VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable William A. McKinnon, Circuit Court Judge

MARK ALLEN BRADBERRY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001449

APPENDIX

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)

The State,)
) TRANSCRIPT OF RECORD
-vs-) 2015-GS-42-445;446
)
Mark Allen Bradberry, Sr.,)
) June 20 - 22, 2016
Defendant.) Spartanburg, South Carolina

B E F O R E:

HONORABLE J. DERHAM COLE, JUDGE; and a jury

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(Proceedings June 20, 2016)
THE COURT: Are we ready for the jury panel?
MR. BARNETTE: We're ready, Your Honor.
MR. HALL: Yes, sir.
THE COURT: Okay. Bring them in.
(The following takes place in the presence of the jury venire.)
THE COURT: Thank you for your patience, ladies and gentlemen.
We are ready to begin with jury selection in the first case that's going to require some of your participation, and the title of that case is the State vs. Mark Allen Bradberry, Sr.
Mr. Bradberry has been accused by the prosecutor by way of these indictments -- indictments are charging papers. They're like an arrest warrant. Any person brought to court here in this court for trial is brought by way of an indictment.
These indictments charge Mr. Bradberry with having committed the crimes of murder, armed robbery and possession of a firearm during the commission of a violent crime.
The state alleges that those events occurred on October the 30th of 2014. The indictments allege that on that date Mr. Bradberry did here in Spartanburg County

wilfully and with malice aforethought kill one Connie Bataille by striking her about the head with an unknown object and stabbing her several times about the body and that she died as a result of those wounds.

The state further alleges that Mr. Bradberry on the same date and time did while armed with some type of deadly weapon take, steal and carry away personal property from the person or presence of Connie Bataille by the use of force, violence or intimidation, and took that property with the intention of depriving her permanently of its use and possession.

The remaining count of the indictment, the second indictment, charges Mr. Bradberry with the crime of possession of a weapon during the commission of a violent crime.

They allege again at the same time and date that he did possess or visibly display a knife during the commission of a violent crime, that violent crime alleged to be armed robbery.

Now, as to those charges and as to those allegations Mr. Bradberry has entered a plea of not guilty. A plea of not guilty places upon the state the burden of proving the allegations that they have made by way of these indictments, the burden of proving each of the essential elements of the crimes alleged against the defendant; and

therefore the burden is upon the state to establish the defendant's guilt to the satisfaction of a jury beyond a reasonable doubt before any verdict of guilty could be returned as to any of the separate charges.

And therefore we're going to be selecting -- we'll select 14 of you. There'll be 12 primary jurors and two additional jurors to serve as alternates in the case.

By way of your participation you're going to be called upon to listen to testimony that will come from witnesses testifying from that witness stand and to consider any other evidence that might be offered and introduced during the trial of the case.

At the trial's conclusion you'll consider all of that evidence. From that evidence you'll determine the facts as they relate to these allegations. Once you determine those facts you'll apply the law that I will have provided you, and you will determine whether or not the defendant's guilt has been proven beyond a reasonable doubt.

Now, before we begin with jury selection I've got some matters to address with you. The first thing I'll do is I'll introduce to you the participants in the trial.

I'll also introduce to you the potential witnesses to be called during the course of the trial. And the reason all of these persons are being introduced is because I need to find out if you or any members of your family have any

connection to any of the participants or have any connection with any of the witnesses that might be called during the trial.

And I need to know if you have a family connection, if you have a -- an employment connection, if you have a school connection, if you have a church connection, if you socialize with any of these people in any way or you just know them from some event that you've been to. In other words, do you have any connection or knowledge of anybody that's going to be introduced to you.

If you do have such a connection, then I'll ask you to please stand when that person is identified so that we can determine what that connection is and whether or not it would have any bearing upon your decision in the case if you were called upon to serve as a juror.

And once I conclude with that item, then I'll ask you some additional questions in order to determine whether or not there's any reason why any one of you should not be selected to participate in the trial of this particular case. In other words, do you have a reason why you could not be fair and impartial if called upon to serve.

Now, first of all, as I told you, the defendant, the person who is accused of having committed the crimes of murder, armed robbery and possession of a firearm -- excuse me -- and possession of a knife during the commission of a

violent crime is Mark Allen Bradberry, Sr.

Mr. Bradberry, if you will, stand and face the jury panel, please.

(Whereupon, the defendant stood.)

THE COURT: Mr. Bradberry is in the blue shirt. That other gentleman standing is Robert Hall. He's Mr. Bradberry's lawyer. He works in the Seventh Judicial Circuit Public Defender's Office. Mr. Hall will be assisting Mr. Bradberry during the course of this trial.

The person alleged to have been the victim of these crimes is Connie Bataille. Obviously, Ms. Bataille is deceased, but she has family members here. So I'll ask those family members to please stand and introduce yourself so that the jury may see who you are, and by seeing you they may know who Ms. Bataille is or was.

KARRIE LOONEY: My name is Karri Looney.

JOHN PENAVS: My name is John Penavs.

MR. BARNETTE: And, Your Honor, Jack Looney, he's going to be here after lunch.

THE COURT: Okay.

MR. BARNETTE: He's another family member.

THE COURT: All right. And the Looneys are what connection with Ms. Bataille?

MR. BARNETTE: Mr. Looney is her son, is the victim's son. And this is her daughter-in-law.

THE COURT: Okay.

MR. BARNETTE: And this gentleman right here is her brother.

THE COURT: Is Ms. Looney's brother?

MR. BARNETTE: No. Ms. --

THE COURT: Ms. Bataille's brother?

MR. BARNETTE: Yes, sir.

THE COURT: Okay. Mr. Penavs is Ms. Bataille's brother and Ms. Looney is her -- was her daughter-in-law. And I introduced those because they may testify. But you need to see them so you'll know if you have a connection with Ms. Bataille or with them.

In addition to Ms. Looney and to Mr. Penavs, other potential witnesses include Kelly Baty with the Spartanburg County Coroner's Office; Raymond Webb, Assistant Chief, Pacolet Police Department; Robert Talanges, Spartanburg County Sheriff's Department; Darren Dukes, Spartanburg County Sheriff's Department; Sean Nix with the sheriff's department; Brandon Letterman with the sheriff's department; Paul Norris with the sheriff's department; Jason Bryant with the sheriff's department; Richie Foster with the sheriff's department; Coby Stepp with the sheriff's department; Investigator Roman with the sheriff's department; Robert Rosenberg with the sheriff's department; Ron Bishop, Pacolet Police Department; Jimmy Carter,

Pacolet Police Department; Brenda Kean, a resident of Pacolet; Kerri Herr, a resident of Pacolet; Emily Looney, a resident of Inman, South Carolina. Karrie Looney has already been introduced to you.

Caroline Worthy -- Carolyn Worthy, a resident of Pacolet; Dennis Keeler, a resident of Pauline; John David Wren, a pathologist, Spartanburg Regional Medical Center; Jennifer Bartman, state law enforcement division; Courtney Thompson with the state law enforcement division; Perry [sic] Butler, state law enforcement division; Amy Stephens, state law enforcement division; Jimmy Tobias, a resident of Spartanburg; Lance King, a resident of Florence, South Carolina; Daniel Reveles, employed at Bi-Lo; Kathy Ballenger, employed at Bi-Lo. Is that -- where?

MR. BARNETTE: Fernwood here in Spartanburg.

THE COURT: By the Fernwood Bi-Lo.

Phyllis Vandergriff, Flying J Company; Phil Carter, United States Postal Inspector; Matthew McCoy, Investigator with the Columbia City Police Department.

MR. BARNETTE: Yes, sir.

THE COURT: Loretta Norris, employee at SunTrust Bank; and Deputy Medvedev with the Spartanburg County Detention Facility. And Jack Looney was also a relative.

MR. BARNETTE: Your Honor, there was two others. There was Investigator M. Quinn with the Myrtle Beach

Police Department and Loretta Norris from SunTrust Bank.

THE COURT: All right. I mentioned Loretta Norris. Who is the other one?

MR. BARNETTE: Investigator M. Quinn from the Myrtle Beach Police Department, sir.

THE COURT: Okay. Investigator Quinn, Myrtle Beach Police Department.

Any other potential witnesses on behalf of the state?

MR. BARNETTE: No, sir.

THE COURT: Defense?

MR. HALL: No, sir.

THE COURT: All right. Does any juror know anybody who's just been introduced? Are you connected in any way with any of those people? If so, please stand.

All right. I'll start with the front and work my way back. Tell me your name and number, please.

JUROR NO. 113: 113, Ken Morris. I worked with Rosenberg and Richie Foster and --

THE COURT: You know most of the persons employed at the sheriff's department?

JUROR NO. 113: Yes, sir.

THE COURT: All right. And would that in any way interfere with your ability to be fair in this case if you were selected?

JUROR NO. 113: No, sir.

THE COURT: All right. That's Juror 113.

Thank you.

Yes, ma'am.

JUROR NO. 115: 115, Kelly Mullinax. I live in Pacolet, so I know a lot of the people that you named off -- Ron Bishop, Kelly Baty, Raymond Webb, Dennis Wheeler.

THE COURT: All right. And is there anything about your connection with them, your knowledge of them, that would affect your judgment in the case?

JUROR NO. 115: Uh-uh. I just know of them. That's a small town.

THE COURT: Okay. Do you know anything about this case?

JUROR NO. 115: Never heard of it.

THE COURT: All right. But these individuals that you know or you've heard of, the fact that they're witnesses wouldn't interfere with your judgment?

JUROR NO. 115: No, sir.

THE COURT: All right. Thank you. You may be seated.

Yes, ma'am.

JUROR NO. 66: Sixty-six. I know Jimmy Tobias, one of the witnesses.

THE COURT: Tell me your name too, please.

JUROR NO. 66: It's Kathy Green.

THE COURT: All right. You know Jimmy Tobias?

JUROR NO. 66: Yes.

THE COURT: And what's that connection, just a friendship?

JUROR NO. 66: Member of the church.

THE COURT: All right. And would that have any bearing upon your decision in the case?

JUROR NO. 66: No.

THE COURT: Thank you. Be seated.

Yes, ma'am.

JUROR NO. 74: Seventy-four, Ashley Hemphill Shands. I know Ms. Kelly Baty, Ron Bishop. Well, I know all of the Pacolet officers, as well as Kerri. Me and her worked together at my previous job.

THE COURT: And are you from that community?

JUROR NO. 74: I am.

THE COURT: All right. Would that have -- would the fact that you know those folks have any bearing upon your decision?

JUROR NO. 74: No. I don't guess so.

THE COURT: Well, no. We can't guess about it. Do you think it would reasonably bear upon your decision, or could you put that aside and not allow it to --

JUROR NO. 74: I mean, I could put it aside, but I'd just rather not be part of it since it's such a small town.

THE COURT: Okay. Well, do you think it might affect your judgment?

JUROR NO. 74: Yes.

THE COURT: All right. We'll excuse Juror 74.

Don't leave yet.

We'll excuse Juror 74 from service in the case.

All right. One other juror standing. Your name and number, please.

JUROR NO. 59: Juror 59, Tonya Foster. Because I teach in the same district, I serve Pacolet students. So I know a couple of the parents.

THE COURT: Is that District Three?

JUROR NO. 59: Yes, sir.

THE COURT: All right. And you know some people who have been identified from this list?

JUROR NO. 59: Ms. Herr specifically.

THE COURT: Okay. And is there anything about that connection that would affect your judgment in the case?

JUROR NO. 59: No.

THE COURT: Do you know anything about the case? Have you heard anything about it?

JUROR NO. 59: No.

THE COURT: Okay. And the fact that you know someone from that community would not impair your judgment?

JUROR NO. 59: No, sir.

THE COURT: All right. Thank you. You may be seated.

Juror 59.

Any other jurors have a connection with anybody?

(No response.)

THE COURT: All right. This is an event or cases that arise from an event that the state alleges occurred back on October the 30th of 2014. And they allege it occurred on Montgomery Street in the Pacolet community of Spartanburg County.

They allege that Mr. Bradberry did kill Connie Bataille and that also he committed an armed robbery of her, taking her possessions, and possessed a knife during the commission of that violent crime.

As you know, as to those allegations he has entered a plea of not guilty. He denies the allegations. But I tell you that so you can understand what the case is about and who the folks are that are involved.

But has any member of the jury panel heard, seen or read anything that might relate to this particular case? In other words, have you been exposed to any type of information from any source that relates to this particular case or course of events? If so, please stand.

(No response.)

THE COURT: Is there anything about the nature of the charge itself, that is what the defendant is alleged to

have done? Is there anything about the nature of the charges themselves that would prevent any juror from being able to be fair and impartial if you were selected to serve as a juror in the case?

(No response.)

THE COURT: I did neglect to introduce the prosecutor. Barry Barnette is the solicitor for the Seventh Judicial Circuit. He'll be presenting the case on behalf of the state.

So let me ask while I've got that. I introduced all of these folks. But I need to find out if any juror knows anybody who is employed in either the Seventh Judicial Circuit Solicitor's Office or the Seventh Judicial Circuit Public Defender's Office. Not just these folks but anybody else that's employed in either of those two offices. If so, please stand.

(No response.)

THE COURT: Has any member of the jury panel or any members of your immediate family -- and let me define an immediate family member as a parent or a spouse or a child or a sibling -- parent, spouse, child or sibling.

Have you or any members of your immediate family as I've just defined it ever been the victim of any type of violent crime or ever been accused of having committed any type of violent crime?

And those crimes that would be included under the definition of a violent crime would include murder, manslaughter, armed robbery, assault and battery with intent to kill, criminal sexual conduct, burglary, carjacking, criminal domestic violence of a high and aggravated nature, or any other similar type of an offense. Have you or an immediate family member ever been the victim of such or have you or that family member ever been accused of having -- ever been accused of having committed such an offense? If so, please stand.

All right. And I'll start with you, ma'am, if you'll give me your name and juror number. Then tell me how that question relates to you.

JUROR NO. 130: Darlene Pritchett, 130 -- 130. My brother accused of murder.

THE COURT: All right. And how long ago was that?

JUROR NO. 130: Eight years. He's still in jail.

THE COURT: So that case is resolved.

JUROR NO. 130: Yes, sir.

THE COURT: Is there anything about that fact or that experience that would affect your judgment in this case?

JUROR NO. 130: I don't believe so, no.

THE COURT: All right. Thank you. You may be seated. Yes, sir.

JUROR NO. 86: Fennix Jones, 86. My brother was

murdered in 2003.

THE COURT: And has that case been resolved?

JUROR NO. 86: Yes.

THE COURT: And is there anything about that fact or that experience that would affect your judgment in this case?

JUROR NO. 86: I don't think so.

THE COURT: All right. Thank you. You may be seated. Yes, ma'am.

JUROR NO. 115: Kelly Mullinax, 115. My brother served a prison sentence for sexual crimes.

THE COURT: All right. And is there anything about that fact or that experience that would affect your judgment in this case?

JUROR NO. 115: No, sir.

THE COURT: Thank you. Be seated.

Anyone else need to respond to that question?

(No response.)

THE COURT: Has any member of the jury panel or any member of your immediate family ever been under an order of protection or ordered and restrained from having any contact with another spouse or family member? Have you ever been under an order of protection or ever been restrained from having contact with a spouse or family member? If so, please stand.

All right. Your name and number please, sir.
JUROR NO. 44: Arthur Dauenhauer, 44.
THE COURT: Forty-four. And does that question relate to you or a family member?
JUROR NO. 44: Me.
THE COURT: And was it an order of protection or a restraining order?
JUROR NO. 44: Order, restraining.
THE COURT: And is there anything about that fact that would interfere with your judgment in this case?
JUROR NO. 44: No.
THE COURT: Thank you. Be seated.
Has any member of the jury panel ever been called to testify as a witness in a criminal trial? Whether you were called by the prosecutor or called by defense counsel, has any juror ever been called to testify as a witness in a criminal trial? If so, please stand.
113.
JUROR NO. 113: Yes, sir.
THE COURT: And in your duties as a former officer?
JUROR NO. 113: Yes, sir.
THE COURT: All right. Thank you. You may be seated.
Anybody else?
(No response.)
THE COURT: All right. I've told you basically what

the case is about. You know who the participants are; you know who the witnesses are. You know what the case basically is about.

Is there any member of the jury panel that knows of any reason whatsoever why you think you could not be fair and impartial if you were called upon to serve as a juror in this particular case? If so, please stand.

(No response.)

THE COURT: Any other questions requested by the state?

MR. BARNETTE: Yes, sir. May I approach the bench for a second?

THE COURT: Yes.

(Bench conference held off the record.)

THE COURT: One other thing I did neglect to ask.

Is there any member of the jury panel that has any sort of belief or opinions, whether it be based upon your religion or otherwise, that would prevent you from being able to participate as a juror in a trial and to render a decision in the case?

All right. And your name and number, please, ma'am.

JUROR NO. 152: Melanie Spivey, 152.

THE COURT: 152. And you have some reason based upon personal preference or religious belief that prevents you from being able to render a decision in a criminal case?

JUROR NO. 152: Yes, sir. Jehovah's Witnesses are not willing to judge anybody, whether guilty or not guilty.

THE COURT: Okay. And you're Juror 152?

JUROR NO. 152: Yes, sir.

THE COURT: All right. We'll excuse you from service in the trial of this case.

JUROR NO. 152: Thank you.

THE COURT: Anyone else have any reason why you can't? Yes, ma'am.

JUROR NO. 43: Me too. Jehovah's Witness.

THE COURT: What's your number, please, ma'am?

JUROR NO. 43: Forty-three.

THE COURT: Forty-three.

JUROR NO. 43: Yeah.

THE COURT: All right. Thank you, ma'am. We'll excuse you also.

Anyone else?

(No response.)

THE COURT: All right. Any other questions requested by the state?

MR. BARNETTE: None from the state, Your Honor.

THE COURT: The defense?

MR. HALL: None from the defense, Your Honor.

THE COURT: All right. We're going to select a jury, and your names will be called. As your name is called

you'll be asked to come forward. Come towards me about two paces past the desks where the lawyers are seated.

Turn and face your fellow jurors. Each side has the opportunity to have you seated for service in the case or to have you excused from serving in the case.

If both agree to have you seated you'll be having a seat in that jury box to your right and to my left. If either asks that you be excused you can simply go back and have a seat in the audience.

So simply please come forward as your name is called. You'll be instructed if you're to be seated or excused from service in the case.

THE CLERK: Juror No. 2, Anita Aiken.

What say the state?

MR. BARNETTE: Please present the juror.

THE COURT: What say the defense?

MR. HALL: Please swear the juror.

THE CLERK: Juror No. 178, Brandon Hamilton.

What say the state?

MR. BARNETTE: Please present the juror.

THE CLERK: What say the defense?

MR. HALL: Please swear the juror.

THE CLERK: Juror No. 158, Thaddeus Troxell.

What say the state?

MR. BARNETTE: Please present the juror.

THE CLERK: What say the defense?
MR. HALL: Swear the juror.
THE CLERK: Juror No. 34, Debra Coggins.
What say the state?
MR. BARNETTE: Please excuse this juror from service.
THE CLERK: Juror No. 4, Christopher Alexander.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please excuse the juror from the trial of this case.
THE CLERK: Juror No. 86, Fennix Jones.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Swear the juror.
THE CLERK: Juror 165, Jamarius Whiteside.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 72, Shannon Hart.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?

MR. HALL: Swear the juror, please.
THE CLERK: Juror 144, Lynn Sellers.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please excuse the juror from the trial of this case.
THE CLERK: Juror No. 44, Arthur Dauenhauer.
What say the state?
MR. BARNETTE: Please excuse the juror from service.
THE CLERK: Juror 102, Donna Mayes.
MR. BARNETTE: What was the number again?
THE CLERK: 102.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 147, Ashley Skipper.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 115, Kelly Mullinax.
What say the state?
MR. BARNETTE: Please present the juror.

THE CLERK: What say the defense?
MR. HALL: Please excuse the juror from the trial of the case.
THE CLERK: Juror No. 160, Donna Underwood.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 42, Nicholas Crowe.
What say the state?
MR. BARNETTE: Excuse this juror from service, please.
THE CLERK: Juror No. 12, Phyllis Blair.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 71, Tyquan Harris.
What say the state?
MR. BARNETTE: Please excuse this juror from service.
THE CLERK: Juror No. 66, Kathy Green.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Swear the juror.
THE CLERK: Juror No. 98, Kayla Lipscomb.

What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE CLERK: Juror No. 130, Darlene Pritchett.
THE COURT: This is the first alternate.
MR. BARNETTE: This is 130, is that correct?
THE CLERK: Yes, sir.
What say the state?
MR. BARNETTE: Please excuse this juror from service.
THE CLERK: Juror No. 131, Rebecca Pruitt.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Please swear the juror.
THE COURT: This will be for the second alternate.
THE CLERK: Juror 132, Lakeatha Ray.
What say the state?
MR. BARNETTE: Please excuse this jury from service.
THE CLERK: Juror No. 124, Susan Paone.
What say the state?
MR. BARNETTE: Please present the juror.
THE CLERK: What say the defense?
MR. HALL: Swear the juror.
THE COURT: All right. Those who have been selected,

I'll ask you to please go with the bailiff to a jury room, and I'll bring you back shortly.

(The following takes place outside the presence of the jury.)

THE COURT: Are there any matters that need to be addressed regarding jury selection by the state?

MR. BARNETTE: None from the state, Your Honor.

THE COURT: From the defendant?

MR. HALL: None from the defense, Your Honor.

(Whereupon, the remaining members of the jury venire were excused.)

THE COURT: I understand we have two or three motions to address before we begin with the trial.

MR. HALL: That's correct, Your Honor. There's a statement my client allegedly gave. We're moving to suppress that.

As part of that there is a video I've not been able to see that I think they've got working now. I think we have a computer. It's a short 5-minute video. And I think at the time of his booking. And I'd like to have an opportunity to look at that and discuss it with him before we have the motion.

MR. BARNETTE: Your Honor, we do have two motions from the state. We had third-party guilt. I know we had a brief conference at the bench. I don't want -- the way I

understand from Mr. Hall, they don't have any third-party guilt to point to a certain individual, that is.

MR. HALL: No, sir. We do not.

MR. BARNETTE: And then also there was a motion in limine about there was blood alcohol, .04, that was on the victim. And I understand from our bench conference that I think it was agreed that that's not relevant in this case.

MR. HALL: That's correct, Your Honor.

There may be testimony that she had some wine, but there's nothing indicating she was under the influence. We've got no reason to go with that. Maybe she had some wine.

THE COURT: All right. How much time do you anticipate the Denno hearing to take?

MR. HALL: Your Honor, even if we showed the video, that's just five minutes. I would think we could wrap it up within an hour, everything, I assume. I'm not sure how much Barry would present. I think there's at least one officer.

MR. BARNETTE: We have two officers, Your Honor, and I think it would be our standard Jackson vs. Denno. Of course I don't know how long the defense would be. That's one thing I don't know.

THE COURT: Bring the jury back, please.

(The following takes place in the presence of the

jury.)

THE COURT: Ladies and gentlemen, I have got some other scheduled matters I need to address before we can actually begin with the trial of this case. So you're going to be excused now for lunch. You'll be asked to report back to your jury room at 3:15 -- at 3:15.

Keep in mind you've been selected. And I know you haven't heard anything yet, but you still can't talk about the case. You're never permitted to talk about the case until and unless you are engaged in jury deliberations, and that will not occur until the end of the trial after the evidence has been received, I've instructed you on the law and instructed you to begin your deliberation process.

So keep in mind no discussions about the case at any time during the trial until jury deliberations.

Also, you're not permitted to conduct any research or do your own investigation into any issue that might arise during the trial.

You have to base your decision upon what you see and hear during the trial of this case, and you can't conduct any outside research or do any investigation in order to answer any question that you might have. That would be inappropriate.

Your decision has to be based upon what you see and hear during the trial. You can't supplement that wealth of

knowledge by conducting outside research or investigation.

Also, you're never permitted to allow yourselves to be exposed to any type of media coverage that might relate to the case. I don't know that there will be any, but sometimes there'll be a newspaper article about it. You can't read the newspaper about it; you can't listen to a radio about it; you can't watch television about it; and you can't go on the internet to conduct any research into the case.

No discussions; no investigation; no research; no media exposure of any kind.

With that, do have a good lunch, and please report to your jury room at 3:15 -- 3:15 this afternoon.

(The following takes place outside the presence of the jury.)

THE COURT: Court is in recess until 2:15.

(Whereupon, a recess was taken.)

(State's Exhibits Nos. 1 through 141 marked for Identification by Mr. Barnette.)

THE COURT: All right. We are here on the defendant's motion to determine the voluntariness of the statement provided by the defendant to law enforcement.

MR. HALL: That's correct, Your Honor.

THE COURT: Mr. Barnette.

MR. BARNETTE: I'd like to call Investigator Letterman

to the stand, Your Honor.

MURRAY BRANDON LETTERMAN,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please give your full name for the record.

A Murray Brandon Letterman.

Q And where do you work at, sir?

A The Spartanburg County Sheriff's Office.

Q And what is your position there?

A Sergeant over violent crimes.

Q And how long have you been in law enforcement, sir?

A Eleven years.

Q Back on November 3rd of 2014 was you called to a crime scene at [redacted] Magnolia -- Montgomery Avenue in Pacolet, South Carolina?

A Yes, I was.

Q And when you arrived there, if you would, just tell the judge a little bit of what you found.

A We arrived on the scene. Pacolet police had requested that we arrive on the scene and assist them in the investigation.

Q And I believe it's November 2nd. I apologize.

A Correct. And they eventually requested we take over. We initially entered the residence, observed a body on the

bed covered with a cover, blood spatter on the ceiling and on the floors around the body. It was evident that it wasn't a natural death.

So at that point we backed out and secured a search warrant. Once the search warrant was secured we reentered the house. Once we got inside the house we found a female deceased on the bed laying underneath the cover with a lot of paperwork around her.

Her bedroom had been ransacked, and it was eventually found that she had been hit several times about the head and stabbed several times about the body.

Q Did you find out later her car had been taken?

A Yes. During the initial interview while we were at the residence there were several family members that indicated that her car was missing, along with her son.

Q And her son lived with her at the time?

A Yes.

Q Was that Mark Bradberry?

A Yes.

Q And was his car still at the location?

A The car that we were told that he drove, the white Buick LeSabre, was still at the residence, yes, sir.

Q Through the investigation and everything -- and I know we may go into more detail when we get in the actual trial or whatever -- did the defendant become a suspect in this

case?
A Yes.
Q And did y'all basically send out N.C.I.C., asked, obviously, talk to him for -- about this situation?
A We did.
Q And was he found the next day?
A He was.
Q And where was he found at?
A He was found behind a residence in Pauline, South Carolina, off of Highway 56.
Q And whose car was he in when y'all -- when he was found?
A He was in the victim's, Ms. Connie Bataille's, car.
Q And was this behind a shed?
A It was behind a shed behind a residence, yes, sir.
Q And had he tried to make contact with the resident there?
A He -- Mr. Bradberry?
Q Yes, sir.
A Yes, he had.
Q And the individual, is he the one that called 9-1-1?
A The resident of the house, yes, sir, called 9-1-1.
Q And that's because he saw him on the news.
A That's correct.
Q In the car -- when you arrived there, who else was

with you?
A I believe it was myself, Investigator Paul Norris, Sergeant Jason Bryant and Investigator Richie Foster.
Q And did you talk to Mr. Bradberry?
A We did.
Q Did he appear to be under the influence of anything at that time?
A No.
Q Did he understand your questions?
A He did.
Q Did you ask him to come to the sheriff's department with you?
A I did.
Q And when he came to the sheriff's department did y'all give him the Miranda rights at that time?
A We did.
Q Let me show you what's been marked as State's Exhibit -- State's Exhibit 134. Was that the form that you used to give the rights to Mr. Bradberry?
A Yes, sir.
Q Did he understand those rights?
A Yes, sir.
Q Did you explain to him what this was about?
A We did.
Q And did he indicate that he wanted to talk to you at

that time?
A He did.
Q Was he promised anything or threatened in any way?
A No, sir.
Q Did he voluntarily give up his rights?
A He did.
Q And did he sign the form?
A Yes, sir, he did.
Q How many times did he sign that?
A He signed it twice.
Q And who witnessed those signatures?
A Investigator Paul Norris.
Q And about what time was this when the rights were given?
A Approximately 10:37 in the morning.
Q And he was picked up. So y'all brought him from Pauline to the sheriff's department?
A We did.
Q And during that time was he able to get something to eat, get something to drink, do whatever he needed to do?
A He was.
Q And he was allowed to do that.
A He was allowed to do that, yes, sir.
Q And during the time did he give y'all a statement?
A He did.

Q Did he freely and voluntarily give that statement?
A He did.
Q And I'm showing you State's Exhibit 134. Is that the statement that he gave to y'all?
A It is, yes, sir.
Q And who wrote the statement?
A I wrote the statement.
Q Did he freely and voluntarily give you that information?
A He did.
Q Did you get a chance -- did he have a chance to read over that statement?
A He did. I read it back to him.
Q And he agreed with everything that was put on the paper.
A He did.
Q And was this witnessed by you also?
A It was.
Q And did anybody else witness it?
A Yes. Investigator Paul Norris.
Q And at that time did he seem to be under the influence of any alcohol, drugs or anything at that point?
A No, sir.
Q Did he understand what he was doing at that time?
A Yes, sir.

MR. BARNETTE: Your Honor, I'd like enter -- I guess we'll mark these as court's exhibits first. I'd like to mark the waiver as Court's Exhibit 1 at this point. It's 134 for I.D. purposes. And then Court's Exhibit 2, the written statement. And it's State's Exhibit 135 for I.D. purposes at this time.

Your Honor, I'd like to enter these for the purpose of this hearing at this time.

MR. HALL: No objection.

(S-134 for Identification marked Court's Exhibit No. 1; S-135 for Identification marked Court's Exhibit No. 2.)

Q And did y'all continue to talk to him?

A We did.

Q And did y'all give him any breaks to go to the bathroom or get a drink or anything like that?

A Yes, sir.

Q And did y'all actually feed him that day?

A Yes, we did.

Q What did y'all feed him?

A Chick-Fil-A.

Q And did he give you permission to search or permission for a buccal swab?

A He did.

Q Let me show you what's been marked as State's Exhibit 136 for I.D. purposes. And it'll be Court's

Exhibit 3 at the appropriate time.

Is this a permission-to-search form that y'all provided to him?

A Yes.

Q Was it read to him?

A Yes.

Q And did he understand it?

A Yes.

Q And what time was that given?

A 3:25 p.m.

Q Okay. So he was in y'all's presence off and on for four to five hours.

A Correct.

Q Did y'all see anything, that he appeared to be under the influence at any time?

A No, sir.

Q Did eventually, did he ask for a lawyer at some point?

A He did.

Q And that's what ended the interview at that time?

A Yes, sir.

Q Okay. But he did give this to you prior to asking for a lawyer.

A Correct, yes, sir.

Q And he actually gave you the statement before asking for a lawyer.

A Yes.

MR. BARNETTE: Your Honor, I'd like to mark -- enter Court's Exhibit 3 for the purpose of this hearing, State's Exhibit 136 for I.D. purposes.

MR. HALL: No objection for purposes of this hearing.

(S-136 for Identification marked Court's Exhibit No. 3.)

MR. BARNETTE: Your Honor, I can have him read the statement and everything, but I figured the Court would just go ahead and read these items instead of reading them into the record.

THE COURT: Yeah. They're in. They're in evidence.

Q At any time prior to him asking for a lawyer did he appear -- did he appear to understand what was going on the whole time?

A Yes.

Q And did he speak to y'all freely and voluntarily?

A Yes.

Q Like I said, you gave him breaks, you gave him food to eat and everything like that?

A Yes.

Q And did the interview cease once he asked for a lawyer?

A Yes.

Q It didn't continue from that point on.

A That's correct.
Q And he appeared to know everything he was doing at that time.
A Yes.
Q He wasn't promised anything.
A Beg your pardon?
Q He wasn't promised anything.
A No.
Q He wasn't threatened in any way.
A No.
Q If you would, please answer any questions that the judge or Mr. Hall might have for you.

CROSS-EXAMINATION

BY MR. HALL

Q Okay. If we can fill in some times, what time did you first see him on November 3rd -- excuse me -- 2nd?
A I don't know the exact time. It's on my notes if that's okay.

(Pause.)

A That morning at approximately 9:30 is when I received a phone call that some warrant officers were headed down that way based on a spotting. We arrived on scene approximately 20, 30 minutes later.
Q Okay.

THE COURT: Let me ask you to pull that black

microphone towards you.
Q When you got there was he in custody, or what?
A No. He was not.
Q Did you approach the car, or did the other deputies?
A We all approached the car.
Q Okay. And was he asleep, awake, out of the car, in the car? What was --
A He was in the car and appeared to be asleep.
Q All right. And I assume y'all woke him up.
A Yes, sir.
Q I assume he was startled and -- you said several. There were several police officers around him.
A Correct.
Q Okay. And what did you do then?
A At that point we asked him to step out of the vehicle. He complied and stepped out of the vehicle. I took him to the back of the vehicle and spoke to him at the back of the vehicle.
Q Tell him why you were there?
A Yes, sir.
Q Okay. And less than an hour later he signs the waiver, preinterrogation waiver?
A Yes, sir.
Q And another hour later he is -- you read a statement back to him, and he signed it.

A Yes, sir.
Q Okay. And the time, 11:31, is when you completed the statement.
A Yes, sir.
Q Did he -- was he able to read the statement?
A I read it back to him.
Q You read it back to him.
A Yes, sir.
Q And we've looked at the documentation, booking. He was booked in the jail at 5:13 that day after we looked at those assessments and realized we had different dates and everything.
A Yes, sir.
Q So did y'all keep him for another four or five hours before you went, took him to the jail?
A Yes, sir.
Q Okay. So all of this Chick-Fil-A, bathroom breaks -- I think you said something about smoke breaks -- that was over from, say, 10:30 to, say, 4:30 or so, taking him to the jail, because it takes some time to book them in.
A Approximately, yes, sir.
Q Okay. Was there any indication in the car of drugs or any kind of medications or anything?
A It was relayed to me later whenever they secured the search warrant that they had found some prescription

medication in the car.
Q Okay. Did you ever ask him if he had taken any prescription medications or anything?
A I believe I did, yes.
Q And what did he tell you?
A I believe he had told me he had taken a Xanax.
Q A Xanax?
A A Xanax, yes, sir.
Q All right. Now, in your report you indicated that he made some statement, you read, about blacking out, that type. And it wasn't long after that, sounds like right after that, is when he said I want a lawyer.
A I can't say exactly how long after he made that statement he requested for a lawyer, but it was after he made that statement.
Q Okay. So after he gave you the statement y'all still spoke with him, interrogated him, whatever, for several hours --
A Yes, sir.
Q -- before he -- to use the term most people use -- lawyered up.
A Correct.
Q Okay. Was his speech slurred at all or anything?
A That didn't appear to be to me, no, sir.
Q And you saw no evidence yourself of any kind of

impairment.
A No, sir.
Q All right.
MR. HALL: I have no further questions of this witness, Your Honor.
MR. BARNETTE: Just one question to follow up, or two questions actually.

REDIRECT EXAMINATION

BY MR. BARNETTE

Q On the form he indicated he had went to the tenth grade and then got a G.E.D., is that right?
A That's correct.
Q And then the blacking out, what was the statement he made about blacking out? If you would, tell the Court that. I don't think that's in the written statement. I think that was afterwards.
A Okay. At one point he stated, "If I did it, then I must have blacked out."
Q And that's in your notes. And of course that's been provided to the defense.
A Yes.
MR. BARNETTE: That's all the questions I have, Your Honor.
MR. HALL: No redirect -- no recross, Your Honor.
THE COURT: You may step down.

MR. BARNETTE: Your Honor, I'd like to call Investigator Norris to the stand.

PAUL ANTHONY NORRIS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please state your full name for the record.

A It's Paul Anthony Norris.

Q Where do you work at, sir?

A I work with the Spartanburg County Sheriff's Office.

Q What's your position there, sir?

A I'm an investigator with the N.C.I.D. and violent crimes.

Q And how long have you been in law enforcement, sir?

A Sixteen years.

Q Back on November 3rd of 2014 did you assist when Mark Bradberry was located in Pauline?

A Yes, sir, I did.

Q Okay. And was you with the crew, with the group, that went and got him in the car?

A Yes, sir, I was.

Q And when y'all got him outta the car, he was asleep in the car?

A That's correct.

Q When he woke up did he appear to understand what was

going on once he woke up and everything?
A He did, yes, sir.
Q And did he appear to be under the influence at that time?
A No, sir.
Q Did he understand what was going on?
A Yes, sir, he did.
Q Did he volunteer -- did he agree to go to the sheriff's department?
A He did.
Q And there was he given his Miranda rights at that point?
A Yes, sir, he was.
Q Let me show you what's been marked as Court's Exhibit 1. Was you present when those rights were given to Mr. Bradberry?
A Yes, sir.
Q And were they read to him by Investigator Letterman?
A They were.
Q And did he understand everything that was being told to him?
A Yes, sir, he did.
Q Was he promised anything?
A No, sir, he was not.
Q Was he threatened in any way?

A No, sir.
Q Did he appear to be coherent and understood everything that was being given to him on the rights?
A Yes.
Q Did he voluntarily waive his rights?
A Yes, sir, he did.
Q And after that did he give y'all a written statement?
A He did.
Q Let me show you what's been marked as Court's Exhibit 2. Was this the written statement that he gave?
A Yes, sir, it is.
Q And was he given the opportunity to read over it once -- I guess Investigator Letterman actually wrote it out for him.
A Yes, sir.
Q And was he given a chance -- and of course Investigator Letterman -- did he read over it to him or read it back to him?
A Yes, sir. Investigator Letterman read it back to him.
Q And he obviously had an opportunity to read it too --
A Yes, sir.
Q -- on the waiver form.
A Yes, sir.
Q And did he sign all of these forms?
A He did.

Q And did you witness him sign those forms?
A I did.
Q And after he gave that statement and when he signed it did he appear to understand what was going on at that time?
A Yes, sir, he did.
Q Did he appear to be under the influence of anything?
A No, sir.
Q Did he appear to understand, was coherent and understood everything?
A Yes, sir.
Q And had he been threatened at any point, at this point or any time?
A No, sir.
Q And he had not asked for a lawyer at this point, is that right?
A That's correct. He has not, did not.
Q Okay. And let me show you Court's Exhibit 3, this permission-to-search form. Did he freely and voluntarily sign that form?
A Yes, sir, he did.
Q And did he voluntarily give a buccal swab to the sheriff's department?
A He did, yes, sir.
Q And did he get to sign this form also?
A Yes, sir, he did.

Q And he had an opportunity to read it also?
A Correct, yes, sir.
Q And was it read back to him also like the other forms?
A Yes, sir, it was.
Q And I believe on the waiver form he marked that he had a tenth grade education and obtained a G.E.D., I believe.
A Yes, sir, I believe that's what I -- yes, sir, it is. It's 10-year education, G.E.D. in '83.
Q If you would, please, answer any questions Mr. Hall or the judge may have for you.

CROSS-EXAMINATION

BY MR. HALL

Q First of all, just to clear up, you notarized these. Letterman witnessed them, right?
A Yes, sir. That's correct.
Q The signature. During this period of time from 11:30 to 4:30 or so y'all just kept asking him questions, discussing it?
A Yes, sir.
Q Talking. Is that normal just to keep asking questions until you either get tired or he lawyers up or whatever?
A It's just we kept going back over the information that we're trying to get or asking from him.
Q And just -- well, you're trying to get it -- say, hey, if you did it, just tell me you did it.

A Yes, sir.
Q Okay. Let me ask you. Had you -- when you got there a little before 10:00 or so if you'd been by yourself and your car was broken down, would you have ridden with him after you woke him up? If he was going to give you a ride, would you have ridden with him?
A As -- I'm not sure what you're asking.
Q No. He's not a suspect. Say your car broke down in Pauline. You couldn't radio or something --
MR. BARNETTE: Your Honor, I'm going to object at this time. Speculation.
THE COURT: Sustained.
MR. HALL: No further questions.
MR. BARNETTE: No further questions of this witness, Your Honor.
THE COURT: You can step down.
MR. BARNETTE: That would be the state's showing about the statement, Your Honor, and I guess the permission to search, also part of the defense also.
MR. HALL: Your Honor, we'd call Mr. Bradberry for purposes of this hearing.
THE COURT: Okay.

MARK ALLEN BRADBERRY, SR.,
having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. HALL
Q Mark, you remember what the purpose of this hearing is, don't you?
A Yes, sir.
Q Okay. You and I have gone over that statement, is that correct?
A Yes.
Q I believe Mr. Cheek and I and you have gone over that statement.
A Correct.
Q All right. Now, I think we briefly have talked about the consent to search for the swab.
A Right.
Q Okay. Do you remember if -- signing any of these documents?
A No, sir, I don't remember signing anything or even being there.
Q All right. I just ask. Does that appear to be your signature on each of these?
A Yes.
Q All right. Do you remember talking to these investigators -- Letterman and Norris?
A No, sir.

Q Have you seen them since then before today?
A No, sir.
Q So since your arrest, what's the first thing you remember?
A Being in a -- coming into a pod and watching a video. Pod three.
Q Okay. One of those interview rooms like we talk with you in?
A Yeah, yeah, that same room.
Q And they have those little T.V.s with the sexual assault video, I think it is.
A Yeah.
Q All right. Do you know what day that was?
A I didn't right at that time. I found out later.
Q Okay. Before that, what's the last thing you remember?
A I went to Mr. Keeler's house and parked in the parking lot and knocked on his door. He didn't answer the door. So I pulled the car up where his brother's truck usually sets behind a little shed beside the house.
Q All right. And what did you do once you pulled back there?
A I -- I took a bunch of pills, and I just remember when I woke up at pod three.
Q What kind of pills are you talking about?

A I took Klonopins and blood pressure medicine and diabetes medicine.
Q Okay. Do you know how many pills you took?
A I figure 30 or more.
Q Thirty of each or 30 total?
A Probably 30 Klonopins, and I don't know how many of the others. Just a few of each.
Q Do you know what time it was?
A No idea. It was after -- it was daylight.
Q It was daylight. Was it daylight at the end of the day or daylight at the start of the day?
A It was in the morning.
Q It was in the morning. All right. Immediately previous, before going to Pauline, where had you been?
A In the woods.
Q Where in the woods?
A Oh, I don't even know what road. Some road in Union County.
Q Okay. Is that where you had spent the night?
A Yes, sir.
Q Okay. And if the day you went to Pauline was the 3rd, what's the next day that you remember?
A Repeat that.
MR. BARNETTE: Objection, Your Honor. Leading the witness.

A I didn't hear you.
THE COURT: Overruled.
Go ahead.
Q All right. You parked your car on November 3rd. You said you parked the car behind the friend's building.
A Yes.
Q You took the pills.
A Yes.
Q Correct? What's the next day you remember? If that was the 3rd, when's the next day you remember?
A I'm not sure. Seems like it was the 6th -- 5th or 6th -- when I was in the pod and when I was able to comprehend what I was doing and knew what -- I didn't even know where I was exactly, but I knew I was in jail somewhere.
Q Okay. Anything else you remember about these forms or anything?
A No, sir, not until I got them in the discovery.
Q Please answer any questions the solicitor has.
MR. BARNETTE: May it please the Court, Your Honor.
CROSS-EXAMINATION
BY MR. BARNETTE
Q Just going back and asking you about this. How many Klonopin did you say you took?
A Probably 30.

Q Thirty of them. And where did you get those Klonopin from?
A I had a prescription.
Q Where at?
A What you mean? I get it at Bi-Los.
Q Bi-Lo. Let's start there. When -- when you found your mom or when allegedly you found your mom or when you say you found your mom, when was that?
A I think like on the 29th.
Q On the 29th?
A Maybe.
Q The morning of October 30th you were driving -- 2014 -- you were driving your car, is that right?
A A friend of mine's car, yeah.
Q A friend of yours car. Who is that friend?
A Brenda Kean.
Q As a matter of fact, you saw Kelcey here, the neighbor, that morning, is that right?
A I don't know a Kelcey -- Kerri.
Q Or Kerri. Did you see Kerri that morning?
A I read the statement, but I don't remember even talking to her.
Q Okay. So you don't remember talking to her that morning.
A No, sir.

Q Do you remember going to the Bi-Lo that morning?
A Yes.
Q Okay. So you went to the Bi-Lo at Fernwood over here on the east side of Spartanburg.
A Yes, sir.
Q You went in there and you got -- whose prescriptions did you get that day?
A I think I got all of mine. I don't know if I had to pick up any for my daughter or not.
Q Okay. And I know we gave this in discovery to your attorney. But did you get a chance to review the Bi-Lo video which is marked State's Exhibit 11? I'll mark for Court's Exhibit 4.
A Yeah. We looked at it.
Q Okay. Was that you on the video?
A Well, I would assume.
Q Yeah. You were in -- you saw yourself in the videos.
A Right.
(S-11 for Identification marked Court's Exhibit No. 4; S-12 for Identification marked Court's Exhibit No. 5.)
MR. BARNETTE: May I approach the witness, Your Honor?
THE COURT: You may.
Q Let me show you what's been marked as State's Exhibit 12 for I.D. and Court's Exhibit 5. Is that you at the pharmacy getting the prescriptions at that time?

A Yeah.
Q Okay.
MR. BARNETTE: Your Honor, I'd like to enter Court's Exhibits 4 and 5 for purposes of this hearing.
MR. HALL: The video and then the still?
MR. BARNETTE: The still, yes.
MR. HALL: Okay. No objection.
(Exhibits previously marked.)
Q And during that time before you went to the pharmacy did you cash in some coins?
A Yes, sir.
Q And did you go to the Coinstar there at Bi-Lo?
A Yes, sir.
Q And you remember that.
A Yes, sir.
Q And whose coins were those?
A Mine.
Q Okay. Where did you keep those at?
A In a -- in a bottle, a Budweiser. It's a piggy bank Budweiser.
Q Okay. Do you remember how much it was?
A No, I don't.
MR. HALL: I'm going to object. We're talking a couple of days apart. I let him go into some of this. I'm not sure of the purpose.

MR. BARNETTE: Your Honor, I'm going to go through all three days, and the reason why is -- well, I think it'll be -- tell the Court I'd like some latitude here to show the pattern and everything from there, where it relates to the statement.

THE COURT: Where it relates to the voluntariness of the statement?

MR. BARNETTE: Voluntariness and the information of the statement.

He claims he don't remember anything about the statement, remember giving anything about the statement. And this information was all provided in the statement to help law enforcement.

THE COURT: Okay. Overrule your objection presently.

MR. BARNETTE: Thank you, Your Honor.

(S-10 for Identification marked Court's Exhibit No. 6.)

Q Let me show you what's been marked as Court's Exhibit 6, State's Exhibit 10 for I.D. purposes, at this time. Is that the Coinstar receipt that you got that day?

A That probably is.

Q And you cashed in $85.22 at that time.

A That sounds about right.

Q Okay.

MR. BARNETTE: Your Honor, I'd like to enter this for the purpose of this hearing.

MR. HALL: No further objection.

(Exhibit previously marked.)

Q Later on that morning did you go to the Croft -- Camp Croft Pawn Shop?

A Yes, sir.

Q And did you pawn some jewelry of your mother's?

A I pawned some jewelry that was mine.

Q That was yours.

A Yes, sir.

Q Okay. But you did pawn it. And you sold it to Jimmy Tobias there, is that right?

A I don't know who -- what the man's name was.

Q Okay. Do you remember going and pawning a -- two rings and a set -- a set of earrings?

A Yes, sir.

Q Okay. Let me show you what's been marked as Court's Exhibit 7, sir. Is that the pawn ticket you got?

A Probably. That's my name on there, so, yeah, that's probably it.

Q And you received $60?

A Yes, sir.

MR. BARNETTE: Your Honor, I'd like to mark Court's Exhibit 7 for the purpose of this hearing.

MR. HALL: No further objection.

(S-13 for Identification marked Court's Exhibit No. 7.)

Q Okay. And this was done, if the time's correct, October 30th of 2014 at 11:20 a.m.
A I guess.
Q After that where did you go, sir?
A To Dennis -- no -- yeah -- to Dennis' house.
Q To Dennis' house. Who is Dennis?
A That's the Mr. Keeler's house in Pauline.
Q No. That day on October 30th, where did you go, sir?
A That's where I went.
Q You went to Mr. Kennon's [sic] house. What did you do there?
A Just stayed there a few minutes and talked to him. I hadn't seen him in a while. And then I left.
Q Where did you go after that, sir?
A Went towards the beach.
Q Okay. Did you stop in Columbia?
A I think it was outside of Columbia there somewhere, yes.
Q And you stopped at a Flying J there.
A It some type of gas station. I don't know the name of it.
Q Okay. And did you go to the A.T.M. machine there?
A Yes.
Q And did you use your mom's debit card?
A Yes.

Q And did you take out four hundred and something dollars at that time?
A Yes, four hundred.
Q And-but it could have been the Flying J in Columbia, or it was in Columbia, is that right? Let me show you State's Exhibit 142. Let me mark it first.
(S-142 for Identification marked Court's Exhibit No. 8.)
Q Court's Exhibit 8. It's you -- is that you there in the picture, sir?
A Yes, sir.
Q And you did stop at a gas station or whatever and got money out of the A.T.M.
A Yes.
MR. BARNETTE: Your Honor, I'd like to mark Court's Exhibit 8 into evidence for purposes of this hearing.
MR. HALL: No additional objection.
MR. BARNETTE: May I approach, Your Honor?
(Exhibit previously marked.)
Q Where did you go after stopping and taking the money out at -- in Columbia? Where did you go to, sir?
A I headed on down towards the beach.
Q And where did you go? Where at, at the beach did you go?
A To a motel on the beach on -- I don't remember the

name of it.
Q And how -- how did you pay for that motel room down at Myrtle Beach?
A Cash.
Q Okay. How much did you pay, sir?
A I -- I don't know. Probably about 70 bucks. Close to that.
Q Okay. And did you go a K-Mart while you was there?
A Yes.
Q And when you went to the K-Mart, where was it at, sir?
A Just down the road from the motel.
Q And what did you purchase there, sir?
A I bought some stuff to brush my teeth and shave with and a pair of shorts. I believe that was it. Something like that.
Q And did you receive a receipt there or did you received the items there?
A A receipt?
Q Yes, sir.
A Probably did.
MR. BARNETTE: One moment, Your Honor, please.
(Guest registration marked Court Exhibit No. 9.)
Q Going back to the hotel, let me show you Court's Exhibit No. 9. Let me make sure.
MR. HALL: No additional objection.

Q Court's Exhibit 9. Did you stay at the Bar Harbor Motor Inn down at Myrtle Beach on -- under North Orange [sic] Boulevard?
A Yes, sir. That's probably it, yeah.
Q Was that the receipt?
A Yeah, that's it.
Q And is that your signature, sir?
A Yes.
Q And that's where you stayed at. And you paid cash for it, is that right?
A Yes.
Q How many nights did you stay there, sir?
A Three, I think three, yeah.
Q Showing you what's been marked as State's Exhibit 115 for I.D. purposes.
(S-115 for Identification marked Court's Exhibit No. 10.)
Q Is that the receipt showing the items that you got from the K-Mart there at Myrtle Beach?
A Yes, sir.
MR. BARNETTE: Your Honor, I'd like to move Court's Exhibit 10 into evidence for purposes of this hearing.
MR. HALL: No further objections.
(Exhibit previously marked.)
Q Let me show you what's been marked for 118 or -- did

you get a chance to review this video from the K-Mart?
A Yes.
Q And was you on that video shopping?
A Yes.
MR. BARNETTE: Your Honor, I'd like to move that as Court's Exhibit No. 11.
(S-118 for Identification marked Court's Exhibit No. 11.)
Q On October 31st did you get a money order and send it to Brenda Kean?
A Yes, sir.
Q And did you address the envelope and send it to her and everything?
A Yes, sir.
THE COURT: Mark this as Court's Exhibit 12.
(S-113 for Identification marked Court's Exhibit No. 12.)
Q Was that the copy of the envelope that was sent to Brenda Kean?
A Yes.
Q And did you send a letter with that, sir?
A I think I did.
Q And did you send a $300 money order in that also to her?
A Yes.

MR. BARNETTE: Your Honor, I'd like to enter this in as evidence for purposes of this hearing.

MR. HALL: No additional objection.

(Exhibit previously marked.)

MR. BARNETTE: May I approach, Your Honor? I'm trying to keep track of it.

Q And did you also go to a Chick-Fil-A while you was at Myrtle Beach?

A Yeah. It was right beside. It was right there at the K-Mart. I think the same parking lot.

Q And did you buy a sandwich and some water there?

A Probably, yeah.

Q Let me show you what's been marked as State's Exhibit 126. Was that a copy of the receipt from the Chick-Fil-A?

A Probably, yes. That's what I got.

MR. BARNETTE: Your Honor, I'd like to move that as a court's exhibit also.

(S-126 for Identification marked Court's Exhibit No. 13.)

Q And did you also go to a Save-a-lot?

A I don't know.

Q Did you also go to a Save-a-lot while you was there also?

A I may have. I don't know. I can't remember.

Q Okay. And did you write letters on November 1st? Did you write your last will and testament on November 1st?

MR. HALL: Your Honor, I'm objecting.

He's gone back several days, come back, and, you know, I've objected to that. The Court's allowed him to ask these questions. But I'm going to renew my objection.

He's trying to get some letters in that he would presumably use further in the case. I know this is for purposes of a suppression hearing but --

MR. BARNETTE: Your Honor, and I --

THE COURT: These documents are coming in for the purpose of this hearing, not for any other purpose right now.

Q November the 1st. This is a copy of it.

(S-127 for Identification marked Court's Exhibit No. 14.)

Q This has been marked as Court's Exhibit 14. It's actually State's Exhibit 127. Is that a copy of the letter, sir, or -- or the will -- last will and testament that you wrote?

A Yes, sir.

Q Was that on November 1st of 2014?

A Yes.

Q And that's your writing, is that right?

A Yes.

Q And that's your signature at the end.
A Yes, sir.
Q Okay. And did you also write several letters to several family members?
A Yes, sir.
Q Okay.
(S-128 for Identification marked Court's Exhibit No. 15; S-129 for Identification marked Court's Exhibit No. 16; S-130 for Identification marked Court's Exhibit No. 17.)
Q Let me show you the letter that's been marked as Court's Exhibit 15, which is State's Exhibit 20 -- 128. Is this a letter you wrote to Brenda?
A Yes, sir.
Q Okay. Is that your handwriting, sir?
A Yes.
Q And did you sign at the end of it, "Big Daddy"?
A Yes, sir.
Q Okay. Court's Exhibit 16. Is this a letter you sent to McKenna?
A Yes.
Q Okay. And that's your handwriting?
A Uh-huh.
Q And you wrote the letter, is that right?
A Yes.
Q Okay. Court's Exhibit 17. Is that a letter you wrote

to Matthew? And how do you say the last name there?
A Bataille.
Q Bataille. And family.
A Yes, sir.
Q And that would be Court's Exhibit 17, State's Exhibit 13 [sic]. Did you write that letter, sir?
A Yes.
Q Court's Exhibit 18 to Mark, Jr. Did you write that letter to him also?
A Yes.
Q And Court's Exhibit 19. Did you write that letter to Tiffany?
A Yes.
Q And Court's Exhibit 20, did you write that to Jack Looney?
A Yes.
MR. BARNETTE: Your Honor, I'd like to enter these all into evidence at this time for purposes of this hearing.
MR. HALL: No additional objection.
(S-131 for Identification marked Court's Exhibit No. 18; S-132 for Identification marked Court's Exhibit No. 19 for Identification; S-133 for Identification marked Court's Exhibit No. 20.)
Q One other thing. Did you pay cash for the -- at the post office for the money order -- $300?

A Oh, yes.
Q You did pay cash for that also.
On November 2nd did you come back to Pacolet?
A Yeah, yeah.
Q Okay. And you drove. You drove the whole time, is that right? And you had your mom's car the whole time.
A Yes.
Q You left the car, the Buick that you usually drive, you left at Pacolet, is that right?
A Right.
Q You took your mom's car all the way on this whole trip to North Myrtle Beach for three days going to the K-Mart, going to the post office, going to Chick-Fil-A. Where else did you go down at Myrtle Beach?
A That's about it, I guess.
Q Okay. Did you go anywhere else?
A I probably went somewhere to get food.
Q Okay. Where did you go get food at?
A I don't know where I ate at. I ate somewhere.
Q Okay. And when you came back to Pacolet, when you came back to the house, what happened? Or did you -- did you come back to the house?
A Yes.
Q When you came to that house, what did you see?
A All I saw was ambulance from my view. I don't know

what else was there.
Q Okay. And did you stay?
A No.
Q Where did you go?
A That's when I went down out of Pacolet towards Union and just pulled off the road down there in some woods.
Q Okay. And how long did you stay in the woods?
A Until the next morning.
Q Okay. So that's November 3rd. What time did you leave Union to come back to Spartanburg County?
A I don't know what time it was.
Q Daylight or dark?
A I had to use my headlights at first, so it was still dark?
Q So it --
A It was in the morning.
Q So it turned to light while you was driving?
A Maybe. I don't -- I can't remember exactly if it --
Q Okay.
A When I had -- when it was daylight.
Q Why did you go down in Union County?
A Oh, it's just right there. Union County is like a mile away from our house.
Q I understand. Why did you go to Union County?
A I don't know. I just wanted to go down there and

think a little bit.
Q Okay. And then where did you go after you came back to Spartanburg County?
A What you mean?
Q Where did you go?
A Oh, I went to Dennis'.
Q And what did you do once you got to Dennis'?
A He didn't come to the door, so I pulled up behind his shed where I seen his brother park his truck there before, and I took a bunch of pills. That's it.
Q Okay. Did you take anything else other than the blood -- the pills that you said you took?
A No. That's all I had with me.
Q Did you drink anything? Had you drunk anything?
A No, not at that time.
Q Okay. Where did these pills come from?
A They're my pills. They're from the pharmacy.
Q Okay. Just one question. The officers went to K-Mart, post office, all of these different locations. How would they have known about it unless you told them about them about it?
A I don't know. I don't remember talking to them.
Q But you remember all of this, but you don't remember talking to them.
A Well, yeah. I hadn't took all of the pills when I did

all of that.
Q Okay. Mr. Hall, I know, has showed you a video from when you was booked in at the jail at 5:00 o'clock.
A Yes.
Q You don't remember any of that?
A No, sir.
Q The only time you remember is when you go into the pod?
A Yes, when I actually went in the door to the pod. That's what I remember.
Q Okay. So you don't remember any of that.
A No.
Q You don't remember what you told the officers or anything there at the jail.
A No, sir.
Q So your story is you remember all of this but you don't remember anything else.
A I remember the days after I took the pills what happened after I was -- I don't know if I was -- what it was. I don't remember anything that happened in those days.
Q Let me show you one more. How much of Klonopin are you supposed to take?
A I think it's two a day.
Q Two a day. But your testimony is you took 30 that

day.
A I took 30 at one time at least.
Q Yeah.
MR. BARNETTE: I have no further questions of this witness, Your Honor. Thank you.
REDIRECT EXAMINATION
BY MR. HALL
Q Just to reiterate. You, from the time you left Pacolet the morning after finding your mother until the 3rd when you had gone to Union and come back to Pauline, had you taken any pills before you took them there in Pauline?
A No.
Q Had you just gotten your prescriptions refilled?
A I don't -- I didn't -- I don't think I brought too many of them with me. I was tired. You know, I had pills already.
Q Okay. But you didn't take a massive dose of them until the 3rd.
A Sir?
Q You didn't take a whole bunch them at once until the 3rd.
A Right, oh, yeah, yeah.
Q Before they woke you up.
A Over at Dennis' house.

MR. HALL: Okay. No further questions.

MR. BARNETTE: Just one in followup, Your Honor.

RECROSS-EXAMINATION

BY MR. BARNETTE

Q In the letter you said you was going to commit suicide --

A Yes, sir.

Q -- down there at the beach. Did you try to commit suicide down there?

A As far as I could get it. I just couldn't do it.

Q But all of a sudden, you know, you're getting ready to testify. Now you took 30 pills while they -- while the police catch you.

A Well, that's what -- I took at least 30, maybe more.

Q Oh, you took more than 30. Okay.

MR. BARNETTE: No further questions, Your Honor.

REDIRECT EXAMINATION

BY MR. HALL

Q Was that an attempt to go to sleep or to commit suicide?

A Commit suicide.

Q Thank you.

THE COURT: Step down.

MR. HALL: I have nothing else, Your Honor.

MR. BARNETTE: No further witnesses, Your Honor.

THE COURT: Anything y'all need to tell me?

MR. HALL: Your Honor, my client from the day one talking to him about his statement, he says he does not remember that, he remembers, as he testified, taking the pills to commit suicide. And the next thing he knows it's a few days later in jail.

So he says he doesn't remember it, so we have to make a motion that it is not a knowing and intelligent decision to waive his right to give a statement.

I'm not really challenging the D.N.A. sample swab. He said he give -- discussed that, and he said he would have given that anyway. It's just the statement, Your Honor.

MR. BARNETTE: Your Honor, I had two officers that testified -- basically, spent five hours with him -- that he was not under the influence, that he appeared.

He gave them the information they used to locate items, and to me he has to be coherent to do that, to talk about that.

A lot of this information they -- they could track down, but not all of it by any means. And these items, that he verified that he was at these locations. He wrote letters and whatever.

And I submit if he took 30 Klonopin he would have done the job and he would have killed himself. He didn't take no 30. I think he just -- this is a story. I know it goes

down to credibility, but there's no way that story flies in the face of medicine or whatever from that standpoint.

THE COURT: All right. Based upon the testimony received, I do find the state has established by the greater weight or preponderance of the evidence that the statement given by Mr. Bradberry to law enforcement at the time of his apprehension was freely, knowingly and voluntarily made, that he was under no threat, coercion, promise or reward; and therefore the statement will be permitted should it be introduced.

MR. HALL: Nothing else --

THE COURT: Okay.

MR. HALL: -- before we bring the jury back.

THE COURT: All right. Are y'all ready to begin?

MR. BARNETTE: Your Honor, can I step out for one second?

(Whereupon, a recess was taken.)

THE COURT: All right. Are we ready for the jury?

MR. BARNETTE: The state's ready, Your Honor.

MR. HALL: Yes, sir.

THE COURT: Bring them in. Ask Ms. Green to take the foreperson's seat. Ms. Green.

(The following takes place in the presence of the jury.)

THE COURT: Good afternoon, ladies and gentlemen.

We are ready to begin with the trial of the case for which each of you have been selected.

Ms. Green, I'm going to ask you to serve as the foreperson of the jury. As the foreperson you're going to have three specific duties that none of the other jurors will have.

First of all, you'll be asked to serve as the spokesperson for the jury, and that just means if something arises during the course of this trial that needs to be brought to my attention -- you or a fellow juror has some difficulty, problem or question -- you let me know either directly if you're in the courtroom or through the bailiff if you're not.

Secondly, you'll be called upon to preside over jury deliberations when that time comes at the trial's conclusion. When you do go back to begin your deliberations you'll be called upon to preside over that process in the jury room simply to ensure that those deliberations are carried out in some orderly fashion.

And, thirdly, you'll be asked to actually write the decision or the verdicts of the jury, and you'll do that on verdict forms that I'll provide you at the trial's conclusion on which you will indicate the jury's unanimous decisions.

The foreperson has those specific duties that I've

just indicated. That doesn't mean that she's any more important than any of you other jurors. Someone simply has to be delegated those responsibilities that I've just indicated, and I have delegated those to Ms. Green in appointing her as the foreperson. But all of you jurors are equally important so far as the ultimate decisions in this case are concerned, because, as I think I've already stated, the verdicts have to be unanimous. All of you must be agreement.

Now, Ms. Pruitt and Ms. Paone, each of you have been selected as alternate jurors. The function of an alternate is to take the place of one or two of the original 12 if during this trial one or more of them cannot continue to serve for some reason. And if one should be called away and unable to continue, one or both of you would take those jurors place.

In that event you become the 12th juror. And if that occurs, then you would participate throughout the trial including the jury deliberations at the trial's conclusion. If however when the time does come for jury deliberations the original 12 are able to participate in that process your services would end and you would not be needed to participate any further and that's because the decision of a jury is that of 12. No more than 12 are permitted to engage in that deliberation process.

Jury sworn

But it is important that each of you pay just as careful attention as we ask of all of the jurors in this case because it does occur from time to time for one reason or another one or two of these jurors may be unable to continue. And in that event one or both of you would be called upon to become the 12th.

So we do appreciate your participation as alternate jurors, just as we appreciate the participation of each of you jurors who have been selected for the purpose of deciding the verdicts in this particular case.

You may swear the panel.

(Whereupon, the jury was duly sworn.)

THE COURT: Ladies and gentlemen, as you know, you've been selected to decide the verdicts in the cases of -- the case of the State vs. Mark Allen Bradberry, Sr.

As you also know, Mr. Bradberry has been accused by the prosecutor by way of these indictments with having committed three separate and distinct offenses, although they are alleged to have arisen out of one particular event or course of events which the state alleges in these indictments occurred back on October the 30th of 2014.

The indictments allege that Mr. Bradberry did commit the crime of murder in that on that date he did wilfully and with malice aforethought kill one Connie Bataille by striking her about the head with some object and stabbing

her several times about the body and that she died as a proximate result of those wounds.

He's also accused of having committed the crime of armed robbery and possession of a weapon -- in this case a knife -- during the commission of that violent crime, the violent crime being alleged to be armed robbery also involving Connie Bataille.

Now, as to those allegations and as to each of those charges the defendant has entered a plea of not guilty. And, as I told you, that plea of not guilty therefore places upon the state the burden of proving the allegations that they have made against him by way of these indictments, the burden of proving each of the essential elements of the crimes alleged against the defendant; and therefore the burden is upon the state to establish his guilt to the satisfaction of you 12 jurors beyond a reasonable doubt before any verdict could be returned guilty as to any of the separate indictments.

Every person accused of a crime -- it doesn't matter how serious the offenses might be -- any person accused of a crime is always to be presumed innocent of the charge. That presumption of innocence remains with any defendant, as it does with this defendant, from the time that he is placed under arrest and throughout the course of the criminal process and even throughout the actual trial in

the case.

That presumption of innocence will be with Mr. Bradberry even at the trial's conclusion when you go back to begin your deliberations. And that presumption of innocence will be with him in that jury room, and it'll be with him forever, unless you 12 jurors determine that he's no longer entitled to that presumption of innocence.

In other words, after you've considered all of the evidence introduced during the trial, and from that evidence you determined what you believe to be the facts that relate to these allegations, and upon deciding those facts you apply the law that I will have provided you as it relates to that particular charge, if you 12 jurors unanimously determine that his guilt as to that particular charge has been proven beyond a reasonable doubt, then he's no longer entitled to that presumption of innocence as it relates to that charge. But it is only if, unless and until his guilt has been proven beyond a reasonable doubt that he would no longer be entitled to the presumption of innocence.

Now, the way the trial will proceed is that in a moment the lawyers are going to address you in what are called opening statements.

There are two occasions in the trial of a case where lawyers are permitted to address the jury, and that is at

the beginning of the trial before any evidence has been introduced, then again at the conclusion of the trial after all of the evidence has been received.

But keep in mind, as I've just indicated, the lawyers' statements are not evidence in the case. You can't consider the lawyers' statements as being any evidence upon which you will decide a fact and ultimately render your decision in the case, and that's because the lawyers aren't witnesses to anything. If they were witnesses to anything they wouldn't be participating as lawyers. They'd be testifying in court as a witness.

They're not going to take the witness stand. They're not going to be placed under oath. They're not going to be subjected to direct and cross-examination just like the witnesses will be when they come to court and testify from the witness stand.

And so what the lawyers tell you in their statements is not to be construed by you as being any evidence upon which you will base your decision. But you should listen to what the lawyers have to say because their statements do serve a purpose.

The opening statements will serve to provide you with a basic understanding as to what this case is about from both the perspective of the state and of the defense so that you'll have some context in which to place the

evidence that we will be receiving shortly thereafter.

The closing statements occur after all of the evidence has been received. And, again, while those statements are not evidence, it does afford the lawyers an opportunity to discuss with you the evidence that you have seen and heard during the course of this trial. And through that discussion each will be trying to persuade you or to convince you that the evidence in the case does or does not support a particular decision.

And it's in between those opening and the closing statements that we actually receive the evidence upon which you will base your decision.

The state, as I've told you, has the burden of proof. The state has to prove the defendant guilty beyond a reasonable doubt. That's because the state has brought the charge. They made the accusation. Therefore, they have the burden of establishing those allegations beyond a reasonable doubt in order to prove the defendant to be guilty. So the state does have to present evidence. So they'll go forward first in their presentation of that proof.

After they have concluded any defendant has the same opportunity to take the witness stand and testify or to call a witness or to introduce evidence, but a defendant in a criminal trial is never under any obligation to testify

or to call a witness or to produce evidence, and that's because the burden is not upon a person accused of a crime to prove that they are not guilty or to prove that they are innocent because in some cases that might not be possible.

The burden is on the state, so they have to present evidence. There is no burden upon a defendant to introduce any evidence or to testify in the case.

Should a defendant choose not to testify or not produce any evidence, that's not a fact that may be considered in any way by the jury in arriving at your determination as to whether or not the evidence in the case proves his guilt beyond a reasonable doubt.

You could not allow such a fact to weigh in the slightest degree against a defendant. But every defendant is afforded an opportunity to present evidence in the event he or she wished to do so.

So after you hear and see all of the evidence, you hear the final summations of the lawyers, I will then instruct you fully on the law that's applicable in a case like this.

I'll instruct you on the law, the criminal law generally, and I'll also instruct you on these specific crimes particularly, and then you'll be asked to go back and to begin with your deliberations. And through that deliberation process and through the exercise of good

judgment and common sense conscientiously applied to the testimony and evidence in the case you'll determine what's the most credible evidence and you'll determine the facts of the matter relating to these allegations.

Once you decide the facts you'll apply the law and simply arrive at a fair and just decision, whatever that decision may be.

Now, it is your prerogative to determine the facts. And in determining the facts you're going to have to consider the testimony of witnesses that will be called to testify during the trial.

There may be conflicts in testimony. If there is a conflict you are those persons who have been selected to resolve that conflict. You determine what's the most credible evidence, whether it be testimony or otherwise, and that's the evidence that you accept. And you reject any testimony or other evidence that you find not to be credible or believable.

But in order to be in a proper position to fairly evaluate witnesses' testimony in light of not just that particular witness' testimony but in light of all of the testimony and other evidence received it's important that you give every witness the same degree of attention as they testify so that when you do go back to begin deliberations you'll be in a proper position to be able to fairly

evaluate each witness' testimony in light of all of the evidence in the case.

It's also important that you keep an open mind throughout the course of the trial. And that just means that you're not to begin making up your minds or formulating your opinions as to what you think the ultimate decisions in this case ought to be until all of the evidence has been received, until I have instructed you on the law that's applicable in the case and until you've been asked to go back to the jury room to begin with your deliberations.

That is the process that has been designed over the last 230 some odd years to ensure that you can arrive at a fair and just decision in any case.

So I do want to thank you in advance for your participation, as well as for your careful attention. Please give the lawyers your attention now as they give you their opening statements.

Mr. Barnette.

MR. BARNETTE: May it please the Court, Your Honor.

Madam forelady and ladies and gentlemen of the jury, I want to take you back to October, November of 2014. Connie Bataille was living at [redacted] Montgomery Avenue in Pacolet. Her son, Mark Bradberry, lived with her.

People had not seen her for a couple of days in the

neighborhood. People started asking questions about her. Her family started looking for her.

On November 2nd of 2014, which is a Sunday, her daughter-in-law and her granddaughter come to her residence, because they had been taking to her husband, Jack, which is her son. They're all here today. Jack and Emily are here to talk. Well, Emily is not here, but Karrie is here to talk.

They checked her residence. Can't find anything at first. And then he says go in, something's wrong. Well, one thing they realized when they started going in, her car wasn't there, and found out it had not been there for several days. However the defendant's car, the one he drove, was there.

You'll hear them go into the residence. They go in. Nothing's wrong in the residence. Every room is spotless, neat, clean. That's the way she kept her house always.

Until her granddaughter went to her bedroom and opened the door and saw two feet. Her body had been covered up with a blanket, pillows, had a bunch of bank statements all over it. You'll see pictures of this. Her whole room had been ransacked on part of it, not all of it. Like I said, nothing else was disturbed in the house whatsoever.

So the police arrive, and they start looking on the case. They start tracking down. Of course Mark Bradberry

is gone. Back on October 30th he was supposed to go take care of his daughter McKenna. Lives with Brenda Kean. She lives a very short distance away on [redacted] Holiday Court there in Pacolet. He never showed up to take care of McKenna that night. Never showed up the next day, which is Halloween.

When McKenna went over to -- to grandma's house, which she always had a bag candy for her or whatever, grandma wasn't there. Her car wasn't there. That's when people started asking questions.

And eventually she was found. A 69-year-old grandmother had been stabbed to death. Blood splattered everywhere. And you'll see when she was laying down. You'll hear about it. She was laying down watching T.V. with her remote beside her hand. Piece of gum right there. The person came in, the first blow in the head, and the number of stab wounds and everything you'll hear about.

Mark Bradberry had left, not talked to anybody or anything. Through the investigation police found out the morning of October 30th he goes to Fernwood Bi-Lo on the east side of town if you're familiar with it, on the east side of Spartanburg.

He goes in and cashes $85.22 in coins. He goes to the pharmacy and talks to the pharmacist there. Gets back in the car that he always drives, which is a white Buick.

Two hours later in the investigation they find out he pawns three items at cramp -- I mean, the Camp Croft Pawn Shop. Those three items is these three items of his mother's jewelry for $60.

Then he continues on. He goes down to Columbia while his mother is laying in the house dead. Never called anybody; never talked to anybody.

He takes her debit card that he had took from the house. He used an A.T.M. machine and takes out $403. He goes on from there and goes to Myrtle Beach for several days.

He gets a hotel room that he pays cash for, goes to a K-Mart there, goes to the post office and takes a $300 money order and sends it back for his daughter McKenna. He never talks to anybody. He was supposed to be there that night October 30th. October 31st he was supposed to help take her for Halloween.

He comes back, and you remember they found her November 2nd. Supposedly, he come backs and sees the police and runs down to Union. And then later on the next day -- Pauline.

He had knocked on the door of an old friend. The old friend had saw on the news the police were looking for him. He'd actually pulled his mother's car, which was a Mitsubishi Mirage, white car, 2-door, behind the shed.

That's where the police found him.

There was items inside the car. The man had killed his own mother. The evidence you'll see will point to only one direction, one person that did this.

A staged scene at the house, taking her jewelry, taking her cards, taking her car, never calling 9-1-1, ever -- October 29th, October 30th, October 31st, November 1st, November 2nd, November 3rd. Never called and talked to anybody about his mom -- no family member, no friend, no police. The evidence will show you that.

Like I said, listen to the evidence as you hear it. I'll come back to you and speak to you again and go more fully after the evidence is presented.

Ladies and gentlemen, I'm going to be asking you for a verdict. I'm glad to be representing the family. I am going to be asking you for a verdict of guilty on all three counts. Thank you very much for your time.

Thank you, Your Honor.

THE COURT: Mr. Hall.

MR. HALL: May it please the Court. Solicitor, Madam Forelady and ladies and gentlemen of the jury, as the judge told you before, my name is Robert Hall.

I represent Mark Allen Bradberry who's been charged with this horrible crime, this horrible tragedy. He, like anybody else that's charged with a crime, has a right to a

trial by an impartial jury. That's why you're here.

Nobody in this courtroom could be doing their job but for the fact that you are here and you are the ones who sit and listen, see what is presented, discuss what's presented and see whether or not the state has proved its case to your satisfaction beyond a reasonable doubt that Mark Allen Bradberry is the one that committed these crimes.

It's not going to be a heavily technical case. It's not going to be complicated in a lot of ways as some cases become, but it's still incumbent upon the state to prove not that my client could have but that my client did beyond a reasonable doubt to your satisfaction commit these crimes before you can give the solicitor the verdict he talked about.

I'm not going to go into a lot of details because the state's going to be presenting evidence very shortly but, like Mr. Barnette, at the end of the case be able to summarize.

But I ask that you do pay careful attention to what's being presented, the witnesses as they're testifying because you'll have to judge what they're presenting to you, what they're telling you to see what the truth is in this case.

I will have here -- I may grimace when I get up and sit down. Has nothing to do with the case. I have some

discs that are not agreeing with me right now, and they remind of that in those movements when I'm standing, or so. And if I do grimace or anything, please don't take anything from it.

But Mr. Bradberry has a right to a jury such as yourself to listen to the case and make the decision, and I on behalf of Mr. Bradberry thank you in advance for paying attention and doing your job. Thank you.

THE COURT: Mr. Barnette.

MR. BARNETTE: May it please the Court, Your Honor. I would like to call Karrie Looney to the stand.

KARRIE HUTCHINS LOONEY, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

THE COURT: We don't have the best microphone system and speaker system in the world, so that black microphone is the one that you'll be using for the benefit of the jury. So be sure you're close enough to it that it picks up that. And you can adjust it as you need to.

Q I'm going to stand back here so hopefully they can hear you. Okay. I know you're soft-spoken. So, if you would, give your full name for the record, please.

A My name is Karrie Hutchins Looney.

Q And, Ms. Looney, what town do you live in now?

A I live in Charleston County on Johns Island.

Q And what kind of work do you do there, ma'am?
A I am a school counselor.
Q And how long have you been a school counselor?
A I've been a school counselor for 13 years. I was a classroom teacher for nine previously.
Q Back in October and November of 2014, where did y'all live at then?
A In 2013 my husband and I lived in Charleston County. We still owned a home in Spartanburg County in Boiling Springs.
Q And did y'all go back and forth between the two homes?
A Yes, sir. We -- we traveled. We -- our -- our oldest child lived in the home, and we lived there, but we were traveling on weekends to see her.
Q Okay. What kind of work does -- and who is your husband, ma'am?
A My husband is Jack Looney.
Q And what is his relationship to Connie?
A Her son.
Q So you are her daughter-in-law.
A Yes.
Q Where did Connie live at this time around 2014 when we're talking about in October and November?
A She lived in Pacolet Mills, [redacted] Montgomery.
Q And that's in Spartanburg County.

A It is.
Q And did your daughter visit her over the years at the residence, at that residence?
A Yes.
Q Okay. And who is your daughter, ma'am?
A I have two.
Q Yes, ma'am. Apologize.
A The daughter that was with me on November the 2nd is Emily.
Q And who is your other daughter, ma'am?
A Her name is Taylor.
Q And how old was Emily back when y'all entered in the residence on November the 2nd?
A She was 18.
Q If you would, tell the jury how you got notified about something possibly being wrong with Connie.
A I happened to be home in Spartanburg that weekend. My husband was -- he had to -- he was on call that weekend in Charleston and could not come with me. So I had come that weekend to visit my daughter. And my youngest, Emily, happened to be home. She was away at college, but she happened to be home that weekend as well.

So I believe that I had taken that Monday off from work. I was going to stay through Tuesday. It was an election-day holiday, so it was just going to be a nice

long weekend with my girls.

And around 2:00 o'clock on Sunday, November the 2nd, my husband called, and he said -- he asked me if I would be willing to go out to Pacolet to -- to check in on my mother-in-law, Connie. She -- no one had been able to get in touch with her.

My brother-in-law in Phoenix had contacted my husband, and they were just concerned. And Jack knew that we had a set of keys to the home, and he said, you know, why don't you go and check on mom. And so Emily and I decided to take a ride out to check on her that afternoon.

Q And about what time did y'all get there?

A I suspect we got there -- it takes about 45 minutes without traffic to get to Pacolet Mills from Boiling Springs. And so we -- I would suspect around 2:45 or so.

Q And what did you see when you got there?

A When I got there I saw a -- a car parked in the yard, and-but it was not my mother-in-law's. It belonged to Mark. And my mother-in-law's car was not there, which at the time I didn't suspect anything because she was very independent. She traveled. She had a friend, several friends, in the area. They would go do things. She would take them to the grocery store and things like that. So it -- it didn't -- you know, it didn't alarm me that her car was missing.

I didn't actually get out of my car at that time. I rode around.

My uncle, Connie's brother, lives a street behind her, and so I went to his home to see if maybe he knew what was going on, because my husband wanted me to call him back and let him know what I found out. And I went to John's house, and he said that he had didn't know where Connie was. He suspected that she might be in Charleston visiting us because her car had been gone for a couple of days.

And, you know, she -- like I said, she goes, and she would go and come. And, you know, that wasn't really a big deal.

So after talking with John, Emily and I just decided to head back to Boiling Springs. And so I called my husband, and I told him. I said, "You know, she's not there. Her car's not there. John hasn't seen her, doesn't know where she is. He -- he thought that maybe she had come to Charleston." And my husband said, "You need to go back to the house. You need to go back to the house and go in. Did you take your key?" And I said yes.

And I had him on the speaker in the car, and my daughter was sitting there. And I remember asking him, "Do you know what you're saying?" And he said, "Yeah. I need you to go back to the house."

And so I turned around, and I went back to -- to

Connie's, my mother-in-law's, house.

When I got there I pleaded for my child to stay in the car. I said, "Just stay in the car. I'm just going to run in and I'm just going to make sure, you know."

I was very uncomfortable because it's my mother-in-law's home. I didn't go in without her permission. So I was a little nervous about that. But I took the key. And Emily insisted that I was not going to go into the home alone, so she went with me.

I opened the door. I rang the doorbell. I knocked. No one came to the door. I opened the door and went in. And it seemed like any other time I'd ever been there.

I noticed there was a newspaper on the table. It was a Thursday's newspaper, which I thought was odd because she was, you know, pretty up on the news. She would get her morning paper and read her paper over coffee. So, you know, this was Sunday and it was Thursday's paper. So I thought that that was a little bid odd.

But looking around, her laptop. I noticed her laptop where it always stayed. Her cell phone was there. That was her only means of communication, was her cell phone.

Another reason I wasn't alarmed at the time was because just a few months before we couldn't get in touch with Connie, and we went to her home and it was a simple cell phone glitch. She had -- we needed to power her phone

off and back on.

But when we did not hear from her, you know, or she didn't call us back when we called her, you know, that was -- that was just something she always did. She always called us right back.

But, anyway, I went in, my daughter and I both. And the room was dark. The -- the window curtains had been pulled. But everything was in its place. I didn't see anything that -- that stood out. Her bedroom door was closed, and I went in.

I remember knocking on her door because, again, I thought, well, she is napping. I didn't want to just intrude.

And she -- no one answered when I knocked, so I opened the door. And I was -- I was just completely mesmerized by the mess.

She was very clean and she was very tidy, and she would have been -- I remember thinking she would be so upset that I'm looking at her bedroom being so untidy, because that was justu un -- uncharacteristic of her.

But I couldn't see past the mess. I mean, there were drawers pulled out. There were clothes in the floor. There were papers everywhere. And it -- it took -- I don't even know how much time passed. And my daughter was standing behind me, and she said, "Mom, I see a foot."

And all I could think of was her safety at that time. And I remember yelling, "Get out, get out, get out, get out."

And we went outside the home, and I do recall yelling John's name. He was on his porch. He was kind of watching. You know, he knew we had gone into the home. And I remember calling his name.

And he came down, and I said, "Emily sees a foot." I remember repeating that over and over. And all I could think about during that time was I couldn't believe this was happening and I couldn't believe that I had left my child so vulnerable to see that with here own grandmother.

But John went in. He came immediately out. He wasn't there very long. And he says, "Yeah. That's what Emily saw." And at that time we called 9-1-1.

Q And you said she always kept a very neat house.

A Very.

Q Would she do her own work in the house?

A Absolutely. She had painted and placed tile, not ceramic but, you know, the sticky tile on all of the floors. She had painted every room. She wallpapered herself.

Once she retired she really devoted herself to home improvement, and so she -- she took care of all of that on her own.

Q And, like you said, everything seemed normal except her bedroom.
A Absolutely. To the point where I was even -- I was just very concerned about even going into the bedroom because her cell phone was there, her -- you know, which I thought might was -- she didn't travel without that. You know, her car was missing, her cell phone was there, butu at the time that didn't -- none of that clicked. It was after the fact that I started piecing all of that together.
Q Let me show you what's been marked as State's Exhibits 21, 22, 23 and 24, and see if those pictures fairly represent what you saw that day. Take your time if you would there, ma'am.
(Pause.)
A Yes, yes, they do.
MR. BARNETTE: Your Honor, I would like to enter these into evidence at this time.
MR. HALL: No objection.
(Photographs marked State's Exhibits Nos. 21, 22, 23 and 24.)
Q I'd like to show you State's Exhibit No. 57. Does that diagram fairly represent the floor plan for the floor -- of the house?
A Yes, it does.
MR. BARNETTE: Your Honor, I'd like to enter these.

I'm going to enter it into evidence now. I've got the person that's actually drawn going to testify later about them.

MR. HALL: No objection.

THE COURT: What number is it?

MR. BARNETTE: No. 57, Your Honor.

(Diagram marked State's Exhibit No. 57.)

MR. BARNETTE: Permission to publish these items to the jury.

THE COURT: You may.

Q Ms. Looney, showing you State's Exhibit 21.

MR. BARNETTE: May I have the lights turned down, please?

Q Can you tell us what we're looking at here, ma'am?

A That's the front of my mother-in-law's home.

Q Okay. Let me show you State's Exhibit No. 22. If you would, tell us what we're looking at here, ma'am.

A That's the back door. That's the entrance that my daughter and I took, which is the only entrance I've ever used going there.

Q And whose car is this, ma'am?

A That is the car that Mark -- I believe Mark was using at the time.

Q And when you mean Mark, who do you mean?

A The gentleman sitting at the table in the blue shirt.

Q Is that Mark Bradberry?
A Yes.
Q What is he wearing, again?
A He has on a blue shirt and tie.
Q And is he sitting over far -- to your far right?
A Yes.
MR. BARNETTE: Your Honor, I'd like the record to reflect that she's identified the defendant.
THE COURT: It shall.
Q Let me show you State's Exhibit 23. Is this just another picture from a different angle of that area?
A Yes, sir.
Q And showing you State's Exhibit 24. Is this a closer picture of the back door?
A Yes, it is.
Q Ms. Looney, I'm going to show you State's Exhibit 57 that's been entered into evidence here. Is this the rear entrance to the residence?
A Yes, it is.
Q And is that the entrance that y'all took?
A It is.
Q And when you walk in, the kitchen is in front of you, is that right?
A That's -- that's correct.
Q And the living room is here?

A Yes.
Q And there's a hallway, I guess, with black and white tile in the middle of it?
A Yes.
Q And then here -- Connie's bedroom was this, is that right?
A That's right.
Q And this is the front-door entrance here.
A Yes.
Q Did most people use the back entrance?
A Yes.
Q And whose bedroom is this here, ma'am?
A That's where -- that's where Mark's bedroom was.
Q That's Mark's bedroom there.
A Yes.
Q Okay. And is this a guest bedroom?
A It is. If the grandchildren went, they would sleep in that room.
Q So the grandchildren slept in that room there.
A Yes.
MR. BARNETTE: If you would turn the lights back on. Thank you.
Q Let me show you what's been marked as State's Exhibits 25, 26, 27, 28, 29, 30 and 31. And see if those pictures fairly represent what you saw that day, ma'am.

(Pause.)
A Yes. It is.
Q Let me show you 32, 33 and 34. See if these pictures fairly represent what you saw that day, too.
A Yes.
MR. BARNETTE: Your Honor, I'd like to enter these into evidence at this time.
THE COURT: What are the numbers?
MR. HALL: 25 through 34, I believe -- 25 through 34. No objection.
(Photographs marked State's Exhibits Nos. 25 through 34.)
MR. BARNETTE: Your Honor, permission to publish at this time.
THE COURT: You may.
Q Let me show you what's been marked as State's Exhibit 26, ma'am. Can you describe what area this is, ma'am?
A That's the kitchen.
Q Did anything seem abnormal in the kitchen?
A No, nothing abnormal. That's the paper that I mentioned earlier, the Thursday paper. It was still wrapped in plastic setting on the table.
Q Showing you State's Exhibit 27. Is that the paper you're talking about?

A Yes, sir.
Q State's Exhibit 28. Publishing that to you, ma'am. Tell us a little bit about this picture.
A That is the -- the back end of the kitchen.
Q And does that show how neat and how proper she tried to keep everything?
A Yes, sir. She -- she painted those -- those counters herself.
Q State's Exhibit 29. Can you tell us what this is, ma'am?
A That's her living room.
Q And do you see an object? Do you see the computer and things you were talking about earlier?
A Yes, on the black foot stool in front of the chair.
Q Talking about this area right here?
A Yes. Her computer and cell phone were there.
Q Showing you State's Exhibit 31. Was those the items you were talking about, ma'am?
A Yes, sir.
Q So everything was in place. Nothing was taken or moved or anything.
A No.
Q Showing you State's Exhibit 32. What area of the room is this or the house is this?
A That's the living room. And that's usually where she

would sit and read, which those are her library books there.

Q She would read, and these are her library books.

A Yes. Those are hers.

Q State's Exhibit 33. Is this just another angle showing the kitchen and living room area?

A Yes.

Q Showing you State's Exhibit 34. There was items that was still in place on her furniture and everything in those rooms, is that right?

A Yes.

Q Showing State's Exhibit No. 30. All of the items are still in place --

A Yes.

Q -- in those rooms. State's Exhibit 29. What area is this going back into, ma'am?

A That's the kitchen and that's a bar area. She -- she had like things to -- to put in the mail setting there already.

Q Was these the -- had stamps and was in order and everything?

A Yes.

Q What happened to that mail, ma'am?

A I mailed it.

Q And as you walked back into this area, which area does

this go back into, ma'am?
A That goes back to the -- there's a bathroom there to the right, and then if you go straight out the back door.
Q So the area we're talking about right there is right here.
A No.
Q Okay. Or the other one. I'm sorry.
A Right. Yeah. You go back out the rear entrance.
Q And off at the end there was two entrances into Connie's bedroom, is that right?
A There was an entrance from the living room and then there was an entrance from that long hallway.
Q And, like I say, this is Mark's bedroom over here.
A Yes.
Q Let me show you what's been marked as State's Exhibit 58. Does that picture fairly represent what you saw that day?
A Yes. That's the door to Connie's bedroom. That's the one that I knocked on and that -- where Emily and I were standing when we...
MR. BARNETTE: Your Honor, I'd like to enter this into evidence at this time.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 58.)
MR. BARNETTE: May I publish it to the jury, Your

Honor?

THE COURT: You may.

Q State's Exhibit 58, ma'am. And you never went into the room.

A No, sir. We -- we --

Q You never entered. You or Emily neither one entered the room.

A No. Emily was behind me the entire time. I opened the door to look in. She was looking over my shoulder, and that's when -- when she saw Connie's feet.

Q And did you see the mess in the floor?

A I couldn't get past the mess. I thought -- you know, there was -- there was things all over the bed. I just thought it was pillows. And -- and there were papers. And, I mean, it was -- it is what I would imagine a ransacked room would look like. And I couldn't -- I didn't get past that to see her feet, but my daughter did.

Q Let me show you what's been marked as State's Exhibit 64. Was that what you saw in the floor?

A Yes, sir.

MR. BARNETTE: Your Honor, I would like to enter State's Exhibit 64 into evidence.

THE COURT: That's 64?

MR. BARNETTE: Sixty-four, yes, sir.

MR. HALL: No objection.

(Photograph marked State's Exhibit No. 64.)

MR. BARNETTE: Your Honor, permission to publish 64 to the jury.

Q Is this the mess you saw in the floor, ma'am?

A Yes, it is.

Q And, like I said, that's what you saw. But your daughter actually saw the feet.

A Right.

Q And so y'all immediately left after that.

A Yes, sir.

Q But everywhere else you looked there was nothing wrong --

A Nothing.

Q -- with the house. Later on did y'all go back and clean the house?

A Yes, sir.

Q Did you see anything wrong in any of the other rooms?

A No, sir.

Q Did y'all have to clean up the mess?

A Yes, sir.

Q So y'all had to go through and pick up everything. Later on did y'all find there was some jewelry that had been taken to a pawn shop?

A I didn't -- we didn't find any jewelry when we cleaned. That was something that we -- we looked for. We

were looking for -- for things that belonged to her and we -- we didn't find anything significant. It wasn't until later that we found out about the jewelry at the pawn shop.

Q Did -- so you never found -- you was looking for jewelry. So there was other jewelry that was not found?

A Not that I'm -- I'm aware of. My brother-in-law in from Phoenix -- after we cleaned up they -- we all went through looking. If he took something, I'm not aware of it.

Q Let me show you what's been marked as State's Exhibits 15 -- 14, 15 and 16. Actually, was put in one package. We had to separate them here. Give you a chance to look at those real quick. I know you saw them earlier. Let me show you, specifically, State's Exhibit 14, which is the earrings.

A Yes.

Q Was that her earrings?

A The gold hoops look familiar. I don't remember the dangling earrings. But that doesn't mean anything.

Q State's Exhibit 15. Do you recognize this ring?

A That is a mother's ring that belonged to her mother.

Q So that was actually Connie's mother's ring.

A Yes.

Q And State's Exhibit 16. What was this, ma'am, this ring?

A That was a diamond ring that I believe was a gift from a friend. She didn't wear it any more, but it was -- I'm told it was a gift from a friend of hers.
Q But these two things, and the earrings themselves, you're familiar with her having.
A I am familiar with the hoops and the mother's ring.
Q Thank you.
Let me show you State's Exhibits 46 and 53. Does these pictures fairly represent when y'all went back in to clean what the items looked like or whatever, those two rings, or can you tell me where those two rings are?
A Yes. This is the -- the bedroom that she used for storage. But if -- if any of her grandchildren came to visit, that's normally where they would sleep.
Q And that's State's Exhibit 46.
A Yes. And then this is the room that Mark Bradberry slept in.
Q And that's State's Exhibit 53.
A Yes.
MR. BARNETTE: Your Honor, I'd like to enter these into evidence.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 46; photograph marked State's Exhibit No. 53.)
Q Let me let you look through State's Exhibits 36

through 44 and see if you're familiar with those pictures, ma'am.

(Pause.)

MR. HALL: What's the last number -- 44?

MR. BARNETTE: I will have to look. It will be 45 on this one.

Q Let me show you State's Exhibit 45. Is that also -- are you familiar with that room also?

A Yes, to all of those.

Q Was these areas in her bedroom, I mean, her house?

A Yes. Several of those are from the long hallway that goes from the back door to the front door, as well as her bathroom.

Q Okay.

MR. BARNETTE: Your Honor, I'd like move State's Exhibits 36 through 45 into evidence at this time.

MR. HALL: No objection.

(Photographs marked State's Exhibits Nos. 36 through 45.)

MR. BARNETTE: May I publish it to the jury, Your Honor?

THE COURT: Yes.

Q Let me show you State's Exhibit 36. If you would, tell us what this area is, ma'am.

A That's the hallway that runs from the front door to

the back door. And there's a -- a little area there for the washing machine and dryer.

Q Let me show you State's Exhibit 37. What area is this, ma'am?

A That's the same area. It's just a little closer, a closer view.

Q And whose clothes are most of these right here?

A I believe those are Mark's.

Q State's Exhibit 38. Is that just the opposite view of that?

A Yes.

Q And which door is this -- right, ma'am?

A That's the front door.

Q The front door. State's Exhibit 39. Is that just another picture of the clothes?

A Yes.

Q And whose clothes are these, again?

A They are, I'm assuming they're -- they're Mark's. They're not -- they're not Connie's.

Q Okay. State's Exhibit 40. Is this above the shelving up there?

A It is. Just storage.

Q And State's Exhibit 41. Can you tell us with this area is here, ma'am?

A That is the area outside of the spare bedroom where

the grandchildren would sleep. And there to the right are her washer and dryer.

Q State's Exhibit 42. Can you tell us what this is, ma'am?

A Yes. That's that area, a little closer up. It's just right to the right of the previous picture.

Q And she kept things neat up at the top even.

A Yes.

Q State's Exhibit 43. Can you tell us what that is?

A Yes. That's her bathroom.

Q State's Exhibit 44. Can you tell us what that is?

A Her bathroom. That's her cabinet area where she kept things.

Q Did she keep things neat in that?

A Yes.

Q And State's Exhibit 49.

A Yeah. Those are her towels.

Q And she kept those neat.

A Yes.

Q And in order. Let me show you State's Exhibit 46. What area, which room, is this, ma'am?

A That's the spare bedroom. She used it for storage, but that's also the bed where -- where the grandchildren would sleep if they were there.

Q And State's Exhibit 53. Whose area or whose room is

this?
A That -- that's Mark's.
Q That's Mark's bedroom --
A Yes.
Q -- across the hall from her.
A Right.
Q If you would, ma'am, please, answer any questions Mr. Hall would have for you.

CROSS-EXAMINATION

BY MR. HALL

Q All right. Ms. Looney, you made the assumption these are Mark's clothes. Is that because he lives there?
A Yes.
Q Did he live there a lot, constantly, on and off?
A He went -- he went back to live with my mother-in-law, I believe, back after 2010, somewhere around that area.
Q Okay. And you said you went back again and cleaned up. When was that, do you remember?
A I believe we cleaned on a Tuesday. It was as soon as the -- the -- the scene was released. We -- we --
Q Investigators released the house.
A Right. We -- we wanted to clean before Jack's brother arrived from Phoenix. We didn't want him to see the house that way.
Q Okay.

MR. HALL: We have no further questions, Your Honor.

MR. BARNETTE: We'd ask the witness be excused, Your Honor.

THE COURT: She may be. Thank you.

(Whereupon, the witness was excused.)

MR. BARNETTE: I would like to call John Penavs to the stand please.

JOHN PENAVS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir -- and I'm going to speak loud. I know you've got a hearing aid too. I apologize.

A If you would, please.

Q And speak loud for them too if you would. Give me your full name, please.

A John Penavs.

Q And where do you live at, sir?

A I live at 141 Fleming Avenue, Pacolet Mills, South Carolina.

Q And how long have you lived there, sir?

A Permanently, just shy of two years.

Q And what kind of work did you do before you retired?

A I'm a retired truck driver.

Q And how many years was you a truck driver, sir?

A Just shy of 40 years.

Q And did you travel? What part of the country did you travel in?
A I stayed -- I stayed mainly in the Southeast, but towards the end I stayed -- I lived in Florida, in Orlando, and I just stayed in Florida, and that's where I worked through the whole state.
Q And did you come back home?
A Oh, every night, every day, yes, sir.
Q Is Pacolet your home though you came back --
A Well, now, yeah, Pacolet is my home permanently. I retired. I retired December 31st of 2013, and I moved up here, sold my house and moved up at the end of April of 2014, is when I moved permanently to Pacolet.
Q And Connie is what relationship?
A Connie is my sister. She's older than I am.
Q And how far is your house from her house?
A Looking from the front porch down to her house, I'd say two to three hundred yards.
Q When did you first notice her gone?
A Well, I sit on my front porch all of the time. Every time I see -- I can look out, and I can see Connie's house, the back door.
And it was October 31st during the daytime, it was gone. So nothing new, I mean. You know, she'd get up and go -- go to the store or take one of her friends to doctors

or what not. But it was October 31st during the daytime.
Q And when did you start suspecting something possibly was wrong?
A Well, during the night her car -- late evening her car was still gone. The next morning it was gone, and so my wife and I assumed that she went to Charleston because that was the closest, you know, that's where Jack, her son, and daughter-in-law lived, in Charleston.
Q Let me ask you. Whose car was still there?
A Well, her car was not. Mark's car was in -- parked there.
Q And that's the white Buick was still there.
A Pardon?
Q The white --
A Yeah, the white Buick. Yes. Mark's car is a white Buick, yes.
Q She drives a Mitsubishi Mirage.
A Yes, she does. A white one.
Q Did Mark ever drive her car? Did you --
A No, sir. Only time if he did that I know of Connie would be in the car. She would not let him drive that car at all. And that's why I assumed, or my wife and I did, when that car was gone, like I say, again, was missing October 31st, was gone. And then the following day it was still missing. So I assumed that Mark went along with

Connie to go get away or to go, you know, for a short trip.
Q The next day, November 2nd, tell us what happened that day, that afternoon.
A That afternoon Karrie came over looking for Connie, and of course we told her that we assumed Connie was with her. And excuse me --
Q Take your time, sir.
(Pause for witness crying.)
A Spoke. So when Kerri -- Karrie and Emily went to the house, and I sat on the porch. They went inside and they ran out. And by the way of Kerri's reaction I knew something was wrong.
I run down there, went inside, like everybody said. I just opened the door, and I didn't even see nothing else. All I saw was my sister's foot. I ran outside, went back outside and called the police. Excuse me. But --
Q Let me show you what's been marked as State's Exhibit 59. Was that what you saw that day, sir?
A Exactly. That's all I saw. I didn't see nothing else in the room.
Q And does that fairly represent what you saw that day?
A Yes, exactly.
MR. BARNETTE: Your Honor, I'd like to move this into evidence.
MR. HALL: We would object, Your Honor.

THE COURT: Let me see it.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: Overrule the objection.

You may proceed.

(Photograph marked State's Exhibit No. 59.)

MR. BARNETTE: Thank you, Your Honor.

May I publish State's Exhibit 59 for the jury, Your Honor?

THE COURT: You may.

A Repeat that.

Q I'm sorry.

THE COURT: He's talking to me.

Q I'm going to show you the -- I was asking the judge's permission to show the picture so the jury could see it.

A Sure.

Q Does this picture fairly represent what you saw that day when you looked inside?

A Yes, sir, exactly, yes.

Q And you saw her feet.

A Yes, sir.

Q And then you ran out immediately after you saw this.

A Yes, sir.

Q And that's when you saw the area at that time.

A Like I say, when I opened that door and -- and when

I -- when I looked at the bed all I did see was the feet, just like that. Just I was the other end, and that's all I saw.

Q Yes, sir. And Karrie -- she called the police, is that right?

A Yeah, we came out. Yes. Karrie called 9-1-1.

Q And you saw the other pictures, the car outside.

A Yes.

Q Everything in --

A Yes.

Q -- these pictures looked the same as --

A Yes, sir, everything was.

Q Did Connie keep a very neat house?

A Connie -- Connie was particular. She -- she was, I mean, everything she did, she did herself in that house. So she was proud of what she did. And every time she did a project and I come over -- my wife and I would go over. She would show us what she did. So, yes, she was very clean and particular.

Q Did the defendant, Mark Bradberry, did he ever call you about Connie or anything like that?

A Never, never.

Q He never called you about this or anything about this.

A No, never.

Q He didn't call on October 29th of 2014? Did he call

October 30th of 2014?
A No, sir.
Q Did he call October 31st of 2014?
A No, sir.
Q Did he call November 1st of 2014?
A No.
Q Did he call November 2nd of 2014?
A No.
Q So he never called you.
A No.
Q Did you ever have any information he called any of the family members?
A Not that I know of, no.
Q Please answer any questions Mr. Hall may have for you, or the judge. Thank you, sir.

MR. HALL: Ask the Court's indulgence.

(Pause.)

MR. HALL: We have no questions of this witness, Your Honor.

THE COURT: All right. You can step down.

MR. BARNETTE: Your Honor, we'd ask for this witness to be excused.

MR. HALL: No objection.

THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: Kerri Herr, Your Honor, we'd like to call to the stand.

KERRI HERR, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, ma'am, please state your full name for the record.

A Kerri Herr.

Q You need to talk. I know you're soft-spoken, but talk up a little bit.

A Okay. Kerri Herr.

Q Thank you. So the jury can hear.

Ms. Herr, where did you live back in October 30th of 2014?

A Where I live now, [redacted] Holiday Court -- I own the home -- in Pacolet.

Q What kind of work do you do, ma'am?

A I work for Chartwells.

Q And what kind of work do you do for them?

A I'm a cook at the middle school at Pacolet.

Q And how long have you been the cook there at the middle school?

A Two years.

Q Back on the morning of October 30th of 2014, who lived beside you on that --

A Brenda -- Brenda Kean and her daughter McKenna.
Q And who was McKenna's father?
A Mark Bradberry.
Q Okay. Do you see him here in the courtroom today?
A I do.
Q And can you described how he's dressed?
A Light blue, long-sleeved, button-down shirt, green and blue stripe tie, gray pants, glasses, gray hair.
MR. BARNETTE: Your Honor, I would like the record to show that she's identified the defendant.
THE COURT: It shall.
Q That morning, was you going to work that morning, ma'am?
A I was.
Q And did you have to be there early that morning or --
A Yes.
Q Okay. So was -- what time -- 7:15, 7:30, 7:45?
A Yeah. I think I had to be in at 8:00 that morning, so I might have left a little early maybe to run to the store or post office or something, but I was out the door a little earlier than normal that day.
Q As you was driving out did you run into anybody?
A I did. I saw Mark.
Q Okay. And tell the jury what happened when you saw him.

A Okay. I remember this very specifically because my truck was broken down and in the shop, and I hadn't seen Mark for a couple of days, at least, which was really out of character because he was always there to watch his daughter. And I had been taking over the duties, you know, getting his daughter off the bus while Brenda was at work. She'd come and stay with me and my children after school, do homework, so on and so forth.

And the next morning I was driving my backup vehicle. I was pulling up my road to make a left to go to the middle school at Pacolet where I work, which is an eighth of a mile down the road maybe. Takes me 30 seconds to get there.

And I was rush, and he was coming from the direction of Connie's house in the white Buick proceeding to make a left onto Holiday Court as I was coming out to leave.

So he stopped and just like his normal little chipper self, he said, "Hey. What are you doing in that old truck? I haven't seen you guys drive that truck in forever." And I said, "Oh, well, I haven't seen you for a couple of days. The brake booster went out in my other truck, so, you know, I couldn't drive it. It's over at the shop." He goes, "Oh, well, that's too bad." And I said, "All right. I've gotta go. I'm going to be late for work. I'll talk to you later." And that was it.

Q So you saw him. This is that Thursday morning, October the 30th, is that right?
A Yes. That is correct.
Q And it was before 8:00 o'clock, obviously, because you had to be at work at that time.
A Yes.
Q And he hadn't been there for a couple -- you'd actually helped Brenda with McKenna, is that right?
A That's correct.
Q And he was supposed to be there helping, but he hadn't been helping.
A Right. He normally was. But, like I said, it was just very out of character. For a couple of days he just was just like nowhere to be found. And so it was very strange, but we helped each other out with the children all of the time, so.
Q And did he drive -- was he driving the direction of Brenda's house at that point?
A Yes. There's only four houses on the block. The first one is -- no one lives there. My father lives in the second house; I live in the third house; and Brenda lives in the fourth house. And there's a creek there. It's a dead-end road. You can't go any further past my house.
Q At that time was Brenda and McKenna already gone, I guess? Brenda was --

A Yes, yeah. The bus comes about 7:05 in the morning. So the children would already have been gone at the time.
Q And Brenda worked at that time.
A Yes.
Q And she was gone.
A Yes.
Q Later that night did you have to help Brenda with McKenna again?
A Yeah. She came off the bus, I believe, Thursday and Friday if I'm not mistaken, because it was Halloween, and we all went out every year together with the children and trick or treated, so.
Q But he -- he didn't show up either day.
A No.
Q You never saw him, and he never helped or was there to help with McKenna.
A No. The last time I saw him was that morning.
Q So that was the last time you saw him until today?
A Yes.
Q Please answer any questions Mr. Hall may have for you, ma'am. Thank you.
A You are welcome.
(Pause.)
MR. HALL: We have no questions of this witness, Your Honor.

MR. BARNETTE: Your Honor, we'd ask for the witness to be excused.

MR. HALL: No objection.

THE COURT: She may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: I would like to Brenda Kean to the stand.

BRENDA SUE KEAN, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q Ms. Kean, if you would, state your full name for the record, please.

A Brenda Sue Kean.

Q And, Ms. Kean, do you know the defendant in this case?

A Yes.

Q How do you know him?

A We have been together for about ten years.

Q Okay. And do y'all have a child together?

A Yes.

Q And what is her name?

A McKenna Grace Bradberry.

Q And how old is she now?

A She's ten now.

Q And back in October, November of 2014 how old was she?

A Seven, eight.

Q Okay. Back on October 29th and 30th, who did Mark Bradberry live with at that time?
A His mother.
Q And that was in the Montgomery Avenue?
A Montgomery Avenue.
Q Okay. And would he come over and take care of McKenna at times to help you, try to help you, out when you was working?
A Yes.
Q Okay. And where was you working at that time, ma'am?
A Walgreens.
Q Okay. And where was the Walgreens at?
A Cedar Springs.
Q So Cedar Springs. There is Bi-Lo in that area right there. I guess the new -- the new Wal-Mart there.
A Yes.
Q And there's the ball fields. The 295 ball field, is right down from there.
A Yes.
Q To give the jury an idea.
The -- was he supposed to come and take care of McKenna that week, supposed to help take care of her? Did he ever -- did he show up like he was supposed to?
A No, he didn't show up. He was supposed to be there. I saw him Wednesday, because I came home late from work,

and then he was supposed to be back Friday morning, and he didn't show up.

Q So he never showed up that Thursday night, Friday, whatever. He didn't show up those days.

A No.

Q And who -- who had to help you with McKenna then since he didn't show up?

A My friend Kerri.

Q Did he ever call you or anything about this?

A No.

Q As a matter of fact, did he leave his phone at your house?

A Yes. It was left there with some other things.

Q Okay. So he left some other things at your house. Like what did he leave? And I guess you found this on Thursday night or sometime around that time.

A It was Thursday when I got home from work.

Q And what time did you get home from work that night?

A It was probably about 7:00, 8:00. I can't exactly remember.

Q So what did -- he left at your house?

A His cell phone, a lottery ticket.

Q Let me show you what's been marked as State's Exhibit 104. Is that a picture of the lottery ticket he left you, ma'am?

A Yes, it is.

MR. BARNETTE: Your Honor, permission to enter this into evidence at this time.

MR. HALL: No objection.

(Photograph marked State's Exhibit No. 104.)

MR. BARNETTE: Permission to publish 104 to the jury, Your Honor.

THE COURT: You may.

Q So this is a lottery ticket he left with his phone and others things there, ma'am.

A Yes. On the kitchen table.

Q Okay. But you never heard from him. He never called you or anything.

A I didn't -- haven't seen or talked to him since Wednesday night when he left.

Q So you haven't talked to him since that time.

A No.

Q Or not heard from him or anything like that.

A No.

Q Well, haven't spoke to him, I guess, is more --

A Right, right.

Q Did he ever call you about -- anything about Connie or anything like that on the phone or anything?

A No. I called Friday when I came home from work. I called Connie's phone and left a message asking if Connie

had seen Mark, because he was supposed to be there Friday morning. And there was no answer on the phone. And then I was getting ready to take McKenna trick or treating and called again and left a message for Mark, and no response.

Q Let me mark this. I believe it's State's Exhibit 143.

(Cell phone marked State's Exhibit No. 143 for Identification.)

Q Let me go ahead and open this up. Showing you State's Exhibit 143, ma'am. Was that his cell phone?

A That's the cell phone.

MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 143 into evidence at this time.

MR. HALL: No objection.

(Cell phone marked State's Exhibit No. 143.)

Q So this was his cell phone.

A Uh-huh.

Q And he left it at your house.

A Yes, on the kitchen table.

Q On the kitchen table. Later on did you receive an envelope from him that was sent to you?

A Monday.

Q Was that on November 3rd you received it?

A Yes.

Q Let me show you State's Exhibits 109 and 110. I believe that's a picture of it. And is that the actual

envelope?
A Yes, it is.
Q And is that his handwriting?
A Yes, it is.
Q Okay.
MR. BARNETTE: Your Honor, I'd like to mark State's Exhibits 110 and 109 into evidence at this time.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 109; envelope marked State's Exhibit No. 110.)
MR. BARNETTE: Permission to publish, Your Honor.
THE COURT: You may.
Q Showing you. I've got the -- the actual picture of it. This is actually the envelope itself. State's Exhibit 110. Is this a letter that was addressed to you?
A Yes.
Q And it was addressed from him?
A Yes.
Q And what was the date that, I guess, it was post marked?
A Friday.
Q And where was it from?
A Pacolet.
Q I mean, where -- you see. I know you put Pacolet there, but can you read what that says?

A I can't read that.

MR. BARNETTE: Go ahead and turn the light up a little bit if you would.

A Columbia.

Q Okay. Instead of doing through all of the pictures, again, the -- the car that was still at the house when they came in there and found Connie, whose car is that?

A That's my car.

Q And who did you give permission to drive that to?

A Mark.

Q So Mark Bradberry is the one that drives that car all of the time.

A Yes.

Q And that's a white Buick LeSabre, is that right?

A Yes.

Q It's a 2002 model, I believe.

A '94.

Q '94.

(Pause.)

Q Let me show you what's been marked as State's Exhibit 133, ma'am -- 132, 130, 128, 127. Are these letters that's been written by the defendant in his handwriting?

A Yes.

Q That's 133, 132, 131, 130, 128 and 127. Are these,

all of these, items in -- in his -- is his handwriting?
A Yes. That's all his handwriting.
MR. BARNETTE: Your Honor, I'll enter them when the appropriate time, the foundation, is.
Q Now, in the letter that you received from him, did you receive a money order with that, ma'am?
A Yes.
Q And how much was the money order for?
A $300.
Q Let me show you State's Exhibit No. 11 or 111. Is that a picture of the --
A Money order, yes.
Q -- money order?
MR. BARNETTE: Your Honor, I'd like to enter this into evidence at this time.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 111.)
Q And State's Exhibit 112. Is this a copy of that money order?
A Yes.
MR. BARNETTE: Like to enter that into evidence also, Your Honor.
MR. HALL: A copy of the same.
(Copy of money order marked State's Exhibit No. 112.)
MR. BARNETTE: Permission to publish this to the jury,

Your Honor.

THE COURT: You may.

Q This is a copy of the money order that you received from him.

A Yes.

Q And is that his handwriting, ma'am?

A Yes.

Q And was the date of it October the 31st of 2014? And this might help better. It's State's Exhibit 11 [sic]. It's a little bit more --

A Yeah. That's it.

Q And did you turn that over to law enforcement after you received it, ma'am?

A I did.

Q So you never heard from him after that.

A No.

Q And he never came back for McKenna or anything like that.

A No.

Q And he left his phone in your house.

A Uh-huh.

Q Did you ever see him drive Connie's car?

A Not in Pacolet, no.

MR. BARNETTE: One moment, Your Honor, please.

(Pause.)

Q Let me take you back to October 31st. Did you take McKenna out trick or treating that night?
A I did after I made the -- a couple of phone calls. And I was supposed to take Con -- McKenna to Connie's. She had a big bag of candy for her. She was always complaining, because she's diabetic. And she had this bag of candy for her, and she'd always eat it before McKenna could get it.
Q Did she always get something ready for special holidays like Halloween and Christmas?
A Yes.
Q And she'd always -- Connie would always prepare that for McKenna.
A Yes.
Q And did y'all go to Connie's house that night?
A Yes.
Q And tell the jury about that.
A McKenna and I went over about 5:30. And we were -- she was dressed in her costume. And we were ready to go and pulled up, and Connie's car was gone.
My car was still setting there. The house was dark. It's very unlike -- she -- Connie knew she was going to be there. And she is one -- she always looked out for her grandchildren and -- one way or another. But we knocked on the door, and there was no answer.

McKenna was disappointed. So I told her that we would leave and we would call again -- call or we would come back on Saturday.

Q And later on did you call trying to find out what happened to Connie or anything?

A I had actually called Tiffany, the oldest daughter, because my car was there and her car was gone. And it was unlike Connie not to be there, especially when she knew McKenna was going to be there. And I had asked Tiffany if she had heard anything from her dad or her grandmother.

Q And when did you hear about Connie, what had happened to her?

A I heard about it Sunday afternoon.

Q And who did you hear it from?

A Mark's cousin Andy came down and got me.

Q Like I say, Mark never called you about any of this.

A No.

Q Please answer any questions Mr. Hall may have for you.

CROSS-EXAMINATION

BY MR. HALL

Q I apologize. Let me ask you. Did you ever know Mark to drive Connie's car? I couldn't hear you. I didn't understand your answer.

A No.

Q Now, you and Mark had been together for about ten

years, you said.
A Uh-huh.
THE COURT: Please answer yes or no.
A Yes.
Q Had y'all moved to Texas at one point?
A McKenna and I had left to go to Texas, yes.
Q And do you remember how long you were gone?
A We were gone about two years, two and a half years.
Q Okay. And you came back when?
A It was May.
Q Of?
A 2012.
Q 2012. Okay. Now, even though you had a relationship with Mark, he lived with his mother a lot, is that correct?
A There towards the end we were having problems and --
MR. BARNETTE: Your Honor, I would -- can we approach the bench for a second?
THE COURT: Yes.
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
Q And, specifically, at the time of these events he was living with his mother.
A Yes.
Q And had been there for a while.
A Yes.

Q His mother kind of looked out for him, helped him.
A Yes.
Q Do you know anything about jewelry his mother may have planned on giving him?
A I know he had some jewelry he said that his mother gave to him.
Q And this was prior to her death.
A Yes.
Q Okay. Do you know -- do you know if Mark had a bank account?
A No.
Q Okay. Do you know if he used his mother's bank account?
A Yes.
Q Did you know if he ever used her debit card?
A Yes.
Q Okay. No further questions.

MR. BARNETTE: No further questions of this witness, Your Honor.

THE COURT: You may step down.

MR. BARNETTE: We would ask for the witness to be excused, Your Honor.

THE COURT: She may be.

(Whereupon, the witness was excused.)

THE COURT: All right. Ladies and gentlemen, we're

going to rest for the afternoon or recess for the afternoon. And we'll resume in the morning at 9:30.

Keep in mind the caution I provided you before lunch. No discussions in any fashion whatsoever with any person whatsoever; no investigation; no research; no media exposure.

Do have a good evening. Please report to your jury room at 9:30 in the morning, 9:30 in the morning. Have a good afternoon.

(The following takes place outside the presence of the jury.)

THE COURT: Court is in recess until 9:30 in the morning.

END OF PROCEEDINGS JUNE 20, 2016

(Proceedings June 21, 2016)
(The following takes place outside the presence of the jury.)
THE COURT: Are we ready for the jury?
MR. BARNETTE: The state is ready, Your Honor.
MR. HALL: Yes, sir.
THE COURT: Bring them in.
(The following takes place in the presence of the jury.)
THE COURT: Good morning, ladies and gentlemen.
Now that everyone is here, we will continue with the trial of the case. As you know, when we recessed yesterday the state was in the midst of their presentation. So we'll continue with that presentation this morning.
Mr. Barnette.
MR. BARNETTE: May it please the Court. Your Honor, I'd like to call Kathy Ballenger to the stand, please.
KATHY BALLENGER, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. BARNETTE
Q Ms. Ballenger, if you would, state your full -- and you're soft-spoken. If you would, talk loud enough so the jury can hear you. Okay.
A My name is Kathy Ballenger.
Q And where do you work at, ma'am?

A Bi-Lo pharmacy.
Q And what's your position there, ma'am?
A I am full-time certified pharmacy technician.
Q And how long have you been in that position, ma'am?
A I have worked there for, since 2013.
Q Okay. Back on October 31st or October 30th of 2014, was you working that morning, ma'am?
A I was.
Q And where is this pharmacy located, which Bi-Lo?
A This is the Bi-Lo in Hillcrest at Fernwood Drive in Spartanburg.
Q And that morning did you see the defendant in this case, Mark Bradberry?
A I did.
Q And do you see him in the courtroom here today?
A Uh-huh.
Q Could you describe what he's wearing, ma'am?
A A tie and a white shirt.
Q Okay. Is he the gentleman sitting to the far right from the table there?
A Yes, sir.
MR. BARNETTE: Your Honor, I'd ask for the record to identify -- she's identified the defendant in this case.
THE COURT: It shall.
Q If you would, tell the jury a little bit about how he

came up to the counter, what happened once he come up to the counter.

A As usual, I had -- I had just started working there. He came up. I recognized him because he was a regular patient.

Q Let me ask you a question.

When did you first start working there at that Bi-Lo?

A I started working there around 2014, that early in the year.

Q Okay. So you had seen him. He was regular and he came in often.

A Uh-huh.

Q Okay.

A So I recognized him when he walked up. I pulled his bag, and I proceeded to go through his medications like I do with everybody -- checked date of birth. And he talked very casually, and we had a casual conversation as I rang him up.

Q Okay. Now, in the past had he had other people with him when he came to the pharmacy?

A He has.

Q And who -- who would he bring with him?

A His daughter.

Q Did you know what her name was?

A McKenna.

Q Okay. So you know -- had --
A I did. I recognized his daughter.
Q Okay. And whose prescriptions would he pick up there?
A He would sometimes pick up his own but also sometimes McKenna's.
Q Okay. McKenna had a prescription too?
A She has.
Q What was that for, do you remember?
A It was pain medicine.
Q Okay. And that day when he came up, what did he ask? Did he ask you anything that day?
A That day he asked me about my car.
Q And what did you tell him when he asked about your car?
A He asked about it because he knew I had a Honda from a previous conversation. And he asked if I had gotten the air conditioning fixed. And I had told him that I hadn't because it's too expensive. And he proceeded to talk about cars.
Q Okay. And did he pick up a prescription that morning?
A He did.
Q Okay. Let me show you what's been marked as State's Exhibit No. 12. Is that a picture from the video from that morning?
A Yes, it is.

Q Okay. And that was him paying for the prescriptions or whatever?
A Yes.
Q Okay.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 12 at this time into evidence.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 12.)
MR. BARNETTE: Your Honor, I'd like to enter this into evidence at this time and publish it to the jury, Your Honor.
THE COURT: You may.
Q Okay. So this is Mark Bradberry at the counter there at the pharmacy?
A Yes, sir.
Q And that's where y'all had the conversation at?
A Yes, sir.
Q And that was you. I believe you told me you had shorter hair back then.
A I did. I had just began working there earlier in the year, and I had cut my hair.
Q Okay. And is there a time on this too? I'm going to see if I can blow it up where we can -- let's see here. Can you see the time there, ma'am?
A I don't see the time, but I remember it being right

when we opened. He was our first customer. It should have been around 9:02.

Q Okay. And I think it shows 9:14 in the morning. Would that be correct?

A Okay. Yes, sir.

Q And he picked up the prescription. Then he left after that.

A Correct.

Q Okay. And there's also -- this came from the video in the store, is that right?

A Yes, sir.

Q And we're actually going to have the manager testify about that. But the video, there's several cameras throughout the store, is that right?

A Yes, sir.

Q Thank you, ma'am. Please answer any questions that Mr. Hall may have for you.

CROSS-EXAMINATION

BY MR. HALL

Q Do you remember what prescriptions he picked up or prescriptions --

A He had a set. I don't remember quite because it was so long ago and I rang up so many people per day with multiple prescriptions. I remember, I think, Laveta, maybe a prescription, Ativan, and some maintenance heart -- heart

medicine, blood pressure, just regular maintenance medicines.

Q And you had dealt with him before because you had conversations.

A I have, yes, sir.

Q How did he usually pay for his prescriptions?

A Cash.

Q Cash.

A Yeah.

Q Do you remember him ever using a debit card?

A I don't recall. That's not to say that he didn't. I just do not recall.

Q And what you said is assuming -- the pharmacy opens at 9:00?

A Yes, sir.

Q But you would only know about the times that you dealt with him.

A Right.

MR. HALL: No further questions.

MR. BARNETTE: Just one question on follow up, Your Honor.

(Photograph marked State's Exhibit No. 157 for Identification.)

REDIRECT EXAMINATION

BY MR. BARNETTE

Q Let me show, ma'am, what's been marked State's Exhibit 157. Did this come from y'all's Bi-Lo?

A It did.

Q Okay. And that was -- obviously, these are warning labels and things that are put on there and everything.

A Yes, sir.

MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 157 into evidence at this time.

MR. HALL: No objection.

(Photograph marked State's Exhibit No. 157.)

Q And a lot of times the prescription's ordered or whatever and they're picked up later after the --

A They are. So the date printed will be the date it was actually filled, not the date usually when it's picked up.

Q Okay. So this could have easily been picked up on October 30th.

A We hold a prescription for ten days before it's legally had to be put back.

Q Okay. So most likely these are the prescription drugs that he picked up that day.

A Uh-huh, uh-huh.

MR. BARNETTE: May I publish these to jury, Your Honor?

THE COURT: You may.
Q So, for example, the 10/28/14 is when it was called in.
A Right.
Q And then this -- if it was picked up two days later, it appears to be packaged the same way that you had it packaged that day, is that right?
A Uh-huh.
Q Is that the way you would have packaged it?
A That's how I would have, yes.
Q And these are the warning labels that comes with it.
A Yes.
Q Thank you, ma'am. Please answer any questions Mr. Hall may have for you.
MR. HALL: No further questions.
THE COURT: You may step down.
MR. BARNETTE: We'd ask the witness be excused, Your Honor.
MR. HALL: No objection.
THE COURT: She may.
(Whereupon, the witness was excused.)
MR. BARNETTE: Daniel Reveles if he would.

DANIEL REVELES, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please state your full name for the record.

A My name's Daniel Reveles.

Q I am going to ask you to speak up a little bit louder, so to make sure you get it to the back.

A My name's Daniel Reveles.

Q Thank you, sir.

Where do you work at, sir?

A Bi-Lo on Hillcrest.

Q And what's your position there, sir?

A I'm the assistant store manager.

Q And how long have you been working with Bi-Lo, sir?

A Since September of 2013.

Q Okay. Back in October 30th of 2014 did the Bi-Lo at Hillcrest-Fernwood, did it have cameras in it at that time?

A Yes, sir.

Q And like -- is it 16 different cameras throughout the store and the parking lot?

A Yes, sir.

Q And you supplied or the store supplied a video tape of the day of October 30th, is that correct?

A Yes, sir.

Q Back in '14. Let me show you what's been marked as State's Exhibit, I believe, No. 11. Is a copy of the videos that were taken from those cameras?
A Yes, sir.
Q And that was what was supplied to law enforcement, is that right?
A Yes, sir.
MR. BARNETTE: Your Honor, I'd ask for State's Exhibit 11 to be entered into evidence at this time.
Q Just to follow up, question, did you review the video on this, look at this video itself?
A Yes, sir.
Q And is this the video that was from that day, October 30th of 2014?
A Yes, sir.
MR. HALL: No objections.
THE COURT: It's admitted.
(Bi-Lo videotape marked State's Exhibit No. 11.)
MR. BARNETTE: I'm not going to show it at this point. We're going to show it with another witness.
Q But the 16 cameras angles are from different parts of the store, is that right?
A Yes, sir.
Q And two, I believe, is from the parking lot.
A Yes, sir.

Q And there's, of course, the pharmacy where we saw the pictures comes from.
A Yes, sir.
Q And other -- I guess entrances and things like that.
A Yes, sir.
Q Let me show you State's Exhibit No. 10. Do y'all a Coinstar machine in your Bi-Lo store?
A Yes, sir, we do.
Q And what is a Coinstar machine?
A Instead of rolling your coins and taking them to the bank, you put it in there and it counts it out. And it charges you.
Q And is this Coinstar received from y'all's machine there at Bi-Lo?
A Yes, sir.
Q Is it from October 30th of 2014?
A Yes, sir.
Q Okay. And was that given to law enforcement at their request?
A Yes, sir.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit No. 10 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(Coinstar receipt marked State's Exhibit No. 10.)

MR. BARNETTE: Thank you, Your Honor. Permission to publish.

THE COURT: You may.

Q And was this the Coinstar receipt that was cashed in at Bi-Lo?

A Yes, sir.

Q And how much was it, sir?

A $85.22.

Q And do you see what date this transaction occurred?

A Yes, sir.

Q Could you read that to us, please?

A October 30th of 2014 at 9:08 a.m.

Q And they can cash this in at any Bi-Lo at the -- any part of the store or at the main counter?

A It can be cashed in somewhere else in the store, however, Coinstars require management override so --

Q So he has to go to the main desk and do that.

A Yes.

Q And it appears that he did go the main desk, I guess, before he went to the pharmacy if I remember right.

A Yes, sir.

Q Thank you, sir. Please answer any questions that Mr. Hall may have for you.

CROSS-EXAMINATION

BY MR. HALL

Q Did you cash this for him or --

A I did not.

MR. HALL: No further questions.

MR. BARNETTE: We'd ask this witness be excused, Your Honor.

MR. HALL: No objection.

THE COURT: You may step down. You may also be excused.

(Whereupon, the witness was excused.)

MR. BARNETTE: Your Honor, the state would like to call Jimmy Tobias to the stand.

JAMES GORDON TOBIAS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please state your full name.

A James Gordon Tobias.

Q And are you known as Jimmy?

A Yes. That is my nickname, yes, sir.

Q And where do you work at, sir?

A I own the Camp Croft Pawn Shop.

Q And how long have you owned that, sir?

A Over 20 years.

Q And can you tell the jury where that's located at?

A It's located in southern Spartanburg County right out of the city limits on 1680 Union Street.
Q It's off Union Street. If I can describe, it's near Cedar Springs.
A That's correct.
Q You've got the McDonald's there, the Wal-Mart.
A Yes, sir. It's a little bit hard to find because Union Street turns to the left that goes to Union, and they don't have the sign right on the street.
Q They don't.
A No.
Q So you actually, instead of going straight in towards the Cedar Springs area, you actually take a left on Union Street. You're located right there.
A Yes, sir. That's correct.
Q On the morning of October 30th of 2014, did you see Mark Bradberry that day, sir?
A Yes, I did.
Q And had he been a customer before?
A I recognized him as a customer, but I didn't know his name.
Q Okay. And do you see the man that came in the morning of October 30th of 2014 in your store?
A Yes, sir.
Q Can you describe what he's wearing and where he's at?

A He's sitting at the desk with a white shirt and a brown tie.

MR. BARNETTE: Your Honor, I'd like to -- that he's identified the defendant in this case.

THE COURT: It shall.

Q Did he come in the pawn shop? Did he bring some jewelry in, sir?

A Yes, he did.

Q And did he sell that jewelry to you?

A Yes, he did.

Q Let me show you several exhibits here. State's Exhibit 13. Is that a copy of the pawn ticket from that transaction?

A Yes, it is, sir.

Q Okay. And let me show you. And here's actually the original, I believe, of that.

A That's correct.

Q And there was, I guess, a pair of earrings and two rings that was pawned, is that right, or sold?

A Yes. There might have been a little necklace in there too. I'm not sure.

Q Okay. And, actually, this is the original bag with all three of them or all --

A Everything was in that bag, because I bagged it.

Q And that's State's Exhibit 14. Is that your writing

on the back of that bag?
A Yes, sir.
Q Okay. And these are the items. These were also -- we had to separate them to show them as different exhibits. But State's Exhibits 15 and 16 was also in State's Exhibit 14.
A Yes, sir.
Q Okay.
MR. BARNETTE: Your Honor, at this time I'd like to introduce State's Exhibits 13, 14 and 15 and 16 into evidence at this time.
MR. HALL: No objection.
(Pawn ticket marked State's Exhibit No. 13; two sets of earrings marked State's Exhibit No. 14; ring marked State's Exhibit No. 15; ring marked State's Exhibit No. 16.)
MR. BARNETTE: Permission to publish these to the jury at this time.
THE COURT: You may.
MR. BARNETTE: Your Honor, what I'm going to do, I'm going to attach the original to the copy if that's okay, make it a joint exhibit, State's Exhibit 13.
Q Was this the pawn ticket where he sold the items to you, Mr. Tobias?
A Yes, sir.
Q And is this the date the transaction was made? Is

that right?
A That's correct.
Q And was this the time the transaction was made?
A Yes, sir.
Q Is that 11:20 a.m.?
A That's correct.
Q And of course this is the gentleman that came into your store and provided identification and everything to you, is that correct?
A Yes. I asked him for his I.D., and the computer remembered him.
Q And then these are the items that he sold to you, is that right?
A That's correct.
Q And showing you State's Exhibit 14. Was that the earrings and the item with the earrings?
A Yes, sir.
Q Showing you State's Exhibit 15. Is this the ring?
A Yes, sir.
Q And showing you State's Exhibit 16. Was that the other ring, sir?
A Yes, sir.
Q And do you have, also have, a camera that takes, I guess, still photos when people come into your shop?
A That is correct. We previously installed a camera for

security.
Q Before I forget, is this where Mr. Bradberry signed his name?
A Yes, sir.
Q Let me show you State's Exhibits 17, 18, 19 and 20. Do those pictures fairly represent your store on the morning of October 30th, 2014, about this time, sir?
A Yes, sir.
Q Okay.
MR. BARNETTE: Your Honor, I would like to enter these into evidence at this time.
Q Mr. Tobias, just to follow up a question the defense attorney had, did you pull these things from the police or was pulled off the video image from there that you had?
A Well, they contacted me, and we looked on the hard drive. They tried to transfer it onto a kind of a chip, and we were having trouble. So they took my whole laptop and --
Q But you reviewed these with them.
A Oh, yeah.
Q And these are the videos that you had.
A Yes.
Q And that's what you saw that morning.
A That's correct.
MR. HALL: No objection.

(Photographs marked State's Exhibits Nos. 17, 18, 19 and 20.)

MR. BARNETTE: Permission to publish these, Your Honor.

THE COURT: You may.

Q This is State's Exhibit 18. Is this Mr. Bradberry walking into the store, sir, coming into your -- into the shop?

A Yes, sir.

Q State's Exhibit 19. Is that just another picture of him in the shop itself?

A Yes, sir.

Q State's Exhibit 20. Is this him leaving the shop?

A Yes, sir.

Q And State's Exhibit 17 is actually when he's going back out the door, is that right?

A That's correct.

Q Mr. Tobias, you said he had been in the store before this.

A Yes. My computer remembered him. He'd come in maybe ten times in the last three years.

Q And all of the times prior to this did he pawn or sell the stuff to you?

A He pawned and usually got between, the computer said he got between, $20 and $80. So that's how I came up with

the $60. I weighed out the jewelry and itemized it and put it in the computer and had him sign the contract, and I handed him his money.

Q And this time he was selling it to you. He wasn't pawning it.

A Yeah. He decided to sell it this time. He wasn't coming back.

Q Thank you, Mr. Tobias. If you would, answer any questions Mr. Hall may have for you. Thank you, sir.

A Yes, sir.

CROSS-EXAMINATION

BY MR. HALL

Q Did you check all of the other times to make sure that they were pawns instead of purchases?

A The computer remembers all of the transactions, and it said that he had not redeemed anything, that even he pawned it, he never redeemed it. So he ended up losing. It was zero redemptions.

Q So, in essence, he never picked it up. So, in essence, he sold it to you.

A Well, he forfeited.

Q Forfeited.

A He never paid me the loan back. So, he forfeited his collateral.

Q Did you look to see what he had pawned those other

times?
A I have looked and he -- that initial day I didn't look. I just saw he'd pawned like ten times, 20 to 80 average, zero redemptions. The computer helps me remember things.
Q Yes, sir.
A And I have looked at the history, and he'd pawned a lawnmower and some jewelry in the past.
Q So he has pawned jewelry in the past.
A That's correct.
Q Did you check to see what that was, what kind?
A Yeah. I believe it was some rings and a necklace going back a year or two.
Q And just to clear up, I think the earrings -- I'm not sure where all of that is now.
(Pause.)
Q Let's look at State's 14. You said earring and something else. Look at that good. Is that two sets of earrings?
A It's two sets of earrings.
MR. HALL: No further questions.
MR. BARNETTE: Just one on followup, Your Honor.

REDIRECT EXAMINATION

BY MR. BARNETTE

Q But he simply told you he was selling this time, where in the past he had pawned it.

A I asked him, and he said I want to sell it. But when I went to hit the button, I hit the wrong button, and it came out a pawn. So I wrote sold on it, stuck it in the envelope and filed it away.

Q So that was your handwriting that says sold.

A Yes.

Q Thank you, sir.

RECROSS-EXAMINATION

BY MR. HALL

Q Just one followup on that.

A Okay.

Q Are you sure in the past -- well, when you did that transaction as pawned did you change it in the computer as sold or just on the ticket?

A I just wrote it on the ticket as sold. I was going to continue to hold it.

Q Okay. Is it possible that happened in some of the other transactions in the past?

A No.

Q If you did it this time, you couldn't have done it before?

A No.
Q All right.
MR. HALL: No further questions.
MR. BARNETTE: No further questions, Your Honor. We'd ask the witness be excused.
THE COURT: You may step down. You're excused. Thank you.
MR. BARNETTE: Your Honor, I'd like to call Loretta Norris to the stand.

LORETTA NORRIS, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, ma'am, please, state your full name for the record.
A Loretta Gore Norris.
Q And where do you work at, ma'am?
A Suntrust Bank.
Q And what is your position there, ma'am?
A I'm the regional security coordinator for South Carolina for the investigations part.
Q And how long have you been in that position, ma'am, with Suntrust?
A Eleven years.
Q And before that was you in law enforcement too?
A Yes, sir.

Q And how long was you in law enforcement?
A Eleven years.
Q Okay. Was you asked to look at a bank record from the Suntrust involving an account, ma'am?
A Yes, sir.
Q Let me show you what's been marked as State's Exhibit 116. Is that a copy of the record from the Suntrust account we asked you to look at, ma'am?
A Yes, sir, it is.
Q And who was the owner of that bank or who was the people listed on that bank account?
A The account was titled Connie B. Bataille. I apologize. I'm not sure if I'm pronouncing it right. Or Jack Looney.
Q And did you -- is this part of the official records that you can review and take care of and look at during your investigations at Suntrust?
A Yes, sir.
Q And was this record pulled, I guess, for this investigation in this case?
A Yes, sir.
Q And did this record come from Suntrust?
A Yes, it does.
Q And is that from her account?
A Yes, sir.

Q And did it show transactions around the date, around October 30th of 2014, and some other areas?
A Yes, sir. It shows all of that.
MR. BARNETTE: Your Honor, I'd like to enter this into evidence at this time.
MR. HALL: No objection.
(Copy of Suntrust records marked State's Exhibit No. 116.)
MR. BARNETTE: Permission to publish the document to the jury, Your Honor.
THE COURT: You may.
Q Okay. Showing you page two of the exhibit. This is the personal signature card. It's Connie Bataille -- but I can never say that correctly -- Bataille or Jack Looney was the two people that was authorized on this account.
A Correct.
Q And this is actually their signatures.
A Correct.
Q Mark Bradberry is not located on there. You don't see his name, do you?
A No, sir, I don't.
Q And that's all through the document. On page three of this, it shows the account summaries.
A Yes, sir.
Q And, basically, it was showing her checking account,

her deposits, as well as, I guess, her loans that was involved with that.

A Yes, sir. Those are all to her account.

Q Okay. And you have revolving credit line, is that right?

A Yes, sir.

Q And that was in the amount of $9,410.83?

A Yes, sir.

Q And then her total assets, I guess -- well, this statement -- I'm sorry. That was a month before. Her checking assets was $802.78.

A Yes, sir.

Q And then her total loan balance was ninety-one eighty-six ninety-four.

A Yes, sir.

Q Is that like credit cards, things like that, ma'am?

A Yeah, yes, sir. The home equity, L.O.C. account, that is a loan against the home equity.

Q Uh-huh.

A The revolving credit is usually a credit card.

Q Simply going to October 30th -- excuse me. I'm sorry. October 30th here, was there an A.T.M. withdrawal of $403.95?

A Yes, sir. That does show that.

Q And where was that? Was that in Columbia?

A Yes, sir, it is.
Q Okay. And there was also a balance from there, a balance inquiry, in Columbia also.
A Yes, sir.
Q So would that have been done at an A.T.M. machine at this Columbia location?
A Yes, sir.
Q So the A.T.M. had to be used in Columbia that day. It couldn't have been used anywhere else except at that A.T.M. machine there.
A Correct. That is in Columbia.
Q Thank you, ma'am. Please answer any questions Mr. Hall may have for you.

CROSS-EXAMINATION

BY MR. HALL

Q All right. Ms. Norris, if I can go back to State's Exhibit 116 and the transactions, I'm going to hand you the actual document so you can see it. I'm referring to pages three and four where they have the transactions on the account. I'll hand it to you -- page three.

Now, do transactions always hit on the exact date or sometimes they have -- you may do things on Thursday and it hits the computer as transaction on Friday?
A Correct.
Q Okay. But they never would be before -- obviously,

couldn't be before the date they happened. They always hit the account either on that date or after.

A Well, you have posting date, and then you have transaction date. And that's what you're talking about.

Q Yeah. And what's reflected in this posting date?

A May I see it again?

Q Yes. That's what -- I appreciate it. That's what I was trying to get to.

A Okay. All right. So what you're looking at here in the date in this column is the posting date. When you look inside the description, the description if it's a different date will show differently. So you have your transaction date in here. This is the posting-to-the-account date. Sometimes they are the same; sometimes they are different. It just depends.

Q Thank you very much.

MR. HALL: Beg the Court's indulgence.

(Pause.)

MR. HALL: No further questions.

MR. BARNETTE: Just one clarification, Your Honor.

REDIRECT EXAMINATION

BY MR. BARNETTE

Q Just to explain what y'all were talking about so the jury can see it --

A Yes, sir.

Q What you were talking about here. The A.T.M. withdrawal, which is in Columbia --
A Correct.
Q -- the $403.95 --
A Yes, sir.
Q -- that was done on October 30th. There's no different date, is there? So that would be the transaction date in there.
A Correct. In that incidence for the $403.95, that is absolutely correct. The date of the posting on this side is the same as the transaction date. If you'll notice under where it says A.T.M. cash withdrawal, and then it says 10/30, that is the date, the transaction date, right there, sir.
Q Right there.
A Yes, sir.
Q So that's -- so the transaction date's the same as the posting date.
A Correct.
Q So that definitely happened on October 30th.
A Yes, sir.
Q 2014.
A Yes, sir.
Q Thank you, ma'am. I just wanted to clear that for the jury.

MR. HALL: No other questions.

THE COURT: You may step down.

MR. BARNETTE: We'd ask the witness be excused, Your Honor.

THE COURT: She may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: I'd like to call Investigator Phil Carter to the stand, please.

RICHARD PHILLIP CARTER, JR., having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

THE COURT: Be aware of that microphone.

THE WITNESS: Yes, sir.

Q If you would, sir, please state your full name for the record.

A My name is Richard Phillip Carter, Jr.

Q And where do you work at, sir?

A United States Postal Inspector.

THE COURT: Excuse me. You can't turn your back to the court reporter. She can't hear you.

THE WITNESS: Oh, sorry, sir.

A My name is --

Q Speak a little bit louder.

A Okay. My name is Richard Phillip Carter, Jr.

Q And where do you work at, sir?

A United States Postal Inspection Service.
Q And what is your position there, sir?
A I am the supervisor for the Upstate Financial Crimes Task Force and I'm the National Director of the Postal Inspection National Football League Security Group.
Q And how long have you been in that position, sir?
A I've been a postal inspector almost ten years.
Q And prior to that was you in law enforcement, sir?
A I was. I was a deputy sheriff in Colleton County and an investigator for six years. And I was a secret service agent for five.
Q Did -- in this investigation was you asked to track down a money order and where that was done and when it was done?
A I was.
Q And let me show you what's been marked as State's Exhibits 112, 111, 110, 113 and 109. Let you look at those items, sir, and see if you recognize them.
(Pause.)
A Yes, sir, I do.
Q Okay. Was these items of money order that you was asked to look and see where the location was of it and when it was taken out and what time?
A Yes, sir, I was.
Q And was there also an envelope that you was asked to

look at to see where it was obtained at?
A Yes, sir.
Q Okay. And in this investigation was these things determined they were obtained at Myrtle Beach Post Office in South Carolina -- Myrtle Beach, South Carolina?
A That's correct, sir.
Q Okay. And these items was actually -- Mark Bradberry appears to be the one that did the money order, and it was mailed to a Brenda Kean or sent to a Brenda Kean.
A That's correct, sir.
MR. BARNETTE: Your Honor, I'd like to introduce -- 109, 110, 112, 111 and 113 into evidence.
MR. HALL: No objection.
(Photograph marked State's Exhibit No. 109; envelope marked State's Exhibit No. 110; photograph marked State's Exhibit No. 111; copy of money order marked State's Exhibit No. 112; copy of envelope marked State's Exhibit No. 113.)
MR. BARNETTE: May I publish it to the jury, Your Honor?
THE COURT: You may.
Q Showing you State's Exhibit 112. Was this the -- and it might be actually -- 111 is actually a carbon copy of it. Was this the money order that you was asked to investigate and look into where the location was, sir?
A Yes, sir, it was.

Q And where was this money order taken out, sir?
A That money order was purchased at the Myrtle Beach Post Office, 505 North Kings Highway, Myrtle Beach.
Q And was there an envelope purchased at that time?
A There was.
Q And showing you State's Exhibit 110. Was this the envelope that was purchased there at the post office also?
A Yes, sir, it was.
Q And how do we know that, sir?
A We know that from the transaction record from the transaction where it was purchased. The money order and the envelope were purchased at the same time.
Q Okay. And let me show you what's been marked State's Exhibit 13, which is actually a copy of the letter or the envelope on there. But here's the transaction history as to it.

If you would, step on down here, because you may be able to explain this better than I can. And I may separate these right now, so that way you can take them.

(Whereupon, the witness left the stand.)

A Yes, sir.
Q And what it is, these pages actually continue on. It's like a spreadsheet from that standpoint. They're actually -- there's the -- page two will go to this, and then page three is actually this. So I'll let you go ahead

and describe this part if you would, sir.
A Okay. This is -- this is the United States Postal Service printout of the transaction. So this is all one transaction where one purchase was made.
So you look, and there was a purchase -- the top one, cash, domestic money -- domestic money order. That's where the actual money order was purchased.
The second one is the fee that we charge for -- it's just the fee they charge for the processing the money order.
And the third line is the Folk Art Eagle No. 10 envelope. And I didn't know before I went to work at the post office. You can buy an envelope that already has postage printed on it so you don't have to put a stamp on it. They've got them behind the counter. You can just buy the envelope there, and it costs 62 cents, I think.
Q And, like I said, if you need this pointer -- if you need it. And this is actually the envelope that was purchased.
A It is.
Q And that's the forever showing there.
This is the second page of the spreadsheet. If you would, sir, please describe what this is too. Smaller. There we go.
A That is -- that is a -- that is the same transaction,

just with the money order that the -- that the amounts -- I'm sorry. The top is the money order. It's a $300 money order that was purchased. The $1.25 is our fee that we charge. The 62 cents is for the envelope. So that would be $301.87, is the entire. So you add them up -- three hundred, plus one twenty-five, plus sixty-two. The 302 on the side is the cash amount that was given to our clerk at the counter. So the -- it was $301.87, was the charge. The purchaser gave the clerk $302.

Q And the money order was actually -- well, all three of these items was bought October the 31st of 2014.

A Correct, sir.

Q And this is the transaction, when it began, I guess.

A Yes.

Q And that was 12:56 p.m.

A Yes, sir.

Q And then it ended at 12:57, 52 seconds, p.m., is that right, sir?

A Yes, sir.

Q And showing you the last page of this. Was this the -- and I know this is spread out. It usually goes all the way across. Was that how much change he received back?

A That's the change, yes, sir.

Q So he got 13 cents back.

A Correct.

Q Showing the last page of this here. This shows it was bought in Myrtle Beach's post office. Is that the location of the post office?
A It is.
Q And of course that was the city, transaction date, and the amount and the fee that was charged with it.
A Correct.
Q And I guess it's given a number. That's how y'all help keep track of things like this.
A It is; it is.
Q So this envelope was definitely purchased in Myrtle Beach post office that day at that time.
A That's correct.
Q As well as that money order.
A Yes, sir.
Q Thank you, sir. Please have a seat.
(Whereupon, the witness returned to the stand.)
Q If you would, please answer any questions Mr. Hall may have for you, sir.

CROSS-EXAMINATION

BY MR. HALL

Q Now, not very postal savvy, but understand the money order. And you can see that's definitely one purchased on a particular day. But the envelope.
A Yes, sir.

Q Did it have a number like, or is it you're just basing that on it's the same type envelope that was bought?
A Well, I base it on that they were bought at the same time and the fact that it is -- if you look at it the postmark, wherever it's canceled, is Columbia, South Carolina.

All mail -- mail from Myrtle Beach -- if you mail a letter from Myrtle Beach, it's going to show a Columbia cancellation because that's where the plant is. That's where -- that's where it hits.

So if you mail, say, a letter from Asheville, North Carolina, it's going to show Greenville, South Carolina, as the cancellation, because it doesn't hit. When he hands it across the counter or he puts it in or whoever, if you mail one today, if you hand it across the counter here in Spartanburg, it's going to show Greenville. If you hand it across the counter in Myrtle Beach, it's going to show Columbia, because that's where the mail goes.

They had a plant in Fayetteville, North Carolina, that they closed several years ago. So in 2010, for example, that would have said Fayetteville. But they closed that plant. So now it's Columbia. All the mail from the coast comes into Columbia.

Q Charleston doesn't have its own?
A Charleston has one but not -- not that coast, not up

there, no, sir. And I don't know why they do it like that, but that's the way they do it.

Q If we could understand everything and how they do things we would --

A It's a government operation, yes, sir.

Q All right. But you can't definitely -- to go back to my original question, you're making assumptions since that type of money order was bought with the money order that it's probably the same one.

A I'm making -- and I don't want to get into what -- where the -- the origin of where they recovered that. But I'm -- I'm basing it on where it was recovered, who it was recovered from, where it was postmarked. And they were bought together.

Q No further questions.

A Yes, sir.

MR. BARNETTE: No further questions, Your Honor. We'd ask the witness be excused.

THE COURT: You may step down. You're excused.

(Whereupon, the witness was excused.)

Q Thank you, sir.

A Yes, sir.

MR. BARNETTE: Your Honor, we're just checking to see if there's a witness outside there and I have no -- I'm ready to call another one, ready. I will call for sure.

(Pause.)

MR. BARNETTE: Your Honor, I'm going to go ahead and call my next witness, Robert Talanges.

ROBERT CHARLES TALANGES,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please, state your full name for the record.

A Robert Charles Talanges.

Q And where do you work at, sir?

A I work at Spartanburg County -- Spartanburg County Sheriff's Department.

Q And what's your position there, sir?

A They call us the I.D. unit or crime scene investigating unit.

Q And how long have you been in that position, sir?

A Total about 17 years now.

Q And prior to working at the sheriff's department did you work somewhere else before that?

A I worked at the city of Spartanburg.

Q And how long did you work for them, sir?

A Over 15 years.

Q And what was your position with them or what --

A Started as a patrol officer, and from patrol officer I went to becoming an AFIS operator, which is automated

fingerprint operator, and then to crime scene investigations.

Q Back on November 2nd of 2014 was you called to a crime scene at [redacted] Montgomery Avenue, Pacolet?

A Yes, I was.

Q And is that in Spartanburg County?

A Yes, it is.

Q And working that, did you take several pictures, look through the whole house and so forth from there?

A When our unit gets called out we have a -- there's a 2-team unit, myself and Deputy Stepp.

Upon arrival my -- my arrival -- I waited for him to get there. And we both walked together while photographing the exterior of the residence. Yes, sir. We were taking pictures.

Q And as you walked through the house did you -- did all of the other rooms seem normal?

A Yes, they did. Everything was neat and very tidy.

Q And when you got to the victim's bedroom, what did you find, sir?

A Victim's bedroom had been ransacked.

Q And, obviously, let me get some pictures here. Let me just go through these slowly so we can go -- I will turn them over here real quick. State's Exhibit 21, 22, 23, 24.

MR. BARNETTE: Did you want to watch these as I'm

doing it?

MR. HALL: Yes.

Q 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98. If you would, review those, sir, and see if those pictures fairly represent what you saw that day.

(Pause.)

Q Sir, if I can ask you to look as these pictures too from the scene, State's Exhibits 101, 102, 103, 137, 138 and 158. See if these pictures fairly represent what you saw at the scene too.

(Pause.)

A Yes, they act -- accurately.

Q Accurately represent what you saw?

A Accurately represent the photos, that's correct, of the scene.

Q And that's on November 2nd when y'all were called to the scene and everything -- 2014.

A That's correct.

MR. BARNETTE: Your Honor, I'd like to move these into evidence at this time.

MR. HALL: Your Honor, I have some objection to

several of them.

THE COURT: Let me see those you have objections to.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

THE COURT: All right. State's Exhibits Nos. 60 and No. 63 are withdrawn, and the other exhibits, all being photographs, are admitted.

There is still objections to which numbers?

MR. BARNETTE: Your Honor, I think the numbers that he's got objections to are 59, 76 and 78. I think 76 was modified by the Court.

THE COURT: So 59 and 78 are objected, but they're admitted over that objection.

MR. HALL: Thank you.

MR. BARNETTE: And, Your Honor, just for the record, 76, the corner's been cut out. I think Your Honor did that just to make sure the picture is not...

THE COURT: Well, I understand there's no objection to 76, is that true?

MR. BARNETTE: But I think since --

MR. HALL: Not with the corner.

THE COURT: Okay.

(Photographs marked State's Exhibits Nos. 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58,

59, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 101, 102, 103, 137, 138 and 158.)

Q Permission to publish the pictures to the jury, Your Honor.

THE COURT: You may.

Q I show you these pictures. I think they're already in evidence before Your Honor, but just to go through, State's Exhibit 21, is this the picture of the front of the house or the location?

A Yes, sir, the front.

Q Showing you State's Exhibit 22. Is this the back of the residence there, sir?

A Yes, it is.

Q And was this the car that was there when y'all got there?

A Yes, sir.

Q Showing you State's Exhibit 23. Is that just another picture of that location?

A Back of the house, that's correct.

Q And State's Exhibit 24. This is the back of the porch, is that right?

A That's the -- the rear entrance for this house was the main entrance. That's what they used.

Q Right. It's really their main entrance, but that was the back of the house, is that right?
A That's correct.
Q And what was this here, sir?
A You've got two plastic chairs and a newspaper that had not been picked up.
Q Let me show you State's Exhibit 137. Is that another picture of the paper and the two chairs, sir?
A Yes, it is.
Q And State's Exhibit 138 is the actual newspaper that was setting on that chair.
A That's correct.
Q And showing you State's Exhibit 101. This is the picture of the white Buick that was there at the house, is that right?
A Yes, sir.
Q And 102 is just another picture of it?
A Showing the front hood area, that's correct.
Q And 103 is another picture of the -- of the vehicle, is that right?
A That's correct.
Q Okay. Going back to the house, showing State's Exhibit 25. Can you tell us what area this is, sir?
A Pardon me?
Q Can you tell me what area of the house this is?

A That's going to be the kitchen area showing the countertops to the kitchen table, the stove, the refrigerator.
Q And showing you State's Exhibit 57. I believe this is already entered into evidence, but we'll enter it again just to make sure. Was this a diagram that was done by you, sir?
A Yes, sir.
Q And when we're talking about the kitchen area, obviously, the kitchen is when you come in the rear entrance, you walk across the hallway, which I guess white and black tile was in the hallway. And you go across the kitchen, living room and den area, is that right?
A Yes, sir. That's correct.
Q And was the victim found here in her bedroom?
A Yes, she was.
Q Okay. And show you State's Exhibit 26. Is this another picture in the kitchen?
A Yes, sir, it is.
Q Was anything messed up in the kitchen whatsoever from what you could tell?
A Throughout the house or --
Q In the kitchen. Was there any -- was it just like we see it here?
A The kitchen exactly how we photographed it, nothing

disturbed.
Q And State's Exhibit 27. Is this the paper that was on the kitchen table?
A Yes, sir.
Q State's Exhibit 28. What's that a picture of, sir?
A Showing from the ceiling to the countertops and -- and across. That's your countertop, your sink area if you're showing how neat this house really was.
Q State's Exhibit 29. Can you tell us about this, sir?
A That's going to be your living room area.
Q Okay. And was there -- showing you State's Exhibit 30. Is this just another picture just showing the corner of that area?
A Yes, sir, it is.
Q And was any -- everything fairly neat, no nothing messed up or anything?
A Nothing throughout the house other than the bedroom.
Q State's Exhibit 31. What was this, sir?
A That's your remote laying -- laptop computer that's in the living room.
Q And was that also -- wound up being the victim's phone?
A That's correct.
Q State's Exhibit 32. Can you tell us what this is, sir?

A Another picture of the living room showing the -- where they, I guess, sat. And you've got some books that were placed on the couch.
Q State's Exhibit 33.
A That's looking from the living room area back towards the kitchen.
Q And, like I say, and I will show you State's Exhibit 34. Was there any -- everything was just set in place, is that right, in the living room?
A Everything was neat and orderly.
Q State's Exhibit 34. Is this just another area of the living room area?
A Yes, sir, it is.
Q And State's Exhibit 36. Can you tell us what this area is, sir?
A That's the hallway area looking back towards the washer-dryer room.
Q And State's Exhibit 37. Was the clothes and everything in order? Was anything out of order from that standpoint?
A Everything was -- was hung up and neat, and neat and orderly.
Q State's Exhibit 38. Is that a picture from a different -- looking the other way or other angle?
A That's coming from the laundry room back towards the

front door.
Q State's Exhibit 39.
A Showing the closet.
Q State's Exhibit 40.
A That's items that are stacked up.
Q State's Exhibit 41.
A That's your laundry room area and hallway.
Q State's Exhibit 42.
A Washer and dryer.
Q State's Exhibit 43.
A That's -- that's the bathroom.
Q State's Exhibit 44.
A I believe that's one of the closets.
Q State's Exhibit 45.
A That's inside closet.
Q And, obviously, nothing's messed up or anything.
A No, no, sir.
Q State's Exhibit 46.
A That's going to be a spare bedroom or a storage room that they had in the residence.
Q Was this the bedroom right here, sir?
A Yes, sir.
Q So that's the bedroom we're looking at now. State's Exhibit 47.
A That's another picture of the bedroom.

Q And, obviously, you had storage things and boxes that was not disturbed or appeared to be disturbed.
A Nothing appeared to be disturbed, correct.
Q State's Exhibit 48. Is this the other side of that room?
A Yes, it is.
Q State's Exhibit 49. Is this another part of that room?
A Yes, sir, it is.
Q And, like I say, but nothing was disturbed as far as you could tell.
A Correct.
Q State's Exhibit 50. Was this the book shelf?
A Book shelf in that room.
Q State's Exhibit 51. Was this the closet in that room?
A Yes, sir.
Q Appear to be anything disturbed in it?
A Didn't appear to be.
Q Let me show you State's Exhibit 52. Which bedroom is this, sir?
A That's going to be --
Q Let me show you the diagram here. Is it --
A Yeah. That last room on the right before the entrance door -- exit.
Q And was that Mark Bradberry's room as you found out

later -- his bedroom?
A Yes, sir, it was.
Q And is this another picture of that room?
A Yes, sir.
Q Is that the other side?
A That's the other side.
Q And did it appear the bed had been -- the bed was made?
A Bed was actually made.
Q State's Exhibit 54. Is this the bottom of that bed -- a chair?
A Yes, sir.
Q State's Exhibit 55. Is that just the corner where the T.V. set and some items were?
A Yes, sir, it is in Mark -- in the bedroom, his bedroom, that's correct.
Q State's Exhibit 56. Was this also in that bedroom?
A Yes, sir, it is.
Q And what was that, sir?
A Appears to be some kind of tool chest, Craftsman tool chest.
Q And it's still setting in the bedroom undisturbed.
A Yes, sir.
Q State's Exhibit 58. Is this doorway going into the victim's bedroom?

A There were two, actually two, doorways, one in the hallway leading in and one from the living room leading in.
Q So was these, this, from the hallway in? Is this from the living room in? And that's the victim's bedroom?
A That's correct.
Q Is this the one leading from the living room into the victim's bedroom -- this door?
A Yes, it is.
Q Showing you State's 59. If you would, tell us what you see, what this is here, sir.
A Okay. Looking into the victim's room this is -- this is looking from the living room into the bedroom standing in the doorway. You have the bed; you have items that are piled on top of it; and you have the victim in -- in that pile of items. The victim's underneath there.
Q And State's -- I know it's hard to see on this picture because of the lighting, but State's Exhibit 61, what did you find on the end of the bed there?
A Left end of the bed was a used piece of chewing gum.
Q And did you collect that, sir?
A Yes, we did.
Q And was these T.V. remotes?
A T.V. and a cable remote, that's correct.
Q Let me show you what's been marked as State's Exhibit 2. I believe that's it. Was that the gum that

you -- did you collect and put that into evidence, sir?
A Yes, I did.
Q Okay. And was that sent to SLED for testing later?
A Yes, it was.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 2 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(Used gum marked State's Exhibit No. 2.)
Q Showing you State's Exhibit 62. Did you later put a placard beside the gun showing where it was located?
A Yes, we did.
Q Showing you State's Exhibit 64. If you would, tell us what this is, sir.
A Okay. From the living room still looking into the bedroom, the other door there shows the hallway and it shows the room had been ransacked.
Q Okay. And across that hall, is that the bedroom that Mark Bradberry stayed in?
A Yes, sir.
Q State's Exhibit 65. How was the victim when you got in there? Was she covered up?
A Items were piled on top of her. We're talking blankets, sheets, pillows. And of course you could see all kinds of bank statements, covered her.

The only thing that was visible when we walked in were her feet were sticking out towards the headboard because she was laying at the foot of the bed.

Q And, like I said, these bank statements were on top of the pillows, the blankets and everything else on top of her.

A That is correct, on top of her.

Q And here's just another picture showing the items as well as the -- another bank statement on top of her.

A Yes, sir.

Q State's Exhibit 67. Just shows a -- just a bank account statement, is that right, that was found in the materials?

A Bank paperwork, that's correct.

Q State's Exhibit 68. Is this just another angle of what was on top of her and things like that?

A Yes, sir.

Q State's Exhibit 69. Same thing?

A Yes, sir.

Q Just from a different angle?

A Another view.

Q State's Exhibit 70. Can you tell the jury what this is, sir?

A That's showing the floor if you were facing the foot of the bed to the right, and that's the hallway door that's

open to the bedroom. That's all the items that were either removed from the closet or knocked off the dresser. But that's the items that were ransacked in the floor.

Q State's Exhibit 72.

A That's another picture of it, different angle.

Q That's from a different angle, is that right?

A Yes, sir.

Q State's Exhibit 73.

A That's a closeup of a lot of the items that were in the floor.

Q Looking here, was there two pairs of gloves out?

A There were just two gloves there, period.

Q Showing you State's Exhibit 74. Was this the same? This is just a different angle showing the mops and things like that?

A Yes, sir.

Q Showing State's Exhibit 71. Was this on top of like a desk area beside where you go out to the hallway?

A Desk or small dresser.

Q Okay. There was a key left on top of that, right?

A Yes, sir.

Q Okay. State's Exhibit 76, which has been cut off by the Court earlier. Is this just showing the drawers that were open?

A To the -- facing of course the foot of the bed, that'd

be to the left side. Those are the dresser drawers that were open.
Q And apparently -- there's really not a whole lot done on this side, is there, from there? Really, was there much done in those drawers other than being open?
A Other than being open, no, there was not.
Q And showing you State's Exhibit 77. Was this the T.V. that was in the corner of her bedroom?
A Yes, it is.
Q Was anything messed up in this area?
A No, there was not.
Q Now, you marked placards. You made another diagram concerning the items that you collected, as well as the position of the body of the victim, is that right?
A Correct.
Q Let me show you State's Exhibit 79. Was this the diagram you did showing how her body -- once you uncovered the body and had everything out, was that the position of the body basically?
A Yes, it is.
Q And which way was her head pointing towards?
A Looking -- after removal, she was laying, appeared to be, on her left side or extended and like in a sleeping position.
Q And was her head pointed towards the T.V.?

A Yeah. That would have been a more natural way to watch television if you were in the bedroom, how the T.V. was positioned, laying at the foot of the bed.
Q And the remotes, was they approximately beside her hand?
A Very close in proximity to the hands, that's correct.
Q And the piece of gum was in that corner pointing towards the T.V.
A That's correct.
Q Let me show you what's been marked as -- on the back of this you actually have listed what the items are that you collected and things like that on the second page, is that right?
A Yes, sir.
Q Showing you State's 78. Can you tell us what this is, sir?
A It's another picture of, of course, the bed. And those are items that were being taken into evidence and marked.
Q And they correspond with the diagram on some of the items.
A Yes, they do.
Q Now, was there blood splatter in the room?
A Yes.
Q Let me show you State's Exhibit 80. Is this the roof

of the house -- of the room, the victim's bedroom?
A That's the ceiling area.
Q And showing you State's 81. Is this actually a closeup picture of it?
A Yes, it is.
Q Was that blood splatter up on the ceiling?
A Yes, it is.
Q And State's Exhibit 82. What was that, sir?
A That's the floor showing you had blood splatter in the floor as well.
Q And State's Exhibit 83. What was that, sir?
A That's up on top of, I guess --
Q Is that the T.V. or the top of the T.V. stand?
A The T.V. stand area, we would call it.
Q And State's Exhibit 78. Is that just a closeup of those spots that was found there?
A Yes, it is.
Q State's Exhibit 85. What was that? What are those, sir?
A That's the foot of the bed, and those are markings where we found blood spatter.
Q And State's Exhibit 86. What is this, sir, just a closeup picture of some of those spots?
A Another picture of a different angle.
Q State's Exhibit 87. Can you tell us what that is,

sir?
A That's showing more -- the markings, the tape. It's showing more blood spatter on the floor.
Q State's Exhibit 88. Did you put placards for certain spots to be used for testing potentially?
A Those are areas that we -- we collected spatter from or blood from with those markings.
Q State's 32. Was that a closeup of one of the spots you collected for testing?
A That -- yes, sir. That's next to, I guess you would call it, the -- the fireplace area, the mantle area beyond -- but it's on the floor.
Q Let me show you what's State's Exhibits 3 and 4. If you would, take a look at those, sir.
A It's going to be item No. 31 and item No. 32, which are going to be a collection of blood.
Q Thirty-two is one of those two places. And you collected the blood from those areas, is that right?
A Yeah, by the fireplace.
Q Was these the samples that you placed into evidence, sir?
A Yes, they are.
Q And was those sent to -- to SLED for D.N.A. testing?
A Yes, they were.
MR. BARNETTE: Your Honor, I'd like to enter these two

things into evidence at this time.

MR. HALL: No objection.

THE COURT: What are those numbers?

MR. BARNETTE: Your Honor, it is No. 3 and No. 4.

(Swabs marked State's Exhibit No. 3; swab marked State's Exhibit No. 4.)

Q But that wasn't the only blood you found, just in that room, is that right, sir?

A That's correct.

Q Across the hall on the other bedroom door, which was Mark Bradberry's door to his bedroom, did you find blood swiped or a blood mark?

A Blood swipe. It was located on the door. It was photographed and scaled.

Q Let me show you what's been marked as State's Exhibit No. 90. I guess this is actually the way it should be that one, but you got a placard 36, is that right, sir?

A Yes, sir.

Q And a closeup of that picture is State's Exhibit No. 91. Was that the blood swipe you found on that door?

A Yes, it is.

Q And I guess the blue, is that where you test, presumption test, for blood?

A That was a presumptive test. Yes, sir, it is.

Q And did it test positive for blood?

A Yes, it did.
Q And is it this swipe here that you were testing?
A That's correct.
Q And did you collect that, sir?
A Yes, we did.
Q And let me let you see State's Exhibit No. 5.
A This is my item No. 36, which is going to be a Q-tip swab of blood from the bedroom door.
Q And that was one of your placards. That's where you got it from, is that right?
A Yes. It does.
Q And was that the item that you collected from that door?
A Yes. I did.
Q And was that put into evidence, sir?
A Yes, it was.
Q And was it sent to SLED for testing?
A Yes, it was.
MR. BARNETTE: Your Honor, I'd like to move State's Exhibit No. 5 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(Swab marked State's Exhibit No. 5.)
MR. BARNETTE: May I publish this to the jury, Your Honor?

THE COURT: Yes.
Q Just to show what you have been talking about and you -- you've gave it a number, and 36 is that number, is that right?
A Which corresponds with the diagram, correct.
Q So that was the diagram with the placard. And you also placed it on -- State's Exhibit 79. You placed it on the diagram itself.
A That's correct.
Q Going back. Give an example to the jury. State's Exhibit 92. You went back and added placards to different items.
A Yes, we did.
Q Like the computer, the remote, the different items that you saw throughout the rooms and stuff.
A Yes. We did.
Q Did you collect a blanket and her blouse in this case -- the victim's?
A Yes, I did.
Q And let me show you State's Exhibit 100, as well as State's Exhibit 99. Was that -- 100, is that the blouse that you collected from the victim? You went to the autopsy, is that right, sir?
A I attended the autopsy. I collected all evidence at that location. This is the black shirt she was wearing.

Yes, sir. This is going to be the -- the shoes and a blanket.

MR. BARNETTE: Your Honor, I'd like to enter State's Exhibits 99 and 100 into evidence at this time.

MR. HALL: No objection.

THE COURT: They're admitted.

(Blanket marked State's Exhibit No. 99; victim's shirt marked State's Exhibit No. 100.)

Q Instead of pulling those out, I'd like to just show you some pictures from there. Showing the blanket, State's Exhibit 93. Is this the blanket that was over the top of her?

A Yes, it was. It's showing the scale and it's showing cut marks to the cloth.

Q So the white -- the white -- the small white parts, that's the cloth itself.

A That's correct.

Q Closeup of different other cut marks.

A Yes, sir.

Q Ninety-four. I'm sorry.

A This was all done in the lab after everything dried. That's -- you'll see these are lab photos.

Q And State's Exhibit No. 95. Was this the shirt that she was wearing?

A Yes, it was.

Q And are these cut marks over here, sir?
A Yes, sir.
Q State's Exhibit 96. Was these also cut marks indicated at those spots?
A Yes, sir.
Q And is this dried blood, I guess, on the shirt?
A Yes, it is.
Q Ninety-seven. Is this another picture of some of the cuts that's in the shirt?
A Yes, it is.
Q Ninety-eight. And do you identify the number of marks there or cuts that you could find from there?
A What I located was a total number of 12.
Q And you attended the autopsy, is that correct, sir?
A Yes, I did.
Q At that time did you obtain the blood sample from Dr. Wren of -- and watched him take the blood sample from the victim in this case?
A Yes, I did.
Q And also the fingernail scrapings that was also taken?
A And I collected all of the items from him.
Q Okay. I believe that's going to be State's 1 and State's 7, I believe. Yeah. Just look at those, sir, and see if those items verify the blood sample you got from her -- or not from her but Dr. Wren in your presence, as

well as the fingernail scrapings that were taken from her.
A The fingernail scrapings, yes.
Q And I believe they used it, but those are the forms or documents that they put in.
A SLED does, that's correct. Yes, sir.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibits 1 and 7 into evidence at this time.
MR. HALL: No objection.
THE COURT: They're admitted.
(Dried blood standard marked State's Exhibit No. 1; fingernail scrapings marked State's Exhibit No. 7.)
Q A few more pictures just going back to the house.
State's Exhibit 75. Was that her closet?
A Yes. It's a closet.
Q And it seemed like there are just some cards in the bottom, but there's, basically, nothing really was done in that closet, was it?
A That's correct. I mean, on the bottom of the picture you'll see where credit cards and items were, I guess, altered in the closet.
Q Okay. And let me show you State's Exhibit 158. Did y'all look around to see if any weapons were around in the location?
A We did. And the only item we found missing was we found an empty slot on the -- on the butcher block with the

knives in the kitchen area.
Q And was that knife ever located or seen in that residence?
A No, it was not.
Q Okay. Did you also obtain a blood or a D.N.A. sample from the defendant in this case, Mark Bradberry?
A Yes, I did.
Q Let me let you look at that there. It's marked as State's Exhibit No. 8.
A Clocked it in 11/3/2014 at 1530 -- p.m. It'd be at the sheriff's office investigations area.
Q And did you put that into evidence, sir?
A Yes, I did.
Q And was that sent to SLED for testing also?
A Yes, it was.
MR. BARNETTE: Your Honor, I'd like to enter this into evidence at this time.
MR. HALL: Defendant has no objection.
THE COURT: It's admitted.
(Buccal swabs marked State's Exhibit No. 8.)
Q Just to publish just to show the jury there. It was collected from the defendant in this case, is that right?
A That's correct.
Q At the autopsy, what kind of injuries did -- did you see that happened to the victim in this case?

A I seen head trauma, as well as multiple stab wounds.
Q And Dr. Wren -- I know he'll be testifying later, but, obviously, several stab wounds, obviously.
A Yes, sir.
Q Trauma to the head and the face and so forth?
A Head -- head trauma because we found bits and pieces, appeared to be skull fragments on some of the -- the pillow, and a big laceration to the face. And it looked like a large laceration to the neck area, beside stab wounds.
Q Later on did you go to [redacted] Holiday Court to collect some items there?
A Yeah, yes, I did.
Q And what items did you collect, sir?
A It's going to be a prescription, cell phone.
Q Let me show you what's been marked as State's Exhibits 157, 143. And I believe there's one other item you collected if I can find that real quick. Here you go. And State's Exhibit 108.
A Yeah, yeah. Cell phone charger, the Bi-Lo prescription, bag with prescriptions. There was a total of four. And a lottery ticket, a lottery card.
MR. BARNETTE: Your Honor, I think two of these items are already into evidence, but I'm going to make sure all three of them are. But I'd like to move State's

Exhibits 157, 108 and 143 into evidence.

MR. HALL: No objection.

THE COURT: Tell me what 143 and 157 are. 157 is in.

MR. BARNETTE: Yes, sir. 108 and 143.

THE COURT: And 143 is what?

MR. BARNETTE: 143 is the cell phone with charger, and then 108 is the Mega million lottery ticket.

THE COURT: Thank you.

(Mega millions ticket marked State's Exhibit No. 108; photograph marked State's Exhibit No. 143.)

MR. BARNETTE: May I publish these to the jury, Your Honor?

THE COURT: You may.

Q Just showing here. These were all collected. [redacted] Holiday. I said 120. [redacted] Holiday Court is the home of Brenda Kean, is that right?

A That's correct.

Q And that was a Mega millions lottery ticket. And this was also the prescription bag, I think, we saw earlier.

A Yes, sir.

Q Was that also collected there?

A Yes, sir.

Q Let me show the jury. It was, actually, the Bi-Lo bag that we saw earlier.

And then the cell phone was recovered at [redacted] Holiday

Court in Pacolet from Brenda Kean.
A That is correct.
Q And was this later found out to be the defendant's cell phone?
A Yes, sir.
MR. BARNETTE: One moment, Your Honor, please.
(Pause.)
Q If you would, sir, please answer any questions that the defense may have for you, sir.
THE COURT: Any juror need a break before we continue with the examination?
All right. I do have at least one. Let me ask you to go to your jury room. Don't discuss the case. We'll bring you back after that break.
(The following takes place outside the presence of the jury.)
THE COURT: The witness can step down. You can't discuss your testimony during the break.
We'll be at ease for 15 minutes.
(Whereupon, a recess was taken.)
THE COURT: All right. Are we ready for the jury?
MR. BARNETTE: Yes, sir.
THE COURT: Bring them in.
(The following takes place in the presence of the jury.)

THE COURT: Mr. Hall.

MR. HALL: The defense has no questions of this witness, Your Honor.

THE COURT: You may step down.

MR. BARNETTE: May this witness be excused, Your Honor?

THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: Your Honor, I'd like to call Phyllis Vandergriff.

PHYLLIS VANDERGRIFF, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, ma'am, please, give your full name for the record.

A It's Phyllis Vandergriff.

Q I'm going to have to ask you to speak up because they're going to need to be able to hear you in the back row.

A Phillips Vandergriff.

Q Thank you, ma'am. I appreciate it.

Where do you work at, ma'am?

A Pilot Flying J.

Q And what's your position there, ma'am?

A C.C.T.V. support specialist.

Q And what's part of your duties? Is part of your duties to maintain video cameras at the Flying J throughout the Southeast?
A Yeah. Pilot and Flying Js all over the U.S. and Canada.
Q Okay. And how many of those are there, ma'am?
A Roughly 700 if you include the c-stores and dealers.
Q Okay. The Flying J in Columbia, did you maintain the videos on those stores also?
A Yes, sir.
Q And did we -- we ask you to pull the video from one of those stores, and from October 30th of 2014? And did you do that, or was that done for us, ma'am?
A Yes, sir.
Q And let me show you what's been marked State's Exhibit 117. Was that the video from the Flying J store in Columbia?
A Yes.
Q And this is the video that came from that camera or those cameras, I should say.
A Yes.
Q Because this also has the inside of the store, as well as the gas pumps, is that right?
A Correct.
MR. BARNETTE: Your Honor, I'd like to enter State's

Exhibit 117.

MR. HALL: No objection.

THE COURT: It's admitted.

(D.V.D. marked State's Exhibit No. 117.)

Q And that was provided to law enforcement per you, is that right, ma'am?

A Yes.

Q If you would, please answer any questions that Mr. Hall may have for you.

MR. HALL: I have no questions of this witness, Your Honor.

THE COURT: Step down.

MR. BARNETTE: We ask for the witness to be excused, Your Honor.

THE COURT: She may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: Your Honor, our next one will be Lance King.

LANCE KING, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please, give your full name for the record.

A My name's Lance King.

Q And where do you work at, sir?

A I work for Sears Holdings Corporation -- K-Mart. It's all one entity.
Q Okay. It's one -- the K-Mart.
A Yes, K-Mart, correct, K-Mart, yeah.
Q And what's your job with them, sir?
A I do asset protection.
Q I'm going to ask you to speak up so they can hear you.
A I do asset protection. I manage the cameras and theft work.
Q So part of your duty is the cameras here at K-Marts in South Carolina, the Myrtle Beach area.
A Correct.
Q And there is a K-Mart in North Myrtle Beach or the Myrtle Beach area. Did law enforcement contact K-Mart to receive a copy of videos from cameras inside the K-Mart there?
A They did.
Q And did you review this video to make sure it was from those cameras?
A I did.
Q Is this State's Exhibit 18, is that a copy of that K-Mart surveillance that was done at Myrtle Beach, that Myrtle Beach store?
A Yes, it is.
MR. BARNETTE: Your Honor, I'd like to introduce

State's Exhibit 118 into evidence.

MR. HALL: No objection.

THE COURT: It's admitted.

(D.V.D. marked State's Exhibit No. 118.)

Q And this was provided to law enforcement, is that right, sir?

A Absolutely, yes, sir.

Q Thank you, sir.

MR. BARNETTE: We'd ask the witness be excused, Your Honor.

MR. HALL: No questions; no objections.

THE COURT: All right. You may step down.

MR. BARNETTE: Your Honor, I'd like to call Investigator Sean Nix to the stand.

MICHAEL SEAN NIX, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, state your full name for the record.

A Michael Sean Nix, Spartanburg County Sheriff's Office.

Q And what is your position with the sheriff's department, sir?

A I work in the forensics unit.

Q And how long have you been with the sheriff's department, sir?

A The sheriff's department, I've been with them a little over 15 years.
Q Back on November 3rd of 2014 was you called to a location in Pauline, South Carolina?
A On November 2nd, I was called.
Q Oh, I'm sorry. November 3rd. I'm sorry. I jumped ahead of myself.
A Yes, sir, I was.
Q On November 3rd. Well, let me ask you this. On November 2nd was you actually called to a crime scene in Pacolet?
A Yes, sir, I was.
Q I was kinda jumping ahead. But actually you was called to another scene on November 3rd of 2014.
A Yes, sir, I was. I'm sorry.
Q And where was that location in Pauline?
A In Pauline it's right before Highway 56 runs into Blackstock, not far from it.
Q And what was the location with the address?
A Oh, I'm sorry. It is [redacted] Highway 56.
Q And when you arrived was y'all notified that the defendant was possibly there in a vehicle?
A When I arrived I was advised by investigators on the scene that the defendant was at that address with that vehicle or with a vehicle, yes, sir.

Q And did you take pictures of the vehicle once inside the vehicle?
A Yes, sir.
Q Let me show you what's been marked as State's Exhibits 119, 120, 121, 122, 123, 124, 125 and 126. See if those pictures fairly represent what you saw on November 3rd of 2014.
A Yes, sir.
MR. BARNETTE: Your Honor, I'd like to move these into evidence at this time.
MR. HALL: No objection.
(Photographs marked State's Exhibits Nos. 119, 120, 121, 122, 123, 124, 125 and 126.)
MR. BARNETTE: Permission to publish to the jury, Your Honor.
THE COURT: They're admitted. You may.
Q This location, was this where the car was located when you arrived there, sir?
A Yes, sir.
Q And was it behind the shed?
A Yes, sir.
Q And is the road back towards this way?
A Yes, sir, the road is back towards this way. We're looking in the picture.
Q Okay. And 120. Is this another picture of the

vehicle?
A Yes, sir, it is.
Q And was this vehicle registered to Connie Bataille, to the victim in this case?
A Yes, sir. If I remember correctly, it is.
Q Inside the vehicle -- showing you State's Exhibit 121 -- was there several letters and items found inside the car?
A Yes, sir.
Q Did you collect and put those into evidence, sir?
A Yes, sir.
Q State's Exhibit 122. Did you look in the back of the car also?
A Yes, sir.
Q And did you find some prescriptions or bottles in the back?
A Yes, sir. I found prescription bottles. They were actually inside of a black bag containing some other items as well.
Q Okay. Going back to 120, is that the black bag that you're talking about, the back there?
A Yes, sir. It's hard to see, but that is it.
Q And 123. 124, is that the bottles that you found inside of the bag?
A Yes, sir.

Q 125, is that something else you found inside of the car?
A Yes, sir. That is a receipt.
Q Okay. And 126, is that a copy of the receipt that -- or picture of the receipt that was found in the bag?
A Yes, sir.
Q Okay. And that was dated October 31st of 2014?
A Yes, sir.
Q 10:39 p.m. or a.m. Excuse me.
A A.M., yes, sir.
Q And does that appear to be a Chick-Fil-A in Myrtle Beach?
A It does. Double drive through.
Q Going back to the letters that you found -- and that's in State's Exhibit 121 -- you collected and put those into evidence, is that right, sir?
A Yes, sir.
Q And let me show you State's Exhibit 159. Are those the actual letters that you collected?
A Yes, sir.
Q And I know you reviewed them earlier and looked through them earlier. Those are the actual letters?
A I'm sorry, sir?
Q Those are the actual letters you collected from the scene?

A Yes, sir, yes, sir.
Q Okay. I know you reviewed this earlier or whatever. Let me show you State's Exhibits 127, 128, 130, 129, 131, 132 and 133. I know those are copies and these are the original in those. Was those the copies of the letters that you obtained out of that car that day?
A Yes, sir.
Q And you placed them into evidence, is that right, sir?
A Yes, sir, I did.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibits 127 through 133 into evidence at this time.
MR. HALL: Your Honor, we don't object to them coming in as what was found in the car through the author and everything else. We -- we might have objections on that. They were found at the -- in the car but --
THE COURT: You do have an objection, or you do not?
MR. HALL: We have an objection as to if they're going to say who wrote them.
MR. BARNETTE: Your Honor, can I be heard on that?
THE COURT: Let me see y'all just a minute.
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
THE COURT: Overrule the objection.
MR. BARNETTE: Thank you, Your Honor.
And, Your Honor, State's Exhibit 159 is the original

letters. I was going to enter those in too.

MR. HALL: No additional objection, Your Honor.

THE COURT: You're introducing the copies and the originals?

MR. BARNETTE: Well, the copies are easier to read.

THE COURT: Okay.

(Last will and testament marked State's Exhibit No. 127; letters marked State's Exhibits 128 through 133; original letter marked State's Exhibit No. 159.)

MR. BARNETTE: Permission to publish.

THE COURT: You may.

Q Just showing what the letter -- just different things that was introduced. State's Exhibit 127. Was that the last will and testament of Mark Allen Bradberry? Is that what it appears to be?

A Yes, sir. I'm sorry.

Q State's Exhibit 128 was a letter to Brenda, is that right?

A Yes, sir.

Q State's Exhibit 129 is a letter to McKenna.

A Yes, sir.

Q And I believe the letter actually goes in there.

And State's Exhibit 130 is a letter to Matthew Bataille and family, is that right?

A Yes, sir.

Q And letter 131 is a letter to Mark, Jr.
A Yes, sir.
Q And State's Exhibit 132 was just a letter to Tiffany.
A Yes, sir.
Q And State's Exhibit 133 was a letter to Jack Looney.
A Yes, sir.
MR. BARNETTE: One moment, Your Honor, please.
(Pause.)
Q Did you also take a picture of the defendant in this case?
A Yes, sir, I did.
Q Let me show you what's been marked at State's Exhibit 141. Does that picture fairly represent the cut mark that you took off the defendant's arm that day?
A Yes, sir.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 141 into evidence.
MR. HALL: No objection.
THE COURT: 141?
MR. BARNETTE: Yes, sir.
THE COURT: It's admitted.
(Photograph marked State's Exhibit No. 141.)
MR. BARNETTE: May I publish that to the jury, Your Honor?
THE COURT: You may.

Q And this was taken on November 3rd of 2014, is that right?
A Yes, sir.
Q And does that picture fairly represent the cut mark that was on his arm?
A Yes, sir.
Q If you will, please, answer any questions Mr. Hall may have for you, sir. Thank you.

CROSS-EXAMINATION

BY MR. HALL

Q Investigator Nix --
A Uh-huh.
Q -- you took photographs and collected what you found.
A Yes, sir.
Q And as far as the -- what you refer to as a cut --
A Uh-huh.
Q A cut or a scratch or -- did it appear to be bleeding or --
A At the time of the photograph it was not bleeding.
Q Okay. He didn't need any medical attention. I'm just trying to see how bad this injury was. Was there any kind of band-aid on it beforehand?
A I don't recall there being one, yes, sir.
Q Did you or the jail feel that it needed to be tended to?

A I can't speak for the jail, but, no, I don't think it needed to be tended to.
Q And you didn't know how that scratch got there.
A I do not.
MR. HALL: I have no further questions.
MR. BARNETTE: No further questions of the witness, Your Honor. May he be excused?
THE COURT: You may step down.
(Whereupon, the witness was excused.)
MR. BARNETTE: May we approach for a second, Your Honor?
THE COURT: Sure.
(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)
MR. BARNETTE: I would like to call Investigator Letterman to the stand.

MURRAY BRANDON LETTERMAN,

having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, sir, please state your full name for the record.
A It's Murray Brandon Letterman.
Q And where do you work at, sir?
A Spartanburg County Sheriff's Office.
Q And what is your position there, sir?

A I'm sergeant over violent crimes, criminal investigation division.
Q And how long have you been at the sheriff's department, sir?
A I've been at the sheriff's office for 11 years.
Q Was you called in to investigate the death of Connie Bataille?
A I was.
Q And was y'all notified on November the 2nd of 2014?
A We were.
Q And did you go to the location of her home?
A We went to the location of her home, yes, sir.
Q And was that [redacted] Montgomery Avenue in Pacolet?
A Yes, sir.
Q And when you arrived there, if you would, tell the jury what -- what you did at that point.
A When we first got on the scene we met with family members who had discovered the body inside. Spoke with them.

We then secured a search warrant for the residence. Once the search warrant was secured for the residence we entered the residence to process the scene.

When we entered the residence we found the victim, Mrs. Bataille, in her bedroom laying in her bed with a blanket covering her and the room ransacked and several

what appeared to be bank statements laying on top of the blanket on top of her body.

Q Was there any other rooms messed up or anything else wrong with any of the other rooms as far as you could tell?

A No. Everything else looked like it was in place and normal.

Q What did the crime scene look to you based off your experience and working, I mean, working cases like this?

A It appeared to me based off my experience to be a staged crime scene.

Q Okay. So have you worked other burglaries, break-ins, things like that?

A Yes, sir. Before going to violent crimes I'd worked property crimes, yes, sir.

Q And when you normally go in those type of cases what do you usually see in houses like that?

A See the entire house ransacked, valuables missing, things along those lines.

Q And did you -- was her car there when you got there?

A Her car was not there.

Q And who was supposed to living with her at the time?

A We had learned during the initial investigation and talking with family members that her son, Mark Allen Bradberry, had lived, was living there with her.

Q Was he in the residence or anywhere in the area?

A No, sir.
Q Did y'all try to look for him?
A We did.
Q If you would, tell -- tell how the investigation took off and went from that direction after.
A Once upon viewing the scene and determining that Mr. Mark Allen Bradberry lived with her at the house, we initially wanted to speak to him to see what he might have seen as a person of interest.

We were not able to locate him initially, so therefore we placed Mrs. Bataille's vehicle into the N.C.I.C. computer, which is the national crime information computer, and placed it as a possible stolen vehicle and Mr. Bradberry as a person of interest we'd like to speak with.

That system is utilized by all law enforcement agencies in the whole United States. So if they were to run the tag on the car it would come back with a message that we had added to it, which they were to stop the car and notify us.

Q And what happened with the investigation from that point after you put it in, the car stolen -- the car was stolen in N.C.I.C.?
A And once we placed it in N.C.I.C. we didn't receive any hits or anything on it like that.

I believe the next day, November the 3rd, we were notified. I overheard -- well, somebody called me from the sheriff's office stating that some officers were headed to an address on Highway 56 in Pauline in reference to Mr. Bradberry being seen there asleep in his car.

We then headed down to that address in Pauline -- myself and several investigators -- at which point we approached the car, and Mr. Bradberry was inside the driver's seat of Mrs. Bataille's car.

We got Mr. Bradberry out of the car, spoke with him there at the scene, then transported him to the Spartanburg County Sheriff's Office where we interviewed him at that point.

Q And at the time was he -- whose car was he in at the time y'all were --

A Mrs. Connie Bataille, his mother's car.

Q And the letters that we saw and everything, were they in the front seat of that car?

A Yes.

Q And did you review those letters later?

A I did.

Q Afterwards going through that. And showing you State's Exhibit 127. Did this appear to be his last will and testament he done on November 1st of 2014?

A Yes, sir.

Q And he had told where -- what he wanted -- where he wants the items to go and everything from there?
A That's correct, yes.
Q Let me show you what's been marked and entered into evidence as State's Exhibit 128. Was this the letter to Brenda, his girlfriend?
A Yes, it is.
Q And going to page four of the -- page four of the letter to Brenda -- if you would, read the first paragraph or down to -- read from here to here, sir, if you would.
A Okay. Do you mind if I step down?
Q Yeah, if you want to step down.
(Whereupon, the witness left the stand.)
Q And I may can make that bigger, sir.
A Where did you want me to step -- stop at?
Q If you would, go to the top, to the right here.
A Okay. "Then they wouldn't refill my meds and I tried to tell you that needed to move back in and get away from my mom. Every day all she did was put you down and say -- and say bad things about you because she didn't like the name McKenna. She bitched and moaned and complained about any and every thing we did. I couldn't take it any longer."
(Whereupon, the witness returned to the stand.)
Q We could read some more of the other letters but --

A Okay.
Q -- that was in the letter that was written to his girlfriend, Brenda, which is McKenna's mom, is that right?
A That's correct.
Q Through your investigation and those other letters with other members of the family -- we'll get into those later too -- did you locate where he had went to Bi-Lo at Fernwood?
A We did.
Q And did you get the video from the Fernwood Bi-Lo?
A I did, yes, sir.
Q I know the jury has already seen this, State's Exhibit 12. Was a still taken from that video? Is that right?
A That's correct.
MR. BARNETTE: Your Honor, permission to play State's Exhibit No. 11 for the jury.
THE COURT: You may.
Q In the video there's -- the Bi-Lo video there are 16 different cameras, is that right?
A That's correct.
(Whereupon, the video was played for the jury.)
Q If you would, come on and step down. It might be easier to see.
(Whereupon, the witness left the stand.)

Q Okay. Starting out here, we've got several. We've got actually the parking lot ones here. Is this the entrance where the Coinstar is coming into --
A I do believe so, yes, sir.
Q And then the pharmacy one is actually up here?
A Correct.
Q And I want to try to center in these as they come in. Shows the parking lot and things like that.
I believe you were shuffling the driver's viewing in the north part of the picture here.
A Okay.
Q When you get out of the car here and then walk, I guess on the left side of the parking lot here, is that correct, sir?
A That's correct, yes.
Q Is that him coming on the side of the screen there?
A That is.
Q Is this the exit into where the Coinstar is on the right there?
A It is.
Q That's the machine.
A It is.
Q Is that him?
A Yes. That's him entering the store.
Q And does he appear to have something in his right

hand?
A He does.
Q And that's when he goes to the Coinstar and cashes the coin in, is that right?
A Yes.
Q Is this the front of the store there at Fernwood, the Fernwood Bi-Lo at Hillcrest?
A It is.
Q Is this him going right here?
A It is.
Q And does he go to the desk to cash in his Coinstar?
A He does.
Q And is that Mr. Bradberry going to the desk?
A It is.
Q At some point he goes to the pharmacy, is that right?
A Yes.
Q And then after that he leaves the store, is that right?
A That's correct.
Q And leaving the store?
A Yes.
Q He goes back to the car, and then he pulls off, is that correct?
A That's correct.
Q And that car he is driving at this point appears to be

his Buick, is that -- or he'd drove or that was left at the house?

A That's correct.

Q And, again, this is his car or...

A Yes.

Q Is that the car pulling out now?

A It is, yes.

Q Thank you, sir. Please have a seat.

(Whereupon, the video was completed.)

(Whereupon, the witness returned to the stand.)

Q Through your investigation did you check Connie Bataille's bank records and so forth?

A We did. We executed a search warrant on her bank records.

Q And did you obtain those bank records?

A We did.

Q Did you find that he had actually went to a bank machine in Columbia, South Carolina?

A We did.

Q Was that on October the 30th?

A That's correct.

Q And prior to that did you find out about him going to a pawn shop here in Spartanburg for that?

A Yes.

Q And did you get the bank -- was you the one that went

and got or talked to Mr. Tobias about the ticket and so forth?
A I am.
Q I know the jury's already seen the ticket. From the ticket itself, he had actually pawned jewelry items on October 30th at 1:20 a.m., is that right?
A That's correct.
Q Then the Flying J. You verified A.T.M. Did you contact them about getting the video for that?
A I did.
Q And instead of showing the whole video to the jury like we just did, did you do a still off that video?
A Yes.
Q And this is actually inside, is that right?
A That's correct.
Q And which Flying J is this in Columbia, do you know? If you need to refer to your notes, you can.
A Yeah. If you don't mind. I believe it's 5901 Fairfield Road in Columbia.
Q Okay. And does this picture fairly represent what was on the video?
A Yes.
Q And that's where he made the $400 withdrawal out of the A.T.M. machine?
A That's correct.

Q Using Connie Bataille's account.
A That's correct.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 142 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(Photograph marked State's Exhibit No. 142.)
Q And this is the Flying J in Columbia where he used the A.T.M. machine, is that right?
A That is correct.
Q And is that him in the blue shirt? I guess similar to what he was wearing that -- earlier when we saw him.
A Yes, sir.
Q Underneath that. And based off your investigation where did you track him to? Where did he go from there?
A To Myrtle Beach.
Q And did you actually go to Myrtle Beach?
A I did.
Q And you collected items down there?
A I did sir, yes, sir.
Q Did you find where he had been staying at?
A Yes. He had stayed at the Bar Harbor Motel -- hotel -- there in Myrtle Beach.
Q And did you get a receipt from them showing it?
A Yes.

Q Let me show you what's been marked as State's Exhibit 114. And that's a receipt that you received.
A Yes.
Q And is that the copy -- does that copy fairly represent that?
A Yes.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 114 into evidence at this time.
MR. HALL: No objection.
(Copy of guest registration marked State's Exhibit No. 114.)
MR. BARNETTE: Permission to publish it to the jury, Your Honor.
THE COURT: You may.
Q And he checked in there, I believe, in October 31st of 2014, is that right? It's hard to read.
A I believe that's the 30th.
Q 30th. And when did he depart? Does this say?
A On the 2nd.
Q On the 2nd. And did he sign the bottom that he agreed?
A Yes.
Q That's his signature.
Back here, I guess, actually shows the charges. Put it down where you can see. Shows the charges that were

incurred. So he came in October 30th of 2014, and he was charged through November 1st of 2014.

A That's correct.

Q Where else -- where else did you find out he had been to?

A We found out that he had been to the K-Mart there in Myrtle Beach.

Q Okay. And did you obtain the video from that, from K-Mart, concerning that?

A I did.

Q Instead of showing you the whole video let me show you several stills from that. And I believe they're marked, and I've got different -- I believe it's 147, 148, 149, 150, 151, 152, 153, 154, 155 and 156. If you would, look at those. See if those fairly represent what you saw on the video.

THE COURT: While he is looking at those, let me see y'all.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

A Yes, sir, they do.

Q Okay.

MR. BARNETTE: Your Honor, I'd like to enter these into evidence at this time.

Your Honor, we can stop at that. We can stop at this

point.

MR. HALL: No objection.

THE COURT: They're admitted.

(Photographs marked State's Exhibits Nos. 147, 148, 149, 150, 151, 152, 153, 154, 155 and 156.)

THE COURT: All right. Ladies and gentlemen, we're going to recess for lunch. We'll continue after lunch.

Keep in mind my caution. No discussions, no research, no investigation, no media exposure.

Do have a good lunch, and please report promptly -- not later than -- 2:30 this afternoon to your jury room.

(The following takes place outside the presence of the jury.)

THE COURT: Witness can step down. Don't discuss your testimony during the lunch break.

THE WITNESS: Yes, sir.

THE COURT: Court is in recess until 2:30.

(Whereupon, a recess was taken.)

THE COURT: All right. Bring the jury in, please.

(The following takes place in the presence of the jury.)

THE COURT: Good afternoon.

We're going to continue with the direct examination of the witness by the prosecutor.

Mr. Barnette.

MR. BARNETTE: Thank you, Your Honor. May it please the Court.

BY MR. BARNETTE

Q I believe you had just -- and it'd been introduced into evidence -- some picture from the K-Mart video.

A Yes, sir. That's right.

Q If you would, come on down for a second.

(Whereupon, the witness left the stand.)

MR. BARNETTE: May I publish these to the jury, Your Honor?

THE COURT: You may.

Q To let the jury know, we've got some that actually we copied over again. I don't know how we ended up.

Showing you State's Exhibit 144. And some pictures are better than others. But is this over here the defendant, Mr. Bradberry?

A It is.

Q State's Exhibit 145. And this is the K-Mart at Myrtle Beach, is that right?

A That's correct.

Q Is this him again?

A Yes.

Q And showing 146. And this shows the best. Is this him again here, sir?

A Yes, that's him.

Q Showing you State's Exhibit 147. Is this another camera at the K-Mart store?
A It is.
Q And is Mark Bradberry in this picture also?
A Yes, he is.
Q Is this him right here?
A Yes.
Q And what does he appear to be shopping for, what you could tell, or what did he buy there?
A I believe he bought a pair of men's shorts, items -- items -- razors, toothpaste, items like that.
Q And we have that receipt, I believe.
A We do.
Q And is this him here, right here?
A Yeah. He actually has shorts in his hand, his left hand.
Q And that's Exhibit -- State's Exhibit 148.
A Yes.
Q Showing you State's Exhibit No. 49. Is this just another picture from that?
A It is.
Q Showing you State's Exhibit 50. Is he in this picture also?
A He is.
Q And is that him right there?

A Yes.
Q Showing State's Exhibit 152, which is another camera in the store. Do we see him in this picture?
A Yes.
Q And is this him right here?
A Yes, it is.
Q Is that the same shorts he had earlier?
A Correct.
Q Showing State's Exhibit 153. Is this him here also again?
A That is.
Q Showing State's Exhibit 154. Is this him again too going through the store?
A It is.
Q And showing State's 155. Is this him here again?
A Yes.
Q And showing State's 156. Is this Mark Bradberry leaving the K-Mart --
A It is.
Q -- with the items he purchased?
A Yes.
Q If you would, stand right there for a second.
Showing you State's Exhibit 115. Was these items that he bought from K-Mart there in Myrtle Beach?
A They are.

Q And you received this from K-Mart, is that right?
A I did, yes, sir.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit 115 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(Copy of receipt marked State's Exhibit No. 115.)
MR. BARNETTE: Permission to publish, Your Honor.
THE COURT: You may.
Q State's Exhibit 15 [sic]. Were these the items that he purchased from the K-Mart that day?
A It is.
Q And what was the date that he purchased it?
A October the 31st of 2014.
Q And what time did he purchase it?
A 10:31 a.m.
Q And what items did he buy?
A Looks like some toothpaste. I'm not sure what the second one is. Some razors, some saving cream and some shorts.
Q And it looks like he paid cash for them, is that right?
A Yes, cash.
Q Paid $18.37, I believe, is that right?
A Correct.

Q Please have a seat. Thank you, sir.
(Whereupon, the witness returned to the stand.)
Q Through your investigation did you also find out that he went to the post office in Myrtle Beach?
A Yes, we did.
Q And did he purchase a money order at that time?
A He did.
Q And he purchased a pre -- I guess a prestamped envelope.
A Yes.
Q And I know the jury's already seen these items, but was State's Exhibit 110 the envelope that he purchased?
A It is.
Q And is 112 a copy of the money order that he purchased?
A Yes, it is.
MR. BARNETTE: Your Honor, may I publish these to the jury?
Q Investigator Carter from the postal service got these items for you, is that -- or actually got the information about the money order, is that right?
A That's correct.
Q State's Exhibit 112. And he found out the time and date that that was taken out on October 31st, approximately, I think 12:56 p.m.

A Yes.
Q And then Ms. Kean, Brenda Kean, actually gave this envelope to y'all once she received the money order.
A That's correct.
Q And that's where you received that. But that was also purchased at the post office in Myrtle Beach.
A Yes.
Q And just for reference, State's Exhibit 6. Is this a map of the Pacolet Mills, South Carolina, specifically, I guess, Pacolet Mills area of Pacolet?
A It is.
Q And does this show the location of the victim's house?
A It does.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibit No. 6 into evidence.
MR. HALL: No objection.
(Map marked State's Exhibit No. 6.)
MR. BARNETTE: Permission to publish it to the jury, Your Honor.
THE COURT: You may.
Q State's Exhibit No. 6. Is this the Pacolet, specifically the Pacolet Mills, area here?
A It is.
Q And her house is where the location is right here where the dot is, is that right?

A That's correct.
Q And then right down the road from that's the post office, is that right?
A That's correct.
Q How far is Myrtle Beach from that area, do you know, approximately?
A I'm not exactly sure in miles, but probably close to three-and-a-half-or-four-hour drive.
MR. BARNETTE: One moment, Your Honor, please.
(Pause.)
Q Show you just two other maps here.
(Map marked State's Exhibit No. 6-A for Identification; map marked State's Exhibit No. 6-B for Identification.)
Q Let me show you here. It's a google map of 6-A, I guess, from [redacted] Montgomery Avenue to the Holiday Court area, [redacted] Holiday Court in Pacolet.
A Yes. It is.
Q Okay. And is this a map of from [redacted] Montgomery Avenue to the post office in Myrtle Beach?
A It is.
MR. BARNETTE: Your Honor, I'd like -- and these are State's Exhibit 6-A and 6-B. I'd like to enter those into evidence at this time.
MR. HALL: No objection.
THE COURT: They're admitted.

(Map marked State's Exhibit No. 6-A; map marked State's Exhibit No. 6-B.)

Q Showing you 6-A. Does this show approximately from [redacted] Montgomery Avenue to 120 or [redacted] Holiday Court?

A Yes.

Q And it shows the direction there.

A Yes, sir.

Q That's six miles from there, is that right?

A That's correct.

Q Showing you State's Exhibit 6-B. Is this the map from [redacted] Magnolia Avenue or Montgomery Avenue to the post office in Myrtle Beach?

A It is.

Q And is that approximately 216 miles?

A Yes.

Q If you take the shortest route.

A Yes.

Q I do want to return back to what I think is going to be 128, is going to be the exhibit I'm going to talk about. If you would, sir, come on down.

(Whereupon, the witness left the stand.)

MR. BARNETTE: Your Honor, permission to publish 128 into the jury.

THE COURT: You may.

Q Is this a letter to Brenda that he had wrote and left

in the car?
A Yes.
Q And page eight of it. If you would, read the second line -- the second line all the way down to the -- to the dot here if you would.
A Right down from right there to the dot?
Q Yes, sir.
A "By the way, if years ago when I told you I was molested, well, it was by my mom. That is why she always took care of me. I guess she felt guilty. I don't know. But she hated for you -- hated you for that or hated you for what I did to you. She is hateful, spiteful. She made you and McKenna cry for no reason, just to be mean."
Q Thank you, sir.

(Whereupon, the witness returned to the stand.)

MR. BARNETTE: One moment, Your Honor, please.

(Pause.)

Q And I'm not going to put on these, but the cut on the defendant's arm that was in the picture we saw earlier in State's Exhibit 141, did you also see that cut on his arm?
A I did.
Q And that was on November 3rd of 2014.
A Correct.
Q So this is several days afterwards.
A Yes.

Q And this location is in Spartanburg County.
A Yes.
Q If you would, please, answer any questions that are Mr. Hall may have for you, sir. Thank you.

CROSS-EXAMINATION

BY MR. HALL

Q All right. Let's start where he stopped -- the cut. You have no idea where it came from, do you?
A No, sir.
Q Now, all of this -- K-Mart, Flying J, post office -- that came from your investigation.
A That's correct.
Q Okay. Where did you get all of that information?
A The information in reference to the Bi-Lo was received from the search warrant that was executed on her bank account, assuming that her card had been used at the Bi-Lo. The other locations had been indicated by Mr. Bradberry when we interviewed him.
Q All right. Now, you said based on your investigation and your experience you thought it was a staged crime scene. Exactly what do you mean by that?
A Based off my experience and the scenes that I've been on and worked for robberies, the house was normally completely ransacked. Items of value were missing from the residence. Not -- that wasn't the case in this situation.

Q Okay. Have you ever in your experience worked a burglary where the burglar got scared off before he did a lot?
A I can't recall, really recall, any off the top of my head at this time.
Q Okay. Now, when you interview somebody like Mr. Bradberry who is a suspect do y'all video tape any of that?
A At the time we were not equipped to video tape.
Q When did you become equipped?
A Approximately a year ago.
Q Year ago. Do you know why they started or got that equipment?
MR. BARNETTE: Objection, Your Honor. Asks for speculation.
THE COURT: He asked if he knew. Overruled.
If you know, you can answer it. If you don't, you don't.
A About a year ago a T.V. show came down and videotaped an episode called "Justice on a Cold Case". And they -- they -- what's the word I'm looking for -- they gave that equipment to the sheriff's office to use in the interview room.
Q They donated it.
A Donated, correct.

Q Now, you reviewed the Bi-Lo pharmacy, I believe it was, video, which showed -- did it appear that he used a debit card there?
A Yes. It appears in the pharmacy he used a debit card.
Q Okay.
MR. HALL: Ask the Court's indulgence.
(Pause.)
MR. HALL: No further questions.
MR. BARNETTE: No further questions of this witness, Your Honor.
THE COURT: You may step down.
MR. BARNETTE: I would like to call Jennifer Bartman to the stand, please.
JENNIFER BARTMAN, having been first duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. BARNETTE
Q If you would, ma'am, please state your full name for the record.
A Jennifer Bartman.
Q And where do you work at, ma'am?
A I work at the South Carolina Law Enforcement Division, commonly known as SLED.
Q And what's your position there, ma'am?
A I'm a D.N.A. analyst in the D.N.A. casework department.

Q And how long have you been there, ma'am?
A Just over three and a half years.
Q And could you tell the jury and the Court a little bit about your training that you received for this position and what education you have, ma'am?
A I have a bachelor's decree in biology from Hope College in Michigan, and I also have a master's degree in forensic science with a concentration in forensic biology from Virginia Commonwealth university.

At SLED I also received approximately a year of on-the-job training with a court-qualified analyst in the proper techniques and procedures of the laboratory.
Q And have you received in-house training there at SLED also?
A Yes. I do. We are required to have at least eight hours of continuing education every year.
Q And how many times -- before you become a full-fledged on that, start your own analysis by yourself, how many practices do you do, or how many trainings?
A We do a lot of practicing. We do training samples. We do competency samples. There are many samples that we do before we're deemed competent to perform casework.
Q Do you have any idea how many you did?
A Hundreds probably.
Q And have you been qualified in state court as an

expert in D.N.A.?
A Yes, I have.
Q How many times have you been qualified in state court?
A Thirteen times.
MR. BARNETTE: Your Honor, I would move her as an expert in D.N.A. analysis at this point.
MR. HALL: No objection.
THE COURT: She is so qualified.
Q Ms. Bartman, did you receive some samples in this case?
A Yes, I did.
Q Let me hand up these. This one is State's Exhibit 8. State's Exhibit 7, State's Exhibit 5, State's Exhibits 3, 4, 2 and 1 from there. If you would, take a look at those and see if those are the items that you received, ma'am.
(Pause.)
A Yes, they are.
Q And was these items sealed once you received them, ma'am?
A Yes, they were.
Q And was you the one that opened them after -- after they were sealed and given to you?
A That's correct.
Q And did you do a report on your analysis?
A I did.

Q Let me show you what's been marked as State's Exhibit No. 9 in this case.
A Yes. This is my report for this case.
MR. BARNETTE: Your Honor, I'd like to move State's Exhibit No. 9 into evidence at this time.
MR. HALL: No objection.
THE COURT: It's admitted.
(SLED D.N.A. report marked State's Exhibit No. 9.)
MR. BARNETTE: Permission to publish it to the jury, Your Honor.
THE COURT: You may.
Q Basically, you received a blood standard from the victim, Connie Bataille, is that correct?
A That's correct.
Q And then there was a piece of used gum that was submitted as an exhibit, is that right?
A That's correct.
Q And did you receive three different swabs?
A Yes. I also received the swabs from the bedroom wall, from the bedroom floor and from Mark Bradberry's door.
Q The outside of the door, is that right?
A That's correct.
Q And you also received fingernail scrapings from the left and right hands of the victim.
A That's correct.

Q And you also got a buc -- buccal swab from Mark Bradberry where that was his D.N.A. sample.
A That's correct.
Q And you did analysis on those items, is that right, ma'am?
A That's correct.
Q Okay. The items on two, three and four, whose D.N.A. profile did they match?
A The D.N.A. profile of the victim.
Q Okay. In this case. And that was the piece of gum that was found.
A Yes. That would be the used gum from the foot area of the bed, the swabs to the bedroom wall by the fireplace and the swabs of the bedroom floor by the fireplace.
Q And they were one in 110 quadrillion match, is that right?
A That is a fact, yes.
Q And then you also got a D.N.A. profile from the swab that was on the bedroom door of Mark Bradberry, is that right?
A That's correct.
Q And who did that match?
A It matched the D.N.A. profile of Mark Bradberry.
Q And approximately what's the odds of that?
A The probability of randomly selecting an unrelated

individual having a D.N.A. profile matching that item is approximately one in 3.6 billion.

Q And how many people are in the world today?

A In the world there's approximately 7 billion.

Q So the odds of this is one out of 3.6 billion. This is a match to Mark Bradberry.

A Yes. That's correct.

Q As well as it's a match to Connie Bataille, the gum and two swabs found in the bedroom near the fireplace.

A That's correct.

Q And the fingernail scrapings was consistent with her D.N.A., is that right?

A That's correct.

MR. BARNETTE: If I can approach up there for a second.

Q Looking at State's Exhibit No. 5 which is already in evidence, swab from the bedroom door. Mark Bradberry had inventory No. 36, is that right, ma'am?

A That's correct.

Q If you would, please, answer any questions that Mr. Hall may have for you.

MR. HALL: No questions of this witness, Your Honor.

THE COURT: You may step down.

MR. BARNETTE: May this witness be excused, Your Honor?

THE COURT: She may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: May we approach for one second?

THE COURT: Yes.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

MR. BARNETTE: Your Honor, Dr. Wren will be our next witness, and he's supposedly on his way. We were shooting for 3:15.

THE COURT: All right. Let me ask the jury to please go to your jury room.

Don't discuss the case. We'll bring you back just as soon as the witness arrives.

(The following takes place outside the presence of the jury.)

THE COURT: Let me see y'all just a minute.

(Bench conference held off the record.)

THE COURT: We will be at ease while we wait for the witness.

(Whereupon, a recess was taken for a bomb threat at the courthouse. No further proceedings on the record this date.)

END OF PROCEEDINGS JUNE 21, 2016

(Proceedings June 22, 2016)

(The following takes place outside the presence of the jury.)

THE COURT: Bring the jury in, please.

(The following takes place in the presence of the jury.)

THE COURT: Good morning, ladies and gentlemen.

I apologize for the delay in having you brought in, but there was a miscommunication, and you were provided with the wrong start time this morning. You were told to come at 9:00. It should have been 9:30 because everybody wasn't available that we needed before 9:30. So I do apologize for that delay. But we are ready now to continue with the state's presentation of evidence.

Mr. Barnette.

MR. BARNETTE: May it please the Court, Your Honor. I'd like to call Dr. Wren to the stand, please.

DR. JOHN DAVID WREN, having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BARNETTE

Q If you would, Dr. Wren, state your full name for the record, please.

A John David Wren.

Q And where do you work at, sir?

A I'm employed by Carolinas Pathology Group, and I work

at Spartanburg Regional Medical Center. I'm the laboratory medical director of the hospital there, hospital for restorative care and at North Grove Medical Center.

Q And how long have you been a medical doctor, sir?

A I got my M.D. degree in -- I think it was June, late May or early June, of 1979.

Q And how long have you performed autopsies, sir?

A I did some autopsies when I was a junior in medical school, so that started in about summer of 1977. So I've been doing them for thirty-eight or nine years.

Q How many autopsies have you done, Doctor?

A Well over 5,000.

Q And how many times have you been qualified as a forensic pathologist, sir?

A Probably close to 500 by now.

MR. HALL: Your Honor, we will stipulate to his qualifications. I'm well aware of his --

MR. BARNETTE: Your Honor, we'd just ask the Court to find him qualified as a forensic pathologist.

THE COURT: All right. He is so qualified.

Q Dr. Wren, was you asked to do an autopsy on Connie Bataille in this case?

A Yes. I did. I did the autopsy on November 3rd of 2014. I began at approximately 4:20 p.m. at the Spartanburg Medical Center Autopsy Room.

Q And observing her body and everything, did it appear that she had had some decomposition from -- for a period of time?
A Yes. She -- decomposition sort of depends on the environmental temperature, as well as the surroundings, of course.
She did have marbling which usually starts about three days after one dies, which is the blood vessels in the skin start leaking a considerable amount of blood. And you can see the outlines of the vessels as dark lines over the body.
Q So her decomposition would be consistent with four or five or six days of being dead, is that correct?
A Depending on the temperature, yes.
Q And in doing the autopsy and everything did you do a chart showing the wounds on the victim in this case?
A Yes. These are two of the diagrams I did.
MR. BARNETTE: Your Honor, I'd like move these into evidence as State's Exhibit 160.
MR. HALL: No objection.
(Diagram marked State's Exhibit No. 160.)
MR. BARNETTE: May I publish it to the jury, Your Honor?
THE COURT: You may.
Q Dr. Wren, would you describe the type of wounds that

the victim had in this case?

A First let me tell you the medical terms for a stab wound, of course, is what everybody knows of what a stab wound is. A stab is just a -- just like a sharp pointed object going into the skin and coming back out.

It can be in and out, meaning that as it goes in it makes one track. As it comes out it might -- the knife or the body may twist somewhat, and you can see it. As it comes out, it comes out in a little different direction. Those are stab wounds.

The -- an incized wound medically means a wound that is made with a cutting edge of a knife or some object like that.

And then a laceration is basically a torn piece of skin or tissue that is done by either stretching or an irregular jagged object going in, where when you look down into the wound you can see tissue bridging between the two sides of the wound because it's an incomplete incision. An incision has a straight -- borders on the sides, and there's no tissue bridging between the two at all.

So she had considerable lacerations to her head, and she had stab wounds to her right chest as shown in the right back and shoulder region.

I might add that the reason I didn't go to medical school until I was a little bit older is because I can't

draw very well, and you was supposed to be able to draw when you went to medical school. So I didn't go until they dropped those requirements.

Q Dr. Wren, if you could, could you describe the wounds -- I guess you have another diagram here. Maybe better do it this way.

A No. The head wounds are -- there were considerable head wounds. Starting with the major wounds there were four our five lacerations to the scalp.

Q There you go, Dr. Wren. If you want to, use that laser pointer.

A To the scalp that exposed through that area. There were fractures, a large gaping fracture of the skull in this area. And you can tell -- one can tell that there's more than one because as -- let's say we've got one blow. You would have a fracture line.

Now, if you get another blow you have an intercepting fracture line from the other direction if it happens to be in the other direction. But you will have intercepting lines of fracture.

These had at least four separate areas, along with a stab type wound in the middle of it. But there were four or five lacerations here that intercepted and looked similar to that.

Now, the dark area is the open wound itself.

Then the fracture here and there would cover at least two, even if you had a large flat object that hit this and broke it like an eggshell fracture. But I counted four lacerations and the little stab wound here that did not go into the scalp -- skull itself.

And then over the eye in the right side there was another one, a gaping laceration that had irregular edges and then -- see what I wrote down.

(Pause.)

A And this is an abrasion, as well as these are abrasions where the skull actually stretched the skin and caused an abrasion, which is like as you stretch the skin, it's like falling against an object. And you will have abrasions. And some of that was decomposition effect too.

Beginning at the corner of her right mouth and extending almost to the ear was a large gaping laceration or rather an incised type laceration that was ten centimeters in length and undermined inferiorly to five centimeters. Ten centimeters is about four inches and five centimeters is a little over two inches.

So this wound was lacerated and incised along this border, clean border, on this side. And it was -- it was undermined inferiorly toward the side of her neck.

There was a sharp edge at the corner of her mouth, and then it trailed off as the weapon came out through that

area. And it gaped open to about an inch or more.

Those were the -- and I need to add that in her hair there was brain tissue had come out of the skull and actually out of the wound and came into her hair. So I felt like there were at least four, possibly five, blows to the head, and then some abrasions to the scalp.

The eye was completely recessed in the socket, the right one, from fractures at the base of the skull. And then the abrasions and lacerations.

Those were the main wounds she had on her head and on her head above her -- the angle of her jaw.

Q Go back to page one here. Can you describe the wounds to the body, sir, if you could?

A Okay. The major wound, I consider the major wound, was a stab and incised wound to the neck that started just to the right of -- left of midline that went all the way up to the back into the hair at the back of the neck.

And it had irregular borders, some from drying and decomposition. But I think in my opinion there was some hesitation type marks that where a person pulls the knife across there, and then they redirect it or either move it again.

With the decomposition it was kind of hard to tell, but that wound was 17 and a half inches in length and up to seven centimeters in width. It was over almost three

inches in width.

It extended into the trachea and cut the carotid artery, which is the main artery on the right side to the neck -- to the head.

It cut the jugular vein, internal jugular vein, that takes blood out of the brain and takes it back to the heart. And the vagus nerve, which is the main nerve that comes out of the -- the base of the brain and actually goes all the way down into the abdomen doing various functions in the body. There are two vagus nerves, so you can do without one. In fact, you can do without the vagus nerve if -- if it's below the diaphram.

They cut the vagus nerve or branches of the vagus nerve during ulcer surgery to keep from producing acid, which is one of its main functions.

This was -- actually went all the way to the spinal column, an extremely deep wound, almost like one you would see with the terrorists in the Mid East, although it wasn't all the way across, and it didn't go through the base of the -- through the vertebral spine.

Then she had three stab wounds in the chest over on the right side. Two of them went into the chest cavity and caused a small hemothorax as it was bleeding. It went into the lung itself causing bleeding. And let's see how much blood was in there.

(Pause.)

A She only had 175 ccs, which is not very much blood, meaning that she probably passed -- passed away before she had a chance to bleed very much, although the wounds were superficial in the lung, so wouldn't have bled very much or very fast at all.

Then she had three stab wounds in the upper -- upper shoulder, and I think six more in the back. They were variously directed, as you can see, and they have a sharp edge, a definitely sharp edge, on one end and a blunt edge on some of those that I could tell. Some of the others, I could not tell exactly whether it was a single edge or a double edge blade, but by inference they were probably all double edge blades.

The blade itself was about a tenth of a centimeter, which is about a millimeter in width, at the -- on the blunt side.

The deepest wound I could find and measure because of the decomposition was 4.75 centimeters in depth, meaning that that's almost two inches went into the body without a hilt mark, which the hilt mark is where the handles would go in, and it widens out -- of course everyone knows -- and if it hits the skin it usually causes an abrasion or a mark you can tell is a hilt mart. I could not find any hilt marks, which may have been -- so it meant that the blade

was at least two inches in length.

Now, some of the wounds in the back actually hit bone and so didn't cause much injury. And none of them in the back went through the chest, through into the pleural cavity around the lungs. So these were -- although she probably bled some from them, they were -- probably didn't cause her death.

The blows to the head were probably, that along with the deep incised laceration was -- probably happened after the blows to the head, although I couldn't tell for sure.

And then I forgot to mention. There was a stab wound in the left neck, which was very superficial. But it was definitely a stab wound in that area. Went on in about half an inch probably.

So those were the injuries she had. No -- no defense wounds to her hands, meaning that she didn't put her hands up to protect herself, or her arms. All of the injuries were either to the back, a shoulder or the chest on the right side and to the head.

Q And so the cause of death was, obviously, the wounds that was caused to the neck and the head from the stab wounds, is that correct, Doctor?

A Yes. Once they start decomposing it's a little hard to tell. And I didn't go to the scene, so I don't know how much blood was around. So I actually assigned the cause of

death as multiple stabbing and incised wound with blunt force trauma to the head with open skull fractures.

Q Thank you, Dr. Wren. Answer any questions for Mr. Hall.

MR. HALL: Your Honor, the defense has no questions.

THE COURT: You may step down. Thank you.

MR. BARNETTE: We'd ask the witness be excused, Your Honor.

THE COURT: He may be.

(Whereupon, the witness was excused.)

MR. BARNETTE: Your Honor, the state -- allow me to check on something, and I can tell the Court about my next possible witness or rest at that point if I can check.

THE COURT: Okay.

(Pause.)

MR. BARNETTE: Your Honor, the state would rest at this time. We'll just check on one piece of evidence to make sure it was entered. We want to make sure about that.

THE COURT: Well, that's Exhibit 12?

MR. BARNETTE: Exhibits 144, 145 and 146.

THE COURT: Oh.

MR. BARNETTE: It was the K-Mart photos. And I believe I entered those in as a packet off the video.

THE COURT: Well, there's no objection, is there?

MR. HALL: I don't think, no, sir. I don't -- I think

they were offered.

THE COURT: All right.

(Photographs marked State's Exhibits Nos. 144, 145 and 146.)

MR. BARNETTE: The state would rest then, Your Honor.

THE COURT: Okay. Ladies and gentlemen, that is all of the testimony or evidence to be offered by the state, at least in their case in chief.

Before we go further I've got a couple of legal matters I'll need to address. Shouldn't take but a few minutes. Then I'll bring you back to continue with the trial.

So please go to your jury room, but don't yet discuss the case.

(The following takes place outside the presence of the jury.)

THE COURT: Any motions or other matters to address?

MR. HALL: Your Honor, we're -- at this point we make the usual motion for a directed verdict. There's not sufficient evidence to submit the case to the jury. It's a circumstantial case against my client. No direct evidence.

THE COURT: All right. Well, based upon my remembrance of the evidence that has been presented, I do find that there is substantial circumstantial evidence, as well as some direct evidence, of the defendant's commission

of the crime as alleged. And there is evidence to support each of the essential elements; and therefore your motion for a directed verdict is denied as to each of the counts in each of the indictments.

Have you talked to Mr. Bradberry about his right to testify, or not?

MR. HALL: Yes, sir. We have addressed that.

He indicated he will probably testify but would want to speak with me again before that final decision was made. We spoke this morning, and the last thing he said was I will get a chance to speak with you before I have to make the final decision. And I said I thought that would be allowed.

THE COURT: Okay. Mr. Bradberry, you've heard Mr. Hall tell me that you and he discussed your right to testify, as well as not testify. Is that true?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Do you understand when you're charged with a crime, as you are now, you have an absolute right to remain silent?

Nobody can make you take the witness stand and testify. Nobody can make you make any statement. Nobody can require that you answer any questions that relate to these charges, certainly not any questions that might tend to prove your own guilt.

You always have an absolute right to remain silent, and that includes the trial of the case. You can't be required to testify during the trial. You can't be called by your lawyer, by the prosecutor, even by the Court. It's your decision as to whether or not you will testify.

If you choose not to testify I will instruct the jury again, as I already have, that they can't hold that against you. They can't consider it in any way. They can't allow that fact to influence their decision on whether or not the evidence in the case supports a verdict of guilty beyond a reasonable doubt.

In the event that you make a decision to testify, when you do testify you have to answer all of the questions that are asked of you not only by your lawyer but by the prosecutor to the extent that they're relevant even if the responses to those questions might tend to prove you guilty.

Have you and Mr. Hall discussed the advantages and disadvantages of your testifying, as well as your not testifying?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And do you appreciate what those advantages and disadvantages are?

THE DEFENDANT: Yes, sir, Your Honor.

THE COURT: And do you wish to discuss your decision

with your lawyer further before we go forward?

THE DEFENDANT: Yes, Your Honor.

THE COURT: All right. We'll take ten minutes. You discuss it with your lawyer. We'll come back.

(Whereupon, a recess was taken.)

THE COURT: Mr. Hall, have you talked with Mr. Bradberry about his decision?

MR. HALL: Yes, I did, Your Honor.

THE COURT: Has he indicated he has one?

MR. HALL: Yes, sir, he has.

THE COURT: What has he indicated?

MR. HALL: He indicates that he would like to testify, Your Honor.

THE COURT: Okay. Mr. Bradberry, you've heard your lawyer tell me you made a decision. You and he have discussed it and you've decided you do wish to testify?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Is that true?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Is that a decision that you've made of your own free will and accord?

THE DEFENDANT: Yes, Your Honor.

THE COURT: You're satisfied with it?

THE DEFENDANT: Yes, Your Honor.

THE COURT: And you understand the consequences of it?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay. Bring the jury in, please.

(The following takes place in the presence of the jury.)

THE COURT: All right. As you know, the state has rested, so we'll continue with any additional evidence to be offered by the defense.

Mr. Hall.

MR. HALL: May it please the Court, Your Honor. The state -- excuse me -- the defense calls Mark Allen Bradberry.

MARK ALLEN BRADBERRY, SR., having been first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HALL

Q All right. Mr. Bradberry, if you will, give the court reporter your full name.

A Mark Allen Bradberry, Sr.

Q Okay. And you're the person we've been hearing a lot about here today.

A Yes, sir.

Q And it's your mother who we -- the doctor just testified about her autopsy.

A Yes, sir.

Q And at the time of her passing did you live with her?

A Yes, sir.

Q And where was that?
A At [redacted] Montgomery Avenue in Pacolet Mills.
Q And at that time you were how old?
A Forty-nine.
Q Okay. How long had you been living with your mother at this point?
A About a year this time.
Q Okay. And do you remember what happened on, I think it was, the 29th, 30th of October of 2014?
A Yeah, mostly.
Q Start with the 29th, that afternoon or evening.
A I was over at my friend's house -- Brenda. I'd been over there watching our child and putting up some Halloween decorations. And we made plans, because working with her schedule that weekend where I needed to be there and all for, you know, to watch McKenna and after that --
Q And McKenna is your daughter?
A Yes, sir.
A'ter that I went home and took my mom. She was playing her solitaire on her computer, watching T.V. like she always does. And we talked and discussed stuff, and she -- she said Bi-Lo called and had -- they call when your medicine's ready. And she had give me the debit card to get my medicine the next day, which she does most all of the time, because I don't -- I don't have no bank, no way

to write a check or nothing. She -- I always let her have my money, so just used her card when I gotta buy stuff like that.

And then I don't know if I worked on the porch that morning -- that afternoon or not, but I usually work on the front porch scraping -- scrap, getting metal out of pieces and copper out of T.V.s and things. And other than I just stayed in my room and was drinking some beer and watching movies. Then I left.

Q Okay. Did you have beer at the house already?

A I brought it home with me.

Q You brought it home with you.

And you scrap things on the front porch.

A Yeah. I'll ride around like in the alleyways in Pacolet there and just find old T.V.s and things like that -- lamps, something I can get copper or wires out of to sell.

Q Okay. Do you drink beer on the porch or --

A I do when I'm working or -- and in my room.

Q This evening did you drink on the porch or in the house, or where?

A I don't recall, but mostly I would. I'd probably go out there and smoke a cigarette. We didn't like to smoke in the house too much.

Q And you said you left.

A Yes, sir. I left for a little while and come back and drank a little bit and watched some more movies.
Q Okay. Do you know what time it was that you left?
A No, sir. I didn't really pay attention. It might have been -- I don't know. It was at'er dark.
Q Why did you leave?
A I went to go find some marijuana.
Q You smoke marijuana too.
A Yes, sir.
Q And why do you smoke marijuana?
A It helps with my pain. I got a lot of pain from different things.
Q Such as?
A Arthritis. I got all of my bulging discs. I's getting epidural shots once a month and taking pain medicine that I didn't really like to take that, but it helped. And marijuana would help with all of that.
Q Did you find any marijuana?
A No, sir.
Q How long were you gone, do you know?
A I'd estimate at least two hours maybe.
Q Where did you go to find marijuana?
A I went to several different places. I went over by the apartment complex there in Pacolet by the elementary school. I don't know the name of it. That guy wasn't

there. And I rode around the back way and went up to Travel Lodge on Business 85. That guy there, he didn't have any, or said he didn't. I don't know. And I rode up to Boiling Springs, and the house I went to, nobody was in it at that time.

Q Are those the places you usually buy marijuana?

A Yes. I have in the past.

Q Okay. All right. When you got back did you notice anything wrong or different?

A I got -- I's sitting in my room drinking some beer, and when I had to go out on the front porch. I keep my empty cans out there to where I squoosh them.

The -- the metal part of the door where the door shuts, the threshold thing, I like stepped on it. It was between the wood door and the glass door. And I kicked it, and I seen, you know, that wasn't supposed to be like that.

Q Okay. What metal part of the door are you talking about?

A It's where the hasp thing goes in. I don't know what you call it.

Q Talking about the thing that's on the frame of the door?

A Yeah.

Q Where the latch, the --

A Yes.

Q So is there a storm door or a screen door --
A Yeah.
Q -- on the front door?
A Yes.
Q All right. Did you leave once or twice?
A Twice.
Q Twice. Okay.
A So that was the second time I came back.
Q Second time. Let's go to the -- when you got back the first time.
A Okay.
Q Anything unusual?
A No, nothing unusual. I stayed home, you know. I don't know how long -- 30 or 45 minutes -- and took off again.
Q Where was your mother?
A I assume she was in her room. She don't go nowhere at night. She goes and lays down early, about 8:00, and watches T.V. and passes out on the bed.
Q And goes to sleep.
A Yes.
Q When she goes to her room does she close the door?
A Yes.
Q But you got back. Her door is closed.
A Yes.

Q Could you hear her T.V.?
A I'm sure I did because you could always hear it.
Q Okay. How long did you stay?
A Probably about 30 or 45 minutes, something like that. Not long.
Q Why did you leave again?
A I went back to check to see if I could get ahold of anybody, just give me something to do to get out of the house a few minutes too. Looking for some more marijuana.
Q Looking for marijuana. Okay. How long were you gone this time?
A It was about the same amount. I went through the same -- well, not all the way the same. I didn't go all the way to Boiling Springs because that house was empty. So probably cut it back about 30 minutes. Probably an hour and a half, hour 45.
Q Now, when you come back to your house or leave your house -- you've seen the diagram. Which -- which door do you go to?
A I go to that back door.
Q Back door.
A That's the door everybody uses where the cars are parked.
Q And the second time you'd gone out looking for marijuana, you come back. Did you go back in the house

from the back door?
A Yes, sir.
Q What did you do, walk in the house?
A Yeah. I just came in and went right down the hallway where -- to -- my room is back down the hallway on the right.
Q Uh-huh.
A And then I went out on the porch, and that's when I seen the hasp was there, or whatever that metal piece, the latch thing.
Q And that's a strike plate.
A Okay.
Q Did you go in your room first, or straight out?
A I stopped in my room first to get the light on and T.V. going and stuff like that.
Q So when you come out of your room to go to the porch, what do you do?
A What you mean, how, when I saw it?
Q Yeah, no. When you walked out of your room, you're going to go on the porch. You turned to the left, right or --
A Oh, I come out of my room, turn right. It's right there. The door is right there.
Q Door is right there. And you say you go out there. Do you leave your beer on the porch?

A Yeah. I keep it in a cooler.
Q Why don't you just put beer in the refrigerator?
A It's not that cold in the refrigerator. It stayed colder there and it's closer to my room.
Q Okay. And is that when you found the strike plate?
A Yes, sir.
Q Anything else unusual you saw?
A Not at that time, not on the front. I just knowed that wasn't supposed to be there.
Q What happened after that?
A I -- I saw the strike plate there and, you know, I was kind of confused why it would be there. So I come back in, the only other way to do.

I had to open my mom's door, and she was laying there all bloody on the bed, and I didn't know what to do. I -- I -- I didn't know what to do. I just stood there for a while. I could see her feet was hanging out, and I touched it and it was cold.

I just -- I knowed she was dead. I mean, I didn't know what to do because I was -- I don't know. I was, as you say, shock, panicking. I don't know, and been drinking too. And I was still mourning where my son had got killed a few years before that. And just me and him was home alone and --

MR. BARNETTE: Your Honor, I'm going to object to

this.

May we approach the bench for a second?

THE COURT: Okay.

(Bench conference held off the record in the presence of the jury but out of the hearing of the jury.)

Q Let's stay away from the son. Just tell what you were experiencing that night.

A Oh, just panic attack and couldn't think of what to do. So I just stayed in there, and I guess just stayed there looking around in the room for a while and --

Q Looking for something?

A I was trying to look and see what we would be missing, but I really couldn't tell what was gone. There was stuff all over the place.

Q Now, you've seen the pictures and the discovery and what's presented here.

A Yes, sir.

Q Is that the way the room looked?

A Yes, sir.

Q When you looked in the room were the bank statements and whatever on top of the bed?

A I didn't know it was bank statements. I just saw paper.

Q Well, saw the paper on top.

A Right.

Q Now, at -- during this evening did you already have that debit card?
A Yes, sir. I got it when I came home. I usually just come in and sit down on the little love seat while she sits at her chair and plays her solitaire and watches the news and whatever is on.
Q All right. So do you know how long you were in her room?
A Later that night? Probably -- I don't know. Probably a couple of hours or so. It was a pretty good while.
Q You stood there with your mother, you said you believed was dead --
A Yes, sir.
Q -- for a couple of hours.
A Yes, sir.
Q You had telephones, didn't you?
A Yes, sir.
Q Why didn't you call 9-1-1?
A I don't even know. I -- I just from my experience, just watching like T.V. shows and things of that nature, and I had a little bit of -- I don't know. I just know that whoever calls first, they usually use them for a suspect or whatever. So I did wrong doing that and I'm still a suspect.
Q How much had you drank?

A A lot. I bought a box of Busch Ice beers and --
Q Hold on. What's a box?
A I think it was 12 or 18. I don't know how many I bought.
Q Okay. Had you drank most of that 12 or 18?
A Yes, sir. And I had a little bit of wine.
Q All right. You say you're panicking, thought you would be accused, and you didn't call 9-1-1. What did you do?
A I just stayed there, and then the next morning I knew Brenda'd be going for work early. So I went over to her house, and then I stayed there a little while and went up to Bi-Los and got my medicine.

I don't know. I just still didn't know exactly what -- what I should do. I knew it wasn't probably the right thing at that time. But I went and got my medicine and come back. And I was trying to decide, because I'd done -- I'd tried before. But I was wondering. I just had lost everything, you know, and all the death in my family.

And I just wanted to commit suicide. So I decided I didn't want nobody to find me. So I was going to go to the beach and kill myself at the beach, because that's the last place I was at with my son before he got killed.
Q And did you take some jewelry from the house and pawn it?

A Yes, sir, I took my jewelry. I have had it for years, and I took it to the pawn shop. I'd been to the pawn shop there before.
Q Now, you seen the jewelry that was put into evidence that was recovered.
A Yes, sir.
Q Mr. Tobias -- you pawned. Is that what you're talking about?
A Yes, sir.
Q Now, the state -- this earrings and rings appear to be women's rings.
A Yes, sir.
Q Okay. Why do you have women's jewelry?
A My mama had give it to me years ago. It was her grandma's, most of it. I mean, it was my grandmother's. She passed away.
Q And that's what you pawned, was your property.
A Yes, sir.
Q Okay. So you'd gone to Bi-Lo. You went to Bi-Lo in Brenda's Buick.
A Yes, sir.
Q And where did you go after Bi-Lo?
A Back to Brenda's.
Q Okay. Is that when --
A That's when I decided I -- you know, I'd been thinking

about it, and I just had -- you know, and I'm feeling I had lost everything that -- you know, I don't know. I mean, me and mama was close forever. I mean, I always lived with her sometime, another, in my life. I don't know. I just didn't want to live any longer. And I didn't want to be found over there at Brenda's with McKenna, or I didn't know what to do. So that's why I went and got my mom's car and took -- took it to the beach.

Q Why did you take your mom's car and not the Buick you were driving?

A Well, the Buick, it's just a little around -- around-town car there. It's -- you wouldn't want to drive it that far.

Q You didn't think the Buick would make it to the beach?

A No.

Q So you decided to take your mother's car because it was a better car, a newer car?

A Yes, sir.

Q Did you have an idea how you were going to commit suicide?

A Well, I was just going to go out in the ocean and dive off the pier there or something like that. Or I had went up to the top floor of the motel, and I just couldn't do it.

Q You just decided not to?

A Yes, sir.
Q All right. Well, when you decided that you weren't going to end your life at the beach -- at what point did you decide you were not going to commit suicide?
A A few times. I -- I went there a few times over the period I was there, I think, three days maybe. And I just couldn't do it. I didn't know what else to do.
Q Are you talking in the water or from the building?
A The building. I just went on that dock one time and just --
Q Okay. How many times did you go up in the building?
A About four or five times.
Q Do you remember how many stories the hotel was?
A Eight.
Q Eight stories.
A I think it's eight.
Q At any point during this had it occurred to you that maybe I ought to call 9-1-1 and let them know what happened?
A Yes, sir. And I don't know why I didn't, because I figured by then I'd -- you know, I'd just be in more trouble. So I think, well, I'll just kill myself, it ain't going to matter now anyways. And then I couldn't do it, so I come back to Pacolet.
Q What were you going to do when you came back?

A I generally just -- I was going to get in touch with somebody and, you know, go back home. But when I got back close to the house I seen an ambulance there, and I went. I turned around and went the other way.

Q Okay. Where did you go?

A I rode down through the countryside there. Just from our house you can just go like a mile or so and be on Jerusalem Road, and right there is Union County. And there's just some woods off of -- I don't know -- the side road off Jerusalem -- the name of it. I just went down there to the woods and stayed down there.

Q And this is a day before you were arrested or --

A Yes. This was that Sunday.

Q Sunday. Okay. All right. And drove into Union County in some woods. And what happened?

A Just stayed there all night. Then I left out the next morning and went to Pauline to my friend's house, Mr. Keeler.

Got out and knocked on his door, but he didn't come to the door. So I went back down there and got my car and moved it back around by his shed. That's where his brother usually parks his truck right there. And I had a bunch of pills I had. They was my prescription, so I just took them all, whatever I had at the car.

Q What kind of pills?

A Sir?
Q What kind of pills did you have?
A Klonopins. And took I some blood pressure medicine and some diabetes medicine.
Q Now, Klonopin. What's that?
A I think it's some type of sedative for anxiety and depression and things like that.
Q Okay. Do you know how many of those you took?
A It was a hand full of all of the pills. I'd say about 30.
Q Okay. After you took the pills, what happened?
A I don't know. Passed out.
Q All right. What's the next thing you remember?
A Being over at the -- the county detention center, at the jail.
Q Do you know what day that was?
A At first I didn't. I was like I was coming to. I don't know. But I was coming into -- into the pod. They got different pods there, and you go in a little room and watch a video about something for the jail. And I found out later it was -- I think it was Wednesday afternoon late. I'm pretty sure. I's -- I was there a couple of days.
Q All right. Now, the neighborhood you lived with your mother --

A Yes, sir.
Q -- tell the jury about that.
A What --
Q What kind of neighborhood was it?
A It's just a mill -- mill houses, like on a mill hill, Pacolet Mills. And just I live right on the 150, on the main drag. It's Montgomery Avenue. But to get to the house you gotta go around the post office and come down this little tiny alley and park in the alleyway. And they're all about set up like that over by -- beside of the mill hill and across the river.
Q So it's a pretty typical mill village with alleys behind on slopes?
A Uh-huh, yeah, it's like, uh-huh.
Q Okay. And I believe from the pictures it was clear. The front of the house is much higher than the street.
A Oh, yeah, yeah. You just a thing, and then you get some steps over there in between two houses. And you can go down to the sidewalk.
Q Is there much foot traffic, people moving, milling around?
A Yeah. There's a pretty -- good amount of people moving. After school the kids move, and then all during the day and nights and all the -- you see all kind of people out walking dogs and just people you don't know

walking around.

Q You ever have people around, hanging around the house, in the evening or anything?

A Yes, sir. One -- one evening me and my mother was in the house. I's in the kitchen. I don't know what we were doing exactly.

But we have a motion detector on the back, and it came on. So I walked out the book door and looked around. And our neighbor lady, Ms. Hazel next door, has a privacy fence there. And I can see somebody ducked behind there, and they had a shadow there.

I asked him what he was doing, and he said he was waiting on somebody. And I told him you're not going to be waiting on them here.

So I went in and had my mom call the police. And I think Officer Bishop had come out. And they looked for him but couldn't find him.

And one night -- I think it was like in the wintertime, the last winter there -- I'd come out about 1:00 in the morning on the porch and smoked me a cigarette. And there was somebody on her front steps, right at the front porch on the outside of the screen. And I said, hey, you know, what's going on. I don't recall what he said, but I told him he needed to leave because I was going to go call the police.

And I went and got the phone and come back out and he was gone. And I heard the dogs barking on the alley part of the house. And I found out later he'd went through that part of the yard in between our house and Hazel's. And we have a small wooden fence about this high, and you could see where he put his hand up on the wall of the house. His handprint's still there where he broke that fence down. I never did know who that guy was.

Q Okay.

A And my mom's car broke -- broke into one time, but I don't know what they got.

Q All right. Pretty typical small mill village.

A Yeah. The house behind us got broke into and they -- I don't know what they did in that house.

Q Mark, did you cause any of the injuries to your mother that we heard about today?

A No, sir.

Q All right. Now, I'm sure people will want to know. You come in and find your mother like that. Tell us again. Why didn't you call 9-1-1 that night, the next day, the day after, or the day after?

A I don't know. I was just scared just from finding -- just from finding her that way. I didn't know what to do. Confused, scared.

Q Now --

A I don't know.
Q You heard -- you told the jury a little while ago how your mother was important to you. But in that letter that you wrote, I think to Brenda, you talked about her being bad, mean. Which is it?
A Well, just depend on what was going on. Maybe not all of that but -- all of that bad-bad -- but just depends on what she would say or something like that.
Q Okay. When things were going bad for you, you had no place to go, where did you go?
A Back to Brenda's.
Q I'm talking if you're with Brenda --
MR. BARNETTE: Objection, Your Honor. Leading the witness.
THE COURT: Sustained.
Q If you had -- could not be with Brenda, where would you go?
A Oh, I'd go to my mom's, you mean? Or I don't know what you mean, what house I was at or --
Q If -- now, you've been married before. You've got children.
A Oh, yeah, uh-huh.
Q All right. Times if -- when your marriage broke up.
A Oh, I'd be back at my mom's. I stayed there in and out my whole life with her. She moved to Arizona one time.

I moved out there to be with her.
Q Okay. And as far as your finances was scrapping your --
A That's all I was doing at the time, and some yard work.
Q Okay. Get paid in cash?
A Yeah. A little bit.
Q Did you deposit your money into an account?
A If I had enough to save up a little bit I'd give it to my mom to put up.
Q Put it in her account?
A Yes. She put it in there. Or if she used it, she would leave money in there that she already had or whatever.
Q And you used her debit card quite often?
A Mainly off my medicine, and sometimes I'd go to the Bi-Los at Cedar Springs and get her medicine for her if she didn't feel like going. And she'd send me on grocery store runs sometimes.
Q But you used her account like it was yours.
A Just when she asked me to go buy her stuff.
Q But if you were going to purchase your prescription --
A Oh, yeah. I'd use her card.
Q Used her card. Okay.
MR. HALL: Beg the Court's indulgence.

(Pause.)
Q Please answer any questions Mr. Barnette has.
MR. BARNETTE: May it please the Court, Your Honor.
THE COURT: Mr. Barnette.
CROSS-EXAMINATION
BY MR. BARNETTE
Q So your mother let you use the debit card and put in the account and everything like that, is that right?
A I'd give her my money. And if she didn't put it in her account she would use the money that she already had in there and just keep the cash for whatever purpose.
Q Let me ask you a question. Why is your brother on the account and you're not?
A I have no idea. I didn't know he was on the account. His name is not on the card. She never told me he was on the account.
Q He was on the account there.
A Yeah. I didn't that until yesterday or whatever day you showed me that paper.
Q Okay. And in this neighborhood you'd had some people around the house.
A Yes, sir.
Q You'd called the police on them and things like that.
A Yes, sir.
Q Well, you told the jury just a little bit ago you came

home one, of the trips back, and you saw the front door with the plate in the floor.
A Yes, sir.
Q You go in the house and you back out and get marijuana or try to get marijuana after that.
A No. I saw the plate on the second time I came home.
Q No. You said something was wrong with the front door. I heard you when you testified to him that you said something was wrong with the front door. Why didn't you call the police then or check on your mom at that point?
A I checked on my mom as soon as I saw it.
Q Well, isn't it true this is broke off from the inside of the house, not the outside of the house? Wasn't it?
A I have no idea how it was broken.
Q Well, how --
A I mean, there's scratches out there on the front door.
Q Yeah. But the thing was broke from the inside. You've seen the pictures.
A I don't know.
Q Somebody tried to scratch it to make it look like somebody was trying to break in from the outside, but actually the doorjamber, the part you're talking about, was broke in from the inside.
A I don't know. I don't know how it got broke.
Q Okay. You keep talking about these T.V. shows you

keep watching and everything.
A Usually movies.
Q Movies and stuff. You watched crime movies or shows and movies and everything, is that right?
A Just what I get D.V.D.s at the library. We didn't have no cable or nothing.
Q Your mom watched T.V.
A Yeah. We had antenna, like the digital antenna.
Q Well, yeah. So you could watch Channel 3, Channel 7, Channel 13.
A Oh, yeah. I could get some news or something.
Q Well, you can get T.V. shows on that. You're trying to tell this jury you can't get T.V. shows on those channels?
A Well, yeah. But I didn't -- I watched movies all the time. I'd watched T.V., regular cable, if I's at Brenda's. She had satellite over there.
Q Oh, so you be over at Brenda's. Brenda's is where you went when you got in trouble or whenever you had a situation, isn't that right?
A No. I went there every day to see my daughter and help take care of her.
Q Well, you didn't go to take care of her on the Thursday night, did you?
A Not Thursday.

Q You didn't go take care of her Friday night, did you?
A No.
Q Didn't go take care of her Saturday night, did you?
A No.
Q You didn't call anybody, did you?
A No.
Q You didn't call the police when you thought that the house might have been broke into or something happened to the front door to start with. You didn't call when you came back and found your mom.
A No.
Q You didn't check to see what injuries she had?
A I could tell there was lots of blood out and she was -- wasn't moving or nothing.
Q Well, the jury's got the pictures, and they'll have it too. Where do you see all of the blood at? How did you know there's a lot of blood and whatever?
A There was stuff sitting around.
Q And you sat in there for hours, right?
A Yes.
Q Well, if you sit there for hours there's blood splatter everywhere. Where's the smeared blood? Where was all of that at?
A I don't know if there is any smeared blood.
Q I'll be able to show the jury the pictures. So you

stayed in there for -- for a couple of hours at least.
A Probably.
Q And you looked to see what was taken, is that right?
A I looked around in that area there by the -- by the desk, basically, but I didn't know what all was missing.
Q So you don't even know what was missing then.
A No.
Q And you wrote the letters that you had in the car with you when the police got you -- your mother's car -- isn't that right?
A That's my handwriting, but I don't remember what all I wrote on them until I read them, reread them, later.
Q Okay. Well, you've got a date November the 1st on the letters, is that right?
A I'd have to look and see.
Q On your last will and testament.
(Pause.)
Q Let me show you State's Exhibits 127, 128, 129, 130, 131, 132, 133.
A The first is on that one.
Q Well, let me ask you a question. When did you write these?
A I wrote them at the beach I guess, yeah. I mean, I don't -- I don't got no date on that. I mean, I don't remember what I wrote until I read it and reread it, I

mean. I ain't got no date on that. It looks like the date's on one letter on the -- says the 1st of November.
Q When? When did you write them, sir?
A The letters?
Q Yes, sir.
A I don't know exactly what day. I wrote this on the 1st because it's written up there.
Q Well, it's amazing. You remember some details you want to, like when you go to Brenda's house and everything else, but there are certain things you just can't remember, is there, sir?
A Well, a'ter I find my mom murdered and dead you kind of miss a few spots coming in and out, I'm thinking. And I remember I went to Brenda's. That's when I decided to leave town.
Q Okay. Let's go back. You find your mom dead. Okay. What time of day was this?
A Late at night. I don't know what time it was.
Q The 29th or the 30th?
A Without looking at a calender, I don't know.
Q Was it after midnight or before midnight?
A I don't know what time it was, I mean. I was there all night a'ter I got back so. Transpired until the next day if it wasn't already past midnight. I don't know what time it was.

Q Okay. So you just stayed in the house the whole time?
A Yes.
Q You never went outside the house.
A No.
Q So you got out of the house, and the first thing you do was go to Brenda's house or -- went to Brenda's. Was that the first thing you did from your mom's house?
A Yes.
Q Okay. So you stayed. How long did you stay in the house with your mom dead?
A Until -- I don't know what time. Well, I don't know what time I found her, so I'd say for a couple of hours at least. I don't know how long I was there. And then I went to Brenda's early in the morning.
Q Okay. So you never left the house.
A No.
Q Okay. When you came back in. And that's where you came back in when you'd been looking for marijuana in different places.
A Yes, sir.
Q How many times did you go out looking for marijuana that night?
A Twice.
Q Twice. Okay. And you spent at least two hours doing that.

A Yeah. A little less the second time.
Q Okay. And you went. Okay. You went to Boiling Springs, I-85 Business, all of that.
A Yes, sir.
Q Is that right? The second time where did you go?
A I just went off and made it back to Business 85.
Q So you drove back to Business 85 --
A Yes, sir.
Q -- during that time. So that takes some time to go up to there from Pacolet Mills.
A Yeah, oh, yeah.
Q So we're looking at, what, half an hour at least one way?
A Probably. Wasn't a lot of traffic that night, not late at night.
Q Okay. So you're driving the car. The Buick's the one that Brenda had let you drive. It's actually her car, right?
A Yes.
Q And that's for taking care of McKenna, to help make sure you get over there for that.
A Oh, well, no. I -- I'd been there anyways. It's just a matter of what -- when I lived there I drove the car.
Q Okay. So what time do you get back in? So you spent at least three hours out on the road trying to find

marijuana that night.
A Maybe two different times, but probably sounds about right.
Q Okay. And you come back in. You find your mother dead. You spend at least a couple of hours with her in the room.
A Yes, sir.
Q Okay. When you get outta the room where do you go, when you finally decide? Do you go through her stuff to see what's stolen or whatever? Is that what you did?
A I -- I was just looking around to see. I don't know what I was looking for exactly to notice if something was missing. But I don't recall if anything was missing.
Q So you did go through the stuff.
A Sir?
Q You did go through the stuff.
A Nah. I kind of looked at everything but, you know, not like picking it up and looking at it. I might have picked up some of it and looked at it or moved it, but just looking around in nonbelief. I was still in shock.
Q Okay. When you finally decide to leave your mom's room, where did you go or what did you do?
A I went to Brenda's.
Q So you went to Brenda's.
A Yes.

Q Drove to Brenda's. And did you see your -- Brenda's neighbor as you drove out?
A She said she talked to me, but I don't recall. I don't remember talking to her.
Q Well, you asked her about her truck and everything.
A Yeah.
Q And she was driving a different -- different car than she normally does and said you acted like nothing was going on.
A Yeah. I don't even remember seeing her.
Q So you don't remember that now.
A No.
Q Okay. So, but you remember going to Brenda's house.
A I remember being at Brenda's house. I mean, I had to go there, drive there. I drove her car there.
Q Okay. And what did you do at Brenda's house?
A I don't even know. Sit around and waited on Bi-Los to open. And then I went to Bi-Los, come back from Bi-Los. And that's when I decided I wanted to commit suicide and went and got my mom's car and went to the beach to do that.
Q Okay. So you go to the Bi-Lo. And we've seen the video on the Bi-Lo. You act like nothing's wrong. You go cash some coins to get some money there, and go to the thing and cash in the Coinstar and go over and get the prescription, is that right?

A Yes.
Q Did you get money back when you used the debit card there at the bank or at the thing?
A At the Bi-Los?
Q Yes, sir.
A Seemed like I did. I might have did.
Q Okay. So you get back out in your car, and you drive back to -- you drove back to Brenda's in -- in the Buick, is that right?
A Right.
Q Okay. And then that's when you decided you would commit suicide at that point.
A Right.
Q What did you do next?
A I went and got my mom's car and left.
Q Okay. So you didn't go back into the house or anything after that. You just went to the car and got in and left.
A I went in the back door. The keys is hanging right there at the -- beside the stove.
Q Okay. So you just went in and got the keys and came back out, is that right?
A Right.
Q So where did you drive after that?
A I went by the pawn shop.

Q Okay. So you go to the pawn shop, and you pawn the jewelry.
A Yes.
Q Okay. And you sold it to Mr. Tobias.
A What?
Q You sold it to him, is that right?
A I sold it?
Q Yes, sir.
A Yes. Every time I brought jewelry there I had sold it.
Q Okay. But you sold it that day, is that right?
A Every time I brought jewelry I sold it to him.
Q Okay. And then after you went to Mr. Tobias' where did you go? And this is about 11:20 in the morning.
A Went by Mr. Keeler's.
Q Okay. What happened then?
A We talked a few minutes, and then I left. That was it.
Q And where did you go after that?
A To the beach.
Q Okay. Did you stop anywhere while you was going to the beach?
A I stopped at a gas station somewhere down there on Interstate 20 right outside of Columbia.
Q What did you do once you got to that gas station?

A I got a drink, probably something to eat, and I cashed in that debit card.
Q Okay. So you took $400 out on the debit card.
A Yes.
Q And that's your mom's debit card.
A Yes.
Q Okay. What did you do next?
A Went to the beach.
Q Okay. Did you get a hotel room?
A Yes.
Q I believe we've seen the receipt.
A Oh, yeah.
Q And that was on October the 30th.
A Oh, yeah. I guess it was.
Q Okay. And you stayed there until when?
A Until Sunday. I don't know what day the 30th is.
Q Okay. And you've already decided you're going to commit suicide, is that right?
A Do what, now?
Q You'd already decided by the time you checked into this hotel you're going to commit suicide.
A Yeah. I decided that earlier at Brenda's house.
Q Okay. So you go down there and you get in the hotel room. And what did you do next?
A A lot of crying and trying to figure out what I was

going to do and walked out on the dock, and it was like a pier down there, and I just couldn't do it.

I went up to the top floor and was going to jump off of that several times but just didn't do it. And I come back, and I was going to come back and get in touch with somebody, and because I didn't know if anybody had been by or not. I noticed somebody hadn't been by. There was ambulance out there.

Q Okay. Well, if you was going to commit suicide why did you go to K-Mart and buy you a pair of shorts, shaving cream, personal items?

A I have no idea why I did it.

Q Okay. So, you mean, you're just walking through the store.

A Yeah.

Q We've got the pictures --

A Right.

Q -- where you're buying things while your mom is dead at her house.

A Yes.

Q You go to Chick-Fil-A and buy you a Chick-Fil-A sandwich.

A Yeah. It was right there in the same parking lot as K-Mart.

Q You remember that, but you don't remember a lot of

other stuff, do you, sir?
A I remember a lot, when I went to K-Mart and went on the dock and went upstairs.
Q Okay. And you also went to the post office.
A Yes. I don't remember what day it was. It was a business day because it was still open.
Q Okay. And you sent Brenda Kean the money order, is that right?
A Yes.
Q And you bought the envelope there too.
A Yes.
Q And you're still driving your mom's car, is that right?
A Well, yeah.
Q The whole time. You've got her debit card.
A Yeah.
Q Still got it. It doesn't have your name on that account.
A No.
Q Okay. And so you come back. And this whole time you never called 9-1-1 or told or called anybody. You didn't call your family members.
A No.
Q Didn't call anybody about your mother.
A Nah.

Q Well, you know, it's funny. When you went to Brenda's house the first time you left your cell phone.
A Well, it was like a joint phone on the food stamps thing. We had food stamps. So I left it.
Q Well, you know the police can track those phones.
A I don't know what they can track. It's just a little cheap phone.
Q I mean, we watch it on T.V. all of the time.
A Right.
Q Things like that. But you decided to leave this phone at the house. You left your prescriptions at the house, didn't you?
A Yes.
Q And you can't remember when you wrote these letters other than the one you dated, the last will and testament.
A No. They might have been all been that day. I don't know. I didn't put a date on them.
Q Well, sir, if you were so tore up -- you heard the pharmacy lady come in and testify -- Ms. Ballenger.
A Yes.
Q You carried on a normal conversation. You even asked about her car, didn't you?
A Yes.
Q You talked to the person at the desk there when you cashed in your Coinstar.

A I may have. I don't know.
Q You talked to Mr. Tobias, didn't you, that morning?
A Well, yeah. I had to ask him how much he'd sell -- give me if I sold it to him, because the price is different if you sell it and pawn it.
Q Oh, so the price is different if you sell it or pawn it.
A Oh, yeah.
Q And of course Mr. Tobias knows that, doesn't he?
A Yeah.
Q Okay. They didn't see anything unusual. The jury's going to see the videos and everything. You're not acting -- if you're so tore up, it didn't show, anything we have seen. If I saw my mom die what would you think? What would a normal person think?
A Probably be like I was those hours when I's with her. Like I said earlier, I done seen a lot of death. I was there when my brother got killed and my son got killed.
Q Well, let's ask about your son.
A All right.
Q You called 9-1-1 that day, didn't you?
A Yes.
Q You didn't have anything to do with that, did you?
A What do you mean?
Q Your son. You called 9-1-1.

A I called 9-1-1, yeah.
Q But you don't call 9-1-1 when you come home and find your mom dead?
A No. I don't know why I didn't.
Q Is it because you did it?
A No. I didn't kill my mother.
Q Okay.
A I love my mama still.
Q That's not what you said in the letters. The jury's going to have these letters to read too.
A That's all right.
Q And your mom kept the neatest house as ever was, didn't she?
A Oh, yeah.
Q She kept everything as clean as a spot.
A Yeah.
Q She'd made sure everything was clean. Well, we can see the other rooms. She tried to keep everything clean as she could, didn't she?
A Oh, yeah. Every time we ate, we'd wash the dishes right then. We didn't stack them up and wait until later or anything. Kept everything neat.
Q Yeah. And her grandkids would come over and stay in the spare bedroom, isn't that right too?
A Not while I was there. I don't know -- I don't know.

They might have.
Q So she didn't want the grandkids around you then.
A Well, I had some of her grandkids.
Q Uh-huh.
A So when mine would come, they would stay in her room with her -- McKenna.
Q But the bottom line is your mom, she did all of the work at the house. She kept everything clean and spotless and everything.
A On the inside. I'd clean my room, and I'd do all the grass and bushes and all of that stuff outside.
Q Okay. But she kept everything clean and nice.
A On the inside, yeah.
Q And you're talking about you do the work on the front porch. You're the one that used the front porch basically -- the copper and the stuff like that.
A Oh, yeah. I do a little of scrapping -- what I call it -- out there.
Q And you've got tools out there and things like that --
A Uh-huh.
Q -- where you go get the T.V.s and work on them and everything.
A Right.
Q From there. So you got the tools to do that kind of work.

A Well, yeah. Just you'd need a few basic things.
Q Okay. Like screwdrivers, things like that. What tools do you need?
A You need some side cutters, a couple of different sizes of screwdrivers and nut drivers, sockets, socket set, a few little wrenches, wire strippers and stuff like that, or either a razor to strip some of it loose of the wires. A magnet.
Q Okay.
(Photographs marked State's Exhibits Nos. 161, 162 and 163 for Identification.)
Q Sir, let me let you see 161, 162 and 163.
A All right.
Q Do these pictures fairly represent the way the door looked when you saw it that night?
A Yes, sir. That's the part I stepped on, whatever was there, one of them kind of things.
Q Okay. So these pictures fairly represent the way that looked that night when you came back in.
A I guess, yeah.
Q Okay.
MR. BARNETTE: Your Honor, I'd like to enter State's Exhibits 161, 162 and 163 into evidence.
MR. HALL: Without objection.
THE COURT: They're admitted.

(Photographs marked State's Exhibits Nos. 161, 162, and 163.)

Q Let me show you what's been marked as 162, sir, or 163. Excuse me. This is State's Exhibit 163. This is the storm door, isn't it, sir?

A Yes.

Q That's the outside, right?

A Yes, after the wood part.

Q Okay. And right here was where the -- this is, I guess, a strike place, it's what you called it from there. There was a strike plate that wound up in the floor, is that right?

A Yes.

Q Where's the damage to the door where the plate was taken off on the outside?

A I don't know about the door, but on the frame it's all around that thing.

Q From the inside. It's not the outside.

A Well, I don't know how we got, I like --

Q Basically, with the door open.

A I ain't never broke in the house, so I don't know how we'd do it.

Q Basically, with the door open, is when it was taken off, wasn't it?

A It shouldn't have been. I don't know. I didn't take

it off of there.
Q Okay. 162. The edges are good. There's no prying on the edges of the door, is there, sir?
A Not that I can see there. I mean, I'm not -- I don't know.
Q Let's look at 161 where you said the scratching was on it. Is that the scratch mark you saw on the outside of the door?
A Yes, I think so, yeah.
Q Why isn't it continued to past the edge where you actually pry the door open with?
A I don't know. I -- I mean, I ain't a carpenter or nothing. I don't know how that operates except you open and close it.
Q But your earlier testimony was you saw this earlier and you didn't call the police or anything.
A When I saw that I checked with my mom, and I never called anybody since that.
Q Okay.
MR. BARNETTE: One moment, Your Honor, please.
(Pause.)
Q If you would, sir, please answer any questions your attorney has.

REDIRECT EXAMINATION

BY MR. HALL

Q Just to clarify. That evening how many times did you leave the house?

A I left two times.

Q All right. When did you see that strike place [sic] on the floor, after the first time or the second time?

A The second time.

Q When did you find your mother, after the first time or the second time?

A The second time.

MR. HALL: No further questions.

MR. BARNETTE: No further questions of this witness, Your Honor.

THE COURT: You may step down.

MR. HALL: That's the defendant's case, Your Honor.

THE COURT: Any reply?

MR. BARNETTE: Yes, sir.

THE COURT: Okay.

MR. BARNETTE: Like to call Investigator Talanges back up.

ROBERT CHARLES TALANGES,
having been previously duly sworn, testified as follows:
THE COURT: You have previously been placed under oath.
THE WITNESS: Yes, sir.
THE COURT: You're still under oath for the purpose of these questions.
THE WITNESS: Yes, sir.
DIRECT EXAMINATION BY MR. BARNETTE
MR. BARNETTE: Permission to republish 161, 162 and 163.
THE COURT: You may.
Q Sir, I know the jury knows this. You went to the crime scene, I believe, on November 2nd of 2014, is that right, sir?
A Yes, sir. I did.
Q Okay. And looking at these, if you would, how many burglary cases have you worked over your years?
A I would say hundreds.
Q Okay. Showing you what's been marked as State's Exhibit 163. If you would, tell the jury. Let me see if I can lighten that up just a little bit. If you would, tell them about your observations. Hand this to you. Here is a laser pointer for you.
A You have your storm door here with a locking latch and

you have your -- your wood framing for the main door. This is where the deadbolt latches. Down here is the striking plate where the handle or the turn knob -- that's where that striking plate would have been, this location.

What brought my attention to this was you have a metal strip here that's in front of the door when it closes, make it air tight, seal. No damage at all found here. And then looking at the door from the side view you don't find any --

Q 162.

A The edges of the door. And it is such a tight fit, you don't find any pry marks or any damage whatsoever. And it would have been because there's -- there's the handle. Here's the -- the -- I call it the knob or the locking bolt. And the strike plate would have been on the other side in this location here. These are -- these are clean. There's no prior marks; there's no physical damage whatsoever.

Q Let me show you what's been marked as 161. Darken that a little bit for you. If you would, tell us about this mark here.

A This is the exterior of the door. Here is the edge here and where they -- where you're looking at the clean area here is where that -- I guess the weather sealed that strip I was talking about where the -- where the door meets

when it closes to keep out, you know, of course cold air or warm air. But there's no damage. You've got chipping here between the deadbolt and the doorknob, but no physical damage whatsoever on the other side.

Q Let me ask you another question too. There was actually two locks on this door. You've got the door handle, which was the plate knocked off, but you also had the deadbolt lock, isn't that right?

A Deadbolt, that's correct.

Q And the deadbolt lock is still in place, isn't it?

A Yes, sir. That means that the -- the deadbolt wasn't locked.

Q Or, yeah, I mean it had to be unlocked.

A Had to be unlooked, that's correct.

Q So you had actually had two locks. One of them was still intact.

A Yes, sir.

Q So the deadbolt had to be unlocked for -- without any damage whatsoever.

A Correct.

Q And you had -- basically, does this look like a staged situation to you, sir?

A Yes, it does.

Q And of course the inside of the bedroom, did it look staged to you also?

A The bedroom?
Q Yes.
A Yes, it did.
Q The victim's bedroom, I mean.
A Yes, sir.
MR. BARNETTE: One moment, Your Honor, please.
Q Please answer any questions Mr. Hall may have for you, sir.
MR. HALL: No questions, Your Honor.
THE COURT: Step down.
MR. BARNETTE: We'd ask the witness be excused, Your Honor.
THE COURT: He may be.
(Whereupon, the witness was excused.)
MR. BARNETTE: The state would rest, or that'd be the only witness we would call.
THE COURT: Okay. That's all the testimony and evidence to be presented.
What remains to be done are the lawyers' final summations. I'll instruct you on the law. Then you'll begin with your deliberations.
I've got a couple of matters I'll need to address first. So I'll ask you to please go to your jury room. Do not yet discuss the case. I'll bring you back shortly to conclude.

(The following takes place outside the presence of the jury.)

THE COURT: Okay. Any other matters we need to address before we conclude?

MR. HALL: Your Honor, just need to make a motion -- renew my motion for a directed verdict based on the insufficiency of the evidence that has been presented.

THE COURT: All right. That motion is again denied for the same reasons as previously provided.

Any requests for instructions?

MR. BARNETTE: Your Honor, I have one. May we approach the bench?

(Bench conference held off the record.)

THE COURT: Any others? We will take ten minutes and then conclude.

(Whereupon, a recess was taken.)

THE COURT: How much time do y'all anticipate needing for your argument?

MR. HALL: Mine's going to be relatively brief. I'd assume I'll be finished in 20 minutes or less, you know, 15, may be shorter.

MR. BARNETTE: I'd say 20 to 25, Your Honor. I don't expect it to be long.

THE COURT: All right. Are we ready for the jury?

MR. BARNETTE: The state's ready, Your Honor.

MR. HALL: Yes, sir.

MR. BARNETTE: Your Honor, I was planning on waiving openings and closings.

THE COURT: Okay.

(The following takes place in the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, as you know, the evidence has been received. We're now going to hear the final summations of the lawyers. Then I'll provide you with the instruction on the law. And then you'll begin with your deliberations in the case.

So please give the lawyers your attention now as they give you their final summations.

Mr. Hall.

MR. HALL: May it please the Court -- Solicitor.

Madam forelady, ladies and gentlemen of the jury, I want to thank you for your attention. You appeared to have paid attention to what's going on, and that's what you have to do to be able to do your job. If you don't do that this system doesn't work.

This has been a bad case. I told you it wasn't going to be highly technical, you'd be hearing some D.N.A. and big numbers but not very -- the C.S.I. stuff that we see on T.V. Pretty straightforward.

It's horrible, tragic. A woman lost her life over

what looks like to be violent circumstances. But in our system, even with a case like this, when someone's accused, they get to stand before you and be presumed innocent. And it's incumbent upon the state to prove him guilty beyond a reasonable doubt.

I'll be the first to tell you Mr. Bradberry didn't do a whole lot for himself by his actions. He did some things that most people would think are very odd, peculiar or stupid. But he got on the stand, and he got on the stand to talk to you about it.

Now, we've got two basic charges. Actually, three charges. Two basic charges is the murder of Mrs. Bataille with malice aforethought, intent to or to take the life of that person. Armed robbery and possession of a weapon during a violent crime while armed with a deadly weapon, taking the property of another, permanently deprive them of that property. And actual weapon.

First of all, we assume some weapon or weapons were used, but we don't have any weapon here, nothing that we can say this caused this damage. But we do have testimony this type of weapon or object would have done that.

Mr. Bradberry is, I guess, not that unusual type person in our society. He's 49 years old, kind of almost totally dependent upon his mother at times for being able to pay a bill, purchase something, either through his money

or her money through her account. He lives with his mama and depends on his mama.

Like a lot of people have mixed emotions about his living with his parents, in this case his mother. He feels some animosity towards her but he is the -- she is the one that allows him to have a place to live to be able to function in society. Basically, totally dependent on her.

We have the debit card as part of the robbery. It's a debit card that Brenda Kean -- you heard her testify -- that has a child with him, been in a relationship with him for ten years. He drives her car. So, yeah, he used that car, put the money in her account. He used the car. She allowed him to do that. He told you that.

He told you she -- he had jewelry, and the jewelry he pawned is the jewelry his mother had given him. Brenda said that she knew about that.

And he borrowed her car to go kill himself. He's not trying to keep the car forever. He just takes the car. It'll make it to the place where he said he wanted to kill himself.

Now, he did not have to testify. You know, the judge tells you that. But he -- he wanted to get up there and tell you I was stupid, I panicked, I didn't know what to do. Even though to most people it was obvious, he didn't know what to do. His thought, my mother's dead, that's --

I -- she's such a big part of my life. Some people may have bad feelings about it, but she's such a big part of my life, that tragedy in my life, I'm going to end my life.

He's thinking about that. Goes and gets the script, decides, leave the scripts here, I'm headed to the beach, I want off to myself. Didn't have the courage to do it. A lot of people do that. Went on top on the building, top of the building, in the daytime. Went out on the pier.

But when he came back to Spartanburg County, Pacolet, he saw the ambulance. He decided to go to a friend's house. Knocked on the door. Thinking nobody's there, parked his car and takes all the pills he can to kill himself.

Now, the state presented some evidence through five investigators to say this looks like a staged robbery to them, a staged burglary.

I don't know if the strike plate just fell off, been loose for a while. Nobody knew that. I don't know how those things got there. I don't think anybody does.

They want you to believe that Mr. Bradberry did that to make it look like a burglary and maybe somebody else did it.

This is a normal mill village. People wandering around. Sometimes not the best people in the world. Sometimes those are the best -- in those towns and villages

you have some of the best people in the world, even though they don't look like everyone else. You get all kinds of people going through there.

When we look at what has been presented, they made a big deal about the blood on his door going into his room and the cut. I think it was on his right, cut or scratch on his right, arm.

Well, who knows? Nothing tells you how it got there or when it got there. We do have testimony that Mrs. Bataille was a very neat person and cleaned up, made things straight.

There was a little mess in the house, but based on a lot of things I've seen, that was a very neat house. Mr. Bradberry told you I clean my room, I take care of the outside and my room.

Now, as I recall, that was the door that if it was closed swung open like this, and, exactly, get blood on the end of the door from there would almost have to be this type motion. I don't know. I don't know how it got there.

But does it tell you anything? It tells you at some point Mr. Bradberry had some injury and some blood got on the door. We don't know if it'd been there three days, four days, seven days. We don't know that. I don't believe it tells you anything.

What do we have -- the blood? The judge will charge

you about that. It's we have a circumstantial case. There's not really a whole lot of direct evidence that says Mark Bradberry did this.

We have him making some poor decisions. Instead of calling 9-1-1 thinks and thinks and thinks the best he can, and he goes to kill himself, but he can't do it.

He knew enough. And his son was shot sometime ago, injured, called 9-1-1. Different circumstances. This is an additional tragedy in his life.

He didn't have to testify, but he chose to because he wanted to tell you what happened. Shame he wasn't man enough just to call the police. He decided. He thought about himself, I'm going to kill myself, I'm going to go kill myself. But then he didn't.

He came back and he tried to do it. For whatever reason -- there weren't enough pills, wasn't enough there to kill him. The police got him, and he's before you today.

When you look at the case, his testimony, the testimony of everybody, his testimony, he didn't have to do that, but he wanted to come and testify. Very little direct evidence. A lot of circumstantial evidence. And the judge will talk to you about it.

At the very end it's not that could he have done that. That's not enough. At the very end when you weigh this

evidence and apply it to the law as the judge's giving it, gives it to you, you must believe beyond a reasonable doubt that Mark Allen Bradberry, Sr. took his mother's life and took his property. I told you property. Well, he had the account, use of the account. He had money in the account. The jewelry was his. Nothing wrong in taking what's yours.

So I think the big question is did he take his mother's life. Tragic circumstances. Not a very intelligent reaction to those circumstances on the part of Mr. Bradberry.

Mr. Bradberry and I thank you for your attention. I thank you in advance for going back there and deliberating and weighing the evidence. Give it the value you think it should have. And I ask that when you look at it, give it the benefit of the doubt in a circumstantial case. Give him the benefit of the doubt and find him not guilty of the charges. Thank you.

MR. BARNETTE: May it please the Court, Your Honor.

THE COURT: Yes, sir.

MR. BARNETTE: Just to follow up with something he said there where he said supposedly the defendant told you he was going to take his life when he took all the pills. And he couldn't remember anything else.

Do you remember when Mr. Hall asked Investigator Letterman? He said how did you find all of the places he'd

been to. He said he told me about most of them. That's how they found he went to Myrtle Beach and that's how they found out he went to Columbia. But he can't remember any of that now.

And the one thing the judge will be telling you about is you'll get to look at the credibility of the witnesses. You'll weigh what's true and what's not true. You're going to be judges of the facts. And I'll tell you the credibility of the defendant, there isn't any credibility.

I mean, if you go through that, his testimony alone, here's a man that said he never -- I mean, he goes in, and his mother that he don't even check on her, he just goes and feels her and sits in there for two hours.

He comes up with this story that he tells you about the strike plates and all of that, about the locks. And I am going to go through all the evidence with you. I'm going to go step by step. And I know you've seen it all, but I just want to cover it all because this family here deserves justice. The rest of them do.

What happened to Connie Bataille should never happen to anybody. And what's terrible is the person she took the care of the most is the one that did this to her.

I know a lot -- all of these pictures you've seen before, but I just wanted to point out a couple of things to you. Showing you State's Exhibit 23. Obviously, he

left his car at the scene. He took his mother's car.

THE COURT: Excuse me just one minute.

Let me ask Ms. Paone -- I think it is -- do you want to take that front seat there so you can see that a little bit better?

THE JUROR: Thank you.

MR. BARNETTE: Showing you State's Exhibit No. 24. Do you remember the newspaper? Do you remember I asked him did you ever go outside of the house or do anything else. He said, no, I stayed with my mom and I went and got in the car and drove down the road. He went to Brenda's home.

Showing you -- this exhibit, State's Exhibit 37. That was the paper that was there. That was Friday morning's paper.

Okay. You remember Ms. Looney went, and said she went in. The first thing she noticed was a paper on the table. Show you State's Exhibit 36. Like I said, she kept it immaculate. I mean, you can look at this kitchen and look at everything. She had everything set in a certain spot. There's a paper on that. Guess which paper that is? Thursday's morning edition. Do you think he picked it up? No.

You heard from Connie -- her brother. She takes care of everything. She did everything. Here it is. How did that paper get from that chair, where I guess the newspaper

person put it in. Of course, you know, the Herald-Journal is dropping in the early morning, 5:30 or 6:00 o'clock.

He wants you to believe his story. He wants you to believe all of this happened. Well, that paper didn't get there by itself, ladies and gentlemen.

Like I said, she kept everything. There's her phone, her computer and everything. Supposedly, this is a burglary case.

Well, first thing, I submit to you, people steal all of the time is computers, electronics, things like that they want to get rid of.

In the defendant's own room, there's a Craftsman set in there. All kinds of stuff in there. There was a storage room in the other room. That would have been stuff that they would take, pawn, get rid of, anything like that. None of that was gone.

Instead, we've got her room -- well, bank statements. Now, why would a burglar go through bank statements unless they're looking for debit cards and things like that that they want to use? A burglar is not going to use those. They're going to use tools and things like that.

He's even testified about stuff he had on the front porch -- tools and things he had out there too.

And of course you've got this room ransacked all the way through. Everything's dumped in a certain -- look how

it's dumped. It's all dumped in one area. It's not like it's thrown through or gone through everything. It's just dumped in one major area. And you see it's just in that one -- it's like a circular area in the middle of the room.

And then you had two sets of gloves there too. But of course he lived there, so any fingerprints or D.N.A., they're going to argue, just like Mr. Hall argued this, well, it's going to be there anyway because he lived there.

Her closet. Look at it. The only thing that is messed up is her cards. Somebody went through the cards to get it.

He claims he had the right to use the debit card. Well, his name is not even on the account, ladies and gentlemen. We've got proof of that. I've got the actual document. We'll go through that in a second.

Show you this exhibit. This is the other side of her room, the T.V. that her head was pointed to either watching or when she fell asleep.

Nothing's messed up other than the blood splatter all the way over there that you see. There's nothing. Nobody's went through any of this.

That side of the room was fairly -- there was nothing wrong with it. Even the drawers are pulled out. You can see the clothes was in those.

And you're right. I am going to talk about the blood

sample from that standpoint. On the door there there's a blood swipe. And this lady kept a meticulous house. Even the defendant admitted to that. And that's a good noticeable blood swipe right there. We know it's the defendant's blood because it was testified D.N.A. And you'll have that report back with you too. State's Exhibit No. 9. It's listed as No. 5 on her report. It's actually if you go to -- it's No. 36 as I showed you earlier in the testimony.

And it comes back to his blood sample there. And it was found on the bedroom door right there. No. 36. And the reason why this is key, let me point something else out to y'all.

Look at diagram 79. That is the diagram on there. And this is the way her body was. She's leaning this way. I mean, she's sitting on her side towards the T.V. She's either asleep. We see the gum on the corner of the bed was hers. It matched her D.N.A.

But she's looking right at the T.V. She's either watching T.V. or had fell asleep watching T.V. The remotes are right near her, as the testimony showed.

Look whose bedroom is right across the hall. Just come right through. She wouldn't expect anything, especially if she's asleep and especially if she knew that he was in the house. He's always in the house.

She had no defense wounds. You heard Dr. Wren say that. There was nothing on her hands. All of the injuries was on her right side, just like she was laying basically.

Then he said afterwards, you know, he said I was shocked I didn't call 9-1-1. He had a telephone. So what does he do? He goes back to Brenda's house. He leaves the cell phone there at her house, which is later collected by the law enforcement when Brenda calls them.

And he watches T.V. He sees shows. He knows they can track the phone. So he leaves it at her house.

And during this time -- you will have this. You have the video we watched from Bi-Lo. Here's a man that is so shocked, so distraught, he don't know what to do. He don't know to call 9-1-1. He don't know to do anything. But he can go pick up his prescription with a debit card that supposedly his mom gave permission that you saw the debit card at the bottom of that. The only thing that was messed through that closet.

He also takes coins, cashes those in for $85.22, but then he goes and gets a prescription at the pharmacy and uses the debit card and get money off the debit card, as you can see in the transaction. So he don't even use this money that he gets for the transaction.

Then he goes to Jimmy Tobias' -- I mean, he's still so tore up and everything. And, like I said, you've heard

these people testify. You saw the videos and things. He goes over and pawns it. He says, well, this jewelry, this is women's jewelry. My mom gave this to me.

Well, you heard Ms. Looney. I submit her testimony's a whole lot more credible than his ever will be. And she said that was her -- had been given to her family, I think, her mother's ring and the items that she described.

Then he decides he's going to go to the beach and kill himself. Okay. So he stops by the Flying J in Columbia. He decides to gets him -- gets him something. Looks like a Pepsi and maybe a sand -- I can't tell if it's chips or a sandwich. But he's getting something to eat and drink. I mean, he looks like he's really tore up about this, ladies and gentlemen.

He goes down to Myrtle Beach. He go, gets -- he go, gets a letter, sends a -- gets a money order, sends it to Brenda Kean. He goes down and gets him a hotel room, pays cash for it, stays in it for a couple of days, says he's going to kill himself, so he goes out on the pier or he goes, going to jump off of the roof of it. Obviously, he didn't do that.

Said he decides to go to K-Mart. At K-Mart he goes shopping. He walks through the K-Mart, gets him a pair of shorts, walks out of the K-Mart like he don't have a care in the world just carrying that. Looks like a man

committing suicide, doesn't it, ladies and gentlemen?

He buys him personal items -- shaving cream, razors, shorts, Crest toothpaste. Where are you going to need that if you're going to kill yourself?

This is about as cold as you get. Let's say you believe this story. He just saw his mom dead in a bed supposedly. He just doesn't care.

And talking about the bank account, you'll have the bank records showing where he pulled out the $400 at the Flying J in Columbia. You'll see that Jack Looney, his brother, is actually on the account with her. It's not the defendant. And I submit to you the reason why for that is, is obviously you can't trust him with money or anything else from that standpoint.

Then he decides he's going to come back, and he sees -- and of course this is his story. He sees the ambulance there. He leaves and goes into Union County and spends the night there. Then he comes to a friend's house down in Pauline.

When he knocks on the door, he says he's not there. So then all of a sudden he said, well, I'll just move my car. Look where he moves it to. He moves his mother's car back behind the building, the shed.

Why are you moving it back there? I mean, if it's your friend just leave the car out there, but, instead, he

parks it back there where it's hidden.

The friend of his had heard that, obviously, they was looking for him, so he calls the police, and the police comes to the scene.

And in the car there's letters and things that he has written. And you'll have these letters. He writes last will and testament. But what was interesting in the letter he wrote to Brenda -- like I said, you'll have this and you'll be able to read it. I know this has been read to you, again, but I just want to make sure, because, like I said, I'm presenting everything I can to you to show you.

"I tried to tell you that I needed to move back, get away from my mom. Every day all she did was put you down and say things you do because she didn't like the name McKenna. She bitched and moaned and complained about any and every thing we did. I couldn't take it any longer."

And then he tells a story later in the letter, basically justifying what he's doing.

"By the way, a few years ago I was -- told you I was molested. Well, it was by my mom -- by my mom. That's why she always took care of me. I guess she felt guilty. But she hated you for what I did to you. She is hateful, spiteful. She made you and McKenna cry for no reason, just to be mean."

Here's a man that has a hatred for his mother. He is

trying to set up a reason why he killed his mom. He says that I was molested. Making up these things. Like I said, you'll have these letters to read in detail in the back.

And then he testifies about the door. And, ladies and gentlemen, in fact -- this speaks volumes about his testimony. He tells you about I'll see these people out, I'll see these people doing things. And he infers that somebody from the outside did this, somebody else. But when you look at the evidence of the door, and, like the officer described to you, there was no damage on the metal. There's no damage into the door. All the damage was from inside. Basically, the door was open when he popped it off.

And what's really bad, you have two locks, and the deadbolt lock's the top one. The deadbolt lock has to be unlocked for you to get inside the house. There's no damage to it. All of the damage is to the -- supposedly the one.

But look here. Even, let's say, that the deadbolt was unlocked or whatever. There's no damage to the side of either one of the locks.

You talk about being staged -- and what was interesting, even when I showed the defendant, he said, well, I don't see the damage either, especially on the edges there. And you can weigh the testimony the way you

saw it. But look. There's no damage to the edge of that door. So if you're going to jam it or do anything from the outside, that's where you could. Obviously, he staged everything.

Ladies and gentlemen, the judge is going to charge you the law in this case, and please follow his charge. But if this evidence doesn't leave you firmly convinced what this man did to his own mama, in my opinion nothing will.

I mean, common sense is what you bring here in the courtroom today. Every one of us has got it. And common sense is a person, normal person, walks in and sees a family or sees anybody dead, much less a family member, you're going to call 9-1-1. You don't do everything that this gentleman did.

And he knows how to call 9-1-1. He's done it before, and tells you, to be honest with you, can you imagine a more traumatic situation supposedly with your son?

He did this, ladies and gentlemen. All of the evidence points to it. He staged the event. You see the evidence at the scene. You see where the items are dumped in the floor. You see the fake damage to the door. And even if the damage is done there, you still have deadbolt. You have two locks on this door.

He has the tools. He had the items on the front porch. And he's the one that worked on the front porch.

You have a newspaper. He claims that this murder -- I mean, he went out, and to say he's scared of the criminal, he goes out and he says he's been to Business 85, Boiling Springs, all of these different places.

Ladies and gentlemen, his credibility is not there. You heard this lady. You see the family come up, and the brother, John, come in and testify. That's the reaction you see from true family members, people that wouldn't walk in on a situation like that. You wouldn't see a reaction from that man unless he did it. And something, he just decided he wanted to commit suicide, and he just can't do it.

Ladies and gentlemen, he murdered Connie; he took her items; he used the knife. And you'll have this too. There's a kitchen knife missing that never was found. And this is a lady that meticulously kept items in her house. You can look through it and tell. She wouldn't have left it like this. You remember the wounds, and you'll have the chart. This a crime of anger, a crime, personal. Somebody hated this person.

He couldn't take it any more, ladies and gentlemen, so he stabbed her and he stabbed her and he stabbed her and left her in that bed for days for Mrs. Looney's daughter, her own granddaughter, to find her.

Ladies and gentlemen, there's only one true verdict in

this case, and it's guilty on all three counts. Thank you again for your time.

Thank you, Your Honor.

THE COURT: Madam forelady and ladies and gentlemen of the jury, you of course have heard and seen all of the evidence. You've now heard the final summations of the lawyers, and so I'm going to instruct you on the law.

Can you turn that off?

MR. BARNETTE: Yes, sir. I apologize.

(Pause.)

THE COURT: I'm going to instruct you on the law that's applicable in the case, and then you'll be asked to go back and begin with your deliberations. And through that process you'll examine all of the evidence, you'll decide the facts, apply the law and arrive at a fair and just decision, whatever that decision may be.

It is your exclusive duty to determine what the facts are. You do that through your own common sense examination and evaluation of all of the testimony and other evidence received during the course of this trial.

You 12 jurors alone will decide what weight, value and effect to give to any particular witness' testimony, or other evidence in the case. But your sole objective is to simply reach a fair and impartial decision based upon the evidence presented and the law that's applicable as I will

have provided it to you.

Now, in this case, as you know, the state through the prosecutor and by way of these indictments has charged the defendant, Mark Allen Bradberry, Sr., with three separate and distinct criminal offenses, although they are alleged to have arisen out of one particular event or a course of events which the state alleges occurred back on October the 30th of 2014. But there are three separate and distinct charges that you will be considering. There are -- there will be three separate and distinct verdicts that you will be rendering.

The defendant is charged with murder; he's charged with armed robbery; he's charged with possession of a weapon during the commission of a violent crime.

Now, as to the allegations in each of those indictments and as to those charges the defendant has entered a plea of not guilty. As I told you, that plea of not guilty places upon the state the burden of proving the allegations that they have made by way of each of these indictments, the burden of proving each of the essential elements that constitute the crimes that are alleged in each of these separate indictments; and therefore the burden is upon the state to establish the defendant's guilt to the satisfaction of you 12 jurors beyond a reasonable doubt before any verdict of guilty could be returned as to

any of the separate indictments.

The indictments are not evidence in the case. They don't establish anything. They don't prove anything. They will be in the jury room with you, Madam Forelady, when you go back, but they are there strictly to serve as the verdict forms. They serve no other purpose so far as you jurors are concerned. But you will be indicating the jury's decision on the back of each of those indictments once you have concluded with your deliberations.

The burden is never upon a defendant to prove that he or she is not guilty or to prove that he or she is innocent, because in some cases that might not be possible. The burden is always upon the state because they've brought these charges against the defendant to establish his guilt beyond a reasonable doubt.

You are instructed that it is a vital, important and cardinal rule of law that every defendant in a criminal trial, no matter how serious might be the offense for which that person stands charged, that person shall always be presumed innocent of that charge.

That presumption of innocence remains with every defendant, as it does with this defendant, from the time that he is placed under arrest and throughout the course of the criminal process and even throughout the course of the actual trial in the case.

As I told you, that presumption of innocence will be with Mr. Bradberry even as you go back into your jury room to begin with your deliberations at this trial's conclusion.

That presumption of innocence will be with him in that jury room, and it'll be with him forever unless you 12 jurors determine that he's no longer entitled to that presumption of innocence.

In other words, after you have carefully considered all of the evidence in the case, and from that evidence you have determined what you believe to be the facts, and after deciding those facts you apply the law that I will have provided you, if you 12 jurors unanimously determine that his guilt as to a particular charge has been proven beyond a reasonable doubt, then he would no longer be entitled to that presumption of innocence as it relates to that charge. But it is only if, unless and until you are satisfied of his guilt beyond a reasonable doubt as to a particular charge that the presumption of innocence would no longer be applicable.

Now, the state does have the burden of proving the defendant's guilt to your satisfaction beyond a reasonable doubt. This doesn't mean that the state has to prove his guilt beyond all doubt or beyond any possible doubt, but it does require the state to prove his guilt to your

satisfaction beyond a reasonable doubt.

The term reasonable doubt should be given its plain and ordinary meaning. A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act upon the information provided.

In any given case there are various forms of evidence, and while there are various forms of evidence such as testimony, photographs, documents, charts and other types of physical exhibits, there are really only two types of evidence. Either or both of those types of evidence may be used to prove any fact in issue. But the two types of evidence are direct evidence and circumstantial evidence.

Direct evidence is the testimony of a person who testifies from actual knowledge of the fact. It is testimony by a person who has perceived the existence of some fact by means of his or her senses and then they come into court and they testify as to what they have previously seen, heard or felt.

Direct evidence proves the existence of a fact directly and does not require any deduction or inference in order to establish that fact.

Circumstantial evidence, on the other hand, is the proof of some other fact or set of facts which taken either singly or collectively may prove the existence of a fact in question as a necessary consequence. That is through a

deduction or an inference.

An inference is simply a deduction of fact that may logically and reasonably be drawn from the proof of some other facts or set of facts.

In other words, it's not a fact proven by the direct testimony of a witness based upon their personal perception, but it is a conclusion which might reasonably be drawn from the proof of other facts.

In other words, you may infer that a particular event occurred or that a particular fact exists based upon the proof of sufficient factual circumstances which would reasonably warrant your arriving at a particular conclusion.

The commission of a crime, and any particular element necessary to prove a particular crime, may be proven by direct evidence or by circumstantial evidence or by a combination of direct and circumstantial evidence.

The law makes no distinction been the weight or the value to be given to direct or circumstantial evidence. However to the extent that the state replies upon circumstantial evidence in order to establish the commission of a crime, all of the circumstances proven must be consistent with each other and when taken together point conclusively to the guilt of the accused beyond a reasonable doubt.

If these circumstances merely portray the defendant's behavior as suspicious, the proof is insufficient and it fails.

The burden rests with the state regardless of whether the state relies upon direct evidence or circumstantial evidence or some combination of the two in order to prove the defendant guilty beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty. And in criminal cases the law does not require proof that overcomes every possible doubt.

If, based on your consideration of the evidence in this case, you are firmly convinced that the defendant is guilty of some crime that the state claims he committed, you must find the defendant guilty. And if, on the other hand, you think that there a real possibility that the defendant is not guilty of that particular crime for which he has been charged, then you must give him the benefit of that doubt and return a verdict of not guilty as to that charge.

A defendant is entitled to any reasonable doubt that arises from the evidence or lack of evidence in a case. And if upon any factual issue essential to a finding of a verdict of guilty you have some reasonable doubt as to how

that issue should be resolved, it would your duty to resolve that reasonable doubt in favor of the defendant.

Now, the same law that provides that you are the judges of the facts also provides that I am the judge of the law, and that simply means that nobody's going to tell you how to arrive at your determination of fact in this case.

You do that, as I've already stated, through the exercise of good judgment and common sense conscientiously applied to the testimony and evidence received during the course of this trial.

You must however under your oaths as jurors accept the law as I provide it to you as being the law that you are to apply in the case.

In other words, you're not to concern yourself with what you thought the law was before you came to serve as a juror this week or what you think the law ought to be. You must simply accept the law as I provide it to you as being the law that you are to apply in the case, and then you take that law and you apply it to the facts as you 12 jurors determine those facts to be based upon your common sense examination and evaluation of the evidence in the case.

Now, you are the sole judges of the facts in this case, and you are therefore necessarily the sole judges of

the credibility, that is the believability, of each of the witnesses that have testified during the course of this trial. You 12 jurors alone will decide what weight, value and effect to give to any particular witness' testimony or even portions of that testimony.

There are a number of factors which you should consider in arriving at your assessment as to a particular witness' credibility, and I'm going to list those factors for you.

You should consider the demeanor of the witness. That is how the witness appeared to you when the witness testified from that witness stand. Was the witness straightforward in responding to questions, or was the witness hesitant or evasive in responding to questions that were asked of the witness.

Simply put, did the witness appear to you to be telling the truth and to have knowledge of the facts to which that witness has testified.

You should also consider whether or not the testimony of a witness is consistent, or is it inconsistent with that witness' own testimony, and whether it be from statements made by the witness in court or outside of court, as well as whether or not the testimony of a witness is consistent or inconsistent with other witnesses' testimony or other evidence received during the course of the trial.

You should also consider how the witness came to know the facts to which a witness has testified. In other words, what was that particular witness' opportunity and ability to perceive the existence of those facts to which that witness has testified by having previously used his or her senses, and then what is that witness' ability to be able to come into court and to accurately recollect to you as what they have previously perceived.

You should consider any bias, prejudice or interest that the witness might have with regard to a case. In other words, do you find some reason that a particular witness would come into court and would testify one way or another to help or hurt one side or the other. And you may consider any interest that a witness might have in the outcome of the case if you determine that that witness does have such an interest and you find that that interest would bear upon that particular witness' credibility.

You should also consider whether or not the testimony of a witness is strengthened, or is it weakened by other testimony or other evidence received during the course of the trial.

Now, you as the judges of the facts in this case and you as the judges of the credibility of each witness that has testified are permitted to believe as much or as little of what a witness has testified to as you deem is

appropriate.

Therefore you may believe everything that a witness testified to. You may choose to believe none of it. You may believe some portion of a witness' testimony and reject some other portion of that same witness' testimony.

You can believe one witness as opposed to several, or several as opposed to one. But whatever your good judgment and common sense tells you is the most believable and credible testimony is the testimony you should accept, and you should reject any testimony or evidence that you find not to be credible or believable. Again, your sole objective is to simply render a fair and impartial decision based upon the evidence and the law that's applicable.

Now, in this case, as you know, the defendant is charged with the crimes of murder, armed robbery and possession of a firearm -- excuse me -- possession of a deadly weapon during the commission of a violent crime.

Each of those are statutory offenses. Statutory offenses are just those that are contained in these blue volumes. Every year the legislature meets in session from January to June. Every year they pass a number of laws and rules and regulations that govern our conduct in a variety of ways.

Some of those laws are criminal penalty statutes or penal statutes. What they do is when they pass such a

statute, is that they prohibit us from engaging in certain types of conduct. And where you are found to have engaged in that conduct in violation of the law, then it subjects you to some form of punishment or penalty for having violated the statute.

Please keep in mind however that you are never to be concerned with any punishment or penalty as a result of your decision. That's not something that you decide. You're not to consider that in any way.

Your sole obligation and duty in the case is to determine based upon your consideration of the evidence and application of the law whether or not the defendant's guilt or violation of the statute has been proven beyond a reasonable doubt.

The first statute that I'm going to instruct you as to is the statute defining the crime of murder. And that's set forth in 16-3-10 of the Code of Laws of South Carolina.

That statute provides that murder is defined as the killing of any person with malice aforethought, either expressed or implied -- the killing of any person with malice aforethought either expressed or implied.

In order for you to find the defendant guilty of the crime of murder it would be necessary that the evidence in this case has established to your satisfaction beyond a reasonable doubt that the defendant did commit some act or

acts which proximately caused the death of the decedent -- in this case that's Connie Bataille -- and that that killing was done with malice aforethought. Malice aforethought is an essential element of the crime of murder.

Now, when I refer to the defendant committing some act or acts which proximately caused the death of the decedent, the law defines the proximate cause of a death to be something which brings about a chain of events which in the end brings about the death of that person. In other words, the proximate cause of a death is a cause without which the death would not have occurred.

The killing must be accompanied by malice aforethought. Malice as an essential element of the crime of murder is a state of mind connoting an ill will and having the intent to do harm.

Intent means the state of a person's mind which directs his actions towards a specific object or goal. Intent would include those consequences which represent the very purpose for which an act is done, as well as those consequences which are known to be substantially certain to result, whether actually intended or not.

Malice is a technical term importing wickedness and excluding just cause or legal excuse. It is something which springs from depravity, from a heart devoid of social

duty and fatally bent on mischief. It is a state of mind indicating an extreme disregard for and an extreme indifference to human life.

Malice may be likewise defined as a state of mind which indicates a formed purpose and design to do a wrongful act under circumstances that exclude any right to do it.

Malice may be expressed or implied. The words expressed or implied in relationship to malice do not mean different kinds of malice but merely the manner in which malice may be shown to have existed, that is to say either by direct evidence or by circumstantial evidence implying or inferring the existence of malice.

Malice may be expressed as where there is an expressed threat to kill or where it's shown there was a lying in wait or where the circumstances show otherwise directly that the intent to kill was entertained by the killer.

Malice may be inferred, though no expressed intent to kill is proven by direct evidence, where the facts and circumstances which have been proven by the evidence in this case satisfy you beyond a reasonable doubt that malice was present in the mind of the killer at the time any killing took place.

The existence of malice may be inferred from acts, declarations and conduct of the killer, as well as from any

other circumstances shown to have existed at the time of the event from which you might reasonably infer the existence of malice, as often the state of a person's mind can only be proven by circumstantial evidence.

Malice as an essential element of the crime of murder does not necessarily require proof of an actual or a specific intent to take human life, although there may be evidence tending to establish that in a case, but rather it does mean a state of mind accompanying conduct signifying a general malignant recklessness and an extreme disregard for or an extreme indifference to human life.

So even if the facts proven in this case are sufficient to raise an inference of malice, such an inference would simply be an evidentiary fact to be taken into consideration by you 12 jurors along with all the other evidence in the case. And you shall give it such weight, if any, that you determine it should receive, if any.

The state is required to prove malice just as it must prove any other essential element of the crime of murder, and it is for you 12 jurors to determine whether or not the evidence in this case does establish malice beyond a reasonable doubt.

It is also essential that there exist not only malice but that it be malice aforethought. The law does not

require that malice must be proven to have existed for any appreciable length of time before the commission of any act proximately causing the death or fatal result. Indeed, it may be conceived at the very moment that the fatal act is committed.

It is sufficient in the law so long as the state has proven beyond a reasonable doubt both the existence of malice and the commission of an act or acts by the defendant which proximately caused the fatal result.

You must determine whether or not malice aforethought existed based upon your consideration of all of the evidence in this case and introduced during the trial and any reasonable inferences that might be drawn from that evidence.

While the state does have to prove beyond a reasonable doubt that a killing did occur and that it was accompanied by malice aforethought in order to establish the crime of murder, it is not necessary that the state prove any motive for such a killing, although there may be evidence presented during the trial of the case relating to the issue of motive. But motive is not an essential element of the crime of murder which has to be proven, even though evidence might be introduced in that regard.

Now, the second indictment charges two separate offenses. One is the crime -- count one charges armed

robbery. Count two charges possession of a weapon during the commission of a violent crime. I'll instruct you on the law as it relates to the crime of armed robbery first, then followed by the instruction on the crime of possession of a weapon during the commission of a violent crime.

Section 16-11-330 of the Code of Laws provides that a person who commits the crime of robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor or any other deadly weapon is guilty of the crime of armed robbery.

Armed robbery necessarily includes the crime of robbery, so I'll define for you that term so that you'll understand the crime of armed robbery.

Robbery is defined as a larceny by force or by the threat of the use of force. Robbery is defined in the law as the taking, the stealing and the carrying away of the personal property of another with intent to steal it from that person or from the presence of that person by the use of force or violence, or by the threat of the use of force or violence or intimidation in order to accomplish the theft.

A thing is deemed to be in the presence of a person with respect to the crime of robbery when the property is so within his or her reach, observation or control that he or she could, if not overcome by violence or prevented by fear, retain possession of it.

A robbery is the forcing of a person to surrender property with an intent to steal it by the use of force or violence in order to accomplish the theft. Taking property of another with an intent to steal it by the use of force or violence is a robbery under the law.

A robbery becomes an armed robbery when the robbery is accomplished through the use of a pistol or other deadly weapon as defined in the statute. A deadly weapon is defined as any device or instrument which in the manner it is intended to be used or in the actual manner that it is put to use is known to be capable of producing death or serious bodily harm. And that would include firearms, as well as edged weapons.

Ordinary objects such as sticks, tools, hands, fists or feet which generally are not considered to be a deadly weapon in the ordinary sense of the word may under some circumstances be used in such a fashion or in such a manner as to constitute a deadly weapon.

So whether or not an object has been utilized as a deadly weapon depends upon the facts and circumstances of a particular case. But it is for you 12 jurors to determine whether or not a deadly weapon was used.

And therefore before you could find the defendant to be guilty of the crime of armed robbery it would be necessary that the state has proven beyond a reasonable

doubt that the defendant did commit the crime of robbery and that the robbery was accomplished through the use of some deadly weapon.

Count two of the indictment alleges a violation of Section 16-23-490. That particular section of law provides that it shall be unlawful to possess a firearm or to visibly display what appears to be a firearm or a knife during the commission of a violent crime.

Section 16-1-60 of the Code of Laws of South Carolina provides that the crime of armed robbery is classified as a violent crime under the law.

So in order for the defendant to be found guilty of a violation of this particular section of law it would be necessary that the evidence in this case does establish to your satisfaction beyond a reasonable doubt that the defendant did commit the crime of armed robbery and that during the commission of that crime he did possess or visibly display a knife during the commission of that crime.

Now, madam forelady and ladies and gentlemen of the jury, I am not in any way concerned with what your decisions are, but, as I previously stated, your verdicts have to be unanimous. All of you must be in agreement before any decision may be reached and returned to the court.

Madam forelady, as I told you, you will have these indictments in the jury room. There are two indictments, but there are three charges.

One indictment charges the crime of murder. On the back of that indictment you'll see in the lower left-hand corner the word verdict. It's beneath that word that you'll indicate the jury's unanimous decision.

In this case there are two potential verdict forms on that indictment. Those two potential verdict forms are guilty and not guilty. So whatever the jury's unanimous decision is, you indicate it in the space provided and sign your name as the foreperson and date it the appropriate date. You are the only juror that needs to sign the verdict form.

The other indictment charges two separate offenses. One is armed robbery and the other is possession of a weapon during the commission of a violent crime.

In that case you've got two decisions to render. Count one is armed robbery; count two is possession of a weapon during the commission of a violent crime.

With respect to count one, armed robbery, you, again, have two potential verdict forms. Those potential verdict forms are guilty and not guilty. So whatever that decision is, indicate it in the space provided as to count one. And then count two, you must determine guilty or not guilty.

You may not find the defendant guilty of count two unless you find the defendant to be guilty of armed robbery, because count two requires the commission of the crime of armed robbery, which is the violent crime the state alleges the defendant committed. So if count one is not guilty, count two must be not guilty.

So, again, you have two potential verdict forms in regard to count two, and that is guilty and not guilty.

Once you have decided the case and you've indicated the verdicts on the verdict forms, Madam Forelady, if you'll knock on the door, tell the bailiff that you have reached a unanimous decision, we'll bring you back to receive that decision.

You may give the evidence to the bailiff. Do not give him these verdict forms. You'll maintain possession of them, and I'll take them from you after you and your fellow jurors return to the courtroom for us to receive those verdicts. So you'll maintain possession of the verdict forms.

Now, during your deliberations -- I don't know if we have any smokers on the jury. If we do, you can smoke, but you can't smoke in the jury room. You have to go outside in order to accomplish that purpose. So if anybody wants to smoke, let the bailiff know. They'll take you outside.

Please understand that the deliberations have to stop.

They may not be engaged in and may only be resumed when all 12 jurors are present so that all may participate.

During your deliberations there may come a time where you have a question about the evidence in the case. In fact, you may wonder if there's something else you can have. You might think, well, there's something out there we think would help us, does it exist, can we have it.

Well, you can't have it. If it does exist, it doesn't matter because the case is closed now. All of the evidence has been introduced. So even if there is something out there that could be introduced, it can't be introduced now. So don't inquire about evidence that has not been introduced because you can't have it even if it would be helpful.

If you have a question about a witness' testimony and that question can be answered by having a witness' testimony replayed in whole or in part, we can bring you back into the courtroom to have that testimony replayed.

We don't have transcripts of the witnesses' testimony, but if you need to hear or rehear a witness' testimony, let me know through the bailiff and we'll bring you back into the courtroom to have the testimony replayed in its entirety or in just some portion if that's all you need.

If at any time you need an additional reinstruction on the law, I am permitted to provide that. So I can give you

the entire instruction again, I can provide you with some clarification if that's what you need, or I can provide you with some additional explanation if that's what you need. But I am always permitted to give you an additional instruction or clarification or an explanation on the law that you are to apply should you need it.

So, Madam Forelady, if at any time you need to address any matter to me, if you'll write it on a piece of paper, give it to the bailiff, he'll provide it to me, and I'll respond to that issue accordingly.

I think that covers everything, but if it does not I'm certain one of these lawyers will remind me that I neglected to provide you with some information that I should have. And if that's the case I'll bring you back into the courtroom to provide you with that additional information.

If I don't need to bring you back I'll simply send word by way of the bailiff that you may begin with your deliberations. In that event he'll bring to the jury room all of the exhibits which have been introduced.

And to you, Madam Forelady, he'll also bring these indictments which will serve as the verdict forms.

Now, there are a couple of videos which have been introduced, and so we will send those back. We'll also send a computer back for you to play those videos on if you

like. If you can't figure it out for some reason, let me know. We'll help you operate the computer. But I'm satisfied somebody over there can figure it out.

Okay. Right now I'm going to ask the two alternates to stay in the courtroom with me.

Ms. Paone, if you will, move back to that seat so they can get back out.

I'm going to ask these 12 jurors to go to your jury room. But do not begin deliberations until I send you word to do so.

One thing. Your lunch has been ordered. It should be here or arrive shortly. You can do what you want to about that. If you want to eat lunch first and then begin deliberations, that's up to you. If you'd rather do a break while you eat lunch, that's up to you. I'm not going to tell you how to do that. You'll do that in your own discretion.

But please retire to your jury room. But don't begin discussions until I send you word to do so.

(Whereupon, the jury retired to deliberate at 1:10 p.m.)

THE COURT: All right. Now, my two alternates, as you know, you can't participate in jury deliberations because the original 12 look like they're able to do that. However something could occur during the course of the

deliberations that would prevent some juror from continuing to deliberate. And if that occurs, then one or both of you are going to be needed to become the 12th juror.

So we're going to keep you separate from the other jurors. The bailiff will take you to some other room. It will just be you two.

You can't discuss the case. You can talk all you want to, but you can't discuss the case. You're only permitted to do that if you're in deliberations. So don't talk about the case. But your lunches will be brought to you there in that room.

And once the jury has concluded or we need to see you further, we'll bring you back.

Okay. So please go with the bailiff to your separate room, and we will be with you as necessary.

(Whereupon, the alternate jurors were excused from the courtroom.)

THE COURT: Are there any exceptions taken to the instruction or requests for additions to the instruction by the state?

MR. BARNETTE: None from the state, Your Honor.

THE COURT: By the defendant?

MR. HALL: None from the defense, Your Honor.

MR. BARNETTE: May we approach for one second?

THE COURT: Yes. I'm going to need y'all to verify

the exhibits.

(Bench conference held off the record.)

THE COURT: All right. Y'all verify the exhibits for me.

(Pause.)

THE COURT: All of the exhibits are accounted for?

MR. BARNETTE: Yes, sir.

MR. HALL: Yes, sir.

THE COURT: All right. Send them back. Ask the jury to begin deliberations and notify us when they've concluded.

We will be at ease while the jury is deliberating.

(Whereupon, the exhibits were submitted to the jury at 1:25 p.m.)

THE COURT: I am told the jury has reached a decision. Are you ready for the verdict?

MR. BARNETTE: Yes, sir. I apologize.

THE COURT: All right. Bring them in.

(Whereupon, the jury returned to the courtroom at 3:25 p.m. to report its verdict.)

THE COURT: Madam Forelady, have you and your fellow jurors reached a unanimous decision on each of the separate counts of the indictments?

THE FOREPERSON: Yes, we have.

THE COURT: And have you reflected those decisions on

the back of the indictments as requested?

THE FOREPERSON: Yes.

THE COURT: Did you sign your name and date it?

THE FOREPERSON: Yes, I did.

THE COURT: All right. If you will, please, hand those forms up by way of the bailiff.

You may publish the verdicts.

THE CLERK: In the State of South Carolina, the County of Spartanburg, Indictment No. 2015-GS-42-0445, the State vs. Mark Allen Bradberry, Sr., indictment for murder, we, the jury, find the defendant guilty. Signed by the foreperson, Kathy W. Green, this date, June 22nd of 2016.

Indictment No. 2015-GS-42-0446, the State vs. Mark Allen Bradberry, Sr., indictment for armed robbery, possession of a weapon during the commission of a violent crime, we, the jury, find the defendant guilty on count one, guilty on count two. Signed by the foreperson, Kathy W. Green, this date, June 23rd of 2016.

Ladies and gentlemen of the jury, if this is your verdict and still your verdict, please raise your right hand.

(Whereupon, all jurors responded in the affirmative.)

THE CLERK: So say you all.

THE COURT: Does the defendant wish to have the jury polled?

MR. HALL: Mr. Bradberry requests polling of the jury.

THE COURT: All right. Poll the jury please, ma'am.

THE CLERK: Ladies and gentlemen of the jury, I'm about to ask you a question, and the question being is this your verdict and still your verdict. As I call your name and your juror number, please answer by saying yes or no.

Juror No. 2, Anita Aiken, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 178, Brandon Hamilton, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 158, Thaddeus Troxell, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 86, Fennix Jones, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 165, Jamarius Whiteside, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 72, Shannon Hart, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 102, Donna Mayes, is this your

verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 147, Ashley Skipper, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 160, Dana Underwood, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 12, Phyllis Blair, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 66, Kathy W. Green, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: Juror No. 98, Kayla N. Lipscomb, is this your verdict and still your verdict?

THE JUROR: Yes.

THE CLERK: The jury has been polled.

THE COURT: All right. All jurors have affirmed their decision.

Any other matters we need to address with the jury present?

MR. BARNETTE: None from the state, Your Honor.

MR. HALL: None, Your Honor.

THE COURT: All right. Thank you, ladies and

gentlemen, for your participation in the trial of this case. You're excused for the balance of the afternoon.

Please call back to the number that you have on your juror information pamphlet. Call after 6:00 o'clock this evening to receive further reporting information, with the exception of Ms. Underwood who is excused for the balance of the week.

Okay. You will need so stay, Ms. Underwood, and talk with the clerk about your pay voucher for your service this week. So do that before you leave.

The others please call back after 6:00 this evening. Thank you again for your participation.

(Whereupon, the trial jury was excused.)

(Rap sheet of the defendant marked Court's Exhibit No. 21.)

THE COURT: All right. Any other matters on behalf of the state?

MR. BARNETTE: No, sir. I marked the prior record as a court -- I don't know what court's exhibit number it is, but I've marked as a court's exhibit.

Your Honor, you've heard the case. I talked with the family. They don't want to address the Court. They do appreciate everything the Court has done. They know you know the facts of the case.

THE COURT: Okay. Mr. Hall.

MR. HALL: Your Honor, I think it's incumbent upon me at this point in trial after the conviction to make a motion for a new trial.

The only thing we can come up with, Your Honor, is that the evidence was circumstantial. I understand the jury's verdict, but just make that motion.

THE COURT: All right. That motion is denied.

Anything else you'd like to tell me?

MR. HALL: Your Honor, any sentence under these charges that he would get, minimum 30, is -- excuse me -- 30 is the least possible sentence he can get. It would be the same as a life sentence.

I've had that discussion with him several times over the past year and a half or so and, Your Honor, ask you to consider that. He whatever -- pretty much whatever the sentence is going to be is going to be a life sentence. And he will die in the department of corrections.

THE COURT: Okay. Mr. Bradberry, anything you want to add?

THE DEFENDANT: No, Your Honor.

THE COURT: On Indictment 2015-445, that's the indictment for murder, wherein you have been found guilty by a jury of that offense, Sentence of the Court is you, Mark Allen Bradberry, Sr., be confined to the South Carolina Department of Corrections for the period of your

natural life.

Indictment 2015-446, indictment for armed robbery, wherein you have been found guilty by the jury of that offense, Sentence of the Court is you be confined to the South Carolina Department of Corrections for a period of 30 years.

Indictment 2015-446, count two, possession of a firearm -- excuse me -- possession of a knife during the commission of a violent crime, wherein you have been found guilty by the jury of that offense, the Sentence of the Court is you be confined to the South Carolina Department of Corrections for a period of five years. That sentence is consecutive to any other sentence imposed.

Mr. Bradberry, you have a right to appeal the verdict of the jury and the Sentence of the Court. You must file your notice of your intention to appeal those decisions within ten days of today's date. Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Okay.

MR. HALL: Thank you.

MR. BARNETTE: Thank you, Your Honor.

THE COURT: Okay.

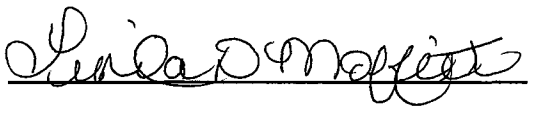
END OF REQUESTED TRANSCRIPT OF RECORD

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 20th, 21st and 22nd days of June 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 30, 2016



Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ALLEN BRADBERRY, SR.

APPELLANT

APPELLATE CASE NO 2016-001384

ANDERS BRIEF OF APPELLANT

SUSAN B. HACKETT
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in failing to direct a verdict of acquittal on all charges where the state failed to present any direct or substantial circumstantial evidence that Appellant committed the charged offenses?

STATEMENT OF THE CASE

On January 28, 2015, a Spartanburg County grand jury indicted Appellant for murder (2015-GS-42-0445). R. 386-387. In a separate indictment (2015-GS-42-0446), the grand jury indicted Appellant for armed robbery and possession of a weapon during the commission of a violent crime. R. 389-390. The state, represented by Barry Joe Barnette, called the case to trial before the Honorable J. Derham Cole and a jury on June 20-22, 2016. R. 1. Robert B. Hall represented Appellant. R. 1. The jury found Appellant guilty as charged. R.378, ll. 8-18. Judge Cole sentenced Appellant to life imprisonment for murder, thirty years' imprisonment for armed robbery, and five years' imprisonment for the weapon. R. 382, l. 21 – R. 383, l. 13; R. 388; 391-392. He ordered the five-year sentence to be served consecutively to the others, but ordered the other two sentences to be served concurrently. R. 383, ll. 12-13; R. 388; R. 391-391.

On June 28, 2016, Appellant filed and served his notice of appeal. This brief follows.

ARGUMENT

The trial judge erred in failing to direct a verdict of acquittal on all charges where the state failed to present any direct or substantial circumstantial evidence that Appellant committed the charged offenses.

Relevant facts

In October 2014, Appellant lived with his mother, Connie Bataille. R. 283, ll. 24-25. He found his mother dead on October 29, 2014. R. 128, ll. 19-23; R. 137, ll. 1-3; R. 148, ll. 1-25; R. 284, ll. 8-10. Still mourning the recent loss of his son and traumatized by the sight of his deceased's mother, Appellant fled the residence in his mother's car. R. 291, ll. 14-24; R. 292, ll. 6-9; R. 294, ll. 7-23. He ended up in Myrtle Beach, the last place where he spent time with his deceased son. R. 294, ll. 20-23.[1] Overcome with grief at the loss of his son and now his mother, Appellant decided to commit suicide. R. 294, l. 20; R. 295, l. 25 – R. 296, l. 8. Appellant planned to jump off the pier to drown, but he lacked the courage. R. 296, ll. 19-24. He also tried – multiple times – jumping off the hotel roof, but was unable to go through with it. R. 296, ll. 22-24; R. 297, ll. 2-12. Appellant even drafted a last will and testament and wrote letters to his family regarding his desire to die. R. 143, l. 19 – R. 145, l. 4; R. 145, l. 20 – R. 146, l. 2; R. 239, l. 17 – R. 241, l. 4; R. 257, l. 18 – R. 258, l. 13.

Unable to kill himself, Appellant returned to Spartanburg County several days later. R. 297, ll. 22-24. He went to the home of a friend, but the friend did not answer when he knocked on the door. R. 298, ll. 14-20. Appellant returned to his car and took approximately thirty

[1] On his way to Myrtle Beach, Appellant stopped at Bi-Lo in Spartanburg County, where he picked up prescription pain medicine. R. 154, l. 6 - R. 156, l. 9; R. 295, ll. 19-21. Appellant also sold some jewelry at a local pawn shop. R. 167, ll. 16-24; R. 168, ll. 6-21; R. 294, l. 24 – R. 295, l. 3; R. 295, l. 13-18. In Columbia, Appellant stopped at a gas station, where he used Bataille's debit card to withdraw $400. R. 179, ll. 21-24; R. 245, l. 8 – R. 246, l. 2; R. 317, ll. 3-6.

Klonopins, again attempting to commit suicide. R. 298, l. 22 – R. 299, l. 10. The strong prescription medicine rendered him unconscious. R. 299, ll. 11-12. The next thing he remembered he was being in the county detention center. R. 299, ll. 13-23.

On November 2, 2014, Bataille's daughter-in-law and adult granddaughter went to Bataille's home to check on her because no one in the family had heard from her for several days. R. 104, ll. 20-21; R. 105, ll. 8-14; R. 106, ll. 2-11. Upon their arrival, the two women found Appellant's car in the driveway, but Bataille's car was gone. R. 106, ll. 16-25. Thereafter, the two entered the home. R. 108, ll. 7-11. Everything in the home appeared normal until the two opened Bataille's bedroom door. R. 108, l. 12; R. 109, ll. 6-9. Upon opening the door, the daughter-in-law was "completely mesmerized by the mess." R. 109, ll. 14-16. Generally, Bataille was "very clean and … very tidy." R. 109, l. 17. While standing in the doorway, the women saw a foot, and promptly left the home. R. 109, l. 24 – R. 110, l. 3. The pair then called 911. R. 110, l. 15.

When the police arrived at the home, they found Bataille, who was dead, lying on her bed. R. 236, l. 23 – R. 237, l. R. 237, l. 2. Upon learning that Appellant lived in the home and was not there, he became the police's prime suspect in Bataille's death. R. 237, l. 21 – R. 238, l. 9. The blood evidence collected from the home matched Bataille, except for one spot of blood found on Appellant's bedroom door, which was matched to Appellant's DNA. R. 211, l. 4 – R. 213, l. 18; R. 265, ll. 7-23.

The following day, the police learned Appellant was asleep in a car at a residential address. R. 239, ll. 1-5. The officers raced to the location and found Appellant inside the car. R. 239, ll. 6-9. The police got him out of the car, interrogated him at the scene, and transported

him to the sheriff's office, where he was interrogated again. R. 239, ll. 10-13. The police charged Appellant with the death of his mother.

The autopsy revealed Bataille died as a result of multiple stab wounds and incised wounds with blunt force trauma to the head with open skull fractures. R. 277, l. 20 – R. 278, l. 2. According to the pathologist, who performed the autopsy on November 3, 2014, the decomposition was consistent with Bataille dying three to six days prior to the autopsy. R. 269, l. 21 - R. 270, l. 14.

At the conclusion of the state's case-in-chief, Appellant moved for a directed verdict of acquittal on all charges, arguing the state's case was only circumstantial and the state had presented insufficient evidence to submit the case to the jury. R. 279, ll. 18-2. With little elaboration, the judge denied the motion, finding there was evidence to support each of the essential elements. R. 279, l. 22 – R. 280, l. 4. At the close of all evidence, Appellant renewed his motion for directed verdict based on the insufficiency of the evidence. R. 332, ll. 5-7. The judge denied the motion "for the same reasons as previously provided." R. 332, ll. 8-9. After the jury returned its verdict, Appellant moved for a new trial, pointing out the circumstantial nature of the state's evidence. R. 382, ll. 1-6. The judge summarily denied the motion. R. 382, l. 7.

Discussion

A defendant is entitled to a directed verdict when the prosecution fails to provide evidence of the offense charged. State v. Brown, 103S.C. 437, 88 S.E.21 (1916); State v. Weston, 367 S.C. 279, 292, 625 S.E.2d 641, 648 (2006); State v. McHoney, 344 S.C. 85, 97 544 S.E.2d 30, 36 (2001). "If there is any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused," the trial judge may deny the motion for directed verdict. State v.

Lollis, 343 S.C. 580, 584, 541 S.E.2d 254, 256 (2001); State v. Pinckney, 339 S.C. 346, 349, 529 S.E.2d 526, 527 (2000); State v. Martin, 340 S.C. 597, 533 S.E.2d 572 (2000). When the prosecution relies exclusively on circumstantial evidence, the trial judge must direct a verdict in the defendant's favor unless there is any substantial circumstantial evidence which reasonably tends to prove the guilt of the defendant or from which his guilt may be fairly and logically deduced. State v. Bostick, 392 S.C. 134, 139, 708 S.E.2d 774, 776 (2011); State v. Mitchell, 341 S.C. 406, 535 S.E.2d 126 (2000). Likewise, a directed verdict is appropriate when the evidence produced "merely raises a suspicion the accused is guilty." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Arnold, 361 S.C. 386, 389-390, 605 S.E.2d 529, 531 (2004); State v. Schrock, 283 S.C. 129, 132, 322 S.E.2d 450, 451-452 (1984); State v. Muhammed, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999). Our courts define suspicion as "a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof." Lollis, 343 S.C. at 584, 541 S.E.2d at 256; State v. Hyder, 242 S.C. 372, 131 S.E.2d 96 (1963).

In Mitchell, 341 S.C. at 409, 535 S.E.2d at 127, the South Carolina Supreme Court held the lower court erred in failing to direct a verdict where the only evidence presented against the defendant was his fingerprint at the scene of the burglary. Likewise, the Lollis Court directed a verdict of acquittal in the defendant's favor where the state presented no direct evidence that Lollis was involved in setting fire to his home. The only circumstantial evidence against Lollis was that his wife admitted to the arson, he had placed valuables in storage prior to the fire, he possessed a key to the storage unit, and he allegedly had financial troubles. Our state supreme court found this evidence insufficient. Lollis, 343 S.C. at 584-585, 541 S.E.2d at 256-257.

In State v. Arnold, 361 S.C. 386, 389, 605 S.E.2d 529, 530-31 (2004), the defendant's fingerprint was found on a coffee cup in a car borrowed by the victim. The victim disappeared

after leaving his office in Savannah, Georgia, and his body was found three days later in Colleton County. Id. at 388, 605 S.E.2d at 530. The borrowed car was found in Johnson City, Tennessee near where the defendant called another witness the day after the crime. Id. at 388-89, 605 S.E.2d at 530. The defendant and the victim had been sexual partners. Id. The Supreme Court held that a directed verdict should have been granted because the fingerprint only established that defendant "was in the borrowed [car] on the same day the victim was last seen alive." Id. at 390, 605 S.E.2d at 531. The fact that the car was found in Tennessee near the defendant only raised "a suspicion of guilt." Id.

In State v. Bostick, 392 S.C. 134, 141, 708 S.E.2d 774, 778 (2011), the Court held the prosecution failed to present substantial circumstantial evidence of Bostick's guilt. Rather, the state's evidence was capable of producing only a suspicion of Bostick's guilt. Id. Although the police found items belonging to the victim in a burn pile behind the home of Bostick's mother, the Court held no evidence linked Bostick to the evidence in the burn pile and the prosecution presented no testimony that Bostick had control over the burn pile. Id. at 137-141, 708 S.E.2d at 775-778. The only other evidence presented against Bostick was that he had a chemical pattern that matched gasoline on his shoes and gasoline was used to start the fire at the victim's home, and DNA from blood on Bostick's jeans excluded ninety-nine percent of the population, but the expert could not testify the DNA matched the victim. Id. at 142, 708 S.E.2d at 778.

In State v. Odems, 395 S.C 582, 720 S.E.2d 48 (2012), the Court held the defendant was entitled to a directed verdict based upon a lack of substantial circumstantial evidence that the defendant was involved in the burglary. Although Odems was in a car with other individuals who admittedly burglarized a home, the state failed to provide substantial circumstantial evidence that Odems was present during the home invasion. The witness who saw individuals at the home

claimed she saw two, not three as were found in the car. Fingerprints collected from the stolen goods did not match Odems, but matched the other individuals in the car. One of the individuals who admitted his involvement claimed Odems was picked up after the burglary at a gas station. Id. at 588, 720 S.E.2d at 51. As explained by the Odems Court, although our courts have abandoned the traditional circumstantial evidence jury charge, the language of the charge is instructive in making a directed verdict determination. The traditional charge provided:

> Every circumstance relied upon by the State be proven beyond a reasonable doubt; and ... all of the circumstances proven be consistent with each other and taken together, point conclusively to the guilt of the accused to the exclusion of every other reasonable hypothesis.

Id. at 590, 720 S.E.2d at 52 (quoting State v. Hernandez, 382 S.C. 620, 626 n.2, 677 S.E.2d 603, 606 n.2 (2009).

The state alleged Appellant murdered his mother and built its case upon weak circumstantial evidence. The state argued Appellant's selling of jewelry at the pawn shop the day after Bataille's death was evidence that Appellant was the offender. This evidence was refuted by the state's own witness, Brenda Kean. Kean, who had been romantically involved with Appellant for over ten years and with whom Appellant shared a child, explained that Bataille's mother cared for Appellant and helped him. R. 139, ll. 14-23; R. 151, ll. 1-2. Kean, the state's own witness, testified that Bataille had given jewelry to Appellant. R. 151, ll. 3-6. Appellant corroborated Kean's testimony when he told the jurors that his mother had given him the jewelry years earlier. R. 293, l. 24 – R. 295, l. 18.

Additionally, the state claimed the evidence pointing to Appellant as the culprit was his use of Bataille's debit card. Again, the state's own witness – Kean – disputed this claim. Bataille, according to Kean, allowed Appellant to use her debit card because he had no bank account. R. 151, ll. 9-16. Appellant confirmed that he would give cash to his mother, who

would place the cash in her bank account and permit Appellant to use her debit card. R. 304, ll. 8-21.

Finally, the state argued Appellant's blood found on his bedroom door was proof that he killed the deceased. However, the state could not provide any evidence of when the blood was placed on the door or the circumstances under which the blood was placed on the door. The fact that Appellant's DNA was found in his own home, on the door to his own bedroom no less, was an unsurprising and non-incriminating fact. The police never even found a murder weapon. The only evidence against Appellant was the state's suggestion that he was guilty because he did not react in the way the state thought he should react upon finding the dead body of his mother. The state simply failed to present substantial circumstantial evidence of Appellant's guilt. The trial judge erred when he denied Appellant's motion for directed verdict.

CONCLUSION

Appellant respectfully requests this Court direct a verdict of acquittal on the charges of murder, armed robbery, and possession

Susan B. Hackett
Appellate Defender

ATTORNEY FOR APPELLANT

This 29th day of March, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ALLEN BRADBERRY, SR.

APPELLANT

PETITION TO BE RELIEVED AS COUNSEL

Counsel for Mark Allen Bradberry states:

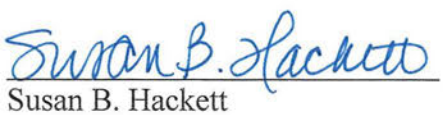
1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent Appellant.

2. She has reviewed the record of Appellant's trial before Judge J. Derham Cole, which was held on June 20-22, 2016, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.

3. Pursuant to Anders v. California, 386 U.S. 738 (1967), she has briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Mark Allen Bradberry.

Respectfully Submitted,



Susan B. Hackett
Appellate Defender
ATTORNEY FOR APPELLANT

This 29th day of March, 2017.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Spartanburg County
J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ALLEN BRADBERRY, SR.

APPELLANT

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) Entire trial transcript dated June 20-22, 2016;
(2) True-billed indictments (2015-GS-42-445; -446); and
(3) Sentence sheets.

I certify that this designation contains no matter which is irrelevant to this appeal.

March 29, 2017

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

March 29, 2017.

Susan B. Hackett

Susan B. Hackett
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARK ALLEN BRADBERRY, SR.

APPELLANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal in the above referenced case has been served upon J. Benjamin Aplin, Esquire, at the Rembert C. Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201; and a copy of the Anders Brief of Appellant and Designation of Matter and Record on Appeal have been served on Mark Allen Bradberry, #368749, at Broad River Correctional Institution, 4460 Broad River Road, Columbia, SC 29210, this 29th day of March, 2017.

Susan B. Hackett
Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 29th day of March, 2017.

_____ (L.S)
Notary Public for South Carolina
My Commission Expires: October 30, 2022.

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Respondent,

v.

Mark Allen Bradberry, Sr., Appellant.

Appellate Case No. 2016-001384

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge,

Unpublished Opinion No. 2018-UP-018
Submitted November 1, 2017 – Filed January 10, 2018

APPEAL DISMISSED

Appellate Defender Susan Barber Hackett, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General John Benjamin Aplin, both of Columbia, for Respondent.

PER CURIAM: Dismissed after review pursuant to *Anders v. California*, 386 U.S. 738 (1967). Counsel's motion to be relieved is granted.[1]

APPEAL DISMISSED.

LOCKEMY, C.J., and HUFF and HILL, JJ., concur.

---

[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

FORM 5

STATE OF SOUTH CAROLINA)
)
County of Spartanburg)
Mark Allen Bradberry SE.368749)
Full name and prison number (if any) of Applicant)
)
v.)
)
State of South Carolina)
)
)
)

IN THE COURT OF COMMON PLEAS

2019 CP 42 001604

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:50

INSTRUCTIONS – READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Spartanburg County

2. Name and location of Court which imposed sentence Spartanburg County
180 Magnolia Street, Spartanburg. South Carolina 29306

3. Name(s) of co-defendant(s) (if any) _____

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
   (a) 2015GS4200445
   (b) 2015GS4200446

(c) 2015 GS 4200446 A

5. The date upon which sentence was imposed and the terms of the sentence:

(a) June 22, 2016 Life

(b) June 22, 2016 30 Years

(c) June 22, 2016 5 Years

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ✓

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. January 10, 2018

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) _____

(b) _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:50

(c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

(a) Ineffective assistance of counsel.

(b) _____

(c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

(a) He did nothing to help me.

(b) _____

(c) _____

12. Prior to this application have you filed with respect to this conviction:

(a) any petition in a State Court under South Carolina Law? No

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:50

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no

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CLERK OF COURT
SPARTANBURG COUNTY

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Presenting it now for PCR.

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes

(b) your trial, if any? YES

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

_____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Hon. Robert B. Hall, Esquire
366 N. Church St. Ste. 3000, Spartanburg, S.C. 29303

ii. Ms. Susan B. Hackett, Esquire
Division of Appellate Defense. P.O. Box 11589, Columbia, S.C. 29211-1589

iii. _____

(b) the proceedings at which each such attorney represented you:

i. At my trial

ii. At my Appeal

iii. _____

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:50

19. State clearly the relief you seek in filing this application:

To have a retrial or to leason my sentance.

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)
) VERIFICATION
County of Spartanburg)

I, Mark Allen Bradberry SR 368749, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Mark Allen Bradberry Sr

SWORN to and subscribed before me this 10th day of January, 2019.

Kendall S. Mitchell (L.S.)
Notary Public

My Commission Expires: May 23, 2028

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:50

APPLICATION TO PROCEED WITHOUT PAYMENT OF COSTS AND AFFIDAVIT IN SUPPORT THEREOF

I, Mark Allen Bradberry Sr., hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

(1) I am the applicant in this action and I believe I am entitled to redress.

(2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Mark Allen Bradberry Sr
Applicant

SWORN or affirmed to and subscribed before me this 10th day of January, 2019.

Kendall S. Mitchell
Notary Public

My Commission Expires: May 23, 2028

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2019 JAN 14 AM 10:51

Revised 3/2003

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Mark Allen Bradberry, S.C.D.C. No. 368749,	)	Case No.: 2019-CP-42-00164
Applicant,	)	
v.	)	**RETURN AND MOTION FOR A MORE DEFINITE STATEMENT (Counsel Appointed)**
State of South Carolina,	)	
Respondent.	)	

In response to the application for post-conviction relief filed by Mark Allen Bradberry (Applicant) on January 14, 2019, Respondent would show this Court:

2019 APR 19 AM 8:46
CLERK OF COURT
SPARTANBURG COUNTY

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the February 2015 term of the Spartanburg County Grand Jury for murder (2015-GS-42-00445), armed robbery, and possession of a weapon during the commission of a violent crime (2015-GS-42-00446, Cts. I & II). Robert B. Hall, Esq. represented Applicant, and Barry J. Barnette, Solicitor for the Seventh Judicial Circuit, prosecuted the case. On June 20, 2016, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted on June 22, 2016. Judge Cole sentenced Applicant to imprisonment for concurrent terms of life for murder, and 30 years for armed robbery. Judge Cole additionally sentenced Applicant to a consecutive term of 5 years for the weapon.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Susan B. Hackett, Esq. filing a brief pursuant to Anders v. California, 386 U.S. 738 (1967), which offered the following issue:

> Did the trial judge err in failing to direct a verdict of acquittal on all charges where the state failed to present any direct or substantial circumstantial evidence that Appellant committed the charged offenses?

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. State v. Bradberry, Op. No. 2018-UP-018 (S.C. Ct. App. filed Jan. 10, 2018). The Remittitur was issued on January 26, 2018.

II. STATEMENT OF THE FACTS

The Discovery of Bataille's Body

Karrie Hutchins Looney, through her husband Jack Looney, was the daughter-in-law of Connie Bataille. (R. 103-04). Bataille lived in Pacolet, South Carolina with her son, Applicant, who moved in beginning in 2010. (R. 126, ll. 11-16). Mrs. Looney was at her family's second home in Spartanburg the weekend of Sunday, November 2, 2014, when her husband called to ask if she would go out to Pacolet to check on Bataille, as nobody had been able to make contact with her. (R. 105-06). Mrs. Looney and her daughter arrived at Bataille's home after a forty-five minute drive from Boiling Springs and found that Bataille's car was not parked in the driveway—only Applicant's car was present. (R. 106, ll. 13-25; R. 112-13; State's Trial Exhibit #22). Mrs. Looney proceeded to her uncle's house, Bataille's brother John Penavs, to inquire if he knew anything, but Penavs reported he did not know where Bataille was but he had previously suspected she was visiting the Looneys in Charleston for the weekend, as her car had been gone a couple of days. (R. 107, ll. 1-9). Mrs. Looney was about to return to Boiling Springs, but her husband asked her to physically go into the house. (R. 107, ll. 10-24).

Mrs. Looney and her daughter returned to Bataille's home and, with some trepidation, went inside. (R. 108, ll. 2-9). Mrs. Looney observed a newspaper on the table dated for Thursday, October 30, 2014, still wrapped in plastic, which she found odd because Bataille diligently read every day's newspaper. (R. 108, ll. 13-18; R. 115-16; State's Trial Exhibit #27). Bataille's laptop and cell phone were present. (R. 108, ll. 19-21). Mrs. Looney went to Bataille's closed bedroom door, knocked, and opened the door when there was no answer. (R. 109, ll. 6-15). Mrs. Looney was awed by the mess in the ransacked room until her daughter stated "Mom, I see a foot." (R. 109, ll. 17-25; R. 120, ll. 4-8). The two immediately exited building and called to Penavs, who was standing on his porch next door; Penavs went in, came right back out, and called 911. (R. 110, ll. 1-15; R. 120, ll. 9-10). Some time later while cleaning up Bataille's room, Mrs. Looney and the family realized they did not find Bataille's jewelry and other significant items. (R. 120-22).

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Penavs, Bataille's brother, had retired as a truck driver after a career of forty years and moved in next to his sister a couple years before her murder. (R. 127-28). Penavs spent much of his time sitting on his front porch, from which he could see Batille's house and back door. (R. 128, ll. 20-22). Penavs noticed Bataille's Mitsubishi Mirage did not return for days, and so he assumed she had gone to Charleston to visit the Looneys and their children. (R. 128-29). The only car at Bataille's house was Applicant's white Buick, and so Penavs assumed Applicant had gone with Bataille. (R. 129-30). When Mrs. Looney appeared on November 2, Penavs told her he had assumed Bataille was visiting her; when Mrs. Looney went into the house and emerged, he knew something was wrong. (R. 130, ll. 2-12). Penavs ran to Bataille's house, went inside, saw Bataille's foot, and went back outside to call the police. (R. 130-31). Penavs testified

Applicant never called him from October 29, 2014, through November 2, 2014, when Bataille's body was discovered. (R. 132-33).

Applicant's Activities on the Weekend in Question

Kerri Herr, a resident of Pacolet and neighbor to Applicant's daughter, encountered Applicant the morning of October 30, 2014. (R. 134-35). Herr had not seen Applicant for a couple of days, which was unusual as he typically came over to watch his daughter. (R. 136, ll. 1-8). Applicant, coming from the direction of Bataille's house, stopped at an intersection driving his white Buick and was "his normal little chipper self[.]" (R. 136-37).

Brenda Sue Kean, Applicant's significant other of ten years and mother to his child, explained how Applicant failed to show up the morning Friday, October 31, 2014, to help with his daughter like they had planned. (R. 139-41; R. 149-50). Applicant failed to appear despite leaving behind his cell phone and a lottery ticket at Kean's house. (R. 141-43). Nonetheless, Kean took her daughter out trick-or-treating with a plan to go to Bataille's house because she always had a bag of candy ready. (R. 148, ll. 1-14). Kean pulled up to Bataille's house around 5:30 P.M. but found Bataille's car was gone and the house was dark; they knocked on the door anyway and received no answer. (R. 148, ll. 15-25). Kean called around to see if anybody knew where Bataille was, but did not learn what happened until the afternoon after her body was discovered. (R. 149, ll. 4-17). On November 3, 2014, Kean received an envelope from Applicant mailed from Columbia which contained a money order for $300. (R. 143-47). Kean turned the money order over to law enforcement; she never heard from Applicant again after that. (R. 147, ll. 12-19).

Kathy Ballenger, a pharmacy technician at Bi-Lo, saw Applicant the morning of Thursday, October 30, 2014; he was a regular patient and she recognized him as soon as he

walked up. (R. 153-55). Applicant went over the prescriptions with her and had a casual conversation about her car. (R. 155-58).

Daniel Reveles, the assistant store manager of the Bi-Lo in the Hillcrest neighborhood,[1] confirmed Applicant's presence there on that morning by way of the store's video surveillance. (R. 162-64). Reveles confirmed the store was furnished with a Coinstar coin counting machine. (R. 164, ll. 6-12). Reveles produced a receipt from the machine for $85.22 in change, counted and exchanged at 9:08 A.M. on October 30, 2014. (R. 164-65).

James "Jimmy" Gordon Tobias, owner of the Camp Croft Pawn Shop, saw Applicant on the morning of October 30, 2014. (R. 166-67). Applicant pawned a pair of earrings, two rings, and "[t]here might have been a little necklace in there too[,]" for $60 at 11:20 A.M. (R. 168-73). Applicant never returned to recover the collateral, but specifically sold the jewelry. (R. 173-75).

Loretta Norris, a regional security coordinator for Suntrust Bank, testified that $403.95 was withdrawn from Bataille's account on October 30, 2014, and that Applicant was not an authorized signatory on the account. (R. 176-80).

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Richard Phillip Carter, Jr., a postal inspector with the United States Postal Inspection Service, confirmed the money order received by Kean was sent from a post office in Myrtle Beach on October 31, 2014, at just before 1 P.M. (R. 183-88). Carter further explained that "if you mail a letter from Myrtle Beach, it's going to show a Columbia cancellation because that's where the plant is." (R. 190, ll. 1-23).

Phyllis Vandergriff, a C.C.T.V. support specialist with Pilot Flying J, produced the video surveillance from the Flying J Travel Center in Columbia for October 30, 2014. (R. 222-24).

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[1] Upon information and believe, it has since closed.

Lance King, an asset protection official with Sears Holdings Corporation, also provided video surveillance from the K-Mart in North Myrtle Beach. (R. 224-26).

The Law Enforcement Investigation

Robert Charles Talanges, crime scene investigator with the Spartanburg County Sheriff's Department, investigated the scene alongside his partner Deputy Stepp. (R. 192-93). Talanges took numerous pictures of the scene and confirmed the same observations made by Mrs. Looney and Penavs: the house was neat and tidy but for Bataille's bedroom, which was ransacked. (R. 193-208). The position of Bataille's body appeared to reflect that she had been lying on her left side watching television of sleeping, with the remote very close to her hands. (R. 208-09). Blood splatter was found on the floor, the ceiling, and the television stand in Bataille's room. (R. 210-11). Additional blood was located on the door to Applicant's bedroom. (R. 212-13). Talanges searched for weapons, and noticed an empty slot in the butcher's block in Bataille's kitchen. (R. 217-18). Talanges attended the autopsy and observed head trauma and multiple stab wounds. (R. 218-19). Later, recalled for reply testimony, Talanges observed there was *no damage* to the strike plate to the storm door. (R. 328-30).

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Murray Brandon Letterman, the sergeant supervising violent crime investigations at the Spartanburg County Sheriff's Department, also responded to the Bataille's home on November 2, 2014. (R. 235-36). After speaking with the family present, Letterman secured a search warrant and went in to find Bataille's body "laying in her bed with a blanket covering her and the room ransacked and several [of] what appeared to be bank statements laying on top of the blanket on top of her body." (R. 236-37). Applicant, as the other resident of the house, was immediately identified as a person of interest, but was unable to be located, so Bataille's vehicle was listed as possibly stolen in the N.C.I.C. (R. 238, ll. 4-20). The next day, Letterman was

informed that officers were heading to a location in Pauline upon a report that Applicant had been seen there asleep in the car; sure enough, Applicant was found in the driver's seat of Bataille's car. (R. 238-39). Letterman reviewed the letters found in Bataille's car; the letter addressed to Kean explained:

> Then they wouldn't refill my meds and I tried to tell you that [I] needed to move back in and get away from my mom. Every day all she did was put you down and say – and say bad things about you because she didn't like the name McKenna. She bitched and moaned and complained about any and every thing we did. I couldn't take it any longer.

(R. 240-41). Applicant's letter to Kean continued:

> By the way, if years ago when I told you I was molested, well, it was by my mom. That is why she always took care of me. I guess she felt guilty. I don't know. But she hated for you – hated you for that or hated you for what I did to you. She is hateful, spiteful. She made you and McKenna cry for no reason, just to be mean.

(R. 258, ll. 8-13).

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Letterman obtained records and recordings from Bi-Lo, the pawn shop, the gas station, and the K-Mart and confirmed Applicant's presence for each of the transactions recorded and noted above, as well as that Applicant stayed at the "Bar Harbor Hotel" in Myrtle Beach from October 30 to November 2, 2014. (R. 241-57).

Investigator Michael Sean Nix, of the Spartanburg County Sheriff's Department, received word on November 3, 2014, from investigators on the scene that Applicant was at an address in Pauline, South Carolina, and he responded to the location. (R. 227, ll. 9-25). There, Nix found Bataille's car parked behind a shed. (R. 228-29). Inside the car, Nix found letters, prescriptions, bottles, and receipts, including in particular a receipt from a Chick-fil-a in Myrtle Beach. (R. 229-31). Among the letters, Nix found "the last will and testament of Mark Allen Bradberry[,]" and other letters to Applicant's family. (R. 231-33). As for Applicant himself, Nix

photographed a cut mark on his arm. (R. 233-34). Applicant was not actively bleeding and received no medical attention. (R. 234-35).

Jennifer Bartman, D.N.A. analyst with the South Carolina Law Enforcement Division (SLED), confirmed recovery of DNA evidence matching to Bataille and Applicant from the scene. (R. 261-66). Bartman did not indicate the discovery of any other person's profiles from the blood and fingernail samples, or from the chewed gum.

Dr. John David Wren, of the Carolinas Pathology Group at the Spartanburg Regional Medical Center, performed the autopsy on Bataille on November 3, 2014. (R. 268-69). Wren found signs of decomposition consistent with death four to six days prior to the autopsy. (R. 270, ll. 1-14). Wren noted "four [or] five lacerations to the scalp" and fractures to the skull, including one "large gaping fracture of the skull[.]" (R. 272-73). Wren also noted a large laceration that was at least ten centimeters from the corner of her right mouth almost to Bataille's ear. (R. 273, ll. 15-23). Wren observed that brain tissue "had come out of the skull and actually out of the wound and came into her hair." (R. 274, ll. 2-6). Wren further observed that Bataille's eye "was completely recessed in the socket, the right one, from fractures at the base of the skull." (R. 274, ll. 7-8). Wren noted what he described as "the major wound," a gash up to Bataille's neck that was 17 ½ inches long and over three inches wide, extending into the trachea carotid artery, the jugular, the vagus nerve, and all the way down to her spinal column.[2] (R. 274-75). Three stab wounds marked Bataille's chest, penetrating into a lung and her chest cavity. (R. 275, ll. 21-25). Wren observed three more stab wounds in the upper shoulder, and six more in the back, variously directed. (R. 276, ll. 7-14). Wren found no hilt marks, and thus concluded

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[2] Interestingly, Wren compared the wound to those "you would see with the terrorists in the Mid East[.]" (R. 275, ll. 17-18).

the blade used was at least two inches in length. (R. 276-77). There were no defense wounds. (R. 277, ll. 15-17).

Applicant's Testimony

Applicant testified in his own defense. Applicant testified that he spent the evening of October 29, 2014, putting up Halloween decorations with his child and Kean. (R. 284, ll. 11-18). When he returned home, Bataille was playing solitaire on her computer and watching television; Bataille gave Applicant her debit card to get a prescription from Bi-Lo, as Applicant had no bank account. (R. 284-85). Applicant spent the remainder of the evening either scrapping metals from junk electronics or drinking beer and watching movies in his room. (R. 285, ll. 4-24). Applicant left a couple of times for a few hours in search of marijuana, but was unsuccessful and ultimately returned home. (R. 285-89). Applicant found a strike plate from the storm door on the porch, which he found unusual. (R. 289-91). Applicant opened the door to his mother's room and found her "all bloody on the bed, and I didn't know what to do." (R. 291, ll. 14-16). Applicant stood there a while, and found Bataille was already cold. (R. 291, ll. 16-18). Bataille's room was ransacked. (R. 292-93). Applicant, heavily inhebriated, did not know what to do, but just stayed at Bataille's house. (R. 293-94).

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The following morning, he went to Kean's house for a little while, then retrieved his medicine, then resolved to kill himself "at the beach, because that's the last place I was at with my son before he got killed." (R. 294, ll. 10-25). Applicant testified the jewelry he pawned was given to him by Bataille, and explained he took her car because the Buick was not reliable for a long drive. (R. 295-96). Applicant claimed his plan for suicide was to simply dive off the end of a pier, but opted to try leaping from the top floor of the motel,[3] but found he could not kill

[3] Upon information and belief, Bar Harbor is about eight stories tall.

himself. (R. 296-97). Applicant explained he did not call 911 for fear of getting into more trouble. (R. 297, ll. 17-23). Unable to kill himself, Applicant returned to Pacolet by way of backroads. (R. 297-98). Applicant was unable to find anybody at his friend's house in Pauline, and so consumed all of the pills in his possession in the car—a handful, primarily klonopins. (R. 298-99). Next thing he knew, he was at the detention center. (R 299, ll. 11-15).

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. "Ineffective assistance of counsel."
    a. "He did nothing to help me."

Applicant requests relief as follows:

- "To have a retrial or to lesson my sentence."

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Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, Applicant's appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Trial Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a

just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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Conclusion and Action Requested

Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. RESPONSE TO CLAIM PURSUANT TO CHRONIC

Applicant's allegation of ineffective assistance of counsel can be *very* liberally construed to claim the total abandonment of counsel. "[T]he right to the effective assistance of counsel is recognized not for its own sake, but because of the effect it has on the ability of the accused to receive a fair trial." United States v. Cronic, 466 U.S. 648, 658 (1984). Generally speaking, attorneys are presumed competent to provide "the guiding hand that the defendant needs," such that "the burden rests on the accused to demonstrate" a violation of the Sixth Amendment. Id. However, there are "circumstances that are so likely to prejudice the accused that the cost of litigating their effect in a particular case is unjustified." Id. Prejudice may be presumed *per se* in three circumstances: (1) when a defendant is completely denied counsel at a critical stage of his trial; (2) when there has been a constructive denial of counsel from an attorney's complete failure to subject the prosecution's case to meaningful adversarial testing; and (3) when circumstances of trial are such that the likelihood that any lawyer, even a fully competent one, could provide effective assistance is so small that the presumption of prejudice is appropriate without inquiry into the actual conduct of the trial. Nance v. Ozmint, 367 S.C. 547, 551-52, 626 S.E.2d 878, 880 (2006); Cronic, 466 U.S. at 659-60. "A finding of *per se* prejudice under any of these three prongs is 'an extremely high showing for a criminal defendant to make.'" Nance, 367 S.C. at 552, 626 S.E.2d at 880 (quoting Brown v. French, 147 F.3d 307, 313 (4th Cir. 1998)). Presumption of prejudice as a standard is only used for those cases where counsel fails to "function in any meaningful sense as the Government's adversary." Id., 367 S.C. at 552, 626 S.E.2d at 881 (quoting Florida v. Nixon, 543 U.S. 175, 190 (2004)).

There is nothing presented by Applicant to show that he was denied Counsel at a critical stage of his trial. The record demonstrates Counsel cross-examined witnesses, made timely

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objections, and argued to the jury to acquit his client. There is nothing presented to show that the circumstances of trial were such that the likelihood of effective assistance was so small as to be realistically foreclosed. Accordingly, the claim for relief should be denied.

However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI. MOTION FOR MORE DEFINITE STATEMENT

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added).

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Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

VII. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b),

SCRCP; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VIII. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

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[*Conclusion and signature on following page*]

IX. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court grant its motion for a more definite statement as set forth in Section VI, above, and thereafter convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By: _____
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

16 April, 2019

CLERK OF COURT
YORK COUNTY
2019 APR 19 AM 8:47

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG MARK ALLEN BRADBERRY, #368749, Applicant, vs STATE OF SOUTH CAROLINA, Respondent.	IN THE COURT OF COMMON PLEAS 2019-CP-42-00164 AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.

2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

SPARTANBURG COUNTY
2019 APR 19 AM 8:47

Susannah Conyers Ross, Esquire
Ross & Enderlin, PA
330 East Coffee Street
Greenville, South Carolina 29601

DATED this the 16th day of April, 2019.

Carson Kirk, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
MARK ALLEN BRADBERRY, APPLICANT. v.	)	AMENDED APPLICATION
THE STATE OF SOUTH CAROLINA, RESPONDENT.	)	CASE # 2019-CP-42-3713

This matter comes before the Court by way of application of post conviction relief filed January 14, 2019. A Return and Motion for a More Definite Statement was made on April 16, 2019. This application is intended to incorporate the allegations of the original application and add the following allegations:

1. Ineffective assistance of trial counsel for failure to

1) failure to investigate and prepare a defense, and

2) failure to present mitigating mental health history.

Respectfully submitted,

Susannah Ross
Attorney for the Applicant
330 E. Coffee St,
Greenville, SC 29601
(864) 242-0029

This 13 day of August, 2020

FILED
2020 AUG 17 AM 9:33
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS SEVENTH JUDICIAL CIRCUIT
MARK ALLEN BRADBERRY, APPLICANT. v.	)	AFFIDAVIT OF SERVICE BY MAIL
THE STATE OF SOUTH CAROLINA, RESPONDENT.	)	CASE # 2019-CP-42-164

1. I am the attorney for the Applicant in the above-captioned matter.

2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.

3. I have this day served a copy of the **Amended Application** in the above-captioned matter on the following person by depositing the same in the United States mail with proper postage affixed thereto:

Office of Attorney General Alan Wilson
PCR Division
P.O. Box 11549
Columbia, SC 29211

Attorney for Applicant

This 13 day of August, 2020

FILED
2020 AUG 17 AM 9:33
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

State of South Carolina	)	
	)	
County of Spartanburg	)	
Mark Allen Bradberry,	)	2019-CP-42-00164
	)	
Applicant,	)	
	)	
v.	)	Transcript
	)	
The State of SC,	)	of
	)	
Defendant.	)	Post-conviction
	)	Relief Hearing
	)	
	)	
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	)	
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	)	

Date: September 14, 2021

Time: 2:06 p.m.

Location: Spartanburg County Courthouse

180 Magnolia Street, Spartanburg, SC 29306

Reported by
Amber Payne, CVR

APPEARANCES

Presiding: The Honorable William A. McKinnon

For the Applicant:
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For the Defendant:
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Also Present:
Robert B. Hall, Esq.
Seventh Circuit Public Defender
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EXHIBITS

There were no exhibits were marked during this hearing.

PROCEEDINGS

THE COURT: Yes, sir, Mr. Ray.

MR. RAY: Thank you, Your Honor. May it please the Court. This is the "Matter of Mark Allen Bradberry vs. The State of South Carolina." We're here under Case Number 2019-CP-42-00164.

Mr. Bradberry is currently incarcerated in the Department of Corrections. He was indicted back in February of 2015 for murder, armed robbery, and the possession of a weapon during the commission of a violent crime. The indictments arose out of the murder of Mr. Bradberry's mother in her home in Spartanburg. He was represented by Mr. Hall -- or Mr. Robert B. Hall, who is here today, and Solicitor Barry Barnette prosecuted the case.

On June 20th, 2016, Mr. Bradberry proceeded to a jury trial before Judge Cole. The jury found Mr. Bradberry guilty on June 22nd, 2016. Judge Cole had --

THE COURT: Murder in all the charges?

MR. RAY: Yes. Yes, Your Honor. As indicted.

He was then sentenced to imprisonment for

concurrent terms of life for the murder and 30 years for the armed robbery as well as a consecutive term of five years for the weapons offense. Mr. Bradberry did appeal his conviction where he was represented by Attorney Susan Hackett of Indigent Defense. She filed an Anders brief on his behalf. The Court of Appeals dismissed that -- that brief via unpublished opinion on January 10th, 2018. His remittitur was issued January 26th of 2018, and this application followed on January 14th, 2019.

Now, in his application -- his pro se application that he filed, he did raise some very general allegations. We have moved for a more definite statement in our return. As of today, we have not received any -- any formal amended allegations from his counsel, Ms. Ross. So we would just ask that she state on the record what it is that we're proceeding with today.

THE COURT: Ms. Ross?

MS. ROSS: Thank you, Your Honor. May it please the Court. Mr. Bradberry did allege some general allegations that his attorneys

sort of just did nothing -- did not do enough, and those would involve allegations that he can set forth for you, but -- failing to review discovery, etc. To that, I would add upon review of the -- the file and the defense discovery file and the transcript that an allegation of ineffective assistance of counsel for failing to argue -- on Page 291 of the transcript, the solicitor objected to any reference to the applicant's son being shot at his home and in his presence. And the applicant attempted to testify during his testimony about how he was having a panic attack after his son's shooting and trying to explain why he didn't call 911 after – when -- when he found his mother dead. And we would argue that the objection -- the solicitor's objection should not have been sustained and the defense attorney should have argued that this went to an element of Mr. Bradberry's defense and gave some explanation about why he reacted in kind of an un-understandable way to his mother being killed.

THE COURT: Okay. So Mr. Bradberry's son had

been killed at a prior time?
MS. ROSS: Yes. His son --
THE COURT: And the argument --
MS. ROSS: -- was killed
THE COURT: -- would've been that --
MS. ROSS: -- a couple of years prior, was shot in the chest. Mr. Bradberry called 911 then and was sort of investigated but cleared and had nothing to do with it; and that I feel is a strong argument of why he -- he didn't call 911 in this case.

The second goes to the State -- I mean, the defense attorney failing to object to reply witness, Charles Talanges. Just looking at the trial transcript, I didn't think that the testimony of the applicant would merit a reply witness from the State putting the investigator back up. He had already had an opportunity to testify to -- to kind of final out. And then, finally, on Page 3 --
THE COURT: I'm sorry, Ms. Ross, I -- you're saying allowing the State to have a reply witness?
MS. ROSS: Right. Just arguing that he could have objected to the State's reply witness and

argued that there was no new information brought up with the defense's testimony that would require or merit a reply witness. So the judge could a determination of whether that was procedurally sound.

THE COURT: Okay.

MS. ROSS: On Page 330, Line 21, the defense attorney failed to object to a leading question to that reply witness, and the question was, "This looked like a setup, didn't it?" Again, improper leading question. And -- and that -- the last argument that -- that I asked to just leave open that there was no -- an argument for directed verdict or no move to dismiss the armed robbery charge as there was no evidence that the victim was alive when any items were taken. That there was an armed robbery.

This I'm going to -- I didn't -- haven't seen that before, but it's certainly – it would -- might -- may come up given the circumstances of this case. And I'd allow -- move to just allow the testimony to be -- if -- if something new comes up after, allow to amend the pleadings to --

THE COURT: Certainly.
MS. ROSS: -- reflect the testimony.
THE COURT: Certainly.
MS. ROSS: All right. Mr. Bradberry, please take the stand.
MR. RAY: And, Your Honor, again, I forgot to pass up the --
THE COURT: All right. Thank you.
MR. RAY: -- record.

(WHEREUPON, the applicant was sworn.)

DIRECT EXAMINATION

BY MS. ROSS:

Q Okay. Mr. Bradberry, can you give your name for the record?
A Mark Bradberry.
Q Now, you were tried for -- for the murder -- for the killing of your mother; is that correct?
A Yes, ma'am.
Q And you testified at that trial; is that correct?
A Yes, ma'am.
Q And was that truthful testimony that you gave?
A Yes, ma'am.
Q Now, you lost that trial and appealed and now have alleged post-conviction relief. Do you understand what's happening?

A Yes.
Q In talking to that, do you -- well, with the application for PCR, did you -- did you allege your lawyer, Robert Hall, did nothing or didn't . . .
A Yeah. I didn't think it went well at all.
Q Okay. Can you give a brief outline as to why?
A Well, I didn't know much about what was really going on, and, I don't know, I didn't think we -- he talked me through everything properly after I -- after everything I had time to think about it all. I just didn't think he did well -- a good job.
Q All right. And just talking about that, did -- did y'all discuss prior to the trial whether you would testify or not in your own defense?
A Yeah. I think we did.
Q All right. Did you ever make a decision as to whether you would or not?
A Yes.
Q So you expected to testify that day at trial?
A Correct, yeah.
Q Now, how many times did you and Mr. Hall practice your testimony?
A I don't think we practiced anything.
Q Did you go over your testimony with Mr. Hall?
A I don't remember exactly what we talked about.

It's been so long now.
Q All right. Did he ever bring you in the courtroom and show you where the jury is sitting or anything like that --
A No.
Q -- or talk to you during a break? Now, when -- what other trial preparation do you think should've happened that didn't?
A Oh, I don't know. I mean, I guess I should've been -- I don't know, went over it more -- made -- made everything more clear to me.
Q Did you ever get a plea offer?
A I don't think -- it -- it wasn't under negotiations. He -- one time he asked -- said something about a -- a "North Carolina vs. Alford," but I didn't understand what that was.
Q Okay. And so you turned down a plea offer to "North Carolina v. Alford"?
A Yes.
Q All right. Now, as far as the investigation, what investigation did you want to occur that didn't?
A Oh, well, I don't even know.
Q How many times do you think you met with Mr. Hall?
A He first came that first week, and I was -- that I was in the County. And all he said was, "I hadn't

reviewed your case yet, but they'll want a plea bargain." And it seemed like to me we went a little while and I come to the courthouse and that's when he waived the preliminary hearing. And I don't know the dates, but it seemed like it was about a year before I saw him again; and then I saw him probably near the end. He seemed like he came once or twice a week, maybe; I can't remember.

Q Now, as far as waiving the preliminary hearing, did you get a chance to consent to that waiver of the preliminary hearing?

A No. I didn't even know what was going on at that time.

Q Did you get a chance to review the discovery against you?

A It was a long time before I asked for it, because I was seeing the mental health counselors at the County; and they're the ones who asked me about it. And I said, "I don't know nothing about it." And when I asked him, yeah, he sent it to me. I -- I don't know. It was a long time ago as far as like that.

Q Okay. Well, let's talk about the -- the mental health counselors. What were you getting counseling for?

A I just -- I've been through a lot and my PTSD when I -- after seeing my son getting killed and then the trouble with my mother and I don't know, just somebody to talk to.
Q Can you tell -- tell us about -- I know it's hard, but about what -- what happened with your son?
A We was, like, target practicing and he dropped the pistol and it shot him right in the chest and it went right through his heart.
Q And what did you do afterward? Were you there with him?
A Yes.
Q And was this at the same home or a different one?
A This was at a different house than where I was living with my mother.
Q And what did -- what happened after that?
A The --
Q You called 911, right?
A Yes.
Q Okay. And what happened after that?
A The sheriff patrol got there first, and then a little while later, the ambulance and fire truck come. They sent a helicopter out there, but it was already too late. He had already died.
Q Okay. And after that, you were diagnosed with

PTSD?

A I assume so from my doctor, because he had me on all type of medicines.

Q Now, were you investigated in that case with your son?

A Yes, ma'am.

Q And what kind of process was that?

A Lots of questions and they do the gunshot stuff on your hands and stuff like that.

Q The GSR gunshot residue test?

A Yes, ma'am.

Q And -- and, ultimately, you -- you weren't charged for any --

A Right.

Q -- involvement in that, correct?

A Correct.

Q But it did leave you with PTSD?

A Well, that’s probably part of it, yeah. For just having to be there, just me and him by ourself (verbatim), and having to see him die like that.

Q And after that, you started doing some drugs and drinking, didn't you?

A Yes, ma'am.

Q And had -- had that always occurred, or did it get worse after your son's death?

A It probably got a little worse.
Q All right.
A Pretty bad.
Q And were you ever evaluated for -- for mental health issues by the State?
A I went to the mental health department, but -- at one time, and they said I didn't qualify. They referred me to a -- a church that had some other counselors coming there. I can't remember which one it was; over in the area of Hillcrest somewhere over there.
Q Okay.

MS. ROSS: I beg the Court's indulgence.

THE COURT: Yes, ma'am.

Q Now, I guess, can you explain again -- you testified at trial, and that's part of the -- the transcript, which is part of the -- the transcript, which is part of the record in this case. But if you'd gotten a chance to talk about your PTSD and your son's death, what would you have told that jury about why you didn't call 911 and -- and stayed with your mother for hours after finding her dead?
A I guess because -- because what happened with my son and all that investigation and everything and,

you know, them trying to think I had something to do with that, and I just figured, you know, I'd just be in trouble anyways, because I'd already been through similar things and death in the family; so I just didn't call.

Q And wasn't it your intention to go to the beach one last time and kill yourself?

A Yes, ma'am. Because that's the -- the last place me and my son was for like a couple of weeks right before he got killed, so I had went back down there.

Q And -- I'm trying to think. I think that's all the questions I have for you. Is there anything else -- this is your PCR. Anything else you want to tell the Court or the --

A No.

Q -- about this case?

A I don't think so. I don't know. I guess that's about it.

Q Okay.

MS. ROSS: I have no further questions.

THE COURT: Mr. Ray?

MS. ROSS: (To the Court) Oh, sorry. Can I ask one more question?

THE COURT: Sure.

MS. ROSS: I apologize.

DIRECT EXAMINATION CONTINUES

BY MS. ROSS:

Q Now, your testimony was that you found -- came back in and -- and your mother was dead. You did take her car and items?

A I just took her car. The -- the stuff they said I had took, I had that years before that. They -- they talked about that in the court with the prosecution witness.

Q And that was -- that was jewelry of your mother's and different things --

A Yes.

Q -- and there was testimony that -- that you had, had access to that jewelry all along?

A Yes. And the debit card we -- I used -- used her bank because I didn't have no bank account. And on the debit card, the pin numbers is my birthday, 1965. She set it up that way, so I had a card to use when I needed it.

Q So you could remember? And you lived with your mom, right?

A Yes.

Q So the only thing that was taken after -- after the fact that you took was that you didn't have a right

to was her car to go down to the beach?
A Right.
Q Okay.
MS. ROSS: No further questions.
THE COURT: Mr. Ray?
CROSS-EXAMINATION
BY MR. RAY:
Q Mr. Bradberry, when did you first come to meet Mr. Hall who was your attorney?
A I didn't hear you.
Q When did you meet your attorney?
A In the County.
Q And do you know when that was?
A No. I think it was -- I think it was that first week. I think it was on a Friday, but I'm not sure.
Q Okay.
A I don't know the date.
Q Shortly after you had been arrested?
A Yeah. That same week I think it was.
Q Okay. And you stated to Ms. Ross that he came and he met with you several times?
A Right.
Q Okay. And did he bring --
A But after that first time, I didn't see him for

like a year seems like.
Q Okay. But then --
A Then after that, near -- near the trial time, it got more often.
Q More frequent as you got closer to the trial?
A Uh-huh.
Q What sort of discussions did you have with him?
A You know, I don't even recall --
Q Okay. Did you talk --
A -- to tell you the truth.
Q -- about your case?
A Well, I'm sure we did, but I don't know exactly what we talked about. It's been a few years now.
Q Uh-huh. Do you remember talking about your defense that you might present?
A I don't really recall much of anything to tell you the truth. I mean, it's been over five years and . . .
Q Okay. So --
A I'm sure --
Q -- is it safe --
A I'm sure we talked about what we were going to do and --
Q Okay.
A -- but he didn't really explain a lot of stuff.

THE COURT REPORTER: Excuse me. Can you both speak one at a time, please?

THE WITNESS: Uh-huh.

THE COURT REPORTER: Thank you.

Q Is it safe to say you don't remember reviewing the evidence against you with your attorney?

A Yeah. I don't remember that.

Q Okay. Now, your son was shot and killed prior to the incident given rise to your arrest?

A Yes.

Q Okay. When did that happen?

A July 19th that year.

Q Of what year?

A The same year.

Q 2014?

A Oh, no. No. No. Like -- I can't remember. It was about three or four years before that on July 19th.

Q Okay. And who was present when your son got shot?

A Just me.

Q Just you and him?

A Uh-huh.

Q And you called 911 on that day?

A With my son?

Q Yeah.

A Yes.
Q Okay. Now, did the police suspect you were involved in your son being shot?
A I assumed they did, because they had a bunch of, I don't know, I guess a interview, so call it, questions and stuff (verbatim.) And then they sent a truck out there to check my hands out and that -- I don't know. Stuff like that.
Q Okay. Did you ever get arrested for that?
A No.
Q Okay. And you didn't incur any criminal penalties for anything related to your son being shot and killed?
A No.
Q Okay. You didn't shoot your son, did you?
A No.
Q Okay. Now, do you recall the night that you discovered your mother's body? I believe you testified at trial that there was something wrong with the door. Do you remember that?
A Yeah. Well, when I went outside the front door, the -- the latch-thing or whatever, some part of the metal was laying on the porch there, and like in between the door and the screen door (verbatim.)
Q On the doorknob?

A Not a knob. The part that's against the frame, I guess. It was -- it was laying on the floor between the door and the screen door like --
Q Okay.
A -- like in that area.
Q The latch that holds the --
A That might be it, the latch, yeah.
Q Okay. Did you think there was anything unusual about that?
A Yeah. That's when I went in and opened the door and found her.
Q Okay. And so did you call 911 then?
A No.
Q Why not?
A Because like I told her, I was just -- I was drunk and high at the time and I'd done been through that just a couple years before with my son, you know, having the police around and investigating and seen what had happened. I just didn't do the right thing.
Q Were you afraid of being accused of killing your mother?
A Maybe. I don't know. It's been a while. But I didn't feel like I wanted to call them at that time.

Q Okay. Well, I'm just curious, because you called 911 when your son was killed --
A Right.
Q -- and they brought medical support for him. But you didn't do that when your mother was killed?
A When I called 911 when my son was shot is -- he was still alive.
Q Okay.
A And when I found my mom dead, I didn't -- I just didn't call anybody.
Q Okay. So you didn't call 911 because you believed your mother was already dead?
A Right.
Q Okay. And you don't recall discussing the way the scene looked with your attorney?
A Not really, no.
Q Did he show you any pictures of it?
A You know, I don't remember. I did -- seemed like I did see a picture somewhere. He might have. Some -- I've seen some somewhere.
Q Okay. Do you remember what it looked like today in the room where your mother was found?
A Yeah. Pretty much.
Q Would you describe what your recollection is?
A It looked like there was just stuff throwed around

a little bit and she was covered up and there's books and papers and stuff laying everywhere.

Q Okay.

A That's about it.

Q Was that throughout the whole house or just in that one room?

A Just that room.

Q Okay. Now, you were convicted of armed robbery for taking her vehicle; is that correct? You did take her vehicle?

A I -- yeah. I think they -- they tried to refer that to some jewelry that I'd had -- already had and the prosecution's witness, Brenda King. She already knew I had that jewelry years before when she was in Texas. I had mailed her and her daughter some of it a couple years prior to this incident, so they -- I already had the jewelry. And it's -- I think that's what they were talking about.

Q Okay. So it was your jewelry?

A Right. She already --

Q What did you do with that jewelry?

A She had already given it to me.

Q What did you do with it after you found her body?

A Oh, the -- what I still had left? I didn't --

yeah. There was still some left. I think I sold some of it.

Q Okay. So you took the jewelry that she had given you and then you went and sold some of it after finding her body?

A Right.

Q Did you take her credit card?

A No. I already had a debit card. That's -- because I -- I used her bank account, because I didn't have one. And I didn't use it for credit, just debit because the pin number was the day I was born, 1965.

Q Okay. So you did take her debit card with her name on it?

A Well, I had already had it.

Q Okay.

A Yeah. But I used it all the time.

Q Okay. Is your name on that bank account?

A No.

Q Okay.

MR. RAY: No further questions, Your Honor.

THE COURT: Ms. Ross?

MS. ROSS: No redirect.

THE COURT: Thank you, sir.

(WHEREUPON, the witness was excused.)

MS. ROSS: Judge, that's my case.
THE COURT: All right. Yes, sir?
MR. RAY: All right. Your Honor, the State will call Mr. Robert Hall.
MR. HALL: Do I need to be sworn again?
THE COURT: Since it's a different matter --
MR. HALL: Yes, Your Honor.
THE COURT: -- go ahead and be sworn.
((WHEREUPON, the witness was sworn.)

DIRECT EXAMINATION

BY MR. RAY:

Q Mr. Hall, when did you first meet Mr. Bradberry?
A It was soon after November 4th, 2014, when we interviewed him. Within about a week, I would've got the file, and, like he said, I went to the jail and spoke with him to start figuring out, I mean, what was going on with the case, because I, obviously, don't have any discovery for a while after I start representing someone.
Q Okay. So about when did you receive discovery in this case?
A It actually came -- it started coming fairly quickly. I think I've got some from November 14th -- excuse me. November 14th of 2014 was the initial discovery. And I think it kept coming in

after that. I don't have all of it here, but I had to pare it down to where it's a little more manageable.

Q Okay. And what was included in the discovery?

A In the discovery, all together, we had videos from stores; we had photographs from the crime scene; we had letters that he had written, the things he had told the police. He -- let's see . . .

I have a disc here for -- that I got in March of 2015 from Kmart. And I also had some detention facility phone calls and things. So it was a good four or five months things coming in just from the Flying J, which is a gas station/convenient store, just a whole lot of different things. And -- but I think in November 14th (verbatim) and the middle of March is when I got most of the discovery, which is right at four months; and we were under the order we're under about they get the discovery to us within the first four months -- first two months, but certainly by the first four months when we had the second appearance. And I think at that point, Solicitor Barnette said at the second appearance that, "No offer."

Q Okay.

A He did later make an offer.

Q So did you review this discovery with Mr. Bradberry?

A As I could. Obviously, as busy as I thought I was then, we are even busier now. But on January 5th of 2015 is when the preliminary hearings you're referring to was set forth. And, again, I went over what they had -- the State had in their computer, what they were going to be presenting at the preliminary hearing and discussed his options.

I'm of the opinion, and I don't mean any -- mean to sound disrespectful to the solicitors, but they love it when they can say, "A magistrate found probable cause in the murder, armed robbery, dah-dah." (verbatim) It's in the paper sometimes and the media with television. They actually have a former reporter as one of their investigators (as spoken) victim's assistance person, and he's -- makes those contacts. And I didn't think we needed additional publicity when we -- based on what they would present. We wouldn't get anything from a preliminary hearing and we discussed that and he agreed to waive it at that time, because he didn't want -- he didn't want any additional bad publicity. But that's one time I know we went over a lot.

And he's correct. There were times that I did not see him, because I was busy with other people. But coming up to the trial, we were seeing each other quite a bit. Sometimes Mr. Cheek would go to me, I think, when we were going over what offers he had and all of that.

We -- we'd have Mr. Cheek there sometimes to -- I think one time he actually did some cross-examination of it. But I do have my -- I guess, my first meeting with him -- I found a piece of paper -- was November 17th. He decided he did not want a bond hearing. He didn't have anybody that would -- I don't think would be able to get him out if we did get a bond.

And, again, I -- I mentioned the publicity thing, because that was -- it was much more prevalent back then.

We talked about the letters that I -- he had said that he -- they had taken some letters, but he -- at that point, he said he couldn't really remember what was in them; but he did know he -- and he went over, "I went to Myrtle Beach." And he came back a few days later, and he went to a friend's house and took some blood pressure medicine and some Klonopins -- 30 Klonopins to try

to kill himself.

You know, I'm starting to learn -- this -- these are things we will have to address, "Why didn't you call 911?" And he just said, "I freaked out. I panicked." It was later that he started talking about, "I have a panic disorder." It comes up and we went through it.

I knew from that first discovery I got, you know, some things I'd printed out or looked at and we -- I started going over it and we talked about the room -- and I'm not sure if I had pictures at this point. Sometimes they would allow us to take a computer into show the pictures. I do know in a box back there I've got a stack of pictures of them. I'm sure I printed the pictures out, and we had gone over everything I had at that point. And as I got things, I would show them to him, because it was -- this was going to be a difficult case, very difficult.

Q Okay. So who found the victim's body?

A It was a relative and her daughter. I think he had -- she had a brother living next to them and then another relative a little further away and is -- and I think the man got his daughter and wife to go check on her. They didn't see her car. Nobody

came to the door. They went to the, I think, brother's house next door, and he said, "Go in." They walked in. They started -- knocked on her bedroom door, I think. Once they got in, they started pushing it up; and then they saw the disarray of blood; and then they called the -- the woman's husband, I believe. And he's a relative. I don't know if he's another child or cousin or something, but another relative; and he came in and they, of course, called 911.

Q Okay. And these individuals were also related to Mr. Bradberry?

A Yes. I assume so. They were related to his mother, so --

Q Okay.

A -- it generally does work out.

Q Okay. Now, these videos that you mentioned and the receipts, I think, from various locations. Where were those places located?

A Oh, Lord. The Kmart, I think, may have been here. I think there was some from BI-LO. I think he did go get a prescription filled or something like that at BI-LO. And they're not -- there's no -- there's only video, no audio on them; but they just look like anybody else coming in the store. That kind

of caused me some concern to start with. I was -- I guess I was hoping that he would look at them and say, "Well, it's hard to tell from the angle." And there was some things, I think, from down at Myrtle Beach. I'm not sure if that was a Flying J. I didn't go back through everything like that. But I know it's Kmart, Flying J, and BI-LO. And he was buying different things at the convenient store and Kmart.

Q Okay. And this was alleged to be after the victim was deceased?

A I'm assuming she was killed in the -- at night. It was the next morning, I think, at BI-LO and the progression as he went to the beach. And he said, "That was the last place I was -- I remember being happy, because it was the last place I was with my son; and we were having a good time, so I went there." And, at different times, said he went down there to kill himself.

Q Okay. Did you speak with him about his son? I --

A Yes. It was, you know, as it -- as will happen, it was a firearm accident. When you're shooting guns, you can be very careful and still somebody can get injured or killed. They're dangerous things and that's why there's a lot of regulations at any

place like shooting ranges and things like that that take place in the community with their -- and -- but things do happen. I think a lot of people who have had deaths in the family from firearms just from an accident from dropping a hunting rifle or shotgun to, like he said, just dropping a pistol that hits just right. When I was a prosecutor, I saw a lot of those, and sometimes it was just an accident. It wasn't a murder, and that's what we decided. And -- but that still can be very traumatic to people.

Q Do you know if he was ever suspected of any wrongdoing in the death of his son?

A I know they investigated it, but I don't think there was any indication that they really thought -- once they looked into it, they thought he did it. Like I said, I've seen several similar cases. They've wanted to charge somebody, but when they actually looked at all the evidence, they realized it's just a horrible accident.

Q Okay. Did you think that, that incident could assist in his defense in the case where he was accused of killing his mother?

A I thought it was going to be a far stretch. When a horrible thing happened with his son, he called

911. When this horrible thing happened with his mother, he went to bed, slept it off, and went to the beach. And that -- that would be a very -- it's going to be a very hard sell.

THE COURT: Mr. Ray, I've got just one quick question. I may have missed it, but did -- did anyone discuss the manner of the mother's death? Was it by firearm or by a --

THE WITNESS: It's, I believe, stabbing, as I recall.

THE COURT: Stabbing?

THE WITNESS: Yeah.

THE COURT: Thank you.

BY MR. RAY:

Q And so, on that note, she was found where?

A She was found in her own bed.

Q Okay. And what was the scene? What did it look like?

A The -- there was stuff strewn everywhere. Like somebody had gone through drawers and things like that. As I recall, the rest of the house was fairly neat and organized, but her room was messy. There was blood.

Q Okay. Was there DNA evidence implicating Mr. Bradberry?

A Oh, Lord. I can't -- I believe there was some, but in the -- I don't recall right offhand, because it was a lot of things in this case. But this was one of those things that if there was -- I mean, he -- he lived there; of course, there's DNA that's going to be everywhere.

Q Okay. Now, when was he apprehended?

A It was a few days after. He told me he went to Myrtle Beach. I believe he had two quasi-attempts at suicide that he told me about at different times. I think the first one is he went to the top of the hotel and was going to jump off. And the other one, it's like, "I didn't do it, and this -- I think this height scared me. I went back down." And another time he told me he was going to go into the ocean and drown himself, but he went in and it was cold and he came out. And then he stayed a few days and then came back to Pacolet and saw a, if I remember correctly, saw an ambulance at his mother's house. So he went to another friend's house -- or acquaintance house and took the pills to try to kill himself and that's where they found him.

Q Okay. And you discussed with him his right to testify?

A Yes. We -- that's one -- at least one time, I had Mr. Cheek there to cross-examine him. I went over his testimony and then let James be a prosecutor. I mean, he's -- he had been doing this a lot longer than me. And he did a good job of, you know, "Can you -- this is what you're going to -- this is what we expect at the trial." And went over the way they ask questions and the way they try to pull you in a direction, and I think we did that actually more than one time.

But, like I said, during, I guess, the month of June of 2015, I know he said he didn't get the discovery for a while, but on -- I do have the notes that -- and the time I went, I gave him copies of everything I could print out and told him I would be back. And I think it may have been about a week. I think I came back one day, and he wasn't ready. And I came back a day or so later, and he said, "Yes, now I've gone over everything." And we -- the going over what the State had and what they were going to be presenting, and we, basically, were thinking if the State gets his statement in -- puts his statement in, then he wouldn't have to testify. And we talked about the options of what to do.

And Barry Barnette never -- when I asked about the statement, he never committed he was going to try to put it in or not put it in. We wanted it in. And as a strategy, we said, "Well, we want to suppress it." And we went through a -- the suppression hearing, you know, but he -- at that point, you know, he -- his testimony we had tried to prepare him for that, but he -- he -- unfortunately, he didn't do very well, I don't think, in that. And I think he felt like he didn't do very well in that.

Q Okay. Do you recall a witness being called in rebuttal to his testimony?

A You're talking about Robert Talanges? I -- I do. After looking at the transcript guide, I do. And I, you know, I -- it was just, basically -- it -- I think it probably could have been kept out, but you have to make the decision and try to say, like, "Y'all were trying to hide something." And I don't think he put anything new from what he had said before. It's just -- the solicitor did reiterate, or it was like it was, you know, kind of staged. But I think I was prepared and covered a lot of that in the closing. If I remember correctly, I think I, you know, covered some of that. You know,

I think it -- part of it was one lock was -- you know, when the door was forced, one lock was thrown, but not the other. But, you know, it's kind of -- especially in an old mill house, that's not unusual that one actually works well and one doesn't.

Q Okay. So he was called to rebut just the physical description at the scene that was described by Mr. Bradberry?

A I guess so. I -- you know, we have to – in a trial you have to make a snap decision on whether to object or not, and I -- I didn't think we were going to be hurt by it, probably; and I don't really think it hurt. It was -- Barry likes to pile things on, but after awhile it's just the same thing again.

Q Okay.

A I don't think it really adds to -- I don't think it really added to their case in any way.

Q Do you recall the solicitor asking a leading question about the way the scene looked?

A I looked at the transcript when she said that, and yeah. It was a leading question and my experience with our trial judge, you know, "Just rephrase it," and let them ask it again. So that's based on

trying a lot of cases as a prosecutor and as a defense attorney in front of Judge Cole.

Q Okay.

A Especially if – that's just he -- he just, you know, generally says, "Just rephase the question."

Q Okay. Now, did you move for a directed verdict in this case?

A I -- I'd have to assume I did. I always do. It's not a -- it's not a pleasant task in front of some judges, and -- but I -- I wouldn't have been -- I did not look to see if I did, but I --

MR. RAY: Court's indulgence for just one moment.

A -- I assume I did.

Q Mr. Hall, you do have your transcript right there?

A Yes, I do.

Q I believe around Page 275 . . .

A Okay.

Q I'm sorry. 279.

A All right. That's just -- one moment. Yep. 270 -- yeah. I made a directed verdict substantial. It's a circumstantial case and there's no direct evidence.

Q Okay. Did you consider any other grounds for a directed verdict?

A Not that I recall.
Q Now, what items was Mr. Bradberry accused of taking that gives rise to the armed robbery?
A Yeah. They thought it was jewelry; we covered that. The -- the debit card, of course. We argued the jewelry had been gone for a long time. The debit card he had access to, but the personal property, including the vehicle of his mother, and, I guess, the car keys also.
Q Okay. And was it clear when he took those items?
A It -- the debit card, he said he had access to all -- the whole time, and the car was the morning after he left with the card and the car and headed for the grocery store, the -- the pharmacy, and then to the beach. So the next morning.
Q Okay. Now, let me ask you about the plea negotiations. He mentions an Alford plea. Do you recall that?
A Yeah.
Q So --
A I do. The Alford was a negotiated 30. And I explained the Alford plea to him, and I am sure we went over that, that we had Mr. Cheek there for those explanations. Alford plea can be very complicated or very simple. And we -- I tried to

explain it in different ways. He just said, "I can't do that, because I didn't do it." And we told him, "If you get convicted of this, you're going to probably get life. You'll spend the rest of your life in prison. If you take the offer and you say, okay. We reviewed the evidence," which we had more than once, "and you feel that a jury would most likely find you guilty if you went to trial, you can plea under 'North Carolina versus Alford.' I'm not admitting I did it, but I'm getting a lesser sentence; and it's all going forward and pleading under North Carolina versus Alford." And he said no. He didn't want to do that.

It was a -- like I said, a -- kind of rare from Mr. Barnette. He -- he likes to try the -- well -- but if he -- if he played craps, he would know the -- or roulette or any -- any kind of dice game, he'd know those dices were loaded, all right? So he -- he likes those cases and this was one of them.

Q Okay. And --

A And I was surprised he -- they came up with a negotiated plea.

Q Okay. And when you say that, is that because of the evidence that was -- Mr. Bradberry was facing?

A I'm not sure if Barry said it or somebody said, "If he's not guilty, he sure tried to do everything to make himself look guilty."

Q Okay.

MR. RAY: No further questions, Your Honor.

THE COURT: Ms. Ross?

MS. ROSS: Thank you. I think most of my things y'all have covered already.

CROSS-EXAMINATION

BY MS. ROSS:

Q Just going to -- going to the issue of the solicitors on Page 291 of the transcript.

A Okay.

Q The solicitor objected to the applicant's testimony about, "After my son was killed, I had a panic attack," you know. Then there was an objection and the bench discussion and it was sustained. Now, I understand there's implications both ways from that, either way, but wouldn't it have done something to go to explain Mr. Bradberry's actions after the fact; just acting like how he did because, as you said, he did everything he could to make himself look guilty; and that might explain just from a -- someone with panic attacks and drunk and high might act like that?

A Okay. Yeah. Well, some judges do things this way, and it's kind of hard to push them beyond it to put on the record what they're doing. And, in this case, you know, "I'm not going to allow it. Just go on with something else." And in hindsight, I should've said, "Your Honor, put it on the record," but I didn't. We weren't -- we weren't finished at that point, so I made that decision. Quite frankly, I think as I said before, the two situations are both traumatic, but they're very different in every other respect.

Q Right. And --

A One was a horrible accident; they called the police. One was, I think, even more traumatic. If I come home and find my mother dead . . . I -- I just think it would've been a hard sell that, "Oh, I have panic attacks and I panicked. I just didn't call the police; and then when I woke up the next morning, I didn't call the police; and then when I got my medicine, I didn't call the police; and I just went to Myrtle Beach."

Q Right.

A Yeah. And it's -- it's just --

Q I understand. But then there was no proffer of that, either, so with an Anders brief there was no

-- the appellate review of --

A That --

Q -- that argument that this judge didn't let me try my --

A That's --

Q -- defense?

A -- correct.

Q Okay. As far as the -- the "staged and the -- the toss," when -- just the idea of how the bedroom looked. Didn't it look like things were being put over the --

A Yeah. Things --

Q -- body?

A Some things were thrown onto the bed or put on the bed and -- but . . .

Q Sort of after the fact?

A Yeah.

Q Though they were over --

A Yeah.

Q -- like if they weren't stabbed through, they were after the fact?

A Yes. And if -- you know, if our theory and, I think, my argument to the jury, "That's -- anybody could've done that," you know. And --

Q Uh-huh.

A -- he made a -- you know, I tried to argue he made a bad decision.
Q And if he'd been around for two hours after there and woke up the next morning better off. If he was staging the place, he might toss the whole place or --
A Right.
Q -- kick the door in or make it look more damaged --
A But that -- yeah.
Q -- but that didn't happen?
A Correct.
Q And in just -- one last point. Another lady -- a witness from down the street saw Mr. Bradberry driving his mom's car away that morning and just thought it was him going somewhere at seven in the morning and didn't think of him stealing a car or anything; is that correct?
A I think that's correct, yeah.
Q And wouldn't you have the argument that it would be commonplace that he was driving his mother's car? It wasn't like that it hadn't before.
A Yeah. I think that's what we argued. He --
Q Right.
A He used his mother's car; he used his mother's debit card; the jewelry had been gone for years.

Q Okay. Okay.

MS. ROSS: (To the Court) No further questions.

THE COURT: Mr. Ray?

REDIRECT EXAMINATION

BY MR. RAY:

Q Mr. Hall, do you recall what -- during the conference, off the record after that objection, did the solicitor state what the basis of his objection was?

A I don't recall exactly what it was, but -- and let's put it this way: You'd have to try the case in front of Judge Cole one time, and you -- he is very masterful. He is an intelligent man. And he knows the court system. He knows the law, and he does, you know . . .

So I've been ready to argue my motion after presenting the case and he's ruled against me and I've said, "I would like to make an argument." And he's, basically, "It's not going to matter. Go on. Let's go."

Q Okay. Do you -- so do you recall if you presented any argument to him?

A Well, I -- you know what, yes. I -- I just told him he's going to testify on the traumatic

experience that he had, and that's why he reacts differently. And I think he --you know, "Do you have any have any doctors to testify that he's --" And I said, "No. This just is personal experience," and something along those lines. And he said, "No. I'm not going to allow it." It's specific of the judges -- of the State's objection -- I -- I don't remember exactly what grounds. Sometimes, I feel they don't have to have a whole lot of grounds sometimes. They just need to object. But I've -- I've been a prosecutor, too, and benefited from that.

Q Okay. Did Mr. Bradberry have his own vehicle that he drove?

A I think he had more of rag (phonetic). He used to -- he talked about riding around in his car to scrap metal, which involved cutting power plugs off of disposed of appliances and stripping it down and getting copper and metal and trying to make money that way. And that -- I think he at least had a car that he did drive around other than his mother's.

Q Okay.

MR. RAY: No further questions, Your Honor.

THE COURT: Mr. Hall, just one question.

THE WITNESS: Yes, sir.
THE COURT: The testimony that the solicitor objected to, that strikes me as testimony that could cut both ways. I mean, if you have a defendant charged with killing his own mother, how can the jury hear that his son also died in unusual circumstances involving a firearm? That seems like that might cut the other way too.
THE WITNESS: Yes. And that -- that was -- and when you say that, I think that did -- was something Judge Cole actually said. And -- but -- you know, you don't want to do it, because you don't want to leave it open for them to go into that. And I think that's why I turned and said, "Let's just stay away from your son --
THE COURT: There would -- where would be argument? Would there not -- he's opened the door to questions about the police investigation and that sort of thing --
THE WITNESS: Yes.
THE COURT: -- wouldn't it?
THE WITNESS: Yes, sir. And I -- and it does -- you saying that does remind me that's -- I

think that's why I turned and say, "Let's stay away from the son. Tell the jury how you were feeling that night."

THE COURT: Thank you.

THE WITNESS: Thank you. And that's it?

THE COURT: Ms. Ross, anything else?

RECROSS-EXAMINATION

BY MS. ROSS:

Q Understood that. And now, after the ruling, you could have proffered that testimony outside the presence of the jury --

A That is correct.

Q -- couldn't you? Okay. Thank you.

MS. ROSS: (To the Court) No further questions.

THE COURT: Okay. Mr. Ray?

MR. RAY: Nothing further from the State.

THE COURT: Any objection to excusing Mr. Hall?

MS. ROSS: None.

MR. RAY: No, your honor.

THE COURT: Thank you, Mr. Hall.

THE WITNESS: Thank you, Your Honor.

THE COURT: Thank you for your patience.

THE WITNESS: Yes, sir.

(WHEREUPON, the witness was excused.)

THE COURT: Any additional witnesses, Mr. Ray?

MR. RAY: The State has no further witnesses.

THE COURT: Okay. Argument, Ms. Ross?

CLOSING ARGUMENT

BY MS. ROSS:

MS. ROSS: Thank you, Your Honor. May it please the Court. While certainly the point is well taken about the -- the son -- the -- the situation with the son. This was -- upon reading the transcript, this was a lot of circumstantial evidence and very heavy hurdle that Mr. Bradberry had to overcome. So we would just submit that, that argument was one thing that they would have to explain why he reacted like he did, which was so incriminating. And certainly that could have been at that point proffered so that the -- the reviewing Court could have -- just have something to look at to see what could have come out of that.

The -- the reply witness issue, I mean, it -- to me it's about privacy and recency. And I've seen enough of these cases in Spartanburg where every time they come up with

redirect or reply and just get that final argument whether there's another -- anything else that's submitting to -- submitted to justify that or not. They just do it and get away with it and it -- it damages these -- these cases to have the last thing that the jury hears, you know, besides closing. The last testimony in a murder trial was this leading witness that -- which is on, again, the Page 330 where -- on Line 21, "And you had and then stopped -- basically, does this look like a staged situation to you, sir?" And that was the question the solicitor put to his investigator as reply. And the response was -- was, "Yes," suggesting that that's the last thing the jury hears when, in fact, it -- it was somewhat wrong given the way the whole house was. It was just -- it just seemed misleading, and it was leading and prejudicial and -- and should not have come in, in general.

As far as the armed robbery argument, here, I think looking up just the definition of "armed robbery" is to use a weapon -- you know, a threat of a weapon, to take something.

Here he was charged with murder as well. That didn't seem to be the case, especially with the way the description of the place looked like it had been tossed after the body was covered and all that.

And so, that being said, little prejudice there with a -- a life sentence for murder; however, with the armed robbery, the indictment combined on that was the weapon that had the five years consecutive from that armed robbery indictment. And I'd just argue that there is some little prejudice there and should be considered along with the -- the other arguments I've made. And that would be our case.

THE COURT: Ms. Ross, on the armed robbery issue, and if he -- if they had established conclusively that all of the items were taken or taken after the death, then there's an argument. But I don't think -- because the evidence wasn't that clear was it? I mean, I -- that seems like a stretch to say that you know for sure everything was taking after the killing.

MS. ROSS: Uh-huh. Yeah. I -- I can't reply

to that. I'm just trying to think where -- it certainly seemed with --

THE COURT: Uh-huh.

MS. ROSS: -- anything that Mr. Bradberry -- I mean, his testimony is all that's there on that. And everything that he -- that he took was certainly taken after he found this body, meaning the car and the debit card. He said he already had the jewelry. But that's certainly something that the -- the -- you know, the jury could have considered or the -- the judge could have considered in the motion.

THE COURT: Thank you. Mr. Ray?

CLOSING ARGUMENT

BY MR. RAY:

MR. RAY: Your Honor, of course, Mr. Bradberry (verbatim) has to show both deficiency and prejudice. On the issue with the discovery, I mean, we've heard from his counsel very credibly that he received it all very quickly and reviewed it with him multiple times, which Mr. Bradberry agreed with. They did meet multiple times.

The reference to his son being shot, it -- it certainly does cut both ways. If --

if he had advocated for it to come in, I mean, it very well may have hurt Mr. Bradberry's case just as much. There were other relatives of his who found the body, who did call 911. Mr. Bradberry took a trip to the beach after previously calling 911 and not incurring any criminal penalties or anything significant from it. And so it wouldn't have explained to the jury to the extent that it would reasonably -- there's a possibility it could change the outcome of the trial, so we would assert that, that allegation's without merit.

On the reply witness, he was brought in largely to rebut Mr. Bradberry's description of the same, and, specifically, I believe he -- photographs were referenced that had already been introduced of the scene. There's no grounds for an objection there, just to -- just to counter some of the testimony that -- that Mr. Bradberry had provided.

As far as the leading question regarding whether the -- the scene appeared to be staged, Mr. Hall stated that, you know, he didn't view that it -- it would make a difference. The judge very well would likely

just tell the solicitor to rephrase the question. There's -- there's no deficiency or prejudice that's been shown from that. There's certainly no probability that the outcome of trial would be different, given all the evidence against Mr. Bradberry. And then when you consider the fact that only one room was disturbed in the -- the house where the victim was found, and it was her bedroom.

And then as far as the armed robbery, Mr. Bradberry's claiming that he had the jewelry prior to her being killed, and then, certainly, I also don't think that you should get off on an armed robbery because you killed the victim. There's no grounds for a directed verdict there, and one would have certainly been denied on those grounds.

And then, with that being said, Mr. Hall did move for a directed verdict, and we would assert that counsel for a criminal defendant is not required to pursue every conceivable ground for -- for relief for every possible trial strategy. What he did was reasonable, under the circumstances, given the evidence that was against his client.

So we would ask respectfully that this application be denied.

THE COURT: All right. Thank you, Counsel. I'll take it under advisement.

MS. ROSS: Thank you, Your Honor.

MR. RAY: Thank you, Your Honor.

(Whereupon the within hearing was concluded at 3:11 p.m.)

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF SPARTANBURG)

Be it known that Amber J. Payne took the foregoing proceeding and hereby attests:

that I was then and there a notary public in and for the State of South Carolina-at-large;

that the defendant/witness was first duly sworn to testify to the truth, the whole truth, and nothing but the truth, concerning the matter in the controversy aforesaid;

that the foregoing transcript represents a true, accurate, and complete transcription of the testimony so given at the time and place aforesaid to the best of my skill and ability;

that I am neither a relative nor an employee of any of the parties hereto, nor of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action;

that, if a recording of an event was supplied by another party for purposes of transcription and I was not present during that event, the foregoing pages were transcribed to the best of my skill and ability; additionally, any identifications of speakers were provided to me by the party supplying the recording;

that, in the event of a nonappearance by the witness, the foregoing details for the nonappearance are accurate.

In witness thereof, I have hereunto affixed my signature and title.

Amber J. Payne, CVR

Date: 2/11/2022
Notary public for South Carolina
My commission expires August 12, 2029

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF COMMON PLEAS FOR THE SEVENTH JUDICIAL CIRCUIT
Mark Allen Bradberry, SCDC No. 368749 Applicant, v. State of South Carolina Respondent.	Case No. 2019-CP-42-00164 **ORDER OF DISMISSAL**

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2021 DEC -6 AM 9:46

This matter comes before the Court by way of Applicant Mark Allen Bradberry's January 14, 2019 application for post-conviction relief. Respondent made its return on April 16, 2019 and moved for a more definite statement. The Court convened an evidentiary hearing into the matter on Tuesday, September 14, 2021 at the Spartanburg County Courthouse in Spartanburg, South Carolina. Applicant was present at the hearing and represented by Attorney Susannah Ross. Assistant Attorney General William H. Ray represented the State as Respondent.

Applicant testified on his own behalf at the hearing. His trial counsel, Attorney Robert B. Hall, also testified. The Court had before it Applicant's records from the Spartanburg County Clerk of Court's Office, the South Carolina Department of Corrections, a copy of the original trial transcript, Applicant's appellate records, and the pleadings. This Court has reviewed the record and pleadings, has observed the witnesses and heard the testimony, and finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the February 2015 term of the Spartanburg County Grand Jury for murder (2015-GS-42-00445), armed robbery, and possession of a weapon during the commission of a violent crime (2015-GS-42-00446, Cts. I

& II). Robert B. Hall, Esq. represented Applicant, and Barry J. Barnette, Solicitor for the Seventh Judicial Circuit, prosecuted the case. On June 20, 2016, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty as indicted on June 22, 2016. Judge Cole sentenced Applicant to imprisonment for concurrent terms of life for murder, and 30 years for armed robbery. Judge Cole additionally sentenced Applicant to a consecutive term of 5 years for the weapon.

Applicant filed a timely notice of appeal and a direct appeal was perfected by Susan B. Hackett, Esq. filing a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), which offered the following issue:

> Did the trial judge err in failing to direct a verdict of acquittal on all charges where the state failed to present any direct or substantial circumstantial evidence that Appellant committed the charged offenses?

2021 DEC -1 AM 9:46
CLERK OF COURT
SPARTANBURG COUNTY

The South Carolina Court of Appeals dismissed Applicant's appeal by unpublished opinion. *State v. Bradberry*, Op. No. 2018-UP-018 (S.C. Ct. App. filed Jan. 10, 2018). The Remittitur was issued on January 26, 2018.

II. FACTUAL HISTORY

The Discovery of Bataille's Body

Karrie Hutchins Looney, through her husband Jack Looney, was the daughter-in-law of Connie Bataille. (Tr. 103 – Tr. 104). Bataille lived in Pacolet, South Carolina with her son, Applicant, who moved in beginning in 2010. (Tr. 126, 11-16). Mrs. Looney was at her family's second home in Spartanburg the weekend of Sunday, November 2, 2014, when her husband called to ask if she would go out to Pacolet to check on Bataille, as nobody had been able to make contact with her. (Tr. 105 – Tr. 106). Mrs. Looney and her daughter arrived at Bataille's home after a forty-five minute drive from Boiling Springs and found that Bataille's car was not parked in the

driveway—only Applicant's car was present. (Tr. 106, 13-25; Tr. 112 – Tr. 113; State's Trial Exhibit #22). Mrs. Looney proceeded to her uncle's house, Bataille's brother John Penavs, to inquire if he knew anything, but Penavs reported he did not know where Bataille was but he had previously suspected she was visiting the Looneys in Charleston for the weekend, as her car had been gone a couple of days. (Tr. 107, 1-9). Mrs. Looney was about to return to Boiling Springs, but her husband asked her to physically go into the house. (Tr. 107, 10-24).

Mrs. Looney and her daughter returned to Bataille's home and, with some trepidation, went inside. (Tr. 108, 2-9). Mrs. Looney observed a newspaper on the table dated for Thursday, October 30, 2014, still wrapped in plastic, which she found odd because Bataille diligently read every day's newspaper. (Tr. 108, 13-18; Tr. 115-16; State's Trial Exhibit #27). Bataille's laptop and cell phone were present. (Tr. 108, 19-21). Mrs. Looney went to Bataille's closed bedroom door, knocked, and opened the door when there was no answer. (Tr. 109, 6-15). Mrs. Looney was awed by the mess in the ransacked room until her daughter stated "Mom, I see a foot." (Tr. 109, 17-25; Tr. 120, 4-8). The two immediately exited building and called to Penavs, who was standing on his porch next door; Penavs went in, came right back out, and called 911. (Tr. 110, 1-15; Tr. 120, 9-10). Some time later while cleaning up Bataille's room, Mrs. Looney and the family realized they did not find Bataille's jewelry and other significant items. (Tr. 120 – Tr. 122).

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Penavs, Bataille's brother, had retired as a truck driver after a career of forty years and moved in next to his sister a couple years before her murder. (Tr. 127 – Tr. 128). Penavs spent much of his time sitting on his front porch, from which he could see Batille's house and back door. (Tr. 128, 20-22). Penavs noticed Bataille's Mitsubishi Mirage did not return for days, and so he assumed she had gone to Charleston to visit the Looneys and their children. (Tr. 128 – Tr. 129). The only car at Bataille's house was Applicant's white Buick, and so Penavs assumed Applicant

had gone with Bataille. (Tr. 129 - 130). When Mrs. Looney appeared on November 2, Penavs told her he had assumed Bataille was visiting her; when Mrs. Looney went into the house and emerged, he knew something was wrong. (Tr. 130, 2-12). Penavs ran to Bataille's house, went inside, saw Bataille's foot, and went back outside to call the police. (Tr. 130 – Tr. 131). Penavs testified Applicant never called him from October 29, 2014, through November 2, 2014, when Bataille's body was discovered. (Tr. 132 – Tr. 133).

Applicant's Activities on the Weekend in Question

Kerri Herr, a resident of Pacolet and neighbor to Applicant's daughter, encountered Applicant the morning of October 30, 2014. (Tr. 134 – Tr. 135). Herr had not seen Applicant for a couple of days, which was unusual as he typically came over to watch his daughter. (Tr. 136, 1-8). Applicant, coming from the direction of Bataille's house, stopped at an intersection driving his white Buick and was "his normal little chipper self[.]" (Tr. 136 - 137).

Brenda Sue Kean, Applicant's significant other of ten years and mother to his child, explained how Applicant failed to show up the morning Friday, October 31, 2014, to help with his daughter like they had planned. (Tr. 139 – Tr. 141; Tr. 149 – Tr. 150). Applicant failed to appear despite leaving behind his cell phone and a lottery ticket at Kean's house. (Tr. 141 – Tr. 143). Nonetheless, Kean took her daughter out trick-or-treating with a plan to go to Bataille's house because she always had a bag of candy ready. (Tr. 148, 1-14). Kean pulled up to Bataille's house around 5:30 P.M. but found Bataille's car was gone and the house was dark; they knocked on the door anyway and received no answer. (Tr. 148, 15-25). Kean called around to see if anybody knew where Bataille was, but did not learn what happened until the afternoon after her body was discovered. (Tr. 149, 4-17). On November 3, 2014, Kean received an envelope from Applicant mailed from Columbia which contained a money order for $300. (Tr. 143 – Tr. 147). Kean turned

the money order over to law enforcement; she never heard from Applicant again after that. (Tr. 147, 12-19).

Kathy Ballenger, a pharmacy technician at Bi-Lo, saw Applicant the morning of Thursday, October 30, 2014; he was a regular patient and she recognized him as soon as he walked up. (Tr. 153 – Tr. 155). Applicant went over the prescriptions with her and had a casual conversation about her car. (Tr. 155 – Tr. 158).

Daniel Reveles, the assistant store manager of the Bi-Lo in the Hillcrest neighborhood, confirmed Applicant's presence there on that morning by way of the store's video surveillance. (Tr. 162 – Tr. 164). Reveles confirmed the store was furnished with a Coinstar coin counting machine. (Tr. 164, 6-12). Reveles produced a receipt from the machine for $85.22 in change, counted and exchanged at 9:08 A.M. on October 30, 2014. (Tr. 164 – Tr. 165).

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James "Jimmy" Gordon Tobias, owner of the Camp Croft Pawn Shop, saw Applicant on the morning of October 30, 2014. (Tr. 166 – Tr. 167). Applicant pawned a pair of earrings, two rings, and "[t]here might have been a little necklace in there too[.]" for $60 at 11:20 A.M. (Tr. 168 – Tr. 173). Applicant never returned to recover the collateral, but specifically sold the jewelry. (Tr. 173 – Tr. 175).

Loretta Norris, a regional security coordinator for Suntrust Bank, testified that $403.95 was withdrawn from Bataille's account on October 30, 2014, and that Applicant was not an authorized signatory on the account. (Tr. 176 – Tr. 180).

Richard Phillip Carter, Jr., a postal inspector with the United States Postal Inspection Service, confirmed the money order received by Kean was sent from a post office in Myrtle Beach on October 31, 2014, at just before 1 P.M. (Tr. 183 – Tr. 188). Carter further explained that "if you

mail a letter from Myrtle Beach, it's going to show a Columbia cancellation because that's where the plant is." (Tr. 190, 1-23).

Phyllis Vandergriff, a C.C.T.V. support specialist with Pilot Flying J, produced the video surveillance from the Flying J Travel Center in Columbia for October 30, 2014. (Tr. 222 – Tr. 224). Lance King, an asset protection official with Sears Holdings Corporation, also provided video surveillance from the K-Mart in North Myrtle Beach. (Tr. 224 – Tr. 226).

The Law Enforcement Investigation

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Robert Charles Talanges, crime scene investigator with the Spartanburg County Sheriff's Department, investigated the scene alongside his partner Deputy Stepp. (Tr. 192 – Tr. 193). Talanges took numerous pictures of the scene and confirmed the same observations made by Mrs. Looney and Penavs: the house was neat and tidy but for Bataille's bedroom, which was ransacked. (Tr. 193 – Tr. 208). The position of Bataille's body appeared to reflect that she had been lying on her left side watching television of sleeping, with the remote very close to her hands. (Tr. 208 – Tr. 209). Blood splatter was found on the floor, the ceiling, and the television stand in Bataille's room. (Tr. 210 – Tr. 211). Additional blood was located on the door to Applicant's bedroom. (Tr. 212 – Tr. 213). Talanges searched for weapons, and noticed an empty slot in the butcher's block in Bataille's kitchen. (Tr. 217 – Tr. 218). Talanges attended the autopsy and observed head trauma and multiple stab wounds. (Tr. 218 – Tr. 219). Later, recalled for reply testimony, Talanges observed there was *no damage* to the strike plate to the storm door. (Tr. 328 – Tr. 330).

Murray Brandon Letterman, the sergeant supervising violent crime investigations at the Spartanburg County Sheriff's Department, also responded to the Bataille's home on November 2, 2014. (Tr. 235 – Tr. 236). After speaking with the family present, Letterman secured a search warrant and went in to find Bataille's body "laying in her bed with a blanket covering her and the

room ransacked and several [of] what appeared to be bank statements laying on top of the blanket on top of her body." (Tr. 236 – Tr. 237). Applicant, as the other resident of the house, was immediately identified as a person of interest, but was unable to be located, so Bataille's vehicle was listed as possibly stolen in the N.C.I.C. (Tr. 238, 4-20). The next day, Letterman was informed that officers were heading to a location in Pauline upon a report that Applicant had been seen there asleep in the car; sure enough, Applicant was found in the driver's seat of Bataille's car. (Tr. 238 – Tr. 239). Letterman reviewed the letters found in Bataille's car; the letter addressed to Kean explained:

> Then they wouldn't refill my meds and I tried to tell you that [I] needed to move back in and get away from my mom. Every day all she did was put you down and say – and say bad things about you because she didn't like the name McKenna. She bitched and moaned and complained about any and every thing we did. I couldn't take it any longer.

(Tr. 240 – Tr. 241). Applicant's letter to Kean continued:

> By the way, if years ago when I told you I was molested, well, it was by my mom. That is why she always took care of me. I guess she felt guilty. I don't know. But she hated for you – hated you for that or hated you for what I did to you. She is hateful, spiteful. She made you and McKenna cry for no reason, just to be mean.

(Tr. 258, 8-13).

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Letterman obtained records and recordings from Bi-Lo, the pawn shop, the gas station, and the K-Mart and confirmed Applicant's presence for each of the transactions recorded and noted above, as well as that Applicant stayed at the "Bar Harbor Hotel" in Myrtle Beach from October 30 to November 2, 2014. (Tr. 241 – Tr. 257).

Investigator Michael Sean Nix, of the Spartanburg County Sheriff's Department, received word on November 3, 2014, from investigators on the scene that Applicant was at an address in Pauline, South Carolina, and he responded to the location. (Tr. 227, 9-25). There, Nix found

Bataille's car parked behind a shed. (Tr. 228 – Tr. 229). Inside the car, Nix found letters, prescriptions, bottles, and receipts, including in particular a receipt from a Chick-fil-a in Myrtle Beach. (Tr. 229 – Tr. 231). Among the letters, Nix found "the last will and testament of Mark Allen Bradberry[,]" and other letters to Applicant's family. (Tr. 231 – Tr. 233). As for Applicant himself, Nix photographed a cut mark on his arm. (Tr. 233 – Tr. 234). Applicant was not actively bleeding and received no medical attention. (Tr. 234 – Tr. 235).

Jennifer Bartman, D.N.A. analyst with the South Carolina Law Enforcement Division (SLED), confirmed recovery of DNA evidence matching to Bataille and Applicant from the scene. (Tr. 261 – Tr. 266). Bartman did not indicate the discovery of any other person's profiles from the blood and fingernail samples, or from the chewed gum.

Dr. John David Wren, of the Carolinas Pathology Group at the Spartanburg Regional Medical Center, performed the autopsy on Bataille on November 3, 2014. (Tr. 268 – Tr. 269). Wren found signs of decomposition consistent with death four to six days prior to the autopsy. (Tr. 270, 1-14). Wren noted "four [or] five lacerations to the scalp" and fractures to the skull, including one "large gaping fracture of the skull[.]" (Tr. 272 – Tr. 273). Wren also noted a large laceration that was at least ten centimeters from the corner of her right mouth almost to Bataille's ear. (Tr. 273, 15-23). Wren observed that brain tissue "had come out of the skull and actually out of the wound and came into her hair." (Tr. 274, 2-6). Wren further observed that Bataille's eye "was completely recessed in the socket, the right one, from fractures at the base of the skull." (Tr. 274, 7-8). Wren noted what he described as "the major wound," a gash up to Bataille's neck that was 17 ½ inches long and over three inches wide, extending into the trachea carotid artery, the jugular, the vagus nerve, and all the way down to her spinal column. (Tr. 274 – Tr. 275). Three stab wounds marked Bataille's chest, penetrating into a lung and her chest cavity. (Tr. 275, 21-25). Wren

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observed three more stab wounds in the upper shoulder, and six more in the back, variously directed. (Tr. 276, 7-14). Wren found no hilt marks, and thus concluded the blade used was at least two inches in length. (Tr. 276 – Tr. 277). There were no defense wounds. (Tr. 277, 15-17).

Applicant's Trial Testimony

Applicant testified in his own defense. Applicant testified that he spent the evening of October 29, 2014, putting up Halloween decorations with his child and Kean. (Tr. 284, 11-18). When he returned home, Bataille was playing solitaire on her computer and watching television; Bataille gave Applicant her debit card to get a prescription from Bi-Lo, as Applicant had no bank account. (Tr. 284 – Tr. 285). Applicant spent the remainder of the evening either scrapping metals from junk electronics or drinking beer and watching movies in his room. (Tr. 285, 4-24). Applicant left a couple of times for a few hours in search of marijuana, but was unsuccessful and ultimately returned home. (Tr. 285 – Tr. 289). Applicant found a strike plate from the storm door on the porch, which he found unusual. (Tr. 289 – Tr. 291). Applicant opened the door to his mother's room and found her "all bloody on the bed, and I didn't know what to do." (Tr. 291, 14-16). Applicant stood there a while, and found Bataille was already cold. (Tr. 291, 16-18). Bataille's room was ransacked. (Tr. 292 – Tr. 293). Applicant, heavily inebriated, did not know what to do, but just stayed at Bataille's house. (Tr. 293 – Tr. 294).

The following morning, he went to Kean's house for a little while, then retrieved his medicine, then resolved to kill himself "at the beach, because that's the last place I was at with my son before he got killed." (Tr. 294, 10-25). Applicant testified the jewelry he pawned was given to him by Bataille, and explained he took her car because the Buick was not reliable for a long drive. (Tr. 295 – Tr. 296). Applicant claimed his plan for suicide was to simply dive off the end of a pier, but opted to try leaping from the top floor of the motel, but found he could not kill himself. (Tr.

296 – Tr. 297). Applicant explained he did not call 911 for fear of getting into more trouble. (Tr. 297, 17-23). Unable to kill himself, Applicant returned to Pacolet by way of backroads. (Tr. 297 – Tr. 298). Applicant was unable to find anybody at his friend's house in Pauline, and so consumed all of the pills in his possession in the car—a handful, primarily klonopins. (Tr. 298 – Tr. 299). Next thing he knew, he was at the detention center. (Tr. 299, 11-15).

III. CURRENT APPLICATION

In his initial application for post-conviction relief, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel
   a. He did nothing to help me.

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Applicant, through counsel, responded to the State's motion for a more definite statement by filing an amended application, and alleged as follows:

1. Ineffective assistance of trial counsel for failure to
   a. failure to investigate and prepare a defense, and
   b. failure to present mitigating mental health history.

Applicant's PCR counsel stated at the hearing that he was proceeding forward on the allegations that counsel was ineffective for failing to review discovery, failing to assert that Applicant did not call 911 because of a previous experience where his son was killed, failing to object to the State's rebuttal witnesses, failing to object to a leading question the State asked about the appearance of the scene, and failing to move for a directed verdict specifically because the State failed to prove that the victim was alive at the time the alleged armed robbery occurred.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the

legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

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In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP. Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S.

at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable."). Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

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Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625. "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland's* prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is

easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Failure to Prepare and Review Discovery

Applicant alleges that counsel provided ineffective assistance because he failed to prepare for trial and review the discovery with him prior to trial. This allegation is without merit.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Id.* (citing *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. *Id.*, 377 S.C. at 75, 659 S.E.2d at 145 (citing *Glover v. State*, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

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Applicant testified that he wished more pretrial investigations into his case were conducted, but was unable to specify what he wanted investigated. He stated that the first time he met with Counsel he was being held in county lockup, and counsel regularly visited him once or twice a week. During the visits he would discuss the case with his attorney but did not recall any specific evidence being reviewed. He stated told the truth when he testified at trial. He stated that Counsel talked about his decision to testify, but did not practice the testimony with him and he does not remember going over what he would say.

Counsel testified that he first met with Applicant on November 17, 2014 to discuss the case and reviewed the initial discovery with him. He stated that it took a little while to receive all of the discovery, but he did receive it and gave Applicant copies of everything that could be printed. He described the discovery as consisting of video evidence, photographs, letters, and statements given to police. He believed there may have been DNA evidence implicating Applicant as well, but was uncertain. He stated that he reviewed all the photographs of the scene with Applicant, and noted that it was a very difficult case for the defense, given the factual circumstances. Counsel unambiguously stated that he reviewed all discovery with Applicant.

Counsel also stated that they prepared for the case with another attorney, James Cheek. They specifically prepared for Applicant to testify, as it was going to come down to a strategic decision based upon what evidence the State introduced. He stated that Applicant was well prepared to testify, but admittedly did not testify very well.

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This Court finds that Counsel credibly testified that he received and reviewed all discovery in this case. Furthermore, it is clear from all the testimony that he met with Applicant numerous times and did a thorough job preparing Applicant's defense. Applicant's testimony that he does not know what else he wishes were done, and does not remember reviewing the evidence lacks credibility. Therefore, Applicant has failed to prove that Counsel was deficient in failing to prepare or review the discovery. Furthermore, because Counsel was not deficient, there can be no resulting prejudice from Counsel's performance. Applicant has failed to meet his burden of proof and this allegation must be denied and dismissed with prejudice.

Failure to Explain Applicant's Failure to Call 911

Applicant asserts that Counsel provided ineffective assistance of counsel by failing to argue before the jury that Applicant did not call 911 after finding his dead mother's body because he had

previously been treated as a suspect after reporting the accidental shooting death of his son. This allegation is without merit.

Applicant testified that he had developed Post-Traumatic Stress Disorder stemming from an incident where he saw his son being shot and killed before his mother was murdered. He stated that he was alone with his son, shooting targets, when his son dropped a pistol, causing it to fire. The misfire shot his son in the heart, killing him. He stated he called 911 when the accident happened and he was treated as a suspect. He stated that he was subjected to questioning and tested for gunshot residue. He stated that he began drinking and using drugs shortly thereafter, and was prescribed psychiatric medications by a doctor. He stated that he received a mental health evaluation prior to trial. Applicant denied killing his son.

He said that he returned to the home, saw the door was ajar, entered, and found his mother's body. He acknowledged that he was drunk and high at the time. He believed that his mother was already dead, so he did not call 911. He stated that he remembers the scene, but did not recall discussing it with his attorney. Applicant stated that he did not call 911 upon discovering that his mother had been brutally murdered because he did not want an investigation into her death like what had occurred when his son died.

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Counsel stated that Applicant told him he did not call 911 because he was suffering from a panic disorder. He spoke with Applicant about his son, and was told that he had died from a firearm accident. He stated he found the story believable, and noted that Applicant had been investigated but there was no indication that it was anything more than an accident. He stated he believed using the incident as an explanation for why he did not call 911 in this case would have been a far stretch. He stated that both situations were undoubtedly traumatic, but in different ways.