

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

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S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

ANDRE NORRIS,

APPELLANT

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.

Andre Norris,

Appellant.

Appeal From Aiken County
Doyet A. Early, III, Circuit Court Judge

Unpublished Opinion No. 2012-UP-014
Submitted November 1, 2011 – Filed January 25, 2012

AFFIRMED

Appellate Defender Elizabeth Franklin-Best, of
Columbia, for Appellant.

Attorney General Alan Wilson, Chief Deputy
Attorney General John W. McIntosh, Assistant
Deputy Attorney General Salley W. Elliott, and
Senior Assistant Attorney General Harold M.

Coombs, Jr., all of Columbia; and Solicitor J. Strom Thurmond, Jr., of Aiken, for Respondent.

PER CURIAM: Andre Norris appeals his conviction for kidnapping, arguing the circuit court erred in (1) denying his motion to withdraw his guilty plea and (2) violating his due process right to be present at a critical stage of the proceeding against him. We affirm¹ pursuant to Rule 220(b)(1), SCACR, and the following authorities:

1. As to whether the circuit court erred in denying his motion to withdraw his guilty plea: State v. Riddle, 278 S.C. 148, 150, 292 S.E.2d 795, 796 (1982) ("The withdrawal of a guilty plea is generally within the sound discretion of the [circuit court]."); State v. Rikard, 371 S.C. 295, 301, 638 S.E.2d 72, 75 (Ct. App. 2006) ("A determination the plea was voluntarily entered will normally show the [circuit court] did not abuse [its] discretion." (internal quotation marks and citations omitted)); id. at 300-301, 638 S.E.2d at 75 ("[T]o knowingly and voluntarily enter a plea of guilty, all that is required is that a defendant has a full understanding of the consequences of [his] plea and the charges against [him]. . . . Moreover, the record in a guilty plea proceeding must establish a factual basis for the plea." (internal citation omitted)).

2. As to whether the circuit court violated Norris's due process right to be present at a critical stage of the proceeding against him: State v. Huggins, 336 S.C. 200, 203 n.2, 519 S.E.2d 574, 575 n.2 (1999) (holding because appellant failed to raise the argument that his sentencing phase was unconstitutional to the circuit court, the issue was not preserved for review).

AFFIRMED.

FEW, C.J., THOMAS and KONDUROS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

THE STATE,

RESPONDENT,

V.

ANDRE NORRIS,

APPELLANT

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

Opinion No. 2012-UP-014

PETITION FOR REHEARING

Petitioner respectfully asks this Court, pursuant to SCAR, Rule 221(a) to rehear his case. Petitioner submits this Court has overlooked or misapprehended points necessary to the proper resolution of this case. Specifically, this Court has overlooked the fact that Norris denied the factual basis of the plea, and also overlooked that Norris was not present during a critical stage of the proceeding, specifically, when his culpability was apportioned by the judge.

RELEVANT FACTS

Eight defendants pleaded guilty, by way of a "group plea," before the trial court judge. The judge accepted their guilty pleas and then had them sit down while he heard the facts of the case.

Afterward, each defendant, with his attorney, was allowed to offer mitigation prior to receiving his sentence.

All eight had some connection with the events of December 24, 2007 which culminated in the shooting death of the victim. These events traversed Lexington, Saluda, and Aiken counties. This plea occurred in Aiken County. The facts, related to the court, by the solicitor are as follows:

On December 26th, 2007 the victim's grandmother notified the Lexington County Sheriff's Department that her grandson was missing. She said that on December 24th, she received two calls from the victim stating "they" wanted their guns or \$5,000 or they were going to kill him. Lexington County began an investigation, and determined that the victim was last seen getting into a maroon colored car with Darrell Williams and other individuals on or about 4 o'clock on that date. It appears that he went willingly with Darrell Williams and two others, Johnnie Walker and Sheldon Oakman. The State conceded that he was not kidnapped at that point. The victim and Williams had been involved in the theft of guns.

After this initial missing persons report, the Lexington County detectives continued to receive information. They wanted to interview a person who overheard a conversation between Williams and Oakman discussing that Frankie Gantt had killed the victim. This person stated he heard that the victim's body was placed in a red Toyota Corolla owned by Terry Hewitt.

Lexington County and the Aiken County Sheriff's Department found Hewitt, and Hewitt indicated he had loaned the car to others. DNA samples taken from the car confirmed that the victim's blood was in the trunk.

The police then interviewed Ronnie Bowers, a resident of Saluda County. Investigators in Saluda County located a shotgun under the underpinning of a trailer where the "main part of this

kidnapping actually occurred.” Tr. 31, ll. 11-16. The shotgun had been stolen in August 2007, and the victim was listed as a possible suspect in that burglary.

On January 19th, investigators located Oakman at his father’s residence and Oakman implicated other people who were involved. He informed the police that Frankie Gantt actually shot the victim. He named the other people involved in the actual kidnapping and those who were present when the victim was shot. He claimed to know where he was shot, and he directed the investigators to Hutto Pond Road, in Aiken County.

At this location, the investigators found forensic evidence, including shotgun shells, a live shotgun round, and a cell phone that belonged to the victim. The shotgun shell casings were tied to the shotgun found at the residence in Saluda.

All of the co-defendants were apprehended and several of them gave statements leading to “various arrests for different charges” that were made initially. Tr. 32, ll. 14-17. At the trailer in Saluda County, the victim was “tortured for several hours by being beat, by allegedly being burnt with an iron, and everybody had the chance or everybody was invited to pound on him” to find out the location of the guns that had apparently been entrusted to the victim by Williams. The Solicitor told the judge that the victim had been beaten, held and not allowed to leave from that trailer in Saluda. Tr. 33, ll.2-5.

The victim, on the day of the killing, had left the trailer in Saluda County with Oakman, Gantt, Marion Abner, and the appellant, Andre Norris, in one car. Behind them, in another car, Bowers and Oakman were driving. Williams and Walker remained at the trailer. They were supposed to go to Walker’s house in Aiken County to “clean up” the victim.

At some point during this ride, the plan changed. The victim made a couple of calls from the car. He called 911.

The men then drove into Aiken County and onto Hutto Pond Road where they stopped. Hutto Pond Road is a dirt road. Gantt got out of the passenger seat. The victim was told to get out. Oakman was told to pop the trunk. Gantt took a shotgun out of the trunk. At some point, the victim ran. Gantt shot at him three times. Gantt then "finished him off" behind a deserted building. Tr. 34, ll. 18-19.

After this, they all met back at Walker's house. Williams was extremely upset that the victim had been killed. According to the State, all eight of them returned to the scene and two or three of them placed the victim's body in a blanket, placed him in the back of the car, and transported him. He was ultimately taken to a location outside of Bamberg and dumped in a trash pile. The appellant, Norris, led the investigators to the location of the body.

The Charges

As the solicitor explained, "a lot of folks were arrested for accessory after the fact." Tr. 37, ll. 12-14. Some charges were upgraded to murder based on a theory of hand-of-one, hand-of all. Some charges were upgraded to kidnapping:

Throughout the course of the year there's been various charges depending on what may have been said when one person or another was interviewed and whether or not they established probable cause for other charges.

Tr. 37, ll. 16-20.

The solicitor continued to explain why he chose what charges to proceed on:

I have met with the family—the immediate family and some of the extended family members—I don't know, three or four times during the course of the last year and explained to them the law and how it works as much as I can based on as long as I have been doing this to explain to them the ramifications of a trial and US v. Bruton issues and different statements, and when it is all said and done we really felt like that Frankie Gantt acted out of impulse or acted out of meanness or spite or something—we don't know—but that the primary charge of murder against him was one that we felt very easily we could prove by using all of the other co-defendants' testimony or just using one or two of them, but to make everybody's role in this complete the kidnapping had to find its way home, and under a felony murder or

under a hand-of-one-hand-of-all theory that I really felt like that it was a potential that all of them could be convicted of murder even though they might not have known that a murder was going to take place and they might not have anticipated that a murder was going to take place and it would have been stretching it to some degree to believe that they all knew that Jeremy was going to be killed. . . .

But I think every one of them that's sitting over there in that box knew he was being held against his will at some point, and that's the basis for us offering this most serious violent charge to them to plead guilty.

Tr. 37, l. 21- 38, l. 24.

The solicitor said he offered them a plea to kidnapping to "clean up" all of the charges and to "clean up" the various liabilities in the various counties. He admitted that he knew that if he tried them all under a hand-of-one-hand-of-all theory, that a jury might acquit some of the defendants. Tr. 77, ll.2-6.

The trial court judge then listened to the mitigation from the following co-defendants: Frankie Gantt, Tr. 49, l. 16- 55, l. 4; Darrell Williams, p. 55, l. 8- 59, l. 8; Johnnie Walker, p. 59, l. 10-p. 71, l. 3; and Sheldon Oakman, p. 71, l. 5- 86, l. 13. The Court then recessed for the day. They received sentences of 45 years, 30 years, 30 years, and 30 years, respectively.

The next day the trial court judge placed on the record a conversation he had with his court reporter. The court reporter advised the judge that she was unable to personally observe the responses of the defendants to the judge's questions the day before, during the actual plea. The judge said, however, that he had been able to, and that if he had not been able to, he would have stopped the proceeding. Tr. 87, ll.6-18.

John Oakman was the next defendant to offer mitigation. Tr. 87, l. 21- p. 103, l. 19. Oakman is the younger brother of Sheldon Oakman, and he is only 16. He told the judge that he had no knowledge of what was going to happen, and that he was told to get in the car. He was scared not to obey because he thought if he did not go along with the others, he would be killed. He

did not know who the gun belonged to, and he had never seen it before. He was scared that if he went to the police, that the others would kill him or his family. The judge had him step down:

THE COURT: All right. All right, Paul, take him back. I am going to hold him under advisement until I listen to the rest of them.

Tr. 103, ll.19-21.

Then appellant Norris was called up before the judge. At that time, Norris's attorney made a motion to withdraw his guilty plea:

THE COURT: Mr. Weeks, does Mr. Norris have a record?

MR. ROUTZONG: Your Honor, before we go any further Mr. Norris has asked me to ask the Court to consider allowing him to withdraw his guilty plea.

THE COURT: Sir, I have taken his guilty plea yesterday. It was done knowingly, voluntarily, and intelligently. I went through all of the questions. He answered them appropriately. Motion denied.

Tr. 105, ll.3-10.

After a few preliminary remarks by his attorney, Norris then denied the factual basis of the plea. He protested his innocence to the charge. He explained that he was at the trailer playing cards with Bower's girlfriend. He is not a member of that group of people who were there that day. He viewed them as a "rough and tumble group." He told the judge that he only saw one or two people touch the victim, and that it was not a beating. He said there was just "a misunderstanding." Tr. 108, ll.1-2. He said there was no iron. At some point, Ms. Bowers asked all of them to leave the trailer. He thought their issue had been resolved. Williams told everyone that they were going to Walker's house to clean up the victim. His lip was bleeding. They also wanted to get him some clothes since the victim was heading to a party with them that same day. So, they all left intending to do that. Norris got in the car with the others, and they headed to Walker's house. As they were driving there, Gantt told the driver to keep going straight. They ended up on Hutto Pond Road.

Gantt said to stop the car. He opened the front passenger door and the victim got out of the car. The two of them were outside of the car talking. Gantt kept asking him about the guns. The victim told Gantt that he did not have to talk to him about the guns; that he had already talked to "Steve" about the guns. (Steve is Darrell Williams).

Gantt then had Junior (Oakman) open the trunk and remove the gun. Norris said he saw the gun out of the back window. At that point, Norris and Gantt started arguing. He told Gantt to put the gun away. Gantt told him he "ain't got nothing to do with it." Tr. 112, ll.15. While they were arguing, the victim took off running. Gantt then fired at him. Gantt took off running back behind the deserted building, following the victim. Norris heard two more shots, and then Gantt returned to the car. They left:

He got in the car. He's like I wasn't even going to shoot him. He said I was just trying to make him stop, and I said, man, you shot him? I said, man, you ain't shot that man. He said, yea, I shot him.

Tr. 113, ll.6-10.

Norris, despite these remarks, thought the victim had escaped since Gantt was coming from a long distance back to the car. He thought the victim had outrun Gantt. He found out that Gantt really shot the victim when he overheard Gantt tell Williams that he "had to shoot" him. Tr. 113, ll.13-16. They went to Williams' house. At Williams' house, Gantt and Williams got in to a physical altercation. Williams asked Gantt if he killed him; Gantt replied he did not know. They all agreed to go back to see if they could help him. It took about 45 minutes to find the victim's body. When they did, Williams told Gantt he was going to be a "man about what you done tonight." Tr. 114, ll.17. They were going to go to the police station.

They decided to head to the Batesburg Leesville Police Station. They traveled in two cars—Norris, Walker, Williams, and Oakman were in the car behind the others. When they got close to

the police station, the car turned off the road. They would not stop, and they ended up on a dirt road. The people in the second car noticed that the trunk was open on the first car, the one they were following. Williams asked what they were doing, but did not get a response. Williams told them it was "on ya'll. Whatever happens is on ya'll." Tr. 115, ll. 20-21. They got in the car and left.

Norris told the court that he did not come forward to tell the police because there were a number "of threats going on." Tr. 118, ll.21-24.

Norris's attorney told the court that his client's version of the events was corroborated by the evidence. The victim's body was, in fact, found within 200 meters of the police station. Also, Norris has absolutely no criminal record, and owned a carpet cleaning business. Tr. 119, ll. 6-18. As counsel pointed out, there was no allegation that anyone knew that Gantt had a gun in that car. Tr. 119, ll. 22-25.

THE COURT: Well, he is certainly aware of the gun once it got out.
You didn't try to do anything to stop him from shooting that young man?

DEFENDANT: Yea, that's what I said. Me and Frankie were arguing when this took place. That's how he got a chance to run. Me and him was arguing. I was telling him to put the gun up before somebody gets hurt and then that's when Jeremy got the chance to run. He took off running.

Tr. 120, ll. 1-10.

Counsel informed the judge that his client has been consistent in this version of events that he presented the judge. Also, counsel had a copy of his client's tax returns that showed that he was a carpet cleaner.

Tr. 120, ll. 20-25.

After this, the trial court judge had Norris taken away.

The next defendant was asked to approach the bench, Marion Abner. Tr. 121, ll.19- p. 139, l. 10. After the mitigation was presented, he had him stand down, too. Tr. 139, ll. 6-11.

The trial court judge then called the following people back into chambers with him: The head investigating officer, Solicitor Thurmond, Solicitor Weeks, all of the defense attorneys present in the courtroom—Mr. Whittle, Mr. Woodruff, Mr. Routzong, Mr. Timmerman, and Mr. Gibbons.

[A]nd I had an in-chambers discussion with everyone trying to enlighten everyone about how I assess the culpability of these four Defendants compared with the four Defendants that I sentenced yesterday with 45 years on the murder and 30 years on each of the kidnapping.

Tr. 139, ll. 15- 140, l. 1.

The judge then addressed the victim's family to explain his sentencing decision-making process:

To the victim's family, I, quite honestly, having listened to all of it, feel like there are sort of two levels involved in this case. I think you got the major players who I sentenced yesterday—the murderer and then you had the other three who were I felt like were most instrumental in the kidnapping—but having listened to these four young men, I feel like that their involvement is not as substantial as the ones yesterday, and they have certain mitigating factors or factors that caused it to be on a different level—age, prior record, involvement or lack of involvement, some cooperation after the fact—and my assessment was pretty much coincided with how law enforcement looked at it as well, but, obviously, deals or offers could not have been made because we could not have gotten pleas to everybody admitting their guilt in this thing if the Solicitor had to differentiate. So, that was sort of my job.

Then, without even hearing any mitigation information on the part of Ronnie Bowers, he sentenced these four defendants, including appellant Norris, to 17 years incarceration.

The trial court judge erred by not allowing Norris to withdraw his guilty plea under the unique circumstances of this case. Generally, the decision to allow a defendant to withdraw his guilty plea rests in the sound discretion of the trial court judge: State v. Riddle, 278 S.C. 148, 292 S.E.2d 795 (1982).

The judge should have allowed withdrawal in this case because Norris denied the factual basis of the plea, and because the cattle-call procedure used by the trial court judge did not ensure that Norris's plea was intelligently, knowingly, and voluntarily entered into.

Norris's version of events was completely different, in terms of his culpability, than the facts presented by the solicitor. According to Norris, he was actually trying to save the victim from harm. He helped him to escape. Norris also denied that he was part of the group who were abusing the victim. In short, Norris denied being criminally responsible at all. Norris unambiguously denied any criminal responsibility for the victim's death. The trial court judge should have allowed him to withdraw his guilty plea and stand trial on these charges. See Rolen v. State, 384 S.C. 409, 683 S.E.2d 471 (2009) (finding attorney ineffective for failing to move to withdraw the guilty plea after his client denied the factual basis of the plea).

Also, the judge should have allowed Norris to withdraw his guilty plea because the cattle-call method of accepting the plea and hearing mitigation did not allow for individual consideration of Norris's unique circumstances in this case, specifically, that he was denying that he was criminally responsible at all. A plea is a solemn judicial admission of truth of charges against an individual, and statements made during the plea should be considered conclusive unless there are valid reasons why a defendant should be allowed to depart from the truth of his statement. Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (Ct. App. 2007). The cattle-call technique of accepting pleas to charges this severe wholly undermines this concept by suggesting, by its form, that all of the co-defendants should be treated in like manner. It is a foundational principle of law that defendants should be treated according to their relative culpabilities. Here, the judge decided that there were "2 levels" of culpability, and assigned the defendants into them, despite the fact that Norris, for example, completely denied his culpability, (as did the younger Oakman), and without hearing any

mitigation at all from Bowers. The judge simply lumped them all together in a judicially expeditious, but unconstitutional, manner. Indeed, given the solicitor's remarks about how he made his charging decisions, the judge should have been on alert that perhaps the solicitor was attempting to cast his net too widely.

Cattle-call or "group pleas" are disfavored by other states. The Supreme Court of Missouri, in Roberts v. State, 276 S.W.3d 833, 837 (2009) stated this: "There is no doubt that group plea proceedings like the one in which Movant's plea was entered unnecessarily increase the opportunities for mistakes or confusion." Id. And see footnote 5, further discussing group pleas:

Group pleas are used as a time-saving mechanism in some of Missouri's circuit courts, although the use of group pleas has been criticized repeatedly by the court of appeals. See Castor v. State, 245 S.W.3d 909, 915 n.8 (Mo.App. 2008) (noting that the court had disapproved of the group plea practice in Guynes v. State, 191 S.W.3d 80, 83, n.2 (Mo.App.2006) , and recommending that group guilty pleas be discontinued . . . Eleverum v. State, 232 S.W.3d 710, 712 n.4 (Mo.App.2007) (reiterating that Guynes had determined that group guilty pleas are not ideal and should be discontinued). And see Howell v. State, 185 S.W.3d 319, 332-34 (Tenn. 2006) (cautioning against the use of group guilty pleas in the context of "package deal" pleas but noting that such plea procedures are valid; noting other cases finding that package deal plea arrangements are not invalid per se; Cazanas v. State, 270 Ga. 130, 508 S.E.2d 412, 415 (1998) (noting a belief "that a group guilty plea hearing is an inappropriate forum for a trial court to accept a defendant's plea of guilty to a serious charge" and that "a trial court should engage in a one-on-one colloquy with [the] defendant, thereby better ensuring the constitutional integrity of the plea-making process); State v. Verdin, 845 So.2d 372, 376-77 (La.Ct. App. 2003) (noting the use of group pleas and stating that personal pleas are preferred but group pleas are not invalid).

Id. at 837.

Here, the group plea caused a problem because the judge, first, did not know what to do about the defendants who denied the factual basis of the plea (Norris and the younger Oakman). Additionally, he did not know how to assess the relative culpabilities of the parties, which is why he had an in-chambers meeting with everyone but the defendants, see *infra* Argument II. And see United States v. Allen, 831 F.2d 1487 (1987) (finding trial counsel's pre-trial conduct, which

included submitting a list of the defendants' relative culpabilities to the judge, in a group plea context, "deeply troubling.").

Another problematic aspect of the group plea in this case is that, had the judge allowed Norris to withdraw his guilty plea, the State then may not have been able to take his case to trial at all, since his co-defendants were pleading guilty and being sentenced on that date. The extent to which this may have factored into the judge's decision-making is unknowable on this record, but given the secret in-chambers meeting held during the plea, and with the inclusion of Solicitor Thurmond, the Chief Solicitor of that circuit, it raises the specter of impropriety. The judge abused his discretion by not allowing Norris to withdraw his guilty plea, during the context of a group plea, when he denied the factual basis of the plea.

As to petitioner's second issue-- During the plea, the judge invited everyone but the defendants into chambers so that he could "assess the culpability of these four defendants." Tr. 139, ll.15- 140, l. 1. Without a doubt, Norris had a right to be present. A criminal defendant enjoys a due process right to be present at a proceeding "whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge." Snyder v. Massachusetts, 291 U.S. 97, 105-106 (1934), overruled in part on other grounds in Malloy v. Hogan, 378 U.S. 1 (1964). U.S.C.A. 6, 14; State v. Shuler, 344 S.C. 604, 545 S.E.2d 805 (2001). This right affords a defendant the opportunity to know what is occurring, make objections, and take appropriate actions to secure his rights and protect his defense. See People v. Johnson, 388 Ill.App.3d 199, 203, 902 N.E.2d 1265, 1268, 327 Ill.Dec.879, 882 (2009). Norris did not take any actions to warrant his removal from this in-chambers proceeding. Cf. State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987); Illinois v. Allen, 397 U.S. 337 (1970). After this hearing, the judge immediately returned to the courtroom and sentenced Norris, and the three others, to 17 years incarceration. His sentence was discussed,

and his culpability apportioned. Norris had the right to be present. Respectfully, Norris asks this Court to grant his petition for rehearing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'EAF-Best', written over a horizontal line.

Elizabeth A. Franklin-Best
Appellate Defender

This 9th day of February, 2012.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE NORRIS,

APPELLANT

CERTIFICATE OF SERVICE

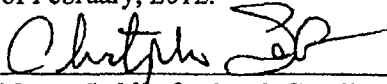
The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Harold M. Coombs, Jr., Esquire, this 9th day of February, 2012.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 9th day
of February, 2012.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: May 16, 2021.

The South Carolina Court of Appeals

The State,

Respondent,

v.

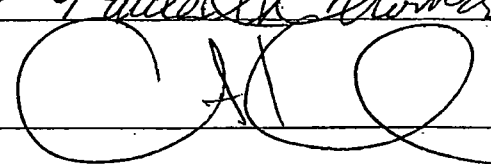
Andre Norris,

Appellant.

The Honorable Doyet A. Early, III
Aiken County
Trial Court Case No. 2008-GS-02-01093

ORDER DENYING PETITION FOR REHEARING

PER CURIAM: After a 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. It is, therefore, ordered that the Petition for Rehearing be denied.

 C.J.
 J.
 J.

Columbia, South Carolina

FILED

15 Mar 2012

18526

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM AIKEN COUNTY

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE NORRIS,

APPELLANT

RECORD ON APPEAL

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County of Aiken) Court of General Sessions
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08-GS-02-1086
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08-GS-02-1770
09-GS-02-0725
08-GS-02-1093

The State of South Carolina)
 Plaintiff)
 vs.)
Frankie L. Gantt, Marion F.)
Abner, John Oakman, Jr.,)
Sheldon Oakman, Ronnie Bowers,)
Jr., Darrell L. Williams,)
Johnnie W. Walker, and Andre)
Norris)
 Defendants)

Multiple Guilty Plea
Transcript of Record

April 27 & 28, 2009
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

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Lisa H. Davenport
Official Court Reporter

I N D E X O F W I T N E S S E S

Frankie L. Gantt, Marion F. Abner, John O. Oakman, Jr.,
Sheldon Oakman, Ronnie C. Bowers, Jr., Darrell L.
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(none offered)

1 (Whereupon, on April 27, 2009 the following
2 proceedings were held:)

3 THE COURT: Let me have everybody's attention,
4 please. Be quiet. As your name is called, come forward.

5 MR. WEEKS: Frankie Gantt. Your Honor, I think for
6 purposes of qualification we have them all sitting in the
7 jury box with their lawyer if don't mind taking them that
8 way.

9 THE COURT: I don't mind.

10 MR. WEEKS: If Lisa can hear them. It will be
11 Frankie Gantt.

12 THE COURT: All right.

13 MR. WEEKS: Johnnie Walker, Darrell Williams, Ronnie
14 Bowers, Sheldon Oakman, John Oakman, Jr. Those are the
15 ones we have, Your Honor. It should be six.

16 THE COURT: All right. Mr. Gantt, you're represented
17 by Mr. Gibbons?

18 MR. GIBBONS: He is, Your Honor.

19 THE COURT: Mr. Oakman by Mr. Woodruff?

20 MR. WOODRUFF: John Oakman, Jr., Your Honor.

21 THE COURT: Mr. Bowers by Mr. Timmerman?

22 MR. TIMMERMAN: Yes, Your Honor.

23 THE COURT: Mr. Chandler, Mr. Sheldon Oakman?

24 MR. CHANDLER: That's correct.

25 THE COURT: Mr. Katonak, Darrell Williams.

1 MR. KATONAK: Yes, sir.

2 THE COURT: Hold on one second. Mr. Whittle, you
3 want to join us?

4 MR. WHITTLE: Yes, sir.

5 MR. WEEKS: Mr. Whittle will be Marion Abner, Your
6 Honor.

7 THE COURT: Brian, who do you have?

8 MR. WEEKS: Brian has Darrell Williams.

9 THE COURT: Hold on a second. Mr. Whittle?

10 MR. WHITTLE: Yes, sir.

11 THE COURT: Put Mr. Abner down here on this end. Are
12 you still missing one? Is he going to join us?

13 MR. WEEKS: He hadn't as of the last report.

14 THE COURT: All right. Mr. Gantt, Walker, Abner,
15 Sheldon Oakman, Darrell Williams, Ronnie Bowers, and John
16 Oakman Jr., please raise your right hand.

17 FRANKIE L. GANTT, JOHNNIE W. WALKER, MARION F.
18 ABNER, SHELDON OAKMAN, DARRELL L. WILLIAMS, RONNIE
19 BOWERS, JR., AND JOHN O. OAKMAN, JR., after being duly
20 sworn by the Court, testified as follows:

21 THE COURT: Let the record reflect that everyone
22 answered in the affirmative. Thank you. Put your hands
23 down.

24 MR. WEEKS: One more minute. Somebody call
25 Mrs. Godard and tell her that we're running after

1 5 o'clock.

2 THE COURT: For those in the audience, I know there
3 are a lot of family members of the Defendants. I assume
4 that we have family members of the victim. I will not
5 tolerate any untoward behavior. That means no talking, no
6 disruptive behavior, no crying, no shouting, no nothing.
7 If you cannot control yourself, I am asking you please now
8 to leave. If you violate my instructions, then I will
9 deal with you and you'll be subjecting yourself to
10 contempt of court and I can incarcerate you for up to six
11 months.

12 So, please, I ask everyone to behave themselves as
13 you have done throughout the day. You've been very good.
14 Please continue.

15 Where is Mr. Routzong? Is he coming?

16 All right. Gentlemen, y'all can be seated until I
17 get Mr. Routzong.

18 Are you Mr. Andre Norris? Just have a seat one more
19 back right there.

20 Mr. Gibbons, you have a seat down here by your
21 client.

22 Mr. Norris, would you please stand? Is he signed up,
23 Mr. Routzong?

24 MR. ROUTZONG: He did sign, Your Honor, but I am not
25 fully confident that he is really wanting to do this.

1 THE COURT: Either he does or he doesn't.

2 Are you here to plead guilty, sir?

3 DEFENDANT ANDRE NORRIS: Yea.

4 THE COURT: All right. Raise your right hand.

5 ANDRE NORRIS, after being duly sworn by the
6 Court, testified as follows:

7 THE COURT: Thank you. You may be seated. Is it
8 more comfortable to remain seated or would you rather
9 stand?

10 MR. WHITTLE: Whatever is better for you, Judge.

11 THE COURT: Let's just stay seated for a second. How
12 about that?

13 All right. Mr. Whittle, you represent Marion Floyd
14 Abner in indictment 08-GS-02-01098, an indictment for
15 kidnapping?

16 MR. WHITTLE: I do, Your Honor.

17 THE COURT: Thank you. You may be seated.

18 Mr. Gibbons?

19 MR. GIBBONS: Yes, sir.

20 THE COURT: You represent Frankie Gantt -- Frankie
21 Lamon Gantt -- in indictment 08-GS-02-01087, an indictment
22 for murder?

23 MR. GIBBONS: I do, Your Honor.

24 THE COURT: Thank you. You may be seated.

25 Mr. Woodruff, you represent John Oakman, Jr., in

1 indictment 08-GS-02-1096, an indictment for kidnapping?

2 MR. WOODRUFF: Yes, sir.

3 THE COURT: Thank you.

4 Mr. Chandler, you represent Sheldon Oakman in
5 indictment 08-GS-02-1086, an indictment for kidnapping?

6 MR. CHANDLER: I do, Your Honor.

7 THE COURT: Thank you.

8 Mr. Timmerman, you represent Ronnie Bowers, Jr., in
9 indictment 08-GS-02-1091, an indictment for kidnapping?

10 MR. TIMMERMAN: Yes, sir, Your Honor.

11 THE COURT: Mr. -- strike that. Mr. Katonak --

12 Mr. Brian Katonak, you represent are Darrell L. Williams
13 in indictment 2008-GS-02-1770, an indictment for
14 kidnapping?

15 MR. KATONAK: Yes, sir, Your Honor.

16 THE COURT: Thank you.

17 Mr. Lawrence Brown, you represent Johnnie W. Walker,
18 in indictment 09-GS-02-00725, an indictment for
19 kidnapping?

20 MR. BROWN: Yes, Your Honor.

21 THE COURT: All right. I'd ask all of the lawyers to
22 please stand. I called everybody, didn't I? All eight?

23 Mr. Woodruff, Routzong, Brown, Timmerman, Chandler,
24 Whittle, and Katonak, have you advised each of your
25 clients of the charges contained in their indictment; that

1 is, the charge of kidnapping?

2 (Whereupon, the group responds affirmatively.)

3 THE COURT: Have each of you advised your client that
4 this -- a possible sentence would be anywhere from zero to
5 30 years?

6 (Whereupon, the group responds affirmatively.)

7 THE COURT: Have you further advised your client that
8 it is classified as a violent act?

9 (Whereupon, the group responds affirmatively.)

10 THE COURT: Gentlemen, have you further advised your
11 clients that this is what is classified as a most serious
12 crime?

13 (Whereupon, the group responds affirmatively.)

14 THE COURT: Have you advised them of the consequences
15 of most serious; i.e., that it constitutes a strike and
16 that if they become involved in law violations in the
17 future which are classified as most serious that would be
18 two strikes and they would be subjecting themselves to
19 life in prison without the possibility of parole or if
20 they become involved in criminal activity that's
21 classified as serious and they get a combination of a most
22 serious and two serious that would subject themselves --
23 subject them to life in prison without the possibility of
24 parole?

25 (Whereupon, the group responds affirmatively.)

1 THE COURT: Have you also advised each of them that
2 this is what we call a no-parole sentence and whatever I
3 sentence them to that they will serve 85 percent of that
4 sentence and be released to a community supervision
5 program?

6 (Whereupon, the group responds affirmatively.)

7 THE COURT: Mr. Lawrence Brown, have you advised
8 Mr. Walker of his right to have his indictment sent to the
9 Grand Jury?

10 MR. BROWN: I have, Your Honor.

11 THE COURT: Does he wish to waive presentation of the
12 indictment to the Grand Jury?

13 MR. BROWN: Yes, sir.

14 THE COURT: Mr. Weeks?

15 MR. WEEKS: Yes, sir.

16 THE COURT: Mr. Lawrence Brown, would you please have
17 your client initial where he waives presentation of the
18 indictment?

19 MR. BROWN: Yes, sir.

20 THE COURT: Gentlemen, have each of you advised your
21 client of his right to trial by jury?

22 (Whereupon, the group responds affirmatively.)

23 THE COURT: Mr. Whittle, as to Marion Abner how does
24 he wish to plead?

25 MR. WHITTLE: Guilty, Your Honor.

1 THE COURT: Do you, after reviewing his file and
2 discussing the matter with him, agree with his decision?

3 MR. WHITTLE: I do, sir.

4 THE COURT: Mr. Katonak, how does your client Darrell
5 Williams wish to plead, not guilty or guilty?

6 MR. KATONAK: Guilty, Your Honor.

7 THE COURT: Do you agree with his decision after
8 having reviewed all of the evidence with him?

9 MR. KATONAK: Yes, sir, I do.

10 THE COURT: Mr. Everett Chandler, how does your
11 client Mr. Sheldon Oakman wish to plead, not guilty or
12 guilty?

13 MR. CHANDLER: Guilty, Your Honor.

14 THE COURT: Do you agree with his decision?

15 MR. CHANDLER: I do.

16 THE COURT: Mr. Timmerman, how does your client
17 Ronnie Bowers wish to plead?

18 MR. TIMMERMAN: Guilty.

19 THE COURT: Do you agree with his assessment?

20 MR. TIMMERMAN: I do.

21 THE COURT: Mr. Woodruff, how does John Oakman, Jr.,
22 wish to plead, not guilty or guilty?

23 MR. WOODRUFF: Guilty.

24 THE COURT: Do you agree with his decision?

25 MR. WOODRUFF: Yes, sir.

1 THE COURT: Mr. Routzong, how does your client Andre
2 Norris wish to plead, not guilty or guilty?

3 MR. ROUTZONG: Guilty, Your Honor.

4 THE COURT: Do you agree with his decision?

5 MR. ROUTZONG: Yes, sir.

6 THE COURT: Mr. Brown -- strike that. Mr. Johnnie
7 Walker, would you please stand? Mr. Walker, your
8 indictment has not yet been sent to the Grand Jury. You
9 have the right to have it presented to the Grand Jury like
10 all of these other indictments before we proceed here
11 today. Your lawyer says you wish to give up that right
12 and proceed here in this court without the indictment
13 going to the Grand Jury. You've signed the sentence sheet
14 indicating that you wish to waive presentment to the Grand
15 Jury. Is that correct?

16 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

17 THE COURT: Do you have any questions you need to ask
18 me about the functions of the Grand Jury or your right to
19 have the matter sent to the Grand Jury -- the indictment
20 sent to the Grand Jury?

21 DEFENDANT JOHNNIE W. WALKER: No, sir.

22 THE COURT: All right, sir. I find your decision to
23 waive presentment of the indictment to be freely,
24 voluntarily, and with advice of counsel. You may have a
25 seat.

1 Mr. Lawrence Brown, have you advised Mr. Johnnie
2 Walker of his rights to trial by jury?

3 MR. BROWN: I have, Your Honor.

4 THE COURT: How does he wish to plead?

5 MR. BROWN: Guilty, Your Honor.

6 THE COURT: Do you agree with his assessment?

7 MR. BROWN: I do.

8 THE COURT: Mr. Gibbons, as to Frankie Gantt, he is
9 charged with murder. Have you advised him of those
10 charges?

11 MR. GIBBONS: I have, Your Honor.

12 THE COURT: Have you advised him that under our
13 statutory scheme -- have you advised him that under our
14 current statutory scheme that the minimum sentence that he
15 will receive is 30 years up to a maximum of life in prison
16 without the possibility of parole?

17 MR. GIBBONS: I have.

18 THE COURT: Have you advised him that whatever the
19 Court sentences him to that he will do his time day for
20 day?

21 MR. GIBBONS: I have, Your Honor.

22 THE COURT: Have you further advised him that it is
23 classified as violent and most serious?

24 MR. GIBBONS: I have and we have gone through the
25 strikes, Your Honor.

1 THE COURT: And I see that in your case there is a
2 recommendation. I don't think there is a recommendation
3 in any other case.

4 Is that correct, Mr. Weeks?

5 MR. WEEKS: That's correct.

6 THE COURT: And the recommendation is what?

7 MR. WEEKS: Just that he not receive not a complete
8 life sentence.

9 THE COURT: The recommendation is that he receive
10 something less than life in prison without the possibility
11 of parole.

12 MR. GIBBONS: That's the agreement, Your Honor.

13 THE COURT: Any other agreement?

14 MR. GIBBONS: No, sir.

15 THE COURT: Now, have you explained to him those
16 charges, the classification of most serious, violent, and
17 what the recommendation is?

18 MR. GIBBONS: I have, Your Honor.

19 THE COURT: Have you advised him of his right to
20 trial by jury?

21 MR. GIBBONS: I have.

22 THE COURT: How does he wish to plead?

23 MR. GIBBONS: He wishes to enter a plea of guilty,
24 Your Honor.

25 THE COURT: After reviewing all of evidence and

1 listening and talking with your client are you in
2 agreement with his decision?

3 MR. GIBBONS: I am.

4 THE COURT: Thank you. All right, Gentlemen, if you
5 would please stand. I remind each of you are still under
6 oath. As to Mr. John Oakman, Jr., Andre Norris, Johnnie
7 Walker, Ronnie Bowers, Sheldon Oakman, Marion Abner, and
8 Darrell Williams, as well as Mr. Frankie Gantt -- first of
9 all, as to Mr. Gantt, Mr. Gantt, you are aware, are you
10 not, of the fact that that you are indicted for murder?
11 The charges of murder are currently pending against you.
12 Do you understand those charges?

13 DEFENDANT FRANKIE L. GANTT: Yes, sir.

14 THE COURT: Do you understand that under our
15 statutory scheme that the minimum sentence I can give you
16 is 30 years in the State Department of Corrections? The
17 maximum sentence I can give you is up to life. Do you
18 understand that?

19 DEFENDANT FRANKIE L. GANTT: Yes, sir.

20 THE COURT: Do you understand those charges and the
21 possible punishment?

22 DEFENDANT FRANKIE L. GANTT: Yes, sir.

23 THE COURT: You further understand that there is a
24 recommendation that the State has made to me that I not
25 sentence you to life, but that is the only recommendation

1 that's been made. Do you understand all of that?

2 DEFENDANT FRANKIE L. GANTT: Yes, sir.

3 THE COURT: All right. The rest of the Gentleman:
4 Mr. Oakman, Jr., Mr. Andre Norris, Mr. Johnnie Walker,
5 Mr. Ronnie Bowers, Mr. Sheldon Oakman, Mr. Marion Abner,
6 and Mr. Darrell Williams, do each of you gentlemen
7 understand the charges currently against you as indicted
8 which is kidnapping? Do each of you understand that?

9 (Whereupon, the group responds affirmatively.)

10 THE COURT: All have answered in the affirmative. Do
11 you understand that the possible sentence is zero to 30
12 years? Do each of you understand that?

13 (Whereupon, the group responds affirmatively.)

14 THE COURT: Do each of you understand that it is
15 classified as violent and most serious?

16 (Whereupon, the group responds affirmatively.)

17 THE COURT: That most serious means that you will now
18 have a strike against you and if you -- once you're
19 released from incarceration if you become involved in law
20 -- unlawful activity and you have another most serious
21 then you would be subjecting yourself to life in prison
22 without the possibility of parole. Do each of you
23 understand that?

24 (Whereupon, the group responds affirmatively.)

25 THE COURT: Also, if you get out and you get involved

1 in law enforcement -- law -- criminal activity that is
2 classified as serious and you have a most serious and two
3 serious, then you would also be subjecting yourself to the
4 possibility of life in prison without parole.

5 (Whereupon, the group responds affirmatively.)

6 THE COURT: Everybody?

7 (Whereupon, the group responds affirmatively.)

8 THE COURT: Do you understand that this is what is
9 known as a no-parole sentence which means under our
10 current law that you would do 85 percent of whatever
11 sentence I give you? Do each of you understand that?

12 (Whereupon, the group responds affirmatively.).

13 THE COURT: Do each of you understand that once
14 you're released after doing 85 percent that you would be
15 released to a community supervision program?

16 (Whereupon, the group responds affirmatively.)

17 THE COURT: Each one of you understand that?

18 (Whereupon, the group responds affirmatively.)

19 THE COURT: All right. Gentlemen, understanding the
20 charges currently pending against you, understanding the
21 fact that it is classified as violent and most serious and
22 what that means, understanding that it is a no-parole
23 sentence and that you do 85 percent of it -- understanding
24 all of that, Mr. John Oakman, Jr., how do you wish to
25 plead, not guilty or guilty?

1 DEFENDANT JOHN O. OAKMAN, JR.: Guilty.

2 THE COURT: Mr. Ronnie Bowers, how do you wish to
3 plead, not guilty or guilty?

4 DEFENDANT RONNIE BOWERS, JR.: Guilty.

5 THE COURT: Mr. Darrell Williams, how do you wish to
6 plead, not guilty or guilty?

7 DEFENDANT DARRELL L. WILLIAMS: Guilty.

8 THE COURT: Mr. Andre Norris, how do you wish to
9 plead, not guilty or guilty?

10 DEFENDANT ANDRE NORRIS: Guilty.

11 THE COURT: Mr. Sheldon Oakman, how do you wish to
12 plead, not guilty or guilty?

13 DEFENDANT SHELDON OAKMAN: Guilty.

14 THE COURT: Mr. Johnnie Walker, how do you wish to
15 plead, not guilty or guilty?

16 DEFENDANT JOHNNIE W. WALKER: Guilty, sir.

17 THE COURT: And Mr. Marion Abner, how do you wish to
18 plead, not guilty or guilty?

19 DEFENDANT MARION F. ABNER: Guilty, Your Honor.

20 THE COURT: Mr. Frankie Gantt, as to the murder
21 charges, do you wish to plead guilty or not guilty?

22 DEFENDANT FRANKIE L. GANTT: Guilty.

23 THE COURT: All right. Gentlemen, I am going to ask
24 you a series of questions. Please listen carefully.
25 Gentlemen, when you plead guilty each of you give up

1 certain constitutional rights. One is your right to
2 remain silent. You have a constitutional right not to
3 testify in a criminal matter, but if you plead guilty then
4 you have to admit your guilt. Do each of you understand
5 that?

6 (Whereupon, the group responds affirmatively.)

7 THE COURT: Also, you give up a very important
8 constitutional right. You give up your right to a trial
9 by jury. If any of you asked or requested a trial by
10 jury, of course, the state would give you one at which
11 time you would have the right through your lawyers to
12 confront and cross examine everybody who testified against
13 you. You would have the right to present your own
14 defense. That means you could call witnesses to testify
15 on your behalf. You could introduce relevant exhibits,
16 and you could testify in your own defense if you chose to
17 do so.

18 If you exercised your constitutional right to remain
19 silent, then I would the tell the jury they could not hold
20 your failure to testify against you in any manner
21 whatsoever, and, in fact, I would instruct them that they
22 could not even consider the fact that you did not testify
23 when they deliberated your guilt or innocence. You would
24 be presumed innocent throughout the trial, and the State
25 of South Carolina would have the burden of proving your

1 guilt beyond a reasonable doubt to a jury of 12 people,
2 and in order for that jury to convict you, all 12 people
3 would have to unanimously agree that you were, in fact,
4 guilty, and even if you were found guilty, you would still
5 have the right to an appeal.

6 Now, do each of you understand your rights to trial
7 by jury?

8 (Whereupon, the group responds affirmatively.)

9 THE COURT: Now, understanding your rights to trial
10 by jury, do any of you wish to change your mind and have a
11 jury trial as opposed to pleading guilty?

12 (Whereupon, the group responds negatively.)

13 THE COURT: Other than the recommendation made to
14 Mr. Gantt, has anyone made any promise, held out any hope
15 of reward, or threatened any of you in any manner in order
16 to make you plead guilty?

17 (Whereupon, the group responds negatively.)

18 THE COURT: Mr. Gantt, you're represented by
19 Mr. Gibbons; Mr. Walker by Mr. Brown; Mr. Abner by
20 Mr. Whittle; Mr. Sheldon Oakman by Mr. Chandler;
21 Mr. Norris by Mr. Routzong; Mr. John Oakman, Jr., by
22 Mr. Woodruff; Mr. Ronnie Bowers by Mr. Timmerman;
23 Mr. Darrell Williams by Mr. Katonak. Are each of you
24 totally and completely, fully satisfied with the legal
25 representation provided to you by your lawyer?

1 (Whereupon, the group responds affirmatively.)

2 THE COURT: Do each of you gentlemen believe that
3 your lawyers have had enough time so they can spend time
4 with you to go over the facts of the case, they can
5 research the law, and they can investigate the independent
6 facts of the case?

7 (Whereupon, the group responds affirmatively.).

8 THE COURT: Is there anything else any of you want
9 your lawyers to do for you today before I move forward
10 other than speak up on your behalf?

11 (Whereupon, the group responds negatively.)

12 THE COURT: I ask each of you gentlemen, again, are
13 you totally, completely, and fully satisfied with your
14 lawyers?

15 (Whereupon, the group responds affirmatively.)

16 THE COURT: Gentlemen, are any of you today under the
17 influence of alcoholic beverages, drugs, or prescription
18 medication? If so, let me know.

19 (Whereupon, the group responds negatively.)

20 THE COURT: Gentlemen, are you each pleading guilty
21 of your own free will and accord? Is it your own will
22 that you're pleading guilty to?

23 (Whereupon, the group responds affirmatively.)

24 THE COURT: Gentlemen, are any of you aware of any
25 mental, nervous, or emotional condition which would keep

1 you from understanding what we're doing here today?

2 (Whereupon, the group responds negatively.)

3 THE COURT: Has every one of you understood all of my
4 questions?

5 (Whereupon, the group responds affirmatively.)

6 THE COURT: Does anybody have any questions that you
7 want to ask of me?

8 (Whereupon, the group responds negatively.)

9 THE COURT: I ask you, once again, are each one of
10 you pleading guilty of your own free will and accord? If
11 so, please let me know.

12 Mr. Gantt, did you here in Aiken County on or about
13 December 24 of 2007 willfully and with malice aforethought
14 kill and murder one Jeremy Leaphart by shooting him with a
15 shotgun and that he did die here in Aiken County as a
16 result thereof?

17 DEFENDANT FRANKIE L. GANTT: Yes, sir.

18 THE COURT: Sir? You did murder Jeremy Leaphart?

19 DEFENDANT FRANKIE L. GANTT: Yes, sir.

20 THE COURT: You're pleading guilty because you
21 murdered Mr. Leaphart; is that correct?

22 DEFENDANT FRANKIE L. GANTT: Yes, sir.

23 THE COURT: You're pleading guilty because you are
24 guilty?

25 DEFENDANT FRANKIE L. GANTT: Yes, sir.

1 THE COURT: You pleading guilty because you broke the
2 law?

3 DEFENDANT FRANKIE L. GANTT: Yes, sir.

4 THE COURT: You may have a seat.

5 Mr. Johnnie W. walker?

6 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

7 THE COURT: Did you here in Aiken County on
8 December 24, 2007 participate in a plan to unlawfully
9 kidnap one Jeremy Leaphart without authority of law?

10 DEFENDANT JOHNNIE W. WALKER: No, sir. It wasn't
11 nothing planned or nothing.

12 THE COURT: Well, did you kidnap him?

13 DEFENDANT JOHNNIE W. WALKER: No, sir.

14 THE COURT: Were you involved in kidnapping him?

15 DEFENDANT JOHNNIE W. WALKER: Nothing ever
16 intentionally, sir.

17 THE COURT: I didn't say it was intentional. Was he
18 kidnapped?

19 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

20 THE COURT: Were you part of the kidnapping?

21 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

22 THE COURT: You understand that once you kidnapped
23 him you were violating the law?

24 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

25 THE COURT: Is that what you're pleading guilty to?

1 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

2 THE COURT: Pleading guilty because you are guilty?

3 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

4 THE COURT: Pleading guilty because you participated
5 in the kidnapping of Jeremy Leaphart?

6 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

7 THE COURT: You may have a seat.

8 Mr. Marion Floyd Abner, did you here in Aiken County
9 on December 24, 2007 kidnap or participate in the
10 kidnapping of Jeremy Leaphart?

11 DEFENDANT MARION F. ABNER: Yes, sir, Your Honor.

12 THE COURT: Are you pleading guilty because you are
13 guilty?

14 DEFENDANT MARION F. ABNER: Yes, sir.

15 THE COURT: Pleading guilty because you broke the
16 law?

17 DEFENDANT MARION F. ABNER: Yes, sir.

18 THE COURT: Pleading guilty because you did either
19 participate or kidnap Mr. Leaphart?

20 DEFENDANT MARION F. ABNER: Yes, sir, Your Honor.

21 THE COURT: You may have a seat.

22 Mr. Sheldon Oakman, I ask you did you on December 24,
23 2007 participate in or kidnap -- participate in the
24 kidnapping of Jeremy Leaphart here in Aiken County?

25 DEFENDANT SHELDON OAKMAN: Yes, sir, Your Honor.

1 THE COURT: Are you pleading guilty because you are
2 guilty?

3 DEFENDANT SHELDON OAKMAN: Yes, sir.

4 THE COURT: Pleading guilty because you broke the law
5 and because you did, in fact, kidnap or participate in the
6 kidnapping of Jeremy Leaphart?

7 DEFENDANT SHELDON OAKMAN: Yes, sir, Your Honor.

8 THE COURT: Thank you. You may have a seat.

9 Mr. Andre Norris, did you here in Aiken County on or
10 about December 24, 2007 participate in or kidnap one
11 Jeremy Leaphart here in Aiken County?

12 DEFENDANT ANDRE NORRIS: Yes, sir.

13 THE COURT: Pleading guilty because you are guilty?

14 DEFENDANT ANDRE NORRIS: Yes, sir.

15 THE COURT: Pleading guilty because you broke the
16 law?

17 DEFENDANT ANDRE NORRIS: Yes, sir.

18 THE COURT: Pleading guilty because you did, in fact,
19 kidnap or help kidnap Mr. Leaphart?

20 DEFENDANT ANDRE NORRIS: Yes, sir.

21 THE COURT: Thank you. You may have a seat.

22 Mr. John Oakman, Jr., I ask you did you here in Aiken
23 County on or about December 24 --

24 MR. ROUTZONG: Excuse me, Your Honor.

25 (Whereupon, Mr. Routzong conferred with Mr. Weeks.)

1 MR. ROUTZONG: I apologize, Your Honor.

2 THE COURT: Accepted.

3 Mr. John Oakman, Jr., did you here in Aiken County on
4 December 24, 2007 participate in or kidnap Jeremy
5 Leaphart?

6 DEFENDANT JOHN OAKMAN, JR.: I was there. I didn't
7 kidnap him, but I was there.

8 THE COURT: Well, you understand that the hand of one
9 is the hand of all?

10 DEFENDANT JOHN OAKMAN, JR.: Yes, sir.

11 THE COURT: And that constitutes participation. Is
12 that what you're pleading guilty to?

13 DEFENDANT JOHN OAKMAN, JR.: Yes, sir.

14 THE COURT: Pleading guilty because you did
15 participate?

16 DEFENDANT JOHN OAKMAN, JR.: Yes, sir.

17 THE COURT: Pleading guilty because you're guilty?

18 DEFENDANT JOHN OAKMAN, JR.: Yes, sir.

19 THE COURT: All right. You may have a seat.

20 Mr. Bowers -- Ronnie Catrell Bowers, did you here in
21 Aiken County on or about December 24, 2007 participate in
22 or plan or carry out the kidnapping of one Jeremy
23 Leaphart?

24 DEFENDANT RONNIE BOWERS, JR.: Yes, sir, Your Honor.

25 THE COURT: Are you pleading guilty because you are

1 guilty?

2 DEFENDANT RONNIE BOWERS, JR.: Yes, sir, Your Honor.

3 THE COURT: Pleading guilty because you broke the
4 law?

5 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

6 THE COURT: Pleading guilty because you did kidnap
7 Jeremy Leaphart?

8 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

9 THE COURT: You may have a seat.

10 Mr. Darrell Williams, I ask you did you here in Aiken
11 County on or about December 24, 2007 participate in or, in
12 fact, kidnap one Jeremy Leaphart?

13 DEFENDANT DARRELL L. WILLIAMS: Yes, sir, Your Honor.

14 THE COURT: Are you pleading guilty because you are
15 guilty?

16 DEFENDANT DARRELL L. WILLIAMS: Yes, sir.

17 THE COURT: Are you pleading guilty because you broke
18 the law?

19 DEFENDANT DARRELL L. WILLIAMS: Yes, sir.

20 THE COURT: Are you pleading guilty because you did
21 kidnap Jeremy Leaphart?

22 DEFENDANT DARRELL L. WILLIAMS: Yes, sir, Your Honor.

23 THE COURT: All right. You may have a seat.

24 I'll ask each of you to stand back up for me. All
25 right, Gentlemen, I will accept each of your pleas. I

1 find that each of you -- Frankie Gantt as to murder;
2 Johnnie Walker, Marion Abner, Sheldon Oakman, Andre
3 Norris, John Oakman, Jr., Ronnie Bowers, and Darrell
4 Williams as to the kidnapping. I find your pleas to be
5 freely, voluntarily, and knowingly and intelligently made;
6 that each of you have a lawyer respectively that I've
7 talked to this morning or this afternoon -- Mr. Gantt,
8 Mr. Gibbons; Mr. Walker, Mr. Brown; Mr. Abner,
9 Mr. Whittle; Mr. Sheldon Oakman, Mr. Chandler; Mr. Norris,
10 Mr. Routzong; Mr. John Oakman, Jr., Mr. Woodruff;
11 Mr. Bowers, Mr. Timmerman; Mr. Darrell Williams,
12 Mr. Katonak -- that each of you have had those lawyers.
13 Each of you said that you're totally and completely
14 satisfied with your lawyer; that you've had competent
15 counsel and I will accept your plea.

16 I further advise you that you have a right to appeal
17 this decision within 10 days if you disagree with the
18 sentence or with my -- with these proceedings. I further
19 advise you that you have within 10 days of today's date to
20 file a motion to reconsider the sentence which I will hold
21 in abeyance until everything is concluded if we need to
22 have that. You may have a seat.

23 Mr. Weeks?

24 MR. WEEKS: Your Honor, if I could give the facts I
25 can summarize everybody's involvement in the giving of the

1 facts, and then we can call them up here individually if
2 you'd like.

3 THE COURT: All right, sir.

4 MR. WEEKS: With regard to one exception which I
5 agreed with the request to allow some family members to
6 come up tomorrow because we were not aware that he was
7 going to enter a plea.

8 THE COURT: That's fine.

9 MR. WEEKS: Your Honor, on December 26 of 2007
10 Frances Rudd, the Defendant's (sic) grandmother, I
11 believe, notified the Lexington County Sheriff's
12 Department that Jeremy Leaphart was missing.

13 THE COURT: I'm sorry. Whose grandmother?

14 THE WITNESS: Jeremy Leaphart, the victim in this
15 case. It was her nephew Jeremy Leaphart -- I'm sorry --
16 that was missing. She stated that on December 24 she had
17 received two telephone calls from Jeremy stating they want
18 their guns or \$5,000 or they're going to kill me. She
19 stated the last time anyone had heard from Jeremy was on
20 the 24th of 2007. The Lexington County investigators
21 began an investigation into the kidnap of Jeremy, and they
22 determined that he was last seen getting in a maroon car
23 with Darrell Williams and a couple of other individuals on
24 or about 4 o'clock or so December 24, 2007 in Lexington
25 County.

1 THE COURT: Getting in the car with whom? Darrell
2 Williams?

3 MR. WEEKS: Darrell Williams. Our information as I
4 understand it it was Darrell Williams and Johnnie Walker
5 and Sheldon Oakman, I believe, were the three people who
6 were there when he was actually picked up, but there was
7 some question to be candid with the Court as to whether or
8 not he was kidnapped at that point. He was picked up, but
9 they were -- I think their intention at that time was
10 ultimately to kidnap him, but Jeremy might have actually
11 called and said give me a ride. Jeremy had been involved
12 with Darrell Williams in the theft of some guns or the
13 possession of some guns from some earlier incident.

14 Anyway, after the report on December 24 the Lexington
15 County detectives began to receive information. They
16 called Lieutenant Billy Fleury who is here with me on
17 January 16. They wanted to interview an individual who
18 had overheard a conversation between Darrell Williams and
19 Sheldon Oakman talking about how Frankie Gantt had shot
20 and killed Leaphart. Martin stated -- this individual
21 stated they had heard that Leaphart's body was put in the
22 trunk of a red-in-color Toyota corolla owned by a fellow
23 named Terry Hewitt.

24 Investigators along with Aiken County Sheriff's
25 Department people located and contacted Terry Hewitt who

1 indicated that he had loaned out that automobile and that
2 the investigation subsequently led them to recover that
3 automobile and take DNA samples from it which ultimately
4 ended up in a report from South Carolina Law Enforcement
5 Division that Jeremy Leaphart's blood was present in the
6 trunk of that automobile, but subsequent and all about
7 this same time of the January 16, January 18 of 2008
8 individuals began to be identified.

9 They went to interview Ronnie Bowers and Ronnie --
10 the residence in Saluda County. There were three counties
11 that were involved in this whole melee. It was Lexington,
12 Saluda, Aiken, and then back to Lexington again, but,
13 anyway, investigators from Saluda County Sheriff's
14 Department located a shotgun under the underpinning of a
15 trailer where the main part of this kidnapping actually
16 occurred. The shotgun was found to have been stolen in
17 August of 2007, and Jeremy Leaphart was actually listed as
18 a possible suspect in that burglary. That's the victim in
19 the case.

20 On January 19 investigators from Lexington located
21 Sheldon Oakman at his father's residence and he began to
22 give up the people who were involved. He stated he was
23 shot by Frankie Gantt. He was transported to the Aiken
24 County Sheriff's Department where the Lexington and Aiken
25 County Sheriff's Department investigators continued to

1 interview him. He named all of the other people who were
2 involved in the actual kidnapping and who was present when
3 Jeremy was shot and the location where he was shot. He
4 directed the investigators to Hutto Pond Road in Aiken
5 County South Carolina which is on I would call it the
6 northern side of Aiken County, Your Honor.

7 At that scene investigators were able to find some
8 forensic evidence including three spent shotgun shell
9 casings, a live shotgun round, and a cellphone that was
10 ultimately in the investigation identified as belonging to
11 the victim Jeremy Leaphart. The shotgun shell casings
12 were tied in with the shotgun that was found at the
13 residence in Saluda.

14 All of these individuals began to be apprehended, and
15 several of them gave detailed statements leading to the
16 various arrests for different charges that were made
17 against them initially. All of them were present at a
18 location at the trailer -- I'll call it the Bowers
19 trailer -- in Saluda where Jeremy arrived with Darrell
20 Williams and Johnnie Walker and was -- no other way to
21 describe it -- tortured for several hours by being beat,
22 by allegedly being burnt with an iron, and everybody had a
23 chance or everybody was invited to pound on him a little
24 bit to try to obtain information as to the location of
25 these guns that he had purportedly let get out of his

1 possession that had been entrusted to him allegedly by
2 Darrell Williams or that they had some common interest in
3 these guns, but Jeremy was -- uncontradicted according to
4 the the other Co-Defendants in this case -- beaten, held,
5 and not allowed to leave from that trailer in Saluda.

6 He ended up leaving that trailer in Saluda in the
7 company of John Oakman, Frankie Gantt, Marion Abner, Andre
8 Norris in one car along with the victim Jeremy Leaphart
9 and then the second car was Ronnie Bowers and Sheldon
10 Oakman. Darrell Williams and Johnnie Walker stayed behind
11 at that residence. The idea from the individual
12 statements that were given is that they were supposed to
13 go to Johnnie Walker's house in Aiken County and clean up
14 Mr. Leaphart.

15 Somewhere on the ride from the Saluda residence to
16 the Aiken County location where Mr. Leaphart was killed
17 the plan changed. At one point Jeremy calls 9-1-1 from
18 the cellphone and essentially tries to convince the 9-1-1
19 operator to send the deputies to the Saluda ballfield by
20 acting like that's where they needed to bring the money.
21 He was allegedly -- I think he was giving a fake
22 phonecall. He called 9-1-1. Since they had already heard
23 him call various relatives trying to get money for these
24 guns, he decided he would call 9-1-1 and ask them for
25 money and tell them to come to the Saluda ballfield

1 hoping, I am assuming, to raise enough interest where the
2 deputies would start heading his way. I think that was
3 the last phonecall Jeremy Leaphart ever made.

4 The individuals at some point -- all the testimony or
5 all of the statements that have ultimately been given in
6 this case was that they turned into Aiken County and went
7 on Hutto Pond Road where they stopped on this dirt road
8 near an old building and that Frankie Gantt got out of the
9 front passenger seat of the car. Jeremy was in the
10 backseat surrounded by two other individuals. He was told
11 to get out. John Oakman, I believe, was driving the car,
12 and he was told to pop the trunk, and when he popped the
13 trunk Frankie Gantt took out a shotgun -- and the shotgun
14 that had previously been stolen earlier that summer.

15 Apparently, at some point Jeremy took off running and
16 Mr. Gantt shot at him three times. I think the evidence
17 at the scene would show that he at least clipped him on
18 those shots, but for some reason he was not able to finish
19 him off, and somebody -- there is different testimony as
20 to who it was -- gave him another shotgun shell and he
21 finished him off behind this deserted building. He was
22 killed from a shotgun wound to the neck where he bled out.
23 He was hit -- basically, the pathologist said he was hit
24 three times with 20 gauge shotgun shell birdshot, but
25 close range shot at the level he was hit killed him very

1 quickly on the last shot.

2 Your Honor, they found the cellphone at that location
3 along with these other indicia. We've been dating for
4 some period of time for the DNA to come back from the
5 various swabs that were taken in the vehicles from the
6 various search warrants that were done in the case by both
7 Lexington County and by Aiken County.

8 Your Honor, this plea to these charges of these
9 individuals will take care of any potential kidnapping
10 charges from this incident or any charges from this
11 incident in these other two counties. I have spoken to
12 the Assistant Solicitor in Lexington and the Assistant
13 Solicitor in Edgefield -- Saluda County and they actually
14 transferred their kidnapping charges to us to dispose of
15 in this fashion on Darrell Williams.

16 There was a real question as to whether or not he was
17 kidnapped initially and they were all too happy to allow us
18 to pursue the kidnapping charges here, but, actually, him
19 being held against his will in Saluda county for that
20 period of time and tortured and beat, there could have
21 been charges in Saluda County, but since the buck kind of
22 ended in Aiken County we felt like it was appropriate to
23 take all of the pleas here.

24 As if this isn't bad enough, what happened afterwards
25 is morbid. After all of these individuals left the scene

1 of Jeremy's death --

2 THE COURT: Were they all on the scene where he was
3 shot?

4 MR. WEEKS: Darrell Williams was not on the scene
5 where he was shot and Johnnie Walker wasn't on the scene
6 when he was shot.

7 They all left the scene and went back to, I believe,
8 Johnnie Walker's house where they all met up. It's been
9 told by the various people that Darrell Williams who is
10 related to Frankie Gantt was upset at him for killing
11 Jeremy. Ultimately, everybody -- all eight of them -- got
12 in two cars and went back to the location where Jeremy's
13 body was behind this deserted building on Hutto Pond Road
14 in Aiken County and depending on who you believe two or
15 three of them loaded him up in a blanket that had been
16 taken from Mr. Walker's house and loaded him in the back
17 of the car and transported him.

18 At least initially didn't nobody know where they were
19 going to take him, but, ultimately, they ended up taking
20 him to a location outside of Batesburg and dumped him in a
21 trash pile there and covered him up with trash. After
22 investigation determined who the parties were and people
23 started talking, Mr. Norris -- Andre Norris led to
24 investigators to the location where Jeremy's body was
25 found.

1 Jeremy's body was in a pretty deteriorated condition
2 after having been outside for some two or three weeks at
3 the time that it was located. It was located, I believe,
4 on January 23. So, it was autopsied by Dr. Sexton,
5 confirmed fingerprints that it was his body, and the cause
6 of death was listed as exsanguination due to a laceration
7 of the carotid artery from a shotgun wound to the chin and
8 neck areas.

9 Your Honor, the Solicitor's Office along with Aiken
10 County Sheriff's Department and all of these other
11 agencies worked for a month there trying to find out who
12 all was the players in this thing and what all their roles
13 were, and at least initially a lot of folks were arrested
14 for accessory after the fact. We upgraded some of them to
15 murder based upon a hand-of-one-hand-of-all theory. We
16 upgraded some of them to kidnapping. Throughout the
17 course of the year there's been various charges depending
18 on what may have been said when one person or another was
19 interviewed and whether or not they established probable
20 cause for other charges.

21 I have met with the family -- the immediate family
22 and some of the extended family members -- I don't know,
23 three or four times during the course of the last year and
24 explained to them the law and how it works as much as I
25 can based on as long as I have been doing this to explain

1 to them the ramifications of a trial and US v Bruton
2 issues and different statements, and when it is all said
3 and done we really felt like that Frankie Gantt acted out
4 of impulse or acted out of meanness or spite or
5 something -- we don't know -- but that the primary charge
6 of murder against him was one that we felt very easily we
7 could prove by using all of the other Co-Defendants'
8 testimony or just using one or two of them, but to make
9 everybody's role in this complete the kidnapping had to
10 find its way home, and under a felony murder or under a
11 hand-of-one-hand-of-all theory that I really felt like
12 that it was a potential that all of them could be
13 convicted of murder even though they might not have known
14 that a murder was going to take place and they might not
15 have anticipated that a murder was going to take place and
16 it would have been stretching it to some degree to believe
17 that they all knew that Jeremy was going to be killed.

18 I think they were trying to extort money out of him.
19 I do not think all of them, at least initially, thought he
20 was going to be killed, but I think every one of them
21 that's sitting over there in that box knew he was being
22 held against his will at some point, and that's the basis
23 for us offering this most serious violent charge to them
24 to plead guilty.

25 There was discussion amongst the family, amongst the

1 law enforcement and me about Darrell Williams being the
2 ringleader and we wanted to try him for a felony murder,
3 but everybody tells the same story that he was quite upset
4 when he learned that his -- I believe it's his
5 half-brother had killed him on the trip to Ed Walker's
6 house. Mr. Gantt cooperated when he got ready to go to
7 trial. He finally gave us a statement and it was a
8 detailed statement indicating that Darrell Williams was
9 the one that controlled everything and, you know,
10 basically, gave us enough information that we felt
11 comfortable charging Darrell with murder at that time, but
12 all of the evidence points to the fact that Frankie Gantt
13 was the one that elected on that day to kill Jeremy
14 Leaphart.

15 Could we have had a trial where one or two of these
16 individuals would have been believed? As we looked at all
17 of the interviews they all kind of pointed the finger at
18 each other and all minimized somewhat some of their
19 involvement in it. We had two or three interviews from
20 some of them and one interview from several of them, but
21 they all pointed the finger at Darrell Williams as being
22 the one who was trying to get the information and that
23 they were kind of along for the ride.

24 THE COURT: How many of them participated in the
25 torture, the beatings?

1 MR. WEEKS: According to the statements given to us,
2 everybody participated. The only one that didn't
3 physically hit him according to the statements -- and it
4 depends on really kind of who you believe -- was
5 Mr. Oakman -- John Oakman -- who was restrained from
6 hitting him by Mr. Williams because he had had enough, and
7 that's based on one of the individual's statements. They
8 were all in this trailer there together and it ain't a
9 coliseum. It's a small trailer, and they were, basically,
10 run out of there by Darrell Williams' baby's mother who
11 said they were, you know, they needed to get -- they
12 needed to leave, and that's when they left and went to Ed
13 Walker's house or headed in that direction and that's when
14 they ended up in Aiken County.

15 I have tried to paraphrase all of the facts with
16 eight different Defendants, but essentially, the State's
17 contention was that Darrell Williams was the ringleader of
18 getting everybody together to or at least keeping
19 everybody together once they got together -- and they came
20 from different directions, but once they got together they
21 clearly assaulted Jeremy, clearly tortured Jeremy, clearly
22 held him against his will, and the telephone conversations
23 that were recorded while Jeremy was in their presence
24 certainly gave everybody clear indication that he was
25 being threatened with his life if he didn't come up with

1 some money, and it's our contention that they all heard
2 those conversations. The two people in the second car
3 might not have heard the last conversation, but they heard
4 conversations that Jeremy made and they knew what the
5 whole deal was.

6 We offered them the plea to kidnapping to clean up
7 all of the charges and to clean up the various liabilities
8 in the various counties because the charge is serious,
9 because the charge carries a wide range in sentencing, and
10 when I first started practicing kidnapping carried life.
11 So, I treat it as a serious charge, and I impressed upon
12 his family that the Court will treat it as a serious
13 charge.

14 THE COURT: I assume that you nol prosed a number of
15 charges against all of them?

16 MR. WEEKS: The variety of accessories and murder
17 charges will be nol prosed with this plea.

18 THE COURT: All right.

19 MR. WEEKS: Your Honor, I would say that we would
20 call Frankie Gantt first.

21 THE COURT: All right. Maybe you want to go ahead
22 and hear from the victims first.

23 MR. WEEKS: Okay. That will be fine.

24 THE COURT: Any representative from the victim's
25 family?

1 THE VICTIM'S ADVOCATE MRS. DEERING: Thank you, Your
2 Honor. Carla Deering with victim's service in the
3 Solicitor's office. We have a number of family members
4 present today for Jeremy. We have Ernest and Frances
5 Rudd. Those were his aunt and uncle that raised him. We
6 have Terry Jones, a cousin; Doris Hooks, another cousin;
7 Shriley Jones, Jeremy's mother; Betty Harmon, an aunt;
8 Retha Jones, an aunt; Amy Stills, a cousin; and Missy and
9 David Lewis, cousins. I am going to read a letter from
10 Mr. and Mrs. Rudd, the parents -- well, the guardians that
11 raised Jeremy and it's also from their family.

12 "Your Honor, I know that we were only the guardians
13 over Jeremy for 12 years, but he was not only our nephew
14 but we loved him like he was our son. Jeremy wasn't
15 perfect. We tried to raise him right, but we can't
16 control their lives forever, but we tried to teach him
17 right from wrong. What happened to Jeremy shouldn't have
18 happened, but maybe it took his life to save others. I
19 pray day and night that if they had killed him that they
20 would have had the decency to bury him.

21 I know that he wasn't coming home alive. I'm sorry
22 that he didn't have the money, but I know now that it
23 wouldn't have mattered if he had \$20,000. It wouldn't
24 have saved him because you wouldn't ask for money and then
25 in less than two hours he was dead. I lay awake at night

1 and pray to God that there was something I could have
2 done. It has really affected our lives tremendously. We
3 were scared to stay at home at night. Ernest and I would
4 be afraid to go out and get in our own cars. We were
5 afraid that maybe where they had thrown Jeremy out and we
6 would have run over his body.

7 Then on New Year's morning at 5:05 a.m. the call rang
8 and Ernest answered and it was a voice that came over the
9 phone and told him that they were in our yard and they had
10 killed Jeremy and that he was next. We were afraid to
11 answer the phone. Christmas has come and gone again, and
12 all we can do is put a flower on Jeremy's grave, and I
13 will never forgive myself for not speaking earlier. Even
14 I know it wouldn't have made any difference in his life
15 for I believe these guys knew all along what they were
16 going to do when they forced him in their car, but in
17 Jeremy's mind he thought these guys were his best friends.
18 I still can't talk about Jeremy without getting
19 teary-eyed. These guys still have their families and can
20 still see them.

21 I hope you will find it in your heart to give these
22 guys what they deserve because, you see, Your Honor,
23 Jeremy didn't deserve what he went through begging and
24 pleading for his life. Jeremy's family asks Your Honor to
25 sentence these Defendants to the maximum that the law will

1 allow. Thank you."

2 And now you're going to hear from Missy Lewis, a
3 cousin of Jeremy's.

4 MISSY LEWIS: My name is Missy Lewis. I am Jeremy
5 Leaphart's first cousin. I am also speaking on behalf of
6 our family. First, we would like to thank the
7 investigators in Lexington, Saluda, and Aiken for their
8 hard work on solving this for us. We also wanted to thank
9 our prosecutor, the State, and the victim's witness
10 assistant for all of their hard work and support. Also,
11 the parents of Sheldon Oakman for their support.

12 What happened to Jeremy has really messed up our
13 lives. This is a terrible tragedy that no family should
14 have to go through. Jeremy struggled most of his life.
15 He always searched for the feeling of belonging. He
16 struggled for real friends and love. Jeremy had a real
17 bad stutter problem. He was called stutterbox a lot.
18 Jeremy only had the mind of a 12-year-old. He would give
19 you the shirt off his back. Jeremy would give his life
20 for someone else.

21 He was far from perfect. He did get into things that
22 he should not have, but he was a follower. He thought
23 that made friends. Jeremy always smiled and laughed
24 everytime he was at family gatherings. He was just so
25 happy to have so many people that loved him together at

1 one time. Jeremy is missed so much. I can see him now
2 when he got a new pair of clothing he was so proud of it.
3 It was like giving him a lot of money. He appreciated
4 even the smallest things.

5 Jeremy lived with his Aunt Frances and Uncle Ernest.
6 At their home it is a lot of sleepless nights waiting for
7 Jeremy to walk through the door and say, I'm home. Jeremy
8 was a harmless person. He would have never hurt anyone.
9 So, why was he beat and tortured, and why did they have to
10 kill him? Why was he ever taken to -- taken in the first
11 place? There are questions that will always -- we will
12 always wonder.

13 These guys know in their heart exactly what their
14 participation was during this and how they really feel
15 about what they have done. We have heard at the bond
16 hearings their young ages and about the children that most
17 of them already have. Jeremy was young, too, and he will
18 never have the chance to know what being a daddy would be
19 like. We just don't understand why did this have to
20 happen. Jeremy's life didn't have to be taken or did he
21 have to lay there and rot away.

22 When we went to the funeral home to lay Jeremy to
23 rest we had clothes to put on him, but we were told that
24 clothes could not be used. There was not any way to put
25 clothes on him. We took a blanket there for him to be at

1 least covered up with. We were then told by the funeral
2 home director that Jeremy would stay in the body bag that
3 he was delivered in to the funeral home. When Jeremy
4 arrived at the funeral home he was placed inside a second
5 body bag. He had to remain in the cooler until an hour
6 before funeral service was to begin where he was placed
7 inside a third body bag because of the smell from the
8 decomposed body.

9 This sounds like something that would happen to an
10 animal, not a human. There is no excuse for this. Why
11 was he done this way? For those days that he lay rotting
12 away and knowing there were people out there that loved
13 him and was looking for him, why not a phonecall? It took
14 the investigators to convince one of these guys to lead
15 them to the body. No one stepped up on their own. Why?
16 We will never have the answer.

17 We will never know the truth about what happened,
18 only pieces of the truth. There is something that we are
19 are sure of about that day. Jeremy was scared and begging
20 for his life. Every one of them heard this that day and
21 no one helped Jeremy. Why? We just wonder was it a game?
22 Were all of them laughing as he stuttered and begged for
23 his life? We can only hope and pray that what happened
24 that day will always stay that their minds and one day
25 thoughts of what they did will turn to pain kind of like

1 what Jeremy was feeling that day. So, instead of tears
2 for their freedom, it will be tears for Jeremy.

3 We didn't get to say goodbye. There were unopened
4 Christmas gifts left. He never had the chance to open
5 them. Jeremy paid an ultimate price. Now the family is
6 left to suffer. At Jeremy's funeral service I read
7 something to all the family and friends, something that
8 helps when thinking of how scared Jeremy was surely
9 feeling on that day his life was taken and how no one got
10 to say goodbye, and in my heart if Jeremy would have known
11 this was going to be his last day with us this is what he
12 would have wanted to say:

13 When tomorrow starts without me. When tomorrow
14 starts without me and I am not there to see, if the sun
15 should rise and find your eyes all filled with tears for
16 me, I wish so much you wouldn't cry the way you did today.
17 I'm thinking of many things we didn't get to say. I know
18 how much you love me as much as I love you, and each time
19 you think of me I know you'll miss me, too. When tomorrow
20 starts without me, please try to understand that an angel
21 came and called my name and took me by the hand, and said
22 my place was ready in heaven far above and that I'd have
23 to leave behind all those I dearly love, but as I turn to
24 walk away a tear fell from my eye for all my life I always
25 thought I didn't want to die. I had so much to live for,

1 so much yet to do. It seemed almost impossible I was
2 leaving you. I thought of all of the yesterdays, the good
3 ones and the bad. I thought of all the love we shared and
4 all the fun we had. If I could relive yesterday just even
5 for a while, I'd say goodbye and kiss you and maybe see
6 you smile, but then I fully realize that this could never
7 be for emptiness and memories would take the place of me.
8 When I thought of worldly things I might miss come
9 tomorrow, I thought of you and when I did my heart was
10 filled with sorrow, but when I walk through heaven's gates
11 I felt so much at home when God looked down at me and
12 smiled from his great golden throne. He said this is a
13 eternity and all I have promised you. He said today for
14 life on earth has passed, but here it starts anew. I
15 promise no tomorrow, but today will always last, and since
16 each day is the same there is no longing for the past.
17 You've been so faithful, so trusting, and so true though
18 they were times you did some things you knew you shouldn't
19 do, but you've been forgiven and now at last you're free.
20 So won't you take my hand and share my life with me? So
21 when tomorrow starts without me, don't think we're far
22 apart for everytime you think of me I'm right here in your
23 heart.

24 That's all we have is words. So, we're asking you,
25 Your Honor, to please search your heart and find justice

1 for Jeremy.

2 THE COURT: All right. Mr. Weeks, how do you want to
3 do it? You want to do them one at a time?

4 MR. WEEKS: Yes, sir.

5 THE COURT: How do you want to do them? One at a
6 time remain here? Or bring them in? Okay. Let me have
7 Mr. Owens -- I mean, Mr. Gantt up here, please. The rest
8 of you step in the back.

9 MR. WOODRUFF: Your Honor, it is my understanding
10 that they're all being housed in separate locations so
11 that they're not together.

12 THE COURT: That's correct. There is a reason for
13 that.

14 MR. WOODRUFF: Yes, sir.

15 (Whereupon, all other Defendants exit the courtroom.)

16 THE COURT: All right. Mr. Weeks, does Frankie Lamon
17 Gantt have any prior record?

18 MR. WEEKS: Your Honor, a juvenile conviction for
19 assault is all he has.

20 THE COURT: Anything else that the State needs to
21 tell me in regards to Mr. Gantt?

22 MR. WEEKS: Your Honor, as you indicated during your
23 questioning of the the Defendants, the State had agreed to
24 recommend after Mr. Gantt had given a complete video
25 statement when we were getting ready to try him -- I want

1 to say it was like December of last year. He was going to
2 be the first up for trial up at that time. He had not
3 given any statements to us, but he cooperated and gave a
4 complete statement to the investigators that led us to
5 issue more arrest warrants for Darrell Williams, his
6 half-brother, in the hopes that we would get enough to
7 kind of loop him into the murder also, but based on
8 everything that we were able to come up with we've made
9 the right offer, but our promise, for lack of better word,
10 to him was that we would just ask the Court not to give
11 him life.

12 THE COURT: Have you discussed that with the victim's
13 family?

14 MR. WEEKS: Yes, sir.

15 THE COURT: They are understanding of that?

16 MR. WEEKS: I believe they are, Judge. I told them
17 since the first meeting with them that, you know, at
18 various times we may have to make concessions to get
19 people to talk and they've been as cooperative as any
20 family I've ever had to work with.

21 THE COURT: Mr. Gibbons?

22 MR. GIBBONS: Your Honor, this is a tough situation
23 to be in. There's no question a great tragedy took place
24 and just to see the number of lives that's affected is
25 kind of humbling if you look out over this courtroom.

1 THE COURT: Well, you got eight young men. I guess
2 the oldest one is in his mid 20's.

3 MR. GIBBONS: That's right, Your Honor.

4 THE COURT: You got a young little kid who was slow
5 and taken advantage of and tortured and beaten and burned
6 and unnecessarily executed for lack of a better term.

7 MR. GIBBONS: Yes, sir. There is no --

8 THE COURT: They didn't kill him and they went over
9 to him again and stuck it right in the side of his head.

10 MR. GIBBONS: It's as bad as it gets, Your Honor.

11 THE COURT: As bad as it gets.

12 THE COURT: Nineteen years old, son?

13 MR. GIBBONS: Yes, sir. He was 17 when this
14 happened, Your Honor. Frankie, as I said, was 17 years
15 old when this happened. He was raised in the Ridge Spring
16 Monetta area. He went through the tenth grade in high
17 school when he got expelled, and I think his Dad kind of
18 has a drug problem and doesn't have a whole lot to do with
19 him. His closest family member is his Aunt Beverly Long
20 and his sister and Cousin Jana Gantt and Tina Williams who
21 are here in court to support him.

22 He -- I think what -- it's hard to figure out exactly
23 what happened because of all of the statements that went
24 on, to be quite frank with the Court. In my conversations
25 with Mr. Gantt I kind of get the feeling that this group

1 of young men were his family. There was a strange bond
2 between all of them for a long time even after they got
3 arrested.

4 THE COURT: I understand it's sort of not close
5 anymore?

6 MR. GIBBONS: I think that's kind of gone now, Your
7 Honor, but for whatever reason they were pretty thick when
8 this all went down, and I think there was kind of a pack
9 mentality going on that night, and whether they meant for
10 it to go that far or not, it just kind of got rolling and
11 before they knew it it had all gone down and Mr. Leaphart
12 had been killed, and then it went on to them hiding the
13 body, but these were a group of real young men just in a
14 situation that got real serious real quick..

15 Frankie realizes how bad a decision he made that
16 night. I asked him over and over and over to give me a
17 good reason, and there is just not a good reason in his
18 mind even at this point. He got caught up in the moment
19 it appears and made a real, real, real bad choice for
20 himself, for Jeremy, and for all of these other people as
21 well.

22 Your Honor, he's got a child that was six months old
23 when this happened and he's been in jail for 477 days. I
24 got this case -- when I first started this position I took
25 it over from one of the other lawyers back in July. This

1 was the first case I took over, and I went and saw Frankie
2 and I've had a chance to talk to him and as I said at
3 first there was this strange bond that we weren't
4 communicating, but when we finally were able to break
5 through that barrier he was forthcoming with me.

6 We called law enforcement. He give a video statement
7 to law enforcement that I believe kind of tied some ends
8 up that Mr. Weeks was trying to get tied up at that point.
9 He, in addition to that, said he had some information on a
10 shooting in Monetta that he was willing to testify about
11 that was unsolved. We contacted law enforcement there and
12 they verified there was a shooting. The victim would not
13 cooperate. The victim wanted to take care of it himself
14 and so that case never got made, but Mr. Gantt was trying.
15 He made efforts what little he could to try and locate --
16 tell where the guns were, where they ended up.

17 But, you know, all of that's not worth much after
18 this young man has lost his life, but he has tried to be
19 forthright and tried to be a man about this situation and
20 come forward before the court and own up to what he did.
21 He's a very young man. We would ask the Court to give him
22 a sentence that would do justice to everyone involved in
23 this case and give him a chance at some point in the
24 future -- a glimmer of hope to get out and try to make a
25 life for himself, whatever life he has left, but this is

1 -- he recognizes this is a very serious situation, Your
2 Honor.

3 THE COURT: Mr. Gantt, anything you want to tell me?

4 DEFENDANT FRANKIE L. GANTT: The only thing I got to
5 say is that I'm sorry for my actions.

6 THE COURT: Sorry for your actions?

7 DEFENDANT FRANKIE L. GANTT: Yes, sir. I'm sorry
8 about the -- if I could change things, I would take it
9 back what I did.

10 THE COURT: You'd take it back?

11 DEFENDANT FRANKIE L. GANTT: Yes, sir, and tell the
12 victim's family I'm sorry. That's all I have to say, Your
13 Honor.

14 THE COURT: Anything else?

15 DEFENDANT FRANKIE L. GANTT: No, sir.

16 THE COURT: Mr. Weeks, anything else?

17 MR. WEEKS: (shakes head.)

18 MR. GIBBONS: No, sir.

19 THE COURT: Well, Mr. Gantt, you're very lucky the
20 State didn't seek the death penalty against you for
21 torturing the man, beating him up, burning him with irons.
22 Not only did you kill him, but you took his body to a
23 trash dump and let him rot before his family could have a
24 decent burial for him. Your actions are despicable. You
25 certainly don't deserve to be with any of us for a long

1 time.

2 The sentence of this Court is that you be committed
3 to the State Department of Corrections for a period of 45
4 years. Good luck to you.

5 (Whereupon, a break was taken.)

6 MR. WEEKS: Darrell Williams will be the next one
7 Your Honor.

8 THE COURT: Mr. Weeks, does Mr. Darrell Williams have
9 a record?

10 MR. WEEKS: Your Honor, he has a contributing to the
11 delinquency of a minor in 2002 and three counts of CDV
12 first all the same day conviction in April of 2007. Those
13 are the convictions.

14 THE COURT: Twenty-six years of age now?

15 MR. KATONAK: Yes, sir. Is that correct?

16 DEFENDANT DARRELL L. WILLIAMS: (nods head.)

17 THE COURT: Mr. Katonak?

18 MR. KATONAK: Yes, sir, Your Honor. I was appointed
19 on this matter. As you just stated Mr. Williams is 26
20 years of age. He has five children, I believe.

21 THE COURT: Five children?

22 DEFENDANT DARRELL L. WILLIAMS: Yea, six.

23 MR. KATONAK: I'm sorry. Six children. He went
24 through the tenth grade. He last worked for his Uncle
25 Charles Gantt doing some painting. As Mr. Gibbons said

1 before me this was just a terrible, terrible situation --
2 terrible situation for this family to go through. I
3 couldn't imagine it personally.

4 What makes it even more tragic in talking to
5 Mr. Williams who goes by Stevie is that Stevie and
6 Mr. Leaphart were very good friends. Of all of the
7 Defendants here today -- and they're all friends of
8 Mr. Leaphart's -- it appears to Mr. Williams and
9 Mr. Leaphart were the best friends of the bunch. I think
10 Mr. Leaphart and Mr. Williams even spent the night with
11 each other from time to time.

12 So, as Your Honor heard this escalated due to guns
13 that were stolen. It certainly is a matter that careened
14 up way, way out of control into this tragic situation
15 where this young man was killed. As Mr. Weeks said
16 Mr. Williams was not present in the automobile when they
17 left where Mr. Leaphart was ultimately killed. He stayed
18 behind at the mother of one of his children's house, and,
19 in fact, as Mr. Weeks said the other Defendants stated
20 that once they came back to where Mr. Williams was and
21 they were told that Mr. Gantt had committed this murder
22 Mr. Williams was very upset with Mr. Gantt about this and
23 I believe a fight almost broke out because of their
24 friendship.

25 THE COURT: Well, I assume that he got upset and he

1 immediately called the police so the police could take
2 care of it?

3 MR. KATONAK: No, sir.

4 THE COURT: He went back and took his body and hid it
5 in a trash pile.

6 MR. KATONAK: That is correct, Your Honor.

7 THE COURT: Don't sound like he was too upset to me.

8 MR. KATONAK: Your Honor, we'd also like to point out
9 I believe the Solicitor in stating that when the victim
10 was being beaten at the house by several people that
11 everyone participated -- I will say from the police report
12 that I have that it does say Mr. Williams -- individuals
13 there said Mr. Williams stated he was not touching him and
14 that eventually told them to leave, but, be that as it
15 may, Mr. Williams is the one who picked him up at the
16 scene, brought him to the residence. He was present at
17 this residence.

18 I have talked to Stevie and in great lengths on four
19 or five occasions about the fact that the hand of one is
20 the hand of all. He understood that he was directly
21 indicted for murder -- that by pleading to this case that
22 they were dismissing that charge. In looking at
23 everything we believe in our long discussions that this is
24 an appropriate plea to plea to kidnapping that the State
25 most likely would plead -- would be able to prove the case

1 against him for kidnapping based on the evidence.

2 THE COURT: I disagree with you. I think that the
3 State could perhaps prove a lot more against your client.

4 MR. KATONAK: And, Judge, that is a possibility and
5 one of the factors that led us into that plea and the
6 possible risk of being convicted of a murder charge was
7 certainly out there and the State certainly had
8 significant evidence they could have shown in that case.
9 So, Your Honor, we ask the Court to be as lenient as you
10 could possibly could.

11 THE COURT: Well, I am going to be as lenient to him
12 as he was to the victim.

13 How many cases did you nol pros on him, Mr. Weeks?

14 MR. WEEKS: Judge, we directly indicted him for
15 murder after Frankie Gantt gave a statement. He was just
16 arrested in Aiken County for accessory after the fact. He
17 had had -- they arrested him initially in Lexington County
18 when they began their investigation up there. He didn't
19 give any kind of credible statement to us throughout the
20 investigation.

21 THE COURT: Well, I thought he was his best friend.
22 He would certainly want to help his best friend out.

23 Mr. Williams, anything you want to tell me?

24 DEFENDANT DARRELL L. WILLIAMS: No, sir.

25 THE COURT: No, sir?

1 DEFENDANT DARRELL L. WILLIAMS: Just something that
2 happened that I couldn't control.

3 THE COURT: Well, who could control it?

4 DEFENDANT DARRELL L. WILLIAMS: I wasn't never
5 present there, Your Honor.

6 THE COURT: The sentence of this Court is that you be
7 committed to the State Department of Corrections for 30
8 years. Good luck to you.

9 (Whereupon, a break was taken.)

10 MR. WEEKS: Johnnie Walker.

11 THE COURT: Mr. Weeks, does Johnnie W. Walker, age
12 29, have any prior record?

13 MR. WEEKS: Yes, sir, Your Honor. He has an assault
14 and battery of a high and aggravated nature in 1999 as
15 well as a burglary third degree. Apparently, he got a
16 youthful offender sentence then. He has a possession of
17 crack in 2000, another assault and battery in -- well, no,
18 that was the youthful offender revocation. Those are his
19 priors, Judge.

20 THE COURT: Mr. Brown?

21 MR. BROWN: Thank you, Your Honor. Your Honor,
22 Mr. Walker is 29 years old. He has six children.

23 THE COURT: Let's see. The last guy had six. So
24 this is six. The other guy has had one on the way. So,
25 we got 12 -- 13 children who are going to be fatherless?

1 MR. BROWN: Yes, sir.

2 THE COURT: And a family who has lost a son?

3 MR. BROWN: Yes, sir.

4 THE COURT: This keeps getting deeper and deeper.

5 MR. BROWN: Yes, sir. Your Honor, Mr. Walker was
6 working at the time this incident took place. He had
7 employment as a plumber. He is also trained as a mason,
8 and he was working with a company out of Sumter at the
9 time that this incident happened. I've got -- two of his
10 former employers did provide letters on his behalf stating
11 that he was -- basically the type of worker he was and
12 dependable and the type of person they thought he was. We
13 would ask to make those a part of the record and hand
14 those up to the Court.

15 Your Honor, since he -- one of his priors -- I
16 believe that Mr. Weeks was talking about was a drug
17 charge. Since he's been in the jail he has completed a
18 drug training course, drug and alcohol treatment course
19 there and education course.

20 The situation here, Your Honor, as I think everybody
21 will say is very tragic. Mr. Walker has got a lot of
22 family support. I've been impressed by him, basically, in
23 the way he's dealt with me. I have represented him now
24 since last fall. He's always been very polite, very
25 straight forward, very forthright, very willing to

1 cooperate, and has expressed a lot of remorse about this
2 whole situation that he got himself in.

3 His family -- they've also been extremely nice to
4 deal with. There are two or three rows of people out
5 there today that have come here to provide support for him
6 and a couple of them would like to speak at the time the
7 Court deems appropriate, Your Honor.

8 The situation as it happened here from Mr. Walker's
9 standpoint and what he's maintained from the get-go and
10 has told the police and everybody else -- this was the day
11 before Christmas. He was out Christmas shopping, got a
12 phonecall from Darrell Williams that, basically, they
13 needed a car. They needed a ride. They were going over
14 to see Mr. Leaphart. He came back from shopping, went and
15 picked them up. They went to where Mr. Leaphart was.
16 Mr. Leaphart, I believe, had had a fight with his
17 girlfriend and got in the car with them, told them to, you
18 know, leave because she was threatening to call the
19 police, I think, at the time. So, they left.

20 At that time he didn't realize where things were
21 going with the situation. They went back to the house.
22 That's when, basically, the beatings and all started
23 taking place. One thing -- he's been very forthright but
24 he has consistently denied taking part in any beating or
25 burning himself. He was there when it happened. He has

1 not denied that he was there when it happened. That went
2 on. They -- I think Mr. Williams finally said that was
3 enough of that and told them to take Mr. Leaphart over to
4 his house, clean him up, and my understanding was they
5 were going to take him home or go from there. That was
6 supposed to be the end of it.

7 Mr. Walker and Mr. Williams stayed there at the
8 residence. As the Solicitor said they did not go with
9 everybody else when Mr. Leaphart was taken out into the
10 country and murdered, and the first that they heard about
11 that was when Mr. Gantt called back to the house where
12 they were and informed Mr. Williams -- told Mr. Walker
13 that he had shot Mr. Leaphart; that he had killed him at
14 which point the consensus was that Mr. Williams was
15 extremely upset about that having taken place. That was
16 not supposed to take place.

17 They then did make a poor decision about going back
18 out there to where the shooting had taken place. There
19 were two cars that went back. They --

20 THE COURT: I assume Mr. Walker's car?

21 MR. BROWN: Mr. Walker's car was one of them, but it
22 was not the car that was used to transport the body. He
23 did not go down to the area where the body was. He saw
24 them bring Mr. Leaphart's body out in a blanket, and, Your
25 Honor, that is, basically, the entire sequence of events

1 as they took place that day. It's a situation that
2 ballooned well beyond what it should ever have been. I
3 know during the questioning about the kidnapping that's
4 why the issue came up about when the Solicitor in the
5 indictment said there was a conspiracy basically or plan
6 to go out and kidnap him because it became that. I
7 explained to him about being held against your will and,
8 you know, when Mr. Leaphart was held and was not free to
9 leave and they were all there that, basically, that became
10 a kidnapping situation.

11 THE COURT: Mr. Walker, you were free to leave when
12 they were beating on him if you weren't participating,
13 weren't you?

14 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

15 THE COURT: Why didn't you leave and go call the
16 police and tell them what they were doing to this poor
17 boy?

18 DEFENDANT JOHNNIE W. WALKER: I made a bad choice,
19 sir.

20 THE COURT: How come when they hide him under the
21 brush pile and the garbage pile to let him rot -- how come
22 you didn't call the police?

23 DEFENDANT JOHNNIE W. WALKER: Bad choice, sir.

24 THE COURT: Bad choice. You sure did make a bad
25 choice.

1 MR. BROWN: The situation, Your Honor -- you had
2 asked about other charges being dismissed and that kind of
3 stuff. From the time this incident happened -- and
4 Mr. Walker has now been in jail since February of 2008 I
5 believe is the right time -- he was charged with one
6 charge and that was accessory after the fact which was a
7 non-violent, non-serious 15-year charge, and, basically,
8 but even with that, he's been willing to cooperate and
9 provide any assistance he could. He's had interviews with
10 the Solicitor Office and everybody else over this thing.

11 We got word last week that, basically, you either
12 plead guilty to kidnapping or we try you for kidnapping
13 and felony murder. So, and I understand and we've
14 discussed that. That's the way the facts are, but, Your
15 Honor, as far as this is not a situation where there is a
16 bunch of charges and where he had a bunch of serious
17 charges the whole time hanging over his head.

18 THE COURT: Mr. Brown, this is about as serious as it
19 gets.

20 MR. BROWN: It is now, yes, sir.

21 THE COURT: Was. As soon as they killed the guy, as
22 soon as they beat him, and as soon as they tortured him --

23 MR. BROWN: Yes, sir.

24 THE COURT: -- as soon as they take him out in the
25 field and just execute him and as soon as this guy follows

1 them back and puts him in a trash pile it is serious.

2 MR. BROWN: I understand that, Your Honor.

3 THE COURT: Probably as serious as one you've had in
4 a while.

5 MR. BROWN: But as far as the charge and everything
6 that he's had against him, he's been willing to cooperate
7 and provide assistance from the time he was arrested, and,
8 Your Honor, basically, we hope this is a situation where
9 it's not going to, basically, destroy his entire life.
10 We'd like to see him have an opportunity to get out and
11 make a life for himself and would hope that the Court
12 would give him an opportunity, basically, to have some --
13 at some point have the keys to the jail in his hands
14 where, basically, he can serve some time, have an
15 opportunity to get out and be a member of society, and
16 still have time hanging over his head or something to,
17 basically, so that there is society being protected all
18 the way around.

19 Your Honor, we would also ask that since this is a
20 kidnapping charge that the Court designate on his sentence
21 that this is not a sex offender registration offense
22 because there is no allegation of any type of that
23 involved, and, Your Honor, I would like to have an
24 opportunity for a couple of his family members to have an
25 opportunity to speak.

1 THE COURT: I'll listen to one or two. Which ones?
2 Mr. Weeks, there is no sexual involved in any of it?

3 MR. WEEKS: That's correct, Your Honor.

4 THE COURT: Yes, ma'am. Your name?

5 DEBRA T. BOSTICK: Debra Tolan Bostick.

6 THE COURT: You're kin to him how?

7 DEBRA T. BOSTICK: I am his aunt.

8 THE COURT: His aunt?

9 DEBRA T. BOSTICK: Yes, sir.

10 THE COURT: What do you want to tell me, Ms. Bostick?

11 DEBRA T. BOSTICK: I am here today speaking on his
12 behalf.

13 THE COURT: Yes, ma'am.

14 DEBRA T. BOSTICK: On Johnnie's behalf that the crime
15 that was committed was very bad, whatever you want to call
16 it. It was real bad. I am speaking on his behalf as I
17 don't see -- I wish he would've made a right choice and
18 tell it no matter how it would have looked -- not for him.
19 They can call me whatever they wanted. I would have did
20 what was right, but Johnnie would have took the shirt off
21 his back and give to somebody. At a time when he called
22 me and he said that I'm going to turn myself in, I said,
23 well, do the right thing and do that. Turn yourself in.
24 I said, I know you're a good person because when I didn't
25 have one penny to my name to pay my light bill he said the

1 only thing I got to offer you is \$30. He said if you meet
2 me to my Mama's house or whatever, I'll give it to you.
3 That is the kind of person that Johnnie is to me.

4 I'm not speaking because he is my nephew. Whatever
5 they did was wrong. Whatever they did -- but I don't see
6 how, you know, this could have had come with that -- went
7 that far. I wouldn't have never let it went that far. I
8 would have did something.

9 THE COURT: What would you have done when they
10 started beating the guy and burning him? What would you
11 have done?

12 DEBRA T. BOSTICK: I would have hit the road. I
13 would have left there walking.

14 THE COURT: Absolutely.

15 DEBRA T. BOSTICK: Because, you know, even though
16 they probably would have got me before I got where I am
17 going, but I tried.

18 THE COURT: But you wouldn't have taken place in
19 that, would you -- part in that?

20 DEBRA T. BOSTICK: I wouldn't take no part of it, no,
21 sir. I wouldn't have.

22 THE COURT: Well, I just wish somebody would have
23 stood up for the young man and stopped it. It is crazy.
24 You got a nephew getting ready to go to jail for a long
25 time. He's got six children. You got a man that's dead.

1 His family is destroyed. The community is going to be
2 destroyed because of what would possess somebody to beat
3 and burn and shoot in the neck a young man who was slow
4 like this young man was? Anything else?

5 DEBRA T. BOSTICK: No. That's all I have to say.

6 THE COURT: Thank you for coming.

7 Good afternoon, ma'am. Your name, please?

8 LATOYA ZEIGLER: My name is Latoya Zeigler
9 (phonetically spelled.)

10 THE COURT: You are related?

11 LATOYA ZEIGLER: I am not blood related to Johnnie.

12 THE COURT: Just friends?

13 LATOYA ZEIGLER: I have two grandchildren who are his
14 children. First of all, I'd like to tell the family that
15 I'm really sorry that this took place and that I could
16 stand here and say I'm sorry as many times as I want to
17 and it still doesn't take back what happened, but, you
18 know, I am sorry.

19 I have been knowing Johnnie for a good while now,
20 probably about 10 or 11 years. He's always been a swell
21 guy. I mean, when I found out I heard about this I was
22 really in shock. I was really, really in shock because I
23 have never -- or I could have never have believed that
24 this would have happened and I have listened to you, you,
25 know. You talk about how he could have maybe turned this

1 around by, you know, when it first happened or when he was
2 being beat or whatever that he could have called the
3 police or whatever and that was one of the things that I
4 said to myself, well, why didn't that happen? Why didn't
5 someone call? And more in my heart I said why didn't he?

6 Well, after some time of thinking and praying and
7 going over that over and over in my mind I realized that
8 and, you know, maybe talking to a few other family members
9 that maybe he was afraid, you know. Maybe he felt that
10 his life was in jeopardy.

11 THE COURT: You think he was afraid? How do you
12 think poor little Jeremy Leaphart felt?

13 LATOYA ZEIGLER: Oh, I mean, I can't imagine.

14 THE COURT: They stuck that gun to his neck.

15 LATOYA ZEIGLER: I can't imagine. I can't imagine.
16 I really can't. I am not standing here --

17 THE COURT: No, ma'am. And I'm not -- I understand.
18 It's just terrible all the way around. You got two
19 grandchildren by him?

20 LATOYA ZEIGLER: Yes, sir.

21 THE COURT: I've got two little grandchildren. It's
22 just nothing good about it, is it?

23 LATOYA ZEIGLER: No, it's not.

24 THE COURT: And it's not good sending him to jail for
25 a long time, but society demands that, ma'am. When you

1 make a choice to do something this cowardly, this just
2 absolutely no feeling for anybody -- if you participate in
3 it, you have to be punished. That's the tough part about
4 my job.

5 LATOYA ZEIGLER: Yes, sir. Well, again, I ask you to
6 please take it into your heart that he do have children.

7 THE COURT: I will.

8 LATOYA ZEIGLER: And I have two granddaughters who
9 I'm sure are going to need their father, you know. I'm
10 sure.

11 THE COURT: I understand. Thank you so much.
12 Sir, anything you want to say?

13 DEFENDANT JOHNNIE W. WALKER: Yes, sir.

14 THE COURT: Say it.

15 DEFENDANT JOHNNIE W. WALKER: First I want to
16 apologize to Ms. Leaphart and also the rest of the family.
17 I am not a violent person. I never was raised up to be a
18 violent person, but I'm sorry for what had happened. If I
19 can change anything that happened on that day, I would. I
20 never had any intentions to be harmful to anyone. I'm
21 sorry. I hope they find it in their hearts to forgive me.

22 I should have took the initiative myself and called
23 someone and notified someone and let them know what had
24 happened. I should have. I'm sorry. Again, I'm sorry.
25 I pray the Court to have mercy on me. Thank you.

1 THE COURT: All right. The sentence of this Court is
2 that you be committed to the State Department of
3 Corrections for a period of 30 years. Good luck to you.

4 (Whereupon, a break was taken.)

5 THE COURT: Mr. Weeks, does Mr. Sheldon Oakman have
6 any prior record?

7 MR. WEEKS: Nothing that he's been convicted of, Your
8 Honor.

9 THE COURT: And what was his involvement?

10 MR. WEEKS: Your Honor, Mr. Sheldon Oakman is one of
11 the ones in this thing that's kind of been -- that's been
12 a little perplexing. He was in the second car. He was at
13 the location of the physical abuse in Saluda County. He
14 was driving the second car when Jeremy was killed. One of
15 the witnesses says that -- or one of the Defendants says
16 that Sheldon was the one that supplied the killing
17 shell -- that he ran out of shells and that somebody
18 supplied him. Sheldon says the other fellow which was
19 John Oakman, Jr., was the one that supplied the shells.
20 So, they had two of them going at each other that way.

21 It is no question that Frankie Gantt was the one that
22 shot all of the shells. Sheldon gave us three statements.
23 He was actually the first one interviewed that started
24 giving up the people that was involved and, ultimately,
25 gave us three recorded statements.

1 THE COURT: How did you get to him first? If you
2 know. That's all right.

3 MR. WEEKS: He was overheard talking by an individual
4 named Ronnie Martin.

5 THE COURT: He didn't come forward?

6 MR. WEEKS: No, no. They notified him, but they went
7 to his parents' house. He was heard -- overheard talking
8 with Darrell Williams about how Frankie Gantt had shot and
9 killed Jeremy.

10 THE COURT: Mr. Chandler?

11 MR. CHANDLER: May it please the Court, Your Honor.
12 My client Sheldon is 21 years of age today. He is from
13 the Ridge Spring Monetta community. He is here. Here in
14 support of him is a large amount of family members as also
15 all of the people involved here which includes his
16 parents, his grandmother, and a number of aunts, uncles,
17 and cousins -- all as you've already noted they've
18 certainly been affected by it.

19 I would bring to your attention again the statement
20 by -- one of the victim's statements where they
21 acknowledged the family of Sheldon Oakman. The family had
22 long-time been in contact with each other. They
23 acknowledged some of the initial statements that
24 Mr. Oakman had provided. As you indicated he didn't call
25 the police up and come forth, but he was one that provided

1 a significant amount of --

2 THE COURT: He didn't call the police.

3 MR. CHANDLER: Right. He did not call the police.

4 However, he was the one that, in essence, was given credit
5 by both investigators and the Solicitor's Office as to a
6 break in the case for the prosecution by naming all of the
7 individuals, directing them to the location of the
8 shooting.

9 He has been locked up since January 24, 2008, Your
10 Honor, which puts him in jail for 459 days, and since that
11 time, Your Honor, my client has been providing a high
12 level of support to the Solicitor's Office. Earlier
13 Mr. Frankie Gantt did indicate or it was indicated that
14 Frankie Gantt gave the statement sometime -- the first
15 statement. The Solicitor's Office contacted us, and it
16 was my client that reviewed the statement for his veracity
17 as to give the impression as to what was said and who
18 participated in this.

19 Your Honor, the murder of Mr. Jeremy Leaphart was --
20 and also the kidnapping of Jeremy Leaphart -- was
21 senseless. It was horrible, but since this incident, Your
22 Honor, my client has made steps to try to make right.

23 Just to tell you a little bit about Sheldon, Sheldon
24 also has a young daughter who is going to be two years old
25 in July. Of all the young men that were involved in

1 this -- and this just makes it even sadder -- he was the
2 only high school graduate. He is a graduate of Ridge
3 Spring Monetta High School. At the time he was already
4 enrolled in Augusta Tech, and he was preparing to take the
5 placement exams that would place him in particular tracks
6 within the curriculum, and he was hanging out with the
7 guys that he grew up with, and, unfortunately --

8 THE COURT: Well, it sounds like this is just regular
9 guys from high school and just friends.

10 MR. CHANDLER: And it just --

11 THE COURT: What would make eight guys want to do
12 this to a young man who was slow, simple, can't take care
13 of himself?

14 MR. CHANDLER: I think counsel --

15 THE COURT: I mean, help with me.

16 MR. CHANDLER: I think the prior counsel has said it
17 best. It was one of those dynamics where it started
18 rolling and it was just completely out of control, and,
19 unfortunately, it led to the death of a human being, and
20 this whole community loses as a result of it, and the fact
21 of the matter is these young men didn't have the maturity
22 to say, no, stop it, I'm going home. And I don't know if
23 it was fear, Your Honor. I don't know what it was, but
24 they didn't do it, and that's why we're here because my
25 client didn't separate himself from this matter on that

1 night as he should, Your Honor, but as I said before since
2 that time he had done everything that he could do to make
3 it right.

4 He did not provide that final shell during -- to
5 Frankie Gantt. One of the things that happened, Your
6 Honor, at the beginning when there was an initial bond
7 hearing and all eight of these same guys were lined up
8 across this bar the statements that were read by the
9 Solicitor's Office -- every statement started off with
10 "Sheldon Oakman said" and ever since that time those guys
11 were peering down at the one snitch in the bunch who,
12 basically, named names and provided locations. It just
13 highlighted the fact that he was the one that told.

14 He didn't make any phonecalls that night, but he has
15 provided a significant amount of information.

16 THE COURT: So I should give him some break?

17 MR. CHANDLER: Your Honor, that's what we're asking
18 for. We're asking for a break because he has acknowledged
19 what he's done is wrong. As I indicated, the family did
20 acknowledge also the support from his family, and, again,
21 based on what -- on his participation in breaking this
22 case. I know --

23 THE COURT: Mr. Weeks, you agree with that? That he
24 was -- somebody overheard a conversation, but if he hadn't
25 said anything you may still be --

1 MR. WEEKS: Your Honor, if you had asked me a year
2 ago I would have said, yes, I believed he was less
3 involved than others because he was in the second car, but
4 the more we heard about and the more these individuals
5 came forward -- now, realizing some of them had pressure
6 on them by us because of charges they gave statements --
7 he was alleged to have been the one that supplied the
8 fatal bullet. He was also alleged to have been one that
9 struck Jeremy in the trailer. There is no question that
10 he was involved in the kidnapping and burial of the body
11 or at least going back to the scene.

12 So, I don't know that he is any rising star in the
13 mass, but he is in that level of folks that were
14 participants. We thought all along that there was a gang
15 involvement here and we just didn't have enough to prove
16 any kind of gang, but, you know, you keep asking why these
17 young men would do that. Well, I think it was more to it
18 than just --

19 THE COURT: Something that just kind of got out of
20 hand?

21 MR. WEEKS: That's right. Now, you know, as far as a
22 scale of people I would think that he's lesser involved in
23 the planning and implementation of this than Johnnie
24 Walker and Darrell Williams were. Do I think that he knew
25 that Jeremy was going to be killed by Frankie Gantt on

1 that dirt road? I don't think he did. I mean, I will
2 just be candid with you. I realize that if we tried all
3 of these people under the theory of
4 hand-of-one-is-the-hand-of-all we may get one jury to
5 convict one of them and an acquittal on the next jury and
6 this is the best solution for us.

7 THE COURT: Well, do you think you could have broke
8 the case had he not --

9 MR. WEEKS: Well, the case was in the -- yes, sir.
10 It was in the direction of being broken. He just happened
11 to be the first one we got to. And that's from Lexington
12 County and Aiken County working together. The one that
13 actually broke it was an individual that wasn't charged
14 who wasn't there.

15 He has cooperated with us, and, of course, you know
16 Mr. Chandler. He's always cooperating with us when it
17 comes to helping his clients. He's been in constant
18 contact with me. Mr. Oakman has had two or three bond
19 motions.

20 THE COURT: Mr. Chandler does his job excellently.
21 He's got a bad set of facts. Terrible facts.

22 Anything else, Mr. Chandler?

23 MR. CHANDLER: Yes, Your Honor. I -- it has been
24 been presented to the families that our client did
25 participate in some level, and I certainly understand the

1 Solicitor's position, and we would ask for some leniency
2 because I do believe that his lack of participation, his
3 cooperation, the fact that he was separate -- he was not
4 privy to a number of those chilling conversations where
5 this young man was pleading for his life. I do believe
6 that that separates him and we would ask for a departure
7 from a 30-year sentence as a result of it.

8 Your Honor, I do have two -- one family member and
9 one person from the community who would like to speak on
10 his behalf and my client would like to speak as well and
11 they do know to make it very brief. His first would be
12 his aunt, Your Honor, Ms. Cynthia Howard.

13 THE COURT: Good evening, Ms. Howard.

14 CYNTHIA HOWARD: Good evening. How are you?

15 THE COURT: Fine. Thank you. Are you his aunt?

16 CYNTHIA HOWARD: Yes, I am. First of all, I'd like
17 as I once before apologized to the family for the part
18 that my nephew played in the loss of Jeremy's life. I
19 don't believe nor think that he knew the involvement that
20 he was getting into being involved with the young men.
21 All of us can -- have competed back off of each other
22 about our family members being, you know, good and kind
23 and mannerable, and I think, you know, as you can see, you
24 know, he's come from a background of a good family.

25 I think as my mother which is a single mom had six of

1 us and the most trouble I think we got in is trying to get
2 the prize out of the Cheerios box before eating all of the
3 cereal. She used to tell us that we had to eat all of the
4 cereal and then come to the prize.

5 THE COURT: That's what I don't understand. To come
6 from good families and to do something this mean and just
7 no feeling -- it is terrible.

8 CYNTHIA HOWARD: I think, you know, he's expressed
9 his sympathy for the part that was played. He's been -- I
10 mean, I don't know how -- I'm not at a loss for words to
11 say, but I am just so sorry for what has happened, and if
12 there is anything we could have done to made a difference
13 in Jeremy's family -- all of the families have been torn
14 by this. I mean, we all have lost in a way. We all had
15 lost our loved one as well, and, you know --

16 THE COURT: Sure you have.

17 CYNTHIA HOWARD: -- we're at the mercy of asking you
18 all to please allow us as a family to rectify the
19 situation -- at least, you know, do a memorial to the
20 family, you know, help our nephew as in participating with
21 trying to save some other young boys' lives. He himself
22 is -- he never -- he's always -- like, you know, he
23 wouldn't hurt a thing. If he seen an animal that needed
24 help, he would go out --

25 THE COURT: How do you explain what they did to this

1 poor child?

2 CYNTHIA HOWARD: I think he was also involved in a
3 situation where he thought they were his friends as well
4 and even with him having an opportunity to badger them and
5 say things that was against them he still is standing on
6 truth and being honest about the situation and being
7 honest about what had happened, and I am just saying, you
8 know, a prayer for you all, you know, sympathy to the
9 family, you know, to what we have been through.

10 I cannot begin to tell you since this has happened
11 what our family has been through. His mother and father
12 gave their life over to Christ. His two brothers have
13 also joined the church and gave their life over to Christ.
14 Me and my mom and countless others of us all of us have
15 been praying for all of the family -- not just for our
16 nephew, but all of the families who are involved in the
17 situation where what has happened, and we, too, are trying
18 to find -- find some peace and find some sense to it, but
19 the only thing we can do is just, you know, say that, you
20 know, hold us accountable as a family to make a difference
21 in other family's lives, to make a difference in our
22 nephew's life, to give an honorable memorial for Jeremy
23 and for his family and allowing them to talk with us as
24 well.

25 We have been communicating with them, and I don't

1 know if it has helped them or not, but we have been
2 communicating with them and expressing our deepest
3 sympathy to them for everything that has happened.

4 THE COURT: Thank you so very much.

5 MR. CHANDLER: We have Ms. -- Minister Nora Bing from
6 the community.

7 THE COURT: Yes, ma'am?

8 MINISTER NORA BING: Judge, to the audience, I really
9 didn't know I was going to be called, but after looking at
10 the facts and thinking about the family, I'm so sorry for
11 your loss. I'm so sorry for what has happened. A lot of
12 times what the devil means for evil God will turn it
13 around and make good out of it. So, we're going to hope
14 that a lot of good comes out of what has happened because
15 God can turn it around like that.

16 What I did hear coming out of this is that he was a
17 slow child. I also have members in my family that I deem
18 as slow or that their community or the school has deemed
19 as slow. So, we really have to look at the depths of what
20 we're talking about when we say slow because slow may not
21 mean that he doesn't understand everything that's going on
22 and that's no disrespect to anybody, but I have been there
23 and I know about that.

24 My children I have to teach. All of us have to
25 teach. Our children are a product of who we are and what

1 we are, and we as a community, we as leaders we're going
2 to have to make laws and regulations that can help these
3 eight young men and also others that are going to come up
4 the same way. If we don't, we're going to have erosion
5 just like we're having now of the whole community and the
6 whole family.

7 We're going to have to do something. We're going to
8 have to step up to the plate as parents and be examples
9 for our children because our children are what we are and
10 who we are. So, I'm looking at this --

11 THE COURT: Well, ma'am, I agree with you. I hope --
12 you know, all of us as parents -- I have two boys and two
13 grandchildren and a daughter-in-law and I'm sure that you
14 have children.

15 MINISTER NORA BING: Yes.

16 THE COURT: I just saw his aunt.

17 MINISTER NORA BING: Yes.

18 THE COURT: You couldn't find anybody more
19 respectable --

20 MINISTER NORA BING: Yes.

21 THE COURT: -- and just the kind of person you want
22 to be in society. He has wonderful leadership.

23 MINISTER NORA BING: Yes.

24 THE COURT: What makes these young men forget that
25 family, forget those values, forget that leadership, and

1 torture and murder a young man? What makes them do it?

2 You tell me.

3 MINISTER NORA BING: We're going to have to step in.

4 We're going to have to keep our eyes open. We're going to

5 have to step up to the plate and do what's needed.

6 THE COURT: Well --

7 MINISTER NORA BING: We're going to have to do that.

8 THE COURT: -- unfortunately --

9 MINISTER NORA BING: And I listened at the

10 testimonies and I listened at the kidnapping and things

11 like that, and was there ever actually a kidnapping?

12 That's what was on my mind.

13 THE COURT: Ma'am, I know it was a kidnapping. They

14 had the young man in a trailer and they were beating on

15 him and burning him with the irons --

16 MINISTER NORA BING: Okay.

17 THE COURT: -- and then they put him in a car and

18 take him and execute him. That's a kidnapping.

19 MINISTER NORA BING: Okay. Okay.

20 THE COURT: And he's plead guilty to that. He's

21 admitted that. Thank you.

22 MR. CHANDLER: Your Honor --

23 THE COURT: Mr. Chandler, you know how much I respect

24 you.

25 MR. CHANDLER: Yes, sir.

1 THE COURT: You know how difficult this decision is
2 with those family members up here, his aunt coming up
3 here, wonderful person?

4 MR. CHANDLER: Yes.

5 THE COURT: It is tough. But look over here at this
6 family.

7 MR. CHANDLER: I understand.

8 THE COURT: It is just terrible what's going to
9 happen in this community with a nice looking young man.
10 It's just terrible.

11 MR. CHANDLER: My client would like to address the
12 Court, Your Honor.

13 DEFENDANT SHELDON OAKMAN: Yes, sir. Yes, sir, Your
14 Honor. First and foremost, I want to apologize to Jeremy
15 and his family, and I want to let him know that not a day
16 goes by that I don't pray for them and had them in my
17 prayers. I want to apologize to my parents for letting
18 them down as a parent and as a friend. I want to
19 apologize to my daughter for not being there most of her
20 life. I let everybody down.

21 I graduated from high school, Your Honor. I did
22 everything I was supposed to do. I worked 12 long hard
23 years for my high school diploma. I was currently about
24 to attend Augusta Tech and major in Business Management,
25 and from there I was going to gain transfers to the

1 University of Georgia so I can be an athlete and play
2 football and major in veterinary science to be a vet, but
3 I feel like I let my parents down. I let everybody down
4 because I had goals in my life. They know I had goals in
5 my life, and I just want to apologize to all of them.

6 I just missed my daughter's first steps, first words,
7 the sight of her first tooth, teeth coming in and
8 everything. So, Your Honor, I feel like that I could be a
9 mentor for young kids and help them out when they need
10 guidance in their life.

11 Again, I would like to apologize to Jeremy and his
12 family letting them know that they are always in my
13 prayers, and thank you for just letting me speak here
14 today.

15 MR. CHANDLER: Your Honor, we'd just like to ask you
16 to take into account my client's actions since this has
17 happened. Not in any way has my client not acknowledged
18 his guilt today or what happened and the horrific events
19 that have occurred and the fact as I said before since
20 that time he's worked tirelessly (sic) to make it right.

21 As you highlighted he did not call the police
22 initially, but he did name the names, take them to the
23 locations, and allowed them to thoroughly investigate this
24 matter. I would ask for a departure from the maximum,
25 Your Honor, because I do believe that my client has

1 separated himself significantly from this crime to the
2 extent that his efforts have been to try to make right the
3 wrong that he has done.

4 He can't bring Jeremy back and he realizes that. The
5 family has provided a tremendous amount of support to the
6 family as has been highlighted in the family's
7 acknowledgements as well, and, your Honor, I would just
8 like for you to take that into account.

9 THE COURT: Mr. Chandler, I don't know how I can feed
10 him out of any different spoon than I fed the rest of
11 them. The sentence of this Court is that you be committed
12 to the State Department of Corrections for a period of 30
13 years. Good luck to you.

14 (Whereupon, the proceedings were concluded for the
15 day and were reconvened on April 28, 2009 as
16 follows:)

17 THE COURT: Okay. We're back on the record in
18 regards to the matters that we had yesterday afternoon.
19 This is the State versus John Otis Oakman, Jr., indictment
20 08-GS-02-01096. Before I go on the record with this case,
21 Mr. Oakman, just let me make sure I understand. Yesterday
22 when we were doing all the questions to you about your
23 right to jury trial and whether or not you were satisfied
24 with your lawyer and those types of questions, you
25 responded to all of those, did you not?

1 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

2 THE COURT: And you responded that you were satisfied
3 with your lawyer and you were waiving your right to trial
4 by jury and all of those questions you responded to?

5 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

6 THE COURT: Let the record further reflect that even
7 though the set-up yesterday afternoon was such that the
8 Court Reporter has advised me in chambers this morning she
9 had trouble being able to look at everybody I find and I
10 saw and I observed that all Defendants answered each and
11 every question appropriately with the correct responses.
12 Had there been any responses that were not -- in the
13 negative to a question that required a positive response
14 or a positive to a question that required a negative, I
15 would have stopped the proceedings and further inquired as
16 to that Defendant. I am satisfied that all of the
17 Defendants answered the questions in the appropriate
18 manner for me to accept the plea.

19 Mr. Weeks, was that your observation?

20 MR. WEEKS: It was, Your Honor.

21 THE COURT: Mr. Weeks, does Mr. John Otis Oakman, Jr.
22 age 17, have a record?

23 MR. WEEKS: No, Your Honor. He was a juvenile,
24 actually, at the time of this offense. He was 16 years
25 old.

1 THE COURT: And anything in particular you need to
2 tell me about?

3 MR. WEEKS: Your Honor, as I understand it,
4 Mr. Oakman by his own statement was in the back passenger
5 seat of the front automobile. He gave a voluntary
6 statement to the Sheriff's Department on January 24 of
7 2008 indicating his presence and the kidnapping and
8 ultimate murder of Frankie Gantt.

9 THE COURT: So, he was in the car that left the
10 trailer where the young man was beaten?

11 MR. WEEKS: Yes, sir.

12 THE COURT: And driven to the point where he was
13 killed?

14 MR. WEEKS: Yes, sir.

15 THE COURT: He was in the car with the victim?

16 MR. WEEKS: Yes, sir. And he was in the trailer and
17 he indicated that he was the one of the ones that
18 indicated that all of them had started hitting Jeremy.

19 THE COURT: Including himself?

20 MR. WEEKS: He said that he started to hit Jeremy but
21 that William stopped him, but he -- one of the ones that
22 indicated that a hot iron was used and he indicated that
23 he was the left rear passenger side of Jeremy being in the
24 middle and Andre Norris being on the right passenger side
25 of the lead car that stopped on Hutto Pond Road.

1 THE COURT: Thank you. Mr. Tom Woodruff?

2 MR. WOODRUFF: Yes, sir, Your Honor.

3 THE COURT: I'll be glad to hear anything you'd like
4 to tell me.

5 MR. WOODRUFF: Thank you, Your Honor. Your Honor, it
6 was very obvious from the pleas that took place yesterday
7 afternoon -- of course, Mr. Gantt plead guilty to murder
8 and received 45 years. The remaining three individuals
9 plead guilty to kidnapping and each one of them received
10 30 years. It's apparent to me, Your Honor, that you,
11 apparently, are feeding each one of the Defendants that
12 plead guilty to kidnapping from the same spoon, and I
13 think that it's my obligation to my client to attempt to
14 explain to you why John, Jr., should be treated
15 differently.

16 THE COURT: I think you are absolutely correct, and
17 I'll listen to you, and if you can convince me that he
18 played a role that was not as significant as the others I
19 will certainly come off of the 30 years.

20 MR. WOODRUFF: Very good. Thank you, Your Honor.
21 Your Honor, first, every person in front of you according
22 to my records that appeared in front of you yesterday had
23 a record. My client has no record. He has no record as a
24 juvenile, and when he was arrested for this offense he was
25 16. Actually, he was actually housed at DJJ in Columbia

1 because of his age. DJJ sort of kicked him out and sent
2 him to the Aiken County detention Center on his 17th
3 birthday. My client today is 17 years of age.

4 Of course, I worry about my cases, and I thought
5 about what I was doing when I was 16 and when I was 17.
6 Whenever I was 16 I was a stockboy at K-mart putting
7 together bicycles trying to decide how I was going to be
8 able to borrow the family car to take a girl out on
9 Saturday night. That's not the life that John, Jr. has
10 had.

11 Quite frankly, as he stands in front of you today
12 he's only 17. It's, of course, the Solicitor's option to
13 try Mr. Oakman as an adult because normally he would have
14 been tried in family court because he was 16 when this
15 crime was committed. Unfortunately, the Solicitor saw fit
16 to try him as an adult.

17 THE COURT: Mr. Woodruff, it's not an unfortunate
18 choice by the Solicitor. I think the facts and the
19 horrendous results in this case dictate this young man --
20 if he is going to act as he did, he must face his
21 consequences as an adult. So, I don't think it's
22 unfortunate. It might be unfortunate for your client, but
23 I think the Solicitor was certainly justified, and, in
24 fact, he would be criticized if he did not. So, it might
25 be unfortunate for your client, but it is just the facts

1 dictate he be tried as an adult.

2 MR. WOODRUFF: Yes, sir, but we would request that
3 Your Honor please take into consideration that my client
4 was only 16 when this happened. We would additionally ask
5 the Court to take into consideration that as my client
6 stands in front of you today -- what you're looking at is
7 you're looking at a 17-year-old kid who went halfway
8 through the tenth grade.

9 John has always told me during every one of my
10 conversations with him -- he says two things. He said,
11 Tom -- and I am going to quote my client. He says, I
12 didn't do nothing, and, unfortunately, he was there, and I
13 have explained to him that the hand of one is the hand of
14 all. Mr. Weeks did acknowledge that my client actually
15 never physically touched Mr. Leaphart. He never put an
16 iron to him. He was not involved in the shooting. He was
17 just there.

18 His problem -- John's problem is he made the wrong
19 choice as to the people he was going to associate with,
20 and I think that a lot of young men want to hang out with
21 older people. That's what he was trying to do. He was
22 trying to hang out with older people.

23 Your Honor, he tells me that he was in fear of his
24 life that they were going to kill him next and he was
25 afraid that if he tried to stop anything that he was going

1 to be killed or that a family member was going to be
2 killed. Your Honor --

3 THE COURT: This crowd was that mean and bad?

4 MR. WOODRUFF: That's what my client tells me, and my
5 client has asked for the opportunity to talk to you.

6 THE COURT: Mr. Oakman, why do you think they were
7 going to kill you?

8 DEFENDANT JOHN O. OAKMAN, JR.: They done killed
9 somebody right in front of my face.

10 THE COURT: How did you end up with that crowd?

11 DEFENDANT JOHN O. OAKMAN, JR.: I was just hanging
12 out with my cousin. I was hanging with my cousin.

13 THE COURT: Who is your cousin?

14 DEFENDANT JOHN O. OAKMAN, JR.: Sheldon Oakman.

15 THE COURT: You were hanging with him?

16 DEFENDANT JOHN O. OAKMAN, JR.: It was Christmas Eve.
17 I was just hanging with him.

18 THE COURT: Hanging out means just sort of?

19 DEFENDANT JOHN O. OAKMAN, JR.: Being with him, just
20 chilling with him.

21 THE COURT: And what happened?

22 DEFENDANT JOHN O. OAKMAN, JR.: We went down there,
23 and when we went down there, I mean, all this just started
24 happening. I didn't have no knowledge none of this was
25 going to happen.

1 THE COURT: I know you didn't have any knowledge it
2 was going to happen, but after it started happening, I
3 mean, you were there and they took the young man in the
4 trailer and I assume they beat on him. Is that correct?

5 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

6 THE COURT: What did they beat him with?

7 DEFENDANT JOHN O. OAKMAN, JR.: Their hands.

8 THE COURT: What else?

9 DEFENDANT JOHN O. OAKMAN, JR.: Well, they -- one of
10 them tried to put an iron on him.

11 THE COURT: What do you mean an iron? Like an iron
12 you iron clothes with?

13 DEFENDANT JOHN O. OAKMAN, JR.: You iron clothes
14 with.

15 THE COURT: Did they burn him?

16 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

17 THE COURT: What were you doing?

18 DEFENDANT JOHN O. OAKMAN, JR.: Just watching,
19 shocked.

20 THE COURT: Shocked? Why did you get back in the car
21 when they took him from there back to where they killed
22 him?

23 DEFENDANT JOHN O. OAKMAN, JR.: I wasn't trying to
24 get in the car. They told me to get in the car. I wasn't
25 trying to get in the car. I wasn't going to get in the

1 car, but...

2 THE COURT: But what?

3 DEFENDANT JOHN O. OAKMAN, JR.: I ain't had no other
4 choice.

5 THE COURT: You couldn't run?

6 DEFENDANT JOHN O. OAKMAN, JR.: If I would have run
7 the same thing would have happened to me.

8 THE COURT: Why do you think that?

9 DEFENDANT JOHN O. OAKMAN, JR.: I just...

10 THE COURT: How old is your cousin Sheldon?

11 DEFENDANT JOHN O. OAKMAN, JR.: Twenty, 21, 22.

12 THE COURT: You were 16?

13 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

14 THE COURT: What happened when they got down to Aiken
15 County? When they got out the car with the gun, what
16 happened?

17 DEFENDANT JOHN O. OAKMAN, JR.: They just got out of
18 the car. When he got out of the car he started running.
19 He started shooting.

20 THE COURT: That's when Mr. Gantt started shooting?

21 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

22 THE COURT: What did you do?

23 DEFENDANT JOHN O. OAKMAN, JR.: I just watched.

24 THE COURT: Did you try to stop him?

25 DEFENDANT JOHN O. OAKMAN, JR.: I couldn't.

1 THE COURT: Why?

2 DEFENDANT JOHN O. OAKMAN, JR.: He did it too fast.
3 He just started shooting.

4 THE COURT: And the kid kept running?

5 DEFENDANT JOHN O. OAKMAN, JR.: (Witness nods head.)

6 THE COURT: What did he do then?

7 DEFENDANT JOHN O. OAKMAN, JR.: He kept shooting and
8 he ran out of bullets and he told me to go get the
9 bullets, but I didn't go get the bullets.

10 THE COURT: Who got them?

11 DEFENDANT JOHN O. OAKMAN, JR.: My cousin went and
12 got the bullets.

13 THE COURT: Where did he get them from?

14 DEFENDANT JOHN O. OAKMAN, JR.: In the trunk.

15 THE COURT: What were you doing then?

16 DEFENDANT JOHN O. OAKMAN, JR.: Still watching.

17 THE COURT: And then what happened?

18 DEFENDANT JOHN O. OAKMAN, JR.: He went up on him and
19 shot him, I guess. I mean, he went up on him and I heard
20 a shot. I guess he shot him.

21 THE COURT: Then what did y'all do?

22 DEFENDANT JOHN O. OAKMAN, JR.: Get back in the car
23 and leave.

24 THE COURT: Where did you go?

25 DEFENDANT JOHN O. OAKMAN, JR.: Back to Johnnie's

1 house.

2 THE COURT: Johnnie Walker's house?

3 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir.

4 THE COURT: How long did y'all stay there?

5 DEFENDANT JOHN O. OAKMAN, JR.: About 10 minutes.

6 THE COURT: And then what did you do?

7 DEFENDANT JOHN O. OAKMAN, JR.: And then we went back
8 down there, back down there where he got shot at.

9 THE COURT: Who picked the body up?

10 DEFENDANT JOHN O. OAKMAN, JR.: Well, it was dark
11 then. I was still at the car. I stayed at the car. I
12 didn't even see who go back there and picked him up. I
13 stayed at the car, beside the car.

14 THE COURT: Who got out of the car and went and got
15 the body?

16 DEFENDANT JOHN O. OAKMAN, JR.: I think -- this is
17 what who I think went and got him. I am not sure who went
18 and got him, but I think Andre went and got him -- Andre
19 and Frankie, I think.

20 THE COURT: Then what happened?

21 DEFENDANT JOHN O. OAKMAN, JR.: They put him in the
22 trunk and we just rode around. We just rode around, rode
23 around, rode around, I mean.

24 THE COURT: What was going on while you were riding
25 around? What were they taking about?

1 DEFENDANT JOHN O. OAKMAN, JR.: It is like I can't
2 believe -- I can't believe we're doing this. I can't
3 believe this is happening. That's all they were saying is
4 I can't believe this is happening, why you did it?

5 THE COURT: Who was saying that?

6 DEFENDANT JOHN O. OAKMAN, JR.: Everybody. All of
7 them was saying I can't believe he did that. He ain't had
8 no reason to do that.

9 THE COURT: Whose gun was it?

10 DEFENDANT JOHN O. OAKMAN, JR.: I don't know.

11 THE COURT: You ever see it before then?

12 DEFENDANT JOHN O. OAKMAN, JR.: No, sir.

13 THE COURT: You ever had a gun?

14 DEFENDANT JOHN O. OAKMAN, JR.: (Witness shakes
15 head.)

16 THE COURT: Then who decided where to dump the body?

17 DEFENDANT JOHN O. OAKMAN, JR.: I don't know. I
18 don't know.

19 THE COURT: What happened after y'all disposed of the
20 body?

21 DEFENDANT JOHN O. OAKMAN, JR.: Well, we got back in
22 the car and went back to Johnnie's house and then we went
23 to the club after that.

24 THE COURT: What club?

25 DEFENDANT JOHN O. OAKMAN, JR.: Ponderosa.

1 THE COURT: How can you get in the Ponderosa when you
2 were 16?

3 DEFENDANT JOHN O. OAKMAN, JR.: (No response.)

4 THE COURT: What did y'all do at at the Ponderosa?

5 DEFENDANT JOHN O. OAKMAN, JR.: Nothing.

6 THE COURT: What did the big older boys, do? Men?
7 Drink?

8 DEFENDANT JOHN O. OAKMAN, JR.: I guess.

9 THE COURT: Let me ask you this. When all of this
10 was going on when they were beating the guy, shooting and
11 killing him and burying him and putting the body in the
12 trash, were they drinking?

13 DEFENDANT JOHN O. OAKMAN, JR.: Not as I know of. I
14 don't know.

15 THE COURT: Were they doing dope? Were they doing
16 crack?

17 DEFENDANT JOHN O. OAKMAN, JR.: I don't think so.

18 THE COURT: I mean, they did all of this with a clear
19 mind with not drunk or on dope or crack cocaine or
20 marijuana? You didn't see them using any drugs?

21 DEFENDANT JOHN O. OAKMAN, JR.: No, sir.

22 THE COURT: Why didn't you tell anybody?

23 DEFENDANT JOHN O. OAKMAN, JR.: I was scared for my
24 own life. I was scared. I mean, I know they was going to
25 find out. If I told they would have killed me or killed

1 my Mama or my Daddy or my Sister, somebody. They would
2 have got somebody.

3 THE COURT: Why do you think that? Are they that
4 mean?

5 DEFENDANT JOHN O. OAKMAN, JR.: Yes, sir. I did not
6 participate. I ain't participate in nothing that
7 happened. I didn't help them do nothing.

8 THE COURT: Except being there.

9 DEFENDANT JOHN O. OAKMAN, JR.: Just there.

10 THE COURT: Mr. Woodruff, anything else?

11 MR. WOODRUFF: Yes, sir, Your Honor, I have in the
12 audience -- and I'd like to ask all three of them to come
13 up. I have John's mother, his father, and his 19-year-old
14 sister. Quite honestly, his Mother speaks the most
15 eloquently, but I don't think that she is emotionally up
16 to addressing the Court. Mr. Oakman I don't think is up
17 to addressing the Court either. John's 19-year-old sister
18 I believe would like to make a short statement to the
19 Court and I think she'd like to say something to the
20 family, but, Your Honor, I would like to ask Mrs. Oakman
21 one question if I may address her with one question.

22 THE COURT: When she comes up I'll certainly allow
23 that. Y'all come up.

24 MR. WOODRUFF: Mr. Oakman, Mrs. Oakman.

25 THE COURT: One at a time, please. If he is not

1 going to address the Court, let the Mama. Do you need to
2 tell me anything, sir?

3 THE FATHER: No, sir. He ain't nothing but just 16
4 years old. He's out there hanging out with his boys.

5 THE COURT: It was a little more than hanging out
6 with the boys.

7 THE FATHER: Well, if he afraid of his life and they
8 tell you what to do, I guess you got to do what they tell
9 you to do.

10 THE COURT: No, sir. You ain't got to kill somebody
11 and you ain't got to beat somebody up and you don't have
12 to put them in a trash pile.

13 DEFENDANT JOHN O. OAKMAN, JR.: I didn't do that. I
14 didn't participate.

15 THE COURT: Anything else? Let me see your wife.

16 MR. WOODRUFF: Your Honor, if I may preface my
17 question, Mrs. Oakman has been very emotional. She was in
18 my office last week and she was just sobbing very quietly.
19 This is very, very difficult for her.

20 THE COURT: I imagine it is.

21 MR. WOODRUFF: It is, but, Your Honor, Mrs. Oakman
22 has a son that is with the South Carolina Department of
23 Corrections and wears a uniform. That's John's older
24 brother. John's older brother --

25 THE COURT: What do you mean he is an inmate or he

1 works for them?

2 MR. WOODRUFF: He works for them. He works for the
3 Department of Corrections. John's older brother went and
4 tried to get John from hanging out with these young men,
5 and, Mrs. Oakman, could you briefly describe to the Court
6 what happened after your older son went and tried to get
7 John away from these young men?

8 THE MOTHER: Well, it wasn't ten minutes before they
9 had already got in touch with JJ -- John, Jr. -- and told
10 him to tell his younger brother -- his older brother to
11 stay away from there because they thought he was a cop and
12 if he came back there they was going to shoot him. He
13 wasn't afraid, but I was.

14 THE COURT: I would be, too, ma'am. That's a crazy
15 crowd. Thank you.

16 MR. WOODRUFF: Your Honor, if John's older sister who
17 is two years older than John -- she would like to address
18 the Court.

19 THE COURT: Tell me about his family. Obviously, his
20 Mama and Daddy and he's got a brother that works for the
21 Department of Corrections. He's got his sister. How many
22 other siblings are there?

23 DEFENDANT JOHN O. OAKMAN, JR.: I got one more
24 brother.

25 THE COURT: What does he do?

1 DEFENDANT JOHN O. OAKMAN, JR.: I don't know.

2 THE COURT: You don't know what your brother does?

3 Yes, ma'am, your name?

4 VERNETTA OAKMAN: Vernetta Oakman.

5 THE COURT: I'll be glad to hear from you.

6 VERNETTA OAKMAN: First of all, I would like to say
7 I'm sorry. I'm sorry for the whole family. I know my
8 brother. I know my brother is nothing like how he's being
9 portrayed as I know, and he has two nephews at home that
10 he holds -- he used to hold everyday and everyday they
11 asked for him. My brother was 16, and I -- if I was 16
12 with all of these other boys around me, I wouldn't -- I
13 would be scared. I would be scared for my family. I know
14 how they used to be. I know that. And I would be so
15 scared for my family and myself. I just -- I just believe
16 he deserves another chance at life.

17 THE COURT: Thank you.

18 VERNETTA OAKMAN: He is only 16.

19 THE COURT: Thank you very much.

20 MR. WOODRUFF: Your Honor, at this point I had told
21 my client that I would ask for a 10-year sentence. If the
22 Court could see fit to sentence John to 10 years, we would
23 be very, very appreciative.

24 MR. WEEKS: Your Honor, I want to give Mr. Woodruff
25 time to finish, but I did want to point out that as I

1 mentioned yesterday we had conflicting witness statements
2 as to each one of them's role. Mr. Oakman's cousin
3 Sheldon Oakman said that Mr. Oakman was the one that gave
4 Mr. Gantt the killing shot. This Mr. Oakman says that it
5 was Sheldon that did. So, we had conflicting statements
6 in that regard, and I think that's why the charges were
7 upgraded on this young man to murder originally, but we'll
8 be dismissing those charges.

9 THE COURT: Well, there is no question of fact he was
10 there and he was in the car when the young man was
11 kidnapped. He was part of the kidnapping. That's
12 uncontradicted.

13 MR. WEEKS: It is uncontradicted he was in the
14 trailer where the young man was tortured and beaten, and
15 according to his own statement he went to hit the fellow
16 but was stopped.

17 DEFENDANT JOHN O. OAKMAN, JR.: No. I didn't say
18 that.

19 THE COURT: All right. All right, Paul, take him
20 back. I am going to hold his under advisement until I
21 listen to the rest of them.

22 MR. WOODRUFF: Thank you, Your Honor.

23 (Whereupon, a break was taken.)

24 THE COURT: This is the the State versus Andre
25 Norris, 0193. Present and appearing is Mr. Andre Norris

1 and his lawyer Mr. Routzong.

2 Mr. Norris, let me ask you a couple of questions. Do
3 you remember yesterday when I asked you all those
4 questions about your right to trial by jury and whether
5 you were satisfied with your lawyer and whether you were
6 under the influence of alcohol? You answered all of those
7 questions, didn't you?

8 DEFENDANT ANDRE NORRIS: Yes, sir.

9 THE COURT: Appropriately for me? You didn't have
10 any doubt about my questions and your responses; is that
11 correct?

12 DEFENDANT ANDRE NORRIS: Not really.

13 THE COURT: I mean, you answered. When I asked
14 you --

15 DEFENDANT ANDRE NORRIS: Yea.

16 THE COURT: -- a question you answered yes or no, did
17 you not?

18 DEFENDANT ANDRE NORRIS: Yea.

19 THE COURT: Mr. Weeks, did you observe Mr. Norris
20 answering appropriately?

21 MR. WEEKS: I observed each one of them answering
22 appropriately that were in the box yesterday including
23 Mr. Norris.

24 THE COURT: Mr. Routzong, as his lawyer you were
25 standing right next to him and you heard him answer all of

1 the questions, did you not?

2 MR. ROUTZONG: Yes, sir.

3 THE COURT: Mr. Weeks, does Mr. Norris have a record?

4 MR. ROUTZONG: Your Honor, before we go any further
5 Mr. Norris has asked me to ask the Court to consider
6 allowing him to withdraw his guilty plea.

7 THE COURT: Sir, I have taken his guilty plea
8 yesterday. It was done knowingly, voluntarily, and
9 intelligently. I went through all of the questions. He
10 answered them appropriately. Motion denied.

11 MR. WEEKS: Your Honor, he has a disorderly conduct
12 in '03 and that's all.

13 THE COURT: Anything else?

14 MR. WEEKS: That's all.

15 THE COURT: All right. Mr. Routzong, tell me a
16 little bit about Mr. Morris and why I should treat him any
17 differently than the rest of them.

18 MR. ROUTZONG: I think there is reason to treat him
19 differently.

20 THE COURT: Hold on one second.

21 (Whereupon, the Court speaks with someone off the
22 record.)

23 Okay.

24 MR. ROUTZONG: I think there is reason to treat him
25 differently, Your Honor. He is 26 years old. He is a

1 resident of Batesburg. He's been remarkably consistent
2 with me as to what happened on that evening. He tells me
3 that he was there at Bridget Bowers' house initially for
4 the reasons they were playing cards and they were having a
5 party.

6 THE COURT: At whose house?

7 MR. WEEKS: Bridget Bowers, Your Honor.

8 THE COURT: That's Ronnie Bowers' sister, wife,
9 girlfriend?

10 MR. WEEKS: It was the mother of Darrell Williams'
11 children and it's the trailer location where the assault
12 occurred.

13 MR. ROUTZONG: He tells me that he is not a part
14 of -- normally a part of that group, although he is
15 related to some of the other Co-Defendants. He's a
16 cousin, I believe, but, anyway, he was there on that day
17 playing cards. He describes it as a party. He tells me
18 that he did observe -- while he was playing cards he did
19 observe some of the interactions with the other
20 Co-Defendants and the victim in this case, but to put that
21 in a little bit of context I think he viewed them as being
22 a rough-and-tumble kind of crowd. This was something they
23 engaged in to get somebody in their group squared away.

24 He tells me that from his personal knowledge he knew
25 that Darrell Williams considered himself to be a good

1 friend of the victim and that he -- he tells me that he
2 knows that Darrell Williams took good care of the victim,
3 bought him things. He tells me that he occasionally
4 bought him things and they lived together for a while. He
5 didn't view that as anything other than people in this
6 particular group -- I hesitate to call it a gang because I
7 don't know that it rises to that level, but this
8 rough-and-tumble group, they were just squaring away
9 somebody. They had an issue. He overheard it was about
10 guns.

11 THE COURT: Squaring him away with beating him up and
12 using an iron? Is that what you're saying?

13 MR. ROUTZONG: Your Honor --

14 THE COURT: This is the trailer where the, for lack
15 of a better word, torture took place, beating him and
16 burning him with the iron and kicking him.

17 MR. ROUTZONG: I think Mr. Norris based on what he's
18 told me would disagree that he never saw an iron being
19 applied to Mr. --

20 THE COURT: Okay. Leave the iron out. He saw him
21 being beaten up, didn't he?

22 DEFENDANT ANDRE NORRIS: I wouldn't say a beating.

23 THE COURT: What were they doing to him?

24 DEFENDANT ANDRE NORRIS: I only seen one or two
25 people really touch him period. It wasn't really a

1 beating, you know. It was just like two people just had
2 -- had a misunderstanding.

3 THE COURT: Who were those people?

4 DEFENDANT ANDRE NORRIS: Frankie Gantt touched him
5 and Sheldon Oakman was about to hit him but Stevie stopped
6 him.

7 THE COURT: So, it was just one person according to
8 you?

9 DEFENDANT ANDRE NORRIS: Yea. There wasn't no iron.

10 THE COURT: That was Frankie Gantt who ultimately
11 killed him?

12 DEFENDANT ANDRE NORRIS: But it wasn't no --

13 THE COURT: What were you doing?

14 DEFENDANT ANDRE NORRIS: I was playing cards at the
15 time at the table right next to to living room. I was
16 playing cards.

17 THE COURT: Go ahead.

18 MR. ROUTZONG: After -- at some point in time
19 Ms. Bowers asked them to leave the home. Mr. Gantt and --
20 I'm sorry. Mr. Norris tells me that from his perspective
21 this issue had been resolved -- that after Darrell
22 Williams had told everyone we're going to go to Ed's
23 house -- that's Johnnie Walker -- they told them to go
24 there and clean him up. I think he will agree that that's
25 what he heard Darrell Williams say.

1 THE COURT: What do you mean clean him up? Was he
2 bleeding?

3 DEFENDANT ANDRE NORRIS: His lip had been busted.

4 THE COURT: Okay.

5 DEFENDANT ANDRE NORRIS: And they was leaving to go
6 to Head's house.

7 THE COURT: That's Johnnie Walker's house?

8 DEFENDANT ANDRE NORRIS: To get him some clothes
9 because Jeremy also was going to the party with them on
10 that same day and Steve told him to go to Head's house and
11 get cleaned up. He had some clothes laying out on the bed
12 for him. So, when we left and was going to Head's house
13 and let them guys get dressed to go to the party.

14 THE COURT: What did you do?

15 DEFENDANT ANDRE NORRIS: I got in the car and my
16 cousin Head asked me to go to his house and open his door
17 because he left his key. He leave his key on the outside
18 and I know where it be at. He told me to go out there and
19 open the door for him to get dressed and he was going to
20 come pick me up later and take me home.

21 THE COURT: So, y'all all went to Johnnie Walker's
22 house?

23 DEFENDANT ANDRE NORRIS: Yea. We was on our way to
24 Johnnie Walker's house when the issue occurred.

25 THE COURT: When what happened?

1 DEFENDANT ANDRE NORRIS: Before he got shot. Before
2 Jeremy got shot we were headed to Johnnie Walker's house.

3 THE COURT: Whose car were you in?

4 DEFENDANT ANDRE NORRIS: I was in the car with me --
5 it was me, Junior, JJ, Jeremy, and Frankie.

6 THE COURT: So, you were in the car with the young
7 man that got killed?

8 DEFENDANT ANDRE NORRIS: Yea.

9 THE COURT: All right. Now we're going to go to
10 Johnnie Walker's house. What happened -- who stopped the
11 car?

12 DEFENDANT ANDRE NORRIS: When I went to Johnnie's
13 house -- the party was in Ridge-Spring Monetta. We had to
14 go through Monetta to Head's house, and, so, when we got
15 to the stop sign going to Head's house Junior was driving
16 the car. He had his signal light on to turn to go to
17 Head's house and we made a left. We was on the road and
18 if we make a left we go to Head's house but on our way
19 when Junior had his signal light on Frankie told him to go
20 straight -- that he had to get an ID from his friend's
21 house named big D. His name is Devin. He said he had to
22 get an ID.

23 Junior was saying that Steve said to take Jeremy to
24 Head's house and Mon kept telling him to go straight, go
25 straight. Junior would hesitate to take him to go

1 straight, but we ended up going straight and Mon was
2 telling him to go left, right, left, right. We ended up
3 on Hutto Pond Road. We did turn around at a house that he
4 said was big D house on Hutto Pond Road. On our way back
5 coming back down the road Mon asked to stop the car.

6 THE COURT: Who asked to stop the car?

7 DEFENDANT ANDRE NORRIS: Frankie Gantt.

8 THE COURT: What do you call him?

9 DEFENDANT ANDRE NORRIS: Mon. That's his nickname.

10 MR. WEEKS: M-O-N.

11 THE COURT: All right.

12 DEFENDANT ANDRE NORRIS: He asked to stop the car.
13 So he asked him -- when he stopped the car he opened up
14 the front passenger door. Jeremy was on the outside
15 passenger door on the driver's side. Jeremy got out of
16 the car. Him and Frankie Gantt was outside talking and
17 Frankie was asking him about the guns, where the guns was,
18 and Jeremy was like, I ain't got to talk to you. I'll
19 talk to Steve. Me and Steve already talked about the
20 guns. And Frankie kept asking him and kept asking him.
21 He was like, I ain't got to talk to you. If you want me
22 to talk, I'll talk to Steve.

23 So, Steve (sic) was like, bump my brother. I'm here
24 now. You can tell me.

25 THE COURT: Who is Steve?

1 DEFENDANT ANDRE NORRIS: Steve is his brother.

2 MR. ROUTZONG: Darrell Williams.

3 DEFENDANT ANDRE NORRIS: So, at that time I guess he
4 got tired of arguing with Jeremy and he opened up the
5 passenger back door and he had Junior to pop the trunk.
6 So at this time when he popped the trunk a gun came out.
7 I was in the back passenger seat. I never got out of the
8 car, but at the back of the glass -- at the crack of the
9 glass I could see. I could look behind and when I'm
10 looking back in the backseat I could look between the
11 crack and I see a gun.

12 So, at this time me and Frankie get to arguing. I am
13 telling Frankie to put the gun up before somebody get
14 hurt, and, so, he come around to my side. He told me that
15 you ain't got nothing to do with it, you know. You need
16 to chill out and sit back.

17 So, at this time while me and him are arguing Jeremy
18 took off running. You know, what I'm saying? Jeremy took
19 off running so his back is facing to me. I am on the
20 driver's -- I mean, I'm on the passenger's back. So, his
21 back is faced to me. So, Jeremy takes off running. So,
22 when Frankie turns around he fired three shots, but when
23 he fired the three shots Jeremy was running this way and
24 Mon was shooting this way. So, his intentions to me was
25 like he wasn't intending to shoot him. It was like he was

1 intending to make him stop or something, but at that time
2 Jeremy had done made it behind whatever the barn area.

3 So, at this time I can't see, but Frankie takes off
4 running where he locates where Jeremy ran at. Frankie
5 takes off running. So I hear two more shots. So, Frankie
6 came back running to the car and we left. We left on this
7 day. He got in the car. He's like I wasn't even going to
8 shoot him. He said I was just trying to make him stop,
9 and I said, man, you shot him? I said, man, you ain't
10 shot that man. He said, yea, I shot him.

11 So, I thought he had got away because he was a long
12 distance. The way he ran it was a long distance from the
13 car. So, I thought he had done ran. I didn't think he
14 had shot him until I found out he had shot him when he
15 called my cousin Head and he told Head, he said, man, I
16 had to shoot Jeremy. That's when Steve said, you did
17 what? He said, come on to Head's house. So, we went to
18 Head's house.

19 Him and Steve get in an altercation. Him and Steve
20 fixing to fight, you know what I'm saying? So, we broke
21 that up. So, at this time when we was at the house and
22 the altercation is going on -- so everything is settled
23 down. So, Steve asked Mon, did you shoot him or did you
24 kill him? Mon said he didn't know. So, Steve is like,
25 hey, y'all, we can go back. We might can help him. So,

1 all of us left and we went back and planned on helping
2 him.

3 When we get back Steve made Mon go back there where
4 he shot him at. So at the time it took me, Head, and
5 Steve -- we stood on the outside because we're like we
6 ain't had nothing to do with it. We stood on the outside,
7 and Mon and some of the other Co-Defendants went back
8 there and found him, and it took them about 45 minutes to
9 find him. Apparently, he had moved from where he was, you
10 know what I'm saying? I guess he was still living, but he
11 moved from where he was from the location where Mon shot
12 him at. So, that's why it took him a long time to find
13 the body.

14 So, they found the body. So, when we went -- when we
15 went to Hutto Pond Road -- When we went back to Hutto Pond
16 Road Steve had already told Mon that you're going to be a
17 man about what you done tonight, you know what I am
18 saying? If he is dead, we were going to the police
19 station and everybody else was going to be there that you
20 done this.

21 So, on that day -- okay, when we got down there they
22 found the body. They brought him back. Steve asked Mon,
23 is he dead? And Mon was like, I guess so. Steve is like,
24 well, we're going to the police station. So, we were
25 going to Batesburg Leesville police station. So, I'm in

1 the car -- me, Johnnie Walker, Steve, and Junior -- we are
2 in the car. We're behind them. So, we're going to
3 Batesburg Police Station. So we are following behind
4 them. We're going down the road. So, when we get close
5 to Batesburg Leesville Police Station, they turn off. So,
6 Steve is telling Head to blink the lights and blow the
7 horn so we can stop them and see where they're going
8 because we supposed to be going to the police station.

9 So, Steve started calling Mon's phone and blinking
10 the lights and blowing the horn. They never would stop.
11 So, we end up on this dirt road. We went down the dirt
12 road. So, they took a left and went down on the dirt
13 road. We kept going straight and turned back around and
14 came back. That's when we noticed that the boot was up.

15 THE COURT: The what was up?

16 DEFENDANT ANDRE NORRIS: The boot was up. The trunk
17 was up, and, so, Steve got out of the car. Steve got out
18 of the car at this time and asked them what they was
19 doing, and they was like -- no, they ain't say nothing.
20 So, Steve said, hey, that's on y'all. Whatever happens is
21 on y'all. So, Steve got back in the car. We left and we
22 went home. That was the whole moral of the story of what
23 happened.

24 THE COURT: Mr. Weeks, how does that jibe with what
25 he told you earlier?

1 MR. WEEKS: Well, that's a lot more detail.

2 THE COURT: As far as his involvement?

3 MR. WEEKS: Well, he was -- one thing consistent --
4 he was the back right seat passenger in the lead car.
5 According to the other witnesses he participated in
6 hitting Jeremy while he was at the house and he was the
7 one who directed the investigators to the body location
8 after he was questioned. He indicated that -- like he
9 said here that the other suspects went behind the
10 building, but I think at some point he actually drove the
11 car that ended up with the body in it which was a car that
12 Jeremy -- that they were all riding in earlier that we
13 found Jeremy's DNA in after it was processed by SLED.

14 THE COURT: Were y'all drinking that night?

15 DEFENDANT ANDRE NORRIS: Yea. It was a party. It
16 was a Christmas Eve party that we was at. All of us was
17 drinking -- drinking beer and liquor, having a party.

18 THE COURT: Anything else you want to tell me?

19 DEFENDANT ANDRE NORRIS: Well, I -- on his behalf
20 about me showing where the body was, the only way I know
21 where the body was because one day we was together and
22 they were talking about where the body was located at.

23 THE COURT: Who is he?

24 DEFENDANT ANDRE NORRIS: Frankie Gantt was talking
25 about where the body was located at and they were

1 saying -- because I know the area where we was at and he
2 was like where they was parked at the last house on the
3 left in a pile of wood. That's where they had hid the
4 body at. That's what he was telling me. So, that's how I
5 knew where the body was.

6 MR. ROUTZONG: There are some consistencies in the
7 story that he's telling, Your Honor. For one thing --

8 THE COURT: Well, what if there is consistency,
9 Mr. Routzong? How do I sitting up here trying to do
10 what's right with a bunch of men who take this kid out and
11 whatever happens and he ends up dead and your client is
12 right there in the thick of things -- how am I supposed to
13 cut him any slack?

14 MR. ROUTZONG: Well, I'd have to point out, Your
15 Honor, I think most of these statements that where people
16 are pointing their fingers at each other is after the case
17 got broken open, and, of course, they knew who was the one
18 who pointed out to law enforcement where the body was.
19 He's told me that I think it was through his baby's mom's
20 mother that there were threats about what would happen to
21 anybody who told where the body was. Yet, in spite of
22 that when he was approached by law enforcement he did tell
23 the truth.

24 THE COURT: Well, Mr. Norris, who was the ringleader?

25 DEFENDANT ANDRE NORRIS: Huh?

1 THE COURT: Who was behind all of this?

2 DEFENDANT ANDRE NORRIS: Who was behind all of this?

3 THE COURT: Yea.

4 DEFENDANT ANDRE NORRIS: Well, basically, you know, I
5 feel like, you know, that Steve, you know what I'm
6 saying -- it was all about Steve.

7 THE COURT: That's Darrell?

8 DEFENDANT ANDRE NORRIS: Yea. And I feel like Steve
9 started it and Frankie ended it, you know what I'm saying?
10 I feel like it is them two that really got us involved in
11 this -- this whole case because, basically, we came -- I
12 was picked up from my house to go to a party and I ended
13 up being in a murder. The only thing I knew is I was
14 going to a party. When I got to the party Jeremy wasn't
15 even there.

16 THE COURT: When it was all over and you went back
17 home that night -- here you got a dead person that's been
18 stuffed in a garage dump, so to speak. How do you sleep?
19 How come you didn't call the police? How come you didn't
20 tell all of this then?

21 DEFENDANT ANDRE NORRIS: Because like Mike was saying
22 that it was a lot of threats going on and then I worked a
23 lot at night and I had a family and I ain't want them to
24 be home while I'm not at home.

25 THE COURT: All right. Mr. Routzong, anything else?

1 MR. ROUTZONG: Just that there is really no reason
2 for them to have moved the body. I think it was found not
3 far from the police station. So, that tends to -- in
4 Batesburg, I believe. I've been to that --

5 THE COURT: There was really no reason?

6 MR. ROUTZONG: To move the body. That corroborates
7 the Steve being upset -- I'm sorry; Darrell Williams being
8 upset, going out to check him, and he's always maintained
9 we were taking the body to the police station right in the
10 general area because I'm pretty sure having visited the
11 site that I think it's almost within maybe 200 meters of
12 the police station.

13 Also, Your Honor, to help the corroborate his story,
14 there is nothing on his record. He owns a carpet cleaning
15 business and that's what he did. The evidence tends to
16 show that he's not a part of any gang. He got caught up
17 into this. He made an unfortunate error in judgment by
18 not maybe coming to law enforcement sooner.

19 THE COURT: He made an unfortunate error in judgment
20 by leaving and going in a car with a guy with a gun and
21 shooting somebody.

22 MR. ROUTZONG: I don't think there's any allegations,
23 Your Honor, that -- maybe, obviously, Frankie Gantt knew
24 there was a gun, but there's not been any allegations that
25 anyone else was aware that there was a gun.

1 THE COURT: Well, he is certainly aware of the gun
2 once it got out.

3 You didn't try to do anything to stop him from
4 shooting that young man?

5 DEFENDANT ANDRE NORRIS: Yea, that's what I said. Me
6 and Frankie was arguing when this took place. That's how
7 he got a chance to run. Me and him was arguing. I was
8 telling him to put the gun up before somebody gets hurt
9 and then that's when Jeremy got a chance to run. He took
10 off running.

11 MR. ROUTZONG: One of the oddities of this is, well,
12 he tells me that Mr. Leaphart was even armed -- that he
13 had -- he had seen him with a firearm.

14 DEFENDANT ANDRE NORRIS: A .38 snub-nose pistol.

15 THE COURT: Where were these guns supposed to have
16 come from?

17 DEFENDANT ANDRE NORRIS: He always had it. He always
18 carried a gun all the time. All the time. Always.

19 THE COURT: Anything else, Mr. Routzong?

20 MR. ROUTZONG: Just one other thing, Your Honor.
21 It's peculiar that Mr. Norris is saying -- he's not
22 pointing fingers all over the place. He's been
23 consistent. He says that this happened and that happened
24 and that happened. I think it's -- I have his tax returns
25 given to me by his baby's mother and he's a carpet

1 cleaner. He was there and he got caught up in this. He
2 shouldn't have been there. His connection to this is that
3 he's related to two people and that he was in that car,
4 and I think it is distinguishable from everyone else.

5 He doesn't have a record. I am not sure what the
6 record of all the Co-Defendants are, but there were
7 allegations of a gang being formed. I called the resource
8 officer in the high school where Frankie Gantt and Johnnie
9 Walker went to and I asked him did you ever hear of Andre
10 Norris? Of course, Mr. Norris didn't attend there, but
11 often they understand gang affiliations. He had never
12 heard of him.

13 THE COURT: All right.

14 MR. ROUTZONG: I just think that he is
15 distinguishable.

16 THE COURT: All right. Thank you.

17 Paul, take him back.

18 (Whereupon, a break was taken.)

19 THE COURT: All right. Mr. Weeks, we've got two
20 more?

21 MR. WEEKS: Marion Abner.

22 THE COURT: Mr. Abner, good afternoon.

23 DEFENDANT MARION F. ABNER: Good afternoon, Your
24 Honor.

25 THE COURT: Mr. Abner, just let me make sure.

1 Yesterday when we were doing all the questions, you heard
2 all of my questions, didn't you?

3 DEFENDANT MARION F. ABNER: Yes, sir.

4 THE COURT: And your responses were truthful to all
5 of my questions?

6 DEFENDANT MARION F. ABNER: Yes, sir, Your Honor.

7 THE COURT: And you answered all of the questions
8 appropriately yes or no or whatever it had to be; right?

9 DEFENDANT MARION F. ABNER: Yes, sir, Your Honor.

10 THE COURT: Mr. Weeks, you observed him yesterday
11 answering his questions as well?

12 MR. WEEKS: I did, Your Honor.

13 THE COURT: Mr. Whittle, you were standing next to
14 him?

15 MR. WHITTLE: That is correct, Your Honor.

16 THE COURT: Did he respond appropriately to all of
17 the questions?

18 MR. WHITTLE: Yes, sir.

19 THE COURT: And the reason I am asking is there was
20 some mention made by the Court Reporter she was having --
21 she does such a wonderful job always, but her back was to
22 the group and we had to put them over in the box for
23 security purposes. So I am just making sure that the
24 record reflects that.

25 Mr. Weeks, does Mr. Abner have any criminal record?

1 MR. WEEKS: He does not have any convictions, Your
2 Honor.

3 THE COURT: And he is 20 now. He would have been 17,
4 18 at the time, Mr. Whittle?

5 MR. WHITTLE: Yes, sir.

6 THE COURT: I'll be glad to hear from you.

7 MR. WHITTLE: Your Honor, the stark reality of the
8 legal concept of hand-of-one-hand-of-all hit each of these
9 fellows in the face as their lawyers told them about it.
10 In their misguided and false and incorrect and inaccurate
11 thought that night I think most all of them felt if I
12 didn't shoot him, if I wasn't part of it, I'm not part of
13 it. Obviously, that's wrong, and that's what we have said
14 to them, to their family members, to those that can
15 understand and that's why we're here.

16 THE COURT: Absolutely. Or if any of them had just
17 stood up like a man and put a stop to the craziness by
18 Frankie Gantt or the rest of them.

19 MR. WHITTLE: There are elements of that. He was
20 born in Greenwood. He lived with his mother and father
21 and his family. He has a brother. He's got three
22 sisters, and when he was in the fifth grade he had a
23 teacher walk in and tell him that his daddy had been
24 killed. When he left home that morning his mother and
25 father were arguing. He ends up being told in class that

1 day that his mother had stabbed his father in a situation
2 where there was some sort of domestic violence. She
3 apparently plead to a lesser offense and received a
4 probationary sentence, but at 11 years of age he lost his
5 father.

6 That's not a defense. That's not an excuse, but when
7 I was talking to him I thought, what in the world would I
8 be if it wasn't for my Daddy? He went through school and
9 made excellent grades. When we contacted the school his
10 counselor who hadn't seen him in a year and a half jumped
11 up and was anxious that we knew about him. In his
12 sophomore year he made A's and B's. He ended up with a
13 GPA of 3.375. In his tenth grade year his grades started
14 going down, and in the 11th grade year he failed four of
15 his seven subjects, and you can just see the decline. I
16 see it.

17 What happened? He had been an outstanding athlete in
18 the 11th grade. He was getting calls from schools, not
19 quite division one. You can see he is 5'7". They were
20 afraid of him, but he made every tackle on the field. His
21 coaches wanted him, and they wanted him in school.
22 Without that guidance -- and I don't make a criticism of
23 his mama -- but from his Daddy, from that male figure, he
24 got, in his words, the big head. He moved out, started
25 living with one of these fellows -- started living with

1 the one they call Head, Johnnie Walker. That's where he
2 slept.

3 Pretty soon he wasn't going to school. He became a
4 father when he was 15 years old. He has three children
5 now. He had three children when he was 19 years old.
6 Obviously, the sort of thing that my immediate thought is
7 what's going to happen with those young'uns? When I got
8 appointed to represent him my first thought was as I
9 talked to Mr. Weeks in the beginning he was referred to me
10 as the driver, and I thought oh, no. He has been --
11 there's some grand plan, there is some grand scheme, he
12 was the driver, he was the get-away man, and we're going
13 to rank high up on the chart. Then I sit down and talk
14 with him, and then I talked to Mr. Fleury who investigated
15 this case and put it together, and I found out that what
16 had happened around January -- early January -- Mon --
17 Mr. Gantt -- had started making everybody aware of the
18 fact that if they talked they were going to get killed.

19 Well, talk is cheap. I sent out Mr. Staulcup to talk
20 to some people and see if we couldn't come up with some
21 witnesses about what happened. We talked to a fellow
22 named Ronnie Martin. Ronnie Martin is his cousin. They
23 thought he was his uncle. Mr. Gantt in the presence of
24 several other of these fellows said to Mr. Martin if he
25 doesn't go along with what we tell him, if he talks up --

1 the word on the street was he was talking -- we got no
2 room for this; we're going to kill him.

3 All of these fellows had heard but hadn't been
4 witness to the fact that Mr. Gantt had allegedly shot
5 somebody else. They thought that. They believed that
6 that was what was on the street. He was at Head's house
7 that morning and went to Bridget's house, basically, to
8 eat breakfast. Then they come in with Jeremy. He along
9 with all of the others was involved in striking Jeremy.
10 One fellow used the iron..

11 THE COURT: Who used the iron, Mr. Abner?

12 DEFENDANT MARION F. ABNER: Walker.

13 THE COURT: Who?

14 DEFENDANT MARION F. ABNER: Walker.

15 MR. WHITTLE: He is at the tail end and he goes and
16 takes a lick on him. Apparently, Mon thought y'all are
17 not hitting him hard enough, y'all are not treating him
18 bad enough. Mon picks up a baby seat and whacks him with
19 the baby seat. Then they separate and decide that's over,
20 that's done. They end up allegedly gonna drive him
21 somewhere and clean him up.

22 According to -- I listened attentively to Mr. Norris
23 and that's what Mr. Abner has been telling me that he
24 thought they were going to one place and didn't want to go
25 another place and, ultimately, Mon says go this way, do

1 this, go here, do this. He's the driver of the car that
2 goes there.

3 The significance of that is this. Of the eight of
4 them, there were four that could drive. The other ones
5 didn't have a driver's license, and traditionally when
6 they would go somewhere they would pick out one that could
7 drive that had a driver's license. One other fellow was
8 driving the other car. He had a driver's license. So,
9 that's about the significance of why he was driving.

10 They get to the point when they get there Mon says to
11 pop the trunk. He pops the trunk. I'm convinced none of
12 them knew. I don't know who knew the gun was in there.
13 Obviously, Mon did. Then I think what happened from that
14 point was so immediate and fast that all of them were
15 scared to death.

16 He gets back in the car, tells him to start driving.
17 He's reluctant to do what he tells him. I'm going to do
18 exactly the same thing to you if you don't do what I tell
19 you to do. They go back. They ultimately go back. I
20 think the problem they had -- it's horrendous. They
21 couldn't find the young man. Apparently, several of them
22 are out there with their cell phones opened up with a
23 little bit of a light trying to look in the dark with
24 their cell phones so they can find him, and, ultimately,
25 they found him, put him in the back, take him.

1 Physically he was away from it, but he was certainly
2 there, and he could have told and he could have
3 intervened. He is a strong-willed young man. He's
4 guilty. Please don't misunderstand me, but in terms of
5 relevant culpable conduct there are degrees.

6 When Ronnie Martin talked that led them to Sheldon.
7 Sheldon talked, gave a little bit of it, not all of it,
8 led them to, I think, Andre. Andre talked and then they
9 got enough to get the warrants. Then it's on TV. When
10 it's on TV he sees the news media. He sees the television
11 show, has the big confession with Mama. Mama calls the
12 law. Mama says, Junior is here with me. They come there,
13 end up going to his grandmother's house and arrest him and
14 take him to Saluda to separate him from the rest of them,
15 I think, because they're afraid that he is going to talk
16 and he will be in danger if he is in the same place with
17 Steve who is Darrell Williams -- and I don't know how you
18 get Steve out of that -- and Frankie Gantt.

19 Mr. Fleury goes the next morning and talks to him,
20 takes a short statement from him, takes him to Aiken,
21 takes a long recorded statement from him. Then he drives
22 with them out there and they make a videotape of him going
23 step-by-step-by-step through what he saw and what he knew
24 and what happened.

25 Your Honor, the overwhelming feeling that I have is

1 we're involved way late. We're involved way late for
2 Jeremy. We're involved way late for these boys.
3 Somewhere before they got here some of us -- some of us
4 from the community -- should have done something to
5 provide male leadership, and I have grown to respect him,
6 care for him. He's dealt with me with respect, and he's
7 shown what I deem a genuine faith.

8 His sister is here. His mother is here. A number of
9 relatives are here and friends. I would just simply ask
10 all of those in support of Junior to please stand now,
11 please. We would ask you to hear from just one. That's
12 his sister. Please come forward.

13 YVONNE ABNER: My name is Yvonne Abner. I would like
14 to say I'm sorry for what happened to Jeremy and we do
15 feel the pain of your family -- the Leaphart family -- as
16 well as ours. Your Honor, my brother -- he is a very
17 outgoing person and as many times that we had
18 opportunities -- we haven't had the opportunities to talk
19 to our father because he was taken away from us at a very
20 young age. Me and my brother grew closer and as many
21 times as I have to talk to him and what I feel like I
22 can't talk to my mama about things, I always talked to him
23 and he's always been there for me, and he's just a very
24 good person, God -- I mean, Your Honor and I just hope and
25 pray that you will give him a second chance.

1 MR. WHITTLE: Your Honor, I don't mean to minimize
2 what the other folks would have to say, but we met and
3 discussed who would be the spokesman and that's why we did
4 it this way. Thank you for hearing from us, Judge.

5 Junior, you got anything you want to say?

6 THE COURT: Mr. Abner? Why didn't you stop Frankie
7 Gantt that night? You're a big strong football player?

8 DEFENDANT MARION F. ABNER: Fear.

9 THE COURT: Why did you hit the young man in the
10 trailer? What were y'all doing that him?

11 DEFENDANT MARION F. ABNER: It was a reflex.

12 THE COURT: A reflex? If I get ready to hit you, you
13 might reflex and hit me, but the kid wasn't fighting back,
14 was he?

15 DEFENDANT MARION F. ABNER: No, sir.

16 THE COURT: Who burned him with an iron?

17 DEFENDANT MARION F. ABNER: Mr. Walker.

18 THE COURT: Johnnie Walker?

19 DEFENDANT MARION F. ABNER: Yes, sir.

20 THE COURT: And Gantt hit him with a baby chair?

21 DEFENDANT MARION F. ABNER: Yes, sir.

22 THE COURT: All of the rest of you hit him?

23 DEFENDANT MARION F. ABNER: Everybody except John
24 Oakman.

25 THE COURT: Except for who? John, Jr.? Why? Give

1 me some rhyme or reason.

2 DEFENDANT MARION F. ABNER: Got caught up with the
3 wrong crowd, Your Honor.

4 THE COURT: All seven of you got caught up with the
5 wrong crowd? Who is the wrong crowd?

6 DEFENDANT MARION F. ABNER: I guess I didn't make
7 smart decisions.

8 THE COURT: Who is the wrong crowd? Who is the
9 ringleader?

10 DEFENDANT MARION F. ABNER: The ringleader?

11 THE COURT: Yea.

12 DEFENDANT MARION F. ABNER: I'd have to say
13 Mr. Gantt.

14 THE COURT: Who is second in command?

15 DEFENDANT MARION F. ABNER: Mr. Williams.

16 THE COURT: Who was third? Mr. Walker?

17 DEFENDANT MARION F. ABNER: Yes, sir.

18 THE COURT: Those were the three main ones?

19 DEFENDANT MARION F. ABNER: Yes, sir.

20 THE COURT: How about Sheldon Oakman?

21 DEFENDANT MARION F. ABNER: Sheldon and his
22 participation -- he drove the car with the body in the
23 trunk and he gave Gantt the last shell to kill him.

24 THE COURT: How about John, Jr.? He was 16 years
25 old.

1 DEFENDANT MARION F. ABNER: Sixteen. They tried to
2 make him help tote the body. When Steve told him to grab
3 the body to help him tote the body he was putting on a
4 sock and he looked at me and I shook my head no. He told
5 Steve that he didn't want to help tote the body. So Steve
6 told Mon -- Mr. Gantt -- that he had to help tote it
7 because he was the one who killed him.

8 THE COURT: So, Steve was sort of directing people
9 around and Gantt was the one -- Mon was the bad one?

10 DEFENDANT MARION F. ABNER: Yes, sir.

11 THE COURT: And you just happened to be there?

12 DEFENDANT MARION F. ABNER: Yes, sir, Your Honor.

13 THE COURT: Anything else you want to tell me?

14 DEFENDANT MARION F. ABNER: I apologize for Mr. Weeks
15 and Mr. Fleury and everybody else through this and I do
16 feel sorry for the family, for stutterbox. He was a good
17 kid.

18 THE COURT: I believe you. I believe you're sorry.
19 Thank you. All right. I'll reserve ruling on him for
20 just a few minutes. Let me hear the last one.

21 (Whereupon, a break was taken.)

22 THE COURT: Mr. Weeks, does Mr. Bowers have a record?

23 MR. WEEKS: Your Honor, he has a juvenile record for
24 simple assault and threatening a school official, an adult
25 record in '07 for simple possession of marijuana and

1 simple battery.

2 THE COURT: Mr. Bowers, good afternoon.

3 DEFENDANT RONNIE BOWERS, JR.: Good afternoon, sir.

4 THE COURT: How old are you now?

5 DEFENDANT RONNIE BOWERS, JR.: Nineteen.

6 THE COURT: Do you remember yesterday when I asked
7 you all of those questions?

8 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

9 THE COURT: All of your answers truthful?

10 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

11 THE COURT: And you understood my questions?

12 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

13 THE COURT: And you have responded appropriately to
14 each question?

15 DEFENDANT RONNIE BOWERS, JR.: Yes, sir.

16 THE COURT: Mr. Timmerman, you were standing by him
17 the whole time; is that correct?

18 MR. TIMMERMAN: Yes, Your Honor.

19 THE COURT: Did you hear him answer appropriately to
20 all the questions?

21 MR. TIMMERMAN: I did, Your Honor.

22 THE COURT: Mr. Weeks, you likewise?

23 MR. WEEKS: I did, Your Honor.

24 THE COURT: All right. Mr. Timmerman, tell me about
25 Mr. Bowers.

1 MR. TIMMERMAN: Thank you, Your Honor. This case is
2 tragic on so many levels. First you have the needless
3 loss of a young man's life, but you also have a lot of
4 kids involved on the other side, too. When this event
5 occurred Mr. Bowers was 17 years old. He is now 19. He
6 was -- had dropped out of high school. While he's been in
7 jail he attempted to get his GED. As he tells me and my
8 office confirmed with the jail administrator he passed the
9 pretest, but, evidently, they outsource the actual
10 testing. You have to have 15 people. They were never
11 able to get that. That's why he does not have his GED.

12 He is here today to take responsibility for his
13 actions in this matter. Certainly not to make any excuses
14 for his actions, but I do think that as Mr. Whittle said
15 earlier there are degrees of culpability and I listened
16 intently and I know that you heard six or seven different
17 stories now. The one thing I noticed in listening to the
18 stories is you don't hear Mr. Bowers' name very much.

19 THE COURT: I have not heard his name yet.

20 MR. TIMMERMAN: And I think that's very telling as to
21 what his role was in this event. He tells me that he was
22 at his sister's house -- and this is Christmas Eve and he
23 was at his sister's house and they're playing cards, maybe
24 drinking. And Steve -- Darrell Williams -- has a baby by
25 his sister. So, I think that's part of the connection

1 here. Anyway, he's over there playing cards and whatnot,
2 and then Steve -- Darrell -- and some others come in with
3 Mr. Leaphart.

4 In the beginning according to Mr. Bowers everything
5 is fine, cool as they say. All of a sudden there's
6 conversation about guns -- where are the guns? He tells
7 me that he knew that Mr. Leaphart was holding some guns,
8 but he had no vested interest in the guns. Anyway, there
9 is conversation about the guns. The fellows start
10 striking Mr. Leaphart, unfortunately. Maybe one of them
11 burns him with an iron or attempts to burn him with an
12 iron. There's certainly no allegation that Mr. Bowers
13 participated in that.

14 However, unfortunately, and the main reason he's here
15 today -- one of the main reasons -- is that he did
16 participate and he tells me he struck Mr. Leaphart two
17 times with a closed fist. Unfortunately, a bad decision.

18 THE COURT: Why did you hit the man?

19 DEFENDANT RONNIE BOWERS, JR.: Your Honor, if I
20 wouldn't have participated in it --

21 THE COURT: You did participate. You hit him.

22 DEFENDANT RONNIE BOWERS, JR.: I said if I wouldn't
23 have I probably would have been like Jeremy. I probably
24 would have got jumped or something. I was fearing for my
25 life, Your Honor.

1 MR. TIMMERMAN: At this point after all this as
2 everybody else has said everybody thinks it's over.
3 Mr. Bowers thinks it's over. He's told to get in the car
4 with Sheldon. They were going to go to -- Sheldon
5 Oakman -- and they were going to go to Head's house at
6 which point he thinks, okay, they've given up on this
7 quest for the guns. He's in the car with Sheldon, not in
8 the car with the victim. He is a passenger. He thinks
9 they're going to Head Walker's house.

10 They pass Head's -- the turn-off to Head's road. All
11 of a sudden he realizes they're not going to Head's house.
12 He tells me that he gets on his cellphone and calls
13 Frankie and says, Frankie, where are you going? He says,
14 just follow us. So they keep going. Calls him again.
15 Just follow us. So, they pull down the dirt road. He is
16 sitting in the other car facing what's going on. He sees
17 Jeremy get out -- Leaphart get out of the car with maybe
18 John Oakman. Frankie gets out and gets the shotgun of
19 which Mr. Bowers had no idea there was a gun in the trunk
20 of the car.

21 He's in the car. He believes that they're still
22 asking him about the guns. At some point he runs. He
23 sees Mr. Gantt shoot the gun. He runs around the
24 building -- and when I say he I mean Jeremy Leaphart runs
25 around the building where Gantt follows him and maybe the

1 Oakman boys go around the building. What he's told me is
2 that he has stayed in the vehicle the whole time.

3 After all of this happens everybody gets back in
4 their cars. They go back to Head's house. Steve is
5 upset. Steve -- Darrell -- and we need to go move the
6 body and he participates in that part of it.

7 Certainly no excuses can be made here for anybody's
8 conduct. As I said he does admit to participating in the
9 -- at least part of what's been called as torture at the
10 house and that's an unfortunate situation because here
11 stands before you a young man who at least in my dealings
12 with him has been very respectful. He is very soft
13 spoken, always been honest with me, and I guess if I was
14 going to rate the folks -- and I don't want to rate them,
15 but he's certainly not at the top, and if he isn't at the
16 bottom of level of involvement, not that any of it is
17 excusable, I think it would be --

18 THE COURT: Who is at the top?

19 MR. TIMMERMAN: Who is at the top to me? If you want
20 my opinion I would have to say that the guy who pulled the
21 trigger would be at the top.

22 THE COURT: I agree with you on that. Who is the
23 next two?

24 MR. TIMMERMAN: In my opinion it would be
25 Mr. Williams.

1 THE COURT: Stevie.

2 MR. TIMMERMAN: Because I think, ultimately, he may
3 have wielded some control over his brother, but he still
4 ultimately pulled the trigger. Then I would probably have
5 to go with Mr. Walker because he was involved when
6 actually bringing Jeremy to this house. The testimony is
7 that he used the iron which is just reprehensible and most
8 -- two of those guys were older. Of course, Frankie is as
9 young as my client -- my client being the third youngest.
10 John Oakman is younger, and I think Frankie Gantt was
11 maybe a month younger than my client, and then I think,
12 you know, you have the testimony about who provided the
13 final shell, and, of course, none of that has been linked
14 to my client as well and I have to think that that --

15 THE COURT: Mr. Bowers, who gave the final shell to
16 Gantt?

17 DEFENDANT RONNIE BOWERS, JR.: Well, what I seen,
18 Your Honor, Sheldon -- like I said, they were passing it
19 to each other. JJ gave it to Sheldon. Sheldon gave it to
20 Mon.

21 THE COURT: Where did the gun come from?

22 DEFENDANT RONNIE BOWERS, JR.: Out of the trunk.

23 THE COURT: Whose car?

24 DEFENDANT RONNIE BOWERS, JR.: The first vehicle,
25 TJ's.

1 MR. TIMMERMAN: TJ was a fellow according to his
2 hours' worth of testimony that would leave his car with
3 these guys for -- I think for drugs, quite honestly, to be
4 totally honest. Another tragic situation, but that's...

5 THE COURT: Anything else?

6 MR. TIMMERMAN: No, Your Honor. I would just ask you
7 to consider a lesser sentence than the 30 years for
8 Mr. Bowers.

9 THE COURT: All right. Mr. Bowers, have a seat back
10 there with Mr. Paul.

11 All right. Let me see Timmerman, Woodruff, Whittle,
12 Routzong, Weeks. Let me check y'all in chambers for a few
13 minutes.

14 (Whereupon, a break was taken.)

15 THE COURT: All right. Let the record please
16 reflect, Madam Court Reporter, that during our last break
17 I invited into my chambers the head investigating officer,
18 Solicitor Thurmond, Solicitor Weeks, all of the defense
19 lawyers who were before me a moment ago -- Mr. Whittle,
20 Mr. Woodruff, Mr. Routzong, and Mr. Timmerman -- as well
21 as Mr. Gibbons who was involved yesterday, and I had an
22 in-chambers discussion with everyone trying to enlighten
23 everyone about how I assess the culpability of these four
24 Defendants compared to the four Defendants that I
25 sentenced yesterday with 45 years on the murder and 30

1 years on each of the kidnapping.

2 To the victim's family, I, quite honestly, having
3 listened to all of it, feel like there are sort of two
4 levels involved in this case. I think you got the major
5 players who I sentenced yesterday -- the murderer and then
6 you had the other three who were I felt like were most
7 instrumental in the kidnapping -- but having listened to
8 these four young men, I feel like that their involvement
9 is not as substantial as the ones yesterday, and they have
10 certain mitigating factors or factors that cause it to be
11 on a different level -- age, prior record, involvement or
12 lack of involvement, some cooperation after the fact --
13 and my assessment was pretty much coincided with how law
14 enforcement looked at it as well, but, obviously, deals or
15 offers could not have been made because we could not have
16 gotten pleas to everybody admitting their guilt in this
17 thing if the Solicitor had to differentiate. So, that was
18 sort of my job.

19 I commend, first of all, the Solicitor's Office for
20 excellent handling of this case. I secondly commend --
21 and not necessarily in that order -- but the investigating
22 officers both here in Aiken as well as outlying areas. I
23 commend the defense lawyers. They were all appointed in
24 this case, very difficult case, but I commend them for
25 their participation in making the system work. Special

1 thanks to Sergeant Toole and his staff for handling the
2 security of a potentially volatile case and the families
3 of the Defendants. Y'all have conducted yourselves very
4 admirably. I appreciate that.

5 So, having said that, the sentence as to Mr. Andre
6 Norris, indictment 1093; Mr. Ronnie Bowers, indictment
7 1091; Mr. John Otis Oakman, indictment 1096; Mr. Marion
8 Abner, indictment 1098, the sentence of this Court is,
9 Gentlemen, that each of you be committed to the State
10 Department of Corrections for a period of 17 years. Good
11 luck to you. Each will be given credit for your time
12 served. No registry necessary.

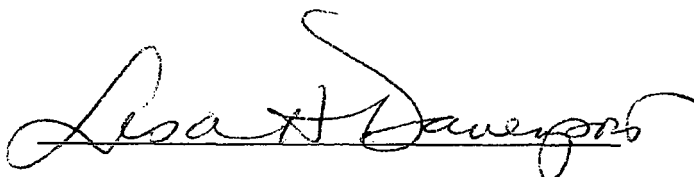
13 (End of transcript of record.)
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CERTIFICATE OF REPORTER1
2
3
4 State of South Carolina)5 County of Aiken)
6
7

8 I, Lisa H. Davenport, Official Court Reporter for the
9 second Judicial Circuit of the State of South Carolina, do
10 hereby certify that the foregoing is a true, accurate and
11 complete Transcript of Record of the proceedings had and
12 evidence introduced in the trial of the captioned case,
13 relative to appeal, in the Court of General Sessions for
14 Aiken County, South Carolina, on the 27th & 28th days of
15 April, 2009.

16 I do further certify that I am neither of kin,
17 counsel nor interest to any party hereto.
18

19
20 August 12, 2009

21
22 

23 Lisa H. Davenport, Court Reporter
24
25

143
WITNESSES

L. Ghant, A.C.S.O.

FILED July 10 2008

L. Ghant
A.C.S.O.

Shannon W. Rosenkrantz
Deputy Clerk

ARREST WARRANT NUMBER

K-065965

ACTION OF GRAND JURY

true Bill

Raymond P. Potts

Foreperson of Grand Jury

Date: July 10, 2008

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-02-

1093

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JULY 14, TERM 2008

THE STATE

vs.

ANDRE NORRIS

Indictment for

KIDNAPPING

SC Code: 16-3-910

CDR Code: 0095

Class FEL-A

144
STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

INDICTMENT

At a Court of General Sessions, convened on July 14, 2008, the Grand Jurors of Aiken County present upon their oath:

KIDNAPPING

That ANDRE NORRIS did in Aiken County on or about December 24, 2007, participate as a principal by his actions and assistance to unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away Jeremy Leaphart without authority of law, all in violation of §16-3-910 of the Code of Laws of South Carolina (1976), as amended.

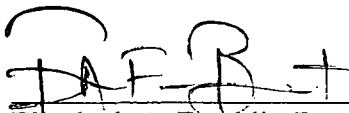
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BARBARA R. MORGAN, 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 2010

A handwritten signature in black ink, appearing to read "E. A. Franklin-Best", written over a horizontal line.

Elizabeth A. Franklin-Best
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ANDRE NORRIS,

APPELLANT

FINAL BRIEF OF APPELLANT

ELIZABETH A. FRANKLIN-BEST
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STATEMENT OF ISSUES ON APPEAL

I. Did the judge abuse his discretion by not allowing Norris to withdraw his guilty plea when Norris denied the factual basis of the plea, and the context of the plea—a “group plea” did not allow for individual consideration of his culpability?

II. Was Norris denied his right to be present at a critical stage in the proceeding against him when the judge, after hearing two co-defendants deny the factual basis of the plea, then invited the head investigating officer, Solicitor Thurmond, Solicitor Weeks, and the defense attorneys into chambers to discuss how the judge was to “assess the culpability” of the eight defendants who pleaded guilty to various charges before him?

STATEMENT OF THE CASE

Andre Norris was indicted by the Aiken County grand jury of Kidnapping (2008-GS-02-1093). He pleaded guilty to that charge, by way of a "group plea" on April 27th and 28th, 2009 before the Honorable Doyet A. Early, III. He was represented by Michael Routzong, Esquire. He was sentenced to 17 years incarceration.

This appeal timely follows.

ARGUMENT

I. The judge abused his discretion by not allowing Norris to withdraw his guilty plea when Norris denied the factual basis of the plea, and the context of the plea—a “group plea” did not allow for individual consideration of his culpability.

Eight defendants pleaded guilty, by way of a “group plea,” before the trial court judge. The judge accepted their guilty pleas and then had them sit down while he heard the facts of the case. Afterward, each defendant, with his attorney, was allowed to offer mitigation prior to receiving his sentence.

All eight had some connection with the events of December 24, 2007 which culminated in the shooting death of the victim. These events traversed Lexington, Saluda, and Aiken counties. This plea occurred in Aiken County. The facts, related to the court, by the solicitor are as follows:

On December 26th, 2007 the victim’s grandmother notified the Lexington County Sheriff’s Department that her grandson was missing. She said that on December 24th, she received two calls from the victim stating “they” wanted their guns or \$5,000 or they were going to kill him. Lexington County began an investigation, and determined that the victim was last seen getting into a maroon colored car with Darrell Williams and other individuals on or about 4 o’clock on that date. It appears that he went willingly with Darrell Williams and two others, Johnnie Walker and Sheldon Oakman. The State conceded that he was not kidnapped at that point. The victim and Williams had been involved in the theft of guns.

After this initial missing persons report, the Lexington County detectives continued to receive information. They wanted to interview a person who overheard a conversation between Williams and Oakman discussing that Frankie Gantt had killed the victim. This

person stated he heard that the victim's body was placed in a red Toyota Corolla owned by Terry Hewitt.

Lexington County and the Aiken County Sheriff's Department found Hewitt, and Hewitt indicated he had loaned the car to others. DNA samples taken from the car confirmed that the victim's blood was in the trunk.

The police then interviewed Ronnie Bowers, a resident of Saluda County. Investigators in Saluda County located a shotgun under the underpinning of a trailer where the "main part of this kidnapping actually occurred." ROA 31, ll. 11-16. The shotgun had been stolen in August 2007, and the victim was listed as a possible suspect in that burglary.

On January 19th, investigators located Oakman at his father's residence and Oakman implicated other people who were involved. He informed the police that Frankie Gantt actually shot the victim. He named the other people involved in the actual kidnapping and those who were present when the victim was shot. He claimed to know where he was shot, and he directed the investigators to Hutto Pond Road, in Aiken County.

At this location, the investigators found forensic evidence, including shotgun shells, a live shotgun round, and a cell phone that belonged to the victim. The shotgun shell casings were tied to the shotgun found at the residence in Saluda.

All of the co-defendants were apprehended and several of them gave statements leading to "various arrests for different charges" that were made initially. ROA 32, ll. 14-17. At the trailer in Saluda County, the victim was "tortured for several hours by being beat, by allegedly being burnt with an iron, and everybody had the chance or everybody was invited to pound on him" to find out the location of the guns that had apparently been

entrusted to the victim by Williams. The Solicitor told the judge that the victim had been beaten, held and not allowed to leave from that trailer in Saluda. ROA 33, ll.2-5.

The victim, on the day of the killing, had left the trailer in Saluda County with Oakman, Gantt, Marion Abner, and the appellant, Andre Norris, in one car. Behind them, in another car, Bowers and Oakman were driving. Williams and Walker remained at the trailer. They were supposed to go to Walker's house in Aiken County to "clean up" the victim.

At some point during this ride, the plan changed. The victim made a couple of calls from the car. He called 911.

The men then drove into Aiken County and onto Hutto Pond Road where they stopped. Hutto Pond Road is a dirt road. Gantt got out of the passenger seat. The victim was told to get out. Oakman was told to pop the trunk. Gantt took a shotgun out of the trunk. At some point, the victim ran. Gantt shot at him three times. Gantt then "finished him off" behind a deserted building. ROA 34, ll. 18-19.

After this, they all met back at Walker's house. Williams was extremely upset that the victim had been killed. According to the State, all eight of them returned to the scene and two or three of them placed the victim's body in a blanket, placed him in the back of the car, and transported him. He was ultimately taken to a location outside of Bamberg and dumped in a trash pile. The appellant, Norris, led the investigators to the location of the body.

The Charges

As the solicitor explained, "a lot of folks were arrested for accessory after the fact."

ROA 37, ll. 12-14. Some charges were upgraded to murder based on a theory of hand-of-one, hand-of all. Some charges were upgraded to kidnapping:

Throughout the course of the year there's been various charges depending on what may have been said when one person or another was interviewed and whether or not they established probable cause for other charges.

ROA 37, ll. 16-20.

The solicitor continued to explain why he chose what charges to proceed on:

I have met with the family—the immediate family and some of the extended family members—I don't know, three or four times during the course of the last year and explained to them the law and how it works as much as I can based on as long as I have been doing this to explain to them the ramifications of a trial and US v. Bruton issues and different statements, and when it is all said and done we really felt like that Frankie Gantt acted out of impulse or acted out of meanness or spite or something—we don't know—but that the primary charge of murder against him was one that we felt very easily we could prove by using all of the other co-defendants' testimony or just using one or two of them, but to make everybody's role in this complete the kidnapping had to find its way home, and under a felony murder or under a hand-of-one-hand-of-all theory that I really felt like that it was a potential that all of them could be convicted of murder even though they might not have known that a murder was going to take place and they might not have anticipated that a murder was going to take place and it would have been stretching it to some degree to believe that they all knew that Jeremy was going to be killed. . . .

But I think every one of them that's sitting over there in that box knew he was being held against his will at some point, and that's the basis for us offering this most serious violent charge to them to plead guilty.

ROA 37, l. 21- 38, l. 24.

The solicitor said he offered them a plea to kidnapping to "clean up" all of the charges and to "clean up" the various liabilities in the various counties. He admitted that he

knew that if he tried them all under a hand-of-one-hand-of-all theory, that a jury might acquit some of the defendants. ROA 77, ll.2-6.

The trial court judge then listened to the mitigation from the following co-defendants: Frankie Gantt, ROA 49, l. 16- 55, l. 4; Darrell Williams, p. 55, l. 8- 59, l. 8; Johnnie Walker, p. 59, l. 10-p. 71, l. 3; and Sheldon Oakman, p. 71, l. 5- 86, l. 13. The Court then recessed for the day. They received sentences of 45 years, 30 years, 30 years, and 30 years, respectively.

The next day the trial court judge placed on the record a conversation he had with his court reporter. The court reporter advised the judge that she was unable to personally observe the responses of the defendants to the judge's questions the day before, during the actual plea. The judge said, however, that he had been able to, and that if he had not been able to, he would have stopped the proceeding. ROA 87, ll.6-18.

John Oakman was the next defendant to offer mitigation. ROA 87, l. 21- p. 103, l. 19. Oakman is the younger brother of Sheldon Oakman, and he is only 16. He told the judge that he had no knowledge of what was going to happen, and that he was told to get in the car. He was scared not to obey because he thought if he did not go along with the others, he would be killed. He did not know who the gun belonged to, and he had never seen it before. He was scared that if he went to the police, that the others would kill him or his family. The judge had him step down:

THE COURT: All right. All right, Paul, take him back. I am going to hold him under advisement until I listen to the rest of them.

ROA 103, ll.19-21.

Then appellant Norris was called up before the judge. At that time, Norris's attorney made a motion to withdraw his guilty plea:

THE COURT: Mr. Weeks, does Mr. Norris have a record?

MR. ROUTZONG: Your Honor, before we go any further Mr. Norris has asked me to ask the Court to consider allowing him to withdraw his guilty plea.

THE COURT: Sir, I have taken his guilty plea yesterday. It was done knowingly, voluntarily, and intelligently. I went through all of the questions. He answered them appropriately. Motion denied.

ROA 105, 11.3-10.

After a few preliminary remarks by his attorney, Norris then denied the factual basis of the plea. He protested his innocence to the charge. He explained that he was at the trailer playing cards with Bower's girlfriend. He is not a member of that group of people who were there that day. He viewed them as a "rough and tumble group." He told the judge that he only saw one or two people touch the victim, and that it was not a beating. He said there was just "a misunderstanding." ROA 108, 11.1-2. He said there was no iron. At some point, Ms. Bowers asked all of them to leave the trailer. He thought their issue had been resolved.

Williams told everyone that they were going to Walker's house to clean up the victim. His lip was bleeding. They also wanted to get him some clothes since the victim was heading to a party with them that same day. So, they all left intending to do that. Norris got in the car with the others, and they headed to Walker's house. As they were driving there, Gantt told the driver to keep going straight. They ended up on Hutto Pond Road. Gantt said to stop the car. He opened the front passenger door and the victim got out of the car. The two of them were outside of the car talking. Gantt kept asking him about the

guns. The victim told Gantt that he did not have to talk to him about the guns; that he had already talked to "Steve" about the guns. (Steve is Darrell Williams).

Gantt then had Junior (Oakman) open the trunk and remove the gun. Norris said he saw the gun out of the back window. At that point, Norris and Gantt started arguing. He told Gantt to put the gun away. Gantt told him he "ain't got nothing to do with it." ROA 112, ll.15. While they were arguing, the victim took off running. Gantt then fired at him. Gantt took off running back behind the deserted building, following the victim. Norris heard two more shots, and then Gantt returned to the car. They left:

He got in the car. He's like I wasn't even going to shoot him. He said I was just trying to make him stop, and I said, man, you shot him? I said, man, you ain't shot that man. He said, yea, I shot him.

ROA 113, ll.6-10.

Norris, despite these remarks, thought the victim had escaped since Gantt was coming from a long distance back to the car. He thought the victim had outrun Gantt. He found out that Gantt really shot the victim when he overheard Gantt tell Williams that he "had to shoot" him. ROA 113, ll.13-16. They went to Williams' house. At Williams' house, Gantt and Williams got in to a physical altercation. Williams asked Gantt if he killed him; Gantt replied he did not know. They all agreed to go back to see if they could help him. It took about 45 minutes to find the victim's body. When they did, Williams told Gantt he was going to be a "man about what you done tonight." ROA 114, ll.17. They were going to go to the police station.

They decided to head to the Batesburg Leesville Police Station. They traveled in two cars—Norris, Walker, Williams, and Oakman were in the car behind the others. When they got close to the police station, the car turned off the road. They would not stop, and

they ended up on a dirt road. The people in the second car noticed that the trunk was open on the first car, the one they were following. Williams asked what they were doing, but did not get a response. Williams told them it was "on ya'll. Whatever happens is on ya'll." ROA 115, ll. 20-21. They got in the car and left.

Norris told the court that he did not come forward to tell the police because there were a number "of threats going on." ROA 118, ll.21-24.

Norris's attorney told the court that his client's version of the events was corroborated by the evidence. The victim's body was, in fact, found within 200 meters of the police station. Also, Norris has absolutely no criminal record, and owned a carpet cleaning business. ROA 119, ll. 6-18. As counsel pointed out, there was no allegation that anyone knew that Gantt had a gun in that car. ROA 119, ll. 22-25.

THE COURT: Well, he is certainly aware of the gun once it got out.
You didn't try to do anything to stop him from shooting that young man?

DEFENDANT: Yea, that's what I said. Me and Frankie were arguing when this took place. That's how he got a chance to run. Me and him was arguing. I was telling him to put the gun up before somebody gets hurt and then that's when Jeremy got the chance to run. He took off running.

ROA 120, ll. 1-10.

Counsel informed the judge that his client has been consistent in this version of events that he presented the judge. Also, counsel had a copy of his client's tax returns that showed that he was a carpet cleaner.

ROA 120, ll. 20-25.

After this, the trial court judge had Norris taken away.

The next defendant was asked to approach the bench, Marion Abner. ROA 121, ll.19- p. 139, l. 10. After the mitigation was presented, he had him stand down, too. ROA 139, ll. 6-11.

The trial court judge then called the following people back into chambers with him: The head investigating officer, Solicitor Thurmond, Solicitor Weeks, all of the defense attorneys present in the courtroom—Mr. Whittle, Mr. Woodruff, Mr. Routzong, Mr. Timmerman, and Mr. Gibbons.

[A]nd I had an in-chambers discussion with everyone trying to enlighten everyone about how I assess the culpability of these four Defendants compared with the four Defendants that I sentenced yesterday with 45 years on the murder and 30 years on each of the kidnapping.

ROA 139, ll. 15- 140, l. 1.

The judge then addressed the victim's family to explain his sentencing decision-making process:

To the victim's family, I, quite honestly, having listened to all of it, feel like there are sort of two levels involved in this case. I think you got the major players who I sentenced yesterday—the murderer and then you had the other three who were I felt like were most instrumental in the kidnapping—but having listened to these four young men, I feel like that their involvement is not as substantial as the ones yesterday, and they have certain mitigating factors or factors that caused it to be on a different level—age, prior record, involvement or lack of involvement, some cooperation after the fact—and my assessment was pretty much coincided with how law enforcement looked at it as well, but, obviously, deals or offers could not have been made because we could not have gotten pleas to everybody admitting their guilt in this thing if the Solicitor had to differentiate. So, that was sort of my job.

Then, without even hearing any mitigation information on the part of Ronnie Bowers, he sentenced these four defendants, including appellant Norris, to 17 years incarceration.

The trial court judge erred by not allowing Norris to withdraw his guilty plea under the unique circumstances of this case. Generally, the decision to allow a defendant to withdraw his guilty plea rests in the sound discretion of the trial court judge. State v. Riddle, 278 S.C. 148, 292 S.E.2d 795 (1982).

The judge should have allowed withdrawal in this case because Norris denied the factual basis of the plea, and because the cattle-call procedure used by the trial court judge did not ensure that Norris's plea was intelligently, knowingly, and voluntarily entered into.

Norris's version of events was completely different, in terms of his culpability, than the facts presented by the solicitor. According to Norris, he was actually trying to save the victim from harm. He helped him to escape. Norris also denied that he was part of the group who were abusing the victim. In short, Norris denied being criminally responsible at all. Norris unambiguously denied any criminal responsibility for the victim's death. The trial court judge should have allowed him to withdraw his guilty plea and stand trial on these charges. See Rolen v. State, 384 S.C. 409, 683 S.E.2d 471 (2009) (finding attorney ineffective for failing to move to withdraw the guilty plea after his client denied the factual basis of the plea).

Also, the judge should have allowed Norris to withdraw his guilty plea because the cattle-call method of accepting the plea and hearing mitigation did not allow for individual consideration of Norris's unique circumstances in this case, specifically, that he was denying that he was criminally responsible at all. A plea is a solemn judicial admission of truth of charges against an individual, and statements made during the plea should be considered conclusive unless there are valid reasons why a defendant should be allowed to depart from the truth of his statement. Dalton v. State, 376 S.C. 130, 654 S.E.2d 870 (Ct. App. 2007).

The cattle-call technique of accepting pleas to charges this severe wholly undermines this concept by suggesting, by its form, that all of the co-defendants should be treated in like manner. It is a foundational principle of law that defendants should be treated according to their relative culpabilities. Here, the judge decided that there were “2 levels” of culpability, and assigned the defendants into them, despite the fact that Norris, for example, completely denied his culpability, (as did the younger Oakman), and without hearing any mitigation at all from Bowers. The judge simply lumped them all together in a judicially expeditious, but unconstitutional, manner. Indeed, given the solicitor’s remarks about how he made his charging decisions, the judge should have been on alert that perhaps the solicitor was attempting to cast his net too widely.

Cattle-call or “group pleas” are disfavored by other states. The Supreme Court of Missouri, in Roberts v. State, 276 S.W.3d 833, 837 (2009) stated this: “There is no doubt that group plea proceedings like the one in which Movant’s plea was entered unnecessarily increase the opportunities for mistakes or confusion.” Id. And see footnote 5, further discussing group pleas:

Group pleas are used as a time-saving mechanism in some of Missouri’s circuit courts, although the use of group pleas has been criticized repeatedly by the court of appeals. See Castor v. State, 245 S.W.3d 909, 915 n.8 (Mo.App. 2008) (noting that the court had disapproved of the group plea practice in Guynes v. State, 191 S.W.3d 80, 83, n.2 (Mo.App.2006) , and recommending that group guilty pleas be discontinued . . . Eleverum v. State, 232 S.W.3d 710, 712 n.4 (Mo.App.2007) (reiterating that Guynes had determined that group guilty pleas are not ideal and should be discontinued). And see Howell v. State, 185 S.W.3d 319, 332-34 (Tenn. 2006) (cautioning against the use of group guilty pleas in the context of “package deal” pleas but noting that such plea procedures are valid; noting other cases finding that package deal plea arrangements are not invalid per se; Cazanas v. State, 270 Ga. 130, 508 S.E.2d 412, 415 (1998) (noting a belief “that a group guilty plea hearing is an inappropriate forum for a trial court to accept a defendant’s plea of guilty to a serious charge” and that “a trial court should

engage in a one-on-one colloquy with [the] defendant, thereby better ensuring the constitutional integrity of the plea-making process); State v. Verdin, 845 So.2d 372, 376-77 (La.Ct. App. 2003) (noting the use of group pleas and stating that personal pleas are preferred but group pleas are not invalid).

Id. at 837.

Here, the group plea caused a problem because the judge, first, did not know what to do about the defendants who denied the factual basis of the plea (Norris and the younger Oakman). Additionally, he did not know how to assess the relative culpabilities of the parties, which is why he had an in-chambers meeting with everyone but the defendants, see *infra* Argument II. And see United States v. Allen, 831 F.2d 1487 (1987) (finding trial counsel's pre-trial conduct, which included submitting a list of the defendants' relative culpabilities to the judge, in a group plea context, "deeply troubling.").

Another problematic aspect of the group plea in this case is that, had the judge allowed Norris to withdraw his guilty plea, the State then may not have been able to take his case to trial at all, since his co-defendants were pleading guilty and being sentenced on that date. The extent to which this may have factored into the judge's decision-making is unknowable on this record, but given the secret in-chambers meeting held during the plea, and with the inclusion of Solicitor Thurmond, the Chief Solicitor of that circuit, it raises the specter of impropriety. The judge abused his discretion by not allowing Norris to withdraw his guilty plea, during the context of a group plea, when he denied the factual basis of the plea.

II. Norris was denied his right to be present at a critical stage in the proceeding against him when the judge, after hearing two co-defendants deny the factual basis of the plea, then

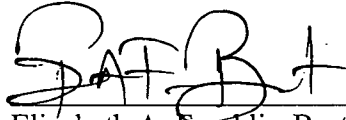
invited the head investigating officer, Solicitor Thurmond, Solicitor Weeks, and the defense attorneys into chambers to discuss how the judge was to “assess the culpability” of the eight defendants who pleaded guilty to various charges before him.

During the plea, the judge invited everyone but the defendants into chambers so that he could “assess the culpability of these four defendants.” ROA 139, ll.15- 140, l. 1. Without a doubt, Norris had a right to be present. A criminal defendant enjoys a due process right to be present at a proceeding “whenever his presence has a relation, reasonably substantial, to the fullness of his opportunity to defend against the charge.” Snyder v. Massachusetts, 291 U.S. 97, 105-106 (1934), overruled in part on other grounds in Malloy v. Hogan, 378 U.S. 1 (1964). U.S.C.A. 6, 14; State v. Shuler, 344 S.C. 604, 545 S.E.2d 805 (2001). This right affords a defendant the opportunity to know what is occurring, make objections, and take appropriate actions to secure his rights and protect his defense. See People v. Johnson, 388 Ill.App.3d 199, 203, 902 N.E.2d 1265, 1268, 327 Ill.Dec.879, 882 (2009). Norris did not take any actions to warrant his removal from this in-chambers proceeding. Cf. State v. Bell, 293 S.C. 391, 360 S.E.2d 706 (1987); Illinois v. Allen, 397 U.S. 337 (1970). After this hearing, the judge immediately returned to the courtroom and sentenced Norris, and the three others, to 17 years incarceration. His sentence was discussed, and his culpability apportioned. Norris had the right to be present. Respectfully, Norris asks this Court to vacate his guilty plea, and remand his case for trial.

CONCLUSION

For the preceding reasons, Norris respectfully asks this Court to vacate his guilty plea, and remand his case for trial.

Respectfully submitted,

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Elizabeth A. Franklin-Best
Appellate Defender

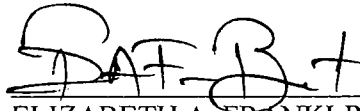
ATTORNEY FOR APPELLANT.

This 26th day of March, 2010.

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."

March 26, 2010

A handwritten signature in black ink, appearing to read "EAF-B", is written over a horizontal line.

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Aiken County

Doyet A. Early, III, Circuit Court Judge

THE STATE,

RESPONDENT,

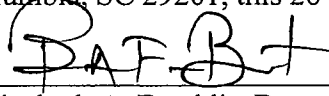
V.

ANDRE NORRIS,

APPELLANT

CERTIFICATE OF SERVICE

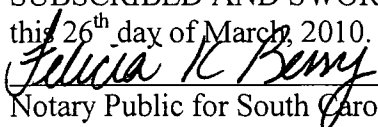
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Harold M. Coombs, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 26th day of March, 2010.



Elizabeth A. Franklin-Best
Appellate Defender

ATTORNEY FOR APPELLANT.

SUBSCRIBED AND SWORN TO before me
this 26th day of March, 2010.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: August 15, 2010.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Aiken County
Honorable Doyet A. Early, III, Judge

THE STATE

Respondent,

VS.

ANDRE NORRIS

Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

1. Appellant says that he denied the factual basis of his guilty plea, and the "group plea" did not allow for consideration of his personal culpability. Appellant then asks whether the court abused its discretion in not allowing him to withdraw his guilty plea. (Appellant's Statement of Issues on Appeal I).
2. Appellant says that after the court heard two of his co-defendants deny the factual basis of their plea, the court invited the state's attorneys, investigator, and defense counsel into chambers for discussion about how the court was to assess the culpability of the eight defendants pleading guilty to various charges. Appellant then asks whether this denied him the right to be present at a critical stage of the proceeding. (Appellant's Statement of Issues on Appeal II).

STATEMENT OF THE CASE

A shotgun homicide was the basis for charging Frankie L. "Mon" Gantt with murder (08-GS-02-1087), Johnnie W. "Head" Walker with kidnaping (09-GS-02-0725), Darrell L. "Stevie" Williams with kidnaping (08-GS-02-1770), Sheldon Oakman with kidnaping (08-GS-02-1086), John Oakman, Jr. with kidnaping (08-GS-02-1096), Ronnie Bowers, Jr. with kidnaping (08-GS-02-1091), Marion F. "Junior" Abner with kidnaping (08-GS-02-1098), and Andre Norris with kidnaping (08-GS-02-1093). Each of the eight (8) co-defendants with separate counsel came before the Honorable Doyet A. Early, III, Judge, on April 27 and 28, 2009 and entered a plea of guilty. The court sentenced one co-defendant (Gantt) to 45 years imprisonment for murder. The court sentenced three co-defendants (Walker, Williams, and S. Oakman) to 30 years imprisonment for kidnaping, and the court sentenced the remaining 4 co-defendants (J. Oakman, Bowers, Abner, and Norris) to 17 years imprisonment for kidnaping

ARGUMENT

I.

Appellant knowingly and voluntarily entered his guilty plea to kidnaping with assistance of personal counsel, and there is no issue to review on appeal.

Co-defendant Gantt acknowledged shotgunning the victim (Jeremy L.) with malice aforethought on Christmas Eve (2007) and that the victim died as a result. (ROA. p. 22, line 9 - p. 23, line 3). His seven co-defendants - including Appellant - individually acknowledged kidnaping the victim. (ROA. p. 23, line 7 - p. 27, line 22).

The court insured that the separate counsel, for each co-defendant charged with kidnaping, had advised his client about the respective charge, possible sentence, and its classification and consequences. Further, the court separately challenged Appellant's counsel about how Appellant wanted to plead. Appellant's counsel stated that Appellant wanted to plead guilty, and counsel affirmed his agreement with that decision. (ROA. p. 8, line 21 - p. 12, line 5).

Insofar as the court canvassed parts of the guilty pleas with multiple co-defendants (e.g., ROA. pp. 16-17), the court found that it observed all at the canvassing of the plea and that all responded - otherwise, the court would have stopped and inquired further. (ROA. p. 87, lines 6-18).

Appellant himself twice affirmed - in response to separate, non-sequential questions - that he kidnaped or participated in kidnaping the victim. He did, in fact, kidnap or help kidnap the victim. Further, Appellant affirmed that he was pleading guilty because he was guilty, and he affirmed that he was pleading guilty because he broke the law. (ROA. p. 25, lines 9-20).

The court found that the defendant's guilty plea to kidnaping was made voluntarily and intelligently with competent counsel and that the defendant said he was completely satisfied with counsel. The court accepted the guilty plea. (ROA. p. 27, line 24 - p. 28, line 15).

On the second day of the proceeding (ROA. p. 86) and after one co-defendant was sentenced to 45 years imprisonment for murder (ROA. p. 55) and after three co-defendants were each sentenced to 30 years imprisonment (ROA. pp. 59, 71, and 86), Appellant, through his counsel, asked the court to consider allowing him to withdraw his guilty plea. Appellant offered nothing - no ground, no basis, no reason - in support of allowing him to withdraw his guilty plea. The court ensured that counsel had heard the defendant participating in the canvassing of his guilty plea. The court denied the request on the ground that the guilty plea had been entered knowingly and voluntarily. (ROA. p. 103, line 24 - p. 105, line 10).

Before the court imposed sentence (ROA. p. 141), the state noted that, according to witnesses, Appellant participated in hitting the victim. (ROA. p. 116). Appellant described the last part of the heinous escapade. Appellant thought that it was his (Appellant's) arguing that gave the victim a chance to attempt to flee. Appellant allowed that the victim was not willing to discuss the location of the guns, he (Appellant) didn't immediately know that his co-defendant shot the victim, and the victim apparently continued to move and to cause his co-defendants some 45 minutes of difficulty in locating the body. (ROA. pp. 110-114).

Now on appeal, Appellant says that he denied the factual basis of his guilty plea, and the "group plea" did not allow for consideration of his personal culpability. Appellant then asks whether the court abused its discretion in not allowing him to withdraw his guilty plea. (Appellant's Statement of Issues on Appeal I).

This is an appeal from a guilty plea. Appellant does not show that he filed anything with his notice of appeal to explain what issue can be reviewed on appeal. Rule 203(d)(1)(B)(iv), SCACR. Insofar as Appellant complains about the court not allowing him to withdraw his guilty plea, at trial Appellant asked the court to consider allowing him to withdraw his guilty plea. The court considered it. Appellant got the only relief requested. There is nothing for the appellate court to consider. State v. Craig, 267 S.C. 262, 227 S.E.2d 306 (1976). Moreover, Appellant urged no basis for asking the court to consider allowing him to withdraw his guilty plea. Appellant just did not want what he wanted the previous day. Allowing the withdrawal of a guilty plea rests in the sound discretion of the court. Not allowing the withdrawal based upon the court's finding that the guilty plea was entered knowingly and voluntarily demonstrates a sound exercise of discretion. State v. Rikard, 371 S.C. 295, 638 S.E.2d 72 (Ct. App. 2006).

Parenthetically, Appellant's assertion on appeal that he "completely denied his culpability" is without the record. Appellant, with the guidance of his personal counsel, entered an intelligent and voluntary guilty plea to kidnaping the victim who died at the hand of his co-defendant. A guilty plea is subject to attack on the issue of its being made knowingly and voluntarily, but absent a timely objection during the guilty plea proceeding, the unknowing or involuntary nature of the guilty plea cannot be raised on direct appeal but must be addressed through the more appropriate channel of post-conviction relief. State v. McKinney, 278 S.C. 107, 292 S.E.2d 598 (1982). Once a plea is entered, it is beyond the province of the court to determine the guilt of the accused, and any evidence taken is merely for the determination of the sentence. State v. Munsch, 287 S.C. 313, 338 S.E.2d 329 (1985).

On the record, before a break, the court called Appellant's counsel, co-defendants' counsel, and the state's counsel into chambers. (ROA. p. 139, lines 11-13). After the break, the court noted its purpose. (ROA. p. 139, line 14 - p. 140, line 1). There was no contemporaneous objection. Calling this a "secret in-chambers meeting . . . [raising] the specter of impropriety" (IBOA p. 16) is wide of the mark.

II.

The court did not err in advising counsel that it thought Appellant deserved a lesser sentence.

The court sentenced one co-defendant to 45 years imprisonment for murder and sentenced three co-defendants to 30 years imprisonment each for kidnaping. (ROA. pp. 55, 59, 71, and 86). Before sentencing Appellant and three other co-defendants to 17 years each for kidnaping, the court - in chambers with counsel and then in open court - explained: the court viewed Appellant to be among those whose involvement was not as substantial and who deserved a lesser sentence based upon mitigating factors. (ROA. p. 139, line 11 - p. 141).

Without identifying any objection in the record, Appellant says, without a doubt, that he had the right to be present and asks the appellate court to vacate his guilty plea and remand for trial. (IBOA p. 17). A matter neither presented to nor ruled upon by the trial court should not be considered by the appellate court for the first time on appeal. State v. Johnson, 363 S.C. 53, 609 S.E.2d 520 (2005).

Parenthetically, the court met with counsel about the court's exercise of discretion in considering both the facts of the case and the individual co-defendants in the court's imposition of sentence. Appellant's presence at the court's meeting with counsel could

not have contributed to the fairness of that advisement, and he had no right to be present.

State v. Shuler, 344 S.C. 604, 545 S.E.2d 805 (2001). Further, Appellant himself offered considerable testimony in mitigation during the sentencing proceeding (ROA. pp. 107-116), and the court expressly recognized the existence of mitigating circumstances in giving Appellant a lighter sentence than co-defendants charged with the same crime.

There was no possible prejudice and no conceivable error. State v. Shuler; accord, People v. Santos, 55 Cal.Rptr.3d 1 (Cal. App. 2007)(objection to exclusion from purported critical stage of proceeding must be raised in the trial court; even erroneous exclusion of defendant is not structural error that is reversible per se).

CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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March 22, 2010

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal From Aiken County
Honorable Doyet A. Early, III, Judge

THE STATE,

Respondent,

vs.

ANDRE NORRIS,

Appellant.

PROOF OF SERVICE

I, Harold M. Coombs, Jr., certify that I have served the within Final Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Elizabeth A. Franklin-Best, Esquire, South Carolina Commission of Indigent Defense, Office of Appellate Defense, P.O. Box 11589, Columbia, SC 29211

I further certify that all parties required by Rule to be served have been served.

This 22nd day of March, 2010.

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal From Aiken County
Honorable Doyet A. Early, III, Judge

THE STATE,

Respondent,

vs.

ANDRE NORRIS,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule
211(b), SCACR.

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March 22, 2010