



# Out of the Shadows

North Carolina Conference of District Attorneys

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## UPCOMING CHILD PHYSICAL ABUSE AND HOMICIDE TRAINING

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### How to Contact the Child Abuse Resource Prosecutor

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### Upcoming Child Abuse Trainings

#### National:

*The 22nd Annual San Diego International Conference on Child and Family Maltreatment*  
January 28 – February 1, 2008  
San Diego, CA

*childPROOF: Advanced Trial Advocacy for Child Abuse Prosecutors*

February 10-15, 2008  
Columbia, SC

*Protecting Children Online for Prosecutors*

Dates: February 17-21, 2008,  
March 2-6, 2008.

Location: Alexandria, VA

*Forensic Interviewing of Children*

Dates: February 4-8, 2008,  
April 21-25, 2008

Location: Huntsville, AL

*24th National Symposium on Child Abuse*

Dates: March 17-20, 2008  
Location: Huntsville, AL

For more information on these trainings, please visit:  
[www.ncdistrictattorney.org/childabuse/training.htm](http://www.ncdistrictattorney.org/childabuse/training.htm)

This Month, the Conference of District Attorneys presented an incredible opportunity to learn about child physical abuse and homicide at our training: “When the Victim is a Child: Investigation and Prosecution of Child Physical Abuse and Homicide” held January 16-18, 2008 at our training facility in Raleigh. Prosecutors and law enforcement officers from across the state participated in the training. How often does one get to hear from three separate doctors who are experts in the field of child abuse during one training? Dr. Rebecca Socolar from the University of North Carolina Hospitals, along with Diane Labiak, formerly of the NC Jaycee Burn Center at UNC Hospitals presented on child abuse burns. Dr. Des Runyan from the University of North Carolina Hospitals presented on shaken baby syndrome. Dr. Deborah Radisch from the Office of the Chief Medical Examiner’s Office presented on child abuse autopsies. In addition, several very experienced prosecutors presented on trial advocacy topics: Julia Hejazi from District 17A presented on openings and closings, Rob Taylor from District 22 presented on combating defenses, and David Spence from District 3B presented on how to keep your case from falling apart. Lisa Mayhew, Child Fatality Investigator and Trainer for the Medical Examiner’s Office presented on child abuse investigations: what evidence to collect, what witnesses to interview, and how to process a crime scene when a child fatality occurs. Please contact me at [Laura.E.Parker@nccourts.org](mailto:Laura.E.Parker@nccourts.org) or 919.890.1500 if you were unable to attend and would like to receive copies of the presentations from this training.

### “EITHER OR BOTH ARE GUILTY”

*By: Tom Anglim, ADA, Prosecutorial District 2*

Nayshawn was born on November 1, 2002. On December 25, 2002 he was taken to the hospital. Nayshawn’s eyes were not bilateral and he had labored breathing. Internally, Nayshawn had five rib fractures that had callus formations and were healing. In addition, Nayshawn had acute injuries consisting of a fractured right clavicle, a significantly displaced fractured right femur and a skull fracture that caused cerebral edema. He remains alive in a permanent vegetative state.

Medical exams by pediatric specialists concluded that fractures were sustained by blunt force trauma coupled with Battered Child Syndrome. The traumatic event that led to the acute injuries occurred between six and twenty-four hours prior to 8:00 p.m. on December 25, 2002.

Patrice Parker, mother, and Ramelle Holloway, father, were in sole care and supervision of Nayshawn from about 11:00 p.m. on December 24, 2002. Witnesses testified that Nayshawn was acting normally when they were in the presence of Nayshawn, Parker and Holloway prior to 11:00 p.m. on December 24, 2002.

Holloway and Parker initially claimed to have no knowledge of how the injuries could have happened and their stories were generally consistent about events when each had sole care and supervision. They each, at different times, had sole care and supervision of Nayshawn. DSS was involved and repeatedly spoke to each parent. Investigators with the Beaufort County Sheriff’s Office repeatedly spoke to Parker and Holloway. In April 2003 investigators again spoke to Holloway and Parker. Holloway, while having some minor inconsistencies, maintained the generally benign claims about the events of December 25, 2002. Parker changed her story.

Parker claimed she picked up Nayshawn because he was crying in the baby chair next to the couch where Holloway was sleeping. Parker claimed that as she went to get a bottle, she tripped over a toy, causing Nayshawn to fall out of her arms striking the floor. Parker claimed she fell as well and that Nayshawn may have struck his head on a table, but she was not sure. Holloway apparently slept through the crying and falling of Nayshawn and Parker. Parker’s signed statement was interesting because by April 2003 she had disassociated Nayshawn. She referred to Nayshawn as “it”, meaning she placed “it” in the swing and placed “it” in the bed.

Holloway and Parker were indicted for Felony Child Abuse in November 2003. They were joined for trial. The jury convicted Holloway and Parker for Felony Child Abuse. The Court of Appeals ruled that each received a fair trial and upheld their convictions in an unpublished opinion. Parker and Holloway gave notice of appeal to the North Carolina Supreme Court, which has dismissed their appeal.

Generally, it is difficult to prosecute physical child abuse cases where the parents offer little information of how the trauma was inflicted. However, in this case there were two factual distinctions that proved to be critical. First, each parent had sole care and supervision of (continued on next page)

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## ***“EITHER OR BOTH ARE GUILTY” (CONT. FROM PAGE 1)***

*By: Tom Anglim, ADA, Prosecutorial District 2*

Nayshawn separate and apart from the other parent. This period of sole care and supervision was during the period of time that the trauma was inflicted. In addition, Holloway and Parkers’ claims about what took place during their respective period of sole care and supervision was not consistent. It was clear they had attempted to help each other in their statements to investigators about the sole care and supervision of Nayshawn. Second, Parker altered her version of the events that took place the morning of December 25, 2002.

The trial court was concerned about the lack of direct evidence that either Defendant inflicted the injuries and expressed an opinion that the State should pick one of the parents to prosecute. The trial court also recognized that the inconsistencies between Holloway and Parkers’ stories strengthened the case. The jury was faced with the options of finding both not guilty, one guilty and the other not guilty or finding both guilty.

The Court of Appeals stated “[t]he inconsistencies between and the changes in each Defendants’ account are clearly relevant and tend to show a guilty conscience and Defendants’ efforts to divert suspicion from themselves. While the evidence does not clearly demonstrate that either Defendant Parker or Defendant Holloway or both inflicted Nayshawn’s injuries, from the substantial circumstantial evidence a reasonable inference is raised that Defendant Parker and Defendant Holloway committed the crime. The Court relied upon the undisputed expert testimony that Nayshawn suffered from Battered Child Syndrome to strengthen the inference of guilt.

The Court’s reliance upon the distinctive facts of this case is apparent. However, the question that comes to mind is simple - How distinctive are these facts really?

- Undisputed evidence of intentionally inflicted serious injury or death.
- Child was in the sole care and supervision of more than one person.
- Defendants’ versions of the events are inconsistent or change to divert suspicion but no one admits to committing the deed.

Under such circumstances *State v. Parker and Holloway*, 651 S.E.2d 377; 2007 N.C. App. LEXIS 1817, may provide the way to allow the jury to convict either or both.

### ***ADDITIONAL COPIES OF THE CHILD SEXUAL ABUSE RESOURCE MANUAL***

The Conference of District Attorneys has received additional copies of the Child Abuse Resource Manual for prosecutors. This comprehensive manual covers information on topics spanning the investigation, medical examination, trial preparation and strategy, and sentencing in child sexual abuse cases. If your office is need of extra copies, please contact Laura Parker at [Laura.E.Parker@nccourts.org](mailto:Laura.E.Parker@nccourts.org) or at 919.890.1500.

### ***“IN THE NEWS” SUBMISSIONS***

The Conference of District Attorneys would like to ask for your submissions to include on the “In the News” portion of our child abuse website. If you have recently prosecuted a child abuse case (or someone in your office has) and would like for us to post any newspaper article related to the case on the Conference website, please contact Laura Parker at [Laura.E.Parker@nccourts.org](mailto:Laura.E.Parker@nccourts.org) or at 919.890.1500.

#### **Call for Papers!**

The NC Conference of District Attorneys is establishing a “brief bank” of motions, orders, notices, and memorandum of law relating to the prosecution of *child abuse and neglect* in NC for prosecutors across the state to share and access. If you would like to submit any such papers to aid and assist other prosecutors across the state, please email your submissions to Laura Parker at [laura.e.parker@nccourts.org](mailto:laura.e.parker@nccourts.org) or send it on diskette or CD-Rom (Save as Microsoft Word or Excel file) to: Laura Parker, NC Conference of District Attorneys, PO Box 25546, Raleigh, NC 27611.

Submissions will be posted on the NC Child Abuse Prosecutors Alliance forum and kept on file at the Conference.