

STATE OF MICHIGAN

IN THE 30TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

JOHN HAROLD SANDERS,

Defendant.

HON. ROSEMARIE E. AQUILINA

Docket No. 13-224-FC

OPINION & ORDER

O P I N I O N & O R D E R

I. FACTUAL BACKGROUND

Defendant John Sanders is charged with two allegations: Open Murder and Child Abuse, First Degree. The present matter is a retrial; Defendant already had a trial in December 2013 before Judge William E. Collette, where he was convicted of Felony Murder, First Degree, in violation of MCL 750.316(1)(b), and Child Abuse, First Degree, in violation of MCL 750.136b(2). During the time leading up to the original trial, the People filed a motion in which they sought to admit statements made by Defendant during an interrogation he experienced on January 7, 2013. These statements had previously been suppressed at the 2013 District Court preliminary examination before Judge Hugh B. Clarke. Before the 30th Circuit Court trial, a hearing was conducted concerning the People's Motion to Admit Defendant's Statement where Judge Collette affirmed the District Court's order suppressing the statements Defendant uttered during the interrogation. As a result, the statements were not admissible at the 2013 trial.

Defendant's conviction was affirmed by the Court of Appeals on April 21, 2015.¹ On November 5, 2015, the Michigan Supreme Court denied Defendant's application for leave to appeal.² On November 4, 2019, Defendant filed a Motion for Relief from Judgment. Evidentiary hearings were held October 28, 2021, January 27, 2022, and April 28, 2022. On September 19, 2022, this Court granted Defendant's Motion for Relief from Judgment in part and denied it in part. As part of this ruling, a new trial was ordered. Defendant's new trial was scheduled for April 5, 2024, but has since been moved to later in 2024.³ Ahead of this new trial, this Court is tasked with determining whether it would be proper to grant the People's renewed Motion to Admit Defendant's Statement.

In order to do so, a thorough examination of the facts surrounding the original arrest and detention of Defendant is critical. At the time of his arrest, Defendant was serving a three-year term of felony probation regarding a crime in Eaton County and had a 5-count felony record spanning three different states, including felony burglary, manufacture/delivery of heroin, and possession for cocaine less than 25 grams as a habitual fourth offender. Regarding the facts of this case, after his daughter was found unresponsive, Defendant was interrogated by the Lansing Police Department on Friday, January 4, 2013. Upon conclusion of the interrogation, he was arrested. Defendant was then arraigned the following weekday of Monday, January 7, 2013. The duration between Defendant's arrest and his subsequent arraignment was approximately 64 hours. Importantly, before his arraignment on January 7, 2013, he was also interrogated for a second time.

¹ *People v Sanders*, unpublished opinion of the Court of Appeals, issued April 21, 2015 (Docket No. 320247), 2015 WL 1814152.

² *People v Sanders*, 498 Mich 907; 870 NW2d 700 (2015).

³ 30th Judicial Circuit Court Register of Actions, *People v Sanders*, Ingham County Docket No. 13-224-FC.

At the first interrogation on January 4, 2013, Defendant disclaimed any factual connection to his daughter's injury or death, but at the second interrogation on January 7, 2013, with Lansing Police Department Detective Mark Lewandowsky, Defendant changed course, and in fact provided Detective Lewandowsky with five stories which are varying inconsistent with each other. In short, they are as follows: (1) Defendant merely "found" J [REDACTED] unresponsive; (2) Defendant threw J [REDACTED] up in the air, which itself caused her to become unresponsive; (3) Defendant threw J [REDACTED] up in the air, which caused her to hit her head on the ceiling, causing her to become unresponsive; (4) Defendant was "consoling," "holding," and "rocking" J [REDACTED] during which she "fell on the bed," causing her to become unresponsive; and finally, (5) Defendant "grabbed her by her arms and started shaking her like this[,] like J [REDACTED], what's the matter? J [REDACTED], what's the matter," causing her to become unresponsive.⁴ As for the fifth version, Defendant maintained that "I didn't think I shook her that hard to be honest with you. I didn't. I don't do my baby like that. Well, I did, like I said, I was like J [REDACTED], J [REDACTED] [repeated 5x], why is you crying? . . . Just shaking her like that. . . and when I stopped that's when she . . . looked like she started to have a seizure on me, [and her head was] [j]ust going side, side to side like that." [sic]⁵ These statements are what the People wish to admit.

Ahead of Defendant's previously scheduled April 2024 trial date, the People filed a Motion to Admit Defendant's Statement and for *Walker* Hearing on February 5, 2024. A "*Walker* hearing," which refers to *People v Walker*, 374 Mich 331 (1965), is the commonly-utilized name in Michigan for a hearing held outside the presence of the jury to determine the voluntariness of a statement which may be incriminatory (e.g., a confession.) Ahead of this

⁴ People's Exhibit 2; People's Exhibit 3, p 29.

⁵ People's Exhibit 2; People's Exhibit 3, p 44-45.

year's retrial of Defendant, the People wish for the statements to be admitted. In response, Defendant filed a Response to Government's Motion to Admit Defendant's Statement and for *Walker* Hearing on April 2, 2024. The hearing concerning this Motion and the subsequent response occurred in two parts: April 5, 2024, and April 19, 2024.

II. RECONSIDERATION OF JUDGE COLLETTE'S ORDER SUPPRESSING DEFENDANT'S STATEMENTS MADE ON JANUARY 7, 2013

The statements at issue here were suppressed by the Hon. William Collette on November 27, 2013 prior to the original trial in this case. MCR 6.435(B) provides that after giving the parties an opportunity to be heard, and provided it has not yet entered judgment in the case, a court may reconsider and modify, correct, or rescind any order it concludes was substantively erroneous.⁶ Generally, this power is foreclosed to a court once judgment has been entered.⁷ Here, judgment was entered in the original trial on January 15, 2014. Yet, Defendant had filed a Motion for Relief from Judgment, which was granted in part, including granting and ordering a new trial altogether.⁸ The actual effect of an order granting a defendant's motion for relief from judgment is to grant the defendant a new trial.⁹ The instant matter is the same case but a new trial, and judgment has not yet been entered in this trial.

The presiding Judge, as successor to Judge Collette, is entitled to reconsider orders Judge Collette entered. MCR 2.613(B) provides: "A judgment or order may be set aside or vacated, only by the judge who entered the judgment or order, unless that judge is absent or unable to act. If the judge who entered the judgment or order is absent or unable to act, an order . . . vacating

⁶ MCR 6.435.

⁷ *People v Comer*, 500 Mich 278, 299; 901 NW2d 553 (2017).

⁸ Opinion and Order, August 17, 2022.

⁹ *People v Reed*, 198 Mich App 639, 642 n 3, 499 NW2d 441 n 3 (1993), *aff'd* 449 Mich 375; 535 NW2d 496 (1995).

the [original] order may be entered by a judge otherwise empowered to rule in the matter.¹⁰

Here, the presiding Judge became the Judge in this case upon taking office as an elected successor of Judge Collette. Judge Collette, having left office, ceased to be available to hear this matter. The presiding Judge therefore possesses full authority to reconsider the original order suppressing Defendant's statements.¹¹

III. UNLAWFUL DETENTIONS & *WALKER* HEARINGS

Under the exclusionary rule, incriminating statements made by an individual are inadmissible if made while the speaker is unconstitutionally detained or coerced by law enforcement. These constitutional safeguards are guaranteed by the Fourth Amendment, which establishes “the standards and procedures” governing pretrial detention.¹² Fourth Amendment guarantees are incorporated against the states.¹³ The US Supreme Court has held that the government possesses “no legitimate interest” in extendedly detaining individuals arrested without probable cause.¹⁴ The “raison d’etre of the exclusionary rule” is dissuading misconduct on the part of officials such as law enforcement officers.¹⁵

A *Walker* hearing is concerned with one solitary purpose: determining the voluntariness of the incriminatory statement.¹⁶ A confession to be admissible must have been voluntarily made, without coercion, or promise of reward.¹⁷ A *Walker* hearing is an improper vehicle to establish a finding of actual guilt—it is not guilt that is at issue but rather it is the voluntariness

¹⁰ MCR 2.613.

¹¹ *People v Herbert*, 444 Mich 466, 471-472 (1993).

¹² *Manuel v City of Joliet, Ill*, 580 US 357; (2017), quoting *Gerstein v Pugh*, 420 US 103, 111 (1975).

¹³ See *Soldal v Cook Cnty., Ill*, 506 US 56, 61 (1992); *Ker v California*, 374 U.S. 23, 30 (1963).

¹⁴ *County of Riverside v McLaughlin*, 500 US 44, 55 (1991).

¹⁵ *People v Cipriano*, 431 Mich 315, 331 429 N.W.2d 781 (1988) (citing *United States v Janis*, 428 US 433, 458-459, n 35 (1976); *Mapp v Ohio*, 367 US 643, 656 (1961)).

¹⁶ *Walker, supra*; *People v Hummel*, 19 Mich App 266, 172 N.W.2d 550 (1969).

¹⁷ *People v Louzon*, 338 Mich 146, 61 N.W.2d 52 (1953).

of the statement.¹⁸ It is not enough to merely weigh competing arguments proposed by counsel and examine the statement itself. Instead, during a *Walker* hearing, due process concerns require that testimony be taken regarding the background and circumstances relating to the statement. It is after this testimony that voluntariness can be determined, a burden that the prosecution carries to prove by a preponderance of the evidence to the Court.¹⁹ Only the rules of evidence governing privileges apply to a *Walker* hearing.²⁰ MRE 104(a). The Court of Appeals recognized that some form of hearsay testimony “is almost always necessary to establish the sources of probable cause for arrest.”²¹

In accordance with jurisprudence hailing from the nation’s highest court,²² the Supreme Court of Michigan has articulated a non-exhaustive list of critical factors a trial court should consider in determining the voluntariness of a statement.²³ These so-called “*Cipriano* factors” include the age of the accused; his lack of education or his intelligence level; the extent of his previous experience with the police; the repeated and prolonged nature of the questioning; the length of the detention of the accused before he gave the statement in question; the lack of any advice to the accused of his constitutional rights; whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession; whether the accused was injured, intoxicated or drugged, or in ill health when he gave the statement; whether the accused

¹⁸ *People v Douglas*, 50 Mich App 372, 213 N.W.2d 291 (1973), *order aff’d*, 392 Mich 775, 220 N.W.2d 37 (1974).

¹⁹ *People v Carigon*, 128 Mich App 802, 805, 341 N.W.2d 803 (1983), *lv den.* 422 Mich 930, 368 N.W.2d 871 (1985); *People v Banda*, 7 Mich App 488, 152 N.W.2d 47 (1967); *People v Zeigler*, 358 Mich 355, 100 N.W.2d 456 (1960).

²⁰ See also *People v Richardson*, 204 Mich App 71, 80, 514 N.W.2d 503 (1994).

²¹ *Richardson* at 80.

²² See generally *Colorado v Connelly*, 479 US 157; 107 S Ct 515; 93 L Ed 2d 473 (1986); *Culombe v Connecticut*, 367 US 568; 81 S Ct 1860; 6 L Ed 2d 1037 (1961); *Schneckloth v Bustamonte*, 412 US 218; 93 S Ct 2041; 36 L Ed 2d 854 (1973); *Malloy v Hogan*, 378 US 1; 84 S Ct 1489; 12 L Ed 2d 653 (1964); *Brown v State of Mississippi*, 297 US 278; 56 S Ct 461; 80 L Ed 682 (1936); *Ziang Sung Wan v United States*, 266 US 1; 45 S Ct 1; 69 L Ed 131 (1924).

²³ *Cipriano* at 334.

was deprived of food, sleep, or medical attention; whether the accused was physically abused; and whether the suspect was threatened with abuse.²⁴ That any particular one of these factors may be demonstrably present or, on the contrary may be missing is not decisive.²⁵ The factors are elements a trial court is to consider in determining the answer to the ultimate test: whether the totality of the circumstances surrounding the making of the confession indicates that it was freely and voluntarily made.²⁶

One of the above-mentioned factors, unnecessary delay, is expounded upon in *Riverside*, where the US Supreme Court provided that while pretrial procedures should move along at a brisk pace, they must be *prompt*, not immediate.²⁷ There are reasonable reasons delay due to paperwork and logistical problems may occur, and *Riverside* and *Cipriano* do not ignore these factors: “Records will have to be reviewed, charging documents drafted, appearance of counsel arranged, and appropriate bail determined. On weekends, when the number of arrests is often higher and available resources tend to be limited, arraignments may get pushed back even further. In [the US Supreme Court’s] view, the Fourth Amendment permits a reasonable postponement of a probable cause determination while the police cope with the everyday problems of processing suspects[.]”²⁸ Ultimately, the *Riverside* court determined that “a jurisdiction that provides judicial determinations of probable cause within 48 hours of arrest will, as a general matter, comply with the promptness requirement[.]”²⁹ This is not to say that a determination made within 48 hours is automatically valid; the duration of delay is but one of the

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 335.

²⁷ *Riverside* at 54.

²⁸ *Id.*

²⁹ *Id.* at 56.

aforementioned *Cipriano* factors and must be weighed as but one factor among those the entire range of factors in examining the totality of the circumstances.

Past 48 hours, the burden weighs on the government to demonstrate that the delay was reasonable given “the existence of a bona fide emergency or other extraordinary circumstance.”³⁰ As the Court of Appeals of Michigan has noted, “it is significant that *Riverside* was a civil case dealing solely with the Fourth Amendment prohibition against unreasonable seizures. It did not address the effect of the unreasonable delay on the prosecutor's ability to introduce a confession obtained during the delay.”³¹ Additionally, it was noted that *Riverside*, employing a process akin to Michigan's, integrated probable cause determinations with arraignment procedures and mandated that arraignments occur promptly, within a maximum of two days following arrest. However, the two-day requirement did not count weekends and holidays. Thus, according to the [US] Supreme Court, ‘an individual arrested without a warrant late in the week may in some cases be held for as long as five days before receiving a probable cause determination’ and ‘[o]ver the Thanksgiving holiday, a 7–day delay is possible.’³²”

IV. THE VOLUNTARINESS OF DEFENDANT'S STATEMENTS

Detective Lewandowsky testified that during his experience with Defendant in the interrogation room, Defendant never fell asleep,³³ but on the other hand Detective Lewandowsky also said “he might have dozed while I was out of the room. . . I believe we saw on the video that he did fall asleep in the moments I wasn't in the room[,]” and upon entering the interrogation room, Detective Lewandowsky said something that may or may not have been “John, wake

³⁰ *Id* at 57.

³¹ *Id* at 47.

³² *Id.*

³³ *Walker* Hearing, Vol. 2 at 22.

up.”³⁴ Defendant had been wearing handcuffs, but Detective Lewandowsky asked colleagues to have the handcuffs removed from Defendant’s person. Detective Lewandowsky also asked Defendant whether he had eaten.³⁵ A rapport was soon built; introductorily Detective Lewandowsky shook Defendant’s hand, and “. . . there was one time where I said, ‘give me your hand,’ or I held his hand for a moment or two.”³⁶ Detective Lewandowsky also spoke sensitively with Defendant about the two possessing a common experience as fathers of children and about talking “man to man.”³⁷ While Detective Lewandowsky agreed with an assessment that he “modulated [his] voice at certain times,” he felt “[he] didn’t think [he] ever yelled at [Defendant.]”³⁸

According to Detective Lewandowsky, Defendant had “very flat” emotions and was “not emotional in any way.”³⁹ It is important in reaching a conclusion that the trier of law attempt to envision itself in Defendant’s place. Was Defendant in a state to continue with prolonged interrogation? Regardless of fault, Defendant had just lost his infant child. This is a traumatic and disheartening experience for any parent. The grief of suddenly losing an infant daughter is profound and overwhelming, encompassing a spectrum of intense emotions that defy straightforward expression. It is a devastating rupture of hopes and dreams, a raw and unbearable pain that permeates every aspect of daily life. Parents experience a profound sense of disbelief and shock, grappling with the abruptness of their child's absence and the incomprehensibility of such a loss.

³⁴ See *Id* at 23-24. There is confusion as to whether Detective Lewandowsky told Defendant “John, wake up,” or alternatively, “John, look up.” Further, if it was “John, wake up,” Detective Lewandowsky testified that “. . . it could have been just a, hey, let’s go; wake up.” *Id* at 24.

³⁵ *Id.*

³⁶ *Id* at 26.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id* at 29.

It is not necessarily determinative that Defendant did not react to this sudden loss frenziedly or emotively. Individuals react to traumatic events and process trauma in varying ways. While some may be panicking or crying hysterically, others may quietly “shut down,” or they may prefer to concentrate their focus elsewhere in order to avoid facing a troubling issue. Defendant may have been in a sort of “fog,” scared or intimidated by the circumstances, his mind racked with “what do I do?” In understanding the impact of traumatic events on individuals, it is crucial to recognize the spectrum of human responses and the complexities inherent in psychological trauma. Trauma does not manifest uniformly; rather, it engenders a diverse range of reactions shaped by myriad factors including personal resilience, prior experiences, and coping mechanisms.

While some individuals may exhibit overt and immediate signs of distress following a traumatic event, such as acute stress reactions or post-traumatic stress disorder (PTSD), others may display a muted or seemingly non-existent response. This variance in reactions does not diminish the validity or severity of the experience endured by the individual. Rather, it underscores the intricate ways in which individuals process and internalize trauma. Factors such as dissociation, where individuals may temporarily disconnect from their emotions or surroundings as a coping mechanism, can obscure outward signs of distress. Additionally, cultural norms, social support networks, and individual personality traits play pivotal roles in shaping how individuals navigate and respond to traumatic events.

It is imperative, therefore, that we do not conflate outward expressions of distress with the presence or absence of trauma. The absence of visible emotional reactions does not equate to an absence of internal turmoil or psychological impact. Indeed, for some individuals, the manifestation of trauma may unfold gradually over time, surfacing in unexpected ways or

resurfacing during triggers or reminders of the traumatic event. As such, our approach to assessing and supporting individuals impacted by trauma must be nuanced and multifaceted. We must prioritize a comprehensive understanding of individual experiences, avoiding assumptions based solely on outward appearances among those navigating the complex terrain of psychological trauma.

When a defendant repeatedly changes their stories during interrogation, it can stem from various psychological, emotional, and situational factors, many of which do not necessarily indicate guilt. Interrogations are inherently stressful, particularly for individuals facing serious accusations. The pressure of the situation, combined with fear of consequences such as arrest, prosecution, or societal judgment, can lead to heightened stress levels. Under such circumstances, a defendant may struggle to maintain a consistent story due to cognitive impairment caused by stress.

The complexity of the interrogation process, with its exhaustive questioning and focus on specific details, can overwhelm a defendant's ability to recall events accurately. This confusion can lead to inadvertent inconsistencies as the defendant tries to piece together their memories under pressure. Even while not necessarily coercive, interrogation settings can be intimidating. The presence of authority figures, the formality of the setting, and the perception of being under suspicion can create psychological pressure. This can influence a defendant to alter their statements in an attempt to appease interrogators or to match what they perceive as expected responses. Some defendants may change their stories to align with what they believe interrogators want to hear, either to end the interrogation or to avoid conflict or confrontation. This can be driven by a desire to cooperate or a misconception about how to navigate the interrogation process effectively. Further, human memory is fallible, especially under stress or

duress. Defendants may genuinely struggle to recall details accurately or may inadvertently provide conflicting information as they attempt to reconstruct events from memory.

Additionally, in assessing the circumstances surrounding the interrogation of Defendant, a black man, this Court cannot ignore the troubling history and current realities that shape the dynamics between law enforcement and minority communities. Some argue that black individuals are disproportionately vulnerable to coercion and undue pressure during police questioning. Many also argue that this vulnerability is not merely a statistical anomaly but a reflection of broader societal biases and systemic inequalities.⁴⁰

The inherent power differential between a black man facing interrogation and the predominantly white law enforcement officers conducting it cannot be overstated.⁴¹ Stereotypes and prejudices contribute to an environment where the credibility and autonomy of a black individual during interrogation could potentially become compromised.⁴² The fear of retribution, cultural misunderstandings, and mistrust of law enforcement further exacerbate the likelihood that a confession may be coerced, not necessarily by physical force, but rather by the psychological pressures that sometimes accompany racial disparities in policing.⁴³ To be clear, there is certainly no indication of an intent on the part of Detective Lewandowsky to act in a

⁴⁰ See, e.g., Jerry Kang, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. Rev. 465 (2010); Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 Cal. L. Rev. 945 (2006).

⁴¹ See, e.g., *McCleskey v Kemp*, 481 US 279, 326 (1987) (Brennan, J., dissenting.)

⁴² See, e.g., *Rose v Mitchell*, 443 US 545, 558–559 (1979). (“[W]e ... cannot deny that, 114 years after the close of the War Between the States ... racial and other forms of discrimination still remain a fact of life, in the administration of justice as in our society as a whole. Perhaps today that discrimination takes a form more subtle than before. But it is not less real or pernicious.”)

⁴³ However, official acts are not unconstitutional due solely to a racially disproportionate impact. See, e.g., *Washington v Davis*, 426 US 229, 239 (1976) (“[O]ur cases have not embraced the proposition that a law or other official act, without regard to whether it reflects a racially discriminatory purpose, is unconstitutional solely because it has a racially disproportionate impact.”) It is important to note that the majority of disproportionate racial impact cases are in the context of Title VII. It is equally important to recognize the possible implications of implicit racial bias in criminal law, where applicable.

racially charged or biased manner. But in light of increased legal scholarship concerning implicit biases, the judiciary bears a solemn duty to scrutinize closely the general circumstances under which confessions given to law enforcement are obtained from black individuals, recognizing the possibility of a heightened risk of coercion.

Defendant never told Detective Lewandowsky he was tired.⁴⁴ He never mentioned he wanted to stop because he was tired or exhausted, or that he needed food or water.⁴⁵ After receiving his *Miranda* rights, he never voiced an intention or desire to stop speaking with Detective Lewandowsky. He never requested an attorney, or a therapist or priest. He never invoked his right to remain silence. He did not appear intoxicated or inebriated. He was not threatened with abuse. At the time, Defendant was intimately familiar with the criminal justice system, having a multi-state record. He was enrolled in higher education and demonstrated career aspirations—that is to say, his intelligence level and sophistication were not low, and certainly not as to warrant concern. A review of all these factors more or less enunciated in *Cipriano* appears to demonstrate a lack of coerciveness.

The delay here was far longer than the 48-hour time limit found in *Riverside*. Given this fact, the People must prove extraordinary circumstances justified the delay. The People unambiguously concede that “. . . there was delay, that that delay was in excess of *Riverside*⁴⁶, and that that delay is not reasonable as defined in *Riverside*. So that will be a factor. We will concede that. . . **So we’re not going to be saying that there was an extraordinary circumstance, [or] that there was an emergency circumstance, [or] that there was a necessity for**

⁴⁴ *Id* at 30.

⁴⁵ *Id.*

⁴⁶ *Id.*

that time.⁴⁷” In addition to the duration of the delay, there is the question of whether the delay was reasonable. As previously mentioned, the People have conceded it was not. But in ascertaining the true reasons behind the delay experienced by Defendant, it is important nonetheless to examine what may be considered reasonable and what may not be considered reasonable.

It is little wonder that the People have conceded the unreasonableness of the delay. Why detain Defendant? Defendant never appeared to be a flight risk, nor did he seem to present a danger to the community and public safety if released. If police were delaying “for the purpose of gathering additional evidence to justify the arrest[.]”⁴⁸ there exists straightforward indicia of unreasonableness.⁴⁹ Here, such improper reasoning behind the delay is readily apparent: Detective Lewandowsky testified candidly that “[he] couldn’t have done the same interview without autopsy results . . . That was a major factor in deciding to do the second . . . interview with him. . . That was a deciding factor in going back is, you know, has he been talked to since we got the autopsy results.”⁵⁰

It is highly suspect that law enforcement continued to detain Defendant while awaiting autopsy results, and while aiming to take another bite at the “interrogation apple” with fresh, updated evidence in mind and at its disposal, which if favorable to the government, could have been used to pressure, scare, or intimidate Defendant into producing an involuntary confession. Or, even if the autopsy results tended to perhaps *absolve* Defendant of guilt, it is not the end that is important, but rather the means. For it is the “gathering additional evidence to justify the

⁴⁷ *Walker* Hearing, Vol. 1 at 60.

⁴⁸ *People v Manning*, 243 Mich App 615; 624 NW2d 746 (2000).

⁴⁹ *Id* at 630.

⁵⁰ *Walker* Hearing, Vol. 2 at 40.

arrest” which is at issue; it is not whether or not that gathering effort was successful or resulted in evidence that cuts one particular way or the other.

Police officers engaging in such an effort are availing themselves of an illegal and unconstitutional opportunity to justify a warrantless arrest of an individual after the arrest has already been made. Reasonable suspicion is not enough for reasonable detention. Probable cause can be enough for reasonable detention. However, an *ex post facto* determination that probable cause exists to make an arrest, made hours or days after arrest has already occurred (and while a defendant has been unlawfully detained) does not justify the arrest, and does not justify an extended delay. Here, the continued detention of Defendant may have been an attempt at keeping him at arm’s length while law enforcement tried to discover more evidence, and also awaited an autopsy that could have resulted in useful, damning, exculpatory evidence against Defendant which was not available when he was first arrested, or during much of the time he was detained. Such a detention violates *Gerstein*, *Manning*, and *Cipriano*, in addition to obviously violating the 48-hour mandate of *Riverside*.

However, the fact that the delay exceeds the lawful limit is only one attribute of the delay *Cipriano* factor. Delay in itself is not enough; there must also be reasonableness. There have been numerous examples in previous cases of delays of 72 hours⁵¹ and even 81 hours⁵² being upheld as reasonable. To be clear, it is the totality of the circumstances that informs the judicial decision-making today. This Court should not, and will not, find coerciveness or involuntariness just because of the delay factor. Delay may be examined through various lenses: duration, nature, and character of the delay, but ultimately delay is but one factor. No matter how holistic an

⁵¹ *Cipriano* at 326 (citing *People v Farmer*, 380 Mich 198 (1968)).

⁵² *Manning* at 619.

approach a court can take in scrutinizing the singular factor of delay, it remains “only one factor to be taken into account in evaluating the voluntariness of a confession.”⁵³ Here, while the delay is egregiously suspect, it cannot overshadow the fact that the majority of the other *Cipriano* factors weigh in the opposite direction.

To clearly demonstrate the careful balancing effort the Court has employed in adhering to the totality of the circumstances test, the *Cipriano* factors stated simply are evaluated and weighted as follows: (1) *Age*: Defendant was not so young or so old as to be at a diminished capacity of understanding what was going on around him, or how he was being treated; this weighs in favor of the People; (2) *Education/Intelligence*: Defendant was not only a high school graduate, but articulate and actively enrolled in college courses; this weighs in favor of the People; (3) *Previous Experience with Police*: Defendant was very familiar with interactions with law enforcement due to having sported an extensive criminal history and being out on parole during the commission of the alleged offense; this weighs in favor of the People; (4) *Repeated/Prolonged Questioning*: Although Defendant was given breaks in questioning, he seemed tired and he was not offered or provided with mental health assistance, depriving him of an optimal mental state in which he would best be able to articulate his memory of events; this weighs against the People; (5) *Advisement of Constitutional Rights*: Defendant was given his *Miranda* rights consistent with constitutional protections; this weighs in favor of the People; (6) *Injury/Intoxication/Health*: There is no indication from the developed record that Defendant was injured, in ill-health, or intoxicated during the time of questioning; this weighs in favor of the People; (7) *Deprivation*: Although Defendant was never deprived of food, sleep, or medical attention, he was never afforded any mental health treatment regarding the abrupt death of his

⁵³ *Cipriano* at 319.

daughter; this factor is neutral; (8) *Physical Abuse*: Defendant was at no times physically abused; this weighs in favor of the People; and (9) *Threats of Abuse*: Defendant was never threatened with physical or mental abuse; this weighs in favor of the People.

There are two *Cipriano* factors that especially suggest involuntariness: (1) the *length of detention* of the accused before he gave the statement in question, and (2) the *unnecessary delay in bringing him before a magistrate* before he gave the confession. While there is no case law mandating that the various *Cipriano* factors be balanced or weighed precisely equally, the three factors weighed against the People (prolonged questioning, length of detention, and unnecessary delay) do not outweigh the remaining eight, which collectively constitute seven *Cipriano* factors in favor of the People, and one “neutral” factor.⁵⁴

This Court cannot deviate from the totality of the circumstances test and precedence set in previous cases. So long as this test remains the law, there is no other choice but to admit Defendant’s statements. In accordance with this test, this Court finds Defendant was not coerced into providing any incriminating statements, and the 64-hour detention did not violate his constitutionally-protected right to be arraigned without delay and to be free absent probable cause. Accordingly, the People’s Motion to Admit Defendant’s Statement is **GRANTED**, and Defendant’s statements at issue are **ADMITTED** as is consistent with this Opinion, court rules, and established law.

⁵⁴ To be clear, the Court is not adopting a novel numerical or mathematical approach in ascertaining the totality of the circumstances. Rather, the numbers presented are mere illustrations that may help a reader develop a clearer understanding of the present facts as applied to the *Cipriano* factors. This Court will not depart from the established totality of the circumstances test.

It is hereby **ORDERED** and **ADJUDGED** that Defendant's statements made during the second interrogation are not suppressed.

IT IS SO ORDERED.

24 June 24
Date


HON. ROSEMARIE E. AQUILINA (P37670)

RECEIVED by MSC 5/16/2025 11:24:19 AM

STATE OF MICHIGAN

IN THE 30TH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

JOHN HAROLD SANDERS,

Defendant.

HON. ROSEMARIE E. AQUILINA

Docket No. 13-224-FC

PROOF OF SERVICE

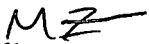
PROOF OF SERVICE

I hereby certify that I provided a copy of this Court's *Opinion and Order Granting People's Motion to Admit Statement* in the above captioned case to each attorney of record via email: Ingham County Deputy Chief Assistant Prosecutor Bill Crino, BCrino@ingham.org, and defense counsel Takura Nyamfukudza, takura@cndefenders.com.

6 / 24 / 24

Date


MATTHEW J. ZWEIBOHMER

Law Clerk to the Hon. Rosemarie E. Aquilina 

STATE OF MICHIGAN
IN THE 30th CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

HON. ROSEMARIE E. AQUILINA

v

Docket No: 13-224-FC

JOHN H. SANDERS,

OPINION AND ORDER

Defendant.

At a session of said Court held in the
City of Lansing, County of Ingham, State of Michigan,
This 17th day of August, 2022.

PRESENT: The Honorable Rosemarie E. Aquilina
30th Circuit Court Judge

This matter comes before this Court on John H. Sanders' (hereinafter "Defendant's") "Motion for Relief from Judgement", pursuant to MCR 6.502(G)2. This Court, having received Defendant's "Motion for Relief from Judgement", all supporting documents and correspondents, and having held an evidentiary hearing, pursuant to M.C.R. 6.508(C), states the following:

BACKGROUND FACTS

On December 5, 2013, Defendant was convicted by a jury of First-Degree Murder and First-Degree Child Abuse, pursuant to MCL 750.316(1)(b) and MCL 750.136(b) respectively. Defendant was sentenced to life imprisonment without parole for murder and 50 to 100 years for child abuse. Defendant appealed his conviction to the Michigan Court of Appeals. The Court of Appeals affirmed Defendant's conviction on April 21, 2015. On November 5, 2015, the Michigan Supreme Court denied Defendant's application for leave to appeal. Thereafter, on November 4,

2019, Defendant filed this “Motion for Relief from Judgement.” The Court held evidentiary hearings on October 28, 2021, January 27, 2022, and April 28, 2022.

A review of a conviction under MCR 6.500 *et seq.* is very limited. Relief cannot be granted by this Court where the motion alleges grounds for relief, other than jurisdictional defects, that could have been raised on a prior appeal, unless Defendant demonstrates good cause for failure to raise the issue and actual prejudice resulting from the alleged irregularity. MCR 6.508(D)(3); *People v Reed*, 449 Mich 375 (1995). Good cause can be established by establishing an ineffective assistance of counsel claim. *People v Kimble*, 470 Mich 305, 314 (2004). Furthermore, this Court may not grant relief where Defendant’s motion alleges grounds for relief that were decided against Defendant in a prior appeal or proceeding, unless Defendant establishes a retroactive change in the law that has undermined the prior decision. MCR 6.508(D)(2). Finally, “one and only one motion for relief from judgment may be filed with regard to a conviction” unless the successive motion is “based on a retroactive change in law that occurred after the first motion for relief from judgment or a claim of new evidence that was not discovered before the first such motion.” MCR 6.502(G)(1)-(2). The Court may also waive the good cause requirement “if it concludes that there is a significant possibility that the [D]efendant is innocent of the crime.” MCR 6.508(D).

“In order to prove ineffective assistance of counsel, [a] defendant must establish that [his/her] counsel’s performance fell below objective standards of reasonableness and that, but for counsel’s error, there is reasonable probability that the result of proceedings would have been different.” *People v Swain*, 288 Mich App 609, 638 (2010). The defendant “bears the burden of demonstrating both deficient performance and prejudice.” *People v Carbin*, 463 Mich 590, 600, 623 (2001). Similarly, “the defendant [also] necessarily bears the burden of establishing the factual predicate for his claim.” *Id.* In addition to bearing the burden of proof, “[t]here is a presumption

that counsel was effective, and a defendant must overcome the strong presumption that counsel's challenged actions were sound trial strategy. *People v LeBlanc*, 465 Mich 575, 578, 640 (2002). Simply put, Defendant must show good cause for his failure to previously raise the issues in his motion and actual prejudice resulting from the alleged irregularities. MCR 6.508(D)(3); *Reed*, 449 Mich at 378, 391. These good cause requirements can be demonstrated by establishing ineffective assistance of counsel. *Kimble*, 470 Mich at 314. In Defendant's motion, he alleges ineffective assistance of counsel to show good cause. Thus, Defendant must satisfy the ineffective assistance of counsel standard to fulfill the motion's gatekeeping requirements.

Defendant asserts that his motion should be granted based on the Michigan Supreme Court's decision in *People v Ackley*, 497 Mich 381 (2015) and pursuant to MCR 6.508(D). Defendant requests a new trial so that he may have an opportunity to present two new expert witnesses, Dr. Michael Laposata and Dr. Erin Barnhart, who testified in an evidentiary hearing that the victim's injuries and death were likely the result of natural causes rather than abuse. Through the victim's post-mortem lab reports and prior hospital records, both Dr. Laposata and Dr. Barnhart concluded that the victim's injuries were caused by the presence of the bacteria *streptococcus agalactiae*, more commonly known as Group B Strep ("GBS").

DEFENDANT'S ARGUMENT

Defendant has presented three main legal grounds in addition to multiple smaller arguments in support of his Motion for Relief from Judgement. First, Defendant argues that the new medical experts presented in the Motion for Relief from Judgment satisfy the good cause requirement of MCR 6.500 *et seq.* Defendant cites *People v Miller*, a Michigan Court of Appeals decision, which held that an alternate diagnosis based on the same medical and autopsy records relied on at trial can constitute newly discovered evidence. *People v Miller*, unpublished opinion

of the Court of Appeals, issued August 6, 2020 (Docket No 346321). Here, Defendant argues that both expert opinions presented are new and constitute newly discovered evidence.

Next, Defendant argues his motion should be granted on the basis of ineffective assistance of both appellate and trial counsel. Defendant claims appellate counsel failed to competently raise the ineffective assistance of trial counsel claim in a constitutionally reasonable manner because counsel failed to include an offer of proof from an expert to support the claim that trial counsel was ineffective. See *Strickland v Washington*, 466 US 668, 687-91(1984). Defendant further asserts that a finding of prejudice under the *Strickland* analysis is satisfied because the deficiency creates a reasonable probability of a different outcome. *Id.* at 694. Likewise, Defendant argues that trial counsel was ineffective for failing to seek expert testimony in his client's defense.

Furthermore, Defendant argues that the People's experts gave improper and conclusory testimony, necessitating a new trial. In *McFarlane*, the Michigan Court of Appeals held that "an expert goes too far when he or she diagnoses [an] injury as 'abusive head trauma' or opines that the inflicted trauma amounted to child abuse." *People v McFarlane*, 325 Mich App 507, 523 (2018). Defendant asserts that Dr. Stephen Guertin's testimony, which made repeated references to child abuse, fell afoul of this standard. Defendant argues that Dr. Guertin's testimony invaded the province of the jury and resulted in a denial of due process, violating his constitutional rights. He argues that assertions by expert witnesses that the child was abused were akin to improper legal conclusions made before the jury. Defendant argues that he is entitled to relief on the basis of a due process violation because the admission of this expert testimony was unduly prejudicial as to render the trial fundamentally unfair.

Additionally, Defendant asserts that he suffered a violation of his Due Process rights under the Fourteenth Amendment were violated because he was convicted using scientific evidence,

which is fundamentally flawed, irresponsible, and misleading. More specifically, Defendant argues that the People tainted the jury by presenting misleading scientific evidence that opined that the only explanation for victim's injuries was child abuse.

PEOPLE'S ARGUMENT

The People make three arguments in opposition to Defendant's motion. First, the People argue that the Court should not vacate Defendant's convictions because he has not presented newly discovered medical evidence. Since Defendant initially raised his claim of ineffective assistance of trial counsel on direct appeal, the People assert that this Court may not grant relief, unless Defendant establishes a retroactive change in the law or newly discovered evidence. MCR 6.508(D)(2). The People assert that the new medical testimony indicating that victim's injuries were caused by an infection does not constitute "new evidence," under to MCR 6.508(D)(2). The People cite MCR 6.502(G)(3)(a), which states, "[f]or purposes of subrule (G)(2), 'new evidence' includes new scientific evidence. This includes, but is not limited to, shifts in science entailing changes: (a) in a field of scientific knowledge, including shifts in scientific consensus."

The People assert that under this definition, there was no "change in scientific knowledge" because a portion of the medical community had identified potential non abusive sources for these types of injuries long before the victim's death. Additionally, the People assert that there was no "shift in scientific consensus" that an infection could cause the injuries at issue in this case, and although the Supreme Court identified a "controversy within the medical community" regarding the reliability of the medical theory shaken baby syndrome, also known as abusive head trauma ("SBS/AHT"), the development of a controversy does not equate a shift in consensus. The People also note that although both of Defendant's experts found the child suffered from a Strep B infection, they differ in the source of their diagnosis (i.e. postmortem lab results or hospital

treatment records). The People further argue the medical records provided by Defendant do not explain the source of the retinal bleeding, brain bleeding, and the brain swelling.

The People's second argument asserts that Defendant's ineffective assistance of counsel argument is necessary to establish his requested relief, and Defendant failed to do so. Defendant argues that *McFarlane* applies retroactively. However, the general rules of retroactivity include a closed case if the subsequent decision announces, "a new substantive rule of constitutional law" or a "watershed rule of criminal procedure" that "implicat[es] the fundamental fairness and accuracy of a criminal proceeding" *People v Barnes*, 502 Mich 265, 269 (2018). The People argue that *McFarlane* does not fall into either exception to the general rules of retroactivity and therefore, Defendant cannot rely on *McFarlane* in this instance. The Court of Appeals would not have reversed his convictions if his appellate counsel would have raised a claim of unpreserved evidentiary error. The People argue that good cause does not exist in this case because trial counsel did not object to the People's experts' testimony and failed to demonstrate that an error occurred, was obvious, and was outcome determinative. Dr. Guertin, was received as an expert in "child abuse" and testified the opinion victim's injuries resulted from abuse. The second expert, Dr. Joyce DeJong, did not specifically attribute the injuries to abuse. The People also argues there was no prejudice by allowing Dr. Guertin to testify because the challenged testimony was not outcome determinative. The People assert Dr. Guertin's testimony did not fatally infect the trial because Dr. DeJong did not characterize the injuries as abuse related, other potential causes were acknowledged, the challenged testimony was not emphasized, and the trial judge instructed the jury they were not required to believe the experts' opinions.

The People's third argument relates to expert testimony acknowledging the victim's injuries as possibly resulting from natural causes or an accident. There was no plain error in this

case because the testimony did not amount to a causation theory of “abuse-and-abuse-only.” During cross-examination, Dr. DeJong referred to the type of injuries that the victim had as individually or jointly result from natural causes and acknowledged that there is support for this theory. Further, defense counsel correctly stated during closing argument that the expert testimony did not completely rule out an accidental cause of death. Therefore, the expert testimony did not deprive Defendant of a fair trial.

CONCLUSIONS OF LAW

Defendant requests a new trial for several reasons: (1) Defendant’s appellate counsel was ineffective; (2) Defendant’s trial counsel was ineffective; (3) Defendant suffered actual prejudice for former counsels’ ineffectiveness; (4) the People’s expert witnesses provided misleading testimony; and (5) Defendant’s Due Process rights were violated. The Court finds some of Defendant’s arguments persuasive and some unpersuasive. However, the Court agrees that Defendant is entitled to a new trial.

I. INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL

To satisfy the gatekeeping requirements of MCR 6.500 *et seq*, Defendant must establish that appellate counsel acted ineffectively. In *Strickland*, the United States Supreme Court held that a “defendant must show that counsel’s performance was deficient.” *Strickland*, 466 US at 687. In other words, a defendant must show “that counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” *Id.* Next, a “defendant must show that the deficient performance prejudiced the defense.” *Id.* The Supreme Court clarified the appropriate test for prejudice, stating, “The defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. Further, “[a]n error by counsel, even if professionally

unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.” *Id.* at 691.

The *Strickland* standard applies to all aspects of the criminal process where Defendant is guaranteed a right to counsel under the Sixth Amendment, including direct appeal. *Id.* at 670. While the Supreme Court has ruled that there is no constitutional right to appeal, the State of Michigan has codified a right to appeal in the Michigan Constitution, unless the defendant pleads guilty or nolo contendere. See *McKane v Durston*, 153 US 684, 687 (1894); *People v Cooke*, 419 Mich 420, 424 (1984); Mich Const Art 1, § 20.

Like trial counsel, counsel at the appellate level is held to the same two-pronged *Strickland* standard in an ineffective assistance of counsel claim. The objective standard of reasonableness measures the performance of an attorney according to prevailing professional norms and must be weighed against what was reasonable at the time while considering all of the surrounding circumstances. *Strickland*, 466 US at 688-89.

Here, Defendant alleges ineffective assistance of counsel by both trial counsel and appellate counsel. Defendant’s appellate counsel argued ineffective assistance of trial counsel, but did not offer proof or file a motion to remand for an evidentiary hearing. More specifically, Defendant’s appellate counsel argued that Defendant’s trial attorney did not live up to professional standards by failing to present an expert witness on behalf of the defense. In support of this claim, appellate counsel reiterated matters of law, but did not provide evidence of what this expert testimony could have been or how it could have changed the outcome at trial. By failing to provide an offer of proof appellate counsel failed to provide Defendant with any real possibility of success in his claim.

Now, this Court has the benefit of seeing the offer of proof presented by Defendant's current counsel. On October 28, 2021, January 27, 2022, and April 28, 2022, the Court heard testimony from medical experts and oral arguments relating to the People and Defendant's motions. After hearing the proofs and arguments presented by Defendant's counsel, this Court agrees with Defendant that appellate counsel acted deficiently and was ineffective, which establishes the "good cause" necessary for Defendant's Motion for Relief from Judgment.

II. INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

Similar to Defendant's ineffective assistance of appellate counsel claim, Defendant must show ineffective assistance of trial counsel to satisfy the gatekeeping requirements of MCR 6.500 *et seq.* To show ineffective assistance of trial counsel, Defendant must demonstrate that his trial attorney's failure to provide an expert witness fell below an objective standard of reasonableness. *Strickland*, 466 US at 669. Additionally, Defendant must show that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694.

A. DEFICIENT PERFORMANCE

As mentioned above, to establish ineffective assistance of counsel, a defendant must demonstrate that his/her trial counsel's representation fell below an objective standard of reasonableness. *Id.* at 669. In *Harrington*, the United States Supreme Court discussed a defendant's trial counsel's effectiveness in relation to the decision not to introduce expert evidence in the defendant's defense. *Harrington v Richter*, 562 US 86 (2011). The Court stated, "Criminal cases will arise where the only reasonable and available defense strategy requires consultation with experts or introduction of expert evidence." *Id.* at 106. "In any case presenting an ineffectiveness

claim, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances.” *Strickland*, 466 US at 688.

In *Ackley*, the Michigan Supreme Court discussed whether trial counsel was ineffective for failing to attempt to secure an expert in his defense. *Ackley*, 497 Mich at 397-98. The Court determined that trial counsel was ineffective because counsel failed to engage an independent expert in his client’s trial defense. *Id.* at 392. Likewise, in *Trakhtenberg*, the Michigan Supreme Court held, “a defense attorney may be deemed ineffective, in part, for failing to consult an expert when counsel had neither an education nor the experience necessary to evaluate the evidence and make for himself a reasonable, and informed determination as to whether an expert should be consulted or called to the stand” *People v Trakhtenberg*, 493 Mich 38, 54 n. 9 (2012).

Ackley is similar to the present matter because Defendant's first pre-trial attorney received court funding to obtain an expert and consulted with one expert before ultimately deciding that the expert would not be helpful to Defendant’s case. Subsequently, Defendant's trial attorney did not perform independent research on shaken baby syndrome. Instead, trial counsel simply reviewed various documents and research provided to him by Defendant's wife. Unlike *Ackley*, however, Defendant's trial attorney believed that he would be unable to obtain additional funding from the Court for an expert witness that would assist in Defendant's case. In fact, Defendant’s trial attorney admitted in an affidavit that he did not consult with any experts and said he “did not have any special medical knowledge, and did not fully understand the terms.” See Trial Counsel Affidavit. Despite this, Defendant’s attorney performed cross-examination on the People's expert witnesses without sufficient expertise or an expert of his own to aid his knowledge.

The People cite *Leblanc* as a rebuttal case to Defendant’s argument. *People v LeBlanc*, 465 Mich 575, 583 (2002). In *Leblanc*, the Michigan Supreme Court determined that trial counsel did

not perform defectively for failing to call an expert witness in a sexual assault case. *Id.* However, this Court distinguishes the present case from *LeBlanc* on several fronts. In *LeBlanc*, the prosecution's case only relied in part on the expert testimony; it also relied on the testimony of the victim. *Id.* at 580. Here, the trial's outcome does not rest on victim testimony and the People failed to present physical or circumstantial evidence outside of what was provided in the expert testimony. In other words, the entirety of the present case relied on the jury's acceptance of the People's expert witnesses.

In contrast, the defendant in *Ackley* was convicted by a jury of first-degree murder and first-degree child abuse. *Ackley*, 497 Mich at 384. The prosecution alleged that the defendant killed his live-in girlfriend's child by either blunt force trauma or shaking. *Id.* at 384. The case lacked eyewitness testimony and direct evidence, and as such, the prosecution expressly relied on expert testimony to present its opinions concerning cause of death. *Id.* at 384. Notably, *Ackley* presents similar facts to the case at hand in regard to the charges against Defendant and the substance of the case presented by the People. Therefore, this Court finds *Ackley* more persuasive than *Leblanc*.

Ultimately, the failure to engage an expert witness does not alone equate to ineffective assistance of counsel. However, when considering the totality of the circumstances and the evidence presented at trial—in particular, the crux of the case falling on expert medical testimony—an effective defense strategy required the consultation and/or use of an independent expert witness. Therefore, this Court finds that Defendant's trial counsel's representation was deficient, and counsel was ineffective for failing to engage expert testimony in Defendants defense, which establishes the "good cause" necessary for Defendant's Motion for Relief from Judgment.

B. ACTUAL PREJUDICE

To establish ineffective assistance of counsel, Defendant must show that counsel acted deficiently, and that the deficient performance caused actual prejudice. *Strickland*, 466 US at 694. In other words, to establish ineffective assistance of counsel Defendant must “shows that there is a reasonable probability, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Id.* However, this determination does not require absolute certainty that the jury would have come to a different determination. *Id.* Rather, the strength of the People’s case must be weighed against the case presented by Defendant at trial and this court must determine if, but for the ineffective assistance of counsel, there was a reasonable probability that the determination of the jury would have been different. *Id.* at 694-96.

Here, had trial counsel presented an expert witness at trial, then there would have been a reasonable probability of a different outcome. Dr. Barnhart and Dr. Laposata’s findings and testimony establish actual prejudice. First, Dr. Barnhart’s testimony and medical report indicates that victim’s death stemmed from natural causes. Dr. Barnhart Report at 4; January 27, 2022, Transcript at 14. More specifically, Dr. Barnhart reported that “[h]omicidal traumatic brain injury is not supported by the evidence.” Barnhart Report at 2. In fact, Dr. Barnhart found “no evidence from which to conclude that [the victim] was a victim of abuse.” *Id.* at 4. Ultimately, the crux of Dr. Barnhart’s report and testimony was that “[a]ll of the findings in this case are explained by [strep, sepsis, and disseminated intravascular coagulation (DIC)], and thus, the only supported manner of death in this case is natural.” *Id.*; January 27, 2022, Transcript at 14.

Likewise, Dr. Laposata reported, the cause of the victim’s death was “[c]omplications of disseminated intravascular coagulation (DIC) associated with Group B Streptococcal infection.” Dr. Laposata Report at 3-4. Dr. Laposata indicated that the scalp hemorrhages identified in the

victim's autopsy were likely caused by brain surgery at the hospital. *Id.* at 2-3. "No external signs of trauma were identified on initial examination at the emergency room." *Id.* Ultimately, Dr. Laposata concluded that the victim's [S]trep B infection led to acute bronchopneumonia, which "which led to the development of DIC [that] . . . was severe enough to produce severe and spontaneous bleeding." *Id.* at 4-5. Simply put, the victim's death was caused by an infection, not abusive trauma.

These new medical opinions cast serious doubt on the actual guilt of Defendant. As such, Dr. Barnhart and Dr. Laposata's testimony at trial would have likely exonerated Defendant. Not only do these experts undermine the People's evidence of guilt, they also present compelling evidence that victim died from natural causes. Ultimately, trial counsel's failure to supply a competing expert at trial was prejudicial to Defendant. For these reasons, this Court finds that Defendant is entitled to relief in the form of a new trial. But for trial counsel's error there is a reasonable probability that the jury's determination would have been different because trial counsel failed to investigate adequately or attempt to secure appropriate expert assistance in preparation and presentation of his client's defense.

III. EXPERT WITNESS TESTIMONY AND THE PROVINCE OF THE JURY

Next, Defendant argues that the People's expert witnesses invaded the province of the jury by repeatedly testifying that the victim's death resulted from abusive head trauma. Defendant contends that the People's error was not harmless and amounted to a Due Process violation, which requires a new trial.

An opinion can be offered as testimony by an expert only in situations where the expert's "particular training and experience in a special field of activity" are unfamiliar to the jury and does not consist of common knowledge. *People v Drossart*, 99 Mich App 66, 80 (1980). Under Rule

704 of the Michigan Rules of Evidence, “[t]estimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact.” MRE 704. The Michigan Court of Appeals stated, “[E]xperts are permitted to draw and testify regarding conclusions that encompass a question to be decided by the jury, so long as the expert does not purport to—or, importantly for this matter, even appear to purport—to draw a legal conclusion.” *Ackley*, 336 Mich App at 595.

Here, Defendant suggests that the People’s experts purported to draw legal conclusions, which impacted the outcome of the proceedings. In *McFarlane*, the Michigan Court of Appeals outlined the test for invasion of the province of the jury by a medical expert. *McFarlane*, 325 Mich App at 525. This test requires that (1) there was plain error by the court in allowing the testimony to remain on the record, and (2) that the defendant was prejudiced by the plain error. *Id.* The issue in this case lies in the inclusion in the testimony of the word “abusive,” as it pertains to the victim’s injuries, of which is considered to be a legal conclusion. A medical expert is permitted to testify that injuries are inconsistent with an accident, or that that they are consistent with injuries seen in a non-accidental altercation or event, but “abuse” in the legal system is a legal conclusion consisting of multiple factors; such as intent, and remains only within the purview of the court to determine. As such, regardless of the official name of the diagnosis, a medical expert is not permitted to purport drawing a legal conclusion while testifying.

In determining whether Defendant was prejudiced by the plain error, this Court considers the entire record to determine whether the erroneously admitted evidence was prejudicial “in light of the weight and strength of the untainted evidence.” *Ackley*, 336 Mich App at 594. In *Ackley*, the expert witnesses testified to a plethora of external bruising and circumstantial evidence, which indicated the existence of physical abuse. *Id.* at 596-602. Additionally, the prosecution focused its

case not around the medical testimony, but around the Defendant's behavior, actions, and history. *Id.* In contrast, the present case, had no evidence of external physical trauma or bruising, other than the trauma caused during surgery. Likewise, there were no witnesses to corroborate any previous evidence of abuse. In fact, the detective, as well as the doctors, testified that Defendant's testimony and behavior at the time of the incident was in line with what would be expected of a parent in a similar emergency.

Dr. Guertin was received, without objection as an expert in "child abuse." Therefore, he was eligible to testify to his opinion of the victim's brain and retinal injuries. In order for Defendant to show that Dr. Guertin's testimony invaded the province of the jury, he must prove that Dr. Guertin implicated Defendant by diagnosing the victim's injuries as abuse. Dr. Guertin used the medical evidence to support his opinion that these injuries were consistent with "abuse" but did not rely solely on Defendant's history. The doctor did not make a concrete diagnosis or implicate criminal responsibility in his testimony.

Additionally, the trial court instructed the jury that they were not required to believe an expert's opinion. Dr. DeJong's testimony did not attribute these injuries to violence, which gave the jury additional opinions to take into consideration. The People's experts' testimony served an advisory role and did not equate factual guilt or invade the province of the jury. Therefore, this Court concludes that the testimony of the People's experts did not inhibit the agency of the jury to make its own conclusions. Thus, this Court finds that the People's expert testimony did not result in a plain error that prejudiced Defendant.

IV. DUE PROCESS

Defendant argues that his Fourteenth Amendment right to Due Process was violated by the People's presentation of scientific evidence that was misleading. Defendant's Fourteenth

Amendment right to Due Process is violated where the People presents evidence that “gave the jury [a] false impression” about material facts. *Alcorta v Texas*, 355 US 28, 31 (1957).

This Court acknowledges that Plaintiff's witnesses were compelling, but Defendant had an equal opportunity to rebut the version of facts presented by those experts, and a refusal to do so does not within itself constitute a violation of Due Process. As previously indicated, the trial court did not error by allowing the People's expert witnesses to testify to their expert opinions. Both parties were given an opportunity to provide expert witness testimony in order to provide the jury with a lens to view the facts that they, the jury, must determine.

This Court has already determined that Defendant was prejudiced by ineffective assistance of counsel, which grants Defendant a new trial. However, Defendant's counsel's failure to seek expert testimony does mean that the People presented misleading expert testimony. Therefore, Defendant's misleading expert testimony Due Process claim must fail.

CONCLUSION

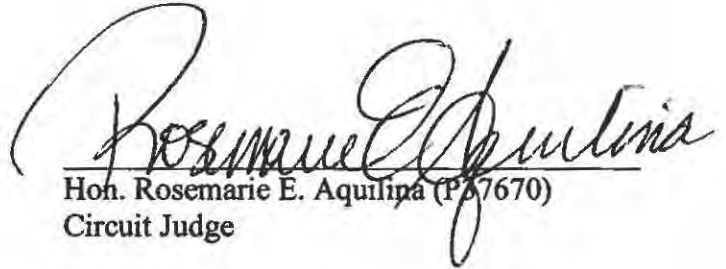
This Court finds that Defendant was prejudiced by ineffective assistance of counsel because Defendant's counsel failed to seek expert witness testimony in defense of his client. As a result, Defendant has satisfied the gatekeeping requirements of his Motion for Relief from Judgment and is entitled to a new trial. Therefore, Defendants request for a new trial is **GRANTED**.

However, this Court did not find Defendant's Due Process arguments relating to improper expert testimony persuasive. Therefore, Defendant's Due Process argument and requested relief is **DENIED**.

THEREFORE, IT IS ORDERED that Defendant's Motion for Relief from Judgment is hereby **GRANTED**, in part, and **DENIED** in part. **IT IS FURTHER ORDERED** that Defendant is **GRANTED** a new trial.

IT IS SO ORDERED.

Dated: 19 Sept 29


Hon. Rosemarie E. Aquilina (P#7670)
Circuit Judge

RECEIVED by MSC 5/16/2025 11:24:19 AM

STATE OF MICHIGAN

IN THE 30th CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 13-224-FC

JOHN SANDERS

Hon. Rosemarie Aquilina

Defendant.

Proof of Service

INGHAM COUNTY PROSECUTOR

By: William O. Crino (P-47892)

Assistant Prosecutor

303 West Kalamazoo Street

Lansing, MI 48933

(517) 483-6108

ATTORNEY FOR DEFENDANT

Mary Chartier (P-65327)

Attorney for Defendant

Chartier & Nyamfukudza, P.L.C.

2295 Sower Road

Okemos, MI 48864

(517) 885-3305

PROOF OF SERVICE

I, William O. Crino certify that on February 5, 2024 I served a copy of the *People's Motion to Admit Defendant's Statement and for "Walker Hearing," and Proof of Service* on Mary Chartier and Takura Nyamfukudza, Attorneys for Defendant via First Class Mail and e-mail.

An original of the *People's Motion to Admit Defendant's Statement and for "Walker Hearing," and Proof of Service* was served on the 30th Circuit Court via Hand Delivery at 313 West Kalamazoo Street, Lansing, MI 48933 on February 5, 2024.

Dated 2/5/2024


William O. Crino (P-47892)
Assistant Prosecutor

RECEIVED by MSC 5/16/2025 11:24:19 AM

STATE OF MICHIGAN
IN THE 30th CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 13-224-FC

JOHN SANDERS

Hon. Rosemarie Aquilina

Defendant.

MOTION

INGHAM COUNTY PROSECUTOR

By: William O. Crino (P-47892)

Assistant Prosecutor

303 West Kalamazoo Street

Lansing, MI 48933

(517) 483-6108

ATTORNEY FOR DEFENDANT

Mary Chartier (P-65327)

Attorney for Defendant

Chartier & Nyamfukudza, P.L.C.

2295 Sower Road

Okemos, MI 48864

(517) 885-3305

**PEOPLE'S MOTION TO ADMIT DEFENDANT'S STATEMENT AND
FOR "WALKER HEARING"**

NOW COMES the People of the State of Michigan, by and through Assistant Prosecutor William O. Crino, and in support of the People's Motion to Admit Defendant's Statements and for "Walker Hearing" states as follows:

1. The Defendant, John Sanders is charged in a two count Felony Information with Count 1: Open Murder and Count 2: Child Abuse First Degree.

2. Trial in this matter is scheduled to begin on April 5, 2024 before the Honorable Court.

3. The present trial is a retrial. The first trial occurred in December 2013 in the Ingham County Circuit Court before the Honorable William E. Collette. The Defendant was convicted at the first trial of First Degree Felony Murder and Child Abuse First Degree.

4. Prior to the first trial, the People filed a Motion to Admit Defendant's Statement. The People were seeking admission of the Defendant's January 7, 2013 statement to Lansing Police Department Detective Mark Lewandowsky. This statement had been previously suppressed at the preliminary examination by Judge Hugh B. Clarke.

5. A hearing was held in Circuit Court on the People's Motion to Admit Defendant's Statement. After "argument" Judge Collette affirmed the District Court's order suppressing the Defendant's January 7, 2013 statement.

6. Pursuant to MCR 6.435 (B), the People have now filed the present Motion to Admit Defendant's Statement and for "Walker" hearing before this Honorable Court, seeking to reverse Judge Collette's prior erroneous decision suppressing the statement, for reasons more fully set forth in the People's supporting brief.

7. The People are requesting that this Honorable Court reverse Judge Collette's prior erroneous ruling, and allow for the admission of Defendant's January 7, 2013 statement into evidence during the People's case in chief, for reason more fully set forth in the People's supporting brief.

8. Pursuant to *People v Walker*, 374 Mich 331 (1965), the People are also requesting a hearing to determine the voluntariness of the Defendant's January 7, 2013 statement. The People request that this Honorable Court use as factual support, the existing preliminary exam record and the expanded record developed at the February 22, 2024 scheduled hearing on this matter.

WHEREFORE, the People request that this Honorable Court grant the *People's Motion to Admit Defendant's Statement and for "Walker" Hearing*.

Dated: 2/5/24


William O. Crino (P-47892)
Assistant Prosecutor

STATE OF MICHIGAN

IN THE 30th CIRCUIT COURT FOR THE COUNTY OF INGHAM

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 13-224-FC

JOHN SANDERS

Hon. Rosemarie Aquilina

Defendant.

MOTION BRIEF

INGHAM COUNTY PROSECUTOR

By: William O. Crino (P-47892)

Assistant Prosecutor

303 West Kalamazoo Street

Lansing, MI 48933

(517) 483-6108

ATTORNEY FOR DEFENDANT

Mary Chartier (P-65327)

Attorney for Defendant

Chartier & Nyamfukudza, P.L.C.

2295 Sower Road

Okemos, MI 48864

(517) 885-3305

**PEOPLE'S BRIEF IN SUPPORT OF MOTION TO ADMIT
DEFENDANT'S STATEMENT AND FOR "WALKER HEARING"**

Part One: Overview

The Defendant, John Sanders, is charged in a two (2) count Felony Information with Count 1: Open Murder; and Count 2: Child Abuse 1st Degree. Trial is set in this matter for April 5, 2024.

The trial before this Honorable Court set for April 5, 2024 is a retrial. The first trial occurred in December, 2013 in the Ingham County Circuit Court before the Honorable William E. Collette.

Trial Facts**a. History**

Shamarrie Kittle and Defendant were in a relationship that resulted in the birth of J [REDACTED] Sanders on [REDACTED] (12/03/13, 32). Defendant, Shamarrie, and J [REDACTED] lived at [REDACTED] [REDACTED] [REDACTED], Michigan until December 2012. (12/03/13, 32)

On December 11, 2012, J [REDACTED] became fussier after she received her scheduled immunizations. (12/03/13, 36) Shamarrie testified that both she and Defendant would attempt to soothe J [REDACTED] however she was more successful than Defendant was at calming her down¹. (12/03/13, 37)

Around Christmas time 2012, Defendant kicked Shamarrie out of their apartment because he thought she was cheating on him. (12/03/13, 33, 61) Shamarrie and J [REDACTED] moved into Shamarrie's mother's home. (12/03/13, 33) Once Shamarrie moved to her mother's home, Defendant did not visit.

¹ Defendant gave a statement to law enforcement that confirmed that "Shamarrie was definitely the one that calmed her the best, and that he would give J [REDACTED] to Shamarrie if he couldn't calm her." (12/03/13, 112; Tr. Ex. 39)

Shamarrie was moving out of Defendant's apartment. Whenever she would go to pick up her stuff from Defendant's apartment, she would take J [REDACTED] with her to visit. (12/03/13, 35).

On January 3, 2013, the day before J [REDACTED] was killed, Shamarrie was living at her mother's home. At approximately 8:00 pm, Shamarrie and J [REDACTED] took the bus to Defendant's apartment². (12/03/13, 38) Shamarrie intended to have Defendant babysit J [REDACTED] while she went to the WIC³ office the following morning. (12/03/13, 38) Once at Defendant's home, Shamarrie made dinner and put J [REDACTED] in her pajamas for the night. (12/03/13, 39) Shamarrie gave J [REDACTED] a bottle. J [REDACTED] fell asleep in the bedroom. While she slept, Defendant sat on the bed next to her playing his video games. (12/03/13, 43-44) Eventually, Shamarrie and Defendant also went to sleep in the same bed, next to J [REDACTED]. (12/03/13, 46)

During the night hours, J [REDACTED] woke up crying and Shamarrie made her a bottle so she could fall back asleep. (12/03/13, 47-48) Defendant stayed sleeping. (12/03/13, 48). At approximately 7am, Shamarrie woke up, make J [REDACTED] a bottle and called the WIC Office to verify that they were open. (12/03/13, 49-50) At approximately 8:12 am, Shamarrie left to catch the bus leaving J [REDACTED] and Defendant asleep in the apartment. (12/03/13, 50) Prior to leaving, Shamarrie "shook" Defendant and told him she was leaving. J [REDACTED] was sleeping on the bed next to him and appeared to be sleeping normally. (12/03/13, 51)

Shamarrie caught the 8:16 am bus and stopped at her mother's house to get her WIC Card. (12/03/13, 51-52). While at her mother's home, she called the Defendant and told him she was

² Shamarrie testified that Sharray, her sister, and Shania, her daughter, also took the bus but did not go to Defendant's apartment. (12/03/13, 38)

³ WIC stands for Women, Infants, and Children and provides supplemental food, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk.

getting on the bus to go downtown. (12/03/13, 52) After arriving at the WIC office and recharging her benefits, Shamarrie stopped to talk to Jennifer Allswede⁴. (12/03/13, 54) At approximately 9:25 am, Shamarrie was proudly showing Jennifer pictures of J [REDACTED] when she received a text message from Defendant that “J [REDACTED] (sic) stop breathing had to take her to the hospital. Here now”. (12/02/13, 206; 12/03/13, 54; Tr. Ex. 40) Immediately, Shamarrie’s attitude changed. Her face turned red and she became very frantic. (12/02/13, 206-207)

Shamarrie immediately called the Defendant. Jennifer drove Shamarrie to Ingham Regional Hospital. During the ride to the hospital, Shamarrie cried and kept saying “how does a baby just stop breathing? She was fine when I left her on the bed.” (12/02/13, 210). Shamarrie told Jennifer that J [REDACTED] wasn’t sick, didn’t have asthma, and didn’t have a cough. (12/02/13, 208). She also told Jennifer that while Defendant would get mad at J [REDACTED] “he would never go that far⁵.” (12/02/13, 210) Jennifer dropped Shamarrie off at the hospital. (12/02/13, 211)

Once at the hospital, Shamarrie found J [REDACTED] in a hospital bed with the staff helping her breath. (12/03/13, 55) The doctors at Ingham Regional Hospital transferred J [REDACTED] to Sparrow Hospital because they were better equipped to handle this type of trauma. Shamarrie and J [REDACTED] rode in an ambulance and Defendant followed by cab. (12/03/13, 56-57)

b. Medical Injuries:

Dr. Stephen Guertin⁶ was in charge of J [REDACTED]’s care at Sparrow Hospital. When J [REDACTED] arrived, she was in shock and had a rapidly falling body temperature. (12/03/13, 159) A monitor

⁴ Jennifer Allsewede was a community health worker that provided services for Shamarrie. (12/02/13, 204)

⁵ Shamarrie testified that as of the time of the trial she still loved the Defendant, talked to him often and believed he was innocent. (12/03/13, 62)

⁶ Dr. Guertin was qualified as an expert in child abuse. (12/03/13, 157)

was placed on J [REDACTED] and it was determined that she suffered a head injury sufficient enough to cause high pressure in her brain and create an ongoing inadequacy of blood supply to her brain. (12/03/13, 159)

J [REDACTED] was rushed to the operating room. Dr. Guertin testified that she “was bleeding terribly from everywhere. Mainly from the head ... [J [REDACTED]] had consumed all her clotting factors so she could no longer make blood clots, so she was bleeding to death... and the most important thing was that when [the doctors] looked at the brain there were no pulses.... So the brain was, in essence, dead or dying.” (12/03/13, 160). Between the hours of 3:00 pm and 6:30 pm, J [REDACTED]’s heart stopped beating several times and she needed to be revived. (12/03/13, 161). J [REDACTED] was baptized. At approximately 7:00 pm, there were “no signs of life.” (12/03/13, 161). J [REDACTED] was taken off her ventilator and the medication that was stabilizing her heart beat and blood pressure. (12/03/13, 161). J [REDACTED] died in Shamarrie’s arms.

When Dr. Guertin informed Shamarrie that he did not believe this was an accident, she immediately phoned Defendant and asked him “what did you do to the baby?” (12/03/13, 175) Defendant told her that “he was making a bottle and she stopped crying and he went in there and she wasn’t breathing.” (12/03/13, 60)

Dr. Guertin testified at trial that J [REDACTED] arrived at the hospital with “profound life-threatening injuries.” (12/03/13, 162) Dr. Guertin described the injuries as “characteristic injuries” of child abuse. (12/03/13, 162) J [REDACTED] had bleeding around the outside of the brain in many different locations⁷. This type of injury pattern would require considerable force and is

⁷ Dr. Guertin specifically testified that the bleeding was “in front of the left temporal lobe, all over the whole side of the left parietal and frontal lobe and an occipital lobe... over the cerebellum, the little bit on the right side, and the child had bleeding even between the two sides of the brain.” (12/03/13, 162)

characteristic of “abusive head injury or shaken impact syndrome where a child is either shaken violently or hit or both.” (12/03/13, 162)

In addition to the brain bleed, Dr. Guertin testified that J [REDACTED] suffered from retinal hemorrhages, an injury that is typically only seen in rollover type motor vehicle accidents or if a child’s head is crushed or in child abuse cases. (12/03/13, 163) Dr. Guertin testified that “a child that comes in essentially an extreme death or nearly died or with retinal hemorrhages... are actually only found, with rare exceptions, in abusive injury.” (12/03/13, 163)

Dr. Guertin reviewed the autopsy photographs and determined J [REDACTED] had at least five or six deep bruises to her scalp. These bruises were indicative of being hit against something or being hit. (12/03/13, 163-164) Dr. Guertin explained that you cannot get these types and number of impact sites with “**just a shake... You have to hit the baby or the baby has to be hit against something to get [these injuries]**” (12/03/13, 168) Dr. Guertin reiterated to the jury that these injuries “could not have just been a shaking alone... and this is not what you would expect from an accidental injury.” (12/03/13, 169) Dr. Guertin testified that the force necessary to effectuate this type of injury would not be something that was common in jostling a baby to see if he or she was awake. (12/03/13, 180). This would have to be intentional. (12/03/13, 180-181)

Dr. Guertin explained that a child that suffered an injury consistent with J [REDACTED]’s would typically exhibit symptoms immediately⁸. (12/03/13, 173, 179) These symptoms may vary but include becoming unconscious, seizures, lethargy, being nonresponsive, floppiness, breathing abnormality and ultimately stopping breathing. (12/03/13, 174, 179)

⁸ Dr. Guertin, relying on studies of fatal head injuries or confessed cases of severe head injury, testified that in 97 to 100 percent of the cases, the individual would be symptomatic immediately. (12/03/13, 179)

Following J [REDACTED]'s death, Dr. Joyce de Jong⁹, a forensic pathologist, performed an autopsy to determine the cause and manner of J [REDACTED]'s death. During the course of the autopsy, Dr. de Jong determined that J [REDACTED]'s skull was not injured but the bleeding was in the subdural area of the brain which indicated trauma. (12/03/13, 160) Dr. de Jong, while reviewing the history provided by law enforcement, determined that the injuries present in J [REDACTED] were indicated of an inflicted injury, not an accident. (12/03/13, 167). Similar to the testimony of Dr. Guertin, Dr. de Jong testified that this type of head injury may be consistent with a car crash or a situation where a child was in a car that had rolled over multiple times. (12/03/13, 168). Dr. de Jong determined that the cause of death was a traumatic brain injury and the manner of death was homicide. (Autopsy Report, Tr. Ex. 24)

c. Investigation & Defendant's Initial Statements

Lansing Police Department responded to Sparrow Hospital and began investigating the death of J [REDACTED]¹⁰. Detectives spoke briefly with Dr. Guertin and learned that J [REDACTED] had a severe brain bleed and possible vomit in her lungs. (12/03/13, 89). Detective Theilen met with Defendant initially at Sparrow Hospital. Defendant explained that Shamarrie had left earlier in the morning leaving him to watch J [REDACTED]. (12/03/13, 95) He indicated that "[J [REDACTED] had been crying and wanting a bottle, and that he had gone to make her a bottle. She had stopped crying, and when he came back he found her unresponsive." (12/03/13, 92)

Detective Theilen wanted to interview both Defendant and Shamarrie at the precinct however Shamarrie was needed to make medical decisions on behalf of J [REDACTED] at the hospital.

⁹ Dr. de Jong was qualified and accepted as an expert in forensic pathology. (12/03/13, 153)

¹⁰ During the investigation, law enforcement also executed a search warrant at [REDACTED] and for the contents of Defendant's cell phone.

(12/03/13, 99). Defendant agreed to voluntarily go with the Detectives to be interviewed at the police department. (12/03/13, 98)

Initially, law enforcement was attempting to determine if this was an accident or intention and if it was intentional, who caused the harm to J [REDACTED]. (12/03/13, 99) Defendant was not a main suspect. (12/03/13, 99).

Defendant's January 4, 2013 Interview with Detective Thielen

During the course of her interview, Detective Thielen spoke with Detective Elizabeth Reust and determined that Defendant may be criminally responsible in the death of J [REDACTED]. (12/03/13, 102). Detective Thielen, at that time, advised Defendant of his *Miranda* rights. Defendant waived his rights and continued to speak with the detective. (12/03/13, 102; Tr. Ex. 35)

Defendant discussed certain stressors in his life including his recent break up with Shamarrie, lack of income, school work, and having a newborn baby. (12/03/13, 109-111; Tr Ex 39). Defendant stated that J [REDACTED] was a "fussy baby" and he would typically give her to Shamarrie if he couldn't calm her down. (12/03/13, 112; Tr. Ex. 39) Defendant described the morning of January 4 by telling Detectives that Shamarrie had left to go to the WIC Office and he stayed in bed alone with J [REDACTED] (12/03/13, 112). J [REDACTED] became a little fussy and he noticed she needed her diaper changed, so he changed her diaper and she fell back to sleep. (12/03/13, 113). Defendant confirmed that J [REDACTED] was not injured when Shamarrie left and following the diaper change, J [REDACTED] was happy, smiling and interacting with him as a normal baby. (12/03/13, 116)

Sometime later, J [REDACTED] was fussy again so he went to make her a bottle. (12/03/13, 113). Defendant stated that when he returned, J [REDACTED] wasn't breathing. (12/03/13, 113). Defendant

explained that he “grabbed [J██████] by the arms... said her name... and had shaken her¹¹” he then moved her to the edge of the bed and attempted to perform CPR. (12/03/13, 113). Defendant then called his uncle and got a ride to the hospital.

d. Jury Verdict:

After a week-long trial, the Defendant was found guilty of both First-Degree Felony Murder and First-Degree Child Abuse. The Defendant was sentenced to life in prison for felony murder, and a 30-55 years for Child Abuse 1st Degree.

Defendant’s January 7, 2013

Part Two: Defendant’s January 7, 2013 Interview with Detective Lewandowsky

a. Overview of Statement

At the conclusion of Defendant’s Friday, January 4th interview, Detective Thielen arrested the Defendant. On Monday, January 7, 2012 prior to arraignment LPD Detective Mark Lewandowsky again interviewed the Defendant. This interview was conducted at the LPD North Precinct. Present during the interview were the Defendant and Detective Lewandowsky. Detective Lewandowsky read Defendant his Miranda rights. Defendant acknowledged those rights, agreeing to speak with Detective Lewandowsky. Defendant signed an Advice of Rights form form (*attached hereto as PX # 1*). The interview was both audio and video recorded, and a transcript prepared (*attached hereto as PX # 2 and PX # 3*).

b. Defendant’s Admissions During the Interview:

During the January 7, 2013 interview, Defendant *completely* changed his story to police. In fact, Defendant gave Detective Lewandowsky five (5) stories: each *separate* and *completely*

¹¹ Detective Thielen utilized a weighted doll to allow Defendant to demonstrate how violently he shook J██████. This was captured on the recorded interview entered into evidence as Trial Exhibit 38. Detective Thielen testified Defendant’s version of how he “shook” the baby was inconsistent with what the Doctors indicated may cause traumatic brain injury. (12/03/13, 114)

inconsistent detailing the events leading up to J [REDACTED] becoming unresponsive. Indeed, the Defendant stated as follows:

Story # 1: Found J [REDACTED] Unresponsive

Defendant first described that on the morning of January 4, 2013, J [REDACTED] was squirming, acting like she was going to wake up. Defendant went into the kitchen and fixed a bottle, and when Defendant was in the kitchen J [REDACTED] was crying. Defendant came back in the room and asked J [REDACTED] if she still wanted her bottle. J [REDACTED] did not respond. Defendant then tried to put the bottle into her mouth and J [REDACTED] did not respond (*PX # 2 and PX # 3, p 24-28*).

According to Defendant:

“That’s when I, you know, kinda, you know was like, you know, what’s wrong, you know. So, I grabbed her and I was like J [REDACTED], you know, J [REDACTED], then I, you put her like this. I feel like she wasn’t breathing.” (*See PX # 2 and PX # 3, p 29*).

Story # 2: Throwing J [REDACTED] Up in the Air

In a now second and *totally inconsistent* story, Defendant described that immediately before J [REDACTED] became unresponsive, he actually was throwing this three (3) month old infant into the air. Specifically, the Defendant told Detective Lewandowsky:

“Well I came back in the room and I picked her up, you know, you know, holding her like this. I tried to give her a bottle. She didn’t want it. So usually I, I can pick her up and do her like this, you know, play with her a little bit. I tried that she didn’t. So I, I threw her up in the air, you know like three, four times, you know, caught her, and she didn’t respond to me. So I threw her up again a little higher and I, and I caught her and I swung her between my legs like this. And I threw her back up and then when I caught her the next time, she like went, she like went, she started going limp on me and shit like, you know like and her eyes started rolling back.” (*See PX # 2 and PX # 3, p 40*).

Defendant went on to describe that he threw three (3) month old J [REDACTED] up in the air that morning at least *six* times. (*See PX # 2 and # 3, p 40*)

Story # 3: J [REDACTED] Hit her Head on the Ceiling

In a now third inconsistent version, Defendant told Detective Lewandowsky that not only had he allegedly been throwing J [REDACTED] up in the air, but J [REDACTED] apparently **hit her head on the ceiling**. Specifically, the following colloquy occurred during the interview:

John Sanders: I threw her up a little bit too high I think.

Det. Lewandowsky: And what?

John Sanders: She hit her head on the ceiling. (See PX # 2 and PX # 3, p 41)

Story # 4: J [REDACTED] Fell on the Bed

In Defendant's now *fourth* inconsistent story, Defendant described that J [REDACTED]'s injury was "*an accident*" and that J [REDACTED] actually struck her head on the *bed*, not the ceiling. In fact, the following continued colloquy occurred during Detective Lewandowsky's interview with the Defendant:

Det. Lewandowsky: Then you gotta tell me. Why did it happen? Why?

John Sanders: It was an accident.

Det. Lewandowsky: Then tell me what happened. What happened to that baby, John? You said it was an accident. You gotta tell me how it was an accident. Tell me. Did you drop the baby? John, did you drop the baby? You dropped her? How? Tell me how you dropped he?

John Sanders: Like I said I was trying to console her, man and...

Detective Lewandowsky: Was she crying?

John Sanders: Yeah.

Detective Lewandowsky: So she was crying, and what were you doing to console her?

John Sanders: I was holding her and I was rocking her and I started throwing her up. But she didn't fall on no floor.

Det. Lewandowsky: What did she fall on?

John Sanders: She fell on the bed? (See PX # 2 and PX # 3, p 43).

Story # 5: Shaking J [REDACTED] by the Arms

Though adamantly claiming (both at the hospital and during the initial investigation) that he simply *found* J [REDACTED] unresponsive, Defendant now claims in his fifth and final inconsistent

story that J[REDACTED]'s injuries were "*an accident.*" In fact, Defendant asserts that J[REDACTED] had a seizure and was unresponsive *only after* he *shook* J[REDACTED] by the arms (PX # 2 and PX # 3, p 43).

Defendant states that he did not injure J[REDACTED] on purpose or to "*get back*" at anyone. Rather, J[REDACTED] was injured by "*accident.*" According to Defendant's statement:

John Sanders: This wasn't planned. I didn't do this on purpose.

Det. Lewandowsky: Okay.

John Sanders: I didn't do this to get back to nobody. I ain't do this to try to hurt nobody. This was a ...it was an accident and that's why I reacted the way I reacted to get her some help as soon as possible.

Det. Lewandowsky: Okay, tell me about the accident.

John Sanders: I mean do you understand that?

Det. Lewandowsky: I do, I do. Tell me about the accident then. What happened?

John Sanders: When I came back in there like I said from trying to fix her a bottle, she didn't want the bottle. I seen that her diaper needed changed, so I changed her diaper. She still didn't stop crying. So then I picked her up, played with her for a little while. *She still didn't stop crying.* Tried to, tried to do the bottle again, she still wouldn't stop crying. So I grabbed her by her arms and I started shaking her like this like J[REDACTED], what's the matter? J[REDACTED], what's the matter? J[REDACTED], what's the matter? *That's when I got ah...that's when her neck went limp on me.*

The dialogue continues:

John Sanders: I didn't think I shook her that hard to be honest with you. I didn't. I don't do my baby like that. Well I did, like I said I was like J[REDACTED], J[REDACTED], J[REDACTED], J[REDACTED], J[REDACTED], why is you crying? You know? Just shaking her like that. Then she stopped so when she stopped, I stopped and when I stopped that's when she like went like, she was like, looked like she started to have a seizure on me. And I, I swear to God man that's what happened. (See PX # 2, PX # 3, p 44-45) (*emphasis added*).

Describing what happened to J[REDACTED]'s head during the shaking, the Defendant stated:

Det. Lewandowsky: Okay. What was going on with her head when you were doing this?

John Sanders: Just going side, side to side like that. Like I said... (See PX # 2, PX # 3, p 46).

c. Evidentiary Suppression of Defendant's January 7, 2013 Statement

District Court:

A preliminary examination was held in this case before the Honorable Hugh Clarke, beginning on January 30, 2013. During the preliminary exam, the Defense objected to the introduction of Defendant's January 7, 2013 statement to Detective Lewandowsky. The Defense objected, contending that the Defendant's January 7, 2013 statement was obtained during a period of unreasonable pre-arraignment delay.

A lengthy and detailed evidentiary hearing on the admissibility of the Defendant's January 7, 2013 statement was held as part of the preliminary examination (*Preliminary Examination Transcript, hereinafter PE T Volumes III and IV*). On February 28, 2013, Judge Clarke issued an oral opinion suppressing the Defendant's statement for purposes of the preliminary examination (*PE T Volume V, p 83-88*). Though suppressing the statement, Judge Clarke ultimately bound the case over to Circuit Court as charged on Count I: Open Murder and Count II: Child Abuse First Degree (*PE T Volume V, p102-105*).

Circuit Court:

In Circuit Court, the People filed a motion to admit at trial Defendant's previously suppressed statement, contending that despite pre-arraignment delay, Defendant's statement was voluntary and admissible. *People v Cipriano*, 431 Mich 315 (1987); *People v Manning*, 243 Mich App 615 (2000). Prior to the hearing, the parties stipulated to the preliminary exam transcript as the factual record (*Circuit Court Evidentiary Hearing Transcript, hereinafter H T p 3*) (attached hereto as PX # 4).

A hearing was held on November 27, 2013 in the Ingham County Circuit Court before the Honorable Judge William E. Collette. The hearing was held on the Wednesday prior to commencement of the jury trial on December 2, 2013. After “argument,” Judge Collette affirmed the District Court ruling suppressing the Defendant’s January 7, 2013 statement to Detective Lewandowsky¹² (*HT* p 8-9).

Part Three: Statement of Jurisdiction

The People have filed the present *Motion to Admit Defendant’s Statement and Request for Walker Hearing*, requesting that this Honorable Court *reverse* the Circuit Court’s erroneous prior decision suppressing Defendant’s January 7, 2013 statement; and requesting the statement’s admission into evidence during the People’s case on retrial.

This Court has jurisdiction pending a retrial to reconsider, modify, correct or rescind any erroneous order. In fact, MCR 6.435 (B) states, that:

RULE 6.435 CORRECTING MISTAKES: (B) Substantive Mistakes. After giving the parties an opportunity to be heard, and provided it has not yet entered judgment in the case, the court may reconsider and modify, correct, or rescind any order it concludes was erroneous.

A successor judge has authority as the presiding judge to correct erroneous orders entered by the preceding judge. In fact, a successor Judge has the “*full authority*” to reconsider a prior Judge’s earlier rulings. *People v Herbert*, 444 Mich 466, 472 (1993) (*rev’d on other grounds*).

In *People v Banks*, unpublished per curiam opinion of the Michigan Court of Appeals¹³ decided June 12, 2001 (No. 219888, 2002 WL 484620) (*attached hereto as PX# 5*), the Michigan

¹² As will be discussed herein, the People argue that Judge Collette erroneously failed to apply the correct law or examine all of the relevant facts.

¹³ Pursuant to MCR 7.215(C), this unpublished case is not cited for a proposition of law, but rather to show the reasoning and law that the Court of Appeals has applied to cases where a successor judge is reviewing the rulings of a prior judge, and the continuing authority of the *Herbert* case.

Court of Appeals stated that, “a successor judge has the authority to enter whatever orders the predecessor judge could have entered had he continued to preside in the case.” *Id.* at 2. Relying on *Herbert*, the *Banks* Court held that,

“a successor judge has full authority to reconsider the prior judge’s earlier rulings. Therefore, a successor judge may make different findings of fact when rehearing a motion to suppress. Accordingly, we find that Judge Thomas did not err in revisiting the issue of Officer Tolbert’s credibility during the rehearing on defendant’s motion to suppress.” *Id.* at 2. (citations omitted) (see *Herbert, supra, at p 471-472*).¹⁴

In the present case, Judge Collette presided over the People’s initial motion to admit the Defendant’s January 7, 2013 statement. Under *Herbert* and *Banks*, as the presiding Judge on retrial, this Court has full authority to reconsider, modify, correct, or rescind any erroneous prior order, including Judge Collette’s ruling on the People’s 2013 motion to admit Defendant’s statement.

Part Four: Law and Argument

The ultimate issue before this Court, is whether the Defendant’s January 7, 2013 statement to Detective Lewandowsky should be suppressed, where there was **64 hours and 35 minutes** of pre-arraignment delay prior to the statement.

Applicable Statutes

MCL 764.13 states that:

A peace officer who has arrested a person for an offense without a warrant shall without unnecessary delay take the person arrested before a magistrate of the judicial district in which the offense is charged to have been committed, and shall present to the magistrate a complaint stating the charge against the person arrested.

¹⁴ The *Banks* Court indicated that the applicable Court Rule granting the trial court authority to re-hear the motion to suppress was MCR 6.435 (B); the same Court Rule that the People cite in the present request for rehearing. *Banks*, at 2.

Similarly, pursuant to MCL 764.26:

Every person charged with a felon shall, without unnecessary delay after his arrest, be taken before a magistrate or other judicial officer and, after being informed as to his rights, shall be given an opportunity publicly to make any statement and answer any questions regarding the charge that he may desire to answer.

Michigan Supreme Court

People v Cipriano (People v Cipriano; People v Dean; People v Harrison)

Michigan's pre-arraignment delay statutes do not define what constitutes "unnecessary delay." However, in *People v Cipriano*, 431 Mich 315 (1987), the Michigan Supreme Court specifically addressed the issue of whether a confession/statement obtained from a Defendant during a period of pre-arraignment delay is constitutionally violative and must be excluded. *Cipriano* at 334-35. The *Cipriano* opinion discussed three separate consolidated cases: *People v Dean*, *People v Harrison*, and *People v Cipriano*. Each case involved confessions obtained after pre-arraignment delay.

First discussing the history of the "prompt arraignment" requirement, the Michigan Supreme Court stated that, "the prompt-arraignment requirement was never elevated by the United States Supreme Court to the level of a constitutional right." *Id.* at 332. The *Cipriano* Court stated that under Michigan law:

"Michigan's pre-arraignment delay statutes have never included a directive by the Legislature that failure to comply will render inadmissible a confession voluntarily given. Of course, the Legislature could provide sanctions for violations, and it could define more specifically the parameters of "unnecessary delay." *Id.* at 333.

The *Cipriano* Court held that the admissibility of a confession obtained during pre-arraignment delay must be evaluated under a *voluntariness* examination. Specifically, the Court held:

"unnecessary delay" in arraignment is **only one of the factors** that should be considered in evaluating the voluntariness of a confession. The test of voluntariness

should be whether, considering the totality of all the surrounding circumstances, the confession is ‘the product of an essentially free and unconstrained choice by its maker,’ or whether the accused’s ‘will has been overborne and his capacity for self-determination critically impaired....’” *Id.* at 333-334. (*emphasis added*)

In determining *voluntariness*, The *Cipriano* Court set forth the following factors:

- the age of the accused;
- his lack of education or his intelligence level;
- the extent of his previous experience with the police;
- the repeated and prolonged nature of the questioning;
- the length of the detention of the accused before he gave the statement in question;
- the lack of any advice to the accused of his constitutional rights;
- whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession;
- whether the accused was injured, intoxicated or drugged, or in ill health when he gave the statement;
- whether the accused was deprived of food, sleep, or medical attention;
- whether the accused was physically abused;
- whether the suspect was threatened with abuse. *Id.* at 334.

The ultimate test of admissibility is:

“whether the totality of the circumstances surrounding the making of the confession indicates that it was freely and voluntarily made. Unnecessary delay is one factor to consider in reaching this conclusion, the focus being not just on the length of delay, but rather on what occurred during the delay and its effect on the accused.” *Id.* at 334.

i. People v Dean

In the consolidated case of *People v Dean*, the defendant was arrested on probable cause in connection with three murders. Immediately after his arrest, defendant was read *Miranda* rights, and interrogated twice, each time for multiple hours. *Cipriano* at 335-36. Defendant was held overnight. The next morning, defendant was again *Mirandized*, and interrogated until 1:00 p.m. After obtaining a “reverse writ”¹⁵ defendant was brought back to the police station, read his rights

¹⁵ The “reverse writ” allowed the Detroit Police Department to hold Defendant until 2:00 pm the next day to complete the investigation or Defendant would be released.

a third time, and questioned. After a 28-hour pre-arraignment delay, the defendant gave a full confession. *Id.* at 336-337.

The *Dean* defendant conceded that the confession was not coerced, but moved to suppress the confession as Fourth Amendment violative, arising out of the pre-arraignment delay. *Id.* at 337.¹⁶ Rejecting this argument, the Michigan Supreme Court applied a *voluntariness* analysis to the verbal confession, holding that the defendant's confession was voluntary. *Id.* at 339. The Court reasoned that:

“Defendant, an individual whose prior record indicates an awareness of Miranda and a familiarity with police interrogation, was apprised of his rights at least twice and did not express an unwillingness to talk with the police” *Id.* at 339.

ii. People v Harrison:

In the consolidated case of *People v Harrison*, there was a **ninety-six (96) hour delay** between the defendant's arrest and arraignment. *Cipriano* at 343. During that time lapse, defendant gave four separate statements: three that were exculpatory and one that was a confession to the homicide. *Id.* at 345. Holding that the confession was voluntary despite the pre-arraignment delay, the Court reasoned that:

“The ninety-six hour time period which elapsed between defendant's arrest and his arraignment may be accounted for by the defendant's progression through four different explanations as to how he came to possess the decedent's automobile. The police correspondingly attempted to verify each statement—an entirely appropriate course of conduct.” *Id.* at 344-45.

The Court continued:

“There is not the slightest evidence that the defendant's confession was involuntarily extracted by the police. The defendant was apprised of his rights on at least three occasions and spoke willingly with the police after waiving his rights.

¹⁶ Defendant argued that: “Quite simply, in this case the Detroit Police illegally seized the Defendant's person (by the ‘reverse writ’), and as a direct result of this illegal seizure obtained incriminating evidence against the Defendant (his confession). This is a search and seizure case. It is not a case challenging the voluntariness of Defendant's confession.” *Id.* at 337-338.

He was not subjected to continuous interrogation or to intimidating police misconduct. There is no evidence of coercion which would have overwhelmed the defendant's free will." *Id.* at 345.

iii. *People v Cipriano*

In the consolidated case of *People v Cipriano*, the defendant was arrested and then arraigned forty-six hours later. *Id.* at 346-347. In the interim, defendant was *Mirandized* and interviewed three separate times. Defendant made three separate statements including a final, incriminating statement. *Id.* at 347. Defendant moved to suppress the statements on the grounds that they were obtained as a result of illegal pre-arraignment detention. *Id.* at 347. Holding that the statements were admissible and voluntary, the Michigan Supreme Court relied on the following analysis:

"The record demonstrates that defendant's statements were voluntary. Defendant was given *Miranda* warnings five times between his arrest and his confession. He neither requested counsel nor refused at any time to speak with the investigating officers. On the contrary, after the initial questioning on May 7, the defendant asked the officers to return in order to "get this thing straightened out." He was, in short, a talkative suspect. The defendant was in telephone contact with a family member during his detention. He volunteered to take a polygraph test. The fact that the defendant confessed after he was told that he had failed the polygraph test does not vitiate the voluntariness otherwise shown by the record." *Id.* at 348.

United States Supreme Court

The United States Supreme Court has articulated the scope of constitutionally permissible pre-arraignment delay. Specifically, in *County of Riverside v McLaughlin* 500 US 44 (1991), the United States Supreme Court held that a period of pre-arraignment delay of up to 48 hours may be constitutionally permissible. *Riverside County* at 58-59. However,

"where an arrested individual does not receive a probable cause determination within 48 hours, the calculus changes. In such a case, the arrested individual does not bear the burden of proving an unreasonable delay. Rather, the burden shifts to

the government to demonstrate the existence of a bona fide emergency or other extraordinary circumstance.” *Id.* at 57.¹⁷

Defining an unreasonable delay, the United States Supreme Court stated, “[e]xamples of unreasonable delay are delays for the purpose of gathering additional evidence to justify the arrest, a delay motivated by ill will against the arrested individual, or delay for delay’s sake.” *Id.* at 56. However, when examining “unreasonable delay,”

“courts must allow a substantial degree of flexibility. Courts cannot ignore the often unavoidable delays in transporting arrested persons from one facility to another, handling late-night bookings where no magistrate is readily available, obtaining the presence of an arresting officer who may be busy processing other suspects or securing the premises of an arrest, and other practical realities.” *Id.* at 56-57.

Relationship Between *Cipriano* and *Riverside*

In *People v Manning*, 243 Mich App 615 (2000), the Michigan Court of Appeals explained the relationship between the 48-hour rule in *Riverside County* and the voluntariness factors outlined in *Cipriano*. *Manning* at 638-41. Defining the initial standard of review, the *Manning* Court stated that:

“We must determine whether the trial court erred in finding that Manning’s confession was involuntary solely on the basis of the length of delay between the time of her arrest and her arraignment. A trial court must view the totality of the circumstances in deciding whether a defendant’s statement was knowing, intelligent, and voluntary.” *Id.* at 620.

Concisely framing the issue, the *Manning* Court stated that:

“The issue instead is whether Manning’s statements should be suppressed because of the delay. The Michigan Supreme Court in *Cipriano* held that a statement obtained in connection with an unreasonable delay is inadmissible only when the statement was involuntary, as determined by several factors. The decision in *Cipriano* occurred before the United States Supreme Court’s decision in *Riverside Co.* Manning argues that the *Cipriano* factors are not applicable here because the confession must be automatically suppressed under the Fourth Amendment exclusionary rule. Therefore, the question becomes whether a *Riverside Co.* Fourth Amendment violation is one factor to be considered among the other *Cipriano*

¹⁷ The *Riverside* Court cautioned that even delays prior to 48 hours may be challenged as unreasonable. *Id.* at 57.

factors or whether such a violation automatically results in suppression of the confession.” *Id.* at 626-627.

In analyzing this issue, the *Manning* Court considered that while *Riverside County* decided at what point pre-arraignment delay becomes unreasonable under the Fourth Amendment, the case *did not* address the issue of whether a statement must be suppressed. Also, *Riverside County* did not address the ***Fifth Amendment*** issue of voluntariness of confessions made during a delay. *Id.* at 629.

Unequivocally deciding these issues, the *Manning* Court held that “we conclude that *Riverside Co.* **does not supplant** *Cipriano* and that, indeed, the two opinions dovetail.” *Id.* at 617 (*emphasis added*). Specifically, in *Manning*, the trial court suppressed a statement made by the Defendant *solely* because the statement was given more than 80 hours after a warrantless arrest and before the Defendant’s arraignment. *Id.* at 619-620. On interlocutory appeal the *Manning* Court rejected the trial court’s reasoning that based on *Riverside County*, a statement obtained during a period of unreasonable delay must be excluded. *Id.* at 644-645. Rather, the *Manning* Court found that this automatic exclusion was not called for by *Riverside County*, and that unreasonable delay is ***only one*** of the factors in determining the admissibility of a statement. *Id.* at 644-645.

In reaching this conclusion, the *Manning Court* stated that “in our view, *Cipriano* remains good law in Michigan.” *Id.* at 643. Moreover, the Court held that:

“This automatic exclusion is **not** required by the Fifth Amendment or the Fourth Amendment. The proper analysis is voluntariness under the *Cipriano* factors. The delay of more than eighty hours presumptively violated the Fourth Amendment, but an unnecessary delay does not require automatic suppression of the confession. It is not automatic that evidence obtained during a Fourth Amendment violation must be excluded. **When a confession was obtained during an unreasonable delay before arraignment, in Michigan the *Cipriano* factors still must be applied.** The unreasonable delay is but one factor in that analysis.” *Id.* at 643.¹⁸ (*emphasis added*).

¹⁸ The *Manning* Court specifically held that in that case, an 80-hour delay between arrest and arraignment did not alone render the confession involuntary. The Court cautioned that: “The longer the delay, the

Based on this holding, the *Manning* Court reversed the trial court's decision and remanded for the trial court to make appropriate findings under the factors established in *Cipriano*. *Id.* at 645.

Part Five: Trial Court's Erroneous Application of Law and Facts

In the present case, under *Manning*, the trial court was *required* to analyze the totality of the circumstances as applied to the *Cipriano* factors, when determining whether the Defendant's January 7, 2013 statement was voluntary and admissible. The stipulated preliminary exam record provided a *detailed factual record* that the Court should have reviewed, used to make factual findings, and legally applied. Despite this legal mandate, the trial Court essentially ignored *Cipriano*, making no factual findings other than that there was unreasonable pre-arraignment delay.¹⁹ Specifically, the Court's only discussion the *Cipriano* factors was as follows:

MR. ERNST: Then I will certainly try to be as brief, if not briefer than Mr. Cheltenham. But it's clear that the Cipriani (sic) factors apply, and as we understand that Manning does its best to reconcile the Cipriani (sic) factors with the Riverside County case, which of course, gives us the 48-hour mandate for arraignment. It does say it is but one factor. But it also gives Your Honor the right to assign whatever weight you want to that factor, and I would-

THE COURT: I don't know how I assign weight to a factor. I mean, there may be factors like, for example, the police building or the court catches on fire.

MR. ERNST: True.

THE COURT: Or some unusual circumstance, but here I don't seem to see any.

MR. ERNST: And that's our point. What the People are, of course, arguing is, well, that's one factor. What I'm saying is, I don't think you look at the Cipriani (sic) factors and simply score them one point a piece and then whoever has the highest tally wins. What I'm saying is age, sophistication—which I'll concede he is a smart guy. He did sign on the morning of January 7th that second waiver. They have those. But at the same time they had kept him all weekend in the Lansing City lockup.

greater the probability that the confession will be held involuntary. At some point, a delay will become so long that it alone is enough to make a confession involuntary." *Id.* at 643.

¹⁹ Finding unreasonable pre-arraignment delay was not difficult, given that the prosecution conceded this fact. (HT p 3).

They send down a more experienced detective on Monday morning with the wherewithal to hold an arraignment in the building where he would be arraigned 20 feet away from the video screen where they could have arraigned him in about a minute or two and then see if he still wants to give a statement. They chose not to, and I try in my defense work not to give into hyperbole too much, but in this case their conduct was egregious. They had no reason whatsoever for not arraigning him sooner. Even Monday morning would have been late, would have been past the 48 hours.

THE COURT: All right.

MR. ERNST: But they chose to go interrogate him some more, and I would suggest to Your Honor, that that is a very strong circumstance that should be given more weight than the other factors. (*HT p 5-6*).

While acknowledging that the *Cipriano* factors apply, Defense Counsel argued that the only important factor was the length of pre-arraignment delay. This argument is incorrect, because *Cipriano* requires an examination of the *totality of the circumstances* as applied to a set of specified factors.

Regardless, the trial Court failed to examine, comment on or make factual findings about the totality of the circumstances, or how those circumstances relate to the *Cipriano* factors. Essentially, the trial Court erroneously *ignored* both relevant facts and legal standards

Judge Collette was extremely ambiguous in his oral opinion regarding whether the statement was voluntary or involuntary. At one point, the Prosecutor seeks clarification, asking if there was a “nexus between this delay causing an involuntary statement.” (*HT p 8*). In response, Judge Collette does not expressly determine if the statement is voluntary or not, and rather applies a “but for” analysis; concluding that, “but for the fact that he was not arraigned within 24 hours in this case, there would have been no statement.” (*HT p 8*). A “but for test” is not the correct standard, and the Court again ignores the totality of the facts as applied to the *Cipriano* factors.

Incredibly, though suppressing the statement, the Court apparently concluded (and defense counsel effectively *conceded*) that Defendant’s statement *was voluntary*. (*HT p 6*). As a result,

the Court held (and defense counsel again *conceded*) that the statement could be used to impeach Defendant if he testified at trial. Specifically, the following colloquy occurred between the Court and Defense Counsel:

THE COURT: Let me ask you another question. Assuming you are right, the statements were all voluntarily made. They certainly would be available for impeachment purposes, would you agree?

MR. EARNST: If I-if he does testify, of course, if he testifies to something.

THE COURT: It would seem like any confession that may have been made that it isn't beaten out of somebody but certainly it has availability for that. (*HT p 6*).

The Court then held:

THE COURT: But I have already said, I think your statement, if he gets on the stand, is certainly, is useful at this point as an admission against interest and was properly taken in the sense of that, and you can use it against him (*HT p 9*).

Under *Cipriano*, the Court cannot suppress a *voluntary* statement. The trial Court's analysis and ruling were simply erroneous, and must be rescinded and corrected by this Court on retrial.

Part Six: Factual Analysis of *Cipriano* Factors:

Under a correct *Cipriano* analysis, the Defendant's January 7, 2013 statement to Detective Lewandowsky was voluntary, and must be admissible on retrial. The prosecution has the burden of proving that a confession was voluntary and not the product of coercion. *People v White*, 401 Mich 482, 494 (1977). The voluntariness of a defendant's confession must be established by a preponderance of the evidence. *People v Sears*, 124 Mich App 735, 737 (1983).

In the present case, the People anticipate factually relying on both the detailed existing preliminary exam record, and an expanded record developed during the scheduled February 22,

2024 evidentiary hearing. The People assert that the totality of the evidence will unquestionably support that the Defendant's January 7, 2013 was voluntary and admissible.

Evaluating the *Cipriano* factors, the evidence will show:

A. The age of the accused:

The People assert that the Defendant was an adult, and that this factor weighs in favor of voluntariness. Specifically, the Defendant's date of birth is [REDACTED] On the date of the interview, January 7, 2013 the Defendant was **37-years old**.

B. The Defendant's lack of education or his intelligence level:

The People assert that the Defendant is educated and intelligent, and that this factor weighs in favor of the voluntariness of the confession. The Defendant was an adult, with a moderate to advanced level education. The Defendant was employed and the father of three other children.

Specifically, the evidence will show that in January, 2013 the Defendant was enrolled in on-line college courses at Ashford University, studying business administration and taking fourteen (14) credits. The Defendant's intention was to graduate and start-up his own landscaping business.

The Defendant was working as a seasonal employee, doing concessions for the Lansing Lugnuts baseball team. During the off season, Defendant was primarily going to school, and working "odd-jobs" with his uncle.

The Defendant had three other children from three other women. Defendant had: an eleven (11) year-old daughter, a thirteen (13) year old daughter, and a twenty-one (21) year old son. (PX # 2 and PX # 3, p 3-4; 7-10).

C. The extent of Defendant's previous experience with the police:

This factor weighs in favor of voluntariness. The Defendant has a long record, and extensive experience with both the police and the criminal justice system.

The evidence will show that Defendant has a lengthy felony criminal record, with **five (5) felony convictions** beginning in 1998 and continuing up to and through the time of the instant alleged offense. Defendant's criminal record is as follows:

1. **1998:** Felony Burglary 2nd Degree; Kay County, Oklahoma
2. **2005:** Manufacture/Delivery of Heroin Less than 3 grams; Walworth County, Wisconsin
3. **2005:** Manufacture/Delivery of Heroin Less than 3 grams; Walworth County, Wisconsin
4. **2011:** Possession of Cocaine Less than 25 grams, Habitual 4th Offender; Eaton County, MI
5. **2011:** Possession of Cocaine Less than 25 grams, Habitual 4th Offender; Eaton County, MI.

At the time of his arrest on the instant offense, this 37-year old Defendant with five (5) felony convictions was serving a three (3) year term of felony probation out of Eaton County for the above referenced offenses.

D. Factors Related to the Circumstances of the January 7, 2013 Interview

a. The repeated and prolonged nature of the questioning:

January 7, 2013 Interview with Detective Lewandowsky:

The People assert that the nature of Detective Lewandowsky's questioning was not overly repetitive or prolonged *especially* given that Defendant changed his story five times. This factor weighs in favor of voluntariness.

On Monday morning, January 7, 2013 at **10:05 a.m.**, LPD Detective Mark Lewandowsky interviewed the Defendant. This interview occurred in an interview room at the Lansing Police Department, inside the City Hall building.

Detective Lewandowsky's entire interview lasted **one hour and twenty-seven minutes**. Defendant was read his *Miranda* warnings and signed a written Advice of Rights form. After *Miranda*, Detective Lewandowsky and Defendant discuss background information for approximately five minutes.

Story # 1:

Detective Lewandowsky then asks Defendant, "*I guess what I'd like to do, John, is I'd like to get kinda your side of things.*" (See PX # 1 and PX # 2, p 11). In conversational questioning, Defendant tells Detective Lewandowsky his first story, describing how he found J [REDACTED] unresponsive. Defendant's first story is similar to the information he previously told Detective Thielen during the first interview.

Forty-four minutes into the interview, at **10:49 a.m.**, Detective Lewandowsky offers Defendant a water-break. After leaving the room for five minutes, Detective Lewandowsky returned at **10:53** with a cup of water.

Approximately fifty-six minutes into the interview, at **11:01 a.m.**, Detective Lewandowsky accuses the Defendant of injuring J [REDACTED]. Detective Lewandowsky tells Defendant that police need to determine if Defendant purposefully or accidentally injured J [REDACTED] (PX # 1 and PX # 2, p 39).

Story # 2:

Four minutes after being confronted, at **11:05 a.m.** Defendant *changes* his initial story, now describing that he actually threw J [REDACTED] up into the air and under his legs. After throwing J [REDACTED] up multiple times, she started going limp and her eyes rolled back in her head. (PX # 1

and PX # 2, p 40). Detective Lewandowsky followed up on this second inconsistent version, telling Defendant that this conduct does not explain J [REDACTED]'s injuries. *Id.*

Story # 3:

Two minutes later, at **11:07 a.m.**, Defendant again changes his story, now claiming that J [REDACTED] "hit her head on the ceiling" and only after was she "limp and gasping and stuff." (PX # 1 and PX # 2, p 41).

Detective Lewandowsky presses Defendant on these inconsistent and now inculpatory statements, advising that J [REDACTED]'s brain injuries were "some of the worst we've ever seen." (PX # 1, PX # 2 at p 41). Defendant tells Detective Lewandowsky that "I didn't mean for this to happen" and states, "I don't wanna spend the rest of my life in jail." (PX # 1 and PX # 2 at p 42.).

Story # 4:

Then, at **11:17 a.m.**, Defendant *again* changes his story, now explaining that after throwing J [REDACTED] up into the air, she fell onto the bed. (PX # 1 and PX # 2, p 43). Detective Lewandowsky questions Defendant about this now fourth inconsistent, and increasingly inculpatory statement. Detective Lewandowsky urges Defendant to tell him the *truth* about what happened. Defendant claims that "this wasn't planned. I didn't do this on purpose." (PX # 1 and PX # 2 at p 44). Defendant then states "it was an accident..." (PX # 1 and PX # 2 at p 44).

Story # 5:

Three minutes later, at **11:20 a.m.**, Defendant changed his story a fifth and final time, advising Detective Lewandowsky that J [REDACTED] would not stop crying, so he grabbed her by the

arms and shook her arms. At that point, J[REDACTED]'s body went limp, she "gasped" on Defendant and started to have a seizure. (PX # 1 and PX # 2 p 44-45).

Detective Lewandowsky stopped the interview at **11:28 a.m.** Detective Lewandowsky left the interview room, returning six (6) minutes later at **11:34 a.m.** Detective Lewandowsky asked brief follow-up, terminating the interview at **11:36 a.m.**

In total, Detective Lewandowsky questioned the Defendant for one-hour and twenty-seven minutes. The interview was completely conversational up until **11:01 a.m.**, when Defendant is confronted with the police theory that he had caused the injuries. Detective Lewandowsky then questioned Defendant for another **twenty-seven minutes**. Detective Lewandowsky strongly questioned or "interrogated" Defendant during that twenty-seven minutes time frame. However, even during this brief period, Defendant Lewandowsky *at all times* maintained a calm, rationale demeanor, and was very respectful. Detective Lewandowsky only repeated questions, as necessary when Defendant's facts did not match the severity of the physical injuries; or when following up on each evolving, inconsistent increasingly inculpatory admissions.

b. The lack of any advice to the accused of his constitutional rights:

This factor weighs in favor of voluntariness. Defendant indicated that he had been previously read his *Miranda* rights on Friday when he was initially interviewed. Defendant also stated that he had on prior occasions been read his *Miranda* warnings. (PX # 1 and PX # 2 at p 5).

At approximately **10:09 a.m.**, Detective Lewandowsky clearly and slowly read the Defendant his *Miranda* warnings. Defendant agreed to speak to Detective Lewandowsky, and signed an Advice of Rights form at **10:10 a.m.** (See PX # 1). Detective Lewandowsky supplemented the rights, stating, "Okay, so you can stop talking whenever you want to stop talking."

It's up to you. Okay? You understand that?" (PX # 1 and PX # 2, at p 5). Detective Lewandowsky then asked, "Do you have any questions for me at all, John?" (PX # 1 and PX# 2 at p 6).

c. Whether the accused was injured, intoxicated or drugged, or in ill health when he gave the statement:

This factor weighs in favor of voluntariness. There is absolutely no evidence to support that the Defendant was injured or in ill health. In fact, Defendant both looked and acted healthy and physically normal during the interview. Defendant was also not under the influence of drugs or alcohol.

d. Whether the accused was deprived of food, sleep, or medical attention:

This factor weighs in favor of voluntariness. Defendant was never purposely deprived of food, sleep or medical attention. Prior to the interview, the Defendant was lodged in a detention cell at the Lansing City Jail.

Food:

While in detention, the Defendant was never purposefully deprived of food. Rather, the Defendant was *provided food* on January 5-7th, 2013. Defendant apparently chose not to eat some of the provided food: which was his own choice. Defendant was certainly not *purposefully* deprived of food, and was treated like any other inmate. Defendant lodged no complaints that he was deprived of food, or suffering from a lack of proper nutrition.

Similarly, Detective Lewandowsky specifically inquired if Defendant had eaten anything prior to the interview. Defendant responded that he had not, even though Defendant had been provided food that morning, and chose not to eat it. Defendant also did not indicate during the interview, which was relatively short, that he was hungry or lacking proper nutrition. (PX # 2 and PX # 3, p 35).

Sleep:

Defendant similarly was not purposefully deprived of sleep. On the detention video, Defendant is observed acting in a manner consistent with sleeping during the overnights, and also during the daytime hours. During the interview with Detective Lewandowsky, Defendant did not complain of exhaustion or sleep deprivation, and does not repeatedly yawn or appear exhausted. (PE T Volume V p 86-96) (PX # 2).

Medical Care:

While in custody at the detention facility, Defendant was not observed to cry, or be in any physical pain. Defendant did not appear disoriented. (PE T Volume IV p 95-96). Regarding medical attention, the Defendant did not indicate that he was sick, ill or needed medical attention. Similarly, during the interview the Defendant appeared well and healthy on video, making no complaints of ill health. (PX # 2).

e-f. Whether the accused was physically abused or whether the suspect was threatened with abuse:

This factor weighs in favor of voluntariness. There is no evidence to support that the Defendant was physically abused or threatened with abuse. In fact, a review of the interview video clearly shows that Detective Lewandowsky is respectful, calm and often only conversational with Defendant. Even when the interview becomes more of an “interrogation,” Detective Lewandowsky is rationale, calm, does not swear or use foul language, or even raise his voice. Most informative about this factor and the voluntariness of the entire interview is that at the end Detective Lewandowsky asks Defendant: “*John, I’ve been fair to you haven’t I?*” In response, Defendant states, “*Yeah.*” (PX # 2 and PX # 3, p 50).

g-h. The length of the detention of the accused before he gave the statement in question; and whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession

Chronology of Detention

Defendant's Initial Interviews:

The Defendant was first interviewed by LPD Detective Shannon Thielen on Friday, January 4, 2013. The interview began at **3:34 p.m.** When the interview began, Defendant was not in custody, and Detective Thielen had not yet determined that Defendant was a suspect.

Mid-interview, Detective Thielen read Defendant his *Miranda* warnings. Defendant agreed to continue speaking to police, signing an Advice of Rights form at **4:41 p.m.** (*PX # 6*). Detective Thielen interviewed Defendant until sometime between **5:00 and 5:30 p.m.** (*PE T Volume IV, p 17,21*). The actual amount of time that Detective Thielen actually interviewed Defendant, totaled approximately one-hour.

At approximately **5:30 p.m.** Detective Thielen determined that the Defendant was no longer free to go and was effectively “in custody.”²⁰ (*PE T Volume IV, p 25*). Defendant remained in the interview room. An hour later, at approximately **6:33 p.m.**, LPD Detective Elizabeth Reust continued interviewing Defendant. Detective Reust’s interview lasted approximately twenty (20) minutes, ending at approximately **6:53 p.m.**

Though Defendant remained continuously in the interview room between 3:30 p.m. and 7:00 p.m., the total *actual interview time* for Defendant’s January 4, 2013 interview was approximately **one hour and twenty three minutes.**

Defendant's Arrest:

The Defendant was formally placed under arrest at **7:00 p.m.** on Friday, January 4, 2013. (*PE T, p 37*).

²⁰ The People will argue that 5:30 p.m. is the effective time of “detention.”

Length Between Initial Detention and January 7, 2013 Statement:

Detective Mark Lewandowsky started his interview with Defendant at 10:05 a.m. As such, the People state that there was approximately **64 hours and 35 minutes** between initial detention and the statement (5:30 p.m. on January 4, 2013 to 10:05 a.m. on January 7, 2013).

Reasons for Delay:

In January, 2013 LPD Detectives were under the mistaken understanding that seventy-two (72) hours was the permissible time frame between detention and arraignment.²¹ (*PE T Volume V, p 74-75*). Given this understanding, Detectives decided that the Defendant would be arraigned on Monday morning, January 7, 2013. The reasons for delaying that arraignment until January 7, 2013 were first, that Detective Thielen completed her investigation between 3:00 a.m. and 4:00 a.m. in the early morning hours Saturday, January 5, 2013 (*PE T Volume IV, p 37-38*).

Second, additional medical evidence from the forensic autopsy was needed for the investigation. (*PE T Volume IV, p 38*). The forensic autopsy was conducted at Sparrow Hospital on January 5, 2013, and attended by LPD Detective Elizabeth Reust.

Third, as of Sunday morning, January 6, 2013, the police report on this homicide investigation was still not completed.²² An on-call prosecutor had not been presented with the case, or a copy of the report to review. (*PE T Volume IV, p 38*).

On Monday morning, January 7, 2012, Detective Thielen arrived at work at 8:00 a.m. It was not her intention to re-interview the Defendant on Monday morning. Rather, her intention was

²¹ LPD Detectives mistakenly believed that a Defendant could be legally arraigned within 72 hours of detention, though Riverside County, *supra* requires arraignment within 48 hours.

²² Weekend arraignments in Ingham County are typically available on Saturday or Sunday morning.

to finalize the report, and present the completed report to the Ingham County Prosecutor's Office that morning. However, after arriving at work, Detective Thielen met with Detective Reust, and Detective Mark Lewandowsky. While not assigned, Detective Lewandowsky was an experienced homicide detective. After discussing the case, Detective Lewandowsky offered to speak with the Defendant one more time; interviewing him starting at **10:05 a.m.** (*PE T Volume IV, p 39-41*).

Time of Arraignment:

Detective Thielen swore an arrest warrant later that afternoon at 3:24 p.m. Defendant was then arraigned on charges of Open Murder and Child Abuse First Degree at approximately **4:00 p.m.** on January 7, 2013. (*PE T Volume IV, p 42*). Although a total of **70 hours** had elapsed between the Defendant's initial detention and arraignment, no additional evidence was obtained after the final statement.

Part VI: Voluntariness of Statement

In the present case, an analysis of the totality of the facts and circumstances as properly applied to the *Cipriano* factors, establishes by a preponderance of the evidence that Defendant's statement to Detective Lewandowsky on January 7, 2013 was completely voluntary.

As stated, under *Cipriano*, the test for voluntariness is:

"whether, considering the totality of all the surrounding circumstances, the confession is 'the product of an essentially free and unconstrained choice by its maker,' or whether the accused's 'will has been overborne and his capacity for self-determination critically impaired....'" *Cipriano* at 333-34.

In the present case, almost all of the *Cipriano* factors weigh in favor of voluntariness. First, regarding background factors, the Defendant's age, education, intelligence, criminal history and experience **all** weigh in favor of voluntariness.

Second, assessing factors related to the statement, the length and nature of questioning, advice of constitutional rights, intoxication, health and physical condition of Defendant, lack of

purposeful deprivation of food, sleep or medical care, lack of abuse or threats of abuse again all weigh in favor of voluntariness. In fact, simply watching the Defendant's interview with Detective Lewandowsky, plainly shows that the statement is voluntary. Even Defendant's own agreement that Detective Lewandowsky has been *fair*, exemplifies the voluntariness of the circumstances.²³

Ultimately, the only factor that weighs negatively on voluntariness, is the length of delay between detention and the statement. Again, in cases involving delay, *Cipriano* requires the following analysis:

“whether the totality of the circumstances surrounding the making of the confession indicates that it was freely and voluntarily made. Unnecessary delay is one factor to consider in reaching this conclusion, the focus being not just on the length of delay, but rather on what occurred during the delay and its effect on the accused.”
Id at 334.

In the present case, the totality of the other circumstances indicate that the statement was freely and voluntarily made. The People concede that the delay of **64 hours and 35 minutes** between initial detention and statement occurring prior to arraignment, exceeds the permissible time frame set forth in the *Riverside County* case. The People further concede that that reasons for delay, although not purposefully exploitive in intention, are not emergency extraordinary circumstances justifying delay. *Riverside, supra*.

However, under *Cipriano*, delay is only one factor that must be considered, while evaluating the totality of the intersecting circumstances. Focusing on what occurred during the delay period, the following is extremely important:

- During that delay period, Defendant was held in the Lansing City Jail detention room.
- Defendant was not purposefully deprived of food, sleep or medical care.
- Defendant had access to water and bathroom facilities.

²³ Incredibly, the prior trial Court made the decision on voluntariness, apparently without even *watching* the statement.

- Defendant was not beaten, harmed, threatened, or exposed to other hostile detainees or adversaries.
- Defendant was not observed to cry or require mental health services. Defendant was allowed the opportunity to use the phone, advising family members that he had been detained.
- Defendant did not ask to speak with a lawyer, at any time during his detention or statements.
- No lawyer presented to see the Defendant, or was denied access.

When the interview began, Defendant was an intelligent adult, 37-year old male with a basic understanding of police and the criminal justice system, given his five (5) prior felony convictions. The interview occurred inside a police interview room. Prior to the interview starting, Detective Lewandowsky specifically advised uniformed officers to uncuff the Defendant. (PX# 2). Detective Lewandowsky was wearing plain clothing, and was not conspicuously wearing a firearm. During the entire interview, Detective Lewandowsky was calm, rationale, did threaten or accuse Defendant, raise his voice or use foul language.

Finally, and perhaps most importantly, Defendant, (who had already been read *Miranda* warnings once and had previously been read rights) was read his *Miranda* warnings. Detective Lewandowsky even supplemented certain rights with explanation. Defendant waived his rights, and agreed to be interviewed. Had Defendant not wanted to talk, or wanted a lawyer, he simply could have exercised those rights. Defendant did not assert those rights, but chose freely and voluntarily to give a statement, agreeing at the interview's conclusion that he had been treated fairly.

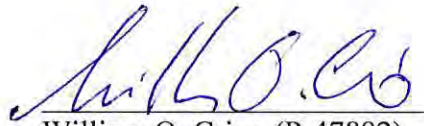
The totality of the circumstances unquestionably proves by the preponderance of the evidence that the Defendant's statement was freely and voluntarily made, despite pre-arraignment delay. Moreover, the present **64 ½ hour** time frame is not beyond the scope of other cases, where statements obtained during an even longer delay were determined to be voluntary.

Specifically, in *People v Harrison*, cited *infra*, the Michigan Supreme Court upheld a statement as voluntary made **96 hours** after detention. *Cipriano* at 340. Similarly, in *Manning*, (the case reconciling the intersection of *Cipriano* and *County of Riverside*), the Michigan Court of Appeals upheld a statement as voluntary made **80 hours** after detention. (see also *People v Evans*, unpublished opinion per curiam opinion of the Court of Appeals, 1-3, decided March 18, 2004 (Docket No.23814, 2004 WL 547229)²⁴ (attached as PX # 7) applying *Riverside County's* 48-hour rule and the *Cipriano* voluntariness factors, and finding that a confession obtained during a 96-hour delay was voluntary and admissible)

RELIEF REQUESTED

WHEREFORE, the People pray that this Honorable Court grant the *People's Motion to Admit Statement and for Walker Hearing*.

Dated: 2/5/24


William O. Crino (P-47892)
Assistant Prosecutor

²⁴ Pursuant to MCR 7.215(C), this unpublished case is not cited for a proposition of law, but rather to show the reasoning and law that the Court of Appeals has applied to cases where a Defendant's statement has been held voluntary even after a period of pre-arraignment delay; here 80 hours.

PEOPLE'S EXHIBIT # 1

LLH1 J0104000 118

ADVICE OF RIGHTS

Name: John Harold Sanders Jr. D.O.B. 9/5/75Place: 740 May St. Date: 1/4/13 Time: 16:39

- ☒ 1. You have the right to remain silent. You do not have to talk to anyone and you do not have to answer any questions.
- ☒ 2. Anything you say can and will be used as evidence against you in a Court of Law.
- ☒ 3. You have the right to talk to an attorney before answering any questions. You have the right to have an attorney present while you are being questioned.
- ☒ 4. If you want an attorney, but cannot afford one, an attorney will be appointed to represent you at public expense before any questioning.
- ☒ 5. If you give up your right to remain silent, you may at any time, change your mind and stop talking and stop answering questions.
- ☒ 6. If you give up your right to an attorney, you may at any time, change your mind and demand to talk to an attorney.

Det. Shawn Thibault #491
Interviewer (Police Officer)

Date: 1/4/13 Time: 16:40

WAIVER OF RIGHTS

1. Do you understand each of your rights

YES ☒ NO ☐

2. Are you willing to give up these rights and answer questions or make a statement at this time?

YES ☐ NO ☒

In the presence of:

John Sanders Jr.
Interviewee (Subject)

Date: 1/4/13 Time: 16:41

Witness

Witness

PEOPLE'S EXHIBIT # 2

(See Attached Flash Drive)

PEOPLE'S EXHIBIT # 3

STATEMENT OF JOHN SANDERS

Unnecessary sounds, such as "um" and "ah", have been omitted from the following statement for the purpose of making this statement easier to read.

Det. Lewandowsky: Hey there.

J. Sanders: Hey, how you doing?

Det. Lewandowsky: How are you?

J. Sanders: I'm alright. You?

Det. Lewandowsky: Good. Hold on one second; yeah, I'll be out in just a second. John, my name is Mark. I work here. Okay?

J. Sanders: Okay. How you doing?

Det. Lewandowsky: I know you got your cuffs on. You gonna be alright? You gonna be straight with me?

J. Sanders: Yeah.

Det. Lewandowsky: No, no funny business? Cause I'd like to take those off if, if we're... take the cuffs off if we're good.

J. Sanders: Yeah, yeah we good.

Det. Lewandowsky: Is that alright?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. Hey Joe, can you take these off for me real quick? Why don't you stand up and come right to the door here. I'm gonna kinda bump this room around a little bit, too.

J. Sanders: Oh okay.

Det. Lewandowsky: Have a seat over there, will you, John.

J. Sanders: Right here?

Det. Lewandowsky: Yeah, please. John right?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. So again, how about we do this properly. I'm Mark.

J. Sanders: Hi Mark.

Det. Lewandowsky: Good to meet you.

J. Sanders: I'm John. Nice to meet you.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 1 of 50

Det. Lewandowsky: John, let me do this...I wanna start with just some basic information if I could.

J. Sanders: Okay.

Det. Lewandowsky: Fair enough?

J. Sanders: Yup.

Det. Lewandowsky: Is, is John with an H or without an H?

J. Sanders: With an H.

Det. Lewandowsky: With an H, okay. Is it Johnathan or just John?

J. Sanders: Just John.

Det. Lewandowsky: What's your middle name, John?

J. Sanders: Harold.

Det. Lewandowsky: Harold, H-...

J. Sanders: H-A-R-O-L-D.

Det. Lewandowsky: And Sanders, right?

J. Sanders: Sanders.

Det. Lewandowsky: Sanders, S-A-N...

J. Sanders: D-E-R-S.

Det. Lewandowsky: Alright, what's your date of birth, John?

J. Sanders: [REDACTED]. I'm a junior, also.

Det. Lewandowsky: Okay, you're a junior. Where you living?

J. Sanders: [REDACTED] as of, as of right now.

Det. Lewandowsky: What do you mean as of right now?

J. Sanders: I mean I'm in jail right now.

Det. Lewandowsky: Well I got that. I understand that. But we're gonna touch on that in just a second here. Okay?

J. Sanders: Yeah.

Det. Lewandowsky: It's [REDACTED] where you get your phone, or I'm sorry, where you get your mail and everything?

J. Sanders: Yes.

Det. Lewandowsky: Okay. Do you have a phone?
J. Sanders: I did. I gave it to the detectives.

Det. Lewandowsky: Okay, that's fine. Is it a cell phone?
J. Sanders: Yes.

Det. Lewandowsky: Obviously. What's the number to that?
J. Sanders: [REDACTED]

Det. Lewandowsky: [REDACTED]. Are you working anywhere, John?
J. Sanders: I work with the Lugnuts and... the Lansing Lugnuts.

Det. Lewandowsky: You a baseball fan or you just work there?
J. Sanders: I just work there.

Det. Lewandowsky: You're a baseball fan now, aren't you?
J. Sanders: Yeah, I like them. Yeah.

Det. Lewandowsky: Do you?
J. Sanders: Yeah.

Det. Lewandowsky: They're kinda fun to go to.
J. Sanders: Yeah they are.

Det. Lewandowsky: So you're just kinda like a seasonal employee?
J. Sanders: Mmm hmm.

Det. Lewandowsky: How long you been doing that for?
J. Sanders: This will be my second season.

Det. Lewandowsky: Good for you. What do you do?
J. Sanders: I do concessions.

Det. Lewandowsky: Okay. You going to school or anything like that?
J. Sanders: I go to Ashford University.

Det. Lewandowsky: To what university?
J. Sanders: Ashford.

Det. Lewandowsky: Ashford?
J. Sanders: Mmm hmm.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 3 of 50

Det. Lewandowsky: What's that? Where's that?
J. Sanders: It's an online, it's an online university.

Det. Lewandowsky: Okay. What are you studying?
J. Sanders: Business Administration.

Det. Lewandowsky: Okay, how old are you?
J. Sanders: Hoping to get my own business. I'm 37.

Det. Lewandowsky: 37. I never would have guessed you were 37. I would have guessed 27.
J. Sanders: Yes, 37.

Det. Lewandowsky: Alright so John, you just mentioned something to me and actually I'm glad you mentioned it cause it just reminded me, I understand you've been in custody for a few days.
J. Sanders: Since Friday.

Det. Lewandowsky: Since Friday during the day or at night or...?
J. Sanders: Pretty much all day and night.

Det. Lewandowsky: Okay. You remember what time you were taken into custody?
J. Sanders: I don't know. Round about 5:30, 6:00, somewhere in there.

Det. Lewandowsky: Somewhere, you're not sure though.
J. Sanders: Not sure.

Det. Lewandowsky: Okay, I gotta do this, alright because, because you've been in jail and obviously you were brought over here by a patrolman in a patrol car with handcuffs on. I gotta make sure you understand your rights. Okay? Have you ever been read your rights before?
J. Sanders: Yeah, they read them to me when I was down here.

Det. Lewandowsky: Is that the first time that you ever had anybody read them to you?
J. Sanders: No.

Det. Lewandowsky: So if you'll bear with me, I'm gonna do this because you've been in custody.
J. Sanders: Okay.

Det. Lewandowsky: Okay, so here's what I ask, and I ask this every time I read them, John, is that if you don't understand something, stop me and ask me and we'll talk

about it. We'll make sure you understand it, and then we'll go on from there. Is that fair?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. Did you understand them when they read them to you the other day?

J. Sanders: Yes.

Det. Lewandowsky: Okay, so there shouldn't be any issues today. [REDACTED], right?

J. Sanders: Right.

Det. Lewandowsky: Okay. What is the date today? The 7th. I can't believe we're a week into the new year already.

J. Sanders: Man, this ain't been a good new year for me at all.

Det. Lewandowsky: Dude before you know it, it'll be Christmas again. Well let's... we'll talk about that in a minute here. Okay? But let me get through this. My watch says it's about 10:10. So John, you have the right to remain silent. Okay? You do not have to talk to anyone and you do not have to answer any questions. You understand that?

J. Sanders: Yes.

Det. Lewandowsky: Yeah? Anything you say can and will be used against you in a Court of Law. You understand?

J. Sanders: Yes.

Det. Lewandowsky: You have the right to speak to an attorney and to have an attorney present during any questioning.

J. Sanders: Yes.

Det. Lewandowsky: If you want an attorney but cannot afford one, an attorney will be appointed to represent you at public expense before any questioning. Do you understand?

J. Sanders: Yes.

Det. Lewandowsky: If you give up your right to remain silent, you may at any time change your mind and stop talking and stop answering questions.

J. Sanders: Yes.

Det. Lewandowsky: Okay, so you can stop talking whenever you wanna stop talking. It's up to you. Okay? You understand that?

J. Sanders: Yes.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 5 of 50

Det. Lewandowsky: Okay. If you give up your right to an attorney, you may at any time change your mind and ask to speak to an attorney.

J. Sanders: Yeah.

Det. Lewandowsky: Okay, do you understand all the rights I've read to you?

J. Sanders: Yes.

Det. Lewandowsky: Do you have any questions for me at all, John?

J. Sanders: No.

Det. Lewandowsky: Okay, I'd like to talk to you about kinda why you're sitting here. Okay? You willing to do that?

J. Sanders: Yeah.

Det. Lewandowsky: Okay, so interviewee, that's you, okay. I need you to sign that if you would for me, please. What that says is that I read you your rights and you understand them all.

J. Sanders: Okay.

Det. Lewandowsky: Fair enough?

J. Sanders: Yup.

Det. Lewandowsky: Okay. I'll sign this as well. Alright so I mean you said it; I didn't. You said new year has been a bit bumpy for you. What do you mean? Tell me about it.

J. Sanders: What I'm going through right now, man.

Det. Lewandowsky: Yeah, okay.

J. Sanders: I'm being charged with first degree murder.

Det. Lewandowsky: Okay, alright. Yeah I guess that would kinda hamper the new year, right? John, tell me about John. Tell me about you, buddy. What do you do? Were you working anywhere?

J. Sanders: Like I said, I was working with the Lugnuts. I was pretty much going to school at the time.

Det. Lewandowsky: So right now I mean...

J. Sanders: Right now...

Det. Lewandowsky: Because it's the off-season, baseball isn't happening right now.

J. Sanders: Yeah I just pretty much go to school. Like I said I help my uncle out with some odd jobs when he need help. Other than that I was just going to school.

Det. Lewandowsky: Yeah, okay. How many credits you got?

J. Sanders: Right now I got about, at least about 14 I think.

Det. Lewandowsky: Good for you. What's your goal? I mean what's your long-term goal here?

J. Sanders: Like I said, I wanted to start my own business, have my own business when I graduate.

Det. Lewandowsky: Doing what?

J. Sanders: Well the easiest business to start up right now is a landscaping business, so...

Det. Lewandowsky: Sure.

J. Sanders: I figure it's the cheapest.

Det. Lewandowsky: Sure.

J. Sanders: So I wanted to start...

Det. Lewandowsky: You should...that's the, that's the easiest business to start. Where's your heart at? I mean if you could pick one thing to do, where would your heart take you?

J. Sanders: I don't know. I got so many ideas. So many ideas.

Det. Lewandowsky: Yeah.

J. Sanders: But right now I just, I don't know, I, I just can't think of any right now.

Det. Lewandowsky: Sure. Alright.

J. Sanders: But like I, I knew the landscaping was like...I know that's the easiest one you can pretty much start. All you need is a lawn mower and a truck basically.

Det. Lewandowsky: Right, right, right.

J. Sanders: And I said I'd go from there. But...

Det. Lewandowsky: You married?

J. Sanders: No.

Det. Lewandowsky: Okay. How many kids you got?

J. Sanders: Three.

Det. Lewandowsky: Three all together?
J. Sanders: Yup.

Det. Lewandowsky: What are their names and ages?
J. Sanders: J [REDACTED] S [REDACTED], she's 11.

Det. Lewandowsky: So you have an 11 year old daughter.
J. Sanders: Mmm hmm.

Det. Lewandowsky: And her name is what?
J. Sanders: J [REDACTED] S [REDACTED]

Det. Lewandowsky: Jana...?
J. Sanders: J [REDACTED]

Det. Lewandowsky: You're gonna have to spell it for me, man.
J. Sanders: You can just...J-A...

Det. Lewandowsky: J-A-N?
J. Sanders: J- [REDACTED]

Det. Lewandowsky: [REDACTED]..
J. Sanders: [REDACTED]

Det. Lewandowsky: J- [REDACTED]?
J. Sanders: [REDACTED] It's an [REDACTED] at the end.

Det. Lewandowsky: Okay. Did you think of that?
J. Sanders: No, my mom did actually. Tried to get it close to my name.

Det. Lewandowsky: Sure, and then you have a second one.
J. Sanders: M [REDACTED]

Det. Lewandowsky: How old?
J. Sanders: She'll be 13 this year.

Det. Lewandowsky: And...okay, so 13 year old daughter. 11 and 13, and her name is what?
J. Sanders: M [REDACTED]

Det. Lewandowsky: M...
J. Sanders: M [REDACTED]

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 8 of 50

Det. Lewandowsky: Okay, same mom?

J. Sanders: No, different moms.

Det. Lewandowsky: Okay, and you said you had three kids. Who's number 3?

J. Sanders: I got a son, he supposed to be... I really don't know if he's mine or not, but he's like 21 now. So he's in his 20s.

Det. Lewandowsky: What's his name?

J. Sanders: Darron Howard.

Det. Lewandowsky: D-A-R-R...

J. Sanders: O-N.

Det. Lewandowsky: O-N?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Howard. Are you, are you tight with Darron? I mean do you guys have a relationship?

J. Sanders: Yeah, we talk. But...

Det. Lewandowsky: Do you talk as buddies or do you talk as father/son?

J. Sanders: We talk as, we talk as father/son.

Det. Lewandowsky: Okay.

J. Sanders: Yup.

Det. Lewandowsky: So you're good?

J. Sanders: Yup, we're good.

Det. Lewandowsky: Okay, so these three kids, are they, are any of them with the same lady?

J. Sanders: No, they all by three different.

Det. Lewandowsky: Okay.

J. Sanders: Yup. Of course, you know, my daughter that just passed. So I had four kids.

Det. Lewandowsky: And she was three months, right?

J. Sanders: Right. She was named after me also.

Det. Lewandowsky: You okay?

J. Sanders: Yeah, I'm okay.

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 9 of 50

Det. Lewandowsky: J- [REDACTED] ?
J. Sanders: Yeah, J- [REDACTED] .

Det. Lewandowsky: And that's J- [REDACTED] ..
J. Sanders: J- [REDACTED]

Det. Lewandowsky: J- [REDACTED] ?
J. Sanders: Yup, J- [REDACTED] .

Det. Lewandowsky: Wow.
J. Sanders: Yeah names get more complicated. Huh?

Det. Lewandowsky: Who thinks these up? They all sound like you cause they're all pretty long...
J. Sanders: Yeah cause they... I wanted to be like close to my name, so...

Det. Lewandowsky: Okay.
J. Sanders: Like came up with that. She was named after me. My mom, me and my mom actually cause she has my mom's middle name.

Det. Lewandowsky: Tell me about mom and dad.
J. Sanders: They're good.

Det. Lewandowsky: Lansing here?
J. Sanders: No, they stay in Mississippi.

Det. Lewandowsky: Okay.
J. Sanders: They're not too happy about what's going on.

Det. Lewandowsky: I can imagine. Did you grow up in Lansing?
J. Sanders: No, I grew up in Mississippi.

Det. Lewandowsky: What part?
J. Sanders: Brookhaven.

Det. Lewandowsky: Brookhaven?
J. Sanders: Mmm hmm.

Det. Lewandowsky: Where's Brookhaven, Mississippi? What's it near?
J. Sanders: It's near Jackson, Edisburg, Vicksburg.

Det. Lewandowsky: Okay. So how did you get to Lansing, Michigan?
J. Sanders: I got an uncle up here that been living up here pretty much all his life and after I left, after me and my baby momma in Wisconsin split up, it was either go back to Mississippi or try something new. So I decided to come here and try something new.

Det. Lewandowsky: Okay. Okay, so you said Wisconsin. Are, are not all of these children are here in Lansing?
J. Sanders: No.

Det. Lewandowsky: Where's J. [REDACTED] at?
J. Sanders: She's in Wisconsin. And the other two is in Mississippi. And then, you know, J. [REDACTED] was in Lansing.

Det. Lewandowsky: Sure, sure. Okay, alright. So I mean it's no secret why you're here. It's been a rough weekend. I, I understand. Being a dad is a tough thing sometimes.
J. Sanders: Yeah.

Det. Lewandowsky: You know, it really is. I've got five kids of my own that drive me, honestly between you and I, between dads, crazy sometimes. I mean they really, really do.
J. Sanders: Yeah.

Det. Lewandowsky: It doesn't change the fact that you love them.
J. Sanders: Right.

Det. Lewandowsky: You know, but, but they make you crazy, especially little ones. I guess what I'd like to do, John, is I'd like to get kinda your side of things. Tell me about what happened Friday and... as detailed as you can. I mean just, just start from when you woke up basically.
J. Sanders: Okay well I woke up because she told me she was fitting to get ready to leave to go get our daughter's WIC.

Det. Lewandowsky: Who is she?
J. Sanders: Shamarrie.

Det. Lewandowsky: J. [REDACTED]'s mom?
J. Sanders: Yup.

Det. Lewandowsky: Okay. So what time did, what time did she leave to go get WIC?

J. Sanders: I'm not sure. Like I be telling them I'm not really sure about those times. If I have to say a time, I'd say it was around about, it was in the morning so it was between 7:30, 8:00, somewhere in there.

Det. Lewandowsky: Okay.

J. Sanders: That she woke me up.

Det. Lewandowsky: Do, do you, Shamarrie...it's Shamarrie, right?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Do you, Shamarrie, and J [REDACTED] all live together?

J. Sanders: We used to.

Det. Lewandowsky: Okay.

J. Sanders: We started out living together, but...

Det. Lewandowsky: You live alone at [REDACTED]

J. Sanders: I'm alone there now.

Det. Lewandowsky: Is there an apartment number there?

J. Sanders: [REDACTED]

Det. Lewandowsky: [REDACTED] okay. So you live alone there now?

J. Sanders: I live alone there now.

Det. Lewandowsky: But, but...

J. Sanders: About a couple weeks I just been living alone. She only been gone about a couple of weeks.

Det. Lewandowsky: Okay. But Thursday night, Friday morning, Shamarrie and J [REDACTED] came to stay with you?

J. Sanders: Yup, they came to stay with me, yes.

Det. Lewandowsky: Why?

J. Sanders: Cause I be, I miss my daughter. I hadn't seen her in a while and she said she wanted to come over.

Det. Lewandowsky: Okay, what time did they arrive Thursday night?

J. Sanders: It was after 9:00, 9:00 at night.

Det. Lewandowsky: Okay.

J. Sanders: It was late.

Det. Lewandowsky: Okay. How did they get there?
J. Sanders: I think she caught the bus.

Det. Lewandowsky: Okay. Do you have a car?
J. Sanders: No I don't.

Det. Lewandowsky: Okay, alright. So she caught the bus, she got to your house Thursday 9ish, around there. It was her and J [REDACTED] together.
J. Sanders: Right.

Det. Lewandowsky: How was J [REDACTED] when she got to your house?
J. Sanders: She was agitated. Like I said she was, she was agitated. She was crying a lot, but you know, her mom say she was sleepy.

Det. Lewandowsky: Is that normal?
J. Sanders: I mean, you know kids when they get... I guess when they get agitated like that sometimes they do be sleepy. You know, kids get tired. You know, she's a baby. She really can't tell you exactly what's wrong with her.

Det. Lewandowsky: Sure, right.
J. Sanders: I, I took it as like... when she told me that that's what I took it as, you know.

Det. Lewandowsky: So she was probably... it's 9:00 at night, she's probably tired.
J. Sanders: Yeah.

Det. Lewandowsky: She's probably cold cause she's been out in the cold.
J. Sanders: Right.

Det. Lewandowsky: All that stuff.
J. Sanders: Right.

Det. Lewandowsky: She wasn't sick or anything like that, right?
J. Sanders: Well her mom said she thought, she'd been thinking she'd been being sick but she ain't really have no, no proof that she was sick or nothing like that.

Det. Lewandowsky: So, so, so you or I not being doctors, we wouldn't look at her and say...
J. Sanders: I wouldn't look at it like yeah she was sick.

Det. Lewandowsky: I mean no boogers in her nose.
J. Sanders: No.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 13 of 50

Det. Lewandowsky: And none of that stuff going on.
J. Sanders: Except for a little, she had a little wheezing the way she breathe. But other than that...

Det. Lewandowsky: What do you mean?
J. Sanders: I mean like sometimes she breathes, she, she wheeze a little like she's congested.

Det. Lewandowsky: Oh okay.
J. Sanders: But that, you know...

Det. Lewandowsky: I gotcha, okay. So where...how late were you guys up Thursday night?
J. Sanders: Well they went to bed kinda early. I stayed up a little bit late because I was, at the time I was in the process of practicing for this Madden tournament that I supposed to be in. So I stayed up a little later.

Det. Lewandowsky: Hold on, wait a minute. What in God's name are you talking about? What is a Man tournament?
J. Sanders: A Madden tournament. It's like a...

Det. Lewandowsky: Oh, a Madden.
J. Sanders: Yeah.

Det. Lewandowsky: Madden football.
J. Sanders: Right.

Det. Lewandowsky: I thought you said man tournament, like M-A-N.
J. Sanders: Oh, no.

Det. Lewandowsky: Madden, I got you now.
J. Sanders: Yeah.

Det. Lewandowsky: Okay, Madden.
J. Sanders: You know they have the online tournament and I had...that's really not even important right now, but I had qualified for this, I'm in the semi-finals and I was actually setting up preparing for that while they was asleep. So I probably went to bed about, probably about 3:00, 4:00 that morning.

Det. Lewandowsky: Oh so you were up majority of the night.
J. Sanders: Yeah, I was up majority of the night.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 14 of 50

Det. Lewandowsky: What time did they go to sleep?
J. Sanders: They probably went to sleep about, actually not too long after she got there. Probably about an hour or two after she got there, they was out.

Det. Lewandowsky: Okay, so sometime...if they got there at 9:00, they were, they were asleep between 10:00 and 11:00?
J. Sanders: Yup.

Det. Lewandowsky: Okay.
J. Sanders: No later than 12:00.

Det. Lewandowsky: No later than 12:00.
J. Sanders: Right.

Det. Lewandowsky: Where did they sleep?
J. Sanders: In the bed.

Det. Lewandowsky: One bedroom or two?
J. Sanders: One.

Det. Lewandowsky: One bedroom, so your bed.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay.
J. Sanders: Yeah we all, since day one we all slept in that bed.

Det. Lewandowsky: Okay, okay. Where...tell me about that. I mean how, how...what was the sleeping arrangement? Was it...where did the baby sleep?
J. Sanders: In the middle of us.

Det. Lewandowsky: Okay.
J. Sanders: She like...well she sleep closer to her mom, but like her mom sleep...like the bed is against the wall like that. So her mom sleep against the wall, the baby sleep right there. They pretty much leave me the rest of the edge of the bed cause I'm like in front of the TV where I can like do all my stuff I need to do. Like if I needed to do school work I still can do it and whatever, and stuff like that so...

Det. Lewandowsky: Sure, I got you. But you were playing your games and doing that stuff in another room.
J. Sanders: No, I was in the same room.

Det. Lewandowsky: Oh you were sitting on the bed playing games while they were sleeping?
J. Sanders: I was sitting on the bed right, right where they sleeping.

Det. Lewandowsky: Oh okay, I gotcha. So...I mean I know how three month old babies are. They're up every couple hours typically to eat, poop, change diaper, whatever.
J. Sanders: Exactly.

Det. Lewandowsky: Is that what was going on through the night? Or was the baby quiet that night?
J. Sanders: No actually it wasn't. She was like...that was like surprising to me, too cause like, except for I went to bed, she probably ain't got up not one time.

Det. Lewandowsky: So she went to bed at 11:00ish, between...right around 11:00.
J. Sanders: Mmm hmm.

Det. Lewandowsky: And from the time that you went to bed between 3:00 and 4:00, the baby was quiet and slept well?
J. Sanders: Yup.

Det. Lewandowsky: Okay. Okay, so you went to bed 3:00, 4:00ish.
J. Sanders: Probably like about 3:00, 4:00ish.

Det. Lewandowsky: Okay.
J. Sanders: Yeah like I said her mom woke me up.

Det. Lewandowsky: What time?
J. Sanders: I don't know. I don't know exactly the time.

Det. Lewandowsky: Do you think you slept for three or four hours? You think it was 8:00, 9:00 or...?
J. Sanders: Yeah, well I slept for about three, four hours. So it had to be at least about, I'd say about 8:00 when she woke me up.

Det. Lewandowsky: Okay.
J. Sanders: I wanna say about 8:00. She said she was fitting to get ready to go and get, get this WIC or whatever.

Det. Lewandowsky: So around 8:00, get this what?
J. Sanders: Get the WIC.

Det. Lewandowsky: Oh WIC, okay. Around 8:00, okay. How were you feeling when you woke up?

J. Sanders: I was feeling alright. This not the first time I've had three, four hours of sleep so it didn't bother me too much.

Det. Lewandowsky: Alright. So...

J. Sanders: I'd say...she got me up, I said well I might as well go on and just do this school work while, you know, J [REDACTED] still sleep. So I just...

Det. Lewandowsky: Had J [REDACTED] woke up at all between the time you went to sleep and the time you woke up? Or did you...

J. Sanders: Not that I know of.

Det. Lewandowsky: Not that you know of. So she could have, you just don't know.

J. Sanders: She could have, I just don't know.

Det. Lewandowsky: Okay, alright. So mom wakes you up at 8:00. Not your mom, the baby's mom, wakes you up at 8:00. You get up, you start doing some school work. J [REDACTED] is still sleeping?

J. Sanders: Still sleeping.

Det. Lewandowsky: Okay, what happened next?

J. Sanders: Like I was doing my school work. You know how babies start to moving and stuff. She start waking...act like she wanted to wake up, you know.

Det. Lewandowsky: Actually I'm gonna stop you real quick, John, okay? We'll go back to the baby squirming a little bit, okay?

J. Sanders: Okay.

Det. Lewandowsky: Do you know...after you woke up, how long after you wake up did Shamarrie leave? Shamarrie?

J. Sanders: Shamarrie, you know what it was like right, it was like right after. I don't wanna say right after, but I say about 10 minutes after.

Det. Lewandowsky: Several minutes, would that be accurate? I mean 10 to 15 minutes.

J. Sanders: 10 or 15 minutes.

Det. Lewandowsky: So she woke you up, you got up, and then she left.

J. Sanders: Then she left.

Det. Lewandowsky: Fairly, fairly rapidly.

J. Sanders: Right.

Det. Lewandowsky: Okay. Did you, did you have a chance to talk to her at all? I mean, how was she going to get the WIC stuff?

J. Sanders: She just told me she was going to get the WIC. I really... like I said I... she just woke me up out of my sleep saying she fitting to get ready to go so she can hurry up and get back.

Det. Lewandowsky: Did she have a ride coming to pick her up? Was she catching the bus?

J. Sanders: I assumed she was catching the bus.

Det. Lewandowsky: Okay. You don't know what her plans were though for sure.

J. Sanders: I didn't know what her plans were for sure, but I'm, I'm assuming she was gonna catch the bus, you know.

Det. Lewandowsky: Does she have a phone?

J. Sanders: Yes.

Det. Lewandowsky: Do you know what the number is off the top of your head?

J. Sanders: I think it's [REDACTED].

Det. Lewandowsky: Okay, [REDACTED]...

J. Sanders: But I don't think she got no minutes on her phone.

Det. Lewandowsky: Okay, [REDACTED].

J. Sanders: [REDACTED], yup.

Det. Lewandowsky: Do you know who her cell provider is?

J. Sanders: I think it's... I wanna say Virgin Mobile, Verizon or something like that.

Det. Lewandowsky: Alright, big difference. Okay if you don't know, you don't know. That's fine.

J. Sanders: Yeah, I'm not sure.

Det. Lewandowsky: Who's yours?

J. Sanders: Metro PCS.

Det. Lewandowsky: Metro, okay. So mom leaves. Did you have a chance to talk to mom on the phone after she left?

J. Sanders: Well actually she, she text me.

Det. Lewandowsky: She texted you?

J. Sanders: Yeah, she actually texted me saying well I'm on my way. Actually she did. She actually text me and said she fitting to get on the bus.

John Harold Sanders
LLAI30104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
 Page 18 of 50

Det. Lewandowsky: Okay.
J. Sanders: And she text me again said she at her mom's.

Det. Lewandowsky: Okay.
J. Sanders: And she text me again, I think she said she was on her way out there or something. You know, I...at the time I really didn't think about it, but now, you know, I'm...those were a lot of texts and she usually don't text me that many times letting me know her exact move, wherever she going at. You know, but...

Det. Lewandowsky: Okay so after...did Shamarrie get up at all during the night? I mean, you were sitting right on the edge of the bed playing games. You would have known if she would...
J. Sanders: She never got up.

Det. Lewandowsky: She never got up.
J. Sanders: I mean, not that I know of she didn't get up. Not while I was up playing, she didn't.

Det. Lewandowsky: Did you have a chance maybe before the baby went to bed, I assume that you did what all dads do and hugs and kisses and take care of baby a little bit.
J. Sanders: I kissed my baby on the head and said goodnight. That's it.

Det. Lewandowsky: You're not a diaper changing kind of dad?
J. Sanders: No I don't change diapers too much. I change them unless...as less as possible. Only time I change them is like when me and her was alone and I don't have no choice but to change her.

Det. Lewandowsky: Yeah. Did you change the baby's diaper at all?
J. Sanders: Yeah, I did actually.

Det. Lewandowsky: When?
J. Sanders: Like...let's see...I think it was right before her mom left I changed it.

Det. Lewandowsky: Okay. Wet, poopy, both?
J. Sanders: It was a, it was a shitty diaper.

Det. Lewandowsky: Okay.
J. Sanders: Cause I remember she ain't have no wipes.

Det. Lewandowsky: What did the baby do when you changed her? I mean I assume the baby was awake and interacting with you and...

J. Sanders: No, not really. The baby just was...like I said she was half in/out her sleep. She was like, you know she seen me and smiled, and that was pretty much it.

Det. Lewandowsky: Oh so she...okay.

J. Sanders: She recognized my...

Det. Lewandowsky: So you two interacted as much as you can with a child.

J. Sanders: Yeah, yeah right.

Det. Lewandowsky: Who's 3 months old.

J. Sanders: Right, right.

Det. Lewandowsky: Yeah, and everything seemed fine. No issues?

J. Sanders: No issues, nope.

Det. Lewandowsky: Okay. I mean what you're describing to me with, with the baby, is that pretty much normal for her? Is that kinda the way she always is or...?

J. Sanders: Well no, like I said like you, even you said babies get up in the middle of the night. She...I ain't have to get up...that's why I usually sometimes I do stay up late to stop...for when they used to leave with me, we all used to live together cause I know her mom have her all during the day, so I do try to help out at night so like when the baby wake up and need a bottle, I go in there and fix it for her so she don't have to get up and...

Det. Lewandowsky: So you said they used to live with you.

J. Sanders: They used to live with me.

Det. Lewandowsky: What happened? Why don't they live with you now?

J. Sanders: Well because me and her mom was...we just decided to go separate ways. Like I said we got a big age difference and...

Det. Lewandowsky: How big?

J. Sanders: Well I'm 37, she's 20. So 17 years.

Det. Lewandowsky: 17 years.

J. Sanders: 17 years.

Det. Lewandowsky: That is a big age difference. Man you've lived twice as long as she has almost.

J. Sanders: Right, exactly.

Det. Lewandowsky: Okay.

J. Sanders: And you know, she, she see things different than I do. So we just decided to...

Det. Lewandowsky: That's what happens when there's 20 years...

J. Sanders: Right, she's still young. She still wanna get out and do things, so you know I told her, you know, it was best for her to just, you know, go, go ahead on and, you know...

Det. Lewandowsky: Okay. So I guess I gotta know, I mean you're not much younger than I am. You're 37. What...how did you two meet? I mean...where?

J. Sanders: Man just, just we, just still doing the club scene and being out and that's how we met. I met her through my cousin actually.

Det. Lewandowsky: Okay.

J. Sanders: And cause he knew her people.

Det. Lewandowsky: The club scene?

J. Sanders: Yeah.

Det. Lewandowsky: So she's 20, the baby is 3 months old. So she was 18, 19 when you met her?

J. Sanders: Yup, 18.

Det. Lewandowsky: How could she be out clubbing?

J. Sanders: You'd be surprised these days.

Det. Lewandowsky: Okay. Actually I probably wouldn't, but...

J. Sanders: You'd be surprised. They usually don't check females IDs and stuff more than they do men, they let women get away with a lot more, you know, so...but yeah she just said that, you know, she, she don't think she was ready to settle down and be in a serious relationship, which, you know, I can understand that. You're 20 years old or whatever. So...

Det. Lewandowsky: I gotcha.

J. Sanders: She said she just needed time apart for a while.

Det. Lewandowsky: And this happened a couple weeks ago?

J. Sanders: Like right before Christmas actually. Right before Christmas.

Det. Lewandowsky: So a couple weeks ago.
J. Sanders: Mmm hmm, yup.

Det. Lewandowsky: Two, three weeks ago.
J. Sanders: Yup.

Det. Lewandowsky: You two still have relation, I mean you still have a relationship?
J. Sanders: Yeah we still, we still have a relationship. I mean as far as I know our relationship was cool, you know. It was fine. I mean I ain't, you know...I don't hate Shamarrie or nothing. I mean, like I said far as I knew our relationship was fine. I mean if it wasn't I wouldn't even let her be coming over staying with me, you know.

Det. Lewandowsky: Okay.
J. Sanders: I mean this ain't the first time she done come over since she left and stayed.

Det. Lewandowsky: You intimate?
J. Sanders: We were, yup.

Det. Lewandowsky: Thursday night, Friday morning? Did you have sex?
J. Sanders: No, we didn't that night.

Det. Lewandowsky: Okay.
J. Sanders: We didn't that night.

Det. Lewandowsky: Alright.
J. Sanders: Nope, sure didn't.

Det. Lewandowsky: Okay.
J. Sanders: We did the other times she came over we were. But we wasn't that night.

Det. Lewandowsky: Okay. The baby...some babies have a full head of hair, some babies...my babies were all bald as Q balls until they were like 2.
J. Sanders: Well mine had full head of hair except for around the back for some reason it wouldn't grow right there.

Det. Lewandowsky: Yeah.
J. Sanders: I guess cause she always...

Det. Lewandowsky: Cause they're always laying down, they're wear it off.
J. Sanders: Always laying on her back, yeah.

Det. Lewandowsky: Nothing out of the ordinary going on Saturday...or I'm sorry, Friday morning when you wake up. She leaves, Shamarrie leaves.

J. Sanders: She wakes me up and tell me she fitting to leave.

Det. Lewandowsky: Okay.

J. Sanders: Like I said, when she did that I, I was fitting to lay back down, and then I was like well no let me go on and get up and maybe do a little school work while, you know, J [REDACTED] sleeps. So I would be up when she get up cause there have been times when we been alone and, like I said I got sleep apnea so I sleep hard. So like when I'm out, I'm out. I don't know if you ever heard of sleep apnea.

Det. Lewandowsky: Oh yeah, sure.

J. Sanders: But I done woke up sometimes and she been over there, she been, she over there crying her little lungs out and I'm just now waking up, you know.

Det. Lewandowsky: Is Shamarrie...I'm sorry, not Shamarrie, is J [REDACTED], is she a quiet baby? Is she, is she a good baby or is she kinda fussy?

J. Sanders: She, she a fussy baby. I mean she...you know everybody was talking about how, how bad she cried and everything, but I mean you know all babies cry. Like I said, after she went and got her shots, she had to...like it's two month shots that they give kids or whatever, she got a little agitated and fussy.

Det. Lewandowsky: Did she cry more than, more than usual do you think?

J. Sanders: After then, yeah. After then, after she got her shots, she did.

Det. Lewandowsky: I had one of my, my oldest son actually, man it was like every night from 4:00 to 6:00...

J. Sanders: Yup, yup.

Det. Lewandowsky: He would scream his little lungs out.

J. Sanders: Yup, yeah. That's how she was after she got her shots.

Det. Lewandowsky: Okay.

J. Sanders: She was like that. I mean she would scream at the top of her lungs.

Det. Lewandowsky: And I don't know what it was about 4:00 in the afternoon, but at 4:00 in the afternoon you better hang on cause you're gonna spend the next two hours oh my God, and it was so frustrating.

J. Sanders: Right.

Det. Lewandowsky: I mean it just, it makes you nuts.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay, so Shamarrie leaves. You told me before that the baby was kinda fussy. Describe that to me.

J. Sanders: She was, like I said she like, she wakes up but she don't actually wake up. So she be like, she was, she'll start squirming. She'll make a little noise in her sleep. She'll put her hand in her mouth let you know that she wants her baba before she, you know, get ready to get up.

Det. Lewandowsky: Okay.

J. Sanders: This what I seen when I looked over at it, you know, from my first take when she was getting ready to wake up.

Det. Lewandowsky: Did you get her a bottle?

J. Sanders: I was about to go fix her a bottle. While I was in the process of fixing her this bottle, that's when all babies stop, you know, crying. I ain't hear nothing else while I'm in the kitchen trying to fix her a bottle. When I come back in the room, she's... I figured she done went back to sleep, you know cause it's not the first time she done woke up and went back to sleep, you know. So I'm figuring she went back to sleep, so when I go back in the room, I sit down on the bed, I get my computer and I'm like J [REDACTED], still want your baba? You know, and I don't get no, I don't get no response. So I look up there...

Det. Lewandowsky: What response were you looking for from a three month old?

J. Sanders: I mean she'll, she'll say something. She'll be... or anything. She know what baba mean now. When we say baba, we get a response from her.

Det. Lewandowsky: Okay.

J. Sanders: So I looked up there at her and I was like J [REDACTED] you know. She act like she was asleep. So usually when she like that, we put the bottle in her mouth, she usually take the bottle. You know how you put a bottle in a baby mouth and she still go ahead and take it. Well when I did that, she didn't, she didn't. So that's when I realized something was wrong. So I...

Det. Lewandowsky: So let me back up here a little bit. Okay? You said you went to fix the bottle. She was just kinda squirming, kinda acting like she was waking up putting her hands in her mouth.

J. Sanders: Mmm hmm.

Det. Lewandowsky: But then you said you heard her stop crying. Well was she crying or was she just kinda, like kinda...

J. Sanders: It was like, it's like hard to explain. It's like in the middle of both. She does both. I mean she like...when she start squirming and everything, that's when I went out and got up to go get the bottle. By the time I got in the kitchen, she was crying.

Det. Lewandowsky: Okay, so in relation to when you changed her dirty diaper, was this before or after?

J. Sanders: This was after.

Det. Lewandowsky: After you changed, how much after?

J. Sanders: Like I said like right after...

Det. Lewandowsky: Is that after Shamarrie left? Did you change her diaper after Shamarrie left or before?

J. Sanders: Yup, right after Shamarrie left.

Det. Lewandowsky: Right after, Shamarrie.

J. Sanders: Yup, Shamarrie.

Det. Lewandowsky: Okay, so it was after Shamarrie left you changed the baby's diaper.

J. Sanders: Yup, yup.

Det. Lewandowsky: Okay, and then how much time passed...was she crying, was she fussy then when you were changing her diaper?

J. Sanders: No, she wasn't actually.

Det. Lewandowsky: How much time passed between then and when, when you go to get the bottle?

J. Sanders: I'd say about...probably about...I wanna say an hour, like 45 minutes to an hour or something like that. Like I said I'm not really sure on these times. I really wasn't paying attention to times, but if I had to say it'd be about, just about 30 minutes.

Det. Lewandowsky: What did you...what...let me ask you this; what were you able to do between, in that time between changing the diaper and bottle? I mean did you get online and play the game?

J. Sanders: Nope, I did like, I did like one of my, I did one assignment. I completed one assignment. So usually take me about, cause assignments you gotta do, you gotta do is post, you know, make a post. So I had to make a post about what my research paper was gonna be about, which is about, I'm

doing something on a social ??? So I did that real quick. So I'd say about 30, 30, 40 minutes. 30, 40 minutes.

Det. Lewandowsky: Okay, alright. Okay, so and just so I understand this, she was getting fussy, you thought she was waking up. She was kinda squirming a little bit, putting her hands in her mouth?

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that's when you decided to go get her a bottle?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay. Did you have to go into a different room to get the bottle?

J. Sanders: Yeah, I...well the bottle is right there. I grabbed the bottle, but I had to go in the kitchen to fix it.

Det. Lewandowsky: Okay.

J. Sanders: You know, that's where the formula and the water and all that stuff is.

Det. Lewandowsky: Yup. Do, do this for me, John. Tell me about your bed.

J. Sanders: My bed?

Det. Lewandowsky: Yeah, is it, is it a mattress on the floor? Is it a bed on box springs and a frame?

J. Sanders: It's not on a frame. We got, it's on bricks.

Det. Lewandowsky: Okay.

J. Sanders: And it's, it's on box springs. The bricks is...the box spring is on the bricks and then we got a mattress on top of the box springs.

Det. Lewandowsky: Okay, so box springs and mattress.

J. Sanders: Mmm hmm.

Det. Lewandowsky: So I mean with your hand, how high do you think that mattress is? I mean if...as we're sitting here, do you think it's knee high or do you think it's higher?

J. Sanders: Yeah, it's about knee high.

Det. Lewandowsky: That's not knee high, that's about 8 inches above knee high what you're showing me. About your knee anyway.

J. Sanders: About right there.

Det. Lewandowsky: Okay.

J. Sanders: I mean it's kinda high.

Det. Lewandowsky: Okay.

J. Sanders: It's a high bed.

Det. Lewandowsky: Now I think that you told me earlier that the bed is pushed up against the wall.

J. Sanders: Mmm hmm.

Det. Lewandowsky: Is it pushed up in the corner so that there's walls on two sides?

J. Sanders: Like if that's the corner right there, it'd be pushed up against that corner like...

Det. Lewandowsky: Okay, so there's a wall at the head of the bed.

J. Sanders: Right.

Det. Lewandowsky: And then there's a wall on the inside I guess is what I'll call it.

J. Sanders: Inside, right, yup.

Det. Lewandowsky: So there's walls on two sides of the bed.

J. Sanders: Right.

Det. Lewandowsky: And you sleep on the side that doesn't have a wall.

J. Sanders: Doesn't have the wall, right.

Det. Lewandowsky: Okay. Where was the baby at, if you remember?

J. Sanders: She was on this side where the walls and stuff was at, where her mom left her at.

Det. Lewandowsky: Well you're going like this on this side. I don't know if...is it, is it in the corner where the two walls come together?

J. Sanders: Right. She was on the side where her mom left her.

Det. Lewandowsky: So let's do this, let's pretend that my pad of paper is the bed.

J. Sanders: Okay.

Det. Lewandowsky: Okay? So if the bed is in the corner like this...

J. Sanders: It's the other way. The head of the bed turned like...

Det. Lewandowsky: It's the other way.

J. Sanders: This, like this be the head of the bed. Might be easier.

Det. Lewandowsky: Okay, so where's the head of the bed?
J. Sanders: Like this, in the corner like that.

Det. Lewandowsky: Okay so it's in the corner like that. So where's the baby?
J. Sanders: She like right here.

Det. Lewandowsky: So she's all the way up in the corner where the walls come together.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay.
J. Sanders: Yup.

Det. Lewandowsky: Alright. So again, you go, you go to get the bottle and you hear her stop crying.
J. Sanders: Stop making any noises whatsoever. I don't hear anything in there anymore. So I'm figuring she done went back to sleep.

Det. Lewandowsky: How long does it take you then to get from...if you figured she went back to sleep...
J. Sanders: Well I still, I always still fix the bottle regardless because like I said, it's not the, you know, the first time that she done woke up and went back to sleep. And then when she wake up, she still want her bottle. So I just go on and have it fixed already so when she get back up I can just hand it to her, you know.

Det. Lewandowsky: Sure.
J. Sanders: So I just went on and fixed it anyway. You know, like I said when I came back in there, that's when I did what I did, you know.

Det. Lewandowsky: And what was that?
J. Sanders: I, I said J [REDACTED], still want your baba? You know, talking to her like that see if she...

Det. Lewandowsky: And she didn't respond in any way.
J. Sanders: Didn't respond in any way.

Det. Lewandowsky: So what did you do next?
J. Sanders: I looked back at her like J [REDACTED], you know, I called her name. So then I got the bottle and I tried to put the bottle in her mouth, you know, like you want your baba, you know, and I didn't get no response either then. Usually she either spit the baba out or, like I said, she'll grab it and go on and take it. You know.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 28 of 50

Det. Lewandowsky: When did she start doing that?
J. Sanders: She been doing that ever since she was about two months.

Det. Lewandowsky: Grabbing the bottle and holding the bottle herself?
J. Sanders: Not holding it, well she hold it a little bit by herself, but she'll like grab it, you know, like just put it in her mouth. You know just hold it like that.

Det. Lewandowsky: Alright.
J. Sanders: Yup. Like right, like right before, you know...

Det. Lewandowsky: So you tried to...I...I'm...you tried to stimulate the baby by rubbing the bottle's nipple on her mouth?
J. Sanders: Right, exactly.

Det. Lewandowsky: And what did she do then?
J. Sanders: She didn't do anything.

Det. Lewandowsky: Okay, what did you do then?
J. Sanders: That's when I, you know, kinda, you know, was like, you know, what's wrong, you know. So I, I grabbed her and I was like J [REDACTED], you know, J [REDACTED], then I, you know, put her like this. I feel like she wasn't breathing. So I called my, I was trying to do some type of CPR on her.

Det. Lewandowsky: Alright, let's stop for a second there. So you said you grabbed her.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Where did you have your hands on her?
J. Sanders: Just right around her, by her shoulders right here.

Det. Lewandowsky: So you kinda picked her up by the arms like this?
J. Sanders: Right.

Det. Lewandowsky: Right?
J. Sanders: Right.

Det. Lewandowsky: Okay, how, how...
J. Sanders: Like this.

Det. Lewandowsky: You said you kinda gave her a little...

J. Sanders: Yeah, just a little nudge like, you know, you know, [REDACTED], cause she wasn't responding to me. You know like [REDACTED], wake up. You know, [REDACTED].

Det. Lewandowsky: Okay, and, and she did what?

J. Sanders: Nothing.

Det. Lewandowsky: Anything?

J. Sanders: Nothing.

Det. Lewandowsky: Nothing.

J. Sanders: I didn't get nothing. So I...

Det. Lewandowsky: How long...how many times did you do this?

J. Sanders: I was, I was, I'm panicking at this point. I'd...I think I did about a couple of times before I actually put her to the bottom of the bed and called my, trying to do some type of CPR cause she wasn't breathing.

Det. Lewandowsky: Describe the CPR to me.

J. Sanders: I put her to the, put her to the edge, edge of the bed, you know. And I, I pushed down on her stomach a couple of times and then I put my, my head on her nose and I blew in her mouth. And I got a response.

Det. Lewandowsky: What, what kind of response? Describe that to me.

J. Sanders: It was like a gasping like she...you know like she was gasping for, you know, air.

Det. Lewandowsky: Okay.

J. Sanders: So that's when I was like oh my God, so I...first thing I did was like, I'm looking for my phone so I know my uncle, you know, he works right up the street up here and it's a, it's a hospital like right down the street.

Det. Lewandowsky: What's your uncle's name?

J. Sanders: Malcolm Sanders.

Det. Lewandowsky: Malcolm?

J. Sanders: Mmm hmm.

Det. Lewandowsky: So you called Malcolm?

J. Sanders: I called my uncle and I was like man can you come pick me up? My, my daughter is not breathing, I need to go to the hospital like right now. She's not breathing. I don't know how long...like I said, I don't know how long

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 30 of 50

she hadn't been breathing, you know. Cause like I said, I got up and went in the kitchen. Like I said when she stopped, I don't know how long, you know, I'm not knowing what's going on really.

Det. Lewandowsky: Well okay, let me do this before we move on; so do you think... how many minutes do you think passed from when you left her to go get the bottle until you realized she wasn't breathing? Five minutes?

J. Sanders: I don't really know. Know what I...

Det. Lewandowsky: Was the TV on?

J. Sanders: Yes.

Det. Lewandowsky: What were you watching?

J. Sanders: I don't remember, probably Sports Center or something like that.

Det. Lewandowsky: Was it from commercial to commercial? Maybe 10 to 15 minutes?

J. Sanders: I know I sat in there for a while cause I had to let the water get warm and it was cold. Cause you can't give her a cold bottle obviously. Man you know what, I really don't know.

Det. Lewandowsky: Okay.

J. Sanders: I really don't.

Det. Lewandowsky: Okay.

J. Sanders: Like I said I didn't, I didn't really long cause it ain't the first time that, you know, that I went to go fix her a bottle and she stop crying on me like that. Like I say, usually she either went back to sleep or she done started watching, you know, TV. She get up and just watch, you know, whatever is on the TV.

Det. Lewandowsky: Right.

J. Sanders: So I... that, you know, that didn't alarm me. I didn't get alarmed until I got back in the room actually and realized she wasn't breathing.

Det. Lewandowsky: So you called your uncle.

J. Sanders: So I called my uncle.

Det. Lewandowsky: Where does he work at?

J. Sanders: All Washed Up, like right up the street from...

Det. Lewandowsky: All Washed Up?

J. Sanders: It's a Laundromat called All Washed Up.

Det. Lewandowsky: A Laundromat?
J. Sanders: Yeah, it's a 24 hour Laundromat.

Det. Lewandowsky: Where's...
J. Sanders: It's like...

Det. Lewandowsky: Logan Center? Like in Logan Center there?
J. Sanders: Yup, right there in Logan Center.

Det. Lewandowsky: Okay, at Logan and, or King and Holmes?
J. Sanders: Yup, Martin Luther King and Holmes, right next to Save-A-Lot.

Det. Lewandowsky: How long did it take your uncle to get to you?
J. Sanders: Took him about five minutes.

Det. Lewandowsky: Okay.
J. Sanders: He was there in like five minutes. I ran, I ran out...

Det. Lewandowsky: Did he come into the apartment or did you, were you ready to go and waiting?
J. Sanders: No, I'm, I'm, I'm already ready to go when he get... I'm ready to go when he get there. I just told him to come on. So when he get, he come in he's blowing his horn, so I just, I grabbed me a jacket, throw me some shoes on, and I just snatched her up and run out the house.

Det. Lewandowsky: Okay, anything out of the ordinary happen when you ran out of the house?
You got out the door okay?
J. Sanders: Yeah, I got...

Det. Lewandowsky: Didn't run into anything? Didn't bump anybody?
J. Sanders: I mean I may have...

Det. Lewandowsky: You went out the door normally, right?
J. Sanders: Kinda, yeah. I, I didn't fall down or nothing like that or...

Det. Lewandowsky: What do you mean kinda?
J. Sanders: Well like I kinda slipped a little bit when I was...

Det. Lewandowsky: The baby was safe though?
J. Sanders: Yeah, baby was...

Det. Lewandowsky: Baby didn't hit anything?

J. Sanders: Yeah. Nothing, no.

Det. Lewandowsky: Okay.

J. Sanders: You know, then I got in the car and you know while he driving down he ask me what's going on. I'm like man he, she ain't breathing, you know. And it's like I tried the CPR on her and she responded so I'm thinking maybe she, you know, we need to get her to the hospital, you know. So you know he takes off and he goes down there and he takes, he drops us off in the emergency room exit.

Det. Lewandowsky: Did he go in?

J. Sanders: No, I don't think he went in cause like I said...

Det. Lewandowsky: He didn't go in?

J. Sanders: Like I said I don't know, I don't know if he went in or not. I was focused on getting her in there. I really didn't pay attention to what he did.

Det. Lewandowsky: But he pulled right up into the ambulance area?

J. Sanders: He pulled right up where the ambulance thing goes.

Det. Lewandowsky: Okay.

J. Sanders: I jumps out and I tell them my baby is not breathing, blah, blah, blah. We all run up into the hospital.

Det. Lewandowsky: Were you holding the baby? Cradling the baby the whole time or...?

J. Sanders: Yeah.

Det. Lewandowsky: Was the baby in a car seat or something like that?

J. Sanders: I had her in my arms. I didn't even think to get no car seat.

Det. Lewandowsky: Alright, I'm just asking you. I'm just trying to paint the picture.

J. Sanders: I didn't think to get no car seat.

Det. Lewandowsky: That's fine.

J. Sanders: Nothing like that.

Det. Lewandowsky: I probably wouldn't have either, honestly, John.

J. Sanders: I just, like I said I just snatched her up and what she had and, and took her in there.

Det. Lewandowsky: There's no car accidents on the way. You didn't bump into anything or...

J. Sanders: No, no.

Det. Lewandowsky: Alright.
J. Sanders: No, nothing like that.

Det. Lewandowsky: Okay, alright. So you got inside. I mean...
J. Sanders: Yup, I got inside and once I got inside that's when the doctors, you know, took her and started doing their thing. That's when I tried to get in touch with her mom, let her know what was going on.

Det. Lewandowsky: Yeah. Okay, so did you get in touch with her?
J. Sanders: No, I tried. First I tried her phone and, but it's...like I said she ain't have no minutes so I couldn't text cause I didn't have no, no service in there. So I called her mom's phone. I called her mom. Her mom didn't answer. So I just told them can I go outside, I said can I go outside and text, text her mom cause her mom don't even know what's going on yet, you know. So I go out there and that's when I do that and finally I guess they all started calling me back and you know that's when I was telling them, you know, what, where, where we at, what, what happened, you know, and...

Det. Lewandowsky: Okay. You okay?
J. Sanders: I'm alright.

Det. Lewandowsky: You want some water, coffee, something like that?
J. Sanders: Water would be fine.

Det. Lewandowsky: Water?
J. Sanders: Yeah.

Det. Lewandowsky: I think I'm gonna grab a coffee.
J. Sanders: No I don't drink coffee.

Det. Lewandowsky: You don't drink coffee?
J. Sanders: No.

Det. Lewandowsky: Can you give me just a minute? I'll go...I can't even talk. I'm gonna grab me a coffee.
J. Sanders: Okay.

Det. Lewandowsky: And you a water.
J. Sanders: Okay.

Det. Lewandowsky: Fair enough?
J. Sanders: Yes.

Det. Lewandowsky: Alright. Did you eat anything today, John?
 J. Sanders: No, not really.

Det. Lewandowsky: Nothing in the jail?
 J. Sanders: No, they don't, they ain't treat us too good over there in that little hold cell.

Det. Lewandowsky: I'll be right back, buddy.
 J. Sanders: Alright.

Det. Lewandowsky: If I don't get my caffeine, I get a headache, horrible.
 J. Sanders: Thanks man.

Det. Lewandowsky: Yeah, you're welcome. So when you had called for a ride cause the baby wasn't breathing, okay, tell me what you did to prepare the baby to go to the hospital. Did you get the baby dressed? Did you...
 J. Sanders: No, she was already had... I just took her in what she slept in.

Det. Lewandowsky: And what was that?
 J. Sanders: Some pajama things. The pajama full-suit with the, where it cover your feet all the way up to your...

Det. Lewandowsky: Like one of those sleeping bag thingys that babies go in or like a, like a sleeper?
 J. Sanders: She had a, she had... where her arms and legs could be out, so just like a one piece universal suit.

Det. Lewandowsky: Okay. Did you like the baby?
 J. Sanders: I love my baby.

Det. Lewandowsky: Yeah? No issues?
 J. Sanders: No issues at all. I mean I love all my kids.

Det. Lewandowsky: Sure. I know, but you and I talked right up front.
 J. Sanders: Yeah I know.

Det. Lewandowsky: God they make you nuts sometimes.
 J. Sanders: Yup.

Det. Lewandowsky: I mean I got five of my own, man. I'm, I'm, I teeter, I walk that fence line of nuts and not nuts half the time because of them, you know. And I love them to death. There's nothing I wouldn't do for them, but man I, I have

very specific memories of my oldest son when he was a baby like that. You know, it was like there was this, this couple hours every day where it didn't matter, it didn't matter what it was. You just couldn't comfort him. He was, he was just angry, mad and screaming. And you know the thing is is, well you know I say you couldn't comfort him, I couldn't comfort him but his mom could. You know, it was like that was all he wanted was his mom. And then she'd walk in and it's like the world was better all of a sudden.

J. Sanders: Right.

Det. Lewandowsky: You know, is that kinda the way the baby was?

J. Sanders: Pretty much sometimes, yup.

Det. Lewandowsky: Yeah?

J. Sanders: Yup.

Det. Lewandowsky: Was the baby kinda like that this morning?

J. Sanders: No not, actually no. She wasn't. She wasn't. She, she didn't, she ain't really cry but just that little bit of time that I said. That's it. She wasn't like, like I said out of control or nothing like that except the night, the night when she came she was a little agitated and fussy and stuff, but like I said they went straight to bed so...

Det. Lewandowsky: Okay. You said she was agitated or fussy or she wasn't?

J. Sanders: She, they, I mean she was and her mom was just saying well she's acting like this because she's, you know, tired, she's sleepy.

Det. Lewandowsky: Yeah, she's been on the bus for God sakes.

J. Sanders: Right.

Det. Lewandowsky: I'm agitated and fussy to when I'm cold and tired.

J. Sanders: Right, yeah.

Det. Lewandowsky: And you probably are, too.

J. Sanders: Which is why I said, you know, I understand, you know. I ain't, you know, trip out or nothing like that.

Det. Lewandowsky: You didn't?

J. Sanders: No, I didn't.

Det. Lewandowsky: Alright.

J. Sanders: Nope.

Det. Lewandowsky: Yeah, yeah.
J. Sanders: I just asked her what was wrong with her cause, you know, I knew she was, you know, she was like cause she's tired and probably sleepy and blah, blah, blah. And I was like oh okay. Then I ain't mean it like I was you know all over like what's wrong with the baby, you know. I mean...

Det. Lewandowsky: Sure. Well you know we, we've had now a good 48 hours, you know, to, to do our thing, to, to...
J. Sanders: Yeah I know, they already done told me it's clear cut evidence that I'm, that I was supposed to be responsible and blah, blah, blah. They already gave me the drill.

Det. Lewandowsky: Hold on. Hold on. Okay? I don't think I've drilled you at all. Have I?
J. Sanders: You haven't. I'm just saying.

Det. Lewandowsky: I think you and I are getting on okay.
J. Sanders: Yeah, yeah. I'm not, I'm not, I'm not blaming you, man.

Det. Lewandowsky: I just, I just, you know John, I just want you to know that we've had a lot of time. I realize that you talked to a couple of detectives on Friday. But Friday was...it's Monday now. I mean so we've had 48, you know, a couple, couple days at least plus to do our thing and to work on this and to put all of our time and energy into all of this. You know, one of the things that happened, John, Saturday was the baby had what's called an autopsy.
J. Sanders: Okay.

Det. Lewandowsky: Do you know what an autopsy is?
J. Sanders: Mmm hmm.

Det. Lewandowsky: Tell...what do you know about autopsies?
J. Sanders: That's what my dad told me, he wanted them to take...autopsy is like when somebody dies they perform an autopsy to see what the actual form of death was or something like that. It's a more accurate...I don't know, just...

Det. Lewandowsky: It basically paints the picture.
J. Sanders: Right, right.

Det. Lewandowsky: It tells the story.
J. Sanders: Right.

Det. Lewandowsky: Of basically when and how and all that stuff. And here's the really, really important thing, John, is that it doesn't tell us the why.

J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay? It doesn't tell us why.

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that's what's just so important because you know so many different things can happen. You know, kids are kids and, and they...you name it, it can happen to a kid.

J. Sanders: Mmm hmm.

Det. Lewandowsky: You know, but, but the tough thing about a three-month old baby is that a three-month old baby is completely and totally dependent upon mom and dad or its caregiver.

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that, that leaves you and mom. Alright? The autopsy tells us so much and it basically kinda puts a bow on things. If you understand...you know, you wrap a present, you put a bow on it when you're done. This investigation over the last two and a half days has included that autopsy and a bunch of interviews and a bunch of other things. Okay? I guess the reason I'm talking to you today is, is because John, we know that something really, really bad happened. What we don't know is what caused this baby's injuries. We know that the baby's injuries were new injuries, so they weren't old. We know that the baby's injuries, the injuries that the baby sustained weren't something that the baby could have done on its own. You understand that?

J. Sanders: I understand that.

Det. Lewandowsky: These aren't injuries that the baby could have, that the, that could have been come from falling on the ground off the bed. You have to understand, John, that the baby's brain...

J. Sanders: Yeah, they...she...the investigator told me.

Det. Lewandowsky: The baby's brain was destroyed, and that takes huge amounts of force to do, John. It does.

J. Sanders: Well what I'm saying is why do they automatically think it's me? Why would they automatically think it's, I was the one that did it? Cause I was the last one with her?

Det. Lewandowsky: She was fine when mom left.

J. Sanders: She was asleep when mom was left.

Det. Lewandowsky: Which means she was fine when mom left. She was asleep and breathing and fine.

J. Sanders: So there's no way her mom, her mom could have did anything to her before she left?

Det. Lewandowsky: John, John, here's the thing. Okay? Our investigation is very, is very in-depth and it's very clear and in conjunction with the autopsy report tells us that you did something. We need to know why and what specifically. This is very important, John. Okay? Because you know when it comes down to it, the baby was a baby.

J. Sanders: I understand that.

Det. Lewandowsky: And everybody in the end is gonna wanna know exactly what happened. And if this was an accident, John...look at me, John. If this was an accident of some sort, we need to know about it. We've gotta know if this was an accident. If something happened that you didn't intend to happen, we need to know because honestly there's, there's miles and miles of difference between I planned to do this, I meant to do this and I did it...

J. Sanders: Yeah, that's what they trying to say now.

Det. Lewandowsky: Hold on. But there's miles of difference between that and maybe you didn't really mean for that to happen. Maybe you didn't really mean for it. Maybe the baby was crying and you were trying to quiet the baby. But I need to know the truth. We need to know the truth because this can be very...it's gonna be very important down the road.

J. Sanders: Yeah I know.

Det. Lewandowsky: Cause first degree murder is...

J. Sanders: I already...

Det. Lewandowsky: Tell me what happened, John. Tell me what happened cause I think, I think you're most of the way there, John. I do. But you're leaving stuff out. There's a dead space there where you're not telling me everything, John. I know that. I know that. And down the road, there's a chance that you're gonna have to sit in front of a judge and a jury. Okay? And sometimes if you didn't, if you didn't mean for what happened to happen, juries take that into consideration. They look at it and say you know what, he didn't mean for that to happen, didn't mean for it to happen. But the alternative for didn't mean for it to happen is meant to do it, meant for it to happen.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 39 of 50

J. Sanders: That's what they're saying now.

Det. Lewandowsky: And that's the difference between being a monster...

J. Sanders: I'm not a monster.

Det. Lewandowsky: Then tell me what happened, John. Tell me what happened, John, cause I don't think you're a monster. I think you do love your kids. I know something happened in that house, in that apartment that you didn't intend to do maybe. But I need to know what it is, John. I need to know. Let's get through this. Let's get through this together. And then down the road when people look at this, they're gonna look at John did something that he didn't mean to do and this was the result. Or the flipside of that coin is...

J. Sanders: Yeah, but I'm still gonna be going to prison.

Det. Lewandowsky: Or the flipside of that coin is, John, that you're a monster and you meant to kill this child. Did you mean to hurt the baby, John?

J. Sanders: No.

Det. Lewandowsky: Tell me what happened. I know how frustrating it is, dude. I'm a dad, too. I know. Tell me about it. Was the baby crying?

J. Sanders: No, she wasn't crying like that, but she was crying, yeah.

Det. Lewandowsky: Tell me what happened.

J. Sanders: Well I came back in the room and I picked her up, you know, you know, holding her like this. I tried to give her a bottle. She didn't want it. So usually I, I can pick her up and do her like this, you know, play with her a little bit. I tried that, she didn't. So I, I threw her up in the air, you know, like three, four times, you know, caught her, and she didn't respond to me. So I threw her up again a little higher and I, and I caught her and I swung her between my legs like this. And I threw her back up and then when I caught her again the next time, she like went, she like went, she started going limp on me and shit like, you know like and her eyes started rolling back.

Det. Lewandowsky: So how many times did you throw her up in the air?

J. Sanders: At least about six.

Det. Lewandowsky: Okay. Well one of those six times, what did she hit her head on?

J. Sanders: Nothing.

Det. Lewandowsky: Then explain the injuries, John. You've got to explain these injuries to me. She hit her head on something, John, give me your hand. She hit her head

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 40 of 50

on something, buddy. She did. Something happened. What did she hit her head on? What happened, John? What happened, John?

J. Sanders: I threw her up a little bit too high I think.

Det. Lewandowsky: And what?

J. Sanders: She hit her head on the ceiling.

Det. Lewandowsky: She hit her head on the ceiling?

J. Sanders: Like on, my bed, our bedroom is not that high.

Det. Lewandowsky: Then what happened after she hit her head on the ceiling? Did she come down?

J. Sanders: Yeah I caught her and...

Det. Lewandowsky: You caught her.

J. Sanders: Like I said, I was throwing her up like, you know, like that, you know, hey mommy, hey. You know. You never did that to your...

Det. Lewandowsky: I've thrown my kids up in the air before, yeah.

J. Sanders: Yup, like that, yeah.

Det. Lewandowsky: Yeah. But you were a little bit frustrated at that point, weren't you?

J. Sanders: Not like that, no. I wasn't throwing her up because I was frustrated. I was throwing her up...

Det. Lewandowsky: How did she hit her head?

J. Sanders: I didn't think it was that hard, but like I said when I caught her and came back down, she was, she was limp, gasping and stuff.

Det. Lewandowsky: Then you must have thrown her up to that ceiling pretty hard. Did you mean for her to hit the ceiling, John?

J. Sanders: No I didn't. I didn't throw her up to hit no ceiling. I was just throwing her up cause I'm trying to, you know, like you playing with your baby like...I didn't throw her up to hit no ceiling.

Det. Lewandowsky: Let me tell you something, John. Okay? The injuries that we saw to her brain or some of the worst we've ever seen. They're some of the worst we've ever seen. There's more to the story, John.

J. Sanders: That's, that's it.

Det. Lewandowsky: That means that baby hit its head really hard on something.

J. Sanders: That's it. I mean that's...

Det. Lewandowsky: You're saying that baby hit its head on the ceiling cause you threw it up in the air. The baby hit its head...then how hard did you throw that baby?

J. Sanders: I couldn't been throwing her...just throwing her up like that. You know?

Det. Lewandowsky: No, I don't know. I don't know. Cause even if she bumped her head on the ceiling, it's not gonna cause those injuries, John. What you're telling me doesn't work here. And this is where the truth is so important, John. This is where the truth is so important. This is where down the road we're gonna say, look at these injuries and is what he's saying consistent with those injuries? And right now the answer is no. Did you drop the baby?

J. Sanders: No.

Det. Lewandowsky: Then tell me what happened.

J. Sanders: I don't know. I'm not trying...I'm not no monster, man.

Det. Lewandowsky: Then tell me what happened, John. I believe you're not a monster. I believe it. You gotta tell me what happened then.

J. Sanders: I mean I love my kids. I, I, I, I didn't do this on purpose.

Det. Lewandowsky: John then what happened? I don't think you're a monster, John, but you gotta tell me what happened.

J. Sanders: Yeah y'all been treating me like I'm a monster or something, man.

Det. Lewandowsky: John, have I? Have I?

J. Sanders: No, you haven't.

Det. Lewandowsky: Okay. Talk to...hey, talk to Mark. You've got to lay it out right now. What happened, John? Cause the baby didn't hit its head on the ceiling. Standing in your room throwing a baby up in the air and bumping its head on the ceiling didn't happen, John. It doesn't make sense. I'm here, John. I've treated you fair. We've talked like men. I don't think you're a monster, but you gotta tell me what happened.

J. Sanders: I'm not a monster, man.

Det. Lewandowsky: Tell me.

J. Sanders: I didn't mean for this to happen.

Det. Lewandowsky: John, tell me what happened.

J. Sanders: I don't wanna spend the rest of my life in jail.

Det. Lewandowsky: Tell me what happened.

J. Sanders: This is like...this like that's what I'm going to do anyway.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 42 of 50

Det. Lewandowsky: Tell me what happened, John. If you didn't mean for this to happen, that doesn't necessarily... that's not necessarily what this means. You gotta tell me what happened, John cause if you don't tell me what happened, then to some people you're gonna look like what you're saying you're not. Tell me about it. John, let it go. Tell me about it. John, look up. Tell me about it. I've been to that point of frustration. I know how hard it can be.

J. Sanders: That's the thing. I wasn't, I wasn't frustrated like that, man.

Det. Lewandowsky: Then tell me, then tell me what happened. What did the baby hit its head on? Only you can tell the true story. Only you knows what really happened. So tell me what really happened, John. Let's take that label right off the table. Let's take it off, John. Look at me. From man to man, from dad to dad, I understand how hard it is to be a parent sometimes.

J. Sanders: That's not the reason why this happened though, man.

Det. Lewandowsky: Then tell me. You have to tell me.

J. Sanders: It is definitely not because I wanted to get back at Shamarrie and didn't wanna be with her and she didn't wanna be with me and all that.

Det. Lewandowsky: It's not that is...

J. Sanders: This ain't nothing... I mean this ain't nothing that I planned all this shit out like...

Det. Lewandowsky: Then you gotta tell me. Why did it happen? Why?

J. Sanders: It was an accident.

Det. Lewandowsky: Then tell me what happened. What happened to that baby, John? You said it was an accident. You gotta tell me how it was an accident. Tell me. Did you drop the baby? John, did you drop the baby? You dropped her? How? Tell me how you dropped her.

J. Sanders: Like I said I was trying to console her, man and...

Det. Lewandowsky: Was she crying?

J. Sanders: Yeah.

Det. Lewandowsky: So she was crying, and what were you doing to console her?

J. Sanders: I was holding her and I was rocking her and I started throwing her up. But she didn't fall on no floor.

Det. Lewandowsky: What did she fall on?

J. Sanders: She fell on the bed.

Det. Lewandowsky: What was on the bed? What did she hit her head on, John? John, you gotta tell me if this was an accident, dude. What did she hit her head on?

J. Sanders: I don't know what she hit her head on in that bed. I mean I don't, I don't know.

Det. Lewandowsky: Okay, a mattress doesn't do that to a baby's head. You're almost there, John. A mattress doesn't do that to a baby's head. Do you understand me? And neither does a ceiling when you're playfully tossing your daughter in the air. I've treated you like a man, John. I'm trying to help you here. You don't want that label. I know you don't. Nobody does.

J. Sanders: No I don't. I don't...cause that's not me.

Det. Lewandowsky: Then tell me what happened, the truth. The truth. If it's not you, you gotta tell me why it's not you.

J. Sanders: What's gonna happen to me?

Det. Lewandowsky: I think a lot of that depends on what you tell me. I can't answer that question right now because the things that you say are gonna be looked at by some attorneys, and then they'll make a decision from there. But you know something, John? What you say is gonna be looked at by some attorneys. That's why it's so important for the truth here. That's why.

J. Sanders: I know I just want you to know man I ain't did this on, this wasn't...

Det. Lewandowsky: Okay.

J. Sanders: This wasn't planned. I didn't do this on purpose.

Det. Lewandowsky: Okay.

J. Sanders: I didn't do this to get back to nobody. I ain't do this to try to hurt nobody. This was a...it was an accident and that's why I reacted the way I reacted to try to get her some help as soon as possible.

Det. Lewandowsky: Okay, tell me about the accident.

J. Sanders: I mean do you understand that?

Det. Lewandowsky: I do, I do. Tell me about the accident then. What happened?

J. Sanders: When I came back in there like I said from trying to fix her a bottle, she didn't want the bottle. I seen that her diaper needed changed, so I changed her diaper. She still didn't stop crying. So then I picked her up, played with her for a little while. You know, walked around with her for a little while. She still didn't stop crying. Tried to, tried to do the bottle again, she still wouldn't stop crying. So I grabbed her by her arms and I started

shaking her like this like J [REDACTED] what's the matter? J [REDACTED] what's the matter? J [REDACTED] what's the matter? That's when I got the ah...that's when her neck went limp on me.

Det. Lewandowsky: What'd you get?

J. Sanders: I guess like she went into, just went into a...

Det. Lewandowsky: No, you said that's when I got the...

J. Sanders: That's when she went into like a...

Det. Lewandowsky: John, you said that's when I got the...finish the sentence. What did you get?

J. Sanders: That's when I got that response from her that, that...her neck went limp and she gasped on me. I swear to you, man, that's what happened.

Det. Lewandowsky: What hit her head?

J. Sanders: Didn't nothing hit her head.

Det. Lewandowsky: Something hit her head.

J. Sanders: I swear on everything that's what happened. I mean I can even, you can lie detector test me. That's...that's...

Det. Lewandowsky: Did you shake her...how hard did you shake her?

J. Sanders: I didn't think I shook her that hard to be honest with you, I didn't. I don't do my baby like that. Well I did, like I said I was like J [REDACTED] J [REDACTED] J [REDACTED], J [REDACTED], J [REDACTED], why is you crying? You know? Just shaking her like that. Then she had stopped so when she stopped, I stopped and when I stopped that's when she like went like, she was like, looked like she started to have a seizure on me. And I, I swear to God man that's what happened.

Det. Lewandowsky: So did she hit her head on the ceiling?

J. Sanders: No.

Det. Lewandowsky: Did you drop her onto the bed?

J. Sanders: Yeah she did drop onto the bed.

Det. Lewandowsky: Then why did you tell me she hit her head on the ceiling then?

J. Sanders: I don't know. You was saying she had these brain injuries.

Det. Lewandowsky: Well she does. That's the truth.

J. Sanders: I know, but I'm thinking it's because I did like, like I said I...that's when she, that's when she went into the thing. I mean everything was fine until I grabbed her arms like this...

Det. Lewandowsky: By her wrists?

J. Sanders: Yeah, like this.

Det. Lewandowsky: You were holding her by her wrists?

J. Sanders: Yeah, by her wrists and sat her up and shaking her like [REDACTED] [REDACTED], what's the problem?

Det. Lewandowsky: Harder than me?

J. Sanders: Yeah, harder than I'm doing to you right now.

Det. Lewandowsky: Shake me. Show me.

J. Sanders: Something like that.

Det. Lewandowsky: Okay. What was her head doing when you were doing this?

J. Sanders: Just going side, side to side like that. Like I said...

Det. Lewandowsky: What was she doing? Was she crying?

J. Sanders: No she had stopped crying.

Det. Lewandowsky: She had stopped crying at that point in time. At what point in time did she stop crying?

J. Sanders: When I start rocking her like [REDACTED], [REDACTED], [REDACTED], [REDACTED].

Det. Lewandowsky: How long do you think you did that for?

J. Sanders: About two minutes.

Det. Lewandowsky: Two minutes?

J. Sanders: Probably not even that long. I didn't do it a long time. Like I said, about as long as I did it with you.

Det. Lewandowsky: That wasn't two minutes.

J. Sanders: Well, well about 40...between 15, 20 seconds. Somewhere in there like that.

Det. Lewandowsky: Are you guessing right now?

J. Sanders: I am actually, yeah. I didn't do it that long. Like I said I did it long enough like [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]. That's how long I did it. And then when I stopped...

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 46 of 50

Det. Lewandowsky: What kind of response were you looking for out of J [REDACTED] when you were doing this?

J. Sanders: I don't know. I don't know, man.

Det. Lewandowsky: Did you think she was gonna stop crying by shaking her?

J. Sanders: No.

Det. Lewandowsky: What were you looking for?

J. Sanders: I don't know. I was just...honestly I don't, I don't know what I was doing. To be honest with you.

Det. Lewandowsky: At any point in time, did that child hit its head on anything?

J. Sanders: Like I said when I was throwing her up, she, I let her land on the bed. But the, you know that wasn't, you know she didn't land on...she didn't hit her head on anything.

Det. Lewandowsky: Well let me ask you this, were you throwing her up and you dropped her on the bed? Or were you throwing her onto the bed?

J. Sanders: I was, I was...

Det. Lewandowsky: Did you throw her up and let her land on the bed?

J. Sanders: No, I was throwing her up, catching her, and I do like that, lay her, put her on her back, you know. I mean I done this before with her.

Det. Lewandowsky: So up, catch, on the bed?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Were you too hard?

J. Sanders: I didn't think I was, man. I don't think so. I don't...

Det. Lewandowsky: Were you mad?

J. Sanders: No, I wasn't mad at all. I'm not, I wasn't mad at her at all. Through this whole process I wasn't mad at all. I wasn't.

Det. Lewandowsky: Okay.

J. Sanders: I mean I knew perfect what I was doing. I mean, it just...like I said once I did the shaking thing and she seemed like she just went limp on me like...

Det. Lewandowsky: So you said she went limp on you. Was it at the beginning of the shaking, in the middle of the shaking...?

J. Sanders: When I stopped. Like when I, when I stopped...

Det. Lewandowsky: So you felt her go limp, and then you stopped it?
J. Sanders: No, I had stopped. I stopped and once I stopped, that's when she just her, her head went back after I stopped.

Det. Lewandowsky: So you stopped, you're shaking her and you stop and she goes limp? Then what did you do?
J. Sanders: Tried to perform CPR, call my uncle, told him my daughter wasn't breathing.

Det. Lewandowsky: Why didn't you call 911?
J. Sanders: I... cause he was the closest, he was closer.

Det. Lewandowsky: Closer than an ambulance that can get there and do some lifesaving things?
J. Sanders: I wasn't...like I said I wasn't even thinking about that at the time. I...

Det. Lewandowsky: Why? That's everybody's first thought.
J. Sanders: I don't, I don't, I don't know. Well my first thought was getting her to the hospital right away and he was, he's right there like five minutes away and the hospital is five minutes away. I'm like five minutes away from the hospital.

Det. Lewandowsky: And there could have been an ambulance at the Kroger's through the parking lot right there that you could see from your house.
J. Sanders: You're absolutely right, but I, I had panicked and I... even my uncle said why didn't I call 911. That's the first thing that came out his mouth.

Det. Lewandowsky: Did you mean to do this?
J. Sanders: No I didn't. No I didn't.

Det. Lewandowsky: Did you wanna hurt that child?
J. Sanders: No I didn't. I mean I love my baby. I didn't wanna hurt her. I swear I didn't wanna hurt her.

Det. Lewandowsky: Okay.
J. Sanders: I didn't, I didn't, I didn't mean for this to happen, man. I didn't. I didn't at all.

Det. Lewandowsky: Okay.
J. Sanders: I mean I love my daughter to death. I mean, you know, she was my newest one. I mean I had kids all before this I had...how long I been with her all

this time and I hadn't harmed her...that's why I can't really believe this happened to me. It's like...I don't understand like...

Det. Lewandowsky: Okay. I need a break for a minute. You want some more water?

J. Sanders: Actually I need a cigarette.

Det. Lewandowsky: You need a bathroom?

J. Sanders: Yeah.

Det. Lewandowsky: Alright, give me just a minute. We'll get you a bathroom.

Det. Lewandowsky: You okay? I have one question for you. Okay? Should be a fairly easy question for you. From the time that the baby stopped breathing until you called your uncle, how long did that take? From stop breathing to phone call. Was it immediate?

J. Sanders: Yeah.

Det. Lewandowsky: It was, it was she stopped; you got your phone and called? Or was there a delay?

J. Sanders: Like I said I tried to do the CPR thing. Once I got a response, that's when I, that's when I called him. So I say, yeah it's pretty much immediate.

Det. Lewandowsky: Would you say a minute?

J. Sanders: Pretty much, yup.

Det. Lewandowsky: You...okay somewhere within just a few minutes you made that phone call?

J. Sanders: Yeah.

Det. Lewandowsky: Okay.

J. Sanders: Like I said, I was in, I was in a little panic then. I didn't know what was...I didn't...

Det. Lewandowsky: Okay, alright.

J. Sanders: Like I said, that's why I, why I didn't think, I think about it now yeah just like you said where they could have performed stuff right there but like I said I was thinking about getting her to the hospital as fast as possible and...

Det. Lewandowsky: I got ya.

J. Sanders: Even though I knew he was right there, the hospital right there and...

Det. Lewandowsky: Yeah. John, I've been fair to you, haven't I?
J. Sanders: Yeah.

Det. Lewandowsky: Alright. I was being honest with you, you know, people will look at everything that you've said and they'll make some decisions from there. I can't answer any questions about, you know, I'm not, I'm not a lawyer. I, I don't know what's gonna happen down the road a long ways. You know, you and I will probably have the opportunity to talk again at some point in time. Okay? Good luck to you.

<End of interview>

PEOPLE'S EXHIBIT # 4

13-148

COPY

1 STATE OF MICHIGAN
 2 IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM.
 3 -----
 4 PEOPLE OF THE STATE OF MICHIGAN,)
 5 -vs-) File No: 13-224-PC
 6) JUDGE COLLETTE
 7)
 8 JOHN HAROLD SANDERS,)
 9)
 10 Defendant.)
 11 -----
 12 MOTION TO ADMIT STATEMENT
 13 before the Honorable William E. Collette,
 14 Circuit Judge, Ingham County, Michigan
 15 Wednesday, November 27, 2013.
 16
 17 APPEARANCES:
 18
 19 MICHAEL S. CHELTENHAM, P# 57245
 20 303 West Kalamazoo Street, 4th Floor
 21 Lansing, MI 48933
 22 (517) 483-6236
 23
 24 On behalf of the People.
 25
 JOSEPH E. ERNST, P# 69274
 2385 Delhi Commerce Drive, Suite 4
 P.O. Box 48842
 (517) 268-0056
 On behalf of the Defendant.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXAMINATION INDEX

WITNESSES	PAGE
-----------	------

NONE

* * *

EXHIBIT INDEX

EXHIBIT	OFFERED	ADMITTED
---------	---------	----------

NONE

* * *

1 Mason, Michigan
2 November 27, 2013
3 1:38 p.m.
4 RECORD
5 THE COURT: People versus John H. Sanders. Just
6 have a seat there at the table, Mr. Sanders. Docket
7 13-224-FC. Mr. Cheltenham as I understand, Judge Clarke made
8 this ruling so you are actually the one that wants a different
9 ruling, is that right?
10 MR. CHELTENHAM: Correct, Your Honor.
11 THE COURT: Go ahead, then, with your comment, sir.
12 MR. CHELTENHAM: Thank you, Your Honor. I'll be
13 brief, Your Honor.
14 It's my understanding, first of all that the parties
15 are stipulating to the preliminary exam transcript. I'd
16 indicate to the court it was clear and there was no good
17 excuse for why the arraignment didn't occur earlier. However,
18 the case law is clear, that is one factor to be considered in
19 the voluntariness of the Defendant's statement. I'd an
20 indication to the Court, based on his age, his education, I
21 think the Judge, Judge Clarke in district court took judicial
22 notice of his prior history, his prior criminal history that
23 is, and based on those factors and the two signed advice of
24 rights, Your Honor, that this choice to talk and continue to
25 talk to the police after the delay in getting him arraigned

3

1 was a free and deliberate choice. I don't think there's been
2 any --
3 THE COURT: Well, let me ask you --
4 MR. CHELTENHAM: Yes.
5 THE COURT: -- why in the world didn't they just
6 have somebody come in and interview him on the second day?
7 MR. CHELTENHAM: I do not know, Your Honor. I
8 honestly don't have an answer to that.
9 THE COURT: Is there any extenuating circumstance
10 other than the fact that they didn't want to bother somebody
11 who wasn't working that would lead to the fact that they
12 waited to a third day?
13 MR. CHELTENHAM: There is not, Your Honor. There is
14 no good excuse for why they did not wait.
15 THE COURT: But it's clear that there was a
16 voluntary waiver at the time with the rights and all of that.
17 But if he had been arraigned correctly, he would have had
18 counsel or would have requested counsel and there would never
19 have been any interrogation, would that be correct?
20 MR. CHELTENHAM: That's absolutely correct, Your
21 Honor.
22 THE COURT: Okay. Any other comment?
23 MR. CHELTENHAM: No, thank you, Judge.
24 THE COURT: All right. Do you want to make
25 statements? I read your brief, Counsel, but go ahead.

4

1 MR. ERNST: Then I will certainly try to be as
2 brief, if not briefer than Mr. Cheltenham. But it's clear
3 that the Cipriani factors apply, and we understand that
4 Manning does its best to reconcile the Cipriani factors with
5 the Riverside County case, which of course, gives us the
6 48-hour mandate for arraignment. It does say it is but one
7 factor. But it also gives Your Honor the right to assign
8 whatever weight you want to that factor, and I would --
9 THE COURT: I don't know how I assign weight to a
10 factor. I mean, there may be factors like, for example, the
11 police building or the court catches on fire.
12 MR. ERNST: True.
13 THE COURT: Or some unusual circumstance, but here I
14 don't seem to see any.
15 MR. ERNST: And that's our point. What the People
16 are, of course, arguing is, well, that's one factor. What I'm
17 saying is, I don't think you look at the Cipriani factors and
18 simply score them one point a piece and then whoever has the
19 highest tally wins. What I'm saying is, age,
20 sophistication -- which I'll concede he is a smart guy. He
21 did sign on the morning of January 7th that second waiver;
22 They have those. But at the same time they had kept him all
23 weekend in the Lansing city lockup. They send down a more
24 experienced detective on Monday morning with the wherewithal
25 to hold an arraignment in the building where he would be

5

1 arraigned 20 feet away from the video screen where they could
2 have arraigned him in about a minute or two and then see if he
3 still wants to give a statement. They specifically chose not
4 to, and I try in my defense work not to give into hyperbole
5 too much, but in this case their conduct is egregious. They
6 had no reason whatsoever for not arraigning him sooner. Even
7 Monday morning would have been late, would have been past the
8 48 hours.
9 THE COURT: All right.
10 MR. ERNST: But they chose to go and interrogate him
11 some more, and I would suggest to Your Honor, that that is a
12 very strong circumstance that should be given more weight than
13 the other factors.
14 THE COURT: Let me ask you another question.
15 Assuming you are right, the statements were all voluntarily
16 made. They certainly would be available for impeachment
17 purposes, would you agree?
18 MR. ERNST: If I -- if he does testify, of course,
19 if he testifies to something.
20 THE COURT: It would seem like any confession that
21 may have been made that it isn't beaten out of somebody but
22 certainly it has availability for that.
23 MR. ERNST: Absolutely, and there is video available
24 should that become relevant. But just by itself and simply
25 bringing in Detective Lewandowsky to simply offer them as

6

1 Defendant, or excuse me, the accused's statements without
2 anything else, I think the ruling of the lower court should be
3 upheld. I think the statements should continue to be --
4 THE COURT: Okay. Mr. Cheltenham, any other
5 comment?
6 MR. CHELTENHAM: Only, Your Honor, that he is right
7 that there is no good excuse; but I think he makes it seem
8 like there is one choice here. There were two choices. The
9 police chose to do what they shouldn't have done and then his
10 choice to talk to him.
11 THE COURT: Here is my question. Here is my
12 question. The case law establishes a clear bright line at 48
13 hours. Would we agree with that, or the Supreme Court case?
14 MR. CHELTENHAM: Yes.
15 THE COURT: It says, yeah, 48 hours you got to do an
16 arraignment. The other cases say that there can be
17 extenuating circumstances that extends it beyond the 48 hours.
18 Would you agree with that?
19 MR. CHELTENHAM: I do, Your Honor.
20 THE COURT: So it is incumbent upon the Prosecution
21 to demonstrate, in my view, not just weighing factors but some
22 real reason, some reason -- I mean, frankly, I, I try and find
23 a way to get this in, you know me, but my other thought is
24 this, is that if I let it in on this case, where would there
25 ever be any case where you would not let it in?

7

1 This is clearly a situation where the gentleman was
2 in the jail right by the arraignment room, could have -- and
3 there is judges all weekend. If a judge was unavailable
4 because of an illness or an earthquake, I can see a lot of
5 reasons that would make it, but here we got for some bizarre
6 reason someone down there missed the ball. Did not do it
7 correctly, and I see no basis to overrule Judge Clark.
8 MR. CHELTENHAM: May I make one comment?
9 THE COURT: Yes.
10 MR. CHELTENHAM: I understand your concerns and I
11 think they are extremely valid. My only question to the Court
12 is then does the Court see a nexus between this delay causing
13 an involuntary statement? Because I think there has to be,
14 under Cipriani, that sort of nexus between the two.
15 THE COURT: Well, but for the fact that he was not
16 arraigned within 24 hours in this case, there would have been
17 no statement. There would have been no opportunity for
18 Lewandowsky to even talk to him on Monday. Lewandowsky is
19 good.
20 MR. CHELTENHAM: He is.
21 THE COURT: There would have been no opportunity for
22 him to even speak to him on Monday, because he would have been
23 arraigned, advised of his right to counsel, would have said he
24 wanted a lawyer, and there is no lawyer. The police could
25 have at some point over the weekend even, asked him; hey, I'll

8

1 get a lawyer in here for you. We've had that happen where
2 people run in and have lawyers and discuss it with them and
3 then give a statement, which would be fine with me, I think.
4 But here, this delay is solely for the police's benefit.
5 Clearly he would have not been in a position to even be
6 questioned on Monday but for the fact that he was not taken in
7 front of the arraignment judge on Sunday or Saturday.
8 But I have already said, I think your statement, if
9 he gets on the stand, is certainly is useful at this point as
10 an admission against interest and was properly taken in the
11 sense of that, and you can use it against him.
12 MR. CHELTENHAM: Thank you, Your Honor.
13 THE COURT: Yup. So that's the ruling. So Monday
14 morning we go to trial unless you have a catharsis and work
15 something out.
16 MR. ERNST: Thank you, Judge.
17 MR. CHELTENHAM: And Judge, I'm sorry. Just with
18 regard to a witness that we've spoken about, and I'd like to
19 put something on the record for Monday.
20 THE COURT: You have a witness problem?
21 MR. CHELTENHAM: It's -- just so we're clear, Your
22 Honor, Mr. Ernst and I have talked about this. This is a
23 Dr. Castellani, who is in Maryland. He examined the brain and
24 it's his report that is part of the autopsy report. It's my
25 understanding we are stipulating to that so the People don't

9

1 have to bring Dr. Castellani.
2 MR. ERNST: That's accurate, Your Honor.
3 THE COURT: That's good. That's great. How many
4 days for trial?
5 MR. CHELTENHAM: I anticipate three, Your Honor..
6 THE COURT: About right?
7 MR. ERNST: I sure hope so, Judge.
8 THE COURT: All right. We'll be here Monday
9 morning. Thank you, gentlemen.
10 MR. CHELTENHAM: Thank you, Judge.
11 THE COURT: Prepare an order, Counsel.
12 MR. CHELTENHAM: I will, Your Honor.
13 THE COURT: One of you.
14 MR. CHELTENHAM: Okay.
15 (Whereupon, Motion concluded at 1:48 p.m.)

10

1 STATE OF MICHIGAN) ss
 2 COUNTY OF INGHAM)
 3 I, Paul G. Wendell, Certified Shorthand Reporter, do
 4 hereby certify that the foregoing Motion to Admit Statement
 5 was taken before me at the time and place hereinbefore set
 6 forth:
 7 I further certify that the foregoing is a full,
 8 true, and correct transcript of the statements taken on
 9 November 27, 2011.

10
 11 
 12 Paul G. Wendell, CIR-1552
 13 Certified Shorthand Reporter;
 14 Registered Professional Reporter
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

PEOPLE'S EXHIBIT # 5

People v. Banks, Not Reported in N.W.2d (2002)

2002 WL 484620

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

PEOPLE OF THE STATE OF
MICHIGAN, Plaintiff-Appellant,
v.
TERRELL BANKS, Defendant-Appellee.No.
233934

March 29, 2002.

Before: HOOD, P.J., and GAGE and MURRAY, JJ.

UNPUBLISHED

PER CURIAM.

*1 The prosecution appeals as of right from the trial court's order dismissing the charge¹ against defendant after granting defendant's motion to suppress the evidence. We reverse and remand.

The prosecution argues that the trial court abused its discretion in granting defendant's motion for rehearing. Motions for rehearing or reconsideration are governed by MCR 2.119(F). MCR 2.119(F) is a rule of civil procedure, but also applies to criminal cases. *People v. Turner*, 181 Mich.App 680, 682-683; 449 NW2d 680 (1989). MCR 2.119(F)(3) states:

Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not

be granted. The moving party must demonstrate palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

However, if a trial court wants to give a "second chance" to a motion it has previously denied, it has every right to do so, and MCR 2.119(F)(3) does not prevent this exercise of discretion. *Kokx v. Bylenga*, 241 Mich.App 655, 659; 617 NW2d 368 (2000), quoting *Smith v. Sinai Hosp of Detroit*, 152 Mich.App 716, 723; 394 NW2d 82 (1986). Rather, MCR 2.119(F)(3) "allows the court considerable discretion in granting reconsideration to correct mistakes, to preserve judicial economy, and to minimize costs to the parties." *Id.* This Court reviews a trial court's decision regarding a motion for reconsideration for an abuse of discretion. *Churchman v. Rickerson*, 240 Mich.App 223, 233; 611 NW2d 333 (2000).

The prosecution first argues that Judge Thomas abused her discretion in granting defendant's motion for rehearing on the issue of standing because, when the case was before Judge Brookover, defendant failed to request that the proofs be reopened before the standing issue was decided. The prosecution does not argue why defendant's failure to request the reopening of proofs before the trial court's decision would defeat his attempts at rehearing. The prosecution also cites no legal authority in support of its argument. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment [of an issue] with little or no citation of supporting authority." *People v. Watson*, 245 Mich.App 572, 587; 629 NW2d 411 (2001), quoting *People v. Kelly*, 231 Mich.App 627, 640-641; 588 NW2d 480 (1998). Thus, the prosecution's failure to cite any supporting legal authority constitutes an abandonment of this issue. *Id.*

Second, the prosecution argues that, if Judge Thomas did decide the issue of whether there was probable cause to stop and search the Lexus, she abused her discretion in granting defendant a rehearing on this issue. The prosecution argues that there was no basis to grant a rehearing on this issue because defendant knew that probable cause was one of the

People v. Banks, Not Reported in N.W.2d (2002)

issues at the evidentiary hearing before Judge Brookover. However, once again, the prosecution cites no legal authority in support of its argument, which constitutes an abandonment of this issue. *Id.*

*2 The prosecution also argues that Judge Thomas erred in revisiting the issue of Officer Tolbert's credibility when it granted defendant's motion for rehearing. In support of this argument, the prosecution cites *People v. Ullman*, 244 Mich.App 500; 625 NW2d 429 (2001). However, we find that *Ullman* is distinguishable from the instant case and disagree with the prosecution's argument. *Ullman* involves a case where the successor judge revisited the issue of the officers' credibility in the context of a motion for relief from judgment, which was filed almost twelve years after the original judge's determination of the officers' credibility in regard to the defendant's motion to suppress. *Id.* at 504-508, 511-512. In making a new determination of credibility, the second judge was not relying on any new or substantively different conflicting testimony. *Id.* at 511. As a result, the *Ullman* Court held that the trial court must defer to the factfinder's determination of the credibility of the witnesses *in the context of a motion for relief from judgment*. *Id.* (emphasis added).

By contrast, the instant case does not involve an appeal or post judgment proceeding where the court must defer to the fact finder's determination of credibility. Rather, the instant case involves a pretrial rehearing of a motion to suppress where new testimony was given and new evidence submitted.

After giving the parties an opportunity to be heard, and provided it has not yet entered judgment in the case, the court may reconsider and modify, correct, or rescind any order it concludes was erroneous. [MCR 6.435(B).]

A successor judge has the authority to enter whatever orders the predecessor judge could have entered had he continued to preside in the case. *People v. Herbert*, 444 Mich. 466, 471-472; 511 NW2d 654 (1993), overruled in part on other grounds *People v. Lemmon*, 456 Mich. 625; 576 NW2d 129 (1998). A successor judge has full authority to reconsider the

prior judge's earlier rulings. *Id.* at 472. Therefore, a successor judge may make different findings of fact when rehearing a motion to suppress. Accordingly, we find that Judge Thomas did not err in revisiting the issue of Officer Tolbert's credibility during the rehearing on defendant's motion to suppress.

Next, the prosecution argues that, even if Judge Thomas did not abuse her discretion in granting defendant's motion for rehearing, she erred in finding that defendant had standing to challenge the search of the Lexus because defendant abandoned the vehicle on the expressway. Generally, an issue is not properly preserved if it is not raised before the trial court. *People v. Grant*, 445 Mich. 535, 546; 520 NW2d 123 (1994). Although the prosecution argued to the trial court that defendant lacked standing, it never raised the argument that defendant lacked standing because he abandoned the Lexus. Judge Thomas found that defendant had standing to challenge the search of the Lexus and that the evidence should be suppressed, but she never made a finding regarding whether defendant had abandoned the Lexus because the prosecution did not present that argument to Judge Thomas. Therefore, this issue was not preserved for appeal. This Court reviews unpreserved, constitutional error for plain error affecting the outcome of the proceedings. *People v. Carines*, 460 Mich. 750, 764; 597 NW2d 130 (1999).

*3 On appeal the prosecution does not dispute that defendant had a reasonable expectation of privacy in the Lexus, but argues that defendant deprived himself of standing by abandoning the Lexus when he fled up the embankment of the expressway. "A person can deprive himself of standing by abandoning the object of the search or seizure." *People v. Zahn*, 234 Mich.App 438, 448; 594 NW2d 120 (1999). One cannot manifest a reasonable expectation of privacy in an item once it has been abandoned. *Abel v. United States*, 362 U.S. 217, 241; 80 S Ct 683; 4 L.Ed.2d 668 (1960). The prosecution cites various cases from different jurisdictions where a defendant was found not to have standing to challenge the search of a car when the defendant abandoned the car to flee police on foot. See, e.g., *United States v. Edwards*, 441 F.2d 749, 751 (CA 5, 1971). The prosecution also cites *United States v. Barlow*, 17 F3d 85, 88 (CA 5, 1994), which states: The test for determining when an object has been abandoned is one of intent, which "may be inferred from words spoken, acts done, and other objective facts." The accused need not have abandoned the searched item in the strict property sense,

People v. Banks, Not Reported in N.W.2d (2002)

where an intent to relinquish ownership must be shown; merely an intent voluntarily to relinquish his privacy interest is sufficient. A defendant has abandoned his reasonable expectation of privacy when he leaves an item in a public place.²

During the evidentiary hearing before Judge Brookover, the testimony revealed that defendant was pulled from the vehicle, resisted arrest, and tried to flee up the embankment of the expressway leaving the vehicle with the keys in the ignition, but was subsequently tackled by police. The evidence before Judge Brookover as to defendant's actions in trying to escape from the police was uncontroverted and available to Judge Thomas. However, Judge Thomas never made a finding in regard to whether defendant abandoned the Lexus, because the prosecutor did not argue that particular issue to her. Based on the law set forth above, if the trial court were to find that defendant abandoned the vehicle when he attempted to flee, the subsequent search would not be a violation of the right against unreasonable searches and seizures. *Edwards, supra*. Accordingly, we remand this case to the trial court to make findings as to whether defendant abandoned the vehicle.

Next, the prosecution argues that, after Judge Thomas found that defendant had standing to challenge the search of the Lexus, she improperly suppressed the evidence without

determining whether the police had probable cause for the search independent of the search warrant. We agree. A trial court's factual findings in regard to a motion to suppress are reviewed for clear error. *Zahn, supra* at 445. "However, a trial court's ruling on a motion to suppress the evidence is reviewed under the de novo standard for all mixed questions of fact and law, and for all pure questions of law." *People v. Marsack*, 231 Mich.App 364, 372; 586 NW2d 234 (1998). After the evidence was submitted, Judge Thomas found that defendant had standing to challenge the stop and search of the Lexus and found that the search of the Lexus was improper in light of her findings as to the validity of the search warrant. However, Judge Thomas never made specific findings in regard to any probable cause that may have existed independent of the search warrant. Therefore, we remand the case to the trial court to make specific findings of fact as to whether probable cause to search the vehicle existed independent of the search warrant.

*4 Reversed and remanded for findings of fact and an explanation regarding whether defendant abandoned the Lexus when attempting to flee the scene and whether the police had probable cause without the search warrant to stop and search the Lexus. We do not retain jurisdiction.

All Citations

Not Reported in N.W.2d, 2002 WL 484620

Footnotes

- 1 Defendant was charged with possession with intent to deliver 650 or more grams of cocaine, M.C.L. § 333.7401(2)(a)(i).
- 2 Federal cases decided under the Fourteenth Amendment to the U.S. Constitution provide useful guidance in construing the analogous state constitutional provision. *People v. Bloxson*, 205 Mich.App 236, 240; 517 NW2d 563 (1994). In addition, because this case involves the suppression of narcotics evidence, only the federal constitutional guarantees against unreasonable searches and seizures (which are identical to those provided by the State Constitution) apply. *People v. Toohey*, 438 Mich. 265, 271; 475 NW2d 16 (1991).

PEOPLE'S EXHIBIT # 6

Incident #: LLA 130104000118**Advice of Rights**

Name: John Harold Sanders D.O.B.: 8-5-75
Place: CPD Worth Prec. Date: 4/7/13 Time: 10¹⁰

- ☒ 1. You have the right to remain silent. You do not have to talk to anyone and you do not have to answer any questions.
- ☒ 2. Anything you say can and will be used against you in a Court of Law.
- ☒ 3. You have the right to speak to an attorney and to have an attorney present during any questioning.
- ☒ 4. If you want an attorney, but cannot afford one, an attorney will be appointed to represent you at public expense before any questioning.
- ☒ 5. If you give up your right to remain silent, you may at any time, change your mind and stop talking and stop answering questions.
- ☒ 6. If you give up your right to an attorney, you may at any time, change your mind and ask to speak to an attorney.

1. Do you understand each of your rights?

☒ Yes☐ No

2. Do you want to give a statement?

☒ Yes☐ No

Det. Mark a fewenlow
Read by

John Sanders
Interviewee

Parent/Guardian (if applicable)

PEOPLE'S EXHIBIT # 7

People v. Evans, Not Reported in N.W.2d (2004)

2004 WL 547229

Only the Westlaw citation is currently available.

UNPUBLISHED OPINION. CHECK
COURT RULES BEFORE CITING.

Court of Appeals of Michigan.

PEOPLE of the State of Michigan, Plaintiff-Appellee,
v.
Mario **EVANS**, Defendant-Appellant.

No. 238184.

|
March 18, 2004.Before: HOEKSTRA, P.J., and FITZGERALD and WHITE,
JJ.

[UNPUBLISHED]

PER CURIAM.

*1 Defendant appeals as of right his convictions of first-degree murder, MCL 750.316, possession of a firearm by a felon, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant to life imprisonment for the murder conviction and forty to sixty months' imprisonment for the felon-in-possession conviction, to be served consecutive to two years' imprisonment for the felony-firearm conviction. We affirm.

On appeal, defendant argues that he was denied the effective assistance of counsel. Because this Court denied defendant's motion to remand this case to the lower court for a *Ginther*¹ hearing, our review of this issue is limited to errors apparent on the existing record. *People v. Snider*, 239 Mich.App 393, 423; 608 NW2d 502 (2000); *People v. Johnson*, 144 Mich.App 125, 129-130; 373 NW2d 263 (1985).

We will not reverse a conviction based on ineffective assistance of counsel unless the defendant establishes that (1) counsel's performance was below an objective standard of reasonableness under prevailing professional norms; and

(2) there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. *Strickland v. Washington*, 466 U.S. 668, 687; 104 S Ct 2052; 80 L.Ed.2d 674 (1984); *People v. Toma*, 462 Mich. 281, 302-303; 613 NW2d 694 (2000). " 'A reasonable probability is a probability sufficient to undermine confidence in the outcome.' " *People v. Carbin*, 463 Mich. 590, 600; 623 NW2d 884 (2001), quoting *Strickland*, *supra* at 694. Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise. *Carbin*, *supra*; *People v. Rocky*, 237 Mich.App 74, 76; 601 NW2d 887 (1999).

Defendant first claims that he was denied the effective assistance of counsel because defense counsel failed to move to suppress his custodial statement and the lineup identification on the ground that they were illegally obtained during an unreasonable prearrest delay. We disagree.

"A delay of more than forty-eight hours between an arrest without a warrant and a probable cause arraignment shifts the burden to the government to show the existence of a bona fide emergency or other extraordinary circumstances." *People v. Manning*, 243 Mich.App 615, 631; 624 NW2d 746 (2000), citing *Riverside Co v. McLaughlin*, 500 U.S. 44, 56-57; 111 S Ct 1661; 114 L.Ed.2d 49 (1991). "Absent such a showing, the delay is unreasonable per se under the Fourth Amendment." *Id.* Nevertheless, such a delay does not necessarily require the suppression of statements obtained while a person is in police custody during the delay. *Manning*, *supra* at 631-632, 643. Instead, the proper analysis is whether the accused's statement was obtained voluntarily as determined by the factors listed in *People v. Cipriano*, 431 Mich. 315, 333-334; 429 NW2d 781 (1988), and unreasonable delay before arraignment is only one of the factors that should be considered in determining whether a defendant's custodial statement was voluntary. *Id.*; *Manning*, *supra* at 634-635, 643.

*2 In this case, the prosecutor does not dispute that defendant was held for over forty-eight hours before defendant made the statement introduced at trial. In fact, defendant was detained for over ninety-three hours before he made his inculpatory statement and the record indicates that a magistrate issued an arrest warrant based on probable cause more than seven days following defendant's arrest. Therefore, a judicial determination of probable cause was made well outside the forty-eight hour requirement set forth in *Riverside*, *supra*. Although plaintiff contends on appeal

People v. Evans, Not Reported in N.W.2d (2004)

that the delay was justified, the record reveals that during the delay the police were attempting to locate persons to verify defendant's initial exculpatory statements concerning an unrelated homicide and to locate an eyewitness to identify defendant in a lineup in this case. These circumstances do not constitute extraordinary circumstances to justify the unreasonable delay. Rather, a delay for the purpose of gathering additional evidence to justify an arrest constitutes an unreasonable delay. *Riverside*, *supra* at 56-57; *Manning*, *supra* at 630.

However, our analysis does not end here; rather, "[w]hen a confession was obtained during an unreasonable delay before arraignment, in Michigan the *Cipriano* factors still must be applied." *Manning*, *supra* at 643. According to the *Cipriano* Court, the test of voluntariness is whether, "considering the totality of all the surrounding circumstances, the confession is the product of an essentially free and unconstrained choice by its maker, or whether the accused's will has been overborne and his capacity for self-determination critically impaired." *Cipriano*, *supra* at 333-334 (internal quotations and citation omitted). In *Cipriano*, *supra*, our Supreme Court set forth the following nonexclusive list of factors to consider in determining whether a statement is voluntarily made:

In determining whether a statement is voluntary, the trial court should consider, among other things, the following factors: the age of the accused; his lack of education or his intelligence level; the extent of his previous experience with the police; the repeated and prolonged nature of the questioning; the length of the detention of the accused before he gave the statement in question; the lack of any advice to the accused of his constitutional rights; whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession; whether the accused was injured, intoxicated or drugged, or in ill health when he gave the statement; whether the accused was deprived of food, sleep, or medical attention; whether the accused was physically abused; and

whether the suspect was threatened with abuse. [*Id.* at 334.]

In *Manning*, *supra*, this Court explained:

In engaging in the balancing process that *Cipriano* outlines, a trial court is free to give greater or lesser weight to any of the *Cipriano* factors, including delay in arraignment. A trial court cannot, however, give preemptive weight to that one factor.... To do so is to adopt a rule of automatic suppression of a confession obtained during the period of delay, a result that is directly contrary to *Cipriano* and that ... *Riverside Co* [does not require]." [*Id.* at 643.]

*3 However, "[t]he longer the delay, the greater the probability that the confession will be held involuntary." *Manning*, *supra*. Although this Court has recognized "the possibility that in some situations the length of the delay alone may be a sufficient ground to suppress a defendant's statement, particularly where the delay is so inexplicably long that it raises an inference of police misconduct," *id.* at 645, we do not find this to be such a case.

Here, examining the totality of the circumstances, we conclude that the evidence demonstrates that defendant voluntarily provided his statement to the police. Significantly, the record indicates that defendant was apprised of and understood his *Miranda*² rights on at least two occasions before he confessed and he spoke willingly to the police. On both occasions, after the officer advised defendant of his rights, defendant acknowledged that he understood those rights by placing his initials next to each right and signing the constitutional rights form. According to the officer, defendant never expressed any hesitation about talking about the shooting and did not request to speak with a lawyer. The record indicates that defendant had prior experience with the police because he was convicted of second-degree home

People v. Evans, Not Reported in N.W.2d (2004)

invasion in 1998, receiving and concealing stolen property over \$100 in 1999, and attempted carrying a concealed weapon in 1997, and thus, defendant was familiar with *Miranda*. The record does not indicate that defendant was intoxicated, in ill health, under the influence of drugs or deprived of food, sleep, or water when he gave the statement. To the contrary, officer testimony indicated that defendant was awake and alert and did not complain about lack of sleep when he gave his statement. Nor did defendant appear to be under the influence of drugs or alcohol. The record does not indicate that defendant was threatened with abuse or uneducated, illiterate or unintelligent. Defendant was approximately twenty years old when he confessed and he had obtained a GED. Although there is evidence that the police engaged in repeated questioning before defendant gave his statement, there is no evidence that he was subjected to continuous interrogation or to intimidating police conduct.

In sum, we find, under the totality of the circumstances, defendant's decision to make an inculpatory statement was voluntary, i.e., the product of a free and deliberate choice, notwithstanding the unreasonable prearrest delay.³ *Cipriano, supra* at 333-334; *Manning, supra* at 643. Because we find that defendant's statement was voluntary, defense counsel was not ineffective for failing to move to suppress it. Defense counsel was not required to bring a frivolous or meritless motion.⁴ *People v. Darden*, 230 Mich.App 597, 605; 585 NW2d 27 (1998).

Defendant further claims that defense counsel was ineffective because he failed to move to suppress the lineup identification as a product of the unreasonable delay. We disagree.

*4 Although the lineup identification occurred approximately eighty-one hours following defendant's arrest during what we find was an unreasonable delay, defendant failed to establish that there is a reasonable probability that, but for counsel's error, the outcome of the trial would have been different. *Strickland, supra* at 694; *Toma, supra* at 302-303. Even if trial counsel had "move[d] to suppress the lineup identification" as defendant now claims his counsel should have done, it is unlikely that such a motion would have been successful. The eyewitness had made a statement to the police on the day of the shooting, and thus the eyewitness' identity was known to the police before defendant's arrest. In light of this circumstance, the eyewitness would have

identified defendant despite defendant's unlawful detention. Because the eyewitness identification of defendant was inevitable, it is not evidence that would not have been discovered but for the direct procurement of evidence from an unlawfully detained person. See *People v. Lewis*, 168 Mich.App 255, 262-263; 423 NW2d 637 (1988), citing *People v. Mallory*, 421 Mich. 229, 240-241; 365 NW2d 673 (1984). In addition, the eyewitness' testimony concerning the incident largely corroborated defendant's statement, which, as discussed *supra*, was voluntary and admissible. Accordingly, defendant has failed to establish his claim of ineffective assistance of counsel.

Defendant next claims that he was denied the effective assistance of counsel due to defense counsel's failure to move to obtain an expert witness on identification or to seek a cautionary instruction on the dangers of misidentification. We disagree.

"[O]ther than psychiatric experts, a defendant is entitled to the appointment of an expert at public expense only if he cannot otherwise proceed safely to trial without the expert." *People v. Leonard*, 224 Mich.App 569, 582; 569 NW2d 663 (1997), citing MCL 775.15; see also *People v. Jacobsen*, 448 Mich. 639; 532 NW2d 838 (1995). An error that deprives an indigent defendant of the appointment of an expert constitutes reversible error only "if defendant was prejudiced and received a fundamentally unfair trial as the result of not having expert assistance." *Leonard, supra* at 583.

In the present case, defendant failed to establish that the outcome of the trial would have differed had an expert testified regarding the fallibility inherent in eyewitness identification. In his statement, defendant admitted to participating in the shooting. The identification evidence corroborated defendant's statement by placing him at the scene of the crime. Thus, even if an expert testified regarding the fallibility inherent in eyewitness identification, defendant implicated himself by his own statement. Furthermore, defense counsel competently attacked the eyewitness' identification through cross-examination by eliciting testimony that it was dark outside at the time of the shooting and concerning the perpetrator's description. Defense counsel then attacked the eyewitness' identification by arguing in his closing argument that his description of the perpetrator also fit the description of Fred Bishop, who defendant implicated as the shooter in his statement, and that

People v. Evans, Not Reported in N.W.2d (2004)

the dark conditions might have caused him to misidentify the person he observed fire the shotgun. Further, at the conclusion of trial, the trial court instructed the jury on witness credibility and identification, informing the jury of the proper considerations in determining whether to accept or reject the eyewitness identification. These considerations included, among others, how long the witness observed the offender, how far away from the scene the witness was located, how well the area was lighted, and the circumstances at the time of the identification. Under these facts, we find that defendant's trial, without expert testimony regarding the fallibility of eyewitness identifications, was not fundamentally unfair, *Leonard, supra* at 582, and that the jury was sufficiently informed of the proper considerations in determining whether to accept or reject eyewitness identification, *People v. Carson*, 220 Mich.App 662, 678; 560 NW2d 657 (1996), adopting certain findings of the vacated decision *People v. Carson*, 217 Mich.App 801, 807; 553 NW2d 1 (1996). Defendant has not shown that counsel's assistance was deficient.

*5 Finally, defendant argues that a mandatory life sentence, without the possibility of parole, is a determinate sentence that violates the indeterminate-sentence principle of article 4, § 45, of the Michigan Constitution. We disagree.

This Court already has rejected this argument. In *Snider, supra*, we determined that "there is nothing in Const 1963, art 4, § 45 requiring indeterminate sentencing for particular crimes, such as [the defendant's] first-degree premeditated murders." *Id.* at 426-427; *People v. Cooper*, 236 Mich.App 643, 660-664; 601 NW2d 409 (1999). Thus, defendant's argument is without merit.

Affirmed.

All Citations

Not Reported in N.W.2d, 2004 WL 547229

Footnotes

- 1 *People v. Ginther*, 390 Mich. 436; 212 NW2d 922 (1973).
- 2 *Miranda v. Arizona*, 384 U.S. 436; 86 S Ct 1602; 16 L.Ed.2d 694 (1966).
- 3 Although the prosecution supports its argument with citation to a *Walker* hearing transcript, see *People v. Walker (On Rehearing)*, 374 Mich. 331; 132 NW2d 87 (1965), it is not clear from the lower court record whether defendant moved to suppress his statements to the police relative to this case, whereas it is clear that a motion was made in an unrelated case (*People v. Evans*, Docket No. 240357). In the event that the *Walker* hearing was undertaken with respect to the instant case also, we agree with the trial court's ruling that defendant's statements to the police were voluntary.
- 4 To the extent that defendant's ineffective assistance of counsel claim arguably could be based on counsel's failure to move for suppression of defendant's statement as the fruit of an illegal arrest, defendant is still entitled to no relief. On this Court's own motion pursuant to MCR 7.216(A)(5) and in light of *People v. McKinney*, 251 Mich.App 205; 650 NW2d 353 (2002), vacated 468 Mich. 926; 663 NW2d 469 (2003), this case was remanded to the trial court for "further fact-finding regarding the issue whether defendant's statements should have been suppressed as the product of an illegal arrest." After an evidentiary hearing, the trial court determined that probable cause to make the initial arrest existed. Because the a fair-minded person of average intelligence would be justified in believing that the suspected individual had committed the felony, *People v. Kelly*, 231 Mich.App 627, 631; 588 NW2d 480 (1998), we agree that there was probable cause for an arrest, and thus the statement was not the fruit of an illegal arrest.

People v. Evans, Not Reported in N.W.2d (2004)

End of Document

© 2024 Thomson Reuters. No claim to original U.S. Government Works.

RECEIVED by MSC 5/16/2025 11:24:19 AM

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JOHN HAROLD SANDERS

Docket No. 371677

LC No. 13-000224-FC

Michael J. Kelly
Presiding Judge

Christopher M. Murray

Adrienne N. Young
Judges

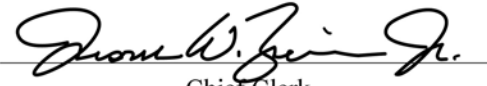
The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.



Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

November 20, 2024
Date



Chief Clerk

*People of the State of Michigan v John
Harold Sanders*

Supreme Court No. 167899

Exhibits E, F, G, and H

Video recordings

These recordings were mailed to the Court on a thumb
drive and served on the parties

Order

April 4, 2025

167899

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

JOHN HAROLD SANDERS,
Defendant-Appellant.

SC: 167899
COA: 371677
Ingham CC: 13-000224-FC

Exhibit

Michigan Supreme Court
Lansing, Michigan

Elizabeth T. Clement
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolder
Kimberly A. Thomas
Justices

RECEIVED by MSC 5/16/2025 11:24:19 AM

On order of the Court, the application for leave to appeal the November 20, 2024 order of the Court of Appeals is considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). The parties shall file supplemental briefs in accordance with MCR 7.312(E), addressing: (1) the proper analysis for determining whether statements made while detained in violation of the Fourth Amendment under *Riverside Co v McLaughlin*, 500 US 44 (1991), should be suppressed; (2) whether *People v Manning*, 243 Mich App 615 (2000), was correctly decided; and (3) whether the trial court clearly erred in concluding that the defendant's statements were voluntary. See *People v Cipriano*, 431 Mich 315 (1988).

The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



a0401

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 4, 2025

Clerk

STATEMENT OF JOHN SANDERS

Unnecessary sounds, such as “um” and “ah”, have been omitted from the following statement for the purpose of making this statement easier to read.

Detective S. Thielen: Have a seat right there. Want a glass of water?

John Sanders: Sure.

Detective S. Thielen: Okay, I'll be right back.

Detective S. Thielen: Here you go, John.

John Sanders: Thanks.

Detective S. Thielen: You're welcome.

Detective S. Thielen: Can I just ask that you set your phone off to the side so it's not distracting us? Thank you. Let's see... thanks for coming.

John Sanders: No problem.

Detective S. Thielen: Things are getting obviously more hectic and we've got to get into this a little bit more. So we'll be interviewing everybody back here. Obviously now we know things are a little bit more serious with her. So of course it's my job to figure out what happened and I'm just going to ask you flat out without any beating around the bush if you had anything to do with it, now is the time to tell me.

John Sanders: I didn't.

Detective S. Thielen: Okay, okay.

John Sanders: Like I said, she just started crying. I went to go fix her a bottle and I come back and she was unresponsive.

Detective S. Thielen: Okay. If... did you see any injury on her anywhere?

John Sanders: Injuries?

Detective S. Thielen: Mmm hmm.

John Sanders: What you mean? Like bruises and stuff?

Detective S. Thielen: Yeah, any lumps, bumps, bruises, cuts, blood?

John Sanders: No. She got a little scratch on her face, but her mom said she, she like to scratch herself. To be honest with you, I wasn't really even looking.

Detective S. Thielen: Okay.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 1 of 51

John Sanders: To be honest.

Detective S. Thielen: Alright, okay.

John Sanders: I mean, like I said they...that was my first time seeing her in like, since they, since Christmas. Cause like I said we had separated so she had moved back in with her mom. And they came over last night and spent the night. And to be honest with you, I didn't really even think about...you know, it's the farthest thing from my mind, looking for bruises or something like that.

Detective S. Thielen: Was anybody else there with you when this happened?

John Sanders: No, just me and her. Like I said, her mom had just let to go get her, her WIC stuff.

Detective S. Thielen: How would you describe her? Was she a fussy baby, a good baby?

John Sanders: I mean, you know like I said she, when she cry she won't stop basically. Either she wanna be picked up or she want her bottle. Like I said, I been, she been living with me since she been born and like every time she wakes up in the morning, when she cries that's what she wants is her bottle.

Detective S. Thielen: Were you around with your other daughter when she was that age?

John Sanders: Yeah.

Detective S. Thielen: Compared to...was one easier than the other?

John Sanders: About the same.

Detective S. Thielen: Yeah?

John Sanders: Yup, about the same. Like I said, babies cry when they want something, you know.

Detective S. Thielen: What's up with the screaming? Everybody has kinda mentioned her screaming is a little intolerable. Her grandma mentioned screaming. Is there a certain difference between her cry and her scream?

John Sanders: Yeah, well like I said lately she like, when you pick her up she screams. I mean, I don't...yeah, it's a difference. Yeah it is. Cause like when she cries she just, you know how babies just, they like cry but they ain't crying. And her scream is just like, I don't know. I don't know why she be doing that cause her mom said she been doing it since she got her shots. She been acting that way. You know, and like I said she said she felt like she was sick or something, but...I don't know, man. Like she seemed normal to me, seemed the same. I mean other than the, like I said she been

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 2 of 51

doing that since she got her shots. So I'm thinking maybe she just started not trusting people cause she got those shots that day or something or what. I don't know. I don't...

Detective S. Thielen: Was she doing that scream yesterday?

John Sanders: Yeah. Yup.

Detective S. Thielen: Was she doing it this morning?

John Sanders: Well when she was crying, yup she was kinda screaming like...

Detective S. Thielen: Turned into that different type of scream?

John Sanders: Yup, yup.

Detective S. Thielen: Okay.

John Sanders: Yup. Actually it did.

Detective S. Thielen: Okay. And that was when it, when it stopped?

John Sanders: Right, that's when it, it just...all of a sudden it just stopped. So I thought maybe she either went back to sleep or like she normally do, I had the TV on. Sometimes she'll just, you know, see the TV and just start watching TV until you come back in with her bottle. So like when I came back in, you know, I sat down on the bed and I'm like J [REDACTED] you want your bottle? Not even, even, even looking at her yet, you know. And she didn't say anything, so I turn around and I look at her like J [REDACTED] you want your bottle? And she was sitting there like she was asleep. So I like put the bottle in her mouth to see if she wanted it, cause usually like in the middle of the night when she gets up she'll, she'll be up, but she's not up. You know what I mean? Like she moving in her sleep but she's not fully up yet. So you put a bottle in her mouth and she usually just take it and start sucking it. But when I did that, she didn't respond. You know, so you know I kinda looked at her again and I was like J [REDACTED] you know, and she wasn't moving. So I just grabbed her, you know, and I'm like J [REDACTED], you know, trying to get her to respond to me. She wouldn't. That's when I did my little so-called CPR thing and called my uncle and told him my baby's not breathing and take us to the hospital.

Detective S. Thielen: Where was she at when you found her?

John Sanders: She was right where I left her. Right at the top of the bed. It's like a king size bed and she was up at the top, you know, laying on a pillow with her head...she was on her back with, you know, laying on her back.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 3 of 51

Detective S. Thielen: Is, is the bed up against a wall or up against two walls or how...? Was it in the middle of the room?

John Sanders: It's like up against the wall like by a window, like cause the room is kinda small so it's like, it's like up against the wall like that. You know, like the side of the bed is against the wall so the side she was on was against the wall so she wouldn't like, you know, roll over, fall off.

Detective S. Thielen: Was she kinda pressed up against the wall?

John Sanders: No, she wasn't pressed up against the wall. But like the bed is. So like in case she do like roll over, she'll hit the wall, not roll over and fall off the bed or anything.

Detective S. Thielen: Alright.

John Sanders: So she was on the side of the bed with the wall.

Detective S. Thielen: On a pillow?

John Sanders: On a pillow, yes.

Detective S. Thielen: On her back?

John Sanders: Mmm hmm.

Detective S. Thielen: And what was she wearing?

John Sanders: She had on her pajamas at the time.

Detective S. Thielen: Do you know what color they were?

John Sanders: I don't remember right now. I can't really recall it. It was all type of clothes. It was one I brought her in when I rode into the hospital.

Detective S. Thielen: Okay. Did she look a different color?

John Sanders: No, she looked...she looked normal. Like I said, I thought maybe she was sleeping. So I put that bottle in her mouth.

Detective S. Thielen: And then you grabbed her up; describe that to me.

John Sanders: I grabbed her and, you know like pulled her up to me like J [REDACTED], you know, J [REDACTED] When she wouldn't wake up, I put her at the end of the bed. I started pressing on her stomach and I...see was she breathing, you know like J [REDACTED], wake up, J [REDACTED], wake up. You know, she wasn't responding to me so I did a couple things on her...trying like I'm doing CPR, you know, what the hell I was doing but I like pushed down on her stomach like three times and I took her nose and I blew into her mouth, then I grabbed her again and I slipped the bottom out and she like

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 4 of 51

responded to me. Like, you know like she was trying to breathe. So that's when I called my uncle. I'm like come get us, I think my daughter is, she can't breathe. She can't breathe. So why he was gone I kept doing what I was doing, you know, trying to help her as much as I could. And every time I did that, she responded. I mean, every time. So...

Detective S. Thielen: When you grabbed her up and you, you know...

John Sanders: I had her by the, I had her by her arms. Like right here.

Detective S. Thielen: Okay.

John Sanders: You know, like side of arms.

Detective S. Thielen: Okay. Can she hold her head up?

John Sanders: Actually she, her head went limp like that when I first did it.

Detective S. Thielen: Okay.

John Sanders: That's when I really knew something was wrong cause she went straight back, like you know like straight back like that. And like I said, she wasn't responding to me at all.

Detective S. Thielen: You grabbed her forearms?

John Sanders: Like right up in her. Probably was like right up above her shoulders, like where, where you know like you can have a baby and they like just sit up. I had her like right there like that. But like I said, her head went like this so I, I grabbed her and I laid her down on the bed. That's when I started, I put my head to her to see if she was, she wasn't breathing.

Detective S. Thielen: When you're shaking her, is that about what it was what you're showing me? Or was it stronger? Was it...

John Sanders: Right, it was about like that. It wasn't... like I told, like I told you I didn't shake her that... I didn't shake her hard, like I just shook her like respond. You know, like cause she wasn't responding. My baby wasn't breathing, so I, you know, I'm like J [REDACTED] J [REDACTED]. You know what I mean?

Detective S. Thielen: Okay. How often are you alone with her?

John Sanders: I be... since she was born, I keep her. Like I said I, I have her almost every day. I mean it's not nothing unusual for me to have her. I have her all the time. Like I said it's just, me and her mom just separated so she, she went to her mom's house and I hadn't seen her for a little while.

Detective S. Thielen: Yeah.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 5 of 51

John Sanders: But other than before that, I mean every day I have her.

Detective S. Thielen: By yourself?

John Sanders: By myself.

Detective S. Thielen: Okay. Why? Where...

John Sanders: When her mom had to go, her mom would go do a couple things. She, she, cause she got another daughter, she might go over to the house so we try to keep her out the, out the weather and, you know, stay home as much as possible. So she's a newborn, whatever. We didn't wanna be just, plus we ain't got no vehicle and we didn't wanna be just transporting her back and forth on no bus and stuff like that. So she'll, when she go to her mom's or look after her other daughter, I just keep J [REDACTED] all the time.

Detective S. Thielen: Do you discipline J [REDACTED]?

John Sanders: No, she's a baby. She can't...you can't discipline a baby.

Detective S. Thielen: Some people do.

John Sanders: Well I don't see how you discipline a baby. They don't even know what they're doing if they do do anything.

Detective S. Thielen: What's the most severe thing that, you know, punishment-wise...I know not discipline, but is there anything...what's the most severe thing? Have you ever spanked her? Have you ever, you know...

John Sanders: No, I never spanked her. I...

Detective S. Thielen: What do you think is the most severe thing that you've ever done?

John Sanders: Probably just gave her back to her mom cause she wouldn't stop crying when I had her.

Detective S. Thielen: Okay.

John Sanders: Probably that's the most severe thing.

Detective S. Thielen: Okay. Have you ever been questioned about causing an injury to a child before?

John Sanders: No, never.

Detective S. Thielen: On a scale of 1 to 10 with 1 being really lenient and 10 being very strict, where do you find yourself?

John Sanders: With like discipline?

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 6 of 51

Detective S. Thielen: Yeah.

John Sanders: When it come to my kid, probably a 1. I mean, you know...

Detective S. Thielen: A big softie?

John Sanders: Yeah, even with my daughter now. She like got me wrapped around her little finger.

Detective S. Thielen: Have police ever talked to you for anything like domestic violence?

John Sanders: No.

Detective S. Thielen: Or any assaults?

John Sanders: No.

Detective S. Thielen: Anything like that?

John Sanders: No.

Detective S. Thielen: No?

John Sanders: Nope.

Detective S. Thielen: Have you ever been questioned about hurting another person at any time?

John Sanders: Nope.

Detective S. Thielen: When was the last time you were in a physical fight?

John Sanders: Physical fight? Let me see, probably about 12th grade, I got in a fight.

Detective S. Thielen: Okay. Do you work?

John Sanders: I work at the Lugnuts stadium actually, but I'm just on my off season right now. I work there for one season.

Detective S. Thielen: What do you do?

John Sanders: Concessions.

Detective S. Thielen: Okay. Do you drink?

John Sanders: No.

Detective S. Thielen: Do you use drugs?

John Sanders: No, I can't use drugs now actually. I'm in a drug program. I'm in a drug treatment.

Detective S. Thielen: What, what was your drug of choice?

John Sanders: Weed.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 7 of 51

Detective S. Thielen: A lot of people don't consider that a drug.

John Sanders: It is a drug.

Detective S. Thielen: Okay.

John Sanders: I don't know why they consider it not a drug. It's illegal. I mean, well it's legal now if you go get a so-called medical license. But it's a drug.

Detective S. Thielen: What was it doing to you?

John Sanders: Pretty much nothing. I just got pulled over and had it on me, and I, I had to do...instead of me going to jail, I did this drug program.

Detective S. Thielen: Do you have to do drops?

John Sanders: Yup.

Detective S. Thielen: When are you done with the program?

John Sanders: Probably in, probably May or June. Yup, I drop twice a week.

Detective S. Thielen: How is it going for you?

John Sanders: I mean I love it. It got me off weed. Other than that, I probably wouldn't have stopped smoking.

Detective S. Thielen: Do you feel more productive now?

John Sanders: I mean my pastor say, he say I'm the same age I was when I started smoking, which I find that hard to believe. Cause when I started smoking when I was like 16. So I know I don't act 16. But yeah, I feel more, I feel, feel good actually. I don't have no want or need for it anymore, but like I said if it wasn't for that I'd probably still be smoking weed. And I'm so glad I'm not smoking weed now, especially with this going on right now and everything. Oh my God. Like I said, I really didn't know how to act then, I don't know how to act high.

Detective S. Thielen: Describe your financial situation.

John Sanders: I do alright. I do a lot of little side stuff with my uncle. He, he works on houses when he ain't at the Laundromat, so I do, I go do that with him. So we, we alright financially. Like I said, she get a little money for J [REDACTED]

Detective S. Thielen: Yeah.

John Sanders: So we was doing fine.

Detective S. Thielen: Okay.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 8 of 51

John Sanders: Like I said, with the... plus I worked at the Lugnuts stadium, plus I do a little bit filling in at the Laundromat like when people don't, don't wanna work or don't show up, I like fill in. So I get hours like that.

Detective S. Thielen: What was yesterday with Shamarrie coming over? Describe your relationship and is it taking a turn? What's, what's going on?

John Sanders: She just said she needed, you know, she a lot younger than me. I'm 37, she's 20. She just said she... Shamarrie still young. She's still like to go out, like to party, like to hang out. I'm more of like a house person. Like I said, that's why nine times out of ten, I'll have J [REDACTED] like, she like to go out and stuff like that. So it just got to the point where she said she wanna, she felt like she need to be by herself for a little while. So that's why she moved back with her mom. I mean we ain't leave it on no bad terms or nothing, like we hated each other. We just separated. We still together actually, like we married or something but you know, like I told her you done moved out. We ain't really together no more; you moved out, but the reason why she was over yesterday was the fact I said I hadn't seen my baby in a while and mentioned it to her sister that I miss my baby. I wish, you know, they would move back, but like I said she said she just need her space right now. She wanna live life, whatever that mean. Like she can't do that with me. But I guess, she just said she wanna live life, whatever the hell that is.

Detective S. Thielen: How long has she lived with you before?

John Sanders: We been together since, since we moved in there. We ain't been there that long. Probably about, I'd say about six, seven months going on now.

Detective S. Thielen: Okay.

John Sanders: We been living there.

Detective S. Thielen: So when she was pregnant you guys moved in?

John Sanders: Yup, when she got pregnant we moved in. So a little over nine months now. Probably almost a year, getting close to a year. Matter of fact, I think February will be a year.

Detective S. Thielen: Okay, and you guys didn't live together before that?

John Sanders: No but we was pretty much together every day so...

Detective S. Thielen: And things were good until she started wanting to see the world?

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 9 of 51

John Sanders: I mean let her tell it, yeah. I mean, I mean just all of a sudden it just was like...I guess she wanna...she said I was tying her down and she didn't wanna be tied down no more. You know. So...

Detective S. Thielen: Was she ever abusive?

John Sanders: No, not that I seen. She not no...I don't strike her as...Shamarrie is not no abusive person. I mean, you know...

Detective S. Thielen: How does she deal with J [REDACTED]?

John Sanders: She her mom. I think she do a good job with her actually. She, like I said when she don't want nobody else she go to her mom.

Detective S. Thielen: Does J [REDACTED] ever get tired of it at all?

John Sanders: Well when she was staying with me, no not at all. Like I said, but I don't know what, I don't know, like I said since she been living over there I don't...you know, it's...I don't know what goes on over there. But when she was living with me she was real good with J [REDACTED]. I didn't see no problem with her. You know, like I said it was just me and her so...like I said, you know...but ever since she been gotten those shots, like with, when she brought her back and I tried to hold her, that's when that, you know, telling you about that screaming, that's when that started. I don't know what, what, what the, what the problem was but Shamarrie used to always say she was sick, she was sick. And I just tell her all the time why don't you just go on and take her to the emergency room or something. You know? And we finally took her. She finally took her. They gave her like this little Tylenol stuff or whatever I guess cause she's, well she, she make a funny wheezing when she breathe. Know what I mean? You know how you can tell your baby sick, I think she got a cold or something, you know. Like she done had this cold, I'm thinking she had this cold damn near since she been born. That's my thinking personally. I don't know. I'm not a doctor or nothing. After she finally got her to the emergency room and gave her that medicine, you know, I thought the wheezing stopped but Shamarrie was like she think she sick or something because she, she won't stop hollering. She cries a lot, you know, this when she at her mom's. She said she just cries a lot and I was like it's cause she miss you. She probably don't know them over there like that yet, you know, cause it's just like her, her mom, her sister, her other daughter, her mom's mom, boyfriend, so...like I said, maybe she homesick, you know. I tell her that. Maybe she homesick, so...like I said, she brought her over. It was either Christmas or somewhere around Christmas, New Years, something like that. She had just came over and she stayed the night. She slept good

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 10 of 51

through the night and didn't wake up at all. It shocked the shit out of me. Excuse my...

Detective S. Thielen: You're fine.

John Sanders: And I was like yeah, maybe she's just homesick, you know. So she brought her over last night because she, she said she wanna go get her WIC. And she came over, she was fine.

Detective S. Thielen: Does Shamarrie stay with you as well that night that she brought her over that she slept through the night? And there were no problems that night? She... was she having her screaming fits then, too?

John Sanders: Well when she woke up the next morning, she, she did a little screaming. But like I said, when she got there that night she was fine. Like I said that's the first time she ever been there that she slept like all through the night. We didn't even get up to get her no, no bottle. You know, that's like very unusual.

Detective S. Thielen: Yeah.

John Sanders: So... then somebody asked me did you, did she wake up and get a bottle last night and I really don't... I been trying to think of that for the longest, but I know since I was up, I think her momma did ask me to fix her a bottle and I said something, I was half asleep. But I don't remember fixing her one. Maybe she fixed her one. If she did, that's the only one she fixed. But J [REDACTED] used to wake up at least two or three times in the night wanting a bottle.

Detective S. Thielen: Where does she sleep?

John Sanders: In the middle of us.

Detective S. Thielen: Okay. Does she sleep in the blankets and...

John Sanders: Yeah, she put a blanket over her.

Detective S. Thielen: Okay.

John Sanders: Yup.

Detective S. Thielen: How do you feel about being interviewed about this today?

John Sanders: I don't know. I don't feel no kinda way really. I just want my daughter to be fine. I mean I know y'all just doing y'all job or whatever, but...

Detective S. Thielen: If her injury was done deliberately, do you feel that that's possible?

John Sanders: No, I don't think so. I would hope not.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 11 of 51

Detective S. Thielen: Who would have had the best opportunity to injure her?

John Sanders: I don't know. Like I said she hadn't been staying with me. They just, they just stayed with me last night. I can only go by what happened last night. And like I said she was, she was fine until this morning. Up until this morning she was, she was fine. I mean she had her little scream fit last night, but her mom said she was just tired. Said she had been up all day, she was just tired. So I mean, you know, I took it for that, you know. Yeah, you probably...you know, kids do get agitated and act crazy when they get tired. So she finally went to sleep and like I said, everything was fine until this morning when her mom left. Just, she woke up crying.

Detective S. Thielen: Not that you...not that you did this, but have you ever thought of anything like this? Have you ever gotten to that point to where you're just, you know, frustrated?

John Sanders: Frustrated? No. I love my baby. She could never get me frustrated.

Detective S. Thielen: Okay. Why wouldn't you do something like this?

John Sanders: Why wouldn't I? Cause I love her. She's a baby. She innocent. She don't, she can't do anything, hurt nobody, harm anybody. I mean she can't, she can't even protect herself. So I'm, I'm her dad. I feel like I'm her protector. I'm supposed to protect her. And I don't feel like I did that today. That's what hurts me so much is like, like it's something I could have did. Maybe I could have fought harder for them to stay there with me or something. I don't know, man. It's just...I really don't believe this is happening to be honest with you.

Detective S. Thielen: If she was injured intentionally, do you think that the person who did it would deserve a second chance?

John Sanders: I don't know. It depends on who it was. I mean I hope she, I hope this wasn't done deliberately, but...I don't know. It says, it says in the bible turn your other cheek, you should forgive. So I guess, I guess. But me personally, I wouldn't forgive. I mean...but...say you supposed to forgive, so I been trying to change my life and live a good life now so I, I, I, my mom raised me to be a Baptist so she'll want me to forgive if it was done intentionally. Like I said, I been talking to them all day. We been praying all day so...

Detective S. Thielen: That's who you called on the phone?

John Sanders: Yeah.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 12 of 51

Detective S. Thielen: And they live in Alabama?

John Sanders: Mississippi.

Detective S. Thielen: Mississippi. If it was intentional, what do you think should happen to the person that did this?

John Sanders: I don't know. I just let the justice system decide. I wouldn't know. I'm not no judge or jury or nothing. I, I...

Detective S. Thielen: One of the things that we'll be doing is talking closely with the medical staff, Dr. Guertin particularly, and he's an expert in children and these types of injuries. And he can determine whether it was intentional or not and obviously he's gonna be doing an investigation soon as they can, you know, get her past this.

John Sanders: Yeah.

Detective S. Thielen: So we'll be talking with him. One we can establish that, is there any reason that he would have the findings to support that this was done intentionally?

John Sanders: I would hope not. I would hope not.

Detective S. Thielen: And once the investigation is completed, how do you think that you'll come out?

John Sanders: I don't know. I was the last one with her, so of course they'll, I'll, I know what it look like. But I wouldn't do nothing to harm my daughter. I mean that's all I can say. I've been taken care of her since she was born. It's not the first time that I have been alone with her, you know, and I, I don't know why this happened. I hate that it happened. And I don't know. I mean like I said I was the last one, I was the last one with her so I, I feel responsible. But like I said, she just stopped breathing. It was nothing I could do. I didn't know nothing else I could do. I mean my dad told me I shouldn't have touched her or, or just called 911 and left her alone. But what, what, what would you do if your daughter stopped breathing? Would you touch her to see, get her to respond to you or something? I mean what, what was I supposed to do? So you know, I mean...if I had to do it all over again, I probably just would have called 911 and wouldn't have touched her, so I could sit here and say today that I told you I didn't touch her I hope it wasn't, I know it wasn't nothing I deliberately did cause I know I didn't shake her violently like, like when Shamarrie came and told me, she like, she asked me did I shake my baby. I was like yeah I shook her to get her to respond to me. Other than that, that's it. You know I didn't shake her violently like...I know the studies on the shaking babies

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 13 of 51

and stuff like that. The ladies used to come by there used to tell us about all that stuff. You know, so...like I said, I hope, I hope it come back nothing, it wasn't, you know, intentional. Said she had a blood clot in her head. I mean I don't know...that could have been, you know...could have just been...I, I been thinking all kind of crazy shit. Like you know...I don't think nobody would ever harm my baby. I think everybody over there love her. I mean they, they showed genuine concern today. So I mean, I don't know, man. Like I said all I know is last night she went to bed. This morning she woke up and like I said I tried to go fix that bottle, I come back, she wasn't breathing. I did what I did. And I got her to the hospital as quick as I could.

Detective S. Thielen: Alright, I'm gonna step out and make a phone call and I will be right back.
Okay?

John Sanders: Okay.

Detective S. Thielen: Is your phone up and working again? If it is, grab your uncle's phone number out of there and the time.

John Sanders: Okay.

Detective S. Thielen: I think it was, something was wrong on that number.

John Sanders: His home number?

Detective S. Thielen: Let's see...what time did you call? Does it show the old?

John Sanders: Yeah, I end up calling him at 9:00. It was 9:00.

Detective S. Thielen: Is that the one? So it was exactly 9:00?

John Sanders: Yup, 9:00.

Detective S. Thielen: And you called him at [REDACTED]?

John Sanders: Mmm hmm.

Detective S. Thielen: And that's his work number?

John Sanders: That's his work number.

Detective S. Thielen: Okay. What's his home number?

John Sanders: I know it's [REDACTED].

Detective S. Thielen: That's the one that we were...

John Sanders: [REDACTED], I had it wrong all together. Didn't I?

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 14 of 51

Detective S. Thielen: It's [REDACTED]?
John Sanders: Mmm hmm.

Detective S. Thielen: Okay, thank you. And then I got a couple more questions to ask.
John Sanders: Okay.

Detective S. Thielen: The visit yesterday coming over to your house, was that planned or was it spur of the moment? How did that come about that they were gonna come over?

John Sanders: Well first it was planned, then it was like she wasn't gonna come because she didn't feel like getting on no bus. And then she called later on that night and said she was gonna come over.

Detective S. Thielen: What time was she supposed to come over when it was planned?
John Sanders: Like earlier that day in the day.

Detective S. Thielen: Was it planned for days out in advance or did she...how did...who...did you invite her? How did it happen?

John Sanders: She asked me could her and J [REDACTED] come over and stay the night, and I was like sure.

Detective S. Thielen: Was it that day that she asked?
John Sanders: No, it was like a couple days before.

Detective S. Thielen: Okay.

John Sanders: Matter fact, it was the day before she had asked then next day, which I figured would be some I'd say bull anyway cause she always come up with excuses of why she didn't come or something. When she supposed to be there, she like well I don't feel like getting on no bus right now and blah, blah, blah. And she's like we might not even come. So she called later that night about, I wanna say about 8:30, 9:00, somewhere in there cause the football game was on and I was watching the football game. So I know it had to be somewhere around there, but I don't know the exact time. But then she was like, then she do I got anything planned, can she still, her and J [REDACTED] still come over and stay the night. I was like sure, come on. So she had to get on the last bus to get over there, I believe, busses stop running around 9:00 or 10:00.

Detective S. Thielen: Does her mom ever drive her anywhere?
John Sanders: Her mom doesn't have a vehicle.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 15 of 51

Detective S. Thielen: Oh.

John Sanders: Don't none of us really have a vehicle right now. Like I said, that's why I usually kept her at the house cause she, you know, taking her out there and moving her back and forth from the bus and this this and that.

Detective S. Thielen: Is...was that odd for her to call at 8:00?

John Sanders: No, she calls me all the time so it wasn't odd for her to call.

Detective S. Thielen: Is it odd for her to leave the house at 8:00 or is that typical?

John Sanders: With her anything is typical. She's like really, she's like, Shamarrie is like spur of the moment type person. She just go wherever, whatever she feel like she ready to do something, she just do it. So I mean when we was living together, her and her sister used to jump up and go out at 11:00, 12:00 o'clock at night, so honestly it wasn't unusual for her.

Detective S. Thielen: You have another daughter and she lives in Wisconsin.

John Sanders: She lives in Wisconsin, yes.

Detective S. Thielen: And I got her name.

John Sanders: J [REDACTED]

Detective S. Thielen: J [REDACTED] S [REDACTED] Does she have a middle name?

John Sanders: It's L [REDACTED] or L [REDACTED], I think. I don't know how to say it.

Detective S. Thielen: Do you know her birthday?

John Sanders: It's in [REDACTED] It's [REDACTED] I believe. [REDACTED] or [REDACTED], somewhere in there.

Detective S. Thielen: Probably...is she gonna be 11?

John Sanders: Yup, she's gonna be turning 11.

Detective S. Thielen: [REDACTED] then. Who does she live with in Wisconsin?

John Sanders: Her mom.

Detective S. Thielen: What's her mom's name?

John Sanders: Theresa Green.

Detective S. Thielen: How do you spell Theresa?

John Sanders: T-H-E-R-E-S-A.

Detective S. Thielen: Green?

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 16 of 51

John Sanders: Yup.

Detective S. Thielen: Do you know their address?

John Sanders: No, but I got a number for them if you wanna talk to them or something.

Detective S. Thielen: Do you know the city?

John Sanders: Beloit, B-E-L-O-I-T, Wisconsin.

Detective S. Thielen: Are you still on good terms with them or not so much?

John Sanders: Yeah, I mean she got my daughter.

Detective S. Thielen: Well not all people get along, even when they have kids.

John Sanders: Well I get along with mine. I get along with mine. Trust me, I do my best to get along with mine.

Detective S. Thielen: This, this...

John Sanders: It's not the kid's fault.

Detective S. Thielen: Yup, this is a question that CPS needed answered. So I'll take...not that I think that I need it, but I'll take her phone number in case just so I'm not needing it down the road.

John Sanders: I got a cell number.

Detective S. Thielen: Okay. Do you ever get to see her?

John Sanders: Last time she came and spent spring break with me last spring break. But I ain't seen her since, since then. Like I said, I ain't got no money to send for her and her mom ain't got no money to send her down here, so and I go to school so I usually just been really getting off that.

Detective S. Thielen: What are you in school for?

John Sanders: Business administration.

Detective S. Thielen: What do you wanna do?

John Sanders: I wanna own my own business.

Detective S. Thielen: What type?

John Sanders: Well I wanna own all types. I wanna be a multi-entrepreneur, but I know the fastest, easiest business I can start is a lawn service. I was gonna go from there. It's [REDACTED]

Detective S. Thielen: Alright, thank you. I have a friend that owns a landscaping...

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 17 of 51

John Sanders: Yeah, like I said it's easy, it's the most easiest business to start.

Detective S. Thielen: And they are rich.

John Sanders: Right. You gotta crawl before you walk. I was telling my dad I can just get a good business plan up, which I got one, and you know buy, buy a lawn mower or two and a truck. That's all you really need to start it up with. And progress as you go.

Detective S. Thielen: Alright. Was Uncle Mack at the hospital?

John Sanders: To be honest with you, I don't know if he stayed or if he just dropped me off and left. I really don't know.

Detective S. Thielen: At Ingham?

John Sanders: Mmm hmm. I just know he took me there and I, I just darted out the car and just ran into the emergency room to screaming at everybody my baby is not breathing, and we all was reacting from there. I know he had to be...he probably left. He probably seen that, they seen we was getting taken care of and he left cause he had to get back to his job. You know, he left his job for me. Cause first he was like just call 911, I got the screaming...fucking my baby ain't breathing. It's not funny, but...he knew I was serious then. He knows it was like, when I even when I told Shamarrie about it, I guess when you say something like that it don't really register to people like right off. But it was, it was serious. So he, he like call 911. No, he was like why you ain't call 911? I was like cause you right up the fucking street, man. Just get...I need to take her to the hospital right now. She's not breathing. You can get her there faster, you know, fuck an ambulance. You know, that's what I was saying. I wasn't thinking. Maybe I should have dialed 911. I wasn't thinking 911 get there and do CPR shit right there. I'm not thinking about that. I'm thinking about now it, like all the shit I could have did different, but...at the time I just thinking get her there fast.

John Sanders: This is my daddy calling.

Detective S. Thielen: Yeah, hold up on answering it.

John Sanders: Yeah, I'm not answering. But yeah I just, I just, I don't know I just thought I did, I was just trying to get her to the hospital as fast as possible. And I knew that one was right down the street and I know he was right up the street, so he could have got there. He got there in less than ten minutes, had to be. We got to the hospital in less than ten minutes. Once he seen me come out there with my baby limp in my hand, you know, he hit the, he hit the highway gone. So we got there fast.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 18 of 51

Detective S. Thielen: At any point did you change her clothes or dress her or...?

John Sanders: I changed her diaper when she, when she first got up I changed her diaper. I ain't change her clothes or nothing. I put the same clothes back on her and laid her back down. And she kinda, she kinda whine a little bit. Usually when she whine...like I said, she be half up and half sleep. Know what I mean? So right when she moving around a little bit, something is wrong so I checked her diaper. She had boo-boo'd so I changed that and laid her back down then. That's when like the next time she woke up, she was just started crying so I went in there to get a bottle cause I knew it couldn't have been her diaper; I just changed her diaper. So that's when I went in there to go get a bottle.

Detective S. Thielen: What was the timeframe of you changing the diaper to getting the bottle?

John Sanders: I say about...probably about an hour.

Detective S. Thielen: Was Shamarrie still home?

John Sanders: I don't think she...no, she had left. Cause I was doing my school work this morning, so...cause when I...after I changed her diaper, I was like well let me go and get on this, I remember saying let me go and do this school work while she sleep, you know. So I jumped up and I had to get online about an hour when she started crying. Like I said I looked back at her like you want your ba-ba, you know what I'm saying, then she went to crying. So I set my computer down and I went in there to fix a bottle.

Detective S. Thielen: And what clothes did you put her into after changing her diaper?

John Sanders: The ones she had on, the same ones. I didn't change her clothes or nothing.

Detective S. Thielen: And it was pajamas?

John Sanders: I mean they wasn't, they wasn't wet or, or nothing like that, you know. But like I said, she just boo-boo'd so...

Detective S. Thielen: And it was pajamas?

John Sanders: Yup, pajamas. Right, just put her legs in there and just zip it up.

Detective S. Thielen: Does it cover her feet up?

John Sanders: Mmm hmm, everything was covered.

Detective S. Thielen: Is that what she went to bed in the night before?

John Sanders: Yes.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 19 of 51

Detective S. Thielen: Was she wearing anything underneath the pajamas?

John Sanders: One of those, you know those shirts that buckle up around the diaper.

Detective S. Thielen: A onesie?

John Sanders: What you call it?

Detective S. Thielen: Onesie.

John Sanders: Yeah, she had on one of them.

Detective S. Thielen: They're usually short sleeved.

John Sanders: Mmm hmm.

Detective S. Thielen: Is that what it was?

John Sanders: Mmm hmm. But I, matter fact I remember her mom taking her, taking her out of, her mom woke up saying it was hot. She said her baby might be hot. I remember taking her out her pajamas and just leaving her in her little top. I remember that.

Detective S. Thielen: And how did she get the pajamas back on?

John Sanders: She had to put them back on probably later that night or in the morning. Like I said, she, she gets up in the middle of the night, too so she probably woke up then talking about it was cold and probably put her back in them or something. But she had them on this morning when I changed her diaper.

Detective S. Thielen: Did she wake up when Shamarrie got up to leave?

John Sanders: No, she still sleep.

Detective S. Thielen: And was that when you got up?

John Sanders: I got up right when Shamarrie got up, I think I got up. Well I probably laid there a little bit, not really sure. I know I was up before she, I was up when she was getting ready to leave and when she left I was up.

Detective S. Thielen: How did you know that she had, as you say, boo-boo'd in her diaper? How did you know?

John Sanders: Cause she went to moving around and she was fitting to wake up. And like I said, usually when she does stuff like that, she want her bottle or her diaper need changed. So I just reached over there to sniff and I smelt it, so I changed her.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 20 of 51

Detective S. Thielen: And then what did she do?

John Sanders: She pretty much just went right back to sleep. You know, she just...you know, she looked at me, she smiled. I think I put her pajamas back on and just laid her back down. She went to sleep.

Detective S. Thielen: When you laid her back down, where did you lay her and what position?

John Sanders: In the same spot on her back. I usually lay her on her, I usually lay her on her stomach. But I laid her on her back. And cause that's how she was this morning.

Detective S. Thielen: Was her whole body on the pillow or just her head on the pillow?

John Sanders: Just her shoulder part. Like I like sat her up like with her head on it so she could sit up and watch TV like if she want to, you know. I had, you know, she like cartoons so...but she went on and went back to sleep. That's when I jumped on the computer and started, started doing my school work.

Detective S. Thielen: So then the next time she wakes up is when you go to get the bottle? And you come back into the room. Is she in the same position?

John Sanders: Yup, she's in the same position. Well she was crying. I mean she moved a little bit. She wasn't exactly in the same position, but she was still on the pillow. She had kicked the cover off her like from when she was crying, you know. Like I said when I got back in there, she just, she wasn't responding to me.

Detective S. Thielen: Alright, I'll be right back again.

John Sanders Phone Conversation:

Hello. Hello. Hey I'm about to call you back they got me down here answering questions and stuff. Yeah. Yeah. She still in critical condition. They did operation on her and they, she still, she still in critical condition. I mean, I don't know what, I don't know what she saying. I'm just telling them my side dad. I don't really don't care what she saying right now. She's back in here I'll just call you back when we get through ok. But I just wanted you to know what was going on. I'll call you back when we get through. No I think he still at the laundry mat. You know the number up there? Ok. That was my dad, sorry.

Detective S. Thielen: Oh you're fine. I figured it probably was.

Detective S. Thielen: I know this is kind of maybe not the same size, but I wanna see how you grabbed her up, how you tried to wake her up, and then how you did the CPR. I want, I want you to try to...when you, you can do it on the table.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 21 of 51

Wherever, wherever you think is most appropriate. I know it's not the best setup. But you can pick wherever and however and...

John Sanders: I grabbed her up, I grabbed her up like this. Actually her neck, her neck went back like actually like that. So I did her like that and I'm like J [REDACTED], J [REDACTED]. You know what I'm saying?

Detective S. Thielen: About that hard?

John Sanders: Yeah.

Detective S. Thielen: I mean, I want you to try to do everything as, as hard as you did it.

John Sanders: Yeah, it's how I remember.

Detective S. Thielen: Okay.

John Sanders: Like I said, I was in a panic, you know. Like this, but like I said her head went back like that so I grabbed her with my fingers like this, that's how limp she was. And I'm like J [REDACTED], you know J [REDACTED]. Know what I'm saying? She didn't move so I tipped her like this at the top of the bed.

Detective S. Thielen: Okay.

John Sanders: I took her, I slid her down and I put my face down there to see if she could breathe. She wasn't breathing. So I started doing this on her stomach.

Detective S. Thielen: Okay.

John Sanders: And I slid her over and I grabbed her nose and I blew in. I don't know if I was supposed to blow in or out, but I did.

Detective S. Thielen: Yup, you blow in. Just for babies you do just like a half a breath.

John Sanders: Right so when I blew in on her, she like reacted. She responded like, like she was trying to breathe.

Detective S. Thielen: Okay.

John Sanders: So I did it again, and she, you know, she tried to respond. A bunch of stuff come out her mouth, so I stuck my finger in her mouth and pulled, pulled it out.

Detective S. Thielen: Okay.

John Sanders: Like a bunch of spit and stuff, and then I start looking for my phone. And I couldn't find my phone. I saw it over there on the, on the TV so I grabbed it and that's when I called my uncle telling him about my baby couldn't breathe.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 22 of 51

Detective S. Thielen: Okay. And that's pretty much it?

John Sanders: It's pretty much it.

Detective S. Thielen: Okay.

Detective S. Thielen: Okay my sergeant just gave me a rights form. I don't think you've ever been in a whole lot of trouble or anything, have you? So you probably have never had these read to you. Have you?

John Sanders: Read them like what?

Detective S. Thielen: Oh you had that one weed thing.

John Sanders: Yeah.

Detective S. Thielen: Is there anything else? Let me write down...It's hard for me to write 2013. I'm just not used to it. Alright, if you have any questions about any of this, just stop me and I'll answer your questions. Okay? I'm gonna read, there's six things I'm gonna read to you. Just after each one, just say yes or no, or I don't understand or whatever and I'll just go back over it with you.

Okay? You have the right to remain silent. You do not have to talk to anyone. You do not have to answer any questions. Do you understand?

John Sanders: Yes.

Detective S. Thielen: Anything you say can and will be used as evidence against you in a court of law. Do you understand?

John Sanders: Yes.

Detective S. Thielen: You have the right to talk to an attorney before answering any questions. You have the right to have an attorney present while you are being questioned. Do you understand?

John Sanders: Yes.

Detective S. Thielen: If you want an attorney but cannot afford one, an attorney will be appointed to represent you at public expense before any questioning. Do you understand?

John Sanders: Yes.

Detective S. Thielen: If you give up your right to remain silent, you may at any time change your mind and stop talking and stop answering questions. Do you understand?

John Sanders: Yes.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 23 of 51

Detective S. Thielen: If you give up your right to an attorney, you may at any time change your mind and demand to talk to an attorney. Do you understand?

John Sanders: Yes.

Detective S. Thielen: Okay. Alright, and then again, do you understand each of your rights?

John Sanders: Yes.

Detective S. Thielen: And are you willing at this time to just keep talking to me and if at any time you change your mind, you can stop?

John Sanders: Yes.

Detective S. Thielen: Okay, sign right there and then the date and time, the date and time are right there.

John Sanders: Right here?

Detective S. Thielen: Yes, I'm sorry. And I'll just fill in this...

John Sanders: I'm not under arrest or nothing, am I?

Detective S. Thielen: You are not under arrest.

John Sanders: You scaring me there a little bit.

Detective S. Thielen: No, it's not quite like the TV shows, is it? It's much cooler on TV.

John Sanders: When I watch, I watch First 48 a lot. Usually when they read your rights...

Detective S. Thielen: Usually First 48, do they...the only episode I ever saw, I don't watch it, they didn't find anything. Do they usually?

John Sanders: Yeah, pretty much.

Detective S. Thielen: The episode I watched was in Detroit.

John Sanders: Detroit?

Detective S. Thielen: Mmm hmm.

John Sanders: Oh yeah, they don't hardly ever find nobody.

Detective S. Thielen: They didn't find nobody cause they don't, they don't have enough people to work.

John Sanders: Right.

Detective S. Thielen: They just...

John Sanders: They don't ever find...that's like in Chicago. They never find nobody. But yeah, they find all people a lot of times on the episodes.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 24 of 51

Detective S. Thielen: Yeah?

John Sanders: Yeah.

Detective S. Thielen: I always wondered.

Detective S. Thielen: Okay John, well the investigation shows that you did hurt J [REDACTED] and I wanna sit down with you and figure out what exactly happened. And I've been talking with you, you said that you know, you're a good dad, you would never hurt her and I do believe that. I don't believe any of this was intentional. But something happened and she got hurt. Now we need to sit down and figure out what it was that did happen. Did...you said, you know, just things led up and been frustrated before, everybody gets frustrated. We've all been there; I've been there, too.

John Sanders: Yeah, but I didn't...

Detective S. Thielen: I just, I just don't want to walk out of here thinking that you woke up this morning with it in your head that I'm gonna hurt her.

John Sanders: No.

Detective S. Thielen: I'm gonna do this. I'm gonna...

John Sanders: No.

Detective S. Thielen: This is it; I'm gonna get back at her and her mom.

John Sanders: Who, Shamarrie?

Detective S. Thielen: At Shamarrie for leaving me...

John Sanders: No, it's...

Detective S. Thielen: I'm gonna, you know...I don't want it to be anything like that. I don't think that it is, but that's what we need to figure out. I don't think it's something that you intentionally planned to do. I think it's something that just happened. And I need to figure out why it happened and what it was that got to that point. So you know, I don't think...she's never had any doctor's visits where she's had bruises and cuts and scrapes and bumps and stuff over and over, so I don't think it's anything that's gone on that's, you know, every day in and out. It's, it's one of those things that just happened today.

John Sanders: Like I said, like I said she...

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 25 of 51

Detective S. Thielen: It's just, it's just, she just started, you know, screaming and crying and I understand what that's like as a parent and you can lose it. In that split second, you can lose it.

John Sanders: No, no I, I didn't lose it.

Detective S. Thielen: And I just don't, I...you know, I don't want to, to think that, that this was something that was planned out. I just don't think that of you.

John Sanders: No.

Detective S. Thielen: Talking with you here today, I just think that...and I see that you care. I see that you love her and that you're a good dad and you know everybody describes you...

John Sanders: I didn't hurt my baby.

Detective S. Thielen: As a teddy bear.

John Sanders: I didn't hurt my baby.

Detective S. Thielen: And I just need to sit down and figure out how this happened, how you got to this point.

John Sanders: I don't, I do not...

Detective S. Thielen: And what it was that, that caused this because it's, it's clear that you did do this and now we just need to figure out why.

John Sanders: I did what?

Detective S. Thielen: Is this...you injured her. Now is this something that, you know, you go had in your mind and had it planned? Or was it just a one-time thing? Was it, was it just something...it's, it's not adding up and so...

John Sanders: What's not adding up? I don't understand.

Detective S. Thielen: And I wanna figure out how this happened. How, how this...you know, I, I think you're a good dad. I don't think that...there's people that I deal with that I have seen that come in here that are just cold hearted, cold blooded, and torture their kids and put cigarettes out on them and snap their legs in half, and I don't think that that's the kind of dad you are. I don't think that you torture your kids. I don't think that you, you know, everyday think of new ways to try to punish or you know, it's...you're not molesting your child. Nothing like that. It's just one of those spur of the moment, in the heat of the moment things that happen. And now we have to figure out...

John Sanders: Ain't nothing happen...

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 26 of 51

Detective S. Thielen: Why it happened.

John Sanders: Like I said, the only thing that happened was she woke up, she was crying, I went to go fix her a bottle, when I come back she stopped.

Detective S. Thielen: But, but we know that that, that probably, that did happen but there's more to it that's not being said. And that's what we have to figure out. We have to figure out what else happened in there. I, I can see frustration with a baby like that, with you guys...

John Sanders: I wasn't, I wasn't frustrated with her right then by her crying or nothing like that.

Detective S. Thielen: There's, there's a lot...

John Sanders: I don't have no frustration going on.

Detective S. Thielen: There's a lot of stress in the household. Money is always an issue. You're in a small apartment. There's not a lot of room. Now the mom doesn't really wanna be involved. She wants to go out and party and hang out, so she's not acting like a mom should act. And you're taking on more responsibility than you thought of. You're 37; she's 20. Who knew you were gonna be tied to this situation and have to do all this? There's a lot of stress going on and I can understand that.

John Sanders: Yeah, but that ain't have nothing to do with...

Detective S. Thielen: Well I'm just saying, I can understand, I can understand where that stress comes from. And we all get to that point and then things happen and that's, that's what I wanna figure out is...

John Sanders: I was telling you what happened. There ain't nothing happen. I'm telling you what happened. I mean I love my baby. I ain't did nothing to her. That's what happened.

Detective S. Thielen: Yeah well no, something did happen and I wanna figure out what that is that happened. You know, I don't know if what... was it intentional? Was it a one-time thing? Or do, do you, you know, do things to her all the time and this is just the first time that we found out about it? It... was it just... was it just a one-time spur of the moment thing? Cause that's what I...

John Sanders: That just happened today?

Detective S. Thielen: That's what I think it was, one-time spur of the moment. Or is it something that happens all the time and this is just the first time that we found out about it? I'd like to think it's just a one-time thing, John. I'd like

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 27 of 51

to think that cause talking with you today I don't get the impression that you're, you're this, a monster that's out to hurt...

John Sanders: I'm not.

Detective S. Thielen: Out to hurt kids left and right and every day and trying to figure out...

John Sanders: I'm not. I didn't hurt my kid today. That's what I'm trying to tell you.

Detective S. Thielen: So...but you did, and now we have to figure out why. Why? What happened? What was it that got you to this point? Screaming and crying and frustrations? I, I can understand that. I've been to that point, too.

John Sanders: No that don't, that don't bother...

Detective S. Thielen: I've been there, too. I've had to set my baby down...

John Sanders: This not the first, it's not the first time I done kept her when she been screaming and crying and...

Detective S. Thielen: No, and I understand that...

John Sanders: Doing whatever.

Detective S. Thielen: That's not the first time, but that's, that's what can get you to this point is the over and over and over of it. And I've been there, too. I've had to put the baby down and...

John Sanders: That's the thing, it wasn't no over and over and over. They just came and spent the night last night.

Detective S. Thielen: So now we just need to, to figure out what it was that happened because it, it definitely did happen. This couldn't have been an accident. It wasn't anything medical. I just got off the phone with the doctor and this was something that was not medical and it wasn't anything that, that happened from just lying there in bed. This is something that happened, and I don't know what it is. I wanna figure out what that was that happened.

John Sanders: That's...from the time I woke up, that's what happened. I'm telling you everything that happened. There's nothing else that did happen. I mean, I don't, I don't understand.

Detective S. Thielen: Well I, I...there was something else that happened. There was and I don't...we're gonna walk out of here with people thinking that this is something that you meant to do...

John Sanders: Well they already think, they already think, I'm the last ones with her, I already knew they was gonna think that.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 28 of 51

Detective S. Thielen: Well then, then it's time to come clean and get out the explanation...

John Sanders: Come clean? I'm coming clean. That's, that's, that's exactly what happened.

Detective S. Thielen: No, no, it's the, the explanation of what did happen. Now I can understand and other people can understand too if a baby is crying and there's frustration there and you're trying to just make the baby stop for the minute.

John Sanders: You're trying to make me, you're trying to make me...

Detective S. Thielen: No, I'm trying to get to where we need to get.

John Sanders: I know, you... I know what you trying to do, but my baby crying and, and, it's not making me frustrated to where I would wanna hurt her. That's not fitting to happen.

Detective S. Thielen: Well something, something did happen and I don't know. I don't know what it was and only, only you can tell me what that was that did happen. And like you said, they already think the worst of you right now so the, the worst is that this is something that you were planning out, something that, that you've done to her in the past and this is just the first time that it went too far. The worst is that, you know...

John Sanders: I would never hurt my baby or harm my baby.

Detective S. Thielen: You've done this to other...

John Sanders: Ever. This not, this not the first time she been alone with me. This not the first time I kept her. This the first time she stopped breathing on me.

Detective S. Thielen: Well that, this injury happened before she stopped breathing. Her stopping breathing was a result of the injury. So...

John Sanders: What was, what was the injury?

Detective S. Thielen: In her brain. The injury is in her brain and the stopping breathing was caused by that. So one had to happen before the other, and that's what I don't understand.

John Sanders: Like I said...

Detective S. Thielen: I mean if, if something happened and you just didn't wanna admit to it because you think that Shamarr is gonna think that you're a bad dad or something and didn't wanna tell her and then it went too far...

John Sanders: No, that's not, that's not... no, no, that's not it. I mean, if it was then I'd come clean with it. I ain't got nothing to hide. That's what I was just

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 29 of 51

telling my dad. When I'm done telling them my side of the story, I'm, I'm, I don't have anything. I'll just tell you what happened. As far as me like doing something to her to hurt her, I would never do that.

Detective S. Thielen: Well and I don't think that you would intentionally do that to hurt her. I don't think that...

John Sanders: So you're saying I did something unintentional? Like what? I didn't make her stop breathing.

Detective S. Thielen: Something, something unintentional. I don't think that you intentionally just...like I said, I don't think that you're the type of guy that woke up this morning thinking I'm gonna hurt my baby, I'm gonna, I'm gonna do this to my baby...

John Sanders: No, I didn't.

Detective S. Thielen: I don't think that of you.

John Sanders: I didn't.

Detective S. Thielen: I think that it's something that just happened spur of the moment, was a one-time...

John Sanders: Like I said, we were, we, when we woke up she was fine. I mean when, when her mom left, she was still asleep. She was fine.

Detective S. Thielen: There's something else in, in there in that time period in there. And that's what we need to figure out. That's what we need to figure out why, what, what caused it, what happened.

John Sanders: What caused her to stop breathing?

Detective S. Thielen: I know what caused her to stop breathing.

John Sanders: What?

Detective S. Thielen: Her brain, the injury to her brain. And that's what we're trying to figure out is the injury to the brain.

John Sanders: Well I don't know how she would have got hurt to her brain. I, I, I can't answer that.

Detective S. Thielen: Well John, I think that you can.

John Sanders: No, I can't. I mean you want me to say something that I don't...what you want me to say?

Detective S. Thielen: What happened.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 30 of 51

John Sanders: I'm telling you what happened.

Detective S. Thielen: There's...I don't think you're telling me the whole truth.

John Sanders: I'm, I'm telling you what happened.

Detective S. Thielen: I think you're leaving something out. Something in there happened and I wanna try to figure out what that was. I need to know what happened. I don't think it was intentional. I don't think that you're a bad dad. I think that you have the same stresses as other parents have, and then you have stresses on top of that, which makes it even harder. Shamarrie is young; she's not...

John Sanders: I'm not stressed. I'm not stressed out like that to wanna harm my baby. That's, that's not...oh my God, I don't know what you want me to say. I mean...

Detective S. Thielen: Well there's just, there's a lot, there's unanswered questions out there and we're trying to get them answered and trying to get it figured out. And there's gonna be, like I said you're gonna walk out of here and people are gonna think the worst of you and they're gonna think that he did do this and you're not gonna have your side of what happened that she...

John Sanders: I'm telling my side.

Detective S. Thielen: That she...but it doesn't make sense. There's a, there's a part missing.

John Sanders: Well something else gotta happen before she got there then. Something gotta, it gotta be something that was already that happened, something in the motion or something. Cause I'm telling you what happened today with us since last night, since I had her.

Detective S. Thielen: Yup, there's, there's a part that's missing and that's what we gotta figure out.

John Sanders: Well there's not no part missing on my end.

Detective S. Thielen: Well I'm not...

John Sanders: It's not.

Detective S. Thielen: I'm not convinced of that. I think that...

John Sanders: Well I don't know what I gotta do to convince you. I don't...

Detective S. Thielen: I think there's a part that you're, you're leaving out, that something happened. And I don't know, I don't know what, what happened. You're the only one that can tell me. And I've heard from everybody that she has

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 31 of 51

that scream that just is like nails on a chalk board, just gets to you, just gets down to your bones.

John Sanders: That's, that's not, I'm not gonna harm my baby cause she's screaming.

Detective S. Thielen: Well I don't know what else she does. Or she won't take a bottle or she's fussy and you're trying to get your homework done and you're trying to do good. You're trying to get better into school and get your degree...

John Sanders: No that don't, that's, that's not the first time that I done kept her when I had to put my school work aside. She comes first. It's not the first time.

Detective S. Thielen: Right, but those, those other times right now, that doesn't matter. This is the time that matters. Something, something happened this time. This time is what we need to focus on and figure out what happened this time.

John Sanders: Well didn't nothing happen that, there's nothing that happened that I did to harm my baby today, nothing. I think everything I did was trying to, to try to help her and save her. That's what I think. I don't think I did anything, anything... I didn't make her stop breathing. Like I said, I got up, went in the kitchen to go get the bottle...

Detective S. Thielen: That, that happened before. I mean the injury to her happened before the stop breathing. So the stop breathing part is not...

John Sanders: Oh, well...

Detective S. Thielen: The stopping breathing part is not part of this, so we're not even gonna consider that that was any part of it. It's what happened before that. Something happened before the stopping of breathing, and that's what we need to figure out. And...

John Sanders: Well you need to be talking to somebody else then or something.

Detective S. Thielen: Who do I need to be talking to?

John Sanders: I don't, I don't know. Like I said I don't, she, she wasn't staying with me anymore. She was staying with her mom and, and all of them over there in that house.

Detective S. Thielen: But this is an injury that didn't happen over that long of a time period. This is an injury that was quick. So...

John Sanders: I don't, I don't know what to tell you then. I mean I told you my, I told you what happened. I told you my story. It's not, I'm not leaving anything out. And he said, he said I was gonna get blamed for this.

Detective S. Thielen: Who did?

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 32 of 51

John Sanders: My dad, cause I was the last one with her. But I'm not stressed out. It's nothing, her, her screaming, her crying will never make me do anything to hurt her or harm her. That's, that's, that's irrelevant. That just don't happen. I won't hurt my kid over no, she's screaming, she's hollering or I'm stressed out about her mom or anything like that. Me and her mom is, I mean we separated but we not on bad terms like that. I'm not, I don't, I don't hate her or nothing. I'm not, I wouldn't try to get back at her for... especially like this. I mean come on. I don't hate her or nothing like that.

Detective S. Thielen: Do you see how that looks though?

John Sanders: How what look?

Detective S. Thielen: How that, that looks like that was something that was planned out. That looks like that was something that...

John Sanders: It look like it was something that was planned out?

Detective S. Thielen: Yeah, when you, when you do have those, those things that going on with her mom and then, you know she leaves and it looks like something that was planned out to get, to get back at Shamarrie or...

John Sanders: Oh my God. This can't be happening.

Detective S. Thielen: But do you see how that looks? And that's what I'm trying to figure out. I'm trying to figure out... I, I don't think that that's what happened, but I don't know. I don't think that you intentionally did that, but I don't know.

John Sanders: I didn't do anything. I ain't intentionally do nothing. I ain't intentionally try to get back to her about nothing. I ain't do nothing. I... I wish it was something I could tell you to, to make you see that. But I guess you said I'm leaving something out. I'm not leaving anything out. I mean it's, it's... she was fine up until that point. I mean I don't wanna get back at Shamarrie cause... oh my God. That's just... oh my God.

Detective S. Thielen: Is your uncle at home or at work right now?

John Sanders: I don't, I don't... probably at work.

Detective S. Thielen: I'm gonna go call him real quick.

John Sanders: Okay.

John Sanders Phone Conversation: Yeah, I think these people fitting to try to lock me up man. They trying to say I'm the one responsible. They trying to say I'm the one responsible. I think they trying to lock me up. No she, they supposedly

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 33 of 51

brought me down here first and questioned me and then take me back to the hospital. They wanted one of the parents at the hospital, that's what they said and then they can take her down there and question her. They talking about I'm leaving something out. Talking about that, something happened before that stopped her from cause...stopped her from causing her to breathing. She had a, she had a blood clot in her brain. Yeah the blood, she said, that whatever happened before that's what caused her stop her from breathing. She had a blood clot, she had blood on her brain. The baby had blood on her brain, but they trying to say that ...Huh? I think so. Like I said, before I left she had just got out of surgery. She was in critical, she was in critical condition. So I don't know. Well I ain't been, I ain't been back to the... Yeah yeah, they just got me in this room questioning me and stuff. She just came back in here talking about she knows there's something else happened, I'm the one responsible, tell her what happened. Shoot. Trying to get me to say something that I know that I ain't do. Yeah she cried, yeah. Yeah. No, she wasn't crying then, no, exactly when she left out. She wasn't crying exactly when she left out no, but not too long after that she, you know, woke up and started crying. That's why I went to go in there and fix a little bottle and stuff, you know what I'm saying. Well she saying that the doctor said that it wasn't nothing medical or something. That this had to be something that somebody did. What they trying to say is the baby been shook. Saying the baby been shook shook and the...blood went to her brain. So she trying get up here the baby crying all this, and the baby stressed out. No, the baby...like I'm trying to get back at Shamarrie. Daddy they trying to make me seem like I done, like I done hurt the baby to get back at Shamarrie. Yeah, hurt the baby to get at her, cuz I'm stressed out and all this mess, man. That's what I'm doing dad, that's what I'm doing. Yeah. Yeah, but dad I didn't hurt no dying, I didn't hurt no kid to get back at no Shamarrie. That sound stupid. What's the.... Ummhmm. ...don't worry about... I don't do that. Yeah. Yep. Yep. Man they fitting try to put this shit on me man. This shit's crazy. No, tell me, I'm listening. Yeah. Yeah. She sure trying to say I did this to try to get back, to get back at Shamarrie. Oh my god. That's when I really just...I almost had a heart attack in here. I was like, so you're saying I hurt my baby to get back at this girl. Is you serious? I wouldn't do nothing like that. Yeah I know, but they...I tried to explain that all to the... Well tell the lady that I been keeping my baby since she been born. She talking about don't none of that even matter now. So then...huh? Well, I been telling them. ...I ain't fitting to confess to nothing I didn't do. Well like I...Yeah. When I took her to the hospital? Oh yeah, she probably do dad there ain't no telling.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 34 of 51

Yeah Shamarrie do. Like I said, she ain't, she moved out... I put her out like the day after Christmas or whatever. I put her out. Like I said they just came over, they just came over there last night cuz I hadn't, I hadn't seen my daughter in a while and she wanted to bring her over there so I could see her. And then this happened. Like I said, ain't no telling what been going on over there. I don't know what been going on over there. Huh? My phone about to go dead... I left the charger at the hospital thinking I was going to be going back there.I could've used the charger. I don't know. The way they talking right now, they trying to make me say I did it so I don't know what they going to do. I don't know if they fitting to charge me, book me, what? But the way why she acted right now she talking about she don't believe me and she think I did something to hurt her and I need to tell her what it is and I'm telling her, I'm telling her everything that happened. Shoot. This lady that's interviewing me. I told her everything that happened of the ...today. I ain't did nothing... the only thing I.... I don't know what she want me to say daddy. But I ain't fitting to say that I did that. Did something to hurt her, I know I didn't. Shoot. She saying, she's saying something ain't adding up. It had to be something that happened before to make her stop breathing before. Well. I guess she went out there to call my uncle, she says she was fitting to go out there and call, go out there and call my uncle so I said I wanted to call you and let you know what was going on before my phone died if I don't call back then you'll know that they done put me in jail... They's at the laundry mat. That's what she said she was fitting to go out there and do, try to call my uncle. I guess cuz he's the one that took me to the hospital, I guess she wanted to talk to him. Okay then. Alright. Alright, okay. I love you. I love you too.

John Sanders Phone Conversation: Yeah, you called Bruce? I'm alright, how you doing? Hey well actually Bruce I'm at the, I'm at the police station right now. My daughter stopped breathing on me this morning and I had to take her to the hospital and she in critical condition and they just relieve pressure off of her brain. They got me down here answering, they got me down here answering a bunch of questions so I can, soon as I get done here I can call you and let you know where I'm going to be at if they going to let me leave here. They trying to say, they trying to make it seem like I'm at fault here or something. Okay. Yep.

Sgt. Baldwin: Use the bathroom?

John Sanders: Smoke a cigarette actually if you can..... do you have a lighter on you?

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 35 of 51

Sgt. Baldwin: I don't. I don't smoke.
 John Sanders: She stole my lighter man, my mom took my lighter.

Sgt. Baldwin: I've got nothing like that. No one here does.
 John Sanders: I'll take some more water then please.

Sgt. Baldwin: Be right back.
 John Sanders: Thank you sir.

Detective E. Reust: Mr. Sanders, Hi.
 John Sanders: Hi.

Detective E. Reust: I'm Detective Elizabeth Reust with the Lansing Police Department.
 John Sanders: How you doing?

Detective E. Reust: I'm good. Do you need anything? I know you've been here a little while.
 Do you need to use the restroom or anything?
 John Sanders: I need to use the restroom.

Detective E. Reust: Alright, let's go ahead and get that taken care of. You know what, I need
 to find a male officer to help you with that so hang on just a second and
 I'll get somebody for you.
 John Sanders: Alright.

Detective E. Reust: He'll take you to the restroom. You just, you can't get around anywhere in
 this building without a swipe card, so I can't get into the men's restroom
 so he'll help you out.

Detective E. Reust: Mr. Sanders, our investigation clearly shows that you are responsible for
 the injury that has caused your daughter to be hospitalized. I understand
 that Detective Thielen has already been here and spoken with you about
 that. But what I wanna explain to you is that the investigation now is
 complete. We have all the evidence that shows that you are responsible for
 this injury. What the medical evidence shows is, is what happened to your
 daughter. We understand now that her brain was injured. And the phone
 records and the bus pass, or the bus records and the WIC files, all of those
 things show us that the baby's mother was out of the apartment when this
 injury happened.
 John Sanders: Yeah, she wasn't here. She wasn't there.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 36 of 51

Detective E. Reust: She was not there when this happened; that's what the evidence shows. So what I don't know, the piece that I don't have the answer to is what is the context in which this injury happened. Do you understand what I mean when I say that, what is the context?

John Sanders: No, I don't.

Detective E. Reust: Okay, if I...if you don't understand anything I say, please stop me and interrupt me. That's no problem. We know the who – we know that you did it. We know what.

John Sanders: Did what?

Detective E. Reust: We know that you injured the baby. The evidence is very clear.

John Sanders: How did, how did I injure the baby?

Detective E. Reust: That is the piece that we wanna talk about. That's what the context is, is the why. I know how – I know that the baby was shaken and that the baby's brain bounced off her skull both in the front and the back, and that that caused the baby to have bleeding in her brain, and that's what caused the baby to stop breathing. That's what the medical doctors have told us. Now the piece that I don't know is why did it happen. What were the circumstances that led you to shake the baby?

John Sanders: I didn't shake the baby.

Detective E. Reust: No, you have to stop right there. The evidence is very clear that you did.

John Sanders: I didn't.

Detective E. Reust: You were the only person with the baby when the baby was shaken, and the evidence is very clear that the baby was shaken. So you don't have to be a rocket scientist to figure that out, John. Okay?

John Sanders: I didn't shake the baby.

Detective E. Reust: Now what I...you absolutely did. If you didn't shake the baby, what did you do that caused the baby's brain to bounce back and forth in her skull? That's the question because that's what caused the baby to stop breathing, John. And that happened while the baby was in your care unless someone else came to visit you this morning around 8:00 this morning, 8:15, 8:30. Did you have company this morning or were you alone in the apartment with the baby?

John Sanders: I was alone with her.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 37 of 51

Detective E. Reust: Alright, then you're the person that caused the injury. So what I need to know is the circumstances...

John Sanders: I didn't cause no injury.

Detective E. Reust: Under which the injury was caused, John. Cause basically there are two kinds of people that do these things to babies; one are normal, loving, caring fathers who lose it or they do something stupid because of some circumstances that are going on; and on the other end of the spectrum there are people that are just monsters who should never ever be left alone with children. Now part of my job is to figure out which one of those camps that you are in. I have to decide. I have to tell the prosecutor is this guy a monster who should never be allowed to be around children, or is this a good loving dad who lost it and did something stupid. That's the question that needs to be answered.

John Sanders: That's the thing, I didn't lose it. I didn't lose it.

Detective E. Reust: Alright, then that is the... I want to know is are you the kind of person that should never be around children or are you a good loving father who had something crazy happen?

John Sanders: Yes, something crazy happened; she stopped breathing on me.

Detective E. Reust: Yes, tell me about what happened prior to her stopping breathing.

John Sanders: She was crying.

Detective E. Reust: Tell me what happened after she was crying.

John Sanders: She was crying. I went, I went to go fix her a bottle. That's what she usually want is to go fix her a bottle.

Detective E. Reust: Tell me, tell me about going to fix the bottle. What, what did... tell me about doing that.

John Sanders: I got her bottle, went in the kitchen and start running the water.

Detective E. Reust: Where did you get her bottle?

John Sanders: Out of the bed.

Detective E. Reust: What did the bottle look like?

John Sanders: It's a clear bottle, it's green, a bottle about this big.

Detective E. Reust: Is it a straight bottle or is it a curved bottle?

John Sanders: It's kinda curved.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 38 of 51

Detective E. Reust: Okay, and that bottle was in the bed?
John Sanders: Yes.

Detective E. Reust: What was in that bottle?
John Sanders: Nothing, but I was gonna fill it up with formula and milk. That's what she drinks.

Detective E. Reust: Did you do that?
John Sanders: Yes I did.

Detective E. Reust: What time was that?
John Sanders: I don't, I don't know the time. I wasn't looking at no times. It was... I don't know. When she, when she woke up she started crying. I figured it was around about 8:00 or so, so I went in there about 8:01, 8:02.

Detective E. Reust: Was that before or after Shamarrie left?
John Sanders: It was after she left.

Detective E. Reust: Okay, so after Shamarrie left the baby started crying?
John Sanders: She woke up started crying, yes.

Detective E. Reust: Okay, tell me about her crying.
John Sanders: That's what she normally do when she wake up. She cries. I mean usually when she wake up she want her bottle right then. So that's what I figured, you know, what was wrong with her. So she was crying, I get up, I go over there to fix her a bottle. I'm running the water cause it's, it's cold. It took a while for it to get hot so I'm letting it run until it get, you gotta get it warm four, four, four ounces or whatever and I'm in there running the water and she stopped crying.

Detective E. Reust: Did you make the bottle?
John Sanders: Yeah, I made the bottle.

Detective E. Reust: Where is the bottle now?
John Sanders: It's probably in the room somewhere.

Detective E. Reust: In what room?
John Sanders: In the bedroom where, where she was at.

Detective E. Reust: Okay, so you made the bottle and you took it to her in the bedroom. Is that correct?

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 39 of 51

John Sanders: I took it, I went back in the bedroom. That's correct.

Detective E. Reust: Okay, and tell me what you saw when you went in the bedroom.

John Sanders: I went in the bedroom, she wasn't crying anymore so I, I sat down on the bed and leaned down, I was like J [REDACTED] you want your bottle? You still want your baba? She didn't respond to me.

Detective E. Reust: She was where when you went in?

John Sanders: Still laying in the... she was in the bed.

Detective E. Reust: Where on the bed?

John Sanders: At the top part, like you know where, where we keep her at, where she sleeps at.

Detective E. Reust: Was she in the middle of the bed or on one of the sides?

John Sanders: She was like in the middle almost, still in the middle.

Detective E. Reust: What happened next?

John Sanders: I called her name again; she didn't respond. So I, I got up...

Detective E. Reust: Okay, I wanna back up to this before the part where she doesn't respond. Did she ever drink the bottle?

John Sanders: No.

Detective E. Reust: Okay.

John Sanders: She never drank the bottle.

Detective E. Reust: Alright. But the bottle was empty when you got it, when, when you went to get it to fill it up.

John Sanders: When I went to go fill it, yeah, from last night when she had a bottle.

Detective E. Reust: Did she have a bottle this morning before Shamarrie left?

John Sanders: No.

Detective E. Reust: How do you know that?

John Sanders: Well actually I... well since I was, since I got up I didn't see her have no bottle. I don't know if she had a bottle before Shamarrie left.

Detective E. Reust: When did you get up?

John Sanders: I don't... right before Shamarrie left.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 40 of 51

Detective E. Reust: So if Shamarrie had gotten up an hour before that and made her a bottle, would you have known that?

John Sanders: No, I wouldn't.

Detective E. Reust: Okay. So Shamarrie did that at 7:00 this morning. She gave the baby a bottle.

John Sanders: I didn't know that.

Detective E. Reust: Okay. So the baby is not hungry at 8:00 when the baby wakes up cause the baby just had a bottle at 7:00. Does that make sense to you?

John Sanders: I mean yeah.

Detective E. Reust: Okay, now everybody has described to me that this baby cries like no baby, no other baby cries. Tell me about that.

John Sanders: Well she just, she just started doing that like when she got her shots, like her three month shots.

Detective E. Reust: Tell me about that.

John Sanders: Well she...okay, you got your regular cry then she'll go like into like a scream. You know, like she's, like she's...I don't know, it's just like a scream. She goes into a scream. It's not like...

Detective E. Reust: And it's awful from what I understand from Durinda and Shamarrie and everybody else at the hospital.

John Sanders: I mean yeah, it's...

Detective E. Reust: It's a scream, scream.

John Sanders: It's awful, but it's not awful enough for me to do nothing to my baby. I mean I see where you're going with this, and that's, that's...

Detective E. Reust: Do you think Shamarrie did something to the baby?

John Sanders: I, I don't think so.

Detective E. Reust: Why not?

John Sanders: I would hope not. Cause that's her mom. I mean, she, when we was living together she was always being good with her.

Detective E. Reust: How, how does she handle it when the baby is frustrating her?

John Sanders: Well when she was living with me, she gave her to me.

Detective E. Reust: And what would you do with her?

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 41 of 51

John Sanders: I'd try to calm her down.

Detective E. Reust: How?

John Sanders: You know, rock her, shake her, walk around with her, try to calm her, hey baby, you know I call her super baby, you know she my super baby and I try to calm her down. And finally she do and I put her in her little rocker thing and rock her, cause that's pretty much what she be wanting. Just...

Detective E. Reust: How many children do you have?

John Sanders: Two.

Detective E. Reust: Where are the others?

John Sanders: The other one is in Wisconsin.

Detective E. Reust: How old is your other child?

John Sanders: She's 10, fitting to be 11.

Detective E. Reust: Do you have any contact with her?

John Sanders: Yes.

Detective E. Reust: What is her name?

John Sanders: J [REDACTED]

Detective E. Reust: J [REDACTED]?

John Sanders: J [REDACTED].

Detective E. Reust: What's her last name?

John Sanders: S [REDACTED]

Detective E. Reust: And who is her mother?

John Sanders: Theresa Green.

Detective E. Reust: Do you know how to get ahold of Theresa?

John Sanders: Yeah, she got a number. I don't, my phone done went dead. I can't get it out of my phone now, but I, I gave it to the other lady that was talking to me just...

Detective E. Reust: Okay, were you around that child when she was a baby?

John Sanders: Yes.

Detective E. Reust: Okay, did...

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 42 of 51

John Sanders: I raised her until she was like 9.

Detective E. Reust: And then what happened?

John Sanders: Well me and her, you know, split up. Me and her mom split up. So I moved, I moved here.

Detective E. Reust: So you left her in Wisconsin? You left your kid in Wisconsin and moved to Michigan. Is that right?

John Sanders: Pretty much, yeah.

Detective E. Reust: Why did you do that?

John Sanders: I don't...it wasn't nothing for me there in Wisconsin. Me and her mom broke up. I mean I came here. It was either come here or Mississippi. My uncle told me to come here and see if I can, you know, find something better and get on my feet.

Detective E. Reust: And how long have you been here in Michigan?

John Sanders: I'd say around about four years now.

Detective E. Reust: Okay. People that know you describe you as a really kind man. Does that surprise you?

John Sanders: No.

Detective E. Reust: They say you're a gentle giant, is how you were described to me today by people that I interviewed. And they said that you're good with the baby.

John Sanders: Yeah.

Detective E. Reust: And that you normally don't lose it with the baby.

John Sanders: I don't.

Detective E. Reust: Okay, I'm glad to hear that and I'm glad to hear that people were telling me the truth about you, John. But what I need to know is what happened today that was different. What happened today that caused something different to happen? Cause that baby didn't spontaneously get these brain bleeds, John.

John Sanders: I, I understand that and like I was telling her, I'm telling you what happened when I got up from the time she...

Detective E. Reust: Okay but you're lying, John and...

John Sanders: No I'm not.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 43 of 51

Detective E. Reust: The evidence clearly shows that. I don't know if you get how serious this is.

John Sanders: I know it's serious.

Detective E. Reust: Do you understand that that baby is going to die?

John Sanders: I know...don't...don't...

Detective E. Reust: Do you know that? Was that clear to you?

John Sanders: Don't say that.

Detective E. Reust: I'm, I'm telling you the honest truth.

John Sanders: They say she's doing...

Detective E. Reust: She is dying. They are waiting at the hospital for her to die. She is going to die as a result of these injuries. So the question about what happened isn't just an academic one. It's a really big deal cause either you are an absolute monster who should never have been left alone with this baby...

John Sanders: I'm not a monster.

Detective E. Reust: Or you're a good and loving father who had something bad happen. And then the question is, are you the kind of guy that steps up to the plate and takes responsibility for your own actions?

John Sanders: Yes I am.

Detective E. Reust: Are you the person who is man enough to say this is what happened? Cause you know what, Shamarrie is gonna bury that baby. She's gonna stand by that baby's grave and bury her and she deserves to know what happened.

John Sanders: It's my baby, too.

Detective E. Reust: And you have lied to her.

John Sanders: No I haven't.

Detective E. Reust: You've lied to us. Oh yes you did. When she called you on the phone. Right away when she found out the baby was shaken and she called you on the phone from the hospital and said did you shake my baby? What the hell? The doctors are telling me you shook my baby. You said I didn't shake your baby. I didn't do anything to cause an injury. That was a lie. And you lied to Detective Thielen and now you've lied to me. So apparently you aren't the kind of guy that steps up to the plate and takes responsibility for your actions.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 44 of 51

John Sanders: I told, I told Shamarrie...

Detective E. Reust: There is only one thing that you need to tell and that is the truth about what happened to this baby. That's the only thing that makes a difference here at this point. Shamarrie's baby is dying. Your baby is dying. And Shamarrie deserves to know what happened. She deserves to know what led up to that. Don't you think that a mother deserves that, John?

John Sanders: I deserve to know, too.

Detective E. Reust: And you were there. You are the only grownup there.

John Sanders: I know I was there. I know I was there.

Detective E. Reust: All the evidence shows us what happened. What we can't tell from the evidence is why did it happen, John. That's the piece that you know and that is the only question that Shamarrie is answering. She is staying at that hospital defending you over and over again. She is... all she can say is something must have happened. I need to know why. That's all I want to know is why did this happen.

John Sanders: I don't know what happened.

Detective E. Reust: Yes you do cause otherwise you are a monster who blacked out and doesn't have a memory of what happened when...

John Sanders: No, I'm not no monster.

Detective E. Reust: Oh this baby stopped breathing. Well if you're not a monster, then step up to the plate and take responsibility for your actions cause that's what a real man does in this situation. That's what a man who loves his baby does for the sake of the baby and her mother. You take responsibility for your actions for the things that you did. You don't have to take responsibility for the things that she did. Well I know that she sometimes loses her patience with the baby. She and I talked about that at great length. I know that this is a difficult baby. Everybody at the hospital told us that. That baby screams like no other baby could scream, and that could get on anyone's last nerve. And I know this girl was playing with you. She was playing games with your feelings, not living with you then coming back, using you for a babysitter. She was playing games with you and you and I both know that. She wasn't doing what a mother should have been doing. She wasn't doing right by this baby. She wanted to be out partying cause she's like 23 or something. She didn't wanna be home with the baby. And you're older and mature, more mature. You were kinda standing by letting her do her thing, trying to hope that she would find her way. I get that. But the bottom line is if you're not a monster, then you gotta step up to the

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 45 of 51

plate and take responsibility for your actions and explain to that woman what happened to her baby. Why did this happen? What was the trigger that made this happen? Would the baby not shut up? Was she just crying and screaming and screaming and everything you did didn't make her happy? She just wanted her mom? Which is just so unfair cause why does she want her mom when her mom is the one that keeps dumping her and walking away from her.

John Sanders: No, that's...

Detective E. Reust: Then you tell me cause I can guess all day long. I can come up with a million theories, John. But you're the one that knows.

John Sanders: I know, y'all been coming up with theories all day.

Detective E. Reust: You're the one that knows. You're the one that should step up to the plate and take responsibility. You can't even look at me. There's something very interesting over here in this room, John, but it's not me. You can't even look at me.

John Sanders: I can't look at you cause you don't know what you want me, what you want me to say.

Detective E. Reust: Oh I do know what I want you to say. I want you to say the truth, John. I want you to say the very thing that you're not man enough to say – the truth about what happened. You know cause you're the only adult there. You had a 12 pound baby girl in your care and you managed to damage her brain so bad that she's going to die, and you're not even man enough...oh don't stop looking at me, John. Don't stop looking at me. You know that what I'm saying is the truth. You're not even...

John Sanders: Yes, she was in my care. That's my daughter you're talking about.

Detective E. Reust: Man enough to explain to her mother what happened to her baby. If you're not a monster, then you need to step up to the plate and take responsibility for your actions, John.

John Sanders: I'm not fitting to take responsibility for something I didn't do.

Detective E. Reust: I'm not asking you to take responsibility for something you didn't do.

John Sanders: I didn't, I didn't, I didn't, I didn't hurt, I didn't hurt my daughter.

Detective E. Reust: Yes you did.

John Sanders: I did everything I could to get her there, to the hospital.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 46 of 51

Detective E. Reust: You absolutely hurt her. Nonsense. You had a phone, you could have called 911. You didn't think of doing that cause it's very scary when you've just shaken your baby and his head, her head stops...

John Sanders: My uncle, my uncle was, my uncle was right there. It scary when your baby stops breathing on you.

Detective E. Reust: Yeah it is, especially when you just shook her. That would be scary for anybody. Wouldn't it, John?

John Sanders: I didn't shake my baby.

Detective E. Reust: Well yes you did. If you didn't, then tell me who did John? Who else was there? The evidence is very clear...

John Sanders: Me, me and her mom was there before she left.

Detective E. Reust: That her brain bounced off the, her skull. Did you hear that baby screaming and crying this morning when her mother was there?

John Sanders: Apparently not, you didn't even know she got up and fed her.

Detective E. Reust: Yeah, I was like knocked out last night.

Detective E. Reust: How come you were knocked out, John?

John Sanders: I was just tired.

Detective E. Reust: Did you have some weed or were you drinking? What was the case?

John Sanders: No. I been up, I been practicing for this Madden tournament. I had been up a couple days.

Detective E. Reust: Studying for a midterm and what?

John Sanders: I said a Madden tournament.

Detective E. Reust: Oh, a man tournament? What kind of man...

John Sanders: A Madden, a Madden tournament. It's like a, it's a video game. It's not really important.

Detective E. Reust: You're gaming.

John Sanders: Yeah.

Detective E. Reust: You stayed up gaming for a couple of days, so you're exhausted. Is that fair to say?

John Sanders: I wasn't exhausted. I was just tired. I wasn't exhausted enough to hurt my baby.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 47 of 51

Detective E. Reust: You black out?
 John Sanders: No I don't.

Detective E. Reust: So you know what happened to her. This, this injury...
 John Sanders: Yeah, she stopped breathing.

Detective E. Reust: That your baby has that caused her to stop breathing isn't a little injury, John. It's not a little thing. It's a massive injury. When they took her skull off in the, in the operating room her brain swelled up bigger than her head. It is a massive injury. It didn't happen by, you know, someone going like this to that baby's head. You were the only adult there. So you have to know what happened to her. You absolutely have to cause if you don't, you are a monster who should never, ever be allowed around children.
 John Sanders: I'm not, I'm not a monster.

Detective E. Reust: I'm glad to hear that.
 John Sanders: You're not, you're not fitting to say, slip and say I'm a monster.

Detective E. Reust: I'm glad to hear that you're not a monster.
 John Sanders: And to say I shook my baby and I didn't.

Detective E. Reust: Tell me what you did do. Tell me what happened...
 John Sanders: I told you everything...

Detective E. Reust: To that child's brain.
 John Sanders: I did this morning when I got up.

Detective E. Reust: No, you told me some of the things you did but you didn't tell me what happened to that child's brain.
 John Sanders: I don't know what happened. I mean what you, what you, what you want me to say?

Detective E. Reust: I want you to say the truth. I want you to tell why this happened.
 John Sanders: Like I said...

Detective E. Reust: Why did that baby...
 John Sanders: She woke up...

Detective E. Reust: What did that baby do that was so bad that resulted in you losing it?
 John Sanders: She was...that baby couldn't do nothing for me to lose it, nothing.

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 48 of 51

Detective E. Reust: Okay.
John Sanders: There's nothing she could do to me to make me lose it.

Detective E. Reust: You know, John there are always more than one side to a story, always.
John Sanders: I understand that.

Detective E. Reust: And we have looked at this story from every side and we have given you every opportunity to tell your side.
John Sanders: I told my side.

Detective E. Reust: And to offer some reasonable explanation for what happened. If this was an accident, you could say that. If you lost it and it was a temper thing, you could say that. If there was just a moment where you did something stupid, you could say that.
John Sanders: If I did...

Detective E. Reust: And that's what a man does.
John Sanders: If I did, if I did...

Detective E. Reust: But you know what, it's fine.
John Sanders: If I did, that's what I would have, that's what I would have did.

Detective E. Reust: You're not, you know, if, if, if...
John Sanders: That's what I would have done.

Detective E. Reust: If, if, if John. If you were a real man, you'd step up to the plate and take responsibility for your actions. That's what real men do, John.
John Sanders: I'm not fitting to admit to something I didn't do.

Detective E. Reust: That's fine. I'm gonna take you to jail tonight. You're gonna go to jail for causing this injury, so you are officially under arrest now. You are no longer free to leave, and somebody will be in here with you shortly and we'll just put it in the report that you're not man enough to tell what happened to the baby. That's how my report is gonna read. Anything else you'd like to add?

Detective E. Reust: Can I get your phone, please? I'll get a search warrant for it so we can analyze all the data in it.

Detective E. Reust: Mr. Sanders, do you have the keys for your apartment? Okay, why don't you give them to me cause we got a search warrant for it so that way we

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 49 of 51

won't have to kick the door. This is Officer Stitt. He's gonna take you downtown and book you in the jail. You can stay there. He's gonna come in and search you, so you might as well back up there.

Sergeant C. Baldwin: Which key is it John?

John Sanders: This one is for the bottom lock.

Detective E. Reust: Alright, I'll call the jail with the complaint number and he'll be lodged for homicide.

Sergeant C. Baldwin: John, just go ahead and put your hands right behind your back for me like this.

John Sanders: Homicide?

Sergeant C. Baldwin: I'll roll up your sleeves a little bit so we can get them on. Okay?

Officer Stitt: Throw me a set of cuffs so we can double cuff. Got a broader shoulder here.

Sergeant C. Baldwin: Okay?

John Sanders: Yeah.

Officer Stitt: We're gonna double lock these so they don't tighten up on you. Alright, sir?

John Sanders: Alright.

Officer Stitt: Does he have ID with him, Serg?

Sergeant C. Baldwin: I'm sorry, what?

Officer Stitt: Do you have ID?

Sergeant C. Baldwin: Yes.

John Sanders: Yes, I have it.

Sergeant C. Baldwin: He has ID in his pockets.

Officer Stitt: Okay, alright. Stand easy right here. I'm gonna just check you real quick. Not carrying anything on you that's dangerous at all?

John Sanders: No.

Officer Stitt: Nothing that's sharp that's gonna stick, poke, or cut me?

John Sanders: No.

John Harold Sanders, Jr.

LLA130104000118

01/04/2013

Interviewed by

Detective Shannon Thielen & Detective Elizabeth Reust

Lansing Police Department

Page 50 of 51

Officer Stitt: Alright sir, turn back around for me. Pull those up and give you a chance to grab the belt loops right there. Put your finger right through your belt loop. Alright, step right out here.

<End of interview>

John Harold Sanders, Jr.
LLA130104000118
01/04/2013
Interviewed by
Detective Shannon Thielen & Detective Elizabeth Reust
Lansing Police Department
Page 51 of 51

STATEMENT OF JOHN SANDERS

Unnecessary sounds, such as "um" and "ah", have been omitted from the following statement for the purpose of making this statement easier to read.

Det. Lewandowsky: Hey there.

J. Sanders: Hey, how you doing?

Det. Lewandowsky: How are you?

J. Sanders: I'm alright. You?

Det. Lewandowsky: Good. Hold on one second; yeah, I'll be out in just a second. John, my name is Mark. I work here. Okay?

J. Sanders: Okay. How you doing?

Det. Lewandowsky: I know you got your cuffs on. You gonna be alright? You gonna be straight with me?

J. Sanders: Yeah.

Det. Lewandowsky: No, no funny business? Cause I'd like to take those off if, if we're...take the cuffs off if we're good.

J. Sanders: Yeah, yeah we good.

Det. Lewandowsky: Is that alright?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. Hey Joe, can you take these off for me real quick? Why don't you stand up and come right to the door here. I'm gonna kinda bump this room around a little bit, too.

J. Sanders: Oh okay.

Det. Lewandowsky: Have a seat over there, will you, John.

J. Sanders: Right here?

Det. Lewandowsky: Yeah, please. John right?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. So again, how about we do this properly. I'm Mark.

J. Sanders: Hi Mark.

Det. Lewandowsky: Good to meet you.

J. Sanders: I'm John. Nice to meet you.

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 1 of 50

Det. Lewandowsky: John, let me do this...I wanna start with just some basic information if I could.

J. Sanders: Okay.

Det. Lewandowsky: Fair enough?

J. Sanders: Yup.

Det. Lewandowsky: Is, is John with an H or without an H?

J. Sanders: With an H.

Det. Lewandowsky: With an H, okay. Is it Johnathan or just John?

J. Sanders: Just John.

Det. Lewandowsky: What's your middle name, John?

J. Sanders: Harold.

Det. Lewandowsky: Harold, H-...

J. Sanders: H-A-R-O-L-D.

Det. Lewandowsky: And Sanders, right?

J. Sanders: Sanders.

Det. Lewandowsky: Sanders, S-A-N...

J. Sanders: D-E-R-S.

Det. Lewandowsky: Alright, what's your date of birth, John?

J. Sanders: [REDACTED] I'm a junior, also.

Det. Lewandowsky: Okay, you're a junior. Where you living?

J. Sanders: [REDACTED] as of, as of right now.

Det. Lewandowsky: What do you mean as of right now?

J. Sanders: I mean I'm in jail right now.

Det. Lewandowsky: Well I got that. I understand that. But we're gonna touch on that in just a second here. Okay?

J. Sanders: Yeah.

Det. Lewandowsky: It's [REDACTED] where you get your phone, or I'm sorry, where you get your mail and everything?

J. Sanders: Yes.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 2 of 50

Det. Lewandowsky: Okay. Do you have a phone?
J. Sanders: I did. I gave it to the detectives.

Det. Lewandowsky: Okay, that's fine. Is it a cell phone?
J. Sanders: Yes.

Det. Lewandowsky: Obviously. What's the number to that?
J. Sanders: [REDACTED]

Det. Lewandowsky: [REDACTED] Are you working anywhere, John?
J. Sanders: I work with the Lugnuts and...the Lansing Lugnuts.

Det. Lewandowsky: You a baseball fan or you just work there?
J. Sanders: I just work there.

Det. Lewandowsky: You're a baseball fan now, aren't you?
J. Sanders: Yeah, I like them. Yeah.

Det. Lewandowsky: Do you?
J. Sanders: Yeah.

Det. Lewandowsky: They're kinda fun to go to.
J. Sanders: Yeah they are.

Det. Lewandowsky: So you're just kinda like a seasonal employee?
J. Sanders: Mmm hmm.

Det. Lewandowsky: How long you been doing that for?
J. Sanders: This will be my second season.

Det. Lewandowsky: Good for you. What do you do?
J. Sanders: I do concessions.

Det. Lewandowsky: Okay. You going to school or anything like that?
J. Sanders: I go to Ashford University.

Det. Lewandowsky: To what university?
J. Sanders: Ashford.

Det. Lewandowsky: Ashford?
J. Sanders: Mmm hmm.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 3 of 50

Det. Lewandowsky: What's that? Where's that?
J. Sanders: It's an online, it's an online university.

Det. Lewandowsky: Okay. What are you studying?
J. Sanders: Business Administration.

Det. Lewandowsky: Okay, how old are you?
J. Sanders: Hoping to get my own business. I'm 37.

Det. Lewandowsky: 37. I never would have guessed you were 37. I would have guessed 27.
J. Sanders: Yes, 37.

Det. Lewandowsky: Alright so John, you just mentioned something to me and actually I'm glad you mentioned it cause it just reminded me, I understand you've been in custody for a few days.
J. Sanders: Since Friday.

Det. Lewandowsky: Since Friday during the day or at night or...?
J. Sanders: Pretty much all day and night.

Det. Lewandowsky: Okay. You remember what time you were taken into custody?
J. Sanders: I don't know. Round about 5:30, 6:00, somewhere in there.

Det. Lewandowsky: Somewhere, you're not sure though.
J. Sanders: Not sure.

Det. Lewandowsky: Okay, I gotta do this, alright because, because you've been in jail and obviously you were brought over here by a patrolman in a patrol car with handcuffs on. I gotta make sure you understand your rights. Okay? Have you ever been read your rights before?
J. Sanders: Yeah, they read them to me when I was down here.

Det. Lewandowsky: Is that the first time that you ever had anybody read them to you?
J. Sanders: No.

Det. Lewandowsky: So if you'll bear with me, I'm gonna do this because you've been in custody.
J. Sanders: Okay.

Det. Lewandowsky: Okay, so here's what I ask, and I ask this every time I read them, John, is that if you don't understand something, stop me and ask me and we'll talk

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 4 of 50

about it. We'll make sure you understand it, and then we'll go on from there. Is that fair?

J. Sanders: Yeah.

Det. Lewandowsky: Okay. Did you understand them when they read them to you the other day?

J. Sanders: Yes.

Det. Lewandowsky: Okay, so there shouldn't be any issues today. 09/05/75, right?

J. Sanders: Right.

Det. Lewandowsky: Okay. What is the date today? The 7th. I can't believe we're a week into the new year already.

J. Sanders: Man, this ain't been a good new year for me at all.

Det. Lewandowsky: Dude before you know it, it'll be Christmas again. Well let's... we'll talk about that in a minute here. Okay? But let me get through this. My watch says it's about 10:10. So John, you have the right to remain silent. Okay? You do not have to talk to anyone and you do not have to answer any questions. You understand that?

J. Sanders: Yes.

Det. Lewandowsky: Yeah? Anything you say can and will be used against you in a Court of Law. You understand?

J. Sanders: Yes.

Det. Lewandowsky: You have the right to speak to an attorney and to have an attorney present during any questioning.

J. Sanders: Yes.

Det. Lewandowsky: If you want an attorney but cannot afford one, an attorney will be appointed to represent you at public expense before any questioning. Do you understand?

J. Sanders: Yes.

Det. Lewandowsky: If you give up your right to remain silent, you may at any time change your mind and stop talking and stop answering questions.

J. Sanders: Yes.

Det. Lewandowsky: Okay, so you can stop talking whenever you wanna stop talking. It's up to you. Okay? You understand that?

J. Sanders: Yes.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 5 of 50

Det. Lewandowsky: Okay. If you give up your right to an attorney, you may at any time change your mind and ask to speak to an attorney.

J. Sanders: Yeah.

Det. Lewandowsky: Okay, do you understand all the rights I've read to you?

J. Sanders: Yes.

Det. Lewandowsky: Do you have any questions for me at all, John?

J. Sanders: No.

Det. Lewandowsky: Okay, I'd like to talk to you about kinda why you're sitting here. Okay? You willing to do that?

J. Sanders: Yeah.

Det. Lewandowsky: Okay, so interviewee, that's you, okay. I need you to sign that if you would for me, please. What that says is that I read you your rights and you understand them all.

J. Sanders: Okay.

Det. Lewandowsky: Fair enough?

J. Sanders: Yup.

Det. Lewandowsky: Okay. I'll sign this as well. Alright so I mean you said it; I didn't. You said new year has been a bit bumpy for you. What do you mean? Tell me about it.

J. Sanders: What I'm going through right now, man.

Det. Lewandowsky: Yeah, okay.

J. Sanders: I'm being charged with first degree murder.

Det. Lewandowsky: Okay, alright. Yeah I guess that would kinda hamper the new year, right? John, tell me about John. Tell me about you, buddy. What do you do? Were you working anywhere?

J. Sanders: Like I said, I was working with the Lugnuts. I was pretty much going to school at the time.

Det. Lewandowsky: So right now I mean...

J. Sanders: Right now...

Det. Lewandowsky: Because it's the off-season, baseball isn't happening right now.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 6 of 50

J. Sanders: Yeah I just pretty much go to school. Like I said I help my uncle out with some odd jobs when he need help. Other than that I was just going to school.

Det. Lewandowsky: Yeah, okay. How many credits you got?
J. Sanders: Right now I got about, at least about 14 I think.

Det. Lewandowsky: Good for you. What's your goal? I mean what's your long-term goal here?
J. Sanders: Like I said, I wanted to start my own business, have my own business when I graduate.

Det. Lewandowsky: Doing what?
J. Sanders: Well the easiest business to start up right now is a landscaping business, so...

Det. Lewandowsky: Sure.
J. Sanders: I figure it's the cheapest.

Det. Lewandowsky: Sure.
J. Sanders: So I wanted to start...

Det. Lewandowsky: You should...that's the, that's the easiest business to start. Where's your heart at? I mean if you could pick one thing to do, where would your heart take you?
J. Sanders: I don't know. I got so many ideas. So many ideas.

Det. Lewandowsky: Yeah.
J. Sanders: But right now I just, I don't know, I, I just can't think of any right now.

Det. Lewandowsky: Sure. Alright.
J. Sanders: But like I, I knew the landscaping was like...I know that's the easiest one you can pretty much start. All you need is a lawn mower and a truck basically.

Det. Lewandowsky: Right, right, right.
J. Sanders: And I said I'd go from there. But...

Det. Lewandowsky: You married?
J. Sanders: No.

Det. Lewandowsky: Okay. How many kids you got?
J. Sanders: Three.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 7 of 50

Det. Lewandowsky: Three all together?

J. Sanders: Yup.

Det. Lewandowsky: What are their names and ages?

J. Sanders: J-██████ S-██████, █████'s 11.

Det. Lewandowsky: So you have an 11 year old █████.

J. Sanders: Mmm hmm.

Det. Lewandowsky: And her name is what?

J. Sanders: J-██████ S-██████.

Det. Lewandowsky: J-██████?

J. Sanders: J-██████.

Det. Lewandowsky: You're gonna have to spell it for me, man.

J. Sanders: You can just...J-██████...

Det. Lewandowsky: J-██████?

J. Sanders: J-██████████████████.

Det. Lewandowsky: ████████...

J. Sanders:

Det. Lewandowsky: J-██████████████████?

J. Sanders: ██████████. It's an A at the end.

Det. Lewandowsky: Okay. Did you think of that?

J. Sanders: No, my mom did actually. Tried to get it close to my name.

Det. Lewandowsky: Sure, and then you have a second one.

J. Sanders: M-██████

Det. Lewandowsky: How old?

J. Sanders: ██████ll be 13 this year.

Det. Lewandowsky: And...okay, so 13 year old ██████. 11 and 13, and █████ name is what?

J. Sanders: M-██████.

Det. Lewandowsky: M...

J. Sanders: M-██████████.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 8 of 50

Det. Lewandowsky: Okay, same mom?
J. Sanders: No, different moms.

Det. Lewandowsky: Okay, and you said you had three kids. Who's number 3?
J. Sanders: I got a son, he supposed to be... I really don't know if he's mine or not, but he's like 21 now. So he's in his 20s.

Det. Lewandowsky: What's his name?
J. Sanders: Darron Howard.

Det. Lewandowsky: D-A-R-R...
J. Sanders: O-N.

Det. Lewandowsky: O-N?
J. Sanders: Mmm hmm.

Det. Lewandowsky: Howard. Are you, are you tight with Darron? I mean do you guys have a relationship?
J. Sanders: Yeah, we talk. But...

Det. Lewandowsky: Do you talk as buddies or do you talk as father/son?
J. Sanders: We talk as, we talk as father/son.

Det. Lewandowsky: Okay.
J. Sanders: Yup.

Det. Lewandowsky: So you're good?
J. Sanders: Yup, we're good.

Det. Lewandowsky: Okay, so these three kids, are they, are any of them with the same lady?
J. Sanders: No, they all by three different.

Det. Lewandowsky: Okay.
J. Sanders: Yup. Of course, you know, my daughter that just passed. So I had four kids.

Det. Lewandowsky: And she was three months, right?
J. Sanders: Right. She was named after me also.

Det. Lewandowsky: You okay?
J. Sanders: Yeah, I'm okay.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 9 of 50

Det. Lewandowsky: J [REDACTED]?

J. Sanders: Yeah [REDACTED].

Det. Lewandowsky: And that's J [REDACTED]...

J. Sanders: J [REDACTED]...

Det. Lewandowsky: J [REDACTED]?

J. Sanders: Yup, J- [REDACTED].

Det. Lewandowsky: Wow.

J. Sanders: Yeah names get more complicated. Huh?

Det. Lewandowsky: Who thinks these up? They all sound like you cause they're all pretty long...

J. Sanders: Yeah cause they... I wanted to be like close to my name, so...

Det. Lewandowsky: Okay.

J. Sanders: Like came up with that. She was named after me. My mom, me and my mom actually cause she has my mom's middle name.

Det. Lewandowsky: Tell me about mom and dad.

J. Sanders: They're good.

Det. Lewandowsky: Lansing here?

J. Sanders: No, they stay in Mississippi.

Det. Lewandowsky: Okay.

J. Sanders: They're not too happy about what's going on.

Det. Lewandowsky: I can imagine. Did you grow up in Lansing?

J. Sanders: No, I grew up in Mississippi.

Det. Lewandowsky: What part?

J. Sanders: Brookhaven.

Det. Lewandowsky: Brookhaven?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Where's Brookhaven, Mississippi? What's it near?

J. Sanders: It's near Jackson, Edisburg, Vicksburg.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 10 of 50

Det. Lewandowsky: Okay. So how did you get to Lansing, Michigan?
J. Sanders: I got an uncle up here that been living up here pretty much all his life and after I left, after me and my baby momma in Wisconsin split up, it was either go back to Mississippi or try something new. So I decided to come here and try something new.

Det. Lewandowsky: Okay. Okay, so you said Wisconsin. Are, are not all of these children are here in Lansing?
J. Sanders: No.

Det. Lewandowsky: Where's J [REDACTED] at?
J. Sanders: She's in Wisconsin. And the other two is in Mississippi. And then, you know, J [REDACTED] was in Lansing.

Det. Lewandowsky: Sure, sure. Okay, alright. So I mean it's no secret why you're here. It's been a rough weekend. I, I understand. Being a dad is a tough thing sometimes.
J. Sanders: Yeah.

Det. Lewandowsky: You know, it really is. I've got five kids of my own that drive me, honestly between you and I, between dads, crazy sometimes. I mean they really, really do.
J. Sanders: Yeah.

Det. Lewandowsky: It doesn't change the fact that you love them.
J. Sanders: Right.

Det. Lewandowsky: You know, but, but they make you crazy, especially little ones. I guess what I'd like to do, John, is I'd like to get kinda your side of things. Tell me about what happened Friday and...as detailed as you can. I mean just, just start from when you woke up basically.
J. Sanders: Okay well I woke up because she told me she was fitting to get ready to leave to go get our daughter's WIC.

Det. Lewandowsky: Who is she?
J. Sanders: Shamarrie.

Det. Lewandowsky: J [REDACTED]'s mom?
J. Sanders: Yup.

Det. Lewandowsky: Okay. So what time did, what time did she leave to go get WIC?

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 11 of 50

J. Sanders: I'm not sure. Like I be telling them I'm not really sure about those times. If I have to say a time, I'd say it was around about, it was in the morning so it was between 7:30, 8:00, somewhere in there.

Det. Lewandowsky: Okay.

J. Sanders: That she woke me up.

Det. Lewandowsky: Do, do you, Shamarrie...it's Shamarrie, right?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Do you, Shamarrie, and J [REDACTED] all live together?

J. Sanders: We used to.

Det. Lewandowsky: Okay.

J. Sanders: We started out living together, but...

Det. Lewandowsky: You live alone at [REDACTED]

J. Sanders: I'm alone there now.

Det. Lewandowsky: Is there an apartment number there?

J. Sanders: [REDACTED] apartment [REDACTED]

Det. Lewandowsky: [REDACTED] okay. So you live alone there now?

J. Sanders: I live alone there now.

Det. Lewandowsky: But, but...

J. Sanders: About a couple weeks I just been living alone. She only been gone about a couple of weeks.

Det. Lewandowsky: Okay. But Thursday night, Friday morning, Shamarrie and J [REDACTED] came to stay with you?

J. Sanders: Yup, they came to stay with me, yes.

Det. Lewandowsky: Why?

J. Sanders: Cause I be, I miss my daughter. I hadn't seen her in a while and she said she wanted to come over.

Det. Lewandowsky: Okay, what time did they arrive Thursday night?

J. Sanders: It was after 9:00, 9:00 at night.

Det. Lewandowsky: Okay.

J. Sanders: It was late.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 12 of 50

Det. Lewandowsky: Okay. How did they get there?
J. Sanders: I think she caught the bus.

Det. Lewandowsky: Okay. Do you have a car?
J. Sanders: No I don't.

Det. Lewandowsky: Okay, alright. So she caught the bus, she got to your house Thursday 9ish, around there. It was her and J [REDACTED] together.
J. Sanders: Right.

Det. Lewandowsky: How was J [REDACTED] when she got to your house?
J. Sanders: She was agitated. Like I said she was, she was agitated. She was crying a lot, but you know, her mom say she was sleepy.

Det. Lewandowsky: Is that normal?
J. Sanders: I mean, you know kids when they get... I guess when they get agitated like that sometimes they do be sleepy. You know, kids get tired. You know, she's a baby. She really can't tell you exactly what's wrong with her.

Det. Lewandowsky: Sure, right.
J. Sanders: I, I took it as like... when she told me that that's what I took it as, you know.

Det. Lewandowsky: So she was probably... it's 9:00 at night, she's probably tired.
J. Sanders: Yeah.

Det. Lewandowsky: She's probably cold cause she's been out in the cold.
J. Sanders: Right.

Det. Lewandowsky: All that stuff.
J. Sanders: Right.

Det. Lewandowsky: She wasn't sick or anything like that, right?
J. Sanders: Well her mom said she thought, she'd been thinking she'd been being sick but she ain't really have no, no proof that she was sick or nothing like that.

Det. Lewandowsky: So, so, so you or I not being doctors, we wouldn't look at her and say...
J. Sanders: I wouldn't look at it like yeah she was sick.

Det. Lewandowsky: I mean no boogers in her nose.
J. Sanders: No.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 13 of 50

Det. Lewandowsky: And none of that stuff going on.
J. Sanders: Except for a little, she had a little wheezing the way she breathe. But other than that...

Det. Lewandowsky: What do you mean?
J. Sanders: I mean like sometimes she breathes, she, she wheeze a little like she's congested.

Det. Lewandowsky: Oh okay.
J. Sanders: But that, you know...

Det. Lewandowsky: I gotcha, okay. So where...how late were you guys up Thursday night?
J. Sanders: Well they went to bed kinda early. I stayed up a little bit late because I was, at the time I was in the process of practicing for this Madden tournament that I supposed to be in. So I stayed up a little later.

Det. Lewandowsky: Hold on, wait a minute. What in God's name are you talking about? What is a Man tournament?
J. Sanders: A Madden tournament. It's like a...

Det. Lewandowsky: Oh, a Madden.
J. Sanders: Yeah.

Det. Lewandowsky: Madden football.
J. Sanders: Right.

Det. Lewandowsky: I thought you said man tournament, like M-A-N.
J. Sanders: Oh, no.

Det. Lewandowsky: Madden, I got you now.
J. Sanders: Yeah.

Det. Lewandowsky: Okay, Madden.
J. Sanders: You know they have the online tournament and I had...that's really not even important right now, but I had qualified for this, I'm in the semi-finals and I was actually setting up preparing for that while they was asleep. So I probably went to bed about, probably about 3:00, 4:00 that morning.

Det. Lewandowsky: Oh so you were up majority of the night.
J. Sanders: Yeah, I was up majority of the night.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 14 of 50

Det. Lewandowsky: What time did they go to sleep?
J. Sanders: They probably went to sleep about, actually not too long after she got there. Probably about an hour or two after she got there, they was out.

Det. Lewandowsky: Okay, so sometime...if they got there at 9:00, they were, they were asleep between 10:00 and 11:00?
J. Sanders: Yup.

Det. Lewandowsky: Okay.
J. Sanders: No later than 12:00.

Det. Lewandowsky: No later than 12:00.
J. Sanders: Right.

Det. Lewandowsky: Where did they sleep?
J. Sanders: In the bed.

Det. Lewandowsky: One bedroom or two?
J. Sanders: One.

Det. Lewandowsky: One bedroom, so your bed.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay.
J. Sanders: Yeah we all, since day one we all slept in that bed.

Det. Lewandowsky: Okay, okay. Where...tell me about that. I mean how, how...what was the sleeping arrangement? Was it...where did the baby sleep?
J. Sanders: In the middle of us.

Det. Lewandowsky: Okay.
J. Sanders: She like...well she sleep closer to her mom, but like her mom sleep...like the bed is against the wall like that. So her mom sleep against the wall, the baby sleep right there. They pretty much leave me the rest of the edge of the bed cause I'm like in front of the TV where I can like do all my stuff I need to do. Like if I needed to do school work I still can do it and whatever, and stuff like that so...

Det. Lewandowsky: Sure, I got you. But you were playing your games and doing that stuff in another room.
J. Sanders: No, I was in the same room.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 15 of 50

Det. Lewandowsky: Oh you were sitting on the bed playing games while they were sleeping?
J. Sanders: I was sitting on the bed right, right where they sleeping.

Det. Lewandowsky: Oh okay, I gotcha. So...I mean I know how three month old babies are. They're up every couple hours typically to eat, poop, change diaper, whatever.
J. Sanders: Exactly.

Det. Lewandowsky: Is that what was going on through the night? Or was the baby quiet that night?
J. Sanders: No actually it wasn't. She was like...that was like surprising to me, too cause like, except for I went to bed, she probably ain't got up not one time.

Det. Lewandowsky: So she went to bed at 11:00ish, between...right around 11:00.
J. Sanders: Mmm hmm.

Det. Lewandowsky: And from the time that you went to bed between 3:00 and 4:00, the baby was quiet and slept well?
J. Sanders: Yup.

Det. Lewandowsky: Okay. Okay, so you went to bed 3:00, 4:00ish.
J. Sanders: Probably like about 3:00, 4:00ish.

Det. Lewandowsky: Okay.
J. Sanders: Yeah like I said her mom woke me up.

Det. Lewandowsky: What time?
J. Sanders: I don't know. I don't know exactly the time.

Det. Lewandowsky: Do you think you slept for three or four hours? You think it was 8:00, 9:00 or...?
J. Sanders: Yeah, well I slept for about three, four hours. So it had to be at least about, I'd say about 8:00 when she woke me up.

Det. Lewandowsky: Okay.
J. Sanders: I wanna say about 8:00. She said she was fitting to get ready to go and get, get this WIC or whatever.

Det. Lewandowsky: So around 8:00, get this what?
J. Sanders: Get the WIC.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 16 of 50

Det. Lewandowsky: Oh WIC, okay. Around 8:00, okay. How were you feeling when you woke up?

J. Sanders: I was feeling alright. This not the first time I've had three, four hours of sleep so it didn't bother me too much.

Det. Lewandowsky: Alright. So...

J. Sanders: I'd say...she got me up, I said well I might as well go on and just do this school work while, you know, J [REDACTED] still sleep. So I just...

Det. Lewandowsky: Had J [REDACTED] woke up at all between the time you went to sleep and the time you woke up? Or did you...

J. Sanders: Not that I know of.

Det. Lewandowsky: Not that you know of. So she could have, you just don't know.

J. Sanders: She could have, I just don't know.

Det. Lewandowsky: Okay, alright. So mom wakes you up at 8:00. Not your mom, the baby's mom, wakes you up at 8:00. You get up, you start doing some school work. J [REDACTED] is still sleeping?

J. Sanders: Still sleeping.

Det. Lewandowsky: Okay, what happened next?

J. Sanders: Like I was doing my school work. You know how babies start to moving and stuff. She start waking...act like she wanted to wake up, you know.

Det. Lewandowsky: Actually I'm gonna stop you real quick, John, okay? We'll go back to the baby squirming a little bit, okay?

J. Sanders: Okay.

Det. Lewandowsky: Do you know...after you woke up, how long after you wake up did Shamarrie leave? Shamarrie?

J. Sanders: Shamarrie, you know what it was like right, it was like right after. I don't wanna say right after, but I say about 10 minutes after.

Det. Lewandowsky: Several minutes, would that be accurate? I mean 10 to 15 minutes.

J. Sanders: 10 or 15 minutes.

Det. Lewandowsky: So she woke you up, you got up, and then she left.

J. Sanders: Then she left.

Det. Lewandowsky: Fairly, fairly rapidly.

J. Sanders: Right.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 17 of 50

Det. Lewandowsky: Okay. Did you, did you have a chance to talk to her at all? I mean, how was she going to get the WIC stuff?

J. Sanders: She just told me she was going to get the WIC. I really...like I said I...she just woke me up out of my sleep saying she fitting to get ready to go so she can hurry up and get back.

Det. Lewandowsky: Did she have a ride coming to pick her up? Was she catching the bus?

J. Sanders: I assumed she was catching the bus.

Det. Lewandowsky: Okay. You don't know what her plans were though for sure.

J. Sanders: I didn't know what her plans were for sure, but I'm, I'm assuming she was gonna catch the bus, you know.

Det. Lewandowsky: Does she have a phone?

J. Sanders: Yes.

Det. Lewandowsky: Do you know what the number is off the top of your head?

J. Sanders: I think it's [REDACTED].

Det. Lewandowsky: Okay, [REDACTED]...

J. Sanders: But I don't think she got no minutes on her phone.

Det. Lewandowsky: Okay, [REDACTED].

J. Sanders: [REDACTED], yup.

Det. Lewandowsky: Do you know who her cell provider is?

J. Sanders: I think it's...I wanna say Virgin Mobile, Verizon or something like that.

Det. Lewandowsky: Alright, big difference. Okay if you don't know, you don't know. That's fine.

J. Sanders: Yeah, I'm not sure.

Det. Lewandowsky: Who's yours?

J. Sanders: Metro PCS.

Det. Lewandowsky: Metro, okay. So mom leaves. Did you have a chance to talk to mom on the phone after she left?

J. Sanders: Well actually she, she text me.

Det. Lewandowsky: She texted you?

J. Sanders: Yeah, she actually texted me saying well I'm on my way. Actually she did. She actually text me and said she fitting to get on the bus.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 18 of 50

Det. Lewandowsky: Okay.
J. Sanders: And she text me again said she at her mom's.

Det. Lewandowsky: Okay.
J. Sanders: And she text me again, I think she said she was on her way out there or something. You know, I...at the time I really didn't think about it, but now, you know, I'm...those were a lot of texts and she usually don't text me that many times letting me know her exact move, wherever she going at. You know, but...

Det. Lewandowsky: Okay so after...did Shamarrie get up at all during the night? I mean, you were sitting right on the edge of the bed playing games. You would have known if she would...

J. Sanders: She never got up.

Det. Lewandowsky: She never got up.
J. Sanders: I mean, not that I know of she didn't get up. Not while I was up playing, she didn't.

Det. Lewandowsky: Did you have a chance maybe before the baby went to bed, I assume that you did what all dads do and hugs and kisses and take care of baby a little bit.

J. Sanders: I kissed my baby on the head and said goodnight. That's it.

Det. Lewandowsky: You're not a diaper changing kind of dad?
J. Sanders: No I don't change diapers too much. I change them unless...as less as possible. Only time I change them is like when me and her was alone and I don't have no choice but to change her.

Det. Lewandowsky: Yeah. Did you change the baby's diaper at all?
J. Sanders: Yeah, I did actually.

Det. Lewandowsky: When?
J. Sanders: Like...let's see...I think it was right before her mom left I changed it.

Det. Lewandowsky: Okay. Wet, poopy, both?
J. Sanders: It was a, it was a shitty diaper.

Det. Lewandowsky: Okay.
J. Sanders: Cause I remember she ain't have no wipes.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 19 of 50

Det. Lewandowsky: What did the baby do when you changed her? I mean I assume the baby was awake and interacting with you and...

J. Sanders: No, not really. The baby just was...like I said she was half in/out her sleep. She was like, you know she seen me and smiled, and that was pretty much it.

Det. Lewandowsky: Oh so she...okay.

J. Sanders: She recognized my...

Det. Lewandowsky: So you two interacted as much as you can with a child.

J. Sanders: Yeah, yeah right.

Det. Lewandowsky: Who's 3 months old.

J. Sanders: Right, right.

Det. Lewandowsky: Yeah, and everything seemed fine. No issues?

J. Sanders: No issues, nope.

Det. Lewandowsky: Okay. I mean what you're describing to me with, with the baby, is that pretty much normal for her? Is that kinda the way she always is or...?

J. Sanders: Well no, like I said like you, even you said babies get up in the middle of the night. She...I ain't have to get up...that's why I usually sometimes I do stay up late to stop...for when they used to leave with me, we all used to live together cause I know her mom have her all during the day, so I do try to help out at night so like when the baby wake up and need a bottle, I go in there and fix it for her so she don't have to get up and...

Det. Lewandowsky: So you said they used to live with you.

J. Sanders: They used to live with me.

Det. Lewandowsky: What happened? Why don't they live with you now?

J. Sanders: Well because me and her mom was...we just decided to go separate ways. Like I said we got a big age difference and...

Det. Lewandowsky: How big?

J. Sanders: Well I'm 37, she's 20. So 17 years.

Det. Lewandowsky: 17 years.

J. Sanders: 17 years.

Det. Lewandowsky: That is a big age difference. Man you've lived twice as long as she has almost.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 20 of 50

J. Sanders: Right, exactly.

Det. Lewandowsky: Okay.

J. Sanders: And you know, she, she see things different than I do. So we just decided to...

Det. Lewandowsky: That's what happens when there's 20 years...

J. Sanders: Right, she's still young. She still wanna get out and do things, so you know I told her, you know, it was best for her to just, you know, go, go ahead on and, you know...

Det. Lewandowsky: Okay. So I guess I gotta know, I mean you're not much younger than I am. You're 37. What...how did you two meet? I mean...where?

J. Sanders: Man just, just we, just still doing the club scene and being out and that's how we met. I met her through my cousin actually.

Det. Lewandowsky: Okay.

J. Sanders: And cause he knew her people.

Det. Lewandowsky: The club scene?

J. Sanders: Yeah.

Det. Lewandowsky: So she's 20, the baby is 3 months old. So she was 18, 19 when you met her?

J. Sanders: Yup, 18.

Det. Lewandowsky: How could she be out clubbing?

J. Sanders: You'd be surprised these days.

Det. Lewandowsky: Okay. Actually I probably wouldn't, but...

J. Sanders: You'd be surprised. They usually don't check females IDs and stuff more than they do men, they let women get away with a lot more, you know, so...but yeah she just said that, you know, she, she don't think she was ready to settle down and be in a serious relationship, which, you know, I can understand that. You're 20 years old or whatever. So...

Det. Lewandowsky: I gotcha.

J. Sanders: She said she just needed time apart for a while.

Det. Lewandowsky: And this happened a couple weeks ago?

J. Sanders: Like right before Christmas actually. Right before Christmas.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 21 of 50

Det. Lewandowsky: So a couple weeks ago.
J. Sanders: Mmm hmm, yup.

Det. Lewandowsky: Two, three weeks ago.
J. Sanders: Yup.

Det. Lewandowsky: You two still have relation, I mean you still have a relationship?
J. Sanders: Yeah we still, we still have a relationship. I mean as far as I know our relationship was cool, you know. It was fine. I mean I ain't, you know...I don't hate Shamarrie or nothing. I mean, like I said far as I knew our relationship was fine. I mean if it wasn't I wouldn't even let her be coming over staying with me, you know.

Det. Lewandowsky: Okay.
J. Sanders: I mean this ain't the first time she done come over since she left and stayed.

Det. Lewandowsky: You intimate?
J. Sanders: We were, yup.

Det. Lewandowsky: Thursday night, Friday morning? Did you have sex?
J. Sanders: No, we didn't that night.

Det. Lewandowsky: Okay.
J. Sanders: We didn't that night.

Det. Lewandowsky: Alright.
J. Sanders: Nope, sure didn't.

Det. Lewandowsky: Okay.
J. Sanders: We did the other times she came over we were. But we wasn't that night.

Det. Lewandowsky: Okay. The baby...some babies have a full head of hair, some babies...my babies were all bald as Q balls until they were like 2.
J. Sanders: Well mine had full head of hair except for around the back for some reason it wouldn't grow right there.

Det. Lewandowsky: Yeah.
J. Sanders: I guess cause she always...

Det. Lewandowsky: Cause they're always laying down, they're wear it off.
J. Sanders: Always laying on her back, yeah.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 22 of 50

Det. Lewandowsky: Nothing out of the ordinary going on Saturday...or I'm sorry, Friday morning when you wake up. She leaves, Shamarrie leaves.

J. Sanders: She wakes me up and tell me she fitting to leave.

Det. Lewandowsky: Okay.

J. Sanders: Like I said, when she did that I, I was fitting to lay back down, and then I was like well no let me go on and get up and maybe do a little school work while, you know, J. [REDACTED] sleeps. So I would be up when she get up cause there have been times when we been alone and, like I said I got sleep apnea so I sleep hard. So like when I'm out, I'm out. I don't know if you ever heard of sleep apnea.

Det. Lewandowsky: Oh yeah, sure.

J. Sanders: But I done woke up sometimes and she been over there, she been, she over there crying her little lungs out and I'm just now waking up, you know.

Det. Lewandowsky: Is Shamarrie...I'm sorry, not Shamarrie, is J. [REDACTED], is she a quiet baby? Is she, is she a good baby or is she kinda fussy?

J. Sanders: She, she a fussy baby. I mean she...you know everybody was talking about how, how bad she cried and everything, but I mean you know all babies cry. Like I said, after she went and got her shots, she had to...like it's two month shots that they give kids or whatever, she got a little agitated and fussy.

Det. Lewandowsky: Did she cry more than, more than usual do you think?

J. Sanders: After then, yeah. After then, after she got her shots, she did.

Det. Lewandowsky: I had one of my, my oldest son actually, man it was like every night from 4:00 to 6:00...

J. Sanders: Yup, yup.

Det. Lewandowsky: He would scream his little lungs out.

J. Sanders: Yup, yeah. That's how she was after she got her shots.

Det. Lewandowsky: Okay.

J. Sanders: She was like that. I mean she would scream at the top of her lungs.

Det. Lewandowsky: And I don't know what it was about 4:00 in the afternoon, but at 4:00 in the afternoon you better hang on cause you're gonna spend the next two hours oh my God, and it was so frustrating.

J. Sanders: Right.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 23 of 50

Det. Lewandowsky: I mean it just, it makes you nuts.

J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay, so Shamarrie leaves. You told me before that the baby was kinda fussy. Describe that to me.

J. Sanders: She was, like I said she like, she wakes up but she don't actually wake up. So she be like, she was, she'll start squirming. She'll make a little noise in her sleep. She'll put her hand in her mouth let you know that she wants her baba before she, you know, get ready to get up.

Det. Lewandowsky: Okay.

J. Sanders: This what I seen when I looked over at it, you know, from my first take when she was getting ready to wake up.

Det. Lewandowsky: Did you get her a bottle?

J. Sanders: I was about to go fix her a bottle. While I was in the process of fixing her this bottle, that's when all babies stop, you know, crying. I ain't hear nothing else while I'm in the kitchen trying to fix her a bottle. When I come back in the room, she's...I figured she done went back to sleep, you know cause it's not the first time she done woke up and went back to sleep, you know. So I'm figuring she went back to sleep, so when I go back in the room, I sit down on the bed, I get my computer and I'm like J [REDACTED] still want your baba? You know, and I don't get no, I don't get no response. So I look up there...

Det. Lewandowsky: What response were you looking for from a three month old?

J. Sanders: I mean she'll, she'll say something. She'll be...or anything. She know what baba mean now. When we say baba, we get a response from her.

Det. Lewandowsky: Okay.

J. Sanders: So I looked up there at her and I was like J [REDACTED] you know. She act like she was asleep. So usually when she like that, we put the bottle in her mouth, she usually take the bottle. You know how you put a bottle in a baby mouth and she still go ahead and take it. Well when I did that, she didn't, she didn't. So that's when I realized something was wrong. So I...

Det. Lewandowsky: So let me back up here a little bit. Okay? You said you went to fix the bottle. She was just kinda squirming, kinda acting like she was waking up putting her hands in her mouth.

J. Sanders: Mmm hmm.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 24 of 50

Det. Lewandowsky: But then you said you heard her stop crying. Well was she crying or was she just kinda, like kinda...

J. Sanders: It was like, it's like hard to explain. It's like in the middle of both. She does both. I mean she like...when she start squirming and everything, that's when I went out and got up to go get the bottle. By the time I got in the kitchen, she was crying.

Det. Lewandowsky: Okay, so in relation to when you changed her dirty diaper, was this before or after?

J. Sanders: This was after.

Det. Lewandowsky: After you changed, how much after?

J. Sanders: Like I said like right after...

Det. Lewandowsky: Is that after Shamarrie left? Did you change her diaper after Shamarrie left or before?

J. Sanders: Yup, right after Shamarrie left.

Det. Lewandowsky: Right after, Shamarrie.

J. Sanders: Yup, Shamarrie.

Det. Lewandowsky: Okay, so it was after Shamarrie left you changed the baby's diaper.

J. Sanders: Yup, yup.

Det. Lewandowsky: Okay, and then how much time passed...was she crying, was she fussy then when you were changing her diaper?

J. Sanders: No, she wasn't actually.

Det. Lewandowsky: How much time passed between then and when, when you go to get the bottle?

J. Sanders: I'd say about...probably about...I wanna say an hour, like 45 minutes to an hour or something like that. Like I said I'm not really sure on these times. I really wasn't paying attention to times, but if I had to say it'd be about, just about 30 minutes.

Det. Lewandowsky: What did you...what...let me ask you this; what were you able to do between, in that time between changing the diaper and bottle? I mean did you get online and play the game?

J. Sanders: Nope, I did like, I did like one of my, I did one assignment. I completed one assignment. So usually take me about, cause assignments you gotta do, you gotta do is post, you know, make a post. So I had to make a post about what my research paper was gonna be about, which is about, I'm

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 25 of 50

doing something on a social ??? So I did that real quick. So I'd say about 30, 30, 40 minutes. 30, 40 minutes.

Det. Lewandowsky: Okay, alright. Okay, so and just so I understand this, she was getting fussy, you thought she was waking up. She was kinda squirming a little bit, putting her hands in her mouth?

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that's when you decided to go get her a bottle?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay. Did you have to go into a different room to get the bottle?

J. Sanders: Yeah, I...well the bottle is right there. I grabbed the bottle, but I had to go in the kitchen to fix it.

Det. Lewandowsky: Okay.

J. Sanders: You know, that's where the formula and the water and all that stuff is.

Det. Lewandowsky: Yup. Do, do this for me, John. Tell me about your bed.

J. Sanders: My bed?

Det. Lewandowsky: Yeah, is it, is it a mattress on the floor? Is it a bed on box springs and a frame?

J. Sanders: It's not on a frame. We got, it's on bricks.

Det. Lewandowsky: Okay.

J. Sanders: And it's, it's on box springs. The bricks is...the box spring is on the bricks and then we got a mattress on top of the box springs.

Det. Lewandowsky: Okay, so box springs and mattress.

J. Sanders: Mmm hmm.

Det. Lewandowsky: So I mean with your hand, how high do you think that mattress is? I mean if...as we're sitting here, do you think it's knee high or do you think it's higher?

J. Sanders: Yeah, it's about knee high.

Det. Lewandowsky: That's not knee high, that's about 8 inches above knee high what you're showing me. About your knee anyway.

J. Sanders: About right there.

Det. Lewandowsky: Okay.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 26 of 50

J. Sanders: I mean it's kinda high.

Det. Lewandowsky: Okay.

J. Sanders: It's a high bed.

Det. Lewandowsky: Now I think that you told me earlier that the bed is pushed up against the wall.

J. Sanders: Mmm hmm.

Det. Lewandowsky: Is it pushed up in the corner so that there's walls on two sides?

J. Sanders: Like if that's the corner right there, it'd be pushed up against that corner like...

Det. Lewandowsky: Okay, so there's a wall at the head of the bed.

J. Sanders: Right.

Det. Lewandowsky: And then there's a wall on the inside I guess is what I'll call it.

J. Sanders: Inside, right, yup.

Det. Lewandowsky: So there's walls on two sides of the bed.

J. Sanders: Right.

Det. Lewandowsky: And you sleep on the side that doesn't have a wall.

J. Sanders: Doesn't have the wall, right.

Det. Lewandowsky: Okay. Where was the baby at, if you remember?

J. Sanders: She was on this side where the walls and stuff was at, where her mom left her at.

Det. Lewandowsky: Well you're going like this on this side. I don't know if...is it, is it in the corner where the two walls come together?

J. Sanders: Right. She was on the side where her mom left her.

Det. Lewandowsky: So let's do this, let's pretend that my pad of paper is the bed.

J. Sanders: Okay.

Det. Lewandowsky: Okay? So if the bed is in the corner like this...

J. Sanders: It's the other way. The head of the bed turned like...

Det. Lewandowsky: It's the other way.

J. Sanders: This, like this be the head of the bed. Might be easier.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 27 of 50

Det. Lewandowsky: Okay, so where's the head of the bed?
J. Sanders: Like this, in the corner like that.

Det. Lewandowsky: Okay so it's in the corner like that. So where's the baby?
J. Sanders: She like right here.

Det. Lewandowsky: So she's all the way up in the corner where the walls come together.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay.
J. Sanders: Yup.

Det. Lewandowsky: Alright. So again, you go, you go to get the bottle and you hear her stop crying.
J. Sanders: Stop making any noises whatsoever. I don't hear anything in there anymore. So I'm figuring she done went back to sleep.

Det. Lewandowsky: How long does it take you then to get from...if you figured she went back to sleep...
J. Sanders: Well I still, I always still fix the bottle regardless because like I said, it's not the, you know, the first time that she done woke up and went back to sleep. And then when she wake up, she still want her bottle. So I just go on and have it fixed already so when she get back up I can just hand it to her, you know.

Det. Lewandowsky: Sure.
J. Sanders: So I just went on and fixed it anyway. You know, like I said when I came back in there, that's when I did what I did, you know.

Det. Lewandowsky: And what was that?
J. Sanders: I, I said J [REDACTED], still want your baba? You know, talking to her like that see if she...

Det. Lewandowsky: And she didn't respond in any way.
J. Sanders: Didn't respond in any way.

Det. Lewandowsky: So what did you do next?
J. Sanders: I looked back at her like J [REDACTED] you know, I called her name. So then I got the bottle and I tried to put the bottle in her mouth, you know, like you want your baba, you know, and I didn't get no response either then. Usually she either spit the baba out or, like I said, she'll grab it and go on and take it. You know.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 28 of 50

Det. Lewandowsky: When did she start doing that?
J. Sanders: She been doing that ever since she was about two months.

Det. Lewandowsky: Grabbing the bottle and holding the bottle herself?
J. Sanders: Not holding it, well she hold it a little bit by herself, but she'll like grab it, you know, like just put it in her mouth. You know just hold it like that.

Det. Lewandowsky: Alright.
J. Sanders: Yup. Like right, like right before, you know...

Det. Lewandowsky: So you tried to...I...I'm...you tried to stimulate the baby by rubbing the bottle's nipple on her mouth?
J. Sanders: Right, exactly.

Det. Lewandowsky: And what did she do then?
J. Sanders: She didn't do anything.

Det. Lewandowsky: Okay, what did you do then?
J. Sanders: That's when I, you know, kinda, you know, was like, you know, what's wrong, you know. So I, I grabbed her and I was like J [REDACTED], you know, J [REDACTED], then I, you know, put her like this. I feel like she wasn't breathing. So I called my, I was trying to do some type of CPR on her.

Det. Lewandowsky: Alright, let's stop for a second there. So you said you grabbed her.
J. Sanders: Mmm hmm.

Det. Lewandowsky: Where did you have your hands on her?
J. Sanders: Just right around her, by her shoulders right here.

Det. Lewandowsky: So you kinda picked her up by the arms like this?
J. Sanders: Right.

Det. Lewandowsky: Right?
J. Sanders: Right.

Det. Lewandowsky: Okay, how, how...
J. Sanders: Like this.

Det. Lewandowsky: You said you kinda gave her a little...

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 29 of 50

J. Sanders: Yeah, just a little nudge like, you know, you know, J [REDACTED] cause she wasn't responding to me. You know like J [REDACTED], wake up. You know, J [REDACTED]

Det. Lewandowsky: Okay, and, and she did what?
J. Sanders: Nothing.

Det. Lewandowsky: Anything?
J. Sanders: Nothing.

Det. Lewandowsky: Nothing.
J. Sanders: I didn't get nothing. So I...

Det. Lewandowsky: How long... how many times did you do this?
J. Sanders: I was, I was, I'm panicking at this point. I'd... I think I did about a couple of times before I actually put her to the bottom of the bed and called my, trying to do some type of CPR cause she wasn't breathing.

Det. Lewandowsky: Describe the CPR to me.
J. Sanders: I put her to the, put her to the edge, edge of the bed, you know. And I, I pushed down on her stomach a couple of times and then I put my, my head on her nose and I blew in her mouth. And I got a response.

Det. Lewandowsky: What, what kind of response? Describe that to me.
J. Sanders: It was like a gasping like she... you know like she was gasping for, you know, air.

Det. Lewandowsky: Okay.
J. Sanders: So that's when I was like oh my God, so I... first thing I did was like, I'm looking for my phone so I know my uncle, you know, he works right up the street up here and it's a, it's a hospital like right down the street.

Det. Lewandowsky: What's your uncle's name?
J. Sanders: Malcolm Sanders.

Det. Lewandowsky: Malcolm?
J. Sanders: Mmm hmm.

Det. Lewandowsky: So you called Malcolm?
J. Sanders: I called my uncle and I was like man can you come pick me up? My, my daughter is not breathing, I need to go to the hospital like right now. She's not breathing. I don't know how long... like I said, I don't know how long

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 30 of 50

she hadn't been breathing, you know. Cause like I said, I got up and went in the kitchen. Like I said when she stopped, I don't know how long, you know, I'm not knowing what's going on really.

Det. Lewandowsky: Well okay, let me do this before we move on; so do you think...how many minutes do you think passed from when you left her to go get the bottle until you realized she wasn't breathing? Five minutes?

J. Sanders: I don't really know. Know what I...

Det. Lewandowsky: Was the TV on?

J. Sanders: Yes.

Det. Lewandowsky: What were you watching?

J. Sanders: I don't remember, probably Sports Center or something like that.

Det. Lewandowsky: Was it from commercial to commercial? Maybe 10 to 15 minutes?

J. Sanders: I know I sat in there for a while cause I had to let the water get warm and it was cold. Cause you can't give her a cold bottle obviously. Man you know what, I really don't know.

Det. Lewandowsky: Okay.

J. Sanders: I really don't.

Det. Lewandowsky: Okay.

J. Sanders: Like I said I didn't, I didn't really long cause it ain't the first time that, you know, that I went to go fix her a bottle and she stop crying on me like that. Like I say, usually she either went back to sleep or she done started watching, you know, TV. She get up and just watch, you know, whatever is on the TV.

Det. Lewandowsky: Right.

J. Sanders: So I...that, you know, that didn't alarm me. I didn't get alarmed until I got back in the room actually and realized she wasn't breathing.

Det. Lewandowsky: So you called your uncle.

J. Sanders: So I called my uncle.

Det. Lewandowsky: Where does he work at?

J. Sanders: All Washed Up, like right up the street from...

Det. Lewandowsky: All Washed Up?

J. Sanders: It's a Laundromat called All Washed Up.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 31 of 50

Det. Lewandowsky: A Laundromat?
J. Sanders: Yeah, it's a 24 hour Laundromat.

Det. Lewandowsky: Where's...
J. Sanders: It's like...

Det. Lewandowsky: Logan Center? Like in Logan Center there?
J. Sanders: Yup, right there in Logan Center.

Det. Lewandowsky: Okay, at Logan and, or King and Holmes?
J. Sanders: Yup, Martin Luther King and Holmes, right next to Save-A-Lot.

Det. Lewandowsky: How long did it take your uncle to get to you?
J. Sanders: Took him about five minutes.

Det. Lewandowsky: Okay.
J. Sanders: He was there in like five minutes. I ran, I ran out...

Det. Lewandowsky: Did he come into the apartment or did you, were you ready to go and waiting?
J. Sanders: No, I'm, I'm, I'm already ready to go when he get... I'm ready to go when he get there. I just told him to come on. So when he get, he come in he's blowing his horn, so I just, I grabbed me a jacket, throw me some shoes on, and I just snatched her up and run out the house.

Det. Lewandowsky: Okay, anything out of the ordinary happen when you ran out of the house?
You got out the door okay?
J. Sanders: Yeah, I got...

Det. Lewandowsky: Didn't run into anything? Didn't bump anybody?
J. Sanders: I mean I may have...

Det. Lewandowsky: You went out the door normally, right?
J. Sanders: Kinda, yeah. I, I didn't fall down or nothing like that or...

Det. Lewandowsky: What do you mean kinda?
J. Sanders: Well like I kinda slipped a little bit when I was...

Det. Lewandowsky: The baby was safe though?
J. Sanders: Yeah, baby was...

Det. Lewandowsky: Baby didn't hit anything?

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 32 of 50

J. Sanders: Yeah. Nothing, no.

Det. Lewandowsky: Okay.

J. Sanders: You know, then I got in the car and you know while he driving down he ask me what's going on. I'm like man he, she ain't breathing, you know. And it's like I tried the CPR on her and she responded so I'm thinking maybe she, you know, we need to get her to the hospital, you know. So you know he takes off and he goes down there and he takes, he drops us off in the emergency room exit.

Det. Lewandowsky: Did he go in?

J. Sanders: No, I don't think he went in cause like I said...

Det. Lewandowsky: He didn't go in?

J. Sanders: Like I said I don't know, I don't know if he went in or not. I was focused on getting her in there. I really didn't pay attention to what he did.

Det. Lewandowsky: But he pulled right up into the ambulance area?

J. Sanders: He pulled right up where the ambulance thing goes.

Det. Lewandowsky: Okay.

J. Sanders: I jumps out and I tell them my baby is not breathing, blah, blah, blah. We all run up into the hospital.

Det. Lewandowsky: Were you holding the baby? Cradling the baby the whole time or...?

J. Sanders: Yeah.

Det. Lewandowsky: Was the baby in a car seat or something like that?

J. Sanders: I had her in my arms. I didn't even think to get no car seat.

Det. Lewandowsky: Alright, I'm just asking you. I'm just trying to paint the picture.

J. Sanders: I didn't think to get no car seat.

Det. Lewandowsky: That's fine.

J. Sanders: Nothing like that.

Det. Lewandowsky: I probably wouldn't have either, honestly, John.

J. Sanders: I just, like I said I just snatched her up and what she had and, and took her in there.

Det. Lewandowsky: There's no car accidents on the way. You didn't bump into anything or...

J. Sanders: No, no.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 33 of 50

Det. Lewandowsky: Alright.
J. Sanders: No, nothing like that.

Det. Lewandowsky: Okay, alright. So you got inside. I mean...
J. Sanders: Yup, I got inside and once I got inside that's when the doctors, you know, took her and started doing their thing. That's when I tried to get in touch with her mom, let her know what was going on.

Det. Lewandowsky: Yeah. Okay, so did you get in touch with her?
J. Sanders: No, I tried. First I tried her phone and, but it's...like I said she ain't have no minutes so I couldn't text cause I didn't have no, no service in there. So I called her mom's phone. I called her mom. Her mom didn't answer. So I just told them can I go outside, I said can I go outside and text, text her mom cause her mom don't even know what's going on yet, you know. So I go out there and that's when I do that and finally I guess they all started calling me back and you know that's when I was telling them, you know, what, where, where we at, what, what happened, you know, and...

Det. Lewandowsky: Okay. You okay?
J. Sanders: I'm alright.

Det. Lewandowsky: You want some water, coffee, something like that?
J. Sanders: Water would be fine.

Det. Lewandowsky: Water?
J. Sanders: Yeah.

Det. Lewandowsky: I think I'm gonna grab a coffee.
J. Sanders: No I don't drink coffee.

Det. Lewandowsky: You don't drink coffee?
J. Sanders: No.

Det. Lewandowsky: Can you give me just a minute? I'll go...I can't even talk. I'm gonna grab me a coffee.
J. Sanders: Okay.

Det. Lewandowsky: And you a water.
J. Sanders: Okay.

Det. Lewandowsky: Fair enough?
J. Sanders: Yes.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 34 of 50

Det. Lewandowsky: Alright. Did you eat anything today, John?
J. Sanders: No, not really.

Det. Lewandowsky: Nothing in the jail?
J. Sanders: No, they don't, they ain't treat us too good over there in that little hold cell.

Det. Lewandowsky: I'll be right back, buddy.
J. Sanders: Alright.

Det. Lewandowsky: If I don't get my caffeine, I get a headache, horrible.
J. Sanders: Thanks man.

Det. Lewandowsky: Yeah, you're welcome. So when you had called for a ride cause the baby wasn't breathing, okay, tell me what you did to prepare the baby to go to the hospital. Did you get the baby dressed? Did you...
J. Sanders: No, she was already had...I just took her in what she slept in.

Det. Lewandowsky: And what was that?
J. Sanders: Some pajama things. The pajama full-suit with the, where it cover your feet all the way up to your...

Det. Lewandowsky: Like one of those sleeping bag thingys that babies go in or like a, like a sleeper?
J. Sanders: She had a, she had...where her arms and legs could be out, so just like a one piece universal suit.

Det. Lewandowsky: Okay. Did you like the baby?
J. Sanders: I love my baby.

Det. Lewandowsky: Yeah? No issues?
J. Sanders: No issues at all. I mean I love all my kids.

Det. Lewandowsky: Sure. I know, but you and I talked right up front.
J. Sanders: Yeah I know.

Det. Lewandowsky: God they make you nuts sometimes.
J. Sanders: Yup.

Det. Lewandowsky: I mean I got five of my own, man. I'm, I'm, I teeter, I walk that fence line of nuts and not nuts half the time because of them, you know. And I love them to death. There's nothing I wouldn't do for them, but man I, I have

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 35 of 50

very specific memories of my oldest son when he was a baby like that. You know, it was like there was this, this couple hours every day where it didn't matter, it didn't matter what it was. You just couldn't comfort him. He was, he was just angry, mad and screaming. And you know the thing is is, well you know I say you couldn't comfort him, I couldn't comfort him but his mom could. You know, it was like that was all he wanted was his mom. And then she'd walk in and it's like the world was better all of a sudden.

J. Sanders: Right.

Det. Lewandowsky: You know, is that kinda the way the baby was?

J. Sanders: Pretty much sometimes, yup.

Det. Lewandowsky: Yeah?

J. Sanders: Yup.

Det. Lewandowsky: Was the baby kinda like that this morning?

J. Sanders: No not, actually no. She wasn't. She wasn't. She, she didn't, she ain't really cry but just that little bit of time that I said. That's it. She wasn't like, like I said out of control or nothing like that except the night, the night when she came she was a little agitated and fussy and stuff, but like I said they went straight to bed so...

Det. Lewandowsky: Okay. You said she was agitated or fussy or she wasn't?

J. Sanders: She, they, I mean she was and her mom was just saying well she's acting like this because she's, you know, tired, she's sleepy.

Det. Lewandowsky: Yeah, she's been on the bus for God sakes.

J. Sanders: Right.

Det. Lewandowsky: I'm agitated and fussy to when I'm cold and tired.

J. Sanders: Right, yeah.

Det. Lewandowsky: And you probably are, too.

J. Sanders: Which is why I said, you know, I understand, you know. I ain't, you know, trip out or nothing like that.

Det. Lewandowsky: You didn't?

J. Sanders: No, I didn't.

Det. Lewandowsky: Alright.

J. Sanders: Nope.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 36 of 50

Det. Lewandowsky: Yeah, yeah.
J. Sanders: I just asked her what was wrong with her cause, you know, I knew she was, you know, she was like cause she's tired and probably sleepy and blah, blah, blah. And I was like oh okay. Then I ain't mean it like I was you know all over like what's wrong with the baby, you know. I mean...

Det. Lewandowsky: Sure. Well you know we, we've had now a good 48 hours, you know, to, to do our thing, to, to...

J. Sanders: Yeah I know, they already done told me it's clear cut evidence that I'm, that I was supposed to be responsible and blah, blah, blah. They already gave me the drill.

Det. Lewandowsky: Hold on. Hold on. Okay? I don't think I've drilled you at all. Have I?
J. Sanders: You haven't. I'm just saying.

Det. Lewandowsky: I think you and I are getting on okay.
J. Sanders: Yeah, yeah. I'm not, I'm not, I'm not blaming you, man.

Det. Lewandowsky: I just, I just, you know John, I just want you to know that we've had a lot of time. I realize that you talked to a couple of detectives on Friday. But Friday was... it's Monday now. I mean so we've had 48, you know, a couple, couple days at least plus to do our thing and to work on this and to put all of our time and energy into all of this. You know, one of the things that happened, John, Saturday was the baby had what's called an autopsy.

J. Sanders: Okay.

Det. Lewandowsky: Do you know what an autopsy is?
J. Sanders: Mmm hmm.

Det. Lewandowsky: Tell... what do you know about autopsies?
J. Sanders: That's what my dad told me, he wanted them to take... autopsy is like when somebody dies they perform an autopsy to see what the actual form of death was or something like that. It's a more accurate... I don't know, just...

Det. Lewandowsky: It basically paints the picture.
J. Sanders: Right, right.

Det. Lewandowsky: It tells the story.
J. Sanders: Right.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 37 of 50

Det. Lewandowsky: Of basically when and how and all that stuff. And here's the really, really important thing, John, is that it doesn't tell us the why.

J. Sanders: Mmm hmm.

Det. Lewandowsky: Okay? It doesn't tell us why.

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that's what's just so important because you know so many different things can happen. You know, kids are kids and, and they...you name it, it can happen to a kid.

J. Sanders: Mmm hmm.

Det. Lewandowsky: You know, but, but the tough thing about a three-month old baby is that a three-month old baby is completely and totally dependent upon mom and dad or its caregiver.

J. Sanders: Mmm hmm.

Det. Lewandowsky: And that, that leaves you and mom. Alright? The autopsy tells us so much and it basically kinda puts a bow on things. If you understand...you know, you wrap a present, you put a bow on it when you're done. This investigation over the last two and a half days has included that autopsy and a bunch of interviews and a bunch of other things. Okay? I guess the reason I'm talking to you today is, is because John, we know that something really, really bad happened. What we don't know is what caused this baby's injuries. We know that the baby's injuries were new injuries, so they weren't old. We know that the baby's injuries, the injuries that the baby sustained weren't something that the baby could have done on its own. You understand that?

J. Sanders: I understand that.

Det. Lewandowsky: These aren't injuries that the baby could have, that the, that could have been come from falling on the ground off the bed. You have to understand, John, that the baby's brain...

J. Sanders: Yeah, they...she...the investigator told me.

Det. Lewandowsky: The baby's brain was destroyed, and that takes huge amounts of force to do, John. It does.

J. Sanders: Well what I'm saying is why do they automatically think it's me? Why would they automatically think it's, I was the one that did it? Cause I was the last one with her?

Det. Lewandowsky: She was fine when mom left.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 38 of 50

J. Sanders: She was asleep when mom was left.

Det. Lewandowsky: Which means she was fine when mom left. She was asleep and breathing and fine.

J. Sanders: So there's no way her mom, her mom could have did anything to her before she left?

Det. Lewandowsky: John, John, here's the thing. Okay? Our investigation is very, is very in-depth and it's very clear and in conjunction with the autopsy report tells us that you did something. We need to know why and what specifically. This is very important, John. Okay? Because you know when it comes down to it, the baby was a baby.

J. Sanders: I understand that.

Det. Lewandowsky: And everybody in the end is gonna wanna know exactly what happened. And if this was an accident, John...look at me, John. If this was an accident of some sort, we need to know about it. We've gotta know if this was an accident. If something happened that you didn't intend to happen, we need to know because honestly there's, there's miles and miles of difference between I planned to do this, I meant to do this and I did it...

J. Sanders: Yeah, that's what they trying to say now.

Det. Lewandowsky: Hold on. But there's miles of difference between that and maybe you didn't really mean for that to happen. Maybe you didn't really mean for it. Maybe the baby was crying and you were trying to quiet the baby. But I need to know the truth. We need to know the truth because this can be very...it's gonna be very important down the road.

J. Sanders: Yeah I know.

Det. Lewandowsky: Cause first degree murder is...

J. Sanders: I already...

Det. Lewandowsky: Tell me what happened, John. Tell me what happened cause I think, I think you're most of the way there, John. I do. But you're leaving stuff out. There's a dead space there where you're not telling me everything, John. I know that. I know that. And down the road, there's a chance that you're gonna have to sit in front of a judge and a jury. Okay? And sometimes if you didn't, if you didn't mean for what happened to happen, juries take that into consideration. They look at it and say you know what, he didn't mean for that to happen, didn't mean for it to happen. But the alternative for didn't mean for it to happen is meant to do it, meant for it to happen.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 39 of 50

J. Sanders: That's what they're saying now.

Det. Lewandowsky: And that's the difference between being a monster...

J. Sanders: I'm not a monster.

Det. Lewandowsky: Then tell me what happened, John. Tell me what happened, John, cause I don't think you're a monster. I think you do love your kids. I know something happened in that house, in that apartment that you didn't intend to do maybe. But I need to know what it is, John. I need to know. Let's get through this. Let's get through this together. And then down the road when people look at this, they're gonna look at John did something that he didn't mean to do and this was the result. Or the flipside of that coin is...

J. Sanders: Yeah, but I'm still gonna be going to prison.

Det. Lewandowsky: Or the flipside of that coin is, John, that you're a monster and you meant to kill this child. Did you mean to hurt the baby, John?

J. Sanders: No.

Det. Lewandowsky: Tell me what happened. I know how frustrating it is, dude. I'm a dad, too. I know. Tell me about it. Was the baby crying?

J. Sanders: No, she wasn't crying like that, but she was crying, yeah.

Det. Lewandowsky: Tell me what happened.

J. Sanders: Well I came back in the room and I picked her up, you know, you know, holding her like this. I tried to give her a bottle. She didn't want it. So usually I, I can pick her up and do her like this, you know, play with her a little bit. I tried that, she didn't. So I, I threw her up in the air, you know, like three, four times, you know, caught her, and she didn't respond to me. So I threw her up again a little higher and I, and I caught her and I swung her between my legs like this. And I threw her back up and then when I caught her again the next time, she like went, she like went, she started going limp on me and shit like, you know like and her eyes started rolling back.

Det. Lewandowsky: So how many times did you throw her up in the air?

J. Sanders: At least about six.

Det. Lewandowsky: Okay. Well one of those six times, what did she hit her head on?

J. Sanders: Nothing.

Det. Lewandowsky: Then explain the injuries, John. You've got to explain these injuries to me. She hit her head on something, John, give me your hand. She hit her head

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 40 of 50

on something, buddy. She did. Something happened. What did she hit her head on? What happened, John? What happened, John?

J. Sanders: I threw her up a little bit too high I think.

Det. Lewandowsky: And what?

J. Sanders: She hit her head on the ceiling.

Det. Lewandowsky: She hit her head on the ceiling?

J. Sanders: Like on, my bed, our bedroom is not that high.

Det. Lewandowsky: Then what happened after she hit her head on the ceiling? Did she come down?

J. Sanders: Yeah I caught her and...

Det. Lewandowsky: You caught her.

J. Sanders: Like I said, I was throwing her up like, you know, like that, you know, hey mommy, hey. You know. You never did that to your...

Det. Lewandowsky: I've thrown my kids up in the air before, yeah.

J. Sanders: Yup, like that, yeah.

Det. Lewandowsky: Yeah. But you were a little bit frustrated at that point, weren't you?

J. Sanders: Not like that, no. I wasn't throwing her up because I was frustrated. I was throwing her up...

Det. Lewandowsky: How did she hit her head?

J. Sanders: I didn't think it was that hard, but like I said when I caught her and came back down, she was, she was limp, gasping and stuff.

Det. Lewandowsky: Then you must have thrown her up to that ceiling pretty hard. Did you mean for her to hit the ceiling, John?

J. Sanders: No I didn't. I didn't throw her up to hit no ceiling. I was just throwing her up cause I'm trying to, you know, like you playing with your baby like... I didn't throw her up to hit no ceiling.

Det. Lewandowsky: Let me tell you something, John. Okay? The injuries that we saw to her brain or some of the worst we've ever seen. They're some of the worst we've ever seen. There's more to the story, John.

J. Sanders: That's, that's it.

Det. Lewandowsky: That means that baby hit its head really hard on something.

J. Sanders: That's it. I mean that's...

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 41 of 50

Det. Lewandowsky: You're saying that baby hit its head on the ceiling cause you threw it up in the air. The baby hit its head...then how hard did you throw that baby?

J. Sanders: I couldn't been throwing her...just throwing her up like that. You know?

Det. Lewandowsky: No, I don't know. I don't know. Cause even if she bumped her head on the ceiling, it's not gonna cause those injuries, John. What you're telling me doesn't work here. And this is where the truth is so important, John. This is where the truth is so important. This is where down the road we're gonna say, look at these injuries and is what he's saying consistent with those injuries? And right now the answer is no. Did you drop the baby?

J. Sanders: No.

Det. Lewandowsky: Then tell me what happened.

J. Sanders: I don't know. I'm not trying...I'm not no monster, man.

Det. Lewandowsky: Then tell me what happened, John. I believe you're not a monster. I believe it. You gotta tell me what happened then.

J. Sanders: I mean I love my kids. I, I, I, I didn't do this on purpose.

Det. Lewandowsky: John then what happened? I don't think you're a monster, John, but you gotta tell me what happened.

J. Sanders: Yeah y'all been treating me like I'm a monster or something, man.

Det. Lewandowsky: John, have I? Have I?

J. Sanders: No, you haven't.

Det. Lewandowsky: Okay. Talk to...hey, talk to Mark. You've got to lay it out right now. What happened, John? Cause the baby didn't hit its head on the ceiling. Standing in your room throwing a baby up in the air and bumping its head on the ceiling didn't happen, John. It doesn't make sense. I'm here, John. I've treated you fair. We've talked like men. I don't think you're a monster, but you gotta tell me what happened.

J. Sanders: I'm not a monster, man.

Det. Lewandowsky: Tell me.

J. Sanders: I didn't mean for this to happen.

Det. Lewandowsky: John, tell me what happened.

J. Sanders: I don't wanna spend the rest of my life in jail.

Det. Lewandowsky: Tell me what happened.

J. Sanders: This is like...this like that's what I'm going to do anyway.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 42 of 50

Det. Lewandowsky: Tell me what happened, John. If you didn't mean for this to happen, that doesn't necessarily...that's not necessarily what this means. You gotta tell me what happened, John cause if you don't tell me what happened, then to some people you're gonna look like what you're saying you're not. Tell me about it. John, let it go. Tell me about it. John, look up. Tell me about it. I've been to that point of frustration. I know how hard it can be.

J. Sanders: That's the thing. I wasn't, I wasn't frustrated like that, man.

Det. Lewandowsky: Then tell me, then tell me what happened. What did the baby hit its head on? Only you can tell the true story. Only you knows what really happened. So tell me what really happened, John. Let's take that label right off the table. Let's take it off, John. Look at me. From man to man, from dad to dad, I understand how hard it is to be a parent sometimes.

J. Sanders: That's not the reason why this happened though, man.

Det. Lewandowsky: Then tell me. You have to tell me.

J. Sanders: It is definitely not because I wanted to get back at Shamarrie and didn't wanna be with her and she didn't wanna be with me and all that.

Det. Lewandowsky: It's not that is...

J. Sanders: This ain't nothing...I mean this ain't nothing that I planned all this shit out like...

Det. Lewandowsky: Then you gotta tell me. Why did it happen? Why?

J. Sanders: It was an accident.

Det. Lewandowsky: Then tell me what happened. What happened to that baby, John? You said it was an accident. You gotta tell me how it was an accident. Tell me. Did you drop the baby? John, did you drop the baby? You dropped her? How? Tell me how you dropped her.

J. Sanders: Like I said I was trying to console her, man and...

Det. Lewandowsky: Was she crying?

J. Sanders: Yeah.

Det. Lewandowsky: So she was crying, and what were you doing to console her?

J. Sanders: I was holding her and I was rocking her and I started throwing her up. But she didn't fall on no floor.

Det. Lewandowsky: What did she fall on?

J. Sanders: She fell on the bed.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 43 of 50

Det. Lewandowsky: What was on the bed? What did she hit her head on, John? John, you gotta tell me if this was an accident, dude. What did she hit her head on?

J. Sanders: I don't know what she hit her head on in that bed. I mean I don't, I don't know.

Det. Lewandowsky: Okay, a mattress doesn't do that to a baby's head. You're almost there, John. A mattress doesn't do that to a baby's head. Do you understand me? And neither does a ceiling when you're playfully tossing your daughter in the air. I've treated you like a man, John. I'm trying to help you here. You don't want that label. I know you don't. Nobody does.

J. Sanders: No I don't. I don't...cause that's not me.

Det. Lewandowsky: Then tell me what happened, the truth. The truth. If it's not you, you gotta tell me why it's not you.

J. Sanders: What's gonna happen to me?

Det. Lewandowsky: I think a lot of that depends on what you tell me. I can't answer that question right now because the things that you say are gonna be looked at by some attorneys, and then they'll make a decision from there. But you know something, John? What you say is gonna be looked at by some attorneys. That's why it's so important for the truth here. That's why.

J. Sanders: I know I just want you to know man I ain't did this on, this wasn't...

Det. Lewandowsky: Okay.

J. Sanders: This wasn't planned. I didn't do this on purpose.

Det. Lewandowsky: Okay.

J. Sanders: I didn't do this to get back to nobody. I ain't do this to try to hurt nobody. This was a...it was an accident and that's why I reacted the way I reacted to try to get her some help as soon as possible.

Det. Lewandowsky: Okay, tell me about the accident.

J. Sanders: I mean do you understand that?

Det. Lewandowsky: I do, I do. Tell me about the accident then. What happened?

J. Sanders: When I came back in there like I said from trying to fix her a bottle, she didn't want the bottle. I seen that her diaper needed changed, so I changed her diaper. She still didn't stop crying. So then I picked her up, played with her for a little while. You know, walked around with her for a little while. She still didn't stop crying. Tried to, tried to do the bottle again, she still wouldn't stop crying. So I grabbed her by her arms and I started

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 44 of 50

shaking her like this like J [REDACTED] what's the matter? J [REDACTED] what's the matter? J [REDACTED] what's the matter? That's when I got the ah...that's when her neck went limp on me.

Det. Lewandowsky: What'd you get?

J. Sanders: I guess like she went into, just went into a...

Det. Lewandowsky: No, you said that's when I got the...

J. Sanders: That's when she went into like a...

Det. Lewandowsky: John, you said that's when I got the...finish the sentence. What did you get?

J. Sanders: That's when I got that response from her that, that...her neck went limp and she gasped on me. I swear to you, man, that's what happened.

Det. Lewandowsky: What hit her head?

J. Sanders: Didn't nothing hit her head.

Det. Lewandowsky: Something hit her head.

J. Sanders: I swear on everything that's what happened. I mean I can even, you can lie detector test me. That's...that's...

Det. Lewandowsky: Did you shake her...how hard did you shake her?

J. Sanders: I didn't think I shook her that hard to be honest with you, I didn't. I don't do my baby like that. Well I did, like I said I was like J [REDACTED], J [REDACTED] J [REDACTED], J [REDACTED], J [REDACTED], why is you crying? You know? Just shaking her like that. Then she had stopped so when she stopped, I stopped and when I stopped that's when she like went like, she was like, looked like she started to have a seizure on me. And I, I swear to God man that's what happened.

Det. Lewandowsky: So did she hit her head on the ceiling?

J. Sanders: No.

Det. Lewandowsky: Did you drop her onto the bed?

J. Sanders: Yeah she did drop onto the bed.

Det. Lewandowsky: Then why did you tell me she hit her head on the ceiling then?

J. Sanders: I don't know. You was saying she had these brain injuries.

Det. Lewandowsky: Well she does. That's the truth.

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 45 of 50

J. Sanders: I know, but I'm thinking it's because I did like, like I said I...that's when she, that's when she went into the thing. I mean everything was fine until I grabbed her arms like this...

Det. Lewandowsky: By her wrists?

J. Sanders: Yeah, like this.

Det. Lewandowsky: You were holding her by her wrists?

J. Sanders: Yeah, by her wrists and sat her up and shaking her like J [REDACTED], J [REDACTED] what's the problem?

Det. Lewandowsky: Harder than me?

J. Sanders: Yeah, harder than I'm doing to you right now.

Det. Lewandowsky: Shake me. Show me.

J. Sanders: Something like that.

Det. Lewandowsky: Okay. What was her head doing when you were doing this?

J. Sanders: Just going side, side to side like that. Like I said...

Det. Lewandowsky: What was she doing? Was she crying?

J. Sanders: No she had stopped crying.

Det. Lewandowsky: She had stopped crying at that point in time. At what point in time did she stop crying?

J. Sanders: When I start rocking her like J [REDACTED] J [REDACTED] J [REDACTED] J [REDACTED]

Det. Lewandowsky: How long do you think you did that for?

J. Sanders: About two minutes.

Det. Lewandowsky: Two minutes?

J. Sanders: Probably not even that long. I didn't do it a long time. Like I said, about as long as I did it with you.

Det. Lewandowsky: That wasn't two minutes.

J. Sanders: Well, well about 40...between 15, 20 seconds. Somewhere in there like that.

Det. Lewandowsky: Are you guessing right now?

J. Sanders: I am actually, yeah. I didn't do it that long. Like I said I did it long enough like J [REDACTED] J [REDACTED] J [REDACTED] J [REDACTED] J [REDACTED] J [REDACTED] J [REDACTED]. That's how long I did it. And then when I stopped...

John Harold Sanders

LLA130104000118

Interviewed by

Detective Mark Lewandowsky

Lansing Police Department

Page 46 of 50

Det. Lewandowsky: What kind of response were you looking for out of J [REDACTED] when you were doing this?

J. Sanders: I don't know. I don't know, man.

Det. Lewandowsky: Did you think she was gonna stop crying by shaking her?

J. Sanders: No.

Det. Lewandowsky: What were you looking for?

J. Sanders: I don't know. I was just... honestly I don't, I don't know what I was doing. To be honest with you.

Det. Lewandowsky: At any point in time, did that child hit its head on anything?

J. Sanders: Like I said when I was throwing her up, she, I let her land on the bed. But the, you know that wasn't, you know she didn't land on... she didn't hit her head on anything.

Det. Lewandowsky: Well let me ask you this, were you throwing her up and you dropped her on the bed? Or were you throwing her onto the bed?

J. Sanders: I was, I was...

Det. Lewandowsky: Did you throw her up and let her land on the bed?

J. Sanders: No, I was throwing her up, catching her, and I do like that, lay her, put her on her back, you know. I mean I done this before with her.

Det. Lewandowsky: So up, catch, on the bed?

J. Sanders: Mmm hmm.

Det. Lewandowsky: Were you too hard?

J. Sanders: I didn't think I was, man. I don't think so. I don't...

Det. Lewandowsky: Were you mad?

J. Sanders: No, I wasn't mad at all. I'm not, I wasn't mad at her at all. Through this whole process I wasn't mad at all. I wasn't.

Det. Lewandowsky: Okay.

J. Sanders: I mean I knew perfect what I was doing. I mean, it just... like I said once I did the shaking thing and she seemed like she just went limp on me like...

Det. Lewandowsky: So you said she went limp on you. Was it at the beginning of the shaking, in the middle of the shaking...?

J. Sanders: When I stopped. Like when I, when I stopped...

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 47 of 50

Det. Lewandowsky: So you felt her go limp, and then you stopped it?
J. Sanders: No, I had stopped. I stopped and once I stopped, that's when she just her, her head went back after I stopped.

Det. Lewandowsky: So you stopped, you're shaking her and you stop and she goes limp? Then what did you do?
J. Sanders: Tried to perform CPR, call my uncle, told him my daughter wasn't breathing.

Det. Lewandowsky: Why didn't you call 911?
J. Sanders: I...cause he was the closest, he was closer.

Det. Lewandowsky: Closer than an ambulance that can get there and do some lifesaving things?
J. Sanders: I wasn't...like I said I wasn't even thinking about that at the time. I...

Det. Lewandowsky: Why? That's everybody's first thought.
J. Sanders: I don't, I don't, I don't know. Well my first thought was getting her to the hospital right away and he was, he's right there like five minutes away and the hospital is five minutes away. I'm like five minutes away from the hospital.

Det. Lewandowsky: And there could have been an ambulance at the Kroger's through the parking lot right there that you could see from your house.
J. Sanders: You're absolutely right, but I, I had panicked and I...even my uncle said why didn't I call 911. That's the first thing that came out his mouth.

Det. Lewandowsky: Did you mean to do this?
J. Sanders: No I didn't. No I didn't.

Det. Lewandowsky: Did you wanna hurt that child?
J. Sanders: No I didn't. I mean I love my baby. I didn't wanna hurt her. I swear I didn't wanna hurt her.

Det. Lewandowsky: Okay.
J. Sanders: I didn't, I didn't, I didn't mean for this to happen, man. I didn't. I didn't at all.

Det. Lewandowsky: Okay.
J. Sanders: I mean I love my daughter to death. I mean, you know, she was my newest one. I mean I had kids all before this I had...how long I been with her all

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 48 of 50

this time and I hadn't harmed her...that's why I can't really believe this happened to me. It's like...I don't understand like...

Det. Lewandowsky: Okay. I need a break for a minute. You want some more water?

J. Sanders: Actually I need a cigarette.

Det. Lewandowsky: You need a bathroom?

J. Sanders: Yeah.

Det. Lewandowsky: Alright, give me just a minute. We'll get you a bathroom.

Det. Lewandowsky: You okay? I have one question for you. Okay? Should be a fairly easy question for you. From the time that the baby stopped breathing until you called your uncle, how long did that take? From stop breathing to phone call. Was it immediate?

J. Sanders: Yeah.

Det. Lewandowsky: It was, it was she stopped; you got your phone and called? Or was there a delay?

J. Sanders: Like I said I tried to do the CPR thing. Once I got a response, that's when I, that's when I called him. So I say, yeah it's pretty much immediate.

Det. Lewandowsky: Would you say a minute?

J. Sanders: Pretty much, yup.

Det. Lewandowsky: You...okay somewhere within just a few minutes you made that phone call?

J. Sanders: Yeah.

Det. Lewandowsky: Okay.

J. Sanders: Like I said, I was in, I was in a little panic then. I didn't know what was...I didn't...

Det. Lewandowsky: Okay, alright.

J. Sanders: Like I said, that's why I, why I didn't think, I think about it now yeah just like you said where they could have performed stuff right there but like I said I was thinking about getting her to the hospital as fast as possible and...

Det. Lewandowsky: I got ya.

J. Sanders: Even though I knew he was right there, the hospital right there and...

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 49 of 50

Det. Lewandowsky: Yeah. John, I've been fair to you, haven't I?
J. Sanders: Yeah.

Det. Lewandowsky: Alright. I was being honest with you, you know, people will look at everything that you've said and they'll make some decisions from there. I can't answer any questions about, you know, I'm not, I'm not a lawyer. I, I don't know what's gonna happen down the road a long ways. You know, you and I will probably have the opportunity to talk again at some point in time. Okay? Good luck to you.

<End of interview>

John Harold Sanders
LLA130104000118
Interviewed by
Detective Mark Lewandowsky
Lansing Police Department
Page 50 of 50