**STATE’S CLOSING STATEMENT IN CHILD HOMICIDE CASE**

**State of Utah**

**Prosecutor:** Thank you, Your Honor. Ladies and gentlemen of the jury, we’ve now reached a conclusion of the presentation of evidence and the instructions to you by the Court. And very soon the case will be submitted to you for your final decision. This is my opportunity to summarize the evidence that you’ve heard and most importantly to illustrate to you how the facts apply to the law of this case.

You’ve heard a lot of evidence in this week. We all appreciate the attentiveness that you’ve shown as jurors. It’s obvious you’ve been very conscientious in performing your duty. As I predicted, however, when the trial began, the determination you must now make boils down to the question of whether the defendant, S.A., caused the death of M.B., or whether he was just a person who was in the wrong place at the wrong time.

In many ways, the trial comes down to the question of whether you believe the evidence presented by the state, including, most importantly, the defendant’s confession, as related to you by Mr. H., or whether you believe the defendant’s own self-serving testimony. As I also predicted in the beginning of the trial, the evidence which was been presented in bits and pieces establishes exactly what happened in the cab of that pickup truck the day that M.B. died, December 16th….

He did not die from choking on a piece of candy. He did not die from some mysterious natural but undiscoverable cause. Rather, M. died from an intentional and deliberate act of the defendant. The defendant was the only one with M.B. in those few moments during which he went from live and healthy to dead.

Now, you’ve heard evidence from several people: D.B., Matthew B., M.S., as to acts of the defendant during the short period of time that he was present in M.B.’s life: acts that were vicious and brutal to this tiny and defenseless child. Prior to the defendant’s arrival in M.’s life, M. was happy and healthy. Shortly after that, his condition changed; and shortly after that he was dead.

You have heard, also, the evidence of the various injuries suffered by M. after the defendant was present, most of which were witnessed by other people: the broken ribs, hair loss, older bruises. You recall that M.S. testified she saw the defendant pick M. up by the hair and by the arm, which explains, at least in part, Dr. F.’s finding of an area of hair loss at the back of M.’s head. The defendant admits he committed this conduct.

You recall Matthew B.’s testimony that the defendant punched and kicked M. often, sometimes for no reason and said, at least on one occasion, he saw the defendant punch M. and knock him from his feet. Dr. F. and Dr. P. both verified that that type of a punch is certainly sufficient to cause the broken ribs that were found in M. and that such a blow is life-threatening to a child of his age.

The defendant admitted to D.B. that he caused numerous bruises on M.’s buttock by kicking him. First, he said it was bare feet and then he said it was with his boots on later; and once he tried to say that shoelaces may have caused the bruises. You recall, also, D.B.’s testimony that the defendant hung M. over his back two days before his death until he couldn’t breathe. And when she told him: “M. can’t breathe,” the defendant said: “I don’t care.” He also admitted to backhanding M. and knocking him down in that particular incident. It was during the month of November 1986, that D.B. noticed all the other symptoms of the defendant’s brutality toward this little boy. M. showed pain when D.B. picked him up under the armpits; he had a bald spot at the back of his head. He had bruises all over his body. He was clingier and cried a lot. The defendant also admitted to Mr. H. that he had punched M. numerous times in the chest much too hard. And Dr. F. and Dr. P. dated the broken ribs that were found; the older ribs to exactly the time period that Ms. B. testified she noticed these things.

Keep in mind, ladies and gentlemen, that this case is not about whether the defendant abused M.B. prior to death. The issue you must decide today is whether he caused M.’s death on December 16. As the Judge has instructed you, the evidence of his past conduct toward M. is only admitted to allow you to infer that what happened during those few moments in the cab of the truck was not an accident, but was an intentional act of the defendant.

M. was clearly a battered child prior to his death; and in all likelihood, the defendant caused many of his prior injuries; not a fall on the trampoline, or a topple off the motorcycle, which the defendant, of course, told Mrs. B. Only now, he claims he fell on M. in that motorcycle accident, and only after hearing Dr. R. testify regarding what would have to have occurred to cause all those broken ribs.

As I told you at the beginning of the trial, all of the clues in this case, from the circumstantial evidence, established that on the 16th of December,…, the defendant brutalized again and suffocated M.B.

M. was a precocious, active, three-year-old, with a life of potential promise ahead of him The defendant ended that. And what are the clues that point to that conclusion? Remember first, the defendant’s bragging to D.B. that he could cause a person’s death without leaving a mark. That’s the first clue. The defendant didn’t deny he said that. He almost succeeded in leaving no marks. And after the fact, he felt he had gotten away with it, but he did leave evidence behind. M.B. was in good health on December 16th. No one noticed him fall or get hurt that morning. There were no marks or bruises on him, and he wasn’t in pain.

The second clue as to what happened to him comes from the experts’ testimony. Recall that all of the doctors that you’ve heard from, called by both sides in this case, agree that there was no indication that M. died from any disease, any natural cause, or any unexplained sudden cause of death.

The third clue as to what happened to M. is the nature of the fresh injuries noted at the time of M.’s death and the time of his autopsy. Recall first R.E.’s testimony that as he performed chest compressions on M. he could feel a broken rib, and then he also noticed reddened finger-type marks extending from M.’s mouth across his left cheek. Next, consider that all the doctors agree that Bruise No. 12, the one under M.’s left chin, was fresh at the time of death, unlikely to have been caused in the resuscitation efforts, and is consistent with pressure having been applied to that area by a thumb or a finger. Next consider the marks on the left side of M.’s face in the temple area. This area. (Indicating.) That all the doctors agree are consistent with fingernail markings, most likely the size of an adult fingernail. Dr. F. testified that these are caused by a large amount of pressure being applied to that area; they were caused within a few hours prior to death, and they were not likely caused during resuscitation.

I invite you to look at State’s Exhibit No. 4 again for yourselves as you deliberate and make you own conclusions as to whether those marks were likely caused by a fingernail. You will see that the nature and position of those marks are consistent with the defendant clamping his hands over M.’s face.

Recall, also, the explanation by Dr. F. and Dr. P. of the brain swelling or flattening of the gyri, which they explained to you, which was also fresh at the time of death. They agree that this condition is caused by lack of oxygen to the brain and is consistent with suffocation.

Remember, also, the testimony as to the fresh broken rib. Dr. F. says it was likely caused just before death, and it was not likely caused during resuscitation effort. The other doctors agree as to the age and to the fact that it was unlikely that it could have been caused by the chest compressions that were done to try and save M.’s life. And then keep in mind that R.E. noticed the broken rib as soon as he began chest compressions: R.E. also testified he didn’t break that rib.

There is simply no evidence here that the chest compressions were done on M. in an unusual way or with too much force. All of this, added to the fact that no one saw M. fall or get hurt earlier in that day, points clearly to the conclusion that the defendant caused that broken rib in the cab of the truck.

That is certainly consistent with the defendant’s admission to Mr. H. that he hit M. much too hard during the incident. In fact, the greatest likelihood is the defendant hit M. several times in that incident. Remember Bruises 13, 14 and 15, none of which, you will note, are over the area where the broken rib was found, and all of which are consistent with a back-handed blow. The defendant offers no explanation of any of these.

Such a blow or blows, however, did not cause M.B.’s death. They were just part of the defendant’s acts toward him in the cab of that truck. Every one of the doctors agree that the physical signs were consistent with someone putting their hand or hands over M.’s nose and mouth and suffocating him.

The strongest opinion was expressed by Dr. P. You recall that he stated that he’s become familiar with this case, and, given all of the circumstances, the most likely cause of M.B.’s death was suffocation.

All the doctors consistently explain what happens in suffocation: that respiratory efforts stop in two to three minutes, brain damage begins at that point, and that, within another three to four minutes, the heart stops. That process fits perfectly with what we know about what happened here. During the first few moments the defendant spent alone with M. in the truck, he suffocated him by clamping his hand over M.’s mouth and nose. When he took M. into the Yellow Front Store, M. was white and limp and wasn’t breathing. During the three to four minute ride to the hospital, he admitted later to D.B. and he admitted to you in his testimony, that he could no longer feel the child’s heart beating. By the time they reached the hospital, it’s clear form Dr. M. and Miss J.’s testimony that M.’s heart was not beating, and he was not breathing. Despite their heroic efforts to revive him, there was never any response. M. was dead before he reached the hospital.

Now, regardless of who did artificial respiration, Miss J., D.B., or both, they’re both very clear that there was no obstruction of the airway, making it completely impossible that M. died from choking on any piece of candy. And Dr. F. said, in such a situation, he would expect to see some irritation in that area. It’s further improbable that M. died from any kind of spasm; as Dr. R. explained to us all that in such a situation, once the person is unconscious, they would start breathing again. Although he’s not clear on this at all, the defendant, in talking about how he did artificial respiration, admits basically that he did not find any obstruction, either. The clues from the evidence you have heard will lead to the same conclusions that the defendant admitted when he told Mr. H., after being given the scenario, that Mr. H. figured out exactly what happened: the defendant suffocated M.B.

That is probably the best reason to believe Mr. H.’s explanation of what the defendant said, rather than the defendant’s own self-serving and completely different version that he offered to you. The defendant’s current version doesn’t make any sense given his change in demeanor at the time he admitted exactly what happened.

Consider also that, in his testimony, the defendant has offered three different versions of what he said in response to Mr. H.’s scenario. He said first: “I can’t believe you figured out I murdered a small child.” Yesterday he claimed he said to Mr. H., “No way. I did not do that.” Then when given another chance to explain, he said his words were: “Hey man, this is a bunch of shit. You haven’t got it figured out.”

Ladies and gentlemen, the defendant knows that his response to that question of Mr. H. is vital to the outcome of this case. He knows that he has to get you to believe that he didn’t say: “I can’t believe you figured out exactly what happened,” as Mr. H. testified he said. His three inconsistent versions allow you to determine that he’s making them up to avoid the effect of his admission that he suffocated M.B.

If the defendant, in fact, expressed disbelief that Mr. H. had figured out exactly what happened, then why did he become teary-eyed and emotional, when earlier he had become cocky and self-confident? Keep in mind that earlier in the interview, the defendant had tried to explain away all of M.’s injuries. He has asked Mr. H. if the broken ribs could have been caused by a fall on the trampoline or motorcycle accident. It was only after he found out that the death was not caused by an aneurism, it was only after he read the autopsy report and it pointed out that Dr. F. found no clear cause of death, and it was only after Mr. H. confronted him with the fact that his story didn’t fit with what the evidence showed that he finally admitted exactly what had happened in the cab of that pickup truck.

Both Mr. H. and Sheriff P. confirmed that that is basically what he said, and not that he refuted the scenario that Mr. H. gave him.

Besides that, there are many other reasons for you to disbelieve the defendant’s testimony. First of all, remember that it’s the defendant who’s on trial here for murder. He has the most to lose by telling the truth and the most to gain by fabricating. Also, recognize that he’s had a lot of time to consider what he would tell you in this trial. You saw his demeanor here in court. He was only sure of things when they were in his best interest.

Second, remember all the different and inconsistent versions he gave to explain what happened in the cab of that truck to M. He may well argue that those versions aren’t inconsistent with what he testified to yesterday, but don’t be deceived. All the defendant did in his testimony yesterday was string together into one long, hard-to-believe explanation, some things that he had said to D.B., some things he said to Mr. H., and he added some details that he’d never told anybody before.

He told D.B. three inconsistent versions of what occurred. He first said that he had been reading a book, that M. began gasping and choking, that M.’s eyes rolled back into his head, that M. went stiff and then slumped into the defendant’s arms. And then the defendant said he put his finger into M.’s mouth, but he didn’t, however, pull anything out.

In his second version later, the defendant said he had been reading a book, he looked over at M., M. was slumped over, and the defendant checked him again a minute later, and M. was still slumped over. And then the defendant ran into the store with him.

And the third version, he said that M. started to say something to him, stood up, arched his back, and fell on the defendant.

The defendant told Mr. H. three different versions during the interview. At the first of the interviews, before being confronted with the evidence, he said this: He said he was reading a book, that M. just collapsed on him. The defendant said he wasn’t choking or coughing. He was sure that M. was still breathing until after he got into the Yellow Front Store. Of course, the second version is his agreement with Mr. H.’s scenario, which included suffocation. And then after that, he narrated that M. had tried to get out of the truck, that the defendant had grabbed him by the collar and jerked him back in. And while M. was standing up in the truck, the defendant hit him “much too hard” in the solar plexus; then he paused for several seconds, his demeanor changed and then he said: “M. just went stiff and went limp.”

Now, ladies and gentlemen, the defendant observed what happened in the cab of that truck. He’s the only one who knows what happened there. And if it was as he testified to you yesterday, then why didn’t he relate the complete and accurate version when he told others what happened. It should be clear that he calculatedly came up with a version in which he didn’t cause M.’s death, but which is partially consistent with some of the prior versions he had told others. His account in this trial is not consistent, however, with anything he’s ever said before. He added new features to it. He put several prior statements together and carefully avoided any admission of any guilt.

Especially clear is, if it happened as he said, there was no reason to give inconsistent versions or lie about what had happened. The third reason to disbelieve his testimony is the obvious lie that he told to C.H. the night that M. died. If he wasn’t feeling guilty or hiding something, why did he say that all four of them had been in City Market when M. fell over dead? He knew C.H. and D.B. were not speaking terms. He knew that C.H. wouldn’t likely find out D.B.’s version of what occurred. What other reason would C.H. have to call the police if she hadn’t discovered his lie?

Next, consider the inconsistent versions he gave to D.B. as to causes of bruises on M.’s buttock. First he claimed to be barefoot. Later he admitted that he had his boots on, and then he tried to arge that the laces of the boots caused these bruises. Next consider the statements that he made to D.B. in Bountiful the night the police wanted to take M.’s body for an autopsy. According to her testimony, he said: “If you’re looking for something bad, you’ll find it.” And he also said: “If they’re going to take anyone to jail, it will be me.” And also remember his conduct in ripping the page from her journal, because it would give the police what he called probable cause to take M. for an autopsy. Is this the conduct of an innocent man or of one who knows what he had done and what an autopsy might reveal?

Remember, also, the defendant’s attempts to convince D.B. on the way to Idaho to bury or burn M.’s body. She believed at the time he was supporting her desire not to have an autopsy. But, based on all the evidence, it’s clear why he made those attempts. He was trying to destroy the only evidence of what he did. When D.B. told him in February or early March that she’d ordered an autopsy be done, why did the defendant get angry and accuse her of making him look bad? What did he have to fear about that autopsy? And why did he leave and return to the wilderness shortly after that if he wasn’t afraid of what it might show? Remember, he admitted to Mr. H. that half of the reason he left was because of M.B. These are statements of a person who has something to hide. There’s simply no reason to believe his self-serving testimony here. He has established his propensity to make things up as it suits him; and he had a long time to consider his spontaneous statements to Mr. H.: Quote: “I’m going to spend the rest of my life in prison. I’m forty-two.” Why would the defendant say that, ladies and gentlemen, or admit that he suffocated M.B. if that isn’t what happened?

Now, how does all of this evidence fit with the elements of Second Degree Murder? There are basically four different ways of committing Second Degree Murder, and you’ll notice in the instructions they’re separated by “OR”—the word, “or.” I would like to discuss three of them with you today. If you believe the defendant suffocated M. you may infer from that evidence that he acted intentionally or knowingly. Suffocating a child is simply not an act which is done accidentally or unintentionally. The evidence shows he would have had to cut off M.’s airway for two to four minutes to cause death. The defendant may well have decided to remove the problems that M. presented to his relationship with D.B. Remember his recent threats to leave because M. was coming between them. Remember, also, the suspicious circumstances in which he winked at D.B. and asked her to leave M. with him in the cab of the truck. And finally, remember that he bragged to her about being able to cause death without leaving a mark.

These circumstances allow you to infer that he intended to kill M.B., that it was his conscious objective to cause that result. He told D.B. he would not have his life ruled by kids, and M. stood in the way of his relationship with D.B. And he simply removed that obstacle in a way that he assumed left no evidence of his guilt. When Dr. M. told him that M. had died from an aneurysm, he assumed that removed the suspicion from him.

Even if it is not clear that he intended to cause M.’s death, what he did can easily be seen as knowingly causing that death. The judge has instructed you as to the definition of “knowingly.” And if you find that he acted with awareness, that his conduct was reasonably certain to cause M.’s death, he acted knowingly. It’s hard to imagine how anyone could clamp their hands over the mouth and nose of a child for two to four minutes without being aware that such an act is almost certain to cause death. M. would not have remained completely still as the defendant held him. He would have struggled to get air. And it’s because of that struggle and only because of that, that we have the finger nail marks and bruises that tell so much. This is not a situation in which the defendant simply lost his temper and lashed out at M. in anger. He had plenty of time to realize what he was doing and stop; but he didn’t stop. The defendant told Mr. H. that he didn’t intend to kill M. Of course, he told you he didn’t do anything that causes death. If you believe, however, what he said to Mr. H., and believe that he didn’t intend or set out to cause M.’s death, you can still find him guilty of Second Degree Murder, if you find that he acted with awareness that his conduct was reasonably certain to cause M.’s death.

Now, if you’re not convinced he acted knowingly, consider whether he acted under circumstances showing a depraved indifference to human life and engaged in conduct which he knew created a grave risk of death to M. and which caused M.’s death. The defendant’s conduct admitted to Mr. H. of hitting M. in the chest and then clamping his hands over M.’s mouth and nose certainly fits that definition. It shows indifference to the value of human life, to engage in such conduct at all as to such a young and helpless child.

Remember, also, the defendant’s conduct two days before M.’s death in the coat hanging incident. M. was not moving, was unable to breathe, and his eyes were bulging, according to D.B. And on that occasion, D.B. screamed: “He can’t breathe.” And the defendant said: “I don’t care.” That incident shows his attitude toward M. He simply didn’t care whether or not M. lived or died.

Looking at his conduct in the cab of the pickup, it’s also clear that the defendant was aware of what he was doing. And he must have known that clamping his hands over M.’s face created a grave risk of death. By law, a grave risk of death means a likely probability of death. Obviously suffocating the child created such a risk, and did, in fact, cause M.B.’s death.

And the final alternative method of committing Second Degree Murder, which I will discuss this morning, is that the defendant caused M.’s death while he was committing the crime of child abuse. This is what is called Felony Murder. If the defendant is engaged in committing a dangerous felony, and during the commission of that crime caused the victim’s death, the defendant is responsible for the death. For this alternative, the crime of child abuse is defined as intentionally or knowingly inflicting upon a child under fourteen a serious physical injury. Serious physical injury is defined in the instruction, and includes any physical injury which creates a substantial risk of death. The definition of physical injury includes the fracture of any bone or any impairment of the child’s physical condition. As applied to the facts here, the defendant admitted to Mr. H. that he struck M. much too hard in the chest and probably caused that broken rib that is fresh. As the medical experts have testified, such a blow to a child, sufficient to cause that broken rib, creates a substantial risk of causing that child’s death.

If you find that the defendant caused M.’s death while he was committing the crime of child abuse, you would be justified in finding him guilty of Second Degree Murder, even if you do not find that he acted intentionally, knowingly or with depraved indifference to human life.

Ladies and gentlemen, the defendant asks you to believe that everyone else is lying, mistaken, misinterpreting, or has forgotten, except him. If you believe the state’s witnesses and evidence, then you’re justified in convicting him of Second Degree Murder. If you believe the defendant in his version, he’s not guilty of anything; he was simply in the wrong place at the wrong time.

As you can consider his testimony, however, keep in mind that what he gave you was a carefully fabricated account completely different from everyone else’s testimony which conveniently removes him from any responsibility for anything. He knew from sitting here in this trial what he had to refute, and he came up with an explanation that did just that. His testimony doesn’t, however, explain the marks on M.’s face, the bruise under his chin, the fresh broken ribs, and the other evidence of what previously happened to M.

Ladies and gentlemen, I submit to you the evidence presented in this case established beyond a reasonable doubt exactly what happened in the cab of that pickup truck that caused the death of M.B. The only reasonable view of that evidence is that the defendant admitted to Mr. H. that he suffocated M. Another thing he said in that interview with Mr. H. applies here: “M.B. didn’t need to pay for what the defendant did to him. M.B. didn’t need to die.” The evidence clearly supports a finding that the defendant committed the crime of Second Degree Murder, and I ask you to return such a verdict.

(Defense Counsel’s Closing Argument Omitted)

**REBUTTAL ARGUMENT IN CHILD HOMICIDE CASE**

**Prosecutor:** We appreciate your patience, ladies and gentlemen, and I don’t have very much more, but I do have a few things that defense counsel indicated that I must clarify.

Let’s talk first about this concept of proof beyond a reasonable doubt. As the judge has instructed you, and you’ll have this instruction, that does not mean proof beyond all doubt. A reasonable doubt is a speculative or imaginative doubt. It has to be based on evidence or lack of evidence here. The defense offered you a lot of speculative possibilities, but there is no affirmative evidence to lead you to believe what they’re trying to get you to believe. In fact, the defendant’s testimony is probably the best reason for you to disbelieve their theory. He told you yesterday, in his description of what occurred, that M. was not choking or coughing. That should be about the end of that issue.

The next thing I would like to clarify for you is what I’m sure is an unintentional but complete misstatement of the law by defense counsel. He wants you to believe to convict the defendant of murder, you must find that he intended to cause M.B.’s death. Now, I’m sure you understood my explanation to you earlier; but do not misinterpret Instruction No. 4, when it says there must be a union or joint operation of act and intent. That means there must be an act, and there must be a mental state to complete the crime. The elements of the crime of Second Degree Murder have been explained to you. I went through those with you as to the evidence. And only one part of one of those alternatives is that the defendant intended to kill M.B. The others that I discussed with you: the knowing action of the defendant, the depraved indifference to human life. The felony murder doesn’t even require that you find that he intended to kill or acted knowingly. So what defense counsel told you, that you must find that somehow the defendant came out of the mountains and targeted M.B. is simply not the law in this case. I don’t know where that comes from. You also don’t have to find beyond a reasonable doubt exactly what the defendant did. But I think you know exactly what the defendant did; and nothing defense counsel indicated, and nothing in the evidence should lead you to believe otherwise.

Defense Counsel talked about the physical signs of what the defendant left behind. And he encouraged you to go back into the jury room and speculate that you have to somehow match up all of those physical signs, you have to match up the bruises, you have to match up the fingernail marks. Keep in mind that it’s not essential that all of those marks may have been caused all in the same moment or all in the same motion. That’s what defense counsel would have you believe. Keep in mind, also, that the fact that no one saw these bruises corroborates the theory that I’ve given you. The fact that no one saw them in the emergency room, or even Mr. H. didn’t see them, would indicate whatever caused those must have been prior to M.’s death. Bruises don’t happen after death. No one put those fingernail marks on M.’s body—and you’ll see the photograph of them, after Mr. H. saw him. So the fact he didn’t see them doesn’t mean anything. He just didn’t see them. It’s that simple.

Don’t get tied up, either, in defense counsel’s argument to the broken rib that was fresh. That, as I’ve said to you, is not a cause of M.B.’s death. He would like to say that we have to prove that beyond a reasonable doubt. And that’s not an element of the crime at all. That’s just one indication of the brutality of the defendant that might have been involved in this particular situation. And this theory that he didn’t have enough ability to cause M.B.’s injuries because of his sore back is certainly refuted by the fact that he was riding that tote goat for miles and mile just weeks before this December 16 period. I don’t know how he expected you to believe that he was incapacitated from delivering any kind of blow. Also, don’t be confused by defense counsel’s arguments that you must find that somehow those bruises correlate to the broken rib. It’s just the opposite. If you remember Dr. F.’s testimony, you can cause a broken rib without leaving a bruise, and he testified that’s often the way it occurs. So don’t try to correlate all of that and then find that somehow they don’t fit together.

As to Mr. H’s credibility, defense counsel says he’s a well-trained chief investigator and has a stake in the outcome. But remember that Mr. H. told the defendant before he gave him the scenario that he didn’t want anybody convicted of a crime that he didn’t commit. Why would he say that if he really wanted to make up a story about that? If Mr. H. set out to fabricate, why would he have the defendant go through a different version before having the defendant admit to what actually happened? That would not make sense. And it’s no less a confession that the defendant admitted after that scenario involving putting his hands over M.’s mouth and nose and killing the child. And that he says: “I can’t believe that you figured out exactly what happened.”

Defense Counsel makes a big deal of the fact that the defendant was crying and praying in the hospital, and he rushed to the hospital. Keep in mind that if he intentionally killed M.B., or if he acted in any of these other ways, he would do the same thing. He’s not going to act inappropriately. If the defendant is trying to cover for what he did, that’s exactly what the defendant would do.

As to the doctors, defense counsel says that they don’t know what caused the death. Well, that’s true. They can’t tell medically what caused the death, and you wouldn’t expect that to happen in a case like this. We all know there are some things that people can do to cause their death that don’t leave medical signs; but each medical expert said the signs in the case are affirmatively consistent with suffocation. That’s the only thing that they found that is affirmatively consistent with anything. And keep in mind, as well, the main proof there is, that the defendant admitted to that to Mr. H. If it didn’t happen that way, why did he say that?

Defense Counsel concludes by telling you that there’s no witnesses here who saw the act, that somehow that indicates the state has not met its burden of proof. Well, ask yourselves: is this the type of crime that’s committed in the presence of witnesses? Is this the type of crime that you’d expect that? It’s not a mystery, ladies and gentlemen. I submit that the evidence is very clear. The defendant confessed to what happened here. He killed M.B. by suffocating him. And I ask you to return a verdict of Second Degree Murder. Thank you.