

1 BY THE COURT: -- before we proceed. Let's take
2 about a ten-minute recess because I know that may be
3 lengthy.

4 (After a short recess, the following was made of record,
5 to-wit:)

6 BY THE COURT: Who does the State call as your
7 next witness?

8 BY MR. HARPER: We call Dr. Stephen Hayne, Your
9 Honor.

10 BY THE COURT: Dr. Stephen Hayne.

11 STEPHEN HAYNE,
12 having been duly and legally sworn, answered
13 questions on his oath as follows, to-wit:

14 BY THE WITNESS: Good morning, Your Honor.

15 BY MR. HARPER: May I proceed, Your Honor?

16 BY THE COURT: Yes, sir.

17 DIRECT EXAMINATION

18 BY MR. HARPER:

19 Q. Would you state your name, please, sir.

20 A. Stephen Timothy Hayne, sir.

21 Q. And Dr. Hayne, what is your profession?

22 A. I'm a physician practicing in the fields of
23 anatomic, clinical, and forensic pathology.

24 Q. Okay, sir. And do you currently have a position
25 with the state medical examiner's office?

26 A. I do, sir.

27 Q. And what is that position?

28 A. State pathologist with the Department of Public
29 Safety.

1 Q. How long have you held that position, Dr. Hayne?

2 A. Approximately seventeen, eighteen years, sir.

3 Q. How long have you been practicing in the area
4 in the field that you are now practicing in?

5 A. Almost thirty years.

6 Q. Dr. Hayne, if you would, tell us your education,
7 experience, and training that qualifies you in that field
8 of forensic pathology.

9 A. I graduated from medical school at Brown
10 University. I did my pathology training at Letterman Army
11 Medical Center at the Presidio at San Francisco.
12 Rotations at different institutions in the San Francisco
13 Bay area. I worked -- I went to two duty stations. First
14 at Fort Levinworth, Kansas, and Munsen Army Hospital
15 down -- Blachfield Army Hospital at Fort Campbell,
16 Kentucky. I worked in the north Alabama area, the Shoals
17 medical laboratory for two years. I worked in Mississippi
18 for going on some seventeen or eighteen years now. I have
19 been affiliated with the medical examiner's office
20 continuously and also work as senior pathologist at Rankin
21 Medical Center. Worked at other hospitals in the Jackson
22 metropolitan area. I also served as the medical director
23 of the laboratory at Madison County Medical Center and
24 also at the renal laboratories in Ridgeland, Mississippi.

25 Q. Okay, sir. And as a forensic pathologist, Dr.
26 Hayne, what do you primarily do? What is your primary
27 field? What does that involve?

28 A. The primary task is to come to conclusions as to
29 the cause and manner of death involving the death of

1 a human being. That requires most commonly contact with
2 coroners, with other investigative agents. Also
3 performing post mortem examinations or autopsies and
4 attempting to come to conclusions as to cause and manner
5 of death.

6 Q. Okay, sir. And, Doctor, approximately how many
7 autopsies have you performed since you've been practicing
8 as a forensic pathologist?

9 A. I don't keep an exact number but about
10 twenty-five thousand.

11 Q. And obviously a good many of those while you
12 were serving with the state medical examiner's office here
13 in Mississippi?

14 A. Yes, sir.

15 Q. And I'll ask you, have you been qualified to
16 testify in court before?

17 A. Yes, sir.

18 Q. Approximately how many times?

19 A. Twenty-five hundred, maybe three thousand times.

20 Q. Okay, sir. And, in fact, have you been
21 qualified to testify as an expert in the field of forensic
22 pathology right here in this court district and in Adams
23 County before?

24 A. Yes, sir. In this courtroom.

25 Q. How many times roughly? I know it's --

26 A. Ten or fifteen times, sir.

27 BY MR. HARPER: Your Honor, we would tender Dr.
28 Hayne as an expert in the field of forensic
29 pathology.

1 BY MR. CLARK: We'll accept him, Your Honor.

2 BY THE COURT: Let the record show that the
3 Court will accept the witness, Dr. Steven Timothy
4 Hayne, as an expert in the field of forensic
5 pathology. This Court has accepted this witness
6 numerous times in the past in such field, and the
7 Court finds that by virtue of his education,
8 training, experience, skill, and knowledge, that he
9 is so qualified and will be accepted. Now, again,
10 ladies and gentlemen, because he is accepted as an
11 expert witness, he will be allowed to give opinions
12 within his expertise. All right. Mr. Harper, you
13 may proceed.

14 BY MR. HARPER:

15 Q. Dr. Hayne, I'd like to direct your attention to
16 an autopsy that -- or to the date, specifically February
17 the twenty -- I believe it was the 22nd of this year,
18 2002, and ask if you had occasion to perform an autopsy on
19 that date on a six-month old or approximately six-month-
20 old infant child by the name of Chloe Madison Britt.

21 A. I did, sir. And the --

22 Q. Okay, sir --

23 A. -- autopsy started at 6:50 in the evening. The
24 autopsy was requested by the county coroner medical
25 examiner investigator of this county, the county of
26 jurisdiction. Mr. Lee requested that, and that request
27 was in compliance with the Coroner's Reorganization Act of
28 1986 Amended.

29 Q. Okay, sir. And if you would, Dr. Hayne, just

1 tell us briefly -- or what an autopsy entails for the jury
2 and for myself. What exactly you're talking about when
3 you're doing an autopsy on someone and what your purpose
4 for doing that is.

5 A. An autopsy or post mortem examination is
6 essentially defined by the term autopsy. Auto opsis, I
7 see, I observe, I look. The primary purpose is to come to
8 a conclusion as to the cause and manner of death. The
9 cause of death being the medical reason an individual
10 died, whether it be from a heart attack or gunshot wound
11 or literally thousands of possibilities. While the manner
12 of death is a classification of that death, whether it be
13 suicide, homicide, accident, natural, some cases pending
14 to additional information is gathered, and in rare cases,
15 undetermined. When one cannot come to a final conclusion,
16 An autopsy is an examination of a body, and the initial
17 step is not actually looking at the body but receiving
18 information concerning the death from the submitting
19 officer, in this case, Mr. Lee. That's followed by an
20 external examination, looking at the external surfaces of
21 the body, and always focusing on any aspect that may be
22 associated with the cause of death and the manner of
23 death. There is collection of evidence appropriate to
24 that step. Photographic documentation. I use body
25 illustration diagram sheets to document, the pieces of
26 paper, the findings that I'm observing, their locations,
27 and extent and size. That's followed by, then, an
28 internal examination, looking at the body organs after
29 opening the body. Looking at the head, looking at the

1 scalp, looking at the contents of the chest and abdominal
2 cavities to see if there's any evidence of injury or
3 disease at those locations, as well as collecting evidence
4 appropriate to that step of the examination. It's
5 followed after completion of that with a discussion of the
6 case with the submitting officer. Again, in this case,
7 Mr. Lee, county coroner medical examiner investigator.
8 Then a microscopic review of the tissues is performed.
9 Small segments of tissue are removed, and they are
10 reviewed under a microscope, and ultimately, if other
11 information is required, other agencies may be asked to do
12 certain procedures. To assist in the generation of the
13 final document. The cause and manner of death, the two
14 most important aspects of that document, and by the rules
15 of the attorney general of this state, the individual
16 performing a post mortem examination under the coroner's
17 office through the medical examiner's office must generate
18 a written report, must summarize the pertinent findings,
19 and also must come to a conclusion as to the cause of
20 death and the manner of death.

21 Q. Okay, sir. And just to clarify. As I
22 understand what you are saying, Doctor, you examined the
23 body, but your primary focus is to what the cause of death
24 was and in examining it, you pretty much concentrate on
25 that primarily. Would that be safe to say?

26 A. The examination of the body is focused driven.
27 It is essentially to assist an individual in coming to a
28 conclusion as to cause of death and manner of death.

29 Q. You might make observations about the body and

1 about other things, about other significant things but the
2 most significant thing and what you're looking for is what
3 caused the death?

4 A. Cause of death and then the classification of
5 that death.

6 Q. Okay.

7 A. The medical reason that that individual died as
8 well as the classification of the death into one of six
9 possibilities.

10 Q. Okay, sir. And referring back to the
11 individual, the child, Chloe Madison Britt, did you, in
12 fact, do those things in your autopsy with her?

13 A. I did, sir.

14 Q. Okay. Would you tell us about your autopsy.
15 What you were able to find and what your examination
16 showed you of Chloe Madison Britt.

17 A. On the external examination, there were injuries
18 consisting predominantly of bruises or contusions
19 medically. They were located over the forehead at several
20 sites, measuring up to approximately one inch
21 individually. There was also a bruise located on the back
22 of the scalp, extending to the left, measuring
23 approximately two and one half inches. There was also a
24 bruise located over the nose, measuring approximately one
25 quarter of an inch. There was also a contusion to involve
26 the upper lip that measured approximately one half inch,
27 and there was a tear of the frenulum just inside the
28 mouth. That piece of tissue that attaches the upper part
29 of the lip to the maxilla, the upper ridge that holds the

1 teeth, and there was a tear that measured approximately
2 one quarter of an inch located just inside the mouth.
3 There was also bruising located over the front surface of
4 the right thigh, measuring approximately one inch, and
5 there was also a bruise located over the front surface of
6 the left thigh that also measured -- or this measured
7 slightly larger, almost an inch and a half at that site.
8 So there were bruises located over the external surface of
9 the body, including the forehead, also the upper lip, the
10 nose, the back of the head, and there was also bruising
11 located to the front surfaces of both the right and the
12 left thighs, sir.

13 Q. Okay, sir. Did you notice anything or did you
14 observe anything concerning the rectum or rectal area?

15 A. I would include that in the internal
16 examination. On the internal examination, examination of
17 the lower gastrointestinal tract revealed the presence of
18 a contusion, measuring approximately one inch, and that
19 was located at approximately the nine o'clock area of the
20 rectum extending to approximately the ten o'clock to
21 eleven o'clock area, sir.

22 Q. You would have done that during your internal
23 examination?

24 A. Yes, sir.

25 BY MR. HARPER: May I approach the witness, Your
26 Honor?

27 BY THE COURT: Yes, sir.

28 (Mr. Harper hands the witness a glass of water.)

29 BY MR. HARPER: May I proceed, Your Honor?

1 BY THE COURT: Yes, sir.

2 BY MR. SERMOS: Excuse me, Your Honor. One
3 moment. May we move this back just a little bit?

4 BY THE COURT: Absolutely.

5 BY MR. SERMOS: We just can't see.

6 BY MR. HARPER: I am sorry.

7 (Mr. Sermos moves the easel so the defense table can see.)

8 BY MR. HARPER:

9 Q. Dr. Hayne, I am going to hand you what's been
10 marked as State's Exhibit 4 and ask if you'll look at that
11 and tell whether or not that -- I think that photograph
12 may be taken prior to your examination, but is that
13 consistent with what you saw when you made the examination
14 of the child?

15 A. It shows an injury located over the front
16 surface of the left thigh on the decedent, Chloe Britt.
17 That is the injury that I described measuring
18 approximately two inches located over the front surface of
19 the left lower extremity, sir.

20 Q. Okay, sir. I see the right lower extremity is
21 in there. Can you -- are you able to observe the injuries
22 that you noted there?

23 A. There's an injury located over the front surface
24 of the right thigh, and that is slightly smaller,
25 measuring approximately one inch, and it appears to be in
26 view in this photograph, sir.

27 Q. Okay, sir. You mentioned several. I'm going to
28 show you several photographs. Can you identify this
29 photograph, Doctor? It's State's Exhibit 6.

1 A. State's 6 is a facial view of the decedent, and
2 it specifically shows injuries that I have described,
3 injuries located over the upper lip as well as over the
4 forehead consisting of bruises located at those sites,
5 sir.

6 Q. Is that consistent with what you saw on that
7 date of February 22nd when you did your autopsy?

8 A. Yes, sir. Consistent and also documented.

9 Q. In fact, you took this photograph or it was
10 taken while at your direction; is that right?

11 A. That's correct, sir.

12 Q. I'll hold this one up, Doctor, and ask if you
13 can identify this one.

14 A. Yes, sir. This shows the facial area of the
15 decedent, and specifically it shows the bruises located to
16 the upper lip, sir. And in the very top of it, you can
17 see the bruises located over the forehead.

18 Q. Okay, sir. And, again, this photograph was
19 taken by you or at your direction?

20 A. It was taken by me, sir.

21 Q. And it fairly and accurately represents what you
22 saw on that particular day?

23 A. It does, sir.

24 Q. I hand you what's been marked as State's Exhibit
25 8 and ask if you'll look at that and tell me whether or
26 not you can identify what's in that photograph, please.

27 A. I can, sir.

28 Q. What is that, sir?

29 A. It shows a **tear** of the frenulum, a piece of

1 tissue attaching the upper lip to the upper jaw, sir.

2 Q. Okay. And, again, does that fairly and
3 accurately represent the injuries that you saw on that
4 child on the date of February 22, 2002?

5 A. It does, sir.

6 Q. Again, this was taken by you or at your
7 direction at the autopsy.

8 A. Taken by me, sir.

9 Q. Okay. I hand you what's been marked as State's
10 Exhibit 15 and ask if you'll look at that, and tell me
11 whether or not you can identify that photograph. Yes,
12 sir. It is the back of the head of the decedent and upper
13 part of the back of the decedent, sir.

14 Q. And is there anything significant in that
15 photograph that you can see?

16 A. There was a bruise located over the back of the
17 head extending towards the left ear, sir.

18 Q. And, again, this photograph was taken by you and
19 it fairly and accurately represents that injury that you
20 saw?

21 A. Yes, sir.

22 Q. Would you point that one out for us.

23 A. Right there, sir.

24 BY MR. HARPER: Please the Court, Your Honor.
25 I don't think this photograph -- I don't think it's
26 been published to the jury. May I publish it to the
27 jury.

28 BY THE COURT: You'll be allowed to do so.

29 That's number --

1 BY MR. HARPER: Number 15.

2 BY THE COURT: You will be allowed to publish
3 Exhibit 15 to the jury.

4 (Mr. Harper passes Exhibit 15 to the jury.)

5 BY MR. HARPER:

6 Q. I hand you now what's been marked as State's
7 Exhibit 14 and ask if you'll look at that and tell me
8 whether or not you can identify what's in that photograph?

9 A. Yes, sir.

10 Q. And would you tell us what that one --

11 A. It shows the back of the head of the decedent
12 and upper part of the back and shows a bruise starting in
13 the mid back area going towards the left back of the head,
14 sir.

15 Q. And I'll will hold that one up and ask if you
16 would point this out for us, please?

17 A. A bruise located here.

18 Q. Okay, sir. And that fairly and accurately
19 represents the injury you saw on the child, Chloe Madison
20 Britt, on February 22nd at the time of your autopsy?

21 A. Yes, sir.

22 Q. And you took this photograph also?

23 A. I did, sir.

24 BY MR. HARPER: Again, Your Honor, I don't think
25 this one has been --

26 BY THE COURT: You will be allowed to publish
27 that one to the jury also.

28 (Mr. Harper passes Exhibit 14 to the jury.)

29 BY MR. HARPER:

1 Q. Finally I would hand you what's been marked as
2 State's Exhibit 5 and ask if you'll look at that
3 photograph and tell me whether or not you can identify
4 what's in that photograph.

5 A. Identify what is in --

6 Q. Yes, sir.

7 A. What it depicts, sir?

8 Q. Yes, sir.

9 A. It depicts the bruise located to the rectum of
10 the decedent, sir. That photograph was taken by me during
11 the course of the post mortem examination.

12 Q. Okay, sir. I'll ask you, Dr. Hayne. What
13 would that be indicative of, the injuries that you saw to
14 the rectal area, if you can answer that question.

15 A. It would be consistent with penetration of the
16 rectum with an object, sir.

17 Q. Okay. Now, I didn't mean to interrupt you, but
18 I thought it might behoove us to go ahead and go through
19 the pictures. So you've testified about your external
20 examination and what you were able to see. What, if
21 anything, did you do after that, Dr. Hayne?

22 A. An internal examination was conducted. The
23 bruise was identified in the rectal area, and of greater
24 importance, I think, was the presence of significant
25 injury to the head area. When the scalp was reflected,
26 there were bruises located over the scalp. There was also
27 as the calvarium or skull cap was removed. There was also
28 a collection of blood located between the skull and the
29 brain itself, and it -- what's called the subdural space,

1 collection of a volume of approximately thirty CC's which
2 would be several tablespoons of blood located at that
3 site.

4 Q. Would that be normal for that -- for that blood
5 to be in the --

6 A. No. It would indicate injury. It would
7 indicate trauma had occurred.

8 Q. For in laymen's term if you would for me and
9 whoever else might -- would you tell us -- as I understand
10 it, Dr. Hayne, you actually take the skull, open it, and
11 where you can see inside. Would that be correct?

12 A. Yes, sir. Initially you make an incision going
13 over the top of my head -- if I may use my finger --
14 behind each ear. The scalp is moved forward and back
15 exposing the skull cap itself, and located underneath the
16 skin surface of the scalp itself, there were multiple
17 bruises as I indicated. After removal of the skull cap
18 itself, there was a collection of blood between the inner
19 surface of the skull and outer surface of the brain.
20 There are small bridging vessels, small veins that go from
21 the inner surface of the skull to the outer surface of the
22 brain, and when the head is injured, there's transfer of
23 force. The brain usually oscillates back and forth, and
24 it will **tear** these vessels, and that will allow for the
25 collection of blood in that space, the subdural space,
26 between the inner surface of the skull and the outer
27 surface of the brain. There's also other injury to the
28 brain itself, and that is that surface of the brain had
29 extensive hemorrhage or bleeding over it called a

1 subarachnoid hemorrhage. So when you actually held the
2 brain in your hand, that blood remained in contact with
3 the brain itself as opposed to the subdural hemorrhage
4 which was left inside the skull itself when the brain was
5 removed. There was also other injury that was
6 identifiable and subsequently confirmed by microscopic
7 examination. That is that the eyes when they were
8 enucleated or removed and sectioned. There was obvious
9 blood in those in the chambers of the eye and the optic
10 nerves that run to the eye from the brain also had
11 hemorrhage that one could readily recognize at the time of
12 the autopsy. The eye is actually part of the brain. It's
13 an extension of the brain. So it's included in the
14 examination of the brain, and there was, I felt,
15 significant -- there was bleeding inside the eyes called
16 retinal hemorrhages as well as bleeding over the surface
17 of the scalp, bleeding between the inner surface of the
18 skull and the brain and also bleeding over the surface of
19 the brain itself.

20 Q. Would you term it incidental bleeding in these
21 areas that you've described or excessive bleeding? How
22 would you term that?

23 A. I consider them lethal.

24 Q. Lethal.

25 A. Lethal. It would produce death, sir.

26 Q. Okay, sir. Now, you have some charts, Dr.

27 Hayne. Did you want to show us anything in regard to
28 these -- what you told us in --

29 A. I think it shows on that one chart the bleeding

1 over the surface of the brain.

2 Q. Would you --

3 BY MR. HARPER: Your Honor, if it please the
4 Court, we'd ask that he be allowed to come down and
5 show them the charts.

6 BY THE COURT: He'll be allowed to step down if
7 he needs to testify.

8 (Witness steps down.)

9 BY MR. HARPER: Let's move it up where the jury
10 can see it better, if I don't drop it.

11 BY THE COURT: Again, defense counsel and the
12 defendant may move around so that they can see --

13 BY MR. HARPER:

14 Q. Dr. Hayne, before we start, let me just ask you.
15 These diagrams are part and parcel of your autopsy report;
16 is that correct?

17 A. Yes, sir. They're made during the course of the
18 post mortem examination.

19 Q. Okay, sir. And, if you would, what does this
20 particular chart depict?

21 A. They're several different views of the brain,
22 looking down on the top of the brain, looking at the
23 bottom of the brain upward, and looking at the left side
24 of the brain, and also looking at the right side of the
25 brain, and on the illustrations, I added notes essentially
26 indicating by the cross checks that there was extensive
27 bleeding in the subarachnoid space on the surface of the
28 brain itself. That there were no contusions or bruises
29 and no tears of the brain itself. Also indicated that

1 there were no fractures. They were no breaking of the
2 bones composing of the skull, skull cap, base of the
3 skull, and other bones structures. Also indicated that
4 there was a collection of approximately thirty CC's of
5 blood in the subdural space. That space -- may I draw on
6 this?

7 Q. Yes, sir. Absolutely.

8 A. If you look at the skull, we've opened it. The
9 brain will sit approximately like that, and there was a
10 space between the inner surface of the skull and outer
11 surface of brain. The subdural space and that is the
12 bleeding that I am referring to down here. There's a
13 collection of blood in this space, and in addition, there
14 was bruising eluded to, involved the scalp in several
15 locations. Some of which were visible on the external
16 examination. Bruises located underneath the scalp --

17 Q. Let me interrupt you a second. When you got
18 into the internal examination, you found more bruising
19 than what you were able to see from the external --

20 A. Yes, sir.

21 Q. -- examination by eye.

22 A. That's correct, sir. And then on the surface
23 of the brain itself were the areas of bleeding, the
24 subarachnoid hemorrhage, and if one looks at the optic
25 tracts, part of the cranial nerves that go to the eye.
26 There was also bleeding around those structures, and when
27 one examined the eye itself and a cross section of it, the
28 several layers of the retina and they were bleeding in
29 multiple layers of the retina, inside of the eye itself,

1 and extending to the optic nerve which runs back to the
2 brain.

3 Q. Okay, sir. All right. Thank you, Doctor. You
4 indicated earlier that what you observed there would be
5 lethal. Were you able to come to a conclusion as to cause
6 of death in this particular case?

7 A. Yes, sir.

8 Q. What was that?

9 A. It was consistent with the shaken baby syndrome,
10 sir.

11 Q. And would you tell the jury what you mean by
12 that, and if want to have a seat or if you want to use
13 your diagrams.

14 BY MR. HARPER: If the Court, please, Your
15 Honor. I ask that he be free to get up and come to
16 the charts if he needs to, to show something.

17 BY THE COURT: He'll have that option if he so
18 desires.

19 A. It would be consistent with a person violently
20 shaking a small child. Not an incidental movement of a
21 child, but violently shaking the child back and forth to
22 produce the types of injuries that are described as shaken
23 baby syndrome, which is a syndrome known for at least
24 forty-five years now. Coined by a Dr. Coffee who analyzed
25 several of these in Denver, Colorado, and the classic
26 triad for shaken baby syndrome is one, the presence of a
27 subdural hemorrhage; and, two, the presence of retinal
28 hemorrhage; and, three, the absence of other potentially
29 lethal causes of death. Other etiologies or causes of

1 death. So it's inclusionary and exclusionary. Both
2 inclusionary findings were present. The subdural
3 hemorrhage, the retinal hemorrhage, and also there was an
4 exclusionary competent. I did not find any other cause of
5 death, sir.

6 Q. You indicated that it would require what you
7 call violent shaking, and I know somewhat demonstrated.
8 How violent are we talking about, Dr. Hayne? I mean, is
9 this something --

10 A. The type of injuries that you can see that
11 parallel these are in motor vehicle crashes, falls from
12 significant heights and the like, sir.

13 Q. So we're talking about violent shaking?

14 A. We're talking about very violent shaking.

15 Q. Okay. And that was your determination as to
16 cause of death?

17 A. Yes, sir.

18 Q. Okay, sir. And did you make a determination as
19 to manner of death?

20 A. Yes, sir.

21 Q. And what was that?

22 A. I thought it was consistent with homicide, sir.

23 Q. Obviously the child was six months old. Could
24 she do this to herself?

25 A. No, sir.

26 Q. Okay. It would have to be someone else that did
27 it?

28 A. It was another person, sir.

29 Q. Violently shaken.

1 A. Violently shaking, producing these injuries
2 and, of course, there were other injuries that were
3 identified on the body, but were not participatory in the
4 death of the child.

5 Q. And, again, this is what your concentration on
6 is what caused the death. So I would assume that your
7 examination, although thorough, was on the head injuries?

8 A. Yes, sir. As opposed to a clinical physician
9 who is treating an individual who obviously is alive or
10 has a potential of being resuscitated, and that, of
11 course, focuses different than a person like me who I am
12 looking at the cause and manner of death, sir.

13 Q. Okay, sir. Now, Dr. Hayne, after you had
14 completed -- or if you would, just go on. You did your
15 internal examination. I believe you talked about some
16 microscopic -- you completed the complete examination as
17 you described to us earlier that you had performed.

18 A. Yes, sir.

19 Q. Okay, sir. What, if anything, else did you do
20 or if you would tell us anything of significance that you
21 were able to find during the course of your examination
22 other than what you've already described.

23 A. The other significant findings were the
24 collection of evidence.

25 Q. Okay, sir.

26 A. Photograph documentation, evidence that was
27 submitted to the Mississippi State Crime Lab.

28 Q. Okay, sir. Would that include the extraction of
29 blood from the victim?

1 A. Yes, sir. There were several tubes of blood
2 extracted, removed, phlebotomized for different reasons.
3 Toxicology, DNA, serology, and the like, sir.

4 Q. And those were transported -- transferred to the
5 crime lab --

6 A. Yes, sir.

7 Q. -- delivered to them?

8 A. Under the chain of custody.

9 Q. Yes, sir.

10 BY MR. HARPER: The Court will indulge me just
11 one moment, Your Honor.

12 (Mr. Harper and Mr. Rosenblatt confer.)

13 BY MR. HARPER:

14 Q. Dr. Hayne, getting back to your photographs, you
15 talked about the injury to the mouth and the frenulum, I
16 believe you called it?

17 A. Yes, sir.

18 Q. What would that be indicative of to you?

19 A. It could be insertion of an object in the mouth,
20 pulling of the lip, even pushing down on the upper part of
21 the jaw to produce that.

22 Q. Could be consistent with insertion --

23 A. It could be.

24 Q. Penetration?

25 A. Yes, sir.

26 BY MR. HARPER: The Court will indulge me one
27 more --

28 (Mr. Harper and Mr. Rosenblatt confer.)

29 BY MR. HARPER: Your Honor, I believe that's all

1 I would have, and we tender Dr. Hayne at this time.

2 BY THE COURT: Cross-examination.

3 BY MR. SERMOS: One moment, please, Your Honor.

4 (Mr. Sermos and Mr. Clark confer.)

5 CROSS-EXAMINATION

6 BY MR. SERMOS:

7 Q. Dr. Hayne, as far as your examination and I
8 don't want to even try to put words in your mouth, but,
9 essentially, the shaken baby syndrome here and the cause
10 of death and then the manner of death, those two things,
11 especially the shaken baby syndrome, that is a totally
12 separate item from any allegations or indications of
13 rectal or sexual abuse; is that correct?

14 A. The cause of -- yes. The cause of death that I
15 addressed was the shaken baby syndrome. The manner of
16 death, of course, is a product of the cause of death. The
17 other findings were separate, sir. They did not
18 constitute lethal injuries that would produce death in and
19 of themselves, sir.

20 Q. And then the next question is when you use the
21 word in your report "contusion" -- excuse me one moment,
22 please, and I'll get right to. You had used the word in
23 the rectum there would have been a contusion. In your
24 definition from a medical expert standpoint, is a
25 contusion and a **tear** the same thing?

26 A. No, sir.

27 Q. Okay. Would you please tell the jury what the
28 difference would be?

29 A. A **tear** is a laceration most commonly whether

1 it's a complete, full thickness disruption of the -- in
2 this case, the mucosal surface as opposed to a skin
3 surface. A contusion is a collection of blood underneath
4 the mucosal surface.

5 Q. Okay.

6 A. It's a product of tearing of vessels underneath
7 the skin or mucosal surface and bleeding at that site with
8 the subsequent collection of blood.

9 Q. So that could be caused by something different
10 than would cause a tear; is that correct?

11 A. Could be, or it could be the same object.

12 Q. If there were any tears down there in your
13 report when you put a contusion of the anus is noted, I
14 presume you would have also written tears were noticed
15 also; is that correct?

16 A. If I had seen them, I would put down
17 laceration. I did not see it in this case, and I did not
18 exclude it, but I just didn't see it.

19 Q. The next part of that is you mentioned in your
20 report on -- actually it's page two after your cover
21 sheet. You put well-formed stool is present within the
22 luminal space of the large bowel.

23 A. Yes, sir.

24 Q. Is the large bowel by what you're referring to
25 here, the descending colon?

26 A. It would include the descending colon, yes.

27 Q. Okay. So where the next question comes from is
28 this. At the time the baby was deceased, was in the
29 hospital, the other witness have testified that there was

1 feces coming out of the baby's anus and rectal area, and
2 that it was basically diarrhea type. Now, is there a
3 difference in diarrhea and well-formed stool?

4 A. Yes, sir.

5 Q. Okay. My next question would then be what would
6 cause -- if these witnesses testified to this that there
7 was diarrhea, loose bowels, and basically this was at the
8 time of death. When would the well-form stool form? Was
9 it already there?

10 A. I think the well-formed stool is already
11 present, and that would include the ascending as well as
12 transverse colon. Now, if there was injury to a lower
13 part of the colon that could be a transfer of fluid in
14 that site, and you can get a semi-liquid stool while you
15 have solid stool in the first part of the colon.

16 Q. Okay. And then that would go to the next part
17 of what you probably would have done -- it's not in your
18 report anywhere, and I don't presume it existed, but had
19 there been some damage into or of the descending colon,
20 you would have noticed that; is that correct?

21 A. I would have, sir.

22 Q. And when you stated that around the rectum or
23 the anular ring -- someone has talked about the anus or
24 the anular ring, the sphincter. That there was that
25 contusion there, and that could be caused -- I believe you
26 said by an object?

27 A. Yes.

28 Q. If an object had -- when you state that, the
29 object merely has to come into contact with the anus and

1 it doesn't necessarily imply any massive insertion, does
2 it?

3 A. No. It implies force.

4 Q. Right.

5 A. It implies injury to the mucosal surface
6 subsequently **tearing** the small vessels underneath the
7 mucosal surface.

8 Q. Okay. And then, shall we say, and I'll ask you
9 for your expert opinion on this also. If some object were
10 to have been inserted in that child's anus and even gone
11 into the descending colon or the rectal area and that
12 object were found, then that object should have either
13 some form of tissue, matter, blood, or feces on it.
14 Wouldn't you expect that?

15 A. I would expect to at least see fecal material
16 on it, sir. Maybe other items.

17 Q. Okay.

18 BY MR. SERMOS: One moment, please, Your Honor.

19 BY THE COURT: Certainly.

20 (Mr. Sermos and Mr. Clark confer.)

21 BY MR. SERMOS: We have no further questions,
22 Your Honor.

23 BY THE COURT: All right.

24 BY MR. HARPER: Just a few questions, Your
25 Honor.

26 BY THE COURT: Redirect.

27 REDIRECT EXAMINATION

28 BY MR. HARPER:

29 Q. Dr. Hayne, your examination, I believe you said,

1 was done roughly six o'clock on the 22nd?

2 A. Yes, sir. It was almost seven o'clock, sir.

3 Q. Okay, sir. Which my understanding that the
4 child came to the hospital was about 9:40 on the night
5 before. So it was about twenty-two hours or something to
6 that effect by the time you did your examination?

7 BY MR. SERMOS: Your Honor, we object to this
8 line of questioning. The State had the opportunity
9 to review this with the State's witness on direct.

10 BY MR. HARPER: Your Honor, they've asked some
11 questions. I think -- I am trying to lay some
12 predicate to ask some questions consistent with --

13 BY THE COURT: All right. Keep in mind your
14 redirect will be limited to matters brought out on
15 cross-examination.

16 BY MR. HARPER: I understand, sir.

17 BY MR. HARPER:

18 Q. My question to you, Dr. Hayne, with that length
19 of time, would some form of rigor mortis have set in on
20 this child at that point?

21 A. Yes, sir. The child was in full rigors, very
22 stiff.

23 Q. How could that affect, if at all, the rectal
24 area as far as how tight it was or loose, or could it
25 affect that?

26 A. It would contract it, sir.

27 Q. Okay.

28 A. But make the luminal diameter, the actual
29 diameter of the rectum smaller, sir.

1 Q. And if there were a tear in that -- a slight
2 tear or whatever, as it contracted, could be less visible
3 and, in fact, almost appear to be a contusion at that
4 point if it contracts to that extent. Would that be a
5 safe statement?

6 A. I think the contusions would remain. The small
7 tear, after we washed the body and after rigor has already
8 set up, we may not see that, sir.

9 Q. And as you stated before, your examination is
10 primarily concerned with the injuries that caused the
11 death; is that right?

12 A. Yes, sir.

13 Q. You would have observed other injuries but --

14 BY MR. SERMOS: Objection, Your Honor. He's
15 going on the things he already asked him when he
16 first started direct.

17 BY THE COURT: I'll sustain that last question.

18 BY MR. HARPER:

19 Q. Would it be safe to say that the doctor
20 examining the child at the hospital would have looked at
21 that injury more closely than you did?

22 A. They would have looked at it under different
23 circumstances. I think we would look at it very
24 carefully, too.

25 Q. I understand.

26 A. But I think there would be alterations in the
27 body that we would see that they would not see.

28 Q. Or that they might see that you could not see.

29 A. That's correct, sir.

1 Q. Thank you, sir.

2 BY MR. HARPER: That's all I have, Your Honor.

3 BY THE COURT: You may step down.

4 BY THE WITNESS: Thank you, Your Honor.

5 (The witness steps down.)

6 BY MR. HARPER: Your Honor, we'd ask that Dr.
7 Hayne be released.

8 BY THE COURT: You'll be released.

9 BY MR. HARPER: Oh, Your Honor, I am sorry.

10 BY THE COURT: Okay. Who does the State call as
11 your next witness?

12 BY MR. HARPER: The Court indulge us just a
13 moment.

14 (Mr. Harper and Mr. Rosenblatt confer.)

15 BY MR. HARPER: Your Honor, at this time, the
16 People of the State of Mississippi would rest our
17 case.

18 BY THE COURT: Okay. Ladies and gentlemen, the
19 State has rested. The case has been moving along
20 quite satisfactorily. It's going to be necessary to
21 take a short recess at this time. So this will be
22 about a fifteen-minute recess. If you will, use the
23 facilities down at the end of the hall. Keep in mind
24 what I said about no contact with anybody involved in
25 this case, and I'm going to need to see counsel and
26 the court reporter in the jury room. So this will be
27 about a fifteen-minute recess.

28 (The following was heard in the chambers of the Judge,

29 OUTSIDE THE PRESENCE OF THE JURY, to-wit:)