ORIGINAL

1 THE STATE OF NEW HAMPSHIRE

2 STRAFFORD, SS. SUPERIOR COURT

3 ***************************

4 STATE OF NEW HAMPSHIRE *

5 v. * Docket Nos. 00-S-0888-F; 00-S-0896, 0934, 0935-F

6 CHAD EVANS *

7 ***************************

8

9 DEPOSITION VIA TELEPHONE OF MARGARET GREENWALD, M.D.

10 Deposition taken by agreement of counsel

11 at the Strafford County Courthouse, County

12 Farm Road, Dover, New Hampshire, on Wednesday,

13 November 28, 2001, commencing at 1:59 p.m.

14

15

16

17 Court Reporter:

18 Janice P. Olsen, CSR, RPR

19 ---

20 DAVID R. JORDAN & ASSOCIATES

21 Certified Shorthand Reporters

22 P.O. Box 303 (603) 778-7710

23 Exeter, NH 03833 N.H. 1-800-562-3945

1 APPEARANCES:

2

For State of NH: OFFICE OF THE ATTORNEY GENERAL
3 By: N. William Delker,
Senior Assistant Atty. General
4 and
Simon Brown,
5 Assistant Atty. General
33 Capitol Street
6 Concord, New Hampshire 03301

7

8 For Chad Evans: TWOMEY & SISTI LAW OFFICES
By: Mark L. Sisti, Esq.
9 387 Dover Road
Chichester, NH 03234
10 and
Alan J. Cronheim, Esq.
11 78 Fleet Street
Portsmouth, NH 03801

12

13

14

15

16

17

18

19

20

21

22

23

1 I N D E X

2

3

4 WITNESS:

5 Margaret Greenwald, M.D.

6

7 EXAMINATION: PAGE

8 By Mr. Sisti 4

9 By Mr. Delker 37

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1 MR. SISTI: I'm raising my right hand.
2 I'm asking you to raise yours.
3 DR. GREENWALD: It is raised.
4
5 MARGARET GREENWALD, M.D.
6 having been duly sworn by Mr. Sisti,
7 was deposed and testified as follows:
8 EXAMINATION
9 BY MR. SISTI:
10 Q. The date today is the 28th of November and we're
11 taking this deposition at the Strafford County
12 Courthouse. It's approximately two o'clock p.m.
13 and present for the deposition are Will Delker,
14 Simon Brown, both from the Attorney General's
15 Office; and Alan Cronheim from Twomey & Sisti Law
16 Offices and Mark Sisti from Twomey & Sisti Law
17 Offices.
18 Doctor, there are some standard
19 stipulations. I don't know if the folks in the
20 Attorney General's Office have explained those to
21 you. I'm going to ask that those standard
22 stipulations be waived because there are some
23 time limits that we really can't comply with.

1 There is a 30-day review period and so forth.
2 What I will do, though, is state that we're going
3 to make the transcript of this deposition
4 available to you as quickly as possible.
5 A. Okay.
6 Q. So that you can review it --
7 A. Yes.
8 Q. -- and make any corrections, additions or
9 deletions. I will not use an original deposition
10 for any purpose during trial unless it is
11 reviewed by you and signed by you and corrected,
12 if that's fair enough.
13 A. Yes, that's fine.
14 Q. All right.
15 MR. SISTI: And I assume the Attorney
16 General's Office would agree with something like
17 that?
18 MR. DELKER: That's fine.
19 Q. Okay, that was Will Delker.
20 A. Okay.
21 Q. Let me just ask you generally. How do you
22 generally qualify yourself when you are
23 testifying? Let me just ask you some general

1 questions.

2 A. Okay.

3 Q. Your educational background, for instance.

4 A. I graduated from Ohio State University Medical

5 School in 1976 and went to an internal medicine

6 internship at Los Angeles County, USC Medical

7 Center. I was there for a year and then went to

8 New York City at St. Vincent's Hospital and I

9 spent two years in an anatomic pathology

10 residency at St. Vincent's. And then actually

11 went back to the West Coast, to Mercy Hospital in

12 San Diego, where I took two years of clinical

13 pathology fellowship. Or a residency, rather.

14 After I completed my pathology residency

15 I was certified by the American Board of

16 Pathology in both anatomic and clinical

17 pathology.

18 Q. What year was that, Doctor?

19 A. That was, let's see now if I stop my recitation I

20 don't remember what year it was. I believe that

21 was nineteen, oh, just to give it to you

22 accurately.

23 Q. Actually, that's one of those items you can

1 correct --

2 A. Okay.

3 Q. -- when you review it.

4 And after your certification?

5 A. I -- then I practiced for about two years in

6 California at Thousand Oaks -- in Thousand Oaks,

7 California, at a local hospital as a pathologist.

8 And in 19, umm, 84, I went back to Los

9 Angeles County to the coroner's office and took a

10 fellowship in forensic pathology. And completing

11 that, I was then again certified in 1985 by the

12 American Board of Pathology and Forensic

13 Pathology.

14 Q. Okay. So that's --

15 A. And then I spent two years, after I finished my

16 fellowship I went to Boston and spent two years

17 working for the Commonwealth of Massachusetts as

18 a deputy medical examiner. And then went to

19 San Francisco and spent seven years working in

20 San Francisco, first as a deputy medical examiner

21 and then as the deputy chief medical examiner in

22 San Francisco.

23 I spent a year working in San Diego as a

1 deputy medical examiner and then took off about
2 two years and until I came to Maine in 1997.
3 Q. All right.
4 A. And the first year here for about six months I
5 functioned as the deputy chief medical examiner
6 and then, in April of 1998, I became the chief
7 medical examiner.
8 Q. Very good.
9 Did we meet prior to this date on an
10 autopsy or an investigation in Augusta, it was a,
11 the Bader murder case?
12 A. Umm.
13 Q. Vicki Bader?
14 A. I don't -- was that the defendant?
15 Q. No, that would have been the victim.
16 A. I think you may have met with Kristin Sweeney
17 rather than me.
18 Q. That may have been.
19 A. I don't believe I had the Bader case.
20 Q. All right. And were you trained at all or did
21 you work under the supervision of Dr. Katsas
22 while you were in Massachusetts?
23 A. I worked with Dr. Katsas during a couple of

1 cases. He was working independently as an
2 outside hospital at the time and I was working in
3 Boston actually for the medical examiner. They
4 just developed into a state system. But he was a
5 wonderful, wonderful person.
6 Q. Yes, he was.
7 Why don't we move to this case. I have
8 your report. Just so you know that we do have
9 your full autopsy report, from what I understand.
10 A. Yes, I believe that you do.
11 Q. And I believe we also have the supplement to the
12 -- the Supplemental Certificate of Death dated
13 April 12th, 2001.
14 A. Okay.
15 Q. We do have results on the microscopics and --
16 A. Okay.
17 Q. -- trying to think what else that we're really
18 going to work through. And the National Medical
19 Services material.
20 A. The toxicology.
21 Q. Correct.
22 The Fletcher Allen Health Care analysis
23 and a Neuro Path Lab?

1 A. Okay, that's Dr. Pendlebury's report, yes

2 Q. Right.

3 And I think that's about it. Seems to

4 be?

5 A. There should also be, and I don't -- I don't

6 know, umm, whether you have it there. There

7 should be, let's see if I can find it easily in

8 my report. There are some blood culture results.

9 Everything is negative.

10 And there's a genetic screen, as well.

11 Again, everything is negative. But I don't know

12 if you have that. The genetic screen would have

13 like a Neo Gen Screening label on it. It might

14 be in and among the National Medical Services

15 report.

16 Q. Yeah, we got it. We're all set then.

17 A. Okay.

18 Q. Basically are these the materials, is this the

19 universe of materials we're going to be dealing

20 with during your testimony?

21 A. Depending on what questions you ask, I would

22 assume that that's what we will be dealing with.

23 Q. Did you use any other materials in order to

1 prepare for let's say compiling the results of
2 the autopsy?
3 A. Compile -- no. These materials were what I, what
4 I used to put together the autopsy report.
5 Q. Okay. Did you have opportunity yet to review
6 Dr. Baden's letter?
7 A. I did.
8 Q. Okay. And are there any additions, deletions, or
9 corrections on your report before I begin
10 questioning?
11 A. Umm, you know, as we go through, there are a few
12 typographical errors. Nothing of major
13 significance as far as I know.
14 For example, on Page 4 of the autopsy
15 report, about sort of in the middle of the page
16 there's a short paragraph that begins "The right
17 ear." In the second sentence I noticed that it
18 says there are three to four irregularly rounded
19 contusions which range from 0.3 to 0.5
20 centimeters in greatest dimension and range in
21 color from tan to red-tan, and it doesn't state
22 exactly where they were located. And they were
23 on the right cheek.

1 Q. Right cheek?

2 A. Correct.

3 Let's see if I made any other notes that

4 I made when I was going through this morning.

5 And I didn't -- I think there may been one other

6 thing I'm not sure I'm going to able to find it

7 that easily.

8 Q. Okay.

9 A. But it was just a typographical, umm, problem.

10 Like I think it said "on" instead of "one," or

11 something of that nature.

12 Q. Okay. Actually, let me ask you some big picture

13 questions first.

14 A. Okay.

15 Q. Then we'll try to narrow it down a little bit.

16 From a medical standpoint, can you

17 describe for me just what the mechanism of death

18 would have been for Kassidy Bortner?

19 A. Well, there may have been a combination of

20 mechanisms involved in her death.

21 She had head injury with cerebral edema

22 and swelling and some changes, some anoxic

23 changes, loss of oxygen, to the brain cells. And

1 so there certainly was a component of the head
2 injury.
3 Additionally, she had multiple fat
4 emboli. These are usually originate from areas
5 of fracture, but they may also come from either
6 subcutaneous injury, the bruises that she had, or
7 potentially from the injury to the abdomen. And
8 because of the fact that they are -- they go to
9 the small capillaries and they can block the
10 capillary in the lung, there may be a mechanism
11 of pulmonary insufficiency based on the fat
12 emboli which could have originated certainly from
13 any or multiple of the injuries that were
14 present.
15 Q. Okay. Can I ask you just a general question on
16 whether you've ruled out, let's say, suffocation?
17 A. Because in a young child the things that you find
18 with suffocation, umm, are going to overlap with
19 some of the other injuries that we also found,
20 the bruises on the chin and the neck, for
21 example, I don't think it's possible to
22 completely rule out suffocation.
23 Q. Okay. The other question that I think we have in

1 the big picture is just when the fatal injury
2 would have occurred. Can you narrow that
3 particular time limit down or give us a range on
4 that?
5 A. Well, since we're talking about the two basic
6 areas, umm, that -- I mean there are multiple
7 other injuries that certainly could have
8 contributed to the fat emboli, but, in general,
9 we're talking about the injuries to the head and
10 the injuries to the abdomen.
11 Looking at, first of all, the injuries to
12 the abdomen, the, umm, the microscopic
13 examination on the mesentery and the intestine
14 would show the injury, shows that early reaction
15 to the hemorrhage indicating that there has been
16 at least some time interval, umm, and that time
17 interval is approximately eight to twelve hours.
18 The injury in the head, the subdural,
19 which is what we would look at to try and time
20 the injury in the head, does not show any
21 specific findings that can give us a specific
22 time. But injury, subdurals, don't necessarily
23 show a specific dating feature until you are

1 greater than twenty-four hours. So basically
2 we're somewhere in that 12- to 24-hour time
3 range.
4 Q. Okay. You're in a 12- to 24-hour time range?
5 A. Yes.
6 Q. All right. And again, with the -- let me just go
7 through a list of other things so we get some
8 idea just on ranges.
9 A. Sure.
10 Q. There are fractures to the long bones. In fact,
11 there were some healing fractures and there were
12 some that would have been, I guess, classified as
13 being relatively recent.
14 Can you give us a range on the fractures,
15 the hand, the tibia, the ulnar?
16 A. I can give you a range but - and this is true,
17 actually, of many of these injuries - most of our
18 timing is dating that we know for -- particularly
19 fractures, but also in bruises, as well -- are
20 based on adult standards. So, you know, whenever
21 we give you a time, that has to be taken as an
22 approximate time or a range. So that's basically
23 what I'm going to try to do --

1 Q. Okay.

2 A. -- for the fractures.

3 In the left tibia, where we were -- we
4 saw a fracture, umm, the fracture shows two sort
5 of separate areas. One area where it looks like
6 the fracture has healed to the point where there
7 is, umm, the fracture itself has already has a
8 union, it's in the remodeling stage. So there is
9 an older component to that, which could be
10 somewhere between two to three months healing.
11 But there's also an area in, when you look at
12 that fracture, that shows rather acute changes
13 which could be in somewhere two- to three-day
14 stage. So there's potentially a reinjury of that
15 old fracture. That's the left tibia.

16 Q. Right.

17 A. The right hand, the second metacarpal which is
18 the bone right under the index finger, umm, it
19 does show healing. It does not appear to be
20 quite as old as the injury in the left tibia. So
21 it's probably somewhere between one to three
22 weeks.

23 Q. Okay.

1 A. And then the other two fractures are the ulnar
2 fractures. Those are probably in the same time
3 range, the two ulnar fractures. And they are a
4 little bit older than the fracture in the hand.
5 Somewhere three- to six-week time range.
6 Q. Okay. All right.
7 Now, the type of injury that you
8 witnessed, and again you had the head injury that
9 you did just mention. The subdural.
10 A. Yes.
11 Q. Could you give me a range on that?
12 A. Well, as I mentioned earlier, the subdural does
13 not show any reaction or any change
14 microscopically, so it is what we would call an
15 acute subdural. It could be as little as, umm,
16 an hour or a few hours, or it could be as long as
17 twenty-four hours.
18 Q. All right. So it's an hour -- let's say an hour
19 to twenty-four hours, in all fairness?
20 A. Right. So it's sometime in the first twenty-four
21 hours -- you know, twenty-four hours prior to her
22 death.
23 Q. There were other -- I mean, several other

1 injuries. There were some interesting injuries:
2 Pinpoint lesions on the soles of her feet?
3 A. That's correct.
4 Q. Have you come to any conclusions how those
5 particular injuries occurred?
6 A. Umm, those injuries are, umm, as you say, they're
7 very small, pinpoint size, really. They do not
8 appear to penetrate the skin. Occasionally you
9 get very superficial penetration. But most of
10 them are what we would just refer to as
11 abrasions. And I could only give you an educated
12 opinion as to how it might be caused.
13 Something like a dog brush, that has,
14 umm, the metal bristles but they would not be
15 very sharp, could cause something of this nature
16 so you would have multiple superficial injuries
17 on the bottom of the foot.
18 Q. Okay. Could she have stepped on something as
19 well?
20 A. Umm, the injuries actually are not in a
21 location --. Most of them are on the arch of the
22 foot, rather than on the ball or the heel. And
23 if she had stepped on something, more likely it

1 would have been on the prominences of the foot.
2 Q. So does it appear to you as though those
3 particular injuries would have been inflicted?
4 A. They do appear to be inflicted.
5 Q. And do you know about the recency of those
6 particular injuries?
7 A. Umm, they are abrasions. They do appear to be in
8 the healing stage. So they are probably days
9 old.
10 Q. All right. You made some notice, in fact I think
11 there was some workup on the microscopics with
12 regard to both the left eye and the right eye?
13 A. Yes.
14 Q. And what significance does that have for us?
15 A. Umm, and actually in reading Dr. Baden's report,
16 this is maybe the one area where I disagree
17 slightly with his interpretation of the injuries.
18 She had hemorrhages in the retina, the back part
19 of the eye, and hemorrhages around the optic
20 nerve. Those injuries were probably inflicted at
21 or around the same time or using the same
22 mechanism as caused the subdural injury to the
23 brain.

1 There is some iron on the microscopic
2 examination, very small, umm, extracellular iron,
3 which does not appear to be simultaneous with
4 this acute injury that we see. There may have
5 been a remote injury, umm, that has since cleared
6 and left only these minute deposits of iron. So
7 based on my examinations of the eyes, this is an
8 acute injury occurring probably at the same time
9 as the subdural with evidence of a potential
10 older injury.
11 Q. Okay. And then let me just get back to what our
12 range would have been on acute. Does that mean
13 it would have been within the 1- to 24-hour
14 period?
15 A. Yes.
16 Q. Okay. This is like a new language, you know?
17 Large intestine -- I'm sorry, was there a
18 large intestine injury at all that you noted?
19 A. No, the large intestine did not -- the hemorrhage
20 in the abdomen, umm, involved the mesentery and
21 did extend to the small intestine but not the
22 large intestine.
23 Q. And you describe the mesentery injury as reactive

1 inflammation. I mean, that's what you observed
2 there?
3 A. Well, there is hemorrhage and with the hemorrhage
4 there is reactive inflammation.
5 Q. Okay. And with the small intestine, again, you
6 witnessed injury, I think, specifically when you
7 took a look at the fourth slide?
8 A. I'm sorry, when I took a look at what?
9 Q. I think there was a certain microscopics that
10 were done of the --
11 A. Right. There -- what I did was look at multiple
12 sections of the gastrointestinal tract trying to
13 look at, umm, a number of different areas. We
14 looked -- I looked at the stomach, umm, I looked
15 at the small intestine, and then I looked at the
16 colon, the large intestine. And in the small
17 intestine there were some sections that show -- I
18 actually looked at four sections of the small
19 intestine. Some of the sections did not show any
20 injury or showed minimal, umm, congestion, which
21 is sort of a nonspecific reaction.
22 And then in the fourth section I looked
23 at, and what I tried to do was take

1 representative sections, some of which showe
2 more significant injury and others of which
3 appeared to be normal, so that I could get an
4 understanding of whether the intestine itself was
5 abnormal or whether this was just an injury. And
6 so there was a variety of changes and most of the
7 changes were associated primarily with damage to
8 the outer surface of the intestine.
9 So it was hemorrhage or blunt injury
10 affecting the outside of the intestine rather
11 than the inner surface of the intestine which
12 would be an intrinsic abnormality. And, you're
13 right, the fourth section showed the most severe
14 injury.
15 Q. And can we put a time range on that particular
16 injury?
17 A. That injury is approximately twelve hours, it
18 could be anywhere from eight to eighteen hours,
19 but I -- as an average, I put it approximately
20 twelve hours.
21 Q. Okay. There were some stomach contents that you
22 noted upon examination. I believe you measured
23 42 milliliters of some kind of digested material.

1 A. And that's a fairly accurate description.
2 Forty-two milliliters is a small amount. And
3 what I described was tan semi-viscous material
4 with some mucus. "Viscous," meaning somewhat
5 thick and gel-like.
6 This is a pretty nonspecific
7 gastrointestinal content which could represent
8 perhaps a little bit of liquid mixed with
9 primarily just the stomach fluids.
10 Q. It could have indicated, though, some type of
11 ingestion of some type of liquid.
12 A. It could. It's certainly not much.
13 Q. All right.
14 A. It's a very small amount of material in the
15 stomach.
16 Q. And there were 20 milliliters of urine upon
17 examination in the bladder?
18 A. Yes.
19 Q. And, again, was there anything unusual about the
20 urine?
21 A. No.
22 Q. Was the child dehydrated in any way, shape, or
23 form?

1 A. She did not appear to be.
2 Q. Just walking through my notes here, Doctor.
3 A. That's okay.
4 Q. Okay.
5 A. It's a good things about being over the
6 telephone: You can't, you can't see all the
7 problems.
8 Q. You got it.
9 There were several bruises on the scalp
10 and the face. You've made some specific notes of
11 them.
12 And, again, just so we have the right
13 nomenclature. Can you go through your guide as
14 to what "recent" would be and what that range
15 would be, or "acute," or however you're
16 classifying these particular bruises?
17 A. I was using some rather broad classifications and
18 the more specific information is in the
19 microscopic examination where I describe the
20 actual -- what actually we see microscopically.
21 But in an acute injury is one that
22 primarily has, umm, hemorrhage, umm, with no
23 reaction at all or minimal reaction.

1 And "recent" refers to one that should
2 have some reaction, so you've had some time
3 interval that passed. Umm, eight to twelve hours
4 or longer than that.
5 Q. Okay.
6 A. An older injury would be one that would actually
7 show, umm, fibrosis and in the longer stages of
8 healing where you might be out to a few days or a
9 few weeks.
10 Q. Okay. There were injuries to the inside of
11 Kassidy's mouth, lower lip I believe you noted
12 some?
13 A. Yes.
14 Q. And can we just kind of turn to that for a
15 second?
16 A. Sure.
17 Q. What is the significance of the timing on that?
18 I mean, is that a recent injury? Is that an
19 injury that should have shown -- I'm sorry, it
20 shows acute inflammation, I believe.
21 A. That's correct. That is what you -- the
22 description you just gave of a recent injury, it
23 shows acute inflammation and acute hemorrhage,

1 which means that there is blood in there with a
2 reaction to the blood which puts it in the
3 approximately that 12-hour time range. I think
4 that's -- what I'm talking about is the
5 description found on Page 17 --
6 Q. Right.
7 A. -- of the autopsy report.
8 Q. Now, this is an injury that certainly if it was
9 there on the morning of -- let's say seven
10 o'clock in the morning on, of November 9th, would
11 have been, well, I mean it would have been
12 obvious, would it not?
13 A. Well, actually, you don't see, umm, that injury
14 very well unless you look inside the mouth.
15 Q. Right. As if you were brushing somebody's teeth
16 or something, right?
17 A. Umm, you know, if you're brushing the teeth you
18 might not pull the lip down. If when you look at
19 the pictures of the face, you'd see -- you can
20 see the, uh, the crusted abrasions on the lips
21 but you don't actually see that bruise on the
22 inside as much as you would even brushing
23 someone's teeth.

1 This particular injury you would rea[illegible],

2 need to, you know, look inside the mouth like a

3 dentist or a hygienist might have looked. There

4 may have been some swelling right at the time the

5 injury occurred, but there really was not much

6 swelling when we looked at it.

7 Q. Okay. So there wasn't -- there was not a state

8 of swelling at the time you looked at it.

9 A. That's correct.

10 Q. But there was certainly some time between the

11 injury and when you looked at it. I mean, there

12 was some time --

13 A. Well, between the injury and her time of death?

14 Q. Time of death, right?

15 A. Because once the -- once she's died, those

16 processes should basically stay intact. So that

17 by -- when I look at it, umm, it's just a very

18 superficial redness, that would stay the same.

19 So what I look at is basically consistent with

20 the time of death when she died.

21 Q. So that at the time of her death, her face,

22 basically the injuries on her face, would have

23 fixed at that particular point.

1 A. That's right.

2 Q. Okay. Let me ask you a few other questions.

3 Just from your experience, can you attribute any

4 of those injuries on her face to any

5 extraordinary lifesaving techniques that would

6 have been used?

7 A. Well, we don't usually see injuries around the

8 eyes or the forehead. Occasionally you may see a

9 very slight redness on the cheeks or in the

10 mouth. But the significant bruising that we see

11 is unusual.

12 Q. Okay. So that if she were observed at or around,

13 let's say alive, at or around nine o'clock in the

14 morning, and the extent of her injuries was not

15 like that which is depicted in your photography,

16 then would it be safe to conclude that she had

17 those injuries inflicted between, let's say, nine

18 o'clock and the time of her death?

19 A. Well, some of the bruises that we see we know

20 were probably there longer than that. But if

21 you, for example, had a photograph that showed

22 that there were no, absolutely no bruises there,

23 then, umm, again I would have to say that the

1 microscopics are a range and that what we're
2 looking at is, you know, the lower end of the
3 range.
4 But so -- I would -- sometimes it takes
5 bruises an hour or so to, to show after someone
6 inflicts them, umm, but if at the time, say, the
7 paramedics came, or, or at the time, as you say,
8 nine o'clock in the morning there were absolutely
9 no bruises, then you're right, the most likely
10 explanation would be that they were inflicted
11 after that.
12 Q. Let me ask you: Can you rule out, let's say,
13 ten o'clock in the morning November 9th, 2000, as
14 her time of death?
15 A. Well, it's -- in terms of her time of death, umm,
16 that is something that is better addressed by the
17 paramedics and the hospital, you know, when they
18 originally see her, umm, if she is completely,
19 umm, without any pulse or respiration or
20 electrocardiographic activity. And I know by the
21 time she got to the hospital she was essentially
22 dead on arrival. If the same applies to when the
23 paramedics arrives, then I can't rule out a ten

1 o'clock time of death, no.

2 Q. Is there anything scientifically or any

3 information that you may have obtained during the

4 course of your investigation that would rule out,

5 again, ten o'clock as time of death?

6 A. She comes into the emergency room, or she is

7 pronounced anyway, at 1:30. Umm, it would be my

8 expectation in a child of this size, if she had

9 died at ten o'clock in the morning, then by the

10 time she was arrived in the emergency room, she

11 should already be, umm, showing rigor mortis

12 because her muscles are not that large so they

13 would be going into rigor mortis already at that

14 point.

15 Q. Okay.

16 A. And I did not see that there was any evidence of

17 that in the reports that I read.

18 Q. Okay. I mean, was there any evidence one way or

19 the other?

20 A. There's no description of rigor mortis, so I

21 guess the answer -- I mean, we don't -- we don't

22 know whether they heard it, saw it or not. I did

23 not specifically question the paramedics myself.

1 Q. And did you take note of any of the hospital
2 photography upon her arrival with regard to the
3 lividity that would have been noticed?
4 A. I didn't see the photography from the hospital.
5 Q. Would that have aided you in gauging time of
6 death?
7 A. Well, if there was clear lividity present, then
8 again you would anticipate that Kassidy would
9 have been dead for at least an hour, possibly
10 longer than that.
11 Q. If I could just have a moment, Doctor.
12 On April 12th, 2001, there was a
13 Supplemental Certificate of Death that was issued
14 and I believe you signed off on it.
15 A. Uh-hum. That's true.
16 Q. Okay, I'm not familiar that much with the way it
17 works in the state of Maine, but was that delay
18 between November and April a delay because you
19 had to review the toxicology and so forth before
20 you --
21 A. Yes.
22 Q. Okay.
23 A. That -- umm, as you could see by the autopsy

1 report, there were extensive microscopic
2 examinations done and the fracture examination
3 and, umm, the toxicology usually takes us about
4 six weeks or two months. But the microscopics,
5 because we had to do such an extensive
6 examination, did take that period of time and
7 that was the difference between November and
8 April.
9 Q. Okay.
10 MR. SISTI: We're going to go off the
11 record for one second. I have to discuss
12 something with my co-counsel and come back on.
13 But we'll keep the telephone line open if you
14 want to chat with the attorney general's office--
15 THE WITNESS: Okay.
16 MR. SISTI: -- if you get lonely.
17 THE WITNESS: Oh, yeah, just kind of by
18 yourself when you're on the phone with nobody
19 there.
20 MR. SISTI: We'll take five minutes.
21 MR. DELKER: Maybe we'll just call you
22 back in five minutes.
23 THE WITNESS: Okay.

1 MR. SISTI: Okay, that's great.
2 (Whereupon, a recess was taken at
3 2:34 p.m. until 2:40 p.m.)
4 MR. SISTI: We're going right back on the
5 record, Doc.
6 THE WITNESS: Okay.
7 MR. SISTI: I don't have a lot of
8 questions to ask.
9 Q. (By Mr. Sisti) Let me just revisit that lividity
10 issue, though, for a sec, if I could?
11 A. Okay.
12 Q. If you do get the opportunity to look at those
13 photographs from the hospital, --
14 A. Excuse me, but are those photographs that were
15 taken by the state police or by people in the
16 hospital?
17 Q. I think actually they were state police photos.
18 A. Okay.
19 Q. And I think they would have shown her at the
20 hospital.
21 A. Okay.
22 Q. I may be wrong but, I mean, I'll defer to Will.
23 MR. DELKER: Off the top of my head, I

1 don't know one way or the other. I think that's
2 probably right, but I don't know for sure.
3 A. Okay.
4 Q. And if you --
5 THE WITNESS: Do you have copies of
6 those, Will, because I believe you actually have
7 the negatives. I actually asked for copies and I
8 don't believe they have any more here.
9 MR. DELKER: Yes, we have copies -- we
10 have the negatives for everything.
11 THE WITNESS: Okay.
12 Q. If you get an opportunity to, Doc, to review
13 those, I would like to reserve like five minutes
14 with you again. I'll call you at your
15 convenience to go over that particular area of
16 questioning. And certainly the Attorney
17 General's Office would be placed on notice, as
18 well.
19 A. Okay.
20 Q. Is that all right?
21 A. That's fine.
22 Q. Lastly, you have had conversation, I take it,
23 with Dr. Baden?

1 A. Brief conversation, yes.

2 Q. And can you just tell me what, if any, areas of

3 disagreement the two of you are on right now?

4 A. Actually, when we spoke on the phone we only

5 spoke about the mechanics of the things that he

6 needed to look at and he asked questions about,

7 umm, the, umm, I think some of the crime lab

8 material and what had been done with that.

9 In -- the only -- in terms of his report,

10 the only substantial disagreement I have is, umm,

11 in that -- let see, I won't be able to find it

12 among my papers here -- but anyway, he was

13 referring to -- here it is. Healing hemorrhages

14 in the back of the eyes. Umm, I would call those

15 acute hemorrhages with evidence of, uh, prior

16 injury.

17 But other than that, I don't think that

18 we have substantial disagreement based on his

19 report.

20 Q. Okay. And, in general, have you worked with

21 Dr. Baden in the past?

22 A. I have -- we've worked in conferences together.

23 I haven't actually worked, uh, with him on, on

1 specific cases.
2 Q. Okay.
3 A. Oh, actually I should take that back. He did
4 review one of, an autopsy that we had here, he
5 worked with a family who had some concerns.
6 Q. Okay. And do you consider him a well-qualified,
7 reasonable forensic pathologist?
8 A. Yes, I do.
9 MR. SISTI: I have nothing further at
10 this time.
11 We're going to try to expedite the
12 transcript, Doctor, so that you can review it,
13 correct it, add to it, do whatever you need to do
14 to it.
15 THE WITNESS: Okay.
16 MR. SISTI: And I really thank you for
17 taking this time with us.
18 THE WITNESS: Okay.
19 MR. SISTI: All set?
20 MR. DELKER: Yes, actually I just have
21 one question to clarify something that you were
22 asked before the first time around.
23

1 EXAMINATION

2 BY MR. DELKER:

3 Q. You said that the autopsy report and the related

4 attachments that we talked about was the universe

5 of material that you had reviewed.

6 Did you review the emergency room reports

7 from the doctor, any of those materials?

8 A. Umm, well, I believe that I did review them at

9 one time. I have not been able to review them

10 recently. I don't find them in and among my

11 materials. So, umm, I -- I was looking for those

12 today and I could not find them.

13 So, umm, I believe I saw them but I don't

14 want to, you know, give you anything specifically

15 right now since I -- my -- I wouldn't want to

16 rely on a memory from a year ago.

17 Q. Okay.

18 MR. SISTI: All right. Fair enough.

19 MR. DELKER: Thank you.

20 MR. SISTI: Thank you very much, Doctor.

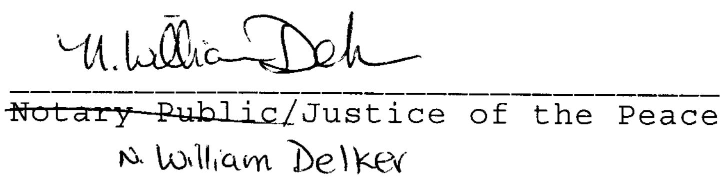
21 THE WITNESS: Thank you.

22 (Whereupon, the deposition adjourned at

23 2:45 p.m.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1
2
3
4

5
Margaret Greenwald, M.D.
6
7
8 STATE OF New Hampshire
9 COUNTY OF Strafford, SS.
10
11
Subscribed and sworn to before me this 12th day
12 of December, 2001.
13

14
~~Notary Public~~/Justice of the Peace
15 N. William Delker
16 My Commission Expires: May 2004
17
18
19
20
21
22
23

1 C E R T I F I C A T E

2

3 I, Janice P. Olsen, a Certified Shorthand

4 Reporter and Notary Public of the State of New

5 Hampshire, do hereby certify that the foregoing is a

6 true and accurate transcript of my stenographic notes of

7 the deposition via telephone of Margaret Greenwald,

8 M.D., who was duly sworn via telephone, taken via

9 telephone at the place and on the date hereinbefore set

10 forth.

11 I further certify that I am neither attorney

12 nor counsel for, nor related to or employed by any of

13 the parties to the action in which this deposition was

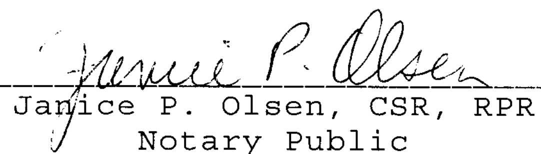
14 taken, and further that I am not a relative or employee

15 of any attorney or counsel employed in this case, nor am

16 I financially interested in this action.

17

18



19 Janice P. Olsen, CSR, RPR
Notary Public

20

21 My Commission expires: March 3, 2004.

22

23