

Trial on the Merits
October 5, 2011

1 witness.

2 MR. BALDASSANO: State calls Kim Atkisson.
3 May I proceed, Your Honor?

4 THE COURT: You may proceed, Counsel.

5 **KIMBERLY ATKISSON,**
6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 BY MR. BALDASSANO:

9 Q. Please introduce yourself to the jurors.

10 A. My name is Kimberly Atkisson.

11 Q. What type of work do you do?

12 A. I'm a registered nurse.

13 Q. How long have you been a register nurse?

14 A. About six-and-a-half years.

15 Q. Tell us a little bit about your background,
16 your education and your training to enable you to be a
17 registered nurse.

18 A. I have a four-year degree, and I'm also
19 currently enrolled in a graduate program for nurse
20 education. My background is mainly in trauma, ER.
21 Right now I'm working with first-time pregnancy mothers.

22 Q. What hospital do you work at?

23 A. Currently?

24 Q. Yeah.

25 A. I work for Baylor College of Medicine now.

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1 Q. Going back to October of 2007, where were you
2 working?

3 A. Memorial Hermann, Texas Medical Center.

4 Q. And what type of work were you doing back in
5 October of 2007?

6 A. I was a trauma emergency room nurse.

7 Q. And what does that involve? What's a typical
8 day for a trauma nurse, without getting really gory?

9 A. Hectic. It's fast-paced. You have to think,
10 you know, quickly think and quickly assess.

11 Q. What is your job? What's your responsibility?

12 A. My responsibility is to be a patient advocate,
13 also to assess the patient, you know, provide
14 medications and follow orders.

15 Q. And is there a doctor or doctors working in the
16 ER with you?

17 A. Yes.

18 Q. And are there other nurses?

19 A. Yes.

20 Q. And so when somebody comes in, say, in a car
21 accident, does all the nurses and all the doctors go to
22 that one person; or are there some people just doing
23 other things?

24 A. Well, at Memorial Hermann, because it's a
25 trauma -- at Memorial Hermann, it's a Trauma 1. So a

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1 Code 3 means that everybody in the trauma basically
2 stops what they're doing. So that would be the only
3 situation where you would have everybody come to you, to
4 that client.

5 Q. Well, I'm going to call your attention back to
6 October the 19th of 2007.

7 MR. BALDASSANO: May I approach the
8 witness, Judge?

9 THE COURT: You may.

10 Q. (By Mr. Baldassano) I'm going -- have you seen
11 any medical records recently on the case we're here
12 about?

13 A. In February.

14 Q. Well, let me show you State's Exhibit No. 10
15 and ask you if you could take a look at those.

16 And do they look like, in State's Exhibit
17 10 -- are you familiar with those as being Memorial
18 Hermann Trauma Center records, at least in part?

19 A. Yes.

20 Q. Okay. And did you have an occasion to work on
21 the patient that came into the hospital -- be
22 involved -- on October 19th, 2007, somebody that
23 presented as a fire -- being involved or in a fire?

24 A. Yes.

25 Q. All right. And do you remember roughly about

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1 what time that was or what your shift was back then?

2 A. Oh, I worked 7:00 a to 7:00 p.

3 Q. And in a case like this that relates to these
4 records in State's Exhibit No. 10, what specifically is
5 your job, or what was your responsibility in this case?

6 A. In this case, I was kind of the nurse in
7 charge, well, you know, of him. I took over. So what I
8 did is I stood back while everybody did everything, and
9 I recorded. I recorded everything. And I also, after
10 it was -- everything was done, he was stabilized, I went
11 back into my nurse assessment.

12 Q. Okay. And when you say you recorded
13 everything, does that mean write it down?

14 A. Yes.

15 MR. BALDASSANO: May I approach the
16 witness, Judge?

17 THE COURT: You may.

18 Q. (By Mr. Baldassano) Ms. Atkisson, let me show
19 you what's labeled State's Exhibit No. 19. Is this the
20 same patient that you were working on?

21 A. Yes, sir.

22 Q. Okay. And is that the person in court today?

23 A. Yes, sir.

24 Q. Okay. When you say you were recording
25 information, what type of -- well, first of all, who is

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1 it -- are people speaking or yelling out information?

2 A. Only one person is to speak.

3 Q. Okay. And who is that?

4 A. The resident.

5 Q. Is that a doctor?

6 A. Yes, sir.

7 Q. And what does the resident, the doctor, yell
8 out? What type of stuff? And what do you record or
9 write down?

10 A. Right when he gets in there -- it depends.
11 With this, he was going right through the -- we knew it
12 was fire, you know, from the report. So it was getting
13 him stable, you know. So we just start from the head to
14 toe assessment. So you want to do your ABCs; airway,
15 breathing and circulation. So he started on that.

16 Q. Is he yelling things out like, he's breathing,
17 not breathing, that kind of stuff?

18 A. Exactly. And everybody is doing their part.
19 They're putting the monitor leads on him. They're
20 starting an I.V. if one hasn't already been done. You
21 have respiratory there for the intubation, if needed.

22 Q. Okay. And does the doctor say or yell out
23 anything about singed hair?

24 A. Yes.

25 Q. What does he say, and what do you write down?

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1 A. Singed hair and chest hair noted.

2 Q. And what does that mean to you, as a nurse?

3 A. Relevant. I don't think I've written that
4 before in a nurse assessment, so --

5 Q. Okay. So have you seen other people that were
6 taken out of fires?

7 A. Yes.

8 Q. Okay. And is that essentially burned hair?

9 A. Yes.

10 Q. And do you, in fact, write that down?

11 A. Yes.

12 Q. And where was it noted, or what did the doctor
13 say, that the singed hair was?

14 A. In the chest area.

15 Q. All right. And at that point, are you looking
16 at the patient, or are you somewhere else writing things
17 down on a desk somewhere?

18 A. The patient is probably no more further to me
19 than that chair, than this chair right here. So I'm
20 looking. And it's a touch screen, so I'm typing and
21 touching.

22 Q. All right. And what does that, as a nurse,
23 indicate to you, burned hair?

24 A. Close proximity to fire.

25 Q. Did he say anything else of note about the

1 patient that you wrote down?

2 A. Not that I recall.

3 Q. Okay. After that period of time, do you then
4 do anything else related to the patient as far as
5 assessing him?

6 A. Yes.

7 Q. What do you do?

8 A. I do a full head to toe assessment.

9 Q. What does that involve?

10 A. That involves -- I start from their head, and I
11 work all the way down to their toes. I'm going to check
12 the airway, breathing, circulation, the skin and make
13 sure it's intact.

14 Q. You might have noticed her hands smoking.

15 A. I know. I'm just talking. Sorry.

16 Skin intact. If there is any burns and
17 other injuries noted.

18 Q. And why do you do that if a doctor's already,
19 say, given the person the once over?

20 A. It's required by the State, and it's sound
21 nursing practice.

22 Q. Do you do that as a procedure in every case?

23 A. I do that with every patient.

24 Q. When you started at the head, what, if
25 anything, do you note about the defendant's, you know, I

1 guess head and face area. Is there anything noteworthy
2 there?

3 A. Do we happen to know where my documentation is
4 in this?

5 Q. I don't offhand. I'm hoping that you can --

6 A. Okay. Let me look for it.

7 Q. Okay. Sorry.

8 MR. BALDASSANO: May I approach the
9 witness, Judge?

10 THE COURT: You may.

11 THE WITNESS: Okay. I found it.

12 Q. (By Mr. Baldassano) All right.

13 A. So you're asking what my assessment was?

14 Q. Yeah. I think you said -- you kind of stated,
15 I went from head to toe. And I'm just going to go
16 through what you observed.

17 A. Okay. So my assessment was done at 5:00 a.m.
18 when I documented it. And so, his airway was maintained
19 with a vent. He was vented. He had a breathing tube.
20 His respiration were equal. His circulation, all the
21 pulses were present. Do you want me to go through all
22 of this?

23 Q. Yes.

24 A. Okay. His cardiac rhythm and sinus tach, which
25 means that his heart rate was elevated. His capillary

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1 focus, less than three seconds, so he was having good
2 circulation. There is edema in the throat interior, so
3 in this region here.

4 Q. What does that mean?

5 A. Swelling.

6 Q. Okay. Inside or outside?

7 A. Well, it would be inside.

8 Q. Okay.

9 A. The patient's unresponsive. He's in a --

10 *COURT REPORTER:* Judge, I'm sorry.

11 *THE COURT:* Ms. Atkisson.

12 *THE WITNESS:* I talk really fast.

13 *THE COURT:* If you could, just try to slow
14 it down a little bit.

15 *THE WITNESS:* Can I have some of my water?

16 *THE COURT:* Sure.

17 *MR. BALDASSANO:* You drink while she
18 catches up.

19 Q. *(By Mr. Baldassano)* Okay. We just talked
20 about the -- I guess the neck area or the throat. Did
21 you notice anything on the outside of the neck?

22 A. That it was swollen.

23 Q. Okay. Outside, as well?

24 A. Well, interior. So, you know, it's just edema
25 in the inside of his throat.

1 Q. Okay. Anything else about the head or the neck
2 of note?

3 A. He was placed in, like, a collar, a neck
4 collar.

5 Q. Do you know why that happened?

6 A. That's precaution. That's just part of the
7 protocol.

8 Q. Okay. Going down the body from the neck,
9 anything else?

10 A. He was also placed on a cervical board, which
11 is the board that they -- the red board here, so his --
12 the neck down. I listened to his breath sounds, and
13 they showed that it was clear and normal. I listened to
14 his heart sounds, and they were normal. I palpated his
15 chest, which was normal. I looked at his chest. And I
16 noticed that, you know, it's rising and falling like it
17 normally should on each side. I also checked for his
18 skin color.

19 Q. Anything about that of note?

20 A. Just regular and general. I wrote that it's
21 pink, so it was normal. I went down to his abdomen
22 there.

23 Q. All right. And I think you had noted earlier
24 the doctor said singed hair. Did you look for that, and
25 did you see that?

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1 A. Yes. And then I wrote on here injury
2 description; because they have different templets, so
3 you have to go on the computer. So injury description,
4 I wrote smoke inhalation and singed chest hair noted.

5 Q. Describe for us what you could -- what you saw
6 regarding the singed chest hair. Where was it?

7 A. I remember that it was up here, below the
8 clavicle.

9 Q. And how big an area was it?

10 A. They had shaved him, so it was just some
11 patches.

12 Q. Okay.

13 A. And they shaved him because of -- to put the
14 EKG leads on him.

15 Q. And where were these patches of singed chest
16 hair?

17 A. In this area, and then where -- like the area
18 where they shaved him, you know, near the nipple. I'm
19 trying to not use medical terms.

20 Q. Is that a medical term?

21 A. No, not a nipple. But I was, like, doing it in
22 my head.

23 Q. And was he relatively -- you know, had a lot of
24 hair on his chest?

25 A. Yes.

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1 Q. All right.

2 A. That's, hence, the shaving.

3 Q. Was the singed chest hair something that was --
4 what you saw consistent with what the doctor had said?

5 A. Yes.

6 Q. And anything further -- anything of note, going
7 beyond that, after you saw the singed chest hair?

8 A. As far as my assessment?

9 Q. Yes, as far as your assessment related to his
10 condition.

11 A. Yeah. I checked his abdomen, which is not
12 distended, so no trauma to there. And his pulses.

13 Q. Is that it?

14 A. And his pain, but he was intubated so --

15 Q. Okay. And was there any report, or did you
16 see -- or, I guess, since he's intubated, he's not able
17 to cough, right, no coughing? Or could a person cough?

18 A. I don't think so, no, not coughing. He might
19 have a gag reflex if the medication wears off.

20 Q. Did you or did anybody note anything about him
21 coughing or anything like that, if you know?

22 A. Not to my recollection, no.

23 Q. And did you look at him carefully?

24 A. I'm sorry?

25 Q. Did you look at him carefully?

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1 A. Yes.

2 Q. Any -- had you noted any redness on his skin
3 anywhere?

4 A. Not that I documented here --

5 Q. Okay.

6 A. -- in my nurse's notes.

7 Q. And the singed chest hair, I mean, if using my
8 body, where would it be as far as, you know, in the
9 general area? Am I just -- is it here?

10 A. Yes.

11 Q. Okay. Just here?

12 A. Yes.

13 Q. Okay.

14 MR. BALDASSANO: That's all I have, Judge.
15 I'll pass the witness.

16 THE COURT: Okay. Your cross.

17 MR. BARROW: I have no questions, Your
18 Honor.

19 THE COURT: All right. May this witness
20 be excused?

21 State, would you please call your next
22 witness.

23 MR. BALDASSANO: Ruben Hernandez.

24 THE COURT: Please have a seat in the
25 witness stand.