

1 not coerced in any way.

2 Any other findings and conclusions
3 requested by the State?

4 **MS. BYRNE:** No, Judge.

5 **THE COURT:** Okay. A pretty simple
6 matter. So, they are pretty short.

7 While the jury is out, why don't we
8 take a five-minute break -- restroom, drink water
9 break before we bring the jurors out, because they
10 have had a chance to do that. And then we will take
11 the afternoon recess a little later than usual.

12 **(Recess taken)**

13 **(Jury enters the courtroom)**

14 **THE COURT:** Thank you. Please have a
15 seat. Members of the jury, this witness has taken
16 the oath outside your presence.

17 Would you call her on the record?

18 **MS. BYRNE:** The State calls Amber
19 Dewalt.

20 **AMBER DEWALT,**
21 having been previously duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **Q. (BY MS. BYRNE)** Ms. Dewalt, could you
24 introduce yourself to the jury?

25 **A.** I'm Amber Dewalt.

1 Q. Currently, what do you do?

2 A. I'm currently in school for nursing.

3 Q. How long have you been a nursing student?

4 A. This will be my second semester.

5 Q. Prior to becoming a nursing student, how
6 were you employed?

7 A. I was employed as a CPS investigator.

8 Q. Okay. And when -- is CPS actually the
9 Texas Department of Family and Protective Services?

10 A. Right.

11 Q. Everybody calls it CPS, right?

12 A. Right.

13 Q. Okay. How long were you employed with that
14 department?

15 A. Seven and a half years.

16 Q. What was your job duty at that department?

17 A. To report allegations of abuse or neglected
18 children.

19 Q. How does it work? I guess there are case
20 investigators and then assigned case workers. Is
21 there a difference?

22 A. No. We're all workers, but there are
23 different types of CPS workers. My thing was
24 investigations. There are foster subcare workers.
25 Once we take custody of the child, there are

1 family-based workers that try to keep from -- from
2 the -- investigators from having to take custody of
3 the child.

4 Q. Okay. So, is it fair to say that there is
5 an investigative purpose, fact-finding purpose, and
6 then there is workers that take over cases after the
7 court system gets involved?

8 A. Those -- there is the fact-finding workers,
9 the investigators, which I was, then where we come
10 in, gather the facts, determine if we need to stay
11 involved as an agency or if we need to step out. If
12 we need to stay involved, then it's two routes we go;
13 either we take custody where we take -- kind of limit
14 the parents' rights that go to sub care worker. If
15 we stay involved without getting involved in the
16 legal system, that's the family based worker.

17 Q. Okay. So, at that time, you -- you would
18 basically receive calls, and you would be -- or you
19 would be assigned investigations based on calls made
20 to CPS?

21 A. Right.

22 Q. Okay. So, you were sort of the fact
23 finder?

24 A. Right.

25 Q. All right. And was that your role for the

1 seven and a half, eight years that you were at CPS?

2 A. That was my role for the -- my -- the first
3 year and a half, I was the family based worker.

4 Q. Okay.

5 A. And then the rest of the time, I was an
6 investigator.

7 Q. Okay. Were there any particular kinds of
8 cases that would be assigned to you to investigate;
9 or did it run a variety, run the gamut?

10 A. Well, in the beginning it was random. But
11 as I had been there and gained experience, I was put
12 in a special unit that would only handle certain
13 types of case.

14 Q. What types of cases were those?

15 A. They were serious -- seriously injured
16 children under the age of 4, I believe.

17 Q. Now, when a call is made to CPS, is it
18 assigned a priority level?

19 A. Yes.

20 Q. Okay. What would be the lowest priority
21 level?

22 A. The lower priority level is priority 2.

23 Q. Okay. And what is the highest priority
24 level?

25 A. One.

1 Q. Okay. What kind of goes into the
2 factors -- or what factors go into deciding the
3 priority level?

4 A. The main factors that go into it is the age
5 of the child, the type of injury the child has or
6 that's reported, and the circumstances surrounding
7 the situation.

8 Q. And all of these factors, they're based on
9 just somebody calling in?

10 A. Yes.

11 Q. Okay. So, you don't know whether that's
12 actually true or not; but it gets assigned?

13 A. Right. Right.

14 Q. All right. Now, were you assigned and did
15 you investigate a case involving a 15-day-old baby
16 named Josiah Fisher?

17 A. Yes.

18 Q. When were you assigned that investigation?

19 A. I was -- that's another question.
20 Actually, I received two reports on that family. The
21 first report was concerning the brother.

22 Q. Let me stop you.

23 A. Okay.

24 Q. On February 8, 2013, did you go out to
25 investigate a priority 1 call involving a baby?

1 A. Yes.

2 Q. Okay. Now, what location did you go to in
3 order to start your investigation?

4 A. I went to the sibling's school.

5 Q. Okay. Was that Ehrhardt Elementary?

6 A. Yes.

7 Q. All right. Now, while at Ehrhardt
8 Elementary, how many adults did you speak to?

9 A. I believe I spoke to two adults.

10 Q. Okay. And was that Karen Dugan and Angela
11 Hansen?

12 A. Yes.

13 Q. All right. Now, without going into
14 anything that they told you, what were your concerns
15 there? What did you want to do next?

16 A. I wanted to speak with the sibling next.

17 Q. Okay. And that would be Lexicon Acosta?

18 A. Right.

19 Q. Okay. And not going into anything that he
20 said, as well, from all of the conversations that you
21 had, everything that had been reported to you, what
22 did you decide to do next?

23 A. To locate that baby.

24 Q. Okay. Now, who gave you information about
25 where you might find the location of the baby?

1 A. The school did.

2 Q. Okay. And was that a location out on Five
3 Forks road?

4 A. Yes.

5 Q. All right. Now, it's not very far from the
6 school, is it?

7 A. Not -- no, not far at all.

8 Q. Okay. So, when you get over there, how
9 were you able to get into the property?

10 A. Can I ask a question?

11 Q. Sure.

12 A. Oh, are we talking about the dad's
13 property; or where I actually found the people?

14 Q. Okay. I'm sorry. Where did you actually
15 go?

16 A. I -- I -- I actually tried to find the
17 family at the dad's property.

18 Q. Okay.

19 A. But I found them at the dad's landlord's
20 property.

21 Q. Would that be the Dollhouse Limited shop?

22 A. Yes.

23 Q. Okay. Did you speak with Ms. Sherrill
24 Jenkins who advised you that the defendant and the
25 baby were at the shop?

1 A. Yes.

2 Q. Okay. And when I say "the defendant," do
3 you see Timothy Fisher in the courtroom today?

4 A. Yes.

5 Q. Can you point to him and identify him by an
6 article of clothing?

7 A. He is there in the blue shirt, dark blue
8 tie (indicating.)

9 **MS. BYRNE:** May the record reflect the
10 witness has identified the defendant?

11 **THE COURT:** Yes, ma'am.

12 **(Defendant Identified)**

13 Q. **(BY MS. BYRNE)** Okay. When you had gotten
14 there, do you recall the exact time or just that this
15 was in the afternoon?

16 A. It was in the afternoon. Probably between
17 2:00 and 3:00.

18 Q. Okay. Do you think that the records of
19 whether EMS came would be more accurate as to when
20 you got there?

21 A. Yes.

22 Q. Okay. When you arrived, where did you go?
23 Did you actually go into the shop?

24 A. When I arrived, I spoke with Mr. Fisher
25 outside the shop.

1 Q. Okay. And then we went into the shop. Did
2 you -- did you tell Mr. Fisher why you were there?

3 A. Yes.

4 Q. Okay. And did he bring you into the shop
5 so that you could see the baby?

6 A. Yes.

7 Q. Okay. And he cooperated with you and
8 allowed you to come in?

9 A. Yes.

10 Q. All right. Now, let's talk about when you
11 came into contact with the baby. Where was the baby
12 when you went inside the shop?

13 A. He was laying in an armchair about the size
14 of the chairs that we're sitting in now.

15 Q. Okay. And what did you observe about his
16 face?

17 A. When I walked up on him, when he was laying
18 in the chair, I could see that he had some bruising
19 on him. So, I picked him up and sat in the chair he
20 was laying in to get a really good look at him. And
21 I saw he had a scratch on his lip about an inch long;
22 around his eyes were red; and over his left lid, he
23 had a purple bruise; and he had a purple bruise on
24 the side of the -- right side of his head.

25 Q. Okay. What occurred as you were holding

1 the baby looking at him?

2 A. His right and left -- his right arm and
3 right leg started to jerk in unison, and it wasn't a
4 normal movement for a newborn.

5 Q. At that time you didn't have any formal
6 medical training?

7 A. Right.

8 Q. Okay. But based on your own personal
9 experience, life experience, what did you think that
10 could mean?

11 A. I thought that could mean that the baby had
12 a head injury.

13 Q. Okay. As you saw the baby -- when you say
14 that the right arm and right leg were jerking
15 involuntarily, what do you mean?

16 A. Like you want me to do it?

17 Q. If you can show with your arm.

18 A. Like this (indicating.)

19 Q. Okay. And it appeared very unnatural to
20 you?

21 A. Right.

22 Q. Okay. Could you see what, if anything, was
23 going on with the baby's eyes or face?

24 A. No, I couldn't see what was going on with
25 his eyes.

1 Q. Because you were looking at his arm and
2 leg?

3 A. At his -- right.

4 **THE COURT:** Okay. And let's not talk
5 over each other, please.

6 **THE WITNESS:** Sorry.

7 **MS. BYRNE:** Sorry, Judge.

8 **THE COURT:** Okay.

9 Q. **(BY MS. BYRNE)** When you observed the
10 jerking movements with the baby, what did you say?

11 A. I said: This baby needs to go to the
12 hospital. I'm calling 9-1-1.

13 Q. Okay. And is that what you did?

14 A. Actually, Ms. Jenkins said that the EMS
15 people were right next door to her and might be
16 quicker to walk over there. So, me and the father
17 walked over there.

18 Q. Okay. You go -- actually, did you make a
19 9-1-1 call, as well?

20 A. Yes. Yes.

21 Q. Okay. While you were on the phone with
22 911, did they ask you to make any observations about
23 the child?

24 A. Yes.

25 Q. Okay. And did you -- what did you go over

1 to the baby to look at, based on what 9-1-1 was
2 telling you?

3 A. I was going to the baby to see if he was
4 still breathing.

5 Q. Okay. And when you walked over to the
6 baby, at this point is he in the car seat?

7 A. Right.

8 Q. Okay. What did you observe?

9 A. The baby just stopped, like as if he was
10 sleeping; but his eyes were still open. And one eye
11 was fixed straight; and the other eye was fixed going
12 that way, to the side. And he was very still. And
13 then after like about 30 seconds, he kind of snapped
14 out of it and started crying.

15 Q. Okay. At that point did EMS arrive?

16 A. I don't remember if they arrived that -- I
17 know they arrived shortly after that.

18 Q. All right. Now, as this is going on, how
19 was Mr. Fisher? Like, was he calm? Excited? Upset?

20 A. No. He was calm.

21 Q. Okay. At that point what was done with the
22 child?

23 A. The EMS got the child and took the child to
24 the ambulance and got in the back of the ambulance.

25 Q. Okay. Now, at this point had you even

1 really had much opportunity to talk to Mr. Fisher?

2 A. No.

3 Q. Pretty much the first thing you saw was
4 something with the child?

5 A. Right. And --

6 Q. Okay. Now, when -- were you standing over
7 near the ambulance or by the child when EMS put him
8 in the back of the ambulance?

9 A. Yes. I went in the back of the ambulance
10 with the EMS and the baby.

11 Q. Okay. What did they do when they started
12 working on the child?

13 A. They took off his clothes.

14 Q. What did you observe when they took off the
15 clothing?

16 A. Purple bruises around the shoulder area.

17 Q. Okay. What happened while EMS -- when EMS
18 started working on the child in the back of the
19 ambulance?

20 A. The child's breathing slowed and he turned
21 gray in color.

22 Q. Okay. At this point, I mean, what are you
23 doing, just watching the whole thing happen?

24 A. I'm just looking and watching.

25 Q. Okay. And, again, you didn't -- you don't

1 know exactly what's going on with the baby at this
2 point. You just know something doesn't seem right?

3 A. Right.

4 Q. All right. Now, what -- what did the
5 defendant do?

6 A. The defendant -- at the time we were in the
7 ambulance?

8 Q. I mean, did he -- did he accompany you?

9 A. He wasn't in the back of the ambulance.
10 The EMS didn't want him back there.

11 Q. Okay.

12 A. So, they had him sit in the front next to
13 the driver.

14 Q. But he did go in the ambulance with the
15 baby to the hospital?

16 A. Right.

17 Q. Okay. And when you -- he gathered things
18 to take to the hospital?

19 A. Yes.

20 Q. Okay. I mean, to be fair, he listened to
21 what you were saying and did as you asked?

22 A. Yes, he did.

23 Q. Okay. When you arrived at the hospital,
24 what is done with the child?

25 A. They took the child somewhere. Exactly

1 where, I don't know.

2 Q. Okay. Now, I want to talk to you about the
3 first time that you began talking to the defendant.

4 A. Okay.

5 Q. Okay. Where -- where did you have a
6 conversation with him?

7 A. I had a -- a full conversation or full
8 interview with him at the hospital.

9 Q. Okay. And you actually spoke to him two
10 times, correct?

11 A. Yes.

12 Q. All right. Let's talk about that first
13 time.

14 A. Okay.

15 Q. That was in the hospital, right?

16 A. The first full interview was in the
17 hospital.

18 Q. Okay. Then where did the other interview
19 occur?

20 A. I talked to him briefly while we were
21 walking from Ms. Jenkins' shop next door to the EMS.

22 Q. Okay. Well, let's talk about that
23 interview first.

24 A. Okay.

25 Q. Okay. He was willing to talk with you?

1 A. Yes.

2 Q. Okay. Had he not wished to talk to you, he
3 certainly didn't have to?

4 A. He didn't have to.

5 Q. Okay. What did you -- what information
6 were you trying to gather?

7 A. I was trying to determine -- like get from
8 him how long -- what he knew about what was going on
9 with the baby, if he knew anything about the jerking.

10 Q. Okay. And did he tell you when the baby
11 was born?

12 A. Yes.

13 Q. Okay. And when was that?

14 A. January 21st, I believe.

15 Q. Could it have been January 24th --

16 A. Yes.

17 Q. -- 2013?

18 A. Yes.

19 Q. Okay. And did he tell you who was the
20 person that took the baby home from the hospital?

21 A. Yes.

22 Q. And who was that?

23 A. It was him.

24 Q. Okay. Did he kind of give you an outline
25 of what had occurred over the couple of days and who

1 may have helped watch the children at any -- any
2 point in time?

3 A. Yes.

4 Q. All right. Now, did he talk to you about
5 picking up the baby on February 7, 2013?

6 A. Yes.

7 Q. Okay. And did he say an approximate time
8 when he could have picked up the baby?

9 A. Yes. Yes, he did.

10 Q. Okay. What was that?

11 A. 9:00 p.m. or 10:00 p.m.

12 Q. All right. And did he say where he picked
13 the baby up from?

14 A. Yes.

15 Q. All right. Now, did he mention any
16 problems with the baby that night, that Thursday
17 night?

18 A. No.

19 Q. Okay. When did he say anything about the
20 child crying?

21 A. He said the baby was fussy that morning on
22 the 8th.

23 Q. So, Friday, February 8th, he mentioned the
24 baby was fussy?

25 A. Right.

1 Q. All right. And what did he say about it?

2 A. He just said the baby was fussy.

3 Q. Okay. And did he mention taking the other
4 child to school?

5 A. Yes.

6 Q. All right. And then did he mention whether
7 or not he went over to Ms. Jenkins' shop?

8 A. Yes.

9 Q. All right. And did you ask him about the
10 jerking motions that you had observed?

11 A. Yes.

12 Q. All right. At first, what did he tell you
13 about those jerking motions?

14 A. I asked him how long the baby had been
15 jerking like that, and he said since the 4th. Since
16 February 4th, the baby had been jerking like that.

17 Q. So, since the previous Monday, the baby had
18 been jerking unnaturally like that?

19 A. Yes.

20 Q. All right. Then what did he tell you?

21 A. And then I asked him why didn't he take the
22 baby to the doctor.

23 And then he said: Well, the baby had
24 been jerking like that since birth and the hospital
25 told him it was normal. So, he don't think anything

1 of it.

2 Q. Okay. Did this seem inconsistent to you?

3 A. Yes.

4 Q. Okay. What did he say about the scratches
5 on the baby's face?

6 A. I believe he said he didn't -- he didn't
7 notice the scratches. I can't really remember
8 exactly what he said about the scratches.

9 Q. Okay. And were most of the scratches
10 somewhat superficial?

11 A. Yes.

12 Q. Okay. I mean, that sort or certainly
13 wasn't the primary concern?

14 A. No, not at all.

15 Q. Okay. What about the bruises that you
16 noticed on the child? Did you ask about those?

17 A. Yes.

18 Q. Okay. And in that first conversation, what
19 did he say about the bruises that you observed on the
20 child's face?

21 A. He said he noticed the bruise on the side
22 of the child's face.

23 Q. So, he noticed bruises on the side of the
24 child's face?

25 A. Yes.

1 Q. Okay. And what did he say about how those
2 bruises got there?

3 A. He didn't know how it got there.

4 Q. And that's all he said, he had no idea?

5 A. At that time that's all he said.

6 Q. Okay. So, he didn't mention anything about
7 other people that had watched the baby at that time
8 or grandparents at that time?

9 A. No, not at that time.

10 Q. Okay. What did he indicate about the
11 bruises on the baby's body?

12 A. I didn't ask him about the bruises on his
13 body.

14 Q. Okay. Did he indicate whether he saw any
15 other bruises on the baby other than the face?

16 A. No.

17 Q. Okay. Did he specifically say he didn't
18 notice any other bruises?

19 A. No, he didn't specifically say that.

20 Q. Okay.

21 A. Wait.

22 Q. I'm sorry. Do you want to refresh your
23 memory?

24 A. Yeah. I'm looking at my documentation, and
25 I did document he didn't notice any other bruising.

1 Q. So, the bruises that he said he didn't know
2 how they occurred, you were talking about the bruises
3 on the face?

4 A. Right.

5 Q. Now, the bruises you mentioned -- where all
6 were the bruises that you saw on the body?

7 A. I saw -- besides the bruises on the face, I
8 saw bruises in the shoulder area.

9 Q. Okay. And what did he say about the
10 bruises on the shoulder?

11 A. I didn't ask him directly about the bruises
12 on the shoulder.

13 Q. Then which bruises was he talking about
14 when he said he didn't see them?

15 A. He --

16 **MS. WILLIAMS:** Objection, speculation.

17 **THE COURT:** Of course, don't guess;
18 but you may say if you know.

19 A. Okay. What was the question? I'm sorry.

20 Q. **(BY MS. BYRNE)** If you will take a look at
21 your report, was there any mention about -- I think
22 you just stated that he didn't see the bruises. What
23 bruises were you talking about?

24 A. He stated -- because I specifically asked
25 him about the bruises on the face. He said he

1 noticed those bruises, but he didn't know how those
2 bruises got there.

3 Q. Okay.

4 A. And he said he noticed the red around the
5 eyes.

6 Q. Okay.

7 A. And he said -- now when I do my
8 documentation, I don't document the questions that I
9 ask.

10 Q. Okay.

11 A. I just document the answers.

12 Q. Okay.

13 A. So, the next thing I wrote about the red
14 around the eyes is he didn't notice any other
15 bruises.

16 Q. Okay. So, we can't speculate as to what
17 bruises we're discussing at that point?

18 A. Right.

19 Q. Okay. And to be clear, in that
20 conversation he didn't mention anything about
21 grandparent or bruising being there when he picked up
22 the child?

23 A. No.

24 Q. Okay. Now, while at the hospital, did
25 you -- without going into anything anybody told you,

1 did medical staff give you an update about the
2 condition of the child?

3 A. Yes.

4 Q. Okay. Would it be fair to say that people
5 believed the child to be in serious condition?

6 A. Yes.

7 Q. Okay. Without going into what the opinion
8 was, was it indicated to you -- I'm trying to think
9 of the best way to ask this. Was there a concern
10 about how the injuries were inflicted?

11 A. Yes.

12 Q. Okay. After having that conversation with
13 medical staff, did you again go talk with Mr. Fisher?

14 A. Yes.

15 Q. Okay. Did you relay that conversation to
16 Mr. Fisher?

17 A. Yes.

18 Q. Was he then aware there was a concern about
19 how the injuries were inflicted to this baby?

20 A. Yes.

21 Q. In that conversation how did Mr. Fisher say
22 the bruise got there?

23 A. He stated -- he stated he didn't cause the
24 injuries, and then he stated that this is what
25 happens when you have to work and let someone else

1 care for your child.

2 Q. So, he said someone else?

3 A. Yes.

4 Q. And that was after you indicated to him
5 what the doctor told you?

6 A. Yes.

7 Q. How was his demeanor at the hospital? How
8 would you describe his emotions at the hospital?

9 A. He wasn't calm, like he was earlier. He
10 was -- he was a little upset.

11 Q. Okay. Do you see a wide range of emotions
12 when you're dealing with these cases?

13 A. Sometimes, yes.

14 **MS. WILLIAMS:** Objection as to
15 relevance.

16 **THE COURT:** Sustained.

17 Q. **(BY MS. BYRNE)** I assume that you continued
18 investigating and ultimately talked to several other
19 people?

20 A. Yes.

21 Q. Okay. Once a case -- I guess how long do
22 you stay on a case once you complete your
23 investigation?

24 A. It varies.

25 Q. Were you on this case much longer after

1 your investigation, or was it assigned a case worker?

2 A. I think I was on this case until the baby
3 turned 6 weeks old.

4 Q. Okay. And then your role is over?

5 A. Right.

6 Q. All right. And did you have anything else
7 to do with the case once the baby was six weeks old?

8 A. No.

9 **MS. BYRNE:** I pass the witness.

10 **THE COURT:** Thank you.

11 Cross-examination?

12 Q. **(BY MS. WILLIAMS)** Ms. Dewalt, who all has a
13 duty to report suspected child abuse or child
14 neglect?

15 A. Say that again.

16 Q. Who has a duty to report suspected abuse?

17 A. By law, professionals such as teachers,
18 doctors, medical professionals, they have to report.
19 But anybody who suspects that a child is being abused
20 or neglected can make a report.

21 Q. And would it be correct to say that when
22 you -- you talked to some of the doctors at the
23 hospital?

24 A. Yes.

25 Q. Dr. Peesyck (phon.)

1 A. I can't recall their names.

2 Q. Did you -- did you tell him in your opinion
3 you thought it could be abuse?

4 MS. BYRNE: Objection to relevance and
5 hearsay.

6 THE COURT: Sustained. Let me hear
7 the question again.

8 MS. WILLIAMS: I'm sorry. I know I'm
9 asking her what they said.

10 A. I was --

11 THE COURT: Excuse me. She objected.
12 So, let me hear your question again.

13 MS. WILLIAMS: Okay.

14 Q. (BY MS. WILLIAMS) Well, I'm sorry.

15 A. Okay.

16 THE COURT: Have a seat. Thank you.

17 Q. (BY MS. WILLIAMS) I --

18 MS. WILLIAMS: Thank you.

19 Q. (BY MS. WILLIAMS) Did you -- Ms. Dewalt,
20 did you tell the doctors that you thought it was
21 abuse?

22 MS. BYRNE: Objection to relevance.

23 THE COURT: Excuse me?

24 MS. BYRNE: Relevance as to what they
25 may have told the doctor at the hospital as to her

1 opinion of what may have happened to the child.

2 **THE COURT:** Sustained.

3 **Q.** (**BY MS. WILLIAMS**) Did you -- did you make
4 any remarks to the EMS people as to what you thought
5 was wrong with the baby?

6 **MS. BYRNE:** Make the same objection,
7 Judge.

8 **THE COURT:** She may answer that. Just
9 don't go into the conversation. Overruled.

10 **A.** I don't recall. I may have told EMS what I
11 observed.

12 **THE COURT:** No, no. Hold on.

13 **THE WITNESS:** Okay.

14 **THE COURT:** That's fine. Thank you.

15 **Q.** (**BY MS. WILLIAMS**) Okay. And you thought
16 the baby was having seizures?

17 **A.** That's what I thought.

18 **Q.** It's a great likelihood that you would have
19 shared that with EMS, wouldn't you?

20 **A.** Maybe.

21 **Q.** And you're trained that if there are
22 seizures, regardless of what they are caused by, it
23 could indicate a head injury?

24 **A.** From my experience, that's what --

25 **Q.** And it's -- are you saying it's not a part

1 of your training?

2 A. It's not necessarily, no.

3 Q. Now, you had some contact with the Fishers,
4 meaning Mr. Fisher and Tegan Shows on later at the
5 hospital. Do you recall that?

6 A. You mean later that day or --

7 Q. When they wanted to disconnect the baby
8 from life support.

9 A. There was a meeting at the hospital that
10 Mr. Fisher and Tegan were at.

11 Q. And Ms. Kimberly Doris was there, as well,
12 Ms. Shows' mother?

13 A. Yes.

14 Q. Okay. And probably -- was there about six
15 doctors?

16 A. There were a few doctors.

17 Q. Few doctors?

18 A. Yeah.

19 Q. And the doctors were recommending that the
20 baby be removed from life support?

21 **MS. BYRNE:** Objection, calls for
22 hearsay.

23 **THE COURT:** Sustained.

24 Q. **(BY MS. WILLIAMS)** And none of the family
25 that was there wanted to --

1 **MS. BYRNE:** Objection, calls for
2 hearsay.

3 **THE COURT:** Sustained. Please don't
4 ask questions that call for hearsay responses.

5 **Q.** **(BY MS. WILLIAMS)** Okay. Now, could you
6 tell us what size these bruises are that you think
7 you saw, that you saw on Josiah on his face?

8 **A.** The one on the side of his face was about
9 the size of a dime.

10 **Q.** A dime size?

11 **A.** Yes. Yes.

12 **Q.** And the other one was on his shoulder?

13 **A.** That one was about the size -- I would say
14 about half an inch long, and maybe a little bit wide,
15 a few centimeters wide.

16 **Q.** Okay. And what -- what color was the
17 bruise on his face?

18 **A.** It was purple.

19 **Q.** And the bruise on the shoulder?

20 **A.** Same color.

21 **Q.** Okay. So, it wouldn't be accurate if
22 anyone described the baby as one big bruise, would
23 it?

24 **MS. BYRNE:** I'm going to object to
25 somebody else's characterizations of the baby.

1 **THE COURT:** Sustained.

2 **Q.** **(BY MS. WILLIAMS)** Did you ever interview
3 the grandparents?

4 **A.** Which grandparents?

5 **Q.** Well, Mr. William Dickerson and his wife?

6 **A.** Yes.

7 **Q.** Okay. And did you tell them that they were
8 not allowed to go see Josiah Fisher in the hospital?

9 **A.** I don't recall if I told them that or not
10 when I interviewed them.

11 **Q.** Could you have?

12 **A.** It's possible. I just don't -- I don't
13 recall if I did.

14 **Q.** At some point in time, you learned that
15 Mr. Fisher -- Mr. Fisher had picked up the child late
16 Thursday night and that the child had been at the
17 Dickersons' home Wednesday and, excuse me,
18 Thursday -- Wednesday night and Thursday; is that
19 correct?

20 **MS. BYRNE:** I object to hearsay.

21 **THE COURT:** Sustained.

22 **Q.** **(BY MS. WILLIAMS)** Well, did you find any
23 other caretakers in your investigation besides
24 Mr. Fisher?

25 **A.** Yes.

1 Q. Who were the other caretakers besides
2 Mr. Fisher? Who had the care of Josiah?

3 A. The maternal great grandfather, I think
4 Mr. Wilkerson.

5 Q. William Dickerson?

6 A. Yeah, Dickerson.

7 Q. Uh-huh (affirmative.) And?

8 A. And his wife.

9 Q. And his wife.

10 Do you know whether or not he and
11 his -- do you know whether or not -- excuse me.
12 Never mind.

13 Now, at some point in your
14 communications with Mr. Fisher, did he explain to you
15 that he was upset Thursday night when he picked up
16 the baby?

17 **MS. BYRNE:** Objection, calls for
18 hearsay.

19 **THE COURT:** I think it comes in under
20 the rule of completeness. Overruled.

21 A. I don't recall.

22 **THE COURT:** I'm sorry. I guess you
23 need to clarify if it's the same conversation as we
24 have already heard about.

25 **MS. WILLIAMS:** Okay.

1 **Q.** **(BY MS. WILLIAMS)** Was it in the same
2 conversation that we have -- that you have discussed
3 before the jury that Mr. Fisher explained these --
4 did he explain to you that he was upset when he
5 picked up Josiah Thursday night late?

6 **A.** I'm not understanding the question.

7 **Q.** Well, Mr. Fisher told you that he picked up
8 Josiah and his son Lex late the evening -- the
9 evening of February the 7th from the Dickersons?

10 **A.** Right.

11 **Q.** You were aware of that?

12 **A.** Right.

13 **Q.** And that's why you interviewed them,
14 because they were the other caretakers who had had
15 responsibility for Josiah?

16 **A.** Yes.

17 **Q.** Okay. And it was all within a three-day
18 time frame that he had been cared by these three
19 different people?

20 **A.** Well, depends on who it's coming -- because
21 I got two stories --

22 **Q.** Okay.

23 **A.** -- about how long the baby was with who.

24 **Q.** Okay. Now, did you -- as part of your
25 investigation, did you have occasion to talk to Tegan

1 Shows?

2 A. Yes.

3 Q. And did you talk to the doctor who
4 delivered Josiah Fisher?

5 A. No.

6 Q. Did you -- were you ever -- were you aware
7 that he was in the hospital for seven days?

8 **MS. BYRNE:** I object to hearsay.

9 **THE COURT:** Sustained.

10 Q. **(BY MS. WILLIAMS)** You went to the school, I
11 think; and at that time -- during the time that you
12 were at the school finding out about the complaint,
13 you interviewed Lexicon Acosta?

14 A. Yes.

15 Q. And did you -- did you ask him whether or
16 not he was injured by any caretaker?

17 **MS. BYRNE:** Objection, calls for
18 hearsay.

19 **THE COURT:** Sustained.

20 **MS. WILLIAMS:** I'm not asking what he
21 said. I'm -- what -- I'm just asking if she said
22 that.

23 **THE COURT:** It's still an out-of-court
24 statement offered for the truth of the matter. So,
25 that is sustained.

1 **Q.** **(BY MS. WILLIAMS)** From looking at Josiah,
2 was there any bruise -- were there any bruises on his
3 scalp?

4 **A.** I didn't notice any.

5 **Q.** He had very -- he has very light-colored
6 hair?

7 **A.** I believe so.

8 **Q.** I'm sorry?

9 **A.** I believe so, yes.

10 **Q.** And his -- did you notice anything about
11 his fingernails?

12 **A.** That's kind of fuzzy, his fingernails.

13 **Q.** I beg your pardon?

14 **A.** I don't recall what his fingernails looked
15 like.

16 **Q.** Okay. And no one at the school ever told
17 you that the baby fell off the bed?

18 **MS. BYRNE:** Objection to hearsay.

19 **Q.** **(BY MS. WILLIAMS)** -- is that correct?

20 **THE COURT:** Ms. Williams, please don't
21 ask questions that call for hearsay responses. Thank
22 you.

23 **MS. WILLIAMS:** Pass the witness.

24 **THE COURT:** Thank you.

25 Any redirect?

1 **MS. BYRNE:** Briefly, Judge.

2 **REXCROSS-EXAMINATION**

3 **Q.** **(BY MS. BYRNE)** When you were holding the
4 baby and it began to jerk involuntary, are you
5 looking at his face and the front side of his body or
6 the backside?

7 **A.** The way I had him in my arms, the front of
8 him was kind of towards my chest. So, what was
9 really visible to me was like his side.

10 **Q.** Okay.

11 **A.** Side of him.

12 **Q.** So, he wasn't flipped facedown so you could
13 view his entire back?

14 **A.** No.

15 **Q.** All right. And then one other thing, you
16 mentioned something about two different stories. Did
17 the defendant tell you the time period that he was
18 saying the Dickersons had the baby?

19 **A.** Yes.

20 **Q.** Okay. And what did he say about that?

21 **A.** He said that the Dickersons had the baby
22 for three days and two nights.

23 **Q.** Okay. And then when you met with the
24 Dickersons, you learned otherwise?

25 **A.** Right.

1 Q. Okay. And was it you or somebody else that
2 the Dickersons showed paperwork about how they were
3 out purchasing land on the 5th of February?

4 A. They didn't --

5 **THE COURT:** You may answer.

6 A. They didn't show me paperwork, but they
7 told me what they were doing.

8 Q. **(BY MS. BYRNE)** Okay.

9 **MS. BYRNE:** I pass the witness.

10 **THE COURT:** Thank you.

11 **REXCROSS-EXAMINATION**

12 Q. **(BY MS. WILLIAMS)** You personally
13 recommended to the family that they remove Josiah
14 from life support; is that correct?

15 **MS. BYRNE:** I couldn't hear the -- I'm
16 sorry. I didn't understand the question. I can't
17 hear.

18 Q. **(BY MS. WILLIAMS)** Ms. Dewalt, did you
19 personally recommend to the family that they
20 remove -- that they agree for the removal of Josiah
21 from life support?

22 **MS. BYRNE:** Object to relevance.

23 **THE COURT:** Sustained.

24 **MS. WILLIAMS:** Pass the witness.

25 **THE COURT:** Thank you.

1 **THE COURT:** Thank you. You may have a
2 seat right here on the witness stand.

3 Let's see. Mrs. Lee, can you see what
4 piece of paper that is?

5 **THE REPORTER:** Yes, ma'am.

6 **PATRICK BROCKMAN,**
7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 **Q.** **(BY MS. BYRNE)** Sir, could you please
10 introduce yourself to the jury?

11 **A.** My name is Pat Brockman, paramedic for
12 Cypress Creek EMS.

13 **Q.** How long have you been a paramedic for
14 Cypress EMS?

15 **A.** A little over three years.

16 **Q.** What sort of educational background and
17 training do you have that qualifies you to be a
18 paramedic?

19 **A.** I took a year and a half -- a little over a
20 year and a half course, which was just shy of 800
21 hours, of clinical and schooling hours.

22 **Q.** Do you have any certifications or licenses
23 that allow you to be a paramedic?

24 **A.** I'm a certified paramedic.

25 **Q.** Now, has your entire career been with