

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

Supreme Court
No. 160264

v

Court of Appeals
No. 337120

CODIE LYNN STEVENS,

Lower Court
No. 15-041275-FH

Defendant-Appellee.

_____ /

PLAINTIFF-APPELLANT'S REPLY

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ISSUE I

In answer to the People's Issue I, defendant Codie Lynn Stevens contends that the Court of Appeals did not err by relying on *People v Murphy*, 321 Mich App 355; 910 NW2d 374 (2017), because defendants' failure to seek professional medical care following the infant's bathtub fall may have been an omission, but it did not constitute an act. Stevens acknowledges that defendants use of a cold compress after the fall and giving the child bottles of water were "acts," but asserts that "those acts were not causative factors in the serious harm caused to the child which makes a big difference" (Answer, p 2). Stevens goes on to contend that "[t]here was no testimony in the trial from the experts that they believe excessive water caused the harm." *Id.* The People agree that defendants' act of giving the infant multiple bottles of water did not, in the end, cause serious harm to the child. But the occurrence of harm is not required to establish criminal culpability under MCL 750.136b(3)(b).

At trial, the prosecutor proceeded under three theories of liability: (1) a "reckless act" theory under MCL 750.136b(3)(a); (2) a "knowing or intentional act" theory under MCL 750.136b(3)(b); and (3) an "omission/willful abandonment" theory under MCL 750.136b(3)(a). The only theory discussed under Issue I of the People's application for leave to appeal is the "knowing or intentional act" theory under MCL 750.136b(3)(b). This statutory subsection provides that a person is guilty of second-degree child abuse if the person "knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child *regardless of whether harm results.*" (Emphasis added.) The "act" at issue here is defendants' act of giving the very young infant multiple bottles of plain water following a known head injury. Again, the People agree that this "act" did not ultimately result in serious physical harm to the infant, but we

submit that the act was one that was “*likely to cause serious physical harm*” for purposes of MCL 750.136b(3)(b), considering the medical testimony presented at trial. The act was therefore sufficient to sustain defendants’ convictions of second-degree child abuse.

Emergency room nurse Sara Markle testified as follows regarding the dangers of giving a very young infant plain water:

Q. Was there any concern, at that point, even though you may not have seen any external evidence, that the baby had some type of brain or head injury?

A. According to our notes – and we were told the baby came in with nausea, vomiting and no trauma – we were concerned because the baby was receiving water; and when you give newborns water it messes up their electrolytes, which causes seizures, also. So we really wanted to get the lab work. And when you’re having a seizure and have the round head, you’re concerned about too much spinal fluid, so a CAT scan was the next place that we needed to go. [Tr 4/27/16, 192.]

Pediatric nurse Tammy Nowaczyk answered “Yes,” when asked, “Would regular water be bad to use in giving this baby medical assistance?” (Tr 4/27/16, 254-255). Dr. Michael Fiore¹ also testified about the dangers of giving a very young infant water:

Q. Would water, intake of water, have an affect on a seizure of the kind that this child was undergoing?

A. Drinking large quantities of water can cause seizures; not of the type this baby had, but, right, the large volumes of water can, right.

Q. Would it have – well, a baby that was – what about periodic intake of water?

A. Typically, it’s large quantities of water, and it causes very low sodium, which will trigger a seizure in babies. That’s a common cause of seizures in babies. [Tr 4/29/16, 51-52.]

Dr. Jessica Kirby also testified that she quickly ordered laboratory studies when the infant arrived seizing because she suspected low sodium and electrolyte abnormalities:

¹ The People’s application for leave to appeal states at the top of page 13 that Dr. Fiore’s relevant testimony can be found in the transcript of May 3, 2016, at pages 51-52. That date is incorrect. Dr. Fiore, in fact, testified on April 29, 2016. His relevant testimony can be found at pages 51-52 from the transcript of that day.

Q. What did you formulate as a plan, to try to figure out why the baby was behaving in the way the nurses and you observed?

A. Uh-huh. The baby was exhibiting shaking activity and quivering that was suspicious of a seizure. And my initial thought was perhaps the patient's sodium was low and there was some kind of electrolyte abnormality, so we initially ordered laboratory studies.

Q. When you say these things, remember, we're not in your field. What does sodium and electrolytes mean to us?

A. Oh, boy, this is basic science. Let's see. Sodium is a salt in the body that's essential for metabolism and activities of the body, and when it's very low it can cause seizure-like activities, similar to what we witnessed with this child. So when we saw this activity, we were concerned that perhaps the labs were abnormal. [Tr 4/28/16, 59.]

Logically, the danger and likelihood of harm from giving a young infant multiple bottles of water in a short period of time would only be exacerbated if the child had recently sustained a major fall and head injury. See *People v Hardiman*, 466 Mich 417, 424; 646 NW2d 158 (2002) (jurors may draw reasonable inferences from the evidence adduced at trial).

The fact that harm did not ultimately result from the act is irrelevant under MCL 750.136b(3)(b). The Michigan Court of Appeals erred by simply analogizing this case to *Murphy*, which did not involve culpability under MCL 750.136b(3)(b). The Court of Appeals further erred by focusing, as Stevens also does in her answer, on the fact that the serious harm that occurred—seizures, head swelling, brain injury, among others—was not, in the end, a result of excessive plain water being given to the infant. The only question for purposes of MCL 750.136b(3)(b), however, is whether that act of giving the infant water following a known head injury was one “*likely to cause serious physical harm*” to the infant. MCL 750.136b(3)(b) (emphasis added).

The panel further erred by concluding that, “as a matter of pure common sense, . . . giving a child peppermint water is not likely to lead to seizures and severe swelling of the brain or

otherwise lead to harm,”² when the testimony of the medical professionals presented at trial supports that this act *was* likely to cause serious harm *to an infant*. Nothing in MCL 750.136b suggests that an act “likely to cause serious physical harm” for purposes of MCL 750.136b(3)(b) must be likely to cause serious harm *to children as a whole or on average*, as opposed to likely to cause serious physical harm to the specific child at issue in the case. The People would therefore ask this Court to reverse the decision of the Court of Appeals and reinstate defendants’ convictions and sentences pursuant to MCL 750.136b(3)(b).

ISSUE II

In answer to the People’s Issue II, Stevens contends that the Michigan Court of Appeals did not err by failing to reconcile *Murphy* and *People v Head*, 323 Mich App 526; 917 NW2d 752 (2018), because the cases are distinguishable, and Judge TUKEL sat on the panels in both *Head* and this case, so he must have been aware of *Head* and believed that resolution of this case was consistent with *Head*. Stevens first asserts that *Head* is distinguishable from *Murphy* because in *Head*, the father committed a reckless act by “allowing the loaded gun to be in the child’s bedroom” (Answer, p 3). But Stevens makes no effort to explain why the father in *Head* “allowing” his children to live in an environment where a dangerous weapon was present, even if he at one time placed the weapon in the closet, is different than the mother in *Murphy* “allowing” herself and her infant child to live in an environment where prescription medications were present and accessible, considering that at some point she also must have made the decision to place herself and her child into that environment.

Further, although in an ideal world this would always be the case, the mere fact that the same judge sits on the panel in two separate cases does not inherently mean the opinions in those

² *People v Krukowski*, unpublished per curiam opinion of the Court of Appeals, issued August 1, 2019 (Docket Nos. 334320 and 337120), p 6.

cases will be consistent. The People would also note that Stevens does not address the additional acts identified by the People in their application for leave to appeal that Stevens *lied* to her son's pediatrician when asked whether the child had sustained any fall or injury, and then *took the infant for chiropractic adjustments* despite her knowledge that the infant had sustained a serious fall and trauma to his head only two days earlier and the pediatrician only recommended chiropractic intervention based on the lie Stevens told. These acts went unaddressed by the Court of Appeals and could support a conviction of second-degree child abuse as to Stevens under either the prosecutor's "reckless act" theory, MCL 750.136b(3)(a), or "knowing and intentional act" theory, MCL 750.136b(3)(b).

ISSUE III

Finally, Stevens contends that the Court of Appeals did not impose an overly narrow reading of the statutory phrase "willful abandonment" in MCL 750.136b(1)(c) because the panel cited the 11th edition of *Merriam-Webster's Collegiate Dictionary* to define the term "abandon," while the People in their application cited an earlier edition: "The panel certainly had no obligation to follow the earlier definition." (Answer, p 3). Excepting a slight variation in the usage examples, however, the definitions between the two editions are identical:

1 a : to give up to the control or influence of another person or agent < ~ed her baby to fate> **b :** to give up with the intent of never again claiming a right or interest in **2 :** to withdraw from often in the face of danger or encroachment <~abandon ship> **3 :** to withdraw protection, support, or help from <~ed the candidate when the polls went against him> [*Webster's Ninth New Collegiate Dictionary*.]

1 a : to give up to the control or influence of another person or agent **b :** to give up with the intent of never again claiming a right or interest in <~property> **2 :** to withdraw from often in the face of danger or encroachment <~ ship> **3 :** to withdraw protection, support, or help from <he ~ed his family> [*Merriam-Webster's Collegiate Dictionary* (11th ed).]

The People would be happy to proceed under the definition of "abandon" provided by *Merriam-*

Webster's Collegiate Dictionary (11th ed), and contend that the argument and analysis offered in support of the application for leave to appeal remains the same regardless of which of these definitions the Court may choose to apply.

RELIEF SOUGHT

The People respectfully ask this Court to intervene, reverse the Court of Appeals' opinion overturning defendants' convictions and sentences, and remand this case to the Court of Appeals to address the remaining issues defendants' presented on appeal before that Court.

Respectfully submitted,

JOHN A. MCCOLGAN, JR. (P37168)
PROSECUTING ATTORNEY

Dated: October 14, 2019



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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW

PEOPLE OF THE STATE OF MICHIGAN

vs. File No. 15-041274-FH-3
DANE RICHARD KRUKOWSKI, Volume I
Defendant.

PEOPLE OF THE STATE OF MICHIGAN

vs. File No. 15-041275-FH-3
CODIE LYNN STEVENS, Volume II
Defendant.

JURY TRIAL
BEFORE THE HONORABLE JANET M. BOES, CIRCUIT JUDGE
Saginaw, Michigan - April 27, 2016

APPEARANCES:

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Reported by: URSULA WEGERT, RPR, CSR-4553
Official Court Reporter

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1 MR. DUGGAN: She was getting numbers from the
 2 reporter. I apologize, Your Honor.
 3 THE COURT: All right. All of you need to
 4 have your exhibits marked before we have jurors waiting
 5 around, and when we have witnesses waiting. You know,
 6 we've -- me and my staff have gone out of our way to
 7 accommodate you, to make sure this thing goes smoothly
 8 and you get things done in a timely way, so please be
 9 considerate of that, and let us know what's going on.
 10 MR. DUGGAN: Yes, Your Honor.
 11 THE COURT: So let's bring the jurors in.
 12 THE LAW CLERK: Well, both juries?
 13 THE COURT: Both juries.
 14 MR. STURTZ: Judge, how late do you plan on
 15 going?
 16 THE COURT: Until at least five.
 17 MR. STURTZ: If I said I had a doctor's
 18 appointment at 5:30, would you be persuasive to leave
 19 at 4:30?
 20 THE COURT: I don't know, because I don't
 21 know what the witness situation is. But you're well
 22 aware that the prosecutor has been trying to schedule
 23 his witnesses due to, you know, their scheduling issues
 24 with their practices and places they have to be, so I
 25 don't know. And it's kind of late to be bringing that

1 DIRECT EXAMINATION
 2 BY MR. DUGGAN:
 3 Q Good afternoon. Please state your name.
 4 A Sara Gwen Markle.
 5 Q What is your occupation?
 6 A I am a nurse in the emergency room.
 7 Q Can you pull the mic down, so it might make it easier
 8 to see you?
 9 A Okay.
 10 Q Which emergency room?
 11 A Covenant.
 12 Q And what is your license in the State of Michigan as a
 13 nurse?
 14 A I'm a BSN or a registered nurse.
 15 Q And BSN stands for bachelor of science --
 16 A Bachelor --
 17 Q -- in nursing?
 18 A Correct.
 19 Q And how long have you been an RN?
 20 A 17 years.
 21 Q Prior to becoming an RN, did you have any other medical
 22 licensure?
 23 A I worked as an LPN for a year while I got my RN, and
 24 then went to --
 25 Q So you have 18 years in nursing?

1 up. So we'll see where we're at.
 2 THE LAW CLERK: All rise for the jury.
 3 (At 2:46 p.m. Stevens and Krukowski juries
 4 are present.)
 5 THE COURT: Please be seated.
 6 Counsel, would you approach the bench,
 7 please?
 8 (Bench conference.)
 9 THE COURT: All right. We are prepared to
 10 proceed, I believe, with testimony, in this case.
 11 So, Mr. Duggan, you may proceed.
 12 MR. DUGGAN: Thank you, Your Honor. We call
 13 Sara Markle.
 14 THE COURT: Ma'am, if you'd step forward,
 15 and -- stop right there. Raise your right hand,
 16 please.
 17 Do you solemnly swear to tell the truth, the
 18 whole truth and nothing but the truth?
 19 MS. MARKLE: I do.
 20 THE COURT: Please have a seat in the witness
 21 box.
 22 SARA MARKLE,
 23 Being first duly sworn at 2:48 p.m., testified under
 24 oath as follows:
 25

1 A Correct.
 2 Q Any other medical profession before those two?
 3 A No.
 4 Q Were you at the Covenant ER back on February 22nd,
 5 2015?
 6 A Yes, I was.
 7 Q And you have a medical record up there?
 8 A Correct.
 9 Q Okay.
 10 MR. DUGGAN: For the record, Counsel, she's
 11 looking at Proposed Exhibit 3, the first few pages.
 12 BY MR. DUGGAN:
 13 Q On that date did the emergency department at Covenant
 14 have a young baby in for an emergency medical problem?
 15 A Yes.
 16 Q And what is your first exposure to that?
 17 A I was back in the pediatric-emergency-room part, and
 18 the patient came in through triage; and I was the nurse
 19 taking care of the patient.
 20 Q Explain what triage means.
 21 A Triage means you come into the hospital, and you go to
 22 an area where somebody takes your vital signs, and they
 23 ask you what you are being seen for. And the nurse at
 24 that area places you in an appropriate area.
 25 Q Is that also a way of describing the level of acuteness

1 of the problem or the need for immediate action, to say
 2 somebody is triaged at one level, versus another?
 3 A Yes, it is.
 4 Q Okay. And what was this young baby's level; what was
 5 the need to see a doctor?
 6 A I believe that they put the patient in as a priority
 7 three, which, if it's two or above, they usually need
 8 to go to a trauma room. This patient had stable
 9 vitals; vital signs. The heart rate was a little bit
 10 elevated; but, otherwise, the baby was alert, and vital
 11 signs were well enough to go back to the area they
 12 assigned him to.
 13 Q What was the baby's name?
 14 A The baby's name was Roegan, I believe; Roegan
 15 Krukowski.
 16 Q And showing you a picture marked Proposed Exhibit 7,
 17 or, Exhibit 7. Do you recognize the baby in that
 18 picture?
 19 A Yes.
 20 Q Is that basically how Roegan looked upon his admission
 21 to the emergency department?
 22 A When he came back to the emergency room he did not have
 23 oxygen on, but he was in just a diaper.
 24 Q Okay. I'm going to put that on the display, to let the
 25 jury be able to see the baby.

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1 the little cannula-type thing under its nose?
 2 A Yes.
 3 Q Okay. But, otherwise, it was in its diaper, like this,
 4 when you saw the baby?
 5 A Yes.
 6 Q Okay. And did there appear to be any signs of obvious
 7 trauma, like bruises and cuts and blood and so forth,
 8 on the exterior of the baby's surface?
 9 A No, we did not see any trauma.
 10 Q Did you have other ER nurses there, doing things with
 11 the baby, besides yourself?
 12 A Yes, I did. There was Kelly Henris, who is a nurse who
 13 was in the room with me.
 14 Q When you had the chance to look at Roegan, did you
 15 notice something about his eyes; his use of his eyes?
 16 A According to my charting, when I went into the room,
 17 the patient -- I asked mom and dad questions; and I
 18 looked at the patient, and the patient seemed to be
 19 having some jerking movements and some -- when we
 20 opened the eyes -- the eyes were closed -- the eyes
 21 were gazing to the right, and then also to the left.
 22 So the baby didn't follow us as we were looking at the
 23 baby.
 24 Q As an emergency room nurse with your training, did you
 25 characterize the shaking and the eye movement as a --

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1 Was there anything -- and I'll zoom in
 2 here -- is there anything significant to you about the
 3 appearance of the baby's head or eyes?
 4 A The head looked large to us, very rounded, not really
 5 having definition to the eyebrows or anything like
 6 that, so --
 7 Q What, based on your training and experience, were you
 8 concerned about when you saw the shape of the head?
 9 A When the baby came in, it was for nausea and vomiting.
 10 When you see a large head, you're concerned for too
 11 much CSF or spinal fluid.
 12 Q CSF is an acronym for what?
 13 A Cerebral spinal fluid.
 14 Q Is that stuff that's inside the head?
 15 A Yes, and if it's blocked or you have too much, your
 16 head gets a little bit larger.
 17 Q Would that be some condition more serious than
 18 vomiting?
 19 A Yes, it can cause nausea and vomiting.
 20 Q Would it require medical-assistance intervention
 21 quickly?
 22 A You would need to go to CAT scan, and the results of
 23 the CAT scan would let us know if they needed to go to
 24 the operating room or see a neurologist.
 25 Q And when you said the baby didn't have oxygen, that's

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1 as a condition or symptom?
 2 A Yes, we call it a seizure.
 3 Q All right. Is that something that could be related to
 4 the cerebral spinal fluid filling up in the baby's
 5 head?
 6 A Yes.
 7 Q Was there any concern, at that point, even though you
 8 may not have seen any external evidence, that the baby
 9 had some type of brain or head injury?
 10 A According to our notes -- and we were told the baby
 11 came in with nausea, vomiting and no trauma -- we were
 12 concerned because the baby was receiving water; and
 13 when you give newborns water it messes up their
 14 electrolytes, which causes seizures, also. So we
 15 really wanted to get the lab work. And when you're
 16 having a seizure and have the round head, you're
 17 concerned about having too much spinal fluid, so a CAT
 18 scan was the next place that we needed to go.
 19 Q Did you note the time when you, in the ER, first
 20 started interacting with the baby, on February 22nd?
 21 A It was around 9:40 a.m.
 22 Q Did you or the ER nurses provide any medications, to
 23 give the baby some relief?
 24 A Yes, we started -- we started an IV in the patient's
 25 hand, and we gave normal saline, which is an IV bag

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1 Q I'm sorry, I didn't hear what you said.
 2 A Because we usually start IVs as a team. Because babies
 3 move all around, you need someone to help hold. You
 4 have to draw blood, you have to tape it.
 5 Q All right. There was no male orderly that came in to
 6 assist you, or a male doctor?
 7 A Not that I can recall.
 8 Q When the baby went to room 247, what department would
 9 that be?
 10 A That would be the pediatric intensive care unit or the
 11 peds ICU.
 12 Q PICU?
 13 A Yes.
 14 Q And that ended your emergency-room care for the child?
 15 A Correct.
 16 MR. STURTZ: That's all. Thank you.
 17 THE COURT: All right. Redirect, Mr. Duggan?
 18 MR. DUGGAN: None, Your Honor.
 19 THE COURT: All right. I think we have at
 20 least one juror with a question. You can grab it. And
 21 if you want to approach the bench?
 22 Anybody else have a question, from the jury?
 23 Counsel, please approach.
 24 (Bench conference.)
 25 THE COURT: Let's take care of this question

1 inclusive. You want all of them in?
 2 MR. STURTZ: Yes.
 3 MR. DUGGAN: I would move that all of them be
 4 allowed.
 5 THE COURT: Mr. Bush, any objection?
 6 MR. BUSH: No, no objection.
 7 THE COURT: All right. Exhibits 5 through
 8 12, 14, 16, 17, 18 and 19 will be admitted.
 9 MR. DUGGAN: And for the record, they're all
 10 marked with a People's exhibit tag. They did come from
 11 my file, even though counsel pointed them out. And I
 12 have no problem letting them be People's exhibits, all
 13 of them.
 14 THE COURT: All right.
 15 MR. DUGGAN: No further questions for her.
 16 THE COURT: All right. You can step down,
 17 ma'am.
 18 MR. DUGGAN: May the witness be excused?
 19 THE COURT: Yes.
 20 Call your next witness, Mr. Duggan?
 21 MR. DUGGAN: We call Dr. Sahouri.
 22 THE COURT: Sir, if you'd step forward here,
 23 and raise your right hand, please?
 24 Do you solemnly swear to tell the truth, the
 25 whole truth, and nothing but the truth?

1 first.
 2 All right. Ma'am -- do you want me to read
 3 this whole thing, Counsel, or just the question part?
 4 MR. STURTZ: Yes, please.
 5 MR. DUGGAN: I agree.
 6 MR. BUSH: Also.
 7 THE COURT: You said the baby was taking
 8 water, which could cause complications in an infant.
 9 Who gave or was giving the baby water?
 10 THE WITNESS: The mother was giving the baby
 11 water.
 12 THE COURT: Okay. Any follow-up, Counsel?
 13 MR. DUGGAN: Just regarding the picture, the
 14 one I showed her, which I actually displayed. I
 15 apologize, I hadn't officially moved to admit it in
 16 front of the jury. I move to admit it, and the others,
 17 which are Nos. 5 through 12. We resolved those, I
 18 think, out of the presence of the jury.
 19 MR. STURTZ: Also, Exhibits 19, 18, 17, 16,
 20 and 14. I'd ask for admission, also.
 21 MR. DUGGAN: Did you take some out that you
 22 previously had marked?
 23 MR. STURTZ: No, that was it.
 24 MR. DUGGAN: Because you had additional
 25 numbers. Well, the total numbers were 14 through 19,

1 DR. SAHOURI: I do.
 2 THE COURT: Please have a seat in the witness
 3 box.
 4 DR. MAJED SAHOURI,
 5 Being first duly sworn at 3:20 p.m., testified under
 6 oath as follows:
 7 DIRECT EXAMINATION
 8 BY MR. DUGGAN:
 9 Q Good afternoon. Please state your name.
 10 A Majed Sahouri.
 11 Q Could you please spell both first and last name?
 12 A M-A -- M-A-J-E-D S-A-H-O-U-R-I.
 13 Q What is your profession?
 14 A Ophthalmologist.
 15 Q And although most of us know what that is, exactly what
 16 does that mean?
 17 A Medical eye doctor.
 18 Q All right. So you have an M.D., and your specialty is
 19 in the eye?
 20 A Yes.
 21 Q Are you permitted to do surgery in the eye?
 22 A Yes.
 23 Q Diagnose conditions and diseases?
 24 A Yes.
 25 Q Is there a higher level of physician than an

1 Do you solemnly swear to tell the truth, the
 2 whole truth and nothing but the truth?
 3 MS. NOWACZYK: Yes, I do.
 4 THE COURT: Please have a seat in the witness
 5 box.
 6 TAMMY NOWACZYK,
 7 Being first duly sworn at 3:48 p.m., testified under
 8 oath as follows:
 9 DIRECT EXAMINATION
 10 BY MR. DUGGAN:
 11 Q Please state your name.
 12 A Tammy Nowaczyk.
 13 Q Please spell the last name.
 14 A N-O-W-A-C-Z-Y-K.
 15 Q May I call you Tammy?
 16 A Yes.
 17 Q Thank you. What is your profession?
 18 A I'm an RN.
 19 Q Where do you currently do your work as an RN?
 20 A Covenant Healthcare PICU.
 21 Q And that's the pediatric intensive care unit?
 22 A That's correct.
 23 Q We've heard the previous witness say PICU and then peds
 24 ICU. Is there an accepted term?
 25 A It's both.

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1 Q The title?
 2 A Oh, it's --
 3 Q The acronym?
 4 A -- certified nursing assistant. CNA or NCA.
 5 Q Thank you. So you've got 25, 26 years in medical work?
 6 A Correct.
 7 Q And have all your 11 years as an RN been at the PICU?
 8 A No, I've been there since the end of '08.
 9 Q Okay. Before that, you did other things at Covenant?
 10 A Adult critical care.
 11 Q Okay. Did you have interaction with a patient, a baby
 12 named Roegan Krukowski, at the PICU, on February 22,
 13 2015?
 14 A Yes, I did.
 15 Q And there's some medical records up there. You had the
 16 chance to review those, have you not?
 17 A I have.
 18 Q And the way they're set up, there's a couple of
 19 packets, but they usually go in chronological order?
 20 A Correct.
 21 Q All right. And the author of the report is usually
 22 identified with the date and time?
 23 A Correct.
 24 Q That would include nurses like you, as well as doctors?
 25 A Yes.

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1 Q All right. Interchangeable?
 2 A Yes.
 3 Q Okay. How long have you been an RN?
 4 A Since July of '05.
 5 Q So, coming up, 11 years?
 6 A Uh-huh, yes.
 7 Q And were you in the medical profession before you were
 8 an RN, doing other things?
 9 A Yes, I --
 10 Q What?
 11 A -- have worked at Seatons and Covenant for 26 years,
 12 here. I was an NCA in pediatrics before I became a
 13 nurse.
 14 Q What's an NCA?
 15 A A nursing care assistant; certified nursing assistant.
 16 Several names for that, as well.
 17 Q Well, go back to '05.
 18 A Uh-huh.
 19 Q How long before that were you that other thing?
 20 A About 14 years.
 21 Q Fourteen. Okay. Does that have a license, like
 22 nursing?
 23 A It's certified, through the state.
 24 Q Okay. Certified -- say that again?
 25 A Certified through the State of Michigan.

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1 Q Registered dieticians?
 2 A Yes.
 3 Q Respiratory therapists?
 4 A Yes.
 5 Q Chaplains?
 6 A Yes.
 7 Q Social workers?
 8 A Yes.
 9 Q Please take a look at these photographs. I'm going to
 10 have you look at all of them. They start -- the ones
 11 I'm showing you are 7 through 19, inclusive. Just spin
 12 through them and see if you recognize them, because
 13 I'll ask you some questions about them.
 14 A I recognize all of them.
 15 Q You actually saw them before the jury was brought into
 16 the room?
 17 A Yes, and I remember the child. And this is me, in this
 18 photo.
 19 Q Okay. The top one?
 20 A Yes.
 21 Q For the record, you're referring to Exhibit 7?
 22 A Yes.
 23 Q That's Roegan Krukowski?
 24 A Yes.
 25 Q And showing Exhibit 7 to you, you remember Roegan being

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- 1 A Okay.
2 Tube-feeding and IV fluid.
3 Q Both, then?
4 A Both.
5 Q Okay. The baby was able to get formula-type
6 nourishment?
7 A Yes.
8 Q So you nurses would literally provide a bottle, and
9 feed it, like, held in your arms?
10 A We were hanging the feeding from a pump and infusing it
11 through a tube, feeding into the nose, that goes into
12 the belly.
13 Q Is -- when you said intubated a while ago, is that the
14 tube you're talking about or is that a different tube?
15 A That would be a different tube.
16 Q Okay. What is the one that goes in the belly, through
17 the nose?
18 A Nasogastric tube.
19 Q It's to put nourishment in only?
20 A Correct.
21 Q The other intubation was to provide breathing
22 assistance?
23 A That's correct.
24 Q So both those had things happening in the PICU for this
25 baby?

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- 1 A Yes. Normal --
2 Q That is the preferred thing, the normal saline
3 solution?
4 A Through the IV, correct.
5 Q Okay. The bottom of page 51, there's a note from you
6 later that day -- 6:26 p.m., on February 24th -- about
7 some additional behaviors that were observed and
8 services performed. Could you tell the jury about
9 that?
10 A I speak about hooking the drain that is in the top of
11 the baby's head to ICP monitoring.
12 Q Which stands for what?
13 A Intracranial pressure. So, initially, the tube -- or,
14 the catheter was placed to relieve pressure, and now
15 it's in there; and the neurosurgeon is now wanting to
16 see what the pressure is inside. So I talk about
17 hooking that up. And what the reading is -- my note is
18 quite long.
19 Q Okay. I won't have you go any further. So these
20 actions by these various physicians and yourself and
21 the other nurses is providing some relief to the child?
22 A Correct.
23 Q But still not ready to be discharged from the PICU --
24 A No.
25 Q -- to a regular floor?

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- 1 A Yes.
2 Q Which happened first, if you know?
3 A It would be the intubation.
4 Q And then when the baby wanted nourishment, it would be
5 pumped in, not fed like a bottle, to the lips?
6 A Correct.
7 Q On February 24th, bottom of page 50, is -- or, not the
8 bottom, but I'm on page 50 -- you have a note that you
9 saw the baby on the next day, February 24th, at 4:19
10 p.m. Could you describe for the jury how Roegan's
11 progress was then?
12 A I talked about him stirring easily, moving about, calms
13 easily with swaddling; that we've increased the tube
14 feeding, because he's tolerating it. His IV fluid has
15 been decreased because, as the feeding through the
16 stomach increases, the feeding through the IV
17 decreases. And I talk about the drain having 14 ccs of
18 fluid out, and that --
19 Q The drain out of the head?
20 A Correct. Sorry. And that I've replaced that 14 ccs
21 with normal saline through his IV.
22 Q Normal saline is not water, correct?
23 A Correct.
24 Q Would regular water be bad to use in giving this baby
25 medical assistance?

254

- 1 A Correct.
2 Q Okay. And the second packet of papers, the smaller
3 one, I believe it's marked No. 2 on the outside?
4 A Okay.
5 Q Well, tell me, is it marked; what is -- are the red
6 tags?
7 A Oh, I'm sorry. It says 4.
8 Q Okay. Thank you. On page two of that packet, you show
9 a note on February 25th, the next day, at 8:24 a.m.
10 You started another shift?
11 A Yes.
12 Q And at that point -- you can refresh your memory. Just
13 read your note, and tell the jury what the progress is
14 there.
15 A I refer, in different ways, to his neuro status. All
16 of my comments are meant to give an indication of what
17 the baby's status is like.
18 Q Is there improvement?
19 A I wouldn't say that there's improvement, at this point.
20 Q Is it stable?
21 A Critically stable.
22 Q Okay. In the course of looking through these notes,
23 which I -- I know you've done, and I have looked, also,
24 I see a nurse's name; Papenfuse, Goidosik, Brown, as
25 well as yourself. Those are all PICU nurses?

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EXHIBIT B

1 STATE OF MICHIGAN
 2 IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW
 3
 4 PEOPLE OF THE STATE OF MICHIGAN
 5 vs. File No. 15-041274-FH-3
 6 DANE RICHARD KRUKOWSKI, Volume II
 7 Defendant.
 8
 9 PEOPLE OF THE STATE OF MICHIGAN
 10
 11 vs. File No. 15-041275-FH-3
 12 CODIE LYNN STEVENS, Volume III
 13 Defendant.
 14
 15 JURY TRIAL
 16 BEFORE THE HONORABLE JANET M. BOES, CIRCUIT JUDGE
 17 Saginaw, Michigan - April 28, 2016
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1 A I do, but during office hours, when the phone rings at
 2 the office, many times I answer my own phone, if
 3 they're busy. And if it's anything that, I'm panicked,
 4 dot, dot, dot, dot, can you come right now?
 5 Q Okay.
 6 A So --
 7 Q When you would have -- if you would have been told by a
 8 patient, my baby has had a fall and has a bump on his
 9 head, if you get that call, you just say, come into the
 10 office, or do you say go to the emergency room?
 11 A No, my triage person say, okay, what happened? Because
 12 sometimes it's just the mother, and says, oh, my baby,
 13 freak out. So, okay, come down. What's wrong? So I
 14 get a history; the baby is smiling right now, blah,
 15 blah, blah. Okay. What do you want me to do, do you
 16 want to bring the baby right now, do you want to wait?
 17 So, depending upon the answer, come right now if you
 18 are unsure. Right now.
 19 Q What I wanted to know is -- because you answered this
 20 one way on direct examination, I want to make sure I
 21 understood your answer -- if you were told the baby had
 22 an actual bump from the fall on the head, would you
 23 tell them to bring the baby to you before you sent them
 24 to the ER?
 25 A Like I said, depends the level of conversation. If it

1 being first duly sworn at 9:49 a.m., testified under
 2 oath as follows:
 3 DIRECT EXAMINATION
 4 BY MR. DUGGAN:
 5 Q Good morning.
 6 A Good morning.
 7 Q Please state your name.
 8 A My name is Dr. Jessica Kirby, D.O.
 9 Q Well, I don't have to ask your occupation. How long
 10 have you been a physician?
 11 A I graduated from medical school in 2004.
 12 Q And what do you practice, in what particular area?
 13 A I practice emergency medicine, and I am board certified
 14 in emergency medicine; I care for kids that are
 15 newborns, to the geriatric population.
 16 Q Geriatric, being the other end of life?
 17 A That's right.
 18 Q All right. So everybody that comes into the ER, you
 19 are trained and qualified to treat their emergency
 20 situations?
 21 A That is correct.
 22 Q How long have you worked here, in Saginaw?
 23 A I believe I began at Covenant in January of 2014; so,
 24 approximately, two and-a-half years.
 25 Q And in the course of your work, have you treated

1 is something I'm not sure, okay, then go to the
 2 emergency room.
 3 MR. DUGGAN: No further questions.
 4 THE COURT: All right. Any questions from
 5 the jury for this witness?
 6 Okay. You can step down, ma'am. Thank you.
 7 THE WITNESS: Thank you.
 8 MR. DUGGAN: May the witness be excused?
 9 THE COURT: Yes.
 10 MR. DUGGAN: Watch your step, Doctor.
 11 THE WITNESS: Thank you. I don't need to
 12 fall.
 13 MR. DUGGAN: Cords, everything.
 14 THE WITNESS: Thank you.
 15 (At 9:49 a.m. witness is excused.)
 16 MR. DUGGAN: We call Jessica Kirby.
 17 THE COURT: All right. Ma'am, if you'd step
 18 forward and raise your right hand, please, up here?
 19 Do you solemnly swear to tell the truth, the
 20 whole truth and nothing but the truth?
 21 DR. KIRBY: I do.
 22 THE COURT: Please have a seat in the witness
 23 box.
 24 DR. KIRBY: Thank you.
 25 DR. JESSICA KIRBY,

1 hundreds of patients?
 2 A Yes, sir.
 3 Q More than that?
 4 A Yes.
 5 MR. DUGGAN: All right. I would offer the
 6 doctor, to the extent that she offers any opinions as
 7 an expert, as one in the area of emergency medicine.
 8 THE COURT: Any objection?
 9 MR. BUSH: No questions.
 10 MR. STURTZ: I have one question.
 11 Doctor, you're board-certified in emergency
 12 medicine?
 13 THE WITNESS: Yes, sir.
 14 MR. STURTZ: And when did you become
 15 board-certified?
 16 THE WITNESS: I became board-certified within
 17 a few months of graduating, so I believe it was August
 18 of -- 2010?
 19 MR. STURTZ: And for the ladies and gentlemen
 20 of the jury, could you explain what board-certified
 21 means?
 22 THE WITNESS: A board-certified physician has
 23 passed all of their board examinations. That means
 24 they're an expert in their field, and have passed
 25 certification exams that prove your knowledge base.

1 MR. STURTZ: I have no objection to the
2 doctor's qualifications.
3 THE COURT: The doctor will be qualified as
4 an expert in the area of emergency medicine.
5 MR. DUGGAN: I know they're supposed to raise
6 their hand, but does anybody have any difficulty
7 hearing this witness?
8 Thank you.
9 BY MR. DUGGAN:
10 Q Doctor, on February 22nd, 2015, while in the emergency
11 department at Covenant, here in Saginaw, did you have
12 occasion to see a patient named Roegan Krukowski?
13 A Yes, sir, I did.
14 Q You have the big packet of records marked Exhibit 1,
15 with the little tag, a red tag? It might be -- not 1;
16 maybe 3?
17 A Yes, sir.
18 Q It's No. 3? And at page one of those records, it
19 indicates that an ER nurse was seeing the baby, and you
20 then became involved on being at the bedside fairly
21 quickly. In the notes, at the beginning, on page one,
22 it says, Dr. Kirby to bs, meaning bedside?
23 A Correct.
24 Q Okay. What did you -- well, I'm going to show you a
25 picture on this TV screen. I realize you deal with

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1 A No, sir.
2 Q Okay. Did the baby have -- and by that, I mean on the
3 surface of the skin.
4 A Correct, on the surface of --
5 Q Bruising, cuts, et cetera?
6 A No abrasions, no bruising, no obvious signs of external
7 trauma, at the time of exam.
8 Q What did you formulate as a plan, to try to figure out
9 why the baby was behaving in the way the nurses and you
10 observed?
11 A Uh-huh. The baby was exhibiting shaking activity and
12 quivering that was suspicious of a seizure. And my
13 initial thought was perhaps the patient's sodium was
14 low and there was some kind of electrolyte abnormality,
15 so we initially ordered laboratory studies.
16 Q When you say these things, remember, we're not in your
17 field. What does sodium and electrolytes mean to us?
18 A Oh, boy, this is basic science. Let's see. Sodium is
19 a salt in the body that's essential for metabolism and
20 activities of the body, and when it's very low it can
21 cause seizure-like activities, similar to what we
22 witnessed with this child. So when we saw this
23 activity, we were concerned that perhaps the labs were
24 abnormal.
25 Q So you had laboratory tests done?

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1 hundreds, and you were indicating even more than that,
2 as far as numbers of patients. Do you happen to
3 remember, from reading the records and reviewing for
4 this trial, having contact with this particular
5 patient?
6 A I remember the patient from the medical records; I do
7 not recognize the child from the picture.
8 Q Okay. Did you take into consideration all the history
9 information provided by the parents, who brought the
10 child?
11 A Yes.
12 Q Did you consider what the nurses who were working in
13 the ER were gathering, as far as vital signs and other
14 information?
15 A Yes.
16 Q Now, you come into it sort of after that, correct, but
17 pretty quickly, in the beginning?
18 A Correct.
19 Q All right. Do you interact with the parents?
20 A Yes.
21 Q And when you're testifying here, you're testifying
22 because you have reviewed medical records, correct?
23 A That's correct.
24 Q All right. And did the baby have any obvious signs of
25 trauma?

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1 A We ordered laboratory tests.
2 Q And electrolytes were also a concern?
3 A Yes, and that's included in the laboratory studies.
4 Q And when you got those studies done, did they give you
5 any intuition as to what the baby's seizing activity
6 was from?
7 A Those studies were all normal or unremarkable, so at
8 that point, you have to consider other etiologies or
9 other causes of the seizure activity. And we were
10 pretty convinced, on what we were seeing the patient
11 do, that it was, in fact, seizure activity; and so then
12 we were concerned about possible trauma or bleeding in
13 the brain. And so we ordered imaging of the brain.
14 Q Based on your training and experience, having been an
15 emergency room physician for five years that -- by that
16 time, that is one of the preliminary diagnoses or
17 possible explanations for that activity, is bleeding of
18 the brain?
19 A Yes.
20 Q What is bleeding of the brain caused by, or can it be
21 caused by?
22 A It can be caused from trauma.
23 Q Which is a blow?
24 A A blow to the head, yes. Other patients can have,
25 like, bleeding abnormalities or bleeding problems.

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EXHIBIT C

1 STATE OF MICHIGAN
 2 IN THE CIRCUIT COURT FOR THE COUNTY OF SAGINAW
 3
 4 PEOPLE OF THE STATE OF MICHIGAN
 5 vs. File No. 15-041274-FH-3
 6 DANE RICHARD KRUKOWSKI, Volume III
 7 Defendant.
 8
 9 PEOPLE OF THE STATE OF MICHIGAN
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 11 vs. File No. 15-041275-FH-3
 12 CODIE LYNN STEVENS, Volume IV
 13 Defendant.
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 15 JURY TRIAL
 16 BEFORE THE HONORABLE JANET M. BOES, CIRCUIT JUDGE
 17 Saginaw, Michigan - April 29, 2016
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 11 Reported by: URSULA WEGERT, RPR, CSR-4553
 12 Official Court Reporter
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1 Saginaw, Michigan
 2 April 29, 2016
 3 THE LAW CLERK: All rise, please. Circuit
 4 Court for the County of Saginaw is now in session.
 5 THE COURT: Please be seated.
 6 Anyone seen Mr. Duggan?
 7 MR. BUSH: He was in here. He stepped out in
 8 the hall, I think.
 9 (Off the record.)
 10 THE COURT: All right. Counsel, are we ready
 11 for the jury?
 12 MR. DUGGAN: Yes, Your Honor.
 13 THE COURT: All right. Let's bring them in.
 14 THE LAW CLERK: Please rise for the jury.
 15 (At 9:13 a.m. juries are present.)
 16 THE COURT: Please be seated.
 17 Good morning, ladies and gentlemen.
 18 THE JURIES: Good morning.
 19 THE COURT: We are prepared to proceed with
 20 another witness today. We have a doctor, who is coming
 21 in to testify and had some other things scheduled, so I
 22 think -- as Mr. Duggan explained to you at the
 23 beginning of trial, sometimes we can't get everything
 24 to go in a nice flowing order, because of -- we're
 25 dealing with the schedules of witnesses and attorneys

1 and the Court, and a variety of other things. So the
 2 witness that we had yesterday, Ms. Stevens -- I believe
 3 that was who we ended with -- yes. And she has to
 4 continue, but we'll take the witness who's available
 5 now out of order, and then we'll be having her called
 6 back at another time, just so you understand what's
 7 going on.
 8 And with that, then, Mr. Duggan, you may call
 9 your next witness.
 10 MR. DUGGAN: Thank you, Your Honor. We call
 11 Michael Fiore.
 12 THE COURT: All right.
 13 MR. DUGGAN: Carefully work your way through
 14 the maze, so --
 15 THE COURT: Sir, if you'd step forward and
 16 raise your right hand, please?
 17 Do you solemnly swear to tell the truth, the
 18 whole truth and nothing but the truth?
 19 DR. FIORE: I do.
 20 THE COURT: Please have a seat in the witness
 21 box.
 22 DR. MICHAEL FIORE,
 23 Being first duly sworn at 9:15 a.m., testified under
 24 oath, as follows:
 25

1 A Sure. Pediatrics is general pediatric medicine, taking
 2 care of the health of children. It's often outpatient
 3 or inpatient, well children.
 4 Q What you call a pediatrician?
 5 A A pediatrician, exactly. And then I did further
 6 subspecialty training; an additional four years beyond
 7 that, in pediatric critical-care medicine, which is
 8 taking care of critically ill children, basically,
 9 children in the intensive-care unit. So I only
 10 practice in the hospital, in the ICU, taking care of
 11 critical -- critically ill children, as my practice.
 12 Q And when you just said ICU, do you mean the pediatric
 13 intensive-care unit?
 14 A Yes, the pediatric intensive-care unit.
 15 Q And do you call it the PICU or the peds ICU or what do
 16 you call it?
 17 A All of the above.
 18 Q Okay. Everybody use a different term?
 19 A Yes. Interchangeable.
 20 Q All that has been at Covenant, those years of
 21 specializing in pediatric critical care?
 22 A All my training in pediatric critical care was at the
 23 Children's Hospital, in Michigan, in Detroit, and --
 24 but the last 13 years, since I completed my training,
 25 had been at Covenant Healthcare.

1 DIRECT EXAMINATION
 2 BY MR. DUGGAN:
 3 Q Good morning. Please state your name.
 4 A Michael Fiore.
 5 Q Please spell the last.
 6 A F-I-O-R-E.
 7 Q Are you a doctor licensed to practice in the State of
 8 Michigan?
 9 A Yes, I am.
 10 Q How long have you been a physician?
 11 A I graduated medical school in 1996, so I have been a
 12 physician since then.
 13 Q About 20 years?
 14 A Yes.
 15 Q Do you have a specialty in which you practice?
 16 A Pediatric critical-care medicine.
 17 Q And how long, of your 20 years, have you devoted to
 18 that?
 19 A Thirteen years.
 20 Q Are you board-certified?
 21 A I'm board-certified in both pediatrics and pediatric
 22 critical-care medicine.
 23 Q Could you give a simple distinction between the two for
 24 the jury, so they know why there's two separate
 25 certifications?

1 Q You have been referred to in some of the medical
 2 records we have seen, and by some of the witnesses, as
 3 an intensivist. Is that a term that you understand
 4 applies to what you do at Covenant?
 5 A Yes, an intensivist is one who practices intensive-care
 6 medicine.
 7 Q Okay. And so there might be people who do cardiac
 8 intensive care and just normal adult intensive care,
 9 neonatal intensive care; there might be a lot of others
 10 who are called intensivists, but you are a pediatric
 11 intensivist?
 12 A That's correct. I only take care of pediatric
 13 patients.
 14 Q What is the age group; I realize, starting at zero, at
 15 newborn, but how far do you go up?
 16 A Zero to 18 years of age.
 17 MR. DUGGAN: To the extent that this doctor
 18 may give expert opinions, I would offer him to the
 19 defense for voir dire, as I intend to ask some
 20 questions that will possibly call for those opinions.
 21 THE COURT: An expert in pediatric
 22 critical-care medicine?
 23 MR. DUGGAN: Yes, Your Honor.
 24 MR. STURTZ: I have no objection to the
 25 doctor's qualifications.

1 A No, I would have no access, nor any reason to access
 2 those records.
 3 Q Okay. When you're doing what you have to do to comply
 4 with mandatory reporting of child abuse, you do get
 5 access to and can provide additional access to law
 6 enforcement, CPS, to assist on their investigation when
 7 it's the child who is the injured party?
 8 A Yes.
 9 Q Okay. To go beyond that, to others, like even the
 10 mother that delivered the child, that's beyond the
 11 scope of what you're allowed to dive into?
 12 A Right, yeah.
 13 MR. DUGGAN: Probably should have said delve
 14 into, not dive.
 15 Thank you.
 16 THE WITNESS: Yup.
 17 THE COURT: All right. Why don't we take a
 18 break, at this point.
 19 And, ladies and gentlemen of the jury, we'll
 20 just take a break. You can meet Mr. Allen and
 21 Ms. Maddox in the hallway and head to your respective
 22 jury rooms. Take about a 10-or-15-minute break.
 23 (At 10:19 a.m. juries are excused.)
 24 THE COURT: You can step down, sir.
 25 We'll take about a 15-minute break, Counsel,

1 Q Yeah.
 2 A -- on the -- yes, I did.
 3 Q All right. Did you have any contact with the family?
 4 A No, I did not.
 5 Q The records contain some reference to family contacts,
 6 am I right?
 7 A Yes.
 8 Q And I'm referring to, I believe, the Packet No. 4, page
 9 39.
 10 A Yes, I'm there.
 11 Q All right. And there's an entry, is there not,
 12 regarding grandmother Shawn Stevens with a PIN number?
 13 A Yes, there is.
 14 Q All right. February 27th, at --
 15 A Nine p.m.
 16 Q -- nine p.m. An entry by one of the RNs?
 17 A That's correct.
 18 Q And the grandmother apparently quit -- was checking up
 19 on what was happening, and she was informed, basically,
 20 nothing new?
 21 A That's -- that's what it stated.
 22 Q All right. That would have been the nurse's response?
 23 A That's correct.
 24 Q Yeah. Would water, intake of water, have an affect on
 25 a seizure of the kind that this child was undergoing?

1 and resume.
 2 (At 10:20 a.m. break is taken.)
 3 (At 10:46 a.m. proceedings resumed.)
 4 THE LAW CLERK: All rise. Circuit Court is
 5 back in session.
 6 THE COURT: Please be seated.
 7 With that, are we ready for the jury?
 8 MR. DUGGAN: I'm ready.
 9 (Off-the-record discussion.)
 10 THE COURT: All right. We'll bring the jury
 11 in.
 12 THE LAW CLERK: Please rise for the jury.
 13 (At 10:48 a.m. Stevens jury is present.)
 14 THE COURT: Please be seated.
 15 THE CLERK: All rise for the jury, please.
 16 (At 10:49 a.m. Krukowski jury is present.)
 17 THE COURT: Please be seated.
 18 All right. Mr. Bush, cross-exam?
 19 MR. BUSH: Yeah.
 20 C R O S S - E X A M I N A T I O N
 21 BY MR. BUSH:
 22 Q Doctor, you reviewed the records that have to do with
 23 the birth of the child and what went on while you were
 24 on the team examining it, in February of 2015?
 25 A Can you rephrase it? Did I review the records --

1 A Drinking large quantities of water can cause seizures;
 2 not of the type this baby had, but, right, the large
 3 volumes of water can, right.
 4 Q Would it have -- well, a baby that was -- what about
 5 periodic intake of water?
 6 A Typically, it's large quantities of water, and it
 7 causes very low sodium, which will trigger a seizure in
 8 babies. That's a common cause of seizures in babies.
 9 Q All right.
 10 A If a baby had low sodium. But this baby did not have a
 11 low sodium.
 12 Q Okay. Have you had experience -- in your experience,
 13 have you -- have any of your patients been referred,
 14 the kids, referred for chiropractic adjustments
 15 following a critical-care situation of the type we're
 16 dealing with here?
 17 A They may or may not have. It's not within the scope of
 18 my practice, but there's not much crossover between
 19 critical care and chiropractic medicine; that would be
 20 outpatient. My practice is confined to just intensive
 21 care, and that's it.
 22 Q All right. But have you made any kind of referral of
 23 that kind?
 24 A No, no.
 25 Q Refer a patient to a --