

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County
Edgar W. Dickson, Circuit Court Judge

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S.C. Supreme Court

Opinion No. 2013-UP-001 (S.C. Ct. App. filed January 2, 2013)
10-GS-38-808-811.

THE STATE,

RESPONDENT,

V.

RALPH BERNARD COLEMAN,

PETITIONER

APPELLATE CASE NO. 2013-000616

APPENDIX

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**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.

Ralph Bernard Coleman, Appellant.

Appellate Case No. 2011-181966

Appeal From Orangeburg County
Edgar W. Dickson, Circuit Court Judge

Unpublished Opinion No. 2013-UP-001
Heard November 13, 2012 – Filed January 2, 2013

AFFIRMED

Appellate Defender LaNelle Cantey DuRant, of
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Columbia; and Solicitor David Michael Pascoe, Jr., of
Orangeburg, for Respondent.

PER CURIAM: Ralph Coleman appeals his convictions of armed robbery, burglary, and murder. On appeal, he argues the trial court erred in (1) denying his motion for severance; (2) denying his motion to suppress a witness's identification of him; and (3) denying his motion to suppress a photograph of a rifle. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the trial court erred in denying Coleman's motion for severance: *State v. Spears*, 393 S.C. 466, 475, 713 S.E.2d 324, 328 (Ct. App. 2011) ("A motion for severance is addressed to the sound discretion of the trial court." (quoting *State v. Simmons*, 352 S.C. 342, 350, 573 S.E.2d 856, 860 (Ct. App. 2002))); *id.* at 475, 713 S.E.2d at 328-29 ("Where the offenses charged in separate indictments are of the same general nature involving connected transactions closely related in kind, place and character, the trial [court] has the power, in [its] discretion, to order the indictments tried together if the defendant's substantive rights would not be prejudiced."); *State v. Halcomb*, 382 S.C. 432, 439, 676 S.E.2d 149, 152 (Ct. App. 2009) ("Criminal defendants who are jointly tried for murder are not entitled to separate trials as a matter of right."); *State v. Dennis*, 337 S.C. 275, 281, 523 S.E.2d 173, 176 (1999) ("The general rule allowing joint trials applies with equal force when a defendant's severance motion is based upon the likelihood he and a codefendant will present mutually antagonistic defenses, i.e., accuse one another of committing the crime."); *State v. Smith*, 387 S.C. 619, 625-26, 693 S.E.2d 415, 418-19 (Ct. App. 2010) (holding the loss of the right to have the last closing argument is not a ground upon which to grant severance); *Hughes v. State*, 346 S.C. 554, 559, 552 S.E.2d 315, 317 (2001) (holding the trial court should grant a severance "only when there is a serious risk that a joint trial would compromise a specific trial right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt" (emphasis omitted)).

2. As to whether the trial court erred in denying Coleman's motion to suppress a witness's identification: Rule 602, SCRE ("A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter."); *State v. Williams*, 321 S.C. 455, 463, 469 S.E.2d 49, 54 (1996) ("The opinion or inference of a lay witness is admissible if it is a) rationally based on the perception of the witness, b) helpful to the determination of a fact in issue, and c) does not require special knowledge."); *State v. Washington*, 323 S.C. 106, 110, 473 S.E.2d 479, 481 (Ct. App. 1996) (stating the admission of pretrial identification evidence is within the sound discretion of the trial court and its ruling will not be disturbed on appeal absent a clear abuse of that discretion); *State v. Singleton*, 395 S.C. 6, 13, 716 S.E.2d 332, 335-36 (Ct. App.

2011) ("To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof.").

3. As to whether the trial court erred in denying Coleman's motion to suppress the photograph of a rifle: *State v. Holder*, 382 S.C. 278, 290, 676 S.E.2d 690, 697 (2009) ("The relevancy, materiality, and admissibility of photographs as evidence are matters left to the sound discretion of the trial court."); *id.* ("If the offered photograph serves to corroborate testimony, it is not an abuse of discretion to admit it."); *id.* ("To constitute unfair prejudice, the photographs must create an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one."); *State v. Singleton*, 395 S.C. 6, 13, 716 S.E.2d 332, 335-36 (Ct. App. 2011) ("To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence or the lack thereof.").

AFFIRMED.

SHORT, KONDUROS, and LOCKEMY, JJ., concur.

INVESTIGATION OF THE EFFECTS OF

STRESS

The purpose of this investigation was to determine the effects of stress on the performance of a task. The subjects were 20 college students who were divided into two groups of 10 each. One group was subjected to a stressor (noise) and the other group was not. The subjects were then asked to perform a task (typing) and their performance was measured. The results showed that the group subjected to the stressor performed significantly worse than the control group. This suggests that stress has a negative effect on performance.

The results of this investigation suggest that stress has a negative effect on performance. This is consistent with previous research which has shown that stress can impair cognitive and motor functions. The results also suggest that the effect of stress on performance is not limited to a specific task or group of people.

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

RALPH BERNARD COLEMAN,

APPELLANT

APPELLATE CASE NO. 2011-181966

Appeal from Orangeburg County

Edgar W. Dickson, Circuit Court Judge

Opinion No. 2013-UP-001

PETITION FOR REHEARING

The Court of Appeals affirmed the above named appellant's conviction and sentence on January 2, 2013. In support of this petition for rehearing, which is being submitted on today's date pursuant to Rules 221 and 224 of the South Carolina Appellate Court Rules, appellant submits the following:

Coleman argued three issues on appeal: (1) the trial court erred in denying Coleman's motion to sever his case from four co-defendants because the joint trial violated his right to due process and a fair trial because evidence not related to Coleman was entered against him when entered against other defendants; he lost right to present a defense that he was mistaken for his

brother, Christian Coleman, who was also a co-defendant; he lost the right to present his closing argument last since another co-defendant admitted evidence; and he was unable to question co-defendant Harris about his interview with the police; (2) the trial court erred in denying Coleman's motion to suppress his identification by witness Ashley Parsley based on Rule 602, SCRE, because she lacked personal knowledge of his identity as she stated she did not really see him since she was lying face down on the floor and selected him from the photo line-up based on instinct; (3) the trial court erred in denying Coleman's motion to suppress the photo of a rifle, which was not one of the murder weapons but was similar to the type gun used because the actual rifle was not found, which the state introduced to incite the jury because the rifle had a bayonet.

The Court of Appeals affirmed the trial court on all three issues. On Issue One, the Court of Appeals held that the trial court should grant a severance only when there is a serious risk that a joint trial would compromise a specific trial right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt. Citing Hughes v. State, 346 S.C. 554, 559, 552 S.E.2d 315, 317 (2001). On Issue Two, the Court held that to warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence. Citing State v. Singleton, 395 S.C. 6, 13, 716 S.E.2d 332, 335-336 (Ct. App. 2011). On Issue Three, the Court held that to constitute unfair prejudice, the photographs must create an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one. Citing State v. Holder, 382 S.C. 278, 290, 676 S.E.2d 690, 697 (2009).

ISSUE ONE: Ralph Coleman and five other young men were charged with entering the home of Charles Pringle, who was believed to be a dealer in marijuana, on March 12, 2010 and shooting him

to death and attempting to rob him. R. 75, ll. 16 – 25; R. 76, ll. 1 – 25. Patrick Tyler, the sixteen year old co-defendant and the youngest one, testified against the others at the joint trial. His testimony was that they intended to just rob Pringle of his drugs and money, but something went wrong. R. 127, ll. 1 – 25; R. 129, ll. 1 – R. 131, ll. 22; R. 137, ll. 1 – 25; R. 138, ll. 1 – 24; R. 151, ll. 14 – 24.

According to Tyler's testimony, initially, just Tyler, Ralph Coleman, and Mario Shivers discussed the robbery. Then they got the others involved. R. 137, ll. 1 – R. 147, ll. 2. Tyler said four of the six had guns, but Mario provided three of the guns which included a nine millimeter pistol and two SKS rifles one of which had a knife on it. R. 135, ll. 1 – 25; R. 136, ll. 1 – 25. Walter Harris had the fourth gun, a pistol, which he gave to Ralph Coleman before they went into Pringle's house. R. 143, ll. 1 – 25; R. 147, ll. 1 – 25. The four with guns were: Ralph Coleman who had Harris' pistol; Christian Coleman who had the nine millimeter pistol; Ryan who had one of the SKS rifles; and Shivers who had one of the SKS rifles. R. 148, ll. 1 – 25.

Harris, who was also known as Pete, went into the house initially to buy some marijuana and to scope the place. R. 144, ll. 1 – 25. Then Tyler said he and Ralph went into the house to buy marijuana. Then the others came in and began looking for the drugs and money. Harris taped Pringle's mouth with duct tape. Then a gun went off, and Tyler ran to the truck. He said he heard about twenty shots. Then everyone left and went their separate ways. R. 147, ll. 1 – R. 155, ll. 25.

Lieutenant James Shumpert of the Orangeburg Sheriff's Department, testified that he was the lead investigator into this case. He took statements from Ashley Parsley, a young woman who was at Pringle's apartment during this incident, and from Shannon Mitchell who was in the apartment when Harris made the initial visit, and whom Mitchell knew. After Mitchell told Lieutenant Shumpert of Harris, Shumpert then showed Ashley Parsley a photo lineup which

included Harris. She did select Harris as the person who came just prior to the robbery to buy drugs. R. 232, ll. 1 – R. 238, ll. 9.

Lieutenant Shumpert learned that Andre Washington had a forty caliber pistol allegedly like the one used in Pringle's death. Shumpert paid an informant, Christopher Dwight, to buy the pistol from Washington which he did. R. 238, ll. 10 – 25; R. 239 – R. 240. Washington said he bought the pistol from Harris. R. 200, ll. 1 – 25; R. 201, ll. 1 – 25; R. 202, ll. 1 – 10.

Walter Harris was arrested on March 17, 2010. Then Ryant and Tyler turned themselves in on March 18, 2010. R. 241, ll. 1 – R. 242, ll. 25. Tyler gave a statement to Lieutenant Shumpert describing the incident. R. 243, ll. 1 – R. 247, ll. 25.

Tyler testified that he told Lieutenant Shumpert the truth about the incident, and identified Ralph Coleman, Mario Shivers, and Christian Coleman as the other people involved. R. 156, ll. 12 – 25; R. 157, ll. 1 – R. 164, ll. 25; R. 248, ll. 1 – R. 262, ll. 25.

All were arrested and charged with murder, burglary first degree, and armed robbery. R. 261, ll. 1 – R. 262, ll. 25. At the time of their arrests, Ralph Coleman was twenty- two years old; Christian Coleman was twenty; Danny Ryant was twenty; Mario Shivers was twenty-one; and Walter Harris was twenty-one. R. 263, ll. 1 – 4.

Dr. Janice Ross, the forensic pathologist who performed the autopsy on Pringle, testified that Pringle had twenty-four gun shot wounds to his body. R. 203, ll. 1 – 25; R. 204, ll. 9 – R. 206, ll. 25. The cause of death was laceration of multiple organs due to multiple gun shots which she described as a homicide. R. 211, ll. 2 – 18.

The ballistics expert from SLED, James Green, reported that based on the shell casings found, four different weapons were used to shoot Pringle. R. 212, ll. 1 – 16; R. 220, ll. 1 – 8. Eight shell casings were fired by the forty caliber Smith and Wesson pistol recovered. R. 216, ll. 1 – 25.;

R. 217, ll. 1 – 8. Five shell casings were fired by AK forty-seven or SKS rifles. No rifles were recovered. R. 217, ll. 9 – 25; R. 218, ll. 1 – 6; R. 218, ll. 7 – 25; R. 219, ll. 1 – 5. Four of the five rifle shell casings were fired by one rifle and one shell casing came from a different rifle. R. 219, ll. 6 – 22. Eleven shell casings were fired by one firearm, a nine millimeter pistol. R. 216, ll. 1 – 25; R. 223, ll. 1 – 19.

Lieutenant Gerald Carter of the Orangeburg County Sheriff's Office was the crime scene processor for the case. He did not collect any identifiable fingerprints nor DNA for this case. R. 181, ll. 1 – 25; R. 182, ll. 1 – 24; R. 194, ll. 1 – 25.

Patrick Tyler testified that the state had not offered him any sentence for his testimony. However, his murder charge was being reduced to voluntary manslaughter. R. 165, ll. 18 – 25; R. 166, ll. 1 – 25.

At the pretrial hearing on November 23, 2010, Ralph Coleman's attorney moved for a severance of Coleman's trial from the other co-defendants. She argued that Harris had given three statements to law enforcement, and although the state said they were not going to go into those statements, she would like to get into those statements in her defense of Coleman because the three statements were different. Two statements did not incriminate Coleman and one did. Ralph Coleman had a right to present a defense, and this right would be hampered by a joint trial. 2nd Supp. R. 2, ll. 1 – 2nd Supp. R. 3, ll. 25; R. 35, ll. 10 – R. 38, ll. 25.

Assistant Solicitor Sorenson argued in response that even if Ralph Coleman's trial were severed, his attorney could not get into Harris' statements because they were hearsay. R. 39, ll. 1 – 25; R. 40, ll. 1 – 25; R. 41, ll. 1 – 7.

Defense counsel argued that the statements would not be hearsay because they would not be offered for the truth of the matter asserted but to show that there were inconsistencies because two

of the co-defendants were naming different people who participated which would demonstrate reasonable doubt. If the trials were severed, she could call Harris although the state would determine the docket. R. 41, ll. 9 – R. 42, ll. 25.

The judge denied her motion to sever but said her objection was preserved for the record. R. 43, ll. 1 - R. 44, ll. 19.

At the trial on December 20, 2010, in a pretrial motion, Coleman's defense counsel argued for the motion to sever again based on the fact that she received new evidence which was a statement from the driver of the car, Ronnie Washington which was inconsistent with the statements given by Tyler and Ashley Parsley. If she could question Harris about his statements, this would show that all of the eyewitnesses gave different stories. R. 57, ll. 9 – R. 59, ll. 23.

Defense counsel continued to argue that there were antagonistic views in that her defense was that Ralph Coleman was not present during this incident, and was identified because he looked liked his brother, Christian Coleman, one of the co-defendants. R. 59, ll. 24 – R. 60, ll. 24.

Counsel argued that if character evidence against one of the co-defendants was admitted, then that would reflect against Ralph Coleman as well which would be another reason for severance. She explained that a twenty-two caliber pistol, which was not one of the murder weapons, was found at Harris' house in the execution of a search warrant. This would make her client, Coleman, look bad to the jury. The state argued that antagonistic views were not grounds for severance. The judge denied her motion for severance. R. 60, ll. 24 – R. 60, ll. 25; R. 62, ll. 1 – 25.

During the trial, Ralph Coleman's attorney, Ullman, made a motion to sever again which all of the defendants joined in. Her argument was that since Shivers' attorney introduced evidence which was a statement by one of the witnesses, all of the other defendants also lost the right to close last even though they did not introduce evidence. R. 170, ll. 1 – R. 174, ll. 25.

In response, the solicitor cited two cases which held that in a joint trial all of the defendants lost the right to last closing if anyone of them introduced evidence. The cases were State v. Crowe, 258 S.C. 258, 188 S.E.2d 379 (1972), and State v. Smith, 387 S.C. 619, 693 S.E. 2d 415 (Ct. App. 2010). R. 175, ll. 1 – 25.

Attorney Ullman argued that forcing all of the other co-defendants to lose their right to close last violated their right to a fair and impartial trial under the United States Constitution because they were being forced to act as a team and had to decide together what evidence was being admitted and what was not. R. 176, ll. 1 – R. 178, ll. 25.

The judge ruled that he had to abide by the law; therefore, he had to rule that the solicitor had last closing. R. 179, ll. 1 – R. 180, ll. 25.

At the close of the state's case, Ralph Coleman's defense counsel renewed all of her objections and motions including her motion to sever. She argued that half of the twelve witnesses presented evidence not pertaining to Ralph Coleman, but it was entered in the trial against him. The judge ruled that he stood by his motion not to sever this trial. R. 265, ll. 14 – 25; R. 266, ll. 22 – R. 270, ll. 14.

At that point, Ryant's defense counsel, Attorney Mellard, argued that the lack of severance violated Ryant's right to due process. He argued that losing the right to close last was not fair since he did not present any evidence, and cross-examination was affected because none of them could point fingers at any of the others. Ralph Coleman's attorney joined in the motion that Coleman's due process rights were violated. R. 270, ll. 15 – 25; R. 271, ll. 1 – 25; R. 272, ll. 1 – 6.

Shiver's counsel, Attorney Koger, joined in the due process argument because he said he did not know that he had to confer with the other four defendants before he could admit evidence. He argued that they were being forced to act as a team instead of being able to separately represent their

clients. Attorneys Palmer and Lackey joined in the due process motion against the joint trials. R. 272, ll. 6 – 25; R. 273, ll. 1 – 25; R. 274, ll. 1 – 14. The solicitor argued that he would have presented all of the same witnesses and evidence against each defendant if the trials had been severed. He also argued that the attorneys did not have to confer with each other. R. 274, ll. 13 – 25; R. 275, ll. 1 – 9. The judge denied the motions to sever. R. 275, ll. 10 – 25; R. 276, ll. 1 – 22.

A motion for severance is addressed to the sound discretion of the trial court. State v. Simmons, 352 S.C. 342, 350, 573 S.E.2d 856, 860 (Ct. App. 2002). A defendant who alleges that he was improperly tried jointly must show prejudice before appellate court will reverse his conviction. State v. Walker, 366 S.C. 643, 623 S.E.2d 122 (Ct. App. 2005).

A severance should be granted only when there is a serious risk that a joint trial would compromise a specific right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt. Id. A proper cautionary instruction may help protect the individual rights of each defendant and ensure that no prejudice results from a joint trial. State v. Dennis, 337 S.C. 275, 523 S.E.2d 173 (1999). The trial judge must act cautiously in allowing a joint trial. State v. Walker, *supra*.

The South Carolina Supreme Court wrote in State v. Gunn, 313 S.C. 124, 437 S.E.2d 75 (1993):

We take this occasion to remind prosecutors of the pitfalls inherent in mass conspiracy trials. More than forty years ago, this court stated, "It is always cumbersome to try a great number of defendants at one time... with such a large number of defendants, there might be a danger of some of them being lost sight of by the jury, and their case considered by the jury in a vague way." Citing State v. McIntire, 221 S.C. 504, 71 S.E.2d 410 (1952).

The Court also wrote that separate indictments with separate trials, and a sharper focus on the alleged conspirators' agreement would have aided in the State's case. State v. Gunn, Id. In

Gunn's case, ten co-defendants were tried in a joint trial on drug trafficking charges. The Court reversed the convictions of six of the defendants.

In State v. Crowe, 258 S.C. 258, 188 S.E. 2d 379 (1972), the Supreme Court held that in a joint trial, introduction of evidence by one defendant may operate to deprive a co-defendant, who offers no evidence, of right to the last argument, to which such co-defendant would be entitled if tried separately, affords no ground to order separate trials. In State v. Smith, 387 S.C. 619, 693 S.E.2d 415 (Ct. App. 2010), the Court of Appeals held that the defendant was not entitled to severance on the grounds that she lost her right to have last closing argument to the jury as result of being tried together with co-defendant who offered a photo lineup into evidence.

State v. Crowe, *supra*, and State v. Smith, *supra*, can be distinguished from Coleman's case because there were only two co-defendants in Crowe's case and three in Smith's case.

The Court of Appeals held that severance should be granted only when there was a serious risk that a joint trial would compromise a specific right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt. The Court misapprehended the issue. Coleman's right to present a complete defense was compromised because he was not allowed to question co-defendant Harris about his statements, and Coleman could not argue that he was mistaken for his brother who was a co-defendant.

ISSUE TWO: Ashley Parsley's testimony was that she met Pringle one week before this incident and came to stay with him at his apartment. She was helping him sell drugs and was present during the shooting incident. R. 89, ll. 1 – R. 91, ll. 25; R. 96, ll. 14 – 25; R. 97, ll. 1 – 2. After the first person came in, who wanted to buy "droe" (a special type marijuana) but did not and then left, the doorbell rang again. Pringle was asleep and Shannon had gone, so Ashley answered the door with

Pringle's gun in her hand. She said the light in the room was dim, and had different colored lights. R. 99, ll. 1 – 25; R. 100, ll. 1 – 25; R. 103, ll. 1 – 25.

At door, she saw a dark skinned man wearing blue. R. 123, ll. 3 – 25; Defendant Shivers' Exhibit 1. He came in to buy marijuana. As she reached down to get the marijuana out of a jar next to her in the living room, the person took the gun she had from her and pulled another gun on her, and told her this was a stickup. R. 104, ll. 1 – 25.; R. 105, ll. 1 – 6.

The man with the gun told her to get on the floor and don't move or talk which she did. R. 105, ll. 7 – 25. She noticed another 'chubby' man come in also. She did not look up again after she got face down on the floor. She then heard several people in the apartment with a lot of yelling, and ripping up things as they were asking for the money and drugs. R. 106, ll. 1 – 25; R. 107, ll. 1 – 4. She then heard a lot of gun shots. After the men left, she called 911, and waited for the police. R. 107, ll. 1 – 25.

She gave a statement to Lieutenant Shumpert that night where she described the man at the door as being dark skinned wearing blue. She did not mention the chubby man in her statement. Defendant Shivers' Exhibit 1; R. 124, ll. 1 – 25.

Lieutenant Shumpert showed her several photo lineups, and she selected three people from three different lineups R. 110, ll. 1 – 25. She selected Walter Harris from State's Exhibit Three as being the person who came into the apartment the first time about twenty minutes before the incident. R. 111, ll. 1 – 25; R. 112, ll. 1 – 25; R. 113, ll. 1 – 25; R. 12.

She selected Shivers from State's Exhibit Four as being the person who came into the apartment the second time and pointed a gun at her. She remembered him because he had "cold eyes." She thought he was wearing a mask that covered the bottom part of his face. R. 114, ll. 1 – 25; R. 115, ll. 1 – 25; R. 11, ll. 1 – R. 12, ll. 25.

She selected Ralph Coleman from State's Exhibit Five as being the chubby guy that she saw in the apartment. However, in the affidavit she wrote with the lineup where she selected Ralph Coleman, she wrote that "it was *possible* [emphasis added] he was one of the guys that entered the apartment, but I didn't completely see his face." She did not identify any others. R. 116, ll. 1 – 25; R. 117, ll. 1 – 25; R. 118, ll. 23 – 25; R. 119, ll. 1; R. 12, ll. 1 – 25.

Coleman's defense counsel objected at that point based on Neil v. Biggers,¹ grounds as well as lack of personal knowledge issues as previously raised. R. 117, ll. 1 – 8.

On cross-examination, she admitted that once he got down on the floor, she never turned either way and could not see what was going on. She could not even see people's shoes, and she did not know how many people were in the apartment. She admitted that after the first guy entered the apartment, she laid on the floor until everyone was gone. R. 120, ll. 1 – 25; R. 121, ll. 1 – 25; R. 122, ll. 1 – 2nd Supp. R. 5, ll. 25. She said the lights were dim in the apartment; she was nervous; and she was not sure that the person she picked out of the lineup (State's Exhibit Five) was in the apartment that night. R. 124, ll. 1 – 25.

A hearing was held, pursuant to Neil v. Biggers, on November 23, 2010 prior to trial as Ralph Coleman's counsel requested it based on the photo lineup identification by Ashley Parsley. R. 2, ll. 10 – 14. At the hearing, Ashley testified that after the man with the gun came in and made her get on the floor, she could not see other people as she was face down on the ground. R. 6, ll. 1 – 25.

She said that before she went down, she noticed the eyes of the man with the gun as his eyes were "so cold," and she saw a stocky person but "she didn't really see his face." R. 7, ll. 1 – 25; R. 9, ll. 1 – 25. When asked on cross-examination why she selected number One from State's Exhibit

¹ Neil v. Biggers, 409 U.S. 188 (1972).

Five (Ralph Coleman), she responded: "It was just like instinct; I just pointed straight at it." R. 18, ll. 1 - 25; R. 19, ll. 1 - 2.

Defense counsel argued at the November hearing that any in-court identification by Ashley not be allowed pursuant to Neil v. Biggers because it would violate Coleman's due process rights. Counsel also argued that any testimony of Ashley's about her identification of Ralph Coleman not be admitted because she lacked personal knowledge of who was in Pringle's living room during the incident. He argued that any witness's testimony was only allowed if it were based on personal knowledge. He argued that Ashley said she was not sure if Coleman was in the apartment as she did not see the person. Her identification was based on "instinct." R. 26, ll. 1 - R. 29, ll. 25.

The judge ruled there was nothing suggestive about the identifications; they were reliable; and he saw no likelihood of misidentification. The solicitor, however, said there would be no in-court identifications by Ashley Parsley. R. 30, ll. 19 - R. 34, ll. 25.

At the trial in a pretrial motion, Attorney Ullman moved that Ashley Parsley's identification of Ralph Coleman not be allowed based on Rule 602, SCRE, because she lacked personal knowledge of Coleman being in the apartment. Her selection from the lineup was based on instinct. If she were allowed, it would have to be as a lay witness opinion since she lacked personal knowledge, and she had no basis for an opinion. R. 64, ll. 1 - R. 65, ll. 25.

The solicitor argued that Attorney Ullman could cross-examine Ashley Parsley on those issues. The judge denied Attorney Ullman's motion. R. 66, ll. 1 - 25.

During the trial before the jury, Ashley Parsley identified Ralph Coleman from State's Exhibit Five (photo lineup) as "*possibly*" [emphasis added] being one of the guys that entered the apartment on March 12th. R. 116, ll. 1 - 25; R. 117, ll. 1 - 25. Coleman's attorney objected. R. 118, ll. 1 - 25.

Counsel renewed her motions and objections after the state rested and after the jury's verdict. R. 266, ll. 20 – 25; R. 394, ll. 1 – 25; R. 395, ll 1 – 5.

Rule 602, SCRE, provides that a witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.

In State v. Frazier, 357 S.C. 161, 592 S.E.2d 621 (2004), reversed the trial court and remanded the case for a new trial where the Court held that a statement by one of Frazier's co-workers that he overheard Frazier say that someone should kill the victim, Brent Poole. The Court ruled that the statement was not admissible pursuant to rule 602, SCRE, because the witness could not say when the statement was made; he did not know to whom the statement was made; and he could not recall the exact content of the statement. The Court also ruled that the witness's testimony was not harmless because there was little direct evidence linking Frazier to the crime.

Coleman's case is similar in that Ashley Parsley's testimony was not certain, and was not harmless. She was the only neutral witness to somewhat identify Ralph Coleman. The main evidence was the testimony of Patrick Tyler which was based on the reduction charges of murder to voluntary manslaughter.²

The Court of Appeals ruled that the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury's verdict was influenced by the challenged evidence. Coleman was prejudiced because the witness's identification was significant evidence because it was the only evidence other than that of a biased co-defendant, Tyler. This had to have an influence on the jury although Parsley lacked personal knowledge since she said she did not really see his face.

² Department of Corrections website indicates that Tyler's sentence was fifteen years for armed robbery.

ISSUE THREE In a pretrial motion, Coleman's defense counsel moved that a picture of a rifle that the state intended to introduce to use should be suppressed because it was not one of the murder weapons. She argued that it was being introduced just to incite the jury, and that it had a bayonet on the end. The rifles and nine millimeter pistol were not recovered, but the state was not introducing pictures of a nine millimeter pistol. R. 67, ll. 1 – 25; R. 68, ll. 1 – 24; R. 70, ll. 1 – 25; R. 71, ll. 1 – 25.

The state argued that the picture was just to demonstrate to the jury what the rifles used in the incident were like. R. 68, ll. 15 – 25; R. 69, ll. 1 – 25.

The judge said that he would reserve his ruling until he heard the testimony. R. 71, ll. 12 – 25.

James Green, the ballistics expert from SLED, testified that no rifles or nine millimeter pistols were submitted in this case. The only weapon submitted was the forty caliber pistol. R. 212, ll. 1 – 25; R. 218, ll. 1 – 25; R. 219, ll. 1 – 25. Green's testimony was that a rifle like the one in the picture fired the five shell casings from an SKS rifle. Coleman's attorney objected when the picture was admitted into evidence. R. 215, ll. 1 – 25; R. 216, ll. 1 – 25; R. 217, ll. 1 – 25; R. 218, ll. 1 – 25; R. 219, ll. 1 – 25.

The judge ruled that the picture was admitted into evidence because he was not familiar with that type weapon, and he thought it would be helpful to the jury. R. 230, ll. 1 – 25; R. 231, ll. 1 – 7.

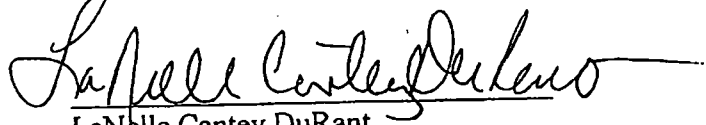
The relevancy, materiality, and admissibility of photographs as evidence are matters left to the sound discretion of the trial court. State v. Holder, 382 S.C. 278, 676 S.E.2d 690 (2009). To constitute unfair prejudice, the photographs must create an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one. Id.

The state did not recover the rifles used in the incident. Therefore, this was a weakness in the state's case, and they should not have been allowed to bolster their case with pictures of weapons not used in the murder. The fact that the state did not introduce pictures of a nine millimeter gun which was not recovered either, but allowed to introduce a military type Russian rifle was evidence that the rifle was introduced to incite the jury to decide an issue on an emotional basis.

The Court of Appeals ruled that to constitute unfair prejudice, the photographs must create an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one. The rifle was introduced to inflame the jury- that a rifle was used to shoot someone at close range. This rifle also had a bayonet which was inflammatory. This was prejudicial to Coleman since the state did not have the weapon.

THEREFORE, we respectfully ask the Court of Appeals to reconsider its rulings.

Respectfully submitted,


LaNelle Cantey DuRant
Appellate Defender

This 17th day of January, 2013.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

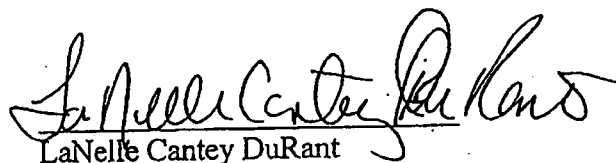
RALPH BERNARD COLEMAN,

APPELLANT

APPELLATE CASE NO. 2011-181966

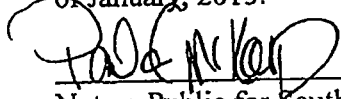
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Melody J. Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 17th day of January, 2013.


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 17th day
of January, 2013.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions
Edgar W. Dickson, Circuit Court Judge

The State,

Respondent,

vs.

Ralph Bernard Coleman,

Appellant.

Appellate Case No. 2011-181966

RETURN TO PETITION FOR REHEARING

This Court issued an opinion in the captioned case on January 2, 2013, affirming Appellant's convictions for armed robbery, burglary, and murder. *State v. Coleman*, Unpublished Opinion No. 2013-UP-001 (S.C.Ct.App. filed January 2, 2013). Appellant subsequently filed a *pro se* petition for rehearing which was served on January 9, 2013. By letter dated January 15, 2013, this Court requested Respondent file a return to the *pro se* petition. Pursuant to Rules 221 and 240, SCACR, and at the request of the Court, Respondent now makes a return to the petition, and submits the petition for rehearing is improper and should not be considered. Alternatively, the petition should be denied. In support of this position, Respondent would respectfully show the Court:

1. As a first matter, it appears Appellant is still represented by counsel. Therefore, the *pro se* filing is not proper, and should not be ruled upon.

"There is no right to hybrid representation in South Carolina." *State v. Cabrera-Pena*, 350 S.C. 517, 533, 567 S.E.2d 472, 481 (Ct.App. 2002), citing *State v. Stuckey*, 333 S.C. 56, 508 S.E.2d 564 (1998); *Foster v. State*, 298 S.C. 306, 379 S.E.2d 907 (1989); *State v. Sanders*, 269 S.C. 215,

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Court of General Sessions

Edgar W. Dickson, Circuit Court Judge

The State,

Respondent,

vs.

Ralph Bernard Coleman,

Appellant.

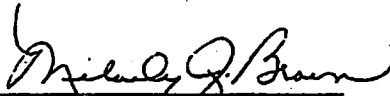
Appellate Case No. 2011-181966

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served the *Return to the Petition for Rehearing* on Appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to his attorney of record:

LaNelle Cantey Durant, Appellate Defender
South Carolina Commission on Indigent Defense
Division of Appellate Defense
Post Office 11589
Columbia, South Carolina 29211-1589

This 24th day of January, 2013.


MELODY J. BROWN
Senior Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211
(803) 734-6305

237 S.E.2d 53 (1977). Appellate counsel filed a separate petition for rehearing on January 17, 2013. Thus, the *pro se* petition should not be ruled upon. *Miller v. State*, 388 S.C. 347, 347, 697 S.E.2d 527 (2010) (“Because petitioner was represented by counsel, the *pro se* motion was not proper, should not have been accepted, and should not have been ruled upon. The motion was essentially a nullity.”).

2. Further, the petition is deficient. Appellant fails to identify any particular point or fact that he contends may have been misapprehended. See Rule 221 (a), SCACR. Appellant simply references *Neil v. Biggers*, 409 U.S. 188 (1972). He fails to show rehearing is warranted. Moreover, the cited case is not applicable to the identification issue considered by the Court.

The arguments forwarded at trial and on appeal were not premised on a due process violation based upon police suggestion within the identification process.¹ Rather, the arguments were based upon an allegation of the witness’s lack of personal knowledge. (See FBOA, pp. 16-17). Thus, *Neil v. Biggers* is not applicable. See 409 U.S. at 199 (noting “the central question” as “whether under the ‘totality of the circumstances’ the identification was reliable *even though the confrontation procedure was suggestive.*”) (emphasis added). See also *Perry v. New Hampshire*, 132 S.Ct. 716, 728 (2012) (“The fallibility of eyewitness evidence does not, without the taint of improper state conduct, warrant a due process rule requiring a trial court to screen such evidence for reliability before allowing the jury to assess its creditworthiness.”). The case, to the extent it could be considered by its mere reference in the petition, does not support that rehearing is warranted.

¹ The trial judge found no hint of improper police conduct in the identification process: “... I don’t think there was [has] been any testimony or any reason for me to think that there was anything unduly suggestive about these.” (R. p. 30).

CONCLUSION

Based on the forgoing, Respondent submits the *pro se* pleading is improper and should not be considered. Alternatively, Respondent submits Appellant has failed to show that rehearing is warranted. The petition should be denied.

Respectfully submitted,

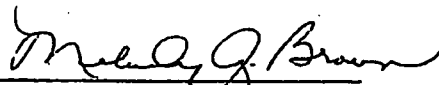
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January 24, 2013.
Columbia, South Carolina.

ATTORNEYS FOR RESPONDENT

The South Carolina Court of Appeals

The State, Respondent,

v.

Ralph Bernard Coleman, Appellant.

Appellate Case No. 2011-181966

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Saul E. Short, Jr. J.

CAC J.

[Signature] J.

Columbia, South Carolina

cc:

Ralph Bernard Coleman
LaNelle Cantey DuRant
Melody Jane Brown

FEB 22

FILED

February 22, 2013

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

MAY 23 2013

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

RALPH BERNARD COLEMAN,

APPELLANT

RECORD ON APPEAL

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*****THE FOLLOWING EXHIBIT HAS BEEN TRANSPORTED TO THE
COURT OF APPEALS: STATE'S EXHIBIT #5 (PHOTO LINE-UP).*****

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

PRETRIAL MOTIONS

versus)

TRANSCRIPT OF RECORD

CHRISTIAN COLEMAN,
RALPH B. COLEMAN,
WALTER L. HARRIS
DANNY RYANT, JR.,
MARIO N. SHIVERS

) CASE NO. 2010-GS-38-802-806
) CASE NO. 2010-GS-38-807-811
) CASE NO. 2010-GS-38-812-816
) CASE NO. 2010-GS-38-817-821
) CASE NO. 2010-GS-38-822-826

DEFENDANTS)

DATE:

NOVEMBER 23, 2010

BEFORE: HONORABLE EDGAR W. DICKSON, PRESIDING JUDGE

APPEARANCES:

DONALD SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

RICHARD LACKEY, ESQUIRE
ATTORNEY AT LAW
FOR DEFENDANT, CHRISTIAN COLEMAN

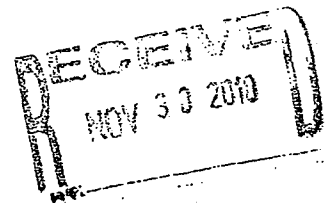
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HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133



1 THINK IS ASHLEY PARSLEY AND MONEAK BUSBY. THEY DID
2 NOT IDENTIFY MY CLIENT IN THE PHOTO LINEUP.

3 THEREFORE, IT WOULD BE, A NEAL V. BIGGERS HEARING
4 WOULD NOT I THINK BE FOR MY CLIENT ON THESE PARTICULAR
5 LINEUPS.

6 THE COURT: ALRIGHT.

7 MR. LACKEY: WE COULD ADDRESS, AFTER THIS,
8 WITH THE COURT THE POTENTIAL OF A HEARING ON THE
9 LINEUPS WITH THE CO-DEFENDANTS, THOUGH, YOUR HONOR.

10 THE COURT: ALRIGHT. MS. ULLMAN?

11 MS. ULLMAN: YOUR HONOR, MY CLIENT WAS
12 PICKED OUT OF A LINEUP BY AT LEAST ONE WITNESS WHO IS
13 NOT A CO-DEFENDANT, SO I WOULD HAVE A NEAL-BIGGERS
14 ISSUE.

15 THE COURT: ALRIGHT.

16 MS. ULLMAN: DO YOU WANT ME TO ADDRESS OTHER
17 MOTIONS NOW?

18 THE COURT: YES, MA'AM.

19 MS. ULLMAN: I WOULD ALSO ASK YOUR HONOR FOR
20 A CONTINUANCE OF THIS MOTIONS HEARING. IN GOING
21 THROUGH ALL OF THE EVIDENCE I'M MISSING QUITE A BIT OF
22 EVIDENCE, BASICALLY ALL FORENSIC EVIDENCE, INCLUDING
23 THE GUN SHOT RESIDUE TESTS DONE ON THE DECEASED VICTIM
24 AND THE WITNESS, SLASH, VICTIM IN THIS CASE. ALSO, ANY
25 BALLISTICS FROM ANY OF THE BULLETS TAKEN. THERE WAS A

1 Q. WHO IS OLD SCHOOL?

2 A. CHARLES PRINGLE.

3 Q. OKAY. AND SO HE, AND YOU SAID HE WAS SLEEPING?

4 A. HE WAS SLEEPING. AND THEN HE CAME OUT THE ROOM.

5 Q. OKAY. AND DID MR. PRINGLE THEN HAVE AN
6 OPPORTUNITY TO CONVERSE WITH THIS PERSON THAT WAS
7 THERE?

8 A. YES, HE ASKED HIM FOR HIS ID BECAUSE HE SAID HE
9 NEVER SEEN HIM BEFORE.

10 Q. OKAY. AND DID, DID THE PERSON GIVE HIM HIS ID?

11 A. YES, HE DID.

12 Q. OKAY. AND DID HE END UP PROVIDING HIM ANY
13 MARIJUANA AT THAT POINT IN TIME THAT YOU SAW?

14 A. HE TOLD HIM THAT HE NEVER SEEN HIM BEFORE. HE
15 ASKED HAS HE EVER BEEN THERE, AND HE SAID, YES,
16 WITH HIS HOME BOY.

17 Q. OKAY.

18 COURT REPORTER: AND HE SAID, YES, BUT WHAT?

19 A. HE HAD BEEN THERE WITH HIS HOME BOY.

20 Q. ALRIGHT. NOW, WHERE WERE YOU AT WHEN ALL OF THIS
21 INTERACTION WAS GOING ON?

22 A. I WAS SITTING IN THE CHAIR BY THE WINDOW.

23 Q. OKAY. AND HOW FAR AWAY WERE YOU FROM THIS GUY
24 THAT CAME IN, THE LIGHT SKINNED GUY WITH THE
25 TWISTIES IN HIS HAIR, HOW FAR AWAY WERE YOU FROM

1 HIM?

2 A. NOT FAR.

3 Q. BUT, I MEAN, CLOSER THAN WE ARE OR FARTHER AWAY
4 OR THE SAME DISTANCE?

5 A. PROBABLY ABOUT THE SAME DISTANCE.

6 Q. SO, MAYBE FIVE FEET AWAY?

7 A. CORRECT.

8 Q. AND YOU WERE SITTING IN THE LIVING ROOM?

9 A. CORRECT.

10 Q. IS IT A BIG LIVING ROOM OR A LITTLE LIVING ROOM?

11 A. FOR AN APARTMENT, IT'S LIKE A NORMAL SIZE.

12 Q. AND ANYTHING COVERING THE GUY'S FACE OR ANYTHING?

13 A. NO.

14 Q. DID YOU END UP GETTING A GOOD LOOK AT HIM WHILE
15 HE WAS IN THERE?

16 A. NOT REALLY, ALL I KNOW IS, HE WAS LIGHT SKINNED
17 AND HE HAD TWISTIES IN HIS HAIR.

18 Q. BUT NOTHING WAS OBSTRUCTING YOUR VIEW OF HIS FACE
19 OR ANYTHING OF THAT NATURE?

20 A. NO, SIR.

21 Q. AND DID HE END UP ULTIMATELY LEAVING THE
22 APARTMENT?

23 A. YES, HE DID.

24 Q. OKAY. AND AFTER HE LEFT WHAT DID, WHAT DID
25 SHANNON DO?

1 A. HE LEFT A FEW MINUTES LATER.

2 Q. OKAY. AND THEN WHAT DID MR. PRINGLE DO?

3 A. HE WENT BACK IN HIS ROOM.

4 Q. NOW, DID THERE COME A TIME A SHORT WHILE LATER
5 WHEN SOMEBODY ELSE CAME TO THE DOOR?

6 A. CORRECT.

7 Q. OKAY. AND ABOUT HOW LONG AFTER THAT, THAT FIRST
8 PERSON AND SHANNON LEFT WAS IT BEFORE SOMEBODY
9 ELSE CAME TO THE DOOR?

10 A. I'LL SAY ABOUT TEN MINUTES, AND AT THAT TIME HE
11 WENT INTO THE KITCHEN. HE WAS MAKING ...

12 Q. WHO WENT INTO THE KITCHEN?

13 A. CHARLES PRINGLE.

14 Q. OKAY. ALRIGHT, SO SOMEBODY ELSE CAME TO THE DOOR
15 AND DID THEY KNOCK OR IS THERE A DOOR BELL OR ...

16 A. THEY RUNG THE DOOR BELL.

17 Q. OKAY. AND WHO CAME AND ANSWERED THE DOOR?

18 A. IT WAS A DARK SKINNED DUDE WEARING BLUE.

19 Q. OKAY. WHO ANSWERED THE DOOR?

20 A. I DID.

21 Q. OKAY. NOW, DID YOU RECOGNIZE THAT PERSON THAT
22 CAME IN?

23 A. NO, I DID NOT.

24 Q. OKAY. AND TELL, TELL THE JUDGE WHAT HAPPENED THEN
25 AFTER YOU ANSWERED THE DOOR, WHAT DID YOU DO,

1 FIRST OF ALL?

2 A. WHEN I ANSWERED THE DOOR I WENT BACK TO SIT IN
3 THE CHAIR, AND I HAD A PISTOL IN MY HAND.

4 THE COURT: YOU HAD WHAT IN YOUR HAND?

5 A. A PISTOL.

6 THE COURT: YOU HAD A PISTOL IN YOUR HAND?

7 A. UH-HUH. BECAUSE HE TOLD ME, BECAUSE CHARLES TOLD
8 ME TO ALWAYS USE IT FOR PROTECTION. AND I HAD SAT
9 DOWN AND I ASKED HIM WHAT DID HE NEED. AND AS I
10 WAS GOING DOWN TO GET WHAT HE NEEDED THAT'S WHEN
11 HE WAS, LIKE, IT WAS A STICK UP, AND HE TOOK THE
12 PISTOL FROM ME, AND HE TOLD ME TO GET ON THE
13 GROUND.

14 Q. OKAY. AND DID YOU GET DOWN ON THE GROUND?

15 A. YES, I DID.

16 Q. OKAY. AND ARE YOU AWARE OF WHETHER OTHER PEOPLE
17 CAME IN OR NOT?

18 A. I COULD SEE OTHER PEOPLE BUT I JUST NOTICED,
19 LIKE, I COULD FEEL, LIKE, THE SURROUNDING, LIKE
20 IT WAS MORE PEOPLE. IT WAS MORE THAN ONE PERSON.

21 THE COURT: YOU SAID, I COULD OR COULDN'T
22 SEE OTHER PEOPLE?

23 A. I COULDN'T SEE OTHER PEOPLE. I WAS FACE DOWN ON
24 THE GROUND.

25 THE COURT: I CAN'T SEE OTHER PEOPLE?

1 Q. YOU COULDN'T SEE OTHER PEOPLE?

2 A. UH-HUH.

3 THE COURT: AND YOU WERE FACE DOWN ON THE
4 GROUND?

5 A. CORRECT.

6 Q. AND, BUT YOU SAID YOU COULD TELL THERE WERE MORE
7 THAN ONE PERSON IN THE APARTMENT AT THAT TIME?

8 A. CORRECT.

9 Q. OKAY. AND DID YOU STAY FACE DOWN ON THE GROUND
10 AT THAT POINT IN TIME?

11 A. YES, I DID.

12 Q. OKAY. AND WERE YOU ABLE TO SEE ANYBODY'S FACES
13 INITIALLY BEFORE YOU WENT DOWN TO THE GROUND?

14 A. THE GUY THAT WAS POINTING THE GUN AT ME, I
15 REMEMBER HIS EYES. HE EYES WAS, LIKE, SO COLD.

16 Q. OKAY. AND THEN DID YOU SEE ANOTHER, BRIEFLY SEE
17 ANOTHER PERSON'S FACE ALSO BEFORE YOU WENT DOWN?

18 A. I SEEN A STOCKY PERSON BUT I DIDN'T REALLY SEE
19 THEIR FACE.

20 Q. NOW, YOU END UP GOING DOWN ON THE GROUND, DID YOU
21 STAY, WHILE EVERYTHING WAS GOING ON DID YOU STAY
22 FACE DOWN ON THE GROUND?

23 A. CORRECT. THEY TOLD ME NOT TO MOVE.

24 Q. OKAY. AND LET ME ASK YOU THIS, ULTIMATELY, WERE
25 THERE A BUNCH OF GUN SHOTS INSIDE?

1 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER FOUR,
2 I SHOW YOU NUMBER FOUR INITIALLY, DID YOU HAVE AN
3 OPPORTUNITY TO VIEW STATE'S EXHIBIT NUMBER FOUR?

4 A. CORRECT.

5 Q. ALRIGHT. AND WERE YOU ABLE TO IDENTIFY ANYBODY
6 IN STATE'S EXHIBIT NUMBER FOUR?

7 A. YES, NUMBER THREE.

8 Q. NUMBER THREE. AND WHY DID YOU PICK OUT NUMBER
9 THREE?

10 A. BECAUSE OF HIS EYES. I REMEMBER HIS EYES. HE WAS
11 THE ONE THAT WAS POINTING THE GUN AT ME.

12 Q. OKAY. ALRIGHT. ANY DOUBT IN YOUR MIND THAT THAT
13 APPEARS TO BE THE PERSON THAT WAS POINTING THE
14 GUN AT YOU?

15 A. I'M POSITIVE.

16 Q. AND DID YOU PUT THAT ON THE AFFIDAVIT ALSO THAT
17 YOU SIGNED?

18 A. CORRECT.

19 Q. AND THAT'S THE INDIVIDUAL THAT WAS IN THE
20 APARTMENT THAT POINTED THE GUN AT ME?

21 A. CORRECT.

22 Q. AND THEN, STATE'S EXHIBIT NUMBER FIVE, DID YOU
23 HAVE AN OPPORTUNITY ALSO TO LOOK AT AND PICK
24 SOMEBODY OUT OF STATE'S EXHIBIT NUMBER FIVE?

25 A. CORRECT.

1 Q. OKAY. AND WHAT, WHAT PHOTO DID YOU PICK OUT?

2 A. NUMBER ONE.

3 Q. OKAY. AND LET ME ASK YOU THIS, YOU ULTIMATELY
4 ENDED UP PUTTING, FILLING OUT THE AFFIDAVIT ON
5 THAT ALSO, RIGHT?

6 A. CORRECT.

7 Q. ALRIGHT. AND I THINK YOU INDICATED THAT IT WAS
8 POSSIBLE THAT YOU DIDN'T COMPLETELY SEE HIS FACE,
9 BUT THAT RESEMBLED ONE OF THE INDIVIDUALS YOU SAW
10 IN THE APARTMENT?

11 A. CORRECT.

12 Q. LET ME JUST ASK YOU, WHEN YOU FILLED OUT THE
13 AFFIDAVIT WHAT PHOTO DID YOU PUT ON THE AFFIDAVIT
14 THAT YOU PICKED OUT?

15 A. I PUT NUMBER ONE.

16 Q. THAT NUMBER RIGHT THERE?

17 A. NUMBER FOUR.

18 Q. NUMBER FOUR. LET ME JUST SHOW YOU, JUST KIND OF,
19 WHEN YOU CIRCLED THAT PHOTOGRAPH THERE, WHAT
20 NUMBER DID YOU CIRCLE?

21 A. NUMBER FOUR.

22 Q. OKAY. IS THAT THE PICTURE THOUGH THAT YOU PICKED
23 OUT?

24 A. CORRECT.

25 Q. OKAY. AND YET AGAIN, THAT APPEARED TO BE

1 SOMEBODY THAT YOU SAW BRIEFLY IN THE APARTMENT
2 THAT AFTERNOON, OR THAT EVENING?

3 A. CORRECT.

4 Q. NOW, MS. PARSLEY, AT ANY POINT IN TIME DID
5 INVESTIGATOR SHUMPERT TELL YOU WHO TO PICK OUT?

6 A. NO.

7 Q. OKAY. DID HE SUGGEST TO YOU IN ANY WAY THAT YOU
8 HAD TO PICK SOMEBODY OUT OF THE LINEUP?

9 A. NO.

10 Q. LET ME ASK YOU THIS, IN FACT, DID HE SHOW YOU
11 SEVERAL OTHER LINEUPS ALSO?

12 A. CORRECT.

13 Q. AND WERE YOU ABLE TO PICK ANYBODY OUT OF ANY OF
14 THOSE OTHER LINEUPS HE SHOWED YOU?

15 A. NO, I WAS NOT.

16 Q. OKAY. AND JUST SO I GET THE DATES RIGHT HERE,
17 BECAUSE YOU WENT AND LOOKED AT THESE ON A COUPLE
18 OF DIFFERENT DATES, IS THAT CORRECT?

19 A. CORRECT.

20 Q. AND SHOWING YOU, GOING BACK TO STATE'S EXHIBIT
21 NUMBER THREE, WHAT DAY, WHAT DAY IS INDICATED ON
22 THE AFFIDAVIT THAT YOU PICKED THAT PERSON OUT?

23 A. MARCH FIFTEEN.

24 Q. AND THE OTHER TWO, STATE'S EXHIBITS FOUR AND
25 FIVE, WHAT DATE IS ON FOUR AND FIVE?

1 A. MARCH NINETEEN.

2 Q. SO, A COUPLE OF DAYS LATER?

3 A. YES.

4 Q. AND YET AGAIN, JUST LIKE I ASKED YOU ABOUT THE
5 FIRST PERSON THAT CAME IN, WHEN THE SECOND
6 INDIVIDUALS CAME IN, WAS THERE ANYTHING, DID THEY
7 HAVE THEIR FACES COVERED OR ANYTHING?

8 A. THE GUY THAT WAS POINTING THE GUN AT ME, I THINK
9 HE HAD ON A MASK.

10 Q. BUT YOU WERE ABLE TO SEE HIS EYES? I MEAN, WHAT,
11 YOU SAID, MASK, WHAT PART OF HIS FACE WAS
12 COVERED?

13 A. IT WAS, LIKE, THE BOTTOM PART WAS COVERED, BUT I
14 COULD REMEMBER HIS EYES.

15 Q. SO YOU REMEMBER, KIND OF UPPER PART OF HIS FACE?

16 A. CORRECT.

17 Q. OKAY. AND OBVIOUSLY, YOU SAID YOU THOUGHT THERE
18 WERE FIVE OR SIX PEOPLE IN THERE, BUT DID YOU
19 EVER REALLY GET A LOOK AT ANY OF THOSE BESIDES
20 THE TWO OF THEM, ANY OF THE OTHER FIVE OR SIX?

21 A. NO, I WAS FACE DOWN.

22 Q. IS THE LIGHTING IN THE APARTMENT, WERE YOU ABLE
23 TO SEE IN THE APARTMENT?

24 A. A LITTLE BIT.

25 Q. ENOUGH TO BE ABLE TO SEE THE PERSON?

1 A. CORRECT.

2 Q. IT WASN'T PITCH BLACK IN THERE, WAS IT?

3 A. NOT, IT WASN'T PITCH BLACK.

4 SOLICITOR SORENSON: I BEG THE COURT'S
5 INDULGENCE.

6 THE COURT: OKAY.

7 SOLICITOR SORENSON: THANK YOU, MS. PARSLEY,
8 PLEASE ANSWER ANY QUESTIONS THAT ANY OF THE DEFENSE
9 COUNSEL MAY HAVE.

10 AND JUST FOR THE COURT'S KIND OF ...

11 COURT REPORTER: LEAVE THAT BACK WHERE YOU
12 HAD IT, IF YOU DON'T MIND. THAT WAY I'LL ...

13 SOLICITOR SORENSON: THE THREE LINEUPS, YOUR
14 HONOR, AND I'LL GET THIS OUT FOR THE RECORD WITH
15 INVESTIGATOR SHUMPERT, BUT STATE'S EXHIBIT NUMBER
16 THREE, THAT IS A PHOTOGRAPH OF WALTER HARRIS, WHICH IS
17 MR. PALMER'S CLIENT.

18 THE COURT: OKAY.

19 SOLICITOR SORENSON: STATE'S EXHIBIT NUMBER
20 FOUR IS A PHOTOGRAPH OF MARIO SHIVERS, WHICH IS MR.
21 KOGER'S CLIENT. AND STATE'S EXHIBIT NUMBER FIVE IS A
22 PHOTOGRAPH OF RALPH COLEMAN, WHO IS MS. ULLMAN'S
23 CLIENT.

24 THE COURT: OKAY.

25 SOLICITOR SORENSON: IF YOU WANT TO LOOK AT

1 PUT AN X ON THAT LINE.

2 A. (Witness puts x on diagram)

3 Q. AND PUT A CIRCLE WHERE YOUR HEAD WOULD BE.

4 A. (Witness puts circle on diagram)

5 Q. OKAY. AND THAT'S THE POSITION YOU STAYED AT THE
6 ENTIRE TIME?

7 A. CORRECT.

8 Q. AND WHEN YOU GOT DOWN ON THE GROUND WITH YOUR
9 HEAD IN THAT POSITION, AT THAT POINT IT WAS ONLY
10 YOU AND THE MAN IN THE BLUE TEE SHIRT IN THE
11 LIVING ROOM?

12 A. NO.

13 Q. WHO ELSE WAS IN THE LIVING ROOM?

14 A. IT WAS OTHER PEOPLE IN THERE, BECAUSE I HEARD
15 THEM.

16 Q. OKAY. OKAY. DID YOU SEE THESE OTHER PEOPLE COME
17 IN?

18 A. I DIDN'T SEE THEM COME IN, BECAUSE BY THE TIME
19 THEY WERE COMING IN I WAS FACE DOWN.

20 Q. FACE DOWN. THIS IS A SILLY QUESTION, BUT YOU'RE
21 FACE DOWN ON THE GROUND, IS YOUR HEAD TURNED TO
22 THE LEFT OR TO THE RIGHT?

23 A. IT'S FACE DOWN.

24 Q. BASICALLY, SO YOU'RE LIKE THIS?

25 A. CORRECT.

1 Q. OKAY. YOU CAN'T SEE ANYTHING?

2 A. NOTHING.

3 Q. NOTHING. YOU COULDN'T EVEN SEE THE SHOES OF THE
4 OTHER PEOPLE IN THE APARTMENT?

5 A. CORRECT.

6 Q. OKAY. NOW, I NOTICE YOU'RE WEARING GLASSES. DID
7 YOU HAVE YOUR GLASSES ON AT THE TIME?

8 A. CORRECT.

9 Q. OKAY. AND SO, YOUR GLASSES WERE ON YOUR FACE,
10 FACE DOWN?

11 A. CORRECT.

12 Q. AND WHEN YOU PUT YOUR FACE DOWN DID THAT CAUSE
13 YOUR GLASSES TO MOVE?

14 A. NO.

15 Q. OKAY. WHEN DID YOU GET UP FROM THE FLOOR?

16 A. AFTER THEY DID ALL THE SHOOTING.

17 Q. WERE THEY STILL IN THE ROOM?

18 A. NO.

19 Q. SO, WHEN YOU PICKED YOUR HEAD UP OFF THE FLOOR
20 THERE WAS NOBODY THERE?

21 A. CORRECT.

22 Q. YOU TESTIFIED THAT THERE WERE FIVE OR SIX PEOPLE
23 IN THE LIVING ROOM. WHERE DID YOU COME UP WITH
24 THAT NUMBER?

25 A. I JUST FELT LIKE A BUNCH OF PEOPLE AROUND ME.

1 Q. COULD IT HAVE BEEN FOUR PEOPLE?

2 A. NO, I'M PRETTY SURE IT WAS FIVE OR SIX PEOPLE.

3 Q. COULD IT HAVE BEEN SEVEN PEOPLE?

4 A. NO.

5 Q. DID YOU SEE -- WELL, YOU DIDN'T SEE -- YOU HEARD
6 SHOOTING BUT YOU DIDN'T SEE ANYBODY FIRING SHOTS,
7 IS THAT CORRECT?

8 A. CORRECT.

9 Q. OKAY. YOU DIDN'T SEE ANYBODY WHO, ASIDE FROM THE
10 GUY WITH THE BLUE TEE SHIRT, IF HE EVEN HAD A GUN
11 AT THE TIME?

12 A. CORRECT.

13 Q. DO YOU KNOW -- SO, YOU HAVE NO IDEA IF ONE PERSON
14 FIRED A SHOT OR TWO OR THREE OR FOUR OR FIVE?

15 A. CORRECT, I DON'T HAVE NO IDEA.

16 Q. HOW LONG FROM THE TIME YOU GOT ON THE FLOOR UNTIL
17 YOU GOT UP OFF THE FLOOR, HOW MUCH TIME PASSED?

18 A. PROBABLY LIKE FIVE MINUTES.

19 Q. MS. PARSLEY, LET ME ASK YOU A COUPLE OF QUESTIONS
20 ABOUT THE LIGHTS IN THE ROOM. ARE THERE LIGHTS
21 IN THE LIVING ROOM?

22 A. CORRECT.

23 Q. WHAT KIND OF LIGHTS ARE THEY?

24 A. DIFFERENT COLORS.

25 Q. DIFFERENT COLORS?

1 A. CORRECT.

2 Q. OKAY. IS THERE A CEILING FIXTURE?

3 A. THERE'S A LIGHT.

4 Q. OKAY. ALRIGHT, IS THERE A LIGHT BULB IN THE
5 CEILING?

6 A. CORRECT.

7 Q. DOES THAT LIGHT BULB IN THE CEILING ADMIT LIGHT?

8 A. CORRECT.

9 Q. OKAY. IS IT A LIGHT BULB LIKE YOU MIGHT SEE IN
10 THESE LIGHTS OVER HERE?

11 A. NO.

12 Q. WHAT KIND OF LIGHT BULB IS IT?

13 A. IT'S A SIXTY WATT LIGHT BULB.

14 Q. A SIXTY WATT LIGHT BULB?

15 A. CORRECT.

16 Q. JUST A ...

17 COURT REPORTER: I'M SORRY.

18 Q. JUST A REGULAR WHITE LIGHT BULB?

19 A. CORRECT.

20 Q. WAS THAT SIXTY WATT LIGHT BULB ON IN THE CEILING?

21 A. YES.

22 Q. ARE YOU SURE?

23 A. YES.

24 Q. WERE THERE ANY OTHER LIGHTS IN THE CEILING?

25 A. YES.

1 Q. HOW MANY MORE ARE THERE?

2 A. ONE MORE.

3 Q. WHAT KIND OF LIGHT BULB IS THAT?

4 A. IT WAS A SIXTY WATT LIGHT BULB BUT IT WAS A
5 DIFFERENT COLOR.

6 Q. WHAT COLOR WAS THAT LIGHT BULB?

7 A. RED.

8 Q. RED. DOES THAT LIGHT BULB GIVE OFF MUCH LIGHT?

9 A. IT'S ENOUGH FOR ME TO SEE.

10 Q. OKAY. IF YOU WERE -- IF JUST THE RED LIGHT BULB
11 WERE ON AND NOT THE WHITE ONE, COULD YOU SEE ME
12 IF WAS STANDING THIS FAR AWAY FROM YOU?

13 A. CORRECT.

14 Q. COULD YOU SEE MY FACE?

15 A. CORRECT.

16 Q. HOW ABOUT THIS FAR?

17 A. CORRECT.

18 Q. YOU COULD SEE MY FACE?

19 A. CORRECT.

20 Q. ARE THERE ANY BLUE LIGHTS IN THIS ROOM?

21 A. NO.

22 Q. OKAY. MS. PARSLEY, I WANT TO TALK ABOUT THE
23 PHOTO. ALRIGHT?

24 THE COURT: AND WHICH ONE IS THAT, MR. WISE?

25 MR. WISE: YES, THANK YOU, YOUR HONOR.

1 Q. LET'S LOOK AT STATE'S EXHIBIT NUMBER FIVE.

2 THE COURT: NUMBER FIVE?

3 MR. WISE: NUMBER FIVE, THANK YOU, YOUR
4 HONOR.

5 THE COURT: OKAY.

6 Q. MS. PARSLEY, LET ME SHOW YOU -- YOU'VE ALREADY
7 SEEN THAT, YOU CAN HOLD THAT. YOU PICKED OUT
8 NUMBER ONE. WHY?

9 A. BECAUSE THAT WAS THE PICTURE I POINTED TO.

10 Q. WHY DID YOU PICK NUMBER ONE?

11 A. IT WAS JUST LIKE AN INSTINCT, I JUST POINTED
12 STRAIGHT AT IT.

13 COURT REPORTER: IT WAS JUST LIKE WHAT?

14 A. AN INSTINCT.

15 COURT REPORTER: I'M SORRY.

16 A. IT WAS JUST LIKE AN INSTINCT, I JUST POINTED
17 STRAIGHT AT IT.

18 Q. AN INSTINCT?

19 A. CORRECT.

20 Q. OKAY. OKAY. AND WHAT YOU SAID IS THAT, IT'S
21 POSSIBLE THAT THIS IS ONE OF THE PEOPLE WHO
22 ENTERED THE LIVING ROOM, IS THAT CORRECT?

23 A. CORRECT.

24 Q. OKAY. THE BOTTOM LINE IS, YOU'RE NOT REALLY
25 SURE?

1 A. CORRECT.

2 Q. OKAY.

3 THE COURT: THAT'S EXPENSIVE NOTE PAPER.

4 MR. WISE: I HAVE A PAD, I'LL GIVE IT TO YOU
5 LATER.

6 THE COURT: OKAY.

7 Q. NOW, GOING BACK TO THIS PHOTO ARRAY, DO YOU
8 REMEMBER SEEING THIS WITH INVESTIGATOR SHUMPERT?

9 A. CORRECT.

10 Q. TELL ME HOW YOU CAME TO VIEW IT?

11 A. I POINTED STRAIGHT AT NUMBER ONE.

12 Q. NO, I UNDERSTAND, BUT WHAT, WHY WERE YOU THERE,
13 HOW DID YOU COME TO EVEN GO AND TALK TO THE
14 INVESTIGATOR THAT DAY?

15 A. HE TELL ME COME AND LOOK AT SOME LINEUPS.

16 Q. OKAY. AND HE CALLED YOU ON THE PHONE?

17 A. CORRECT.

18 Q. OKAY. AND WHEN HE CALLED YOU ON THE PHONE, TELL
19 ME IN AS MUCH DETAIL AS YOU CAN REMEMBER WHAT HE
20 SAID TO YOU?

21 A. HE WANTED ME TO COME LOOK AT SOME LINEUPS.

22 Q. DID HE SAY WHY?

23 A. YES.

24 Q. WHAT DID HE SAY?

25 A. HE JUST WANTED ME TO LOOK AT SOME LINEUPS.

1 SHUMPERT, TELL HER WHO TO PICK OUT OR SUGGEST TO
2 HER OR IN ANY WAY TELL HER SHE EVEN HAD TO PICK
3 SOMEBODY OUT OF THIS LINEUP?

4 A. NO, I DID NOT.

5 Q. ALRIGHT. AND LASTLY, AS FAR AS THE LINEUPS, GO
6 TO STATE'S EXHIBIT NUMBER FIVE, DID YOU SHOW HER
7 THIS LINEUP?

8 A. I DID.

9 Q. AND DID SHE PICK SOMEBODY OUT OF THIS LINEUP?

10 A. SHE DID.

11 Q. AND WHO IS THAT THAT SHE IDEN -- SHE CIRCLED?

12 A. I BELIEVE THAT'S, LET ME SEE, THAT'S COLEMAN.

13 Q. RALPH COLEMAN?

14 A. RALPH.

15 Q. ALRIGHT. AND DID SHE THEN ALSO FILL OUT THE
16 ATTACHED AFFIDAVIT, SIGN AND DATE IT?

17 A. SHE DID.

18 Q. AND YOU WITNESSED HER SIGNATURE?

19 A. I DID.

20 Q. AND AS TO THIS ONE, DID YOU TELL HER WHO TO PICK
21 OUT OF THIS PHOTOGRAPHIC LINEUP?

22 A. NO, I DID.

23 Q. DID YOU TELL HER WHO THE POSSIBLE SUSPECT WAS IN
24 THE LINEUP?

25 A. NO, I DIDN'T.

1 Q. DID YOU IN ANY WAY SUGGEST TO HER WHO SHE NEEDED
2 TO, OR IF SHE NEEDED TO PICK SOMEBODY OUT?

3 A. NO, I DID NOT.

4 Q. IN FACT, IN THIS ONE SHE DID INDICATE THAT HE IS
5 POSSIBLY ONE OF THE PEOPLE, DIDN'T COMPLETELY SEE
6 HIS FACE, IS THAT CORRECT?

7 A. RIGHT, THAT'S WHAT SHE WROTE.

8 Q. LET ME ASK YOU, THESE LINEUPS THAT YOU GENERATED,
9 HOW DID Y'ALL GO ABOUT GENERATING THIS LINEUPS?

10 A. SOME WAS CREATED FROM SLED AND OTHERS WAS CREATED
11 FROM THE ORANGEBURG COUNTY SHERIFF'S OFFICE
12 THROUGH THE JAIL SYSTEM.

13 Q. ALRIGHT. AND WHEN YOU'RE DOING THAT WHAT ARE YOU
14 TRYING TO DO WHEN YOU'RE PUTTING TOGETHER A SIX
15 PERSON PHOTOGRAPHIC LINEUP?

16 A. WE TRY TO GET THE CHARACTERISTICS OF THE
17 INDIVIDUALS AS CLOSELY AS HUMANLY POSSIBLE FROM
18 THE PHOTOS THAT WE HAVE ON HAND.

19 Q. LIKE IN STATE'S EXHIBIT NUMBER ONE OF MR.
20 SHIVERS, I MEAN, YOU FOUND SIX OTHER PICTURES
21 WITH KIND OF THE SAME LENGTH DREDS?

22 A. CORRECT.

23 Q. TRYING TO GET SIMILAR FACIAL FEATURES?

24 A. CORRECT.

25 Q. HAIR STYLES?

1 Q. OKAY. NOBODY ELSE INVOLVED IN THIS CASE?

2 A. I WAS THE LEAD INVESTIGATOR ON IT.

3 Q. OKAY. MS. BUSBY WASN'T THERE?

4 A. NO.

5 Q. ANY OTHER WITNESSES?

6 A. NO.

7 Q. ALRIGHT. AND WHEN SHE CAME IN TO YOUR OFFICER,
8 AND YOU BROUGHT HER INTO YOUR OFFICE, WHAT DID
9 YOU SAY TO HER?

10 A. I HAD TOLD HER THAT WE HAD SOME, A SERIES OF
11 LINEUPS THAT WE WANTED HER TO LOOK AT, AND SEE IF
12 ANYBODY IN THE LINEUPS THAT SHE RECOGNIZED.

13 Q. DID YOU TELL HER THAT YOU HAD MADE ANY ARRESTS IN
14 THIS CASE?

15 A. NO, I DIDN'T.

16 Q. OKAY. DID YOU TELL HER THAT YOU HAD ANYBODY
17 NAMED AS A, TO BE A SUSPECT IN THIS CASE?

18 A. NO, I DID NOT.

19 Q. OKAY. JUST TAKE A LOOK AT THE LINEUPS?

20 A. LOOK AT THE LINEUPS.

21 Q. OKAY. I WANT TO SHOW YOU STATE'S EXHIBIT FIVE,
22 AND THE STATEMENT ON THAT PART OF THAT - - -

23 A. UH-HUH.

24 Q. --- WHO WROTE THAT?

25 A. MS. PARSLEY.

1 Q. OKAY. THANKS. AND THEN SHE SIGNED IT?

2 A. CORRECT.

3 Q. WHEN YOU PRESENT HER THE PHOTO ARRAY, TELL ME
4 WHAT HAPPENED. YOU GIVE IT TO HER AND WHAT
5 HAPPENS NEXT?

6 A. ON WHICH ONE? I GIVE HER SEVERAL OF THEM.

7 Q. I'M SORRY, I'M SORRY, YOU'RE RIGHT, I APOLOGIZE.
8 NUMBER FIVE, THIS ONE. DESCRIBE THAT PROCESS?

9 A. WELL, I HAND OUT PHOTO LINEUPS THE SAME WAY I
10 ALWAYS DO. I GIVE THEM THE PHOTO LINEUP, I TELL
11 THEM TO TAKE THEIR TIME, LOOK AT THE PICTURES,
12 AND SEE IF IT'S ANYBODY IN THERE THEY RECOGNIZE.

13 Q. OKAY. AND YOU DID THAT WITH MS. PARSLEY?

14 A. CORRECT.

15 Q. AND THEN, WHAT DID SHE DO?

16 A. SHE PICKED NUMBER ONE.

17 Q. HOW DID SHE PICK IT, WHAT DID SHE SAY?

18 A. SHE PICKED NUMBER ONE AND SHE SAID, THAT'S THE
19 GUY THAT RESEMBLED THE GUY THAT SHE RECOGNIZED.

20 Q. OKAY. AND WHEN YOU SAY SHE PICKED NUMBER ONE, DID
21 SHE POINT IT, DID SHE ...

22 A. SHE POINTED AT IT, AND THEN SHE CIRCLED IT AND
23 INITIALED AND DATED IT.

24 Q. OKAY. AND THEN, AFTER SHE DID THIS, SHE FILLED
25 OUT THE STATEMENT IN THE FRONT?

1 MR. PALMER: NO, YOUR HONOR.

2 THE COURT: MR. MELLARD?

3 MR. MELLARD: NO, YOUR HONOR.

4 MR. KOGER: NO, YOUR HONOR.

5 THE COURT: ALRIGHT. NOW WE'RE GOING TO TAKE
6 A SHORT RECESS. OKAY? THANK YOU.

7 IT'S GETTING CLOSE TO ONE O'CLOCK, DO Y'ALL
8 WANT TO TAKE A SHORT BREAK FOR LUNCH? I MEAN ...

9 MS. ULLMAN: I VOTE FOR EATING SOMETIME
10 TODAY.

11 THE COURT: HUH?

12 MS. ULLMAN: I VOTE FOR EATING SOMETIME
13 TODAY.

14 THE COURT: WELL, IF IT'S -- I MEAN, IF IT'S
15 ALRIGHT WITH Y'ALL I'D LIKE TO TAKE ABOUT FORTY-FIVE
16 MINUTES OR SOMETHING TO GET SOMETHING TO EAT BEFORE WE
17 COME BACK AND FINISH UP. I KNOW Y'ALL HAVE GOT
18 SEVERANCE OR SOMETHING LIKE THAT. SO, IF Y'ALL CAN --
19 IF WE CAN TRY AND BE BACK HERE AT ONE:THIRTY, WILL
20 THAT BE ALRIGHT WITH EVERYBODY?

21 SOLICITOR SORENSON: THAT'S FINE.

22 MS. ULLMAN: THANK YOU.

23 THE COURT: OKAY. WE'RE IN RECESS UNTIL
24 ONE:THIRTY.

25 (Recess)

1 THE COURT: OKAY, WE'RE BACK ON THE RECORD
2 IN THESE CASES THAT WE STARTED THIS MORNING. WE WERE,
3 HOPEFULLY, NOT IN THE MIDDLE OF THE NEAL VERSUS
4 BIGGERS PROCEEDING, I THINK WE WERE TOWARD THE END OF
5 IT.

6 MR. SORENSON, IS THERE ANYMORE WITNESSES FOR
7 THE STATE REGARDING THIS?

8 SOLICITOR SORENSON: NOT WITH REGARD TO
9 THESE PHOTO LINEUPS.

10 THE COURT: OKAY. ALRIGHT. OKAY. MR.
11 LACKEY.

12 MR. LACKEY: YES, YOUR HONOR.

13 THE COURT: ANYTHING? THE STATE HAS STATED
14 THAT THEY HAVE NOTHING FURTHER REGARDING THIS. IS
15 THERE ANY ARGUMENT THAT YOU WISH TO MAKE REGARDING
16 THIS? AND BRIEFNESS DOES COUNT AT THIS TIME.

17 MR. LACKEY: YOUR HONOR, NOTHING WITH
18 RESPECT TO THESE ...

19 THE COURT: TO THE BIGGERS MOTION?

20 MR. LACKEY: YES, SIR.

21 THE COURT: OKAY. MR. WISE, OR MS. ULLMAN
22 AGAIN?

23 MR. WISE: THANK YOU.

24 THE COURT: OKAY.

25 MR. WISE: IF IT PLEASE THE COURT.

1 THE COURT: YES, SIR.

2 ARGUMENT BY MR. WISE

3 YOUR HONOR, THE, THIS IS, I THINK, A VERY
4 UNIQUE -- A UNIQUE SITUATION, AND I'VE NOT SEEN IT
5 BEFORE, BUT THIS COURT FINDS ITSELF IN AN INTERESTING
6 POSTURE AT THIS POINT AS IT REGARDS THE POTENTIAL IN
7 COURT IDENTIFICATION OF OUR CLIENT. OBVIOUSLY, THE
8 NEAL-BIGGERS HEARING IS REALLY A HEARING IN THE NATURE
9 OF A MOTION IN LIMINE OF A CONSTITUTIONAL FOUNDATION,
10 AND WHAT WE ARE ASKING THE COURT TO DO IS TO NOT ALLOW
11 AN IN COURT IDENTIFICATION, BECAUSE IT WOULD VIOLATE
12 THE DUE PROCESS RIGHTS OF AN INDIVIDUAL, OUR CLIENT.
13 BUT GIVEN THE TESTIMONY OF THIS WITNESS THERE IS
14 ANOTHER ISSUE THAT I THINK THE COURT NEEDS TO, I'M
15 GOING TO ASK THE COURT TO CONSIDER.

16 THE COURT: OKAY.

17 MR. WISE: YOUR HONOR, ANY EVIDENCE IN ANY
18 CASE, ANY WITNESS'S TESTIMONY IS ONLY ADMISSIBLE IF
19 THAT WITNESS TESTIFIES BASED ON PERSONAL KNOWLEDGE.
20 THAT'S KIND OF THE FOUNDATION OF EVIDENCE IN OUR
21 SYSTEM. IF THE POTENTIAL EVIDENCE, IF THE POTENTIAL
22 TESTIMONY IS NOT BASED ON PERSONAL KNOWLEDGE THAT
23 EVIDENCE, THAT TESTIMONY IS INADMISSIBLE, AND I'D
24 SUBMIT TO THE COURT THAT BASED ON THE TESTIMONY OF MS.
25 PARSLEY HER IDENTIFICATION OF OUR CLIENT IS NOT BASED

1 ON ANY PERSONAL KNOWLEDGE, AND THEREFORE ...

2 THE COURT: AND THAT, WHICH WOULD BE MR. ...

3 MR. WISE: COLEMAN, RALPH COLEMAN.

4 THE COURT: RALPH COLEMAN. OKAY. I JUST
5 WANTED TO MAKE SURE. I DON'T WANT TO GIVE MR.
6 LACKEY'S CREDIT FOR MS. ULLMAN'S. OKAY.

7 MR. WISE: HER IDENTIFICATION IS NOT BASED
8 ON ANY PERSONAL KNOWLEDGE ABOUT WHAT HAPPENED IN THAT
9 LIVING ROOM ON THAT DAY. TO USE HER WORDS, SHE
10 TESTIFIED AND POINTED TO THE PHOTOGRAPH OF MR. COLEMAN
11 BASED ON INSTINCT, THAT HER WORD. SHE IS NOT SURE IF
12 HE WAS IN THE ROOM, SHE NEVER SAW THE PERSON, SO TO
13 ALLOW HER TO TESTIFY IS TO ALLOW HER TO COME INTO THE
14 COURT, SIT IN THE WITNESS CHAIR, POINT TO MR. COLEMAN,
15 AND PICK HIM OUT BASED ON A GUESS. YOUR HONOR, I
16 THINK THAT ARGUMENT IS BUTTRESSED BY THE FACT THAT
17 EVEN WHEN YOU LOOK AT THE EXHIBIT, THE PHOTO ARRAY,
18 SHE CIRCLES THE PHOTO OF NUMBER ONE, BUT SHE WRITES
19 THAT THE PERSON WHO WAS THERE WAS NUMBER FOUR. SO,
20 GIVEN THE FACT THAT THERE REALLY IS NO BASIS FOR HER
21 TO BE ABLE TO MAKE ANY IDENTIFICATION ABOUT THIS
22 SITUATION, I'D ASK THE COURT TO NOT ALLOW HER TO
23 TESTIFY, AND MAKE THAT IN COURT IDENTIFICATION OF MR.
24 COLEMAN.

25 IF THE COURT NOW WANTS TO LOOK AT THE

1 BIGGERS FACTORS, I SUBMIT TO THE COURT THAT THEY WOULD
2 ALL MILITATE IN FAVOR NOT ALLOWING HER TO TESTIFY.
3 THE FACT, THE FIRST FACTOR IS ALSO THE OPPORTUNITY TO
4 VIEW. IT WAS NON-EXISTENT IN THIS CASE. SHE SAYS THAT
5 WHEN SHE WAS ORDERED BY THE PERSON WITH THE GUN TO GET
6 DOWN ON THE GROUND, THE ONLY, THERE WAS ONE, MAYBE TWO
7 PEOPLE IN THE ROOM AND SHE WAS FACE DOWN. AS THE
8 COURT REMEMBERS, HER FACE WAS POINTING TO THE FLOOR SO
9 SHE COULDN'T SEE ANYTHING THAT HAPPENED. AND WHEN
10 SHE, AS SHE TESTIFIED, GOT UP FROM THE FLOOR EVERYBODY
11 WAS GONE. THE DEGREE OF ATTENTION THAT SHE MIGHT HAVE
12 PAID TO THE FACE OR FACES IS REALLY OF NO CONSEQUENCE
13 IN THIS CASE BECAUSE SHE SAID SHE NEVER SAW THE FACES.
14 THE FACTOR OF HER PRIOR DESCRIPTION IS NOT GOING TO BE
15 RELEVANT BECAUSE SHE NEVER MADE ONE, AND HER LEVEL OF
16 CERTAINTY, I THINK, IS PROBABLY BEST SUMMED UP BY HER
17 USE OF THE WORD, INSTINCT, BY SAYING WHY SHE PICKED
18 THE PHOTO SHE PICKED. AS SHE TESTIFIED, MR. COLEMAN
19 COULD BE THE PERSON THERE, COULD NOT BE. MAYBE HE WAS
20 IN THE ROOM, MAYBE HE WASN'T. SO, I'D ASK THE COURT
21 TO NOT ALLOW THAT IN COURT TESTIMONY BECAUSE IF YOU
22 JUST SOLELY CONFINE IT TO THE FACTORS THAT THE BIGGERS
23 CASE LAYS OUT, SHE, THERE WOULDN'T BE A BASIS FOR HER
24 IDENTIFICATION.

25 AND FINALLY, YOUR HONOR, I WAS THINKING

1 ABOUT THIS OVER LUNCH, AND THE WHOLE POINT OF THE
2 BIGGERS CASE, THE WHOLE PURPOSE OF THIS NOT SO WE HAVE
3 SOME KIND OF TEMPLATE TO LOOK AT IDENTIFICATIONS BUT
4 TO AVOID MISIDENTIFICATION WHICH THE SUPREME COURT
5 SAYS IS A VIOLATION OF A DEFENDANT'S DUE PROCESS
6 RIGHTS. AND THE COURT SAYS THAT IF THERE IS A
7 SUBSTANTIAL LIKELIHOOD OF MISIDENTIFICATION THAT THAT
8 LIKELIHOOD IS A VIOLATION OF THOSE RIGHTS THAT WE'RE
9 ALL CONCERNED ABOUT. HERE I DON'T THINK THERE'S ANY
10 DOUBT, BASED ON THE EVIDENCE, THAT THERE IS GOING TO
11 BE A MISIDENTIFICATION BECAUSE THERE IS NO BASIS FOR
12 THE IDENTIFICATION. SO, IF SHE IS ALLOWED TO COME
13 INTO COURT AND SAY THIS MAN WAS THERE SHE WILL, IN
14 EFFECT, BE POINTING THE FINGER AT SOMEONE BASED ON A
15 GUESS WHO MAY NOT HAVE ANYTHING TO DO WITH THIS. AND
16 THEREFORE, I THINK THE COURT SHOULD NOT ALLOW IT. I
17 DON'T -- I SUBMIT TO THE COURT THAT BASED ON THE
18 FACTORS THAT BIGGERS LAYS OUT, BASED ON JUST THE
19 REQUIREMENT THAT THERE BE PERSONAL KNOWLEDGE, THE
20 COURT SHOULD PRECLUDE ANY IN COURT IDENTIFICATION AND
21 NOT ALLOW THE WITNESS TO COME IN AND GUESS THAT MY
22 CLIENT WAS IN THE ROOM ON THAT DAY.

23 THE COURT: THANK YOU, MR. WISE.

24 ALRIGHT, MR. PALMER.

25 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT

1 THAT I'M SURE THEY ARE GOING TO ADDRESS WITH HER
2 CREDIBILITY AND ULTIMATELY ARGUE IN FRONT OF A JURY AS
3 TO WHAT WEIGHT, IF ANY, A JURY SHOULD ULTIMATELY GIVE
4 TO HER IDENTIFICATIONS.

5 THE ONE THING I WOULD KIND OF, ONE OF THE
6 FIRST THINGS MR. WISE ADDRESSED, WE'RE NOT GOING TO BE
7 SEEKING TO HAVE MS. PARSLEY IDENTIFY ANYBODY IN COURT.
8 OBVIOUSLY, WE WISH TO GET INTO HER IDENTIFICATION OF
9 THEM IN THE LINEUPS, BUT SOME, WE'RE TALKING FROM,
10 WHAT, NINE MONTHS LATER, IT'S GOING TO BE ESSENTIALLY,
11 I MEAN, WITH FIVE DEFENDANTS SITTING OVER THERE, I
12 MEAN, I'M NOT GOING TO FORCE HER TO ATTEMPT TO FIGURE
13 OUT WHICH ONES THEY ARE NINE MONTHS LATER WHEN THEIR
14 HAIR STYLES ARE DIFFERENT AND THINGS OF THAT NATURE.
15 BUT WE WOULD BE SEEKING TO GET INTO NOT ONLY HER
16 IDENTIFICATION BUT ALSO THEN THE ACTUAL PHYSICAL
17 LINEUPS WHERE SHE IDENTIFIED THOSE THREE INDIVIDUALS.

18 THE COURT: ALRIGHT.

19 RULING OF THE COURT

20 IN REGARD TO MY RULINGS ON THIS CASE, I
21 DON'T THINK THERE WAS BEEN ANY TESTIMONY OR ANY REASON
22 FOR ME TO THINK THAT THERE WAS ANYTHING UNDULY
23 SUGGESTIVE ABOUT THESE. AND NOW, I UNDERSTAND, MR. --
24 THERE WAS ONE COMMENT ABOUT, IN EXHIBIT THREE, ONE
25 COMMENT WAS THAT THE GENTLEMAN IN NUMBER THREE, MR.

1 HARRIS I BELIEVE, IS THAT CORRECT?

2 MR. KOGER: YES, YOUR HONOR.

3 THE COURT: MR. HARRIS WOULD HAVE BEEN

4 PICKED OUT BECAUSE HE HAD JAIL CLOTHES ON. AND HE WAS
5 IDENTIFIED BY MS. PARSLEY. BUT I WOULD ALSO NOTE THAT
6 IN EXHIBIT NUMBER FIVE, WHERE MS. PARSLEY POINTED OUT
7 MR. COLEMAN, IS THAT CORRECT? MR. COLEMAN, THERE WERE
8 TWO PEOPLE THAT HAD JAIL CLOTHES ON AND THOSE PEOPLE
9 WERE NOT CHOSEN FROM THAT, FROM THE LINEUP. SO
10 WHEREAS, I UNDERSTAND THE ARGUMENT, THE OTHER
11 SUGGESTED THING ABOUT MR. HARRIS'S LINEUP WAS THAT HE
12 -- I'M LOOKING AT THE LINEUP RIGHT HERE. OKAY.

13 ARGUABLY, HE IS THE LIGHTER SKINNED OF ALL THE PEOPLE
14 THERE BUT THREE AND SIX ARE FAIR, LIGHTER SKINNED, AND
15 NUMBER ONE, I COULDN'T TELL ANYWAY. I THINK YOU'VE GOT
16 TO LOOK, BECAUSE THE COLORING IN THAT IS RED. YOU
17 KNOW ---

18 MR. WISE: YOUR HONOR,...

19 THE COURT: I UNDERSTAND, I'LL LET YOU NOTE
20 ANYTHING ON THE RECORD IN A MINUTE. OKAY? NOW, WITH
21 REGARD TO MR. SHIVERS IN NUMBER FOUR, IS THAT CORRECT?
22 YEAH, MR. SHIVERS IN NUMBER FOUR, WHO IS IDENTIFIED, I
23 BELIEVE, AS A LIGHT SKINNED MALE, HE IS CERTAINLY NOT
24 THE MOST LIGHT SKINNED MALE IN THESE THINGS AND SHE
25 STILL PICKED HIM OUT. OKAY.

1 NOW, THE TEST IS WHETHER IT'S UNDULY
2 SUGGESTIVE AND IF THERE IS A VERY SUBSTANTIAL
3 LIKELIHOOD OF IRREPARABLE MISIDENTIFICATION. I THINK
4 WHEN MS. PARSLEY TOOK THE STAND SHE ACCURATELY
5 REFLECTED HER FEELINGS IN THE CASE AND HER, HOW SURE
6 OR NOT SURE SHE WAS, AND I THINK ALL OF THAT WILL GO
7 TO THE WEIGHT, WHICH YOU'LL WILL, THE WEIGHT GIVEN TO
8 THE IDENTIFICATION WHICH IS A JURY QUESTION. FROM THE
9 COURT'S PERSPECTIVE I DON'T THINK THAT IT WAS UNDULY
10 SUGGESTIVE. I THINK IT IS RELIABLE, AND I DON'T THINK
11 THAT THERE IS A VERY SUBSTANTIAL LIKELIHOOD OF
12 IRREPARABLE MISIDENTIFICATION BECAUSE YOU GENTLEMEN
13 WILL GET TO CROSS-EXAMINE THE WITNESSES JUST AS YOU
14 HAVE CROSS-EXAMINED THEM HERE, AND THAT IS A QUESTION
15 FOR THE DETERMINATION OF THE JURY.

16 SO, NOW, I'M GOING TO NOTE ALL OF Y'ALL'S
17 OBJECTION BECAUSE I THINK Y'ALL WILL OBJECT TO MY
18 RULING, SO I WILL NOTE -- I'M ASSUMING THAT Y'ALL, THE
19 PEOPLE THAT WERE INVOLVED IN THIS, MR. WISE FOR MS.
20 ULLMAN, MR. PALMER, AND MR. KOGER ALL WANT TO TAKE
21 EXCEPTION TO MY RULING, AND I WILL SO NOTE THAT ON THE
22 RECORD.

23 MR. WISE, SOMETHING ELSE?

24 MR. WISE: YES, YOUR HONOR, IF I MAY.

25 THE COURT: YES, SIR.

1 MR. WISE: YOUR SPECIFICALLY REFERRED TO MR.
2 SHIVERS AND MR. HARRIS, BUT I DON'T THINK YOU INDICATE
3 ANY SPECIFIC RULING WITH REGARDS TO MR. COLEMAN. FOR
4 THE PURPOSE OF APPEAL, I FEEL I PROBABLY ...

5 THE COURT: OKAY. WELL, I'M ALSO
6 IDENTIFYING MR. COLEMAN AS, THAT WOULD BE -- IS THAT
7 NUMBER THREE?

8 MR. WISE: NUMBER FIVE, YOUR HONOR.

9 THE COURT: NUMBER FIVE? ALRIGHT. YEAH,
10 WELL, I DID -- OKAY. MR. COLEMAN, OKAY, IS THE ONE
11 WHERE THERE ARE TWO OTHER PEOPLE IN HERE WITH JAIL
12 CLOTHES ON, AND YET SHE DID NOT PICK PEOPLE WITH THE
13 JAIL CLOTHES ON. OKAY.

14 ALRIGHT. SO, WE'VE DONE THAT.

15 SOLICITOR SORENSON: JUST ONE OTHER THING
16 WITH REGARD TO THAT, JUST BECAUSE YOU DIDN'T REALLY
17 ADDRESS THE IDENTIFICATION BY MS. BUSBY OF MR.
18 SHIVERS.

19 THE COURT: OH, WELL, I ...

20 SOLICITOR SORENSON: AND I ...

21 THE COURT: SHE HAD ALREADY IDENTIFIED THAT
22 SHE KNEW HIM SOMEHOW.

23 SOLICITOR SORENSON: OKAY.

24 THE COURT: AND SO, THAT IS GOING TO, IF I
25 LEFT OUT ANYTHING, EVERY -- ALL OF THESE LINEUPS ARE

1 GOING IN, AND I'LL NOTICE EVERYBODY'S OBJECTION TO
2 THOSE LINEUPS. OKAY?

3 MR. WISE: THANK YOU, YOUR HONOR.

4 THE COURT: OKAY. ALRIGHT, AND I UNDERSTAND,
5 AND YOU HAVE INDICATED TO THIS COURT THAT MS. PARSLEY
6 IS NOT GOING TO MAKE AN IN COURT IDENTIFICATION ON ANY
7 OF THESE DEFENDANTS.

8 SOLICITOR SORENSON: THAT WOULD BE CORRECT,
9 YOUR HONOR. WE WOULD BE HAVING MS. BUSBY, HOWEVER.

10 THE COURT: NO, I KNOW MS. BUSBY IS A WHOLE
11 DIFFERENT STORY, BUT -

12 SOLICITOR SORENSON: YES, SIR.

13 THE COURT: --- I'M SAYING, WITH PARSLEY,
14 JUST SO THESE ATTORNEYS WILL BE ABLE TO -- THEY CAN
15 TAKE AND DEAL WITH THAT HOWEVER THEY WANT TO DEAL WITH
16 IT IN THEIR CLOSING ARGUMENTS OR HOWEVER THEY WANT TO
17 DEAL WITH IT AS FAR AS PRESENTING THEIR DEFENSE. OKAY?

18 SOLICITOR SORENSON: YES, SIR.

19 THE COURT: AND NOW WE'VE GOT A MOTION TO
20 SEVER?

21 MS. ULLMAN: YES, SIR.

22 THE COURT: IS THAT THE LAST -- OR IS THERE
23 ONE OTHER THING ABOUT ...

24 SOLICITOR SORENSON: WELL, IF I COULD JUST
25 PUT SOMETHING, AND IT MAY HAVE SOMETHING TO DO, IT MAY

1 MR. PALMER: YES, I WOULD LIKE TO DO THAT.

2 THE COURT: OKAY. AND MR. KOGER?

3 MR. KOGER: NO MOTION TO SEVER.

4 THE COURT: OKAY. ALRIGHT, SO, MS. ULLMAN,
5 UNLESS YOU'RE GOING TO HAVE MR. WISE BATTLING FOR YOU
6 HERE, TOO.

7 MS. ULLMAN: NO, SIR.

8 THE COURT: OKAY.

9 MOTION TO SEVER

10 ARGUMENT BY MS. ULLMAN:

11 THE FIRST THING I WOULD SAY ABOUT JOINING
12 THE TRIAL IS, I COULD NOT FIND ANYTHING STATING WHOSE
13 BURDEN IT IS TO SHOW THE COURT THAT THE TRIAL CAN BE
14 JOINED, BUT OBVIOUSLY, I WOULD ARGUE TO YOUR HONOR
15 THAT IT IS THE STATE'S BURDEN TO SHOW THAT THESE
16 TRIALS CAN BE JOINED. CASE LAW STATES THAT THE TRIAL
17 MUST ARISE FROM A SINGULAR CHAIN OF EVENTS AND BE
18 PROVED WITH THE SAME EVIDENCE AND HAS THE SAME GENERAL
19 NATURE. OBVIOUSLY, AS DEFENSE ATTORNEY IT'S NOT MY
20 JOB TO SHOW THE COURT ANY OF THAT, SO I WOULD TELL
21 THIS COURT THAT IT IS THE STATE'S BURDEN TO PROVE THAT
22 THESE TRIALS CAN BE JOINED.

23 ASIDE FROM THAT, I UNDERSTAND THAT THE STATE
24 IS NOT INTENDING TO GET INTO MR. HARRIS'S STATEMENTS.
25 HE HAS GIVEN AT LEAST THREE STATEMENTS, EACH STATEMENT

1 CHANGES A LITTLE BIT, AND I ACTUALLY WOULD LIKE TO GET
2 INTO THAT INFORMATION IN MY DEFENSE. THE PROBLEM IS,
3 IF I GET INTO HIS STATEMENTS AND HE CANNOT TESTIFY,
4 THERE'S CRAWFORD ISSUE FOR EVERYONE ELSE SITTING AT
5 THIS TABLE. SO OBVIOUSLY, MY CLIENT WOULD HAVE HIS
6 RIGHT TO PRESENT A DEFENSE AND SHOW WHAT THE WITNESSES
7 IN THIS CASE ARE TALKING ABOUT. IT WOULD BE HINDERED
8 BASED ON THE OTHER DEFENDANTS' CRAWFORD RIGHTS OF NOT
9 HAVING A PERSON'S STATEMENT ENTERED INTO EVIDENCE
10 WITHOUT THE ABILITY TO CROSS-EXAMINE HIM. SO, THAT
11 WOULD BE THE POINT IN ME SEVERING FROM THE REST OF
12 THESE DEFENDANTS, THAT I COULD GET INTO MR. HARRIS'S
13 STATEMENTS. IT IS NOT -- CERTAINLY, THE STATE HAS NO
14 ABILITY TO ARGUE THAT THEY CAN'T CROSS-EXAMINE, THEY
15 HAVE NO SIXTH AMENDMENT RIGHT TO DO SO. SO, THAT
16 WOULD BE MY ARGUMENT, THAT THERE IS A SUBSTANTIAL
17 RIGHT, WHICH IS ANOTHER FACTOR THAT THE COURT MUST
18 LOOK AT. THERE IS A SUBSTANTIAL RIGHT THAT WOULD BE
19 HINDERED BY NOT SEVERING THESE TRIALS, AND THAT WOULD
20 BE MY DEFENDANT'S RIGHT TO PUT UP A DEFENSE, WHICH
21 WOULD INCLUDE SHOWING THAT ONE OF THE CO-DEFENDANTS IN
22 THIS CASE WROTE THREE STATEMENTS, TWO OF WHICH DO NOT
23 INCRIMINATE MY CLIENT. THE THIRD INCRIMINATES MY
24 CLIENT, AND OBVIOUSLY, I HAVE SOME ARGUMENT AS TO ALL
25 OF THAT THAT I WOULD GET INTO LATER. BUT WITH

1 EVERYBODY SITTING HERE THERE'S NO WAY I CAN GET INTO
2 MR. HARRIS'S STATEMENTS. NOW, I UNDERSTAND THE STATE
3 WOULD BE PROBABLY WILLING TO REDACT PART OF THAT
4 STATEMENT SO THAT CRAWFORD DID NOT COME UP FOR
5 EVERYBODY ELSE SITTING HERE, BUT THE PROBLEM IS, I
6 THINK THAT THAT ALSO HINDERS MY ARGUMENT THAT HE
7 ORIGINALLY PICKED MOST EVERYBODY AND THEN VERY MUCH
8 LATER PICKED OUT MY GUY AND ADDED HIM TO THE PEOPLE
9 THAT HE WAS INCRIMINATING. AGAIN, I THINK THAT MY
10 CLIENT WOULD NOT BE ABLE TO PUT UP A FULL DEFENSE
11 WHICH OBVIOUSLY IS HIS RIGHT TO DO WITH ALL FIVE
12 DEFENDANTS SITTING HERE TODAY.

13 THE COURT: OKAY. BUT MS. ULLMAN, JUST SO I
14 CAN MAKE SURE, - - -

15 MS. ULLMAN: YES, SIR.

16 THE COURT: --- THIS WHOLE CASE REVOLVES
17 AROUND ONE INCIDENT, NO QUESTION ABOUT THAT.

18 MS. ULLMAN: I WOULD SAY THERE'S PROBABLY NO
19 QUESTION ABOUT THAT.

20 THE COURT: OKAY. THANK YOU, MA'AM.

21 ALRIGHT. MR. PALMER, ANYTHING THAT YOU
22 HAVE, YOU'VE HEARD, OR DO YOU WANT TO HEAR MR.
23 MELLARD'S FIRST?

24 MR. PALMER: I'D LIKE TO, YOUR HONOR.

25 THE COURT: OKAY, WELL, MR. MELLARD LOVES TO

1 JUMP AHEAD. MR. MELLARD?

2 MR. MELLARD: I DIDN'T MEAN TO SKIP OVER
3 HIM.

4 ARGUMENT BY MR. MELLARD

5 MY ARGUMENT WAS GOING TO BE THAT IF THE
6 STATEMENTS CAME IN I WOULD FILE A CRAWFORD AND WE
7 WOULD HAVE ALL OF THIS MESS, AND I WOULD MOVE TO
8 SEVER.

9 THE COURT: OKAY, WELL ...

10 MR. MELLARD: BUT YOU'VE GOT A DIFFERENT
11 ARGUMENT IN FRONT OF YOU RIGHT NOW. HOW YOU RULE ON
12 THAT ARGUMENT WILL ULTIMATELY DETERMINE WHAT I'M GOING
13 TO DO NEXT, JUDGE.

14 THE COURT: OKAY. ALRIGHT, NOW, MR. PALMER,
15 ANYTHING YOU WANT TO SAY?

16 MR. PALMER: NOT REALLY, YOUR HONOR, BUT I
17 WOULD LIKE TO PRESERVE MY MOTION TO SEVER.

18 THE COURT: ALRIGHT.

19 MR. PALMER: BASED ON HOW YOU RULE ON ...

20 THE COURT: I'VE GOT YOU. YES, SIR. I'LL
21 STRIKE THAT COMMENT RIGHT THERE. GO AHEAD, MR.
22 SORENSON.

23 SOLICITOR SORENSON: JUST BRIEFLY, YOUR
24 HONOR.

25 THE COURT: YES, SIR.

ARGUMENT BY SOLICITOR SORENSON

IT WOULD BE THE STATE'S POSITION, YOUR HONOR, THAT CRIMINAL DEFENDANTS WHO ARE JOINTLY TRIED ARE NOT ENTITLED TO SEPARATE TRIALS AS A MATTER OF RIGHT. I THINK THAT COMES UNDER STATE VERSUS BOISE, A NINETEEN NINETY CASE. AND ADDITIONALLY, YOUR HONOR, THAT WHEN DECIDING WHETHER TO SEVER TRIALS, THAT THAT SHOULD ONLY BE DONE WHEN THERE IS A SERIOUS RISK THAT A JOINT TRIAL WOULD COMPROMISE A SPECIFIC RIGHT OF A CO-DEFENDANT TO PREVENT, WELL, PREVENT A JURY FROM MAKING A RELIABLE DETERMINATION ABOUT ONE CO-DEFENDANT'S GUILT OR ANOTHER. I SUBMIT TO YOU THAT'S NOT THE CASE HERE. REALLY, THE ONLY ARGUMENT THAT MS. ULLMAN HAS PUT FORWARD IS HER, IS THAT IF THEY ARE TRIED TOGETHER SHE WOULD NOT BE ABLE TO GET INTO MR. HARRIS'S STATEMENTS THAT HE GAVE TO LAW ENFORCEMENT. AND I SUBMIT TO YOU, YOUR HONOR, IF WE TRIED RALPH COLEMAN NEXT WEEK BY HIMSELF SHE WOULDN'T BE ABLE TO GET INTO WALTER HARRIS'S STATEMENT, THEY'RE HEARSAY. AND I'M SURE THAT MR. PALMER IS NOT GOING TO ALLOW HER TO, I MEAN, PUT HIS CLIENT ON THE STAND AND INCRIMINATE HIMSELF. SO, I DON'T SEE HOW THAT IS SOMEHOW IMPEDING HER RIGHT IN ANY WAY, BECAUSE I SUBMIT TO YOU, SHE WOULDN'T BE ABLE TO GET INTO THAT ANYWAY. I MEAN, THEY'RE HEARSAY. YOU KNOW, WE HAVE A

1 RIGHT TO POSSIBLY PUT THEM IN IF WE WERE TRYING MR.
2 HARRIS BY HIMSELF BECAUSE THERE ARE SOME, SOME OF THE
3 STATEMENTS ARE INCRIMINATING, AND WE WOULD HAVE THE
4 RIGHT THEN TO PUT THEM IN AS ADMISSIONS BY A PARTY
5 OPPONENT. BUT I DON'T SEE HOW SHE WOULD HAVE THAT
6 RIGHT TO DO THAT. WE WOULD HAVE TO GO TO PROVING THAT
7 HE, KNOW, MIRANDA WAS FOLLOWED AND THEY WERE
8 VOLUNTARY, AND ALL THAT. SO ...

9 THE COURT: MR. SORENSON, IF I COULD ASK YOU
10 A QUESTION, - - -

11 SOLICITOR SORENSON: UH-HUH.

12 THE COURT: --- COULD SHE CALL MR. HARRIS AS
13 A WITNESS?

14 MS. ULLMAN: OH, YES.

15 SOLICITOR SORENSON: WELL, NO, I DON'T THINK
16 SHE CAN -- WELL, I MEAN, SHE CAN, BUT IT'S UP TO -- I
17 MEAN, HIS WORD OF WHETHER HE'S ...

18 THE COURT: NO, I MEAN IN A SEVERANCE -- I'M
19 JUST TALKING ABOUT A SEPARATE TRIAL. AND I UNDERSTAND
20 IT WOULD BE THEN UP TO ...

21 SOLICITOR SORENSON: I THINK IT WOULD BE UP
22 TO MR. PALMER TO ADVISE MR. HARRIS TO PLEAD THE FIFTH
23 AMENDMENT OR NOT, AND OBVIOUSLY, IF MR. PALMER HAS
24 TOLD MS. ULLMAN, MY CLIENT IS GOING TO PLEAD THE
25 FIFTH, THEN I THINK IT WOULD BE IMPROPER FOR HER TO

1 CALL HIM AS A WITNESS.

2 THE COURT: OKAY.

3 MS. ULLMAN: YOUR HONOR, ...

4 THE COURT: MS. ULLMAN, YES, MA'AM, I'LL LET
5 YOU RESPOND. BEFORE YOU DO THAT, WAS THERE ANYTHING
6 FURTHER YOU WANTED TO TELL ME?

7 SOLICITOR SORENSON: NO, YOUR HONOR.

8 THE COURT: I'M SORRY. YES, MA'AM.

9 MS. ULLMAN: I UNDERSTAND THE STATE CONTROLS
10 THE DOCKET, WHICH IS PART OF THE PROBLEM IN THIS
11 SITUATION, BECAUSE HE'S ABSOLUTELY RIGHT, WE COULD TRY
12 RALPH COLEMAN FIRST AND THEN ALL THESE OTHER PEOPLE
13 WOULD STILL BE DEFENDANTS. OR WE COULD TRY ALL FOUR
14 OF THEM AT THE SAME TIME, LIKE WHAT'S GOING ON, LEAVE
15 MINE TO LAST, AND WE WOULD HAVE A NEW ARGUMENT ABOUT
16 WHETHER OR NOT WALTER HARRIS WAS GOING TO TAKE THE
17 STAND OR NOT TAKE THE STAND. HE WOULD HAVE EITHER BEEN
18 EXONERATED OR CONVICTED AT THAT POINT.

19 ALSO, I UNDERSTAND THAT THESE STATEMENTS
20 COULD BE CONSIDERED HEARSAY, BUT FIRST OFF, WE'RE
21 NOT ARGUING ABOUT THE ADMISSIBILITY OF THE
22 STATEMENTS RIGHT NOW, WE'RE ARGUING ABOUT SEVERING OF
23 THE TRIAL.

24 THE OTHER ISSUE IS, HEARSAY IS ONLY WHEN ...
25 YOU'RE USING IT TO PROVE THE MATTER ASSERTED. I'M NOT

1 TRYING TO GET INTO HIS STATEMENT TO SAY, LOOK, ONE OF
2 THE CO-DEFENDANTS DIDN'T NAME RALPH COLEMAN,
3 THEREFORE, IT MUST BE TRUE THAT HE DID NOT PARTICIPATE
4 IN THIS. I THINK IT JUST GOES TO REASONABLE DOUBT,
5 WHEN ONE OF THE CO-DEFENDANTS -- YOU HAVE TWO CO-
6 DEFENDANTS WHO HAVE GIVEN STATEMENTS. ONE OF THEM
7 IS SAYING, FIVE PEOPLE PLUS ME DID IT. SOMEONE ELSE
8 IS SAYING, IT WAS THESE PEOPLE, NOW WAIT A MINUTE,
9 IT WAS THESE PEOPLE, NO, WAIT A MINUTE, IT WAS THESE
10 PEOPLE. I THINK IT'S JUST SHOWING INCONSISTENCIES,
11 IT'S NOT TO PROVE THE MATTER ASSERTED, WHICH MEANS
12 THAT IT IS NOT HEARSAY, WHICH MEANS THAT IT'S
13 COMPLETELY ADMISSIBLE. AND THE STATE CONTROLS WHO
14 GETS TRIED FIRST, WHICH CERTAINLY PUTS ME IN A VERY
15 BAD POSITION SINCE I HAVE NO ABILITY TO HAVE RALPH
16 COLEMAN SIT BEHIND AND LET THE OTHER TRIALS GO
17 FORWARD, WHICH WOULD CANCEL EVERYTHING THAT THE STATE
18 JUST BROUGHT UP.

19 THE COURT: MR. SORENSON, YES, SIR.

20 SOLICITOR SORENSON: BRIEFLY, YOUR HONOR, IF
21 IT'S NOT OFFERED FOR THE TRUTH, THEN HOW IS IT
22 RELEVANT, THEN? I MEAN, IT'S -- AND THE FACT OF THE
23 MATTER IS, WE DO GET TO DECIDE WHEN WE CALL THE CASES,
24 AND I MEAN

25 THE COURT: THAT'S THE WAY IT IS, THAT'S THE

1 WAY IT'S ALWAYS BEEN. YES, SIR, I UNDERSTAND THAT, AND
2 I CAN'T CHANGE THAT HERE.

3 ALRIGHT.

4 RULING OF THE COURT

5 MS. ULLMAN, YOU MAKE SOME GOOD POINTS BUT I
6 AM GOING TO DENY YOUR MOTION, BUT I WILL PRESERVE YOUR
7 OBJECTION TO MY RULING SO THAT THAT WILL BE PRESERVED
8 FOR APPEAL.

9 MS. ULLMAN: YES, SIR.

10 THE COURT: OKAY. THANK YOU, MA'AM.

11 IS THERE ANYTHING ELSE THAT WE NEED TO GO
12 OVER RIGHT NOW? MR. SORENSON?

13 SOLICITOR SORENSON: I DON'T THINK SO, YOUR
14 HONOR.

15 THE COURT: OKAY. MR. LACKEY, ANYTHING ELSE
16 THAT WE NEED TO GO OVER FROM YOUR CLIENT'S
17 PERSPECTIVE?

18 MR. LACKEY: NOTHING AT THIS TIME, YOUR
19 HONOR.

20 THE COURT: OKAY. MS. ULLMAN, ANYTHING FROM
21 YOUR CLIENT'S PERSPECTIVE?

22 MS. ULLMAN: I WOULD JUST ASK FOR
23 CLARIFICATION WHEN YOU SAY IT'S PRESERVED, DURING THE
24 TRIAL AT ANY POINT DO I NEED TO RE-BRING THIS
25 ISSUE BACK UP OR AM I SAFE WITH THE SEVERING OF THE

1 TRIAL?

2 THE COURT: WELL, WE'RE DOING THIS ON THE
3 RECORD NOW, IT SHOULD BE PRESERVED. YOUR OBJECTION TO
4 MY RULING SHOULD BE PRESERVED ON THE RECORD, THOUGH I
5 HAVE INDEED BEEN AS SURPRISED AS YOU HAVE BEEN ABOUT
6 THINGS THAT I HAVE READ IN THE DOCKET. SO, IF BEFORE
7 WE START THE TRIAL IF YOU WILL REMIND OF THAT - - -

8 MS. ULLMAN: YES, SIR.

9 THE COURT: --- OF JUST, OR IF YOU WANT TO
10 -- I WILL GO AHEAD AND REFER BACK TO THIS AND REDO
11 IT.

12 MS. ULLMAN: YES, SIR.

13 THE COURT: JUST TO MAKE SURE IT'S
14 PRESERVED.

15 MS. ULLMAN: YES, SIR.

16 THE COURT: BUT THIS, AS I UNDERSTAND IT,
17 THIS IS A PART OF THE TRAIL, EVEN THOUGH WE'RE DOING
18 IT EARLY WE'RE TRYING TO GET SOME STUFF OUT OF THE
19 WAY. OKAY.

20 MR. PALMER, ANYTHING FROM YOU?

21 MR. PALMER: NO, YOUR HONOR.

22 THE COURT: OKAY. MR. MELLARD?

23 MR. MELLARD: YES, SIR.

24 THE COURT: YES, SIR.

25 MR. MELLARD: I PLAN TO REQUEST A COPY OF

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA)

TRANSCRIPT OF RECORD

versus)

DATE:

DECEMBER 10 - 17, 2010

CASE NOS.

CHRISTIAN COLEMAN,)

2010-GS-38-802, 803, 805

RALPH BERNARD COLEMAN)

2010-GS-38-808, 810, 811

WALTER LEE HARRIS,)

2010-GS-38-812, 813, 814

DANNY RYANT, JR.,)

2010-GS-38-817, 818, 819

MARIO MONTEZ SHIVERS)

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE
SOLICITOR

DONALD N. SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

RICHARD LACKEY, ESQUIRE
FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE
FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE
FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE
FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE
FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
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I N D E X (CONTINUED)E X H I B I T S

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
ST. 1	PHOTO LINEUP	60	591
ST. 2	PHOTO LINEUP	60	592
ST. 3	PHOTO LINEUP	60	238
ST. 4	PHOTO LINEUP	60	241
ST. 5	PHOTO LINEUP	60	243
ST. 6	PHOTO	60	190
ST. 7	PHOTO	60	192
ST. 8	PHOTO	60	192
ST. 9	PHOTO	60	456
ST. 10	PHOTO	60	456
ST. 11	PHOTO	60	456
ST. 12	PHOTO	60	456
ST. 13	PHOTO	457	490
ST. 14	PHOTO	457	490
ST. 15	PHOTO	457	490
ST. 16	PHOTO	457	490
ST. 17	PHOTO	457	490
ST. 18	PHOTO	457	490
ST. 19	PHOTO	457	490
ST. 20	PHOTO	457	490
ST. 21	PHOTO	457	490

I N D E X (CONTINUED)E X H I B I T S (CONTINUED)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
ST. 22	PHOTO	457	490
ST. 23	PHOTO	457	490
ST. 24	PHOTO	457	490
ST. 25	PHOTO	457	490
ST. 26	PHOTO	457	490
ST. 27	PHOTO	60	456
ST. 28	PHOTO	60	311
ST. 29	PHOTO	60	457
ST. 30	PHOTO	60	457
ST. 31	PHOTO	60	457
ST. 32	PHOTO	60	305
ST. 33	PHOTO	60	305
ST. 34	DIAGRAM	60	488
ST. 35	PHONE INFORMATION	50	289
ST. 36	PHONE INFORMATION	60	289
ST. 37	PHONE INFORMATION	60	289
ST. 38	ROLL OF DUCT TAPE	211	499
ST. 39	NINE MILLIMETER SHELL CASING	211	504
ST. 40	NINE MILLIMETER SHELL CASING	211	504
ST. 41	NINE MILLIMETER SHELL CASING	211	504
ST. 42	NINE MILLIMETER SHELL CASING	211	504

I N D E X (CONTINUED)E X H I B I T S (CONTINUED)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
ST. 43	NINE MILLIMETER SHELL CASING	211	504
ST. 44	NINE MILLIMETER SHELL CASING	211	504
ST. 45	NINE MILLIMETER SHELL CASING	211	504
ST. 46	NINE MILLIMETER SHELL CASING	211	504
ST. 47	NINE MILLIMETER SHELL CASING	211	504
ST. 48	NINE MILLIMETER SHELL CASING	211	504
ST. 49	NINE MILLIMETER SHELL CASING	211	504
ST. 50	FORTY CALIBER SHELL CASING	211	506
ST. 51	FORTY CALIBER SHELL CASING	211	506
ST. 52	FORTY CALIBER SHELL CASING	211	506
ST. 53	FORTY CALIBER SHELL CASING	211	506
ST. 54	FORTY CALIBER SHELL CASING	211	506
ST. 55	FORTY CALIBER SHELL CASING	211	506
ST. 57	FORTY CALIBER SHELL CASING	211	506
ST. 58	7-62 MILLIMETER SHELL CASING	211	510
ST. 59	7-62 MILLIMETER SHELL CASING	211	510
ST. 60	7-62 MILLIMETER SHELL CASING	211	510
ST. 61	7-62 MILLIMETER SHELL CASING	211	510
ST. 62	7-62 MILLIMETER SHELL CASING	211	510
ST. 63	BAG WITH BULLET FRAGMENTS	211	514
ST. 64	BULLET FRAGMENT	211	514

I N D E X (CONTINUED)E X H I B I T S (CONTINUED)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
ST. 65	BULLET FRAGMENT	211	514
ST. 66	BULLET FRAGMENT	211	514
ST. 67	BULLET FRAGMENT	211	514
ST. 68	BULLET FRAGMENT	211	514
ST. 69	BULLET FRAGMENT	211	514
ST. 70	BULLET FRAGMENT	211	514
ST. 71	BULLET FRAGMENT	211	514
ST. 72	BULLET FRAGMENT	211	514
ST. 73	FORTY CALIBER PISTOL	211	527
ST. 74	MAGAZINE FROM FORTY CALIBER PISTOL	211	527
ST. 75	PHOTO OF RIFLE	339	651
ST. 76	PHOTO LINEUP	330	726
ST. 77	PHOTO LINEUP	331	726
ST. 78	PHOTO LINEUP	332	734
ST. 79	PHOTO LINEUP	333	736
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ST. 81	BULLET FRAGMENT	620	630
ST. 82	BULLET FRAGMENT	620	630
ST. 83	BULLET FRAGMENT	620	630
ST. 84	BULLET FRAGMENT	620	630

I N D E X (CONTINUED)E X H I B I T S (CONTINUED)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
ST. 85	BULLET FRAGMENT	620	630
ST. 86	BULLET FRAGMENT	620	630
ST. 87	BULLET FRAGMENT	620	630
ST. 88	BULLET FRAGMENT	620	630
ST. 89	BULLET FRAGMENT	620	630
ST. 90	BULLET FRAGMENT	620	630
ST. 91	BULLET FRAGMENT	620	630
ST. 92	BODY DIAGRAM	620	627
ST. 93	AERIAL VIEW OF AREA	60	744
ST. 94	CALENDAR	60	710
ST. 95	ADVISEMENT OF RIGHTS FORM	60	720

DEFENDANT MARIO SHIVERS

NO. 1	WRITTEN STATEMENT OF ASHLEY PARSLEY	274

NO. 2	WRITTEN STATEMENT OF Minor	424

DEFENDANT CHRISTIAN COLEMAN

NO. 1	WRITTEN STATEMENT OF Minor	344

I N D E X (CONTINUED)E X H I B I T S (CONTINUED)

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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1 THE COURT: OKAY. THANK YOU, MR. PALMER.

2 ANYTHING ELSE, MR. PALMER?

3 MR. PALMER: NOT AT THIS TIME, YOUR HONOR.

4 THE COURT: OKAY. WELL -- AND MS. ULLMAN, IS IT
5 YOU OR MR. WISE?

6 MS. ULLMAN: ME.

7 THE COURT: OKAY. ALRIGHT, MS. ULLMAN, LET ME
8 HEAR FROM YOU, PLEASE, MA'AM.

9 MS. ULLMAN: YOUR HONOR, FIRST I WOULD RENEW MY
10 MOTION TO SEVER. I THINK THAT THERE ARE THREE REASONS
11 THAT THIS CASE SHOULD BE SEVERED IN MY CASE
12 SPECIFICALLY.

13 THE COURT: AND MS. ULLMAN, BEFORE YOU GO FORWARD
14 ON THAT, YOU'VE ALREADY HAD A MOTION TO SEVER ONE
15 TIME.

16 MS. ULLMAN: YES, SIR.

17 THE COURT: WHAT'S DIFFERENT?

18 MS. ULLMAN: I HAVE NEW EVIDENCE, AT THAT POINT
19 YOU TOLD ME THAT I SHOULD RENEW IT BUT THAT I WAS SURE
20 THAT IT WOULD ...

21 THE COURT: IF YOU'VE GOT SOMETHING NEW. WHAT IS
22 IT?

23 MS. ULLMAN: TWO THINGS. FIRST, WE DID RECEIVE A
24 STATEMENT DATED NOVEMBER THIRTIETH FROM THE ALLEGED
25 DRIVER IN THIS CASE. THE STATEMENT ACTUALLY, RONNIE

1 WASHINGTON STATES THAT HE PICKED UP ALL OF THESE
2 DEFENDANTS, DROVE THEM TO THIS INCIDENT SITE TWO
3 SEPARATE TIMES, WAITED OUTSIDE, THEY CAME OUT AND THEN
4 HE DROVE THEM AWAY. THIS STATEMENT OBVIOUSLY IS VERY
5 INCONSISTENT WITH EVERYBODY ELSE'S STATEMENT THAT THEY
6 ARE GOING TO OFFER SUCH AS Minor OR ASHLEY
7 PARSLEY.

8 THE COURT: WELL, ISN'T THAT GOOD FOR YOU?

9 MS. ULLMAN: I'M GETTING THERE.

10 THE COURT: OKAY, SORRY.

11 MS. ULLMAN: IF THIS WERE TO BE SEVERED, YOUR
12 HONOR, I WOULD HAVE THE ABILITY TO QUESTION
13 INVESTIGATOR SHUMPERT ABOUT WALTER HARRIS'S STATEMENT.
14 I UNDERSTAND THAT IN CERTAIN INSTANCES THAT STATEMENT,
15 OR ALL THREE STATEMENTS WOULD BE CONSIDERED HEARSAY.
16 IN THIS SITUATION, THOUGH, YOUR HONOR, THEY ARE NOT
17 HEARSAY. HEARSAY AS THE RULE STATES IS AN OUT OF
18 COURT STATEMENT OFFERED FOR THE TRUTH OF THE MATTER
19 ASSERTED. IN ONE OF THOSE STATEMENTS WALTER HARRIS
20 ACTUALLY STATES THAT RALPH COLEMAN HAD A RIFLE..
21 OBVIOUSLY, I'M NOT USING THAT STATEMENT FOR THE TRUTH
22 OF THE MATTER ASSERTED, I'M NOT TRYING TO PROVE RALPH
23 COLEMAN HAD A RIFLE. WHAT I'M SHOWING THROUGH WALTER
24 HARRIS'S THREE STATEMENTS COMPARED TO ASHLEY PARSLEY'S
25 TESTIMONY, Minor TESTIMONY, AND RONNIE

1 WASHINGTON'S TESTIMONY IS THAT ALL OF THE PEOPLE WHO
2 WERE EYE WITNESSES TO THIS HAVE COMPLETELY DIFFERENT
3 STORIES ABOUT WHO DID WHAT, WHO WAS WHERE, WHO HAD
4 WHAT. YOUR HONOR, I THINK THAT THAT EQUATES TO A
5 THIRD PARTY GUILT TYPE EVIDENCE. IN A TRIAL WHERE WE
6 ARE TRYING TO CLAIM THIRD PARTY GUILT, OBVIOUSLY WE
7 WOULD NOT BE ABLE TO DO THAT IF THAT PERSON WERE PART
8 OF THE TRIAL, AND IT SHOULD BE SEVERED. THIS IS NOT A
9 THIRD PARTY GUILT ISSUE BUT I THINK IT'S COMPARABLE
10 BECAUSE IF WE WERE SEVERED WE WOULD CERTAINLY BE ABLE
11 TO STATE THAT INVESTIGATOR SHUMPERT SPOKE TO WALTER
12 HARRIS AND WALTER HARRIS X, Y AND Z, NOT BECAUSE WE'RE
13 OFFERING IT FOR THE TRUTH OF THE MATTER ASSERTED BUT
14 RATHER TO SHOW THE INCONSISTENCIES. WE DO NOT HAVE TO
15 HAVE WALTER HARRIS ON THE STAND, WE COULD GET THAT
16 THROUGH SHUMPERT. THE UNITED STATES SUPREME COURT HAS
17 STATED THAT THE WITNESS IS ALLOWED TO TESTIFY
18 REGARDING WHAT HE HAS HEARD AS LONG AS THAT TESTIMONY
19 IS NOT OFFERED FOR THE TRUTH OF THE MATTER ASSERTED.
20 AND AS I STATED, OBVIOUSLY, I WOULD NOT OFFER
21 TESTIMONY THAT MY CLIENT HAD A RIFLE FOR THE TRUTH OF
22 THE MATTER ASSERTED, THAT WOULD CERTAINLY BE AGAINST
23 MY CLIENT'S DEFENSE.

24 ALSO, YOUR HONOR, I THINK THAT IF WE DO HAVE
25 ANTAGONISTIC VIEWS IN THIS SITUATION, ONE OF MY -- ONE

1 OF MY ARGUMENTS IN THIS CASE IS THAT OBVIOUSLY, RALPH
2 COLEMAN WAS NOT THERE AND DID NOT PARTICIPATE IN THIS,
3 AND THAT WHILE HE WAS PICKED OUT BY Minor AND
4 THIS DRIVER, RONNIE WASHINGTON, HE CERTAINLY COULD
5 HAVE BEEN PICKED OUT BECAUSE HE IS CHRISTIAN COLEMAN'S
6 BROTHER. THEY LOOK ALIKE, EVERYBODY KNOWS THEY'RE
7 BROTHERS, THEY HANG AROUND EACH OTHER OFTEN, AND THEY
8 CERTAINLY COULD HAVE COME UP WITH THIS NAME, DUDE, AS
9 BEING CHRISTIAN COLEMAN'S BROTHER. OBVIOUSLY THEY'RE
10 CLAIMING THAT TO ARGUE THAT, I'M PUTTING CHRISTIAN
11 COLEMAN AT THE SCENE PARTICIPATING IN THIS. AND
12 CERTAINLY, I BELIEVE THAT HIS ATTORNEY WOULD FIND THAT
13 THAT IS AN ANTAGONISTIC VIEW. NOW, THE COURTS HAVE
14 DECIDED THAT JUST BECAUSE THERE ARE ANTAGONISTIC VIEWS
15 DOES NOT REQUIRE A SEVERANCE, IT ONLY REQUIRES
16 SEVERANCE WHEN THE JURY WOULD BELIEVE THAT BECAUSE
17 THOSE VIEWS ARE SO OPPOSITE THAT MOST -- THAT BOTH OF
18 THEM MUST BE WRONG AND THEY BOTH MUST BE GUILTY, AND
19 I THINK THAT THAT IS CERTAINLY A PROBLEM THAT WE COULD
20 HAVE HERE WITH ALL FIVE OF THEM SITTING HERE, AND MY
21 CLIENT SAYING, IT WASN'T ME, IF THEY PICKED ME IT MUST
22 HAVE BEEN BECAUSE OF MY BROTHER, THEY CERTAINLY WOULD
23 THINK THAT IT'S POSSIBLE THAT THEY BOTH MUST HAVE DONE
24 THIS BECAUSE THEIR VIEWS ARE SO OPPOSITE.

25 ALSO, YOUR HONOR, THERE WAS A SEARCH WARRANT DONE

1 AT WALTER HARRIS'S HOUSE. I OBVIOUSLY HAVE NO STANDING
2 TO OBJECT TO ANY OF THAT INFORMATION. THE SEARCH
3 WARRANT I BELIEVE PRODUCED A GUN, A TWENTY-TWO CALIBER
4 GUN AND SOME DRUGS. OBVIOUSLY, THAT INFORMATION COULD
5 PREJUDICE MY CLIENT. THERE'S EVIDENCE IN THIS THAT
6 THERE WERE WEAPONS USED. NONE OF THEM WERE A TWENTY-
7 TWO, BUT CERTAINLY, PUTTING A WEAPON IN A CO-
8 DEFENDANT'S HAND COULD PREJUDICE MY CLIENT, IT COULD
9 BASICALLY PUT BAD CHARACTER EVIDENCE AGAINST MY
10 CLIENT, AND WITH ME HAVING NO STANDING TO OBJECT TO
11 THAT, AND CERTAINLY, NO ABILITY TO REQUIRE HIS
12 ATTORNEY TO OBJECT TO IT, I WOULD STATE THAT THE TRIAL
13 NEEDS TO BE SEVERED DUE TO THAT. AND I DO HAVE OTHER
14 MOTIONS BUT I'M DONE WITH THAT ONE.

15 THE COURT: ALRIGHT. WHO WANTS TO ...

16 SOLICITOR PASCOE: VERY BRIEFLY, YOUR HONOR, GOOD
17 MORNING.

18 THE COURT: GOOD MORNING, MR. PASCOE.

19 SOLICITOR PASCOE: THERE ARE REALLY TWO POINTS
20 THAT DEFENSE COUNSEL MADE WITH REGARDS TO THE
21 SEVERANCE. FIRST, SHE SAID THAT THERE WERE
22 ANTAGONISTIC VIEWS. AS YOUR HONOR, WHENEVER, IN THE
23 HEARING LAST TIME THEY MENTIONED, AND YOU RULED THAT
24 THAT'S NOT A GROUND FOR SEVERANCE.

25 THE COURT: RIGHT.

1 SOLICITOR PASCOE: SO, THE NEXT ONE IS, THE
2 DEFENSE WANTS TO GET INTO WALTER HARRIS'S STATEMENT, A
3 CO-DEFENDANT. WELL, AS YOUR HONOR KNOWS, AND IT WAS
4 POINTED OUT THE LAST TIME YOU HAD A HEARING, THERE'S
5 ABSOLUTELY NO WAY THAT MS. ULLMAN CAN GET INTO THAT
6 STATEMENT BECAUSE IT WAS MADE BY A CO-DEFENDANT. BUT
7 MORE IMPORTANTLY, TO SHOW YOU, I HATE TO USE THE WORD,
8 RIDICULOUS, BUT HOW RIDICULOUS THAT ARGUMENT IS, I
9 WILL HAVE ABSOLUTELY NO OBJECTION IF MS. ULLMAN WOULD
10 LIKE TO ASK INVESTIGATOR SHUMPERT, BUT ISN'T IT TRUE
11 THAT WALTER HARRIS SAID THAT MY CLIENT, RALPH COLEMAN,
12 HAD A RIFLE DURING THE MURDER? THERE'S NO WAY A
13 DEFENSE ATTORNEY WOULD EVEN WANT TO DO THAT AT TRIAL,
14 EVEN IF SHE WAS ALLOWED TO. AND OF COURSE, UNDER THE
15 RULES SHE'S NOT ALLOWED TO GO INTO A CO-DEFENDANT'S
16 STATEMENT.

17 THE COURT: OKAY.

18 SOLICITOR PASCOE: BUT I'LL TELL YOU, IF SHE
19 WANTS TO DO THAT, I'LL HAVE NO OBJECTION.

20 THE COURT: ALRIGHT, THANK YOU, SIR.

21 ALRIGHT, MS. ULLMAN, I UNDERSTAND YOUR CONCERNS
22 IN PREPARING, AS I UNDERSTAND -- I KNOW IT WOULD BE
23 EASIER ON ALL OF Y'ALL IF YOU JUST HAD, IF IT WAS JUST
24 ONE DEFENDANT CHARGED AND LIKE THAT, BUT I AM GOING TO
25 DENY YOUR MOTION FOR SEVERANCE. OKAY. AND I WILL NOTE

1 YOUR OBJECTION TO MY RULING AGAIN, AND AGAIN PRESERVE
2 IT AS HOPEFULLY WE'VE DONE FOR MR. PALMER'S. OKAY?

3 YES, MA'AM, MS. ULLMAN, WHAT ELSE?

4 MS. ULLMAN: NOT TO ANNOY THE COURT, BUT BEFORE
5 CLOSING ARGUMENTS I WOULD APPRECIATE, WITHOUT
6 ARGUMENT, IF I COULD JUST STATE THAT I RENEW MY
7 OBJECTION, OR MY MOTION TO SEVER BEFORE THE END OF THE
8 TRIAL, BEFORE THE JURY ACTUALLY ...

9 THE COURT: OKAY. NO, NO, NO, ANYTIME THAT,
10 LADIES AND GENTLEMEN, ANYTIME Y'ALL WANT TO MAKE SURE
11 ANYTHING IS PRESERVED, IT DOES NOT BOTHER ME, IT DOES
12 NOT UPSET ME FOR Y'ALL TO MAKE THAT KNOWN ON THE
13 RECORD SO THAT WE CAN MAKE EVERY ATTEMPT POSSIBLE TO
14 PRESERVE ANY AND ALL OBJECTIONS Y'ALL HAVE TO MY
15 RULINGS, BECAUSE I KNOW NOTHING IS MORE FRUSTRATING TO
16 ME THAN READING OVER THE APPELLATE BRIEFS THAT SAYS,
17 WELL, IT DOESN'T LOOK LIKE THE ATTORNEY PRESERVED THE
18 OBJECTION ON THE RECORD. I THINK WE ARE TRYING TO DO
19 THAT SO HOPEFULLY WE HAVE PRESERVED THEM.

20 ANYTHING ELSE, MS. ULLMAN?

21 MS. ULLMAN: YES, SIR.

22 THE COURT: OKAY.

23 MS. ULLMAN: I WOULD ALSO MOTION THIS COURT TO
24 PRECLUDE ASHLEY PARSLEY FROM TESTIFYING ABOUT THE
25 IDENTIFICATION OF MY DEFENDANT, OR MY CLIENT.

1 THE COURT: ASHLEY?

2 MS. ULLMAN: ASHLEY PARSLEY, SHE WAS THE ALLEGED
3 WITNESS AT THE SCENE. I DO NOT DO THIS UNDER THE
4 NEAL-BIGGERS ISSUES THAT HAVE ALREADY BEEN DECIDED. I
5 UNDERSTAND THAT THE PHOTO LINEUP HAS NOT BEEN FOUND TO
6 BE SUGGESTIVE AND THAT THAT COULD COME IN. MY BASIS
7 FOR THIS MOTION, YOUR HONOR, IS UNDER THE RULES OF
8 EVIDENCE. EVIDENCE RULE SIX O TWO REQUIRES A WITNESS
9 TO HAVE PERSONAL KNOWLEDGE OF ANY FACTS THAT THEY ARE
10 TESTIFYING ABOUT. DURING THE PRETRIAL NEAL- BIGGERS
11 HEARING, YOUR HONOR, ASHLEY PARSLEY TOOK THE STAND AND
12 WHEN SHE WAS QUESTIONED BY MR. WISE SHE SPECIFICALLY
13 STATED THAT SHE ACTUALLY WAS NOT SURE ABOUT HER
14 IDENTIFICATION OF RALPH COLEMAN. SHE ALSO STATED THAT
15 SHE DID NOT REALLY HAVE AN OPPORTUNITY TO SEE HIM
16 BECAUSE HER FACE WAS COMPLETELY DOWN AGAINST THE
17 GROUND. SHE ALSO STATED THAT SHE BASICALLY PICKED HIS
18 PHOTO OUT OF THAT LINEUP BASED ON INSTINCT, IT WAS NOT
19 BASED ON HER ABILITY TO PERCEIVE HIM OR SEE HIM. SHE
20 FLAT OUT SAID IT WAS INSTINCT, SOMETHING JUST TOLD ME
21 IT COULD HAVE BEEN HIM. IN HER OWN ACTUAL AFFIDAVIT
22 THAT GOES WITH THAT STATEMENT, OR GOES WITH THE LINEUP
23 SHE LITERALLY SAID, HE COULD HAVE BEEN ONE THAT CAME
24 IN THE APARTMENT, I'M NOT REALLY SURE. SO, I WOULD ASK
25 YOUR HONOR TO CONSIDER THE FACT THAT SHE HAS NO

1 PERSONAL KNOWLEDGE. SHE OBVIOUSLY DID NOT HAVE AN
2 OPPORTUNITY TO SEE MR. COLEMAN, AND SHE ACTUALLY
3 STATES THAT UNDER OATH IN HER TESTIMONY AT THE
4 PRETRIAL MOTIONS THAT WE HEARD A COUPLE OF WEEKS AGO.
5 IN RELATION TO THAT, YOUR HONOR, I BELIEVE THAT SINCE
6 SHE HAS ABSOLUTELY NO FIRST HAND KNOWLEDGE OR ABILITY
7 TO PERCEIVE OR SEE MR. COLEMAN, THEN IF SHE WAS
8 ALLOWED TO TESTIFY, THE FACT WOULD BE CONSIDERED A LAY
9 WITNESS OPINION, AND THAT ANY OPINION OR INFERENCES
10 THAT ARE GIVEN BY A LAY WITNESS MUST BE RATIONALLY
11 BASED ON THAT WITNESS'S PERCEPTION AND HELPFUL TO
12 CLEAR THE UNDERSTANDING OF THE WITNESS'S TESTIMONY OR
13 DETERMINE A FACT AT ISSUE. OBVIOUSLY, SHE ADMITTED
14 SHE DIDN'T HAVE THE OPPORTUNITY TO PERCEIVE HIM. SHE
15 TOLD THAT BASICALLY ONE PERSON ENTERED THE HOUSE, PUT
16 A GUN IN HER FACE, PUT HER TO THE GROUND, AND SHE
17 NEVER LOOKED UP FROM THAT POINT ON. BASED ON INSTINCT
18 SHE PICKED RALPH COLEMAN OUT OF THE LINEUP. I WOULD
19 SAY THAT THAT IS AN OPINION AND SHE CERTAINLY HAD NO
20 ABILITY TO PERCEIVE ANYTHING TO BASE THAT OPINION ON
21 AND I WOULD ASK THAT HER TESTIMONY NOT BE ALLOWED
22 REGARDING THE IDENTIFICATION.

23 THE COURT: OF MR. COLEMAN, MR. RALPH COLEMAN?

24 MS. ULLMAN: OF MR. COLEMAN, RALPH COLEMAN.

25 THE COURT: OKAY. ALRIGHT. AND WHICH ONE OF

1 Y'ALL WANTS TO ADDRESS THAT, OR IF ANYBODY WANTS TO?

2 SOLICITOR SORENSON: I'M NOT TOO SURE I KNOW
3 WHERE TO BEGIN, YOUR HONOR. I KIND OF THOUGHT WE HAD
4 ALREADY HANDLED THIS MATTER A COUPLE OF WEEKS AGO, BUT
5 IT WOULD BE OUR POSITION THAT, JUST LIKE YOUR HONOR
6 RULED BACK THEN, THAT ALL OF THAT GOES TOWARDS THE
7 WEIGHT OF HER IDENTIFICATION, AND IT'S ONE OF THE
8 THINGS THAT MS. ULLMAN CAN CROSS-EXAMINE MS. PARSLEY
9 ON TO HER HEART'S CONTENT. SO, I MEAN, I THOUGHT THAT
10 WE HAD ADDRESSED THIS A COUPLE OF WEEKS AGO ALREADY.
11 SO ...

12 THE COURT: AND I UNDERSTAND THAT, MR. SORENSON.
13 AND MS. ULLMAN, I -- YOU KNOW, I DO RECALL HER
14 TESTIMONY ABOUT THAT, AND WE HAVE HER TESTIMONY
15 PRESERVED FOR THE RECORD, SO IF SHE TRIES TO CHANGE IT
16 NOW, YOU KNOW, YOU'VE GOT THAT.

17 MS. ULLMAN: YES, SIR.

18 THE COURT: BUT I'M, I'M NOT GOING TO PRECLUDE
19 HER FROM MAKING ANY IDENTIFICATION IF SHE QUALIFIES
20 IT. YOU CAN GO OVER THE FACT WITH HER THAT SHE'S NOT
21 SURE. I THINK -- AND YOU GET TO EMPHASIZE THAT WITH
22 THE JURY AND AGAIN, MAKE IT AGAIN IN YOUR CLOSING.

23 MS. ULLMAN: YES, SIR.

24 THE COURT: SO, I'M GOING TO DENY YOUR MOTION TO
25 PRECLUDE HER IDENTIFICATION.

1 MS. ULLMAN: YES, SIR.

2 THE COURT: OKAY. AND I NOTE YOUR OBJECTION TO
3 MY RULING AGAIN, WHICH I KNOW YOU WANT TO DO. OKAY?

4 MS. ULLMAN: MY NEXT MOTION IS IN REGARDS TO
5 EVIDENCE, OR A PICTURE WE RECEIVED THIS WEEK SOMETIME.
6 YOUR HONOR, I WAS GIVEN A PICTURE OF THE RIFLE, GIVEN
7 A PICTURE OF A RIFLE THAT THE STATE INTENDS TO USE
8 DEMONSTRATIVELY. THERE'S ABSOLUTELY NO EVIDENCE THAT
9 THAT RIFLE HAS ANYTHING -- THAT RIFLE IN THAT PICTURE
10 HAS ANYTHING TO DO WITH THIS INCIDENT. ACCORDING TO
11 BALLISTICS THERE ARE FIVE BULLETS FIRED THAT ARE SEVEN
12 POINT SIX-TWO, LIKE THEY'RE NINE MILLIMETER BULLETS.
13 ACCORDING TO THE BALLISTICS REPORTS THOSE BULLETS
14 COULD HAVE BEEN SHOT FROM UP TO NINE DIFFERENT
15 WEAPONS. OBVIOUSLY, ALL OF THOSE WEAPONS WOULD LOOK
16 DIFFERENT. CERTAINLY, THE SIZE OF THAT WEAPON SHOWN
17 THERE COULD CERTAINLY INCITE THE JURY. I UNDERSTAND
18 THAT IT'S DEMONSTRATIVE BUT THERE'S ABSOLUTELY NO
19 REASON THAT THEY COULDN'T GET INTO SIZE, WHAT IT
20 LOOKED LIKE WITH WHATEVER WITNESS THEY PLAN ON TRYING
21 TO GET THAT PICTURE IN THROUGH. CERTAINLY, IF Minor

22 SAW THAT WEAPON THEY COULD ASK HIM, DESCRIBE THE
23 WEAPON, WAS IT BIG, WAS IT LITTLE, WAS IT A RIFLE, WAS
24 IT A HAND GUN? USE YOUR HANDS AND TELL ME HOW BIG YOU
25 THINK IT WAS. BUT THAT RIFLE HAS NOTHING TO DO WITH

1 THIS, YOUR HONOR, AND I'M AFRAID THAT IT COULD INCITE
2 THE JURY TO BASICALLY PREJUDICE THE DEFENDANT BY
3 MAKING THE JURY THINK THAT THAT RIFLE WAS USED, AND
4 THERE'S NO WAY THAT THEY CAN PROVE THAT.

5 THE COURT: DO Y'ALL HAVE A COPY?

6 SOLICITOR SORENSON: WE GAVE IT TO THEM, YES,
7 SIR.

8 MR. MELLARD: I DO, YES, SIR.

9 THE COURT: MR. PALMER, DO YOU HAVE SOMETHING TO
10 SAY TO THAT OR ARE YOU JUST HELPING ...

11 MR. PALMER: NO, I'LL JUST LET ...

12 THE COURT: OH, YOU'RE JUST BEING A GENTLEMAN.
13 THANK YOU, SIR. OKAY, I'M SORRY.

14 MR. SORENSON.

15 SOLICITOR SORENSON: WE OBTAINED THOSE
16 PHOTOGRAPHS AND BASICALLY IT'S TWO PHOTOGRAPHS, IT'S
17 THE LEFT SIDE AND THE RIGHT SIDE OF THE SAME GUN. WE
18 OBTAINED THEM FROM THE FIREARMS EXPERT IN THIS CASE AT
19 SLED AS BEING ONE OF THE TYPE OF GUNS THAT POTENTIALLY
20 COULD HAVE FIRED FIVE OF THE CASINGS THAT WERE FOUND
21 IN THE RESIDENCE. AND IT'S MY UNDERSTANDING, AND LET
22 THE SOLICITOR CORRECT ME IF I'M MISTAKEN, THAT AT
23 LEAST ONE OF OUR WITNESSES WILL BE ABLE TO IDENTIFY,
24 FROM LOOKING AT THOSE PHOTOGRAPHS, AS THAT BEING
25 CONSISTENT WITH THE RIFLES THAT WERE USED IN THIS

1 CASE. SO, THEREFORE, THEY WOULD BE USED FOR
2 DEMONSTRATIVE PURPOSES, AND I JUST DON'T SEE HOW AN
3 EIGHT BY TEN PIECE OF PAPER SHOWING A PICTURE OF A
4 RIFLE CAN INCITE AND SOMEHOW, I MEAN, YOU KNOW. I
5 SUPPOSE WE COULD PROBABLY GO GET A SAMPLE OF THAT GUN
6 TO BE USED FOR DEMONSTRATIVE PURPOSES, AND I COULD SEE
7 MAYBE HOW THAT MIGHT BE, BUT JUST A PIECE OF PAPER
8 JUST TO GIVE THE JURY SOME IDEA OF, I MEAN, EXACTLY
9 WHAT WE'RE TALKING ABOUT WEAPON-WISE, BECAUSE WE WERE
10 NOT ABLE TO RECOVER EITHER OF THE RIFLES THAT WERE
11 ALLEGEDLY USED IN THIS CASE.

12 THE COURT: OKAY, YOU'RE INDICATING THAT THE
13 EXPERT WILL BE ABLE TO SAY THE BULLET CAME FROM THAT
14 TYPE OF WEAPON, IS THAT WHAT YOU'RE INDICATING?

15 SOLICITOR SORENSON: RIGHT. HE GIVES A LIST OF
16 SEVERAL TYPES AND THAT BEING ONE OF THEM, IT'S AN SKS
17 RIFLE, THAT BEING ONE OF THEM THAT POTENTIALLY COULD
18 HAVE FIRED THOSE SHELL CASINGS, IT COULD BE THAT TYPE.
19 AND HE'LL BE ABLE TO EXPLAIN THAT, I MEAN, THAT ALSO,
20 BUT AS I SAID, WE HAVE AT LEAST ONE WITNESS THAT WILL
21 BE ABLE TO, LOOKING AT THOSE WOULD BE ABLE TO SAY
22 THAT, YES, THAT IS CONSISTENT WITH THE TYPE OF WEAPON,
23 AT LEAST ONE OF THE RIFLES THAT WAS USED IN THIS
24 INCIDENT. AND I THINK THAT WOULD AID THE JURY THEN IN
25 UNDERSTANDING WHAT WE'RE TALKING ABOUT MORE SO THAN

1 SOMEHOW EXCITE OR INCITE THEM.

2 THE COURT: OKAY, MS. ULLMAN, LET ME HEAR FROM
3 YOU IN RESPONSE.

4 MS. ULLMAN: YOUR HONOR, THE PROBLEM IS, THE SLED
5 PERSON WOULD SAY THAT THAT COULD BE ONE OF THE GUNS.
6 THEY'RE OBVIOUSLY NOT TRYING TO ENTER PICTURES OF ALL
7 NINE OF THE GUNS. THEY CERTAINLY DIDN'T SHOW PICTURES
8 OF ALL NINE OF THE POTENTIAL WEAPONS TO THIS POTENTIAL
9 WITNESS TO HAVE HIM PICK OUT. THEY'VE GOT THEIR
10 PICTURE, SHOW THE GENTLEMAN, AND OF COURSE, HE SAYS,
11 YEAH, THAT WAS JUST LIKE THE RIFLE THAT WAS USED.

12 THEY ALSO HAVE A BIG BAYONET ON IT, AND THERE'S
13 OBVIOUSLY ...

14 THE COURT: WHAT?

15 MS. ULLMAN: THERE'S A BAYONET ON THE END OF IT,
16 IT'S BASICALLY A MILITARY RIFLE.

17 COURT REPORTER: A BAYONET?

18 THE COURT: A BAYONET.

19 MS. ULLMAN: A BAYONET, WHICH I THINK COULD BE
20 USED TO INCITE THE JURY. THERE'S NO EVIDENCE ...

21 THE COURT: IN THE PICTURE, THEY HAVE A PICTURE
22 OF THE BAYONET? I DIDN'T...

23 MS. ULLMAN: IT'S FOLDED UNDER IT, YOUR HONOR, IT
24 FOLDS UP UNDER IT, BUT OBVIOUSLY, THE JURY'S GOING TO
25 HAVE THIS TO LOOK AT IN THE JURY ROOM AND STUDY. IF

1 WE'VE SEEN THAT THERE'S A BAYONET IT'S CERTAINLY NOT
2 IMPOSSIBLE TO SEE.

3 THE OTHER ISSUE, YOUR HONOR, THERE'S OTHER
4 EVIDENCE THAT THE BULLETS THAT BELONG TO A NINE
5 MILLIMETER, AND THE STATE IS CERTAINLY NOT TRYING TO
6 INTRODUCE ANY PICTURES OF A NINE MILLIMETER WEAPON TO
7 SHOW DEMONSTRATIVELY WHAT THAT GUN WOULD LOOK LIKE.
8 SO, IF ALL THEY'RE DOING IS TRYING TO SHOW THE JURY
9 WHAT THE GUN COULD HAVE LOOKED LIKE WHY ARE WE PICKING
10 THE GIGANTIC RIFLE WITH A BAYONET AND NOT THE NINE
11 MILLIMETER?

12 THE COURT: OKAY. WELL, I'M NOT -- YOU KNOW, I'M
13 NOT GOING TO RULE ON YOUR MOTION RIGHT NOW. I'M AWARE
14 OF IT. WHEN WE GET THERE AFTER I HEAR THE PERSON
15 TESTIFY I WILL DECIDE WHAT I'M GOING TO DO WITH THAT.
16 OKAY? I'M NOT INCLINED TO -- LET ME JUST SEE WHAT THE
17 EXPERT SAYS. OKAY?

18 MS. ULLMAN: YES, SIR.

19 THE COURT: OKAY, SO I WILL RESERVE ANY RULING ON
20 THAT AND YOU CAN RENEW YOUR MOTION AT THAT TIME.

21 ANYTHING ELSE, MS. ULLMAN?

22 MS. ULLMAN: YES, SIR.

23 THE COURT: HUH?

24 MS. ULLMAN: YES, SIR.

25 THE COURT: OKAY.

1 MS. ULLMAN: YES, SIR.

2 MR. MELLARD: YES, SIR.

3 MR. KOGER: YES, YOUR HONOR.

4 MR. PALMER: YES, SIR.

5 MR. LACKEY: YES, YOUR HONOR.

6 THE COURT: OKAY. AND Y'ALL CAN ALREADY TELL,
7 BECAUSE WE HAVE A NUMBER OF DEFENSE ATTORNEYS OVER
8 HERE, IT'S GOING TO BE A GOOD MANY QUESTIONS. MR.
9 PASCOE, IF YOU WANT TO CALL THE CASE, PLEASE, SIR.

10 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

11 THE COURT: YES, SIR.

12 SOLICITOR PASCOE: AT THIS TIME, LADIES AND
13 GENTLEMEN, THE STATE OF SOUTH CAROLINA CALLS THE CASE
14 OF THE STATE OF SOUTH CAROLINA VERSUS CHRIS COLEMAN,
15 RALPH COLEMAN, WALTER LEE HARRIS, DANNY RYANT, JUNIOR,
16 AND MARIO SHIVERS, EACH DEFENDANT CHARGED WITH ONE
17 COUNT OF MURDER, ONE COUNT OF BURGLARY IN THE FIRST
18 DEGREE, AND ONE COUNT OF ARMED ROBBERY. THANK YOU,
19 YOUR HONOR.

20 THE COURT: ALRIGHT, THANK YOU, MR. PASCOE.

21 LADIES AND GENTLEMEN OF THE JURY, WHAT WE'RE
22 GOING TO DO NOW IS, I'VE GOT TO STILL GO THROUGH A
23 LIST OF QUESTIONS TO FIND OUT IF YOU ARE QUALIFIED TO
24 SERVE AS A JUROR ON THIS CASE. AND I'M GOING TO BE
25 INTRODUCING, OR HAVING SOME PEOPLE INTRODUCE

1 LOCATION, YES, SIR.

2 THE COURT: OKAY. WE'LL DO THAT. THE OTHER
3 THING IS, I DON'T HOW MANY WITNESSES WE WERE GOING TO
4 HAVE. I SEE FAMILY MEMBERS HERE AND THINGS LIKE THAT.
5 I JUST WANT TO REMIND Y'ALL THAT DURING THE TESTIMONY
6 THERE'S NOT TO BE ANY COMMENT ABOUT THE TESTIMONY.
7 Y'ALL DON'T NEED TO, YOU KNOW, MAKE ANY KIND OF
8 GESTURES OR ANYTHING LIKE THAT. WE'RE JUST -- Y'ALL
9 WILL JUST HAVE TO SIT QUIETLY AND LISTEN. OKAY? I
10 KNOW Y'ALL WILL, BUT I JUST NEED TO REMIND EVERYBODY..
11 OKAY? THANK YOU.

12 MS. ULLMAN: YOUR HONOR, COULD WE MAKE SURE THAT
13 ALL OF THE WITNESSES ARE OUT OF THE COURTROOM OTHER
14 THAN THE ONE BY STATUTE ARE ALLOWED?

15 THE COURT: OKAY. Y'ALL DON'T HAVE ANY WITNESSES
16 IN HERE, DO YOU?

17 SOLICITOR PASCOE: THE ONLY WITNESSES THAT WILL
18 BE IN HERE IS LIEUTENANT SHUMPERT AND ALSO OUR
19 INVESTIGATORS. I MEAN, KENNY KINSEY AND WALTER TURNER
20 MAY BE - - -

21 THE COURT: OKAY. IN AND OUT? OKAY. BUT NO
22 INDEPENDENT FACT WITNESSES?

23 SOLICITOR PASCOE: NO OTHER LAY WITNESSES, OR ANY.
24 OTHER WITNESSES AT ALL.

25 THE COURT: OKAY. AND Y'ALL DON'T HAVE ANY

1 WITNESSES IN HERE?

2 MS. ULLMAN: NO, SIR.

3 THE COURT: ALRIGHT, BRING THEM ON IN.

4 (Whereupon, the jury enters
5 the courtroom and the following
6 takes place in the presence
7 of the jury.)

8 THE COURT: GOOD MORNING, LADIES AND GENTLEMEN, I
9 APPRECIATE Y'ALL ALL SHOWING BACK UP. THANK YOU.

10 Y'ALL WERE CALLED YESTERDAY. WHEN I GOT READY TO
11 LET Y'ALL GO I TOLD YOU NOT TO DO, YOU KNOW, NOT TO
12 SEE -- IF YOU SAW ANYTHING ON T.V., DON'T READ
13 ANYTHING, DON'T DO ANY INVESTIGATION, DON'T LOOK ON
14 LINE OR ANYTHING LIKE THAT, DON'T READ THE PAPERS,
15 DON'T TALK ABOUT THE CASE OR ANYTHING LIKE THAT. I
16 WANT TO MAKE SURE FROM EACH ONE OF YOU THAT NO ONE
17 READ THE TIMES & DEMOCRAT THIS MORNING. DID ANYBODY
18 READ THE TIMES & DEMOCRAT THIS MORNING?

19 (Negative response.)

20 THE COURT: OKAY, GOOD. I NEED FOR Y'ALL NOT TO
21 READ THE TIMES & DEMOCRAT THIS WEEK. I KNOW THAT'S
22 GOING TO HURT THEIR CIRCULATION BUT YOU CAN'T -- YOU
23 CAN READ THE SPORT SECTION, YOU KNOW, BUT JUST DON'T
24 READ THE FRONT PAGE. BUT NOBODY READ THE PAPER TODAY?

25 (Negative response.)

1 ANY EXCEPTIONS TO WHAT I SAID BY THE STATE?

2 SOLICITOR SORENSON: NO, SIR.

3 THE COURT: OKAY, ANY EXCEPTIONS FROM THE
4 DEFENDANTS?

5 MR. LACKEY: NONE FROM ME, YOUR HONOR.

6 MS. ULLMAN: NO, SIR.

7 MR. PALMER: NO, YOUR HONOR.

8 MR. MELLARD: NO, SIR.

9 MR. KOGER: NO, SIR.

10 THE COURT: ALRIGHT. THANK Y'ALL. OKAY, WE'RE
11 NOW GETTING READY TO BEGIN THE TRIAL, AND WHO'S GOING
12 TO DO THE OPENING? MR. SORENSON? ALRIGHT, MR.
13 SORENSON, THANK YOU, SIR.

14 SOLICITOR SORENSON: MAY IT PLEASE THE COURT?

15 THE COURT: YES, SIR.

16 OPENING STATEMENT BY SOLICITOR SORENSON

17 GOOD MORNING, LADIES AND GENTLEMEN. THIRTY-EIGHT
18 YEAR OLD CHARLES PRINGLE SOLD MARIJUANA OUT OF HIS
19 APARTMENT. BACK ON THE NIGHT OF MARCH TWELFTH, TWO
20 THOUSAND TEN, MR. PRINGLE PAID THE ULTIMATE PRICE
21 BECAUSE OF THAT. THAT NIGHT, A LITTLE BEFORE TEN
22 O'CLOCK IN THE EVENING SIX MEN CAME INTO HIS APARTMENT
23 ARMED WITH FOUR GUNS, A NINE MILLIMETER PISTOL, A
24 FORTY CALIBER HAND GUN, AND TWO RIFLES. THEY CAME IN
25 THERE WITH THE INTENTION TO ROB HIM. THEY RANSACKED

1 HIS LIVING ROOM, STARTED TO WRAP HIS FACE UP WITH DUCT
2 TAPE, FORCED HIM ON THE GROUND, HE WAS ULTIMATELY
3 SHOT, LADIES AND GENTLEMEN, BY THOSE FOUR GUNS, NOT
4 ONE TIME, NOT TWO TIMES, NOT THREE TIMES, THE STATE
5 WILL PROVE HE WAS SHOT TWENTY-FOUR TIMES ON HIS LIVING
6 ROOM FLOOR AND LEFT TO DIE.

7 LADIES AND GENTLEMEN, THERE WERE SIX MEN, AND
8 FIVE OF THEM ARE HERE IN COURT TODAY. THE NAMES ARE
9 CHRISTIAN COLEMAN, RALPH COLEMAN, WALTER HARRIS, DANNY
10 RYANT, AND MARIO SHIVERS. THE SIXTH I'M GOING TO TALK
11 ABOUT IN A FEW MINUTES, HIS NAME IS A SIXTEEN YEAR OLD
12 NAMED Minor AND I'M GOING TO TALK TO YOU
13 ABOUT HIM IN A COUPLE OF MINUTES. AND AS HIS HONOR
14 TOLD YOU, AS A RESULT OF THEIR ACTIONS THAT NIGHT AND
15 MR. PRINGLE'S DEATH, THE FIVE OF THEM HAVE BEEN
16 CHARGED, HAVE BEEN INDICTED BY THE ORANGEBURG COUNTY
17 GRAND JURY WITH THREE SEPARATE OFFENSES, ONE COUNT OF
18 MURDER, ONE COUNT OF BURGLARY IN THE FIRST DEGREE, AND
19 ONE COUNT OF ARMED ROBBERY. AND I WANT TO TAKE JUST A
20 COUPLE OF MINUTES AND TALK TO YOU JUST REAL BRIEFLY
21 ABOUT WHAT THOSE THREE CHARGES MEAN, WHAT THE ELEMENTS
22 ARE THAT WE HAVE TO PROVE TO YOU BEFORE YOU CAN FIND
23 THOSE DEFENDANTS OVER THERE GUILTY.

24 THE FIRST ONE I'M GOING TO START WITH IS MURDER.
25 MURDER, WHILE IT'S THE MOST SERIOUS CRIME WE HAVE ON

1 OUR LAW BOOKS, I SUBMIT TO YOU, IT PROBABLY HAS THE
2 SHORTEST AND SIMPLEST DEFINITION. MURDER, LADIES AND
3 GENTLEMEN, IS VERY SIMPLY THE UNLAWFUL KILLING OF
4 ANOTHER PERSON WITH MALICE AFORETHOUGHT. IT'S THE
5 UNLAWFUL KILLING OF ANOTHER PERSON WITH MALICE
6 AFORETHOUGHT. AND I SUBMIT TO YOU, IT DOESN'T GET
7 MORE MALICIOUS THAN WHAT YOU'RE GOING TO HEAR FROM
8 THIS WITNESS STAND AND IN THIS COURTROOM OVER THE NEXT
9 COUPLE OF DAYS. SIX MEN GOING INTO ANOTHER PERSON'S
10 HOME, TYING HIM UP, WRAPPING HIS FACE UP WITH DUCT
11 TAPE AND ULTIMATELY SHOOTING HIM TWENTY-FOUR TIMES
12 WHILE RANSACKING HIS HOUSE, IT'S HARD TO IMAGINE HOW
13 YOU COULD GET MUCH MORE MALICIOUS THAN THAT. THAT'S
14 MURDER.

15 THE SECOND ONE IS BURGLARY IN THE FIRST DEGREE.
16 AND BURGLARY, LADIES AND GENTLEMEN, IS THE UNLAWFUL
17 ENTRY INTO ANOTHER PERSON'S HOME WITHOUT THEIR
18 CONSENT, WITH THE INTENT TO COMMIT A CRIME. IT'S THE
19 UNLAWFUL ENTRY INTO ANOTHER PERSON'S HOME, WITHOUT
20 THEIR CONSENT, WITH THE INTENT TO COMMIT A CRIME. I
21 SUBMIT TO YOU, THE INTENT TO COMMIT A CRIME HERE IS,
22 THEY WERE GOING IN THERE TO ROB MR. PRINGLE. OKAY?
23 AND ONE THING I WANT TO TALK ABOUT, TWO MORE ISSUES OF
24 BURGLARY. YOU'LL NOTICE THERE'S NOWHERE IN THERE DID
25 I SAY YOU HAD BREAK INTO SOMEBODY'S HOME. YOU DON'T.

1 HAVE TO CLIMB IN THROUGH A WINDOW, YOU DON'T HAVE TO
2 KICK IN THE FRONT DOOR. IT'S THE UNLAWFUL ENTRY INTO
3 ANOTHER PERSON'S HOME WITHOUT THEIR CONSENT. AND I
4 SUBMIT TO YOU, THAT PART, WITHOUT CONSENT, IF YOU
5 MISREPRESENT WHY YOU'RE GOING IN THE HOME, USE
6 TRICKERY OR DECEIT TO GET INTO THE HOME, THAT WOULD
7 QUALIFY AS BEING WITHOUT THE PERSON'S CONSENT.

8 AND LASTLY, THE LAST CHARGE THAT THE THREE OF
9 THEM, OR THE FIVE OF THEM ARE CHARGED WITH IS ARMED
10 ROBBERY. ARMED ROBBERY IS VERY SIMPLY STEALING FROM
11 SOMEBODY WHILE ARMED WITH A WEAPON. OKAY? IT'S
12 TAKING SOMEBODY ELSE'S PROPERTY THROUGH FORCE OR
13 INTIMIDATION WITH THE INTENT TO DEPRIVE IT OF THAT
14 PERSON WHILE ARMED WITH A DEADLY WEAPON.

15 THOSE ARE THE THREE CHARGES THAT THE FIVE OF
16 THEM, AND ALSO THE SIX OF THEM AS I INDICATED, AND I'M
17 GOING TO TALK TO YOU ABOUT THE SIXTEEN YEAR OLD

18 Minor THE SIX OF THEM ARE CHARGED WITH AS A
19 RESULT OF THEIR ACTIONS BACK ON THE NIGHT OF MARCH THE
20 TWELFTH OF THIS YEAR.

21 NOW, ONE OTHER THING, KIND OF A LEGAL CONCEPT I
22 WANT TO BRIEFLY ADDRESS WITH YOU, YOU MAY HAVE
23 NOTICED, I TALKED TO YOU, THERE ARE SIX PEOPLE THAT
24 GOT CHARGED, THERE ARE FOUR WEAPONS THAT WERE USED,
25 FOUR WEAPONS THAT WERE USED. I WANT TO TALK TO YOU

1 ABOUT SOMETHING CALLED ACCOMPLICE LIABILITY. VERY
2 SIMPLY, LADIES AND GENTLEMEN, WHAT THAT MEANS IS WHEN
3 TWO OR MORE PEOPLE GET TOGETHER WITH THE INTENTION OF
4 GOING TO COMMIT AN UNLAWFUL, IN THIS CASE, WHEN SIX
5 PEOPLE GOT TOGETHER TO GO OVER THERE AND GO INTO MR.
6 PRINGLE'S APARTMENT TO ROB HIM AND TAKE ITEMS FROM
7 HIM. SO, THE SIX OF THEM CONSPIRED TOGETHER TO COMMIT
8 AN UNLAWFUL ACT. IF SOMEBODY THEN, IN TURN, IN THIS
9 CASE ENDED UP SHOOTING AND KILLING HIM, I SUBMIT TO
10 YOU, THEY'RE ALL JUST AS GUILTY. I SUBMIT TO YOU,
11 WHEN THE SIX OF THEM WENT IN THERE, IF MR. PRINGLE HAD
12 BEEN SHOT ONE TIME AND DIED AS A RESULT OF THAT, ALL
13 SIX OF THEM UNDER OUR LAW WOULD BE JUST AS GUILTY. IN
14 THIS CASE WE'RE GOING TO PROVE TO YOU THAT FOUR OF
15 THOSE WEAPONS WERE FIRED A TOTAL OF TWENTY-FOUR TIMES
16 STRIKING MR. PRINGLE. FOUR DIFFERENT PEOPLE AND, I
17 SUBMIT TO YOU, THE OTHER TWO WERE JUST AS GUILTY UNDER
18 OUR LAW. BASICALLY, YOU'VE PROBABLY HEARD THE PHRASE
19 BEFORE, THE HAND OF ONE IS THE ALL, AND THAT'S
20 BASICALLY WHAT IT MEANS, WHEN TWO OR MORE PEOPLE GET
21 TOGETHER, CONSPIRE TO COMMIT AN UNLAWFUL ACT, THE ACT
22 OF ONE IS THE ACT OF ALL.

23 I WANT TO ADDRESS TO YOU JUST REAL BRIEFLY THE
24 FACTS AND THEN I'M GOING TO SIT DOWN AND LET THE
25 DEFENSE LAWYERS, IF THEY WISH, HAVE AN OPPORTUNITY TO

1 COME BEFORE YOU, AND THEN WE'LL GET INTO ACTUALLY
2 PUTTING WITNESSES UP SO YOU CAN HEAR FROM THEM.
3 LADIES AND GENTLEMEN, AS INDICATED, YOU'LL HEAR THAT
4 BACK ON THE EVENING OF MARCH THE TWELFTH OF THIS YEAR,
5 SHORTLY BEFORE TEN O'CLOCK, NINE:FORTY, NINE:FORTY-
6 FIVE, SOMEWHERE IN THAT RANGE, THAT SIX PEOPLE
7 ULTIMATELY WENT INTO MR. PRINGLE'S HOME, HIS APARTMENT
8 OVER ON HERE IN ORANGEBURG COUNTY. THEY
9 HAD GONE IN THERE INITIALLY, GOT THE DOOR OPEN TO GO
10 IN THERE UNDER THE PRETEXT THAT THEY WERE GOING TO GO
11 BUY MARIJUANA, AND THEN ENDED UP RUSHING IN THERE WITH
12 THE WEAPONS, PULLING THEM ON MR. PRINGLE, AND ALSO A
13 YOUNG LADY YOU'RE GOING TO HEAR FROM BY THE NAME OF
14 ASHLEY PARSLEY. YOU'LL HEAR HOW ASHLEY WAS FORCED
15 FACE DOWN ON THE APARTMENT FLOOR IN THE LIVING ROOM
16 WHILE SHE HEARD MULTIPLE PEOPLE IN THERE RANSACKING,
17 TEARING UP THE CUSHIONS ON THE SOFA AND THE LOVE SEAT,
18 TEARING APART THE FURNITURE LOOKING FOR MARIJUANA AND
19 MONEY INSIDE THAT APARTMENT. YOU'RE GOING TO HEAR HOW
20 SHE HEARD THE DUCT TAPE BEING PULLED, AND ULTIMATELY
21 HOW SHE HEARD A BARRAGE OF GUN FIRE, AND THEN HEARD
22 THEM ALL RUNNING OUT OF THE APARTMENT. SHE CALLED
23 NINE ONE ONE, LAW ENFORCEMENT GOT OUT THERE. YOU'RE
24 GOING TO HEAR HOW OVER THE NEXT SEVERAL DAYS AS THE
25 INVESTIGATION PROGRESSED IT ULTIMATELY LED TO THESE

1 SIX INDIVIDUALS BEING CHARGED. THE FIVE OF THEM OVER
2 THERE, TWENTY TO TWENTY-TWO YEAR OLDS SITTING OVER
3 THERE, AND A SIXTEEN YEAR OLD BY THE NAME OF Minor
4

5 YOU'RE GOING TO HEAR FROM MR. Minor HE'S GOING
6 TO COME IN HERE AND TESTIFY ABOUT THE PLANNING OF THE
7 ROBBERY, WHO WAS INVOLVED IN THAT, HOW EACH OF THE SIX
8 OF THEM GOT INVOLVED IN IT, AND ULTIMATELY, HOW IT
9 WENT DOWN THAT NIGHT, AND THEN WHAT THEY DID
10 AFTERWARDS. AND I SUBMIT TO YOU, YOU'RE ALSO GOING TO
11 HEAR FROM OTHER WITNESSES THAT ARE GOING TO
12 CORROBORATE WHAT MR. Minor TELLS YOU HAPPENED, BOTH
13 BEFORE AND AFTERWARDS.

14 YOU'RE ALSO GOING TO HEAR FROM A YOUNG MAN BY THE
15 NAME OF RONNIE WASHINGTON. HE'S GOING TO ALSO IDENTIFY
16 THE FIVE OF THEM AS BEING THE INDIVIDUALS THAT HE
17 PICKED UP THAT NIGHT ALONG WITH MR. Minor AND
18 ULTIMATELY TOOK THEM OVER TO THAT APARTMENT FOR THE
19 PURPOSE OF GOING TO, HE THOUGHT TO GO BUY SOME
20 MARIJUANA, AND HOW WHEN THEY CAME RUNNING HE'LL TELL
21 YOU WHERE HE ENDED UP TAKING THEM AND DROPPING THEM
22 OFF THAT NIGHT.

23 I SUBMIT TO YOU, THAT'S JUST IN A VERY KIND OF
24 BRIEF NUT SHELL WHAT YOU'RE GOING TO HEAR, LADIES AND
25 GENTLEMEN.

1 THE LAST THING I WANT TO CLOSE WITH BEFORE I SIT
2 DOWN IS, I WANT TO THANK YOU, THANK YOU AHEAD OF TIME
3 FOR THE ATTENTION THAT I KNOW YOU'RE GOING TO GIVE TO
4 THIS MATTER. I KNOW THERE ARE PROBABLY A THOUSAND
5 OTHER THINGS THAT Y'ALL WOULD WANT TO BE DOING THIS
6 TIME OF YEAR. BUT NOT ONLY ON BEHALF OF THOSE FIVE
7 DEFENDANTS OVER THERE, BUT MORE SPECIFICALLY, ON
8 BEHALF OF THE FAMILY OF CHARLES PRINGLE, I WANT TO
9 THANK YOU FOR YOUR TIME AND YOUR ATTENTION THAT I KNOW
10 YOU'RE GOING TO GIVE TO THIS VERY SERIOUS AND
11 IMPORTANT MATTER.

12 THE ONLY THING I WANT TO CLOSE WITH NOW IS, ONE
13 THING I ASK OF YOU IS FOR Y'ALL TO PLEASE KEEP AN OPEN
14 MIND. OKAY? IT'S KIND OF LIKE PUTTING TOGETHER A JIG
15 SAW PUZZLE. YOU KNOW, EACH WITNESS YOU HEAR FROM THIS
16 WITNESS STAND, EACH PIECE OF EVIDENCE THAT'S
17 INTRODUCED TO YOU IS ONE PIECE OF THAT PUZZLE, ONE
18 PIECE OF THAT PUZZLE. AND WE ASK YOU, LADIES AND
19 GENTLEMEN, AS I SAID, KEEP THAT OPEN MIND AND GIVE THE
20 SOLICITOR A CHANCE AT THE CLOSE OF THE CASE TO PUT
21 THAT PICTURE TOGETHER, TO PUT THAT PICTURE TOGETHER.
22 I SUBMIT TO YOU, WHEN THAT'S DONE, LADIES AND
23 GENTLEMEN, NOT ONLY IS THERE GOING TO BE NO REASONABLE
24 DOUBT, I SUBMIT TO YOU, THERE'S GOING TO BE NO DOUBT
25 WHATSOEVER OF THE GUILT OF CHRISTIAN COLEMAN, RALPH

1 COLEMAN, WALTER HARRIS, DANNY RYANT AND MARIO SHIVERS,
2 THEIR GUILT AND THEIR INVOLVEMENT IN THE MURDER, THE
3 BURGLARY AND THE ARMED ROBBERY OF CHARLES PRINGLE BACK
4 ON MARCH THE TWELFTH. THANK YOU.

5 THE COURT: THANK YOU, MR. SORENSON.

6 MR. LACKEY.

7 OPENING STATEMENT BY MR. LACKEY

8 LADIES AND GENTLEMEN OF THE JURY, I'M GOING TO BE
9 VERY BRIEF WITH YOU HERE TODAY. I KNOW YOU'VE GOT A
10 LOT OF ATTORNEYS TO LISTEN TO, BUT WHAT THE JUDGE
11 SAID, I JUST WANT TO REITERATE TO YOU. WHAT MR.
12 SORENSON TOLD YOU, WHAT MR. PASCOE MAY SAY DURING THIS
13 TRIAL, NONE OF THAT IS EVIDENCE. THE EVIDENCE WILL
14 COME IN THROUGH WITNESSES ON THIS STAND AND THROUGH
15 ITEMS PRESENTED THROUGH THOSE WITNESSES. SO,
16 EVERYTHING I'M SAYING RIGHT NOW, EVERYTHING HE JUST
17 SAID IS NOT EVIDENCE AT ALL, THAT'S JUST TELLING YOU
18 ABOUT THE CASE.

19 NOW, MY CLIENT IS CHRISTIAN COLEMAN. WHAT DOES
20 CHRISTIAN COLEMAN HAVE TO PROVE? NOTHING, ABSOLUTELY
21 NOTHING. SOME LAWYERS SAY SOMEONE WHO'S CHARGED WITH
22 SOMETHING IS SHROUDED IN A CLOAK OF INNOCENCE.
23 BASICALLY YOU'VE HEARD THE SAYING OF INNOCENT UNTIL
24 PROVEN GUILTY. WELL, THERE'S NO TRUER TEST OF THAT
25 THAN IN THIS COURTROOM HERE TODAY. THE BURDEN IS ON

1 MR. WISE: MAY IT PLEASE THE COURT.

2 THE COURT: YES, SIR, MR. WISE.

3 MR. WISE: MR. SORENSON, MR. PASCOE.

4 OPENING STATEMENT BY MR. WISE

5 GOOD MORNING. MS. ULLMAN AND I REPRESENT RALPH
6 COLEMAN, AND I'D LIKE YOU NOT TO TAKE ANY IMPLICATION
7 FROM THE FACT THAT HE HAS TWO ATTORNEYS. AS THE JUDGE
8 HAS INSTRUCTED YOU, WE ARE BOTH WITH THE PUBLIC
9 DEFENDER'S OFFICE, AND THIS IS SIMPLY HOW WE TRY CASES
10 SOMETIMES.

11 I'D LIKE TO, BECAUSE I THINK IT'S IMPORTANT, TALK
12 ABOUT SOME OF THE THINGS THAT MR. SORENSON SAID IN HIS
13 OPENING, BECAUSE I THINK HE'S DONE AN EXCELLENT JOB OF
14 FRAMING THE ISSUES IN THIS CASE FOR YOU. HE STARTED
15 BY SAYING YOU HAVE SIX MEN AND FOUR GUNS. THE JUDGE
16 HAS INSTRUCTED YOU THAT YOU, THAT THERE ARE THREE
17 CHARGES THAT YOU NEED TO CONSIDER SEPARATELY. HE ALSO
18 INDICATED IN HIS OPENING THAT IT WAS THE INTENT OF
19 THESE YOUNG MEN TO ROB MR. PRINGLE. WHEN YOU CONSIDER
20 THIS EVIDENCE AT THE END THAT'S ONE OF THE THINGS I
21 WANT YOU TO FOCUS ON. IS IT AS HE SAID IT WILL BE,
22 THAT IT WAS THEIR INTENT TO ROB MR. PRINGLE? MR.
23 SORENSON TALKED ABOUT ACCOMPLICE LIABILITY AND THEN HE
24 USED THIS EXPRESSION, THEY CONSPIRED TOGETHER. HE
25 WENT ON TO TALK ABOUT, IF SOMEONE SHOOTS AND KILLS,

1 AND THEN HE TALKED ABOUT THE HAND OF ONE BEING THE
2 HAND OF ALL. THIS IS IMPORTANT, BECAUSE AS THE JUDGE
3 INDICATED A LITTLE WHILE AGO, YOU ARE THE JUDGES OF
4 THE LAW. SO, THE JUDGE IS GOING TO TELL YOU HOW TO,
5 THE LAW TO APPLY TO THE EVIDENCE THAT COMES BEFORE
6 YOU. HE THEN SAID A COUPLE OF THINGS THAT I THOUGHT
7 WERE INTERESTING, HE SAID THAT THE GROUP WENT IN
8 INITIALLY, AND HE USED THE WORD, PRETEXT TO BUY
9 MARIJUANA. THAT WILL BE IMPORTANT AS IT RELATES TO
10 MR. COLEMAN. AND HE A LITTLE WHILE LATER SPOKE ABOUT
11 RONNIE WASHINGTON. AND THE INTERESTING THING ABOUT
12 THAT WAS, WHEN HE SPOKE ABOUT RONNIE WASHINGTON HE DID
13 NOT USE THE WORD, PRETEXT. THERE'S A REASON FOR THAT.
14 THERE'S A REASON BECAUSE DIFFERENT PEOPLE KNEW,
15 THOUGHT, UNDERSTOOD DIFFERENT THINGS ABOUT WHAT WAS
16 GOING ON THIS DAY.

17 THIS IS A VERY DIFFICULT CASE. THERE ARE FIVE
18 PEOPLE SITTING AT THAT TABLE. WE KNOW THERE SHOULD AT
19 LEAST BE ONE OTHER PERSON SITTING AT THAT TABLE
20 BECAUSE MR. SORENSON MENTIONED THAT. AND I SUBMIT
21 THERE SHOULD BE EVEN MORE BEYOND THAT. MR. SORENSON
22 SAID THERE WERE FOUR GUNS, THERE'S THREE CHARGES AND
23 IT'S YOUR JOB TO SORT IT ALL OUT. YOUR JOB IS MADE
24 MORE DIFFICULT BY THE FACT THAT THE WITNESSES WHO WILL
25 BE CALLED, I SUBMIT TO YOU, ARE NOT GOING TO CLARIFY

1 SOME OF THIS FOR YOU. THEY WILL BE, I SUBMIT,
2 WITNESSES CALLED WHO WILL TESTIFY TO SEEING THINGS
3 THAT THEY DID NOT SEE. THERE WILL BE ONE WITNESS
4 CALLED, MR. Minor WHO WAS CALLED AND WHO WILL TESTIFY
5 OUT OF HIS DESIRE TO SAVE HIS SKIN. AND YOUR ARE LEFT
6 WITH THE JOB OF DETERMINE WHO WAS INVOLVED AND WHAT
7 WAS THEIR INVOLVEMENT. AND YOU HAVE TO DECIDE, AS MR.
8 LACKEY SAID, EACH CHARGE AS TO EACH PERSON. THERE IS
9 AN OLDER EXPRESSION THAT THEN ONE MR. LACKEY USED THAT
10 IS, IN FOR A PENNY, IN FOR A POUND, BUT THAT IS NOT
11 HOW YOU HAVE TO DECIDE THIS CASE. AND THAT'S
12 IMPORTANT BECAUSE WHEN MR. SORENSON STARTED TO TALK
13 ABOUT CONSPIRING TOGETHER, AND I SUBMIT TO YOU THAT
14 WHAT THE STATE WANTS TO DO IS KIND OF CREATE AND AIR
15 OF CRIMINALITY AROUND THESE GUYS, A GROUP OF BAD GUYS,
16 BIRDS OF A FEATHER, IF YOU WILL. BUT THE GOOD THING
17 IS, YOU WON'T DO THAT BECAUSE YOU'VE TAKEN AN OATH AND
18 YOU SAID YOU WOULDN'T DO THAT.

19 THE STATE HAS TO PROVE THAT RALPH SET OUT TO
20 MURDER CHARLES PRINGLE. THE EVIDENCE WILL NOT SO
21 SHOW. AS THE JUDGE SAYS, HOW WILL YOU DETERMINE? YOU
22 WILL LISTEN TO THE EVIDENCE, FOCUS ON THE FACTS, AND
23 AS THE JUDGE INDICATED, EVALUATE THE WITNESSES AND
24 THEIR INTERESTS, BIAS, PREJUDICES, AND THE WAY THE
25 WITNESS ACTS ON THE STAND.

1 IT'S A DIFFICULT CASE, THIS IS SERIOUS CHARGES. I
2 ANTICIPATE A LOT OF PASSION IN THIS CASE. VOICES MAY
3 BE RAISED, FINGERS POINTED, TABLES POUNDED ON, I MAY
4 EVEN DO SOME OF THAT. BUT IF THAT HAPPENS AND WE GET A
5 LITTLE SNIPPY, DON'T, THAT SHOULDN'T BE CONSIDERED BY
6 YOU. FOCUS ON THE FACTS, FOCUS ON THE FACTS, IT'S NOT
7 A PROBLEM, WE DO THAT SOMETIMES.

8 ALL MS. ULLMAN AND I ASK IS THAT AFTER ALL THESE
9 ARGUMENTS ARE DONE, YOU GO INTO YOUR DELIBERATION
10 ROOM, SIT DOWN, TAKE A BREATH, HAVE A COKE, AND THEN
11 BEGIN TO SORT OUT THE EVIDENCE, ONE PERSON AT A TIME,
12 ONE CHARGE AT A TIME. AND THEN WHEN YOU GET TO RALPH
13 YOU FOCUS ON THIS, WAS THERE ANY CREDIBLE EVIDENCE
14 THAT HE WAS THERE? START WITH THAT. AND THEN IF YOU
15 FIND THAT THERE WAS CREDIBLE EVIDENCE THAT HE WAS
16 THERE, IS THERE CREDIBLE EVIDENCE THAT HE DID,
17 PARTICIPATED IN ANYTHING? AND IF YOU DO THAT CALMLY,
18 FREE OF PASSION, WE SUBMIT THAT YOU WILL FIND THAT THE
19 APPROPRIATE VERDICT AS TO RALPH IS NOT GUILTY.

20 THANK YOU.

21 THE COURT: THANK YOU, MR. WISE.

22 MR. PALMER.

23 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
24 THE COURT.

25 THE COURT: YES, SIR.

1 MR. PALMER: LET ME GET OUT OF MY HOLE HERE.

2 THE COURT: THAT'S GOOD EXERCISE.

3 OPENING STATEMENT BY MR. PALMER

4 LADIES AND GENTLEMEN, THE DEVIL MAY BE IN THE
5 DETAILS BUT WE NEED TO TALK ABOUT BASICS FIRST. AND
6 THE BASICS THAT APPLY TO THIS CASE ARE CONTAINED IN
7 THE U. S. AND THE SOUTH CAROLINA CONSTITUTION, AND THE
8 BEST WAY TO ILLUSTRATE WHAT I'M TALKING ABOUT IS TO
9 TELL YOU A PERSONAL STORY. I'VE BEEN IN PRACTICE
10 TWENTY-TWO YEARS, AND FROM TIME TO TIME I HAVE LAW
11 CLERKS AND INTERNS COME IN AND WORK IN MY OFFICE.
12 THEY USUALLY WORK FOR FREE BECAUSE THEY HAVE TO GET
13 CREDITS FOR SCHOOL. A FEW YEARS AGO I HAD AN INTERN
14 THAT WAS AT A LOCAL TECHNICAL SCHOOL STUDYING
15 PARALEGAL STUDIES, CRIMINAL JUSTICE, THAT SORT OF
16 THING. AND I WAS WORKING A LITTLE LATE ONE DAY, AND
17 SHE CAME IN AND SAID, I HAVE TO ASK YOU SOME QUESTIONS
18 TO FULFILL MY SCHOOL REQUIREMENTS. I SAID, SHOOT, FIRE
19 AWAY. AND SHE ASKED ME A FEW QUESTIONS ABOUT WHAT'S
20 IT LIKE TO PRACTICE LAW AND WHAT DO YOU HAVE TO DO TO
21 GET QUALIFIED, AND WHAT'S THE SCHOOLING LIKE, AND I
22 TOLD HER THE ROUTINE ANSWERS, AND THEN SHE HIT ME WITH
23 ONE THAT JUST BLIND SIDED ME. SHE SAID, I KNOW YOU DO
24 CRIMINAL DEFENSE. I'VE ALWAYS WONDERED HOW LAWYERS
25 LIKE YOU CAN REPRESENT GUILTY PEOPLE? IT TOOK ME

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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DIRECT EXAMINATION OF ASHLEY R. PARSLEY

BY SOLICITOR SORENSON:

Q. ALRIGHT, NOW, ASHLEY, I KNOW YOU'RE FAIRLY SOFT
SPOKEN SO I NEED YOU TO MAKE SURE YOU KEEP YOUR
VOICE UP NICE AND LOUD SO ALL THESE LAWYERS ALONG
HERE CAN HEAR YOU BUT ALSO SO THE JURY CAN HEAR
YOU. OKAY?

A. YES, SIR.

Q. ALRIGHT, NOW, IF YOU WOULD, ASHLEY, TELL THE
JURY, HOW OLD ARE YOU CURRENTLY?

A. TWENTY-FOUR YEARS OLD.

Q. OKAY. AND BACK IN MARCH OF THIS YEAR HOW OLD
WERE YOU IN MARCH OF THIS YEAR?

A. TWENTY-THREE YEARS OLD.

Q. AND BACK IN MARCH OF THIS YEAR WHERE,
SPECIFICALLY, FRIDAY, MARCH THE TWELFTH OF THIS
YEAR, WHERE WERE YOU LIVING AT AT THAT TIME,
ASHLEY?

A. AT AN APARTMENT ON

Q. OKAY. AND THAT'S HERE IN ORANGEBURG?

A. YES, SIR.

Q. AND WHO WERE YOU STAYING WITH IN THAT APARTMENT
ON.

A. CHARLES PRINGLE.

Q. OKAY. AND DID YOU KNOW CHARLES BY ANY PARTICULAR

1 NICK NAME?

2 A. YES, SIR.

3 Q. WHAT WAS THAT?

4 A. OLD SCHOOL.

5 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER SIX, IS
6 THAT A, DOES THAT PICTURE SHOW THE APARTMENT THAT
7 YOU WERE STAYING IN?

8 A. YES, SIR.

9 Q. AND IF YOU WILL KIND OF POINT THAT OUT FOR THE
10 JURY. OKAY, SO AS YOU'RE FACING THAT BUILDING,
11 WAS IT THE APARTMENT ALL THE WAY ON THE END?

12 A. YES, SIR.

13 Q. AND BACK IN MARCH OF TWO THOUSAND TEN, WAS THERE
14 ANYBODY ELSE STAYING THERE BESIDES YOU AND MR.
15 PRINGLE?

16 A. NO, SIR.

17 Q. OKAY. AND HOW LONG, HOW LONG -- ON FRIDAY, MARCH
18 THE TWELFTH, HOW LONG HAD YOU BEEN STAYING WITH
19 MR. PRINGLE BEFORE THAT?

20 A. FOR ABOUT A WEEK.

21 Q. OKAY. AND HOW LONG HAD YOU KNOWN MR. PRINGLE?

22 A. FOR ABOUT A WEEK.

23 Q. AND WHERE, TELL THE JURY WHERE AND HOW YOU HAD
24 MET MR. PRINGLE?

25 A. I MET HIM AT LAY LOW'S IN SUMMEVILLE.

1 COURT REPORTER: WHERE?

2 Q. WHERE?

3 A. SUMMERVILLE.

4 COURT REPORTER: I MEAN, WHERE IN SUMMERVILLE?

5 Q. WHAT WAS THE NAME OF THE PLACE?

6 A. LAY LOW'S.

7 Q. LAY LOW'S. AND IS THAT A CLUB IN SUMMERVILLE?

8 A. YES, SIR.

9 Q. OKAY. AND AFTER THAT YOU ENDED UP MOVING AND
10 STAYING WITH MR. PRINGLE?

11 A. YES, SIR.

12 Q. OKAY. AND IF YOU WOULD, DESCRIBE THE APARTMENT
13 THERE ON WHERE YOU WERE STAYING WITH
14 HIM FOR THAT WEEK LEADING UP TO MARCH THE
15 TWELFTH?

16 A. IT WAS A SMALL APARTMENT WITH A DEN, A KITCHEN,
17 TWO BEDROOMS AND A BATHROOM.

18 Q. OKAY. AND WERE YOU STAYING IN THE SAME BEDROOM
19 AS MR. PRINGLE?

20 A. NO, SIR.

21 Q. OKAY. HE WAS IN ONE BEDROOM AND YOU WERE IN, I
22 GUESS, THE GUEST BEDROOM OR THE OTHER BEDROOM?

23 A. YES, SIR.

24 Q. OKAY. AND ASHLEY, I WANT TO TURN YOUR ATTENTION,
25 IF I COULD, BACK TO THAT FRIDAY EVENING, OKAY?

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 DO YOU RECALL WHAT YOU HAD BEEN DOING KIND OF
2 LATE THAT AFTERNOON, EARLY EVENING?

3 A. I WAS SITTING BY THE COFFEE TABLE.

4 Q. OKAY. HAD YOU GONE OUT ANYWHERE, YOU KNOW, THAT
5 EVENING OR THAT LATE AFTERNOON?

6 A. NO, SIR.

7 Q. NOW, WHAT ABOUT, WHAT ABOUT MR. PRINGLE, WAS HE
8 THERE?

9 A. YES, SIR.

10 Q. OKAY. AND WHAT WAS MR. PRINGLE DOING THAT
11 EVENING?

12 A. HE WAS SLEEPING IN HIS ROOM.

13 Q. OKAY. NOW, DID THERE COME A TIME WHEN SOMEBODY
14 CAME OVER TO HANG OUT OVER THERE AT THE
15 APARTMENT?

16 A. YES, SIR.

17 Q. OKAY. AND WHO WAS THAT THAT CAME OVER TO THE
18 APARTMENT THAT EVENING TO HANG OUT?

19 A. SHANNON.

20 Q. OKAY. AND WHO WAS SHANNON?

21 A. OLD SCHOOL'S HOME BOY.

22 Q. SO, HE WAS A FRIEND OF MR. PRINGLE'S?

23 A. YES, SIR.

24 Q. OKAY. AND DID SHANNON COME OVER AND HANG OUT AT
25 THE APARTMENT FREQUENTLY?

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1 A. YES, SIR.

2 Q. OKAY. AT LEAST FOR THE WEEK THAT YOU HAD BEEN
3 THERE?

4 A. YES, SIR.

5 Q. OKAY. AND DID YOU KNOW SHANNON PRIOR TO THAT
6 WEEK THAT YOU WERE STAYING WITH MR. PRINGLE?

7 A. NO, SIR.

8 Q. AND LET ME ASK YOU, DO YOU KNOW ABOUT WHAT TIME
9 IT WAS THAT SHANNON GOT OVER TO THE APARTMENT
10 THAT NIGHT?

11 A. I'D SAY AROUND NINISH.

12 Q. OKAY. AND YOU HAD INDICATED THAT MR. PRINGLE WAS
13 ASLEEP, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. OKAY. WHEN SHANNON CAME OVER WAS MR. PRINGLE
16 STILL IN THE BEDROOM ASLEEP?

17 A. YES, SIR.

18 Q. OKAY. AND WHAT THEN DID YOU AND SHANNON DO?

19 A. WE TALKED.

20 Q. OKAY. AND WHERE WAS IT THAT Y'ALL WERE TALKING?

21 A. WE WAS TALKING IN THE DEN.

22 Q. OKAY. AND YOU HAD INDICATED EARLIER, WHERE WERE
23 YOU SITTING IN THE DEN?

24 A. BESIDE THE WINDOW BY THE COFFEE TABLE.

25 Q. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER SEVEN,

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1 DO YOU RECOGNIZE THAT PHOTOGRAPH?

2 A. YES, SIR.

3 Q. OKAY. AND DOES THAT SHOW WHERE YOU WERE SITTING
4 IN THAT PHOTOGRAPH?

5 A. YES, SIR.

6 Q. POINT IF YOU WOULD, POINT THAT OUT FOR THE JURY?
7 OKAY, SO THAT LITTLE, I GUESS, KIND OF KITCHEN
8 TYPE CHAIR, KITCHEN TABLE CHAIR THAT'S SEATED
9 KIND OF NEAR THE WINDOW?

10 A. YES, SIR.

11 Q. THAT'S WHERE YOU WERE SITTING?

12 A. YES, SIR.

13 Q. OKAY. AND HOW ABOUT WHEN YOU WERE SITTING
14 TALKING TO SHANNON, WHERE WAS SHANNON SITTING, DO
15 YOU RECALL?

16 A. HE WAS SITTING IN THE LOVE SEAT.

17 Q. OKAY. IN THAT LOVE SEAT RIGHT THERE?

18 A. YES, SIR.

19 Q. OKAY. AND LET ME ASK YOU, YOU SEE THE CONDITION
20 OF THE LOVE SEAT IN THIS PICTURE, RIGHT?

21 A. YES, SIR.

22 Q. WAS IT IN THAT CONDITION WHEN SHANNON WAS SITTING
23 IN THERE TALKING TO YOU?

24 A. NO, SIR.

25 Q. IN WHAT CONDITION WAS IT IN?

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 A. IT WAS IN A VERY GOOD CONDITION.

2 Q. CUSHIONS IN IT?

3 A. YES, SIR.

4 Q. WERE THEY TORN UP AT ALL?

5 A. NO, SIR.

6 Q. NOW, DID THERE COME A TIME WHEN THE TWO OF Y'ALL
7 WERE SITTING THERE, A LITTLE AFTER NINE O'CLOCK
8 TALKING WHEN SOMEBODY ELSE CAME TO THE APARTMENT?

9 A. YES, SIR.

10 Q. OKAY. AND HOW, HOW DID THEY COME ABOUT COMING
11 IN?

12 A. THEY RUNG THE DOOR BELL.

13 Q. OKAY. AND DID SOMEBODY GET UP AND LET THEM IN?

14 A. YES, SIR.

15 Q. DO YOU REMEMBER, WAS THAT YOU OR SHANNON?

16 A. SHANNON.

17 Q. OKAY. AND IF YOU WOULD, DESCRIBE THAT PERSON
18 THAT CAME TO THE DOOR AND RUNG THE DOOR BELL AND
19 CAME IN WHEN SHANNON OPENED THE DOOR?

20 A. HE WAS LIGHT SKINNED, WITH TWISTIES IN HIS HAIR,
21 LIKE, MEDIUM HEIGHT.

22 COURT REPORTER: WHAT IN HIS HAIR?

23 A. TWISTIES.

24 Q. OKAY. SO, KIND OF LIKE TWISTS IN HIS HAIR IN
25 LITTLE TWISTS?

1 A. YES, SIR.

2 Q. LET ME ASK YOU, DID YOU KNOW THAT PERSON?

3 A. NO, SIR.

4 Q. EVER SEEN HIM BEFORE THAT NIGHT THAT YOU CAN
5 RECALL?

6 A. NO, SIR.

7 Q. OKAY. HOW ABOUT SHANNON, DID HE APPEAR TO KNOW
8 WHO THAT PERSON WAS?

9 A. YES, SIR.

10 Q. AND IF YOU WOULD, TELL THE JURY, WHAT DID THIS
11 PERSON WANT THAT CAME INTO THE APARTMENT THEN
12 THAT EVENING?

13 A. HE WANTED DROE.

14 Q. OKAY. LET ME ASK YOU THIS, BACK IN MARCH OF TWO
15 THOUSAND TEN, WHEN YOU WERE STAYING WITH MR.
16 PRINGLE AT THAT APARTMENT ON WAS
17 SOMEBODY SELLING MARIJUANA OUT OF THAT APARTMENT?

18 A. YES, SIR.

19 Q. OKAY. AND WHO WAS THAT THAT WAS SELLING
20 MARIJUANA?

21 A. OLD SCHOOL.

22 Q. MR. PRINGLE?

23 A. YES, SIR.

24 Q. OKAY. AND DURING THOSE DAYS THAT YOU WERE
25 STAYING THERE WERE YOU HELPING HIM SELL

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1 MARIJUANA?

2 A. YES, SIR.

3 Q. NOW, YOU'VE INDICATED THAT THE PERSON WAS ASKING
4 FOR DROE?

5 A. YES, SIR.

6 Q. DESCRIBE FOR THE JURY WHAT DROE IS?

7 A. IT'S A SPECIAL TYPE OF MARIJUANA.

8 Q. OKAY. AND WERE YOU ABLE TO HELP HIM AT THAT
9 POINT IN TIME?

10 A. NO, SIR.

11 Q. HOW ABOUT SHANNON, WAS HE ABLE TO HELP HIM AT
12 THAT POINT IN TIME?

13 A. NO, SIR.

14 Q. OKAY. AND SO, WHAT DID Y'ALL DO THEN?

15 A. I CALLED OLD SCHOOL.

16 Q. OKAY. AND DID HE GET UP AND COME OUT INTO THE
17 LIVING ROOM?

18 A. YES, SIR.

19 Q. OKAY. AND WHAT DID MR. PRINGLE DO WHEN HE GOT
20 OUT INTO THE LIVING ROOM?

21 A. HE ASKED THE DUDE FOR HIS ID.

22 Q. OKAY. DID HE APPEAR TO KNOW WHO THE PERSON WAS?

23 A. NO, SIR.

24 Q. OKAY. AND LET ME ASK YOU THIS, DID THE GUY GIVE
25 MR. PRINGLE HIS ID?

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1 A. YES, SIR.

2 Q. OKAY. WHAT HAPPENED THEN, AFTER HE LOOKED AT
3 THIS GUY'S ID?

4 A. HE ASKED HIM HAD HE EVER BEEN THERE BEFORE,
5 BECAUSE HE HAD NEVER SEEN HIM.

6 Q. OKAY. AND DID THE GUY RESPOND OR ...

7 A. YES, SIR.

8 Q. DO YOU RECALL WHAT HE TOLD MR. PRINGLE?

9 A. HE BEEN THERE WITH HIS HOME BOY.

10 Q. OKAY. LET ME ASK YOU, FROM WHAT YOU WERE ABLE TO
11 OBSERVE, DID MR. PRINGLE GIVE THIS INDIVIDUAL
12 THAT YOU DESCRIBED, YOU KNOW, LIGHT SKINNED,
13 MEDIUM HEIGHT WITH THE TWISTIES IN HIS HAIR, DID
14 HE GIVE HIM ANY MARIJUANA AT THAT POINT IN TIME
15 THAT YOU OBSERVED?

16 A. NO, SIR.

17 Q. AND DID THAT PERSON ULTIMATELY LEAVE?

18 A. YES, SIR.

19 Q. OKAY. AND WHERE WAS SHANNON AT WHILE ALL OF THIS
20 WAS GOING ON?

21 A. HE WAS STILL SITTING IN THE LOVE SEAT.

22 Q. AND HOW FAR, I MEAN, DESCRIBE THE LIVING ROOM, IS
23 IT A BIG LIVING ROOM OR A SMALL LIVING ROOM?

24 A. NO, SIR, IT'S A SMALL LIVING ROOM.

25 Q. AND WHEN THIS PERSON CAME IN, LET ME ASK YOU, DID

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1 HE HAVE ANYTHING COVERING HIS FACE OR ANYTHING
2 LIKE THAT?

3 A. NO, SIR.

4 Q. OKAY. WERE YOU ABLE TO OBSERVE HIM WITHOUT
5 ANYTHING IN THE WAY?

6 A. YES, SIR.

7 Q. OKAY. AND WHAT, LET ME ASK YOU THIS, WHAT WAS
8 THE, WHAT WAS THE LIGHTING LIKE INSIDE THAT
9 LIVING ROOM THAT EVENING WHEN YOU WERE SITTING IN
10 THERE?

11 A. IT WAS DIM.

12 Q. DIM?

13 A. YES, SIR.

14 Q. OKAY. AND LET ME ASK YOU, DID IT HAVE LIKE
15 REGULAR LIGHTS IN THE LIGHT FIXTURES?

16 A. NO, SIR.

17 Q. DESCRIBE FOR THE JURY WHAT KIND OF LIGHTS WERE IN
18 THAT LIVING ROOM?

19 A. IT WAS DIFFERENT COLORS.

20 Q. DIFFERENT COLORED LIGHTS?

21 A. YES, SIR.

22 Q. OKAY. LET ME ASK YOU, COULD YOU SEE?

23 A. YES, SIR.

24 Q. OKAY. IT JUST WASN'T SUPER BRIGHT IN THERE?

25 A. YES, SIR.

1 Q. ALRIGHT. AND HOW FAR AWAY DO YOU THINK WHEN MR.
2 PRINGLE WAS TALKING WITH THIS PERSON AND ASKING
3 HIM FOR HIS ID, HOW FAR AWAY FROM HIM WERE YOU
4 SITTING IN THE CHAIR THERE?

5 A. ABOUT THE SAME DISTANCE RIGHT NOW.

6 Q. FIVE, SIX FEET OR SO?

7 A. YES.

8 MR. PALMER: OBJECTION TO THE LEADING.

9 THE COURT: OVERRULED.

10 SOLICITOR SORENSON: I MEAN, THERE'S NO - LIKE I
11 SAY, THERE'S NO WAY SHE COULD TAKE DOWN. THANK YOU.

12 Q. ALRIGHT. NOW, YOU'VE INDICATED THAT THIS
13 INDIVIDUAL ENDED UP LEAVING THEN AFTER TALKING TO
14 MR. PRINGLE?

15 A. YES, SIR.

16 Q. OKAY. AND HOW ABOUT SHANNON, DID HE END UP
17 STAYING AROUND AFTER THIS ALSO OR ...

18 A. HE LEFT AROUND LIKE TEN MINUTES AFTER.

19 Q. OKAY. ALRIGHT. AND WHAT, AFTER SHANNON THEN
20 LEFT ABOUT TEN MINUTES LATER, WHAT ...

21 MR. PALMER: OBJECTION, LEADING.

22 SOLICITOR SORENSON: THAT'S JUST A FOLLOW UP TO
23 THE LAST ANSWER SHE JUST GAVE.

24 THE COURT: I OVERRULE YOUR OBJECTION. THANK
25 YOU, MR. PALMER.

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1 GO AHEAD.

2 SOLICITOR SORENSON: THANK YOU.

3 Q. ALRIGHT. SO, YOU JUST TESTIFIED A SECOND AGO
4 THAT SHANNON HAD LEFT, RIGHT?

5 A. YES, SIR.

6 Q. OKAY. AFTER SHANNON LEFT WHAT DID MR. PRINGLE
7 DO?

8 A. HE WENT TO THE KITCHEN.

9 Q. OKAY. AND IF YOU WOULD, DESCRIBE THEN, THE
10 KITCHEN, WHAT ROOM IS THE KITCHEN OFF OF IN THE
11 APARTMENT?

12 A. THE DEN.

13 Q. OKAY. CAN YOU, FROM SITTING IN THE DEN CAN YOU
14 SEE INTO THE KITCHEN?

15 A. YES, SIR.

16 Q. AND OBVIOUSLY, IF YOU'RE STANDING IN THE KITCHEN
17 CAN YOU THEN SEE INTO THE DEN?

18 A. YES, SIR.

19 Q. AND CAN YOU SEE THE FRONT DOOR FROM THE KITCHEN
20 ALSO?

21 A. YES, SIR.

22 Q. ALRIGHT. WHAT, TELL THE JURY WHAT HAPPENED,
23 WELL, LET ME ASK YOU THIS, WHAT WAS MR. PRINGLE
24 DOING IN THE KITCHEN, DO YOU KNOW?

25 A. HE WAS MAKING BAGS.

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1 Q. OKAY. MAKING BAGS OF WHAT?

2 A. MARIJUANA.

3 Q. AND AT THAT TIME WAS THERE ANYBODY ELSE BESIDES
4 YOU AND MR. PRINGLE IN THE APARTMENT?

5 A. NO, SIR.

6 Q. LET ME ASK YOU, DID HE HAVE, WERE THERE ANY
7 ANIMALS IN THE APARTMENT?

8 A. YES, SIR.

9 Q. OKAY. AND WHAT KIND OF ANIMALS WERE IN THE
10 APARTMENT?

11 A. IT WAS A DOG.

12 Q. OKAY. AND CAN YOU DESCRIBE TO THE JURY WHAT,
13 YOU KNOW, BIG DOG, LITTLE DOG?

14 A. IT WAS A BIG DOG.

15 Q. OKAY. AND WHERE WAS THE DOG LOCATED AT?

16 A. IN THE KITCHEN.

17 Q. WAS HE JUST KIND OF LOOSE IN THE APARTMENT OR WAS
18 HE SOMEHOW CONFINED IN THE APARTMENT?

19 A. SHE WAS, SHE WAS CHAINED UP.

20 Q. SHE WAS CHAINED UP IN THE KITCHEN?

21 A. YES, SIR.

22 Q. ALRIGHT. NOW, WELL, MR. PRINGLE NOW IS IN THE
23 KITCHEN. WHAT, WHERE WERE YOU SITTING AT, WERE
24 YOU STILL IN THE SAME CHAIR?

25 A. YES, SIR.

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1 Q. OKAY. AND TELL THE JURY WHAT HAPPENED THEN?

2 A. IT WAS ANOTHER DOOR BELL RING.

3 Q. AND ABOUT HOW LONG AFTER SHANNON LEFT DO YOU
4 THINK, TO JUST KIND OF PUT IT IN PERSPECTIVE
5 TIME-WISE, HOW LONG AFTER SHANNON HAD LEFT DID
6 THAT HAPPEN?

7 A. ABOUT TEN MINUTES.

8 Q. OKAY. AND WHO ANSWERED THE DOOR WHEN IT RANG
9 THEN THAT SECOND TIME?

10 A. I DID.

11 Q. OKAY. AND WAS MR. PRINGLE STILL IN THE KITCHEN?

12 A. YES, SIR.

13 Q. OKAY. AND NOW WAS THERE SOMEBODY AT THE DOOR?

14 A. YES, SIR.

15 Q. AND DID THEY COME IN?

16 A. YES, SIR.

17 Q. OKAY. AND WHAT DID THEY WANT WHEN THEY CAME IN?

18 A. THEY WANTED A DIME OR A NICK BAG.

19 Q. OKAY. AND THAT'S OF MARIJUANA?

20 A. YES, SIR.

21 Q. OKAY. AND DID MR. PRINGLE HELP THEM OR DID YOU
22 HELP THEM?

23 A. I HELPED THEM.

24 Q. OKAY. AND WHERE, DID YOU HAVE ANY MARIJUANA OUT
25 THERE IN THE LIVING ROOM AREA?

1 A. YES, SIR.

2 Q. OKAY. AND HOW WAS THAT MARIJUANA OUT THERE
3 PACKAGED THAT WAS OUT THERE IN THE LIVING ROOM
4 AREA?

5 A. IT WAS IN A JAR BY THE WINDOW.

6 Q. OKAY. AND WAS IT IN LITTLE INDIVIDUAL PACKAGES
7 OR SOMETHING AT THAT TIME?

8 A. YES, SIR.

9 Q. AND DESCRIBE THAT FOR THE JURY.

10 Q. IT'S LIKE LITTLE TINY ZIP LOCK BAGS IN A JAR.

11 Q. OKAY. ALRIGHT, AND DID YOU END UP GIVING THAT
12 PERSON ANY MARIJUANA?

13 A. I END UP REACHING DOWN TO GIVE IT TO HIM.

14 Q. OKAY. AND TELL THE JURY WHAT HAPPENED THEN AS
15 YOU WERE REACHING DOWN TO GIVE IT TO HIM?

16 A. AS I WAS REACHING DOWN HE PULLED A GUN OUT ON ME
17 AND TOLD ME IT WAS A STICKUP.

18 Q. OKAY. AND WHAT DID YOU DO -- LET ME ASK YOU, DID
19 YOU HAVE ANYTHING ELSE THAT YOU HAD IN YOUR
20 POSSESSION AT THAT POINT IN TIME IN YOUR HAND OR
21 ANYTHING?

22 A. YES, SIR.

23 Q. TELL THE JURY WHAT YOU HAD IN YOUR HAND?

24 A. I HAD THE PISTOL - - -

25 Q. OKAY.

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1 A. --- THAT CHARLES LET ME HOLD.

2 Q. OKAY. DO YOU REMEMBER WHAT KIND OF PISTOL THAT
3 WAS OR ANYTHING ABOUT IT?

4 A. IT WAS A SMITH AND WESSON.

5 Q. OKAY. AND WHOSE PISTOL WAS IT THAT YOU HAD?

6 A. CHARLES PRINGLE'S.

7 Q. AND, SO, WHEN THE PERSON PULLED THE GUN OUT AND
8 SAID, IT'S A STICK UP OR SOMETHING LIKE THAT, IS
9 THAT WHAT YOU SAID?

10 A. YES, SIR.

11 Q. WHAT DID YOU -- FIRST OF ALL, WHAT HAPPENED THEN?

12 A. HE TOOK THE PISTOL FROM ME, AND HE SAID, BITCH,
13 GET ON THE FLOOR AND DON'T SAY NOTHING AND DON'T
14 MOVE.

15 Q. OKAY. DID YOU GET DOWN ON THE FLOOR AT THAT
16 TIME?

17 A. YES, SIR.

18 Q. OKAY. AND WHERE ON THE FLOOR THEN WERE YOU
19 LYING?

20 A. IN FRONT OF THE LOVE SEAT.

21 Q. KIND OF IN THIS AREA RIGHT HERE?

22 A. YES, SIR.

23 Q. NOW, WHAT ABOUT MR. PRINGLE, WHAT -- DO YOU KNOW
24 IF HE STAYED IN THE KITCHEN OR CAME OUT OF THE
25 KITCHEN?

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1 A. HE CAME OUT OF THE KITCHEN, AND THEN THEY STARTED
2 TALKING.

3 Q. NOW, LET ME ASK YOU THIS, YOU TESTIFIED ABOUT
4 THAT ONE PERSON THAT HAD COME IN AND ENDED UP
5 PULLING THE GUN ON YOU AND TAKING THE GUN THAT
6 YOU WERE HOLDING. DO YOU KNOW WHETHER OTHER
7 PEOPLE CAME INTO THE APARTMENT ALSO?

8 A. I NOTICED A CHUBBY GUY.

9 Q. OKAY. AND LET ME ASK YOU THIS, DO YOU KNOW
10 WHETHER JUST -- ONCE YOU HIT THE GROUND, DID YOU
11 LOOK UP AFTER YOU WERE ON THE GROUND?

12 A. NO, SIR.

13 Q. OKAY. AND DO YOU KNOW WHETHER THERE WERE MORE
14 THAN JUST THOSE TWO PEOPLE IN THE APARTMENT?

15 A. I FELT LIKE IT WAS MORE THAN TWO PEOPLE IN THE
16 APARTMENT.

17 Q. DID YOU HEAR PEOPLE MOVING AROUND?

18 A. YES, SIR.

19 Q. NOW, TELL THE JURY, AS YOU ARE DOWN THERE ON THE
20 GROUND, YOU'VE GOT YOUR FACE IN THE CARPET
21 BASICALLY?

22 A. YES, SIR.

23 Q. TELL THE JURY WHAT WAS GOING ON INSIDE THE
24 APARTMENT WHILE YOU WERE FACE DOWN ON THE CARPET?

25 A. IT WAS A LOT OF TALKING, A LOT OF YELLING, A LOT

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 OF RIPPING UP STUFF, ASKING WHERE THE MONEY IS,
2 AND I HEARD, LIKE, TAPE BEING TORN, AND THEN
3 AFTER THAT, THAT'S WHEN I HEARD GUN SHOTS.

4 Q. HOW MANY GUN SHOTS DID YOU HEAR?

5 A. IT JUST SOUNDED OFF.

6 Q. IT JUST WHAT?

7 A. IT SOUNDED OFF.

8 Q. A LITTLE, A LOT?

9 A. A LOT.

10 Q. A LOT. AFTER YOU HEARD THOSE GUN SHOTS AND AFTER
11 HEARING, YOU KNOW, STUFF BEING TORN UP IN THERE
12 AND THE TAPE BEING TORN AND ALL, WHAT, AFTER
13 THOSE GUN SHOTS THEN WHAT HAPPENED NEXT, ASHLEY?

14 A. THEY RAN OUT AND LEFT THE DOOR OPEN.

15 Q. ALRIGHT. AND WHAT, WHAT DID YOU DO AT THAT TIME?

16 A. I CLOSED THE DOOR AND WENT IN CHARLES'S ROOM TO
17 GET HIS PHONE.

18 Q. OKAY. AND WHAT DID YOU DO WHEN YOU GOT HIS
19 PHONE?

20 A. I CALLED NINE ONE ONE.

21 Q. OKAY. AND DID YOU TELL THEM THAT -- WELL, LET ME
22 ASK YOU THIS, WHERE WAS MR. PRINGLE AT AT THAT
23 TIME?

24 A. HE WAS LAYING UP UNDER THE T.V.

25 Q. OKAY. LET ME SHOW YOU, AND I'M NOT GOING TO SHOW

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

233

1 YOU THE BIG PICTURE, BUT I MEAN, DO YOU SEE MR.
2 PRINGLE ON THE FLOOR HERE?

3 A. YES, SIR.

4 Q. IS THAT WHERE HE WAS?

5 THE COURT: THAT'S EXHIBIT NUMBER WHAT?

6 SOLICITOR SORENSON: THAT'S, I'M SORRY, STATE'S
7 NUMBER SEVEN, YOUR HONOR.

8 THE COURT: NUMBER SEVEN.

9 Q. IS THAT WHERE HE WAS ON THE FLOOR THERE?

10 A. YES, SIR.

11 Q. OKAY. AND COULD YOU TELL IF HE HAD BEEN SHOT?

12 A. YES, SIR.

13 Q. COULD YOU TELL WHERE HE HAD BEEN SHOT?

14 A. YES, SIR.

15 Q. TELL THE JURY WHERE IT LOOKED LIKE HE HAD BEEN
16 SHOT?

17 A. IN HIS LEG, IN HIS HAND AND HIS ARM.

18 Q. IT LOOKED LIKE HE HAD BEEN SHOT MORE THAN ONE
19 TIME THEN?

20 A. YES, SIR.

21 Q. OKAY. AND HOW ABOUT, YOU TESTIFIED EARLIER THAT
22 YOU HEARD WHAT SOUNDED LIKE SOME TAPE BEING TORN?

23 A. YES, SIR.

24 Q. DID YOU SEE ANY EVIDENCE OF THAT ON MR. PRINGLE?

25 A. YES, SIR.

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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- 1 Q. OKAY. AND WHAT DID YOU SEE, ASHLEY?
- 2 A. I SEEN HIS MOUTH TAPED UP.
- 3 Q. OKAY. AND WHAT KIND OF TAPE WAS THAT?
- 4 A. DUCT TAPE.
- 5 Q. AND DID THE POLICE END UP ARRIVING OUT THERE?
- 6 A. YES, SIR.
- 7 Q. OKAY. LET ME ASK YOU THIS, WAS MR. PRINGLE, I
- 8 MEAN, WAS HE RESPONSIVE, I MEAN, WAS HE MOVING
- 9 AROUND AT ALL, GET UP OR ANYTHING LIKE THAT?
- 10 A. HE LOOKED AT ME, AND THEN AFTER THAT HE JUST
- 11 CLOSED HIS EYES.
- 12 Q. AFTER THAT YOU HAD NO RESPONSE FROM HIM?
- 13 A. NO, SIR.
- 14 Q. NOW, AND THE POLICE ENDED UP ARRIVING OUT THERE?
- 15 A. YES, SIR.
- 16 Q. OKAY. AND LET ME ASK YOU, HOW WERE YOU ACTING AT
- 17 THAT POINT IN TIME WHEN THEY GOT THERE?
- 18 A. I WAS IN SHOCK.
- 19 Q. DID YOU HAVE AN OPPORTUNITY TO CALL ANYBODY ELSE
- 20 BESIDES THE POLICE AND TELL THE WHAT HAD
- 21 HAPPENED?
- 22 A. I CALLED SHANNON.
- 23 Q. OKAY. DID YOU END UP GOING DOWN TO THE SHERIFF'S
- 24 OFFICE THAT NIGHT AND TALKING TO THE
- 25 INVESTIGATORS?

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 A. YES, SIR.

2 Q. DO YOU REMEMBER TALKING TO LIEUTENANT SHUMPERT?

3 A. YES, SIR.

4 Q. LET ME ASK YOU THIS, ASHLEY, DO YOU ULTIMATELY
5 REMEMBER GOING OVER THE, YOU KNOW, SEVERAL TIMES
6 OVER THE NEXT COUPLE OF DAYS INTO THE SHERIFF'S
7 OFFICE AND HAVING AN OPPORTUNITY FOR LIEUTENANT
8 SHUMPERT TO SHOW YOU SEVERAL PHOTOGRAPHIC LINEUPS

9 - - -

10 A. YES, SIR.

11 Q. --- FOR YOU TO LOOK AT?

12 A. YES, SIR.

13 Q. DO YOU REMEMBER ABOUT HOW MANY DIFFERENT LINEUPS
14 HE SHOWED YOU?

15 A. NO, SIR.

16 Q. WAS IT MORE THAN THREE?

17 A. YES, SIR.

18 Q. LET ME ASK YOU THIS, OUT OF THE LINEUPS HE SHOWED
19 YOU, WERE YOU ABLE TO PICK SOMEBODY OUT OF EVERY
20 LINEUP HE SHOWED YOU?

21 A. NOT EVERYONE.

22 Q. AND KIND OF ALONG THAT SAME REGARD, WHEN YOU WERE
23 SHOWN A LINEUP DID LIEUTENANT SHUMPERT TELL YOU
24 WHO TO PICK OUT?

25 A. NO, SIR.

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

236

1 Q. DID HE TELL YOU YOU HAD TO PICK SOMEBODY OUT?

2 A. NO, SIR.

3 Q. DID HE IN ANYWAY SUGGEST TO YOU WHO YOU NEEDED TO
4 PICK OUT OR ANYTHING OF THAT NATURE?

5 A. NO, SIR.

6 Q. LET ME START OFF SHOWING YOU WHAT'S BEEN MARKED
7 AS STATE'S EXHIBIT NUMBER THREE. LET ME ASK YOU,
8 DO YOU RECALL ON MARCH THE FIFTEENTH OF TWO
9 THOUSAND TEN, SO ABOUT THREE DAYS LATER, DO YOU
10 REMEMBER -- TWO AND A HALF DAYS LATER, DO YOU
11 REMEMBER LIEUTENANT SHUMPERT SHOWING YOU STATE'S
12 EXHIBIT NUMBER THREE?

13 A. YES, SIR.

14 Q. OKAY. AND WERE YOU ABLE TO PICK ANYBODY OUT OF
15 STATE'S EXHIBIT NUMBER THREE?

16 A. YES, SIR.

17 Q. AND WHAT NUMBER DID YOU PICK OUT?

18 A. NUMBER THREE.

19 Q. AND IN FACT, THEN, WERE YOU ABLE TO THEN FILL OUT
20 AND SIGN AN AFFIDAVIT INDICATING THAT YOU PICKED
21 OUT PHOTO NUMBER THREE?

22 A. YES, SIR.

23 Q. OKAY. AND WHO WAS THAT PERSON, NOT SPECIFICALLY
24 BY NAME, BUT WHY IS IT THAT YOU PICKED OUT THAT
25 PERSON?

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 A. BECAUSE HE LOOKED LIKE THE GUY WITH THE TWISTIES
2 IN HIS HAIR.

3 Q. SO, THE GUY THAT HAD COME IN, YOU KNOW, TWENTY
4 MINUTES BEFORE - - -

5 MS. ULLMAN: OBJECTION, YOUR HONOR, SHE SAID HE
6 LOOKED LIKE THE GUY WITH THE TWISTIES IN HIS HAIR.
7 AND HE'S NOW REFERRING TO AND TRYING TO FILL IN WHO
8 THAT PERSON WAS. HE CAN CERTAINLY ASK HER WHO THAT
9 PERSON WAS.

10 THE COURT: SHE HAD ALREADY IDENTIFIED SOMEONE
11 WITH TWISTIES COMING, SO IF YOU WILL JUST ASK HER
12 AGAIN.

13 Q. IS THAT THE PERSON THAT YOU DESCRIBED TO THE JURY
14 EARLIER WITH THE TWISTIES THAT HAD COME IN TWENTY
15 MINUTES OR SO - - -

16 A. YES, SIR.

17 Q. --- BEFORE THIS INCIDENT?

18 A. YES, SIR.

19 Q. OKAY. AND IN FACT, DID YOU DOCUMENT THAT THEN IN
20 YOUR AFFIDAVIT?

21 A. YES, SIR.

22 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
23 WE'D OFFER STATE'S NUMBER THREE INTO EVIDENCE.

24 THE COURT: ANY OBJECTION?

25 MR. LACKEY: NO OBJECTION.

DIRECT - ASHLEY R. PARSEY BY SOL. SORENSON

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1 MS. ULLMAN: NO OBJECTION.

2 MR. PALMER: NO OBJECTION.

3 MR. MELLARD: NO OBJECTION.

4 MR. KOGER: NO OBJECTION.

5 THE COURT: OKAY. NO OBJECTIONS, IT IS, STATE'S
6 NUMBER THREE IS ADMITTED INTO EVIDENCE.

7 (State's Exhibit Three
8 marked and filed.)

9 Q. AND ASHLEY, IF YOU WOULD, IN THE, KIND OF THE
10 DESCRIPTION HERE ON THE AFFIDAVIT, WILL YOU READ
11 TO THE JURY WHAT YOU WROTE ON THERE? YOU CAN
12 HOLD IT.

13 A. "I, ASHLEY PARLSEY, AFTER CAREFUL CONSIDERATION
14 OF ALL PHOTOGRAPHS SHOWN TO ME IN THE LINEUP
15 PRESENTED TO ME BY SERGEANT SHUMPERT, HAVE
16 IDENTIFIED THE SUBJECT IN PHOTO NUMBER THREE AS
17 BEING A PERSON WHO WAS LET IN BY SHANNON. WHEN I
18 WALKED OUT MY ROOM HE ASKED FOR OLD SCHOOL AND I
19 TOLD HIM HE WASN'T HERE, AND THEN HE ASKED FOR
20 DROE, SO SHANNON TOLD OLD SCHOOL TO GET UP,
21 SOMEONE WANTS TO SEE HIM. SO, HE GOT UP AND
22 ASKED PETE FOR HIS ID BECAUSE HE SAID HE HASN'T
23 SEEN HIM BEFORE. AND PETE SAID HE CAME BEFORE
24 WITH HIS HOME BOY."

25 Q. OKAY. AND YOU REFERENCED THE GUY'S NAME AS BEING

1 PETE IN HERE?

2 A. YES, SIR.

3 Q. DID YOU KNOW WHEN THIS ALL HAPPENED, WHEN HE CAME
4 IN THERE THAT NIGHT, DID YOU KNOW HIS NAME?

5 A. NO, SIR.

6 Q. AND YOU HAD INDICATED EARLIER THAT SHANNON
7 APPEARED TO KNOW HIM?

8 A. YES, SIR.

9 Q. OKAY. THE NAME, PETE, WHERE DID YOU GET THAT
10 NAME, PETE, FROM?

11 A. SHANNON.

12 Q. OKAY. SO, HE TOLD YOU WHAT HIS NAME WAS?

13 A. YES, SIR.

14 Q. OKAY. ALRIGHT, AND MOVING ON HERE TO STATE'S
15 EXHIBIT NUMBER FOUR, ASHLEY, I SHOW YOU STATE'S
16 EXHIBIT NUMBER FOUR. DID YOU HAVE AN OPPORTUNITY
17 TO VIEW THIS LINEUP ON MARCH NINETEENTH THAT WAS
18 SHOWN TO YOU BY LIEUTENANT SHUMPERT?

19 A. YES, SIR.

20 Q. OKAY. AND WERE YOU ABLE TO PICK ANYBODY OUT OF
21 THIS LINEUP?

22 A. YES, SIR.

23 Q. AND WHAT NUMBER DID YOU PICK OUT?

24 A. NUMBER THREE.

25 Q. OKAY. TELL THE JURY WHY IT IS THAT YOU PICKED

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 OUT NUMBER THREE?

2 A. I IDENTIFIED THAT AS THE SHOOTER BECAUSE OF HIS
3 EYES.

4 Q. THAT'S THE PERSON THAT YOU -- LET ME ASK YOU
5 THIS, DID YOU DOCUMENT ON THE AFFIDAVIT ANYTHING?

6 A. YES, SIR.

7 Q. AND WHAT DID YOU DOCUMENT ON THE AFFIDAVIT AS TO
8 HIM?

9 A. THAT HE WAS THE GUY THAT POINTED THE GUN AT ME.

10 Q. OKAY. ALRIGHT. AND YOU IDENTIFIED HIM THAT
11 NIGHT FOR LIEUTENANT SHUMPERT?

12 A. YES, SIR.

13 Q. OKAY. AND DID LIEUTENANT SHUMPERT YET AGAIN, I
14 MEAN, TELL YOU WHO TO PICK OUT OR THAT YOU HAD TO
15 PICK SOMEBODY OUT OF THIS LINEUP?

16 A. NO, SIR.

17 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
18 WE'D OFFER STATE'S FOUR INTO EVIDENCE.

19 THE COURT: ANY OBJECTION?

20 MS. ULLMAN: NO, SIR.

21 MR. LACKEY: NO OBJECTION.

22 MR. KOGER: NO OBJECTION SUBJECT TO THE NEAL
23 VERSUS BIGGERS HEARING WE HAD ON THE TWENTY-SECOND.

24 THE COURT: I'LL NOTE, I WILL NOTE YOUR OBJECTION
25 AND MY RULING IN THAT, AND YOUR CONTINUING OBJECTION

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 TO IT.

2 MR. KOGER: THANK YOU.

3 THE COURT: OKAY. IT IS, AND THE OTHERS SUBJECT
4 TO THAT OBJECTION.

5 (State's Exhibit Four
6 marked and filed.)

7 Q. AND LASTLY, AS TO STATE'S EXHIBIT NUMBER FIVE - -

8 -

9 SOLICITOR SORENSON: MS. WALKER, I'M GOING TO
10 CROSS OFF MY NUMBER FOUR OF THE ID OFF OF HERE, OKAY?

11 COURT REPORTER: YES, SIR.

12 Q. AS TO NUMBER FIVE, ASHLEY, I'M SHOWING YOU
13 STATE'S EXHIBIT NUMBER FIVE, DID YOU HAVE AN
14 OPPORTUNITY ALSO ON MARCH NINETEENTH TO VIEW THAT
15 PHOTOGRAPHIC LINEUP?

16 A. YES, SIR.

17 Q. OKAY. AND WERE YOU ABLE TO PICK ANYBODY OUT OF
18 THAT LINEUP?

19 A. YES, SIR.

20 Q. AND WHAT, WHAT PHOTOGRAPH DID YOU PICK OUT OF
21 THAT LINEUP?

22 A. NUMBER ONE.

23 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY THEN TO
24 ALSO DOCUMENT THAT IN THE ACCOMPANYING AFFIDAVIT?

25 A. YES, SIR.

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 Q. OKAY. AND WHAT DID YOU INDICATE IN THAT
2 AFFIDAVIT?

3 A. THAT HE WAS THE CHUBBY GUY THAT I SAW.

4 Q. OKAY. ALRIGHT. AND WHAT EXACTLY, READ FOR THE
5 JURY WHAT YOU ACTUALLY WROTE ON THE AFFIDAVIT,
6 JUST YOUR HANDWRITTEN PART.

7 A. "I, ASHLEY PARSLEY, AFTER CAREFUL CONSIDERATION
8 OF ALL PHOTOGRAPHS SHOWN TO ME IN THE LINEUP,
9 HAVE IDENTIFIED THE SUBJECT IN NUMBER ONE AS
10 BEING A PERSON WHO WORE A GREEN SHIRT THAT CAME
11 INTO OUR APARTMENT. HE IS POSSIBLE TO BEING ONE
12 OF THE GUYS THAT ENTERED THE HOUSE, AND I DIDN'T
13 COMPLETELY SEE HIS FACE."

14 Q. SO, THAT'S WHO YOU THOUGHT IT WAS, BUT YOU DIDN'T
15 GET A REAL GOOD LOOK AT HIS FACE?

16 A. YES, SIR.

17 Q. ALRIGHT. LET ME ASK YOU THIS, YOU ACTUALLY WROTE
18 ON HERE, ACTUALLY PHOTOGRAPH NUMBER FOUR, IS THAT
19 CORRECT?

20 A. YES, SIR.

21 Q. OKAY. LET ME ASK YOU, WHEN YOU CIRCLED
22 PHOTOGRAPH -- BEFORE I GET THERE - - -

23 SOLICITOR SORENSON: AT THIS TIME, YOUR HONOR
24 WE'D OFFER STATE'S NUMBER FIVE INTO EVIDENCE.

25 THE COURT: ANY OBJECTION?

1 MS. ULLMAN: YOUR HONOR, I WOULD OBJECT UNDER
2 NEAL VERSUS BIGGERS ISSUES AND UNDER THE PERSONAL
3 KNOWLEDGE ISSUES THAT I'VE PREVIOUSLY BROUGHT UP.

4 THE COURT: OKAY. AND I NOTE YOUR OBJECTION FROM
5 THE HEARING ON THAT. IT IS ADMITTED INTO EVIDENCE.
6 THANK YOU. AND THAT OBJECTION IS PRESERVED, AS IS MR.
7 KOGER'S.

8 SOLICITOR SORENSON: THANK YOU, YOUR HONOR.

9 THE COURT: YES, SIR.

10 (State's Exhibit Five
11 marked and filed.)

12 Q. LET ME JUST -- YOU CIRCLED THE PICTURE, RIGHT, IS
13 THAT CORRECT, THAT YOU FELT WAS THE PERSON THAT
14 CAME INTO THE APARTMENT, THE CHUBBY GUY, IS THAT
15 CORRECT?

16 A. YES, SIR.

17 Q. LET ME ASK YOU, WHEN YOU CIRCLED THAT PHOTOGRAPH,
18 WHAT NUMBER DID YOU CIRCLE WITH THE PHOTOGRAPH?

19 A. NUMBER FOUR.

20 Q. OKAY. THERE'S NO DOUBT ABOUT IT, I MEAN, WHAT
21 PHOTOGRAPH WERE YOU MEANING TO - - -

22 A. NUMBER ONE.

23 Q. OKAY. AND YOU INDICATED EARLIER THAT, WERE YOU
24 ABLE TO PICK ANYBODY ELSE OUT OF ANY OTHER
25 LINEUPS?

DIRECT - ASHLEY R. PARSLEY BY SOL. SORENSON

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1 A. NO, SIR.

2 SOLICITOR SORENSON: I BEG THE COURT'S
3 INDULGENCE.

4 THE COURT: OKAY.

5 SOLICITOR SORENSON: THANK YOU, MS. PARSLEY, WILL
6 YOU PLEASE ANSWER ANY QUESTIONS THAT OTHER COUNSEL
7 HAS.

8 THE COURT: OKAY. THANK YOU. ALRIGHT, MR.
9 LACKEY.

10 (NOTE: Blank lines on this page do not indicate any
11 part of record has been omitted. Headers on testimony
12 pages and hard page breaks between testimony are now
13 required by the Court. See next ensuing page for
14 sequential continuation of record.)

1 Q. SO WHOEVER CAME IN CLOSED THE DOOR BEHIND THE
2 BOTH OF YOU?

3 A. YES, MA'AM.

4 Q. OKAY. NOW, ONCE HE PUT THE GUN TO YOUR HEAD HE
5 TOLD YOU TO GET ON THE GROUND?

6 A. YES, MA'AM.

7 Q. AND YOU GOT ON THE GROUND?

8 A. YES, MA'AM.

9 Q. AND YOU LOOKED FACE DOWN?

10 A. YES, MA'AM.

11 Q. YOU NEVER TURNED RIGHT, NEVER TURNED LEFT?

12 A. NEVER TURNED.

13 Q. AND YOU HAD YOUR GLASSES ON YOUR FACE?

14 A. YES, MA'AM.

15 Q. OKAY. LOOKING AT THE CARPET YOU COULDN'T SEE AT
16 ALL WHAT WAS GOING ON, CORRECT?

17 A. CORRECT.

18 Q. YOU COULDN'T EVEN SEE PEOPLE'S SHOES?

19 A. CORRECT..

20 Q. AND YOU WEREN'T ABLE TO COUNT AT ALL HOW MANY
21 PEOPLE WERE IN THERE?

22 A. CORRECT.

23 Q. NOW, THE FIRST GUY ENTERED, YOU LAID ON THE
24 GROUND, YOU LAID THERE UNTIL EVERYBODY WAS GONE,
25 IS THAT CORRECT?

CROSS - ASHLEY R. PARSLEY BY MS. ULLMAN

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1 A. CORRECT.

2 Q. ALRIGHT. AND ONCE YOU FELT EVERYONE HAD LEFT YOU
3 CALLED NINE ONE ONE?

4 A. YES, MA'AM.

5 Q. ALRIGHT. AND WHILE SPEAKING TO DISPATCH YOU
6 COULDN'T GIVE ANY DESCRIPTION AT ALL OF ANY SORT
7 OF SUBJECTS?

8 A. CORRECT.

9 Q. YOU DIDN'T TELL THEM THERE WAS A CHUBBY PERSON IN
10 THE HOUSE?

11 A. NO, MA'AM.

12 Q. YOU DIDN'T TELL THEM THERE WAS A DARK SKINNED
13 PERSON IN THE HOUSE?

14 A. NO, MA'AM.

15 Q. YOU JUST TOLD THEM SOME PEOPLE HAD BEEN THERE TO
16 ROB CHARLES PRINGLE?

17 A. CORRECT.

18 Q. OKAY. NOW, YOU HEARD GUN SHOTS BUT YOU HAVE NO
19 IDEA HOW MANY GUNS WERE THERE?

20 A. NO, MA'AM.

21 Q. NOW, SOMEONE, THIS PERSON THAT PUT A GUN TO YOUR
22 HEAD TOOK YOUR GUN, CORRECT?

23 A. CORRECT.

24 Q. OKAY. SO, AT THAT POINT YOU AT LEAST KNOW
25 THERE'S TWO GUNS IN THE HOUSE?

1 A. YES, MA'AM.

2 Q. OKAY. WAS YOUR GUN LOADED?

3 A. YES, MA'AM.

4 Q. NOW, YOU TALKED A LITTLE BIT ABOUT THE LIGHTS
5 WITH THE SOLICITOR, AND YOU SAID THEY WERE
6 COLORED LIGHTS. WHAT DO YOU MEAN BY THAT, WERE
7 THEY -- YOU KNOW, I WOULD CALL THESE MAYBE WHITE
8 LIGHTS. THEY'RE WEREN'T WHITE LIGHTS?

9 A. NO, MA'AM.

10 Q. DO YOU REMEMBER WHAT COLOR?

11 A. I DO NOT REMEMBER.

12 Q. OKAY. DO YOU REMEMBER COMING HERE TO COURT TO
13 TESTIFY BEFORE, BASICALLY THE WEEK OF
14 THANKSGIVING?

15 A. YES, MA'AM.

16 Q. ALRIGHT. AND AT THAT TIME YOU WERE PUT UNDER
17 OATH JUST LIKE YOU WERE HERE TODAY?

18 A. YES, MA'AM.

19 Q. ALRIGHT. NOW, AT THAT TIME YOU WERE ASKED ABOUT
20 THE LIGHTING IN THE HOUSE AND I BELIEVE YOU
21 SPECIFICALLY SAID THERE WERE TWO LIGHTS, ONE WAS
22 A WHITE LIGHT AND ONE WAS A RED LIGHT. DO YOU
23 REMEMBER THAT?

24 A. NO, I DON'T REMEMBER THAT.

25 MS. ULLMAN: MAY I APPROACH THE WITNESS?

CROSS - ASHLEY R. PARSLEY BY MS. ULLMAN

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1 Q. SO, YOU HAD FOUND HIS PHONE TO CALL NINE ONE ONE
2 AND YOU KEPT HIS PHONE ON YOU?

3 A. YES, MA'AM.

4 Q. NOW, YOU MET WITH INVESTIGATOR SHUMPERT LATER, I
5 GUESS EARLY MORNING SATURDAY, LATE FRIDAY NIGHT
6 AT THE SHERIFF'S OFFICE, IS THAT CORRECT?

7 A. YES, MA'AM.

8 Q. AND AT THAT TIME HE ASKED YOU WHAT HAPPENED, IS
9 THAT CORRECT?

10 A. YES, MA'AM.

11 Q. ALRIGHT. AND YOU DID WRITE A STATEMENT FOR HIM?

12 A. YES, MA'AM.

13 Q. AND YOU TOLD HIM WHAT HAD HAPPENED?

14 A. YES, MA'AM.

15 Q. AND IN THAT STATEMENT, IN YOUR DISCUSSIONS WITH
16 MR. SHUMPERT, OR INVESTIGATOR SHUMPERT, EXCUSE
17 ME, YOU SAID THAT ONE PERSON CAME TO THE DOOR?

18 A. YES, MA'AM.

19 Q. HE WAS DARK SKINNED AND WORE BLUE?

20 A. YES, MA'AM.

21 Q. ALRIGHT. AND THAT'S THE ONLY DESCRIPTION YOU
22 GAVE?

23 A. CORRECT.

24 Q. ALRIGHT. YOU DIDN'T MENTION AT ALL THIS CHUBBY
25 PERSON THAT MAY HAVE COME IN?

1 THAT WAS THE CHUBBY PERSON YOU SAID, AND THAT
2 THAT'S WHAT YOU HAD PUT ON YOUR AFFIDAVIT, BUT
3 THAT'S NOT WHAT YOU TOLD THE POLICE, AM I
4 RIGHT?

5 A. CORRECT.

6 Q. WHAT YOU TOLD THE POLICE WAS, IT'S POSSIBLE THAT
7 HE'S A PERSON THAT ENTERED THE HOUSE, YOU DIDN'T
8 SEE HIS FACE?

9 A. CORRECT.

10 Q. OKAY. AND JUST TO REITERATE, THE LIGHTS WERE
11 VERY DIM?

12 A. CORRECT.

13 Q. YOU WERE FACE DOWN?

14 A. CORRECT.

15 Q. YOU WERE NERVOUS?

16 A. YES.

17 Q. YOU HAD A GUN POINTED AT YOU?

18 A. CORRECT.

19 Q. AND THERE'S NO REAL WAY FOR YOU TO BE SURE IF THE
20 PERSON YOU PICKED OUT OF THAT LINEUP IS A PERSON
21 THAT WAS AT THE APARTMENT, AM I RIGHT?

22 A. CORRECT.

23 MS. ULLMAN: I HAVE NO FURTHER QUESTIONS, YOUR
24 HONOR.

25 THE COURT: THANK YOU, MS. ULLMAN.

CROSS - ASHLEY R. PARSLEY BY MR. KOGER

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CROSS-EXAMINATION OF ASHLEY R. PARSLEY

BY MR. KOGER:

Q. MS. PARSLEY, YOU GAVE A STATEMENT SOON AFTER THE
INCIDENT, CORRECT?

A. YES, SIR.

Q. AND IT WAS A COUPLE OF HOURS AFTER THE INCIDENT?

A. YES, SIR.

Q. OKAY. I WANT YOU TO IDENTIFY THIS FOR ME.

A. YES, SIR.

Q. OKAY. IS THAT OUR STATEMENT?

A. YES, SIR.

THE COURT: DO YOU WANT TO MAKE ...

Q. OKAY. AND WHAT DATE WAS THAT SIGNED?

A. MARCH THIRTEEN.

Q. AND AT WHAT TIME?

A. TWO:TWENTY-FIVE A.M.

MR. KOGER: YOUR HONOR, I'D LIKE TO SUBMIT THIS
AS DEFENDANT'S EXHIBIT NUMBER ONE.

THE COURT: ANY OBJECTION?

MR. SORENSON: NO OBJECTION.

THE COURT: OKAY. IF YOU'D MARK THAT AS
DEFENDANT'S -- YOU REPRESENT MR. ...

MR. KOGER: MR. SHIVERS, YOUR HONOR.

THE COURT: OKAY. DEFENDANT SHIVERS' -- I GUESS
WE NEED TO DESIGNATE IT THAT WAY.

1 COURT REPORTER: YES, SIR.

2 THE COURT: DEFENDANT SHIVERS, NUMBER ONE.

3 (Defendant Shivers Exhibit One
4 marked and filed.)

5 Q. OKAY. MS. PARSLEY, CAN YOU READ THIS STATEMENT
6 FOR THE COURT -- THAT IS YOUR HANDWRITING,
7 CORRECT?

8 A. CORRECT.

9 Q. READ IT FOR ME.

10 A. "I, ASHLEY PARSLEY, AM NOT UNDER ARREST NOR AM I
11 BEING DETAINED FOR CRIMINAL OFFENSES, BECAUSE
12 SOME OF THE EVENTS THAT I'M ABOUT TO MAKE KNOWN,
13 WITHOUT BEING ACCUSED OR QUESTIONED ABOUT MY
14 CRIMINAL OFFENSES REGARDING THE FACTS THAT I AM
15 ABOUT TO STATE. I VOLUNTEER THE FOLLOWING
16 INFORMATION ON MY OWN FREE WILL FOR WHATEVER
17 PURPOSE IT MAY SERVE. I AM TWENTY-THREE YEARS
18 OLD AND - - -

19 Q. MS. PARSLEY, PLEASE SLOW DOWN A LITTLE BIT SO
20 THE COURT REPORTER CAN GET IT.

21 A. OKAY. "I AM TWENTY-THREE YEARS OF AGE, AND I
22 LIVE AT MARION, SOUTH CAROLINA, TWO NINE FIVE
23 SEVEN ONE. I WENT TO THE DOOR HOLDING A PISTOL
24 AND I OPENED IT FOR A DARK SKINNED DUDE WEARING
25 BLUE. I SAT THE PISTOL DOWN AND HE ASKED FOR A

DIRECT - Minor

BY SOL. PASCOE

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DIRECT EXAMINATION OF Minor

BY SOLICITOR PASCOE:

Q. GOOD AFTERNOON, Minor

A. GOOD AFTERNOON.

Q. AND YOUR NAME IS Minor

A. YES, SIR.

Q. I NEED YOU TO DO ME A BIG FAVOR AND SPEAK UP AS
LOUDLY AS YOU CAN. YOU'VE GOT KIND OF A SOFT
VOICE SOMETIMES. ALRIGHT?

A. YES, SIR.

Q. I DON'T KNOW IF THAT'S GOING TO DO ANY GOOD, BUT
YOU NEED TO SPEAK UP. ALRIGHT?

A. YES, SIR.

Q. HOW OLD ARE YOU, MR. Minor

A. SEVENTEEN.

Q. WHEN IS YOUR BIRTHDAY?

A. JULY NINETEEN, NINETY-THREE.

Q. SOS, BACK IN MARCH, ON MARCH THE TWELFTH, HOW OLD
WERE YOU, Minor

A. SIXTEEN.

Q. WHERE ARE YOU CURRENTLY HAVING TO LIVE RIGHT NOW,
Minor

A. BAMBERG DETENTION CENTER.

Q. AND IS THAT BECAUSE YOU'RE CHARGED WITH THE
MURDER, BURGLARY AND ARMED ROBBERY OF CHARLES

DIRECT - MinorBY SOL. PASCOE

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1 PRINGLE?

2 A. YES, SIR.

3 Q. AND EVEN THOUGH YOU WERE ONLY SIXTEEN YEARS OLD
4 AT THE TIME ARE YOU BEING TREATED AS AN ADULT?

5 A. YES, SIR.

6 Q. WHERE WERE YOU LIVING BACK IN MARCH OF THIS YEAR
7 BEFORE YOU GOT ARRESTED?

8 A. SANTEE, AND ASHLAND DRIVE.

9 Q. OKAY. SO, TWO DIFFERENT ADDRESSES?

10 A. YES, SIR.

11 Q. AND WHO DID YOU LIVE WITH WHEN YOU STAYED IN
12 SANTEE?

13 A. MY MOTHER.

14 Q. YOUR MOTHER?

15 A. MY MOTHER.

16 Q. OKAY. AND WHO DID YOU STAY WITH WHEN YOU STAYED
17 ON ASHLAND DRIVE?

18 A. MY GRANDMOTHER.

19 Q. OKAY. WHERE IS ASHLAND DRIVE, IS THAT -- GO
20 AHEAD?

21 A. BY BROOKDALE.

22 Q. BROOKDALE?

23 A. BY BROOKDALE SCHOOL.

24 Q. OKAY. SO, CLOSER TO THE CITY THAN SANTEE,
25 OBVIOUSLY?

DIRECT - Minor

BY SOL. PASCOE

299

1 Q. AND YOU KNEW ALL OF THEM BEFORE MARCH THE
2 TWELFTH?

3 A. YES, SIR.

4 Q. LET ME ASK YOU ABOUT THE FIRST ONE, CHRISTOPHER
5 COLEMAN, HOW DID YOU KNOW CHRISTOPHER COLEMAN?

6 A. I WENT TO SCHOOL WITH HIM.

7 Q. ARE ANY OF THESE DEFENDANTS YOUR AGE?

8 A. NO, SIR.

9 Q. ARE THEY OLDER OR YOUNGER THAN YOU?

10 A. THEY'RE OLDER.

11 Q. A LOT OF OLDER?

12 A. YES, SIR.

13 Q. WHAT DID CHRISTOPHER COLEMAN GO BY, WHAT NAME?

14 A. LITTLE CHRIS.

15 Q. HOW IS HE RELATED TO THE PERSON SEATED NEXT TO
16 HIM, RALPH COLEMAN?

17 A. THEY'RE BROTHERS.

18 Q. OKAY. AND TELL THE JURY HOW YOU KNEW RALPH
19 COLEMAN?

20 A. THROUGH MARIO.

21 Q. MARIO WHO?

22 A. SHIVERS.

23 Q. OKAY. AND WE'LL GET TO HIM IN A SECOND. WHERE
24 WERE RALPH AND CHRIS COLEMAN LIVING BACK IN
25 MARCH?

DIRECT - MinorBY SOL. PASCOE

300

1 A. ON

2 Q. ON IS THAT A STREET HERE IN ORANGEBURG?

3 A. YES, SIR.

4 Q. DO YOU KNOW THE DEFENDANT, WALTER HARRIS?

5 A. YES, SIR.

6 Q. HOW LONG HAVE YOU KNOWN WALTER HARRIS?

7 A. BASICALLY ALL OF MY LIFE.

8 Q. OKAY. SO, YOU KNEW HIM PRETTY WELL?

9 A. YES, SIR.

10 Q. WHERE DID HE LIVE BACK IN MARCH, USUALLY?

11 A. ON COLEMAN.

12 Q. AND WHAT NAME DID WALTER HARRIS GO BY?

13 A. PETE.

14 Q. DO YOU KNOW THE DEFENDANT, DANNY RYANT?

15 A. YES, SIR.

16 Q. AND TELL THE JURY HOW YOU KNOW DANNY RYANT?

17 A. I KNOW HIM BASICALLY ALL MY LIFE, TOO.

18 Q. AND WHAT NAME DID DANNY RYANT GO BY BACK IN MARCH
19 AND BEFORE THAT?

20 A. POKE.

21 Q. POKE? AND FINALLY, DO YOU KNOW THE DEFENDANT,
22 MARIO SHIVERS, SEATED AT THE END?

23 A. YES, SIR.

24 Q. AND TELL THE JURY WHAT NAME MARIO SHIVERS WENT
25 BY?

DIRECT - Minor

BY SOL. PASCOE

301

1 A. LITTLE M.

2 Q. LITTLE M. AND HOW LONG HAVE YOU KNOWN MARIO
3 SHIVERS?

4 COURT REPORTER: LITTLE M?

5 SOLICITOR PASCOE: LITTLE M, YES, MA'AM.

6 A. FOR, LIKE, TWO YEARS.

7 Q. HOW OFTEN WOULD YOU HANG OUT WITH MARIO SHIVERS?

8 A. EVERY NOW AND THEN.

9 Q. HOW ARE, IF IN ANY WAY, ARE DANNY RYANT, POKE,
10 AND MARIO SHIVERS, LITTLE M, HOW ARE THEY
11 RELATED?

12 A. MARIO SHIVERS TALKS TO DANNY RYANT'S SISTER.

13 Q. OKAY. TALKS TO DANNY RYANT'S SISTER?

14 A. WELL, THAT'S HIS BABY'S MOTHER.

15 Q. OKAY. AND YOU TESTIFIED NONE OF THEM ARE YOUR
16 AGE, RIGHT?

17 A. YES, SIR.

18 Q. AND OF THE FIVE DEFENDANTS IS THERE ONE THAT YOU
19 WERE CLOSEST TO?

20 A. YES, SIR.

21 Q. WHICH ONE?

22 A. DANNY RYANT.

23 Q. NOW, I WANT TO ASK YOU ABOUT THE AFTERNOON OF
24 MARCH THE TWELFTH OF THIS YEAR. OKAY? WHO WERE
25 YOU HANGING OUT WITH THAT EARLY AFTERNOON AROUND

DIRECT - MinorBY SOL. PASCOE

303

1 A. ON

2 Q. OKAY. AND WHOSE HOUSE WAS AT

3 A. RALPH.

4 Q. RALPH COLEMAN, THE DEFENDANT?

5 A. YES, SIR.

6 Q. AND WHY DID YOU GO TO THAT HOUSE?

7 A. BECAUSE I HAD GOT A PHONE CALL FROM DANNY SAYING
8 MARIO SHIVERS HAD GUNS AND I HAD WANT TO GO SEE
9 THEM.

10 Q. YOU SAY, DANNY, DANNY RYANT?

11 A. YES, SIR.

12 Q. POKE?

13 A. YES, SIR.

14 Q. AND HOW DID YOU TALK TO DANNY RYANT, WAS IT FACE
15 TO FACE OR A PHONE CALL?

16 A. THROUGH A PHONE.

17 Q. AFTER YOU TALKED TO DANNY RYANT BY TELEPHONE, DID
18 YOU TALK TO ANYBODY ELSE BY TELEPHONE?

19 A. YES, SIR.

20 Q. AND WHO WAS THAT?

21 A. MARIO SHIVERS.

22 Q. OKAY. YOU WANTED TO FIND OUT WHERE HE WAS?

23 A. YES, SIR.

24 Q. AND THAT'S WHEN YOU WENT TO

25 A. YES, SIR..

DIRECT - Minor

BY SOL. PASCOE

304

1 Q. WHOSE CAR DID Y'ALL TAKE TO GO TO THE
2 ADDRESS?

3 A. DARIUS'S MOTHER'S.

4 Q. LET ME SHOW YOU -- I'M GOING TO SHOW YOU WHAT'S
5 BEEN MARKED AS STATE'S EXHIBITS THIRTY-TWO AND
6 THIRTY-THREE.

7 SOLICITOR PASCOE: AND MY UNDERSTAND, THERE'S NO
8 OBJECTION TO PUTTING THESE INTO EVIDENCE, SO I CAN GO
9 AHEAD AND MARK THEM AS EVIDENCE, YOUR HONOR, IF THAT'S
10 ALRIGHT.

11 THE COURT: NO OBJECTION?

12 MR. LACKEY: NO OBJECTION.

13 MS. ULLMAN: NO OBJECTION.

14 MR. PALMER: NO OBJECTION.

15 MR. MELLARD: NO OBJECTION.

16 MR. KOGER: NO OBJECTION.

17 THE COURT: OKAY. ALRIGHT.

18 SOLICITOR PASCOE: DO YOU WANT ME TO JUST SCRATCH
19 THAT OUT AND PUT ...

20 COURT REPORTER: IF YOU WOULD TAKE OUT THE ID.
21 THIRTY-TWO AND THIRTY-THREE?

22 SOLICITOR PASCOE: THIRTY-TWO AND THIRTY-THREE,
23 YES, MA'AM.

24 THE COURT: ADMITTED INTO EVIDENCE WITHOUT
25 OBJECTION.

DIRECT - MinorBY SOL. PASCOE

305

1 (State's Exhibits Thirty-two and Thirty-three
2 marked and filed.)

3 Q. TAKE A LOOK AT STATE'S EXHIBITS THIRTY-TWO AND
4 THIRTY-THREE, DO YOU RECOGNIZE THAT HOUSE?

5 A. YES, SIR.

6 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

7 A. THAT IS RALPH'S HOME.

8 Q. OKAY. AND IT'S THE SAME ONE THAT YOU WENT TO GO
9 MEET UP WITH MARIO AT?

10 A. YES, SIR.

11 Q. OKAY. ON OKAY, WHEN YOU AND DARIUS
12 WENT TO THE ADDRESS WAS ANYBODY ELSE BUT
13 YOU AND DARIUS IN THE CAR?

14 A. NO, SIR.

15 Q. WHEN Y'ALL GOT THERE WHO WAS AT THE HOUSE AT

16
17 A. RALPH AND MARIO.

18 Q. THE DEFENDANTS, RALPH COLEMAN AND MARIO SHIVERS?

19 A. YES, SIR.

20 Q. ANYBODY ELSE THERE WHEN YOU FIRST GOT THERE AT

21
22 A. NO, SIR.

23 Q. TELL THE JURY WHAT YOU, MARIO SHIVERS, RALPH
24 COLEMAN AND DARIUS DID WHILE YOU WERE AT RALPH'S
25 PLACE ON

DIRECT - Minor

BY SOL. PASCOE

306

1 A. WE HANG OUT, HAD A REGULAR CONVERSATION, SMOKED
2 MARIJUANA.

3 Q. ALL FOUR OF YOU?

4 A. YES, SIR. AND THAT WAS BASICALLY IT, AND JUST
5 TALKING ABOUT GIRLS, MARIJUANA, AND THAT'S WHEN
6 WE HAD GOT ON THE SUBJECT ABOUT THE ROBBERY, BUT
7 THAT WAS AFTERWARDS.

8 Q. OKAY. WELL, LET ME ASK YOU THIS, WAS THERE A
9 PARTICULAR PLACE IN THE HOUSE WHERE Y'ALL WERE
10 HANGING OUT, THE FOUR OF YOU?

11 A. YES, SIR.

12 Q. WHERE?

13 A. UNDER THE GARAGE.

14 Q. IS THAT DEPICTED IN STATE'S THIRTY-TWO?

15 A. YES, SIR.

16 Q. AND WAS IT JUST THE FOUR OF YOU AT THAT TIME?

17 A. YES, SIR.

18 Q. WHEN IT WAS THE FOUR OF YOU DID YOU SEE ANY GUNS,
19 WHILE DARIUS WAS STILL THERE?

20 A. YES, SIR.

21 Q. HUH?

22 A. YES, SIR.

23 Q. OKAY. WHO SHOWED YOU THE GUNS?

24 A. MARIO.

25 Q. AND WHAT KIND OF GUNS DID MARIO SHIVERS SHOW YOU?

DIRECT - MinorBY SOL. PASCOE

307

1 A. TWO RIFLES AND A PISTOL.

2 Q. DO YOU REMEMBER WHAT KIND OF RIFLES THEY WERE?

3 A. A SKS, ONE HAD A KNIFE ON IT.

4 Q. ONE HAD A WHAT ON IT?

5 A. A KNIFE.

6 Q. OKAY. WHAT ABOUT THE PISTOL, DO YOU KNOW WHAT
7 KIND OF PISTOL IT WAS?

8 A. A NINE MILLIMETER.

9 Q. AND WHO DID THOSE GUNS BELONG TO, THE TWO SKS
10 RIFLES AND THE NINE MILLIMETER?

11 A. MARIO SHIVERS.

12 Q. SEATED RIGHT THERE IN THE COURTROOM?

13 A. YES, SIR.

14 Q. ON THE END? HOW LONG DID YOUR FRIEND, DARIUS,
15 END UP STAYING AT THE HOUSE ON

16 A. LIKE FIFTEEN OR TWENTY MINUTES.

17 Q. AND WHY DID HE LEAVE?

18 A. BECAUSE HE SAID HE HAD SOMETHING TO DO.

19 Q. AND WHY DIDN'T YOU LEAVE WITH HIM?

20 A. I HAD WANTED TO CHILL, HANG OUT.

21 Q. DO YOU WISH YOU HAD GONE WITH HIM?

22 A. YES, SIR.

23 Q. AND WERE YOU SUPPOSED TO HANG OUT WITH DARIUS
24 THAT NIGHT?

25 A. YES, SIR.

DIRECT - Minor

BY SOL. PASCOE

308

1 Q. SO, AFTER DARIUS LEFT WHO WAS HANGING OUT INSIDE
2 UNDER THAT SHED?

3 A. ME, RALPH AND MARIO.

4 Q. LET ME ASK YOU THIS, DID YOU EVEN KNOW THE
5 VICTIM, CHARLES PRINGLE, BACK IN MARCH?

6 A. NO, SIR.

7 Q. DID YOU KNOW ANYBODY BY THE NAME OF OLD SCHOOL?

8 A. NO, SIR.

9 Q. DID MARIO SHIVERS KNOW CHARLES PRINGLE BACK IN
10 MARCH?

11 A. YES, SIR.

12 Q. AND HOW DID MARIO KNOW CHARLES PRINGLE?

13 A. HIS FAMILY, ONE OF HIS FAMILY MEMBERS PURCHASED
14 WEED FROM HIM.

15 Q. OKAY. AND YOU TESTIFIED EARLIER YOU STARTED
16 TALKING ABOUT, WHEN Y'ALL STARTED -- LATER YOU
17 SAID, WE STARTED TALKING ABOUT THE ROBBERY. GO
18 INTO DETAIL WITH THE JURY ABOUT, WHO BROUGHT UP
19 THE TOPIC OF ROBBERY, WHO THE VICTIM WAS GOING TO
20 BE, AND WHAT WAS SAID?

21 A. MARIO HAD BROUGHT THE TOPIC AND WE WAS DISCUSSING
22 IT AMONG US THREE, SAYING THAT I WAS THE ONE
23 GOING TO GO IN THE HOUSE AND PURCHASE THE WEED
24 AND COME OUT, AND THEN THAT'S WHEN THE ROBBERY
25 WAS GOING TO TAKE PLACE.

DIRECT - MinorBY SOL. PASCOE

309

1 Q. OKAY. AND YOU SAID, THE THREE OF US WERE
2 DISCUSSING IT. WHO WERE THE THREE PEOPLE?

3 A. ME, MARIO AND RALPH.

4 Q. SO, INITIALLY, AT THAT INSTANCE THE THREE PEOPLE
5 THAT WERE GOING TO GO COMMIT THE ROBBERY WERE YOU
6 THREE?

7 A. YES, SIR.

8 Q. WHILE Y'ALL WERE TALKING ABOUT IT IN THE SHED DID
9 Y'ALL HAVE TRANSPORTATION TO GET TO THE - - -

10 A. NO, SIR.

11 Q. --- TO OLD SCHOOL'S HOUSE?

12 A. NO, SIR.

13 Q. OKAY. HOW DID THAT END UP HAPPENING?

14 A. CHRIS AND, I GUESS HIS FRIEND HAD CAME OVER.

15 Q. OKAY. AND -- CHRIS COLEMAN?

16 A. YES, SIR.

17 Q. AND HIS FRIEND CAME OVER? WHAT KIND OF VEHICLE
18 WAS IT?

19 A. AN EXPLORER.

20 Q. OKAY. AN SUV?

21 A. YES.

22 Q. NOW, YOU TESTIFIED YOU KNEW CHRIS BACK THEN, BUT
23 DID YOU KNOW WHO CHRIS'S FRIEND WAS, THE DRIVER?

24 A. NO, SIR.

25 Q. HAD YOU EVER SEEN HIM BEFORE?

DIRECT - Minor

BY SOL. PASCOE

310

1 A. NO, SIR.

2 Q. DO YOU REMEMBER ANYONE SAYING HIS NAME?

3 A. NO, SIR.

4 Q. DID YOU EVEN KNOW ANYONE BY THE NAME OF RONNIE
5 WASHINGTON BACK THEN?

6 A. NO, SIR.

7 Q. CAN YOU JUST DESCRIBE HIM FOR THE JURY, WHAT HE
8 LOOKED LIKE AS BEST YOU CAN REMEMBER?

9 A. HEAVY SET, HAD AN AFRO I THINK, AND LIGHT SKIN.

10 Q. AND HE WAS THE DRIVER OF THE VEHICLE?

11 A. YES, SIR.

12 Q. OKAY. DID YOU EVER REALLY GET A GOOD LOOK AT
13 HIM?

14 A. NO, SIR.

15 Q. OKAY.

16 COURT REPORTER: YES, SIR, OR NO, SIR?

17 A. NO, SIR.

18 Q. DID -- NOW, YOU TESTIFIED THAT CHRIS COLEMAN AND
19 THIS DRIVER SHOWED UP AT DID THEY EVER
20 GET OUT OF THE VEHICLE?

21 A. NO, SIR.

22 Q. OKAY. LET ME SHOW YOU WHAT'S - - -

23 SOLICITOR PASCOE: AND THERE'S NO OBJECTION TO IT
24 BEING ADMITTED INTO EVIDENCE, YOUR HONOR, STATE'S
25 EXHIBIT TWENTY-EIGHT.

DIRECT - Minor

BY SOL. PASCOE

311

1 THE COURT: ALRIGHT, SIR, STATE'S EXHIBIT NUMBER
2 -- YOU SAID TWENTY-EIGHT?

3 SOLICITOR PASCOE: YES, SIR.

4 THE COURT: ADMITTED INTO EVIDENCE WITHOUT
5 OBJECTION.

6 COURT REPORTER: ADMITTED AS STATE'S TWENTY-
7 EIGHT.

8 (State's Exhibit Twenty-eight
9 marked and filed.)

10 Q. DOES STATE'S TWENTY-EIGHT LOOK FAMILIAR?

11 A. YES, SIR.

12 Q. WHAT DOES IT LOOK LIKE?

13 A. IT WAS THE EXPLORER THAT WE DRIVE TO THE VICTIM'S
14 HOUSE.

15 Q. OKAY. AND WHEN Y'ALL GOT INTO THE EXPLORER AND
16 LEFT TELL THE JURY WHO SAT WHERE AND
17 WHAT Y'ALL WERE TALKING ABOUT?

18 A. IT WAS CHRIS AND A PASSENGER IN THE FRONT. I WAS
19 BEHIND THE DRIVER, RALPH WAS IN THE MIDDLE, AND
20 MARIO WAS BEHIND THE PASSENGER FRONT.

21 Q. OKAY. AND WHAT DID Y'ALL TALK ABOUT IN THE
22 VEHICLE?

23 A. HOW WE WAS PLANNING TO ROB OLD SCHOOL.

24 Q. OKAY. AND WHO WAS DOING MOST OF THE TALKING AND
25 THE PLANNING?

DIRECT - Minor

BY SOL. PASCOE

312

- 1 A. MARIO.
- 2 Q. MARIO SHIVERS?
- 3 A. YES, SIR.
- 4 Q. AND WHAT WAS THE PLAN NOW THAT CHRIS AND THIS
- 5 OTHER PERSON, THE DRIVER WHO PICKED YOU UP?
- 6 A. FOR ME TO GO IN THERE AND BUY THE WEED, COME OUT,
- 7 AND THEY WAS GOING TO COME IN AND ROB HIM.
- 8 Q. WHO WAS SUPPLYING THE GUNS FOR THE ROBBERY?
- 9 A. MARIO.
- 10 Q. AND WERE THEY THE THREE WEAPONS THAT YOU
- 11 TESTIFIED ABOUT EARLIER TODAY?
- 12 A. YES, SIR.
- 13 Q. WHERE WERE THE GUNS WHEN Y'ALL GOT INTO THE
- 14 EXPLORER?
- 15 A. THEY WAS IN THE HATCH BACK.
- 16 Q. YOU SAY, HATCH BACK, I GUESS IT WOULD BE LIKE
- 17 BACK HERE, TRUNK HATCH?
- 18 A. YES, SIR.
- 19 Q. ON THE WAY TO CHARLES PRINGLE'S PLACE ON
- 20 , DID Y'ALL END UP PICKING, GETTING
- 21 SOMEBODY ELSE INVOLVED IN THE ROBBERY?
- 22 A. YES, SIR.
- 23 Q. AND WHO WAS THAT?
- 24 A. WALTER HARRIS.
- 25 Q. OKAY. TELL THE JURY HOW Y'ALL ENDED UP, AND WHY

DIRECT - Minor

BY SOL. PASCOE

313

1 Y'ALL GOT WALTER HARRIS INVOLVED IN IT?

2 A. BECAUSE MARIO HAD SAID WE HAD NEED ANOTHER
3 PERSON. SO, I, THAT INSTANT I TELL THEM WALTER
4 HARRIS, CALL WALTER HARRIS.

5 COURT REPORTER: SO, I GUESS WHAT? I'M SORRY.

6 SOLICITOR PASCOE: HE SAID, THIS INSTANT, THAT
7 INSTANT HE SAID CALL WALTER HARRIS.

8 A. CALL WALTER HARRIS, AND THAT'S WHEN WE WAS
9 HEADING TO PICK UP HIM ON JAMISON AND BETWEEN
10 CAMPUS DRIVE.

11 Q. OKAY. AND WHAT DID WALTER HARRIS, WHAT NAME DOES
12 HE GO BY?

13 A. PETE.

14 Q. IS THAT THE NAME THAT MARIO USED WHEN HE SAID,
15 WE'RE GOING TO PICK UP PETE?

16 A. YES, SIR.

17 Q. OKAY. AND DID HE CALL PETE?

18 A. YES, SIR.

19 Q. AND WHERE DID Y'ALL PICK WALTER HARRIS UP AT?

20 A. ON JAMISON AND BETWEEN, AT THE CORNER OF CAMPUS
21 DRIVE.

22 MR. LACKEY: I'M SORRY, WHAT DID HE SAY?

23 Q. SAY IT AGAIN FOR ME.

24 A. JAMISON AND AT THE CORNER OF CAMPUS DRIVE.

25 Q. CAMPUS DRIVE?

DIRECT - Minor

BY SOL. PASCOE

314

1 A. YES, SIR.

2 Q. CAMPUS DRIVE AND JAMISON?

3 A. YES, SIR.

4 Q. DID, DID THE DEFENDANT, WALTER HARRIS, HAVE A
5 WEAPON ON HIM WHEN Y'ALL PICKED HIM UP?

6 A. YES, SIR.

7 Q. TELL THE JURY WHAT KIND OF WEAPON HE HAD?

8 A. IT WAS A BLACK PISTOL.

9 Q. OKAY. DO YOU REMEMBER THE CALIBER -- DO YOU KNOW
10 THE CALIBER?

11 A. NO, SIR.

12 Q. JUST THAT IT WAS A BLACK PISTOL?

13 A. YES, SIR.

14 Q. SO, NOW THAT Y'ALL PICKED WALTER HARRIS UP, PETE,
15 - - -

16 A. YES, SIR.

17 Q. --- TELL THE JURY WHAT THE PLAN IS AS FAR AS
18 COMMITTING THE ROBBERY, BURGLARY, AND WHO IS
19 INVOLVED?

20 A. IT WAS, WELL, CHRIS, RALPH, MARIO, ME AND PETE,
21 WALTER.

22 Q. AND WHAT'S THE PLAN?

23 COURT REPORTER: ME AND PETE AND WALTER?

24 A. WELL, I MEANT TO SAY WALTER. WELL HIS NAME IS
25 WALTER.

DIRECT - Minor

BY SOL. PASCOE

315

1 SOLICITOR PASCOE: PETE, AS IN WALTER HARRIS.

2 PETE IS WALTER HARRIS.

3 COURT REPORTER: OH, OKAY.

4 Q. OKAY. AND TELL THE JURY WHAT THE PLAN WAS?

5 A. WE WAS GOING TO -- I WAS SUPPOSED TO GO AND BUY
6 THE WEED, LIKE I WAS SUPPOSED TO, AND IT WAS LIKE
7 I HAD WANTED THE WEED, AND THAT'S WHEN THEY WAS
8 GOING TO COME IN THERE AND ROB HIM. SO, AS WE
9 GOT TO THE VICTIM'S HOUSE PETE WENT IN THERE AND
10 SAID HE WAS GOING TO PEAK AT THE SCENE.

11 Q. OKAY.

12 A. AND THAT'S WHEN HE WENT AND BOUGHT THE WEED, HE
13 CAME BACK OUT, AND IT WAS, LIKE, HE AIN'T WANT TO
14 DO IT NO MORE BECAUSE HE HAD KNOW SOMEONE THAT
15 WAS IN THERE.

16 Q. OKAY. AND WHEN YOU SAY, PETE WENT IN AND BOUGHT
17 THE WEED, THAT'S WALTER HARRIS?

18 A. YES, SIR.

19 Q. OKAY. AND HE KNEW SOMEBODY THAT WAS IN THERE
20 WHEN HE WENT AND BOUGHT THE WEED?

21 A. YES, SIR.

22 Q. AND THE APARTMENT COMPLEX THAT Y'ALL WERE
23 TARGETING, WHERE CHARLES PRINGLE LIVED, IS IT ON
24 THE CORNER RIGHT THERE IN STATE'S EXHIBIT SIX?

25 A. YES, SIR.

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- 1 Q. KIND OF POINT, WHEN Y'ALL FIRST GOT THERE TO BUY
2 -- WHEN WALTER HARRIS WENT IN TO BUY THE WEED,
3 WHERE WERE Y'ALL WOULD HAVE PARKED IN RELATION TO
4 THIS PICTURE FOR ME?
5 A. LIKE, ON THE SIDE OF THAT WHITE CAR.
6 Q. WAY OVER THERE?
7 A. YEAH.
8 Q. OKAY. ALRIGHT. SO, WALTER HARRIS GOES IN, BUYS
9 WEED, KNOWS SOMEBODY?
10 A. YES, SIR. HE CAME BACK OUT AND SAID THAT HE HAD
11 KNOW SOMEONE IN THERE SO HE AIN'T WANT TO DO IT
12 NO MORE, AND THAT'S WHEN WE WENT AND GOT DANNY
13 RYANT.
14 Q. OKAY. AND THAT'S DANNY RYANT, THE SECOND TO THE
15 END?
16 A. YES, SIR.
17 Q. KNOWN AS POKE?
18 A. YES, SIR.
19 Q. ALRIGHT. TELL US ABOUT HOW, WHOSE IDEA WAS IT TO
20 GET DANNY RYANT, AND HOW DID YOU GO ABOUT IT?
21 A. MARIO.
22 Q. MARIO SHIVERS?
23 A. YES, SIR.
24 Q. HOW DID YOU CONTACT DANNY RYANT?
25 A. I CALLED HIM ON THE CELL PHONE, MY CELL PHONE.

DIRECT - MinorBY SOL. PASCOE

317

1 Q. OKAY. SO, YOU CALLED HIM FROM YOUR CELL PHONE?

2 A. YES, SIR.

3 Q. AND DID Y'ALL PICK DANNY RYANT UP?

4 A. YES, SIR.

5 Q. TELL THE JURY WHERE Y'ALL PICKED DANNY RYANT UP
6 AT?

7 A. AT A NIGHT CLUB CALLED THE CORNER POCKET.

8 Q. AND HOW FAR APPROXIMATELY IS THE CORNER POCKET
9 FROM CHARLES PRINGLE'S APARTMENT?

10 A. APPROXIMATELY THREE BLOCKS.

11 Q. PRETTY CLOSE, THEN?

12 A. YEAH.

13 Q. OKAY. SO, HOW LONG DID IT TAKE FOR Y'ALL TO PICK
14 POKE UP, DANNY RYANT?

15 A. THREE MINUTES.

16 Q. NOW, WHEN Y'ALL PICKED MR. RYANT UP WHO EXPLAINED
17 TO HIM WHAT WAS GOING TO GO DOWN?

18 A. BASICALLY ALL OF US.

19 Q. OKAY. SO, YOU GET IN THE EXPLORER, YOU'RE GOING
20 TO CHARLES PRINGLE'S, WHO'S GOING TO GO IN AND
21 ROB AND BURGLARIZE CHARLES PRINGLE'S HOUSE?

22 A. ALL OF US.

23 Q. INCLUDING WALTER HARRIS?

24 A. YES, SIR.

25 Q. SO, WHAT'S THE FINAL PLAN NOW TO GO IN THERE AND

DIRECT - Minor

BY SOL. PASCOE

318

1 ROB CHARLES PRINGLE'S PLACE, WHAT -- ACTUALLY,
2 JUST TELL THE JURY WHAT Y'ALL DID?

3 A. WELL, WHEN WE GOT TO THE APARTMENT COMPLEX I HAD
4 WENT IN, ME AND RALPH HAD WENT IN, AND I WAS
5 PURCHASING SOME WEED.

6 Q. LET ME ASK YOU THIS, WHEN YOU AND RALPH COLEMAN
7 WENT IN TO PURCHASE THE WEED, WERE YOU ARMED WITH
8 A WEAPON AT THAT TIME?

9 A. NO, SIR.

10 Q. WAS RALPH COLEMAN ARMED WITH A WEAPON AT THAT
11 TIME?

12 A. YES, SIR.

13 Q. WHAT WEAPON DID RALPH COLEMAN HAVE?

14 A. WALTER HARRIS'S GUN.

15 Q. OKAY. THE BLACK GUN THAT WALTER HARRIS HAD?

16 A. YES, SIR.

17 Q. WHO GAVE MR. COLEMAN THAT GUN?

18 A. WALTER.

19 Q. OKAY. WALTER HARRIS?

20 A. YES, SIR.

21 Q. GO AHEAD, TELL THE JURY WHAT HAPPENED?

22 A. SO, WHEN I WAS PURCHASING THE WEED I HAD
23 PURCHASED MY WEED AND THEN THAT'S WHEN I WAS
24 ABOUT TO LEAVE OUT THE HOUSE LIKE I WAS TOLD,
25 THAT WAS WHEN RALPH PULLED HIS GUN OUT ON THE

DIRECT - MinorBY SOL. PASCOE

319

1 FEMALE. AND WHEN I OPENED THE DOOR THAT'S WHEN
2 EVERYBODY CAME IN WITH THE GUNS.

3 Q. OKAY. SO, THE PERSON THAT PULLED THE GUN OUT ON
4 THE FEMALE WAS RALPH COLEMAN?

5 A. YES, SIR.

6 Q. AND WHO ELSE CAME IN THE HOUSE?

7 A. LITTLE CHRIS, MARIO, DANNY AND WALTER.

8 Q. DID CHRIS COLEMAN HAVE A WEAPON?

9 A. YES, SIR.

10 Q. WHAT WEAPON DID HE HAVE?

11 A. A CHROME PISTOL, THE NINE MILLIMETER.

12 Q. AND WHOSE NINE MILLIMETER CHROME PISTOL WAS THAT?

13 A. MARIO'S.

14 Q. MARIO SHIVERS? DID DANNY RYANT HAVE A WEAPON?

15 A. YES, SIR.

16 Q. WHAT WEAPON DID DANNY RYANT HAVE?

17 A. AN SKS.

18 Q. AND WHAT WEAPON DID MARIO SHIVERS HAVE?

19 A. AN SKS.

20 Q. DID WALTER HARRIS HAVE A GUN WHEN YOU ENTERED THE
21 APARTMENT?

22 A. NO, SIR.

23 Q. AND WHAT, IF ANYTHING, DID HE HAVE?

24 A. I CAN'T RECALL.

25 Q. AND ALL OF YOU ENTERED THE HOUSE?

DIRECT - Minor

BY SOL. PASCOE

320

1 A. YES, SIR.

2 Q. OKAY. WHAT DID Y'ALL DO WITH THE VICTIM?

3 A. WALTER HARRIS TAPED HIM, TAPED HIS MOUTH UP.

4 Q. OKAY. AND WHAT DID WALTER HARRIS TAPE CHARLES
5 PRINGLE'S MOUTH UP WITH?

6 A. DUCT TAPE.

7 Q. AND DO YOU RECOGNIZE THE PERSON IN STATE'S
8 EXHIBIT EIGHT ALREADY IN EVIDENCE?

9 A. YES, SIR.

10 Q. OKAY. AND IS THAT THE VICTIM, CHARLES PRINGLE?

11 A. YES, SIR.

12 Q. AND DOES IT DEPICT THE DUCT TAPE THAT WALTER
13 HARRIS PUT OVER THE VICTIM'S MOUTH?

14 A. YES, SIR.

15 Q. OKAY. AT WHOSE DIRECTIONS WAS WALTER HARRIS
16 PUTTING THE DUCT TAPE ON THE VICTIM?

17 A. YOU SAID, IN WHOSE DIRECTION?

18 Q. I'M SORRY, WHO WAS TELLING WALTER HARRIS WHAT TO
19 DO?

20 A. BASICALLY EVERYBODY WAS TALKING AT THE SAME TIME,
21 SO

22 Q. NOW, YOU TESTIFIED ABOUT THE FOUR PEOPLE THAT HAD
23 WEAPONS, AND YOU TESTIFIED ABOUT WALTER HARRIS
24 PUTTING DUCT TAPE OVER THE VICTIM DURING THE
25 ROBBERY AND BURGLARY.

DIRECT - MinorBY SOL. PASCOE

321

1 A. YES, SIR.

2 Q. WHAT HAPPENED NEXT?

3 A. AND THEN THAT'S WHEN WE WAS IN THE HOUSE AND
4 EVERYBODY WAS, LIKE, WHERE THE MONEY AND STUFF
5 WAS AT, AND WALTER SEARCHED THE ROOM, I SEARCHED,
6 AND THAT'S WHEN OLD SCHOOL WAS SAYING IT WAS
7 OUTSIDE. AND THEN, THAT'S WHEN I HEARD A GUN
8 SHOT, AND I GUESS THEY SHOT THE DOG. AND THAT'S
9 WHEN I WAS RUNNING OUT THE HOUSE, AND THAT'S WHEN
10 I HEARD GUN SHOTS.

11 Q. DID YOU LOOK AND SEE WHERE THE SHOTS WERE BEING
12 DIRECTED AND WHO WAS BEING SHOT?

13 A. NO, SIR, I WAS OUT THE DOOR.

14 Q. ANY IDEA HOW MANY SHOTS YOU HEARD?

15 A. LIKE, NINETEEN, TWENTY.

16 Q. AND WHAT WAS THE GIRL DOING DURING THIS WHOLE
17 TIME?

18 A. LAYING ON THE FLOOR.

19 Q. DID YOU KNOW THAT GIRL, ASHLEY PARSLEY, BEFORE
20 THAT NIGHT?

21 A. NO, SIR.

22 Q. WHAT WAS IT LIKE WHEN YOU HEARD THOSE SHOTS
23 RINGING OUT?

24 A. SCARED.

25 Q. AND WHAT HAPPENED AFTER Y'ALL, AFTER YOU RAN OUT

DIRECT - MinorBY SOL. PASCOE

322

1 OF THE APARTMENT, WHAT HAPPENED?

2 A. AND THAT'S WHEN I WAS RUNNING TO THE TRUCK, I
3 MADE IT TO THE TRUCK, AND THAT'S WHEN EVERYBODY
4 ELSE WAS BEHIND ME, THEY GOT IN THE TRUCK, AND
5 THAT'S WHEN DANNY RYANT WAS SAYING, MAN, YOU
6 KNOW, WHY Y'ALL HAD DID THAT, YOU AIN'T HAD TO DO
7 IT LIKE THAT. AND THEN, THAT'S WHEN, IT WAS,
8 LIKE, EVERYBODY JUST BE QUIET, DON'T SAY NOTHING
9 ABOUT IT. AND THEN THAT WAS, WALTER HARRIS WAS,
10 LIKE, DROP ME OFF HOME ON . SO,
11 THAT'S WHEN WE RODE, WE DROPPED WALTER HARRIS
12 OFF, AND THAT'S WHEN I GOT OUT OF THE TRUCK AND
13 WENT IN MY DIRECTION.

14 Q. OKAY. AND LET'S JUST BACK UP ONE SECOND AND THEN
15 I WANT TO GET INTO WHEN YOU AND WALTER HARRIS GOT
16 DROPPED OFF. WHAT WAS THE INTENT OF YOU, MARIO
17 SHIVERS, CHRIS COLEMAN, RALPH COLEMAN, DANNY
18 RYANT, AND WALTER HARRIS WHEN Y'ALL WENT TO
19 CHARLES PRINGLE'S HOUSE, WHAT WERE Y'ALL GOING TO
20 DO?

21 A. TO ROB HIM FOR HIS WEED, MARIJUANA AND MONEY.

22 Q. ALRIGHT. NOW, TELL THE JURY WHO GOT DROPPED OFF
23 FIRST AFTER Y'ALL LEFT THE HOUSE?

24 A. WALTER HARRIS.

25 Q. AND WHERE DID HE GET DROPPED OFF AT?

DIRECT - MinorBY SOL. PASCOE

323

1 A. AT HIS RESIDENCE ON

2 Q. AND DID YOU STAY WITH THE OTHER DEFENDANTS AFTER
3 WALTER HARRIS GOT DROPPED OFF, DID YOU HANG OUT
4 WITH THEM THAT NIGHT?

5 A. NO, SIR.

6 Q. WHAT DID YOU DO?

7 A. I WENT IN MY DIRECTION.

8 Q. YOU SAY YOU WENT IN YOUR DIRECTION?

9 A. YEAH. I HAD GOT OUT AT WALTER HARRIS'S HOME AND
10 WENT WALKING IN MY DIRECTION.

11 Q. OKAY. AND DID YOU CALL ANYBODY WHEN YOU GOT OUT
12 OF THE VEHICLE AT WALTER HARRIS'S?

13 A. YES, SIR.

14 Q. AND WHO DID YOU CALL?

15 A. DARIUS GARDNER.

16 Q. AND HOW LONG APPROXIMATELY DID IT TAKE TO GET
17 FROM THE VICTIM'S APARTMENT WHEN Y'ALL WERE
18 RUNNING FROM THERE TO THE AREA WHERE WALTER
19 HARRIS LIVES?

20 A. LIKE, APPROXIMATELY FIVE MINUTES.

21 Q. OKAY. A PRETTY BRIEF AMOUNT OF TIME, THEN?

22 A. YEAH.

23 Q. YOU TESTIFIED YOU GOT OUT AND YOU CALLED DARIUS,
24 WHAT WAS THE WEATHER LIKE WHEN YOU GOT OUT OF THE
25 VEHICLE?

DIRECT - Minor

BY SOL. PASCOE

324

- 1 A. RAINING.
- 2 Q. AND WHY DID YOU CALL DARIUS WHEN YOU GOT OUT OF
- 3 THE VEHICLE?
- 4 A. BECAUSE I HAD NEEDED A RIDE, I WAS WALKING IN THE
- 5 RAIN.
- 6 Q. OKAY. DID YOU TALK TO DARIUS GARDNER?
- 7 A. YES.
- 8 Q. OKAY. AND WHAT DID YOU ASK HIM TO DO?
- 9 A. TO GIVE ME A RIDE TO SANTEE, TO MY MOTHER'S
- 10 HOUSE.
- 11 Q. OKAY. DID HE COME PICK YOU UP AFTER YOU TALKED
- 12 TO HIM ON THE PHONE?
- 13 A. YES, SIR.
- 14 Q. OKAY. WHERE APPROXIMATELY IN THE NEIGHBORHOOD
- 15 DID HE PICK YOU UP AT?
- 16 A. LIKE, COLEMAN AND GOLF.
- 17 Q. AND HE GAVE YOU A RIDE TO SANTEE?
- 18 A. YES, SIR.
- 19 Q. DID Y'ALL TALK ON THE WAY TO SANTEE?
- 20 A. NO, SIR.
- 21 Q. DID YOU TELL HIM WHAT HAPPENED AT CHARLES
- 22 PRINGLE'S HOUSE?
- 23 A. NO, SIR.
- 24 Q. WHY NOT?
- 25 A. BECAUSE I AIN'T, HE DIDN'T NEED TO KNOW ANYTHING,

DIRECT - MinorBY SOL. PASCOE

325

1 I WAS TOLD NOT TO SAY NOTHING.

2 Q. AND ABOUT HOW LONG DID IT TAKE HIM TO GET YOU
3 HOME THAT NIGHT, TO SANTEE?

4 A. ABOUT THIRTY MINUTES.

5 Q. DID DARIUS STAY WITH YOU WHEN HE DROPPED YOU OFF
6 AT SANTEE?

7 A. NO, SIR.

8 Q. DID YOU TRY CALLING HIM AGAIN LATER THAT NIGHT?

9 A. YES, SIR.

10 Q. AND WHY IS THAT?

11 A. I WAS TRYING TO MAKE SURE HE MADE IT HOME SAFE.

12 Q. WHY WOULD YOU, WAS THERE ANYTHING THAT MADE YOU
13 CONCERNED ABOUT TRAVEL THAT NIGHT? WHAT WAS THE
14 WEATHER LIKE?

15 A. OH, IT WAS RAINING.

16 Q. ALRIGHT. LET ME ASK YOU THIS, DID YOU HAVE
17 ANYMORE CONTACT WITH ANY OF THE FIVE DEFENDANTS
18 ON THAT NIGHT OF MARCH THE TWELFTH, AFTER THE
19 MURDER?

20 A. THAT NIGHT?

21 Q. THAT NIGHT.

22 A. NO, SIR.

23 Q. OKAY. DID YOU HAVE ANYMORE CONTACT WITH ANY OF
24 THE DEFENDANTS ON MARCH THE THIRTEENTH, OR
25 FOURTEENTH OR FIFTEENTH?

DIRECT - Minor

BY SOL. PASCOE

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1 A. YES, SIR.

2 Q. AND WHICH DEFENDANTS DID YOU HAVE CONTACT WITH ON
3 THOSE DAYS?

4 A. MARIO SHIVERS.

5 Q. ANYBODY ELSE?

6 A. I THINK DANNY RYANT, I'M NOT SURE.

7 Q. WHICH ONE DO YOU -- OR IF -- WHICH ONE DO YOU
8 KNOW YOU SPOKE WITH AFTER MARCH THIRTEENTH OR
9 FOURTEENTH?

10 A. MARIO.

11 Q. OKAY. AND HOW DID YOU SPEAK TO MARIO SHIVERS?

12 A. WE WAS TALKING ABOUT WHAT HAD HAPPENED, AND HE
13 WAS TELLING ME HOW MANY BULLETS WAS GONE OUT OF
14 HIS PISTOL, AND I WAS TOLD NOT TO SAY NOTHING.

15 Q. AND WHICH PISTOL WAS HIS?

16 A. THE NINE MILLIMETER.

17 Q. DID YOU TALK TO ANYONE ELSE OTHER THAN MR.
18 SHIVERS AFTER THE MURDER?

19 A. YOU MEAN, ANY OF MY CO-DEFENDANTS?

20 Q. YEAH, ANY OF THEM, ANY OTHER ONES?

21 A. YES, I THINK I TALKED TO DANNY RYANT.

22 Q. OKAY. DO YOU REMEMBER WHAT THAT CONVERSATION WAS
23 ABOUT?

24 A. WELL, NOT TO SAY NOTHING.

25 Q. OKAY. HOW MANY TIMES DO YOU THINK YOU WALKED TO

DIRECT - MinorBY SOL. PASCOE

327

1 MR. SHIVERS?

2 A. ABOUT THREE OR FOUR TIMES.

3 Q. ALL BY PHONE?

4 A. YES, SIR.

5 Q. NEVER FACE TO FACE?

6 A. NO, SIR.

7 Q. DID YOU WANT TO HANG OUT WITH ANY OF THE
8 DEFENDANTS AFTER MARCH THE TWELFTH?

9 A. NO, SIR.

10 Q. OKAY. AND WHY IS THAT?

11 A. BECAUSE I WAS SCARED AND ...

12 Q. ALRIGHT, LET ME ASK YOU ABOUT MARCH THE
13 EIGHTEENTH. TELL THE JURY WHAT YOU ENDED UP
14 DOING ON THAT DAY, ON THURSDAY, MARCH THE
15 EIGHTEENTH, LESS THAN A WEEK AFTER THE MURDER OF
16 CHARLES PRINGLE?

17 A. I TURNED MYSELF IN.

18 Q. AND WHY DID YOU TURN YOURSELF IN TO THE POLICE?

19 A. BECAUSE I FELT LIKE THAT'S WHAT I HAD NEEDED TO
20 DO, AND I HEARD THE POLICE WAS LOOKING FOR ME.

21 Q. WHERE DID YOU GO TURN YOURSELF INTO?

22 A. ORANGEBURG COUNTY.

23 Q. OKAY. RIGHT THERE ON ELLIS AVENUE?

24 A. YES, SIR.

25 Q. AND WHO TOOK YOU TO THE SHERIFF'S OFFICE?

DIRECT - Minor

BY SOL. PASCOE

328

1 A. MY MOTHER.

2 Q. YOUR MOTHER?

3 A. YES, SIR.

4 Q. DID YOU MEET WITH ANYBODY AT THE SHERIFF'S
5 OFFICE?

6 A. SHUMPERT.

7 Q. YOU DID, INVESTIGATOR SHUMPERT?

8 A. YES.

9 Q. OKAY. AND DID YOU COOPERATE AND GIVE
10 INVESTIGATOR SHUMPERT A STATEMENT THAT DAY?

11 A. YES, SIR.

12 Q. AND LET ME SHOW YOU SOMETHING TO REFRESH YOUR
13 MEMORY, I'M NOT EVEN GOING TO MARK IT, IF THAT'S
14 OKAY, JUST -- IS THAT THE ADVICE OF RIGHTS THAT
15 INVESTIGATOR SHUMPERT WENT OVER WITH YOU?

16 A. YES, SIR.

17 Q. THAT'S YOUR MIRANDA RIGHTS, RIGHT? AT WHAT TIME,
18 JUST TO REFRESH YOUR MEMORY, IT WAS ON MARCH THE
19 EIGHTEENTH THAT YOU ...

20 A. FOUR:FORTY-THREE.

21 Q. FOUR:FORYT-THREE IS WHEN YOU TALKED TO
22 INVESTIGATOR SHUMPERT?

23 A. YES, SIR.

24 Q. ABOUT THAT TIME. AND DID YOU TELL HIM ABOUT
25 EVERYBODY INVOLVED IN THE MURDER, ROBBERY AND

DIRECT - MinorBY SOL. PASCOE

329

1 BURGLARY OF CHARLES PRINGLE?

2 A. YES, SIR.

3 Q. LET ME ASK YOU THIS, YOU KNEW WALTER HARRIS'S
4 FULL NAME BACK THEN, RIGHT?

5 A. YES, SIR.

6 Q. YOU KNEW MARIO SHIVERS'S FULL NAME BACK IN MARCH?

7 A. YES, SIR.

8 Q. WHY DIDN'T YOU TELL INVESTIGATOR SHUMPERT WHAT
9 THEIR FULL NAME WAS WHEN YOU FIRST GAVE YOUR
10 STATEMENT THAT DAY?

11 A. BECAUSE I WAS TOLD NOT TO SAY NOTHING.

12 Q. AND DID YOU MENTION DARIUS AT ALL TO INVESTIGATOR
13 SHUMPERT?

14 A. NO, SIR.

15 Q. AND WHY NOT?

16 A. BECAUSE HE DIDN'T HAVE NOTHING TO DO WITH IT.

17 Q. BUT YOU TOLD SHUMPERT THAT DAY THE NAMES OF THE
18 PEOPLE WHO WAS INVOLVED IN THE ROBBERY, CORRECT?

19 A. YES, SIR.

20 Q. DID ANYONE SHOW YOU ANY PHOTOGRAPHIC LINEUPS
21 THROUGHOUT THE WEEK TO ASK IF YOU RECOGNIZED
22 ANYBODY?

23 A. YES, SIR.

24 Q. I'M GOING TO SHOW YOU SOME PHOTOGRAPHIC LINEUPS
25 JUST FOR THE PURPOSES OF IDENTIFICATION. OKAY?

DIRECT - Minor

BY SOL. PASCOE

330

1 DO YOU RECOGNIZE STATE'S EXHIBIT SEVENTY-SIX?

2 A. YES, SIR.

3 Q. AND WHO DID YOU RECOGNIZE IN STATE'S EXHIBIT
4 NUMBER SEVENTY-SIX?

5 A. DANNY RYANT.

6 Q. OKAY. AND THAT'S PHOTOGRAPH NUMBER TWO?

7 A. YES, SIR.

8 Q. AND DID YOU PICK HIM OUT BECAUSE HE WAS INVOLVED
9 IN THE ROBBERY?

10 A. YES, SIR.

11 Q. DID YOU ALSO FILL OUT AN AFFIDAVIT ON STATE'S
12 EXHIBIT SEVENTY-SIX?

13 A. YES, SIR.

14 SOLICITOR PASCOE: AND AGAIN, THAT'S JUST FOR
15 IDENTIFICATION, WE'RE NOT PUTTING ANY OF THESE INTO
16 EVIDENCE.

17 (State's Exhibit Seventy-six,
18 Photographic lineup,
19 marked for identification only.)

20 Q. DO YOU RECOGNIZE STATE'S EXHIBIT SEVENTY-SEVEN?

21 A. YES, SIR.

22 Q. DID YOU PICK ANYBODY OUT IN STATE'S EXHIBIT
23 SEVENTY-SEVEN AS BEING INVOLVED IN THE ROBBERY
24 AND MURDER?

25 A. YES, SIR.

DIRECT - Minor

BY SOL. PASCOE

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1 Q. WHICH ONE?

2 A. MARIO, NUMBER THREE.

3 Q. AND WHO IS NUMBER THREE?

4 A. MARIO SHIVERS.

5 Q. MARIO SHIVERS? AND DID YOU FILL OUT AN AFFIDAVIT
6 ABOUT PICKING OUT MARIO SHIVERS?

7 A. YES, SIR.

8 Q. OKAY. AND IS MARIO SHIVERS IN THE COURTROOM
9 RIGHT NOW?

10 A. YES, SIR.

11 Q. POINT HIM OUT AS BEST YOU CAN FOR THE JURY?

12 A. OVER THERE SITTING IN THE LAST SEAT.

13 Q. IN THE LAST SEAT?

14 A. UH-HUH.

15 COURT REPORTER: THAT'S FOR ID, TOO?

16 SOLICITOR PASCOE: JUST ID, YES, MA'AM, SEVENTY-
17 SIX AND SEVENTY-SEVEN.

18 (State's Exhibit Seventy-seven,
19 photographic lineup,
20 marked for identification only.)

21 Q. AND IS DANNY RYANT WHO YOU PICKED OUT AND WAS
22 INVOLVED IN THE ROBBERY, IS HE IN THE COURTROOM
23 TODAY?

24 A. YES, SIR.

25 Q. PICK HIM OUT FOR THE JURY..

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BY SOL. PASCOE

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1 A. SITTING BEHIND (Points toward defendants)

2 Q. RIGHT NEXT TO MARIO?

3 A. SECOND TO THE LAST.

4 Q. DO YOU SEE WALTER HARRIS, PETE, IN THE COURTROOM
5 TODAY?

6 A. YES, SIR.

7 Q. AND HE WAS INVOLVED IN THE ROBBERY AND MURDER?

8 A. YES, SIR.

9 Q. POINT HIM OUT FOR THE JURY?

10 A. (Points toward defendants)

11 Q. IS HE IN THE BLUE SHIRT?

12 A. YES, SIR.

13 Q. SITTING IN THE MIDDLE?

14 A. YES, SIR.

15 Q. NOW, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS
16 STATE'S EXHIBIT SEVENTY-EIGHT - - -

17 SOLICITOR PASCOE: JUST FOR IDENTIFICATION, MS.

18 HARRY DOT, IT'S JUST GOING TO BE FOR ID, OKAY?

19 COURT REPORTER: YES, SIR.

20 THE COURT: WHAT'S THE NUMBER?

21 SOLICITOR PASCOE: SEVENTY-EIGHT, YOUR HONOR.

22 (State's Exhibit Seventy-eight,
23 photographic lineup,
24 marked for identification only.)

25 Q. WERE YOU ASKED TO SEE IF YOU RECOGNIZED ANYBODY

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BY SOL. PASCOE

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1 IN STATE'S EXHIBIT SEVENTY-EIGHT AS BEING
2 INVOLVED IN THE ROBBERY AND MURDER?

3 A. YES, SIR.

4 Q. DID YOU PICK ANYBODY OUT?

5 A. YES, SIR.

6 Q. WHICH ONE?

7 A. NUMBER ONE.

8 Q. AND WHO IS NUMBER ONE?

9 A. RALPH COLEMAN.

10 Q. AND YOU FILLED OUT AN AFFIDAVIT TO THAT EFFECT ON
11 STATE'S EXHIBIT SEVENTY-EIGHT?

12 A. YES, SIR.

13 Q. AND IS RALPH COLEMAN IN THE COURTROOM TODAY?

14 A. YES, SIR.

15 Q. POINT HIM OUT FOR THE JURY.

16 A. (Points toward defendants)

17 Q. IS HE THE ONE IN THE COAT AND TIE?

18 A. YES, SIR.

19 Q. BEHIND MS. ULLMAN, OR BEHIND THE FEMALE?

20 A. YES, SIR.

21 SOLICITOR PASCOE: AGAIN, THAT'S SEVENTY-EIGHT
22 JUST FOR ID, YOUR HONOR.

23 (State's Exhibit Seventy-nine,
24 photographic lineup,
25 marked for identification only.)

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BY SOL. PASCOE

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- 1 Q. AND FINALLY, WITH REGARDS TO THE LINEUPS, I'M
2 GOING TO SHOW YOU STATE'S EXHIBIT SEVENTY-NINE
3 FOR IDENTIFICATION. DID YOU RECOGNIZE ANYBODY
4 FROM THIS LINEUP AS BEING INVOLVED IN THE ROBBERY
5 AND MURDER OF CHARLES PRINGLE?
6 A. YES, SIR.
7 Q. WHICH ONE?
8 A. NUMBER TWO.
9 Q. AND DID YOU PICK NUMBER TWO OUT?
10 A. YES, SIR.
11 Q. AND WHO IS NUMBER TWO?
12 A. CHRIS COLEMAN.
13 Q. AND YOU ALSO FILLED OUT AN AFFIDAVIT ON HIM AS
14 WELL?
15 A. YES, SIR.
16 Q. AND DO YOU SEE CHRISTOPHER COLEMAN WHO WAS
17 INVOLVED IN THE ROBBERY AND MURDER OF CHARLES
18 PRINGLE IN THE COURTROOM?
19 A. YES, SIR.
20 Q. POINT HIM OUT FOR THE JURY.
21 A. THE FIRST ONE.
22 Q. THE FIRST ONE?
23 A. YES, SIR.
24 Q. THE WHITE SHIRT?
25 A. YES, SIR.

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BY SOL. PASCOE

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1 SOLICITOR PASCOE: YOUR HONOR, I'M GOING TO --
2 BEFORE I FORGET, SINCE THEY'RE ID, MARK THEM ID.

3 COURT REPORTER: YES, SIR, AND GIVE ME TIME TO
4 PUT THOSE ON MY LIST, TOO.

5 SOLICITOR PASCOE: OKAY. OKAY. ARE YOU READY,
6 MS. HARRY DOT?

7 COURT REPORTER: I THINK SO, YES, SIR.

8 Q. OKAY. MR. Minor AFTER YOU GAVE YOUR STATEMENT
9 TO INVESTIGATOR SHUMPERT THAT DAY AND TOLD HIM
10 WHO WAS INVOLVED IN THE ROBBERY, DID YOU GET TO
11 GO HOME?

12 A. NO, SIR.

13 Q. OKAY. YOU WERE CHARGED WITH THE MURDER, ARMED
14 ROBBERY AND BURGLARY, FIRST, THAT DAY?

15 A. YES, SIR.

16 Q. WHERE DID YOU HAVE TO GO AT THAT TIME?

17 A. JUVE - DJJ.

18 Q. OKAY. WHY DID YOU GO TO DJJ?

19 A. BECAUSE I WAS A JUVENILE.

20 Q. YOU WERE ONLY SIXTEEN AT THE TIME?

21 A. YES, SIR.

22 Q. BUT AS YOU TOLD THE JURY, YOU'RE BEING TREATED AS
23 AN ADULT, YOU'RE NOT A JUVENILE, CORRECT?

24 A. YES, SIR.

25 Q. IN FACT, AFTER YOU TURNED SEVENTEEN WHERE DID YOU

DIRECT - Minor

BY SOL. PASCOE

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1 GO?

2 A. TO ORANGEBURG COUNTY.

3 Q. TO THE DETENTION CENTER IN ORANGEBURG?

4 A. YES, SIR.

5 Q. AND HOW LONG DID YOU STAY IN ORANGEBURG?

6 A. LIKE, THREE, TWO MONTHS.

7 Q. AND THEN THEY SHIPPED YOU TO BAMBERG?

8 A. YES, SIR.

9 Q. NOW, LET ME ASK YOU THIS, YOU TOLD THE JURY THAT
10 YOU DIDN'T EVEN HAVE A GUN DURING THE MURDER AND
11 THE ROBBERY AND BURGLARY, CORRECT?

12 A. YES, SIR.

13 Q. DO YOU HAVE AN ATTORNEY, MR. CARL GRANT?

14 A. YES, SIR.

15 Q. AND YOU UNDERSTAND, THE HAND OF ONE IS THE HAND
16 OF ALL?

17 A. YES, SIR.

18 Q. OKAY. YOU KNOW THAT YOU'RE JUST AS GUILTY AS
19 ANYONE WHO PULLED THE TRIGGER AND MURDERED?

20 A. YES, SIR.

21 Q. AND EVEN THOUGH YOU'RE JUST SIXTEEN YOU'RE
22 CHARGED WITH MURDER, BURGLARY, FIRST, AND ARMED
23 ROBBERY. WITH THOSE CHARGES, YOU KNOW, YOU'RE
24 LOOKING AT A MANDATORY SENTENCE OF THIRTY YEARS
25 TO LIFE WITHOUT PAROLE, RIGHT?

DIRECT - MinorBY SOL. PASCOE

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1 A. YES, SIR.

2 Q. HAVE I PROMISED YOU ANY SENTENCE FOR YOUR
3 COOPERATION?

4 A. NO, SIR.

5 Q. BUT THE ONE THING WE ARE ALLOWING YOU TO DO
6 BECAUSE OF YOUR COOPERATION BACK IN MARCH AND
7 YOUR TESTIMONY IS, WE'RE GOING TO REDUCE YOUR
8 MURDER TO VOLUNTARY MANSLAUGHTER?

9 A. YES, SIR.

10 Q. AND THAT REDUCES THE AMOUNT OF TIME YOU'RE
11 LOOKING AT FROM THIRTY YEARS TO LIFE WITHOUT
12 PAROLE TO FIFTEEN YEARS TO LIFE WITHOUT PAROLE?

13 A. YES, SIR.

14 Q. YOU UNDERSTAND THAT? SO, EVEN THOUGH YOU'RE
15 TESTIFYING TODAY YOU COULD STILL GET THIRTY
16 YEARS, ISN'T THAT RIGHT?

17 A. YES, SIR.

18 Q. YOU COULD STILL GET LIFE?

19 A. YES, SIR.

20 Q. SIXTEEN YEARS OLD. HAVE I OR ANYONE PROMISED YOU
21 WHAT SENTENCE YOU'RE GOING TO GET?

22 A. NO, SIR.

23 Q. AND YOU'VE BEEN TOLD THAT THE SENTENCE IS GOING
24 TO BE LEFT TOTALLY UP TO THE JUDGE, CORRECT?

25 A. YES, SIR.

DIRECT - Minor

BY SOL. PASCOE

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1 Q. IS THIS THE FIRST TIME YOU'VE EVER BEEN IN
2 TROUBLE IN GENERAL SESSIONS COURT, IN ADULT
3 COURT?

4 A. YES, SIR.

5 Q. OKAY. BUT YOU DO HAVE A JUVENILE ADJUDICATION
6 FOR WHAT, PETTY LARCENY BACK IN NOVEMBER OF O-
7 NINE?

8 A. YES, SIR.

9 Q. JUST A HANDFUL MORE QUESTIONS. OKAY? I ASKED
10 YOU SOME QUESTIONS EARLIER ABOUT THE DRIVER OF
11 THE EXPLORER?

12 A. YES, SIR.

13 Q. TO THIS DAY DO YOU PERSONALLY KNOW WHO THE DRIVER
14 IS?

15 A. NO, SIR.

16 Q. DID I SHOW YOU, I GUESS IT WAS A WEEK OR TWO AGO,
17 SEVERAL PHOTOGRAPHS OF RIFLES TO SEE IF YOU COULD
18 RECOGNIZE ANY THAT WOULD LOOK LIKE THE ONES THAT
19 WERE USED DURING THE MURDER?

20 A. YES, SIR.

21 Q. AND DID YOU PICK ONE OUT?

22 A. YES, SIR.

23 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
24 EXHIBIT SEVENTY-FIVE, IS THAT THE ONE YOU PICKED,
25 FOR JUST IDENTIFICATION, IS THIS THE ONE THAT YOU

DIRECT - Minor

BY SOL. PASCOE

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1 PICKED OUT AS LOOKING LIKE ONE OF THE RIFLES
2 Y'ALL USED?

3 A. YES, SIR.

4 Q. OKAY.

5 SOLICITOR PASCOE: THAT'S JUST ID.

6 (State's Exhibit Seventy-five,
7 photograph of rifle,
8 marked for identification only.)

9 Q. YOU TESTIFIED THAT WALTER HARRIS HAD A BLACK GUN?

10 A. YES, SIR.

11 Q. AND WHO DID HE LET USE IT?

12 A. RALPH.

13 (State's Exhibit Seventy-three,
14 photo of rifle,
15 marked for identification only.)

16 Q. DO YOU RECOGNIZE STATE'S EXHIBIT SEVENTY-THREE
17 FOR IDENTIFICATION?

18 A. NO, SIR.

19 Q. DOES THAT NOT LOOK LIKE ONE OF THE GUNS THAT WAS
20 USED IN THE ROBBERY?

21 A. IT'S BLACK.

22 MS. ULLMAN: OBJECTION, YOUR HONOR, HE JUST
23 ASKED IF HE RECOGNIZED IT AND HE SAID, NO, SIR, AND
24 THEN HE TOLD HIM DID THAT NOT LOOK LIKE THE GUN IN THE
25 ROBBERY. HE SAID HE DIDN'T RECOGNIZE IT.

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

VOLUME TWO OF THREE

TRANSCRIPT OF RECORD

versus)

DATE:

DECEMBER 10 - 17, 2010

CHRISTIAN COLEMAN,)

CASE NOS.

RALPH BERNARD COLEMAN)

2010-GS-38-802, 803, 805

WALTER LEE HARRIS,)

2010-GS-38-808, 810, 811

DANNY RYANT, JR.,)

2010-GS-38-812, 813, 814

MARIO MONTEZ SHIVERS)

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE

SOLICITOR

DONALD N. SORENSON, ESQUIRE

ASSISTANT SOLICITOR

FOR THE STATE

RICHARD LACKEY, ESQUIRE

FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE

FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE

FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE

FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE

FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)

COURT REPORTER, FIRST JUDICIAL CIRCUIT

POST OFFICE BOX 127

ROWESVILLE, SOUTH CAROLINA 291331

I N D E X

(See Volume One for complete index.)

1 DATE:

2 DECEMBER 14, 2010

3 (Continued from Volume One.)

4 (The following takes place
5 out of the presence of the jury.)

6 THE COURT: SOLICITOR PASCOE, DID YOU WANT TO
7 TELL ME SOMETHING?

8 SOLICITOR PASCOE: AN ISSUE HAS BEEN BROUGHT UP
9 BY THE DEFENSE THAT IS RELEVANT BECAUSE THEY'RE
10 THINKING ABOUT WANTING TO PUT IN MORE EVIDENCE. I'M
11 GOING TO LET MS., I'M GOING TO LET JILL EXPLAIN IT.

12 THE COURT: OKAY. MS. ULLMAN.

13 MS. ULLMAN: THANK YOU, YOUR HONOR. AS YOU KNOW,
14 OBVIOUSLY, THE DEFENSE CLOSING, WHAT ORDER THE
15 CLOSINGS ARE DONE IS BASED UPON WHETHER DEFENSE PUTS
16 ANY EVIDENCE INTO, OR ANYTHING INTO THE RECORD. I
17 WOULD ARGUE TO THIS COURT THAT AS WE STAND HERE WE ARE
18 ALL SEPARATE LAWYERS REPRESENTING SEPARATE DEFENDANTS.
19 I UNDERSTAND THAT WE COLLECTIVELY POOLED A JURY, BUT
20 THAT WAS TO TRY TO KEEP OUR STRIKES AS FAIR AS
21 POSSIBLE BECAUSE BY STATUTE WE WERE REDUCED.

22 THE COURT: I UNDERSTAND. OKAY.

23 MS. ULLMAN: MY POINT IN SAYING ALL THAT IS, AT
24 THIS POINT NOBODY AT THIS TABLE HAS OFFERED ANY
25 EVIDENCE INTO THE RECORD EXCEPT FOR JOSH KOGER. HE

1 ENTERED A PIECE OF EVIDENCE, I BELIEVE IT WAS
2 SOMEBODY'S STATEMENT. THE POINT IS, HE ENTERED A
3 PIECE OF EVIDENCE, IT WAS ENTERED IN AS DEFENDANT
4 SHIVERS'S EXHIBIT ONE, I BELIEVE, AND AT THIS POINT
5 NONE OF US HAVE CHOSEN TO PUT ANY EVIDENCE IN.
6 SOLICITOR SORENSON TELLS ME THAT HE KNOWS OF SOME CASE
7 THAT SAYS IF ANY DEFENDANT IN A JOINT TRIAL PUTS IN
8 EVIDENCE THEN ALL OF THE DEFENDANTS HAVE WAIVED THEIR
9 FINAL CLOSING. OBVIOUSLY, - - -

10 THE COURT: I THINK THERE IS A CASE THAT SAYS
11 THAT.

12 MS. ULLMAN: OBVIOUSLY, WE WOULD OBJECT TO THAT.
13 I UNDERSTAND THERE IS A CASE, BUT FOR THE RECORD AND
14 FOR APPEALS WE WOULD OBJECT TO THAT. DUE PROCESS --
15 THIS IS A SEPARATE TRIAL, AND I DON'T UNDERSTAND HOW
16 JOSH KOGER ENTERING EVIDENCE INTO THE RECORD COULD
17 AFFECT MY ABILITY TO CLOSE LAST. WE HAVE NOT
18 DISCUSSED WHAT EVIDENCE I WILL BRING TO THE RECORD.
19 OBVIOUSLY, EVIDENCE HE PUTS INTO THE RECORD COULD HURT
20 MY CLIENT, COULD HELP MY CLIENT, BUT EITHER WAY, WE'RE
21 NOT SITTING HERE AS A TEAM, WE ARE SITTING HERE
22 SEPARATED EXCEPT FOR MR. WISE AND I, AND - - -

23 THE COURT: I'M GLAD TO KNOW HE KNOWS THAT.

24 MS. ULLMAN: --- HIM ENTERING EVIDENCE IS GOING
25 TO RUIN OUR CHANCES. SO, IF YOUR HONOR IS GOING TO

1 DENY MY MOTION TO ALLOW US TO HAVE FINAL CLOSE AS LONG
2 AS WE DON'T SEPARATELY ENTER OUR OWN EVIDENCE WE NEED
3 TO KNOW THAT BEFORE WE CONTINUE ON, BECAUSE THAT MAY
4 CHANGE ALL OF OUR VIEWS ON WHAT WE DO AND DON'T ENTER.

5 MR. MELLARD: AND YOUR HONOR, I'D LIKE TO JOIN
6 THIS MOTION. MR. RYANT WOULD BE OF THE OPINION HIS
7 TRIAL STRATEGY SHOULD NOT BE DICTATED BY OTHER
8 DEFENDANTS IN THIS CASE. IT SHOULD BE DICTATED BY HIS
9 OWN ATTORNEY.

10 THE COURT: AND I DO UNDERSTAND YOUR MOTION, I
11 REALLY DO.

12 MR. KOGER: JUDGE, I'D LIKE TO BE HEARD ON IT,
13 TOO.

14 THE COURT: YES, SIR. I WASN'T GETTING READY TO
15 RULE ANYWAY, BUT THANK YOU.

16 MR. KOGER: OKAY. BASICALLY, I DIDN'T CONSULT
17 WITH ANY OTHER OF THE OTHER COUNSEL AT THE TABLE WHEN
18 I SUBMITTED EVIDENCE BECAUSE I REPRESENT MR. SHIVERS,
19 AND I'M GOING TO DO WHAT'S BEST FOR MR. SHIVERS. SO,
20 I DID NOT CONSULT WITH THEM. SO, I GUESS I WOULD JOIN
21 IN WITH THEIR MOTION FOR THEM TO BE ABLE TO MAKE THAT
22 FINAL OR LAST ARGUMENT.

23 THE COURT: OKAY. BUT MR. KOGER, YOU
24 UNDERSTAND, IF I GO ALONG WITH JUST, EVEN WITH IT
25 BEING SEPARATE LIKE THAT, OKAY, AND YOU'RE DOING THAT,

1 THEN WHAT YOU'RE SAYING TO ME IS, I WOULD BE ABLE TO
2 LET THE SOLICITOR'S OFFICE CLOSE WITH REGARD TO YOUR
3 CLIENT, RIGHT?

4 MR. KOGER: RIGHT.

5 THE COURT: OKAY, SINCE YOU'VE PUT IN EVIDENCE.

6 MR. KOGER: I'LL GO FIRST.

7 THE COURT: WELL, I MEAN, YOU DON'T ACTUALLY GET
8 TO GO FIRST, BUT I MEAN - - -

9 MR. KOGER: RIGHT.

10 THE COURT: --- BUT THE SOLICITOR WOULD CLOSE
11 AFTER YOU.

12 MR. KOGER: RIGHT.

13 THE COURT: OKAY. BUT THE OTHER DEFENDANTS ARE
14 SAYING THAT WHAT'S HAPPENING IS, THEY WANT TO BE
15 ALLOWED TO CLOSE AFTER THAT. RIGHT, YEAH. OKAY.

16 MR. KOGER: FIVE SEPARATE TRIALS, YOUR HONOR.

17 THE COURT: WELL, I UNDERSTAND FIVE SEPARATE
18 TRIALS, BUT -- AND IF Y'ALL -- DO Y'ALL NEED ME TO
19 RULE ON THAT BEFORE WE GO ANY FURTHER WITH THE
20 QUESTIONING HERE TODAY?

21 MS. ULLMAN: I WOULD APPRECIATE THAT IF I'M GOING
22 TO ENTER ...

23 THE COURT: AND WHAT I NEED TO DO, I'VE GOT SOME
24 OF THAT EVIDENCE IN MY -- I MEAN, SOME OF THOSE CASES
25 IN MY OFFICE, I'VE JUST GOT TO TRY AND LOOK THEM UP,

1 AND IF ANYBODY'S GOT -- MR. SORENSON, DO YOU HAPPEN TO
2 HAVE THAT CASE?

3 SOLICITOR SORENSON: I'M LOOKING RIGHT NOW, YOUR
4 HONOR.

5 THE COURT: OKAY. IF NOT, I THINK I'VE GOT IT IN
6 MY OFFICE AND I CAN LOOK IT UP. BECAUSE WE'VE HAD
7 THAT ISSUE BEFORE. WE HAVEN'T HAD IT WITH MULTIPLE
8 DEFENDANTS, SO I NEED TO SEE WHAT WE'RE GOING TO DO
9 ABOUT THAT. SO, IT WILL TAKE ME A FEW MINUTES TO LOOK
10 THAT UP BECAUSE I NEED TO SEE.

11 SOLICITOR SORENSON: I CAN GIVE YOU THE CITES AT
12 LEAST.

13 THE COURT: ALRIGHT, SIR. HAVE YOU GOT THE
14 CITES?

15 SOLICITOR SORENSON: I BELIEVE THERE'S TWO OF
16 THEM, STATE VERSUS SMITH, 693 SOUTHEASTERN, SECOND,
17 415, - - -

18 THE COURT: DO YOU MIND, DO YOU HAVE THE SOUTH
19 CAROLINA CITE?

20 SOLICITOR SORENSON: YES, SIR, IT'S 387 SOUTH
21 CAROLINA 619.

22 THE COURT: YES, SIR.

23 SOLICITOR SORENSON: AND THAT I BELIEVE CITES A
24 STATE VERSUS CROWE, WHICH IS 258 SOUTH CAROLINA 258, I
25 THINK THAT'S RIGHT.

1 THE COURT: OKAY.

2 SOLICITOR SORENSON: BUT BASICALLY THAT DEALS
3 WITH THE LOSS OF THE RIGHT TO LAST ARGUMENT IF EITHER
4 DEFENDANT OFFERS ANY EVIDENCE, JUST BECAUSE ANOTHER
5 DEFENDANT, BUT BASICALLY THAT WOULD BE TWO SUFFICIENT
6 GROUNDS TO SEVER THE CHARGES, THE CASES.

7 THE COURT: RIGHT. OKAY. IF Y'ALL WILL BEAR
8 WITH ME FOR ABOUT ANOTHER TEN OR FIFTEEN MINUTES, I
9 JUST NEED TO PULL THE CASES, AND I WILL COME BACK AND
10 MAKE A RULING ON YOUR MOTION. OKAY? OKAY. DOES
11 ANYBODY - I'M ASSUMING EVERYBODY IS JOINING IN ON
12 THIS MOTION, IS THAT CORRECT?

13 MR. LACKEY: THAT'S CORRECT, YOUR HONOR.

14 MR. PALMER: YOUR HONOR, THAT'S CORRECT.

15 THE COURT: OKAY.

16 MR. PALMER: I JUST DIDN'T WANT TO GO THROUGH A
17 BUNCH OF ...

18 THE COURT: NO, I APPRECIATE THAT, I APPRECIATE
19 THAT. YOU DID GOOD, YOU DID GOOD BEING READY TO GET
20 STARTED. THANK YOU, SIR.

21 (Recess)

22 THE COURT: ALRIGHT, MS. ULLMAN, I KNOW YOU MADE
23 THE MOTION AND WANTED ME TO MAKE THE DETERMINATION
24 ABOUT THE ORDER OF CLOSING ARGUMENTS SO THAT -- AND I
25 KNOW THAT ALL THE OTHER DEFENDANTS JOINED IN THIS. I

1 CERTAINLY HAVE IT ON THE RECORD. AND ABOUT THE
2 UNFAIRNESS OF ONE DEFENDANT BINDING THE OTHER
3 DEFENDANTS TO HAVING TO GIVE UP THE ABILITY TO CLOSE
4 LAST WHEN ONE DEFENDANT OUT OF FIVE INTRODUCES
5 EVIDENCE.

6 MS. ULLMAN: YES, SIR.

7 THE COURT: OKAY. AND I UNDERSTAND THAT WAS
8 ALSO, EVEN IF YOU DIDN'T SAY IT, IT WAS ALSO IMPLICIT
9 FOR Y'ALL'S ARGUMENTS FOR SEVERANCE WHICH I HEARD
10 EARLIER, IS THAT CORRECT?

11 MS. ULLMAN: HONESTLY, YOUR HONOR, IT WAS NOT IN
12 MY ARGUMENT FOR SEVERANCE BECAUSE I HAD ABSOLUTELY NO
13 IDEA THAT THIS COLD HAPPEN. I ASSUMED THAT THE
14 DEFENDANT HAD A RIGHT TO CLOSE IF HE DIDN'T INTRODUCE
15 EVIDENCE, SINCE THIS IS A SEPARATE TRIAL FOR ALL FIVE
16 WHERE THE STATE HAS JOINED IT BASICALLY FOR EFFICIENCY
17 AND MONEY PURPOSES.

18 THE COURT: RIGHT.

19 MS. ULLMAN: THEY'RE THE INNOCENT PARTIES SITTING
20 HERE. THE STATE HAS THE BURDEN. THEM DOING THIS HAS
21 ALLOWED THEM TO CAUSE US TO BASICALLY WORK AS A TEAM,
22 WHICH WE SHOULD NOT HAVE TO BE FORCED TO DO. WE'VE
23 HAD TO COLLECTIVELY PULL THE JURY, WE'VE NOW BASICALLY
24 HAVE TO COLLECTIVELY DECIDE WHAT EVIDENCE IS AND ISN'T
25 COMING, BUT UNFORTUNATELY, WE DIDN'T KNOW THAT

1 PREVIOUSLY, SO MR. KOGER ENTERED EVIDENCE ON HIS
2 CLIENT'S BEHALF AS HE IS ETHICALLY SUPPOSED TO DO. HE
3 IS ETHICALLY BOUND TO REPRESENT MARIO SHIVERS, NOT ALL
4 FIVE OF THESE DEFENDANTS, AS I'M ONLY BOUND TO
5 REPRESENT RALPH COLEMAN. SO, I UNDERSTAND THAT THE
6 SOUTH CAROLINA SUPREME COURT HAS STATED THAT THIS IS
7 ALLOWED, BUT I WOULD ARGUE THAT UNDER THE UNITED
8 STATES CONSTITUTION THAT ALLOWS, THAT REQUIRES THAT A
9 DEFENDANT HAVE A FAIR AND IMPARTIAL TRIAL, HIS DAY IN
10 COURT, DUE PROCESS, I WOULD SAY THAT THE STATE BEING
11 ALLOWED TO JOIN ALL OF THIS HAS THROWN ALL OF THAT OUT
12 OF THE WINDOW AND WE ARE NOW FORCED TO WORK AS A TEAM,
13 AND WE CERTAINLY SHOULD NOT HAVE TO DO THAT.

14 THE COURT: YES, MA'AM, NO, I UNDERSTAND THAT.
15 AND I UNDERSTAND THAT EVEN THOUGH YOU DIDN'T MAKE IT
16 AS PART OF YOUR SEVERANCE MOTION, IT SHOULD GO ALONG
17 AS ANOTHER REASON FOR SEVERANCE.

18 MS. ULLMAN: YES, SIR.

19 THE COURT: OKAY. ALRIGHT. AND JUST TO CLARIFY,
20 IT WAS A COURT OF APPEALS DECISION. OKAY? THE ONE
21 I'M LOOKING AT IS STATE VERSUS SMITH, WHICH IS COURT
22 OF APPEALS.

23 MS. ULLMAN: YES, SIR.

24 THE COURT: OKAY? SO, IT HASN'T GONE UP TO THE
25 SUPREME COURT WITH REGARD TO THIS ISSUE APPARENTLY.

1 OKAY? AND I DON'T KNOW WHETHER THEY'VE ASKED FOR A
2 REHEARING ON THAT OR NOT. OKAY? BUT ACCORDING TO THE
3 STATE VERSUS SMITH CASE, ANY ONE DEFENDANT IN A
4 JOINTLY TRIED CASE CAUSES ALL OF THE DEFENDANTS BEING
5 TRIED TOGETHER TO LOSE THE RIGHT TO, YOU KNOW, TO END
6 CLOSING. THOUGH I AM, ON THE RECORD, VERY SYMPATHETIC
7 TO YOUR ARGUMENT AND TO YOUR POSITION, I'M ALSO
8 CHARGED WITH STANDING BY THE LAW AS IT IS INTERPRETED.
9 I AM GOING TO RULE THAT THE SOLICITOR IS GOING TO GET
10 THE FINAL CLOSING HERE. I AM GOING TO NOTE THE
11 OBJECTION THAT ALL OF Y'ALL HAVE TO MY RULING, EVEN
12 MR. KOGER, YOU KNOW, AS TO MY RULING SO THAT THAT IS
13 PRESERVED FOR APPEAL. I THINK Y'ALL HAVE AN
14 INTERESTING ARGUMENT, AND AT THIS STAGE IN THE
15 PROCEEDING THE ONLY THING THAT HAS BEEN INTRODUCED IS
16 WHAT -- A STATEMENT MADE BY - - -

17 MS. ULLMAN: ASHLEY PARSLEY, YOUR HONOR.

18 THE COURT: RIGHT. OKAY. BY THE DEFENDANT.
19 OKAY. ALRIGHT, SO NOW WE KNOW HOW TO -- EVERYBODY
20 KNOWS HOW TO PROCEED? OKAY, THANK YOU. ALRIGHT,
21 ANYTHING FROM THE STATE?

22 SOLICITOR SORENSON: NO, YOUR HONOR.

23 THE COURT: OKAY. ANYTHING ELSE FROM THE
24 DEFENDANTS?

25 MR. KOGER: JUDGE, - - -

1 THE COURT: YES, SIR, MR. KOGER.

2 MR. KOGER: --- I WOULD LIKE TO PUT ON THE
3 RECORD, OF COURSE, WE, YOU JUST RULED ON THIS
4 PARTICULAR ISSUE, BUT JUST TO REITERATE, NOW THAT
5 ESSENTIALLY WE WILL HAVE TO WORK ON THE TEAM WITH ANY
6 ADDITIONAL PIECES OF EVIDENCE, THAT'S GOING TO BECOME
7 HAIRY BECAUSE IT MAY COME A POINT THAT SOME OF THESE
8 DEFENDANTS' INTEREST MAY BECOME CONTRADICTORY.

9 THE COURT: ALRIGHT.

10 MR. KOGER: AND I JUST WANT TO PLACE THAT ON THE
11 RECORD.

12 THE COURT: YES, SIR. NO, I UNDERSTAND IT. I AM
13 AWARE OF THAT. THAT WAS ONE OF THE INHERENT RISKS IN
14 ME DENYING THE SEVERANCE MOTION. OKAY. SO, I'M AWARE
15 OF THAT.

16 MR. KOGER: THANK YOU.

17 THE COURT: OKAY. ALRIGHT. ANYTHING ELSE FROM
18 ANY OF THE DEFENDANTS?

19 MR. PALMER: NO, YOUR HONOR.

20 MS. ULLMAN: NO, YOUR HONOR.

21 MR. LACKEY: NO, YOUR HONOR.

22 MR. MELLARD: NO, YOUR HONOR.

23 THE COURT: OKAY. IS THE JURY READY? YOU CAN
24 BRING THE JURY BACK IN.

25 (Whereupon, the jury enters

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DIRECT EXAMINATION OF GERALD DAVID CARTER

BY SOLICITOR SORENSON:

Q. LIEUTENANT CARTER, IF YOU WOULD, TELL THE JURY
WHERE YOU ARE EMPLOYED?

A. I'M EMPLOYED AT THE ORANGEBURG COUNTY SHERIFF'S
OFFICE.

Q. OKAY. AND HOW LONG HAVE YOU BEEN WITH THE
SHERIFF'S OFFICE?

A. EIGHTEEN YEARS THIS MARCH COMING.

Q. ALRIGHT. AND IF YOU WOULD, TELL THE JURY WHAT
YOUR CURRENT DUTIES ARE WITH THE SHERIFF'S
OFFICE?

A. I HOLD THE RANK OF LIEUTENANT AND I RUN CRIME
SCENE OPERATIONS FOR ORANGEBURG COUNTY SHERIFF'S
OFFICE.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED IN THAT
CAPACITY THERE?

A. APPROXIMATELY SIX YEARS.

Q. OKAY. IF YOU WOULD, TELL THE JURY JUST KIND OF
BRIEFLY YOUR TRAINING THAT YOU'VE HAD WITH
REGARDS TO OUR CURRENT DUTIES?

A. WELL, FORMAL TRAINING, I'VE HAD AROUND A THOUSAND
HOURS OF FORMAL TRAINING WHICH INCLUDES FOUR
HUNDRED HOURS OF TRAINING AT THE NATIONAL
FORENSIC ACADEMY WHICH I ATTENDED LAST SUMMER,

1 AND I GRADUATED FROM THERE. I'M A CERTIFIED
2 CRIME SCENE INVESTIGATOR, CERTIFIED THROUGH THE
3 INTERNATIONAL ASSOCIATION FOR IDENTIFICATION.
4 I'VE HAD NUMEROUS CLASSES ON RECONSTRUCTION OF
5 CRIME SCENES, BLOOD STAIN ANALYSIS, PROCESSING OF
6 CRIME SCENES AT VARIOUS COLLEGES AND SCHOOLS
7 AROUND THE COUNTRY.

8 Q. OKAY. AND DO PART OF YOUR DUTIES ALSO INVOLVE
9 NOT ONLY COLLECTING LATENT FINGERPRINTS AT CRIME
10 SCENES BUT ALSO COMPARING THEM TO KNOWN STANDARDS
11 OF PEOPLE ALSO?

12 A. YES, SIR, I'M A TRAINED PRINT EXAMINER.

13 Q. OKAY. AND HOW MANY OVER -- YOU SAID YOU HAD BEEN
14 EMPLOYED IN YOUR CURRENT CAPACITY FOR ABOUT SIX
15 YEARS, IS THAT CORRECT?

16 A. YES, SIR.

17 Q. BEFORE THAT, THE TWELVE YEARS BEFORE THAT WHAT
18 WERE YOUR DUTIES THOSE TWELVE YEARS INITIALLY
19 WITH THE SHERIFF'S OFFICE?

20 A. THE THREE, THREE AND A HALF YEARS PRIOR TO GOING
21 INTO THE CRIME SCENE UNIT I WAS A CRIMINAL
22 INVESTIGATOR FOR ORANGEBURG COUNTY. THE LAST
23 YEAR THERE I WAS IN VIOLENT CRIMES, PRIMARILY
24 ASSAULTS AND HOMICIDES. PRIOR TO GOING INTO
25 INVESTIGATIONS I WORKED PATROL, I HAD PATROL

1 SHOULD BE. EVERY TIME YOU SHOOT, EVERY TIME YO
2 FIRE THE WEAPON IT'S GOING TO KICK THE SHELL
3 CASING OUT.

4 Q. OKAY. NOW, IN COLLECTING THOSE SHELL CASINGS ARE
5 YOU ABLE TO LOOK AT A SHELL CASING AND DETERMINE
6 THE CALIBER OF THE GUN THAT FIRED THE SHELL
7 CASING?

8 A. MOST OF THE TIME, YES.

9 Q. AND IN THIS CASE WERE YOU ABLE TO, IN LOOKING AT
10 THE SHELL CASINGS YOU COLLECTED OUT THERE, WERE
11 YOU ABLE TO DO THAT?

12 A. YES, SIR.

13 Q. OKAY. HOW MANY DIFFERENT CALIBER SHELL CASINGS
14 WERE THERE LOCATED?

15 A. THERE WERE THREE -- THERE WERE SHELL CASINGS FOR
16 THREE SEPARATE CALIBER WEAPONS, A NINE MILLIMETER
17 LUGER, A FORTY CALIBER SMITH AND WESSON, AND A
18 SEVEN POINT SIX TWO BY THIRTY-NINE MILLIMETER,
19 WHICH WOULD COME FROM AN ASSAULT RIFLE.

20 Q. OKAY. AND WOULD YOU TELL ME, WHAT DOES CALIBER
21 MEAN, WHAT IS THAT?

22 A. CALIBER IS THE DIAMETER OF THE BULLET. IT
23 DESIGNATES WHAT BULLETS GO IN A PARTICULAR
24 WEAPON, AND IT'S THE SIZE OF THE BULLET, THE
25 DIAMETER.

1 OR WHAT APPEARED TO BE FRAGMENTS FROM BULLETS - -

2 -

3 A. YES, SIR.

4 Q. --- IN THE LIVING ROOM AREA? AND WERE THOSE ITEMS
5 COLLECTED?

6 A. OH, YES, SIR.

7 Q. AND THERE'S SOME OF THEM AT LEAST NOTED ON THE, I
8 GUESS, THE YELLOW MARKERS?

9 A. YES, SIR.

10 Q. JUST SO YOU CAN IDENTIFY THEM HERE, I SHOW YOU
11 WHAT'S BEEN MARKED AS STATE'S EXHIBIT, I BELIEVE
12 WE HAVE SIXTY-THREE THROUGH SEVENTY-TWO. I WANT
13 YOU TO LOOK IN STATE'S SIXTY-THREE.

14 A. YES, SIR, THESE WERE SOME OF THE BULLET FRAGMENTS
15 I COLLECTED FROM THE SCENE.

16 Q. OKAY. LET ME ASK YOU, THE ONES THAT ARE IN
17 STATE'S EXHIBIT NUMBER SIXTY-THREE, WERE THESE
18 FRAGMENTS HERE SENT OUT TO THE STATE LAW
19 ENFORCEMENT DIVISION FOR ANY ADDITIONAL ANALYSIS
20 ON THIS STACK RIGHT HERE?

21 A. NO, SIR, THEY WERE NOT.

22 Q. OKAY. AND WHY, TELL THE JURY WHY THESE WERE NOT
23 SENT OUT?

24 A. BASED ON MY EXPERIENCE, WHAT I'LL DO IS EXAMINE
25 EVIDENCE TO SEE IF, IN MY OPINION, IT'S POSSIBLE

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1 FOR ADDITIONAL ANALYSIS TO BE DONE, WHETHER IT BE
2 FINGERPRINTS OR DNA OR BULLET FRAGMENTS. IN THIS
3 CASE THESE PARTICULAR ITEMS WERE EITHER VERY
4 SMALL FRAGMENTS OR PIECES THAT WERE DAMAGED SO
5 SEVERELY FROM THE IMPACT AFTER THEY WERE FIRED,
6 IN MY OPINION I DIDN'T BELIEVE THEY WOULD BE ANY
7 USE FOR ANY FURTHER ANALYTICAL ANALYSIS.

8 Q. OKAY. SO YOU JUST COLLECTED THEM AND THEY ARE
9 OBVIOUSLY PRESERVED HERE FOR US TODAY, RIGHT?

10 A. YES, SIR.

11 Q. ALRIGHT. AND NOW, ADDITIONALLY, LET ME SHOW YOU
12 STATE'S EXHIBITS SIXTY-FOUR THROUGH SEVENTY-TWO
13 AND LET YOU LOOK AT THOSE.

14 A. YES, SIR, I COLLECTED THESE BULLET FRAGMENTS FROM
15 THE SCENE.

16 Q. LET ME JUST ASK YOU, ON THE LITTLE KIND OF COIN
17 ENVELOPE INSIDE YOU DOCUMENT YOUR, I GUESS IN
18 BLACK PEN, YOUR MARKER NUMBER?

19 A. YES, SIR, THAT WOULD BE THE, HOW I IDENTIFY EACH
20 PIECE.

21 Q. AND YOU ALSO INDICATED ON THE COIN ENVELOPE WHERE
22 YOU COLLECTED THOSE ITEMS FROM?

23 A. YES, SIR.

24 SOLICITOR SORENSON: JUST TO BE CERTAIN, I WOULD
25 MOVE STATE'S SIXTY-THREE THROUGH SEVENTY-TWO ALSO.

1 THE COURT: INTO EVIDENCE WITHOUT OBJECTION.

2 COURT REPORTER: WAIT, LET ME - - -

3 THE COURT: SIXTY-THREE THROUGH SEVENTY-TWO, YES,
4 MA'AM, I THINK THEY'VE ALREADY BEEN MARKED.

5 (State's Exhibits Sixty-three through Seventy-two
6 marked and filed.)

7 Q. AND LET ME KIND OF BACK YOU UP A LITTLE BIT.
8 NOW, SOME OF THOSE ITEMS WERE FOUND OBVIOUSLY OUT
9 -- AND THEY'RE DEPICTED AS THE YELLOW MARKERS,
10 KIND OF OUT IN THE LIVING ROOM AREA, IS THAT
11 CORRECT?

12 A. YES, SIR.

13 Q. ALRIGHT. NOW, YOU HAD INDICATED EARLIER THAT
14 AFTER YOU HAD KIND OF REMOVED, COLLECTED ITEMS SO
15 THEY WOULDN'T BE DISTURBED, THAT MR. PRINGLE --
16 THE CORNER THEN REMOVED HIS BODY FROM THE SCENE,
17 IS THAT CORRECT?

18 A. YES, SIR.

19 Q. DID YOU HAVE AN OPPORTUNITY AFTER MR. PRINGLE WAS
20 REMOVED FROM THE SCENE THEN TO DISCOVER ANY OTHER
21 ITEMS OF EVIDENCE OUT THERE AFTER HE WAS REMOVED?

22 A. YES, SIR. ONCE THE BODY WAS REMOVED BY THE
23 CORNER IT BECAME VERY APPARENT AND VISIBLE THAT
24 THERE WAS ADDITIONAL EVIDENCE UNDERNEATH THE
25 BODY.

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1 Q. AND WOULD YOU DESCRIBE FOR THE JURY WHAT YOU MEAN
2 BY THAT?

3 COURT REPORTER: AND WHAT?

4 Q. I'M SORRY. DESCRIBE FOR THE JURY.

5 COURT REPORTER: HAVE YOU FINISHED WITH EXAMINING
6 HIM BEFORE THE JURY?

7 SOLICITOR SORENSON: NO, MA'AM.

8 COURT REPORTER: ALRIGHT. GO AHEAD, BUT JUST
9 KEEP YOUR VOICE UP, PLEASE.

10 A. I'LL TRY TO TALK A LITTLE LOUDER.

11 COURT REPORTER: YES, SIR.

12 A. ONCE THE BODY WAS REMOVED BY THE CORONER THE
13 CARPET WAS EXPOSED WHERE HIS BODY HAD LAID, AND
14 THERE WERE BULLET FRAGMENTS LAYING ON TOP OF THE
15 CARPET. THERE WERE SEVERAL. ALSO, THERE WAS
16 DAMAGE TO THE CARPET. WE ALSO HAD SOME OF THAT
17 DAMAGE VISIBLE ON THE, BASICALLY, THE EDGES OF
18 THE VICTIM'S BODY, ON THE LEFT SIDE WHERE THE
19 CARPET WAS FRAYED.

20 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
21 THREE, DOES THAT SHOW THAT AREA OF CARPET
22 UNDERNEATH WHERE MR. PRINGLE HAD BEEN?

23 A. YES, SIR, THIS IS THE AREA OF THE UPPER BODY, MR.
24 PRINGLE HAD COVERED THIS AREA HERE UP. EACH OF
25 THE PLACARDS IS IDENTIFYING A BULLET OR BULLET

1 FRAGMENT THAT WAS UNDERNEATH HIS BODY.

2 Q. ALRIGHT. AND OBVIOUSLY, THOSE WERE COLLECTED
3 AND THEY'RE IN THAT ENVELOPE THAT WE JUST LOOKED
4 AT?

5 A. YES, SIR, THEY ARE.

6 Q. OKAY. NOW, DID YOU HAVE AN OPPORTUNITY DUE TO
7 THE DAMAGE TO THE CARPET THERE TO DO ANYTHING
8 ELSE WITH REGARDS TO THAT CARPET THAT WAS
9 UNDERNEATH MR. PRINGLE?

10 A. YES, SIR, I DID. BASED ON THE DAMAGE TO THE
11 CARPET ITSELF LED ME TO BELIEVE THERE WOULD BE
12 ADDITIONAL EVIDENCE UNDER THE CARPET. SO, ONCE
13 THE EVIDENCE VISIBLE ON TOP WAS DOCUMENTED AND
14 COLLECTED, I DO WHAT WE CALL A CUTTING, I CUT OUT
15 THAT SECTION OF CARPET TO SEE WHAT WAS UNDERNEATH
16 IT.

17 Q. OKAY. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
18 TWENTY-SIX WITH A MARKER FORTY-FIVE. WHAT IS
19 MARKER FORTY-FIVE?

20 A. FORTY-FIVE IS ACTUALLY THE PIECE OF CARPET THAT I
21 CUT OUT. AND WHAT YOU'RE LOOKING AT HERE IS THE
22 BACK OF THE CARPET WHICH INDICATES THE DAMAGE WAS
23 NOT JUST ON TOP BUT IT WENT ALL THE WAY THROUGH,
24 ALL THE WAY THROUGH THE CARPET TO THE FLOOR.

25 Q. OKAY. AND WHEN YOU REMOVED THAT PIECE OF CARPER,

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1 THAT MARKER FORTY-FIVE, FROM THE FLOOR, DID YOU
2 FIND ANY ITEMS UNDERNEATH THAT CARPET?

3 A. YES, SIR, I DID, ADDITIONAL BULLET FRAGMENTS WERE
4 UNDERNEATH THE CARPET.

5 Q. I'M SHOWING YOU STATE'S EXHIBITS TWENTY-FOUR AND
6 TWENTY-FIVE, WHAT ARE DEPICTED IN THOSE ITEMS?

7 A. FORTY-FOUR IS A SMALL PIECE OF A BULLET FRAGMENT
8 WHICH WAS FOUND UNDERNEATH THE CARPET FROM
9 UNDERNEATH WHERE MR. PRINGLE'S BODY HAD LAID.
10 FORTY-THREE IS OBVIOUSLY A LARGER, MORE COMPLETE
11 FRAGMENT OF A BULLET, AND A SMALLER FRAGMENT OF A
12 BULLET, AGAIN, THAT WAS FOUND UNDERNEATH THE
13 CARPET ONCE I CUT IT.

14 Q. AND THOSE TWO ITEMS THAT YOU JUST SHOWED HERE AT
15 MARKERS FORTY-THREE AND FORTY-FOUR, AND THOSE
16 ITEMS WERE COLLECTED?

17 A. YES, SIR, THEY WERE.

18 Q. I'M SHOWING YOU STATE'S EXHIBITS SIXTY-NINE AND
19 SEVENTY, ARE THOSE THOSE ITEMS?

20 A. YES, SIR, THESE WOULD BE THE FRAGMENTS THAT WERE
21 COLLECTED FROM UNDERNEATH THE CARPET.

22 Q. AND THAT'S STATE'S SIXTY-NINE AND SEVENTY, IS
23 THAT CORRECT?

24 A. YES, SIR.

25 Q. ALRIGHT. AND WHAT, IN YOUR EXPERIENCE AS A CRIME

1 SCENE INVESTIGATOR, LIEUTENANT, WHAT, YOU KNOW,
2 THE LOCATION OF THOSE ITEMS AND THE EVIDENCE YOU
3 FOUND, WHAT WOULD THAT SUGGEST TO YOU IN YOUR
4 EXPERIENCE?

5 A. BASED ON MY EXPERIENCE, RECONSTRUCTING SHOOTING
6 SCENES, MOST OF THE SHOTS FIRED WHICH HIT THE
7 VICTIM WERE FIRED AFTER HE WAS ALREADY ON THE
8 FLOOR. THIS IS BASED ON THE EVIDENCE, FRAGMENTS
9 AND THE DAMAGE TO THE CARPET, THE IMPACTS TO THE
10 HARD SUB-FLOOR UNDERNEATH, OTHER FRAYED, WHAT IN
11 OPINION A BULLET IMPACTS TO THE CARPET ALONG THE
12 LEFT SIDE OF THE BODY, THESE WERE CAUSED BY
13 BULLETS BEING FIRED DOWNWARD AT THE FLOOR, AND
14 THE ITEMS WE DISCOVERED ONCE I MADE THIS CARPET
15 CUTTING APPEARED TO BE THE BULLETS THAT STRUCK
16 MR. PRINGLE AFTER HE WAS ALREADY LAYING ON THE
17 FLOOR. THE OTHER THING OF NOTE, USUALLY WHEN
18 YOU HAVE THIS MANY SHOTS FIRED INSIDE A HOUSE,
19 YOU HAVE, YOU KNOW, BULLET IMPACTS IN WALLS,
20 CEILING, ALL OVER THE ROOM. I SEARCHED THE ROOM,
21 THERE WERE NO IMPACTS FOUND BY ME ANYWHERE BUT
22 THE FLOOR AND MR. PRINGLE.

23 Q. I'M SHOWING YOU STATE'S EXHIBIT NUMBER TWENTY-
24 SEVEN, WHAT IS IN TWENTY-SEVEN?

25 A. TWENTY-SEVEN IS ACTUALLY THE FLAT SCREEN T.V. I

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 Q. WERE THOSE ITEMS TURNED INTO YOU FROM LIEUTENANT
2 SHUMPERT?

3 A. YES, SIR.

4 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY, OR WHAT
5 DID YOU DO WITH THOSE STATE'S EXHIBITS SEVENTY-
6 THREE AND SEVENTY-FOUR?

7 A. I PUT THEM IN -- I WAS THE ONE THAT PLACED THEM
8 IN THESE BOXES, AND I TIED THEM UP IN THE BOX SO
9 THEY WERE SUSPENDED OR HANGING, AND I SENT THEM
10 TO SLED FOR, I BELIEVE LATENT PRINT FIREARMS
11 COMPARISON.

12 Q. ALRIGHT. AND AS TO -- ARE YOU AWARE OF WHETHER
13 THEY WERE ABLE TO GET ANY LATENT PRINTS OFF OF
14 THE MAGAZINE OR THE GUN?

15 A. I'M UNAWARE OF ANY. I HAVEN'T SEEN A REPORT ON
16 THAT.

17 Q. OKAY. ALRIGHT, AND I'M SHOWING YOU STATE'S
18 EXHIBIT NUMBER SEVENTY-THREE, CAN YOU TELL THE
19 JURY WHAT STATE'S SEVENTY-THREE IS?

20 A. STATE'S SEVENTY-THREE IS AN AUTO LOADER ON WHAT
21 WE CALL A SEMI-AUTO PISTOL. IT'S MANUFACTURED BY
22 THE RUGER CORPORATION, AND -- LET ME SEE WHAT IT
23 SAYS ON HERE. AND IT WOULD BE A FORTY CALIBER
24 WEAPON.

25 Q. SO, IT WOULD BE AT LEAST THE SAME CALIBER AS

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 EIGHT OF THE SHELL CASINGS YOU RECOVERED AT THE
2 CRIME SCENE?

3 A. YES, SIR.

4 Q. ALRIGHT. AND STATE'S EXHIBIT SEVENTY-FOUR?

5 A. STATE'S EXHIBIT SEVENTY-FOUR WOULD BE THE
6 MAGAZINE OR COMMONLY CALLED A CLIP, BUT IT'S A
7 MAGAZINE THAT WOULD HOLD THE BULLETS FOR THAT
8 TYPE WEAPON, FOR THE RUGER AUTOMATIC WEAPON.

9 Q. AND I BELIEVE, AND THOSE ITEMS I BELIEVE WERE
10 SENT OUT TO SLED ON MARCH EIGHTEENTH, IS THAT
11 CORRECT?

12 A. YES, SIR.

13 Q. AND ANY FURTHER ANALYSIS, THEN, AS FAR AS
14 COMPARING THAT GUN TO ANY OF THE EVIDENCE FOUND
15 AT THAT SCENE WOULD HAVE BEEN DONE BY A FIREARMS
16 EXPERT AT SLED?

17 A. YES, SIR.

18 SOLICITOR SORENSON: YOUR HONOR, I BELIEVE
19 SEVENTY-THREE AND SEVENTY-FOUR I'D OFFER INTO
20 EVIDENCE. I BELIEVE THEY'RE ALREADY IN ALSO, BUT JUST

21 - - -

22 THE COURT: NO OBJECTION?

23 MR. LACKEY: NO OBJECTION.

24 MS. ULLMAN: NO OBJECTION.

25 MR. PALMER: NO OBJECTION.

DIRECT - GERALD DAVID CARTER BY SOL. SORENSON

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1 MR. MELLARD: NO OBJECTION.

2 MR. KOGER: NO OBJECTION.

3 THE COURT: OKAY, WITHOUT OBJECTION, THEY'RE IN
4 EVIDENCE.

5 (State's Exhibits Seventy-three and Seventy-four
6 marked and filed.)

7 SOLICITOR SORENSON: I BEG THE COURT'S
8 INDULGENCE.

9 THE COURT: YES, SIR.

10 SOLICITOR SORENSON: THANK YOU, LIEUTENANT,
11 PLEASE ANSWER ANY QUESTIONS THAT DEFENSE COUNSEL HAS.

12 THE COURT: ALRIGHT, MR. LACKEY.

13 (NOTE: Blank lines on this page do not indicate any
14 part of record has been omitted. Headers on testimony
15 pages and hard page breaks between testimony are now
16 required by the Court. See next ensuing page for
17 sequential continuation of record.)

CROSS - GERALD DAVID CARTER BY MR. LACKEY

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CROSS-EXAMINATION OF GERALD DAVID CARTER

BY MR. LACKEY:

Q. GOOD MORNING.

A. GOOD MORNING.

Q. I ONLY HAVE A FEW QUESTIONS FOR YOU. YOU SAID THAT YOU WERE UNABLE TO COLLECT ANY FINGERPRINTS THAT DEVELOPED ANY SUSPECT, IS THAT CORRECT?

A. YES, SIR, I DIDN'T COLLECT ANY FINGERPRINTS IN THIS CASE.

Q. OKAY. AND IT'S ALSO YOUR TESTIMONY THE SAME AS TO DNA?

A. YES, SIR. I DIDN'T COLLECT ANY DNA EVIDENCE THAT I KNOW OF THAT CAME BACK FROM SLED.

Q. AS TO THE CASINGS WERE YOU ABLE TO DETERMINE FROM YOUR ANALYSIS HOW MANY WEAPONS WERE USED?

A. FROM MY ANALYSIS, IF YOU WILL, FROM THE SCENE, AND I COULD ONLY GO BY THE SHELL CASINGS, I MEAN, I'M NOT A FIREARMS EXPERT, THERE WERE AT LEAST THREE WEAPONS AT THE SCENE DUE TO THE FACT WE COLLECTED THREE DIFFERENT CALIBER SHELL CASINGS FROM THE SCENE.

Q. OKAY. THAT WAS THE NINE MILLIMETER, THE FORTY CALIBER AND THE -- WHAT WAS THE THIRD?

A. SEVEN POINT SIX TWO BY THIRTY-NINE MILLIMETER.

Q. OKAY. SO, THOSE WERE THE THREE TYPES OF CASINGS

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. BROWN SHIRT, IN THE MIDDLE OF THE FIVE OF THEM?

2 A. YES, SIR.

3 Q. OKAY. AND HOW DO YOU KNOW WALTER?

4 A. HIGH SCHOOL, SEEING HIM AROUND YEARS BEFORE.

5 Q. OKAY. SO, YOU HAD KNOWN HIM FOR A WHILE?

6 A. YES, SIR.

7 Q. OKAY. SO, YOU KNEW HIM BY NAME AND SIGHT WHEN
8 YOU SAW HIM?

9 A. BY A NICK NAME.

10 Q. WHAT NICK NAME DID YOU KNOW HIM BY BACK THEN?

11 A. PETE.

12 Q. SAY AGAIN?

13 A. PETE.

14 Q. PETE? LET ME ASK YOU THIS, YOU SAID THAT YOU
15 HAD BEEN HANGING AROUND OVER AT MR. PRINGLE'S
16 WITH HIM FOR THE LAST THREE OR FOUR MONTHS BEFORE
17 THIS OR SO?

18 A. YES, SIR.

19 Q. HAD YOU EVER SEEN WALTER HARRIS THAT YOU KNEW BY
20 PETE, HAD YOU EVER SEEN HIM OVER AT MR. PRINGLE'S

21 - - -

22 A. NO, SIR.

23 Q. --- EITHER HANGING OUT OR BUYING MARIJUANA PRIOR
24 TO THAT NIGHT?

25 A. NO, SIR.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. AND BACK IN MARCH OF THIS YEAR, DID MR. HARRIS,
2 DID HE KNOW WHAT KIND OF CAR YOU DROVE?

3 A. NO, SIR.

4 Q. HE DIDN'T. ALRIGHT. NOW, TELL THE JURY WHAT
5 HAPPENED THEN WHEN HE CAME TO AND ENTERED THE
6 APARTMENT THAT NIGHT?

7 A. HE ASKED IF WE HAD ANY DROE. DROE IS CALLED,
8 YOU KNOW, A CERTAIN MARIJUANA. HE WAS ASKING IF
9 WE HAD ANY, I SAID, NO, AND HE LEFT.

10 Q. OKAY. DID HE END UP TALKING TO ANYBODY BESIDES
11 YOU AND MS. PARLEY?

12 A. OLD SCHOOL CAME OUT AND ASKED WHAT WAS HE LOOKING
13 FOR.

14 COURT REPORTER: WHO CAME OUT WHERE?

15 A. CHARLES, WE CALLED HIM OLD SCHOOL, CAME OUT AND
16 ASKED IF -- I GUESS ASKED ME WHAT HE WANTED, AND
17 I TOLD HIM HE ASKED FOR SOME DROE. HE TOLD HIM
18 HE DIDN'T HAVE ANY.

19 Q. DO YOU REMEMBER IF CHARLES ASKED MR. HARRIS FOR
20 ANYTHING?

21 A. YES, SIR.

22 Q. WHAT DID HE ASK HIM FOR?

23 A. HE ASKED FOR AN ID, HE HADN'T SEEN HIM BEFORE, HE
24 DIDN'T KNOW HIM, SO HE ASKED EVERYBODY FOR AN ID
25 THAT HADN'T BEEN THERE BEFORE, AND CHECK THEM

1 OUT.

2 Q. DO YOU KNOW WHETHER MR. HARRIS GAVE HIM AN ID?

3 A. YES, SIR.

4 Q. NOW, Y'ALL SAID THAT, AS FAR AS YOU KNOW, MR.

5 PRINGLE DIDN'T HAVE ANY DROE, THAT TYPE OF

6 MARIJUANA?

7 A. NO, SIR.

8 Q. OKAY. ARE YOU AWARE OF WHETHER HE SOLD MR.

9 HARRIS ANYTHING AT THAT TIME?

10 A. NOT AT THAT TIME.

11 Q. AND DID MR. HARRIS STICK AROUND AFTER THAT OR DID

12 HE LEAVE?

13 A. HE LEFT.

14 Q. NOW, LET ME ASK YOU, AT THAT TIME DO YOU

15 REMEMBER, YOU HAD TESTIFIED THAT PARKED BASICALLY

16 RIGHT OUT IN FRONT OF THE APARTMENT, WERE YOU

17 AWARE, OR DID YOU HEAR A CAR PULL UP IN FRONT OF

18 THE APARTMENT OR A CAR DOOR CLOSE OR A CAR LEAVE

19 AFTER MR. HARRIS LEFT OUTSIDE THE APARTMENT?

20 A. NO, SIR.

21 Q. ALRIGHT. LET ME ASK YOU THIS. TO KIND OF BACK UP

22 A LITTLE BIT, WHILE YOU WERE IN THERE TALKING

23 WITH ASHLEY DID YOU SEE AT ANY POINT IN TIME ANY

24 WEAPONS INSIDE THE APARTMENT?

25 A. YES, SIR.

DIRECT - SHANNON R. MITCHELL BY SOL. SORENSON

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1 Q. WHAT KIND OF WEAPON DID YOU SEE?

2 A. A THREE FIFTY-SEVEN THAT HE HAD, YEAH.

3 Q. WHO HAD THE, WHO HAD THAT WEAPON - - -

4 A. CHARLES.

5 Q. --- WHILE YOU WERE IN THERE?

6 A. OH, ASHLEY WAS HOLDING THE WEAPON.

7 Q. OKAY. YOU SAID IT WAS A THREE FIFTY-SEVEN?

8 A. YES, SIR, IT WAS A REVOLVER.

9 Q. A REVOLVER. OKAY. AND HAD YOU SEEN THAT GUN
10 PRIOR TO THAT NIGHT, THAT FRIDAY NIGHT?

11 A. YES, SIR.

12 Q. AND DID YOU KNOW WHOSE GUN IT WAS?

13 A. IT WAS CHARLES'S.

14 Q. OKAY. BUT ASHLEY HAD IT IN HER POSSESSION WHILE
15 YOU WERE THERE THAT NIGHT?

16 A. YES, SIR.

17 Q. NOW, AFTER PETE LEFT HOW LONG DID YOU END UP
18 STAYING THERE?

19 A. ABOUT MAYBE TEN MINUTES.

20 Q. AND HOW LONG DO YOU THINK YOU WERE THERE TOTAL?

21 A. THIRTY TO MAYBE FORTY MINUTES TOTAL.

22 Q. AND WHAT WAS -- LET ME ASK YOU, WHEN YOU LEFT THE
23 APARTMENT THAT NIGHT, I MEAN, WHAT CONDITION WAS
24 IT IN?

25 A. EVERYTHING WAS FINE. A COUPLE THINGS WAS ON THE

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

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1 MIDDLE WITH THE BROWN SHIRT?

2 A. YES, SIR.

3 Q. AND HOW LONG HAVE YOU KNOWN MR. WALTER HARRIS?

4 A. ABOUT A COUPLE OF YEARS.

5 Q. AND WERE YOU FRIENDS WITH HIM?

6 A. WE BE STRAIGHT, BUT NOT LIKE THAT.

7 COURT REPORTER: WHAT? I'M SORRY.

8 SOLICITOR PASCOE: HE SAID, WE BE STRAIGHT, BUT
9 NOT LIKE THAT.

10 A. NOT LIKE THAT.

11 Q. DID YOU KNOW THE DEFENDANT, DANNY, RYANT?

12 A. NO, SIR.

13 Q. AT ALL?

14 A. HUH-UH.

15 Q. AND DID YOU KNOW THE DEFENDANT, MARIO SHIVERS, ON
16 THE END WITH THE BLUE SHIRT?

17 A. NO, SIR.

18 Q. AT ALL?

19 A. HUH-UH.

20 Q. SO, OF THE FIVE DEFENDANTS THE ONLY ONE THAT YOU
21 REALLY KNEW CLOSE FOR A FEW YEARS WAS WHO?

22 A. PETE.

23 Q. AND WHO IS PETE?

24 A. OVER THERE.

25 Q. IN THE BROWN SHIRT IN THE MIDDLE?

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

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1 A. YEAH.

2 Q. IS THAT THE NAME WALTER HARRIS WENT BY?

3 A. (Witness nods in the affirmative.)

4 Q. OKAY. YOU'VE GOT TO SPEAK UP, OKAY?

5 A. ALRIGHT.

6 Q. I'M GETTING HARD OF HEARING, TOO, SO -- DID YOU
7 KNOW THE VICTIM IN THIS CASE, MR. CHARLES
8 PRINGLE?

9 A. NO, SIR.

10 Q. HAD YOU EVER BEEN TO HIS APARTMENT ON

11 A. NO, SIR.

12 Q. OKAY. LET ME ASK YOU THIS, MR. WASHINGTON, DO
13 YOU RECOGNIZE WHAT'S BEEN MARKED AS STATE'S
14 EXHIBIT SEVENTY-THREE? HOLD IT AND TAKE A LOOK
15 AT IT. DO YOU RECOGNIZE THAT?

16 A. YES.

17 Q. WHAT DO YOU RECOGNIZE THAT TO BE?

18 A. A FORTY CALIBER HE SOLD ME.

19 Q. AND WHEN YOU SAY, HE SOLD YOU, WHO SOLD YOU THAT
20 FORTY CALIBER?

21 A. PETE.

22 Q. OKAY. AND IS THERE ANYTHING ON THERE, A SCUFF OR
23 ANYTHING THAT YOU RECOGNIZE?

24 A. PROBABLY LIKE, BY THE CLIP.

25 Q. AND LET ME SHOW YOU WHAT'S BEEN MARKED STATE'S

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

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1 EXHIBIT SEVENTY-FOUR, DO YOU RECOGNIZE THAT?

2 A. YEAH.

3 Q. WHAT DO YOU RECOGNIZE THAT AS?

4 A. IT'S THE CLIP.

5 Q. THE CLIP OF WHAT?

6 A. THE FORTY CALIBER.

7 Q. WHO GAVE YOU THAT CLIP?

8 A. PETE.

9 Q. OKAY. WHEN DID PETE, OR MR. WALTER HARRIS SELL
10 YOU STATE'S EXHIBITS SEVENTY-THREE AND SEVENTY-
11 FOUR?

12 A. REPEAT THAT AGAIN?

13 Q. WHEN DID HE SELL YOU THOSE TWO ITEMS?

14 A. IN MARCH, AROUND SOME TIME IN MARCH.

15 Q. OF THIS YEAR?

16 A. YEAH.

17 Q. OKAY. HOW LONG AFTER WALTER HARRIS SOLD YOU THE
18 GUN DID YOU KEEP IT IN YOUR POSSESSION?

19 A. ABOUT THREE OR FOUR DAYS.

20 Q. OKAY. WHAT DID YOU END UP DOING WITH THE GUN?

21 A. SELLING IT.

22 Q. AND WHY DID YOU END UP SELLING IT?

23 A. BECAUSE I FOUND OUT IT WAS HOT, AND AFTER THAT I
24 SOLD IT.

25 Q. AND WHEN YOU SAY IT WAS HOT, WHAT DOES THAT MEAN?

DIRECT - ANDRE WASHINGTON BY SOL. PASCOE

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1 A. I FOUND OUT SOMETHING WAS DONE WITH IT, DEALING
2 WITH A MURDER OR WHATEVER, SO I SOLD IT.

3 Q. OKAY. DID YOU FIND THAT OUT WHEN YOU BOUGHT THE
4 GUN FROM MR. HARRIS OR AFTER?

5 A. AFTER.

6 Q. SO, IF YOU SOLD THE GUN TO -- DO YOU KNOW WHO
7 CHRISTOPHER DWIGHT IS?

8 A. YEAH.

9 Q. WHO DID YOU SELL THE GUN TO?

10 A. YEAH, THAT'S WHO I SOLD IT TO.

11 Q. AND IF YOU SOLD IT TO HIM ON MARCH THE
12 SEVENTEENTH, BECAUSE IT WAS HOT, WHICH WAS A
13 WEDNESDAY, WHAT DAY DO YOU THINK YOU GOT THAT
14 EXHIBIT, THAT GUN?

15 MS. ULLMAN: OBJECTION, YOUR HONOR, NONE OF THAT
16 HAS BEEN PUT INTO EVIDENCE, NOBODY SAID THAT HE HAD
17 SOLD IT TO ANYBODY.

18 THE COURT; WAIT, HOLD ON JUST A SECOND, MR.
19 WASHINGTON.

20 WHAT'S YOUR OBJECTION?

21 MS. ULLMAN: THE SOLICITOR SAID THAT ON MARCH
22 SEVENTEENTH WHEN HE SOLD WHATEVER, HOW MANY DAYS PRIOR
23 TO THAT DID HE PURCHASE IT? NOBODY HAS EVER STATED
24 EXCEPT FOR MR. PASCOE THAT THIS GUN WAS SOLD ON MARCH
25 SEVENTEENTH.

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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DIRECT EXAMINATION OF DR. JANICE E. ROSS

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, DR. ROSS.

A. GOOD AFTERNOON.

Q. IF YOU WOULD, TELL THE JURY WHERE YOU'RE
EMPLOYED?

A. IN NEWBERRY, SOUTH CAROLINA, WITH THE NEWBERRY
PATHOLOGY ASSOCIATES.

Q. AND WHAT DO YOU DO AT NEWBERRY PATHOLOGY
ASSOCIATES?

A. WE DO PATHOLOGY EXAMINATIONS FOR THE HOSPITAL AND
WE DO FORENSIC AUTOPSIES FOR CORNERS AROUND THE
COUNTIES OF THE STATE.

Q. OKAY. AND IF YOU WOULD, JUST TELL THE JURY JUST
BRIEFLY YOUR EDUCATIONAL BACKGROUND?

A. YES. I HAVE A BACHELOR'S DEGREE FROM THE
UNIVERSITY OF SOUTH CAROLINA, MY MB FROM UPSTATE
MEDICAL CENTER IN SYRACUSE, NEW YORK, AND I'VE
DONE TRAINING IN HOSPITAL PATHOLOGY AND FORENSIC
PATHOLOGY TO BECOME BOARD CERTIFIED IN THREE
AREAS OF PATHOLOGY.

Q. OKAY. AND THEN, KIND OF AFTER YOUR EDUCATION
THEN, WHAT'S BEEN YOUR WORK HISTORY?

A. AFTERWARD I'VE BEEN HOSPITAL PATHOLOGIST PLUS A
FORENSIC PATHOLOGIST DOING AUTOPSIES FOR CORONERS

1 EIGHT, OBVIOUSLY, THAT'S AT THE SCENE, BUT IS
2 THAT BASICALLY HOW MR. PRINGLE PRESENTED TO YOU
3 AT THE NEWBERRY MORGUE?

4 A. YES.

5 Q. OKAY. AND THAT WOULD BE THE DUCT TAPE THERE THAT
6 YOU COLLECTED AND TURNED OVER TO LIEUTENANT
7 CARTER?

8 A. YES.

9 Q. GOING ON FROM THERE YOU HAD AN OPPORTUNITY, I
10 GUESS, TO REMOVE MR. PRINGLE'S CLOTHING?

11 A. YES.

12 Q. OKAY. AND WHAT -- WHEN YOU DID YOU THEN KIND OF
13 DID AN INITIAL PHYSICAL EXTERNAL EXAM, AND WHAT
14 WERE YOU FINDINGS AT THAT TIME, MA'AM?

15 A. WE FOUND A TOTAL OF TWENTY-FOUR GUN SHOT WOUNDS
16 TO THE BODY, TORSO AND ARMS AND LEGS.

17 Q. AND DID YOU HAVE AN OPPORTUNITY TO PREPARE A KIND
18 OF A LITTLE BODY DIAGRAM TO KIND OF LAY OUT THE
19 LOCATIONS OF THOSE WOUNDS AND DIRECTION OF
20 TRAVEL?

21 A. YES.

22 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT
23 NINETY-THREE, I'M SORRY, NINETY-TWO, IS THAT AN
24 ENLARGEMENT OF THE DIAGRAM THAT YOU PREPARED,
25 MA'AM?

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 A. YES, IT IS. /

2 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
3 WE'D OFFER STATE'S NINETY-TWO INTO EVIDENCE.

4 MR. PALMER: NO OBJECTION.

5 MR. LACKEY: NO OBJECTION.

6 MS. ULLMAN: NO OBJECTION.

7 MR. MELLARD: NO OBJECTION.

8 MR. KOGER: NO OBJECTION.

9 THE COURT: IT IS ADMITTED WITHOUT OBJECTION.

10 COURT REPORTER: WHAT NUMBER? THAT WAS NINETY-
11 TWO?

12 THE COURT: NINETY-TWO.

13 (State's Exhibit Ninety-two
14 marked and filed.)

15 SOLICITOR SORENSON: CAN I GET DR. ROSS TO STEP
16 DOWN, YOUR HONOR?

17 THE COURT: YES.

18 Q. LET ME PUT THIS OVER HERE AND I WANT YOU TO STEP
19 AROUND, WE DON'T HAVE A HIGH TECH POINTER, BUT WE
20 HAVE A

21 A. THANK YOU.

22 Q. IF YOU COULD, DR. ROSS, JUST KIND OF GO THROUGH
23 FOR THE JURY, AND OBVIOUSLY, I NEED YOU TO KEEP
24 YOUR VOICE UP NICE AND LOUD SO THAT NOT ONLY MS.
25 WALKER BUT ALSO DEFENSE COUNSEL HEAR YOU, AND

1 KIND OF TELL THE JURY WHAT THEY'RE LOOKING AT
2 THERE?

3 A. YES. THIS IS BASICALLY A DIAGRAM, NOT ACCURATE
4 TO THE CENTIMETER, BUT IT SHOWS THE ROUND CIRCLES
5 OR ENTRANCE WOUNDS OF BULLETS, AND THE LITTLE
6 SQUIGGLY CIRCLES, ALMOST LIKE STARS THAT ARE EXIT
7 WOUNDS. AND YOU CAN SEE THAT THERE ARE A NUMBER
8 OF ENTRANCE WOUNDS GOING INTO THE LEFT ARM, TWO
9 BULLETS I THINK WERE LEFT IN THE ARM, WE FOUND
10 THOSE. ONE WENT THROUGH THE ARM THEN ENTERED THE
11 CHEST. THERE ARE A TOTAL OF FOUR OTHER WOUNDS IN
12 THE CHEST. THERE ARE, THIS WOUND IN THE ABDOMEN,
13 I THINK SEVEN, OR FIVE IN THE BACK. THERE'S A
14 TOTAL OF TWENTY-FOUR, BUT THE, THERE ARE ALSO
15 ARROWS HERE SHOWING THE DIRECTION OF THE BULLETS.
16 SO, SOME OF THEM ARE GOING LEFT TO RIGHT, SOME
17 ARE GOING RIGHT TO LEFT, SOME ARE GOING FROM
18 FRONT TO BACK. THIS IS AN ENTRANCE WOUND IN THE
19 CHEST THAT COMES OUT THE BACK. SOME ARE GOING
20 FROM BACK TO FRONT, SOME ARE GOING FROM THE
21 ABDOMEN DOWNWARD. THIS ONE IN THE FOOT IS GOING
22 FROM RIGHT TO LEFT AND THEN ACROSS THE TOP OF THE
23 LEFT FOOT. SO, THERE ARE BULLETS GOING DIFFERENT
24 PATHS.

25 Q. OKAY. AND ALSO I NOTICE, IS THAT AN INJURY TO

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 MR. PRINGLE'S - - -

2 A. YES, IT IS.

3 Q. --- I GUESS THE BACK OF HIS RIGHT KNEE?

4 A. THE BACK OF THE RIGHT KNEE WAS A LARGE GAPING
5 WOUND CAUSED BY A GRAZE WOUND. THE BULLET JUST
6 GRAZED THE TOP OF THE SKIN AND DIDN'T GO
7 UNDERNEATH.

8 Q. THANK YOU, DR. ROSS. NOW, YOU MADE REFERENCE TO
9 THIS IN YOUR TESTIMONY RIGHT THERE, DID YOU HAVE
10 AN OPPORTUNITY THEN, DR. ROSS, TO, TO KIND OF
11 ALSO DO AN INTERNAL EXAM IN AN ATTEMPT TO LOCATE
12 ANY EVIDENCE -- YOU INDICATED SOME OF THEM WERE
13 AND ENTRANCE WOUND AND AN EXIT WOUND, BUT SOME OF
14 THEM THERE WAS NO EXIT WOUND?

15 A. CORRECT.

16 Q. DID YOU HAVE AN OPPORTUNITY THEN TO DO AN
17 INTERNAL EXAM IN AN ATTEMPT TO FIND ANY PHYSICAL
18 EVIDENCE WITHIN MR. PRINGLE?

19 A. YES, I DID AN INTERNAL EXAM ASSISTED BY X-RAYS TO
20 SHOW WHERE BULLETS WERE LOCATED. WE FOUND A LOT
21 OF INJURIES TO DIFFERENT ORGANS OF THE BODY FROM
22 THE BULLET WOUNDS, LACERATED HEART, LUNGS, LIVER,
23 STOMACH, SEVERAL DIFFERENT ORGANS, AND THEN WE
24 WERE ABLE TO RETRIEVE SOME BULLETS, SOME WHOLE
25 BULLETS AND SOME FRAGMENTS OF BULLETS FROM THAT.

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 Q. OKAY. AND THOSE ITEMS WERE COLLECTED, CORRECT?

2 A. YES.

3 Q. LET ME SHOW YOU WHAT IS MARKED AS STATE'S
4 EXHIBITS NUMBERS EIGHTY-ONE THROUGH NINETY-ONE
5 AND GET YOU TO JUST KIND OF LOOK THROUGH THOSE
6 ITEMS.

7 A. THESE ARE BULLETS AND BULLET FRAGMENTS THAT WE
8 WERE ABLE TO GET FROM CHARLES PRINGLE DURING THE
9 AUTOPSY ON MARCH THIRTEENTH. THEY ARE, THEY WERE
10 SUBMITTED IN THESE LITTLE CONTAINERS AND SEALED
11 FOR EVIDENCE AND TAKEN TO SLED BY GERALD CARTER.

12 Q. OKAY.

13 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
14 WE'D OFFER STATE'S EIGHTY-ONE THROUGH NINETY-ONE INTO
15 EVIDENCE.

16 THE COURT: ANY OBJECTION?

17 MR. LACKEY: NO OBJECTION.

18 MS. ULLMAN: NO OBJECTION.

19 MR. PALMER: NO OBJECTION.

20 MR. MELLARD: NO OBJECTION.

21 MR. KOGER: NO OBJECTION.

22 THE COURT: THERE BEING NO OBJECTION, THEY ARE
23 ADMITTED INTO EVIDENCE.

24 (State's Exhibits Eighty-one through Ninety-one
25 marked and filed.)

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: ARE YOU READY, MS. WALKER?

2 COURT REPORTER: YES, SIR.

3 Q. OKAY. NOW, DR. ROSS, LET ME JUST KIND OF,
4 KEEPING OUT JUST FOR DESCRIPTION PURPOSES FOR THE
5 JURY, STATE'S EXHIBIT NUMBER EIGHTY-EIGHT. YOU
6 INDICATED THAT THESE, THE FRAGMENT OR WHATEVER
7 YOU COLLECTED WAS THEN PLACED IN THIS LITTLE
8 VIAL?

9 A. YES.

10 Q. OKAY. DID YOU, WHAT IF ANYTHING DID YOU DOCUMENT
11 ON THE ACTUAL VIAL ITSELF?

12 A. WELL, THE NAME OF THE PERSON, CHARLES PRINGLE,
13 THE DATE OF THE AUTOPSY, THE NUMBER OF THE
14 AUTOPSY, THE AREA WHERE THE FRAGMENTS WERE FOUND,
15 AND THIS ONE IS, HEART, AND MY INITIALS.

16 Q. OKAY. SO, EACH ONE OF THESE YOU CAN LOOK AT
17 INDIVIDUALLY AND SEE WHERE IT WAS THAT YOU
18 COLLECTED IT FROM WITHIN MR. PRINGLE?

19 A. YES.

20 Q. NOW, AS PART OF YOUR AUTOPSY, DR. ROSS, DID YOU
21 COLLECT A BLOOD STANDARD FROM MR. PRINGLE TO HAVE
22 A TOXICOLOGICAL SCREEN DONE ON IT?

23 A. YES.

24 Q. AND THAT WAS DONE IN THIS CASE?

25 A. YES.

1 Q. DO YOU HAVE THE RESULTS OF THE TOXICOLOGY?

2 A. YES, I DO.

3 Q. WHAT WAS THE RESULT, IF YOU KNOW?

4 A. THE ONLY THING PRESENT WAS TETRA HYDRO
5 CANANBINOL, THC, WHICH IS MARIJUANA, AND ONE OF
6 THE METABOLITES FROM IT.

7 Q. NO OTHER DRUGS IN HIS SYSTEM BESIDES MARIJUANA?

8 A. NO.

9 Q. ALRIGHT, NOW, GOING BACK AS FAR AS YOU KIND OF
10 TALKING ABOUT THE ACTUAL WOUNDS THEMSELVES, WHAT
11 -- YOU DESCRIBED EARLIER SEVERAL INTERNAL ORGANS
12 THAT WERE DAMAGED AS A RESULT?

13 A. YES.

14 Q. WHAT WERE THOSE AGAIN?

15 A. THE HEART, LUNGS --BOTH LUNGS, LIVER, SPLEEN,
16 STOMACH, AND VARIOUS BLOOD VESSELS IN THE CHEST
17 AND ABDOMEN.

18 Q. OKAY. AND LET ME ASK YOU, AS FAR AS LOOKING AT
19 THE WOUNDS WERE YOU ABLE TO TELL ANYTHING ABOUT,
20 YOU KNOW, WHAT KIND OF WEAPON POSSIBLY COULD HAVE
21 CAUSED ANY OF THE WOUNDS?

22 A. ALL I CAN SAY IS, THE ENTRANCE WOUNDS HAD SOME
23 VARIABILITY IN THEIR SIZE.

24 Q. OKAY. AND THAT WOULD SUGGEST WHAT TO YOU IN YOUR
25 EXPERIENCE?

DIRECT - DR. JANICE E. ROSS BY SOL. SORENSON

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1 A. SUGGESTS DIFFERENT CALIBERS.

2 Q. ULTIMATELY, DR. ROSS, WERE YOU ABLE TO DETERMINE
3 WITHIN A REASONABLE DEGREE OF MEDICAL CERTAINTY A
4 MANNER AND CAUSE OF DEATH IN THIS CASE?

5 A. YES.

6 Q. AND WHAT, TELL THE JURY WHAT YOUR OPINION IS IN
7 REGARD TO THAT?

8 A. THE CAUSE OF DEATH IS LACERATION OF MULTIPLE
9 ORGANS DUE TO DUE TO MULTIPLE GUN SHOT WOUNDS OF
10 THE CHEST AND THE ABDOMEN. THE MANNER OF DEATH,
11 HOMICIDE.

12 Q. AND SPECIFICALLY AS TO THOSE, YOU TESTIFIED
13 EARLIER ABOUT THERE BEING, YOU KNOW, TWENTY,
14 POSSIBLY TWENTY-FOUR GUN SHOT WOUNDS TO MR.
15 PRINGLE. WERE YOU ABLE TO KIND OF LOOK AT THEM
16 AND DETERMINE WHAT OF THOSE TWENTY-FOUR WOUNDS
17 WERE THE FATAL WOUNDS?

18 A. MOSTLY THOSE GOING INTO THE CHEST.

19 Q. OKAY. AND THOSE WERE THE ONES THAT PERFORATED, I
20 THINK YOU TESTIFIED, THE HEART AND THE LUNGS AND
21 BASICALLY THOSE INTERNAL ORGANS?

22 A. YES, AND PROBABLY SOME OF THE ONES FROM THE BACK
23 THAT WENT INTO THE CHEST CAVITY.

24 SOLICITOR SORENSON: I BEG THE COURT'S
25 INDULGENCE.

DIRECT - JAMES GREEN BY SOL. SORENSON

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DIRECT EXAMINATION OF JAMES GREEN

BY SOLICITOR SORENSON:

Q. GOOD AFTERNOON, AGENT GREEN.

A. GOOD AFTERNOON.

Q. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED?

A. I'M EMPLOYED BY THE SOUTH CAROLINA LAW
ENFORCEMENT DIVISION COMMON KNOWN AS SLED, IN THE
FIREARMS DEPARTMENT OF THE FORENSIC SERVICES
LABORATORY.

Q. ALRIGHT. HOW LONG HAVE YOU BEEN EMPLOYED FIRST
OF ALL, WITH THE STATE LAW ENFORCEMENT DIVISION?

A. APPROXIMATELY FIVE AND A HALF YEARS.

Q. OKAY. AND HAVE YOU BEEN IN THE FIREARMS
DEPARTMENT THAT ENTIRE TIME?

A. YES, SIR.

Q. OKAY. AND IF YOU WOULD, TELL THE JURY KIND OF
BRIEFLY WHAT YOUR TRAINING IS IN THAT DEPARTMENT?

A. AT THE FIREARMS DEPARTMENT AT SLED WE UNDERGO A
THREE YEAR IN HOUSE COURSE OF INSTRUCTION, AND
WHAT THAT DEALS WITH IS EXTENSIVE MICROSCOPIC
COMPARISONS, RESEARCH, READING, UNDER COURT
QUALIFIED FIREARMS EXAMINERS, WHERE YOU START
OUT WATCHING THEM PERFORM THEIR CASE WORK, AND AS
YOU BECOME MORE COMFORTABLE YOU START WRITING UP

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THEIR WORK SHEETS FOR THEM, DOING THE MICROSCOPIC
2 WORK, AND THEN THEY WILL COME BACK BEHIND YOU AND
3 LOOK. I WAS ALSO GIVEN PRACTICAL PROBLEMS IN
4 ORAL AND WRITTEN EXAMINATIONS.

5 Q. AND WHEN, WHAT TIME WERE YOU CERTIFIED TO
6 ACTUALLY START HANDLING CASES ON YOUR OWN?

7 A. I BELIEVE IT WAS MARCH, TWO THOUSAND NINE.

8 Q. AND HAVE YOU HAD AN OPPORTUNITY, AGENT GREEN, --
9 I GUESS AS KIND OF YOUR TRAINING AND ALL CONTINUE
10 ON A DAY TO DAY BASIS IN THE LAB?

11 A. YES, SIR.

12 Q. AND HAVE YOU HAD AN OPPORTUNITY TO TESTIFY BEFORE
13 REGARDING YOUR FINDINGS, SIR?

14 A. YES, I HAVE.

15 Q. AND HOW MANY TIMES?

16 A. SIX.

17 Q. OKAY. AND HAVE YOU BEEN QUALIFIED AS AN EXPERT
18 IN FIREARMS ANALYSIS?

19 A. IN FIREARMS IDENTIFICATION, YES, SIR.

20 Q. OKAY.

21 THE COURT: IN WHAT, FIREARM WHAT?

22 A. IDENTIFICATION.

23 SOLICITOR SORENSON: AND AT THIS TIME, YOUR
24 HONOR, I WOULD OFFER AGENT GREEN AS AN EXPERT IN THE
25 FIELD OF FIREARMS IDENTIFICATION.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THE COURT: ANY OBJECTION FROM THE DEFENDANTS?

2 MR. PALMER: NONE.

3 MR. LACKEY: NO OBJECTION.

4 MR. MELLARD: NO OBJECTION.

5 MR. KOGER: NO OBJECTION.

6 MS. ULLMAN: NO OBJECTION.

7 THE COURT: OKAY. WITHOUT OBJECTION AGENT GREEN
8 IS QUALIFIED AS AN EXPERT AS TO FIREARMS.

9 Q. OKAY. AGENT GREEN, IF YOU WOULD, TELL THE JURY
10 KIND OF WHAT, WHAT, BASICALLY WHAT CAPABILITIES
11 Y'ALL HAVE OUT AT SLED AS FAR AS IN THE FIELD OF
12 FIREARMS AND IDENTIFICATION?

13 A. WHEN FIREARMS ARE MANUFACTURED THE MANUFACTURER
14 SAYS, WELL, WE'RE GOING TO MAKE A GUN OF THIS
15 CALIBER WITH THIS MANY LANDING GROOVES IN THE
16 BARREL, AND A LANDING GROOVE IS A RIFLING. LET'S
17 SAY THEY WANT SIX GROOVES CUT, AND THEY WILL CUT
18 SIX GROOVES INTO THE BARREL. AND WHAT THAT DOES
19 IS, IT CAUSES THE BULLET TO SPIN AS IT MOVES
20 THROUGH THE BARREL AND THROUGH THE AIR. YOU CAN
21 THINK ABOUT A QUARTERBACK IN THE NFL, THEY THROW
22 A NICE TIGHT SPIRAL, IT GOES FARTHER, IT'S MORE
23 ACCURATE, VERSUS, IF YOU THROW A FOOTBALL LIKE ME
24 IT'S LIKE A DUCK, IT JUST KIND OF GOES THROUGH
25 THE AIR AND IT FALLS NOWHERE NEAR WHERE YOU WANT

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 EXHIBIT NUMBER SEVENTY-THREE, AND ASK IF YOU
2 RECOGNIZE THAT ITEM?

3 A. YES, SIR, THIS THE PISTOL I EXAMINED IN THIS
4 CASE.

5 Q. OKAY, AND WHAT -- TELL THE JURY WHAT KIND OF
6 PISTOL THAT IS?

7 A. THIS IS A RUGER MODEL P-NINETY-FOUR, A SEMI-
8 AUTOMATIC PISTOL, IT'S A NINE MILLIMETER LUGAR
9 CALIBER.

10 Q. WHAT IS THE CALIBER?

11 A. I'M SORRY, IT'S A FORTY CALIBER SMITH AND WESSON.

12 Q. SO, IT'S A FORTY CALIBER?

13 A. YES, SIR.

14 Q. AGENT GREEN, NOW AS TO STATE'S EXHIBITS THIRTY-
15 NINE THROUGH FORTY-NINE THAT ARE BEFORE YOU, WHAT
16 IF ANY EXAMINATION OR ANALYSIS DID YOU PERFORM ON
17 THOSE ELEVEN ITEMS?

18 A. LET ME GET THEM IN ORDER HERE. I TOOK THESE
19 CARTRIDGES CASES AND LOOKED AT THEM USING OUR
20 COMPARISON MICROSCOPE. AND WHAT THAT IS, IT'S
21 JUST BASICALLY TWO MICROSCOPES JOINTED TOGETHER
22 BY AN OPTICAL BRIDGE THAT LETS US LOOK AT TWO
23 ITEMS SIMULTANEOUSLY UNDER MAGNIFICATION AND
24 DIFFERENT LIGHTING ANGLES.

25 Q. OKAY. AND WHAT WERE YOUR RESULTS WHEN YOU

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 COMPARED THOSE ELEVEN SHELL CASINGS?

2 A. THESE ELEVEN SHELL CASINGS, WHICH WERE ITEMS,
3 STATE'S EXHIBITS THIRTY-NINE THROUGH FORTY-NINE,
4 WERE ALL FIRED BY ONE FIREARM.

5 Q. LET ME ASK YOU, COULD THEY HAVE BEEN FIRED BY, OR
6 WERE THEY FIRED BY STATE'S EXHIBIT SEVENTY-THREE?

7 A. NO, SIR, THEY WERE NOT.

8 Q. OKAY. ALRIGHT. I'M GIVING YOU ANOTHER ENVELOPE
9 TO LOOK AT, AND I ASK YOU TO DO THE SAME THING
10 IN THAT ENVELOPE?

11 A. YES, SIR, I'VE SEEN ALL OF THOSE ITEMS.

12 Q. OKAY. AND THAT'S STATE'S EXHIBITS FIFTY THROUGH
13 FIFTY-SEVEN, IS THAT CORRECT?

14 A. YES, SIR.

15 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY TO EXAMINE
16 THOSE ITEMS?

17 A. YES, SIR, I DID.

18 Q. OKAY. AND WHAT, WHAT CALIBER SHELL CASINGS ARE
19 THOSE?

20 A. THOSE ARE FORTY SMITH AND WESSON, OR FORTY S AND
21 W CALIBER.

22 Q. AND LET ME ASK YOU THIS, DID YOU HAVE AN
23 OPPORTUNITY TO COMPARE THOSE EIGHT SHELL CASINGS
24 TO STATE'S EXHIBIT SEVENTY-THREE?

25 A. YES, SIR.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 Q. OKAY. AND WHAT WERE THE RESULTS OF COMPARING
2 THOSE EIGHT SHELL CASINGS TO THAT FORTY CALIBER
3 PISTOL?

4 A. THEY WERE ALL FIRED BY THAT PISTOL.

5 Q. OKAY. SO THAT GUN EJECTED THOSE EIGHT SHELL
6 CASINGS?

7 A. YES, SIR, THEY WERE FIRED BY, AND EJECTED FROM
8 IT.

9 Q. ALRIGHT. WE CAN PUT THEM BACK UP. LET ME SHOW
10 YOU STATE'S EXHIBITS FIFTY-EIGHT THROUGH SIXTY-
11 TWO, I BELIEVE, YES, FIFTY-EIGHT THROUGH SIXTY-
12 TWO, AND ASK YOU IF YOU RECOGNIZE THOSE ITEMS?

13 A. YES, SIR.

14 Q. OKAY. DESCRIBE FOR THE JURY WHAT STATE'S
15 EXHIBITS FIFTY-EIGHT THROUGH SIXTY-TWO ARE?

16 A. THEY ARE FIVE FIRED SEVEN POINT SIX TWO BY
17 THIRTY-NINE SOVIET OR RUSSIAN CALIBER CARTRIDGE
18 CASES.

19 Q. OKAY. AND WHAT KIND OF WEAPON WOULD FIRE THOSE,
20 THOSE TYPE OF, WOULD EJECT THOSE KIND OF SHELL
21 CASINGS?

22 A. TYPICALLY WHAT YOU SEE IN SEVEN POINT SIX TWO BY
23 THIRTY-NINE CALIBER ARE YOUR SKS OR AK FORTY-
24 SEVEN VARIANCE.

25 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 SEVENTY-FIVE, IS THAT A PHOTOGRAPH THAT YOU
2 PROVIDED TO OUR OFFICE OF ONE OF THE WEAPONS THAT
3 COULD POSSIBLY HAVE FIRED THOSE SHELL CASINGS?

4 A. YES, SIR, THIS IS A PHOTOGRAPH OF ONE OF THE SKS
5 TYPE RIFLES FROM OUR FIREARMS REFERENCE
6 COLLECTION.

7 SOLICITOR SORENSON: AT THIS TIME WE'D OFFER
8 STATE'S SEVENTY-FIVE INTO EVIDENCE.

9 MS. ULLMAN: YOUR HONOR, I DO OBJECT.

10 THE COURT: OKAY. AND I NOTE YOUR OBJECTION FROM
11 EARLIER, AND I AM GOING TO ALLOW IT IN, AND I WILL GO
12 OVER THE REASONS FOR DOING THAT AT A LATER TIME.

13 MS. ULLMAN: YES, SIR.

14 THE COURT: OKAY. THANK YOU. BUT I WILL NOTE
15 YOUR OBJECTION FOR THE RECORD.

16 NUMBER SEVENTY-FIVE IS ADMITTED.

17 (State's Exhibit Seventy-five
18 marked and filed.)

19 Q. AND THAT IS ONE OF THE TYPES OF FIREARMS THAT
20 COULD HAVE FIRED BULLETS AND EJECTED THOSE FIVE
21 SHELL CASINGS?

22 A. YES, SIR.

23 Q. ALRIGHT, NOW, WHAT -- I WAS GOING TO ASK YOU, DID
24 YOU HAVE ANY WEAPONS LIKE THIS SUBMITTED IN THIS
25 CASE?

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 A. NO, SIR, THE ONLY WEAPON SUBMITTED WAS THE
2 PISTOL.

3 Q. OKAY. AND OBVIOUSLY, I MEAN, COULD THIS GUN HAVE
4 FIRED THOSE SHELL CASINGS?

5 A. NO, SIR.

6 Q. DID YOU HAVE AN OPPORTUNITY TO THEN TAKE THOSE
7 FIVE SHELL CASINGS AND KIND OF COMPARE THEM TO
8 EACH OTHER TO SEE IF THE SAME FIREARM FIRED THOSE
9 FIVE?

10 A. YES, SIR, I DID.

11 Q. AND WHAT WERE YOUR RESULTS AFTER DOING THAT?

12 A. STATE'S EXHIBIT FIFTY-EIGHT, FIFTY-NINE, SIXTY
13 AND SIXTY-ONE WERE FIRED BY THE SAME FIREARM, AND
14 STATE'S EXHIBIT SIXTY-TWO WAS FIRED BY A
15 DIFFERENT FIREARM.

16 Q. SO, THIS ONE RIGHT HERE, STATE'S SIXTY-TWO, WHICH
17 IS -- WHAT MARKER NUMBER IS THAT NOTED ON THE
18 BACK?

19 A. IT SAYS, NUMBER THIRTY.

20 Q. OKAY. AND THAT WAS FIRED BY A DIFFERENT RIFLE
21 THAN THE RIFLE THAT FIRED THESE FOUR?

22 A. YES, SIR.

23 Q. THANK YOU, WE CAN PUT THAT ONE BACK UP. BASED ON
24 THE -- AND DID YOU RECEIVE ANY OTHER SHELL
25 CASINGS IN THIS CASE, OTHER THAN WHAT WE'VE GONE

1 OVER?

2 A. LET'S SEE, WE WENT OVER -- NO, SIR.

3 Q. OKAY. SO, JUST BASED ON THE SHELL CASINGS FOUND,
4 HOW MANY DIFFERENT WEAPONS WOULD HAVE HAD TO HAVE
5 BEEN USED TO FIRE ALL THOSE SHELL CASINGS THAT
6 WERE SUBMITTED TO YOU?

7 A. FOUR.

8 Q. FOUR.

9 COURT REPORTER: FOUR?

10 A. YES, MA'AM.

11 Q. AND YOU ALSO, IN ADDITION TO THE SHELL CASINGS
12 THAT WERE SUBMITTED, ALSO HAD SEVERAL PROJECTILES
13 AND BULLETS AND THINGS OF THAT NATURE SUBMITTED?

14 A. YES, SIR.

15 Q. OKAY. AND LET ME SHOW YOU ANOTHER ENVELOPE HERE.
16 AND I BELIEVE THAT SHOULD CONTAIN STATE'S
17 EXHIBITS SIXTY-FOUR THROUGH SEVENTY-TWO, I
18 BELIEVE.

19 A. YES, SIR, I'VE SEEN THOSE BEFORE.

20 Q. OKAY. NOW ADDITIONALLY, I HAND YOU ANOTHER BAG
21 HERE, AND WE'LL EVENTUALLY TAKE THEM ONE AT A
22 TIME HERE, BUT - - -

23 SOLICITOR SORENSON: THAT BAG CONTAINS STATE'S
24 EIGHTY-ONE THROUGH NINETY-ONE, YOUR HONOR, THAT HE'S
25 LOOKING AT NOW.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 THE COURT: OKAY.

2 A. YES, SIR, I'VE SEEN ALL THOSE AS WELL.

3 Q. SO, ALL OF THOSE ITEMS WERE SUBMITTED TO YOU FOR
4 YOUR ANALYSIS IN THIS CASE?

5 A. YES, SIR.

6 Q. ALRIGHT. AND I GUESS THE BEST WAY TO DO THIS,
7 AGENT GREEN, IS TO JUST KIND OF TAKE THEM ONE AT
8 A TIME AND GET YOU TO KIND OF TELL THE JURY WHAT
9 YOUR FINDINGS WERE AS TO EACH OF THOSE AS WE GO
10 THROUGH. IF YOU WANT ME TO KIND OF GIVE THEM TO
11 YOU IN ORDER OR DO YOU -- IF YOU WOULD JUST KIND
12 OF IDENTIFY THE STATE'S EXHIBIT AND THE RIGHT
13 STICKER BEFORE YOU ...

14 A. OKAY. STATE'S EXHIBIT SIXTY-FOUR IS WHAT I'M
15 LOOKING AT RIGHT NOW.

16 Q. OF COURSE, NOW, YOU HAVE A DIFFERENT NUMBER THAN
17 THAT, IS THAT CORRECT?

18 A. YES, SIR.

19 Q. OKAY.

20 A. SO, I'M TRYING TO BALANCE THESE WITH MY NUMBERS.

21 Q. THAT SHOULD BE, I BELIEVE, YOUR ITEM TWENTY-FIVE
22 I BELIEVE, IS THAT CORRECT?

23 A. YES, SIR.

24 Q. THEY SHOULD BE IN ORDER. WHAT OTHER NUMBERS ARE
25 YOU LOOKING FOR?

1 A. I GOT THEM OUT OF ORDER WHEN I PUT THEM UP HERE.
2 OKAY, I'M SORRY. ALRIGHT, ITEM SIXTY-FOUR,
3 STATE'S EXHIBIT SIXTY-FOUR, SIXTY-FIVE, SIXTY-
4 SEVEN, SEVENTY-ONE, SIXTY-NINE, EIGHTY-TWO,
5 EIGHTY-FOUR, EIGHTY-SEVEN AND NINETY-ONE -- OKAY,
6 STATE'S EXHIBIT NINETY-ONE IS ACTUALLY TWO OF MY
7 ITEM NUMBERS COMBINED INTO ONE.

8 Q. YES, SIR.

9 A. OKAY. SO WHEN I REFER TO STATE'S EXHIBIT NINETY-
10 ONE I'M REFERRING TO THE FIRED BULLET PORTION AND
11 NOT THE NON-AMMUNITION COMPONENTS.

12 COURT REPORTER: NOT THE WHAT?

13 A. IT LOOKS LIKE A BUTTON, BUT IT'S NOT AN
14 AMMUNITION COMPONENT.

15 Q. AND HOW MANY IS THAT, TEN TOTAL?

16 A. YES, SIR. I'M MISSING ONE. WHICH ONE AM I
17 MISSING? HANG ON, THAT'S NOT RIGHT.

18 Q. IT SHOULD BE FIVE OF THOSE.

19 A. TWENTY-FIVE, TWENTY-SIX, TWENTY-EIGHT, THIRTY-
20 TWO.

21 Q. HAVE YOU GOT IT?

22 A. YES, SIR. OKAY. LET ME GIVE YOU THOSE ITEMS
23 NUMBERS AGAIN. I'M SORRY. ITEMS SIXTY-FOUR,
24 SIXTY-FIVE, SIXTY-SEVEN, SIXTY-NINE, SEVENTY-ONE,
25 EIGHTY-TWO, EIGHTY-FOUR, EIGHTY-SEVEN, NINETY AND

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 NINETY-ONE.

2 Q. OKAY. SO, THOSE TEN BULLETS AND/OR BULLET
3 FRAGMENTS, WHAT WERE THE RESULTS OF THOSE TEN?

4 A. THEY WERE ALL FIRED BY THE SAME FIREARM, BUT THEY
5 WERE NOT FIRED BY THE RUGER PISTOL.

6 Q. ALL FIRED BY THE SAME BUT NOT BY STATE'S EXHIBIT
7 SEVENTY-THREE?

8 A. YES, SIR.

9 Q. WHAT CAN YOU TELL US ABOUT AS FAR AS THE CALIBER
10 OR ANYTHING OF THAT NATURE AS TO THOSE?

11 A. BASED ON THE WEIGHT, THEIR OBSERVABLE PHYSICAL
12 CHARACTERISTICS, AND WHERE APPLICABLE THEIR
13 DIAMETERS AT BASE, THEY'RE MOST CONSISTENT WITH
14 BEING BULLETS LOADED INTO SOME NINE MILLIMETER
15 LUGER CALIBER CARTRIDGES.

16 Q. OKAY. SO, THEREFORE, THEY WOULD BE CONSISTENT
17 WITH COMING FROM THESE ELEVEN SHELL CASINGS?

18 A. YES, SIR, FROM CARTRIDGE CASINGS OF THAT CALIBER,
19 YES, SIR.

20 Q. LET ME ASK YOU THIS, COULD THEY HAVE BEEN THEN
21 FIRED BY THE SAME GUN THAT EJECTED THESE SHELL
22 CASINGS HERE?

23 A. THEY COULD HAVE BEEN, BUT THAT'S NOT AN
24 EXAMINATION WE PERFORM.

25 Q. ALRIGHT. LET'S KIND OF GO ON TO THE NEXT GROUP.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 A. I HAVE STATE'S EXHIBITS SIXTY-SIX, SIXTY-EIGHT,
2 SEVENTY, SEVENTY-TWO AND EIGHTY-FIVE.

3 Q. WHAT ABOUT EIGHTY-THREE?

4 A. NO, SIR, I'M LOOKING TO MAKE SURE I'VE GOT
5 EVERYTHING. I'M SORRY, AND ITEM EIGHTY-THREE.

6 Q. SO, IT'S ONE, TWO, THREE, FOUR, FIVE, SIX EITHER
7 BULLET FRAGMENTS OR PROJECTILES?

8 A. YES, SIR.

9 Q. ALRIGHT. AND WHAT WERE YOUR RESULTS AS TO THOSE
10 SIX?

11 A. THEY WERE ALL FIRED BY THE SAME FIREARM, WHICH IS
12 THAT RUGER PISTOL.

13 Q. SO, THOSE SIX BULLETS AND/OR BULLET FRAGMENTS
14 WERE ALL FIRED BY STATE'S EXHIBIT SEVENTY-THREE?

15 A. YES, SIR. OKAY, I'LL TAKE THESE ONE AT A TIME.

16 Q. OKAY.

17 A. STATE'S EXHIBIT EIGHTY-ONE IS A HEAVILY DAMAGED
18 BULLET FRAGMENT BUT BASED ON THE REMAINING
19 OBSERVABLE PHYSICAL CHARACTERISTICS I WAS ABLE TO
20 CONCLUDE IT WAS CONSISTENT WITH BULLETS LOADED IN
21 SOME SEVEN POINT SIX TWO BY THIRTY-NINE
22 MILLIMETER CALIBER CARTRIDGES, AND THEY ALSO CAME
23 WITH TWO LEAD FRAGMENTS WHICH BORE NO MARKS OF
24 VALUE FOR IDENTIFICATION PURPOSES, SO THEY WERE
25 UNSUITABLE.

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 Q. SO, THAT COULD HAVE BEEN FIRED BY A WEAPON
2 SIMILAR TO THIS ONE?

3 A. YES, SIR, IT COULD HAVE BEEN. STATE'S EXHIBIT
4 EIGHTY-SIX IS JUST A SMALL JACKET FRAGMENT, AND
5 ONE SMALL LEAD FRAGMENT. DUE TO THE DAMAGE I WAS
6 UNABLE TO DETERMINE THE CALIBER OF THIS FRAGMENT.
7 HOWEVER, IT DID HAVE SOME MARKS OF VALUE SO IT
8 MAY BE SUITABLE FOR IDENTIFICATION.

9 Q. OKAY. DID YOU ATTEMPT TO COMPARE IT WITH STATE'S
10 EXHIBIT SEVENTY-THREE?

11 A. I DID, AND IT WAS NOT FIRED BY THAT FIREARM.

12 Q. ALRIGHT.

13 A. STATE'S EXHIBIT EIGHTY-EIGHT, ONCE AGAIN DUE TO
14 THE DAMAGE I WAS UNABLE TO RELIABLY DETERMINE THE
15 CALIBER, BUT BASED ON THE RIFLING SPECIFICATIONS
16 I WAS ABLE TO DETERMINE IT WAS NOT FIRED BY THE
17 PISTOL.

18 Q. OKAY. ALRIGHT.

19 A. STATE'S EXHIBIT EIGHTY-NINE, THERE'S ACTUALLY IN
20 THERE, ONE'S A SMALL LEAD FRAGMENT WHICH IS
21 UNSUITABLE, AND THEN THERE'S A BULLET JACKET,
22 ACTUALLY TWO BULLET JACKET FRAGMENTS AND A LEAD
23 FRAGMENT. BASED ON THE JACKET FRAGMENTS I WAS
24 ABLE TO DETERMINE IT'S MOST CONSISTENT WITH
25 BULLETS LOADED INTO SOME NOMINAL THIRTY CALIBER

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 CARTRIDGES. I WAS UNABLE TO DETERMINE AN EXACT
2 CALIBER DUE TO THE DAMAGE, AND BASICALLY, ALL I
3 HAVE IS WHAT'S LEFT AT THE BASE, AND A THIRTY
4 CALIBER COMES WITH A LOT OF DIFFERENT CALIBERS,
5 THERE'S THIRTY OUGHT SIX SPRINGFIELD THREE O
6 EIGHT, SO I WAS UNABLE TO GET AN EXACT CALIBER
7 OTHER THAN A NOMINAL, AN APPROXIMATE THIRTY
8 CALIBER.

9 Q. OKAY. COULD IT HAVE BEEN FIRED BY STATE'S
10 EXHIBIT SEVENTY-THREE?

11 A. NO, SIR, IF IT WOULD HAVE BEEN FIRED IT WOULD
12 HAVE BEEN DEFORMED AND IT COULD NOT HAVE BEEN
13 FIRED BY THAT GUN BASED ON THE RIFLING AS WELL.

14 Q. COULD IT HAVE BEEN FIRED BY AN ASSAULT RIFLE SUCH
15 AS THIS?

16 A. IT COULD HAVE.

17 Q. COULD IT HAVE BEEN FIRED BY A NINE MILLIMETER
18 PISTOL?

19 A. NO, SIR.

20 Q. OBVIOUSLY, GOING BACK TO THE FORTY CALIBER PISTOL
21 THAT YOU RECEIVED, IT WAS OPERABLE?

22 A. YES, SIR.

23 Q. AND LET ME ASK YOU THIS, KIND OF, MAYBE I SHOULD
24 HAVE COVERED THIS BEFORE I EVEN GOT INTO THIS,
25 BUT WHEN YOU, THE SHELL CASINGS AND THE

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 PROJECTILES THAT YOU TESTIFIED WERE FIRED BY THIS
2 WEAPON, HOW DID YOU, HOW DO YOU GET STANDARDS TO
3 COMPARE THOSE TO, TO MAKE THAT COMPARISON?

4 A. IT, SLED IN THE FIREARMS DEPARTMENT WE ACTUALLY
5 HAVE A TWO STORY VERTICAL WATER TANK THAT WE TEST
6 FIRE OUR FIREARMS INTO. THE WATER WE CHOSE AS A
7 MEDIUM BECAUSE IT DOESN'T ADD TO OR TAKE AWAY
8 FROM ANY MARKINGS LEFT ON THE FIRED COMPONENTS.
9 AND WE TEST FIRE THE SPECIFIC FIREARMS, IN THIS
10 CASE THE RUGER. I TEST FIRED THE PISTOL, SO I
11 CAN SAY DEFINITELY I KNOW THOSE BULLETS AND
12 CARTRIDGE CASINGS CAME FROM THAT GUN BECAUSE I
13 FIRED THEM MYSELF.

14 Q. AND YOU TOOK THEN THOSE STANDARDS WHEN YOU FIRED
15 IT INTO THE WATER TANK AND COMPARED THOSE
16 STANDARDS THEN TO THE CASINGS FOUND AT THE SCENE
17 AND THE PROJECTILES THAT WERE SUBMITTED TO YOU?

18 A. YES, SIR. AFTER I TEST FIRE THEM I'LL LOOK AT
19 THE TESTS, MATCH THE TESTS UP, SEE HOW THE
20 FIREARM'S MARKING. I DO THAT WITH BOTH THE
21 CARTRIDGE CASINGS AND THE BULLETS, AND THEN WHAT
22 I'LL DO IS, I'LL GO THROUGH EVERY SINGLE EVIDENCE
23 ITEM YOU JUST SAW ME GO THROUGH AND SAY, YES,
24 I'VE SEEN THEM BEFORE, I'LL LOOK AT THOSE VERSUS
25 THE TESTS TO SEE IF THEY WERE FIRED BY THAT

1 FIREARM OR NOT.

2 Q. OKAY. AND I THINK ONE OF THE LAST THINGS I WANT
3 TO ASK YOU ABOUT IS TO JUST GO BACK TO TWO OF THE
4 ITEMS THAT YOU TESTIFIED ABOUT, STATE'S EXHIBITS
5 SIXTY-NINE AND SEVENTY. START WITH STATE'S
6 EXHIBIT SIXTY-NINE, I BELIEVE THAT WOULD BE YOUR
7 ITEM THIRTY I BELIEVE. LET ME FIND THAT IN YOUR
8 REPORT. AND WHAT IS, WHAT IS THE MARKER NUMBER
9 THAT IS ON THAT LITTLE COIN ENVELOPE INSIDE THE
10 PLASTIC ENVELOPE?

11 A. FORTY-THREE IS WHAT IT SAYS.

12 Q. AND WHAT IS NOTED ON THERE AS FAR AS WHERE THAT
13 ITEM WAS FOUND? I THINK IT'S UNDERNEATH.

14 A. YEAH, IT SAYS, UNDER CARPET.

15 Q. UNDER CARPET. ALRIGHT. AND ONCE AGAIN, WHAT
16 WERE THE RESULTS OF STATE'S EXHIBIT SIXTY-NINE?

17 A. THE SMALL COPPER FRAGMENT DIDN'T HAVE ANY MARKS
18 OF VALUE ON IT, IT WAS UNSUITABLE, AND THEN THE
19 BULLET ITSELF WAS MOST CONSISTENT WITH BEING A
20 NINE MILLIMETER RUGER.

21 Q. ALRIGHT. AND THEN, STATE'S EXHIBIT NUMBER
22 SEVENTY, YET AGAIN, WHAT IS THE MARKER NUMBER
23 THAT'S LISTED ON STATE'S EXHIBIT NUMBER SEVENTY?

24 A. FORTY-FOUR.

25 Q. AND WHERE DOES IT INDICATE THAT THAT ITEM WAS

DIRECT - JAMES GREEN BY SOL. SORENSON

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1 FOUND?

2 A. UNDER A CARPET.

3 Q. OKAY. AND ONCE AGAIN, AS TO STATE'S EXHIBIT
4 NUMBER SEVENTY, WHAT WERE YOUR RESULTS AS TO
5 STATE'S EXHIBIT NUMBER SEVENTY?

6 A. THIS WAS FIRED BY THE PISTOL, THE RUGER PISTOL.

7 Q. SO, THAT WAS FIRED BY STATE'S EXHIBIT NUMBER
8 SEVENTY-THREE?

9 A. YES, SIR.

10 Q. ALRIGHT.

11 SOLICITOR SORENSON: I BEG THE COURT'S
12 INDULGENCE.

13 THE COURT: TAKE YOUR TIME.

14 SOLICITOR SORENSON: THAT WOULD BE ALL I HAVE,
15 AGENT, PLEASE ANSWER ANY QUESTIONS DEFENDANTS HAVE
16 FOR YOU.

17 THE COURT: MR. LACKEY.

18 MR. LACKEY: THANK YOU, YOUR HONOR.

19 THE COURT: YES, SIR.

20 (NOTE: Blank lines on this page do not indicate any
21 part of record has been omitted. Headers on
22 testimony pages and hard page breaks between
23 testimony are now required by the Court. See next
24 ensuing page for sequential continuation of record.)

1 of the jury.)

2 THE COURT: NOW, BEFORE -- MS. WALKER, ARE YOU
3 STILL WITH ME?

4 COURT REPORTER: YES, SIR.

5 THE COURT: OKAY. MS. ULLMAN, YOU MADE THE,
6 RENEWED YOUR MOTION FOR ME NOT TO HAVE THAT
7 PHOTOGRAPH PUT INTO EVIDENCE, - - -

8 MS. ULLMAN: YES, SIR.

9 THE COURT: --- AND I TOLD YOU I WAS GOING TO PUT
10 ON THE RECORD WHY I WAS GOING TO DO THAT.

11 MS. ULLMAN: YES, SIR.

12 THE COURT: AND I'M GOING TO DO THAT NOW. MR.
13 Minor WHEN HE TESTIFIED, TESTIFIED THAT THEY HAD --
14 SKS TYPE WEAPONS WERE USED. THAT IS ONE OF THE TYPES
15 OF FIREARMS THAT AGENT GREEN TESTIFIED COULD HAVE
16 FIRED THAT BULLET, AND I THOUGHT IT COULD ASSIST THE
17 JURY IN DETERMINING WHAT TYPE OF WEAPON WAS USED
18 BECAUSE, IN FACT, I'M NOT FAMILIAR WITH THAT KIND OF
19 WEAPON. SO, IT HELPED ME TO VISUALIZE WHAT TYPE
20 WEAPON WAS USED. THAT WAS THE BASIS FOR IT. I AM
21 NOTING YOUR OBJECTION ON THE RECORD TO ME PUTTING
22 THAT INTO EVIDENCE, BUT I WANTED TO PUT ON THE RECORD
23 WHY I DID IT. OKAY?

24 MS. ULLMAN: I WOULD JUST NOTE THAT THEY DID NOT
25 SHOW A NINE MILLIMETER, AND I BROUGHT THAT UP, BUT

1 TODAY THEY MADE THAT READILY APPARENT THAT THEY'RE
2 WANTING TO HELP THEM KNOW WHAT THE SKS LOOKED LIKE,
3 BUT THEY OBVIOUSLY DON'T CARE IF THEY KNEW WHAT THE
4 PISTOL LOOKED LIKE. SO, THAT WAS PART OF MY
5 OBJECTION. I UNDERSTAND YOUR RULING, I JUST WANTED
6 THAT ON THE RECORD.

7 THE COURT: YES, MA'AM. OKAY. YOU GOT IT.
8 OKAY.

9 ANYTHING FROM THE STATE BEFORE WE TAKE A BREAK?

10 SOLICITOR SORENSON: NO, SIR.

11 THE COURT: ANYTHING FROM THE DEFENDANTS BEFORE
12 WE TAKE A BREAK?

13 MR. LACKEY: NOTHING, YOUR HONOR.

14 MS. ULLMAN: NO, SIR.

15 MR. PALMER: NO, SIR.

16 MR. MELLARD: NO, SIR.

17 MR. KOGER: NO, SIR.

18 THE COURT: IT'S GOING TO BE ABOUT FIFTEEN
19 MINUTES, AND MR. PASCOE OR MR. SORENSON, YOU'VE GOT
20 ONE MORE WITNESS THIS AFTERNOON?

21 SOLICITOR SORENSON: YES, SIR.

22 THE COURT: OKAY. THANK YOU.

23 (Recess)

24 THE COURT: WE'VE GOT ONE MORE WITNESS, IS THAT
25 CORRECT?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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DIRECT EXAMINATION OF JAMES SHUMPERT

BY SOLICITOR SORENSON:

Q. GOOD MORNING, LIEUTENANT.

A. GOOD MORNING.

Q. IF YOU WOULD, TELL THE JURY WHERE IT IS THAT
YOU'RE EMPLOYED?

A. ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q. AND HOW LONG HAVE YOU BEEN EMPLOYED WITH THE
ORANGEBURG SHERIFF'S OFFICE?

A. GOING ON TWELVE YEARS.

Q. IF YOU WOULD, TELL THE JURY WHAT YOUR CURRENT
DUTIES AND RESPONSIBILITIES ARE WITH THE
SHERIFF'S OFFICE?

A. I'M A LIEUTENANT OVER CRIMINAL INVESTIGATIONS AND
THE BURGLARY TASK FORCE AT THE ORANGEBURG COUNTY
SHERIFF'S OFFICE AT THIS MOMENT.

Q. OKAY. AND HOW LONG HAVE YOU BEEN EMPLOYED IN
THAT CAPACITY?

A. ABOUT, SEVERAL MONTHS NOW.

Q. OKAY. AND BACK IN MARCH OF TWO THOUSAND TEN IN
WHAT CAPACITY WERE YOU EMPLOYED AT THAT TIME NINE
MONTHS AGO?

A. I WAS THE SERGEANT OVER CRIMINAL INVESTIGATIONS.

Q. OKAY. SO, YOU'VE BEEN PROMOTED SINCE MARCH?

A. I HAVE.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 Q. ALRIGHT. AND LET ME ASK YOU, BACK IN MARCH OF
2 TWO THOUSAND TEN WERE YOU ASSIGNED AS THE LEAD
3 INVESTIGATOR INTO THE MURDER OF CHARLES PRINGLE?

4 A. I WAS.

5 Q. OKAY. AND DID YOU HAVE AN OPPORTUNITY,
6 LIEUTENANT, TO RESPOND OUT TO THE SCENE THAT
7 NIGHT, AT SIX THIRTY-FIVE

8 A. I DID.

9 Q. ALRIGHT. AND THERE WERE OTHER OFFICERS AND
10 INVESTIGATORS THAT ALSO RESPONDED OUT THERE THAT
11 NIGHT?

12 A. YES, SIR.

13 Q. LET ME ASK YOU, DID YOU BECOME AWARE AT ANY POINT
14 IN TIME WHETHER THERE WAS A WITNESS WHO WAS
15 ACTUALLY IN THE APARTMENT AT THE TIME THE
16 HOMICIDE OCCURRED?

17 A. I DID.

18 Q. AND WHO WAS THAT WITNESS?

19 A. MS. ASHLEY PARSLEY.

20 Q. AND DID YOU HAVE AN OPPORTUNITY THEN THAT NIGHT,
21 INTO THE EARLY MORNING HOURS OF THE THIRTEENTH TO
22 TAKE A STATEMENT FROM MS. PARSLEY?

23 A. I DID.

24 Q. AND I'M SHOWING YOU DEFENDANT MARIO SHIVERS'S
25 EXHIBIT NUMBER ONE. IS THAT THE STATEMENT YOU

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 TOOK FROM MS. PARSLEY?

2 A. IT IS.

3 Q. AND WHAT TIME WAS THAT STATEMENT TAKEN?

4 A. TWO:TWENTY-FIVE A.M.

5 Q. SO, THAT WOULD BE - - -

6 A. ON THE THIRTEENTH.

7 Q. --- THAT WOULD BE FOUR HOURS, FOUR AND A HALF
8 HOURS AFTER THE HOMICIDE, IS THAT CORRECT?

9 A. CORRECT.

10 Q. LET ME SHOW YOU WHAT'S BEEN MARKED AS STATE'S
11 EXHIBIT NUMBER NINETY-FOUR OR ID, DOES THAT
12 ACCURATELY DEPICT THE CALENDER OF THE MONTH OF
13 MARCH THIS YEAR?

14 A. IT IS.

15 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
16 WE'D OFFER STATE'S NUMBER NINETY-FOUR INTO EVIDENCE.

17 THE COURT: ANY OBJECTION?

18 MR. LACKEY: NO OBJECTION.

19 MS. ULLMAN: NO OBJECTION.

20 MR. PALMER: NO, SIR.

21 MR. MELLARD: NO OBJECTION.

22 MR. KOGER: NO OBJECTION.

23 THE COURT: ALRIGHT, IT IS ADMITTED INTO EVIDENCE
24 WITHOUT OBJECTION.

25 (State's Exhibit Ninety-four

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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- 1 marked and filed.)
- 2 Q. NOW, THIS INCIDENT HAPPENED ON?
- 3 A. MARCH TWELFTH.
- 4 Q. MARCH TWELFTH. AND THAT WOULD BE -- WHAT DAY OF
- 5 THE WEEK WOULD THAT BE?
- 6 A. I BELIEVE THAT WAS ON A FRIDAY, IF I'M NOT
- 7 MISTAKEN.
- 8 Q. AND IN LOOKING AT STATE'S EXHIBIT NUMBER NINETY-
- 9 FOUR, WHAT DOES THE CALENDAR INDICATE THAT DAY
- 10 WAS -- AND JUST HOLD ON THAT IN CASE YOU NEED IT.
- 11 CAN YOU SEE IT FROM THERE OR I'LL TURN IT, I'LL
- 12 TURN IT.
- 13 A. RIGHT HERE, MARCH TWELFTH.
- 14 Q. OKAY. SO, THAT WOULD BE A FRIDAY NIGHT?
- 15 A. YES, SIR.
- 16 Q. ALRIGHT. SO, MS. PARSLEY'S STATEMENT WAS TAKEN
- 17 AT TWO:TWENTY-FIVE THAT SATURDAY MORNING
- 18 AFTERWARDS, IS THAT CORRECT?
- 19 A. THAT'S CORRECT, YES, SIR.
- 20 Q. ALRIGHT. NOW, OVER THAT WEEKEND, ON SATURDAY THE
- 21 THIRTEENTH, DID YOU HAVE AN OPPORTUNITY ALSO TO
- 22 TALK TO A YOUNG MAN BY THE NAME OF SHANNON
- 23 MITCHELL?
- 24 A. I DID.
- 25 Q. AND THROUGH MR. MITCHELL WERE YOU ULTIMATELY

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

710

- 1 marked and filed.)
- 2 Q. NOW, THIS INCIDENT HAPPENED ON?
- 3 A. MARCH TWELFTH.
- 4 Q. MARCH TWELFTH. AND THAT WOULD BE -- WHAT DAY OF
- 5 THE WEEK WOULD THAT BE?
- 6 A. I BELIEVE THAT WAS ON A FRIDAY, IF I'M NOT
- 7 MISTAKEN.
- 8 Q. AND IN LOOKING AT STATE'S EXHIBIT NUMBER NINETY-
- 9 FOUR, WHAT DOES THE CALENDAR INDICATE THAT DAY
- 10 WAS -- AND JUST HOLD ON THAT IN CASE YOU NEED IT.
- 11 CAN YOU SEE IT FROM THERE OR I'LL TURN IT, I'LL
- 12 TURN IT.
- 13 A. RIGHT HERE, MARCH TWELFTH.
- 14 Q. OKAY. SO, THAT WOULD BE A FRIDAY NIGHT?
- 15 A. YES, SIR.
- 16 Q. ALRIGHT. SO, MS. PARSLEY'S STATEMENT WAS TAKEN
- 17 AT TWO:TWENTY-FIVE THAT SATURDAY MORNING
- 18 AFTERWARDS, IS THAT CORRECT?
- 19 A. THAT'S CORRECT, YES, SIR.
- 20 Q. ALRIGHT. NOW, OVER THAT WEEKEND, ON SATURDAY THE
- 21 THIRTEENTH, DID YOU HAVE AN OPPORTUNITY ALSO TO
- 22 TALK TO A YOUNG MAN BY THE NAME OF SHANNON
- 23 MITCHELL?
- 24 A. I DID.
- 25 Q. AND THROUGH MR. MITCHELL WERE YOU ULTIMATELY

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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- 1 Q. OKAY. AND WHO, WHAT SUSPECT IS IN THAT LINEUP?
- 2 A. WALTER HARRIS.
- 3 Q. OKAY. AND WHAT PHOTOGRAPH IS HE IN THAT LINEUP?
- 4 A. NUMBER THREE.
- 5 Q. OKAY. AND LET ME SEE IT REAL QUICK. AND MR.
- 6 HARRIS HOW HE IS NUMBER THREE, IS THAT
- 7 ESSENTIALLY HOW MR. HARRIS LOOKED BACK IN MARCH
- 8 OF THIS YEAR?
- 9 A. NO, SIR.
- 10 Q. THAT IS NOT?
- 11 A. HE HAD, LIKE, SMALL TWISTIES IN HIS HAIR.
- 12 Q. OKAY. SO HIS HAIR WAS A LITTLE DIFFERENT THAN IT
- 13 IS IN THIS PICTURE?
- 14 A. CORRECT.
- 15 Q. OKAY. IS IT ALSO A LITTLE DIFFERENT THAN IT IS
- 16 HERE IN COURT TODAY?
- 17 A. IT IS.
- 18 Q. WHEN YOU SHOWED MS. PARSLEY THIS LINEUP DID YOU
- 19 TELL HER SHE HAD TO PICK SOMEBODY OUT?
- 20 A. NO, SIR.
- 21 Q. SUGGEST TO HER WHO TO PICK OUT?
- 22 A. NO, SIR.
- 23 Q. OKAY. AND WAS,-- SHE, IN FACT, AS IS CIRCLED
- 24 AND DATED AND INITIALED, DID SHE PICK OUT MR.
- 25 HARRIS'S PICTURE?

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 A. CORRECT.

2 Q. AND THE ATTACHED AFFIDAVIT TO STATE'S EXHIBIT
3 NUMBER THREE, WHO FILLED THAT OUT?

4 A. SHE DID, THAT'S HER HANDWRITING. I JUST SIGNED TO
5 WITNESS IT.

6 Q. OKAY. SHE SIGNED IT ALSO?

7 A. SHE DID.

8 Q. AND THAT WAS DONE BACK ON MARCH THE FIFTEENTH?

9 A. YES, SIR.

10 Q. NOW, AFTER SHE PICKED HIM OUT WERE YOU ABLE TO AT
11 THAT POINT IN TIME DETERMINE A POSSIBLE ADDRESS
12 FOR MR. HARRIS?

13 A. I DID.

14 Q. ALRIGHT. AND WHERE WAS THAT?

15 A. SEVEN, I BELIEVE IT WAS SEVEN O EIGHT

16
17 Q. AND WHERE IS THAT LOCATED AT?

18 A. WHAT WE CALL ROOSEVELT GARDENS APARTMENT COMPLEX
19 OFF OF SIX O ONE.

20 Q. OKAY. AND ON MARCH THE SIXTEEN, OR THAT
21 FOLLOWING DAY, THAT TUESDAY, DID THE SHERIFF'S
22 OFFICE, DID Y'ALL HAVE AN OPPORTUNITY TO EXECUTE
23 A SEARCH WARRANT ON THAT RESIDENCE?

24 A. WE DID.

25 Q. OKAY. NOW, LET ME ASK YOU, BACK FROM RESPONDING

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1 OUT TO THE SCENE THAT NIGHT, AND SPEAKING TO
2 INVESTIGATORS, INCLUDING LIEUTENANT CARTER, DID
3 YOU KNOW WHAT TYPE OF CALIBER WEAPONS YOU WERE
4 LOOKING FOR IN THIS CASE?

5 A. I DID.

6 Q. AND WHAT CALIBER WEAPONS WERE YOU LOOKING FOR?

7 A. FROM TALKING TO LIEUTENANT CARTER, HE STATED THAT
8 WE MAY POSSIBLY BE LOOKING FOR A NINE MILLIMETER,
9 FORTY CAL, AND ANY TYPE OF WEAPON THAT MAY SHOOT
10 A SEVEN POINT SIX TWO CARTRIDGE.

11 Q. OKAY. AND THAT WOULD BE LIKE A RIFLE ROUND?

12 A. YES, SIR.

13 Q. OKAY. ALRIGHT, NOW LET ME ASK YOU, WHEN YOU
14 SEARCHED WALTER HARRIS'S -- THAT APARTMENT THAT
15 DAY ON THE SIXTEENTH DID YOU FIND A NINE
16 MILLIMETER PISTOL?

17 A. NO, WE DID NOT.

18 Q. DID YOU FIND A FORTY CALIBER PISTOL?

19 A. NO, WE DID NOT.

20 Q. DID YOU FIND ANY RIFLES?

21 A. NO, WE DID NOT.

22 Q. ALRIGHT. AND FOLLOWING UP ON THAT, THOUGH, THE
23 FOLLOWING DAY, ON MARCH THE SEVENTEENTH OR
24 THEREABOUTS DID YOU LEARN OF A POSSIBLE LOCATION
25 FOR THE FORTY CALIBER PISTOL THAT WAS ALLEGEDLY.

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1 USED IN MR. PRINGLE'S MURDER?

2 A. WE DID.

3 Q. ALRIGHT. AND AT THAT POINT IN TIME WHO DID YOU
4 LEARN ALLEGEDLY HAD THAT WEAPON?

5 A. ANDRE WASHINGTON.

6 Q. OKAY. AND WHAT DID YOU THEN DO AS A RESULT OF
7 LEARNING THAT?

8 A. WELL, WHAT WE DID, WE GOT IN CONTACT WITH AN
9 INDIVIDUAL BY THE NAME OF CHRISTOPHER DWIGHT. WE
10 GAVE HIM THREE HUNDRED DOLLARS TO GO BUY THE
11 WEAPON BACK. WE PUT A WIRE ON HIM, VIDEO SO WE
12 COULD MONITOR THE TRANSACTION, AND ESSENTIALLY,
13 AFTER HE OBTAINED THE WEAPON HE TURNED IT BACK
14 OVER TO US.

15 Q. OKAY. SO YOU, IMMEDIATELY GOT POSSESSION OF THAT
16 WEAPON?

17 A. YES, SIR, WE DID.

18 Q. OKAY. IN SHOWING YOU STATE'S EXHIBITS NUMBER
19 SEVENTY-THREE AND SEVENTY-FOUR, IS THAT THE
20 WEAPON THAT MR. DWIGHT PURCHASED FROM MR.
21 WASHINGTON AND THEN TURNED OVER TO YOU ON MARCH
22 THE SEVENTEENTH?

23 A. YES, SIR, IT IS.

24 Q. AND AFTER THAT WAS DONE WERE YOU ULTIMATELY ABLE
25 THEN TO TALK TO, OR DID YOU TALK TO MR.

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1 WASHINGTON, ANDREW WASHINGTON?

2 A. I DID.

3 Q. ALRIGHT. NOW, ON MARCH THE SEVENTEENTH WHAT
4 HAPPENED TO WALTER HARRIS ON MARCH THE
5 SEVENTEENTH?

6 A. HE WAS ARRESTED.

7 Q. WERE YOU ABLE TO DETERMINE THROUGH YOUR
8 INVESTIGATION WHAT WALTER HARRIS'S CELL PHONE
9 NUMBER WAS THAT HE HAD BACK THEN?

10 A. I DID.

11 Q. AND LET ME SHOW YOU STATE'S EXHIBIT NUMBER SEVEN
12 -- OR, I'M SORRY, THIRTY-SIX, AND ARE THOSE THE
13 RECORDS THAT YOU THEN OBTAINED?

14 A. LET ME COMPARE IT TO MY NOTES AS WELL.

15 Q. YES, SIR.

16 A. YES, SIR, IT IS.

17 Q. OKAY. AND WHAT IS THAT CELL PHONE NUMBER?

18 A. 347, OR 803 347 9288.

19 Q. OKAY. AND THOSE RECORDS, I THINK WE'VE HEARD
20 TESTIMONY FROM THE ALLTEL REPRESENTATIVE IN THE
21 NAME OF PETEY CRACK LOCATED ON FIFTEEN TWENTY-
22 FIVE

23 MS. ULLMAN: OBJECTION, YOUR HONOR, HE'S
24 TESTIFYING. HE COULD ASK HIM WHAT THE PIECE OF PAPER
25 SAYS.

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1 THE COURT: IF YOU'D JUST REPHRASE THE QUESTION.

2 SOLICITOR SORENSON: YES, SIR.

3 Q. WHAT IS THAT, AND WE'VE HEARD TESTIMONY OF THIS,
4 BUT WHAT IS THE NAME AND ADDRESS THAT THOSE
5 RECORDS ARE IN?

6 A. IT SAYS, "PETEY CRACK, FIFTEEN TWENTY-FIVE
7 "

8 Q. OKAY. WHOSE HOUSE IS LOCATED AT FIFTEEN TWENTY-
9 FIVE

10 A. WALTER HARRIS'S GRANDMAMA.

11 Q. OKAY. NOW, THE FOLLOWING DAY, ON MARCH THE
12 EIGHTEEN, SO THAT WOULD BE NOW INTO THURSDAY OF
13 MARCH OF THIS YEAR, DID ANY OTHER DEFENDANTS AT
14 THAT POINT TIME TURN THEMSELVES IN ON THAT
15 THURSDAY, MARCH THE EIGHTEENTH?

16 A. YES, SIR.

17 Q. AND WHO WAS THAT?

18 A. DANNY RYANT AND Minor

19 Q. OKAY. AND WERE THEY BOTH ARRESTED AT THAT POINT
20 IN TIME?

21 A. THEY WERE.

22 Q. BOTH CHARGED WITH MURDER, BURGLARY, FIRST, ARMED
23 ROBBERY?

24 A. YES, SIR, THEY WERE.

25 Q. NOW, DID YOU HAVE AN OPPORTUNITY ON MARCH THE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 EIGHTEENTH TO TAKE A STATEMENT, OR TO TALK TO AND
2 TAKE A STATEMENT FROM Minor

3 A. I DID.

4 Q. ALRIGHT. I'M SHOWING YOU, IT LOOKS LIKE
5 DEFENDANT MARIO SHIVERS'S EXHIBIT NUMBER TWO, IS
6 THAT THE STATEMENT THAT YOU TOOK FROM MR. Minor
7 ON MARCH THE EIGHTEENTH?

8 A. IT IS.

9 Q. ALRIGHT. NOW WHO IS -- NOW, WHERE WAS IT -- I
10 BELIEVED I HAS ASKED YOU EARLIER, BUT DID MR.
11 Minor TURN HIMSELF IN?

12 A. HE DID.

13 Q. OKAY. AND WHERE WAS THAT THAT HE TURNED HIMSELF
14 IN?

15 A. AT FIFTEEN TWENTY ELLIS AVENUE, AT THE MAIN
16 OFFICE AT THE COMPLEX.

17 Q. OKAY. AND IS THAT WHERE YOU TOOK THE STATEMENT
18 FROM HIM?

19 A. IT WAS.

20 Q. AND WHO WAS WITH MR. Minor WHEN HE TURNED HIMSELF
21 IN?

22 A. HIS PARENTS.

23 Q. ALRIGHT. AND BACK ON MARCH THE EIGHTEENTH OF
24 THIS YEAR WHEN HE DID TURN HIMSELF IN, HOW OLD
25 WAS Minor AT THAT TIME?

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1 A. AT THE TIME HE WAS SIXTEEN.

2 Q. OKAY. NOW, YOU INDICATED HIS PARENTS WERE WITH
3 HIM, DID HE HAVE AN ATTORNEY WITH HIM AT THAT
4 TIME?

5 A. NO, HE DID NOT.

6 Q. OKAY. NOW, BEFORE YOU TOOK THAT STATEMENT FROM
7 HIM WAS THERE ANYTHING YOU WENT OVER WITH MR.
8 Minor

9 A. I ADVISED HIM OF HIS MIRANDA WARNINGS.

10 Q. DID YOU DO THAT WITH A WRITTEN FORM?

11 A. YES, I DID.

12 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
13 NINETY-FIVE, IS THAT THE FORM THAT YOU WENT OVER
14 WITH HIM?

15 A. IT IS.

16 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
17 WE'D OFFER STATE'S NINETY-FIVE INTO EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. LACKEY: NO OBJECTION.

20 MS. ULLMAN: NO OBJECTION.

21 MR. PALMER: NO OBJECTION.

22 MR. MELLARD: NO OBJECTION.

23 MR. KOGER: NO OBJECTION.

24 THE COURT: ALRIGHT IT IS -- STATE'S NINETY-FIVE
25 IS ADMITTED INTO EVIDENCE WITHOUT OBJECTION.

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1 (State's Exhibit Ninety-five
2 marked and filed.)

3 Q. AND I'LL LET YOU HOLD ON TO THAT. AND IN
4 LOOKING AT STATE'S EXHIBIT NUMBER NINETY-FIVE,
5 DOES THAT INDICATE WHAT DATE YOU WENT OVER THAT
6 FORM WITH MR. Minor

7 A. IT IS.

8 Q. AND WHAT DAY IS THAT?

9 A. MARCH EIGHTEENTH.

10 Q. OF THIS YEAR, TWO THOUSAND TEN?

11 A. YES, SIR.

12 Q. AND WHAT, HOW ABOUT, IS THERE A TIME ON IT ALSO?

13 A. YES, SIR.

14 Q. AND WHAT'S THE TIME?

15 A. FOUR:FORTY-THREE P.M.

16 Q. OKAY. AND IF YOU WOULD, JUST GO OVER WITH THE
17 JURY WHAT RIGHTS YOU WENT OVER WITH MR. Minor
18 THAT AFTERNOON AT FOUR:FORTY-THREE OR SO IN THE
19 AFTERNOON?

20 A. YES, SIR. THE STATEMENT SAYS, IT SAYS, "BEFORE
21 WE ASK YOU ANY QUESTIONS YOU MUST UNDERSTAND YOUR
22 RIGHTS." AND THEN WE ASK HIM TO PLEASE INITIAL
23 BY EACH AFTER WE READ THEM THEIR RIGHTS. AND THE
24 FIRST, NUMBER SAYS, "YOU HAVE A RIGHT TO REMAIN
25 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU

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1 IN COURT." NUMBER TWO SAYS, "YOU HAVE THE RIGHT
2 TO TALK TO A LAWYER FOR ADVICE BEFORE WE ASK YOU
3 ANY QUESTIONS, HAVE HIM WITH YOU DURING
4 QUESTIONING." NUMBER THREE SAYS, "IF YOU CANNOT
5 AFFORD A LAWYER ONE WILL BE APPOINTED FOR YOU
6 BEFORE ANY QUESTIONS IF YOU WISH." NUMBER FOUR,
7 "IF YOU DECIDE TO ANSWER QUESTIONS WITHOUT A
8 LAWYER PRESENT YOU WILL STILL HAVE THE RIGHT TO
9 STOP ANSWERING QUESTIONS AT ANYTIME." NUMBER
10 FIVE, "YOU ALSO HAVE THE RIGHT TO STOP ANSWERING
11 QUESTIONS AT ANYTIME UNTIL YOU TALK TO A LAWYER."
12 AFTER I WENT OVER THE RIGHTS WITH HIM HE
13 INITIALED EACH ONE. AT THE BOTTOM HERE IT SAYS,
14 "I UNDERSTAND MY RIGHTS." AND HE SIGNED HIS
15 NAME. AND THEN AT THE BOTTOM OF THE PAPER IT
16 SAYS, "WAIVER OF YOUR RIGHTS." AND IT SAYS, "I
17 HAVE READ THE STATEMENT OF MY RIGHTS. I
18 UNDERSTAND WHAT MY RIGHTS ARE. I AM WILLING TO
19 MAKE A STATEMENT AND ANSWER ANY QUESTIONS. I DO
20 NOT WANT A LAWYER AT THIS TIME. I UNDERSTAND AND
21 KNOW WHAT I'M DOING. NO PROMISE OR THREATS HAVE
22 BEEN MADE TO ME OR NO PRESSURE OR COERCION OF ANY
23 KIND HAVE BEEN USED AGAINST ME." AND AGAIN, HE
24 SIGNED HIS NAME AT THE TOP, AND I WITNESSED IT AT
25 THE BOTTOM.

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1 Q. OKAY. NOW, AT THAT POINT IN TIME WHAT WAS, WHAT
2 WAS MR. Minor DEMEANOR LIKE WHEN YOU WERE
3 INITIALLY TALKING TO HIM?

4 A. WELL, WHEN I FIRST MADE CONTACT WITH MR. Minor HE
5 FIRST TOLD ME THAT HE DIDN'T KNOW NOTHING ABOUT
6 NOTHING, AND HE DIDN'T EVEN KNOW WHY HE WAS
7 THERE.

8 Q. OKAY. AND THEN, WHAT ULTIMATELY ENDED UP
9 HAPPENING AFTER THAT?

10 A. WELL, AFTER I KEPT SPEAKING WITH MR. Minor HE
11 JUST BROKE DOWN AND HE STARTED CRYING, AND HE
12 SAID THAT, I WANT TO TELL THE TRUTH NOW. HE JUST
13 SAID, I WANT TO TELL THE TRUTH, AND KEPT SAYING
14 IT.

15 Q. ALRIGHT. AND DID YOU ULTIMATELY AT THAT POINT IN
16 TIME TAKE THAT WRITTEN STATEMENT FROM MR. Minor

17 A. I DID.

18 Q. IT'S DEFENDANT'S SHIVERS'S NUMBER TWO?

19 A. IT IS.

20 Q. OKAY. AND DID MR. Minor SIGNED THAT STATEMENT
21 ALSO?

22 A. YES, HE SIGNED IT ON THE BACK.

23 Q. OKAY. ALRIGHT, LET ME ASK YOU THIS, LIEUTENANT
24 SHUMPERT, DURING ALL OF THAT, DEALINGS WITH MR.
25 Minor BACK ON MARCH THE EIGHTEENTH, DID YOU AT

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 A. HE DID NOT.

2 Q. OKAY. AND HAS HE EVER INDICATED TO YOU THAT
3 YOU'RE AWARE OF THAT HE KNEW WHO THE DRIVER WAS?

4 A. NO, HE NEVER KNEW WHO THE DRIVER WAS.

5 Q. LET ME ASK YOU, WHAT WAS THE FIRST TIME YOU CAME
6 INTO PHYSICAL CONTACT WITH A YOUNG MAN BY THE
7 NAME OF RONNIE WASHINGTON?

8 A. TWO WEEKS AGO, I BELIEVE IT PROBABLY WOULD BE
9 NOVEMBER THIRTIETH.

10 Q. AND DID YOU TAKE A STATEMENT FROM HIM AT THAT
11 TIME?

12 A. I DID.

13 Q. LET ME SHOW YOU STATE'S EXHIBITS NUMBER TWENTY,
14 TWENTY-EIGHT AND TWENTY-NINE. HAVE YOU SEEN
15 THOSE PHOTOGRAPHS BEFORE?

16 A. YES, SIR.

17 Q. AND WHOSE, WHOSE FORD EXPLORER, WHO DOES THAT
18 FORD EXPLORER BELONG TO?

19 A. RONNIE WASHINGTON.

20 Q. AND WHO WAS DRIVING THIS BACK ON MARCH THE
21 TWELFTH OF TWO THOUSAND AND TEN?

22 A. RONNIE WASHINGTON.

23 Q. NOW, HAS MR. WASHINGTON AT THIS TIME BEEN CHARGED
24 WITH ANYTHING, LIEUTENANT?

25 A. NOT AT THIS TIME.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 Q. AND IS THAT SOMETHING THE SHERIFF'S OFFICE IS
2 STILL EVALUATING?

3 A. WE ARE.

4 Q. AND YET AGAIN, HE JUST CAME TO YOUR ATTENTION TWO
5 WEEKS AGO?

6 A. TWO WEEKS AGO.

7 Q. ALRIGHT. ALSO, AS PART OF YOUR INVESTIGATION AND
8 TALKING TO Minor BACK IN MARCH OF THIS YEAR DID
9 YOU LEARN WHAT Minor CELL PHONE IS?

10 A. I DID.

11 Q. ALRIGHT. I'M SHOWING YOU STATE'S EXHIBIT NUMBER
12 THIRTY-FIVE, IS THAT MR. Minor RECORDS THAT YOU
13 OBTAINED?

14 A. IT IS.

15 Q. ALRIGHT. AND WHAT IS THAT NUMBER?

16 A. 803 860 6062.

17 Q. OKAY. NOW, ALSO ON THAT DATE, THAT MARCH, ON
18 MARCH THE EIGHTEENTH DID YOU HAVE AN OPPORTUNITY
19 TO SHOW MR. Minor ANY PHOTOGRAPHIC LINEUPS?

20 A. I DID.

21 Q. I'M SPECIFICALLY SHOWING YOU STATE'S EXHIBITS
22 NUMBER SEVENTY-SIX AND SEVENTY-SEVEN. DID YOU
23 HAVE AN OPPORTUNITY TO SHOW HIM THOSE TWO
24 LINEUPS, ON MARCH THE EIGHTEENTH?

25 A. I DID.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 Q. ALRIGHT. AND WHO WAS CONTAINED IN THOSE TWO
2 LINEUPS THAT YOU SHOWED TO HIM ON MARCH THE
3 EIGHTEENTH?

4 A. DANNY RYANT AND MARIO SHIVERS.

5 Q. OKAY. AND WAS HE ABLE TO PICK MR. RYANT AND MR.
6 SHIVERS OUT AS BEING THE PEOPLE THAT HE HAD
7 REFERENCED IN THAT STATEMENT HE GAVE TO YOU?

8 A. HE DID.

9 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
10 WE'D OFFER STATE'S SEVENTY-SIX AND SEVENTY-SEVEN INTO
11 EVIDENCE.

12 THE COURT: ANY OBJECTION? I THOUGHT, -- THEY'RE
13 WEREN'T IN ALREADY?

14 SOLICITOR SORENSON: NO, SIR.

15 THE COURT: OKAY.

16 MR. LACKEY: NO OBJECTION.

17 MS. ULLMAN: NO OBJECTION.

18 MR. PALMER: NO OBJECTION.

19 MR. MELLARD: NO OBJECTION.

20 MR. KOGER: NO OBJECTION.

21 THE COURT: OKAY, WITHOUT OBJECTION, THEY ARE
22 ADMITTED INTO EVIDENCE.

23 (State's Exhibits Seventy-six and Seventy-seven
24 marked and filed.)

25 Q. STARTING INITIALLY, LIEUTENANT WITH STATE'S

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1 EXHIBIT NUMBER SEVENTY-SIX, WAS HE ABLE TO PICK
2 SOMEBODY OUT OF STATE'S EXHIBIT NUMBER SEVENTY-
3 SIX?

4 A. HE DID.

5 Q. AND WHO IS THAT THAT HE PICKED OUT?

6 A. DANNY RYANT, NUMBER TWO.

7 Q. AND THAT'S PHOTOGRAPH NUMBER TWO?

8 A. UH-HUH.

9 Q. AND YET AGAIN, DID YOU AT ANY POINT IN TIME
10 SUGGEST OR TELL MR. Minor WHO TO PICK OUT?

11 A. NO, I DID NOT.

12 Q. DID HE FREELY AND VOLUNTARILY DO THAT?

13 A. HE DID.

14 Q. DID HE FILL OUT THE ACCOMPANYING AFFIDAVIT WITH
15 THAT?

16 A. HE DID.

17 Q. AND WHAT DID HE INDICATE AS FAR AS BEING WHY HE
18 PICKED OUT PHOTOGRAPH NUMBER TWO?

19 A. "WAS WITH A GUN IN THE APARTMENT, IT HAPPENED
20 LAST FRIDAY."

21 Q. OKAY. NOW, YOU ALSO INDICATED THAT YOU SHOWED
22 HIM STATE'S EXHIBIT NUMBER SEVENTY-SEVEN AT THAT
23 TIME. WAS HE ABLE TO PICK SOMEBODY OUT OF
24 STATE'S EXHIBIT NUMBER SEVENTY-SEVEN?

25 A. HE DID.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 Q. AND WHAT PHOTOGRAPH WAS THAT?

2 A. NUMBER THREE, MARIO SHIVERS.

3 Q. SO, THAT'S MR. SHIVERS?

4 A. IT IS.

5 Q. OKAY. AND YET AGAIN, DID YOU PROMISE HIM
6 ANYTHING, SUGGEST TO HIM IN ANY WAY, YOU KNOW,
7 TELL HIM THAT HE HAD TO, OR WHO TO PICK OUT OF
8 THIS PHOTOGRAPHIC LINEUP?

9 A. NO, SIR, I DID NOT.

10 Q. AND HE CIRCLED, DATED AND INITIALED THAT?

11 A. HE DID.

12 Q. AND I BELIEVE, DID HE ALSO WRITE SOMETHING ELSE
13 UNDERNEATH THE PICTURE?

14 A. HE DID. HE WROTE, "LITTLE M."

15 Q. OKAY. AND WHY DID HE WRITE THAT?

16 A. THAT'S THE NICK NAME HE KNEW HIM BY.

17 Q. AND DID HE ALSO THEN FILL OUT THE ACCOMPANYING
18 AFFIDAVIT?

19 A. HE DID.

20 Q. AND WHAT DID HE PUT ON THERE AS FAR AS WHY HE
21 PICKED OUT MARIO SHIVERS, OR LITTLE M?

22 A. "HAD GUN, WE WENT INTO APARTMENT, LITTLE M,
23 HAPPENED LAST FRIDAY."

24 Q. AND GOING BACK TO STATE'S SEVENTY-SIX, WITH MR.
25 RYANT, DID HE ALSO PUT THE NICK NAME THAT HE KNEW

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 MR. RYANT BY UNDER HIS PHOTO?

2 A. HE DID.

3 Q. AND WHAT IS THAT NICK NAME?

4 A. "POKE."

5 Q. NOW, AT THAT POINT IN TIME WHEN YOU WERE SHOWING

6 THOSE TWO ITEMS OF MR. SHIVERS AND MR. RYANT TO

7 MR. Minor WALTER HARRIS HAD ALREADY BEEN

8 ARRESTED THE DAY BEFORE?

9 A. YES, SIR, HE ALREADY BEEN ARRESTED.

10 Q. NOW, THE FOLLOWING DAY, ON MARCH THE NINETEENTH,

11 DID YOU THEN HAVE AN OPPORTUNITY TO SHOW SOME

12 ADDITIONAL PHOTOGRAPHIC LINEUPS TO ASHLEY

13 PARSLEY?

14 A. I DID.

15 Q. I BELIEVE YOU TESTIFIED EARLIER YOU HAD SHOWN HER

16 THE ONE OF WALTER HARRIS BACK ON MARCH THE

17 FIFTEENTH, IS THAT CORRECT?

18 A. CORRECT.

19 Q. AND WHO WERE YOU, WHO DID YOU SHOW HER LINEUPS OF

20 ON MARCH THE NINETEENTH, THEN?

21 A. I SHOWED HER PHOTO LINEUPS OF RALPH COLEMAN,

22 DANNY RYANT, MARIO SHIVERS AND Minor

23 Q. OKAY. AND WAS SHE ABLE TO PICK ANYBODY OUT OF

24 THOSE FOUR LINEUPS THAT YOU SHOWED HER?

25 A. TWO OUT OF THE FOUR SHE DID.

1 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
2 FOUR, IS THAT ONE OF THE LINEUPS SHE PICKED
3 SOMEBODY OUT OF?

4 A. IT IS.

5 Q. ALRIGHT. AND WHO DID SHE PICK OUT OF STATE'S
6 EXHIBIT NUMBER FOUR?

7 A. MARIO SHIVERS.

8 Q. OKAY. AND THAT'S PHOTOGRAPH NUMBER THREE?

9 A. IT IS.

10 Q. ALRIGHT. AND DID SHE ALSO THEN DOCUMENT ON THE
11 AFFIDAVIT WHY SHE PICKED HIM OUT?

12 A. SHE DID.

13 Q. AND WHAT DID SHE INDICATE ON THERE?

14 A. SHE SAID, "POINTED GUN AT ME IN THE APARTMENT AND
15 TOLD ME TO PUT MY HANDS UP, AND IT WAS A SILVER
16 NINE MILLIMETER."

17 Q. OKAY. ALRIGHT, AND THEN ADDITIONALLY, ON STATE'S
18 EXHIBIT NUMBER FIVE DID SHE PICK SOMEBODY OUT OF
19 STATE'S EXHIBIT NUMBER FIVE?

20 A. SHE DID.

21 Q. AND WHAT PHOTOGRAPH DID SHE PICK OUT?

22 A. NUMBER ONE, RALPH COLEMAN.

23 Q. AND IS THAT RALPH COLEMAN?

24 A. IT IS.

25 Q. AND WHAT DID SHE INDICATE ON THAT AFFIDAVIT?

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1 A. SHE SAID, "WORE A GREEN T-SHIRT THAT CAME IN THE
2 APARTMENT, AND HE IS POSSIBLE TO BE ONE OF THE
3 GUYS THAT ENTERED THE HOUSE. I DIDN'T COMPLETELY
4 SEE HIS FACE."

5 Q. OKAY. AND DID YOU TELL HER WHAT TO WRITE ON
6 THOSE?

7 A. NO, I DID NOT.

8 Q. OKAY. AND YET AGAIN, DID YOU TELL HER SHE HAD TO
9 PICK SOMEBODY OUT OF ANY OF THESE LINEUPS?

10 A. NO, I DIDN'T.

11 Q. AND I BELIEVE YOU TESTIFIED A MINUTE AGO THAT TWO
12 OTHER LINEUPS WITH Minor AND DANNY RYANT,
13 THAT SHE WASN'T ABLE TO IDENTIFY ANY OF THOSE, IS
14 THAT CORRECT?

15 A. NO, SHE DIDN'T PICK THEM OUT. CORRECT.

16 Q. NOW, AT THAT TIME, ON MARCH THE NINETEENTH,
17 HONESTLY, YOU'VE SPOKEN TO MR. Minor SO YOU HAVE
18 HIS STATEMENT, IS THAT CORRECT?

19 A. CORRECT.

20 Q. ALRIGHT. AND DOES HE REFERENCE A LITTLE CHRIS IN
21 HIS STATEMENT?

22 A. YES, ON THE BACK PAGE.

23 Q. OKAY. AND I BELIEVE IT'S SEVERAL SPOTS IN THERE,
24 IS THAT CORRECT?

25 A. RIGHT.

1 Q. NOW, AT THAT TIME ON MARCH THE NINETEENTH WHEN
2 YOU WERE SHOWING THESE OTHER LINEUPS TO MS.
3 PARSLEY, HAD YOU IDENTIFIED WHO LITTLE CHRIS WAS
4 YET AT THAT POINT IN TIME?

5 A. NO.

6 Q. DID YOU HAVE A FULL NAME?

7 A. NO, I DID NOT.

8 Q. THEREFORE, WERE YOU ABLE TO SHOW HER A LINEUP ON
9 MARCH THE NINETEENTH OF CHRISTIAN COLEMAN?

10 A. NO, HUH-UH.

11 Q. OKAY. KIND OF WHILE WE'RE DEALING WITH THE
12 LINEUPS, LET ME TALK TO YOU ABOUT A COUPLE OF
13 OTHERS HERE. DID YOU HAVE AN OPPORTUNITY OVER
14 THE NEXT SEVERAL DAYS TO SHOW, A COUPLE OF
15 OCCASIONS TO SHOW MR. Minor PHOTO LINEUPS OF
16 RALPH COLEMAN AND ULTIMATELY ALSO CHRISTIAN
17 COLEMAN?

18 A. CORRECT.

19 Q. OKAY. AND I'M SHOWING YOU STATE'S EXHIBIT NUMBER
20 SEVENTY-EIGHT, DO YOU RECOGNIZE THAT DOCUMENT?

21 A. YES, SIR.

22 Q. AND WHO IS, WHO IS IN THAT LINEUP?

23 A. RALPH COLEMAN.

24 Q. OKAY. AND IS THAT THE LINEUP THAT YOU SHOWED TO
25 MR. Minor

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1 A. WELL, ACTUALLY, MR. KISSAM SHOWED THE LINEUP.

2 Q. AND -- WELL, HE WITNESSED IT?

3 A. RIGHT.

4 Q. IS HIS NAME AT THE TOP AS FAR AS ...

5 A. RIGHT, YES, SIR.

6 Q. AND WAS MR. Minor ABLE TO PICK ANYBODY OUT OF
7 THAT LINEUP, STATE'S EXHIBIT NUMBER SEVENTY-
8 EIGHT, I BELIEVE IT IS?

9 A. CORRECT. HE PICKED NUMBER ONE, RALPH COLEMAN.

10 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
11 WE'D OFFER STATE'S SEVENTY-EIGHT INTO EVIDENCE.

12 THE COURT: ANY OBJECTION?

13 MS. ULLMAN: I DO OBJECT, YOUR HONOR.

14 THE COURT: AND?

15 MS. ULLMAN: AND THE REASON BEHIND MY BEHIND MY
16 OBJECTION IS TWO-FOLD. FIRST OFF, Minor WAS
17 ALREADY IN COURT AND IDENTIFIED RALPH COLEMAN, AND
18 PICKING HIS PICTURE OUT OF A LINEUP DOESN'T PROVE
19 ANYTHING AS TO WHETHER RALPH COLEMAN WAS THERE OR
20 NOT, HE KNEW WHO HE WAS.

21 THE OTHER ISSUE I HAVE, YOUR HONOR, IS, IN
22 INVESTIGATOR'S REPORTS THEY STATE THAT THEY OBTAINED
23 A PICTURE OF RALPH COLEMAN AND SHOWED IT TO Minor
24 AND I HAVE EVIDENCE TO SHOW THAT THEY OBTAINED A DMV
25 PHOTO OF RALPH COLEMAN BY HIMSELF, SHOWED IT TO

1 Minor AFTER THAT THEY CREATED THIS LINEUP
2 AND HAD HIM PICK HIM OUT.

3 THE COURT: AFTER THEY SHOWED HIM THE LINEUP?

4 MS. ULLMAN: AFTER THEY SHOWED HIM THE ONE DMV
5 PHOTO AND HE IDENTIFIED RALPH COLEMAN, THEN THEY MADE
6 THE LINEUP.

7 THE COURT: ALRIGHT. I'M OVERRULING YOUR
8 OBJECTION, AND I AM ADMITTING IT INTO EVIDENCE, AND I
9 NOTE YOUR OBJECTION TO MY RULING ON THE RECORD SO IT
10 WILL BE PRESERVED. THANK YOU.

11 COURT REPORTER: STATE'S SEVENTY-EIGHT?

12 SOLICITOR SORENSON: SEVENTY-EIGHT, YES, MA'AM.

13 (State's Exhibit Seventy-eight
14 marked and filed.)

15 Q. AND I'M SHOWING YOU THEN THE ATTACHED LINEUP, AND
16 MR. Minor CIRCLED THE PHOTOGRAPH ON THERE?

17 A. HE DID.

18 Q. ALRIGHT. NOW, AND THAT'S NUMBER ONE?

19 A. IT IS.

20 Q. AND WHO IS THAT IN PHOTOGRAPH NUMBER ONE?

21 A. RALPH COLEMAN.

22 Q. DID HE ALSO THEN FILL OUT THE ACCOMPANYING
23 AFFIDAVIT?

24 A. HE DID.

25 Q. AND WHAT DID HE PUT ON THREE AS FAR AS WHY HE

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1 PICKED MR. RALPH COLEMAN OUT?

2 A. "HAD GO AND DO A MURDER."

3 Q. ALRIGHT. AND THEN, I'M SHOWING YOU STATE'S
4 EXHIBIT NUMBER SEVENTY-NINE, AND I AGAIN ASK YOU
5 IF YOU HAD AN OPPORTUNITY TO SHOW THAT LINEUP TO
6 MR. Minor

7 A. I DID.

8 Q. WHEN WSA THAT DONE?

9 A. THIS LINEUP WAS SHOWN ON MARCH TWENTY-THIRD, TWO
10 THOUSAND TEN.

11 Q. OKAY. AND WHO IS CONTAINED IN THAT LINEUP?

12 A. CHRISTIAN COLEMAN.

13 Q. ALRIGHT. AND WAS MR. Minor ABLE TO PICK
14 CHRISTIAN COLEMAN OUT OF THAT LINEUP?

15 A. HE DID, NUMBER TWO.

16 SOLICITOR SORENSON: YOUR HONOR, AT THIS TIME
17 WE'D OFFER STATE'S SEVENTY-NINE INTO EVIDENCE.

18 THE COURT: ANY OBJECTION?

19 MR. LACKEY: NO OBJECTION, YOUR HONOR.

20 MS. ULLMAN: NO OBJECTION.

21 MR. PALMER: NO OBJECTION.

22 MR. MELLARD: NO OBJECTION.

23 MR. KOGER: NO OBJECTION.

24 THE COURT: ALRIGHT. IT IS ADMITTED INTO
25 EVIDENCE. THANK YOU.

1 (State's Exhibit Seventy-nine
2 marked and filed.)

3 Q. AND AFTER SHOWING HIM THAT LINEUP DID HE, WHAT
4 PHOTOGRAPH DID HE CIRCLE AND INITIAL?

5 A. NUMBER TWO.

6 Q. AND YET AGAIN, WHO IS THAT?

7 A. CHRISTIAN COLEMAN.

8 Q. DID MR. Minor THEN ALSO FILL OUT THE ACCOMPANYING
9 AFFIDAVIT AND SIGN IT?

10 A. HE DID.

11 Q. AND WHY DID HE INDICATE HE PICKED OUT CHRISTIAN
12 COLEMAN ON MARCH THE TWENTY-THIRD?

13 A. HE WROTE, "HAD GUN WHEN WE WAS IN THE HOUSE, OR
14 IN THE CAR." I'M SORRY, "WHEN WE WAS IN HOUSE,
15 RIDE IN CAR." THAT'S WHAT HE WROTE.

16 Q. HAD GUN WHEN WE WAS IN HOUSE, RIDING IN CAR?

17 MS. ULLMAN: OBJECTION, YOUR HONOR, HE JUST READ
18 IT AND THE SOLICITOR IS READING IT AGAIN.

19 THE COURT: I'M OVERRULING YOUR OBJECTION.

20 SOLICITOR SORENSON: THANK YOU. I'M JUST
21 CLARIFYING, HE SAID IT TWO WAYS.

22 Q. SO, IT'S, "HAD GUN WHEN WE WAS IN HOUSE, RIDE IN
23 CAR." IS THAT CORRECT?

24 A. YES, SIR.

25 Q. NOW, LIEUTENANT SHUMPERT WHAT IS, WHAT ARE

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 CHRISTIAN COLEMAN'S AND RALPH COLEMAN'S
2 RELATIONSHIP?

3 A. BROTHERS.

4 Q. NOW, YOU TESTIFIED EARLIER THAT WALTER HARRIS WAS
5 ARRESTED ON MARCH THE SEVENTEENTH, CORRECT?

6 A. CORRECT.

7 Q. AND THAT DANNY RYANT AND Minor WERE
8 ARRESTED ON MARCH THE EIGHTEENTH, IS THAT
9 CORRECT?

10 A. CORRECT.

11 Q. WHEN DID YOU OBTAIN WARRANTS FOR MARIO SHIVERS,
12 RALPH COLEMAN AND CHRISTIAN COLEMAN?

13 A. LET ME LOOK BACK. WE HAD, THE FIRST ONE I GOT ON
14 MARIO WAS ON THE EIGHTEENTH, AND RALPH COLEMAN, I
15 GOT A WARRANT ON HIM ON THE NINETEENTH, AND
16 CHRISTIAN ON THE TWENTY-FOURTH.

17 Q. OKAY. AND THAT'S ALL IN MARCH?

18 A. CORRECT.

19 Q. SO, MARIO SHIVERS, YOU OBTAINED HIS WARRANT ON
20 MARCH THE EIGHTEENTH?

21 A. CORRECT.

22 Q. AND RALPH COLEMAN ON MARCH THE NINETEENTH?

23 A. NINETEENTH.

24 Q. AND CHRISTIAN COLEMAN ON MARCH THE TWENTY-FOURTH?

25 A. THE TWENTY-FOURTH, YES, SIR.

DIRECT - JAMES SHUMPERT BY SOL. SORENSON

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1 Q. ALRIGHT. HOW ABOUT, WHEN WERE THE THREE OF THEM
2 ARRESTED?

3 A. MARIO SHIVERS ON THE TWENTY-FIRST, RALPH ON THE
4 TWENTY-SECOND, AND CHRISTIAN ON THE SAME DAY, THE
5 TWENTY-FOURTH.

6 Q. SO, MARIO, YOU OBTAINED A WARRANT ON THE
7 EIGHTEENTH, HE WAS ARRESTED ON THE TWENTY-FIRST?

8 A. YES, SIR.

9 Q. RALPH COLEMAN, YOU OBTAINED A WARRANT ON THE
10 NINETEENTH AND HE WAS ARRESTED ON THE TWENTY - -
11 -

12 A. SECOND.

13 Q. --- SECOND? AND THEN CHRISTIAN COLEMAN, YOU
14 OBTAINED IT ON THE TWENTY-FOURTH AND HE WAS
15 ARRESTED THAT SAY DAY, THE TWENTY-FOURTH?

16 A. YES, SIR.

17 Q. NOW, I HAD ASKED YOU EARLIER HOW OLD Minor
18 WAS BACK IN MARCH OF TWO THOUSAND TEN, DO
19 YOU REMEMBER THAT?

20 A. YES, SIR.

21 Q. AND HOW OLD WAS HE?

22 A. SIXTEEN.

23 Q. OKAY. NOW HOW ABOUT THE OTHER FIVE DEFENDANTS
24 BACK IN MARCH OF TWO THOUSAND TEN, HOW OLD WERE
25 THEY AT THAT TIME?

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- 1 A. CHRISTIAN COLEMAN WAS TWENTY, DANNY RYANT WAS
2 TWENTY, MARIO SHIVERS WAS TWENTY-ONE, WALTER
3 HARRIS WAS TWENTY-ONE, AND RALPH COLEMAN WAS
4 TWENTY-TWO.
- 5 Q. LET ME SHOW YOU STATE'S EXHIBIT NUMBER THIRTY-
6 SEVEN, HAVE YOU SEEN THAT DOCUMENT BEFORE?
- 7 A. YES, SIR.
- 8 Q. ALRIGHT. AND THAT'S THE ALLTEL RECORD THAT'S IN
9 EVIDENCE FOR PHONE NUMBER 837 2014 BELONGING TO
10 DANIELLE MONROE?
- 11 A. YES, SIR.
- 12 Q. OKAY. AND WHAT, WHAT RELATIONSHIP IS DANIELLE
13 MONROE TO THE DEFENDANT, DANNY RYANT?
- 14 A. BROTHER AND SISTER, SIBLINGS.
- 15 Q. LET ME ASK YOU, ARE YOU ALSO AWARE WHETHER MS.
16 MONROE HAS ANY CONNECTION TO MARIO SHIVERS, THE
17 DEFENDANT ON THE END?
- 18 A. YES, SIR.
- 19 Q. AND WHAT IS THEIR CONNECTION?
- 20 A. HE'S THE FATHER OF HER KID, CHILD.
- 21 Q. SO, SHE HAS A CHILD BY MR. SHIVERS?
- 22 A. YES, SIR.
- 23 Q. ALRIGHT. LET ME ASK YOU, AS PART OF YOUR
24 INVESTIGATION WERE YOU ALSO ABLE TO DETERMINE
25 BACK IN MARCH OF TWO THOUSAND TEN WHAT PHONE

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

VOLUME THREE OF THREE

STATE OF SOUTH CAROLINA)

TRANSCRIPT OF RECORD

versus)

DATE:

DECEMBER 10 - 17, 2010

CHRISTIAN COLEMAN,
RALPH BERNARD COLEMAN
WALTER LEE HARRIS,
DANNY RYANT, JR.,
MARIO MONTEZ SHIVERS

CASE NOS.

2010-GS-38-802, 803, 805

2010-GS-38-808, 810, 811

2010-GS-38-812, 813, 814

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE
SOLICITOR
DONALD N. SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

RICHARD LACKEY, ESQUIRE
FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE
FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE
FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE
FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE
FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

1 LADIES AND GENTLEMEN, I'M GOING TO ASK Y'ALL TO
2 GO BACK INTO THE JURY ROOM. I'M NOT EXCUSING YOU FOR
3 LUNCH RIGHT NOW, IT'S NOT BECAUSE I'M GOING TO CALL
4 YOU BACK IMMEDIATELY, IT'S BECAUSE I WANT TO TALK WITH
5 THE ATTORNEYS FOR A MINUTE AND DECIDE HOW LONG I'M
6 GOING TO GIVE Y'ALL FOR LUNCH. OKAY? SO, Y'ALL GO
7 BACK IN THE JURY ROOM. AGAIN, YOU HAVE NOT HEARD ALL
8 THE EVIDENCE IN THIS CASE, YOU CANNOT BEGIN TALKING
9 AMONG YOURSELVES ABOUT THIS CASE. OKAY? THANK Y'ALL.

10 (Whereupon, the jury retires
11 to the jury room and the following
12 takes place out of the presence
13 of the jury.)

14 THE COURT: OKAY. NOW, I'M NOT ASKING YOU TO REST
15 ON THE RECORD, BUT IT'S MY UNDERSTANDING THAT'S
16 Y'ALL'S LAST WITNESS?

17 SOLICITOR PASCOE: YES, SIR.

18 THE COURT: OKAY. AND SO, THEN, I KNOW I'VE GOT
19 MOTIONS TO HEAR FROM Y'ALL. OKAY?

20 SOLICITOR PASCOE: OKAY. AND WE'RE GOING TO
21 CHECK AND MAKE SURE EVERYTHING IS IN IF THAT'S OKAY.

22 THE COURT: YEAH.

23 SOLICITOR PASCOE: BUT THE STATE RESTS.

24 THE COURT: RIGHT, RIGHT. NOW, WHEN DO Y'ALL
25 WANT ME TO QUESTION THE WITNESSES, I MEAN, YOUR

1 THINK YOU CAN GET AROUND, THEY WERE TRYING TO USE
2 DECEIT TO COME INTO THE HOUSE AND I THINK THAT IS
3 PROPER TO GO FORWARD ON THE BURGLARY CHARGE. WHEN
4 Y'ALL WERE MAKING THE ARGUMENT ABOUT WHETHER AT LEAST
5 ONE PERSON WAS ALLOWED TO COME IN, MR. Minor I THINK
6 WENT IN UNDER THE AUSPICES TO BUY THE DRUGS AND THEN
7 WAS FOLLOWED IN ALLEGEDLY BY ANOTHER ONE OF THE
8 GENTLEMAN.

9 IN REGARD TO THE MURDER AND WHETHER OR NOT THERE
10 WAS ANY MALICE, I THINK YOU CAN INFER MALICE, AGAIN,
11 FROM THE USE OF THE WEAPONS, BUT ALSO YOU CAN INFER
12 MALICE ON THE FACT THAT HE WAS SHOT, I BELIEVE TWENTY
13 SOMETHING TIMES ACCORDING TO THE NUMBER OF ENTRANCE
14 WOUNDS THAT WAS FOUND IN HIS BODY.

15 AND SO, I THINK THERE IS ENOUGH EVIDENCE BEFORE
16 THE JURY FOR THEM TO MAKE A DETERMINATION WITH REGARD
17 TO ALL THREE OF THESE CHARGES, SO I WILL DENY YOUR
18 MOTIONS AND NOTE OUR OBJECTIONS TO MY DENIAL OF YOUR
19 MOTIONS. OKAY?

20 WHAT ELSE?

21 MS. ULLMAN.

22 MS. ULLMAN: YES, SIR. I WOULD ALSO RENEW ALL
23 OTHER MOTIONS AND OBJECTIONS THAT I HAVE MADE DURING
24 THIS TRIAL, - - -

25 THE COURT: OKAY.

1 MS. ULLMAN: --- INCLUDING MY MOTION TO SEVER.
2 AND I UNDERSTAND YOUR RULING BUT I WOULD LIKE TO PUT A
3 COUPLE OF THINGS ON THE RECORD THAT I THINK ARE NEW
4 COMPARED TO WHAT I HAVE PREVIOUSLY STATED.

5 THE COURT: OKAY.

6 MS. ULLMAN: AT THE BEGINNING OF THIS WHEN I
7 DISCUSSED OR ARGUED THIS MOTION TO SEVER PART OF THE
8 QUESTION I BELIEVE FROM YOUR HONOR IN REGARDS TO THE
9 STATE WAS THE WITNESSES. THEY STATED THAT PRETTY MUCH
10 THE SAME WITNESSES WOULD BE CALLED AT EACH SEPARATE
11 TRIAL, ALL FIVE SEPARATE TRIALS. WHILE I DISAGREED
12 WITH THAT YOUR HONOR QUESTIONED THEM AND I THINK THE
13 NUMBER THAT WE HAD COME UP WITH WAS ABOUT NINETY PER
14 CENT OF THESE WITNESSES WOULD BE THE SAME.

15 THE COURT: UH-HUH.

16 MS. ULLMAN: IN COUNTING WHAT OCCURRED DURING
17 THIS WEEK I COUNT TWELVE WITNESSES, AND LOOKING AT THE
18 TESTIMONY THAT THEY HAVE PROVIDED I WOULD SAY HALF OF
19 THEM ARE NOT RELEVANT AT ALL TO RALPH COLEMAN. DARIUS
20 GARDNER DOES NOT PUT RALPH COLEMAN AT ANY CERTAIN
21 LOCATION EXCEPT HIS OWN HOUSE AND IT'S CERTAINLY NOT
22 ILLEGAL TO BE AT YOUR OWN HOUSE.

23 YVONNE SHARPERSON HAS NO KNOWLEDGE OF RALPH
24 COLEMAN.

25 MONEAK BUSBY HAS NO KNOWLEDGE OF RALPH COLEMAN.

1 ANDRE WASHINGTON HAS NO KNOWLEDGE OF RALPH
2 COLEMAN.

3 SHANNON MITCHELL HAD NO KNOWLEDGE OF RALPH
4 COLEMAN.

5 NATHANIEL HUBBARD HAD NO KNOWLEDGE OF RALPH
6 COLEMAN.

7 AND WHEN I SAY KNOWLEDGE, I MEAN TESTIMONY REGARDING
8 HIM IN ANY FASHION. AND CERTAINLY, THAT'S HALF, THAT
9 IS FIFTY PER CENT.

10 NOW, I UNDERSTAND YVONNE SHARPERSON, MONEAK BUSBY
11 MAY BE RELEVANT TO DANNY RYANT'S CASE, I UNDERSTAND
12 ANDRE WASHINGTON MAY BE RELEVANT TO WALTER HARRIS'S
13 CASE, BUT THEY ARE NOT RELEVANT AND THEY CERTAINLY
14 WERE PRESENTED DURING THIS TRIAL AGAINST RALPH
15 COLEMAN.

16 ALSO, YOUR HONOR, IN THE BEGINNING OF THIS I
17 STATED THAT I DID BELIEVE THAT WE WOULD HAVE
18 ANTAGONISTIC VIEWS. THERE IS CASE LAW THAT SAYS THAT
19 ANTAGONISTIC VIEWS IN AND OF ITSELF IS NOT A REASON TO
20 SEVER A TRIAL, BUT WHERE THE COURT CAN FIND THAT THOSE
21 ANTAGONISTIC VIEWS WHEN PRESENTED TO A JURY WOULD
22 REQUIRE THE JURY TO DETERMINE EITHER BASICALLY THAT
23 THE VIEWS ARE SO ANTAGONISTIC THAT THEY ALL MUST BE
24 INCORRECT, THEREFORE, EVERYONE MUST BE GUILTY. BASED
25 ON THE TESTIMONY THAT'S COME OUT I FEEL THAT WE'RE IN

1 THAT POSITION. IF I STAND UP AND ARGUE AS I INTENDED
2 TO ORIGINALLY, THAT RALPH COLEMAN WAS MISTAKENLY
3 PICKED OUT DUE TO CHRISTIAN COLEMAN'S INVOLVEMENT,
4 THEY'RE GOING TO CONVICT ON ALL. THE STATE HAS
5 PRESENTED ITS CASE IN SUCH A WAY, AS THE STATE SAID IN
6 THEIR OPENING, AS JIG SAW PUZZLES AND WHEN THEY FIT
7 ALL THOSE PIECES TOGETHER THE RESULT'S GOING TO BE
8 THAT THEY ALL MUST HAVE DONE THIS. AND MY POINT IS,
9 IF THE JURY BELIEVES THAT WALTER HARRIS THAT FORTY AND
10 THAT HE SOLD THAT FORTY, AND HAT FORTY WAS USED IN
11 THIS, HE'S SITTING HERE NEXT TO MY CLIENT, THEY'RE
12 GOING TO FIND HIM GUILTY, THEY'RE GOING TO FIND RALPH
13 COLEMAN GUILTY. AND IT'S GOING TO BE BASED ON THE
14 EVIDENCE THAT WAS ENTERED BY ANDRE WASHINGTON AND
15 OTHERS RELATING TO THAT FORTY CALIBER WEAPON THAT HAS
16 NO RELATION TO MY CLIENT. I THINK THERE'S BEEN
17 WITNESSES THAT WOULDN'T HAVE BEEN PRODUCED AT MY TRIAL
18 SEPARATELY FOR RALPH COLEMAN. I THINK THERE'S BEEN
19 EVIDENCE INTRODUCE THAT WOULDN'T HAVE BEEN INTRODUCED.
20 I WOULD NOTE FOR THE RECORD ALSO THAT INVESTIGATOR
21 SHUMPERT DID MENTION TODAY THAT WALTER HARRIS TOLD HIM
22 SOMETHING, OFF THE TOP OF MY HEAD I DON'T REMEMBER
23 RIGHT NOW EXACTLY WHAT IT WAS, BUT MY POINT IS, THE
24 FACT THAT WALTER HARRIS TALKED TO INVESTIGATOR
25 SHUMPERT CERTAINLY CAME OUT TODAY, AND I DON'T BELIEVE

1 THAT WOULD HAVE BEEN SOMETHING THAT COULD HAVE BEEN
2 DONE AT A TRIAL AGAINST RALPH COLEMAN ON HIS OWN,
3 BECAUSE AS FAR AS I UNDERSTAND, AND I UNDERSTAND WE
4 HAVEN'T GOTTEN TO THAT POINT YET, BUT IF WALTER HARRIS
5 DOESN'T TAKE THE STAND I HAVE NO ABILITY TO QUESTION
6 HIM ABOUT, DID HE TALK TO HIM, WAS IT VOLUNTARY, DID
7 HE MEAN WHAT HE SAID, WAS HE LYING TO GET OTHER PEOPLE
8 OUT OF IT, WHY DID HE SAY IT? I CANNOT QUESTION HIM
9 ON ANY OF THAT. SO, I WOULD RENEW MY MOTION SEVER FOR
10 ALL OF THE GROUNDS THAT I PREVIOUSLY STATED PLUS THE
11 NEW GROUNDS THAT I'VE STATED JUST NOW.

12 THE COURT: OKAY. THANK YOU, MA'AM, AND I
13 APPRECIATE YOU NOW HAVE THAT ON THE RECORD. I AGAIN
14 STAND BY MY DECISION NOT TO SEVER THIS TRIAL. OKAY?

15 MR. MELLARD: JUST ONE MORE, YOUR HONOR.

16 THE COURT: YES, SIR. NO, I'M NOT TRYING TO
17 HURRY YOU THROUGH.

18 MR. MELLARD: I'M NOT, I'M NOT NECESSARILY
19 JOINING MS. ULLMAN'S GROUNDS ON THE SEVERANCE PART,
20 BUT IT'S MY ARGUMENT THAT THIS TRIAL, BECAUSE OF THE
21 LACK TO SEVER HAS VIOLATED DANNY RYANT'S RIGHT TO DUE
22 PROCESS. MS. ULLMAN HAS STATED SOME OF THE GROUNDS.
23 OBVIOUSLY, WE HAVE LOST THE RIGHT TO MAKE LAST
24 ARGUMENT, WE'VE PUT -- DANNY RYANT HAS PUT NO EVIDENCE
25 UP, HE MAY DECIDE TO DO IT, BUT IF HE DOES DO IT, IT

1 IS DETERMINED STRATEGY IN THIS CASE, BECAUSE ANOTHER
2 DEFENDANT HAS ALREADY ADMITTED EVIDENCE INTO THIS CASE
3 AND IT'S AFFECTED THAT PART OF OUR TRIAL. CROSS-
4 EXAMINATION HAS BEEN AFFECTED. AS MS. ULLMAN SAYS, IF
5 WE START POINTING FINGERS AT EVERYBODY IT'S NOT GOING
6 TO HELP ANYBODY, SO CROSS-EXAMINATION HAS BEEN
7 AFFECTED BY THIS. JUST, THE OVERALL STRATEGY, THE
8 OVERALL PROCEDURAL ASPECTS OF IT, IT'S OUR, IT'S DANNY
9 RYANT'S POSITION THAT BECAUSE THESE DEFENDANTS WERE
10 TRIED JOINTLY, THAT HIS RIGHT TO DUE PROCESS HAS BEEN
11 VIOLATED, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU, SIR.

13 MS. ULLMAN: AND YOUR HONOR, IF I MIGHT REFLECT,
14 I WOULD ACTUALLY JOIN THAT MOTION AND STATE THAT AS
15 OBVIOUSLY HAS HAPPENED, WE HAVE ALL BEEN FORCED TO
16 WORK AS A GROUP, WE PICKED A JURY AS A GROUP, WE
17 DECIDED ON WHETHER WE WOULD AGREE TO THE JURY MEMBER
18 BEING EXCUSED AS A GROUP, WE HAVE ACTUALLY DISCUSSED
19 DIRECTED VERDICT MOTIONS AS A GROUP. AT THIS POINT,
20 UNFORTUNATELY, WE DIDN'T KNOW THAT WE NEED TO DISCUSS
21 WHETHER EVIDENCE WAS BEING PRESENTED AS A GROUP OR
22 NOT, AND MR. KOGER HAS ENTERED EVIDENCE AND THAT HAS
23 RUINED OUR RIGHT TO LAST CLOSE. OBVIOUSLY, YOUR HONOR
24 KNOWS WE DID NOT KNOW THAT. I BELIEVE THE STATE WAS
25 AWARE AT THE BEGINNING AND WE WERE NOT, AND

1 UNFORTUNATELY, HERE WE STAND. IT CERTAINLY HAS
2 AFFECTED HOW I WOULD HAVE QUESTIONED PEOPLE, JUST AS
3 MR. MELLARD SAID, AND CERTAINLY, ABSOLUTELY IT'S GOING
4 TO AFFECT MY CLOSING ARGUMENT.

5 THE COURT: THANK YOU, MA'AM.

6 MR. KOGER.

7 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.
8 I ALSO WOULD LIKE TO JOIN IN ON THE GROUNDS SET FORTH
9 BY ATTORNEY MELLARD, THIS TRIAL MAY HAVE RESULTED IN
10 SOME LOSS OF SOME CONSTITUTIONAL RIGHTS FOR MY CLIENT,
11 MR. SHIVERS. AS ATTORNEY ULLMAN JUST SET FORTH BEFORE
12 THE COURT, OF COURSE, I REPRESENT MR. SHIVERS, I DID
13 NOT KNOW BEFOREHAND, BECAUSE YOU STATED FROM THE
14 BENCH, YOUR HONOR, AND WE ALL STATED IN OUR OPENINGS
15 THAT THESE ARE FIVE SEPARATE TRIALS. I DIDN'T KNOW
16 BEFOREHAND THAT I'M SUPPOSED TO CONFER WITH FOUR OTHER
17 ATTORNEYS WITH THEIR SEPARATE CLIENTS BEFORE I
18 SUBMITTED EVIDENCE ON BEHALF OF MY CLIENT. I THINK
19 MS. ULLMAN JUST STATED THEY DIDN'T EVEN KNOW THAT. WE
20 WAS FORCED TO, AGAIN, SELECT THE JURY TOGETHER, AND
21 IT'S BEEN A GOING BACK AND FORTH TYPE THING HERE, YOU
22 KNOW. SOMETIMES WE ARE TOGETHER, WE'RE SUPPOSED TO BE
23 TOGETHER, AND THEN WE'RE SUPPOSED TO SEPARATELY IN
24 DEPTH, YOUR HONOR, REPRESENT OUR CLIENT. SO, I JOIN
25 IN ON THE DUE PROCESS ISSUE ON THE GROUNDS SET FORTH

1 BY MR. MELLARD IN RELATION TO THIS CASE.

2 MR. PALMER: YOUR HONOR, - - -

3 THE COURT: YES, SIR.

4 MR. PALMER: --- JUST BRIEFLY, - - -

5 THE COURT: YES, SIR.

6 MR. PALMER: --- I JOIN IN ALL OF THAT ON BEHALF
7 OF MY CLIENT. I WANT TO ADD SOMETHING THAT - - -

8 THE COURT: ADD ANOTHER TWIST TO IT, PLEASE, SIR.

9 MR. PALMER: JUST ANOTHER TWIST, PLEASE, SIR.

10 THE COURT: YES, SIR.

11 MR. PALMER: --- THAT AT FIRST GLANCE MAY SEEM
12 KIND OF FRIVOLOUS BUT SITTING HERE ALL WEEK IT'S GIVEN
13 ME MORE AND MORE CONCERN, IT'S JUST THE LOGISTICS OF
14 THIS TRIAL, YOUR HONOR, AND I'M NOT, YOU KNOW, CASTING
15 ANY ASPERSIONS ON ANYONE, BUT JUST THE WAY WE'RE
16 CLUTTERED AT THE DEFENSE TABLE AND BUNCHED UP LIKE
17 THIS, AND YOU KNOW, IT JUST LOOKS LIKE THE PROSECUTION
18 HAS MORE ROOM TO WORK, AND AGAIN, NO REFLECTION ON
19 THEM, BUT THEY JUST LOOK MORE ORGANIZED AND CONFIDENT
20 THAN WE DO. WE'RE STEPPING OVER EACH OTHER TO GET OUT
21 TO CONDUCT OUR CROSS-EXAMINATIONS AND DO OTHER THINGS
22 IN THE COURTROOM, AND I THINK JUST THE APPEARANCE OF
23 IT WITH THE JURY, YOUR HONOR, MAY BE PREJUDICING OUR
24 CLIENTS' RIGHT TO A FAIR TRIAL. THANK YOU VERY MUCH.

25 THE COURT: AN INTERESTING TWIST, MR. PALMER.

1 THANK YOU FOR THAT.

2 OKAY, AND MR. LACKEY.

3 MR. LACKEY: YES, SIR, YOUR HONOR, JUST BRIEFLY,
4 I WOULD, TOO, JOIN IN THE MOTION MR. MELLARD MAKES. IT
5 IS DIFFICULT AS YOU REPRESENT YOUR CLIENT TO ALSO HAVE
6 TO CONFER WITH THESE OTHER ATTORNEYS, WHICH ARE GREAT
7 ATTORNEYS, BUT WE EACH HAVE OUR OWN TRIAL STRATEGY,
8 AND AT THAT POINT IT DOES AFFECT CERTAIN DECISIONS,
9 WHETHER THEY BE LARGE OR SMALL, BUT TO BE MADE IN
10 PUTTING UP A DEFENSE FOR YOUR CASE. SO, WE WOULD ALSO
11 JOIN IN ON BEHALF OF MY CLIENT, CHRISTIAN COLEMAN.

12 THE COURT: ALRIGHT, THANK YOU.

13 SOLICITOR PASCOE: YOUR HONOR, - - -

14 THE COURT: OH, YES, SIR.

15 SOLICITOR PASCOE: I ASK, OBVIOUSLY FEEL
16 PREJUDICED AS WELL. I WANT TO JOIN IN THEIR MOTION
17 BECAUSE IT IS, AFTER ALL, SIX AGAINST TWO, AND MY
18 WITNESSES HAD TO BE CROSS-EXAMINED BY FIVE DEFENSE
19 ATTORNEYS INSTEAD OF ONE. ON A SERIOUS NOTE, THOUGH,
20 I WANT TO CORRECT SOME MIS-STATEMENTS.

21 FIRST OF ALL, MS. ULLMAN TWICE SAID THAT WE
22 WOULDN'T HAVE CALLED THE SAME WITNESSES AGAINST HER
23 CLIENT THAT WE CALLED IN THIS TRIAL. EVERY SINGLE
24 WITNESS WE CALLED IN THIS TRIAL WOULD HAVE BEEN CALLED
25 IN THE TRIALS AGAINST EVERYONE OF THOSE DEFENDANTS,

1 EVERY SINGLE WITNESS. THAT IS A MIS-STATEMENT AND I
2 WANT TO CLARIFY THAT ON THE RECORD.

3 HAVING TO BE FORCED TO WORK IN A GROUP? NO, SIR,
4 THAT WAS ONE OF THE LAWYER'S STATEMENTS. THAT WAS
5 THEIR CHOICE TO WORK IN A GROUP. AS MR. KOGER POINTED
6 OUT, REALLY, THEY AREN'T SUPPOSED TO CONFER IF THEY
7 DON'T WANT TO. SO, THEY'RE NOT PREJUDICED IN ANY
8 MANNER, AND I JUST WANTED TO MAKE THAT PART OF THE
9 RECORD.

10 THE COURT: OKAY. THANK YOU, SIR. ON BEHALF --
11 WITH Y'ALL'S MOTIONS, LET ME TELL YOU, I UNDERSTAND
12 THE DIFFICULTIES THAT Y'ALL HAD, AND I CAN APPRECIATE
13 THE DIFFICULTIES THAT Y'ALL HAD, BUT -- AND YOU KNOW,
14 I UNDERSTAND EVERYTHING THAT Y'ALL SAID ABOUT, YOU
15 KNOW, HAVING TO WORK TOGETHER AND TRYING TO DETERMINE
16 WHETHER YOU WERE GOING TO WORK AS A GROUP IN CERTAIN
17 SITUATIONS AND THEN HAVING TO ALSO JUST WORRY ABOUT
18 REPRESENTING YOUR CLIENTS INDIVIDUALLY. OKAY? I WANT
19 TO TELL YOU THAT I THINK Y'ALL HAVE THUS FAR DONE A
20 WONDERFUL JOB IN REPRESENTING YOUR CLIENTS THROUGH ALL
21 THESE DIFFICULTIES. AS I MENTIONED EARLIER, I AM NOT
22 CHANGING MY POSITION WITH REGARD TO SEVERANCE AND I AM
23 DENYING YOUR MOTIONS THAT YOU HAVE, THAT WE HAVE JUST
24 GONE THROUGH. SO, I THINK Y'ALL HAVE DONE A GREAT
25 JOB. I REALIZE IT WAS UNDER DIFFICULT CIRCUMSTANCES,

1 I DO THINK THAT THIS WOULD HAVE BEEN THE SAME CASE
2 TRIED FIVE TIMES, AND I WAS, I THINK THAT Y'ALL WERE
3 ALSO ABLE TO CROSS -- FIVE DIFFERENT PEOPLE WERE ABLE
4 TO CROSS-EXAMINE ANY ONE OF THE WITNESSES, AND BY
5 VIRTUE OF THE FACT THAT Y'ALL ALL HAD DIFFERENT STYLES
6 I THOUGHT IT WAS EFFECTIVE, WHEREAS IF WE WERE DOING
7 SINGLE TRIALS YOU WOULD HAVE ONLY HAD ONE STYLE
8 ATTORNEY CROSS-EXAMINING ANOTHER. AND IN REGARD TO
9 MR. PALMER'S COMMENT, WHICH I THOUGHT WAS INTERESTING
10 ABOUT -- ACTUALLY, I THINK THAT EVEN THOUGH Y'ALL DID
11 HAVE TO STEP UP, AND I APOLOGIZE FOR Y'ALL NOT HAVING
12 AS MUCH SPACE, BUT I THINK Y'ALL ACTUALLY SEEMED TO
13 WORK VERY WELL TOGETHER IN FRONT OF THE JURY, AND I
14 THINK THAT THAT CAME ACROSS TO THE JURY. BUT I NOTE
15 ALL THE PROBLEMS THAT Y'ALL HAVE RECITED, OKAY, AND
16 DENY YOUR MOTIONS. THANKS.

17 ANYTHING ELSE?

18 MR. LACKEY: NO, SIR.

19 MS. ULLMAN: NO, SIR.

20 MR. PALMER: NO, SIR.

21 MR. MELLARD: NO, SIR.

22 MR. KOGER: NO, SIR.

23 THE COURT: OKAY. NOW, DO YOU WANT ME TO CALL
24 THE JURY BACK IN SO THAT THE STATE CAN REST AND THEN
25 EXCUSE THEM WHILE Y'ALL, SO Y'ALL CAN TELL ME, SO I

1 ALRIGHT, NO ONE HAS ANSWERED IN THE AFFIRMATIVE,
2 SO LADIES AND GENTLEMEN, WHAT WE ARE NOW -- AS I TOLD
3 YOU YESTERDAY, YOU HAVE HEARD ALL OF THE EVIDENCE --
4 ALL OF THE TESTIMONY IN THIS CASE, AND WE ARE NOW
5 GETTING READY TO BEGIN THE CLOSING ARGUMENTS IN THIS
6 TRIAL, AND AFTER YOU'VE HEARD THE CLOSING ARGUMENTS OF
7 THE ATTORNEYS I WILL THEN CHARGE YOU ON THE LAW AND
8 THEN I WILL TELL YOU -- I WILL GO OVER THE VERDICT
9 FORM WITH YOU, MADAM FORELADY, AND THEN I WILL TELL
10 Y'ALL TO BEGIN Y'ALL'S DELIBERATIONS IN THIS CASE.

11 NOW, UNTIL I TELL YOU YOU CAN BEGIN YOUR
12 DELIBERATIONS IN THIS CASE YOU STILL MAY NOT TALK
13 ABOUT THIS CASE, UNTIL I TELL YOU TO BEGIN
14 DELIBERATIONS, BECAUSE THERE WILL BE A LOT OF
15 ATTORNEYS SPEAKING TO YOU TODAY. WE WILL BE TAKING
16 BREAKS DURING THESE CLOSING ARGUMENTS. OKAY? RIGHT
17 NOW THE SOLICITOR IS GOING TO DO HIS OPENING PART OF
18 HIS CLOSING ARGUMENT.

19 ALRIGHT, MR. PASCOE.

20 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

21 THE COURT: YES, SIR.

22 CLOSING ARGUMENT BY SOLICITOR PASCOE

23 MADAM FORELADY, AND LADIES AND GENTLEMEN OF THE
24 JURY, GOOD MORNING. I WANT TO START OFF BY THANKING
25 EACH AND EVERY ONE OF YOU FOR YOUR SERVICE THIS WEEK.

1 IT'S OFTEN SAID THAT JURY DUTY IS ONE OF THE MOST
2 IMPORTANT DUTIES YOU CAN PERFORM FOR YOUR COUNTRY, AND
3 I CERTAINLY CONCUR WITH THAT. YOUR SERVICE IS NOT
4 ONLY IMPORTANT TO THE FIVE DEFENDANTS, IT'S IMPORTANT
5 TO THE STATE OF SOUTH CAROLINA, TO CHARLES PRINGLE'S
6 FAMILY, AND IT'S IMPORTANT TO THE CITIZENS OF
7 ORANGEBURG COUNTY. AND IT'S IMPORTANT BECAUSE WE ALL
8 HAVE OUR JOBS TO DO IN THIS COURTROOM. UNDER THE CODE
9 OF ETHICS IT'S THE STATE'S JOB TO BE MINISTERS OF
10 JUSTICE, IT'S DEFENSE COUNSELS' JOB TO REPRESENT THEIR
11 CLIENTS ZEALOUSLY, IT'S THE JUDGE'S JOB TO ADMINISTER
12 THE LAW, AND IT'S YOUR JOB, MOST IMPORTANT OF ALL, TO
13 RENDER A VERDICT. WHETHER YOUR VERDICT IS GUILTY OR
14 NOT GUILTY, AS LONG AS IT SPEAKS THE TRUTH NO ONE WILL
15 BE ABLE TO QUESTION IT. IF YOU RECALL, THE MOST
16 IMPORTANT THING YOU'VE DONE UP TO NOW IS, YOU TOOK AND
17 OATH. YOU TOOK AN OATH ON MONDAY THAT YOU WOULD PUT
18 ASIDE ANY BIAS OR PREJUDICE THAT YOU MAY HAVE EITHER
19 AGAINST THE STATE OF SOUTH CAROLINA OR THE DEFENDANTS,
20 AND BASE YOUR VERDICT ON JUST TWO THINGS, THE EVIDENCE
21 AND THE LAW, NOT ON ASSERTION, NOT ON FICTION, NOT ON
22 SPECULATION, BUT ON THE EVIDENCE AND THE LAW. AND
23 WHAT I'M GOING TO DO IS, I'M GOING TO TAKE NO MORE
24 THAN MAYBE TEN TO TWELVE MINUTES MORE OF YOUR TIME
25 RIGHT NOW AND I'M GOING TO TALK TO YOU A LITTLE BIT

1 ABOUT THE LAW IN THIS CASE. AND THEN I'M GOING TO SIT
2 DOWN, THE DEFENSE ATTORNEYS ARE GOING TO PRESENT THEIR
3 CLOSING ARGUMENTS, AND I'M GOING TO GET ONE MORE
4 OPPORTUNITY TO COME UP HERE AND TALK TO YOU ABOUT THE
5 FACTS IN THIS CASE.

6 NOW, AS I GO OVER THE LAW WITH YOU, LET ME GIVE
7 YOU ONE CAVEAT, WHICH IS, IF I EVER SAY ANYTHING THAT
8 CONTRADICTS THE LAW THAT THE JUDGE TELLS YOU, YOU TAKE
9 THE LAW ACCORDING TO JUDGE DICKSON, AND NOT THE LAW
10 ACCORDING TO PASCOE, BECAUSE JUST LIKE YOU ARE THE
11 SOLE TRIERS OF THE FACTS IN THIS CASE, HE IS THE SOLE
12 TRIER OF THE LAW.

13 AND AS WE ALL KNOW BY THE DEFENDANT IS CHARGE --
14 ALL THE DEFENDANTS ARE CHARGED WITH MURDER, BURGLARY
15 IN THE FIRST DEGREE, AND ARMED ROBBERY. AND WHILE
16 MURDER -- AND I THINK MR. SORENSON TOLD YOU THIS IN
17 HIS OPENING, IS THE MOST HEINOUS CRIME A PERSON CAN
18 COMMIT, IT HAS PROBABLY THE SHORTEST AND SIMPLEST
19 DEFINITION OF ANY CRIME ON OUR BOOKS. MURDER IS
20 DEFINED AS THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
21 AFORETHOUGHT, EITHER EXPRESSED OR IMPLIED. THAT'S IT.
22 PREMEDITATION IS AN ELEMENT OF MURDER, BECAUSE AS YOU
23 CAN IMAGINE, YOU CAN'T PROVE USUALLY WHAT'S IN
24 SOMEBODY'S HEAD. PREMEDITATION IS NOT AN ELEMENT OF
25 MURDER. ALL YOU HAVE TO HAVE IS MALICE AFORETHOUGHT,

1 THE UNLAWFUL KILLING OF ANOTHER WITH MALICE
2 AFORETHOUGHT. AND MALICE HAS A NUMBER OF DEFINITIONS.

3 MALICE IS AN INTENTIONAL ACT OF VIOLENCE, SUCH AS
4 COMMITTING A BURGLARY OR A ROBBERY. MALICE IS RECKLESS
5 DISREGARD FOR THE WELFARE OF ANOTHER. I MEAN, HOW
6 MUCH MORE RECKLESS CAN YOU GET THAN STICKING ONE GUN
7 IN SOMEBODY'S FACE? MALICE IS CONDUCT THAT SIGNIFIES
8 A CONSCIOUS EFFORT OF CREATING A HIGH RISK OF BODILY
9 INJURY TO ANOTHER. MALICE HAS NO TIME LIMIT. IT CAN
10 HAPPEN AT THE SNAP OF A FINGER OR THE BLINK OF AN EYE.
11 I CAN HAPPEN AT THE PULLING OF THE TRIGGER ONE TIME,
12 MUCH LESS TWENTY-FOUR TIMES. AND AS I SAID, MALICE
13 CAN BE EITHER EXPRESSED OR IMPLIED. AND EXAMPLES OF
14 EXPRESSED OR IMPLIED MALICE WOULD BE WHEN THE HOMICIDE
15 OCCURRED DURING A ROBBERY. ANOTHER EXAMPLE OF MALICE
16 WOULD BE JUST THE MERE USE OF ONE DEADLY WEAPON, MUCH
17 LESS, MULTIPLE DEADLY WEAPONS. SIMPLY PUT, YOU SHOOT
18 SOMEBODY WITH A GUN YOU'RE GUILTY OF MURDER, THE
19 UNLAWFUL KILLING OF ANOTHER WITH MALICE AFORETHOUGHT.

20 THE JUDGE IS ALSO GOING TO CHARGE YOU WITH
21 REGARDS TO MURDER ON ACCOMPLICE LIABILITY. SOMETIMES
22 IT'S REFERRED TO AS FELONY MURDER, BUT IT'S REALLY,
23 IT'S ACCOMPLICE LIABILITY MURDER. AND THIS ONLY
24 APPLIES -- LET ME GET THIS CLEAR, THIS ONLY APPLIES TO
25 NON-TRIGGER MEN, PEOPLE WHO GO IN A HOME WITHOUT A

1 GUN, THAT'S WHO IT APPLIES TO. AND UNDER THE
2 ACCOMPLICE LIABILITY FOR MURDER THE LAW IS, AND HE'S
3 GOING TO CHARGE YOU, IS SEVERAL PEOPLE AGREE TO COMMIT
4 A FELONY, SUCH AS A ROBBERY OR A BURGLARY, EACH OF
5 THOSE PERSONS IS CRIMINALLY RESPONSIBLE FOR THE ACTS
6 OF HIS ASSOCIATES. THE COMMON PURPOSE MAY NOT HAVE
7 INCLUDED THE KILLING AND MURDER OF ANYONE. LET ME
8 READ THAT AGAIN, THE COMMON PURPOSE MAY NOT HAVE
9 INCLUDED THE KILLING AND MURDER OF ANYONE, BUT IF IN
10 EXECUTING THE CRIME A HOMICIDE IS COMMITTED BY ONE OF
11 THE DEFENDANTS, ALL WHO ARE PRESENT ARE AS GUILTY AS
12 THE SLAYER HIMSELF. AND THE REASON FOR THAT, VERY
13 SIMPLY, IS BECAUSE HOMICIDE IS A NATURAL CONSEQUENCE
14 OF HAVING A GUN STUCK IN YOUR FACE, BECAUSE ARMED
15 ROBBERY AND BURGLARY ARE DANGEROUS CRIMES. IF SIX
16 PEOPLE DECIDE TO GO INTO A HOME TO ROB SOMEBODY OR
17 BURGLARIZE THE HOME, IF SIX PEOPLE GO INTO THAT HOME
18 AND ONLY ONE PERSON TAKES A GUN, AND THAT ONE PERSON
19 SHOOTS AND KILLS SOMEONE IN THAT HOME DURING THE
20 ROBBERY, UNDER THE LAW ALL SIX PEOPLE ARE GUILTY OF
21 MURDER, NOT JUST THE GUNMAN, BECAUSE THE LAW STATES
22 THAT YOU SHOULD KNOW THAT IT IS AN INHERENTLY
23 DANGEROUS THING TO GO INTO ANOTHER PERSON'S HOME ARMED
24 WITH A WEAPON, EVEN IF SOMEBODY ELSE HAS A GUN, FOR
25 THE PURPOSE OF COMMITTING A ROBBERY. AND THAT'S JUST

1 IF ONE PERSON HAS A GUN, ALL SIX PEOPLE ARE GUILTY OF
2 MURDER.

3 THE NEXT CRIME IS BURGLARY IN THE FIRST DEGREE.
4 AND BURGLARY IN THE FIRST DEGREE IS WHERE YOU ENTER A
5 DWELLING, OR APARTMENT OR HOUSE, WITHOUT CONSENT OR BY
6 DECEPTION OR MISREPRESENTATION WITH JUST THE INTENT TO
7 COMMIT A CRIME AND IT'S EITHER DONE DURING THE HOURS
8 OF DARKNESS, SUCH AS TEN O'CLOCK AT NIGHT, OR WHILE
9 ARMED WITH A DEADLY WEAPON, MUCH LESS FOUR, OR THE
10 VICTIM IS INJURED DURING THE BURGLARY, THAT'S IT. IF
11 SIX PEOPLE GO INTO A HOME, EVEN THEY'RE UNARMED, AT
12 NIGHT TIME WITH JUST THE INTENT TO COMMIT A CRIME,
13 EVEN IF THEY DON'T COMMIT A CRIME IN THERE, IN THE
14 HOUSE LIKE A MURDER AND A ROBBERY, THEY'RE GUILTY OF
15 BURGLARY IN THE FIRST DEGREE, VERY SIMPLE.

16 AND FINALLY, THE DEFENDANTS ARE ALL CHARGED WITH
17 ARMED ROBBERY. AND ARMED ROBBERY IS THE TAKING OF
18 PROPERTY FROM THE PRESENCE OF ANOTHER BY MEANS OF
19 FORCE OR INTIMIDATION WHILE ARMED WITH A DEADLY
20 WEAPON. IF YOU STICK A GUN INTO SOMEBODY'S FACE, OR
21 ONE OF YOUR ACCOMPLICES STICKS A GUN INTO SOMEBODY'S
22 FACE AND THEY TAKE MONEY OR THEY TAKE DRUGS, OR THEY
23 TAKE A GUN, AS IN THIS CASE, IT'S ARMED ROBBERY.

24 NOW, THE JUDGE, REGARDS TO THE ARMED ROBBERY
25 VERDICT, IS GOING TO GIVE YOU TWO POSSIBLE VERDICTS

1 WITH REGARDS TO GUILT. YOU CAN FIND THE DEFENDANTS
2 GUILTY OF ARMED ROBBERY, OR IF FOR SOME REASON YOU
3 DON'T FIND THAT A GUN WAS TAKEN AT THE SCENE, THEY CAN
4 BE FOUND GUILTY OF JUST ATTEMPTED ARMED ROBBERY. SO,
5 YOU'LL HAVE THE OPPORTUNITY TO FIND THE DEFENDANTS
6 EITHER GUILTY OF ARMED ROBBERY, WHICH I SUBMIT DID
7 OCCUR, BECAUSE A GUN WAS TAKEN, OR ATTEMPTED ARMED
8 ROBBERY IF NOTHING WAS TAKEN.

9 THE JUDGE IS ALSO GOING TO CHARGE YOU THAT IN
10 SOUTH CAROLINA, AND ANYWHERE, MERE PRESENCE TO A CRIME
11 BY ITSELF IS NOT ENOUGH TO CONVICT SOMEBODY. NOW,
12 THAT DOESN'T MEAN THAT MERE PRESENCE AND MERE
13 ASSOCIATION WITH DEFENDANTS IS AN EVIDENCE OF GUILT,
14 IT IS DEFINITELY EVIDENCE OF GUILT WHICH YOU CAN
15 CONSIDER IN YOUR VERDICT, IT JUST MEANS THAT BY ITSELF
16 IT'S NOT ENOUGH TO CONVICT SOMEONE. AND IN SOUTH
17 CAROLINA, MUCH LIKE THE ACCOMPLICE LIABILITY CRIME I
18 TOLD YOU ABOUT WITH MURDER, IF TWO OR MORE PEOPLE SET
19 OUT TO COMMIT A CRIME TOGETHER EACH IS GUILTY NO
20 MATTER WHAT ROLES THEY PLAY. THE HAND OF ONE IS THE
21 HAND OF ALL. IT DOESN'T MATTER WHAT ROLE YOU PLAY,
22 WHETHER YOU WERE THE PERSON THAT PUT DUCT TAPE ON
23 SOMEBODY'S MOUTH, OR YOU WERE THE PERSON THAT WOULD GO
24 IN THE HOUSE WITH A GUN, EVERYBODY IS GUILTY OF ARMED
25 ROBBERY, MURDER AND BURGLARY IN THE FIRST DEGREE.

1 NOW, LADIES AND GENTLEMEN, I SUBMIT, YOUR JOB IS
2 SIMPLE IN THIS CASE, YOU'VE HAD A DIFFICULT WEEK,
3 YOU'VE HAD A LONG WEEK, YOU'VE HAD TO PUT UP WITH THE
4 COLD, IF YOU'RE LIKE ME YOU HAD A HARD TIME GETTING
5 YOUR CAR STARTED ON MONDAY AND TUESDAY MORNINGS,
6 TAKING CARE OF YOUR CHILDREN, YOUR JOBS, BUT YOUR JOB
7 IS SIMPLE IN THIS RESPECT, IT'S NOT TO TELL US WHAT
8 HAPPENED, THERE IS NO DOUBT WHATSOEVER THAT CHARLES
9 PRINGLE WAS MURDERED, ROBBED, AND HIS HOUSE WAS
10 BURGLARIZED. YOUR JOB IS JUST TO TELL US WHETHER
11 THEY'RE INVOLVED OR NOT, DID THEY PARTICIPATE? AND
12 WHEN YOU DO THAT YOU LOOK AT THE EVIDENCE.

13 THERE ARE TWO TYPES OF EVIDENCE, BOTH OF WHICH
14 EXIST IN THIS CASE, AND BOTH ARE EQUAL UNDER THE LAW.
15 THERE'S DIRECT EVIDENCE AND THERE'S CIRCUMSTANTIAL
16 EVIDENCE. DIRECT EVIDENCE IS EVIDENCE THAT A WITNESS
17 SEES, HEARS, TOUCHES, SMELLS. ASHLEY'S TESTIMONY, I
18 COULD HEAR THE FOOTPRINTS, I COULD HEAR THE DUCT TAPE.
19 Minor TESTIMONY THAT WALTER HARRIS GAVE HIS
20 BLACK GUN TO RALPH COLEMAN. HE SAW THAT. THAT'S
21 DIRECT EVIDENCE. CIRCUMSTANTIAL EVIDENCE IS WHERE YOU
22 CAN INFER SOMETHING FROM THE CIRCUMSTANCES. IT'S A
23 CHAIN OF EVENTS THAT PROVE THE EXISTENCE OF A FACT.
24 JUST ONE EXAMPLE OF CIRCUMSTANTIAL EVIDENCE IN THIS
25 CASE IS THAT A BLACK GUN, THE FORTY CALIBER THAT

1 WALTER HARRIS SOLD ON SATURDAY IS ONE OF THE GUNS USED
2 TO MURDER CHARGES PRINGLE. THAT'S AN EXAMPLE OF
3 CIRCUMSTANTIAL EVIDENCE. BOTH ARE EQUAL UNDER THE
4 LAW.

5 AND THE JUDGE IS GOING TO TELL YOU THAT YOU ALSO
6 ASSESS THE CREDIBILITY OF THE WITNESSES. AND WHEN YOU
7 ASSESS THE CREDIBILITY OF THE WITNESSES THAT TOOK THAT
8 WITNESS STAND ALL I ASK IS THAT YOU USE YOUR EVERY DAY
9 LIFE EXPERIENCES. YOU DEAL WITH PEOPLE EVERY SINGLE
10 DAY. YOU KNOW WHEN SOMEBODY IS LYING, YOU KNOW WHEN
11 SOMEBODY IS TELLING THE TRUTH. AND SOME OTHER THINGS
12 YOU CAN CONSIDER WHEN DETERMINING THE CREDIBILITY OF
13 THE WITNESSES, WHAT WAS THEIR DEMEANOR ON THE WITNESS
14 STAND? WERE THEY FORTHRIGHT OR HESITANT? IS THEIR
15 TESTIMONY CONSISTENT? WAS THE TESTIMONY CORROBORATED
16 BY THE EVIDENCE? AND DOES THE WITNESS HAVE A REASON
17 TO BE BIASED OR PREJUDICED?

18 AND LET ME TELL YOU WHAT IS NOT A DEFENSE TO A
19 CRIME IN SOUTH CAROLINA. VOLUNTARY INTOXICATION IS
20 NEVER A DEFENSE TO A CRIME, NEVER A DEFENSE. GETTING
21 HIGH ON MARIJUANA, HIGH ON DRUGS AND THEN DECIDING TO
22 ROB SOMEBODY AND END UP MURDERING THEM, IS NEVER A
23 DEFENSE TO A CRIME. NOW, IT MAY BE EVIDENCE AS TO WHY
24 SOMEBODY COMMITTED THE CRIME, BUT IT IS NEVER A
25 DEFENSE TO A CRIME IN SOUTH CAROLINA.

1 AND THE LAST LEGAL PHRASE I'M GOING TO TALK TO
2 YOU ABOUT IS PROOF BEYOND A REASONABLE DOUBT. THIS
3 PHRASE MEANS EXACTLY AS IT SOUNDS. IT'S NOT PROOF
4 BEYOND ANY DOUBT, IT'S NOT PROOF BEYOND ANY POSSIBLE
5 DOUBT, IT'S PROOF BEYOND A REASONABLE DOUBT. THE
6 SIMPLE FACT OF THE MATTER IS, WE ALL HAVE DOUBTS IN
7 THIS WORLD. SOME MAY DOUBT WHETHER THE EARTH REVOLVES
8 AROUND THE SUN, BUT YOU HAVE TO ASK YOURSELF, IS IT
9 REASONABLE? AND IN ESSENCE, WHAT PROOF BEYOND A
10 REASONABLE DOUBT MEANS IS, AFTER YOU'VE LOOKED AT ALL
11 THE EVIDENCE COLLECTED, NOT JUST ONE PIECE, BUT AFTER
12 YOU'VE LOOKED AT ALL THE EVIDENCE, IF YOU ARE FIRMLY
13 CONVINCED, JUST FIRM CONVINCED THAT THE DEFENDANTS ARE
14 GUILTY, YOU MUST FIND THEM GUILTY. AND I SUBMIT, THE
15 EVIDENCE IN THIS CASE LEAVES YOU MUCH, MUCH MORE THAN
16 FIRMLY CONVINCED.

17 IN CLOSING, I AGAIN WANT TO THANK YOU FOR YOUR
18 SERVICE. YOU'VE BEEN EXTREMELY ATTENTIVE THIS ENTIRE
19 WEEK AND I'M SURE YOU'RE GOING TO CONTINUE THAT TODAY.
20 AND ALL I ASK IS THAT DURING THE DEFENSE ATTORNEYS'
21 CLOSING ARGUMENTS, THE ONLY THING I ASK IS THAT YOU
22 KEEP AN OPEN MIND AND YOU GIVE ME ONE MORE OPPORTUNITY
23 TO COME UP HERE AND TALK TO YOU ABOUT THE FACTS IN
24 THIS CASE.

25 THANK YOU.

1 THE COURT: ALRIGHT, THANK YOU, MR. PASCOE.

2 ALRIGHT, LADIES AND GENTLEMEN, WHAT WE'RE GOING
3 TO DO RIGHT NOW BEFORE THE DEFENSE ATTORNEYS BEGIN
4 MAKING THEIR CLOSING ARGUMENTS, I'VE GOT SOMETHING
5 THAT I'VE GOT TO TAKE UP WITH THEM, AND SO I WILL HAVE
6 A SHORT BREAK, LET Y'ALL HAVE JUST A QUICK SHORT
7 BREAK, HOPEFULLY, ABOUT TEN MINUTES BACK IN THE JURY
8 ROOM, AND THEN WE'LL COME BACK AND YOU'LL START
9 HEARING THE CLOSING ARGUMENTS OF THE ATTORNEYS.
10 AGAIN, LET ME REMIND YOU, YOU CANNOT BEGIN TALKING
11 ABOUT THIS CASE NOW. OKAY? THANK Y'ALL VERY MUCH.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: ALRIGHT, MR. SORENSON, OR MR. PASCOE.
17 SINCE MR. SORENSON IS DOING ALL THE READING I'M GOING
18 TO LET HIM DO IT RATHER THAN YOU TRANS. - - -

19 SOLICITOR SORENSON: OKAY. YOUR HONOR, I THINK
20 WE'LL LEAVE IT UP TO YOUR HONOR INITIALLY WHETHER
21 YOU'RE GOING TO CHARGE WITHDRAWAL. I WOULD ASK IF YOU
22 DO DECIDE TO CHARGE IT, TO CHARGE WHAT, THAT
23 ADDITIONAL KIND OF LANGUAGE.

24 THE COURT: OH, YEAH, I'M GOING TO CHARGE, I'M
25 GOING TO MAKE THE CHARGE THAT JUDGE KEISLEY MADE IN

1 THAT CASE, BECAUSE I THINK IT MORE ACCURATELY REFLECTS
2 WHAT POSSIBLY COULD HAVE HAPPENED HERE.

3 SOLICITOR SORENSON: YES, SIR.

4 THE COURT: BUT I NEED THAT SO I CAN DO IT.

5 SOLICITOR SORENSON: YES, SIR.

6 THE COURT: OKAY. AND SO, MR. PALMER, I'M GOING
7 TO CHARGE JUDGE KEISLEY'S CHARGE FROM STATE VERSUS
8 VANG. OKAY?

9 MR. PALMER: THANK YOU, YOUR HONOR.

10 THE COURT: NOW, IF ANYBODY NEEDS A -- NOW, WE'RE
11 GOING TO DO CLOSINGS IN THE SAME ORDER WE'VE BEEN
12 DOING EVERYTHING ELSE? AND IS IT -- MS. ULLMAN,
13 YOU'VE BEEN POINTED TO BY MR. WISE, SO I'LL EXPECT YOU
14 TO BE BATTING NUMBER TWO. OKAY?

15 YES, MA'AM, MS. ULLMAN.

16 MS. ULLMAN: I HATE TO ASK, BUT COULD WE HAVE
17 MORE THAN TWENTY-FIVE SECONDS, MR. MELLARD AND I NEED
18 TO GO TO THE RESTROOM.

19 THE COURT: OH, YEAH.

20 MS. ULLMAN: IT WON'T TAKE ME MORE THAN TWENTY-
21 FIVE SECONDS, I PROMISE YOU.

22 THE COURT: WELL, I WAS GOING TO GIVE -- IF Y'ALL
23 WILL BE BACK HERE ABOUT TWENTY AFTER, WE'LL BE READY
24 TO GO. THAT WAY I CAN FIX MYSELF A CUP OF COFFEE.
25 OKAY. THANK Y'ALL. ALRIGHT, WE'RE IN RECESS FOR

1 ABOUT TEN MINUTES.

2 (Recess)

3 THE COURT: IS THE JURY READY? OKAY. BRING THEM
4 ON OUT.

5 (Whereupon the jury enters
6 the courtroom and the following
7 takes place in the presence
8 of the jury.)

9 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, WE'RE
10 GETTING READY TO BEGIN THE CLOSING ARGUMENTS OF
11 DEFENSE COUNSEL. AGAIN, I WOULD ASK YOU AS YOU HAVE
12 DONE THROUGHOUT THE TRIAL TO CONTINUE TO GIVE THEM
13 YOUR COMPLETE ATTENTION. ALRIGHT? THANK YOU.

14 MR. LACKEY.

15 MR. LACKEY: THANK YOU, YOUR HONOR.

16 THE COURT: YES, SIR.

17 MR. LACKEY: MAY IT PLEASE THE COURT.

18 THE COURT: YES, SIR.

19 CLOSING ARGUMENT BY MR. LACKEY

20 LADIES AND GENTLEMEN OF THE JURY, MY CLIENT,
21 CHRISTIAN COLEMAN, DID NOT HAVE A PART IN PLAYING THIS
22 EVENT. I SUBMIT TO YOU, HE DID NOT HAVE A GUN, AND
23 HIS MERE PRESENCE THAT DAY DOES NOT CARRY TO THAT.

24 NOW, YOU SAW ME OVER HERE, AND I DIDN'T ASK MANY
25 QUESTIONS THROUGH THE TRIAL. A LOT OF TIMES I'D SAY,

1 DOUBT, AS I SAID, MY CLIENT HAS TO PROVE NOTHING. THEY
2 HAVE TO PROVE THEIR CASE BEYOND A REASONABLE DOUBT.
3 THAT MAKES A REASONABLE MAN HESITATE TO ACT, HESITATE
4 TO ACT. THINK ABOUT THAT.

5 THE JUDGE WILL ALSO TELL YOU, AS I STATED
6 EARLIER, WE HAVE SEPARATE TRIALS FOR EACH OF THESE
7 SEPARATE DEFENDANTS. I WOULD SUBMIT TO YOU, MY CLIENT
8 HAS A FACT PATTERN THAT'S MUCH DIFFERENT FROM THE
9 OTHER FOUR, AND YOU HAVE TO CONSIDER THE EVIDENCE
10 AGAINST MY CLIENT DISTINCTLY FROM THE EVIDENCE AGAINST
11 THE OTHER CLIENTS. AND WHEN YOU DO THAT YOU'RE GOING
12 TO SEE THE STATE HAS FAILED TO MEET THEIR BURDEN OF
13 PROOF. YOU'RE GOING TO SEE THAT THE ONLY VERDICT YOU
14 CAN RETURN IS A NOT GUILTY ON ARMED ROBBERY, A NOT
15 GUILTY ON BURGLARY, AND A NOT GUILTY ON MURDER.

16 I THANK YOU FOR YOUR TIME AND ATTENTION.

17 THE COURT: THANK YOU, MR. LACKEY.

18 MS. ULLMAN.

19 CLOSING ARGUMENT BY MS. ULLMAN

20 GOOD MORNING. AS MR. LACKEY JUST SAID, THIS IS
21 FIVE SEPARATE TRIALS. I UNDERSTAND WE'RE ALL SITTING
22 HERE, WE'RE ALL SITTING AS A GROUP OVER THERE, BUT THE
23 REALITY IS, THAT IS FOR JUDICIAL ECONOMY. WHAT DO I
24 MEAN BY THAT? IT'S CHEAPER FOR THE STATE TO DO IT
25 THIS WAY, WE DON'T HAVE TO HAVE MORE THAN ONE JURY

1 HERE, WE DON'T HAVE TO HAVE THE LAWYERS HERE MORE THAN
2 ONCE, WE DON'T HAVE TO HAVE THE WITNESSES HERE MORE
3 THAN ONCE. THAT SHOULD NOT MATTER TO YOU, THOUGH, YOU
4 NEED TO GO INTO THAT JURY DELIBERATION ROOM AND THINK
5 OF EACH PERSON SITTING THERE SEPARATELY. YOU WILL
6 ACTUALLY HAVE A FORM THAT THE JUDGE IS GOING TO GIVE
7 YOU TO FILL OUT WHEN YOU DELIBERATE TO DECIDE WHETHER
8 A PERSON IS GUILTY OR NOT GUILTY. EACH ONE OF THOSE
9 FORMS IS PER PERSON, YOU WILL HAVE FIVE FORMS BACK
10 THERE. SO, I JUST REMIND YOU TO PLEASE SEPARATE THIS.
11 IF YOU DECIDE THAT ONE PERSON OVER THERE IS GUILTY,
12 THAT IS NOT A REASON THAT YOU MUST DECIDE THAT THEY
13 ARE ALL GUILTY. ONE PERSON COULD BE GUILTY, THE REST
14 COULD BE NOT GUILTY, THEY COULD ALL BE NOT GUILTY.

15 I REPRESENT RALPH COLEMAN.

16 PLEASE STAND UP, RALPH.

17 THIS IS RALPH COLEMAN, HE IS MY CLIENT. I'M HERE
18 TO TALK ABOUT RALPH TODAY AND THE EVIDENCE THE STATE
19 WAS NOT ABLE TO PRODUCE FOR RALPH.

20 NOW, MR. PASCOE GOT UP HERE AND PUT SOME BOARDS
21 UP HERE THAT TOLD YOU WHAT HE SAYS THE LAW IS.. AND AS
22 HE TOLD YOU, WHAT HE SAID REALLY DOESN'T MATTER, THE
23 JUDGE IS GOING TO TELL YOU WHAT THE LAW IS. WHEN WE
24 ALL GET DONE TALKING YOU WILL GET TO TAKE THE EVIDENCE
25 THAT YOU'VE HEARD FROM THE WITNESS STAND, ALL THE

1 EXHIBITS, THE PICTURES, EVERYTHING THAT YOU SAW BACK
2 INTO THAT DELIBERATION ROOM AND YOU'LL GET TO USE ALL
3 OF THAT, PUT IT AGAINST THE LAW THE JUDGE GIVES YOU TO
4 DECIDE INNOCENCE OR GUILT.

5 ONE THING I'D LIKE TO POINT OUT THAT THE
6 SOLICITOR DID SAY THAT I AGREE WITH, THOUGH, IS, I DO
7 WANT YOU TO PAY ATTENTION TO EVIDENCE, DIRECT
8 EVIDENCE, CIRCUMSTANTIAL EVIDENCE, AND PART OF THAT IS
9 PAYING ATTENTION TO THE WITNESSES. THE STATE ASKED
10 YOU TO LOOK AT THE TESTIMONY GIVEN AND CONSIDER
11 WHETHER A PERSON WAS BIASED OR PREJUDICED, WHETHER
12 THEY HAD A REASON TO LIE, WHAT THEIR DEMEANOR WAS ON
13 THE STAND, AND I'LL TELL YOU, THAT IS VERY IMPORTANT,
14 PLEASE KEEP THAT IN YOUR MIND.

15 I UNDERSTAND THIS HAS BEEN A LONG TRIAL, IT'S
16 BEEN LONG FOR EVERYBODY. AND THIS IS A VERY IMPORTANT
17 TRIAL. THERE'S ONE PERSON THAT'S LOST THEIR LIFE,
18 THERE'S NO QUESTION ABOUT THAT. WE ARE NOT
19 QUESTIONING WHAT HAPPENED, IT CERTAINLY DID HAPPEN.
20 RIGHT NOW RALPH COLEMAN IS FIGHTING FOR HIS LIFE, AND
21 NOTHING I'VE SAID TODAY, NOTHING I'M GOING TO SAY, AND
22 NOTHING THAT I'VE SAID OVER THE LAST WEEK IN ANY WAY
23 WAS MEANT BY ME OR RALPH COLEMAN AS DISRESPECT TO MR.
24 PRINGLE OR TO HIS FAMILY. BUT RALPH HAS NOTHING TO
25 PROVE HERE TODAY. HE SITS HERE AN INNOCENT MAN, AND

1 HE'S GOING TO REMAIN INNOCENT UNTIL YOU DELIBERATE. I
2 SUBMIT TO YOU THAT WHEN YOU ARE DONE DELIBERATING HE
3 WILL REMAIN AN INNOCENT MAN. YOU ARE THE ONLY PEOPLE
4 WHO CAN DETERMINE WHETHER HE IS INNOCENT OR GUILTY.

5 RALPH DOES NOT HAVE TO TESTIFY, THE JUDGE WILL
6 TELL YOU THAT. THE JUDGE WILL TELL YOU THAT YOU
7 CANNOT CONSIDER WHETHER HE TESTIFIED OR NOT, AS ANY
8 SORT OF EVIDENCE, HE DOES NOT HAVE TO TESTIFY. HE
9 DOESN'T HAVE TO GET UP THERE AND TELL YOU HE WASN'T
10 THERE ON THE MARCH TWELFTH. HE DOESN'T HAVE TO
11 PRODUCE SOMEBODY ELSE THAT CAN TELL YOU HE WASN'T
12 THERE ON THE NIGHT OF MARCH TWELFTH. IT'S ACTUALLY
13 YOUR DUTY AS THE JURY TO ASSUME HE WAS NOT THERE ON
14 THE MARCH TWELFTH. YOU MUST GO INTO THAT ROOM
15 ASSUMING HE WAS NOT THERE, AND THE ONLY WAY YOU CAN
16 CHANGE YOUR MIND ABOUT THAT IS IF THE STATE HAS
17 PROVIDED EVIDENCE TO YOU BEYOND A REASONABLE DOUBT
18 THAT HE WASN'T. AND NOT JUST THAT HE WAS THERE, AS
19 THE JUDGE WILL TELL YOU, MERE PRESENCE DOES NOT
20 MATTER, BUT THAT HE WAS THERE, KNEW WHAT WAS GOING ON
21 AND PARTICIPATED IN SOME FASHION.

22 NOW, FOR YOU TO BE CONVINCED BEYOND A REASONABLE
23 DOUBT THAT RALPH COLEMAN WAS PRESENT AND THAT HE
24 PARTICIPATED YOU NEED TO LOOK AT THE EVIDENCE AS IT
25 CAME FROM THE WITNESSES' MOUTHS. I SUBMIT TO YOU THAT

1 NONE OF THE EVIDENCE, PICTURES OR THE BALLISTICS, THE
2 BULLETS, ANY OF THAT STUFF, REALLY MATTERS. WE'VE
3 ALREADY STATED, UNFORTUNATELY, THERE IS A PERSON WHO
4 PASSED AWAY. HE DEFINITELY WAS SHOT, WE'RE NOT
5 CONTENDING THAT, BUT BULLETS DON'T PROVE ANYTHING.

6 NOW, I ASK YOU TO PAY ATTENTION TO ACTUALLY WHAT
7 CAME OUT OF THE WITNESSES' MOUTHS, NOT WHAT THEY WERE
8 PROMPTED TO SAY. IF I SAY, ON MARCH SEVENTEENTH, YOU
9 SPOKE TO SOMEONE, THE WITNESS DIDN'T TELL YOU IT
10 HAPPENED ON MARCH SEVENTEENTH, THE ATTORNEY PROMPTED
11 THEM TO SAY YES TO THAT. I SUBMIT TO YOU THAT WHEN
12 THE STATE IS QUESTIONING THEIR WITNESSES THE WITNESS
13 SHOULD BE TELLING YOU WHAT HAPPENED, WHEN IT HAPPENED,
14 WHAT DATE IT HAPPENED, ALL OF THAT. THEY SHOULD BE
15 COMPLETING THE STORY, NOT, SO ON MARCH SEVENTEENTH,
16 WHO DID YOU TALK TO, AT FIVE P.M. ON MARCH
17 SEVENTEENTH, WHO DID YOU TALK TO? THAT'S THE STATE
18 THROWING IN THOSE FACTS FOR YOU, AND WHAT THE STATE
19 SAYS IS NOT EVIDENCE. WHAT CAME OUT OF THEIR MOUTHS
20 AS THEY STOOD AT THE PODIUM ASKING QUESTIONS OR AS
21 THEY SIT HERE AS I AM TALKING TO YOU IS NOT EVIDENCE.

22 NOW, PART OF THE PROBLEM IN THIS CASE AND PART OF
23 THE REASON I KNOW THAT AFTER YOU DELIBERATE YOU WILL
24 FIND RALPH COLEMAN INNOCENT, IS THAT THE STATE DID NOT
25 INVESTIGATE THIS CASE VERY WELL. AND THAT IS VERY

1 UNFORTUNATE BECAUSE THERE IS SOMEONE WHO PASSED AWAY.
2 INVESTIGATOR SHUMPERT WAS THE LEAD INVESTIGATOR, HE
3 TOLD YOU THAT HE WAS RESPONSIBLE FOR THE ENTIRE
4 INVESTIGATION. HE TOLD YOU THAT TIPS COME IN, THEY
5 GET PHONE CALLS, PEOPLE IN THE COMMUNITY, TALKING
6 ABOUT WHO MIGHT HAVE DONE SOMETHING. AND THEY, OF
7 COURSE, WEIGH THOSE TIPS AND GO FROM THERE AND DECIDE
8 WHETHER TO INVESTIGATE OR NOT INVESTIGATE. THEY
9 INVESTIGATED A FEW PEOPLE, THEY TESTIFIED THAT THERE
10 WERE SOME SUSPECTS, BUT THEN THEY TALKED TO Minor

11 GAVE THEM NAMES, AND THAT WAS THE
12 END OF IT. THEY DECIDE THOSE PEOPLE WERE WHO DID THIS,
13 THEY GOT WARRANTS, THAT WAS THE END OF IT. WHAT ELSE
14 DID THEY DO? THEY DID NOT GET SEARCH WARRANTS FOR
15 ANYBODY'S HOUSE EXCEPT ONE PERSON. NOW, I UNDERSTAND
16 INVESTIGATOR SHUMPERT GOT ON THE STAND AND SAID, WELL,
17 ONCE A PERSON'S BEEN ARRESTED WE'RE NOT GOING TO
18 SEARCH THEIR HOUSE BECAUSE ONCE THEY'VE BEEN ARRESTED
19 ONCE THEY, OR TURN THEMSELVES IN AS RALPH COLEMAN DID,
20 THEY'RE NOT GOING TO HAVE EVIDENCE AT THEIR HOUSE.
21 AND THAT'S BASED ON HIS EXPERIENCE, THAT'S JUST TRUE.
22 WELL, THE PROBLEM IS, HE GOT ON THE STAND AND TOLD YOU
23 THAT RALPH COLEMAN'S WARRANT WAS ISSUED ON MARCH
24 NINETEENTH RALPH COLEMAN TURNED HIMSELF IN ON MARCH
25 TWENTY-SECOND. I SUBMIT TO YOU THAT THE PROBABLE

1 CAUSE NECESSARY TO GET AN ARREST WARRANT WOULD
2 CERTAINLY SUFFICE TO GET A SEARCH WARRANT, ON THE SAME
3 DATE FROM THE SAME MAGISTRATE THE ARREST WARRANT WAS
4 ISSUED A SEARCH WARRANT COULD HAVE BEEN ISSUED. NOW,
5 INVESTIGATOR SHUMPERT SAID THERE'S NO POINT IN GETTING
6 A SEARCH WARRANT IF YOU DON'T KNOW WHERE THE PERSON
7 LIVES. BUT HE ALSO TESTIFIED THAT HE KNEW MY CLIENT
8 LIVED ON THAT WAS HIS GRANDMOTHER'S
9 HOUSE. HE EVEN KNEW WHOSE HOUSE IT WAS. SO,
10 CERTAINLY, HE COULD HAVE INVESTIGATED THIS FURTHER. HE
11 GOT ON THE STAND AND SAID THAT THERE ARE MURDER
12 WEAPONS IN THE COMMUNITY, AND THAT'S A SCARY THOUGHT,
13 BUT WHAT DID THEY DO TO TRY TO GET THOSE WEAPONS?
14 THEY DIDN'T SEARCH CHRISTOPHER DWIGHT'S HOUSE, HE WAS
15 THE PERSON WHO HAD THIS WEAPON THAT THEY'RE SAYING WAS
16 ONE OF THE MURDER WEAPONS. THEY DIDN'T INVESTIGATE
17 HIM ANY FURTHER. HE HAD A MURDER WEAPON AND THEY
18 DIDN'T DECIDE TO SEARCH HIS HOUSE TO SEE HE MAYBE HAD
19 ONE OF THE OTHER WEAPONS, TO SEE IF HE WAS INVOLVED,
20 THEY JUST GOT THE WEAPON FROM HIM AND MOVED ON. WHY IS
21 THAT? BECAUSE Minor SAID WHO DID IT.

22 NOW, CHRISTOPHER DWIGHT ALSO, THEY COULD HAVE
23 MADE A LINEUP FOR HIM, THEY COULD HAVE PUT HIM IN A
24 LINEUP AND SHOWED HIM TO Minor OR ASHLEY
25 PARSLEY, BUT THEY DIDN'T DO THAT. HIS NAME IS

1 CHRISTOPHER, HE COULD BE LITTLE CHRIS, BUT THEY DIDN'T
2 DO THAT.

3 ANDRE WASHINGTON CAME INTO COURT, HE HAD THE, HE
4 WAS THE PERSON THAT SAID HE HAD ORIGINALLY PURCHASED
5 THE FORTY CALIBER PISTOL FROM CHRISTOPHER DWIGHT. HE
6 GOT ON THE STAND AND SAID HE BOUGHT IT FOR PROTECTION,
7 DIDN'T HAVE ANY SORT OF DANGEROUS JOB, HAD BEEN IN
8 SOME KIND OF SCUFFLE, SO OBVIOUSLY, HE THOUGHT
9 SOMEBODY MIGHT SHOOT HIM AND HE MIGHT NEED TO SHOOT
10 SOMEBODY. HE ALSO SAID THAT WHEN HE BOUGHT THAT GUN
11 HE TRADED A GUN HE ALREADY HAD. ALL OF THIS IS
12 EVIDENCE THAT HE HAD NUMEROUS WEAPONS. DID THEY TRY
13 TO SEARCH HIS HOUSE TO FIND ANY OTHER OF THESE GUNS?
14 NO. THEY JUST TOOK HIS WORD THAT THIS IS WHO I GOT IT
15 FROM, THIS IS WHERE IT CAME FROM, AND THEY TOOK IT.
16 NOW, DOES MR. WASHINGTON'S POSSESSION OF ONE OF THESE
17 WEAPONS GIVE PROBABLE CAUSE TO SEARCH HIS HOUSE?
18 ABSOLUTELY.

19 NOW, ANOTHER PROBLEM THAT WE HAD WAS AT THE CRIME
20 SCENE. AND I UNDERSTAND INVESTIGATOR SHUMPERT WAS NOT
21 AT THE CRIME SCENE, HE'S NOT THE CRIME SCENE
22 INVESTIGATOR, BUT HE IS IN CHARGE OF THE
23 INVESTIGATION. HE DIDN'T ASK WHY, AND LIEUTENANT
24 CARTER DIDN'T BOTHER FINGERPRINTING THE ENTIRE LIVING
25 ROOM. WHERE DID THEY FINGERPRINT? ONE PLACE, THE

1 DOOR KNOB. AND I BELIEVE IT WAS LIEUTENANT CARTER
2 THAT ACTUALLY STATED, A DOOR KNOB IS USUALLY A PLACE
3 THAT FINGERPRINTS AREN'T THE BEST PLACE, AREN'T LEFT
4 WELL. WHY IS THAT? BECAUSE IF I GO THROUGH A DOOR
5 AND I TOUCH IT, AND YOU GO THE DOOR AND YOU TOUCH IT,
6 AND YOU GO THROUGH THE DOOR AND YOU TOUCH IT,
7 FINGERPRINTS ARE GOING TO BE WIPED AWAY, THEY'RE NOT
8 GOING TO BE SOMETHING THAT'S VALUABLE. THEY DIDN'T
9 FINGERPRINT THE TABLE, THEY DIDN'T FINGERPRINT ANY
10 PART OF THE WOOD THAT WAS ON EITHER OF THE COUCHES,
11 THEY DIDN'T FINGERPRINT ANYTHING IN THAT LIVING ROOM.
12 THEY SAY THAT WAS OBVIOUSLY THE PLACE THAT EVERYTHING
13 WENT DOWN, NO FINGERPRINTS.

14 THEY DIDN'T SEARCH THE OUTSIDE AREA OF THIS
15 APARTMENT. YOU'LL HAVE THE PICTURES BACK THERE, AND
16 IN ONE OF THE PICTURES IS A DEPICTION OF THE ACTUAL
17 APARTMENT BUILDING. AT THE END OF THE APARTMENT
18 BUILDING RIGHT NEXT TO THE LAST APARTMENT, WHICH IS
19 SIX THIRTY-FIVE YOU WILL SEE THERE'S, I
20 DON'T KNOW HOW BIG IT IS, TO BE QUITE HONEST, BUT
21 THERE'S AN OPENING, AN OPEN FIELD. IT'S NOT A HOUSE OR
22 ANOTHER PARKING LOT OR ANYTHING LIKE THAT. THEY
23 DIDN'T SEARCH THAT AREA. WHOEVER DID THIS CERTAINLY
24 COULD HAVE THROWN A GUN WHEN THEY RAN OUT OF THE
25 SEARCH, BUT THEY DIDN'T SEARCH. THERE'S A BACK DOOR,

1 AND THEY DIDN'T SEARCH BEHIND THE HOUSE. I SUBMIT TO
2 YOU, THERE IS AREA BEHIND THE HOUSE. THERE IS
3 OBVIOUSLY NOT A BUILDING BUTTED UP AGAINST THIS
4 BUILDING, THERE'S AREA BACK THERE. THERE WAS ACTUALLY
5 EVEN TESTIMONY FROM Minor THAT THE, THAT MR.
6 PRINGLE WAS SAYING DURING THIS INCIDENT, THE STUFF'S
7 OUTSIDE, THE STUFF'S OUTSIDE. BUT THEY DIDN'T LOOK
8 OUTSIDE. AND WHEN I SAY, THEN, I MEAN, THE POLICE.
9 THEY DIDN'T LOOK OUTSIDE FOR ANYTHING.

10 NOW, DUE TO THE POLICE NOT INVESTIGATING PROPERLY
11 THE STATE HAS NOT BEEN ABLE TO PROVIDE YOU WITH
12 EVIDENCE BEYOND A REASONABLE DOUBT AGAINST RALPH
13 COLEMAN. NOW, CERTAINLY, AT THE BEGINNING OF THIS
14 TRIAL YOU HEARD THE ATTORNEYS GIVE AN OPENING
15 STATEMENT, AND IT'S NOT EVIDENCE, IT'S NOT ANYTHING
16 YOU CAN USE TO DECIDE WHETHER A PERSON IS GUILTY OR
17 INNOCENCE, BUT IT'S CERTAINLY SOMETHING THAT YOU CAN
18 TAKE TO SEE WHAT THE ATTORNEYS ARE TELLING YOU. WHAT
19 ARE WE TELLING YOU THIS CASE IS GOING TO SHOW? THE
20 STATE SAID THEY'RE GOING TO BE ABLE TO SHOW YOU BEYOND
21 ANY DOUBT, ANY DOUBT THAT RALPH COLEMAN WAS GUILTY.
22 THAT MEANS THAT YOU HAVE NO DOUBT AT ALL, NOT A
23 REASONABLE DOUBT, NO DOUBT AT ALL THAT HE IS GUILTY,
24 AND I SUBMIT TO YOU, THEY HAVE NOT DONE THAT.

25 NOW, RALPH COLEMAN WAS NOT PRESENT DURING THIS

1 INCIDENT. THE STATE HAS NOT PROVEN THAT HE WAS
2 PRESENT DURING THIS INCIDENT, BUT FOR ARGUMENT'S SAKE,
3 FOR JUST ONE SECOND LET'S PRETEND HE WAS. NOW,
4 PRETENDING RALPH COLEMAN WAS PRESENT, THE STATE STILL
5 HASN'T PROVEN THAT HE'S GUILTY OF MURDER. AS THEY
6 EXPLAINED TO YOU, MURDER IS THE KILLING OF ANOTHER
7 WITH MALICE AFORETHOUGHT. THERE'S CERTAINLY SOMEONE
8 WHO'S PASSED AWAY, WE'VE STATED THAT. MALICE
9 AFORETHOUGHT, THEY WENT THROUGH A BUNCH OF DEFINITIONS
10 OF WHAT THAT MEANS. THE JUDGE WILL GO THROUGH MORE
11 DEFINITIONS. MALICE IS VERY HARD TO UNDERSTAND. AS A
12 LAWYER I DON'T NECESSARILY HAVE A PERFECT DEFINITION
13 EITHER. IT IS NOT SOMETHING THAT IS EASILY
14 UNDERSTOOD. IT'S SOMETHING THAT I'VE OFTEN READ IS,
15 IT'S A DEPRAVED HEART, A MATTER OF ILL WILL. AND
16 THEY'RE NOT GOING TO BE ABLE TO PROVE THAT. THEY'RE
17 NOT GOING TO BE ABLE TO PROVE THAT RALPH COLEMAN HAD A
18 DEPRAVED HEART IN ANY SORT OF ACTIONS THAT HE HAD.

19 NOW, REGARDING ARMED ROBBERY, THE JUDGE IS GOING
20 TO EXPLAIN TO YOU THAT ARMED ROBBERY IS THE TAKING OF
21 PROPERTY FROM ANOTHER PERSON BY FORCE. AND HE'S GOING
22 TO GIVE YOU A BETTER DEFINITION BUT THAT'S THE SHORT
23 VERSION, BUT IT'S THE TAKING OF PROPERTY. THE STATE
24 HAS NOT PROVEN THAT PROPERTY WAS TAKEN BY RALPH
25 COLEMAN IN THIS CASE. NOW, THERE IS, I THINK, AN

1 ALLEGATION THAT ASHLEY PARSLEY HAD A GUN. NOW, SHE
2 SAYS IT WASN'T HER GUN, SHE SAYS IT WAS CHARLES
3 PRINGLE'S GUN. AND THEY SAID THAT THEY COULD NEVER
4 RECOVER THAT GUN. NOW, DOES THAT MEAN THAT RALPH
5 COLEMAN TOOK THAT GUN, THAT HE ARM ROBBED CHARLES
6 PRINGLE OF THAT GUN? NO, IT DOES NOT. THAT GUN AGAIN
7 COULD HAVE BEEN OUTSIDE, MAYBE WHEN THIS WAS ALL OVER
8 ASHLEY WAS CONCERNED ABOUT WHAT HAD JUST HAPPENED, THE
9 POLICE OBVIOUSLY THOUGHT AT ONE POINT SHE WAS
10 INVOLVED, AND SHE THREW THE GUN OUT BACK, OR SHE THREW
11 THE GUN OUT THE FRONT DOOR. IT COULD HAVE BEEN IN THE
12 AREA WHERE I SAID, ANY OF THESE GUNS COULD BE. THEY
13 DIDN'T FIND IT BUT THAT DOESN'T PROVE RALPH COLEMAN
14 TOOK IT.

15 NOW, LET'S STEP AWAY FROM THAT AND GO BACK TO THE
16 TRUTH. AND THE TRUTH IS, RALPH COLEMAN WAS NOT
17 PRESENT DURING THIS. REMOVE ANY IDEA THAT I SAID,
18 LET'S ASSUME HE WAS PRESENT, BECAUSE YOUR JOB AS A THE
19 JURY, AS I SAID, IS TO ASSUME HE WAS NOT PRESENT UNTIL
20 YOU FIND THAT THE STATE HAS PROVEN BEYOND A REASONABLE
21 DOUBT THAT HE WAS.

22 NOW, WE HEARD A LOT OF TESTIMONY OVER THE LAST
23 WEEK, BUT WHAT WE REALLY NEED TO FOCUS ON IS WHAT OF
24 THAT TESTIMONY PERTAINS TO RALPH COLEMAN AND WHETHER
25 OR NOT HE COMMITTED THESE ACTS. WE SUBMIT TO YOU THAT

1 THERE ARE TWO PEOPLE, TWO WITNESSES OUT OF EVERYBODY
2 YOU SAW, I BELIEVE THERE WERE TWELVE WITNESSES, TWO
3 PERTAIN TO THIS. THAT WOULD BE ASHLEY PARSLEY AND
4 Minor INVESTIGATOR SHUMPERT GOT UP, HE WAS
5 THE LAST WITNESS YESTERDAY, AND HE TALKED A LOT ABOUT
6 WHO Minor SAID DID WHAT, AND WHAT ASHLEY
7 PARSLEY WAS ABLE TO TELL HIM, BUT HE HAD NO PERSONAL
8 KNOWLEDGE. HIS TESTIMONY IS JUST BASICALLY EXPLAINING
9 HIS INVESTIGATION. SO, JUST BECAUSE HE GOT UP THERE
10 AND SAID, ASHLEY PARSLEY PICKED THIS PHOTO OUT OF THIS
11 LINEUP DOESN'T MAKE IT ANYMORE TRUE, IT JUST MEANS
12 THAT HE WAS THE INVESTIGATOR SHOWING THE LINEUPS.
13 IT'S BASICALLY A MATTER OF EVIDENCE, THE STATE CAN'T
14 SHOW YOU THOSE LINEUPS WITHOUT THE INVESTIGATOR
15 SAYING, YES, I MADE THAT LINEUP. IT DOESN'T MAKE IT
16 MORE TRUE JUST BECAUSE IT CAME FROM THE INVESTIGATOR'S
17 MOUTH. HE CAN'T MAKE ANOTHER WITNESS BE TRUTHFUL.

18 NOW, LOOKING AT ASHLEY PARSLEY FIRST, HER
19 STATEMENT TO THE POLICE, AND YOU'LL HAVE THAT IN YOUR
20 JURY ROOM WITH YOU, HAD ABOUT FOUR LINES, AND IT'S A
21 GOOD LONG PAGE, THAT ACTUALLY DISCUSSED WHAT HAPPENED
22 DURING THIS INCIDENT. SHE STATED TO THE POLICE THAT
23 ONE DARK SKINNED DUDE IN BLUE CAME IN. NOW, ON THE
24 STAND SHE ACTUALLY ADMITTED THAT SHE COULDN'T SEE THAT
25 PERSON'S FACE, SHE SAW HIS EYES, THAT HE HAD SOMETHING

1 COVERING HIS FACE, A MASK. NOW, I SUBMIT TO YOU, IT'S
2 A LITTLE STRANGE THAT YOU WOULD OPEN A DOOR TO A
3 MASKED MAN AND LET HIM IN, BUT SHE SAID SHE DID. NOW,
4 OBVIOUSLY, THAT PERSON, THAT ONE DARK SKINNED DUDE IN
5 THE BLUE WAS NOT RALPH COLEMAN. SHE NEVER SAID THAT
6 WAS RALPH COLEMAN.

7 NOW, IN HER STATEMENT TO THE POLICE THE DAY THAT
8 IT HAPPENED, THAT MORNING THIS HAPPENED, SHE NEVER
9 TALKED ABOUT SEEING A SECOND PERSON. SHE MENTIONED ON
10 THE STAND SHE MIGHT HAVE CAUGHT A GLIMPSE OF A CHUBBY
11 PERSON, BUT SHE NEVER TOLD THE POLICE THAT ORIGINALLY.
12 SHE DIDN'T RELAY ANY OF THAT INFORMATION TO THE
13 DISPATCH WHEN SHE CALLED NINE ONE ONE, SHE COULDN'T
14 IDENTIFY ANYBODY, SHE COULDN'T GIVE ANY DESCRIPTION.
15 SHE SAID NOTHING. SHE SAID, SEVERAL MEN, THAT WAS HER
16 DESCRIPTION. SHE DIDN'T TALK TO THE RESPONDING
17 OFFICER ABOUT, I ACTUALLY SAW TWO PEOPLE, SHE DIDN'T
18 EVEN SAY SHE SAW ONE. SHE DIDN'T TALK TO INVESTIGATOR
19 SHUMPERT ABOUT SEEING TWO PEOPLE. EIGHT MONTHS AFTER
20 THIS INCIDENT SHE GOT ON THE STAND AND SAID NOW SHE
21 REMEMBERED SEEING TWO PEOPLE.

22 NOW, THAT SECOND PERSON SHE SAW, SHE SAID SHE
23 CAUGHT A GLIMPSE OF, HE WAS CHUBBY, MIGHT HAVE BEEN
24 WEARING GREEN, YOU KNOW, WHY COULD SHE NOT SAY WHAT
25 HAPPENED? HER FACE WAS DOWN ON THE GROUND. SHE SAW

1 ONE PERSON, AND BEYOND THAT YOU REMEMBER TESTIMONY
2 FROM JUST ABOUT EVERY WITNESS THAT WAS ACTUALLY AT THE
3 SCENE THAT THERE WAS ONE LIGHT IN THIS HOUSE IN THE
4 CEILING, AND IT WAS A BLACK LIGHT. NOW, I KNOW WE'RE
5 ALL DIFFERENT AGES, SO BLACK LIGHTS MIGHT MEAN
6 DIFFERENT THINGS TO EVERYBODY, BUT FOR ME, THINK OF A
7 SKATE RINK WHEN YOU'RE A KID GOING SKATING, THEY HAVE
8 BLACK LIGHTS A LOT OF TIMES. IN THE EVENINGS THEY'LL
9 PUT MUSIC ON, BLACK LIGHTS. COSMIC BOWLING, IF YOU'VE
10 EVER BEEN COSMIC BOWLING OR TAKING YOUR CHILDREN
11 BOWLING, THEY TURN OFF ALL THE LIGHTS, TURN ON BLACK
12 LIGHTS, PLAY MUSIC, YOU BOWL. THEY USED TO HAVE BLACK
13 LIGHTS A LOT OF TIMES IN CLUBS, I THINK SOMETIMES THEY
14 STILL DO, BUT I KNOW IT USED TO BE MUCH MORE POPULAR.
15 LASER TAG, I'M NOT FROM SOUTH CAROLINA, WHERE I'M FROM
16 WE USED TO LAY LASER TAG, AND THAT'S THE SAME THING,
17 IN A BUILDING YOU'RE PLAYING TAG AND YOU TURN OFF THE
18 LIGHTS AND THERE'S BLACK LIGHTS. THE REASON I BRING
19 THIS UP, AND I HOPE YOU ALL HAVE A REFERENCE OF WHAT A
20 BLACK IS, A BLACK LIGHT IS NOT MEANT TO ILLUMINATE A
21 ROOM. A BLACK LIGHT, THE PURPOSE OF A BLACK LIGHT IS
22 TO CHANGE COLORS. IF YOU WALK INTO A ROOM WITH A
23 BLACK LIGHT, I SUBMIT TO YOU, YOU WOULD NOT BE ABLE TO
24 TELL THAT I HAD A GREEN SHIRT ON VERSUS A BROWN SUIT.
25 YOU WOULDN'T EVEN BE ABLE TO TELL I HAVE A BROWN SUIT

1 ON. IT WOULD LOOK ALL BLACK TO YOU. NOW, MY HAIR
2 WOULD GLOW, AND MY NAILS MIGHT GLOW, BECAUSE THEY'RE
3 WHITE AT THE ENDS. WHITE GLOWS IN THE DARK, IN BLACK
4 LIGHT. LIGHTER COLORS GLOW IN BLACK LIGHT. DARKER
5 COLORS ALL LOOK THE SAME IN BLACK LIGHT. BEYOND THAT
6 IT IS NOT BRIGHT. EVERYBODY TESTIFIED THAT IT WAS
7 DIM. I BELIEVE SHANNON MITCHELL, WHEN MY CO-COUNSEL
8 WAS QUESTIONING HIM, SAID THAT THIS FAR AWAY HE MIGHT
9 BE ABLE TO SEE SOMEBODY, BUT NOT THIS FAR AWAY. WHEN
10 I SPEAK OF A BLACK LIGHT, IT'S NOT MEANT TO ILLUMINATE
11 THE ROOM. NOBODY IN THAT ROOM COULD SEE WHAT WAS
12 GOING ON.

13 NOW, GETTING BACK TO WHAT ASHLEY SAID ABOUT THE
14 PERSON THAT SHE MIGHT HAVE SEEN, IN HER AFFIDAVIT OF
15 THE LINEUP SHE SAID THAT IT'S POSSIBLE THAT PERSON WAS
16 THERE, I DIDN'T REALLY SEE HIS FACE. WHEN I
17 QUESTIONED HER ON THE STAND I SAID, ARE YOU SURE THAT
18 THE PERSON YOU PICKED IN THAT LINEUP IS THE PERSON YOU
19 SAW? SHE SAID, NO, I CAN'T BE SURE, I CAN'T BE SURE.
20 NOW, THE ONLY DESCRIPTION WE GOT OF THAT PERSON WAS,
21 HE'S CHUBBY.

22 RALPH COULD YOU PLEASE STAND UP.

23 I SUBMIT TO YOU, THERE'S NOTHING CHUBBY ABOUT
24 RALPH COLEMAN. HE'S ACTUALLY A PRETTY WELL BUILT MAN,
25 NOTHING CHUBBY ABOUT HIM. NOW, WHAT IS NOTICEABLE

1 ABOUT HIM? I WOULD SAY HIS LONG DREDS ARE PRETTY
2 NOTICEABLE. THAT'S NOT SOMETHING THAT YOU GROW
3 OVERNIGHT. SHE MENTIONED NOTHING ABOUT ANYBODY HAVING
4 ANY DREDS.

5 THANK YOU, RALPH.

6 NOW, I UNDERSTAND SHE DID PICK HIM OUT OF THE
7 LINEUP, AND THAT'S CURIOUS, THAT'S QUESTIONABLE. BUT
8 YOU HEARD INVESTIGATOR SHUMPERT SAY, WHEN THEY PUT A
9 LINEUP TOGETHER THE PURPOSE IS TO MAKE THESE SIX
10 PEOPLE LOOK AS MUCH ALIKE AS POSSIBLE. AND THE REASON
11 IS, THEY DON'T WANT WITNESSES TO MAKE A MISTAKE OR TO
12 NOT BE SURE, JUST AS ASHLEY PARSLEY SAID, SHE WAS NOT
13 SURE. THEY MAKE EVERYBODY LOOK AS CLOSE ALIKE AS THEY
14 CAN SO THAT WHEN YOU TRULY GET A GOOD LOOK AT SOMEBODY
15 YOU COULD PICK THAT PERSON OUT EVEN THOUGH THE OTHER
16 FIVE PICTURES LOOK LIKE THEM. NOW, I'LL ASK YOU, WHEN
17 YOU GO BACK INTO THAT JURY ROOM LOOK AT THIS LINEUP.
18 I WILL TELL YOU THAT THE MAN IN NUMBER TWO IS PRETTY
19 DARN CLOSE TO THE MAN IN NUMBER ONE. BOTH HAVE DREDS,
20 BOTH HAVE THE SAME FACE STRUCTURE, BOTH HAVE THE SAME
21 NOSE STRUCTURE, THEY LOOK VERY SIMILAR, VERY SIMILAR.
22 NOW, WHY DID SHE PICK NUMBER ONE? WE CAN ONLY GUESS
23 AS TO THAT, BUT IF YOU THINK ABOUT IT, RALPH COLEMAN'S
24 PICTURE IN THIS SIX PERSON LINEUP WAS NUMBER ONE, THE
25 FIRST ONE. WHEN YOU'RE A CHILD, VERY YOUNG, YOU START

1 TO LEARN TO READ. HOW DO WE READ, LEFT TO RIGHT, TOP
2 TO BOTTOM? YOUR EYE IS NATURALLY DRAWN TO THAT PART
3 OF THE PAPER, START AT THE TOP, WORK TO THE BOTTOM,
4 LEFT TO RIGHT, THAT'S THE WAY WE READ, THAT'S THE WAY
5 WE'VE BEEN TAUGHT TO READ SINCE THREE, FOUR, FIVE
6 YEARS OLD, A VERY NATURAL THING TO DO. YOU'RE GOING
7 TO HAVE ALL THESE LINEUPS BACK THERE, AND I ASK YOU TO
8 LOOK AT THEM.

9 NOW, THEY SHOWED Minor LINEUPS. HE
10 PICKED MARIO SHIVERS, HIS PICTURE WAS NUMBER THREE, HE
11 PICKED DANNY RYANT, HIS PICTURE WAS NUMBER TWO, HE
12 PICKED CHRISTIAN COLEMAN, HIS PICTURE WAS NUMBER TWO,
13 HE PICKED RALPH COLEMAN, AGAIN, HIS PICTURE WAS NUMBER
14 ONE. GRANTED, Minor KNEW ALL OF THESE PEOPLE.
15 HE WAS ALSO SHOWN DMV PHOTOS PREVIOUSLY WHO THESE
16 PEOPLE WERE, SO, REALISTIC HIS LINEUPS DON'T MATTER.
17 BUT THE POINT IS, WHERE THE PEOPLE WERE IN THESE
18 LINEUPS. ASHLEY PARSLEY LOOKED AT LINEUPS, THE THREE
19 SHE PICKED, MARIO SHIVERS WAS NUMBER THREE, WALTER
20 HARRIS WAS NUMBER THREE, AGAIN RALPH COLEMAN WAS
21 NUMBER ONE. WHEN MONEAK BUSBY LOOKED AT LINEUPS, AND
22 GRANTED, MONEAK BUSBY HAS NOTHING TO DO WITH RALPH
23 COLEMAN, KNOWS NOTHING ABOUT RALPH COLEMAN, BUT WHEN
24 SHE LOOKED AT LINEUPS SHE PICKED TWO PEOPLE. Minor
25 WAS NUMBER FOUR, MARIO SHIVERS WAS NUMBER

1 THREE. OUT OF ALL THE LINEUPS THAT ANYBODY WAS ABLE
2 TO BE IDENTIFIED, RALPH COLEMAN IS THE ONLY ONE THAT
3 HIS PICTURE WAS NUMBER ONE, AND I SUBMIT TO YOU, SHE
4 PICKED HIM BECAUSE IT WAS THE FIRST IN THE LINE, SHE
5 WASN'T REAL SURE, IT LOOKED LIKE IT COULD HAVE BEEN
6 THAT GUY, SO SHE PICKED HIM.

7 NOW, HEARING ASHLEY PARSLEY ADIT ON THE STAND SHE
8 WAS NOT SURE AT ALL IF IT WAS RALPH COLEMAN OR NOT,
9 SHE COULDN'T BE SURE, IS THAT REASONABLE DOUBT AS TO
10 WHETHER RALPH COLEMAN WAS PRESENT? YES. THAT'S
11 ABSOLUTELY REASONABLE DOUBT. AND I UNDERSTAND, THE
12 SOLICITOR ORIGINALLY GOT UP HERE AND TALKED ABOUT
13 REASONABLE DOUBT AND SAID, YOU KNOW, SOME PEOPLE MAY
14 DOUBT THAT THE EARTH REVOLVES AROUND THE SUN. IS THAT
15 REASONABLE? I WOULD SAY, NO. I MEAN, AT THIS POINT
16 WE'VE GOT SCIENTIFIC PROOF, WE'VE HAD -- WE'VE GOT
17 SATELLITES, WE'VE HAD PEOPLE ON THE MOON, WE CAN TELL
18 THE EARTH REVOLVES AROUND THE SUN. THAT IS NOT A
19 REASONABLE DOUBT. IS IT REASONABLE TO DOUBT THAT
20 RALPH COLEMAN WAS THERE WHEN THE ONLY PERSON PRESENT
21 DURING THE ROBBERY THAT HAS NO INTEREST IN THIS CASE
22 CAN'T BE SURE IF HE WAS THERE? IT'S ABSOLUTELY
23 REASONABLE TO DOUBT HE WAS THERE.

24 NOW, Minor GOT ON THE STAND AND SAID A
25 LOT OF INTERESTING THINGS. MOST INTERESTING I FOUND

1 WAS HIS NEW DESIRE TO DO THE RIGHT THING. NOW, HE
2 SAID, WHY WAS HE DOING THE RIGHT THING? FOR HIM AND
3 HIS FAMILY. WELL, THAT DOESN'T MEAN HE'S TELLING THE
4 TRUTH, THAT JUST MEANS HE'S TRYING TO GET HIMSELF OUT
5 OF TROUBLE. HE'S SEVENTEEN YEARS OLD. HIS FAMILY
6 DOESN'T WANT HIM IN PRISON FOR THE REST OF HIS LIFE,
7 SO HE'S DOING WHAT HE CAN TO GET HOME AS QUICK AS HE
8 CAN.

9 NOW, HE TURNED HIMSELF IN, Minor KNEW HE
10 WAS WANTED. HE KNEW WHAT THE POLICE WANTED HIM FOR.
11 INVESTIGATOR SHUMPERT SAID THEY HAD GOTTEN TIPS ABOUT
12 WHAT WAS GOING ON, INVESTIGATOR, OR EXCUSE ME, ANDRE
13 WASHINGTON SAID THAT HE HAD HEARD THAT THIS GUN THAT
14 HE HAD PURCHASED WAS STOLEN. WELL, WHO DID HE HEAR
15 THAT FROM? PEOPLE ON THE STREET. WE KNOW HOW IT
16 WORKS. EVERYBODY TALKS. ORANGEBURG COUNTY IS HUGE,
17 AND I UNDERSTAND THAT. BASED ON SIZE AND LAND IT IS
18 BIG. BUT COMMUNITY, THE COMMUNITY AROUND HERE IS
19 SMALL. AND WHAT I MEAN BY THAT IS, PEOPLE TALK.
20 PEOPLE STICK TOGETHER, PEOPLE TALK ABOUT WHAT'S GOING
21 ON, AND THAT'S HOW Minor KNEW WHO THE POLICE
22 WERE LOOKING FOR AND KNEW WHAT THEY WANTED TO HEAR.
23 Minor GOT ON THE STAND AND ACTUALLY TOLD YOU,
24 HE TOLD THE POLICE WHAT THEY WANTED TO HEAR. HE TOLD
25 YOU HE LIED. HE DIDN'T SAY AT ANYTIME HE WAS TELLING

1 THE TRUTH, HE SAID HE WAS DOING WHAT HE NEEDED TO DO,
2 DOING WHAT WAS RIGHT FOR HIS FAMILY.

3 NOW, I UNDERSTAND Minor CAME, AND
4 EVERYONE OF THE DEFENSE ATTORNEYS QUESTIONED HIM ABOUT
5 HIS BENEFIT FOR TESTIFYING, AND HE SAID HE HAD GOTTEN
6 NO PROMISE. AND I'M SURE THAT'S TRUE, THE STATE
7 WOULDN'T MAKE A PROMISE SO HE COULD COME IN HERE AND
8 TESTIFY THEY PROMISED HIM SOMETHING. BUT HE DID TELL
9 YOU HE'S PLEADING TO A REDUCED CHARGE. NOW, I
10 UNDERSTAND THAT A REDUCED CHARGE DOESN'T GET HIM OUT
11 OF TROUBLE, ABSOLUTELY DOESN'T GET HIM OUT OF TROUBLE.
12 HE SHOULDN'T BE OUT OF TROUBLE. HE ADMITTED ON THIS
13 STAND HE WAS PRESENT WHEN CHARLES PRINGLE WAS KILLED.
14 HE SHOULDN'T BE OUT OF TROUBLE. NOW, HE'S FACING
15 FIFTEEN YEARS TO LIFE, HE TOLD YOU THAT. BUT
16 REALISTICALLY -- AND HE SAID THAT HE WOULDN'T BE
17 SURPRISED IF HE GOT LIFE. IS THAT REAL? IS THAT
18 REALISTIC? NO. HE'S NOT GOING TO GET LIFE, HE'S
19 GOING TO GET A BENEFIT FROM TESTIFYING, OR HE WOULD
20 HAVE NEVER DONE IT. NOW, HE CAN GET FIFTEEN TO LIFE,
21 BUT WHATEVER HE GETS HE'S ALSO PAROLE ELIGIBLE, HE'LL
22 SERVE EIGHTY-FIVE PER CENT OF HIS SENTENCE. SO, LET'S
23 PRETEND HE GETS FIFTEEN YEARS. WHAT DOES THAT MEAN?
24 THAT MEANS HE'S GOING TO SERVE ABOUT TWELVE AND A
25 HALF, GIVE OR TAKE A MONTH OR TWO, I'M NOT A

1 MATHEMATICIAN, BUT MY POINT IS, HIS TESTIMONY COULD
2 VERY WELL GET HIM TWELVE AND A HALF YEARS IN PRISON
3 FOR HIS ADMISSION THAT HE WAS PRESENT AND PARTICIPATED
4 IN THE MURDER OF CHARLES PRINGLE. DOES HE HAVE A
5 BENEFIT FOR GETTING UP HERE AND TELLING YOU WHAT THE
6 POLICE WANTED TO HEAR? ABSOLUTELY.

7 NOW, HE ALSO GOT UP HERE AND SAID THAT HE WASN'T
8 LYING, BUT HE KNEW HE COULDN'T CHANGE HIS STORY
9 EITHER, BECAUSE IF HE CHANGES HIS STORY HE WOULDN'T
10 GET ANY BENEFIT. I SUBMIT TO YOU, HE DID CHANGE HIS
11 STORY. LOOK AT HIS STATEMENT AND THEN LISTEN TO WHAT
12 HE SAID ON THE STAND. IT IS NOT THE SAME. NOW,
13 OBVIOUSLY, THERE IS ONE PART THAT IS THE SAME, AND
14 THAT'S WHO PARTICIPATED. BUT WHY DID HE NOT CHANGE
15 THAT? BECAUSE HE KNEW BETTER. THAT WAS THE PART THE
16 POLICE WANTED TO HEAR. THEY DIDN'T REALLY CARE ABOUT
17 WHO HAD A GUN AND WHO DIDN'T. I MEAN, THEY'RE TELLING
18 YOU THAT IT DIDN'T MATTER WHO HAD A GUN. SO, IF HE'S
19 CHANGING HIS STORY ABOUT WHO HAD A GUN, OR IF HE'S
20 CHANGING HIS STORY ABOUT WHO WENT WHERE WHEN, THAT'S
21 NOT GOING TO AFFECT HIS BENEFIT. BUT HE CAN'T NOW
22 COME IN HERE AND TELL YOU THAT ANYBODY ELSE DID IT, HE
23 HAD TO STICK TO RALPH COLEMAN BEING THERE, HE HAD TO,
24 OR HE WOULDN'T GET THE BENEFIT.

25 NOW, THE SOLICITOR MADE A BIG POINT ABOUT

1 Minor BEING SIXTEEN YEARS OLD WHEN THIS
2 HAPPENED. SIXTEEN IS YOUNG, I'M NOT SAYING THAT IT'S
3 NOT. HE'S SEVENTEEN NOW, BUT THAT DOESN'T MATTER. THE
4 POINT IS, HE MADE AN ADULT DECISION. THE SOLICITOR
5 AND Minor CAN'T COME IN HERE AND ACT LIKE HE
6 WAS YOUNG AND DIDN'T WANT TO DO THIS, AND THESE OLDER
7 GUYS JUST MADE HIM DO THIS, AND YOU KNOW, HE JUST, HE
8 JUST COULDN'T STOP HIMSELF, HE WAS JUST TOO YOUNG AND
9 TOO DUMB TO KNOW BETTER. I SUBMIT TO YOU THAT
10 EVERYBODY KNOWS BETTER. I THINK AT FIVE YEARS OLD YOU
11 KNOW BETTER.

12 NOW, WHAT ELSE DID Minor TELL US? WHAT
13 ELSE IS GOING TO HELP MAKE SURE THAT HE DOESN'T GET
14 LIFE IN PRISON? HIS STORY. Minor DIDN'T
15 HAVE A GUN, ACCORDING TO Minor
16 WASN'T PRESENT WHEN MR. PRINGLE GOT SHOT, EXCUSE ME,
17 ACCORDING TO Minor WHAT DID HE SAY ON THE
18 STAND? HE SAID, HE WAS IN THE HOUSE WITH ALL THESE
19 OTHER PEOPLE, AND THAT HE HEARD A GUN SHOT BECAUSE
20 SOMEONE SHOT THE DOG. AND GRANTED, NO OTHER PERSON
21 GOT ON THAT STAND AND SAID THAT DOG WAS HURT, EVER. I
22 THINK WE ACTUALLY ASKED ONE OF THE INVESTIGATORS IF
23 THE DOG WAS HURT IN ANY FASHION, WAS HE INJURED, WAS
24 HE SHOT, WAS HE DEAD? AND I BELIEVE IT WAS LIEUTENANT
25 CARTER WHO SAID, NO, HE WAS FINE, HE WAS TIED TO A

1 BRICK IN THE KITCHEN. BUT Minor HAS THAT, HAS
2 SOMEBODY, HE DOESN'T KNOW WHO, DEFINITELY NOT HIM,
3 SHOOTING THE DOG, AND HE RUNS OUT. HE RUNS OUT TO THE
4 CAR, RIGHT, BECAUSE HE DOESN'T WANT TO BE IN THERE, HE
5 DOESN'T KNOW WHO SHOT WHAT, AND HE DIDN'T EVEN KNOW
6 CHARLES PRINGLE GOT SHOT BECAUSE HE DIDN'T SEE IT.
7 THEY ONLY SHOT THE DOG AS FAR AS HE KNEW.

8 WHAT ELSE DID HE DO TO MAKE SURE THAT HE DOESN'T
9 GET LIFE? HE WAS ONLY SUPPOSED TO BUY WEED. HE
10 DIDN'T HAVE A GUN, HIS ONLY PARTICIPATION WAS GOING IN
11 TO BUY THE WEED. HE WAS JUST TO GO IN, BUT WHAT HE
12 FORGOT TO TELL YOU WAS, HE WAS SUPPOSED TO GO IN AND
13 LEAVE THAT DOOR OPEN TO MAKE SURE THAT SOMEBODY ELSE
14 COULD GET IN. THAT DOESN'T MAKE HIM INNOCENT. HE WAS
15 PRESENT, HE WILL BE PUNISHED, AND HE NEEDS TO BE
16 PUNISHED.

17 NOW, OTHER INTERESTING THINGS CAME OUT OF Minor
18 TESTIMONY. HE SAID THAT HE AND RALPH HAD WENT
19 INTO THIS HOUSE TOGETHER WHEN THEY GOT THERE, THE
20 SECOND TIME, AND YOU'VE HEARD ABOUT THEM GOING ONE
21 TIME AND THEN GOING BACK A SECOND TIME. THE SECOND
22 TIME IS WHAT REALLY MATTERS. HE SAID HE AND RALPH
23 WENT IN TOGETHER. ASHLEY PARSLEY, THE PERSON WHO WAS
24 THERE, THE PERSON WHO HAS NO REASON TO CHANGE ANY SORT
25 OF STORY, SHE SAID, ONE PERSON CAME IN, NOT TWO. SHE

1 SAID IT WAS ONE DARK SKINNED GUY WITH A MASK ON HIS
2 FACE, WHICH AGAIN, IS ODD, BUT THAT'S WHAT SHE SAID.
3 SHE DIDN'T SAY TWO PEOPLE CAME IN.

4 NOW, Minor SAID THAT WALTER HARRIS HAD
5 GIVEN RALPH HIS GUN BEFORE HE HAD GONE INTO THE
6 APARTMENT. ASHLEY PARSLEY SAID THAT THE PERSON THAT
7 CAME IN AND PUT A GUN IN HER FACE HAD A NINE
8 MILLIMETER CHROME, AND I BELIEVE THAT'S IN HER
9 AFFIDAVIT ON THE LINEUPS THAT SHE PICKED, NOT ON RALPH
10 COLEMAN'S LINEUP, BUT THE PERSON THAT PUT THE GUN IN
11 HER FACE HAD A NINE MILLIMETER CHROME GUN. THAT IS
12 CERTAINLY NOT THE BLACK FORTY THAT THEY ARE TRYING TO
13 SAY WALTER GAVE TO RALPH, THAT THEY'RE TRYING TO SAY
14 RALPH WENT INTO THAT HOUSE WITH. ASHLEY PARSLEY SAID
15 IT WAS A CHROME NINE MILLIMETER. DOES SHE HAVE ANY
16 REASON TO LIE? NO.

17 NOW, Minor GAVE US TWO STORIES. IN COURT
18 HE TESTIFIED, I BELIEVE IT WAS DARIUS GARNER HAD TAKEN
19 HIM TO RALPH COLEMAN'S HOUSE AND WHILE THEY WERE THERE
20 THEY DISCUSSED A ROBBERY. NOW, IN HIS FIRST STORY YOU
21 WILL SEE, HE DOESN'T SAY THAT, HE SAYS, LITTLE M
22 CALLED HIM AND THAT THEY ALL RODE OVER THERE TO PICK
23 Minor UP OFF BROOKDALE, UP AROUND BROOKDALE
24 SCHOOL. OBVIOUSLY, THAT'S WAY DIFFERENT THAN HIM
25 BEING AT RALPH COLEMAN'S HOUSE.

1 NOW, WHEN YOU GET BACK IN THE JURY ROOM REMEMBER
2 WHAT HE ORIGINALLY TOLD THE POLICE. HE PUT FOUR GUNS
3 IN FIVE PEOPLE'S HANDS. HE SAID, ME AND RALPH WENT IN
4 AND RALPH HAD A GUN, AND THEN WALTER, PETE, POKE --
5 WHO AM I MISSING, THE OTHER FOUR, EXCUSE ME, CAME IN
6 WITH GUNS OUT. THAT'S FIVE PEOPLE, FOUR GUNS. NOT
7 POSSIBLE.

8 NOW, WHAT WAS CONSISTENT WITH Minor
9 STORY? HE'S NOT THE BAD GUY. NOW, WHY WOULD Minor

10 SAY RALPH COLEMAN WAS THERE IF HE WASN'T? WHY
11 WOULD HE PICK HIM? WELL, IF YOU BELIEVE DARIUS
12 GARNER'S STORY THAT HE DID TAKE Minor OVER TO
13 RALPH COLEMAN'S HOUSE, MAYBE HE KNEW THAT SOMEONE
14 COULD PUT RALPH COLEMAN WITH HIM. DARIUS COULD SAY, I
15 TOOK HIM TO RALPH COLEMAN'S HOUSE. NOW, DARIUS
16 COULDN'T TRULY SAY IT WAS RALPH COLEMAN'S HOUSE, WE
17 LEARNED THAT THROUGH SOMEBODY ELSE, AND HE COULDN'T
18 TRULY SAY IT WAS ACTUALLY RALPH COLEMAN, HE SAID IT
19 WAS A STOCKY GUY WITH DREDS. I SUBMIT TO YOU, RALPH
20 COLEMAN IS CERTAINLY NOT THE ONLY PERSON STOCKY WITH
21 DREDS. DARIUS GRANT, OR GARNER, EXCUSE ME, COULD NOT
22 PUT RALPH COLEMAN WITH Minor AFTER THIS EVENT,
23 AFTER HIS HOUSE. HE LEFT HIM THERE, THAT'S ALL HE
24 COULD SAY. BUT THAT TIED Minor TO RALPH
25 COLEMAN ON THIS DATE, SO Minor KNEW HE COULD PICK

1 RALPH AND THERE WOULD BE SOME EVIDENCE THAT THEY HAD
2 BEEN TOGETHER. WHY ELSE WOULD BE PICK RALPH? WELL,
3 THERE'S SOME REASON TO BELIEVE THAT THERE HAD BEEN
4 SOME CONFRONTATION BETWEEN THE TWO OF THEM. I BELIEVE
5 Minor DENIED IT, BUT I BELIEVE THERE - - -

6 SOLICITOR PASCOE: SO, WHERE IS HER EVIDENCE OF
7 IT? OBJECTION, YOUR HONOR. THERE IS NO EVIDENCE OF
8 IT. I WITHDRAW MY OBJECTION, I APOLOGIZE. I WITHDRAW
9 IT, GO AHEAD.

10 THE COURT: YES, SIR.

11 MS. ULLMAN: JUST BECAUSE Minor SAID THAT
12 HE AND RALPH NEVER HAD PROBLEMS DOESN'T MEAN IT'S
13 TRUE.

14 WHEN YOU GO BACK IN THAT JURY ROOM TO DELIBERATE
15 PLEASE PAY ATTENTION TO THE TESTIMONY OF THE
16 WITNESSES, AGAIN, WHAT CAME OUT OF THEIR MOUTHS.
17 ALSO, PLEASE REMEMBER TWO THINGS THE STATE PROMISED AT
18 THE BEGINNING OF THIS TRIAL, THEY PROMISED THAT ONCE
19 Minor EXPLAINED EVERYBODY THAT WAS INVOLVED
20 AND EVERYTHING THAT WAS DONE THEY WOULD HAVE AT LEAST
21 ONE MORE WITNESS, IF NOT MORE, THAT WOULD BACK UP WHAT
22 HE SAID. NOW, WHAT WITNESS DID THEY PROVIDE TO BACK
23 UP HIS STORY? DARIUS GARNER. WHAT DID HE BACK UP?
24 HE BACKED UP THAT HE DROPPED Minor OFF AT
25 SOMEBODY'S HOUSE AND THAT HOURS LATER HE PICKED HIM UP

1 IN THE RAIN. I SUBMIT TO YOU THAT THAT DOES NOT
2 CORROBORATE Minor STORY OF WHAT HAPPENED IN
3 BETWEEN. HE COULD HAVE BEEN ANYWHERE WITH ANYBODY.
4 DARIUS GARNER HAS NO IDEA.

5 THEY ALSO PROMISED THEY WERE GOING TO PRODUCE
6 RONNIE WASHINGTON. RONNIE WASHINGTON HAS ADMITTED HE
7 WAS THE DRIVER IN THIS INCIDENT. THEY DID NOT PRODUCE
8 HIM. THEY DID NOT PRODUCE THE PERSON WHO WAS
9 ALLEGEDLY IN HIS CAR WHO ADMITTED TO BEING IN HIS CAR,
10 WHO SUPPOSEDLY DROVE ALL THESE PEOPLE, INCLUDING
11 Minor TO THIS RESIDENCE. THEY DIDN'T PRODUCE
12 HIM. HE DID NOT GET ON THAT STAND AND NAME RALPH
13 COLEMAN AS EVER BEING IN THAT CAR. AS A MATTER OF
14 FACT, DURING OPENING STATEMENTS THE STATE ACTUALLY
15 PROMISED YOU THAT RONNIE WASHINGTON WOULD COME IN HERE
16 AND CORROBORATE ALL SIX PEOPLE WERE IN THAT CAR, AND
17 WHEN I SAY, SIX, I'M INCLUDING Minor HE
18 DIDN'T SAY ANYTHING, HE DID NOT COME IN HERE. RONNIE
19 WASHINGTON WAS SUPPOSED TO TELL YOU THAT HE TOOK ALL
20 SIX OF THOSE PEOPLE TO THE APARTMENT, THEY
21 WERE GOING THERE TO BUY WEED IS WHAT HE KNEW, BUT HE
22 DIDN'T COME IN AND TELL YOU THAT. THE STATE HAS NOT
23 PRODUCED THAT. SO, THEY HAVE NOT CORROBORATED Minor
24 STORY. NOBODY HAS CORROBORATED Minor
25 STORY EXCEPT FOR WHERE HE WAS AROUND, I THINK,

1 FIVE O'CLOCK, AND WHERE HE WAS AROUND MAYBE TEN:THIRTY
2 OR ELEVEN O'CLOCK. THAT DOES NOT CORROBORATE HIS
3 STORY.

4 ASHLEY PARSLEY, THE ONLY OTHER PERSON WHO HAD ANY
5 TESTIMONY ABOUT WHAT DID OR DID NOT HAPPEN IN THAT
6 APARTMENT, DOES NOT CORROBORATE HIS STORY. SHE SAYS
7 ONE PERSON CAME IN, HE SAYS TWO. SHE NEVER BROUGHT UP
8 THE DOG IN HER STATEMENT. HE NEVER TALKED ABOUT ANY OF
9 THAT.

10 THE STATE HAS NOT MADE GOOD ON THEIR PROMISES,
11 THEY DID NOT CORROBORATE Minor STORY, THEY
12 DID NOT PRODUCE SUFFICIENT EVIDENCE TO PROVE RALPH
13 COLEMAN GUILTY BEYOND A REASONABLE DOUBT, OR AS THEY
14 SAID, BEYOND ANY DOUBT. ALL THEY'VE PRODUCED IS A
15 LYING CO-DEFENDANT AND A WITNESS THAT DID NOT SEE
16 RALPH, ID'D HIM POSSIBLY BECAUSE MAYBE, MAYBE SHE SAW
17 HIM. I SUBMIT TO YOU THAT THAT IS REASONABLE DOUBT, A
18 LYING CO-DEFENDANT AND A WITNESS WHO CANNOT BE SURE IS
19 REASONABLE DOUBT. IT IS NOT WHETHER OR NOT THE EARTH
20 REVOLVES AROUND THE SUN, IT IS A QUESTION THAT A
21 REASONABLE PERSON WOULD ASK THEMSELVES, IT WOULD CAUSE
22 YOU TO HESITATE.

23 NOW, AS I STATED EARLIER, I DID NOT HAVE TO
24 PROVE, NOR DOES RALPH COLEMAN HAVE TO PROVE THAT HE
25 DID NOT DO THIS. HE DOESN'T HAVE TO PROVE THAT HE WAS

1 NOT THERE. THE STATE MUST PROVE TO YOU BEYOND A
2 REASONABLE DOUBT THAT HE WAS, AND THEY HAVE NOT. AND
3 I ASK YOU TO RETURN A VERDICT OF NOT GUILTY FOR RALPH
4 COLEMAN.

5 THANK YOU.

6 THE COURT: THANK YOU, MS. ULLMAN.

7 MR. PALMER.

8 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
9 THE COURT.

10 THE COURT: YES, SIR.

11 CLOSING ARGUMENT BY MR. PALMER

12 LADIES AND GENTLEMEN, WEED AND GUNS, I'M SURE
13 YOU'RE TIRED OF HEARING ABOUT WEED AND GUNS, AS I AM,
14 BUT WE HAVE TO TALK ABOUT WEED AND GUNS FOR A MINUTE,
15 BECAUSE THE DEFENDANTS ARE ALLEGED TO HAVE BEEN
16 INVOLVED IN THIS. NOW PART OF WHAT THEY'RE BEING
17 ACCUSED OF IS BEING INVOLVED WITH WEED AND GUNS. BUT
18 LET ME SUGGEST TO YOU, AND MY NEXT COMMENT
19 SPECIFICALLY EXCLUDES THE EXPERT WITNESSES THAT
20 TESTIFIED IN THIS TRIAL. WHAT I'M TALKING ABOUT IS
21 THE LAW ENFORCEMENT OFFICERS, I'M NOT REFERRING TO
22 THEM, BUT EVERY OTHER FACTUAL WITNESS THAT TOOK THIS
23 STAND IS ALSO HEAVILY INVOLVED IN WEED AND GUNS. SO,
24 IF YOU'RE GOING TO JUDGE MY CLIENT, MR. HARRIS IN THE
25 RED TIE OVER THERE, BECAUSE HE IS INVOLVED, OR HAS

1 THE COURT: ALRIGHT, BRING THE JURY BACK IN.

2 (Whereupon, the jury enters
3 the courtroom and the following
4 takes place in the presence
5 of the jury.)

6 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I HOPE
7 Y'ALL HAVE GOT YOUR LUNCH ORDERED. OKAY? WE'RE GOING
8 TO CONTINUE WITH THE CLOSING.

9 SOLICITOR PASCOE.

10 SOLICITOR PASCOE: MAY IT PLEASE THE COURT.

11 THE COURT: YES, SIR.

12 FINAL CLOSING ARGUMENT BY SOL. PASCOE

13 ON THE NIGHT OF MARCH THE TWELFTH, TWO THOUSAND
14 TEN, THIS YEAR, CHARLES PRINGLE DIDN'T STAND A CHANCE
15 WHEN SIX MEN, CRIS COLEMAN, RALPH COLEMAN, WALTER
16 HARRIS, DANNY RYANT, MARIO SHIVERS AND Minor
17 WENT STORMING INTO HIS HOUSE ARMED WITH AT LEAST FOUR
18 GUNS AND DUCT TAPE. HE DIDN'T STAND A CHANCE.

19 CHARLES PRINGLE WASN'T PERFECT, WE DIDN'T COME IN
20 HERE AND TELL YOU HE WAS PERFECT, ALTHOUGH YOU HEARD
21 ON THE WITNESS STAND UNDER THEIR CROSS-EXAMINATION, HE
22 WAS A NICE GUY. BUT HE WASN'T PERFECT, HE SOLD
23 MARIJUANA. BUT HE WAS SOMEBODY'S SON, HE WAS
24 SOMEBODY'S NEPHEW, HE WAS SOMEBODY'S FRIEND. AND HE
25 GOT GUNNED DOWN BY SIX PEOPLE TWENTY-FOUR TIMES,

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1 TWENTY-FOUR TIMES BY SIX PEOPLE WHO HAVE ABSOLUTELY NO
2 RESPECT FOR HUMAN LIFE. Minor TOO, Minor

3 HE'S NOT MY FRIEND, HE WASN'T MY FRIEND IN
4 MARCH, HE WAS THEIR FRIEND. ONE THING I WILL AGREE
5 WITH WITH MS. ULLMAN ON, Minor NEEDS TO BE
6 PUNISHED. Minor WILL BE PUNISHED. BUT TODAY
7 THEY ARE GOING TO BE PUNISHED FOR THE MALICIOUS AND
8 VICIOUS ACT THEY DID ON THAT NIGHT, ON MARCH THE
9 TWELFTH.

10 THE THING ABOUT MARCH THE TWELFTH IS, WE
11 WITNESSED TWO SEPARATE ACTS IN ORANGEBURG COUNTY, TWO
12 SEPARATE ACTS, THE FIRST ACT, EVIL, THE WORST OF
13 ORANGEBURG COUNTY, THE COWARDLY ACTS OF THE
14 DEFENDANTS. BUT IN THE SECOND ACT AS A RESULT OF
15 MARCH THE TWELFTH WE GOT TO SEE THE BEST OF ORANGEBURG
16 COUNTY. LET'S TALK ABOUT THOSE COWARDLY ACTS, THE
17 WORST OF ORANGEBURG COUNTY.

18 THE WORST OF ORANGEBURG COUNTY WAS WHEN Minor

19 MARIO SHIVERS AND RALPH COLEMAN GOT TOGETHER AT
20 RALPH COLEMAN'S FAMILY'S HOME ON AND DECIDED
21 TO COMMIT AN ARMED ROBBERY OF CHARLES PRINGLE, WHO
22 MARIO SHIVERS KNEW. CHRIS COLEMAN SHOWS UP WITH HIS
23 BUDDY, RONNIE WASHINGTON. THEY'VE GOT A RIDE NOW,
24 THEY'RE INVOLVED IN IT. THEY GO AND PICK UP WALTER
25 HARRIS WHO HAS A FORTY CALIBER HAND GUN, A BLACK

1 PISTOL. WALTER HARRIS GOES INSIDE, SCOPES IT OUT,
2 THEY THEN GO TO THE CORNER POCKET WHICH IS ABOUT A
3 HALF A MILE FROM THE VICTIM'S HOME, AND THEY PICK UP
4 DANNY RYANT. AND CHRISTOPHER COLEMANA GOES INTO THAT
5 HOME WITH A NINE MILLIMETER PISTOL, RALPH COLEMAN GOES
6 INTO THAT HOME WITH A FORTY CALIBER PISTOL, WALTER
7 HARRIS WITH DUCT TAPE, DANNY RYANT AND MARIO SHIVERS
8 WITH SKS RIFLES. Minor GOES IN THERE AND HE'S
9 INVOLVED, TOO, AND THEY GUN HIM DOWN TWENTY-FOUR TIMES
10 LIKE THEY'RE USING HIS BODY FOR TARGET PRACTICE, AND
11 THEY RUN LIKE COWARDS. THAT'S THE FIRST ACT, THE
12 VIOLENT SIDE, THE EVIL PART OF WHAT HAPPENED IN THIS
13 COUNTY.

14 BUT WE ALSO GOT TO WITNESS THE GREAT SIDE OF
15 ORANGEBURG COUNTY, COURAGE, AND I'M TALKING ABOUT THE
16 COURAGE OF WITNESSES COMING FORWARD BACK IN MARCH TO
17 TELL THE POLICE WHAT HAPPENED. I'M TALKING ABOUT THE
18 COURAGE OF PEOPLE THAT ARE FRIENDS WITH DANNY RYANT
19 WHO CAME FORWARD AND SAID, DANNY RYANT, YEAH, HE WAS
20 AT THE CORNER POCKET WHICH IS JUST ABOUT A HALF A MILE
21 FROM THE VICTIM, BUT WE COULDN'T FIND HIM FOR A WHILE.
22 AND ONE WITNESS WHO I'LL TALK ABOUT IN A MINUTE WHO
23 ACTUALLY SAID, HEY, AND I SAW HIM GETTING IN THE CAR
24 WITH TWO PEOPLE. AND SHE PICKS OUT MARIO SHIVERS AND
25 Minor I'M TALKING ABOUT THE COURAGE OF A

1 SHANNON MITCHELL WHO GETS ON THE WITNESS STAND AND
2 TELLS THE POLICE, WALTER HARRIS WAS IN THAT HOUSE
3 RIGHT BEFORE THE MURDER. AND THAT'S KIND OF UNUSUAL,
4 I DON'T KNOW WHY HE WOULD BE IN THERE, I'VE NEVER
5 KNOWN HIM TO BE IN THERE. AND WHY WOULD HE GO IN
6 THERE? BECAUSE CHARLES PRINGLE KNOWS MARIO SHIVERS
7 BUT HE DOESN'T KNOW WALTER HARRIS, PART OF THE
8 CONSPIRACY. I'M TALKING ABOUT THE COURAGE, YES, OF A
9 Minor A SIXTEEN YEAR OLD CHILD. YOU THINK
10 YOU'RE A MAN WHEN YOU'RE SIXTEEN, YOU'RE NOT A MAN,
11 YOU'RE STILL A KID, BREAKING DOWN AND CRYING IN FRONT
12 OF HIS PARENTS WITH INVESTIGATOR SHUMPERT AND FINALLY
13 TELLING HIM ON MARCH THE EIGHTEENTH, NOT JUST ON
14 TUESDAY, BUT MARCH THE EIGHTEENTH WHO WAS INVOLVED IN
15 THIS MURDER, HE AND HIS BUDDIES. AND NOT JUST THE
16 COURAGE BACK IN MARCH OF THESE WITNESSES TO COME
17 FORWARD, BUT THE COURAGE OF THEM TO THEN COME INTO
18 THIS COURTROOM, PUT THEIR HAND ON THAT BIBLE, GET ON
19 THAT WITNESS STAND, FACE THOSE ATTORNEYS, FACE ME,
20 FACE THOSE DEFENDANTS, AND TESTIFY. YOU SAW THE
21 GRILLING YOU GET WHEN YOU GET ON A WITNESS STAND, YOU
22 SAW WHAT YOU HAVE TO GO THROUGH. AND THEY HAD THE
23 COURAGE TO GET ON THAT WITNESS STAND AND TESTIFY
24 AGAINST THOSE FIVE DEFENDANTS. EVEN THOUGH SOME OF
25 THEM WERE FRIENDS WITH THEIR FAMILY, EVEN THOUGH SOME

1 FO THEM WERE FRIENDS WITH THE DEFENDANTS. THAT'
2 COURAGE. AND WHAT I'M ASKING OF YOU TODAY, LADIES AND
3 GENTLEMEN, IS THAT YOU DISPLAY THAT SAME DEGREE OF
4 COURAGE THAT EVERY SINGLE ONE OF THOSE WITNESSES HAD
5 WHEN YOU REACH YOUR VERDICT TODAY. HAVE THE COURAGE TO
6 DO THE RIGHT THING LIKE THOSE WITNESSES AND FIND THOSE
7 DEFENDANTS GUILTY OF MURDER, ARMED ROBBERY, AND
8 BURGLARY IN THE FIRST DEGREE. BECAUSE, LADIES AND
9 GENTLEMEN, HOW IS THERE ANY DOUBT WHATSOEVER, MUCH
10 LESS A REASONABLE DOUBT -- I'M GOING TO SAY IT BECAUSE
11 IM' GOING TO PROVE IT -- HOW IS THERE ANY DOUBT, MUCH
12 LESS A REASONABLE DOUBT THAT ALL FIVE OF THEM, AND
13 Minor ARE GUILTY. AND IF I'M WRONG, FIND THEM
14 NOT GUILTY, FIND THEM NOT GUILTY.

15 THERE WAS A BUNCH OF ASSERTIONS DURING THE TRIAL
16 AND IN CLOSING ARGUMENTS, WHERE ARE THE GUNS, WHERE
17 ARE THE GUNS? WELL, THEY KNOW WHERE THE GUNS ARE.
18 THEY'RE MARIO SHIVERS'S GUNS. THEY USED THEM. FIND
19 THEM NOT GUILTY, LET THEM GO BACK TO THEM. BUT TO
20 THAT, I SUBMIT YOU'D HAVE TO DISREGARD EVERY PIECE OF
21 EVIDENCE IN THIS CASE. BECAUSE THE EVIDENCE DOESN'T
22 JUST PROVE THE DEFENDANTS' GUILT BEYOND A REASONABLE
23 DOUBT, IT PROVES IT BEYOND ANY DOUBT WHATSOEVER.
24 THERE'S AN OLD EXPRESSION, FACTS ARE STUBBORN THINGS,
25 FACTS ARE STUBBORN THINGS, AND IN A MINUTE I'M GOING

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1 TO TALK TO YOU ABOUT THOSE STUBBORN FACTS OF GUILT.
2 BUT FIRST I'M GOING TO PUT ONE THING TO REST RIGHT
3 NOW, WHICH IS WHY THE STATE OF SOUTH CAROLINA, WE HAVE
4 THE SOLE BURDEN OF PROOF. THE DEFENSE DOESN'T HAVE TO
5 ASK ONE QUESTION, THEY DON'T HAVE TO THROW UP ANY
6 ASSERTIONS OR SAY A WORD. BUT ONCE THEY DO START
7 THROWING UP ASSERTIONS, ONCE THEY DO START TALKING
8 THEY'RE SUBJECT TO SCRUTINY JUST LIKE ANYTHING ELSE.
9 AND FIRST AND FOREMOST, THINGS WE SAY AS ATTORNEYS,
10 QUESTIONS WE ASK ARE NOT EVIDENCE. THE ONLY THING YOU
11 AN CONSIDER FOR YOUR VERDICT IS WHAT YOU HEARD FROM
12 THAT WITNESS STAND AND WHAT YOU GET TO TAKE BACK WITH
13 YOU, THAT'S IT. NOT STATEMENTS FROM ATTORNEYS, JUST
14 THE EVIDENCE. BUT THE DEFENSE DOESN'T WANT YOU TO
15 BASE YOUR VERDICT ON THE EVIDENCE, THEY WANT YOU TO
16 BASE IT ON ASSERTIONS, ASSERTIONS, LIKE NO GUNS,
17 REASONABLE DOUBT, NO GUNS. THAT'S RIDICULOUS. WE
18 DON'T REWARD MURDERERS FOR WAITING A WEEK, TEN DAYS,
19 ALMOST TWO WEEKS BEFORE THEY TURN THEMSELVES IN. THEY
20 DON'T GET REWARD FOR THAT. AND BESIDES, WE GOT TO
21 SEE, YOU GOT TO WITNESS WHAT MURDERERS DO WITH THEIR
22 WEAPONS, THEY SELL THEM, LIKE WALTER HARRIS SOLD HIS
23 FORTY CALIBER PISTOL SATURDAY, I SUBMIT, THE DAY AFTER
24 THE MURDER, TO ANDRE WASHINGTON. WE DON'T REWARD
25 MURDERERS FOR GETTING RID OF THEIR WEAPONS AFTER A

1 MURDER AND WAITING TEN DAYS TO TURN THEMSELVES IN.

2 OH, ASSERTIONS LIKE, NO FINGERPRINTS, REASONABLE
3 DOUBT. THAT IS, THAT'S JUST UNTRUE. I HOPE IF
4 THERE'S ANYTHING YOU LEARNED DURING THE COURSE OF THIS
5 TRIAL, AND IT DRIVES ME UP A WALL, AND I HAVE TO
6 EXPLAIN IT TO MY FAMILY AND I HAVE TO EXPLAIN IT TO
7 FRIENDS, LIKE GERALD CARTER SAID, HE'S THE EXPERT, IT
8 IS A MISCONCEPTION THAT PEOPLE LEAVE FINGERPRINTS AND
9 DNA AT CRIME SCENES. AS HE SAID, JUST BECAUSE YOU
10 TOUCH SOMETHING DOESN'T MEAN YOU'RE GOING TO LEAVE A
11 FINGERPRINT WITH SUFFICIENT RIDGE DETAIL THAT YOU CAN
12 COMPARE IT WITH SOMETHING ELSE. YOU MIGHT LEAVE,
13 MIGHT LEAVE SMUDGES, BUT YOU'RE NOT GOING TO LEAVE
14 NECESSARILY FINGERPRINTS. THIS IS NOT CSI, IT'S NCIS,
15 IT'S NOT T.V., IT'S THE REAL WORLD. AND BESIDES, HOW
16 DO WE PROVE THAT, HOW DO YOU KNOW THAT? WHAT DOES
17 EVERYBODY TOUCH? A DOOR KNOB. AND THERE ARE NO
18 IDENTIFIABLE PRINTS ON THE DOOR KNOB BECAUSE IT IS A
19 MISCONCEPTION THAT WHEN YOU TOUCH SOMETHING YOU LEAVE
20 DNA OR A FINGERPRINT. IT'S CHARLES PRINGLE'S HOME,
21 COULDN'T FIND ANY OF HIS FINGERPRINTS IN THERE. WE
22 KNOW SOMEBODY MURDERED AND SHOT CHARLES PRINGLE
23 TWENTY-FOUR TIMES, BUT THERE ARE NO PRINTS OR DNA.
24 MISCONCEPTION. DON'T LET THEM GET AWAY WITH IT,
25 BECAUSE YOUR JOB IS NOT TO LOOK AT WHAT'S NOT THERE,

1 YOUR JOB IS TO LOOK AT WHAT IS THERE AND ASK
2 YOURSELVES, AM I FIRMLY CONVINCED OF THE DEFENDANT'S
3 GUILT?

4 ASSERTIONS LIKE, WHERE IS RONNIE WASHINGTON?
5 WELL, LET'S TALK ABOUT RONNIE WASHINGTON. WHERE IS
6 HE? WHY ISN'T HE CHARGED WITH MURDER YET? SOMEONE
7 SAID IN THEIR CLOSING STATEMENT, I ASSUME IT'S BECAUSE
8 THE PROSECUTION IN THEIR DEFENSE OF MAYBE MERE
9 PRESENCE. WELL, I APPRECIATE THEIR INDIGNATION
10 TOWARDS THE GET AWAY DRIVER, RONNIE WASHINGTON, IT
11 PROVES THAT THE DEFENDANTS ARE GUILTY. I APPRECIATE
12 THAT. BUT LET'S TALK ABOUT RONNIE. IT IS NOT
13 REASONABLE, HE CAME FORTH, AS YOU HEARD, TWO WEEKS
14 AGO, WHILE WE WERE GETTING READY FOR THIS TRIAL,
15 RONNIE WASHINGTON GOES TO THE SHERIFF'S OFFICE, THIS
16 CAME OUT, AND ADMITTED, I WAS THE GET AWAY DRIVER.
17 HOW DOES THAT HELP THEM? AND WE'LL TALK MORE ABOUT
18 THAT IN A MINUTE. I WAS THE GET AWAY DRIVER, AND I'M
19 FRIENDS WITH CHRIS COLEMAN, JUST LIKE Minor
20 TOLD YOU ON THE WITNESS STAND. HOW DOES THAT HELP
21 THEM? BUT HOW IS IT REASONABLE FOR RONNIE WASHINGTON
22 TO DRIVE THOSE SIX INDIVIDUALS ARMED WITH SKS'S, ARMED
23 WITH PISTOLS, DUCT TAPE, AS Minor TOLD YOU,
24 TALKING ABOUT THE ROBBERY IN THE CAR, HOW WOULD IT BE
25 REASONABLE FOR RONNIE WASHINGTON NOT TO KNOW WHAT'S

1 GOING TO HAPPEN? I SUBMIT, IT'S NOT. WELL, WHAT DOES
2 THAT MEAN? IT MEANS, AS THEY SAID, HE NEEDS TO BE
3 CHARGED. HOW CAN I ETHICALLY CALL A WITNESS IF I'M
4 ABOUT TO CHARGE HIM WITH A CRIME? I CAN'T. THAT'S
5 WHY RONNIE WASHINGTON IS NOT HERE. THAT'S THE TRUTH.
6 WELL, HOW CAN RONNIE WASHINGTON IN ANY WAY HELP THEM?
7 NOT AT ALL. IT KILLS THEM. HE CORROBORATES Minor

8 FROM THE TESTIMONY YOU GOT TO HEAR ABOUT RONNIE
9 WASHINGTON. HE WAS THE GET AWAY DRIVER, THAT'S THE
10 ONLY EVIDENCE IN THIS CASE, HE'S FRIENDS WITH
11 CHRISTOPHER COLEMAN, AND HE DROVE AN SUV, A JEEP TYPE
12 CAR, AN EXPLORER. AND THEY ACCURATELY POINT OUT THE
13 LAW WITH REGARD TO RONNIE WASHINGTON, I REALLY
14 APPRECIATED THAT AGAIN. YOU DO NOT HAVE TO BE THE
15 GUNMAN, YOU DO NOT EVEN HAVE TO GO IN THE HOUSE TO BE
16 GUILTY OF MURDER, ARMED ROBBERY, AND BURGLARY, THAT'S
17 EXACTLY RIGHT. BUT THEN THEY GET UP HERE AND
18 SOMETIMES MIS-STATE THE LAW WITH REGARDS TO THEIR
19 CLIENT.

20 AND ONE MIS-STATEMENT THAT WAS MADE, AND I DON'T
21 THINK IT WAS INTENTIONAL, BUT I WANT TO CORRECT
22 SOMETHING, THAT I CHANGED THE STANDARD OF PROOF FROM
23 BEYOND A REASONABLE DOUBT TO FIRMLY CONVINCED. WHEN
24 YOU LISTEN TO THE JUDGE'S CHARGE, LISTEN CAREFULLY
25 ABOUT REASONABLE DOUBT, YOU WILL HEAR THE WORDS,

1 FIRMLY CONVINCED. HE'S GOING TO TELL YOU IF YOU'RE
2 FIRMLY CONVINCED OF THE DEFENDANT'S GUILT THAT MEANS
3 THAT'S PROOF BEYOND A REASONABLE DOUBT, THAT MEANS YOU
4 MUST CONVICT THEM. I DIDN'T MIS-STATE ANYTHING:

5 INCONSISTENCIES. THERE ARE BROAD ASSERTIONS,
6 WHETHER ALL KINDS OF INCONSISTENCIES IN THE
7 STATEMENTS, INCONSISTENCIES ON THE WITNESS STAND, I
8 HOPE SO. THAT'S HOW YOU KNOW THINGS ARE CREDIBLE. YOU
9 KNOW THIS FROM YOUR OWN EXPERIENCE. TWO PEOPLE, JUST
10 TWO PEOPLE WITNESS THE SAME EVENT, YOU ASK THEM A
11 MINUTES LATER TO RECOUNT IT, THEY'RE ALL GOING TO HAVE
12 DIFFERENT DETAILS. THAT'S HOW YOU KNOW THEY'RE
13 CREDIBLE. IF THEY'RE GOING TO GET UP AND LIE, GET UP
14 THERE AND SAY THE SAME THING. BUT WE DON'T WANT THAT,
15 WE WANT THE TRUTH, WE WANT THE TRUTH. IT'S ABSOLUTELY
16 UNTRUE TO SAY THAT INCONSISTENCIES ARE ALWAYS A LACK
17 OF CREDIBILITY.

18 AND TALK ABOUT A LACK OF CREDIBILITY, LET'S SEE,
19 WHEN YOU GET UP IN AN OPENING STATEMENT AND SAY, WELL,
20 THE STATE WON'T PROVE THAT MY CLIENT WAS THERE, BUT IF
21 THEY DO PROVE HE WAS THERE, THEY WON'T PROVE HE
22 PARTICIPATED. NOW, I KNOW I HAVE THE SOLE BURDEN OF
23 PROOF, BUT HOW IS THAT CREDIBLE? COME ON.

24 MR. PALMER ADDRESSED, ACCURATELY SO, HE SPOKE
25 ABOUT THE LAW OF WITHDRAWAL, ABOUT HOW YOU CAN

1 WITHDRAW FROM A CRIME. HE WAS VERY ACCURATE IN THE
2 WAY HE EXPLAINED IT, AND I WOULD ALSO ASK THAT YOU
3 LISTEN TO THE JUDGE WHEN HE TELLS YOU ABOUT HOW YOU
4 CAN WITHDRAW FROM A CRIME. OKAY? THE PROBLEM FOR MR.
5 HARRIS IS, IN ORDER TO BE NOT GUILTY TO WITH DRAW FROM
6 THE CRIME YOU HAVE TO WITHDRAW BEFORE THE CONSPIRACY
7 STARTS. THE CONSPIRACY STARTED WHEN HE WENT IN THAT
8 HOUSE AND SCOPED IT OUT. YOU ALSO HAVE TO WITHDRAW
9 DURING THE ENTIRETY OF THE CRIME, AND AS WE KNOW, THE
10 ONLY EVIDENCE IN THIS CASE IS, HE WENT IN THERE WITH
11 DUCT TAPE AND PUT DUCT TAPE OVER THE VICTIM'S MOUTH.
12 BUT AGAIN, LISTEN TO THE JUDGE'S CHARGE ON THAT.

13 MISREPRESENTATIONS, AND I KNOW Y'ALL SAW, I WAS
14 OPENING A VESSEL OVER HERE AT ONE POINT AND I'M SORRY,
15 I APOLOGIZE, BUT TO GET UP HERE AND SAY TWO THINGS,
16 FIRST OF ALL, THAT CHRISTOPHER DWIGHT SHOULD HAVE BEEN
17 INVESTIGATED, THERE IS NO EVIDENCE, IT IS OFFENSIVE TO
18 COME IN A COURTROOM AND POINT THE FINGER AT SOMEBODY
19 WHEN THERE'S NO EVIDENCE THAT THEY HAD ANY INVOLVEMENT
20 IN THIS CRIME. THE ONLY EVIDENCE IS THAT MR. DWIGHT
21 ASSISTED LAW ENFORCEMENT IN FINDING THAT WEAPON. NONE
22 WHATSOEVER, IT'S OFFENSIVE TO MR. DWIGHT, WHO IS NOT
23 EVEN IN THIS COURTROOM TO ANSWER THAT. IT'S OFFENSIVE
24 TO THE PROCESS TO GET UP HERE IN FRONT OF YOU AND SAY
25 THAT THERE'S EVIDENCE THAT RALPH COLEMAN HAD PROBLEMS

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1 WITH Minor THAT Minor HAD ISSUES WITH
2 RALPH COLEMAN, WHEN THERE'S NO EVIDENCE OF THAT
3 WHATSOEVER, THAT'S A BLATANT UNTRUTH, BLATANT UNTRUTH.
4 THE ONLY EVIDENCE IS, THEY WERE BUDDIES, THEY WERE
5 HANGING OUT THAT NIGHT SMOKING MARIJUANA AT COLEMAN'S
6 FAMILY'S PLACE. THAT'S BLATANT UNTRUTH, NO EVIDENCE
7 OF THAT.

8 WE ALL HAD TO HEAR A BUNCH OF OLD PHRASES THAT WE
9 ALL HEARD IN LAW SCHOOL, MY FIRST DAY OF LAW SCHOOL,
10 THE FIRST PHRASE I EVER HEARD FOR LAWYERS, IF THE
11 FACTS AREN'T ON YOUR SIDE, ARGUE THE LAW. IF THE LAW
12 IS NOT ON YOUR SIDE, ARGUE THE FACTS. IF NEITHER ARE
13 ON YOUR SIDE TRY TO CONFUSE THE JURY. THAT'S ALL
14 THEY'RE TRYING TO DO. NONE OF THEM, THE FACTS OR THE
15 LAW, NONE OF IT IS ON THEIR SIDE. CONFUSE THE JURY.

16 LADIES AND GENTLEMEN, ALL THESE DIVERSIONS, THESE
17 ASSERTIONS, THEY'RE JUST ATTEMPTS TO DIVERT YOUR
18 ATTENTION AWAY FROM THE FACTS OF THIS CASE. QUICK
19 STORIES, QUICK STORIES. I WAS THINKING ABOUT IT WHEN
20 I WAS SITTING THERE, I LOVED BASEBALL GROWING UP, I
21 LOVED IT. MY FAVORITE BASEBALL TO THIS DAY IS HANK
22 AARON. EVERY TIME HE WAS ON T.V. I'D GO WATCH IT, I'D
23 WATCH. I BEGGED MY FATHER TO TAKE ME TO GAMES IN
24 ATLANTA. AND ONE SATURDAY I'M WATCHING THE SATURDAY
25 AFTERNOON GAME ON NBC, I'LL NEVER FORGET IT, AND

1 YOU'RE GOING TO HAVE TO EXPLAIN TO SOME OF THE YOUNGER
2 JURORS HOW WE ONLY HAD THREE CHANNELS BACK THEN AND IT
3 WAS A BIG DEAL TO GET A BASEBALL ON SATURDAY, TO WATCH
4 A GAME WITH JOE GRAGIOLI AND TONY CUBECK. AND HANK
5 AARON WAS GETTING UP THERE IN AGE AND HE WAS FACING A
6 GUY NAMED NOLAN RYAN, THE HARDEST PITCHER IN THE
7 HISTORY OF BASEBALL. AND HANK AARON -- AND I WAS WITH
8 MY GRANDFATHER, MY UNCLE, AND I WATCHED HANK AARON HIT
9 A HOME RUN ON NOLAN RYAN, AND I SAW TONY CUBECK
10 INTERVIEW HANK AARON AT THE END OF THE GAME. AND HE
11 ASKED HIM, HANK, YOU'RE GETTING UP THERE IN AGE, HOW
12 IS IT THAT YOU'RE ABLE TO HIT THAT FAST BALL SO WELL
13 WHEN IT'S OVER A HUNDRED MILES AN HOUR? AND HANK
14 AARON SMILED AND HE SAID, IT'S EASY, I JUST KEEP MY
15 EYE ON THE BALL. I MEAN, TALK ABOUT ADVICE FOR, NOT
16 JUST HITTING A BASEBALL, BUT FOR LIFE. VERDICT COMES
17 FROM THE LATIN WORD, VERE DICTO, IT MEANS TO SPEAK THE
18 TRUTH. IF YOU KEEP YOUR EYE ON THE BALL IN THIS CASE,
19 IF YOU STAY FOCUSED ON WHAT'S IN FRONT OF YOU AND NOT
20 ON THE DIVERSIONS AND THE ASSERTIONS, THE ONLY VERDICT
21 YOU CAN RENDER IS GUILTY. BECAUSE AS THE JUDGE IS
22 GOING TO TELL YOU, THERE ARE VERY FEW THINGS IN THIS
23 WORLD WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL
24 CASES THE STATE DOESN'T HAVE TO PROVE A DEFENDANT'S
25 GUILT BEYOND ANY AND ALL CERTAINTY. BUT IF THERE'S

1 EVER A CASE WHERE THAT'S DONE, IT'S THIS ONE. LET'S
2 START TALKING ABOUT THOSE STUBBORN FACTS VERY BRIEFLY,
3 THOSE STUBBORN FACTS OF GUILT.

4 FIRST, Minor AND LOOK AT THE
5 CIRCUMSTANCES WITH Minor. WHEN YOU'RE ASSESSING
6 HIS CREDIBILITY. OKAY? HE WAS SIXTEEN YEARS OLD.
7 AGAIN, IT DOESN'T MINIMIZE WHAT HE DID, HE HAS TO BE
8 TREATED AS AN ADULT EVEN AT SIXTEEN. I AIN'T CUTTING
9 HIM A DEAL. HE ISN'T GOING TO GET TO BE TREATED AS A
10 JUVENILE. YOU SAW HIM, I WASN'T PROUD OF THIS. IT
11 DOESN'T MAKE ME FEEL GOOD TO BRING PEOPLE IN HERE IN
12 ORANGE JUMP SUITS AND CHAINS. BUT HE COMMITTED A
13 HORRIBLE ACT AND HE HAS TO PAY FOR IT. SIXTEEN YEARS
14 OLD, AND HE'S HANGING OUT WITH PEOPLE THREE, FOUR,
15 FIVE YEARS OLDER THAN HIM. AND NOW, BECAUSE OF THAT -
16 - AND I'M NOT EXCUSING IT, BUT BECAUSE OF WHAT HE
17 DECIDED TO DO AT SIXTEEN, HANGING OUT WITH THEM, HE'S
18 LOOKING AT A SENTENCE OF FIFTEEN YEARS TO LIFE. THINK
19 ABOUT HIS CIRCUMSTANCES WHEN YOU ASSESS WHAT HE TOLD
20 THE POLICE AND NOW. HOW SHOULD HE BE HELD RESPONSIBLE
21 AND THEY NOT? AND HE WAS ASKED AT ONE POINT ON CROSS-
22 EXAMINATION, AREN'T YOU JUST MINIMIZING WHAT YOU DID,
23 MR. Minor YOU'RE MINIMIZING WHAT YOU DID, BECAUSE
24 YOU CLAIM YOU DIDN'T HAVE A GUN. WELL, TWO QUICK
25 POINTS, HOW DO THEY KNOW HE'S MINIMIZING WHAT HE DID

1 IF THEY DIDN'T GO IN THERE? AND MORE IMPORTANTLY, HIS
2 ANSWER, HOW AM I MINIMIZING IT, SIR, WHEN, YEAH, I
3 SAID I DIDN'T GO IN THREE WITH A GUN, BUT I'M STILL
4 PLEADING GUILTY TO BURGLARY IN THE FIRST DEGREE. I'M
5 STILL PLEADING GUILTY TO ARMED ROBBERY, AND I'M STILL
6 PLEADING GUILTY TO THE HOMICIDE. HOW IS THAT
7 MINIMIZING YOUR GUILT? SAY WHAT YOU WANT ABOUT

8 Minor BUT HE ACCEPTED RESPONSIBILITY IN THIS
9 COURTROOM, AND HE ACCEPTED RESPONSIBILITY ON MARCH THE
10 EIGHTEENTH WITH INVESTIGATOR SHUMPERT.

11 AND LET'S TALK ABOUT THAT, THE STATEMENT THAT HE
12 GAVE TO INVESTIGATOR SHUMPERT AT FOUR:FORTY-THREE P.M.
13 ON MARCH THE EIGHTEENTH. HE TOLD INVESTIGATOR
14 SHUMPERT THAT DAY, AFTER HE BROKE DOWN AND CRIED,
15 EVERYBODY THAT WSA INVOLVED IN THIS MURDER, INCLUDING
16 HIMSELF, EVERYBODY. HE ALSO TOLD YOU, HE WAS HONEST
17 ABOUT HIS STATEMENT, WHICH IS DEFENSE EXHIBIT TWO, HE
18 TOLD YOU ON THE WITNESS STAND, I WASN'T A HUNDRED PER
19 CENT ACCURATE IN THE STATEMENT. I DIDN'T WANT TO TELL
20 THE POLICE THAT I KNEW EVERYBODY'S REAL NAME. I WASN'T
21 A HUNDRED PER CENT ACCURATE, IW AS SCARED, I WAS
22 CRYING, BUT I TOLD THEM WHO THE SIX PEOPLE WERE . AND
23 WHAT MAKES THIS STATEMENT REALLY CREDIBLE? TWO
24 THINGS: NUMBER ONE, THE STATEMENT BY ITSELF CONVICTS
25 ALL SIX OF THEM. SO IF HE WANTED TO LIE, ALL HE NEEDS

1 TO DO IS GET ON THE WITNESS STAND AND SAY EXACTLY
2 WHAT'S IN THE STATEMENT. IF HE WAS GOING TO LIE TO
3 YOU, JUST GET UP THERE AND SAY THE EXACT SAME THAT'S
4 IN THE STATEMENT BECAUSE IT CONVICTS ALL SIX OF THEM,
5 HIMSELF AND THE FIVE DEFENDANTS. BUT HE DIDN'T DO
6 THAT, HE TOLD YOU THE TRUTH. THERE ARE SOME THINGS IN
7 THE STATEMENT THAT AREN'T TRUE THAT Y'ALL NEED TO KNOW
8 ABOUT, LIKE, HOW I GOT A RIDE TO THE ADDRESS;
9 LIKE, WHO HAD WHICH GUN; LIKE WHO WENT IN THE HOUSE AT
10 WHAT TIME; AND WHAT WAS SAID AND DONE AFTER THE
11 MURDER. AND HOW ELSE DO WE KNOW THAT'S TRUE? LIKE
12 INVESTIGATOR SHUMPERT TOLD YOU, WHAT'S GREAT ABOUT
13 THAT STATEMENT, WHAT MAKES IT TRUSTWORTHY IS, HE
14 IMPLICATES HIMSELF. THAT'S WHAT MAKES A DEFENDANT'S
15 STATEMENT TRUSTWORTHY, WHEN YOU IMPLICATE YOURSELF
16 AND, YOU SAY, YEAH, I'M GUILTY, TOO. IT'S NOT LIKE HE
17 WENT TO THE POLICE AND SAID, I DIDN'T HAVE ANYTHING TO
18 DO WITH IT, I WAS JUST IN THE CAR, THEY DID IT. HE
19 IMPLICATED HIMSELF, AND THAT'S WHAT MAKE THAT
20 STATEMENT TRUSTWORTHY. STUBBORN FACTS OF GUILT. AND
21 WHAT MAKES IT TRUSTWORTHY IS, HE GOT ON THAT WITNESS
22 STAND AND HAD THE GUTS TO FACE THOSE FIVE LAWYERS AND
23 TESTIFY. AND LET'S TALK ABOUT WHAT HE TESTIFIED TO.

24 HE TESTIFIED THAT THAT EARLY, LATE AFTERNOON,
25 EARLY EVENING HE WAS HANGING OUT WITH HIS FRIEND,

1 DARIUS GARNER. HE GETS A PHONE CALL, OR HE TALKS ON
2 THE PHONE WITH DANNY RYANT. DURING THAT CONVERSATION
3 DANNY RYANT TELLS HIM, HEY, MARIO SHIVERS HAS SOME
4 GUNS, YOU NEED TO GO CHECK THESE GUNS OUT. RIGHT
5 AFTER HE TALKS TO DANNY RYANT HE GETS ON THE PHONE
6 WITH MARIO SHIVERS. SOMETIME AROUND SEVEN:THIRTY HE
7 HAS DARIUS TAKE HIM TO STREET WHERE THE FOUR
8 OF THEM AT THAT TIME, RALPH COLEMAN AND MARIO SHIVERS
9 ARE SMOKING MARIJUANA AT STREET, COLEMAN'S
10 PLACE. DARIUS LEAVES, AND HE ADMITTED TO YOU THAT
11 THAT'S WHEN THEY STARTED TALKING ABOUT ROBBING CHARLES
12 PRINGLE. HE 'DIDN'T LIE. HE DIDN'T SAY, OH, I DIDN'T
13 HAVE ANYTHING TO DO WITH IT. HUH-UH. HE ADMITTED TO
14 THAT.

15 HE ALSO TOLD YOU THAT CHRIS COLEMAN ARRIVES WITH
16 A DRIVER, AND I DON'T KNOW WHO THE DRIVER IS, BUT THEY
17 ARRIVE IN AN SUV. THEY GET IN THE CAR, THEY TALK
18 ABOUT THE ROBBERY, AND THE DRIVER, WHO I DON'T KNOW,
19 IS DRIVING US IN THAT SUV, THE DRIVER IS CHRIS
20 COLEMAN'S FRIEND.

21 HE TELLS YOU THAT AT ONE POINT WALTER SHIVERS
22 CALLS WALTER HARRIS, THAT THEY GO AND PICK UP WALTER
23 HARRIS, AND WALTER HARRIS IS PACKING A BLACK GUN.
24 WALTER HARRIS GOES INTO CHARLES PRINGLE'S APARTMENT.
25 WHY WOULD THEY PICK WALTER HARRIS, WHY DOES HE NEED TO

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1 GO IN? BECAUSE THEY KNOW THAT CHARLES PRINGLE WON'T
2 KNOW WALTER HARRIS. SO, HE GOES IN THERE TO SCOPE IT
3 OUT. HE COMES BACK OUT AND HE SAYS, THERE'S SOMEBODY
4 IN THERE I KNOW. SO, ACCORDING TO Minor -- AND
5 I WANT YOU TO REMEMBER THE TESTIMONY BECAUSE AT THE
6 END I'M GOING TO CORROBORATE THESE PHONE CALLS --
7 Minor SAYS THEY THEN CALL DANNY RYANT, AND
8 THEY GO AND PICK DANNY RYANT UP ABOUT A HALF A MILE
9 FROM CHARLES PRINGLE'S AT THE CORNER POCKET. AND THEN
10 ALL SIX OF THEM GO INTO CHARLES PRINGLE'S APARTMENT
11 ARMED WITH GUNS AND DUCT TAPE TO ROB HIM, TO
12 BURGLARIZE HIS HOME, AND THEY KILL HIM. ALL FOUR
13 WEAPONS WERE USED TO GUN HIM DOWN.

14 THE TESTIMONY OF Minor IS THE ONLY
15 EVIDENCE IN THIS CASE. THINK ABOUT THAT. IT IS THE
16 ONLY EVIDENCE IN THIS CASE. HIS TESTIMONY BY ITSELF
17 PROVES THE DEFENDANTS' GUILT BEYOND A REASONABLE
18 DOUBT. BUT WHAT MAKES THIS CASE EVEN MORE THAN BEYOND
19 A REASONABLE DOUBT IS THE UNBELIEVABLE AMOUNT OF
20 CORROBORATION TO Minor TESTIMONY,
21 UNBELIEVABLE AMOUNT OF CORROBORATION. FIRST, WE HAVE
22 ASHLEY PARSLEY, ASHLEY PARSLEY. AND SHE WAS HONEST
23 WITH YOU. SHE OBVIOUSLY TOLD YOU, SHE'S NOT PERFECT,
24 BUT SHE TOLD YOU THE TRUTH. SHE SOLD MARIJUANA. SHE
25 ALSO TOLD YOU HOW SOMEONE HAD COME INTO THE HOUSE

1 EARLIER, TO THE APARTMENT EARLIER TO OSTENSIBLY BUY
2 MARIJUANA AND THAT LATER ON THAT NIGHT THE HOME
3 INVASION OCCURRED. SHE TOLD YOU SHE DIDN'T SEE
4 EVERYBODY, THAT ONE PERSON CAME IN THERE, I SUBMIT,
5 Minor WHY SHE COULDN'T PICK HIM OUT, COVERING
6 HIS FACE UP, AND THE SECOND PERSON BEHIND HIM HAD A
7 GUN, SHOVED IT INTO HER FACE AND SAID, GET ON THE
8 GROUND. SHE HEARD THE FOOTSTEPS, SHE HEARD THE DUCT
9 TAPE, SHE HEARD THE GUN SHOTS. SHE HEARD THE MALICE,
10 SHE HEARD THE HORRIFYING ACTS OF THAT NIGHT WHEN HER
11 FRIEND WAS GUNNED DOWN. AND SHE WAS HONEST WITH YOU,
12 AND SHE WAS HONEST WITH THE POLICE. SHE COULDN'T --
13 THEY SHOWED HER MULTIPLE LINEUPS. TALK ABOUT
14 CREDIBILITY, SHE CALLED NINE ONE ONE, OF CORSE, BUT
15 TALK ABOUT CREDIBILITY, IF WE'RE GOING TO GET HER TO
16 LIE, ESPECIALLY AFTER THEY KNOW WHO'S INVOLVED, GET
17 HER TO PICK THEM ALL OUT OF THE PHOTO LINEUP, PICK
18 THEM ALL. SHE'S NOT GOING TO DO THAT, BUT ISN'T IT
19 INTERESTING WHO SHE IS ABLE TO PICK OUT? SHE PICKS
20 OUT RALPH COLEMAN. WHY WOULD SHE PICK OUT RALPH
21 COLEMAN? IS IT BECAUSE Minor SAYS THAT HE WAS
22 RIGHT BEHIND HIM, AND HE'S THE ONE THAT SHOVED THE GUN
23 IN HER FACE? THAT WOULD BE ONE OF THE DEFENDANTS THAT
24 SHE GOT THE BEST LOOK AT, RALPH COLEMAN. WHY WOULD
25 YOU BE ABLE TO MAYBE PICK OUT MARIO SHIVERS AND THINK

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1 THAT HE WAS IN THERE? IS IT BECAUSE MARIO SHIVERS IS
2 THE MAIN GUY GOING IN THERE CALLING THE SHOTS, THE
3 MAIN ONE TALKING THAT YOUR ATTENTION WOULD GO TOWARDS?
4 AND OF COURSE, SHE PICKS OUT WALTER HARRIS FROM COMING
5 IN THERE EARLIER THAT NIGHT. PROOF BEYOND A
6 REASONABLE DOUBT? ARE YOU KIDDING ME?

7 AND THEN THE ATTORNEYS, NOT ONLY IN CLOSING BUT
8 DURING THE QUESTIONING OF WITNESSES, THEY SAID, WELL,
9 THERE'S A BLACK LIGHT, OR A LIGHT BULB, AND YOU CAN'T
10 SEE AS WELL. UNDER THEIR OWN CROSS-EXAMINATION, HE
11 ASKED SHANNON MITCHELL, MR. WISE DID, WITH THAT
12 LIGHTING, COULD YOU SEE MY FACIAL FEATURES FROM HERE?
13 AND HE SAID, YES, SIR. WELL, COULD YOU SEE SOMEBODY'S
14 FACIAL FEATURES FROM HERE?

15 YOU HEARD FROM SHANNON MITCHELL. HE TOLD THE
16 POLICE THAT HOURS, JUST HOURS AFTER THE MURDER, HOURS
17 AFTER THE MURDER THAT WALTER HARRIS WAS IN THAT
18 APARTMENT, AND HE TOLD Y'ALL, I DON'T KNOW OF WALTER
19 HARRIS EVER COMING IN THERE BEFORE. WHY WOULD WALTER
20 HARRIS BE THERE UNLESS HE'S GETTING READY TO HELP THEM
21 DO A ROBBERY, JUST AS Minor TESTIFIED TO,
22 THAT WALTER HARRIS WENT IN THERE FIRST AND THEN CAME
23 BACK OUT?

24 YOU HEARD FROM DARIUS GARNER. HE TOLD YOU HOW HE
25 AND Minor HAD BEEN HANGING OUT TOGETHER, AND

1 THAT HE TOOK THE DEFENDANT, OR TOOK Minor TO
2 JUST LIKE Minor TOLD YOU. AND IF WE
3 WERE GOING TO GET DARIUS TO LIE, HE SAID THAT THERE
4 WERE TWO OTHER PEOPLE THERE, ONE OF THEM HE KNEW,
5 LITTLE M, MARIO SHIVERS. THE OTHER ONE I DIDN'T KNOW
6 BUT HE HAD DREDS, AND HE WAS STOCKY. WE KNOW IT WAS
7 RALPH COLEMAN BECAUSE Minor TOLD US THAT. AND WHAT
8 ELSE DOES DARIOUS SAY, BEFORE I FORGET? HE DOESN'T LIE
9 AND SAY, I SAW THE GUNS, BUT HE DOES SAY, I SAW A
10 RIFLE BAG, A CAMOUFLAGE RIFLE BAG. ANYBODY WANT TO
11 GUESS WHAT WAS IN THAT BAG? PROOF BEYOND A REASONABLE
12 DOUBT?

13 THEN YOU HEARD ABOUT THE FORD EXPLORER. I'VE
14 ALREADY TALKED ABOUT IT SOME, BUT AGAIN, IT
15 CORROBORATES Minor HE TOLD Y'ALL, HE TOLD
16 THE POLICE THAT HE WAS PICKED UP IN AN SUV, A JEEP
17 LIKE VEHICLE. HE TOLD YOU AN EXPLORER. AND WE KNOWN
18 IT HAD TO BE SOME KIND OF SUV, I MEAN, I KNOW THEY'RE
19 ONLY DRIVING A HALF A MILE FROM CORNER POCKET AND FROM
20 HOUSE TO THE VICTIM'S PLACE, BUT WE KNOW IT'S NOT
21 GOING TO BE A PINTO WITH SIX PEOPLE IN IT, OR A GOLF
22 CART. AND WHAT DO WE FIND OUT? RONNIE WASHINGTON WAS
23 THE GET AWAY DRIVER, RONNIE WASHINGTON DROVE THEM IN
24 THIS VEHICLE, SOMEBODY Minor DIDN'T KNOW,
25 CHRIS COLEMAN'S FRIEND. CORROBORATION.

1 YOU HEARD FROM MONEAK BUSBY AND YVONNE
2 SHARPERSON. AND I WANT TO MAKE SURE THAT I GET THIS
3 RIGHT. I DON'T WANT TO MISREPRESENT ANYTHING, BUT BOTH
4 OF THEM ARE FRIENDS OF DANNY RYANT. IT WAS NOT EASY
5 FOR THEM TO COME IN HERE AND TESTIFY, IT COULDN'T BE.
6 WELL, YOU KNOW THEY DIDN'T WANT TO COME IN HERE AND
7 TESTIFY AGAINST HIM. BUT WHAT DID, I BELIEVE IT WAS
8 MS. SHARPERSON, TELL THE POLICE BACK THEN AND TELL YOU
9 TODAY, OR IN THE COURTROOM, THIS WEEK? SHE'S THE ONE
10 WHO TOLD THE POLICE RYANT'S FAMILY WAS EVEN LOOKING
11 FOR HIM IN THE CORNER POCKET. FOR A WHILE THEY
12 COULDN'T FIND HIM. AND MORE IMPORTANTLY, WHAT DID
13 MONEAK BUSBY TELL THE POLICE, AND SHE GOT HERE AND
14 TESTIFIED TO? SHE TOLD THEM THAT NOT ONLY WAS DANNY
15 RYANT MISSING, BUT HE WENT TO THE DOOR AND LEFT WITH
16 TWO PEOPLE, AND SHE PICKED OUT MARIO SHIVERS AND
17 Minor PROOF BEYOND ANY DOUBT, CORROBORATING
18 Minor

19 WE HEARD FROM ANDRE WASHINGTON, A
20 MISREPRESENTATION THAT WAS BROUGHT UP IN THE CLOSING
21 AND I JUST REMEMBERED, SHE SAID, ONE OF THE ATTORNEYS
22 SAID THAT ANDRE WASHINGTON BOUGHT THIS GUN FROM
23 CHRISTOPHER DWIGHT. NO, NO, NO, THAT'S NOT TRUE. THE
24 EVIDENCE IS, ANDRE WASHINGTON BOUGHT THIS GUN FROM
25 WALTER HARRIS ON SATURDAY, BEFORE HE SOLD THE GUN ON

1 MARCH THE SEVENTEENTH. THAT WOULD BE SATURDAY, MARCH
2 THE THIRTEENTH, THE DAY AFTER THAT GUN IS USED TO KILL
3 CHARLES PRINGLE. THE DAY AFTER WALTER HARRIS GAVE
4 THAT GUN TO RALPH COLEMAN TO KILL CHARLES PRINGLE HE'S
5 SELLING IT TO ANDRE WASHINGTON.

6 Minor HE WASN'T GOING TO LIE, HE WASN'T
7 GOING TO SAY, YES, THAT'S THE GUN. HE WAS HONEST, HE
8 SAID, I DIDN'T GET AS GOOD A LOOK AT RALPH, OR EXCUSE
9 ME, AT WALTER HARRIS'S GUN, THE ONE RALPH USED,
10 BECAUSE IT WAS HARRIS'S GUN. I SAW THE NINE
11 MILLIMETER THAT BELONGED TO MARIO SHIVERS THAT CHRIS
12 COLEMAN, BUT I NEVER HANDLED THIS, I JUST REMEMBER IT
13 WAS A BLACK GUN. AND WE GOT LUCKY AND WE GOT THIS GUN
14 RIGHT AFTER THE MURDER, WALTER HARRIS'S FORTY CALIBER,
15 BLACK, JUST LIKE Minor TOLD YOU IT WOULD BE,
16 USED TO KILL CHARLES PRINGLE.

17 YOU HEARD FROM THE CRIME SCENE, BALLISTICS, AND
18 DR. ROSS ABOUT THIS CRIME. WE LEARNED THAT THERE WERE
19 AT LEAST FOUR FIREARMS USED, TWO SKS RIFLES, ONE NINE
20 MILLIMETER PISTOL AND ONE FORTY CALIBER PISTOL, JUST
21 LIKE Minor TOLD US, CORROBORATION. YOU
22 LEARNED THAT TWENTY-FOUR BULLET WOUNDS WENT INTO THE
23 VICTIM, WITH THE BULLETS GOING IN DIFFERENT
24 DIRECTIONS, LACERATING HIS HEART, HIS LUNGS, HIS
25 LIVER. DANNY RYANT AND MARIO SHIVERS POSSESSED THE

1 SKS'S AND ONE OF THEM FIRED ONE SHOT, THE OTHER FIRED
2 FOUR. IT DOESN'T MATTER WHO FIRED WHICH ONE, THEY'RE
3 BOTH GUILTY OF MURDER, BURGLARY, AND ARMED ROBBERY.
4 WE LEARNED THAT CHRIS COLEMAN HAD A NINE MILLIMETER,
5 HE FIRED ELEVEN SHOTS, MANY OF THOSE SHOTS INTO THE
6 VICTIM AT POINT BLANK RANGE WHILE HE'S LYING ON THE
7 GROUND. WE LEARNED THAT RALPH COLEMAN HAD WALTER
8 HARRIS'S FORTY CALIBER, EIGHT SHOTS INTO THE VICTIM BY
9 RALPH COLEMAN. A LOT OF THOSE SHOTS WHILE THE VICTIM
10 IS LYING ON THE GROUND. AND WALTER HARRIS GAVE RALPH
11 COLEMAN THIS GUN, AND THAT WALTER HARRIS HAD THE DUCT
12 TAPE, AND HE PUT THE DUCT TAPE OVER THE VICTIM'S
13 MOUTH. AND I REMEMBER, THEY WERE TRYING TO IMPEACH
14 Minor ON THE WITNESS STAND ABOUT HOW, HOW COULD HE
15 TALK WITH DUCT TAPE OVER HIS MOUTH? AND THEY WOULDN'T
16 LET Minor ANSWER THE QUESTION. YOU LOOK AT THE
17 PICTURE WHEN YOU TAKE IT BACK IN CHAMBERS. YOU CAN
18 TELL IT'S OVER HIS MOUTH, OVER THE TOP, SO HE COULD
19 TALK.

20 HOW MUCH MORE MALICIOUS CAN YOU GET THAN INVADING
21 ANOTHER PERSON'S HOME WITH FOUR WEAPONS? I'M ALMOST
22 DONE. THE FINAL PIECE OF CORROBORATION I WANT TO TALK
23 TO YOU ABOUT ARE THE PHONE RECORDS AND THE TIME LINE
24 THAT CORROBORATE Minor AND YOU'LL HAVE THE
25 ACTUAL PHONE RECORDS IN CHAMBERS, AND THIS IS A BLOW

1 UP USED TO HELP ME. AND YOU'RE GOING TO HAVE THESE
2 RECORDS BACK THERE, AND YOU'RE GOING TO HAVE --
3 BECAUSE REMEMBER, THE POLICE GOT LUCKY, WITHIN LESS
4 THAN A WEEK OF THIS CRIME THEY WERE ABLE TO GET Minor
5 AND GET HARRIS SO THEY WERE ABLE TO GET THEIR RECORDS.
6 AND THEY GOT THE PHONE RECORDS. NOW, WHAT DO WE FIND
7 OUT WHEN WE LOOK AT THEIR PHONE RECORDS DURING THIS
8 TRIAL? THAT AT SIX:THIRTY-ONE TO SIX:FORTY RYANT
9 CALLS Minor JUST LIKE Minor TOLD US,
10 I GOT A PHONE CALL FROM DANNY RYANT. NUMBER OF PHONE
11 CALLS FROM SIX:THIRTY-ONE TO ABOUT, IT LOOKS LIKE
12 SIX:FORTY-FOUR, ACTUALLY, WHERE HE'S TELLING ME ABOUT
13 THE GUNS MARIO HAS. WHAT WAS Minor NEXT
14 TESTIMONY? THAT I GOT A HOLD OF MARIO SHIVERS. AND
15 FROM SIX:FORTY-SIX TO SEVEN:TWENTY-SIX, YOU'RE GOING
16 TO SEE PHONE CALLS ON Minor PHONE RECORDS
17 FROM MARIO SHIVERS, EIGHTEEN:FORTY-FOUR HOURS TO
18 NINETEEN:TWENTY-SIX HOURS, MARIO SHIVERS. AND THEN WE
19 THEN KNOW THAT SOMETIME AFTER SEVEN:THIRTY, ACCORDING
20 TO NOT ONLY THEIRS BUT Minor THEY GO TO THE
21 HOME ON WE ALSO KNOW THAT THEY CONSPIRED TO
22 COMMIT THE ROBBERY, THEY'RE PICKED UP BY CHRIS AND
23 RONNIE WASHINGTON. WE ALSO KNOW FROM Minor
24 MARIO SHIVERS CALLED WALTER HARRIS, AND SURE ENOUGH,
25 ON WALTER HARRIS'S PHONE RECORDS, AT EIGHT:FIFTY-TWO,

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1 WHICH IS TWENTY:FIFTY-TWO HOURS, HE GETS A PHONE CALL
2 FORM MARIO SHIVERS. THIS IS PROOF BEYOND A REASONABLE
3 DOUBT. CORROBORATION. EIGHT:FIFTY-TWO, AND THERE ARE
4 THREE CONVERSATIONS UP TO EIGHT:FIFTY-SEVEN, WHICH I
5 SUBMIT WAS RIGHT AFTER THAT TIME THEY PICKED HIM UP.

6 WE ALSO LEARNED FROM Minor THAT AFTER
7 HARRIS GOES IN THEY DECIDE TO GET ANOTHER GUN, ANOTHER
8 PERSON INVOLVED, DANNY RYANT. AND Minor TOLD
9 YOU, I CALLED DANNY RYANT. WELL, IF THAT'S TRUE THAT
10 WOULD BE ON Minor PHONE RECORDS. TWENTY-
11 ONE:THIRTY-FOUR HOURS, WHICH IS NINE:THIRTY-FOUR, HE
12 CALLS DANNY RYANT. THEY TALK FOR A COUPLE OF MINUTES.
13 AT NINE:FORTY HE CALLS HIM BACK, I SUBMIT PROBABLY TO
14 SAY, I'M OUTSIDE, AND DANNY RYANT IS GONE FROM THE
15 CORNER POCKET, ACCORDING TO MONEAK BUSBY.
16 CORROBORATION.

17 AT NINE:FORTY CHARLES PRINGLE DOESN'T HAVE MORE
18 THAN FIFTEEN MINUTES TO LIVE, BECAUSE SIX MEN, SEVEN
19 COUNTING RONNIE WASHINGTON, ARE ON THE WAY TO HIS
20 HOUSE TO ROB AND BURGLARIZE HIM AND THEN GUN HIM DOWN,
21 LESS THAN FIFTEEN MINUTES FOR HER SON TO LIVE.

22 NINE:FIFTY-EIGHT, SERGEANT CARTER OF THE
23 SHERIFF'S DEPARTMENT IS DISPATCHED TO
24 CHARLES PRINGLE IS DEAD. AT TEN:O-TWO, Minor
25 TOLD Y'ALL, AS DID DARIUS, THAT HE CALLED HIS FRIEND

1 TO COME PICK HIM UP IN THAT COLEMAN AREA OFF OF
2 BELLEVILLE AND GIVE HIM A RIDE TO SANTEE. THAT'S WHAT
3 ONE THE PHONE RECORDS, AT TEN:O-TWO HE'S CALLING
4 DARIUS GARNER TO PICK HIM UP. THREE PHONE CALLS, IT'S
5 THE ONES AT TWENTY-TWO:O-ONE TO TWENTY-TWO:O-SEVEN,
6 JUST LIKE Minor TOLD YOU.

7 ONE MORE INTERESTING THING ABOUT THESE PHONE
8 RECORDS, BETWEEN THE HOURS OF THE CONSPIRACY AFTER
9 WALTER HARRIS GETS PICKED UP TO START THE ROBBERY OF
10 CHARLES PRINGLE, HE MAKES NO MORE PHONE CALLS OR GETS
11 NO MORE PHONE CALLS UNTIL TEN:O-FIVE P.M., AFTER THE
12 MURDER OF CHARLES PRINGLE. HE GOES OVER AN HOUR
13 WITHOUT ANY PHONE CALLS TO OR FROM HIS PHONE. WHY?
14 BECAUSE HE'S INVOLVED IN THE ROBBERY AND MURDER OF
15 CHARLES PRINGLE.

16 NOT PROOF BEYOND A REASONABLE DOUBT, LADIES AND
17 GENTLEMEN, YES, PROOF BEYOND ANY POSSIBLE DOUBT
18 WHATSOEVER. YOUR JOB IS EASY.. DO THE RIGHT THING AND
19 CONVICT THOSE FIVE MEN FOR WHAT THEY DID. IT'S BEEN
20 MADE EASY BECAUSE PEOPLE HAD THE COURAGE TO COME INTO
21 THIS COURTROOM AND TESTIFY . THEY HAD THE COURAGE TO
22 COME FORWARD IN MARCH. DO THE RIGHT THING. ON MARCH
23 THE TWELFTH OF THIS YEAR WHEN Minor AND THOSE
24 FIVE DEFENDANTS WENT INTO CHARLES PRINGLE'S HOME TO
25 ROB HIM THEY THOUGHT NOBODY CARED. WHEN THEY GUNNED

1 HIM DOWN TWENTY-FOUR TIMES THEY THOUGHT THEY HAD GOT
2 AWAY WITH MURDER. PROVE THEM WRONG.

3 IN CLOSING, I WANT TO THANK YOU AGAIN. YOU HAVE
4 BEEN UNBELIEVABLY ATTENTIVE. I'VE NEVER HAD A JURY
5 THIS ATTENTIVE, AND I MEAN THAT, AND ALL FIVE OF THE
6 ATTORNEYS WOULD JOIN ME IN THAT, AND PROBABLY THE
7 JUDGE. INCREDIBLE, NO FOOD, UNBELIEVABLE. I CAN'T
8 IMAGINE WHAT YOU'VE HAD TO GO THROUGH, YOU'VE HAD TO
9 HEAR ABOUT THINGS THAT YOU DON'T WANT TO HEAR ABOUT.
10 YOU'VE HAD TO LOOK AT THINGS THAT YOU DON'T CARE TO
11 LOOK AT, AND YOU'VE HAD TO DO IT ALL SITTING THERE
12 QUIET. BUT SOON, THE IRONY IS, YOU'RE GOING TO HAVE
13 THE MOST POWERFUL VOICE IN THIS COURTROOM, AND WITH
14 ONE WORD YOU CAN LET THE DEFENDANTS KNOW WHAT THEY DID
15 WA WRONG. WITH ONE WORD YOU CAN LET THEM KNOW YOU
16 CANNOT TAKE THAT WOMAN'S SON AND GET AWAY WITH IT.
17 WITH ONE WORD YOU CAN LET THEM KNOW THAT THERE IS
18 JUSTICE IN ORANGEBURG COUNTY. AND THAT ONE WORD IS
19 GUILTY.

20 ON BEHALF OF THE STATE OF SOUTH CAROLINA, AS YOUR
21 SOLICITOR I RESPECTFULLY ASK THAT YOU FIND THE
22 DEFENDANTS, CHRIS COLEMAN, RALPH COLEMAN, WALTER
23 HARRIS, DANNY RYANT AND MARIO SHIVERS GUILTY OF
24 MURDER, GUILTY OF BURGLARY IN THE FIRST DEGREE, AND
25 GUILTY OF ARMED ROBBERY.

1 THANK YOU.

2 THE COURT: THANK YOU, MR. PASCOE. DO YOU MIND
3 TAKING THOSE DOWN?

4 SOLICITOR PASCOE: YES, SIR.

5 THE COURT: I HATE TO BOTHER YOU BUT ...

6 ALRIGHT, LADIES AND GENTLEMEN, I DON'T THINK YOUR
7 LUNCH HAS GOTTEN HERE YET, SO I'M GOING TO GO AHEAD
8 AND CHARGE Y'ALL WITH THE LAW RIGHT NOW.

9 CHARGE BY THE COURT

10 LET ME TELL Y'ALL AT THE VERY FIRST OF THIS CASE,
11 THE INDICTMENTS THAT ARE IN THIS CASE CHARGE EACH OF
12 THESE YOUNG MEN, CHRISTIAN COLEMAN, RALPH COLEMAN,
13 WALTER HARRIS, DANNY RYANT, AND MARIO SHIVERS, WITH
14 ARMED ROBBERY, FIRST DEGREE BURGLARY AND MURDER. BUT
15 THE FACT THAT THESE DEFENDANTS WERE ARRESTED, CHARGED
16 AND INDICTED IN THIS CASE IS NOT EVIDENCE IN THIS CASE
17 AND CANNOT BE CONSIDERED BY YOU AS EVIDENCE OF GUILT
18 IN THIS CASE, NOR DOES IT CREATE ANY PRESUMPTION OR
19 INFERENCE OF GUILT. THE INDICTMENTS ARE SIMPLY THE
20 FORMAL WRITTEN INSTRUMENTS WHICH CONTAIN THE CHARGES
21 MADE AGAINST THE DEFENDANTS. IT IS THE FORMAL
22 DOCUMENTS BY WHICH THIS CASE IS BROUGHT TO THIS COURT.

23 NOW, EACH INDICTMENT CHARGES A SEPARATE AND
24 DISTINCT OFFENSE. YOU MUST DECIDE EACH INDICTMENT
25 SEPARATELY ON THE EVIDENCE AND THE LAW APPLICABLE TO

1 IT UNINFLUENCED BY YOUR DECISION AS TO ANY OTHER
2 INDICTMENT. EACH DEFENDANT MAY BE CONVICTED OR
3 ACQUITTED ON ANY OR ALL OF THE OFFENSES CHARGED. YOU
4 WILL BE ASKED TO WRITE A SEPARATE VERDICT OF GUILTY OR
5 NOT GUILTY FOR EACH INDICTMENT. AND MADAM FORELADY,
6 AT THE CLOSE MY CHARGE I WILL GO OVER THESE VERDICT
7 FORMS WITH YOU TO MAKE SURE YOU UNDERSTAND THEM.
8 OKAY?

9 NOW, THE CASE OF EACH DEFENDANT AND THE EVIDENCE
10 AND LAW CONCERNING THAT DEFENDANT SHOULD BE CONSIDERED
11 SEPARATELY AND INDIVIDUALLY. THE DEFENDANTS HAVE BEEN
12 TRIED TOGETHER BUT YOU MUST DETERMINE EACH DEFENDANT'S
13 GUILT OR INNOCENCE SEPARATELY AS TO EACH CHARGE. YOUR
14 VERDICT DOES NOT HAVE TO BE THE SAME FOR ALL THE
15 DEFENDANTS. THE FACT THAT YOU MAY FIND ONE DEFENDANT
16 GUILTY OR NOT GUILTY SHOULD NOT CONTROL YOUR VERDICT
17 AS TO THE OTHER DEFENDANTS. WHERE MORE THAN ONE
18 PERSON IS CHARGED WITH A CRIME, IF THE EVIDENCE
19 WARRANTS IT YOU MAY CONVICT ONE AND ACQUIT THE OTHERS,
20 OR YOU MAY ACQUIT ALL, OR YOU MAY CONVICT ALL. IT
21 WILL DEPEND UPON YOUR VIEW OF THE TESTIMONY AND THE
22 EVIDENCE. YOU MUST TAKE EACH DEFENDANT AND CONSIDER
23 THE EVIDENCE AS TO THAT DEFENDANT AND MY INSTRUCTIONS
24 TO YOU ON THE LAW. YOU WILL THEN WRITE A SEPARATE
25 VERDICT OF GUILTY OR NOT GUILTY FOR EACH INDIVIDUAL

1 DEFENDANT AS TO EACH CHARGE.

2 EVERY ONE OF THE DEFENDANTS HAS PLED NOT GUILTY
3 TO THESE INDICTMENTS, AND THAT PUTS THE BURDEN ON THE
4 STATE TO PROVE EACH ONE OF THE DEFENDANTS GUILTY. A
5 PERSON CHARGED WITH COMMITTING A CRIMINAL OFFENSE IN
6 SOUTH CAROLINA IS NEVER REQUIRED TO PROVE HIMSELF
7 INNOCENT. I CHARGE YOU THAT IT IS AN IMPORTANT RULE
8 OF LAW THAT THE DEFENDANT IN A CRIMINAL TRIAL, NO
9 MATTER WHAT THE SERIOUSNESS OF THE CHARGE MAY BE, WILL
10 ALWAYS BE PRESUMED TO BE INNOCENT OF THE CRIMES FOR
11 WHICH THE INDICTMENTS WERE ISSUED UNLESS THE GUILT HAS
12 BEEN PROVEN BY EVIDENCE SATISFYING YOU, THE JURY, OF
13 THAT GUILT BEYOND A REASONABLE DOUBT. THIS
14 PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU BEGIN
15 YOUR DELIBERATIONS, BUT IT ACCOMPANIES THE DEFENDANTS
16 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF
17 GUILT BASED ON EVIDENCE SATISFYING YOU OF THAT GUILT
18 BEYOND A REASONABLE DOUBT. THE PRESUMPTION OF
19 INNOCENCE IS LIKE A ROBE OF RIGHTEOUSNESS PLACED ABOUT
20 THE DEFENDANT, OF EACH OF THE DEFENDANT, WHICH REMAINS
21 WITH THE DEFENDANT UNTIL IT HAS BEEN STRIPPED FROM THE
22 DEFENDANT BY EVIDENCE SATISFYING YOU OF THE
23 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT. THE
24 PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY,
25 IT IS NOT JUST A LEGAL PHRASE, IT IS A SUBSTANTIAL

1 RIGHT TO WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU,
2 THE JURY, ARE SATISFIED FROM THE EVIDENCE OF THE
3 DEFENDANT'S GUILTY BEYOND A REASONABLE DOUBT. THE
4 DEFENDANTS ARE ENTITLED TO EVERY INFERENCE IN THEIR
5 FAVOR WHICH CAN REASONABLY BE DRAWN FROM THE EVIDENCE.
6 WHEN TWO INFERENCES MAY BE DRAWN FROM THE SAME SET OF
7 FACTS, ONE CONSISTENT WITH THE VERDICT OF GUILTY, AND
8 ONE INFERENCE CONSISTENT WITH A VERDICT OF NOT GUILTY,
9 THE DEFENDANTS ARE ENTITLED TO THE INFERENCE WHICH IS
10 CONSISTENT WITH A VERDICT OF NOT GUILTY. YOU CANNOT
11 FIND THE DEFENDANTS GUILTY BASED UPON SUSPICION,
12 CONJECTURE OR SPECULATION, NO MATTER HOW STRONG. A
13 CONVICTION CAN ONLY BE BASED UPON PROOF OF GUILT
14 BEYOND A REASONABLE DOUBT. IF THE PROOF DOES NOT MEET
15 THAT STANDARD YOU MUST FIND THE DEFENDANT NOT GUILTY.

16 WHAT IS REASONABLE DOUBT IN THE LAW? A
17 REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD CAUSE
18 A REASONABLE PERSON TO HESITATE TO ACT. THE STATE HAS
19 THE BURDEN OF PROVING EACH DEFENDANT GUILTY BEYOND A
20 REASONABLE DOUBT. IN CRIMINAL CASES, AS I'VE SAID,
21 THE STATE'S PROOF MUST BE BEYOND A REASONABLE DOUBT.
22 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES
23 YOU FIRMLY CONVINCED OF THE DEFENDANTS' GUILT. THERE
24 ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH
25 ABSOLUTE CERTAINTY. IN CRIMINAL CASES THE LAW DOES

1 NOT REQUIRE PROOF THAT OVERCOMES VERY POSSIBLE. IF
2 BASED ON YOUR CONSIDERATION OF THE EVIDENCE YOU ARE
3 FIRMLY CONVINCED THAT A DEFENDANT IS GUILTY OF THE
4 CRIME CHARGED, YOU MUST FIND THAT DEFENDANT GUILTY.
5 IF, ON THE OTHER HAND, YOU THINK THERE IS A REAL
6 POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST
7 GIVE THAT DEFENDANT THE BENEFIT OF THE DOUBT AND FIND
8 HIM NOT GUILTY.

9 DURING THIS TRIAL YOU AND I HAVE CERTAIN DUTIES
10 TO PERFORM. AS THE TRIAL JUDGE IS IT MY
11 RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE,
12 AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY
13 FO THE EVIDENCE OFFERED DURING THE TRIAL.

14 YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE
15 BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED
16 STRICKEN FROM THE RECORD IN THIS CASE DURING THIS
17 TRIAL YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO
18 CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED
19 FROM THIS WITNESS STAND, FROM ANY EXHIBITS WHICH HAVE
20 BEEN MADE A PART OF THE RECORD IN THIS CASE, AND
21 STIPULATIONS OF COUNSEL.

22 I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW
23 APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE I AM
24 THE SOLE JUDGE OF THE LAW IN THIS CASE AND IT IS YOUR
25 DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I STATE

1 IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT
2 THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT
3 AGREE WITH WHAT I TELL YOU THE LAW IS, YOU MUST
4 ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE
5 LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

6 IN EVERY CASE TRIED BEFORE A JURY THE JURY IS THE
7 SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN THE CASE. A
8 TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON OR MAKE
9 ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN THE
10 CASE. SINCE YOU ARE THE SOLE JUDGES OF THE FACTS IN
11 THE CASE YOU ARE NOT TO INFER FROM WHAT I HAVE SAID
12 DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE
13 ADMISSIBILITY OF THE EVIDENCE OR OTHERWISE, OR
14 ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS
15 INSTRUCTION TO YOU THAT I HAVE ANY OPINION ABOUT THE
16 FACTS IN THE CASE. THE LAW DOES NOT ALLOW ME TO HAVE
17 AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A
18 MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS
19 JURORS IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE,
20 WEIGHT AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS
21 TRIAL.

22 NOW, DURING THIS TRIAL YOU'VE HEARD SOME
23 TESTIMONY OF THE POSSIBLE LENGTH OF PUNISHMENT FOR
24 CERTAIN CRIMES. YOU AS JURORS ARE NOT TO CONSIDER
25 POSSIBLE SENTENCES IN ANY MANNER WHATSOEVER IN

1 DETERMINING YOUR VERDICT. DEPENDING ON YOUR VERDICT
2 IT IS MY DUTY AS JUDGE TO DO THE SENTENCING. SO, I
3 REMIND YOU, YOU ARE NOT CONSIDER SENTENCING OR
4 PUNISHMENT. YOUR DUTY IS TO DETERMINE THE GUILT OR
5 INNOCENCE OF EACH DEFENDANT AS TO EACH CHARGE AND
6 RENDER A FAIR AND JUST VERDICT.

7 THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
8 GENERALLY PRESENTED DURING A TRIAL, DIRECT EVIDENCE
9 AND CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
10 TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL
11 KNOWLEDGE OF A FACT, SUCH AS AN EYE WITNESS. IT IS
12 EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT
13 TO BE PROVED. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A
14 CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE
15 EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY
16 ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT
17 MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON
18 INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR
19 OBSERVATION. THE LAW MAKES ABSOLUTELY NO DISTINCTION
20 BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
21 DIRECT OR CIRCUMSTANTIAL EVIDENCE, NOR IS A GREATER
22 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL
23 EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH
24 ALL OF THE EVIDENCE IN THIS CASE, AND AFTER WEIGHING
25 ALL OF THE EVIDENCE, IF YOU ARE NOT CONVINCED OF THE

1 GUILT OF A DEFENDANT BEYOND A REASONABLE DOUBT YOU
2 MUST FIND THAT DEFENDANT NOT GUILTY.

3 YOU MUST DETERMINE THE CREDIBILITY OF THE
4 WITNESSES WHO HAVE TESTIFIED IN THIS CASE.
5 CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT IS YOUR
6 DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE
7 AND DETERMINE WHICH EVIDENCE CONVINCES YOU OF ITS
8 TRUTH. IN DETERMINING THE BELIEVABILITY OF WITNESSES
9 WHO HAVE TESTIFIED IN THIS CASE YOU MAY BELIEVE ONE
10 WITNESS OVER SEVERAL WITNESSES, OR SEVERAL WITNESSES
11 OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE
12 TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART
13 OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY
14 BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY, OR
15 YOU MAY REJECT THE TESTIMONY OF A WITNESS IN ITS
16 ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS
17 EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE OR
18 OTHER MOTIVE IN THIS CASE. YOU MAY ALSO CONSIDER THE
19 APPEARANCE AND MANNER OF THE WITNESS STAND.

20 THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
21 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSION. AN
22 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL
23 EXPERT WITNESSES. A WITNESS WHO BY EDUCATION AND
24 EXPERIENCE HAS BECOME EXPERT IN SOME ART, SCIENCE,
25 PROFESSION OR CALLING MAY STATE AN OPINION AS TO

1 RELEVANT AND MATERIALS IN WHICH THE WITNESS CLAIMS TO
2 BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THAT
3 OPINION. YOU SHOULD CONSIDER ANY EXPERT OPINION
4 RECEIVED INTO EVIDENCE IN THIS CASE, AND LIKE OTHER
5 EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF
6 YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS
7 NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR
8 IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF
9 THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS
10 OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE
11 OPINION ENTIRELY. AN EXPERT WITNESS'S TESTIMONY IS TO
12 BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER
13 WITNESSES SIMPLY BECAUSE A WITNESS IS AN EXPERT.
14 FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S
15 OPINION EVEN THOUGH IT IS NOT CONTRADICTED.

16 I INSTRUCT YOU AND EMPHASIZE TO YOU THAT THE FACT
17 THAT THE DEFENDANTS DID NOT TESTIFY IS NOT A FACTOR TO
18 BE CONSIDERED BY YOU IN ANY WAY IN YOUR DELIBERATIONS
19 AND IN YOUR CONSIDERATION OF THE QUESTIONS OF THE
20 GUILT OR INNOCENCE OF EACH OF THE DEFENDANTS. IT MUST
21 NOT BE CONSIDERED BY YOU IN ANY MANNER WHATSOEVER. A
22 DEFENDANT HAS THE CONSTITUTIONAL RIGHT TO REMAIN
23 SILENT, AND THE ASSERTION OF THIS RIGHT MUST NOT BE
24 CONSIDERED BY YOU IN YOUR DELIBERATIONS. I REPEAT,
25 UNDER YOUR OATH AS JURORS YOU ARE TO DRAW NO

1 CONCLUSION WHATSOEVER FROM THE FACT THAT THE
2 DEFENDANTS IN THIS CASE DID NOT TESTIFY. THE FACT
3 THAT THE DEFENDANTS DID NOT TESTIFY SHOULD NOT EVEN BE
4 DISCUSSED IN THE JURY ROOM. THE BURDEN OF PROOF, AS I
5 HAVE STATED TO YOU, IS ON THE STATE. A DEFENDANT IS
6 NOT REQUIRED TO PROVE HIS INNOCENCE, THE BURDEN OF
7 PROOF REMAINS ON THE STATE TO PROVE GUILT BEYOND A
8 REASONABLE DOUBT AS TO EACH DEFENDANT AND AS TO EACH
9 CHARGE.

10 IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO
11 ARE ACTING TOGETHER IN COMMITTING A CRIME, THE ACT OF
12 ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH
13 ANOTHER TO COMMIT AN UNLAWFUL ACT IS CRIMINALLY
14 RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON
15 WHICH HAPPENS AS A PROBABLE OR NATURAL CONSEQUENCE OF
16 THE ACTS DONE IN THE CARRYING OUT THE COMMON PLAN AND
17 PURPOSE. IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING
18 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
19 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL, OR AS IT IS
20 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.

21 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE
22 COMMITTED, WITHOUT MORE, IS NOT SUFFICIENT TO MAKE A
23 PERSON GUILTY OF THAT CRIME. MERE KNOWLEDGE THAT
24 ANOTHER PERSON IS GOING TO COMMIT A CRIME, EVEN IF THE
25 DEFENDANT IS PRESENT WHEN THE CRIME IS COMMITTED, IS

1 NOT SUFFICIENT TO CONVICT THE DEFENDANT AS A
2 PRINCIPAL. GUILT AS A PRINCIPAL IS SHOWN BY ACTUAL OR
3 CONSTRUCTIVE PRESENCE AT THE SCENE AS THE RESULT OF
4 PRIOR ARRANGEMENT. THEREFORE, A FINDING OF A PRIOR
5 ARRANGED PLAN OR COMMON SCHEME IS NECESSARY FOR A
6 FINDING OF GUILT AS A PRINCIPAL. THE STATE MUST PROVE
7 BEYOND A REASONABLE DOUBT BY COMPETENT EVIDENCE THE
8 THEORY OF THE HAND OF ONE IS THE HAND OF ALL. A
9 PRINCIPAL IN A CRIME IS ONE WHO EITHER ACTUALLY
10 COMMITS THE CRIME OR WHO IS PRESENT, AIDING, ABETTING
11 OR ASSISTING IN COMMITTING THE CRIME. WHEN A PERSON
12 DOES AN ACT IN THE PRESENCE OF AND WITH THE ASSISTANCE
13 OF ANOTHER THE ACT IS DONE BY BOTH. WHERE TWO OR MORE
14 ARE ACTING WITH A COMMON PLAN OR INTENT OR PRESENT AT
15 THE COMMISSION OF A CRIME IT IS NOT, IT DOES NOT
16 MATTER WHO ACTUALLY COMMITS THE CRIME, ALL ARE GUILTY.
17 THE HAND OF ONE IS THE HAND OF ALL. PRESENT AT THE
18 COMMISSION OF A CRIME MEANS TO BE SUFFICIENTLY NEAR TO
19 AID AND ABET AND ASSIST IN THE COMMISSION OF THE
20 CRIME. HOWEVER, MERE PRESENCE AT THE SCENE OF A CRIME
21 IS NOT SUFFICIENT TO CONVICT ONE AS A PRINCIPAL ON THE
22 THEORY OF AIDING AND ABETTING. INTENT IS ALSO A
23 NECESSARY ELEMENT, FOR THERE MUST HAVE BEEN A COMMON
24 DESIGN OR INTENT TO COMMIT THE CRIME, AND THE CRIME
25 MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE

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1 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT
2 MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT
3 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
4 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER
5 CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
6 REASONABLY INFER INTENT. THE STATE MUST PROVE THESE
7 ELEMENTS BEYOND A REASONABLE DOUBT.

8 MERE PRESENCE AT THE SCENE IS NOT SUFFICIENT TO
9 PROVE SOMEONE GUILTY OF A CRIME. A DEFENDANT'S MERE
10 PRESENCE WHERE A CRIME IS BEING COMMITTED, OR MERE
11 ASSOCIATION WITH A PERSON WHO COMMITS A CRIME DOES NOT
12 MAKE A DEFENDANT AN ACCOMPLICE, OR AN AIDER OR AN
13 ABETTER OF THE PERSON COMMITTING THE CRIME. THE
14 BURDEN IS ON THE STATE TO PROVE EVERY ELEMENT OF THE
15 CRIME CHARGED. IF YOU FIND AFTER REVIEWING ALL OF THE
16 EVIDENCE THAT THE STATE HAS PROVEN THAT THE DEFENDANT
17 WAS ONLY PRESENT AT THE SCENE OF A CRIME AND THAT THEY
18 HAVE NOT PROVED BEYOND A REASONABLE DOUBT ANY OTHER
19 PARTICIPATION IN THE CRIME, THEN YOU MUST FIND THE
20 DEFENDANT NOT GUILTY. THE LAW IS THAT PROOF OF
21 PRESENCE AT THE SCENE OF A CRIME IS NOT SUFFICIENT TO
22 FIND SOMEONE GUILTY.

23 IF TWO OR MORE COMBINE TOGETHER TO COMMIT AN
24 UNLAWFUL ACT AND IN THE EXECUTION OF THAT CRIMINAL ACT
25 A HOMICIDE IS COMMITTED BY ONE OF THE ACTORS AS A

1 PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN
2 PURSUANCE OF THE COMMON DESIGN, ALL PRESENT,
3 PARTICIPATING IN THE UNLAWFUL UNDERTAKING ARE AS
4 GUILTY AS THE ONE WHO COMMITTED THE FATAL ACT. THE
5 COMMON PURPOSE MAY NOT HAVE BEEN TO KILL OR MURDER,
6 BUT IF IT WAS UNLAWFUL AND IN THE EXECUTION OF THIS
7 COMMON PURPOSE A HOMICIDE IS COMMITTED BY ONE AS A
8 PROBABLE OR NATURAL CONSEQUENCE OF THE ACTS DONE IN
9 PURSUANCE OF THE COMMON DESIGN, THEN ALL PRESENT AND
10 PARTICIPATING IN THE UNLAWFUL DESIGN ARE AS GUILTY AS
11 THE SLAYER.

12 AN ISSUE IN THIS CASE IS THE IDENTIFICATION OF
13 THE DEFENDANTS AS A PERSON WHO COMMITTED THE CRIME
14 CHARGED. THE STATE HAS THE BURDEN OF PROVING IDENTITY
15 BEYOND A REASONABLE DOUBT. YOU MUST BE SATISFIED
16 BEYOND A REASONABLE DOUBT OF THE ACCURACY OF THE
17 IDENTIFICATION OF THE DEFENDANT BEFORE YOU MAY CONVICT
18 THE DEFENDANT. IDENTIFICATION TESTIMONY IS AN
19 EXPRESSION OF BELIEF OR IMPRESSION BY A WITNESS. YOU
20 MUST DETERMINE THE ACCURACY OF THE IDENTIFICATION OF
21 THE DEFENDANT. YOU MUST CONSIDER THE BELIEVABILITY OF
22 EACH IDENTIFICATION WITNESS IN THE SAME WAY AS ANY
23 OTHER WITNESS. YOU MAY CONSIDER WHETHER THE WITNESS
24 HAD AN ADEQUATE OPPORTUNITY TO OBSERVE THE OFFENDER AT
25 THE TIME OF THE OFFENSE. THIS WILL BE AFFECTED BY

1 THINGS LIKE, HOW LONG OR SHORT A TIME WAS AVAILABLE;
2 HOW FAR OR CLOSE THE WITNESS WAS; THE LIGHTING
3 CONDITION, AND WHETHER THE WITNESS HAD THE CHANCE TO
4 SEE OR KNOW THE PERSON IN THE PAST. ONCE AGAIN I
5 INSTRUCT YOU, THE BURDEN OF PROOF ON THE STATE EXTENDS
6 TO EVERY ELEMENT OF EACH CRIME CHARGED, AND THIS
7 SPECIFICALLY INCLUDES THE BURDEN OF PROVING BEYOND A
8 REASONABLE DOUBT THE IDENTITY OF THE DEFENDANT AS THE
9 PERSON WHO COMMITTED THE CRIME. IF AFTER EXAMINING
10 THE TESTIMONY YOU HAVE A REASONABLE DOUBT AS TO THE
11 ACCURACY OF THE IDENTIFICATION YOU MUST FIND THE
12 DEFENDANT NOT GUILTY.

13 IN ORDER TO ESTABLISH CRIMINAL LIABILITY,
14 CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL
15 STATE REQUIRED TO BE PROVEN BY THE STATE FOR A
16 PARTICULAR CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE,
17 RECKLESS OR CRIMINAL NEGLIGENCE. CRIMINAL INTENT MUST
18 BE PROVEN BY THE STATE BEYOND A REASONABLE DOUBT.
19 CRIMINAL INTENT IS ALWAYS A MATTER THAT MUST BE
20 DETERMINED BY THE JURY FROM THE CIRCUMSTANCES
21 SURROUNDING THE SITUATION. THERE IS NOT WAY TO PROVE
22 INTENT TO A MATHEMATICAL CERTAINTY. THERE IS NO WAY
23 MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN AND
24 DETERMINE WHAT THE PERSON HAD IN MIND, SO THE LAW SAYS
25 THAT CRIMINAL INTENT MAY BE INFERRED FROM THE

1 CIRCUMSTANCES SHOW TO HAVE EXISTED. THIS IS HOW YOU
2 MAKE A DETERMINATION OF WHETHER OR NOT THE ELEMENT
3 REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO
4 ESTABLISH BY DIRECT AND POSITIVE, BUT INTENT MAYBE
5 ESTABLISHED BY INFERENCE IN THE SAME WAY AS ANY OTHER
6 FACT, BY TAKING INTO CONSIDERATION THE ACTS OF THE
7 PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE
8 CASE. CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS
9 WRONG DOING. IT IS UP TO YOU DETERMINE THAT THE
10 DEFENDANT INTENDED -- WHAT THE DEFENDANT INTENDED TO
11 DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED.
12 CRIMINAL INTENT CAN ARISE FROM ACTION OR A FAILURE TO
13 ACT. IT MAY ARISE FROM NEGLIGENCE, RECKLESSNESS, OR
14 INDIFFERENCE TO DUTY, OR TO CONSEQUENCES THAT ARE
15 CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL
16 INTENT.

17 THE DEFENDANTS ARE CHARGED WITH ARMED ROBBERY.
18 IN ORDER TO PROVE THIS OFFENSE THE STATE MUST FIRST
19 PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT
20 TOOK PERSONAL PROPERTY FROM THE PERSON OR PRESENCE OF
21 ANOTHER PROPERTY. PROPERTY IS IN THE PRESENCE OF A
22 PERSON IF IT IS WITHIN THE PERSON'S REACH, INSPECTION,
23 OBSERVATION OR CONTROL SO THAT A PERSON COULD, IF NOT
24 OVERCOME WITH VIOLENCE OR PREVENTED BY FEAR, KEEP
25 POSSESSION OF THE PROPERTY. THE STATE MUST ALSO PROVE

1 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT CARRIED
2 THE PROPERTY AWAY INTENDING TO PERMANENTLY DEPRIVE THE
3 OWNER OF THE PROPERTY AND TO KEEP THE PROPERTY FOR THE
4 DEFENDANT'S OWN USE. THE SLIGHTEST REMOVAL OF THE
5 PROPERTY OR THE COMPLETE POSSESSION OF THE PROPERTY,
6 EVEN FOR AN INSTANT, BY THE DEFENDANT IS SUFFICIENT TO
7 SHOW A TAKING AND CARRYING AWAY OF THE PROPERTY. THE
8 TAKING AND CARRYING AWAY OF THE PROPERTY MUST HAVE
9 BEEN DONE WITH VIOLENCE OR BY PUTTING THE OWNER OF THE
10 PROPERTY IN FEAR OF VIOLENCE. AND FINALLY, THE STATE
11 MUST PROVE BEYOND A REASONABLE DOUBT THAT THE
12 DEFENDANT WAS ARMED WITH A DEADLY WEAPON DURING THE
13 ROBBERY. A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT
14 OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
15 BODILY HARM. WHETHER AN INSTRUMENT HAS BEEN USED AS A
16 DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES
17 IN EACH CASE. THE FOLLOWING ARE EXAMPLES OF
18 INSTRUMENTS WHICH MAY BE DEADLY WEAPONS: A PISTOL,
19 SHOT GUN, A RIFLE, A DAGGER, A KNIFE, A SLING SHOT,
20 METAL KNUCKLES, A RAZOR, GASOLINE, A FIRE BOMB OR A
21 MOLOTOV COCKTAIL; AND LIGHTER FLUID. A GUN MAY BE A
22 DEADLY WEAPON EVEN IF IT IS NOT OPERATING.

23 AN ATTEMPT IS AN EFFORT TO ACCOMPLISH A CRIME
24 WHICH DOES NOT SUCCEED. AN ATTEMPT INCLUDES A
25 SPECIFIC INTENT TO DO A PARTICULAR CRIMINAL ACT ALONG

1 WITH AN ACT FALLING SHORT OF THE ACT INTENDED. THE
2 STATE MUST SHOW MORE THAN MERE PREPARATION AND INTENT.
3 THERE MUST BE SOME OVERT ACT ACCOMPANIED IN THE EFFORT
4 TO COMMIT THE CRIME. INTENT MEANS INTENDING THE
5 RESULT WHICH ACTUALLY OCCURS NOT ACCIDENTALLY OR
6 INVOLUNTARILY. INTENT MAY BE SHOWN BY ACTS AND
7 CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
8 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.

9 THE DEFENDANTS ARE ALSO CHARGED WITH FIRST DEGREE
10 BURGLARY. THE STATE MUST FIRST PROVE BEYOND A
11 REASONABLE DOUBT THAT THE DEFENDANT ENTERED A DWELLING
12 WITHOUT CONSENT. A DWELLING IS ANY BUILDING OR
13 PORTION OF A BUILDING IN WHICH A PERSON ORDINARILY
14 SLEEPS. A BUILDING CONSTRUCTED AS A DWELLING THAT HAS
15 NEVER BEEN OCCUPIED CANNOT BE CONSIDERED A DWELLING
16 FOR PURPOSES OF BURGLARY, BUT A BUILDING IS A DWELLING
17 EVEN IF THE RESIDENTS ARE TEMPORARILY ABSENT FROM THE
18 BUILDING. IN ORDER TO PROVE THAT THE DEFENDANT
19 ENTERED THE DWELLING THE STATE DOES NOT HAVE TO SHOW
20 THAT THE DEFENDANT'S ENTIRE BODY ENTERED THE
21 DWELLING, THE SMALLEST ENTRY IS SUFFICIENT. IT MAY BE
22 ANY PART OF THE BODY SUCH AS A HAND, A FOOT, OR EVEN
23 AN INSTRUMENT SUCH AS A HOOK OR OTHER INSTRUMENT. IN
24 ADDITION, THE STATE DOES NOT HAVE TO PROVE THAT FORCE
25 WAS USED TO GAIN ENTRY. IF A PERSON ENTERS A

1 BUILDING BY USING DECEPTION, ARTIFICE, TRICK OR
2 MISREPRESENTATION TO GET CONSENT TO ENTER, THIS IS AN
3 ENTRY WITHOUT CONSENT. NEXT, THE STATE MUST PROVE
4 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT INTENDED
5 TO COMMIT A CRIME, EITHER A FELONY OR A MISDEMEANOR,
6 AT THE TIME OF THE ENTRY. THE MERE ENTRY INTO A
7 DWELLING WITHOUT CONSENT IS NOT BURGLARY. IF THE
8 INTENT TO COMMIT A CRIME IS FORMED AFTER THE ENTRY IT
9 IS NOT BURGLARY. ON THE OTHER HAND, IF THE DEFENDANT
10 INTENDED TO COMMIT A CRIME AT THE TIME OF THE ENTRY IT
11 IS BURGLARY, EVEN IF THE INTENT WAS ABANDONED AFTER
12 ENTRY. IT DOES NOT MATTER THAT THE INTENDED CRIME WAS
13 NOT COMPLETED. INTENT MAY BE SHOWN BY ACTS AND
14 CONDUCT OF THE DEFENDANT AND OTHER CIRCUMSTANCES FROM
15 WHICH YOU MAY NATURALLY AND REASONABLY INFER INTENT.
16 AND FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE
17 DOUBT THAT WHEN ENTERING, WHILE IN THE DWELLING, OR
18 WHILE FLEEING, THE DEFENDANT OR AN ACCOMPLICE, WAS
19 ARMED WITH A DEADLY WEAPON OR EXPLOSIVE. AS I'VE SAID
20 BEFORE, A DEADLY WEAPON IS ANY ARTICLE, INSTRUMENT OR
21 SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH OR GREAT
22 BODILY HARM, WHETHER THE INSTRUMENT HAS BEEN USED AS A
23 DEADLY WEAPON DEPENDS ON THE FACTS AND CIRCUMSTANCES
24 IN EACH CASE. I HAVE ALREADY GIVEN YOU EXAMPLES OF
25 THOSE INSTRUMENTS THAT MAY BE DEADLY WEAPONS AND I'M

1 NOT GOING TO REPEAT THAT.

2 COURT REPORTER: JUST A MINUTE, JUDGE. OKAY, I'M
3 READY.

4 THE COURT: OKAY, THANK YOU.

5 BREAKING IN IS NOT AN ELEMENT OF THE CRIME OF
6 BURGLARY. THE PHRASE, ENTERS A BUILDING WITHOUT
7 CONSENT IS DEFINED AS, TO ENTER WITHOUT THE CONSENT OF
8 A PERSON IN LAWFUL POSSESSION OR TO ENTER BY USING
9 DECEPTION, ARTIFICE, TRICK OR MISREPRESENTATION TO
10 GAIN CONSENT TO ENTER FROM THE PERSON IN LAWFUL
11 POSSESSION. DECEPTION IS DEFINED AS USE OF DECEIT.
12 ARTIFICE IS DEFINED AS SUBTLE BUT BASE DECEPTION.
13 TRICK IS DEFINED AS AN ACTION DESIGNATED TO ACHIEVE AN
14 END BY DECEPTION OR FRAUDULENT MEANS.
15 MISREPRESENTATION IS DEFINED AS TO GIVE AN INCORRECT
16 OR MISLEADING REPRESENTATION OF.

17 THE DEFENDANTS IN THIS CASE ARE ALSO CHARGED WITH
18 MURDER. THE STATE MUST PROVE BEYOND A REASONABLE
19 DOUBT THAT THE DEFENDANT KILLED ANOTHER PERSON WITH
20 MALICE AFORETHOUGHT. MALICE IS HATRED, ILL WILL OR
21 HOSTILITY TOWARDS ANOTHER PERSON. IT IS THE
22 INTENTIONAL DOING OF A WRONGFUL ACT WITHOUT JUST CAUSE
23 OR EXCUSE AND WITH AN INTENT TO INFLECT AN INJURY OR
24 UNDER CIRCUMSTANCES THAT THE LAW WILL INFER AN EVIL
25 INTENT. MALICE AFORETHOUGHT DOES NOT REQUIRE THAT

1 MALICE EXIST FOR ANY PARTICULAR TIME BEFORE THE ACT IS
2 COMMITTED, BUT MALICE MUST EXIST IN THE MINDS OF THE
3 DEFENDANTS JUST BEFORE AND AT THE TIME THE ACT IS
4 COMMITTED. THEREFORE, THERE MUST BE A COMBINATION OF
5 THE PREVIOUS EVIL INTENT AND THE ACT. MALICE
6 AFORETHOUGHT MAY BE EXPRESSED OR INFERRED. THE TERMS,
7 EXPRESS AND INFERRED DO NOT MEAN DIFFERENT KINDS OF
8 MALICE BUT MERELY THE MANNER IN WHICH MALICE MAY BE
9 SHOWN TO EXIST. THAT IS EITHER BY DIRECT EVIDENCE OR
10 BY INFERENCE FROM THE FACTS AND CIRCUMSTANCES WHICH
11 ARE PROVED. EXPRESS MALICE IS SHOWN WHEN A PERSON
12 SPEAKS WORDS WHICH EXPRESS HATRED OR ILL WILL FOR
13 ANOTHER OR WHEN THE PERSON PREPARED BEFOREHAND TO DO
14 THE ACT WHICH WAS LATER ACCOMPLISHED. FOR EXAMPLE,
15 LYING IN WAIT FOR A PERSON OR ANY OTHER ACTS OF
16 PREPARATION GOING TO SHOW THAT THE DEED WAS WITHIN THE
17 DEFENDANT'S MIND WOULD BE EXPRESS MALICE. MALICE MAY
18 ALSO BE INFERRED FROM THE CONDUCT SHOWING A TOTAL
19 DISREGARD FOR HUMAN LIFE. INFERRED MALICE MAY ALSO
20 ARISE WHEN THE DEED IS DONE WITH A DEADLY WEAPON. AS
21 I TOLD YOU BEFORE, A DEADLY WEAPON IS ANY ARTICLE,
22 INSTRUMENT OR SUBSTANCE WHICH IS LIKELY TO CAUSE DEATH
23 OR GREAT BODILY HARM, AND WHETHER AN INSTRUMENT HAS
24 BEEN USED AS A DEADLY WEAPON DEPENDS ON THE FACTS AND
25 CIRCUMSTANCES IN EACH CASE. AGAIN, I REFER YOU TO YOU

1 THE EXAMPLES OF INSTRUMENTS WHICH MAY BE DEADLY
2 WEAPONS WHICH I HAVE STATED EARLIER.

3 IF A PERSON COMPLETELY WITHDRAWS FROM THE COMMON
4 DESIGN OR PLAN AND COMMUNICATES HIS WITHDRAWAL TO HIS
5 ASSOCIATES UNDER CIRCUMSTANCES THAT PERMIT THE
6 ASSOCIATES TO WITHDRAW THEN THE PERSON ESCAPES
7 CRIMINAL RESPONSIBILITY FOR THE ACTS OF THE
8 ASSOCIATES. HOWEVER, IF THE WITHDRAWAL WAS NOT
9 COMMUNICATED TO A PARTICULAR ASSOCIATE OR IF THAT
10 ASSOCIATE DID NOT HAVE THE OPPORTUNITY TO WITHDRAW
11 AFTER THE COMMUNICATION THEN THE PERSON REMAINS
12 RESPONSIBLE FOR THE ACTIONS OF THAT ASSOCIATE THAT
13 WERE THE NATURAL AND PROBABLE CONSEQUENCES OF THEIR
14 COMMON DESIGN.

15 NOW, THE LAW REQUIRES THAT A PERSON INVOLVED IN A
16 COMMON DESIGN MUST WITHDRAW ENTIRELY AND COMPLETELY
17 FROM IT, AND MUST COMMUNICATE THAT WITHDRAWAL TO HIS
18 ASSOCIATE. A PERSON WHO CONTINUES IN THE COMMON
19 DESIGN CANNOT CLAIM WITHDRAWAL. IT IS THE BURDEN ON
20 THE STATE TO PROVE THAT THE DEFENDANT HAD NOT
21 WITHDRAWN FROM AN UNLAWFUL COMMON DESIGN OR PLAN AT
22 THE RELEVANT TIME.

23 VOLUNTARY INTOXICATION OR THE USE OF DRUGS DOES
24 NOT CONSTITUTE A DEFENSE TO A CRIME.

25 I AM REQUIRED TO DECLARE THE LAW TO YOU AS I HAVE

1 DONE THROUGH THESE INSTRUCTIONS TO HELP GUIDE YOU TO A
2 JUST AND LAWFUL VERDICT. WHETHER SOME OF THESE
3 INSTRUCTIONS WILL APPLY WILL DEPEND UPON WHAT YOU FIND
4 TO BE THE FACTS IN THIS CASE. THE FACT THAT I HAVE
5 INSTRUCTED YOU ON VARIOUS SUBJECTS IN THIS CASE MUST
6 NOT BE TAKEN AS INDICATING AN OPINION OF THIS COURT AS
7 TO WHAT YOU SHOULD FIND TO BE THE FACTS OR AS TO WHAT
8 YOUR VERDICT SHOULD BE.

9 YOUR VERDICT MUST REPRESENT THE CONSIDERED
10 JUDGEMENT OF EACH JUROR. IN ORDER TO RETURN A VERDICT
11 IT IS NECESSARY THAT EACH ONE OF YOU AGREE. YOUR
12 VERDICT MUST BE UNANIMOUS, ALL TWELVE OF YOU MUST
13 AGREE ON THE VERDICT. YOUR VERDICT CANNOT BE BASED ON
14 SYMPATHY, PASSION, PREJUDICE, EMOTION OR ANY OTHER
15 CONSIDERATION NOT IN EVIDENCE IN THIS CASE. REMEMBER,
16 YOU ARE NOT PARTISANS FAVORING ONE PARTY OVER ANOTHER,
17 YOU ARE THE JUDGES OF THE FACTS. YOUR SOLE INTEREST IS
18 TO SEEK THE TRUTH FROM THE EVIDENCE IN THIS CASE AND
19 RENDER A FAIR AND JUST VERDICT.

20 NOW, LADIES AND GENTLEMEN OF THE JURY, I HAVE
21 FIVE DIFFERENT VERDICT FORMS FOR EACH ONE OF THE FIVE
22 DEFENDANTS, AS YOU HAVE GOT TO JUDGE THEM EACH
23 SEPARATELY, AND I'M GOING TO GO OVER JUST ONE OF THEM,
24 JUST TO GIVE YOU AN IDEA OF HOW YOU ARE TO FILL THEM
25 OUT. THIS IS THE VERDICT FORM, MADAM FORELADY. IT

1 SAYS, "PLEASE CIRCLE THE APPROPRIATE VERDICT BELOW AND
2 FOLLOW THE ACCOMPANYING INSTRUCTIONS CAREFULLY." AND
3 THE FIRST QUESTION IS, "WE, THE JURY, UNANIMOUSLY FIND
4 THE DEFENDANT AS TO THE CHARGE OF MURDER," AND THEN
5 Y'ALL HAVE TO DECIDE WHETHER THAT DEFENDANT IS GUILTY
6 OR NOT GUILTY, AND YOU WILL CIRCLE WHICHEVER ONE YOU
7 FIND. THE NEXT QUESTION, "WE, THE JURY, UNANIMOUSLY
8 FIND THE DEFENDANT AS TO THE CHARGE OF BURGLARY IN THE
9 FIRST DEGREE," EITHER GUILTY OR NOT GUILTY. NOW EACH
10 ONE OF THESE IS FOR EACH SEPARATE DEFENDANT. YOU HAVE
11 GOT TO DETERMINE EACH DEFENDANT'S GUILT AS TO EACH
12 CHARGE SEPARATELY. THE THIRD QUESTION, "WE, THE JURY,
13 UNANIMOUSLY FIND THE DEFENDANT AS TO THE CHARGE OF
14 ARMED ROBBERY," EITHER GUILTY OR NOT GUILTY. NOW, ON
15 THIS CHARGE IF YOU FIND THE DEFENDANT NOT GUILTY OF
16 NUMBER THREE -- IF YOU FIND THE DEFENDANT GUILTY OF
17 NUMBER THREE, EXCUSE ME, THEN SKIP FOUR, STOP AND END
18 YOUR DELIBERATIONS. OKAY? IF YOU FIND THE DEFENDANT
19 NOT GUILTY OF NUMBER THREE, THEN YOU GO TO NUMBER
20 FOUR. AND IF I CAN SEPARATE THIS I'LL TELL YOU WHAT
21 NUMBER FOUR IS. AND NUMBER FOUR READS, "WE, THE JURY,
22 UNANIMOUSLY FIND THE DEFENDANT AS TO THE CHARGE OF
23 ATTEMPTED ARMED ROBBERY," EITHER GUILTY OR NOT
24 GUILTY. OKAY? AND THEN, STOP AND END YOUR
25 DELIBERATIONS. AND MADAM FORELADY, YOU'LL HAVE TO

1 SIGN AND DATE IT. OKAY?

2 ALRIGHT, NOW, I'M NOT GIVING YOU THESE VERDICT
3 FORMS YET, BECAUSE WHAT'S GOING TO HAPPEN NOW IS, I'M
4 GOING TO EXCUSE Y'ALL TO GO BACK TO THE JURY ROOM.
5 AGAIN, YOU CANNOT BEGIN YOUR DELIBERATIONS YET, I HAVE
6 NOT TOLD YOU TO BEGIN YOUR DELIBERATIONS. WHILE YOU
7 ARE BACK IN THE JURY ROOM I WILL GO OVER WITH THE
8 LAWYERS INVOLVED IN THIS CASE AND SEE IF THEY HAVE ANY
9 CORRECTIONS OR ADDITIONS THAT I NEED TO MAKE TO THE
10 CHARGES THAT I GAVE TO YOU. IF I HAVE TO MAKE ANY
11 CORRECTIONS OR ADDITIONS TO THESE CHARGES I WILL BRING
12 YOU BACK OUT HERE AND I WILL DO THAT.

13 NOW, IF THEY TELL ME THAT EVERYTHING IS OKAY, I
14 DON'T NEED TO CHARGE YOU ON ANYTHING, I DON'T NEED TO
15 CORRECT ANYTHING, THEN WHAT I WILL DO IS, I WILL SEND
16 THE VERDICT FORMS BACK INTO THE JURY ROOM WITH YOU,
17 ALL THE EVIDENCE WILL GO BACK INTO THE JURY ROOM WITH
18 YOU, AND YOU WILL BE TOLD TO BEGIN YOUR DELIBERATIONS.
19 OKAY? BUT UNTIL YOU ARE TOLD TO BEGIN YOUR
20 DELIBERATIONS YOU MAY NOT DISCUSS THIS CASE.

21 ALRIGHT, I'M GOING TO LET Y'ALL GO BACK INTO THE
22 JURY ROOM NOW WHILE I GO OVER THIS WITH THE ATTORNEYS.
23 (Whereupon, the jury retires
24 to the jury room and the following
25 takes place out of the presence

1 of the jury.)

2 THE COURT: ALRIGHT, ANYTHING FROM THE STATE?

3 SOLICITOR PASCOE: YES, YOUR HONOR, UNLESS I
4 MISSED IT, WHEN YOU WERE GOING OVER THE CHARGE ON
5 BURGLARY IN THE FIRST DEGREE I DIDN'T HEAR -- HEARD
6 THE AGGRAVATING CIRCUMSTANCES ABOUT THE USE OF A
7 DEADLY WEAPON, BUT I DIDN'T HEAR ABOUT OTHER
8 AGGRAVATING CIRCUMSTANCES SUCH AS INJURY TO THE
9 VICTIM, HOURS OF DARKNESS.

10 THE COURT: OH, YEAH, I'M SORRY, I'VE GOT --
11 THAT'S WHEN WE WERE CHANGING THE TAPE, WEREN'T WE?

12 SOLICITOR PASCOE: PROBABLY WAS, YES, SIR RIGHT
13 AROUND THERE, YES, SIR.

14 THE COURT: YEAH, I APOLOGIZE.

15 SOLICITOR PASCOE: IT'S MS HARRY DOT'S FAULT.

16 THE COURT: NO, NO, NO, IT'S MY FAULT, BUT I DID
17 NOT FINISH LISTING -- YOU'RE CORRECT ABOUT THAT.
18 OKAY. ALRIGHT. ANYTHING FROM THE DEFENDANTS?

19 MR. LACKEY: NO, SIR.

20 MS. ULLMAN: NO SIR.

21 MR. PALMER: NO, SIR, YOUR HONOR.

22 MR. MELLARD: NO, YOUR HONOR.

23 MR. KOGER: NO, YOUR HONOR.

24 THE COURT: OKAY. I'M GOING TO HAVE TO CALL THE
25 JURY BACK OUT HERE AND FINISH READING OVER THAT PART

1 OF THE BURGLARY CHARGE.

2 SOLICITOR PASCOE: AND JUST WHILE I'M THINKING
3 ABOUT IT, BEFORE THEY COME OUT, AND YOUR HONOR WAS
4 PROBABLY GOING TO DO THIS ANYWAY, I WOULD ASK THAT THE
5 ALTERNATE NOT BE EXCUSED, BECAUSE WE DON'T KNOW HOW
6 LONG THIS JURY MIGHT DELIBERATE. I WOULD ASK THAT SHE
7 JUST BE ISOLATED FROM THE OTHER JURORS IN CASE
8 SOMETHING HAPPENS, IF THAT'S OKAY.

9 THE COURT: OKAY. WELL, I'LL DO THAT.

10 OKAY, WOULD YOU BRING THE JURY BACK OUT. I'M
11 JUST GOING TO PICK UP WHERE I LEFT OFF ON THAT CHARGE,
12 I'M NOT GOING TO GO BACK OVER THE WHOLE CHARGE.

13 SOLICITOR PASCOE: YES, SIR, THAT'S FINE.

14 THE COURT: AND I'M NOT GOING TO SEND THE STUFF
15 BACK IN THERE UNTIL THEY FINISH EATING.

16 SOLICITOR PASCOE: YES, SIR. SO, YOU'RE JUST
17 GOING TO TELL THEM NOT TO DELIBERATE UNTIL THEY GET
18 THE EVIDENCE?

1 THE COURT: YES, I'LL LET THEM EAT AND THEN WE'LL
2 GET EVERYTHING BACK IN THERE.

3 OKAY, TELL, THEM TO COME ON OUT.

4 (Whereupon, the jury enters
5 the courtroom and the following
6 takes place in the presence
7 of the jury.)

8 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, WHEN I
9 WAS DOING THE CHARGE ON BURGLARY, I THINK YOU MAY
10 RECALL, MS. WALKER HAD TO STOP AND CHANGE THE TAPE,
11 AND UNFORTUNATELY I DROPPED, I FORGOT TO FINISH
12 READING YOU ON THE CHARGES ABOUT CIRCUMSTANCES WITH
13 DIFFERENT EXAMPLES REGARDING BURGLARY, SO I'M GOING TO
14 FINISH THAT UP. AND THIS IS ON THE BURGLARY CHARGE.

15 FINALLY, THE STATE MUST PROVE BEYOND A REASONABLE
16 DOUBT THAT WHEN ENTERING OR WHILE IN THE DWELLING, OR
17 WHEN FLEEING THE DEFENDANT OR AN ACCOMPLICE CAUSE
18 PHYSICAL INJURY TO ANYONE NOT PARTICIPATING IN THE
19 CRIME OR WHEN ENTERING, WHILE IN THE DWELLING, OR WHEN
20 FLEEING THE DEFENDANT OR AN ACCOMPLICE USED OR
21 THREATENED TO USE A DANGEROUS OBJECT, OR WHEN
22 ENTERING, WHILE IN THE DWELLING, OR WHEN FLEEING THE
23 DEFENDANT OR AN ACCOMPLICE DISPLAYED WHAT WAS OR
24 APPEARED TO BE A KNIFE, PISTOL, REVOLVER, RIFLE, SHOT
25 GUN, MACHINE GUN OR OTHER FIREARM OR THE DEFENDANT OR

1 REMAINED IN THE DWELLING IN THE NIGHT TIME. NIGHT
2 TIME IS THE PERIOD BETWEEN SUNSET AND SUNRISE, DURING
3 WHICH THERE IS NOT ENOUGH DAYLIGHT TO RECOGNIZE A
4 PERSON'S FACE EXCEPT BY ARTIFICIAL LIGHT OR MOONLIGHT.

5 ALRIGHT. ALRIGHT, NOW, HAVING SAID, THAT I
6 UNDERSTAND YOUR LUNCH IS THERE. OKAY? I'M GOING TO
7 EXCUSE Y'ALL TO GO BACK INTO THE JURY ROOM. I WILL LET
8 YOU EAT YOUR LUNCH. WHEN Y'ALL ARE THROUGH EATING
9 YOUR LUNCH IF YOU WILL LET THE BAILIFF KNOW AND SHE
10 WILL LET ME KNOW, AND THEN I'LL SEND THE EVIDENCE BACK
11 IN THERE AND THE VERDICT FORMS AND TELL YOU TO BEGIN
12 YOUR DELIBERATIONS.

13 NOW, WHILE YOU ARE EATING LUNCH YOU ARE NOT TO
14 DISCUSS THIS CASE. OKAY? YOU CANNOT DISCUSS THE CASE.
15 YOU'VE NOW HEARD EVERYTHING, BUT YOU CANNOT DISCUSS
16 THIS CASE UNTIL I SEND THE VERDICT FORMS BACK IN THERE
17 ALONG WITH THE EVIDENCE AND TELL YOU TO BEGIN YOUR
18 DELIBERATIONS. OKAY? Y'ALL ARE NOW EXCUSED TO GO
19 BACK INTO THE JURY ROOM.

20 (Whereupon, the jury retires
21 to the jury room and the following
22 takes place out of the presence
23 of the jury.)

24 THE COURT: ALRIGHT, ANYTHING ELSE FROM THE
25 STATE?

1 SOLICITOR PASCOE: NO, YOUR HONOR.

2 THE COURT: OKAY. ANYTHING FROM ANY OF THE
3 DEFENDANTS?

4 MR. LACKEY: NO, YOUR HONOR.

5 MS. ULLMAN: NO, YOUR HONOR.

6 MR. PALMER: NO, YOUR HONOR.

7 MR. MELLARD: NO, SIR.

8 MR. KOGER: NO, SIR.

9 THE COURT: ALRIGHT, GENTLEMEN, IF Y'ALL WANT TO
10 GO AHEAD AND EAT LUNCH, AND LADIES, IF Y'ALL WANT TO
11 GO GET SOMETHING TO EAT, IT'S GOING TO BE A WHILE
12 BEFORE THE JURY FINISHES. AS SOON AS THEY TELL ME
13 THEY'RE THROUGH I WILL -- WELL, YOU KNOW WHAT, I NEED
14 FOR Y'ALL, BEFORE Y'ALL LEAVE, IF Y'ALL WILL SIT DOWN,
15 MAKE SURE WE'VE GOT ALL THE EVIDENCE STRAIGHT SO
16 THEY'LL BE READY TO GO BACK, YOU KNOW, WHENEVER THE
17 JURY TELLS ME THAT THEY'RE READY TO BEGIN THEIR
18 DELIBERATIONS.

19 SOLICITOR PASCOE: YES, SIR, AND WE DON'T HAVE TO
20 BE HERE TO DO THAT BECAUSE THE BAILIFFS WILL JUST DO
21 THAT?

22 THE COURT: YEAH, THE BAILIFFS ARE GOING TO TAKE
23 IT BACK THERE, BUT I WANT Y'ALL TO MAKE SURE IT'S ALL
24 HERE, AND I THINK THERE WAS ONLY ONE THAT ONLY MARKED
25 FOR IDENTIFICATION - OKAY, MS. HARRY DOT'S GOT THAT.

1 OKAY.

2 SOLICITOR PASCOE: YOUR HONOR, I WANT TO MAKE
3 SURE THAT THE BAILIFFS -- MAKE SURE THAT THE ALTERNATE
4 IS TAKEN OUT AND ISOLATED SOMEWHERE?

5 THE COURT: YEAR, BEFORE THEY BEGIN THEIR
6 DELIBERATIONS. WHAT I WANT YOU TO DO -- THEY CAN EAT,
7 SHE CAN, YEAH, WHENEVER THE EVIDENCE GOES BACK THERE
8 IF YOU WILL HAVE HER GO SIT IN THE, ISN'T THERE
9 ANOTHER ROOM? OKAY. IF YOU WILL DO THAT I'LL
10 APPRECIATE IT.

11 ALRIGHT, WE ARE IN RECESS. THANK Y'ALL.

12 (Recess)

13 (Whereupon, the jury begins
14 their deliberations at 3:15 p.m.)

15 (Whereupon, the jury sends in
16 a note at 5:00 p.m.)

17 COURT REPORTER: THIS WILL BE COURT'S FIVE.
18 (Court's Exhibit Five
19 marked and filed.)

20 THE COURT: ALRIGHT, MS. WALKER, ARE YOU READY?

21 COURT REPORTER: YES, SIR.

22 THE COURT: LADIES AND GENTLEMEN, THE JURY HAS
23 SENT A QUESTION OUT TO ME. IT SAYS, "MAY WE PLEASE
24 HAVE THE CHARGES OF LAW IN RELATION TO HAND OF ONE,
25 HAND OF ALL." SO, WHAT I WAS PLANNING ON DOING WAS

1 READING MY HAND OF ONE, HAND OF ALL CHARGE AGAIN TO
2 THEM EXACTLY AS I GAVE IT TO THEM LAST TIME.

3 ANY OBJECTION FROM THE STATE?

4 SOLICITOR PASCOE: NO, SIR.

5 THE COURT: ANY OBJECTION, MR. LACKEY?

6 MR. LACKEY: NO, SIR, YOUR HONOR.

7 THE COURT: OKAY. MS. ULLMAN?

8 MS. ULLMAN: I GUESS THE ONLY THING I WOULD ASK
9 IF YOU'RE GOING TO DO THAT IS MAYBE ALSO AGAIN CHARGE
10 THEM ON THE MERE PRESENCE.

11 THE COURT: I UNDERSTAND YOUR REQUEST BUT THEY
12 DIDN'T ASK FOR THAT.

13 MS. ULLMAN: YES, SIR.

14 THE COURT: OKAY. MR. PALMER?

15 MR. PALMER: OH, I WAS GOING TO SUGGEST THE
16 SAME, YOUR HONOR, BUT - - -

17 THE COURT: OKAY.

18 MR. PALMER: --- IF YOUR HONOR CONSIDERS THOSE
19 TWO SEPARATE CHARGES ...

20 THE COURT: YEAH, ACTUALLY, IN THE HAND OF ONE
21 CHARGE IT HAS, IT HAS, IT SAYS SOMETHING ABOUT
22 PRESENCE AT THE SCENE NOT BEING ENOUGH. SO, MY HAND
23 OF ONE CHARGE ALREADY HAS THAT IN THERE, SO I'M NOT
24 GOING TO -- IT SAYS, "HOWEVER, MERE PRESENCE AT THE
25 SCENE AT THE CRIME IS NOT SUFFICIENT TO CONVICT ONE AS

1 A PRINCIPAL ON THE THEORY OF AIDING AND ABETTING."

2 MR. PALMER: YES, SIR, THAT WILL BE FINE.

3 MS. ULLMAN: YES, SIR.

4 THE COURT: SO, YEAH, OKAY.

5 MR. MELLARD: YES, THAT WILL BE FINE.

6 MR. KOGER: NO OBJECTION, YOUR HONOR.

7 THE COURT: OKAY. ALRIGHT, IF YOU'LL BRING THE
8 JURY ON OUT. EVEN THOUGH THE ALTERNATE HAS NOT BEEN
9 PART OF THE DELIBERATIONS, SINCE I'M GOING TO MAKE A
10 CHARGE I'M GOING TO BRING HER BACK OUT HERE ALSO JUST
11 SO SHE'LL BE IN THE SAME POSITION Y'ALL ARE IN.

12 (Whereupon, the jury enters
13 the courtroom and the following
14 takes place in the presence
15 of the jury.)

16 THE COURT: ALRIGHT, LADIES AND GENTLEMEN, I HAD
17 THE REQUEST THAT Y'ALL WANTED THE CHARGE OF HAND OF
18 ONE, HAND OF ALL AGAIN. SO, I'M GOING TO READ THAT
19 CHARGE TO YOU AGAIN, AND THIS IS IT.

20 IF A CRIME IS COMMITTED BY TWO OR MORE PEOPLE WHO
21 ARE ACTING TOGETHER IN COMMITTING A CRIME THE ACT OF
22 ONE IS THE ACT OF ALL. A PERSON WHO JOINS WITH
23 ANOTHER TO COMMIT AN UNLAWFUL ACT IS CRIMINALLY
24 RESPONSIBLE FOR EVERYTHING DONE BY THE OTHER PERSON
25 WHICH HAPPENS AS A PROBABLE OR NATURAL CONSEQUENCE OF

1 THE ACTS DONE IN CARRYING OUT THE COMMON PLAN AND
2 PURPOSE. IF TWO OR MORE PEOPLE ARE TOGETHER, ACTING
3 TOGETHER, ASSISTING EACH OTHER IN COMMITTING THE
4 OFFENSE, THE ACT OF ONE IS THE ACT OF ALL, OR AS IS
5 SOMETIMES SAID, THE HAND OF ONE IS THE HAND OF ALL.
6 PRIOR KNOWLEDGE THAT A CRIME IS GOING TO BE COMMITTED
7 WITHOUT MORE IS NOT SUFFICIENT TO MAKE A PERSON GUILTY
8 OF THAT CRIME. MERE KNOWLEDGE THAT ANOTHER PERSON IS
9 GOING TO COMMIT A CRIME, EVEN IF THE DEFENDANT IS
10 PRESENT WHEN THE CRIME IS COMMITTED IS NOT SUFFICIENT
11 TO CONVICT THE DEFENDANT AS A PRINCIPAL. GUILT AS A
12 PRINCIPAL IS SHOWN BY ACTUAL OR CONSTRUCTIVE PRESENCE
13 AT THE SCENE AS A RESULT OF PRIOR ARRANGEMENT.
14 THEREFORE, A FINDING OF A PRIOR ARRANGED PLAN OR
15 COMMON SCHEME IS NECESSARY FOR A FINDING OF GUILT AS A
16 PRINCIPAL. THE STATE MUST PROVE BEYOND A REASONABLE
17 DOUBT BY COMPETENT EVIDENCE, THE THEORY OF, THE HAND
18 OF ONE IS THE HAND OF ALL. A PRINCIPAL IN A CRIME IS
19 ONE WHO EITHER ACTUALLY COMMITS THE CRIME OR WHO IS
20 PRESENT, AIDING, ABETTING OR ASSISTING IN COMMITTING
21 THE CRIME. WHEN A PERSON DOES AN ACT IN THE PRESENCE
22 OF AND WITH THE ASSISTANCE OF ANOTHER THE ACT IS DONE
23 BY BOTH. WHERE TWO OR MORE ACTING WITH A COMMON PLAN
24 OR INTENT ARE PRESENT AT THE COMMISSION OF A CRIME IT
25 DOESN'T MATTER WHO ACTUALLY COMMITS THE CRIME, ALL ARE

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1 GUILTY. THE HAND OF ONE IS THE HAND OF ALL. PRESENT
2 AT THE COMMISSION OF A CRIME MEANS TO BE SUFFICIENTLY
3 NEAR TO AID AND ABET AND ASSIST IN THE COMMISSION OF
4 THE CRIME. HOWEVER, MERE PRESENCE AT THE SCENE OF A
5 CRIME IS NOT SUFFICIENT TO CONVICT ONE AS A PRINCIPAL
6 ON THE THEORY OF AIDING AND ABETTING. INTENT IS ALSO
7 A NECESSARY ELEMENT, FOR THERE MUST HAVE BEEN A COMMON
8 DESIGN OR INTENT TO COMMIT THE CRIME, AND THE CRIME
9 MUST HAVE BEEN COMMITTED PURSUANT THERETO WITH THE
10 PERSON AIDING AND ABETTING BY SOME OVERT ACT. INTENT
11 MEANS INTENDING THE RESULT WHICH ACTUALLY OCCURS, NOT
12 ACCIDENTALLY OR INVOLUNTARILY. INTENT MAY BE SHOWN BY
13 ACTS AND CONDUCT OF THE DEFENDANT AND OTHER
14 CIRCUMSTANCES FROM WHICH YOU MAY NATURALLY AND
15 REASONABLY INFER INTENT. THE STATE MUST PROVE THESE
16 ELEMENTS BEYOND A REASONABLE DOUBT.

17 ALRIGHT, LADIES AND -- YOU CAN'T ASK A QUESTION,
18 NO, MA'AM. I KNOW YOU'RE GETTING TO ASK SOMETHING,
19 YOU LOOKED LIKE YOU WERE. I'VE READ THE CHARGES TO
20 YOU. OKAY? NOW, IF Y'ALL HAVE ANOTHER QUESTION YOU
21 CAN GO BACK THERE AND IF YOU WANT TO REWORD THE
22 QUESTION. OKAY? SO, I'VE READ THE CHARGE TO YOU, AND
23 Y'ALL ARE NOW EXCUSED TO GO BACK AND RESUME YOUR
24 DELIBERATIONS.

25 AND IF YOU WILL KEEP THE ALTERNATE IN THE

1 SEPARATE ROOM. OKAY?

2 THANK Y'ALL.

3 (Whereupon, the jury retires
4 to the jury room and continues
5 their deliberations.)

6 THE COURT: AND THIS IS COURT'S EXHIBIT FIVE.

7 FROM THE FOREPERSON -- IT LOOKED LIKE SHE WAS
8 TRYING TO SAY SOMETHING, AND I DIDN'T -- SO, IF YOU
9 WANT TO SIT TIGHT AND LET'S SEE. BUT WE'LL BE IN
10 RECESS, TO SEE IF THERE IS ANOTHER QUESTION.

11 OH, AND WHILE WE'RE HERE I'M GOING TO MAKE
12 ANOTHER COURT'S EXHIBIT. WHILE WE WERE IN COURT THIS
13 WEEK, AND THIS IS JUST FOR THE COURT RECORD, THERE WAS
14 A -- ON TUESDAY, DECEMBER FOURTEENTH, THERE WAS
15 LOCATED AN UNFIRED TWENTY-TWO LONG RIFLE CARTRIDGE WAS
16 UNDER ONE OF THE BENCHES IN THE SECOND FLOOR
17 COURTROOM, AND THERE IS A REPORT THAT WAS FILED BY --
18 WHO IS THIS, KEN KINSEY? AND I'M JUST GOING TO HAVE A
19 -- JUST FOR THE RECORD, I'M JUST GOING TO HAVE A COPY
20 -- OH, THERE IT IS UP AT THE TOP, KENNY KINSEY, I'M
21 JUST MAKING THIS A COURT'S EXHIBIT SO IT WILL BE PART
22 OF THE RECORD, JUST TO SHOW, INDICATE WHAT WAS GOING
23 ON IN THE COURTROOM DURING THAT TIME. AND THIS WOULD
24 BE COURT'S EXHIBIT NUMBER SIX. OKAY? THAT'S A COPY.
25 AND IF ANYBODY NEEDS A COPY I'VE GOT A COPY FOR YOU.

1 THAT'S THE ORIGINAL, YOU CAN GIVE IT BACK TO HIM.

2 OKAY?

3 (Court's Exhibit Six
4 marked and filed.)

5 THE COURT: ALRIGHT, WE'RE IN RECESS UNTIL
6 SOMETHING ELSE HAPPENS. OKAY? THANK Y'ALL.

7 (Recess)

8 THE COURT: I HAVE BEEN TOLD THAT THE JURY HAS
9 REACHED A VERDICT.

10 MS. ULLMAN: YOUR HONOR, - - -

11 THE COURT: YES, MA'AM. MARK RAN DOWNSTAIRS, I
12 JUST TRIED TO CALL TO GET HIM.

13 THE COURT: OKAY. WELL, THEN, WE'LL -- OKAY,
14 WELL ...

15 MS. ULLMAN: IT CAN'T BE MORE THAN TWENTY SECONDS.

16 THE COURT: YEAH, YOU CAN ...

17 MS. ULLMAN: I'M SORRY.

18 THE COURT: OKAY. I HAVE BEEN TOLD THAT THE JURY
19 HAS REACHED A VERDICT, AND WE'VE HAD SOME DIFFERENT
20 SUGGESTIONS ABOUT HOW TO HANDLE THAT. I THINK THE
21 SHERIFF'S OFFICE IS CONCERNED A LITTLE BIT ABOUT
22 SECURITY AT THIS STAGE OF THE GAME, AND WHAT I THINK
23 WE WOULD LIKE TO DO IF THERE'S NO OBJECTION FROM THE
24 DEFENSE ATTORNEYS IS TO BRING OUT EACH DEFENDANT,
25 AFTER I BRING THE JURY OUT, BRING OUT A DEFENDANT AT A

1 TIME, AND THEN GO THROUGH WITH THAT DEFENDANT WHAT THE
2 VERDICT IS, AND WHATEVER WE NEED TO DO WITH THAT
3 DEFENDANT. ANY OBJECTION FROM YOU, MR. LACKEY?

4 MR. LACKEY: I DON'T BELIEVE SO, YOUR HONOR.

5 THE COURT: OKAY. MS. ULLMAN?

6 MS. ULLMAN: NO, SIR.

7 THE COURT: MR. PALMER.

8 MR. PALMER: NO OBJECTION.

9 MR. MELLARD: NO OBJECTION.

10 MR. KOGER: NONE, YOUR HONOR.

11 THE COURT: ALRIGHT. IS THE STATE READY?

12 SOLICITOR PASCOE: YES, SIR.

13 THE COURT: OKAY. ARE DEFENDANTS READY?

14 MR. LACKEY: YES, SIR.

15 THE COURT: OKAY. IF YOU WILL BRING OUT
16 CHRISTIAN, HE'S FIRST ON THE LIST. OKAY? AND BRING
17 THE JURY ON OUT. AND THEN WHAT I'M GOING TO HAVE HIM
18 GO BACK ONE AT A TIME, AND SO WE'LL JUST HAVE ONE
19 PERSON OUT HERE AT A TIME.

20 MR. LACKEY: WOULD YOU LIKE US TO STAND, YOUR
21 HONOR?

22 THE COURT: YOU CAN STAND RIGHT THERE. THAT WILL
23 BE FINE.

24 AND EVERYONE IN THE AUDIENCE, LET ME TELL YOU,
25 WE'RE GETTING READY TO ANNOUNCE THE VERDICTS, AND

1 WHATEVER THE VERDICT IS WE'RE NOT GOING TO HAVE ANY
2 OUTCRIES, NO TALKING, NO YELLING, NO, YOU KNOW,
3 NOTHING. AND IF YOU DON'T THINK YOU CAN SIT QUIETLY
4 YOU NEED TO EXIT THE COURTROOM NOW, BECAUSE IF I HAVE
5 ANY OUTBURSTS OR ANYTHING LIKE THAT YOU WILL BE DEALT
6 WITH. OKAY.

7 (Whereupon, the jury and
8 defendant Christian Coleman
9 enter the courtroom and
10 the following takes place
11 in the presence of the jury.)

12 THE COURT: ALRIGHT, LADIES AND GENTLEMEN OF THE
13 JURY, IT'S MY UNDERSTANDING THAT Y'ALL HAVE REACHED A
14 VERDICT, IS THAT TRUE, MADAM FORELADY?

15 JURY FORELADY: YES.

16 THE COURT: OKAY. AND YOUR VERDICT IS
17 UNANIMOUS?

18 JUROR FORELADY: YES.

19 THE COURT: AND YOUR VERDICT IS, REGARDING EACH
20 ONE OF THE DEFENDANTS AND EACH ONE OF THE CHARGES?

21 JUROR FORELADY: YES.

22 THE COURT: OKAY. NOW, MADAM FORELADY, WHAT
23 WE'RE GOING TO DO IS, WE'RE GOING TO DO EACH DEFENDANT
24 ONE AT A TIME. OKAY? SO, WHAT I'M GOING TO ASK YOU
25 TO DO IS, THE FIRST DEFENDANT THAT WE'RE GOING TO DEAL

1 WITH IS MR. CHRISTIAN COLEMAN. OKAY? SO, IF YOU
2 WOULD GET HIS VERDICT FORM OUT FOR ME, PLEASE, MA'AM,
3 AND IF YOU'LL GET READY. AND MADAM FORELADY, WITH
4 REGARD TO THE DEFENDANT, CHRISTIAN COLEMAN, THE JURY
5 HAS REACHED A UNANIMOUS VERDICT REGARDING ALL OF THE
6 CHARGES AGAINST MR. CHRISTIAN COLEMAN, IS THAT
7 CORRECT?

8 JURY FORELADY: YES, SIR.

9 THE COURT: OKAY. IF YOU WOULD HAND THAT VERDICT
10 FORM TO THE BAILIFF, PLEASE, MA'AM.

11 (Whereupon, the Court examines
12 the verdict forms.)

13 THE COURT: ALRIGHT, MADAM CLERK, IF YOU WOULD
14 PLEASE PUBLISH THE VERDICT.

15 VERDICT OF THE JURY

16 AS TO CHRISTIAN COLEMAN

17 CLERK: IN THE MATTER OF THE STATE VERSUS
18 CHRISTIAN COLEMAN, THE JURY UNANIMOUSLY FINDS THE
19 DEFENDANT AS TO THE CHARGE OF MURDER, GUILTY.

20 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
21 GUILT.

22 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

23 THE COURT: AND ON THE BACK PAGE, IT WAS SIGNED
24 AND DATED BY THE FORELADY?

25 CLERK: KELLY WILLIAMS, DECEMBER SEVENTEENTH, TWO

1 THOUSAND TEN.

2 THE COURT: ALRIGHT. IS THAT THE DECISION OF THE
3 JURY?

4 JURY FORELADY: YES, SIR.

5 THE COURT: IS THAT STILL YOUR DECISION? IS THAT
6 A YES?

7 JURY FORELADY: YES, SIR.

8 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE
9 DEFENSE?

10 MR. LACKEY: NOT AT THIS TIME.

11 THE COURT: OKAY. THANK YOU, SIR. ALRIGHT, MR.
12 COLEMAN, YOU'RE EXCUSED TO GO BACK IN THE HOLDING CELL
13 FOR RIGHT NOW. OKAY? IF YOU'D BRING OUT MR. RALPH
14 COLEMAN.

15 (Whereupon, Christian Coleman
16 leaves the courtroom and Ralph
17 Coleman enters the courtroom.)

18 THE COURT: HAS THE JURY REACHED A VERDICT
19 REGARDING MR. RALPH COLEMAN?

20 JURY FORELADY: YES, SIR.

21 THE COURT: IS THAT VERDICT UNANIMOUS?

22 JURY FORELADY: YES, SIR.

23 THE COURT: AND THAT VERDICT IS REGARD TO ALL OF
24 THE CHARGES AGAINST MR. RALPH COLEMAN?

25 JURY FORELADY: YES, SIR.

1 THE COURT: OKAY. IF YOU'D PLEASE HAND THE
2 BAILIFF THE VERDICT FORM, PLEASE, MA'AM.

3 (Whereupon, the Court examines
4 the verdict.)

5 THE COURT: ALRIGHT, MADAM CLERK, IF YOU WILL
6 PUBLISH THE VERDICT FOR ME, PLEASE, MA'AM.

7 VERDICT OF THE JURY

8 AS TO RALPH COLEMAN

9 CLERK: IN THE MATTER OF STATE OF SOUTH CAROLINA
10 VERSUS RALPH BERNARD COLEMAN, THE JURY HAS UNANIMOUSLY
11 FOUND THE DEFENDANT AS TO THE CHARGE OF MURDER,
12 GUILTY.

13 AS TO THE CHARGE OF BURGLARY IN THE FIRST DEGREE,
14 GUILTY.

15 AS TO THE CHARGE OF ARMED ROBBERY, GUILTY.

16 AND IT WAS SIGNED BY KELLY WILLIAMS,
17 TWELVE/SEVENTEEN/TWO THOUSAND TEN.

18 THE COURT: THANK YOU, MA'AM. IS THAT THE
19 DECISION OF THE JURY?

20 JURY FORELADY: YES, SIR.

21 THE COURT: AND IS THAT STILL THE DECISION?

22 JURY FORELADY: YES, SIR.

23 THE COURT: OKAY. ALRIGHT, ANYTHING FROM THE
24 DEFENSE AT THIS TIME?

25 MS. ULLMAN: YOUR HONOR, I DO HAVE A POST TRIAL

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1 MOTION BUT I DON'T KNOW IF YOU WANT ME TO ...

2 THE COURT: NO, WE'LL DO THE POST TRIAL MOTIONS
3 IN A MINUTE IF THAT'S OKAY.

4 MS. ULLMAN: YES, SIR.

5 THE COURT: OKAY. ALRIGHT, THANK YOU, MA'AM.

6 MS. ULLMAN: YOUR HONOR, COULD YOU POLL THE JURY?

7 THE COURT: YES, MA'AM. MADAM CLERK, IF YOU
8 WOULD POLL THE JURY FOR ME, PLEASE, MA'AM.

9 LADIES AND GENTLEMEN OF THE JURY, WHEN THEY
10 REQUEST THAT THE JURY BE POLLED, THE CLERK IS GOING TO
11 ASK EACH ONE OF YOU INDIVIDUALLY IF THIS IS STILL YOUR
12 VERDICT, AND YOU WILL NEED TO RESPOND WHEN SHE CALLS
13 YOUR NAME.

14 YES, MA'AM.

15 CLERK: KELLY WILLIAMS.

16 JUROR WILLIAMS: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY?

18 JUROR WILLIAMS: I DID.

19 CLERK: DO YOU NOW STATE THAT THE DEFENDANT IS
20 STILL GUILTY?

21 JUROR WILLIAMS: I DO.

22 CLERK: CHARLES STRECKER, DID YOU, WAS THAT
23 CHOICE OF FINDING THE DEFENDANT GUILTY?

24 JUROR STRECKER: YES.

25 CLERK: IS THAT STILL YOUR DECISION?

1 JUROR STRECKER: YES.

2 CLERK: WAYNE LOVETTE.

3 JUROR LOVETTE: YES.

4 CLERK: DID YOU FIND THE DEFENDANT GUILTY?

5 JUROR LOVETTE: YES.

6 CLERK: IS THAT STILL YOUR DECISION?

7 JUROR LOVETTE: YES.

8 CLERK: TAMEKA JOHNSON.

9 JUROR JOHNSON: YES.

10 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON
11 ALL CHARGES?

12 JUROR JOHNSON: YES.

13 CLERK: IS THAT STILL YOUR DECISION?

14 JUROR JOHNSON: YES.

15 CLERK: INDIA JAMISON.

16 JUROR JAMISON: YES.

17 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
18 CHARGES?

19 JUROR JAMISON: YES.

20 CLERK: IS THAT STILL YOUR DECISION?

21 JUROR JAMISON: YES.

22 CLERK: JAMIE HEADDEN, DID YOU FIND THE DEFENDANT
23 GUILTY ON ALL CHARGES?

24 JUROR HEADDEN: YES.

25 CLERK: IS THAT STILL YOUR DECISION?

1 JUROR HEADDEN: YES.

2 CLERK: BRENDA HAYWARD.

3 THE COURT: NO, NO, SHE'S THE ALTERNATE.

4 CLERK: JEROME FRANKLIN.

5 JUROR FRANKLIN: YES.

6 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
7 CHARGES?

8 JUROR FRANKLIN: YES.

9 CLERK: IS THAT STILL YOUR DECISION?

10 JUROR FRANKLIN: YES.

11 CLERK: LORETTA COLTER.

12 JUROR COLTER: YES.

13 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
14 CHARGES?

15 JUROR COLTER: YES.

16 CLERK: IS THAT STILL YOUR DECISION?

17 JUROR COLTER: YES.

18 CLERK: MERLINDA BUTLER.

19 JUROR BUTLER: YES.

20 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
21 CHARGES?

22 JUROR BUTLER: YES.

23 CLERK: IS THAT STILL YOUR DECISION?

24 JUROR BUTLER: YES.

25 CLERK: OTIS BOYD.

1 JUROR BOYD: YES.

2 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
3 CHARGES?

4 JUROR BOYD: YES.

5 CLERK: IS THAT STILL YOUR DECISION?

6 JUROR BOYD: YES.

7 CLERK: SAMANTHA BENTON.

8 JUROR BENTON: YES.

9 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
10 CHARGES?

11 JUROR BENTON: YES.

12 CLERK: IS THAT STILL YOUR DECISION?

13 JUROR BENTON: YES.

14 CLERK: COURTNEY ASBERRY.

15 JUROR ASBERRY: YES.

16 CLERK: DID YOU FIND THE DEFENDANT GUILTY ON ALL
17 CHARGES?

18 JUROR ASBERRY: YES.

19 CLERK: IS THAT STILL YOUR DECISION?

20 JUROR ASBERRY: YES.

21 THE COURT: ALRIGHT, THANK Y'ALL.

22 MS. ULLMAN: THANK YOU, JUDGE.

23 THE COURT: ANYTHING ELSE? ALRIGHT, MR. COLEMAN,
24 YOU'RE EXCUSED TO GO BACK TO THE HOLDING CELL FOR A
25 MINUTE.

1 IF YOU WOULD BRING OUT MR. WALTER LEE HARRIS.

2 (Whereupon, Ralph Coleman
3 leaves the courtroom and
4 Walter Lee Harris enters
5 the courtroom.)

6 THE COURT: ALRIGHT, MADAM FORELADY, HAS THE JURY
7 REACHED A DECISION REGARDING WALTER LEE HARRIS?

8 JURY FORELADY: YES, SIR.

9 THE COURT: OKAY. IS THE DECISION OF THE JURY
10 UNANIMOUS?

11 JURY FORELADY: YES, SIR.

12 THE COURT: OKAY. AND IT WAS UNANIMOUS REGARDING
13 ALL THREE OF THE CHARGES?

14 JURY FORELADY: YES, SIR.

15 THE COURT: OKAY. IF YOU'D HAND THE VERDICT FORM
16 TO THE BAILIFF, PLEASE, MA'AM.

17 (Whereupon, the Court examines
18 the verdict.)

19 THE COURT: ALRIGHT, MADAM CLERK, WOULD YOU
20 PUBLISH THE VERDICT FOR ME, PLEASE, MA'AM.

21 VERDICT OF THE JURY

22 AS TO WALTER LEE HARRIS

23 CLERK: IN THE MATTER OF THE STATE OF SOUTH
24 CAROLINA VERSUS WALTER LEE HARRIS, THE JURY HAS
25 UNANIMOUSLY FOUND THE DEFENDANT AS TO THE CHARGE OF

1 THE TRIAL, AND I APPRECIATE YOU TAKING THE TIME TO BE,
2 TO DELIBERATE LIKE YOU DID. AND NOW, Y'ALL ARE FREE
3 TO GO. AND IF YOU REMEMBER, YOU DON'T HAVE TO SERVE
4 ANYMORE THIS YEAR, BUT YOU ALSO GET FOR THE NEXT TWO
5 YEARS, TOO, YOU GET THAT, YOU CAN CLAIM AN EXEMPTION
6 FOR THE NEXT TWO YEARS IF YOU NEED TO.

7 NOW, MADAM CLERK, MS. CLARK IS GOING TO STEP DOWN
8 AND GO OVER THERE BECAUSE I THINK SHE HAS YOUR CHECKS,
9 MILEAGE CHECKS AND EXCUSES AND ALL LIKE THAT SO YOU
10 CAN TELL AT WORK THAT YOU WERE REALLY THERE, AND I'LL
11 LET HER GIVE THOSE OUT TO YOU IN THE ROOM.

12 AGAIN, I WANT TO THANK Y'ALL FOR YOUR SERVICE,
13 AND I HOPE Y'ALL HAVE A MERRY CHRISTMAS AND A HAPPY
14 NEW YEAR. THANK YOU.

15 (Whereupon, the jury leaves
16 the courtroom.)

17 THE COURT: ALRIGHT, MR. LACKEY, ANYTHING FROM
18 THE DEFENDANT?

19 MR. LACKEY: YOUR HONOR, YOU NEED MY MOTION FOR
20 DIRECTED VERDICT.

21 THE COURT: OKAY.

22 MR. LACKEY: NOTHING NEW TO ADD IN THAT REGARD.

23 THE COURT: ALRIGHT, MS. ULLMAN.

24 MS. ULLMAN: YES, SIR. FIRST OFF, I OBVIOUSLY
25 RENEW ALL MOTIONS AND OBJECTIONS I HAVE MADE PRIOR TO,

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1 DURING AND AFTER THIS TRIAL. I ALSO MAKE A MOTION FOR
2 A NEW TRIAL. I DON'T FEEL THAT THERE WAS EVIDENCE TO
3 SUPPORT THE CONVICTION AGAINST RALPH COLEMAN, SO I
4 WOULD ASK YOUR HONOR FOR A NEW TRIAL.

5 THE COURT: OKAY. MR. PALMER.

6 MR. PALMER: I LIKEWISE WOULD RENEW ALL MOTIONS
7 AND OBJECTIONS AND EXCEPTIONS FOR THE RECORD, YOUR
8 HONOR.

9 THE COURT: OKAY, AND THEY ARE PRESERVED, I HOPE.

10 MR. PALMER: AND I'D LIKEWISE MOVE FOR A NEW
11 TRIAL, ON THE SAME GROUNDS.

12 THE COURT: ALRIGHT. MR. MELLARD.

13 MR. MELLARD: YES, SIR, I WOULD RENEW MY MOTION
14 FOR A DIRECTED VERDICT, ALL MY OBJECTIONS. I WOULD
15 ALSO RENEW MY DUE PROCESS ARGUMENT, AND THE COURT'S
16 AWARE OF THAT.

17 THE COURT: YES, SIR.

18 MR. MELLARD: I JUST WANT TO MAKE SURE THAT
19 THAT'S PRESERVED FOR THE RECORD.

20 THE COURT: YES, SIR. I BELIEVE WE WERE TRYING
21 TO PRESERVE EVERYTHING.

22 MR. MELLARD: AND I WOULD JOIN IN THE MOTION FOR
23 A NEW TRIAL. I, TOO, DON'T BELIEVE THERE'S ENOUGH
24 EVIDENCE FOR A CONVICTION, YOUR HONOR.

25 THE COURT: OKAY. AND MR. KOGER?

SENTENCE BY THE COURT OF CHRISTIAN COLEMAN

ALRIGHT, REGARDING THE ARMED ROBBERY CHARGE,
INDICTMENT NUMBER 2010-802, THE SENTENCE OF THIS COURT
IS YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

REGARDING BURGLARY IN THE FIRST DEGREE,
INDICTMENT NUMBER 2010-803, AND THE MURDER CHARGE,
2010-805, THE SENTENCE OF THE COURT IN EACH ONE OF
THESE CHARGES IS THAT YOU'RE COMMITTED TO THE STATE
DEPARTMENT OF CORRECTIONS FOR A PERIOD OF FORTY-FIVE
YEARS.

THE SENTENCES ARE CONCURRENT, AND YOU WILL GET
CREDIT FOR TIME SERVED.

THANK YOU, SIR.

(Whereupon, Christian Coleman
leaves the courtroom and
Ralph Coleman enters the
courtroom.)

THE COURT: MS. ULLMAN.

MS. ULLMAN: YOUR HONOR, I UNFORTUNATELY, AM ALSO
IN THE SAME POSITION. MR. COLEMAN'S FIANCÉ, WHO IS
THE ONLY PERSON HERE FOR HIM, STEPPED OUT WHEN HE,
WHEN THE VERDICT WAS BEING READ AND SHE DID NOT MAKE
ANY SORT OF SCENE OR ANYTHING.

THE COURT: SHE'S THE ONLY PERSON HERE FOR HIM?

1 MS. ULLMAN: THE ONLY PERSON, AND SHE'S STANDING
2 OUTSIDE.

3 THE COURT: ALRIGHT. DEPUTY ASBERRY, I'M SORRY,
4 MR. RALPH COLEMAN HAS HIS FIANCE', IF YOU WILL REMIND
5 HER, THAT'S THE ONLY PERSON HE HAS TO STAND WITH HIM,
6 SO IF YOU'LL REMIND HER THERE WILL BE NO OUTBURST OR
7 SHE WILL BE REMOVED.

8 MS. ULLMAN: AGAIN, YOUR HONOR, I THINK IT WAS AN
9 OUTBURST WHEN LAKESHA WALKED OUT. I DON'T THINK IT
10 WILL BE AN ISSUE.

11 THE COURT: OKAY. ALRIGHT, MS. ULLMAN, WHAT
12 WOULD YOU LIKE TO TELL ME?

13 MS. ULLMAN: MR. COLEMAN IS TWENTY-TWO YEARS OLD.
14 PART OF WHAT I'VE GOT TO SAY YOU'VE KIND OF ALREADY
15 HEARD. HE'S THE OLDEST OF THREE BROTHERS. HE WAS
16 RAISED BY A FOSTER MOTHER ALONG WITH HIS SIBLINGS. HE
17 CERTAINLY WAS RAISED IN A ROUGH LIFE, HIS PARENTS HAD
18 DRUG ADDICTIONS, HE ENDED UP IN FOSTER CARE. YOUR
19 HONOR, I DO BELIEVE HE DOES HAVE A JUVENILE
20 ADJUDICATION FOR A TRUANCY, AND THEN I DO ACTUALLY
21 THINK HE HAS A SIMPLE ASSAULT FROM QUITE A FEW YEARS
22 WHEN HE WAS A YOUNG KID. HE HAS NO PRIOR RECORD OTHER
23 THAN THAT. YOUR HONOR, IN SPEAKING WITH HIS FIANCE'
24 SHE TELLS ME THAT HE'S QUIET PERSON, HE'S A HOME
25 PERSON, HE'S A FAMILY MAN. THEY HAVE TWO CHILDREN,

1 SHE HAS A CHILD OF HER OWN THAT HE ACTUALLY HELPS
2 RAISE AND TAKES CARE OF. HER CHILD IS THE OLDEST OF
3 THE CHILDREN. HE HAD BEEN WORKING BUT RECENTLY HE HAD
4 QUIT WORKING TO STAY HOME. HIS FOSTER MOTHER, MS.
5 CHRISTIE, THAT WE HEARD OF, SHE HAD SOME MAJOR SURGERY
6 DONE TO HER LEG, SHE CANNOT GET AROUND, SHE'S IN A
7 WHEEL CHAIR, HE HAD BEEN HELPING TAKE CARE OF HER
8 BEFORE THIS INCIDENT, AND HIS FIANCÉ` WAS ALSO LIVING
9 WITH HIM AT HIS FOSTER MOTHER'S, I THINK THEY CALL HER
10 GRANDMA, BUT AT THAT HOME. HE WAS HELPING TAKE CARE
11 OF HER. UNFORTUNATELY, ABOUT THE WEEK BEFORE THIS
12 TRIAL STARTED MS. MOORE, HIS FIANCÉ`, FOUND OUT THAT
13 SHE HAS CANCER. SHE WAS ACTUALLY SUPPOSED TO START
14 CHEMOTHERAPY THIS WEEK BUT SHE FOREWENT THAT AND PLANS
15 TO START HOPEFULLY NEXT WEEK, OBVIOUSLY SO SHE COULD
16 BE HERE TO SUPPORT MR. COLEMAN. MR. COLEMAN MAINTAINS
17 HIS INNOCENCE, AND WHILE I SAY THAT I WILL NOTE,
18 ACCEPTING, WHILE ACCEPTING THE VERDICT, I MEAN, HE'S
19 ACCEPTING THIS AND HE'S STANDING HERE BEFORE. YOUR
20 HONOR, IN THE EVIDENCE THAT CAME OUT, TAKING IT FOR
21 WHAT IT IS, HE WAS NOT THE PERSON WHO CAME UP WITH
22 THIS IDEA, HE WAS NOT THE PERSON WHO BROUGHT THE GUNS
23 ALONG. THE PLANNING, ACCORDING TO WHAT CAME OUT IN
24 THE TESTIMONY, MAY HAVE STARTED AT MS. CHRISTIE'S
25 HOUSE BUT IT CERTAINLY HAS NEVER BEEN PRESENTED THAT

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1 IT WAS MR. COLEMAN'S IDEA, THAT HE MADE ANY OF THESE
2 PHONE CALLS TO WRAP THESE PEOPLE TOGETHER, BROUGHT ANY
3 OF THE WEAPONS. SO, I WOULD ASK YOU TO CONSIDER ALL
4 OF THAT, CONSIDER THAT THIS WAS COMPLETELY OUT OF
5 CHARACTER AND TO HAVE MERCY ON HIM. AND I BELIEVE
6 THAT I'VE SAID EVERYTHING THAT I NEEDED TO SAY.

7 THE COURT: OKAY.

8 SOLICITOR PASCOE: YOUR HONOR, I HAVE MR.
9 SORENSON GETTING MR. COLEMAN'S RAP SHEET JUST IN CASE
10 I WROTE IT DOWN WRONG, BUT ACCORDING TO THE
11 INFORMATION I HAD AND WHAT I WROTE DOWN WAS THAT, IT'S
12 A JUVENILE ADJUDICATION, A NINETEEN NINETY-FOUR
13 TRUANCY, TWO THOUSAND, CONTEMPT OF COURT, TWO THOUSAND
14 ONE, SIMPLE ASSAULT, TWO THOUSAND AND FOUR CONTEMPT OF
15 COURT, PROBABLY FOR TRUANCY. BUT THEN AS AN ADULT
16 I'VE GOT TWO THOUSAND AND EIGHT BURGLARY, THIRD,
17 CONVICTION, POSSESSION OF A STOLEN MOTOR VEHICLE
18 CONVICTION, FAILURE TO STOP FOR A BLUE LIGHT, AND
19 INTIMIDATION OF A WITNESS OR A COURT HOUSE OFFICIAL,
20 AND ALSO A POINTING AND PRESENTING OF A FIREARM.

21 MS. ULLMAN: YOUR HONOR, I WOULD - - -

22 SOLICITOR PASCOE: AND I SEE HE'S SHAKING HIS
23 HEAD. I'LL GET HIS RAP SHEET AND CHECK IT. THAT WAS -
24 - -

25 MS. ULLMAN: --- I ACTUALLY REPRESENTED MR.

1 COLEMAN BEFORE ON A CASE THAT WAS DISMISSED, AND IN
2 THAT I NEVER LEARNED OF ANY OF THIS, AND IN THIS
3 SITUATION I'VE NEVER RECEIVE A RAP SHEET THAT SAID ANY
4 OF THAT, YOUR HONOR. THE ONLY INFORMATION THAT I
5 WOULD SAY, AND FROM MY KNOWLEDGE PREVIOUSLY OF MR.
6 COLEMAN, LIKE I SAID, I REPRESENTED HIM AND WHEN WE
7 GOT THE CHARGE DISMISSED HE CERTAINLY WAS NOT GUILTY
8 OF THAT, IS THIS JUVENILE TRUANCY ISSUE AND THE
9 CONTEMPT OF COURTS ARE TRUANCY RELATED.

10 SOLICITOR PASCOE: IT'S NOT HIM, YOUR HONOR. MR.
11 SORENSON CHECKED AND IT'S NOT HIM.

12 MS. ULLMAN: I DIDN'T THINK SO.

13 THE COURT: OKAY. ALRIGHT.

14 SOLICITOR PASCOE: I WILL JUST ADD, THOUGH, THAT
15 IT'S THE STATE'S POSITION THAT MR. COLEMAN AND MR.
16 SHIVERS WERE INVOLVED IN THIS AT THE INCEPTION, AND
17 ONE OF THE REASONS CHRISTOPHER COLEMAN GOT IN TROUBLE,
18 HE'S IN THIS BECAUSE HE'S A FOLLOWER OF HIS OLDER
19 BROTHER, RALPH COLEMAN.

20 THE COURT: ALRIGHT.

21 SENTENCE BY THE COURT OF RALPH COLEMAN

22 RALPH COLEMAN, THE SENTENCE OF THIS COURT IS,
23 REGARDING INDICTMENT NUMBER 2010-811, THE ARMED
24 ROBBERY, THE SENTENCE OF THIS COURT IS THAT YOU'RE
25 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A

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1 PERIOD OF THIRTY YEARS.

2 REGARDING THE INDICTMENTS NUMBER 2010-808 AND
3 2010-810, WHICH IS THE BURGLARY, FIRST DEGREE AND THE
4 MURDER, THE SENTENCE OF THIS COURT IS THAT YOU'RE
5 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
6 PERIOD OF FORTY-FIVE YEARS.

7 THESE SENTENCES ARE CONCURRENT AND I'LL GIVE YOU
8 CREDIT FOR YOUR TIME SERVED.

9 MS. ULLMAN: THANK YOU, YOUR HONOR.

10 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

11 THE COURT: THANK YOU.

12 (Whereupon, Ralph Coleman
13 leaves the courtroom and
14 Walter Lee Harris enters
15 the courtroom.)

16 SOLICITOR PASCOE: THESE ARE WALTER HARRIS'S.

17 THE COURT: OH, THANK YOU, SIR.

18 COURT REPORTER: WALTER HARRIS?

19 THE COURT: WALTER LEE HARRIS. MS. WALKER, THIS
20 IS WALTER LEE HARRIS.

21 COURT REPORTER: YES, SIR.

22 THE COURT: MR. PALMER

23 MR. PALMER: THANK YOU, YOUR HONOR, MAY IT PLEASE
24 THE COURT.

25 THE COURT: YES, SIR.

1 MR. PALMER: OBVIOUSLY, THE JURY HAS SPOKEN, YOUR
2 HONOR. MR. HARRIS HAD SOME FAMILY MEMBERS HERE BUT AT
3 HIS REQUEST THEY'VE BEEN EXCUSED FROM THE COURTROOM.
4 I'D JUST LIKE TO SAY A FEW WORDS ABOUT MY CLIENT, YOUR
5 HONOR, HE'S TWENTY-ONE YEARS OLD, AND I DON'T BELIEVE
6 THAT THEY'RE GOING TO HAVE ANY KIND OF RECORD EXCEPT
7 MAYBE A JUVENILE INFRACTION THAT WAS RESOLVED IN
8 FAMILY COURT. I MIGHT BE MISTAKEN BUT I BELIEVE
9 THAT'S IT. BUT, YOUR HONOR, I THINK THE IMPORTANT
10 INFORMATION IS THAT, YOU KNOW, OBVIOUSLY, THE JURY HAS
11 CONVICTED MR. HARRIS, BUT IT WAS OBVIOUS FROM THE
12 TESTIMONY IN THE STATE'S CASE THAT, TWO THINGS, YOUR
13 HONOR, MR., -- OR ACTUALLY MORE THAN THAT. MR. HARRIS
14 WAS INCLUDED IN THIS CHAIN OF EVENTS RELATIVELY LATE
15 IN THE GAME. THERE CERTAINLY IS NO ALLEGATION OR
16 PROOF THAT HE WAS ANY KIND OF MASTER MIND OR, IN THE
17 INITIAL PLANNING STAGES. AND EVEN MORE IMPORTANTLY,
18 YOUR HONOR, THERE'S EVIDENCE THAT AT SOME POINT HE
19 TRIED TO EXTRACT HIMSELF, GAVE UP HIS WEAPON, AND
20 TRIED TO EXTRACT HIMSELF FROM THIS GROUP. WHY HE
21 CONTINUED, I DON'T KNOW IF WE'LL EVER KNOW THAT, BUT
22 CERTAINLY, AT THE MOMENT OF TRUTH THE EVIDENCE IS THAT
23 HE DID NOT HAVE A WEAPON, HE WAS AN ACCOMPLICE. AND
24 YOUR HONOR, WHAT DIDN'T COME OUT BECAUSE HE EXERCISED
25 HIS RIGHT OF NOT SELF INCRIMINATION IS, HE WAS THE

1115

1 FIRST ONE TO PROVIDE A STATEMENT IN THIS CASE, YOUR
2 HONOR, TO LAW ENFORCEMENT. .AND IN FACT, HE PROVIDED
3 THREE SEPARATE STATEMENTS. AND I WOULD SUBMIT, YOUR
4 HONOR, THAT THOSE STATEMENTS AND THE INFORMATION THAT
5 THIS MAN PROVIDED GREATLY ASSISTED LAW ENFORCEMENT IN
6 MAKING THIS CASE AGAINST THE REST OF THE DEFENDANTS.
7 AND I'M SIMPLY ASKING THAT YOUR HONOR CONSIDER THAT
8 MR. HARRIS CAN BE DISTINGUISHED FROM THE REST OF THESE
9 DEFENDANTS FOR THOSE REASONS, AND I BELIEVE THAT HE IS
10 DUE YOUR HONOR'S UTMOST CONSIDERATION FOR THOSE
11 REASONS. THANK YOU.

12 THE COURT: OKAY. THANK YOU, SIR. MR. PASCOE.

13 SOLICITOR PASCOE: YES, SIR, I AGREE WITH
14 EVERYTHING MR. PALMER SAID, YOUR HONOR, AS FAR AS MR.
15 HARRIS DID GIVE STATEMENTS TO THE POLICE, AND HIS ONLY
16 CONVICTION IS AN ADJUDICATION IN TWO THOUSAND AND FOR
17 BURGLARY IN THE THIRD DEGREE.

18 THE COURT: OKAY. THAT'S GOING TO, IT HELPS YOU
19 OUT SOME, YOU KNOW.

20 SENTENCE BY THE COURT OF WALTER LEE HARRIS

21 THE SENTENCE OF THIS COURT REGARDING INDICTMENT
22 NUMBER 2010-814, THE ARMED ROBBERY, THE SENTENCE OF
23 THIS COURT IS, YOU'RE COMMITTED TO THE STATE
24 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF THIRTY
25 YEARS.

1 REGARDING INDICTMENTS NUMBER 2010-813 AND 812,
2 BURGLARY IN THE FIRST DEGREE AND MURDER, THE SENTENCE
3 OF THIS COURT IS, YOU'RE COMMITTED TO THE STATE
4 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF THIRTY-FIVE
5 YEARS.

6 THESE SENTENCES ARE CONCURRENT, AND I WILL GIVE
7 YOU CREDIT FOR TIME SERVED.

8 OKAY. THANK YOU, SIR.

9 MR. PALMER: THANK YOU, YOUR HONOR.

10 SOLICITOR PASCOE: THANK YOU, YOUR HONOR.

11 THE COURT: YES, SIR.

12 (Whereupon, Walter Lee Harris
13 leaves the courtroom and
14 Danny Ryant, Jr., enters
15 the courtroom.)

16 SOLICITOR PASCOE: HERE'S DANNY RYANT, YOUR
17 HONOR.

18 THE COURT: OKAY. YOU ARE HIS?

19 BROTHER OF DEFENDANT RYANT: BROTHER.

20 THE COURT: OKAY. HOW ARE YOU DOING, SIR?

21 BROTHER OF DEFENDANT RYANT: ALRIGHT.

22 THE COURT: ALRIGHT, MS. WALKER, THIS IS DANNY
23 RYANT, JUNIOR.

24 ALRIGHT, LET ME HEAR FROM YOU, MR. MELLARD.

25 MR. MELLARD: YES, SIR. MR. RYANT IS TWENTY

1117

1 YEARS OLD. HE HAS FAMILY HERE, HIS MOM IS HERE, HIS
2 SISTER IS HERE. AS YOU CAN SEE, HIS BROTHER IS HERE.
3 HIS FAMILY HAS INFORMED ME THAT HE HAS ALWAYS BEEN A
4 VERY HELPFUL PERSON. HE, IF THEY NEED HELP HE'S
5 ALWAYS THERE FOR THEM. HE DOES WHAT HE CAN DO TO BE
6 PART OF THIS FAMILY. SO, HE DOES HAVE THE SUPPORT OF
7 FAMILY, YOUR HONOR.

8 THE COURT: YES, SIR.

9 MR. MELLARD: HE HAS ONE CHILD. THE FAMILY SAYS
10 HE'S A VERY GOOD FATHER. OBVIOUSLY, HE MAINTAINS HIS
11 INNOCENCE, BUT I WOULD ASK THE COURT TO NOTE THAT THE
12 EVIDENCE PRESENTED HERE SHOWED THAT HE WAS NOT
13 INVOLVED IN THE PLANNING IN ANY WAY, THAT HE WAS NOT
14 INVOLVED IN FURNISHING ANY FIREARMS IN ANY WAY, THAT
15 HIS INVOLVEMENT WITH THE GROUP WAS PROBABLY NO MORE
16 THAN FIVE MINUTES BEFORE THE CRIME OCCURRED. AND
17 THERE'S AN ALLEGATION THAT HE HAD AN SKS. IF THAT'S
18 TRUE THEN HE EITHER FIRED ONE SHOT OR FOUR, NOT THE
19 BULK OF WHAT THE EVIDENCE WAS.

20 SO, YOUR HONOR, IT'S OUR POSITION THAT HE WAS
21 NOT, HE WAS NOT A PLANNER, HE WAS NOT A PERSON WHO
22 PROVIDED THE FIREARMS, AND THAT HE GOT PICKED UP MERE
23 MINUTES BEFORE THIS HAPPENED. SO, HE WAS NOT PART OF
24 ANY, ANY PLAN.

25 WE WOULD SUBMIT THAT HE SHOULD NOT BE GIVEN THE

1 SAME SENTENCE AS THE PEOPLE WHO PLANNED THIS THING,
2 HE SHOULD NOT BE GIVEN THE SAME SENTENCE AS THE
3 PEOPLE WHO PROVIDED THE FIREARMS AND WENT IN, YOUR
4 HONOR. SO, WE WOULD JUST ASK FOR THE MERCY OF THIS
5 COURT.

6 THE COURT: OKAY. ALRIGHT, MR. PASCOE.

7 SOLICITOR PASCOE: YOUR HONOR, MR. RYANT, THE
8 ONLY THING HE HAS IS AN ADJUDICATION IN FAMILY COURT
9 FOR TRUANCY, I DIDN'T EVEN WRITE DOWN THE YEAR. AND
10 AGAIN, I'D HAVE TO AGREE WITH MR. MELLARD IN ONE
11 REGARDS, MR. RYANT MADE A HORRIBLE DECISION, TWENTY
12 MINUTES, HE WAS WITH THEM FOR NO MORE THAN TWENTY
13 MINUTES, AND THAT'S WHAT GOT HIM INVOLVED IN THIS
14 ARMED ROBBERY AND MURDER.

15 THE COURT: ALRIGHT.

16 DEFENDANT RYANT: I AIN'T PARTICIPATED IN THESE
17 CRIME, SIR, I WAS IN THE AREA, I AIN'T SHOT NOBODY,
18 SIR.

19 COURT REPORTER: I'M SORRY.

20 DEFENDANT RYANT: I WAS IN THE AREA, I AIN'T SHOT
21 NOBODY, SIR.

22 SOLICITOR PASCOE: AND LIKE I SAID, WE GOT - - -

23 DEFENDANT RYANT: ALL I WANTED TO DO WAS ENJOY MY
24 MOTHER, I WAS IN THE CLUB. I JUST GOT IMPLICATED IN
25 THIS, BUT I AIN'T TOOK NO PART, LIKE, NO PART IN

1119

1 NOTHING. I WAS JUST AROUND, BUT I AGREE WITH THE
2 COURT, AND I'VE JUST GOT TO ACCEPT IT.

3 THE COURT: MR. PASCOE, THE ONLY THING YOU SAID
4 IS, YOU AGREED THAT IT WAS A BAD DECISION, IS THAT
5 CORRECT?

6 SOLICITOR PASCOE: YES, SIR, TWENTY MINUTES. HE
7 WAS GONE FOR TWENTY MINUTES AND THAT GOT HIM INVOLVED
8 IN THIS MURDER. AND AS MR. MELLARD SAID, THE EVIDENCE
9 IS, HE HAD ONE OF THE SKSES.

10 DEFENDANT RYANT: THAT'S NOT TRUE, SIR.

11 THE COURT: OKAY.

12 SOLICITOR PASCOE: AND CAN I SAY ONE THING? THE
13 REASON I MENTIONED ABOUT THE SKSES IS, AND THAT'S AN
14 EVIL THING, BUT THE PEOPLE THAT HAD THE PISTOLS, RALPH
15 AND CHRIS COLEMAN, FIRED AT THAT VICTIM AT POINT BLANK
16 RANGE WHEN HE WAS LYING ON THE GROUND NINETEEN, A
17 TOTAL OF NINETEEN SHOTS. AND THAT'S WHY I'M
18 DIFFERENTIATING BETWEEN WHO HAD THE RIFLE AND THE
19 PISTOLS.

20 THE COURT: SO, YOU WOULD SAY A DIFFERENTIATED
21 SENTENCE WOULD BE APPROPRIATE?

22 SOLICITOR PASCOE: YES, SIR, YES, SIR.

23 THE COURT: OKAY.

24 SOLICITOR PASCOE: ABSOLUTELY, FROM MR. RALPH
25 COLEMAN, CHRIS COLEMAN, AND WALTER HARRIS. THERE'S NO

1 QUESTION, THE STATE'S OPINION, THEY'RE THE THREE
2 WORST, -- NOT WALTER HARRIS, -- MARIO SHIVERS, MARIO
3 SHIVERS.

4 THE COURT: ALRIGHT, SIR.

5 SENTENCE BY THE COURT OF DANNY RYANT, JR.

6 ALRIGHT, MR. RYANT, REGARDING INDICTMENT NUMBER
7 2010-819, THE ARMED ROBBERY, THE SENTENCE OF THIS
8 COURT IS YOU'RE COMMITTED TO THE STATE DEPARTMENT OF
9 CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

10 REGARDING INDICTMENTS NUMBER 2010-818 AND 817,
11 THIS WAS THE BURGLARY IN THE FIRST DEGREE AND THE
12 MURDER, THE SENTENCE OF THIS IS COURT IS YOU'RE
13 COMMITTED TO THE STATE DEPARTMENT OF CORRECTIONS FOR A
14 PERIOD OF FORTY YEARS.

15 THESE SENTENCES ARE CONCURRENT, AND I'LL GIVE YOU
16 CREDIT FOR YOUR TIME SERVED.

17 OKAY.

18 MR. MELLARD: THANK YOU, YOUR HONOR.

19 THE COURT: THANK YOU.

20 (Whereupon, Danny Ryant, Jr.,
21 leaves the courtroom and
22 Mario Shivers enters
23 the courtroom.)

24 THE COURT: ALRIGHT, MR. KOGER AND MR. SHIVERS.

25 ALRIGHT, MR. KOGER.

1121

1 MR. KOGER: YOUR HONOR, MAY IT PLEASE THE COURT.

2 THE COURT: YES, SIR.

3 MR. KOGER: I'M HERE, OF COURSE, ON BEHALF OF
4 MARIO SHIVERS, WHO WAS ONE OF THE DEFENDANTS IN THE
5 TRIAL HERE THIS WEEK. AS YOU CAN SEE, YOUR HONOR,
6 MR. SHIVERS HAS SIGNIFICANT FAMILY SUPPORT HERE. THIS
7 IS HIS MOTHER, CAROLYN BUSBY -- I'M SORRY, CAROLYN
8 BROWN, HIS FATHER, REGGIE SHIVERS. THIS IS THE MOTHER
9 OF HIS CHILD, DANIELLE MONROE. THIS IS THE PERSON
10 THAT HE STAYED WITH FOR THE LAST YEAR, MS. HOWLE, AND
11 HIS BROTHER, KENDRAE, IN THE BACK.

12 THE COURT: OKAY. THANK YOU.

13 MR. KOGER: BASICALLY, WE WANTED TO POINT OUT
14 THAT MR. SHIVERS CAME FROM A SUPPORTIVE FAMILY. FROM
15 OUR CONVERSATIONS WITH MS. BROWN, THE MOTHER, SHE IS
16 CURRENTLY EMPLOYED A PALMETTO RICHLAND AS A
17 HOUSEKEEPER AND HAS HAD SIGNIFICANT EMPLOYMENT IN THE
18 PAST. MARIO IS JUST ONE OF FIVE CHILDREN. HIS OLDEST
19 BROTHER WORKS AT HOME DEPOT AND DISTRIBUTION CENTER IN
20 CAYCE. HIS OTHER SISTER IS IN THE UNITED STATES ARMY
21 AND HAS BEEN THERE ON ACTIVE DUTY FOR TWO YEARS.
22 KENDRAE IS HERE TODAY IN THE BACK, AND ERIC, HIS
23 YOUNGEST BROTHER, IS A STUDENT AT EDISTO.

24 BEFORE MR. SHIVERS FOUND HIMSELF IN THIS
25 PREDICAMENT HE ACTUALLY WAS GAINFULLY EMPLOYED AND HE

1 WAS LAID OFF JUST BEFORE THIS HAPPENED, HE WAS
2 GAINFULLY EMPLOYED IN CONSTRUCTION AT THE NEW AQUATIC
3 CENTER ON THE OLD ST. MATTHEWS ROAD.

4 FROM TALKING WITH HIS FAMILY AND TALKING WITH
5 PEOPLE THAT HE'S BEEN INVOLVED WITH, THEY BASICALLY
6 SAID THAT MR. SHIVERS IS A GOOD PERSON. AND, OF
7 COURSE, YOU KNOW, HE FOUND HIMSELF IN A VERY
8 DIFFICULTY SITUATION. MY CONVERSATIONS WITH HIM OVER
9 AT THE DETENTION CENTER, HE WAS ALWAYS VERY
10 RESPECTFUL, AND SEEMED THAT IF HE HAD MADE SOME
11 DIFFERENT CHOICES THEN, OF COURSE, HE WOULD END UP AT
12 A DIFFERENT PLACE.

13 WE'D JUST ASK THAT YOUR TAKE INTO CONSIDERATION
14 THAT HE IS TWENTY-TWO YEARS OF AGE. I KNOW YOUR HONOR
15 HAS TO BALANCE THAT WE HAD A DEATH HERE, AND THE
16 STATE'S INTEREST MUST BE BALANCED WITH THE INTEREST OF
17 THE DEFENSE. AS STATED, HE HAS A SON FOUR YEARS OF
18 AGE, AND WE'D JUST ASK THAT YOU COULD CONSIDER SOME
19 TYPE AMOUNT OF TIME THAT HE WILL BE ABLE TO GET OUT TO
20 BE A PRODUCTIVE MEMBER OF SOCIETY AND TO, I GUESS, AT
21 THAT POINT TO RE-ESTABLISH A RELATIONSHIP WITH HIS
22 SON.

23 THE COURT: THANK YOU, SIR. MR. PASCOE.

24 SOLICITOR PASCOE: YOUR HONOR, HE'S GOT
25 ADJUDICATIONS IN FAMILY COURT, TWO THOUSAND AND TWO

1123

1 MALICIOUS INJURY, AND TWO THOUSAND AND THREE, ASSAULT
2 AND BATTERY OF A HIGH AND AGGRAVATED NATURE.

3 THE COURT: THAT WAS IN FAMILY COURT?

4 SOLICITOR PASCOE: YES, SIR, THOSE WERE
5 ADJUDICATIONS IN FAMILY COURT. IT'S THE STATE'S
6 POSITION THAT FROM THE RECORD THE EVIDENCE IN THIS
7 CASE, MR. SHIVERS PLANNED THIS ROBBERY, MR. SHIVERS
8 OWNED THREE OF THE WEAPONS THAT WERE USED IN THIS
9 MURDER AND BURGLARY, AND HE SHOULD BE HELD ACCOUNTABLE
10 FOR THAT.

11 SENTENCE BY THE COURT OF MARIO MONTEZ SHIVERS

12 WITH REGARD TO 2010-824, THE ARMED ROBBERY
13 CHARGE, THE SENTENCE OF THIS COURT, MR. SHIVERS, IS
14 THAT YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
15 CORRECTIONS FOR A PERIOD OF THIRTY YEARS.

16 WITH REGARD TO INDICTMENTS NUMBER 2010-822 AND
17 2010-823, THE BURGLARY IN THE FIRST DEGREE AND THE
18 MURDER, THE SENTENCE OF THIS COURT, MR. SHIVERS, IS
19 THAT YOU ARE COMMITTED TO THE STATE DEPARTMENT OF
20 CORRECTIONS FOR A PERIOD OF FIFTY YEARS.

21 THESE SENTENCES ARE CONCURRENT. I WILL GIVE YOU
22 CREDIT FOR TIME SERVED.

23 THANK YOU.

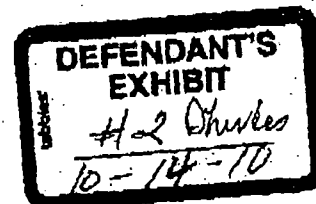
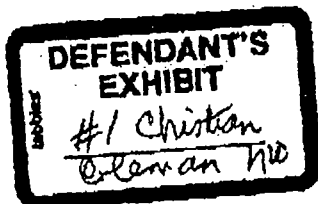
24 MR. KOGER: THANK YOU, YOUR HONOR.

25 THE COURT: APPRECIATE IT.

1. ALRIGHT, IF YOU'LL LET THE PEOPLE IN THE AUDIENCE
2. LEAVE, YOU CAN DIRECT THEM OUT AS YOU WANT TO DIRECT
3. THEM OUT. OKAY?

4. SOLICITOR PASCOE: THANK YOU, JUDGE.

5. THE COURT: THANK YOU.



ORANGEBURG COUNTY SHERIFF'S OFFICE
CENTRAL INVESTIGATIVE DIVISION
DEFENDANT AFFIDAVIT

Date: 3/18/10 Time: 4:53 pm Place: _____
Defendant Name Minor _____ S _____
Age: 16 Date of Birth: _____ Phone Num: _____
Address: _____

I understand my rights and have initialed each. I have been advised of the rights by J. J. [Signature] of the Orangeburg County Sheriff's Office, and wish to make the following statement.

First lil m called me off a phone saying he had a
lick on he said only thing i want is 2 yds is go
buy gun green then dude then i was like datz cool
see lil m will go lil chris on the driver came on scope
me from broke dale. As they was like we need another
strap lil m call that we went on get that old Jameson
But hope n the jeep we ride 4 ish minute. That's when
we went 2 the person that was selling the weed
on feet was ~~the person~~ say im bout to go buy some
weed he come back like its a dude n there i no everybody
was like aye den that's when they killed me on like way u at
poke like inner pocket wuz up we went on get poke
went back 2 the weed man that's everybody was like
is on ratt' go n on at like is eppil want some on we
gain come in leave the car while old girl serve me
~~the person~~ on the dude that got shot had his back turn
that's when ratt' pull out on dats was poke lil m, hit chris
on feet came in with the gun's pull out somebody was say
peet tape buddy mouth up peet tape his mouth on he
was going to tape his hands buddy was like get the
fuck off me on my mommy on then he was getting up
that's when all the gun shoots went off on i was shake
~~that's~~

Def #
1 + 2

Page 2 Defendant Affidavit
or peat

but. 1h chris had a gun like, like, an Matt

Patricia Tyler

witness by

James Shupert

P.T.

P.T.

P.T.

P.T.

Def #
1+2

Page 2 Defendant Affidavit

Q. Who picked you up

A. It was Lil Chris passenger, Lil M back
Bart back seat don't have no idea who
is the driver

Q. Then where did you go?

A. Went on E. 1st St. and got past

Q. Who all had guns?

A. Bart, Lil M, Poke, Bart

Q. Do you know Bart's real name?

A. NO

Q. Do you know Lil M's real name?

A. NO

Q. Was that Lil M in the photo live
up?

A. Yes

Q. Do you know Poke's real name?

A. Daniel Dupont

Q. What all took guns in to the
apartment?

A. Lil M, Poke, Bart, Bart

Q. How many times did they shoot?

A. Bart 30

Q. Did the victim have gun?

A. NO

Def #
1+2

Page 3 Defendant Affidavit

~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~

I have read the above thoroughly. I have made the necessary corrections and initialed each to make this a factual and complete representation.

Patricia Taylor
Signature of Defendant

Witnesses:

[Signature]

[Signature]

Notary Public
Sworn to before me this 3/15/2010
Day of March 15, 2010
My Commission Expires 7/3/2019

**DEFENDANT'S
EXHIBIT**

#1 Shivers
10-18-10

**ORANGEBURG COUNTY SHERIFF'S OFFICE
CENTRAL INVESTIGATIVE DIVISION
VOLUNTARY STATEMENT**

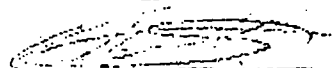
I, Ashley Parsley, am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to Jim Cozart. Without being accused of or questioned about my criminal offenses regarding the facts I am about to state. I volunteer the following information of my own free will, for whatever purpose it may serve.

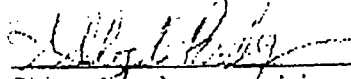
I am 23 years of age, and live at _____

I went to the door holding the pistol and I opened it for a dark skinned dude wearing blue. I set the pistol down and he asked for a nick so while I was twisting the bar to get it, the dude put ~~the~~ his gun in my face and told me to get on the floor, so I did as instructed. They started ripping up chairs and talking loud. I was tore down on the floor and all of a sudden I heard gun shots. Then they left with the door open and I called 911 and waited for the cops to get there. I am innocent and don't have anything to do with this murder. Please let me go home. (Charles Prince aka Ol Skool was a great man to me I met him at Lolo's in Summerville last summer he took me in his house b/c the house I was living in in Harleyville the lights went out. I just don't understand why someone would want to kill him. He made sure I ate, everyday, and gas was in my car and everything that I would make me feel at home. The dudes that shot him one of them looked familiar but I don't think its him. I can't believe I saw someone die. It's a very scary feeling. I thought I was going to die tonight b/c it was a quick little flick of my head. I don't understand why they didn't bother me. I promise not be involved ~~in this~~ with anymore people that is bad. Ol Skool was my friend.

I have read each page of this statement consisting of 1 page(s) of which bares my signature and corrections if any bare my initials, and I certify that the facts contained herein are true and correct.

Dated at 2:25 this 13th day of March 2010


WITNESS


Signature of person giving statement

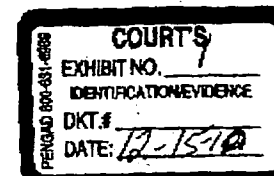
Juan
Hea James

Dept Commerce
in home
a inmate

do a lot on home interviews
no protection

may not remember

we



WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213403

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL*Mary Beth W. Brown*

MAY 12 2010

Date

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS38-0808

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE

vs. /

Ralph Bernard Coleman

Indictment for

BURGLARY - FIRST DEGREE

SC Code: 16-11-311

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY
Winnifred B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC2010 MAY 12 A 11:16
FILED FOR RECORD
WINNIFRED B. CLARK
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

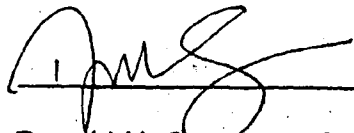
INDICTMENT
2010GS38-0808

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of Orangeburg County present upon their oath:

BURGLARY - FIRST DEGREE

That in Orangeburg County, South Carolina, on or about March 12, 2010, the Defendant, Ralph Bernard Coleman, did willfully and unlawfully enter the dwelling, 635 Kings Rd., Orangeburg, SC, belonging to Charles Pringle, without consent and with the intent to commit a crime therein, and the defendant or another participant was armed with a deadly weapon and/or caused physical injury to a non-participant and/or used or threatened the use of a dangerous instrument and/or the offense occurred in the nighttime. This offense being a violation of Section 16-11-311 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213405

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL*Mary Bett W. Brown*

Date MAY 12 2010

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010GS38-0810

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Ralph Bernard Coleman

Indictment for

MURDER

SC Code: 16-3-10

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person
and plead guilty to the within indictment
or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

ATTEST: TRUE COPY
W. J. B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SCFILED FOR RECORD
W. J. B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2010 MAY 12 A 11:17

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

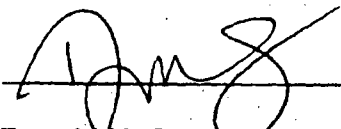
INDICTMENT
2010GS38-0810

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of
Orangenburg County present upon their oath:

MURDER

That in Orangenburg County on or about March 12, 2010, with malice
aforethought, the defendant, Ralph Bernard Coleman did kill one Charles Pringle
by means of shooting the victim. The victim did die as a proximate result thereof.
This offense being in violation of the Common Law and Section 16-3-10, of the
South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in
such case made and provided.


Donald N. Sorenson, Solicitor

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213406

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL

MAY 12 2010

Foreperson of Grand Jury
Date: May 12, 2010

VERDICT

Foreperson of Petit Jury
Date:

DOCUMENT NO. 2010UGS38-0811

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Ralph Bernard Coleman

Indictment for
ARMED ROBBERY

SC Code: 16-11-330(A)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2010 MAY 12 A 11: 15

FILED FOR RECORD
WINNIFA B. CLARK
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY
Winnifa B. Clark
CLERK OF COURT
ORANGEBURG COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

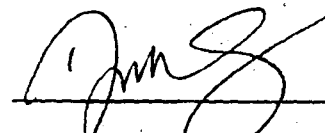
INDICTMENT
2010GS38-0811

At a Court of General Sessions, convened on May 10, 2010 the Grand Jurors of Orangeburg County present upon their oath:

ARMED ROBBERY

That on or about March 12, 2010, in Orangeburg County, the defendant, Ralph Bernard Coleman did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Charles Pringle, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

After being fully advised as to my legal rights, I hereby waive presentation to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2010 MAY 12 A 11:14
FILED FOR RECORD
WINNIFAB. CLARK
CLERK OF COURT
ORANGEBURG, SC

DUCKET NO. 2010GS38-0809

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Ralph Bernard Coleman

Indictment for

POSSESSION OF A WEAPON DURING
THE COMMISSION OF A VIOLENT
CRIME

SC Code: 16-23-490

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213404

Arrested: March 22, 2010

ACTION OF GRAND JURY
TRUE BILL

Mary Beth W. Brown

MAY 12 2010

Foreperson of Grand Jury

Date: May 12, 2010

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

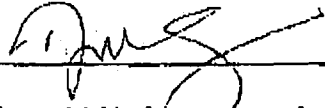
INDICTMENT
2010GS38-0809

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of Orangeburg County present upon their oath:

**POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
CRIME**

That in Orangeburg County on or about March 12, 2010, the defendant, Ralph Bernard Coleman did visibly display or have in his possession a firearm during the commission of a violent crime. This offense in violation of Section 16-23-490, of the South Carolina Code of Laws, as amended.

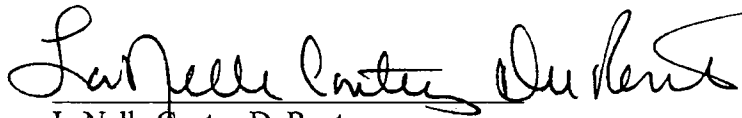
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Donald N. Sorenson, Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 16th, 2012



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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions
Edgar Dickson, Circuit Court Judge

The State,

Respondent,

vs.

Ralph Bernard Coleman,

Appellant.

SUPPLEMENTAL RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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KIDNAPPING INDICTMENT 1

INDEX

KIDNAPPING INDICTMENT 1

WITNESSES

James Shumpert

Orangeburg County Sheriff

2010002741

ARREST WARRANT NUMBER
M213402

Arrested: March 22, 2010

ACTION OF GRAND JURY

TRUE BILL

May 12, 2010

Foreperson of Grand Jury
Date: May 12, 2010

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2010GS38-0807

The State of South Carolina
County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 10, 2010 TERM

THE STATE
vs.

Ralph Bernard Coleman

Indictment for

KIDNAPPING

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED FOR RECORD
WINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC

2010 MAY 12 A 11:15

ATTEST: TRUE COPY

Winnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

SC Code: 16-3-910

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

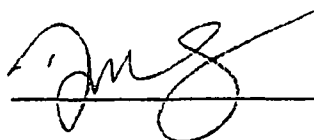
INDICTMENT
2010GS38-0807

At a Court of General Sessions, convened on May 12, 2010 the Grand Jurors of
Orangeburg County present upon their oath:

KIDNAPPING

That in Orangeburg County, South Carolina, on or about March 12, 2010, the
Defendant, Ralph Bernard Coleman, unlawfully did seize, confine, inveigle,
decoy, kidnap, abduct or carry away the victim, Charles Pringle and/or Ashley
Parsley, without authority of law. This offense in violation of Section 16-03-910,
of the South Carolina Code of Laws, as amended

Against the peace and dignity of the State, and contrary to the statute in
such case made and provided.



Donald N. Sorenson, Solicitor

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RALPH BERNARD COLEMAN,

APPELLANT

SECOND SUPPLEMENTAL
RECORD ON APPEAL

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Attorneys for Respondent

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STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA)

PRETRIAL MOTIONS

versus)

TRANSCRIPT OF RECORD

CHRISTIAN COLEMAN,)

CASE NO. 2010-GS-38-802-806

RALPH B. COLEMAN,)

CASE NO. 2010-GS-38-807-811

WALTER L. HARRIS)

CASE NO. 2010-GS-38-812-816

DANNY RYANT, JR.,)

CASE NO. 2010-GS-38-817-821

MARIO N. SHIVERS)

CASE NO. 2010-GS-38-822-826

DEFENDANTS)

DATE:

NOVEMBER 23, 2010

BEFORE: HONORABLE EDGAR W. DICKSON, PRESIDING JUDGE

APPEARANCES:

DONALD SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

RICHARD LACKEY, ESQUIRE
ATTORNEY AT LAW
FOR DEFENDANT, CHRISTIAN COLEMAN

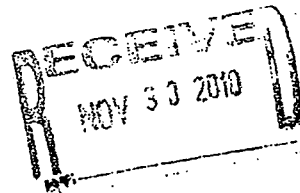
JILLIAN ULLMAN, ESQUIRE
MARK WISE, ESQUIRE
PUBLIC DEFENDERS
FOR THE DEFENDANT, RALPH B. COLEMAN

SCOTT PALMER, ESQUIRE
ATTORNEY AT LAW
FOR DEFENDANT, WALTER L. HARRIS

DOUGLAS R. MELLARD, ESQUIRE
PUBLIC DEFENDER
FOR DEFENDANT, DANNY RYANT, JR.

JOSHUA KOGER, JR., ESQUIRE
ATTORNEY AT LAW
FOR DEFENDANT, MARIO N. SHIVERS

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133



1 RELATE TO HER MOTION TO SEVER, I'M NOT SURE BUT - - -
2 THE COURT: OKAY.
3 SOLICITOR SORENSON: --- IT MAY CLEAR THINGS
4 UP, IT MAY NOT. SO, - - -
5 THE COURT: OKAY.
6 SOLICITOR SORENSON: --- BASICALLY, AS FAR
7 AS DEFENDANTS' STATEMENTS GO, YOUR HONOR, THE ONLY
8 DEFENDANT THAT GAVE ANY STATEMENTS WOULD BE WALTER
9 HARRIS, MR. PALMER'S CLIENT. HE TALKED TO LAW
10 ENFORCEMENT SEVERAL TIMES AND ULTIMATELY GAVE THREE
11 WRITTEN STATEMENTS INDICATING SOMEWHAT OF A LITTLE
12 JUMP ON HIS PART AND ALSO ON THE PART OF HIS FOUR CO-
13 DEFENDANTS. AT THIS POINT IN TIME WE WOULD NOT BE
14 SEEKING TO PUT ANY OF HIS STATEMENTS INTO EVIDENCE IN
15 OUR CASE IN CHIEF.
16 THE COURT: OKAY.
17 SOLICITOR SORENSON: IF THAT WOULD RAISE
18 SOME RAISE ISSUES AND CAUSE SOME ISSUES. SO, I'M NOT
19 SURE IF THAT WAS SOME, A BASIS POSSIBLY OF A SEVERANCE
20 MOTION, BUT
21 THE COURT: OKAY. BUT THEY ARE AWARE IF HE
22 MAKES ANY OTHER STATEMENTS YOU WOULD REFER TO THAT?
23 SOLICITOR SORENSON: WELL, OBVIOUSLY, IF HE
24 TESTIFIES, I MEAN, ...
25 THE COURT: RIGHT. OKAY. ALRIGHT. NOW, I

1 DON'T KNOW IF THAT MAKES -- I KNOW, MS. ULLMAN, YOU
2 HAD A MOTION TO SEVER, AND I DON'T KNOW WHETHER
3 EVERYBODY IS JOINING IN ON THIS OR, I KNOW I -- WHO
4 ELSE HAD ...

5 MR. MELLARD: I WAS GOING TO HAVE A MOTION
6 TO SEVER BASED ON WHAT HE WAS TALKING ABOUT, THESE
7 STATEMENTS THAT BRING UP ISSUES, WHICH -- BUT I WILL
8 LET MS. ULLMAN ARTICULATE HERS AND THEN I WILL LET YOU
9 KNOW.

10 THE COURT: OKAY. AND JUST SO I'LL KNOW,
11 MR. LACKEY, YOU DO NOT HAVE A MOTION TO SEVER?

12 MR. LACKEY: NO, SIR, NOT AT THIS TIME. I
13 DID TALK WITH MR. SORENSON SEVERAL DAYS AGO ABOUT THAT
14 AND HE INDICATED THAT THERE WAS NO INTENTION TO USE
15 THAT STATEMENT.

16 THE COURT: OKAY.

17 MR. LACKEY: OBVIOUSLY, NO ISSUE WOULD ARISE
18 FROM THAT SITUATION WITH MY CLIENT.

19 THE COURT: OKAY. AND MR. PALMER?

20 MR. PALMER: WELL, I DID, I THINK I DID, YOUR
21 HONOR, BUT NOW IT LOOKS LIKE THE STATEMENT AREN'T
22 COMING. I'D LIKE TO HEAR THE OTHER ARGUMENTS, BUT
23 RIGHT NOW ...

24 THE COURT: OKAY. YOU CAN RESERVE YOUR SEAT
25 COMING LATER.

STATE OF SOUTH CAROLINA

COURT OF GENERAL SESSIONS

COUNTY OF ORANGEBURG

FIRST JUDICIAL CIRCUIT
VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA)

TRANSCRIPT OF RECORD

versus)

DATE:

DECEMBER 10 - 17, 2010

CHRISTIAN COLEMAN,)

CASE NOS.

RALPH BERNARD COLEMAN)

2010-GS-38-802, 803, 805

WALTER LEE HARRIS,)

2010-GS-38-808, 810, 811

DANNY RYANT, JR.,)

2010-GS-38-812, 813, 814

MARIO MONTEZ SHIVERS)

2010-GS-38-817, 818, 819

2010-GS-38-822, 823, 824

DEFENDANTS)

BEFORE:

HONORABLE EDGAR DICKSON, PRESIDING JUDGE

AND A JURY.

APPEARANCES:

DAVID M. PASCOE, ESQUIRE
SOLICITOR

DONALD N. SORENSON, ESQUIRE
ASSISTANT SOLICITOR
FOR THE STATE

RICHARD LACKEY, ESQUIRE
FOR DEFENDANT CHRISTIAN COLEMAN

JILLIAN ULLMAN AND MARK WISE, ESQUIRE
FOR DEFENDANT RALPH BERNARD COLEMAN

SCOTT PALMER, ESQUIRE
FOR DEFENDANT WILLIE HARRIS

DOUGLAS MELLARD, ESQUIRE
FOR DEFENDANT DANNY RYANT, JR.

JOSHUA KOGER, ESQUIRE
FOR DEFENDANT, MARIO MONTEZ SHIVERS

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

CROSS - ASHLEY R. PARSLEY BY MS. ULLMAN

261

1 A. NO, MA'AM.

2 Q. ALRIGHT. NOW, IN YOUR STATEMENT YOU ALSO TOLD
3 THE POLICE THAT SOMEBODY MIGHT HAVE BEEN FAMILIAR
4 BUT YOU DON'T REALLY REMEMBER WHO IT WAS AND YOU
5 DON'T THINK IT'S HIM. NOW, YOU DIDN'T DISCUSS
6 THAT ANY FURTHER, AM I CORRECT?

7 A. NO, MA'AM.

8 Q. DID YOU EVER TELL THE POLICE THE NAME OF THE
9 PERSON OR GIVE A DESCRIPTION OF THE PERSON THAT
10 YOU THOUGHT WAS FAMILIAR AND COULD HAVE BEEN
11 THERE?

12 A. NO, MA'AM.

13 Q. NOW, ON MARCH NINETEENTH YOU MET WITH
14 INVESTIGATOR SHUMPERT AGAIN, AM I RIGHT?

15 A. YES, MA'AM.

16 Q. AND AT THAT TIME YOU GUYS WENT OVER PHOTO
17 LINEUPS?

18 A. YES, MA'AM.

19 Q. DO YOU REMEMBER HOW MANY PHOTO LINEUPS HE SHOWED
20 YOU?

21 A. NO, I DO NOT REMEMBER.

22 Q. NOW, IN STATE'S EXHIBIT FIVE YOU CIRCLED THE
23 FIRST PERSON IN THIS, AM I CORRECT?

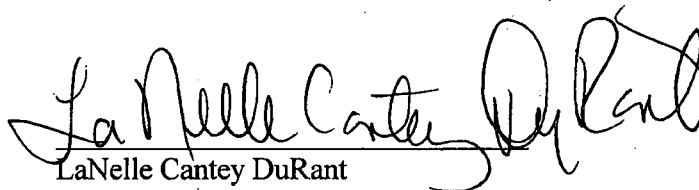
24 A. YES, MA'AM.

25 Q. ALRIGHT. NOW, UNDER OATH TODAY YOU SAID THAT

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Second Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Second Supplemental Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 30th, 2012



LaNelle Cantey DuRant
Appellate Defender

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Division of Appellate Defense
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(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

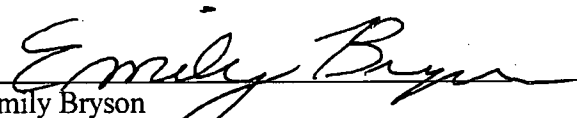
V.

RALPH BERNARD COLEMAN,

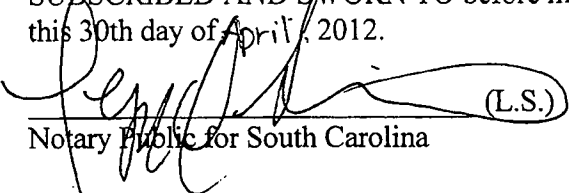
APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Second Supplemental Record on Appeal in the above referenced case has been served upon Melody Brown, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 30th day of April, 2012.


Emily Bryson
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of April, 2012.


Notary Public for South Carolina

(L.S.)

My Commission Expires: December 4, 2017.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Edgar Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RALPH BERNARD COLEMAN,

APPELLANT

FINAL BRIEF OF APPELLANT

LANELLE CANTEY DURANT
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ATTORNEY FOR APPELLANT

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Rules

Rule 602, SCRE	13, 16, 17

STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in denying Coleman's motion to sever his case from four co-defendants because the joint trial violated his right to due process and a fair trial because evidence not related to Coleman was entered against him when entered against other defendants; he lost right to present a defense that he was mistaken for his brother, Christian Coleman, who was also a co-defendant; he lost the right to present his closing argument last since another co-defendant admitted evidence; and he was unable to question co-defendant Harris about his interview with the police?
2. Did the trial court err in denying Coleman's motion to suppress his identification by witness Ashley Parsley based on Rule 602, SCRE, because she lacked personal knowledge of his identity as she stated she did not really see him since she was lying face down on the floor and selected him from the photo line-up based on instinct?
3. Did the trial court err in denying Coleman's motion to suppress the photo of a rifle, which was not one of the murder weapons but was similar to the type gun used because the actual rifle was not found, which the state introduced to incite the jury because the rifle had a bayonet?

STATEMENT OF THE CASE

In May 2010, the Orangeburg County Grand Jury indicted Ralph Bernard Coleman on the charges of murder, armed robbery, and burglary first degree. On December 10 – 17, 2010, Coleman and four of his co-defendants: Christian Coleman, Walter Lee Harris, Danny Ryant, Jr., and Mario Montez Shivers, proceeded to trial before the Honorable Edgar Dickson and a jury in a joint trial. Ralph Coleman was represented by Jillian Ullman and Mark Wise; Christian Coleman was represented by Richard Lackey; Walter Harris was represented by Scott Palmer; Danny Ryant was represented by Douglas Mellard; and Mario Shivers was represented by Joshua Koger. The state was represented by Solicitor David Pascoe and Assistant Solicitor Donald Sorenson. R 1. The jury returned verdicts of guilty on the three charges as indicted. Coleman's attorney filed notice of appeal. This appeal follows.

ARGUMENT

I.

The trial court erred in denying Coleman's motion to sever his case from four co-defendants because the joint trial violated his right to due process and a fair trial because evidence not related to Coleman was entered against him when entered against other defendants; he lost right to present a defense that he was mistaken for his brother, Christian Coleman, who was also a co-defendant; he lost the right to present his closing argument last since another co-defendant admitted evidence; and he was unable to question co-defendant Harris about his interview with the police.

Ralph Coleman and five other young men were charged with entering the home of Charles Pringle, who was believed to be a drug dealer in marijuana, on March 12, 2010 and shooting him to death and attempting to rob him. R. 75, ll. 16 – 25; R. 76, ll. 1 – 25. Patrick Tyler, the sixteen year old co-defendant and the youngest one, testified against the others at the joint trial. His testimony was that they intended to just rob Pringle of his drugs and money, but something went wrong. R. 127, ll. 1 – 25; R. 129, ll. 1 – R. 131, ll. 22; R. 137, ll. 1 – 25; R. 138, ll. 1 – 24; R. 151, ll. 14 – 24.

According to Tyler's testimony, initially, just Tyler, Ralph Coleman, and Mario Shivers discussed the robbery. Then they got the others involved. R. 137, ll. 1 – R. 147, ll. 2. Tyler said four of the six had guns, but Mario provided three of the guns which included a nine millimeter pistol and two SKS rifles one of which had a knife on it. R. 135, ll. 1 – 25; R. 136, ll. 1 – 25. Walter Harris had the fourth gun, a pistol, which he gave to Ralph Coleman before they went into Pringle's house. R. 143, ll. 1 – 25; R. 147, ll. 1 – 25. The four with guns were: Ralph Coleman who had Harris' pistol; Christian Coleman who had

the nine millimeter pistol; Ryant who had one of the SKS rifles; and Shivers who had one of the SKS rifles. R. 148, ll. 1 – 25.

Harris, who was also known as Pete, went into the house initially to buy some marijuana and to scope the place. R. 144, ll. 1 – 25. Then Tyler said he and Ralph went into the house to buy marijuana. Then the others came in and began looking for the drugs and money. Harris taped Pringle's mouth with duct tape. Then a gun went off, and Tyler ran to the truck. He said he heard about twenty shots. Then everyone left and went their separate ways. R. 147, ll. 1 – R. 155, ll. 25.

Lieutenant James Shumpert of the Orangeburg Sheriff's Department, testified that he was the lead investigator into this case. He took statements from Ashley Parsley, a young woman who was at Pringle's apartment during this incident, and from Shannon Mitchell who was in the apartment when Harris made the initial visit, and whom Mitchell knew. After Mitchell told Lieutenant Shumpert of Harris, Shumpert then showed Ashley Parsley a photo lineup which included Harris. She did select Harris as the person who came just prior to the robbery to buy drugs. R. 232, ll. 1 – R. 238, ll. 9.

Lieutenant Shumpert learned that Andre Washington had a forty caliber pistol allegedly like the one used in Pringle's death. Shumpert paid an informant, Christopher Dwight, to buy the pistol from Washington which he did. R. 238, ll. 10 – 25; R. 239 – R. 240. Washington said he bought the pistol from Harris. R. 200, ll. 1 – 25; R. 201, ll. 1 – 25; R. 202, ll. 1 – 10.

Walter Harris was arrested on March 17, 2010. Then Ryant and Tyler turned themselves in on March 18, 2010. R. 241, ll. 1 – R. 242, ll. 25. Tyler gave a statement to Lieutenant Shumpert describing the incident. R. 243, ll. 1 – R. 247, ll. 25.

Tyler testified that he told Lieutenant Shumpert the truth about the incident, and identified Ralph Coleman, Mario Shivers, and Christian Coleman as the other people involved. R. 156, ll. 12 – 25; R. 157, ll. 1 – R. 164, ll. 25; R. 248, ll. 1 – R. 262, ll. 25.

All were arrested and charged with murder, burglary first degree, and armed robbery. R. 261, ll. 1 – R. 262, ll. 25. At the time of their arrests, Ralph Coleman was twenty- two years old; Christian Coleman was twenty; Danny Ryant was twenty; Mario Shivers was twenty- one; and Walter Harris was twenty-one. R. 263, ll. 1 – 4.

Dr. Janice Ross, the forensic pathologist who performed the autopsy on Pringle, testified that Pringle had twenty-four gun shot wounds to his body. R. 203, ll. 1 – 25; R. 204, ll. 9 – R. 206, ll. 25. The cause of death was laceration of multiple organs due to multiple gun shots which she described as a homicide. R. 211, ll. 2 – 18.

The ballistics expert from SLED, James Green, reported that based on the shell casings found, four different weapons were used to shoot Pringle. R. 212, ll. 1 – 16; R. 220, ll. 1 – 8. Eight shell casings were fired by the forty caliber Smith and Wesson pistol recovered. R. 216, ll. 1 – 25.; R. 217, ll. 1 – 8. Five shell casings were fired by AK forty- seven or SKS rifles. No rifles were recovered. R. 217, ll. 9 – 25; R. 218, ll. 1 – 6; R. 218, ll. 7 – 25; R. 219, ll. 1 - 5. Four of the five rifle shell casings were fired by one rifle and one shell casing came from a different rifle. R. 219, ll. 6 – 22. Eleven shell casings were fired by one firearm, a nine millimeter pistol. R. 216, ll. 1 – 25; R. 223, ll. 1 – 19.

Lieutenant Gerald Carter of the Orangeburg County Sheriff's Office was the crime scene processor for the case. He did not collect any identifiable fingerprints nor DNA for this case. R. 181, ll. 1 – 25; R. 182, ll. 1 – 24; R. 194, ll. 1 – 25.

Patrick Tyler testified that the state had not offered him any sentence for his testimony. However, his murder charge was being reduced to voluntary manslaughter. R. 165, ll. 18 – 25; R. 166, ll. 1 – 25.

At the pretrial hearing on November 23, 2010, Ralph Coleman's attorney moved for a severance of Coleman's trial from the other co-defendants. She argued that Harris had given three statements to law enforcement, and although the state said they were not going to go into those statements, she would like to get into those statements in her defense of Coleman because the three statements were different. Two statements did not incriminate Coleman and one did. Ralph Coleman had a right to present a defense, and this right would be hampered by a joint trial. 2nd Supp. R. 2, ll. 1 - 2nd Supp. R. 3, ll. 25; R. 35, ll. 10 – R. 38, ll. 25.

Assistant Solicitor Sorenson argued in response that even if Ralph Coleman's trial were severed, his attorney could not get into Harris statement because they were hearsay. R. 39, ll. 1 – 25; R. 40, ll. 1 – 25; R. 41, ll. 1 – 7.

Defense counsel argued that the statements would not be hearsay because they would not be offered for the truth of the matter asserted but to show that there were inconsistencies because two of the co-defendants were naming different people who participated which would demonstrate reasonable doubt. If the trials were severed, she could call Harris although the state would determine the docket. R. 41, ll. 9 – R. 42, ll. 25.

The judge denied her motion to sever but said her objection was preserved for the record. R. 43, ll. 1 - R. 44, ll. 19.

At the trial on December 20, 2010, in a pretrial motion, Coleman's defense counsel argued for the motion to sever again based on the fact that she received new evidence which

was a statement from the driver of the car, Ronnie Washington which was inconsistent with the statements given by Tyler and Ashley Parsley. If she could question Harris about his statements, this would show that all of the eyewitnesses gave different stories. R. 57, ll. 9 – R. 59, ll. 23.

Defense counsel continued to argue that there were antagonistic views in that her defense was that Ralph Coleman was not present during this incident, and was identified because he looked liked his brother, Christian Coleman, one of the co-defendants. R. 59, ll. 24 – R. 60, ll. 24.

Counsel argued that if character evidence against one of the co-defendants was admitted, then that would reflect against Ralph Coleman as well which would be another reason for severance. . She explained that a twenty-two caliber pistol, which was not one of the murder weapons, was found at Harris' house in the execution of a search warrant. This would make her client, Coleman, look bad to the jury. The state argued that antagonistic views were not grounds for severance. The judge denied her motion for severance. R. 60, ll. 24 – R. 60, ll. 25; R. 62, ll. 1 – 25.

During the trial, Ralph Coleman's attorney, Ullman, made a motion to sever again which all of the defendants joined in. Her argument was that since Shivers' attorney introduced evidence which was a statement by one of the witnesses, all of the other defendants also lost the right to close last even though they did not introduce evidence. R. 170, ll. 1 – R. 174, ll. 25.

In response, the solicitor cited two cases which held that in a joint trial all of the defendants lost the right to last closing if anyone of them introduced evidence. The cases

were State v. Crowe, 258 S.C. 258, 188 S.E.2d 379 (1972), and State v. Smith, 387 S.C. 619, 693 S.E. 2d 415 (Ct. App. 2010). R. 175, ll. 1 – 25.

Attorney Ullman argued that forcing all of the other co-defendants to lose their right to close last violated their right to a fair and impartial trial under the United States Constitution because they were being forced to act as a team and had to decide together what evidence was being admitted and what was not. R. 176, ll. 1 – R. 178, ll. 25.

The judge ruled that he had to abide by the law; therefore, he had to rule that the solicitor had last closing. R. 179, ll. 1 – R. 180, ll. 25.

At the close of the state's case, Ralph Coleman's defense counsel renewed all of her objections and motions including her motion to sever. She argued that half of the twelve witnesses presented evidence not pertaining to Ralph Coleman, but it was entered in the trial against him. The judge ruled that he stood by his motion not to sever this trial. R. 265, ll. 14 – 25; R. 266, ll. 22 – R. 270, ll. 14.

At that point, Ryant's defense counsel, Attorney Mellard, argued that the lack of severance violated Ryant's right to due process. He argued that losing the right to close last was not fair since he did not present any evidence, and cross-examination was affected because none of them could point fingers at any of the others. Ralph Coleman's attorney joined in the motion that Coleman's due process rights were violated. R. 270, ll. 15 – 25; R. 271, ll. 1 – 25; R. 272, ll. 1 – 6.

Shiver's counsel, Attorney Koger, joined in the due process argument because he said he did not know that he had to confer with the other four defendants before he could admit evidence. He argued that they were being forced to act as a team instead of being able to separately represent their clients. Attorneys Palmer and Lackey joined in the due process

motion against the joint trials. R. 272, ll. 6 – 25; R. 273, ll. 1 – 25; R. 274, ll. 1 – 14.

The solicitor argued that he would have presented all of the same witnesses and evidence against each defendant if the trials had been severed. He also argued that the attorneys did not have to confer with each other. R. 274, ll. 13 – 25; R. 275, ll. 1 – 9. The judge denied the motions to sever. R. 275, ll. 10 – 25; R. 276, ll. 1 – 22.

A motion for severance is addressed to the sound discretion of the trial court. State v. Simmons, 352 S.C. 342, 350, 573 S.E.2d 856, 860 (Ct. App. 2002). A defendant who alleges that he was improperly tried jointly must show prejudice before appellate court will reverse his conviction. State v. Walker, 366 S.C. 643, 623 S.E.2d 122 (Ct. App. 2005).

A severance should be granted only when there is a serious risk that a joint trial would compromise a specific right of a co-defendant or prevent the jury from making a reliable judgment about a co-defendant's guilt. Id. A proper cautionary instruction may help protect the individual rights of each defendant and ensure that no prejudice results from a joint trial. State v. Dennis, 337 S.C. 275, 523 S.E.2d 173 (1999). The trial judge must act cautiously in allowing a joint trial. State v. Walker, *supra*.

The South Carolina Supreme Court wrote in State v. Gunn, 313 S.C. 124, 437 S.E.2d 75 (1993):

We take this occasion to remind prosecutors of the pitfalls inherent in mass conspiracy trials. More than forty years ago, this court stated, "It is always cumbersome to try a great number of defendants at one time... with such a large number of defendants, there might be a danger of some of them being lost sight of by the jury, and their case considered by the jury in a vague way." Citing State v. McIntire, 221 S.C. 504, 71 S.E.2d 410 (1952).

The Court also wrote that separate indictments with separate trials, and a sharper focus on the alleged conspirators' agreement would have aided in the State's case. State v. Gunn, Id. In Gunn's case, ten co-defendants were tried in a joint trial on drug trafficking charges. The Court reversed the convictions of six of the defendants.

In State v. Crowe, 258 S.C. 258, 188 S.E. 2d 379 (1972), the Supreme Court held that in a joint trial of defendants, introduction of evidence by one defendant may operate to deprive a co-defendant, who offers no evidence, of right to the last argument, to which such co-defendant would be entitled if tried separately, affords no ground to order separate trials.

In State v. Smith, 387 S.C. 619, 693 S.E.2d 415 (Ct. App. 2010), the Court of Appeals held that the defendant was not entitled to severance on the grounds that she lost her right to have last closing argument to the jury as result of being tried together with co-defendant who offered a photo lineup into evidence.

State v. Crowe, supra, and State v. Smith, supra, can be distinguished from Coleman's case because there were only two co-defendants in Crowe's case and three in Smith's case.

ARGUMENT

II.

The trial court erred in denying Coleman's motion to suppress his identification by witness Ashley Parsley based on Rule 602, SCRE, because she lacked personal knowledge of his identity as she stated she did not really see him since she was lying face down on the floor and selected him from the photo line-up based on instinct.

Ashley Parsley's testimony was that she met Pringle one week before this incident and came to stay with him at his apartment. She was helping him sell drugs and was present during the shooting incident. R. 89, ll. 1 – R. 91, ll. 25; R. 96, ll. 14 – 25; R. 97, ll. 1 – 2. After the first person came in, who wanted to buy "droe" (a special type marijuana) but did not and then left, the doorbell rang again. Pringle was asleep and Shannon had gone, so Ashley answered the door with Pringle's gun in her hand. She said the light in the room was dim, and had different colored lights. R. 99, ll. 1 – 25; R. 100, ll. 1 – 25; R. 103, ll. 1 – 25.

At door, she saw a dark skinned man wearing blue. R. 123, ll. 3 – 25; Defendant Shivers' Exhibit 1. He came in to buy marijuana. As she reached down to get the marijuana out of a jar next to her in the living room, the person took the gun she had from her and pulled another gun on her, and told her this was a stickup. R. 104, ll. 1 – 25.; R. 105, ll. 1 – 6.

The man with the gun told her to get on the floor and don't move or talk which she did. R. 105, ll. 7 – 25. She noticed another 'chubby' man come in also. She did not look up again after she got face down on the floor. She then heard several people in the apartment with a lot of yelling, and ripping up things as they were asking for the money and drugs. R.

106, ll. 1 – 25; R. 107, ll. 1- 4. She then heard a lot of gun shots. After the men left, she called 911, and waited for the police. R. 107, ll. 1 – 25.

She gave a statement to Lieutenant Shumpert that night where she described the man at the door as being dark skinned wearing blue. She did not mention the chubby man in her statement. Defendant Shivers' Exhibit 1; R. 124, ll. 1 – 25.

Lieutenant Shumpert showed her several photo lineups, and she selected three people from three different lineups R. 110, ll. 1 – 25. She selected Walter Harris from State's Exhibit Three as being the person who came into the apartment the first time about twenty minutes before the incident. R. 111, ll. 1 – 25; R. 112, ll. 1 – 25; R. 113, ll. 1 – 25; R. 12.

She selected Shivers from State's Exhibit Four as being the person who came into the apartment the second time and pointed a gun at her. She remembered him because he had "cold eyes." She thought he was wearing a mask that covered the bottom part of his face. R. 114, ll. 1 – 25; R. 115, ll. 1 – 25; R. 11, ll. 1 – R. 12, ll. 25.

She selected Ralph Coleman from State's Exhibit Five as being the chubby guy that she saw in the apartment. However, in the affidavit she wrote with the lineup where she selected Ralph Coleman, she wrote that "it was *possible* [emphasis added] he was one of the guys that entered the apartment, but I didn't completely see his face." She did not identify any others. R. 116, ll. 1 – 25; R. 117, ll. 1 – 25; R. 118, ll. 23 – 25; R. 119, ll. 1; R. 12, ll. 1 – 25.

Coleman's defense counsel objected at that point based on Neil v. Biggers,¹ grounds as well as lack of personal knowledge issues as previously raised. R. 117, ll. 1 – 8.

On cross- examination, she admitted that once he got down on the floor, she never turned either way and could not see what was going on. She could not even see people's shoes, and she did not know how many people were in the apartment. She admitted that after the first guy entered the apartment, she laid on the floor until everyone was gone. R. 120, ll. 1 – 25; R. 121, ll. 1 -25; R. 122, ll. 1 – 2nd Supp. R. 5, ll. 25. She said the lights were dim in the apartment; she was nervous; and she was not sure that the person she picked out of the lineup (State's Exhibit Five) was in the apartment that night. R. 124, ll. 1 – 25.

A hearing was held, pursuant to Neil v. Biggers, on November 23, 2010 prior to trial as Ralph Coleman's counsel requested it based on the photo lineup identification by Ashley Parsley. R. 2, ll. 10 – 14. At the hearing, Ashley testified that after the man with the gun came in and made her get on the floor, she could not see other people as she was face down on the ground. R. 6, ll. 1 – 25.

She said that before she went down, she noticed the eyes of the man with the gun as his eyes were "so cold," and she saw a stocky person but "she didn't really see his face." R. 7, ll. 1 – 25; R. 9, ll. 1 – 25. When asked on cross-examination why she selected number One from State's Exhibit Five (Ralph Coleman), she responded: "It was just like instinct; I just pointed straight at it." R. 18, ll. 1 – 25; R. 19, ll. 1 -2.

Defense counsel argued at the November hearing that any in-court identification by Ashley not be allowed pursuant to Neil v. Biggers because it would violate Coleman's due process rights. Counsel also argued that any testimony of Ashley's about her identification

¹ Neil v. Biggers, 409 U.S. 188 (1972).

of Ralph Coleman not be admitted because she lacked personal knowledge of who was in Pringle's living room during the incident. He argued that any witness's testimony was only allowed if it were based on personal knowledge. He argued that Ashley said she was not sure if Coleman was in the apartment as she did not see the person. Her identification was based on "instinct." R. 26, ll. 1 – R. 29, ll. 25.

The judge ruled there was nothing suggestive about the identifications; they were reliable; and he saw no likelihood of misidentification. The solicitor, however, said there would be no in-court identifications by Ashley Parsley. R. 30, ll. 19 – R. 34, ll. 25.

At the trial in a pretrial motion, Attorney Ullman moved that Ashley Parsley's identification of Ralph Coleman not be allowed based on Rule 602, SCRE, because she lacked personal knowledge of Coleman being in the apartment. Her selection from the lineup was based on instinct. If she were allowed, it would have to be as a lay witness opinion since she lacked personal knowledge, and she had no basis for an opinion. R. 64, ll. 1 – R. 65, ll. 25.

The solicitor argued that Attorney Ullman could cross-examine Ashley Parsley on those issues. The judge denied Attorney Ullman's motion. R. 66, ll. 1 – 25.

During the trial before the jury, Ashley Parsley identified Ralph Coleman from State's Exhibit Five (photo lineup) as "*possibly*" [emphasis added] being one of the guys that entered the apartment on March 12th. R. 116, ll. 1 – 25; R. 117, ll. 1 – 25. Coleman's attorney objected. R. 118, ll. 1 – 25.

Counsel renewed her motions and objections after the state rested and after the jury's verdict. R. 266, ll. 20 – 25; R. 394, ll. 1 – 25; R. 395, ll. 1 – 5.

Rule 602, SCRE, provides that a witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.

In State v. Frazier, 357 S.C. 161, 592 S.E.2d 621 (2004), reversed the trial court and remanded the case for a new trial where the Court held that a statement by one of Frazier's co-workers that he overheard Frazier say that someone should kill the victim, Brent Poole. The Court ruled that the statement was not admissible pursuant to rule 602, SCRE, because the witness could not say when the statement was made; he did not know to whom the statement was made; and he could not recall the exact content of the statement. The Court also ruled that the witness's testimony was not harmless because there was little direct evidence linking Frazier to the crime.

Coleman's case is similar in that Ashley Parsley's testimony was not certain, and was not harmless. She was the only neutral witness to somewhat identify Ralph Coleman. The main evidence was the testimony of Patrick Tyler which was based on the reduction charges of murder to voluntary manslaughter.²

² Department of Corrections website indicates that Tyler's sentence was fifteen years for armed robbery.

ARGUMENT

III.

The trial court erred in denying Coleman's motion to suppress the photo of a rifle, which was not one of the murder weapons but was similar to the type gun used because the actual rifle was not found, which the state introduced to incite the jury because the rifle had a bayonet.

In a pretrial motion, Coleman's defense counsel moved that a picture of a rifle that the state intended to introduce to use should be suppressed because it was not one of the murder weapons. She argued that it was being introduced just to incite the jury, and that it had a bayonet on the end. The rifles and nine millimeter pistol were not recovered, but the state was not introducing pictures of a nine millimeter pistol. R. 67, ll. 1 – 25; R. 68, ll. 1 – 24; R. 70, ll. 1 – 25; R. 71, ll. 1 – 25.

The state argued that the picture was just to demonstrate to the jury what the rifles used in the incident were like. R. 68, ll. 15 – 25; R. 69, ll. 1 – 25.

The judge said that he would reserve his ruling until he heard the testimony. R. 71, ll. 12 – 25.

James Green, the ballistics expert from SLED, testified that no rifles or nine millimeter pistols were submitted in this case. The only weapon submitted was the forty caliber pistol. R. 212, ll. 1 – 25; R. 218, ll. 1 – 25; R. 219, ll. 1 – 25. Green's testimony was that a rifle like the one in the picture fired the five shell casings from an SKS rifle. Coleman's attorney objected when the picture was admitted into evidence. R. 215, ll. 1 – 25; R. 216, ll. 1 – 25; R. 217, ll. 1 – 25; R. 218, ll. 1 – 25; R. 219, ll. 1 – 25.

The judge ruled that the picture was admitted into evidence because he was not familiar with that type weapon, and he thought it would be helpful to the jury. R. 230, ll. 1 – 25; R. 231, ll. 1 – 7.

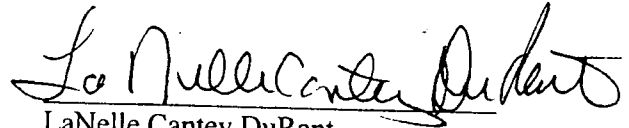
The relevancy, materiality, and admissibility of photographs as evidence are matters left to the sound discretion of the trial court. State v. Holder, 382 S.C. 278, 676 S.E.2d 690 (2009). To constitute unfair prejudice, the photographs must create an undue tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one. Id.

The state did not recover the rifles used in the incident. Therefore, this was a weakness in the state's case, and they should not have been allowed to bolster their case with pictures of weapons not used in the murder. The fact that the state did not introduce pictures of a nine millimeter gun which was not recovered either, but allowed to introduce a military type Russian rifle was evidence that the rifle was introduced to incite the jury to decide an issue on an emotional basis.

CONCLUSION

Based on the above reasons, the convictions and sentences should be reversed, and the case remanded for a new trial.

Respectfully submitted,

A handwritten signature in cursive script, reading "LaNelle Cantey DuRant". The signature is written in black ink and is positioned above the printed name and title.

LaNelle Cantey DuRant
Appellate Defender

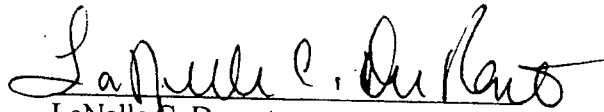
ATTORNEY FOR APPELLANT

This 2nd day of May, 2012.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

May 2, 2012

A handwritten signature in cursive script, reading "LaNelle C. Durant".

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Edgar Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

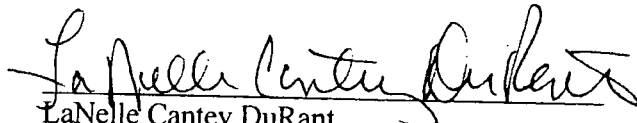
V.

RALPH BERNARD COLEMAN,

APPELLANT

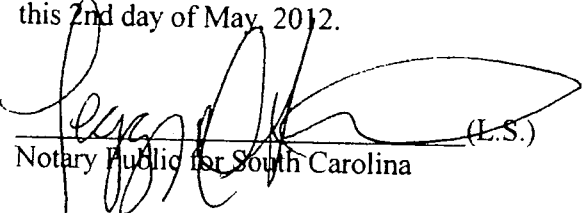
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Melody Brown, Esquire, at Rembert Dennis Building, Room 519, 1000 Assembly Street, Columbia, SC 29201, this 2nd day of May, 2012.


LaNelle Cantey DuRant
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 2nd day of May, 2012.



Notary Public for South Carolina

My Commission Expires: December 4, 2017



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May 2, 2012

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Re: The State v. Ralph Coleman

Dear Don:

Enclosed are two copies of the Final Brief of Appellant in the above-entitled case, which I have filed today with the South Carolina Court of Appeals.

Please call me if you have any questions.

Sincerely,

LaNelle Cantey DuRant
Appellate Defender

LCD/lcd

Enclosure

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions
Edgar Dickson, Circuit Court Judge

The State,

Respondent,

vs.

Ralph Bernard Coleman,

Appellant.

FINAL BRIEF OF RESPONDENT

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The trial judge did not abuse his discretion in admitting identification testimony over appellant's objection the witness lacked personal knowledge where the witness, who identified appellant from a photographic lineup, testified that she was present at the apartment when the crimes occurred, and sufficiently observed appellant's entry into the apartment to make the identification. 18

III.

The trial judge did not abuse his discretion in admitting a photograph of a rifle which a firearms identification expert identified as consistent with the type of weapon that fired several of the shells recovered from the murder scene, and was also consistent with a witness' description of one of the weapons used. 22

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Did the trial court err in denying Coleman's motion to sever his case from four co-defendants because the joint trial violated his right to due process and a fair trial because evidence not related to Coleman was entered against him when entered against other defendants; he lost right to present a defense that he was mistaken for his brother, Christian Coleman, who was also a co-defendant; he lost the right to present his closing argument last since another co-defendant admitted evidence; and he was unable to question co-defendant Harris about his interview with the police?
 2. Did the trial court err in denying Coleman's motion to suppress his identification by witness Ashley Parsley based on Rule 602, SCRE, because she lacked personal knowledge of his identity as she stated she did not really see him since she was lying face down on the floor and selected him from the photo line-up based on instinct?
 3. Did the trial court err in denying Coleman's motion to suppress the photo of a rifle, which was not one of the murder weapons but was similar to the type gun used because the actual rifle was not found, which the state introduced to incite the jury because the rifle had a bayonet?
- (FBOA, p. 3).

RESPONDENT'S COUNTER STATEMENT OF ISSUES ON APPEAL

1.

Whether the trial judge abused his discretion in denying appellant's motion for severance where the five co-defendants were jointly tried for murder, armed robbery, and burglary first degree based on combined participation in one incident.

2.

Whether the trial judge abused his discretion in admitting identification testimony over appellant's objection the witness lacked personal knowledge where the witness, who identified appellant from a photographic lineup, testified that she was present at the apartment when the crimes occurred, and sufficiently observed the appellant's entry into the apartment to make the identification.

3.

Whether the trial judge abuse his discretion in admitting a photograph of a rifle which a firearms identification expert identified as consistent with the type of weapon that fired several of the shells recovered from the murder scene, and was also consistent with a witness' description of one of the weapons used?

RESPONDENT'S STATEMENT OF THE CASE

An Orangeburg County Grand Jury indicted appellant, Ralph Bernard Coleman, in May 2010, for murder, armed robbery, burglary first degree, kidnapping, and possession of a weapon during the commission of a violent crime. (R. p. 419-426; Supp. App. p. 1). Appellant, along with his four co-defendants, Christian Coleman, Walter Lee Harris, Danny Ryant, Jr., and Mario Montez Shivers, stood trial on the charges of murder, burglary first degree, and armed robbery on December 13-17, 2010, before a jury. (See R. p. 72, lines 12-19). The sixth participant in the crime, Patrick T****, testified at the trial. (R. p. 127, line 21- p. 128, line 5). The Honorable Edgar Dickson presided. The jury convicted appellant as charged. (R. p. 388, lines 9-22). The judge sentenced appellant to thirty (30) years imprisonment for armed robbery and concurrent terms of forty-five (45) years imprisonment on both the murder conviction and the burglary conviction. (R. p. 400, line 22 - p. 401, line 8). This appeal follows.

RESPONDENT'S STATEMENT OF FACTS

The jury found appellant, and his co-defendants at trial, guilty of the murder, burglary and armed robbery on March 12, 2010.

Patrick T****, the sixth indicted co-defendant who was not tried with the others, testified at the joint trial. T**** testified that he was at appellant's house on March 12, 2010 to see the guns that Mario Shivers had. (R. p. 132, line 2 - p. 134, line 19). T**** testified that he, Shivers, and appellant began to plan the robbery together. (R. p. 137, line 3 - p. 138, line 7). "Chris" Coleman and a friend came to the house in a Ford Explorer to provide transportation. (R. p. 138, lines 8-21). T**** suggested Walter "Pete" Harris should join the enterprise, which he did. (R. p. 141, line 19 - p. 142, line 4; p. 314, lines 4-20). The plan was to use the ruse of purchasing marijuana to gain entry and rob the victim. (R. p. 144, lines 5-8). Harris offered to go first "to peak at the scene," however, he returned and attempted to disengage in the robbery "because he had known someone that was in there." (R. p. 144, lines 8-21). Thereafter, Shivers suggested Danny Ryant join the group. T**** testified he called Ryant and picked him up at a nearby club, the Corner Pocket. (R. p. 145, line 19- p. 146, line 10). Harris stayed with the group and together they explained the robbery plan to Ryant. (R. p. 146, lines 16-24). The group agreed to rob victim "for his weed, marijuana and money." (R. p. 151, lines 14-21). T**** testified that appellant, armed with a pistol from Harris, went in with T**** under the ruse of buying drugs. Appellant then "pulled his gun out on the female, and when [T****] opened the door that's when everybody came in with the guns." (R. p. 147, line 22 - p. 148, line 2). "Everybody" constituted Christopher Coleman, Mario Shivers, Danny Ryant, and Walter Harris, though Harris did not

have a gun, having given his gun to appellant. (R. p. 148, lines 3-22). Harris taped the victim's mouth. (R. p. 149, lines 3-6). T**** testified that they were searching the home for "money and stuff," and T**** heard a gunshot and left. (R. p. 150, lines 3-10). Ultimately, T**** heard "nineteen, twenty" shots from the apartment. (R. p. 150, lines 14-15). The group fled to the Explorer, and agreed to say nothing. (R. p. 151, lines 2-9).

Ashley Parsley testified that she was living with the victim in his apartment on the night of March 12, 2010. She was also helping victim sell marijuana from the apartment. (R. p. 89, line 15 - p. 90, line 22; p. 96, line 14 - p. 97, line 2). She and victim's friend Shannon Mitchell were in the apartment when Walter Harris first entered. Victim was asleep in a back bedroom. (R. p. 92, line 1 - p. 93, line 17). Mitchell testified that he knew Harris from high school. (R. p. 195, lines 3-4). Both Parsley and Mitchell testified that Harris asked for a certain type of marijuana ("droe"); and, that victim came from the back bedroom, checked Harris' identification, then apparently told him that he did not have any "droe" to sell as Harris left shortly thereafter without a purchase. (R. p. 95, line 10 - p. 98, line 21; p. 196, line 4 - p. 197, line 13). Mitchell testified that he left "maybe ten minutes" after Harris did. (R. p. 198, lines 17-19).

Parsley testified that shortly after Harris and Mitchell left, she answered the door for another person asking to purchase marijuana. (R. p. 103, lines 3-23). Victim was in the kitchen area of the apartment "making bags," i.e. packaging marijuana. (R. p. 101, line 6 - p. 102, line 2). As she was reaching for the drugs in the living area, the person "pulled a gun on her," told her "it was a stickup," instructed her to get face down on the floor, and she complied. (R. p. 104, line 13 - p. 105, line 20). After this first man pulled a gun on her, she

also “noticed a chubby guy.” She sensed other people coming into the apartment but did not see anyone else directly as her face was toward the floor. (R. p. 106, lines 3-22). The victim came out of the kitchen area and started talking to the group. (R. p. 106, lines 1-2). Parsley could hear “a lot of talking, a lot of yelling, a lot of ripping up stuff, asking where the money is, and I heard like tape being torn, and then after that, that’s when I heard gun shots.” (R. p. 106, line 23 - p. 107, line 3). She testified that after the shots, “[t]hey ran out” the front door. She called 911. Victim was on the floor. He had been shot multiple times, and his mouth had been taped. (R. p. 107, line 10 - p. 109, line 4). Three days later, on March 15, 2010, Parsley identified Harris as the individual who came in for “droe” from a photographic lineup. (R. p. 111, line 6 - p. 114, line 13). On March 19, 2010, Parsley identified Shivers and appellant from separate photographic lineups as the individuals she saw enter the apartment for the robbery. (R. p. 114, line 14-p. 118, line 22; p. 253, line 10 - p. 255, line 4).

Pathologist Dr. Janice Ross testified that victim was shot twenty-four times in his torso, arms and legs. (R. p. 204, lines 15-16). The cause of death was the “laceration of multiple organs due to multiple gun shot wounds of the chest and the abdomen.” (R. p. 211, lines 8-10). She noted that the “entrance wounds had some variability in their size” which “suggests different calibers” of weapons. (R. p. 210, line 22 - p. 211, line 1). Dr. Ross was able to retrieve several bullets and bullet fragments from the body at autopsy, introduced as State’s 81-91. (R. p. 207, line 19 - p. 208, line 6).

Investigating officer Lt. Gerald Carter testified that he retrieved shell casings from three different caliber weapons from the crime scene – two pistols (.40 caliber and 9 mm), and an assault rifle. (R. p. 183, lines 15-19). In assessing the scene, Lt. Carter was able to

determine that "most of the shots fired which hit the victim were fired after he was already on the floor." (R. p. 190, lines 5-17). Lt. Carter also collected several bullet fragments that were submitted for analysis. (R. p. 184, line 10 - p. 189, line 21).

Andre Washington testified that he purchased a .40 caliber pistol from Harris several days after the shooting. When he determined the pistol was involved in a murder, he sold it to another individual, who was actually working with investigators and turned the weapon over to them. (R. p. 199, line 20 - p. 202, line 10; p. 240, lines 8-23). The gun was matched to eight of the .40 caliber shell casings at the scene, and was introduced at trial as State's Exhibit 73. (R. p. 191, line 17 - p. 193, line 6; p. 215, line 1 - p. 217, line 4).

Agent James Green of SLED testified as a firearms identification expert. (R. p. 213, line 23 - p. 214, line 8). In addition to having matched the .40 caliber shell casings to State's Exhibit 73, he was also able to tell that eleven other cases were fired by the same gun, but not State's Exhibit 73. (R. p. 215, lines 1 - p. 217, line 4). Five other casing recovered at the scene were consistent with "seven point six two by thirty-nine caliber" weapons, "your SKS or AK Fourty-seven variance." (R. p. 217, lines 14-24). Further, the shells were fired by two different weapons. (R. p. 219, lines 6-22). Additionally, the various bullets and fragments recovered from the autopsy and from the scene were consistent with the all three types of weapons, and several matched specifically to State's 73. (R. p. 220, line 23-p. 226, line 19; p. 228, lines 2-p. 229, line 9).

ARGUMENT

I.

The trial judge did not abuse his discretion in denying appellant's motion for severance where the five co-defendants were jointly tried for murder, armed robbery, and burglary first degree based on combined participation in one incident.

Relevant Facts:

As referenced in Respondent's Statement of Facts, the charges at trial stemmed from one incident on March 12, 2010, and Patrick T****, the sixth indicted co-defendant who was not tried with the others, testified at the joint trial.

T**** testified that he received a call earlier the day of the murder from Danny Ryant, and he was told that Mario Shivers "had guns." T**** testified he went to see the guns. Shivers, and appellant were at appellant's home with the guns. (R. p. 132, line 2 - p. 134, line 19). T**** testified that he, Shivers, and appellant began to plan the robbery together. (R. p. 137, line 3 - p. 138, line 7). T**** testified they had no vehicle to drive to the robbery, so co-defendant "Chris" Coleman and a friend (unknown to T****) came to the house in a Ford Explorer. (R. p. 138, lines 8-24). All five came together in the vehicle and continued to plan the robbery. (R. p. 140, line 13- p. 141, line 7). On the way to victim's apartment, Shivers suggested the group needed one other person. T**** suggested Walter "Pete" Harris. (R. p. 141, line 19 - p. 142, line 4). Harris joined the group, bringing his own pistol, and joined in the plans to rob victim. (R. p. 143, lines 4-20). The plan was to use the ruse of purchasing marijuana to gain entry. (R. p. 144, lines 5-8). Harris offered to go first "to peak at the scene," however, he returned and attempted to disengage in the robbery "because he had known someone that was in there." (R. p. 144, lines 8-21). After Harris'

initial entry, and refusal to continue, Shivers suggested Ryant. T**** testified that he called Ryant and picked him up at a nearby club, the Corner Pocket. (R. p. 145, line 19- p. 146, line 10). Harris stayed with the group and together they explained the robbery plan to Ryant. (R. p. 146, lines 16-24). The group agreed to rob victim "for his weed, marijuana and money." (R. p. 151, lines 14-21). T**** testified that appellant, armed with a pistol from Harris, went in with T**** under the ruse of buying drugs. Appellant then "pulled his gun out on the female, and when [T****] opened the door that's when everybody came in with the guns." (R. p. 147, line 22 - p. 148, line 2). "Everybody" constituted Christopher Coleman, Mario Shivers, Danny Ryant, and Walter Harris, though Harris did not have a gun, having given his gun to appellant. (R. p. 148, lines 3-22). Harris taped the victim's mouth. (R. p. 149, lines 3-6). T**** testified that they were searching the home for "money and stuff," when T**** heard a gunshot and left. (R. p. 150, lines 3-10). Ultimately, T**** heard "nineteen, twenty" shots from the apartment. (R. p. 150, lines 14-15). The group met at the Explorer and got in. T**** testified that Ryant stated "you ain't had to do it like that." (R. p. 151, lines 2-7). "Everybody" agreed to stay quiet and say nothing. (R. p. 151, lines 7-9). Less than a week after the murder, T**** turned himself in. (R. p. 156, lines 12-17). T**** testified that he identified appellant by name and picture to the investigating officers, and he also made an in court identification during trial. (R. p. 162, lines 4-20).

Appellant first moved for severance in a November 23, 2010, pre-trial hearing. Counsel argued that severance was required where appellant intended to introduce three statements from co-defendant Harris. (R. p. 35, line 23-p. 37, line 12). The trial judge asked counsel to confirm that "this whole case revolves around one incident" and she affirmatively

replied, “I would say there’s probably no question about that.” (R. p. 37, lines 13-19). The assistant solicitor argued that even if tried separately, appellant would not be able to introduce the co-defendant’s statement as the statement was hearsay without a viable exception. (R. p. 39, line 12 - p. 40, line 5). Defense counsel countered that she would not offer the statements for the truth of the matter asserted, but to show inconsistency with identification of participants by the two co-defendants that gave statements. (R. p. 41, line 19 - p. 42, line 13). Counsel also argued that even if she was allowed to offer the statements, that would present a confrontation problem “for everyone else sitting at this table.” (R. p. 36, lines 2-5). The trial judge summarily denied the motion. (R. p. 43, lines 5-8).

Appellant renewed the motion during pre-trial on December 10, 2010. Defense counsel again argued the defense was impaired by not having the ability to offer Harris’ statements, which, counsel argued differently than in the initial motion, are contrary to other non-participant witness statements.¹ (R. p. 57, line 23 - p. 59, line 14). Counsel additionally argued that he and co-defendant Christian Coleman (appellant’s brother) would have antagonistic defenses because appellant could have been identified by the witnesses “because he is Christian Coleman’s brother” and “[t]hey look alike....” (R. p. 60, lines 1-13). Finally, she argued that she would lack standing to challenge the evidence from the search of co-

¹ One of Harris’ statements would have indicated appellant had a rifle during the incident. Counsel admitted that statement would “certainly be against my client’s defense.”(R. 58, lines 19-23; p. 59, lines 20-23). The solicitor noted he would have no objection to appellant admitting a statement that he “had a rifle during the murder,” but that evidentiary rules prevented the admission of the statement. (R. p. 62, lines 1-16).

defendant Harris' home. (R. p. 60, line 25 - p. 61, line 13). The trial judge again denied the motion. (R. p. 62, line 21 - p. 63, line 2).

During the trial, co-defendant Shivers entered evidence in cross-examination of one of the State's witnesses, Ms. Parsley. (R. p. 125, line 17- p. 126, line 4). During a break in the cross-examination of the following witness, Mr. T****, defense counsel attempted to preserve the right to last argument. (R. p. 171, line 13 - p. 173, line 4). Counsel for co-defendant Shivers advised the court that he "didn't consult with any other of the other counsel at the table" in offering the evidence. (R. p. 173, lines 16-20). Appellant's counsel admitted that this was not a ground included in the original motion for severance, (R. p. 177, lines 7-17), though the trial judge concluded, "I understand that even though you didn't make it as part of your severance motion, it should go along as another reason for severance." (R. p. 178, lines 14-17). The trial judge "rule[d] that the solicitor is going to get the final closing here." (R. p. 179, lines 9-10).

At the close of the State's case, appellant again renewed the motion to sever, both on antagonistic defense in that the jury is likely to find guilty of all by finding guilt of one, and because evidence was introduced that would not have been introduced but for the joint trial (Harris talking to investigator). (R. p. 267, line 1 - p. 270, line 11). Counsel for appellant also joined in a separate motion by co-defendant Ryant based on a violation of due process including, the loss of last argument and the fact that "pointing fingers at everybody its not going to help anybody, so cross-examination has been affected," and added that they had been "forced to work as a group...." (R. p. 270, line 18- p. 272, line 4). Again, the trial judge

stood by his decision on severance and denied the additional motions. (R. p. 270, lines 12-14; p. 275, lines 21-24).

Discussion:

“In South Carolina, criminal defendants who are jointly tried for murder are not entitled to separate trials as a matter of right.” *State v. Kelsey*, 331 S.C. 50, 73, 502 S.E.2d 63, 75 (1998); *State v. Halcomb*, 382 S.C. 432, 439, 676 S.E.2d 149, 152 (Ct. App. 2009) (same). “Motions for a severance and separate trial are addressed to the discretion of the trial court” and the judge’s ruling will not be reversed on appeal unless appellant demonstrates an abuse of discretion. *State v. Dennis*, 337 S.C. 275, 282, 523 S.E.2d 173, 176 (1999). Nothing in this record supports an abuse of discretion.

A defendant may show severance is necessary by demonstrating that “there is a serious risk that a joint trial would compromise a specific trial right” or that failure to sever would “prevent the jury from making a reliable judgment about a co-defendant’s guilt.” *State v. Harris*, 351 S.C. 643, 652, 572 S.E.2d 267, 273 (2002), quoting *Hughes v. State*, 346 S.C. 554, 558–59, 552 S.E.2d 315, 317 (2001). On appeal, the convicted defendant must demonstrate prejudice to gain relief. *Dennis*, 337 S.C. at 281, 523 S.E.2d at 176. “The rule allowing joint trials is not impugned simply because the codefendants may present evidence accusing each other of the crime.” *State v. Walker*, 366 S.C. 643, 657, 623 S.E.2d 122, 129 (Ct. App. 2005).

Appellant makes four specific complaints from the lack of severance in his statement of the issue on appeal and his argument heading: 1) evidence was entered against other defendants affecting his right to a fair trial; 2) he lost the ability to explain he was mistaken

for his brother; 3) he lost the right to last argument; and 4) he was unable to question co-defendant Harris about his statements to investigators. (FBOA, pp. 3 and 5). However, his argument in the brief appears to be only that there were too many defendants to effectively and fairly prosecute. (FBOA, pp. 11-12, citing *State v. Gunn*, 313 S.C. 124, 437 S.E.2d 75 (1993)). Appellant has failed to demonstrate real error or prejudice.

The State acknowledges the language in *Gunn* “remind[ing] prosecutors of the pitfalls inherent in mass conspiracy trials.” 313 S.C. at 138, 437 S.E.2d at 83. (See also FBOA, pp. 11-12). Yet, the instant case is far from the “mass conspiracy trials” envisioned in the caution, and cannot be equated with same.² In *Gunn*, at issue was a drug conspiracy where thirty-three individuals were indicted for acts in two different counties and during a lengthy period of time (1982 to 1989). See 313 S.C. at 128, 437 S.E.2d at 77. Ten of the defendants were jointly tried and convicted, but six convictions were reversed on appeal. *Id.* The Supreme Court found that the evidence did not prove one single conspiracy, but multiple conspiracies – a fact intensive inquiry showing multiple crimes. 313 S.C. at 130-31, 437 S.E.2d at 79. Here, the focus was much more narrow. This was one incident where six people acted together. The trial judge correctly focused on this fact in denying the motion for severance. (R. p. 37, lines 13-19). The decision to try the co-defendants together is similar to the one recently upheld in *State v. Spears*, 393 S.C. 466, 713 S.E.2d 324 (Ct. App. 2011):

² Of course, there is no prohibition against trying multiple co-defendants, even in a large drug conspiracy. See *State v. Harris*, 351 S.C. 643, 646, 572 S.E.2d 267, 269 (2002) (referencing eight defendants on trial).

The evidence against Spears and Bantan was interconnected. Both defendants were charged with an armed robbery that occurred at the Wagon Wheel on the morning of November 6, 2006. Both defendants were charged with kidnapping the same victims during the robbery. Both defendants were charged with possession of a firearm during the commission of these crimes. Finally, Spears's ex-girlfriend, Tanesha Adams, and Adams's brother led police to Bantan's mobile home, which contained evidence corresponding to the items victims testified were stolen from the Wagon Wheel.

393 S.C. at 476, 713 S.E.2d at 329.

Likewise, here, at issue was the murder, burglary and armed robbery of victim in his apartment on March 12, 2010. The evidence was concise and admissible against all five of the co-defendants to prove the one incident and participation in that one incident. Appellant has argued no particular piece of evidence that was admissible against a co-defendant that could not be admitted if he was tried alone. Indeed, this would be almost impossible to show where the evidence went to guilt of all parties who acted together. *See State v. Crowe*, 258 S.C. 258, 267-68, 188 S.E.2d 379, 383 (1972) ("Regardless of the jury's assessment of the evidence against the codefendant, the guilt of Wright depended upon a determination by the jury of whether he was present aiding and abetting in the commission of the crime. The jury was clearly and plainly so instructed and a determination of that issue did not require a separate trial."). *See also State v. Langley*, 334 S.C. 643, 648, 515 S.E.2d 98, 101 (1999) ("one who joins with another to accomplish an illegal purpose is liable criminally for everything done by his confederate incidental to the execution of the common design and purpose"); *State v. Thompson*, 374 S.C. 257, 263-64, 647 S.E.2d 702, 706 (Ct. App. 2007) ("under the hand of one is the hand of all theory of accomplice liability, acts committed by Sturkey are imputed to Thompson making him guilty of any acts done incidental to the execution of the common design or scheme of the crime."). There could be no abuse of

discretion in denying the motion for severance in this context.

Additionally, it is well settled that the loss of the right to closing argument is not a ground upon which to grant severance. *State v. Crowe*, 258 S.C. at 268, 188 S.E.2d 379 at 384; *State v. Smith*, 387 S.C. 619, 625-26, 693 S.E.2d 415, 418-19 (Ct. App. 2010). Appellant attempts to distinguish the instant case from *Crowe* and *Smith* by the number of defendants, (FBOA, p. 12); however, respondent submits that is a distinction without consequence. The number of defendants – whether two or five – is inconsequential as the resolution of the question of error is based on the fairness to the co-defendant who does not offer evidence – an individual right. See *Crowe*, 258 S.C. at 268, 188 S.E.2d at 384 (“The right of defendants to argue to the jury can be adequately protected in a joint trial. No prejudice to appellant’s rights in this regard has been shown.”).

As for appellant’s remaining point – an inability to plead mistaken identification – no argument is made other than a generic argument of inability. In fact, no other argument is even apparent from the record. Nothing prevent appellant from arguing mistaken identity, as he certainly did so in his closing. (See, for example, R. p. 308, lines 1-23). Nothing prevented appellant from suggesting his brother was the guilty party, save perhaps the desire not to incriminate his brother. That would, presumably, be present whether tried separately or alone. At any rate, appellant has failed to show how a specific right was affected by the denial of severance. *Dennis*, 337 S.C. at 281, 523 S.E.2d at 176 (“The general rule allowing joint trials applies with equal force when a defendant’s severance motion is based upon the likelihood he and a codefendant will present mutually antagonistic defenses, i.e., accuse one another of committing the crime.”). Respondent notes that there was not just one

identification by the surviving witness, but that T**** identified both appellant and his brother. (See R. p. 162, line 4- p. 163, line 21). Given T****'s testimony, a defense that appellant was only identified because he looked like his brother is of less value on the whole. At any rate, the defense was not unavailable.

Lastly, it is well settled that "[a] proper cautionary instruction may help protect the individual rights of each defendant and ensure that no prejudice results from a joint trial." *Dennis*, 337 S.C. at 282, 523 S.E.2d at 176. Here, the trial judge repeatedly and clearly instructed the jurors to consider guilt of the defendants as individuals. In fact, the trial judge began his charge as follows by underscoring the separateness of the charges and the defendants, and instructed:

You must decide each indictment separately on the evidence and the law applicable to it uninfluenced by your decision as to any other indictment. Each defendant may be convicted or acquitted on any or all of the offenses charged. You will be asked to write a separate verdict of guilty or not guilty for each indictment.

(R. p. 348, line 24 - p. 349, line 5).

The trial judge again instructed the jury:

... the case of each defendant and the evidence and law concerning that defendant should be considered separately and individually. The defendants have been tried together but you must determine each defendant's guilt or innocence separately as to each charge. Your verdict does not have to be same for all the defendants. The fact that you may find one defendant guilty or not guilty should not control your verdict as to the other defendants. Where more than one person is charged with a crime, if the evidence warrants it you may convict one and acquit the others, or you may acquit all, or you may convict all. It will depend upon your view of the testimony and the evidence. You must take each defendant and consider the evidence as to that defendant and my instructions to you on the law. You will then write a separate verdict of guilty or not guilty for each individual defendant as to each charge.

(R. p. 349, line 9 - p. 350, line 1).

Further, the trial judge underscored that each defendant was innocent until the jury determined that the State had proven guilt beyond a reasonable doubt. (R. p. 350, line 18 - p. 351, line 3). He also instructed that the jury could not convicted upon "suspicion, conjecture or speculation, no mater how strong," but that a conviction must be "based upon proof of guilt beyond a reasonable doubt." (R. p. 351, lines 10-14). After a charge on the elements, and before sending the jury to deliberate, the trial judge, reviewing the individual verdict forms, cautioned, "each one of these is for each separate defendant. You have got to determine each defendant's guilt as to each charge separately." (R. p. 370, lines 9-12). Respondent notes that neither appellant, nor, for that matter, any of the defendants, had an objection to the charge. (R. p. 372, lines 19-23). Further still, the jury returned to request a re-charge on the hand of one, hand of all instruction. The trial judge again instructed on hand of one, hand of all. (R. p. 377, line 22 - p. 381, line 24). This is some evidence of the preciseness of the jury deliberations, focusing on whether the evidence supported that each individual defendant was assisting another and joining in the crime – an individual determination of guilt.

In sum, appellant has failed to show error in the trial judge's decision to deny severance. He also fails to show prejudice where he has failed to identify any substantial right that was impaired by the ruling, and also fails to show prejudice in light of the clear instructions that each defendant be considered separately. He is not entitled to any relief.

II.

The trial judge did not abuse his discretion in admitting identification testimony over appellant's objection the witness lacked personal knowledge where the witness, who identified appellant from a photographic lineup, testified that she was present at the apartment when the crimes occurred, and sufficiently observed appellant's entry into the apartment to make the identification.

Relevant Facts:

Appellant objected to the admission of Ashley Parsley's identification testimony³ arguing she did not have personal knowledge to identify appellant given her testimony that she was ordered to the floor and faced the floor during the murder. (R. p. 26, line 3 - p. 29, line 22). Parsley's pre-trial motions testimony regarding identification indicated she was close to the attackers, in the same room, the room had sufficient lighting, and she was wearing her glasses. (See R. p. 3, line 20 - p. 4, line 11; p. 11, line 17 - p. 12, line 3; p. 13, line 5 - p. 17, line 19). She testified that as she was reaching for the marijuana the stranger asked for, she was told "it was a stick up" and told to get on the ground, which she did. (R. p. 6, lines 7-15). She saw the one individual who held the gun on her and a "stocky person," though she "didn't really see their face." (R. p. 6, line 16-p. 7, line 19). She identified appellant as the "stocky person," but even in her affidavit attached to the lineup she expressed she was not totally sure of the identification. (R. p. 8, line 22 - p. 9, line 24; p. 20, line 5 - p. 21, line 7; p. 22, line 21 - p. 23, line 19). No one suggested which photo she should select; rather, she testified that her choice was based on her recollection of the person. (R. p. 9, line 7 - p. 10, line 9; p. 20, line 5- p. 21, line 7). She testified she selected the

³ The State advised in pre-trial that they would not ask Parsley to make an in court identification, so the only issue dealt with the photographic lineup identification. (See R. p. 30, lines 5-17; p. 34, lines 4-8).

photograph “like an instinct, I just pointed straight at it.” (R. p. 18, lines 10-12). The trial judge ruled the photographic lineup identification was admissible, finding how “sure” the witness was in her identification went to the weight of the evidence not the admissibility. (R. p. 32, lines 1-15).

At trial, Parsley testified consistently, and admitted that she was not sure of the identification of appellant as the chubby guy in the green shirt and confirmed she “didn’t get a real good look at this face.” (R. p. 106, lines 3-12; p. 116, line 12 - p. 117, line 16). Additionally, investigating officer Lt. Shumpert, testified that at the time of the identification, Parsley independently wrote in her affidavit that “he is possible to be one of the guys that entered the house. I didn’t completely see his face.” (R. p. 254, line 17 - p. 255, line 4; State’s 5 (photographic lineup and witness affidavit)).

Discussion:

Rule 602, SCRE provides: “A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.” “In general, a witness can be shown to have personal knowledge if he or she had the opportunity and was able to perceive otherwise obtain knowledge through the senses.” Danny R. Collins, *South Carolina Evidence* 48 (2d ed. 2000). The rule does not require a certain level of certainty in identifications before those identifications – here, by an eyewitness, no less – or before the witness may testify. *See M. B. A. F. B. Fed. Credit Union v. Cumis Ins. Soc., Inc.*, 681 F.2d 930, 932 (4th Cir. 1982) (discussing similar federal rule: “Rule 602, however, does not require that the witness’ knowledge be positive or rise to the level of absolute certainty. Evidence is inadmissible under this rule only if in the proper

exercise of the trial court's discretion it finds that the witness could not have actually perceived or observed that which he testifies to."'). *See also United States v. Owens*, 699 F. Supp. 815, 818 (C.D. Cal. 1988) (citing the majority interpretation of similar federal rule "it would be error to admit evidence over Rule 602 objection only when no reasonable trier of fact could find that the witness was testifying on the basis of his or her personal knowledge."'). Credibility remains a matter for the jury, and the jury should be afforded the opportunity to assess the witness' testimony. *See State v. Ranieri*, 586 A.2d 1094, 1098 (R.I. 1991) ("In a situation in which the question of a witness's Rule 602 competency is close (that is, the jury could find that the witness perceived the matter testified to), the judge should admit the testimony since the matter then becomes one of credibility and is properly for the jury."); *State v. Poag*, 583 S.E.2d 661, 669 (N.C.Ct.App. 2003) (quoting from commentary of their similar state rule: "Personal knowledge is not an absolute but may consist of what the witness thinks he knows from personal perception."'). *Accord State v. Singleton*, 395 S.C. 6, 10-14, 716 S.E.2d 332, 334- 336 (Ct. App. 2011) (upholding ruling admitting in court identification where "there were inconsistencies" in prior identification statements, finding "[b]ecause Victim had prior personal knowledge of Singleton ... the identification process was not unduly suggestive."').

Here, there can be no question that the witness testified she was present, and saw two men enter. While she frankly testified she concentrated her attention to the first man, she testified she saw both men. The trial judge properly left the determination of credibility to the jury. Further, he gave ample guidance to the jury in his instructions:

An issue in this case is the identification of the defendants as a person who committed the crime charge. The State has the burden of proving identity beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant before you may convict the defendant. Identification testimony is an expression of belief or impression by a witness. You must determine the accuracy of the identification by the defendant. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This will be affected by things like, how long or short a time was available; how far or close the witness was; the lighting condition, and whether the witness had the chance to see or know the person in the past. ...

(R. p. 360, line 12-p. 361, line 4).

In sum, appellant has failed to show error. As the trial judge found, the witness, who was on the scene and actually involved, clearly stated that she was not fully sure of her identification, making the identification testimony a matter to submit to the jury for its consideration. The level of certainty goes to credibility – it is not a bar to admissibility. Further, the jury was adequately charged that it was a matter to carefully consider. Appellant has failed to show the trial judge abuse his discretion in admitting the testimony. He is not entitled to any relief.

III.

The trial judge did not abuse his discretion in admitting a photograph of a rifle which a firearms identification expert identified as consistent with the type of weapon that fired several of the shells recovered from the murder scene, and was also consistent with a witness' description of one of the weapons used.

Relevant Facts:

In pre-trial, appellant lodged an objection to the solicitor's use of a photograph of a rifle that merely looked like the one that was used in the robbery. The trial judge deferred a ruling until he heard what, if any, testimony would support admission of the photograph. (R. p. 67, line 4 - p. 71, line 20).

Patrick T**** testified that Shivers had "two rifles and a pistol" at appellant's home and showed the guns to T****. T**** further testified that the guns were SKS rifles and "one had a knife on it." (R. p. 136, lines 2-5). T**** testified that these guns were used in the burglary, robbery and murder. (R. p. 141, line 8-18; p. 148, lines 12-19). Specifically, he testified that Ryant and Shivers used the SKS rifles. (R. p. 148, lines 14-19). The solicitor showed T**** State's Exhibit 75, a photograph of a rifle and asked if T**** previously identified the rifle in the photograph as "looking like one of the rifles ... used," to which T**** responded "Yes, sir." (R. p. 167, line 23 - p. 168, line 3). At that time, the exhibit was marked for identification only. (R. p. 168, lines 5-8).

Firearms identification expert Agent James Green of SLED testified that the five of the cartridges recovered from the murder scene matched either a SKS or AK forty-seven. (R. p. 217, lines 14-24). Mr. Green testified that he provided the prosecution with a photograph of the kind of rifle that could have fired the bullets, State's Exhibit 75. (R. p. 217, line 25- p. 218, line 6). The State thereafter offered the photograph into evidence, and

appellant objected. (R. p. 218, line 9). The trial judge admitted the photograph over appellant's objection, and noted he would place the full ruling on the record later. (R. p. 218, lines 10-18). After completion of the witness' testimony, the trial judge made his ruling on the record:

... Mr. T****, when he testified, testified that they had – SKS type weapons were used. That is one of the types of firearms that agent Green testified could have fired that bullet, and I thought it could assist the jury in determining what type of weapon was used because, in fact, I'm not familiar with that kind of weapon. So, it helped me to visualize what type weapon was used. That was the basis for it. I am noting your objection on the record....

(R. p. 230, lines 12-21).

After the ruling, defense counsel noted that the State did not introduce a picture of a nine millimeter weapon – another weapon used but not recovered – and that the State treated the need for demonstrative evidence differently from weapon to weapon. (R. p. 230, line 24 - p. 231, line 6).

Discussion:

“The admission or exclusion of evidence is a matter addressed to the sound discretion of the trial court and its ruling will not be disturbed in the absence of a manifest abuse of discretion accompanied by probable prejudice.” *State v. Douglas*, 369 S.C. 424, 429, 632 S.E.2d 845, 847-48 (2006). Appellant fails to show an abuse of discretion.

Appellant argues the trial judge abused his discretion in allowing the photograph to be admitted as the rifle actually used was not recovered and the photograph unfairly “bolster[ed]” the case. (FBOA, p. 19). Further, appellant argues the difference in treatment weapon to weapon created an inference that the rifle photograph “was introduced to incite

the jury to decide an issue on an emotional basis.” (FBOA, p. 19). Neither argument shows an abuse of discretion by the trial judge in admitting the evidence.

First, the argument the rifle in the photograph is not the rifle actually used is a point of distinction made by appellant below, (R. p. 67, lines 8-10); however, he also conceded that a witness to the crime could “describe the weapon, was it big, was it little, was it a rifle, was it a hand gun” and even “use [their] hands” to show “how big” the rifle was in the witness’s recollection, (R. p. 67, lines 21-25). Therefore, appellant complains only of the manner of receipt of information. There is no real contest to the receipt of the information. This places admission of the photograph even more squarely in the discretion of the judge.

“Demonstrative evidence often is admitted only for use in the courtroom to explain and illustrate a witness’s testimony, but it also may be admissible as an exhibit for the jury to examine and consider during deliberations.” *Clark v. Cantrell*, 339 S.C. 369, 383, 529 S.E.2d 528, 535 (2000). By definition, “[d]emonstrative evidence is not the thing itself; it only demonstrates or illustrates the facts given by other evidence.” Danny R. Collins, *South Carolina Evidence* 400 (2d ed.2000). Appellant has already conceded the admissibility of the description. Given that T**** identified the photograph as representing a rifle that was similar to the one he observed, the circle is complete, and the photograph simply aided in the witnesses description of the rifle. The photograph was properly admitted as demonstrative evidence in light of T****’s testimony. *Compare State v. McConnell*, 290 S.C. 278, 280, 350 S.E.2d 179, 180 (1986) (“Based upon the record in this case, we conclude that these items should not have been admitted because they were not properly connected with the incident, irrelevant, incompetent, and raised spurious inferences of prior bad acts.”). Moreover, the

gun in question was not an average hunting rifle but a distinctive Soviet or Russian weapon. (See R. p. 217, lines 14-24). This would logically take the rifle out of common context for most jurors – a point that appears to be a fair inference from the judge’s ruling. (See R. p. 230, lines 12-21). While a juror is likely to comprehend and envision another pistol (recalling State’s Exhibit 73, the .40 caliber pistol was before the jury), or a standard rifle, such a distinctive rifle would not be readily called to the mind’s eye. Thus, the photograph of this weapon aided the jury in placing the witness’ description of the weapon in context. In fact, the description placed emphasis on the “knife” on the end of the rifle, (see R. p. 136, lines 2-5), but, as appellant readily conceded, the bayonet was folded on the rifle in the photograph – arguably less likely to “incite.” (See R. p. 70, lines 12-25). At any rate, he has failed to show an abuse of discretion in admission of the photograph simply because the rifle depicted was not the actual rifle used in the incident.

As to appellant’s remaining argument that photograph was simply used to “incite” the jury, that argument was not clearly made below and is procedurally barred. *See, e.g., State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 - 694 (2003) (“[i]ssues not raised and ruled upon in the trial court will not be considered on appeal.”). Even so, the argument lacks merit. “To warrant reversal based on the admission or exclusion of evidence, the appellant must prove both the error of the ruling and the resulting prejudice, i.e., that there is a reasonable probability the jury’s verdict was influenced by the challenged evidence or the lack thereof.” *State v. Singleton*, 395 S.C. 6, 13, 716 S.E.2d 332, 335-36 (Ct. App. 2011), *quoting Fields v. Reg’l Med. Ctr. Orangeburg*, 363 S.C. 19, 26, 609 S.E.2d 506, 509 (2005). There could be no “reasonable probability” that the verdict was affected by a simple

photograph of a type of weapon that was consistent with a weapon that fired one set of the shell casings collected at the scene, especially where the gun was described and the photograph identified by a participant to the crimes. Moreover, as argued above, the .40 caliber pistol was already in evidence, and was sufficient to demonstrate the average size of a pistol in general – the photograph was an adequate demonstrative aid for the jury to visualize the missing weapon. There is nothing unfairly prejudicial readily discernible in admitting this photograph. Again, appellant fails to prove an abuse of discretion.

Lastly, any conceivable error could only be harmless. This is so for two reasons. First, the photograph is cumulative to the description given by T****– a description appellant raised no objection to and conceded was admissible. *See State v. Haselden*, 353 S.C. 190, 196-97, 577 S.E.2d 445, 449 (2003) (improper evidence harmless where merely cumulative to other evidence); *State v. Evans*, 378 S.C. 296, 300, 662 S.E.2d 489, 491 (Ct. App. 2008) (evidence “merely cumulative, insubstantial” did not affect the result of trial and considered harmless). Second, there is overwhelming evidence of guilt. “Where a review of the whole record establishes that an error is harmless beyond a reasonable doubt, the conviction should not be reversed.” *State v. Elders*, 386 S.C. 474, 480-81, 688 S.E.2d 857, 860-61 (Ct. App. 2010), *citing State v. Thompson*, 352 S.C. 552, 562, 575 S.E.2d 77, 83 (Ct. App. 2003). Here, there are two independent identifications of appellant as the individual who entered the apartment with a gun – one by T****, and one by surviving witness, Parsley. Further, forensic evidence identified that multiple guns were used in the crime, confirming Parsley’s testimony that multiple individuals entered the apartment, which in turn, supports T****’s testimony of the events.

In sum, appellant has failed to demonstrate an abuse of discretion in the admission of the photograph. However, if this Court should find error, any such error could only be harmless in light of the remaining evidence of record. Appellant is not entitled to any relief.

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment, conviction, and sentence of the lower court should be affirmed.

Respectfully submitted,

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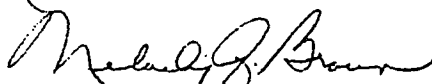
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April 5, 2012.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions
Edgar Dickson, Circuit Court Judge

The State, Respondent,
vs.
Ralph Bernard Coleman, Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR. The undersigned also certifies that the Final Brief is in compliance with the South Carolina Supreme Court's Order of August 13, 2007.

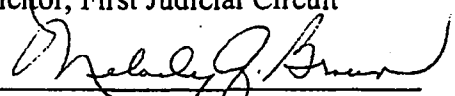
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PROOF OF SERVICE

I, Melody J. Brown, certify that I have served the *Final Brief of Respondent* on appellant by depositing a copy of same in the United States mail, postage prepaid, addressed to his attorney of record as follows:

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