Rel: February 7, 2020

ALABAMA COURT OF CRIMINAL APPEALS

OCTOBER TERM, 2019-2020

CR-16-1166

Maurice Antionne Cartwright

v.

State of Alabama

Appeal from Madison Circuit Court
(CC-15-2979)

COLE, Judge.

Maurice Antionne Cartwright was convicted of manslaughter in the death of his three-year old son Je'Remyah, a violation of § 13A-6-3, Ala. Code 1975. Cartwright was sentenced to 20

years' imprisonment and was ordered to pay fines and court costs.

Facts

At trial, the State's evidence established the following facts: On April 30, 2013, Marashala Shoulders invited Cartwright to visit their three-year-old son,[1] Je'Remyah Antonio Shoulders, in Athens. (R. 294.) Je'Remyah was playing outside with his older brother that afternoon. (R. 295.) Cartwright arrived at Shoulders's apartment sometime around 3:30 p.m. or after, but it was still daylight. (R. 296, 349, 383.) They watched Je'Remyah and the other kids play, and Cartwright met Shoulders's neighbor Marsha Cornwell. (R. 296.) During this visit, Shoulders said that Cartwright asked if he could take Je'Remyah with him overnight. (R. 299.)[2] Cartwright and Je'Remyah left Shoulders's home at

[1]Je'Remyah was born on November 2, 2009. (R. 292.) Cartwright was married to someone else when Je'Remyah was conceived and was still married at the time of his trial. (R. 293.) Cartwright did not acknowledge Je'Remyah was his son until a paternity test was done in November 2010, and he only rarely saw Je'Remyah. (R. 293; State's Exhibits 100 and 101.)

[2]Although there was testimony that Shoulders asked Cartwright to take Je'Remyah, it is undisputed that Cartwright took Je'Remyah home with him to Huntsville that night.

some point after dark that day, and Je'Remyah cried when he left. (R. 300.) Shoulders testified that Je'Remyah did not have any bruises or injuries when he left, just "a minor scratch on his forehead." (R. 302-03.)

The next afternoon, Cartwright telephoned Shoulders, "saying that Je'Remyah was bleeding out the nose and he couldn't get him woke." (R. 304.) Shoulders asked Cartwright "to call 911 or take [Je'Remyah] straight to the emergency room." (R. 304.) Cartwright told her to "call somebody who knew what they were talking about." (R. 304.) Shoulders telephoned her aunt, Hatisha Turner, asked Turner to help Je'Remyah, and then gave Turner's number to Cartwright, asking him to call Turner. Shoulders later heard from Turner that Je'Remyah would not wake up and that she was rushing him to the hospital. (R. 304-05.) When Shoulders arrived at the hospital, she was told that Je'Remyah had "bleeding on the brain" and required surgery. Dr. Joel Pickett, the neurosurgeon who performed surgery on Je'Remyah, told Shoulders that "99 percent of the children who have this type of injury don't make it." (R. 307-08.) The next day, Shoulders made the decision to take Je'Remyah off life support

because he had "no brain activity." (R. 310.) Je'Remyah was pronounced dead at 12:30 p.m. on May 2, 2013. (R. 600.)

Marsha Cornwell, Shoulders's neighbor, met Cartwright for the first time when he came to see Je'Remyah on April 30, 2013. (R. 383.) According to Cornwell, Cartwright arrived when it was still daylight and he and Shoulders sat outside and watched the children play in the front yard. (R. 383.) Casey Lynn Smith, another neighbor of Shoulders, also testified that she saw Cartwright in Shoulders's apartment on the afternoon of April 30, 2013. (R. 426-27.) Je'Remyah acted normal, and Cornwell did not notice anything wrong with him. (R. 386.) Around 8:30 p.m., Cornwell saw them again as Cartwright was leaving, and she could hear Je'Remyah screaming. (R. 391.)

Hatisha Turner, Shoulders's aunt, testified that, on the afternoon of May 1, 2013, Shoulders telephoned her and told Turner that Cartwright would be calling her. When Cartwright called Turner, he told her that he was on his way to pick up his son Isaiah from school. (R. 449-50.) Cartwright told Turner that he could not wake Je'Remyah and "had [him] laying in the floorboard of the truck" behind the front passenger

seat. (R. 451.) Turner met Cartwright in the school parking lot and tried to wake Je'Remyah to no avail. (R. 451-52.) Turner also testified that Je'Remyah's "face was bruised up," and the "back of [Je'Remyah's] head was bruised." (R. 454.) Turner told Cartwright that she was taking Je'Remyah to the hospital. (R. 452.) Cartwright asked Turner to "take [Je'Remyah] to [her] house" instead, but Turner put on her flashers and sped Je'Remyah to the hospital. (R. 453.) When Cartwright arrived at the hospital, he told Turner, "[M]an, I'm telling you I didn't put my hands on this child. This is my flesh and blood. I didn't do that. I didn't do nothing to him." (R. 454.)

Investigator Lisa Hamilton testified that she went to Cartwright's residence and found a beach towel in the living room floor with a "reddish stain" on it (R. 477), a wet washcloth in the bathroom sink with "red stains" on it (R. 478), and another washcloth draped over "a black garbage bag" in the hallway that also had a "faint stain" (R. 478-79). These three items were submitted to the Alabama Department of Forensic Sciences for testing and all three items--the towel and both washcloths--tested positive for the presumptive

presence of blood. (R. 483-86.) Moreover, the blood on the towel matched Je'Remyah's blood to a probability of 1 in 259 quadrillion African-Americans and 1 in 46.8 quintillion Caucasians. (R. 487.) The blood on the washcloth located in the bathroom sink matched Je'Remyah's blood to a probability of 1 in 470 quadrillion Caucasians and 1 in 11.3 quadrillion African-Americans. (R. 488.) "Due to the limited quantity or quality of the sample from the washcloth [found in the hallway]," only "5 of the 16 genetic markers [could be] tested." (R. 488.) However, it also matched Je'Remyah's blood to a probability of 1 of 1,170 Caucasians and 1 of 537 African-Americans. (R. 488.)

Dr. Valerie Green, with the Alabama Department of Forensic Sciences, conducted Je'Remyah's autopsy and testified that he had many injuries. (R. 518, 525.) There were a series of bruises on Je'Remyah's head, as well as a scrape and a bruise on the hairline of his forehead. Je'Remyah also had bruises on his nose, above his right eye, on the back of the left side of his head, and a "cluster" of scrapes and bruises" on the left side of his neck. (R. 526-27.) Je'Remyah had three separate scrapes on the back of his neck and a bruised

bottom lip. (R. 528-29.) Je'Remyah also had "areas of hemorrhage or contusion" on his back consistent with blunt-force injuries, (R. 556), and extensive hemorrhaging and swelling on his buttocks and hemorrhages on his right hip and right leg. (R. 534.) According to Dr. Green, Je'Remyah had a "subcutaneous hemorrhage" and a galea hemorrhage on his skull, indicating "some type of blunt force injury that has been applied to the head." (R. 532.) There was also hemorrhaging on the right side of Je'Remyah's head that "corresponded to the area of bruising and abrasion that was on the right outer surface of the scalp in the frontal region up near the hairline," as well as areas of hemorrhage on the back of Je'Remyah's neck. (R. 534.) Je'Remyah also had a subdural hematoma and his brain was "very swollen." (R. 536.) Dr. Green testified that Je'Remyah's death was a homicide and that his injuries were caused by blunt-force trauma. (R. 537.) Cartwright's counsel expressly agreed with both the cause and manner of Je'Remyah's death. (R. 522.)

The injuries to Je'Remyah's eye, nose, head, and lip appeared to be recent, as did the scrapes on Je'Remyah's left neck. (R. 543, 548-50, 552.) Je'Remyah's eye hemorrhages

indicated blunt-force trauma that would have occurred within 48 hours of Je'Remyah's death. (R. 578.) Moreover, Je'Remyah's severe head injuries appeared to have been caused less than 24 hours before his death at 3:30 on May 2, 2013. (R. 572.)

Finally, Dr. Green testified that Je'Remyah's brain injury was severe and that a child with such an injury would typically have behavioral changes such as "headache, sleepiness, ... irritability, crying, nausea, vomiting, seizures ... numbness ... loss of vision ... there are a lot of different things that can be seen as a child is going into the state of an increasing brain bleed." (R. 616.)

Dr. Joel Pickett, the neurosurgeon who treated Je'Remyah on May 1, 2013, testified that Je'Remyah was brought to the hospital in a "deeply comatose" state. (R. 626.) Je'Remyah did not even have a gag reflex, "[a]nd, even if you're in a fairly deep coma, you'll still have a gag reflex." (R. 627.) Dr. Pickett observed bruising on Je'Remyah's nose and eyes. (R. 630.) Tests showed that Je'Remyah's brain stem was not working. (R. 628.) The CT scan "revealed a very prominent subdural hematoma" located "between the skull and the brain,"

which is a "life-threatening injury." (R. 628.) Dr. Pickett performed an emergency craniotomy to remove the blood clot and stop the bleeding. (R. 628-29.) Je'Remyah's brain continued to swell. (R. 629.) The pressure in Je'Remyah's brain was so high that it cut off the blood supply to Je'Remyah's brain and Je'Remyah became brain dead. (R. 630.)

According to Dr. Pickett, "subdurals of this nature are caused by a deceleration injury," i.e., the head is moving and then it is stopped suddenly as in a car accident. (R. 631.) Dr. Pickett also said "it can be caused by something striking the head which would suddenly cause the brain and head to accelerate" or "[a]ny kind of injury that would result in the outcome of the head being struck or striking something and acceleration force is being put in the front." (R. 632.) Dr. Pickett testified that a three-year-old would not have an accidental injury like Je'Remyah's injury "unless they were to climb up on the roof of the house or something of that nature, or to be involved in a motor vehicle accident, so a very high fall or something or motor vehicle accident, which would be obvious .... historical events." (R. 633.) Dr. Pickett further testified that it would be "obvious" something is

wrong when a trauma results in a severe head injury like Je'Remyah suffered. Dr. Pickett explained that Je'Remyah died from "shaken baby syndrome," meaning acceleration/deceleration brain injury, but he noted that such an injury is not always caused by shaking. (R. 634-35.) "Sometimes they're thrown, um, against the wall. It's hard for us to believe that happens. ... [A] shaken syndrome of that nature or a throw could result in a head injury like this." (R. 634-35.)

On cross-examination, Dr. Pickett testified that Je'Remyah had a "great deal of swelling" in his brain by the time he saw him, which meant the injury had not happened within the preceding hour but had occurred no longer than 24 hours before surgery. (R. 648.) Je'Remyah's craniotomy took place after a presurgery CT scan was conducted at 4:00 p.m. on May 1, 2013. (R. 608-09.) Dr. Pickett further reiterated that this kind of injury would be immediately symptomatic and that, if the patient is brought in after "more than four hours, the chances of survival are almost zilch." (R. 650.) Dr. Pickett testified that Je'Remyah's injury "would have probably knocked him out." (R. 651.) Dr. Pickett further testified that Je'Remyah "would be having pain" and would "not

be playful." (R. 652.) In addition, Je'Remyah would have been "progressively somnolent fairly quickly and then unrousable." (R. 652.) Dr. Pickett also testified that, although impact to the face may cause a nosebleed, a brain injury or brain bleed does not cause a nosebleed "in and of itself." (R. 652-53.)

Investigator Chad Smith testified that, from speaking to the doctors and nurses, he knew the injury had occurred within the previous 24 hours so he immediately began to look into who had been around Je'Remyah during that time period. (R. 656; 661.) Inv. Smith Mirandized[3] and interviewed Cartwright, and that audio recording was admitted and played for the jury. (R. 664-65; State's Exhibit 100.)

In this audio recording, Cartwright said "there was nothing wrong with [Je'Remyah] ... we were playing ... he went to sleep ... there's nothing wrong with him, man." Cartwright said that he picked Je'Remyah up from Shoulders's home the previous night and that Je'Remyah was with him and his wife Jamila and his and Jamila's son, Isaiah, until Jamila went to work around 6:30 a.m. on May 1, 2013. Cartwright took

[3]Miranda v. Arizona, 384 U.S. 436 (1966).

Je'Remyah with him when he took Isaiah to school and that they ate breakfast, played, watched television, and ate lunch. Cartwright said he then put Je'Remyah down for a nap at 1:00 p.m. with nothing wrong with him but that he could not wake Je'Remyah at 2:00 p.m. Cartwright said he telephoned Shoulders, who asked him to call her aunt, Turner. At approximately 2:25 p.m., Cartwright put an unconscious Je'Remyah in the floorboard of his truck and drove to Isaiah's school where he met Turner, who took Je'Remyah to the hospital. Cartwright said that he and Je'Remyah were alone together all day. Cartwright continued to reiterate that there was nothing wrong with Je'Remyah when he put him down for his nap. Cartwright did not call medics because he thought Je'Remyah was just "asleep." When asked about the marks on Je'Remyah's eye, on the back of his hand, and under his jaw, Cartwright said that he saw those marks when he picked Je'Remyah up and that Shoulders told him they were from "wrestling with his brother." Cartwright admitted that when he picked Je'Remyah up off the napping pallet he had made with a beach towel, blood was coming from Je'Remyah's nose. Cartwright said the blood was from a sore about which

Shoulders had informed him.[4] Cartwright insisted that there was not a lot of blood, but he admitted getting a wet washcloth and wiping Je'Remyah's nose. Cartwright again reiterated that there was nothing wrong with Je'Remyah until he would not wake from his nap.

On May 14, 2013, Inv. Smith Mirandized and interviewed Cartwright again, and that video was admitted and played for the jury. (R. 686-90; State's Exhibit 101.) In that interview, after being Mirandized and signing the waiver-of-rights form, Cartwright continued to repeat the same basic version of events from his first interview. According to Cartwright, he picked Je'Remyah up in Athens around 7:00 p.m. on April 30, 2013. Cartwright and Je'Remyah got home to Huntsville around 8:30 p.m. Other than a cold, Cartwright said that Je'Remyah "wasn't acting like anything major was wrong with him." Cartwright again said that his wife left around 6:30 a.m. for work on May 1, 2013. According to Cartwright, he and Je'Remyah took Isaiah to school. Cartwright also said that he and Je'Remyah ate breakfast,

[4]Shoulders, however, testified that Je'Remyah did not have a sore in his nose. (R. 314.) Moreover, Dr. Green did not note any sores in Je'Remyah's nose when conducting his autopsy.

played with toys, watched television, and ate lunch together. They did not leave the house, and no one else came to the house. According to Cartwright, Je'Remyah had a "good time" up until Cartwright put him down for a nap on the beach towel around 1:00 p.m. Around 2:00 p.m. Cartwright tried to wake Je'Remyah, but Je'Remyah did not respond. (See also Defense Exhibit 29, C. 945, which sets out this same basic version of events.)

Inv. Smith also testified that he knew what Cartwright said about Je'Remyah's acting normal, playing with toys, and eating lunch could not have been true because Smith had personally suffered a subdural hematoma when, as a teenager, he was hit by a baseball, and he had undergone a craniotomy as well. Inv. Smith said that he immediately experienced an extreme headache, he vomited, he wanted to go to sleep, and he only remembered about an hour after the injury. (R. 777.)

The first witness called in Cartwright's defense was Dr. Alexander Talalight, an ophthalmologist who examined Je'Remyah before Je'Remyah died. (R. 804.) Dr. Talalight found numerous retinal hemorrhages in both of Je'Remyah's eyes. (R. 809-10.) However, those hemorrhages would have rapidly

appeared and "resolve very, very fast." (R. 822-29.) According to Dr. Talalight, "any retinal hemorrhage in a three-year-old child is distinctly abnormal" and is "very highly characteristic of a shaken baby injury." (R. 813.) A subdural hemorrhage can cause a retinal hemorrhage, although he said the pattern "would be typically a little bit different." (R. 814.) Dr. Talalight further testified that, although blunt-force trauma could cause retinal hemorrhages, because of the amount and pattern of Je'Remyah's blood spots, he did not believe those blood spots were caused by blunt-force trauma. (R. 817.) Rather, Dr. Talalight's opinion was that Je'Remyah's eye injuries were "extremely highly characteristic of a shaken baby." (R. 819.) Dr. Talalight did say, however, that to have those types of injuries, you would have to shake a baby "hard enough to pretty much kill the child." (R. 821-22.)

Defense expert, Dr. Adel Shaker, a forensic pathologist, testified that there were "different dates that [Je'Remyah] had been subjected to trauma ... blunt force injuries" based on the scars on his back. (R. 986.) Dr. Shaker could not determine whether Je'Remyah died from "a strong, blunt force

trauma or shaken baby." (R. 987.) Dr. Shaker also testified that there are some diseases, such as leukemia, that mimic abusive head traumas or shaken-baby syndrome. (R. 989.) Finally, Dr. Shaker testified that although Je'Remyah's subdural hematoma was acute, it could be "up to three days'" old. (R. 1002.)

Cartwright also called a private investigator to testify regarding the various parties' cellular-telephone records in an effort to impeach Shoulders's testimony regarding how many times she telephoned Cartwright, what time he may have picked Je'Remyah up in Athens, and how long it took Cartwright to call Turner pursuant to Shoulders's instruction. (R. 901-14.) Cartwright also called Nira Jones, the sister of the father of Shoulders's older child, who testified that on April 30, 2013, Shoulders told her that Cartwright "threw a brick at her, but she had dodged it and it hit [Je'Remyah]." (R. 919.) According to Jones, Shoulders said things had gotten heated because Cartwright "didn't want to take [Je'Remyah] with him" and he threw the brick as he was getting ready to leave that day. (R. 922-23.) Je'Remyah was "screaming to the top of his lungs and she still made him get in the car." (R. 924.)

The jury, after being instructed on capital murder, manslaughter, and criminally negligent homicide, found Cartwright guilty of manslaughter. (C. 119-20.) Cartwright presented evidence of his "intellectual disability" at his August 3, 2017, sentencing hearing, after which the circuit court sentenced him to 20 years' imprisonment, the maximum sentence. (C. 135-39; R. 1109-14.) Cartwright moved for a judgment of acquittal or a new trial on September 2, 2017, arguing that "the State failed to prove a prima facie case of Manslaughter" and that he did not receive a fair trial because he was "not allowed to offer any defense related to his diminished mental capacity." (C. 208.) This appeal followed.

Discussion

Cartwright makes the following three arguments on appeal: (1) that the circuit court erred in denying his speedy-trial motion, (2) that the circuit court erred by excluding testimony regarding Cartwright's disability that, he says, would have explained his response to his son's dire condition, thereby depriving him of a defense, and (3) that the evidence was insufficient to show that he had caused his son's death.

I.

Cartwright first argues that he was denied his right to a speedy trial under the Sixth Amendment[5] to the United States Constitution.

In Barker v. Wingo, 407 U.S. 514 (1972), the United States Supreme Court analyzed the right to a speedy trial and adopted a four-factor balancing test. The four Barker factors to be considered are: (1) the length of the delay, (2) the reason for the delay, (3) the defendant's assertion of his right to a speedy trial, and (4) prejudice to the defendant. Barker, 407 U.S. at 530. The Barker Court also stated:

> "We regard none of the four factors identified above as either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant. In sum, these factors have no talismanic qualities; courts must still engage in a difficult and sensitive balancing process."

Barker, 407 U.S. at 533 (footnote omitted).

[5]The Sixth Amendment provides that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial."

In Ex parte Walker, 928 So. 2d 259 (Ala. 2005), the Alabama Supreme Court discussed its application of the Barker factors:

> "[A]n evaluation of an accused's speedy-trial claim requires us to balance the four factors the United States Supreme Court set forth in Barker: '[l]ength of delay, the reason for the delay, the defendant's assertion of [her] right, and prejudice to the defendant.' 407 U.S. at 530, 92 S. Ct. 2182 (footnote omitted) See also Ex parte Carrell, 565 So. 2d [104] at 105 [(Ala. 1990)]. 'A single factor is not necessarily determinative, because this is a "balancing test, in which the conduct of both the prosecution and the defense are weighed."' Ex parte Clopton, 656 So. 2d [1243] at 1245 [(Ala. 1995)] (quoting Barker, 407 U.S. at 530, 92 S. Ct 2182). We examine each factor in turn."

Walker, 928 So. 2d at 263 (emphasis added).

In conducting this balancing test, the length of the delay is properly measured from the earlier of the arrest or the indictment to the date of the trial or entrance of a guilty plea. Walker, 928 So. 2d at 264. In this case, Cartwright was arrested for the capital murder of his son Je'Remyah on May 14, 2013. (2d Supp. C. 64). Je'Remyah's autopsy report was submitted on April 14, 2015. (C. 406-14.) Cartwright was then indicted for capital murder on June 17, 2015. (C. 17-18.) Cartwright's trial began on June 26, 2017.

(R. 131.) The entire period between Cartwright's arrest and trial was 49 months.

A. Length of Delay

In Doggett v. United States, 505 U.S. 647, 651 (1992), the United States Supreme Court explained that the first factor--the length of the delay--is a double inquiry. The first question is whether the length of the delay is "presumptively prejudicial." Id. (quoting Barker, 407 U.S. at 530-31). "A finding that the length of delay is presumptively prejudicial 'triggers' an examination of the remaining three Barker factors," the second inquiry. Morris v. State, 60 So. 3d 326, 353 (Ala. Crim. App. 2010). In Walker, the Alabama Supreme Court found that a 50-month delay triggered an examination of the other three Barker factors. Walker, 928 So. 2d at 263-64. Thus, the 49-month delay in Cartwright's case requires this Court to consider the other Barker factors.

B. Reasons for the Delay

The following timeline of events is helpful in analyzing the remaining Barker factors, including the reasons for the delay in Cartwright's case:

On May 1, 2013, before Je'Remyah's death, Cartwright was arrested for aggravated child abuse. He was rearrested for capital murder on May 14, 2013. (R. 47.) On November 21, 2014, Cartwright filed a "demand for a speedy trial" in the district court. (2nd Supp. C. 107.) Je'Remyah's autopsy report was not submitted until April 14, 2015. (C. 406-14.) Cartwright was then indicted for capital murder on June 17, 2015. (C. 17-18.) On January 7, 2016, Cartwright was arraigned in the circuit court for the capital murder of Je'Remyah by "intentionally causing the death of Je'Remyah Shoulders, who is under the age of 14 years, by striking him multiple times." (R. 9-13.) At the first pretrial hearing in the circuit court, when represented by the same counsel who initially filed the speedy-trial demand in the district court, neither Cartwright nor his counsel reasserted the district-court-speedy-trial demand, even after the circuit court noted it was not aware of any pending motions and asked if any issues needed to be addressed. (R. 13.) Cartwright's counsel raised only discovery matters. (R. 13-16.) Moreover, the circuit court, not Cartwright, raised the time frame for trial, and Cartwright expressly requested that the circuit

court go with a "later" date when scheduling his trial. (R. 13-16.) The following transpired at a hearing on January 7, 2016:

> "The Court: I think the next issue that we need to discuss is what is a reasonable time frame for this case to be prepared by counsel and set for trial. I know it's currently set for the end of April which I'm quite certain is too early.
>
> "How long, Defense Counsel, do you feel like you need to prepare?
>
> "[Defense counsel]: Well, your Honor, some of this stuff I know we've addressed through ex parte motions of some of the stuff we're working on and we'll probably need to talk with you ex parte about funding for some of these issues.
>
> "And since the State ... has recently verbally informed us of the death penalty, that they would seek it ... that's certainly affected how we will respond on certain issues that we've moved ex parte for."
>
> "The Court: I'm looking at my court calendar and some of the dates that I do have available currently are towards the end of this year. I don't know what everybody thinks. I've got August 15th, September 12th, October 31st. But I know--
>
> "[Defense counsel]: I would say the later just because. And, you know, we won't go into all the ex parte, but it's--
>
> "The Court: Or I can go into November.
>
> "[Defense counsel]: It's going to be, it's going to be lengthy.

"The Court: Right.

"[Defense counsel]: So ...

"The Court: Well, why don't we tentatively schedule this for October 31st for trial with the understanding that if it appears that through defense counsel through your discovery process and through your preparation that you're not going to be ready, if you will provide me adequate notice in advance so that I can then fill up the docket with other cases.

"[Defense counsel]: Yes, Your Honor."

(R. 16-17 (emphasis added).)

On June 8, 2016, a status conference was held at which defense counsel raised the following concerns about being prepared by that October 31, 2016, date:

"[Defense Counsel Pope]: I am going to be out of town, but my problem also is I'm getting ready to have major surgery on the July 11th. They're getting ready to do a back surgery that they're going to be going first through my front with a vascular surgeon moving my nerves over through my back--excuse me. Yeah, flipping me over and cutting me open and then going in through my back. I'm going to be out of my office at least four to six weeks. ...

"And then it's going to be slow going coming back. He said no full days for a while. Certainly no trials. And so I'm just not sure how much help, if any, I'm going to be to [cocounsel] for a while. ...

"The Court: All right. January the 9th of 2017. Ms. Pope, I'm hoping that will give you sufficient

> time for recovery and physical therapy and everything else that you've got to get done.
>
> "[Defense Counsel]: Thank you, Your Honor. ..."

(R. 25-26 (emphasis added).)

Between August 29, 2016, and May 12, 2017, Cartwright filed numerous defense motions with the circuit court, including a request for additional assistance while his lead counsel recovered from surgery. (C. 30-66.) Also, during this time, at the November 30, 2016, hearing for "any outstanding motions or anything else," defense counsel, again, did not raise any speedy-trial issue. The prosecution expressly stated that it was on schedule. (R. 36.)

Notably absent from the record is any mention of the need for the circuit court to include the district-court records in the circuit-court record or any mention of a "speedy trial" until May 24, 2017, when Cartwright filed a motion for the district-court record to be included in the circuit-court record and a "Motion to Dismiss for Lack of Speedy Trial." (C. 67-74.) Cartwright's lead trial counsel had represented Cartwright since December 19, 2013 (C. 69), and his second-chair trial counsel had been representing him since March 12, 2014. (C. 69.) Thus, trial counsel was aware of the demand

for a speedy trial filed in the district court on November 21, 2014. (C. 69.) Yet trial counsel never asserted a speedy-trial issue in circuit court until May 24, 2017, approximately two years and six months later and only a month before Cartwright's final trial date.

At the May 25, 2017, hearing, on Cartwright's various pretrial motions, including his May 24, 2017, motion to dismiss for lack of a speedy trial, Cartwright's counsel admitted filing a continuance in December 2016 to conduct expert analysis. (R. 47.) Counsel then stated that Cartwright's case had been "continued twice since then not by motion of the State or by motion of the Defense, but the Court continued it." (R. 48 (emphasis added).) Counsel further noted that only the last continuance was because one of the prosecutors had another trial scheduled for the same date. (R. 48.) The State explained that it was required to have the final autopsy report before the case could be presented to a grand jury and that it had "moved in a reasonable time since then." (R. 49.) On June 13, 2017, the circuit court granted Cartwright's motion to include district court filings, but

denied his motion to dismiss for lack of a speedy trial. (C. 90.)

At his trial in June 2017, Cartwright again argued that he had been denied his right to a speedy trial, but he specifically focused on the two-year delay before Je'Remyah's autopsy report, which was not completed until April 2015. However, Dr. Green explained that, during the two-year period Je'Remyah's autopsy was being completed, she was "the only pathologist in Huntsville" and was "covering 22 counties," resulting in the delay. (R. 587-89.) Dr. Green also testified that she further examined parts of Je'Remyah's brain and eyes after the general autopsy. (R. 588-90.) In addition, in homicides involving children, findings are required to be peer-reviewed, and an autopsy report in such cases cannot be issued until that peer review is completed. (R. 524-25.)

Accordingly, we find the first delay of approximately two years, caused by the short-staffing of the Alabama Department of Forensic Sciences, to be a neutral reason that should not be attributed to either side, as the staffing shortage was beyond the prosecution's control. "Neutral reasons" do not weigh heavily against the State. See, e.g., Irvin v. State,

940 So. 2d 331, 342 (Ala. Crim. App. 2005) (citing Pierson v. State, 677 So. 2d 830, 831 (Ala. Crim. App. 1996)). The majority of the delays after the autopsy report was completed were at Cartwright's request for the purpose of handling "ex parte" matters and counsel's pending surgery and recovery period. "'"Delays occasioned by the defendant or on his behalf are excluded from the length of delay and are heavily counted against the defendant in applying the balancing test of Barker."'" Zumbado v. State, 615 So. 2d 1223, 1234 (Ala. Crim. App. 1993) (quoting McCallum v. State, 407 So. 2d 865, 868 (Ala. Crim. App. 1981), quoting in turn, Walker v. State, 386 So. 2d 762, 763 (Ala. Crim. App. 1980)). Moreover, as this Court stated in Irvin, 940 So. 2d at 343:

> "Forensic analysis of [Je'Remyah's] remains had to be completed to establish a cause of death. The defense filed numerous pretrial motions requiring the time and attention of the court. Given the seriousness of the charges against [Cartwright], the court was extraordinarily careful in ensuring that both sides had adequate time in which to prepare for trial."

Thus, "we find the reasons for the [49-month] delay to be valid, and we see no deliberate delay by the State to enhance its own case or to prejudice the defense." Id. at 343.

C. Assertion of His Right to Speedy Trial

"[C]ourts applying the Barker factors are to consider in the weighing process whether and when the accused asserts the right to a speedy trial." Ex parte Walker, 928 So. 2d at 266. Moreover, "not every assertion of the right to a speedy trial is weighted equally." Id. at 266.

In this case, Cartwright's counsel was aware of the approximately two-year, autopsy-caused indictment delay and, in fact, filed a speedy-trial demand in the district court. Yet for the approximately two years between his indictment and his trial, Cartwright filed numerous motions but never reasserted his speedy-trial demand or specifically notified the circuit of his speedy-trial demand in the district court until less than one month before trial. Furthermore, the two-year delay after the indictment was caused primarily by Cartwright's own motions and his counsel's oral requests for more time to prepare. Thus, this factor does not weigh heavily in Cartwright's favor.

D. Prejudice to the Defendant

Cartwright argues on appeal that "prejudice is presumed," relieving him of the burden of proving actual prejudice.

Although the 49-month delay in this case triggered an examination of the Barker factors, it did not cross the threshold whereby a defendant is relieved of the burden of demonstrating actual prejudice. In Walker, the Alabama Supreme Court held that a 50-month delay did not relieve the defendant of the burden to demonstrate actual prejudice. Walker, 928 So. 2d at 277. See also Yocum v. State, 107 So. 3d 219 (Ala. Crim. App. 2011) (finding that a 45-month delay did not violate the defendant's constitutional right to a speedy trial); Roberson v. State, 864 So. 2d 379 (Ala. Crim. App. 2002) (finding that a 74-month delay in a possession-of-marijuana case did not deprive the defendant of his right to a speedy trial even though he had asserted his right to a speedy trial four times); and State v. Ramirez, 184 So. 3d 1053 (Ala. Crim. App. 2014)(finding that the circuit court improperly dismissed a murder case on speedy-trial grounds after a 97-month delay). Because the 49-month delay did not relieve Cartwright of his burden to demonstrate actual prejudice, we must determine if actual prejudice exists.

"In order to determine if actual prejudice exists, we look for (1) undue and oppressive incarceration; (2) anxiety

and concern stemming from public accusation; and (3) the effect on the defendant's ability to defend himself." Irvin, 940 So. 2d at 344 (citing Barker, 407, U.S. at 532).

The prejudice that Cartwright argues on appeal is his incarceration before trial, the "stigma and stress of [being accused of] a capital crime," and the unsupported allegation that "witnesses have become unavailable, memories have faded, and evidence has likely become unavailable." (Cartwright's brief, pp. 13; reply brief p. 14.)[6] Cartwright fails to state what witnesses and evidence have become unavailable or what witness testimony would have been had his trial been earlier. "As this Court has held, [Cartwright] must point to specific facts in evidence in order to support his claim of actual prejudice." Irvin, 940 So. 2d at 344. "'"[S]peculative allegations, such as general allegations of loss of witnesses and failure of memories, are insufficient to demonstrate the actual prejudice...."' that the appellant must establish." Id. (quoting Haywood v. State, 501 So. 2d 515, 518 (Ala. Crim. App. 1986), quoting in turn United States v. Butts, 524 F.2d

[6]In moving to dismiss for lack of a speedy trial, Cartwright argued to the circuit court only that there was "presumed prejudice" and that he had endured stress and anxiety while awaiting trial. (C. 73; R. 48-49.)

975, 977 (5th Cir. 1975), citing United States v. McGough, 510 F.2d 598, 604 (5th Cir. 1975)). "Because [Cartwright] does not identify these supposedly critical defense witnesses or attempt to explain how these unidentified witnesses were crucial to his defense, he has failed to establish [sufficient] prejudice as a result of the [49-month] delay between arrest and trial." Id. at 344. Furthermore, as this Court stated in Irvin:

> "[t]he delays between arrest and trial are easily understandable in a crime of this nature, where the defendant [charged with capital murder], if convicted, may be sentenced to death. Witnesses have to be interviewed and forensic testing completed. Numerous pretrial motions were filed, necessitating hearings. The delay in going to trial was not a deliberate tactic employed by the State. Rather, it was the result of ensuring that [Cartwright's] rights were protected before he went on trial for his life. We fail to see how [Cartwright] was prejudiced by this delay."

Id.

After considering the four criteria established in Barker v. Wingo, we conclude that Cartwright was not denied his Sixth Amendment right to a speedy trial. Therefore, the circuit court did not err in denying Cartwright's motion to dismiss based on a failure to grant a speedy trial.

II.

Cartwright next argues that the circuit court erred by excluding evidence of Cartwright's mental disability to explain Cartwright's response to his son's dire state. Specifically, Cartwright claims that his failure to call emergency 9-1-1 and to take his child to the hospital when he found his son bleeding and unconscious was used as circumstantial evidence of his guilt at trial and that he was denied the opportunity to defend himself against that inference by presenting evidence of his mental disability. He argues that the evidence of his mental disability was not to be used to support a diminished-capacity defense, which is not recognized in Alabama but, rather, that the evidence was offered only "to explain why Cartwright did not call 911 or bring the child immediately to the hospital." (Cartwright's brief, p. 19.) In other words, Cartwright wanted to use this evidence "to rebut any and all inferences of guilt." (Cartwright's brief, p. 18.) This argument, although preserved by pretrial, trial, and post-sentencing motions, fails because it is precisely the kind of evidence that Alabama prohibits.

Section 13A-3-1(a), Ala. Code 1975, provides:

> "It is an affirmative defense to a prosecution for any crime that, at the time of the commission of the acts constituting the offense, the defendant, as a result of severe mental disease or defect, was unable to appreciate the nature and quality or wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense."

(Emphasis added.) Cartwright pleaded "not guilty," as opposed to "not guilty by reason of mental disease or defect." (R. 9-13.) Thus, he was not entitled to present mental-disability evidence because Alabama does not recognize a "diminished-capacity" defense. This Court has explained the doctrine as follows:

> "'The diminished-capacity doctrine recognizes that although an accused was not suffering from a mental disease or defect when the offense was committed sufficient to exonerate him of all criminal responsibility, his mental capacity may have been diminished by intoxication, trauma, or mental disease so that he did not possess the specific mental state or intent essential to the particular offense charged. A defendant claiming diminished capacity concedes his responsibility for the act but claims that, in light of his abnormal mental condition, he is less culpable.'"

Hill v. State, 507 So. 2d 554, 556 (Ala. Crim. App. 1986) (quoting State v. Thompson, 695 S.W.2d 154 (Mo. App. 1985), quoting in turn State v. Correra, 430 A.2d 1251, 1253 (R.I. 1981)). "Alabama has expressly rejected the diminished

capacity doctrine." Id. at 556 (citing Neelley v. State, 494 So. 2d 669 (Ala. Crim. App. 1985)). "That is, under our statutes a defendant is either sane or he is not." Id. at 556.

Although Cartwright argues that he wanted to present "mental-disability" evidence to rebut evidence of his guilt, not of his inability to form intent, it is abundantly clear that he was, in fact, attempting to offer impermissible evidence of "diminished capacity." In fact, Cartwright's post-sentencing motion for a new trial revealed this truth, expressly complaining that he was "not allowed to offer any defense related to his diminished mental capacity." (C. 208.) Cartwright's appellate argument is similar to the one rejected by this Court in DeBlase v. State, [Ms. CR-14-0482, Nov. 16, 2018] ___ So. 3d ___, ___ (Ala. Crim. App. 2018).

In DeBlase, DeBlase argued that the personality-disorder evidence he wished to present was not offered to show diminished capacity "but, rather, to show his motive for disposing of his children's bodies and remaining in a relationship with [his codefendant] after the murders." Id. DeBlase argued that the evidence was offered "to rebut the

inference that [his] actions were indicative of his guilt." This Court held that "it is abundantly clear from the whole of DeBlase's argument that DeBlase was, in fact, offering the evidence to establish diminished capacity." Id. Accordingly, "the trial court properly excluded this evidence." Id. Cartwright's mental-disability evidence was, likewise, properly excluded as impermissible diminished-capacity evidence.

Moreover, even if this Court found the evidence to be offered for some permissible purpose, "[t]he admission or exclusion of evidence is a matter within the sound discretion of the trial court." Hilliard v. State, 53 So. 3d 165, 166 (Ala. Crim. App. 2010). "The question of admissibility of evidence is generally left to the discretion of the trial court, and the trial court's determination on that question will not be reversed except upon a clear showing of abuse of discretion." Id. at 166.

Even if relevant, "evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or

needless presentation of cumulative evidence." Rule 403, Ala. R. Evid. (emphasis added). As the United States Supreme Court stated in Clark v. Arizona, 548 U.S. 735, 770 (2006):

> "[T]he right to introduce relevant evidence can be curtailed if there is a good reason for doing that. 'While the Constitution ... prohibits the exclusion of defense evidence under rules that serve no legitimate purpose or that are disproportionate to the ends that they are asserted to promote, well-established rules of evidence permit trial judges to exclude evidence if its probative value is outweighed by certain other factors such as unfair prejudice, confusion of the issues, or potential to mislead the jury.' Holmes v. South Carolina, 547 U.S. 319, 326 (2006); see Crane v. Kentucky, 476 U.S. 683, 689-90 (1986) (permitting exclusion of evidence that 'poses an undue risk of "harassment, prejudice, [or] confusion of the issues"' (quoting Delaware v. Van Arsdall, 475 U.S. 673, 679 (1986))); see also [Montana v.] Egelhoff, 518 U.S. 37 [(1996)]; Chambers v. Mississippi, 410 U.S. 284, 302 (1973). ... State law says that evidence of mental disease and incapacity may be introduced and considered, and if sufficiently forceful to satisfy the defendant's burden of proof under the insanity rule it will displace the presumption of sanity and excuse from criminal responsibility. But mental-disease and capacity evidence may be considered only for its bearing on the insanity defense, and it will avail a defendant only if it is persuasive enough to satisfy the defendant's burden as defined by the terms of that defense."

(Emphasis added.)

Had Cartwright pleaded not guilty by reason of mental disease or defect, he would have been entitled to present

evidence of his mental disability to prove that affirmative defense. However, as already stated, Cartwright simply pleaded "not guilty." Because Alabama does not recognize a "diminished-capacity defense," the circuit court did not abuse its discretion in prohibiting expert testimony to show Cartwright's mental disability during his trial because, as the circuit court correctly noted, such evidence, when there is no diminished-capacity defense, would only confuse and mislead the jury.[7] (R. 68-70.)

In his attempt to persuade this Court to hold that the trial court abused its discretion in excluding testimony regarding his "mental disability," Cartwright urges this Court to treat such testimony as it would "battered-woman syndrome" in a case of self-defense or as it would expert testimony offered to explain a child's delay in reporting sexual abuse. (Cartwright's brief, pp. 16-18). Those situations are inapposite. Unlike diminished capacity, battered-woman syndrome has been recognized by Alabama Courts. See, e.g., Harrington v. State, 858 So. 2d 278, 294 (Ala. Crim. App.

[7]The circuit court, however, received evidence of Cartwright's intellectual disability at his August 1, 2017, sentencing hearing. (C. 135-39; R. 1109-14.)

2002); Bonner v. State, 740 So. 2d 439 (Ala. Crim. App. 1998); Ex parte Haney, 603 So. 2d 412 (Ala. 1992). This Court also held in W.R.C. v. State, 69 So. 3d 933 (Ala. Crim. App. 2010), as Cartwright points out, that a trial court did not abuse its discretion in allowing expert testimony that was "general in nature" to assist the jury in understanding possible reasons for a 10-year delay in reporting child sexual abuse. Cartwright's argument is really nothing more than an attempt to assert a "diminished-capacity defense," which Alabama has expressly rejected, under the guise of an alternative purpose. Given the tendency of "intellectual-disability" evidence to confuse or mislead the jury as to Cartwright's culpability where a diminished-capacity, reduced-culpability defense does not exist, we cannot say that the circuit court abused its discretion in denying the introduction of such evidence.

III.

Finally, Cartwright argues that the evidence is insufficient to support his conviction for manslaughter. Specifically, he alleges that, "while there was much testimony regarding blunt force trauma, there was no testimony that such trauma was inflicted by Cartwright, or that the blunt force

trauma caused [Je'Remyah's] death." (Cartwright's brief, p. 21.)

During his trial and in his motion for a judgment of acquittal/motion for a new trial, Cartwright argued that "the State failed to prove a prima facie case." (C. 208; R. 793; 1007-09.) Cartwright's motions were denied, but this claim was preserved for this Court's review.

> "'"'In determining the sufficiency of the evidence to sustain a conviction, a reviewing court must accept as true all evidence introduced by the State, accord the State all legitimate inferences therefrom, and consider all evidence in a light most favorable to the prosecution'" Ballenger v. State, 720 So. 2d 1033, 1034 (Ala. Crim. App. 1998), quoting Faircloth v. State, 471 So. 2d 485, 488 (Ala. Crim. App. 1984), aff'd, 471 So. 2d 493 (Ala. 1985). "'The test used in determining the sufficiency of evidence to sustain a conviction is whether, viewing the evidence in the light most favorable to the prosecution, a rational finder of fact could have found the defendant guilty beyond a reasonable doubt.'" Nunn v. State, 697 So. 2d 497, 498 (Ala. Crim. App. 1997) (quoting O'Neal v. State, 602 So. 2d 462, 464 (Ala. Crim. App. 1992)). "'When there is legal evidence from which the jury could, by fair inference, find the defendant guilty, the trial court should submit [the case] to the jury, and, in such a case, this Court will not disturb the trial court's decision.'" Farrior v. State, 728 So. 2d 691, 696 (Ala. Crim. App. 1998) (quoting Ward v. State, 557 So. 2d 848, 850 (Ala. Crim. App. 1990)). "The role of appellate courts is not to say what the facts are. Our role ... is to judge whether the evidence is legally sufficient to allow submission

> of an issue for decision [by] the jury." Ex parte Bankston, 358 So. 2d 1040, 1042 (Ala. 1978).
>
> > "'"The trial court's denial of a motion for judgment of acquittal must be reviewed by determining whether there was legal evidence before the jury at the time the motion was made from which the jury by fair inference could find the defendant guilty. Thomas v. State, 363 So. 2d 1020 (Ala. Crim. App. 1978). In applying this standard, this court will determine only if legal evidence was presented from which the jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So. 2d 199 (Ala. Crim. App. 1983). When the evidence raises questions of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for judgment of acquittal does not constitute error. McConnell v. State, 429 So. 2d 662 (Ala. Crim. App. 1983)."'"

Chapman v. State, 196 So. 3d 322, 335 (Ala. Crim. App. 2015)(quoting Gavin v. State, 891 So. 2d 907, 974 (Ala. Crim. App. 2003), quoting in turn Ward v. State, 610 So. 2d 1190, 1991 (Ala. Crim. App. 1992)). This Court has also explained:

> > "'"'Circumstantial evidence alone is enough to support a guilty verdict of the most heinous crime, provided the jury believes beyond a reasonable doubt that the accused is guilty.' White v. State, 314 So. 2d 857 (Ala. 1975), cert. denied, 423 U.S. 951, 96 S. Ct. 373, 46 L. Ed. 2d 288 (1975). 'Circumstantial evidence is in nowise considered inferior evidence and is entitled to the same weight as direct

> evidence provided it points to the guilt of the accused.' Cochran v. State, 500 So. 2d 1161, 1177 (Ala. Crim. App. 1984), affirmed in pertinent part, reversed in part on other grounds, Ex parte Cochran, 500 So. 2d 1179 (Ala. 1985)."'"

Chapman, 196 So. 3d at 336 (quoting Hollaway v. State, 979 So. 2d 839, 843 (Ala. Crim. App. 2007), quoting in turn White v. State, 546 So. 2d 1014, 1017 (Ala. Crim. App. 1989)). Finally, this Court has noted:

> "'"In reviewing a conviction based on circumstantial evidence, this Court must view that evidence in the light most favorable to the prosecution. The test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude. United States v. Black, 497 F.2d 1039 (5th Cir. 1974); United States v. McGlamory, 441 F.2d 130 (5th Cir. 1971); Clark v. United States, 293 F.2d 445 (5th Cir. 1961)."'"

Chapman, 196 So. 3d at 336 (quoting Bradford v. State, 948 So. 2d 574, 578-79 (Ala. Crim. App. 2006), quoting in turn Cumbo v. State, 368 So. 2d 871, 874-75 (Ala. Crim. App. 1978)).

"A person commits the crime of manslaughter if ... [h]e recklessly causes the death of another person." § 13A-6-3, Ala. Code 1975. The Alabama Supreme Court has stated that

"the degree of recklessness which will support a manslaughter conviction involves a circumstance which is a 'gross deviation from the standard of conduct that a law-abiding person would observe in the actor's situation,' but is not so high that it cannot be 'fairly distinguished from' the mental state required in homicides." Ex parte Weems, 463 So. 2d 170, 172 (Ala. 1985) (quoting Model Penal Code and Commentaries, § 210.02, Comment, 4; § 210.03, Comment 4 (1980)).

Je'Remyah died from a subdural hematoma that both Dr. Pickett and Dr. Green testified was not accidental. As Dr. Pickett testified, those injuries could have occurred accidentally only had Je'Remyah fallen off "the roof of the house or something of that nature, or [was] involved in a motor vehicle accident," which Cartwright said never occurred. Dr. Green testified that Je'Remyah had multiple blunt-force injuries that caused his death. Although Dr. Pickett opined that Je'Remyah died from what is commonly referred to as "shaken-baby syndrome," he also testified that Je'Remyah's injury could have been caused by blunt-force trauma, either his head being struck or his head striking something. Dr. Pickett testified that the injury occurred within 24 hours of

surgery. Dr. Green, who performed Je'Remyah's extensive autopsy, testified that Je'Remyah's life-ending injury occurred within 24 hours of his death, which occurred at 3:30 p.m. on May 2, 2013. It was undisputed that Cartwright had possession of Je'Remyah since the evening before and exclusive possession of Je'Remyah from the time he dropped Isaiah off at school until he took the comatose and fatally injured Je'Remyah to pick Isaiah up from school. Furthermore, Dr. Pickett testified that the subdural hematoma would have been immediately symptomatic and that within four hours of the injury Je'Remyah would have been unconscious. The expert testimony was clear that Je'Remyah could not have been, as Cartwright insisted, talking, eating, playing, and watching TV from 6:30 a.m. until his nap, from which he never woke. The evidence, when viewed in the light most favorable to the State, amply indicated that Je'Remyah was fatally injured while in Cartwright's exclusive care. Thus, the jury could reasonably conclude that Cartwright recklessly caused Je'Remyah's death by striking him multiple times with, or against, an unknown object, as charged in his indictment. (C. 18.)

In challenging the sufficiency of the evidence, Cartwright asserts on appeal that the "cause of death was never testified to." (Cartwright's brief, p. 21.) However, Dr. Green, both in her autopsy report and in her testimony, expressly stated that Je'Remyah's "manner of death" was a homicide and that the "cause of death" was traumatic head injuries. (C. 406; R. 537.) Moreover, at trial, Cartwright's counsel expressly agreed with both the cause and manner of death. (R. 522.) Cartwright also complains that there was no "direct evidence" of his guilt; however, direct evidence is not necessary to support a guilty verdict, "even of the most heinous crime."

Cartwright then argues that "someone other than Cartwright" caused Je'Remyah's death. (Cartwright's brief, p. 19.) Cartwright, in fact, attempted to create suspicion of this at trial, including eliciting testimony about older injuries indicating prior abuse of Je'Remyah. However, again, the State's expert testimony indicated that Je'Remyah's life-ending injury occurred while he was in Cartwright's sole care. Cartwright also argues that the evidence is insufficient because Dr. Shaker could not determine the time of injury or

cause of death, whether it was blunt-force trauma or shaken-baby syndrome. (Cartwright's reply brief, p. 16.) However, both Dr. Pickett and Dr. Green testified as to the timing of the fatal injury and the cause of Je'Remyah's death.

Finally, Cartwright argues to this Court that Nira Jones testified that Shoulders told her "what really happened," i.e., that Cartwright threw a brick at Shoulders which actually hit Je'Remyah. (Cartwright's reply brief, p. 15.) However, if true, Cartwright would have still recklessly caused Je'Remyah's death. And, if Shoulders or someone else had fatally injured Je'Remyah on April 30, 2013, Je'Remyah would not have been acting normal, playing, eating, and watching television on May 1, 2013, as Cartwright repeatedly insisted Je'Remyah was. Moreover, as already noted, the State's expert testified that Je'Remyah's fatal injury occurred within 24 hours of his death on May 2, 2013, placing Je'Remyah's fatal injury within the time during which Cartwright maintained he was alone with Je'Remyah. The jury's verdict was amply supported by the evidence presented at trial.

In sum, when viewed in the light most favorable to the State, there was sufficient evidence from which the jury could conclude that Cartwright recklessly caused Je'Remyah's death.

Conclusion

For these reasons, the judgment of the circuit court is affirmed.

AFFIRMED.

Windom, P.J., and Kellum, McCool, and Minor, JJ., concur.