STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

ON APPEAL FROM THE COURT OF APPEALS
Donald S. Owens, P.J., Christopher M. Murray and Michael J. Riordan, JJ.

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v.

LEO DUWAYNE ACKLEY, a/k/a LEO DUANE ACKLEY, JR. and LEO DUWAYNE ACKLEY II,
Defendant-Appellant.

SC No. 149479
COA No. 318303
LC No. 2011-003642-FC

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**DEFENDANT-APPELLANT'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS APPLICATION FOR LEAVE TO APPEAL**

149479
Dfnt's Supl

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## QUESTION PRESENTED

Was Leo denied the effective assistance of counsel based on trial counsel's failure to adequately investigate the possibility of obtaining expert testimony in support of his defense?

Defendant-Appellant's Answer – Yes.

Plaintiff-Appellee's Answer – No.

Court of Appeals Answer – No.

Trial Court's Answer – Yes.

## SUPPLEMENTAL STATEMENT OF FACTS

(This supplemental statement of facts is to augment Defendant-Appellant's previous Statement of Facts in its Application for Leave to Appeal, and those previous statements are incorporated by reference.)

The essential facts of this case are simple. Leo was convicted of Felony Murder and Aggravated Child Abuse in the death of Baylee Stenman, the 3 1/2 year old child of his live-in girlfriend. The prosecution's case against Leo was based entirely on expert opinion that Leo abused Baylee and that she died as a result of being "throttled" into a hard surface. *See* Trial Transcript (herein after Trans.) 828:16-838:24 (April 18, 2012) (People's Closing Argument). Nobody testified that they ever witnessed Leo abuse Baylee. *See* Trans. The prosecution called two primary experts: Dr. Guertin, who testified that the bruises on Baylee were pattern bruises caused by abuse; and Dr. DeJonge, who testified that Baylee died as a result of blunt force trauma to the back of her head, which resulted in a subdural hemorrhage, retinal hemorrhage, and a swelling of her brain. *See* Trans. 659:18 – 673:11 (April 17, 2012). These are the symptoms commonly ascribed to Shaken Baby Syndrome and its progeny, Abusive Head Trauma. Tuerkheimer, *The Next Innocence Project: Shaken Baby Syndrome and the Criminal Courts*, 87 Wash U L Rev 1 (2009).

The defense's theory of the case was that Baylee died as a result of an accidental fall. Nobody testified at trial that they witnessed Baylee fall. *See* Trans. In fact, nobody testified that they witnessed how Baylee was injured. *See* Trans. (However, there was one witness, Linda Byrd, who did tell trial counsel that she witnessed Baylee hit her head on the ground after jumping from a trampoline into a kiddie pool just days before her death. Her affidavit was attached to Defendant-Appellant's application for leave to appeal as appendix 4b) In preparation for trial, trial counsel sought out and received funds from the court to hire an expert for the defense. The first and only expert that trial counsel contacted was Dr. Hunter.

Dr. Hunter testified at the *Ginther* hearing that in the very first phone call with trial counsel he told trial counsel three important things. First, Dr. Hunter told trial counsel that the first phone call would be free. *Ginther* Hearing Trans. III 6:7-6:9 (August 8, 2013) (GIII). Second, Dr. Hunter told trial counsel that he should seek out a different expert, because "I don't think I'm the best person for you." GIII 7:19-7:20. Finally, Dr. Hunter referred trial counsel to either Dr. Shuman or Dr. Spitz for a better evaluation of the case. GIII 7:20-7:21. (Trial counsel recalled being given the names of both Drs. Shuman and Spitz, while Dr. Hunter only recalled referring trial counsel to Dr. Shuman.)

Dr. Hunter went on to inform trial counsel that in the medical community, theories on Shaken Baby Syndrome and its progeny, Abusive Head Trauma are "like a religion." GIII 23:19. Dr. Hunter explained to trial counsel the necessity of hiring an expert that believes in the defense's theory that Baylee died as the result of an accidental fall. GIII 10:21-11:6. And that every forensic pathologist has their own soul searching to do regarding this type of injury to a child. GIII 23:19 He also testified that in the medical community there is a disagreement about the minimum height that a child can fall and still suffer traumatic brain injury. GIII10:11-10:13. He explained that the reason he was not the right expert is because he was in the camp that believed that children cannot die from a relatively short-fall.

**STANDARD OF REVIEW**

Defendant-Appellant hereby incorporates the Standard of Review it stated in its Application for Leave to Appeal by reference.

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## SUPPLEMENTAL ARGUMENT

(This supplemental argument is to augment Defendant-Appellant's previous Argument to its pleadings in its Application for Leave to Appeal, and those previous arguments are incorporated by reference.)

**Leo's trial attorney was ineffective because he failed to adequately investigate the possibility of obtaining expert testimony to support the defense's theory that Baylee Stenman died as the result of an accidental fall when he ignored the advice of the *first and only* expert he contacted, who told him in the first phone call, and before trial counsel had spent any of the money appropriated for an expert, "I'm not your guy" and proceeded to direct him to at least one other expert who could have supported Leo's defense that Baylee Stenman died as a result of an accidental fall.**

Here, trial counsel knew the importance of expert testimony in Leo's trial. He knew that every element of the allegations against Leo would be proven solely by expert testimony from the prosecution's experts. He also knew that the medical testimony regarding the cause of Baylee's death was controversial in the medical community. He knew that there were experts available who did maintain the belief that children could die from short-fall type injuries. He was also explicitly referred to two experts, *before* trial and *before* counsel had spent any of the court funds, who maintained this belief. Instead, trial counsel decided to squander the court funds on the same expert who told him that "I'm not your guy." Ultimately, this case begs the question: If a trial attorney affirmatively ignores the advice of the *one and only* expert he consults when all the elements of the offense are to be proven by expert testimony, squanders the money he is given by the court on the expert who told him that he was the wrong expert *and* who directs him to at least one other expert who could possibly help the defense's theory of the case but trial counsel failed to follow-up on that lead: then how deficient can a trial attorney be in order to still be considered constitutionally effective?

**I. Trial counsel's decision to willfully ignore Dr. Hunter's advice to contact specific experts who could have supported the defense's theory of the case fell below an objective standard of reasonableness and was not sound trial strategy.**

In *Couch v Booker*, 632 F3d 241 (CA6, 2011), the United States Court of Appeals for the Sixth Circuit stated:

> "[In order] [t]o make a reasoned judgment about whether favorable expert testimony is worth presenting at trial, *one must know what it says*. . . ." *Id.* at 246. [Emphasis Added]

The same holds true in this case. Trial counsel could never know if the experts he was referred to could help if he did not even try to contact either one of them. Rather, trial counsel, *against* Dr. Hunter's advice, ignored Dr. Hunter and proceeded to trial without any expert to support the defense theory that Baylee died as the result of an accidental fall.

**A. Trial counsel was made aware that there were experts available who could support the defense's theory of the case.**

Trial Counsel acknowledged at the *Ginther* hearing that he was aware that the medical community was in disagreement about whether the injury suffered by Baylee could be the result of an accidental fall. Further, he testified that he was made aware of at least two experts who believed that accidental short-falls could cause death. He testified that he knew these experts' names. He also testified that he did not even attempt to contact either of them. Further, at the time he was given these names, he still had the *original* $1,500 that the trial court had granted him to begin his investigation to spend on one of the experts to whom he was referred. Simply, he squandered the funds on an expert who had already told him that "I'm not your guy."

**B. Trial counsel had a duty to at least make contact with one of these experts he was referred to in order to determine if they could, in fact, support the defense's theory of the case.**

Trial counsel decided the best defense theory, after originally consulting with Dr. Hunter, was that Baylee died as a result of an accidental fall. Once he decided this was the

best theory for the defense, trial counsel had a duty to fully investigate the plausibility of this defense as it applied to the facts in Leo's case. This would have required, at a minimum, contacting one of the experts he was told about to determine whether or not that expert could support his theory of an accidental fall.

This Court, in upholding the The Michigan Court of Appeals in its unpublished per curium opinion in *People v. Campbell*, No. 245263, 2005 WL 182703 (Mich Ct App, January 27, 2005) (cert. denied 472 Mich 942 (2005)) (attached as appendix 1a for the Court's convenience), has already upheld a nearly identical situation where a defendant was granted a new trial because trial counsel failed to contact or present testimony that a small child could die as the result of an accidental fall. (In an effort to avoid redundancy, Defendant-Appellant, refers this Court to its Brief in Support of its Application for Leave to Appeal, pages 16-18 for a detailed analysis of *Campbell,* and is attached here as appendix 1b for the Court's convenience.) In *Campbell*, the Michigan Court of Appeals stated that trial counsel has a duty to seek out this expert and to present the expert testimony at trial when the identical scientific evidence that a child could or could not die from an accidental fall was the ultimate issue in the case.

Further, in *People v Bass*, 247 Mich App 385; 636 NW2d 781 (2001), the Court of Appeals held that trial counsel's failure to investigate the *potential* testimony of her client's co-defendants amounted to ineffective assistance of counsel. Similarly, trial counsel in this case failed to investigate *potential* expert testimony to support its theory of an accidental fall.

More recently, this Court has stated in both *People v Grant*, 470 Mich 477; 684 NW2d 686 (2004), and *People v Trakhtenberg*, 493 Mich 38; 826 NW2d 136 (2012) that trial counsel has a duty to perform a complete investigation of the relevant facts,

circumstances, and case law.

**C. Trial counsel's failure to even attempt contacting one of these experts, in light of his explicit knowledge of the identity of these experts, fell below an objective standard of reasonableness.**

In *Grant, supra*, this Court held that trial counsel's "failure to conduct a complete investigation was a fundamental abdication of duty that prejudiced defendant . . ." *Id* at 498. In *Grant,* trial counsel's failure to investigate a witness who would have testified that the young girl's injuries were sustained in a fall from a bicycle in a CSC case was an abdication of trial counsel's duty.

In light of the fact that Defendant-Appellant was facing the very real possibility that he would spend the rest of his natural life incarcerated in the Michigan Department of Corrections if convicted in Baylee's death, trial counsel's failure to even attempt to reach out and contact one of the experts to whom he was told to contact by Dr. Hunter *while he still had the original* $1,500.00 fell below any objective standard of reasonableness. Simply, Leo was facing this State's harshest penalty—true life in prison—and trial counsel did not even bother picking up a telephone and calling either Dr. Shuman or Dr. Spitz to find out if they could indeed support the defense's theory that Baylee died as the result of an accidental fall.

**II. Trial counsel's failure to adequately investigate the possibility of obtaining either Dr. Shuman or Dr. Spitz deprived Leo of a fair trial, and had Leo's jury heard Dr. Spitz's testimony, or the testimony of any other expert who could have supported Leo's claim that Baylee died from an accidental fall, there is a reasonable probability that the verdict would have been different.**

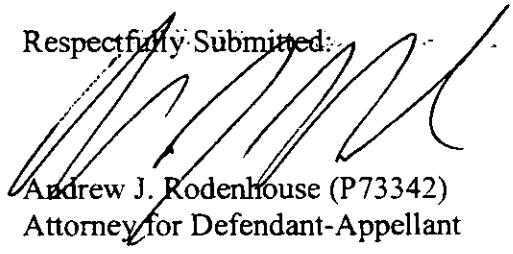
During trial, the jury heard from prosecution experts that the bruises on Baylee were "pattern bruises," which were indicative of abuse, and that the blunt force trauma she sustained to the back of her head was so severe that it could only be caused by being "throttled" into a hard surface with so much force that it could only be intentional. However, had the jury heard the testimony of Dr. Spitz, they would have heard that in his

expert opinion: 1) The bruises on Baylee's body were relatively small and consistent with performing CPR on a rough surface (paramedics performed CPR on Baylee on the side of the road); 2) The bruises on Baylee were not abuse-type bruises, patterned bruises, or choking, or throttling type bruises or injuries; 3) The bruise on her buttock was not the result of a spanking; 4) Her thinning hair was not caused by Leo abusing her; and 5) Baylee's death was accidental and not due to any abuse. Simply—Dr. Spitz's testimony would have refuted every piece of incriminating expert testimony used by the prosecution. (Dr. Spitz's Affidavit attached as Appendix 2). Further, this testimony would have provided *prima facie* evidence in Leo's case-in-chief of his *actual* innocence.

**PRAYER FOR RELIEF**

Therefore, for the reasons above, Defendant-Appellant, Leo Ackley, prays this Honorable Court grant his application for leave to appeal, uphold the decision of the trial court granting him a new trial, remand to the trial court for further proceedings, or any other relief this Court deems just and appropriate.

Respectfully Submitted:



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Dated: January 5, 2015

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

ON APPEAL FROM THE COURT OF APPEALS
Donald S. Owens, P.J., Christopher M. Murray and Michael J. Riordan, JJ.

PEOPLE OF THE STATE OF MICHIGAN,
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LEO DUWAYNE ACKLEY, a/k/a LEO DUANE ACKLEY, JR. and LEO DUWAYNE ACKLEY II,
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**DEFENDANT-APPELLANT'S APPENDIX**
**SUPPLEMENTAL BRIEF**

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# APPENDIX 1A

*People v. Campbell*

# STATE OF MICHIGAN

# COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY SCOTT CAMPBELL,

Defendant-Appellant.

UNPUBLISHED
January 27, 2005

No. 245263
Branch Circuit Court
LC No. 01-017197-FC

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ANTHONY SCOTT CAMPBELL,

Defendant-Appellee.

No. 254807
Branch Circuit Court
LC No. 01-017197-FC

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Before: Whitbeck, C.J., and Owens and Schuette, JJ.

PER CURIAM:

## I. Overview

The trial court convicted defendant Anthony Scott Campbell of second-degree murder[1] and sentenced him to 206 to 360 months' imprisonment. Campbell appeals as of right in Docket No. 245263. While Campbell's appeal was pending, this Court granted his motion to remand for an evidentiary hearing. Following the evidentiary hearing, the trial court granted Campbell a new trial. In Docket No. 254807, this Court granted the prosecution's application for leave to appeal the order granting Campbell a new trial, and consolidated the two appeals. We affirm the trial court's grant of a new trial for Campbell and remand for further proceedings.

## II. Basic Facts And Procedural History

Campbell's conviction arises from the death of Paige Anderson, the ten-month-old daughter of Campbell's live-in girlfriend, Teri Anderson. In January 2001, the child was brought

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[1] MCL 750.317.

to the emergency room at the Community Health Center in Coldwater, Michigan and found to be in critical condition. She was not breathing, her eyes were fixed and dilated, and she was bruised across her forehead, on her left leg, below her clavicle, and on the side of her neck. The bruises were in various stages of healing. The sclera of the child's right eye was bleeding and both eyes exhibited retinal hemorrhaging. She was flown to another hospital for further assessment and treatment, but she did not survive. The cause of death was determined to be a severe craniocerebral trauma caused by a significant blow to the back of her head, which caused a skull fracture and swelling of the brain.

Campbell was in exclusive control of the child at the time she sustained her fatal head injury. He testified that, after two mishaps in the bathtub on the evening of January 5, 2001, he put the child to bed. He later received a call from Teri Anderson, who wanted to be picked up from work. Anderson was ill and wanted to see a doctor. According to Campbell, when he rushed out of his apartment, he was holding the child on his right side. As he stepped onto the second step of the stairs, his foot went out from underneath him and the child shot out of his arms. She landed on the back of her head on the fourth or fifth step. She continued moving, feet first, onto the landing where she rolled up to the railing and came to rest. Campbell testified that it appeared that the child banged her head against the wall during the fall, and her right lower back or stomach hit the railing.

The prosecution presented evidence that Campbell's version of the alleged fall had evolved over time. For example, Campbell initially informed the police that the child had fallen face- and chest-first onto the steps. Later, he indicated that she landed on the back of her head. More importantly, the prosecution presented evidence from several treating physicians, all of whom were qualified as experts at trial, and from the medical examiner, who performed the victim's autopsy. Their unrefuted testimony was that the child's injuries were inconsistent with a fall on the stairs. The medical experts agreed that the child's skull fracture was caused by an impact on a hard, flat surface. Some of the physicians testified that retinal hemorrhaging is indicative of abuse until proven otherwise. All of the experts admitted that their conclusions took into consideration the history of the alleged fall, as presented to them. The history was not the version to which Campbell testified at trial.

The trial court, sitting as the trier of fact, and relying primarily on the medical evidence, convicted Campbell of second-degree murder.

## III. The Prosecutor's Appeal Of The Order Granting A New Trial

### A. Standard Of Review

We review the trial court's decision to grant a motion for new trial for an abuse of discretion.[2]

[2] *People v Cress*, 468 Mich 678, 691; 664 NW2d 174 (2003); *People v Johnson*, 245 Mich App 243, 250; 631 NW2d 1 (2001).

B. Ineffective Assistance Of Counsel

We first address the trial court's decision granting Campbell a new trial, which the prosecutor challenges in Docket No. 254807. Following an evidentiary hearing, the trial court found that Campbell was deprived of the effective assistance of counsel in two crucial regards. Specifically, the trial court determined that trial counsel was ineffective for failing to contact, investigate, and urge Campbell to hire an expert to refute the medical testimony presented by the prosecution. The trial court found that, but for defense counsel's failure with respect to expert testimony, there was a strong likelihood that it would have acquitted Campbell. Additionally, the court found that trial counsel was ineffective for failing to produce police records from Iowa involving another one of Anderson's children. Campbell had no contact with this other child, who was found with bruising due to suspected physical abuse.

Whether a defendant was denied effective assistance of counsel presents a mixed question of fact and constitutional law.[3] This determination requires the trial court first to find the facts, then determine "whether those facts constitute a violation of the defendant's constitutional right to effective assistance of counsel."[4] We review the trial court's factual findings for clear error and review de novo its constitutional determination.[5] To prevail on a claim of ineffective assistance of counsel, a defendant must show that counsel's performance fell below an objective standard of reasonableness and that, but for defense counsel's errors, there was a reasonable probability that the result of the proceeding would have been different.[6] We presume that counsel provided effective assistance, and defendant bears a heavy burden of demonstrating that counsel was ineffective.[7]

Decisions regarding what evidence to present and whether to call witnesses are presumed to be matters of trial strategy.[8] However, the failure to call significant witnesses without articulating any strategic reason for doing so may constitute ineffective assistance of counsel.[9] The failure to call witnesses is ineffective if it deprives a defendant of a substantial defense.[10]

At the evidentiary hearing, Campbell presented testimony from two expert witnesses, Chris Van Ee, a Ph.D. in biomechanical engineering, and Dr. Ronald Uscinski, a clinical neurosurgeon. Van Ee concluded that a fall down the stairs, in the manner described by Campbell, would produce a violent impact to the back of the victim's head and could result in a skull fracture. Dr. Uscinski testified that, if the child's fall occurred in the manner described by Campbell at trial, the injuries she sustained could have resulted. He testified that medical

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[3] *People v LeBlanc*, 465 Mich 575, 578; 640 NW2d 246 (2002).

[4] *Id.* at 579.

[5] *Id.*

[6] *People v Stanaway*, 446 Mich 643, 687-688; 521 NW2d 577 (1994).

[7] *People v Williams*, 240 Mich App 316, 331; 614 NW2d 647 (2000).

[8] *People v Rockey*, 237 Mich App 74, 76; 601 NW2d 887 (1999).

[9] *People v Johnson*, 451 Mich 115, 122-124; 545 NW2d 637 (1996).

[10] *People v Daniel*, 207 Mich App 47, 58; 523 NW2d 830 (1994).

science cannot distinguish between an intentional slamming of the head and an accidental drop on the head. He disagreed that retinal hemorrhaging is indicative of intentional abuse.

Campbell's trial counsel testified that there was no strategic reason for failing to investigate and hire an expert. Although Campbell was aware that there were nine physicians testifying for the prosecution, he believed he could adequately cast doubt on their testimony through cross-examination. He testified that he was specifically aware of Dr. Uscinski and had previously heard Dr. Uscinski testify. Trial counsel claimed that he discussed retaining Dr. Uscinski with Campbell, but that Campbell declined to hire him because of the expense.

Campbell, his mother, and his cousin also testified at the evidentiary hearing. They testified that they asked Campbell's trial counsel about hiring an expert, and he informed them that it was not necessary. Campbell's mother, who paid for his defense, said she would have paid for an expert witness, but was not asked to do so.

The trial court made numerous findings of fact with respect to the issue of trial counsel's effectiveness, including that trial counsel understood the importance of hiring Dr. Uscinski or another expert, that trial counsel did not clearly convey the importance of hiring an expert to Campbell and his family, that Campbell's family was apparently willing to pay for an expert, that Campbell's family was not asked to pay for an expert even though trial counsel knew they were paying for the defense, that trial counsel never spoke with an expert, that trial counsel never hired an expert, and that trial counsel did not call an expert at trial. These findings of fact are supported by the record and are not challenged by the prosecution on appeal.

Given the court's findings, we affirm the trial court's decision to grant Campbell a new trial based on ineffective assistance of counsel. Under the circumstances, trial counsel's performance fell below an objective standard of reasonableness. He was aware of Dr. Uscinski, knew the value of his testimony, and knew that the principal contested issue in the case was whether the victim's injuries could have been caused by a fall down the stairs. Moreover, trial counsel was aware that the prosecution was offering nine medical experts to testify that the injuries could not have been caused by a fall down the stairs. Under these circumstances, Dr. Uscinski's testimony, or that of another similar expert, would have been crucial to refute the prosecutor's claims and support the defense that the victim was injured in an accidental fall.

The record also supports the trial court's determination that, but for trial counsel's defective performance, the outcome of trial would have been different. The trial court, which sat as the trier of fact, concluded that there was a high probability that its verdict would have been different had Campbell presented expert testimony to support his claim that the victim's injuries could have been caused by a fall down the stairs. The verdict was primarily based on the unchallenged medical testimony that a fall down the stairs could not account for the child's condition at the time she presented to the hospital. Dr. Uscinski's testimony would have directly refuted these conclusions. We conclude that the failure to call this witness constituted ineffective assistance of counsel, because it deprived Campbell of a substantial defense.[11]

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[11] *Id.*

The prosecution's argument on appeal rests on its assertion that Campbell decided not to hire an expert because of the cost. It argues that, where a defendant can afford to hire an expert and chooses not to do so, the failure cannot be attributed to defense counsel. But the trial court did not find that Campbell and his family chose to forego hiring an expert based on financial reasons. Rather, the court determined that defense counsel did not adequately import the need for an expert, that Campbell's family was apparently willing to pay for an expert, and that they were not asked to do so. The prosecution does not challenge these factual findings, but rather ignores them in making its argument.

In granting Campbell a new trial, the trial court also determined that trial counsel's failure with respect to the Iowa police reports fell below an objective standard of reasonableness. We agree. The reports would have been valuable in dispelling the notion that Campbell was responsible for any abuse the victim may have suffered.

Accordingly, we conclude that the trial court did not abuse its discretion in granting Campbell a new trial.

## IV. Campbell's Appeal

### A. Moot And Abandoned Issues

In Docket No. 245263, Campbell raises several issues with respect to his trial. In light of our disposition in Docket No. 254807, we find it unnecessary to address most of the issues Campbell raises. First, Campbell's issues with respect to an evidentiary hearing and the great weight of the evidence are moot because Campbell was granted an evidentiary hearing and because we are affirming the order granting Campbell a new trial.[12]

Second, we conclude that three of Campbell's issues should be deemed abandoned. Campbell argues that the presentation of "junk science" evidence at trial constituted error requiring reversal. But he fails to explain or rationalize his positions, or cite authority supporting that the alleged "junk science" evidence was improper or that the experts were erroneously permitted to testify in areas that exceeded their expertise. While Campbell cites *Daubert v Merrell Dow Pharmaceuticals, Inc*,[13] and argues that the challenged testimony was unacceptable under "*Daubert* and its progeny," he completely fails to explain this position. His argument is cursory and conclusory, and we therefore decline to review it.[14]

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[12] See *People v Briseno*, 211 Mich App 11, 17; 535 NW2d 559 (1995) (an issue is moot where a subsequent event renders it impossible for this Court to fashion a remedy).

[13] *Daubert v Merrell Dow Pharmaceuticals, Inc*, 509 US 579, 593; 113 S Ct 2786; 125 L Ed 2d 469 (1993).

[14] See *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998) ("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 with little or no citation of supporting authority").

We also deem abandoned Campbell's argument that he was denied his right to the presumption of innocence and a fair trial because the prosecution's experts improperly assumed his guilt and intent. This argument is conclusory, and Campbell fails to explain, rationalize, or support his positions with citation to relevant authority. We will not be left to discover and rationalize Campbell's claim that he was deprived of the important right to be presumed innocent unless proven guilty.[15]

We additionally find abandoned Campbell's argument that the evidence was insufficient to support his conviction of second-degree murder. He combines this argument with his cursory argument challenging the great weight of the evidence, fails to analyze the evidence in light of the appropriate standard of review, and ignores circumstantial evidence favoring conviction.[16] We nevertheless note that we have considered the issue and find that the evidence, including the medical testimony presented, was sufficient to enable a rational trier of fact to find beyond a reasonable doubt that the victim's death was caused by Campbell's acts, with malice, and without justification or excuse.[17]

B. Suppression Of Campbell's Statements To Police

(1) Standard Of Review

Campbell argues that the trial court erred when it refused to suppress his statements to the police, which were made without the benefit of *Miranda*[18] warnings. We review this issue because the admissibility of Campbell's statements to the police is an issue that is likely to recur at retrial. We review the trial court's factual findings after a suppression hearing for clear error.[19] We review de novo the issue of whether Campbell was in custody.[20]

(2) The Trial Court's Ruling

The factual circumstances surrounding Campbell's statements to the police are complex. As Sergeant Patrick Beeman of the Coldwater Police Department explained it, in the late evening of January 5 and the early morning of January 6, 2001, he interviewed Campbell at the Coldwater police station. Part of this interview was recorded, through an audio-visual system with the video camera mounted on the windshield of Sergeant Beeman's patrol car. The video portion of the tape showed only the blank back wall of the police garage, toward which the video camera was apparently pointed during the interview. However, Sergeant Beeman had a mike on his duty belt that allowed him to pick up the audio portion of his conversation as long as he was nearby. Therefore, the audio portion of the tape, which commenced at approximately 10:56 PM

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[15] *Id.*

[16] *Id.*

[17] *People v Aldrich,* 246 Mich App 101, 123; 631 NW2d 67 (2001); *People v Legg,* 197 Mich App 131, 132; 494 NW2d 797 (1992).

[18] *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

[19] *People v Herndon,* 246 Mich App 371, 395; 633 NW2d 376 (2001).

[20] *Id.*

of January 5 and continued through approximately 1:04 AM of January 6, was available and was played to the trial court.

However, the statements by Campbell that are at issue here are not contained in the audio portion of the tape. According to Sergeant Beeman, the recording device stopped because it simply ran out of tape. Approximately ten minutes after the tape ended, Sergeant Beeman, after taking an intervening call, recommenced the interview with Campbell. That interview continued, with several breaks and interruptions, until approximately 5:42 AM of January 6. Ultimately, Campbell signed a detailed statement. This later statement, while not necessarily inculpatory, did differ in several material respects from Campbell's earlier, recorded, statements. For example, in the later statement Campbell, after commenting that "this is where it differs significantly," indicated that as part of an unintended accident the child's head forcefully hit the back of the bathtub when he was bathing her. Similarly, after commenting that "This is different," in the later statement Campbell indicated that, contrary to his earlier assertions, the child did not land on her face in the fall; rather, he stated, she "landed and hit the back of her head and slid down."

The trial court, after hearing argument from both sides, found both the recorded statements and the later statement to be admissible. The trial court stated:

> Up until approximately 1:00 o'clock when, as we now all have heard, the second tape came to a conclusion – and commenting upon that only in light of Mr. Campbell's testimony – the Court would determine that he had voluntarily gone to the police station under the circumstances, even in light of Mr. Campbell's testimony, the court would conclude was voluntary and the statements would be admissible.
>
> As indicated, the real focus was upon that portion of the interview that purportedly took place after the second tape ended. Towards that point, as [the prosecution] has indicated, it may have been helpful if the tape itself had continued or a new one had been inserted. It may have been helpful if there had actually been a recording – a video recording device in the interview room so that we could have seen the demeanor of the participants. That's not required. I suppose I could hope that the legislature of this state, as some legislatures in other states are doing, might make that mandatory. But to this point it is not.
>
> The officer testified that he didn't know when the tape ended, though he certainly presumed that it would end at some point.
>
> And the Court would also indicate that it appeared that the attitudes of the intervening officer effectively [presumably Sergeant Beeman] had changed and become more accusatory even before the second tape ended.
>
> Other points for the Court to consider. The duration of the interview, approximately eight hours was long, but the Court would determine not excessive under these circumstances.
>
> The only discussion of an attorney apparently arose in response to discussions about the defendant's agreeing to take a polygraph, but according to

Office Beeman, in order to avoid any misunderstanding, he asked the defendant if he wished to speak to an attorney. And the defendant declined.

The defendant was provided water and relieve, was allowed to smoke both accompanied and apparently, at least on one or two occasions, unaccompanied when the garage door was dropped and the manpower was not sufficient to have someone accompany him to the garage. And then later an ashtray of some sort was provided in the interview room, apparently to the stress of Office Beeman.

In the portion of the tape that the Court has heard –and the Court would conclude that defendant never specifically asked to leave. He did state that he wanted to go to the hospital and was told that the interview would continue so that some more questions could be asked. But it would be done as quickly as possible. He was never told that he could not leave.

As a matter of fact, both Officer Beeman and Deputy Director Bartell suggested that had the defendant wanted to leave he could have; that they were at that point in no position to stop or detain him.

The defendant, from his brief testimony, has revealed himself to be an intelligent, articulate and educated individual, who, more than many, understood his rights and his circumstances.

While the offering of the Miranda rights may have been helpful, the Court would determine that under the totality of all these circumstances, and applying the objective standard in such cases, they were not required.

The Court is, however, persuaded that even if the right had been given that under these circumstances, more likely than not, the defendant would have continued to talk. As Officer Beeman suggested, he was willing to do so in an attempt to offer further explanations after he was placed under arrest later in the morning.

Because of all of this the Court would determine that any subsequent statements are admissible.

(3) Legal Standards

This Court has held that

*Miranda* warnings are necessary only when the accused is interrogated while in custody, not simply when he is the focus of the investigation. Custodial interrogation is "'questioning initiated by law enforcement officers after a person

has been taken into custody or otherwise deprived of his freedom of action in any significant way.'"[21]

In other words, "[a]n officer's obligation to give *Miranda* warnings to a person attaches only when the person is in custody, meaning that the person has been formally arrested or subjected to a restraint on freedom of movement of the degree associated with formal arrest."[22] In *Peerenboom*, this Court refused to suppress statements given without *Miranda* warnings because the defendant was not formally arrested and no formal restraint was placed on her freedom of movement at the time the statements were given.[23] When determining whether a defendant was in custody at the time his statements were made, the totality of the circumstances must be reviewed.[24] The key question is whether the accused could reasonably have believed that he was not free to leave.[25] Objective circumstances are reviewed rather than the subjective views harbored by the interrogating officers or the person being interviewed.[26]

(4) Applying The Standards

We first note that, on the critical question of whether Campbell was free to leave the Coldwater police station, the testimony was contradictory. Sergeant Beeman testified that at no point did Campbell ask that the interview end and that at no point did Campbell ask to leave. Specifically, Sergeant Beeman said that "Had [Campbell] wanted to get up and walk out the door he would have gone." Campbell, by contrast, said that he was never told he could leave, that he believed he had to stay, and that one point he specifically asked to leave the station and received a "non-committal" answer.

The trial court rather clearly believed the testimony of the police officers when it concluded that the defendant never specifically asked to leave and was never told that he could not leave. It is black letter law that questions of witness credibility are for the trier of fact, and that appellate courts are not to engage in retroactive review of such credibility determinations.[27] However, in determining whether a defendant is in custody, the test is objective one and the subjective views of the interrogating officers or the person being interviewed are irrelevant. To the extent that the trial court engaged in a subjective determination in finding the police officers' testimony more credible than Campbell's testimony, , it erred.

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[21] *Id.* at 395-396 (citation omitted).

[22] *People v Peerenboom,* 224 Mich App 195, 197-198; 568 NW2d 153 (1997), citing *Stansbury v California,* 511 US 318, 322; 114 S Ct 1526; 128 L Ed 2d 293 (1994).

[23] *Peerenboom, supra* at 198. See also *People v Kulpinski,* 243 Mich App 8, 25; 620 NW2d 537 (2000).

[24] *People v Coomer*, 245 Mich App 206, 219-220; 627 NW2d 612 (2001).

[25] *Id.*

[26] *Id.*

[27] See *People v Fletcher*, 260 Mich App 531, 561; 679 NW2d 127 (2004).

Further, the trial court's somewhat offhand comment that it was more likely than not that, had the *Miranda* warnings been given, Campbell "would have continued to talk" was most certainly both speculative and subjective. We conclude, however, that these errors were harmless when the totality of the circumstances are considered, and we note that the trial court accurately and succinctly stated that it was required to consider the totality of the circumstances and to apply an objective standard. It is undisputed that Campbell voluntarily went to the police station, that he was informed on two occasions that he was not under arrest, and that he never asked to leave while his conversations were being recorded. These facts support the trial court's finding that Campbell was not in custody during the recorded portion of the interview.

The facts relating to the unrecorded portion of the interview and to Campbell's later statement are murkier. Clearly, Campbell thought he was not able to leave the police station while the police officers thought he was free to go at any time, but these are subjective views and help us not at all when it comes to the ultimate question of whether an objective person in Campbell's circumstances would reasonably have believed that he was not free to leave. We concede that the atmosphere of a police station can be an intimidating one. We are cognizant of the fact that, whether the doors to the interview room were open or closed, a reasonable person might experience both apprehension and a certain amount of claustrophobia under such circumstances. We appreciate the fact that an eight-hour interview, even with the undisputed interruptions and smoking breaks, almost certainly produced a certain level of fatigue. We also recognize that the fact that Campbell was indeed arrested at the conclusion of the interview lends credence to his argument that he may not have been allowed to leave had he attempted to do so.[28]

However, we agree with the trial court that the duration of the interview, while long, was not excessive. Further, the fact that Campbell was allowed to move around the police station unaccompanied on at least one occasion leads us to conclude that his freedom of movement was not restrained to the degree associated with formal arrest up to and including the time he gave his later statement.[29] Finally, we note that the statement itself was very—indeed, it could be said that it is excruciatingly—detailed. While this fact could be indicative of Campbell's desire to give the officers enough information that they would conclude the interview and allow him to leave, it could also indicate Campbell's desire to present the officers with a sufficiently complete and credible account of the incident to exculpate himself. The content of the statement supports the latter view: although it amplified on and to some extent contradicted Campbell's earlier recorded statements, it contained no confession. There are no indicia in that statement that, when considered objectively, would lead to the conclusion that a reasonable person providing such an exhaustive account of the circumstances leading up to the death of the child did so while under formal restraint on his freedom of movement.

Accordingly, in Docket No. 254807, we affirm the trial court's grant of a new trial for Campbell. In Docket No. 245263, we affirm the trial court's denial of Campbell's motion to

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[28] See *Oregon v Mathiason*, 429 US 492, 495; 50 L Ed 2d 714, 97 S Ct 711 (1977) (fact that person was not arrested at conclusion of interview weighed against finding that he was in custody).

[29] See *Peerenboom, supra* at 197-198, citing *Stansbury, supra* at 322.

suppress his statements to the police. The case is remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ William C. Whitbeck
/s/ Donald S. Owens

**APPENDIX 1B**

Analysis of *People v Campbell*
from Defendant-Appellant's
Brief in Support of its Application for Leave to Appeal

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

ON APPEAL FROM THE COURT OF APPEALS
Donald S. Owens, P.J., Christopher M. Murray and Michael J. Riordan, JJ.

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff -Appellee,

v.

LEO DUWAYNE ACKLEY, a/k/a LEO DUANE ACKLEY, JR. and LEO DUWAYNE ACKLEY II,
Defendant-Appellant.

SC No._____
COA No. 318303
LC No. 2011-003642-FC

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# BRIEF IN SUPPORT OF DEFENDANT-APPELLANT'S APPLICATION FOR LEAVE TO APPEAL TO THE SUPREME COURT

Submitted By:

RODENHOUSE KUIPERS, P.C.
Andrew J. Rodenhouse (P73342)
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GIII 45:12 – 48:17.

Dr. Hunter believed that in order to raise an effective causation defense, trial counsel should have consulted an expert who believed in the correct "religion."

The unpublished Michigan Court of Appeals opinion, *People v Campbell*, is not only instructive but directly contrary to the opinion of the Court of Appeals in this case on the need for an expert opinion when it comes to this type of injury. *People v Campbell,* No. 245263, 2005 WL 182703 (Mich Ct App January 27, 2005); cert den, 472 Mich 942, (2005).

The trial court convicted Anthony Scott Campbell of second-degree murder in the death of Paige Anderson, the ten-month-old daughter of Campbell's live-in girlfriend, Teri Anderson. The Michigan Court of Appeals granted Campbell's motion to remand for an evidentiary hearing. The trial court granted Campbell a new trial and the Michigan Court of Appeals affirmed the trial court's decision.

In *Campbell*, the child was brought to the emergency room at the Community Health Center in Coldwater, Michigan and found to be in critical condition. She was not breathing, her eyes were fixed and dilated, and she had bruises in various stages of healing across her forehead, on her left leg, below her clavicle, and on the side of her neck. The sclera of the child's right eye was bleeding and both eyes exhibited retinal hemorrhaging. The cause of death was determined to be a severe craniocerebral trauma caused by a significant blow to the back of her head, which caused a *skull fracture* and swelling of the brain. Campbell was in exclusive control of the child at the time she sustained her fatal head injury. He testified that, after two mishaps in the bathtub on the evening of January 5, 2001, he put the child to bed. He later received a call from Teri Anderson, who was ill and wanted to be picked up from work. According to Campbell, when he rushed out of his apartment, he was holding the child on his right side. As he stepped onto the second step of the stairs, his foot went out from underneath him and the child shot out of his arms. She landed on the back of her head on the fourth or fifth step. She continued moving, feet first, onto the landing where she rolled up to the railing and came to rest.

Campbell testified that it appeared that the child banged her head against the wall during the fall, and her right lower back or stomach hit the railing.

The prosecution presented evidence that Campbell's version of the alleged fall had evolved over time. For example, Campbell initially informed the police that the child had fallen face- and chest-first onto the steps. Later, he indicated that she landed on the back of her head. More importantly, the prosecution presented evidence from several treating physicians, all of whom were qualified as experts at trial, and from the medical examiner, who performed the victim's autopsy. Their unrefuted testimony was that the child's injuries were inconsistent with a fall on the stairs. The medical experts agreed that the child's skull fracture was caused by an impact on a hard, flat surface. Some of the physicians testified that retinal hemorrhaging is indicative of abuse until proven otherwise. Although Campbell's trial counsel was aware that there were *nine* physicians testifying for the prosecution, he believed he could adequately cast doubt on their testimony through cross-examination. He testified that he was specifically aware of Dr. Uscinski and had previously heard Dr. Uscinski testify. At the evidentiary hearing, Campbell presented testimony from Dr. Uscinski, a clinical neurosurgeon, which undermined the theory that the injuries were caused by intentional behavior. Dr. Uscinski testified that medical science cannot distinguish between an intentional slamming of the head and an accidental drop on the head. He disagreed that retinal hemorrhaging is indicative of intentional abuse. The verdict was primarily based on the unchallenged medical testimony and Dr. Uscinski's testimony would have directly refuted the prosecution's conclusions. The Court of Appeals concluded that the failure to call this witness constituted ineffective assistance of counsel, because it deprived Campbell of a substantial defense.

While the rulings of the Court of Appeals are divergent, the facts in *Campbell* are nearly identical to the facts in the case at hand. On the day in question Baylee was in Leo's care while her mother, Erica Stenman was at work. Baylee's injury included a subdural hematoma; there was also evidence of retinal hemorrhages and optic sheath hemorrhages. Baylee also had bruising on her neck

and a single bruise on the buttock. However, Baylee did not have a skull fracture. The central issue was whether Baylee Stenman died form an accidental fall and the only expert testimony presented to the jury was that of the prosecution's expert witnesses. At trial the prosecution presented five expert witnesses to support its theory, comparable to the nine expert witnesses in *Campbell*. The prosecution's experts opined that Baylee had been abused and she died from blunt force trauma to the back of the head, which could only have been intentionally inflicted by a "throttling" of Baylee by Leo. Defense counsel, in spite of the pre-trial knowledge of this testimony, contacted one expert witness who told him "I'm not your guy." And in spite of being referred to at least one other medical expert, proceeded to trial without an expert witness to testify that the injury could have been accidental to support of the theory of the defense. The expert medical testimony presented at trial was unrefuted with the exception of defense counsel's cross-examination during which Dr. DeJong admitted to him she did not know how much force was required to cause the injuries that the child sustained. When defense counsel was asked to explain his trail strategy he stated his concern was defending the blunt force trauma; he could not substantiate the failure to call an expert witness. Similarly, in *Campbell,* Campbell's defense counsel testified that there was no strategic reason for failing to investigate and hire an expert. The same is true here. Leo's defense counsel denied Leo a substantial causation defense, falling below an objective standard of reasonableness. Because the jury never got to hear from such an expert, Leo was prejudiced by defense counsel's conduct.

### B. The Trial Court Did Not Abuse Its Discretion When It Found That Defendant Was Prejudiced by Counsel's Ineffective Representation.

The second prong of the test requires the defendant to show prejudice. *Strickland,* 466 U.S. at 692, 104 S Ct 2052. Under this prong, it is not enough that the defendant showed that the act or omission "had some conceivable effect on the outcome of the proceeding." *Id.* at 693, 104 S Ct 2052. Rather, the defendant must show that "there is a reasonable probability" that the outcome would have been different in the absence of the deficient performance. *Id.* at 694, 104 S Ct 2052. "A reasonable

observed Baylee strike her head on the ground in the days prior to her death. He failed to object to the jury instruction. And he bolstered the expertise of the prosecution's key expert witness. Further, the flawed jury instruction restricted the jury from actually deciding whether or not Baylee Stenman's death was from an action taken by Leo. As a result of these compounding, prejudicial errors, Leo was denied a fair trial.

## PRAYER FOR RELIEF

Therefore, for the reasons above, Defendant-Appellant, Leo Ackley, prays this Honorable Court grant his application for leave to appeal, uphold the decision of the trial court granting him a new trial, remand to the trial court for further proceedings, or any other relief this Honorable Court deems just and appropriate.

Respectfully Submitted:

Dated: June 13, 2014

Andrew J. Rodenhouse (P73342)
Attorney for Defendant-Appellant

**APPENDIX 2**

Affidavit of Dr. Spitz

STATE OF MICHIGAN

IN THE COURT OF APPLEALS

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PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellees,

v.

LEO D. ACKLEY,
Defendant-Appellant.

Court of Appeals Docket No. 310350

Lower Court Case No. 11-3642-FC

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## AFFADAVIT OF WERNER U. SPITZ

Dr. Werner U. Spitz, being first duly sworn, on his oath, states:

1. I was referred to this case by the Defendant-Appellant's attorney, and having reviewed the information given me by the Defendant-Appellant's attorney, including the autopsy report, photographs, a letter written by Dr. Stephen Guertin to Detective Silverman, and the trial transcripts, make this affidavit in support of Defendant-Appellant's appeal.

2. I am an expert in the field of forensic pathology. I am a medical doctor. I am a former Chief Medical Examiner for Macomb County, MI and for Wayne County, MI, and Deputy Chief Medical Examiner for the State of Maryland in Baltimore. I am a forensic pathologist and toxicologist consultant. I have been a Professor of Pathology at Wayne State University School of Medicine in Detroit, MI and an Adjunct Professor of Toxicology at the University of Windsor in Canada since 1973 and 1978, respectively. I am the author and editor of the textbook *Medicolegal Investigation of Death.*

3. The facts set forth herein are based on my education, training, and experience in forensic pathology. I am qualified to be an expert witness and if sworn as an expert witness, I will testify competently to the facts set forth herein at any proceeding.

4. I will testify to the following:

a. On August 1, 2011, Baylee Stenman died at Bronson Methodist Hospital.

b. Baylee Stenman was 3 1/2 years old.

c. Photographs taken of Baylee indicate that she had a few bruises, an area on the side of each of the head, above the ears where the hair appears thinned, and a subdural hematoma.

d. The bruises are relatively small (up to 3 cm, i.e. 1 1/4"), and of similar greenish-yellow color. This coloration suggests an age of the bruises of three to four days. Bruises change color during the healing process and spread over time.

e. The neuropathologist who examined the brain found a small amount of hemosiderin around the optic nerve. Hemosiderin, which is yellow-orange in color, develops within two to four days following injury.

f. The coloring of bruises in the skin and elsewhere support the time frame from injury to death.

g. The location of the bruises is entirely consistent with positioning of the body on its back during CPR on rough terrain.

h. The bruises on the neck are of the same age as the other bruises on the body and indicate unsuccessful, attempted intubation.

i. These bruises are not abuse-type injuries, patterned bruises, or choking or throttling-type injuries. Further, attributing a single bruise on the buttock "almost certainly" to hitting or spanking is unfounded

j. Thinning of the hair can arise from a variety of causes, such as hair bands, undiagnosed medical conditions, and stress, where the child pulls his or her own hair out for a variety of reasons.

k. A bruise in the scalp measuring 4 x 6 cm (approximately 1 1/2" x 2 1/2") is located on the left back of the head. This injury is the site of impact.

l. The brain is swollen due to edema, weighing 1482 grams, with herniation.

m. Also, evidence exists of retinal hemorrhages and optic sheath hemorrhages.

n. All other findings in the head are because of a single impact to the back.

o. When the head sustains an impact to the back, the brain and eyes moved

toward the site of impact, and then bounce back. This sequence may repeat. The optic nerves move through boney channels in the back of the eye socket.

p. When the impact occurs, the brain and eyes move, causing the optic nerves to rub against the bony channels. This trauma causes the injury around the nerves and the retina.

q. Retinal hemorrhages and optic sheath hemorrhages use to be ascribed to "shaken baby syndrome." Such a theory is now rejected.

r. In my expert opinion, the subdural hemorrhage occurred because a sudden impact to the back of the brain stressed the veins running from the arachnoid membrane to the superior saggital sinus. The superior saggital sinus runs over the top of the brain in the midline between the hemispheres under the dura.

s. Such a sudden movement of the brain will cause bleeding, which is a subdural hemorrhage.

t. A subdural hemorrhage takes time to develop, as does brain swelling.

u. In this case, there is a lack of tearing of scalp, laceration, and fracturing of the skull. The absence of these indicates a relatively mild impact.

v. Baylee Stenman may have fallen at home, striking an object on the floor. She remained there until found unconscious and taken to the hospital. She may have stopped breathing as her brain swelled and as CPR was applied en route to the hospital.

5. I will testify that in my expert opinion, based on my education, training, and experience, Baylee Stenman's death was accidental and not due to any abuse.

6. Finally, "Shaken Baby Syndrome" (SBS) and its progeny "Abusive Head Trauma" (AHT) are not applicable to this case and Baylee Stenman's death cannot be attributed to either of these theories.

FURTHER, THE AFFIANT SAYETH NOT.

Dr. Werner U. Spitz Date 4/18/2013

State of Michigan, County of MACOMB,

On 4/18/2013 [Date], before me, a notary public in and for the above stated county, personally appeared Dr. Werner U. Spitz, to me known to be the same person described in and who executed the within Sworn Affidavit and who acknowledged the same to be his or her free act and deed.

Diane L. Lucke, [Notary Public]

[Affix Seal]

Diane L. Lucke, Notary Public
State of Michigan, County of Monroe
My Commission Expires 10/20/2017
Acting in the County of MACOMB

STATE OF MICHIGAN
IN THE MICHIGAN SUPREME COURT

ON APPEAL FROM THE COURT OF APPEALS
Donald S. Owens, P.J., Christopher M. Murray and Michael J. Riordan, JJ.

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v.

LEO DUWAYNE ACKLEY, a/k/a LEO DUANE ACKLEY, JR. and LEO DUWAYNE ACKLEY II,
Defendant-Appellant.

SC No. 149479
COA No. 318303
LC No. 2011-003642-FC

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/

## PROOF OF SERVICE

I, Sydney Rodenhouse, hereby certify that I personally served **Defendant-Appellant's Supplemental Brief in Support of its Application for Leave to Appeal** and **Proof of Service** on Plaintiff-Appellee by United States Mail, first class postage prepaid, and addressed:

Calhoun County Prosecutor's Office
c/o Mark Crotteau
161 East Michigan Avenue
Battle Creek, MI 49014-4066

I declare the statement above is true and accurate to the best of my information, knowledge, and belief.

Sydney D. Rodenhouse
Office Manager

January 5, 2015