

No. 1-11-1314

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
	)	the Circuit Court
Plaintiff-Appellee,	)	of Cook County
	)	
v.	)	08 CR 1203
	)	
LAKESHIA MURPH,	)	Honorable
	)	Clayton Jay Crane,
Defendant-Appellant.	)	Judge Presiding.

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PRESIDING JUSTICE CONNORS delivered the judgment of the court.  
Justices Cunningham and Delort concurred in the judgment.

**ORDER**

**Held:** There was sufficient evidence, especially when viewed in a light most favorable to the prosecution, that the victim sustained blunt force trauma to the head inflicted by defendant.

¶ 1 Defendant Lakeshia Murph appeals from her conviction of the first-degree murder of her two-year-old son, Brandon Murph. Following a bench trial, defendant was sentenced to 23 years'

imprisonment. On appeal, defendant contends that she was not proven guilty of first-degree murder beyond a reasonable doubt because there was more than one possible cause for Brandon's injuries. For the following reasons, we affirm defendant's murder conviction.

¶ 2

## I. BACKGROUND

¶ 3 Brandon, defendant's two-year-old son, was born with a heart condition known as Tetralogy of Fallot. He lived at Mosaic Living Center for the first two years of his life before moving in with defendant and her six other children in October 2007.

¶ 4 At trial, Leslie Orr, a social worker for Hephzibah Children's Association, testified that she was the assigned caseworker for defendant's family. Orr worked with defendant's family from July 2006 to December 2007. She met with the family at least once a week. Orr testified that Brandon came home from Mosaic Living Center in October 2007, when he was discharged. Orr's last visit to the home was on December 12, 2007. Defendant had called her earlier that day to tell her that Brandon had received an injury after C. and J. , who were four and five years old at the time, had jumped on him. When she arrived at the house, Orr noticed that Brandon had a raised bruise on his head just above his right eyebrow. Orr did not observe any of the other children physically abusing Brandon, but she did observe the children being aggressive towards each other. She did not observe anything during her visits that gave her a reason to report evidence of abuse or neglect.

¶ 5 Orr further testified that prior to her December 12, 2007 visit, defendant had complained to her about the actions of her daughters, but she did not ask that they be removed from the home. Defendant also told her she was worried about Brandon because of the way the other

children were treating him.

¶ 6 Nashone Epps, the homemaker from the Salvation Army who was assigned to defendant and her family from September 2007 to December 2007, testified that she assisted defendant with cooking, laundry, and taking care of the children. Epps testified that Brandon was a happy baby but had some physical impairments that limited his mobility. She never saw Brandon act aggressively. On December 13, 2007, Epps arrived at defendant's residence and defendant told her that she did not want Epps there. Epps testified that defendant seemed irritated and had never acted like that before. Epps called her supervisor, who told her to stay for 30 minutes, which she did. During those 30 minutes, defendant stayed in the bedroom with all the kids and only came out to lock the door when Epps left. Epps testified that she did see Brandon in defendant's room and he seemed "fine." She asked defendant where the bruise above Brandon's eye came from, and defendant said that Brandon fell out of bed. Epps further testified that she had seen J. and C. take things from Brandon and push him down in the past. When this occurred, defendant would separate them.

¶ 7 Lavelle Brooks, Epps' supervisor, testified that she visited defendant's home on December 12, 2007. She saw a bruise above Brandon's right eye and asked how it got there. Defendant told her Brandon had been playing with the other kids on the bed and fell off. Brooks testified that Brandon appeared quiet and was sitting at the table by himself.

¶ 8 Marcus Murph, defendant's brother, testified that in December 2007, he lived with defendant. Murph testified that after work on December 14, 2007, defendant called him and asked him to get food for the kids. He arrived at defendant's house between 6 p.m. and 6:30 p.m.

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Murph did not see Brandon, so Murph asked defendant where he was. Defendant stated that he was asleep. Murph checked the room Brandon was sleeping in and saw him lying down. He went back to the table with the rest of the kids. After dinner, the kids went into defendant's room and Murph went to the living room and fell asleep. Murph testified that he was woken up later by defendant and Brandon Nelson, Brandon's father. They had Brandon wrapped in a blanket and told Murph they needed to go to the emergency room. Murph stayed home with the other children.

¶ 9 On cross-examination, Murph testified that he had noticed in the past that J. and C. played rough with Brandon and picked on him. He once saw J. hit Brandon in the back. In the past he had seen Brandon get bruises by staggering when he walked and once saw him walk into a wall.

¶ 10 Brandon Nelson, the victim's father, and the father of three of defendant's other children, had lived occasionally with defendant and the children during the summer of 2007. At the time of the incident, however, he was not living with them. He still saw the children four to five times a week at defendant's house. In the early morning hours of December 15, 2007, Nelson arrived at defendant's apartment between 12:30 a.m. and 1 a.m. He saw Brandon asleep on the full-sized bed in the room Brandon shared with the other boys. He noticed that Brandon was breathing heavily and his eyes were halfway open. He called Brandon's name a few times but Brandon did not respond. Nelson tried to roll him over, but Brandon did not wake up. Defendant then entered the room and Nelson asked her what was wrong with Brandon. Defendant told Nelson she did not know. Nelson testified that he was concerned because Brandon's condition was

different than usual. He grabbed a blanket and told defendant they needed to go to the hospital.

¶ 11 Nelson testified that he and defendant took Brandon to Little Company of Mary Hospital where he spoke to a nurse and two police officers. Brandon was then transferred to Children's Memorial Hospital, where he died at approximately 5 p.m. on December 15, 2007.

¶ 12 On cross-examination, Nelson testified that the other children had started jumping on Brandon and "beating" him behind closed doors in the time leading up to Brandon's death. Defendant had told him that J. and C. picked on Brandon, but he had never seen them do so. Defendant once called him and told him that the girls had stomped and kicked Brandon.

¶ 13 Dr. Melissa Uribes was the emergency room physician at Little Company of Mary Hospital who treated Brandon when he was brought in. Dr. Uribes testified that Brandon was in critical condition when he arrived and had diffuse bruising from head to toe in various stages of healing. He had large bruises on his forehead and scalp, as well as behind both of his ears. Brandon had abrasions to his inner ears as well as outer ears. He had bilateral bruising on his jaw, bruising on his neck and face, bilateral bruising on his chest, scratches on his back, and welt marks with bruising on his body. He also had bruises on both arms, his fingernails were cut low on both his hands, and he had bruising to both legs.

¶ 14 Dr. Uribes testified that Brandon was barely breathing and was not awake when he was brought in. He was barely responsive to pain, which is a sign of a serious neurologic injury. Brandon had a severely high temperature of 104.2 degrees. Brandon was initially breathing 46 breaths per minute, but then dropped to five breaths per minute. He had no gag reflex, which is also a sign of poor neurological functioning. Dr. Uribes also observed that Brandon was

cachectic, appeared to be failing to thrive, and was extremely thin.

¶ 15 Dr. Uribes' medical team intubated Brandon with a ventilator and gave him artificial respiration. A CT scan of the brain showed an acute left subdural hematoma. Dr. Uribes explained that a subdural hematoma is caused by head trauma or a fall. An X-ray showed bruises on Brandon's lungs. Dr. Uribes had Brandon transferred to Children's Memorial Hospital because he required a pediatric trauma physician and a pediatric neurologist. Dr. Uribes was concerned that Brandon had been abused based on his physical appearance, the extent of his injuries, and that she was not able to get an adequate answer about what happened from defendant. As a result, the police were notified.

¶ 16 Dr. Emalee Flaherty, an expert in pediatric child abuse, was the on-call supervisor for child-abuse services at Children's on the day in question. She examined Brandon in the pediatric intensive-care unit. Brandon was intubated, on a ventilator, and had multiple bruises on his body. Some of the bruises were in the shape of a looped cord mark on his back. He was unresponsive. Dr. Flaherty reviewed other medical records that were available and went over imaging studies that had been done. She spoke to the attending physicians and the treating physicians in the intensive care unit. After these consultations, Dr. Flaherty determined that Brandon had suffered a very severe neurological injury involving severe head trauma. He had subdural bleeding on one side of his head, he suffered severe injury to the brain tissue itself and had areas of infarct on his brain. The brain was grossly swollen from all the trauma and Brandon had tears to his sinus area. He also had subgaleal hemorrhage, which is scalp swelling within the tissues of the scalp. Dr. Flaherty testified that Brandon also had a subarachnoid hemorrhage, which is bleeding into the

area closer to the brain where the cerebral spinal fluid circulates to protect the brain. Brandon's CT scan showed multiple cerebral contusions.

¶ 17 Dr. Flaherty further testified that Brandon had numerous bruises on his face, chest, back, and behind his knees. She testified that Brandon had bruises that do not normally occur in certain places by accident like his ears, trunk, chest, back, side, and the backs of his legs. The bruises on Brandon's lower leg, upper back, lower back, and chest showed a partial loop mark which was very characteristic of being made by some kind of looped belt or cord.

¶ 18 Dr. Flaherty testified that when Brandon arrived at Children's, he was so unstable that they needed to resuscitate him and intubate him. During emergency surgery, they attempted to drain the blood out of the subdural space that had collected and was putting pressure on the brain. There was so much swelling of the brain that they had a hard time stopping the bleeding. Dr. Flaherty testified that there were torn bridging vessels causing bleeding in the subdural space, and that the area down the center of the brain was torn and bleeding as well. Dr. Flaherty testified that if a child suffers some type of severe and violent acceleration/deceleration forces to the head, it could cause bridging vessels to tear, which was why there was so much bleeding in the subdural space. Acceleration/deceleration forces are those which cause the head to move back and forth, with the skull eventually moving in one direction and the brain moving in the other. Dr. Flaherty testified that children who have been slapped repeatedly have been found to have suffered this kind of tearing. She further testified that it would take severe and violent acceleration and deceleration forces to produce this kind of injury, and that the person inflicting the injury would have to be an adult-sized person with adult muscle strength.

¶ 19 Dr. Flaherty further testified that the type of subdural hemorrhage that Brand suffered was different than an impact subdural, which is caused by some direct impact of the head with a hard surface. Dr. Flaherty testified that she knew that Brandon was born with Tetralogy of Fallot and had corrective surgeries for the condition. She stated that there was nothing to connect Tetralogy of Fallot with any kind of bleeding in the head.

¶ 20 Dr. Flaherty concluded that Brandon could not have caused the acceleration and deceleration necessary to cause the kind of injuries he had by hitting his head against a wall. She opined that if a four-year-old or a five-year-old child had stomped on Brandon's head, it would cause injury, but not the type of injuries that Brandon suffered. Dr. Flaherty further opined that Brandon did not have the type of injuries caused by a fall from a bunk bed. He did not have a contact subdural or a skull fracture. She testified that the injuries Brandon suffered were produced within 24 hours of her examination of him.

¶ 21 Dr. Flaherty concluded that her best medical opinion was that Brandon's injuries were cause by abusive head trauma and physical abuse. She based her opinion on the "whole consultation" of injuries.

¶ 22 Detective William Golab testified that he observed Brandon in a trauma room at Little Company of Mary Hospital on the night in question. Brandon had a bruise on his forehead and on both sides of his face. Brandon's father told Detective Golab that Brandon had fallen off the top bunk a few days earlier, which caused the bruise on his head. Defendant did not know where he got the other injuries, but suggested that other children could have inflicted some type of injury to Brandon because they had been fighting lately.

¶ 23 Detective Golab then went to defendant's house and spoke to her other children and to Marcus Murph. He then went to Area 2 police station and spoke to defendant in an interview room. Defendant told him the same information as she had before, and was placed under arrest and given her *Miranda* warnings, which she waived. Detective Golab testified that defendant then speculated that someone could have broken into her house that day and tortured Brandon, which would explain his other injuries.

¶ 24 Approximately two hours later, Detective Golab had another conversation with defendant, during which defendant told him Brandon had been discharged from the hospital a few months earlier and would need another operation for his heart condition. Defendant stated that once she learned that not a lot could be done for his illness, she began to detach herself from Brandon. She told Detective Golab that she did not have a bond with Brandon, and she believed her other children picked up on that fact and began to be mean and fight with Brandon more.

¶ 25 Defendant further stated that Brandon had fallen off the bunk bed on Wednesday, and also the day before on Friday. She claimed that she had rearranged the furniture in the room and the second time he fell he had hit his forehead on the windowsill in the bedroom. Defendant claimed that later that evening she saw her three-year-old daughter kicking Brandon in the head, and that she told her to stop. Brandon then would not stop crying so she "lost it" and spanked Brandon a few times and left the room. Defendant stated that a little while later she felt bad and went into the room to check on Brandon. Brandon said he was okay and he seemed fine. A short time later, her oldest son came in and said that Brandon was breathing funny and keeping him awake, so defendant let her son sleep on the floor in her room. Later, Brandon's father came into

her room and said they had to take Brandon to the hospital.

¶ 26 Detective John Otto was assisting Detective Golab on the day in question. He interviewed defendant at around 1:30 p.m. on December 15, 2007. Defendant admitted to Detective Otto that she had not been truthful with Detective Golab because she was afraid. She stated that her four-year-old had been picking on Brandon the night before and so she had told her to stop and the four-year-old left the bedroom. She then picked up Brandon, who was having a temper tantrum, and put him on the bed to "spank him in the face" in order to stop him. Defendant told Detective Otto that her spanking did not stop Brandon, so she "lost control" and grabbed a pink or a red belt off the floor and began whipping him with the belt. Brandon continued to have a tantrum, and was screaming and yelling, so she dropped the belt and began beating him with her hands. She showed Detective Otto a closed fist and stated that she continued to beat him with her hands until his tantrum subsided.

¶ 27 Evidence technician Therese Soto photographed the scene at defendant's house and inventoried a pink belt, a red belt, and a black belt.

¶ 28 After learning that Brandon had passed away, Detective Golab and Detective Otto returned to Area 2 and interviewed defendant. This time they recorded the interview and the recording was played in court. In the video, defendant stated that she was in her room laying down when one of her older sons came in and told her that four-year-old J. was stomping on Brandon's head with one of her shoes. Defendant went into the room and told J. to leave. Brandon was crying and defendant picked him up and laid him down on the bed and asked him why he was crying. Brandon started screaming and yelling and having a temper tantrum.

Defendant picked up a belt to scare Brandon but he would not be quiet so she hit him with the belt four or five times. The belt did not quiet him down so she hit him with her hand. She got more and more angry and "lost it" for around "fifteen minutes." Brandon started scratching and trying to bite defendant so she got very angry and started punching him with her hands. She punched him "pretty hard" with her right hand for about three minutes. Her hand was sore and she had bruises on her arm from hitting Brandon. Defendant stated that she stopped hitting Brandon because she realized what she was doing. Then she left the room and closed the door.

¶ 29 Defendant further stated that Nelson, Brandon's father, got home at around 12:30 a.m. They checked on Brandon but he did not respond. They turned him over and thought something was wrong so they took him to the hospital.

¶ 30 Cook County Assistant Medical Examiner Michael Humilier performed the autopsy of Brandon on December 16, 2007. The external examination of his body revealed 34 injuries which included bruises to the forehead, cheek, chest, elbow, upper arm, forearm, upper back, lower back, thighs and knee, and abrasions to the cheek, upper abdomen, elbow, finger, and thighs. He had healing abrasions to the lower back and thigh. All of Brandon's fingernails were over cut and healing. The bruise to the right side of Brandon's lower back had central clearing, which indicated the skin had been hit by something with a hole in the middle like a loop or belt.

¶ 31 During the internal examination, Dr. Humilier found subgaleal hemorrhages to the right, left and back of the scalp. There was a subdural hemorrhage over the surface of the right and left sides of the brain. Diffuse subarachnoid hemorrhage was also present over the brain. The brain had cerebral edema, which is swelling of the brain from trauma or lack of oxygen. There were

four contusions to the lobe in the back of the right side of the brain. There were hemorrhages in the subcutaneous tissue beneath the skin of both underarms, the wrist, elbow, back, thigh, and lower leg.

¶ 32 Dr. Humilier testified that the subarachnoid hemorrhage itself was a fatal finding. He stated that some of the hemorrhages to the brain that he observed could be caused by a fall, but the contusions on the occipital lobe would be very unlikely to be caused by a fall because the skull is constructed to protect parts of the brain and those lobes are well protected. Dr. Humilier testified that it is possible that a 15-minute beating with a belt and by hand could have caused all of the injuries that he observed.

¶ 33 Dr. Humilier testified that based on his training and his examination of Brandon, he determined the cause of death to be multiple injuries due to blunt force trauma due to child abuse, and the manner of death to be homicide. Blunt force trauma could consist of being hit with fists or open hands, or any other non-sharp object. Dr. Humilier further opined that the injuries were caused by another person, and not by Brandon. He testified that a four or five-year-old could not have caused Brandon's head injuries because he or she would not have the necessary strength. He opined that it could be possible if two children were stomping on the victim's head with their feet.

¶ 34 Dr. Shaku Teas testified on behalf of defendant and was qualified as an expert in forensic pathology. In making her evaluation, Dr. Teas reviewed the medical records from Brandon's birth, his hospitalization records, the records from Mosaic, records from DCFS, and the autopsy records. Dr. Teas testified that some of the injuries on Brandon's body were described as larger

than they actually were, and that he was not covered head to toe with injuries because some were older injuries that were healing. Dr. Teas testified that some of the bruises or abrasions on the face could have been from the use of a nebulizer, and that certain injuries by the ears were from the incision from head surgery.

¶ 35 Dr. Teas further testified that Brandon had an enlarged heart due to his Tetralogy of Fallot, and therefore could have subdural hemorrhages caused by that. Dr. Teas criticized the autopsy done by Dr. Humilier because no sections were taken of the brain or dura, and she therefore could not see whether the subdural was old or new. She further testified that a torn sinus could have occurred from falling from a high height.

¶ 36 Dr. Teas opined that the subdural hemorrhage in Brandon's brain was the cause of a multifactorial event. She testified that a small child kicking or stomping on Brandon's head would be blunt trauma and could cause a subdural hemorrhage. She further testified that an accidental fall from a bed could cause a subdural hemorrhage. Dr. Teas opined that hitting or slapping a child with the hand could not cause a subdural hemorrhage unless the child fell and struck something.

¶ 37 In rebuttal, the State called Dr. Flaherty, who disagreed with Dr. Teas' conclusions. She testified that children with Tetralogy of Fallot do not have a higher incidence of stroke or subdural hemorrhages.

¶ 38 At the close of evidence, the trial court found defendant guilty of first degree murder. In making such finding, the court stated that it examined each and every exhibit, and observed the witnesses and their interest and bias as they testified. The court dismissed the idea that other

children caused the injuries, and specifically found that defendant inflicted the injuries on Brandon that caused his death. Defendant was sentenced to 23 years in prison. Defendant now appeals.

¶ 39

## II. ANALYSIS

¶ 40 On appeal, defendant claims that she was not proven guilty of first-degree murder beyond a reasonable doubt because there was more than one possible cause for Brandon's injuries. The State responds that defendant was proven guilty of first-degree murder beyond a reasonable doubt where the evidence established that defendant beat Brandon with her hands, fists, and a belt over the course of fifteen minutes, resulting in blunt force trauma injuries that caused his death. We agree with the State.

¶ 41 It is well settled that a conviction will not be set aside on review unless the evidence is so improbable or unsatisfactory that there remains a reasonable doubt of the defendant's guilt.

*People v. Steidl*, 142 Ill. 2d 204, 226 (1991). It is not the function of this court to retry a defendant when considering a challenge to the sufficiency of the evidence. *Steidl*, 142 Ill. 2d at 226. "Instead, determination of the weight to be given to witnesses' testimony, their credibility, and the reasonable inferences to be drawn from the evidence are the responsibility of the fact finder." *Steidl*, 142 Ill. 2d at 226. On review, the relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Steidl*, 142 Ill. 2d at 226.

"[O]nce a defendant has been found guilty of the crime charged, the fact finder's role as weigher of the evidence is preserved through the legal conclusion that upon judicial review *all* of the

evidence is to be considered in the light most favorable to the prosecution.' (Emphasis in original.)" *People v. Collins*, 106 Ill. 2d 237, 261 (1985) (quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)).

¶ 42 Proof of an offense requires proof of two concepts: first, that a crime occurred, or the *corpus delicti*, and second, that it was committed by the person charged. *People v. Ehlert*, 211 Ill. 2d 192, 202 (2004). In a prosecution for murder, the *corpus delicti* consists of the fact of death and the fact that death was produced by a criminal agency. *Ehlert*, 211 Ill. 2d at 202. Defendant here contends that Brandon's injuries were not inflicted by her, but rather "can be explained by an accidental fall or two from his bunkbed, and the injuries inflicted by his sister J. , two events not involving defendant which occurred in a relatively short period of time."

¶ 43 Defendant contends that the medical testimony regarding Brandon's cause of death conflicted and that the State did not disprove the defense theories for causes of death. In all situations in which experts are called to testify, their comparative credibility and the weight to be accorded their testimony is a matter for the fact finder to determine. *People v. Peterson*, 171 Ill. App. 3d 730, 734 (1988). "A mere conflict in expert testimony does not create a reasonable doubt of defendant's guilt." *Peterson*, 171 Ill. App. 3d at 734. A defendant's conviction will not be reversed simply because there is contradictory evidence or because the defendant claims a witness was not credible. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). A fact finder may consider the medical evidence in context "and is not required to search out a cause of death compatible with innocence." *Peterson*, 171 Ill. App. 3d at 734. Moreover, a trier of fact "is by no means required to confer more weight to a defendant's theory of the case merely because it is a

possible alternative to the State's theory; it is the function of the trier of fact, and not a reviewing court, to weigh any discrepancies or inconsistencies in the evidence." *People v. Hamilton*, 361 Ill. App. 3d 836, 845 (2005).

¶ 44 We find that defendant's position that Brandon's cause of death could have been explained by an accidental fall off his bunk bed or the injuries inflicted by his sister, amounts to a request that this court ignore the trial court's findings and reweigh the evidence in defendant's favor. However, it is not the function of this court to retry the defendant. Instead, we must view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found the defendant guilty beyond a reasonable doubt of first degree murder. Despite the conflicting medical opinions and other evidence, the State presented sufficient evidence from which the trial court could have found defendant guilty of first degree murder.

¶ 45 At trial, evidence showed that Brandon was injured and died after being in defendant's care. Defendant originally told Detective Golab that Brandon had fallen off the top bunk of a bunk bed a few days earlier, which accounted for the bruise on his head, but that she did not know where the other injuries came from. Defendant noted that her other children had been fighting recently and had possibly injured Brandon. Later, after being placed under arrest and waiving her *Miranda* rights, defendant gave the same statement to Detective Golab, but added that someone could have broken into her apartment that day and tortured Brandon. Defendant then later stated that Brandon had also fallen off the top bunk a day before, after she had rearranged the room, and hit his head on a windowsill. Defendant also claimed that later that

evening she caught her three-year-old daughter kicking Brandon in the head and yelled at her. She then told Brandon to stop crying, but when he would not stop crying, she "lost it" and spanked him a few times before leaving the room. Defendant admitted that she felt bad about spanking him and went to check on him. Brandon told her he was okay and he seemed fine. Shortly thereafter, defendant's oldest son told her that Brandon was breathing funny.

¶ 46 In a later interview with Detective Otto, defendant admitted that she had lied to Detective Golab and then told a different story. Defendant claimed that she had told her four-year-old to stop picking on Brandon, and then picked up Brandon, who was having a temper tantrum. She put him on the bed and began to "spank him in the face." Her spanking did not stop Brandon's tantrum, so she "lost control," grabbed a belt off the floor and began whipping Brandon with it. Brandon was still screaming, so she began beating him with her hands. Defendant showed Detective Otto a closed fist and stated that she continued to beat Brandon until his tantrum subsided. She then left the room.

¶ 47 Still later, Detectives Otto and Golab had another conversation with defendant, which was recorded. In the recorded interview, defendant stated that on the night in question, one of her older sons told her that four-year-old J. was "messing with" Brandon by stomping on his head with one of her shoes. Defendant went in the room and told J. to stop. Brandon was crying so defendant picked him up and laid him on the bed. Brandon started screaming and yelling and having a temper tantrum. Defendant picked up a belt to scare Brandon and see if he would be quiet. When he did not quiet down, she hit him with the belt three or four times. The belt did not quiet him down so she began hitting him with her hand. She got more angry and "lost it" for

around "fifteen minutes." She spanked him but the tantrum continued. Brandon started scratching and trying to bite defendant, so she started punching him. She punched him "pretty hard" with her right hand for about "three minutes." Her hand was "kind of sore" and she had bruises on her arm from hitting Brandon. Brandon then quieted down but was still crying. Defendant left the room after she realized what she was doing.

¶ 48 Dr. Melissa Uribes, the emergency room physician at Little Company of Mary Hospital, testified that when Brandon was brought in he was barely breathing, was not awake, and was barely responsive to pain, which is indicative of a neurologic injury. A CT scan of his brain showed an acute left subdural hematoma extending from the left frontal region to the parietal and occipital areas with effacement and edema. An X-ray showed bruises to Brandon's lungs. Brandon had extensive injuries from head to toe. Brandon was then transferred to Children's Memorial Hospital.

¶ 49 Dr. Emalee Flaherty, the on-call supervisor for child abuse services at Children's Memorial Hospital, testified that Brandon was unresponsive when he arrived. He was put on a ventilator that was breathing for him. He had multiple bruises all over his body, some of which were in the position of a looped cord mark on his back. Dr. Flaherty reviewed other medical records that were available, went over imaging studies that had been done, and talked with the attending physician and treating physician. She then determined that Brandon suffered from a very severe neurological injury involving severe head trauma. Brandon had subdural bleeding on one side of his head that covered the area between the left side of his skull and his brain. He suffered a severe injury to the brain tissue itself and had areas of infarct in his brain. The brain

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was swollen from all the trauma and he had tears to the sagittal sinus. Brandon also had subgaleal hemorrhage, which is scalp swelling within the tissues of the scalp, and subarachnoid hemorrhage, which is bleeding into the subarachnoid area closer to the brain. His CT scan showed multiple cerebral contusions. During emergency surgery, to release pressure on the brain, multiple contusions on the brain were found.

¶ 50 Dr. Flaherty noted that Brandon had bruises in places that are not normally seen as accidental bruises: on the ears, trunk, chest, back, side, and backs of the legs. The bruises on Brandon's back were characteristic of being made by some kind of cord or looped belt.

¶ 51 Dr. Flaherty stated that during surgery it was found that bridging vessels were torn, causing bleeding into the subdural space, and the sagittal sinus was torn, which is the area down the center of the brain. Dr. Flaherty explained that if a child suffers some type of severe and violent acceleration/deceleration forces to the head, it causes the bridging vessels to tear.

Acceleration/deceleration forces are those that cause the head to move back and forth with the skull eventually moving in one direction and the brain moving in the other. Dr. Flaherty noted that children that had been repeatedly slapped had been found to have suffered this kind of tearing and bleeding, and that the person inflicting such injury would have to be adult size with adult strength. She opined that if a four or five-year-old stomped on Brandon's head, it would cause injury, but not the type of brain injuries Brandon had. Further, she testified that the type of injuries Brandon suffered were not the type of injuries caused by a fall from a bunk bed, as he did not have a contact subdural or a skull fracture. Dr. Flaherty opined that the injuries Brandon suffered happened within 24 hours of the time she examined him. She testified that her best

medical opinion was that Brandon's injuries were caused by abusive head trauma and physical abuse.

¶ 52 During the autopsy, Dr. Humilier found subgaleal hemorrhages to the right, left and back of the scalp. There was a subdural hemorrhage over the surface of the right and left side of the brain. A subdural hemorrhage is blood that accumulates between the dura, which is the thick fibrous layer that covers the brain between the brain and skull. Diffuse subarachnoid hemorrhage was also present over the brain. The brain revealed cerebral edema, which is diffuse swelling of the brain. There were four contusions on the lobe in the back of the right side of the brain. There was a hemorrhage in the subcutaneous tissue just beneath the skin of both the right and left underarms, the outside front wrist, the outside back fo the right elbow, the back, the front of the right and left thigh, and the right and left lower leg.

¶ 53 Dr. Humilier testified that some of the subaleal, subdural, and subarachnoid hemorrhage may have occurred from the surgical procedures Brandon underwent, but not to the extent found during the autopsy. The extent of the hemorrhaging led him to the conclusion that the injuries did not result from a fall, and he testified that it was possible that a 15-minute beating with a belt and by hand could have caused all of the injuries that he observed. Dr. Humilier testified that based on his training and observations, as well as his examination of Brandon, he believed the cause of death was due to multiple injuries due to blunt trauma due to child abuse, and the manner of death was homicide. He also opined that a four or five-year-old could not have had the necessary strength to have caused Brandon's head injuries, but it could be possible if two children were stomping on the victim.

¶ 54 Dr. Shaku Teas, who was qualified as an expert in forensic pathology, then testified on behalf of the defendant. In making her evaluation, Dr. Teas looked at Brandon's medical records and corresponding photos. She found that some of the external injuries described were not as large as stated, and some were healing. She did not find Brandon to be covered with injuries, and found that a couple of the injuries were from the medical treatment Brandon had received. Dr. Teas testified that because of Brandon's heart condition, he had a much greater chance of having a stroke and of subdural hemorrhages. She testified that blunt trauma from kicking or stomping to the head or an accidental fall from a bunk bed could cause subdural hemorrhages, and that slapping alone would not cause subdural hemorrhages.

¶ 55 Dr. Teas further testified that a torn sinus usually happens when there is a fall from high heights, and she had never seen a torn sinus in a case like this. She opined that the subdural hemorrhage in Brandon's case was a multifactorial event. Dr. Teas concluded that Brandon's injury was an impact injury and that a fall from a bunk bed would cause this type of subdural hematoma. Another child stomping on Brandon's head could possibly cause this type of subdural hemorrhage.

¶ 56 On cross-examination, Dr. Teas admitted that the photos she examined were copies of copies and the quality was not good. Dr. Flaherty, on rebuttal, stated that there does not need to be an impact to suffer a subdural hematoma or a subdural hemorrhage.

¶ 57 To the extent that defendant's expert submitted contradictory testimony to that of the State's experts, we find that the trial court had the opportunity to hear all of the evidence presented. "It was for the trier of fact to determine which of the differing opinions offered to

explain [Brandon's] blunt trauma was credible." *People v. Armstrong*, 395 Ill. App. 3d 606, 628 (2009). We reiterate that a trier of fact "is by no means required to confer more weight to a defendant's theory of the case merely because it is a possible alternative to the State's theory; it is the function of the trier of fact, and not a reviewing court, to weigh any discrepancies or inconsistencies in the evidence." *Hamilton*, 361 Ill. App. 3d at 845. We find that there was sufficient evidence, especially when viewed in a light most favorable to the prosecution, that Brandon sustained blunt impacts to the head inflicted by defendant. See *People v. Mendez*, 2013 IL App (4<sup>th</sup>) 110107, ¶ 26 (while defendant submitted contradictory evidence, the jury had the opportunity to hear all the evidence presented, and there was sufficient evidence from which the jury could determine victim sustained multiple injuries and blunt impacts to the head inflicted by defendant).

¶ 58

### III. CONCLUSION

¶ 59 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 60 Affirmed.