

11 A YES.

12 Q UM -- AND HOW CAN THAT EFFECT?

13 A ROTATIONAL INJURIES WITH A LOADING ROTATIONAL FORCE
14 CAN INCREASE THE INJURY PATTERN. WITH AN UNLOADING ROTATIONAL
15 FORCE CAN DECREASE INJURY PATTERN. SO IF SOMEONE IS FALLING
16 AWAY FROM AN OBJECT AS THEY HIT IT, THEY'LL TEND TO HAVE LESS
17 OF AN INJURY. IF THEY FALL INTO AN OBJECT, AS THEY'RE HITTING
18 IT, THEY'LL HAVE MORE OF AN INJURY.

19 Q OKAY. ARE THERE ANY OTHER -- OTHER THAN THE -- THE
20 JOURNALS AND/OR TREATISES THAT -- THAT YOU REFERENCED, IS
21 THERE ANY OTHER DOCUMENTATION -- UM -- THAT YOU HAVE REVIEWED
22 REGARDING THE BIOMECHANICS OF FALLING -- UM -- INJURIES, THAT
23 HAVE LED YOU TO THE CONCLUSION THAT YOU OFFER TODAY ABOUT THE
24 INCONSISTENCY WITH -- UM -- OF THIS PARTICULAR INJURY WITH A
25 40 INCH FALL?

1 **A** NO.

2 **Q** OKAY. SO IT WAS JUST THE ONE JOURNAL AND/OR
3 TREATISE THAT YOU MENTIONED EARLIER IN YOUR TESTIMONY THEN?

4 **A** IT'S THE ONGOING CONTINUATION. NOT JUST THIS CHILD,
5 BUT I HAVE MULTIPLE CHILDREN THAT FALL, MULTIPLE ADULTS THAT
6 FALL, AND WE DISCUSS THIS ON A PERIODIC AND ROUTINE BASIS.

7 **Q** OKAY. UM -- SO IT'S BASICALLY IF I -- I JUST WANT
8 TO MAKE SURE I UNDERSTAND CORRECTLY. SO IT'S ONGOING
9 DISCUSSIONS THAT YOU -- IT WAS -- LET ME START AGAIN.

10 IT'S THE -- THE -- UH -- TREATISE OR PUBLICATION,
11 THAT YOU DESCRIBED EARLIER, PLUS THE ONGOING INFORMATION THAT
12 YOU GET WHEN YOU DO KIND OF PEER REVIEW EVALUATIONS AND
13 DISCUSSIONS REGARDING THE TYPE OF INJURIES THAT YOU SEE IN
14 YOUR PRACTICE?

15 **A** AND NEW LITERATURE THAT COMES UP, YES.

16 **Q** OKAY. AND BY NEW LITERATURE, WHAT SPECIFICALLY?

17 **A** SOCIETY OF CRITICAL CARE, THE JOURNAL OF TRAUMA, AND
18 WE ALSO DISCUSS THE AMERICAN JOURNAL OF PEDIATRICS AND INJURY
19 PATTERNS.

20 **Q** OKAY.

21 **A** AND I PRESENT TWICE A YEAR PEDIATRIC DISASTER
22 COURSES SPECIFIC TO THESE NEEDS.

23 **Q** OKAY. AND, AGAIN, ANYTHING ON THE BIOMECHANICS,
24 THAT IS CAUSATION OF THE TRAUMA? NOT NECESSARILY THE TRAUMA,
25 THE IDENTIFICATION OF THE PROBLEM AND TREATMENT, BUT THE

1 BIOMECHANICS OF WHAT CAUSES THAT PARTICULAR INJURY?

2 A YES.

3 Q AND SPECIFICALLY WHAT THEN?

4 A WELL --

5 Q DO YOU REVIEW, OR HAVE YOU REVIEWED?

6 A CAR SEAT SAFETY INFORMATION. PARTICULARLY

7 DECELERATION INJURIES, HELMET USE, SAFE KIDS OF NEVADA. I

8 BELONG TO TAKE ORGANIZATION, WE DISCUSS THIS AT GREAT LENGTH.

9 SO THOSE ARTICLES AND THOSE PHYSICAL INFORMATION THAT WE

10 DERANGE OUT OF A WEALTH OF DATA THAT COMES OUT. NOT JUST A

11 FALL, BUT A BICYCLE FALL, A CHILD RIDING MOTORCYCLE, A CHILD

12 ON A SKATEBOARD, ALL OF THOSE THINGS, WE DISCUSS THOSE AT

13 LENGTH, AND WE DISCUSS INJURY PATTERNS ASSOCIATED, AND THE

14 ENERGY OF FORCE ASSOCIATED WITH THOSE PATTERNS. SO WE CAN

15 DISCUSS HELMET USE AND THINGS OF THAT NATURE.

16 Q SO WHEN YOU SAY WE, ARE YOU TALKING ABOUT OTHER

17 CLINICIANS WITH WHOM YOU WORK, THEN?

18 A YES.

19 Q OKAY. AND SO WHAT -- WHAT -- IF I UNDERSTAND YOU

20 CORRECTLY, AND PLEASE CORRECT ME IF I'M WRONG, BECAUSE IT WILL

21 NOT BE THE FIRST TIME, NOR THE LAST, I ASSURE YOU. UM -- SO

22 WHAT YOU'RE SAYING IS, YOU'LL -- YOU GATHER DATA ON INJURIES,

23 AND THE -- UM -- CAUSATION OF THE INJURIES, AND THEN YOU

24 DISCUSS -- UM -- THE IM -- WELL, I MEAN, YOU DISCUSS HOW THAT

25 PARTICULAR -- THE MECHANICS OF THAT PARTICULAR ACCIDENT, SHALL

1 WE SAY, OR TRAUMA OCCUR, AND HOW THEY ULTIMATELY IMPACT --
2 UM -- THE PATIENT?

3 A YES.

4 Q OKAY. THAT WAS A REALLY LONG PAINFUL QUESTION.

5 A SORRY.

6 Q OKAY. AGAIN, ARE THERE ANY ARTICLES, FOR EXAMPLE,
7 GOLDSMITH AND PLUNKETT, DOES THAT NAME SOUND FAMILIAR TO YOU
8 AT ALL?

9 A NO.

10 Q JIM PLUNKETT -- PLUNKETT, HIMSELF, DOES THAT SOUND
11 FAMILIAR AT ALL?

12 A NO.

13 Q OKAY. COURT'S INDULGENCE.

14 YOU MENTIONED JUST BRIEFLY, NOT TO HARP ON THIS TOO
15 LONG, BUT I'M GOING TO CONTINUE TO HARP, I GUESS, THAT ONE OF
16 THE THINGS THAT YOU REVIEWED WAS CAR SEAT SAFETY. CAN YOU
17 TELL ME SPECIFICALLY WHAT IT IS ABOUT CAR SEAT SAFETY THAT YOU
18 REVIEW REGARDING BIOMECHANICS OF INJURY?

19 A YEAH, DECELERATION. SPECIFICALLY CONTROL OF
20 DECELERATION OF CHILDREN, OR ANYONE FOR THAT MATTER.
21 SEATBELTS AND RESTRAINTS IN DECELERATION, AND THE INJURED
22 PATTERN ASSOCIATED TO ABRUPT DECELERATION.

23 Q OKAY. WHAT ABOUT WITH FALLS?

24 A THEY WOULD BE AN ABRUPT DECELERATION.

25 Q OKAY. ASSUMING THAT YOU'RE NOT PUTTING YOUR ARMS

1 OUT TO BREAK, TO -- THERE COULD BE VARIABLES IN A FALL; WOULD
2 YOU AGREE WITH ME ON THAT?

3 **A** YES.

4 **Q** OKAY. THAT IF YOU ARE -- IF YOU HAVE THE TIME TO
5 BRACE YOURSELF FOR A FALL, THAT YOU MIGHT BE ABLE TO DIMINISH
6 THE -- THE ACCELERATION AND THE VELOCITY -- UM -- AND,
7 THEREFORE, DIMINISH THE FORCE ON IMPACT; IS THAT RIGHT?

8 **A** YES. YOU COULD DISPLACE THE ENERGY.

9 **Q** OKAY. SO WHEN WE'RE TALKING ABOUT A FALL, THERE ARE
10 A LOT OF VARIABLES, I GUESS -- I WOULD ASSUME, THAT GO INTO
11 DETERMINING WHAT KIND OF FALL COULD CAUSE WHAT KIND OF INJURY?

12 **A** YES.

13 **Q** OKAY. UM -- AND SO AS SOMEBODY WHO WOULD OFFER AN
14 OPINION ON WHETHER OR NOT AN INJURY IS CONSISTENT OR NOT
15 CONSISTENT WITH A PARTICULAR FALL, WHAT CHARACTERISTICS IN
16 PARTICULAR WOULD YOU WANT TO KNOW ABOUT THAT FALL IN ORDER TO
17 MAKE THAT OPINION?

18 **A** ONE, THE HEIGHT, COMPARED TO THE HEIGHT OF THE
19 VICTIM. I'D WANT TO KNOW IF IT WAS A, AS YOU PUT IT, A
20 LOADING OR UNLOADING FALL. WERE THEY JUMPING OFF A BED, WERE
21 THEY JUMPING OFF A TRAMPOLINE OR OFF A ROOF, WERE THEY SLIDING
22 OFF A COUCH, WERE THEY -- WHAT WERE THEY DOING. THE MECHANISM
23 THAT BROUGHT ME TO THE REASON THEY'RE SEEING ME. WHAT WAS THE
24 ENERGY FORCE THAT WAS BEING APPLIED TO THAT BODY.

25 **Q** OKAY. SO DEPENDING -- AND THEN, OF COURSE, THE

1 SURFACE, AS YOU SAID, A CARPET'S GOING TO ABSORB MORE ENERGY
2 VERSUS, SAY, A TILE FLOOR?

3 A CORRECT.

4 Q OKAY. IN FACT, A TILE FLOOR WOULD BE MUCH HARDER
5 THAN A CARPETED SURFACE, AND WOULDN'T TAKE AS MUCH ENERGY?

6 A CORRECT.

7 Q TELL ME WHAT YOUR UNDERSTANDING, BECAUSE YOU
8 INDICATED THAT -- THAT YOU KNEW THAT A CHILD HAD FALLEN FROM
9 ROUGHLY 40 INCHES. THE 40 INCHES THAT YOU UNDERSTOOD, WAS
10 THAT 40 INCHES FROM THE CHILD'S HEAD TO THE FLOOR, OR 40
11 INCHES FROM WHERE THE CHILD WAS SEATED?

12 A THEY DIDN'T DESCRIBE IT TO ME, JUST THE HEIGHT WAS A
13 40 INCH FALL.

14 Q WOULD IT MAKE A DIFFERENCE TO YOU?

15 A YES.

16 Q OKAY. BECAUSE THE HEAD WOULD BE ELEVATED HIGHER
17 THAN 40 INCHES POSSIBLY?

18 WELL, I GUESS LET -- LET ME ASK IT THAT WAY. IT
19 WOULD MAKE A DIFFERENCE WHETHER OR NOT THE PERSON WHO
20 DESCRIBED THE FALL AS BEING 40 INCHES, WAS DESCRIBING 40
21 INCHES FROM WHERE A CHILD WAS SEATED VERSUS WHERE THE TOP OF
22 THEIR HEAD WAS?

23 A YES.

24 Q OKAY. UM -- IF THEY WERE -- IF ULTIMATELY IT WAS
25 DETERMINED THAT THE CHILD'S HEAD WAS HIGHER THAN 40 INCHES --

1 UM -- WOULD THAT -- PRESUMABLY COULD IT INCREASE THE
2 ACCELERATION, AND ULTIMATELY THE VELOCITY, AT WHICH THE HEAD
3 HITS THE GROUND?

4 A YES. IF THEY'RE HIGHER IT COULD OBVIOUSLY INCREASE
5 THE VELOCITY.

6 Q OKAY.

7 AT WHAT POINT -- AT WHAT HEIGHT -- UM -- WELL, OKAY,
8 AGAIN, AND WHETHER OR NOT -- WHETHER OR NOT THE INDIVIDUAL
9 USED THEIR ARMS TO BRACE THE FALL WOULD ALSO EFFECT THE FORCE
10 WITH WHICH THEY HIT A SURFACE?

11 A BUT THEN THEY'D HAVE A DIFFERENT INJURY PATTERN.

12 Q OKAY. BUT IT WOULD MAKE A DIFFERENCE?

13 A YES.

14 Q OKAY. UM -- AT WHAT POINT -- AT WHAT HEIGHT WOULD
15 YOU EXPECT A CHILD OF ULYSSES'S HEIGHT -- UM -- TO -- WITH
16 A -- WITH A FALL, INCUR A SKULL FRACTURE SIMILAR TO WHAT YOU
17 OBSERVED -- UM -- WITH THIS PATIENT?

18 MS. EDWARDS: I'D OBJECT, SPECULATION. HE'S INDICATED
19 THERE ARE A NUMBER OF FACTORS THAT GO INTO THAT DETERMINATION.

20 THE COURT: HE -- THAT'S TRUE.

21 SO ALL YOU'RE ASKING HIM ABOUT IS HEIGHT VERSUS ULYSSES
22 HEIGHT, BUT THE DOCTOR HAS SAID THAT'S NOT THE ONLY FACTOR
23 THAT THOSE -- THOSE MEASUREMENTS ARE NOT THE ONLY FACTOR --

24 MS. LEMCKE: RIGHT.

25 THE COURT: -- IN DETERMINING INJURY.

1 **MS. LEMCKE:** AND UNDERSTANDING THAT, HOWEVER, THE DOCTOR
2 DID OPINE AS TO THE 40 INCH FALL, AND I WOULD ASSUME THE SAME
3 VARIABLES APPLY THERE.

4 **Q** SO TO THE EXTENT THAT HE OPINED AS TO THE 40 INCH
5 FALL NOT BEING CONSISTENT, I WOULD JUST BE CURIOUS TO KNOW
6 WHAT IT IS, AT WHAT POINT -- UM -- GIVEN YOUR UNDERSTANDING OF
7 WHAT HAPPENED IN THE 40 INCH FALL, AT WHAT POINT, GIVEN THOSE
8 SAME CHARACTERISTICS, WOULD YOU EXPECT TO SEE SOMETHING -- A
9 HEAD INJURY OF THIS NATURE?

10 **THE COURT:** HOLD ON ONE SECOND.

11 DO YOU HAVE AN OBJECTION?

12 **MS. EDWARDS:** IT'S THE SAME OBJECTION, YOUR HONOR, AS FAR
13 AS THE SPECULATION GOES FROM WHAT HEIGHT, WHAT POSITION OF THE
14 BODY. WHEN I DID ASK HIM THE QUESTIONS, I TALKED ABOUT THE
15 CHILD SLIPPING OVER THE COUCH AND THE POSITIONING OF THE BODY
16 OF THE CHILD -- UM -- IN ADVANCE OF THAT QUESTION.

17 **THE COURT:** DO YOU MEAN WITH ALL CHARACTERISTICS BEING
18 THE SAME OF WHAT HE KNOWS ABOUT THIS FALL?

19 **MS. LEMCKE:** YES.

20 **THE COURT:** OKAY. OVERRULED.

21 YOU CAN ANSWER THE QUESTION.

22 **THE WITNESS:** OKAY. THANK YOU.

23 DEPENDING ON HOW THE CHILD IS POSITIONED, AND THIS
24 PARTICULAR CHILD'S HEIGHT, I WOULD EXPECT HIM TO BE AT 72
25 INCHES OR HIGHER FOR A FALL, TWO AND A HALF TIMES THEIR

1 HEIGHT.

2 SO WHEN A PARENT -- SO SUPPOSE YOU'RE CARRYING THE CHILD,
3 AND I'M CARRYING MORE THAN 40 INCHES OFF THE GROUND, AND I
4 DROP HIM. IF I DROP HIM HEAD FIRST, FOR EXAMPLE -- THIS HAS
5 NOT HAPPENED, IT'S NOT MY ANSWER OF WHAT HAPPENED, OKAY,
6 JUST -- I'M JUST MAKING AN EXAMPLE. IF I HOLD THE CHILD --
7 THIS IS MY CHILD. IF MY CHILD IS -- HEAD HERE, FEET HERE, THE
8 FALL'S NOT 40 INCHES FROM HERE, IT'S FROM HERE.

9 BY MS. LEMCKE:

10 Q RIGHT.

11 A SO NOW IF I -- MY CHILD IS 40 INCHES TALL, AND I
12 DROP HIM 40 INCHES, THEY DROPPED 80 INCHES.

13 DOES THAT MAKE SENSE?

14 BECAUSE IT'S THE ENERGY OF THAT ENTIRE BODY. NOT
15 THE ENERGY FROM THE POINT OF FALL TO THE POINT OF IMPACT, IT
16 INCLUDES THE ENERGY OF THE BODY. SO A CHILD STANDING UPRIGHT,
17 THAT'S 30 INCHES TALL, FALLING OVER HAS A DIFFERENT IMPACT
18 PATTERN THAN A CHILD THAT'S HELD 40 INCHES OFF THE GROUND, AND
19 FALLS, BECAUSE THEIR HEIGHT IS NOT 40 INCHES ANYMORE, IT'S 60
20 OR 70 INCHES.

21 Q OKAY.

22 A DEPENDING ON THE POSITIONING OF THAT BODY.

23 Q OKAY. SO FROM THE -- FROM THE POSITIONING THAT THE
24 PROSECUTOR DESCRIBED ON DIRECT EXAMINATION, YOU WOULD EXPECT A
25 72 -- 72 INCHES, A FALL OF 72 INCHES TO CREATE THE FORCE

1 NECESSARY TO CAUSE AN INJURY LIKE YOU OBSERVED IN THIS
2 PARTICULAR PATIENT?

3 A YES.

4 Q HOW ABOUT FROM A SITTING POSITION? HOW ABOUT FROM

5 A -- IF THE PATIENT WERE SITTING AND THEN FLIPPED OVER
6 BACKWARDS?

7 A SO MY CHAIR'S HERE, AND I'M SITTING ON MY CHAIR, AND
8 I FALL OFF MY CHAIR?

9 Q SITTING STRAIGHT UP AND BACKWARDS.

10 A SO I'M AGAIN --

11 Q FLIPPING BACKWARDS.

12 A -- MORE THAN 40 INCHES HIGH?

13 Q CORRECT.

14 A SO IT WOULD BE THE HEIGHT OF THAT CHILD, AND IT'S
15 POTENTIALLY POSSIBLE TO HAVE A SKULL FRACTURE AT THOSE
16 HEIGHTS, YES.

17 Q OKAY. AT THOSE HEIGHTS. WHAT DO YOU MEAN THOSE
18 HEIGHTS?

19 A YOU'RE TAKING A 30 -- TAKE A 38 INCH CHILD --

20 Q RIGHT.

21 A -- AND SET THEM DOWN, THEY'RE 25 INCHES TALL. SO
22 YOU'RE 65 INCHES FROM A FALL.

23 Q OKAY. AND SO UNDER THOSE CIRCUMSTANCES, IS IT
24 POSSIBLE, THEN, THAT YOU COULD SEE AN INJURY SIMILAR TO WHAT
25 YOU OBSERVED IN THIS PARTICULAR PATIENT?

1 **A** WITH THE CAVEAT THAT I WOULD EXPECT THE INJURY
2 PATTERN TO BE OVER THE AREA OF THE FRACTURE, NOT IN THE FRONT
3 OF THE FACE, AND A FRACTURE TO THE BACK OF THE SKULL.

4 **Q** OKAY.

5 **A** YES.

6 **Q** YES, YOU COULD?

7 **A** WITH THE PATTERN CONSISTENT WITH A FRONTAL INJURY, I
8 WOULD EXPECT THE SKULL FRACTURE TO BE IN THE FRONT, AS OPPOSED
9 TO THE BACK OF MY SKULL, BECAUSE THE IMPACT SHOWS IN THE FRONT
10 NOT THE BACK OF MY SKULL.

11 **Q** OKAY. BUT IF THERE WAS AN IMPACT IN THE -- OKAY.
12 BUT WITH AN IMPACT IN THE REAR OF THE SKULL, WITH A SKULL
13 FRACTURE IN THE REAR OCCIPITAL AREA OF THE -- OF THE SKULL,
14 THE RIGHT OCCIPITAL AREA?

15 **A** OR THE LEFT, IN THIS CHILD'S CASE.

16 **Q** OKAY. COULD A FALL FROM THAT HEIGHT, THAT BEING --
17 I THINK YOU DESCRIBED 65ISH INCHES, GIVE OR TAKE A FEW, COULD
18 THAT -- COULD YOU SAY THAT KIND OF AN INJURY -- UM -- IF THE
19 INJURY WERE IN THE LOCATION THAT YOU -- THAT YOU DESCRIBED AS
20 BEING CONSISTENT WITH A BACKWARDS FALL, COULD YOU SEE THAT
21 KIND OF FRACTURE?

22 **A** SO IF THE INJURY -- HE HAD AN INJURY PATTERN THAT
23 SHOWED CONTUSION AT THE BACK OF THE SKULL, THEN I WOULD EXPECT
24 AN UNDERLYING FRACTURE IN THAT AREA, YES.

25 **Q** YOU WOULD?

1 **A** YES.

2 **Q** OKAY. AND YOU WOULD EXPECT ALL OF THE -- SOME OF
3 THE -- YOU COULD EXPECT THEN CERTAINLY SOME OF THE SECONDARY
4 INJURIES THAT WOULD OCCUR PURSUANT TO THE SKULL FRACTURE?
5 THAT IS, THE BLEEDING ON THE BRAIN, SWELLING, THOSE THINGS?

6 **A** YES.

7 **MS. LEMCKE:** OKAY. OKAY, LET ME ...
8 COURT'S INDULGENCE FOR A MINUTE.

9 **THE COURT:** SURE.

10 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

11 **MS. LEMCKE:** OKAY. UM --

12 **MR. REED:** COURT'S INDULGENCE.

13 **THE COURT:** SURE.

14 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

15 **MS. LEMCKE:** OKAY. OKAY.

16 **Q** SO LET'S GO BACK, NOW, I WANT TO TALK TO YOU ABOUT
17 SPECIFICALLY THE INJURIES THAT YOU OBSERVED.

18 UM -- LET'S SEE HERE, LET ME GET MY DOCUMENTS OUT SO
19 I'M READY TO ROLL. OKAY. LET'S TALK ABOUT WHAT YOU -- UM --
20 OBSERVED RELATIVE TO THE HEAD.

21 COURT'S INDULGENCE, I JUST WANT TO GET -- OKAY.

22 OKAY. WITH THE -- UM -- WITH THE HEAD INJURY THERE
23 WAS A SKULL FRACTURE; IS THAT RIGHT?

24 **A** CORRECT.

25 **Q** TELL ME WHERE IT IS YOU'VE IDENTIFIED THAT THE

1 FRACTURE -- WELL, LET ME ASK IT THIS WAY. CAN YOU IDENTIFY
2 WHAT YOU BELIEVE TO BE A POINT OF IMPACT WITH THAT FRACTURE?

3 A DID I IDENTIFY A POINT OF IMPACT?

4 Q YEAH. COULD -- CAN YOU? I DON'T KNOW, CAN YOU?

5 A I WOULDN'T KNOW. YOU'D HAVE -- EXAMINING THE CHILD
6 YOU'D HAVE TO FIND AN AREA, GENERALLY A CONTUSION OR A BRUISE,
7 OR SOMETHING. AN ABRASION OVER THAT AREA WOULD BE A POINT OF
8 IMPACT.

9 Q OKAY. AND THEN YOU MIGHT SEE KIND OF -- YOU COULD
10 POSSIBLY SEE STARRING FRACTURES, THAT IS FRACTURES KIND OF
11 RADIATING FROM THAT POINT OF IMPACT?

12 A CORRECT.

13 Q DO THE -- UM -- DO ALL OF THE PATTERNING IN THE
14 FRACTURE, THAT IS THAT STARRING COMPONENT, IF THERE IS ONE, I
15 THINK THEY CALL IT A STELLATE FRACTURE; IS THAT CORRECT?

16 A YES.

17 Q CAN YOU ALWAYS SEE ALL OF THAT ON A CT SCAN OR AN
18 X-RAY?

19 A NO. I MEAN, THERE COULD BE MICRO STELLATE YOU WON'T
20 SEE, THAT APPEARS TO BE A LINEAR FRACTURE THAT MAY HAVE A
21 MICRO-STELLATE FRACTURE PATTERN TO IT, BUT STILL APPEARS TO BE
22 A LINEAR FRACTURE ON X-RAY, THAT COULD BE PICKED UP IF YOU
23 WERE TO ACTUALLY TAKE THE BONE APART AND LOOK AT IT UNDER A
24 MICROSCOPE.

25 Q OKAY. SO FOR EXAMPLE, IF AN AUTOPSY IS DONE AND

1 THEY DETERMINE IT TO BE A STELLATE TYPE FRACTURE, AS OPPOSED
2 TO JUST A PURE LINEAR FRACTURE, WOULD THAT AUTOPSY ULTIMATELY
3 BE A MORE ACCURATE INDICATION AS TO THE ACTUAL TYPE OF
4 FRACTURE, VERSUS WHAT YOU'RE SEEING ON A CT SCAN?

5 **A** YES.

6 **MS. LEMCKE:** OKAY. THERE IS IDENTIFIED IN THE MEDICAL
7 NOTATIONS -- AND COUNSEL, FOR THE RECORD, I'M GOING TO
8 REFER -- THE D.A.'S OFFICE WAS GRACIOUS ENOUGH TO BATES STAMP
9 THESE, YOUR HONOR, SO FOR THE RECORD I'M GOING TO REFER TO THE
10 D.A.'S BATES STAMP NUMBER, IT JUST MAKES IT EASIER.

11 **THE COURT:** SURE.

12 **BY MS. LEMCKE:**

13 **Q** BATES STAMP NUMBER -- UM -- I'M GOING TO START WITH
14 PAGE 298 -- UM -- NOTATIONS -- UM -- REGARDING THE OBSER --
15 THE TESTING THAT WAS DONE UPON HIS INITIAL PRESENTMENT TO THE
16 HOSPITAL. IT INDICATES THAT THERE IS -- UM -- A SDH AND A
17 SAH.

18 WOULD YOU LIKE ME TO SHOW YOU THESE NOTES, WOULD
19 THAT MAKE IT BETTER?

20 **A** IT WOULD.

21 **MS. LEMCKE:** YOU PROBABLY -- MAY I APPROACH THE WITNESS?

22 **THE COURT:** YES.

23 **MS. LEMCKE:** YOU'RE PROBABLY --

24 **THE WITNESS:** I APOLOGIZE --

25 **MS. LEMCKE:** -- GOING TO KNOW WHAT --

1 **THE WITNESS:** -- INFORMATION IS NOT --
2 **MS. LEMCKE:** YEAH.
3 **Q** AND AGAIN, I'M REFERRING, FOR THE RECORD, TO BATES
4 STAMP PAGE 298.
5 **A** OKAY.
6 **Q** AND DOCTOR, IF THERE'S ANYTHING THAT YOU WANT TO SEE
7 TO REFRESH YOUR RECOLLECTION, TELL ME, AND I'LL GIVE IT TO
8 YOU, IF I CAN HUNT IT DOWN.
9 **A** OKAY.
10 **Q** OKAY. SO THERE'S A NOTATION, IT SAYS SDH AND SAH.
11 AM I -- WOULD I BE CORRECT IN SAYING THAT THAT IS A SUBDURAL
12 HEMORRHAGE AND SUBARACHNOID HEMORRHAGING, RESPECTIVELY?
13 **A** THOSE ARE THE CLASSIC INITIALS FOR THAT, YES.
14 **Q** OKAY. IT INDICATES THAT THERE IS THE MIDLINE SHIFT;
15 IS THAT RIGHT?
16 **A** YES.
17 **Q** AND THAT WAS THE -- UM -- SHIFT THAT YOU TALKED
18 ABOUT A LITTLE BIT EARLIER, WHERE THE BRAIN IS KIND OF
19 FLOATING AND IT SHIFTS?
20 **A** CORRECT.
21 **Q** OKAY. I'M GOING TO TALK ABOUT THAT IN JUST A
22 MINUTE.
23 ALONG WITH THE HERNIATION?
24 **A** CORRECT.
25 **Q** AND THAT WAS A -- UM -- WAS IT A SUBFALCINE --

1 FALCINE HERNIATION; DO YOU RECALL?

2 A I -- I COULD LOOK.

3 Q I'LL -- I'M GOING TO GET TO IT IN A MINUTE, ANYWAY.

4 AND THEN THEY IDENTIFIED PULMONARY CONTUSIONS?

5 A CORRECT.

6 Q IS THAT A CONTUSION IN THE LUNG?

7 A YES, IT IS.

8 Q AND A CONTUSION BEING BASICALLY A BRUISE, FOR A LAY

9 PERSON?

10 A YES.

11 Q OKAY. AND THEN ASPIRATION?

12 A YES.

13 Q DO YOU REMEMBER -- RECALL ANYTHING ABOUT THE

14 ASPIRATION?

15 A NO, I DON'T.

16 Q OKAY. OKAY -- UH -- LET ME SEE HERE.

17 WITH -- WITH THE MIDLINE -- UM -- WITH THE MIDLINE

18 SHIFT, THAT YOU TALKED ABOUT ON DIRECT EXAMINATION, WHAT

19 ACTUALLY CAUSES THAT? IS THAT THE PRESSURE THAT IS EXERTED BY

20 THE BLEEDING INTO THE BRAIN?

21 A IN -- YOU'RE TALKING ABOUT IN THIS SPECIFIC CASE?

22 Q YES.

23 A YES, IT WAS DIRECTLY THE RESULT OF THE BLOOD PUSHING

24 THE BRAIN SUBSTANCE TO THE SIDE.

25 Q OKAY. AND THE BLOOD THAT PUSHED THE BRAIN TO THE

1 SIDE, WHERE WAS THAT?

2 **A** IT'S A SUBARACHNOID AND SUBDURAL. THE SUBDURAL
3 HEMORRHAGE HAS A LARGER COMPONENT TO PUSH THE BRAIN. THE
4 SUBARACHNOID IS JUST DIFFUSELY OVER THE -- CALLED A WHOLE
5 HALLO, IT COVERS THE WHOLE BRAIN, LIKE A --

6 **Q** OKAY.

7 **A** -- TISSUE COVERING. SUBARACHNOIDS TEND TO NOT CAUSE
8 COMPRESSION OF THE BRAIN TISSUE. SUBDURALS AND EPIDURALS DO.

9 **Q** OKAY. SO BASICALLY YOU GOT THE BLOOD DISPLACING THE
10 BRAIN; IS THAT RIGHT?

11 **A** YES.

12 **Q** IF THERE IS A LEFT TO RIGHT MIDLINE SHIFT, THEN --
13 UM -- AM I FAIR IN ASSUMING THAT THE BLOOD THAT'S CAUSING THE
14 SHIFT IS THEN ON THE LEFT SIDE OF THE BRAIN?

15 **A** YES.

16 **Q** OKAY. SO WHEN -- WHEN WE SEE THIS SHIFT, THE SHIFT
17 IS NOT NECESSARILY THE DIRECT RESULT OF SAY A SHEARING INJURY,
18 IT'S MORE A RESULT OF THE SECONDARY PROCESS THAT OCCURS WITH
19 THAT -- WITH THE SWELLING AND THE BLEEDING INTO THE BRAIN, AND
20 THAT POOLING THEN PUSHES THAT BRAIN FROM ONE SIDE TO THE
21 OTHER; IS THAT A FAIR CHARACTERIZATION?

22 **A** YES.

23 **Q** OKAY. AND THEN THE HERNIATION -- IS THE HERNIATION
24 ALSO -- AND IS HERNIATION A TEAR?

25 **A** NO. HERNIATION --

1 Q OKAY.

2 A --- IS A MOVEMENT OF ONE BODY PART, NO MATTER WHAT IT
3 IS, INTO A PLACE IT DOESN'T BELONG.

4 Q OKAY.

5 A SO IT COULD BE GOING THROUGH A SMALL STRUCTURE.
6 LIKE -- PEOPLE THINK OF AN INGUINAL HERNIA, WHEN THEY LIFT
7 SOMETHING --

8 Q YEAH.

9 A -- WHERE THEIR INTESTINES SQUIRTS OUT OF A PLACE IT
10 DOESN'T BELONG. THERE'S A HOLE, OR OPENING, THAT IS MOVING
11 THE BODY PART OUT.

12 IN THE BRAIN, THE BRAIN IS WRAPPED BY WHAT IS CALLED
13 THE FALCINE AND THE SENATORIAL LIGAMENTS, AND IT'S A SPACE
14 THAT THE BRAIN ACTUALLY OCCUPIES. BUT IF YOU PUSH BELOW THAT
15 LIGAMENT LINE, AND THAT'S CALLED A HERNIATION, OR IT COULD BE
16 PUSHED OUT OF THE SKULL. IF YOU OPEN THEIR SKULL IT CAN
17 HERNIATE OUT OF THE SKULL, OR THE BRAIN CAN BE SHIFTED OUTSIDE
18 OF IT'S NORMAL POSITION, THAT'S A HERNIATION.

19 Q OKAY. SO THE HERNIATION ACTUALLY REFERS TO THE
20 MOVEMENT, NOT NECESSARILY A DETACHMENT FROM SOMETHING?

21 A THAT'S CORRECT.

22 Q OKAY. AND THAT MOVEMENT, AGAIN, IS -- THE
23 HERNIATION IS BASICALLY THE SHIFT; IS THAT RIGHT?

24 A YES.

25 Q OKAY. IS THERE ANYTHING ELSE, THEN, BESIDES THAT

1 PRESSURE, THAT BUILD UP, THAT BLOOD POOLING -- UM -- IN THE
2 SUBARACHNOID SPACE THAT WOULD CAUSE THAT SHIFT?

3 **A** YES.

4 **Q** WHAT?

5 **A** WHEN THE BRAIN DEVELOPS EDEMA AND SWELLS, IT PUSHES
6 BACK ON THAT SUBSTANCE AND CREATES IT'S OWN PRESSURE. SO IF I
7 HAD A SMALL MASS OCCUPYING LESION, A GOLF BALL, FOR EXAMPLE, I
8 PUT INSIDE OF THE BRAIN AND LEFT IT THERE, THE BRAIN SWELLED,
9 IT WOULD PUSH ON THE GOLF BALL, FORCING ITSELF DOWNWARD. SO
10 THE BLOOD WOULDN'T HAVE TO INCREASE, THE SWELLING OF THE BRAIN
11 COULD INCREASE AND MAKE IT'S -- MAKE ITSELF HERNIATE, AS WELL.

12 **Q** OKAY. SO THERE COULD BE TWO FORCES, BASICALLY, AT
13 WORK? YOU COULD HAVE JUST THE -- UM -- THE EXTRA SPACE THAT'S
14 CREATED WITH THE BLOOD FLOWING THAT PUSHES, AND IT COULD BE
15 THE SWELLING OF THE BRAIN, WHEN THE BRAIN PUSHES BACK, THEN IT
16 ALSO HERNIATES AS A RESULT OF THAT. SO THERE'S TWO THINGS
17 THERE?

18 **A** CORRECT.

19 **Q** OKAY. AGAIN, BOTH OF WHICH ARE SECONDARY TO THE
20 ACTUAL TRAUMATIC INJURY, ITSELF, THE IMPACT?

21 **A** CORRECT.

22 **Q** OKAY. NOW -- OH. OH MY GOD, I THINK I'M GOING TO
23 REPEAT MYSELF.

24 THE PULMONARY CONTUSIONS THAT YOU MENTIONED, THEY
25 WERE BILATERAL, I THINK YOU SAID.

1 A YES.

2 Q AND BILATERAL MEANS THEY WERE ON BOTH SIDES OF THE

3 LUNG --

4 A RIGHT --

5 Q -- OR BOTH LOBES?

6 A BOTH LUNGS.

7 Q BOTH LUNGS. OKAY.

8 A YES.

9 Q DO YOU RECALL WHERE -- UM -- BILATERALLY, THE

10 CONTUSIONS WERE?

11 A NO.

12 Q CAN YOU TELL, DO YOU HAVE ANYWAY OF KNOWING HOW

13 RECENT THOSE CONTUSIONS ARE?

14 A NO.

15 Q UM -- DO YOU SEE CONTUSIONS, THAT YOU SAW IN THIS

16 PARTICULAR CASE, FREQUENTLY WITH TRAUMATIC HEAD INJURY?

17 A NO.

18 Q THIS WOULD BE -- THIS COULD BE SOMETHING THAT'S

19 TOTALLY SEPARATE FROM THE HEAD INJURY?

20 A YES.

21 Q AND COULD IT BE SECONDARY TO THE INTUBATION PROCESS?

22 A NO.

23 Q OKAY. WHY DO YOU SAY THAT?

24 A BECAUSE CONTUSIONS OR BRUISES ARE BLEEDING INSIDE OF

25 A LUNG PARENCHYMA, FROM STRUCTURAL DAMAGE OF THE LUNG, ITSELF.

1 INTUBATION CAUSES EDEMA, IT'S SWELLING, BUT NOT CONTUSIONS.
2 SO CONTUSION IMPLIES A BRUISE, AND A BRUISE IMPLIES DAMAGE TO
3 BLOOD VESSELS, WHICH IMPLIES THAT THERE'S BLEEDING IN THE LUNG
4 TISSUE ITSELF, NOT FROM AN INTUBATION.

5 IF I DON'T -- IF I INTUBATE A LUNG, LET'S SAY
6 VENTILATE THE RIGHT SIDE, AND I DON'T VENTILATE THE LEFT SIDE,
7 THE LEFT SIDE WILL COLLAPSE. IT DOESN'T APPEAR TO BE A
8 CONTUSION, IT APPEARS TO BE ATELECTASIS, AND THERE'S A
9 DIFFERENCE ON AN X-RAY. AND SO A CONTUSION LOOKS DIFFERENT
10 THAN ATELECTASIS.

11 AND A CONTUSION IS CLASSIC, IN THE FACE OF TRAUMA,
12 WE CONSIDER CONTUSIONS TO BE BRUISES, AND NOTHING ELSE. AND A
13 BRUISE TO BE STRUCTURAL DAMAGE AND BLEEDING IN THE LUNG
14 PARENCHYMA.

15 Q OKAY. SO -- UM -- WHAT IN YOUR -- WHAT MOST
16 COMMONLY WOULD CAUSE SOMETHING LIKE WHAT YOU OBSERVED IN THIS
17 PATIENT?

18 A BLUNT FORCE TRAUMA TO THE CHEST.

19 Q TO THE CHEST?

20 A UM-HUM.

21 Q AND THAT COULD BE PART OF -- IF THE HEAD AND THE --
22 AND THE -- WELL LET ME ASK YOU THIS. WHEN YOU SAY TO THE
23 CHEST, COULD IT ALSO BE TO THE BACK?

24 A YES.

25 Q OKAY. UM -- SO IF THERE'S BLUNT FORCE TRAUMA TO THE

1 HEAD AND THE BACK, OR THE CHEST -- UM -- ACTUALLY FORGET THE
2 HEAD, JUST TRAUMA TO THE BACK -- TO EITHER THE FRONT OF THE
3 CHEST OR THE BACK -- UM -- THAT BEING LIKE THE BACK OF YOUR
4 RIB CAGE AREA OR THE BACK OF YOUR CHEST, THAT COULD CAUSE
5 CONTUSIONS SIMILAR TO WHAT YOU SAW?

6 A WITH -- WITH A SIGNIFICANT ENOUGH FORCE, YES.

7 Q WHEN YOU SAY SIGNIFICANT ENOUGH FORCE, LIKE WHAT
8 KIND OF FORCE ARE WE TALKING ABOUT?

9 A A FALL FROM HEIGHT WOULD NOT CAUSE IT. A FALL ONTO
10 AN OBJECT, OR BEING PUNCHED OR KICKED WITH A DIRECT FORCE OR
11 BLOW, MAY CAUSE THIS.

12 I'M NOT SUGGESTING THAT'S HIS PATTERNS, I'M
13 SUGGESTING PULMONARY CONTUSIONS.

14 Q RIGHT.

15 A PULMONARY CONTUSIONS ARE NOT DECELERATION, THEY'RE
16 BLUNT FORCE. THE LUNG IS ATTACHED, SO IN DECELERATION IT
17 DOESN'T TEAR OR SHEAR, IT HAS TO BE A COMPRESSIVE FORCE THAT
18 CAUSES -- WHETHER IT'S A SQUEEZE, WHETHER IT'S A CAR HITTING
19 ME, A MOTORCYCLE HITTING ME, WHETHER I'VE FALLEN FROM A LADDER
20 OF TEN FEET ON TO MY RIB CAGE AND BROKEN RIBS AND PUSHED THEM
21 INTO MY LUNGS, IT'S DIRECT BLUNT FORCE TO THE LUNG TISSUE
22 ITSELF.

23 Q WHAT ABOUT RESUSCITATIVE MEASURES? COULD ANY KIND
24 OF -- UM -- PRESSURE ON THE CHEST IN THAT REGARD CAUSE
25 CONTUSIONS LIKE THIS?

1 **A** YES.

2 **Q** OKAY. SO THAT WOULD EXERT ENOUGH FORCE, POSSIBLY,
3 TO CAUSE CONTUSIONS?

4 **A** POSSIBLY, BUT NOT -- THE X-RAYS WERE TAKEN BEFORE
5 CPR BEGAN ON THIS CHILD, AND DEMONSTRATE CONTUSIONS.

6 **Q** DO YOU KNOW WHETHER OR NOT THE EMT'S PERFORMED CPR?

7 **A** THEY DID NOT, ACCORDING TO THE REPORT I WAS GIVEN.

8 **Q** OKAY. IF THEY HAD PERFORMED CPR, COULD THAT BE AN
9 EXPLANATION FOR SOME OF THE PULMONARY CONTUSIONS THAT YOU
10 OBSERVED IN THIS PARTICULAR PATIENT?

11 **A** IT'S POSSIBLE.

12 **Q** OKAY. AND THERE'S NOWAY -- IF I -- I MAY HAVE ASKED
13 YOU THIS, BUT THERE'S NOT ANYWAY THAT YOU CAN DATE THE
14 CONTUSIONS THAT YOU OBSERVED?

15 **A** NO.

16 **MS. LEMCKE:** OKAY. UM -- THE -- COURT'S INDULGENCE.

17 OKAY. OKAY. I JUMPED AROUND A LITTLE BIT, BECAUSE THAT
18 INITIAL NOTATION HAD A FEW DIFFERENT TOPICS, BUT NOW I WANT TO
19 GO THROUGH WITH YOU, IF I CAN, INDIVIDUAL SCANS THAT WERE DONE
20 ON THIS PARTICULAR PATIENT. UM -- AND I'M -- JUST TO MAKE IT
21 EASIER, I'M GOING TO APPROACH WITH THE SCAN THAT I'M GOING TO
22 REFER TO, IF THAT MAKES IT EASIER FOR YOU WHEN I ASK THE
23 QUESTION.

24 AND, COUNSEL, FOR THE RECORD, I'M REFERRING TO -- THIS IS
25 GOING TO BE THE -- UM -- JUNE 6TH, 2013, 7:15 CT SCAN OF THE

1 BRAIN WITHOUT CONTRAST, AND THAT IS -- UM -- BATES STAMP NO.
2 310. I PREFER THIS SET, BECAUSE THEY'RE EASIER TO READ THAN
3 THOSE.

4 I'M SORRY?

5 MS. EDWARDS: I NEED TO SEE YOURS.

6 MS. LEMCKE: COURT -- MAY I HAVE THE COURT'S INDULGENCE?
7 THE COURT: SURE.

8 (DISCUSSION BETWEEN MS. LEMCKE AND MS. EDWARDS.)

9 MS. LEMCKE: NORM, DO YOU HAVE YOUR COPY?

10 MR. REED: I DO. WAS THERE A DATE ON IT, OR A NUMBER?

11 MS. LEMCKE: OKAY, WE'RE GOOD.

12 MAY I APPROACH?

13 THE COURT: YES.

14 BY MS. LEMCKE:

15 Q OKAY. AND, AGAIN, I'M JUST -- I'M SHOWING THE
16 WITNESS -- UM -- BATES STAMP PAGE 310 OF THE DISCOVERY THAT'S
17 BEEN PROVIDED. IT IS -- LOOKS LIKE A REPORT -- UM -- ON A CT
18 SCAN WITHOUT CONTRAST.

19 A THAT'S CORRECT.

20 MS. LEMCKE: LET YOU LOOK AT THAT.

21 THE FIRST LINE UNDER THE FINDINGS IT SAYS, THERE'S -- AND
22 YOUR HONOR, MAY I STAY HERE AND ASK QUESTIONS?

23 THE COURT: SURE.

24 MS. LEMCKE: IF -- IF THAT'S OKAY.

25 Q OKAY. THE FIRST LINE INDICATES THAT THERE'S A LEFT

1 HOLOHEMISPHERIC SUBDURAL HEMATOMA MEASURING SEVEN MILLIMETERS
2 IN MAXIMAL THICKNESS.

3 NOW, I -- I NOTICE THAT WHEN YOU TESTIFIED EARLIER
4 ABOUT THE SHIFT IN THE BRAIN, YOU SAID IT WAS SEVEN
5 MILLIMETERS.

6 A YES.

7 Q OKAY. SO COULD -- WOULD IT BE A FAIR ASSUMPTION,
8 THEN, THAT -- THAT THE MIDLINE SHIFT OF SEVEN MILLIMETERS
9 CORRESPONDS TO THIS SUBDURAL HEMATOMA, OR NO?

10 A NO. I LOOK AT IT HERE, IT SAID THERE WAS A SEVEN
11 MILLIMETER MIDLINE, THIS IS DIRECTLY WHERE I GOT THAT FROM.

12 Q THE LEFT TO RIGHT MIDLINE SHIFT?

13 A IT SAYS SEVEN MILLIMETERS OF LEFT -- MID -- LEFT TO
14 RIGHT MIDLINE SHIFT. BUT NOT FROM THIS INDICATION, BUT FROM
15 THIS STATEMENT.

16 Q OKAY. BUT I'M JUST WONDERING WOULD THIS -- WOULD
17 I -- IS IT -- WOULD THE MIDLINE SHIFT BE -- UM -- WOULD THAT
18 BE A RESULT OF THIS SEVEN MILLIMETER THICKNESS -- UM -- IN THE
19 BLEED OF THE SUBDURAL HEMATOMA, OR NO?

20 A THEY -- THEY -- THEY'RE INDEPENDENT.

21 Q THEY ARE?

22 A YOU CAN HAVE A SHIFT, A SEVEN MILLIMETER BLEED WITH
23 A TWO CENTIMETER SHIFT --

24 Q OKAY.

25 A -- WITH A MASS EFFECT. SO THEY CAN BE INDEPENDENT.

1 Q OKAY. SO -- BECAUSE WHEN I READ THIS THE FIRST
2 THING I THOUGHT WAS, THERE MUST BE SOME CORRESPONDENCE BETWEEN
3 THE ONE AND THE OTHER, BUT THERE'S NOT NECESSARILY, IF I
4 UNDERSTAND YOU?

5 A NOT ALWAYS. AND YOU CAN HAVE LARGER BLEEDS WITH
6 LESS SHIFT.

7 Q OKAY. IT JUST DEPENDS ON EACH INDIVIDUAL PATIENT
8 AND EACH INDIVIDUAL SITUATION?

9 A YES.

10 Q OKAY. IS THERE ANYTHING OF ANY SIGNIFICANCE --
11 UM -- THE SEVEN MILLIMETER THICKNESS IN THAT SUBDURAL HEMATOMA
12 THAT'S IDENTIFIED IN THAT FIRST LINE, IS THERE ANYTHING OF
13 SIGNIFICANCE TO YOU WITH THE SEVEN MILLIMETER THICKNESS? IS
14 THAT A SIGNIFICANT BLEED, AN INSIGNIFICANT BLEED, OR WHAT, IF
15 ANYTHING, DOES THAT TELL YOU?

16 A IT INDICATED TO ME THAT I NEEDED TO CALL A
17 NEUROSURGEON, BECAUSE ANY BLEED IN THE BRAIN I CONSIDER
18 SIGNIFICANT. SEVEN MILLIMETERS IS ALMOST A CENTIMETER. WHEN
19 YOU REACH A CENTIMETER PEOPLE HAVE TO HAVE DECOMPRESSIVE
20 CRANIECTOMIES AS A RESULT OF GETTING THE BLOOD OUT, THEY WANT
21 THE BLOOD OUT.

22 SO IN A CHILD, BECAUSE WE ERR ON THE SIDE OF LIFE,
23 WE CALL EARLIER. SO AT SEVEN MILLIMETERS I CONSIDER THAT A --
24 A LARGE BLEED IN A CHILD, AND I WOULD HAVE CALLED THE
25 NEUROSURGEON BASED ON THIS RESULT.

1 Q OKAY. DOES THIS TELL YOU ANYTHING ABOUT THE NATURE
2 OF THE IMPACT THAT CAUSED THAT INJURY?

3 A NO.

4 Q IT DOESN'T, OKAY.

5 ALL RIGHT, WE TALKED ABOUT THIS -- WE'VE, I THINK,
6 EXHAUSTED THIS -- HOW DO YOU SAY IT, SUBFALSON (PHONETIC)?

7 A SUBFALCINE.

8 Q SUB -- SUBFALCINE HERNIATION.

9 THERE'S A ASYMMETRIC EFFACEMENT OF THE LEFT LATERAL
10 VENTRICLE. WHAT DOES THAT MEAN?

11 A THERE ARE VENTRICLES IN THE BRAIN THAT ARE BASICALLY
12 FLUID AREAS WHERE CENTRAL SPINAL FLUID IS PUMPED AND MOVED,
13 AND THEY ARE SYMMETRIC, THE RIGHT SIDE LOOKS LIKE THE LEFT.
14 THERE'S TWO FRONTS AND TWO BACKS, IT LOOKS LIKE A BUTTERFLY.
15 AND IF YOU HAVE EFFACEMENT OR COMPRESSION OF THE BRAIN, YOU
16 CAN HAVE EFFACEMENT OF THOSE VENTRICLES ON ONE SIDE AND NOT
17 THE OTHER.

18 Q OKAY.

19 A SO YOU'D BE ASYMMETRIC.

20 Q OKAY. AND WHAT, IF ANYTHING, DOES THAT TELL YOU
21 ABOUT THE NATURE OF THE INJURY?

22 A THAT IT'S COMPRESSING THE BRAIN TISSUE ON THE LEFT
23 SIDE SIGNIFICANTLY.

24 Q OKAY. AND DOES THAT TELL YOU ANYTHING ABOUT THE
25 NATURE OR CAUSE OF THE INJURY?

1 **A** NO.

2 **Q** IT DOESN'T. OKAY.

3 AND THEN I REALLY DON'T WANT TO READ THIS NEXT

4 SENTENCE. OKAY, THE BASILAR -- BASILAR DISTERNS -- WELL, I'LL

5 LET -- HOW ABOUT YOU READ IT.

6 **A** OKAY. THE BASILAR CISTERNS INCLUDING THE

7 SUPRASSELLAR --

8 **THE REPORTER:** COUNSEL -- I MEAN --

9 **THE COURT:** YEAH, YOU'VE GOT TO SLOW DOWN A LITTLE BIT.

10 **THE WITNESS:** I APOLOGIZE.

11 **THE REPORTER:** PLEASE SLOW DOWN A LITTLE BIT.

12 **THE WITNESS:** THE BASILAR CISTERNS, INCLUDING THE

13 SUPRASSELLAR, SUBSEGMENT OR AMBIENT, CEREBELLO-PONTINE AND

14 SUPERIOR CEREBELLAR CISTERNS ARE EFFACED.

15 THIS JUST MEANS THAT THE BRAIN IS BEING PUSHED OVER INTO

16 THE BRAINSTEM, AND IS PUSHING THE BRAINSTEM CLOSED.

17 **BY MS. LEMCKE:**

18 **Q** OKAY. AND WHAT IMPACT DOES THAT THEN HAVE ON THE

19 PATIENT, WHEN THE BRAINSTEM'S CLOSED?

20 **A** THE BRAINSTEM IS WHAT GIVES US BRAIN FUNCTION TO OUR

21 BODY.

22 **Q** OKAY. SO THERE'S -- THAT WILL -- UM -- ERADICATE

23 ANY BRAIN FUNCTION, THEN, TO THE BODY IF THAT IS CLOSED OFF?

24 **A** IT IMPLIES TO ME AN IMPENDING HERNIATION OF BRAIN

25 DEATH.

1 Q OKAY. WHAT, IF ANYTHING, DOES THAT TELL YOU ABOUT
2 THE NATURE OF THE INJURY THIS CHILD SUSTAINED?

3 A A LARGE BLEED.

4 Q SO THAT'S IT. AND IT DOESN'T TELL YOU ANYTHING
5 ABOUT THE NATURE OF THE IMPACT?

6 A NO.

7 Q OKAY. MOVING ONTO THE NEXT PARAGRAPH.

8 UM -- THERE IS A LONGITUDINAL ORIENTED NONDISPLACED
9 FRACTURE OF THE OCCIPITAL BONE, EXTENDING FROM THE VERTEX OF
10 THE OCCIPITAL BONE TO THE LEFT --

11 **THE COURT:** YOU HAVE TO SLOW DOWN A LITTLE, MISS LEMCKE.

12 **MS. LEMCKE:** OH, I APOLOGIZE. AND, YOU KNOW WHAT, I WILL
13 GIVE YOU A COPY OF THIS, IF THAT WOULD MAKE IT EASIER, I
14 ASSUME IT WOULD. JUST REMIND ME WHEN WE GET DONE.

15 UM -- LET ME GO BACK SO THAT SHE CAN ATTEMPT TO REPORT
16 THIS.

17 Q THERE IS A LONGITUDINAL -- LONGITUDINALLY ORIENTED
18 NONDISPLACED FRACTURE.

19 LET ME STOP RIGHT THERE FOR A SECOND. NONDISPLACED
20 FRACTURE MEANS THAT THE -- UM -- THE BONES ARE STILL EVEN,
21 EVEN THOUGH THERE'S A FRACTURE; IS THAT RIGHT?

22 A YES.

23 Q OKAY. IS A DISPLACED FRACTURE NECESSARILY MORE OR
24 LESS SEVERE THAN SAY A NONDISPLACED?

25 A THE -- IT DEPENDS ON THE PATTERN AND WHAT YOU'RE

1 LOOKING FOR, BECAUSE BONES CAN MOVE AND COME BACK INTO A
2 POSITION THAT LOOKS LIKE THEY'RE NONDISPLACED. SO YOU CAN'T
3 TELL IF THE BONE MOVED. THIS IS A STATIC VIEW OF WHAT YOUR
4 ASKING, A DYNAMIC INFORMATION. YOU'RE SAYING, DOES THE BONE
5 MOVEMENT CAUSE THE INJURY? AND DOES THE BONE STAYING IN A
6 FIXED POSITION IMPLY MORE INJURY? POTENTIALLY, BUT YOU DON'T
7 KNOW HOW FAR THE BONE'S MOVED, BECAUSE WE DIDN'T SEE IT MOVE.

8 Q OKAY. ASSUMING THAT THERE WASN'T ANY MOVEMENT, ANY
9 DISPLACEMENT THAT THEN GOES BACK INTO PLACE. ASSUMING THAT
10 THE FRACTURE THAT WAS ULTIMATELY OBSERVED AND TREATED HERE WAS
11 NONDISPLACED FROM THE BEGINNING TO THE TIME THAT THEY OBSERVED
12 IT IN AUTOPSY -- UM -- WHAT, IF ANYTHING, DOES THAT TELL YOU
13 ABOUT THE SEVERITY OF THE IMPACT THAT OCCASIONED THE FRACTURE?

14 A JUST TELLS ME IT'S A SKULL FRACTURE.

15 Q OKAY. ARE THERE VARIATIONS IN THE -- UM -- SEVERITY
16 OF SKULL FRACTURES?

17 A YES.

18 Q WHAT WOULD THOSE VARIATIONS BE?

19 A AN OPEN SKULL FRACTURE, WHERE THE SKULL IS TORN AWAY
20 FROM, AND EXPOSING THE BRAIN, IS MORE SEVERE THAN A CLOSED
21 SKULL FRACTURE, WHICH IS WHAT THIS IS.

22 Q OKAY.

23 A AND AS YOU IMPLIED, A DISPLACED SKULL FRACTURE THAT
24 STAYS DISPLACED WOULD IMPART MORE PRESSURE ONTO THE BRAIN AND
25 SUBSTANCE, THAN A NONDISPLACED SKULL FRACTURE.

1 Q OKAY. SO THIS SPECTRUM OF SKULL FRACTURINGS, A
2 NONDISPLACED FRACTURE THAT'S LIKE EITHER LINEAR OR EVEN HAS
3 SOME STELLATE COMPONENTS TO IT, WOULD BE, SAY, LESS SEVERE
4 THAN A DISPLACED THAT STAYS DISPLACED, OR SOMETHING WHERE YOU
5 ACTUALLY HAVE THE -- THE SKULL COMPLETELY ERADICATED IN PARTS?

6 A AND THAT -- THEN THAT LINEAR, YES, IT WOULD BE THE
7 LESS SEVERE OF THOSE.

8 Q OKAY. LET ME SEE HERE. OH, YOU KNOW WHAT, I FORGOT
9 TO ASK ABOUT THIS.

10 THERE'S NO EVIDENCE OF A OBSTRUCTIVE HYDROCEPH --
11 CEPHALUS?

12 A YES.

13 Q DID I SAY THAT RIGHT?

14 A YES.

15 Q OKAY. YEA ME.

16 WHAT, IF ANYTHING, DOES THIS TELL YOU, OR WOULD THIS
17 TELL YOU, IF YOU SAW THAT THERE?

18 A IF THERE WAS HYDROCEPHALUS, IT MEANS FLUID ON THE
19 BRAIN. WE THINK ABOUT WATER ON THE BRAIN IS THE DEROGATORY
20 TERM FOR IT. CHILDREN CAN DEVELOP HYDROCEPHALUS. THEIR --
21 THEIR SKULL COULD BE PRESSURIZED FROM THE INSIDE, SO THE MORE
22 IT'S APT TO BREAK THEIR SKULL.

23 Q OKAY.

24 A SO IF THEY HAD OBSTRUCTIVE HYDROCEPHALUS THEY WOULD
25 HAVE MORE INJURY TO THEIR BRAIN IF THEY FELL AND BROKE THEIR

1 SKULL, THAN SOMEONE WHO DIDN'T HAVE HYDROCEPHALUS.

2 Q OKAY.

3 A SO THAT'S AN INDICATION THE CHILD DIDN'T HAVE ANY
4 UNDERLYING PATHOLOGY CONTRIBUTING TO THE PRESSURE ON THE
5 BRAIN.

6 Q OKAY. AND WHEN YOU SAY UNDERLYING PATHOLOGY, THAT
7 IS SOMETHING THAT WAS PREEXISTING BEFORE THE TRAUMA THAT
8 OCCASIONED THIS PARTICULAR INJURY?

9 A YES.

10 Q OKAY. OKAY. SO THEN GOING BACK TO THE SECOND
11 PARAGRAPH -- UM -- LET ME SEE HERE.

12 OKAY. UM -- WHEN YOU SAY IN THIS FIRST LINE WHERE
13 IT SAYS, THERE IS A LONGITUDINALLY ORIENTED NONDISPLACED
14 FRACTURE OF THE OCCIPITAL BONE -- UM -- ARE YOU OKAY WITH
15 THAT? DO WE KNOW -- UM -- WHETHER THEY'RE REFERRING TO
16 ENTIRELY ON THE RIGHT OR THE LEFT OF THE OCCIPITAL AREA?

17 A WELL, THEY DESCRIBE IT AS A LEFT. SEE, THEY
18 DESCRIBE IT AS A LEFT. WHEN THEY DESCRIBE IT HERE, ACUTE LEFT
19 NON -- OR NONDISPLACED LONGITUDINALLY FRACTURE, THIS IS THE
20 LEFT OCCIPITAL BONE. SO IT'S ON THE LEFT SIDE. FROM VERTEX
21 OF THE LEFT SIDE, VERTEX ON THE LEFT TO THE CONDYLE FRACTURE.

22 Q OKAY. OKAY.

23 AND OCCIPITAL IS LIKE -- OCCIPITAL AREA IS TOWARD
24 THE BACK OF THE HEAD; IS THAT RIGHT?

25 A CORRECT.

1 Q OKAY. AND THEN IT -- NO OTHER -- PRONOUNCE THIS FOR
2 ME.
3 A CALVARIAL.
4 Q CALVARIAL, I THOUGHT THAT WAS A "Y". UM --
5 CALVARIAL FRACTURES ARE IDENTIFIED.
6 WHAT ARE CALVARIAL FRACTURES, AND WHAT IS THE
7 ABSENCE OF THEM TELL YOU ABOUT THIS PARTICULAR INJURY?
8 A THE CALVARIUM IS YOUR SKULL.
9 Q OKAY. SO JUST ANY --
10 A JUST ANOTHER WORD FOR SKULL.
11 Q OKAY. SO THERE'S NO --
12 A THERE'S NO OTHER SKULL FRACTURES IDENTIFIED ON THIS
13 IMAGE.
14 Q OKAY. OKAY. AND THEN THERE'S SOFT TISSUE SWELLING
15 WITH A THIN SCALP HEMATOMA ALONG THE ANTERIOR OF THE SCALP?
16 A CORRECT.
17 Q WHAT DOES THAT MEAN?
18 A IT MEANS OVERLYING THE FRACTURE THERE'S A LITTLE
19 BLEEDING INTO THE SCALP.
20 Q OKAY. WOULD THAT BE -- IS THAT AKIN TO A BRUISE
21 THERE, OR SOMETHING DIFFERENT THAN THAT, LIKE WHAT I WOULD
22 THINK OF AS A BRUISE, THAT YOU SEE ON THE OUTSIDE?
23 A YOU MAY NOT SEE IT BECAUSE IT'S DEEPER THAN THAT AT
24 THIS POINT.
25 Q OKAY. IT JUST IMPLIES BLEEDING, BUT NOT NECESSARILY

1 BLEEDING THAT WOULD SHOW FROM THE -- JUST AN OBSERVATION OF
2 THE PATIENT HIMSELF?

3 **A** CORRECT.

4 **Q** OKAY. UM -- AND THEN THE VISUAL -- THE VISUALIZED
5 PARANASAL SINUSES AND MASTOID AIR CELLS ARE UNREMARKABLE.
6 ANYTHING SIGNIFICANT ABOUT THAT?

7 **A** NO. THAT JUST MEANS THERE'S NO FLUID, NO SINUSITIS.

8 **Q** OKAY. AND THAT -- THAT THE ABSENCE OF ANY INJURY OR
9 ANYTHING REMARKABLE IN THAT PARTICULAR AREA DOESN'T TELL YOU
10 NECESSARILY ANYTHING ABOUT THE INJURY?

11 **A** NO.

12 **Q** OKAY.

13 WHEN YOU TALKED ABOUT THE -- THE HEAD TRAUMA THAT
14 YOU OBSERVED AND YOU ULTIMATELY TREATED, OR ATTEMPTED TO TREAT
15 IN THIS PARTICULAR CASE -- UM -- YOU INDICATED THAT SOMEBODY
16 WHO EXPERIENCED A TRAUMATIC HEAD INJURY, THAT WOULD CAUSE
17 THESE SECONDARY PROBLEMS, MIGHT BECOME SYMPTOMATIC
18 IMMEDIATELY?

19 **A** CORRECT.

20 **Q** AND WHEN YOU SAY IMMEDIATELY, LIKE RIGHT AFTER THE
21 TRAUMATIC -- THE IMPACT OCCURS?

22 **A** SYMPTOMATIC, YOU'RE NOT TALKING -- IF YOU'RE ASKING
23 ME SYMPTOMATIC, ARE YOU ASKING ME, DOES THE BRAIN DISPLACE
24 THAT QUICKLY?

25 **Q** WELL, LET -- LET --

1 **A** OR ARE YOU ASKING ME DOES THE CLINICAL EVALUATION
2 DIFFER? BECAUSE IT'S DIFFERENT THAN WHAT YOU'RE SEEING ON
3 X-RAYS.

4 **Q** YEAH. AND FORGIVE ME, BUT IN MY MIND I KNEW WHAT I
5 WAS ASKING ABOUT, BUT I DIDN'T ARTICULATE IT. LET ME BACK UP.

6 WHAT -- LET ME START WITH, WHAT KIND OF SYMPTOMS
7 MIGHT YOU EXPECT TO SEE, THAT, YOU KNOW, A THIRD-PARTY
8 OBSERVER, SOMEBODY WHO'S RE -- FINDS SOMEONE AFTER THEY'VE
9 SUFFERED THIS KIND OF AN IMPACT TO THE HEAD, WHAT MIGHT YOU
10 SEE IN TERMS OF SYMPTOMS THAT WOULD MANIFEST?

11 **A** INITIALLY IT MIGHT BE LETHARGY, OR INABILITY TO
12 MOVE. IT COULD BE VOMITING. THEY COULD HAVE DIZZINESS. AND
13 THE ACUTE FRACTURING OF A SKULL, IN AND OF ITSELF, MAY CAUSE
14 NO SYMPTOMS.

15 **Q** IT WOULD BE THE SECONDARY ISSUES WITH THE BRAIN
16 SWELL AND THE BRAIN BLEED, AND THE THINGS THAT OCCUR RELATIVE
17 TO THAT, THAT MIGHT CAUSE SOME OF THE SYMPTOMS THAT YOU
18 DESCRIBED?

19 **A** YES.

20 **Q** AND THAT WOULD INCLUDE -- IS IT POSSIBLE TO -- UM --
21 OKAY. WELL LET ME GO BACK.

22 WITH SOME OF THOSE SYMPTOMS, COULD THEY OCCUR WITHIN
23 SECONDS AFTER THE INJURY, AFTER THE IMPACT?

24 **A** ARE YOU ASKING IN THIS KID'S CASE OR IN ANY CASE?

25 **Q** IN THIS PARTICULAR -- IN THIS -- WITH WHAT YOU

1 OBSERVED HERE.

2 A NO.

3 Q HOW LONG WOULD YOU THINK IT MIGHT TAKE BEFORE YOU

4 WOULD SEE SOME OF THOSE SYMPTOMS?

5 A THE SYMPTOMS OF LETHAR -- THE NONRESPONSIVE?

6 Q LETHARGY, VOMITING.

7 A WOULD PROBABLY TAKE 15 TO 20 MINUTES.

8 Q OKAY. WHAT ABOUT LOSS OF CONSCIOUSNESS?

9 A THAT COULD HAPPEN IMMEDIATELY.

10 Q OKAY. WHAT ABOUT -- UM -- IS RIGIDITY, BY ANY

11 CHANCE, A SYMPTOM OF A BRAIN TRAUMA SUCH THAT -- SUCH -- LIKE

12 WHAT WE HAVE HERE?

13 A I NEVER SAW THIS CHILD TO BE RIGID.

14 Q OKAY. ARE THERE ANY OTHER SYMPTOMS BESIDES THE --

15 UM -- LOSS OF CONSCIOUSNESS, VOMITING, DIZZINESS, THAT TYPE OF

16 THING, IS THERE ANYTHING ELSE THAT MAY MANIFEST AS A RESULT OF

17 THE BRAIN INJURY, LIKE WHAT YOU SAW HERE?

18 A MORE THAN -- INITIALLY? YOU'RE TALKING ABOUT VERY

19 INITIALLY?

20 Q JUST INITIALLY, YEAH.

21 A NO.

22 Q OKAY. WHAT'S THE LATEST -- WHAT WOULD BE THE

23 OUTSIDE, IN TERMS OF TIMEFRAME, THAT YOU WOULD EXPECT, GIVEN

24 AN INJURY SUCH AS WHAT YOU SAW HERE, TO SEE SYMPTOMS SUCH AS

25 WHAT WE JUST TALKED ABOUT?

1 **A** UM -- WITH AN ACUTE SKULL FRACTURE AND BLEED, WITHIN
2 HOURS.

3 **Q** OKAY. AND THEN WHAT ABOUT LIKE VOMITING, LOSS OF
4 CONSCIOUSNESS, THAT TYPE OF THING, WHAT WOULD BE --

5 **A** THAT COULD BE --

6 **Q** -- THE OUTSET, WHERE YOU'D SEE SOMETHING LIKE THAT?

7 **A** THAT CAN CONTINUE FOR DAYS.

8 **Q** IT COULD?

9 **A** UM-HUM.

10 **Q** SO YOU COULD -- YOU COULD -- YOU COULD HAVE A HEAD
11 INJURY SIMILAR TO WHAT YOU OBSERVED HERE, AND NOT BE OUTWARDLY
12 SYMPTOMATIC, IN THE MANNER THAT WE JUST TALKED ABOUT, FOR
13 HOURS OR EVEN DAYS?

14 **A** POTENTIALLY, YES.

15 **Q** OKAY. IS THERE -- WAS THERE A WAY FOR YOU, BASED ON
16 THE IMAGINING THAT YOU SAW OF THIS HEAD INJURY, TO DATE THE --
17 UM -- TIME OF WHICH THE INJURY MAY HAVE OCCURRED?

18 **A** THIS WOULD BE SPECULATING, AND THE BEST ANSWER I
19 WOULD HAVE FOR THIS --

20 **MS. EDWARDS:** I WOULD OBJECT AS TO SPECULATION.

21 **MS. LEMCKE:** IF HE KNOWS. I MEAN --

22 **THE COURT:** WELL, HE'S SPECULATING, SO THAT TELLS ME HE
23 DOESN'T KNOW.

24 **MS. LEMCKE:** WELL, I MEAN, IF -- IF -- WHEN YOU SAY --

25 **THE COURT:** HE SAID, HIMSELF, HE'S SPECULATING.

1 **MS. LEMCKE:** CAN I JUST TAKE THE WITNESS -- CAN I ASK A
2 COUPLE MORE FOUNDATIONAL QUESTIONS, YOUR HONOR?
3 **THE COURT:** YES.
4 **BY MS. LEMCKE:**
5 **Q** WHEN YOU SAY THAT YOUR -- YOU WOULD BE SPECULATING,
6 IS THERE A WINDOW OF TIME WITHIN WHICH A PERSON COULD BECOME
7 SYMPTOMATIC?
8 **A** ARE WE TALKING ABOUT A PERSON IN GENERAL OR ULYSSES?
9 **Q** ULYSSES.
10 **A** WOULD HAVE HAPPENED WITHIN MINUTES TO AN HOUR.
11 **Q** OKAY. SO NOT MORE THAN AN HOUR?
12 **A** GENERALLY, NO.
13 **MS. LEMCKE:** OKAY. THAT'S ALL I WANTED, YOUR HONOR.
14 **Q** UM -- COULD A PERSON WHO SUFFERS -- HAS SOME OF THE
15 SYMPTOMS THAT WE TALKED ABOUT, THAT SOMEONE MIGHT OBSERVE IN
16 SOMEONE LIKE ULYSSES, THAT SUFFERED THIS TYPE OF HEAD INJURY,
17 COULD IT APPEAR AS THOUGH THEY ARE RIGID, AT ALL, AFTER
18 IMPACT?
19 **A** I'VE NOT WITNESSED THAT IN THIS CHILD, SO I WOULDN'T
20 KNOW.
21 **Q** COULD -- CAN THAT HAPPEN WITH THIS KIND OF HEAD
22 INJURY?
23 **A** I WOULD SPECULATE. BECAUSE THAT WOULD BE --
24 **MS. EDWARDS:** YOUR HONOR --
25 **THE WITNESS:** YOU'VE ASKED ME TO SPECULATE IF THAT'S

1 SOMETHING CAN HAPPEN --

2 MS. EDWARDS: AND OBJECT AS TO --

3 THE WITNESS: -- THAT WOULD BE A SPECULATION.

4 MS. EDWARDS: -- SPECULATION.

5 MS. LEMCKE: OKAY. SO --

6 THE COURT: SUSTAINED, TO YOUR OBJECTION.

7 BY MS. LEMCKE:

8 Q SO IN TERMS YOUR FAMILIARITY WITH BRAIN TRAUMA AND

9 THE EFFECTS THAT IT MAY HAVE ON THE BODY. IS IT POSSIBLE,

10 THEN, THAT RIGIDITY MIGHT BE SOMETHING THAT MIGHT OCCUR,

11 YOU'RE JUST NOT FAMILIAR WITH THAT PARTICULAR SYMPTOM?

12 A IN THIS CASE --

13 MS. EDWARDS: I'M GOING TO OBJECT TO --

14 THE COURT: HOLD ON.

15 MS. EDWARDS: -- A FOUNDATION. WE'VE BEEN TALKING ABOUT

16 RIGIDITY, BUT WE HAVEN'T ESTABLISHED WHAT RIGIDITY MEANS, AS

17 FAR AS WHAT WAS OBSERVED -- UM -- WHAT THE -- LED THE PERSON

18 TO CONCLUDE OR TO USE THE TERM RIGIDITY IN THIS INSTANCE.

19 HE'S ANSWERED MULTIPLE TIMES, ESSENTIALLY, THAT HE'S

20 GOING TO BE SPECULATING THAT HE HASN'T SEEN WHAT HE PERCEIVES

21 TO BE RIGIDITY IN THIS CHILD IN THIS INSTANCE. SO I THINK

22 GETTING TOO FAR AFIELD IS -- LACKS FOUNDATION AND IS

23 SPECULATIVE.

24 THE COURT: YOU MIGHT WANT TO BUILD A LITTLE BIT MORE

25 FOUNDATION.

1 **MS. LEMCKE:** WELL, ACTUALLY I THINK -- YEAH, I CAN DO
2 THAT.
3 **Q** I'M NOT TALKING ABOUT THIS CHILD IN PARTICULAR, I'M
4 TALKING ABOUT JUST WITH THIS TYPE OF HEAD INJURY, COULD THIS
5 BE A SYMPTOM THAT YOU -- THAT COULD OCCUR?
6 **A** IF YOU'RE ASKING ME -- ARE YOU ASKING ABOUT
7 SEIZURES, BECAUSE --
8 **Q** YEAH, A SEIZURE OR ANYTHING THAT MIGHT MAKE THE BODY
9 APPEAR RIGID TO SOMEBODY?
10 **A** IT'S POTENTIAL THAT PEOPLE COULD HAVE SEIZURES AND
11 COULD HAVE SKULL FRACTURES AS A RESULT OF SEIZURES, OR
12 SEIZURES RESULTING IN A SKULL FRACTURE, AND IT'S EITHER/OR.
13 BUT DOES A SKULL FRACTURE NECESSARILY PRECIPITATES
14 SEIZURES, THE ANSWER NO, IT DOES NOT.
15 **Q** BUT IT CAN -- IF I UNDERSTAND YOU CORRECTLY IT CAN?
16 **A** IT'S POTENTIALLY POSSIBLE, YES.
17 **Q** OKAY. AND WHEN YOU SAY SEIZURE, THAT CAN EFFECT THE
18 MUSCULAR -- UM -- COMPONENTS OF THE BODY?
19 **A** YES.
20 **MS. LEMCKE:** GOING TO REFER TO BATES STAMP 314 NOW.
21 **MS. EDWARDS:** WHAT IS THAT?
22 **MS. LEMCKE:** THAT IS THE PULMONARY -- I THINK THAT'S THE
23 ABDOMINAL AND PELVIS CT.
24 OKAY. YOUR HONOR, IF I MAY APPROACH AGAIN --
25 **THE COURT:** YES.

1 **MS. LEMCKE:** -- SO I CAN SHOW THE DOCTOR THE SCAN.
2 YOU KNOW, LET ME JUST BACK UP JUST KIND OF
3 FOUNDATIONALLY.
4 **Q** YOU WERE THE PRIMARY TREATING SURGEON WITH ULYSSES;
5 IS THAT RIGHT?
6 **A** YES.
7 **Q** AND SO AS PART OF BEING YOUR -- BEING THE PRIMARY
8 TREATING SURGEON, YOU'RE GOING TO DIRECT THAT A WHOLE HOST OF
9 SCANS BE DONE?
10 **A** YES.
11 **Q** AND -- UM -- THAT THE RESULTS OF THOSE SCANS WILL
12 HELP YOU DETERMINE WHAT COURSE OF TREATMENT IS APPROPRIATE; IS
13 THAT RIGHT?
14 **A** YES.
15 **Q** SO YOU'RE GOING TO DIRECT THAT, YOU KNOW, LIKE A CT
16 OF THE HEAD BE DONE?
17 **A** YES.
18 **Q** A CT SCAN OF, AS THIS CASE -- AS WAS DONE IN THIS
19 CASE, OF THE ABDOMEN AND THE PELVIS?
20 **A** YES.
21 **Q** AND -- UM -- A CT SCAN OF THE CHEST, MAYBE?
22 **A** YES.
23 **Q** AND YOU'LL REVIEW THOSE, AND WHATEVER OTHER TESTS
24 ARE RUN AND MAKE DETERMINATIONS, CLINICALLY, THEN AS TO HOW
25 YOU'RE GOING TO TREAT THIS PARTICULAR PATIENT?

1 **A** YES.

2 **Q** OKAY. THEN I'M GOING TO APPROACH AND SHOW WHAT --

3 UM -- HAS BEEN BATES STAMPED -- AGAIN IN THE DISCOVERY

4 PROVIDED BY THE STATE, BATES STAMP NO. 314, AND THIS IS, FOR

5 THE RECORD, A CT SCAN OF THE ABDOMEN AND PELVIS WITHOUT

6 CONTRAST.

7 LET ME JUST ASK YOU, BECAUSE WE'VE HAD -- I NOTICED

8 IN THE REPORTING, THEY IDENTIFY THE WITHOUT CONTRAST. THERE'S

9 TWO TYPES OF THE SCANS THAT CAN BE DONE WITH CONTRAST AND

10 WITHOUT; IS THAT RIGHT?

11 **A** YES.

12 **Q** AND WHAT IS THE DIFFERENCE BETWEEN THE TWO?

13 **A** CT SCANS WITH CONTRAST ENHANCE THE BLOOD VESSELS OR

14 ABSCESSSES OR FLUID COLLECTIONS THAT MAY BE ABNORMAL. IN THE

15 TRAUMA POPULATION, CT SCANS WITH CONTRAST ARE UNNECESSARY

16 UNLESS YOU'RE LOOKING FOR ARTERIAL INJURIES.

17 IN THE CON -- THE SCANNER THAT WE UTILIZE IN THIS

18 OFFICE IS THE 64 SLICE CT SCANNER, FOR THIS PARTICULAR CHILD,

19 AND WE CAN SEE BLOOD OUTSIDE OF THE BRAIN WITHOUT CONTRAST.

20 WE CAN SEE FLUID IN THE ABDOMEN WITHOUT CONTRAST. BUT I DON'T

21 NEED TO ILLUMINATE THE ENTIRE G.I. TRACT WITH ORAL CONTRAST

22 OR --- BUT THEY'RE RECEIVING I.V. CONTRAST.

23 **Q** OKAY.

24 **A** BUT NOT ORAL CONTRAST.

25 **Q** OKAY. SO THE -- THE WITH CONTRAST JUST ALLOWS YOU

1 TO SEE SOME ADDITIONAL AREAS THAT HAVE TO DO WITH BLOOD FLOW;
2 IS THAT RIGHT?

3 **A** ABSCESS AND POTENTIALLY BLOOD FLOW.

4 **Q** OKAY.

5 **A** -- IF I'M CHARACTERIZING, YES.

6 **Q** OKAY. ALL RIGHT.

7 SO THEN REFERRING AGAIN TO BATES STAMP PAGE 314, AND
8 THIS IS AGAIN, THE CT OF THE ABDOMEN AND PELVIS -- UM -- IT
9 INDICATES HERE UNDER THE FINDINGS, DENSE CONSOLIDATION IS
10 PRESENT MUCH OF THE LOWER LOBES.

11 UM -- WHAT DOES THAT MEAN?

12 **A** WHEN YOU LOOK AT A CT OF THE ABDOMEN AND PELVIS, IT
13 INCLUDES THE LOWER CUTS OF THE CHEST, SO IT'S NOT JUST THE
14 ABDOMEN AND PELVIS, IT'S THE LOWER LOBES OF THE LUNG, ALL THE
15 WAY DOWN TO BELOW THE PELVIC INTO THE LEGS.

16 **Q** OKAY.

17 **A** SO THIS WOULD INDICATE TO ME THAT THERE'S DENSE
18 CONSOLIDATIONS IN THE LOWER LOBES OF THE LUNGS.

19 **Q** AND CONSOLIDATION -- DENSE CONSOLIDATION, REFERRING
20 TO WHAT, SPECIFICALLY?

21 **A** THIS WOULD REPRESENT THE ASPIRATION.

22 **Q** OKAY. THAT -- THAT WAS MENTIONED IN THE INITIAL
23 NOTATIONS THAT --

24 **A** CORRECT.

25 **Q** OKAY.

1 A I WAS JUST UNAWARE.

2 Q THAT'S ---

3 A I DON'T REMEMBER IT.

4 Q OKAY. SO WHEN YOU SAY THIS REPRESENTS THE

5 ASPIRATION, EXPLAIN THAT TO ME?

6 A IF SOMEONE VOMITS AND ASPIRATES, THAT VOMIT GETS

7 DOWN INTO THEIR LUNGS, IT GOES INTO THE MOST DEPENDENTARY

8 (PHONETIC) OF THEIR LUNGS, WHICH WOULD BE THE LOWER LOBES.

9 Q OKAY. SO THIS DENSE CONSOLIDATION -- UM -- COULD BE

10 ASPIRATED VOMIT; IS THAT RIGHT?

11 A YES.

12 Q OKAY. IS THERE ANY WAY OF IDENTIFYING FROM THE CT

13 SCAN, SPECIFICALLY, WHAT IT IS?

14 A NO.

15 Q OKAY. THE GROUND-GLASS ATTENUATION IS PRESENT IN

16 OTHER LUNG FIELDS; WHAT DOES THAT MEAN?

17 A IT IS THE CHARACTERISTIC PATTERN THAT APPEARS ON

18 THAT CT SCAN. THAT INSTEAD OF HAVING NICE CLEAR WINDOWS, IT

19 HAS THIS KIND OF SHINY APPEARANCE TO IT, A SHIMMERY LOOK TO

20 THE BOTTOM OF.

21 Q OKAY. WHAT, IF ANYTHING, IS SIGNIFICANT ABOUT THAT?

22 A IT COULD REPRESENT A ASPIRATION, IT COULD

23 REPRESENT -- WE HAVE DISEASE PROCESSES THAT SHOW THAT, THAT --

24 IN ADULTS. SUCH AS REPRESENTS THAT THERE'S FLUID CHANGES AND

25 SHIFTS IN THAT LOWER PORTION OF THE LUNGS.

1 Q OKAY. AND THAT COULD BE SECONDARY TO -- COULD --
2 COULD THAT RELATE TO BLUNT FORCE TRAUMA AT ALL?

3 A NO.

4 Q OKAY. SO THIS, THAT IS THE DENSE CONSOLIDATION --
5 UM -- THAT IS MENTIONED HERE IN THIS REPORT, AS WELL AS THE
6 GROUND -- GROUND-GLASS ATTENUATION, THOSE DON'T RELATE TO ANY
7 BLUNT FORCE INJURY THAT MIGHT HAVE OCCURRED TO THE CHEST?

8 A NOT IN THIS CASE, IT WOULD NOT REPRESENT THAT TO ME.

9 Q OKAY. UM -- AND THEN YOU HAVE THE NG TUBE PASSES
10 INTO THE STOMACH?

11 A YES.

12 Q THAT WAS JUST VISUALIZED ON THE CT SCAN, I TAKE IT?

13 A YES.

14 Q YOU INDICATED THAT -- THAT THAT TUBE WAS -- YOU
15 FOUND TO BE PLACED TOO LOW; IS THAT RIGHT?

16 A THE -- NOT THE NG TUBE, THE ENDOTRACHEAL TUBE.

17 Q THAT'S RIGHT, THE ENDOTRACHEAL TUBE. I'M GOING TO
18 COME BACK TO THAT IN A MINUTE. UM -- LET'S SEE.

19 IT INDICATES THAT THERE ARE -- THAT NO FRACTURES ARE
20 FOUND. UM -- WHAT, IF ANYTHING, DOES THAT TELL YOU ABOUT ANY
21 TRAUMA THAT WAS ADMINISTER TO THE CHEST?

22 A THAT THERE WERE NO ACUTE FRACTURES.

23 Q OKAY. DOES THAT -- DOES THAT TELL -- NOW, YOU
24 INDICATED BEFORE THAT THERE WERE -- YOU FOUND -- YOU OBSERVED
25 CONTUSIONS INSIDE THE LUNGS?

1 A YES.

2 Q AND THAT THOSE CONTUSIONS COULD BE THE RESULT OF

3 SOME BLUNT FORCE TRAUMA?

4 A YES.

5 Q DO YOU OFTENTIMES SEE CONTUSIONS WITH FRACTURES,

6 ALSO?

7 A IN CHILDREN?

8 Q YES.

9 A IN THIS AGE GROUP, NO. IT'S MORE COMMON WITHOUT

10 FRACTURES.

11 Q OKAY. WHERE THERE'S SOME BLUNT FORCE TRAUMA, AND

12 NOT ANY FRACTURING THAT GOES ALONG WITH IT?

13 A YES.

14 Q WHAT, IF ANYTHING, DOES THE ABSENCE OF THE

15 FRACTURES, TOGETHER WITH THE PRESENCE OF THE CONTUSIONS, TELL

16 YOU ABOUT THE NATURE OF WHATEVER FORCE CAUSED THE CONTUSIONS

17 THAT YOU OBSERVED IT?

18 A IT DOESN'T.

19 Q IT DOESN'T. OKAY.

20 THERE IS A RIGHT FEMORAL VENOUS CATHETER -- UM --

21 WITH ITS TIP IN THE INFERIOR VENA CAVA.

22 THAT WAS JUST PART OF THE COURSE IN TREATMENT?

23 A YES. THERE WAS A LINE IN PLACE TO GIVE HIM FLUIDS.

24 Q OKAY. DOES THAT HAVE TO DO WITH THE DRILLING OR WAS

25 THAT SEPARATE FROM THAT?

1 A NO, THAT'S SEPARATE.

2 Q OKAY. SO THERE WAS A LOT OF -- UM -- HOW DO YOU

3 MEDICALLY REFER TO THE -- UM -- CATHETERS AND THE TUBES THAT

4 YOU PLACE IN A PATIENT TO TREAT THEM? IS THERE A --

5 A PROCEDURES.

6 Q PROCEDURES. OKAY.

7 WHAT -- IF I CAN STOP AND DIGRESS FOR JUST A MINUTE.

8 WHAT -- HOW MANY PROCEDURES -- UM -- OR, YOU KNOW, TUBING --

9 UM -- IV ADMINISTERED SOLUTIONS, THAT TYPE OF THING, HOW MANY

10 THINGS DID THIS CHILD HAVE ONCE HE WAS ADMITTED TO THE

11 HOSPITAL?

12 A I WOULD HAVE TO GO BACK AND LOOK. I KNOW THAT THE

13 THINGS WE DID INCLUDED CENTRAL VENOUS ACCESS FROM ABOVE AND

14 BELOW, INTRAOSSEOUS LINE, THOSE ARE THE CATHETERS --

15 Q OKAY.

16 A -- FOR INTRAVENOUS CATHETERS.

17 Q LET ME STOP YOU FOR JUST ONE SECOND, JUST SO WE CAN

18 GET IT ON THE RECORD. WHEN YOU SAY THAT -- THAT -- UM -- DID

19 YOU SAY INTRAOSSEOUS?

20 A INTRAOSSEOUS IS THE ONE I DRILLED INTO HIS BONE.

21 Q OKAY. AND THAT WAS THE BONE WHERE?

22 A IN THE TIBIA.

23 Q OKAY.

24 A ON THE LEG.

25 Q LEG.

1 AND THEN WHEN YOU JUST GESTURED THE UPPER -- UM --
2 WITH SOME OTHER -- IT WASN'T, INTUBATION BUT IT WAS OTHER --
3 A I PUT A CATHETER IN HIS CHEST, INTO HIS HEART FROM
4 INSIDE -- UNDER THE CLAVICLE IN HIS LUNG.
5 Q OKAY. AND THEN WHAT ELSE?
6 A PUT A CATHETER IN HIS GROIN, WHICH IS THE ONE
7 REPRESENTED HERE --
8 Q OKAY.
9 A -- VENOUS ACCESS. WE PUT AN OG TUBE IN --
10 Q AND WHAT'S --
11 A -- WHICH IS A TUBE GOING INTO THE MOUTH, ALL THE WAY
12 PAST INTO THE STOMACH.
13 Q AND WHAT'S THE OG TUBE?
14 A DECOMPRESSES THE STOMACH, AND TAKES FLUID OUT OF THE
15 STOMACH.
16 Q OKAY. AND THEN -- AND WHAT ELSE?
17 A HE ALSO RECEIVED A FOLEY CATHETER, WHICH IS A
18 CATHETER GOING INTO HIS BLADDER TO DRAIN HIS BLADDER.
19 Q AND THAT WOULD HAVE BEEN INSERTED WHERE? OH, OKAY.
20 A WITH US.
21 Q OKAY. AND THEN THE ENDOTRACHEAL TUBE, ALSO?
22 A WAS DONE PRIOR TO ARRIVAL.
23 Q AND DOES THAT STAY IN, THEN, ONCE HE'S ADMITTED?
24 A YES.
25 Q OKAY. IS THERE ANYTHING ELSE THAT YOU CAN RECALL,

1 OFF THE TOP OF YOUR HEAD, THAT WAS ADMINISTERED BEYOND WHAT
2 YOU'VE JUST DESCRIBED?

3 A YES. WE GAVE HIM DRUGS. UM -- WE HAD TO PUT HIM ON
4 AN EPINEPHRINE DRIP TO CONTINUE HIS HEARTBEAT. WE DID CPR ON
5 HIS CHEST --

6 Q OKAY.

7 A -- TO RESTART HIS HEART.

8 Q LET ME STOP YOU WITH THE EPINEPHRINE DRIP. THAT WAS
9 ADMINISTERED INTRAVENOUSLY?

10 A YES.

11 Q AND THAT -- DO YOU REMEMBER -- DO YOU RECALL WHERE
12 THE IV WAS PLACED OR WHERE IT IS TYPICALLY PLACED WITH
13 CHILDREN OF THIS AGE?

14 A EITHER A SUBCLAVIAN, LIKE I PLACED, OR THE FEMORAL.

15 Q OKAY. SO -- OH, YOU WOULD HAVE ADMINISTERED -- YOU
16 WOULDN'T HAVE A SEPARATE IV LINE, IT WOULD JUST -- ONE OF
17 THOSE TWO CATHETERS FOR THAT?

18 A YES.

19 Q OKAY. ANYTHING ELSE THAT YOU CAN RECALL, IN TERMS
20 OF THE PROCEDURES THAT WERE DONE?

21 A NO. WE WARMED HIM, WE -- THERE WAS NOTHING --
22 THAT'S THE THINGS I REMEMBER.

23 Q OKAY. ALL RIGHT. THEN GOING BACK TO THIS PAGE
24 314 -- UM -- THE CT SCAN WOULD BE ABDOMEN AND PELVIS -- UM --
25 LET ME SEE HERE.

1 IT SAYS, THE LIVER IS OF NORMAL SIZE -- UM -- AND
2 THERE'S NO SURROUNDING FLUID OR LACERATION, GALLBLADDER
3 APPEARS NORMAL, SPLEEN IS NORMAL.

4 IS THERE ANY SIGNIFICANCE TO YOU, AT ALL, TO THE
5 FACT THAT THOSE THINGS ARE NORMAL, RELATIVE TO THE OTHER
6 INJURIES THAT YOU OBSERVED?

7 **A** NO.

8 **Q** NO, OKAY.

9 THE PANCREATIC EDEMA, I TAKE -- EDEMA IS SWELLING;
10 IS THAT RIGHT?

11 **A** YES.

12 **Q** OKAY. SO YOU OBSERVED -- UM -- OR THERE WAS SOME
13 OBSERVATION OF SWELLING TO THE PANCREAS? YEAH?

14 **A** YES.

15 **Q** UM -- THEN IT INDICATES THAT THERE IS NO PANCREATIC
16 HEMORRHAGE IDENTIFIED. UM -- SO THERE WAS NO BLEEDING IN THE
17 PANCREAS?

18 **A** ON THIS IMAGE.

19 THERE IS A SPECIAL PROTOCOL TO LOOK AT PANCREATIC
20 BLEEDING IF YOU THINK THAT'S WHAT YOU HAVE.

21 **Q** OKAY.

22 **A** AND THEY DO A DIFFERENT SCANNING SERIES.

23 **Q** OKAY. IS THERE ANYTHING SIGNIFICANT TO YOU ABOUT
24 THE PANCREATIC EDEMA THAT WAS OBSERVED IN THE SCAN?

25 **A** NO. IT DIDN'T SEEM SIGNIFICANT AT THE TIME TO ME.

1 Q OKAY. DOES IT SEEM SIGNIFICANT TO YOU NOW?
2 A NO.
3 Q NO.
4 THE REPORTER: I'M SORRY, COUNSEL, COULD WE TAKE A BREAK
5 FOR A SECOND?
6 MS. LEMCKE: SURE.
7 (WHEREUPON A SHORT RECESS WAS TAKEN.)
8 THE COURT: YOU'RE ALREADY SWORN IN --
9 THE WITNESS: OKAY.
10 THE COURT: -- SO YOU CAN HAVE A SEAT, AS LONG AS YOU
11 REALIZE THAT YOU'RE STILL UNDER OATH.
12 THE WITNESS: YES, MA'AM.
13 THE COURT: OKAY, THANK YOU.
14 OKAY, YOU CAN -- I THINK YOU WERE -- UM --
15 MS. LEMCKE: ON PANCREATIC EDEMA?
16 THE COURT: YES.
17 MS. LEMCKE: MAY -- MAY I APPROACH, AGAIN?
18 THE COURT: YES.
19 MS. LEMCKE: NOW, I'M GOING TO MOVE ON TO THE CERVICAL
20 SPINE CT THAT WAS DONE. SO, COUNSEL, AND FOR THE RECORD, PAGE
21 315, THAT IS BATES STAMP 315 ON THE DISCOVERY.
22 AND MAY I APPROACH THE WITNESS?
23 THE COURT: YES.
24 BY MS. LEMCKE:
25 Q OKAY. OKAY. SO, ONE OF THE OTHER IMAGES THAT WAS

1 DONE WAS THEY DID A CT OF THE CERVICAL SPINE, AGAIN WITHOUT
2 CONTRAST; IS THAT RIGHT?

3 **A** YES.

4 **Q** AND -- UM -- I JUST WANT TO ASK YOU A COUPLE OF
5 QUESTIONS ABOUT THAT, AND NOW WE'RE GOING TO GET TO THE
6 ENDOTRACHEAL TUBE. OKAY.

7 ON THE FINDINGS ON THE CT SPINE IT -- UM --
8 INDICATES AN ENDOTRAC -- ENDOTRACHEAL TUBE AND OROGASTRIC TUBE
9 ARE VISUALIZED COURSING INFERIOR -- INFERIORLY OUT OF THE
10 FIELD OF VIEW.

11 CAN YOU JUST EXPLAIN WHAT THEY'RE SEEING, FOR ME,
12 THERE?

13 **A** THE OROGASTRIC TUBE IS THE OG TUBE PLACED THROUGH
14 THE STOMACH, SO IT STARTS IN THE MOUTH AND GOES ALL THE WAY
15 INTO THEIR STOMACH. SO WE'RE ONLY LOOKING AT THIS FIELD OF
16 VIEW HERE.

17 **Q** OKAY.

18 **A** SO --

19 **Q** AND JUST FOR THE RECORD, WHEN YOU SAY HERE, IT'S --

20 **A** CERVICAL SPINE, WE LOOK AT -- FROM THE BASE OF THE
21 SKULL TO THE TOP OF THE CHEST.

22 **Q** CHEST, OKAY.

23 **A** WE'RE NOT LOOKING INTO THE CHEST AND WE'RE NOT
24 LOOKING INTO THE ABDOMEN, JUST IN THE NECK. SO THESE TUBES
25 THAT ARE PASSED INTO THE MOUTH, PASS -- ONE GOES INTO THE

1 LUNGS, WHICH IS THE ENDOTRACHEAL TUBE, IT EXTENDS BEYOND THE
2 NECK, IT GOES INTO THE CHEST, SO WE DON'T SEE THE END OF IT.

3 Q OKAY.

4 A SO THE OROGASTRIC TUBE GOES IN THE MOUTH ALL THE WAY
5 INTO THE STOMACH, WHICH EXTENDS BEYOND THE NECK. THAT'S WHY
6 THEY'RE COURSING THROUGH, BUT NOT SEEN.

7 Q OKAY. AND ULYSSES, HE CAME IN WITH THE ENDOTRACHEAL
8 TUBE IN; IS THAT RIGHT, TO YOUR RECOLLECTION?

9 A YES.

10 Q AND YOU INDICATED ON YOUR DIRECT TESTIMONY THAT YOU
11 DISCOVERED, UPON CLOSER EXAMINATION, THAT IT WAS DOWN TOO LOW?

12 A CORRECT.

13 Q HOW MUCH TOO LOW, OR CAN YOU EXPLAIN WHAT TOO LOW
14 MEANS, AND WHAT THE SIGNIFICANCE OF THAT IS?

15 A ON THE INITIAL CHEST X-RAY DONE, ON THE FIRST
16 ASSESSMENT OF THE CHILD, THE ENDOTRACHEAL TUBE HAD GONE TO THE
17 RIGHT SIDE. SO THE LUNG DIVIDES INTO TWO, LEFT AND RIGHT, AND
18 THE CARINA IS THE DIVISION POINT.

19 IT GOES -- IT SHOULD BE ABOVE THE CARINA BY TWO
20 CENTIMETERS, IT IS IN FACT DOWN INTO THE RIGHT MAIN STEM,
21 SLIGHTLY.

22 Q OKAY.

23 A SO IT WAS WITHDRAWN BACK TO APPROPRIATE POSITION.

24 Q OKAY. WHEN IT DOES THAT, WHEN IT VENTILATES MORE OF
25 ONE LUNG VERSUS THE OTHER, WHAT EFFECT, IF ANY, CAN THAT HAVE

1 ON THE PATIENT?

2 **A** IT CAN DIMINISH THEIR OXYGEN THAT THEY RECEIVE, AND
3 WE MONITOR THAT BY PULSE OXIMETRY, TO SEE IF THE CHILD'S
4 RECEIVING OXYGEN, AND IN THIS CASE IT HAD NO EFFECT.

5 **Q** OKAY. AND HOW ARE -- HOW DID YOU DETERMINE THAT IT
6 HAD NO EFFECT?

7 **A** BECAUSE WHEN HE CAME --

8 **Q** WHAT MAKES YOU SAY THAT?

9 **A** HE STILL HAD A HEART RATE AND A PULSE, AND A PULSE
10 OX DURING TRANSPORT.

11 **Q** OKAY. CAN IT -- CAN IT EFFECT ANYTHING ELSE? LIKE
12 CAN IT CAUSE A CEREBRAL EDEMA, ANYTHING LIKE THAT?

13 **A** PROFOUND ANOXIA CAN. PROFOUND ANOXIA IS SOMEONE
14 HAVING A SATURATION LESS THAN 50 PERCENT FOR A PROLONGED
15 PERIOD OF THE TIME CAN. AND THAT WAS NOT INDICATED IN THE
16 RECORDING SHEETS THAT I SAW.

17 **Q** OKAY. IS THERE ANYTHING ELSE SECONDARY TO THAT
18 ERRANTLY PLACED TUBE THAT -- ANY OTHER ISSUES OR MALADIES THAT
19 IT CAN CAUSE?

20 **A** NO. IF IT'S NOT RECOGNIZED AND WITHDRAWN PROPERLY,
21 THE CHILD WILL SLOWLY DESATURATE AND LOSE THEIR OXYGEN
22 SATURATION.

23 **Q** HOW LONG WOULD THAT TAKE, WOULD YOU EXPECT WITH A
24 CHILD THIS AGE, WOULD THAT TAKE?

25 **A** IT COULD TAKE MINUTES.

1 Q OH, REALLY? SO IT COULD HAPPEN RATHER QUICKLY?
2 A AND IF IT DIDN'T HAPPEN RELATIVELY QUICKLY, THEN
3 THEY'RE SUCCESSFULLY OXYGENATING THE CHILD.
4 Q OKAY.
5 A SO IT'S AN INDICATION, IF I PUT A TUBE IN AND I GO
6 BEYOND AND I CAN'T VENTILATE, THEY'LL KNOW IT RIGHT AWAY,
7 BECAUSE I WON'T BE ABLE TO VENTILATE AND OXYGENATE THE CHILD,
8 SO I CAN'T SEE IT ON MY MONITOR. SO IF I CAN'T SEE IT ON MY
9 MONITOR, WE LISTEN AGAIN TO BOTH SIDES. AND IT DOESN'T
10 DESCRIBE HOW FAR DOWN INTO THE MAIN STEM THIS WAS. IT WOULD
11 BE RIGHT AT THE BIFURCATION, JUST SLIGHTLY IN, WHICH MEANS
12 HE'S GETTING OXYGEN TO BOTH SIDES. IT DOESN'T DESCRIBE THAT,
13 JUST IT'S TOO FAR INTO THE RIGHT MAIN STEM.
14 Q OKAY. AND YOU DON'T HAVE AN INDEPENDENT
15 RECOLLECTION, AS YOU SIT HERE TODAY --
16 A NO.
17 Q -- ONE WAY OR THE OTHER? OKAY.
18 BUT THE FURTHER DOWN IT IS, THEN, THE LESS LIKELY
19 YOU'RE GOING TO GET OXYGENATION TO BOTH COMPONENTS OF THE
20 LUNG?
21 A YES.
22 MS. LEMCKE: OKAY. UH -- COURT'S INDULGENCE --
23 THE COURT: SURE.
24 MS. LEMCKE: -- I JUST WANT TO ...
25 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

1 **MS. LEMCKE:** OKAY. AND IF I MAY APPROACH THE WITNESS
2 AGAIN, YOUR HONOR?

3 **THE COURT:** UM-HUM.

4 **BY MS. LEMCKE:**

5 **Q** OKAY. CONTINUING ON -- UM -- OH, I THINK WE'VE
6 COVERED THE OCCIPITAL BONE FRACTURE. UM -- LET'S SEE HERE.

7 THE -- UM -- THE CERVICAL SPINE IS NORMAL IN
8 ALIGNMENT, WITH NO EVIDENCE OF ACUTE FRACTURE OR TRAUMATIC
9 SUBLUXATION.

10 WHAT DOES THIS TRAUMATIC SUBLUXATION MEAN?

11 **A** SUBLUXATION IS THE MOVEMENT OF THE BONES OVER THE
12 TOP OF EACH OTHER. SO IF WE THINK OF THE SPINE BEING IN LINE,
13 IF WE PUSH IT FORWARD, WE BREAK IT, OR THE BONES AREN'T
14 BROKEN, IT'S JUST THE LIGAMENTS, WE CAN SUBLUX THE SPINE AND
15 PINCH THE SPINAL COLUMN.

16 **Q** OKAY. AND ALL OF THAT YOU -- UM -- ARE -- UH --
17 THERE WAS -- SO THERE WAS NOTHING OBSERVED THAT WAS OF ANY
18 SIGNIFICANCE TO YOU RELATIVE TO THE CERVICAL SPINE AND THE
19 SUBLUXATION THEN?

20 **A** CORRECT.

21 **Q** IS THAT -- DO YOU TYPICALLY, AND IN CASES WITH --
22 UM -- HEAD TRAUMA, SUCH AS WHAT WAS OBSERVED HERE, DO YOU
23 SOMETIMES SEE -- UM -- SOME TRAUMATIC ISSUES IN THAT AREA?

24 **A** YES.

25 **Q** AND HOW FREQUENTLY WOULD YOU SAY THAT THAT OCCURS?

1 **A** IT'S NOT UNCOMMON TO HAVE A PERSON WHO FALLS ON
2 THEIR HEAD, PRIMARILY, TO BEND THEIR NECK BACK AND CAUSE A
3 SUBLUXATION INJURY.

4 **Q** OKAY.

5 **A** SO ANYTIME SOMEONE HAS A HEAD INJURY SIGNIFICANT
6 ENOUGH TO BREAK A SKULL, WE EXAM THE ENTIRE SPINE, THE
7 CERVICAL SPINE, TO MAKE SURE IT HASN'T BEEN SUBLUXED OR
8 FRACTURED OR INJURED. AND I WOULD TELL YOU IT'S ABOUT 15
9 PERCENT OF THE PEOPLE WHO HAVE A SKULL FRACTURE SUFFERS SOME
10 SORT OF SPINE INJURY.

11 **Q** OKAY. WHAT DOES THE -- WHAT, IF ANYTHING, DOES THE
12 ABSENCE OF ANY SPINAL INJURY TELL YOU ABOUT THE NATURE OF THIS
13 PARTICULAR TRAUMA?

14 **A** IT DOESN'T.

15 **Q** IT DOESN'T. OKAY.

16 UM -- IT DOESN'T SAY ANYTHING ABOUT THE ROTATIONAL
17 FORCES OR THE SHEARING FORCES ON IMPACT?

18 **A** NO.

19 **Q** OKAY. COURT'S INDULGENCE.

20 OKAY. I WAS GOING TO SEE IF I CAN JUST DO THIS
21 COLLECTIVELY, BECAUSE THERE'S REALLY NOTHING REMARKABLE
22 OBSERVED, BUT -- UM -- OH, WELL ACTUALLY WE DO HAVE SOME.

23 OKAY. THE NORMAL VERTEBRAL -- DID I SAY THAT
24 CORRECTLY?

25 **A** VERTEBRAL, YES.

1 Q VERTEBRAL -- UM -- BODY ALIGNMENT AND SPACING,
2 THAT'S NORMAL. UM -- THERE'S NORMAL MINERALIZATION..

3 WHAT DOES THE MINERALIZATION REFER TO?

4 A HOW WELL A BONE CALCIFIES.

5 Q OKAY. IS THAT -- WHEN YOU SAY NORMAL MINERAL --
6 MINERALIZATION, THEN, ARE YOU TALKING ABOUT LIKE BONE --
7 YOU -- YOU'VE MENTIONED THE CALCIFICATION, DOES THAT HAVE
8 ANYTHING TO DO WITH DENSITY?

9 A YES.

10 Q HOW DOES THAT RELATE TO DENSITY.

11 A BONE DENSITY IS WHAT WE ASSUME MINERALIZATION TO
12 TAKE PLACE FROM. WE MINERALIZE A BONE, IT BECOMES MORE DENSE.

13 Q OKAY. AND SO -- UM -- YOU'RE SAYING THAT THAT'S
14 WHAT YOU OBSERVED IN THIS PARTICULAR SCAN WAS NORMAL FOR A
15 CHILD OF THIS AGE?

16 A THAT'S WHAT THEIR INDICATION WAS.

17 Q OKAY. IS THERE A SEPARATE TEST THAT YOU CAN DO FOR
18 BONE DENSITY BEYOND WHAT YOU MIGHT OBSERVE IN A CT SCAN?

19 A ABSOLUTELY. THERE'S SOMETHING CALLED A DEXA SCAN,
20 WHICH WE DO TYPICALLY IN WOMEN.

21 MS. EDWARDS: YOUR HONOR, I'M JUST GOING TO OBJECT TO
22 THESE QUESTIONS. THERE ARE NO MINERALIZATION ISSUES, IT LACKS
23 FOUNDATION AND RELEVANCE TO THE INSTANT CHILD THAT WE'RE
24 DISCUSSING.

25 MS. LEMCKE: I'LL -- I'LL MAKE IT RELEVANT, YOUR HONOR.

1 TO THE EXTENT THAT THERE WAS A SKULL FRACTURE, I'M
2 CURIOUS WHETHER OR NOT THEY -- THEY HAVE ACCESS TO OR CAN DO
3 TESTING TO SEE WHAT THE -- UM -- WHAT THE BONE DENSITY
4 AND/OR -- YOU KNOW, ANYTHING THAT EFFECTS DENSITY, MIGHT BE IN
5 THIS PARTICULAR PATIENT.

6 THE COURT: OVERRULED. YOU CAN ANSWER.

7 THE WITNESS: THE ANSWER WOULD BE NO.

8 MS. LEMCKE: OKAY.

9 THE WITNESS: FOR THAT WHOLE COMMENT, THE BONE DENSITY
10 MEASUREMENTS ARE NOT DONE IN NON-OSTEOPENIC PATIENTS. AND IN
11 CHILDREN THAT HAVE NORMAL MINERALIZATION, WE EXPECT THE BONE
12 DENSITY TO BE NORMAL, BASED ON THE MINERALIZATION, SO WE DON'T
13 DO AN INDEPENDENT TEST OF BONE DENSITY.

14 MS. LEMCKE: OKAY.

15 Q WHEN -- WHEN YOU OBSERVED NORMAL MINERALIZATION IN A
16 CT SCAN, IS THAT -- IS THAT A DEFINITIVE -- DOES THAT GIVE YOU
17 A DEFINITIVE RENDERING ON THAT MINERALIZATION, OR IS THERE
18 ANOTHER TEST THAT CAN BE DONE SPECIFIC TO MINERALIZATION?

19 A IT GIVES YOU NORMAL MINERALIZATION AT A SPECIFIC
20 AGE, WITHIN RANGE.

21 Q OKAY.

22 A BUT NORMALS CAN VARY FROM HIGH TO LOW, AND WITHIN A
23 RANGE. AND TO ME IT DOESN'T IMPLY ANYTHING THAT I HAVE TO
24 LOOK AT. THE BONES ARE NORMAL, SO I'M EXPECTING NORMAL
25 BEHAVIOR FROM THEM.

1 Q OKAY. AS NORMAL AS IDENTIFIED IN THIS PARTICULAR --
2 A ACCORDING TO THAT AGE.
3 Q OKAY. IN THIS PAR -- AS ACCORDING TO THIS
4 PARTICULAR SCAN FOR THAT PARTICULAR AGE?
5 A THAT'S CORRECT.
6 Q OKAY. UM -- IS THERE ANOTHER -- IS THERE ANOTHER
7 TEST, THEN, BEYOND WHAT YOU JUST DESCRIBED WITH THE
8 OSTEOPOROSIS TYPE PATIENTS -- UM -- THAT CAN BE DONE TO CHECK
9 TO SEE IF THE MINIMIZATION AND THE DENSITY IN, SAY A THREE
10 YEAR OLD, IS APPROPRIATE FOR -- OR WITHIN NORMAL LIMITS FOR A
11 CHILD OF THAT AGE?
12 A THERE ARE MANY INVASIVE TESTS YOU CAN DO. YOU CAN
13 TAKE A BIOPSY OF THE BONE AND ACTUALLY SEND IT TO PATHOLOGY.
14 YOU CAN ACTUALLY INVESTIGATE IT MULTIPLE WAYS, BUT IT ISN'T
15 DONE CLASSICALLY UNLESS YOU SUSPECT A PATHOLOGY --
16 Q OKAY.
17 A -- THAT IMPLIES POOR BONE HEALING --
18 Q OKAY.
19 A -- OR DESTRUCTION.
20 Q OKAY. WHEN YOU TALK ABOUT POOR BONE HEALING, COULD
21 THERE BE A PATHOLOGY THAT WOULD ALSO DISRUPT -- UM -- THE
22 BONES ABILITY TO -- UM -- WITHSTAND FORCE OR TRAUMA?
23 A YES.
24 Q OKAY. UM -- OKAY. THERE ARE NO OSSEOUS LYTIC OR
25 SCLEROTIC -- UH -- DID I SAY THAT RIGHT?

1 A SCLEROTIC.

2 Q SCLEROTIC LESIONS. ANYTHING SIGNIFICANT ABOUT THAT?

3 A NO.

4 Q THE NOR -- NORMAL PARASPINAL SOFT TISSUES -- UM --

5 ANYTHING SIGNIFICANT ABOUT THE FACT THAT THAT'S NORMAL,

6 RELATIVE TO THE OTHER INJURIES SUSTAINED BY THIS CHILD?

7 A IF HE WOULD HAVE HAD A CERVICAL INJURY THAT WAS
8 UNRECOGNIZED BY CT, YOU MIGHT SEE SWELLING OR EDEMA IN THOSE
9 MUSCLES.

10 Q OKAY. BUT SINCE THERE'S NO CERVICAL INJURIES, IT'S
11 NOW, QUITE FRANKLY, SURPRISING THAT YOU WOULDN'T SEE ANY --

12 A CORRECT.

13 Q -- CORRESPONDING SWELLING; IS THAT RIGHT?

14 A THAT'S CORRECT.

15 Q OKAY. NOW, VISUALIZED LUNG -- HOW DO YOU PRONOUNCE
16 THIS?

17 A APICES.

18 Q APICES.

19 A UM-HUM.

20 Q OKAY. VISUALIZED LUNGS APICES ARE NOTABLE --
21 NOTABLE FOR BILATERAL HEMOTHORACES; IS THAT RIGHT?

22 A UM-HUM.

23 Q AND BILATERAL PULMONARY CONSOLIDATIVE OPACITIES
24 RELATED TO PULMONARY CONTUSIONS OR PULMONARY HEMORRHAGE.

25 AND I READ THAT JUST SO WE HAVE IT IN THE RECORD, SO

1 WE KNOW WHAT I'M ASKING ABOUT.

2 EXPLAIN THAT TO ME, AND THE SIGNIFICANCE OF WHAT WAS
3 OBSERVED RELEVANT TO THIS INJURY?

4 A IN THIS CASE, HE DIDN'T -- THE CHILD HAD NO -- HAD
5 AN INJURY THAT SUSTAINED BLEEDING AROUND AND IN THE LUNG
6 ITSELF, BILATERALLY. BOTH LUNGS HAD BLEEDING AROUND AND
7 INSIDE THE LUNGS THEMSELVES. SIGNIFICANCE IS IT'S BLUNT
8 FORCE -- IN THIS CASE IT WOULD BE BLUNT FORCE TRAUMA APPLIED
9 TO THE CHEST SUBSEQUENT TO THE FORCE TO MAKE INJURY TO THE
10 LUNG.

11 Q OKAY. UM -- COULD THE BLEEDING BE -- HAVE ANYTHING
12 TO DO WITH THE BLEEDING THAT WAS GOING ON IN THE BRAIN IN THE
13 HEAD?

14 A NO.

15 Q OKAY. SO THIS IS COMPLETELY SEPARATE FROM THAT?

16 A YES.

17 Q THIS WOULD INDICATE A -- A DIFFERENT IMPACT, OTHER
18 THAN THAT -- WHAT WAS SUSTAINED IN THE HEAD, SOMETHING
19 DIFFERENT TO THE CHEST?

20 A YES.

21 Q COULD BE IN ONE SINGULAR INCIDENT, BUT WE'RE TALKING
22 ABOUT TWO IMPACTS, HEAD AND CHEST?

23 A YES.

24 Q THE BLEEDING THAT -- UM -- IS IDENTIFIED BY THE
25 SENTENCE, WHICH I AM NOT GOING TO REPEAT.

1 **A** OKAY.

2 **Q** UM -- UH -- ON THE SPECTRUM WAS IT A SIGNIFICANT
3 AMOUNT OF BLEEDING, OR WAS IT JUST A NOMINAL AMOUNT OF
4 BLEEDING THAT THEY IDENTIFIED PURSUANT TO THE SCAN, OR CAN YOU
5 TELL BY THE REPORTING?

6 **A** ANY BLOOD IN THE CHEST OF A CHILD IS SIGNIFICANT.
7 OUTSIDE OF THE LUNG AND OUTSIDE OF HEMORRHAGIC CONTUSIONS ARE
8 SIGNIFICANT IN A CHILD'S INJURY.

9 **Q** OKAY.

10 **A** THERE SHOULD BE NONE. THERE'S NOT A SMALL TRACE
11 AMOUNT THAT'S NORMAL IN ANYONE.

12 **Q** COULD THAT BE SECONDARY TO ANY OF THE INTUBATION
13 PROCEDURES THAT WERE PERFORMED WITH THIS CHILD?

14 **A** NO. THE INTUBATION WOULD NOT CAUSE BLEEDING IN THE
15 LUNG, OR THE PULMONARY CONTUSIONS OR SEQUESTRATION OF FLUID.

16 **Q** OKAY. THE PULMONARY CONTUSIONS THAT WE TALKED ABOUT
17 EARLIER, ARE THEY SEPARATE FROM THE BLEEDING THAT IS DESCRIBED
18 IN THIS PARTICULAR SENTENCE?

19 **A** YES. THERE ARE TWO DIFFERENT THINGS. THERE'S
20 BLEEDING OUTSIDE OF THE LUNG TISSUE ITSELF, AND THERE'S
21 BLEEDING IN THE LUNG TISSUE. SO THERE'S TWO DIFFERENT THINGS
22 TAKING PLACE. HEMOTHORAX IS THE BLOOD OUTSIDE OF THE CHEST,
23 OUTSIDE OF THE LUNG IN THE CHEST.

24 **Q** IN THE CAV -- CAN I INTERRUPT YOU FOR JUST ONE
25 SECOND? IN THE CAVITY, THEN, IN THE CHEST CAVITY, KIND OF?

1 **A** YES.

2 **Q** OKAY. GO ON.

3 **A** AND PULMONARY CONTUSIONS ARE BLEEDING WITHIN THE
4 PARENCHYMA OF THE LUNG, ITSELF. THE ACTUAL LUNG -- THINK OF
5 IT AS A TISSUE GOT DAMAGED, THERE'S BLEEDING OUTSIDE OF THE
6 LUNG TISSUE, AND THERE'S BLEEDING IN THE LUNG TISSUE.

7 THEY COULD BE RELATED, YOU COULD HAVE AN INJURY THAT
8 CAUSES THE LUNG TO BE DAMAGED AND BLEED OUTSIDE, AS WELL AS
9 BLEEDING INTERNALLY, IT'S JUST MORE OF A SEVERE FORCE.

10 **Q** OKAY. MORE OF A SEVERE FORCE WOULD CAUSE THE
11 BLEEDING INTO THE CAVITY?

12 **A** AND TO CAUSE BOTH AT THE SAME TIME.

13 **Q** OH, TO CAUSE BOTH AT THE SAME TIME, OKAY.

14 COULD THE BLEEDING THAT YOU OBSERVED, THAT'S
15 IDENTIFIED IN THIS LATTER SENTENCE ON THE FINDINGS IN THE
16 SCAN, COULD THAT HAVE RESULTED FROM SOME IMPACT TO THE BACK?

17 **A** FROM MY RECOLLECTION OF THE CHILD HE HAD NO MARKS ON
18 HIS BACK, SO IT WOULD BE UNLIKELY THERE WOULD BE AN IMPACT
19 FORCE, THAT DIDN'T LEAVE A MARK, THAT WAS ABLE TO CREATE
20 INTERNAL BLEEDING TO THAT NATURE.

21 **Q** ARE YOU ALWAYS GOING TO SEE A MARK WHEN YOU HAVE
22 INTERNAL BLEEDING OF THAT NATURE?

23 **A** GENERALLY.

24 **Q** OKAY.

25 **A** THE ANSWER ALWAYS, I CAN'T SAY ALWAYS, BUT

1 GENERALLY, YES.

2 Q OKAY. WHAT ABOUT -- WE TALKED ABOUT THE
3 RESUSCITATIVE MEASURES THAT WERE ADMINISTERED. COULD EXTREME
4 FORCE APPLIED PURSUANT TO THOSE KIND OF MEASURES, CAUSE SOME
5 BLEEDING, SUCH AS WHAT WAS OBSERVED ON THE SCAN?

6 A YES.

7 Q LATER IN THE IMPRESSION, I'M JUST CURIOUS, IT SAYS
8 THAT THIS BLEEDING, THAT WE DISCUSSED, WAS PARTIALLY
9 VISUALIZED. DO YOU KNOW WHY IT WOULD SAY PARTIALLY
10 VISUALIZED?

11 A BECAUSE IT ONLY LOOKS AT THE APICES OF THE LUNG, AND
12 THE LUNGS EXTEND ALL THE WAY TO THE BOTTOM.

13 Q OKAY.

14 A SO THEY'D NEED TO DO THE ENTIRE CHEST TO EVALUATE IT
15 THOROUGHLY.

16 MS. LEMCKE: OKAY. COURT'S INDULGENCE.
17 OKAY. UM -- AND LAST BUT NOT LEAST.
18 COUNSEL, FOR THE RECORD I'M GOING TO REFER TO BATES STAMP
19 PAGE 317 IN THE DISCOVERY.
20 AND IF I MAY APPROACH THE WITNESS AGAIN AND --

21 THE COURT: YES.

22 MS. EDWARDS: WHAT'S THIS? THIS VERSION OF?

23 MS. LEMCKE: OH, I'M GOING TO TELL YOU, IT'S THE CT OF
24 THE CHEST WITHOUT CONTRAST.

25 MS. EDWARDS: THANK YOU.

1 MS. LEMCKE: UM -- AND MAY I APPROACH AGAIN?

2 THE COURT: YES.

3 BY MS. LEMCKE:

4 Q OKAY. ALL RIGHT. SO NOW THE CT OF THE CHEST. WE
5 TALKED ABOUT THE CERVICAL SPINE -- UM -- WHICH DIDN'T SHOW THE
6 ENTIRETY OF THE CHEST, IF I UNDERSTAND YOU CORRECTLY. SO NOW
7 I ASSUME THAT THE CT OF THE CHEST IS GOING TO SHOW THE WHOLE
8 THING; IS THAT RIGHT?

9 A YES.

10 Q OKAY. NOW, THE FINDINGS ON THIS CT INDICATE -- THEY
11 SEE THE TUBING OBVIOUSLY. UM -- HEART IS NORMAL IN SIZE.
12 THAT'S, I ASSUME, OF NO SIGNIFICANCE RELATING TO THIS INJURY,
13 OR COULD IT BE?

14 A NO SIGNIFICANCE TO ME IN THIS INJURY.

15 Q OKAY. NO PERICARDIAL EFFUSION.

16 AND TELL ME -- EXPLAIN TO ME AGAIN EFFUSION IN THIS
17 CONTEXT, WHAT DOES IT MEAN?

18 A FLUID.

19 Q OKAY. WHAT WOULD BE SIGNIFICANT -- WELL, IS THERE
20 ANYTHING SIGNIFICANT, RELATING TO THIS INJURY, BY THE ABSENCE
21 OF ANY FLUID THERE?

22 A NO.

23 Q OKAY. UM -- THYMUS IS UNREMARKABLE.

24 AGAIN, ANYTHING SIGNIFICANT TO THE UNREMARKABLE
25 NATURE OF THE THYMUS IN RELATION TO THIS INJURY?

1 A NO.

2 Q UM -- WILL YOU PRONOUNCE NO --

3 A NO MEDIASTINAL --

4 Q MEDIASTINAL?

5 A -- HEMATOMA WAS IDENTIFIED.

6 Q WHAT IS MEDIASTINAL?

7 A IT'S THE CENTER OF THE CHEST, AND IT INVOLVES THE

8 HEART, THE GREAT VESSELS, THE TRACHEA, AND THE CENTER PORTION

9 OF WHAT'S INSIDE OF YOUR CHEST.

10 Q OKAY. THE FACT THAT -- THAT THERE'S NO HEMATOMA

11 IDENTIFIED IN THAT AREA, AND YET THERE IS BLEEDING AND

12 CONTUSIONS IN THE LUNGS -- UM -- IS THAT SIGNIFICANT TO YOU AT

13 ALL?

14 A NO. BUT THIS -- THIS GLEANS -- THESE REPORTS WERE

15 DONE AFTER THE CPR WAS COMPLETED, AND IF I HAD -- WE HAD DONE

16 CPR, AND PULMONARY CONTUSIONS FROM CPR, YOU'D EXPECT TO HAVE

17 MEDIASTINAL HEMORRHAGE, AS WELL, BECAUSE WE'RE PUSHING ON THE

18 CENTER OF THE CHEST, NOT THE OUTSIDES. SO IF YOU THINK ABOUT

19 CPR WITH -- ON A CHEST, AND WE CAUSE INJURIES, CAUSE BLEEDING

20 AND CONTUSIONS, YOU'D EXPECT THERE TO BE MEDIASTINAL HEMATOMA

21 OR SUBSTERNAL HEMATOMA FROM THE SAME IMPRESSIONS.

22 Q WOULD YOU ALWAYS EXPECT TO SEE THAT?

23 A IF I INDUCED PULMONARY CONTUSIONS I WOULD EXPECT TO

24 SEE IT.

25 Q OKAY. BUT -- UM -- YOU WOULD EXPECT TO SEE IT, BUT

1 I GUESS YOU CAN'T SAY IN EVERY SINGLE CASE YOU'RE GOING TO SEE
2 BOTH?

3 A NO.

4 Q CONCURRENT?

5 A CORRECT.

6 Q UM -- LET'S SEE. CONFLUENT ALV -- PRONOUNCE?

7 A ALVEOLAR.

8 Q ALVEOLAR CONSOLIDATION NOTED BILATERALLY WITH
9 ASSOCIATED GROUND-GLASS COMPONENT. AND I THINK WE TALKED A
10 LITTLE BIT ABOUT THE GROUND GLASS BEFORE, BUT CAN YOU
11 EXPLAIN -- UM -- EXACTLY WHAT THEY'RE OBSERVING HERE?

12 A THERE'S -- WHEN THEY LOOK AT THE ALVEOLAR SURFACE,
13 THEY'RE LOOKING AT THE SMALL AIR SACS IN THE LUNG, AND THE
14 CONFLUENCE JUST MEANS THE WHOLE AREA IN THAT AREA HAS A
15 GROUND-GLASS APPEARANCE TO IT.

16 Q OKAY. AND THIS IS THE SAME GROUND GLASS THAT WE
17 TALKED ABOUT EARLIER IN THE OTHER SCAN, I THINK IT WAS THE
18 ABDOMINAL SCAN ACTUALLY, SAW SOME OF THAT; IS THAT RIGHT?

19 A THAT'S YES.

20 Q OKAY. I WILL NOT ASK ABOUT THAT.
21 IS THERE ANYTHING -- JUST IN CASE I DIDN'T ASK THAT
22 QUESTION, IS THERE ANYTHING SIGNIFICANT ABOUT THE GROUND-GLASS
23 COMPONENT THAT'S OBSERVED RELATIVE TO THE OTHER INJURIES THAT
24 YOU HAVE, THAT THEY OBSERVED IN THE LUNG AREA?

25 A NO.

1 Q OKAY. UM -- COMPRESSIVE --
2 A ATELECTASIS.
3 Q -- ATELECTASIS --
4 A UM-HUM.
5 Q -- UM -- VERSUS THE CONFLUENT ALVE -- ALVEOLAR, DID
6 I SAY --
7 A ALVEOLAR --
8 Q -- ALVEOLAR --
9 A -- CONSOLIDATIONS.
10 Q -- CONSOLIDATIONS INVOLVING THE LOWER LOBES.
11 AGAIN, EXPLAIN TO ME WHAT THAT -- WHAT THEY'RE
12 SAYING THERE?
13 A ATELECTASIS IS A NORMAL COLLAPSE OF THE ALVEOLAR
14 WHEN THERE'S NO AIR IN IT, VERSUS CONFLUENCE, WHICH IS THE
15 COLLAPSE UNDER PRESSURE.
16 Q OKAY. ANYTHING SIGNIFICANT RELATING TO THE INJURIES
17 THAT WERE OBSERVED HERE ABOUT THIS?
18 A NO.
19 Q DOES IT TELL YOU ANYTHING ABOUT THE NATURE OF THE
20 INJURIES OR WHAT MIGHT HAVE HAPPENED THAT WOULD HAVE CAUSED
21 THE INJURIES TO THE CHEST OR THE HEAD?
22 A NO.
23 Q NO, OKAY.
24 UM -- SMALL, LUCENT CYSTIC CHANGES NOTED IN THE LUNG
25 BASES AS WELL AS THE MEDIAL LEFT LOWER LOBE.

1 ANYTHING SIGNIFICANT ABOUT THAT FINDING -- WELL
2 ACTUALLY TELL ME FIRST WHAT IS IT?
3 A IT'S A SMALL CYST OR SMALL SPACE VOID IN THE LUNG
4 ITSELF.
5 Q OKAY.
6 A AND NO.
7 Q ALL RIGHT. NOTHING SIGNIFICANT RELATING TO THE
8 INJURIES THAT YOU OBSERVED --
9 A NO.
10 Q -- HERE? OKAY.
11 AND NO ACUTE OSSEOUS ABNORMALITY.
12 AGAIN, TELL ME AGAIN WHAT -- WHAT IS OSSEOUS?
13 A THE BONES.
14 Q THE BONES, OKAY.
15 AND SO -- AND REFERRING TO THE BONES THAT ARE
16 OBSERVED IN THIS PARTICULAR SCAN, IS THAT WHAT THEY'RE TALKING
17 ABOUT?
18 A YES.
19 Q OKAY. UM -- COURT'S INDULGENCE.
20 AND AGAIN, I MAY HAVE ASKED THIS BEFORE, BUT LET ME
21 JUST CLARIFY. NO OSSEOUS ABNORMALITY, MEANING THERE WAS NO
22 FRACTURES THERE; IS THAT RIGHT?
23 A CORRECT.
24 Q AND THE ABSENCE OF FRACTURES, WHILE YET THERE IS
25 OTHER INJURY PRESENT, IS THAT -- DOES THAT TELL YOU ANYTHING

1 ABOUT THE MANNER IN WHICH OR THE NATURE -- MANNER IN WHICH THE
2 INJURY OCCURRED, OR THE NATURE OF THE INJURY?

3 A NO.

4 Q IT DOESN'T, OKAY. OKAY.

5 THERE WAS AN INDIVIDUAL BY THE NAME OF OSCAR
6 INGARAMO, THAT KIND OF DID A SUMMARY OF THE SCAN REPORTS.
7 DOES THAT NAME SOUND FAMILIAR TO YOU AT ALL?

8 A YES.

9 Q AND WHO IS --

10 A HE'S A PEDIATRIC INTENSIVE CARE SPECIALIST.

11 Q HE ONLY TREATS CHILDREN?

12 A CORRECT.

13 Q UM -- WOULD IT BE TYPICAL FOR HIM TO ALSO REVIEW THE
14 MEDICAL FINDINGS AND THE SCANS AND REPORTING THAT WAS DONE IN
15 THIS CASE?

16 A YES.

17 Q OKAY. HE INDICATED THAT -- UM -- THERE WERE SOME
18 NEW BRUISES ON THE CHEST, POSSIBLY RELATED TO CHEST
19 COMPRESSION. DO YOU RECALL ANY OF THE BRUISES -- UM -- ON
20 THIS CHILD'S CHEST?

21 A NOT WHEN I HAD HIM.

22 Q OKAY. UM -- WOULD THAT SOUND UNREASONABLE TO YOU
23 THAT SOME OF THE BRUISES -- UM -- UH -- THAT HE OBSERVED ON
24 THE CHEST MIGHT BE RELATED TO COMPRESSION AND RESUSCITATION
25 TYPE EFFORTS?

1 **A** NO.

2 **Q** OKAY. I WANT TO ASK YOU JUST A COUPLE QUESTIONS
3 ABOUT BONE DEVELOPMENT.

4 IN A -- IN A THREE YEAR OLD ARE THE BONES --
5 OBVIOUSLY THEY ARE GOING TO GROW. BUT IN TERMS OF THEIR
6 DENSITY AND THEIR FORMATION, DOES THAT DENSITY AND THE
7 MINERALIZATION, FOR LACK OF A BETTER TERM, DOES THAT CHANGE
8 STILL OVER TIME AS THEY GROW AND REACH THEIR MAXIMUM
9 DEVELOPMENT?

10 **A** ABSOLUTELY.

11 **Q** HOW IS IT -- WOULD A THREE YEAR OLD BE DIFFERENT,
12 FROM SAY AN INFANT IN THAT REGARD?

13 **A** A THREE YEAR OLD'S BONES ARE MORE RIGID THAN AN
14 INFANT. A RIGID IS MORE PLASTIC, THEY'LL BEND EASIER MORE
15 OFTEN THAN BREAKING.

16 **Q** OKAY. THEY'RE GOING TO BE A LITTLE BIT MORE
17 FORGIVING THAN SAY AN -- AN INFANT?

18 **A** THEY'RE GOING TO BE A LITTLE LESS FORGIVING THAN AN
19 INFANT. OF THE SAME STRESS APPLIED TO AN INFANT'S FEMUR, FOR
20 EXAMPLE, MAY NOT BREAK IT, WHERE IT MIGHT BREAK A THREE YEAR
21 OLD'S FEMUR.

22 **Q** OH, OKAY. SO I MISUNDERSTOOD YOU, I'M SORRY, I HAD
23 THAT BACKWARDS.

24 SO THEY ARE -- AN INFANT'S BONES ARE A LITTLE BIT
25 MORE ELASTIC THAN SAY THAT OF A THREE YEAR OLD?

1 **A** YES.

2 **Q** OKAY. I APOLOGIZE, I HEARD THAT WRONG.

3 AND THEN -- UM -- HOW ABOUT A THREE YEAR OLD AS

4 COMPARED TO AN ADULT?

5 **A** THREE YEAR OLD IS MUCH MORE ELASTIC THAN AN ADULT.

6 AS WE GET OLDER OUR BONES BECOME MORE RIGID AND LESS

7 FORGIVING.

8 **Q** OKAY. HOW LONG AFTER THE CHILD WAS BROUGHT TO THE

9 HOSPITAL WOULD YOU SAY THAT YOU SAW HIM? WAS IT PRETTY MUCH

10 IMMEDIATELY UPON HIM BEING BROUGHT TO THE HOSPITAL?

11 **A** I WAS WAITING FOR HIM WHEN HE ARRIVED.

12 **MS. LEMCKE:** OKAY. BECAUSE THERE WAS A CALL THAT WAS

13 ROUTED -- AND, NORM, YOU HAD A QUESTION. IS IT -- DO YOU WANT

14 ME TO ASK IT OR NO?

15 **MR. REED:** OH, YEAH, THAT'S -- THE EMS TELE.

16 **BY MS. LEMCKE:**

17 **Q** THERE IS AN EMS TELE, I THINK THAT YOU SAID, THAT

18 COMMUNICATES THAT THERE'S A -- THAT PEDIATRIC TRAUMA PATIENT

19 ON THE WAY?

20 **A** CORRECT.

21 **Q** AND THAT KIND OF PUTS YOU GUYS IN THE READY POSITION

22 TO RECEIVE THE PATIENT AND TREAT HIM?

23 **A** CORRECT.

24 **Q** DO YOU KEEP RECORDS OF THAT TELECOMMUNICATION?

25 **A** I DON'T PERSONALLY, THE HOSPITAL DOES.

1 **Q** OKAY. THEN BASED ON WHAT YOU OBSERVED, AFTER YOU --
2 ONCE YOU BEGAN TREATING THE PATIENT, ULYSSES, AND, YOU KNOW,
3 AFTER ALL THE TESTING AND EVERYTHING WAS RUN, DO YOU HAVE ANY
4 ABILITY TO GIVE US AN APPROXIMATION AS TO WHEN, RELATIVE TO
5 HIS PRESENTMENT IN THE HOSPITAL, THE TRAUMA THAT CAUSED THE
6 INJURIES MAY HAVE OCCURRED?

7 **A** I WOULD OF ASSUME -- LOOKING AT HIS INJURY PATTERN
8 AND HIS PROGRESSION, WITHIN AN HOUR.

9 **Q** WITHIN AN HOUR BEFORE PRESENTMENT TO THE HOSPITAL?

10 **A** AT THE MOST.

11 **Q** AT THE MOST?

12 **A** UM-HUM.

13 **Q** OKAY.

14 **MR. REED:** COURT'S INDULGENCE FOR JUST A MOMENT?

15 **THE COURT:** YES.

16 **BY MS. LEMCKE:**

17 **Q** DID YOU HAVE ANY INTERACTION WITH THE PARENTS AT
18 ALL?

19 **A** NO. NO, I DID NOT.

20 **Q** WHO -- DO YOU, IF YOU RECALL, OR DO YOU HAVE
21 SOMEBODY, JUST PROTOCOL, KIND OF DICTATE THAT SOMEBODY IN
22 PARTICULAR COMMUNICATES THE -- YOU KNOW, MEDICAL STATUS TO THE
23 FAMILY MEMBERS?

24 **A** GENERALLY SPEAKING I DO. HOWEVER, IN A CASE WHERE
25 THERE IS -- UM -- QUESTIONABLE CIRCUMSTANCES SURROUNDING AN

1 EVENT, THE POLICE INTERVENE, AND THEN THE POLICE WILL ASK ME
2 EITHER NOT TO TALK TO FAMILIES, AND LET THEM TALK TO THE
3 FAMILY FIRST, OR TO INVESTIGATE BEFORE DISCUSSION IS HAD. AND
4 SO I WAS NOT INSTRUCTED TO TALK TO THE FAMILY AT THAT POINT.

5 I DID AT SOME POINT --

6 Q WAIT, I'M SORRY, I THOUGHT YOU --

7 A INITIALLY I DID AT --

8 Q YOU ALREADY SAID YOU WERE NOT INSTRUCTED TO TALK TO
9 THE FAMILY.

10 A I WAS -- I WAS INSTRUCTED NOT TO TALK TO THE FAMILY
11 AT THAT POINT.

12 Q YOU -- OKAY.

13 A AT SOME POINT IN THAT CONVERSATION THERE WAS A
14 PARENT THAT CAME TO THE BEDSIDE, OR SOMEONE THAT CAME TO THE
15 BEDSIDE THAT I TALKED TO, BUT IT WAS MUCH LATER. IT WAS
16 BEFORE THE CHILD WAS JUST ABOUT TO GO TO THE ICU.

17 Q OKAY. AND SO YOU DON'T EVEN RE -- YOU DON'T
18 REMEMBER WHICH PARENT IT IS?

19 A NO.

20 Q IT WAS. OKAY.

21 THERE IS, I BELIEVE, A REPORT THAT THE PROSECUTOR
22 SHOWED YOU THAT YOU AUTHORED. DO YOU RECALL WHETHER OR NOT
23 YOU WOULD HAVE OR DID AUTHOR ANY MORE REPORTS, OTHER THAN --
24 UM -- THAT WHICH THE PROSECUTOR SHOWED YOU ON YOUR DIRECT
25 EXAMINATION, THAT MAY BE OUT THERE?

1 **A** THE DICTATED REPORTS BY THE RESIDENTS ARE REVIEWED
2 BY ME. THERE'S A SYNOPSIS OF WHAT IS BEING SCRIBED BY A
3 JUNIOR RESIDENT FOR THE PROCEDURES AND THINGS WE DO. I REVIEW
4 THEM, EDIT THEM APPROPRIATELY, AND I DO RECORD THEM.

5 THE ONLY HAND AUTHORED NOTE THAT I ACTUALLY HAD WAS
6 THIS ONE THAT WAS GIVEN TO ME, AND AT THIS POINT WHEN THE
7 CHILD WAS, FOR ME, CLINICALLY BRAINDEAD, I STILL SAW THE CHILD
8 IN THE ICU THE NEXT DAY. I WOULD STILL SIGN FORM NOTES, BUT
9 THE CARE OF THAT CHILD WENT TO DR. INGARAMO, AND THE REST OF
10 THAT PEDIATRIC TEAM.

11 **Q** OKAY. SO ONCE THE TRAUMA COMPONENT WAS COMPLETED,
12 THEN THE CHILD WAS PASSED OFF TO DR. INGARAMO?

13 DID I SAY RIGHT --

14 **A** YES.

15 **Q** -- INGARAMO?

16 AND HE'S THE PEDIATRIC SPECIALIST THAT YOU
17 REFERENCED IN A QUESTION THAT I ASKED, WITH A REPORT THAT I
18 MENTIONED EARLIER?

19 **A** YES.

20 **Q** IF I MAY APPROACH, BECAUSE YOU JUST REFERENCED THE
21 HANDWRITTEN NOTATIONS WERE THIS. I JUST WANT TO IDENTIFY, FOR
22 THE RECORD, WHAT THIS IS, SO THAT WE KNOW.

23 BATES STAMP PAGE 235, AND THOSE ARE THE HANDWRITTEN
24 NOTES WITH YOUR SIGNATURE AT THE BOTTOM, MICHAEL CASEY; IS
25 THAT RIGHT?

1 **A** YES.

2 **Q** THERE ARE NO OTHER THAN -- IF I UNDERSTAND YOU
3 CORRECTLY, DICTATED -- AND, COUNSEL, CAN I GIVE THIS BACK TO
4 YOU, THOUGH?

5 **MS. EDWARDS:** YEAH.

6 **MS. LEMCKE:** ARE YOU DONE?

7 **Q** THERE ARE NO OTHER THAN DICTATED REPORTS THAT YOU
8 RECALL GENERATING PURSUANT TO YOUR TREATMENT OF THIS
9 PARTICULAR PATIENT?

10 **A** TO MY RECALL, NO.

11 **MS. LEMCKE:** OKAY. COURT'S INDULGENCE.

12 **THE COURT:** SURE.

13 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

14 **BY MS. LEMCKE:**

15 **Q** DO YOU RECALL WHETHER OR NOT THAT YOU OBSERVED ANY
16 DAMAGE TO THE OPTIC NERVE?

17 **A** I DID NOT INVESTIGATE THE OPTIC NERVE.

18 **Q** OKAY. AND YOU DON'T RECALL WHETHER OR NOT THERE WAS
19 ANY IMAGINING THAT DID OR DIDN'T INVESTIGATE THE OPTIC NERVE?

20 **A** THERE WAS A CONSULT MADE BY THE PEDIATRIC ICU TO AN
21 OPHTHALMOLOGIST, I DON'T KNOW WHAT THAT REPORT WAS.

22 **Q** OKAY. SO YOU NEVER LOOKED AT THE REPORT, IF THERE
23 WAS ANY GENERATED?

24 **A** THAT'S CORRECT.

25 **Q** OKAY. THE LINEAR FRACTURE THAT YOU MENTIONED,

1 HAVING OBSERVED ON THE SCANS THAT WERE RUN, WOULD THAT BE
2 CONSISTENT WITH -- UM -- THE HEAD HITTING A FLAT SURFACE?

3 A YES.

4 Q SO SUCH AS A FLOOR?

5 A OKAY.

6 Q WELL, I'M ASKING YOU, WOULD IT BE?

7 A IT COULD BE A FLOOR, ANY -- ANY FLAT HARD SURFACE.

8 AGAIN, IF YOU HIT A SURFACE THAT'S SOFT, YOU WOULD
9 NOT EXPECT TO SEE A FRACTURE, IT WOULD ABSORB THE ENERGY. SO
10 A HARD, NON-FORGIVING SURFACE, YES.

11 Q OKAY. AND LET -- LET ME BE A LITTLE MORE SPECIFIC,
12 THEN. WHAT ABOUT SOMETHING LIKE A -- UH -- ONE INCH IN
13 DIAMETER CLUB, WOULD THAT CREATE THE KIND OF LINEAR FRACTURE
14 THAT YOU SAW -- OBSERVED IN THIS PARTICULAR SCAN?

15 A I WOULD NOT EXPECT IT TO.

16 Q SO THIS IS MORE CONSISTENT WITH THE HEAD HITTING A
17 LARGE, FLAT SURFACE?

18 A YES.

19 Q SUCH AS A TILE FLOOR?

20 A CORRECT.

21 Q OKAY. COURT'S INDULGENCE.

22 WHEN YOU TREATED ULYSSES, DID YOU OBSERVE ANY KIND
23 OF -- UM -- ABRASION OR CONFUSION ON THE OUTSIDE OF THE SKULL
24 OF THE HEAD AT ALL?

25 A ON THE LEFT FRONTAL AREA.

1 Q HOW ABOUT ON THE BACK?

2 A NO.

3 Q NOTHING AT ALL?

4 A NOT THAT I REMEMBER, AND IT'S NOT IN MY NOTES.

5 Q IS THERE -- THE BRUISING THAT YOU SAW, THE LEFT

6 FRONTAL AREA, WAS THAT -- I'M SORRY. IT WAS ON THE LEFT

7 FRONTAL AREA; IS THAT CORRECT?

8 A YES.

9 Q WAS IT IN THE EXACT -- IS IT -- WHERE WAS THAT

10 RELATING TO WHERE YOU OBSERVED THE LINEAR FRACTURE?

11 A IT WAS ANTERIOR, AND NOT OVERLYING THE FRACTURE

12 SITE. IT WAS MORE OVER THE FRONTAL REGION HERE, AND THE

13 FRACTURE'S IN THE BACK HERE.

14 Q OKAY. SO THE FRACTURE WAS MORE TOWARD THE BACK OF

15 THE HEAD, WHERE AS THE CONTUSION THAT YOU OBSERVED WAS IN THE

16 FRONT OF THE HEAD; IS THAT RIGHT?

17 A YES.

18 MS. LEMCKE: AND FOR THE RECORD, YOUR HONOR, HE GESTURED

19 RELATIVE TO THE CONTUSION, FRONT LEFT FOREHEAD, AND THEN

20 GESTURED TO THE BACK OF HIS HEAD FOR THE LINEAR FRACTURE,

21 AGAIN ON THE LEFT SIDE.

22 Q UM -- IS THAT FAIR?

23 A YES.

24 Q OKAY. UM -- COURT'S INDULGENCE.

25 IS THERE ANYTHING SIGNIFICANT TO YOU ABOUT THE

1 ABSENCE OF ANY VISIBLE CONTUSION TO THE BACK OF THE HEAD WHERE
2 YOU -- WHERE THE SCANS REVEALED THAT LINEAR FRACTURE?

3 **A** I DON'T UNDER -- I GUESS I'M CONFUSED BY THE
4 QUESTION.

5 **Q** WELL, DOES IT TELL YOU ANYTHING ABOUT THE NATURE OF
6 INJURY THAT CAUSED THE FRACTURE, THE FACT THAT THERE'S NO
7 CORRESPONDING CONTUSION THERE?

8 **A** NO.

9 **Q** IS THAT VERY COMMON THAT YOU HAVE SOMETHING THAT --
10 UM -- A HEAD INJURY INVOLVING A SKULL FRACTURE WITH NO
11 CORRESPONDING BRUISING OR CONTUSION IN THE AREA OF THE
12 FRACTURE?

13 **A** THERE WAS A CONTUSION PRESENT, BUT IT WASN'T READILY
14 VISIBLE, AND IT'S NOT COMMON TO HAVE A CONTUSION -- OR A
15 FRACTURE WITHOUT A CONFUSION PRESENT.

16 **THE COURT:** IT'S NOT COMMON?

17 **THE WITNESS:** IT IS NOT COMMON TO HAVE A FRACTURE WITHOUT
18 A CONTUSION PRESENT. BUT ON THE INITIAL CT REPORT OF HIS
19 BRAIN, THERE WAS A COMMENT THAT THERE WAS A SMALL THIN
20 OVERLYING EDEMA IN THAT AREA REPRESENTING A HEMATOMA, WHICH
21 MAY HAVE BEEN DEEPER AND NOT EV -- EVIDENT AT THE SURFACE AT
22 THE POINT WHEN I SAW HIM.

23 **MS. LEMCKE:** OKAY.

24 **Q** BUT THE ABSENCE OF SOMETHING NOT EVIDENT AT THE
25 SURFACE -- WELL, LET ME ASK YOU THIS. THE DEEPER -- THE

1 DEEPER ONE THAT WAS REFERENCED IN THE SCAN, THE DEEPER
2 CONTUSION, OR THE BLEEDING THAT WAS REFERENCED IN THE SCAN
3 THAT -- ON THAT THIN AREA -- UM -- THAT WOULDN'T NECESSARILY
4 BECOME VISIBLE TO -- TO SOMEBODY ON THE OUTSIDE LATER, WOULD
5 IT?

6 A YES, IT WOULD.

7 Q IT COULD?

8 A YES.

9 Q SO THAT COULD HAVE BEEN THE EARLY FORMATION OF WHAT
10 WE WOULD OBSERVE LATER AS A BRUISE?

11 A YES.

12 Q UM -- AND WOULD THAT BE MORE CONSISTENT -- OR IS
13 THAT -- WELL, NEVER MIND, I THINK YOU JUST ACTUALLY ANSWERED
14 THAT QUESTION. COURT'S INDULGENCE.

15 WHERE WAS THAT PARTICULAR, THAT MILD CONTUSION THAT
16 YOU REFERENCED THAT WAS -- I KNOW WAS IN ONE OF THE SCANS, AND
17 I CAN SHOW YOU THE SCAN IF YOU NEED IT, JUST LET ME KNOW. DO
18 YOU KNOW WHERE THAT WAS IN REF -- IN RELATION TO THE FRACTURE?

19 A IT WAS OVERLYING THE FRACTURE, ITSELF.

20 Q IT WAS?

21 A UM-HUM.

22 MS. LEMCKE: ANYTHING ELSE? WHAT DID I JUST ASK HIM?

23 UM -- WAIT.

24 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

25 MS. LEMCKE: WE'RE DONE.

1 THE COURT: REDIRECT?

2

3

REDIRECT EXAMINATION

4 BY MS. EDWARDS:

5 Q ALL RIGHT, DOCTOR. OBVIOUSLY YOU DISCUSSED A LOT ON
6 CROSS, I'M GOING TO TRY TO TAKE IT IN CATEGORIES.

7 FIRST, GOING TO THE, I BELIEVE IT WAS THE CONTUSIONS
8 ON THE LUNGS, CORRECT?

9 A YES.

10 Q OKAY. IF AT AUTOPSY THERE WAS DISCOVERED A MILD,
11 FAINT CONTUSION ON THE UPPER BACK OF THE CHILD, WOULD THAT BE
12 CONSISTENT WITH WHAT YOU OBSERVED AS THE INTERNAL INJURIES ON
13 THE LUNGS?

14 A IT'S POSSIBLE.

15 Q AND THAT -- FAIR TO SAY THAT WOULD NOT BE FROM
16 COMPRESSIONS, BECAUSE IT'S ON THE CHILD'S BACK?

17 A CORRECT.

18 Q NOW, THERE WERE A NUMBER OF QUESTIONS ABOUT TESTING
19 THE CHILD'S BONE DENSITY. IF I UNDERSTAND YOUR TESTIMONY
20 CORRECTLY -- UM -- ACCORDING TO THE CT'S THAT YOU REVIEWED,
21 THERE WERE NO ISSUES OR QUESTIONS THAT RAISED RED FLAGS OR
22 PROBLEMS WITH THE CHILD'S BONE DENSITY; CORRECT?

23 A YES.

24 Q ABSENT A RED FLAG OR CONCERNS ABOUT A PROBLEM WITH
25 THE BONE DENSITY, WOULD YOU RUN THE ADDITIONAL TESTS YOU'VE

1 DISCUSSED WITH COUNSEL?

2 **A** NO.

3 **Q** WHY NOT?

4 **A** THERE ARE -- TESTS FOR BONE DENSITY ARE OFTEN
5 MISLEADING, AND X-RAYS ARE USUALLY WHAT WE USE TO DEFINE BONE
6 DENSITY, AND SO WE USE AN X-RAY TO DEFINE BONE DENSITY IN
7 PEOPLE. HOWEVER, IF YOU'RE TALKING ABOUT DEVELOPMENTAL BONE
8 DENSITY IN CHILDREN, LIKE OSTEOGENESIS IMPERFECTA, WHICH IS A
9 BONE DENSITY FAILURE, THOSE CHILDREN AT BIRTH ARE KNOWN TO
10 HAVE CLAVICLE FRACTURES, ARM FRACTURES, AND THEY HAVE
11 CONSISTENT FRACTURING OF BONES THROUGHOUT THEIR INFANT LIFE UP
12 UNTIL THEY REACH WHATEVER AGE THEY REACH. SO THOSE ARE NOT
13 UNKNOWN TO THE FAMILIES. THOSE INJURIES ARE KNOWN TO THE
14 FAMILIES.

15 SO BONE DENSITY CHANGES IN CHILDREN, ESPECIALLY BY
16 THE AGE OF THREE, ARE WELL IDENTIFIED TO THE FAMILY. THE
17 CHILD HASN'T GROWN, THEY'RE SHORT STATURE. THEY GENERALLY
18 INVESTIGATE THOSE, AND WILL SAY EVERYTHING IS FINE WITH MY
19 CHILD, EXCEPT FOR THESE THINGS.

20 WITHOUT THOSE BEING PRESENT, THERE WOULD BE NO
21 REASON TO INVESTIGATE A BONE DENSITY OR A BONE CHALLENGE TO
22 SEE IF THE BONE DENSITY IS NORMAL.

23 **Q** IF THERE WAS A ISOLATED -- ISOLATED INCIDENT OF RIB
24 FRACTURES A COUPLE YEARS BEFORE THIS, NO DOCUMENTED -- UM --
25 FRACTURES OR OTHER BONES BEING BROKEN FROM THE CHILD'S BIRTH

1 TO THE TIME OF THE CHILD'S DEATH -- UM -- WOULD THAT BE
2 SUGGESTIVE, ONE WAY OR THE OTHER, AS FAR AS PROBLEMS WITH THE
3 CHILD'S BONE DENSITY?

4 **A** NO.

5 **Q** WHEN COUNSEL WAS ASKING YOU QUESTIONS -- UM -- YOU
6 DISCUSSED -- UH -- THAT SEVEN MILLIMETERS IS APPROXIMATELY ONE
7 CENTIMETER OF THE SHIFT, CORRECT?

8 **A** YES.

9 **Q** AND THAT IN CERTAIN CASES YOU ACTUALLY WOULD DO, I
10 BELIEVE YOU CALLED IT, A CRANIOTOMY?

11 **A** YES.

12 **Q** IS THAT WHERE YOU REMOVE PART OF THE SKULL TO GIVE
13 THE BRAIN ROOM TO SWELL?

14 **A** TO REMOVE A PART OF THE SKULL, TAKE THE CLOT OUT,
15 AND PUT THE SKULL BACK.

16 **Q** OKAY. YOU DIDN'T DO THAT IN THIS CASE, CORRECT?

17 **A** I DID NOT.

18 **Q** WHAT DETERMINATION LED YOU TO DECIDE THAT WASN'T AN
19 APPROPRIATE STEP?

20 **A** I'M NOT A NEUROSURGEON, FIRST OF ALL, SO I CALLED A
21 PEDIATRIC NEUROSURGEON FOR HIS EVALUATION OF THE PATIENT.
22 THAT DETERMINATION IS MADE BY THE PEDIATRIC NEUROSURGICAL
23 GROUP AND PEDIATRIC NEUROSURGEON, WHICH WOULD HAVE BEEN DR.
24 KAPLAN, STUART KAPLAN. DR. KAPLAN EVALUATED THE CHILD AFTER I
25 EVALUATED THE CHILD, AND FELT THAT THERE WAS NO SURVIVAL

1 BENEFIT, BECAUSE THE CHILD WAS CLINICALLY BRAIN DEAD.
2 Q COUNSEL ASKED YOU, AND YOU'VE DISCUSSED A --
3 RECALLING A CONTUSION ON THE FRONT OF THE CHILD'S HEAD,
4 CORRECT?
5 A YES.
6 Q AND I BELIEVE YOU TESTIFIED, THAT AS BEST AS YOU
7 RECOLLECT YOU BELIEVE IT WAS ON THE LEFT SIDE OF THE CHILD?
8 A CORRECT.
9 Q OKAY. IF YOU SAW A PHOTO OF THE CHILD, WOULD IT
10 BE -- THAT HELP YOU ARTICULATE WHAT THE CONTUSION YOU WERE
11 TALKING ABOUT LOOKED LIKE, AND WHERE ON THE CHILD IT WAS?
12 A YES.
13 MS. EDWARDS: MAY I APPROACH, YOUR HONOR?
14 THE COURT: YES.
15 MS. EDWARDS: I WANT TO MARK THIS AS STATE'S PROPOSED 1.
16 (WHEREUPON STATE'S PROPOSED EXHIBIT NO. 1 WAS MARKED FOR
17 IDENTIFICATION.)
18 MS. EDWARDS: MAY I APPROACH WITNESS, YOUR HONOR?
19 THE COURT: YES.
20 MS. EDWARDS: AND JUST FOR THE RECORD, HAVING CONFERRED
21 WITH COUNSEL AS TO THE PHOTO PRIOR TO APPROACHING THE WITNESS.
22 THE COURT: WITH -- THIS IS EXHIBIT 1?
23 MS. EDWARDS: YES.
24 THE COURT: THANK YOU.
25

1 BY MS. EDWARDS:

2 Q SHOWING YOU STATE'S PROPOSED EXHIBIT 1, DO YOU
3 RECOGNIZE THAT CHILD?

4 A YES.

5 Q DO YOU RECOGNIZE THAT TO BE ULYSSES DOE, THAT WE'VE
6 BEEN DISCUSSING?

7 A YES.

8 Q DO YOU SEE -- UH -- IN THAT PHOTO OF ULYSSES, THE
9 INJURY YOU'VE BEEN DISCUSSING ON THE FRONT PORTION OF THE
10 CHILD'S HEAD?

11 A NO.

12 Q OKAY.

13 MS. LEMCKE: CAN WE GO AHEAD AND ADMIT THAT?

14 MS. EDWARDS: I BELIEVE THEY'RE ASKING TO ADMIT STATE'S

15 1 --

16 MS. LEMCKE: WELL, I -- I -- I CAN DO IT IF YOU -- IF YOU
17 DON'T WANT TO, I JUST THOUGHT --

18 MR. REED: WE'LL STIPULATE TO IT'S ADMISSION, JUDGE.

19 MS. EDWARDS: THAT'S FINE.

20 THE COURT: OKAY, IT WILL BE ADMITTED.

21 (WHEREUPON STATE'S EXHIBIT NO. 1 WAS ADMITTED INTO
22 EVIDENCE.)

23 BY MS. EDWARDS:

24 Q AS FAR AS THE SKULL FRACTURE, OBVIOUSLY THERE WAS
25 LOTS OF DISCUSSION ABOUT THIS, I JUST WANT TO MAKE SURE I

1 UNDERSTAND.

2 TO HELP ME UNDERSTAND THE VARYING BONES IN THE
3 CHILD'S SKULL, WHERE ON THE HEAD IS THE OCCIPITAL BONE?

4 A THE POSTERIOR ASPECT OF THE SKULL, IT'S THE BACK OF
5 THE SKULL.

6 Q AND DOES IT RUN ACROSS THE ENTIRE PORTION OF THE
7 BACK PORTION, RIGHT AND LEFT OF THE SKULL?

8 A YES, IT DOES.

9 Q WHAT BONE -- AND IS THAT THE -- I GUESS IF A CHILD
10 IS STANDING UPRIGHT, IS THAT THE SOUTHERN MOST BONE IN THE
11 SKULL?

12 A YES.

13 Q OKAY. UM -- SO I KNOW YOU GUYS HAVE FANCY MEDICAL
14 TERMS FOR CLOSEST TO THE HEAD AND CLOSEST TO THE FEET, BUT
15 THEY FAIL TO ME AT THIS TIME.

16 A IT'S OKAY.

17 Q WHICH BONE IS DIRECTLY ABOVE THE OCCIPITAL?

18 A UPON THE BACK, WHERE THERE ARE THE PARIETAL BONES,
19 AND IN THE FRONT TEMPORAL BONES, AND THEN FRONTAL BONE ACROSS
20 THE FRONT.

21 Q ON THE PARIETAL BONES, DO THOSE RUN ACROSS BOTH THE
22 LEFT AND RIGHT SIDE?

23 A YES.

24 Q AND DO THE -- DOES THE PARIETAL BONE ALSO GO
25 ACROSS -- UM -- THE BACK, JUST ABOVE THE OCCIPITAL?

1 **A** YES.

2 **Q** SO IF SOMEONE SAYS THERE'S A FRACTURE TO THE RIGHT
3 OR TO THE LEFT, IT'S THE SAME BONE REGARDLESS OF SIDE,
4 CORRECT?

5 **A** IN DEVELOPMENTAL THE BONES ARE ALL SEPARATED, AND
6 THEY SUTURE TOGETHER. SO WE HAVE A RIGHT AND A LEFT OCCIPITAL
7 BONE, A RIGHT AND LEFT PARIETAL, A RIGHT AND LEFT TEMPORAL,
8 RIGHT AND LEFT FRONTAL BONES, THEY ALL FUSE BACK TO BEING A
9 SOLID CALVARIAL SKULL.

10 **Q** OKAY. AND AS YOU TESTIFIED EARLIER, AT THE AGE OF
11 THREE THOSE WOULD HAVE ALL FUSED TOGETHER AT THIS POINT?

12 **A** YES.

13 **Q** SO THE RIGHT AND LEFT JUST DETERM -- DENOTES WHICH
14 SIDE IT'S ON, CORRECT?

15 **A** YES.

16 **Q** NOW, IN YOUR REPORT -- UH -- DO YOU RECALL REFERRING
17 TO WHETHER OR NOT IT WAS, IN FACT, THE LEFT OR RIGHT SIDE IN
18 THE OCCIPITAL BONE?

19 **MS. LEMCKE:** WAIT, CAN I JUST INTERPOSE AN OBJECTION?
20 I'M -- NOT REALLY AN OBJECTION -- OR JUST ASK FOR SOME
21 CLARIFICATION. WHAT IS IT THAT YOU'RE ASKING ABOUT IN THE
22 RIGHT OR LEFT OCCIPITAL BONE?

23 **MS. EDWARDS:** THE FRACTURE --

24 **MS. LEMCKE:** FRACTURE, OKAY.

25 **MS. EDWARDS:** -- TO THE OCCIPITAL BONE, DO YOU RECALL IF

1 YOU DENOTED IN YOUR REPORT IF IT WAS ON THE RIGHT SIDE OR THE
2 LEFT SIDE?

3 **THE WITNESS:** IT IS -- IN MY -- IN THE DICTATED REPORT IT
4 WAS THE LEFT OCCIPITAL BONE FRACTURE. IN MY HANDWRITTEN
5 REPORT THE ONLY HANDWRITTEN REPORT I WROTE WAS THE DEATH
6 SUMMARY.

7 **BY MS. EDWARDS:**

8 **Q** OKAY. AND IF THE REPORT, I'M LOOKING AT, INDICATES
9 SUBDURAL AND SUBARACHNOID HEMORRHAGE WITH MIDLINE SHIFT
10 HERNIATION, OCCIPITAL SKULL FRACTURE -- UM -- THAT DOESN'T
11 INDICATE IF IT'S RIGHT OR LEFT, CORRECT?

12 **A** AND THAT'S A RADIOLOGY REPORT, NOT MINE.

13 **MS. EDWARDS:** MAY I APPROACH FOR CLARIFICATION, YOUR
14 HONOR?

15 **THE COURT:** SURE.

16 **MS. LEMCKE:** CAN I JUST ASK WHAT WE'RE -- WHAT WE'RE
17 REFERRING TO?

18 **THE COURT:** JUST GIVE A BATES STAMP.

19 **MS. LEMCKE:** YEAH, A BATES STAMP.

20 **MS. EDWARDS:** WELL, IT'S OUR -- MY 166 IN THE CERTIFIED
21 RECORDS.

22 **MS. LEMCKE:** OKAY.

23 **THE WITNESS:** THIS IS MINE. THAT'S WHAT I'M LOOKING FOR.

24 **BY MS. EDWARDS:**

25 **Q** SO YOU'VE INDICATED IN --

1 **A** THIS IS MINE.

2 **Q** THIS IS YOUR REPORT, CORRECT?

3 **A** CORRECT.

4 **Q** SO REFER -- REFERRING YOU TO THE -- UM -- PROBLEM

5 LIST, MANAGEMENT -- UH -- NO. 1, COUNSEL, FOR REFERENCE.

6 **A** IT SAYS SUBDURAL AND SUBARACHNOID HEMORRHAGE WITH

7 MIDLINE SHIFT HERNIATION, OCCIPITAL SKULL FRACTURE, IT DOES

8 NOT SAY RIGHT OR LEFT.

9 **Q** OKAY.

10 AND WHERE ON THE SKULL -- I KNOW I ASKED YOU THIS

11 BEFORE, BUT I GOT A LITTLE CONFUSED, WHERE IS THE VORTEX

12 (SIC)?

13 **A** THE VERTEX IS THE TOP.

14 **Q** VERTEX? OKAY. SO THE TOP IN THE CENTER OR --

15 **A** YES.

16 **Q** OKAY.

17 **A** AND WE USE THE VERTEX AS AN ORIENTATION. SO WE KNOW

18 THAT THAT'S THE TOP, AND IT COULD BE THE VERTEX OF MY TEMPORAL

19 BONE, WHICH MAY NOT BE AT THE TOP OF MY SKULL, BUT THE TOP OF

20 MY TEMPORAL BONE.

21 **Q** OKAY.

22 **A** OR THE TOP OF MY OCCIPITAL BONE OR PARIETAL BONE.

23 BUT APPLYING THAT, IT'S THE DIRECTION FROM VERTEX TO BASE.

24 **Q** OKAY.

25 **A** THAT'S HOW WE LOOK AT IT.

1 **Q** AND YOU AGREED WITH COUNSEL ON CROSS-EXAMINATION
2 THAT AT AUTOPSY, WHEN THE FRACTURE'S LOOKED AT, IT MAY BE MORE
3 CLEAR AS TO THE NATURE OF THE FRACTURE, CORRECT?

4 **A** YES.

5 **Q** OKAY. SO IF AT AUTOPSY IT WAS DETERMINED THAT IT
6 WAS A NONDEPRESSED RIGHT OCCIPITAL PARIETAL SKULL FRACTURE --
7 UM -- WOULD THAT BE REFERRING TO THE SAME FRACTURE YOU
8 WITNESSED ON THE CHILD?

9 **MS. LEMCKE:** WELL, I WOULD OBJECT, HE WASN'T PRESENT AT
10 AUTOPSY, SO HOW CAN HE DO A COMPARISON BETWEEN WHAT WAS
11 OBSERVED AT AUTOPSY AND WHAT WAS OBSERVED ON THE SCAN.

12 **MS. EDWARDS:** IN DISCUSSING THE MEDICAL TERMS OF WHERE ON
13 THE BRAIN AND THE BONE PARTS, THE OCCIPITAL, THE PARIETAL,
14 SHOULD INDICATE TO HIM WHERE ON THE HEAD THAT REFERS TO, SO
15 I'M ASKING IF THAT'S REFERRING TO THE THING.

16 **THE COURT:** OVERRULED. YOU CAN ANSWER.

17 **THE WITNESS:** SO -- NOW, AGAIN, NOT BEING PRESENT, BUT
18 LOOKING AT THAT, ALL OF MY INDICATIONS ON THE CT'S WERE THE
19 LEFT NOT THE RIGHT.

20 **BY MS. EDWARDS:**

21 **Q** OKAY. AND DID YOU -- UH -- DID YOU LOOK AT THE
22 FILMS, THEMSELVES, OR JUST THE REPORTS?

23 **A** I PHYSICALLY LOOK AT THE FILMS AS THEY'RE BEING
24 PRODUCED.

25 **Q** SO GOING TO THE REPORT ON THE CT OF THE BRAIN

1 WITHOUT CONTRAST. YOU'VE GONE OVER HOW IT DESCRIBES THE
2 FRACTURE, CORRECT?
3 A YES.
4 MS. EDWARDS: I'D JUST LIKE TO REVIEW THAT TO MAKE SURE I
5 UNDERSTAND. IF I MAY APPROACH?
6 THE COURT: YES.
7 MS. EDWARDS: COUNSEL, I DON'T KNOW YOUR PAGE, BUT --
8 MS. LEMCKE: JUST IF YOU GIVE ME -- YOU JUST GIVE ME THAT
9 NUMBER, I'M GOOD.
10 MS. EDWARDS: TWO-FORTY.
11 MS. LEMCKE: THANK YOU.
12 BY MS. EDWARDS:
13 Q SO THIS IS THE CT OF THE BRAIN WITHOUT CONTRAST,
14 CORRECT?
15 A YES.
16 Q OR THE REPORT?
17 A REPORT.
18 Q OKAY. NOW, GOING TO -- UH -- THE REPORT SAYS
19 THERE'S A LONGITUDINALLY ORIENTED NONDISPLACED FRACTURE OF THE
20 OCCIPITAL BONE, CORRECT?
21 A CORRECT.
22 Q IT SAYS, EXTENDING FROM THE VERTEX TO THE LEFT
23 OCCIPITAL -- I CAN'T SAY THAT WORD.
24 A IT SAYS FROM THE VERTEX OF THE OCCIPITAL BONE TO THE
25 LEFT OCCIPITAL CONDYLE.

1 Q OKAY. SO WHEN WE DISCUSS VERTEX, THAT WOULD BE AT
2 THE CENTER PORTION?

3 A THE TOP.

4 Q OKAY. SO THE TOP --

5 A OF THE OCCIPITAL BONE. SO IF THE OCCIPITAL BONE
6 ONLY CAME TO HERE, THE LOWER PORTION, IT WOULD BE THE TOP OF
7 THAT LOWER PORTION.

8 Q OKAY.

9 A SO JUST DESCRIBES ORIENTATION FROM TOP AND BOTTOM.
10 WE CALL IT VERTEX AND BASE.

11 Q OKAY. SO FROM THE VERTEX OF --

12 A FROM THE VERTEX OF THE OCCIPITAL --

13 Q -- OCCIPITAL, TO THE LEFT --

14 A TO THE LEFT OCCIPITAL CONDYLE.

15 Q WHICH YOU DESCRIBED AS BEING BELOW THE LEFT EAR,
16 CORRECT?

17 A CORRECT.

18 Q OKAY.

19 NOW, THERE WERE DISCUSSIONS AT LENGTH REGARDING
20 THE -- UM -- BIOMECHANICS THAT YOU'RE FAMILIAR WITH, CORRECT?
21 YOU RECALL THAT?

22 A YES.

23 Q UM -- AND COUNSEL GAVE YOU A NUMBER OF
24 HYPOTHETICALS, AS FAR AS HOW A CHILD MIGHT BE PLACED IN THAT
25 KIND OF THING; DO YOU RECALL THOSE QUESTIONS?

1 **A** YES.

2 **Q** NOW, IF THE -- A LOT OF DISCUSSION WAS HAD, AND YOUR
3 UNDERSTANDING OF -- WAS IT WAS 40 INCHES, CORRECT?

4 **A** THAT'S CORRECT.

5 **Q** OKAY. IF IT WAS FOUND TO BE 32 INCHES AS OPPOSED TO
6 40 INCHES, DOES THAT HAVE ANY SIGNIFICANCE -- UM -- AS FAR AS
7 YOUR CONCLUSION?

8 **MS. LEMCKE:** WELL, I'M GOING TO OBJECT TO, IF IT WAS
9 FOUND TO BE 32 INCHES. WHAT WAS FOUND TO BE 32 INCHES? ARE
10 WE TALKING THE HEIGHT OF THE CHILD, WAS THE CHILD SITTING,
11 STANDING, WHAT'S 32 INCHES?

12 **MS. EDWARDS:** I'LL REPHRASE.

13 **THE COURT:** OKAY, THANK YOU.

14 **BY MS. EDWARDS:**

15 **Q** IF THE HEIGHT OF THE OBJECT, FROM WHICH THE CHILD
16 FELL, WAS NOTED TO BE 32 INCHES, AND THE CHILD IS NOTED TO
17 HAVE FALLEN FEET FIRST, BACK FACING OUT, WOULD THAT CHANGE
18 YOUR OPINION OR HAVE ANY SIGNIFICANCE TO YOUR OPINION AS TO
19 THE NATURE OF THE INJURIES THAT THE CHILD PRESENTED WITH, AND
20 THE TYPE OF FALL DESCRIBED?

21 **A** NO.

22 **Q** OKAY.

23 AND WOULD IT STILL BE YOUR OPINION THAT THAT
24 DESCRIPTION OF A FALL FROM 32 INCHES, BACK FACING OUT, FEET
25 FIRST, LANDING ON TILE, IT WOULD BE -- THAT DESCRIPTION WOULD

1 BE INCONSISTENT WITH THE INJURIES THAT THE CHILD PRESENTED
2 WITH, CORRECT?

3 **A** THAT'S CORRECT.

4 **Q** NOW, IF YOU -- IF A CHILD IS REPORTED TO BE FALLING
5 OR SLIDING OVER THE BACK OF A 32 INCH COUCH, FEET FIRST, HEAD
6 ABOVE THE FEET, WOULD YOU EXPECT, WITH YOUR BIOMECHANICAL
7 EXPERIENCE, THE HEAD TO HIT FIRST?

8 **MS. LEMCKE:** WELL, JUDGE, CAN I JUST OBJECT?

9 HERE'S MY CONCERN -- I'M NOT TRYING TO BE DISRUPTIVE, BUT
10 I CANNOT GET A VISUAL ON WHAT THE PROSECUTOR IS TRYING TO
11 DESCRIBE TO THE WITNESS. NOW, THAT MAY BE MY PROBLEM,
12 HOWEVER, I DON'T KNOW IF WHAT SHE'S ASKING FOR IS A CHILD IN A
13 STANDING, SITTING, LAYING POSITION, LIKE ARE WE TALKING LIKE
14 BELLY FLOPPING HERE, ARE WE TALKING LIKE -- I -- I'M UTTERLY
15 AND COMPLETELY LOST ON WHAT POSITIONING THE BODY'S IN, AND I
16 THINK THAT THAT'S GOING TO MAKE A DIFFERENCE IN WHAT THE
17 ASSESSMENT IS.

18 **THE COURT:** WELL -- UM -- I SOMEWHAT AGREE WITH YOU THAT
19 IT DOESN'T MATTER THAT YOU'RE LOST, IT MATTERS WHETHER THE
20 WITNESS IS LOST. HOWEVER, I WILL SAY THE COURT'S LOST, AS
21 WELL, THE COURT CANNOT FIGURE OUT WHAT THE VISUAL IS. SO I
22 DON'T KNOW IF THE WITNESS CAN FIGURE OUT WHAT THE VISUAL IS,
23 BUT I THINK --

24 **MS. EDWARDS:** WELL --

25 **THE COURT:** -- BUT I THINK YOUR HYPOTHETICAL NEEDS SOME

1 MORE DETAIL.

2 MS. EDWARDS: OKAY.

3 Q SO A CHILD -- THERE'S THE BACK OF THE COUCH, THE
4 FRONT WHERE THE CUSHIONS ARE, AND THEN THE BACK THAT'S
5 STRAIGHT. IF THE CHILD IS POSITIONED SUCH THAT THEY'RE KIND
6 OF OVER THE TOP OF THE COUCH, OR THE BACK OF THE COUCH, LEGS
7 DOWN, SO FACING DOWN TO THE GROUND, AND THE HEAD -- UM --
8 AROUND THE TOP OF THE SOFA, SO THE 32 INCHES, IF THAT'S THE
9 POSITION WHERE THE CHILD IS SLIDING OFF THE COUCH -- IS
10 EVERYBODY ON BOARD WITH THIS, OR NOT?

11 THE COURT: ARE YOU ON BOARD WITH THAT YET?

12 MS. EDWARDS: DO YOU UNDERSTAND THAT?

13 THE WITNESS: CAN I -- CAN I SHOW YOU WHAT I'M
14 UNDERSTANDING?

15 THIS IS MY CHILD, THIS IS MY COUCH. THE BACK OF MY COUCH
16 IS HERE, AND THE FRONT OF MY COUCH IS HERE, AND THE WALL'S
17 OVER HERE. THE CHILD IS LAYING ON THE COUCH, YOU'RE SAYING ON
18 TOP OF THE COUCH LIKE THIS, WITH THE HEAD BEING HERE, AND MY
19 FEET HERE, SLIDING DOWN THAT WAY; IS THAT CORRECT?

20 THE COURT: IS THAT WHAT YOU'RE TALKING ABOUT?

21 MS. EDWARDS: YES.

22 THE WITNESS: SO THE CHILD IS LAYING --

23 MS. EDWARDS: YES.

24 THE WITNESS: -- AND SLIDE DOWN THE BACK OF THE COUCH --

25 MS. EDWARDS: YES.

1 **THE WITNESS:** -- HEAD ON TOP, HITS THE GROUND AND FALLS
2 BACKWARDS.

3 **MS. EDWARDS:** YES.

4 **THE WITNESS:** THAT'S WHAT YOU'RE TELLING ME.

5 **BY MS. EDWARDS:**

6 **Q** WOULD YOU EXPECT THE HEAD TO HIT FIRST?

7 **A** NO.

8 **MS. EDWARDS:** OKAY. NOW, LET'S REVERSE IT.

9 UM -- AND ACTUALLY I'M GOING TO HAVE THIS MARKED AS
10 STATE'S PROPOSED 2, JUST FOR VISUAL PURPOSES.

11 (WHEREUPON STATE'S PROPOSED EXHIBIT NO. 2 WAS MARKED
12 FOR IDENTIFICATION.)

13 **BY MS. EDWARDS:**

14 **Q** SHOWING YOU STATE'S PROPOSED 2, WHICH IS A PHOTO.
15 IF THIS CHILD IS POSITIONED LIKE THE DOLL IN THIS
16 PHOTO, SO NOW THE FEET ARE FACING THE CUSHIONS, AND THE HEAD
17 IS AT THE TOP, GOING OVER THE BACK OF THE COUCH.

18 **A** UM-HUM.

19 **Q** IF THE CHILD WERE TO SLIDE OFF THE COUCH IN THAT
20 MANNER, WITH THE COUCH BEING 32 INCHES TALL, WOULD THAT BE
21 CONSISTENT WITH THE INJURIES THE CHILD HAD WHEN THE CHILD
22 PRESENTED?

23 **A** IT'S POSSIBLE.

24 **MS. EDWARDS:** I BELIEVE THEY'LL STIPULATE TO THE
25 ADMISSIBILITY OF STATE'S 2.

1 **THE COURT:** OKAY. IS THAT CORRECT, MISS LEMCKE?

2 **MS. LEMCKE:** ACTUALLY, YOU KNOW WHAT, YOUR HONOR, JUST --
3 COURT'S INDULGENCE.

4 (DISCUSSION BETWEEN MS. LEMCKE AND MS. EDWARDS.)

5 **MS. EDWARDS:** THIS IS GOING TO REMAIN STATE'S PROPOSED AT
6 THIS POINT IN TIME.

7 **MS. LEMCKE:** JUST UNTIL THE DETECTIVE TESTIFIES, YOUR
8 HONOR.

9 **THE COURT:** OKAY.

10 **BY MS. EDWARDS:**

11 **Q** YOU SAID POSSIBLE, WHAT DOES THAT MEAN?

12 **A** IT'S POSSIBLE THAT THE CHILD FALLS HEAD FIRST ONTO A
13 SOLID OBJECT, LIKE THE FLOOR IS TILE, THEY WILL SUFFER A SKULL
14 FRACTURE. WILL HE HAVE PULMONARY CONTUSIONS ASSOCIATED TO IT,
15 IT'S UNLIKELY.

16 **Q** WHAT ABOUT THE EXTENT OF THE SKULL FRACTURE AND
17 SWELLING, AND THOSE KINDS OF THINGS OBSERVED IN ULYSSES?

18 **A** DEPENDS ON HOW AND WHAT PART OF THE SKULL HIT THE
19 GROUND FIRST.

20 **Q** AS FAR AS THE CHILD -- THE POSITION THAT YOU SAW IN
21 THE PHOTO OF THE CHILD SLIDING OFF THE COUCH THAT WAY, YOU
22 WOULD ANTICIPATE THAT THE CHILD WOULD LAND PARALLEL TO THE
23 COUCH?

24 **A** I WOULDN'T KNOW. DEPENDING ON WHERE THE WALL WAS,
25 IF THE CHILD ENCOUNTERED THE WALL FIRST AND TURN THE BODY IN

1 THE MOTION, WE'RE TALKING ROTATIONAL FORCE. IF THE CHILD
2 COMES OFF IN A STRAIGHT VERTICAL PATH, NON-ROTATIONAL FORCE,
3 THE CHILD WOULD STAY RIGHT THERE, AND FALL PERPENDICULAR TO
4 THE COUCH. IF THE CHILD HIT, HAD A ROTATIONAL INJURY TO IT,
5 IT MAY LAY PARALLEL TO THE COUCH. SO I WOULDN'T KNOW UNLESS I
6 KNEW WHAT A ROTATIONAL INJURY.

7 MS. EDWARDS: COURT'S INDULGENCE.

8 THE COURT: SURE.

9 BY MS. EDWARDS:

10 Q AS -- WITH THE AMOUNT OF TIME THAT THE CHILD WAS --
11 UH -- IN YOUR CARE, DID THE CHILD EVER -- CHILD'S CONDITION
12 EVER IMPROVE?

13 A NO.

14 MS. EDWARDS: I DON'T BELIEVE I HAVE ANY MORE QUESTIONS
15 FOR THIS WITNESS.

16 THE COURT: THANK YOU VERY MUCH.

17 MS. LEMCKE: MAY I HAVE THE COURT'S INDULGENCE FOR JUST
18 ONE BRIEF MOMENT?

19 THE COURT: OKAY.

20 MS. LEMCKE: AND THEN WE'LL MAKE IT BRIEF.

21 (DISCUSSION BETWEEN MS. LEMCKE AND MR. REED.)

22 MS. LEMCKE: ALL RIGHT. I HAVE NOTHING FURTHER, YOUR
23 HONOR.

24 THE COURT: OKAY.

25 ALL RIGHT, THANK YOU VERY MUCH, DOCTOR --

1 **THE WITNESS:** THANK YOU.

2 **THE COURT:** -- APPRECIATE YOUR TIME TODAY.

3 **THE WITNESS:** HAVE A GOOD DAY.

4 **THE COURT:** YOU, TOO.

5 SO BEFORE WE RECESS, I DO WANT TO TALK ABOUT TIMING,

6 WITNESSES, ET CETERA, ET CETERA, BECAUSE I'LL PROBABLY NEED TO

7 GET SOME COVERAGE. SO -- UM -- WHO WERE YOU PLANNING ON

8 CALLING NEXT, MEANING AFTER A LUNCH RECESS?

9 **MS. EDWARDS:** KLINE, HE WAS ONE OF THE FIRST RESPONDERS.

10 **THE COURT:** HE'S A MEDICAL RESPONDER, OR IS HE A -- IS HE

11 IN.

12 **MS. EDWARDS:** FIRE DEPARTMENT.

13 **THE COURT:** FIRE DEPARTMENT. AND HOW LONG, GUESS --

14 GUESSTIMATE WITH CROSS-EXAMINATION, DO YOU THINK HE'S GOING TO

15 TAKE?

16 **MS. EDWARDS:** DIRECT WILL PROBABLY TAKE 10 TO 15 MINUTES,

17 TOPS.

18 **THE COURT:** OKAY. MISS LEMCKE?

19 **MS. LEMCKE:** THAT WOULD BE MR. REED'S WITNESS, SO --

20 **MR. REED:** IT WOULD BE PRETTY QUICK, FIRST RESPONDER.

21 **THE COURT:** WHO'S YOUR NEXT AFTER THAT?

22 **MS. EDWARDS:** IT WILL LIKELY BE CAPTAIN PEDROL.

23 **THE COURT:** AND HE IS?

24 **MS. EDWARDS:** A FIRE DEPARTMENT CAPTAIN.

25 **THE COURT:** OKAY.

1 **MS. EDWARDS:** HE WILL TAKE APPROXIMATELY AS MUCH, IF NOT
2 LESS TIME.
3 **THE COURT:** OKAY. WHO ELSE DO YOU HAVE?
4 **MS. EDWARDS:** THE OTHER WITNESS I HAVE IS PATRICK
5 BURKHALTER, HE'S -- WORKS FOR AMR.
6 **THE COURT:** AND HIS LENGTH OF TIME?
7 **MS. EDWARDS:** I ANTICIPATE SIMILAR TO THE CAPTAIN'S.
8 **THE COURT:** ALL RIGHT. KEEP GOING.
9 **MS. EDWARDS:** CHRISTINA RODRIGUES.
10 **THE COURT:** AND WHAT'S HER ROLE?
11 **MS. EDWARDS:** SHE'S THE MOTHER OF THE CHILD.
12 **THE COURT:** OKAY. SO I SUSPECT SHE'S GOING TO BE AWHILE.
13 **MS. EDWARDS:** YES, YOUR HONOR.
14 **THE COURT:** OKAY.
15 **MS. EDWARDS:** I DON'T ANTICIPATE ANY OF THEM WILL BE AS
16 LONG AS THE DOCTOR, BUT SHE'LL BE LONGER THAN THE OTHER ONES.
17 **THE COURT:** SO -- I MEAN, I'M WILLING TO DO WHATEVER
18 EVERYBODY ELSE WANTS TO DO, BUT THIS IS MY THOUGHT, TAKE A 30
19 MINUTE LUNCH, WHICH PUTS US AT 2:00. THESE THREE WITNESSES
20 THAT SHE'S TALKED ABOUT BEFORE MOM, IF EVERYBODY SAYS
21 CORRECTLY, ARE AN HOUR AND A HALF, THAT WOULD TAKE US TO 3:30.
22 WE CAN EITHER RECESS AT THAT TIME AND START WITH MOM, AND I
23 SUSPECT MAYBE A DETECTIVE OR SOMETHING OTHER -- ANOTHER DAY.
24 WE CAN TRY TO PUT MOM ON THIS AFTERNOON. I JUST NEED TO KNOW,
25 BECAUSE SHE JUST CAN'T AT 3:30 E-MAIL SOMEBODY AND SAY I NEED

1 COVERAGE, WE HAVE TO PLAN IN ADVANCE.

2 MS. EDWARDS: AND OF THE OTHER STATE WITNESSES ARE DR.
3 MONTES, A RADIOLOGIST, DOES NOT --

4 THE COURT: OH, HOLD ON ONE SECOND.

5 SORRY? SHE DOES HAVE APPROVAL OF -- SHE ALREADY DID GET
6 APPROVAL OF OVERTIME. OKAY, I'M SORRY, SO GO AHEAD.

7 MS. EDWARDS: THE OTHER WITNESSES WE HAVE ARE DR. MONTES,
8 WHO IS NOT AVAILABLE TODAY, AS HE'S OUT OF THE JURISDICTION,
9 WHICH I HAVE ALREADY TALKED TO COUNSEL ABOUT.

10 MS. LEMCKE: (NO AUDIBLE RESPONSE.)

11 THE COURT: CORRECT.

12 MS. EDWARDS: IT WILL BE THE LEAD DETECTIVE WHO IS --
13 UM -- I RECKON BY HIS ABBREVIATION --

14 THE COURT: WHICH HE'S GOING TO BE AWHILE.

15 MS. EDWARDS: YES. DETECTIVE BOUCHER AND -- UM --
16 DR. GAVIN, THE MEDICAL EXAMINER, WHO WILL LIKELY TAKE AN
17 EXTENSIVE AMOUNT OF TIME.

18 THE COURT: BUT HE -- THESE -- THEY'RE NOT -- HE'S NOT
19 HERE TODAY, OR HE IS?

20 MS. EDWARDS: DETECTIVE BOUCHER IS HERE.

21 THE COURT: NO, THE GA -- GAVIN.

22 MS. EDWARDS: DR. GAVIN IS ON CALL, AND I CAN LET HER
23 KNOW THAT WE WILL NOT GET TO HER TODAY. SHE DOESN'T HAVE TO
24 TESTIFY TODAY.

25 THE COURT: I MEAN, IT REALLY DOESN'T MATTER TO ME. IF

1 YOU ALL WANT TO GO TILL 6 O'CLOCK, I'LL TO GO TO 6 O'CLOCK. I
2 DON'T KNOW, I FRANKLY DON'T -- I PROBABLY SHOULD CHECK WITH MY
3 STAFF TO SEE IF PEOPLE HAVE -- I DON'T KNOW IF ANYBODY HAS
4 ANY -- UM -- ENGAGEMENTS THEY NEED LIKE -- I DON'T KNOW,
5 MISS KIT, DO YOU HAVE TIME LIMITS?

6 THE REPORTER: NO, NONE AT ALL.

7 THE COURT: DO YOU HAVE TO -- SORRY, YOU'RE ON TIME --
8 SHE'S ON OVERTIME. ZIGGY COULD PROBABLY GET COVERAGE ANYWAY,
9 IF HE NEEDS TO.

10 THE MARSHAL: I'M NOT GOING ANYPLACE.

11 THE COURT: HE'S NOT GOING ANYWHERE, HE CAN DO OVERTIME.

12 MS. LEMCKE: I CAN DO WHATEVER YOUR HONOR WOULD LIKE.

13 THE COURT: DO WE WANT TO TRY TO GET EVERYBODY AND MOM ON
14 TODAY?

15 MS. EDWARDS: YOU MEAN THE FIRST RESPONDERS AND MOM?

16 THE COURT: UM-HUM.

17 MS. EDWARDS: YEAH, THAT'S FINE.

18 THE COURT: IS THAT OKAY?

19 MS. EDWARDS: YES.

20 THE COURT: I REALLY DON'T -- I THINK THAT'S GOING TO PUT
21 US -- I MEAN, TO START THE DETECTIVE AND TO START -- GAVIN IS
22 NOT HERE, SO WE DON'T HAVE TO WORRY ABOUT --

23 MS. EDWARDS: CORRECT.

24 THE COURT: -- HER.

25 MS. EDWARDS: CORRECT.

1 **THE COURT:** THE OTHER ONE IS NOT HERE. I REALLY DON'T
2 THINK WE'RE GOING TO GET TO BOUCHER, ESPECIALLY IF YOU PUT MOM
3 ON.
4 **MS. EDWARDS:** AGREED.
5 **THE COURT:** OKAY. ALL RIGHT. SO YOU -- AND THE REASON
6 WHY I TRY TO DO THIS IS, BECAUSE YOU DON'T WANT BOUCHER TO
7 WAIT AROUND ANY LONGER --
8 **MS. EDWARDS:** RIGHT.
9 **THE COURT:** -- JUST TO BE TOLD TO GO HOME AT 4 O'CLOCK OR
10 5 O'CLOCK.
11 **MS. EDWARDS:** RIGHT.
12 **THE COURT:** SO WHY DON'T WE GET THROUGH THE THREE FIRST
13 RESPONDERS, DEFINITELY TRY TO GET THROUGH MOM, WHICH IT SOUNDS
14 LIKE WE WILL, AND SEND BOUCHER AWAY, GAVIN AWAY -- OR AND --
15 YOU'LL -- OKAY. DO YOU NEED TO GIVE BOUCHER A NUMBER -- A DAY
16 NOW?
17 **MS. EDWARDS:** UM ---
18 **THE COURT:** DO WE WANT TO?
19 **MS. EDWARDS:** NO, I DON'T NEED IT NOW.
20 **THE COURT:** DO WE WANT TO TRY TO PLAN A TIME OR DAY NOW?
21 **MS. LEMCKE:** SURE, THAT'S FINE. SURE.
22 **MR. REED:** SURE.
23 **THE COURT:** SO CALL DETECTIVE BOUCHER IN, IF YOU WILL.
24 **MS. EDWARDS:** I WILL SEE IF HE'S OUT THERE. I HAD TO LET
25 HIM GO, BECAUSE HE WAS HUNGRY.

1 **THE COURT:** BECAUSE HE WAS WHAT?

2 **MS. EDWARDS:** HUNGRY.

3 **THE COURT:** OH. SO HE MIGHT BE --

4 **MR. REED:** AND JUST -- JUST SO YOU KNOW, DETECTIVE

5 BOUCHER HASN'T FINISHED THE HOMICIDE REPORT, DUE TO PERSONAL

6 MATTERS, SO IT WILL BENEFIT THAT WE HAVE A CHANCE TO READ THE

7 REPORT BEFORE HE TESTIFIES, WHICH HE EXPECTS TO BE IN THE NEXT

8 COUPLE OF DAYS WITH THE FINISHING REPORT.

9 **THE COURT:** HE'S NOT HERE?

10 **MS. EDWARDS:** HE IS NOT.

11 **THE COURT:** OKAY. WELL, THEN, THERE GOES HIS OPPORTUNITY

12 TO --

13 **MS. LEMCKE:** TO CHIME IN?

14 **THE COURT:** -- PARTAKE IN THE RESCHEDULING. I GUESS

15 HE'LL BE BACK, BUT -- I MEAN, HE'LL PROBABLY BE BACK, UNLESS

16 SOMEBODY CALLS HIM OFF RIGHT NOW, BUT YOU CAN CALL HIM OFF

17 RIGHT NOW.

18 **MS. EDWARDS:** OKAY.

19 **THE COURT:** AND THEN, YOU KNOW, WHEN WE CONCLUDE FOR THE

20 DAY, THAT'S WHEN WE'LL CHOOSE THE NEXT DAY.

21 **MS. EDWARDS:** OKAY.

22 **THE COURT:** ON THE BREAK IF YOU NEED TO LOOK AT YOUR

23 SCHEDULES OR WHATEVER, SO ...

24 **MS. LEMCKE:** OKAY. VERY GOOD.

25 **THE COURT:** SO LET'S BE IN RECESS UNTIL 2:00.

1 **MS. EDWARDS:** THANK YOU.

2 **THE COURT:** OKAY. ALL RIGHT, THANK YOU.

3 (WHEREUPON A SHORT RECESS WAS TAKEN.)

4 **THE COURT:** ALL RIGHT, YOU CAN CALL YOUR NEXT -- ARE WE

5 BACK, KIT?

6 **THE REPORTER:** UM-HUM.

7 **THE COURT:** CALL YOUR NEXT WITNESS.

8 **MS. EDWARDS:** THE STATE CALLS TIMOTHY KLINE.

9 **THE MARSHAL:** DID YOU SAY KLINE?

10 **MS. EDWARDS:** YES.

11 **THE MARSHAL:** IF YOU COULD JUST STAY STANDING AND BE

12 SWORN IN.

13 **MR. KLINE:** OKAY. MORNING.

14 **THE CLERK:** PLEASE RAISE YOUR RIGHT HAND.

15

16 **TIMOTHY KLINE,**

17 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY

18 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING

19 BUT THE TRUTH, TESTIFIED AS FOLLOWS:

20

21 **THE WITNESS:** I DO.

22 **THE CLERK:** THANK YOU, SIR, PLEASE HAVE A SEAT.

23 **THE WITNESS:** THANK YOU.

24 **THE CLERK:** IF YOU COULD PLEASE STATE YOUR FIRST AND YOUR

25 LAST NAME, AND SPELL BOTH FOR THE RECORD.

1 **THE WITNESS:** OKAY. TIMOTHY KLINE, T-I-M-O-T-H-Y,
2 K-L-I-N-E.

3 **THE COURT:** THANK YOU. YOU CAN PROCEED.
4

5 **DIRECT EXAMINATION**

6 **BY MS. EDWARDS:**

7 **Q** WHAT IS YOUR OCCUPATION, MR. KLINE?

8 **A** FIRE FIGHTER/PARAMEDIC WITH THE CITY FIRE
9 DEPARTMENT.

10 **Q** AS A PARAMEDIC WHAT ARE YOUR DUTIES AND
11 RESPONSIBILITIES?

12 **A** I RESPOND TO -- UH -- EMS CALLS, FIRE CALLS -- UM --
13 PUT OUT FIRES, TRAFFIC ACCIDENTS -- UH -- QUITE A WIDE VARIETY
14 OF THINGS.

15 **Q** AND WHAT IS YOUR TRAINING SPECIFICALLY AS A
16 PARAMEDIC.

17 **A** WE ARE PUT THROUGH A, BASICALLY NINE MONTH PARAMEDIC
18 FULL-TIME PROGRAM, THAT I CAN'T RECALL THE EXACT NUMBER OF
19 HOURS THAT -- UH -- WE'RE TAUGHT TO DEAL WITH MEDICAL --
20 MEDICAL CALLS AND THINGS LIKE DROWNINGS, HEART ATTACKS, A
21 MYRIAD OF THINGS.

22 **Q** OKAY. ON JUNE 6TH, 2013, WERE YOU WORKING AS A
23 PARAMEDIC OF LAS VEGAS FIRE AND RESCUE?

24 **A** YES.

25 **Q** AND ON THAT DAY DID YOU RESPOND TO AN ADDRESS AT

1 4720 TRIMWATER COURT IN LAS VEGAS, CLARK COUNTY, NEVADA?

2 A YES.

3 Q WHAT PROMPTED THAT RESPONSE?

4 A UH -- WE RECEIVED A CALL THROUGH THE FIRE ALARM
5 OFFICE -- UM -- THAT CAME IN, AS I RECALL, BEING A BRAVO LEVEL
6 CALL -- UH -- FOR --

7 Q WHAT DOES BRAVO LEVEL MEAN?

8 A BRAVO REFERS TO THE -- GENERALLY THE SEVERITY OF THE
9 CALL. ALPHA -- STARTING WITH ALPHA BEING THE LEAST SEVERE,
10 THEN BRAVO, THEN CHARLIE, THEN DELTA BEING THE MOST SEVERE,
11 BASED ON DISPATCHER NOTES.

12 Q OKAY. SO THE CATEGORY OF THE CALL IS BASED ON THE
13 INFORMATION THAT COMES IN THROUGH THE 9-1-1 CALL, I PRESUME?

14 A CORRECT.

15 Q DO YOU RECALL WHAT TIME -- UH -- THE CALL CAME IN,
16 OR YOU WERE DISPATCHED TO THE RESIDENCE?

17 A EXACT TIME I DON'T RECALL. I REMEMBER IT BEING IN
18 THE AFTERNOON TOWARDS THE EVENING.

19 Q OKAY. AND WERE YOU RESPONSIBLE IN THIS INSTANCE FOR
20 PREPARING THE PRE-HOSPITAL CARE REPORT SUMMARY?

21 A I WAS.

22 Q ARE THE TIMES CONTAINED IN THAT REPORT?

23 A YES, THEY ARE.

24 Q OKAY. AND WOULD IT REFRESH YOUR MEMORY AS TO THE
25 TIME IF YOU WERE TO REVIEW THAT REPORT?

1 **A** I'M SORRY?

2 **Q** WOULD IT REFRESH YOUR MEMORY AS TO THE TIME IF YOU

3 WERE TO REVIEW THE REPORT?

4 **A** ABSOLUTELY.

5 **MS. EDWARDS:** MAY I APPROACH?

6 **THE COURT:** YES.

7 **MS. EDWARDS:** THANK YOU. OKAY.

8 **THE WITNESS:** SO WOULD YOU LIKE ME TO --

9 **MS. EDWARDS:** YEAH, IF YOU COULD JUST SET IT ASIDE FOR

10 ME --

11 **THE WITNESS:** OH, OKAY.

12 **MS. EDWARDS:** -- JUST HOLD ONTO THE FACTS.

13 **Q** DOES THAT REFRESH YOUR MEMORY AS TO WHEN YOU WERE

14 DISPATCHED TO THE TRIMWATER ADDRESS?

15 **A** YES.

16 **Q** AND WHAT TIME DID YOU ARRIVE ON SCENE?

17 **A** OUR ON SCENE TIME -- UM -- AS IT STATES HERE, IS

18 5:58 IT APPEARS, YEP.

19 **Q** AND IS THAT -- UH -- UTILIZING REFRESHING YOUR

20 MEMORY FROM THE REPORT?

21 **A** CORRECT.

22 **Q** OKAY. IS IT 5:56 OR 5:58?

23 **A** I DON'T HAVE MY GLASSES WITH ME. BASED ON THIS COPY

24 IT COULD EITHER BE A SIX OR AN EIGHT.

25 **Q** OKAY. UPON ARRIVING AT THE RESIDENCE, WHAT DID YOU

1 ENCOUNTER?

2 **A** ARRIVING AT THE RESIDENCE -- UM -- AFTER JUMPING OUT
3 OF THE RESCUE, APPROACHED THE FRONT DOOR, WHICH WAS CLOSED, OF
4 THE RESIDENCE. AND -- UH -- THE FRONT DOOR WAS OPENED BY A
5 MALE -- UH -- WHO WAS HOLDING THE PATIENT.

6 **Q** AND HOW DID THE PATIENT LOOK TO YOU, YOUR FIRST
7 IMPRESSION?

8 **A** UH -- FIRST IMPRESSION WAS THAT THE PATIENT WAS
9 LIFELESS -- UH -- NOT BREATHING, AND -- UH -- CYANOTIC.

10 **Q** WHAT DOES THAT MEAN?

11 **A** CYANOTIC, REFERRING TO THE SKIN COLOR. THE LIPS AND
12 THE FACE, MEANING THAT THEIR OXYGEN LEVEL HAS DROPPED AND
13 THEY'VE BEEN NOT BREATHING, OR NOT BREATHING ADEQUATELY FOR AT
14 LEAST SEVERAL MINUTES.

15 **Q** OKAY. AND THE INDIVIDUAL WHO ANSWERED THE DOOR, DO
16 YOU SEE THAT PERSON IN COURT TODAY?

17 **A** UM -- I UNDERSTAND THAT IT'S THE DEFENDANT, I -- I
18 CAN'T SAY WITH 100 PERCENT CERTAINTY. I REMEMBER WHAT I WOULD
19 DESCRIBE AS A PACIFIC ISLANDER, WITH -- I REMEMBER SEEING
20 TATTOOS. UM -- THE MOMENT I SAW THE PATIENT -- UH -- OF
21 COURSE MY ATTENTION WENT PRIMARILY TO THE PATIENT. UM -- SO I
22 CAN'T, WITH 100 PERCENT CERTAINTY, SAY THAT THE DEFENDANT IS
23 THE SAME PERSON THAT I SAW THAT DAY.

24 **Q** OKAY. AND DO YOU RECALL -- UM -- YOU DON'T HAPPEN
25 TO RECALL WHAT THAT INDIVIDUAL WAS WEARING THAT DAY, DO YOU?

1 A I DO NOT.

2 Q OKAY. DO YOU REMEMBER APPROXIMATELY THE HEIGHT OF

3 THE INDIVIDUAL YOU ENCOUNTERED?

4 A UH -- TO THE BEST OF MY MEMORY I WOULD HAVE TO

5 ESTIMATE -- UM -- ABOUT FIVE-EIGHT.

6 Q SO AVERAGE HEIGHT, NOT SUPER TALL OR SUPER SHORT?

7 A NOT SUPER TALL, NOT SUPER SHORT, FAIRLY --

8 Q AND DO YOU RECALL THE BUILD OF THE INDIVIDUAL?

9 A I -- IF I HAD TO DESCRIBE IT, I WOULD SAY, LIKE I

10 SAID, PACIFIC ISLANDER, A LITTLE BIT OF A STOCKY BUILD, WITH

11 SHORT HAIR, SLIGHTLY DARKER SKIN.

12 Q AND YOU SAID YOU RECALL TATTOOS?

13 A I THINK I DO RECALL A TATTOO -- UM -- EXPOSED AROUND

14 THE NECK AREA.

15 Q NOW, WHEN YOU INITIALLY ENCOUNTERED THE INDIVIDUAL,

16 HE WAS HOLDING -- YOU SAID HE WAS HOLDING THE CHILD. DID YOU

17 TAKE OVER PROVIDING CARE FOR THAT CHILD?

18 A UH -- AT THE POINT THAT HE OPENED THE DOOR AND I SAW

19 THE CONDITION OF THE CHILD, I INSTRUCTED HIM TO SET THE

20 CHILD -- UM -- ON WHAT WAS -- I DESCRIBE IS LIKE A BENCH WHERE

21 YOU WOULD SIT DOWN TO PUT YOUR SHOES ON. UM -- AS I WALKED IN

22 THE HOUSE, IT WAS IMMEDIATELY ON MY LEFT. I INSTRUCTED HIM TO

23 SET THE PATIENT DOWN THERE.

24 Q DID HE COMPLY?

25 A HE DID.

1 Q WHEN HE SET THE CHILD DOWN, WHAT DID YOU DO?
2 A FURTHER ASSESSED THE CHILD FOR -- UM -- BREATHING
3 AND A PULSE.
4 Q WERE YOU ABLE TO FIND A PULSE ON THE CHILD?
5 A AT THAT TIME, NO.
6 Q NOTICE ANYTHING AS FAR AS THE CHILD'S -- UM --
7 PRESENTATION? WAS THE CHILD RESPONDING TO YOU AT ALL?
8 A NO, UNRESPONSIVE.
9 Q OKAY. DID YOU DO AN ASSESSMENT OF THE CHILD'S EYES
10 AT THAT TIME?
11 A I DID BRIEFLY OPEN THE EYELIDS TO LOOK AT THE
12 PUPILS, WHICH IS A WAY THAT WE DETERMINE -- UH -- IT'S A --
13 IT'S A SIGN THAT TELLS US THEIR LEVEL OF NEUROLOGICAL
14 ACTIVITY. SO --
15 Q AND WHEN YOU OPEN THE EYELIDS, WHAT DO YOU DO?
16 A PULL THE EYELID OPEN AND LOOK AT THE PUPILS AND THE
17 SIZE OF THE PUPILS, AND WHETHER THEY'RE THE SAME, DIFFERENT,
18 LARGE, SMALL.
19 Q AND IN THIS SPECIFIC CHILD THAT YOU ENCOUNTERED,
20 WHAT DID THE PUPILS APPEAR TO -- TO YOU?
21 A THEY APPEARED TO BE DILATED, OPENED UP WIDE, AND --
22 AND NONRESPONSIVE, FIXED IN A WIDE POSITION.
23 Q DID THAT INDICATE ANYTHING TO YOU WITH PUPILS
24 DILATED AND FIXED?
25 A WELL, TYPICALLY IT'S A -- IT'S A SOMEWHAT OF AN

1 OMINOUS SIGN. UH -- IT JUST FURTHER LEADS ME TO THINK THAT
2 THE CHILD IS OBVIOUSLY VERY SICK.

3 Q AS FAR AS YOUR ENCOUNTER IN THAT AREA WITH -- UM --
4 THE MALE INDIVIDUAL, DID YOU TRY TO FIND OUT WHAT HAD HAPPENED
5 TO THE CHILD FOR PURPOSES OF RENDERING TREATMENT?

6 A SURE. AS -- AS THE CALL CAME IN, LIKE I SAID IT WAS
7 A BRAVO LEVEL CALL. WE -- UH -- WE ARRIVED, I SAW THE
8 CONDITION OF THE CHILD, AND LIKE I SAID, SET HIM DOWN ON THE
9 BENCH -- UM -- REALIZING THIS WAS MUCH MORE SEVERE THAN A
10 BRAVO LEVEL CALL. UM -- I -- I DID ASK HIM WHAT HAPPENED,
11 AND -- UH -- HE EX --

12 MR. REED: YOUR HONOR, I'M GOING TO OBJECT TO THE
13 RESPONSE FOR A LACK OF FOUNDATION, THEY HAVEN'T IDENTIFIED THE
14 DEFENDANT AS THE INDIVIDUAL THAT MADE THESE STATEMENTS.

15 MS. EDWARDS: AND, YOUR HONOR, HE'S IDENTIFIED SEEING A
16 PACIFIC ISLANDER INDIVIDUAL WITH STOCKY BUILD. HE TESTIFIED
17 THAT HE BELIEVES -- UM -- IT IS THE DEFENDANT IN COURT, BUT
18 CAN'T SAY WITH 100 PERCENT SURETY. HE SAID THAT THE
19 DESCRIPTION OF THE BODY TYPE AND THE HAIR -- UM -- AND THAT HE
20 NOTICED TATTOOS EXPOSED -- UM -- IS THE INDIVIDUAL TO WHOM
21 HE'S SPEAKING, AND WE'RE GOING TO -- WE CAN LINK TO THIS
22 SPECIFIC DEFENDANT THROUGH ANOTHER WITNESS, BUT BASED ON HIS
23 DESCRIPTION, WE'D ASK YOU TO ALLOW HIS STATEMENTS.

24 THE COURT: WELL, I GUESS MR. REED, EVEN IF IT -- I MEAN,
25 HE ENCOUNTERED SOMEBODY AT THE FRONT DOOR. UM --

1 **MS. EDWARDS:** I KNOW --

2 **THE COURT:** WHY IS IT LACK OF FOUNDATION, HE'S JUST GOING

3 TO TELL US THAT SOMEBODY THAT HAD THE CHILD SAID.

4 **MS. EDWARDS:** AND IT'S --

5 **THE COURT:** -- HAPPENED.

6 **MS. EDWARDS:** IT'S ALSO BECAUSE HE'S RENDERING MEDICAL

7 CARE ASSISTANCE.

8 **THE COURT:** RIGHT.

9 **MS. EDWARDS:** SO FOR PURPOSES OF --

10 **THE COURT:** FOR PURPOSES OF WHAT HE DID NEXT, BUT IT'S --

11 I MEAN, I DON'T UNDERSTAND THE LACK OF FOUNDATION OBJECTION, I

12 GUESS.

13 **MR. REED:** I UNDERSTAND THE -- THAT THIS WOULD BE AN

14 EXCEPTION TO THE HEARSAY RULE, JUDGE, BUT IT'S STILL -- IN ANY

15 HEARSAY EXCEPTION THE DECLARANT HAS TO BE READILY IDENTIFIED,

16 AND IT HASN'T BEEN DONE.

17 **MR. STAUDAHER:** YOUR HONOR, THAT'S --

18 **THE COURT:** READILY IDENTIFIED BY?

19 **MR. STAUDAHER:** WELL, I'M SORRY.

20 **MS. EDWARDS:** THE -- THE DECLARANT HAS TO BE SOMEONE

21 WHO'S NOT IN COURT. CLEARLY WE'VE ESTABLISHED THAT THE

22 ENCOUNTER WAS AT THE HOUSE, THAT THE PERSON WASN'T -- UM --

23 OBVIOUSLY ISN'T SITTING IN COURT TODAY. I'M ASKING THE --

24 MR. KLINE, HIS ENCOUNTER WITH THIS INDIVIDUAL, AND SO I THINK

25 BASED ON THAT FOUNDATION, HIS DESCRIPTION OF THE PERSON HE

1 ENCOUNTERED, AND THE PURPOSES FOR WHICH HE WAS ASKING THE
2 QUESTIONS, WE BELIEVE THE ADEQUATE FOUNDATION TO ELICIT THESE
3 STATEMENTS.

4 **THE COURT:** OKAY. AND MY QUESTION FOR YOU IS, BEFORE I
5 MAKE MY RULING, ARE YOU -- UH -- ASKING THE -- ARE YOU GOING
6 TO BE RELYING ON THE TRUTH OF THE MATTER ASSERTED IN THE
7 STATEMENTS?

8 **MS. EDWARDS:** YES, YOUR HONOR.

9 **THE COURT:** OBJECTION IS OVERRULED. YOU CAN ANSWER THE
10 QUESTION.

11 **THE WITNESS:** COULD YOU REASK THE QUESTION, PLEASE?

12 **BY MS. EDWARDS:**

13 **Q** WHEN -- DID YOU ASK THE PACIFIC ISLANDER INDIVIDUAL
14 YOU ENCOUNTERED, WHAT HAD HAPPENED TO THE CHILD, FOR PURPOSES
15 OF RENDERING AID OR CARE?

16 **A** YES. SO --

17 **Q** AND WHAT WAS THAT INDIVIDUAL'S RESPONSE?

18 **A** THE INDIVIDUAL TOLD ME THAT THE PATIENT HAD FALLEN
19 FROM A CHAIR.

20 **Q** WHEN YOU WERE IN THE HOME, DID YOU SEE A CHAIR?

21 **A** AS -- AS I WALKED IN AND SAW THE CHILD, AND
22 INSTRUCTED THE PACIFIC ISLANDER TO SET THE CHILD DOWN, AFTER I
23 DID A FURTHER ASSESSMENT ON THE CHILD, I -- THAT'S WHEN I
24 ASKED HIM WHAT HAPPENED. HE SAID THAT THE CHILD HAD FALLEN
25 FROM A CHAIR. I LOOKED -- I WAS ON MY KNEES, I LOOKED UP TO

1 MY RIGHT, WHERE I SAW WHAT APPEARED TO BE TWO LA-Z-BOY TYPE
2 RECLINERS.

3 Q AND WHEN YOU SAW THE LA-Z-BOY RECLINERS, DID YOU TRY
4 TO CLARIFY AT ALL?

5 A UM -- I DID. I -- I POINTED OR GESTURED TO THE
6 CHAIRS THAT I SAW, AND HE SAID YES, THOSE CHAIRS.

7 Q OKAY. AS FAR AS THE DEFENDANT'S STATEMENT ABOUT
8 THOSE CHAIRS, WHAT DID HE TELL YOU HAD HAPPENED WITH THE
9 CHILD? HE FELL OUT OF THE CHAIR, AND WHAT?

10 A FELL OUT OF THE CHAIR AND HIT HIS HEAD ON THE FLOOR.

11 Q WHAT KIND OF FLOOR IS IT?

12 A UH -- AS I REMEMBER IT WAS A TILE FLOOR.

13 Q AT THE TIME YOU WERE IN THE RESIDENCE, DID YOU
14 NOTICE -- UH -- A SOFA OR A LOVE SEAT?

15 A UM -- NOT SPECIFICALLY. LIKE I SAID, AS I WALKED
16 IN, TURNED IMMEDIATELY TO MY LEFT TO ASSESS THE CHILD FURTHER.
17 AFTER ASSESSING THE CHILD FURTHER, LOOKED UP TO MY RIGHT,
18 IDENTIFIED THE CHAIRS, AND BASICALLY NOTICED THE TWO LA-Z-BOY
19 CHAIRS, AND WHAT I WOULD DESCRIBE AS LIKE A GREAT ROOM.

20 Q OKAY. AND WHEN YOU WERE TALKING TO THIS INDIVIDUAL,
21 YOU -- DO YOU RECALL IF YOU SPECIFICALLY GESTURED TO THOSE --
22 UH -- AS YOU DESCRIBED THEM, LA-Z-BOY CHAIRS?

23 A THAT'S WHERE I POINTED.

24 Q OKAY. AND THAT WAS THE BASIS OF YOUR CONVERSATION
25 WITH HIM AS TO WHERE THE CHILD HAD FALLEN FROM?

1 A CORRECT.

2 MR. REED: YOUR HONOR, I'LL OBJECT AS TO LEADING.

3 THE COURT: IT IS SOMEWHAT LEADING.

4 MS. EDWARDS: I'LL REPHRASE.

5 THE COURT: 'I KNOW YOU'RE JUST TRYING TO CIRCLE IT

6 AROUND, BUT --

7 BY MS. EDWARDS:

8 Q SO YOUR TESTIMONY IS THAT YOU POINTED TO THE CHAIRS

9 THAT YOU OBSERVED?

10 A YES.

11 Q AND THOSE WERE CHAIRS AND NOT A SOFA, CORRECT?

12 MR. REED: AGAIN, OBJECTION, YOUR HONOR, LEADING.

13 MS. EDWARDS: IT'S JUST CLARIFICATION.

14 MR. REED: AND ASKED AND ASKED -- ASKED AND ANSWERED.

15 THE COURT: SUSTAINED.

16 BY MS. EDWARDS:

17 Q APPROXIMATELY HOW FAR WERE THESE CHAIRS FROM YOU

18 WHEN YOU HAD THIS CONVERSATION WITH THE MALE?

19 A UM -- MY BEST ESTIMATE WOULD BE 20 TO 30 FEET.

20 Q AT THE TIME THAT YOU STARTED RENDERING AID TO THE

21 CHILD, DO YOU RECALL IF THE CHILD WAS BREATHING OR NOT?

22 A I RECALL HIM NOT BREATHING.

23 Q OKAY. AND YOU TESTIFIED HIS SKIN -- UM -- WAS --

24 A CYANOTIC.

25 Q -- CYANOTIC?

1 AND WHAT DID YOU DO AS A RESULT OF YOUR INITIAL
2 ASSESSMENT OF THE CHILD THAT HE WASN'T BREATHING, CYANOTIC,
3 AND PUPILS WERE FIXED AND DILATED?

4 **A** WE -- I IMMEDIATELY MOVED HIM FROM THE HOUSE AND
5 CARRIED HIM, MYSELF, TO THE RESCUE THAT WAS PARKED RIGHT
6 OUTSIDE THE FRONT DOOR.

7 **Q** DID YOU CONTINUE MEDICAL CARE AT THE RESCUE?

8 **A** I DID.

9 **Q** AND WHAT KIND OF MEDICAL CARE WAS RENDERED?

10 **A** SO -- UH -- AS STATED IN THE REPORT, I -- I BREATHED
11 FOR THE CHILD INITIALLY WITH A, WHAT WE CALL A BAG VALVE MASK.
12 IT'S THE ONE THAT WE SQUEEZE TO GIVE BREATHS, ARTIFICIAL
13 BREATHS. UM -- MANY THINGS HAPPENED BESIDE JUST THAT. WE PUT
14 A TUBE DOWN HIS THROAT TO HELP HIM BREATHE. WE HOOKED HIM UP
15 TO OUR EKG, WHICH IS OUR CARDIOGRAM, TO DETERMINE IF HE HAD
16 ANY ELECTRICAL ACTIVITY, AND IT'S ALL IN MY REPORT, THE
17 DETAILS OF THAT.

18 **Q** OKAY. WERE YOU ABLE TO EVER ESTABLISH A PULSE WHILE
19 THE CHILD WAS UNDER YOUR CARE?

20 **A** WE -- WE DID, AFTER ...

21 **Q** HOW WAS THAT DONE?

22 **A** SO AFTER PLACING THE CHILD ON THE EKG MONITOR --
23 UM -- THE READINGS SHOWED THERE WAS, INDEED, ELECTRICAL
24 ACTIVITY FROM THE HEART, AT WHICH POINT WE RECHECKED FOR
25 PULSES IN VARIOUS LOCATIONS. UM -- SOME LOCATIONS ARE EASIER

1 TO FEEL THAN OTHERS. BUT AT THE TIME THAT WE RECHECKED, AFTER
2 PLACING HIM ON THE EKG, WE DID FIND PULSES.

3 Q DURING THE COURSE OF TREATING THE CHILD -- UM -- DID
4 THE CHILD INITIALLY HAVE CLOTHES ON?

5 A YES.

6 Q AND DID YOU -- WHAT EVENTUALLY, IF ANYTHING,
7 HAPPENED TO THE CLOTHES?

8 A ANY CRITICAL CALL LIKE THAT IT'S NORMAL TO CUT ALL
9 THE CLOTHES OFF, WHICH WE DID IN THIS CASE.

10 Q AND DURING THE COURSE OF RENDERING TREATMENT OR AID
11 TO THIS CHILD, DID YOU NOTICE ANY VOMIT OR SPIT UP?

12 A I DID NOTICE -- UM -- ONCE AGAIN IN THE REPORT I --
13 I DID NOTICE A LITTLE BIT OF LIKE A SPUTUM OR A CLEAR
14 SUBSTANCE FROM THE NOSE INITIALLY, WHEN WE WERE IN THE HOUSE.
15 AND THEN WHEN WE CONTINUED WITH COMPRESSIONS ON THE -- THE
16 CHEST IN THE AMBULANCE -- UM -- WE NOTICED A LITTLE BIT OF
17 VOMITUS COMING FROM THE MOUTH.

18 Q ARE YOU ABLE TO DETERMINE IF THE CHILD HAD A GAG
19 REFLEX AT THAT TIME?

20 A YES.

21 Q AND WHAT DID YOU DETERMINE?

22 A I DETERMINED THERE WAS NO GAG REFLEX.

23 Q DID YOU PREPARE -- UH -- YOU SAID PREPARED THE
24 REPORT IN THIS MATTER, CORRECT?

25 A YES.

1 Q WHAT TIME DID YOU ARRIVE AT THE HOSPITAL WITH THE
2 CHILD?

3 A IF I COULD REFERENCE --

4 Q AND WOULD LOOKING AT YOUR REPORT REFRESH YOUR
5 MEMORY?

6 A SO ARRIVING AT THE HOSPITAL, THE TRAUMA CENTER, IT
7 IS 1823.

8 Q AND THAT'S 6:23 P.M. --

9 A CORRECT.

10 Q -- CORRECT?

11 A YES, MA'AM.

12 Q OKAY. WHEN YOU ARRIVED AT THE HOSPITAL, WHAT
13 HAPPENED WITH THE CHILD?

14 A WELL, BY -- BY THAT TIME, LIKE I SAID, WE HAD
15 ESTABLISHED AN AIRWAY, WE WERE BREATHING FOR THE CHILD. UM --
16 THE CHILD HAD IT'S OWN PULSE -- UM -- A PALPABLE PULSE, AND WE
17 PROVIDED SUPPORTIVE CARE. ONCE WE ARRIVED, WE QUICKLY
18 TRANSFER THE PATIENT INTO THE TRAUMA CENTER, AND GAVE A REPORT
19 TO THE TRAUMA CENTER STAFF.

20 Q NOW --

21 A A VERBAL REPORT.

22 Q -- BACKING UP TO THE HOUSE. WHILE YOU WERE
23 RENDERING AID TO THE CHILD IN THE RESCUE UNIT, DID YOU SEE THE
24 MALE THAT YOU INITIALLY ENCOUNTERED IN THE HOME?

25 A WHILE WE WERE IN THE BACK OF MY RESCUE?

1 Q YES.

2 A YES, WE DID.

3 Q WHERE WAS HE IN APPROXIMATION TO WHERE YOU WERE

4 WORKING ON THE CHILD IN THE BACK OF THE RESCUE?

5 A HE WAS TOWARDS THE BACK OF THE RESCUE WHERE THE

6 DOUBLE DOORS OPEN UP, AND I WAS TOWARDS THE HEAD OF THE

7 PATIENT, WHICH WOULD BE APPROXIMATELY 10 FEET AWAY FROM THE

8 PACIFIC ISLANDER.

9 Q AND WAS THE HEAD OF THE PATIENT MORE INSIDE THE

10 RESCUE UNIT --

11 A YES.

12 Q -- THAN THE -- CLOSER TO THE BACK DOORS?

13 A CORRECT.

14 Q OKAY. HOW WOULD YOU DESCRIBE THE GENTLEMAN'S

15 DEMEANOR WHILE YOU WERE TREATING THE CHILD AT THE RESCUE UNIT?

16 A AT THE -- UH -- AT THE RESCUE, ITSELF, I KNOW HE

17 STAYED OUTSIDE THE DOORS THERE. UM -- I DO RECALL HIM A

18 COUPLE TIMES POKING HIS HEAD IN, AND KIND OF REACHING IN AND

19 LIKE TAPPING THE BED, SAYING THINGS LIKE "COME ON BUDDY", OR

20 "COME ON". I CAN'T, WITH 100 PERCENT CERTAINTY, QUOTE --

21 Q OKAY.

22 A -- WHAT HE SAID.

23 Q WHAT WAS HIS DEMEANOR WHEN HE WAS SAYING THESE

24 THINGS?

25 A UM -- HE WASN'T CRYING. HE WASN'T -- UM --

1 HYSTERICAL. HE SEEMED FAIRLY LUCID AND KNEW WHAT WAS GOING
2 ON.

3 Q DURING YOUR ENTIRE TIME AT THE RESCUE UNIT AND IN
4 THE HOUSE, DID YOU ENCOUNTER ANY OTHER ADULTS, OTHER THAN
5 PEOPLE WHO WERE RESPONDING, THE EMERGENCY PERSONNEL?

6 A NO, JUST MY -- MY HELP.

7 Q DO YOU KNOW IF THERE WERE ANY OTHER -- UM -- SORRY,
8 STRIKE THAT.

9 AND WHILE YOU WERE TENDING TO THE CHILD, DID THE
10 FATHER POINT ANYTHING OUT TO YOU -- OR SORRY, THE MALE POINT
11 ANYTHING OUT TO YOU, AS FAR AS WHAT HE THOUGHT MAY BE
12 SIGNIFICANT ON THE CHILD?

13 A I DO REMEMBER HIM SAYING SOMETHING ABOUT -- UH --
14 SWELLING TO HIS HEAD OR A BUMP ON HIS HEAD.

15 Q DID YOU ASSESS THAT ON THE CHILD?

16 A I DID.

17 Q HOW DID YOU ASSESS THAT ON THE CHILD?

18 A SIMPLY BY TOUCH, PALPATING.

19 Q DID YOU FEEL ANYTHING SIGNIFICANT OR THAT
20 CORRESPONDED TO WHAT HE WAS INDICATING?

21 A UM -- I DIDN'T FEEL ANYTHING OBVIOUS. UM -- I HAD
22 TO SPEND A LITTLE TIME FEELING. UM -- I MAY HAVE, LIKE I SAID
23 IN MY REPORT -- UH -- SOME VERY SLIGHT SWELLING -- UH --
24 EXCUSE ME -- ON THE RIGHT SIDE, BEHIND THE EAR, BUT NOTHING
25 OBVIOUS OR SIGNIFICANT THAT I WOULD HAVE NOTICED OR SEEN,

1 WITHOUT BEING TOLD.

2 Q IS THERE A PROTOCOL -- UM -- WITH RESPECT TO WHEN
3 CHILDREN FALL?

4 A THERE IS. THERE'S WHAT WE CALL A TRAUMA DESTINATION
5 CRITERIA PROTOCOL.

6 Q AND DID YOU FOLLOW THAT PROTOCOL IN THIS INSTANCE?

7 A I DID.

8 Q AND WHAT IS THAT PROTOCOL?

9 A WELL, IT'S A COUPLE PAGES LONG -- UH -- IT INSTRUCTS
10 US TO LOOK FOR VARIOUS THINGS. UM -- STARTING OFF WITH THE
11 PATIENT'S LEVEL OF CONSCIOUSNESS, AND ALL THOSE THINGS I
12 TALKED ABOUT WITH THE PUPILS, AND IF THEY RESPOND TO YOU --
13 UH -- IF THEY RESPOND TO PAINFUL STIMULI. IT'S -- UM --
14 FAIRLY DETAILED. SO RIGHT OFF THE BAT THE CHILD MET THESE
15 INITIAL QUALIFICATIONS, WITHOUT EVEN GOING INTO THE -- THE
16 LEVEL OF THE FALL CRITERIA.

17 Q AND DID THAT TELL YOU WHICH LOCATION YOU SHOULD TAKE
18 THE CHILD?

19 A YES.

20 Q OKAY. AND THAT WAS U.M.C., CORRECT?

21 A TO THE TRAUMA CENTER OF U.M.C., YES.

22 Q OKAY. AND AS FAR AS, YOU REFERRED TO FALL
23 PROTOCOLS?

24 A SO FURTHER -- IT'S KIND OF A STEP BY STEP SEQUENCE
25 THAT YOU FOLLOW IN THIS TRAUMA DESTINATION CRITERIA PROTOCOL.

1 AND IF IT DOESN'T MEET THE FIRST STEP, YOU MOVE ON TO NO. 2.
2 IF IT DOESN'T MEET NO. 2, YOU MOVE ON TO NO. 3, AND BASICALLY
3 DOWN UNDER NO. 3 IT TALKS ABOUT MECHANISM OF INJURY, AND
4 THAT'S WHERE THE DISTANCE OF THE FALL WOULD COME INTO PLAY, IF
5 THE PREVIOUS TWO CRITERIA WERE NORMAL.

6 Q OKAY. SO IN THE FALL CRITERIA, WHAT IS THE STANDARD
7 FOR DETERMINING WHICH LEVEL OF EMERGENCY CARE THE CHILD SHOULD
8 RECEIVE?

9 A SO IF EVERYTHING ELSE WAS NORMAL, AND I WAS JUDGING
10 SOLELY ON THE MECHANISM OF INJURY -- UM -- FOR A CHILD, A
11 PEDIATRIC -- UM -- OF THE PATIENT'S AGE, IT WOULD FALL
12 UNDER -- UM -- A FALL OF TEN FEET OR GREATER, WOULD INDICATE
13 THAT I TAKE THAT PATIENT TO THE TRAUMA CENTER. AND I BELIEVE
14 THERE'S ALSO A STIPULATION THAT SAYS, OR TWO TIMES THE CHILD'S
15 HEIGHT.

16 Q OKAY. BASED ON YOUR UNDERSTANDING OF THE MECHANISM
17 OF INJURY, FALLING FROM THE CHAIR THAT WAS IN, I BELIEVE YOU
18 CALLED IT THE GREAT ROOM, WAS THAT 10 FEET OR TALLER?

19 A NO.

20 Q WAS THAT TWICE THE CHILD'S HEIGHT?

21 A NO.

22 Q AS FAR AS THE MALE THAT YOU ENCOUNTERED, DID YOU
23 HAVE AN UNDERSTANDING AS TO HIS RELATIONSHIP TO THE CHILD?

24 A I WAS NEVER TOLD SPECIFICALLY -- UM -- WHAT HIS
25 RELATIONSHIP WAS. I, LIKE USUAL, WHEN I RESPOND TO A HOUSE --

1 UM -- I -- I KIND OF ASSUME THAT IT IS A PARENT.

2 MR. REED: I'M GOING TO OBJECT TO HIS ASSUMPTIONS, YOUR
3 HONOR, AND MOVE TO BE STRICKEN.

4 THE COURT: SUSTAINED.

5 BY MS. EDWARDS:

6 Q NOW, YOU TESTIFIED THAT YOU PREPARED THE REPORT,
7 CORRECT?

8 A YES.

9 Q AND IN THAT REPORT -- UM -- WHEN YOU WERE PREPARING
10 THE REPORT, DID YOU LIST ANY OTHER POTENTIAL MECHANISMS OF
11 INJURY FOR THE CHILD?

12 A NO, NOT SPECIFICALLY.

13 Q OKAY. DID YOU, AT SOME POINT, COME TO FIND OUT
14 ABOUT A DIFFERENT WAY THE CHILD MAY HAVE SUSTAINED THE INJURY?

15 A YES.

16 Q AND HOW DID THAT HAPPEN?

17 A AFTER WE ARRIVED AT THE TRAUMA CENTER AND
18 TRANSFERRED CARE OF THE PATIENT TO THE TRAUMA CENTER STAFF --
19 UM -- WE -- ALL THE FIRE PERSONNEL AND THE AMR MEDIC THAT RODE
20 IN, WE HAD COME BACK OUT TO THE AMBULANCE TO CLEAN UP, AND I
21 NEEDED TO GET SOME INFORMATION OFF MY EKG, AND IN THAT TIME
22 PERIOD I SPOKE WITH MY CAPTAIN AT THAT TIME, AND WE RELAYED
23 WHAT WE HAD BEEN TOLD TO EACH OTHER, AND HE HAD BEEN TOLD --

24 MR. REED: YOUR HONOR, I'LL OBJECT, THIS IS HEARSAY.

25 THE COURT: WELL, HE HASN'T -- HE HASN'T SAID THE

1 STATEMENT.

2 **MR. REED:** WELL, HE'S GOING TO RIGHT NOW. HE SAYS, WE
3 HAD BEEN TOLD, AND THEN HE'S GOING TO SAY IT, WHAT HE'S BEEN
4 TOLD.

5 **THE COURT:** IS IT OFFERED FOR THE TRUTH OF THE MATTER?

6 **MS. EDWARDS:** NO, I'M CALLING THE CAPTAIN TO TESTIFY. I
7 CAN ADMONISH THE WITNESS NOT TO GIVE ME THE --

8 **THE COURT:** YEAH.

9 **MS. EDWARDS:** -- SPECIFIC WORDS.

10 **THE COURT:** JUST DON'T GIVE -- DON'T --

11 **THE WITNESS:** OKAY. I WAS --

12 **THE COURT:** JUST DON'T TELL US WHAT -- THE SUBSTANCE OF
13 THE STATEMENT.

14 **THE WITNESS:** OKAY. OKAY.

15 **BY MS. EDWARDS:**

16 **Q** WITHOUT TELLING ME WHAT YOUR CAPTAIN SAID, BACKING
17 UP, WHAT IS YOUR CAPTAIN'S NAME?

18 **A** CAPTAIN MICKEY PEDROL.

19 **Q** WITHOUT TELLING ME WHAT CAPTAIN PEDROL SAID, DID THE
20 INFORMATION THAT HE RELAYED TO YOU, IS THAT THE SAME OR
21 DIFFERENT THAN WHAT YOU HAD LEARNED FROM THE INDIVIDUAL AT THE
22 HOME?

23 **A** DIFFERENT.

24 **MR. REED:** I'M GOING TO OBJECT AS TO RELEVANCE. WHAT
25 RELEVANCE IS THAT?

1 **MS. EDWARDS:** YOUR HONOR, THE RELEVANCE, AS IT WILL BEAR
2 OUT THROUGH A NUMBER OF WITNESSES, IS THAT THE INDIVIDUAL IN
3 THE HOME PROVIDED MULTIPLE STATEMENTS OF DIFFERENT MECHANISMS
4 OF INJURY TO VARIOUS EMERGENCY RESPONDERS TO THE POLICE WHEN
5 HE WAS BEING QUESTIONED, AND THAT ALL THESE DIFFERENT STORIES
6 PLAY INTO THE RELEVANCE OF HOW THE CHILD ACTUALLY SUSTAINED
7 HIS INJURIES -- UM -- AND TO THE CAUSE AND MANNER OF DEATH.

8 **MR. REED:** WELL, JUDGE, I CAN'T CROSS-EXAMINE HIM ON
9 THAT, BECAUSE HE'S -- WE'RE NOT GETTING INTO THE SPECIFICS, SO
10 HOW CAN I POSSIBLY CROSS-EXAMINE HIM ON THAT?

11 **THE COURT:** WELL -- BUT THE FIRE CAPTAIN IS HERE.

12 **MR. REED:** WELL, I CAN CROSS-EXAMINE HIM --

13 **THE COURT:** AND HE SAYS THAT'S THE SAME --

14 **MR. REED:** -- BUT I CAN'T CROSS-EXAMINE THIS WITNESS ON
15 WHAT HE -- WHAT HE WAS TOLD SECONDHAND FROM THE PACIFIC
16 ISLANDER TO THE CAPTAIN TO THIS -- TO HIS LIPS, HOW DO I
17 CROSS-EXAMINE HIM ON THAT?

18 **MS. EDWARDS:** WE'RE JUST TALKING ABOUT THE REPORT THAT HE
19 MADE AND THE INFORMATION HE PUT IN THE REPORT.

20 **THE COURT:** THE QUE -- THE OBJECTION ORIGINALLY WAS
21 RELEVANCE. THE OBJECTION IS OVERRULED.

22 BUT BASED UPON YOUR PROFFER.

23 **MR. REED:** WELL, MY OBJECTION IS HEARSAY, AS WELL.

24 **MS. EDWARDS:** I DIDN'T ELICIT THE STATEMENT.

25 **THE COURT:** YOU DIDN'T -- WELL -- BUT YOU DID ELICIT SOME

1 SUBSTANCE OF THE STATEMENT, WHICH IS WHAT -- I MEAN, WHETHER
2 IT WAS DIFFERENT OR THE SAME OF WHAT HE HAD BEEN GIVEN.

3 MS. EDWARDS: AND THAT --

4 THE COURT: THAT'S SOME SUBSTANCE. IT MIGHT NOT BE WHAT
5 THE EXACT SUBSTANCE IS, BUT --

6 MS. EDWARDS: IN THE CONTEXT OF HIM PREPARING THE REPORT,
7 THE QUESTION WAS ELICITED TO GET THE INFORMATION, AS FAR AS
8 THE -- THAT HE PUT IN THE REPORT, HIMSELF, THAT HE PREPARED.
9 BEFORE HE GETS OFF THE STAND, WE BRING THE CAPTAIN TO DISCUSS
10 THE DETAILS.

11 THE COURT: I THINK MR. REED'S OBJECTION TO HEARSAY IS
12 APPROPRIATE. IT'S SUSTAINED.

13 BY MS. EDWARDS:

14 Q DID YOU DOCUMENT THE CONVERSATION YOU HAD WITH THE
15 CAPTAIN IN YOUR REPORT, WITHOUT TELLING ME SPECIFICS?

16 A YES.

17 MS. EDWARDS: NO FURTHER QUESTIONS.

18 THE COURT: CROSS-EXAMINATION?

19 MR. REED: THANK YOU.

20

21 CROSS-EXAMINATION

22 BY MR. REED:

23 Q MR. KLINE, HOW ARE YOU?

24 A DOING WELL, SIR. HOW ARE YOU?

25 Q THANKS FOR STICKING AROUND.

1 A NOT A PROBLEM.
2 Q I'LL TRY AND BE PRETTY QUICK.
3 SO YOUR ACTUAL TITLE IS WHAT?
4 A FIREFIGHTER/PARAMEDIC.
5 Q ALL RIGHT. AND AS A PARAMEDIC YOU MUST HAVE SOME
6 CERTIFICATION?
7 A YES.
8 Q IS THAT AN EMT?
9 A EMT/PARAMEDIC.
10 Q OKAY. AND SO YOU ACTUALLY HAVE TO BE STATE
11 QUALIFIED TO BECOME AN EMT, RIGHT?
12 A YES.
13 Q AND HOW LONG HAVE YOU BEEN DOING THIS?
14 A IN THE PARAMEDIC RANGE?
15 Q YES.
16 A WE ARE -- I BECAME A PARAMEDIC IN 2004, SO THAT PUTS
17 US AT, WHAT IS THAT ABOUT?
18 Q NINE YEARS.
19 A NINE YEARS, EIGHT YEARS, YEAH.
20 Q IN THAT NINE YEARS, HOW MANY CALLS FOR CHILD IN
21 CARDIAC ARREST, APPROXIMATELY, HAVE YOU RESPONDED TO?
22 A HMM. UM -- TOTAL APPROXIMATION, PROBABLY AT LEAST A
23 DOZEN.
24 Q OKAY. YOU HAD INITIALLY TOLD THE COURT ON DIRECT
25 EXAMINATION THAT YOUR FOCUS IN THIS CASE IS ON THE PATIENT; IS

1 THAT CORRECT?

2 **A** TRUE. WHEN I SEE A CHILD NOT BREATHING, YES.

3 **Q** OKAY. AND SO THE MAIN FOCUS IS FOR YOU TO
4 IMMEDIATELY RENDER TREATMENT, AND NOT SO MUCH GET INFORMATION
5 FROM WHOEVER ELSE IS IN THE HOUSE; FAIR STATEMENT?

6 **A** FAIR, YES.

7 **Q** THE CHILD, I THINK YOU HAD TESTIFIED ON DIRECT, HAD
8 NO PULSE.

9 **A** CORRECT.

10 **Q** AND WOULD IT BE CONSIDERED -- THE CHILD HAVE BEEN
11 CONSIDERED IN CARDIAC ARREST AT ANY POINT?

12 **A** THAT WAS MY INITIAL -- UH -- IMPRESSION. WHEN I --
13 AFTER SETTING THE CHILD DOWN ON THE BENCH, AND FEELING FOR A
14 PULSE, AND NOT FEELING ONE INITIALLY, I IMMEDIATELY WENT INTO
15 MY PROTOCOL FOR A CARDIAC ARREST.

16 **Q** ALL RIGHT. AND CAN YOU DESCRIBE FOR THE COURT THE
17 PROTOCOL FOR CARDIAC ARREST?

18 **A** WELL, IT INCLUDES MANY, MANY THINGS, BUT OF COURSE
19 CPR COMPRESSIONS.

20 **Q** ALL RIGHT, LET'S STOP RIGHT THERE.

21 **A** OKAY.

22 **Q** CPR COMPRESSIONS, WERE THEY DONE IN THIS CASE?

23 **A** YES.

24 **Q** AND CAN YOU DESCRIBE FOR THE COURT WHAT YOU DID TO
25 THE CHILD IN TERMS OF CPR COMPRESSIONS?

1 **A** AFTER CARRYING THE CHILD TO THE RESCUE -- UH -- WE
2 IMMEDIATELY STARTED COMPRESSIONS ON THE CHILD.
3 **Q** ALL RIGHT.
4 **A** ALONG WITH OTHER THINGS.
5 **Q** DID THIS -- AND FORGIVE ME IF THIS MIGHT SEEM NAIVE,
6 BUT DOES THIS GO ON FOR A PERIOD OF MINUTES OR ...
7 **A** IN THIS CASE I WOULD HAVE TO LOOK AT MY FLOW CHART.
8 **MR. REED:** IS IT -- IS IT OKAY, YOUR HONOR, IF HE CHECKS
9 THAT?
10 **THE COURT:** I DON'T MIND.
11 **BY MR. REED:**
12 **Q** IF YOU'LL JUST LET US KNOW WHAT PAGE YOU'RE LOOKING
13 AT --
14 **A** SURE.
15 **Q** -- TO REFRESH YOUR RECOLLECTION?
16 **A** SO IT APPEARS -- IT SAYS PAGE, LOOKS LIKE TWO OF
17 FOUR AT THE BOTTOM.
18 **Q** YES, SIR.
19 **A** AND I'M LOOKING AT THE LINE THAT TALKS ABOUT WHERE I
20 STARTED SUCTIONING THE PATIENT AT 1803. THE TIME'S DOWN AT
21 THE LEFT -- ON THE FAR LEFT COLUMN. THAT --
22 **Q** EIGHTEEN-OH-THREE, FOR US NONMILITARY PEOPLE, 6:03,
23 GIVE OR TAKE SEVEN OR EIGHT MINUTES AFTER YOUR ARRIVAL?
24 **A** SOUNDS ABOUT RIGHT, WITHOUT LOOKING AT MY ON-SCENE
25 TIMES, YES.

1 Q BECAUSE YOU COULDN'T TELL IF IT WAS A SIX OR AN
2 EIGHT, RIGHT?

3 A RIGHT.

4 Q SEVEN OR EIGHT.

5 ALL RIGHT. SO GO AHEAD, FINISH YOUR ANSWER.

6 A OKAY. SO THAT WOULD BE APPROXIMATELY THE TIME THAT
7 I ARRIVED WITH THE CHILD IN THE RESCUE, AT WHICH POINT WE
8 WOULD HAVE STARTED COMPRESSIONS.

9 Q ALL RIGHT. SO THEN THE COMPRESSIONS CONTINUE --
10 THIS IS KIND OF WHAT I WAS TRYING TO GET AT -- FOR HOW LONG
11 FROM THE TIME YOU START, NOW DOES YOUR REPORT INDICATE THAT?

12 A IT -- IT DOESN'T INDICATE SPECIFICALLY WHEN WE
13 STOPPED, HOW -- HOWEVER, YOU'LL SEE ALSO UNDER 1803 FOR THE
14 TIME IS WHEN WE APPLIED THE ECG PADS.

15 Q AND JUST FOR THE RECORD, ECG IS?

16 A ELECTROCARDIOGRAM.

17 Q OKAY. GO AHEAD.

18 A AND THAT TELLS US WHAT KIND OF ELECTRICAL ACTIVITY
19 IS GOING IN THE HEART. AND THAT WOULD HAVE BEEN 1803 TO 1804
20 IS WHEN I WOULD HAVE BEEN CHECKING FOR A PULSE AGAIN AFTER
21 SEEING THERE WAS ELECTRICAL ACTIVITY. SO WE'RE ONLY LOOKING
22 AT PROBABLY A MINUTE OR TWO OF COMPRESSIONS.

23 Q OKAY. AND THESE COMPRESSIONS, THESE ARE MANUAL
24 COMPRESSIONS WHERE YOU'RE PUSHING DOWN ON THE STERNUM OF THE
25 CHILD'S CHEST?

1 **A** CORRECT. AND -- AND WE FOLLOW DIFFERENT STYLES
2 BASED ON THE AGE OF THE PATIENT.

3 **Q** ALL RIGHT. CAN YOU DEMONSTRATE FOR THE COURT THE
4 STYLE THAT YOU USED IN THIS PARTICULAR CASE?

5 **A** SURE.

6 SHOULD I STAND?

7 **THE COURT:** SURE.

8 **THE WITNESS:** OKAY. TYPICALLY WITH A CHILD THAT AGE, WE
9 WOULD USE A ONE HANDED METHOD, WITH THE PALM OF ONE HAND, AS
10 OPPOSED TO AN ADULT YOU WOULD USE TWO HANDS, IT APPLIES MORE
11 FORCE. WITH A CHILD OF HIS AGE, I WOULD HAVE STARTED WITH ONE
12 HAND ON THE STERNUM.

13 **MR. REED:** ALL RIGHT.

14 **Q** AND WHEN YOU INITIALLY WERE DEMONSTRATING FOR THE
15 COURT, YOU HAD -- UM -- POINTED TO THE -- BASICALLY THE BOTTOM
16 OF THE PALM, WHERE THE THICK PORTIONS OF OUR HANDS ARE.

17 **A** YES.

18 **Q** THAT'S -- IS THAT HOW YOU'RE TRAINED?

19 **A** YES.

20 **Q** YOU CAN GO AHEAD AND SIT DOWN. THANK YOU,
21 MR. KLINE.

22 AND YOU SAY YOU START OFF THAT WAY. DID YOU FINISH
23 OFF THAT WAY, OR DO YOU RECALL?

24 **A** AS I RECALL THE COMPRESSIONS WERE INITIATED BY
25 MYSELF, AND THEN ONE OF MY PARTNERS -- AS I WENT TO INTUBATE

1 THE CHILD, WHICH MEANS PUT THE TUBE DOWN HIS THEROAT, ONE OF MY
2 OTHER PARTNERS WOULD HAVE BEEN TAKING OVER THE COMPRESSIONS.

3 Q OKAY. AND WHO WAS THAT, JUST TO MAKE SURE WE HAVE
4 THE RIGHT PERSON?

5 A TO THE BEST OF MY RECOLLECTION IT WAS THE AMR
6 PARAMEDIC.

7 Q OKAY. MALE OR FEMALE?

8 A MALE.

9 Q AND WERE YOU ABLE TO OBSERVE HOW THEY WERE DOING THE
10 COMPRESSIONS?

11 A EVERY ONCE IN AWHILE I WOULD LOOK UP AND GLANCE, BUT
12 THAT IS NOT -- UH -- THAT WAS NOT MY PRIMARY CONCERN AT THE
13 TIME --

14 Q SURE.

15 A -- I WAS WORRIED ABOUT THE AIRWAY.

16 Q OKAY. SO IN THIS MINUTE OR TWO, YOU DO A LITTLE
17 COMPRESSIONS, AND THE OTHER INDIVIDUAL FROM AMR FINISHES THE
18 COMPRESSIONS?

19 A YES.

20 MR. REED: COURT'S INDULGENCE.

21 (DISCUSSION BETWEEN MR. REED AND MS. LEMCKE.)

22 BY MR. REED:

23 Q MY CO-COUNSEL'S QUESTION WAS, WHICH I KIND OF WAS
24 GETTING TO, BUT I MAYBE DIDN'T DO IT IN THE RIGHT WAY, IS IF
25 THE -- IN THE FIRST PART OF THE COMPRESSIONS, IF IT'S NOT

1 SUCCESSFUL, THEN DO YOU GO TO TWO HANDS, OR HOW -- WHAT'S THE
2 PROTOCOL ON THAT?

3 A NO. IT'S ALL BASED ON THE CHILD'S SIZE.

4 Q ALL RIGHT. SO WOULD IT JUST BECOME MORE VIGOROUS,
5 OR WHAT WOULD CHANGE, IF ANYTHING, FROM -- IN HOW DO YOU THE
6 COMPRESSIONS?

7 A NOTHING WOULD HAVE CHANGED.

8 Q ALL RIGHT. SO THERE'S JUST THAT CONSISTENT -- MAYBE
9 THERE'S SOME HUMAN ASPECT TO IT, RIGHT, LIKE HOW YOU DO THEM
10 MIGHT BE A LITTLE BIT DIFFERENT, MAYBE, THAN HOW AMR DOES
11 THEM?

12 A I WOULD IMAGINE THERE WOULD BE, BUT WE'RE ALL
13 GENERALLY TRAINED TO USE THE SAME METHOD.

14 Q OKAY. BUT PRESSURES MIGHT VARY SOME?

15 A SURE.

16 Q YOU LOOK LIKE YOU'RE A WEIGHT-LIFTER TYPE?

17 A I'D LIKE TO SAY YES, BUT ...

18 Q IN GOOD SHAPE AT LEAST.

19 A THANK YOU.

20 Q OKAY. THANK YOU VERY MUCH.

21 I WANT TO KIND OF GET AWAY FROM THAT FOR A SECOND
22 AND -- AND TALK ABOUT, A LITTLE BIT, OF THE CONVERSATIONS YOU
23 HAD WITH THE PACIFIC -- PACIFIC ISLANDER INDIVIDUAL.

24 WOULD IT BE FAIR TO SAY THAT THEY WERE VERY BRIEF,
25 BECAUSE YOUR FOCUS IS ON THE CHILD?

1 A YES.

2 Q I MEAN, YOU DIDN'T GET THE TIME TO REALLY ASK A LOT
3 OF DETAIL?

4 A CORRECT.

5 Q AND WHEN THE INDIVIDUAL POINTS TO THE CHAIR -- TO
6 THE CHAIR, FALLEN FROM THE CHAIR WAS A DESCRIPTION USED, BUT
7 IT WAS ABOUT 20 OR 30 FEET AWAY?

8 A TO THE BEST OF MY MEMORY.

9 Q RIGHT. OKAY. SO YOU'RE NOT REALLY EVEN SURE ON
10 THAT, BUT YOU KNOW IT WAS A LITTLE WAYS AWAY?

11 A SURE. I'M NOT GETTING OUT THE TAPE MEASURE.

12 Q ALL RIGHT. LIKE MAYBE FROM ME TO YOU RIGHT NOW?

13 A I'D SAY FURTHER.

14 Q FURTHER.

15 AND THAT AREA, IS THAT A SITTING AREA?

16 A LIKE I SAID EARLIER, IT APPEARED TO BE LIKE A GREAT
17 ROOM, IS THE BEST WAY I CAN DESCRIBE IT.

18 Q SO THERE'S CHAIRS IN THERE, AND A SOFA AND A LOVE
19 SEAT, OTHER -- YOU KNOW, OTHER ITEMS OF FURNITURE ALL IN THE
20 SAME AREA?

21 A I WOULDN'T SAY THAT I COULD SEE THE ENTIRE ROOM.

22 Q RIGHT. BECAUSE YOU WEREN'T REALLY PAYING ATTENTION
23 TO ALL THAT?

24 A NOT -- NOT THE PRIMARY FOCUS OF MY CARE, NO.

25 Q WOULD IT BE FAIR TO SAY THAT THE INDIVIDUAL DIDN'T

1 POINT TO A SPECIFIC CHAIR IN THAT GREAT ROOM 30 FEET AWAY?

2 A WELL, I WAS THE ONE THAT POINTED.

3 Q OH, YOU POINTED, I'M SORRY.

4 A YES.

5 Q SO YOU -- YOU COULDN'T VERY WELL KNOW WHICH CHAIR IT

6 WAS, YOU WERE JUST POINTING IN THE DIRECTION OF THE ROOM?

7 A WELL, I POINTED TO MY RIGHT WHERE I SAW TWO LA-Z-BOY

8 CHAIRS.

9 Q ALL RIGHT. DID YOU SEE A SOFA?

10 A NO.

11 Q A LOVE SEAT?

12 A NO.

13 Q COUCH?

14 A NO.

15 Q BUT YOU DIDN'T GO IN THERE TO LOOK, EITHER?

16 A NO, I DID NOT.

17 Q ALL RIGHT.

18 FINAL AREA, MR. KLINE, FOR YOU IS, ON THIS TIMEFRAME

19 WITH THE PACIFIC ISLANDER INDIVIDUAL, YOU WERE ASKING

20 QUESTIONS ABOUT HOW HE WAS BEHAVING, AND I THINK FOCUSED ON

21 WHEN THE CHILD, YOUR PATIENT, IS BEING LOADED INTO THE

22 AMBULANCE; DO YOU RECALL THAT LINE OF QUESTIONING?

23 A YES. AT THE TIME THAT THE PACIFIC ISLANDER WAS

24 STANDING OUTSIDE THE AMBULANCE, YOU MEAN?

25 Q YES. AND HE MAY HAVE TRIED TO TOUCH THE PATIENT,

1 THAT KIND OF THING?

2 A RIGHT. I REMEMBER.

3 Q AREN'T THEY -- AREN'T THEY -- WHOMEVER'S IN THE
4 HOUSE, WHEN YOU'RE FOCUSING ON THAT PATIENT, ONCE A PATIENT IS
5 PUT DOWN, THEY'RE ASKED TO STEP BACK, RIGHT?

6 A IF THEY'RE BECOMING A PROBLEM, YES.

7 Q WELL, I MEAN EVEN IF THEY'RE NOT, YOU DON'T WANT TO
8 HAVE THEM HOVERING OVER THE CHILD WHILE YOU'RE TRYING TO DO
9 CPR.

10 A IF THEY PRECLUDE US FROM DOING THE WORK, YES.

11 Q THIS INDIVIDUAL DIDN'T PRECLUDE YOU FROM DOING THE
12 WORK?

13 A NO.

14 Q SO THEY STAND BACK WHILE YOU TAKE CARE OF SAVING THE
15 PATIENT'S LIFE?

16 A YES.

17 Q OKAY. NOW, YOU HAD MENTIONED THAT HE -- THIS
18 INDIVIDUAL SAID SOMETHING TO THE EFFECT OF, "COME ON, BUDDY".
19 DO YOU REMEMBER ANY DETAILS, OTHER THAN THAT BEING SAID?

20 A I CAN'T EVEN REMEMBER EXACT QUOTES ON THAT, I JUST
21 REMEMBER SEEING HIM REACH INSIDE PAST THE THRESHOLD OF THE
22 DOORS, AND LIKE TAPPING ON THE BED, OR ALMOST LIKE HE WAS
23 TRYING TO REACH HIS -- THE PATIENT'S FOOT -- UM -- KIND OF
24 LIKE A, COME ON, GET BETTER.

25 Q OKAY. NOW, YOU HAD DESCRIBED THE INDIVIDUAL AS NOT

1 CRYING.

2 **A** CORRECT.

3 **Q** UM -- IS IT YOUR OPINION THAT THE PERSON DIDN'T
4 APPEAR CONCERNED FOR THE PATIENT'S WELL-BEING?

5 **A** UH -- DIFFICULT TO TELL.

6 **Q** RIGHT. OKAY. PEOPLE DEAL WITH TRAUMA IN DIFFERENT
7 WAYS?

8 **A** SURE.

9 **Q** I'M SURE YOU'VE SEEN A LOT OF TRAUMA, SOMETIMES
10 PEOPLE CRY, SOMETIMES DON'T, FAIR STATEMENT?

11 **A** TRUE. YES.

12 **MR. REED:** OKAY.

13 (DISCUSSION BETWEEN MR. REED AND MS. LEMCKE.)

14 **MR. REED:** JUST ONE LAST QUESTION.

15 **THE WITNESS:** SURE.

16 **MR. REED:** I'M BLAMING IT ON MISS LEMCKE HERE.

17 **Q** THE SWELLING THAT YOU HAD DIFFICULTY, BUT DID
18 IDENTIFY, WAS THAT TOLD TO YOU BY THE INDIVIDUAL, THE PACIFIC
19 ISLANDER INDIVIDUAL, WAS BEING IN THE BACK, RIGHT-HAND SIDE OF
20 THE SKULL?

21 **A** I REMEMBER HIM SAYING RIGHT SIDE.

22 **Q** RIGHT SIDE. BUT NOT NECESSARILY BACK, BUT SOME
23 WHERE ON THE RIGHT SIDE?

24 **A** THAT'S WHAT I RECALL, YES.

25 **MR. REED:** OKAY. THANK YOU, MR. KLINE.

1 I'LL PASS THE WITNESS.

2 THE COURT: REDIRECT?

3 MS. EDWARDS: YES, YOUR HONOR.

4

5 REDIRECT EXAMINATION

6 BY MS. EDWARDS:

7 Q WHEN OBSERVING THE MALE INDIVIDUAL AT THE HOUSE,
8 YOU -- WOULD YOU DESCRIBE IT AS POTENTIALLY A LACK OF EMOTION?

9 A I SUPPOSE I WOULD DESCRIBE IT AS A -- NOT THE
10 COMMON -- COMMON EMOTION WHEN DEALING WITH CHILDREN.

11 Q DID YOU HAVE ANY DIFFICULTIES COMMUNICATING WITH
12 THIS INDIVIDUAL?

13 A NO. AS FAR AS LIKE A LANGUAGE BARRIER?

14 Q CORRECT.

15 A NO.

16 Q NO LANGUAGE BARRIERS, NO -- UM -- PROBLEMS
17 UNDERSTANDING HIS WORDS?

18 A NO.

19 MR. REED: OBJECTION, LEADING.

20 BY MS. EDWARDS:

21 Q ANY PROBLEMS UNDERSTANDING HIS WORDS?

22 THE COURT: HOLD ON. HOLD ON. OVERRULED.

23 DID YOU HAVE ANY PROBLEMS UNDERSTANDING HIS WORDS?

24 THE WITNESS: NO.

25

1 BY MS. EDWARDS:

2 Q SO WHEN YOU WERE DISCUSSING THE CHAIRS WITH THIS
3 INDIVIDUAL, IT'S YOUR TESTIMONY THAT YOU, IN FACT, POINTED TO
4 THE CHAIRS, CORRECT?

5 A YES.

6 Q AND DO YOU RECALL -- UM -- HOW SPECIFIC YOU WERE AS
7 TO THOSE CHAIRS VERSUS -- UM -- ANY OTHER ITEMS IN THE HOME?

8 A I JUST RECALL POINTING AND SAYING, THOSE CHAIRS
9 RIGHT THERE?

10 Q AND THIS INDIVIDUAL RESPONDED TO YOUR QUESTION,
11 CORRECT?

12 A YES.

13 Q AND WHAT WAS HIS RESPONSE?

14 A YES.

15 Q AND AS FAR AS YOUR TESTIMONY GOES, THOSE WERE THE
16 ONLY CHAIRS THAT YOU SAW IN THAT ROOM?

17 A YES.

18 Q FROM WHERE YOU WERE POSITIONED WORKING ON THE CHILD,
19 CORRECT?

20 A CORRECT. I -- YES.

21 MS. EDWARDS: NO FURTHER QUESTIONS.

22 THE COURT: THANK YOU VERY MUCH, SIR, APPRECIATE YOUR
23 TIME TODAY --

24 THE WITNESS: THANK YOU.

25 THE COURT: -- AND YOUR PATIENCE.

1 THE WITNESS: THANK YOU.

2 THE COURT: NEXT WITNESS.

3 MS. EDWARDS: COULD I GET THE REPORT BACK, PLEASE?

4 THE WITNESS: YES.

5 MS. EDWARDS: THE STATE CALLS CAPTAIN MICKEY PEDROL.

6 THE CLERK: PLEASE RAISE YOUR RIGHT HAND.

7

8 MICKEY PEDROL,

9 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY
10 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING
11 BUT THE TRUTH, TESTIFIED AS FOLLOWS:

12

13 THE WITNESS: I DO.

14 THE CLERK: THANK YOU, SIR, PLEASE HAVE A SEAT.

15 I DO NEED YOU TO STATE YOUR FIRST AND YOUR LAST NAME, AND
16 TO SPELL BOTH FOR THE RECORD.

17 THE WITNESS: MY NAME IS MICKEY PEDROL, M-I-C-K-E-Y.

18 PEDROL IS, P-E-D-R-O-L.

19 THE COURT: THANK YOU. YOU CAN PROCEED.

20

21 DIRECT EXAMINATION

22 BY MS. EDWARDS:

23 Q WHAT IS YOUR OCCUPATION, SIR?

24 A UH -- CAPTAIN FOR THE CITY OF LAS VEGAS FIRE
25 DEPARTMENT.

1 Q HOW LONG HAVE YOU BEEN EMPLOYED BY THE CITY OF LAS
2 VEGAS FIRE DEPARTMENT?
3 A THIRTY-FIVE YEARS.
4 Q HOW LONG HAVE YOU BEEN A CAPTAIN?
5 A SINCE '95.
6 Q WERE YOU WORKING ON THE AFTERNOON/EVENING OF JUNE
7 6TH, 2013?
8 A I WAS.
9 Q DURING THE COURSE OF THAT SHIFT, DID YOU RESPOND
10 AT -- UM -- THAT EVENING TO 4720 TRIMWATER COURT?
11 A YES, I DID.
12 Q IS THAT IN LAS VEGAS, CLARK COUNTY, NEVADA?
13 A IN LAS VEGAS.
14 Q WHAT WAS THE PURPOSE OF RESPONDING TO THAT HOME?
15 A WE GOT A CALL -- UH -- ACTUALLY MY RESCUE, I WAS AN
16 OVERTIME CAPTAIN AT STATION 9. I'M NORMALLY STATIONED AT
17 STATION 41, BUT I WAS AN OVERTIME CAPTAIN AT STATION 9.
18 RESCUE GOT A CALL FOR A CHILD FELL, AND THEN ABOUT THREE
19 MINUTES, FOUR MINUTES LATER OUR ENGINE GOT DISPATCHED.
20 Q AND YOU WENT WITH THE ENGINE?
21 A I'M ON THE ENGINE, YES.
22 Q OKAY. WHAT WAS THE PURPOSE OF THE DISPATCH AND THE
23 ENGINE TO THE RESIDENCE?
24 A USUALLY -- UH -- IF IT'S A SERIOUS CALL THEY CALL IN
25 THE SECOND EN -- WELL, THE SECOND COMPANY, WHICH WOULD BE AN

1 ENGINE. THEY GOT A, B, C, D LEVEL CALLS. I DO BELIEVE THE
2 CALL CAME IN A B LEVEL CALL, AND THEN WHEN THE RESCUE GOT
3 THERE IT WAS A D LEVEL CALL.

4 Q OKAY. AND WHAT IS THE SIGNIFICANCE, IF ANY, ABOUT A
5 D LEVEL CALL?

6 A VERY SERIOUS.

7 Q WHEN YOU GOT TO THE RESIDENCE ON TRIMWATER, WHAT DID
8 YOU ENCOUNTER?

9 A AS WE PULLED UP INTO THE RESIDENCE AREA, IT'S A
10 CUL-DE-SAC, RESCUE 9 WAS ON SCENE, AMR WAS ON SCENE BEHIND
11 THEM, AND WE PULLED UP, AND THERE WAS A LOT OF ACTIVITY GOING
12 ON IN THE BACK OF RESCUE 9. AND AS I APPROACHED RESCUE 9, THE
13 MEDIC ON RESCUE 9, WHICH WAS TIM KLINE, WAS AT THE HEAD OF A
14 THREE YEAR OLD PATIENT TRYING TO INTUBATE HIM. ANOTHER
15 GENTLEMAN FROM AMR WAS ON THE RIGHT-HAND SIDE CHECKING FOR
16 BREATHE SOUNDS.

17 Q DID YOU PARTICIPATE IN THE MEDICAL CARE PROVIDED TO
18 THE CHILD?

19 A NO, THEY HAD PLENTY OF HANDS ON RIGHT THERE WITH
20 THE -- THE THREE MEDICS ON HAND. ONE -- TWO -- MY MEDIC ON MY
21 ENGINE, TIM KLINE FROM RESCUE 9, AND THEN THE AMR MEDIC WAS
22 ASSISTING WITH THE MEDICAL CARE.

23 Q WHAT WAS YOUR ROLE ON SCENE?

24 A SCENE SECURITY NO. 1, CHECKING TO MAKE SURE THAT THE
25 PATIENT IS TAKEN CARE OF AND -- AND JUST THE OTHER ACTIVITY

1 GOING AROUND, DEPENDING ON THE TYPE OF CALL THAT WE GO ON.

2 Q WHEN YOU WERE ON SCENE, AT ANY POINT IN TIME DID YOU
3 BECOME AWARE OF HOW THE CHILD MAY HAVE SUSTAINED THE INJURIES
4 FOR WHICH THE CHILD WAS BEING TREATED?

5 A WELL, I WAS UNSURE, AND I ASKED TIM KLINE IF WE NEED
6 TO CALL METRO, DID IT LOOK LIKE IT WAS CHILD ABUSE OR, YOU
7 KNOW, THAT TYPE OF SCENARIO, AFTER WE GOT A BREAK IN THE
8 ACTION -- UM -- AND HE WASN'T 100 PERCENT SURE, BUT --

9 MR. REED: I'M GOING TO OBJECT AS TO ANY STATEMENTS OF
10 MR. KLINE AS BEING HEARSAY.

11 THE COURT: IF THEY'RE OFFERED FOR THE TRUTH OF THE
12 MATTER, THEY'RE HEARSAY.

13 MS. EDWARDS: YOUR HONOR, I'M OFFERING -- OFFERING THEM
14 FOR THE PURPOSE OF WHAT HE DID AFTER THAT.

15 THE COURT: OKAY. SO DON'T TELL US WHAT HE SAID, JUST
16 TELL US, BASED UPON WHAT HE SAID, WHAT DO YOU DO -- WHAT --
17 WHAT YOU DID.

18 THE WITNESS: WHAT I DID?

19 THE COURT: UM-HUM.

20 THE WITNESS: I CALLED METRO.

21 MS. EDWARDS: OKAY.

22 THE WITNESS: I TOLD MY DISPATCH TO GET METRO INVOLVED,
23 AND TO MEET US AT THE HOSPITAL.

24 BY MS. EDWARDS:

25 Q AT SOME POINT IN TIME DID YOU TALK TO -- OTHER THAN

1 MR. KLINE, DID YOU TALK TO ANYONE ON SCENE ABOUT WHAT HAD
2 HAPPENED TO THE CHILD?

3 A AS FAR AS MY CREW OR THE CREWS THAT WERE THERE?

4 Q NOT THE CREWS. AS FAR AS ANYONE ELSE WHO WAS ON
5 SCENE.

6 A JUST THE GENTLEMAN THAT WAS THERE THAT WAS THE --
7 SUPPOSABLY THE FATHER.

8 Q OKAY. AND WHERE DID YOU ENCOUNTER THIS INDIVIDUAL?

9 A ENCOUNTERED HIM AT THE -- AS -- THERE WAS A --
10 EITHER A CHAMPAGNE OR WHITE SUV TAHOE THAT PULLED UP AT THE
11 REAR OF THE ENGINE COMPANY, AND AS WE'RE LETTING THE RESCUE
12 LEAVE TO GO TO THE HOSPITAL, HE'S GETTING IN THE DRIVER'S SIDE
13 OF THE VEHICLE, AND A FEMALE WITH A YOUNGER CHILD WITH A BLUE
14 SHIRT WAS GETTING IN THE LEFT SIDE OF THE VEHICLE.

15 Q DID YOU HAVE ANY CONVERSATIONS WITH THIS INDIVIDUAL?

16 A I DID. I NEEDED -- I STOPPED HIM AND I ASKED HIM, I
17 SAID, WHAT HAPPENED IN THIS INCIDENT, I NEED TO KNOW SO I CAN
18 PUT IT IN MY REPORT.

19 Q OKAY. DO YOU SEE THE INDIVIDUAL YOU SPOKE WITH IN
20 COURT TODAY?

21 A I DO.

22 Q AND WOULD YOU PLEASE IDENTIFY, WEARING SOMETHING
23 THAT SETS THAT INDIVIDUAL APART FROM EVERYONE ELSE IN COURT?

24 A HE'S SITTING TO THE LEFT OF ME, AND HE'S GOT ON A
25 BLACK SHIRT, ORANGE SOCKS.

1 MS. EDWARDS: FOR THE RECORD, IDENTIFYING THE DEFENDANT?

2 THE COURT: YES.

3 BY MS. EDWARDS:

4 Q OKAY. WHEN YOU SPOKE WITH THE DEFENDANT, WAS HE IN
5 THE CAR, OUT OF THE CAR, OR SOMETHING ELSE?

6 A STANDING OUT OF THE CAR. EXCUSE ME.

7 Q AND HOW CLOSE --

8 A HE WAS TRYING TO GET INTO THE DRIVER'S SIDE OF THE
9 VEHICLE, HE HAD THE CAR DOOR OPEN. LIKE I SAID, SHE WAS IN
10 THE FRONT, WALKING TO THE PASSENGER SIDE OF THE VEHICLE WITH A
11 SON, AND I WAS ABOUT, FROM ME TO THE DESK --

12 Q REFER --

13 A -- WHERE SHE'S SITTING. THIS ONE HERE, SORRY.

14 Q REFERRING --

15 A THIS DESK HERE.

16 Q REFERRING TO THE COURT REPORTER?

17 A YES.

18 Q AND SHE'S TWO, THREE FEET AWAY?

19 THE COURT: ACTUALLY SHE'S ABOUT SIX FEET.

20 THE WITNESS: SHE'S ABOUT -- YEAH, IT WAS ABOUT SIX FEET.

21 THE DESK WHERE SHE'S SITTING IS WHERE IT WAS AT, SO.

22 BY MS. EDWARDS:

23 Q OKAY.

24 A ANYWAY, I ASKED HIM, I SAID, WHAT HAPPENED, FOR THE
25 RECORD, SO THAT I COULD PUT IT IN MY REPORT.

1 Q OKAY. DID HE RESPOND TO YOUR QUESTION?
2 A HE DID.
3 Q DID HE RESPOND IN ENGLISH?
4 A HE DID.
5 Q WHAT WAS HIS RESPONSE?
6 A HE SAID THAT BOTH OF HIS SONS WERE PLAYING IN THE --
7 UM -- PLAYING ON THE BAR IN THE -- I ASSUME IN THE KITCHEN,
8 BUT SAID PLAYING ON THE BAR, AND -- UM -- HE TURNED AROUND TO
9 SEE HIS SON FALL OFF OF THE BAR AND HIT HIMSELF IN THE HEAD,
10 OR HID HIS HEAD ON THE FLOOR.
11 Q WHEN YOU HEARD THE DEFENDANT SAY THAT HIS SON FELL
12 OFF THE BAR, ARE YOU CLEAR THAT HE USED THE WORD BAR?
13 A YES.
14 Q DID YOU HAVE ANY TROUBLE UNDERSTANDING ANY OF THE
15 WORDS THAT HE SAID TO YOU?
16 A NO.
17 Q DID HE APPEAR TO HAVE ANY TROUBLE RESPONDING TO YOUR
18 QUESTIONS?
19 A HE DID NOT.
20 Q DID YOU EVER GO INTO THE HOUSE?
21 A I DID NOT.
22 Q AND WHAT DID YOU DO WITH THE INFORMATION YOU
23 OBTAINED FROM THE DEFENDANT?
24 A UM -- DUE TO THE CIRCUMSTANCES OF THE CHILD, THEY
25 WERE KIND OF ANXIOUS TO LEAVE AND FOLLOW THE AMBULANCE TO THE

1 HOSPITAL, SO I LET THEM GO, AND I DID TELL DISPATCH TO GET
2 METRO TO MEET EVERYBODY AT THE HOSPITAL, BECAUSE THAT'S WHERE
3 EVERYBODY WAS GOING TO BE, AND I LET HIM GO AFTER THAT, AND I
4 HOPPED IN THE ENGINE COMPANY WITH MY CREW, AND WE MET
5 EVERYBODY AT THE HOSPITAL.

6 Q DID -- AT ANY POINT IN TIME, AFTER YOU MET EVERYBODY
7 AT THE HOSPITAL, DID YOU TELL ANYBODY ELSE IN YOUR UNIT OR IN
8 THE FIRE DEPARTMENT WHAT THE DEFENDANT HAD REPORTED TO YOU?

9 A THERE WAS A METRO OFFICER THERE, AND HE WAS ASKING A
10 FEW QUESTIONS, AND I DID HEAR -- UM -- DELGADO (PHONETIC), I
11 THINK IS -- UH -- WAS THE OTHER FIREFIGHTER THAT WAS --

12 Q OKAY.

13 A -- IN THE RESCUE, BUT I DON'T WANT TO SAY WHAT HE
14 SAID, RIGHT?

15 THE COURT: RIGHT.

16 THE WITNESS: OKAY.

17 THE COURT: I THINK IT WAS A DIFFERENT QUESTION.

18 THE WITNESS: OKAY.

19 BY MS. EDWARDS:

20 Q THE QUESTION IS, DID YOU EVER TELL ANOTHER FIRE
21 DEPARTMENT PERSON THAT THE DEFENDANT HAD TOLD YOU HIS CHILD
22 FELL OFF A BAR?

23 A UH -- THERE WAS A METRO OFFICER STANDING WITH ME,
24 AND MY ENGINEER WAS, TRAVIS HOLLOWAY (PHONETIC, AND THERE WAS
25 ANOTHER FIRE DEPARTMENT PERSONNEL THERE, BUT I DON'T KNOW WHO

1 IT WAS.

2 Q DID YOU EVER TALK TO KLINE ABOUT WHAT YOU LEARNED AT
3 THE HOUSE?

4 A YES, I DID.

5 Q OKAY. AND DID YOU RELATE TO KLINE WHAT THE
6 DEFENDANT HAD TOLD YOU?

7 A YES, AND HE TOLD ME A DIFFERENT STORY, WHAT HE HAD
8 SAID, SO --

9 MR. REED: YOUR HONOR, I'LL OBJECT TO THAT, THAT'S A
10 CREDIBILITY DETERMINATION, THIS WITNESS IS NOT PROPER TO MAKE
11 AT THIS POINT.

12 MS. EDWARDS: IT'S NOT A CREDIBILITY ISSUE.

13 THE COURT: IT'S NOT A CREDIBILITY ISSUE, BUT I THINK IT
14 GOES BACK TO THAT OTHER ISSUE ABOUT POTENTIALLY HEARSAY.

15 THE WITNESS: YEAH.

16 MR. REED: THAT, TOO.

17 THE COURT: SUSTAINED.

18 MS. EDWARDS: HE'S ANSWERED THE QUESTION I ASKED.

19 THE COURT: YEAH, HE TALKED TO MR. KLINE ABOUT -- OR I
20 DON'T RECALL THE OFFICER.

21 THE WITNESS: WE -- TIM KLINE IS MY PARAMEDIC, WAS ONE OF
22 THE PARAMEDICS ON --

23 THE COURT: PARAMEDIC KLINE?

24 THE WITNESS: -- ENGINE 7 -- OR RESCUE 7. SO TIM KLINE,
25 PARAMEDIC KLINE WAS ON RESCUE 7, AND WE DID CONVERSE BACK AND

1 FORTH WHAT -- THE STORIES THAT WERE TOLD, AND THEY -- THEY
2 WEREN'T THE SAME.

3 MR. REED: AND, AGAIN, YOUR HONOR, I'M GOING TO OBJECT --

4 THE COURT: IT'S SUSTAINED. I'M STRIKING THE SAME PART.
5 BUT HE'S SAYING THAT HE EXCHANGED STORIES WITH TIM KLINE.

6 THE WITNESS: CORRECT.

7 THE COURT: THAT'S -- OKAY. THANKS.

8 THE WITNESS: IN THE PRESENCE OF THE METRO OFFICER THAT
9 WAS THERE, SO ...

10 THE COURT: THANK YOU.

11 BY MS. EDWARDS:

12 Q DO YOU HAPPEN TO KNOW IF THE INFORMATION YOU
13 PROVIDED TO PARAMEDIC KLINE, IF THAT ENDED UP IN THE REPORT
14 FOR THE RUN REGARDING THE CHILD TO THE HOSPITAL?

15 A MY INFORMATION?

16 Q YES.

17 A UH -- CHRISTOPHER HYINK (PHONETIC) IS THE ONE THAT
18 WROTE THE REPORT, AND I WOULD HAVE TO LOOK AT IT TO SEE IF
19 THAT WAS RELAYED IN THERE OR NOT.

20 Q AND WOULD THAT ASSIST YOU, IN RESPONDING TO THE
21 QUESTION, TO REVIEW THE REPORT?

22 A PARDON ME?

23 Q WOULD YOU LIKE TO REVIEW THE REPORT, SIR?

24 A YES, PLEASE.

25 MS. EDWARDS: MAY I APPROACH, YOUR HONOR?

1 **THE COURT:** YES.

2 **THE WITNESS:** DID YOU HAVE THE ONE FROM ENGINE 9?

3 **MS. EDWARDS:** NO, SIR.

4 **Q** IS THAT -- IS IT A DIFFERENT REPORT YOU'RE REFERRING
5 TO?

6 **A** YES.

7 **Q** OKAY. I'LL TAKE THAT BACK.

8 **A** THIS ONE'S THE RESCUE, AND THERE'S -- THERE SHOULD
9 BE ANOTHER ONE FOR THE ENGINE.

10 **Q** OKAY.

11 **MR. REED:** YOUR HONOR, I'LL OBJECT TO REFRESHING HIS
12 RECOLLECTION FROM A REPORT THAT HE DIDN'T AUTHOR, THAT WAS --

13 **THE COURT:** HE CAN REFRESH -- SHE CAN REFRESH HIS
14 RECOLLECTION WITH ANYTHING, BUT I -- I DON'T EVEN KNOW WHAT
15 THE QUESTION -- YOU ASKED IF HE -- THIS IS MY UNDERSTANDING OF
16 YOUR QUESTION. IF WHAT THE DEFENDANT TOLD THE CAPTAIN IS IN
17 THE REPORT; IS THAT RIGHT?

18 **MS. EDWARDS:** YES.

19 **THE COURT:** AND YOUR ANSWER WAS YOU DIDN'T KNOW?

20 **THE WITNESS:** CORRECT.

21 **THE COURT:** AND I DON'T KNOW THAT SHOWING HIM THAT
22 DOCUMENT IS GOING TO REFRESH HIS RECOLLECTION TO THAT. I
23 MEAN, DOES HE HAVE ANY -- IS IT -- IS IT GOING TO GIVE HIM
24 INDEPENDENT RECOLLECTION, HAS HE EVER SEEN THAT REPORT BEFORE?

25 **MS. EDWARDS:** HE REFERRED TO A REPORT REGARDING THE RUN

1 TO THE HOUSE. I PROVIDED HIM THE REPORT THAT I HAD, HE JUST
2 INDICATED THAT THIS ISN'T THE REPORT HE WAS REFERRING TO.

3 THE COURT: CORRECT.

4 MS. EDWARDS: THAT'S WHERE WE'RE AT, AT THIS POINT IN
5 TIME.

6 THE COURT: YEP, I AGREE.

7 MS. EDWARDS: OKAY. NO FURTHER QUESTIONS.

8 THE COURT: CROSS-EXAMINATION?

9

10 CROSS-EXAMINATION

11 BY MR. REED:

12 Q CAPTAIN, 35 YEARS, HAVE YOU EVER THOUGHT ABOUT
13 RETIRING YET?

14 A I'M THINKING ABOUT IT SERIOUSLY.

15 Q I BET.

16 ALL RIGHT. UM -- THERE IS NOT REALLY MUCH I WANT TO
17 ASK YOU ABOUT. THERE'S A COUPLE THINGS THAT YOU SAID ON
18 DIRECT THAT I WANT TO CLARIFY. LET'S START WITH -- UM -- AS
19 YOU APPROACH THE SCENE WHAT YOU SEE. THERE'S AN AMR THAT YOU
20 SAID -- UM -- WAS LISTENING FOR BREATH SOUNDS?

21 A A AMR MEDIC, YES.

22 Q AN AMR MEDIC.

23 A IN THE BACK OF RESCUE 9.

24 Q IN THE BACK OF RESCUE 9, LISTENING FOR BREATH
25 SOUNDS, AND THEN MR. KLINE, WHO YOU'RE FAMILIAR WITH, IS

1 INTUBATING THE PATIENT.

2 A CORRECT.

3 Q ALL RIGHT. IS THERE -- INTUBATING, MEANING CHEST
4 COMPRESSIONS, OR WHAT KIND OF INTUBATION?

5 A NO, STICKING A TUBE.

6 Q SO THE TUBE'S GOING IN AT THAT POINT?

7 A CORRECT.

8 Q SO THIS IS WHY I ASKED THAT TO CLARIFY. DO YOU SEE
9 THE PORTION IN WHICH CHEST COMPRESSIONS ARE DONE, AND THEN --
10 DID YOU EVER SEE CHEST COMPRESSIONS BEING DONE ON THE PATIENT?

11 A NOT WHEN HE'S PUTTING THE TUBE IN, NO, I DID NOT SEE
12 A CHEST COMPRESSION GOING ON.

13 Q ALL RIGHT. SO A TUBE GOES IN, DOORS CLOSE,
14 AMBULANCE LEAVES?

15 A YEAH. TUBE GOES IN, THEY DO BREATHE, THEY DO AN
16 AMBU BAG TO RAISE THE CHEST TO MAKE SURE THAT THE -- THE TUBE
17 IS IN A CORRECT LOCATION, AND THAT'S WHEN THE AMR MEDIC CHECKS
18 FOR BREATH SOUNDS.

19 Q OKAY. ALL RIGHT.

20 AND THEN YOU HAD MENTIONED THAT YOU'RE THERE FOR
21 SCENE SECURITY. WHAT DO YOU MEAN BY THAT?

22 A SCENE SAFETY. FOR MY GUYS TO --

23 Q YOU USED THE WORD SCENE SECURITY, I JUST WANT TO --

24 A YES, IT'S -- YEAH, A MISNOMER ON MY PART.

25 Q OKAY.

1 **A** YEAH, MY ERROR.

2 **Q** WHAT DO YOU MEAN BY SCENE SAFETY? WHAT IS YOUR
3 ROLE?

4 **A** WELL, IF IT'S -- DEPENDING ON THE CALL, IF IT'S A
5 MOTOR VEHICLE ACCIDENT, WE GOT TO SET UP DIFFERENT AREAS FOR
6 PATIENT CARE AND DIFFERENT AREAS FOR VEHICLES TILL METRO GETS
7 THERE TO TAKE CARE OF TRAFFIC. ON A -- ON A HOUSE, OR THIS
8 TYPE OF MEDICAL CALL, WE'RE THERE TO ASSIST WITH ANYTHING
9 NECESSARY FOR THE -- FOR THE PATIENT.

10 **Q** OKAY. SO YOUR SCENE SAFETY WAS TO ASSIST WITH THE
11 MEDICAL CARE OF THE PATIENT IN THIS CASE?

12 **A** YES. THEY CALLED FOR EXTRA BACKUP. SO MY MEDIC AND
13 MY -- MY FIREFIGHTER OFF THE ENGINE WENT AND ASSISTED RESCUE
14 9'S MEDIC AND RESCUE 9'S FIREFIGHTER.

15 **Q** AND YOU'RE THERE TO SUPERVISE THEM?

16 **A** YES.

17 **Q** TO MAKE SURE THEY'RE DOING EVERYTHING --

18 **A** YES. I'M TAKING NOTES. I USUALLY JOT DOWN ANY
19 MEDICATIONS OR PATIENT HISTORY OR ANY OTHER PERTINENT
20 INFORMATION THAT'S NECESSARY.

21 **Q** ALL RIGHT. NOW, YOU HAD TOLD THE COURT THAT --
22 UM -- YOU HAD TO ASK, OR YOU WANTED TO ASK, IF THEY WOULD
23 ANSWER THE QUESTION, WHAT HAPPENED, TO WHOMEVER WAS PRESENT,
24 SO YOU COULD PUT IT IN YOUR REPORT?

25 **A** CORRECT.

1 Q IS THAT STANDARD PROTOCOL?

2 A YES.

3 Q AND WHEN YOU PUT IT IN YOUR REPORT, I ASSUME THAT --
4 WELL LET ME JUST -- I DON'T WANT TO ASSUME.

5 IT'S NOT RECORDED, THE CONVERSATION, OBVIOUSLY?

6 A NO.

7 Q DO YOU TAKE NOTES?

8 A I DO.

9 Q AND WHERE ARE THOSE NOTES?

10 A I GIVE IT TO MY FIREFIGHTER TO -- FOR -- FOR THE
11 REPORT THAT HE PUT IN THE COMPUTER.

12 Q ALL RIGHT. AND SO YOU TAKE HANDWRITTEN NOTES,
13 THEY'RE GIVEN TO SOMEONE ELSE, WHO THEN TYPES UP THE REPORT?

14 A YES.

15 Q ALL RIGHT. IN THOSE HANDWRITTEN NOTES, DID YOU
16 VERBATIM WRITE DOWN THE CONVERSATION THAT OCCURRED WITH THE
17 DEFENDANT?

18 A YES.

19 Q YOU -- YOU KIND OF MOVED YOUR HEAD SIDE TO SIDE,
20 MOVED YOUR HANDS.

21 A YEAH.

22 Q YOU DIDN'T SEEM CERTAIN WITH THAT.

23 A JUST -- JUST WHAT HE HAD SAID IS WHAT I PUT DOWN ON
24 THE PAPERWORK, AND THEN THE FIREFIGHTER PUT IT IN THE REPORT.

25 Q RIGHT. AND THAT WOULD BE -- SO THE FULL STATEMENT

1 WAS THAT THE CHILD WAS PLAYING ON THE BAR, THAT WAS -- THOSE
2 ARE YOUR WORDS?

3 **A** THE CHILD WAS PLAYING ON THE BAR AND FELL OFF THE
4 BAR.

5 **Q** AND FELL OFF THE BAR?

6 **A** YEAH.

7 **Q** SO TO THE BEST OF YOUR RECOLLECTION THAT WAS THE
8 ENTIRE STATEMENT MADE BY THE DEFENDANT?

9 **A** YES.

10 **Q** ALL RIGHT. AND YOU DIDN'T ASK ANY FOLLOW-UP
11 QUESTIONS?

12 **A** NO. THE PATIENT WAS PACKAGED AND READY TO GO, THE
13 AMBULANCE WAS GETTING READY TO LEAVE, AND THEY WERE HOPPING IN
14 THEIR VEHICLE TO LEAVE, SO --

15 **Q** RIGHT.

16 **A** -- BEING A LITTLE BIT COMPASSIONATE WITH THE, YOU
17 KNOW ...

18 **Q** SURE.

19 **A** THEY NEEDED TO FOLLOW THE AMBULANCE TO THE HOSPITAL
20 TO CHECK ON THEIR CHILD.

21 **Q** SURE. SO YOU WERE ASSUMING THESE PEOPLE WERE GOING,
22 OBVIOUSLY, GO FOLLOW THE CHILD TO THE HOSPITAL?

23 **A** CORRECT.

24 **Q** RIGHT. AND YOU SO BY -- OUT OF COMPASSION YOU
25 DIDN'T WANT TO GET A LOT OF DETAIL AT THAT TIME?

1 A I DIDN'T, NO.

2 Q OKAY.

3 A BECAUSE IT WAS -- THE SCENE -- THE HOUSE WAS CLOSED,
4 EVERYBODY WAS GETTING READY TO LEAVE, AND I JUST NEEDED TO
5 KNOW FOR MY REPORT WHAT HAD HAPPENED TO THE CHILD.

6 Q RIGHT. AND BECAUSE, YOU ALSO KIND OF MENTIONED
7 THIS, YOU RELAYED THAT INFORMATION REALLY FOR THE PURPOSES OF
8 TREATING THE PATIENT WHEN THEY'RE INITIALLY TAKEN TO THE NEXT
9 SITE, WHICH WOULD BE THE HOSPITAL?

10 A CORRECT.

11 Q RIGHT. AND TO --

12 A WHAT TYPE OF A FALL, HOW -- HOW FAR OF A FALL IT
13 WAS, OR, YOU KNOW, THAT TYPE OF SCENARIO. THE HOSPITAL LIKES
14 TO KNOW WHAT TYPE OF A FALL IT WAS.

15 Q RIGHT.

16 AND YOU'RE AWARE THAT THEN, OF COURSE, THE POLICE
17 WILL FOLLOW UP FROM THERE IN TERMS OF DETAILS OF WHAT
18 HAPPENED?

19 A CORRECT.

20 Q DID YOU GO INSIDE THE HOUSE?

21 A I DID NOT.

22 Q ALL RIGHT. SO YOU DIDN'T DO ANYTHING TO BACKUP
23 ANY -- AS FAR AS THE STATEMENT ABOUT PLAYING ON A BAR AND
24 FALLING OFF?

25 A NO.

1 **MR. REED:** ALL RIGHT. UM -- OKAY.
2 (DISCUSSION BETWEEN MR. REED AND MS. LEMCKE.)
3 **MR. REED:** THANK YOU, CAPTAIN THAT'S ALL I HAVE.
4 **THE WITNESS:** OKAY.
5 **THE COURT:** REDIRECT?
6 **MS. EDWARDS:** NO FURTHER QUESTIONS, YOUR HONOR.
7 **THE COURT:** THANK YOU VERY MUCH FOR YOUR PATIENCE TODAY.
8 NEXT WITNESS?
9 **MS. EDWARDS:** PATRICK BURKHALTER.
10 **THE CLERK:** PLEASE RAISE YOUR RIGHT HAND.
11
12 **PATRICK BURKHALTER,**
13 CALLED AS A WITNESS BY THE STATE, AND HAVING BEEN FIRST DULY
14 SWORN TO TESTIFY TO THE TRUTH, THE WHOLE TRUTH, AND NOTHING
15 BUT THE TRUTH, TESTIFIED AS FOLLOWS:
16
17 **THE WITNESS:** YES, MA'AM.
18 **THE CLERK:** THANK YOU, SIR, PLEASE HAVE A SEAT.
19 I DO NEED YOU TO STATE YOUR FIRST AND YOUR LAST NAME, AND
20 TO SPELL BOTH FOR THE RECORD.
21 **THE WITNESS:** MY NAME IS PATRICK BURKHALTER,
22 P-A-T-R-I-C-K, B-U-R-K-H-A-L-T-E-R.
23 **THE COURT:** THANK YOU. YOU CAN PROCEED.
24 ///
25 ////

DIRECT EXAMINATION

1

2 BY MS. EDWARDS:

3 Q WHAT IS YOUR OCCUPATION, SIR?

4 A I'M AN EMT.

5 Q WITH -- UH --

6 A AMR.

7 Q -- WHAT COMPANY? I'M SORRY?

8 A AMERICAN MEDICAL RESPONSE, EMERGENCY MEDICAL
9 TECHNICIAN.

10 Q DO YOU HAVE ANY TRAINING OR EXPERIENCE TO BE AN EMT?

11 A YES, MA'AM, I'M CERTIFIED AS AN INTERMEDIATE
12 EMERGENCY MEDICAL TECHNICIAN.

13 Q WHAT DOES THAT MEAN?

14 A UM -- CERTIFIED IN A CERTAIN LEVEL OF CARE UP TO THE
15 INTERMEDIATE LEVEL, IT'S JUST BEFORE PARAMEDIC.

16 Q DID YOU TAKE ANY CLASSES FOR THAT CERTIFICATION?

17 A YES, MA'AM.

18 Q WHAT CLASSES DID YOU TAKE?

19 A IT'S A -- TRAINING FOR EMERGENCY MEDICAL TECHNICIAN.
20 THE LEVEL IS INTERMEDIATE, IS WHAT THEY CALL IT. IT'S A --
21 IT'S A CERTAIN CLASS YOU TAKE, ONE COVERS EVERYTHING.

22 Q HOW LONG HAVE YOU WORKED -- UH -- FOR AMR?

23 A THREE AND A HALF YEARS.

24 Q HOW LONG HAVE YOU BEEN AN INTERMEDIATE MEDICAL TECH?

25 A THREE AND A HALF YEARS.

1 Q WERE YOU WORKING THE AFTERNOON OR EVENING OF JUNE
2 6TH, 2013?

3 A YES, MA'AM.

4 Q WHILE YOU WERE WORKING DID YOU HAVE OCCASION TO
5 RESPOND TO 4720 TRIMWATER COURT?

6 A YES, MA'AM.

7 Q IS THAT IN LAS VEGAS, NEVADA?

8 A YES, MA'AM.

9 Q WHEN YOU RESPONDED -- UM -- WHY DID YOU GO INTO THAT
10 RESIDENCE?

11 A UM -- WE RECEIVED A CALL FOR A FALL OF A CHILD.

12 Q WAS THE FALL CLASSIFIED AT ALL?

13 A IT WAS CLASSIFIED AS A -- WE HAVE A SYSTEM AS A
14 BRAVO FALL FOR A -- SUPPOSE TO BE A MINOR INCIDENT OF A CHILD
15 THAT HAD FELL.

16 Q DO YOU REMEMBER APPROXIMATELY WHAT TIME YOU
17 RESPONDED TO THE SCENE?

18 A IT WAS EARLY IN THE AFTERNOON, EARLY EVENING. UM --
19 I HAD JUST STARTED SHIFT, SO IT MUST HAVE BEEN AROUND 5:00,
20 6:00, 7 O'CLOCK.

21 Q WHEN YOU RESPONDED, WERE THERE ANY EMERGENCY
22 PERSONNEL ALREADY AT THE RESIDENCE?

23 A YES. THE FIRE DEPARTMENT HAD ARRIVED SHORTLY BEFORE
24 WE DID.

25 Q WHEN YOU ARRIVED ON SCENE, DID YOU ENCOUNTER THE

1 PURPORTED -- OR THE PATIENT?

2 **A** UM -- THE PATIENT WAS IN THE BACK OF THE FIRE
3 DEPARTMENT'S RIG. I APPROACHED AND STEPPED INSIDE OF THE FIRE
4 DEPARTMENT'S TRUCK, AND THE PATIENT WAS ON THE GURNEY AT THAT
5 TIME.

6 **Q** DID YOU ASSIST WITH MEDICAL CARE OF THE PATIENT?

7 **A** YES, MA'AM.

8 **Q** WHAT DID YOU DO TO ASSIST WITH THE MEDICAL CARE OF
9 THE PATIENT?

10 **A** UM -- INITIALLY WHEN WE GOT THERE THE -- WHEN I
11 ARRIVED THE CHILD WAS IN RESPIRATORY ARREST, SO I GRABBED WHAT
12 WE CALL A BAG VALVE MASK, AND I STARTED VENTILATING THE CHILD?

13 **Q** WHAT IS THE PURPOSE OF THAT?

14 **A** TO TAKE OVER THE RESPIRATIONS, BECAUSE THE CHILD WAS
15 NOT BREATHING AT THAT TIME, SO I STARTED BREATHING FOR THE
16 CHILD.

17 **Q** OKAY. DID YOU NOTICE ANYTHING IN PARTICULAR THAT
18 SEEMED CONCERNING WHEN YOU FIRST ENCOUNTERED THE CHILD, OTHER
19 THAN NOT BREATHING?

20 **A** UM -- AT THE -- AT THE BEGINNING I WASN'T AWARE OF
21 LIKE THE COMPLETE CIRCUMSTANCES, BUT FOR A BRAVO LEVEL FALL
22 THE -- VERY UNUSUAL FOR THE CHILD TO BE IN A RESPIRATORY
23 ARREST TYPE OF CONDITION.

24 **Q** OKAY. DID YOU NOTICE ANYTHING SPECIFIC WITH RESPECT
25 TO THE CHILD'S -- UM -- APPEARANCE, THAT SEEMED CONCERNING TO

1 YOU WHEN YOU ENCOUNTERED THE CHILD?

2 **A** WHEN WE ARRIVED -- WHEN I ARRIVED ON THE SCENE, THE
3 CHILD WAS BLUE, INDICATING IT HAD NOT BEEN BREATHING, AND
4 THERE WAS SOME SECRETIONS AROUND THE MOUTH AND NOSE.

5 **Q** WHEN YOU SAY SECRETIONS AROUND THE MOUTH AND NOSE,
6 DO YOU REMEMBER WHAT COLOR THEY WERE?

7 **A** IT WAS MORE LIKE A SPUTUM IN NATURE, JUST LIKE
8 SPILT, IT WASN'T -- DIDN'T SEEM LIKE VOMIT OR ANYTHING.

9 **Q** DID YOU SEE ANY BLOOD SECRETIONS OR --

10 **A** NOT NECESSARILY, I DON'T REMEMBER NOTING ANYTHING
11 LIKE THAT.

12 **Q** AT ANY POINT IN TIME DID THE CHILD VOMIT, IF YOU
13 RECALL?

14 **A** NO, NOT WHILE I WAS PRESENT.

15 **Q** DID YOU TALK TO ANY OTHER INDIVIDUALS, NOT
16 NECESSARILY EMERGENCY PERSONNEL, BUT NONEMERGENCY PERSONNEL AT
17 THE SCENE?

18 **A** UM -- YES. THE CAREGIVER AT THE TIME, I WASN'T SURE
19 OF HIS STATUS, WITH WHOEVER WAS WATCHING THE CHILDREN, I
20 PRESUMED FATHER OR STEPFATHER, I WASN'T SURE OF THE NATURE OF
21 HIS POSITION TO WATCH THE CHILD, BUT I ASKED HIM WHAT
22 HAPPENED.

23 **Q** WHY DID YOU ASK HIM WHAT HAPPENED?

24 **A** TO TRY TO GET AN UNDERSTANDING OF THE NATURE OF THE
25 FALL ACCIDENT THAT HAD OCCURRED.

1 Q DO YOU RECALL WHAT THAT INDIVIDUAL LOOKED LIKE?
2 A YES, MA'AM.
3 Q AND DO YOU SEE THAT INDIVIDUAL IN COURT TODAY?
4 A YES, MA'AM.
5 Q WOULD YOU PLEASE IDENTIFY WHERE YOU SEE THE
6 INDIVIDUAL, AND WHAT SETS THAT PERSON APART FROM EVERYONE
7 ELSE?
8 A UM -- SETTING OVER THERE.
9 Q WOULD YOU DESCRIBE SOMETHING THE INDIVIDUAL'S
10 WEARING, THAT LEADS TO THAT PERSON THAT YOU IDENTIFY AS THE
11 PERSON YOU SPOKE TO?
12 A AT THE TIME YOU MEAN?
13 Q NO, TODAY IN COURT. YOU SAID --
14 A YEAH, HE'S SITTING -- HE'S THE GENTLEMAN OVER THERE
15 IN THE MIDDLE.
16 MS. EDWARDS: FOR THE RECORD IDENTIFYING THE DEFENDANT?
17 THE COURT: YES.
18 BY MS. EDWARDS:
19 Q WHEN YOU SPOKE -- YOU SAID YOU SPOKE WITH HIM TO
20 FIND OUT WHAT HAD HAPPENED TO THE CHILD; CORRECT?
21 A YES, MA'AM.
22 Q OKAY. DID HE PROVIDE A RESPONSE AS TO WHAT HAD
23 HAPPENED TO THE CHILD?
24 A AS WE WERE IN THE MIDDLE OF CARING FOR THE CHILD,
25 AND QUICKLY I HAD ASKED HIM WHAT HAD HAPPENED. HE SAID HE WAS

1 PLAYING ON THE TOP OF A CHAIR, LIKE A RECLINER TYPE CHAIR, AND
2 HE HAD FALLEN OFF, HITTING THE BACK OF HIS HEAD ON A TILE
3 FLOOR.

4 Q OKAY. NOW, WHEN HE WAS DESCRIBING WHAT HAD HAPPENED
5 TO THE CHILD, DID HE USE THE WORD RECLINER?

6 A UM -- INITIALLY NO. I ASKED HIM WHAT TYPE OF CHAIR,
7 AND THEN HE STATED A RECLINER.

8 Q OKAY.

9 AND DID HE TELL YOU SPECIFICALLY WHAT -- DID HE
10 OBSERVED THE CHILD FALL?

11 A INITIALLY WHEN I HAD ASKED HIM, IT WAS JUST REAL
12 QUICK, BECAUSE WE WERE KIND OF IN THE MIDDLE GIVING CARE FOR
13 THE CHILD, HE JUST SAID THE CHILD HAD FALLEN OFF THE BACK OF
14 THE CHAIR, AND HE INDICATED THE HEIGHT, HE GAVE ABOUT A WAIST
15 HIGH -- UH -- CHEST HIGH TYPE OF HEIGHT.

16 Q AND WAS THAT INDICATING ON HIS WAIST?

17 A YES, MA'AM.

18 Q AND DID HE TELL YOU WHAT DIRECTION THE CHILD FELL?

19 A NO, HE DID NOT AT THAT TIME.

20 Q OKAY. DO YOU RECALL TALKING TO METRO OFFICERS
21 ABOUT -- UM -- YOUR INTERACTION WITH THE DEFENDANT?

22 A ON SCENE?

23 Q UH -- NO, A COUPLE DAYS LATER.

24 A YES, MA'AM.

25 Q OKAY. AND DO YOU RECALL THEM ASKING -- UM -- WHAT

1 THE DEFENDANT SPECIFICALLY SAID TO YOU THE FIRST TIME YOU'D
2 ASK HIM WHAT HAD HAPPENED WITH THE CHILD?

3 A UM -- IT'S BEEN A COUPLE MONTHS, I CAN'T REMEMBER
4 EXACTLY WHAT WE HAD ALL SAID, BUT -- UM --

5 Q WOULD IT REFRESH YOUR MEMORY IF YOU WERE TO SEE A
6 TRANSCRIPT OF YOUR STATEMENT TO REFRESH YOUR MEMORY AS TO WHAT
7 WAS SAID?

8 A I GUESS, YEAH.

9 MS. EDWARDS: MAY I APPROACH, YOUR HONOR?

10 THE COURT: YES.

11 BY MS. EDWARDS:

12 Q DIRECTING YOU TO PAGE 4, IF YOU COULD READ -- IT'S
13 THE THIRD Q ON THE PAGE, AND YOUR ANSWER TO THE THIRD Q, AND
14 LET ME KNOW WHEN YOU'RE DONE.

15 A YES, I'M FINISHED.

16 Q OKAY. AND DOES THAT REFRESH YOUR MEMORY?

17 A YES.

18 Q OKAY. AND WHAT -- UM -- DID THE DEFENDANT PROVIDE
19 YOU WITH THE DIRECTION THE CHILD FELL?

20 A YEAH, HE SAID HE FELL BACKWARDS.

21 Q OKAY. SO HE FELL BACKWARDS FROM THE RECLINER, IS
22 THAT --

23 A YES.

24 Q -- FAIR?

25 DID HE DESCRIBE FOR YOU WHAT, IF ANYTHING, THE CHILD

1 DID AFTER THE CHILD FELL?

2 **A** UM -- NO, HE DID NOT EXPLAIN WHAT HAPPENED AFTER
3 THAT. SO I IMMEDIATELY HAD -- BEGAN RESUMING CARE FOR THE
4 CHILD.

5 **Q** OKAY. DID YOU REVISIT -- UH -- WITH THE DEFENDANT
6 WHAT HAPPENED TO THE CHILD?

7 **A** YES, MA'AM.

8 **Q** WHY?

9 **A** THE FIRST INITIAL TIME I HAD SPOKE TO HIM IT WAS
10 KIND OF REAL FAST, JUST TO GET A GIST OF WHAT HAPPENED. WE
11 INITIATED CARE FOR THE CHILD, AND AFTER THE AMOUNT OF CARE
12 THAT COULD BE PROVIDED ON SCENE, AND BEFORE THE FIRE
13 DEPARTMENT TRANSPORTED, I EXITED THE VEHICLE AND I ASKED HIM
14 ONE MORE TIME WHAT HAD HAPPENED, AND THAT'S WHEN WE HAD THE
15 SECOND ENCOUNTER.

16 **Q** OKAY. AND DO YOU RECALL WHAT HE TOLD YOU THE SECOND
17 TIME?

18 **A** THE SECOND TIME I ASKED HIM -- UM -- HOW HE FELL OFF
19 THE CHAIR, AND HE STATED TO ME THAT -- UH -- HE WAS PLAYING --
20 HE SAW HIM PLAYING ON A CHAIR, THAT HE HAD TURNED AROUND, AND
21 THEN WHEN HE TURNED BACK AROUND THE CHILD WAS LAYING ON THE
22 FLOOR.

23 **Q** SO FAIR TO SAY AT THAT TIME HE -- AT LEAST IN WHAT
24 HE TOLD YOU, HE DIDN'T DESCRIBE ACTUALLY WITNESSING THE FALL?

25 **A** YEAH, HE SAID THAT HE DIDN'T --

1 **MR. REED:** YOUR HONOR, I'M GOING TO OBJECT TO THAT LINE
2 OF QUESTIONS, THEY'RE IMPROPER QUESTIONS. WE'RE ABOUT TO GET
3 HER TO INSINUATE THAT HE'S CHANGING HIS STATEMENT IN SOMEWAY.

4 **THE COURT:** SUSTAINED.

5 **MS. EDWARDS:** YOUR HONOR, THE WITNESS TESTIFIED -- IF I
6 MAY?

7 **THE COURT:** WELL, IT'S SOMEWHAT -- I AGREE WITH MR --
8 WITH MR. REED. YOU CAN REPHRASE IF YOU WANT, BUT I THINK THE
9 WAY YOU PHRASED THE QUESTION WAS IMPROPER.

10 **BY MS. EDWARDS:**

11 **Q** SO YOU TESTIFIED THAT -- UM -- HE -- HE TOLD YOU THE
12 SECOND TIME THAT HE JUST TURNED AROUND AND SAW THE CHILD THE
13 ON THE FLOOR, CORRECT?

14 **A** YES, MA'AM.

15 **Q** THE SECOND TIME HE RELAYED TO YOU WHAT HAD HAPPENED,
16 DID HE INDICATE WHETHER OR NOT HE HAD OBSERVED THE FALL,
17 ITSELF?

18 **A** THE SECOND TIME HE INDICATED THAT HE HAD NOT
19 OBSERVED ANY FALL. HE SAID THAT HE WAS PLAYING ON TOP OF THE
20 RECLINER, HE TURNED AROUND, I'M NOT SURE WHAT HE WAS DOING,
21 THEN HE SAID HE TURNED BACK AROUND, THE CHILD WAS NOW ON THE
22 FLOOR.

23 **Q** OKAY. AT ANY POINT IN TIME DID YOU -- UM -- DO
24 CHEST COMPRESSIONS ON THE CHILD?

25 **A** NO, MA'AM. THE CHILD STILL HAD A HEART RHYTHM, BUT

1 HE WAS IN RESPIRATORY ARREST.

2 Q DID YOU EVER HAVE AN OPPORTUNITY TO NOTICE HIS EYES,
3 WHAT HIS EYES WERE OR WEREN'T DOING?

4 A UM -- THEY WERE UNRESPONSIVE AND THE PUPILS WERE
5 DILATED AT THAT TIME.

6 Q DID THAT INDICATE ANYTHING TO YOU AS FAR AS
7 APPROPRIATE TREATMENT FOR THE CHILD?

8 A UM -- WE ALWAYS, YOU KNOW, START WITH THE AIRWAY,
9 AND SO WE WERE MAINTAINING THE AIRWAY, BUT THAT WAS INDICATIVE
10 OF SOME TYPE OF BRAIN INJURY WITH THE DILATED PUPILS.

11 Q AS FAR AS YOUR PARTICIPATION IN THE MEDICAL CARE FOR
12 THE CHILD -- UM -- WAS THERE ANY SORT OF INDICATION AS TO
13 WHERE ON THE CHILD'S HEAD HE SUSTAINED THE INJURY WHEN HE
14 ALLEGEDLY FELL?

15 A UM -- I DIDN'T PROVIDE THE PHYSICAL TRAUMA
16 ASSESSMENT. UM -- I WAS MAINTAINING THE AIRWAY AT THE TIME OF
17 MY TREATMENT, SO I DIDN'T DO A PHYSICAL ASSESSMENT TO NOTE
18 WHERE ANY INJURIES WERE LOCATED.

19 Q OKAY. AT ANY POINT IN TIME DID YOU GO INTO THE
20 HOUSE?

21 A NO, MA'AM.

22 Q WHILE YOU WERE -- UM -- AT THE RESIDENCE, DID YOU
23 ENCOUNTER ANY OTHER NONEMERGENCY -- UM -- ADULTS WHO WERE AT
24 THE HOUSE, OTHER THAN THE DEFENDANT?

25 A NO, MA'AM.

1 **Q** HOW WOULD YOU DESCRIBE THE DEFENDANT'S DEemeanOR WHEN
2 YOU WERE SPEAKING WITH HIM?

3 **A** UM -- HE DIDN'T SEEM AWARE OF MAYBE THE POSSIBILITY
4 OF THE SITUATION, THE SEVERITY OF IT, BUT GIVEN THE STATUS OF
5 THE CHILD, EVEN WITHOUT MEDICAL CARE, IT WAS KIND OF OBVIOUS
6 THAT THE --- THINGS WERE GOING VERY BADLY AND -- UM -- DIDN'T
7 SEEM THAT HE WAS JUST -- UH -- APPROPRIATE ACTION FOR --
8 REACTION FOR THE SEVERITY OF THE INCIDENT.

9 **MR. REED:** I'M GOING TO OBJECT, YOUR HONOR, IT'S
10 NONRESPONSIVE.

11 **THE COURT:** I'M --

12 **MS. EDWARDS:** IT'S BASED ON HIS OBSERVATIONS OF THE
13 DEFENDANT.

14 **THE COURT:** HE ASK -- SHE ASKED FOR HIS DEemeanOR, I THINK
15 THE ANSWER FITS THE QUESTION, OBJECTION OVERRULED.

16 **MS. EDWARDS:** YOU CAN FINISH YOUR ANSWER, UNLESS YOU WERE
17 ALREADY DONE.

18 **THE COURT:** YOU SAID THAT IT WAS NOT APPROPRIATE, OR
19 DIDN'T SEEM APPROPRIATE?

20 **THE WITNESS:** UM --

21 **THE COURT:** DO YOU HAVE ANYTHING ELSE TO ADD?

22 **THE WITNESS:** HE JUST DIDN'T SEEM -- UM -- UPSET TO THE
23 SEVERITY OF THE SITUATION THAT WAS AT HAND.

24 **BY MS. EDWARDS:**

25 **Q** OKAY. AND AS FAR AS YOUR INTERACTION WITH THE

1 DEFENDANT, DO YOU RECALL IF HE TOLD YOU IF ANYONE ELSE WAS AT
2 HOME AT THE TIME?

3 **A** HE HAD ONLY TOLD ME THAT HE WAS UNDER THE CARE OF
4 THE -- THAT THERE WAS ANOTHER CHILD THERE THAT WOULD HAVE ONLY
5 BEEN THE OTHER PERSON.

6 **Q** OKAY. AT ANY POINT IN TIME DID YOU SEE WHO YOU
7 BELIEVED TO BE THE MOTHER OF THE CHILD AT THE SCENE?

8 **A** I SAW HER ARRIVE AS WE WERE LEAVING, I HAD NO
9 CONTACT WITH HER. SHE HAD JUST ARRIVED IN HER PERSONAL
10 VEHICLE AS WE WERE -- AS THEY WERE GETTING READY TO TAKE OFF
11 TO THE HOSPITAL WITH THE CHILD.

12 **Q** DID YOU HAVE AN OPPORTUNITY TO OBSERVE HER DEMEANOR
13 OR HER ACTIONS?

14 **A** YES.

15 **Q** AND HOW WOULD YOU DESCRIBE WHAT YOU OBSERVED?

16 **A** SHE WAS VERY FRANTIC AND UPSET.

17 **Q** AND WHY -- WHAT LED YOU TO DESCRIBE IT AS FRANTIC?

18 **A** UM -- SHE ARRIVED ON SCENE. SHE CAME OUT HER CAR
19 VERY QUICKLY, AND SHE WAS RUNNING BACK AND FORTH, ALL AROUND,
20 AND SHE WAS VERY UPSET. YOU COULD TELL THAT SHE WASN'T IN A
21 CALM MANNER.

22 **MS. EDWARDS:** NO ADDITIONAL QUESTIONS.

23 **THE COURT:** CROSS-EXAMINATION?

24 **MR. REED:** ALL RIGHT. COURT'S INDULGENCE FOR A MINUTE.

25 **THE COURT:** SURE.

CROSS-EXAMINATION

1

2 BY MR. REED:

3 Q MR. BURKHALTER, I WANT TO START OFF WITH THIS. DID
4 YOU DO A REPORT IN THIS CASE?

5 A I DID NOT WRITE A REPORT MYSELF, MY PARTNER WROTE
6 THE REPORT.

7 Q OKAY. SO THERE IS AN AMR REPORT, YOU JUST DIDN'T
8 AUTHOR IT?

9 A YES, SIR.

10 Q DID YOU REVIEW IT --

11 A NO, SIR.

12 Q -- BEFORE YOU TESTIFIED TODAY?

13 A NO.

14 Q AND ASIDE FROM YOUR CONTACT WITH THE POLICE, HAVE
15 YOU TALKED TO ANYONE ELSE ABOUT THIS CASE, ABOUT WHAT YOU
16 OBSERVED?

17 A NO, SIR.

18 Q ALL RIGHT. UM -- DID YOU TAKE ANY NOTES DURING THIS
19 TIME?

20 A AT WHAT TIME?

21 Q ANYTIME YOU WERE AT THE SCENE. ANY NOTES ABOUT THIS
22 CASE?

23 A NOT WRITTEN, OR I DIDN'T AUTHOR ANY -- AUTHOR -- I
24 DIDN'T WRITE ANY NOTES, NO.

25 Q OKAY. NOW, YOU HAD MENTIONED THAT THIS WAS A BRAVO

1 LEVEL FALL, IS HOW YOU DESCRIBED IT INITIALLY.

2 A YES, SIR.

3 Q ALL RIGHT. AND -- UH -- THAT'S NOT TOO SEVERE, IS
4 WHAT YOUR INDICATION IS, RIGHT?

5 A YEAH. THERE'S FOUR LEVELS, ALPHA, BRAVO AND
6 CHARLIE, DELTA. AND BRAVO BEING JUST -- UM -- THE FIRST OF
7 LIGHTS AND SIRENS TYPE OF EMERGENCY.

8 Q AND SO ONCE THE CHILD WAS ASSESSED, THOUGH, IT
9 BECAME A DEALT LEVEL; THAT'S CORRECT?

10 A YES, THAT WOULD BE -- YES, SIR.

11 Q IS THAT WHY AMR WAS CALLED OUT?

12 A NO, IT'S A DUAL RESPONSE SYSTEM. WE RESPOND TO ANY
13 CALLS THAT THE FIRE DEPARTMENT RESPONDS TO. ONCE THE FIRE
14 DEPARTMENT HAD REALIZED THE SEVERITY OF THE CALL, THEY CALLED
15 OUT A SECOND OF THEIR UNIT, SO THREE UNITS, TOTAL, CAME ON
16 SCENE.

17 Q AND SO THERE'S YOU AND YOUR PARTNER FROM AMR?

18 A YES, SIR.

19 Q WHAT'S THEIR NAME?

20 A MY PARTNER'S NAME?

21 Q YES.

22 A HIS NAME IS BRANDON GRAY (PHONETIC).

23 Q SO MR. GRAY IS THERE. WHAT'S HIS ROLE IN THIS?

24 A HE'S PROVIDING PATIENT CARE. UM -- WE WERE ALL --
25 THERE'S FOUR OF US IN THE BACK OF THE UNIT AT THE TIME

1 GIVING -- PROVIDING PATIENT CARE TO THE CHILD.

2 Q ALL RIGHT.

3 CAN YOU BE MORE SPECIFIC, WHAT IS HE DOING TO THE
4 CHILD?

5 A UM -- HE WAS GETTING READY -- WHAT WE CALL
6 INTUBATION TUBE, AND HE WAS PREPARING TO INTUBATE THE CHILD'S
7 TRACHEAL, WITH A -- SO IT WOULD HELP THE CHILD BREATHE, TO TAKE
8 OVER -- IT'S A MORE ADVANCED AIRWAY THAN JUST A BAG VALVE
9 MASK.

10 Q NOW, WHERE -- WHEN YOU ARRIVE ON SCENE, WHERE IS THE
11 CHILD?

12 A IN THE BACK OF THE FIRE DEPARTMENT'S TRUCK, ON THE
13 GURNEY.

14 Q SO THE CHILD'S ALREADY ON THE GURNEY IN THE TRUCK?

15 A YES, SIR.

16 Q SO THE FIRE DEPARTMENT BEAT YOU THERE?

17 A YES, SIR.

18 Q AND THEY BEGIN TO RENDER AID?

19 A YES, SIR.

20 Q AND THEN YOU JOIN IN?

21 A YES, SIR.

22 Q ALL RIGHT. NOW, WHEN YOU ARRIVE, IS -- IS -- IS
23 THERE SOMEONE FROM CITY -- DO YOU KNOW MR. KLINE, LET'S ASK IT
24 THAT WAY. KNOW MR. KLINE, THE EMT?

25 A YES. I DON'T KNOW HIM PERSONALLY, BUT IN THE YEARS

1 I'VE BEEN WORKING I'VE SEEN HIM SEVERAL TIMES ON SCENE, AND
2 I'VE RAN CALLS WITH HIM BEFORE.

3 Q SURE. DID YOU SEE HIM DOING CHEST COMPRESSIONS?

4 A NO, SIR.

5 Q NOT AT ANY POINT?

6 A AT NO TIME WE PROVIDED CHEST COMPRESSIONS, THE CHILD
7 HAD A HEART RATE THE WHOLE TIME.

8 Q ALL RIGHT. SO YOU NEVER PROVIDED CHEST
9 COMPRESSIONS, NOR DID MR. KLINE?

10 A NO, SIR.

11 Q OKAY. ALL RIGHT.

12 HAVE YOU LOOKED AT HIS REPORT, AT ALL?

13 A NO, I HAVEN'T READ ANY OF THE MEDICAL REPORTS.

14 Q SO NOBODY DOES CHEST COMPRESSIONS THAT YOU SEE?

15 A NO, NOT THAT I AM AWARE OF.

16 Q ALL RIGHT.

17 AND AS FAR AS WHEN YOU ARRIVE ON SCENE, I IMAGINE
18 THAT YOU TALK TO THE LAS VEGAS AGENCY AND FIND OUT WHAT
19 THEY'VE DONE, WHAT THE STATUS IS OF THE CHILD, RIGHT?

20 A YES, SIR.

21 Q OKAY. AND HE DIDN'T INDICATE TO YOU THAT HE HAD
22 DONE CHEST COMPRESSIONS WHEN YOU JOINED THE SCENE?

23 A NOT WHEN I ARRIVED. HE JUST -- I STUCK MY HEAD IN
24 THE RIG, HE SAID WE HAVE A CRITICAL PATIENT, AND I HOPPED IN
25 THE RIG AND STARTED USING THE -- PREPARING THE BAG VALVE MASK.

1 Q OKAY. WHO MADE THE DECISION ON WHAT EACH PERSON'S
2 ROLE WAS?

3 A SOMETIMES WE ALL JUST COLLABORATE WITH EACH OTHER,
4 BUT --

5 Q NO, I DON'T WANT SOMETIMES. WHO MADE THE DECISION
6 ON -- IN THIS CASE, ON WHAT YOUR ROLES WERE?

7 A WE ALL KNOW OUR LEVEL OF CARE, AND WE PROVIDE --
8 WHENEVER THERE'S NOT SOMETHING BEING DONE, WE ALL TAKE A
9 POSITION. THERE'S NOT NECESSARILY SOMEBODY WHO ALWAYS
10 COORDINATES IT, BUT HE, IN THAT TIME, BEING THE FIRST PROVIDER
11 ON SCENE, COULD COORDINATE IT.

12 Q OKAY. SO MR. KLINE IS THAT YOUR -- ARE YOU JUST
13 GUESSING, OR DO YOU REMEMBER THAT MR. KLINE SAID, YOU DO THIS
14 PART OF THE CASE?

15 A I CAN'T REMEMBER EXACTLY, BUT AS MY TRAINING I KNOW
16 WHAT TO DO, AND I JUST ACTED UPON WHAT WAS --

17 Q OKAY.

18 A -- NEEDED, WHAT WAS NECESSARY.

19 Q SO YOU DIDN'T TALK ABOUT IT, YOU JUST JUMPED IN?

20 MS. EDWARDS: OBJECTION, MISSTATES HIS TESTIMONY.

21 MR. REED: WELL, I'M TRYING TO GET IT STRAIGHT.

22 Q DID YOU GUYS TALK ABOUT IT OR NOT?

23 MS. EDWARDS: VAGUE AS TO IT.

24 MR. REED: DID YOU TALK --

25 THE COURT: HOLD ON. OKAY.

1 MR. REED: -- TO MR. KLINE -- I WILL CLARIFY.

2 THE COURT: OKAY.

3 BY MR. REED:

4 Q DID YOU TALK TO MR. KLINE, OR WHOEVER ELSE WAS IN
5 THE BACK OF -- WERE IN THE BACK OF THE TRUCK RENDERING AID?
6 THESE INDIVIDUALS ARE, MR. KLINE, WHOM YOU RECOGNIZE, IS
7 THERE, YES?

8 A YES, SIR.

9 Q THERE'S ANOTHER EMT OR FIRE PERSONNEL FROM THE CITY
10 THERE, TOO?

11 A YES, SIR.

12 Q SO TWO IN THE BACK OF A LAS VEGAS PARAMEDIC WITH THE
13 PATIENT?

14 A YES, SIR.

15 Q TWO. YOU AND YOUR PARTNER ARRIVE TO THE SCENE. YOU
16 WITH ME SO FAR?

17 A YES, SIR.

18 Q AND IS THERE A CONVERSATION THAT OCCURS AMONGST YOU
19 ABOUT WHAT YOUR ROLE IS GOING TO BE AND YOUR PARTNER'S ROLE'S
20 GOING TO BE?

21 A UM -- YOU KNOW, IN THE HEIGHTEN OF THE SITUATION, I
22 CAN'T REMEMBER EXACTLY WHAT WE WOULD HAVE SAID TO EACH OTHER,
23 BUT IT WAS INITIATED, AT SOME TIME, THAT I NEED TO GRAB THE
24 BAG VALVE MASK TO START VENTILATING THE CHILD, WHILE THEY SET
25 UP THE MORE ADVANCED PROCEDURES, WHICH WOULD BE THE INTUBATION

1 TUBE.

2 Q OKAY. AND THAT WAS WHO'S ROLE TO DO THE INTUBATION
3 TUBE?

4 A AT THE TIME IT WAS THE PARAMEDICS ROLE. MY PARTNER
5 AND MR. KLINE STARTED TO SET UP THE INTUBATION TUBE.

6 Q OKAY. WHEN YOU DESCRIBE THE CONVERSATION THAT YOU
7 HAD WITH THE DEFENDANT, YOU DESCRIBED IT AS QUICK; IS THAT
8 CORRECT?

9 A THE FIRST ONE, YES, SIR.

10 Q OKAY. THAT -- YOU'RE RIGHT, I'M SORRY, THE FIRST
11 CONVERSATION ON -- THIS IS RIGHT THERE WHEN YOU'RE BEGINNING
12 TO CARE FOR THE CHILD?

13 A YES, SIR.

14 Q AND WOULD IT BE FAIR TO SAY YOUR FOCUS IS ON THE
15 CHILD?

16 A YES, SIR.

17 Q AND RENDERING AID TO THEM?

18 A YES, SIR.

19 Q IS THAT WHY THAT CONVERSATION IS QUICK?

20 A YES, SIR.

21 Q AND WHEN YOU SAY QUICK, WHAT DO YOU -- WHAT DO YOU
22 MEAN BY QUICK? HOW LONG IS THAT?

23 A TEN, TWENTY SECONDS.

24 Q ALL RIGHT.

25 DOES THAT INCLUDE THE QUESTION AND THE ANSWER, OR

1 JUST THE WHOLE CONVERSATION WAS 20 SECONDS, OR JUST HIS
2 ANSWER? HIS, MEANING THE --

3 **A** THE WHOLE CONVERSATION, APPROXIMATELY 20 SECONDS.

4 **Q** ALL RIGHT. ALL RIGHT.

5 NOW -- NOW, THERE'S A SECOND CONVERSATION THAT
6 OCCURS AT SOME POINT LATER, THE CHILD -- NOW HAS THE CHILD
7 ALREADY LEFT WHEN THE SECOND CONVERSATION OCCURS IN THE
8 AMBULANCE WITH THE LAS VEGAS --

9 **A** THE DOORS WERE CLOSING, THEY WERE GETTING READY TO
10 LEAVE, AND I WAS GETTING READY TO APPROACH MY VEHICLE TO
11 FOLLOW THEM IN, AND THAT'S WHEN I ASKED HIM THE SECOND
12 STATEMENT.

13 **Q** OKAY. NOW, WHY ARE YOU GETTING READY TO FOLLOW
14 THEM? WHAT'S YOUR ROLE AT THAT POINT?

15 **A** I'M JUST -- MY PARTNER IS RIDING IN WITH THEM, SO I
16 NEED TO GO PICK MY PARTNER UP FROM THE HOSPITAL.

17 **Q** SO HE'S IN THE BACK OF THE LAS VEGAS FIRE DEPARTMENT
18 CARE UNIT, AND YOU DRIVE THE AMR AMBULANCE TO THE HOSPITAL TO
19 GET HIM?

20 **A** YES, SIR.

21 **Q** ALL RIGHT. THEN THAT'S WHEN YOU HAVE THE SECOND
22 CONVERSATION WITH THE DEFENDANT?

23 **A** YES, SIR.

24 **Q** AND IS THERE ANYONE ELSE PRESENT DURING THAT
25 CONVERSATION BESIDES YOU AND THE DEFENDANT?

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JONATHAN QUISANO,) No. 66816
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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 3rd day of July, 2014. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

CATHERINE CORTEZ MASTO
STEVEN S. OWENS

NORMAN REED
HOWARD S. BROOKS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

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c/o HIGH DESERT STATE PRISON
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BY Employee, Clark County Public Defender's Office