



"Unexplained Injuries, Unexplained Bruising"

The Complicated Case of Baby Owyn Part 1

Kathleen Nolan, Senior Attorney, Zero Abuse Project
Crystal Uhe, Special Prosecutor, Illinois Office of the State's Appellate Prosecutor

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TRAUMA-INFORMED
PROSECUTOR PROJECT

Kathleen Nolan, Senior Attorney
Kathleen.nolan@zeroabuseproject.org


Crystal Uhe, Special Prosecutor
cuhe@ilsaap.org

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Disclaimer

- The following is not intended to constitute legal advice.
- Always consult your local prosecutor or attorney for guidance.



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Agenda

Part 1

- Investigation
 - Witness interviews
 - Medical records
- Charging Considerations
- Speedy Trial Issues

Part 2

- Pre-Trial Motions
- Jury Instructions
- Case Presentation
- Post-Trial Motions and Sentencing



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Mom and Mom's Boyfriend

- Kamryn Kerr
 - 14 CF 1912
- Ashlee Wethington
 - 14 CF 1914
- Granite City, Illinois
- 7-week-old Baby Owyn
- Kerr is not bio dad



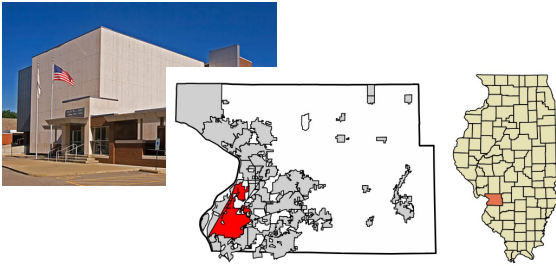
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Who Are We? (Back in 2014...)



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Where Are We?



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Teamwork makes the dream work



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Baby Owyn

DOB: July 17, 2014



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September 8, 2014



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At the ER

- Arrive approximately 2pm
- Visible bruise, discoloration on his chest.

From Gateway ER medical records:

Mother states "I picked him up to feed him today and he was screaming and when he breathes his side pops", pt crying in triage, parents rude during triage, noticed discoloration to sternum, father states "he has had that for a couple weeks". **No explanation given by either parent**



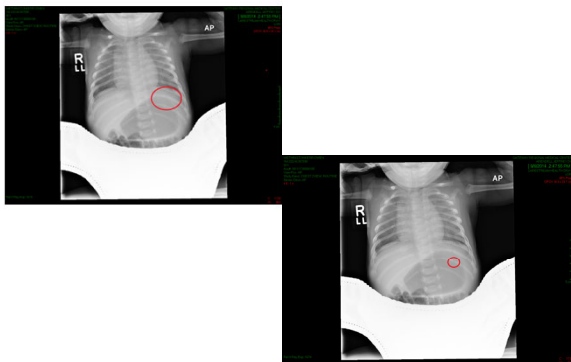
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At the Er

- Dr. ordered a heart monitor for Owyn because he was concerned they would leave.
 - Described Wethington and Kerr as uncooperative, rude.
 - Vital signs for Owyn are normal but when Dr. feels his chest, he cries
- Nurse finally convinces Kerr to let go of Owyn for x-rays.
- Sent to radiology at 2:43pm.



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At the ER

- Nurse finally convinces Kerr to let go of Owyn for x-rays.
- Sent to radiology at 2:43pm.
- Granite City PD notified at 3:15pm, DCFS at 3:45pm.
- Owyn transferred via ambulance to Cardinal Glennon Children's Hospital, St. Louis MO.



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Cardinal Glennon Children's Hospital



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Owyn arrives at CG

- Child protection team
- MGM and M Aunt present
- Information collected about Owyn's history
 - History of DV
 - Kerr is not bio-dad
 - MGM saw O 9.6.14, ok
 - 2 prior DCFS calls
- Some prior medical records collected.
 - August ultrasound for leg



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Skeletal Survey Ordered



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Exhibit 13A



SKULL
FRACTURE

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Exhibit 13B



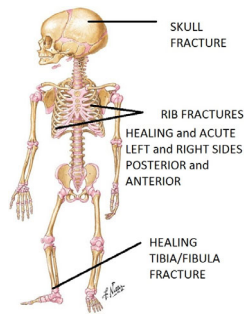
SKULL
FRACTURE

RIB FRACTURES
HEALING and ACUTE
LEFT and RIGHT SIDES
POSTERIOR and
ANTERIOR

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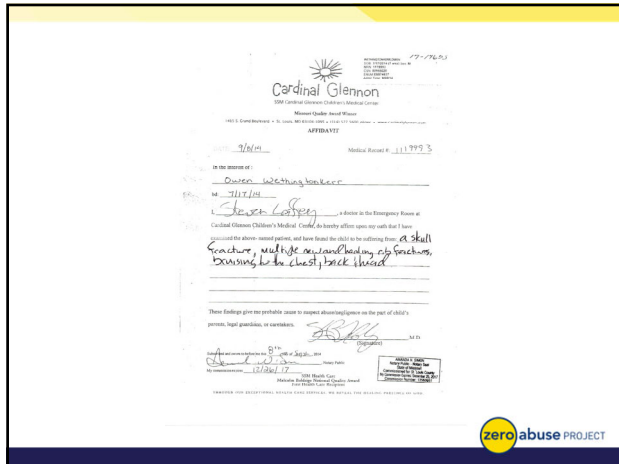
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Exhibit 13C



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Additional Injuries

- Soft tissue swelling of the scalp on area of the skull fracture.
- Subarachnoid hemorrhage
- Possible liver laceration

Child Protection Team Consult: "Owyn's constellation of injuries is very concerning for abuse"

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July 14 – September 8, 2014



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Where to begin

- Complex injury case
 - Complicated even more with a nonverbal victim.
- Must question all caretakers
 - DO NOT PRESUME BASED ON GENDER
- Key elements are **injuries and access**
 - What are the injuries?
 - What is the timeframe for those injuries?
 - Who had access to the victim during that time frame?
- How are you going to present that all to a jury in a way that makes sense?
 - Multiple injuries + multiple time frames= multiple witnesses

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Kamryn Kerr

- Gave lengthy video recorded statement.
 - Some admissions
- Lots of information
 - Lots of it was easily disproved.
 - Much of it was outright lies.



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People v. Kamryn Kerr



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People v. Kamryn Kerr



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Ashlee Wethington

- Video recorded statement.
- Similar to Kerr in that she denied any knowledge of what happened to Owyn.



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Ashlee Wethington



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Explanations Given for Injuries

Kamryn Kerr

- Morning of 9/8, felt a "pop in his side", was rolling his hands on Owyn's chest and "things" were "popping".
- "Didn't see the discoloration on his chest until the hospital". (lie)
- Once he squeezed Owyn but it's just because he loves him.
- "We've been with him every single day since he's been born. He's been in our sight since he's been born."
- "It has to be me or Ashley".

Ashlee Wethington

- Morning of 9/8, Owyn woke up crying and his ribs were "popping".
- Sometimes Kerr hugs Owyn when he's crying, sometimes she holds Owyn's arms down when he's crying and says, "Dude just stop you're fine".
- When they stayed at HH, Owyn slid off the bassinet and maybe that's the head injury.
- The leg injury is maybe when she pulled him to get him closer to her.
- Wethington and Kerr are the only two people who could be responsible for Owyn's injuries.

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Building the Investigation

- DCFS records
- Hospital/Doctor records
- Friends/Family
- Locations

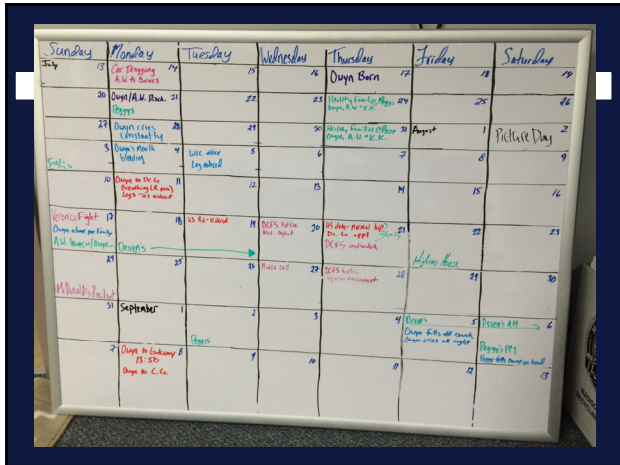
TIME FRAME & ACCESS

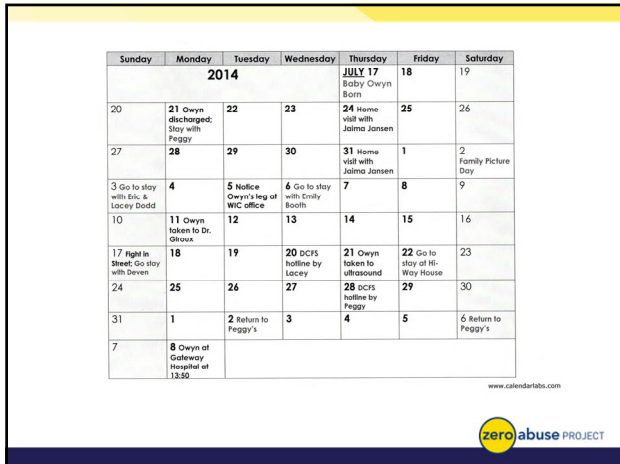


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Charging Considerations

- Major injuries for a 7-week-old child.
- Potentially life-threatening injuries.
- Charging considerations and the severity of the injuries could change if circumstances changed.

[illegible]

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Charging Considerations

- Challenge: Determining the who, what, when and where surrounding Owyn's injuries
- Overcoming the defense that the other parent contributed to one or more of the injuries
 - Accountability



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Accountability

- A person is legally responsible for the conduct of another person when, either before or during the commission of an offense, and with the intent to promote or facilitate the commission of an offense, he knowingly solicits, aids, abets, agrees to aid, or attempts to aid the other person in the planning or commission of an offense.



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Accountability - Parents

- (1) A parent has a legal duty to aid a small child if the parent knows about a danger to the child and the parent has the physical ability to protect the child. Criminal conduct may arise by overt acts or by an omission to act where there is a legal duty to do so.
- (2) Actual physical presence at the commission of a crime is not a requirement for legal responsibility. However, mere presence at the scene of a crime does not make a person accountable for an offense. You may consider a person's presence at the scene of a crime along with other circumstances when determining accountability.
- (3) Intent to promote or facilitate the commission of an offense may be shown by evidence that the defendant shared a criminal intent of the principal or evidence that there was a common criminal design.
- (4) A person cannot be found accountable for the conduct of another based on acts taken solely after the commission of the offense. You may consider the defendant's actions after the offense to the extent that they raise an inference of the defendant's prior or concurrent participation in the offense. However, actions taken only after the commission of the offense do not establish an independent basis to hold a defendant accountable for an offense that has already been completed.



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Our Assessment

- Initial Charges: September 10, 2014
 - Count 1: Aggravated Battery to a Child
 - Class X – sentencing range 6-30 yrs
 - "that defendant squeezed O.W.'s chest causing multiple rib fractures and pulled on O.W.'s leg causing fractures to the right tibia."
 - Count 2: Endangering the Life or Health of a Child
 - Class A misdemeanor



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Grand Jury Indictment

- Grand jury indicts both Kamryn and Ashley on October 2, 2014



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Δ's early motions/Sanctions requests

- Motion to Quash Indictment/Motion for a Bill of Particulars
- Motion to Compel Discovery
- Motion to Reduce Bond
- Motion for a Restraining Order (To prevent DCFS from approaching or contacting Defendant Kerr)
- Renews Demand for Speedy Trial



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Speedy Trial

- Charges issued September 10, 2014
 - 120 days left on the speedy trial clock
- Motions heard November 17, 2014
 - 52 days left on the speedy trial clock
- Trial Set December 1, 2014
 - 38 days left on the speedy trial clock



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Let's Get Ready for Trial!



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Jail Phone Call



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