

**Drew Peterson Trial 2012 - Murder of Kathleen Savio
People of the State of Illinois v. Drew Peterson (09CF-1048)
Will County, Joliet, Illinois**

**Dr. Michael Baden Testified August 30, 2012
“Prosecution Rebuttal Witness”**

**A Personal Collection of Found Materials ("as is")
(Note: This is “not” an official legal court transcript)
(Dialog spacing done below for format and reading ease)**

08/30/2012: Prosecution John Connor at direct examination

In Session

<https://www.facebook.com/InSession>

The State calls its first rebuttal witness:

Dr. Michael Baden (questioned by prosecutor Connor).

“I’m in private practice . . . I’m a physician; my area of expertise is forensic pathology.”

The defense offers to stipulate to Dr. Baden’s expertise, but the State rejects that offer. So the witness begins to go over his educational and professional background. He says that he has done special research into the human diaphragm. He worked for the New York City Medical Examiner’s Office (originally as Deputy Chief, and then as Chief Medical Examiner), then because the Chief Forensic Pathologist for the New York State Police (until last year).

August 30 at 10:52am · Like · 12

In Session

Dr. Baden continues to go over his professional experience.

At one point, the defense objects, and the prosecution asks for a sidebar.

August 30 at 10:56am · Like · 4

In Session

The sidebar ends.

The witness is qualified as an expert, without defense objection.

Over his career, he's performed more than 20,000 autopsies.

"Do you have a contract with the FOX News Agency to provide services?"

"Yes, I've had a contract with FOX News . . ." Objection/Sustained.

"Did you have occasion to be contacted by members of Kathleen Savio's family in 2007?"

"Yes . . . I was contacted by members of the family, and asked . . ." Objection/Sustained.

"Were you contacted by members of Kathleen Savio's family in 2007?"

"I was."

"As a result of that contact, did you perform an autopsy here in Will County in 2007?"

"I did . . . the autopsy was performed at the Will County Morgue, with the approval of the coroner, Mr. O'Neil. And it was performed two days after a previous exhumation autopsy had been performed by Dr. Blum."

"How much were you paid for that autopsy?"

"I was paid nothing. It was pro bono . . . the only payment I received in this matter was two years later, when I was asked by the Will County prosecutor to come to a hearing. I was paid \$5,000."

August 30 at 10:59am · Like

In Session

Dr. Baden is next asked about Dr. DiMaio's opinion of injuries to Savio's clavicle.

He is shown a photograph of that area.

"This is the first incision in an autopsy . . . in an autopsy, two incisions are made . . ."

The parties approach the bench for a sidebar.

August 30 at 11:09am · Like

In Session

The sidebar ends.

"The hand is up by the chin . . . the first incision made in an autopsy is a Y-shaped incision . . . one reason to do this is to show the Adam's apple, in the center . . .there's no evidence of

hemorrhage, of strangulation.”

The defense objects, and asks for a sidebar.

August 30 at 11:11am · Like · 2

In Session

The sidebar ends.

The witness continues to point out hemorrhage “which comes from the clavicles, the collar bones . . . there’s hemorrhage here that matches up with the hemorrhage below the skin surface. This is fresh hemorrhage in the areas of the chest . . .” Objection/Overruled.

“The hemorrhage on the right side is deeper . . .” Objection.

The parties go to a sidebar.

August 30 at 11:16am · Like · 3

In Session

The sidebar ends.

The jurors are excused from the courtroom.

Attorney Meczyk objects to this testimony, claiming that this is not proper rebuttal evidence because it actually agrees with what Dr. DiMaio said.

Judge: “That’s how I recollect his [DiMaio’s] testimony.”

Prosecutor Connor asks for a moment.

August 30 at 11:17am · Like

In Session

Connor responds, says that the transcript he has of Dr. DiMaio’s testimony does not reflect that DiMaio’s and Baden’s testimony are saying the same thing.

Judge Burmila questions the prosecutor, grilling him on the relevance of Baden’s testimony in this area.

Ultimately, the judge says he will allow the testimony.

However, before the witness can retake the stand, the State concedes that no report from Baden to that effect was ever made available to the defense.

The judge then sends for the jury.

August 30 at 11:23am · Like · 4

In Session

The witness and the jurors are now back in the courtroom.

“Can you explain how many separate areas of injuries are reflected in those four areas?”

“Two areas of injury: one just below the right collar bone that matches up to that area of hemorrhage. And another one in this area here, just below the collar bone here, is the second area . . . the tissue overlying the clavicles are cut through, to permit the lifting of the area . . . so there are two areas of hemorrhage into the soft tissues overlying the collar bones.”

“Can you explain how you know those aren’t artifacts?”

“Because this is typically what hemorrhage is, a rupture of blood vessels at a point of trauma . . . these pictures were taken the day after the remains of Kathleen Savio were found; she was in a fresh state, back in 2004 . . . this area is a little pooling of blood; that’s an artifact. But these two areas are bruising, bruising of a body.”

August 30 at 11:32am · Like · 11

In Session

The witness says that injuries to Savio’s hands and wrists “could have been incurred while she was trying to defend herself.”

August 30 at 11:33am · Like · 7

In Session

The defense objects to the last answer, and the parties go to a sidebar.

A moment later, the jurors are excused from the courtroom.

August 30 at 11:33am · Like · 5

In Session

Connor is questioned by the judge about Baden's testimony that Savio's hand and wrist injuries "could be" signs of a struggle.

Judge: "You said 'might there be?' and he said, 'yeah, there could be' . . . what is that? . . . are you going to ask him for a definitive opinion?"

"Yes, I would ask him if these are consistent with defense injuries."

With that, the judge sends for the jury.

August 30 at 11:36am · Like · 7

In Session

Before the jurors come back, the judge decides to take a brief recess.

He leaves the bench.

August 30 at 11:37am · Like · 2

In Session

The judge is back on the bench.

He sends for the jury.

August 30 at 11:51am · Like · 9

In Session

The witness and jurors are backing the courtroom.

Prosecutor Connor continues his direct examination by showing Dr. Baden two photographs.

"Dr. Jentzen said these injuries are not defensive . . . do you agree?"

"Well, he may be right . . . the second one is more indicative . . . it's consistent with that [self-defense] and it's also consistent with other things."

The witness is then asked about the bruising in the clavicle.

"That would be caused by some blunt force injury. It could be a fist, it could be falling against a hard object . . . it's a blunt force injury, localized . . . a blunt impact against a solid object can cause right and left hemorrhages [in the clavicles]."

“If someone were pressed against a solid object, could that cause those injuries as well?”

“It could.”

August 30 at 11:56am · Like · 6

In Session

Dr. Baden disagrees with Dr. Jentzen’s opinion that all of Kathleen Savio’s injuries could have caused by a single fall.

“In my opinion, you can’t get all those injuries from a single fall.”

August 30 at 11:57am · Like · 6

In Session

Once again, Dr. Baden says the pattern of hemorrhage in the diaphragm area is indicative of injury.

That concludes the direct examination of this witness.

August 30 at 12:00pm · Like · 7

08/30/2012: Defense Attorney Ralph Meczyk at cross examination

In Session

August 30 at 12:00pm

Watch this thread for live updates from the Drew Peterson murder trial!

Attorney Ralph Meczyk begins his cross of Dr. Baden.

In Session

“Your position is that you saw hemorrhage or blood on the diaphragm of Ms. Savio’s body?”

“Yes.”

“You know that diaphragm was removed by Dr. Mitchell, and was placed along with other organs in a viscera bag?”

“Yes.”

“That muscle then came into contact with other organs?”

“Yes.”

“When other organs are co-mingled in that viscera bag, there can be a transference of blood?”

“It’s possible. Unlikely, but possible . . . by the time they’re place in a viscera bag, the blood has been drained out.”

“It is not a remote possibility?”

“It’s very small . . . and the blood I’m looking at is not lying on the diaphragm; it’s embedded in the muscle.”

“You were the pathologist who first discovered the blood on the diaphragm?”

“I believe so, yes.”

“Dr. Mitchell missed it?”

“He didn’t describe it.”

“And Dr. Blum missed it, too?”

“That’s correct.”

“And Dr. Mitchell would have been in a better position to see that first than you?”

“Yes. If he were looking for it.”

“You knew he was a competent pathologist, with many years of experience?”

“Yes.”

“And to get to other organs, you have to remove the diaphragm?”

“Well, they’re moved simultaneously.”

“And a competent pathologist would be looking at something like that?”

“They would see the diaphragm as they were removing it.”

“And Dr. Blum missed it?”

“Yeah . . . this is a very slight detail . . . as far as I know, he did not include it in his report. I did research on the diaphragm; I spend more time looking at diaphragms than other forensic pathologist. So I may have looked longer at it.”

August 30 at 12:07pm · Like · 9

In Session

“You saw evidence of hemorrhage in that diaphragm?”

“I did.”

“And you saw some red blood cells there?”

“Yes.”

“Indicating to you that it was a rather new or fresh wound?”

“At the time of death, in 2004.”

“Yesterday, when we met, I asked you about the apparatus that slices the tissue very thinly . . . is it an artifact of the microtome, an old wound with some dragged out some red blood cells . . . sort of like slicing into a walnut cake, and the knife dragging out one of the walnuts. Isn't that more than likely what happened here?”

“If I agreed with you on that, then I didn't understand the question . . . what if that happened with cancer cells? That would be medical malpractice.”

“But isn't it true that when I met with you you told us there's a possibility that the microtome could drag out red blood cells?”

“We spoke about microtome . . . if you have the impression from me that that's what happened, then I misspoke.”

August 30 at 12:11pm · Like

In Session

Dr. Baden says that “more often than not” internal injury is accompanied by signs of external injury.

“Miraculously, in this case, we have no evidence in that area of external injury?”

“I agree with everything you say, Sir, except for the ‘miraculously.’”

“If she had been clothed, there wouldn't be an external or internal injuries?”

“It would be less likely.”

“Are you opinion that you thought that this injury could have come from a bear hug?”

“Yes.”

“Sure about that?”

”Yes, from a squeezing injury.”

“Not a blunt force injury?”

“Well, it’s blunt . . .not a trauma from another object.”

“It wouldn’t be from a punch or a kick?”

“A bear hug would not be a punch or kick, no . . . the thing about the diaphragm is that it’s constantly moving. It would just depend on how it’s caught by the trauma.”

August 30 at 12:14pm · Like · 6

In Session

“Today, your opinion is that more likely this was a bear hug type injury?”

“No, it could be a bear hug, could be a blow. I don’t know which one it is.”

The witness is then asked about his Feb. 19, 2010 hearing testimony, and confronted with a copy of that transcript. In that testimony, the witness said that there would “not necessarily” be accompanying internal and external injuries.

“You’re an honorable person, I accept what you say.” Objection.

The parties go to a sidebar.

August 30 at 12:17pm · Like · 1

In Session

The sidebar ends.

Attorney Meczyk continues to read from Dr. Baden’s hearsay hearing testimony,

“Nowhere did you opine that this was caused by a bear hug?”

“I will accept what you said.”

August 30 at 12:19pm · Like

In Session

According to Dr. Baden, the two injuries to the clavicle were “pretty much” symmetrical.

“You disagree with Drs. Jentzen and DiMaio as to their opinions whether there was a struggle or not?”

“Yes.”

“But you’d agree they’re eminent forensic pathologist, and have many, many years of experience, just like you?”

“Yes.”

“And in the pathology community, pathologists will come to different opinions?”

“Yes. Most of the times, we agree. But sometimes we disagree.”

“You do respect Dr. Jentzen?”

“I don’t really know him, but I respect him. I know the book that he wrote . . . [and] I’ve known Dr. DiMaio since he was a medical student; his father was my boss.”

“And you no doubt respect his opinion?”

“Yes.”

August 30 at 12:24pm · Like · 3

In Session

“You did not perform this autopsy pro bono, did you?”

“I did.”

“But you were paid by FOX News?”

“I had a contract with FOX News that was irrelevant to the autopsy . . . I’m a consultant to speak, to educate people about forensic pathology . . . I heard the family may be have been referred to me by somebody at FOX. But my autopsy had nothing to do with FOX.”

“Would you tell us who your assistant was at that autopsy?”

“Yes . . . the family asked me to do the autopsy, and they asked that Steph Watts, a producer for FOX, be present.”

“Steph Watts is a producer for FOX News?”

“Was a producer for the Greta Van Susterin show.”

“Does he have any medical training?”

“No.”

“He does have experience as one of the producers of Girls Gone Wild?” Objection/Overruled.

“I Have no knowledge of that.”

“You journeyed to Chicago for this particular case, isn’t that true?”

“No . . .” Objection.

The question is withdrawn, but the State asks for a sidebar.

August 30 at 12:28pm · Like · 5

In Session

The sidebar ends.

The witness confirms that producer Steph Watts videotaped the Savio autopsy.

“Didn’t Mr. Watts try to peddle that video to Girls Gone Wild?”

“That’s the first time I’ve heard that. Obviously, that would be totally improper, if that were done.”

The attorneys go to a sidebar.

August 30 at 12:29pm · Like · 1

In Session

The sidebar ends.

The jurors are excused.

Prosecutor Connor confirms that a phone number for Girls Gone Wild was on a note pad belonging to Steph Watts, but asks the defense if there is any evidence that the video was ever peddled.

Judge; "I think it's a very good thing to expose my ignorance of what Girls Gone Wild is."

Greenberg: "It's a series of interviews on spring break locations . . . they get very drunk women to do embarrassing things . . . I believe Mr. Watts admitted to calling during the autopsy . . ."

Connor: "He spoke to him, yes . . . but I don't think there's been any evidence that it had anything to do with what he was doing at the time."

August 30 at 12:35pm · Like

In Session

Greenberg: "Mr. Watts previously testified that he was checking voice mail messages during the autopsy. While he was checking messages, he got a phone call from... the creator of Girls Gone Wild, who was in jail for tax problems . . . he claims it was unrelated."

Judge: "Then I'm going to sustain the State's objection, and instruct the jury to ignore this evidence."

He sends for the jurors.

August 30 at 12:36pm · Like

In Session

The witness and the jurors return to the courtroom.

The judge instructs the jury to disregard the references to Girls Gone Wild.

Meczyk continues: "When you performed the autopsy, Mr. Steph Watts from FOX was there, and he was very helpful to you?"

"He was helpful; he took notes primarily."

"And he videotaped the autopsy?"

"Not the body."

"Know where that videotape is now?"

"I assume it's with FOX News."

"It's not with the Savio family, is it?"

"Not that I'm aware of."

August 30 at 12:39pm · Like · 4

In Session

Although Baden has treated people with orthostatic hypotension. It is not, however, his field of expertise.

“Did you read the letters or the medical records from Dr. Neri or Dr. Motiani?”

“I saw some records that she was dizzy.”

“They both opined that she suffered from this condition . . . did you take that into consideration?” Objection.

The parties go to a sidebar.

August 30 at 12:42pm · Like

In Session

The sidebar ends.

But almost immediately, the attorneys go to another one.

August 30 at 12:44pm · Like · 2

In Session

The sidebar ends.

Judge Burmila: “We’re going to take a very brief recess, so that they can have a conference.”

He leaves the bench, and the trial is in recess.

August 30 at 12:46pm · Like · 3

In Session

The judge returns to the bench.

He sends for the jury.

August 30 at 1:05pm · Like · 3

In Session

The witness and the jurors return to the courtroom.

The judge instructs the jurors, "You're to ignore the references to any prior diagnosis of Ms. Savio as to orthostatic hypotension."

Dr. Baden is then asked about his testimony for the defense in the O.J. Simpson case, as well as the case of U.S. v. Jon Burge.

"I'm just trying to give my opinion as to what the science is, no matter who it helps or who it hurts."

That ends the defense cross-examination of this witness.

The State has only one question, establishing that Savio's injuries were consistent with having been pushed down on a hard surface.

That ends Dr. Baden's testimony, and the witness is excused.

August 30 at 1:10pm · Like

In Session

Judge Burmila calls the lunch recess at this time.

He leaves the bench, and the trial is in recess until 1:15 CT/2:15 ET.

August 30 at 1:11pm · Like · 1
