

1           THE COURT: Call your next witness.

2           MR. HOLT: We call Dr. Frank Peretti.

3           THE COURT: Raise your right hand and be sworn.

4 (Witness sworn.)

5 THEREUPON,

6           FRANK PERETTI, MD ASSOCIATE MEDICAL EXAMINER

7 was called as a witness by and on behalf of the Respondent/State  
8 was duly examined and testified as follows, to-wit:

9                           DIRECT-EXAMINATION

10 BY MR. HOLT:

11 Q] Good afternoon, Dr. Peretti.

12 A] Good afternoon.

13 Q] If you would, just state your name for the record, please?

14 A] I'm Dr. Frank Peretti, P-E-R-E-T-T-I.

15 Q] And Dr. Peretti, where are you currently employed?

16 A] At the Arkansas State Crime Laboratory.

17 Q] And what do you do at the Arkansas State Crime Laboratory?

18 A] I'm the associate medical examiner where I perform  
19 autopsies on a daily basis.

20 Q] And how long have you been employed there?

21 A] Seventeen years.

22 Q] Were you employed there in May of 1993?

23 A] Yes, I was.

24 Q] Did you have an occasion to perform autopsies on the bodies  
25 of Michael Moore, Steve Branch and Christopher Byers?

1 A] Yes.

2 Q] If you would, first, look in front of you there, you have  
3 what's been marked for identification as State's Exhibit #33 and  
4 this was your CV as, well, let's just go back a little bit. Uh,  
5 have you testified in cases related to the autopsies you per-  
6 formed on those three bodies?

7 A] Yes.

8 Q] In what hearings did you testify?

9 A] Well, two trials and then a Rule 37 hearing.

10 Q] Do you recall whether the Rule 37 was a hearing regarding  
11 claims raised by Damien Echols, one of the defendants?

12 A] Correct.

13 Q] Okay, and if you would - - and this State's #33 is actually  
14 the CV that was admitted at that particular hearing and at that  
15 hearing, that Rule 37 hearing, you were qualified as an expert;  
16 correct?

17 A] Right.

18 Q] And in the two trials involving the three victims in this  
19 case, you were also qualified as an expert; is that correct?

20 A] Correct.

21 Q] And you rendered opinions in those cases based upon your  
22 education and your training and experience, did you not?

23 A] Yes, I did.

24 Q] Okay. Well, if you would, uh, if you can refer to this CV,  
25 if you would sort of give a brief description of what your

1 education and training and experience entails?

2 A] I graduated in medical school in 1984. I did my training  
3 at Brown University in Providence, Rhode Island and anatomical  
4 pathology; that was from 1985 to 1988. In 1987 I spent some  
5 time down in Dade County Medical Examiner's office, not very  
6 long, about a month or so. Then I finished my training at  
7 Brown, uh, during that interim period I was an associate medical  
8 examiner for the state of Rhode Island on a part-time basis. I  
9 left Rhode Island; I went to the office of the chief medical  
10 examiner in Baltimore, Maryland where I did my sub-specialty  
11 training in forensic pathology. I was a chief fellow back then  
12 in 1988 to 1989, uh, I passed my qualifying examination given by  
13 the American Board of Pathology in forensic pathology in  
14 Baltimore. I stayed on staff until August of 1992 when I was,  
15 uh, I came to Arkansas to join Dr. Sturner and I've been here  
16 since.

17 Q] Since 1992?

18 A] Yes, I came in August, 1992.

19 Q] Okay. And describe what did you do in those various  
20 places?

21 A] Well, in Rhode Island I did my training in hospital path-  
22 ology at Brown University and I was a medical examiner for the  
23 state of Rhode Island. I went to a lot of crime scenes, uh, did  
24 autopsies, but seeing that I wasn't a forensic pathology fellow  
25 at that time, I did a lot of the natural drug OD cases, suicide

1 cases, car wrecks, cases like that. I left Rhode Island and I  
2 went to Baltimore. I did my training in forensics, uh, forensic  
3 pathology and Dr. John Smialek, who is now deceased, they asked  
4 me to stay on staff. I stayed on staff approximately five years  
5 there where I was a full-time associate medical examiner for the  
6 state of Maryland.

7 Q] Was Baltimore a place where you had an opportunity to gain  
8 quite a bit of experience?

9 A] Yes. I mean, uh, you know, Rhode Island is a small state  
10 and we have like forty homicides a year, and in Baltimore, we  
11 have like forty or fifty a month. So, you know, I gained a lot  
12 of experience in Baltimore.

13 Q] In Baltimore, what kind of autopsies did you perform?

14 A] Well, when I went to Baltimore, I hit the ground running  
15 because I had so much experience in Rhode Island doing the  
16 automobile cases, car wrecks and a lot of suicides. I did a lot  
17 of homicide cases, because I didn't have that experience in  
18 Rhode Island.

19 Q] So when you left Baltimore, you went where?

20 A] To Arkansas; here.

21 Q] Okay. And at that time you joined, uh, you were one of two  
22 medical examiners?

23 A] Yeah, it was Dr. Sturner, who was the chief; there was Dr.  
24 DeYoung, who left the office and then I came.

25 Q] Approximately how many autopsies - - do you keep count?

1 A] Well, in Arkansas, we sort of keep count. I do two hundred  
2 and fifty a year; approximately.

3 Q] In the course of that, have you done autopsies that dealt  
4 with bodies that had been found in different environments?

5 A] Oh, all of the time.

6 Q] What sort of environments?

7 A] Well, besides residences, uh, you know, bodies in fields,  
8 bodies in water.

9 Q] What about the time frame that those bodies are found, or  
10 do they vary?

11 A] Well, here, since we're down in the south, we get all a lot  
12 of decomposed bodies. So we have a lot of decomposed bodies.

13 Q] Are any of these bodies subject to animal predation?

14 A] A few.

15 Q] Is that something that you take into consideration when you  
16 perform an autopsy?

17 A] Sure, we look for animal predation on every body that has  
18 been out in the open.

19 Q] Have you been qualified as an expert, other than this case,  
20 have you been qualified as an expert in the different judicial  
21 districts in Arkansas?

22 A] Yes, I testify approximately twenty-five to thirty times a  
23 year in the state of Arkansas.

24 Q] And those cases principally involve what kinds of cases?

25 A] The vast majority of them are homicide cases.

1           MR. HOLT: Your Honor, I would submit Dr. Peretti  
2 as an expert in forensic pathology at this time and  
3 able to render an opinion in that field.

4           THE COURT: Any additional voir dire at this time?

5           MR. PHILLIPSBORN: No, Your Honor, not on behalf  
6 of Mr. Baldwin.

7           THE COURT: Anybody else?

8           MR. BURT: No, sir.

9           THE COURT: All right, you may proceed.

10 DIRECT-EXAMINATION, continuing:

11 Q] I believe, Dr. Peretti, that you started the outline of  
12 your education with medical school. What did you do before  
13 medical school; what was your undergraduate degree?

14 A] It was in biology and chemistry.

15 Q] During the course of your, uh, what other interests, uh,  
16 have you developed over the years; specifically, anything that  
17 involving biology or animals?

18 A] Well, uh, I'm an animal lover, uh, I've had a lot of  
19 different pets. But my primary area of animal husbandry, uh, I  
20 breed turtles and tortoises.

21 Q] I see. Well, when did you start doing that?

22 A] Well, since I was a kid. My father had turtles and I sort  
23 of grew up with that; my father, he collected turtles and I just  
24 over the years, I've just, uh, began studying them as a hobby.  
25 I didn't go to school and get a degree in herpetology, but it's

1 probably, uh, I had my first turtle when I was five-years-old  
2 and I still have about two hundred turtles.

3 Q] Are these different species?

4 A] The species of turtles that I have are predominately  
5 Arkansas turtles, but I have a lot of exotic tortoises.

6 Q] I see. With regard to the Arkansas, how many different  
7 species of Arkansas turtles?

8 A] Well, I have about seven or eight different species.

9 Q] And do they range in size and dimension?

10 A] Well, I have them as I breed them, I just hatched out a  
11 bunch this summer. I have hatchlings the size of a quarter and  
12 I have some alligator snapping turtles, uh, one I've had when I  
13 first came to Arkansas, and he's probably about forty or fifty  
14 pounds, so I've had him seventeen years.

15 Q] I see. Do you know how old he is?

16 A] Well, I know he's seventeen years, because I got him when  
17 he hatched out of an egg.

18 Q] Okay.

19 A] So I know he's seventeen years old.

20 Q] So you would call this - - I guess this is an avocation for  
21 you?

22 A] Yes.

23 Q] Do you have, or do you consult various texts or reference  
24 works on turtles?

25 A] Yeah, I do, and I'm also, uh, I consult with the Arkansas

1 State Veterinary pathologist when he gets turtles and tortoises,  
2 he calls me over there when they do exams. I also consult with  
3 Kelly Erwin; he's the state herpetologist. I'm also, at times I  
4 consult with Arkansas Game and Fish when they get problems with  
5 some of the big turtles, they call me and try to rectify the  
6 problem that they're having.

7 Q] Well, specifically, uh, do you sometimes, if there is - -  
8 are you called in sometimes to examine turtles and to determine  
9 the pathology of certain, uh, either lesions or other ailments  
10 that they may have?

11 A] Yes, by the Arkansas Game and Fish.

12 Q] Okay.

13 A] And also through the, uh, Arkansas veterinarian, Dr. Britt,  
14 when he gets a turtle or a tortoise, he always calls me over.

15 Q] Have you had an occasion to perform autopsies on reptiles?

16 A] Yes.

17 Q] Have you had an occasion to rehab various turtles that were  
18 seized in raids by law enforcement?

19 A] Yes.

20 Q] And did these agencies in fact contact you in order to do  
21 that?

22 A] Yes.

23 Q] Have you had some influence or have you had some work in  
24 passing legislation that protects certain endangered species in  
25 Arkansas?



1 A] Yes.

2 Q] And what species is that?

3 A] Well, the alligator snapping or what people commonly call  
4 here, loggerheads.

5 Q] Do you ever, do you ever go out into natural areas or areas  
6 where wildlife is found and either study or seek out turtles?

7 A] All of the time.

8 Q] Okay, this is a small point, Doctor, but I'll throw it in.  
9 Have you also been the president of the Herpetology organization  
10 in central Arkansas?

11 A] Yes, many, many years ago.

12 Q] And is your cultivation, or the husbandry of these turtles,  
13 does it involve the care and observation?

14 A] Yes.

15 MR. HOLT: Your Honor, I would also like to submit  
16 Dr. Peretti, in consideration or the fact that his  
17 experience and his knowledge of biology and practical  
18 experience in performing certain autopsies and care  
19 and procedures upon turtles to qualify him as an  
20 expert to render an opinion as to the anatomy and the  
21 characteristics of turtles, specifically in Arkansas.

22 THE COURT: Gentlemen?

23 MR. BURT: I don't have any general objections.  
24 There may be specific qualifications, and if I could  
25 go question by question, that's okay.

1           THE COURT: Well, at this point, he's just trying  
2 to qualify him and if you've got any voir dire to  
3 attack his qualifications, then now is the time I want  
4 to hear it.

5           If you're just going to wait to cross-examine  
6 him, then I'm going to allow him to proceed.

7           MR. BURT: Sure. On behalf of Mr. Misskelley,  
8 I'll wait until cross.

9           THE COURT: All right, you may proceed.

10          MR. PHILLIPSBORN: Your Honor, the same on behalf  
11 of Mr. Baldwin. I know the Court was concerned when  
12 we put on our evidence, uh, to have us focus on what  
13 our witnesses were doing in 1993, so I'm assuming that  
14 some of what we've heard would apply to Dr. Peretti's  
15 knowledge based as of 1993.

16          Clearly, he's explained that he's had turtles  
17 since age five, but it's sort of hard to know if some  
18 of his other activities came into play - - and  
19 again...

20          THE COURT: ...well, that would be a matter for  
21 cross, I guess.

22          MR. PHILLIPSBORN: That's fine, Your Honor.

23          THE COURT: All right, I'm going to allow him to  
24 proceed and he'll be allowed to render an opinion.

25          MR. HOLT: Okay.

1                   MR. PHILLIPSBORN: Thank you, Your Honor.

2 DIRECT-EXAMINATION, continuing:

3 Q] Dr. Peretti, you in fact performed the three autopsies on  
4 the victims in this case and you may or may not have used all of  
5 these photographs, but I believe that you were, uh, during the  
6 course of your testimony in both the Misskelley trial and the  
7 Echols/Baldwin trial, you used certain photographs that were  
8 taken during the autopsy to describe your testimony; is that  
9 correct?

10 A] Correct.

11 Q] Let's just go through and if you would, explain what you do  
12 during the course of the autopsy?

13 A] In specific to these three cases, or in general?

14 Q] Well, in general.

15 A] Okay. What we do is, uh, when a body comes into the  
16 Arkansas State Crime Laboratory, the first thing we do is we  
17 take the height and weight of the individual and the "as is"  
18 photographs of the individuals, as they come into the office.  
19 Now depending on the type of cases, the case with a gunshot  
20 wound, we'll do a gunshot residue kit. If it's a case involving  
21 sexual assault, we'll do a sexual assault kit. After that has  
22 been completed and after we take the as-is photographs, uh, and  
23 X-rays, we take post-mortem photographs, we clean the body up  
24 and what we do is we take the clean photographs of the body.  
25 After that has been completed, we do an external examination,

1 you know, the color of the hair, the color of the eyes, any  
2 unusual features, injuries, externally. After that has been  
3 completed, we proceed with the actual autopsy where we open up  
4 the body and look at the brain, all of the structures of the  
5 neck, chest and abdomen. During that time we look for evidence  
6 of trauma, congenital malformations in cases of children,  
7 disease and we also take specimens for toxicology to determine  
8 the presence of alcohol and drugs in the body fluids. Then  
9 after that has been completed, by state law, I have it issue a  
10 death certificate stating the cause and manner of death, and a  
11 report is generated for criminal and civil proceedings. So  
12 that's what we do on every body.

13 Q] Okay. And when you say the "cause and manner of death," is  
14 generated, is that generally the first page of the autopsy  
15 report?

16 A] Yes. We put that on the front page.

17 MR. PHILLIPSBORN: Your Honor, I note that Dr.  
18 Peretti has a notebook in front of him and obviously  
19 there is no objection as to refreshing his  
20 recollection, but if he just identifies for us what he  
21 is looking at?

22 DIRECT-EXAMINATION, continuing:

23 Q] If you would?

24 A] At this moment?

25 Q] Yes, what you're looking at right now.

1 A] Well, in the notebook are the three autopsy reports. I'm  
2 just more organized, having the notebook.

3 Q] And I believe that those autopsy reports are in fact, have  
4 been admitted as exhibits in this case?

5 THE COURT: Yes, they have.

6 DIRECT-EXAMINATION, continuing:

7 Q] If we could, uh, let's start with James Michael Moore, in  
8 terms of the external description. What findings did you make  
9 at that time?

10 A] The findings?

11 Q] Yes.

12 A] On the external?

13 Q] Yes, what did you observe; was the external description,  
14 are these the gross findings?

15 A] Yes, as we received the body.

16 Q] Okay. If you would, describe those. It's important at  
17 this stage of the proceeding, it's important what you wrote in  
18 there.

19 A] Okay. Do you want me to just read what I have here?

20 Q] Yes. And then we'll stop and I'll let you explain.

21 A] Okay. I stated that "the body was that of a well  
22 developed, well nourished, nude white male, whose hands were  
23 bound to the ankles in a 'hog-tied' fashion. The body showed  
24 multiple injuries which are described further below in detail.  
25 The body weighed 55 pounds, was 49½ inches in height and

1 appeared compatible with the reported age of 8 years. The body  
2 was cold. Rigor was present and fixed to an equal degree in all  
3 extremities. Lividity was present, minimal and fixed on the  
4 posterior surface of the body except in areas exposed to  
5 pressure. The scalp hair was brown, wavy and blood-soiled. The  
6 irides were green. The corneae were clear. The sclerae and  
7 conjunctivae were slightly congested with no petechial  
8 hemorrhages. Fly larvae were present in the left periorbital  
9 region. The teeth were natural and in good condition. The  
10 neck, chest, abdomen and extremities were unremarkable except  
11 for the injuries to be described further below in detail. The  
12 hands and feet show washer woman wrinkling. The posterior torso  
13 showed injuries as described below. A one inch birth mark is  
14 present over the left buttocks region."

15 Q] Okay. Within that paragraph you noted that fly larvae were  
16 present in the left periorbital region?

17 A] Yes.

18 Q] Have you had an occasion, uh, in the recent past to view  
19 the crime scene video in this particular case?

20 A] Yes, I have.

21 Q] Had you seen that video before?

22 A] No, this is the first time I have seen it.

23 Q] Okay. What are some of the things that you remarked about  
24 in that video?

25 A] Well, the flies on the body.

1 Q] Uh, do you know how long, exactly, those bodies were out on  
2 the bank when they were recovered?

3 A] Well, my understanding from the information I have, that  
4 they were out on the bank, uh, they were put out on the bank a  
5 little after 1:00 p.m. I don't remember the exact time but it  
6 was after 1:00 p.m., and our investigators picked them up at the  
7 scene at approximately 8:00 p.m., so approximately seven hours,  
8 according to the information that we have.

9 Q] Or that they were at least - - do you know from the infor-  
10 mation that you had, what environment the bodies were recovered  
11 from?

12 A] Well, they were recovered from a body of water, a ditch.

13 Q] And I believe that in a prior hearing there has been some  
14 mention of those fly larvae present. You did not submit that to  
15 an entomologist?

16 A] No, I didn't need to, because they were just recently, uh,  
17 deposited there, the blow flies.

18 Q] If you would, continue?

19 A] In the description of injuries?

20 Q] In your description of injuries?

21 A] Okay. And now I'm describing the injuries that I saw on  
22 the body: "the body was covered with scattered and focal areas  
23 of dried mud and debris. The hands and feet showed washer woman  
24 wrinkling. The wrists were bound to the ankles bilaterally with  
25 black shoe laces. Removing of the binding showed the abraded

1 and contused furrows present on both right and left ankles and  
2 wrists. A strand of 'fabric-like' material was clenched in the  
3 left hand."

4 Q] Okay. Now in that particular instance, you said that there  
5 were "bindings"?

6 A] Yes.

7 Q] And I believe that at trial, Exhibit #67a was admitted into  
8 evidence. Do you recognize #67a on the screen there?

9 A] (Witness examining same.) Yes. Those are the "as-is"  
10 photographs.

11 Q] Okay. And is that where you're talking about the  
12 "scattered and focal areas of dried mud and debris"?

13 A] Yes.

14 Q] And you also not the shoe laces, uh, where you removed  
15 bindings that were, uh, that this boy was what you described as  
16 being "hog-tied" by?

17 A] Yes.

18 Q] Okay. How did, what process did you use to do that?

19 A] Well, we, there's a process, what we do is, uh, where the  
20 bindings are, for example, around the wrists, we would cut them,  
21 okay, then we would label where we cut them and then, we want to  
22 preserve the knot; that's why we do that.

23 Q] I see?

24 A] So we've cut it, labeled it, removed the bindings, then  
25 submit it to the appropriate section of the Crime Laboratory.



1 Q] Do you recall testifying in court about your submission to  
2 another section in the Crime Lab of these particular ligatures?

3 A] Yes, I know I submitted them to Trace.

4 Q] If you would, just read what you wrote for the head  
5 injuries?

6 A] "Multiple punctate scratches were present over the bridge  
7 of the nose. The left ala was abraded. The left side of the  
8 cheek was contused and edematous, with an overlying 1½ inch  
9 contusion. The lips were abraded. The mucosal surfaces of the  
10 lips were contused, slightly edematous with multiple superficial  
11 lacerations. The frenula were intact. Linear scratches were  
12 present on the left mandible region, along with a 3 by ¾ inch  
13 area of abrasion."

14 Q] Could you stop there for just a second? If you could, this  
15 was submitted as Exhibit #65a. There is a pointer there in  
16 front of you and if you would, would you describe where you say  
17 the "lips were abraded." Do you see abrasion in that particular  
18 scene?

19 A] No, that's mucosal surface.

20 Q] Okay. Well, when you're talking about the mucosal surface,  
21 what are you talking about?

22 A] The inner aspect of the lip. That's the mucosal surface  
23 and that's the frenula.

24 Q] And the frenula is that little piece of skin in the middle?

25 A] Yes, there's one on the top and there's one on the bottom.

1 Q] Okay. The "mucosal surface of surfaces of the lips were  
2 contused and slightly edematous." What does "edematous" mean?

3 A] Having swelling.

4 Q] What causes swelling?

5 A] Trauma.

6 Q] And you said that there were "superficial lacerations"?

7 A] Yes.

8 Q] With edematous, what is the mechanism of something being  
9 edematous?

10 A] Well, he has a contusion, a bruise, or black and blue. And  
11 what happens is that you have the breakage of the underlying  
12 small blood vessels in the dermis, the capillaries and veinuals  
13 and therefore, you start swelling. I mean, we've all banged our  
14 hand and the next day we woke up and it's black and blue and  
15 it's a little swollen.

16 Q] Well, do you, uh, is the timeline of that, that there is  
17 some sort of trauma, some sort of force that causes rupture?

18 A] Yes, first, the trauma, then the swelling.

19 Q] Okay. And the swelling is then caused by the heart pumping  
20 blood into that area where there has been?

21 A] Right. Well, the swelling, that's the contusion is the  
22 heart pumping the blood, then the swelling is due to the leakage  
23 of the blood vessels.

24 Q] Into the surrounding tissues?

25 A] Correct.

1 Q] Okay. If you would, the next statement that you make in  
2 your report?

3 A] "Situated on the right frontal scalp was a 2½ by ½ inch  
4 area of edema and ovoid contusion with overlying multiple small  
5 superficial lacerations and a 1/8<sup>th</sup> inch depressed abraded  
6 laceration. On the left forehead was a 1 5/8 inch by 1 1/8 inch  
7 abraded laceration. St the superior margin of this wound was a  
8 ½ inch abrasion. The anterior and posterior surfaces of the  
9 right ear were contused, with overlying linear scratches. The  
10 helix of the right ear was abraded."

11 Q] If you would, when you say the "anterior posterior surfaces  
12 of the right ear were contused, with overlying linear  
13 scratches," what exactly do you mean?

14 A] Well, the front and back of the ear, uh, was bruised. The  
15 linear scratches, those are fingernail marks.

16 Q] When you say "linear scratches," do you mean, is your way  
17 of saying that it has a line to it?

18 A] Yeah, they're just linear, or like a line.

19 Q] Is that another, uh, is it common to see fingernail  
20 scratches in autopsies?

21 A] Yes, if nails were used; yes.

22 Q] I show you what's introduced as Exhibit #63a and ask you,  
23 are you referring to, when you talk about the - - what side of  
24 the ear is this, on the screen?

25 A] That's the front.

1 Q] The front. And that's #63a. If you would, identify what's  
2 admitted as #64a?

3 A] (Witness examining same.) That's the back of the ear.

4 Q] And you say you observed contusion present there; is that  
5 correct?

6 A] Yes, on the top of the ear, an abrasion on the helix, the  
7 bottom.

8 MR. HOLT: May I approach the witness?

9 THE COURT: Yes.

10 DIRECT-EXAMINATION, continuing:

11 Q] I want to show you what's been marked as State's Exhibit  
12 #33. Do you recognize that?

13 A] (Witness examining same.) Yes.

14 Q] And I direct you to the relevant portion of his - - is  
15 *Traumatic Injuries to the Teeth*, his textbook and color atlas,  
16 is that a reference work with regard to that subject?

17 A] Yes, it is.

18 Q] On page 209, uh, midway down, as it lists symptomology,  
19 starting with "bruises on the ear are commonly due to the child  
20 being pinched or pulled by the ear, and there will usually be a  
21 matching bruise on the posterior surface of the ear."

22 MR. BURT: We object to the question, unless  
23 there is some foundation that this publication was in  
24 existence at the time of these trials. There's no  
25 reference on the literature.

1           THE COURT: Well, you need to tie it up in  
2 reference to time, I suppose.

3           MR. HOLT: Okay.

4           THE COURT: That's the objection.

5           MR. HOLT: Okay.

6           THE COURT: And was the treatise in publication at  
7 the time of this trial in 1994?

8           MR. HOLT: I'll have to answer that at a later  
9 time.

10          THE COURT: All right.

11 DIRECT-EXAMINATION, continuing:

12 Q] But continuing with this particular paragraph, you did note  
13 that the ears, in fact, had bruises on this particular child on  
14 the anterior and posterior surfaces; is that correct?

15 A] Correct.

16 Q] And you also noted scratch marks; is that correct?

17 A] Yes.

18 Q] In addition to reference works that detailed this sort of  
19 injury, do you have any other training or experience with regard  
20 to this type of injury?

21 A] Yes, I've seen this injury before.

22 Q] You've seen it personally?

23 A] Yes, on many times.

24 Q] Okay. And was this particular type of injury, was it also  
25 present in the autopsies that you performed on the other two

1 victims?

2 A] Yes.

3 Q] Do you have any, besides your own personal experience with  
4 regard to this type of injury, do you have other, uh, do you  
5 have either the work or the pedagogy of other forensic  
6 pathologists with regard to how these kinds of injuries come  
7 about?

8 A] Yes, I went to a lecture once given by a forensic path-  
9 ologist, Dr. Joseph Rupp, many years ago who, uh, sort of, uh,  
10 his area of expertise was sex crimes, sexual deaths, and he  
11 mentioned in there that these type of injuries you see are  
12 common in people who are sexually assaulted, especially  
13 children.

14 Q] Okay. Well, do you know of any sort of animal predation  
15 that causes this particular type of injury?

16 A] No, I don't.

17 Q] Do you know, I believe you testified that reference in the  
18 other two autopsies that all three of the boys actually had this  
19 type of injury?

20 A] Yes, the same injury.

21 Q] Then we move along to the next paragraph?

22 A] "Situated on the right parietal scalp was an ovoid area of  
23 contusion with associated edema, measuring 2¾ inch by 1½ inch.  
24 Situated behind the right ear was an ovoid contusion with edema  
25 measuring 1¾ inch by ¾ inch. Situated behind the right ear were

1 multiple semi-lunar scratches."

2 Q] When you say "semi-lunar," what are those characteristi-  
3 cally of?

4 A] Fingernails.

5 Q] Okay. And are there tests in existence in 1993, '94, that  
6 describe fingernail marks as "semi-lunar"?

7 A] Oh, yes. It's very common in the forensic literature.

8 Q] If you would, identify #61. Is that - - I'm not sure. Is  
9 #61a one of the ones that you're describing in that paragraph,  
10 "the right parietal scalp was an ovoid area of contusion with  
11 associated edema"?

12 A] (Witness examining same.) Correct.

13 Q] Now when you say that with that particular, uh, what I'm  
14 wanting to find out, when you describe that particular injury  
15 that way "with edema," can you make a certain assumption about  
16 whether or not the person was dead or alive when it was caused?

17 A] Well, because you have contusion, you have to be alive, be-  
18 cause your heart is pumping blood. As I stated earlier, you  
19 have rupture of the small venuals and capillaries in the dermis,  
20 and you have the swelling. So you have to be alive.

21 Q] I see.

22 A] That's an antemortem injury.

23 Q] You said that these measure  $2\frac{3}{4}$  by  $1\frac{1}{2}$ , one of them does, I  
24 think and the other,  $1\frac{3}{4}$  inch by  $\frac{3}{4}$  inch?

25 A] Correct.

1 Q] Okay. Do you do further pathological procedures to confirm  
2 what you believe this to be as an antemortem injury?

3 A] Well, what we do is we reflect the scalp and we're looking  
4 at the underlying scalp tissue, the subgaleal tissue, which had  
5 hemorrhaged.

6 Q] Okay. Next paragraph, please?

7 A] "Situated on the left parietal scalp was a dove-tail type  
8 laceration measuring  $\frac{3}{4}$  by  $\frac{1}{8}$  inch. At the inferior margin of  
9 the wound was an extension patterned contusion in the form of an  
10 upside down "L"; the vertical portion measured  $\frac{1}{2}$  inch and the  
11 horizontal portion measured  $\frac{1}{4}$  inch."

12 Q] I show you what was admitted as Exhibit #301, uh, taken  
13 during this autopsy. Is that what you are describing in your  
14 autopsy report?

15 A] (Witness examining same.) Yes.

16 Q] If you would, point out which is which?

17 A] This is the dove-tail right there.

18 Q] And typically, what causes that type of wound; what's the  
19 mechanism?

20 A] Blunt force head trauma. An object came in contact with  
21 the head, or the head came in contact with an object.

22 Q] Did it essentially split the skin?

23 A] Yes.

24 Q] What about those other two that are located in that photo-  
25 graph?



1 an overall dimension of 2 inches. Inferior to this fracture was  
2 a similar semi-lunar fracture measuring  $1\frac{3}{4}$  inches."

3 Q] Were all of those - - what did you do to confirm - - how  
4 were you able to write that particular paragraph?

5 A] Well, what I did was I made notes, you know, as I removed  
6 the calvarium and I'm looking, I'm measuring and writing down/

7 Q] And when you say the "calvarium"?

8 A] The top of the skull.

9 Q] And you're able to observe those particular fractures in  
10 the calvarium?

11 A] Well, in the base of the skull.

12 Q] Excuse me. In the base of the skull?

13 A] Yes.

14 Q] Similarly, are you able to observe the hemorrhage in the  
15 tissues on the top of the head, in the scalp?

16 A] Oh, yes.

17 Q] Okay. Continue with that, please?

18 A] "A  $\frac{3}{4}$  inch fracture involved the right anterior cranial  
19 fossae. A 3 inch fracture extended across the right posterior  
20 cranial fossae."

21 Q] Now where is that, if you would demonstrate where that is?

22 A] Well, the right anterior, the base of the skull is divided  
23 into three zones: the anterior cranial fossae, which is  
24 essentially where your eyes are; the middle cranial fossae,  
25 where your ears are; and the posterior is in the back. And so

1 one fracture went across the right anterior, uh, that's  
2 essentially behind your eyes. Uh, the 3 inch fracture extended  
3 over the right posterior, so that's the, uh, on the back of the  
4 right side skull.

5 Q] So is there an average skull circumference size for an  
6 eight-year-old child?

7 A] Well, they're all a little bit different, you know. I  
8 didn't measure the circumference.

9 Q] But the size of an eight-year-old boy's skull is different  
10 than a grown skull?

11 A] Oh, yes.

12 Q] And were these significant fractures?

13 A] Oh, yes. .

14 Q] If you would continue with the next?

15 A] "The brain was edematous and showed subarachnoid hemorrhage  
16 involving the right cerebellar hemisphere. There were fracture  
17 contusions involving the right posterior cerebellar hemi-  
18 spheres."

19 Q] One thing about this, uh, on the large paragraph when you  
20 talked about semi-lunar, "semi-lunar circular fracture measuring  
21 2 inches," when you say it was semi-lunar, did it have the  
22 appearance of a circle?

23 A] A half-moon.

24 Q] Oh, the half-moon?

25 A] Yeah.

1 Q] The fracture itself?

2 A] Yes. A circle, like a half-moon.

3 Q] If you would next go to the neck, chest and abdominal  
4 injuries?

5 A] "In an area measuring 3 inches by  $\frac{3}{4}$  inch, situated over the  
6 right side of the neck and scapula region, was an area of  
7 contusion with an overlying  $1\frac{1}{4}$  by  $\frac{1}{2}$  inch abrasion. Situated  
8 medial to this contusion, extending onto the left side of the  
9 neck, was a 1 by  $\frac{1}{4}$  inch contusion."

10 Q] Now when you say that "there is an area of contusion with  
11 an overlying abrasion," so you're saying that there is a bruise  
12 and on top of this bruise is a corresponding abrasion; is that  
13 correct?

14 A] Correct.

15 Q] And then "situated medial to this contusion," what do you  
16 mean?

17 A] Well, just medial, is close to the inner aspect of the  
18 body.

19 Q] Okay. And in fact, there is a 1 by  $\frac{3}{4}$  inch contusion; is  
20 that correct?

21 A] Correct.

22 Q] In other words, a bruise?

23 A] Yes.

24 Q] The next paragraph?

25 A] "Situated on the right shoulder were three scattered

1 contusions measuring about  $\frac{1}{4}$  to  $\frac{1}{2}$  inch. Adjacent to this was an  
2 area of focal red-purple contusion. Below this contusion an  
3 area measuring  $2\frac{1}{4}$  by  $\frac{1}{4}$  inch were multiple linear, diagonally  
4 oriented abrasions surrounded by contusions. These abrasions  
5 were interspaced by a distance of  $\frac{1}{8}$  to inch contusions. Below  
6 this contusion were two parallel oriented abrasions which  
7 measured about  $\frac{3}{4}$  inch each and were interspaced by a distance of  
8  $\frac{1}{8}$  inch."

9 Q] Now when you're talking about the "multiple linear,  
10 diagonally oriented abrasions surrounded by contusions," are you  
11 talking about...

12 A] ...that whole area.

13 Q] This whole area right here?

14 A] Yes.

15 Q] And when you say "right here," are you talking about the  
16 right side, just up under the right arm, essentially on the  
17 chest?

18 A] Yes, on the clavicle.

19 MR. BURT: Well, we need some description of what  
20 "right here" he is talking about. By the way, what  
21 exhibit is this?

22 MR. HOLT: Oh, I'm sorry. This is State's Exhibit  
23 #59a.

24 MR. BURT: Thank you.

25 MR. HOLT: You're welcome.

1 DIRECT-EXAMINATION, continuing:

2 Q] And you say that "these abrasions were interspaced by a  
3 distance of 1/8 by 1/4 inch"; is that correct?

4 A] Yes.

5 Q] And when you say that they are "linear," are you saying  
6 that they appear in a line?

7 A] Yes.

8 Q] Okay. And you say that under these abrasions, they were  
9 "surrounded by contusions"?

10 A] Yes.

11 Q] So they were also surrounded by bruises?

12 A] Yes.

13 Q] What, in your opinion and based upon your training and  
14 experience, what does an abrasion overlying a contusion indicate  
15 to you?

16 A] Well, we have contusion, you know, black and blue. There's  
17 the impact site there, blunt force trauma and there's a subse-  
18 quent abrasion over it. It could be you have the impact with an  
19 implement and then that implement, as it's damaging the skin,  
20 it's also abrading the skin.

21 Q] Would you continue there, please?

22 A] "Situated over the lower left side of the abdomen were a  
23 group of linear abrasions which were interspaced by a distance  
24 of 1/16 by 1/8 inch."

25 Q] And if you could, go to the next, the anal/genital region?

1 A] "The penis was circumcised and showed no injuries. The  
2 anus was dilated and showed no external evidence of injury. Mud  
3 and debris was present in the anal orifice. Subsequent autopsy  
4 demonstrated no internal injuries noted to the scrotum or  
5 testes. The mucosal surfaces of the rectum were slightly  
6 hyperemic and showed no evidence of injury."

7 Q] Next, the lower extremities?

8 A] "A ¼ inch ovoid contusion is present over the left knee.  
9 Binding abrasions were present on the ankles bilaterally.  
10 Situated above and below these binding abrasions were faint red-  
11 purple contusions."

12 Q] And so again, with those "faint red-purple contusions  
13 situated with the bindings," you are discussing the bruising  
14 that the binding has caused?

15 A] Yes.

16 Q] And one of the important considerations that was not  
17 emphasized in direct-examination originally in this particular  
18 case, was the timing of some of these particular injuries. I  
19 believe that you testified in the course of your testimony, you  
20 testified that there were injuries that had the appearance of  
21 antemortem, peremortem and postmortem?

22 A] Correct.

23 Q] We'll get back to that, but when you say "contusion," is it  
24 your opinion that a contusion can only be caused when there is  
25 either antemortem or some peremortem activity of the heart?

1 A] Yes. Another way you can get contusions, uh, but you can  
2 tell them apart quite easily, uh, and sometimes they're handled,  
3 the deceased individual, roughly, like the paramedics, they can  
4 break the underlying capillaries and there will be some seepage  
5 of blood into the, uh, in the fat, but what happens is in those  
6 cases if you make an incision there, the blood just washes  
7 completely out.

8 Q] I see.

9 A] And when your heart is beating, it's infiltrated into the  
10 tissue.

11 Q] I see. In the wounds in this particular case, or these  
12 particular cases, did you look inside the wounds?

13 A] Oh, yes.

14 Q] And what do you mean - - describe that procedure?

15 A] Well, you know, I'm looking at him, I'm looking to see if  
16 there is hemorrhage or not, you know, just looking to see if  
17 they're antemortem, peremortem or postmortem.

18 Q] If you would, go to the back injuries?

19 A] "A 1 inch contusion was present on the back of the left  
20 forearm. Situated over the right upper back were two diagonally  
21 oriented interrupted abrasions, each measuring about 4½ inches.  
22 They were interspaced by a distance of ½ inch. Situated below  
23 this abrasion and on the left side was a 4 by 2 inch area of  
24 contusion. Below this contusion, extending to the right mid  
25 back were two linear diagonally oriented abrasions which were

1 interspaced by a distance of 2/16 inch."

2 Q] Okay. The next paragraph?

3 A] "Situated over the right buttocks were multiple linear  
4 scratches measuring from 1/2 inch to 3/8 inch. Punctate linear  
5 scratches were present on the inferior aspect of the left  
6 buttocks region."

7 Q] And is that depicted in what was admitted as State's  
8 Exhibit #69a?

9 A] Yes.

10 Q] Now there is some reddish area across the buttocks. Is  
11 that, are you - - if you would, describe that?

12 A] Well, that reddish area is postmortem Lividity, the  
13 settling of the blood after death. It's not a contusion.

14 Q] And that's distinguishable from a contusion?

15 A] Oh, yes.

16 Q] The next page, if you would?

17 A] Of the upper extremities?

18 Q] Upper extremities?

19 A] "The wrists showed binding abrasions. Situated around  
20 these abrasions were contusions." Continue?

21 Q] Well, when you say that, and I believe that in this par-  
22 ticular case, there was some microscopy that was submitted with  
23 regard to anything that possibly under those ligatures; is that  
24 correct?

25 A] Correct.



1 Q] And is that listed under the microscopic section of your  
2 report?

3 A] Yes, it is.

4 Q] And I believe under one "skin - right wrist - intact  
5 epithelium," what does that mean?

6 A] The overlying, uh, the skin is, uh, you have the epidermis,  
7 the outer layer of the skin and then the underlying dermis. So  
8 the epithelium was intact, uh, the epidermis.

9 Q] And were there different findings with regard to those  
10 particular wounds?

11 A] Yes, some have hemorrhage.

12 Q] Well, with the presence of hemorrhage, did you reach any  
13 conclusions with regard to when, uh, when this person was bound?

14 A] Well, yeah, well, I know when he was bound, he was alive.

15 Q] If he had been dead and had been tied in this particular  
16 way, would you have seen the abrasions or any of that  
17 hemorrhage?

18 A] You would see the abrasions, because you can get postmortem  
19 abrasions, uh, bindings postmortem, but you won't see any  
20 hemorrhage.

21 Q] I see. Let's see. Where were we? The second paragraph in  
22 your description of upper extremity injuries?

23 A] "Situated on the left antecubital fossa was 1/8 inch  
24 abrasion. Below this were linear abrasions measuring from 1/16  
25 to 1/2 inch."

1 Q] Continue?

2 A] "Situated on the right thenar eminence was a 1 inch cut.  
3 Situated on the back of the left hand was a  $\frac{3}{4}$  inch scratch and a  
4  $\frac{1}{16}$  inch abrasion which was present on the anterior surface of  
5 the left thumb. The hands showed bilaterally washer woman  
6 wrinkling."

7 Q] Okay. Now if you would, explain what you mean by "the  
8 right thenar eminence"?

9 A] Right thenar eminence is you have your thumb and this piece  
10 of large tissue right immediately below your thumb.

11 Q] Let the record reflect you're showing me the inside of your  
12 hand?

13 A] Yes. You have your thumb and you have this big piece of  
14 muscle. That's what that is.

15 Q] And you say that on the right there was a "one inch cut"?

16 A] Yes.

17 Q] And "situated on the left thenar eminence was a  $\frac{1}{8}$  super-  
18 ficial laceration"?

19 A] Correct.

20 Q] Okay. "Situated on the back of the left hand was a  $\frac{3}{4}$  inch  
21 scratch and a  $\frac{1}{16}$  inch abrasion, which was present on the  
22 anterior surface of the left thumb." Now when you typically see  
23 injuries to the hands of victims, do those have any particular  
24 characteristics, or are they characterized in any particular  
25 way?

1 A] Well, in my opinion, he's got a one-inch cut and, you know,  
2 to me, that's a defense-type wound. He's trying to grab, you  
3 know, during the assault, he's either being cut or he's grabbing  
4 the knife to get it away from him.

5 Q] Or whatever object it is?

6 A] Whatever object it is; a sharp object.

7 Q] Did the cut appear to be fresh and contain hemorrhage?

8 A] Yes.

9 Q] Okay. Internal evidence of injury of the neck, chest and  
10 abdomen, but before we do that, you said that "the hands  
11 bilaterally showed washer woman wrinkling." What is that?

12 A] Washer woman wrinkling is, uh, when your hands have been in  
13 water for a long time, they absorb the water and a lot of  
14 females, you know, when they wash dishes, keep their hands in  
15 water for a long time or take a long bath, they get that wrinkle  
16 appearance of the hands. So they call that "washer woman  
17 wrinkling."

18 Q] Okay. Was that present in all three of the victims?

19 A] I believe so. Yes.

20 Q] Next, if you would go to the internal evidence of the neck,  
21 chest and abdomen?

22 A] "There were multiple bite marks present on the lateral  
23 margins and tip of the tongue. There was no hemorrhage noted in  
24 the muscles of the neck. The hyoid bone and larynx were intact.  
25 No petechial hemorrhages were present on the larynx or

1 epiglottis. There were no penetrating or perforating injuries  
2 noted to the chest, abdomen, or pelvis."

3 Q] With regard to that first sentence, "multiple bite marks  
4 present on the lateral margins and tip of the tongue," uh, in  
5 your experience as a medical examiner, have you seen that  
6 particular type of injury before"

7 A] Oh, yes.

8 Q] And what is it, how is that particular injury produced?

9 A] When we see these cases, uh, bite marks present in people  
10 who have head traumas, you're having a seizure; uh, people who  
11 don't have trauma and have histories of seizure disorders, if  
12 they're found dead in bed, uh, we look for bite marks on the  
13 tongue, indicating that they had a seizure during their sleep.  
14 So that's what that means.

15 Q] Is this, when you put in here "multiple bite marks of the  
16 tongue," was it your opinion, or is it your opinion that these  
17 in fact were, for lack of a better term, self-inflicted?

18 A] Yes. He did it himself.

19 Q] Okay. The next paragraph?

20 A] Evidence of drowning: "The hands and feet showed washer  
21 woman wrinkling. The sphenoid sinus contained 2 ml. of bloody  
22 fluid. Petechial hemorrhages were present on the epicardium,  
23 pleura, and thymus. The lungs were edematous and extruded  
24 abundant amounts of frothy material."

25 Q] Now when you say that this is "evidence of drowning," the

1 sphenoid sinus had bloody fluid in it?

2 A] Yes.

3 Q] Where is the sphenoid sinus?

4 A] The sphenoid sinus, uh, as I explained earlier, you have  
5 the base of the skull and the anterior, posterior. The  
6 anterior, middle and posterior cranial fossae. So right in dead  
7 center of the middle cranial fossae is where the pituitary gland  
8 is and behind the pituitary gland there is a bone there, and you  
9 take that out and that's the sphenoid sinus.

10 Q] And water can be present in there?

11 A] In drownings, yes.

12 Q] Okay. You said that "petechial hemorrhages were present on  
13 the epicardium, pleura and thymus." Is that a general finding?

14 A] Petechial hemorrhages are non-specific. I mean, someone  
15 can have a heart attack and, you know, you can find them. But,  
16 you know, in context with the drowning, it goes along with it.

17 Q] I believe you also said "the lungs were edematous and  
18 extruded abundant amounts of frothy material"?

19 A] Yes.

20 Q] What was this "material"?

21 A] It's just froth, uh, the fluid in the lungs mixing with the  
22 blood and it forms a froth; very characteristic in drowning.

23 Q] Let's go to your internal examination, the body cavities?

24 A] "The body was opened by the usual thoraco-abdominal  
25 incision and the chest plate was removed. No adhesions or

1 abnormal collections of fluid were present in any of the body  
2 cavities. All body organs were present in normal anatomical  
3 position and showed moderate pallor. The subcutaneous fat layer  
4 of the abdominal was ½ inch thick. There was no internal  
5 evidence of blunt force or penetrating injury to the thoraco-  
6 abdominal region."

7 Q] Okay. Now when you listed there that they showed "moderate  
8 pallor," what is the - - is that an observation that you make  
9 during the autopsy?

10 A] Oh, yes.

11 Q] Is it a fairly standard observation?

12 A] Yes, when we look at the body organs when we do autopsies,  
13 we want to know if they're congestive, anemic or have pallor.

14 Q] And what does - - what is the - - what causes pallor?

15 A] Pallor is due to blood loss.

16 Q] In this particular case, do you believe that there was - -  
17 you've described injuries that were cuts, abrasions, but you  
18 know, in the main you've described fractures of the skull. Is  
19 blood loss a result of a fracture of the skull?

20 A] Yes. What happens is you have three impact sites on top of  
21 the scalp and the scalp bleeds profusely.

22 Q] Where does the blood go?

23 A] It just - - well, a lot of it just bleeds out, you know,  
24 externally, and then you have the hemorrhage in the underlying  
25 subgaleal tissues.

1 Q] I see. And does the body have a response to that?

2 A] Well, if you lose enough blood, you go into hypoglycemic  
3 shock.

4 Q] And what - - does that loss of blood cause certain degrees  
5 of pallor?

6 A] Yes.

7 Q] The next page you have your part of the internal exam-  
8 ination. Anything that was significant in this area?

9 A] No, that's the, uh, you know, we described the injuries in  
10 one section and then we described the organs. Essentially, he  
11 had no evidence of disease. He's a healthy eight-year-old.

12 Q] And the microscopic that was taken in this particular case,  
13 we have one, two, three, four, five, six; would there have been  
14 six slides taken?

15 A] Well, it was probably a little more, uh, you know, I don't  
16 have the slides here in front of me, but there may have been  
17 more than one of the right wrist and right ankle.

18 Q] I see. But you do - - you note that there was no hemor-  
19 rhage in the anus or rectum, no hemorrhage in the testes?

20 A] Right.

21 Q] I believe that you did note that - - well, it may be on the  
22 pathological diagnosis, but you mentioned the multiple injuries  
23 and then drowning. In your opinion, was this person sufficient-  
24 ly conscious when placed in the water, to then drown?

25 A] He may have been conscious, and may have not.

1 Q] I don't mean to say "conscious," I think I mean to say, was  
2 in your opinion, was he alive when he was placed in the water?

3 A] Yes, he was alive when he was placed in the water.

4 Q] And what do you base that opinion on?

5 A] All of the evidence of drowning.

6 Q] On number five you mentioned "anal dilatation with  
7 hyperemia of anal/rectal mucosa"?

8 A] Yes.

9 Q] What does that mean in layman terms?

10 A] Well, when I examined him I noticed his anal orifice was  
11 dilated, uh, however, as I said in the report, there was no  
12 evidence of trauma surrounding it. The anal mucosa was hyper-  
13 emic, I said, and congested. So that's where I cut a section  
14 through, to see if there was any trauma there; which there was  
15 no trauma.

16 Q] Okay. So you in fact sectioned that area to see if there  
17 was hemorrhage?

18 A] Right. And there was no hemorrhage.

19 Q] And I believe that you testified that, uh, there was "anal  
20 dilatation with hyperemia of anal/rectal mucosa"?

21 A] Yes.

22 Q] And that that was consistent with several different circum-  
23 stances; is that correct?

24 MR. BURT: I need to object to that. It's

25 leading and the transcript of what he testified to



1 relates to two different times, and it speaks for  
2 itself.

3 MR. HOLT: Okay. I withdraw the question.

4 THE COURT: Okay.

5 DIRECT-EXAMINATION, continuing:

6 Q] Are there different circumstances under which anal dilation  
7 or dilatation can be present?

8 A] Yes. Postmortem, or relaxation, uh, the body begins to de-  
9 compose and will dilate. We see it in cases if there is a sex-  
10 ual assault, you have an anal dilatation. Those are some  
11 causes, but the majority of the time, we see it in young child-  
12 ren, due to postmortem changes, or relaxation.

13 Q] Okay, if we could move to the next autopsy that you per-  
14 formed, ME-330-93. I believe that you submitted a cover sheet  
15 to law enforcement authorities on this particular case listing a  
16 cause of death and a manner of death; is that correct?

17 A] Yes.

18 Q] And what was your cause of death in this particular case?

19 A] Multiple injuries with drowning.

20 Q] And manner of death?

21 A] Homicide.

22 Q] Now if you would, go to the external description here, of  
23 Mr. Branch?

24 A] Do you want me to read it?

25 Q] Yes, the same way we did last time.

1 A] "The body was that of a well developed, well nourished nude  
2 white male. The body was covered with mud, leaves and debris.  
3 The right hand was bound to the right ankle with a black shoe  
4 lace, the left hand was bound to the left ankle with a white  
5 shoe lace. Both hands and feet showed washerwoman wrinkling.  
6 The body weighed 65 pounds, was 50 inches in height and appeared  
7 compatible with the reported age of 8 years. The body was cold.  
8 Rigor was present and fixed to an equal degree in all  
9 extremities. Lividity was present, minimal and fixed on the  
10 anterior posterior surfaces of the body. There were multiple  
11 injuries situated on the body which are described further below  
12 in detail. The scalp hair was blond and bloody. The irides  
13 were blue-gray. The corneae were clear. Bilateral transverse  
14 drying was present. The conjunctivae and sclerae were  
15 congested. There was one petechial hemorrhage involving the  
16 left sclera. The teeth were natural and in good condition.  
17 Examination of the neck revealed no evidence of injury. The  
18 chest and abdomen were unremarkable, except for the injuries  
19 below. The penis showed injuries as described below. The upper  
20 and lower extremities showed no abnormalities except for the  
21 injuries. The fingernails were short and intact. There was no  
22 evidence of breakage and the nail beds were dirty. Injuries are  
23 described below. Posterior torso showed injuries as described  
24 below. A cloth friendship bracelet was present around the right  
25 wrist."

1 Q] Okay. In this particular case, did you perform the same  
2 procedure on the shoe laces that you did in the previous case?

3 A] Yes.

4 Q] And they were submitted and if the record reflects that  
5 they were at one point admitted into evidence in this case, you  
6 would have no disagreement with that?

7 A] No.

8 Q] Okay. If you would, describe the injuries?

9 A] Okay, the head injuries: "The right ear showed multiple  
10 confluent contusions and abrasions. Scattered abrasions were  
11 present over the right eye. A ½ inch contusion was present in  
12 the right medial periorbital region. A 2 inch scratch was  
13 present below the right eye. Multiple scratches were present  
14 over the right mandible. Situated on the right mandible was a  
15 bell-shaped type abrasion which showed a central area of pallor  
16 and abrasion. The lips were abraded, with multiple superficial  
17 lacerations. The mucosal surfaces showed multiple contusions,  
18 lacerations and hemorrhage. The gums were hemorrhagic.  
19 Extending above and below the left eyebrow was a bell-shaped  
20 patterned abrasion. The base measured ¾ inch. The distance  
21 between the base and the dome was 1¼ inch. A ¼ inch laceration  
22 was present immediately adjacent to the superior medial margin."

23 Q] Now Doctor, what is the "one quarter inch laceration pres-  
24 ent immediately adjacent to the superior medial margin"?

25 A] Those are lacerations on the top and towards the middle.

1 Q] Okay. When you say that "there was a half-inch contusion  
2 was present in the right medial periorbital region," what are  
3 you describing?

4 A] He had a black eye.

5 Q] And a black eye being, again, that this was a contusion.  
6 Is it your opinion that this occurred during the life?

7 A] Yes.

8 Q] Now you said that "situated over the right mandible was a  
9 bell-shaped type of abrasion which showed a central area of  
10 pallor and abrasion." I'm showing you what's introduced as  
11 Exhibit #71 b in this case. If you would, point out what you're  
12 referring to?

13 A] (Witness examining same.) Right here.

14 Q] Okay. Now that is on the left - - I mean higher up than  
15 that - - situated on the right mandible?

16 A] Oh, the mandible. Okay. Right here.

17 Q] Okay. On the right mandible?

18 A] Yes.

19 Q] In this direction?

20 A] Yes. It's confusing a little from this direction.

21 Q] You noted that there was, I think you said that "there was  
22 a bell-shaped type abrasion which showed a central area of  
23 pallor and abrasion"?

24 A] Yes.

25 Q] And what do you mean by that?

1 A] Well, the inside of it was pale.

2 Q] Did it form a particular pattern?

3 A] To me, it looked like, uh, as I said in the report, it  
4 looked bell-shaped to me.

5 Q] Well, when you say "bell-shaped," what do you mean?

6 A] Like a bell, you know, one that you ring; a bell.

7 Q] Well is it, so is it like a bell curve?

8 A] Yeah, like a bell curve. I mean, that's what it looked  
9 like to me.

10 Q] Okay. Was it on the edge of the, was it on the mandible,  
11 per se?

12 A] Yes, right on the mandible.

13 Q] Okay. Now you said that it was an abrasion and it showed  
14 pallor. Do you have an opinion with regard to whether or not  
15 that particular injury was antemortem, peremortem or postmortem?

16 A] Well, that's antemortem. It was inflicted by an implement.

17 Q] A what?

18 A] An implement.

19 Q] So it's your opinion that that was not caused by an animal?

20 A] Oh, no.

21 Q] Okay. Continue in that description there. You say that  
22 the, for instance, the gums were hemorrhagic?

23 A] Yes.

24 Q] What is that - - what do you mean by that?

25 A] There was a lot of hemorrhage in the gum tissues.

1 Q] Okay. And by - - do gums hemorrhage when a person is dead?

2 A] It means that there was some sort of traumatic impact there  
3 to cause hemorrhage in the gum tissue.

4 Q] And what causes the hemorrhage after there is traumatic  
5 impact?

6 A] The rupture of the small vessels.

7 Q] Okay. And what causes it to be hemorrhagic?

8 A] An impact.

9 Q] Okay. Well, is it kind of circular?

10 A] Yes.

11 Q] But what gets the hemorrhage there?

12 A] In the gums, well, you're breaking the small blood vessels.

13 Q] Okay?

14 A] And it's causing the bleeding.

15 Q] Okay. And what mechanism causes bleeding, I guess is what  
16 I'm getting to - - the pumping of the heart?

17 A] Yes, the pumping of the heart.

18 Q] So in your opinion, were the injuries to the gums in this  
19 particular case caused while Steve Branch was alive?

20 A] He was alive.

21 Q] You say that "the mucosal surfaces showed multiple con-  
22 tusions." Is this multiple bruises, as well?

23 A] Yes.

24 Q] And would those contusions, is it your opinion that he was  
25 in fact alive?

1 A] Yes, he was.

2 Q] You said that "extending above and below the left eyebrow  
3 was a bell-shaped pattern abrasion." Now are you talking - - in  
4 Exhibit #71b - - are you talking about the particular injury  
5 that's right above the left eyebrow?

6 A] Yes.

7 Q] Okay. Describe what you see in this particular picture?

8 A] Well, when you have here, you have a semi-lunar area, half-  
9 moon, you've got an abrasion here. Right in the center here,  
10 you've got a little, uh, it looks like an "X" here and then you  
11 have these other patterned abrasions here. This is like a  
12 little "L" and "L" going across here (indicating).

13 Q] Okay. Did this, uh, has this particular wound been the  
14 subject of prior litigation in a case, a related case?

15 A] Yes.

16 Q] And what were the claims made in that related case?

17 A] That it was a human bite mark.

18 Q] Now when you did these three autopsies, I believe that  
19 there is testimony in both the trials and the Rule 37 hearing  
20 with Echols, that you called in other people to look at these  
21 particular wounds in this case?

22 A] Yes.

23 Q] Explain why you did that?

24 A] Who I called?

25 Q] Yeah, who you called, and why?

1 A] Well, he had all of these patterns on him and I just wanted  
2 - - to me, they did not look like human bite marks, but I called  
3 in Dr. Dougan, who is the dentist who comes in and does our  
4 dental work and, you know, I wanted him to look at it, because  
5 he's the dentist.

6 Q] I see.

7 A] Just to make sure, you know, it's not some weird bite mark,  
8 human bit mark.

9 Q] Okay?

10 A] I didn't think it was, but I wanted just to be sure, okay.  
11 So I called him in and I had him look at it, you know, all of  
12 the boys, you know, just in case there was a bite mark there.  
13 And I didn't see it; okay. And then I called, uh, at that time  
14 it was, uh, Dr. Sterner; he's the chief medical examiner and I  
15 called him down, you know, to look at the injuries. And what I  
16 did was, after I did the autopsies, uh, I dictated them  
17 immediately and I had my rough draft at that time and I went  
18 downstairs with Dr. Sterner and we went over everything, all of  
19 the injuries, you know, I wanted to make sure - - sometimes you  
20 get your lefts and your rights mixed up, you know, I just wanted  
21 to make sure I had it all right. And I wanted to have someone  
22 else look at it, too.

23 Q] Right?

24 A] Because of the nature of these wounds, and Dr. Sterner,  
25 who's my mentor, he brought me down here and we've had like



1 forty years experience, and I was just a couple of years out of  
2 fellowship, so I wanted him, you know, to look at everything and  
3 make sure I had it right.

4 Q] Based upon your training and experience in forensic  
5 pathology, do you know of any sort of animal that leaves a  
6 circular pattern with an "X" in the middle?

7 A] No.

8 Q] In addition to Dr. Dougan, are you aware of other expert  
9 odontologists who testified regarding this injury?

10 A] Yes, there was, uh, I don't know if I pronounce his name  
11 correctly, a Dr. Mentzor?

12 Q] Mintcer?

13 A] Yeah, Mintcer. He looked at it also.

14 Q] And did he agree with the findings that this was not in  
15 fact a human bite mark?

16 A] Yes, he did.

17 Q] Subject to that litigation, though, was there any issue  
18 raised as this being the bite mark of an animal?

19 A] That never came into play.

20 MR. PHILLIPSBORN: Your Honor, for our record,  
21 just so it's clear for the ineffectiveness claims, I  
22 believe that this, the references are to the Echols  
23 Rule 37.

24 I don't believe the record of the Baldwin case  
25 reflects the doctors had anything to do with trial of

1           that case.

2           MR. HOLT: That's correct.

3           THE COURT: Well, yeah, there's no question about  
4           that.

5           MR. PHILLIPSBORN: Thank you.

6 DIRECT-EXAMINATION, continuing:

7 Q] I want to come back to that, but in the meantime, let me go  
8 forward with the next paragraph there, starting with "the left  
9 parietal scalp"?

10 A] "The left parietal scalp showed multiple superficial cuts  
11 and abrasion. The entire left ear was contused with overlying  
12 finely linear abrasions."

13 Q] And what you're saying there is that the left ear is  
14 bruised?

15 A] Yes.

16 Q] And when you say "fine linear abrasions," what are you  
17 talking about?

18 A] Scrapes.

19 Q] Scrapes. Now in that Exhibit #62b, there are some very  
20 noticeable scratches, or abrasions. Are those what you are  
21 talking about?

22 A] (Witness examining same.) Yes.

23 Q] Was the contusion in the ear, was this common, was this  
24 part of the commonality of the injuries suffered by all three  
25 boys?

1 A] Yes, they all had the same injuries to the ear.

2 Q] Go to the next paragraph, please?

3 A] "The entire left side of the face to include the left ear  
4 and an area measuring 5½ by 5 inches, showed multiple confluent  
5 red abrasions with multiple gouging type irregular cutting  
6 wounds and overlying abrasions. The cutting wounds measure from  
7 1/8 to 1¾ inches. Many of these wounds terminated into the oral  
8 cavity."

9 Q] Now when you say that those are "gouging type irregular  
10 cutting wounds," what are you trying to describe?

11 A] Well, by "gouging," I mean that the tissue was torn and  
12 pulled.

13 Q] And did some of these, would it be fair to say that some of  
14 these injuries appeared to exhibit sort of a cookie-cutter  
15 silhouette?

16 A] Yes.

17 Q] Did you examine the interior of these particular injuries?

18 A] Yes, I looked at them grossly. I didn't take any sections  
19 of them because I felt there was no need to.

20 Q] Well, did you - - where - - did these particular injuries  
21 in the fatty tissue of the cheek, for example, did they exhibit  
22 signs of hemorrhage?

23 A] Yes.

24 Q] Was that visible to you?

25 A] Oh, yes, I could see it.

1 Q] And that was in addition to the presence of hemorrhage in  
2 the gums, as well; is that correct?

3 A] Correct.

4 MR. HOLT: Your Honor, now I have some exhibits  
5 that were entered in the related case. For the  
6 record, it's the Rule 37 in the Damien Echols case and  
7 in that particular, uh, in that particular case,  
8 several overlays, one-to-one overlays were done and  
9 had been examined by Dr. Peretti.

10 I guess what I'm getting at is not so much right  
11 now as saying I've discussed this with counsel; we may  
12 need to substitute copies of these because they are,  
13 in fact, part of that record.

14 THE COURT: That will be fine.

15 DIRECT-EXAMINATION, continuing:

16 Q] I want to show you what's been marked for purposes of this  
17 hearing as State's Exhibit #34 and ask if you recognize that?

18 A] Yes, State's Exhibit #34 is a photograph of the overlay.

19 Q] Okay. And what does it depict?

20 A] Well, the overlay is showing the wound on the forehead,  
21 uh, which I just described with the "X" in the middle.

22 MR. BURT: Counsel, would you mind identifying  
23 what the Rule 37 Exhibit number is, please?

24 MR. HOLT: Okay. Sure. It is #22b.

25 MR. BURT: Thanks.

1                   MR. HOLT: Sure.

2 DIRECT-EXAMINATION, continuing:

3 Q]       And in conjunction with that overlay photo, there is a - -  
4 what I am marking in this case - - as State's Exhibit #35 and is  
5 Echols' State's Exhibit #9m, and ask you to identify that  
6 picture?

7 A]       (Witness examining same.) State's Exhibit #35 is the photo-  
8 graph showing that injury I described in the injuries on the  
9 face, pattern injuries on the face.

10 Q]       Okay. What in fact, in State's Exhibit #34, what is depic-  
11 ted on the portion of the overlay?

12 A]       It's showing the superior aspect of wound, the semi-lunar  
13 area.

14 Q]       And when you say the "semi-lunar aspect of it," is there a  
15 - - well, describe that, if you will? Is it broken? What does  
16 it depict?

17 A]       Well, it's showing a semi-lunar abrasion. Adjacent to it,  
18 uh, medially is a larger abrasion, maybe about a quarter of an  
19 inch, and the mid portion, there's a pattern abrasion of an "X"  
20 and below that are one, two, three, uh, three abrasions; they  
21 appear to look like "Ls".

22 Q]       Okay. Now the tracing of this, in that did it form a pat-  
23 tern of a circle?

24 A]       Yes.

25 Q]       And I believe there is some testimony with regard to this

1 case that you opined that this, this, in fact, may have been a  
2 belt buckle; is that correct?

3 A] Yeah, they asked me during trial, you know, with that  
4 little "X" in there, you know, I felt maybe it could be a belt  
5 buckle, but I wasn't really sure.

6 Q] Okay. But if you could speak generally as to that type of  
7 wound, would that wound be classified as a bite mark, or would  
8 it be something that was from an implement?

9 A] From an implement. It's not a bite mark.

10 Q] Again, this is State's Exhibit #36 in this case, and  
11 State's Exhibit #8m in the Echols' Rule 37 case. What does that  
12 picture depict?

13 A] (Witness examining same.) That's a close-up of the injury  
14 that I just described.

15 Q] Okay. And all of the base photographs that we are refer-  
16 ring to here, were they photographs that were taken during the  
17 autopsy?

18 A] Yes.

19 Q] I show you what's been marked as State's #37 in the instant  
20 case and is listed as Petitioner's Exhibit #51 in the Echols'  
21 Rule 37 case and ask if you can identify that photograph?

22 A] (Witness examining same.) Yes, this is, uh, State's  
23 Exhibit #37 is a photograph of the ear, showing the injuries,  
24 and you can also see in the ear, there is that little "X", also.

25 Q] Okay. What else do you note about that, uh, is that the

1 left ear?

2 A] Yes, it's abraded and contused.

3 Q] And when you say it's "contused," do you have an opinion  
4 with regard to the time, uh, on the timeline of ante-, pere-, or  
5 postmortem, when this injury - - what it characterizes?

6 A] This one is definitely antemortem.

7 Q] I show you what's been marked as State's Exhibit #38 in the  
8 instant case and is listed as State's Exhibit #10m in the  
9 Echols' Rule 37 case and ask if you can identify that photo-  
10 graph?

11 A] (Witness examining same.) Yes. This is a photograph of a  
12 side view of the decedent's face showing multiple patterns.

13 Q] Now are those patterns the patterns that you described as  
14 being "gouged"?

15 A] Yes - - no, linear. Clearly linear.

16 Q] I show you what's been marked as State's Exhibit #39 in the  
17 instant case and State's Exhibit #20d in the Echols' Rule 37  
18 case and ask if you can identify what that is?

19 A] (Witness examining same.) State's Exhibit #39 is showing  
20 the overlays, showing all of the patterns.

21 Q] And was that overlay prepared in preparation for - - well,  
22 was that prepared contemporaneously with the autopsy, or was  
23 that done at a later time?

24 A] At a later date.

25 Q] Okay. And who prepared that overlay?

1 A] Dr. Dougan.

2 Q] And do you, uh, were you able to study that particular  
3 overlay and do you have any sort of opinion with regard to the  
4 overlay as applied to that particular photograph?

5 A] Well, if you look at the overlay you can see the pattern of  
6 the instrument of the implement that was used. It's quite stun-  
7 ning here.

8 Q] And the pattern of the overlay that has some of the concen-  
9 tric circles, uh, do those circles at time appear to gouge out  
10 parts of the face?

11 A] Yes, they do.

12 Q] Now this is skipping ahead a little bit, but as we look at  
13 this particular photograph, Exhibit #39, and let's go to the - -  
14 uh, one more before I got to that. State's Exhibit #40, and for  
15 the record, this is State's Exhibit #19d in the Echols' Rule 37  
16 case, uh, another one-to-one photograph with an overlay. What  
17 is depicted in that particular picture?

18 A] (Witness examining same.) Well, the overlay is showing the  
19 patterns on the skin, essentially where the gouging is.

20 Q] Okay. Well, and in the process of making that overlay, was  
21 it a matter of following the edges of the particular wounds?

22 A] Yes, that's what I believe he did.

23 Q] When you say "gouged in some manner," were those wounds,  
24 did they appear incised in any way?

25 A] Yes, some of them had very sharp margins.



1 Q] Okay. When you say "sharp margins," is that depicted in  
2 the overlay?

3 A] Well, you can't really see it from where he drew the  
4 circles, but if you take the overlay off, you can see it.

5 Q] Then you see the...

6 A] ...right.

7 Q] Okay. But does the overlay accurately follow the margin of  
8 the wound?

9 A] Yes, it does.

10 Q] Now we'll get to the other part. State's Exhibit #72b,  
11 which was admitted in these particular cases, uh, I want to skip  
12 a part of this and go to - - I don't know that it's - - let's  
13 see here. I'm still in that same particular section. I'm  
14 starting with "the left occipital scalp was edematous"?

15 A] Yes.

16 Q] "And showed a contusion with overlying abrasions measuring  
17 about 4 inches in greatest dimension." What's the next  
18 paragraph?

19 A] "Subsequent examination of posterior neck muscles showed  
20 extravasated hemorrhage in the posterior neck muscles.  
21 Reflection of the scalp showed multifocal subgaleal contusions.  
22 There were no fractures noted to the calvarium. The base of the  
23 skull showed a 3½ inch fracture with multiple extension  
24 fractures which terminate in the foramen magnum which measured  
25 3½ inches. The left posterior cerebral hemisphere showed

1 multifocal subarachnoid hemorrhage. There were fracture  
2 contusions involving the posterior surface of the left  
3 cerebellar hemisphere. The right frontal lobe showed focal  
4 subarachnoid hemorrhage."

5 Q] Okay. Can you describe those particular injuries with  
6 regard to State's Exhibit #72b?

7 A] Well, there's a lot of injuries on the face and predomi-  
8 nately, if you look at the pattern of the fracturing, it's all  
9 in the back of the photo.

10 Q] Well, if you would, point out where it is in the back?

11 A] Well, the fracturing?

12 Q] Yes?

13 A] Well, it will be under the skin, in the hair, all through  
14 this general area (indicating) here.

15 Q] In the autopsy of Steve Branch, did you, was there any, uh,  
16 if you would, describe the rest of the skull. For instance,  
17 start with the calvarium?

18 A] There were no fractures to the calvarium.

19 Q] Okay?

20 A] The top of the skull.

21 Q] Okay, so there was no blunt force trauma that you could  
22 note that was on the top of the skull?

23 A] No, none on the top.

24 Q] Okay. When you reflected the scalp, when you cut through  
25 and removed the top of the skull and removed the brain, where

1 did you see the force - - I guess what I'm saying is, could you  
2 determine in a general way what direction the force in this  
3 particular case was?

4 A] It was going to the back.

5 Q] Okay. Can you tell anything about the position of the per-  
6 son when that force was applied?

7 A] I think the force was applied here (indicating) and then as  
8 the receiving of the trauma on the side of the face, the force  
9 was going towards the back. That's why predominately all of the  
10 injuries to the skull and brain are in the back.

11 Q] Okay. And were they when you - - how extensive were those  
12 fractures?

13 A] Well, it's pretty extensive. I mean, a lot of fracture in  
14 there.

15 Q] Did you dissect the neck to determine if there was hemor-  
16 rhage in that area?

17 A] Well, what I did is, I did a posterior neck dissection,  
18 looked at the soft tissues, but it wasn't hemorrhage as a result  
19 of trauma, it was - - there was no impact there. It was like  
20 the blood coming from, seeping down into the neck muscles. So  
21 it wasn't an impact site there.

22 Q] Oh, okay. So it wasn't an impact site?

23 A] No.

24 Q] But it was the result of force applied somewhere on the  
25 head?

1 A] Right. And the blood is just sort of leeching into the  
2 soft tissue, so there was no impact site to the back of the  
3 head.

4 Q] Okay. So if there is no impact site, if the only impact  
5 site on the head of any significance is in the front to the  
6 face, is it normal or can it be expected that there will then be  
7 resulting fracture in the back?

8 A] Yes, I think what happened is, you know, it depends on the  
9 angle of the impact, you know. I think they were laying down at  
10 the time of the assault, but it just, going towards the back and  
11 there is none, you know, there is essentially none above the  
12 ear.

13 Q] Okay. So what you're saying is that if there is a hard  
14 surface like the ground behind the head, then any impact the  
15 front of it will cause fracture to the back of the head?

16 A] Correct.

17 Q] And the fracture that occurred to the back of the head,  
18 when you looked at the soft tissues, you noted hemorrhage; is  
19 that correct?

20 A] Yes.

21 Q] Okay. And hemorrhage is associated with on the timeline of  
22 when a wound occurred or when an injury occurred, uh, would you  
23 say it was antemortem, peremortem or postmortem?

24 A] It's antemortem. He was definitely alive.

25 Q] Well, and would it be important for someone to, for another

1 expert to recognize that - - oh, would you expect another  
2 forensic pathologist to recognize the nature of some of these  
3 wounds being caused by an implement?

4 A] Oh, yes. There's definitely patterns, I mean, they stand  
5 out. I mean, you look at them, you know, maybe not so much on  
6 the screen, but when you look at the photograph, I mean, you can  
7 see all of the patterns.

8 Q] And in some of the testimony that you gave, in fact, I  
9 guess that you gave a, uh, you opined loosely that it might have  
10 been a belt buckle, for example?

11 A] Well, as far as what was on the forehead, that pattern, you  
12 know it had that little "X" here, and the only thing I can, you  
13 know, they asked me when I was on the stand, uh, and I didn't  
14 really have much time to think about it, but it looked like some  
15 of the belt buckles have that little "X" and that's what it  
16 looked like to me at that time.

17 Q] Right.

18 A] I mean, it could be something else.

19 Q] Yes, but you don't know what it is?

20 A] No, I don't.

21 Q] But you do have an opinion with regard to whether it was  
22 made by some woodland creature, or otherwise, do you not?

23 A] It's not, definitely not made by any woodland creature.

24 Q] And did you note that similar injury on the aspect of the  
25 ear?

1 A] Right. You have the same. If you look closely, you can  
2 see there's a lot of patterns there.

3 Q] What about the remaining injuries? Did you see patterns,  
4 for example, in State's Exhibit #71b - - I'm sorry. Forget that  
5 one. Were there pattern injuries, was this same pattern exhibit  
6 in the throat area?

7 A] Yes, they all have the same pattern. If you look at them  
8 very closely and pay attention to the details, you know, right  
9 there (indicating), you know, you have all of these patterns.  
10 There's one right here (indicating). Do you see it right here  
11 (indicating)? There's all patterns here and there's no way an  
12 animal did this. I mean, this is some sort of instrument.

13 Q] And now there's a gouge area that seems to be missing flesh  
14 there on the left mandible?

15 A] Right. And this is the gouging-type injuries.

16 Q] Did you note any hemorrhage in that particular area?

17 A] There's hemorrhage there.

18 Q] What causes the, you know, the whole side of the face  
19 appears to be red in some way?

20 A] Yeah, well, it's, uh, that's a large abrasion. But if you  
21 look closely, there's contusion there, too. There's blood in  
22 the contusion.

23 Q] I see. Let's see. Where are we? I think we are at chest  
24 injuries.

25 A] "Multiple scattered abrasions were present on the front of

1 the chest."

2 Q] Go to the next, the genital/anal area?

3 A] "The anus was dilated. No injuries were noted. The anal  
4 and rectal mucosa showed mild hyperemia, but no evidence of  
5 injury."

6 Q] And so in that particular instance, was this case not un-  
7 like the autopsy of Moore with regard to the anus?

8 A] Well, it was dilated. There was no injury, it was  
9 essentially the same.

10 Q] Okay. And is it your opinion that there is no evidence of  
11 injury; you did say in the pervious case that this was  
12 consistent with postmortem relaxation?

13 A] Yes.

14 Q] Okay. And it could also be consistent with other things,  
15 could it not?

16 A] Yes.

17 Q] Would you take into consideration when you're making a,  
18 when you're drawing some sort of conclusion with regard to  
19 certain physical findings that you have, would you taken into  
20 consideration some of the circumstances surrounding the case?

21 A] Yes; that's part of the autopsy.

22 Q] Okay. And, and some of those are observable, are they not?

23 A] Yes.

24 Q] Now would this case have - - would this case have had, uh,  
25 does this case have certain conclusions or would a factor in any

1 conclusion that you draw as to what your findings were  
2 consistent with, would a factor of that be the fact that these  
3 three bodies were found nude and "hog-tied"?

4 A] Yes.

5 Q] Okay. To your mind, would that in and of itself, would  
6 that suggest, at least in some part, a sexual assault?

7 A] Yes.

8 Q] Okay, if you would go to the second paragraph of the  
9 genital/anal area injuries?

10 A] "The mid shaft of the penis to include the glans was  
11 diffusely red-purple with overlying very fine superficial  
12 scratches. There was a clear band of demarcation at the mid  
13 shaft which showed that the proximal portion was uninvolved.  
14 There were no injuries noted to the testes or internal aspect of  
15 the scrotal sac."

16 Q] Okay. And I believe that you testified regarding this  
17 finding, uh, what is it that you, do you recall what your  
18 testimony with regard to the findings?

19 A] I don't recall it, you know, word-for-word, but you know, I  
20 said there was this clear band of demarcation. You have the,  
21 uh, the head of the penis, uh, did have overlying superficial  
22 scratches and was profusely red-purple. I thought, uh, two  
23 things came to mind, that there was some sort of ligature or  
24 band placed on the penis because this is, you know, so red and  
25 congested. And below here (indicating) do you see that nice



1 clean line of demarcation. Or this could have been from some  
2 force being placed on the penis. You know, some people call it  
3 a "hickey," uh, I don't know, but what I can tell you is that  
4 the head of the penis had scratches on it.

5 Q] Okay.

6 A] You know, they could be from teeth, they could be from some  
7 thing else, but they have scratches and you do have this clear  
8 characteristic, you have this clear line of demarcation here.

9 Q] Now when you say "there's a line of demarcation," but the  
10 redness in the penis on that - - that's this #64b that's been  
11 admitted in the trial; okay, #65b, is that, if you would  
12 describe that?

13 A] Yes. This is the head of the penis here (indicating) and  
14 this is the part of the shaft and you can see how dark red-  
15 purple and, you know, you can't really appreciate it on the  
16 screen, but if you look at the photo, there's fine little  
17 scratches on the head of the penis.

18 Q] And if you look at it in person, I would think?

19 A] Yes.

20 Q] Is it different than a photograph?

21 A] Oh, yes. It's a lot better in person.

22 Q] Now when you talk about that "line of demarcation," what  
23 would cause that?

24 A] Well, there was some sort of pressure applied here  
25 (indicating), which caused the congestion approximate here.

1 Q] When you say "congestion," is that engorgement?

2 A] Yes. Engorgement. What I did was, uh, you know, I wanted  
3 to make sure that wasn't a contusion or a bruise. So I took a  
4 section of the penis and looked at it under the microscope and I  
5 saw no hemorrhage indicating it was a bruise. What I saw was  
6 this marked engorgement of the blood vessels; they were just  
7 full of blood.

8 Q] Okay. So it wasn't a bruise?

9 A] No, no, it was not a bruise.

10 Q] But in terms of ante-, pere-, or postmortem, when does that  
11 particular, I mean, could that injury have occurred postmortem?

12 A] No, this is not a postmortem injury. You know, we, I  
13 autopsy a lot of children and, you know, you don't see, you  
14 know, uh, penises like this in normal children.

15 Q] So was it, and is it your opinion that this particular  
16 injury had to have occurred while, I guess, the heart was still  
17 beating?

18 A] Yes.

19 Q] Is there any, is there any indication as to the thickness  
20 of anything that was placed around the penis?

21 A] Well, we have that line of demarcation, you know, it's  
22 about a half inch wide or so, but I, I mean, I don't know what  
23 it was.

24 Q] Okay. The lower extremity injuries?

25 A] "Multiple scratches and contusions were present on the

1 lower extremities. On the left thigh there was a 1 inch yellow  
2 scratch. Also, there was a patterned grid-like impression. The  
3 margins were diagonally oriented and measured respectively 3  
4 inches laterally and 3½ inches medially. There was evidence of  
5 binding abrasions and contusions involving the ankles. The  
6 binding abrasions were yellow tan with abraded margins."

7 Q] Now you've talked there about the left, on the left thigh  
8 there was a "one inch yellow scratch"?

9 A] Yes.

10 Q] What, and generally, what is depicted here?

11 A] You know, some of these, a lot of these little scratches  
12 could be, very well be postmortem from the bodies taken out of  
13 the water, you know, being on the land, being, you know, dragged  
14 onto the bank.

15 Q] Or being dragged off the bank?

16 A] Or off the bank.

17 Q] Well, when abrasions are yellow-tan, what does that some-  
18 times indicate?

19 A] Indicates drying.

20 Q] With regard to a scratch, to a "yellow one inch scratch,"  
21 and we'll discuss this later, but you talk about what - - it was  
22 your understanding, I believe, that the bodies were in water for  
23 a period of time?

24 A] Correct.

25 Q] Does water have an effect on any kind of hemorrhagic

1 trauma, the tissue?

2 A] Yes, what happens, when bodies submerge and you have  
3 injuries, a lot of the blood can just leech out.

4 Q] Okay, what do you mean by "leech out"?

5 A] Just come out, you know, just come out of the wound. You  
6 know, we get cases where people, multiple stab wounds, the  
7 bodies are found in water, you know, been there for a little  
8 period of time and you look and you see no hemorrhage. But, you  
9 know, when you look inside, the internal organs, you'll find the  
10 hemorrhage.

11 Q] So there are other indications besides just the wound  
12 itself?

13 A] Correct. You have to look at everything.

14 Q] Okay. Next page, the upper extremity injuries?

15 A] "On the back of the hands were multiple scattered  
16 contusions. Scattered contusions were also present on the  
17 thenar eminence bilaterally."

18 Q] Okay. Now translate that?

19 A] So what I'm saying, on the back of the hands, right here  
20 (indicating) multiple contusions, bruises, on the back. And  
21 right here, (indicating) the thenar eminence is where your  
22 thumbs are, there's bruises. There's all these bruises. On the  
23 front and back of the hands, there's contusions.

24 Q] And I don't know that you've made the finding in the  
25 pathological diagnosis in this instance, but are those types of

1 contusions consistent with defensive-type injuries, as well?

2 A] Yes.

3 Q] And, you know, by their very nature, are defensive injuries  
4 - - injuries that are antemortem injuries?

5 A] Those are antemortem injuries, because they're contusions.  
6 He was alive, he's bleeding. His heart is pumping and he is  
7 bleeding into the soft tissues.

8 Q] Okay. And if, as consistent with the defensive injuries,  
9 what, you know, how is that particular injury acted out?

10 A] Well, in adults, you know, if someone is coming after you  
11 with an object, what you tend to do is put your hands up to  
12 defend your face, or your extremities.

13 Q] Or you may either try to grab the object?

14 A] Right.

15 Q] Or you may attempt to try to protect whatever is being  
16 attacked?

17 A] Correct. And that's how we see those injuries. I mean,  
18 just because their eight years old, that doesn't mean they  
19 didn't put up a fight.

20 Q] Okay. Were those injuries in the hands, those antemortem  
21 injuries, are those consistent with the injuries that - - are  
22 they contemporaneous with the injuries that occurred to Steve  
23 Branch's face?

24 A] Yes, they all have the same appearance.

25 Q] Okay. The next sentence in that particular paragraph?

1 A] "Binding abrasions with surrounding red contusions were  
2 present on the wrists."

3 Q] When you say "red contusions," again, is this the bruising  
4 that's occurring during life?

5 A] Yes.

6 Q] Next, please?

7 A] On back injuries: "Present over the left upper back were  
8 two contusions measuring approximately 2 inches and 1 by 1½  
9 inches."

10 Q] Okay, next?

11 A] On terminal submersion: "Both hands and feet showed washer-  
12 woman wrinkling. There was pulmonary edema and congestion with  
13 bloody, frothy fluid in the airways. Bloody watery fluid was  
14 also present in the sphenoid sinus."

15 Q] Now in this particular case, you mention, you call this  
16 "terminal submersion." Is that different than in the first  
17 autopsy where you said that it was "evidence of drowning"?

18 A] Well, it's, you can use it both ways. I think, you know,  
19 it's the last stage of their death, uh, they were, uh, they  
20 sustained these injuries, they were alive and he was submerged  
21 and drowned.

22 Q] So in some manner, the submersion of these bodies provided  
23 a timeline for when those injuries occurred?

24 A] Correct.

25 Q] Go into the internal examination?

1 A] Read that paragraph?

2 Q] Read it, because this is not just questioning in terms of  
3 what you are testifying, this is in terms of what in fact pre-  
4 pared for, you know, the, for use in a case. So yes, I just  
5 want you to read that.

6 A] "The body was opened by the usual thoraco-abdominal  
7 incision and the chest plate was removed. No adhesions or  
8 abnormal collections of fluid were present in any of the body  
9 cavities. Petechial hemorrhages were present on the epicardium  
10 and pleura. All body organs were present in normal anatomical  
11 position. The lungs slightly overdisted the midline. The  
12 subcutaneous fat layer of the abdominal was ½ inch thick. There  
13 was no internal evidence of blunt force or penetrating injury to  
14 the thoraco-abdominal region."

15 Q] So "no internal evidence of blunt force or penetrating  
16 injury," I mean, there was no internal bleeding in those  
17 particular areas?

18 A] No.

19 Q] I believe you said for those in the head were previously  
20 described. Was this essentially the body of a healthy eight  
21 year old, as well?

22 A] Yes.

23 Q] I believe in this particular, uh, under liver and biliary  
24 system, uh, you say, well, you go ahead and if you would, show  
25 what that is?

1 A] "The hepatic capsule was smooth, glistening and intact,  
2 covering dark red-brown, moderately congested parenchyma with no  
3 focal lesions noted. The gallbladder contained 15 ml. of green  
4 mucoid bile. The mucosa was velvety and unremarkable. The  
5 extrahepatic biliary tree was patent, without evidence of  
6 calculi."

7 Q] Did the liver in that particular, in, in the body of Steve  
8 Branch, did it appear normal?

9 A] Yes, normal.

10 Q] And when you say "normal with dark red-brown," are you  
11 talking about it had the healthy presence of the blood?

12 A] Right. There was no, he, he didn't have any pallor.

13 Q] With regard to the skull fractures in this particular case  
14 and the resulting bleeding, would those injuries have been  
15 sufficient to cause his death?

16 A] Yes.

17 Q] And what would the mechanism of that injury, I mean, what  
18 would be part of the timeline of that particular injury?

19 A] I mean, as far as being - - they were all antemortem. He  
20 was definitely alive.

21 Q] But when the fractures occurred, what happened, what's the  
22 process in dying if the body...

23 A] ...he probably went into Neurogenic shock.

24 Q] And what is that?

25 A] Your nervous system just starts shutting down and the brain



1 starts swelling some.

2 Q] I see. Under microscopic, you noted that there was, I  
3 believe there was no hemorrhage in any of the underlying tissues  
4 in that particular case?

5 A] Correct.

6 Q] But does that necessarily mean that those were, that that  
7 occurred postmortem?

8 A] No, they're antemortem. If you recall, around some of them  
9 there were contusions. It just depends on how the section was  
10 taken; maybe it just didn't show up in the section I took.

11 Q] I see. Under Pathologic diagnoses, you mentioned "multiple  
12 injuries, bindings, contusion of penis with superficial  
13 scratches, dilation of anus, multiple contusions, abrasions, and  
14 lacerations of torso and extremities and terminal aspiration."

15 Is that part of the process of drowning?

16 A] Well, terminal aspiration is, you know, most people die in  
17 heart disease, where the heart relaxes a little and some of your  
18 gastric contents get pushed up into your upper air passages.

19 Q] But you noted then there was some aspiration into the  
20 lungs?

21 A] Right. I mean, it's insignificant in this case.

22 Q] But the terminal submerging was, I mean, it was, drowning  
23 was part of the cause of death?

24 A] Oh, yes.

25 THE COURT: Are you going to be much longer - -

1 I'm sure you are.

2 MR. HOLT: I am.

3 THE COURT: Well, it's five o'clock.

4 MR. HOLT: I'm prepared to continue.

5 THE COURT: Well, let me ask, are we going to need  
6 to go into Monday or Tuesday?

7 MR. HOLT: I don't think so.

8 THE COURT: We can finish tomorrow, with cross and  
9 all?

10 MR. BURT: We'll get it finished tomorrow.

11 THE COURT: Well, I have out-of-town guests, and  
12 I'd like to recess.

13 MR. HOLT: Okay.

14 THE COURT: And then start back in the morning  
15 with the doctor.

16 MR. HOLT: That's fine with us.

17 THE COURT: All right, we'll be in recess until  
18 9:30 in the morning.

19 (WHEREUPON, a recess was taken at 5:00 p.m. 10/1/09; proceedings  
20 resumed at 9:30 a.m., 10/2/09 as follows, to-wit:)

21 **OCTOBER 2, 2009**

22 THE COURT: Court's back in session.

23 MR. ROSENZWEIG: Your Honor, could we do some  
24 housekeeping for a minute?

25 THE COURT: Sure.