IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS

CRIMINAL COURT DEPARTMENT

STATE OF KANSAS,

Plaintiff, Case No. 10CR2028

vs. Division No. 1

RACHEL PEREZ,

Defendant.

PARTIAL TRANSCRIPT OF PROCEEDINGS

PRELIMINARY HEARING

BE IT REMEMBERED that on the 22nd day of February, 2011, the above-entitled matter comes on for hearing before the HONORABLE PETER V. RUDDICK, Judge of Court No. 1 of the Tenth Judicial District, State of Kansas, at Olathe, Kansas.

APPEARANCES:

State of Kansas:

MR. CHRISTOPHER T. BROWN
Assistant District Attorney
Johnson County Courthouse
Olathe, KS 66061

For the Defendant:

MR. JASON BILLAM
110 N. Cherry, Ste. 200
Olathe, KS 66061

Abby J. Ryan, RPR, CSR



I N D E X

State's Witness

DR. LISA SANTOS SPECTOR

Direct Examination by Mr. Brown

Cross-Examination by Mr. Billam

Redirect Examination by Mr. Brown

E X H I B I T S

Offered Received

State's Exhibit 1

State's Exhibit 2

State's Exhibit 3

State's Exhibit 4





P R O C E E D I N G S

(This begins the requested portion of the transcript of proceedings.)

THE COURT: You may call your first witness.

DR. LISA SANTOS SPECTOR,

called as a witness, having been first duly sworn to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q. Could you state your name, please, ma'am.

A. Lisa Santos Spector.

Q. Ms. Spector, what is your occupation?

A. I am a child abuse pediatrician at Children's Mercy Hospital.

Q. Could you briefly describe your educational background.

A. I completed medical school at the University of Iowa College of Medicine in 2000. I went on to do a residency in pediatrics at Tulane University School of Medicine from 2002 through 2003, after which I completed a fellowship in child abuse at Children's Hospital of Philadelphia in 2004 to 2006. I then worked in Florida for two years

before coming here in September of 2008 to Children's Mercy.

Q. Thank you. What specifically are your duties with Children's Mercy, Doctor?

A. To evaluate and treat children suspected of child maltreatment.

Q. And I want to direct your attention to August 18th, 2010. On that date, Doctor, were you working in your capacity as a pediatrician with Children's Mercy?

A. Yes, I was.

Q. On or about that date, Doctor, did you have an occasion to come into contact and complete an examination of a child identified as [redacted]

A. Yes, I did.

Q. And [redacted] was approximately six years of age at that time?

A. Yes, he was.

Q. Could you please tell us the reason that [redacted] was brought to Children's Mercy.

A. For severe, chronic malnutrition and dehydration.

Q. What physical presentations was [redacted] exhibiting?

A. He was not ambulatory. He was cachectic





appearing. He was extremely -- really had no muscle tissue or adipose which is fat tissue left on his body. His buttocks had wasted. You could see his bony prominences from all of his bones on his body.

Q. Did he appear to be properly nourished?

A. No.

Q. Did he appear to be properly hydrated?

A. No.

Q. You have said that he was non-ambulatory. Does that just mean he couldn't walk?

A. Yes.

Q. If you mentioned this, I apologize. How was his speech?

A. He really was not very verbal at all.

Q. Now what is Rickets, Doctor?
A. Rickets is -- is typically a radiographic finding. When you look at X-rays of a child's bones and they're demineralized and have osteopenia and flaring of the metaphysis (ph) and such, we diagnose them as Rickets, which is typically caused by a vitamin deficiency.
Q. What would -- what does osteopenia mean?
A. It means your bones do not appear mineralized as they should.





Q. You indicated that that is most commonly caused by a vitamin deficiency?
A. Rickets, yes, is caused by a vitamin deficiency.
Q. What is the best way for children or anyone for that matter to acquire proper amounts of Vitamin D?
A. You can't make Vitamin D on your own. You need either the sunlight to help you make Vitamin D or you need to intake it through your diet.
MR. BROWN: May I approach, Judge?
THE COURT: Yes.
BY MR. BROWN:
Q. Doctor, I am handing you what I have marked as State's Exhibits 3 and 4 for identification purposes. Let's start with asking -- do you recognize those photos?
A. Yes, I do.
Q. And what are those photos?
A. Photos of [redacted] when he was in Children's Mercy Hospital in August of 2010. No -- August. Sorry.
Q. Again so we're clear, this is when you would have first seen him when he was brought to Children's Mercy?
A. Correct.

Q. Other than the exhibit stickers on the backside of those photographs, do those appear to be clear and accurate representations of [redacted] when you saw him in August of 2010?

A. Yes, they do.

MR. BROWN: Okay. Judge, move to admit State's 3 and 4.

MR. BILLAM: No objection.

THE COURT: Exhibits 3 and 4 are received.

BY MR. BROWN:

Q. I want to talk just briefly about State's 3, Doctor. If you could describe what you see in that photo of [redacted].

A. To start with he has some loss globally of his hair. It is kind of sparse. His face is sunken in. You can see all of the extensive muscle wasting and lack of fatty tissue on his upper extremities, his torso. A little bit of his lower extremities in this photo. You can see the protuberance of his chest and his ribs as well because of the muscle wasting.

Q. You would attribute those symptoms to what?

A. Chronic, severe malnutrition.

Q. Doctor, when you saw [redacted] in August of 2010, law enforcement was involved; correct?



A. Correct.

Q. And to your knowledge was [redacted] placed in police protective custody?

A. It was my understanding that he was.

Q. What is your understanding as to who [redacted] caregiver was at the time he was brought to Children's Mercy?

A. His mother.

Q. Did you have an occasion to follow up with [redacted] and see him again?

A. Yes, I did.

Q. And do you recall approximately when that was?

A. I believe it was October of 2010.

MR. BROWN: May I approach, Judge?

THE COURT: You may.

BY MR. BROWN:

Q. Doctor, I'm now handing you what have been marked as State's Exhibits 1 and 2 for identification purposes. What are we looking at there?

A. A picture that we took of [redacted] when he came to our follow-up appointment in October of 2010.

Q. Does that truly and accurately depict the young man as you saw him back in October of 2010?

A. Yes, they do.





MR. BROWN: Judge, move to admit State's 1 and 2.

MR. BILLAM: No objection.

THE COURT: One and 2 are received.

BY MR. BROWN:

Q. Doctor, how would you describe the changes in [redacted] health between October -- excuse me -- between August and October of 2010?

A. It was dramatically improved. Not only had he gained -- regained the weight, he almost was getting to the point where we had to kind of curb some of his nutrition. He was getting to be a little bit on the overweight side. He had regrowth of all of his hair on his head. He was starting to -- they were working with him both in speech therapy, occupational therapy and physical therapy. He was starting to walk on his own, getting to the place where he was going to be walking on his own. His speech had dramatically improved as well.

Q. Okay. So all of those symptoms that you saw in August were gone or dramatically improved by October?

A. Yes.

Q. Doctor, were you aware that when -- and still to





this day that [redacted] has Down's Syndrome?

A. Yes.

Q. To what extent does [redacted] or did [redacted] Down's Syndrome contribute to the symptoms with which he presented in August of 2010?

A. His Down's Syndrome did not contribute whatsoever to his chronic, extreme malnutrition.

Q. When [redacted] was brought in in August, were you made aware of the conditions from which he was found or removed?

A. Yes. I was told that he was found in excrement in the attic, that he was covered in excrement in the attic.

Q. Of a residence?

A. Yes.

Q. You said excrement. I assume we're talking about the same thing here, human waste?

A. Yes.

Q. And the weather that week -- August 2010 -- what was it like?

A. I distinctly remember it being very hot.

Q. Given the condition [redacted] was in when you saw him in August -- taking into consideration that along with the condition from which or situation from which he was recovered, in your opinion,



Doctor, based on all of your training and experience, how long do you believe he would have survived?

A. Given his chronic, severe malnutrition as well as dehydration that was evidenced by the fact he gained 500 grams before he was even fed any food when he was admitted, he really wouldn't have survived more than 24 hours in that attic without anything to drink. In a hot attic.

MR. BROWN: Thank you, Doctor.

THE COURT: Is that all your questions?

MR. BROWN: Yes, sir. Thank you, Judge.

THE COURT: Mr. Billam?

CROSS-EXAMINATION

BY MR. BILLAM:

Q. Dr. Vaughn, you described the situation as severe, chronic malnutrition; correct?

A. Yes. It's Dr. Spector.

Q. Yes, I was reading from what we talked about beforehand. I apologize. Dr. Spector. I apologize. Dr. Spector, you described that as severe, chronic malnutrition; is that correct?
A. Correct.
Q. Does that happen overnight?
A. Not severe, chronic malnutrition, no.



Q. How long does it take to reach that level?
A. It takes a significant amount of time, days to weeks to months. Well, actually weeks to months, not days.
Q. Okay. How long did it appear from your seeing and treating [redacted] did this appear to have been going on?
A. Well, given looking at the past medical records that we have at Children's Mercy Hospital, the last time he had been seen was August of 2005, and at that time his weight was below the 5th percentile according to the Down's Syndrome chart. He was evaluated by the GI clinic at that time for concerns of failure to thrive, and they in their note commented that they thought it was related to poor nutrition and that he wasn't being fed appropriately at home. They were told to follow up with Nutrition a month later of which he never returned, nor have we ever seen him at Children's Mercy Hospital since then until he came to us in August 2010.
Q. So he was 5th percentile in 2005?
A. He was lower than the 5th, I think.
Q. That would be pretty skinny?
A. Yes. He was also an infant then. He was 23



months of age.
Q. When you talked about Rickets and Vitamin D, you talked about two of the different ways to get that

would be through milk and through sunshine; is that correct?

A. Through diet, which frequently milk is supplemented with Vitamin D, or sunshine.

Q. If someone is lactose intolerant, does that make the diet aspect of it a little more difficult?

A. No, not necessarily.

Q. What are other ways to get Vitamin D besides --

A. Lots of other foods contain Vitamin D.

Q. What would a parent who is trying to supplement a child who is at that time 23 months use besides milk and formula? Would they use Pedia Sure?

A. So you could have -- a lot of other foods have Vitamin D. So children who are lactose intolerant frequently do not get Vitamin D deficiency just by nature of their lactose intolerance. It is because they're not fed anything that has Vitamin D, and there are a lot of different foods that have Vitamin D.

Q. What would be some good examples of --

A. Of foods that have Vitamin D?

Q. Yes.





A. I'm going to defer to the nutritionist. I believe leafy vegetables, for example, may have Vitamin D. There are a lot of other foods that do. It is escaping me right now, all of the list.

Q. Seems like there is a lot. If you're dealing with someone who doesn't want to eat, and it is difficult to, you know, little kids oftentimes only want to eat chicken nuggets or only want to eat certain foods -- what are ways that a parent can supplement that Vitamin D if milk isn't an option?

A. What supplement if milk isn't an option?

Q. Yes. I am a father of two. Mine eat leafy, green vegetables. I wouldn't have gone that route. What I am asking is when we're talking about a 24-month-old who is suffering from malnutrition in a household where there isn't a lot of money where he is suffering from Down's Syndrome, what are the options?

A. Multi-vitamins.
Q. Okay.
A. And they're not that expensive. You can actually get a prescription for them too.
Q. All right. And?
A. And I am not sure what you are asking me.





Q. One option then, multi-vitamins?
A. The easiest and the most frequent thing is provide them multi-vitamins. Not only do we provide them multi-vitamins such as Flintstone's Complete or Centrum Complete as toddlers -- he was 23 months -- but also as infants we provide them Poly-Vi-Sol which also includes Vitamin D.
Q. Were they provided that according to the records that you looked at?
A. Did he take Poly-Vi-Sol when he was an infant? I don't know.
Q. Did he take anything on the records from 2005 to treat --
A. He was told to follow-up with nutritionists. Whether they started him on multi-vitamins, I do not recall, in the GI clinic at that time.
Q. You were told that [redacted] was found covered in excrement when he was found in the attic?
A. Correct.
Q. This is going to seem like a pretty obvious question, but doesn't that excrement come from [redacted] eating food?
A. It is my understanding that the other children were placed in the attic as well from the history that they provided to the foster mother who then





relayed it to me when he came to follow-up, so it could have been the other children as well. I don't know whose excrement it was.
Q. Okay. But to answer my question, that excrement comes from eating food?

A. Correct, but I can't tell you if it was the other children in the attic with him or if it was him.
Q. In all of the police reports given to you for you to come up with these medical opinions, did you get a report that the day before that [redacted] had found been sitting in front of a plate of food in the middle of the floor?
A. I was told it was a bowl of water, not a bowl of food.
Q. With an empty plate next to it?
A. I didn't know there was an empty plate next to it.
Q. Is there any way you can tell us when you believe the last time [redacted] would have eaten?
A. He very well could have been fed a very small amount on a regular basis just to keep him so that he was able to have a little bit of calories every day, but he wasn't fed significantly which was clear by the fact that when he did start to feed himself, we had to feed him very slowly. When we did actually -- over the weekend they allowed him





to eat whatever he wanted because they felt bad. For the last four days we had been slowly, gradually increasing his intake in food to prevent him from getting refeeding syndrome. Over a course of a day he went crazy in terms of eating. He ate everything they possibly could give him. He ended up getting refeeding syndrome, thus he had not been fed appropriately.
Q. Okay. But he had been fed. It is just obvious to you that he wasn't fed an appropriate amount for [redacted] to be healthy?
A. I think it's pretty obvious to anybody looking at those photos.
Q. More importantly, and my question, it is obvious to you?
A. Yes, very.
MR. BILLAM: Thank you.
THE COURT: Redirect?
MR. BROWN: Just one follow-up.
REDIRECT EXAMINATION
BY MR. BROWN:

Q. Doctor, defense counsel asked you about [redacted] potentially being a picky eater and that would perhaps somehow explain his malnourishment. I want to follow-up on that a little bit. You said



that at the hospital he was given some food and developed refeeding syndrome or that was a concern?

A. Yes. Yes, he did. We started off very slowly, and the dietitian can tell you exactly how many calories he was allowed to have each day as they gradually increased the amount of calories he had. Because we have to do that very slowly, otherwise kids will end up getting refeeding syndrome if they haven't had an adequate diet up until the time they have been admitted. So when they did allow him over the weekend to eat whatever he wanted to eat which was a lot, it was like 2,700 calories a day which would be a great increase from the day before, he developed refeeding syndrome.

Q. During that time when he was given whatever he wanted or subsequent to that, during your contact with him, is there any information that you have been given that he was, quote, a picky eater?

A. Absolutely not, except he doesn't like green beans.

Q. He doesn't like green beans?

A. Yes.

Q. Anything else?



A. No, not that I am aware.

THE COURT: Anything further?

MR. BILLAM: No.

THE COURT: All right. Thank you, Doctor.

(This ends the requested portion of the transcript of proceedings.)

C E R T I F I C A T E

STATE OF KANSAS )
JOHNSON COUNTY ) ss

I, Abby J. Ryan, a Certified Shorthand Reporter and the regularly appointed, qualified, and acting Official Court Reporter of Court Division 1 of the Tenth Judicial District of the State of Kansas, do hereby certify that as such Official Court Reporter, I was present at and reported in machine shorthand, the above and foregoing proceedings.

I further certify that a transcript of my shorthand notes was typed and that the foregoing transcript is a true and correct copy of my notes in said proceedings to the best of my ability.

SIGNED, OFFICIALLY SEALED, AND FILED WITH THE CLERK OF THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS, this _____ day of _____, 2011.

_____

Abby J. Ryan, RPR, CSR
OFFICIAL COURT REPORTER
COURT DIVISION 1