

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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S.C. Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. Edward Welmaker, Circuit Court Judge

Appellate Case No. 2013-001945

Charles Christopher
Williams,

Petitioner

v.

The State of South
Carolina,

Respondent.

APPENDIX
VOLUME SIX OF ELEVEN

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STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS

NO. 2004-GS-23-01745, 01746

STATE OF SOUTH CAROLINA,

PLAINTIFF,

VS.

CHARLES CHRISTOPHER WILLIAMS,

DEFENDANT.

TRANSCRIPT OF RECORD

MAY 25, 2004 .

WALHALLA, SOUTH CAROLINA

B E F O R E:

HONORABLE J.C. NICHOLSON, JR., JUDGE.

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

BETTY STROM
DEPUTY 13TH CIRCUIT SOLICITOR
ATTORNEY FOR THE STATE

JOHN I. MAULDIN
WILLIAM N. NETTLES
ATTORNEYS FOR THE DEFENDANT

ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER
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I N D E X

WITNESSES

PAGE

No witnesses were called.

CERTIFICATE OF COURT REPORTER..... 39

E X H I B I T S

NO.	DESCRIPTION	MARKED	RECEIVED

No exhibits were introduced.

1 ***** START OF REQUESTED TRANSCRIPT *****

2 THE COURT: Good afternoon.

3 MS. STROM: Good afternoon. How are you,
4 Judge? Betty Strom for the State.

5 THE COURT: Yes, ma'am, Ms. Strom. How
6 are you doing today?

7 Ms. STROM: Just fine, thank you, Your
8 Honor.

9 THE COURT: Mr. Mauldin, Mr. Nettles, I
10 understand you have some motions to be heard; is that
11 correct?

12 MR. MAULDIN: Yes, sir, Judge. I sent a
13 letter to you dated April the 13th where we listed 13
14 motions, and it's going to be my suggestion that we
15 just go right down that list.

16 THE COURT: Mr. Ariail has consented to
17 some of them, some of them are partially consented to,
18 and some they haven't; is that correct?

19 MR. MAULDIN: Yes, Your Honor. What I
20 would like to do, just so the record will be straight
21 on exactly what level of consent we are talking about,
22 I'd like to take them in the order of that letter.

23 THE COURT: Let me find your letter. I'm
24 looking in my file.

25 MR. MAULDIN: That's what it looks like.

1 It will have a letterhead on your copy, Judge. And
2 have you got access to a quick copy? You can just run
3 a copy of this one.

4 MS. STROM: Mr. Mauldin, we have an extra
5 copy.

6 MR. MAULDIN: You have an extra copy of
7 that?

8 MS. STROM: (Handing.)

9 THE COURT: Do these correspond -- have
10 you seen the Clerk's list of motions, that's the one
11 through 31 from the Clerk's file, one through 31, have
12 you seen that list?

13 MR. MAULDIN: Have I seen that? I have
14 not.

15 THE COURT: Okay. So you don't know if
16 this corresponds with that list or not?

17 MR. MAULDIN: And I would venture to say
18 that it probably does not.

19 THE COURT: Okay, then we'll just go by
20 your list. I'll give you the Clerk's list. Motions
21 require written responses.

22 MR. MAULDIN: Yes. Your Honor, according
23 to my understanding, on the first motion of requiring
24 the State to submit written responses, I understand
25 the State by their response has agreed to do that with

1 a 20 days -- within 20 days of service unless they
2 need otherwise to petition the Court for relief.

3 MS. STROM: That's correct, Your Honor.
4 We agree to do it within 20 days. If we need an
5 extension, we'll ask.

6 THE COURT: Okay, within 20 days. All
7 right. Mr. Nettles, you'll want to take good notes so
8 you can prepare a proposed Order, of what they agree
9 on and what they don't agree on, please, sir.

10 MR. NETTLES: I'll be the secretary.

11 THE COURT: All right, please do, thank
12 you.

13 MR. MAULDIN: Your Honor, the second
14 motion is for complete recordation and that has been
15 consented to by the State.

16 MS. STROM: That is correct, Your Honor.

17 THE COURT: Okay.

18 MR. MAULDIN: The third motion is a motion
19 to produce incident and supplemental reports. The
20 State has stated in paragraph three of their response
21 that they have complied by providing the Defendant a
22 complete copy of the State's case file. We would say
23 for the record that we have to date received three
24 disclosures, one in February, one in March, and one
25 yesterday, of materials purportedly contained in the

1 State's file. Obviously, we have no way of knowing
2 what really a complete file is. So the only thing
3 that we would ask that the Court at least address this
4 afternoon regarding that, and we do for the record
5 express our appreciation to the State for their
6 willingness to give us the complete file instead of
7 fighting it on a bit-by-bit basis.

8 I mean, we appreciate the cooperation.
9 But we have to be able to have a level of comfort that
10 when they say this is their complete file, that's what
11 it means. What Betty and Bob and others in their
12 office have in their office is -- but we don't know
13 what the police have. In other words, we're assuming
14 that there is some process that law enforcement is
15 providing them with information, and all we're asking
16 is that there be some directive that reasonable steps
17 be taken to get the complete file.

18 THE COURT: Well, what steps do you
19 recommend?

20 Ms. Strom, do you have any suggestions?

21 MS. STROM: Yes, sir, Your Honor, if I
22 may?

23 THE COURT: Yes, ma'am.

24 MS. STROM: Again, we have provided
25 everything that we have in our possession to the Rule

1 5, but outside the scope of his limited Rule 5, which
2 he provides, we have gone one step further and written
3 the various law enforcement agencies involved and
4 asked them to provide us everything in their file. As
5 we get things in, we give them to Mr. Mauldin. I'm
6 aware of nothing that is out there that we do not
7 have.

8 THE COURT: Mr. Mauldin, the only thing I
9 know is that the police say that, number one, we'll
10 make it a continuing obligation on their part, or
11 commitment on their part as it comes in to provide it,
12 number one; and number two, I don't know of anything
13 else to do except -- are you asking the Court to go in
14 camera with some of these documents?

15 MR. MAULDIN: No. I think that if the
16 State is saying -- and I understand they are saying
17 that every law enforcement agency that's working this
18 case has been asked by their office to provide them
19 with timely information, if that has been done, then
20 we are satisfied. We are satisfied that when they get
21 it, they give it to us. The only thing we are
22 concerned about is when -- is if it's being provided
23 to them.

24 THE COURT: Ms. Strom, is there an ongoing
25 investigation within the agency or is -- the

1 investigation is over and has everything been
2 collected, or are they still collecting data?

3 MS. STROM: We are still collecting data,
4 Your Honor, and we will continually investigate and
5 collect as much data as we possibly can up until the
6 time this trial commences. That's our nature. We
7 don't quit looking.

8 THE COURT: I understand. But at some
9 point in time we need to have a cutoff date.

10 MS. STROM: Sure.

11 THE COURT: A cutoff date so they'll have
12 the information and they'll have an adequate time to
13 respond to it. And what I'll do is order you to
14 continue producing information with a certain cutoff
15 date, because I don't think you should walk in two
16 days before trial and say, Here. Now, what would be a
17 reasonable cutoff date?

18 MS. STROM: And, Your Honor, I think
19 Mr. Mauldin will assure -- or will stand behind this
20 as well. We don't come in at the last minute with
21 book loads of information. As I said, when we get it,
22 we give it to him so ---

23 THE COURT: What's a reasonable cutoff
24 date from the State's perspective? In other words,
25 when I say a cutoff date, if you come up with

1 something after the fact, it's not going to come into
2 evidence, okay?

3 MS. STROM: And I'm just trying to protect
4 myself ---

5 THE COURT: So what's reasonable?

6 MS. STROM: --- in terms of in case it's
7 an unusual situation. I mean, I don't expect anything
8 to come up say ten days prior to trial, but I don't ---

9 THE COURT: When I say it's not coming
10 into evidence, obviously, if you've got some reason
11 you couldn't discover it beforehand or you couldn't
12 find it beforehand, yes, obviously I will listen to
13 that. But I want everybody on the same page shooting
14 towards the target date to get this ready for trial.
15 I don't want to walk in, it's set for February 7th and
16 you come up with stuff 30 days before and they need a
17 continuance to review that information. So what's
18 reasonable from your perspective? And I'll ask what's
19 reasonable from Mr. Mauldin's perspective.

20 MS. STROM: I would say that he would have
21 everything from us within 30 days of trial.

22 THE COURT: All right, by January the 7th?

23 MS. STROM: Yes, sir.

24 MR. MAULDIN: We've got no real problem
25 with that, Your Honor.

1 THE COURT: We're going to have a cutoff
2 date of January the 7th. Now, if between January the
3 7th and February the 7th something comes up and you
4 couldn't find it before, then I'll let you have a
5 pre-trial motion on whether the evidence is admissible
6 or not admissible. But I want you to understand,
7 right now I'm saying anything that comes up after
8 January 7th that you have not produced is not coming
9 in.

10 MS. STROM: Yes, sir.

11 THE COURT: And you can relay that
12 information to the law enforcement agency also or you
13 can send them a copy of the Order that I sign, all
14 right?

15 MS. STROM: Yes, sir.

16 THE COURT: However you want to handle
17 that.

18 MS. STROM: And I will recheck the file
19 and make sure the letters have gone out to them, as we
20 do as a matter of course, and that should not be a
21 problem.

22 THE COURT: Okay, fine.

23 MR. MAULDIN: And obviously we are
24 dependent upon the State to have the continuing, as
25 things come in between now and then, that they

1 wouldn't wait till January 7th and give us everything.

2 MS. STROM: We don't do that, Your Honor.

3 THE COURT: She's already said that twice.

4 She's not going to do that. If she starts doing it,

5 let me know and we'll correct her, okay?

6 MR. MAULDIN: Yes, sir.

7 The next motion, Your Honor, number four

8 on your list, is regarding extrajudicial statements.

9 Our historical experience has been that we really have

10 not had a significant problem with that. It is in a

11 matter of caution that we request that the Court issue

12 that. I don't know that there's even any objection to

13 it. There appears to be a consent as long as it

14 applies to everybody, and we've got no problem with it

15 applying to us.

16 I do want the Court to look at paragraph

17 four of the response. I don't know if this is

18 actually -- we received these responses back on the

19 19th, I believe it was, but I'm not really sure

20 whether or not they actually are requesting that the

21 Court affirmatively order the motions filed in this

22 case to be sealed.

23 THE COURT: That's what they asked for in

24 their response.

25 Isn't that correct, Ms. Strom?

1 MS. STROM: Yes, Your Honor. And it has
2 been our position in death penalty cases past, where
3 we have kept a view of the motions filed, and if they
4 become so factually prevalent that we need to ask that
5 they be sealed, that we would do so at that time. I'm
6 not asking that they be sealed at this time; however,
7 I am asking that the prohibition against extrajudicial
8 statements would also apply to the motions filed,
9 since they are a public record.

10 MR. MAULDIN: I got no problem with that.

11 THE COURT: Let's clarify what you mean
12 when you are asking for extrajudicial statements.
13 What are you referring to? Because I haven't issued
14 any gag order and I'm very reluctant to do that.

15 MR. MAULDIN: Well, I guess, if you want
16 to know how I put it in my notes, I note this is a gag
17 order. Perhaps what we should do is draft a proposed
18 Order for you and then send it over and get an
19 agreement from Betty that this is what we understand
20 you are ordering in this regard.

21 THE COURT: My problem with the gag order
22 is it's almost impossible to enforce, especially when
23 you get into the law enforcement area. Yes, I can
24 probably enforce it with you and the Solicitor, but I
25 cannot necessarily enforce it with law enforcement.

1 So I'm very reluctant, quite frankly, to issue gag
2 orders. And it's a double-edged sword. I mean, if
3 the gag is on them, it's on you, too.

4 MR. MAULDIN: Right. What has been
5 done -- and I don't necessarily know that what has
6 happened in the past is necessarily relevant except to
7 the extent we need to learn from our experiences, and
8 so I would submit this to you. In the past the Courts
9 have directed both the prosecution and I to instruct
10 those involved in the case, witnesses, law
11 enforcement, family members, realizing that we don't
12 have the ability to control, we do have the ability to
13 instruct them. If they then violate the instructions,
14 the Court at least would have our verification that
15 they had been otherwise instructed.

16 So I believe that has worked. I think
17 that things have run relatively smoothly in prior
18 cases, because we have been specifically advised from
19 the bench that while we can't be -- we're not going
20 to necessarily be the person sanctioned if somebody
21 violates it, we're going to be called into court and
22 the Court's going to ask us, Did you tell these
23 witnesses not to talk about this case to the media or
24 in public? And if I then say yes, then you've got the
25 witness to deal with and you can do with what you

1 wish.

2 THE COURT: Okay. What's the State's
3 position?

4 MS. STROM: We don't have a problem with
5 that.

6 THE COURT: Okay. If they violate, I will
7 do that.

8 MS. STROM: Thank you.

9 MR. MAULDIN: Thank you, Your Honor.

10 The next motion is captioned in the letter
11 "Reveal the Deal." It speaks -- I think that pretty
12 well accurately describes it, but if you look at our
13 motion, in fact, if you have an opportunity, the State
14 responds by saying that they should be required to
15 disclose this type of information only if an agreement
16 is, in fact, reached between the State and a witness.

17 THE COURT: Well, first of all, are there
18 any witnesses that are going to -- immunities are
19 issued?

20 MS. STROM: There have been no grants of
21 immunity issued.

22 THE COURT: But are there any witnesses
23 where there is the possibility of that, anybody else
24 charged in relation to this particular crime?

25 MS. STROM: No, sir. He's the only person

1 charged in relationship to this crime.

2 THE COURT: How is that issue going to
3 even arise?

4 MR. MAULDIN: Well, I'll tell you how.

5 THE COURT: If it arises on the jailhouse
6 snitch, that's a different story. But right now, my
7 understanding from the State, there is no jailhouse
8 snitch.

9 MR. MAULDIN: Well, let me give you --
10 I'll give you a hypothetical ---

11 THE COURT: All right.

12 MR. MAULDIN: --- how this type of
13 information could be relevant. And it's not whether
14 it is acceptable or agreed to by the State. If it's
15 offered by the State and the witness refuses, then
16 obviously that applies to what they're saying.

17 But let me spin it a different way, Judge.
18 Let's assume hypothetically that Prosecutor Jones is
19 sitting at his desk and he receives a phone call from
20 a Mrs. Smith, and Mrs. Smith says, I know -- I have
21 information about Defendant Brown, that Defendant
22 Brown so-and-so and so-and-so, and I will provide you
23 with that information if you will agree to let my son
24 out on parole. In other words, completely uninitiated
25 by Prosecutor Jones. In other words, he's just

1 sitting there having a cup of coffee and he gets this
2 phone call from some woman who's got a son in prison.
3 She wants to deal testimony.

4 Let's say in that example that the
5 prosecutor says, Absolutely not. We're not going to
6 take that testimony, but we're going to subpoena you
7 and require you to testify anyway, now that we know
8 what you know.

9 I am entitled to know that that woman
10 tried to make a deal with the government, because
11 that's an issue of credibility, believability,
12 impeachment. So this idea that we got to have a
13 contract law class about this is not really the point.
14 The question is, would jurors believe this woman in
15 that hypothetical?

16 So I don't think it's just simply did they
17 accept it ---

18 THE COURT: What language are you looking
19 for other than agreement? The State has basically
20 consented to, regarding charges and sentencing and
21 term of testimony following any agreement. Now, what
22 language do you think would be appropriate in addition
23 to agreement? Because obviously your fact scenario is
24 not an agreement.

25 MR. MAULDIN: What I believe a defendant

1 in any criminal case is entitled to is information
2 regarding the credibility or believability of a
3 witness, and in particular, information regarding
4 favors, benefits, treatment -- favorable treatment
5 that arises out of the testimony or is offered in
6 regards to the testimony, either by the witness or the
7 State. That's the kind of information I think a
8 defendant, not just Chris Williams, but anybody, would
9 be entitled to be aware of. Now, whether or not it
10 was used or came up in the case, I don't know.

11 Now, I don't know that the State is going
12 to find themselves in a position to negotiate or to
13 have any deal or whatever with any witness in this
14 case, but if they do, I believe we have the right to
15 know it.

16 THE COURT: All right. Let me ask you
17 this. I mean, do you think that would fall under a
18 Brady material?

19 MR. MAULDIN: Well, and I certainly ---

20 THE COURT: Aren't you really stretching
21 what you want now into Brady material?

22 MR. MAULDIN: To the extent that it is
23 impeachment, it certainly overlaps into Brady, so he
24 has a Constitutional right to whatever is covered
25 under Brady.

1 THE COURT: Let's do this. I might would
2 go as far as he wants me to at this point in time.
3 However, I will order the State to make any such
4 knowledge available as far as general terms. As far
5 as the specifics of it, you may file any motion you
6 desire not to reveal those specifics if you view it as
7 work product versus Brady material or as a deal being
8 cut. Do you follow me?

9 MS. STROM: Yes, sir.

10 THE COURT: In other words, I had a death
11 penalty PCR, I got the Solicitor to file these three
12 boxes, and they went through each document, and I had
13 to go through it in camera, but they gave me an index
14 of what the documents were, whether they agreed or
15 didn't agree, or whether it was work product and this
16 type of arrangement. You could file a motion if it's
17 work product, and I can review it if you think it's
18 appropriate. If you don't, go ahead and release it.
19 I'm going to give you that opportunity if this
20 situation arises, okay?

21 MS. STROM: Yes, sir.

22 MR. MAULDIN: Yes, sir.

23 THE COURT: Mr. Nettles, I don't know how
24 you are going to write the proposed Order, so take
25 notes and put your thinking cap on, all right?

1 MR. MAULDIN: We'll do a draft.

2 THE COURT: Do you understand what I'm
3 saying? I'm not going as far as she wants to right
4 now.

5 MR. NETTLES: Would it be fair to say that
6 what the Court is ordering is that if a -- that
7 without going into details, if any offer is made from
8 either the government or a witness, that just the --
9 that the existence of that -- of the offer being
10 made ---

11
12 THE COURT: It has to be revealed. If
13 they think the details shouldn't be revealed, they can
14 file a motion and I can deal with it in camera, okay?

15 MR. MAULDIN: Yes.

16 THE COURT: Ms. Strom, is that okay?

17 MS. STROM: Perfectly acceptable.

18 THE COURT: Okay.

19 MR. MAULDIN: The next motion, number six
20 on your list, is to seal the visitors' registration
21 log at the Greenville County Detention Center. And
22 the State consents, but I would draw your attention to
23 paragraph four of their response, where it is stated
24 that because records are kept electronically, they are
25 not capable of being sealed. To accomplish the same

1 goal the Court could instruct the keeper of the
2 records to not reveal the information to the State.

3 And I didn't know that you couldn't -- I
4 mean, I didn't know they had something down there the
5 Court couldn't seal. I mean, surely, if it's done
6 electronically, the Court can say, Keep that under
7 seal. We don't have to hope Jenny Moran (phonetic) --
8 I mean, what if Jenny Moran is out sick and Betty Boop
9 comes in there and starts disclosing stuff? And I
10 just read that when I got this response.

11 Well, I'm not real sure of the solution,
12 other than I don't think we should be told by the
13 jail, Well, we keep this electronically, we can't keep
14 that confidential. Well, I'm sorry, you will find a
15 way to keep it confidential. That's my view of it.

16 THE COURT: What's the State's position?

17 MS. STROM: Your Honor, in responding to
18 this motion, I contacted the keeper of the records, of
19 these types of records to find out exactly how it's
20 done. Because it used to be there was an actual paper
21 log that they wrote them down on, and when they were
22 ordered to seal it, they stuck it in an envelope and
23 put a piece of tape over it and sealed it, actually
24 sealed it, with initials. They are telling me that is
25 not the process of keeping these records anymore. So

1 there's not ---

2 THE COURT: How do they keep them now?

3 MS. STROM: It is computer -- the lists
4 are on a computer. When anyone comes in to visit a
5 prisoner at the jail, it's typed into the computer
6 under that Defendant's name. That listing is not
7 accessible by me or by anyone in my office.

8 THE COURT: Well, why can't they take --
9 on a daily basis, if he has a visitor, put it in a
10 file folder that's not available to anybody unless
11 they can go into that file folder and remove it from
12 the list? Why can't they do that on a computer, have
13 a file folder under the name of Charles Christopher
14 Williams and daily review the log record? If somebody
15 visits, they put it in that file folder so it's not
16 available for everybody and anybody in the jail.

17 MS. STROM: And not put it into the
18 computer?

19 THE COURT: Yeah, put it in the computer,
20 put it in a computer in a folder under his name as
21 visitor and seal it in a computer, so to speak.

22 Mr. Nettles, you are a computer guru, tell
23 me how that can be done.

24 MR. NETTLES: Well, that's a tough one.
25 It kind of depends on -- I can't answer that question.

1 I don't know what they've got. I mean, I guess the
2 easiest thing seems to be ---

3 THE COURT: You have enough files on the
4 computer -- you don't use the computer at the same
5 time, do you?

6 MR. NETTLES: What if there was just an
7 order that before anybody could access any information
8 they had to come before the Court?

9 THE COURT: I imagine these records are
10 available to anybody that's got access to computers in
11 jail, I would think. All I suggest is that they put
12 up a folder, visitors of Mr. Williams, and to remove
13 the name from that log, put it in that folder, you got
14 to go to that folder and file it and have restricted
15 access to that folder on that computer, you can't go
16 into it without a password.

17 MR. NETTLES: I don't know whether it
18 would operate under Windows or not.

19 THE COURT: Ms. Strom?

20 MS. STROM: Your Honor, I would hate to
21 commit them to that, not knowing well enough their
22 system. May I suggest that you not rule on this and
23 hear directly from the administrator of the jail as to
24 what their records are?

25 THE COURT: I'd be happy to. Because I

1 think that if somebody would use a little imagination,
2 they can figure out a way to have a list of visitors.

3 MR. MAULDIN: I'd be glad to offer
4 imagination, Judge. Why can't this thing that they
5 type in the names of the visitors for this client, why
6 can't they type it right now in all capitals, "SEE
7 SEALED COURT FILE," and then we go back to that good
8 old simple Ware Shoals logic that I learned when I was
9 a kid, where you got a pad where you write down the
10 names of the people and you stick it in an envelope
11 and seal it. And then so that if anybody wants to
12 know who visits, they punch it up, it says right there
13 on the thing: SEE SEALED COURT FILE.

14 THE COURT: Ms. Strom, why don't you talk
15 to the people and figure out a way it can be done,
16 whether you want to do it the way Mr. Mauldin does it
17 or whether you want to do it electronically. But
18 y'all figure out a way to do it. Just find out how it
19 can be done and we'll go about it that way.

20 MS. STROM: Yes, sir.

21 MR. MAULDIN: So she's going to kind of
22 let us know what they're saying is within the realm of
23 possibility?

24 THE COURT: (Nodded head.)

25 MR. MAULDIN: That suits me. So you are

1 going to kind of hold in abeyance on that?

2 THE COURT: I'm going to take it under
3 advisement until I hear from the Solicitor, after
4 conferring with the jail how it can be done, either
5 manually and delete the name off, or electronic and
6 put it in a manual list, as Mr. Mauldin said, or do it
7 electronically. But I don't see why they can't do it
8 one of the two ways.

9 MS. STROM: Yes, sir.

10 MR. MAULDIN: The next, Your Honor, I've
11 titled this motion "Planting a Mole." That involves
12 the use of a police operative or undercover or
13 confidential informant, whatever you want to call it,
14 any kind of police snitch, jailhouse snitch type
15 agent.

16 The State apparently consents and
17 certainly reminds us that if the Defendant himself
18 initiates or voluntarily talks to somebody who wasn't
19 filling that role, then obviously they're free to use
20 that information, and we acknowledge that completely.
21 We just want any predetermined so-called agent of the
22 State, we want the Court to prohibit the State from
23 using that tactic, and I understand there's no intent
24 to do that.

25 MS. STROM: The State will not do that,

1 Your Honor.

2 THE COURT: All right.

3 MR. MAULDIN: Your Honor, the next motion
4 involves the opportunity of the Defendant to view the
5 crime scene along with counsel, and the State opposes
6 on the basis that the location of this incident was at
7 a Bi-Lo grocery store, which is a public place, and
8 obviously, it's a little more difficult managing an
9 opportunity to view the crime scene with the Defendant
10 when it is a public place. I have an alternative.

11 THE COURT: What do you want to do? Do
12 you want to go inside the store, outside the store, or
13 both?

14 MR. MAULDIN: The normal course, not in
15 this particular case but in just a hypothetical
16 case ---

17 THE COURT: What do you want to do in this
18 particular case?

19 MR. MAULDIN: All right. What we would do
20 in this particular case, Your Honor, is after
21 reviewing the evidence that has been provided to us,
22 including video evidence, we would go to the location
23 with our client, who would be held in close custody,
24 of course, and as we examined the crime scene, we
25 would have an opportunity to consult with our client

1 for confirmation or denial or uncertainty, and I
2 believe that we -- I'm going to make a suggestion that
3 we offer a method to see if it can be agreed to.

4 THE COURT: Does anybody know the hours of
5 this Bi-Lo?

6 MS. STROM: Yes, Your Honor. And first of
7 all, just for the record, the State was not
8 necessarily objecting to the Defendant's right to view
9 the crime scene; I simply wanted to make the Court
10 aware of what the crime scene is.

11 THE COURT: I understand.

12 MS. STROM: It's a 24-a-day store.

13 THE COURT: A 24-a-day store. We can do
14 this thing midnight or later when there's nobody
15 basically around.

16 MS. STROM: I don't know how busy they
17 are. I mean, they would be less busy then, obviously.

18 THE COURT: Mr. Mauldin?

19 MR. MAULDIN: Our suggestion would be that
20 we contact the store and essentially enter into an
21 agreement that would involve law enforcement for
22 custody of our client, counsel, the State's counsel,
23 and the store could monitor what we did. In other
24 words, it wouldn't take an hour.

25 THE COURT: I'm not as concerned about the

1 store as I am the customers in the store, okay?

2 MR. MAULDIN: We could do it in an hour at
3 three o'clock in the morning.

4 THE COURT: Why don't you talk to the
5 store and find out the best hour to do it where they
6 got less people. If you got to do it at three o'clock
7 in the morning, that's when we'll do it. Just talk to
8 the store and find out when is the least amount of
9 customers in the store, and get them aboard and I'll
10 issue an Order for the store to cooperate and order
11 everybody at a certain time and go do it, okay?

12 MS. STROM: If they indicate to me that
13 they wish to be heard on this matter ---

14 MR. MAULDIN: We'll leave it open.

15 THE COURT: You can tell them if I got to
16 arbitrarily set it at three o'clock in the morning, I
17 will, okay?

18 MS. STROM: I'm just making sure I know
19 how to respond to their questions.

20 THE COURT: Just respond that way. I
21 don't see any need for them to be heard. But I do
22 want to cooperate with them. I do want to do it at a
23 time that's most convenient for them, but if they
24 don't want to cooperate, then I'll just tell them when
25 it's going to be done.

1 MS. STROM: Obviously, with the proper
2 amount of security, given the necessary circumstances.

3 THE COURT: That's right. I mean, I do
4 want to cooperate with them, please explain that, but
5 if they don't want to cooperate, I'll order it done
6 and I'll just pick the time.

7 MS. STROM: So far they've been very
8 cooperative. I don't see that they would not be
9 cooperative in this instance, but I just wanted to
10 know.

11 THE COURT: All right.

12 MR. MAULDIN: Your Honor, the ninth and
13 tenth motions on the list are photographic evidence
14 motions. And let me say that -- and the State opposes
15 the motion primarily, I believe -- and they can very
16 well speak for themselves -- but I believe that their
17 opposition at this point is that it's premature.

18 THE COURT: I think I agree with them.

19 MR. MAULDIN: But I would like to have
20 this ---

21 THE COURT: How can I possibly rule on
22 these at this point in time?

23 MR. MAULDIN: Well, what I'm going to
24 suggest, a process that we have used in the past that
25 has worked well -- and if the State wishes to agree to

1 this, then fine -- that contact sheets they provided
2 to us, that we have an opportunity to look at the
3 smaller reproductions, and then they provide us with
4 pictures they actually have an intent to use. You
5 know, there may be hundreds, but they may only choose
6 to use 25. And then we actually have something that
7 is actually reviewable. So I ask that that -- and I
8 don't know that -- I mean, they've always provided us
9 with pictures in the past, and so if that's going to
10 be the case, we have no problem operating under that.

11 THE COURT: Any problem with that,
12 Ms. Strom?

13 MS. STROM: No, sir. We cooperate very
14 well, and we'll provide him with every contact sheet
15 showing all the photographs. And, in fact, we meet
16 with Mr. Mauldin ahead of trial to show him every
17 piece of evidence we intend to introduce.

18 THE COURT: Mr. Mauldin, do you anticipate
19 doing this after you see these photographs with a
20 motion in limine or wait until time of trial?

21 MR. MAULDIN: It kind of depends on the
22 timing, Your Honor. I would hope they would provide
23 us relatively soon with these photos, the sooner
24 obviously the better in terms of our ability to
25 decide. My intention would be to provide a motion in

1 limine.

2 THE COURT: How far before trial do you
3 think you should have these photographs? January the
4 7th?

5 MS. STROM: Judge, I think that would be a
6 little early. He would have all the contact sheets by
7 that time.

8 THE COURT: Right, that's what I'm saying.

9 MS. STROM: Oh, he would have every
10 contact sheet by then, no doubt.

11 THE COURT: You can't tell him which one
12 you plan on using because ...

13 MS. STROM: I can't say that I would have
14 the complete package at that time.

15 THE COURT: Okay. I understand. Why
16 don't we just hold that in -- when do you think you
17 would have it, a week before?

18 MS. STROM: A week before, yes, sir.

19 THE COURT: Why don't you just say you'll
20 provide the ones you plan on using, the contact sheets
21 at least a week before, at least to give him time to
22 file a motion if he so chooses.

23 MR. MAULDIN: Your Honor, they are under
24 an Order to provide us with the file by January 7th.
25 That would be the latest they should give us the

1 contact sheets.

2 MS. STROM: And we intend to do that.

3 THE COURT: She said she would give you
4 the contact sheets. She just may not have made up her
5 mind which one they want to use. She'll have them on
6 the contact sheets, but she may not know which ones
7 she's going to use, but she will tell you a week
8 before trial which ones she's going to plan on using.

9 MS. STROM: Yes, sir. And if I see that
10 I'm running into a problem with that week, I will let
11 the Court know. I don't think that should be a
12 problem.

13 THE COURT: We can extend that up close to
14 the trial date. I mean, it won't take him very long
15 to look at a picture and decide what he wants to do
16 with it. A week might be too much. We might say
17 three or four days. I don't know.

18 MR. MAULDIN: Judge, a week -- I was
19 concerned about a week. Now you got me down to ---

20 THE COURT: I'm thinking about cutting it
21 down more; you ought to be happy with a week.

22 MS. STROM: And, Your Honor, my paralegal
23 informs me we have already provided him with the
24 contact sheets.

25 MR. MAULDIN: That may well be. But if

1 they're black and white copies, it's impossible. I'm
2 talking about the sheets that actually are legible so
3 we can look at them and see.

4 THE COURT: Give it to him in a week, and
5 if we run into any problems ...

6 MS. STROM: Yes, sir, thank you.

7 THE COURT: All right, Mr. Mauldin. Go
8 with a week.

9 MR. NETTLES: Can I be clear? The color
10 contact sheets will be provided a month ahead of time,
11 at least. And then am I correct in that the ones --
12 you will then sort of parse out the ones you plan on
13 using, a week; is that right?

14 THE COURT: That's my understanding.

15 MS. STROM: Yes, sir.

16 MR. MAULDIN: And obviously, to assist in
17 our preparation, we would ask for the contact sheets
18 as soon as possible, but we understand what the Court
19 has ordered.

20 THE COURT: I think she said you have
21 already received them, all of them, right?

22 MS. STROM: Yes, sir.

23 THE COURT: You got them in your
24 possession now; you just don't have the ones going
25 into evidence.

1 MR. MAULDIN: Well, we have copies of some
2 stuff.

3 THE COURT: A copy is very hard to read,
4 photograph copies of black and white are considerably
5 hard to read. I understand.

6 MR. MAULDIN: Right. Your Honor, motions
7 11 and 12 ---

8 THE COURT: Now, that last week applies to
9 the crime scene as well as autopsy photos, correct?

10 MR. MAULDIN: Yes, sir. That's correct.
11 That's motion number nine and motion number ten.

12 THE COURT: Correct, Ms. Strom?

13 MS. STROM: Yes, sir.

14 THE COURT: Are autopsy photos any problem
15 a week prior to -- the autopsy, you may not even worry
16 about it unless you get to the penalty phase. I don't
17 know how you plan about trying it.

18 MS. STROM: Yes, that should not be a
19 problem, either.

20 THE COURT: Okay. Now you've got a Brady
21 motion and a Rule 5 motion.

22 MR. MAULDIN: Yes, sir. And I believe
23 that those have been essentially ruled on with regard
24 to motion number three, which was the production of
25 the incident supplement. We're talking about the same

1 time frames for all this information disclosed, right?

2 MS. STROM: Yes, sir. We have given him
3 everything and will continue to give to him.

4 THE COURT: If there is any doubt about
5 it, or if you have any doubt, I have no problem doing
6 something in camera whether it's work product or not
7 or whether it's to be produced. If there's any doubt,
8 I would prefer doing that rather than having something
9 come up in the middle of the trial and have to deal
10 with it then.

11 MS. STROM: Yes, sir. Be glad to.

12 MR. MAULDIN: Your Honor, motion 13 is a
13 motion to produce evidence in aggravation. Let me
14 give the Court a little bit of my thinking on this,
15 and the justification for this motion. This is a
16 motion that I file in every case, and this ---

17 THE COURT: Just let me find the State's
18 response to it. Give me a chance to find the
19 response. The responses aren't in the same order that
20 you put them in. Okay. I got it. Go ahead.

21 MR. MAULDIN: This motion is a motion that
22 I file regularly, but I will say that I am filing it
23 earlier in this case than I normally do. And the
24 reason is because of my earnest desire to be
25 legitimately prepared for this case.

1 THE COURT: I thought you were the
2 gentleman prepared for all cases.

3 MR. MAULDIN: Well, and I try to be. But
4 it's real hard. These cases are very difficult.

5 THE COURT: I understand.

6 MR. MAULDIN: And I try to be as prepared
7 as possible to proceed on the time frame that the
8 Court gives us.

9 Now, you are aware that the Statute
10 requires the government to provide to a Defendant in a
11 Capital case written evidence, a notice of
12 aggravation ---

13 THE COURT: Yes, sir.

14 MR. MAULDIN: --- prior to trial. That's
15 what the Statute states. And that clearly -- and how
16 that can possibly not have been amended over these
17 years I don't know. But that just simply is
18 absolutely ridiculous, or at least in my view.

19 THE COURT: Well, they've agreed to
20 30 days.

21 MR. MAULDIN: Well, what they did, after
22 you look, they said they'd give it to us within
23 30 days.

24 THE COURT: Within 30 days.

25 MR. MAULDIN: Two days is within 30 days.

1 THE COURT: How much time do you need?

2 MR. MAULDIN: Well, I'm assuming that
3 means in excess of 30 days, not within 30 days.
4 Within 30 days is 30 days or less.

5 THE COURT: Tell me how much time you
6 think you need to get prepared.

7 MR. MAULDIN: Well, what we want is -- and
8 the State says they've given us the complete file and
9 everything they are going to use in aggravation in
10 this case is contained somewhere therein. Well, that
11 ain't exactly what I'm interested in getting.

12 THE COURT: You want it to know the
13 specifics of what they're going to go to the jury with
14 and what they're going to put on the aggravation sheet
15 as the victim ---

16 MR. MAULDIN: They are required to serve
17 us with a notice of service, and they do, they have in
18 every case. They have enumerated a list ---

19 THE COURT: In the past how much time have
20 you given them?

21 MR. MAULDIN: I would say, and
22 particularly in light of the fact that this case is
23 set for February the 7th, I would ask that the notice
24 be 45 days, at least 45 days prior to trial. And the
25 reason is because that's going to put it prior to

1 Christmas. If you wait until 30 days or less, then
2 you are way too late, to me, at least. So I'm asking
3 for at least 45 days. We're talking something that I
4 want six months from now. Now, surely that's not
5 unreasonable.

6 THE COURT: Ms. Strom?

7 MS. STROM: Your Honor, the Statute, as we
8 all know, says prior to trial. I think the State is
9 being more than generous by saying that we would have
10 it to them 30 days, and I apologize if the "within"
11 gave some people some concern, but by January 7th we
12 would have our notice of evidence of aggravation,
13 easily. We can do that. And I think that is not only
14 well within what the Statute requires, I think that's
15 well within what due process requires.

16 THE COURT: We are arguing about 15 days,
17 Mr. Mauldin?

18 MR. MAULDIN: Well, I'll argue about
19 anything most of the time, Judge, I'm not shy about
20 it. If they would give me that evidence of
21 aggravation right now, I would accept it. I will be
22 continuously attempting to be prepared for this case ---

23 THE COURT: Let me see the attorneys up
24 here real quick.

25 MR. MAULDIN: Yes.

1 (Whereupon, Counsel approached the bench
2 and conferred with the Court out of the
3 presence of the Court Reporter.)

4 THE COURT: Ms. Strom, on the aggravation,
5 let's give him something in writing, statutory, and
6 then the facts of the non statutory aggravation
7 circumstance be issued by December the 7th. That
8 gives him plenty of time to file any motions he needs,
9 okay?

10 MS. STROM: Yes, sir. That is without a
11 problem.

12 THE COURT: All right. All right,
13 Mr. Mauldin.

14 MR. MAULDIN: That's it, Your Honor, I
15 appreciate it. Thank you, Judge.

16 THE COURT: Anything else?

17 MR. MAULDIN: No, sir.

18 MS. STROM: Nothing further from the
19 State, Your Honor.

20 THE COURT: Nothing from the State. Thank
21 y'all for being here. I appreciate y'all coming to
22 Walhalla.

23 (Whereupon, the above hearing was
24 concluded.)

25 *****END OF TRANSCRIPT OF RECORD*****

CERTIFICATE

I, the undersigned, Robin Sue Hild, FCRR, RPR, Official Court Reporter for the Tenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 25th day of May, 2004.

I do further certify that I am neither of kin, Counsel nor interest to any party hereto.

June 24, 2005

Robin Sue Hild, FCRR, RPR
ROBIN SUE HILD, FCRR, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

2004-GS-23-1745, 1746

-VS-)

TRANSCRIPT OF RECORD

CHARLES CHRISTOPHER)
WILLIAMS,)

JANUARY 13, 2005

DEFENDANT.)

BEFORE:

THE HONORABLE J.C. "BUDDY" NICHOLSON, JR., JUDGE

APPEARANCES:

ROBERT ARIAIL, ESQUIRE
SOLICITOR FOR THE 13TH JUDICIAL CIRCUIT
BETTY STROM, ESQUIRE
MARK MOYER, ESQUIRE
ASSISTANT SOLICITORS FOR THE 13TH JUDICIAL CIRCUIT
ATTORNEYS FOR THE STATEJOHN MAULDIN, ESQUIRE
WILLIAM NETTLES, ESQUIRE
MARK J. MCDOUGALL, ESQUIRE
CARA FOOS PIERCE, ESQUIRE
COLLEEN M. COYLE, ESQUIRE
ATTORNEYS FOR THE DEFENDANTRENEE H. TOLLISON
CIRCUIT COURT REPORTER

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EXHIBITS

No	DESCRIPTION	ID	EV
	NO EXHIBITS WERE PRESENTED DURING THE HEARING		

1 THE COURT: MR. MAULDIN, THEY'RE ALL YOUR MOTIONS?
2 VERY QUICKLY GO THROUGH ---

3 MR. MAUDLIN: HAVE YOU GOT A LIST?

4 THE COURT: YEAH, I'VE GOT A LIST, BUT I'LL BE
5 HAPPY TO HAVE YOUR LIST.

6 MR. MAUDLIN: THIS IS THE ORDER IN WHICH I WAS
7 GOING TO GO DOWN. THAT MIGHT BE A LITTLE MORE HELPFUL TO
8 YOU.

9 THE COURT: CAN I ASK YOU REAL QUICK SOME MOTIONS
10 THAT WE'VE GONE THROUGH THAT THE STATE HAS NO OBJECTION TO
11 AND GET THOSE OUT OF THE WAY FIRST?

12 MR. MAUDLIN: YEAH, JUDGE, WE CAN PROBABLY DO THAT
13 ---

14 THE COURT: LET ME RUN THROUGH THOSE REAL QUICK
15 WITH YOU. THE MOTION FOR A REASONABLE TRIAL AND ADJOURNMENT
16 SCHEDULE, THEY HAVE NO OBJECTION.

17 MR. ARIAIL: NO OBJECTION TO NUMBER ONE EITHER,
18 MOTION FOR VOIR DIRE TRANSCRIPT.

19 THE COURT: I DON'T KNOW HOW YOU'RE GOING TO
20 PHYSICALLY -- WE DON'T HAVE THE CAPACITY TO DO THAT.

21 MR. ARIAIL: WE DON'T -- HOWEVER HE WORKS IT OUT.

22 MR. MAUDLIN: MAYBE THAT'S WHY I SHOULD PUT ON THE
23 RECORD THE NEED FOR IT; AND THEN YOU CAN POINT OUT THE
24 PRACTICAL DIFFICULTY, JUDGE.

25 THE COURT: ALL RIGHT. LET'S JUST -- WE'LL GO

1 DOWN YOUR LIST.

2 MR. MAUDLIN: YES, SIR.

3 FIRST OF ALL, YOUR HONOR, I WOULD LIKE FOR BILL NETTLES
4 -- TO MAKE SURE YOU'RE FAMILIAR WITH THE FOLKS THAT ARE
5 PARTICIPATING IN THE CASE WITH US. THEY'VE ALL BEEN MOVED
6 IN TO PARTICIPATE IN THE CASE. BILL, COULD YOU HANDLE THAT?

7 MR. NETTLES: YES, SIR. WE REFERENCED THESE AT
8 OUR PREVIOUS HEARING. MARK MACDOUGALL, COLLEEN COYLE.

9 MS. COYLE: GOOD MORNING, YOUR HONOR.

10 MR. NETTLES: CARA FOOS. THEY'RE ALL FROM FROM
11 AIKEN, GUMP, STRAUSS, HOWER AND FELD. COLLEEN IS FROM
12 DALLAS, AND THESE TWO ARE OUT OF THE WASHINGTON, D.C.
13 OFFICE.

14 THE COURT: OKAY. THANK YOU VERY MUCH.

15 MR. MAUDLIN: YOUR HONOR, ALSO, WHILE WE'RE HERE
16 WITH YOU THIS MORNING, WE DID BRING, I THINK, ABOUT A HALF
17 DOZEN JUROR FILES THAT THERE IS ESSENTIALLY A DISPUTE ABOUT
18 WHETHER THEY SHOULD BE EXCUSED. I WANT TO MAKE SURE WE GET
19 THAT DONE BEFORE WE LEAVE.

20 THE COURT: ALL RIGHT.

21 MR. MAUDLIN: WE ARE GOING TO HAVE A REQUEST
22 REGARDING AN EX PARTE FUNDING MATTER. AND SO WE DO ASK FOR
23 AN OPPORTUNITY TO MEET WITH YOU EITHER IN-CAMERA OR AT THE
24 BENCH REGARDING THAT MATTER BEFORE WE LEAVE.

25 THE COURT: OKAY.

1 MR. MAUDLIN: YOUR HONOR, I PASSED UP TO YOU THE
2 MOTIONS THAT ARE CURRENTLY PENDING. THE FIRST ONE ON YOUR
3 LIST IS DAILY TRANSCRIPTS. I MIGHT ALSO ADD, YOUR HONOR,
4 THAT WE ASK FOR IN NUMBER FIVE, DAILY TRANSCRIPTS OF TRIAL.

5 THE COURT: THE STATE HAS NO OBJECTION TO THOSE
6 TWO MOTIONS. NOW, LET ME PUT ON THE RECORD AS OF TODAY, THE
7 COURT REPORTER DOES NOT HAVE THE CAPACITY TO DO THAT. OKAY?
8 NOW, SHE HAS REAL-TIME, BUT IT'S NOT OPERATING. IF WE CAN
9 GET THE REAL-TIME OPERATING BETWEEN NOW AND THE TRIAL
10 PROPERLY AND IT'S AVAILABLE, IT POSSIBLY COULD BE AVAILABLE
11 TO YOU. BUT IT'S GOING TO BE IN A VERY ROUGH FORM. IT WILL
12 NOT BE IN A FORM THAT HAS BEEN EDITED, SO TO SPEAK. I WILL
13 TRY TO GET THAT DONE. I DON'T KNOW IF WE'RE GOING TO BE
14 ABLE TO DO THAT OR NOT.

15 MR. MAUDLIN: YES, SIR.

16 THE COURT: OKAY?

17 MR. MAUDLIN: YES, SIR.

18 THE COURT: IF IT'S AVAILABLE, WE'LL GIVE IT TO
19 YOU. OKAY?

20 MR. MAUDLIN: YES, SIR. AND WE APPRECIATE THAT,
21 JUDGE.

22 THE NEXT MOTION ON THE LIST IS OUR REQUEST THAT YOU
23 TAKE INTO CONSIDERATION A NEED OF THIS DEFENDANT FOR
24 ADDITIONAL PEREMPTORY CHALLENGES. THE PROSECUTION'S
25 RESPONSE ESSENTIALLY IS THAT THIS -- BASED UPON CASE LAW

1 THIS MOTION SHOULD BE DENIED. I AM GOING TO THIS MORNING
2 ASK THAT ---

3 THE COURT: WELL, HOW MANY ADDITIONAL DO YOU WANT?

4 MR. MAUDLIN: WELL, WE WOULD LIKE AS MANY AS TEN
5 ADDITIONAL.

6 THE COURT: SO A TOTAL OF TWENTY?

7 MR. MAUDLIN: YES, SIR.

8 THE COURT: OKAY.

9 MR. MAUDLIN: THE -- DOES OKAY MEAN WE GET THEM?

10 THE COURT: NO. I JUST WANTED TO KNOW HOW MANY
11 YOU WERE ASKING FOR, WHETHER YOU WANTED AN ADDITIONAL TEN,
12 TWENTY OR FIFTY.

13 MR. MAUDLIN: NO. WE ---

14 MR. ARIAIL: DO I GET FIVE MORE IF HE GETS TEN
15 MORE?

16 THE COURT: I'LL LISTEN TO YOUR MOTION.

17 MR. MAUDLIN: THAT'S RIGHT. WE WOULD ASK FOR AN
18 ADDITIONAL GROUP OF TEN PEREMPTORY CHALLENGES. WE WOULD
19 HOPE THAT THE COURT WOULD GRANT THAT MOTION TODAY BASED UPON
20 YOUR AWARENESS AND KNOWLEDGE OF THE ISSUES IN THE CASE AND
21 THE NATURE OF THE CASE. IF YOU ARE NOT SO INCLINED, THEN WE
22 CERTAINLY WOULD HOPE THAT YOU WOULD HOLD OUR REQUEST IN
23 ABEYANCE UNTIL WE GO THROUGH THE PROCESS THAT ---

24 THE COURT: WELL, TELL ME A LEGAL BASIS FOR DOING
25 THAT.

STATE v. CHARLES CHRISTOPHER WILLIAMS 2004-GS-23-1743, 1746
PRETRIAL MOTIONS HEARING (1/13/05)

1 MR. MAUDLIN: WELL, I THINK DUE PROCESS
2 ESSENTIALLY WOULD BE A LEGAL BASIS.

3 THE COURT: WELL, WE GOT A STATUTE THAT LAYS OUT
4 THE PEREMPTORY CHARGES. HOW CAN I OBSERT (PHONICS) THAT
5 STATUTE AND GIVE YOU ADDITIONAL CHARGES -- ADDITIONAL
6 CHALLENGES? EXCUSE ME.

7 MR. MAUDLIN: I THINK IF THE NUMBER OF PEREMPTORY
8 CHALLENGES BY THE STATUTE, AND IN THE OPINION OF THE COURT,
9 PREVENTS A CAPITAL CLIENT FROM RECEIVING A FAIR TRIAL, YOU
10 DO, IN FACT, HAVE THE AUTHORITY TO GRANT ADDITIONAL
11 PEREMPTORY CHALLENGES. SO THAT MAY BE SOMETHING YOU'RE
12 GOING TO HAVE TO HOLD IN ABEYANCE UNTIL YOU HEAR WHETHER THE
13 NEED IS THERE. WE'RE ASKING FOR THEM NOW.

14 THE COURT: OKAY.

15 SOLICITOR, WHAT'S YOUR POSITION?

16 MR. ARIAIL: I BELIEVE OURS IS THE SAME AS WE
17 REPRESENTED IN OUR RESPONSE. THE LAW IS CLEAR. NEVER HAD
18 THAT SITUATION GRANTED, AND I DON'T KNOW ANY LEGAL BASIS TO
19 GRANT IT. IN FACT, IF WE'RE TALKING ABOUT DUE PROCESS, THE
20 LAW SHOULD BE THAT WE OUGHT TO HAVE AN EQUAL AMOUNT OF
21 STRIKES AS THEY DO. BUT THAT'S WHERE -- WE'RE STARTING FROM
22 A BACKWARDS POSITION. WE GOT HALF AS MANY STRIKES AS THEY
23 DO.

24 THE COURT: WHEN DID THE STATE START HAVING A
25 DENIAL OF DUE PROCESS TO THE STATE?

1 MR. ARIAIL: WE'RE ALREADY DENIED DUE PROCESS.

2 THE COURT: ALL RIGHT.

3 MR. MAULDIN, BASED ON THE STATUTE, I'M GOING TO DENY
4 YOUR MOTION.

5 MR. MAUDLIN: YES, SIR. YOUR HONOR, LET ME MAKE
6 SURE MY BOOKS ARE RIGHT, SO TO SPEAK. WITH REGARD TO OUR
7 MOTION CONCERNING A REASONABLE TRIAL SCHEDULE, I BELIEVE AT
8 THE BENCH YOU DID MENTION ---

9 THE COURT: I MENTIONED AT THE BENCH FOR PLANNING
10 PURPOSES, WE'LL START AT NINE THIRTY AND WE'LL RUN TILL SIX
11 THIRTY WHEN WE'RE DRAWING THE JURY. NOW, IF WE'VE GOT A
12 PANEL IN THERE WE HAVEN'T FINISHED, IF WE'VE GOT TO GO TO
13 SEVEN, WE WILL. BUT I'M GOING TO SHOOT TO QUIT AT SIX
14 THIRTY WITH THE JURY SELECTION. IN THE TRIAL WE'LL RUN FROM
15 NINE THIRTY TILL FIVE THIRTY.

16 MR. MAUDLIN: THANK YOU, YOUR HONOR.

17 THE COURT: THAT DOESN'T MEAN WE MIGHT NOT QUIT AT
18 FIVE ONE DAY AND SIX THE NEXT. BUT WHATEVER A REASONABLE
19 STOPPING PERIOD AS CLOSE TO FIVE THIRTY AS POSSIBLE, OKAY?

20 MR. MAUDLIN: YES, SIR.

21 YOUR HONOR, THE NEXT MOTION IS OUR MOTION THAT YOU TAKE
22 INTO CONSIDERATION OUR REQUEST THAT WE BE ALLOWED TO PROVIDE
23 FOR THE JURY EVIDENCE OF THE ACT OF ELECTROCUTION. THE
24 MOTION IS BEFORE YOU. IN THE STATE'S RESPONSE, THEY
25 ESSENTIALLY SAY THAT IT IS MOOT BECAUSE THE DEFENDANT WOULD

STATE v. CHARLES CHRISTOPHER WILLIAMS 2004-GS-23-1745, 1746
PRETRIAL MOTIONS HEARING (1/13/05)

1 HAVE TO FIRST CHOOSE UNDER OUR STATUTE WHERE HE CHOOSES
2 EITHER ELECTROCUTION OR LETHAL INJECTION IN THE EVENT OF A
3 SENTENCE OF DEATH. AND UNDER THOSE CIRCUMSTANCES, IF THAT'S
4 GOING TO BE THEIR POSITION, THEN WE'RE GOING TO ASSUME THAT
5 THE COURT IS NOT GOING TO DENY OUR MOTION AND ALLOW US TO DO
6 IT. I MEAN, THAT WOULD BE AN UNWORKABLE ARRANGEMENT THAT
7 THEY'RE SUGGESTING. BECAUSE WHAT WOULD HAPPEN IF THE
8 DEFENDANT SAID, WELL, OKAY, I'LL CHOOSE ELECTROCUTION, BRING
9 IN THE EVIDENCE OF ELECTROCUTION, THE JURY SENTENCES HIM TO
10 DEATH AND HE THEN CHANGES HIS MIND? I MEAN, THAT'S JUST
11 ABSOLUTELY CHAOS. THAT'S CRAZY.

12 SO WHAT WE'RE SUGGESTING IS RELATIVELY SIMPLE. WE BE
13 ALLOWED TO BRING IN TESTIMONY AND EXHIBITS AND EVIDENCE
14 REGARDING STATE'S EXECUTION OF DEFENDANTS BY ELECTROCUTION.
15 IF THEY WANT TO OBJECT, AND THEY'RE OBJECTING TO IT SAYING
16 IT OUGHT TO BE DENIED. BUT THAT'S THE MOTION. AND WE DON'T
17 THINK THERE'S ANYTHING MOOT ABOUT IT OR NOT RIGHT ABOUT IT.
18 EVERY MOTION IN A CAPITAL CASE THAT RELATES TO A PENALTY IS
19 ALWAYS TAKING SOMETHING FOR -- OR MAKING AN ASSUMPTION THAT
20 WE'RE DEALING WITH A CONVICTION AT TRIAL PHASE.

21 SO OUR MOTION IS THAT WE BE ALLOWED TO PREPARE
22 TESTIMONY AND EVIDENCE IN THAT REGARD.

23 THE COURT: WELL, AS THE STATE SAYS, THAT'S THE
24 DEFENDANT'S CHOICE ASSUMING HE'S CONVICTED TO CHOOSE
25 ELECTROCUTION OR INJECTION. I MEAN, HE MAKES THAT CHOICE

1 LATER ON DOWN THE ROAD.

2 MR. MAUDLIN: WELL, I MEAN, ARE THEY GOING TO LET
3 US BRING IN EVIDENCE OF BOTH? WE'LL BRING IN EVIDENCE OF
4 BOTH. WE'RE PREPARED TO DO THAT.

5 THE COURT: WHAT'S THE STATE'S POSITION ON BOTH?
6 I DON'T KNOW WHY HE WOULD LIMIT IT TO JUST ONE IF HE'S GOING
7 TO DO IT.

8 MR. ARIAIL: THE STATE'S POSITION IS THAT THE
9 METHOD THAT THE STATE HAS ELECTED -- THAT IS, THE
10 LEGISLATURE HAS ELECTED TO IMPOSE THE PENALTY OF DEATH ONCE
11 A JURY DECIDES TO DO IT IS NOT A RELEVANT CONSIDERATION FOR
12 A JURY. A JURY'S CONSIDERATION IS UNDER THE FACTS OF THIS
13 CASE AND THE CIRCUMSTANCES OF THE CRIME, BASED ON THE
14 CHARACTERISTICS OF THE DEFENDANT AND HIS BACKGROUND OR
15 WHATEVER, DOES THIS DEFENDANT DESERVE TO DIE?

16 THE MANNER -- YOU CAN SEE THROUGH THIS. THIS IS NOT
17 SOMETHING -- THIS IS SOMETHING TO ATTEMPT TO INTIMIDATE THE
18 JURY. THAT'S ALL THEY WANT TO DO. THEY WANT TO INTIMIDATE
19 THE JURY BY SHOWING THEM THE WORST OF THE WORST. AND THEN
20 WHAT WE'VE GOT -- THAT'S GOING TO REQUIRE US, IF YOU ALLOW
21 THIS, THAT WE WOULD THEN HAVE TO GO AND FIND CASES OF
22 ELECTROCUTION WHERE THEY WERE SUCCESSFUL AND THAT SORT OF
23 THING. AND NONE OF THAT IS RELEVANT FOR THIS JURY TO EVEN
24 TALK ABOUT BECAUSE THE STATE LEGISLATURE MADE THAT DECISION.

25 AND SO IT'S NOT SOMETHING -- WHAT YOU WOULD BE DOING

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1 WOULD BE ALLOWING A JURY TO OVERRIDE THE DECISION OF THE
2 STATE LEGISLATURE AS TO HOW A DEATH SENTENCE SHOULD BE
3 CARRIED OUT. BECAUSE WHAT THEY WOULD DO IS PRESENT EVIDENCE
4 TO SAY BECAUSE THE STATE LEGISLATURE HAS CHOSEN THIS MANNER
5 TO DO IT, THEN WE'RE GOING TO LET YOU SEE THAT SO YOU CAN
6 DECIDE THE STATE LEGISLATURE MADE A MISTAKE AND THEY
7 SHOULDN'T HAVE DONE THAT. SO THEREFORE, YOU CAN OVERRIDE
8 THAT.

9 BECAUSE THEY WOULD BE -- I MEAN, THIS IS JUST
10 PREPOSTEROUS WHEN YOU THINK ABOUT IT. I MEAN, THEY WOULD BE
11 DEBATING ABOUT WHETHER ELECTROCUTION IS APPROPRIATE AND HE'S
12 NOT EVEN THINKING ABOUT ELECTROCUTION. HE'S GOING TO CHOOSE
13 LETHAL INJECTION. SO WE JUST HAVE ALL THESE ISSUES RUNNING
14 THROUGH THE CASE THAT I THINK WOULD BE NOT APPROPRIATE FOR A
15 JURY TO DECIDE.

16 A JURY IS SUPPOSED TO DECIDE WHETHER THE FACTS IN THIS
17 CASE, BASED ON THIS DEFENDANT'S BEHAVIOR AND BACKGROUND, IS
18 THIS APPROPRIATE. IS IT APPROPRIATE TO OPPOSE A SENTENCE OF
19 DEATH REGARDLESS OF HOW IT'S CARRIED OUT? IS IT
20 APPROPRIATE? AND THAT'S WHAT THIS IS ABOUT.

21 THE COURT: ALL RIGHT.

22 MR. MAULDIN, VERY BRIEFLY IN REBUTTAL?

23 MR. MAUDLIN: NOTHING FURTHER, YOUR HONOR.

24 THE COURT: OKAY. I AM GOING TO DENY YOUR MOTION
25 ON THIS.

1 MR. MAUDLIN: YOUR HONOR, THE NEXT MOTION IS THE
2 MOTION FOR CHANGE OF VENUE. AND I GUESS I DO WANT TO BE
3 SENSIBLE AND PRACTICAL ABOUT THAT MOTION. THIS CASE IS A
4 HIGHLY PUBLICIZED, VERY WELL-KNOWN CASE. AND I -- WE PUT
5 THAT MOTION BEFORE YOU IN THE EVENT ---

6 THE COURT: ALL RIGHT. LET ME JUST -- I DON'T
7 MEAN TO CUT YOU OFF, OKAY? I'LL TAKE THAT UNDER ADVISEMENT.
8 I DON'T THINK THERE'S ANY WAY YOU CAN EVEN MAKE A DECISION
9 ON THAT UNTIL YOU'VE GONE THROUGH THE VOIR DIRE WITH THE
10 JURY TO SEE WHO'S BEEN PREJUDICED BY THE PUBLICITY OR NOT
11 BEEN PREJUDICED. IF YOU GET TO THE POINT WHERE YOU CAN'T
12 DRAW A JURY EFFECTIVELY, THEN I THINK YOU NEED TO CONSIDER A
13 CHANGE OF VENUE AT THAT POINT IN TIME. BUT UNTIL WE GET TO
14 THAT STAGE, I DON'T THINK THERE'S ANY WAY THIS COURT CAN
15 RULE ON THAT MOTION. I'LL TAKE IT UNDER ADVISEMENT.

16 MR. MAUDLIN: ALL RIGHT, SIR.

17 YOUR HONOR, NUMBER SEVEN HAS ALREADY BEEN TAKEN CARE OF
18 OFF THAT LIST. AND I APOLOGIZE FOR THAT DUPLICATION.

19 YOUR HONOR, WITH REGARD TO MOTION NUMBER SEVEN, SO
20 THERE WILL BE CLARITY ON THE RECORD ...

21 THE COURT: OKAY.

22 MR. MAUDLIN: ... THE SUMMONS THAT WENT TO THE
23 JURORS DID NOT INCLUDE THE STANDARD UNIFORM HANDBOOK
24 PAMPHLET.

25 THE COURT: UH-HUH (AFFIRMATIVE).

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1 MR. MAUDLIN: SO TO THAT EXTENT, IT HAS BEEN
2 INEFFECTUAL.

3 THE COURT: OKAY.

4 MR. MAUDLIN: THE SECOND STEP, HOWEVER, WOULD BE
5 THAT THE CLERK OF COURT BE INSTRUCTED NOT TO SHOW TO THIS
6 JURY PANEL ANY VIDEO, AUDIO, OR ANY ---

7 THE COURT: WELL, I DON'T THINK THE STATE HAS ANY
8 OBJECTION TO THAT, RIGHT?

9 MR. ARIAIL: NO. AND WE JOIN IN THAT MOTION. NOT
10 ONLY THE VIDEO OR AUDIO, BUT TALKING TO THEM. THEY SHOULD
11 NOT BE ---

12 THE COURT: I THINK THAT MOTION IS LATER ON ABOUT
13 TALKING TO THEM.

14 MR. ARIAIL: RIGHT. I'M TALKING ABOUT WHEN WE
15 HAVE THAT ---

16 THE COURT: YOU'RE TALKING THE CLERK TALKING TO
17 THEM?

18 MR. ARIAIL: YES, IN THE BEGINNING. THAT'S WHERE
19 WE RAN INTO A PROBLEM IN ONE OF THESE CASES.

20 THE COURT: OKAY. ALL RIGHT. I GOT YOU. NO
21 PROBLEM. MOTION GRANTED.

22 MR. MAUDLIN: ALL RIGHT. THANK YOU, JUDGE.

23 THE COURT: NOW, IF YOU WOULD, PLEASE REMIND ME TO
24 INSTRUCT THE CLERK AT SOME POINT IN TIME NOT TO SHOW THE
25 VIDEO AND NOBODY IS GOING TO SPEAK TO THE JURORS BEFORE WE

1 START THE VOIR DIRE, OKAY?

2 MR. MAUDLIN: RIGHT. RIGHT.

3 MR. ARIAIL: HE JUST MAKES PRELIMINARY REMARKS.

4 AND HE'S VERY GOOD ABOUT IT. HE'S VERY GOOD ABOUT IT.

5 THE COURT: WELL, I WON'T EVEN LET HIM MAKE
6 PRELIMINARY REMARKS, OKAY?

7 MR. MAUDLIN: THAT'S RIGHT.

8 THE COURT: UNLESS YOU WANT TO WRITE IT OUT FOR
9 HIM OR AGREE ON WHAT HE'S GOING TO SAY. I'LL LET HIM DO IT
10 THAT WAY IF THE TWO OF Y'ALL AGREE.

11 MR. ARIAIL: I THINK HE'S PRETTY WELL
12 INDOCTRINATED.

13 THE COURT: OKAY.

14 WHAT'S YOUR NEXT ONE? I'M SORRY.

15 MS. PIERCE: GOOD MORNING, YOUR HONOR.

16 HIS NEXT MOTION IS OUR MOTION TO PREVENT DEATH
17 QUALIFICATION OF JURORS. AND WE'RE ASKING THE COURT TO
18 EMPANEL TWO DIFFERENT JURIES IN THIS CASE, ONE FOR THE TRIAL
19 PORTION AND ONE FOR THE SENTENCING PORTION.

20 THIS MOTION IS FILED IN CONJUNCTION WITH ANOTHER MOTION
21 WE CURRENTLY HAVE PENDING IN FRONT OF THE COURT REGARDING
22 THE CONSTITUTIONALITY OF THE CAPITAL JURY SYSTEM. THE
23 MOTION REGARDING THE REQUIREMENT THAT A DEFENDANT PLEAD
24 GUILTY -- THAT IF A DEFENDANT PLEADS GUILTY, HE MUST BE
25 SENTENCED BY A JUDGE RATHER THAN A JURY. WE THINK THIS

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1 MOTION IS IMPORTANT BECAUSE IN ORDER TO EMPANEL A JURY IN A
2 CAPITAL CASE UNDER THE CURRENT SYSTEM, A JUROR HAS TO BE
3 DEATH PENALTY QUALIFIED. AND IT'S BEEN OUR EXPERIENCE THAT
4 DEATH PENALTY QUALIFIED JURORS TEND TOWARDS GUILT IN THE
5 TRIAL PHASE. SO WE WERE HOPING TO HAVE ONE JURY FOR THE
6 TRIAL PHASE THAT WOULDN'T INVOLVE GOING THROUGH THE DEATH
7 QUALIFICATION PROCESS AND THEN HAVE A SEPARATE JURY FOR THE
8 SENTENCING.

9 THE COURT: WHY DO YOU THINK THAT WOULD BE
10 NECESSARY?

11 MS. PIERCE: I THINK IT WOULD HELP MR. WILLIAMS
12 HAVE AN OPPORTUNITY TO HAVE A FAIR TRIAL DURING THE TRIAL
13 PHASE, DURING THE INNOCENCE OR GUILT PHASE BY NOT LIMITING
14 THE JURY TO DEATH QUALIFIED JURORS.

15 THE COURT: WELL, FROM A PRACTICAL PROCEDURAL
16 STANDPOINT, HOW DO YOU ENVISION THIS PROCESS WOULD WORK?

17 MS. PIERCE: WE WOULD GO AHEAD AND CALL ONE JURY
18 AND QUESTION THEM DURING VOIR DIRE, BUT THERE'S NO ---

19 THE COURT: ARE YOU TALKING ABOUT BRINGING IN A
20 WHOLE NEW PANEL OR ARE YOU TALKING ABOUT PICKING TWO JURIES
21 FROM THE PANEL WE HAVE COMING IN, ONE FOR THE PENALTY --
22 EXCUSE ME. ONE FOR THE GUILT PHASE AND ONE FOR THE PENALTY
23 PHASE?

24 MS. PIERCE: WE COULD DO IT THAT WAY. THAT WAY
25 WOULD BE FINE, YOUR HONOR. BRINGING IN ONE PANEL AND

1 IDENTIFYING THEM AS EITHER ---

2 THE COURT: WHY DO YOU THINK IT'S DENIAL OF DUE
3 PROCESS TO DO IT -- I ASSUME YOU'RE MAKING A DUE PROCESS
4 ARGUMENT -- TO DO IT THE WAY WE DO IT NOW IN SOUTH CAROLINA?

5 MS. PIERCE: WELL, I THINK IT'S BECAUSE OF THE
6 PROPENSITY OF THE DEATH QUALIFIED JURORS -- THE PEOPLE WHO
7 QUALIFY TO GET THROUGH ON A JURY, THEY TEND TOWARD GUILT
8 MORE THAN THE AVERAGE JUROR..

9 THE COURT: WELL, ISN'T THAT THE PURPOSE OF THE
10 VOIR DIRE, FOR YOU TO DECIDE WHETHER THAT'S TRUE OR NOT?
11 UNLESS PEOPLE ARE JUST FLAT LYING TO YOU.

12 MS. PIERCE: WELL, WE DON'T EXPECT THEY'LL BE FLAT
13 LYING TO US.

14 THE COURT: WELL, THAT HAPPENS. I MEAN, YOU KNOW,
15 SOME PEOPLE ARE GOING TO LIE TO GET ON; SOME PEOPLE ARE
16 GOING TO LIE TO GET OFF.

17 MS. PIERCE: WELL, I'M SURE THAT'S A REALITY. BUT
18 WE'RE OF THE OPINION THAT IF HE COULD HAVE -- IT WILL CHANGE
19 POTENTIALLY THE MAKEUP OF THE JURY DURING THE GUILT PHASE.
20 IT WILL BROADEN THE AMOUNT OF PEOPLE WHO CAN BE ON THAT
21 JURY. AND IT'S BEEN OUR EXPERIENCE THAT IN CAPITAL CASES IN
22 ORDER TO QUALIFY FOR A CAPITAL JURY, THOSE PEOPLE TEND TO BE
23 REAL LAW-AND-ORDER TYPES. REAL STRICT. AND TEND TO TEND
24 TOWARD GUILT. AND WE WANT AN OPEN-MINDED JURY TO DETERMINE
25 WHETHER WE EVEN NEED TO GET TO THE SENTENCING PHASE.

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1 THE COURT: WHAT'S THE SOLICITOR'S POSITION? I
2 KNOW YOU'RE AGAINST IT, BUT LET ME HEAR YOUR ARGUMENT.

3 MR. ARIAIL: WELL, I'LL BE HONEST WITH YOU. I
4 WOULD LOVE TO CONSIDER THIS BECAUSE I THINK THEY DON'T
5 UNDERSTAND THE PRACTICALITY OF WHAT REALLY HAPPENS IN A
6 DEATH PENALTY CASE. I'M CONVINCED THAT IF WE HAD A JURY TO
7 BEGIN WITH THAT DIDN'T KNOW ANYTHING ABOUT THE DEATH PENALTY
8 THAT WE WOULD HAVE A MUCH BETTER SYSTEM OF JURORS GIVING THE
9 DEATH PENALTY BECAUSE I THINK THEY AGONIZE. OUR HISTORICAL
10 STUDIES SHOW THAT THEY AGONIZE SO MUCH DURING THE GUILT
11 PHASE OVER THE PENALTY PHASE.

12 SO I'D LIKE TO CONSENT TO THAT. BUT PRACTICALLY
13 SPEAKING, IT CAN'T WORK. AND LEGALLY SPEAKING, THE SUPREME
14 COURT SAID IT'S NOT APPROPRIATE.

15 SECONDLY, THERE'S TOO MANY INSTANCES OF DEATH QUALIFIED
16 JURIES THAT HAVE NOT EVEN CONVICTED A DEFENDANT OF MURDER.
17 AND SECONDLY, THE ONES WHO HAVE BEEN CONVICTED, THEY HAVE
18 NOT GIVEN THE DEATH SENTENCE. I'VE HAD TWO OF THOSE MYSELF.
19 OUT OF EIGHT CASES, I'VE HAD TWO THAT DID NOT GIVE THE DEATH
20 PENALTY EVEN THOUGH THEY WERE DEATH QUALIFIED. SO
21 OBVIOUSLY, THE ARGUMENT THAT A JURY CANNOT BE FAIR DOESN'T
22 HOLD UP IN A PRACTICAL ANALYSIS.

23 AND LASTLY, THE PRACTICAL IMPACT OF TRYING TO SEPARATE
24 THE JURY CREATES IN ESSENCE TWO FULL TRIALS BECAUSE, AS YOUR
25 HONOR KNOWS, WHAT WE PRESENT TO THE JURY IN THE GUILT PHASE

1 WOULD HAVE TO BE PRESENTED IN TOTO AGAIN.

2 THE COURT: IT WOULD TAKE TWICE AS LONG TO TRY IT.

3 MR. ARIAIL: SO I THINK IT'S, ONE, FROM JUDICIAL
4 ECONOMY IT'S NOT WORKABLE. NUMBER TWO, I THINK THE SUPREME
5 COURT HAS SAID LEGALLY IT'S NOT ERROR FOR A COURT TO DENY
6 THAT. AND THREE, I JUST THINK FROM A PRACTICAL STANDPOINT -
7 --

8 THE COURT: IT SAID IT'S NOT ERROR TO DENY IT. IT
9 DIDN'T SAY YOU COULDN'T DO IT IF YOU WANTED TO DO IT. IT'S
10 ALMOST LIKE A BIFURCATED CIVIL TRIAL IS WHAT IT AMOUNTS TO.

11 MR. ARIAIL: RIGHT. AND WE WOULD END UP -- BUT
12 FROM A PRACTICAL STANDPOINT, THE ACTUAL SEPARATION IS NOT BY
13 EXPERIENCE AND HISTORY IS NOT NECESSARY BECAUSE OF THE FACT
14 THAT THESE JURIES ARE CAPABLE BECAUSE THEY ARE DEATH
15 QUALIFIED. THEY ARE CAPABLE OF RENDERING A GUILT VERDICT
16 AND NOT RENDERING A DEATH VERDICT.

17 THE COURT: THE ONLY WAY YOU CAN PRACTICALLY DO IT.
18 FROM WHAT YOU WANT TO DO IS JUST DRAW A STRAIGHT JURY FOR A
19 CRIMINAL CASE AND NOT EVEN MENTION THE CAPITAL CASE AND THEN
20 TURN AROUND AND DRAW ANOTHER JURY FOR THE GUILT PHASE. THAT
21 WAY YOU DON'T HAVE TO HAVE THE ARGUMENT WHEN YOU'RE GOING
22 THROUGH VOIR DIRE WITH THE JURY TO -- WELL, WE'RE GOING TO
23 TALK TO YOU ABOUT THE DEATH PENALTY, BUT AT THE SAME TIME
24 WE'RE NOT CONCEDED HE'S GUILTY OF THE CRIME ITSELF. AND
25 THAT'S JUST SORT OF, YOU KNOW, A DOUBLE-EDGED SWORD FOR BOTH

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1 SIDES, BUT ESPECIALLY FROM THE DEFENSE SIDE.

2 BUT I'M GOING TO DENY YOUR MOTION.

3 MS. PIERCE: OKAY.

4 THE NEXT THING I WANT TO TALK TO YOU ABOUT, YOUR HONOR,
5 IS EXPANDING THE SCOPE OF VOIR DIRE. AS YOU KNOW THIS IS A
6 CAPITAL CASE, AND THERE'S A LOT OF KEY ISSUES.

7 THE COURT: WHICH NUMBER IS THAT ON THE LIST?

8 MS. PIERCE: OH, I'M SORRY. THAT'S NUMBER NINE.

9 THE COURT: NUMBER NINE? OKAY.

10 MS. PIERCE: AS YOU KNOW. THIS IS A CAPITAL CASE.
11 AND SELECTING THE JURY IS IMPORTANT, AS WE WERE SAYING
12 BEFORE. AND THERE ARE THREE KEY ISSUES THAT WE WANT TO
13 EXPAND THE DISCOVERY BEYOND -- OR EXPAND THE VOIR DIRE
14 DISCUSSION BEYOND WHAT'S BEEN HANDLED IN THE QUESTIONNAIRE
15 THAT'S BEEN SENT OUT.

16 THE UNITED STATES SUPREME COURT IN MORGAN MADE IT CLEAR
17 THAT THE GOAL IS TO EMPANEL AN IMPARTIAL JURY. AND GENERAL
18 QUESTIONS, SUCH AS THOSE THAT WERE SENT OUT TO THE JURY, ARE
19 NOT ENOUGH. YOU NEED TO GET DEEPER. YOU NEED TO ASK MORE
20 DIRECT QUESTIONS OF THE JURORS AS THEY COME IN.

21 THE QUESTIONNAIRE IS A GREAT START. IT WILL HELP LEAD
22 US TO FIGURE OUT WHAT OTHER QUESTIONS WE MAY NEED TO ASK,
23 BUT IT'S NOT ENOUGH. THE QUESTIONNAIRE DIDN'T TOUCH ON
24 RACIAL BIAS AT ALL. IT BARELY TOUCHED ON PRETRIAL PUBLICITY
25 ONLY IN THE COVER LETTER. AND IT CERTAINLY DOESN'T GET TO

1 THE HEART OF POTENTIAL BIAS ON THAT BASIS. THAT
2 QUESTIONNAIRE JUST DOESN'T REPLACE PROBING QUESTIONS.

3 THE COURT: TELL ME WHAT YOU SPECIFICALLY WANT TO
4 DO TO EXPAND IT.

5 MS. PIERCE: WE WANT TO ASK SOME QUESTIONS WITH
6 REGARD TO RACE DURING THE TRIAL. WE WANT TO ASK QUITE A FEW
7 QUESTIONS ---

8 THE COURT: WHEN YOU SAY DURING THE TRIAL, ARE YOU
9 TALKING ABOUT DURING THE VOIR DIRE OR DURING TRIAL?

10 MS. PIERCE: I'M SORRY. DURING THE VOIR DIRE. I
11 APOLOGIZE. DURING THE VOIR DIRE, YOUR HONOR.

12 THE COURT: WHAT DO YOU WANT TO ASK? HAVE YOU
13 EVEN THOUGHT THAT FAR AHEAD?

14 MS. PIERCE: I DON'T KNOW IF WE ---

15 MR. MAUDLIN: YOUR HONOR, WE COULD CERTAINLY GIVE
16 YOU EXAMPLES OF QUESTIONS THAT WE WOULD TRY TO DETERMINE
17 WHETHER -- RACE BIAS IS A VERY SENSITIVE AND DIFFICULT ISSUE
18 TO QUESTION. IT IS AN AREA THAT THE UNITED STATES SUPREME
19 COURT ESSENTIALLY SAYS ALMOST MUST BE INQUIRED WHEN YOU HAVE
20 A DIFFERENCE IN RACE OF THE DEFENDANT AND THE VICTIM, WHICH
21 IS CERTAINLY THE CASE HERE. I WILL BE GLAD, IF THE COURT
22 WANTED TO TAKE INTO CONSIDERATION OUR MOTION, TO GIVE YOU
23 THE TYPES OF QUESTIONS WHEN WE HAVE AN OPPORTUNITY.

24 THE COURT: WHY DON'T YOU DO THAT WHEN YOU HAVE AN
25 OPPORTUNITY TO DO IT AND RUN IT BY THE SOLICITOR, ALSO,

1 OKAY? BECAUSE I'M INCLINED TO ALLOW YOU TO DO THAT IN SOME
2 FASHION. I'M NOT SURE HOW.

3 AND SOLICITOR, I'LL BE GLAD TO HEAR YOU ON THAT POINT
4 AFTER THEY PROPOSE SOME TYPE OF QUESTIONS, BUT WE'RE NOT
5 GOING TO GET INTO ---

6 MR. ARIAIL: WELL, LET ME JUST ---

7 THE COURT: I MEAN, I THINK IN THIS CASE I'M GOING
8 TO ALLOW THEM TO DO THAT IN SOME FASHION, OKAY?

9 MR. ARIAIL: LET ME JUST TALK A LITTLE BIT BECAUSE
10 THE SUPREME COURT -- I THINK IT WAS THE SUPREME COURT. AND
11 I CAN'T REMEMBER THE CASE.

12 BETTY, YOU REMEMBER THIS.

13 JOHN HAS THIS PROPENSITY WHEN HE TALKS ABOUT RACE TO --
14 AND I DON'T REALLY HAVE A PROBLEM WITH DETERMINING RACE
15 BIAS. OBVIOUSLY, WE WANT TO DETERMINE THAT, ALSO, AS WELL
16 AS HE DOES. THE PROBLEM IS THAT HIS QUESTIONS WERE
17 SPECIFICALLY CITED BY THE SUPREME COURT AS BEING IMPROPER.
18 THEY USED A MUCH STRONGER TERM THAN THAT.

19 BUT ONE OF THE ONES HE THROWS OUT IS THIS. WHEN HE HAS
20 -- TYPICALLY WHEN HE HAS A BLACK JUROR ON THE WITNESS STAND
21 AND HE'S TRYING TO GET THAT JUROR QUALIFIED, HIS QUESTIONS
22 GO LIKE THIS. NUMBER ONE, DON'T YOU THINK THAT AN
23 INDIVIDUAL ON TRIAL FOR HIS LIFE HAS THE RIGHT TO HAVE A
24 JURY COMPOSED OF HIS PEERS? YES. AND DON'T YOU THINK THAT
25 THE PEERS OF THE COMMUNITY SHOULD DEMOGRAPHICALLY REPRESENT

1 ALL SECTIONS OF THE COMMUNITY? OF COURSE. AND THEN HE SAYS
2 -- ASKS A FEW MORE FOLLOW-UP. WELL, THE SUPREME COURT SAID
3 THAT'S OBVIOUSLY PANDERING TO A JURY. TO HAVE THE WITNESS -
4 - OR JUROR -- CHANGE THEIR OPINION ABOUT THE DEATH PENALTY
5 SO THEY CAN GET ON THE JURY BECAUSE THEY FEEL IT'S THEIR
6 CIVIC DUTY TO BE REPRESENTATIVE OF THE COMMUNITY. AND THE
7 SUPREME COURT KNOCKED THAT DOWN.

8 AND THAT'S THE TYPE OF THING THAT I'M OPPOSED TO. I'M
9 NOT OPPOSED TO REAL QUESTIONS ABOUT RACIAL BIAS IF HE THINKS
10 -- IF WE THINK THERE'S SOME BASIS. BUT YOU KNOW, THAT'S A
11 VERY SENSITIVE AREA TO SLAM A BLACK OR WHITE JUROR RIGHT IN
12 THE FACE WHEN THEY WALK IN, YOU KNOW, WHETHER THEY'RE
13 RACIALLY BIASED. YOU KNOW, WE END UP WITH A BUNCH OF JURORS
14 THAT ARE MAD AT ALL OF US FOR THAT.

15 THE COURT: WELL, I'M GOING TO LET HIM COME UP
16 WITH SOME QUESTIONS ---

17 MR. ARIAIL: SURE.

18 THE COURT: --- THEN RUN THEM BY YOU, THEN I'LL
19 TAKE THAT UNDER ADVISEMENT.

20 MR. ARIAIL: AND I DON'T MIND DOING THAT AS LONG
21 AS IT JUST DOESN'T GET TO PANDERING OR PROFILING OR STAKING
22 OUT JURORS.

23 THE COURT: OKAY. ALL RIGHT. AND NOW YOU'RE
24 TALKING ABOUT PRETRIAL PUBLICITY?

25 MS. PIERCE: YES.

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1 THE COURT: WE'RE GOING TO ASK PRETRIAL PUBLICITY
2 QUESTIONS, OKAY?

3 MS. PIERCE: OKAY.

4 THE COURT: WHAT'S YOUR THIRD AREA YOU WANTED --
5 YOU SAID THERE WAS THREE AREAS YOU WANTED TO EXPAND ON.

6 MS. PIERCE: THERE'S PRETRIAL PUBLICITY, RACE AND
7 ALSO WE WANT TO ASK BROADER QUESTIONS WITH REGARD TO THEIR
8 OPINION OF THE DEATH PENALTY. WE WANT TO FIND OUT AND LOOK
9 FOR ANY POTENTIAL BIAS IN THAT AREA.

10 THE COURT: WELL, I DON'T HAVE ANY PROBLEM WITH
11 THAT, BUT WE'RE GOING TO HAVE TO DEAL WITH THAT ON AN
12 INDIVIDUAL QUESTION AT THE TIME.

13 MS. PIERCE: OKAY.

14 THE COURT: AND THE SOLICITOR WILL HAVE TO MAKE
15 HIS OBJECTION AND I'LL HAVE TO RULE ON IT.

16 MS. PIERCE: OKAY.

17 THE COURT: OKAY? AND YOU'LL JUST HAVE TO DO
18 THAT. I'LL HAVE TO MAKE A DECISION ON THE SPOT AT THE TIME.
19 I'D RATHER HANDLE THOSE QUESTIONS THAT WAY. THE SOLICITOR
20 MAY NOT HAVE AN OBJECTION TO WHAT YOU ASK. IF HE DOES, I'LL
21 RULE ON IT, OKAY?

22 MS. PIERCE: OKAY. THANK YOU.

23 MR. MAUDLIN: JUDGE, GOING DOWN THE LIST, WE'RE AT
24 NUMBER TEN. THIS IS A -- AND THIS MOTION RELATES TO THE
25 PRODUCTION OF INFORMATION REGARDING THESE JURORS IN

1 POSSESSION OF THE STATE. IT DATES WAY BACK WHERE SOLICITORS
2 PRIOR TO MR. ARIAIL TAKING OFFICE WOULD MAINTAIN JUROR
3 INFORMATION CARDS. AND THEY USE THEM, OBVIOUSLY, IN THEIR
4 NON-CAPITAL CASES JUST LIKE THEY DO THE CAPITAL CASES.

5 THE COURT: TELL ME WHAT YOU'RE TALKING ABOUT.

6 MR. MAUDLIN: INFORMATION WHERE THE JURORS HAVE
7 EITHER SERVED ON JURIES BEFORE AND FOUND GUILTY OR NOT
8 GUILTY. INFORMATION ---

9 THE COURT: THE SOLICITOR HAS SAVED OVER THE
10 YEARS? IS THAT WHAT YOU WANT FROM THE SOLICITOR?

11 MR. MAUDLIN: RIGHT.

12 MR. ARIAIL: WE DON'T HAVE THOSE. THAT WAS AN
13 ARCHAIC INDEX CARD SYSTEM THEY STARTED WITH BILLY WILKINS.
14 I DON'T EVEN KNOW IF IT EXISTED WHEN I GOT THERE, BUT I CAN
15 TELL YOU WE DON'T HAVE IT. WE DO KEEP ---

16 THE COURT: HE SAYS HE DOESN'T HAVE THEM. I CAN'T
17 ORDER HIM TO PRODUCE SOMETHING HE DOESN'T HAVE.

18 MR. ARIAIL: NO, I DON'T HAVE -- I WOULDN'T BE
19 USING ANYTHING -- I DON'T EVEN USE ANYTHING AT MY OFFICE --
20 LET ME SAY THIS. IF A JUROR WERE TO SAY, WE'VE SERVED ON A
21 PREVIOUS JURY IN THE LAST SIX MONTHS OR LAST THREE YEARS,
22 AND I HAVE A RECORD OF THAT -- I'M SURE I WOULD -- THEN I
23 COULD GO BACK AND CHECK. AND IF I DID THAT, I'D BE GLAD TO
24 SHARE THAT WITH THE COURT AND YOU CAN PASS IT ON TO HIM.

25 THE COURT: MR. MAULDIN, WHY CAN'T YOU JUST HANDLE

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1 THAT BY ASKING THE JUROR IF THEY SERVED ON A JURY IN
2 GREENVILLE COUNTY AND HANDLE IT THAT WAY?

3 MR. MAUDLIN: AND THAT CERTAINLY WOULD BE ---

4 THE COURT: I HAVE NO PROBLEM WITH YOU DOING THAT.

5 MR. MAUDLIN: IN FACT, I THINK THE QUESTIONNAIRE
6 TALKS ABOUT THAT KIND OF INFORMATION.

7 THE COURT: RIGHT.

8 MR. MAUDLIN: I ONLY USE THAT AS AN EXAMPLE OF THE
9 TYPE OF INFORMATION THAT WOULD HAVE BEEN MAINTAINED ON
10 JURORS IN THE PROSECUTOR'S OFFICE.

11 THE COURT: WELL, HE SAYS HE DOESN'T HAVE ANY.

12 MR. MAUDLIN: MR. ARIAIL SAYS HE DOESN'T HAVE
13 THEM.

14 THE COURT: IF HE HAS IT, HE'LL GIVE IT TO YOU.

15 MR. MAUDLIN: RIGHT. I JUST NEED TO GET IT ON THE
16 RECORD. AND A LOT OF THE THINGS I'M SAYING TODAY, JUDGE, AS
17 YOU CERTAINLY WOULD EXPECT, ARE FOR THE RECORD. BUT I
18 NEEDED TO GET ON THE RECORD THAT THEY DO NOT MAINTAIN SUCH
19 AN INFORMATION BASE ON JURORS.

20 MR. ARIAIL: AND I'LL -- WELL, WE DON'T MAINTAIN
21 AN INFORMATION BASE ABOUT JURORS. WHAT WE DO MAINTAIN IS
22 FOR -- WE DO MAINTAIN INFORMATION ABOUT JURORS AND SEEK
23 INFORMATION FROM JURORS AFTER THEIR SERVICE AS A TRAINING
24 PROCESS. WE SEEK THEIR CRITIQUES OF OUR PEOPLE WHO TRY
25 CASES IN COURT TO FIND OUT WHAT THEIR OPINIONS ARE. BUT

1 THOSE WOULD ONLY BE PEOPLE WHO HAVE SERVED. SO IF WE ASK A
2 PERSON HAVE THEY SERVED PREVIOUSLY ON A JURY IN THE EIGHT
3 YEARS I'VE BEEN SOLICITOR, WE PROBABLY WOULD HAVE SOME
4 INFORMATION THAT I'LL BE GLAD TO SHARE WITH THE COURT.

5 MR. MAUDLIN: AND I'LL BE REAL SPECIFIC. IF THEY
6 HAVE A JUROR WHO HAS SERVED AND WHO HAS RESPONDED TO THEIR -
7 --

8 THE COURT: YEAH. HE SAYS HE'LL PRODUCE IT FOR
9 YOU.

10 MR. MAUDLIN: AND THEY'LL PROVIDE IT TO US, THAT'S
11 FINE.

12 THE COURT: YEAH.

13 MR. MAUDLIN: THANK YOU, JUDGE.

14 YOUR HONOR, THE NEXT MOTION IS THE REQUEST THAT JURORS
15 NOT LOCATED -- AND THE STATE DOES NOT OBJECT TO THIS. BUT I
16 WANT TO MAKE SURE THAT WE GET AN ORDER FROM YOU. THIS IS A
17 MOTION THAT THE NAMES OF THE JURORS WHO HAVE NOT BEEN
18 LOCATED -- SEE, WHAT HAPPENS IS WE SEND OUT THESE SUBPOENAS,
19 AND WE GET BACK -- LIKE WE SEND OUT FOUR HUNDRED SUBPOENAS,
20 AND WE GET TWO HUNDRED AND FIFTY OR THREE HUNDRED
21 QUESTIONNAIRES BACK OR REQUESTS TO BE EXCUSED. WHO KNOWS
22 WHAT HAPPENED TO THE OTHER HUNDRED?

23 SO I'M ASKING THAT THE GREENVILLE COUNTY SHERIFF'S
24 DEPARTMENT IN CONJUNCTION WITH THE NEXT MOTION -- WHICH IS
25 FOR PERSONAL SERVICE ON UNRESPONSIVE JURORS -- THAT THE

1 GREENVILLE COUNTY SHERIFF'S DEPARTMENT BE ORDERED BY YOU TO,
2 ON ANY JUROR WHO DID NOT ---

3 THE COURT: WHY THE SHERIFF'S DEPARTMENT? THE
4 CLERK WILL HAVE THAT INFORMATION READILY AVAILABLE. I MEAN,
5 THE CLERK IS GOING TO HAVE IT.

6 MR. MAUDLIN: THE CLERK WILL HAVE THE INFORMATION
7 AVAILABLE AS TO WHO DID NOT RESPOND.

8 THE COURT: RIGHT.

9 MR. MAUDLIN: WE'RE ASKING THAT THE FOLLOW-UP BE
10 THAT PERSONAL SERVICE OF THOSE SUBPOENAS, JUST LIKE YOU'D
11 SERVE A SUBPOENA FOR A WITNESS, BE ATTEMPTED BY THE
12 GREENVILLE COUNTY SHERIFF'S DEPARTMENT. AND I'LL BE GLAD TO
13 ELABORATE, JUDGE, ON THE WHY.

14 THE COURT: ALL RIGHT. TELL ME SPECIFICALLY WHAT
15 YOU WANT. YOU WANT THE SHERIFF TO GO SUBPOENA THEM TO COME
16 TO COURT WITH ACTUAL SUBPOENAS? IS THAT WHAT YOU WANT?

17 MR. MAUDLIN: SUBPOENA THEM WITH THEIR JURY
18 SERVICE.

19 THE COURT: THE ONES THAT HAVEN'T RESPONDED? IS
20 THAT WHAT YOU WANT?

21 MR. MAUDLIN: THE JURORS WHO HAVE BEEN
22 UNRESPONSIVE, YES, SIR.

23 THE COURT: SOLICITOR, WHAT'S YOUR POSITION?

24 MR. ARIAIL: WE HAVE NO OBJECTION.

25 THE COURT: THAT'S FINE. BUT WHAT I DON'T

1 UNDERSTAND, WHAT DO YOU WANT ON THE MOTION TO PRODUCE NAMES
2 OF JURORS NOT LOCATED? THE CLERK WILL HAVE THAT WHEN WE GO
3 DOWN THE LIST. AND WE'LL PUT ALL THAT ON THE RECORD, NAMES
4 AND ADDRESSES IF YOU WANT TO.

5 MR. MAUDLIN: THAT'S CORRECT. THAT'S CORRECT.
6 AND YOU CAN'T -- THE TWO MOTIONS ARE KIND OF ---

7 THE COURT: TOGETHER?

8 MR. MAUDLIN: --- HAND-IN-HAND. THAT'S RIGHT.
9 THE NEED IS TO HAVE JURORS WHO HAVE NOT ---

10 THE COURT: WHY DO YOU WANT THIS?

11 MR. MAUDLIN: YOU WANT ME TO ---

12 THE COURT: YEAH.

13 MR. MAUDLIN: ARE YOU GOING TO GIVE IT TO ME,
14 JUDGE?

15 THE COURT: YEAH, I'M GOING TO GIVE IT TO YOU. I
16 WANT TO KNOW WHY YOU WANT IT.

17 MR. MAUDLIN: ALL RIGHT. THE REASON WE WANT IT IS
18 THIS. HISTORICALLY JURORS WHO ARE NOT RESPONSIVE ARE JURORS
19 WHO HAVE MOVED OR HAVE -- THEIR MAIL HAS BEEN -- THEY'VE
20 BEEN UNABLE TO DELIVER THEIR MAIL. AND A LOT OF THESE
21 JURORS REPRESENT MINORITY CLASSES IN OUR COMMUNITY. THEY
22 REPRESENT THE LOWER INCOME CLASSES IN OUR COMMUNITY. AND
23 THOSE PEOPLE NEED TO BE PARTICIPATING IN JURY SERVICE IN
24 CASES.

25 IN OTHER WORDS, WHAT YOU DO IS YOU SEND OUT A HUNDRED

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1 SUBPOENAS. YOU GET SEVENTY-FIVE OF THEM PROCESSED ON THE
2 WHITE MIDDLE AND UPPER CLASS. WELL, THE BLACK MIDDLE AND
3 LOWER CLASS DON'T EVER GET THE SUBPOENAS, SO THEY NEVER KNOW
4 THEY WERE SUPPOSED TO BE AT THE COURTHOUSE. SO WE'RE
5 SAYING, LET'S GO FIND THEM, SERVE THEM AND BRING THEM TO
6 COURT.

7 THE COURT: WE'LL DO THAT. THAT'S NO PROBLEM.

8 MR. MAUDLIN: THANK YOU, JUDGE.

9 THE COURT: OKAY.

10 MR. ARIAIL: I ALSO INTONE THERE THE PROBLEM I
11 DOUBT -- I WOULD DISPUTE THAT IT'S THE LOWER CLASS IN
12 GREENVILLE COUNTY WHO'S NOT -- I DON'T KNOW WHAT CLASS IT
13 IS, BUT I GUARANTEE YOU THE MAJORITY ARE PEOPLE WHO WORK FOR
14 COMPANIES, HIGH-TECH COMPANIES THAT ARE MOVING THEIR ---

15 THE COURT: I HAVE FOUND THAT TO BE VERY TRUE.
16 THE PEOPLE THAT YOU WOULD EXPECT TO WANT TO SERVE ARE THE
17 ONES WHO DON'T WANT TO SERVE. I GET PHONE -- YOU GET PHONE
18 CALLS FROM THOSE TYPE OF PEOPLE. I FOUND JUST THE OPPOSITE,
19 MR. MAULDIN, ON PEOPLE TRYING TO GET OUT OF IT.

20 MR. MAUDLIN: WELL, I THINK ---

21 THE COURT: NOW, I UNDERSTAND ABOUT YOUR POINT
22 THAT THE ONES YOU'RE SPEAKING OF HAVEN'T BEEN LOCATED. THEY
23 DON'T EVEN KNOW ABOUT IT. I UNDERSTAND THAT.

24 MR. MAUDLIN: THEY DON'T EVEN KNOW THEY'RE BEING

25 ---

1 THE COURT: I UNDERSTAND THAT. BUT THAT
2 PARTICULAR GROUP GENERALLY COMES TO COURT AND WANTS TO
3 PARTICIPATE. OKAY?

4 MR. MAUDLIN: THEY DON'T COME TO COURT IF THEY
5 NEVER GET THE SUBPOENA.

6 THE COURT: I UNDERSTAND. WE WILL DO THAT, OKAY?

7 MR. MAUDLIN: YES, SIR.

8 THE COURT: WHAT'S NEXT?

9 MR. MAUDLIN: YOUR HONOR, NUMBER THIRTEEN ON THE
10 LIST REGARDS THE -- AND IF I COULD USE THIS TERM -- THE
11 RELATIONSHIP BETWEEN A POTENTIAL JUROR AND THE SOLICITOR. I
12 BELIEVE I CAN JUST CONFIRM THAT WE ARE IN AGREEMENT THAT IT
13 APPLY MUTUALLY TO BOTH SIDES. WE DON'T HAVE ANY PROBLEM
14 WITH IT BEING MUTUAL TO BOTH SIDES.

15 THE COURT: WELL, I THINK THE QUESTION HERE
16 COVERED THAT. YOU CAN EXPLORE IT IF THEY ANSWER THE
17 QUESTION YES OR NO, IF I REMEMBER CORRECTLY.

18 MR. MAUDLIN: AND I DON'T -- WE DON'T HAVE ANY
19 PROBLEM WITH ---

20 THE COURT: AND I'LL GRANT THAT MOTION. BUT WHY
21 CAN'T YOU COVER THAT IN VOIR DIRE?

22 MR. MAUDLIN: AND IT WOULD BE. IT WOULD BE. BUT
23 A LOT OF TIMES, SEE ---

24 THE COURT: THIS QUESTION IS CLOSE TIES TO THE
25 SOLICITOR. WHAT DO YOU WANT ON THAT?

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1 MR. MAUDLIN: ON NUMBER THIRTEEN, JUDGE?

2 THE COURT: ON NUMBER THIRTEEN, WHAT DO YOU WANT?

3 MR. MAUDLIN: HERE'S WHAT HAPPENS. AND IT HAPPENS

4 BOTH WITH OUR SIDE AND THE SOLICITOR'S SIDE. A JUROR COMES

5 IN AND IS ASKED THE QUESTION ABOUT WHETHER OR NOT THEY HAVE

6 ANY ASSOCIATION OR CONNECTION WITH MEMBERS OF THE

7 SOLICITOR'S OFFICE OR MEMBERS OF THE DEFENSE TEAM OR

8 WHATEVER. WE UNDERSTAND THE NATURE OF THAT QUESTION. THE

9 JUROR IS JUST A PERSON WHO'S COMING IN. THEY'RE AFRAID.

10 THEY'RE IN A STRANGE ENVIRONMENT. THEY'RE NERVOUS. AND

11 THEY MAY MISS SOMETHING. THEY MAY FAIL TO DISCLOSE

12 SOMETHING THAT WE ACTUALLY KNOW. IN FACT, THE OTHER DAY I

13 THINK -- I WAS TALKING TO ONE OF THE INVESTIGATORS IN THE

14 SOLICITOR'S OFFICE. AND I TOLD HER THAT WE PROBABLY OUGHT

15 TO EXCUSE A PERSON OFF THE JURY WHO I ACTUALLY HAD

16 REPRESENTED HER FAMILY IN CIVIL PRACTICE WHEN I WAS --

17 BEFORE I CAME TO ---

18 THE COURT: I'M GOING TO GRANT THAT MOTION, BUT

19 IT'S GOING TO BE TO BOTH SIDES THOUGH.

20 MR. MAUDLIN: YES, SIR. SO THOSE KIND OF THINGS

21 DO COME UP.

22 THE COURT: ALL RIGHT.

23 MR. MAUDLIN: YOUR HONOR, THE NEXT MOTION IS

24 MOTION TO REQUIRE THE SOLICITOR TO DISCLOSE TO THE COURT

25 AND/OR THE DEFENSE ANY INFORMATION ON ANY JUROR WHICH COULD

1 BE INTERPRETED AS BRADY INFORMATION. NOW ---

2 THE COURT: WHAT ARE YOU -- BRADY INFORMATION? I
3 MEAN, THAT'S -- WHAT ARE YOU TALKING ABOUT?

4 MR. MAUDLIN: BRADY INFORMATION RELATES TO GUILT
5 OR PUNISHMENT IN A CAPITAL CASE. AND I UNDERSTAND THAT THIS
6 MOTION IS TO SOME EXTENT VERY UNLIKELY THAT SUCH INFORMATION
7 WOULD EXIST. BUT YOU KNOW, WHEN YOU SIT IN MY CHAIR, LIKELY
8 AND UNLIKELY IS NOT THE STANDARD. THE STANDARD IS WHETHER
9 OR NOT IT COULD EXIST. AND WE ASK THAT THE STATE BE
10 RESPONSIVE. IF THEY -- IF THERE IS NO SUCH INFORMATION, I
11 WANT IT TO COME OUT OF THE MOUTH OF THE RESPONDENT IN THIS
12 MOTION FOR THIS RECORD.

13 THE COURT: SOLICITOR, WHAT'S YOUR POSITION?

14 MR. ARIAIL: AM I THE RESPONDENT WHOSE MOUTH IT'S
15 SUPPOSED TO COME OUT OF?

16 THE COURT: YEAH, YOU'RE THE MOUTH. LET ME HEAR
17 FROM YOU. HE'S TALKING ABOUT YOUR MOUTH. I DON'T THINK
18 HE'S TALKING ABOUT BETTY'S. WHAT'S YOUR POSITION ON THAT
19 MOTION?

20 MR. ARIAIL: I'LL READ PARAGRAPH THREE OF OUR
21 RESPONSE. "THE DEFENSE IS NOW TRYING TO COUCH ITS REQUEST
22 IN TERMS OF A BRADY MOTION. IT SHOULD BE CLEAR TO EVERYONE
23 THAT BRADY APPLIES TO EVIDENCE THAT TENDS TO LESSEN A
24 DEFENDANT'S GUILT OR MITIGATES PUNISHMENT. IT HAS NOTHING
25 TO DO WITH A POTENTIAL JUROR WHO MAY SIT IN JUDGMENT ON THE

1 CASE." I DON'T KNOW WHAT INFORMATION I COULD HAVE.

2 THE COURT: THAT'S WHAT I'M SITTING HERE

3 WONDERING.

4 MR. ARIAIL: I MEAN, I CAN'T EVEN FATHOM WHAT IT

5 WOULD BE.

6 THE COURT: I CAN'T FATHOM SOME INFORMATION ON THE

7 JURY ---

8 MR. ARIAIL: I MEAN, OBVIOUSLY ---

9 THE COURT: --- THAT WOULD AFFECT BRADY. BUT I'LL
10 GRANT YOUR MOTION IF IT'S AVAILABLE, OKAY?

11 MR. MAUDLIN: ALL RIGHT. THANK YOU, JUDGE.

12 THE COURT: IF YOU COME UP WITH SOMETHING, GIVE IT
13 TO HIM.

14 MR. ARIAIL: WELL, LET'S -- I MEAN, I MAY COME UP
15 WITH INFORMATION THAT MAKES ME BELIEVE THAT A POTENTIAL
16 JUROR IS MORE LIKELY TO GIVE THE DEATH PENALTY THAN THEY ARE
17 TO GIVE LIFE.

18 THE COURT: I DON'T THINK THAT'S BRADY
19 INFORMATION. SPECIFICALLY, WHAT ARE YOU ASKING FOR?

20 OR MAYBE I SHOULD ASK MR. NETTLES. WHAT ARE YOU ASKING
21 FOR BRADY INFORMATION?

22 MR. NETTLES: I DIDN'T DO THIS MOTION.

23 MR. MAUDLIN: NOW, WAIT A MINUTE.

24 MR. NETTLES: IT'S A WONDERFUL MOTION, AND IT'S
25 WELL-RESEARCHED.

1 THE COURT: YOU'RE NOT GOING TO BITE INTO THAT,
2 HUH?

3 MR. NETTLES: IT'S EXPERTLY ARGUED, BUT IT'S NOT
4 MY MOTION. YOU'LL HEAR FROM ME LATER.

5 THE COURT: MR. MAULDIN, MY PROBLEM IS WHAT ARE
6 YOU TALKING ABOUT? CAN YOU GIVE ME A HYPOTHETICAL OR SOME
7 EXAMPLE OF HOW YOU WOULD ENVISION THIS ARISING?

8 MR. MAUDLIN: LET ME GIVE YOU A COUPLE OF
9 REFERENCES. AND YOU DON'T HAVE ACTUALLY THE TEXT OF THE
10 MOTION BEFORE YOU, DO YOU, JUDGE? BUT LET ME JUST GIVE YOU
11 A COUPLE OF TYPES OF THINGS.

12 THE COURT: OKAY.

13 MR. MAUDLIN: IN PARAGRAPH FIVE OF OUR MOTION IT
14 SAYS, "IF THE SOLICITOR KNOWS OF ANY REASON WHY A JUROR
15 WOULD BE PARTICULARLY FAVORABLE OR UNFAVORABLE TO THE
16 DEFENSE OR WHY A PARTICULAR JUROR SHOULD NOT SERVE, HE IS
17 THEREFORE UNDER A CONSTITUTIONAL OBLIGATION TO DISCLOSE THAT
18 REASON," TO THE COURT AND TO THE DEFENSE. WE SAID TO THE
19 DEFENSE IN THE MOTION, BUT I WOULD SUSPECT THE DUTY GOES TO
20 THE COURT AS WELL. FOR EXAMPLE, THE STATE -- THE CASE THAT
21 WAS CITED IN THAT PARTICULAR CASE WAS AN ALABAMA CASE, EX
22 PARTE BEAM. AND IN THAT PARTICULAR CASE, IT WAS FAILURE TO
23 DISCLOSE THE PROSPECTIVE JUROR WITH STRONG BELIEF AGAINST
24 ALCOHOL, AND THE CASE OF MURDER COMMITTED WHILE UNDER THE
25 INFLUENCE WAS REVERSIBLE ERROR IN THAT CASE. IN THAT CASE.

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1 I MEAN, THAT'S AN EXAMPLE.

2 DUE TO THE LONG ASSOCIATION THAT THIS SOLICITOR HAS HAD
3 IN PRIVATE PRACTICE AND IN SERVING VERY ABLY AS THE
4 SOLICITOR FOR GREENVILLE COUNTY, IT IS LIKELY THAT HE AND/OR
5 MEMBERS OF HIS STAFF, WHO ARE CERTAINLY REVIEWING THE JURY
6 LIST AS WE SPEAK, MAY VERY HAVE THAT TYPE OF INFORMATION
7 ABOUT A JUROR. AND WE BELIEVE THAT THE COURT AND THE
8 DEFENSE ARE ENTITLED TO KNOW IT AS WELL. THAT'S THE POINT
9 OF THE MOTION. IT IS A SITUATION, JUDGE, THAT DOES INVOLVE
10 SOME CREATIVITY.

11 THE COURT: HAVE YOU GOT A COPY OF THAT CASE?

12 MR. MAUDLIN: PARDON ME?

13 THE COURT: HAVE YOU GOT A COPY OF THAT CASE?

14 MR. MAUDLIN: I DON'T HAVE A COPY OF THE CASE
15 HERE. I CERTAINLY CAN PROVIDE -- IT'S ON PAGE 2 ---

16 THE COURT: IT'S A FINE LINE ON WHO YOU WANT
17 INFORMATION HE COLLECTS ABOUT A WITNESS THROUGH HIS
18 INVESTIGATION VERSUS BRADY FROM WHAT YOU'RE ARGUING, THE WAY
19 YOU'RE POSING YOUR ARGUMENT.

20 MR. MAUDLIN: THE ---

21 THE COURT: I MEAN, I DON'T THINK YOU -- I DON'T
22 THINK I SHOULD REQUIRE THE STATE TO GIVE YOU INFORMATION,
23 HEY, I DON'T LIKE THIS PERSON BECAUSE OF WHATEVER. YOU'RE
24 GOING TO HAVE TO DEFINE IT A LITTLE BETTER FOR ME.

25 MR. MAUDLIN: ALL RIGHT. ALL RIGHT.

1 THE COURT: MAYBE I'M NOT -- MAYBE I'M TOO HARD-
2 HEADED OR THINK-HEADED. I'M NOT SURE WHERE YOU'RE COMING
3 FROM.

4 MR. MAUDLIN: LET'S LOOK BACK AT A PREVIOUS MOTION
5 THAT I MADE, JUDGE, THAT I BELIEVE THE STATE CONSENTED TO,
6 IF I'M NOT MISTAKEN. THAT THEY DISCLOSE ANY CONTACTS THAT
7 THEY HAD FROM MEMBERS OF THE COMMUNITY ABOUT THIS CASE. I
8 THINK THEY CONSENTED. I DON'T HAVE ...

9 NOW, LET'S SAY THAT THEY WERE AWARE OF A PARTICULAR
10 JUROR'S ATTITUDE ABOUT THIS CASE, NOT FROM A DIRECT CONTACT,
11 BUT FROM SOME OTHER SOURCE OF INFORMATION, SOME OTHER
12 INVESTIGATIVE PROCESS.

13 THE COURT: THEN THEY SHOULD GIVE THAT TO YOU.

14 MR. MAUDLIN: ALL RIGHT.

15 THE COURT: IF THEY'VE GOT INFORMATION ABOUT A
16 JUROR BEING PRECONCEIVED TOWARD GUILT OR WHATEVER OR
17 INFORMATION ABOUT THE CASE, THEN THEY SHOULD GIVE IT TO YOU.

18 MR. MAUDLIN: THAT'S RIGHT.

19 THE COURT: BASED ON OTHER CASES.

20 MR. MAUDLIN: THAT'S RIGHT.

21 THE COURT: BUT NOT FROM HIS INDEPENDENT
22 INVESTIGATION SAYING, HEY, THIS PERSON IS A BAPTIST; HE'S A
23 TEETOTALER. THIS PERSON IS AN EPISCOPALIAN; HE DRINKS
24 ALCOHOL. I DON'T THINK HE SHOULD HAVE TO GIVE YOU THAT.

25 MR. MAUDLIN: NO. AND I DON'T -- I THINK WE COULD

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1 TAKE IT TO AN ABSOLUTE ILLOGICAL EXTREME.

2 THE COURT: RIGHT.

3 MR. MAUDLIN: AND I AM SENSITIVE TO THAT AND
4 RESPECT THAT. I'M TRYING, AS YOU ASK ME THESE QUESTIONS, TO
5 COME UP WITH EXAMPLES OF THE KINDS OF THINGS -- IN FACT,
6 JUDGE, I HAVE ACTUALLY HAD THESE OCCASIONS. I'LL GIVE YOU
7 TWO EXAMPLES THAT HAPPENED TO ME. ONE TIME WE HAD A JUROR
8 WHO WAS A WITNESS TO THE CRIME.

9 MR. ARIAIL: THAT'S RIGHT. AND WE EXPOSED HIM.

10 MR. MAUDLIN: I MEAN, IT WAS UNBELIEVABLE. THIS
11 GUY WAS SITTING HERE ---

12 THE COURT: HE EXPOSED HIM, DIDN'T HE?

13 MR. MAUDLIN: HE DIDN'T KNOW IT AND I DIDN'T KNOW
14 IT UNTIL THE GUY GETS ON THE WITNESS STAND AND HE STARTS
15 TELLING US ABOUT OUR OWN CASE. I MEAN, IT ALMOST -- IT WAS
16 THE MOST SHOCKING THING. SO I TURNED AROUND AND SERVED HIM
17 WITH A SUBPOENA WHILE HE WAS SITTING IN THE JURY -- I MEAN
18 IN THE WITNESS STAND. AND HE ENDED UP TESTIFYING IN THE
19 TRIAL OF THAT CASE.

20 I'LL GIVE YOU ANOTHER EXAMPLE. ANOTHER EXAMPLE WAS
21 WHERE A WOMAN HAD SIGNED A PETITION THAT THE PERSON SHOULD
22 GO TO DEATH ROW AND DA, DA, DA. THAT WOMAN GOT ON THE
23 WITNESS STAND, AND SHE DENIED THAT IT WAS HER SIGNATURE.
24 AND WE HAD TO GET HER TO GET OUT HER DRIVER'S LICENSE TO
25 COMPARE SIGNATURES. AND FINALLY JUDGE FLOYD SENT HER HOME.

1 BUT THOSE KINDS OF THINGS HAPPEN. AND IT JUST IS
2 AMAZING THAT THEY HAPPEN, BUT THEY DO. AND I DON'T TAKE
3 CHANCES IN DEATH PENALTY LITIGATION.

4 THE COURT: ALL RIGHT. SOLICITOR, IF YOU COME
5 ACROSS INFORMATION YOU CONSIDER BRADY THAT NEEDS TO BE
6 REVEALED, REVEAL IT, OKAY, CONCERNING A JUROR.

7 MR. ARIAIL: THAT DOESN'T INVOLVE MY ASSESSMENT OF
8 WHICH JUROR SHOULD SERVE?

9 THE COURT: NO.

10 MR. ARIAIL: OKAY.

11 THE COURT: NO.

12 MR. ARIAIL: THEN I GOT NO PROBLEM.

13 THE COURT: I THINK IT'S GOING TO HAVE TO BE SOME
14 INFORMATION THAT'S OUTSIDE YOUR ASSESSMENT OF JURORS, OKAY?
15 THAT THEY'VE BEEN INVOLVED IN SOME ACTIVITY THAT YOU ARE
16 AWARE OF. I DON'T KNOW HOW ---

17 MR. ARIAIL: I THINK I KNOW WHAT ---

18 THE COURT: I THINK I KNOW WHAT ---

19 MR. ARIAIL: I FEEL THOUGH THAT IT'S SOMETHING I
20 WOULD BE ETHICALLY BOUND TO DISCLOSE ANYWAY.

21 THE COURT: RIGHT. I THINK SO.

22 MR. ARIAIL: I JUST DON'T WANT IT TO GO FURTHER
23 THAN THAT BECAUSE WE DO DO SOME ASSESSMENTS.

24 MR. MAUDLIN: THE NEXT MOTION, YOUR HONOR, IS A
25 MOTION TO PROHIBIT JURY EXPOSURE TO FAMILY, FRIENDS,

1 VICTIMS, PEOPLE WHO ARE CONNECTED WITH THE STATE'S CASE.
2 THE RESPONSE OF THE STATE IS TO SOME EXTENT, ASSUMING THAT
3 THERE WOULD BE SEQUESTRATION -- NOW, THAT MATTER HAS NOT
4 BEEN DECIDED BY THIS COURT. AND WE WILL, IN FACT, BE MOVING
5 FOR A CERTAIN RELIEF AS WE MOVE CLOSER TO THIS TRIAL.

6 SO IT'S NOT NECESSARILY SO THAT SEQUESTRATION IS THE
7 ANSWER. OBVIOUSLY, TRIALS ARE HORRIBLE EXPERIENCES.

8 THE COURT: LET ME -- IN CONJUNCTION WITH NUMBER
9 TWENTY WHERE YOU'RE TALKING ABOUT EMOTIONS, IS THAT WHAT
10 YOU'RE REFERRING TO WITH THE VICTIMS? OR WHAT ARE YOU
11 SPECIFICALLY -- YOU SAY ---

12 MR. MAUDLIN: NO. NUMBER ---

13 THE COURT: --- JURY EXPOSURE TO VICTIM'S FAMILY?

14 MR. MAUDLIN: YEAH.

15 THE COURT: THE VICTIM'S FAMILY IS GOING TO BE
16 SITTING IN THE COURTROOM. FROM THAT STANDPOINT, THEY'RE
17 GOING TO BE EXPOSED.

18 MR. MAUDLIN: RIGHT. AND WE ACKNOWLEDGE THAT. WE
19 KNOW THAT THE RIGHT OF THE VICTIM'S FAMILY UNDER THE
20 VICTIMS' RIGHTS BILL IS TO BE PRESENT AND SO FORTH. SO
21 THAT'S NOT THE ISSUE.

22 THE COURT: THEN WHAT ARE YOU REFERRING TO?

23 MR. MAUDLIN: THE ISSUE IS THIS. WE -- AND THIS
24 IS NOT A MOTION THAT IS ESSENTIALLY DIRECTED TO THE
25 PROSECUTION. IN OTHER WORDS, WE'RE NOT ASKING THAT HE DO

1 ANYTHING ABOUT IT. IT IS ESSENTIALLY A REQUEST THAT YOU
2 MANAGE THIS CASE TO AVOID CONTACT, IF YOU WILL, BETWEEN
3 JURORS. I'M TALKING ABOUT FROM MONDAY WHEN THEY SHOW UP AT
4 THE COURTHOUSE WHEN THEY'RE IN A GROUP OF FOUR HUNDRED.
5 BECAUSE WHEN THEY'RE EXPOSED IN THE COURTHOUSE SETTING,
6 WHICH INADVERTENTLY WILL HAPPEN ON OCCASION ---

7 THE COURT: WELL, YOU KNOW, YOU'RE MAKING ALL
8 THESE MOTIONS TO DO ALL THIS, BUT AT THE SAME TIME YOU DON'T
9 WANT TO SEQUESTER THEM. I MEAN, THE TWO DON'T RUN TOGETHER.

10 MR. MAUDLIN: I'LL BE GLAD ---

11 THE COURT: IF I GOT THESE WITNESSES SEQUESTERED,
12 I CAN DO ALL THIS. BUT IF THEY AREN'T, I HAVE NO CONTROL
13 OVER IT.

14 MR. MAUDLIN: I'LL BE GLAD ---

15 THE COURT: DO YOU UNDERSTAND WHERE I'M COMING
16 FROM?

17 MR. MAUDLIN: WELL, NO.

18 THE COURT: IF I'VE GOT SLED AGENTS WITH THE JURY,
19 I CAN CONTROL WHO THEY TALK TO AND WHO TALKS TO THEM. BUT
20 IF THEY'RE JUST COMING IN AT RANDOM TO THE COURTROOM, I
21 CAN'T. NOW, YOU'RE MAKING ALL THESE MOTIONS AND YOU'RE
22 ASKING ME TO DO ALL THIS STUFF, BUT AT THE SAME TIME, YOU
23 DON'T WANT THEM SEQUESTERED.

24 MR. MAUDLIN: WELL ---

25 THE COURT: IF WE DON'T SEQUESTER THEM, I HAVE NO

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1 CONTROL OVER THAT EXCEPT IN THE COURTROOM. NOW, IF THERE'S
2 SOMEONE SHOWING EXCESSIVE EMOTION IN THE COURTROOM, WHAT I
3 WILL DO IS TAKE A BREAK. AND I'LL CALL YOU TWO GENTLEMEN UP
4 AND TELL YOU THAT LADY ON THE FRONT ROOM IS DOING, THIS,
5 THIS AND THIS. GO HAVE A QUIET TALK WITH HER. TELL HER IF
6 SHE DOESN'T STOP IT, SHE'S GOING TO BE REMOVED FROM THE
7 COURTROOM, IS THE WAY I WILL HANDLE THAT. AND THEN IT IF
8 CONTINUES, I WILL PROBABLY REMOVE THEM, OR WHOEVER THE
9 INDIVIDUAL IS, FROM THE COURTROOM. OKAY?

10 NOW, THAT'S THE WAY I'M GOING TO CONTROL IT. BUT
11 THAT'S GOING TO HAVE TO BE ON A CASE-BY-CASE BASIS THAT I
12 OBSERVE FROM THE BENCH. BUT AS FAR AS HAVING CONTACT, I CAN
13 DO THAT IF THEY'RE SEQUESTERED.

14 MR. MAUDLIN: WELL, LET ME -- AND IF THE COURT
15 PLEASE, IF THE COURT WOULD PLEASE, THE PRAYER IN MY MOTION
16 ESSENTIALLY SAYS IT AS CLEARLY AS I CAN MUMBLE AND FUMBLE
17 AROUND HERE AND SAY IT. "AN ORDER REQUIRING THAT THE VENIRE
18 FROM WHICH THE JURORS ARE CHOSEN NOT BE DISPERSED DURING ANY
19 TIME FROM THE TIME THEY COME TO THE COURTROOM EXCEPT IN A
20 MANAGED WAY SO THAT THEY WILL -- THERE WILL NOT BE CONTACT
21 OUT OF THE COURTROOM AT ANY TIME WITH THE PARTIES ON THE
22 DEFENSE OR THE PROSECUTION." IN OTHER WORDS, THAT THE
23 PARTICIPANTS IN THE ---

24 THE COURT: I HAVE NO PROBLEM DOING THAT.

25 MR. MAUDLIN: ALL RIGHT.

1 THE COURT: BUT I CAN'T DO THAT UNLESS WE
2 SEQUESTER THE JURY. THAT'S ALL I'M SAYING TO YOU, MR.
3 MAULDIN. AND YOU'RE THE ONE THAT'S SAYING YOU DON'T WANT TO
4 SEQUESTER THEM. AND THAT'S TOTALLY CONTRADICTED IN THE
5 MOTION YOU'RE STANDING THERE ARGUING BEFORE THE COURT.

6 MR. MAUDLIN: I AM FULLY CONFIDENT THAT THIS COURT
7 MONDAY, WHEN THE PANEL -- AND THOSE SMALL PANELS START
8 COMING IN AT RANDOM TIMES, I SUSPECT AT THAT TIME WE CAN
9 ADDRESS ISSUES ABOUT WHETHER PEOPLE ARE BEING EXPOSED TO THE
10 WRONG INFLUENCES AT THAT TIME. AND I'VE GOT CONFIDENCE THAT
11 WE'LL DO THE RIGHT THING THEN. BUT I'M NOT -- AND I BEG THE
12 COURT'S PARDON AND APOLOGIZE FOR BEING SO ORNERY ABOUT ALL
13 THESE DETAILS, BUT THIS IS TOUGH WORK.

14 THE COURT: YOU'RE NOT BOTHERING ME. YOU'RE DOING
15 YOUR JOB, AND THAT'S FINE. I'M GLAD YOU'RE DOING IT.

16 MR. MAUDLIN: ALL RIGHT.

17 THE COURT: I JUST AGREE WITH SOME OF IT, AND I
18 DISAGREE WITH OTHERS. THAT'S ALL.

19 MR. MAUDLIN: BUT I DON'T NECESSARILY THINK THAT
20 IT REFERS TO THE SEQUESTRATION ISSUE DIRECTLY. THERE IS A
21 CONNECTION, BUT IT DOESN'T DEPEND UPON IT.

22 THE COURT: OKAY.

23 MR. MAUDLIN: THE NEXT ONE, YOUR HONOR, IS TO
24 LIMIT CONVERSATIONS ---

25 THE COURT: YOU WANT TO WAIT ON THE JURY EXPOSURE?

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1 MR. MAUDLIN: I THINK ---

2 THE COURT: I'M GOING TO DO MY BEST TO LIMIT THAT,
3 OKAY?

4 MR. MAUDLIN: I THINK THAT THERE'S A CONSENT TO
5 MOTION NUMBER SIXTEEN.

6 THE COURT: WELL, WHAT ABOUT FIFTEEN? LET'S GET A
7 RULING ON IT. WHAT DO YOU WANT? I MEAN, I'M GOING TO DO
8 THAT. I'LL GRANT YOUR MOTION.

9 MR. MAUDLIN: RIGHT.

10 THE COURT: THE PROBLEM I HAVE IS PROCEDURALLY HOW
11 ARE YOU GOING TO DO IT?

12 MR. MAUDLIN: WELL, WE'LL BE GLAD -- I'M FULL OF
13 SUGGESTIONS, AS YOU KNOW, JUDGE.

14 THE COURT: OKAY.

15 MR. MAUDLIN: NUMBER SEVENTEEN, JUDGE ---

16 THE COURT: NUMBER SIXTEEN HAS BEEN CONSENTED TO,
17 RIGHT?

18 MR. MAUDLIN: WELL, LET ME -- MAYBE AND MAYBE NOT.
19 THIS IS SOMETHING, AGAIN, WE CAN REVISIT AT THE TIME WE
20 BEGIN THIS CASE. BUT THE -- I DON'T READ THEIR RESPONSE AS
21 CONSENT.

22 THE COURT: THEY CONSENTED TO IT, OKAY?

23 MR. MAUDLIN: ALL RIGHT. SO THEY DID CONSENT TO
24 IT?

25 THE COURT: WHAT ABOUT NUMBER SEVENTEEN? WHAT

1 KIND OF PREJUDICIAL SECURITY MEASURES ARE YOU TALKING ABOUT?
2 NOW, WE'RE GOING TO HAVE NORMAL SECURITY IN THE COURTROOM.
3 IF GREENVILLE COUNTY HAS ONE OF THOSE SHOCKERS, I'M GOING TO
4 PUT IT ON HIM, OKAY, UNDER HIS CLOTHES. IF THEY HAVE THEM.
5 IF THEY DON'T, I WON'T. BUT WE'LL HAVE NORMAL SECURITY IN
6 THE COURTROOM. WE HAVE EVERY TIME I'VE GONE TO GREENVILLE
7 HOLDING GENERAL SESSIONS COURT. THERE'S NOT GOING TO BE
8 ANYTHING ADDITIONAL.

9 MR. MAUDLIN: AND I THINK THAT'S FINE, YOUR HONOR.
10 I'M NOT TOO SURE WE NEED TO MAKE AN ASSUMPTION THAT ONE OF
11 THOSE BELTS OR WHATEVER IT IS ---

12 THE COURT: IF THEY HAVE A BELT, I'M GOING TO PUT
13 IT ON HIM. OKAY? I DON'T KNOW IF GREENVILLE HAS THE BELTS.
14 WE'VE GOT TWO HERE IN ANDERSON.

15 MR. MAUDLIN: I THINK THEY'VE GOT ONE, BUT I DON'T
16 KNOW THAT IT'S ---

17 THE COURT: IF GREENVILLE HAS GOT A BELT, I'M
18 GOING TO PUT IT ON HIM, OKAY?

19 MR. MAUDLIN: ALL RIGHT.

20 THE COURT: YOU CAN EXPLAIN IT TO HIM NOW, BUT I'M
21 GOING TO DO THAT.

22 MR. MAUDLIN: YEAH, WE'LL TAKE CARE OF IT.

23 THE COURT: WE'VE GOT TWO HERE IN ANDERSON. WE'VE
24 GOT ONE FOR THE ARM AND ONE FOR THE LEG.

25 MR. MAUDLIN: RIGHT.

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1 THE COURT: AND HE WILL -- IT WILL BE UNDER HIS
2 CLOTHES, AND NOBODY WILL KNOW THAT IT'S THERE.

3 MR. MAUDLIN: ALL RIGHT, SIR.

4 MOTION NUMBER EIGHTEEN; YOUR HONOR -- AND LET ME GET --
5 HERE WE GO -- IS OUR REQUEST THAT THE PROSECUTION NOT BE
6 ALLOWED TO ASK QUESTIONS ON VOIR DIRE. WE ARE AWARE OF CASE
7 LAW IN SOUTH CAROLINA, SO I DO, WITH ALL DUE RESPECT,
8 REQUEST AN OPPORTUNITY TO AT LEAST PLACE THIS MOTION BEFORE
9 YOU ---

10 THE COURT: OKAY.

11 MR. MAUDLIN: --- AND HAVE IT RULED ON.

12 THE COURT: OKAY.

13 MR. MAUDLIN: THE STATUTE IS VERY CLEAR, JUST
14 ABSOLUTELY CRYSTAL CLEAR. THE CASES HAVE COME OUT AND MADE
15 REFERENCES TO THAT STATUTORY LANGUAGE AND INTERPRETED IT
16 DIFFERENTLY THAT WHAT IT SAYS. THE LEGISLATURE HAS HAD
17 YEARS -- IN FACT, STATE v. PLATH IS A 1981 -- THIS IS
18 TWENTY-THREE YEARS I'VE BEEN MAKING THIS MOTION. AND IT'S
19 LIKE, ARE THESE GUYS MISSING IT?

20 THE COURT: HAVE YOU WON IT YET? ARE YOU STILL
21 BATTING A THOUSAND?

22 MR. MAUDLIN: HAVEN'T WON A SINGLE TIME.

23 THE COURT: ARE YOU STILL BATTING A THOUSAND?

24 MR. MAUDLIN: I HAVEN'T WON IT A SINGLE TIME, AND
25 I JUST DON'T GET IT.

1 THE COURT: OKAY.

2 MR. MAUDLIN: WHY THEY DON'T CHANGE THAT STATUTE,
3 I GOT NO CLUE. BUT I DO SAY THAT THE STATUTE IS CLEAR AND
4 UNEQUIVOCAL THAT THE DEFENSE -- THAT THEY WILL BE QUESTIONED
5 BY THE DEFENSE, IS WHAT THE STATUTE SAYS. SO I ASK THAT THE
6 SOLICITOR NOT BE ALLOWED QUESTIONS.

7 THE COURT: DENIED.

8 MR. MAUDLIN: THANK YOU, SIR.

9 THE COURT: YOU'RE STILL BATTING A THOUSAND.

10 MR. MAUDLIN: THE QUESTION -- I MEAN, THE MOTION
11 TO DISQUALIFY JURORS LISTED IN NUMBER -- MOTION NUMBER
12 NINETEEN. THIS WILL BE JURORS WHO EITHER -- INFORMATION
13 THAT THE STATE IS AWARE OF. AND I'LL GIVE YOU AN EXAMPLE OF
14 THIS. WHENEVER YOU'RE INVOLVED IN LITIGATION, CIVIL OR
15 CRIMINAL, WHEN YOU GET A JURY LIST, THE PARTIES TO THE
16 LITIGATION GENERALLY TAKE A LOOK AT THAT JURY LIST. YOU
17 KNOW WHAT I MEAN, JUDGE?

18 THE COURT: I KNOW WHAT YOU MEAN.

19 MR. MAUDLIN: THAT'S PRETTY SENSIBLE, RIGHT,
20 PRETTY BASIC. AND THE STATE AND THE DEFENSE WOULD BE MADE -
21 --

22 THE COURT: LET'S HANDLE IT THIS WAY, OKAY? IF WE
23 GET A JUROR ON THE WITNESS STAND AND THEY'RE ANSWERING
24 QUESTIONS AND YOU ASK THEM THAT QUESTION AND THEY DENY IT --
25 THEY SAY, NO, I'M NOT ACQUAINTED WITH ANY OF THE VICTIMS --

1 AND THE SOLICITOR IS AWARE INDEPENDENT OF THAT THAT THEY'RE
2 LYING, HE'S GOING TO TELL ME AND YOU. AND THE SAME THING IS
3 GOING TO APPLY TO YOU. DO YOU UNDERSTAND?

4 MR. MAUDLIN: YES, SIR.

5 THE COURT: SOLICITOR, DO YOU UNDERSTAND WHAT I'M
6 SAYING? IF THERE'S A JUROR SITTING ON THE WITNESS STAND
7 DURING VOIR DIRE AND THE QUESTION IS ASKED, DO YOU KNOW ANY
8 MEMBERS OF THE FAMILY OF THE VICTIM AND THEY DENY THAT AND
9 YOU KNOW OTHERWISE FROM YOUR INDEPENDENT INVESTIGATION, I
10 WANT YOU TO TELL THE COURT AND THE DEFENDANT. OKAY. WE'LL
11 HANDLE IT THAT WAY.

12 MR. ARIAIL: WE'VE ASKED THE JURY ---

13 THE COURT: AND IT WILL BE RECIPROCAL FOR MR.
14 MAULDIN.

15 MR. ARIAIL: WE'VE ASKED THE VICTIM'S FAMILY TO
16 LOOK AT THE JURY LIST AND TELL US IF THERE'S ANYBODY ON
17 THERE THAT THEY KNOW OR THEY'RE ACQUAINTED WITH.

18 THE COURT: AND IF THIS PARTICULAR JUROR DENIES IT
19 ON THE WITNESS STAND, I'M GOING TO ORDER YOU TO INFORM THE
20 COURT THAT THEY ARE NOT BEING TRUTHFUL, OKAY?

21 MR. ARIAIL: SURE. CORRECT.

22 THE COURT: MR. MAULDIN, WILL THAT TAKE CARE OF
23 THAT?

24 MR. MAUDLIN: YES, AT THIS POINT, YOUR HONOR.

25 THE COURT: OKAY. WELL, IF IT GETS TO MORE POINTS.

1 LATER ON, LET ME KNOW.

2 MR. MAUDLIN: I PROMISE YOU I WILL AS YOU
3 CERTAINLY ARE AWARE.

4 THE COURT: I KNOW YOU WILL.

5 MR. MAUDLIN: LET ME MAKE SURE I KNOW WHERE I AM
6 HERE, JUDGE. I KEEP GETTING ---

7 THE COURT: I WILL DO THAT, OKAY, BUT WE'LL HAVE
8 TO DEAL WITH THAT ON A CASE-BY-CASE IN THE COURTROOM.

9 MR. MAUDLIN: YOU'RE TALKING ABOUT NUMBER TWENTY?

10 THE COURT: YEAH, NUMBER TWENTY, I WILL DO THAT.

11 MR. MAUDLIN: OKAY. AND I WILL SAY WITH REGARD TO
12 THE HANDLING ---

13 THE COURT: LET ME SAY THIS. IT'S NATURAL IN A
14 CRIME OF THIS MAGNITUDE. THERE'S GOING TO BE SOME EMOTION,
15 OKAY?

16 MR. MAUDLIN: YES, SIR.

17 THE COURT: AND I WILL TRY TO CONTROL IT. BUT
18 THERE'S GOING TO BE SOME SPONTANEOUS EMOTION. NOW, I'LL
19 JUST HAVE TO HANDLE IT SOMEHOW DURING THE TRIAL. EITHER
20 MOVE THEM OUT OF THE VIEW OF THE JURY OR TO THE BACK ROOM OR
21 SOMETHING. I MEAN, THEY HAVE CERTAIN -- VICTIMS HAVE
22 CERTAIN RIGHTS. AND WE'RE GOING TO FOLLOW THEM AND GIVE
23 THEM THEIR RIGHTS. BUT IF IT GETS TO THE POINT THAT IT'S
24 DISTRACTING TO THE JURY, IF I THINK IT'S DISTRACTING, WE'LL
25 TALK ABOUT IT AND TAKE APPROPRIATE ACTIONS. OKAY?

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1 MR. MAUDLIN: THANK YOU, JUDGE.

2 THE COURT: OKAY. WHAT ABOUT TWENTY-ONE?

3 MR. MAUDLIN: TWENTY-ONE.

4 THE COURT: OKAY.

5 MR. ARIAIL: WE CONSENT.

6 MS. PIERCE: THAT WAS EASY.

7 MR. ARIAIL: WE NEVER SUGGESTED THAT.

8 THE COURT: OKAY. THE STATE CONSENTS TO THAT.

9 MR. MAULDIN: AND, JUDGE, AS A FOLLOW-UP TO THEIR
10 CONSENT ---

11 MR. ARIAIL: I MEAN, I DON'T WANT TO DENY HER THE
12 RIGHT TO MAKE HER PRESENTATION.

13 THE COURT: I DO. LET'S MOVE ON.

14 MR. ARIAIL: IT'S A PART OF THE LEARNING
15 EXPERIENCE. BUT I TELL THEM RIGHT STRAIGHT UP FRONT, BY
16 GOLLY, THEY'RE THE ONES THAT ARE GOING TO MAKE THIS
17 DECISION. THEY'D BETTER GET PREPARED TO MAKE IT.

18 MR. MAUDLIN: LET ME MAKE ONE PARTICULAR REFERENCE
19 THAT CARA MENTIONED. AND THAT IS THE TERM OF RECOMMENDATION
20 IN THE STATUTE. WE SPECIFICALLY SUGGEST THAT YOU ---

21 THE COURT: WELL, IN MY CHARGE, I SAY IT IS A
22 RECOMMENDATION. IT SAYS IT IN THE STATUTE; HOWEVER, IT IS
23 MANDATORY ON THE COURT. AND I TELL THEM THAT IN MY CHARGE.

24 MR. MAUDLIN: ALL RIGHT, SIR. SO YOU SAY THE
25 WORD, BUT YOU TELL THEM THAT YOU'RE GOING TO DO WHAT THEY

1 SAY?

2 THE COURT: RIGHT. IT DOESN'T MEAN WHAT IT SAYS.
3 IT MEANS THAT I AM OBLIGATED TO FOLLOW WHAT THE JURY DOES,
4 OKAY, AND I DO THAT IN MY CHARGE.

5 MR. MAUDLIN: AND AGAIN, I JUST DON'T GET IT. I
6 MEAN, WHAT IS THE MATTER WITH THE PEOPLE IN COLUMBIA? WHY
7 DON'T THEY JUST STRAIGHTEN THIS THING OUT?

8 MR. ARIAIL: Y'ALL WROTE IT.

9 MR. MAUDLIN: Y'ALL?

10 MR. ARIAIL: THE DEFENSE BAR WROTE IT.

11 THE COURT: THAT'S PROBABLY ONE OF A THOUSAND THAT
12 NEEDS TO BE STRAIGHTENED OUT. SO I DON'T KNOW IF ANY OF
13 THEM WILL EVER GET STRAIGHTENED OUT.

14 MR. ARIAIL: COULD I MOVE AS TO TWENTY-TWO THROUGH
15 TWENTY-NINE THAT WE TABLE THOSE MOTIONS UNTIL THE EVENT
16 ARISES, THE NEED ARISES FOR THAT?

17 THE COURT: WELL, HE SAID HE WANTED TO GO THROUGH
18 THEM. AND THE ONLY HESITATION I HAVE TO DO THAT, SOLICITOR,
19 IS HE MAY HAVE TO DO SOME PREPARATION WITH WITNESSES AND GET
20 WITNESSES THERE RATHER THAN WAITING TILL A LATER DATE.

21 WHAT DO YOU THINK, MR. MAULDIN?

22 MR. ARIAIL: I MEAN, I DON'T MIND GOING THROUGH
23 THEM, BUT I THINK IT WOULD BE -- MY RESPONSE IS GOING TO BE,
24 TO EVERY ONE, THAT IT'S PREMATURE. IT'S GOT TO BE SOMETHING
25 THAT YOU'RE GOING TO HAVE TO DEAL WITH AT THE TIME IF IT

1 EVER COMES TO THAT.

2 MR. MAUDLIN: I HAVE A SUGGESTION.

3 THE COURT: I DON'T MIND HEARING WHAT YOU NEED TO
4 BE HEARD IN ORDER THAT YOU CAN GET ADEQUATELY PREPARED FOR
5 TRIAL, OKAY?

6 MR. MAUDLIN: ALL RIGHT. LET ME SAY TWO THINGS.
7 ONE, WE OBJECT ACROSS THE BOARD. AND THAT -- THOSE
8 OBJECTIONS HAVE BEEN -- OUR MOTIONS TO PROHIBIT THIS
9 TESTIMONY -- I UNDERSTAND THE CASES THAT ARE CONTINUING TO
10 EVOLVE REGARDING VICTIM IMPACT. BUT WE OBJECT. AND WE WANT
11 IT IN CAPITAL LETTERS THAT WE OBJECT TO ALL OF IT. THE
12 STATEMENT THAT VICTIM IMPACT EVIDENCE IS NOT AGGRAVATING
13 EVIDENCE DEFIES IMAGINATION TO ME. I MEAN, IT'S THE MOST
14 AGGRAVATING EVIDENCE I'VE EVER SEEN IN A COURTROOM.

15 NOW, THAT BEING SAID, JUDGE, MAKING SURE MY OBJECTIONS
16 ARE ON THIS RECORD, IF WE COULD -- IF THE STATE ---

17 THE COURT: FOR THE RECORD, AS FAR AS INTRODUCING
18 IMPACT TESTIMONY, YOUR MOTION IS GOING TO BE DENIED. I'M
19 GOING TO HAVE TO DEAL WITH IT AT THE TIME ON WHAT THEY'RE
20 TRYING TO DO AT THE TIME. BUT SOME VICTIM IMPACT IS
21 ADMISSIBLE.

22 MR. MAUDLIN: WELL, LET ME ---

23 THE COURT: BUT JUST TO HAVE A BLANKET EXCLUSION
24 THAT YOU JUST MADE YOUR MOTION, I'LL DENY THAT MOTION.

25 MR. MAUDLIN: WELL, IF THE STATE WILL PROVIDE TO

1 THE COURT A SUMMARY OF WHO AND WHAT'S GOING TO BE SAID THAT
2 THEY SAY IS ADMISSIBLE -- SEE, HERE'S THE PROBLEM. THE
3 PROBLEM WITH THIS IS THAT IF YOU RING THAT BELL, YOU'RE NOT
4 GOING TO UN-RING IT. IT IS TOO LATE. AND WE ARE WAY DOWN
5 THE ROAD AT THAT POINT IN THE TRIAL.

6 THE COURT: ALL RIGHT. WELL, WHEN WE WERE TALKING
7 AT THE BENCH BEFORE, THE SOLICITOR STATED THAT DURING --
8 ASSUMING THAT THERE'S A CONVICTION IN THIS CASE -- AND I'M
9 NOT MAKING ANY ASSUMPTIONS. ASSUMING THERE IS A CONVICTION
10 IN THIS CASE AS TO THE MURDER, DURING THE TWENTY-FOUR-HOUR
11 COOLING OFF PERIOD, HE WILL GIVE YOU NAMES, NUMBER OF
12 WITNESSES AND INFORMATION THAT HE'S PLANNING ON OFFERING IN
13 THE PENALTY PHASE.

14 IS THAT CORRECT, SOLICITOR?

15 MR. ARIAIL: I SAID I WAS GOING TO GIVE IT TO YOU
16 IN A DISCUSSION ---

17 THE COURT: OKAY.

18 MR. ARIAIL: --- SO THAT YOU COULD GO DOWN THIS
19 LIST OF EIGHT MOTIONS THAT ARE RELEVANT AT THAT TIME AND
20 MAKE A RULING AS TO WHETHER OR NOT THE TYPE OF INFORMATION
21 THAT WE'RE PUTTING OR PROPOSING TO PUT IN ISN'T SOMEHOW IN
22 VIOLATION OF WHATEVER RULE OF LAW OR WHATEVER YOU WANT TO
23 RULE ON. I MEAN, I JUST -- IN OTHER WORDS, I'M TELLING --
24 I'M GOING TO TELL YOU WHAT IT IS.

25 AND JOHN KNOWS OUR PRESENTATION OF VICTIM IMPACT

1 EVIDENCE IS, IN MOST CASES, EXTREMELY MINIMAL. IT'S
2 POIGNANT, BUT IT'S MINIMAL. WE'RE NOT GOING TO BRING
3 FIFTEEN VICTIM IMPACT WITNESSES UP THERE. BUT THERE IS, AS
4 YOU SAY, THE LAW IS THAT WE CAN AND WE SHOULD. AND THE
5 VICTIM IS ENTITLED TO THAT, AND WE INTEND TO DO IT. BUT IT
6 WILL BE MINIMAL WHEN WE GET THERE. BASED ON HISTORY HE'S
7 GOT TO ADMIT IT'S NOT SOMETHING THAT'S OBJECTIONABLE.

8 I THINK WHEN WE GET THERE, WE'LL BE GLAD TO TELL THEM.

9 THE COURT: MR. MAULDIN, WOULD THAT BE
10 SATISFACTORY FOR YOU?

11 MR. MAUDLIN: JUST ONE MOMENT, YOUR HONOR.

12 I HAVE TWO CONCERNS ABOUT IT. TWO CONCERNS. AND
13 PLEASE DON'T LET MY EXPRESSION OF THESE CONCERN REFLECT ANY
14 -- MY OBJECTIONS STILL RIDE.

15 THE COURT: I UNDERSTAND.

16 MR. MAUDLIN: I DON'T WANT TO SOMEHOW BE WAIVING
17 SOMETHING JUST BECAUSE I'M TRYING TO THINK OF SOME SOLUTION.

18 THE PROBLEM WE HAVE IS, NUMBER ONE, UNLESS WE GET
19 WHATEVER IT IS, IT -- WE DON'T HAVE ANY ABILITY TO RESPOND
20 TO IT.

21 THE COURT: WELL, YOU'VE GOT A LETTER THAT THE
22 SOLICITOR HAS WRITTEN. AND IT'S A LOT MORE SPECIFIC THAN
23 ORIGINALLY.

24 ISN'T THAT CORRECT?

25 MR. MAUDLIN: I DON'T KNOW.

1 THE COURT: SOLICITOR STROM?

2 MR. MAUDLIN: IT WAS -- YEAH, IT WAS ON HER
3 SIGNATURE. I REMEMBER SEEING IT. IT WAS E-MAILED TO YOU.

4 THE COURT: I JUST GOT A COPY OF IT LAST WEEK.
5 YOU JUST WROTE A LETTER GETTING A LITTLE MORE SPECIFIC AS TO
6 WHAT YOU'RE PLANNING ON INTRODUCING.

7 MS. STROM: IN THE PENALTY PHASE?

8 THE COURT: IN THE PENALTY PHASE.

9 MS. STROM: RIGHT.

10 THE COURT: AND IT'S MORE EXHAUSTIVE THAN THE
11 ORIGINAL ANSWER TO YOUR MOTION.

12 MR. MAUDLIN: BUT -- THAT'S RIGHT. AND WHAT IS IN
13 THAT LETTER IS WHAT THEY ARE SAYING THEY'RE GOING TO
14 PROVIDE, ARE GOING TO OFFER, IN THE AREA OF VICTIM IMPACT
15 EVIDENCE. IF THAT'S ---

16 THE COURT: NO, NO, NO.

17 MS. STROM: THAT WAS CHARACTER EVIDENCE.

18 THE COURT: THAT WAS CHARACTER EVIDENCE.

19 MR. MAUDLIN: OH, OKAY. WELL, SEE, I THOUGHT THAT
20 WAS CHARACTER.

21 THE COURT: YEAH, THAT WAS CHARACTER. IT WASN'T
22 VICTIM IMPACT.

23 MR. MAUDLIN: I THOUGHT SO. SO THEY HAVEN'T
24 PROVIDED US ANYTHING ON VICTIM IMPACT.

25 THE COURT: LET ME SAY THIS UP FRONT, OKAY? I

1 DON'T KNOW HOW MANY WITNESSES HE'S PLANNING ON CALLING. BUT
2 BEFORE WE START THAT PROCESS, I'M GOING TO TELL HIM WE'RE
3 NOT GOING TO HAVE REPETITIVE TESTIMONY. EVERY WITNESS THAT
4 HE CALLS IS GOING TO HAVE TO INTRODUCE NEW SUBJECT MATTER.
5 WE'RE NOT GOING TO SIT THERE AND LISTEN TO THREE OR FOUR
6 WITNESSES SAY THE SAME THING. OR TWO WITNESSES SAY THE SAME
7 THING. OKAY? NOW, I'LL PUT THOSE LIMITATIONS ON IT WHEN WE
8 GET TO IT AT TRIAL, OKAY?

9 MR. MAUDLIN: OKAY. ONE FINAL THING, JUDGE. IS
10 THERE A REASON -- I MEAN, IS THERE A REASON WHY THIS WOULD
11 BE PROVIDED TO US DURING THE TWENTY-FOUR-HOUR PERIOD? IT
12 CAN JUST AS EASILY BE PROVIDED TO US TOMORROW. THE FACT
13 THAT ---

14 MR. ARIAIL: I CAN'T PROVIDE IT TOMORROW. I DON'T
15 EVEN KNOW WHAT IT IS. I'LL TELL YOU, I'M NOT GOING TO
16 PREPARE MY PENALTY PHASE -- WE'RE DOING GUILT PHASE. THAT'S
17 FIRST AND FOREMOST. I GOT SOME IDEAS. BUT I CAN TELL YOU
18 WE'RE NOT GOING TO PREPARE ALL THAT PROBABLY TILL IT'S DONE.

19 THE COURT: HOW ABOUT MONDAY MORNING BEFORE THE
20 TRIAL STARTS?

21 MR. ARIAIL: I WON'T HAVE IT. I DON'T DO IT. DID
22 I EVER TELL YOU THE STORY ABOUT WHEN I WAS A LITTLE LEAGUE
23 BASEBALL COACH?

24 THE COURT: NO, BUT I'LL BE GLAD TO HEAR IT.

25 MR. ARIAIL: WELL, LET ME IT TELL IT TO YOU

1 BECAUSE IT'S A VERY POIGNANT STORY THAT IMPACTS MY LIFE IN
2 ALMOST EVERY DECISION.

3 I HAD A PITCHER -- I WAS IN THE FINAL GAME. I WAS
4 GOING -- MY LITTLE TEAM UP TO TWELVE YEARS OLD WAS GOING TO
5 WIN -- IF WE WON THIS GAME, WE WERE GOING TO THE PLAYOFFS.
6 AND I HAD MY BEST PITCHER IN THE BULLPEN. WE HAD A SIX-RUN
7 LEAD, AND THEY WERE -- THEY HAD A MAN ON BASE AND THEY WERE
8 SCORING. AND IT WAS COMING DOWN -- WE HAD TWO OUTS. AND IT
9 CAME DOWN TO TWO MEN ON BASE AND I COULD BRING MY ACE
10 PICTURE IN AND SHUT IT DOWN. IF I DID, I COULDN'T USE HIM
11 IN THE FIRST GAME OF THE PLAYOFFS. THAT WAS THE RULE. SO I
12 DIDN'T BRING HIM IN, AND THE NEXT GUY HIT A HOME RUN AND WE
13 NEVER WENT TO THE PLAYOFFS.

14 SO I DON'T PLAN LIKE THAT ANYMORE BECAUSE IT'S BAD
15 LUCK. AND I JUST PLAN THE GUILT PHASE. WE GOT A GENERAL
16 IDEA OF WHAT WE'RE GOING TO DO IN THE PENALTY. BUT AS TO
17 VICTIM IMPACT, WE WILL WAIT UNTIL PROBABLY THE DAY BEFORE OR
18 ACTUALLY AFTER THE VERDICT COMES IN. AND WE'LL MAKE THAT
19 DECISION IN THAT TWENTY-FOUR-HOUR PERIOD.

20 THEY ARE NOT -- THESE PEOPLE ARE NOT COACHED. THEY'RE
21 NOT PLANNED. THEY DON'T KNOW WHO THEY ARE. AND THAT'S JUST
22 THE WAY WE DO IT.

23 THE COURT: OKAY.

24 MR. ARIAIL: SO I CAN TELL YOU THE MORNING BETWEEN
25 THE TWENTY-FOUR-HOUR COOLING OFF PERIOD. I CAN TELL YOU WHO

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1 THEY WILL BE AND WHAT THEY WILL TALK ABOUT, AND WE'LL HAVE A
2 LITTLE SUMMARY OF THEIR TESTIMONY AND BE GLAD TO GIVE IT TO
3 YOU.

4 THE COURT: OKAY.

5 MR. MAULDIN?

6 MR. ARIAIL: THAT'S JUST HOW WE DO IT.

7 MR. MAUDLIN: AND YOUR HONOR, I DON'T WANT TO
8 BELABOR THIS ISSUE. I CERTAINLY HOPE THAT THIS COURT IS
9 GOING TO GIVE US A THOROUGH HEARING ON ALL THESE MOTIONS AT
10 WHATEVER TIME YOU CHOOSE.

11 THE COURT: WELL, WHEN DO YOU WANT TO HEAR THEM?

12 MR. MAUDLIN: THE CONCERN I HAVE IS OUR ABILITY TO
13 RESPOND.

14 THE COURT: I UNDERSTAND. I UNDERSTAND YOUR
15 CONCERN.

16 MR. MAUDLIN: THE RULE SAYS WE HAVE TO BE ABLE TO
17 RESPOND. AND SO THAT'S MY WORRY.

18 THE COURT: THE ONLY THING I CAN TELL YOU, MR.
19 MAULDIN, IS THIS, OKAY? IF HE SAYS HE DOESN'T AND HE'S NOT
20 GOING TO PREPARE IT TILL AFTER THE GUILT PHASE, HOW CAN I
21 MAKE HIM PRODUCE IT BEFORE THAT?

22 NOW, IN CONJUNCTION WITH THAT, YOU'VE BEEN TRYING THESE
23 CASES FOR, WHAT, TWENTY YEARS?

24 MR. MAUDLIN: MORE THAN THAT.

25 THE COURT: THERE'S NO TELLING HOW MANY YOUR

1 COHORT HAS TRIED IN THE LAST FIVE YEARS. I THINK Y'ALL HAVE
2 TRIED ENOUGH OF THEM TO KNOW WHAT'S GOING TO HAPPEN IN THE
3 VICTIM IMPACT AREA. NOW, IF SOMETHING COMES UP THAT JUST
4 CATCHES YOU ABSOLUTELY FLATFOOTED, I DON'T HAVE ANY PROBLEM
5 GIVING YOU ANOTHER TWENTY-FOUR HOURS OR WHATEVER IS
6 NECESSARY TO RESPOND TO IT. OKAY? THAT'S THE BEST I CAN DO
7 FOR YOU. I WILL HEAR YOUR MOTIONS AT THE APPROPRIATE TIME
8 AND PUT IT ON THE RECORD, OKAY?

9 MR. MAUDLIN: YES, SIR.

10 THE COURT: BUT I THINK YOU'VE TRIED ENOUGH OF
11 THEM TO HAVE A FEEL FOR WHAT'S GOING TO HAPPEN, DON'T YOU
12 THINK, MR. MAULDIN?

13 MR. MAUDLIN: I'VE TRIED ENOUGH OF THEM. LET'S
14 PUT IT THAT WAY, JUDGE.

15 THE COURT: AND HOW DOES THE VICTIM IMPACT
16 TESTIMONY VARY FROM EVERY ONE OF THEM? IT'S THE SAME, ISN'T
17 IT?

18 MR. MAUDLIN: IT DOES -- THERE'S ALWAYS THIS
19 ANXIETY -- AND IF I WILL, THERE'S ALWAYS AN ANXIETY IN MY
20 CASE ABOUT AM I GOING TO NEED TO ASK FOR A MISTRIAL WHEN WE
21 TOOK A WEEK TO PICK A JURY, A WEEK TO TRY THE GUILT PHASE.
22 WE'VE GOT THESE PEOPLE IN HOTELS. THEY'VE BEEN HERE TWO
23 WEEKS. AND HERE WE ARE THE LAST WITNESS OF A CAPITAL CASE
24 AND HERE'S A MISTRIAL.

25 SO THAT'S -- THERE'S A -- THAT'S A REALLY FRIGHTENING

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1 PROCESS. IT JUST MEANS EVERYBODY LOSES. THE STATE LOSES,
2 WE LOSE, EVERYBODY LOSES.

3 MR. ARIAIL: I HAVEN'T HAD A MISTRIAL IN THE NINE
4 I'VE TRIED. AND WE'RE NOT GOING TO HAVE A MISTRIAL BECAUSE
5 WE'RE NOT GOING TO DO SOMETHING STUPID. AND WE'RE GOING TO
6 TELL YOU WHAT WE'RE GOING TO DO IN ADVANCE. HE'S GOING TO
7 KNOW. HE KNOWS EXACTLY -- SEE, HE CAN TELL RIGHT NOW WHAT
8 WITNESSES I'M GOING TO PUT UP.

9 THE COURT: LET ME SAY THIS. IF, DURING THE
10 TRIAL, AT ANY POINT IN TIME, YOU THINK WE NEED TO DO
11 ANYTHING IN-CAMERA, WE'LL STOP AND DO IT IN-CAMERA. I DON'T
12 HAVE ANY PROBLEM DOING ANYTHING IN-CAMERA BEFORE IT GETS TO
13 THE -- IT HITS THE JURY'S EARS, OKAY?

14 MR. MAUDLIN: ALL RIGHT, YOUR HONOR.

15 THE COURT: I DON'T KNOW WHAT ELSE I CAN TELL YOU,
16 MR. MAULDIN. IF YOU NEED ADDITIONAL TIME, I'LL GIVE YOU
17 ADDITIONAL TIME. I'M NOT TRYING TO RUN A SPEED RECORD TO
18 GET RID OF THIS CASE AS FAST AS I CAN. I WANT TO SEE THAT
19 YOU GET A FAIR TRIAL.

20 MR. MAUDLIN: THANK YOU, JUDGE.

21 THE COURT: AND I CAN'T DO ANY MORE THAN THAT FOR
22 YOU.

23 MR. MAUDLIN: YES, SIR.

24 THE COURT: I UNDERSTAND.

25 MR. MAUDLIN: NOW, WHAT WE DID, JUDGE, ON OUR LIST

1 THAT WE PASSED UP, WE DID LIST ON OUR OWN THE TWO MOTIONS
2 FROM THE STATE. I ASSUME THAT THEY WOULD WANT THEM HEARD,
3 SO I PUT THEM ON THE LIST. WE'RE PREPARED TO GO FORWARD ON
4 THEM.

5 THE COURT: MR. ARIAIL? MS. SOLICITOR? MR.
6 ARIAIL?

7 MR. ARIAIL: COULD I WAIT JUST A MOMENT? WE
8 BROUGHT THE WRONG RULE BOOK. WE WENT OUT TO THE CAR TO GET
9 THE OTHER ONE.

10 (WHEREUPON MR. MAULDIN HANDED BOOK TO MR. ARIAIL)

11 MR. ARIAIL: OH, THANK YOU. MUTUAL COOPERATION.

12 THE COURT: BEFORE WE GET THERE, ON THE -- WHAT
13 RULE DO YOU NEED?

14 MR. ARIAIL: I GOT IT. RULE 705 OF THE RULES OF
15 EVIDENCE.

16 THE COURT: OKAY.

17 MR. ARIAIL: THE SUBJECT OF THE MOTION IS -- LET
18 ME SEE IF I CAN PAINT IT IN BROAD PICTURE FORM. WE KNOW IN
19 ADVANCE OF THESE TRIALS THAT THERE'S GOING TO BE, IN THE
20 PENALTY PHASE -- AND THIS WILL APPLY TO THE PENALTY PHASE
21 ONLY -- CERTAIN WITNESSES WHO WILL TESTIFY FOR THE DEFENSE.
22 AND GENERALLY, THESE WITNESSES ARE IN THE AREA OF GENEALOGY
23 OR SOCIOLOGY OR PSYCHOLOGY OR ONE OF THOSE AREAS.

24 AND YOU'RE FAMILIAR WITH -- YOU'VE TRIED ENOUGH OF
25 THESE CASES. AND WHAT CONSISTENTLY HAPPENS IS THAT THEY

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1 WILL PUT A WITNESS OR A SERIES OF WITNESSES UP WHO WILL ALL
2 TESTIFY THEY HAVE NO REPORTS, THEY HAVE NOT PREPARED ANY
3 REPORTS. AND THE FIRST INFORMATION THAT THE STATE LEARNS
4 ABOUT THEM IS WHEN THEY GET UP THERE AND TESTIFY. AND AS
5 YOU KNOW, A LOT OF THIS TESTIMONY IS -- A LOT OF IT GETS
6 BOILER-PLATED TO START WITH. AND SO YOU'VE GOT TO GO BACK
7 AND WEED THROUGH IT.

8 WHAT I FOUND IN THE LAST SEVERAL CASES, WE HAVE TAKEN
9 EXPENSIVE DELAYS BECAUSE I GOT SERIOUS ABOUT DEALING WITH
10 SOME OF THESE PEOPLE THAT JUST COME IN AND TESTIFY ABOUT
11 THINGS AND DON'T HAVE ANY REAL STRONG SUPPORTIVE GROUNDS, IN
12 MY OPINION. AND I WANT TO KNOW WHAT THEY ARE. SO -- AND I
13 CAN'T DO THAT EFFECTIVELY IN FRONT OF A JURY UNTIL I FOUND
14 OUT WHAT IT IS.

15 I MEAN, I'VE HAD DONNA SCHWARTZ WATTS TESTIFY SOLID FOR
16 ONE AND A HALF HOURS WITHOUT A PIECE OF PAPER IN FRONT OF
17 HER, ALL FROM HER MEMORY. AND THEN WHEN YOU ASK HER WHAT
18 HER UNDERLYING BASIS IS, WHAT DID SHE LOOK AT, WELL, I
19 LOOKED AT THIS. WELL, WHERE ARE THOSE THINGS? WELL,
20 THEY'RE OUT IN MY CAR. YOU KNOW, I DIDN'T BRING THEM. SOME
21 OF THEM ARE IN COLUMBIA. AND I HAD JUDGE FLOYD ONE TIME GET
22 SO UPSET HE SENT HER TO COLUMBIA TO GET IT.

23 SO I JUST WANT TO AVOID THAT. I WANT TO KNOW ---

24 THE COURT: WHY DON'T YOU SUBPOENA THAT
25 INFORMATION TO THE TRIAL?

1 MR. ARIAIL: YOU WANT ME TO SUBPOENA?

2 THE COURT: YEAH.

3 MR. ARIAIL: I DON'T EVEN KNOW WHO THEY ARE.

4 THE COURT: WELL ---

5 MR. ARIAIL: THAT'S A START. NUMBER ONE, I'D LIKE
6 TO KNOW WHO THEY ARE.

7 THE COURT: RIGHT.

8 MR. ARIAIL: I'D LIKE TO DO LIKE WE DID WITH MR.
9 NETTLES. I'D LIKE TO TALK TO THEM. I'D LIKE TO CALL THEM
10 UP AND SAY, LISTEN, I'D LIKE TO -- I'VE DONE THIS. JOHN AND
11 I DID IT IN THE LAST CASE. HE LET ME TALK TO HIS
12 PSYCHIATRIST. I'D LIKE TO GO TALK TO THEM AND SEE WHAT
13 THEIR OPINION IS. I MEAN, I'M NOT GOING TO CHANGE THEIR
14 OPINION. I WOULD LIKE TO KNOW WHAT THEY'RE GOING TO SAY.
15 SOMETIMES THEY SAY THINGS THAT MIGHT CONVINCE ME THAT, YOU
16 KNOW, THE CASE IS NOT ONE FOR THE DEATH PENALTY. I DON'T
17 THINK THAT'S GOING TO HAPPEN IN THIS CASE, BUT IT HAS
18 HAPPENED IN OTHER CASES. BUT I'D LIKE TO KNOW AT LEAST FOR
19 TRIAL PURPOSES WHO THEY ARE. I THINK WE NEED TO KNOW THAT
20 SO WE CAN ASK THE JURY SO THE JURY -- IF SOMEBODY ON THE
21 JURY KNOWS THEM, YOU KNOW, WE DON'T FIND OUT WHEN THEY GET
22 THERE THAT WE'VE GOT A WITNESS THAT, YOU KNOW, IS A FRIEND
23 OF THEIRS OR SOMEBODY THEY KNOW. YOU NEED TO KNOW WHO THEY
24 ARE, THE JURY NEEDS TO KNOW WHO THEY ARE, AND WE NEED TO
25 KNOW WHO THEY ARE IN THE SENSE THAT I'D LIKE TO GO TALK TO

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1 THEM.

2 I'D LIKE FOR THEM TO TELL ME WHAT -- YOU KNOW, IF THEY
3 REFUSE TO TALK TO ME, I DON'T GUESS THERE'S ANYTHING I CAN
4 DO. BUT IF I KNOW WHO THEY ARE, I CAN SUBPOENA THEIR STUFF.
5 THAT WOULD BE HELPFUL. BUT I'D LIKE TO DO THAT. I'D LIKE
6 TO KNOW WHAT THE UNDERLYING DATA FOR THEIR OPINION IS, AND
7 I'D LIKE TO SEE SUMMARIES OF THEIR REPORTS.

8 AND I DON'T KNOW. I CERTAINLY THINK YOU'VE GOT THE
9 AUTHORITY UNDER RULE 705 TO ORDER IT. I'VE HAD JUDGE FLOYD
10 TO ORDER IT IN THE PAST.

11 THE COURT: OKAY. LET ME SEE WHAT THEIR POSITION
12 IS.

13 MR. ARIAIL: OKAY.

14 THE COURT: OKAY?

15 MR. NETTLES, WHAT'S YOUR POSITION?

16 MR. NETTLES: WELL, FIRST OF ALL, LET ME ADDRESS -
17 - ANY EXPERT OF OURS THAT TESTIFIES WILL BRING WITH THEM TO
18 THE COURTROOM, AS I BELIEVE THEY'RE REQUIRED TO DO UNDER
19 705, ALL OF THE STUFF THAT THEY'VE GOT.

20 THE COURT: WHEN YOU SAY ALL, MAKE SURE IT'S ALL.

21 MR. NETTLES: THAT'S RIGHT.

22 THE COURT: SO WE DON'T HAVE TO SEND THEM ---

23 MR. NETTLES: I UNDERSTAND. I AGREE WITH THAT.

24 THE COURT: --- TO COLUMBIA OR WHEREVER THEY'RE
25 COMING.

1 MR. NETTLES: I AGREE WITH THAT. SO AS IT RELATES
2 TO THAT, THAT WAS POOR PLANNING ON SOMEBODY ELSE'S PART. WE
3 WILL INSTRUCT OUR EXPERTS WHEN THEY COME TO THE COURTROOM,
4 WHEN WE DECIDE TO CALL THEM, THAT THEY'RE TO BRING
5 EVERYTHING THEY'RE RELYING ON. AND THAT'S WHAT 705 RELIES
6 ON. I MEAN, 705 IS VERY CLEAR. THE FIRST SENTENCE SAYS --
7 AND IT'S NOT CLEAR TO ME WHAT PART OF 705 THE GOVERNMENT
8 BELIEVES GIVES YOU THE AUTHORITY TO DO WHAT THEY'RE ASKING
9 YOU TO DO. OUR READING OF 705 IS THAT THE FIRST SENTENCE
10 DISCUSSES THE ORDER IN WHICH THE EXPERT TESTIFIES. IN OTHER
11 WORDS, 705 GIVES THE EXPERT PERMISSION TO TESTIFY TO THE
12 OPINION FIRST AND THEN TO TALK ABOUT WHAT THEY RELIED ON FOR
13 THAT OPINION UNLESS THE COURT ORDERS THEM TO TESTIFY IN
14 REVERSE ORDER.

15 AND SO I WILL -- WE SIMPLY, WITH ALL DUE RESPECT, DON'T
16 BELIEVE THE COURT HAS THE AUTHORITY TO DO THAT, TO ORDER US
17 TO TURN OVER INFORMATION.

18 SECONDLY, MUCH LIKE -- I'LL ADOPT VERY MUCH THE SAME
19 ARGUMENT THAT THE GOVERNMENT ADOPTED AS IT RELATED TO VICTIM
20 IMPACT EVIDENCE. A LOT OF WHAT WE PUT UP DEPENDS ON WHAT
21 THEY PUT UP. SO TO REQUIRE US TO DIVULGE INFORMATION THAT
22 WE MAY OR MAY NOT USE WOULD BE CATAclysmic TO OUR CASE, NOT
23 TO MENTION VIOLATING CONSTITUTIONAL RIGHTS.

24 AND LASTLY, HE'S RIGHT. I MEAN, WE MAY DECIDE WE MAY
25 FIND EXPERTS THAT WE BELIEVE ARE SO POWERFUL THAT IT MAY BE

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1 ABLE TO EFFECT A PLEA. THAT'S A DECISION THAT WE MAKE. AND
2 WE MAY LET HIM TALK TO THOSE PEOPLE. BUT WE'RE NOT AT THAT
3 POINT YET. SO AS IT RELATES TO OUR TURNING OVER OUR
4 INFORMATION RIGHT NOW, I BELIEVE FOR THE REASONS I'VE LISTED
5 IT'S NOT APPROPRIATE. THANK YOU.

6 THE COURT: OKAY. ANYTHING IN REBUTTAL?

7 MR. ARIAIL: THEY KNOW THE WITNESSES THEY'RE GOING
8 TO CALL. HE MAY ACT AS IF HE DOESN'T. AND I AGREE. THERE
9 MAY BE SOME PERIPHERAL WITNESSES. BUT HE -- THEY'RE NOT
10 GOING INTO THE PENALTY PHASE WITHOUT A KNOWLEDGE OF WHO THEY
11 ARE GOING TO PUT ON THE WITNESS STAND. SO ALL I'M ASKING IS
12 THAT AT SOME POINT ---

13 THE COURT: WELL, YOU GOT TWO MOTIONS. YOU GOT
14 ONE TO PRODUCE UNDERLYING DATA. HE SAID HE DIDN'T HAVE IT
15 AVAILABLE. OKAY? THE SECOND ONE IS TO REQUIRE THE
16 DEFENDANT TO SUBMIT A WITNESS LIST TO THE COURT.

17 MR. ARIAIL: OBVIOUSLY, THEY'VE GOT TO DO THAT
18 BEFORE THE JURY IS PICKED.

19 THE COURT: AT SOME POINT IN TIME, WE'RE GOING TO
20 HAVE TO DO THAT AT JURY QUALIFICATION.

21 MR. ARIAIL: CORRECT.

22 THE COURT: NOW, WHAT AUTHORITY DO YOU THINK I
23 HAVE TO REQUIRE HIM TO PRODUCE THAT NOW? NOW, YOUR MOTION
24 IS FOR HIM TO PRODUCE IT TO THE COURT, NOT TO YOU.

25 MR. ARIAIL: I DON'T CARE ABOUT IT'S BEING

1 PRODUCED NOW. I WANT THE JURY LIST -- I MEAN THE WITNESS
2 PRODUCED WHEN WE PRODUCE OUR WITNESS LIST FOR THE JURY TO BE
3 EXAMINED AS TO WHETHER OR NOT THEY KNOW ANYBODY.

4 THE COURT: ALL RIGHT.

5 MR. ARIAIL: AND THEN -- THAT'S PHASE ONE. BUT
6 THEY CAN SUBMIT FIFTY NAMES OF POTENTIAL PEOPLE THAT MIGHT
7 BE WITNESSES. AND I DON'T REALLY KNOW WHO THEY ARE OR HAVE
8 AN ADDRESS FOR THEM OR BE ABLE TO CONTACT THEM. I MEAN, I
9 CAN GO ROOTING AROUND.

10 THE COURT: I WILL REQUIRE THEM, BEFORE WE GO
11 THROUGH VOIR DIRE, TO GIVE ME A WITNESS LIST. NOW, WHETHER
12 THEY CALL THEM ALL OR NOT, THAT'S THEIR DECISION. I'M NOT
13 GOING TO GET THEM TO NARROW IT DOWN. THEY CAN PUT TWENTY-
14 FIVE NAMES OR TEN NAMES ON IT. AND THE ONLY REASON I'M
15 GOING TO REQUIRE THAT IS SO I CAN ASK THE JURORS IF THEY
16 KNOW THESE INDIVIDUALS OR IF THEY'VE BEEN TREATED BY THESE
17 INDIVIDUALS. AND I WILL REQUIRE IT AT THAT TIME, OKAY?

18 MR. MAUDLIN: WHAT HAS HAPPENED HERE WE SWITCHED
19 TO THEIR SECOND MOTION ALL OF A SUDDEN.

20 THE COURT: I UNDERSTAND. I UNDERSTAND.

21 MR. MAUDLIN: THAT WE DO -- WE ARE WILLING TO GIVE
22 YOU OUR WITNESS LIST SO YOU CAN HAND IT TO THE JUROR AND
23 TELL ME BY NUMBER. ---

24 THE COURT: THAT'S WHAT I WANT.

25 MR. ARIAIL: SEE, THAT DOESN'T DO ME ANY GOOD. IF

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1 I DON'T KNOW WHO'S ON THE LIST, THAT IT'S JUST KEPT
2 CLANDESTINED IN YOUR OFFICE TO HAND TO THE JUROR AND I DON'T
3 GET TO SEE IT, THEN I DON'T KNOW WHO THEY ARE. THAT DOESN'T
4 HELP ME. AND THE POINT I'M TRYING TO GET TO IS I'M GOING TO
5 GET THE INFORMATION EVENTUALLY. AND I'M GOING TO MAKE AN
6 ISSUE OUT OF THIS. AND WE CAN JUST SIT FOR HOURS WHILE I
7 TAKE THIS INFORMATION WHEN HE BRINGS IT INTO COURT OR HIS
8 PSYCHIATRIST OR WHOEVER THEY'VE GOT.

9 THE COURT: ARE YOU TALKING ABOUT THE FIRST MOTION
10 OR THE SECOND?

11 MR. ARIAIL: THAT'S THE SECOND. THE FIRST ONE YOU
12 ALREADY RULED.

13 THE COURT: RIGHT. THEY'RE GOING TO TELL WHOEVER
14 IT IS TO BRING ALL THEIR DATA WITH THEM. WHAT ARE YOU
15 TALKING ABOUT SITTING ON THE SECOND MOTION? WHAT ARE YOU
16 TALKING ABOUT SITTING THERE? WHY ARE YOU GOING TO BE
17 SITTING ON THE SECOND MOTION?

18 MR. ARIAIL: WHEN THEY PUT THEIR WITNESS UP -- AND
19 THEY GOT ALL THE DOCUMENTS THERE, A BIG OLD BOX OF THEM.

20 THE COURT: RIGHT.

21 MR. ARIAIL: AT THAT TIME I'M GOING TO HAVE TO ASK
22 FOR A RECESS, A LENGTHY RECESS, TO GO OVER WHAT'S IN THE BOX
23 AFTER I FIRST CROSS-EXAMINE THEM AS TO THE DATA THEY LOOKED
24 AT AND WHAT WAS THE BASIS OF THEIR OPINION AND WHAT DID THEY
25 GO AND WHAT PARTS OF THIS DOCUMENT, AND GO THROUGH THAT

1 LITANY OF QUESTIONS. AND THEN I'M GOING TO ASK FOR A RECESS
2 BECAUSE I HAVEN'T SEEN IT.

3 THE COURT: WELL, I THINK THAT'S WHAT YOU'RE GOING
4 TO HAVE TO DO UNLESS THEY WANT TO VOLUNTARILY GIVE IT
5 BEFOREHAND.

6 MR. ARIAIL: AS LONG AS ---

7 THE COURT: I DON'T THINK I GOT THE AUTHORITY TO
8 MAKE THEM GIVE IT TO YOU, SOLICITOR.

9 MR. ARIAIL: I THINK YOU DO. BUT IF YOU DON'T
10 THINK YOU DO ---

11 THE COURT: I DON'T THINK I DO. OKAY? I REALLY
12 DON'T.

13 MR. ARIAIL: I THINK YOU'VE GOT THE AUTHORITY
14 BASED ON THE INHERENT POWER YOU HAVE TO RUN YOUR COURTROOM.

15 THE COURT: WELL, THE ONLY POSSIBILITY WOULD
16 PROBABLY BE ON EXPEDIENCY OF JUDICIAL ECONOMY.

17 MR. ARIAIL: JUDICIAL EXPEDIENCY.

18 THE COURT: EXPEDIENCY.

19 MR. ARIAIL: AND IF I DON'T GET IT UNTIL THE DAY
20 THAT -- THE TWENTY-FOUR-HOUR COOLING OFF, THEY'LL KNOW THEN.
21 IF I CAN JUST GET IT THEN JUST SO I CAN LOOK AT IT AND MAKE
22 A CROSS-EXAMINATION THAT IS NOT SOME WONDERING INEFFECTIVE
23 QUESTIONING.

24 THE COURT: WELL, YOU KNOW, HISTORICALLY AND STILL
25 TODAY THE PROSECUTOR CALLS WITNESSES AND THE DEFENDANTS --

1 IT'S ALL TRIAL BY AMBUSH FROM THE DEFENDANT'S STANDPOINT AND
2 FROM THE PROSECUTOR'S STANDPOINT. I MEAN, WE STILL TRY BY
3 AMBUSH CRIMINAL CASES IN SOUTH CAROLINA UNFORTUNATELY.

4 MR. ARIAIL: WELL, NOT IN THE CIRCUIT THAT'S
5 ADJACENT TO THIS CIRCUIT BECAUSE I GAVE HIM -- I'VE GIVEN
6 THEM THE ENTIRE FILE OF EVERYTHING.

7 THE COURT: I UNDERSTAND.

8 MR. ARIAIL: SO THEY KNOW EXACTLY WHO WE'RE GOING
9 TO CALL.

10 THE COURT: I UNDERSTAND.

11 MR. ARIAIL: AND WHAT THEY'RE GOING TO SAY.

12 THE COURT: I UNDERSTAND. YOU'VE DONE THAT OUT OF
13 THE GOODNESS OF YOUR HEART.

14 MR. ARIAIL: THE GOODNESS OF MY HEART BECAUSE I'M
15 JUST A CLEAN-LIVING GUY.

16 THE COURT: I UNDERSTAND.

17 MR. NETTLES: WE AGREE. HE IS. WE'RE NOT.

18 MR. ARIAIL: I GUARANTEE YOU THEY GET MORE
19 COOPERATION OUT OF ME THAN ANY OTHER SOLICITOR. BUT I STILL
20 THINK ---

21 THE COURT: AND YOU LEARNED FROM YOUR BASEBALL
22 TEAM?

23 MR. ARIAIL: THAT'S RIGHT. BUT WHAT'S FAIR IS
24 FAIR. BUT LET'S GET OFF FAIRNESS BECAUSE MR. NETTLES MADE
25 THAT CLEAR THAT IT WASN'T SUPPOSED TO BE A LEVEL PLAYING

1 FIELD.

2 THE COURT: WELL, THAT'S PROBABLY THE ONLY
3 LEVERAGE HE MAY HAVE.

4 MR. ARIAIL: BUT I DO THINK IN THE INTEREST OF
5 JUDICIAL EFFICIENCY ---

6 THE COURT: I UNDERSTAND.

7 MR. ARIAIL: I DON'T WANT YOU SITTING UP THERE,
8 AND I DON'T WANT THAT JURY -- YOU KNOW, THAT JURY IS GOING
9 TO SAY, MR. ARIAIL, HE'S A REAL PAIN IN THE NECK MAKING ME
10 SIT HERE ANOTHER HOUR WHILE HE GOES OUT AND READS THESE
11 RECORDS. SO IT PUTS ME IN A VERY DIFFICULT POSITION. IT
12 PUTS THE STATE IN A DIFFICULT POSITION.

13 THE COURT: THE ONLY THING I CAN SAY TO YOU IS IF
14 IT -- WHEN IT HAPPENS, WE'LL TRY TO SCHEDULE IT AT A LUNCH
15 BREAK OR AN EVENING BREAK WHERE YOU CAN LOOK AT IT OVER THE
16 EVENING OR SOMETHING OF THAT SORT. UNLESS THEY'RE WILLING
17 TO GIVE IT TO YOU BEFOREHAND OR UNLESS I DECIDE BY THE
18 INHERENT AUTHORITY OF JUDICIAL ECONOMY I'M GOING TO MAKE HIM
19 GIVE IT TO YOU EARLIER. I'LL TAKE THAT UNDER ADVISEMENT,
20 AND WE'LL JUST SORT OF SEE HOW IT PLAYS OUT, OKAY?

21 MR. ARIAIL: THANK YOU.

22 THE COURT: ALL RIGHT.

23 MR. MAUDLIN: YOUR HONOR, THE ONLY OTHER THING
24 THAT I THINK WE'RE GOING TO AT LEAST TAKE A QUICK LOOK AT IS
25 SOME OF THESE JURORS WE COULDN'T AGREE ON. AND I KNOW WE'VE

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1 GONE A LONG TIME THIS MORNING. BUT THIS IS SOMETHING WE
2 WOULD LIKE REPORT TO THE CLERK TO EITHER EXCUSE THEM OR MAKE
3 THEM COME IN.

4 THE COURT: DO YOU HAVE THEM?

5 MR. MAUDLIN: YES, SIR.

6 THE COURT: CAN I LOOK AT THEM REAL QUICK?

7 MR. MAUDLIN: I'VE GOT THE FILE THAT WE'VE
8 CREATED. THEY ARE -- IF YOU LOOK AT YOUR LETTER DATED JULY
9 -- OR JANUARY THE 10TH, THEY'RE THE GROUP DOWN ON THE BOTTOM
10 OF PAGE TWO THAT SAYS, JOHN MAULDIN AND I DO NOT AGREE ON
11 THE FOLLOWING. ---

12 MS. STROM: CORRECT. IT STARTS WITH JUROR NUMBER
13 14.

14 MR. MAUDLIN: AND THERE ARE SEVEN OF THEM ---

15 MS. STROM: CORRECT.

16 MR. MAUDLIN: --- THAT START WITH JUROR NUMBER 14.
17 YOUR HONOR, IF I COULD JUST VERY BRIEFLY GIVE YOU A REPORT
18 ESSENTIALLY ON EACH ONE OF THESE, AND YOU CAN EITHER TELL US
19 TO EXCUSE THEM OR BRING THEM IN.

20 NUMBER 14, YOUR HONOR -- AND I'LL USE NUMBER AS OPPOSED
21 TO NAME.

22 THE COURT: OKAY.

23 MR. MAUDLIN: NUMBER 14 SENDS A REQUEST THAT SHE -
24 - SHE IS A FIFTY-EIGHT-YEAR-OLD FEMALE AND SENDS A REQUEST
25 BASED UPON THE FACT THAT THE IS THE CARETAKER FOR HER TWO

1 GRANDCHILDREN WHO ARE SCHOOL AGE -- OR ONE AGE EIGHT AND ONE
2 AGE FOUR. NOW, THE STATUTORY EXEMPTION, OF COURSE, IS
3 MOTHER OR PARENT. THIS APPARENTLY IS A GRANDPARENT. AND
4 THAT'S ---

5 THE COURT: DOES SHE HAVE CUSTODY, OR DO YOU KNOW?

6 MR. MAUDLIN: THAT'S THE DISTINCTION, THAT SHE'S A
7 GRANDPARENT. WE SAY SHE OUGHT TO BE EXCUSED. I BELIEVE THE
8 STATE IS OPPOSED.

9 THE COURT: DOES SHE HAVE CUSTODY OF THE CHILDREN,
10 OR DO YOU KNOW?

11 MS. STROM: NO, SIR, NOT THAT WE'RE AWARE OF FROM
12 WHAT ---

13 THE COURT: WHY DON'T YOU WANT TO EXCUSE HER?

14 MS. STROM: WELL, YOUR HONOR, IT'S JUST A
15 SITUATION IN THE SENSE OF IT'S NOT -- WE TOOK THE POSITION
16 IF IT DIDN'T FALL WITHIN THE STATUTORY EXEMPTION OR EXCUSE,
17 THAT THIS WOULD BE ONE THAT YOU WOULD HAVE TO DECIDE ON.

18 THE COURT: ALL RIGHT.

19 MS. STROM: THAT IF IT WERE NOT STATUTORY, I
20 DIDN'T THINK THAT WE SHOULD BE THE ONES TO DECIDE THAT.

21 THE COURT: HAS SHE ADDRESSED THE ISSUE OF WHETHER
22 SHE COULD HAVE SOMEONE TO CARE FOR THE CHILDREN?

23 MS. STROM: ALL SHE SAYS IS IT WOULD BE VERY
24 DIFFICULT. SHE SAID IT WOULD BE DIFFICULT FOR US TO
25 SCHEDULE ANY OTHER ARRANGEMENTS.

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1 THE COURT: ALL RIGHT. IF YOU WANT, I CAN REQUIRE
2 THE CLERK TO CONTACT HER AND FIND OUT BY AFFIDAVIT WHETHER
3 SHE HAS SOMEONE THAT CAN CARE FOR THE CHILDREN FOR TWO
4 WEEKS. IF YOU WANT. IF YOU WANT ME TO. OR I'LL GO AHEAD
5 AND RULE TODAY. WHAT DO YOU WANT ME TO DO, SOLICITOR?

6 MS. STROM: RULE TODAY.

7 THE COURT: ALL RIGHT. I'LL DISMISS HER, OKAY?

8 MR. MAUDLIN: PARDON ME?

9 MS. STROM: HE DISMISSED HER.

10 MR. MAUDLIN: ALL RIGHT.

11 NOW, YOUR HONOR, THE NEXT ONE IS NUMBER 61. AND AGAIN,
12 I SAY THERE ARE ONLY SEVEN OF THESE. SIXTY-ONE, HIS REQUEST
13 IS BASED UPON ---

14 MS. STROM: WORK. IT'S THE LAST PAGE.

15 MR. MAUDLIN: YEAH. IF YOU LOOK AT THE LAST PAGE,
16 HE SAYS AS FOLLOWS, "MY WIFE DORA AND I WILL BE INVOLVED IN
17 THE CONSTRUCTION OPENING A NEW BUSINESS ON HIGHWAY 25,
18 STORAGE FACILITIES. IT WILL BE DIFFICULT FOR ME TO BE AWAY
19 FROM THAT PROJECT FOR TWO WEEKS. I HAVE ELEVEN HORSES,
20 SEVEN RESCUE HORSES KEEPING FOR GREENVILLE COUNTY. WOULD
21 HAVE TO GET HELP TO TEND TO THOSE HORSES." AND THEN I CAN'T
22 READ THE BOTTOM LINE. THE BOTTOM LINE IS CUT OFF.

23 SO IT IS A QUESTION OF THIS PARTICULAR GUY OBVIOUSLY IS
24 INVOLVED IN THE CONSTRUCTION OF A NEW BUSINESS THAT HIS
25 FAMILY IS RUNNING, AND HE DOESN'T BELIEVE HE CAN BE AWAY

1 FROM THAT PROJECT FOR TWO WEEKS.

2 MS. STROM: YOUR HONOR, AS YOU WELL KNOW, WE
3 ALWAYS HEAR FROM ALL TYPES OF PEOPLE WHO ARE SELF-EMPLOYED
4 OR ---

5 THE COURT: MY INCLINATION IS TO BRING HIM IN AND
6 WE'LL SEE WHAT HAPPENS DURING VOIR DIRE, OKAY? TELL THE
7 CLERK TO BRING HIM IN.

8 MR. MAUDLIN: ALL RIGHT. SO HE COMES IN?

9 THE COURT: HE COMES IN.

10 MR. MAUDLIN: NUMBER 90, YOUR HONOR, SAYS THAT HE
11 HAS MEDICAL PROBLEMS.

12 THE COURT: DOES HE HAVE A MEDICAL EXCUSE?

13 MR. MAUDLIN: THERE'S A STATEMENT FROM THE DOCTOR.

14 MS. STROM: YES, WE'LL CONSENT.

15 MR. MAUDLIN: YOU'LL CONSENT TO THAT ONE? OKAY.

16 NUMBER 155. THIS PARTICULAR PERSON -- YOUR HONOR, I
17 WILL READ THE LETTER THAT SHE WROTE. "I BELIEVE IT TO BE AN
18 HONOR AND A PRIVILEGE TO SERVE ON A JURY. HOWEVER, IN THIS
19 PARTICULAR CASE, I MUST REQUEST TO BE DISQUALIFIED AS I AM A
20 FORMER BI-LO CORPORATION EMPLOYEE AND WAS ACTUALLY WORKING
21 IN THE DEPARTMENT THAT RECEIVED THE CALL REGARDING THE
22 EVENTS AS THEY WERE UNFOLDING. ALSO, I WORK IN THE WOODRUFF
23 ROAD BI-LO WHERE THE VICTIM AND THE DEFENDANT PREVIOUSLY
24 WORKED AND HAD DEALINGS WITH EACH OF THEM ON A WEEKLY BASIS.
25 I WOULD, HOWEVER, REQUEST I BE DISQUALIFIED FROM THIS CASE

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1 AND IF POSSIBLE BECOME A MEMBER OF A DIFFERENT GROUP."

2 SHE'S ESSENTIALLY ASKING FOR A TRANSFER. AND WE JUST
3 DON'T THINK SHE OUGHT TO HAVE TO COME IN.

4 THE COURT: SOLICITOR?

5 MS. STROM: YOUR HONOR, I THINK IT NEEDS TO BE
6 EXPLORED FURTHER BY THE COURT. WHEN WE HAVE THE GENERAL
7 VOIR DIRE ON MONDAY AFTERNOON WHEN THEY COME IN, WE CAN
8 DETERMINE HOW MUCH THIS IS AND DECIDE AT THAT TIME WHETHER
9 SHE SHOULD BE DISQUALIFIED.

10 THE COURT: I CAN'T IMAGINE HER NOT BEING
11 DISQUALIFIED FROM WHAT HE'S READ. THE QUESTION IS WHETHER
12 YOU WANT TO BOTHER TO BRING HER IN. I'M JUST BEING
13 PRACTICAL. I CAN'T IMAGINE HER NOT BEING DISQUALIFIED. BUT
14 IF YOU WANT TO BRING HER IN, WE'LL BRING HER IN.

15 MS. STROM: WELL, YOUR HONOR, IF YOU THINK SHE'S
16 DISQUALIFIED BASED ON THIS, I'LL RESPECT YOUR RULE.

17 THE COURT: YOU MIGHT -- I'LL GIVE YOU THE
18 OPPORTUNITY TO SALVAGE HER IF YOU WANT TO TRY. IF YOU WANT
19 TO BRING HER IN AND TRY TO SALVAGE HER, THAT'S FINE. I'LL
20 LET YOU DO THAT.

21 MR. ARIAIL: WE'RE NOT TRYING TO SALVAGE ANYBODY.
22 I MEAN, WE JUST THINK THAT WHEN YOU START GIVING TOO MANY
23 EXCUSES UP FRONT, WE TAKE A PRETTY HARD LINE. IF YOU WANT -
24 - THAT'S UP TO YOU.

25 THE COURT: SHE HAS A PRETTY GOOD -- SHE HAS A

1. PRETTY DECENT EXCUSE. MY INCLINATION ---

2. MR. ARIAIL: IF YOU THINK IT'S A GOOD EXCUSE ---

3. THE COURT: MY INCLINATION IS TO EXCUSE HER, OKAY?

4. MR. ARIAIL: OKAY. WELL, THEN YOU RULED..

5. SOMEBODY'S GOT TO DETERMINE.

6. THE COURT: I'M JUST GIVING YOU AN OPPORTUNITY TO
7. BRING HER IN IF YOU WANT.

8. MR. ARIAIL: I CAN'T BE THE PROSECUTOR, THE
9. DEFENSE LAWYER AND THE JUDGE.

10. THE COURT: I KNOW YOU TRIED TO ---

11. MR. ARIAIL: I TRIED TO.

12. (LAUGHTER)

13. MR. MAUDLIN: THAT'S THE BEST LINE OF THE DAY,
14. JUDGE.

15. ALL RIGHT. ONE FIFTY SEVEN ---

16. MS. STROM: HAS EXTENSIVE -- BASED UPON THE JUROR
17. QUESTIONNAIRE -- I APOLOGIZE, MR. MAULDIN. I'M JUST A
18. LITTLE HUNGRY. HAS EXTENSIVE KNOWLEDGE ABOUT THE CASE. IN
19. THE JUROR QUESTIONNAIRE, THEY PUT OUT A LOT OF FACTS ABOUT
20. THE CASE.

21. THE COURT: THEY KNOW THE FACTS ABOUT THE CASE?

22. MS. STROM: THEY TALK ABOUT HAVING -- SAYING THE
23. PUBLIC NATURE, THE NEWS COVERAGE. YOU KNOW, HAS SOME
24. EXTENSIVE KNOWLEDGE. BUT AGAIN, I THINK THAT THIS NEEDS TO
25. BE EXPLORED AT THE TIME OF JURY QUALIFICATION AND NOT SIMPLY

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1 BECAUSE THEY RECITE WHAT THEY HEARD ON THE NEWS. AS WE ALL
2 KNOW, THEY DON'T ALWAYS GET IT CORRECT.

3 MR. ARIAIL: I THINK THERE ARE GOING TO BE TONS OF
4 THOSE PEOPLE THAT ARE GOING TO BE ABLE TO RECITE THE SAME
5 THING. JUST BECAUSE SHE PUT IT IN HER QUESTIONNAIRE, SHE
6 SHOULDN'T BE GIVEN AN EXEMPTION BECAUSE THERE ARE OTHERS
7 YOU'RE GOING TO FIND DON'T HAVE THE REQUISITE KNOWLEDGE.

8 THE COURT: "I FOLLOWED THE NEWS REGARDING THE
9 MIRANDA WILLIAMS DEATH PENALTY. I WORK NEAR THE BI-LO WHERE
10 THE CRIME WAS COMMITTED. I DO NOT BELIEVE THERE'S ANY DOUBT
11 OF CHARLES WILLIAMS' GUILT: I KNOW THAT HE WAS CONVICTED OF
12 ASSAULTING MIRANDA JUST A FEW MONTHS BEFORE SHE WAS
13 MURDERED. AND HE SHOWED NO REMORSE. I KNOW THAT MIRANDA
14 WAS HELD HOSTAGE FOR A COUPLE OF HOURS BEFORE SHE WAS
15 KILLED. BASED ON THE PUBLIC NATURE OF THIS CRIME AND THE
16 LIVE NEWS COVERAGE, THERE CAN BE NO DOUBT THAT CHARLES
17 WILLIAMS WAS THE KILLER. I DON'T UNDERSTAND WHY CHARLES
18 WILLIAMS HAS NOT ALREADY BEEN GIVEN A QUICK FAIR TRIAL AND
19 THEN HUNG. KEEPING HIM ALIVE OVER THE YEARS HAS BEEN A HUGE
20 WASTE OF THE TAXPAYERS' DOLLARS."

21 THAT'S WHAT SHE WROTE. I'LL EXCUSE HER.

22 MR. MAUDLIN: THANK YOU, JUDGE.

23 MR. ARIAIL: JUDGE ---

24 THE COURT: OKAY?

25 MS. STROM: I RESPECT YOUR RULING AND ---

1 THE COURT: I UNDERSTAND. I'LL EXCUSE HER.

2 MS. STROM: YES, SIR. MAY I MAKE ONE POINT?

3 THE COURT: YES, MA'AM.

4 MS. STROM: THE STANDARD -- AND I UNDERSTAND THE
5 NATURE OF THESE COMMENTS. BUT EVERYBODY -- WELL, NOT
6 EVERYBODY. THERE'S GOING TO BE A LARGE NUMBER OF PEOPLE WHO
7 KNOW ABOUT FACTS, AND THEY MAY MAKE STATEMENTS SUCH AS THIS.
8 THE STANDARD IS CAN THEY PUT THAT ASIDE. AND THAT'S COMING
9 FROM YOU. NOT FROM SOME QUESTIONNAIRE, BUT FROM THE JUDGE
10 SAYING, IF I INSTRUCT YOU TO PUT THAT ASIDE AND CONSIDER THE
11 FACTS ONLY THAT YOU HEAR IN THIS CASE. AND IF THEY SAY,
12 YES, I CAN DO THAT, THEN AT THAT TIME THE JUDGE MAKES A
13 DECISION WHETHER THEY CAN TRULY DO THAT. SO I WOULD JUST
14 ASK YOUR HONOR TO KEEP THAT IN MIND IN FURTHER REVIEW.

15 THE COURT: THANK YOU VERY MUCH. I APPRECIATE
16 THAT SYNOPSIS OF THE LAW.

17 MR. MAUDLIN: YOUR HONOR ---

18 THE COURT: WHAT'S THE NEXT ONE?

19 MR. MAUDLIN: NUMBER 256. AND I'M JUST GOING TO
20 PASS UP THIS QUESTION NUMBER 73, ANYTHING ELSE HE FEELS LIKE
21 HE SHOULD BRING TO THE COURT'S ATTENTION.

22 THE COURT: WHAT'S YOUR POSITION ON THIS,
23 ASSISTANT SOLICITOR STROM?

24 MR. ARIAIL: I THINK SOMEBODY ---

25 THE COURT: I THINK WE NEED TO BRING HIM IN AND

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1 EXPLORE THOSE FACTS. THIS IS NOT NEARLY AS EXPLICIT AS THE
2 OTHER LADY.

3 MR. MAUDLIN: AND THAT'S TRUE. AND THAT OTHER
4 LADY WAS A MAN, BY THE WAY.

5 THE COURT: WAS IT A MAN? OKAY. NOT NEARLY
6 EXPLICIT AS THE MAN.

7 MR. MAUDLIN: IT IS NOT NEARLY AS BAD, BUT WE ARE
8 ---

9 THE COURT: WE'RE GOING TO BRING HER IN. OR HIM
10 OR WHOEVER IT IS.

11 MR. MAUDLIN: THIS IS A GUY AS WELL. WE'VE GOT A
12 BUNCH OF MEAN GUYS.

13 THE COURT: WE'LL BRING HIM IN.

14 MR. MAUDLIN: HIS STATEMENT ---

15 THE COURT: FROM THE SOLICITOR'S STANDPOINT,
16 THEY'RE GREAT GUYS.

17 MR. ARIAIL: THEY ARE.

18 THE COURT: IT JUST DEPENDS ON YOUR POINT OF VIEW.

19 MR. ARIAIL: VERY OBJECTIVE VIEWPOINTS.

20 MR. MAUDLIN: WELL, IN THAT CASE, LET ME -- HE
21 SAYS HE WOULD LOBBY ALL JURORS.

22 THE COURT: I UNDERSTAND. I READ IT. I'M GOING
23 TO BRING HIM IN.

24 MR. MAUDLIN: THAT'S NOT OBJECTIVE.

25 THE COURT: I'M GOING TO BRING HIM IN.

1 MR. MAUDLIN: ALL RIGHT. SO HE'S COMING IN?

2 THE COURT: HE'S COMING IN.

3 MR. MAUDLIN: AND THE LAST ONE, YOUR HONOR -- AND
4 I DO APPRECIATE YOUR TOLERANCE. THIS ONE IS NUMBER 315.
5 AND THIS IS A LADY WHO ADVISES THE COURT THAT SHE WILL BEGIN
6 TRAINING AS AN ENGLISH SECOND LANGUAGE -- A SECOND LANGUAGE
7 INSTRUCTOR. AND I KNOW THAT THE STATUTORY INFORMATION
8 REGARDS TEACHERS AND SO FORTH. BUT THAT -- IF WE GET
9 VERIFICATION THAT SHE'S ACTUALLY IN A COURSE TO DO THAT, I
10 THINK SHE OUGHT TO BE ---

11 THE COURT: WHAT'S YOUR POSITION FROM THE STATE?

12 MS. STROM: WE BELIEVE THAT SHE NEEDS TO BE
13 BROUGHT IN. I THINK THAT WHAT THIS IS, IS THAT SHE IS
14 LEARNING TO TEACH -- SHE'S LEARNING TO BE A VOLUNTEER TO
15 TEACH OTHER PEOPLE.

16 THE COURT: I AGREE WITH YOU. LET'S BRING HER IN,
17 OKAY? BRING HER IN.

18 MR. MAUDLIN: AND LET ME CHECK WITH BILL, YOUR
19 HONOR. I THINK THAT DOES IT FOR US.

20 MR. NETTLES: OH, I JUST WANT TO SAY ONE THING.
21 COULD WE PUT JUST ONE OF THE LISTS THAT WE'VE BEEN REFERRING
22 TO IN THE MOTIONS IN THE RECORD BECAUSE A LOT OF TIMES WE
23 JUST REFERRED TO IT BY THE NUMBER?

24 THE COURT: YEAH.

25 MR. NETTLES: AND IT MIGHT NOT BE CLEAR.

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1 THE COURT: I'VE WRITTEN ALL OVER MINE.

2 MR. MAUDLIN: YOUR HONOR, I WILL PROVIDE YOU WITH
3 A CLEAN COPY.

4 THE COURT: OKAY. I'LL PUT A CLEAN COPY, BUT I'VE
5 GOT NOTES ---

6 MR. MAUDLIN: I'LL PROVIDE YOU WITH A CLEAN COPY
7 WITHIN THE NEXT DAY OR TWO. AND WE AGREE THAT IT WILL JUST
8 BE AN EXHIBIT, COURT'S EXHIBIT.

9 THE COURT: THAT'S FINE. WHEN DO Y'ALL WANT TO
10 TRY TO HEAR THE SUPPRESSION MOTIONS AND THE OTHER MOTIONS?
11 DO Y'ALL WANT TO WAIT TILL MONDAY MORNING BEFORE TRIAL, OR
12 DO YOU WANT TO TRY TO GET IT DONE THE WEEK AFTER NEXT?

13 MR. ARIAIL: I DON'T -- MY ---

14 THE COURT: DO YOU WANT TO DO IT HERE, OR DO YOU
15 WANT TO DO IT IN GREENVILLE?

16 MR. ARIAIL: --- PREFERENCE WOULD BE TO DO IT
17 AFTER THE JURY IS SELECTED.

18 THE COURT: PARDON?

19 MR. ARIAIL: MY PREFERENCE WOULD BE TO DO IT AFTER
20 THE JURY IS SELECTED.

21 THE COURT: DO YOU HAVE ANY PROBLEM IF WE DRAW THE
22 JURY AND THEN HEAR THE SUPPRESSION MOTIONS, MR. NETTLES?

23 MR. NETTLES: NORMALLY, AS IT RELATES TO THE LAW -
24 - HERE'S WHAT MAKES ME HAPPY. THERE'S A LAW ENFORCEMENT --
25 THERE'S A STATEMENT THAT'S TAKEN FROM LAW ENFORCEMENT. I

1 DON'T HAVE A PROBLEM WITH THAT. THAT'S JACKSON v. DENNO.
2 THIS OTHER STATEMENT THAT IS TAKEN BY THIS DR. CRAWFORD IN
3 WHATEVER CAPACITY SHE'S IN IS A -- IT'S A -- I WILL JUST
4 SHARE WITH THE COURT THAT'S A VERY COMPLICATED ISSUE.

5 THE COURT: ALL RIGHT.

6 MR. NETTLES: IT'S A MULTI-LAYERED ISSUE.

7 THE COURT: LET'S PLAN ON SETTING IT UP THE WEEK
8 AFTER NEXT. NOW, THE QUESTION IS DO YOU WANT TO DO IT HERE
9 IN ANDERSON, OR DO YOU WANT TO DO IT IN GREENVILLE?

10 MR. ARIAIL: I THINK THERE'S NO QUESTION WE'RE
11 GOING TO HAVE TO HEAR IT OVER HERE IN THE HOPES THAT THE
12 PRESS DOESN'T COME. I'M CONVINCED IF YOU HAVE A HEARING ON
13 PAM CRAWFORD'S -- TAKE THE STATEMENT THAT SHE TOOK -- OR THE
14 INTERVIEW SHE HAD. NOT A STATEMENT. THE INTERVIEW SHE HAD.

15 THE COURT: THIS WAS IMMEDIATELY AFTER THE CRIME,
16 RIGHT?

17 MR. ARIAIL: I'M SORRY?

18 THE COURT: THIS IS IMMEDIATELY AFTER THE CRIME,
19 THE POLICE TOOK HER -- TOOK HIM TO PAM CRAWFORD; IS THAT
20 CORRECT?

21 MR. ARIAIL: NO. THE POLICE -- YEAH. I CALLED
22 PAM CRAWFORD AND ASKED PAM CRAWFORD TO COME UP AND INTERVIEW
23 HIM.

24 THE COURT: THIS WAS IMMEDIATELY, VERY SHORTLY
25 AFTER THE CRIME?

1 MR. ARIAIL: YEAH. AND SHE CONDUCTS A VERY
2 LENGTHY INTERVIEW ON TAPE. IT'S ALL TAPED AND TRANSCRIBED.
3 AND SHE IDENTIFIES HERSELF AS A PSYCHIATRIST THAT WORKS FOR
4 SLED AND GIVES HIM MIRANDA AND GOES THROUGH THE WHOLE THING.
5 IT'S GOING TO BE IN THE PRESS AS A CONFESSION. AND YOU ARE
6 GOING TO HAVE IMMENSE PUBLICITY PROBLEMS.

7 THE COURT: WELL, DO YOU PREFER DOING IT OVER
8 HERE?

9 MR. ARIAIL: I PREFER DOING IT AFTER THE JURY IS
10 SEQUESTERED. BUT I'LL DO IT OVER HERE IF YOU ORDER ME TO,
11 AND I'LL BRING THE WITNESSES. BUT I THINK YOU'RE GETTING
12 READY -- I THINK WE'RE GETTING READY TO POISON THE JURY
13 PANEL. BECAUSE IF THE GREENVILLE NEWS OR CHANNEL FOUR SHOWS
14 UP, IT'S GOING TO BE ALL OVER.

15 THE COURT: I DON'T KNOW. I MAY EXCLUDE THEM FROM
16 THIS PARTICULAR MOTION. I DON'T KNOW. OKAY?

17 MR. ARIAIL: OKAY.

18 MR. MAUDLIN: A COUPLE OF POINTS, FIRST OF ALL --

19 -

20 THE COURT: I DON'T KNOW, SOLICITOR. I MAY
21 SERIOUSLY CONSIDER IT FOR THIS PARTICULAR MOTION, THAT
22 PORTION OF THE MOTION, EXCLUDING THEM. I DON'T KNOW.

23 MR. ARIAIL: AND THEY'RE NOT HERE TODAY.

24 THE COURT: I UNDERSTAND. BUT FOR THAT PARTICULAR
25 MOTION, I MAY -- EVERYTHING ELSE THEY CAN STAY, BUT I MAY DO

1 IT ON THAT MOTION IF WE DO IT.

2 MR. ARIAIL: THEN THAT WOULD SOLVE THE PROBLEM.

3 THE COURT: OKAY.

4 MR. MAUDLIN: AND WE'VE BEEN OVER HERE THREE TIMES
5 AND HAVEN'T SEEN A MEMBER OF THE PRESS YET. AND AS LONG AS
6 NOBODY TELLS THEM ANYTHING, I THINK WE'VE GOT A GOOD CHANCE
7 OF HAVING IT.

8 THE COURT: WHEN DO YOU WANT TO DO IT WEEK AFTER
9 .NEXT?

10 MR. NETTLES: WHY DON'T WE SUGGEST TO DO THIS JUST
11 TO COVER OURSELVES? WHY DON'T THE COURT PICK A COUPLE OF
12 DATES, LET US KNOW, AND THEN WE'LL TALK ABOUT IT?

13 THE COURT: I'M GETTING READY TO PICK THEM RIGHT
14 NOW. WEDNESDAY OR THURSDAY.

15 MR. NETTLES: MY FEAR OF DOING THAT IS THAT THEN
16 THE DATE GETS OUT AND SOMEBODY SHOWS UP. I FIGURED IF WE
17 ALL CHECKED OUR CALENDARS AND GOT TOGETHER ON THE PHONE AND
18 CAME UP WITH IT.

19 THE COURT: ALL RIGHT. WHY DON'T Y'ALL GET
20 TOGETHER ON THE PHONE AND PICK A DAY THAT WEEK, SOLICITOR?

21 MR..ARIAIL: YOU'RE TALKING ABOUT WEDNESDAY OR
22 THURSDAY?

23 THE COURT: I'LL DO IT ANY -- I GOT COMMON PLEAS
24 THAT WEEK. I'LL DO IT ANY DAY YOU CAN DO IT, OKAY? Y'ALL
25 PICK A DAY AND LET ME KNOW.

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1 MR. MAUDLIN: THE WEEK AFTER NEXT, WEDNESDAY OR
2 THURSDAY.

3 THE COURT: THE WEEK AFTER NEXT. ANY DAY BUT
4 MONDAY, OKAY?

5 MR. ARIAIL: WHAT'S TODAY, THE 12TH?

6 THE COURT: YEAH.

7 MR. ARIAIL: SO YOU'RE TALKING ABOUT THE 26TH OR
8 THE 27TH?

9 THE COURT: RIGHT. ANY DAY BUT MONDAY OF THAT
10 WEEK.

11 MR. MAUDLIN: TUESDAY OR WEDNESDAY.

12 MR. ARIAIL: HOW ABOUT TUESDAY?

13 MR. MAUDLIN: TUESDAY OR WEDNESDAY.

14 THE COURT: IT DOESN'T MATTER. JUST LET ME KNOW
15 WHAT DAY. I'LL ACCOMMODATE YOU.

16 MR. ARIAIL: TUESDAY?

17 THE COURT: PARDON?

18 MR. ARIAIL: TUESDAY?

19 THE COURT: I DON'T CARE.

20 MR. ARIAIL: OKAY. TUESDAY THE 27TH?

21 MR. MAULDIN: LET'S SEE IF WE CAN'T WORK IT OUT.

22 THE COURT: Y'ALL TALK ABOUT IT AND JUST LET ME
23 KNOW. I'LL ACCOMMODATE YOU ANY DAY THAT WEEK EXCEPT MONDAY.

24 MR. ARIAIL: WE'LL HAVE TO GET OUR WITNESSES.

25 NOW, YOU SAID YOU DON'T CARE ABOUT THE LAW

1 ENFORCEMENT'S PART, JUST PAM'S?

2 MR. NETTLES: THAT'S RIGHT.

3 MR. ARIAIL: THAT WILL MAKE IT A LITTLE SIMPLER
4 BECAUSE WE WOULD HAVE TO GET ALL ---

5 THE COURT: ALL WE'RE GOING TO DO IS PAM'S PART.
6 WE'LL DO LAW ENFORCEMENT LATER ON.

7 MR. ARIAIL: OKAY. THAT WILL BE SHORT.

8 MR. MAULDIN: WE CAN DO THAT AFTER THE JURY
9 SELECTION.

10 THE COURT: WE'LL DO THE JACKSON v. DENNO AFTER
11 THE JURY IS DRAWN. ALL WE'RE TALKING ABOUT NEXT WEEK IS
12 PAM'S PORTION.

13 MR. MAULDIN: THANK YOU, JUDGE.

14 MR. ARIAIL: I WOULD LIKE ONE -- BEFORE WE GO
15 THERE, THEY HAVE NOT IDENTIFIED ANY GROUNDS SPECIFIC TO PAM
16 CRAWFORD. WE'RE GETTING READY TO INTO ---

17 THE COURT: WELL, HE SAID HE'S GOING TO GIVE ME A
18 MEMO, AND I'M SURE HE'S GOING TO GIVE YOU A COPY OF IT.

19 MR. ARIAIL: OKAY. AS LONG AS WE GET A MEMO. I
20 DON'T WANT TO GET IT THE MORNING OF.

21 THE COURT: MR. NETTLES, YOU'RE GOING TO GIVE ME A
22 MEMO?

23 MR. NETTLES: YES, SIR.

24 THE COURT: GIVE HIM A COPY OF IT.

25 MR. NETTLES: WHEN YOU GET YOURS, HE'LL GET HIS.

1 THE COURT: I NEED IT NEXT WEEK. BY NEXT
2 WEDNESDAY, OKAY?

3 MR. ARIAIL: TRY TO ELIMINATE SOME OF THE AMBUSH.

4 THE COURT: AND GIVE MR. ARIAIL A COPY OF IT.

5 SOLICITOR ARIAIL. EXCUSE ME. I KEEP CALLING HIM MISTER,
6 HE'S GOING TO GET OFFENDED WITH ME IN A MINUTE. GIVE
7 SOLICITOR ARIAIL A COPY OF IT, OKAY?

8 MR. NETTLES: YES, SIR.

9 THE COURT: ANYTHING ELSE?

10 MR. MAULDIN: JUST THE EX PARTE MATTER, YOUR
11 HONOR, THE FUNDING ISSUE.

12 THE COURT: I UNDERSTAND THAT.

13 MR. ARIAIL: WE HAVE AN EX PARTE FUNDING MATTER TO
14 BRING UP ALSO.

15 THE COURT: OKAY. TAKE CARE OF IT WITH THE
16 LEGISLATURE.

17 MR. ARIAIL: OKAY.

18 THE COURT: ALL RIGHT. WE'LL ADJOURN. THANK YOU
19 VERY MUCH.

20 (END OF REQUESTED TRANSCRIPT OF RECORD)

1. CERTIFICATE OF REPORTER

2 I, THE UNDERSIGNED RENEE H. TOLLISON, OFFICIAL COURT
3 REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF
4 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
5 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
6 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL/HEARING
7 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
8 COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 13TH DAY
9 OF JANUARY 2005.

10 THIS TRANSCRIPT CONTAINS QUOTED MATERIAL. SUCH
11 MATERIAL IS REPRODUCED AS READ BY THE SPEAKER.

12 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
13 NOR INTEREST TO ANY PARTY HERETO.

14 JUNE 9, 2006

15 Renee H. Tollison
16

17 CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF GREENVILLE

STATE OF SOUTH CAROLINA,)

PLAINTIFF,)

2004-GS-23-1745, 1746

-VS-)

PRETRIAL SUPPRESSION HEARING

CHARLES CHRISTOPHER)

JANUARY 26, 2005

WILLIAMS,)

TRANSCRIPT OF RECORD

DEFENDANT.)

BEFORE:

THE HONORABLE J.C. "BUDDY" NICHOLSON, JR., JUDGE

APPEARANCES:

ROBERT ARIAL, ESQUIRE

SOLICITOR FOR THE 13TH JUDICIAL CIRCUIT

BETTY STROM, ESQUIRE

MARK MOYER, ESQUIRE

ASSISTANT SOLICITORS FOR THE 13TH JUDICIAL CIRCUIT

ATTORNEYS FOR THE STATE

JOHN MAULDIN, ESQUIRE

WILLIAM NETTLES, ESQUIRE

MARK J. MCDUGALL, ESQUIRE

CARA FOOS PIERCE, ESQUIRE

COLLEEN M. COYLE, ESQUIRE

ATTORNEYS FOR THE DEFENDANT

RIVERS S. STILWELL, ESQUIRE

ATTORNEY FOR THE GREENVILLE NEWS

CARL MULLER, ESQUIRE

ATTORNEY FOR FOR WYFF

RENEE H. TOLLISON

CIRCUIT COURT REPORTER

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3

1 THE COURT: ALL RIGHT. IT'S -- WHO WANTS TO TYPE
2 ME UP AN ORDER? A PROPOSED ORDER.

3 MR. NETTLES: WE'LL BE HAPPY TO. ABOUT THIS BEING
4 CLOSED?

5 THE COURT: YEAH.

6 MR. NETTLES: YES.

7 THE COURT: ALL RIGHT. A PROPOSED ORDER AND RUN
8 IT BY THE SOLICITOR.

9 MR. NETTLES: YEAH, WE'LL RUN IT BY THE SOLICITOR.

10 THE COURT: OKAY. LET ME HEAR FROM YOU.

11 MR. NETTLES: COULD I HAVE A BRIEF SECOND TO TALK
12 TO COUNSEL ABOUT WHERE WE ARE IN LIGHT OF THE STIPULATIONS
13 MADE?

14 THE COURT: YES, SIR.

15 (WHEREUPON COURT STOOD AT EASE)

16 MR. NETTLES: THANK YOU, YOUR HONOR. I SUPPOSE
17 THE FIRST ISSUE WE HAVE TO DECIDE IS WHO'S GOT THE BURDEN OF
18 PROOF. AND AT THIS POINT, WHAT THE STATE HAS SAID IS THEY
19 DON'T INTEND TO OFFER -- MY UNDERSTANDING IS WE'RE, AT THIS
20 POINT, RELYING ON THE ASSERTION THEY ARE NOT INTENDING TO
21 OFFER HER AS AN EXPERT IN ANY WAY, SHAPE OR FORM, REBUTTAL
22 OR ANYTHING. AND I SUPPOSE BEFORE WE GO ANY FURTHER, I NEED
23 TO MAKE SURE THAT THAT IS STILL THE POSITION OF THE
24 GOVERNMENT.

25 THE COURT: I'M SURE IT IS. HE'S TOLD THE COURT

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4

1 THAT AND STATED IT IN OPEN COURT.

2 MR. NETTLES: AND THE ONLY REASON I BRING IT UP IS
3 I DIDN'T KNOW TO WHAT EXTENT THAT WAS BEING DONE BECAUSE OF
4 THE MEDIA SITUATION.

5 THE COURT: NO. I THINK HE STATED THAT TO THE
6 COURT, AND I'M GOING TO HOLD HIM TO IT.

7 MR. NETTLES: OKAY. SO ---

8 THE COURT: I DON'T THINK HE NEEDS TO REPEAT IT.

9 MR. NETTLES: ALL RIGHT. THEN ---

10 THE COURT: I HEARD IT, AND I'M GOING TO HOLD HIM
11 TO IT.

12 MR. NETTLES: OKAY. NOW WHAT WE'VE GOT IS THAT
13 IT'S OUR -- BASED ON SOME INFORMATION THAT WE'VE GOT THAT
14 WE'LL PRESENT TO THE COURT THAT WAS PROVIDED TO US BY THE
15 GOVERNMENT IS THAT THEY HAVE NOT PRECLUDED THE FOLLOWING.
16 AND THAT IS INTRODUCING -- DURING THE COURSE OF HER
17 EVALUATION OF HIM, HE GAVE A -- TWO TO HER ON TWO SEPARATE
18 OCCASIONS LENGTHY STATEMENTS. WE -- WHAT WE BELIEVE THEY'RE
19 GOING TO DO -- AND I COULD BE WRONG -- IS THAT -- AND IF SO,
20 THEY CAN INTERRUPT ME. BUT WHAT THEY'RE GOING TO DO IS
21 THEY'RE GOING TO THEN MOVE TO INTRODUCE THOSE STATEMENTS.
22 BASED ON LETTERS THAT WE GOT FROM MS. STROM DURING THE
23 COURSE DISCUSSING ABOUT AGGRAVATION, THEY SAID THAT THEY
24 WERE GOING TO INTRODUCE HER TO DISCUSS HIS CHARACTER. WHAT
25 WE -- SO WE'VE STILL GOT THE ISSUE OF ADMISSIBILITY OF THE

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5

1 STATEMENT, WHETHER IT WAS TAKEN AND -- CONSTITUTIONALLY
2 TAKEN.

3 SECONDLY, WE'VE GOT THE WHOLE ISSUE OF WHETHER -- AND
4 UNDER THE EXPERT WITNESS MOTION, WE ALSO RAISED A 403
5 ARGUMENT WHICH IS WHETHER IT'S MORE PREJUDICIAL THAN
6 PROBATIVE BECAUSE OF THE WAY THAT SHE CHOSE TO ELICIT THE
7 STATEMENT FROM MR. WILLIAMS. IN OTHER WORDS, YOU KNOW, SHE
8 CAME IN. WHAT YOU'LL HEAR IS SHE CAME IN AND TOLD HIM SHE
9 WAS A DOCTOR, THAT SHE WAS THERE TO FIND OUT WHAT WAS GOING
10 THROUGH HIS HEAD BEFORE IT HAPPENED.

11 SO WE STILL HAVE TWO PRONGS THAT WE'RE GOING FORWARD
12 ON. ONE IS THAT IT'S NOT ADMISSIBLE CONSTITUTIONALLY. AND
13 SECOND, IT'S NOT ADMISSIBLE AS A MATTER OF EVIDENCE BECAUSE
14 OF THE PROCEDURE THAT WAS USED TO TAKE THE STATEMENT MAKES
15 IT MORE PREJUDICIAL THAN PROBATIVE.

16 THANK YOU.

17 THE COURT: SOLICITOR, LET ME HEAR FROM YOU.

18 MR. ARIAIL: SIR?

19 THE COURT: LET ME HEAR FROM YOU.

20 MR. ARIAIL: NOW THAT WE'VE GOTTEN PAST THE FIRST
21 HOLE AND 702 IS OUT OF THE WAY, I CONCUR, AS I CONCUR WITH
22 MY ORIGINAL STATEMENT THAT THE ISSUE OF ADMISSIBILITY IS A
23 JACKSON v. DENNO THAT REQUIRES THE STATE TO RESPOND AND
24 CARRY THE BURDEN OF PROOF TO ESTABLISH WHETHER OR NOT THE
25 STATEMENT WAS TAKEN IN A VOLUNTARY AND INTELLIGENT FASHION.

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6

1 SO WHAT WE INTEND TO DO IS PRESENT THE PEOPLE WHO
2 PARTICIPATED IN THE TAKING OF THOSE STATEMENTS. IT IS OUR
3 POSITION THAT THE STATEMENT TAKEN, FIRST STATEMENT TAKEN,
4 WE'RE GOING TO GO THROUGH THAT BECAUSE YOU'VE GOT TO HAVE
5 THAT AS A BASIS FOR WHERE WE STARTED.

6 THERE ARE ACTUALLY FOUR STATEMENTS THAT THIS DEFENDANT
7 MADE TO -- AT DIFFERENT TIMES. AND WE FIGURE WE'LL GO --
8 THE BEST WAY IS TO GO THROUGH ALL OF THEM WITH ALL THE
9 WARNINGS THAT WERE ASSOCIATED WITH THEM.

10 NOW, THE ISSUE OF PREJUDICIAL VERSUS PROBATIVE UNDER
11 403, THAT IS GOING TO BE -- IN OUR VIEW, THAT IS A COURT'S
12 DETERMINATION THAT YOU'RE NOT GOING TO BE ABLE TO MAKE AT A
13 HEARING LIKE THIS. YOU'RE GOING TO HAVE TO HEAR THE CASE.
14 YOU CAN'T JUST SIT UP HERE AND HEAR US ARGUE ABOUT FACTS
15 THAT AREN'T IN THE RECORD. SO I SUGGEST THAT WHEN WE GET TO
16 THE ISSUE OF -- AND OF COURSE, EVERY STATEMENT IS MORE
17 PREJUDICIAL FROM THE DEFENDANT'S STANDPOINT THAN IT IS
18 PROBATIVE. BUT IN A CUMULATIVE EFFECT OF ALL THE EVIDENCE
19 THAT YOU'RE GOING TO HEAR AND THAT THE JURY IS GOING TO
20 HEAR, I THINK AT THE TIME THE ISSUE OF DR. CRAWFORD COMES
21 UP, THAT -- AND THAT STATEMENT, THAT THAT WOULD BE THE
22 APPROPRIATE TIME FOR YOU TO BE ABLE TO MAKE AN INFORMED AND
23 INTELLIGENT DECISION BECAUSE YOU'LL HAVE ALL OF THE FACTS
24 BEFORE YOU. TO TAKE IT TODAY WOULD BE IN AN ISOLATE
25 SETTING, AND I THINK IT WOULD BE A DISADVANTAGE BOTH TO THE

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7

1 STATE AND THE DEFENSE FOR YOU TO TRY TO MAKE THAT DECISION
2 BECAUSE I DON'T THINK WE CAN FULLY DEVELOP A RECORD TODAY.
3 FROM EITHER SIDE AS TO THAT POINT.

4 SO I AGREE THAT THE ISSUE OF THE -- IS IT 403 OR 402?

5 THE COURT: 403.

6 MR. ARIAIL: ... 403 IS STILL BEFORE THE COURT.
7 WE WILL TAKE THE BURDEN AND PROCEED IMMEDIATELY WITH THE
8 ISSUE AS TO THE ADMISSIBILITY OF ALL OF THE DEFENDANT'S
9 STATEMENTS AND PUT THOSE UP FORTHWITH.

10 THE COURT: OKAY. CALL YOUR FIRST WITNESS.

11 MR. ARIAIL: CALL MIKE MCNAMARA.

12 THE COURT: HOLD ON JUST A SECOND.

13 WHAT DO YOU NEED, MR. NETTLES?

14 MR. NETTLES: NOTHING. I JUST OBJECT -- I MEAN, I
15 DISAGREE. I APPRECIATE THE GOVERNMENT ATTEMPTING TO ARGUE
16 THAT IT WOULD BE PREJUDICIAL FOR US TO HEAR IT TODAY. I
17 JUST RESPECTFULLY DISAGREE. WE HAVE GOT -- WHAT WE ARE
18 PREPARED TO PROVIDE THE COURT WITH TODAY IS THE TYPE OF
19 INFORMATION THAT WE FEEL THE COURT WOULD VERY MUCH LIKE TO
20 HEAR.

21 THE COURT: I WILL HEAR THE MOTIONS. THAT'S WHAT
22 WE'RE HERE FOR. I UNDERSTAND HIS POSITION. BUT HOWEVER HE
23 -- WHATEVER TESTIMONY HE WANTS TO PRESENT, THAT'S FINE. BUT
24 I'M GOING TO HEAR BOTH MOTIONS TODAY. 403 IF I DECIDE AFTER
25 HEARING WHAT YOU PRESENT TODAY I CAN'T MAKE A DECISION

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1 TODAY, I WON'T MAKE A DECISION TODAY. BUT PLAN ON
2 ADDRESSING BOTH ISSUES, OKAY, WITH YOUR WITNESSES. AND YOU
3 MAY VERY WELL BE RIGHT. I MAY HAVE TO HEAR A LOT MORE
4 TESTIMONY BEFORE I CAN MAKE THAT DECISION.

5 MR. NETTLES: YOUR HONOR ---

6 THE COURT: AS FAR AS 401 BALANCING TEST, I MAY
7 NOT BE ABLE TO DO THAT. BUT I'M TELLING THE STATE TO MOVE
8 FORWARD ON IT.

9 MR. NETTLES: I UNDERSTAND. AND THE ONLY THING
10 I'D LIKE TO CLARIFY IS MY UNDERSTANDING WAS TODAY -- AND I
11 REALIZE THAT IN ORDER TO PUT ALL OF THIS IN A CONTEXT, THEY
12 HAVE TO DISCUSS THE FACT THAT THERE ARE OTHER STATEMENTS.
13 BUT MY UNDERSTANDING WAS THAT WE WERE HERE TO DETERMINE THE
14 ADMISSIBILITY OF THE PAM CRAWFORD STATEMENT ONLY AND THAT WE
15 WERE GOING TO HAVE A HEARING ON THE ADMISSIBILITY OF ALL THE
16 REST OF THOSE. IF THE PURPOSE OF -- I ENCOURAGE THEM AND I
17 RECOGNIZE THAT IN ORDER TO PUT THE PAM CRAWFORD STATEMENT IN
18 CONTEXT, WE MAY NEED TO DISCUSS THE OTHER STATEMENTS. BUT I
19 JUST WANTED TO INFORM THE COURT THAT WE'RE NOT PREPARED TO
20 ADDRESS THE ADMISSIBILITY OF THOSE STATEMENTS. MY
21 UNDERSTANDING BASED ON THE -- FROM THE LAST TIME WE WERE
22 HERE IN ANDERSON WAS THAT WE WERE GOING TO TAKE UP THE
23 ADMISSIBILITY OF THE STATEMENT TO POLICE OFFICERS AT A
24 HEARING AFTER THE JURY HAD BEEN SWORN.

25 THE COURT: SOLICITOR, IS THAT OKAY WITH YOU?

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SUPPRESSION HEARING (1/26/05)

9

1 MR. ARIAIL: I CAN'T PUT UP -- I CAN'T PUT PAM
2 CRAWFORD'S STATEMENT UP -- AND I KNOW THEY'D LIKE FOR THAT
3 TO BE THE CASE. THAT WE ISOLATE THIS SO THAT SOMEHOW IT
4 APPEARS DIFFERENT THAN IT IS. BUT YOU CANNOT UNDERSTAND THE
5 FULL CONTEXT ---

6 THE COURT: WELL, PUT UP WHO YOU NEED TO PUT UP,
7 OKAY?

8 MR. ARIAIL: THAT'S WHAT I WAS TRYING TO DO.

9 THE COURT: CALL YOUR FIRST WITNESS ---

10 MR. ARIAIL: CALL DETECTIVE MCNAMARA.

11 THE COURT: --- AND LET'S GET ON WITH THE SHOW,
12 OKAY?

13 MR. ARIAIL: THANK YOU.

14 THE COURT: MR. NETTLES, WE'LL ADDRESS YOUR ISSUE
15 AT SOME POINT IN TIME.

16 MR. NETTLES: WELL ---

17 THE COURT: IT MAY BE WHAT THEY'RE GOING TO PUT UP
18 OKAY. AND I UNDERSTAND YOU'RE NOT PREPARED TO HAVE A
19 JACKSON v. DENNO HEARING ON HIS CONFESSION. I UNDERSTAND
20 THAT.

21 MR. NETTLES: I MEAN, I'M NOT ARGUING WITH
22 ANYTHING HE'S SAYING. I THINK I SAID TWICE I REALIZE HE'S
23 GOT TO PUT IT UP TO PUT IT IN CONTEXT. I SAID THAT.

24 THE COURT: I UNDERSTAND. AND I UNDERSTAND THE
25 OBJECTION, OKAY? ***

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION BY MR. ARIAL:

4 Q. MR. MCNAMARA, BY WHOM ARE YOU EMPLOYED?

5 A. I'M EMPLOYED BY THE GREENVILLE COUNTY SHERIFF'S OFFICE.

6 Q. AND IN WHAT CAPACITY ARE YOU EMPLOYED WITH THE
7 SHERIFF'S OFFICE OF GREENVILLE COUNTY?

8 A. I'M AN INVESTIGATOR WITH THE VIOLENT CRIMES HOMICIDE
9 UNIT.

10 Q. AND THE VIOLENT CRIMES HOMICIDE UNIT INVESTIGATES WHAT
11 TYPE OF CRIME?

12 A. ROBBERIES, ALL DEATH INVESTIGATIONS, ASSAULTS, THINGS
13 OF THAT NATURE, SIR.

14 Q. AND WERE YOU SO EMPLOYED ON SEPTEMBER THE 3RD OF THE
15 YEAR 2003?

16 A. YES, SIR, I WAS.

17 Q. AND HOW LONG HAVE YOU BEEN WITH THE SHERIFF'S OFFICE
18 TOTAL?

19 A. ABOUT NINE AND A HALF YEARS, SIR.

20 Q. AND HOW MANY OF THOSE YEARS HAVE YOU BEEN AN
21 INVESTIGATOR IN THE VIOLENT CRIMES UNIT?

22 A. JUST OVER FIVE YEARS, SIR.

23 Q. NOW, I WANT TO DIRECT YOUR ATTENTION BACK TO SEPTEMBER
24 3RD OF 2003 AND ASK YOU IF ON THAT DATE YOU HAD AN OCCASION
25 TO COME IN CONTACT WITH CHARLES CHRISTOPHER WILLIAMS WHO'S

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11

1 SEATED IN COURT TODAY WITH HIS COUNSEL?

2 A. YES, SIR, I DID.

3 Q. AND WHAT TIME OF DAY WAS IT APPROXIMATELY THAT YOU CAME
4 IN CONTACT WITH HIM?

5 A. IT WAS AFTER TWELVE NOON. IT WAS ABOUT TWELVE NOON
6 WHEN I RESPONDED BACK TO THE LAW ENFORCEMENT CENTER AND HAD
7 BEEN INFORMED THAT THE INCIDENT AT THE BI-LO HAD TAKEN
8 PLACE. ABOUT AN HOUR OR SO AFTER THAT WAS WHEN MR. WILLIAMS
9 WAS FINALLY BROUGHT UP TO THE LAW ENFORCEMENT CENTER.

10 Q. SOMETIME AFTER TWELVE NOON ON THE 3RD?

11 A. THAT'S CORRECT, SIR.

12 Q. AND HAD YOU BEEN INVOLVED AT THE SCENE OF THE BI-LO ANY
13 EARLIER THAT DAY?

14 A. NO, SIR.

15 Q. CAME STRAIGHT TO THE LAW ENFORCEMENT CENTER?

16 A. YES, SIR.

17 Q. AND WHEN YOU MET WITH MISTER -- OR WHEN YOU ARRIVED AT
18 THE LAW ENFORCEMENT CENTER, WAS MR. WILLIAMS ALREADY THERE?

19 A. NO, SIR.

20 Q. WHO BROUGHT HIM TO YOU?

21 A. TWO OTHER DEPUTIES WITH THE SHERIFF'S OFFICE, MIKE
22 JOLLY AND ANDREW RACKLEY BROUGHT HIM UP TO -- OR I ACTUALLY
23 WENT DOWN TO MEET THEM IN THE JUDICIAL SUPPORT SERVICES
24 DIVISION, AND WE WALKED UP TOGETHER.

25 Q. NOW, WHEN YOU SAY TWO OTHER DEPUTIES, WERE THESE

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12

1 UNIFORMED DEPUTIES?

2 A. YES, THEY WERE.

3 Q. DETECTIVE -- I MEAN, DEPUTY JOLLY AND DEPUTY RACKLEY?

4 A. THAT'S CORRECT.

5 Q. BOTH OF THEM DRESSED IN POLICE UNIFORM?

6 A. YES, SIR.

7 Q. AND HOW WERE YOU DRESSED?

8 A. NORMAL ATTIRE FOR INVESTIGATORS IS A PAIR OF SLACKS AND
9 A COLLARED SHIRT.

10 Q. IN CIVILIAN CLOTHES, NOT A UNIFORM?

11 A. THAT'S CORRECT.

12 Q. AND YOU SAY YOU MET THEM IN THE SALLY PORT. DESCRIBE
13 THAT LOCATION.

14 A. WHERE I ACTUALLY MET THEM WAS DOWN ON THE FIRST FLOOR
15 JUST OUTSIDE OF THE JUDICIAL SUPPORT OR THE WARRANT DIVISION
16 WHERE WARRANTS ARE SERVED AND PROCESSED DOWN THERE. THEY
17 WERE IN THE PROCESS OF COMING OUT. I HAD ALREADY SPOKEN TO
18 THEM AND LET THEM KNOW THAT I WAS UPSTAIRS AND PREPARED TO
19 ACCEPT CUSTODY OF MR. WILLIAMS, AND THEY WERE IN THE PROCESS
20 OF BRINGING HIM UP. I MET THEM DOWNSTAIRS, AND WE ALL
21 WALKED UP TOGETHER. TOOK AN ELEVATOR UPSTAIRS TO THE OFFICE
22 TOGETHER.

23 Q. SO THERE HAD BEEN PRIOR COMMUNICATION, YOU KNEW THEY
24 WERE COMING, YOU WERE LOOKING FOR THEM, THEY WERE LOOKING
25 FOR YOU AND THAT'S HOW YOU MET UP?

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13

- 1 A. YES, SIR.
- 2 Q. AND THEN YOU WENT UPSTAIRS IN THE LAW ENFORCEMENT
3 CENTER TO WHERE?
- 4 A. TO THE VIOLENT CRIMES OFFICE WHICH IS A SEPARATE OFFICE
5 IN THE BACK PORTION OF THE C.I.D. OFFICE OR THE CENTRAL
6 INVESTIGATIVE DIVISION.
- 7 Q. AND IS THIS A SEPARATE OFFICE?
- 8 A. IT IS. IT'S GOT A DOOR ON IT THAT CLOSES AND ISOLATES
9 THAT OFFICE FROM THE REST OF THE C.I.D. DIVISION.
- 10 Q. DOES IT HAVE WINDOWS IN IT?
- 11 A. IT HAS THREE WINDOWS IN IT, YES, SIR.
- 12 Q. AND THESE WINDOWS FACE TO THE OUTSIDE?
- 13 A. THEY DO.
- 14 Q. HOW MANY PEOPLE WERE -- WENT INTO THIS AREA WITH YOU?
- 15 A. AT THAT TIME MYSELF AND THE TWO UNIFORMED DEPUTIES,
16 JOLLY AND RACKLEY. THE THREE OF US ENTERED THE VIOLENT
17 CRIMES OFFICE AND SHUT THE DOOR ALONG WITH MR. WILLIAMS.
- 18 Q. AND THE DEFENDANT CAME WITH YOU?
- 19 A. HE DID, YES, SIR.
- 20 Q. AND YOU WERE AT THAT TIME AWARE OF THE CIRCUMSTANCES OF
21 THE CRIMES ALLEGED AGAINST MR. WILLIAMS?
- 22 A. YES, I WAS.
- 23 Q. AND YOU HAD RECEIVED THAT INFORMATION FROM OTHER
24 OFFICERS OR DETECTIVES WHO WERE ON THE SCENE?
- 25 A. YES, SIR.

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARLAIL

14

1 Q. AND WHAT WAS YOUR PURPOSE IN MEETING MR. WILLIAMS?

2 A. IT WAS TO SEE IF HE WANTED TO GIVE A STATEMENT AND
3 INTERVIEW MR. WILLIAMS BASED ON WHAT HAD HAPPENED THAT DAY.

4 Q. OKAY. NOW, PRIOR TO TALKING WITH MR. WILLIAMS, DID YOU
5 ADVISE HIM OF ANY INFORMATION? NOT HIS MIRANDA RIGHTS. BUT
6 DID Y'ALL HAVE ANY DISCUSSIONS ABOUT OTHER INFORMATION PRIOR
7 TO READING HIS MIRANDA RIGHTS?

8 A. PRIOR TO READING THE MIRANDA RIGHTS, THE ONLY
9 CONVERSATION I HAD WITH MR. WILLIAMS WAS TO ASK HIM DID HE
10 WANT TO TALK TO ME ABOUT WHAT HAD HAPPENED.

11 Q. AND DID HE RESPOND TO THAT QUESTION WHICH WAS, DO YOU
12 WANT TO TELL ME ABOUT THIS?

13 A. YES, HE DID.

14 Q. WHAT WAS HIS RESPONSE?

15 A. SIR?

16 Q. WHAT WAS HIS RESPONSE?

17 A. HE SAID, I'LL TELL YOU ANYTHING YOU WANT TO KNOW.

18 Q. I'LL TELL YOU ANYTHING YOU WANT TO KNOW?

19 A. YES, SIR.

20 Q. AT THAT POINT, HOW WOULD YOU DESCRIBE HIS Demeanor AND
21 HIS APPEARANCE?

22 A. HE WAS CALM, FOCUSED. AND WHEN WE SPOKE, HE WAS WELL-
23 SPOKEN. HE MAINTAINED EYE CONTACT WITH ME. DID NOT SEEM TO
24 ME TO BE UPSET OR CONCERNED ABOUT ANYTHING.

25 Q. DID HE APPEAR TO BE UNDER CONTROL OF HIS FACULTIES AND

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15

1 COULD RESPOND TO YOUR QUESTIONS INTELLIGENTLY?

2 A. YES, SIR, HE WAS.

3 Q. ALL RIGHT. AND AT THAT TIME AFTER HE INDICATED HIS

4 WILLINGNESS TO TALK WITH YOU -- I WANT TO SHOW YOU WHAT HAS

5 PREVIOUSLY BEEN MARKED -- IT HAS NOT -- I'M SORRY. WE

6 SUBMITTED IT AS PART OF OUR MEMORANDUM. BUT LET ME SHOW YOU

7 THAT DOCUMENT AND ASK IF YOU CAN IDENTIFY THAT DOCUMENT.

8 A. YES, SIR.

9 Q. AND WHAT IS THAT?

10 A. THAT IS THE WAIVER OF RIGHTS WE PRODUCE FOR ANYBODY IN

11 THE OFFICE THAT WE NEED TO TAKE A CRIMINAL STATEMENT FROM

12 UNDER CERTAIN CIRCUMSTANCES.

13 Q. AND THAT IS A STANDARD FORM THAT YOU USE IN THE

14 SHERIFF'S OFFICE?

15 A. YES, SIR. THAT'S THE FORM WE WOULD USE ANYTIME WE

16 NEEDED TO ASK A DEFENDANT FOR A STATEMENT AND A WAIVER.

17 Q. AND THE HANDWRITING ON THAT FORM IS YOUR HANDWRITING

18 AND HIS HANDWRITING?

19 A. UP AT THE TOP, YES, SIR. THE HANDWRITINGS ON HERE ARE

20 MY HANDWRITING, THE HANDWRITING OF THE DEFENDANT AND THE

21 HANDWRITING OF DEPUTY JOLLY.

22 Q. ALL RIGHT.

23 MR. ARIAIL: YOUR HONOR, I'LL SHOW THIS -- YOUR

24 HONOR, WE'D LIKE TO MARK THIS FOR THIS HEARING AS EXHIBIT A.

25 THE COURT: OKAY.

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

16

1 MR. ARIAIL: I DON'T WANT TO CONFUSE THEM WITH THE
2 ONES THAT WE SENT TO YOU. THAT'S WHAT I WAS WORRIED ABOUT.
3 IS THAT ALL RIGHT?

4 THE COURT: ANY OBJECTION?

5 MR. NETTLES: NONE, YOUR HONOR.

6 MR. ARIAIL: EXHIBIT A.

7 (WAIVER OF RIGHTS MARKED AND ADMITTED INTO EVIDENCE AS
8 STATE'S EXHIBIT A)

9 Q. NOW, LOOKING AT EXHIBIT A, LET'S GO OVER THAT.
10 STARTING AT THE TOP, IN THE TOP RIGHT-HAND CORNER, IT HAS A
11 NUMBER UP THERE. WHAT IS THAT?

12 A. THAT'S JUST THE CASE NUMBER THAT THE SHERIFF'S OFFICE
13 HAD ASSIGNED TO THAT PARTICULAR INCIDENT.

14 Q. AND WHO FILLED THAT IN?

15 A. I DID.

16 Q. THEN IT'S GOT A PREPRINTED, "YOUR RIGHTS." AND THEN
17 BELOW THAT, IT'S GOT THE NAME OF CHARLES CHRISTOPHER
18 WILLIAMS HANDWRITTEN. WHO WROTE THAT?

19 A. I DID.

20 Q. AND TO THE RIGHT, IT HAS A DATE AND TIME. WHO WROTE
21 THAT?

22 A. I DID.

23 Q. AND THE TIME ON THERE -- OR THE DATE IS SEPTEMBER THE
24 3RD, '03, AND TWELVE TWENTY-EIGHT P.M. WHAT DOES THAT TIME
25 AND DATE REFLECT?

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARLAIL

17

1 A. THAT REFLECTS THE TIME AND DATE THAT WE BEGAN THE
2 READING OF THE WAIVER, THE EXPLAINING OF THE WAIVER, TO MR.
3 WILLIAMS.

4 Q. SO AT TWELVE TWENTY-EIGHT, YOU BEGAN TO EXPLAIN THIS
5 WAIVER TO HIM. TELL THE COURT HOW YOU WENT ABOUT -- WHAT
6 YOU EXPLAINED TO HIM AND WHAT YOU READ TO HIM SPECIFICALLY.

7 A. I WOULD HAVE CONFIRMED WITH HIM OR I DID CONFIRM WITH
8 HIM THE INFORMATION AT THE TOP TO MAKE SURE THAT THAT WAS
9 CORRECT, PERSONAL INFORMATION CONCERNING HIS NAME, CURRENT
10 ADDRESS, DATE OF BIRTH AND SOCIAL SECURITY NUMBER.

11 Q. YOU WOULD HAVE GOTTEN THAT FROM HIM?

12 A. YES, SIR.

13 Q. ALL RIGHT. THEN WHAT DID YOU DO?

14 A. I ASKED HIM -- WE WERE SEATED AT A DESK. HE WAS OFF TO
15 THE SIDE OF THE DESK. AND I SLID OVER TOWARD THE SIDE OF
16 HIM AND PUT THE PIECE OF PAPER SO THAT HE COULD READ IT
17 FACED RIGHT IN FRONT OF HIM. I ASKED HIM TO READ ALONG WITH
18 ME AND READ EACH SENTENCE IN THE WAIVER OUT LOUD TO MR.
19 WILLIAMS AND READ THE FIRST ONE, TWO, THREE, FOUR, FIVE, SIX
20 SENTENCES OUT LOUD TO HIM AND ASKED HIM IF HE UNDERSTOOD
21 THOSE SENTENCES AND WHAT THEY REFERRED TO.

22 Q. SO YOU READ EACH ONE OF THOSE TO HIM?

23 A. I DID, SIR.

24 Q. AND DID YOU READ THEM AS A GROUP, OR DID YOU READ THEM
25 INDIVIDUALLY AND ASK FOR A RESPONSE?

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

18

1 A. I READ THOSE SIX AS A GROUP AND ASKED IF HE UNDERSTOOD
2 EVERYTHING THAT I HAD JUST READ TO HIM.

3 Q. SO THE SIX BEGINNING WITH, "BEFORE WE ASK YOU
4 QUESTIONS, YOU MUST UNDERSTAND YOUR RIGHTS." YOU READ ALL
5 THE WAY THROUGH, "IF YOU DECIDE TO ANSWER QUESTIONS NOW
6 WITHOUT A LAWYER PRESENT ..."

7 A. YES, SIR.

8 Q. AS ONE GROUP?

9 A. YES, SIR.

10 Q. ALL RIGHT. AFTER YOU READ THEM AS A GROUP TO HIM --
11 WELL, FOR THE PURPOSES OF THE RECORD, LET ME GET YOU TO READ
12 THOSE OUT FOR THE RECORD JUST LIKE YOU READ THEM.

13 A. YES, SIR. "BEFORE WE ASK YOU ANY QUESTIONS, YOU MUST
14 UNDERSTAND YOUR RIGHTS. YOU HAVE THE RIGHT TO REMAIN
15 SILENT. ANYTHING YOU SAY CAN BE USED AGAINST YOU IN COURT.
16 YOU HAVE THE RIGHT TO TALK TO A LAWYER FOR ADVICE BEFORE WE
17 ASK YOU ANY QUESTIONS AND TO HAVE HIM WITH YOU DURING
18 QUESTIONING. IF YOU HAVE NO MONEY TO PAY A LAWYER'S FEE,
19 THE COURT WILL APPOINT ONE TO REPRESENT YOU WITHOUT COST IF
20 YOU WISH. IF YOU DECIDE TO ANSWER QUESTIONS NOW WITHOUT A
21 LAWYER PRESENT, YOU WILL STILL HAVE THE RIGHT TO STOP
22 ANSWERING AT ANY TIME. YOU ALSO HAVE THE RIGHT TO STOP
23 ANSWERING AT ANY TIME TO TALK TO A LAWYER."

24 Q. NOW, AFTER YOU COMPLETED READING THAT, DID YOU ASK HIM
25 IF HE UNDERSTOOD THOSE?

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19

1 A. I DID.

2 Q. AND WHAT DID HE SAY TO YOU?

3 A. HE SAID THAT HE DID.

4 Q. DID YOU FURTHER VERIFY THAT IN YOUR OWN MIND BY DOING
5 ANYTHING ADDITIONAL?

6 A. I ASKED HIM IF HE UNDERSTOOD EACH AND EVERY SENTENCE ON
7 THERE AND WANTED HIM TO PLACE HIS INITIALS NEXT TO THE
8 SENTENCES.

9 Q. ON THE LEFT-HAND SIDE?

10 A. THAT'S CORRECT, SIR.

11 Q. AND DID HE, IN FACT, PLACE HIS INITIALS BESIDE EACH ONE
12 AS HE WENT DOWN?

13 A. YES, HE DID.

14 Q. AND I NOTICED THAT UNDER THE FOURTH ONE REGARDING
15 TALKING TO A LAWYER, IT APPEARS TO BE A SIGNATURE. WHAT'S
16 THAT?

17 A. THAT IS THE SIGNATURE OF MR. WILLIAMS.

18 Q. AND WHY IS IT ON NUMBER 4?

19 A. AFTER THE READING OF THOSE SIX AND THE INFORMATION FROM
20 HIM THAT HE UNDERSTANDS WHAT WAS READ TO HIM, I ASKED HIM TO
21 READ OUT LOUD TO ME THE ENTIRE SENTENCE NUMBER 4.

22 Q. AND DID HE READ THAT SENTENCE OUT TO YOU?

23 A. HE DID. YES, SIR, HE DID WITHOUT DIFFICULTY.

24 Q. AND WHAT WAS THE PURPOSE OF THAT?

25 A. THE PURPOSE OF THAT IS TO ENSURE THAT I UNDERSTAND THAT

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

20

- 1 HE CAN READ THE ENGLISH LANGUAGE AND ALSO TO REITERATE TO
2 HIM AND HAVE HIM READ OUT LOUD IN HIS OWN VOICE THE FACT
3 THAT HE HAS THE RIGHT TO HAVE AN ATTORNEY PRESENT DURING
4 THIS PROCESS.
- 5 Q. AND DID HE ALSO SIGN AND INITIAL THAT LINE?
- 6 A. YES, HE DID, SIR.
- 7 Q. AND HE WENT THROUGH ALL SIX AND INITIALED THOSE ON THE
8 LEFT SIDE HIS UNDERSTANDING?
- 9 A. YES, SIR.
- 10 Q. DURING THIS CONVERSATION THAT YOU HAD ABOUT THESE SIX,
11 DID HE AT ANY TIME INDICATE TO YOU THAT HE WANTED TO NOT
12 TALK TO YOU?
- 13 A. NO, SIR.
- 14 Q. DID HE INDICATE THAT HE HAD CHANGED HIS MIND THAT HIS
15 ORIGINAL STATEMENT, I'LL TELL YOU ANYTHING YOU WANT TO KNOW,
16 HE HAD CHANGED HIS MIND ON? ANYTHING TO INDICATE THAT?
- 17 A. NO, SIR, HE DID NOT.
- 18 Q. DURING THIS PERIOD OF TIME, HAD ANYONE COME INTO THE
19 ROOM OR LEFT THE ROOM?
- 20 A. NO, SIR.
- 21 Q. WAS THERE ANYONE IN THE ROOM OR IN YOUR PRESENCE WHO
22 LAID ANY HANDS ON THE DEFENDANT OR HELD OUT ANY HOPE OF
23 REWARD OR PROMISED HIM ANYTHING IN EXCHANGE FOR SIGNING THIS
24 DOCUMENT?
- 25 A. NO, SIR.

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

21

1 Q. DID ANYONE EVEN TALK TO THE DEFENDANT OTHER THAN YOU?

2 A. NO, SIR. NOT DURING THE COMPLETION OF THIS WAIVER, NO.

3 Q. ALL RIGHT. MR. RACKLEY AND MR. JOLLY, THE TWO
4 DEPUTIES, ARE STILL THERE?

5 A. YES, SIR.

6 Q. ALONG WITH YOU?

7 A. YES, SIR.

8 Q. NOW, AFTER YOU FINISHED THIS PART OR BEFORE YOU
9 FINISHED THIS PART -- I GUESS AFTER -- DID YOU DETERMINE IN
10 YOUR OWN MIND WHETHER OR NOT THE DEFENDANT UNDERSTOOD THE
11 RIGHTS ON THIS PAPER?

12 A. YES, SIR.

13 Q. DID YOU UNDERSTAND -- IN YOUR OPINION, DO YOU BELIEVE
14 THAT HE WAS POSSESSING FACULTIES CAPABLE OF MAKING
15 INTELLIGENT DECISIONS AND RESPONDING TO YOU INTELLIGENTLY?

16 A. YES, SIR. BASED ON OUR COMMUNICATION WITH EACH OTHER,
17 YES, SIR, I FELT THAT WAY.

18 Q. HIS COMMUNICATION AND RESPONSES WERE APPROPRIATE?

19 A. THEY WERE.

20 Q. ALL RIGHT. DID YOU INDICATE OR WAS THERE ANY
21 INDICATION OF BEING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS
22 OR ANY TYPE OF SUBSTANCE THAT YOU OBSERVED?

23 A. THERE WAS NO INDICATION OF THAT. AND I SPECIFICALLY
24 ASKED HIM WHETHER OR NOT HE WERE UNDER THE INFLUENCE OF ANY
25 ALCOHOL, ELICIT DRUGS OR EVEN OVER-THE-COUNTER MEDICATIONS,

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22

1 AND HE TOLD ME THAT HE WAS NOT UNDER ANY OF THOSE THINGS.

2 Q. ALL RIGHT. THE NEXT SECTION IS WAIVER OF RIGHTS. AND
3 WHAT DID YOU TELL HIM OR READ TO HIM IN REGARD TO THAT?

4 A. AGAIN, AS THE PAPER WAS IN HIS DIRECTION SO HE COULD
5 CLEARLY SEE WHAT WAS ON THE PAPER, I READ ALONG OUT LOUD
6 THAT PARAGRAPH CONCERNING THE WAIVER OF RIGHTS.

7 Q. TELL US -- READ FOR US EXACTLY WHAT YOU READ TO HIM.

8 A. "I HAVE READ THIS STATEMENT OF RIGHTS AND I KNOW WHAT
9 MY RIGHTS ARE. I AM WILLING TO MAKE A STATEMENT AND ANSWER
10 QUESTIONS. I DO NOT WANT A LAWYER AT THIS TIME. I
11 UNDERSTAND AND KNOW WHAT I AM DOING. NO PROMISES OR THREATS
12 HAVE BEEN MADE TO ME AND NO PRESSURE OR COERCION OF ANY KIND.
13 HAS BEEN USED AGAINST ME."

14 Q. AND WAS THERE ANY DISCUSSION ABOUT THAT PARTICULAR
15 PARAGRAPH AS TO WHAT IT MEANT?

16 A. I ASKED HIM IF HE UNDERSTOOD WHAT IT MEANT. AND I TOOK
17 THE LIBERTY OF EXPLAINING COERCION BRIEFLY. WE FIND THAT
18 FREQUENTLY PEOPLE ARE NOT FAMILIAR WITH THAT WORD. AND JUST
19 AS A MATTER OF COURSE, I REFER TO THE WORD AND EXPLAIN IN
20 CASE THEY'RE NOT AWARE OF WHAT IT MEANS.

21 Q. AND DID YOU ASK HIM TO DO ANYTHING IN REGARD TO THAT
22 LINE?

23 A. AGAIN, I ASKED HIM IF HE UNDERSTOOD THAT STATEMENT,
24 THAT PARAGRAPH, TO PUT HIS INITIALS BY THE LEFT SIDE OF THAT
25 PARAGRAPH.

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

23

1 Q. AND THEN DID -- I NOTICE A SIGNATURE BESIDE THE WORD,
2 "SIGNED." WHEN WAS THAT PLACED ON THERE?

3 A. AT THAT POINT AFTER COMPLETION OF THE TOP SIX SENTENCES
4 AND THE WAIVER OF RIGHTS, ALL THE INITIALS ON THAT FORM WERE
5 COMPLETED, THEN I ASKED HIM TO SIGN IT IF HE WISHED TO GIVE
6 A STATEMENT.

7 Q. AND DID HE SIGN IT?

8 A. HE DID, SIR.

9 Q. AND IN THE COURSE OF THAT READING OF THE WAIVER, HAD
10 ANYTHING CHANGED? DID ANYONE COME INTO THE ROOM? HAD THERE
11 BEEN ANY PROMISES OR THREATS OR FORCE USED UPON HIM OR
12 ANYTHING CHANGED DURING THE COURSE OF THAT EXAMINATION?

13 A. NO, SIR.

14 Q. AND HE WAS SEATED IN A CHAIR NEXT TO YOUR DESK?

15 A. YES, SIR.

16 Q. WAS HE HANDCUFFED?

17 A. HE INITIALLY CAME UP WITH BOTH HANDS CUFFED. WE TOOK
18 ONE HANDCUFF OFF OF ONE WRIST AND PUT THAT EMPTY HANDCUFF ON
19 A CHAIR, THE CHAIR THAT HE WAS SEATED IN.

20 Q. SO AT THE TIME HE WAS SEATED, HE HAD A HANDCUFF ON ONE
21 AND HAD ONE HAND FREE?

22 A. THAT'S CORRECT, SIR.

23 Q. HOW WAS HE DRESSED?

24 A. HE WAS DRESSED IN STREET CLOTHES. I BELIEVE A PAIR OF
25 JEANS, SEVERAL SHIRTS, A JACKET AND A HAT. HE HAD ALL THOSE

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24

1 ITEMS WITH HIM.

2 Q. SO HIS DRESS HADN'T BEEN CHANGED; HE HADN'T BEEN PUT
3 INTO LAW ENFORCEMENT OR L.E.C. JUMPSUIT OR ANYTHING LIKE
4 THAT?

5 A. CORRECT. HE WAS DRESSED THE WAY HE CAME IN FROM THE
6 STREET.

7 Q. AND AFTER HE SIGNED THIS, I NOTICED THERE ARE TWO OTHER
8 WITNESSES AND A TIME ON THE BOTTOM LEFT OF THE FORM. WHO IS
9 THIS WITNESS ON THE TOP OF THE LIST?

10 A. THE TOP WITNESS SIGNATURE IS MY SIGNATURE, SIR.

11 Q. AND THE SECOND ONE?

12 A. THAT'S DEPUTY MICHAEL JOLLY.

13 Q. AND MR. JOLLY WAS THE OFFICER WHO HAD BROUGHT HIM IN
14 THAT YOU TESTIFIED ABOUT EARLIER?

15 A. YES, SIR.

16 Q. AND THEN THE TIME SAYS, "12:32 P.M." WHAT DOES THAT
17 MEAN?

18 A. AFTER MICHAEL JOLLY AND I SIGNED IT, I WOULD HAVE PUT
19 THE TIME DOWN THERE TO INDICATE THE TIME THAT THIS WHOLE
20 PROCESS OF THE WAIVER WAS FINISHED.

21 Q. AND SO FROM TWELVE TWENTY-EIGHT TO TWELVE THIRTY-TWO,
22 FOUR MINUTES, YOU SPENT GOING OVER THE WAIVER, HAVING HIM
23 SIGN IT, READ IT, EXECUTE IT AND YOU SIGN IT AND THAT SORT
24 OF THING?

25 A. YES, SIR.

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25

1 Q. AND FOLLOWING OR IN THAT COURSE OF TIME, THE THREE
2 PEOPLE REMAINING IN THE ROOM WERE STILL YOU, MR. JOLLY AND
3 MR. RACKLEY?

4 A. YES, SIR.

5 Q. THEN WHAT DID YOU DO?

6 A. THEN I ASKED MR. WILLIAMS TO TELL ME WHAT HAPPENED.

7 Q. YOU ASKED MR. WILLIAMS TO TELL YOU WHAT HAPPENED?

8 A. YES, SIR.

9 THE COURT: LET ME STOP RIGHT THERE. I'M GOING TO
10 SEE TO THE DEFENDANT'S DESIRE TODAY JUST TO HEAR ABOUT PAM
11 CRAWFORD, OKAY? AND WE CAN HEAR ON A JACKSON v. DENNO AT A
12 LATER TIME EITHER PRIOR OR AFTER WE DRAW THE JURY OR AT SOME
13 OTHER TIME, OKAY? HOWEVER, WE DON'T HAVE TO DUPLICATE THE
14 TESTIMONY HE'S ALREADY GIVEN, OKAY, AT THIS POINT IN TIME AT
15 THE NEXT HEARING. THE COURT WILL CONSIDER THIS TESTIMONY AT
16 THE JACKSON v. DENNO HEARING UP TO THIS POINT, OKAY? SO ALL
17 I'M GOING TO HEAR TODAY IS THE QUESTION ON CRAWFORD.

18 MR. ARIAIL: THAT'S CORRECT.

19 THE COURT: OKAY?

20 Q. AFTER YOU OBTAINED THIS WAIVER, DID YOU -- WHAT DID YOU
21 ASK MR. WILLIAMS?

22 A. TO TELL ME WHAT HAD HAPPENED.

23 Q. I'M SORRY?

24 A. TO TELL ME WHAT HAD HAPPENED.

25 Q. TELL YOU WHAT HAPPENED. AND DID HE GIVE A STATEMENT TO

1 YOU AND TELL YOU WHAT HAPPENED?

2 A. YES, HE DID.

3 Q. TELL THE COURT HOW YOU TOOK THAT STATEMENT. NOT THE
4 SUBSTANCE OF IT, BUT WAS THIS A QUESTION AND ANSWER, OR WAS
5 THIS SIMPLY HIM TELLING AND YOU TYPING?

6 A. THIS WAS SIMPLY HIM TELLING AND ME TYPING. WE HAVE OUR
7 LAPTOP COMPUTER SET UP IN THE OFFICE WITH SOFTWARE FOR
8 STATEMENT-TAKING, SIMPLE STATEMENT FORMS WHERE WE FILL IN
9 THE BLANKS. WE WOULD FILL IN THE TOP INFORMATION SIMILAR TO
10 HIS PERSONAL INFORMATION ON THE TOP OF THE WAIVER FORM. AND
11 WHEN WE GET TO THE BODY OF THE STATEMENT, I SIMPLY TYPE WHAT
12 HE TELLS ME. AS HE SPEAKS IT, I TYPE IT IN TO THE COMPUTER
13 AND ONTO THE STATEMENT FORM.

14 Q. DURING THE COURSE OF THAT, DID YOU ASK HIM ANY
15 QUESTIONS?

16 A. TOWARD THE END OF THE STATEMENT, I ASKED HIM A
17 QUESTION. DURING THE MAIN BODY OF THIS STATEMENT, ANY MINOR
18 CLARIFICATIONS. IF HE SAID SOMETHING I DIDN'T UNDERSTAND, I
19 MAY HAVE ASKED FOR A CLARIFICATION. BUT OTHER THAN THAT, I
20 SIMPLY LET HIM SPEAK AND TYPED WHAT HE SAID TO ME.

21 Q. AND FOLLOWING OR USING THAT PROCESS OF HIM TALKING AND
22 YOU TYPING -- I WANT TO SHOW YOU THIS THREE-PAGE STATEMENT
23 AND ASK YOU IF THAT IS THE STATEMENT THAT YOU TYPED AS HE
24 TALKED?

25 A. YES, SIR, THAT'S A COPY OF THAT STATEMENT.

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARIAIL

27

1 MR. ARIAIL: YOUR HONOR, WE WOULD OFFER THAT AS A
2 COURT'S EXHIBIT FOR THIS HEARING AND FOR YOUR ---

3 MR. NETTLES: WITHOUT OBJECTION.

4 THE COURT: THANK YOU.

5 MR. ARIAIL: MAKE IT A COURT'S EXHIBIT.

6 THE COURT: LET HER MARK IT, PLEASE, SIR. THANK
7 YOU MR. MCNAMARA. OR DETECTIVE MCNAMARA. EXCUSE ME.

8 (WRITTEN STATEMENT MARKED FOR IDENTIFICATION AS COURT'S
9 EXHIBIT 1)

10 Q. HOW LONG DID YOU OR DID MR. WILLIAMS TALK AND YOU TYPE
11 IN ORDER TO PRODUCE THAT STATEMENT?

12 A. IT TOOK A LITTLE OVER TWO HOURS TO GET THAT DOWN INTO A
13 WRITTEN FORM WHERE IT WAS REVIEWED AND ACCEPTABLE TO MR.
14 WILLIAMS.

15 Q. ALL RIGHT. SO FOR A PERIOD OF TWO HOURS, YOU'RE TYPING
16 AND HE'S TELLING YOU AS YOU GO ALONG?

17 A. YES, SIR.

18 Q. ANYBODY COME IN THE ROOM DURING THAT PERIOD OF TIME OR
19 ANY OF THE PERSONALITIES CHANGE OR PEOPLE LEAVE OR ANYTHING
20 DIFFERENT?

21 A. NOBODY CAME INTO THE ROOM NEW AS OPPOSED TO THE THREE
22 OF US -- FOUR OF US INCLUDING MR. WILLIAMS THAT WERE IN
23 THERE INITIALLY. I KNOW AT SEVERAL POINTS DURING THAT
24 PROCESS, I HAD TO GET UP TO LEAVE TO CONFER WITH OTHER
25 INVESTIGATORS OR OTHER OFFICERS WHO WERE WORKING OTHER

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28

1 ASPECTS OF THE CASE. BUT OTHER THAN THAT, IT WAS MYSELF;
2 DEPUTY JOLLY OR DEPUTY RACKLEY THAT WERE IN THERE WITH MR.
3 WILLIAMS.

4 Q. AND YOU CONTINUED TO TYPE THE WHOLE STATEMENT?

5 A. YES, SIR. IF I NEEDED TO TAKE A BREAK FOR SOME REASON,
6 WE JUST SAT STILL FOR A FEW MINUTES. WHEN I RETURNED WE
7 JUST RESUMED WHEREVER WE HAD LEFT OFF IN THE STATEMENT.

8 Q. NOW, AT THE END OF THE STATEMENT, DID YOU -- HOW DID
9 YOU PRESENT IT TO HIM FOR HIS REVIEW?

10 A. I PRINTED IT OUT IN A PRINTED FORM SIMILAR TO THIS,
11 JUST LIKE THIS, AND LET HIM -- ASKED HIM TO PLEASE READ THE
12 ENTIRE STATEMENT FOR CONTENT.

13 Q. DID YOU ASK HIM TO PLACE ANY INITIALS OR SIGNATURES ON
14 IT?

15 A. I DID. ONCE THE READING WAS COMPLETED WHERE HE WAS --
16 WHERE HE INDICATED TO ME THAT THE STATEMENT WAS CORRECT AND
17 THAT WAS WHAT HE WANTED TO SAY, WE WENT THROUGH A PROCESS
18 SIMILAR TO WHAT WE DID ON THE WAIVER WHEREBY EACH PARAGRAPH
19 WAS INITIALED AND EACH ITEM OF INFORMATION ON THE FORM WAS
20 INITIALED BY HIM TO INDICATE THAT IT WAS CORRECT AND THAT IT
21 WAS WHAT HE WANTED TO SAY.

22 Q. SO EACH ONE WAS INITIALED AND EACH ONE WAS THEN -- THE
23 STATEMENT WAS SIGNED BY HIM?

24 A. YES, SIR.

25 Q. AT ANY TIME DURING THAT PROCESS, DID HE INDICATE THAT

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1 HE WANTED TO STOP TALKING OR THAT HE WANTED A LAWYER OR HE
2 DIDN'T WANT TO GO ON WITH THE PROCEEDING ANYMORE?

3 A. NO, SIR.

4 Q. HOW WOULD YOU DESCRIBE HIS WILLINGNESS TO TALK TO YOU
5 AS IT APPEARED TO YOU?

6 A. HE SEEMED TO ME TO BE EAGER TO WANT TO TELL WHAT
7 HAPPENED. HE HAD NO -- DIDN'T APPEAR TO ME TO HAVE ANY
8 RESERVATIONS, HESITATIONS, IN THE GIVING OF THIS STATEMENT.
9 IN THE RECITING OF THE EVENTS THAT OCCURRED FROM START TO
10 FINISH, IF ANYTHING, I HAD TO SLOW HIM DOWN. I COULDN'T
11 TYPE THAT FAST. SO I NEEDED TO TELL HIM, OKAY, WAIT A
12 MINUTE AND LET ME CATCH UP TO WHERE WE WERE. AND ONCE I
13 CAUGHT UP, HE WOULD CONTINUE. BUT HE SEEMED EAGER TO GET
14 THE INFORMATION OUT AND TALK TO US ABOUT IT.

15 Q. AND DID HIS DEMEANOR CHANGE ANY DURING THE COURSE OF
16 THE STATEMENT? OR AS YOU DESCRIBED EARLIER, DID HE REMAIN
17 CALM?

18 A. HE DID. CALM, LUCID, FOCUSED, COHERENT. AND AGAIN,
19 HIS ANSWERS TO ANY CLARIFICATION OF QUESTIONS THAT I ASKED
20 WERE RESPONSIVE TO WHAT I ASKED. WE OFFERED HIM FOOD,
21 DRINK, USING THE BATHROOM AT ANY POINT THAT HE WANTED TO GO.

22 Q. AND WHAT DID HE REQUEST?

23 A. THE ONLY THING HE REQUESTED FROM US WAS WATER. HE
24 DECLINED ANYTHING TO EAT. AND ON SEVERAL OCCASIONS, WE DID
25 ESCORT HIM TO THE MEN'S ROOM AND LET HIM USE THE MEN'S ROOM

1 AND SIMPLY CAME BACK AND PICKED UP WHERE WE HAD LEFT OFF.

2 Q. DID YOU GIVE HIM THE OPPORTUNITY TO MAKE A PHONE CALL?

3 A. I DID. WHEN THE STATEMENT WAS COMPLETED, I ASKED HIM

4 IF HE WANTED TO CALL ANYBODY. I TOLD HIM HE WAS FREE TO

5 CALL ANYBODY HE WANTED TO. BUT HE DECLINED TO USE THE

6 TELEPHONE THEN, SIR.

7 Q. HE DID NOT WANT TO CALL ANYBODY?

8 A. HE DID NOT.

9 Q. ALL RIGHT. AND AT THE TIME OF THE END OR TOWARDS THE

10 END OF THE STATEMENT, DID YOU ALSO MAKE A REQUEST TO HIM

11 REGARDING HIS CLOTHES?

12 A. I DID, SIR.

13 Q. AND WHAT WAS THAT REQUEST?

14 A. REQUESTED -- I ASKED IF WE COULD HAVE THE CLOTHING,

15 COLLECT THE CLOTHING FROM HIM THAT HE WAS WEARING WHEN HE

16 WAS BROUGHT IN.

17 Q. AND WHAT WAS HIS RESPONSE?

18 A. HIS RESPONSE WAS THAT, YES, WE COULD HAVE IT.

19 Q. AND AS A RESULT OF THAT, DID YOU HAVE HIM SIGN ANOTHER

20 PREPRINTED FORM CONSENTING TO TAKING HIS CLOTHING?

21 A. YES, SIR, I DID.

22 Q. LET ME SHOW YOU THIS DOCUMENT AND ASK IF THAT IS SUCH A

23 FORM.

24 A. YES, SIR, IT IS.

25 Q. ALL RIGHT. AND DID YOU READ THAT FORM TO HIM, OR DID

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1 YOU ASK HIM TO READ IT? HOW DID THAT WORK?

2 A. AS IN THE WAIVER, I READ THE FORM OUT LOUD TO HIM AND
3 ASKED HIM TO FOLLOW ALONG AS I READ THE FORM.

4 Q. AND DID HE INDICATE TO YOU ANY RELUCTANCE TO SIGN THAT
5 FORM OR TO CONSENT TO THE GIVING OF HIS CLOTHES?

6 A. NO, SIR, NOT AT ALL.

7 Q. DID HE ...

8 MR. ARIAIL: YOUR HONOR, WE'D LIKE TO OFFER THIS
9 AS STATE'S EXHIBIT B.

10 THE COURT: YOU'VE GOT A, I THINK. B?

11 THE WITNESS: THIS IS A.

12 THE COURT: ANY OBJECTION?

13 MR. NETTLES: MR. MAULDIN WOULD JUST LIKE TO TAKE
14 A LOOK AT IT. THAT'S ALL.

15 MR. MAUDLIN: I JUST WANT TO LOOK AT IT.

16 MR. NETTLES: I DOUBT ---

17 THE COURT: YOU'RE MARKING THAT EXHIBIT B, RIGHT?

18 MADAM COURT REPORTER: YES, SIR.

19 THE COURT: WHAT IT IS? A CONSENT FOR CLOTHING?

20 MR. ARIAIL: YEAH, IT'S A CONSENT FOR -- I'M NOT
21 SURE OF THE EXACT TITLE.

22 MR. NETTLES: NO OBJECTION.

23 THE COURT: ALL RIGHT. ADMITTED WITHOUT
24 OBJECTION.

25 (CONSENT FORM MARKED AND ADMITTED INTO EVIDENCE AS

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- 1 STATE'S EXHIBIT B)
- 2 Q. DOES IT HAVE ---
- 3 THE COURT: EXHIBITS A AND B.
- 4 Q. AND DID MR. JOLLY ALSO SIGN THAT FORM WITH YOU?
- 5 A. YES, SIR, HE DID.
- 6 Q. HE WAS A WITNESS?
- 7 A. YES, SIR.
- 8 Q. FOLLOWING THAT PROCESS, DID A -- DID SOMEONE COME TO
- 9 THE ROOM IN REGARD TO THAT CONSENT TO GET HIS CLOTHES?
- 10 A. YES, SIR.
- 11 Q. AND WERE THE CLOTHES, IN FACT, TAKEN IN YOUR PRESENCE?
- 12 A. YES, THEY WERE.
- 13 Q. AND WHAT WAS HE ISSUED IN LIEU OF HIS CLOTHING?
- 14 A. THERE WERE ITEMS THAT THEY NORMALLY WEAR THAT THE
- 15 DETENTION CENTER BROUGHT OVER SO THAT WE COULD CLOTHE HIM
- 16 PROPERLY.
- 17 Q. LIKE FROM THE LAW ENFORCEMENT CENTER?
- 18 A. YES, SIR.
- 19 Q. NOW, AT ANY POINT DURING ANY OF THAT PROCESS, THE
- 20 SEARCH -- I MEAN, THE RECEIPT OF THE CLOTHING AND THE TAKING
- 21 OF THE CLOTHING, DID HE AT ANY TIME INDICATE HE DIDN'T WANT
- 22 TO COOPERATE WITH YOU, HE WANTED TO TALK TO A LAWYER OR
- 23 DIDN'T WANT TO TALK ABOUT IT ANYMORE?
- 24 A. NOT AT ALL.
- 25 Q. NOW, AFTER THE CLOTHING WAS TAKEN -- AND BASED ON THAT

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MICHAEL MCNAMARA - DIRECT EXAMINATION BY MR. ARLAIL

33

1 STATEMENT OR THE FORM, IT SAYS IT WAS AROUND TWO THIRTY?

2 A. YES, SIR, THAT'S CORRECT.

3 Q. WHAT DID -- AT THAT TIME, WHAT DID YOU DO OR WHAT WAS

4 THE NEXT -- I SAID WHAT DID YOU DO. AFTER YOU GOT THE

5 STATEMENT SIGNED AND THE CLOTHING WAS RECEIPTED, DID THE

6 DEFENDANT GO ANYWHERE DIFFERENT THAN WHERE YOU HAD

7 INTERVIEWED HIM?

8 A. YES, SIR. AT SOME POINT AFTER THAT PROCESS WAS

9 COMPLETED, WE MOVED HIM TO MY SERGEANT'S OFFICE. SERGEANT

10 MIKE BROWN. HIS OFFICE IS OUT OF THE VIOLENT CRIMES OFFICE

11 BUT IN THE CENTRAL INVESTIGATIVE DIVISION OFFICE AREA.

12 THERE ARE SEVERAL OFFICES ALONG THE WALL. ONE OF THOSE

13 BELONGS TO SERGEANT MIKE BROWN. AND WE THEN MOVED HIM TO

14 THAT OFFICE.

15 Q. ALL RIGHT. AND WHAT PERIOD OF TIME WAS THAT?

16 A. THAT STILL WOULD HAVE BEEN ANOTHER HOUR OR TWO AFTER WE

17 COMPLETED THE STATEMENT ITSELF. WE WOULD HAVE REMAINED IN

18 THE VIOLENT CRIMES OFFICE WHERE HE WAS UNTIL THE TIME CAME

19 FOR US TO MOVE HIM TO THAT OTHER OFFICE.

20 Q. SO STARTING AT TWO THIRTY, SOME HOUR AND A HALF OR TWO

21 HOURS LATER, YOU REMAINED IN THAT VIOLENT CRIMES INTERVIEW

22 OFFICE WHERE HE HAD BEEN?

23 A. YES, SIR.

24 Q. YOU WERE IN THERE, DEPUTY RACKLEY AND DEPUTY JOLLY?

25 A. YES, SIR. ONE OR ALL OF US AT SOME POINT. HE WAS

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1 NEVER ALONE OR OUTSIDE OF THE PRESENCE OF ONE OF US. AGAIN,
2 FROM TIME TO TIME, IN ORDER TO CONDUCT OTHER BUSINESS
3 RELATING TO THE INVESTIGATION, I, MYSELF, OR DEPUTY JOLLY OR
4 RACKLEY WOULD HAVE HAD TO COME OR GO FROM THE ROOM. BUT ONE
5 OF US THREE WAS ALWAYS IN THERE WITH HIM, SIR.

6 Q. AND WHAT WERE YOU WAITING FOR WHILE YOU WERE IN THE
7 C.I.D. OFFICE FOR THAT HOUR AND A HALF PERIOD?

8 A. WE WERE WAITING FOR DR. PAM CRAWFORD TO ARRIVE.

9 Q. AND YOU WERE AWARE THAT I HAD CALLED DR. PAM CRAWFORD
10 AND ASKED HER TO COME TO GREENVILLE TO ASSIST IN REGARD TO
11 THIS CASE?

12 A. YES, I WAS.

13 Q. AND WHO HAD COMMUNICATED THAT TO HER?

14 A. THE LEAD INVESTIGATOR ON THE CASE, INVESTIGATOR PAUL
15 SILVAGGIO, SIR.

16 Q. PAUL SILVAGGIO? OKAY. NOW, DURING THAT PERIOD OF TIME
17 WHILE -- AFTER THE STATEMENT WAS TAKEN AND UNTIL DR.

18 CRAWFORD ARRIVED, WAS THE DEFENDANT EVER IN THE CUSTODY OF
19 ANY OFFICER OTHER THAN YOU, MR. JOLLY AND MR. RACKLEY?

20 A. NO, SIR.

21 Q. AND WERE YOU PRESENT THROUGHOUT MOST OF THAT TIME?

22 A. YES, SIR. MY TIMES THAT I LEFT THE ROOM WOULD HAVE
23 BEEN EXTREMELY LIMITED TO JUST A FEW MINUTES AT A TIME, AND
24 THERE WERE NOT THAT MANY OF THEM AT ALL. FOR THE MOST PART,
25 I WAS WITH HIM ALMOST ALL THE TIME.

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1 Q. BUT EITHER YOU, JOLLY OR RACKLEY?

2 A. YES, SIR.

3 Q. THERE WASN'T ANYBODY ELSE PLACED OR TOOK HIM INTO
4 CUSTODY?

5 A. NO, SIR.

6 Q. NOBODY MOVED HIM TO A DIFFERENT ROOM?

7 A. OTHER THAN MYSELF, NO, SIR.

8 Q. AND THAT OCCURRED WHEN?

9 A. WHEN DR. CRAWFORD ARRIVED.

10 Q. AND WHEN DR. CRAWFORD ARRIVED, YOU TOOK HIM TO MIKE
11 BROWN'S OFFICE, THE -- WAS HE HEAD OF INVESTIGATIONS AT THAT
12 TIME?

13 A. SERGEANT OVER VIOLENT CRIMES.

14 Q. SERGEANT OVER VIOLENT CRIME? AND DID YOU GO TO THAT
15 OFFICE OF MIKE BROWN, ALSO?

16 A. YES, SIR.

17 Q. AND WERE YOU PRESENT WHEN DR. CRAWFORD CAME INTO MIKE
18 BROWN'S OFFICE?

19 A. YES, I WAS.

20 Q. SO IT WAS -- WERE YOU PRESENT DURING THE INTERVIEW SHE
21 CONDUCTED WITH THE DEFENDANT?

22 A. YES, I WAS.

23 Q. WERE YOU PRESENT THE ENTIRE TIME THAT SHE CONDUCTED THE
24 INTERVIEW?

25 A. YES, SIR.

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36

1 Q. WAS ANYONE PRESENT DURING THE INTERVIEW WHEN DR.
2 CRAWFORD WAS PRESENT OTHER THAN YOU AND THE DEFENDANT?

3 A. NO, SIR.

4 Q. SO DURING THE TIME THAT DR. CRAWFORD INTERVIEWED THE
5 DEFENDANT, YOU WERE PRESENT ALONG WITH THE DEFENDANT AND
6 HERSELF?

7 A. YES, SIR.

8 Q. NO NEW OFFICERS AND NO CHANGE OF CUSTODY?

9 A. NO, SIR.

10 Q. WERE YOU PRESENT WHEN DR. CRAWFORD BEGAN THE INTERVIEW
11 WITH THE DEFENDANT?

12 A. YES, I WAS.

13 Q. AND DID SHE, IN YOUR PRESENCE, ONCE AGAIN ADVISE HIM OF
14 HIS MIRANDA WARNINGS AS YOU HAD DONE EARLIER?

15 A. SHE DID SO NOT USING THE SAME FORM AND EXACT WORDING
16 THAT I HAD USED ON OUR FORM. BUT, YES, SIR, SHE DID DO
17 THAT.

18 Q. BUT SHE WENT THROUGH A LITANY OF RIGHTS?

19 A. YES, SHE DID.

20 Q. DID SHE DISCUSS WITH YOU PRIOR TO THAT OR DO YOU RECALL
21 DISCUSSING WITH HER THE FACT THAT YOU HAD ALREADY BEEN OVER
22 THE MIRANDA WARNINGS WITH HIM AT TWELVE TWENTY-EIGHT AND
23 SHOWING HER THAT FORM?

24 A. YES, SIR. SHE SPECIFICALLY ASKED ME ABOUT THAT AND
25 WHETHER OR NOT WE HAD DONE THAT, AND I TOLD HER THAT WE HAD.

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37

1 Q. NOW, FOLLOWING THE COMPLETION OF DR. CRAWFORD'S
2 INTERVIEW, IT'S MY UNDERSTANDING SHE LEFT THE ROOM.

3 A. THAT'S CORRECT, SIR.

4 Q. AND YOU WERE IN THE ROOM ALONE WITH THE DEFENDANT. DID
5 THE DEFENDANT AT THAT TIME MAKE ANY STATEMENTS TO YOU? NOW,
6 THIS IS AFTER THE CONCLUSION OF THE INTERVIEW WITH DR.
7 CRAWFORD?

8 A. YES, HE DID.

9 Q. NOW, I DON'T WANT YOU TO GO INTO THE SUBSTANCE OF
10 THOSE. BUT WERE THOSE STATEMENTS OF A NATURE TO BE
11 INCULPATORY AS TO HIS INVOLVEMENT IN THIS CASE?

12 A. YES, THEY WERE.

13 Q. ALL RIGHT. FROM THE TIME THAT YOU FIRST MET THE
14 DEFENDANT AT TWELVE TWENTY-EIGHT AND READ HIM HIS RIGHTS
15 UNTIL THE POINT THAT THE DEFENDANT MADE THESE ADDITIONAL
16 STATEMENTS TO YOU AFTER THE CRAWFORD INTERVIEW, HAD YOUR
17 OPINION AS TO HIS BEING EAGER TO TALK CHANGED IN ANY WAY?

18 A. NO, SIR, BECAUSE, AGAIN, THROUGH THE COURSE OF HIS
19 STATEMENTS FROM DR. CRAWFORD, HIS DEMEANOR, HIS ATTITUDE,
20 AGAIN, HIS EAGERNESS OR WILLINGNESS WAS IDENTICAL TO THAT OF
21 THE INITIAL TAKING OF THE PREVIOUS STATEMENT. HE AGAIN
22 SEEMED EAGER TO COMPLY, EAGER TO TALK TO US. IN FACT,
23 WANTING TO GET THIS INFORMATION OUT AND TELL US ABOUT IT.

24 Q. AND AFTER DR. CRAWFORD COMPLETED HER INTERVIEW, HOW
25 LONG DID YOU WAIT OR WHAT PERIOD OF TIME EXPIRED UNTIL THE

1 DEFENDANT WAS THEN PLACED INTO THE DETENTION FACILITY?

2 A. HE WAS PLACED INTO THE DETENTION FACILITY SOMEWHERE
3 SHORTLY AFTER EIGHT O'CLOCK THAT EVENING. AND AT THIS
4 POINT, I CANNOT RECALL EXACTLY WHEN THE INTERVIEW, THE
5 SECOND INTERVIEW, WITH DR. CRAWFORD WAS TERMINATED OR
6 COMPLETED. BUT THERE WERE STILL SEVERAL OTHER THINGS TO DO,
7 ITEMS TO OBTAIN FOR THE INVESTIGATION. IT WAS A MATTER OF
8 ANOTHER HOUR OR TWO, I BELIEVE, THAT HE REMAINED IN OUR
9 CUSTODY BEFORE WE TRANSFERRED HIM TO THE DEPARTMENT OF ---

10 Q. AFTER HER INTERVIEW WAS OVER?

11 A. YES, SIR.

12 Q. IS IT A FAIR ASSESSMENT THAT WHEN YOU SAY THAT TWO
13 AFTERWARDS -- AND HER INTERVIEW ENDED SOMETIME AROUND SIX
14 THIRTY OR SIX FORTY-FIVE, SOMETHING LIKE THAT?

15 A. YES, SIR.

16 Q. AND I BELIEVE THE BEGINNING TIME THAT WE ESTABLISHED
17 WAS SOMETIME AROUND FOUR THIRTY OR SOMETHING IN THAT
18 NEIGHBORHOOD?

19 A. FOUR THIRTY, YES, SIR.

20 MR. ARIAIL: THAT'S ALL WE HAVE OF THIS WITNESS.

21 THE COURT: THANK YOU, SIR.

22 CROSS-EXAMINATION?

23 MR. NETTLES: THANK YOU, YOUR HONOR.

24 CROSS-EXAMINATION BY MR. NETTLES:

25 Q. DO YOU HAVE THE EXHIBITS UP THERE?

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1 A. I DO, SIR.

2 Q. GREAT. MAY I SEE THEM?

3 MR. NETTLES: MAY I APPROACH THE WITNESS, YOUR
4 HONOR?

5 THE COURT: YES, SIR.

6 Q. THIS -- WHAT I'M REFERRING TO IS STATE'S EXHIBIT A --
7 IS THE ADVICE OF RIGHTS FORM. LET'S TALK ABOUT THAT FOR A
8 LITTLE BIT IF YOU DON'T MIND?

9 A. YES, SIR.

10 Q. ON THAT ADVICE OF RIGHTS FORM, DID YOU AT ANY TIME --
11 LET ME PUT IT TO YOU THIS WAY. YOU DIDN'T TELL HIM -- I
12 MEAN, WHAT YOU SAID WAS, THIS STATEMENT MAY BE USED AGAINST
13 YOU?

14 A. I SIMPLY READ WHAT'S ON THE FORM.

15 Q. WHAT'S ON THE FORM?

16 A. WOULD YOU LIKE ME TO READ THE ENTIRE FORM AGAIN?

17 Q. YEAH. WELL, LET ME -- THAT'S FINE IF YOU WANT TO. LET
18 ME ASK YOU THIS WAY. DID YOU EVER TELL HIM, THIS MAY BE
19 USED AGAINST YOU IN SENTENCING?

20 A. NO, SIR.

21 Q. OKAY. YOU DIDN'T TELL HIM -- YOU ALSO DIDN'T TELL HIM
22 THAT IT WAS GOING TO BE USED AGAINST HIM TO SECURE THE DEATH
23 PENALTY, DID YOU? YOU DIDN'T TELL HIM THAT?

24 A. AGAIN, SIR, WITH REGARD TO WHATEVER IS GOING TO BE USED
25 AGAINST HIM, I SIMPLY READ WHAT IT SAYS ON THE FORM. I MADE

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- 1 NO FURTHER COMMENTS IN THAT REGARD.
- 2 Q. I APPRECIATE THAT. BUT I THINK MY QUESTION
- 3 SPECIFICALLY WAS, DID YOU TELL HIM THIS WAS GOING TO BE USED
- 4 AGAINST HIM TO SECURE THE DEATH PENALTY?
- 5 A. NO, SIR.
- 6 Q. AND YOU DID -- DID YOU TELL HIM YOU WERE A PSYCHIATRIST
- 7 OR ANYTHING?
- 8 A. NO, SIR.
- 9 Q. I MEAN, YOU TOLD HIM YOU WERE LAW ENFORCEMENT?
- 10 A. YES, SIR.
- 11 Q. NOW, WHAT TIME DID THE STATEMENT WITH PAM CRAWFORD
- 12 START?
- 13 A. I AM ESTIMATING AT SOMETIME AROUND FOUR THIRTY. I
- 14 DON'T HAVE ANYTHING IN MY POSSESSION THAT WOULD INDICATE
- 15 EXACTLY WHAT TIME WE BEGAN THAT.
- 16 Q. BUT YOU'RE SAYING ROUGHLY IN THE AREA OF FOUR THIRTY?
- 17 A. YES, SIR.
- 18 Q. AND YOU'RE JUST BASING THAT BASED ON YOU KNOW WHAT TIME
- 19 YOUR STATEMENT ENDED?
- 20 A. CORRECT.
- 21 Q. THE FIRST STATEMENT THAT HE GAVE TO YOU?
- 22 A. YES, SIR.
- 23 Q. AND THEN YOU TOOK HIM WHEREVER IT WAS Y'ALL TOOK HIM?
- 24 A. YES, SIR.
- 25 Q. AND THEN SHE ULTIMATELY CAME?

STATE v. CHARLES CHRISTOPHER WILLIAMS SUPPRESSION HEARING (1/26/05)
MICHAEL MCNAMARA - CROSS-EXAMINATION BY MR. NETTLES

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1 A. WELL, WE DIDN'T TAKE HIM UNTIL SHE CAME. BUT, YES,
2 SIR, BASED ON OTHER TIMES WRITTEN ON THE OTHER FORMS, I
3 THINK THE BEST ESTIMATE IS ABOUT FOUR THIRTY.

4 Q. YOU WERE PRESENT DURING THE TIME -- LET ME ASK YOU
5 THIS. WHEN YOU DID THE WHAT WE'RE REFERRING TO AS COURT'S
6 EXHIBIT 1 WHICH IS A COPY OF HIS STATEMENT ...

7 A. YES, SIR?

8 Q. ... THAT -- WHEN YOU WERE TYPING AND PRINTING IT OUT,
9 DID IT COME OUT ON THAT FORM?

10 A. THE FORM THAT IT'S ON RIGHT NOW?

11 Q. YES.

12 A. YES, SIR. THIS IS SIMPLY A COPY OF THE ORIGINAL THE
13 WAY IT CAME OUT.

14 Q. I GUESS WHAT I'M SAYING IS WHEN IT CAME UP ON THE --
15 THERE WASN'T A SEPARATE PIECE OF PAPER THAT CAME OUT OF THE
16 PRINTER THAT YOU THEN TOOK AND PUT ONTO THIS FORM?

17 A. NO, SIR.

18 Q. THE FORM IS ON THE COMPUTER SCREEN?

19 A. YES, IT IS.

20 Q. OKAY. NOW, AND LET'S TALK ABOUT THAT FOR A SECOND.
21 WHEN HE WAS TALKING TO YOU, IT'S YOUR TESTIMONY ON DIRECT
22 THAT HE WAS EAGER TO TALK?

23 A. YES, SIR.

24 Q. AS A MATTER OF FACT, I BELIEVE YOU SAID THAT HE WAS
25 TALKING FASTER THAN YOU COULD TYPE?

1 A. YES, SIR.

2 Q. AND HE WAS -- LET ME ASK YOU THIS. HAVE YOU RECEIVED
3 ANY TRAINING IN TAKING STATEMENTS FROM SUSPECTS THAT MAY BE
4 MENTALLY ILL?

5 A. I HAVE NOT.

6 Q. DO YOU -- IN THE CONTEXT OF TAKING A STATEMENT, DO YOU
7 MAKE -- IF YOU FEEL THAT SOMEONE MAY BE MENTALLY ILL OR YOU
8 KNEW THAT SOMEONE WAS MENTALLY ILL, IS -- WOULD YOU -- IS
9 THERE ANY SPECIAL STEPS THAT YOU WOULD TAKE?

10 A. I CAN SAY THAT IF I FELT THAT A PERSON WAS MENTALLY ILL
11 OR WAS NOT IN POSSESSION OF THEIR FACULTIES, I WOULD NOT
12 TAKE THAT STATEMENT.

13 Q. OKAY. SO -- WHEN WE'RE TALKING ABOUT MENTALLY ILL,
14 LET'S DEFINE SOMETHING. IF YOU FELT THAT SOMEONE WAS
15 SUFFERING FROM DEPRESSION, ARE YOU TELLING THIS COURT THAT
16 YOU WOULDN'T TAKE THEIR STATEMENT?

17 A. AGAIN, I CERTAINLY CAN'T DEFINE MENTAL ILLNESS. IF I
18 FELT THERE WAS SOMETHING WRONG WITH A PERSON'S DEMEANOR --
19 I'M NOT SURE HOW ELSE TO PHRASE THAT. BUT IF THEY -- IF I
20 HAD ANY CONCERNS ABOUT THEIR ABILITY TO GIVE A STATEMENT AND
21 IN THE QUESTIONING BACK AND FORTH BETWEEN HE AND I OR HIS
22 ANSWERS RESPONSIVE TO MY QUESTIONS WERE -- WAS HE SAYING
23 THINGS IN A LOGICAL MANNER? IF NOTHING ALERTED ME OR
24 ALARMED ME AT THAT POINT, THEN I WOULD CONTINUE TO TAKE THE
25 STATEMENT.

STATE v. CHARLES CHRISTOPHER WILLIAMS SUPPRESSION HEARING (1/26/05)
MICHAEL MCNAMARA - CROSS-EXAMINATION BY MR. NETTLES

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1 Q. AND I UNDERSTAND AND I APPRECIATE IT. AND JUST SO YOU
2 KNOW WHERE I'M GOING AND I'M NOT TRYING TO TRICK YOU OR
3 ANYTHING. I'M JUST TRYING TO GAUGE THE UNIVERSE OF YOUR
4 KNOWLEDGE AS IT RELATES TO THIS. SO WHEN YOU'RE ASKING
5 SOMEONE QUESTIONS, AS LONG AS THE RESPONSE THAT THEY ARE
6 GIVING SEEMS TO BE A RESPONSE THAT IS LOGICALLY RELATED TO
7 YOUR QUESTION IN TERMS OF YOUR TRAINING, THAT'S THE UNIVERSE
8 OF YOUR KNOWLEDGE AS IT RELATES TO MENTAL ILLNESS?

9 A. THAT COMBINED WITH Demeanor, GENERAL APPEARANCE,
10 BEHAVIOR, THINGS OF THAT SORT, SIR.

11 Q. WHAT KIND OF Demeanor WOULD YOU EXPECT TO SEE FROM
12 SOMEONE WHO WAS EXPERIENCING SOME SORT OF MENTAL ILLNESS?

13 A. I DON'T KNOW THAT I COULD SAY WHAT KIND OF SPECIFIC
14 Demeanor I WOULD EXPECT. I THINK THAT IF AN ISSUE AROSE
15 WHERE I WASN'T COMFORTABLE WITH THE WAY A PERSON WAS
16 REACTING TO ME, ANSWERING MY QUESTIONS, JUST BEHAVING, THAT
17 THE INTERVIEW WOULD SIMPLY STOP.

18 Q. LET ME ASK YOU THIS QUESTION. WHAT Demeanor WOULD YOU
19 EXPECT, IN TERMS OF YOUR UNIVERSE OF KNOWLEDGE AT THIS
20 POINT, FROM SOMEONE WHO WAS SUFFERING FROM CLINICAL
21 DEPRESSION?

22 A. I HAVE NO IDEA.

23 Q. WHAT Demeanor WOULD YOU EXPECT FROM SOMEONE WHO WAS
24 SUFFERING FROM BIPOLAR DISORDER?

25 A. I DON'T KNOW.

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MICHAEL MCNAMARA - CROSS-EXAMINATION BY MR. NETTLES

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1 Q. AND I APPRECIATE YOUR HONESTY. WHAT DEMEANOR WOULD YOU
2 EXPECT FROM SOMEONE WHO WAS SUFFERING FROM SOME SORT OF
3 SCHIZOPHRENIC EPISODE?

4 A. DON'T KNOW, SIR.

5 Q. OKAY. SO IN OTHER WORDS, IN TERMS OF YOU DISCUSSING
6 HIS DEMEANOR AND SHARING THAT WITH THE COURT, YOU'RE NOT
7 OFFERING THAT AS ANY SORT OF EVIDENCE THAT HE WAS NOT
8 SUFFERING FROM ANY OF THOSE DIAGNOSES?

9 A. I DON'T THINK I COULD OFFER THAT AS EVIDENCE OF THAT,
10 SIR.

11 Q. I APPRECIATE THAT. THANK YOU, SIR.

12 NOW, YOU -- AT THE TIME THAT -- WHAT WAS YOUR
13 UNDERSTANDING OF THE REASON THAT DR. CRAWFORD WAS BEING
14 BROUGHT TO TALK TO CHRIS WILLIAMS?

15 A. SIMPLY TO GET MORE BACKGROUND INFORMATION ON CHRIS AND
16 WHAT WAS GOING ON IN HIS LIFE IN THE POINT THAT THIS THING
17 OCCURRED.

18 Q. WOULD IT BE FAIR TO SAY THAT SHE WAS BEING BROUGHT IN
19 TO DETERMINE WHAT -- YOUR UNDERSTANDING THAT THE PURPOSE OF
20 HER BEING BROUGHT IN WAS TO DETERMINE WHAT WAS, FOR LACK OF
21 A BETTER TERM, WHAT WAS GOING ON INSIDE OF HIS HEAD AT THE
22 TIME THIS HAPPENED?

23 MR. ARIAIL: YOUR HONOR, I'M GOING TO OBJECT TO
24 HIS UNDERSTANDING BECAUSE HE DIDN'T HAVE A -- HE WASN'T PART
25 OF THE CONVERSATION. HE CAN ---

STATE v. CHARLES CHRISTOPHER WILLIAMS SUPPRESSION HEARING (1/26/05)
MICHAEL MCNAMARA - CROSS-EXAMINATION BY MR. NETTLES

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1 MR. NETTLES: IF HE JUST WANTS TO OBJECT ---

2 THE COURT: OVERRULED.

3 A. COULD YOU REPEAT THE QUESTION, SIR?

4 Q. YOUR UNDERSTANDING ---

5 THE COURT: HOLD ON A SECOND. WAIT A MINUTE.

6 THIS QUESTION THAT HE ASKED, AT THIS POINT IN TIME I'LL
7 OVERRULE. LET'S SEE HOW FAR HE'S GOING TO GO WITH IT. BUT
8 I THINK I'LL OVERRULE YOU ON THIS PARTICULAR QUESTION.

9 Q. WHAT WAS YOUR UNDERSTANDING -- AND I WAS JUST TRYING TO
10 USE A TERM THAT MAYBE YOU AND I COULD COME TO GRIPS WITH
11 THAT WE COULD WORK WITH. SO WHENEVER YOU SAY -- YOU SAID, I
12 BELIEVE, THAT SHE WAS BEING BROUGHT IN TO DETERMINE, YOU
13 KNOW, THE EVENTS IN HIS LIFE AT THIS TIME, OKAY?

14 A. YES, SIR.

15 Q. WAS IT YOUR UNDERSTANDING -- JUST A TERM THAT YOU AND I
16 CAN -- SO WE CAN DISCUSS. FOR LACK OF A BETTER TERM, WHAT
17 WAS GOING ON INSIDE HIS HEAD WHEN ALL THIS TOOK PLACE?

18 MR. ARIAIL: I'M GOING TO OBJECT. HE'S ALREADY --
19 HE'S ASKED HIM THE QUESTION AND HE'S ANSWERED IT.

20 THE COURT: OVERRULED. ANSWER THE QUESTION.

21 A. MORE IN HIS -- AGAIN, IN HIS BACKGROUND. WHAT HAD BEEN
22 HAPPENING IN HIS LIFE UP AND TO THAT POINT THAT BROUGHT HIM
23 TO THAT POINT WHERE THIS THING HAD TO HAPPEN.

24 Q. OKAY. AND WHY IS THAT SOMETHING THAT YOU COULDN'T HAVE
25 ASKED HIM?

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MICHAEL MCNAMARA - CROSS-EXAMINATION BY MR. NETTLES

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1 A. I DON'T KNOW. THAT WAS A DETERMINATION -- THE
2 DETERMINATION TO INVOLVE HER WAS MADE BY THE SOLICITOR'S
3 OFFICE.

4 Q. SO THE SOLICITOR'S OFFICE DIDN'T JUST SAY TO YOU, FIND
5 OUT WHAT WENT ON IN HIS BACKGROUND, RIGHT?

6 A. THEY DID NOT.

7 Q. OKAY. NOW -- BUT THEY SAID, WE'VE GOT A DOCTOR COMING
8 IN THAT'S GOING TO TALK TO HIM ABOUT WHAT WENT ON IN HIS
9 BACKGROUND?

10 A. YES, SIR.

11 Q. AND WHEN SHE CAME IN, THAT'S EXACTLY WHAT SHE SAID.
12 ONE OF THE FIRST THINGS SHE SAID TO HIM WAS, I'M A DOCTOR,
13 RIGHT?

14 A. YES, SIR.

15 Q. OKAY. NOW, AT THE TIME THAT THE STATEMENT WAS TAKING
16 PLACE WHEN SHE -- AND I'VE SHIFTED GEARS ON YOU. I
17 APOLOGIZE. BUT WHAT I'M TALKING ABOUT NOW IS AT THIS POINT,
18 IT'S YOU AND CHRIS AND DR. CRAWFORD ARE IN THE ROOM. IS
19 THERE ANYBODY ELSE IN THE ROOM OR JUST THE THREE OF Y'ALL?

20 A. JUST THE THREE OF US, SIR.

21 Q. AND AT THAT POINT, WERE YOU STILL TAKING NOTES?

22 A. I WAS NOT.

23 Q. OKAY. BUT WHENEVER HE WAS GIVING THE STATEMENT BEFORE,
24 YOU WERE TYPING ON A COMPUTER?

25 A. YES, SIR.

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1 Q. OKAY. WAS YOUR INTERVIEW OF THE DEFENDANT WHEN YOU
2 TALKED TO HIM BEFORE, WAS THAT TAPED?

3 A. WAS IT TAPED? NO, IT WAS NOT.

4 Q. SO WE DON'T HAVE ANY -- WELL, LET ME ASK YOU THIS WAY.
5 IS THERE ANY WAY THAT WE CAN TELL, OTHER THAN YOUR
6 TESTIMONY, ABOUT THE CADENCE OR WHAT CHRIS EXACTLY SAID
7 DURING THE COURSE OF YOUR INTERVIEW?

8 A. WELL, WHAT HE EXACTLY SAID IS WHAT I TYPED. AS HE
9 SPOKE THE WORDS, I SIMPLY TYPED THEM INTO THE COMPUTER. AS
10 FAR AS CADENCE ---

11 Q. SO THIS IS VERBATIM WHAT HE WAS SAYING AS HE SAID IT?

12 A. IT IS, SIR.

13 Q. MAY I?

14 (WHEREUPON THE WITNESSED HANDED DOCUMENT TO MR.
15 NETTLES)

16 Q. DID YOU EVER HAVE TO STOP HIM OR SLOW HIM DOWN?

17 A. I DID, SIR.

18 Q. AND THAT'S BECAUSE HE WAS TALKING SO FAST?

19 A. YES, SIR. TALKING FASTER THAN I COULD TYPE, SIR.

20 Q. OKAY. ARE YOU A FAIRLY GOOD TYPIST?

21 A. I AM.

22 MR. NETTLES: I WOULD BEG THE COURT'S INDULGENCE.

23 I HAVE NO FURTHER QUESTIONS. THANK YOU, YOUR HONOR.

24 Q. OH, ONE QUICK QUESTION. WHERE WERE YOU ORIGINALLY
25 BORN?

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PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

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1 A. IN NEW YORK, SIR.

2 Q. IN QUEENS?

3 A. NO. JUST A LITTLE BIT NORTH OF THAT.

4 Q. ALL RIGHT. THANK YOU. I APPRECIATE THAT.

5 THE COURT: WHERE?

6 THE WITNESS: WESTCHESTER COUNTY.

7 THE COURT: OKAY.

8 REDIRECT?

9 MR. ARIAIL: NONE.

10 THE COURT: YOU MAY STEP DOWN, OFFICER MCNAMARA.

11 MR. ARIAIL: CALL PAM CRAWFORD.

12 THE COURT: MS. CRAWFORD, IF YOU'LL COME AROUND TO
13 BE SWORN, PLEASE.

14 PAMELA CRAWFORD, M.D.,

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION BY MR. ARIAIL:

17 Q. WOULD YOU STATE YOUR NAME FOR THE RECORD, PLEASE?

18 A. PAMELA CRAWFORD.

19 Q. AND MS. CRAWFORD, I WANT TO DIRECT YOUR ATTENTION BACK
20 TO SEPTEMBER THE 3RD OF 2003.

21 A. YES, SIR.

22 Q. AND ASK IF AT MY REQUEST DID YOU COME TO GREENVILLE IN
23 REGARD TO THE CHRISTOPHER WILLIAMS OR THE STATE VERSUS
24 CHRISTOPHER WILLIAMS MATTER?

25 A. YES, I DID.

STATE v. CHARLES CHRISTOPHER WILLIAMS SUPPRESSION HEARING (1/26/05)
PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

53

1 Q. AND PRIOR TO AND DURING THE TIME THAT YOU WERE
2 INTERVIEWING OR MEETING WITH MR. WILLIAMS, DID YOU AT ANY
3 TIME OR ANYONE IN YOUR PRESENCE MAKE ANY STATEMENTS TO HIM
4 THREATENING HIM, PROMISING HIM ANY REWARD, ENCOURAGING HIM
5 TO GIVE A STATEMENT OR IN ANY WAY INFLUENCING HIS DECISION
6 WHETHER TO TALK TO YOU?

7 A. NO.

8 Q. WERE YOU AWARE THAT HE HAD ALREADY BEEN GIVEN HIS
9 MIRANDA WARNINGS?

10 A. YES, I WAS. AND THAT'S ONE THING I WANT TO MAKE CLEAR.
11 WHEN I WENT INTO THE ROOM WITH DETECTIVE MCNAMARA, THE FIRST
12 THING I DID IN THE PRESENCE OF MR. WILLIAMS WAS SAY, HE DOES
13 HAVE HIS -- HAVE HIS MIRANDA WARNINGS BEEN SIGNED AND GIVEN?
14 I HAD ASKED THAT PREVIOUSLY, BUT I ALSO ASKED THAT IN HIS
15 PRESENCE PRIOR TO EVEN INITIATING ANYTHING. WE BEGAN TAPING
16 AND THEN I REITERATED THE ESSENTIAL PARTS, IN MY OPINION, OF
17 THE WARNINGS.

18 Q. AND AT THE TIME YOU WENT INTO THE ROOM, BY WHOM WERE
19 YOU EMPLOYED?

20 A. I WAS EMPLOYED BY THE SOUTH CAROLINA DEPARTMENT OF
21 MENTAL HEALTH BY WAY OF A MEMORANDUM OF AGREEMENT WITH SOUTH
22 CAROLINA LAW ENFORCEMENT DIVISION. I WAS WORKING FOR SLED
23 THROUGH THIS MEMORANDUM OF AGREEMENT THE DEPARTMENT OF
24 MENTAL HEALTH HAS WITH THEM.

25 Q. WHAT WAS YOUR RELATIONSHIP? WHAT DID YOU DO FOR SLED

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PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

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1 Q. TO GIVE A LITTLE BACKGROUND, HAD YOU AND I WORKED ON
2 SIMILAR TYPE SITUATIONS PREVIOUSLY?

3 A. YES.

4 Q. THIS WAS NOT AN INITIAL INVOLVEMENT WITH EITHER MY
5 OFFICE OR WITH ME ON DEATH PENALTY CASES?

6 A. NO.

7 Q. OR ANY TYPE OF CASE?

8 A. ANY TYPE OF CASE, NO.

9 Q. PRIOR TO AND SUBSEQUENT TO THIS, WHAT HAS BEEN THE
10 WORKING RELATIONSHIP THAT WE HAVE HAD? IN OTHER WORDS, WHAT
11 WAS YOUR UNDERSTANDING OF WHAT I WAS LOOKING FOR IN TERMS OF
12 INFORMATION FROM YOU REGARDING DEFENDANTS AND THEIR CHARGES
13 AGAINST THEM?

14 A. MY UNDERSTANDING HAS BEEN THAT YOU WOULD WANT
15 INFORMATION REGARDING THE STATE OF MIND OF THE PERSON AT THE
16 TIME OF THE EVENTS. INFORMATION ABOUT MITIGATING ISSUES
17 THAT MAY LEAD YOU TO DECIDE, IN FACT, NOT TO SEEK THE DEATH
18 PENALTY. AND JUST STATE OF MIND. AND IN DOING SO, A
19 PSYCHIATRIC EVALUATION -- I MEAN, THAT'S MY PART OF IT -- IN
20 ORDER TO UNDERSTAND SIGNIFICANT MENTAL HEALTH ISSUES IN THE
21 PERSON THAT'S INVOLVED.

22 Q. SO THAT THE INFORMATION THAT YOU WOULD PROVIDE ME IN
23 THESE VARIOUS CASES MAY BE RELEVANT AS TO WHETHER OR NOT,
24 NUMBER ONE, I WOULD SEEK THE DEATH PENALTY IN A PARTICULAR
25 CASE?

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PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

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1 A. THAT'S CORRECT.

2 Q. AND THERE HAVE BEEN INSTANCES IN WHICH YOU PROVIDED ME
3 THAT INFORMATION AND WHICH WE HAVE ELECTED NOT TO SEEK THE
4 DEATH PENALTY?

5 A. THAT'S CORRECT.

6 Q. BASED ON WHAT YOU REPORTED TO ME?

7 A. THAT'S CORRECT.

8 Q. OTHERS WOULD BE THE ANTICIPATION -- IN ANTICIPATION OF
9 POTENTIAL MITIGATION ISSUES THAT MIGHT ARISE IF WE DID SEEK
10 THE DEATH PENALTY?

11 A. YES. THOSE ISSUES WOULD COME UP AS WELL.

12 Q. OKAY. NOW, AND THEN AN OVERALL ASSESSMENT OF THE
13 DEFENDANT'S MENTAL CONDITION?

14 A. YES.

15 Q. WHATEVER YOU AS A PSYCHIATRIST WOULD DO?

16 A. YES.

17 Q. ALL RIGHT. AND WHEN YOU CAME TO GREENVILLE ON
18 SEPTEMBER THE 3RD, WAS THAT YOUR UNDERSTANDING OF WHAT WE
19 WERE DOING?

20 A. YES, THAT WAS MY UNDERSTANDING.

21 Q. DID I GIVE YOU ANY OTHER SPECIFIC INSTRUCTIONS OR
22 ANYTHING CONTRARY TO THAT UNDERSTANDING?

23 A. NO.

24 Q. WERE YOU AT ANY TIME INSTRUCTED THAT THIS WAS GOING TO
25 BE A DEATH PENALTY CASE AND TO FIND OUT AS MUCH AS YOU COULD

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PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARLAIL

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1 SO THAT WE COULD PURSUE THE DEATH PENALTY WITH VENGEANCE?

2 A. ABSOLUTELY NOT.

3 Q. AND IN FACT, DID WE EVEN TALK ABOUT THE DEATH PENALTY?

4 A. NO, WE DID NOT.

5 MR. MACDOUGALL: YOUR HONOR, I HAVE TO OBJECT.

6 THIS LINE OF QUESTIONING HAS GONE WELL BEYOND PRELIMINARY

7 MATTERS, AND THE SOLICITOR IS NOW TESTIFYING ON VERY

8 AGGRESSIVE LEAD.

9 THE COURT: YOUR LEGAL OBJECTION IS HE'S LEADING?

10 MR. MACDOUGALL: WELL, IF IT CONTINUES, I'LL

11 CONTINUE MY OBJECTION, YOUR HONOR.

12 THE COURT: OKAY.

13 DON'T LEAD YOUR WITNESS, PLEASE. AS FAR AS THE

14 SUBSTANCE OF THE QUESTION, FOR WHATEVER LEGAL REASON YOU'RE

15 OBJECTING, I'LL OVERRULE.

16 Q. NOW, WITH THAT -- WITH YOUR COMING TO GREENVILLE ON

17 SEPTEMBER THE 3RD, WHEN YOU ARRIVED, WHERE DID YOU GO?

18 A. TO THE LAW ENFORCEMENT CENTER.

19 Q. AND WHO DID YOU MEET WITH AT THE LAW ENFORCEMENT

20 CENTER?

21 A. I BELIEVE YOU AND BETTY STROM WERE THERE. I'M NOT SURE

22 IF YOU WERE THERE RIGHT WHEN I GOT THERE. AND I ALSO MET

23 WITH INVESTIGATOR MCNAMARA, WAS THERE AS WELL.

24 Q. WHO PREVIOUSLY TESTIFIED?

25 A. YES.

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PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

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- 1 Q. AND PRIOR TO THAT, DID YOU HAVE ANY BACKGROUND
2 INFORMATION ON THIS CASE? OR DID YOU GET THAT AT THE TIME
3 YOU ARRIVED?
4 A. I GOT THAT WHEN I ARRIVED.
5 Q. FROM DETECTIVE MCNAMARA?
6 A. YES.
7 Q. AND AFTER YOU ARRIVED, HOW LONG WAS IT BEFORE YOU CAME
8 IN CONTACT WITH THE DEFENDANT, MR. WILLIAMS?
9 A. PROBABLY -- AND I'M ESTIMATING HERE -- TWENTY TO THIRTY
10 MINUTES AT MOST.
11 Q. BEFORE YOU CAME IN CONTACT?
12 A. YES.
13 Q. AND DO YOU RECALL EXACTLY WHERE YOU WERE LOCATED WHEN
14 YOU CAME IN CONTACT WITH HIM? WHERE THE OFFICE WAS?
15 A. ROUGHLY WHERE THE OFFICE WAS. IT WAS ONE OF THE
16 OFFICES IN THAT ---
17 Q. YOU'RE NOT FAMILIAR WITH THE INTERIOR?
18 A. NOT ENOUGH TO DESCRIBE IT WELL.
19 Q. WELL, LET'S TALK ABOUT THE OFFICE. WAS THE OFFICE --
20 WHO WAS IN THE OFFICE WITH YOU AND MR. WILLIAMS?
21 A. DETECTIVE MCNAMARA.
22 Q. ANYBODY ELSE?
23 A. NO.
24 Q. DID ANYBODY COME AND GO DURING THAT PERIOD OF TIME?
25 A. NO.

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53

1 Q. AND PRIOR TO AND DURING THE TIME THAT YOU WERE
2 INTERVIEWING OR MEETING WITH MR. WILLIAMS, DID YOU AT ANY
3 TIME OR ANYONE IN YOUR PRESENCE MAKE ANY STATEMENTS TO HIM
4 THREATENING HIM, PROMISING HIM ANY REWARD, ENCOURAGING HIM
5 TO GIVE A STATEMENT OR IN ANY WAY INFLUENCING HIS DECISION
6 WHETHER TO TALK TO YOU?

7 A. NO.

8 Q. WERE YOU AWARE THAT HE HAD ALREADY BEEN GIVEN HIS
9 MIRANDA WARNINGS?

10 A. YES, I WAS. AND THAT'S ONE THING I WANT TO MAKE CLEAR.
11 WHEN I WENT INTO THE ROOM WITH DETECTIVE MCNAMARA, THE FIRST
12 THING I DID IN THE PRESENCE OF MR. WILLIAMS WAS SAY, HE DOES
13 HAVE HIS -- HAVE HIS MIRANDA WARNINGS BEEN SIGNED AND GIVEN?
14 I HAD ASKED THAT PREVIOUSLY, BUT I ALSO ASKED THAT IN HIS
15 PRESENCE PRIOR TO EVEN INITIATING ANYTHING. WE BEGAN TAPING
16 AND THEN I REITERATED THE ESSENTIAL PARTS, IN MY OPINION, OF
17 THE WARNINGS.

18 Q. AND AT THE TIME YOU WENT INTO THE ROOM, BY WHOM WERE
19 YOU EMPLOYED?

20 A. I WAS EMPLOYED BY THE SOUTH CAROLINA DEPARTMENT OF
21 MENTAL HEALTH BY WAY OF A MEMORANDUM OF AGREEMENT WITH SOUTH
22 CAROLINA LAW ENFORCEMENT DIVISION. I WAS WORKING FOR SLED
23 THROUGH THIS MEMORANDUM OF AGREEMENT THE DEPARTMENT OF
24 MENTAL HEALTH HAS WITH THEM.

25 Q. WHAT WAS YOUR RELATIONSHIP? WHAT DID YOU DO FOR SLED

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1 OUT OF THE DEPARTMENT OF MENTAL HEALTH?

2 A. FOR SLED I DID A VARIETY OF THINGS. I PARTICIPATE IN
3 HOSTAGE NEGOTIATION. I PROVIDE CONSULTATION AND ASSISTANCE
4 IN EVALUATING CRIME SCENES OR BEHAVIORAL ASPECTS THAT WOULD
5 BE IMPORTANT IN INVESTIGATIONS. A WHOLE VARIETY OF THINGS.

6 Q. BUT YOU WERE IN ESSENCE ON LOAN FROM THE DEPARTMENT OF
7 MENTAL HEALTH TO SLED ---

8 A. YES. I HAD ---

9 Q. --- TO ASSIST IN REGARD TO CASES THAT MAY BE OF
10 INTEREST TO SLED OR THEY MAY BE INVESTIGATING?

11 A. THAT'S CORRECT. AND THAT HAD BEEN CLEARED BY MY
12 SUPERVISOR AS WELL AS MARK BINKLEY, THE ATTORNEY FOR THE
13 DEPARTMENT.

14 Q. AND THAT WAS YOUR SPECIALTY?

15 A. YES.

16 Q. AND AS A PART OF THAT, WERE YOU ALSO WORKING OR HAD
17 WORKED WITH OTHER SOLICITORS OR BEGINNING TO WORK WITH OTHER
18 SOLICITORS?

19 A. YES, I HAD WORKED WITH OTHER SOLICITORS.

20 Q. IN REGARD TO CASES THEY HAD?

21 A. YES. IN THE SAME CIRCUMSTANCES.

22 Q. NOW, WHEN YOU CAME TO -- WHEN YOU CAME INTO THE ROOM
23 WITH MR. WILLIAMS -- I'M GOING TO HAND YOU WHAT HAS
24 PREVIOUSLY BEEN MARKED AS PAGES 1, 2, 3 AND 64 OF YOUR
25 TRANSCRIPT OF THE INTERVIEW.

STATE v. CHARLES CHRISTOPHER WILLIAMS SUPPRESSION HEARING (1/26/05)
PAMELA CRAWFORD, M.D. - DIRECT EXAMINATION BY MR. ARIAIL

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1 MR. ARIAIL: BILL, HAVE Y'ALL GOT THOSE?

2 THE COURT: MR. NETTLES?

3 MS. STROM: IT WAS MARKED AS 'D' ON THE
4 MEMORANDUM.

5 MR. ARIAIL: 'C' IN THE MEMORANDUM.

6 MS. STROM: 'D'.

7 MR. ARIAIL: 'D'.

8 THE COURT: OKAY.

9 Q. MS. CRAWFORD, IF YOU WOULD LOOK AT THOSE -- DR.
10 CRAWFORD, TELL US IF YOU'RE FAMILIAR WITH THOSE PAGES OF THE
11 TRANSCRIPT?

12 A. YES, I AM.

13 Q. WHEN YOU -- HAVING REVIEWED THOSE, DO THOSE ACCURATELY
14 REFLECT THE CONVERSATION THAT YOU HAD WITH MR. WILLIAMS ON
15 SEPTEMBER THE 3RD OF '03?

16 A. YES, I WOULD SAY THAT THESE DO. THERE ARE SOME THINGS
17 THAT ARE INAUDIBLE, EVEN IN THESE PAGES, THAT WERE NOT
18 PICKED UP ON THE TRANSCRIPT. I, MYSELF, HAVE NOT LISTENED
19 TO THE TAPE. BUT THE TAPE -- THIS ACCURATELY REFLECTS WHAT
20 I DISCUSSED WITH HIM.

21 Q. ALL RIGHT. NOW ---

22 MR. MACDOUGALL: YOUR HONOR, FOR THE PURPOSE OF
23 REFERENCE, COULD WE JUST GET THE PAGE NUMBERS?

24 THE WITNESS: 1, 2, 3 AND 64.

25 MR. MACDOUGALL: AND 64?

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1 THE WITNESS: 64.

2 Q. IS IT YOUR PRACTICE AS A NORMAL PART OF YOUR ROUTINE
3 THAT WHEN YOU INTERVIEW SOMEONE, YOU TAPE-RECORD THE
4 INTERVIEW?

5 A. FOR CASES THAT I DO INVOLVING LAW ENFORCEMENT WHERE
6 ISSUES MIGHT ARISE, I ALWAYS EITHER VIDEOTAPE OR AUDIOTAPE
7 THESE.

8 Q. AND IN THIS CASE IT WAS AN AUDIOTAPE?

9 A. IN THIS CASE IT WAS AN AUDIOTAPE.

10 Q. AND WHEN YOU HAD FINISHED YOUR INTERVIEW, WHAT DID YOU
11 DO WITH THOSE TAPES?

12 A. I TURNED THEM OVER TO, I BELIEVE IT WAS, DETECTIVE
13 MCNAMARA TO PUT IN EVIDENCE.

14 Q. TO PLACE THEM IN EVIDENCE AT THE GREENVILLE LAW
15 ENFORCEMENT CENTER?

16 A. YES.

17 Q. ALL RIGHT. NOW, LET'S GO THROUGH, IF YOU WOULD AND
18 STARTING ON PAGE 1, HAVING REVIEWED THESE WHICH ARE ...

19 MR. ARIAIL: ... YOUR HONOR, WERE PART OF A PACKET
20 'D'. I DON'T KNOW IF WE NEED TO MARK THEM.

21 THE COURT: IT'S MARKED 'D' IN THE MEMORANDUM.
22 ARE YOU GOING TO MAKE IT A COURT'S EXHIBIT, OR ARE YOU GOING
23 TO JUST REFER TO THE MEMORANDUM?

24 MR. ARIAIL: NO. IT'S ALREADY AN EXHIBIT TO THE
25 MEMO, SO IT'S ALREADY -- IT'S IN.

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1 Q. TELL THE COURT, IF YOU WOULD, WHAT YOU TOLD MR.

2 WILLIAMS ---

3 THE COURT: IT'S PROBABLY NOT FOR THE RECORD. I
4 WILL CONSIDER THE EXHIBIT 'E' WHICH IS PART OF THE STATE'S
5 MEMORANDUM OF LAW ON THIS ISSUE. AND I WILL CONSIDER IT IN
6 MAKING MY DECISION.

7 MR. ARIAIL: ALL RIGHT. AND THE EXHIBITS ATTACHED
8 TO IT?

9 THE COURT: YES, SIR.

10 Q. TELL THE COURT WHAT YOU TOLD MR. WILLIAMS WHEN YOU CAME
11 INTO THE OFFICE.

12 A. OKAY. I TOLD HIM, I'M DR. PAMELA CRAWFORD AND I'M
13 INTERVIEWING -- WELL, THIS IS WHAT I SAID ON THE TAPE.
14 LET'S SEE. "I'M INTERVIEWING CHARLES CHRISTOPHER WILLIAMS.
15 THE DATE IS SEPTEMBER 2ND -- 3RD, 2003. I'M WHAT IS CALLED A
16 FORENSIC PSYCHIATRIST. I'M A DOCTOR, AN M.D., OKAY?

17 Q. HIS RESPONSE?

18 A. "OKAY." "I WENT TO MEDICAL SCHOOL AND THEN I
19 SPECIALIZED IN PSYCHIATRY. AND WHAT I DO AND WHAT I'M DOING
20 IN THIS JOB IS I'M WORKING FOR SLED. ARE YOU FAMILIAR WITH
21 SLED?"

22 Q. AND WAS HE FAMILIAR WITH SLED?

23 A. HE SAID, "YES, SOUTH CAROLINA LAW ENFORCEMENT
24 DIVISION."

25 Q. HE KNEW THE FULL NAME OF IT?

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1 A. THAT'S CORRECT.

2 Q. WHAT DID YOU TELL HIM THEN?

3 A. I SAID, "EXACTLY. AND I WORK FOR SLED AND I WORK FOR

4 THE SOLICITOR'S OFFICE. AND WHAT HAPPENED IS BOB ARIAL, WHO

5 IS THE SOLICITOR IN GREENVILLE, CALLED ME UP AND SAID WE

6 HAVE A SITUATION WITH A GUY AND TOLD ME ROUGHLY WHAT

7 HAPPENED, WHAT HE KNEW ABOUT WHAT HAPPENED, AND ASKED ME TO

8 SEE IF I COULD TRY -- IF I COULD TALK WITH YOU TO TRY TO

9 UNDERSTAND YOUR STATE OF MIND, TRY TO GET AN IDEA ABOUT WHAT

10 WAS GOING THROUGH YOUR HEAD WHEN ALL THIS HAPPENED." AND HE

11 RESPONDED, "OKAY." AND I SAID, "SO THAT'S WHAT I'M HERE TO

12 DO." AND HE SAID, "RIGHT." AND I SAID, "OKAY, THERE ARE

13 THINGS THAT I NEED TO MAKE SURE YOU UNDERSTAND IS I'M NOT

14 YOUR DOCTOR, OKAY? IF WE TALK AND I FEEL LIKE YOU NEED

15 TREATMENT, I'M GOING TO REFER YOU TO SOMEBODY. AND MY GUESS

16 IS THERE'S A GOOD LIKELIHOOD OF THAT BECAUSE, YOU KNOW, FROM

17 WHAT I UNDERSTAND ABOUT YOUR PAST, THIS IS A VERY UNUSUAL

18 CIRCUMSTANCE HERE." AND HE SAID, "YEAH." AND I SAID, "SO

19 BUT I AM -- I, MYSELF, AM NOT YOUR TREATING DOCTOR." HE

20 SAID, "OKAY." "AND THAT ANYTHING WE TALK ABOUT, I'M GOING

21 TO TALK ABOUT IN COURT OR TO THE SOLICITOR OR TO OTHER

22 PEOPLE. IT'S NOT LIKE I'M GOING TO GET OUT THERE ON THE

23 NEWS AND TELL ALL YOUR BUSINESS. BUT IT'S NOT PRIVATE."

24 AND HE SAID, "OKAY." AND I SAID, "DO YOU UNDERSTAND THAT?"

25 AND HE SAID, "YEAH." I SAID, "OKAY. YOU DON'T HAVE TO TALK

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- 1 TO ME IF YOU DON'T WANT TO. IF YOU WANTED A LAWYER, YOU
2 COULD HAVE A LAWYER. AND IF YOU COULDN'T AFFORD IT, SOMEONE
3 WOULD PAY FOR IT." HE REPLIED, "OKAY." I SAID, "YOU CAN
4 STOP ANYTIME YOU WANT. I MEAN, IT WILL NOT HURT YOU IN ANY
5 WAY, SHAPE OR FORM." HE SAID, "OKAY." "JUST SAY, DR.
6 CRAWFORD, I'M SICK OF TALKING ABOUT THIS. I DON'T WANT TO.
7 AND WE WILL STOP AND BE TOTALLY COOL WITH EACH OTHER, OKAY?"
8 AND HE SAID, "OKAY." AND I SAID, "UM, AND THAT ANYTHING WE
9 TALK ABOUT MAY COME UP IN COURT TO THE JUDGE AND JURY IN
10 SENTENCING AND ANYTHING LIKE THAT." AND HE SAID, "OKAY."
11 AND I SAID, "DO YOU UNDERSTAND ALL THAT?" AND HE SAID,
12 "YEAH." AND I SAID, "DO YOU HAVE ANY QUESTIONS ABOUT -- FOR
13 ME ABOUT THOSE THINGS." AND HE SAID, "NO." AND I SAID,
14 "ARE YOU CERTAIN?" AND HE SAID, "YEAH." AND THEN I SAID,
15 "WELL, WHAT I'M GOING TO DO FIRST OF ALL BEFORE WE GET ..."
16 AND THEN I GO INTO THE EXAMINATION.
- 17 Q. OKAY. SO PRIOR TO GOING INTO THE EXAMINATION, YOU WENT
18 THROUGH THAT LITANY OF QUESTIONS, WHAT WAS YOUR PURPOSE IN
19 GOING THROUGH THOSE STATEMENTS TO HIM?
- 20 A. I HAD ALREADY KNOWN THAT HE HAD BEEN MIRANDIZED. MY
21 PURPOSE WAS REINFORCING TO MY SATISFACTION AS WELL THAT HE
22 HAD BEEN AND WAS ALSO TO INFORM HIM THAT I WAS A PHYSICIAN,
23 A PSYCHIATRIST, I WAS NOT THERE TO TREAT HIM, THAT BEING
24 IMPORTANT.
- 25 Q. AND DURING THE COURSE OF THIS -- THESE STATEMENTS TO

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1 HIM, DID YOU -- BOTH AS WITH YOUR BACKGROUND IN LAW
2 ENFORCEMENT AND PSYCHIATRY, DID YOU DETECT ANY INDICATION
3 FROM HIM THAT HE DID NOT UNDERSTAND WHAT YOU WERE TALKING
4 ABOUT?

5 A. NO.

6 Q. OR THAT HIS FACULTIES WERE IN ANY WAY DIMINISHED OR
7 IMPEDED TO THE POINT HE COULD NOT UNDERSTAND WHAT YOU WERE
8 TALKING ABOUT?

9 A. I DID NOT. IT WAS MY OPINION HE DID NOT -- THAT'S ONE
10 OF THE THINGS THAT I HAVE TO ASSESS. AND AS YOU'RE AWARE IN
11 OTHER CASES, I HAVE NOT CONTINUED AN EVALUATION WHEN I THINK
12 THAT THERE'S AN ISSUE OR A QUESTION. SO NO, IT WAS MY
13 OPINION THAT HE WAS ABLE TO PARTICIPATE AND ABLE TO CONSENT.

14 Q. AND DID YOU AT ANY TIME THROUGHOUT THE REST OF THE
15 INTERVIEW EVER REACH THE OPINION THAT HE WAS NOT IN CONTROL
16 OF HIS FACULTIES OR LUCID OR FULLY ABLE TO RESPOND TO YOU IN
17 AN INTELLIGENT MANNER?

18 A. HE WAS ABLE TO RESPOND TO ME. HIS DIFFICULTIES WERE
19 NOT TO THE DEGREE TO MAKE HIM UNABLE TO DO THAT.

20 Q. OKAY. NOW, DID ANYBODY -- DURING THE COURSE OF THE
21 TIME PRIOR TO THE CONCLUSION OF THESE WARNINGS, DID ANYONE
22 COME INTO THE ROOM OR DID ANY OF THE CIRCUMSTANCES IN THE
23 ROOM CHANGE?

24 A. NO.

25 Q. DID YOU SEE ANYONE OR HEAR ANYONE EXERCISE ANY FORCE,

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1 THREATS, PROMISES OF REWARD OR ANY TYPE OF INFLUENCE UPON
2 HIM IN ORDER TO TALK TO YOU?

3 A. NO.

4 Q. DID HE APPEAR WILLING TO YOU TO WANT TO TALK TO YOU?

5 A. YES.

6 Q. AND DID HE, IN FACT, TALK TO YOU?

7 A. YES, HE DID.

8 Q. HOW LONG DID HE TALK TO YOU?

9 A. HE TALKED TO ME FOR, I WOULD SAY, APPROXIMATELY -- I
10 DON'T HAVE THE EXACT TIMES -- A LITTLE OVER TWO HOURS THAT
11 EVENING. AND THEN THE NEXT MORNING, HE SPOKE WITH ME FOR
12 PERHAPS AN HOUR TO AN HOUR AND A HALF.

13 Q. ALL RIGHT. SO LET'S GO OVER TO PAGE 64 AND --I ASK YOU
14 TO LOOK AT PAGE 64 ABOUT FIVE -- WELL, STARTING WITH FOUR
15 LINES DOWN, YOU APPEAR AT THAT POINT TO BE CONCLUDING PART
16 OF THE INTERVIEW?

17 A. YES.

18 Q. WHAT IS HAPPENING THERE?

19 A. WE TOOK A BREAK. AND I CAN'T RECALL. IT WAS JUST A
20 BRIEF BREAK MAYBE FOR SOMETHING TO DRINK. IS THIS ON PAGE
21 64?

22 Q. RIGHT.

23 A. YES, THAT WAS JUST A BRIEF BREAK.

24 Q. WELL, THE TIMING AT THAT POINT, YOU STATE -- READ YOUR
25 RESPONSE. YOU SAY, "OKAY ..."

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- 1 A. "OKAY." "FIVE -- TWENTY MINUTES TO SIX." "OKAY."
- 2 Q. OKAY. WHY DON'T WE -- YOUR ACTUAL RESPONSE IS WHAT?
- 3 A. I'M SORRY.
- 4 Q. PAM CRAWFORD. YOU READ, "OKAY. WHY DON'T WE STOP ..."
- 5 A. THIS IS ON PAGE 64 -- I'M SORRY -- AT THE TOP. OKAY.
- 6 "WHY DON'T WE STOP RIGHT NOW?" "OKAY." "DO YOU HAVE ANY
- 7 QUESTION FOR ME AT THIS POINT?" "NO." I SAY, "OKAY. WHY
- 8 DON'T WE STOP? AND THE TIME IS ..."
- 9 Q. WHO GAVE YOU THE TIME?
- 10 A. MR. WILLIAMS SAID, "FIVE THIRTY OR SOMETHING, TWENTY
- 11 MINUTES TO SIX."
- 12 Q. MR. WILLIAMS, IN RESPONSE TO WHAT THE TIME IS, GIVES
- 13 YOU THE ANSWER?
- 14 A. YES.
- 15 Q. AND YOU REPEAT, "TWENTY MINUTES TO SIX?"
- 16 A. YES.
- 17 Q. SO AROUND FIVE THIRTY, TWENTY MINUTES TO SIX, YOU TAKE
- 18 A BREAK AND THEN YOU COME BACK?
- 19 A. CORRECT.
- 20 Q. AT THE TIME YOU CAME BACK, WHAT DID YOU DO?
- 21 A. I AGAIN -- I BRIEFLY WENT OVER ESSENTIAL MIRANDA
- 22 WARNINGS LETTING HIM KNOW IT WAS NOT CONFIDENTIAL. WHAT I
- 23 SAID WAS, "AGAIN, THIS IS DR. PAM CRAWFORD. AGAIN, NOTHING
- 24 YOU TELL IS CONFIDENTIAL. YOU CAN TALK TO A LAWYER IF YOU
- 25 WANT. YOU DON'T HAVE TO TALK TO ME. ANYTHING CAN COME UP

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- 1 IN COURT THAT YOU TELL ME." I JUST BASICALLY -- WE HAD ONLY
2 STOPPED FOR A FEW MINUTES, BUT I JUST WANTED TO BASICALLY
3 GIVE AN OVERVIEW.
4 Q. REITERATE?
5 A. REITERATE.
6 Q. AND AT ANY TIME DURING THAT BREAK OR AFTER IT, DURING
7 THAT WARNING OR FOLLOWING THAT WARNING, DID HE INDICATE TO
8 YOU THAT HE DIDN'T WANT TO TALK TO YOU?
9 A. NO.
10 Q. DID HE INDICATE THAT HE WAS WILLING TO TALK TO YOU?
11 A. YES.
12 Q. AND DID YOU CONTINUE TO TALK TO HIM AT THE LAW
13 ENFORCEMENT CENTER THAT AFTERNOON?
14 A. YES.
15 Q. AND DO YOU RECALL APPROXIMATELY HOW MUCH LONGER AFTER
16 TWENTY MINUTES TO SIX YOU TALKED TO HIM?
17 A. I BELIEVE WE ENDED ABOUT SIX FORTY-FIVE OR SO.
18 Q. SO ANOTHER HOUR?
19 A. ABOUT. YES, ABOUT -- TWENTY MINUTES. YES.
20 Q. AND DURING THAT ENSUING HOUR, DID ANYTHING CHANGE
21 WITHIN THE ROOM? ANYBODY COME IN OR LEAVE?
22 A. NO.
23 Q. MR. MCNAMARA STAYED THERE THE ENTIRE TIME?
24 A. YES.
25 Q. AT ANY TIME DURING THAT PERIOD, DID THE DEFENDANT

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1 INDICATE THAT HE DIDN'T WANT TO TALK TO YOU ANYMORE?

2 A. NO.

3 Q. DID HE INDICATE HE WANTED A LAWYER AT ANY TIME?

4 A. NO.

5 Q. NOW, YOU LEFT -- YOU SAID IT ENDED ABOUT A QUARTER TO
6 SIX?

7 A. YES.

8 MR. ARIAIL: AND YOUR HONOR, I WOULD JUST IN
9 SUMMARY LEAD HER A LITTLE BIT SO WE CAN RUSH THROUGH THIS.

10 Q. WE LEFT. WE ENDED UP AT THE CRIME SCENE?

11 A. YES.

12 Q. WE ENDED UP -- OR YOU WENT TO THE DEFENDANT'S HOUSE?

13 A. YES.

14 Q. AND THE -- WENT SOME OTHER PLACES AND YOUR DAY WAS DONE
15 IN REGARD TO THAT?

16 A. THAT'S CORRECT.

17 Q. THE FOLLOWING DAY, SEPTEMBER THE 4TH, DID YOU COME BACK
18 TO GREENVILLE?

19 A. I SPENT THE NIGHT IN GREENVILLE. YES.

20 Q. YOU SPENT THE NIGHT IN GREENVILLE. DID YOU ON
21 FOLLOWING MORNING HAVE OCCASION TO ENCOUNTER THE DEFENDANT
22 AGAIN?

23 A. YES, I DID.

24 Q. LET ME SHOW YOU THIS DOCUMENT AND ASK IF YOU ARE
25 FAMILIAR WITH IT.

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- 1 A. YES.
- 2 Q. WHAT IS THAT?
- 3 A. IT'S A MIRANDA WARNINGS FORM AND A WAIVER OF RIGHTS
- 4 FORM.
- 5 Q. ALL RIGHT. AND THE DATE ON THE TOP RIGHT IS WHAT?
- 6 A. IS 9/4/03.
- 7 Q. AND THE DATE?
- 8 A. YOU MEAN THE TIME? IT'S NINE OH TWO A.M.
- 9 Q. I MEAN THE TIME. EXCUSE ME.
- 10 A. NINE OH TWO A.M.
- 11 Q. OKAY. ARE YOU FAMILIAR WITH THAT FORM? DID YOU HAVE
- 12 ANY CONNECTION WITH THAT FORM?
- 13 A. YES. I READ THIS FORM. I WAS IN THERE WITH
- 14 INVESTIGATOR SILVAGGIO, AND I READ THIS FORM TO HIM.
- 15 Q. SO ON SEPTEMBER THE 4TH AT NINE O'CLOCK IN THE MORNING,
- 16 YOU RETURNED TO HAVE AN ADDITIONAL CONVERSATION WITH THE
- 17 DEFENDANT?
- 18 A. YES, I DID.
- 19 Q. AND PRIOR TO THAT CONVERSATION, DID -- WAS HE ADVISED
- 20 OF HIS MIRANDA WARNINGS FROM A WRITTEN FORM AGAIN?
- 21 A. YES.
- 22 Q. AND DID DETECTIVE MCNAMARA ASSIST YOU WITH THAT FORM?
- 23 A. ACTUALLY IT WAS DETECTIVE SILVAGGIO WAS WITH ME.
- 24 Q. DETECTIVE SILVAGGIO?
- 25 A. WHAT HE DID IS HE PROVIDED ME THE FORM. I READ THE

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- 1 WARNINGS, AND HE INDICATED TO ME WHERE MR. WILLIAMS NEEDED
2 TO INITIAL, WHAT WAS TRADITIONAL IN TERMS OF INITIALING IT.
3 Q. AND DID THE DEFENDANT INITIAL THEM AS YOU READ THEM TO
4 HIM?
5 A. YES.
6 Q. AND DID YOU ALSO HAVE HIM SIGN THE ONE REGARDING A
7 LAWYER?
8 A. YES.
9 Q. WHO FILLED IN THE INFORMATION ON THE TOP LEFT, HIS
10 NAME, ADDRESS AND THAT INFORMATION?
11 A. I'M NOT SURE. IT WAS PROBABLY INVESTIGATOR SILVAGGIO,
12 BUT I'M NOT SURE.
13 Q. IT'S NOT YOUR HANDWRITING?
14 A. THAT'S NOT MY HANDWRITING.
15 Q. IS THE -- AND ON THE BOTTOM LEFT, YOU HAVE WITNESSED
16 ALONG WITH DETECTIVE SILVAGGIO?
17 A. YES.
18 Q. AND THE CONCLUDING TIME IS NINE OH FIVE?
19 A. THAT'S CORRECT.
20 Q. WITHOUT GOING THROUGH ALL OF THOSE -- WE'VE BEEN
21 THROUGH THEM BEFORE. BUT WAS EACH ONE OF THOSE RIGHTS READ
22 TO HIM?
23 A. YES.
24 Q. AND DURING THE COURSE OF READING THOSE RIGHTS TO HIM,
25 DID YOU AT ANY TIME FIND ANY INDICATION THAT HE DID NOT

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1 UNDERSTAND THOSE RIGHTS?

2 A. NO.

3 Q. BASED ON YOUR OBSERVATION, HAD ANYTHING CHANGED IN THE
4 OVERNIGHT PERIOD AS TO HIS DEMEANOR?

5 A. NO.

6 Q. DID HE INDICATE ON THE MORNING OF SEPTEMBER THE 4TH AT
7 NINE OH TWO THAT HE WAS STILL WILLING TO TALK TO YOU?

8 A. YES, HE DID.

9 Q. AND DID HE TALK TO YOU?

10 A. YES.

11 Q. AND DID YOU TAPE-RECORD THAT INTERVIEW?

12 A. YES, I DID.

13 Q. AND ARE THE CONTENTS OF THAT INTERVIEW ALSO A PART OF
14 THE TRANSCRIPT THAT'S BEEN PROVIDED OR TYPED UP?

15 A. YES. THE INITIAL -- THERE'S A PART AT THE BEGINNING
16 THAT DOESN'T APPEAR TO BE -- HAVE BEEN CAPTURED ON THE TAPE.

17 Q. ON THE TAPE?

18 A. BECAUSE WHEN I LOOK AT THE TRANSCRIPT, IT STARTS IN THE
19 MIDDLE OF A SENTENCE.

20 Q. AND SOME OF THE OTHER PARTS OF THE TAPE, IN OTHER
21 PARTS, ARE INAUDIBLE ---

22 A. THAT'S CORRECT.

23 Q. --- AND NOT INTELLIGIBLE?

24 A. THAT'S RIGHT.

25 Q. ON THE OTHER PART, NOT THIS MORNING SESSION.

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1 AND DID THE DEFENDANT -- I THINK I ASKED YOU THIS. HE
2 TALKED TO YOU THAT MORNING?

3 A. YES.

4 Q. AND FOR APPROXIMATELY HOW LONG?

5 A. I'M ESTIMATING HERE MAYBE AN HOUR, HOUR AND A HALF.

6 Q. AT ANY TIME DURING THE INTERVIEW OR THE READING OF THE
7 RIGHTS THAT MORNING, DID HE INDICATE TO YOU THAT HE WANTED
8 AN ATTORNEY PRESENT?

9 A. NO, HE DID NOT.

10 Q. DID HE INDICATE TO YOU AT ANY TIME HE DIDN'T WANT TO
11 TALK TO YOU?

12 A. NO.

13 Q. DID HE INDICATE TO YOU AT ANY TIME THAT HE CHANGED HIS
14 MIND AND HE DIDN'T WANT TO DISCUSS ANYTHING ANYMORE?

15 A. NO.

16 Q. DID HE APPEAR WILLING TO TALK TO YOU?

17 A. YES.

18 Q. AND WAS IT YOUR UNDERSTANDING AT THAT TIME THAT HE WAS
19 TALKING TO YOU FREELY AND VOLUNTARILY?

20 A. YES.

21 Q. HAD YOU THOUGHT OTHERWISE, WOULD YOU HAVE DISCUSSED IT
22 WITH HIM?

23 A. WOULD I HAVE DISCUSSED ...

24 Q. ANYTHING WITH HIM IF YOU FELT HE WAS ---

25 A. NO. IF I THOUGHT HE WAS EVEN AMBIVALENT ABOUT IT, AS

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1 YOU KNOW FROM A PREVIOUS CASE WE'VE DONE, I WOULD NOT HAVE
2 CONTINUED WITH THE ---

3 Q. AND THERE HAVE BEEN PREVIOUS CASES?

4 A. YES. THERE WAS ANOTHER CASE WHERE I -- YOU CALLED ME
5 UNDER SIMILAR CIRCUMSTANCES TO EVALUATE SOMEONE. AND HE
6 SAID HE WASN'T SURE WHETHER HE WANTED TO TALK, AND I
7 TERMINATED THE INTERVIEW.

8 Q. AND IN THE -- I'M GOING TO GO BACK TO THE ORIGINAL ON
9 PAGE 1 OF EXHIBIT D -- EXCUSE ME -- PAGE 2, ABOUT THREE-
10 QUARTERS OF THE WAY DOWN STARTING WITH THE PHRASE, "UM," DID
11 YOU SPECIFICALLY ADVISE HIM THAT WHAT YOU WERE GOING TO TALK
12 ABOUT MAY COME UP IN COURT BOTH TO THE JUDGE AND DURING
13 SENTENCING?

14 A. YES, I DID.

15 Q. AND WAS THAT A PURPOSEFUL ADMONITION THAT YOU GAVE HIM?

16 A. YES. I MEAN, IT'S SOMETHING THAT I THOUGHT HE SHOULD
17 KNOW ABOUT, THAT THIS INFORMATION IS GOING TO COME UP OR
18 COULD COME UP IN COURT AND IN THE SENTENCING IF THERE IS A
19 SENTENCING PORTION.

20 Q. AND AT THAT TIME, YOU WERE AWARE THERE MAY BE A
21 SENTENCING PROCEEDING INVOLVED?

22 A. AT THAT POINT I KNEW THE SERIOUS NATURE OF THE CRIME
23 WOULD LIKELY MAKE IT ELIGIBLE TO BE A DEATH PENALTY CASE.

24 Q. THAT'S ALL WE HAVE. ANSWER ANY QUESTIONS THE DEFENSE
25 MAY HAVE.

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1 THE COURT: LET ME ASK YOU A QUESTION. DO YOU
2 HAVE THE ENTIRE TRANSCRIPT TYPED?

3 MR. ARIAIL: YES, SIR.

4 THE COURT: WHY DON'T WE MARK THAT AS COURT'S
5 EXHIBIT NUMBER 2, I BELIEVE, AS PART OF THE RECORD? IF FOR
6 NO OTHER REASON, FOR APPELLATE PURPOSES. AS I SAID, I'M NOT
7 GOING TO READ THE ENTIRE TRANSCRIPT. I WILL READ THE
8 EXCERPTS THE SOLICITOR HAS PRESENTED AND THE DEFENDANT HAS
9 PRESENTED. ANY OTHER EXCERPTS Y'ALL WANT TO PROVIDE TO ME,
10 I'LL BE HAPPY TO READ.

11 MR. MCDOUGALL: THANK YOU, YOUR HONOR. WE HAVE
12 FOUR COPIES WE CAN DISTRIBUTE.

13 THE COURT: OKAY.

14 MS. STROM: I'VE GOT ONE RIGHT HERE.

15 THE COURT: HAVE YOU GOT SOME BOUND COPIES?

16 MR. MCDOUGALL: YOUR HONOR, WOULD YOU LIKE IT A
17 COURT'S EXHIBIT OR WE CAN MAKE IT A DEFENDANT'S EXHIBIT?

18 THE COURT: WE CAN JUST MAKE IT A COURT'S EXHIBIT
19 OR A DEFENDANT'S EXHIBIT. HOWEVER YOU WANT TO DO IT. IT
20 DOESN'T MATTER TO ME AS LONG AS IT'S AN EXHIBIT.

21 MR. MACDOUGALL: I THINK OUR LAST EXHIBIT WAS 3.

22 MR. ARIAIL: WELL, I WOULD PREFER TO MAKE IT A
23 COURT'S EXHIBIT BECAUSE IF WE MAKE IT A DEFENSE EXHIBIT,
24 IT'S GOING TO GET FILED IN THE CLERK'S OFFICE UNLESS
25 SOMEBODY STOPS IT.

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1 THE COURT: IT'S NOT GOING TO GET FILED UNTIL
2 PROBABLY MONDAY OF THE JURY, OKAY?

3 MR. MCDUGALL: THAT'S COURT'S 2, YOUR HONOR?

4 THE COURT: YEAH, COURT'S 2. I DON'T HAVE ANY WAY
5 OF GETTING IT TRANSPORTED TO GREENVILLE BETWEEN NOW AND
6 MONDAY, FEBRUARY WHATEVER.

7 MR. ARIAIL: JUST BEING CAUTIOUS.

8 THE COURT: I UNDERSTAND.

9 (TRANSCRIPT OF CRAWFORD INTERVIEW MARKED FOR
10 IDENTIFICATION AS COURT'S EXHIBIT 2)

11 MR. MACDOUGALL: MAY I APPROACH THE WITNESS?

12 THE COURT: YES, SIR.

13 CROSS-EXAMINATION BY MR. MACDOUGALL:

14 Q. GOOD AFTERNOON, DR. CRAWFORD. WE HAVEN'T MET BEFORE,
15 HAVE WE?

16 A. NO.

17 Q. MY NAME IS MARK MACDOUGALL. I'M A LAWYER WITH A LAW
18 FIRM IN WASHINGTON, D.C., CALLED AKIN, GUMP, STRAUSS, HAUER
19 AND FELD. AND WE'RE HERE WITH MR. MAULDIN AND MR. NETTLES
20 REPRESENTING THE DEFENDANT CHRIS WILLIAMS.

21 BEFORE I GO INTO SOME DETAIL, I WANTED TO ASK ABOUT A
22 COUPLE OF THINGS YOU SAID IN RESPONSE TO MR. ARIAIL'S
23 QUESTIONS WHILE THEY'RE FRESH IN MY MIND.

24 DO YOU RECALL MR. ARIAIL ASKED YOU IF YOU HAD PROMISED
25 ANY KIND OF REWARD, IF ANY THREATS HAD BEEN MADE, IF

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1 ANYTHING COERCIVE HAD BEEN SAID TO MR. WILLIAMS?

2 A. YES.

3 Q. AND YOUR ANSWER WAS NO; IS THAT CORRECT?

4 A. YES, THAT'S CORRECT.

5 Q. IF YOU COULD LOOK AT WHAT'S BEEN MARKED COURT'S EXHIBIT
6 2 ON THE FIRST PAGE. I'D LIKE TO REFER YOU TO ABOUT THREE-
7 QUARTERS OF THE WAY DOWN. AND IN FACT, THIS IS TESTIMONY
8 YOU WENT OVER WITH MR. ARIAIL.

9 A. OKAY.

10 Q. THE NEXT TO LAST STATEMENT BY YOU -- LET ME READ IT
11 ALOUD. "OKAY. THERE ARE THINGS THAT I NEED TO MAKE SURE
12 YOU UNDERSTAND IS I'M NOT YOUR DOCTOR, OKAY? IF WE TALK AND
13 I FEEL LIKE YOU NEED TREATMENT, I'M GOING TO REFER YOU TO
14 SOMEONE. AND MY GUESS IS THERE'S A GOOD LIKELIHOOD OF THAT
15 BECAUSE, YOU KNOW, FROM WHAT I UNDERSTAND ABOUT YOUR PAST,
16 THIS IS A VERY UNUSUAL CIRCUMSTANCE HERE." SO THERE, IF I
17 READ THAT CORRECTLY, YOU'RE TELLING THE DEFENDANT THAT IF
18 YOU THINK HE NEEDS HELP, YOU'RE GOING TO REFER HIM TO A
19 PSYCHIATRIST?

20 A. YEAH. WHAT I ---

21 Q. NO. THAT'S JUST MY QUESTION. IS THAT WHAT YOU'RE
22 TELLING HIM?

23 A. NO.

24 Q. YOU'RE NOT? WHAT ARE YOU TELLING HIM?

25 A. WHAT I'M TELLING HIM IS THAT IF I THINK HE NEEDS HELP,

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1 I WILL MAKE SOME KIND OF A REFERRAL FOR HIM.

2 Q. YES.

3 A. AND WHAT I WILL BE DOING IS MAKING AN ASSESSMENT ABOUT
4 WHETHER HE NEEDS URGENT HELP, WHETHER HE NEEDS TO SEE A
5 PSYCHIATRIST AT THAT TIME. WHAT I DID IN THIS CASE IS
6 INSIST THAT HE BE PUT ON A SUICIDE WATCH. I DID NOT THINK
7 HE NEEDED AN EMERGENCY PSYCHIATRIC CONSULTATION.

8 Q. DID YOU SAY ANY OF THAT TO HIM WHEN YOU WERE TALKING TO
9 HIM? WHAT YOU JUST SAID. THE STATEMENT YOU JUST MADE.

10 A. I BELIEVE WHAT I SAID WAS IN THE TRANSCRIPT. SO, NO, I
11 DIDN'T SAY TO HIM ---

12 Q. WHAT YOU SAID, RIGHT, IS IN THE TRANSCRIPT?

13 A. CORRECT.

14 Q. YOU JUST MADE ANOTHER STATEMENT. YOU DIDN'T TELL HIM
15 ANY OF THOSE THINGS, DID YOU?

16 A. ANY OF WHICH THINGS?

17 Q. ANY OF THE THINGS THAT -- I CAN HAVE THE COURT REPORTER
18 READ IT BACK. ANY OF THE THINGS YOU SAID.

19 A. OKAY. THAT WOULD BE HELPFUL. I'M NOT SURE WHAT
20 EXACTLY YOU'RE REFERRING TO.

21 MADAM COURT REPORTER: I'M SORRY?

22 MR. MACDOUGALL: THE RESPONSE TO THREE QUESTIONS
23 AGO.

24 THE COURT: HE WAS REFERRING TO WHETHER YOU WOULD
25 REFER HIM TO THE AUTHORITY AND YOU PUT HIM ON --

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1 PSYCHIATRIST OR ANYONE ELSE AND YOU PUT HIM ON SUICIDE

2 WATCH. THAT'S WHAT HE WAS REFERRING TO.

3 A. YES. I DID NOT DISCUSS SUICIDE WATCH WITH HIM, NO.

4 Q. YOU SAID, "IF WE TALK AND I FEEL LIKE YOU NEED
5 TREATMENT, I'M GOING TO REFER YOU TO SOMEBODY." YOU SAID
6 THAT?

7 A. YES.

8 Q. AND DID YOU EVER REFER HIM TO ANYBODY?

9 A. I -- WHAT I DID WAS PLACED HIM ON SUICIDE WATCH,
10 FINDING OUT WITH THE KNOWLEDGE THAT IN ORDER FOR HIM TO BE
11 OFF SUICIDE WATCH, HE WOULD HAVE TO BE ASSESSED BY THE
12 PSYCHIATRIST.

13 Q. I'M GOING TO KEEP ASKING THE QUESTION UNTIL I GET AN
14 ANSWER, DR. CRAWFORD. DID YOU REFER HIM TO ANYONE ELSE?

15 MR. ARIAIL: I OBJECT, YOUR HONOR. I OBJECT.

16 THE COURT: HOLD ON.

17 WHAT'S YOUR LEGAL OBJECTION?

18 MR. ARIAIL: THE OBJECTION IS HE'S BADGERING THE
19 WITNESS. THAT'S NOT A PROPER COMMENT.

20 THE COURT: THE WITNESS HASN'T ANSWERED THE
21 QUESTION YET, OKAY? AT THIS POINT IN TIME, OVERRULED.

22 MS. CRAWFORD, LISTEN TO THE QUESTION.

23 THE WITNESS: OKAY.

24 THE COURT: OKAY?

25 THE WITNESS: SURE.

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1 THE COURT: AND YOU MAY NOT WANT TO ANSWER YES OR
2 NO.

3 THE WITNESS: OKAY.

4 THE COURT: YOU MAY NOT WANT TO SAY, I DON'T
5 UNDERSTAND OR I DON'T KNOW. BUT PLEASE ANSWER THE QUESTION
6 IF A YES OR NO IS REQUIRED, AND YOU MAY GIVE ANY EXPLANATION
7 YOU WANT.

8 THE WITNESS: OKAY.

9 THE COURT: OKAY?

10 THE WITNESS: I'LL DO THAT.

11 THE COURT: AND DON'T START YOUR QUESTION WITH AN
12 EXPLANATION, OKAY?

13 THE WITNESS: OKAY.

14 THE COURT: YES, NO, I DON'T KNOW OR I DON'T
15 UNDERSTAND.

16 THE WITNESS: OKAY.

17 THE COURT: AND THEN GIVE AN EXPLANATION.

18 THE WITNESS: OKAY.

19 THE COURT: OKAY? BUT LISTEN TO HIS QUESTION.
20 AND THEN ANSWER YES OR NO AND THEN YOU MAY EXPLAIN.

21 THE WITNESS: OKAY.

22 THE COURT: IF YOU CAN REMEMBER YOUR QUESTION,
23 PLEASE REPEAT IT.

24 MR. MACDOUGALL: THANK YOU.

25 Q. DR. CRAWFORD, AS YOU SAID IN THE STATEMENT, DID YOU

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1 EVER REFER THE DEFENDANT TO A PSYCHIATRIST?

2 A. NO.

3 Q. THANK YOU.

4 THE COURT: NOW, IF YOU WANT TO GIVE AN
5 EXPLANATION, YOU CAN GIVE AN EXPLANATION.

6 THE WITNESS: OKAY. I CAN GIVE AN EXPLANATION?

7 THE COURT: YES, MA'AM.

8 A. I DID NOT SAY IN THE STATEMENT THAT I WOULD REFER HIM
9 TO A PSYCHIATRIST. I SAID THAT I WOULD REFER HIM FOR
10 TREATMENT IF I FELT LIKE -- I SAID, "IF I FEEL LIKE YOU NEED
11 TREATMENT, I'M GOING TO REFER YOU TO SOMEBODY." SO, IN
12 FACT, WHAT I DID WAS PLACE HIM ON SUICIDE WATCH WHICH, IN
13 FACT, REFERRED HIM TO SOMEBODY. TO MENTAL HEALTH WHO HAD TO
14 HAVE HIM REMOVED FROM SUICIDE WATCH AND ASSESS HIM ON
15 SUICIDE WATCH. SO, YES, I DID REFER HIM TO SOMEBODY. I
16 NEVER TOLD HIM I WOULD REFER HIM TO A PSYCHIATRIST.

17 Q. WHAT INFORMATION DID YOU COMMUNICATE TO THE SUICIDE
18 WATCH PSYCHIATRIST CONCERNING YOUR FINDINGS?

19 A. THERE IS NO SUICIDE WATCH PSYCHIATRIST.

20 Q. WHAT DID YOU JUST DESCRIBE TO ME THEN?

21 A. HE'S PLACED ON SUICIDE WATCH. AND THE POLICY IS THAT
22 IN THE GREENVILLE COUNTY DETENTION CENTER FOR HIM TO BE
23 REMOVED FROM SUICIDE WATCH, HE'S EVALUATED BY MENTAL HEALTH.
24 IT WAS MY FEELING THAT I HAD PROVIDED ENOUGH -- MY SENSE OF
25 HIM AT THAT TIME WAS THAT'S WHAT HE NEEDED RIGHT THEN WAS TO

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1 BE PROTECTED WITH SUICIDE, BUT HE DID NOT -- FROM SUICIDE,
2 BUT HE DID NOT NEED MEDICATION. AND SO IN REFERRING ON A
3 SUICIDE WATCH, THAT WAS A REFERRAL MEANING MENTAL HEALTH
4 WOULD BE EVALUATING HIM. AND I FELT THAT THAT WAS BEST LEFT
5 TO MENTAL HEALTH.

6 Q. DID YOU, YOURSELF, COMMUNICATE ANYTHING TO MENTAL
7 HEALTH ABOUT WHAT YOU HAD FOUND?

8 A. NO. I DIDN'T FEEL IT WAS NEEDED.

9 Q. BUT YOU DIDN'T COMMUNICATE?

10 A. CORRECT.

11 Q. SO SITTING HERE TODAY, YOU HAVE NO IDEA WHETHER THIS
12 DEFENDANT HAS EVER BEEN SEEN BY A PSYCHIATRIST OTHER THAN
13 YOURSELF?

14 A. DO I KNOW IF HE'S BEEN SEEN BY A PSYCHIATRIST? I
15 BELIEVE HE HAS, YES.

16 Q. HOW DO YOU KNOW THAT?

17 A. BECAUSE I BELIEVE THAT MY UNDERSTANDING IS THAT HE HAS
18 BEEN SEEN BY A DEFENSE PSYCHIATRIST.

19 Q. I'M TALKING ABOUT -- LET ME CLARIFY THE QUESTION. IN
20 RESPONSE TO YOUR REFERRAL ---

21 A. YES.

22 Q. --- REGARDING A SUICIDE WATCH ---

23 A. YES.

24 Q. --- DO YOU KNOW, SITTING HERE TODAY, IF AS A RESULT OF
25 THAT REFERRAL ANY PSYCHIATRIST HAS EVER INTERVIEWED THIS

1 DEFENDANT?

2 A. OH, I DON'T KNOW.

3 Q. YOU ALSO TOLD MR. ARIAIL -- WELL, LET ME GO BACK FOR A
4 SECOND. ON PAGE 1 AND 2 OF COURT'S EXHIBIT 2, YOU SPENT A
5 GOOD BIT OF TIME WITH MR. ARIAIL ANSWERING QUESTIONS ABOUT
6 WHAT YOU TOLD THE DEFENDANT AND WHAT HIS Demeanor WAS. DO
7 YOU REMEMBER THAT TESTIMONY?

8 A. YES.

9 Q. AT ANY TIME DURING THAT DISCUSSION WITH THE DEFENDANT,
10 DID YOU EVER ASK HIM TO REPEAT BACK TO YOU WHAT YOU HAD TOLD
11 HIM TO ENSURE THAT HE UNDERSTOOD?

12 A. NO, I DID NOT.

13 Q. YOU ALSO TESTIFIED IN RESPONSE TO MR. ARIAIL'S -- AND
14 WHEN I SAY THIS, IF I'M MISCHARACTERIZING WHAT YOU SAID,
15 PLEASE CORRECT ME BECAUSE I'M JUST DOING IT FROM MEMORY.
16 BUT YOU TESTIFIED IN RESPONSE TO MR. ARIAIL'S QUESTIONS THAT
17 YOU BELIEVE THAT THE DEFENDANT WAS LUCID AND ABLE TO
18 PARTICIPATE IN THE INTERVIEW?

19 A. YES.

20 Q. IS THAT A FAIR STATEMENT?

21 A. THAT'S A FAIR STATEMENT.

22 Q. DO YOU KNOW HOW MUCH SLEEP HE HAD BEFORE THE INTERVIEW
23 BEGAN?

24 A. HE TOLD ME THAT HE HADN'T SLEPT THE NIGHT BEFORE. BUT
25 IF I RECALL CORRECTLY WHEN WE TALKED WITH HIS FAMILY, THEY

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1 WERE AWARE THAT HE HAD SLEPT THE NIGHT BEFORE. SO THERE'S A
2 DIFFERING OF OPINION ABOUT HOW MUCH SLEEP HE HAD.

3 Q. LET ME GET BACK TO MY QUESTION. WHEN YOU BEGAN THE
4 INTERVIEW ---

5 A. YES.

6 Q. --- DID YOU KNOW HOW MUCH SLEEP HE HAD?

7 A. NO.

8 Q. AND WHEN YOU FINISHED THE INTERVIEW THAT FIRST DAY, DID
9 YOU KNOW HOW MUCH SLEEP HE HAD?

10 A. NO.

11 Q. WOULD IT MAKE ANY DIFFERENCE TO YOU IF HE HADN'T SLEPT
12 IN FORTY-EIGHT HOURS?

13 A. DIFFERENCE IN TERMS OF WHAT?

14 Q. WHETHER YOU BELIEVED -- AND I'M USING YOUR LANGUAGE NOW
15 THAT HE WAS LUCID AND ABLE TO PARTICIPATE IN THE INTERVIEW.
16 WOULD IT MAKE ANY DIFFERENCE TO YOU, IF AT THE TIME YOU KNEW
17 HE HADN'T SLEPT IN FORTY-EIGHT HOURS?

18 A. NO. THE DETERMINATION OF WHETHER HE WAS LUCID OR NOT
19 WOULD NOT BE AFFECTED BY HISTORICAL FACTORS. SO NO.

20 Q. SO IF HE HADN'T SLEPT IN FORTY-EIGHT HOURS, YOU WOULD
21 FEEL FREE TO CONTINUE THE INTERVIEW?

22 A. OKAY. I HAVE TO ANSWER THAT YES OR NO.

23 Q. PLEASE DO.

24 THE COURT: IF IT DOESN'T ENTAIL A YES OR NO, YOU
25 DON'T HAVE TO ANSWER ---

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1 A. IT'S A NOT EXACTLY. WHAT I DO WHEN I -- NOT EXACTLY.
2 WHAT I DO WHEN I DO AN EVALUATION IS I ASSESS THEIR STATE OF
3 MIND AND I ASSESS WHETHER THEY ARE COMPETENT TO GO AHEAD
4 WITH THE EVALUATION. THERE ARE NUMEROUS TIMES WHEN WE
5 EVALUATE ON COURT-ORDERED EVALUATIONS PEOPLE WHO MAY OR MAY
6 NOT HAVE SLEPT FOR A CONSIDERABLE PERIOD OF TIME. AND WE GO
7 AHEAD WITH THOSE EVALUATIONS IF WE ASSESS THAT THEY'RE
8 COMPETENT TO GO AHEAD. SO ---

9 Q. HAD YOU KNOWN THAT THIS DEFENDANT HADN'T SLEPT IN
10 FORTY-EIGHT HOURS, WOULD THAT HAVE AFFECTED YOUR DECISION?

11 A. NOT NECESSARILY.

12 Q. IF YOU HAD KNOWN HE HADN'T SLEPT IN SEVENTY-TWO HOURS,
13 WOULD THAT HAVE AFFECTED YOUR DECISION?

14 A. YES, I WOULD THINK THAT -- I THINK -- LET ME ANSWER IT
15 THIS WAY.

16 Q. IS YOUR ANSWER YES FIRST?

17 A. I CAN'T ANSWER YES OR NO. I HAVE TO SAY THAT IT MAY OR
18 MAY NOT HAVE. WHAT I'M SAYING IS WHEN I EVALUATE HIS MENTAL
19 STATE -- IF I'M EVALUATING THE MENTAL STATE OF SOMEONE WHO
20 CLEARLY HAS NOT SLEPT FOR SEVENTY-TWO HOURS, THEN PROBABLY I
21 WOULD HAVE TERMINATED IT. BUT THE HISTORICAL FACT OF
22 WHETHER HE SLEPT FOUR HOURS, A HUNDRED HOURS, THAT ITSELF IS
23 NOT HOW I'M GOING TO BASE MY DECISION TO INTERVIEW. IT'S
24 GOING TO BE BASED ON HIS PRESENTATION TO ME.

25 Q. JUST SO I UNDERSTAND, THOUGH, WAS THE ANSWER TO THE

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1 QUESTION, YES, IT WOULD HAVE AFFECTED YOUR DECISION HAD YOU
2 KNOW HE HAD NOT SLEPT IN SEVENTY-TWO HOURS?

3 A. NO. MY ANSWER IS IT MAY OR MAY NOT HAVE.

4 Q. IF HE HADN'T SLEPT IN NINETY-SIX HOURS AND YOU KNEW
5 THAT, WOULD THAT HAVE AFFECTED YOUR DECISION?

6 A. IT MAY OR MAY NOT HAVE. I WOULD HAVE -- IF HE HAD NOT
7 SLEPT IN NINETY-SIX HOURS, HE WOULD HAVE SHOWN EVIDENCE IN
8 MY EVALUATION OF HIM. AND IN FACT, IF HE HADN'T SLEPT IN
9 SEVENTY-TWO HOURS, HE WOULD HAVE SHOWN EVIDENCE IN THE
10 EVALUATION THAT WOULD HAVE MADE ME DECIDE THAT IT WAS NOT
11 APPROPRIATE TO CONTINUE. THAT IF HE WAS IMPAIRED, IT WOULD
12 HAVE SHOWN THAT HE WAS IMPAIRED.

13 Q. BUT AT THE TIME, YOU DIDN'T KNOW?

14 A. AT THE TIME HE WAS NOT IMPAIRED. I CAN TELL YOU THAT.
15 AND I DID NOT KNOW PRECISELY HOW MANY HOURS HE HAD SLEPT.

16 Q. I HAVE TO ASK MY QUESTION AGAIN. AT THE TIME YOU
17 DIDN'T KNOW WHETHER HE HAD SLEPT SEVENTY-TWO HOURS --
18 WHETHER HE HAD SLEPT IN SEVENTY-TWO HOURS OR NOT?

19 A. NO.

20 Q. YOU DID NOT KNOW?

21 A. NO. I STILL DON'T.

22 Q. HOW LONG HAVE YOU BEEN EMPLOYED BY SLED?

23 A. I'M EMPLOYED BY THE DEPARTMENT OF MENTAL HEALTH. AND
24 THEY HAVE A CONTRACT WITH SLED OR A MEMORANDUM OF AGREEMENT.
25 BUT I BELIEVE -- I THINK IT WAS IN 2000 OR 2001.

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1 Q. WHO IS YOUR SUPERVISOR AT THE DEPARTMENT OF MENTAL
2 HEALTH?

3 A. BEVERLY WOOD.

4 Q. SO YOUR CONTENTION HERE TODAY IS YOU'RE NOT EMPLOYED BY
5 SLED?

6 A. I'M NOT EMPLOYED BY SLED.

7 Q. YOU TOLD MR. WILLIAMS WHEN YOU BEGAN THE INTERVIEW,
8 HOWEVER, THAT YOU WERE EMPLOYED BY SLED; ISN'T THAT CORRECT?

9 A. I DID. WHAT I -- AND LET ME CLARIFY. I'M EMPLOYED BY
10 THE DEPARTMENT OF MENTAL HEALTH AND THEY HAVE SEEDED ME TO
11 SLED. SO DEPENDING ON YOUR DEFINITION OF EMPLOYED BY, I CAN
12 GIVE YOU TWO DIFFERENT ANSWERS. I DO NOT GET A PAYCHECK
13 FROM SLED, BUT I WORK FOR THE DEPARTMENT OF MENTAL HEALTH
14 AND THROUGH SLED.

15 Q. I'M NOT CONCERNED WHERE YOU GET YOUR PAYCHECK FROM.
16 BUT YOU TOLD MR. WILLIAMS YOU WORKED FOR SLED?

17 A. YES.

18 Q. AND THERE WAS MORE TO IT THAN THAT; IS THAT CORRECT?

19 A. YEAH. YES, THERE'S MORE TO IT. I GUESS IN THE
20 ABUNDANCE OF CAUTION, MY INTENTION IS TO TELL HIM THAT I'M
21 WORKING AS AN AGENT OF LAW ENFORCEMENT. AND SO IN THE
22 ABUNDANCE OF CAUTION, I THOUGHT IT WOULD BE MORE CONFUSING
23 TO DISCUSS WORKING FOR THE DEPARTMENT OF MENTAL HEALTH. AND
24 SO I WANTED TO EXPLAIN THAT THIS WAS -- I WAS ACTING AS
25 SOMEONE WORKING FOR LAW ENFORCEMENT.

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1 Q. WHAT TIME DID YOU GET THE CALL FROM THE SOLICITOR THAT
2 DAY?

3 A. I'M NOT ---

4 Q. BY THAT DAY, I MEAN SEPTEMBER 3RD, 2003.

5 A. I'M NOT SURE. PROBABLY -- WELL, IF I GOT THERE AT
6 ABOUT FOUR OR FOUR THIRTY, PROBABLY TWO THIRTY OR TWO.

7 Q. WHERE WERE YOU WHEN HE CALLED?

8 A. I DON'T RECALL.

9 Q. YOU DON'T REMEMBER WHERE YOU WERE?

10 A. NO, I DON'T.

11 Q. HOW LONG A CONVERSATION DID YOU HAVE WITH HIM?

12 A. TEN, FIFTEEN MINUTES. MAYBE TEN MINUTES.

13 Q. WHAT DID HE TELL YOU?

14 A. I CAN'T REMEMBER IF I TALKED TO HIM OR BETTY STROM. I
15 CAN'T RECALL.

16 Q. I'M GOING TO GET TO MS. STROM. BUT LET'S START WITH
17 ---

18 A. I DON'T RECALL WHETHER I TALKED TO HIM OR MS. STROM.

19 Q. WHETHER YOU TALKED TO SOLICITOR ARIAIL OR MS. STROM,
20 WHAT DID THEY TELL YOU?

21 A. WHAT THEY TOLD ME WAS THEY HAD A SITUATION, A CASE.
22 AND AGAIN, THIS IS NOT GOING TO BE VERBATIM BECAUSE THIS WAS
23 SEVERAL YEARS AGO OR A COUPLE OF YEARS AGO. THEY EXPLAINED
24 TO ME THEY HAD A SITUATION WHERE THERE WAS A KILLING IN THE
25 BI-LO CENTER AND THEY HAD A SUSPECT IN CUSTODY AND THOUGHT

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1 IT WOULD BE HELPFUL TO UNDERSTAND HIS STATE OF MIND AND
2 ASKED IF I'D EVALUATE HIM FOR THAT PURPOSE.

3 Q. AND BEYOND THAT, IN THIS TEN- OR FIFTEEN-MINUTE
4 CONVERSATION, WHAT DID THEY TELL YOU ABOUT THE CRIME THAT
5 THEY WERE INVESTIGATING AND ANY EXPECTATIONS THEY HAD OF
6 WHAT YOU WERE GOING TO DO?

7 A. THEY -- AND AGAIN, IT'S HARD TO ANSWER THIS. BUT I
8 WOULD SAY THEY PROBABLY TOLD ME THE BASIC OUTLINE OF WHAT
9 HAPPENED IN THE BI-LO. AND THAT WOULD BE ABOUT ALL. AND
10 ASKING ME HOW SOON I COULD GET THERE. I'M SURE I ASKED, IS
11 HE STILL TALKING TO THE POLICE. IS HE GOING TO BE WILLING
12 TO TALK TO ME, DO THEY THINK? AND THEY INDICATED THEY
13 THOUGHT HE WOULD.

14 Q. DID YOU HAVE ANY DISCUSSION ABOUT WHETHER THIS WOULD BE
15 POTENTIALLY TREATED AS A CAPITAL OFFENSE?

16 A. I DON'T ---

17 THE COURT: WHAT WAS YOUR QUESTION?

18 MR. MACDOUGALL: I'M SORRY, YOUR HONOR.

19 Q. DID YOU HAVE ANY DISCUSSION CONCERNING WHETHER THIS
20 WOULD BE TREATED AS A CAPITAL OFFENSE?

21 A. I DON'T BELIEVE WE DID.

22 Q. DID YOU HAVE ANY DISCUSSION REGARDING STATUTORY
23 MITIGATORS?

24 A. NOT SPECIFICALLY.

25 Q. DID YOU HAVE ANY GENERAL DISCUSSION REGARDING

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1 MITIGATORS?

2 A. NO, NOT IN THIS CASE. NOT THAT I RECALL. WE -- NOT
3 SPECIFICALLY. WE DIDN'T -- THAT WORD NEVER WAS USED. NO.

4 Q. DID YOU DISCUSS AT ANY TIME, EITHER BEFORE THE
5 INTERVIEW OR IMMEDIATELY AFTER, WHETHER OR NOT MR. WILLIAMS
6 LACKED SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT TO THE
7 REQUIREMENTS OF THE LAW OR WAS OTHERWISE CRIMINALLY
8 RESPONSIBLE?

9 A. ASK THAT -- THE FIRST PART OF THAT AGAIN. DID WE
10 DISCUSS IT AT WHAT POINT?

11 Q. LET'S START BEFORE THE INTERVIEW. BEFORE THE
12 INTERVIEW, BEFORE YOU SPOKE WITH MR. WILLIAMS, DID YOU
13 DISCUSS WITH SOLICITOR ARIAIL ---

14 A. NO.

15 Q. LET ME FINISH MY QUESTION. ... SOLICITOR ARIAIL, MS.
16 STROM OR ANYONE ELSE ASSOCIATED WITH THE SOLICITOR'S OFFICE
17 THE QUESTION OF CRIMINAL RESPONSIBILITY?

18 A. NO. NOT IN THOSE TERMS, NO.

19 Q. AND DID YOU DISCUSS WHETHER OR NOT HE ASKED -- WHETHER
20 HE HAD SUFFICIENT CAPACITY TO CONFORM HIS CONDUCT?

21 A. I DON'T BELIEVE THAT WE USED THOSE WORDS. WHEN I -- I
22 CAN TELL YOU THIS. IT WAS MY UNDERSTANDING IN DOING THESE
23 EVALUATIONS THAT I WOULD BE ADDRESSING ISSUES, THAT STATE OF
24 MIND ISSUES WERE RELATED TO THOSE CONCEPTS AS I WROTE IN MY
25 REPORT. SO MY UNDERSTANDING WAS OF THAT, WHEN I DISCUSSED

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1 THIS WITH SOLICITOR ARIAIL AND BETTY STROM, THEY -- IT WAS
2 CLEAR THAT THEY HAD NOT MENTIONED THOSE SPECIFIC WORDS. BUT
3 IT WAS MY EXPECTATION THAT I WOULD BE LOOKING AT THOSE
4 ISSUES.

5 MR. MACDOUGALL: MAY I APPROACH THE WITNESS, YOUR
6 HONOR?

7 THE COURT: YES, SIR.

8 Q. DR. CRAWFORD, I'M GOING TO BE SHOWING YOU WHAT WE'VE
9 MARKED DEFENDANT'S EXHIBIT 4 FOR IDENTIFICATION.

10 A. YES.

11 MR. MACDOUGALL: THIS IS DR. CRAWFORD'S REPORT.

12 THE COURT: YOU GOT ANY OBJECTION TO MARKING IT AS
13 COURT'S EXHIBIT NUMBER 3?

14 MR. ARIAIL: NONE.

15 THE COURT: IS THAT RIGHT, RENEE, NUMBER 3?

16 MADAM COURT REPORTER: YES, SIR.

17 THE COURT: LET ME KNOW WHEN YOU NEED A BREAK,
18 OKAY?

19 (CRAWFORD REPORT MARKED FOR IDENTIFICATION AS COURT'S
20 EXHIBIT 3)

21 THE COURT: GO AHEAD.

22 Q. DR. CRAWFORD, IF YOU'LL LOOK AT THE SECOND SENTENCE OF
23 YOUR REPORT.

24 A. YES.

25 Q. YOU WRITE AS FOLLOWS. "THE SOLICITOR'S OFFICE

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1 REQUESTED THIS EVALUATOR'S OPINION REGARDING MR. WILLIAMS'
2 CRIMINAL RESPONSIBILITY UNDER THE MCNAGHTEN STANDARD FOR HIS
3 ACTIONS ON SEPTEMBER 3RD, 2003, AND IF MR. WILLIAMS IS
4 CRIMINALLY RESPONSIBLE, WHETHER OR NOT HE LACKS SUFFICIENT
5 CAPACITY TO CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE
6 LAW." AND HERE'S MY QUESTION. WHEN YOU BEGAN THE
7 INTERVIEW, HAD YOU DISCUSSED WITH ANYONE ASSOCIATED WITH THE
8 SOLICITOR'S OFFICE THAT AS YOUR TASK?

9 A. NO.

10 Q. WHY DID YOU DECIDE THAT WAS YOUR TASK AS YOU REFLECTED
11 IN THE REPORT IF YOU HADN'T DISCUSSED IT WITH ANYONE? DID
12 YOU KNOW THAT YOURSELF?

13 A. WHAT I -- MY INTERPRETATION, WHICH MAY HAVE BEEN
14 DIFFERENT FROM THE SOLICITOR'S IS THAT WHEN HE IS ASKING ME
15 ABOUT STATE OF MIND THAT I'M GOING TO BE ASSESSING AND
16 MAKING THOSE KIND OF DETERMINATIONS AS WELL AS ADDRESSING
17 OTHER ISSUES. SO IT WAS MY UNDERSTANDING THAT I WOULD BE
18 ADDRESSING THOSE ISSUES.

19 Q. AND YOU RECOGNIZE THOSE ISSUES AND THAT STANDARD AS A
20 STATUTORY MITIGATOR FOR THE DEATH PENALTY IN THIS STATE?
21 YOU KNOW THAT?

22 A. A STATUTORY MITIGATOR? I MEAN, CRIMINAL RESPONSIBILITY
23 IS, YOU KNOW, SOMEONE WOULD BE FOUND NOT GUILTY BY REASON OF
24 INSANITY. I DON'T BELIEVE THAT'S A STATUTORY MITIGATOR.

25 Q. SO YOU DON'T KNOW WHAT THE STATUTORY MITIGATORS ARE IN

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1 THE STATE OF SOUTH CAROLINA?

2 A. YES. I BELIEVE I DO. BUT I DON'T BELIEVE THE

3 MCNAGHTEN STANDARD IS A STATUTORY MITIGATOR.

4 Q. YOU DON'T THINK THE FAILURE -- LACKING SUFFICIENT

5 CAPACITY TO CONFORM THE DEFENDANT'S CONDUCT TO REQUIREMENTS

6 OF LAW IS A MITIGATOR?

7 A. THAT'S A GUILTY BUT MENTALLY ILL VERDICT. I DON'T

8 BELIEVE -- I BELIEVE THE ACTUAL WORDING IS SOMETHING LIKE

9 THAT BUT NOT SPECIFICALLY THAT.

10 Q. WE'LL GET BACK TO THAT. I'D LIKE YOU TO TAKE A LOOK AT

11 IT BECAUSE IT'S VERY IMPORTANT TO WHAT WE'RE DOING HERE

12 TODAY.

13 YOU DROVE TO GREENVILLE?

14 A. YES.

15 Q. YOU TOURED THE CRIME SCENE; IS THAT CORRECT?

16 A. YES, I DID.

17 Q. AND THAT'S BEFORE YOU TALKED TO MR. WILLIAMS?

18 A. NO, THAT'S NOT CORRECT. THAT WAS AFTER I TALKED TO MR.

19 WILLIAMS.

20 Q. WHAT TIME DID YOU BEGIN THE INTERVIEW?

21 A. I BELIEVE ABOUT FOUR THIRTY.

22 MR. MACDOUGALL: MAY I APPROACH THE WITNESS, YOUR

23 HONOR?

24 THE COURT: YES, SIR.

25 Q. MS. CRAWFORD, I'M GOING TO SHOW YOU WHAT'S BEEN MARKED

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- 1 DEFENDANT'S 5 FOR IDENTIFICATION.
- 2 A. OKAY.
- 3 Q. DR. CRAWFORD, DO YOU RECOGNIZE THESE AS THE HANDWRITTEN
- 4 NOTES THAT YOU PROVIDED TO THE SOLICITOR'S OFFICE?
- 5 A. YES.
- 6 Q. IF YOU'D LOOK AT THE TOP OF THE FIRST PAGE. I TAKE IT
- 7 THESE ARE ALL IN YOUR HANDWRITING?
- 8 A. YES.
- 9 Q. IT'S DATED -- IT LOOKS LIKE 3/03 BUT I'M SURE IT'S
- 10 9/03; IS THAT RIGHT? OR IS A DATE MISSING?
- 11 A. IT SAYS 9/3. THERE'S PART OF THE NINE MISSING.
- 12 Q. AND THERE'S A TIME NOTATION FOUR FIFTEEN P.M.?
- 13 A. YES.
- 14 Q. WHERE ARE YOU WHEN YOU WRITE THAT DOWN?
- 15 A. IN THE LAW ENFORCEMENT CENTER.
- 16 Q. I'M SORRY?
- 17 A. IN THE LAW ENFORCEMENT CENTER.
- 18 Q. IN REFERENCE TO HOSTAGE GIRLFRIEND TWENTY YEARS OLD
- 19 VIDEOTAPE -- COULD YOU READ WHAT'S RIGHT BELOW VIDEO?
- 20 A. IT SAYS, "MAY HAVE TRIED TO HAVE."
- 21 Q. AND BELOW THAT?
- 22 A. "GIVING FULL STATEMENT."
- 23 Q. WHO WERE YOU RECEIVING THAT INFORMATION FROM?
- 24 A. MIKE MCNAMARA.
- 25 Q. THIS WAS BEFORE YOU BEGAN THE INTERVIEW?

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1 A. YES.

2 Q. YOU TESTIFIED THAT THE INTERVIEW WAS TAPE-RECORDED AND
3 YOU'VE HAD AN OPPORTUNITY TO REVIEW THE TRANSCRIPT.

4 A. THAT'S CORRECT.

5 Q. IS THE TRANSCRIPT IN GENERAL TERMS -- AND I RECOGNIZE
6 THERE ARE SOME PARTS THAT ARE INAUDIBLE -- IN GENERAL TERMS
7 ACCURATELY RECORD WHAT WAS SAID?

8 A. IN GENERAL TERMS IT DOES. THERE'S A GOOD PORTION
9 THAT'S MISSING FROM, I BELIEVE IT'S, THE THIRD TAPE.

10 Q. HOW DID THAT HAPPEN?

11 A. I DON'T KNOW. MY UNDERSTANDING IS THAT THE TAPE
12 RECORDER WAS STILL GOING, BUT IT'S INAUDIBLE. SO ...
13 NOTHING WAS CHANGED ABOUT THE SETTING OR THE TAPE. BUT
14 APPARENTLY -- I HAVEN'T LISTENED TO THE TAPE MYSELF.

15 Q. AT ANY TIME DURING THAT INTERVIEW -- AND YOU HAVE THE
16 TRANSCRIPT IN FRONT OF YOU. I THINK IT'S BEEN MARKED.

17 A. YES.

18 Q. AT ANY TIME IN THE INTERVIEW DOES THE PHRASE DEATH
19 PENALTY OR CAPITAL PUNISHMENT APPEAR?

20 A. NO.

21 Q. DOES ANYONE SPEAK IT?

22 A. NO.

23 Q. AT NO TIME DID EITHER YOU OR OFFICER MCNAMARA DISCUSS
24 OR MENTION OR DESCRIBE OR SUGGEST THE POSSIBILITY OF THE
25 DEATH PENALTY TO MR. WILLIAMS?

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1 A. NO.

2 Q. IN THE REPORT THAT'S BEEN MARKED EXHIBIT 5 FOR
3 IDENTIFICATION, DR. CRAWFORD, WHAT DID YOU REVIEW IN
4 PREPARING THIS REPORT?

5 A. EXHIBIT 5? I'M SORRY. IS THAT MY REPORT. THIS IS 3.

6 Q. WELL, IT'S THE REPORT. IT SHOULD BE MARKED 5. IF IT'S
7 MARKED 3, I APOLOGIZE.

8 A. OKAY. THAT'S WHAT YOU'RE TALKING ABOUT? NOW, ASK ME

9 -- WHAT'S THE QUESTION?

10 Q. WHAT DID YOU REVIEW IN PREPARING THAT REPORT?

11 A. YOU WANT ME TO LIST THE SOURCES OF INFORMATION?

12 Q. NO, NO, NO. I WANT YOU TO TELL ME BEYOND WHAT'S IN THE
13 REPORT, IS THERE ANYTHING THAT YOU LOOKED AT?

14 A. I'VE LISTED -- YES. I MEAN, I'VE LISTED SIXTY-FOUR
15 SOURCES OF INFORMATION WHICH INCLUDE THINGS I LOOKED AT.

16 Q. IS EVERYTHING YOU LOOKED AT THERE?

17 A. YES, I BELIEVE IT IS.

18 Q. THE DATE OF THE INTERVIEW WAS SEPTEMBER 3RD AND 4TH,
19 2003?

20 A. CORRECT.

21 Q. THE DATE OF THE REPORT WAS JANUARY 9TH, I BELIEVE.

22 A. THAT'S CORRECT.

23 Q. BETWEEN THE TIME OF THE INTERVIEW -- AND WE'LL SAY THE
24 FEW DAYS AFTER THE INTERVIEW -- AND JANUARY 2005, DID YOU
25 COLLECT ANY ADDITIONAL INFORMATION?

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1 A. I WON'T SAY I COLLECTED IT. WELL, YES, I DID ACTUALLY.

2 OF COURSE, I DID. THE SOLICITOR SENT ME THEIR FILE.

3 Q. AND IS THAT FILE REFLECTED IN YOUR REPORT?

4 A. YES.

5 Q. SO THERE'S NOTHING IN THE REPORT -- THERE'S NOTHING
6 THAT YOU REVIEWED THAT'S NOT ACCURATELY REFLECTED IN THE
7 REPORT?

8 A. I BELIEVE THAT'S TRUE.

9 Q. ARE YOU A MEMBER OF THE AMERICAN PSYCHIATRIC
10 ASSOCIATION?

11 A. YES, I AM.

12 Q. TELL ME ABOUT IT.

13 A. IT'S A VOLUNTARY ORGANIZATION OF PSYCHIATRISTS. IT HAS
14 AN ETHICS CODE, WHICH I'M SURE IS GOING TO BE DISCUSSED IN
15 HERE. IT HAS GUIDELINES, TREATMENT GUIDELINES. IT'S SORT
16 OF THE MAJOR ORGANIZATION FOR PSYCHIATRISTS.

17 Q. IT'S AUTHORITATIVE, RIGHT? THERE IS NO MORE
18 AUTHORITATIVE PROFESSIONAL GROUP AMONG PSYCHIATRISTS?

19 A. AMONG PSYCHIATRISTS, I WOULD SAY THERE IS NO MORE
20 AUTHORITATIVE PROFESSIONAL GROUP.

21 Q. AND IT WOULD BE FAIR TO SAY THAT WHEN IMPORTANT ISSUES
22 IN THE PROFESSION ARE DISCUSSED AND DEBATED, THE AMERICAN
23 PSYCHIATRIC ASSOCIATION IS THE PLACE THAT THAT DEBATE TAKES
24 PLACE?

25 A. YES. I WOULD SAY THAT'S TRUE, YES.

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1 Q. AND THERE ARE NO OTHER COMPETING GROUPS OF LIKE
2 STATURE?

3 A. NO.

4 Q. AND IT'S ALSO TRUE THEN THAT WHEN THE AMERICAN
5 PSYCHIATRIC ASSOCIATION PUBLISHES SOMETHING, IT CARRIES
6 WEIGHT IN THE PROFESSION?

7 A. YES, WITHOUT QUESTION.

8 Q. ARE YOU ALSO A MEMBER OF THE AMERICAN ACADEMY OF
9 PSYCHIATRY AND THE LAW?

10 A. YES, I AM.

11 Q. HOW LONG HAVE YOU BEEN A MEMBER OF THAT?

12 A. I'VE BEEN A MEMBER OF AAPL AND THE A.P.A. FOR LESS THAN
13 A YEAR. I WAS A MEMBER OF THE A.P.A. BEFORE AND THEN
14 STOPPED BEING A DUES-PAYING MEMBER. I WOULD SAY IT'S
15 APPROXIMATELY A YEAR I'VE BEEN A MEMBER.

16 Q. AND AAPL, I THINK IT'S CALLED?

17 A. YES.

18 Q. THE AMERICAN ACADEMY OF PSYCHIATRY AND THE LAW, IS THAT
19 A GROUP OF EQUAL STATURE WITH THE A.P.A. AMONG FORENSIC
20 PSYCHIATRISTS?

21 A. YES. YES, I WOULD SAY SO. I MEAN, THERE ARE A NUMBER
22 OF FORENSIC PSYCHIATRISTS THAT DON'T BELONG TO IT FOR A
23 VARIETY OF REASONS. AND THERE ARE A NUMBER OF PSYCHIATRISTS
24 THAT DON'T BELONG TO THE A.P.A. FOR A VARIETY OF REASONS.
25 BUT I THINK IT IS THE MAJOR GROUP.

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1 Q. AND ITS PUBLICATIONS, LIKE THE A.P.A., ON FORENSIC
2 PSYCHIATRY ARE AUTHORITATIVE?

3 A. AND I GUESS I'M -- I WOULD SAY YES IF I -- I'M NOT SURE
4 EXACTLY WHAT AUTHORITATIVE MEANS. I'M AFRAID I'M WALKING
5 MYSELF INTO A BOX HERE.

6 Q. THERE'S NO BOX HERE. BY AUTHORITATIVE, I MEAN
7 SPECIFICALLY CARRIES SIGNIFICANT WEIGHT IN THE PROFESSION.
8 WEIGHT OF SUCH STATURE THAT THERE ARE NO COMPETITORS AMONG
9 FORENSIC PSYCHIATRISTS.

10 A. OKAY. YOU'RE SAYING -- ARE YOU ASKING ME IF ARTICLES
11 PUBLISHED IN THERE WOULD BE OF THAT SORT?

12 Q. I'LL WITHDRAW THE QUESTION.

13 A. BECAUSE, NO, THERE'S A LOT OF LOUSY ARTICLES PUBLISHED
14 IN THE A.P.A. JOURNAL. I MEAN, THE AAPL JOURNAL.

15 Q. THAT WASN'T MY QUESTION. BUT WE'LL ---

16 A. WELL, YOU'VE WITHDRAWN IT, SO WE'RE OKAY.

17 Q. DO YOU READ THOSE ARTICLES PERIODICALLY?

18 A. YES. AT TIMES I DO.

19 Q. ARE YOU FAMILIAR WITH THE TEXTBOOK CALLED THE TEXTBOOK
20 OF FORENSIC PSYCHIATRY?

21 A. IF YOU COULD BRING IT UP HERE. I THINK I MAY BE
22 FAMILIAR WITH AN OLDER EDITION.

23 MR. MACDOUGALL: MAY I APPROACH, YOUR HONOR?

24 THE COURT: YES, SIR.

25 A. I HAVE NOT READ THIS EDITION.

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1 Q. ARE YOU FAMILIAR WITH THAT SERIES OF BOOKS?

2 A. YES. I'M AWARE OF THEIR EXISTENCE, YES.

3 Q. WE'LL HAVE A COPY HERE FOR YOU IN JUST A SECOND, DR.

4 CRAWFORD. BUT I'M GOING TO READ YOU A PASSAGE FROM THE

5 TEXTBOOK OF FORENSIC PSYCHIATRY BY SIMON AND GOLD, THE 2004

6 EDITION. PAGE 95. THIS IS CALLED PROFESSIONAL ETHICAL

7 GUIDANCE CLINICAL VIGNETTE.

8 "DR. D WAS CALLED BY THE DISTRICT ATTORNEY AND

9 ASKED TO PERFORM A FORENSIC EVALUATION ON AN

10 INDIVIDUAL IN JAIL WHO HAD JUST BEEN ARRESTED FOR

11 A SERIOUS CRIME. THE D.A. SAID THAT HE WANTED THE

12 PRISONER EVALUATED BEFORE HE WAS ARRAIGNED AND HAD

13 A CHANCE TO TALK TO AN ATTORNEY WHO MIGHT ADVISE

14 HIM NOT TO COOPERATE. THE D.A. TOLD DR. D THAT HE

15 COULD INFORM THE EVALUEE OF THE PURPOSE AND LACK

16 OF CONFIDENTIALITY OF THE EVALUATION. WHEN DR. D.

17 RAISED CONCERNS ABOUT THE ETHICS OF SUCH AN

18 EVALUATION UNDER SUCH CIRCUMSTANCES, THE D.A. TOLD

19 HIM THIS PROCEDURE WAS LEGAL IN THE JURISDICTION

20 AND THAT OTHER PSYCHIATRISTS HAD CONDUCTED

21 EVALUATIONS UNDER THESE CIRCUMSTANCES. DR. D WAS

22 NOT CONVINCED BUT WANTED TO GET FUTURE REFERRALS

23 AS HE WAS JUST STARTING HIS FORENSIC PRACTICE.

24 WHAT SHOULD DR. D DO?"

25 DO YOU UNDERSTAND THAT HYPOTHETICAL?

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1 A. YES.

2 Q. AND HERE'S THE EVALUATION.

3 "DR. D. CONSULTED HIS PROFESSIONAL ORGANIZATION'S
4 ETHICAL GUIDELINES. HE FOUND THAT THE AMERICAN
5 ACADEMY OF PSYCHIATRY AND THE LAW AND THE AMERICAN
6 PSYCHIATRIC ASSOCIATION HAVE SPECIFICALLY
7 ADDRESSED THIS PROBLEM. THEY'VE ADDRESSED IT IN
8 AAPL 1995 PUBLISHED IN 2001. BOTH ORGANIZATIONS
9 CONSIDER FORENSIC EVALUATIONS OF CRIMINAL
10 DEFENDANTS BEFORE ACCESS TO OR AVAILABILITY OF
11 LEGAL COUNSEL UNETHICAL. DEFENDANTS MAY NOT BE IN
12 A POSITION TO GIVE TRULY INFORMED CONSENT BEFORE
13 CONSULTING AN ATTORNEY. THEY MAY NOT FULLY
14 UNDERSTAND THEIR SITUATION OR BE AWARE THAT THE
15 PSYCHIATRIST RETAINED BY THE D.A. MAY BE BIASED IN
16 FAVOR OF THE PROSECUTION. THUS, A.A.P.L. AND THE
17 A.P.A. CONSIDER A PSYCHIATRIST WHO CONDUCTS AN
18 EVALUATION UNDER SUCH CIRCUMSTANCES TO BE IN
19 VIOLATION OF PROFESSIONAL ETHICS."

20 NOW, YOU'RE A MEMBER OF BOTH THE A.P.A AND THE
21 A.A.P.L.; IS THAT CORRECT?

22 A. YES, I AM. MAY I ADDRESS THAT?

23 THE COURT: LET HIM ASK YOU A QUESTION FIRST.

24 HE'S BEEN READING TO YOU. LET'S SEE WHAT THE QUESTION IS.

25 THE WITNESS: OKAY.

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1 THE COURT: DO YOU NEED THE BOOK?

2 THE WITNESS: NOT YET.

3 Q. WOULD YOU LIKE TO LOOK AT IT?

4 A. SURE.

5 Q. THIS IS ON PAGE 95.

6 THE COURT: YOU'RE WELCOME TO LOOK AT THE BOOK IF
7 YOU WANT TO.

8 MR. MCDUGALL: DO YOU HAVE A QUESTION FOR HER AFTER
9 READING FROM THE BOOK?

10 Q. YOU'D AGREE WITH ME, DR. CRAWFORD, I THINK, THAT IT
11 TAKES EXTENSIVE TRAINING TO BE A PSYCHIATRIST, DOESN'T IT?

12 A. YES.

13 Q. YOU GO TO COLLEGE FOR FOUR YEARS?

14 A. YES.

15 Q. GO TO MEDICAL SCHOOL FOR FOUR YEARS?

16 A. YES.

17 Q. YOU DID ALL THAT?

18 A. YES.

19 Q. YOU DID AN INTERNSHIP OF ONE YEAR?

20 A. NO.

21 Q. HOW LONG WAS YOUR INTERNSHIP?

22 A. INTERNSHIP IN?

23 Q. PSYCHIATRY.

24 A. OH, I'M SORRY. I DID FOUR YEARS OF RESIDENCY IN
25 PSYCHIATRY.

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1 Q. SO YOU NEVER DID AN INTERNSHIP PER SE; YOU DID A FOUR-
2 YEAR RESIDENCY?

3 A. YES.

4 Q. SO YOU COULD FAIRLY SAY THAT IT'S TWELVE YEARS OF POST-
5 SECONDARY EDUCATION?

6 A. YES.

7 Q. AND IT GIVES YOU A SET OF HIGHLY SPECIALIZED SKILLS.
8 YOU DON'T DISAGREE WITH THAT?

9 A. I WOULD AGREE.

10 Q. AND IT ALLOWS YOU TO DO THINGS THAT THE AVERAGE LAY
11 PERSON WOULDN'T DO, AND IT ALLOWS YOU TO UNDERSTAND THINGS
12 THE AVERAGE LAY PERSON WOULDN'T UNDERSTAND; IS THAT CORRECT?

13 A. THINGS TO DO WITH TECHNICAL ASPECTS OF PSYCHIATRY, I
14 WOULD AGREE.

15 Q. IT ALLOWS YOU TO INTERVIEW SOMEONE AND UNDERSTAND THE
16 PERSON'S STATEMENTS, STATE OF MIND, PERHAPS DIAGNOSE THEM.
17 IN OTHER WORDS, UNDERSTAND WHAT'S GOING ON THE WAY A LAWYER
18 WOULDN'T UNDERSTAND?

19 A. POTENTIALLY, YES, I WOULD SAY THAT.

20 Q. SO IT'S A PRETTY POTENT TOOL WHEN IT COMES TO
21 UNDERSTANDING WHAT'S GOING ON INSIDE SOMEONE'S HEAD?

22 A. I HOPE SO. YES, I WOULD THINK SO.

23 Q. NOW, WHEN YOU GO TO THE TRANSCRIPT ---

24 A. YES.

25 Q. --- YOU ASK AT ONE POINT -- I'M SORRY. YOU STATE AT

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1 THE BOTTOM OF PAGE 2 THAT THINGS YOU TALK ABOUT MAY COME UP
2 IN COURT TO THE JUDGE AND JURY IN SENTENCING AND ANYTHING
3 LIKE THAT?

4 A. YES.

5 Q. DO YOU DISCUSS SENTENCING IN ANY MORE DETAIL BEYOND
6 THAT?

7 A. NO.

8 Q. AND AT NO TIME DURING ANY OF THE INTERVIEWS, WHETHER
9 OFFICER MCNAMARA WAS AVAILABLE OR NOT, WAS A LAWYER PRESENT,
10 CORRECT?

11 A. THAT'S CORRECT.

12 Q. AND AS FAR AS YOU KNEW, MR. WILLIAMS HAD NEVER TALKED
13 TO A LAWYER?

14 A. THAT'S CORRECT.

15 Q. YOU'RE A MEMBER OF THE A.A.P.L. AND YOU'RE FAMILIAR
16 WITH ITS CODE OF ETHICS, I TAKE IT?

17 A. YES, I AM.

18 MR. MACDOUGALL: I'D ASK THE COURT REPORTER, YOUR
19 HONOR, IS THE NEXT DEFENDANT'S EXHIBIT 6.

20 MADAM COURT REPORTER: THE JUDGE HAS SAID MARK
21 THEM AS COURT'S EXHIBITS. I'VE BEEN MARKING THEM PER HIS
22 INSTRUCTIONS.

23 THE COURT: I THINK IT WOULD BE 6.

24 MADAM COURT REPORTER: THE NEXT COURT'S EXHIBIT
25 WOULD BE ---

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1 THE COURT: WELL, YOU GOT ONE THAT'S COURT'S
2 EXHIBIT AND HE'S GOT ONE MARKED 4 AND ONE MARKED 5. SO
3 LET'S JUST GO WITH -- YOU GOT TWO OF THEM MARKED COURT'S
4 EXHIBIT 2 AND 3. HOW MANY YOU GOT MARKED AS DEFENDANT'S?

5 MADAM COURT REPORTER: THEY HAVE PRE-MARKED THEIR
6 EXHIBITS. I HAVEN'T SEEN ANY OF THEM.

7 THE COURT: OKAY.

8 TWO OF YOUR COURT MARKED -- EXCUSE ME. DEFENDANT'S
9 EXHIBIT 4 HAS BEEN MARKED AS COURT'S EXHIBIT NUMBER 3, AND
10 ONE OF THE OTHER -- THE TRANSCRIPT HAS BEEN MARKED AS NUMBER
11 2. SO IT'S SORT OF MESSED UP YOUR NUMBERS. HOWEVER YOU
12 WANT TO NUMBER THEM IS FINE WITH ME.

13 MR. MACDOUGALL: WE'LL MARK THIS AS 6, YOUR HONOR.

14 THE COURT: I MEAN, IF YOU WANT TO MARK IT 5, 6,
15 WHATEVER YOU WANT TO DO.

16 MR. MACDOUGALL: MAY I APPROACH, YOUR HONOR?

17 THE COURT: YES, SIR.

18 A. THANK YOU.

19 THE COURT: DEFENDANT'S 6.

20 (A.P.P.L. ETHICAL GUIDELINES ADMITTED INTO EVIDENCE AS
21 DEFENDANT'S EXHIBIT 6)

22 Q. DO YOU RECOGNIZE THIS AS THE AMERICAN ACADEMY OF
23 PSYCHIATRY AND THE LAW'S CODE OF ETHICS?

24 A. YES, I DO.

25 Q. HAVE YOU LOOKED AT IT BEFORE?

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1 A. MANY TIMES.

2 Q. WHEN IS THE LAST TIME YOU LOOKED AT IT?

3 A. YESTERDAY.

4 Q. WHAT WAS THE REASON FOR YOUR LOOKING AT IT YESTERDAY?

5 A. I WAS DISCUSSING IT AGAIN WITH THE MEDICAL BOARD OF
6 SOUTH CAROLINA AND WITH MARK BINKLEY, ATTORNEY FOR THE
7 DEPARTMENT, AND WITH DR. ZUNANNA (PHONICS) AND WITH -- HOLD
8 ON A SECOND. AND WITH STEPHEN ORNISH (PHONICS) AND WITH
9 PETER ASH (PHONICS) OF AAPL AND THE A.P.A.

10 MR. MACDOUGALL: YOUR HONOR, THE WITNESS HAS BEEN
11 REFERRING TO A FILE SHE HAS IN FRONT OF HER. BEFORE WE
12 CONCLUDE, I'D LIKE TO HAVE A LOOK AT THAT FILE.

13 THE COURT: OKAY. DO YOU WANT TO LOOK AT IT NOW?

14 MR. MACDOUGALL: IF WE COULD TAKE A SHORT BREAK.

15 THE COURT: WHY DON'T WE TAKE A SHORT BREAK AND
16 YOU CAN LOOK AT IT THERE BECAUSE IT'S TIME TO TAKE A SHORT
17 BREAK.

18 WE'RE GOING TO TAKE A SHORT BREAK, DR. CRAWFORD. DON'T
19 DISCUSS THE CASE WITH ANYONE. JUST SHOW HIM THE FILE AND
20 LET HIM LOOK AT IT, OKAY?

21 THE WITNESS: OKAY.

22 THE COURT: OKAY. WE'LL TAKE ABOUT A TEN-MINUTE
23 BREAK.

24 (WHEREUPON COURT STOOD AT RECESS FOR A BREAK)

25 THE COURT: MS. CRAWFORD, IF YOU'LL COME BACK

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1 AROUND AND HAVE A SEAT, PLEASE, MA'AM.

2 MR. MACDOUGALL, YOU MAY PROCEED.

3 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

4 THE COURT: IN THE INTEREST OF BREVITY, I THINK I
5 KNOW WHERE YOU'RE GOING. IF WE COULD SPEED IT UP AND GET TO
6 THAT PROCESS AND MAKE THE POINT, I CERTAINLY WOULD
7 APPRECIATE IT.

8 MR. MACDOUGALL: I HAVE A COUPLE MORE QUESTIONS,
9 YOUR HONOR.

10 THE COURT: OKAY. THANK YOU VERY MUCH.

11 THE WITNESS: MAY I HAVE MY NOTES BACK?

12 THE COURT: I'VE LEARNED MORE ABOUT PSYCHIATRIC
13 AND ETHICS ON PSYCHIATRIC THAN I'M INTERESTED IN. BUT
14 PLEASE PROCEED.

15 MR. MACDOUGALL: MAY I APPROACH THE WITNESS, YOUR
16 HONOR?

17 Q. DR. CRAWFORD, FOR THE PURPOSE OF THE RECORD, I'M
18 RETURNING THE NOTES THAT YOU GAVE ME JUST BEFORE THE BREAK
19 ---

20 A. YES.

21 Q. --- WITH THE EXCEPTION OF ONE PIECE OF PAPER WHICH I
22 WILL RETURN TO YOU MOMENTARILY.

23 A. OKAY. THANK YOU.

24 MR. ARIAIL: YOUR HONOR, IF THE RECORD COULD
25 REFLECT THAT DURING THE BREAK THEY HAVE REVIEWED HER ENTIRE

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1 FILE. IT WAS HANDED OVER TO THEM AT THEIR REQUEST.

2 THE COURT: OKAY. AND YOU'VE PICKED OUT THE ITEMS
3 THAT YOU WANT FROM THE FILE? I DON'T KNOW IF IT'S THE
4 ENTIRE FILE OR NOT.

5 MS. CRAWFORD -- DR. CRAWFORD, IS THAT YOUR ENTIRE FILE?

6 A. NO. THIS IS MY ENTIRE FILE ON THESE ISSUES.

7 THE COURT: I THINK THEY REVIEWED WHAT SHE BROUGHT
8 TODAY TO THE COURTROOM, NOT HER ENTIRE FILE.

9 MR. MACDOUGALL: THANK YOU, YOUR HONOR.

10 Q. DR. CRAWFORD, JUST A COUPLE OF OTHER QUESTIONS. BEFORE
11 WE TOOK A BREAK, YOU HAD BEEN GIVEN -- AND I APOLOGIZE FOR
12 THE DISCONTINUOUS NUMBERING SYSTEM -- WHAT I THINK HAS BEEN
13 MARKED AS EXHIBIT 8, THE AMERICAN ACADEMY OF PSYCHIATRY AND
14 THE LAW'S ETHICAL GUIDELINES FOR THE PRACTICE OF FORENSIC
15 PSYCHIATRY?

16 A. YES.

17 Q. UNDER ROMAN NUMBER III, CONSENT?

18 A. YES.

19 Q. YOU'RE FAMILIAR WITH THAT CANNON?

20 A. YES, SIR, VERY MUCH SO.

21 Q. AND UNDER THE HEADING COMMENTARY, THE THIRD PARAGRAPH
22 READS, "WITH REGARD TO ANY PERSON CHARGED WITH CRIMINAL
23 ACTS, ETHICAL CONSIDERATIONS PRECLUDE FORENSIC EVALUATION
24 PRIOR TO ACCESS TO OR AVAILABILITY OF LEGAL COUNSEL. THE
25 ONLY EXCEPTION IS AN EXAMINATION FOR THE PURPOSE OF

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1 RENDERING EMERGENCY MEDICAL CARE AND TREATMENT." SO YOU'RE
2 FAMILIAR WITH THAT CANNON?

3 A. YES.

4 Q. AND YOU WERE FAMILIAR WITH IT AT THE TIME YOU CONDUCTED
5 THE INTERVIEW?

6 A. YES.

7 Q. AMONG THE FILE MATERIALS THAT YOU HAVE WITH YOU TODAY
8 THAT WE EXAMINED DURING THE BREAK, THERE'S AN E-MAIL
9 EXCHANGE BETWEEN YOURSELF AND PETER ASH?

10 A. YES.

11 Q. YOU'RE FAMILIAR WITH THAT E-MAIL EXCHANGE?

12 A. YES.

13 Q. THAT WAS DATED JANUARY 24TH WHICH WAS YESTERDAY? OR IS
14 THAT THE DAY BEFORE? MONDAY, I GUESS?

15 A. I THINK IT WAS THE DAY BEFORE.

16 Q. VERY RECENTLY?

17 A. YES.

18 Q. ACCORDING TO THE E-MAIL, DR. ASH IS AN M.D. AND IS THE
19 CHIEF OF CHILD AND -- LOOKS LIKE ADULT PSYCHIATRY?

20 A. YES. AND HE'S A FORENSIC PSYCHIATRIST.

21 Q. AND YOU WRITE TO DR. ASH AS FOLLOWS.

22 MR. MACDOUGALL: AND YOUR HONOR, THIS IS VERY
23 BRIEF.

24 "PETER, I HAVE A QUESTION REGARDING PRE-
25 ARRAIGNMENT PSYCHIATRIC EVALUATIONS. MY READING

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1 OF THE A.A.P.L. GUIDELINES IS THAT A PERSON FACING
2 CHARGES CANNOT BE EVALUATED FOR FORENSIC PURPOSES
3 IF THEY, QUOTE, 'DO NOT HAVE ACCESS TO OR
4 AVAILABILITY OF,' END QUOTE, AN ATTORNEY. I HAVE
5 PERFORMED A NUMBER OF THESE EVALUATIONS WHEN THE
6 PERSON IN CUSTODY HAS BEEN ADVISED OF HIS MIRANDA
7 WARNINGS BUT HAS WAIVED THESE, IS INFORMED BY ME
8 THAT I AM NOT HIS TREATING PSYCHIATRIST AND THAT
9 ALL THE INFORMATION PROVIDED CAN BE USED IN COURT,
10 ET CETERA. I HAVE, I BELIEVE, PROVIDED ADEQUATE
11 INFORMED CONSENT. I ALSO ASSESS COMPETENCE TO
12 WAIVE HIS RIGHT TO AN ATTORNEY. I EITHER
13 AUDIOTAPE OR VIDEOTAPE EACH OF THESE EVALUATIONS.
14 THESE CASES ARE NOW COMING TO TRIAL AND ARE GOING
15 TO BE VIGOROUSLY DEBATED. I'VE LOOKED UP THE
16 DEFINITIONS OF, QUOTE, ACCESS, END QUOTE,
17 AVAILABILITY. AND MY READING IS THAT THESE
18 PERSONS HAVE A RIGHT TO AN ATTORNEY, NOT THAT AN
19 ATTORNEY MUST BE CONSULTED. WHAT DO YOU THINK?
20 DO YOU THINK I NEED TO PURSUE A MORE FORMAL RULING
21 BY THE ETHICS COMMITTEE ON THIS ISSUE? I'VE
22 SEARCHED A.P.A. AND A.A.P.L. SITES, AND I SEE NO
23 OFFICIAL POSITION ON WHAT THIS RULE MEANS. I
24 TALKED TO THE ADMINISTRATOR OF RECORD OF THE
25 MEDICAL BOARD HERE IN SOUTH CAROLINA SEVERAL YEARS

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1 AGO, AND HE DID NOT FEEL THERE WAS AN ISSUE.

2 THANKS, PAM CRAWFORD."

3 I TAKE IT THIS IS THE E-MAIL YOU SENT TO DR. ASH?

4 A. YES.

5 Q. AND HIS RESPONSE WAS AS FOLLOWS.

6 "PAM, IT'S A TRICKY BUSINESS AND I'VE HEARD

7 IT ARGUED BOTH WAYS. I'M NOT SURE WHERE THE

8 ETHICS COMMITTEE COMES OUT. CERTAINLY, IF A

9 PERSON HAS DECIDED THEY'RE PROCEEDING TO TRIAL

10 WITHOUT AN ATTORNEY, THEN IT WOULD BE OKAY. THE

11 CONCERN IS THAT LOTS OF PEOPLE WAIVE MIRANDA

12 SHORTLY AFTER ARREST WITHOUT, QUOTE, REALLY, END

13 QUOTE, KNOWING THE IMPLICATIONS WHICH MAY STILL

14 MAKE IT LEGAL BUT RAISES THE ETHICS ISSUE."

15 WAS THAT DR. ASH'S RESPONSE?

16 A. AND WE FOLLOWED IT UP WITH A CONVERSATION, A PHONE

17 CALL.

18 Q. BUT AS FAR AS THE E-MAIL?

19 A. AS FAR AS THE E-MAIL, YES.

20 Q. THERE WERE NO OTHER E-MAILS?

21 A. THERE PROBABLY WERE OTHER E-MAILS. I BELIEVE I -- WE

22 EXCHANGED ANOTHER E-MAIL. I'M NOT SURE.

23 Q. DO YOU HAVE THAT WITH YOU TODAY?

24 A. NO.

25 MR. MACDOUGALL: NOTHING FURTHER OF THIS WITNESS,

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1 YOUR HONOR. THANK YOU.

2 THE COURT: OKAY. ANY REDIRECT?

3 MR. ARIAIL: COULD WE INTRODUCE THAT AS AN
4 EXHIBIT, YOUR HONOR, SINCE IT'S BEEN READ INTO THE RECORD?

5 MR. MACDOUGALL: NO OBJECTION, YOUR HONOR. WE
6 HAVE ONE COPY OF IT THOUGH.

7 THE COURT: I GUESS THAT WOULD BE -- WE CAN MAKE
8 SOME COPIES. THE CLERK CAN MAKE YOU SOME COPIES RIGHT HERE.
9 THAT WILL BE DEFENDANT'S EXHIBIT NUMBER 7?

10 MR. MACDOUGALL: YES, SIR.

11 THE COURT: OKAY. DEFENDANT'S EXHIBIT NUMBER 7
12 ADMITTED WITHOUT OBJECTION.

13 THE COURT: SOLICITOR, DO YOU HAVE ANY REDIRECT?

14 MR. ARIAIL: THE ONLY ISSUE I HAVE IS HE READ THIS
15 LONG ---

16 THE COURT: WELL, DO YOU HAVE ANY QUESTIONS TO ASK
17 HER?

18 MR. ARIAIL: I MAY. BUT FIRST I'D LIKE TO MOVE TO
19 STRIKE THE REFERENCE TO THE TREATISE THAT HE READ AS HE
20 NEVER GAVE HER AN OPPORTUNITY TO ANSWER A QUESTION OR
21 EXPLAIN HER UNDERSTANDING. HE JUST READ IT INTO THE RECORD
22 AND DID NOT FOLLOW UP TO ASK THOSE QUESTIONS. I'M NOT GOING
23 TO FOLLOW UP FOR HIM BECAUSE I DON'T WANT TO GET INTO IT.
24 BUT SINCE HE DIDN'T FOLLOW IT UP, I WOULD MOVE TO STRIKE
25 THAT AS BEING A PART OF THE RECORD SINCE HE JUST ---

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1 THE COURT: HE NEVER ASKED HER ANY ---

2 MR. ARIAIL: --- READ A HYPOTHETICAL QUESTION.

3 THE COURT: HE NEVER READ ANY QUESTIONS AFTER HE
4 READ THAT INTO THE RECORD. BECAUSE SHE WANTED TO COMMENT,
5 AND I THINK I STOPPED HER AND SAID, NO, NO QUESTION HAS BEEN
6 ANSWERED. THEN HE MOVED TO ANOTHER SUBJECT AREA, IF I
7 REMEMBER CORRECTLY.

8 I'LL BE GLAD TO HEAR FROM YOU, MR. MACDOUGALL, ON THE
9 MOTION TO -- HE'S MADE A MOTION TO STRIKE WHAT YOU READ FROM
10 THE -- WHAT WAS THE TEXTBOOK YOU READ FROM?

11 MR. MACDOUGALL: IT WAS THE TEXTBOOK OF FORENSIC
12 PSYCHIATRY.

13 THE COURT: HE MADE A MOTION TO STRIKE WHAT YOU
14 READ SINCE YOU DIDN'T ASK HER ANY QUESTIONS ABOUT WHAT YOU
15 WERE READING INTO THE RECORD.

16 MR. MACDOUGALL: YOUR HONOR, I ASKED HER ---

17 THE COURT: IS THAT CORRECT, SOLICITOR? IS THAT
18 YOUR MOTION?

19 MR. ARIAIL: CORRECT.

20 MR. MACDOUGALL: YOUR HONOR, I ASKED HER IN
21 ADVANCE IF THE A.P.A. AND AAPL PUBLICATIONS WERE
22 AUTHORITATIVE. I ASKED HER IF SHE WAS FAMILIAR WITH THEM.

23 THE COURT: I UNDERSTAND THAT. AND SHE
24 ACKNOWLEDGED THAT, BUT YOU DIDN'T ASK HER ANY QUESTIONS
25 ABOUT WHAT YOU READ. YOU JUST TESTIFIED FROM A BOOK INTO

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1 THE RECORD BASICALLY.

2 MR. MACDOUGALL: YOUR HONOR, SUBSEQUENTLY AND
3 IMMEDIATELY THEREAFTER, I ASKED HER ABOUT THE CODE OF ETHICS
4 THAT'S CITED THAT'S REALLY THE BASIS FOR THAT. SO IT WAS
5 ALL ONE LINE OF QUESTIONING THAT SHE ANSWERED THOSE
6 QUESTIONS.

7 THE COURT: OKAY. I'LL ALLOW IT IN. GO AHEAD. I
8 WON'T STRIKE IT. YOUR MOTION IS DENIED.

9 DO YOU HAVE ANY REBUTTAL?

10 MR. ARIAIL: NONE.

11 THE COURT: YOU MAY STEP DOWN, DR. CRAWFORD.

12 MR. MACDOUGALL: YOUR HONOR, WE HAVE COPIES NOW.
13 MAY I RETURN THE ORIGINAL TO THE WITNESS?

14 THE COURT: YES, SIR.

15 (CRAWFORD E-MAIL ADMITTED INTO EVIDENCE AS DEFENDANT'S
16 EXHIBIT 7)

17 THE COURT: SOLICITOR, DO YOU HAVE ANY FURTHER
18 WITNESSES?

19 MR. ARIAIL: NONE.

20 THE COURT: DOES THE DEFENDANT WANT TO OFFER ANY
21 TESTIMONY FROM ANY WITNESSES PURSUANT TO THE MOTION?

22 MR. NETTLES: YES, SIR.

23 THE COURT: CALL YOUR FIRST WITNESS.

24 MR. NETTLES: CHRIS WILLIAMS CALLS DR. RICHARD
25 FRIERSON.

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1 THE COURT: DOCTOR, IF YOU'LL COME AROUND TO BE
2 SWORN, PLEASE.

3 RICHARD L. FRIERSON, M.D.,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION BY MR. NETTLES:

6 Q. MR. FRIERSON, WHERE DO YOU WORK? DR. FRIERSON, WHERE
7 DO YOU WORK?

8 A. I AM ASSOCIATE PROFESSOR OF PSYCHIATRY AT THE
9 UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE.

10 Q. AND DO YOU HAVE -- WHAT DO YOU DO THERE?

11 A. A VARIETY OF THINGS. I AM LENT OUT HALF TIME TO THE
12 DEPARTMENT OF MENTAL HEALTH WHERE I CONDUCT COMPETENCY AND
13 CRIMINAL RESPONSIBILITY EVALUATIONS FOR THE COURTS FROM
14 THROUGHOUT SOUTH CAROLINA. THE OTHER HALF TIME IS DIVIDED
15 BETWEEN TEACHING -- I RUN A FELLOWSHIP IN FORENSIC
16 PSYCHIATRY WHICH WE TRAIN FORENSIC PSYCHIATRISTS TO BECOME
17 FORENSIC PSYCHIATRISTS. I ALSO RUN A CLINIC A HALF DAY A
18 WEEK TREATING PATIENTS OUT AT THE SOUTH CAROLINA DEPARTMENT
19 OF CORRECTIONS. I HAVE SOME OTHER TEACHING DUTIES AS WELL.

20 MR. NETTLES: YOUR HONOR, I'VE PROVIDED A COPY OF
21 DR. FRIERSON'S C.V. I THINK I CAN EXPEDITE THIS IF I COULD
22 JUST ASK THE COURT TO CONSIDER THIS AS A COURT'S EXHIBIT. I
23 PROVIDED IT TO THE GOVERNMENT, AND I'LL JUST ...

24 THE COURT: THAT'S FINE. ARE YOU GOING TO QUALIFY
25 HIM AS AN EXPERT?

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1 MR. NETTLES: YES, SIR, I'M GOING TO.

2 (FRIERSON C.V. MARKED FOR IDENTIFICATION AS COURT'S
3 EXHIBIT 4)

4 THE COURT: HAS MR. ARIAIL SEEN HIS C.V.?

5 MR. NETTLES: I PROVIDED IT TO HIM.

6 THE COURT: HAVE YOU SEEN IT BEFORE TODAY?

7 MR. ARIAIL: I'VE BEEN HANDED IT ---

8 THE COURT: TAKE A LOOK AT IT AND SEE IF YOU ---

9 MR. ARIAIL: --- AN ELEVEN-PAGE DOCUMENT ABOUT
10 THIRTY SECONDS AGO.

11 THE COURT: WELL, I'LL GIVE YOU TIME TO LOOK AT
12 IT.

13 MR. ARIAIL: OH, I DON'T WANT TO LOOK AT IT. I
14 CAN'T HEAR THE WITNESS. THIS TABLE CANNOT HEAR THIS
15 WITNESS. SO WE'RE GOING TO HAVE TO MAKE SOME ARRANGEMENT.
16 EITHER HE'S GOING TO HAVE TO TALK CLEARER OR LOUDER OR MORE
17 DISTINCTLY OR WE'LL HAVE TO MOVE UP CLOSER.

18 THE WITNESS: I CAN HEAR MYSELF LIKE IT'S
19 DEAFENING. UP HERE I SOUND VERY LOUD.

20 THE COURT: PUT HIM A -- PUT ONE OF THE THINGS ON
21 HIS -- PUT A LAPEL ON HIM. WIRE HIM UP.

22 MADAM CLERK: YES, SIR.

23 THE COURT: SOLICITOR, IF YOU WOULD, TAKE A LOOK
24 AT THAT. AND I'LL GIVE YOU TIME TO LOOK AT IT.

25 MR. ARIAIL: I'M NOT SURE WHAT I'M LOOKING AT IT

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1 FOR.

2 MR. NETTLES: I'M GOING TO ---

3 THE COURT: HE'S GOING TO TRY -- HE'S GOING TO
4 ATTEMPT TO INTRODUCE HIM AS AN EXPERT.

5 MR. ARIAIL: HE'S GOING TO QUALIFY AS AN EXPERT.
6 BUT I'LL LOOK AT IT.

7 THE COURT: WELL, THAT'S WHAT I WANT TO ASK YOU.
8 ARE YOU GOING TO MAKE HIM GO THROUGH THE LITANY TO DO THAT?

9 MR. ARIAIL: NO, I'M NOT GOING TO MAKE HIM GO
10 THROUGH IT.

11 MR. NETTLES: THANK YOU.

12 Q. DR. FRIERSON, IN YOUR -- AS PART OF YOUR JOB AND IN THE
13 PAST, HAVE YOU CONDUCTED A FELLOWSHIP OR RUN A FELLOWSHIP
14 PROGRAM?

15 A. THAT'S WHAT I DO CURRENTLY.

16 Q. AND TELL THE JUDGE WHAT YOU -- WHAT A FELLOWSHIP IS.

17 A. A FORENSIC PSYCHIATRY PROGRAM IS A ONE-YEAR PERIOD OF
18 TRAINING THAT OCCURS AFTER SOMEONE HAS COMPLETED A FOUR-YEAR
19 RESIDENCY IN PSYCHIATRY. THE PURPOSE OF THAT FELLOWSHIP IS
20 TO TRAIN PSYCHIATRISTS TO BE ABLE TO UNDERSTAND ISSUES AS
21 THEY RELATE TO THE INTERFACE BETWEEN THE LEGAL SYSTEM AND
22 MENTAL ILLNESS. SPECIFICALLY, THE TWO BROAD AREAS WE COVER
23 WOULD BE CRIMINAL FORENSIC PSYCHIATRY AND CIVIL FORENSIC
24 PSYCHIATRY.

25 Q. SO LET ME ASK YOU SOMETHING. YOU SAID EARLIER THAT ONE

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1 OF THE THINGS THAT YOU DO IS THAT YOU CONDUCT OR HELP
2 CONDUCT OR YOU'RE ONE OF THE PEOPLE WHO CONDUCT CRIMINAL
3 RESPONSIBILITY EXAMS FOR THE COURT?

4 A. CORRECT.

5 Q. AND LET'S BE CLEAR ABOUT WHAT THAT IS. THAT IS A COURT
6 HAS ORDERED THAT SOMEONE BE EXAMINED BY YOU?

7 A. OR THE COURT HAS ORDERED THAT THE SOUTH CAROLINA
8 DEPARTMENT OF MENTAL HEALTH CONDUCT A CRIMINAL
9 RESPONSIBILITY EVALUATION. AND I AM ASSIGNED AS THE PERSON
10 TO DO THAT BY THE DEPARTMENT.

11 Q. I UNDERSTAND. SO THE ORDER DOESN'T SAY HAVE DR.
12 FRIERSON EXAMINE THEM; IT SAYS HAVE THE DEPARTMENT OF MENTAL
13 HEALTH CONDUCT IT?

14 A. CORRECT.

15 Q. AND YOU ARE SOMEONE WHO OFTEN UNDERTAKES THOSE EXAMS?

16 A. YES.

17 Q. WHEN YOU'RE UNDERTAKING ONE OF THOSE EXAMS, TELL THE
18 COURT WHAT YOU DO IN TERMS OF A CRIMINAL DEFENSE LAWYER
19 BEING PRESENT OR NOTIFYING OR ---

20 A. YES. WE REQUIRE BEFORE WE DO AN EVALUATION THAT, FIRST
21 OF ALL, THE DEFENDANT MUST HAVE BEEN APPOINTED A DEFENSE
22 ATTORNEY.

23 Q. OKAY. BEEN APPOINTED ONE?

24 A. CORRECT.

25 Q. NOW, HOW IS THAT DIFFERENT FROM HAVING ACCESS TO ONE?

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1 A. I DON'T BELIEVE IT IS DIFFERENT.

2 Q. OKAY. OKAY. OKAY. GO AHEAD. SO THERE'S A LAWYER
3 THAT YOU'VE GOT A NAME THAT YOU CAN ASSOCIATE WITH THAT
4 PERSON THAT'S A LAWYER?

5 A. CORRECT.

6 MR. ARIAIL: YOUR HONOR, I'M GOING -- I DON'T WANT
7 TO GET INTO IT TOO FAR. BUT I'M GOING TO OBJECT TO LEADING.
8 I'M LETTING HIM LEAD SO FAR, BUT HE'S LEADING HIM PRETTY
9 GOOD NOW.

10 MR. NETTLES: THAT'S FINE. I APPRECIATE THE
11 COMPLIMENT ON THE LEADING.

12 THE COURT: DO YOU REALLY WANT TO STOP HIM FROM
13 LEADING?

14 MR. ARIAIL: WELL, I DON'T EXCEPT HE JUST ASKED A
15 LEADING QUESTION TO GET AN ANSWER ON SOMETHING THAT'S GOING
16 TO BE -- THAT HE'S TRYING TO MAKE A POINT ON. AND I'M JUST
17 GETTING MY GROUND STATED EARLY.

18 THE COURT: ALL RIGHT. I'LL SUSTAIN THE
19 OBJECTION. DON'T LEAD YOUR WITNESS, PLEASE, SIR.

20 Q. TELL THE COURT A LITTLE BIT ABOUT LAWYERS AND
21 DEFENDANTS AS IT RELATES TO CRIMINAL RESPONSIBILITY EXAMS
22 THAT YOU CONDUCT AT THE COURT'S REQUEST.

23 A. WELL, PRIOR TO CONDUCTING AN EVALUATION, WE REQUIRE
24 THAT THERE BE AN ATTORNEY ON RECORD.

25 Q. OKAY.

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1 A. THAT THERE BE A NAMED ATTORNEY.

2 Q. OKAY.

3 A. WE ALSO REQUIRE THAT THAT ATTORNEY HAVE -- HAS BEEN
4 NOTIFIED AND IS AWARE OF THE EVALUATION BEFORE WE PROCEED.

5 Q. OKAY. WHY?

6 A. BECAUSE THAT IS THE ETHICAL STANDARDS OF OUR
7 PROFESSION. THAT IS THE STANDARDS OUTLINED BY THE AMERICAN
8 ACADEMY OF PSYCHIATRY AND THE LAW PRACTICE GUIDELINES FOR
9 THE CONDUCTING OF CRIMINAL RESPONSIBILITY EVALUATIONS.

10 Q. OKAY. SO WHEN WE TALK ABOUT SOMETHING BEING AN ETHICAL
11 STANDARD, WHY DOES AAPL AND THE A.P.A. HAVE ETHICAL
12 STANDARDS?

13 A. TO UPHOLD THE STRIVING FOR OBJECTIVITY AMONG THE PEOPLE
14 WHO -- FORENSIC PSYCHIATRISTS IN THIS COUNTRY WHO CONDUCT
15 EVALUATIONS. TO MAKE SURE THAT AS FORENSIC PSYCHIATRISTS,
16 WE STRIVE TO OBTAIN CONSENT. TO BE HONEST AND OBJECTIVE IN
17 OUR OPINIONS. ALL OF THE THINGS THAT ARE OUTLINED IN THE
18 AAPL ETHICAL GUIDELINES UNDER BIG HEADINGS.

19 Q. WOULD -- DOES THE APPLICATION OR DOES THE ADHERENCE TO
20 ETHICAL GUIDELINES ENSURE IN ANY WAY THAT THE EVALUATION IS
21 OBJECTIVE?

22 A. YES.

23 Q. OKAY. WHY?

24 A. BECAUSE IF AN EXPERT WERE NOT OBJECTIVE IN THEIR
25 ASSESSMENT OF THE DEFENDANT, THE DEFENSE HAS THE OPPORTUNITY

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1 TO BE PRESENT FOR THAT.

2 Q. RIGHT. THAT'S ASSUMING THE LAWYER IS PRESENT?

3 A. CORRECT. OR TO BE AWARE OF, LET'S SAY, THE REPUTATION
4 OF THE PERSON DOING THE EVALUATION.

5 Q. RIGHT. RIGHT. NOW, WHEN WE HAVE A SITUATION WHERE THE
6 ETHICAL GUIDELINES HAVE NOT BEEN FOLLOWED, OKAY, OR HAVE
7 BEEN VIOLATED, DOES THAT CAUSE ANY CONCERN AS IT RELATES TO
8 THE RELIABILITY OF THE EVALUATION?

9 A. IT MAY OR IT MAY NOT.

10 Q. LET ME GIVE YOU AN EXAMPLE. ALL RIGHT? LET'S SAY
11 HYPOTHETICALLY THERE'S A CASE WHERE THERE'S A PHONE CALL
12 COMES FROM THE SOLICITOR OR A U.S. ATTORNEY OR A PROSECUTING
13 ATTORNEY TO A FORENSIC PSYCHIATRIST ASKING THAT FORENSIC
14 PSYCHIATRIST TO CONDUCT AN EVALUATION WITHOUT A LAWYER BEING
15 PRESENT. IS THAT THE TYPE OF ETHICAL VIOLATION THAT CAUSES
16 CONCERN FOR THE RELIABILITY OF THE EVALUATION THAT'S
17 SUBSEQUENTLY DONE.

18 MR. ARIAIL: OBJECT TO THE FORM OF THE QUESTION.
19 THERE'S BEEN NO BASIS FOR THAT FACTUAL SCENARIO HE JUST
20 PRESENTED.

21 MR. NETTLES: I DISAGREE. THAT IS EXACTLY WHAT
22 SHE TESTIFIED.

23 MR. ARIAIL: THERE HAS NEVER BEEN A STATEMENT THAT
24 SHE WAS TOLD TO CONDUCT AN INVESTIGATION OR AN INTERVIEW
25 WITHOUT A LAWYER PRESENT. THAT'S AN IMPROPER QUESTION,

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1 JUDGE.

2 THE COURT: WELL, LET'S BACK UP FOR A SECOND,
3 OKAY? HOLD ON JUST A MINUTE. YOU'RE OBJECTING TO THE FORM
4 OF THE QUESTION?

5 MR. ARIAIL: CORRECT.

6 THE COURT: AND I BELIEVE THE LAW SAYS CAN IT BE
7 UNDERSTOOD. I THINK THE QUESTION CAN BE UNDERSTOOD. NUMBER
8 TWO, IS IT FAIR? AND IS THE QUESTION FOR INFORMATION THAT
9 IS LOGICALLY RELEVANT? I THINK IT'S NOT A VIOLATION OF THE
10 FORM OF THE QUESTION.

11 NOW, IF YOU HAVE AN OBJECTION OTHER THAN THAT, I'LL BE
12 GLAD TO HEAR YOU ON IT. IF YOU HAVE AN OBJECTION AS TO THE
13 HYPOTHETICAL THAT HE GAVE, I THINK THE ONLY OBJECTION YOU
14 CAN MAKE IS THERE ARE CERTAIN FACTS LEFT OUT IN THIS CASE
15 THAT NEED TO BE ADDED. NOW, IF THERE'S ANY FACTS THAT YOU
16 WANT HIM TO ADD, I WILL INSTRUCT HIM TO ADD IF IT'S
17 APPROPRIATE.

18 MR. ARIAIL: MY OBJECTION IS HE'S ADDED FACTS THAT
19 ARE NOT APPROPRIATELY -- AND THERE'S NO BASIS FOR IT.

20 MR. NETTLES: I'LL REPHRASE THE QUESTION. I'LL
21 REPHRASE THE QUESTION AND CUT ALL THIS OUT.

22 THE COURT: OKAY.

23 Q. LET ME ASK YOU THIS. THE HYPOTHETICAL IS THIS.
24 THERE'S A PHONE CALL FROM A GOVERNMENT LAWYER, A GOVERNMENT
25 PROSECUTOR, TO A FORENSIC PSYCHIATRIST TO EVALUATE A

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1 DEFENDANT. THE FORENSIC PSYCHIATRIST ARRIVES. NO LAWYER
2 HAS BEEN ASSIGNED. NO LAWYER IS PRESENT. NO -- THERE HAS
3 BEEN NO -- NO LAWYER HAS TALKED TO THE ACCUSED AT THIS
4 POINT. THAT THE ONLY PERSON THE ACCUSED HAS TALKED TO SINCE
5 THE ARREST HAS BEEN LAW ENFORCEMENT. THIS FORENSIC
6 PSYCHIATRIST CONDUCTS THE EVALUATION. IS THAT A VIOLATION
7 OF THE ETHICAL RULES AS IT RELATES TO AAPL AND IT RELATES TO
8 THE A.P.A.?

9 THE COURT: DR. FRIERSON?

10 DO YOU HAVE AN OBJECTION TO THAT QUESTION? AND WHEN I
11 SAY YOU, I'M TALKING ABOUT THE SOLICITOR.

12 MR. ARIAIL: HE'S BEING ASKED TO RENDER AN OPINION
13 AS TO WHETHER HIS OPINION IS ---

14 THE COURT: WHAT'S YOUR LEGAL OBJECTION TO THAT
15 QUESTION?

16 MR. ARIAIL: I DO NOT OBJECT TO THAT QUESTION.

17 THE COURT: OKAY.

18 PLEASE ANSWER THE QUESTION, DR. FRIERSON.

19 A. IT IS MY OPINION THAT THAT WOULD BE A VIOLATION.

20 Q. YES?

21 A. YES.

22 Q. NOW, IS THAT THE TYPE OF VIOLATION, ETHICAL VIOLATION
23 -- IS THAT THE TYPE OF ETHICAL VIOLATION THAT CAUSES CONCERN
24 AS IT RELATES TO THE RELIABILITY OF WHAT WAS -- THE
25 INFORMATION THAT WAS TAKEN FROM THE DEFENDANT?

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1 MR. ARIAIL: YOUR HONOR, I'M GOING TO OBJECT TO
2 THAT UNTIL HE DEFINES CAUSES CONCERN TO WHOM. CAUSES
3 CONCERN TO THIS WITNESS IS ALL WE'RE ASKING.

4 THE COURT: I HEARD YOU. YOU DON'T HAVE TO KEEP
5 ARGUING.

6 REPHRASE YOUR QUESTION.

7 Q. DOES THAT CAUSE -- AS A SCIENTIST, ALL RIGHT, AS A
8 FORENSIC PSYCHIATRIST, IS THAT THE TYPE -- AN INTERVIEW
9 CONDUCTED IN THOSE CONDITIONS THAT WE JUST DISCUSSED, IS
10 THAT THE TYPE OF INTERVIEW THAT CAUSES YOU AS A FORENSIC
11 PSYCHIATRIST CONCERN AS TO THE RELIABILITY OF THE
12 INFORMATION THAT WAS OBTAINED?

13 A. IF I ANSWER YES OR NO, CAN I EXPLAIN MY ANSWER?

14 Q. YOU CAN. I'M CERTAINLY NOT GOING TO STOP YOU.

15 THE COURT: YES, SIR.

16 A. YES.

17 Q. WHY?

18 A. IT CAUSES CONCERN BECAUSE, ONCE AGAIN, WHEN WE'RE
19 STRIVING FOR OBJECTIVITY IN A CRIMINAL FORENSIC EVALUATION,
20 WE WOULD WANT BOTH SIDES TO BE AWARE THAT THE EVALUATION IS
21 TAKING PLACE.

22 NOW, DOES THAT MAKE THE EVALUATION UNRELIABLE? NOT
23 NECESSARILY.

24 Q. I UNDERSTAND.

25 A. THE INFORMATION GAINED FROM THAT EVALUATION MAY STILL

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1 BE VERY ACCURATE. IT MAY BE INACCURATE.

2 Q. RIGHT.

3 A. BECAUSE A LOT MORE GOES INTO RELIABILITY THAN MERELY
4 WHETHER THERE WAS OR WAS NOT AN ETHICAL VIOLATION. IT
5 INCLUDES THE SKILLS OF THE EXAMINER. IT INCLUDES THE
6 METHODS USED, THE TYPES OF QUESTIONS THAT WERE ASKED.

7 Q. OKAY.

8 A. ALL OF THOSE THINGS GO INTO THE RELIABILITY OF A
9 FORENSIC EVALUATION.

10 Q. OKAY.

11 A. NOT MERELY THE PRESENCE OR ABSENCE OF AN ETHICAL
12 EVALUATION.

13 Q. OKAY. DO YOU TRAIN YOUR FORENSIC PSYCHIATRY FELLOWS TO
14 CONDUCT EVALUATIONS WITHOUT A LAWYER BEING PRESENT?

15 A. WITHOUT A LAWYER BEING PRESENT, YES.

16 Q. OKAY. DO YOU TRAIN THEM TO DO IT WITHOUT THE LAWYER
17 KNOWING THAT THE EVALUATION IS GOING TO TAKE PLACE?

18 A. NO.

19 Q. SO IF -- ANOTHER HYPOTHETICAL. IF I HAD A CLIENT THAT
20 WAS BEING EVALUATED AND YOU CALLED ME AND SAID, BILL, I'M
21 GETTING READY TO EVALUATE HIM. DO YOU WANT TO BE HERE? AND
22 I SAID, NO. GO AHEAD. THEN YOU WOULD DO IT?

23 A. YES.

24 Q. BUT ONLY AFTER CONTACTING ME?

25 A. I WOULD WANT TO MAKE SURE THE DEFENSE ATTORNEY IS AWARE

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1 OF THE EVALUATION. THOSE -- THAT IS SPECIFICALLY STIPULATED
2 IN THE PRACTICE GUIDELINES FOR CONDUCTING THESE TYPE OF
3 EVALUATIONS BY THE AMERICAN ACADEMY OF PSYCHIATRY AND THE
4 LAW.

5 Q. NOW, WHEN YOU CONDUCT AN EVALUATION AT THE DEPARTMENT
6 OF MENTAL HEALTH?

7 A. YES.

8 Q. AND WHO ARE YOU CONDUCTING THE EVALUATION ON THE BEHALF
9 OF?

10 A. THE COURT.

11 Q. AND IF IT -- DO YOU -- WHEN YOU GET -- HAVE YOU HAD
12 OPPORTUNITIES OR HAVE YOU HAD SITUATIONS WHERE YOU WERE TOLD
13 BY THE COURT TO CONDUCT AN EVALUATION AND A DEFENDANT
14 SHOWED UP AND DID NOT HAVE A LAWYER?

15 A. DID NOT HAVE AN ASSIGNED ATTORNEY?

16 Q. DID NOT HAVE AN ASSIGNED ATTORNEY.

17 A. YES, THAT HAS HAPPENED ON SEVERAL OCCASIONS.

18 Q. WHAT DO YOU DO WHEN THAT HAPPENS?

19 A. I LOOK AT THE DEFENDANT. I TELL THEM THAT I CANNOT
20 CONDUCT THE EVALUATION. I MAKE SURE THAT THEY'RE NOT --
21 THERE'S NO EMERGENCY GOING ON. THEY'RE NOT IMMINENTLY GOING
22 TO KILL THEMSELVES, FOR EXAMPLE.

23 Q. NOW, IF IT'S A SERIOUS ---

24 THE COURT: MR. NETTLES, LET ME ASK A QUESTION.

25 WHEN YOU ASK THAT QUESTION, ARE YOU TALKING ABOUT A

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1 MCNAGHTEN EVALUATION? ARE YOU TALKING ABOUT COMPETENCY TO
2 ASSIST COUNSEL? OR IS THERE A DIFFERENCE?

3 MR. NETTLES: WELL ---

4 THE COURT: BECAUSE THEY'RE TWO DIFFERENT,
5 ENTIRELY DIFFERENT, EXAMINATIONS FOR DIFFERENT PURPOSES.

6 Q. WHY DON'T YOU ANSWER THE COURT'S QUESTION?

7 A. ARE YOU ASKING ME WHAT DO WE DO?

8 Q. YES. DURING A COMPETENCY EVALUATION THAT'S ORDERED ---

9 THE COURT: ARE YOU TALKING ABOUT A MCNAGHTEN
10 EVALUATION OR ARE YOU TALKING ABOUT AN EVALUATION FOR
11 COMPETENCY TO ASSIST COUNSEL AND STAND TRIAL BECAUSE THERE'S
12 TWO DIFFERENT EVALUATIONS. AND I COULD EASILY ENVISION
13 SOMEONE APPEARING WITHOUT COUNSEL ON THE COMPETENCY ISSUE TO
14 STAND TRIAL.

15 Q. WOULD YOU EVER DO -- CONDUCT A COURT-ORDERED EVALUATION
16 FOR COMPETENCY TO STAND TRIAL WITHOUT AN ATTORNEY HAVING
17 BEEN ASSIGNED?

18 A. NO.

19 THE COURT: THANK YOU. I JUST WANTED TO KNOW IF
20 THERE WAS A DISTINCTION.

21 Q. HOW ABOUT MCNAGHTEN?

22 A. NO.

23 Q. WHAT IF THEY TOLD YOU -- WHAT IF THEY WERE BROUGHT INTO
24 THE ROOM AND THEY SAID, THAT'S ALL RIGHT, I DON'T WANT A
25 LAWYER HERE?

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1 A. IT DOESN'T MATTER. I STILL WOULD NOT DO THE
2 EVALUATION.

3 Q. UNTIL WHAT?

4 A. UNTIL THEY HAD BEEN ASSIGNED A ATTORNEY.

5 Q. WHY?

6 A. BECAUSE THAT'S WHAT THE GUIDELINES PUBLISHED BY THE
7 AMERICAN ACADEMY OF PSYCHIATRY AND THE LAW PRACTICE
8 GUIDELINES ON HOW TO DO THESE EVALUATIONS, THAT WE WANT TO
9 GIVE THE DEFENSE COUNSEL NOTICE OF THE EVALUATION.

10 Q. DOES THAT IN ANY WAY AFFECT THE RELIABILITY OF THAT
11 EVALUATION?

12 A. DOES WHAT AFFECT?

13 Q. HAVING A LAWYER THERE IN THAT SITUATION THAT YOU'RE
14 TALKING ABOUT.

15 A. DOES HAVING A LAWYER -- LET ME MAKE SURE I UNDERSTAND
16 THE QUESTION. DOES HAVING A LAWYER AFFECT THE RELIABILITY
17 OF AN EVALUATION?

18 Q. YES.

19 A. IT CAN AFFECT IT BOTH POSITIVELY AND NEGATIVELY.

20 Q. THANK YOU VERY MUCH. JUST ONE SECOND.

21 MR. NETTLES: NO FURTHER QUESTIONS. THANK YOU,
22 YOUR HONOR.

23 THE COURT: CROSS-EXAMINATION? BETTY, ARE YOU
24 GOING TO -- EXCUSE ME. SOLICITOR STROM, ARE YOU GOING TO DO
25 THE CROSS?

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1 MS. STROM: NO, SIR. SOLICITOR ARIAIL IS. I JUST
2 WANTED TO GIVE HIM A COUPLE OF POINTERS.

3 THE COURT: YOU CAN TALK TO HIM. I'LL GIVE YOU
4 TIME.

5 MR. MACDOUGALL: YOUR HONOR, WHILE THE SOLICITOR
6 IS CONFERRING, MR. NETTLES HAD INADVERTENTLY RETAINED PART
7 OF DR. CRAWFORD'S FILES. FOR THE RECORD, I'M RETURNING THE
8 BALANCE OF THE FILE WITH MR. NETTLES' APOLOGY.

9 MR. NETTLES: AND I WILL TELL THE COURT AND
10 EVERYBODY ELSE I HAVE SCOURED THE DESK FOR ANYTHING ELSE,
11 AND I SEE NOTHING ELSE.

12 THE COURT: DR. CRAWFORD, YOU'VE GOT TO WATCH HIM.
13 HE TAKES THINGS AND PUTS THEM IN THE FILE AND THEY GET
14 MISPLACED. HE'S A PACKRAT.

15 CROSS-EXAMINATION BY MR. ARIAIL:

16 Q. DR. FRIERSON, JUST A COUPLE OF QUESTIONS. DO YOU HAVE
17 THE DOCUMENT IN FRONT OF YOU, THE AMERICAN ACADEMY OF
18 PSYCHIATRY AND THE LAW ETHICAL GUIDELINES FOR THE PRACTICE
19 OF FORENSIC PSYCHIATRIST?

20 A. YES, I DO.

21 Q. THE EXHIBIT WE HAD?

22 A. I DON'T HAVE THE EXHIBIT. I HAVE A COPY OF IT.

23 Q. OKAY. THAT'S FINE. TAKE A LOOK AT THE COPY. I WANT
24 TO REFER TO PAGE 2 OF 5, THE NEXT TO THE LAST PARAGRAPH.
25 AND IF YOU WOULD, READ THAT PARAGRAPH TO US. WHAT IT SAYS.

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1 A. "WITH REGARD TO ANY PERSON CHARGED WITH CRIMINAL ACTS,
2 ETHICAL CONSIDERATIONS PRECLUDE FORENSIC EVALUATION PRIOR TO
3 ACCESS TO OR AVAILABILITY OF LEGAL COUNSEL. THE ONLY
4 EXCEPTION IS AN EXAMINATION FOR THE PURPOSE OF RENDERING
5 EMERGENCY MEDICAL CARE AND TREATMENT."

6 Q. NOW, YOU HAVE TESTIFIED IT'S YOUR OPINION THAT THE
7 PHRASE, "PRECLUDE FORENSIC EVALUATION PRIOR TO ACCESS TO OR
8 AVAILABILITY OF LEGAL COUNSEL," MEANS IN YOUR OPINION THAT
9 YOU, AS A FORENSIC PSYCHIATRIST, CANNOT INTERVIEW OR CONDUCT
10 A COURT-ORDERED EVALUATION ON SOMEONE UNLESS THEY HAVE
11 COUNSEL AVAILABLE.

12 MR. NETTLES: OBJECTION. OBJECTION. THAT'S NOT
13 WHAT HE SAID, FIRST OF ALL. THAT'S NOT WHAT HE SAID. HE
14 SAID ASSIGNED.

15 THE COURT: WHAT'S YOUR LEGAL OBJECTION?

16 MR. NETTLES: MY OBJECTION IS HE'S ASKED A
17 HYPOTHETICAL FACTS THAT ARE NOT A QUESTION.

18 MR. ARIAIL: I DIDN'T ASK A HYPOTHETICAL. I ASKED
19 HIM WHAT HIS TESTIMONY ---

20 THE COURT: OVERRULED.

21 MR. ARIAIL: THANK YOU.

22 A. COULD YOU REPEAT THE QUESTION?

23 Q. YOU HAVE TESTIFIED, ACCORDING TO MY UNDERSTANDING, THAT
24 YOU CONSIDER THIS PARAGRAPH TO MEAN THAT YOU CANNOT DO OR
25 CONDUCT A COURT-ORDERED PSYCHIATRIC EVALUATION ON A PERSON

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1 CHARGED WITH A CRIME UNLESS THEY HAVE AN ATTORNEY EITHER
2 RETAINED OR APPOINTED OR ASSIGNED TO THEM IN SOME FASHION?

3 A. YES.

4 Q. OKAY. NOW, DO YOU HAVE ANY DOCUMENTATION, OPINIONS OR
5 WRITTEN, I GUESS, ETHICS DECISIONS THAT DEFINE THAT OPINION
6 FOR YOU, OR IS THIS SOMETHING THAT YOU REACHED ON YOUR OWN?

7 A. I HAVE THE PRACTICE GUIDELINES FOR PERFORMANCE OF
8 INSANITY EVALUATIONS THAT'S ALSO PUBLISHED BY THE AMERICAN
9 ACADEMY OF PSYCHIATRY AND THE LAW.

10 Q. AND DO WE AGREE ---

11 MR. NETTLES: OBJECTION. I'D LIKE TO LET HIM
12 FINISHED. HE ASKED A QUESTION. I THINK HE GETS TO FINISH.

13 THE COURT: DR. FRIERSON, FINISH WHAT YOU WERE
14 SAYING.

15 SOLICITOR, DON'T CUT HIM OFF.

16 A. "THESE PRACTICE GUIDELINES STATE THAT A PROSECUTION OR
17 COURT-RETAINED FORENSIC PSYCHIATRIST SHOULD NOT INITIATE AN
18 EVALUATION IF THE DEFENSE ATTORNEY IS UNAWARE OF THE
19 EVALUATION ORDER OR HAS NOT HAD THE OPPORTUNITY TO RAISE ANY
20 APPROPRIATE LEGAL CONCERNS."

21 Q. NOW, LET ME GO BACK TO THESE ETHICS BECAUSE THIS IS
22 WHERE YOUR OPINION WAS BASED, NOT ON THOSE THINGS YOU JUST
23 READ. BUT GOING BACK TO THIS PARAGRAPH --

24 MR. NETTLES: OBJECTION. OBJECTION. HE'S
25 TESTIFYING. LET HIM ASK A QUESTION.

1 THE COURT: HE'S ON CROSS-EXAMINATION.

2 MR. NETTLES: HE STILL DOESN'T GET TO TESTIFY.

3 THE COURT: WELL, HE'S DOING A SUMMATION.

4 OVERRULED.

5 DON'T TESTIFY, MR. ARIAIL, OKAY? JUST ASK THE

6 QUESTION, ALL RIGHT?

7 Q. LET ME GO BACK TO THE PARAGRAPH WE READ AND ASK YOU IF

8 YOU WOULD LOOK AT THE WORD "OR" BETWEEN THE WORD "TO" AND

9 "AVAILABILITY." DO YOU SEE THE WORD "OR"?

10 A. IN FRONT OF "AVAILABILITY"?

11 Q. YES, PRIOR TO "AVAILABILITY."

12 A. YES, YES.

13 Q. DOES THE WORD "OR" TO YOU SIGNIFY IN THE COMMON MEANING

14 OF THE LANGUAGE, THE ENGLISH LANGUAGE, THAT THERE ARE TWO

15 THINGS BEING SPECIFIED. ONE BEING "ACCESS TO" AND THE OTHER

16 BEING "OR AVAILABILITY OF"?

17 A. YES. YOU MUST HAVE BOTH.

18 Q. ALL RIGHT. BOTH?

19 A. YES. IT DOESN'T ---

20 Q. YOU THINK IT MEANS BOTH?

21 A. YES. IT'S PRECLUDED UNLESS YOU HAVE "ACCESS TO OR

22 AVAILABILITY OF."

23 Q. OKAY. ALL RIGHT. SO IF YOU HAVE "ACCESS TO," BUT

24 YOU'VE HAD -- YOU UNDERSTAND THAT THERE'S A DIFFERENCE THEN

25 BETWEEN "ACCESS TO" AND "AVAILABILITY OF"? YOU AGREE WITH

1 THAT? THERE IS A DISTINCTION?

2 A. YEAH. ACCESS WOULD MEAN DO THEY HAVE ONE ASSIGNED.

3 AND AVAILABILITY OF, THAT PERSON'S AVAILABLE TO SPEAK WITH
4 THEM.

5 Q. IS THERE A DIFFERENCE OF OPINION WITHIN THE A.P.A. AS
6 TO THE MEANING OF THAT PHRASE? ARE THERE OTHERS IN THE
7 ASSOCIATION WHO HOLD CONTRARY OPINIONS, PARTICULARLY A
8 CONTRARY OPINION THAT ACCESS TO DOES NOT NECESSARILY MEAN
9 THEY HAVE TO HAVE AN ATTORNEY ASSIGNED?

10 A. I'M NOT AWARE OF THE OPINIONS OF THE OTHER PEOPLE
11 WITHIN THE A.A.P.L. ON THIS ISSUE. I AM AWARE OF THE
12 OPINIONS OF THE EXECUTIVE COUNCIL OF AAPL SINCE THEY ARE THE
13 ONES THAT APPROVED THE PUBLICATION OF THE PRACTICE
14 GUIDELINES WHICH SAY THE ATTORNEY HAS TO BE NOTIFIED OF THE
15 EVALUATION.

16 Q. AND YOU'RE NOT AWARE ---

17 A. OTHER THAN THOSE OPINIONS, I DON'T KNOW INDIVIDUAL
18 OPINIONS WITHIN AAPL.

19 Q. AND YOU HAVE NEVER TALKED TO ANYONE WHO'S A MEMBER OF
20 A.P.A. THAT HAS EXPRESSED A CONTRARY OPINION ON THAT
21 SUBJECT?

22 A. I HAVEN'T, NO.

23 Q. YOU HAVEN'T?

24 A. NO.

25 Q. ALL RIGHT. AND YOUR READING OF THE WORD "ACCESS TO" IN

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- 1 YOUR OPINION IS LIMITED TO THAT MEANS THEY HAVE TO HAVE
2 ACCESS TO AN ATTORNEY AND ONE HAS TO BE ASSIGNED?
3 A. AND AVAILABLE.
4 Q. I'M SORRY?
5 A. AND AVAILABLE.
6 Q. AND AVAILABLE? ALL RIGHT.
7 HAVE YOU CONDUCTED AN EVALUATION OF ANYONE IN WHICH THE
8 DEFENSE ATTORNEY WAS NOT NOTIFIED?
9 A. NOT TO MY KNOWLEDGE, NO.
10 Q. ARE YOU THE SUBJECT OF ANY LEGAL ACTIONS OR COMPLAINTS
11 AT THE PRESENT TIME FOR CONDUCTING SUCH AN EVALUATION?
12 A. NO.
13 Q. HAVE YOU BEEN THE SUBJECT OF ANY PRIOR COMPLAINTS IN
14 REGARD TO A DAVID FOXWORTH, A DEFENDANT IN RICHLAND COUNTY
15 WHOSE ATTORNEY CLAIMS THAT YOU DID NOT NOTIFY HIM?
16 A. I'M NOT AWARE OF THAT.
17 Q. NOT AWARE OF IT?
18 A. NO.
19 Q. HAVE YOU PREVIOUSLY BEEN INVOLVED WITH A CONTROVERSY IN
20 REGARD TO DR. CRAWFORD'S -- HER EMPLOYMENT AND CERTAIN
21 STATEMENTS YOU MADE THAT RESULTED IN YOU BEING REPRIMANDED?
22 A. I'VE NEVER BEEN OFFICIALLY REPRIMANDED, NO.
23 Q. I'M SORRY?
24 A. I HAVE NEVER BEEN OFFICIALLY REPRIMANDED, NO.
25 Q. OKAY. WELL, LET'S DROP THE WORD OFFICIALLY. WERE YOU

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1 REPRIMANDED BY YOUR SUPERVISOR FOR CERTAIN COMMENTS THAT YOU
2 MADE, SLANDEROUS COMMENTS, REGARDING DR. CRAWFORD?

3 A. I WAS ASKED TO RESPOND TO AN ALLEGATION OF COMMENTS
4 THAT I HAD MADE. I MET WITH THE PERSONNEL DIRECTOR AT THAT
5 TIME AND DR. PRYOR, WHO WAS MY IMMEDIATE SUPERVISOR. THE
6 RESULT OF THAT WAS A LETTER STATING THAT -- FROM ME TO MY
7 SUPERVISOR WHICH I'LL BE MORE THAN HAPPY TO PROVIDE TO YOU.
8 WHETHER IT IS CHARACTERIZED AS A REPRIMAND WOULD BE, I
9 GUESS, IN THE EYES OF THE BEHOLDER.

10 Q. ALL RIGHT. IN REGARD TO THE QUESTIONS ASKED YOU BY MR.
11 NETTLES WHERE HE WAS QUESTIONING REGARDING THE ETHICS AND
12 THEIR RELATIONSHIP TO OBJECTIVITY, YOU -- MY RECOLLECTION OF
13 WHAT YOU SAID WAS THAT THE ETHICS -- A VIOLATION OF THE
14 ETHICS DOES NOT NECESSARILY IMPAIR THE RELIABILITY OF THE
15 INTERVIEW?

16 A. THAT IS CORRECT, YES. IT RAISES CONCERNS. BUT IN AND
17 OF ITSELF DOES NOT MEAN THE INTERVIEW IS NOT RELIABLE.

18 MR. ARIAIL: IF YOUR HONOR WILL INDULGE ME JUST A
19 MOMENT.

20 Q. AND THE EXTENT OF YOUR INVOLVEMENT WITH INTERVIEWS --
21 OR AT LEAST MY UNDERSTANDING OF WHAT YOU TESTIFIED TO WAS
22 THAT EVALUATIONS YOU CONDUCTED WERE UNDER COURT ORDER AS A
23 RESULT OF A DIRECT COURT ORDER TO THE DEPARTMENT OF MENTAL
24 HEALTH. THAT'S THE CONTEXT IN WHICH YOU WERE TESTIFYING?

25 A. YES, WHEN WE WERE DISCUSSING MY WORK WITH THE

1 DEPARTMENT OF MENTAL HEALTH.

2 Q. HAVE YOU EVER BEEN INVOLVED IN THE EVALUATION OF A
3 CRIMINAL DEFENDANT OTHER THAN IN A SETTING OTHER THAN BY
4 MEANS OF A COURT ORDER?

5 A. CERTAINLY, YES.

6 Q. AND WHAT WOULD THOSE BE?

7 A. ON A FEW OCCASIONS, I HAVE BEEN REQUESTED BY A DEFENSE
8 ATTORNEY AND RETAINED PRIVATELY TO CONDUCT A MENTAL
9 EVALUATION OF A CRIMINAL DEFENDANT.

10 MR. ARIAIL: THAT'S ALL I HAVE.

11 THE COURT: REDIRECT?

12 MR. NETTLES: YES, SIR.

13 REDIRECT EXAMINATION BY MR. NETTLES:

14 Q. DR. FRIERSON, IN RESPONSE TO THE SOLICITOR'S
15 QUESTIONING ABOUT ANYTHING THAT YOU HAD THAT INTERPRETED THE
16 AAPL GUIDELINE, YOU RELIED ON -- WHAT IS THAT YOU RELIED ON?

17 A. THE PRACTICE GUIDELINES FOR FORENSIC PSYCHIATRIC
18 EVALUATION OF DEFENDANTS RAISING THE INSANITY DEFENSE.

19 Q. OKAY. AND WHAT IS THAT? I MEAN, TELL THE COURT WHAT
20 THAT IS.

21 A. THIS IS A GUIDELINE FOR FORENSIC PSYCHIATRIST TO USE
22 AND REFER TO IN HOW TO GO ABOUT CONDUCTING AN INSANITY
23 EVALUATION.

24 THE COURT: AN INSANITY EVALUATION?

25 A. CORRECT. CRIMINAL RESPONSIBILITY EVALUATION.

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1 Q. DO YOU HAVE ONE MORE COPY OF THAT?

2 A. YES.

3 Q. MAY I HAVE ONE COPY TO PROVIDE TO THE GOVERNMENT?

4 A. WOULD YOU LIKE A YELLOW COPY OR A WHITE COPY?

5 Q. WHICHEVER ONE YOU DON'T WANT.

6 A. THAT'S FINE.

7 MR. NETTLES: I'D LIKE TO MAKE THAT A COURT'S
8 EXHIBIT, AND THEN I THINK I'M DONE.

9 Q. AND TELL THE COURT WHERE IT IS YOU WERE REFERRING TO.
10 WHAT PAGE?

11 A. I'M REFERRING TO PAGE S-18.

12 Q. OKAY.

13 A. FIRST COLUMN, THIRD PARAGRAPH.

14 Q. THANK YOU.

15 THE COURT: MR. ARIAIL, HAVE YOU GOT ANY PROBLEM
16 WITH MAKING THAT A COURT'S EXHIBIT? I GUESS THAT WOULD BE
17 NUMBER 5.

18 MR. NETTLES: THANK YOU. I HAVE NO OTHER
19 QUESTIONS. THANK YOU, YOUR HONOR.

20 THE COURT: SOLICITOR? ALL RIGHT. YOU WANT YOUR
21 EXPERT TO LOOK AT IT? DO YOU HAVE ANY OBJECTION TO IT BEING
22 MARKED AS A COURT'S EXHIBIT?

23 MR. ARIAIL: NO, THAT'S FINE.

24 THE COURT: WHENEVER DR. CRAWFORD FINISHES WITH
25 IT, YOU CAN PASS IT UP AND WE'LL MARK IT.

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1 YOU MAY STEP DOWN, DOCTOR. THANK YOU VERY MUCH.

2 (JOURNAL OF A.A.P.L. PRACTICE GUIDELINES MARKED FOR
3 IDENTIFICATION AS COURT'S EXHIBIT 5)

4 THE COURT: DO YOU HAVE ANY FURTHER WITNESSES?

5 MR. NETTLES: I HAVE ONE MORE WITNESS, YOUR HONOR.

6 THE COURT: WHO ARE YOU CALLING?

7 MR. MACDOUGALL: THE DEFENDANT, CHRIS WILLIAMS,
8 CALLS DR. SEYMORE HALLECK.

9 THE COURT: OKAY.

10 MR. NETTLES: YOUR HONOR, MAY HE BE RELEASED? DR.
11 FRIERSON?

12 THE COURT: SOLICITOR, HAVE YOU GOT ANY OBJECTION
13 TO DR. FRIERSON BEING RELEASED?

14 MR. ARIAIL: I THINK I WOULD OBJECT UNTIL I HEAR
15 FROM THIS WITNESS.

16 THE COURT: OKAY. THANK YOU.

17 DR. FRIERSON, HAVE A SEAT. THANK YOU VERY MUCH.

18 SEYMORE L. HALLECK, M.D.

19 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

20 DIRECT EXAMINATION BY MR. MACDOUGALL:

21 Q. DR. HALLECK, WHAT DO YOU DO FOR A LIVING?

22 A. I PRACTICE PART-TIME FORENSIC PSYCHIATRY. I AM
23 OFFICIALLY RETIRED AS A PROFESSOR FROM THE UNIVERSITY OF
24 NORTH CAROLINA.

25 MR. MACDOUGALL: YOUR HONOR, MAY I APPROACH THE

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1 BENCH?

2 THE COURT: YES, SIR.

3 MR. MACDOUGALL: IN THE INTEREST OF TIME, I'M
4 SUBMITTING DR. HALLECK'S C.V. WHICH WAS GIVEN ABOUT TWENTY
5 MINUTES AGO TO THE GOVERNMENT SO THEY WOULD HAVE AN
6 OPPORTUNITY TO LOOK AT IT.

7 Q. JUST A COUPLE OF QUESTIONS, DR. HALLECK. AGAIN, IN THE
8 INTEREST OF TIME, YOU RECEIVED YOUR M.D. FROM THE UNIVERSITY
9 OF CHICAGO IN 1952?

10 A. CORRECT.

11 Q. YOU WERE A PROFESSOR OF PSYCHIATRY AT THE UNIVERSITY OF
12 NORTH CAROLINA MEDICAL SCHOOL FOR APPROXIMATELY THIRTY
13 YEARS?

14 A. FROM 1972 UNTIL 1996.

15 Q. AND YOU'RE THE AUTHOR OF ELEVEN BOOKS AND NUMEROUS
16 ARTICLES ON FORENSIC PSYCHIATRY AND PSYCHIATRIC ETHICS?

17 A. ELEVEN BOOKS AND ABOUT A HUNDRED AND TEN ARTICLES.

18 MR. MACDOUGALL: YOUR HONOR, I WOULD MOVE THE
19 QUALIFICATION OF DR. HALLECK AS AN EXPERT IN PSYCHIATRIC
20 EVALUATIONS, FORENSIC ---

21 MR. ARIAIL: NO OBJECTION.

22 THE COURT: THE COURT SO FINDS.

23 MR. MACDOUGALL: --- FORENSIC PSYCHIATRY AND
24 PSYCHIATRIC ETHICS. THANK YOU.

25 (HALLECK C.V. MARKED FOR IDENTIFICATION AS COURT'S

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1 EXHIBIT 6)

2 Q. JUST A COUPLE OF PRELIMINARY QUESTIONS, DR. HALLECK.

3 ABOUT HOW MANY TIMES HAVE YOU TESTIFIED IN CRIMINAL TRIALS

4 IN YOUR CAREER?

5 A. I THINK ABOUT FIFTY.

6 Q. HOW MANY PATIENTS HAVE YOU TREATED IN THE COURSE OF

7 YOUR CAREER SINCE YOU BECAME A PSYCHIATRIST?

8 A. SOMETHING IN THE THOUSANDS.

9 Q. AND HAVE YOU IN THE LAST TWENTY YEARS PROVIDED ANY KIND
10 OF ADVICE TO GOVERNMENT AGENCIES?

11 A. I CONSULT WITH THE FEDERAL BUREAU OF INVESTIGATIONS. I
12 ADVISE THE BUREAU OF PRISONS, DEPARTMENT OF JUSTICE. THOSE
13 ARE THE MAIN GOVERNMENTAL AGENCIES I WORK WITH.

14 Q. WHAT KIND OF WORK DO YOU DO FOR THE B.O.P.?

15 A. I'VE BEEN ON THEIR RESEARCH COMMITTEES AND AM SOMETIMES
16 CALLED IN TO SEE DIFFICULT PATIENTS.

17 Q. AND FOR THE F.B.I.?

18 A. THE F.B.I. MY MAIN JOB THERE IS FITNESS FOR DUTY
19 EXAMINATIONS AND TO MAKE SURE OFFICERS WHO ARE BEHAVING
20 STRANGELY ARE FIT FOR DUTY.

21 Q. SO ESSENTIALLY QUALIFICATION TO HAVE A SPECIAL AGENT IN
22 OPERATION?

23 A. THAT'S CORRECT.

24 Q. ARE YOU FAMILIAR WITH THE DEFENDANT IN THIS CASE, CHRIS
25 WILLIAMS?

1 A. YES.

2 Q. AND ARE YOU FAMILIAR WITH DR. PAMELA CRAWFORD'S
3 EXAMINATION AND EVALUATION?

4 A. YES.

5 Q. WOULD YOU TELL US, PLEASE, WHAT DOCUMENTS YOU'VE
6 REVIEWED AND WHAT WORK YOU'VE DONE TO FAMILIARIZE YOURSELF
7 WITH DR. CRAWFORD'S EVALUATION?

8 A. I REVIEWED DR. CRAWFORD'S TRANSCRIPT. I REVIEWED HER
9 REPORT. I REVIEWED SOME OF THE INVESTIGATIVE REPORTS OF THE
10 PEOPLE WHO -- THE POLICE OFFICERS WHO FIRST EXAMINED MR.
11 WILLIAMS. I READ A LOT OF MITIGATION MATERIAL THAT WAS
12 PREPARED FOR THE DEFENSE. AND THAT WAS PRIMARILY IT. I DID
13 NOT SEE A LOT OF THE EARLIER INFORMATION FROM THE POLICE,
14 THE STATEMENT OF SOME OF THOSE WITNESSES.

15 Q. BASED UPON YOUR REVIEW OF THE RECORD, THE DOCUMENTARY
16 RECORD, WHAT WAS THE STATED PURPOSE OF DR. CRAWFORD'S
17 EVALUATION OF CHRIS WILLIAMS?

18 A. THE STATED PURPOSE WAS TO INVESTIGATE HIS STATE OF MIND
19 AT THE TIME OF THE CRIME.

20 Q. WOULD IT BE FAIR TO SAY THAT SHE WAS CONDUCTING A
21 FORENSIC PSYCHIATRIC EXAMINATION?

22 A. YES, SHE WAS.

23 Q. WHAT ARE THE STANDARDS GENERALLY FOR FORENSIC
24 PSYCHIATRIC EVALUATIONS?

25 A. THE STANDARDS ARE TO STRIVE FOR OBJECTIVITY. THE

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1 STANDARDS ARE TO TRY TO DO NO HARM. THE STANDARDS ARE TO
2 GAIN AS MUCH INFORMATION AS YOU CAN IN AS GENTLE AND
3 PLEASANT A MANNER AS POSSIBLE AND TO COME UP WITH SOME SENSE
4 OF DIAGNOSIS AND SOME SENSE OF RECOMMENDATIONS AS TO THE
5 LEGAL ISSUES.

6 Q. DR. HALLECK, WE'VE BEEN THROWING AROUND A NUMBER OF
7 TERMS TODAY. AND ONE OF THE MOST POPULAR HAS BEEN FORENSIC
8 PSYCHIATRY. BUT I DON'T KNOW IF ANYONE HAS DEFINED IT. CAN
9 YOU TELL US YOUR DEFINITION OF FORENSIC PSYCHIATRY?

10 A. FORENSIC PSYCHIATRY SIMPLY HAS TO DO WITH A
11 PSYCHIATRIST TRYING TO HELP THE COURTS, ASSIST THE COURTS,
12 IN DETERMINING VARIOUS CAPACITIES THAT HAVE LEGAL RELEVANCE.
13 THERE'S ONE PART OF FORENSIC PSYCHIATRY THAT DOESN'T FIT
14 THAT DEFINITION. AND THAT'S MALPRACTICE TESTIMONY.

15 Q. BY MALPRACTICE TESTIMONY YOU MEAN TESTIMONY ABOUT HOW A
16 PSYCHIATRIST TREATED A PATIENT WHO IS NOT A PLAINTIFF?

17 A. TESTIMONY AS TO NEGLIGENCE.

18 Q. ARE THERE STANDARDS OF PRACTICE AND STANDARDS OF
19 PROCEDURE IN FORENSIC EVALUATIONS?

20 A. YES, THERE ARE.

21 Q. WHAT ARE THOSE, PLEASE, GENERALLY?

22 A. WELL, YOU HAVE TO REALLY TAKE A VERY THOROUGH HISTORY
23 OF WHAT HAPPENED. YOU HAVE TO TAKE A THOROUGH BACKGROUND
24 HISTORY, WHAT THAT INDIVIDUAL WENT THROUGH DURING THEIR
25 LIFETIME. YOU HAVE TO TAKE A THOROUGH MEDICAL HISTORY. YOU

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1 NEED TO GET A FAMILY HISTORY. AND THEN YOU NEED TO DO
2 SOMETHING CALLED A MENTAL STATUS EXAMINATION WHERE YOU TRY
3 AND FIGURE OUT HOW A PATIENT IS FUNCTIONING AT THIS
4 PARTICULAR MOMENT. A LOT OF THAT IS SPECULATIVE. A LOT OF
5 THAT RELATES TO HOW THE PATIENT INTERACTS WITH YOU. AND
6 SOME OF THE -- WHAT THE PATIENT IS DOING MAY BE BY HISTORY
7 LIKE THEY MAY HAVE BEEN HALLUCINATING THE DAY BEFORE. BUT
8 YOU WANT TO FIND OUT IN A MENTAL STATUS EXAMINATION HOW THE
9 PATIENT IS PERCEIVING, HOW THEY'RE THINKING, WHAT THEIR
10 COGNITIVE PROCESSES ARE LIKE, HOW THEY'RE FEELING, WHAT
11 THEIR EMOTIONS ARE LIKE, AND HOW THEY'RE ACTING.

12 NOW, ONE PART OF THE EXAMINATION WHICH IS ROUTINELY
13 DONE IS TO MAKE SOME EFFORT TO ASSESS THE PATIENT'S
14 ORIENTATION, THEIR FUND OF GENERAL KNOWLEDGE, THEIR RECENT
15 MEMORY -- AND I CAN SAY SOMETHING ABOUT HOW THAT'S DONE --
16 THEIR ABILITY TO CONCENTRATE, THEIR ABILITY TO DEAL WITH
17 ABSTRACTIONS AND THEIR ABILITY TO DEAL WITH SIMILARITIES.

18 Q. WHY DO THOSE STANDARDS EXIST? WHY DO THOSE -- WHY ARE
19 THOSE PROCEDURES FOLLOWED?

20 A. WELL, WE REALLY NEED TO KNOW, IF WE'RE GOING TO
21 UNDERSTAND WHAT'S IN THE PATIENT'S MIND, HOW THAT PATIENT IS
22 PERCEIVING, THINKING, FEELING AND ACTING.

23 Q. IS IT A QUESTION OF RELIABILITY?

24 A. YES.

25 Q. LET ME ASK A SPECIFIC QUESTION THAT WE HEARD ABOUT IN

1 ANOTHER WITNESS' TESTIMONY. SLEEP DEPRIVATION. . HOW DOES AN
2 ASSESSMENT OF SLEEP DEPRIVATION PLAY INTO THE STANDARD
3 PROCEDURES FOR EVALUATIONS?

4 A. WELL, YOU REALLY HAVE TO TAKE A HISTORY OF HOW THE
5 PERSON IS SLEEPING AND HOW THE PERSON ORDINARILY SLEEPS.
6 NOW, I CAN SAY WHEN I TOOK THAT HISTORY FROM MR. WILLIAMS,
7 HE TOLD ME THAT HE HAD ALWAYS HAD SOME TROUBLE SLEEPING AND
8 THAT ORDINARILY AT HIS BEST HE WOULD SLEEP FOUR OR FIVE
9 HOURS A NIGHT. HE TOLD ME THAT CURRENTLY IN PRISON HE'S
10 SLEEPING THREE, FOUR OR FIVE HOURS A NIGHT. HE TOLD ME IN
11 THE SEVENTY-TWO HOURS PRECEDING THE CRIME, HE DID NOT SLEEP
12 AT ALL. AND HE TOLD ME HE GOT ONE HOUR'S SLEEP THE NIGHT
13 AFTER HE WAS ARRESTED.

14 Q. ACCORDING TO THE PROCEDURES THAT WE'VE BEEN TALKING
15 ABOUT, HOW WOULD THE FACT OF NOT HAVING SLEPT FOR SEVENTY-
16 TWO HOURS AFFECT THE PROPER EVALUATION OF THE PATIENT?

17 A. I THINK IT COULD SERIOUSLY IMPACT THE RELIABILITY OF
18 WHAT HE SAID. AND IT COULD LEAD TO BIZARRE BEHAVIOR. IT
19 COULD LEAD TO IRRATIONAL THINKING. AND IT COULD LEAD TO
20 POOR JUDGMENT.

21 WE KNOW, FOR EXAMPLE, JUST STUDYING SLEEP DEPRIVATION
22 AMONG DOCTORS, WHICH MOST DOCTORS HAVE HAD SOME EXPERIENCE
23 WITH, IF YOU STAY ON CALL FOR MORE THAN TWENTY-FOUR, THIRTY-
24 SIX HOURS WITHOUT SLEEP, YOU BEGIN TO MAKE MISTAKES AND YOU
25 BEGIN -- YOUR JUDGMENT BEGINS TO GET IMPAIRED.

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1 Q. NOW, WITH REGARD TO THE PROCEDURES YOU'VE BEEN
2 DESCRIBING GENERALLY AND YOUR EVALUATION OF DR. CRAWFORD'S
3 EVALUATION, DID DR. CRAWFORD FOLLOW THESE ACCEPTED
4 PROCEDURES?

5 A. IN SOME WAYS SHE DID NOT.

6 Q. PLEASE TELL US WHAT THOSE WAYS WERE.

7 A. WELL, SHE DID NOT FOLLOW UP ON SOME THINGS LIKE THE
8 ISSUE OF THE SLEEP PROBLEMS. HE STARTED TO TELL HER HE WAS
9 HAVING TROUBLE SLEEPING, BUT SHE DID NOT SIT DOWN WITH HIM
10 AND DEFINE HOW MUCH SLEEP HE GOT NIGHT TO NIGHT AND HOW THAT
11 COMPARED WITH OTHER TIMES IN HIS LIFE OR WHY HE WAS NOT
12 SLEEPING.

13 WITH REGARD TO ASSESSING FUND OF GENERAL KNOWLEDGE, SHE
14 NEVER DID THAT. WITH REGARD TO ASSESSING ORIENTATION, SHE
15 NEVER DID THAT. WITH REGARD TO ASSESSING HIS ABILITY TO
16 REMEMBER THINGS SHORT TERM, WHAT YOU USUALLY DO BY ASKING
17 SOMEBODY TO REMEMBER THREE ITEMS AND REPEAT THEM A FEW
18 MINUTES LATER. SHE DID NOT DO THAT. IF SHE DID IT, IT'S
19 NOT IN THE TRANSCRIPT. IT MAY HAVE BEEN THE PART THAT WAS
20 INAUDIBLE.

21 SHE DID NOT DO TESTS OF CONCENTRATION. AND THERE ARE
22 AT LEAST THREE EASY TESTS OF CONCENTRATION THAT CAN BE DONE
23 JUST BY TALKING TO A PERSON AND ASKING ABOUT THAT. ONE IS
24 LIKE SPELLING THE WORD "WORLD" BACKWARDS. YOU HAVE TO
25 CONCENTRATE AND GET THE FIGURE IN YOUR HEAD. ANOTHER IS

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1 ASKING THE PERSON TO REPEAT NUMBERS FORWARD AND BACKWARD AND
2 REMEMBER THEM. AND THAT'S CONCENTRATION. THAT'S NOT JUST
3 MEMORY. AND THE OTHER IS TO DO SIMPLE MATHEMATICAL THINGS
4 LIKE SUBTRACTION WHICH IS A LITTLE BIT OF MATH ABILITY. BUT
5 IT'S MORE NINETY PERCENT CONCENTRATION. AND THAT WAS NOT
6 DONE.

7 Q. GIVEN ALL THESE FAILURES OR LACK OF FOLLOWING
8 PROCEDURES, WHAT'S YOUR VIEW OF THE RELIABILITY OF THE
9 RESPONSES THAT DR. CRAWFORD WAS ELICITING FROM CHRIS
10 WILLIAMS THAT DAY?

11 A. I FELT IT WAS A VERY STRONG POSSIBILITY A LOT OF THE
12 MATERIAL WOULD NOT HAVE BEEN RELIABLE. AND THERE ARE TWO OR
13 THREE THINGS THAT ARE IN HER REPORT THAT DO NOT SEEM TO BE
14 CONFIRMED IN OTHER INTERVIEWS OR BY OTHER DATA. CHRIS TOLD
15 HER THAT HE HAD NEVER BEEN SEXUALLY MOLESTED AS A YOUNG MAN,
16 AND HE HAD BEEN. HE TOLD HER THAT HE HAD FINISHED HIGH
17 SCHOOL; HE HAD NOT FINISHED HIGH SCHOOL.

18 THERE WERE TIMES WHERE THERE WERE CLEAR DIFFICULTIES IN
19 COMMUNICATION BETWEEN THE DOCTOR AND THE CLIENT,
20 PARTICULARLY AROUND THE ISSUE OF THE VICTIM'S ABORTION. AS
21 I READ THROUGH HER REPORT, I HAD DIFFICULTY UNDERSTANDING
22 HOW SHE COULD HAVE GOTTEN PREGNANT THREE WEEKS AFTER THEY
23 STARTED DATING. AND HE REALLY WASN'T REFERRING TO THAT. HE
24 WAS REFERRING THAT HE TOLD THEM ABOUT ANOTHER ABORTION THREE
25 WEEKS AFTER THEY STARTED DATING. AND IT WAS ONLY LATER,

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1 PROBABLY IN APRIL, WHEN SHE TOLD HIM THAT SHE MIGHT BE
2 PREGNANT AND THEN LATER SAID THAT SHE GOT HER PERIOD.

3 BUT THERE WAS A CLEAR MISUNDERSTANDING BETWEEN THE TWO
4 OF THEM ABOUT THAT. IT MAY NOT HAVE BEEN CRITICAL, BUT I
5 WOULD SEE THAT OF AN INDICATION OF HIS NOT REALLY THINKING
6 TOO CLEARLY AT THE TIME AND HER NOT BEING VIGOROUS IN
7 DEFINING EXACTLY WHAT WAS GOING ON.

8 Q. BASED ON YOUR EVALUATION OR YOUR REVIEW OF THE
9 DOCUMENTS, THE RECORDS, WAS THERE EVER ANY MENTION BY ANYONE
10 OF THE DEATH PENALTY TO CHRIS WILLIAMS?

11 A. THERE NEVER WAS. AND THERE WAS ONE POINT DURING THE
12 INTERVIEW WHERE HE SAID VERY CLEARLY THAT HE CLEARLY DID NOT
13 WANT TO SPEND THE REST OF HIS LIFE IN PRISON. HE NEVER
14 MENTIONED THE POSSIBILITY THAT HE MIGHT DIE UNLESS BY HIS
15 OWN HAND.

16 Q. IN YOUR VIEW, WHAT'S THE SIGNIFICANCE OF THE FAILURE TO
17 MENTION THE DEATH PENALTY AT ALL DURING THE COURSE OF THIS
18 EVALUATION?

19 A. WELL, I THINK IF HE KNEW THAT THE DEATH PENALTY WAS A
20 POSSIBILITY, HE MIGHT NOT HAVE BEEN SO REVEALING IN SOME
21 INSTANCES OR PAINTED HIMSELF AS NEGATIVELY AS HE DID.

22 Q. IN REVIEWING THE TRANSCRIPT OF DR. CRAWFORD'S
23 EVALUATION, DID SHE USE ANY TECHNIQUES, PSYCHIATRIC
24 TECHNIQUES, TO ELICIT RESPONSES FROM HIM?

25 A. SHE USED SOME THAT WERE GOOD AND SOME WHICH WOULD BE

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1 MORE QUESTIONABLE. SHE WAS AT TIME EMPATHIC. AND BY THAT I
2 MEAN SHE SIMPLY SHOWED COMPASSION AND UNDERSTANDING OF WHAT
3 HE WAS SAYING. AT TIMES I FELT SHE WAS BEING A LITTLE TOO
4 EMPATHIC AND ALMOST SEDUCTIVE IN TRYING TO BE NICE TO HIM.
5 HE CLEARLY WANTED HER TO LIKE HIM. AND SHE CAME ACROSS AS A
6 LIKEABLE PERSON. AND HE SEEMED VERY DESPERATELY TO WANT HER
7 TO LIKE HIM.

8 SHE ALSO DID THINGS LIKE PUT WORDS IN HIS MOUTH AT
9 TIMES. AT WHAT POINT DID YOU PLAN TO KILL HER? WAS IT YOUR
10 IDEA TO SHOOT HER IN THE BACK? THERE WERE A LOT OF
11 SUGGESTIVE KIND OF COMMENTS WHICH IN SOME INSTANCES ARE
12 OKAY. BUT IN THIS CASE I THOUGHT SOME OF THEM WENT TOO FAR.

13 IN SOME WAYS SHE WAS CONFRONTATIONAL UNLIKE A
14 PSYCHIATRIST AND ALMOST LIKE A POLICE OFFICER. WHEN HE
15 STATED THAT HE HAD BOUGHT HIS GUN IN OCTOBER OF THE PREVIOUS
16 YEAR, SHE SAID THAT STATEMENTS BY THE MOTHER AND THE FATHER
17 CONTRADICTED THAT.

18 SO SHE DID A LOT OF THINGS THAT WERE OKAY WHICH WERE
19 DESIGNED TO GET HIM TO TALK MORE AND SOME THINGS THAT WERE
20 NOT OKAY.

21 ANOTHER THING THAT BOTHERED ME WAS THAT WHENEVER HE
22 BEGAN TO INDICATE THAT HE WAS AMBIVALENT ABOUT THE KILLING,
23 SHE WOULD IMMEDIATELY GET HIM BACK ON A TRACK TO STATE THAT
24 HE WAS NOT AMBIVALENT AND THAT HE WAS CERTAINLY INTO
25 PREMEDITATION.

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1 SO I FELT THERE WAS MUCH SUGGESTIBILITY AND MUCH
2 DIRECTION IN THE INTERVIEW WHICH TENDED TO BRING OUT THE
3 WORST IN MR. WILLIAMS.

4 Q. YOU MENTIONED A COUPLE OF TERMS. SEDUCTIVE QUESTIONS
5 AND EMPATHY. WHAT EFFECT IN YOUR VIEW DID THESE TECHNIQUES
6 HAVE ON THE RELIABILITY OF THE EVALUATION?

7 A. WELL, IT HAD AN EFFECT INsofar AS I THINK HE VERY MUCH
8 WANTED TO PLEASE HER. AND IN TERMS OF USING THESE
9 TECHNIQUES, WHICH ORDINARILY CAN BE OKAY, HE GOT -- I THINK
10 HE MAY HAVE GOTTEN CARRIED AWAY WITH WANTING TO PLEASE HER
11 AND MAY HAVE PAINTED HIS SITUATION AS WORSE THAN IT WAS.
12 AND IN THAT SENSE, IT MAY NOT HAVE BEEN RELIABLE.

13 Q. DR. CRAWFORD -- I'M SORRY. DR. HALLECK, THERE SHOULD
14 BE ON THE STAND IN FRONT OF YOU A COPY -- OR YOU MAY HAVE
15 YOUR OWN COPY -- OF THE TRANSCRIPT WE PREVIOUSLY MARKED.

16 A. I DO HAVE IT.

17 Q. IF YOU WOULD -- WE'LL HAVE A COPY OF IT, DR. HALLECK --
18 JUST GIVE US OF EXAMPLES OF THESE TECHNIQUES BEING USED BY
19 DR. CRAWFORD.

20 A. I MEAN, I HAVE TO GO THROUGH A LOT OF MATERIAL.

21 Q. JUST PICK A COUPLE IF YOU WOULD.

22 A. LET ME GO THROUGH MY NOTES.

23 THE COURT: DO Y'ALL HAVE THEM MARKED AND WE CAN
24 DIRECT HIM TO THE RIGHT PAGES?

25 THE WITNESS: I'VE GOT MINE MARKED.

1 A. WELL, LET ME JUST WITHOUT LOOKING AT THE PAGES TELL YOU
2 WHAT I'VE WRITTEN ABOUT THE PAGES. ON PAGE 1, I RAISE SOME
3 QUESTION OF WHETHER HE REALLY UNDERSTANDS WHAT SHE WAS
4 LOOKING FOR.

5 ON PAGE 2 WHEN SHE SAID, "WE CAN BE COOL WITH EACH
6 OTHER," I THOUGHT THAT WAS A LITTLE BIT SEDUCTIVE.

7 ON PAGE 5, I WAS A LITTLE CONCERNED ON PAGE 5 WHERE HE
8 NEVER ACTUALLY GAVE PERMISSION FOR DR. CRAWFORD TO TALK TO
9 HIS PARENTS, WHICH SHE DID THE NEXT NIGHT. AND SEEMED TO
10 RELUCTANTLY GIVE PERMISSION TO TALK TO THE SISTER.

11 ON PAGE 6, SHE TELLS HIM HE'S NO SLOUCH HIMSELF WHEN HE
12 TRIES TO PUT HIMSELF DOWN.

13 ON 15, 16, 22 THERE ARE A NUMBER OF EMPATHIC STATEMENTS
14 WHICH I THOUGHT WERE APPROPRIATE.

15 ON PAGE 36, THERE WAS -- 30 THERE WAS THE CONFUSION
16 ABOUT THE ABORTION.

17 ON PAGE 40, SHE CAME -- SHE JUST SUDDENLY SAID TO HIM
18 ABOUT HAVING A FRIEND WHO TOLD HER THAT SOMETIMES HE
19 FANTASIZES KILLING SOMEBODY. AND SHE WAS KIND OF INDICATING
20 TO HIM THAT IT WAS OKAY TO HAVE THAT KIND OF FANTASY. AND
21 THIS IS KIND OF SUGGESTIBLE.

22 ON PAGE 44, HE IS BEING AMBIVALENT ABOUT WHETHER HE
23 REALLY INTENDED TO KILL HER WHEN HE WENT IN THERE. BUT SHE
24 KEEPS GOING BACK TO ASKING HIM WHEN HE PLANNED TO DO THIS
25 AND HOW HE PLANNED TO DO THIS. AND EVENTUALLY BY PAGE 63,

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1 HE SAYS IT WAS PREMEDITATED. ON PAGE 45, SHE SAYS, "WHEN
2 DID YOU DECIDE TO KILL HER?"

3 AND PAGE 46, HE PUTS WORDS IN HER MOUTH -- SHE PUTS
4 WORDS IN HIS MOUTH. AND HE SAYS -- SHE SAYS, "I HOPE I'M
5 NOT PUTTING WORDS IN YOUR MOUTH." AND HE SAYS, "NO, YOU'RE
6 NOT." BUT SHE WAS.

7 ON PAGE 49, SHE SAYS, "WERE YOU GOING TO SHOOT HER
8 THROUGH THE HEAD?" PAGE 51, "DID YOU WANT TO TORTURE HER?"
9 PAGE 52, THERE WAS SOMETHING SUGGESTIVE.

10 PAGE 54 -- PAGE 57, HERE I WOULD BE CRITICAL OF HER
11 PSYCHIATRIC TECHNIQUES. SHE WAS -- HE WAS TALKING ABOUT HIS
12 BODY WAS REALLY BEING TAKEN OVER BY SOMEBODY ELSE'S MIND WHO
13 WAS DIRECTING HIM TO PLAN TO KILL THIS WOMAN. NOW, WHEN I
14 EXAMINED HIM, I CHECKED FOR THAT AGAIN AND WENT OVER THAT
15 AGAIN WITH HIM AND HE DENIED THAT. BUT IN THIS CONTEXT IN
16 THE INTERVIEW WHEN HE WAS SO -- REALLY SO CLOSE TO THE CRIME
17 AND WAS SO DISTURBED AND WAS TALKING THIS WAY, I REALLY
18 BELIEVE THAT SHOULD HAVE BEEN FOLLOWED UP BECAUSE HE COULD
19 HAVE BEEN DELUSIONAL. IT COULD HAVE BEEN THE BEGINNING OF
20 SOMETHING SCHIZOPHRENIC.

21 AGAIN, ON PAGE 68, SHE WOULD NOT LET HIM EXPRESS
22 DOUBTS.

23 ON PAGE 71 AND 72, HE WAS ARGUMENTATIVE ABOUT WHEN THE
24 SHOTGUN WAS PURCHASED.

25 ON PAGE 86, SHE FAILED TO INVESTIGATE THE SLEEP

1 DISTURBANCE.

2 AND THEN I HAVE A COMMENT THAT IN GENERAL HER INTERVIEW
3 FOCUSED MORE ON INTENT AND MOTIVATION THAN ON
4 SYMPTOMATOLOGY.

5 Q. DR. HALLECK, THE PSYCHIATRIC EVALUATION DR. CRAWFORD
6 DID WHICH YOU'VE REVIEWED AND HAS BEEN MARKED AS AN EXHIBIT,
7 IN THE LAST SENTENCE OF THE IDENTIFYING DATA SECTION, DR.
8 CRAWFORD WRITES, "THE SOLICITOR'S OFFICE REQUESTED THIS
9 EVALUATOR'S OPINION REGARDING MR. WILLIAMS CRIMINAL
10 RESPONSIBILITY UNDER THE MCNAGHTEN STANDARD FOR HIS ACTIONS
11 ON SEPTEMBER 3RD, 2003. AND IF MR. WILLIAMS IS CRIMINALLY
12 RESPONSIBLE, WHETHER OR NOT HE LACKS SUFFICIENT CAPACITY TO
13 CONFORM HIS CONDUCT TO THE REQUIREMENTS OF THE LAW." YOU'RE
14 FAMILIAR WITH THOSE STANDARDS, I TAKE IT?

15 A. YES, I AM.

16 Q. WHAT DO THOSE TECHNIQUES, THE SEDUCTION AND THE LEADING
17 QUESTIONS AND THE EMPATHY YOU DESCRIBED IN THE CITATIONS
18 YOU'VE JUST GIVEN US HAVE TO DO WITH THE MCNAGHTEN STANDARD
19 AND SUFFICIENT CAPACITY TO CONFORM?

20 A. A LOT OF THEM HAVE VERY LITTLE TO DO WITH THAT. WHAT
21 COMES OUT OF IT IS THAT SHE DOESN'T REALLY INVESTIGATE AS
22 THOROUGHLY AS SHE COULD HAVE WHETHER HE MET THE STANDARDS OF
23 INSANITY OR WHETHER HE LACKED CAPACITY TO CONFORM HIS
24 CONDUCT TO THE REQUIREMENTS OF THE LAW.

25 Q. AND WHEN YOU COMBINE SEDUCTIVE QUESTIONING WITH LEADING

1 QUESTIONS, WHAT'S THE EFFECT OF THAT ON THE PATIENT?

2 A. I THINK YOU GET THE EFFECT OF THE PERSON BEING WILLING
3 TO TELL YOU ANYTHING THEY THINK YOU WANT TO HEAR.

4 Q. DOCTOR, YOU'VE HEARD DISCUSSED THIS AFTERNOON A
5 PROFESSIONAL SOCIETY THAT IS KNOWN BY THE ACRONYM AAPL, THE
6 AMERICAN ACADEMY OF PSYCHIATRY AND THE LAW. IS THAT THE
7 ACCEPTED PROFESSION SOCIETY FOR FORENSIC PSYCHIATRISTS?

8 A. YES, IT IS.

9 Q. DO YOU HAVE AN ASSOCIATION WITH AAPL?

10 A. I'M ONE OF THE FOUNDERS OF THAT ORGANIZATION, AND I WAS
11 THE EDITOR OF THEIR JOURNAL FOR TEN YEARS.

12 Q. AND AAPL HAS A CODE OF ETHICS THAT WE'VE TALKED ABOUT
13 AND THAT HAS ALSO BEEN MARKED AS AN EXHIBIT. DO YOU HAVE
14 THAT EXHIBIT?

15 A. I THINK I'VE GOT MY OWN COPY. LET ME SEARCH FOR A
16 MINUTE. YES.

17 Q. DR. HALLECK, WHY DOES AAPL -- YOU'RE ONE OF THE
18 FOUNDERS OF THE ORGANIZATION. WHY DOES AAPL HAVE A CODE OF
19 ETHICS? WHAT IS THAT ALL ABOUT?

20 A. WELL, TO HAVE AN ORGANIZATION THAT HAS INTEGRITY,
21 CONTROL AND IS DEDICATED TO SERVING THE COURTS WITHOUT
22 HURTING PATIENTS.

23 Q. AND HOW DOES THE CODE OF ETHICS AFFECT THE RELIABILITY
24 OF EVALUATIONS AND WORK PERFORMED EITHER WITHIN THE CODE OF
25 ETHICS OR OUTSIDE OF IT?

1 A. OH, IF YOU STICK TO THE ETHICAL CODES, PARTICULARLY THE
2 ONE WE'RE CONCERNED WITH HERE, YOU'RE MORE LIKELY TO HAVE A
3 COMPETENT INDIVIDUAL YOU'RE TALKING TO. AN INDIVIDUAL WHO
4 KNOWINGLY AND COMPETENTLY WAIVES RIGHT TO COUNSEL. AND YOU
5 ARE MORE LIKELY TO INTERVIEW A PERSON WHO IS GOING TO GIVE
6 YOU RELIABLE INFORMATION.

7 Q. NOW, IS THERE A SPECIFIC PROVISION OF THE AAPL CODE
8 THAT'S RELEVANT TO THE EXAMINATIONS IN YOUR VIEW THAT DR.
9 CRAWFORD PERFORMED?

10 A. YES. IT'S IN THE CONSENT SECTION, THE FOURTH
11 PARAGRAPH.

12 Q. COULD YOU READ THAT, PLEASE?

13 A. "WITH REGARD TO ANY PERSON CHARGED WITH CRIMINAL ACTS,
14 ETHICAL CONSIDERATIONS PRECLUDE FORENSIC EVALUATIONS PRIOR
15 TO ACCESS TO OR AVAILABILITY OF LEGAL COUNSEL. THE ONLY
16 EXCEPTION IS FOR AN EXAMINATION FOR THE PURPOSE OF RENDERING
17 EMERGENCY MEDICAL CARE AND TREATMENT."

18 Q. WAS DR. CRAWFORD'S CONDUCT IN CONDUCTING THIS
19 EVALUATION CONSISTENT OR INCONSISTENT WITH THAT STANDARD?

20 A. I THINK SHE VIOLATED THAT STANDARD.

21 Q. WHY DO YOU THINK THAT?

22 A. SHE INTERVIEWED HIM WITHOUT ACCESS TO OR AVAILABILITY
23 OF LEGAL COUNSEL. AND I'VE KNOWN -- I KNOW OF NO PERSON --
24 NOW, THERE MAY BE SOME PEOPLE AROUND WHO INTERPRET THAT
25 DIFFERENTLY. BUT TO ME IT MEANS THAT THE PERSON HAS AN

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1 ATTORNEY.

2 Q. HOW DID THE POSSIBILITY THAT THIS WOULD BE CHARGED AS A
3 CAPITAL OFFENSE PLAY INTO THAT EVALUATION?

4 A. WELL, I THINK HE MIGHT HAVE BEHAVED QUITE DIFFERENTLY
5 IF HE KNEW THERE WAS A CAPITAL OFFENSE INVOLVED.

6 Q. HE BEING THE DEFENDANT CHRIS WILLIAMS?

7 A. THE DEFENDANT, YES.

8 Q. YOU'VE HAD A LONG AND DISTINGUISHED LIFE AND CAREER,
9 DR. HALLECK. HAVE YOU ENCOUNTERED THIS KIND OF THING BEFORE
10 IN YOUR EXPERIENCE?

11 A. YES. IN THE 1970'S THERE WAS AN INDIVIDUAL IN TEXAS
12 WHO WAS EXAMINING PEOPLE ALLEGEDLY FOR COMPETENCY TO STAND
13 TRIAL BEFORE THEY HAD AN APPOINTED ATTORNEY. HE WOULD FIND
14 THEM COMPETENT, AND THEN HE WOULD APPEAR AT THE DEATH
15 PENALTY HEARING AND TESTIFY THAT THEY WERE REALLY
16 INCORRIGIBLE PSYCHOPATHS. AND HE HELPED ALMOST A HUNDRED
17 PEOPLE TO DEATH IN TEXAS. AND ---

18 Q. ONE OF THE -- I'M SORRY.

19 A. I JUST WANTED TO SAY A NUMBER OF US RAISED COMPLAINTS
20 ABOUT THAT.

21 Q. AND HOW ABOUT THE USE OF MEDICAL SKILL TO ASSEMBLE
22 EVIDENCE IN SUPPORT OF ---

23 A. WELL, THIS PARTICULAR INDIVIDUAL WAS VERY SKILLED AT
24 THAT. I'VE SEEN VIDEOTAPES HE'S MADE OF HIS EXAMINATION AND
25 HIS TESTIMONY. HE WAS A VERY GOOD WITNESS AND GETTING THE

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1 INDIVIDUAL TO REVEAL THEMSELVES. AND THEN HE WOULD SUDDENLY
2 APPEAR AT THEIR DEATH PENALTY HEARING.

3 Q. HOW DID THAT CASE ULTIMATELY RESOLVE ITSELF?

4 A. WELL, HE WAS CENSORED BY THE AMERICAN PSYCHIATRIC
5 ASSOCIATION AND WAS CENSORED BY HIS OWN MEDICAL SOCIETY.
6 BUT MOSTLY HE WAS SUCCESSFUL IN TERMS OF GETTING THE DEATH
7 PENALTY.

8 MR. MACDOUGALL: ONE MOMENT, YOUR HONOR.

9 THE COURT: YES, SIR.

10 MR. MACDOUGALL: NO FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: CROSS-EXAMINATION, SOLICITOR?

12 CROSS-EXAMINATION BY MR. ARIAIL:

13 Q. DR. HALLECK, JUST A COUPLE OF QUESTIONS. WHAT'S YOUR
14 POSITION ON THE DEATH PENALTY? ARE YOU IN FAVOR OF IT OR
15 AGAINST IT?

16 A. THAT'S EASY. I'M AGAINST IT.

17 Q. I'M SORRY?

18 A. I'M AGAINST IT.

19 Q. THE MORATORIUM ON CAPITAL PUNISHMENT THAT'S PUBLISHED
20 AS A POSITION STATEMENT BY THE AMERICAN PSYCHIATRIC
21 ASSOCIATION, YOU ARE AWARE OF THAT ALSO?

22 A. I'M AWARE OF IT, BUT I HAD NOTHING TO DO WITH IT.

23 Q. BUT YOU SUPPORT IT AND YOU AGREE WITH IT?

24 A. I AGREE WITH IT.

25 Q. AND DOES THE FACT THAT YOU'RE OPPOSED TO THE DEATH

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1 PENALTY OR OPPOSITION TO THE DEATH PENALTY IN ANY WAY COME
2 INTO PLAY WHEN YOU ARE EITHER CALLED UPON AS AN EXPERT
3 WITNESS TO TESTIFY OR WHEN YOU REVIEW SOMEBODY ELSE'S WORK
4 IN THE FIELD?

5 A. I REALIZE SINCE I START OUT WITH A BIAS AGAINST THE
6 DEATH PENALTY THAT I HAVE TO BE AS CAREFUL, AS SCRUPULOUS,
7 AS HONEST AS I CAN AND NOT GET CARRIED AWAY. SO I REALLY
8 HAVE A BAD CONSCIOUS AND I WORK MYSELF VERY HARD ON NOT
9 EXAGGERATING OR SEEING THINGS DIFFERENTLY JUST BECAUSE MY
10 BELIEFS ARE DIFFERENT.

11 Q. AND THAT'S WHAT YOU -- THAT'S YOUR BELIEF THAT YOU'RE
12 DOING THAT. BUT YOU RECOGNIZE THAT THERE'S A POTENTIAL
13 PROBLEM?

14 A. I RECOGNIZE THERE'S A PROBLEM, AND I WORK VERY HARD TO
15 MAKE SURE THERE'S NOT A PROBLEM.

16 Q. ALL RIGHT. YOU TOLD OR TESTIFIED EARLIER, I BELIEVE --
17 I WAS HAVING A LOT OF TROUBLE HEARING YOU. BUT I BELIEVE
18 YOU TESTIFIED THAT YOU HAD REVIEWED A NUMBER OF DOCUMENTS,
19 REVIEWED DR. CRAWFORD'S REPORT AND SOME OTHER WRITTEN
20 MATERIAL IN THIS CASE?

21 A. YES.

22 Q. AND WHAT WERE THEY OTHER THAN DR. CRAWFORD'S REPORT
23 SPECIFICALLY? DO YOU ---

24 A. THEY WERE POLICE REPORTS.

25 Q. POLICE REPORTS?

- 1 A. AND THERE WAS SOME MITIGATION MATERIAL.
- 2 Q. MITIGATION MATERIAL?
- 3 A. PREPARED BY THE DEFENSE. THESE WERE INTERVIEWS OF MR.
- 4 WILLIAMS' FAMILY AND FRIENDS.
- 5 Q. ALL RIGHT. AND DO YOU HAVE THAT INFORMATION WITH YOU?
- 6 A. YES, I DO.
- 7 Q. I'D LIKE TO SEE THAT BEFORE I FINISH QUESTIONING YOU.
- 8 BUT IN LIGHT OF REVIEWING THAT INFORMATION, DID YOU TALK TO
- 9 ANYONE THAT YOU RECEIVED INFORMATION FROM OR ANYONE THAT YOU
- 10 DECIDED YOU NEEDED TO TALK TO?
- 11 A. I DID NOT. IF I WERE TO GET FURTHER INVOLVED IN THE
- 12 CASE, I MIGHT WANT TO TALK TO OTHER PEOPLE.
- 13 Q. IF YOU GET FURTHER INVOLVED?
- 14 A. IF I GET FURTHER INVOLVED, I MIGHT WANT TO TALK TO
- 15 OTHER PEOPLE.
- 16 Q. OKAY. DID YOU TALK TO THE DEFENDANT?
- 17 A. YES.
- 18 Q. ALL RIGHT. YOU TALKED TO MR. WILLIAMS. IN THE
- 19 DOCUMENTS YOU REVIEWED AND IN THE REPORTS YOU RECEIVED IN
- 20 MITIGATION FROM THE DEFENDANT'S POLICE REPORTS AND IN
- 21 CONVERSATIONS WITH THE DEFENDANT, CAN YOU IDENTIFY FOR US
- 22 ANY EVIDENCE YOU HAVE TO INDICATE THAT THE STATEMENTS GIVEN
- 23 BY THE DEFENDANT TO EITHER MR. MCNAMARA, MS. CRAWFORD WERE
- 24 INVOLUNTARY?
- 25 A. I THINK THEY WERE INVOLUNTARY ONLY IN THE SENSE THAT HE

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1 DID NOT RECEIVE GOOD INFORMED CONSENT AND IN THE SENSE THAT
2 HE MAY HAVE BEEN MUCH MORE MENTALLY DISTURBED THAN ANYBODY
3 WHO LOOKED AT HIM REALIZED.

4 Q. BUT, NOW, MUCH MORE MENTALLY DISTURBED IS AN OPINION
5 SUBJECT TO VARIOUS INTERPRETATIONS. WOULD YOU AGREE WITH
6 THAT?

7 A. YES.

8 Q. SOME PEOPLE MAY NOT -- SOME PSYCHIATRISTS MAY NOT
9 BELIEVE HE'S VERY MENTALLY DISTURBED AND OTHERS MAY BELIEVE
10 IT. THAT WOULD BE A MATTER FOR DISCUSSION. LET ME GO BACK
11 TO THE ---

12 A. WELL, LET ME JUST SAY THAT I THINK ANYBODY WHO HAS JUST
13 KILLED HIS GIRLFRIEND AND WHO HAS NOT SLEPT IN FOUR NIGHTS
14 HAS GOT TO HAVE SOME DIFFICULTIES.

15 Q. OKAY. WELL, WE CAN AGREE TO THAT. OKAY. IF THAT'S
16 YOUR DEFINITION OF MENTALLY DISTURBED ---

17 A. WELL ---

18 Q. --- I WILL AGREE WITH THAT.

19 A. I WOULD ---

20 Q. ANYBODY THAT KILLS THEIR GIRLFRIEND OR EX-GIRLFRIEND OR
21 KILLS ANYBODY ---

22 MR. MACDOUGALL: OBJECTION, YOUR HONOR. THE
23 WITNESS IS STILL ANSWERING THE QUESTION.

24 THE COURT: I'M SORRY. WHAT'S YOUR OBJECTION?

25 MR. MACDOUGALL: THE OBJECTION IS THE WITNESS WAS

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1 STILL ANSWERING THE QUESTION.

2 THE COURT: LET HIM FINISH THE FIRST QUESTION OR
3 LAST QUESTION.

4 A. I JUST WANTED TO SAY I WASN'T THERE TO EXAMINE HIM AT
5 THAT POINT. THEN IF I HAD EXAMINED HIM, I THINK I MIGHT
6 HAVE SEEN THINGS DIFFERENTLY.

7 Q. ALL RIGHT. GO BACK TO MY ORIGINAL QUESTION. OTHER
8 THAN THE TWO THINGS YOU IDENTIFIED AS TO POSSIBLE
9 INVOLUNTARINESS, ONE IS MENTAL -- GIVE THEM TO ME AGAIN.

10 A. WELL, I DON'T THINK HE RECEIVED ADEQUATE INFORMED
11 CONSENT.

12 Q. ADEQUATE INFORMED CONSENT?

13 A. AND I THINK HE MAY NOT HAVE BEEN FULLY COMPETENT TO
14 APPRECIATE THE SITUATION.

15 Q. FULLY COMPETENT? ALL RIGHT.

16 NOW, YOU'VE TALKED TO HIM. DO YOU FIND HIM TO BE
17 INCOMPETENT TO UNDERSTAND THOSE WARNINGS THAT HE WAS GIVEN?
18 HAVE YOU RENDERED AN OPINION REGARDING HIS COMPETENCY?

19 A. I THINK HE HAS SOME SERIOUS I THINK HE HAS SOME SERIOUS
20 PROBLEMS, AND I THINK THE INFORMATION HE GIVES IS NOT ALWAYS
21 RELIABLE. NOW, IS HE COMPETENT TO STAND TRIAL? I BELIEVE
22 HE'S COMPETENT TO STAND TRIAL.

23 Q. I'M SORRY. I DIDN'T HEAR THE LAST PART.

24 A. I BELIEVE HE'S COMPETENT TO STAND TRIAL. WAS HE
25 COMPETENT TO WAIVE HIS MIRANDA RIGHTS? I DON'T KNOW.

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1 Q. ALL RIGHT. LET ME JUST SEE IF I CAN ASK IT ANY MORE

2 DIRECTLY. IN YOUR CONVERSATIONS WITH HIM, DID HE TELL YOU,

3 I DID NOT VOLUNTARILY WAIVE MY RIGHTS?

4 A. HE NEVER SAID THAT, NO.

5 Q. HE NEVER SAID IT? ON THE FOUR TIMES THAT HE WAS GIVEN,

6 DID HE EVER MENTION TO YOU THAT HE DID NOT VOLUNTARILY WAIVE

7 HIS RIGHTS?

8 A. NO.

9 Q. AND YOU REFERRED TO -- WHEN YOU WERE BEING ASKED ABOUT

10 THE DEATH PENALTY AND ITS RELATIONSHIP TO THE QUESTIONING,

11 YOU STATED THAT ONE OF THE SHORTCOMINGS OF THAT IF HE HAD

12 KNOWN THE DEATH PENALTY WAS A POSSIBILITY, YOU USE THE

13 WORDS, QUOTE, "MIGHT NOT," UNQUOTE, HAVE BEEN SO REVEALING?

14 A. I THINK I ALSO SAID SO REVEALING OF DESCRIBING HIMSELF

15 IN A BAD WAY.

16 Q. MIGHT NOT? IS THAT A MEDICAL OPINION, OR WHAT -- I

17 MEAN, CLARIFY THAT. MIGHT NOT? OR IS THAT A PERSONAL

18 OPINION?

19 A. I THINK IT'S A MEDICAL OPINION.

20 Q. THAT HE MIGHT NOT? AND DID HE TELL YOU THAT, OR IS

21 THAT AN EVALUATION YOU MADE BY TALKING TO HIM?

22 A. HE DIDN'T TELL ME THAT DIRECTLY. THE ONLY THING HE

23 TOLD ME IS THAT HE REALIZED THAT HE DID NOT PUT HIMSELF IN A

24 GOOD POSITION DURING THAT INTERVIEW. LATER ON HE REALIZED.

25 Q. HE WAS AWARE IN YOUR CONVERSATION OF WHAT HE HAD SAID

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1 AND THE FACT THAT IT HADN'T PLACED HIM IN A GOOD LIGHT?

2 A. YES.

3 Q. HAVE YOU BEEN ASKED TO RENDER AN OPINION REGARDING HIS
4 MENTAL CONDITION?

5 A. HIS MENTAL CONDITION WHEN?

6 Q. AT THE TIME YOU EXAMINED HIM OR FOLLOWING YOUR REVIEW
7 OR AT ANY TIME.

8 A. I'VE BEEN ASKED IF I MIGHT PARTICIPATE IN ANY KIND OF
9 POST-SENTENCING HEARING IF IT COMES TO THAT.

10 Q. I'M SORRY. ANY KIND OF WHAT?

11 A. I'VE BEEN ASKED IF I WOULD PARTICIPATE IN A SENTENCING
12 HEARING IF IT COMES TO THAT.

13 Q. ALL RIGHT. MAY QUESTION THEN IS HAVE -- IN PREPARATION
14 FOR THAT, THAT'S -- YOU KNOW, WE'RE GOING TO START THE TRIAL
15 FEBRUARY THE 7TH. IN PREPARATION FOR THAT, HAVE YOU
16 RENDERED OR FORMED ANY OPINIONS REGARDING HIS MENTAL
17 CONDITION EITHER NOW OR AT THE TIME THIS OCCURRED OR PRIOR
18 TO THAT?

19 A. I HAVE SOME OPINIONS, AND I MAY DEVELOP MORE OPINIONS.
20 I MAY SEE HIM AGAIN.

21 Q. ALL RIGHT. WHAT ARE THE ONES THAT YOU'VE DEVELOPED TO
22 DATE?

23 A. I THINK HE HAD A JUST SIMPLY ATROCIOUS CHILDHOOD.

24 Q. I'M SORRY?

25 A. ATROCIOUS CHILDHOOD.

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1 Q. ATROCIOUS CHILDHOOD.

2 A. I THINK HE WAS BADLY PHYSICALLY AND MENTALLY ABUSED BY
3 HIS PARENTS.

4 THE COURT: SOLICITOR, WE'RE GETTING FAR AFIELD ON
5 THE ISSUE BEFORE THE COURT, OKAY?

6 MR. ARIAIL: I AGREE.

7 THE COURT: WE'RE GETTING AWFUL FAR AFIELD, OKAY?
8 WRAP IT UP, OKAY? YOU CAN LOOK AT WHAT HE HAS. I'LL GIVE
9 YOU THAT OPPORTUNITY.

10 MR. ARIAIL: ALL RIGHT.

11 THE COURT: I MEAN, WE'RE GETTING AWFUL FAR AFIELD
12 FOR WHAT'S HERE TODAY BEFORE THIS COURT.

13 Q. HAVE YOU WRITTEN OR FORMULATED A REPORT AS TO THOSE
14 FINDINGS THAT YOU HAVE MADE TO DATE?

15 A. I HAVE THUS FAR NOT BEEN ASKED TO.

16 Q. I'M SORRY?

17 THE COURT: HE SAID NO.

18 MR. ARIAIL: HE SAID NO?

19 MS. STROM: HE SAID HE HASN'T BEEN ASKED TO.

20 MR. ARIAIL: HASN'T BEEN ASKED TO? ALL RIGHT.

21 THE COURT: TRANSLATED TO NO.

22 MR. ARIAIL: WE WOULD -- OTHER THAN LOOKING AT
23 THOSE DOCUMENTS, WE WOULD ---

24 THE COURT: HAVE A SEAT, RIGHT? THANK YOU.

25 MR. ARIAIL: WE WOULD STOP HERE.

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1 THE COURT: THANK YOU VERY MUCH. I APPRECIATE IT.

2 DO YOU HAVE ANY FURTHER WITNESSES?

3 MR. MACDOUGALL: WE HAVE NO FURTHER WITNESSES,
4 YOUR HONOR. AND WE'RE PREPARED TO ARGUE WHENEVER THE COURT
5 IS READY TO HEAR IT.

6 THE COURT: DOCTOR, WOULD YOU JUST LET HIM REVIEW
7 WHATEVER HE WANTS TO REVIEW?

8 THE WITNESS: YES, I'LL GIVE HIM WHAT HE ASKS FOR.

9 THE COURT: HOW MUCH TIME DO YOU NEED TO LOOK AT
10 THIS BEFORE I KNOW IF YOU WANT TO DO ANYTHING ELSE?

11 MR. ARIAIL: I THINK WE CAN GO AHEAD AND DO
12 ARGUMENTS IF YOU WANT.

13 THE COURT: OKAY. WELL, THAT'S WHAT I WANTED TO
14 KNOW. YOU DON'T PLAN ON CALLING HIM AGAIN IN REBUTTAL, DO
15 YOU?

16 MR. ARIAIL: NO.

17 THE COURT: OKAY.

18 MR. ARIAIL: ALL I WOULD DO WOULD BE TO TAKE A
19 LOOK AT IT AND REQUEST CERTAIN COPIES AND GO FROM THERE.

20 THE COURT: OKAY. THAT'S FINE.

21 MR. MACDOUGALL: YOUR HONOR, COULD DR. HALLECK BE
22 EXCUSED?

23 THE COURT: AFTER THE SOLICITOR LOOKS AT WHATEVER
24 HE'S GOING TO LOOK AT.

25 MR. ARIAIL: AND DR. FRIERSON MAY BE EXCUSED.

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1 THE COURT: DR. FRIERSON, HAVE A SAFE TRIP BACK TO
2 COLUMBIA. THANK YOU VERY MUCH FOR BEING HERE.

3 ALL RIGHT. MR. NETTLES, LET ME LET THE SOLICITOR LOOK
4 AT THIS BEFORE WE START ORAL ARGUMENTS, OKAY?

5 WE'LL TAKE ABOUT A FIVE-MINUTE BREAK.

6 (WHEREUPON COURT STOOD AT RECESS FOR A BREAK)

7 THE COURT: I GUESS WE'RE READY FOR ORAL
8 ARGUMENTS; IS THAT CORRECT?

9 MR. NETTLES: YES, SIR.

10 THE COURT: ALL RIGHT. LET ME JUST ASK YOU A
11 QUESTION. FROM LISTENING TO THE TESTIMONY TODAY, APPARENTLY
12 YOUR POSITION IS BECAUSE OF DR. CRAWFORD'S INTERVIEWING
13 TECHNIQUE IN TAKING THE EVIDENCE MOST FAVORABLE TO YOU -- I
14 KNOW I GOT TO TAKE IT IN THE MOST FAVORABLE TO THE NON --
15 ANYHOW, BECAUSE OF HER INTERVIEW TECHNIQUES, THAT THE UNDUE
16 INFLUENCE EXERTED UPON THAT INTERVIEW AROSE TO MAKING THE
17 CONFESSIONS INVOLUNTARY. NOW, ANYTHING YOU WANT TO ADD TO
18 THAT, I'LL BE GLAD TO HEAR YOU. OKAY?

19 MY QUESTION TO YOU REALLY IS DO YOU HAVE A CASE THAT
20 STANDS FOR THAT PROPOSITION ANYWHERE IN THE UNITED STATES?

21 MS. COYLE: I'M NOT SURE YOU'RE STATING CORRECTLY
22 WHAT OUR POINT IS.

23 THE COURT: WELL, TELL ME WHAT YOU'RE TRYING TO
24 SAY.

25 MS. COYLE: I THINK THE POINT IS THERE'S TWO

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1 ISSUES THAT WE'RE DEALING WITH.

2 THE COURT: OKAY.

3 MS. COYLE: THE FIRST ISSUE IS ESTELLE v. SMITH.

4 THE COURT: WHAT?

5 MS. COYLE: ESTELLE v. SMITH. AND WE BELIEVE THE
6 QUESTION THERE IS WHETHER THE STATE CAN ENGAGE A
7 PSYCHIATRIST TO EXAMINE THE DEFENDANT BEFORE HE HAS A LAWYER
8 FOR ALMOST FOUR HOURS WITHOUT TELLING HIM HOW HIS TESTIMONY
9 WILL BE USED. AND IF YOU LOOK AT DR. CRAWFORD'S -- WHAT DR.
10 CRAWFORD TELLS THE DEFENDANT, SHE TELLS HIM THAT THE
11 TESTIMONY CAN BE USED IN COURT, THE TESTIMONY MIGHT BE USED
12 AT SENTENCING. BUT SHE ALSO TELLS HIM THAT SHE'S A DOCTOR,
13 SHE'S A PSYCHIATRIST AND SHE'S THERE TO UNDERSTAND WHAT WAS
14 GOING THROUGH HIS HEAD AND TO MAKE A RECOMMENDATION ABOUT
15 WHETHER OR NOT HE NEEDS TO HAVE FURTHER COUNSELING.

16 AND IN ESTELLE -- I THINK THE COURT WAS VERY CLEAR IN
17 ESTELLE AND THE CASES THAT WE CITED IN OUR BRIEF THAT IF THE
18 ISSUE IS A PSYCHIATRIST AND A PSYCHIATRIC EXAMINATION --
19 WHICH THIS CLEARLY WAS. DR. CRAWFORD ADMITS THAT SHE WENT
20 IN THERE TO DO A PSYCHOLOGICAL EXAMINATION. THEN A
21 DIFFERENT SET OF MIRANDA WARNINGS IS REQUIRED. IT'S NOT
22 YOUR BASIC STATEMENT OF MIRANDA. THE DEFENDANT HAS TO BE
23 AWARE AND MADE AWARE THAT THE EVIDENCE BEING OBTAINED MAY BE
24 USED AGAINST HIM IN OBTAINING THE DEATH PENALTY.

25 DR. CRAWFORD DID NOT EVEN TELL HIM THAT SHE WAS GOING

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1 TO USE THE EVIDENCE AGAINST HIM, FIRST OF ALL. AND SHE
2 CERTAINLY DIDN'T TELL HIM THAT SHE WAS GOING TO USE THE
3 EVIDENCE TO OBTAIN THE DEATH PENALTY.

4 AND SO THE CASE THAT SUPPORTS THAT PROPOSITION -- THERE
5 ARE SEVERAL CASES THAT SUPPORT THAT PROPOSITION. AND IF THE
6 COURT WILL BEAR WITH ME, I HAVE COPIES OF THE CASES FOR YOU
7 AND I CAN POINT YOU TO WHAT IT IS SPECIFICALLY THAT I'M
8 TALKING ABOUT.

9 (WHEREUPON DOCUMENTS WERE HANDED UP TO THE COURT)

10 MS. COYLE: IN ESTELLE, WHICH IS BEHIND TAB 1,
11 THIS WAS A COURT-ORDERED COMPETENCY EVALUATION. AND THE
12 COURT HELD THAT THE TESTIMONY WAS NOT ADMISSIBLE ON ANY
13 OTHER THE ISSUE BUT COMPETENCY. AND THE REASON WHY IS
14 DESCRIBED ON PAGE 6. AND I'M REFERRING TO THE TOP PAGES
15 THERE, NOT NECESSARILY THE PAGES IN THE CASE.

16 THE COURT: OKAY.

17 MS. COYLE: WHAT THE COURT STATED THE ISSUE AS
18 WHETHER THE ADMISSION OF DR. GRIGSON'S TESTIMONY AT THE
19 PENALTY PHASE VIOLATED RESPONDENT'S FIFTH AMENDMENT
20 PRIVILEGE AGAINST COMPELLED SELF-INCRIMINATION BECAUSE
21 RESPONDENT WAS NOT ADVISED BEFORE THE PRETRIAL PSYCHIATRIC
22 EXAMINATION THAT HE HAD A RIGHT TO REMAIN SILENT AND THAT
23 ANY STATEMENT HE MADE COULD BE USED AGAINST HIM AT A
24 SENTENCING PROCEEDING.

25 AND THEN WHAT THE COURT HELD IS ON PAGE 9. IN THE TOP

1 PART THE COURT SAYS, "TO MEET ITS BURDEN, THE STATE USED
2 RESPONDENT'S OWN STATEMENTS, UNWITTINGLY MADE WITHOUT AN
3 AWARENESS THAT HE ASSISTING THE STATE'S EFFORTS TO OBTAIN
4 THE DEATH PENALTY. IN THESE DISTINCT CIRCUMSTANCES, THE
5 COURT OF APPEALS CORRECTLY CONCLUDED THAT THE FIFTH
6 AMENDMENT PRIVILEGE WAS IMPLICATED."

7 THEN ON THE RIGHT SIDE, THE COURT SAYS, "YET, HE WAS
8 GIVEN NO INDICATION THAT THE COMPULSORY EXAMINATION WOULD BE
9 USED TO GATHER EVIDENCE NECESSARY TO DECIDE WHETHER, IF
10 CONVICTED, HE SHOULD BE SENTENCED TO DEATH. HE WAS NOT
11 INFORMED THAT, ACCORDINGLY, HE HAD A CONSTITUTIONAL RIGHT
12 NOT TO ANSWER THE QUESTIONS PUT TO HIM."

13 COURTS FOLLOWING ESTELLE, AND PARTICULARLY THE FIFTH
14 CIRCUIT, ARE WILLING TO STEP BACK AND SAY, LIKEWISE, DR.
15 CRAWFORD DID NOT TELL MR. WILLIAMS THAT THE INFORMATION WAS
16 GOING TO BE USED AGAINST HIM IN SENTENCING. SHE SAID IT
17 MIGHT COME UP. IT MIGHT COME UP IN COURT OR IT MIGHT COME
18 UP IN SENTENCING OR ANYTHING LIKE THAT. SHE NEVER SAID IT
19 WOULD BE USED AGAINST HIM. AND THEREFORE, SHE DIDN'T EVEN
20 SATISFY MIRANDA.

21 IF YOU LOOK AT WHAT MIRANDA SAYS, THE MIRANDA COURT
22 SAID, "THE WARNING OF THE RIGHT TO REMAIN SILENT MUST BE
23 ACCOMPANIED BY THE EXPLANATION THAT ANYTHING SAID CAN AND
24 WILL BE USED AGAINST THE INDIVIDUAL IN COURT." THIS WARNING
25 IS NEEDED IN ORDER TO MAKE SURE TO MAKE HIM AWARE, NOT ONLY

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1 OF THE PRIVILEGE, BUT ALSO OF THE CONSEQUENCES OF FOREGOING
2 IT. IT IS ONLY THROUGH AN AWARENESS OF THESE CONSEQUENCES
3 THAT THERE CAN BE ANY ASSURANCE OF A REAL UNDERSTANDING AND
4 INTELLIGENT EXERCISE OF THE PRIVILEGE.

5 MOREOVER, THIS WARNING MAY SERVE TO MAKE THE INDIVIDUAL
6 MORE ACUTELY AWARE THAT HE IS FACED WITH THE PHASE OF THE
7 ADVERSARY SYSTEM, THAT HE IS NOT IN THE PRESENCE OF A PERSON
8 ACTING SOLELY IN HIS INTEREST. NOT LETTING CHRIS WILLIAMS
9 KNOW THAT THE INFORMATION BEING OBTAINED FROM HIM WAS GOING
10 TO BE USED AGAINST HIM IN THIS PARTICULAR SITUATION,
11 ESPECIALLY AFTER TELLING MR. WILLIAMS THAT SHE WAS A DOCTOR
12 AND SHE WAS GOING TO GET HIM HELP IF HE ---

13 THE COURT: WHAT DO YOU THINK SHE SHOULD HAVE TOLD
14 HIM?

15 MS. COYLE: I THINK THAT SHE IS REQUIRED TO SAY
16 THAT ANY INFORMATION THAT WAS -- THAT HE PROVIDES MAY BE
17 USED AGAINST HIM IN SENTENCING IN ORDER TO OBTAIN THE DEATH
18 PENALTY.

19 THE COURT: WELL, AT THAT POINT IN TIME, I DON'T
20 THINK THE DECISION HAD BEEN MADE. AND IT RESTS STRICTLY ON
21 THE PROSECUTOR'S DECISION WHETHER HE'S GOING TO SERVE THE
22 DEATH PENALTY NOTICE OR NOT. SO HOW DOES SHE KNOW THAT THE
23 DEATH PENALTY IS EVEN AN ISSUE?

24 MS. COYLE: I BELIEVE DR. CRAWFORD SAID THAT SHE
25 WAS AWARE THAT THIS WAS A DEATH PENALTY ELIGIBLE CASE.

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1 THE COURT: BUT THERE AGAIN, IT STILL DOESN'T MEAN
2 THAT THE SOLICITOR IS GOING TO SERVE THE NOTICE.

3 MS. COYLE: WELL, ONE OF THE PROBLEMS -- THE
4 PROBLEM ---

5 THE COURT: THAT'S HOW IT'S ADMINISTERED IN SOUTH
6 CAROLINA. WHETHER IT'S RIGHT OR WRONG, THAT'S THE WAY IT'S
7 ADMINISTERED. IT'S STRICTLY ON THE SOLICITOR'S SHOULDERS.

8 MS. COYLE: RIGHT. I UNDERSTAND THAT AND I AGREE
9 WITH THAT. THE PROBLEM THAT WE HAVE HERE IS THE ORDER IN
10 WHICH THINGS WERE DONE. THERE'S STATUTES IN THE STATE OF
11 SOUTH CAROLINA THAT PUT THE ORDER IN THE RIGHT WAY. YOU GO
12 TO THE JUDGE. YOU ASK FOR HEARING. AT THAT POINT, THERE'S
13 LAWYERS PRESENT AND EVERYTHING WORKS THE WAY IT'S SUPPOSED
14 TO. YOU KNOW WHAT THE SENTENCE IS GOING TO BE.

15 THE SOLICITOR DIDN'T DO IT THAT WAY. AND BECAUSE THE
16 SOLICITOR DIDN'T DO IT THAT WAY DOES NOT MEAN THAT YOU GET
17 ANY LESS RIGHTS THAN YOU WOULD BE AFFORDED IF THE RULES WERE
18 FOLLOWED. AND THIS IDEA OF, YOU KNOW, GETTING THE
19 PSYCHIATRIST IN, BRING A PSYCHIATRIST IN BECAUSE YOU KNOW
20 YOU CAN GET BETTER INFORMATION IF YOU CONVINCE THE DEFENDANT
21 THAT HE'S SPEAKING WITH A DOCTOR ---

22 THE COURT: LET ME MAKE SURE I UNDERSTAND. YOU'RE
23 SAYING ON THE TECHNICAL ASPECT THAT HE NEEDED TO -- DR.
24 CRAWFORD NEEDED TO TELL THE DEFENDANT THAT IT'S A
25 POSSIBILITY OF SENTENCE -- DEATH PENALTY CASE BEFORE SHE

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1 EXAMINED HIM? ON A TECHNICAL ASPECT, IT'S SORT OF AN
2 EXTENSION OF MIRANDA IS WHAT YOU'RE TELLING ME THESE CASES
3 STAND FOR; IS THAT CORRECT?

4 MS. COYLE: YES.

5 THE COURT: OKAY.

6 MS. COYLE: AND IF I COULD TURN THE COURT'S
7 ATTENTION TO GARDNER WHICH IS AT TAB 2.

8 THE COURT: OKAY.

9 MS. COYLE: IN THAT SITUATION, THE DEFENDANT THERE
10 CONSENTED TO THE PSYCHIATRIC EVALUATION. HE WAS WARNED THAT
11 THE STATEMENTS COULD BE USED AGAINST HIM OR FOR HIM IN
12 COURT. HE WAS TOLD HE WAS SPEAKING TO A MEDICAL DOCTOR AND
13 A PSYCHIATRIST, THAT NOTHING WAS CONFIDENTIAL, THAT THEY
14 WERE TRYING TO DETERMINE HIS COMPETENCY, SANITY AND
15 DANGEROUSNESS. AND THE DOCTOR EXPLAINED WHAT EACH ONE OF
16 THOSE MEANT. THIS DEFENDANT HAD MORE INFORMATION THAN DR.
17 CRAWFORD PROVIDED TO MR. WILLIAMS.

18 IF YOU LOOK AT PAGE 6 IN THE OPINION, THE FIFTH CIRCUIT
19 HERE IS CONSIDERING WHAT THE LOWER COURT FOUND. AND IT'S ON
20 THE RIGHT-HAND SIDE OF THE PAGE. AND THE COURT SAYS, "ON
21 THE STRENGTH OF THESE FACTUAL FINDINGS, THE COURT OF APPEALS
22 MADE TWO RULINGS ON THE MERITS OF GARDNER'S SMITH CLAIM. IN
23 THE FIRST," IT "HELD THAT DR. GRIFFITH'S WARNINGS TO GARDNER
24 THAT STATEMENTS HE COULD MAKE IN THE COURSE OF THE
25 EXAMINATION COULD BE USED AGAINST HIM AT SOME LATER DATE IN

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1 THE COURTROOM SUFFICIENTLY INFORMED GARDNER THAT HIS
2 STATEMENTS COULD BE USED AT THE PUNISHMENT STAGE OF HIS
3 CAPITAL MURDER TRIAL SINCE THAT WENT ON IN THE COURTROOM AND
4 THAT A WARNING THAT A STATEMENT MAY BE USED AGAINST A
5 DEFENDANT CONVEYS THAT THE STATEMENT COULD BE USED AT THE
6 PUNISHMENT STAGE OF A CAPITAL MURDER TRIAL."

7 "THE SECOND RULING," THE COURT GOES ON, SAYS THAT, "IN
8 COMBINATION WITH THOSE GIVEN BY DR. GRIFFITH, WERE CLEARLY
9 SUFFICIENT UNDER ESTELLE v. SMITH. AT THE 1995 EVIDENTIARY
10 HEARING, DR. GRIGSON TESTIFIED THAT IN 1980 HE HAD INFORMED
11 GARDNER THAT HE WAS BEING EXAMINED FOR DANGEROUSNESS WHICH,
12 GRIGSON EXPLAINED TO GARDNER, MEANT WHETHER OR NOT HE
13 REPRESENTED A CONTINUING THREAT TO SOCIETY. THE COURT OF
14 APPEALS CONCLUDED THAT, IN CONJUNCTION WITH DR. GRIFFITH'S
15 STATEMENT, THIS MORE THAN COMPLIES WITH ESTELLE v. SMITH."

16 NOW, THE FIFTH CIRCUIT, CONSIDERING THAT HOLDING AND
17 RELYING ON ESTELLE v. SMITH, AND CONTINUING ON PAGE 6, THE
18 COURT -- I'M SORRY. ON PAGE 10 ---

19 THE COURT: PAGE 10?

20 MS. COYLE: PAGE 10, YES. THE COURT CONCLUDES
21 THAT, "AS ESTELLE v. SMITH TEACHES, THE FIFTH AMENDMENT
22 REQUIRES THAT THE DEFENDANT IN A CAPITAL TRIAL WHO IS
23 SUBJECTED TO A COURT-ORDERED PSYCHIATRIC EXAMINATION BE
24 INFORMED THAT HE IS FREE TO REFUSE TO PARTICIPATE IN THE
25 EXAMINATION BECAUSE ITS RESULTS CAN BE USED AGAINST HIM,"

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1 AND THIS IS ITALICIZED, "AT THE SENTENCING PHASE OF THE
2 TRIAL TO SECURE THE DEATH PENALTY." THE FIFTH CIRCUIT
3 CLEARLY UNDERSTOOD ESTELLE TO BE SAYING THAT THE DEFENDANT
4 HAS TO UNDERSTAND THE CONSEQUENCES OF WAIVING HIS RIGHTS.
5 MIRANDA REQUIRES THAT YOU UNDERSTAND THE CONSEQUENCES OF
6 WAIVING YOUR RIGHTS. AND ESTELLE TAKES IT ONE STEP FURTHER
7 IN A DEATH PENALTY CASE BECAUSE THE CONSEQUENCES ARE SO
8 LARGE.

9 DR. CRAWFORD'S WARNINGS, AS I SAID, WERE LESS THAN
10 THIS. AND IN FACT, IF YOU LOOK AT ANOTHER CONSIDERATION
11 THAT THE COURT HAD IN GARDNER WAS THAT THE PSYCHIATRIST
12 THERE SAID THE WARNINGS -- THAT THE STATEMENTS YOU ARE
13 MAKING COULD BE USED AGAINST YOU OR FOR YOU IN SENTENCING.
14 NOW, WHILE DR. CRAWFORD DIDN'T COME OUT AND TELL THE
15 DEFENDANT THAT THE STATEMENTS COULD BE USED FOR HIM, SHE
16 NEVER SAID THEY WERE GOING TO BE USED AGAINST HIM. AND SHE
17 SAID, I NEED TO TAKE THIS INFORMATION. AND IF YOU TALK TO
18 ME AND I DECIDE THAT YOU NEED HELP, I'M GOING TO GET YOU
19 HELP. THAT'S CERTAINLY USING HIS STATEMENTS FOR HIM. AND
20 THE COURT FOUND THERE IN GARDNER THAT THAT VITIATES ANY
21 CONSENT HE MIGHT GIVE WHEN YOU START SAYING YOU'RE GOING TO
22 USE THE INFORMATION TO HELP HIM.

23 AND THE SAME, IF YOU LOOK AT TAB 6, THE SUPREME COURT
24 IN PENNSYLVANIA IN SINGLETON, COMMONWEALTH v. SINGLETON,
25 ADDRESSED THE VERY SAME ISSUE OF A WARNING THAT SAYS THE

1 INFORMATION MIGHT BE USED FOR OR AGAINST YOU. AND AT THE
2 BOTTOM OF PAGE 2 THE COURT STATES, "WE FEEL THAT A WARNING
3 WHICH INCLUDES THE WORD 'FOR' IS OUTSIDE THE PARAMETERS OF
4 PERMISSIBLE VARIATION." THAT IS FROM MIRANDA. "NONE OF THE
5 ALTERNATIVE FORMULATIONS CONTAINED IN THE OPINION OF THE
6 COURT OR IN THE CITED SOURCES CONTAINS THE WORD 'FOR,' THE
7 INCLUSION OF WHICH ACTS AS A SUBTLE INDUCEMENT TO SPEAK,
8 HELPS NEUTRALIZE THE SUSPECT'S AWARENESS OF THE HOSTILE
9 ENVIRONMENT AND VITIATES THE INTENDED IMPACT OF THE
10 WARNING."

11 DOWN BELOW AT THE VERY END THE COURT SAYS, "SINCE THE
12 DEVIATION HERE INVOLVED IS HARDLY LIKELY TO GIVE SUSPECTS A
13 HEIGHTENED UNDERSTANDING OF THEIR CONSTITUTIONAL RIGHTS, AND
14 IS IN FACT LIKELY TO UNDERCUT THE EFFECT OF THE WARNING BY
15 OFFERING AN INDUCEMENT TO SPEAK, WE FIND IT IMPERMISSIBLE."

16 THE COURT: YOU GOT THE THIRD CIRCUIT, RIGHT?

17 MS. COYLE: I'M SORRY?

18 THE COURT: I BELIEVE YOU'VE GOT A CASE FROM THE
19 THIRD CIRCUIT. HAS THAT ISSUE GONE UP ON THE FOURTH
20 CIRCUIT?

21 MS. COYLE: I'M SORRY?

22 THE COURT: HAS THIS ISSUE GONE TO THE FOURTH
23 CIRCUIT IN RICHLAND?

24 MS. COYLE: NOT THIS PARTICULAR ISSUE, NO.

25 THE COURT: OKAY. TELL ME ABOUT WOOMER AND NUMBER

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1 -- I BELIEVE IT'S UNDER TAB 7. STATE v. RONALD RAYMOND
2 WOOMER.

3 MS. COYLE: THESE ARE THE STATE'S CASES. AND I
4 THINK THAT THERE ARE THREE WAYS IN WHICH THE PSYCHIATRIC
5 EVIDENCE MIGHT BECOME ADMISSIBLE. ONE IS IF THERE WAS A
6 VOLUNTARY WAIVER, WHICH WE CONTEND THERE WAS NOT BECAUSE YOU
7 CAN'T HAVE A VOLUNTARY WAIVER UNDER ESTELLE WITHOUT KNOWING
8 WHAT IT IS YOU'RE WAIVING.

9 THE SECOND IS IF THE DEFENSE PUTS THEIR OWN PSYCHIATRIC
10 STATE OF MIND IN ISSUE. AND THE THIRD IS BASICALLY IF YOU
11 OPEN THE DOOR IN YOUR TESTIMONY TO ALLOW A REBUTTAL BY THE
12 STATE'S PSYCHIATRIST.

13 IN WOOMER, THE SITUATION THERE WAS QUITE DIFFERENT FROM
14 THE SITUATION HERE. AND IN FACT, ALL WOOMER DOES IS
15 REAFFIRM WHAT ESTELLE SAYS IN THAT IF IT IS AN ISSUE WHERE
16 THE DEFENSE ASKS FOR THE EXAMINATION, THEN YOU'VE WAIVED
17 YOUR RIGHTS UNDER THE FIFTH AMENDMENT. THERE IS NO FIFTH
18 AMENDMENT. THAT'S ALL WOOMER SAYS AND THAT'S ALL THAT THE
19 OTHER CASES CITED BY THE STATE IN STATE v. REGISTER SAYS.
20 AND IF YOU'LL JUST GIVE ME ONE SECOND TO FIND MY NOTES ON
21 THAT, I WOULD LIKE TO ---

22 THE COURT: WHICH ONE ARE YOU TALKING ABOUT NOW?

23 MS. COYLE: I JUST WANT TO FIND MY NOTES ON
24 WOOMER.

25 THE COURT: OKAY.

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ORAL ARGUMENT BY MS. COYLE

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1 MS. COYLE: IN WOOMER, DEFENDANT'S ATTORNEY
2 REQUESTED COMPETENCY AND SANITY EVALUATIONS. THE ATTORNEY
3 REQUESTED IT AND ADVISED HIS CLIENT NOT TO ANSWER QUESTIONS
4 REGARDING THE CRIME AT ISSUE. DURING THE INTERVIEW WITH THE
5 PSYCHIATRIST, THE DEFENDANT INVOKED HIS FIFTH AMENDMENT
6 RIGHTS SEVERAL TIMES REFUSING TO ANSWER QUESTIONS ABOUT THE
7 CRIME. HE WAS REPEATEDLY ADVISED OF HIS RIGHTS. AND ALL
8 QUESTIONS THAT WERE ANSWERED WENT DIRECTLY TO SANITY AND
9 COMPETENCY, WHICH IS THE VERY ISSUES HE ASKED TO BE EXAMINED
10 ON. AND THEREFORE, THE COURT HELD THERE WAS A WAIVER AND
11 THAT THE STATE'S PSYCHIATRIST COULD USE ANY FACTS LEARNED
12 DURING THE SANITY AND COMPETENCY ANALYSIS TO SUPPORT AN
13 OPINION OF FUTURE DANGEROUSNESS. IT DID NOT SAY THAT YOU
14 CAN GO AHEAD AND CONDUCT AN EVALUATION ON FUTURE
15 DANGEROUSNESS. BUT WHAT IT DID SAY IS IF YOU'VE LEARNED IT
16 UNDER SANITY AND COMPETENCY, WHAT THEY WAIVED, YOU CAN USE
17 IT FOR WHATEVER IT'S GOOD FOR.

18 SO THAT CASE IS JUST COMPLETELY INAPPOSITE HERE. THE
19 FACTS ARE SO DIFFERENT, PARTICULARLY BECAUSE THERE WAS AN
20 ATTORNEY ASKING FOR A COMPETENCY AND SANITY HEARING AND MR.
21 WILLIAMS DID NOT HAVE THE OPPORTUNITY TO HAVE AN ATTORNEY
22 PRESENT.

23 IN STATE v. SAVINO, WHICH IS THE OTHER CASE THE STATE
24 CITES, THE DEFENDANT WAIVED HIS RIGHTS TO THE FIFTH
25 AMENDMENT BECAUSE HE RAISED A MENTAL STATUS DEFENSE. THE

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1 STATE THEN USED STATEMENTS FROM THE MENTAL EVALUATION THEY
2 DID AS REBUTTAL. HERE MR. WILLIAMS HAS NOT PUT HIS MENTAL
3 STATE AT ISSUE. HE'S NOT RAISED IT AS A DEFENSE.
4 THEREFORE, THESE TWO CASES ARE IRRELEVANT.

5 THE CASES THAT ARE RELEVANT ARE THE LINE OF CASES WE
6 CITED FOLLOWING ESTELLE AND STATING WHAT WARNING NEEDS TO BE
7 PRESENT IN ORDER FOR THE STATE TO INTRODUCE PSYCHIATRIC
8 TESTIMONY CLAIMING THAT THERE WAS A WAIVER.

9 THE COURT: OKAY.

10 MS. COYLE: YOUR HONOR, IF I CAN -- IF YOU WOULD
11 JUST GIVE ME ONE MORE SECOND, I JUST WANTED TO POINT OUT A
12 COUPLE MORE OF THE CASES THAT WE CITE AND REFER YOU TO
13 SPECIFIC PASSAGES THAT I THINK SUPPORT OUT POINT.

14 IF YOU LOOK AT TAB 3 WHICH IS VANDERBILT v. LYNAUGH,
15 THE DEFENDANT THERE REQUESTED THE EXAMINATION AND RECEIVED
16 MIRANDA WARNINGS, BUT THE COURT STILL EXCLUDED THE TESTIMONY
17 OF THE PSYCHIATRIST. AND THE REASON WHY IS REFERRING TO
18 ESTELLE ON PAGE 4. THE COURT STATES THAT, "THE PERCEPTION
19 BEHIND THIS HOLDING IS THAT THERE CAN BE NO KNOWING AND
20 INTELLIGENT WAIVER OF THE RIGHT NOT TO INCRIMINATE ONESELF,
21 WHEN WAIVER OCCURS WITHOUT NOTICE THAT ONE'S STATEMENTS MAY
22 DIRECTLY LEAD TO A SENTENCE OF DEATH. THUS, A DEFENDANT'S
23 REQUEST FOR A PRETRIAL EXAMINATION ON COMPETENCE AND SANITY
24 DOES NOT, BY ITSELF, WAIVE HIS FIFTH AMENDMENT PRIVILEGE
25 AGAINST INCRIMINATING HIMSELF AT THE PENALTY PHASE OF HIS

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1 TRIAL."

2 HERE, OUR DEFENDANT DID NOT ASK FOR A PSYCHIATRIC
3 EVALUATION, BUT HE WAS GIVEN A PSYCHIATRIC EVALUATION. BUT
4 HE CERTAINLY HAD NO NOTICE THAT THE STATEMENTS THAT HE WAS
5 MAKING MIGHT ---

6 THE COURT: IN ALL THESE CASES, IN ALL THESE CASES
7 THAT WAS GIVEN TO THE COURT TODAY, WHAT WAS THE STAGE OF THE
8 DEATH PENALTY NOTICE? HAD IT BEEN GIVEN TO THE DEFENDANTS?
9 HAD IT BEEN SERVED ON THE DEFENDANTS?

10 MS. COYLE: THAT'S NOT MADE CLEAR BY THE CASES,
11 YOUR HONOR.

12 THE COURT: SO YOU DON'T KNOW?

13 MS. COYLE: NO.

14 THE COURT: OKAY.

15 MS. COYLE: BUT IT IS ALWAYS THE CASE THAT THE
16 DEFENDANT EITHER CONSENT -- THE DEFENDANT'S LAWYER EITHER
17 ASKED THE COURT FOR THE PSYCHIATRIC EVALUATION OR THE STATE
18 WENT TO COURT AND ASKED FOR THE PSYCHIATRIC EVALUATION.

19 THE COURT: ASKED FOR IT? OKAY.

20 MS. COYLE: BUT IT IS NOT CLEAR WHAT STAGE OF THE
21 PROCEEDINGS ---

22 THE COURT: HAD TRANSPIRED AT THE TIME OF THE
23 EVALUATION?

24 MS. COYLE: OR WHETHER THE DEATH SENTENCE WAS ON
25 THE TABLE ALREADY, THAT IS NOT CLEAR.

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1 THE COURT: YOU SAID THERE WERE TWO PRONGS OF
2 ATTACK. YOU'VE COVERED ONE, THE TECHNICAL ASPECT OF NOT
3 TELLING HIM ABOUT THE DEATH PENALTY. WHAT'S YOUR SECOND
4 ONE?

5 MS. COYLE: THAT'S THE FIFTH AMENDMENT. I WOULD
6 JUST POINT OUT THAT ---

7 THE COURT: ALL RIGHT. THAT'S THE FIFTH
8 AMENDMENT. WHAT'S YOUR SECOND?

9 MS. COYLE: OUR SECOND ONE IS THE SIXTH AMENDMENT.
10 AND WHILE -- AND ONE OF THE THINGS THAT WE DID WANT TO POINT
11 OUT IS THAT THE TIMING OF THIS HAS BEEN CONTROLLED BY THE
12 STATE. BASICALLY, WE BELIEVE IT WAS IN AN EFFORT TO
13 CIRCUMVENT THE RIGHT TO COUNSEL. THE PSYCHIATRISTS THAT
14 HAVE TESTIFIED TODAY HAVE SAID THAT IN THE PRACTICE OF
15 EXAMINING DEFENDANTS FOR THE COURT, LAWYERS MUST BE NOTIFIED
16 AND THEY MUST BE PRESENT. THERE WERE NO LAWYERS APPOINTED
17 HERE YET BECAUSE IT WAS SO EARLY ON IN THE GAME. AND THE
18 FACT THAT THE STATE WANTED A PSYCHIATRIC EVALUATION AS
19 OPPOSED TO JUST A POLICE INVESTIGATION IS EVIDENT BECAUSE
20 THEY DRAGGED DR. CRAWFORD TWO HOURS AWAY AFTER THE POLICE
21 HAD ALREADY GOTTEN A CONFESSION. SO THERE IS SOME
22 SIGNIFICANCE, AND EVERYBODY HAS TO SEE THAT THERE IS SOME
23 SIGNIFICANCE TO A PSYCHIATRIST'S EVALUATION. AND THAT'S WHY
24 A PSYCHIATRIST WHO IS FOLLOWING THE RULES IS SUPPOSED TO
25 HAVE AN ATTORNEY PRESENT TO ADVISE THE CLIENT ON WHAT THEY

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1 SHOULD ANSWER, WHAT THEY SHOULDN'T ANSWER AND WHAT THE SCOPE
2 OF THE EVALUATION WILL BE.

3 THE COURT: WELL, LET ME ASK YOU THIS. DO YOU
4 HAVE ANY CASES THAT -- LET ME FIND -- WHERE'S THAT DOCUMENT
5 ON -- THE ONE ON THE ETHICS. THE ETHICS DOCUMENT. ARE
6 THERE ANY CASES THAT INTERPRET THE LANGUAGE THAT'S BEEN
7 QUOTED IN THE COURTROOM TODAY FROM DEFENSE EXHIBIT NUMBER 1,
8 THE AMERICAN ACADEMY OF PSYCHIATRY AND THE LAW ETHICAL
9 GUIDELINES FOR THE PRACTICE OF FORENSIC PSYCHIATRY. NUMBER
10 TWO, CONSENT, WHERE IT SAYS, "CRIMINAL ACTS. ETHICAL
11 CONSIDERATIONS PRECLUDE FORENSIC EVALUATION PRIOR TO ACCESS
12 TO OR AVAILABILITY OF LEGAL COUNSEL." IS THERE ANY LEGAL
13 DETERMINATION OF WHAT "PRIOR TO, ACCESS TO, AVAILABILITY OF
14 LEGAL COUNSEL" MEANS LEGALLY?

15 MS. COYLE: I'M NOT AWARE OF ANY, YOUR HONOR. BUT
16 THAT IS NOT TO SAY THAT WE HAVE LOOKED AND HAVEN'T FOUND IT.
17 BUT I'LL BE HAPPY TO DO THAT.

18 THE COURT: WELL, I MEAN, YOU KNOW, AVAILABILITY
19 CAN BE -- THERE'S A LOT OF INTERPRETATIONS THERE. I THINK
20 YOUR DOCTOR SAID "AND," BUT THE RULE DOESN'T SAY AND. IT
21 SAYS "OR." HE KEPT SAYING, "ACCESS TO AND AVAILABILITY." I
22 DON'T THINK THAT'S WHAT THE ---

23 MS. COYLE: I AM NOT AWARE OF ANY COURT OPINIONS
24 BECAUSE I HAVEN'T LOOKED FOR THEM. AND WE CAN DO THAT
25 RELATIVELY QUICKLY. BUT WHAT I AM AWARE OF IS ONE OF THE

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1 DOCTORS TESTIFIED THAT THERE WAS A MANUAL PREPARED FOR HOW
2 TO DO A FORENSIC EXAMINATION OF A DEFENDANT IN A CRIMINAL
3 CASE WHICH SPECIFICALLY STATES THAT THE ATTORNEY MUST BE
4 PRESENT.

5 THE COURT: WELL, THAT MAY BE AN ETHICAL VIOLATION
6 TO A PSYCHIATRIST, BUT WHY SHOULD THAT AFFECT THE
7 ADMISSIBILITY OF A STATEMENT OR STATEMENTS?

8 MS. COYLE: WELL, WHEN ---

9 THE COURT: JUST BECAUSE SHE VIOLATED -- LET'S
10 ASSUME FOR THE PURPOSE OF ARGUMENT THAT SHE VIOLATED THE
11 ETHICAL STANDARDS THAT HAVE BEEN PRESENTED TO THE COURT.
12 WHAT DOES THAT HAVE TO DO WITH ADMISSIBILITY OF THE
13 STATEMENTS?

14 MS. COYLE: THAT GETS TO MY NEXT ARGUMENT WHICH IS
15 RULE 403. LET ME JUST STEP BACK ON THE SIXTH AMENDMENT.

16 THE COURT: OKAY. GO BACK TO THE SIXTH.

17 MS. COYLE: BACK TO THE SIXTH AMENDMENT. THE
18 COURT IN ESTELLE CONSIDERED THE ISSUE OF WHETHER THE SIXTH
19 AMENDMENT WAS VIOLATED IF THE DEFENDANT WAS NOT GIVEN A
20 PRIOR OPPORTUNITY TO CONSULT COUNSEL ABOUT WHETHER TO
21 PARTICIPATE IN A PSYCHIATRIC EXAMINATION. AND THE COURT
22 HELD THAT IT WAS VIOLATED. AND THE REASONING OF THE COURT I
23 THINK IS PARTICULARLY PERSUASIVE.

24 THE COURT: ALL RIGHT. WHAT CASE IS THAT?

25 MS. COYLE: IN ESTELLE. IT'S TAB 1.

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1 THE COURT: OH, ESTELLE. OKAY. GO AHEAD.

2 MS. COYLE: AND IF YOU LOOK AT PAGE 11, THE COURT
3 EXPLAINS WHY THE NEED FOR COUNSEL IS EXTREMELY SIGNIFICANT
4 IN A DEATH PENALTY CASE. THE COURT SAYS THAT, "BECAUSE ..."

5 THE COURT: WHERE ARE YOU READING FROM?

6 MS. COYLE: PAGE 11, THE LEFT-HAND SIDE.

7 THE COURT: OKAY.

8 MS. COYLE: "BECAUSE A LAYMAN MAY NOT BE AWARE OF
9 THE PRECISE SCOPE, THE NUANCES, AND THE BOUNDARIES OF HIS
10 FIFTH AMENDMENT PRIVILEGE, THE ASSERTION OF THAT RIGHT OFTEN
11 DEPENDS UPON LEGAL ADVICE FROM SOMEONE WHO IS TRAINED AND
12 SKILLED IN THE SUBJECT MATTER," CITING MANESS v. MEYERS.
13 "AS THE COURT OF APPEALS OBSERVED, THE DECISION TO BE MADE
14 REGARDING THE PROPOSED PSYCHIATRIC EVALUATION IS LITERALLY A
15 LIFE OR DEATH MATTER AND DIFFICULT EVEN FOR AN ATTORNEY
16 BECAUSE IT REQUIRES A KNOWLEDGE OF WHAT OTHER EVIDENCE IS
17 AVAILABLE, OF THE PARTICULAR PSYCHIATRIST'S BIASES AND
18 PREDILECTIONS AND OF POSSIBLE ALTERNATIVE STRATEGIES AT THE
19 SENTENCING HEARING. IT FOLLOWS LOGICALLY FROM OUR
20 PRECEDENTS THAT A DEFENDANT SHOULD NOT BE FORCED TO RESOLVE
21 SUCH AN IMPORTANT ISSUE WITHOUT THE GUIDING HAND OF
22 COUNSEL."

23 THIS ALL OCCURRED BEFORE COUNSEL COULD BE APPOINTED FOR
24 MR. WILLIAMS. THE COURT, I THINK, IN ESTELLE IS SAYING THAT
25 IT'S SUCH AN IMPORTANT DECISION THAT BEFORE IT'S MADE THERE

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1 SHOULD BE A CONSULTATION WITH COUNSEL. COUNSEL SHOULD BE
2 ABLE TO ADVISE THE CLIENT WHETHER OR NOT THEY SHOULD EVEN
3 PROCEED TO AN EVALUATION. THAT'S NOT INCONSISTENT WITH WHAT
4 THE ETHICAL STANDARDS OF THE PSYCHIATRISTS' ASSOCIATIONS ARE
5 SAYING. EVERYBODY IS RECOGNIZING THE SAME THING. IT'S A
6 GRAVE DECISION TO BE MADE, AND IT'S A DECISION THAT NEEDS TO
7 BE MADE WITH COUNSEL.

8 AND SO FOR LEGAL SUPPORT I WOULD CITE ESTELLE. FOR
9 ETHICAL SUPPORT I WOULD CITE THE ETHICAL STANDARDS OF THE
10 PSYCHIATRIC ASSOCIATIONS.

11 BUT THERE'S ANOTHER -- THE OTHER BASIS FOR EXCLUSION OF
12 DR. CRAWFORD'S TESTIMONY WOULD BE RULE 403. UNDER RULE 403
13 THE COURT SHOULD CONSIDER THE VALUE OF THE EVIDENCE, THE
14 WEIGHT AGAINST THE PREJUDICIAL EFFECT, THE CONFUSION AND THE
15 WASTE OF TIME THAT MIGHT OCCUR IN TRYING TO GET THE EVIDENCE
16 IN.

17 AS I UNDERSTAND IT -- AND I HAVE TO SAY IT'S BEEN A BIT
18 CONFUSING. BUT DR. CRAWFORD IS NO LONGER ON THE TABLE AS AN
19 EXPERT WITNESS.

20 THE COURT: NO LONGER WHAT?

21 MS. COYLE: ON THE TABLE AS AN EXPERT WITNESS.
22 SHE'S NOT GOING TO OFFER OPINIONS.

23 THE COURT: RIGHT.

24 MS. COYLE: BUT WHAT THEY HAVE STATED, WHAT THE
25 STATE HAS STATED, IS THAT DR. CRAWFORD WILL OFFER TESTIMONY

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1 ABOUT HIS CHARACTER.

2 THE COURT: I'M SURE SHE'S GOING TO OFFER
3 TESTIMONY ABOUT THE STATEMENT HE MADE TO HER, I WOULD
4 ASSUME.

5 MS. COYLE: OKAY. WELL, IF SHE'S GOING TO OFFER
6 TESTIMONY ABOUT HIS CHARACTER, I -- AND TAKING IT TWO STEPS.
7 FIRST ABOUT CHARACTER. THAT'S AN OPINION. THAT'S A LAY
8 OPINION BASED ON A WOMAN WHO DOESN'T KNOW HIM. SHE TALKED
9 TO HIM FOR A COUPLE OF HOURS AS A PSYCHIATRIST. AND SO ---

10 THE COURT: WELL, I DON'T KNOW IF THEY'RE GOING TO
11 BE ABLE TO DO THAT OR NOT. WE HAVEN'T CROSSED THAT BRIDGE.
12 I MEAN, THAT'S GOING TO PROBABLY COME UP AT TRIAL. I DON'T
13 KNOW IF SHE'S GOING TO BE ABLE TO TESTIFY ABOUT HIS
14 CHARACTER OR NOT. I MEAN, THEY MAY TRY. BUT WHAT DOES THAT
15 HAVE TO DO WITH THE VOLUNTARINESS -- OR EXCUSE ME -- OR
16 WHETHER THE STATEMENT SHOULD BE ADMITTED OR NOT WHETHER SHE
17 KNOWS HIS CHARACTER OR DOESN'T KNOW HIS CHARACTER?

18 MS. COYLE: WELL, AS FAR AS HIS STATEMENT BEING
19 ADMITTED, HIS OWN STATEMENTS BEING ADMITTED, WE WOULD RELY
20 ON THE CONSTITUTION. AND AS FAR AS DR. CRAWFORD TESTIFYING,
21 WE'RE RELYING ON 403.

22 THE COURT: SO WHAT DOES HER TESTIFYING ABOUT THE
23 CHARACTER HAVE TO DO WITH THE PREJUDICIAL EFFECT IF IT'S
24 ADMISSIBLE? I DON'T KNOW IF HER TESTIMONY ABOUT CHARACTER
25 IS ADMISSIBLE.

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1 MS. COYLE: WELL, IT'S AN ISSUE OF WHETHER DR.
2 CRAWFORD SHOULD TESTIFY IN ANY CAPACITY WHETHER IT'S ON
3 CHARACTER, WHETHER IT'S HE SAID THIS.

4 THE COURT: WELL, I THINK SHE'S GOING TO BE
5 OFFERED AS AN AGENT OF SLED THAT TOOK A CONFESSION FROM THE
6 ACCUSED, I WOULD ASSUME.

7 IS THAT CORRECT, SOLICITOR?

8 MR. ARIAIL: I'M SORRY. SHE'S GOING TO BE OFFERED
9 AS A STATE AGENT.

10 THE COURT: AS A STATE AGENT THAT TOOK A STATEMENT
11 FROM THE DEFENDANT. TOOK TWO OR THREE STATEMENTS IS HOW
12 SHE'S GOING TO BE OFFERED.

13 MR. ARIAIL: THAT'S HOW SHE'LL BE OFFERED.

14 THE COURT: SO I DON'T UNDERSTAND WHAT CHARACTER
15 HAS TO DO WITH THAT ARGUMENT.

16 MS. COYLE: OKAY. MOVING ON, SHE --

17 THE COURT: I'M JUST A POOR OLD COUNTRY BOY FROM
18 ANDERSON. PLEASE HELP ME UNDERSTAND, OKAY?

19 MS. COYLE: I'M TRYING. WHAT I'M TRYING TO
20 UNDERSTAND IS HOW THEY'RE GOING TO USE HER. IF THEY'RE
21 GOING TO USE HER TO SAY SHE WAS A POLICE AGENT WHO WAS NOT
22 ACTING AS A PSYCHIATRIST, WHO IS NOT GIVING OPINIONS AS A
23 PSYCHIATRIST ---

24 THE COURT: WELL, THE POSTURE OF THE HEARING WHERE
25 IT IS, I DON'T SEE WHAT ELSE THEY COULD USE HER FOR.

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1 MS. COYLE: SO SHE'S GOING TO GO UP THERE AND SAY,
2 CHRIS WILLIAMS TOLD ME 'X' AND CHRIS WILLIAMS TOLD ME 'Y'?

3 THE COURT: I WOULD ASSUME.

4 MS. COYLE: OKAY.

5 THE COURT: MAYBE I'M WRONG. WE'LL HAVE TO WAIT
6 AND SEE.

7 MS. COYLE: IF THAT IS THE EXTENT OF HER
8 TESTIMONY, WE STILL HAVE AN OBJECTION TO TESTIMONY LIKE THAT
9 UNDER RULE 403 BECAUSE IF THE EVIDENCE WE HEARD HERE TODAY
10 DEMONSTRATES THE TESTIMONY THAT SHE ELICITED WAS NOT
11 RELIABLE BECAUSE OF THE MANNER IN WHICH SHE ELICITED IT.
12 SHE USED SUGGESTION. SHE LED HIM. SHE LED HIM TO BELIEVE
13 SHE WAS HELPING HIM WHEN SHE WASN'T HELPING HIM. SHE -- WE
14 FOUND OUT THAT A LOT OF THE INFORMATION HE ACTUALLY GAVE HER
15 WAS UNTRUE BECAUSE SHE DIDN'T FOLLOW IT UP PROPERLY.

16 ALL OF THOSE THINGS ARE THINGS THAT WOULD NEED TO BE
17 EXPLORED IN FRONT OF A JURY TO EVALUATE THE VALUE OF HER
18 TESTIMONY. AND TODAY IT TOOK US FIVE HOURS TO DO THAT. AND
19 SO IT WOULD TAKE FIVE HOURS IN FRONT OF A JURY TO DO THE
20 SAME THING. THAT EVIDENCE WOULD BE CUMULATIVE -- HIS
21 CONFESSION THERE IS CUMULATIVE OF A CONFESSION MADE TO
22 POLICE. WHAT IT ADDS AND THE ONLY WAY SHE CAN ADD TO THE
23 SITUATION IS BY PROVIDING SOME SPIN ON THAT TESTIMONY OR ON
24 THAT EVIDENCE OR PROVIDING SOME OPINION BASED ON THAT
25 EVIDENCE. SHE DOESN'T ADD ANYTHING TO THE EQUATION. SHE

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1 THREATENS TO CONFUSE THE ISSUES COMPLETELY AND WASTE A LOT
2 OF TIME OF THE COURT.

3 SO UNDER RULE 403, THOSE ARE THE REASONS WE WOULD SAY
4 THAT HER RENDITION OF WHAT CHRIS WILLIAMS SAID IS NOT
5 ADMISSIBLE. THAT'S OUR CONSTITUTIONAL ARGUMENT. THE
6 CONSTITUTIONAL ARGUMENT GOES DIRECTLY TO WHAT HE SAID.

7 THE COURT: I'M JUST NOT SURE I AM IMPRESSED WITH
8 YOUR PREJUDICIAL ARGUMENT. BUT GO AHEAD.

9 MS. COYLE: I'M SORRY?

10 THE COURT: I SAID I'M NOT IMPRESSED WITH YOUR
11 PREJUDICIAL ARGUMENT UNDER A 405 ANALYSIS, PROBATIVE VERSUS
12 PREJUDICIAL.

13 MS. COYLE: OKAY. I'M SORRY. I'M NOT HEARING
14 WHAT YOUR QUESTION IS.

15 THE COURT: THAT'S ALL RIGHT. GO AHEAD.

16 MS. COYLE: OKAY. THE OTHER POINT THAT WE DID NOT
17 ADDRESS IS THE FOURTH AMENDMENT. AND WE DON'T HAVE A LOT TO
18 ADD TO WHAT WAS SAID IN OUR BRIEF. BUT TODAY THERE WAS
19 TESTIMONY THAT DR. CRAWFORD'S MEDICAL BACKGROUND AND HER
20 TRAINING IN PSYCHIATRY WAS A POWERFUL TOOL TO GET INTO THE
21 WITNESS' MIND. AND I THINK DR. CRAWFORD AGREED WITH THAT
22 STATEMENT. THAT BEING THE CASE, THE STATE THEN HAS USED A
23 POWERFUL TOOL TO GET INTO THE WITNESS' MIND. AND UNDER THE
24 SOUTH CAROLINA CONSTITUTION AND THE RIGHT TO PRIVACY AND
25 UNDER THE FOURTH AMENDMENT, A DEFENDANT HAS A RIGHT TO

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1 CONTROL HIS OWN MIND AND TO CONTROL HIS OWN THOUGHTS AND TO
2 BE FREE FROM GOVERNMENT INTERFERENCE WITH THOSE. THIS RIGHT
3 TO PRIVACY AND TO FEDERAL DUE PROCESS IS VIOLATED BY HAVING
4 A PSYCHIATRIST PROBE WITHOUT A WARRANT AND WITHOUT COURT
5 SUPERVISION INTO THE DEFENDANT'S MIND TO EXTRACT INFORMATION
6 THAT THE STATE HAS DETERMINED COULD NOT BE EXTRACTED BY THE
7 POLICE. AND THEREFORE, THEY HAD TO CALL IN A DOCTOR TO DO
8 IT.

9 THE COURT: HADN'T HE BASICALLY GIVEN THE SAME
10 STATEMENT TO THE POLICE TWO HOURS BEFORE?

11 MS. COYLE: NO.

12 THE COURT: IS IT A DIFFERENT STATEMENT? I
13 HAVEN'T READ THE STATEMENTS YET. BUT IS IT A DIFFERENT
14 STATEMENT?

15 MS. COYLE: THE STATEMENT THAT HE GAVE TO DR.
16 CRAWFORD GOES INTO HIS SEX LIFE, HIS CHILDHOOD, WHETHER HE
17 ABUSES ANIMALS. IT COVERS SOUP TO NUTS. IT COVERS THE
18 GAMUT.

19 THE COURT: WELL, THAT DOESN'T NECESSARILY MAKE
20 ALL THAT RELEVANT ON A CONFESSION.

21 MS. COYLE: IT COVERS HIS REMORSE. THEY ASK HIM
22 QUESTIONS -- IT COVERS THINGS LIKE WHEN HE WENT -- MR.
23 WILLIAMS SPOKE TO THE POLICE AND THE POLICE CONFESSION. IT
24 STATES THAT HE WALKED IN THAT STORE NOT KNOWING WHETHER HE
25 WAS GOING TO SHOOT THE VICTIM. HE TOLD THE SAME THING TO

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ORAL ARGUMENT BY MS. COYLE

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1 DR. CRAWFORD UNTIL DR. CRAWFORD GOT THROUGH WITH HIM, WHICH
2 BY THAT TIME HE WAS SAYING IT WAS PREMEDITATED. I PLANNED
3 IT WEEKS IN ADVANCE.

4 SO NO, THEY'RE NOT IDENTICAL. DOES HE ADMIT HE KILLED
5 HER? YES. BUT ARE THEY IDENTICAL? NO. THERE'S
6 INFORMATION IN DR. CRAWFORD'S STATEMENT THAT DOES DIFFER
7 FROM THE POLICE BECAUSE THE POLICE, WHILE THEY HAD AN
8 OPPORTUNITY TO, DIDN'T HAVE THE SKILLS TO GET THAT
9 INFORMATION OUT OF MR. WILLIAMS.

10 THE COURT: OKAY.

11 MS. COYLE: AND SO IN CONCLUSION, UNDER THE FOURTH
12 AMENDMENT IT'S AN UNWARRANTED MEDICAL -- THIS IS AN
13 UNWARRANTED MEDICAL INTRUSION WITHOUT A WAIVER AND WITHOUT A
14 COURT ORDER BECAUSE THE SOLICITOR NEVER SOUGHT TO HAVE THE
15 COURT BLESS THE PROCESS BY WHICH MR. WILLIAMS WAS GOING TO
16 BE EXAMINED. AND THEREFORE, UNDER THE FOURTH, FIFTH AND
17 SIXTH AMENDMENTS TO THE CONSTITUTION AS WELL AS THE STATE
18 CONSTITUTION, THE INTERVIEW ITSELF, THE STATEMENTS FROM
19 CHRIS WILLIAMS HIMSELF NEED TO BE SUPPRESSED AND DR.
20 CRAWFORD'S OPINIONS BASED ON THAT INTERVIEW SHOULD ALSO BE
21 SUPPRESSED.

22 THE COURT: OKAY. THANK YOU VERY MUCH.

23 MR. MAULDIN: AND BEFORE THE SOLICITOR STANDS, YOU
24 HAD ASKED COLLEEN A COUPLE OF TIMES YOUR CONCERN ABOUT THE
25 NOTICE TO SEEK AND WHETHER OR NOT THE DECISION HAD BEEN

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ORAL ARGUMENT BY MR. ARIAIL

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1 MADE. WE REFER YOU TO THE GOVERNMENT'S OWN RESPONSE, BOTTOM
2 OF PAGE 1 AND PAGE 2 WHERE THEY ACTUALLY CLARIFY WHAT SHE'S
3 BEING SENT IN THERE FOR. THAT TAKES CARE OF THE NOTICE
4 ISSUE.

5 THE COURT: OKAY. ALL RIGHT.

6 SOLICITOR? DO YOU WANT TO STAND ON YOUR BRIEF OR DO
7 YOU WANT TO MAKE ORAL ARGUMENTS?

8 MR. ARIAIL: I'M TRYING TO GET TO WHERE HE'S
9 TALKING ABOUT. HE REFERENCED SOMETHING ON PAGE 1 AND 2.

10 THE COURT: MR. MAULDIN, SHOW HIM WHERE YOU'RE
11 TALKING ABOUT, PLEASE.

12 (PAUSE WHILE MR. MAULDIN AND MR. ARIAIL CONFERRED OFF
13 THE RECORD)

14 MR. ARIAIL: OH, OKAY.

15 THE COURT: THANK YOU.

16 MR. MAUDLIN: DO YOU WANT TO SEE THAT, JUDGE?
17 IT'S STATE'S MEMORANDUM.

18 THE COURT: NO. I'VE GOT IT HERE.

19 MR. ARIAIL: HE'S REFERRING TO THE MEMORANDUM, THE
20 PARAGRAPH AT THE BOTTOM WHERE WE STATE THAT -- WHAT SHE JUST
21 TESTIFIED TO. WE WANTED TO LOOK AT THE DEFENDANT'S STATE OF
22 MIND TO DETERMINE WHETHER OR NOT TO SEEK THE DEATH PENALTY.
23 THAT WAS THE PRIMARY PURPOSE, WHETHER OR NOT TO SEEK THE
24 DEATH PENALTY. AND THEN SECONDARILY, IF WE DID SEEK THE
25 DEATH PENALTY, TO DISCOVER ANY EVIDENCE OF MITIGATION.

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ORAL ARGUMENT BY MR. ARIAIL

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1 SO CLEARLY, AT THE TIME I CAN -- SHE TOLD YOU -- I CAN
2 TELL YOU AS AN OFFICER OF THE COURT, WE HAD MADE NO SUCH
3 DECISION. WE DIDN'T MAKE ANY SUCH DECISION UNTIL SOMETIME
4 AFTER. BUT BRIEFLY, WE'RE JUST PRIMARILY RELYING ON OUR
5 BRIEF. WE'D LIKE TO POINT OUT IN THE MEMORANDUM A COUPLE OF
6 THINGS.

7 DR. CRAWFORD DID IN FACT ADVISE THE DEFENDANT
8 SPECIFICALLY THAT ANYTHING WE TALK ABOUT MAY COME UP IN
9 COURT TO THE JUDGE AND JURY IN SENTENCING. SPECIFICALLY
10 TOLD HIM THAT. SO THERE'S NO MYSTERY ABOUT SENTENCING AND
11 THERE WAS NOTHING HIDDEN FROM HIM. THAT IT WOULD BE TO THE
12 JURY IN SENTENCING. SO CLEARLY, HE WAS ADVISED AS TO THAT
13 POTENTIAL ASPECT.

14 THE COURT: SOLICITOR, LET ME ASK YOU THIS. UNDER
15 THE ESTELLE CASE -- YOU BRIEFLY REFER TO IT ON PAGE 8 OF
16 YOUR BRIEF. AND I HAVEN'T READ ALL YOUR BRIEF, BUT I INTEND
17 ON DOING THAT.

18 MR. ARIAIL: THANK YOU, SIR.

19 THE COURT: HER ARGUMENT BASICALLY IS THAT SHE
20 SHOULD HAVE TOLD HIM THAT IT COULD BE USED AGAINST HIM
21 POSSIBLY IN A DEATH PENALTY CASE, EITHER AT SENTENCING OR
22 PENALTY PHASE. WHAT'S YOUR OPINION AS TO ESTELLE ---

23 MR. ARIAIL: ESTELLE HAS BEEN ---

24 THE COURT: --- CONCERNING THAT FACT OR THE
25 DEFENDANT'S POSITION AS TO ESTELLE AND WHAT THE PSYCHIATRIST

1 SHOULD HAVE TOLD THE DEFENDANT?

2 MR. ARIAIL: ESTELLE ---

3 THE COURT: IN ADDITION TO MIRANDA.

4 MR. ARIAIL: --- HAS BEEN DISTINGUISHED. THE
5 SUPREME COURT ON ITS OWN HAS DISTINGUISHED AND LIMITED THAT
6 HOLDING TO ITS OWN FACTS. AS WE POINTED OUT IN OUR BRIEF,
7 COURTS FROM AROUND THE COUNTRY HAVE DISTINGUISHED ESTELLE A
8 HUNDRED AND FOURTEEN TIMES BECAUSE ITS FACT SITUATION IS SO
9 LIMITED. IT DEALS WITH A CUSTODIAL INTERROGATION WHO'S BEEN
10 ORDERED TO UNDERGO A PSYCHIATRIC EXAMINATION WHO WAS NOT
11 GIVEN MIRANDA WARNINGS AND THEN THE STATE TRIED TO USE HIS
12 TESTIMONY IN THE FORM OF A STATEMENT THAT HE HAD GIVEN.
13 CLEARLY, THAT'S NOT ADMISSIBLE.

14 BUT IN THE SUBSEQUENT EVALUATION OF WHAT ESTELLE MEANS,
15 YOU LOOK AT OR YOU CAN LOOK AT THE COURT'S DECISION OR OUR
16 SUPREME COURT IN WOOMER. AND WE REFER TO STATE v. WOOMER A
17 COUPLE OF TIMES IN OUR MEMORANDUM, PAGE 11 AT 1 AND THEN ON
18 PAGE 8. IF YOU LOOK ON PAGE 8, THE SOUTH CAROLINA SUPREME
19 COURT IN WOOMER WHERE WOOMER ALLEGED IN HIS APPEAL THAT DR.
20 GALVARINO HAD VIOLATED HIS FIFTH AMENDMENT RIGHTS AND SHOULD
21 NOT BE ALLOWED TO GIVE AN OPINION ON FUTURE DANGEROUSNESS.
22 OUR SUPREME COURT SAID THAT "A CUSTODIAL INTERROGATION BY A
23 COURT-APPOINTED PSYCHIATRIST RAISES THE SAME CONCERNS AS A
24 CUSTODIAL INTERROGATION CONDUCTED BY A POLICE OFFICER AND
25 THEREFORE MUST BE PRECEDED BY THE SAME WARNINGS MIRANDA

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1 REQUIRES A POLICE OFFICER TO GIVE." SO OUR SUPREME COURT
2 HAS CLEARLY ENUNCIATED THAT MIRANDA, THE SAME WARNINGS
3 POLICE GIVE ARE THE SAME WARNINGS THE PSYCHIATRIST MUST
4 GIVE.

5 THE COURT: BUT THEY'RE SAYING TAKE IT A STEP
6 FURTHER.

7 MR. ARIAIL: I'M SORRY?

8 THE COURT: THEY'RE TAKING IT A STEP FURTHER.
9 THEY'RE SAYING ESTELLE REQUIRES THEM TO TELL THAT I'M A
10 PSYCHIATRIST AND IT COULD BE USED AGAINST YOU IN A DEATH
11 PENALTY CASE EITHER IN THE PENALTY PHASE OR THE SENTENCING
12 PHASE. THEY'RE SAYING ESTELLE GOES A STEP FURTHER.

13 MR. ARIAIL: BUT THEY HAVE NO LAW FOR THAT.

14 THE COURT: WHAT'S YOUR INTERPRETATION OF ESTELLE?

15 MR. ARIAIL: ESTELLE HAS BEEN INTERPRETED BY OUR
16 SUPREME COURT AND BY THE FOURTH CIRCUIT COURT OF APPEALS
17 ALSO.

18 THE COURT: I UNDERSTAND BECAUSE THE FACT ISSUE IN
19 THAT CASE MIRANDA WASN'T DONE AT ALL.

20 MR. ARIAIL: WASN'T WHAT?

21 THE COURT: WASN'T GIVEN AT ALL, CORRECT?

22 MR. ARIAIL: NO. IN WOOMER ---

23 THE COURT: I SAID IN ESTELLE.

24 MR. ARIAIL: IN ESTELLE. WOOMER GAVE ALL THE
25 MIRANDA.

1 THE COURT: OKAY.

2 MR. ARIAIL: AND THEY FOUND IN WOOMER THAT THE
3 WARNINGS GIVEN BY DR. GALVARINO WERE MORE THAN SUFFICIENT TO
4 ALLOW DR. GALVARINO TO TESTIFY THAT THEY DIDN'T VIOLATE --
5 THAT ONCE THOSE WARNINGS WERE GIVEN, THE SAME ONES THE
6 POLICE OFFICERS GIVE, ONCE THOSE WARNINGS WERE GIVEN, OUR
7 SUPREME COURT AND THE FOURTH CIRCUIT BOTH CONFIRM THAT THAT
8 WAS SUFFICIENT AND ALLOWED DR. GALVARINO TO TESTIFY AS TO
9 WHAT THE DEFENDANT HAD TOLD HIM EVEN THOUGH IT WAS A COURT-
10 ORDERED PSYCHIATRIC EXAM. AND THAT IS THE LAW IN THIS
11 JURISDICTION.

12 AND ALSO, I THINK EVEN UNDER THE CASES THAT THEY CITE
13 FROM THE FIFTH CIRCUIT -- AND I DON'T WANT TO JUMP OVER IN
14 THE FIFTH CIRCUIT BEFORE WE FINISH WITH WOOMER. BUT THE
15 FACT THAT SHE TOLD HIM IT COULD BE USED IN SENTENCING FOR
16 THE JURY WAS OBVIOUSLY PATTERNED ON THE IDEA THAT THERE
17 COULD BE A SENTENCING CONSIDERATION AND USING THIS
18 PARTICULAR INFORMATION.

19 BUT WOOMER, BOTH STATE AND FEDERAL INVOLVED, WARNINGS
20 GIVEN BY A PSYCHIATRIST PRIOR TO AN EXAMINATION, COURT-
21 ORDERED, THAT INFORM THE DEFENDANT OF HIS RIGHTS, HIS
22 CONSTITUTION RIGHTS UNDER MIRANDA, AND OUR SUPREME COURT
23 SAID THAT WARNINGS WERE ADEQUATE TO ALLOW THE PSYCHIATRIST
24 TO TESTIFY. THE FOURTH CIRCUIT ADOPTING THIS STATED THE
25 SAME THING. THAT BASED ON -- THE FOURTH CIRCUIT, QUOTING,

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1 THEIR LANGUAGE SAYS -- AND WE'RE ON PAGE 9 OF THE BRIEF. AT
2 THE BOTTOM OF THE QUOTE STATES, "BASED ON THIS FACTUAL
3 FINDING, THE DISTRICT COURT CORRECTLY FOUND THAT THE
4 WARNINGS GIVEN WOOPER WERE A FULLY EFFECTIVE MEANS TO NOTIFY
5 HIM ON HIS RIGHT OF SILENCE AND TO ASSURE THE EXERCISE OF
6 THE RIGHT WOULD BE SCRUPULOUSLY HONORED." AND THE SUPREME
7 COURT, BASED ON THAT LANGUAGE -- I MEAN THE FOURTH CIRCUIT,
8 BASED ON THAT LANGUAGE, UPHELD THE TESTIMONY OF DR.
9 GALVARINO AS TO WHAT THE DEFENDANT TOLD HIM IN A COURT-
10 ORDERED EVALUATION.

11 I THINK THAT'S THE LAW IN THIS STATE AND THE LAW IN
12 THIS CIRCUIT. I THINK WE COMPLY EVEN WITH THE CASES THAT
13 THEY CITE IN THE FACT THAT SHE ADVISED HIM OF SENTENCING.

14 AND GOING BACK TO THE POINT THAT YOU RAISED WHEN YOU
15 CAME IN THAT THERE'S SOME POSITION, THEIR POSITION BEING THE
16 INTERVIEW TECHNIQUES RENDERED THE STATEMENT INVOLUNTARY.

17 THE COURT: THEY DIDN'T MAKE THAT ARGUMENT.

18 MR. ARIAIL: THEY DIDN'T MAKE THAT ARGUMENT. I
19 WANTED TO POINT THAT OUT. THEY DIDN'T MAKE THAT ARGUMENT.

20 THE COURT: SO I WON'T EVEN CONSIDER THAT SINCE
21 THEY DIDN'T MAKE THAT ARGUMENT.

22 MR. ARIAIL: WELL, DRS. HALLECK AND FRIERSON, ALL
23 THAT THEY REALLY TESTIFIED TO WAS RELIABILITY. AND ALL OF
24 THAT IS ADMISSIBILITY VERSUS WEIGHT. AND IT'S AN ISSUE OF
25 WEIGHT TO THE JURY. ALL THESE ARGUMENTS AND ALL THIS CAN BE

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1 PRESENTED TO THE JURY ON THE SAME BASIS. BUT IT'S NOT A
2 LEGAL ARGUMENT TO EXCLUDE DR. CRAWFORD'S FACTUAL TESTIMONY.
3 AND WE WOULD RELY, UNLESS YOU HAVE SPECIFIC QUESTIONS YOU'D
4 LIKE TO ADDRESS, ON OUR MEMORANDUM.

5 THE COURT: NO, SIR. THANK YOU VERY MUCH.

6 ANY BRIEF REBUTTAL?

7 MS. COYLE: I'LL BE BRIEF. I PROMISE.

8 THE COURT: OKAY.

9 MS. COYLE: DR. CRAWFORD SAID THAT HIS TESTIMONY
10 MAY COME UP IN COURT TO A JURY IN SENTENCING. SHE NEVER
11 SAID IT COULD BE USED AGAINST HIM IN SENTENCING. THE
12 SOLICITOR JUST STATED THAT THE PURPOSE WAS TO DETERMINE
13 STATE OF MIND EVIDENCE TO, 'A', SEE WHETHER THEY WOULD SEEK
14 THE DEATH PENALTY. AND 'B', IF THEY CHOSE TO SEEK IT,
15 DISCOVER WHERE THERE WAS ANY EVIDENCE OF MITIGATION. 'B'
16 RIGHT THERE IS THE PART WHERE YOU NEED TO DISCLOSE THAT
17 EVIDENCE THAT YOU ARE GIVING TO THE STATE CAN BE USED
18 AGAINST YOU IN A DEATH PENALTY IF IT IS SOUGHT.

19 NOW, IN THE CASES THAT -- LIKE I SAID, I DON'T KNOW
20 EXACTLY WHEN THE PROSECUTOR IN THESE CASES DECIDED TO SEEK
21 THE DEATH PENALTY. BUT THERE IS NO DOUBT THAT EVERYONE
22 EXCEPT MR. WILLIAMS WAS AWARE THAT THE DEATH PENALTY WAS A
23 VERY REAL ISSUE IN THIS CASE AND HE COULD HAVE BEEN WARNED
24 ABOUT IT.

25 THE COURT: IT PROBABLY DOESN'T -- TECHNICALLY, IT

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1 PROBABLY DOESN'T MAKE ANY DIFFERENCE WHETHER THEY HAD SERVED
2 THE NOTICE OR NOT.

3 MS. COYLE: FINALLY, WOOMER WAS DECIDED IN 1982.
4 THAT CASE HAS NEVER BEEN CITED BY ANY COURT IN ANY STATE
5 ANYWHERE. AND AS I SAID IN THE BEGINNING OF MY FIRST
6 ARGUMENT, WOOMER IS EXTREMELY DIFFERENT FROM THE FACTS IN
7 THIS CASE BECAUSE THE DEFENDANT WAIVED FIFTH AMENDMENT BY
8 ASKING FOR THE ANALYSIS TO BE DONE. IT WAS THE DEFENDANT'S
9 REQUEST THAT INITIATED THE PSYCHIATRIC EVALUATION.

10 HERE THEY'RE TRYING TO WEAR TWO HATS. THEY WANT TO
11 ONLY GIVE MIRANDA WARNINGS, BUT YOU WANT TO GET A
12 PSYCHIATRIC EVALUATION. AND THEN YOU WANT TO SAY WE'RE NOT
13 GOING TO USE IT AS A PSYCHIATRIC EVALUATION. WE'RE GOING TO
14 GO BACK TO BEING A LAW ENFORCEMENT AGENT. YOU CAN'T HAVE
15 ALL THAT. YOU'VE GOT TO DECIDE WHAT YOU'RE GOING TO BE AND
16 GIVE THE RIGHT WARNINGS. AND WE DON'T HAVE THAT HERE.

17 THANK YOU.

18 THE COURT: THANK YOU VERY MUCH.

19 THANK Y'ALL VERY MUCH. APPRECIATE IT. I'LL GIVE YOU
20 AN OPINION TOMORROW OR FRIDAY. I WANT TO REVIEW ALL THIS
21 AND READ ALL THE MATERIAL THAT Y'ALL HAVE PRESENTED TO THE
22 COURT. THANK YOU VERY MUCH FOR BEING PREPARED IN PRESENTING
23 YOUR CASES.

24 MR. ARIAIL: THANK YOU, JUDGE.

25 THE COURT: THANK YOU.

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(END OF REQUESTED TRANSCRIPT OF RECORD)

1 CERTIFICATE OF REPORTER

2 I, THE UNDERSIGNED RENEE H. TOLLISON, OFFICIAL COURT
3 REPORTER FOR THE THIRTEENTH JUDICIAL CIRCUIT OF THE STATE OF
4 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
5 TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
6 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL/HEARING
7 OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
8 COURT FOR GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 26TH DAY
9 OF JANUARY 2005.

10 THIS TRANSCRIPT CONTAINS QUOTED MATERIAL. SUCH
11 MATERIAL IS REPRODUCED AS READ BY THE SPEAKER.

12 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL,
13 NOR INTEREST TO ANY PARTY HERETO.

14 FEBRUARY 3, 2005

15 Renee H. Tollison
16

17 CIRCUIT COURT REPORTER
18

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.) TRANSCRIPT OF RECORD
CHARLES CHRISTOPHER WILLIAMS,)
DEFENDANT.)

APRIL 6, 2005
ANDERSON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE J. C. NICHOLSON, JR.

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

ROBERT ARIAIL, SOLICITOR,
BETTY STROM, ASST. SOLICITOR
ATTORNEYS FOR THE STATE

JOHN I. MAULDIN, PUBLIC DEFENDER
WILLIAM NETTLES, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

DONNA BRADY
OFFICIAL COURT REPORTER

APRIL 6, 2005

(WHEREUPON, COURT CONVENED WITH ALL PARTIES PRESENT,
WHEN THE FOLLOWING PROCEEDINGS WERE HAD AT THE
ANDERSON COUNTY COURTHOUSE:)

THE COURT: MR. MAULDIN, I BELIEVE WE'RE HERE ON THE
CASE OF THE STATE OF SOUTH CAROLINA VERSUS CHARLES
CHRISTOPHER WILLIAMS. DOES ANYBODY HAVE A CASE NUMBER OR
FILE NUMBER FROM GREENVILLE? I DON'T SEE IT ON ANY OF THE
DOCUMENTS. ANYWAY, WE'RE HERE ON POST-TRIAL MOTIONS.

MR. MAULDIN: HOLD ON, I CAN GET IT TO YOU.
2004-GS-23-1746 AND 1745.

MR. ARIAIL: 1745 IS KIDNAPPING AND 1746 WAS THE
MURDER.

THE COURT: 2004?

MR. ARIAIL: YES, SIR.

THE COURT: FORTY-SIX IS WHICH? FORTY-SIX IS MURDER?

MR. MAULDIN: FORTY-SIX IS MURDER, 45 WAS KIDNAPPING.
1746, 1745.

THE COURT: YOU ALL DON'T HAVE THE SENTENCE SHEETS,
DO YOU?

MR. MAULDIN: NO, SIR.

THE COURT: OKAY. CAN I SEE THE ATTORNEYS UP HERE
JUST A SECOND? SOLICITOR, I THINK YOU'RE CORRECT AS FAR
AS THE STATUTE IS CONCERNED.

MR. MAULDIN: I THINK RAISED IT.

1 THE COURT: ALL RIGHT. MR. MAULDIN, LET ME HEAR YOU
2 ON POST-TRIAL MOTIONS.

3 MR. MAULDIN: YOUR HONOR, THE MOTION FOR
4 RECONSIDERATION WAS FILED FEBRUARY 28TH, WHICH WAS WITHIN
5 THE TEN DAYS ALLOWED BY THE COURT. THE IMPOSITION OF
6 SENTENCE ACTUALLY OCCURRING ON FEBRUARY THE 19TH, 2005, IN
7 GREENVILLE.

8 WHAT I HAVE DONE IS I HAVE LISTED NINE ITEMIZED
9 ISSUES FOR THE COURT TO RECONSIDER. BUT I DO WANT THE
10 RECORD TO SHOW THAT BY DOING THAT, WE IN NO WAY WAIVE ANY
11 MATTERS THAT WERE RULED ON BY THIS COURT EITHER IN
12 PRETRIAL MOTIONS OR DURING THE TRIAL.

13 THESE ARE ONLY ISSUES THAT I HAVE IDENTIFIED THAT I
14 WOULD LIKE THE COURT TO RECONSIDER. I DON'T WANT THAT
15 TO CONSTITUTE SOME SORT OF WAIVER FOR APPEALS PURPOSES,
16 YOUR HONOR.

17 THE COURT: OKAY.

18 MR. MAULDIN: THE ITEMS THAT I HAVE SUGGESTED THE
19 COURT RECONSIDER ARE LISTED IN OUR MOTION, AND I WILL ONLY
20 TAKE A MOMENT OR TWO ON EACH ONE, YOUR HONOR. THE FIRST
21 IS THAT THE STATUTORY SCHEME IN SOUTH CAROLINA, WHICH
22 REQUIRES A DEFENDANT TO ENTER A NOT GUILTY PLEA IN ORDER
23 TO HAVE A TRIAL BY JURY ON SENTENCING, WE BELIEVE IS
24 UNCONSTITUTIONAL, BOTH FEDERAL AND STATE. AND WE HAVE
25 ARGUED THAT EXTENSIVELY IN PRETRIAL AND DURING THE TRIAL

1 OF THIS CASE. I WON'T GO INTO NECESSARILY THE MERITS OF
2 THE ISSUES BUT WE DO, ONCE AGAIN, RENEW THAT CLAIM. THE
3 WAY THE STATUTE IS SET UP, IF THE DEFENDANT PLEADS GUILTY,
4 EVEN THOUGH HE MAY DESIRE TO ENTER A PLEA OF GUILTY, HE
5 CANNOT HAVE A JURY SENTENCE HIM UNDER THAT CIRCUMSTANCE
6 UNDER THE LIMITATIONS OF OUR STATUTE. HE MUST ENTER A
7 PLEA OF NOT GUILTY IN ORDER TO HAVE A JURY SENTENCING HIM,
8 AND HE ACTUALLY HAS TO GO THROUGH A TRIAL. SO, WE BELIEVE
9 THAT'S AN UNCURABLE STATUTORY SCHEME. AND WE, ONCE AGAIN,
10 RENEW THAT MOTION.

11 THE COURT: THAT MOTION IS DENIED.

12 MR. MAULDIN: WE ALSO RENEW THE MOTION REGARDING
13 CONTENTS OF THE INDICTMENT.

14 THE COURT: LET ME INTERRUPT JUST A SECOND.
15 SOLICITOR, ANYTHING YOU WANT TO PUT ON THE RECORD PURSUANT
16 TO THESE MOTIONS? PLEASE, STAND. I'LL BE HAPPY TO LISTEN
17 TO YOU.

18 MR. ARIAIL: LET ME PUT ONE POINT.

19 THE COURT: I'M NOT TRYING TO CUT YOU OFF. ANYTHING
20 YOU WANT TO SAY, PUT ON THE RECORD? DON'T LET ME CUT YOU
21 OFF.

22 MR. ARIAIL: I DON'T HAVE MUCH TO SAY.

23 THE COURT: I DON'T BELIEVE THAT, NOW.

24 MR. ARIAIL: BUT ON THAT FIRST ONE, I WANT TO POINT
25 OUT TO THE COURT THAT THE DEFENDANT DID, IN THE GUILT

1 PHASE, ARGUED TO THE JURY AND SUBMITTED TO THE JURY FOR
2 CONSIDERATION IN THEIR ARGUMENT, THAT THE STATE HAD NOT
3 PROVED THE GUILT OF THE DEFENDANT ON THE ISSUE OF
4 KIDNAPPING BEYOND A REASONABLE DOUBT. THAT WAS THE
5 ARGUMENT MADE AND SUBMITTED TO THE JURY. SO, MY ONLY
6 RESPONSE TO THAT IS, THEY MADE THIS IN A HYPOTHETICAL
7 CONSTITUTIONALLY-FOUNDED BASIS. BUT AS A PRACTICAL
8 MATTER, THEY DID RAISE THE ISSUE FOR FACTUAL DETERMINATION
9 BY THE JURY. I WOULD SUBMIT, BASED ON RAISING OF THAT
10 ISSUE, THIS ARGUMENT IS NOT APPROPRIATE.

11 THE COURT: AS I SAID EARLIER, MOTION IS DENIED.

12 MR. MAULDIN: AND WE DO RELY UPON WHAT THE FINE COURT
13 REPORTER IS GOING TO SUBMIT TO THE APPEALS COURT FOR WHAT
14 HAPPENED AT THE TRIAL.

15 THE SECOND ONE, YOUR HONOR, IS THE ISSUE REGARDING
16 CONTENTS OF THE FACE OF THE INDICTMENT. WE HAVE ARGUED
17 THIS PRETRIAL BUT WE, ONCE AGAIN, LAY IT BEFORE YOU ON
18 MOTION FOR RECONSIDERATION. THE STATE OF SOUTH CAROLINA
19 HAS A LONG HISTORY OF PROFOUND RESPECT FOR THE CONTENTS OF
20 AN INDICTMENT AS RETURNED BY A GRAND JURY. IN THE STATE'S
21 RESPONSE, AND I'LL LET THEM SPEAK FOR THEMSELVES; BUT IT
22 APPEARS THAT THEY TAKE THE POSITION SOMEHOW THAT BECAUSE
23 THERE WERE TWO INDICTMENTS AND THEY WERE BOTH RETURNED BY
24 THE GRAND JURY, THAT THEY SOMEHOW CAN MERGE OR WHAT HAVE
25 YOU; AND THAT THEY SOMEHOW MERGE WHEN THE JURY AT THE

1 FIRST PHASE OF THE TRIAL FOUND THE DEFENDANT GUILTY OF
2 KIDNAPPING.

3 WELL, WE'RE NOT TALKING ABOUT PRACTICAL MERGER HERE,
4 WE'RE TALKING ABOUT LEGAL ELEMENTS CONTAINED IN THE FACE
5 OF AN INDICTMENT IS PRESENTED AND THEN RETURNED FROM THE
6 GRAND JURY PRETRIAL. WE SAY THAT THE AGGRAVATING -- THE
7 STATE IS GOING TO SEEK THE DEATH PENALTY FOR THE OFFENSE
8 OF MURDER, THAT THAT MURDER INDICTMENT MUST CONTAIN
9 AGGRAVATING ELEMENTS. THAT THOSE ARE ELEMENTS OF THE
10 CASE. AND THE STATE'S INDICTMENTS IN THIS CASE, WHICH THE
11 COURT, OF COURSE, HAS SEEN DURING THE TRIAL AND THROUGHOUT
12 THE PROCESS, SIMPLY DON'T CONTAIN THE AGGRAVATING ELEMENTS
13 ON THE FACE OF THE MURDER INDICTMENT. SO, WE ONCE AGAIN,
14 RENEW THAT MOTION.

15 THE COURT: THE SEQUENCE OF EVENTS WERE WHAT? THE
16 INDICTMENT, THEN THE SERVICE OF NOTICE OF THE DEATH
17 PENALTY, OR SERVICE OF NOTICE PRIOR TO THE INDICTMENT AND
18 TRUE BILL? JUST ASK FACTUALLY, AGAIN.

19 MR. MAULDIN: YEAH, THE WAY I BELIEVE THAT WE HAVE
20 SEEN THIS CASE PROCESSED, IS THAT WE HAD AN INDICTMENT
21 FROM THE GRAND JURY THAT ALLEGED MURDER. THERE WAS
22 INDICTMENT.

23 THE COURT: AND THEN THE NOTICE WAS SERVED.

24 MR. MAULDIN: THEN THERE IS, IN OUR STATUTE, A
25 REQUIREMENT THAT THE STATE SERVE THEIR NOTICE OF

1 AGGRAVATION, PRIOR TO TRIAL. THIS IS A -- AND IT'S
2 CONTAINED IN THE STATUTE THAT THAT BE DONE. AND THE STATE
3 WAS REQUIRED TO DO THAT. AND WE FILED A MOTION TO MAKE
4 THE STATEMENT MORE DEFINITE AND CERTAIN. AND WE HAD A
5 HEARING ON THAT. THAT DOESN'T CHANGE THE LEGAL FOUR
6 CORNERS OF THE FACE OF THAT INDICTMENT ONE BIT.

7 THE COURT: OKAY. FOR THE SAKE OF ARGUMENT, WHEN HE
8 WAS INDICTED, THE FACE OF THE INDICTMENT JUST CHARGED WITH
9 MURDER, HE WASN'T CHARGED WITH CAPITAL MURDER. HOW DO YOU
10 THINK THAT MAKES A DIFFERENCE AS FAR AS THE EFFECTIVENESS
11 OF THE INDICTMENT?

12 MR. MAULDIN: WELL, IF THE STATE WAS---

13 THE COURT: LET ME BACK UP, ASK YOU THIS QUESTION.
14 DO YOU THINK THE INDICTMENT WAS SUFFICIENT IF THE NOTICE
15 OF DEATH PENALTY HAD NEVER BEEN SERVED?

16 MR. MAULDIN: IF THE STATE HAD PROCEEDED IN THIS CASE
17 WITH A NONCAPITAL MURDER, THEN THE FACE OF THE INDICTMENT
18 IN THIS CASE, NUMBER 1746, WOULD HAVE BEEN SUFFICIENT FOR
19 THEM TO ASK FOR A CONVICTION OF MURDER UNDER THOSE
20 NONCAPITAL CIRCUMSTANCES. BUT IN THIS PARTICULAR CASE,
21 THAT IS NOT WHAT THEY DO. THEY GOT AN INDICTMENT, THEY
22 SERVED A NOTICE TO SEEK THE DEATH PENALTY, THEY SERVED
23 NOTICE OF EVIDENCE OF AGGRAVATION PURSUANT TO YOUR ORDER.

24 THE COURT: WHAT YOU'RE ASKING ME TO DO IS CHANGE THE
25 STATUTORY SCHEME.

1 MR. MAULDIN: WELL, NO. I DON'T NECESSARILY KNOW
2 THAT THAT'S WHAT THE -- THE RELIEF IN THIS CASE WOULD BE
3 TO COMPEL THE GOVERNMENT TO CONTAIN IN THEIR INDICTMENT
4 THE ELEMENTS THAT MAKE THE MURDER "AGGRAVATING" AS AN
5 ELEMENT OF THE MURDER CHARGE. THAT'S WHAT WOULD REMEDY
6 THE PROCESS. AND I UNDERSTAND THAT THERE IS CASE LAW
7 CONTRARY TO WHAT I SAY, BUT I'M ALWAYS LOOKING FOR
8 PROGRESS IN THIS AREA. AND SO, I DO PRESENT THESE
9 ARGUMENTS WITH ALL DUE RESPECT TO JUDGES WHO HAVE
10 DISAGREED WITH ME.

11 THE COURT: YOU'RE JUST SORT OF LIKE A BULLDOG,
12 YOU'RE GRABBING ON AND HANGING ON, HOPE SOMETHING WILL
13 CHANGE.

14 MR. MAULDIN: I JUST WILL NOT LET GO.

15 THE COURT: I UNDERSTAND. SOLICITOR, ANYTHING YOU
16 WANT TO ADD?

17 MR. ARIAIL: NO, SIR.

18 THE COURT: ALL RIGHT. MOTION DENIED.

19 MR. MAULDIN: THE NEXT AREA, YOUR HONOR, IS A
20 MOTION -- AND I REFER YOU BACK TO THE JANUARY 26TH
21 HEARING. IT WASN'T IN THIS COURTROOM, THOUGH, WE WERE IN
22 A BIG OLD COURTROOM.

23 THE COURT: UPSTAIRS.

24 MR. MAULDIN: BUT WE HAD A HEARING ON THE
25 ADMISSIBILITY OF TESTIMONY OF ONE DR. PAM CRAWFORD, AND

1 THE COURT DOESN'T NEED FOR ME TO GO THROUGH ALL THAT
2 AGAIN.

3 THE COURT: PLEASE DON'T.

4 MR. MAULDIN: ALL RIGHT. BUT WHAT WE WOULD RENEW IS
5 WHAT WE CONSIDER TO BE FLAW, OR THE FATAL FLAW, IN THE
6 ADVISING OF CHRIS WILLIAMS BY DR. CRAWFORD WHICH WAS
7 TAPED, TRANSCRIBED, AND IS IN THE RECORD. WE BELIEVE
8 THOSE "RIGHTS" WERE CLEARLY DEFECTIVE AND NOT NEARLY
9 SUFFICIENT.

10 THE COURT: YOU SAYING BECAUSE OF MIRANDA OR WHAT
11 MAKES YOU SAY THAT?

12 MR. MAULDIN: THE RIGHTS IN MIRANDA, DR. CRAWFORD
13 PROVIDED TO THE DEFENDANT PRIOR TO HER TAKING TO STAGE
14 THAT LEAD THEN TO THE DISCOVERY OF EVIDENCE.

15 THE COURT: HER TESTIMONY WAS NEVER OFFERED AS AN
16 EXPERT. IT WAS JUST OFFERED AS A FACT FINDING WITNESS AND
17 EXTENSION OF THE SLED INVESTIGATION.

18 MR. MAULDIN: RIGHT. AND THAT EVIDENCE WAS REGARDING
19 STATEMENTS MADE BY CHARLES CHRISTOPHER WILLIAMS TO HER,
20 EVEN IF THAT, AS A FACT WITNESS -- I ACKNOWLEDGE THAT
21 THAT'S WHAT YOU RULED.

22 THE COURT: RIGHT. I DON'T THINK I ACKNOWLEDGED
23 THAT'S WHAT I RULED. THAT'S WHAT THE STATE DID.

24 MR. MAULDIN: RIGHT. YEAH, AND THE STATE PRIOR TO
25 THE HEAR---

1 THE COURT: THE STATE PRESENTED THEIR CASE.

2 MR. MAULDIN: AND THAT'S WHAT THE STATE SAID THEY
3 WERE GOING TO DO AT THE BEGINNING OF THE JANUARY HEARING.
4 AND I DON'T WANT WHAT I SAY TO SOMEHOW LIMIT -- AMONG
5 OTHER THINGS, IF I WERE TO USE THAT LANGUAGE, I WOULD SAY
6 THAT THE COURT ERRED AT LEAST IN TWO AREAS.

7 THE FIRST AREA WAS THAT THE WARNINGS WERE DEFICIENT
8 BECAUSE THEY DID NOT TELL THE PERSON SHE WAS INTERVIEWING,
9 EVEN AS A LAY INVESTIGATOR WITNESS, THAT STATEMENTS MADE
10 BY HIM WOULD OR COULD BE USED AGAINST HIM.

11 THE COURT: LET ME ASK YOU THIS. DO YOU THINK THE
12 WAIVER THAT HE SIGNED, THAT EVEN PRIOR TO MRS. CRAWFORD
13 COMING AND INTERVIEWING HIM, WAS SUFFICIENT?

14 MR. MAULDIN: YOU TALKING ABOUT WAIVER EARLIER IN THE
15 DAY TO SOME OTHER OFFICERS?

16 THE COURT: VERY FIRST WAIVER?

17 MR. MAULDIN: NO.

18 THE COURT: YOU THINK THAT'S SUFFICIENT FOR
19 MRS. CRAWFORD'S QUESTIONING, I THINK, A COUPLE HOURS
20 LATER?

21 MR. MAULDIN: RIGHT. WELL, CLEARLY THAT'S NEVER BEEN
22 THE POSITION OF THE PROSECUTION. AND---

23 THE COURT: AND---

24 MR. MAULDIN: -- THE ANSWER, I BELIEVE THE ANSWER IS
25 A RESOUNDING NO. WE DID NOT, IF YOU WILL RECALL, I

1 BELIEVE WE DID HAVE A JACKSON V. DENNO HEARING ON THE
2 STATEMENTS TO OFFICER MCNAMARA THAT WERE TAKEN AT ABOUT
3 12:30 THAT DAY. THAT WAS THE TIME. THAT'S WHEN HE -- AT
4 12:32, I BELIEVE IS WHEN HE SIGNED A -- AN ACKNOWLEDGEMENT
5 OF HIS RIGHTS, AND THEN HE GAVE A WRITTEN STATEMENT TO
6 OFFICER MCNAMARA. THEN HE WENT INTO A HOLDING CELL FOR
7 SOME COUPLE OF HOURS OR SO, WHILE THE FINE DOCTOR WAS ON
8 HER WAY FROM COLUMBIA. SHE THEN WAS INTRODUCED TO HIM AND
9 THE FIRST PAGE OF THE TRANSCRIPT REFLECTS WHAT SHE
10 BELIEVED SHE NEEDED TO DO. AND THAT IS ADVISE THE
11 DEFENDANT OF HIS RIGHTS.

12 SHE WOULD NOT HAVE DONE IT IF SHE HAD TAKEN THE
13 POSITION THAT THE PREVIOUS WAIVER WOULD GO INTO THAT SECOND
14 INTERVIEW. I MEAN, THEY OBVIOUSLY DID NOT BELIEVE THAT
15 BECAUSE THEY WOULDN'T HAVE GIVEN HIM THE RIGHTS.

16 AND UP TO THIS VERY MOMENT THE STATE, THROUGHOUT THIS
17 ENTIRE PROCEEDING, IN JANUARY, FEBRUARY, AND I DON'T KNOW,
18 IN THEIR RESPONSE I DON'T SEE WHERE THEY'RE SAYING THAT
19 THE PREVIOUS WAIVER SOMEHOW FLOWS OVER INTO SOME
20 SUBSEQUENT INTERVIEW BY SOME PSYCHIATRIST. SO, THE ANSWER
21 TO THAT QUESTION, YOUR HONOR, IS NO.

22 THE COURT: OKAY. THANK YOU, SIR.

23 MR. MAULDIN: THE SECOND AREA, THAT I BELIEVE THE
24 WARNINGS WERE CLEARLY DEFICIENT, WAS UNDER THE SPECIAL
25 CIRCUMSTANCE WHERE THE STATE HAS AVAILABLE POTENTIAL DEATH

1 PENALTY SENTENCE. THE DEFENDANT UNDER THOSE NARROW
2 CIRCUMSTANCES WOULD NEED TO BE ALSO TOLD THAT THE STATE
3 COULD USE THIS EVIDENCE NOT ONLY AGAINST HIM, BUT THAT
4 THEY COULD USE IT IN AN ATTEMPT TO HAVE HIM SENTENCED TO
5 DEATH. AND THERE'S CASE LAW ON THAT, YOUR HONOR. WE
6 SUBMITTED OUR CASE LAW TO YOU BACK IN JANUARY.

7 I WASN'T THE ONE DOING THIS, THIS WAS THE BILL
8 NETTLES ARGUMENT. SO, I'M NOT GOING TO START QUOTING CASE
9 NAMES TO YOU. BUT I WOULD REFER YOU TO THE U.S.
10 CONSTITUTION JUST AS A STARTING POINT. SO, WE BELIEVE
11 THERE WAS ERROR COMMITTED WHEN PAM CRAWFORD WAS ALLOWED TO
12 PRESENT TESTIMONY REGARDING STATEMENTS MADE BY CHRIS
13 WILLIAMS, WHETHER SHE WAS OFFERED AS A LAY WITNESS OR AN
14 EXPERT WITNESS, THE WARNINGS WERE FATALLY FLAWED AND
15 DEFICIENT.

16 THE COURT: ARE YOU REFERRING TO U.S. SUPREME COURT
17 ESTELL CASE?

18 MR. MAULDIN: I BELIEVE THAT SOUNDS FAMILIAR.

19 THE COURT: ANYTHING FROM THE STATE?

20 MR. MAULDIN: AND, YOUR HONOR, OBVIOUSLY, THE
21 SUBSEQUENT SEARCH OF THE RESIDENT AS A RESULT OF THE
22 STATEMENTS BY THE DEFENDANT LED TO THE DISCOVERY OF THE
23 JOURNAL, WHICH THE COURT OBVIOUSLY HAD AN OPPORTUNITY TO
24 HEAR A LOT ABOUT DURING THE TRIAL. THE -- SO, THERE IS A
25 RESULTING SEARCH THAT CAME OUT OF AN

1 UNCONSTITUTIONALLY-OBTAINED STATEMENT FROM THE DEFENDANT.

2 THE COURT: SOLICITOR, ANYTHING YOU WANT -- YOU WOULD
3 LIKE TO SAY?

4 MR. ARIAIL: I WOULD. I WANT TO POINT OUT, SINCE MR.
5 MAULDIN CHARACTERIZED OUR POSITION INCORRECTLY, IF YOU
6 WILL RECALL, IN THE BIG COURTROOM WHEN WE WERE OVER HERE,
7 THE FIRST WITNESS I PUT ON THE STAND WAS MIKE MCNAMARA,
8 WHO WAS THE INVESTIGATOR WHO BEGAN THE PROCESS OF READING
9 THE DEFENDANT AND GIVING HIM HIS RIGHTS. WE WENT THROUGH
10 A VERY, VERY, VERY DETAILED ANALYSIS OF WHAT HIS RIGHTS
11 WERE AND HOW THEY HAD BEEN GIVEN, BECAUSE IT WAS AND IS,
12 AND ALWAYS IS THE STATE'S POSITION THAT ONCE THE RIGHTS
13 ARE SUFFICIENTLY GIVEN, THE DEFENDANT IS ADVISED OF THOSE
14 RIGHTS AND THERE'S CASE LAW ON THAT SUBJECT, AMPLE CASE
15 LAW, TO DEAL WITH THAT. BUT IN THIS CASE AT 12:32 HE WAS
16 GIVEN A LITANY OF RIGHTS, GONE OVER AND HAD THE FORM
17 INITIALED, READ TO HIM. HE READ IT BACK, HE SIGNED IT, HE
18 INITIALED AGAIN, AND WENT THROUGH A WHOLE LITANY OF
19 INSTRUCTIONS WITH DETECTIVE MCNAMARA. AND THEN, AFTER
20 THAT, THE FIRST THING MISS CRAWFORD DID WAS CONSULT WITH
21 MR. MCNAMARA AND SAID, DID YOU GIVE HIM THE RIGHTS?

22 "YES, I DID. HERE'S THE FORM."

23 AND MY RECOLLECTION IS SHE DIDN'T GIVE HIM THE RIGHTS
24 BECAUSE SHE THOUGHT THEY WERE INFERIOR. SHE GAVE HIM THE
25 RIGHTS BECAUSE THAT'S THE PROPER AND CAUTIOUS THING TO DO.

1 I THINK THE QUESTION WAS, "DO YOU REMEMBER HAVING
2 YOUR RIGHTS READ TO YOU EARLIER?"

3 "YES. I DO."

4 "ALL RIGHT. LET ME GO OVER THESE AGAIN." AND
5 SPECIFICALLY IN THERE SHE SAID, "WHAT YOU TELL ME CAN BE
6 USED AGAINST YOU IN SENTENCING." THERE NO, IT'S NOT GOING
7 TO BE USED AGAINST HIM IN SENTENCING UNLESS YOU'RE DEALING
8 WITH A PROCEEDING IN COURT WHERE THERE'S GOING TO BE SOME
9 DETERMINATION OF THE PROPER SENTENCE. SHE TOLD HIM AND HE
10 ACKNOWLEDGED THAT, HE UNDERSTOOD IT. AND SHE TALKED WITH
11 HIM. AND YOU HAVE TO REMEMBER TO PUT THE WHOLE THING IN
12 CONTEXT.

13 HE TALKED TO HER AGAIN THE NEXT MORNING. SHE CAME
14 BACK THE NEXT MORNING AT 9:00 AND GAVE ANOTHER SET OF
15 RIGHTS. HE TALKED AGAIN. HE NEVER STOPPED TALKING. SO,
16 THIS MAN'S RIGHTS WERE NOT IN ANY WAY INFRINGED. HE WAS
17 JUST WANTING TO TELL. AND THAT WAS THE WAY THAT DETECTIVE
18 MCNAMARA SAID, I THINK HIS WORDS WERE, "HE WAS EAGER." HE
19 WAS EAGER TO TELL HIS STORY AND HE TOLD HIS STORY. HE
20 TOLD IT TO DETECTIVE MCNAMARA, BEN WARD. "IF YOU TELL IT,
21 WE'RE GOING TO USE IT." DR. PAM CRAWFORD, "YOU TELL IT,
22 WE'RE GOING TO USE IT, NOT ONLY AGAINST YOU, WE'RE GOING
23 TO USE IT IN SENTENCING."

24 AND THEN THE NEXT MORNING, DR. CRAWFORD SAID, "YOU
25 TELL IT, WE'RE GOING TO USE IT." HE TALKED AGAIN. AND,

1 SO, WE SUBMIT HE WAS AMPLY ADVISED OF HIS RIGHTS AND FULLY
2 AND FAIRLY VOLUNTARILY WAIVED IT.

3 THE COURT: MOTION DENIED.

4 MR. MAULDIN: THE NEXT POINT THE COURT REVISIT AT
5 THIS TIME THE RULINGS WHERE THE STATEMENTS MADE BY THE
6 SOLICITOR IN OPENING REMARKS DURING THE PENALTY PHASE
7 ABOUT WHAT THAT JURY WOULD HEAR FROM THE DEFENDANT. AND
8 I'M NOT GOING TO GO BACK AND TRY TO QUOTE EXACTLY THE
9 TERMINOLOGY THAT WAS USED. BUT I CAN SAY THAT THERE WAS
10 NO QUESTION, AN ISSUE ABOUT WHETHER OR NOT THERE HAD BEEN
11 A COMMENT ON A DEFENDANT'S RIGHT TO NOT PRESENT ANY
12 TESTIMONY AT ALL, PERIOD. AND IT -- NOW, SO I DON'T THINK
13 I NEED TO GO BACK AND START TRYING TO REHASH THAT. I'M
14 JUST SIMPLY BRINGING IT BACK TO THE COURT'S ATTENTION THAT
15 DURING THE -- AND THIS WAS PRIOR TO THE DEFENDANT MAKING
16 AN OPENING STATEMENT OR THE DEFENSE COUNSEL MAKING AN
17 OPENING STATEMENT.

18 IF I RECALL CORRECTLY, I ACTUALLY MADE THAT OPENING
19 STATEMENT. AND I DO RECALL BEING -- AT LEAST TAKING INTO
20 CONSIDERATION THE COMMENTS OF THE SOLICITOR THAT WHERE
21 THEY HAD INTRODUCED THE JURY TO WHAT THEY MAY OR MAY NOT
22 HEAR FROM THE DEFENDANT. SO WE BELIEVE THAT A DEFENDANT'S
23 CONSTITUTIONAL RIGHT TO REMAIN SILENT AND PRESENT OR NOT
24 PRESENT, NOT ONLY THEIR TESTIMONY BUT ANY TESTIMONY, WAS
25 VIOLATED. AND IN ITS PUREST AND SIMPLEST FORM, STANDS

1 CLEARLY ON ITS FACE TO BE A VIOLATION. JUST CAN'T BE
2 INTERPRETED ANY OTHER WAY.

3 NOW, ONE MIGHT SAY, WELL, BUT THE DEFENDANT DID
4 PRESENT TESTIMONY. AND THAT, THEREFORE, SOMEHOW THIS
5 CONSTITUTIONALLY -- THIS ERROR OF CONSTITUTIONAL DIMENSION
6 BECAME MOOT OR WE -- WE CREATED SOME SORT OF HARMLESS
7 ERROR BECAUSE THE DEFENDANT DID, IN FACT, PRESENT
8 TESTIMONY. THAT IS NOT THE STANDARD FOR SUCH AN ISSUE AS
9 THE RIGHT TO REMAIN SILENT. IN OTHER WORDS, IF A
10 PROSECUTOR MAKES REFERENCE IN AN ARGUMENT AND YOU CAN LOOK
11 THROUGH THE PRIOR CASES REGARDING REFERENCES TO DEFENDANTS
12 TESTIFYING OR NOT TESTIFYING, NO CASE THAT I'M AT LEAST
13 FAMILIAR WITH WOULD EVER SAY, "WELL, IF THE DEFENDANT THEN
14 GETS UP AND TESTIFIES, THAT SOLVES THE PROBLEM." THAT
15 DOES NOT SOLVE THE PROBLEM BECAUSE IT MAY VERY WELL BE
16 THAT THE DEFENDANT WAS COMPELLED THEN TO RESPOND. SO, WE
17 JUST SIMPLY RESUBMIT THAT, YOUR HONOR.

18 THE COURT: SOLICITOR?

19 MR. ARIAIL: JUST BRIEFLY, JUST TO POINT OUT, THAT
20 THE DEFENDANT AT THE TIME OF THE OPENING STATEMENT IN THE
21 PENALTY PHASE BY MISS STROM HAD PRESENTED EVIDENCE. AND
22 IT WAS IN THE RECORD. HE HAD PRESENTED THE PSYCHIATRIST
23 TESTIMONY. AND THAT EVIDENCE WENT INTO THE RECORD WITH
24 ALL THE OTHER EVIDENCE THAT HAD BEEN PRESENTED IN THE
25 GUILT PHASE; AND SO, THEREFORE, IT WAS FAIR COMMENT TO

1 SUBMIT TO THE JURY, YOU MAY HEAR EVIDENCE REGARDING MENTAL
2 ILLNESS OR WHATEVER HER -- IF HE SO CHOOSES.

3 THE COURT: MENTAL ILLNESS WAS BROUGHT OUT BY THE
4 DEFENDANT IN THE GUILT PHASE.

5 MR. ARIAIL: THAT'S RIGHT. IT WASN'T LIKE
6 MR. MAULDIN'S ARGUING THAT AT THE END OF THE SENTENCING
7 PHASE, HE HAD TO PRESENT EVIDENCE OR MAY HAVE BEEN
8 COMPELLED TO BECAUSE OF IMPROPER ARGUMENT OF THE
9 SOLICITOR. HE HAD ALREADY DONE IT IN THE GUILT PHASE AND
10 BECAUSE ALL OF THAT WAS MOVED INTO THE EVIDENCE ALL OF
11 THAT WAS BEFORE THE JURY AND FOR THAT REASON WAS FAIR
12 COMMENT.

13 SECONDLY, WE SUBMIT THAT THE COMMENT MADE CLEARLY DID
14 NOT PUT ANY BURDEN OR TRANSFER ANY BURDEN TO THE
15 DEFENDANT. SHE SIMPLY SAID THAT HE MAY PRESENT EVIDENCE.
16 WELL, THAT'S A FAIR COMMENT BECAUSE HE HAD ALREADY
17 PRESENTED EVIDENCE TO THEM SO, THE JURY KNEW HE COULD IF
18 HE WANTED TO. THAT'S WHAT WE SAID, "THIS IS WHAT YOU MAY
19 HEAR IF HE ELECTS OR CHOOSES TO PRESENT EVIDENCE."

20 WE WOULD SUBMIT THE COMMENT MADE WAS, ONE, PROPER
21 EVIDENCE; TWO, IT WAS NOT IMPROPER EVEN IF IT WAS NO
22 EVIDENCE; AND, THREE, LASTLY, IF IT WAS IN ANY WAY
23 IMPROPER, YOUR HONOR GAVE FOR THE UMPTEENTH TIME AN
24 INSTRUCTION TO THE JURY THAT THE DEFENDANT HAS NO BURDEN
25 TO PRESENT EVIDENCE. I DON'T KNOW HOW MANY TIMES WENT

1 OVER THAT DURING THE COURSE OF THAT TRIAL, VOIR DIRE
2 EVERYTHING. IF THERE'S ONE THING THAT JURY UNDERSTOOD WAS
3 THAT THIS DEFENDANT DOESN'T HAVE TO PRESENT ANY EVIDENCE.

4 THE COURT: THANK YOU. MOTION DENIED. LET ME HEAR
5 YOU ON FALSE IMPRISONMENT. I THINK YOU SKIPPED OVER THAT.

6 MR. MAULDIN: YOU WILL RECALL THAT AT THE CONCLUSION
7 OF THE STATE'S CASE IN THE GUILT PHASE WE SUBMITTED A
8 REQUEST FOR INSTRUCTION ON FALSE IMPRISONMENT. I DON'T
9 HAVE A COPY OF THAT, BUT IT'S IN THE RECORD. SO, ALONG
10 WITH THE SENTENCING SHEET. I BELIEVE BOTH MINE AND YOUR
11 NAME ON THAT. BUT BE THAT AS IT MAY.

12 THE COURT: MOTION DENIED.

13 MR. MAULDIN: YES, SIR. THANK YOU, SIR. AND I JUST
14 RENEW THAT. I RENEW THAT.

15 MR. ARIAIL: I DON'T HAVE ANYTHING TO SAY.

16 THE COURT: THANK YOU, SIR.

17 MR. MAULDIN: ON THE SECOND PAGE, YOUR HONOR, THE
18 FIRST ONE IS THE -- AND I, AGAIN, AS I DID A MOMENT AGO,
19 I'M NOT.

20 THE COURT: DOESN'T THIS TIE INTO THE ONE YOU JUST
21 MADE, ONE IN THE SAME?

22 MR. MAULDIN: NO. AND I'M NOT GOING TO GO BACK AND
23 TRY TO RECONSTRUCT SOMETHING THAT WAS A NIGHTMARE TWO
24 MONTHS AGO FOR ME. BUT LET ME JUST KIND OF GIVE YOU A
25 LITTLE BIT -- THE WITNESS, PAM CRAWFORD'S, IT WAS VERY

1 CLEAR FROM THE HEARING IN JANUARY SHE WOULD UNDER NO
2 CIRCUMSTANCES -- IN FACT THEY LISTED GUILT PHASE, PENALTY
3 PHASE, AT ANY TIME, WOULD SHE EVER BE OFFERED AS AN EXPERT
4 WITNESS. THAT WAS VERY CLEARLY STIPULATED, AND WAS IN
5 FACT A POSITION THAT THE STATE TOOK AT NO INVITATION FROM
6 US.

7 IN OTHER WORDS, WE BELIEVE THE INVOLVEMENT OF PAM
8 CRAWFORD WAS, IN FACT, A KUDZU OF CONTROVERSY AND
9 QUICKSAND AS FAR AS LEGAL AREAS WERE CONCERNED FROM THE
10 VERY WORD GO. AND OUR MOTIONS AND ARGUMENT AND THE
11 MATERIALS IN THIS RECORD SO REFLECT. THE VERY LAST MOMENT
12 THEY SAID THEY WEREN'T GOING TO USE AN EXPERT WITNESS.
13 THAT CERTAINLY CLARIFIED, SIMPLIFIED, A MUCH MORE NARROW
14 ISSUE. THEN WHEN SHE WAS CALLED, ON TWO OCCASIONS IF I
15 RECALL, AND I WASN'T DOING THE CROSS EXAMINATION OF
16 MISS CRAWFORD, SO I WASN'T THE ONE DOING THE OBJECTING,
17 BUT I DO RECALL AT SOME POINT AFTER THIS HAD OCCURRED,
18 TWICE DURING HER EXAMINATION, AND IT WILL APPEAR IN THE --
19 I REMEMBER GETTING UP AND SAYING THAT I DIDN'T UNDERSTAND
20 WHAT PART OF ENGLISH THE PROSECUTION DIDN'T UNDERSTAND
21 ABOUT WHAT YOU WERE TELLING THEM NOT TO DO WITH THAT
22 WITNESS. AND THAT IS WHAT I'M REFERRING TO HERE. I
23 BELIEVE THAT YOU SHOULD HAVE DECLARED A MISTRIAL. BECAUSE
24 THE PROSECUTION HAD A PLAN WITH HER AND THEY ACCOMPLISHED
25 IT, NOTWITHSTANDING YOUR RULINGS, NOTWITHSTANDING THE

1 CURATIVE INSTRUCTIONS, NOTWITHSTANDING THEIR OWN PRETRIAL
2 STIPULATION. THEY KNEW HOW THEY COULD BEST USE WHAT THE
3 JURORS HAD TOLD US IN A SURVEY, THE SLED PSYCHIATRIST
4 TESTIMONY WAS THE MOST MEANINGFUL TESTIMONY DURING THE
5 PENALTY PHASE. THE SLED PSYCHIATRIST TESTIMONY.

6 SO ALL OF THIS STUFF KIND OF SPINS WILDLY INTO SOME
7 CONFUSION. BUT THE FACT IS THAT THE JUDGE, YOUR HONOR,
8 SHOULD HAVE DECLARED A MISTRIAL AND IMPOSED A LIFE
9 SENTENCE BECAUSE THE GOVERNMENT SIMPLY REFUSED TO ACCEPT
10 NOT ONLY THEIR OWN RULES, BUT YOUR RULES.

11 SO, WE ONCE AGAIN ASK THAT THE COURT IMPOSE A LIFE
12 SENTENCE ON THAT BASIS.

13 THE COURT: SOLICITOR?

14 MR. ARIAIL: HE'S ARGUING ABOUT SOME QUESTIONNAIRE
15 HE'S GOT. SOME---

16 THE COURT: I DON'T THINK THAT ENTERS INTO IT.
17 THAT'S NOT PART OF THE RECORD. HE'S WELCOME TO TELL ME
18 ABOUT IT. I'M NOT GOING TO CONSIDER IT IN MAKING---

19 MR. ARIAIL: I'M JUST GLAD TO KNOW THAT HE HAS
20 FINALLY TAKEN MY LEAD ON THAT, STARTING SENDING OUT
21 QUESTIONNAIRES SO THEY CAN FIND OUT.

22 MR. MAULDIN: WHEN THEY LEAVE THAT ALONE I'LL PUT
23 SOMETHING ON THE RECORD.

24 MR. ARIAIL: GO BACK TO HIS ISSUE, THE STATE
25 PSYCHIATRIST, SLED PSYCHIATRIST, WHO PUT THAT IN EVIDENCE?

1 WHO PUT THAT BEFORE THE JURY? HE DID. WHEN THEY
2 INTRODUCED THE TESTIMONY, TRANSCRIBED, OF PAMELA CRAWFORD,
3 IT SAID, HER FIRST INTRODUCTORY TO MR. WILLIAMS WAS, "I
4 WORK FOR THE SOLICITOR. I WORK FOR SLED. I'M A SLED
5 PSYCHIATRIST." THAT WAS PUT IN, IN THE DEFENDANT'S CASE
6 AS AN EXHIBIT IN THE GUILT PHASE. I DIDN'T ASK HER WAS
7 SHE A SLED PSYCHIATRIST. THEY PUT IT IN.

8 ALL I ASKED HER WAS, "AS A SLED PSYCHIATRIST AS
9 REFERRED TO IN THE TRANSCRIPT, DID SHE COME UP TO ASSIST
10 ME?" AND THAT'S WHERE THEY GOT UPSET. IT'S NOT THAT I
11 ASKED ANYTHING ABOUT HER BEING AN EXPERT. THEY HAD
12 ALREADY ESTABLISHED SHE WAS AN EXPERT BY PUTTING THE
13 TRANSCRIPT IN THE RECORD. I NEVER EVEN ASKED HER
14 QUESTIONS TO QUALIFY HER AS AN EXPERT BECAUSE AN EXPERT IS
15 A PERSON WHO GIVES AN OPINION. AND PAM CRAWFORD NEVER
16 GAVE AN OPINION. SHE WAS NEVER ASKED FOR AN OPINION. SHE
17 SIMPLY WAS STATING, "I CAME UP AND TALKED TO THIS MAN."
18 BECAUSE THIS VOLUMINOUS TRANSCRIPT IS IN THE RECORD. AND
19 SHE CERTAINLY IS NOT THE BUTCHER, THE BAKER, OR THE
20 CANDLESTICK MAKER. SHE'S GOT TO HAVE SOME RELEVANCE. AND
21 THE RELEVANCE IS, I SAID, "WHAT WAS YOUR POSITION?"

22 "I WAS A SLED PSYCHIATRIST," JUST LIKE SAYS IN THAT
23 TRANSCRIPT. AND THAT'S ALL WE ASKED. THAT WAS IT. SO,
24 THEY INTERJECTED IT. I DON'T SEE HOW THEY CAN CLAIM THAT
25 WE MADE AN ERROR AFTER THAT WAS INTERJECTED.

1 THE COURT: MOTION DENIED.

2 MR. MAULDIN: TWO POINTS.

3 THE COURT: ALL RIGHT.

4 MR. MAULDIN: THE TRANSCRIPT WILL CLEARLY REFLECT THE
5 NATURE OF THE QUESTION OF THE SOLICITOR REGARDING THE
6 DECISION TO SEEK THE DEATH PENALTY. THAT'S ALL I'M GOING
7 TO SAY ABOUT THAT. IT'S GOING TO BE IN THE RECORD.

8 THE COURT: MOTION DENIED.

9 MR. MAULDIN: AND THE OTHER MATTER WE DO JUST, ONCE
10 AGAIN, JUST TO CLARIFY, MAKE SURE THIS IS FOR APPEALS
11 PURPOSES PRESERVED, THAT THE PROCESS OF USE OF SUCH A
12 WITNESS IS A CLEAR VIOLATION OF SEPARATION OF POWERS AS
13 ESTABLISHED BY THE STATUTE CONCERNING THE ORDERING OF AN
14 EVALUATION OF A CRIMINAL DEFENDANT.

15 AND THIS -- YOU KNOW, THIS IS WHAT WE WERE TALKING
16 ABOUT BACK IN JANUARY. BUT I STILL NEED TO MAKE SURE.
17 YOU KNOW, THE PROSECUTION PROSECUTES CASES, DEFENSE
18 DEFENDS THEM. THE LEGISLATURE WRITE LAWS. AND JUDGES
19 ORDER EVALUATIONS OF CRIMINAL DEFENDANTS. IN FACT, NOW
20 THE PROSECUTION CAN'T EVEN CONSENT TO THEM NOW. THE COURT
21 SAYS, "LOOK, YOU GOT TO HAVE A HEARING, EVEN IF EVERYBODY
22 AGREES THE GUY IS CRAZY."

23 WHAT THEY DID -- WELL, I DON'T WANT TO GO INTO THE
24 DISCUSSION ABOUT WHAT THEY DID, THE RECORD SHOWS WHAT THEY
25 DID. AND WE BELIEVE THAT WAS A VIOLATION OF SEPARATION OF

1 POWERS.

2 THE COURT: YOUR MOTION IS DENIED. LET ME HEAR YOU
3 ON THE -- I BELIEVE THE NEXT IS THE -- ISN'T G AND H SORT
4 OF ONE IN THE SAME?

5 MR. MAULDIN: THE NEXT TWO -- I'LL ARGUE THE NEXT TWO
6 IN CONJUNCTION.

7 THE COURT: THEY SORT OF GO WITH EACH OTHER.

8 MR. MAULDIN: YES, SIR. I'LL BE GLAD TO DO THAT.
9 THE JURY ISSUE, AS YOU RECALL, THEY WERE SPLIT NINE TO
10 THREE; AND WHAT WERE THEY SUPPOSED TO DO? THE ACTUAL
11 WRITTEN QUESTION IS IN THE RECORD AS A COURT'S EXHIBIT.
12 SO, I'LL RELY ON THAT. WHAT THE COURT SHOULD HAVE DONE AT
13 THAT POINT, ONCE THE JURY REPORTED WHAT THEIR SPLIT WAS,
14 ON THEIR OWN, YOU DIDN'T ASK THEM WHAT THEIR SPLIT WAS,
15 BUT THEY ACTUALLY TOLD YOU WHAT THEIR SPLIT WAS, THAT THEY
16 WERE NINE TO THREE FOR DEATH, YOU SHOULD HAVE IMPOSED A
17 LIFE SENTENCE AT THAT POINT.

18 THE COURT: LET ME SAY THIS. LET ME ASK YOU THE
19 QUESTION. AT THAT POINT IN TIME IN THE PROCEEDINGS, QUITE
20 FRANKLY, I DON'T REMEMBER IF YOUR PROPOSED ALLEN CHARGE
21 WAS MARKED AS A COURT'S EXHIBIT, BUT AT THAT POINT IN TIME
22 YOU DID OFFER TO THE COURT A PROPOSED ALLEN CHARGE. NOW,
23 I DID NOT CHARGE WHAT YOU OFFERED, BUT MODIFIED MY ALLEN
24 CHARGE, GAVE IT TO THE COURT. I DON'T REMEMBER IF I MARKED
25 THAT PROPOSED REQUEST FROM YOU AS A COURT'S EXHIBIT. DOES

1 THE STATE REMEMBER?

2 MR. ARIAIL: I THINK YOU DID.

3 MR. MAULDIN: AND I DON'T REMEMBER WHETHER YOU DID.
4 I WOULD SUBMIT IT'S CLEARLY---

5 THE COURT: BUT YOU DO ACKNOWLEDGE, YOU DO REMEMBER
6 OFFERING THAT ALLEN CHARGE REQUEST?

7 MR. MAULDIN: YES, SIR. AND LET ME MAKE SURE THAT,
8 FOR THE PURPOSES OF MY MOTIONS, AND WHAT---

9 THE COURT: I UNDERSTAND. MY POINT BEING,
10 MR. MAULDIN, THIS MOTION WASN'T RAISED PRIOR TO ANY
11 ISSUANCE OF AN ALLEN CHARGE BY THIS COURT. IT WAS RAISED
12 POST TRIAL. THAT'S MY POINT I'M TRYING TO MAKE.

13 MR. MAULDIN: WELL, WE GAVE YOU SUGGESTIVE LANGUAGE
14 FOR ALLEN CHARGE AFTER YOU TOLD US YOU WERE GOING TO GIVE
15 ONE. IN OTHER WORDS, I AM WILLING TO ADMIT DEFEAT WHEN
16 FACED WITH A JUDGE WITH A ROBE ON.

17 THE COURT: OKAY.

18 MR. MAULDIN: AND IF I RECALL CORRECTLY, THE QUESTION
19 CAME IN FROM THE JURY, WE ASKED THAT THE LIFE SENTENCE BE
20 IMPOSED. YOU SAID, "I'M GOING TO GIVE THEM AN ALLEN
21 CHARGE." WE SAID, "WELL, WAIT A MINUTE." SO WE THEN WENT
22 BACK OVER TO OUR OFFICE AND TRIED TO WRITE UP SOMETHING WE
23 FELT LIKE WAS AN ADEQUATE ALLEN CHARGE UNDER THE
24 CIRCUMSTANCES, GAVE IT TO YOU AND YOU CHARGED SOMETHING A
25 LITTLE DIFFERENT.

1 SO, I THINK THE SEQUENCE WAS, THEY SENT THE MESSAGE
2 OUT, WE WANTED A LIFE SENTENCE IMPOSED. YOU SAID, "I'M
3 GOING TO GIVE THEM AN ALLEN CHARGE.

4 WE SAID, "GIVE THEM THIS CHARGE."

5 YOU SAID, "NO, I'M GOING TO GIVE THEM SOMETHING A
6 LITTLE DIFFERENT."

7 THE COURT: THE TRANSCRIPT WILL SPEAK TO THAT ISSUE.
8 I DON'T REMEMBER. LIKE YOU SAID, IT WAS TWO MONTHS AGO.
9 YOU MAY BE CORRECT. I DON'T REMEMBER.

10 MR. MAULDIN: BUT WE BELIEVE THAT THE SUBSEQUENT
11 GIVING OF AN ALLEN CHARGE UNDER THOSE, WHERE YOU HAD BEEN
12 ADVISED THAT THE BREAK DOWN WAS NINE TO THREE AND THEY
13 WANTED TO KNOW WHAT THEY WERE SUPPOSED TO DO. WE BELIEVE
14 THAT THAT WAS INAPPROPRIATE, AND WE EXCEPT TO THAT.

15 MR. ARIAIL: THEY DIDN'T ASK YOU, "WHAT ARE WE
16 SUPPOSED TO DO?"

17 THE NOTE SPEAKS FOR ITSELF. THEY SAID, "THE VOTE IS
18 SPLIT NINE TO THREE. WE NEED FURTHER INSTRUCTIONS." THEY
19 ASKED YOU FOR FURTHER INSTRUCTION. YOU GAVE IT TO THEM.

20 THE COURT: OKAY. MOTION DENIED.

21 MR. MAULDIN: THE LAST ITEM, YOUR HONOR, IS THE --
22 AND I'LL JUST USE THIS AS CRAWFORD VERSUS WASHINGTON AND
23 SLASH HEARSAY.

24 THE COURT: WE HASHED THAT TO DEATH, OVER AND OVER ON
25 THAT. OKAY.

1 MR. MAULDIN: AND WE --

2 THE COURT: I'M VERY FAMILIAR WITH CRAWFORD.

3 MR. MAULDIN: AND I, ONCE AGAIN, RELY UPON WHAT IS IN
4 THE TRANSCRIPT. THAT'S THE ONLY FAIR WAY TO DO IT. YOU
5 HAD IT IN FRONT OF YOU AND I RESPECTFULLY BELIEVE YOU MADE
6 A MISSTATEMENT. BUT THAT'S OKAY. I JUST WANT TO CORRECT
7 IT NOW.

8 THE COURT: I UNDERSTAND. MOTION DENIED.

9 MR. MAULDIN: I BELIEVE ALL THE ITEMS I HAVE, YOUR
10 HONOR. I APPRECIATE THE OPPORTUNITY TO COME OVER TO
11 ANDERSON.

12 THE COURT: APPRECIATE YOU BEING HERE. THANK YOU SO
13 VERY MUCH FOR YOUR ARGUMENTS. AND APPRECIATE YOUR
14 OPPOSITION TO MY RULINGS. THINK YOU DID A GOOD JOB.
15 THANK YOU ALL.

16 MR. MAULDIN: THANK YOU, JUDGE.

17 * * * * * END OF REQUESTED TRANSCRIPT OF RECORD * * * * *

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

I, DONNA M. BRADY, OFFICIAL COURT REPORTER FOR THE
TENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND
COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDINGS HAD AND
EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
RELATIVE TO APPEAL, IN THE COURT OF GENERAL SESSIONS FOR
GREENVILLE COUNTY, SOUTH CAROLINA, ON THE 6TH DAY OF
APRIL, 2005.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL NOR INTEREST TO ANY PARTY HERETO.

AUGUST 10, 2006

Donna M. Brady

DONNA BRADY COURT REPORTER

MY COMMISSION EXPIRES: 1/30/07

INTERVIEW WITH DR. CRAWFORD

RECORDED ON 9/3/03

AT THE LAW ENFORCEMENT CENTER

PC: I AM DOCTOR PAMELA CRAWFORD AND I'M INTERVIEWING CHARLES CHRISTOPHER WILLIAMS AND THE DATE IS SEPTEMBER 2ND, 3RD, THE 3RD, 2003. I'M WHAT IS CALLED A FORENSIC'S PSYCHIATRIST SO I'M A DOCTOR, AN MD DOCTOR. OKAY?

CW: OKAY.

PC: I WENT TO MEDICAL SCHOOL AND THEN I SPECIALIZED IN PSYCHIATRY AND WHAT I DO AND WHAT I'M DOING IN THIS JOB IS I'M WORKING FOR SLED. ARE YOU FAMILIAR WITH SLED?

CW: YEAH, SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

PC: EXACTLY. AND I WORK FOR SLED AND I WORK FOR THE SOLICITOR'S OFFICE AND WHAT HAPPENS IS, TODAY IS BOB ARIAIL, WHO'S THE SOLICITOR IN GREENVILLE, CALLED ME UP AND SAID WE HAVE THIS SITUATION WITH A GUY AND TOLD ME ROUGHLY WHAT HAPPENED. WHAT HE KNEW ABOUT WHAT HAPPENED. AND ASKED ME TO SEE IF I COULD TALK WITH YOU TO TRY TO UNDERSTAND YOUR STATE OF MIND, TRY AND GET AN IDEA ABOUT WHAT WAS GOING THROUGH YOUR HEAD WHEN ALL THIS HAPPENED.

CW: OKAY.

PC: SO THAT'S WHAT I'M HERE TO DO.

CW: RIGHT.

PC: OKAY. THERE ARE THINGS THAT I NEED TO MAKE SURE YOU UNDERSTAND, IS I'M NOT YOUR DOCTOR OKAY? IF WE TALK AND I FEEL LIKE YOU NEED TREATMENT I'M GOING TO REFER YOU TO SOMEBODY. AND MY GUESS IS THERE'S A GOOD LIKELYHOOD OF THAT. BECAUSE, YOU KNOW, FROM WHAT I UNDERSTAND ABOUT YOUR PAST THIS IS A VERY UNUSUAL CIRCUMSTANCE HERE.

CW: YEAH.

PC: SO, BUT I AM, I MYSELF AM NOT YOUR TREATING DOCTOR.

COURTS 2

CW: OKAY.

PC: AND THAT ANYTHING WE TALK ABOUT I'M GOING TO TALK ABOUT IN COURT OR TO THE SOLICITOR OR TO OTHER PEOPLE. IT'S NOT LIKE I'M GOING TO GET OUT THERE ON THE NEWS AND TELL ALL YOUR BUSINESS. BUT IT'S NOT PRIVATE.

CW: OKAY.

PC: DO YOU UNDERSTAND THAT?

CW: YEAH.

PC: OKAY. AND YOU DON'T HAVE TO TALK TO ME IF YOU DON'T WANT TO. IF YOU WANTED A LAWYER YOU COULD HAVE A LAWYER. AND IF YOU COULDN'T AFFORD IT SOMEONE WOULD PAY FOR IT.

CW: OKAY.

PC: YOU CAN STOP ANYTIME YOU WANT. I MEAN, IT WILL NOT HURT YOU IN ANY WAY, SHAPE OR FORM.

CW: OKAY.

PC: JUST SAY DOCTOR CRAWFORD I'M SICK OF TALKING ABOUT THIS, I DON'T WANT TO, AND WE WILL STOP AND BE TOTALLY COOL WITH EACH OTHER, OKAY?

CW: OKAY.

PC: UM, AND THAT ANYTHING WE TALK ABOUT MAY COME UP IN COURT TO THE JUDGE AND JURY IN SENTENCING AND ANYTHING LIKE THAT.

CW: OKAY.

PC: DO YOU UNDERSTAND ALL THAT?

CW: YEAH.

PC: DO YOU HAVE ANY QUESTIONS ABOUT FOR ME ABOUT THOSE THINGS?

CW: NO.

PC: ARE YOU CERTAIN?

CW: YEAH

PC: WELL, WHAT I'M GOING TO DO, FIRST OF ALL BEFORE WE GET TO WHAT HAPPENED, IS JUST GET A GENERAL SENSE ABOUT YOU, OKAY? FIRST OF ALL, HOW OLD ARE YOU?

CW: I'M TWENTY.

PC: YOU'RE TWENTY YEARS OLD? AND WHAT DO YOU DO?

CW: I'M (INAUDIBLE).

PC: OKAY. AND WHAT IS YOUR BIRTHDAY?

CW: IT'S TWELVE, ELEVEN OF '82.

PC: TWELVE, ELEVEN, '82. OKAY. AND SO THAT MAKES YOU 20? YEAH, YOU SAID TWENTY. HAVE YOU LIVED IN GREENVILLE YOUR WHOLE LIFE?

CW: YEAH

PC: AND WHO RAISED YOU?

CW: UM, MY MOM.

PC: AND WHAT'S YOUR MOM'S NAME?

CW: (INAUDIBLE).

PC: AND WHAT'S HER LAST NAME?

CW: UM, HER LAST NAME IS (INAUDIBLE).

PC: AND IS SHE MARRIED?

CW: YEAH, SHE'S MARRIED.

PC: DO YOU HAVE A STEPDAD, NOW? AND WHAT'S HIS NAME?

CW: (INAUDIBLE)..

PC: IS HE A GOOD GUY?

CW: UM, I MEAN, I GUESS. WHEN I WAS JUST (INAUDIBLE) BUT WE DON'T TALK TO EACH OTHER.

PC: SO THAT'S NOT A GREAT RELATIONSHIP THERE?

CW: NO.

PC: OKAY. HOW ABOUT YOUR MOM?

CW: UH, WELL, MOM'S JUST ABOUT AS HARD TO GET ALONG WITH AS HE IS BECAUSE SHE'S NOT EVEN BORDERLINE, SHE'S WAY FAR GONE PAST THAT.

PC: SO SHE'S A SERIOUS ALCOHOLIC?

CW: (NO AUDIBLE ANSWER).

PC: HAS SHE BEEN THAT WAY FOR A WHILE?

CW: SINCE I WAS (INAUDIBLE).

PC: HOW MUCH DOES SHE DRINK? WHEN YOU TALK ABOUT SERIOUS?

CW: UH, LIKE A REGULAR WINE GLASS.

PC: UH-HUH (AFFIRMATIVE).

CW: LIKE MAYBE NINE OR TEN A DAY.

PC: AND WINE MOSTLY?

CW: IT'S JUST LIKE THAT STUFF THAT YOU BUY IN A BOX OR THAT (INAUDIBLE). THAT STUFF.

PC: I GOT YOU. OKAY AND DOES YOUR STEPDAD DRINK AS WELL?

CW: HE DRINKS LIKE A REGULAR LIGHT BEERS LIKE EVERY NIGHT OR EVERY OTHER NIGHT, BUT NOT NEAR AS BAD AS HER.

PC: NOW, AND DO YOU HAVE BROTHERS AND SISTERS?

CW: NO, MY SISTER, YEAH, I HAVE A SISTER. SHE LIVES IN ATLANTA NOW.

PC: OKAY. AND WHAT'S HER NAME?

CW: MAUREEN.

PC: WHAT'S THAT AGAIN?

CW: MAUREEN.

PC: MAUREEN?

CW: YEAH.

PC: AND WHAT'S HER LAST NAME?

CW: IT'S, I'LL SPELL IT FOR YOU IT'S B-A-N-G-C-U-R-L; I THINK THAT'S IT.

PC: OKAY, DO YOU, ARE YOU CLOSE TO HER?

CW: WELL, WE WERE AND THEN IT STARTED ARGUING WITH MY MOM AND MY SISTER AND IT KIND OF SPLIT US UP. WELL, NOT SPLIT US UP WHERE WE WEREN'T TALKING.

PC: DO YOU KNOW HOW TO REACH HER?

CW: YEAH, I CAN CALL HER BUT IT'S JUST THAT, YOU KNOW, IT'S LIKE I'D RATHER NOT UNTIL TIME HAS PASSED.

PC: SURE AND WHAT IS, DO YOU KNOW HER PHONE NUMBER? WOULD YOU HAVE A PROBLEM WITH ME TALKING TO HER?

CW: YEAH, NO.

PC: OKAY, WHAT'S HER PHONE NUMBER?

CW: HER CELL PHONE NUMBER IS 803-467-3200.

PC: SO EVEN THOUGH SHE'S IN ATLANTA SHE HAS A COLUMBIA CELL PHONE?

CW: YEAH, YEAH. IT'S A COLUMBIA CELL PHONE.

PC: AND DO YOU HAVE ANY OTHER NUMBERS FOR HER?

CW: UH, THE OTHER ONE IS, I GUESS IF SHE DIDN'T ANSWER THAT ONE, YOU COULD CALL CARLITO HER HUSBAND. IT'S THE SAME NUMBER BUT IT'S A 3295.

PC: AND HER HUSBAND'S NAME IS CARLITO?

CW: YEAH.

PC: OKAY AND DO YOU HAVE YOUR MOM'S PHONE NUMBER?

CW: IT'S 288-0575.

PC: 0575. WHAT'S YOUR SISTER DOING IN ATLANTA?

CW: SHE IS - UH, THEY HAD, SHE WAS DOING - WELL, THEY WERE STAYING IN COLUMBIA BECAUSE HER HUSBAND, CARLITO IS GETTING HIS MASTER'S DEGREE, YOU KNOW.

PC: UH-HUH (AFFIRMATIVE).

CW: BECAUSE HE WAS DOING RESEARCH FOR THE UNIVERSITY OF SOUTH CAROLINA.

PC: WHAT'S HE GETTING IT IN, DO YOU KNOW?

CW: WHAT IS HE -

PC: GETTING HIS MASTER'S?

CW: UH, CHEMISTRY.

PC: OKAY.

CW: AND THEY MOVED TO ATLANTA BECAUSE HE'S DOING RESEARCH THERE AT GEORGIA TECH.

PC: OKAY.

CW: AND SHE'S WANTING - I'VE GOT THE NAME OF THE HOSPITAL BUT SHE'S LIKE A REGISTERED NURSE.

PC: OKAY. IS SHE PRETTY BRIGHT?

CW: YEAH, SHE'S -

PC: SUCCESSFUL?

CW: YEAH, SHE'S A LOT SMARTER THAN I AM.

PC: OKAY. YOU DON'T SEEM LIKE ANY SLOUCH TO ME.

CW: NO.

PC: BUT, SO SHE'S BRIGHT AND SHE -

CW: YEAH, I MEAN, SHE'S ALWAYS BEEN, I MEAN, SHE'S WORKED SINCE SHE WAS 18 YEARS OLD (INAUDIBLE).

PC: AND SHE'S OLDER THAN YOU?

CW: SHE'S THIRTY-TWO.

PC: OH, SO SHE'S A GOOD BIT OLDER THAN YOU.

CW: YEAH.

PC: AND, SO YOU WERE KIND OF THE ONLY KID IN THE HOUSE FOR A LONG TIME, IS THAT RIGHT?

CW: YEAH, SHE WAS, YEAH, SHE LEFT HOME WHEN SHE WAS EIGHTEEN.

PC: UH-HUH (AFFIRMATIVE). AND SO NO OTHER BROTHERS AND SISTERS?

CW: NO.

PC: WHAT ABOUT YOUR DAD, YOUR BIOLOGICAL DAD?

CW: UH, IT'S LIKE MY PARENTS GOT DIVORCED WHEN I WAS TEN AND I GUESS, LIKE WHEN I WAS YOUNGER, I PROBABLY LIKE 12 OR 13, IT WAS KIND OF LIKE, YOU KNOW, I WAS ALWAYS (INAUDIBLE).

PC: UH-HUH (AFFIRMATIVE).

CW: UNTIL I GOT OLDER AND REALIZED WHAT HE WAS DOING, SO, I MEAN, I SEE HIM. I SAW HIM MAYBE A FEW WEEKS AGO FOR THE FIRST TIME IN TWO YEARS.

PC: WHAT'S HIS NAME?

CW: GLEN WILLIAMS.

PC: AND IS HE A DRINKER?

CW: HE USED TO BE.

PC: OKAY (INAUDIBLE).

CW: HE'S NOT, UH, I MEAN (INAUDIBLE) I MEAN, WHAT HE'S DONE. HE HAS REALLY WASTED HIS WHOLE LIFE.

PC: UH-HUH (AFFIRMATIVE).

CW: I MEAN, HE'S FIFTY-FOUR, HE WORKS AT SUBWAY. AND HE'S UNDER INVESTIGATION NOW FOR STEALING MONEY OUT OF THE CASH REGISTER.

PC: HAS HE BEEN IN PRISON BEFORE?

CW: YEAH A LONG TIME AGO.

PC: AND SO, BUT HE - HE AND YOU AND YOUR MOM WERE TOGETHER FOR THE FIRST TEN YEARS OF YOUR LIFE?

CW: YEAH.

PC: AND HOW DID HE TREAT YOU?

CW: UH, LIKE, UH, NOT LIKE USUAL - HE ALWAYS PUT OTHER THINGS IN FRONT OF ME.

PC: SO HE WASN'T A GREAT DAD?

CW: NO.

PC: DID HE BEAT YOU?

CW: NOT - NOT SO FAR AS LIKE SEVERE. I MEAN, JUST REGULAR, YOU KNOW, SPANKINGS.

PC: OKAY.

CW: I MEAN, NOT SO FAR AS LIKE, JUST AS BEATING OR ANYTHING.

PC: OKAY.

CW: SO NOT LIKE THAT.

PC: NEVER PUT YOU IN THE HOSPITAL

CW: NO.

PC: AND HOW ABOUT YOUR MOM? DID SHE BEAT YOU?

CW: OH, JUST, I MEAN, I THINK THE LAST TIME I GOT A SPANKING WAS I WAS ELEVEN OR TWELVE BUT -

PC: BUT YOU'RE NOT ANY BIG, BIG DEAL?

CW: NO. I MEAN, NOTHING THAT - LIKE NOBODY ELSE GOES THROUGH.

PC: RIGHT, SO JUST THE BASIC STUFF.

CW: YEAH.

PC: BUT WAS SHE OFF DRINKING A LOT OR -

CW: NO, IT WAS LIKE HE WAS THE ONE THAT WOULD ALWAYS I MEAN, HE WORKED OVERTIME AND HE WOULD GO OUT YOU KNOW WITH HIM AND HIS FRIENDS. AND HE JUST HAD ALL THESE RULES AND GOALS ABOUT EVERYTHING.

PC: SO WAS SHE A PRETTY GOOD MOM?

CW: YEAH, I MEAN, SO FAR AS LIKE, YEAH, BEING IN A, YEAH SHE'S A GOOD MOM.

PC: I MEAN, SO SHE - SO IT WASN'T LIKE SHE WAS LYING ON THE COUCH DRUNK EVERY NIGHT WHEN YOU WERE A KID?

CW: NO, NO, NOT THEN. BUT LIKE, BUT NOW, IT'S LIKE, WELL MAYBE IT WAS LIKE THAT THEN BUT I WAS TOO YOUNG TO REALIZE IT.

PC: OKAY.

CW: AND PROBABLY NOW AS I'VE GOTTEN OLDER IT'S LIKE, IT'S PROBABLY ALWAYS BEEN LIKE THIS I JUST HAVEN'T NOTICED IT.

PC: OKAY. BUT AS A KID YOU DON'T REMEMBER THAT?

CW: YEAH, PROBABLY JUST TOO YOUNG TO EVEN KNOW.

PC: BUT I MEAN DID SHE GET YOU LUNCH FOR SCHOOL?

CW: YEAH. I MEAN SHE DID EVERYTHING THAT A, YOU KNOW.

THAT A PARENT SHOULD DO.

PC: WAS SHE INVOLVED IN YOUR SCHOOL?

CW: YEAH.

PC: IN WHAT WAY? GIVE ME AN EXAMPLE.

CW: UH, WELL, LIKE, WHEN THEY WOULD HAVE CARNIVALS AT THE SCHOOL, LIKE SHE WOULD GO AN PARTICIPATE IN SOME OF THE EVENTS THERE. AND JUST THINGS LIKE THAT.

PC: DID YOU PLAY SPORTS?

CW: UH, NO, NOTHING.

PC: NO LITTLE LEAGUE, YOU KNOW, SOCCER OR ANYTHING LIKE THAT?

CW: NO, I WAS NEVER A BIG SPORTS FAN.

PC: OKAY. SO EVEN AS A LITTLE KID YOU DIDN'T DO THAT?

CW: WELL, I MEAN, I LIKE RUNNING AND STUFF LIKE THAT BUT SO FAR AS LIKE OTHER SPORTS AND STUFF LIKE THAT I DIDN'T GET INTO.

PC: OKAY AND SO YOUR MOM - NOW LOOKING BACK YOU THINK MAYBE SHE WASN'T THERE AS MUCH AS YOU NEEDED?

CW: YEAH.

PC: BUT AT THE TIME YOU DIDN'T REMEMBER THINKING YOUR MOM WAS DRUNK ON THE COUCH OR MOM WAS NOT HERE?

CW: WELL, I'M SURE IT WAS LIKE THAT IT WAS JUST THAT I DIDN'T I COULDN'T, LIKE I WASN'T ABLE TO TELL AT THAT AGE.

PC: OKAY. AND DID YOU EVER GET SICK AS A KID, ANY MAJOR ILLNESSES?

CW: UH - NO.

PC: AND EVER HAD A HEAD INJURY?

CW: UH, NO I DON'T THINK SO.

PC: SO NOTHING WHERE YOU LOST CONSCIOUSNESS OR ANYTHING LIKE THAT?

CW: NO.

PC: OKAY. AND WHAT KIND OF STUDENT WERE YOU?

CW: (INAUDIBLE).

PC: OKAY, TELL ME ABOUT THAT.

CW: UH, I MEAN, LIKE I DID LIKE REALLY THE LEAST AMOUNT OF WORK POSSIBLE TO DO, TO GET BY.

PC: UH-HUH (AFFIRMATIVE).

CW: AND I FIGURED AS LONG AS I DID THAT IT WOULD BE GOOD BUT IN THE LONG RUN IT HURT ME MORE THAN ANYTHING, SO. AND I COULD HAVE DONE BETTER AND EVERYBODY WOULD ALWAYS TELL ME THAT, BUT - I JUST DIDN'T REALLY HAVE ANY INTEREST IN SCHOOL.

PC: OKAY. AND WERE YOU IN SPECIAL CLASSES OR REGULAR CLASSES?

CW: NO, I WAS IN -

PC: WERE YOU A PRETTY SMART KID?

CW: IT WAS LIKE THEY WOULD TAKE ME OUT AND PUT ME IN LIKE A RESOURCE CLASS, AND THEN THEY WOULD TAKE ME OUT AND THEN PUT ME BACK IN A REGULAR CLASS BECAUSE THEY SAID I DIDN'T NEED TO BE IN THERE.

PC: OKAY. WELL, WHILE WERE YOU IN THE RESOURCE CLASS DID YOU LIKE IT?

CW: BECAUSE I DIDN'T WANT TO DO ANYTHING.

PC: OKAY. WERE YOU ABLE TO - DID YOU PRETTY WELL READ AND WRITE?

CW: YEAH.

PC: OKAY. SO, WERE YOU IN THE RESOURCE CLASSES FOR JUST LIKE ONE YEAR?

CW: NO, IT WAS MAYBE FOR A WEEK.

PC: OH, FOR A WEEK.

CW: AND THEN THEY TOOK ME OUT OF THE CLASS.

PC: WELL, WAS IT (INAUDIBLE) YOU WERE SLOW?

CW: UH, IT WAS KIND OF BOTH. THEY HAVE A LITTLE BIT OF BOTH A LOT OF IT WAS LIKE HANDICAPPED CHILDREN.

PC: AND DID YOU, I MEAN, WERE YOU GETTING IN TROUBLE AROUND THAT TIME? IS THAT WHY THEY PUT YOU IN THERE?

CW: YEAH, WELL, I DID GET IN A LOT TROUBLE WHEN -

PC: GIVE ME SOME EXAMPLES.

CW: UH - I REMEMBER IN SECOND GRADE, I FORGOT MY TEACHERS NAME BUT WE USED TO HAVE THESE LITTLE PROJECTS AND WE WOULD HAVE THREE BOOKS ON THERE AND ONCE YOU WOULD GET ALL THREE OF YOUR FAVORITE BOOKS TAKEN OFF YOU WOULD GET A REFERRAL AND I REMEMBER MY DAD TELLING THE SCHOOL TO GET ME A (INAUDIBLE) EVERY TWO WEEKS OR EVERY THREE WEEKS. I MEAN NOT FOR BEING LIKE, YOU KNOW, LIKE VIOLENT, JUST BEING, JUST, I WAS JUST BAD. INTERRUPTING CLASS AND STUFF LIKE THIS.

PC: SO KIND OF BEING LIKE A JOKESTER TYPE?

CW: YEAH, PRETTY MUCH.

PC: DID YOU EVER GET IN PHYSIAL FIGHTS?

CW: I THINK I'VE GOTTEN IN TWO FIGHTS AT SCHOOL BUT IT WAS NEVER ANYTHING DONE ABOUT IT.

PC: AND DID YOU EVER FIGHT WITH A WEAPON WHEN YOU WERE A KID?

CW: (NO AUDIBLE ANSWER)(CLEARS THROAT).

PC: AND DID YOU EVER DO THINGS LIKE SHOPLIFTING AS A CHILD?

CW: YEAH, I THINK, UH, I DID THAT MAYBE SOME, MAYBE TWO OR THREE A MONTH. I THINK MOST OF IT WAS LIKE A GAS

STATION OR KIND OF LIKE WHEN I WAS YOUNG I REMEMBER
LIKE ALWAYS TRYING TO GET THE BOYS AT SCHOOL, CERTAIN
BOYS, I MEAN NOTHING BIG LIKE THAT.

PC: NOTHING LIKE THAT. HOW ABOUT DID YOU AND YOUR
BUDDIES LIKE BREAK INTO HOUSES OR CARS?

CW: NO. WELL, I MEAN, WE DID. WHEN I WAS STAYING IN
COLUMBIA WE DID VANDALISE A FEW CARS.

PC: WHAT DID YOU DO TO THEM?

CW: UH, WE BROKE INTO I THINK A FEW CARS.

PC: JUST FOR FUN?

CW: YEAH, WE WERE THIRTEEN OR FOURTEEN.

PC: DID YOU GET CAUGHT?

CW: NO.

PC: DID YOU EVER HURT ANIMALS BEFORE?

CW: NOTHING BESIDES STEPPING ON THEM AND STUFF LIKE THAT.

PC: HOW ABOUT SETTING FIRES?

CW: NO.

PC: DID YOU GET EVER - WERE YOU EVER SEXUALLY AGGRESSIVE
TOWARDS ANYBODY AS A KID?

CW: (NO AUDIBLE ANSWER).

PC: EVER WENT TO LIKE DJJ?

CW: NO.

PC: WERE YOU - HAVE YOU EVER BEEN ARRESTED BEFORE?

CW: YEAH, I'VE BEEN ARRESTED BEFORE.

PC: WHEN WAS THAT?

CW: UH, AROUND THE SIXTEENTH OF JULY.

PC: OKAY WE'RE GOING TO GET TO ALL THAT.

CW: OKAY.

PC: BUT HOW ABOUT BEFORE THIS WHOLE INCIDENT,
WERE YOU EVER - HAVE YOU EVER BEEN ARRESTED?

CW: UH, I'VE BEEN, LIKE, UH, I GUESS THE COPS, THEY
CAME AND GOT ME AND PUT ME IN THE CAR I GUESS
JUST TO TRY TO SCARE ME BUT SO FAR AS BEING
FORMALLY CHARGED, NO.

PC: WHEN DID THEY DO THAT?

CW: UH I THINK IT WAS WHEN I STAYED IN COLUMBIA, LIKE ONE
OF THE NIGHTS THAT WE WERE OUT VANDALISING CARS. I
THINK WE WERE THROWING ROCKS AT SOMEBODY'S HOUSE
OR SOMETHING. AND THEY THREATENED TO ARREST US AND
THEY ENDED UP LETTING US GO. THERE WASN'T ANY DAMAGE.

PC: ALL RIGHT DID YOU EVER RUN AWAY FROM HOME?

CW: YEAH. I HAVE I LEFT PROBABLY, IT WAS IN OCTOBER OF
2002.

PC: WELL, WEREN'T YOU - YOU WERE AN ADULT BY THAT TIME.

CW: YEAH I WAS NINETEEN.

PC: OKAY BUT HAVE YOU EVER RUN AWAY? LIKE AS A KID?

CW: OH, NO.

PC: OKAY. AND HOW ABOUT DID YOU EVER GET SUSPENDED? IT
SOUNDS LIKE YOU DID.

CW: YEAH I THINK I GOT SUSPENDED TWICE.

PC: EVER GET EXPELLED?

CW: NO.

PC: WHAT WAS IT YOU GOT SUSPENDED FOR?

CW: I THINK ONE WAS NOT SHOWING UP TO THE IN-SCHOOL

SUSPENSION.

PC: OKAY.

CW: I THINK I WAS (INAUDIBLE) BEFORE.

PC: SO YOU LIKE EVER SKIP SHOOOL?

CW: YEAH, UH, NOT ON A REGULAR BASIS BUT I MEAN, MAYBE FOUR OR FIVE TIMES.

PC: WHEN YOU WERE A KID DID YOU EVER HAVE TO GO TO A PHYSICIAN OR GO TO MENTAL HEALTH?

CW: NO.

PC: DO YOU THINK IT COULD HAVE HELPED YOU LOOKING BACK?

CW: UM-

PC: WELL, WERE YOU WERE PRETTY OKAY AS A KID?

CW: I MEAN, I MEAN, NOT SAYING THAT. I MEAN, EVER SINCE I WAS A KID I WAS ALWAYS AFRAID THAT I WOULD, YOU KNOW, END UP BEING IN THIS SITUATION. I MEAN, I KIND OF KNEW IT BUT I WOULD ALWAYS TELL MYSELF YOU KNOW THAT COULD NEVER HAPPEN TO ME. UNTIL SOMETHING LIKE THIS DOES HAPPEN. BUT I ALWAYS HAD THOUGHT THAT SOMETHING LIKE THIS WOULD HAPPEN TO ME.

PC: WHY? TELL ME WHY.

CW: BECAUSE I MEAN I GUESS, I WAS JUST AN EVIL CHILD BASICALLY. I MEAN EVEN THOUGH -

PC: I MEAN, IT SOUNDS LIKE YOU DID SOME STUFF BUT I'VE HEARD A LOT WORSE THAT KIDS DO.

CW: I KNOW AND IT'S, I DON'T KNOW, I GUESS IF YOU JUST WERE TO SEE ME WALKING DOWN THE STREET YOU WOULDN'T SUSPECT IT UNLESS -

PC: DID YOU ALWAYS FELT LIKE - YOU FELT LIKE YOU WERE A BAD PERSON?

CW: YEAH A LOT OF THE TIMES.

PC: WELL, WHEN DID THAT START?

CW: PROBABLY RIGHT AROUND AFTER MY DADDY LEFT.

PC: AND - BUT YOU DIDN'T DO A LOT OF THINGS THAT HURT PEOPLE. I MEAN, YOU DID A LOT OF KIND OF KID STUFF, BUT - WHAT MADE YOU THINK YOU WERE A BAD PERSON? WAS IT YOUR THOUGHTS?

CW: YEAH, IT WAS DIFFERENT THE KIND OF THOUGHTS THAT I HAD.

PC: WHAT KIND OF THOUGHTS WERE THOSE?

CW: JUST, I MEAN, THINGS THAT NORMAL KIDS SHOULDN'T THINK.

PC: LIKE?

CW: LIKE I DON'T KNOW IT'S KIND OF ALMOST LIKE I GOT A PLEASURE OUT OF SEEING PEOPLE IN PAIN.

PC: TELL ME ABOUT -

CW: THOSE KINDS OF THINGS.

PC: OKAY AND - LET ME TELL YOU ONE OF THE OTHER THINGS THAT I DO IS I TALK TO LOTS OF PEOPLE WHO ARE SEX OFFENDERS. AND I BRING THAT UP BECAUSE I WANT TO ASK YOU SOME SEXUAL QUESTIONS.

CW: OKAY.

PC: THE REASON I SAY THAT IS I DO ACTUALLY ALL THE EVALUATIONS OF SEX OFFENDERS IN SOUTH CAROLINA. (INAUDIBLE) SO I HAVE HEARD ABSOLUTELY EVERYTHING ON THIS EARTH, OKAY.

CW: OKAY.

PC: AND WHAT I ALSO KNOW IS THAT WHEN KIDS ARE FEELING WEIRD ABOUT THEMSELVES WHEN THEY START TALKING ABOUT THAT A LOT OF TIMES IT'S ABOUT SEXUALLY RELATED STUFF. TELL ME ABOUT THAT NOW THE BEST YOU CAN.

CW: UH, SEXUALLY?

PC: YEAH, LIKE CONFUSING SEXUAL STUFF LIKE YOU TALKING ABOUT GETTING PLEASURE OUT OF SEEING PEOPLE IN PAIN. IS THAT MIXED UP WITH SEXUAL STUFF?

CW: NO, NOT THAT.

PC: OKAY.

CW: IT'S JUST LIKE I DON'T KNOW I KNOW IT WAS REALLY BAD AND I HATED TO BE LIKE THAT BUT IT'S KIND OF, I MEAN, I NEVER LIKE HURT ANYBODY AND I WAS KIND OF LIKE A BULLY.

PC: OKAY.

CW: AND I WOULD ALWAYS PICK ON LIKE SMALLER KIDS.

PC: OKAY.

CW: AND SO FAR AS SEXUALLY HURT SOMEBODY I NEVER DID THAT.

PC: OKAY THAT'S NEVER BEEN YOUR INTEREST.

CW: OR I'VE NEVER LIKE -

PC: INFLECTING PAIN THAT WAY.

CW: NO. NOT AT ALL.

PC: BUT YOU LIKED BEING -

CW: (INAUDIBLE).

PC: OKAY WERE YOU AN ANGRY PERSON?

CW: YEAH.

PC: OKAY, TELL ME ABOUT THAT.

CW: I MEAN IT'S JUST, I GUESS A LOT OF IT COMES FROM, I GUESS FROM MY PARENTS BEING SEPARATED. AND I MEAN, IT'S JUST LIKE HE RUINED A GOOD THING. JUST FOR - JUST TO GO OUT AND SLEEP WITH THE NEIGHBOR AND STUFF LIKE THAT, I MEAN, IT'S JUST -

PC: WAS HE PRETTY PROMISCUOUS, DID HE SLEEP AROUND?

CW: YEAH. YEAH.

PC: IS THAT WHY HE LEFT?

CW: YEAH THAT'S WHY MY MOM GOT DIVORCED.

PC: AND SO THAT REALLY MADE YOU ANGRY?

CW: YEAH THAT REALLY MADE ME START TO HATE HIM AFTER A WHILE.

PC: HOW DID YOU KNOW ABOUT IT?

CW: I FOUND OUT THROUGH MY MOM.

PC: SHE TOLD YOU?

CW: YEAH.

PC: SO THAT'S - LIKE YOU WERE ABOUT TEN. WAS THAT WHEN YOU SAID -

CW: PROBABLY ABOUT NINE.

PC: OKAY, BUT BEFORE THAT WERE YOU ANGRY TOO?

CW: UM, I WOULDN'T SAY ANGRY BUT, NO NOT NECESSARILY ANGRY BUT I GUESS MAYBE MORE THAN A NORMAL PERSON.

PC: WERE YOU EVER SEXUALLY ABUSED?

CW: NO.

PC: YOU ARE ABSOLUTELY SURE?

CW: YEAH.

PC: WOULD YOU BE TOO EMBARRASSED TO SAY IT OR YOU WOULD BE OKAY TALKING ABOUT IT IF THAT HAPPENED?

CW: OH, YEAH.

PC: OKAY AND HOW OLD WERE YOU WHEN YOU STARTED DATING?

CW: SIXTEEN.

PC: WERE YOU THE KIND OF KID WITH LOTS OF FRIENDS?

CW: NO.

PC: LOT OF BUDDIES.

CW: NO, NEVER, NEVER I NEVER LIKED HAVING LOTS OF FRIENDS.

PC: OKAY, YOU KIND OF KEEP TO YOURSELF?

CW: I MEAN I WOULD JUST RATHER HAVE, LIKE THE LESS FRIENDS THAT WERE CLOSER TO YOU THAN HAVING A BUNCH OF PEOPLE WHO WERE AROUND YOU.

PC: WHO ARE YOUR CLOSEST FRIENDS?

CW: OH, (INAUDIBLE)

PC: JIMMY?

CW: YEAH.

PC: WHAT'S HIS LAST NAME?

CW: UH, (INAUDIBLE).

PC: DO YOU HAVE A NUMBER FOR HIM?

CW: NO HE LIVES IN COLUMBIA.

PC: HE'S IN COLUMBIA NOW, YOU STILL KEEP IN TOUCH WITH HIM?

CW: ONLY WHEN I GO DOWN, WHEN I USED TO GO DOWN ABOUT EVERY MONTH TO SEE MY SISTER WE WOULD STOP BY HIS HOUSE AND SEE HIM BUT, UH, SO FAR I HAVEN'T HEARD FROM HIM IN MAYBE A MONTH OR SO.

PC: IS HE A FRIEND FROM YOUR CHILDHOOD?

CW: HE IS A FRIEND FROM WHEN I STAYED IN COLUMBIA WITH MY SISTER. I'VE KNOWN HIM SINCE THEN.

PC: HOW OLD WERE YOU THEN?

CW: UH, FIFTEEN.

PC: AND WHY DID YOU STAY WITH HER?

CW: TO GET AWAY FROM MY MOM.

PC: WAS IT HER BOYFRIEND?

CW: YEAH.

PC: WAS IT GETTING WORSE?

CW: IT'S BEEN GETTING WORSE FOR THE LONGEST TIME.

PC: WHERE DID YOU GO TO HIGH SCHOOL?

CW: I WENT TO GREER HIGH.

PC: HOW DID YOU DO THERE?

CW: PRETTY WELL, I DID A LOT BETTER THERE THAN I DID IN NORTHWOOD. BECAUSE OF MY SISTER SHE WAS ALWAYS PUSHING BECAUSE MY MOM WASN'T REALLY INTO IT. SHE DIDN'T REALLY CARE WHAT I DID. BUT MY SISTER WAS REALLY ACADEMICALLY INVOLVED WITH ME. SO SHE WOULD ALWAYS PUSH ME TO DO BETTER. AND MAKE SURE I DID MY HOMEWORK.

INTERRUPTION

BACKGROUND TALKING

PC: SORRY ABOUT THAT. YOU GRADUATED HIGH SCHOOL?

CW: YEAH.

PC: OKAY AND HOW WERE YOUR GRADES?

CW: I DON'T KNOW PROBABLY I WOULD SAY MOSTLY C's.

PC: OKAY. AND DID YOU TAKE - DID YOU HAVE TO TAKE ONE OF THOSE TESTS THAT GETS YOU OUT OF HIGH SCHOOL? YOU KNOW THAT KIND OF STUFF?

CW: NO. S.A.T.?

PC: YES, DIDN'T I SAY THAT?

CW: YEAH, I MISUNDERSTOOD.

PC: DO YOU KNOW HOW YOU DID ON IT?

CW: I THINK IT WAS LIKE A (INAUDIBLE).

PC: REALLY?

CW: YEAH.

PC: THAT'S REALLY GOOD. SO YOU DID PRETTY WELL ON THAT?

CW: YEAH.

PC: OKAY DID YOU THINK ABOUT GOING TO COLLEGE?

CW: I THOUGHT ABOUT IT BUT I DIDN'T HAVE ENOUGH MONEY TO GO AND MY GRADES WEREN'T GOOD ENOUGH TO GET SCHOLARSHIPS TO GO. BECAUSE MY SISTER GOT ONE IN SCHOOL.

PC: DID SHE?

CW: YEAH.

PC: AND DO YOU REMEMBER WHAT THE MATH AND VERBAL WAS ROUGHLY?

CW: NO. I WISH I COULD TELL YOU.

PC: BUT WERE YOU BETTER AT MATH OR BETTER AT -

CW: I WAS BETTER AT SCIENCE.

PC: BECAUSE IT INTERESTED YOU?

CW: YEAH.

PC: SO YOU GRADUATED FROM HIGH SCHOOL. WHEN WAS THAT, WAS THAT 2001?

CW: (NO AUDIBLE ANSWER).

PC: WHAT DID YOU DO AFTER YOU GRADUATED?

CW: KEPT WORKING AT THE JOB I WAS AT. AND WELL I KEPT

WORKING THERE UNTIL I COULD FIND A BETTER JOB.
AND STAYING WHERE I WAS AT AND HOPFULLY PLAN ON
GOING TO SCHOOL BUT THIS NEVER - I KEPT PUTTING IT
OFF AND I NEVER GOT AROUND TO IT.

PC: NOW WHICH JOB WAS THIS?

CW: I WORKED AT BI-LO ON WOODRUFF ROAD.

PC: OKAY AND WHEN DID YOU START WORKING THAT JOB?

CW: IT WAS PROBABLY ABOUT '99. PROBABLY AROUND THE
MIDDLE OF '99.

PC: SO YOU WERE WORKING THERE WHILE YOU WERE IN
HIGH SCHOOL?

CW: YEAH.

PC: AND THEN YOU KEPT WORKING THERE?

CW: YEAH.

PC: OKAY AND WHEN DID YOU STOP WORKING THERE?

CW: THE 24TH OF MAY.

PC: WHAT WERE YOU DOING?

CW: I WAS - AT THE TIME WHEN I LEFT I WAS ASSISTANT PRODUCE
MANAGER THERE.

PC: SO YOU WERE DOING PRETTY GOOD?

CW: YEAH.

PC: DID YOU PLAN TO STAY WITH THEM?

CW: NO I HAD, YOU KNOW, I MEAN WITH THE COMPANY, BI-LO,
BUT NOT WITH THAT CERTAIN STORE.

PC: UH-HUH (AFFIRMATIVE).

CW: I WANTED TO GET A TRANSFER AND I DIDN'T GET IT.

PC: NOW SO YOU SAID YOU STARTED DATING AT AROUND SIXTEEN.

CW: UH-HUH (AFFIRMATIVE).

PC: WAS THAT YOUR FIRST SERIOUS GIRLFRIEND AROUND SIXTEEN?

CW: WELL, I MEAN NOT REALLY SERIOUS BUT I GUESS, WELL, YEAH.

PC: WHO WAS THAT?

CW: HER NAME WAS AMANDA ALISTAIR.

PC: AMANDA, A-L—

CW: I-S-T-A-I-R.

PC: WAS THAT THE FIRST PERSON YOU EVER GOT INTIMATE WITH SEXUALLY?

CW: NO.

PC: HOW OLD WERE YOU THE FIRST TIME?

CW: THE FIRST TIME WAS — I WAS FIFTEEN.

PC: AND HOW OLD WAS THE GIRL?

CW: FIFTEEN.

PC: BUT AMANDA WAS KIND OF YOUR FIRST REAL GIRLFRIEND.

CW: YEAH.

PC: AND HOW LONG DID YOU DATE HER?

CW: ABOUT THREE MONTHS.

PC: WHO WERE YOUR GUY FRIENDS DURING THAT TIME?

CW: WELL, MOSTLY GUYS LIKE COURTNEY, AND A FEW OTHER PEOPLE, I MEAN I DIDN'T HAVE LIKE A WIDE VARIETY OF FRIENDS JUST A FEW.

PC: IF I HAD LIKE GONE AND TALKED TO YOUR FRIENDS WAY BACK THEN AND SAID, WHAT IS THIS GUY LIKE, WHAT WOULD

THEY HAVE SAID?

CW: (INAUDIBLE) IN HIS LIFE. ARE YOU BORED YET?

PC: HUH?

CW: ARE YOU BORED YET? (INAUDIBLE).

PC: I'M SORRY, I DO, I JUST NEED A TON OF INFORMATION -

CW: NO, DON'T WORRY.

PC: IS THAT ALL RIGET WITH YOU?

CW: THAT'S FINE AS BORING AS IT IS.

PC: YOU'RE NOT BORING AT ALL. NO, I'M JUST TRYING TO GET A PICTURE. SO YOU WERE THE QUIET GUY?

CW: YEAH.

PC: WERE YOU THE WEIRD GUY?

CW: NO JUST QUIET.

PC: JUST QUIET. THEY WOULD SAY HE'S NICE?

CW: WELL, JUST THEY WOULD SAY HE NEVER SAYS ANYTHING TO ANYBODY.

PC: BUT WERE YOU STILL GETTING IN TROUBLE BY THAT TIME?

CW: NO NOT AT ALL. I NEVER GOT IN TROUBLE ONE TIME DURING HIGH SCHOOL.

PC: OKAY.

CW: SO IT STOPPED IN MIDDLE SCHOOL.

PC: OKAY WHY DID YOU STOP?

CW: I WAS JUST. I DON'T KNOW, I GUESS YOU COULD SAY I JUST KIND OF GREW UP A LITTLE BIT OR WELL, IT KIND OF SURPRISED ME AS MUCH AS ANYBOY ELSE.

PC: SO YOU WEREN'T SUCH A BAD PERSON AFTER ALL.

CW: UH, YEAH MAYBE OR JUST CERTAIN THINGS THAT, YOU KNOW, LIKE THROWING ROCKS AT CARS DIDN'T INTEREST ME THAT MUCH ANYMORE.

PC: YEAH, BUT WHAT PEOPLE TRANSITION TO IS BREAKING INTO STORES AND -

CW: YEAH.

PC: - DOING REALLY NASTY STUFF. AND YOU NEVER WENT THAT WAY.

CW: NO.

PC: IT DIDN'T INTEREST YOU. IT WASN'T EXCITING.

CW: IT WASN'T WORTH IT ANYWAY.

PC: DID YOU EVER - WERE YOU STILL HAVING THAT FEELING THAT YOU LIKE TO HURT PEOPLE?

CW: NO. NOT AS MUCH AS I DID BEFORE BUT AND USUALLY, LIKE IT DEPENDED, IT VARIED LIKE I WOULD THINK OF THE ROLE MY DAD WAS PLAYING LIKE HOW MUCH HE WAS AROUND OR IF I NEVER SAW HIM.

PC: SO IF HE WAS AROUND MORE?

CW: I WOULD FEEL MORE COMFORTABLE AND -

PAUSE

PC: AND? WELL, WHEN HE WASN'T AROUND YOU WOULD GET MORE ANGRY OR IRRITABLE.

CW: YEAH, IRRITABLE.

PC: WHAT'S YOUR SISTER'S RELATIONSHIP LIKE WITH YOUR DAD?

CW: SHE (INAUDIBLE) MORE THAN I DO.

PC: REALLY?

CW: YEAH, ABSOLUTELY. I MEAN THEY HAVEN'T SEEN EACH OTHER IN 6 WEEKS.

PC: WHAT ABOUT HER AND YOUR MOM'S - ARE THEY NOT GETTING ALONG TOO WELL?

CW: YEAH THEY GOT IN AN ARGUMENT OVER SOMETHING REALLY STUPID AND ESPECIALLY WITH (INAUDIBLE) ESPECIALLY WHEN SHE'S DRUNK SHE'LL TAKE THE SMALLEST THING AND BLOW IT WAY UP UNFORTUNATELY. THAT'S WHAT SHE DID, I MEAN SHE DID IT TO HERSELF.

PC: REALLY?

CW: SHE HAD NO REASON TO GET MAD AT HER ABOUT IT.

PC: SO JUST STUPID STUFF?

CW: YEAH.

PC: DO YOU THINK THEY'LL MAKE UP?

CW: I DON'T KNOW. WHEN I TALKED TO MY SISTER SHE SAID IT WOULD BE YEARS BEFORE SHE TALKED TO MY MOM BUT - I MEAN, I'M SURE NOW THEY'LL BE ABLE TO TALK.

PC: HOW ABOUT YOU AND DRINKING, DO YOU?

CW: I NEVER - I MEAN I HAVE DRANK BEFORE THROUGHOUT THE YEARS BUT I NEVER REALLY STARTED DRINKING. NOT EVEN HEAVILY BUT LIKE MODERATELY.

PC: UH-HUH (AFFIRMATIVE).

CW: UNTIL, PROBABLY ABOUT MARCH OR FEBRUARY OF THIS YEAR.

PC: AND WHEN YOU SAY MODERATELY WHAT DO YOU MEAN?

CW: I MEAN NOT LIKE BINGE DRINKERS BUT JUST LIKE MAYBE THREE OR FOUR EVERY NIGHT OR SO I GUESS.

PC: ANY MORE THAN THAT?

CW: YEAH, I MEAN, JUST DEPENDING ON, I MEAN, THERE WERE SOME NIGHTS THAT, YOU KNOW, I WOULD DRINK WAY, I MEAN I WOULD GO WAY OUT OF MY MEANS. AND THEN OTHER NIGHTS YOU KNOW I COULD JUST SAY I ONLY WANT ONE OR TWO.

PC: WERE YOU FEELING LIKE YOU WERE GETTING HOOKED ON IT?

CW: NO. THAT'S THE THING THAT - I ALWAYS STOP BEFORE IT GOT TO THAT POINT.

PC: EVER HAVE BLACKOUTS FROM IT?

CW: I REMEMBER PASSING OUT BUT NOT JUST BLACKOUT.

PC: DID YOU EVER GET THE SHAKES?

CW: NO.

PC: AND NOBODY - HAS ANYBODY SAID, WELL YOUR DRINKING IS GETTING OUT OF HAND?

CW: NO.

PC: HOW ABOUT DRUGS?

CW: NOT REALLY.

PC: WELL, HOW DID YOU STAY AWAY?

CW: I'VE SEEN WHAT THEY DO TO YOU.

PC: WAS YOUR DAD INTO DRUGS DO YOU THINK?

CW: UH, JUST LIKE MARIJUANA.

PC: OKAY.

CW: BUT NOTHING MORE THAN THAT.

PC: BUT YOU STAYED AWAY FROM ALL THAT?

CW: YEAH.

PC: OKAY SO YOU DATED SOME AND HAD A FEW FRIENDS.
WHAT WOULD YOU SAY WAS YOUR MOST SERIOUS
RELATIONSHIP?

CW: UM, THE ONE THAT I WAS INVOLVED WITH NOW.

PC: WHEN DID YOU MEET?

CW: SHE STARTED I THINK IT WAS DECEMBER OF LAST YEAR. AND I HAD SEEN HER FOR LIKE, SINCE WE WORK LIKE, OUR DEPARTMENTS WERE RIGHT BESIDE EACH OTHER AND I HAD SEEN HER. BUT IS WAS JUST LIKE KIND OF LIKE, YOU KNOW WE WOULD GO OUTSIDE LIKE ON OUR SMOKE BREAKS. AND WE WOULD TALK TO EACH OTHER. AND I MEAN, IT JUST ESCALATED FROM THERE.

PC: OKAY SO IT WAS DECEMBER OF 2002.

CW: YEAH.

PC: IS WHEN SHE STARTED WORKING THERE?

CW: YEAH. AND I PROBABLY DIDN'T START TALKING TO HER UNTIL MAYBE EARLY JUNE.

PC: AND WHAT DID YOU LIKE ABOUT HER?

CW: UH, I DON'T KNOW. IT'S JUST KIND OF LIKE ONE OF THOSE, WELL, REALLY, YOU KNOW, AFTER TALKING TO HER FOR A WHILE, I FELT LIKE SHE WAS THE KIND OF PERSON, YOU KNOW, THAT I WOULD WANT TO, YOU KNOW, SHARE FEELINGS WITH AND STUFF LIKE THAT. AND I HADN'T DONE THAT IN A LONG TIME AND I THOUGHT IN MY MIND THAT SHE WAS THAT PERSON. BUT I GUESS I WAS WRONG.

PC: SO DID YOU GET PRETTY ATTACHED TO HER PRETTY QUICK?

CW: YEAH, WAY TOO FAST. THAT WAS THE BIGGEST PROBLEM. WE HADN'T KNOWN EACH OTHER LONG ENOUGH TO LEARN HOW WE WERE.

PC: AND WHAT'S HER NAME?

CW: UH, MANDY. IT WAS MIRANDA.

PC: MIRANDA AND YOU CALLED HER MANDY?

CW: YEAH.

PC: AND WHAT'S HER LAST NAME?

CW: WILLIAMS.

PC: AND SO YOU STARTED DATING HER REALLY IN JANUARY?

CW: I DON'T KNOW THE EXACT DATE BUT IT'S PROBABLY RIGHT AROUND INTO JANUARY OR FEBRUARY.

PC: AND WAS SHE A PRETTY DECENT PERSON?

CW: YES, SHE WAS GOOD, I MEAN, FROM WHAT SHE TOLD ME BUT THEN LIKE WHEN WE GOT FURTHER ALONG IN OUR RELATIONSHIP IT WAS LIKE THE MORE I FOUND OUT ABOUT HER, IT WAS JUST MORE AND MORE STUFF LIKE THE DRUGS AND DRINKING AND ALL THIS STUFF THAT SHE DONE IN HER PAST.

PC: REALLY?

CW: SHE - IT WAS LIKE, I FOUND THIS OUT LATER IN THE RELATIONSHIP AND I WISH I WOULD HAVE KNOWN EARLIER. I MEAN, NOT TO SAY THAT I WOULD HAVE NOT TALKED TO HER BUT I JUST WOULD HAVE NOT WANTED A RELATIONSHIP WITH HER.

PC: YOU WOULD HAVE BEEN MUCH MORE CAUTIOUS?

CW: YEAH.

PC: WHAT WAS THE STUFF THAT BOTHERED YOU THE MOST?

CW: NO, IT'S JUST, LIKE SHE WOULD TELL ME THAT SHE, LIKE SHE HAD DONE EVERY KIND OF DRUG YOU CAN IMAGINE AND SHE'S BEEN IN MARSHAL PICKENS AND CHARTER. SHE TRIED TO KILL HERSELF. AND LIKE -

END OF SIDE ONE/TAPE ONE
SIDE TWO

PC: OKAY WHAT MONTH WERE YOU FALLEN SO HARD THAT YOU COULDN'T SEEM TO (INAUDIBLE).

CW: PROBABLY THE END OF MARCH.

PC: SO BY THE END OF MARCH YOU'RE THINKING THIS IS THE ONE?

CW: YEAH.

PC: AND WHERE WAS SHE LIVING?

CW: SHE LIVES IN - OFF RIVER ROAD.

PC: BY HERSELF?

CW: SHE LIVES WITH HER PARENTS. HER MOM AND WELL, HER STEPMOM AND DADDY.

PC: WHERE WERE YOU LIVING?

CW: I WAS -

PC: WITH YOUR MOM AND STEPDAD?

CW: YEAH.

PC: SO WHEN - DID YOU GUYS START HAVING A PHYSICAL RELATIONSHIP IN MARCH OR FEBRUARY?

CW: NO, YEAH, PROBABLY MAYBE TWO WEEKS AFTER WE WERE LIKE STARTING DATING-DATING.

PC: ALL RIGHT AND SAYING I LOVE YOU. SHE SAYING THAT KIND OF SWEET - THAT KIND OF STUFF?

CW: YEAH.

PC: AND THEN WHAT HAPPENED? HOW DID IT CHANGE?

CW: IT CHANGED LIKE, I FOUND OUT, THE BIGGEST THING THAT CHANGES WELL IT WAS A COUPLE OF THINGS LIKE THE LONGER I KNEW HER THE MORE STUFF I FOUND OUT ABOUT HER THAT WAS, NOT, WELL I WOULDN'T SAY BAD, I MEAN, I WOULDN'T HAVE NOT LIKE HER BECAUSE OF THESE THINGS. BUT, JUST AND WE WERE REALLY NEEDING MORE TIME TO HAVE GOTTEN TO KNOW EACH OTHER. AND THEN LIKE THIS WHOLE PREGNANCY-ABORTION THING, THAT'S WHAT REALLY DID IT RIGHT THERE.

PC: WHEN DID THAT HAPPEN?

CW: THAT HAPPENED - SHE TOLD ME ABOUT THAT PROBABLY THREE OR FOUR WEEKS, PROBABLY ABOUT THREE WEEKS AFTER, I FIND OUT ABOUT THAT PROBABLY ABOUT THREE WEEKS AFTER WE STARTED DATING. THAT SHE HAD GOTTEN PREGNANT AND THAT SHE HAD AN ABORTION.

PC: OKAY. ABOUT THREE WEEKS AFTER YOU STARTED DATING AND THAT WOULD HAVE BEEN IN MARCH?

CW: PROBABLY ABOUT THE 24TH OR THE 21ST OR SO MAYBE.

PC: NOW SHE TOLD YOU OR SOMEONE ELSE TOLD YOU?

CW: I FOUND OUT FROM HER. SHE DIDN'T TELL ME. I FOUND OUT THROUGH, CAUSE HER MOM, HER STEPMOM WORKS WITH HER AT BI-LO.

PC: UH-HUH (AFFIRMATIVE).

CW: AND, UH, AND I GUESS SHE TOLD HER MOM AND THEN THE MOM ENDED UP TELLING HER FRIENDS AND SHE DIDN'T KNOW THAT I WAS LIKE GOOD FRIENDS WITH THIS OTHER WOMAN. AND I FOUND OUT FROM HER. AND THEN HER BEST FRIEND, TARA, I MEAN THEY'VE KNOWN EACH OTHER FOREVER. AND THEN A BUNCH OF OTHER PEOPLE AND THEY WERE ALL SAYING THE EXACT SAME STORY. AND THESE PEOPLE DON'T EVEN KNOW EACH OTHER. SO, I MEAN, I MEAN, I DON'T KNOW A HUNDRED PERCENT FOR SURE BUT I MEAN, I'M ALMOST POSITIVE.

PC: THAT'S WHAT THEY WERE SAYING?

CW: YEAH.

PC: SO THAT WAS LIKE THREE WEEKS AFTER YOU STARTED DATING?

CW: YEAH.

PC: YOU ARE HEAD OVER HILLS FOR THE GIRL.

CW: AND THEN -

PC: DID SHE - DID YOU CONFRONT HER WITH IT?

CW: I WAITED. I WANTED TO SEE HOW LONG IT WOULD TAKE FOR HER TO COME AROUND AND SEE IF SHE WOULD SAY ANYTHING. BUT SHE NEVER DID AND I WAITED ALL THE WAY THROUGH JUNE.

PC: REALLY. HOW WERE YOU ABLE TO KEEP HAVING A RELATIONSHIP WITH HER?

CW: YES, IT WAS HARD. I MEAN I KEPT WANTING TO TELL MYSELF THAT, YOU KNOW, THAT THINGS WOULD WORK OUT. WELL, LIKE ANYTIME I TOLD MYSELF THAT THEN I WOULD SIT BACK AND -

PC: BECAUSE OF THAT?

CW: WELL THAT WAS THE MAIN THING RIGHT THERE.

PC: RIGHT. DID YOU HAVE OTHER PROBLEMS?

CW: UH, YEAH, OTHER PROBLEMS WITH HER.

PC: LIKE WHAT?

CW: LIKE, JUST THE WAY, I MEAN SHE WAS VERY UNTRUSTING. SHE WAS THE MOST UNTRUSTING PERSON I EVER MET IN MY LIFE. AND SHE HAD, I DON'T KNOW, IT WAS, LIKE HER PARENTS TOO AND THEY WERE LIKE VERY CONTROLLING OF HER. I DON'T KNOW.

PC: WHO DID YOU TRUST IN?

CW: HUH?

PC: YOU SAID SHE WAS VERY INTERESTING?

CW: NO I SAID HER PARENTS WERE CONTROLLING.

PC: I KNOW BUT WHAT DID YOU SAY BEFORE ABOUT HER? YOU SAID SHE, I THOUGHT YOU SAID SHE WAS VERY INTERESTING.

CW: UNTRUSTING.

PC: UNTRUSTING. I'M SORRY. SO SHE WAS UNTRUSTING OF YOU?

CW: YEAH.

PC: OKAY. ALL RIGHT AND HER PARENTS WERE VERY CONTROLLING.

CW: YEAH. THEY DIDN'T WANT HER TO DO ANYTHING WITH ANYBODY, EVER.

PC: FROM MARCH TO JUNE HOW OFTEN WERE YOU SEEING HER?

CW: OH, ABOUT EVERY NIGHT OR EVERY OTHER NIGHT.

PC: REALLY? WHERE WOULD YOU SEE EACH OTHER?

CW: SHE WOULD COME TO MY HOUSE OR WE WOULD MEET.
MOST OF THE TIME SHE JUST CAME OVER TO MY HOUSE.

PC: AND THEN IN JUNE WHAT HAPPENED?

CW: UH, JUNE, I THINK IT WAS THE 3RD OR 4TH, I FINALLY
CONFRONTED HER AND ASKED HER ABOUT IT AND SHE
COMPLETELY DENIED THE WHOLE THING. AND THEN
AFTER THAT WE STOPPED TALKING. I THINK WE TALKED,
I CALLED HER ONCE AND SHE CALLED ME ONCE. AND
BETWEEN THAT TIME AND THE 16TH OF JULY BUT THAT WAS
IT.

PC: OKAY. HOW WERE YOU FEELING?

CW: JUST WHAT I HAD DONE SO LONG TO - FOR SOMEBODY TO DO
SOMETHING LIKE THAT.

PC: SO IS IT LIKE IT HIT YOU IN JUNE?

CW: NO IT HAD BEEN BUILDING UP THE WHOLE TIME AND
FINALLY I COULDN'T TAKE IT ANYMORE AND I HAD TO ASK
HER AND FIND OUT. AND THEN AND THEN SHE LIED OR WHAT NOT.

PC: AND YOU WERE PRETTY SURE?

CW: YEAH, I WAS PRETTY POSITIVE.

PC: OKAY. AND SO WHAT - TELL ME ABOUT THAT DISCUSSION.
WERE YOU YELLING AT EACH OTHER?

CW: NO. SHE CAME OVER TO THE HOUSE ONE NIGHT AND MY
PARENTS WERE HOME SO I DIDN'T WANT THEM TO GET
INVOLVED IN IT. SO I TOLD HER TO COME OUTSIDE AND
I ASKED HER ABOUT IT AND SHE WAS LIKE HOW COULD
YOU EVER EVEN ASK ME SOMETHING LIKE THAT. YOU
KNOW I WOULD NEVER DO THAT. AND I DIDN'T - I WOULD
HAVE SAID WELL, SO-AND-SO TOLD ME THIS BUT I DIDN'T
WANT TO DRAG ANYBODY ELSE'S NAME IN THE DIRT. AND
I MEAN, IF I WOULD HAVE DONE THAT THEN I WOULD HAVE
PROBABLY BEEN ABLE TO LIKE HAVE SOME KIND OF
EVIDENCE OR WHATEVER TO BACK MY STORY UP WITH.
I DIDN'T WANT TO DO THAT. GET ANYBODY ELSE INVOLVED
IN IT.

PC: WOULD YOU HAVE WANTED HER TO HAVE THE CHILD?

CW: YEAH, I MEAN, EVEN IF SHE DIDN'T, I MEAN, I WOULD HAVE MUCH RATHER, IF SHE REALLY FELT LIKE SHE WOULD BE BETTER OFF, BETTER OFF WITHOUT IT, I WISH SHE WOULD HAVE JUST, I MEAN, AT LEAST TALKED TO ME ABOUT IT.

PC: RIGHT.

CW: AND I THOUGHT, IF YOU KNOW, I WOULD HAVE AT LEAST SOME SAY, YOU KNOW.

PC: OKAY. SO THAT MADE YOU FEEL LIKE SHE DIDN'T REALLY CARE ABOUT WHAT YOU THOUGHT?

CW: YEAH, PRETTY MUCH.

PC: OKAY. DID YOU BREAK UP THAT NIGHT?

CW: YEAH, IT WAS LIKE THAT NIGHT.

PC: WAS SHE PRETTY UPSET ABOUT BREAKING UP?

CW: UH, NO SHE WAS MORE ANGRY WITH ME FOR ACCUSING HER OF DOING THAT.

PC: AND WHAT DID YOU SAY, I JUST DON'T WANT TO SEE YOU ANYMORE?

CW: I TOLD HER I WAS, YOU KNOW, LIKE, YOU KNOW, IF YOU LIE TO ME ABOUT SOMETHING LIKE THAT, I MEAN WHAT WOULD STOP YOU FROM LYING TO ME ABOUT ANYTHING. OR SOMETHING SMALLER THAN THAT.

PC: RIGHT.

CW: AND I WAS, IF SHE'S GOING TO DO THAT TO ME THEN I CAN'T TRUST HER.

PC: AND THEN AND THEN AFTER THAT YOU STARTED FEELING LIKE YOU HAD DONE SOMETHING WRONG?

CW: YEAH IN A WAY I DID. I KIND OF FELT LIKE I HAD DRIVEN HER AWAY.

PC: OKAY.

CW: AND LIKE ALL NIGHT I WAS JUST ASKING HER LIKE FOR EXPLANATIONS OR REASONS FOR LIKE A LOT OF THINGS THAT WERE GOING ON. LIKE THE WAY THEY DID. AND SHE WOULD ALWAYS TELL ME I DON'T KNOW, MY FEELINGS HAVE CHANGED FOR YOU AND ALL I WANTED TO DO WAS TO ASK HER, YOU KNOW, JUST TO TELL ME. AT LEAST GIVE ME AN EXPLANATION.

PC: AND DID YOU GET VIOLENT? DID YOU HIT HER?

CW: NO, NOT THEN.

PC: OKAY DID YOUR MOM AND DAD HIT EACH OTHER?

CW: YEAH, MY DAD WAS ABUSIVE.

PC: TO YOUR MOM?

CW: YEAH.

PC: DID SHE EVER GO TO THE HOSPITAL?

CW: UH, NUMEROUS TIMES.

PC: THAT NIGHT YOU DIDN'T HIT HER?

CW: NO.

PC: AND THAT WAS WHEN?

CW: I THINK MAYBE THE 3RD OR 4TH OF JUNE.

PC: OKAY IT WAS JUNE 3RD OR 4TH. OKAY THEN WHEN WAS THE LAST TIME YOU SAW HER?

CW: THE NEXT TIME WE LIKE SAW EACH OTHER WAS LIKE THE 16TH OF JULY.

PC: TELL ME ABOUT THAT.

CW: WELL, WE STARTED TALKING AGAIN. WELL, WE TALKED THE DAY BEFORE. AND I WAS GOING TO COME UP THERE TO SEE HER AT WORK AND I GOT THERE PROBABLY AT 11:00 AND SHE TOLD ME SHE ONLY HAD LIKE FIVE MINUTES

TO TALK ON A BREAK. SO, WE TALKED FOR A LITTLE WHILE AND I ASKED HER IF SHE COULD - IF I COULD COME BACK ON HER LUNCH BREAK, LIKE THIRTY MINUTES OR SO. AND SO I LEFT AND I THINK I GOT SOMETHING TO EAT AND I CAME BACK AT 3:00 THAT AFTERNOON AND SHE GOT OFF AT 3:15 OR 3:30. SO I WAITED IN THE PARKING LOT AND I SAW HER WALK OUT. I WAS WAITING IN MY CAR AND SHE JUST IGNORED ME AND WALKED STRAIGHT OVER TO HER CAR AND GOT IN AND STARTED THE CAR. SO I JUMPED OUT OF THE CAR AND RAN OVER THERE BECAUSE I DIDN'T KNOW, YOU KNOW, IF I HAD TURNED INVISIBLE OR IF SHE JUST DIDN'T WANT TO TALK TO ME.

PC: BECAUSE SHE HAD SAID SHE WOULD TALK TO YOU.

CW: YEAH, I MEAN, LIKE A FEW HOURS AGO EVERYTHING WAS FINE. AND IT WAS LIKE A SWITCH.

PC: OKAY.

CW: AND SHE JUST COULDN'T STAND TO BE AROUND ME ANYMORE.

PC: OKAY.

CW: AND I WENT OVER THERE TO THE DRIVER'S SIDE DOOR AND I WAS ASKING HER WHAT'S THE MATTER WITH YOU AND SHE SAID, LEAVE ME ALONE, I DON'T WANT TO SAY WHAT SHE WAS SAYING, BUT -

PC: PLEASE DO.

CW: ALL RIGHT. SHE WAS LIKE LEAVE ME THE FUCK ALONE. (INAUDIBLE) STOP FOLLOWING ME, YOU NEED TO LEAVE ME ALONE, BLAH, BLAH, BLAH.

PC: HAD YOU BEEN CALLING HER A BUNCH?

CW: NO, NO. AND WE TALKED TWICE IN THE MONTH BEFORE.

PC: OKAY.

CW: AND THE THING THAT - REALLY WHY I HIT HER IS BECAUSE SHE SLAMMED MY HAND - THE CAR DOOR ON MY HAND.

PC: OKAY.

CW: AND, UH, YOU KNOW, I DON'T KNOW IF (INAUDIBLE) BUT I JUST -- IT WAS ONE OF THOSE SITUATIONS WHERE I GOT SO MAD, IT WAS LIKE MY ENTIRE VISION JUST WENT RED. AND I JUST KIND OF BLANKED OUT FOR A SPLIT SECOND.

PC: UH-HUH.

CW: IT WAS OVER BEFORE I KNEW, BEFORE EVEN I KNEW WHAT HAPPENED.

PC: HOW DID YOU HIT HER?

CW: IT WAS -- LIKE I WAS LAYING IN THE CAR AND I MEAN I DIDN'T DRAW BACK, I MEAN IT WAS LIKE JUST A JAB. AND I HIT HER LIKE RIGHT THERE (DEMONSTRATING) ON HER, KIND OF LIKE ON THE LOWER PART OF HER JAW.

PC: OKAY.

CW: AND IT LIKE CUT THE INSIDE OF HER LIP AND I THINK SHE HAD LIKE A SWOLLEN LIP AND A LITTLE BLOOD COMING OUT OF HER BUT THAT WAS ABOUT IT.

PC: OKAY AND THEN YOU -- WHAT HAPPENED AFTER THAT?

CW: I GOT IN MY CAR AND LEFT AND I WENT HOME AND HER MOM HAD CALLED THE SHERIFF I GUESS AND HAD A WARRANT AND THEY CAME AND PICKED ME UP LATER THAT NIGHT.

PC: AND WHAT HAPPENED THEN?

CW: THEY BROUGHT ME IN HERE AND THEY ARRAIGNED ME AND I STAYED OVER NIGHT AND I GOT OUT THE NEXT DAY.

PC: OKAY. HOW DID YOU FEEL ABOUT THAT AT THAT POINT?

CW: I KNEW, I KNEW THAT WAS COMPLETELY BROUGHT ON BY MYSELF.

PC: WERE YOU MAD AT YOURSELF?

CW: YEAH, BOTH I MEAN, HER TOO BECAUSE I MEAN SHE SHOULDN'T HAVE DONE THAT IN THE FIRST PLACE.

PC: SHOULDN'T HAVE DONE --

CW: SLAMMED IT ON ME THE CAR DOOR ON MY HAND.

PC: WAS HER MOM WATCHING THIS? WAS HER MOM WORKING AT THE STORE?

CW: NO THIS WAS AT ANOTHER STORE SHE'S TRANSFERRED TO.

PC: OH, WHICH ONE IS THAT?

CW: THE ONE ON EAST NORTH STREET.

PC: BUT DIFFERENT BI-LO?

CW: YEAH.

PC: BUT YOU WEREN'T STILL WORKING AT BI-LO?

CW: NO.

PC: WHEN DID YOU QUIT?

CW: THE 24TH I THINK.

PC: AND WHY DID YOU QUIT?

CW: BECAUSE I WAS SUPPOSED TO GET A TRANSFER AND MY OLD PRODUCE MANAGER KYLE HAD APPROVED IT BUT HE HAD GOTTEN DEMOTED AND TRANSFERRED TO ANOTHER STORE AND OUR NEW PRODUCE MANAGER, JOHN MCINTIRE, ME AND HIM DIDN'T GET ALONG AT ALL SO I WAS SUPPOSED TO TRANSFER TO 460 THE ROPER MOUNTAIN STORE.

PC: OKAY.

CW: BUT I GUESS HE DIDN'T LIKE ME SO HE WANTED ME TO STAY THERE AND HE KIND OF MADE ME QUIT. SO I JUST LEFT.

PC: WHAT DID YOU DO AFTER THAT?

CW: I WENT AN APPLIED AT WALMART.

PC: OKAY.

CW: AND I STARTED THERE TWO WEEKS AFTER I LEFT BI-LO.

PC: WERE YOU WORKING THERE UP UNTIL THIS TIME?

CW: I WAS WORKING THERE UNTIL I STARTED SPEAR STAFFING
AUGUST.

PC: STARTED WHAT NOW?

CW: SPEAR STAFFING. IT'S LIKE A TEMP SERVICE.

PC: WHEN IS - WHAT'S THE LAST JOB YOU WERE ON?

CW: UH, IN MAUDLIN AND WE WERE PUTTING UP LIKE AWNINGS ON
BUSINESSES.

PC: UH-HUH. WHEN WAS THAT?

CW: UH, (INAUDIBLE).

PC: WHO WAS YOUR BOSS THERE?

CW: THE MAN'S NAME IS, WELL, WE DIDN'T REALLY HAVE A BOSS,
IT'S LIKE EVERYDAY IT'S SOMETHING BUT AT A DIFFERENT
PLACE.

PC: OKAY.

CW: SO, IT'S REALLY NOT LIKE ONE PARTICULAR JOB WE'RE AT.

PC: OKAY.

CW: I MEAN--

PC: AND SO - GO AHEAD.

CW: OH, I'M SORRY GO AHEAD.

PC: OH, THAT'S FINE.

CW: WELL, I MEAN WE COULD BE DOING ANYTHING, SO.

PC: OKAY AND WERE YOU HAPPY DOING THAT KIND OF WORK?

CW: UH, NOT REALLY, I MEAN, IT WAS THE ONLY THING I COULD
DO. WELL, NOT THE ONLY THING I COULD DO BUT - THE ONLY
THING THAT - IT WAS BETTER THAN WORKING AT BURGER KING
OR MCDONALD'S OR SOME PLACE LIKE THAT.

PC: DID YOU HAVE PLANS TO DO SOMETHING ELSE?

CW: I WANTED TO ACTULLY, FOR THE LONGEST TIME, TO TRY AND GET A JOB AT ONE OF THESE FACTORIES LIKE BMW OR HITACHI

PC: OKAY.

CW: AND I APPLIED AT THOSE PLACES FOR THE LONGEST TIME BUT NEVER GOT - I GOT INTERVIEWS BUT NEVER GOT HIRED.

PC: OKAY. AND SO WHAT WAS YOUR - WERE YOU PLANNING ON STAYING WITH THIS TEMP AGENCY FOR A WHILE?

CW: YEAH UNTIL SOMETHING ELSE CAME ALONG BETTER.

PC: WERE YOU PUTTING IN APPLICATIONS?

CW: WELL, SEE MOST OF THE TEMP AGENCIES THAT WE GO TO, THE REASON WHY I STARTED THERE IS I WAS HOPING TO GET LIKE A TEMPORARY POSITION LIKE BMW OR FACTORIES AND SO THEN LIKE IT'S REAL EASY TO GET ON THAT WAY.

PC: OKAY. SO TEMPS TILL FULL TIME OR PERMANENT.

CW: YEAH.

PC: OKAY SO ANYWAY SO THIS INCIDENT HAPPENED WITH HER IN JULY?

CW: YEAH.

PC: AND THE DAY AFTER YOU WERE CHARGED. ANY OTHER - WELL WHEN WAS YOUR NEXT CONTACT WITH HER?

CW: THE NEXT CONTACT WAS, UH, I THINK -

PC: YOU FORGOT? HAVE YOU BEEN THINKING ABOUT HER?

CW: ALL THE TIME.

PC: TELL ME ABOUT IT.

CW: I MEAN NOT REALLY JUST NECESSARILY HER. BUT LIKE THE WHOLE SITUATION LIKE EVERYTHING THAT HAD GONE ON AND

I KEPT TRYING TO TELL MYSELF TO JUST LET IT GO JUST AND UH I TRIED. I MEAN, IT'S EVERYTIME I JUST TRIED TO FORGET ABOUT HER I WOULD THINK ABOUT SOMETHING - SOMETHING WOULD POP UP IN MY MIND THAT SHE HAD DONE WRONG OR SOMETHING LIKE THAT, AND I'D BE RIGHT BACK WHERE I WAS.

PC: SO YOU WOULD THINK ABOUT HER A LOT?

CW: UH, YEAH, PRETTY MUCH EVERY - ALL DAY.

PC: WERE YOU TALKING TO PEOPLE ABOUT IT?

CW: NO.

PC: OKAY AND WHEN YOU WOULD THINK ABOUT HER WHAT WERE YOUR THOUGHTS ABOUT?

CW: JUST WONDERING WHY THINGS COULDN'T HAVE TURNED OUT BETTER, I MEAN, EVEN IF WE WOULDN'T HAVE LIKE ENDED UP DATING I MEAN I STILL WOULD WANT TO HAVE, YOU KNOW, LIKE BEEN GOOD FRIENDS. BUT I MEAN NOT AFTER SOMETHING LIKE THAT HAPPENED.

PC: DID YOU FANTASIZE ABOUT YELLING AT HER AND TELLING HER WHAT YOU THOUGHT? DID YOU THINK ABOUT THOSE KIND OF THINGS?

CW: NO, I NEVER FANTASIZED LIKE - LIKE HURTING HER BUT I WOULD LIKE, I USED TO THINK ABOUT HOW MUCH FUN WE HAD BEFORE WHEN WE WERE TOGETHER, YOU KNOW THINGS LIKE THAT BUT NEVER SO FAR AS MAKING IT A FANTASY RELATIONSHIP OR NOTHING.

PC: NO WHAT I'M SAYING IS I HAVE A GOOD FRIEND WHO DOES SOME WORK FOR THIS WOMAN AND HE SAID HE FANTASIZED ABOUT KILLING HER AND HOW GOOD THAT WOULD FEEL. AND THAT'S NOT UNCOMMON. DID YOU HAVE THOUGHTS LIKE THAT?

CW: SOMETIMES, NOT, NOT AVIDLY THOUGH. BUT UH, I MEAN, YOU KNOW, SOMETIMES I'D JUST THINK ABOUT, YOU KNOW, LIKE I GUESS KIND OF LIKE PAYBACK. YOU KNOW WHAT I'M SAYING?

PC: WHAT?

CW: BUT I MEAN I WASN'T LIKE CONSTANTLY THINKING ABOUT IT ALL DAY. BUT IT DID POP IN MY MIND.

PC: OKAY HOW MANY TIMES WOULD THAT POP IN YOUR MIND?

CW: MAYBE TWO OR THREE TIMES A DAY. I MEAN IT COULD JUST BE LIKE I COULD WATCH TV AND IT WOULD SOMETIMES REMIND ME OF IT, YOU KNOW. I WOULD START THINKING ABOUT IT.

PC: AND WHAT WOULD YOU THINK ABOUT? I MEAN WHAT -- GIVE ME SOME IDEA OF WHAT YOU THOUGHT ABOUT DOING TO HER?

CW: I MEAN I NEVER HAD LIKE HAD ANYTHING PLANNED OUT LIKE WHAT I WOULD PHYSICALLY DO, I JUST WANTED HER TO KIND OF GO THROUGH, I GUESS, YOU WOULD SAY LIKE STRESS OR TO HAVE SOMEBODY DO THE SAME THING TO HER.

PC: OKAY.

CW: AND TO SEE LIKE, YOU KNOW, THIS IS NOT MY PLANS SOMEBODY ELSE IS DOING IT.

PC: WAS THAT SOMEWHERE TO YOU WOULD CARRY AND LIKE CAUSING PEOPLE PAIN?

CW: YEAH.

PC: IT WAS THAT KIND OF THING? DID YOU WANT HER TO FEEL THAT KIND OF PAIN YOU FELT?

CW: YEAH.

PC: DID YOU THINK ABOUT SHOOTING HER? DID YOU THINK ABOUT HITTING HER WITH THE CAR? DID YOU THINK ABOUT --

CW: I THOUGHT ABOUT -- I NEVER THOUGHT ABOUT RUNNING OVER HER IN MY CAR BUT I HAD, YEAH, I HAD THOUGHT ABOUT SHOOTING HER.

PC: OKAY HOW FAR HAD YOU GOTTEN TO THAT? INTO THAT THOUGHT.

CW: PRETTY WELL INTO DETAIL.

PC: TELL ME ABOUT IT.

CW: LIKE, I GUESS, JUST PRETTY MUCH PLAN, LIKE HOW I WOULD DO EVERYTHING AND I MEAN, AND UH, WHAT WOULD HAPPEN, WELL CAUSE I NEVER LIKE, UH, I GUESS I JUST MAKE UP SCENARIOS IN MY MIND.

PC: GIVE ME A SCENARIO, THE DETAILS OF THE SCENARIO.

CW: LIKE, I MEAN, REALLY, JUST I WOULD KIND OF DO LIKE PULL IT OFF.

PC: GIVE ME AN EXAMPLE.

CW: LIKE, UH, I DON'T KNOW, LIKE, UH, THERE WAS TIMES THAT I THOUGHT ABOUT, UH, WAITING - WAITING ON HER AT HER HOUSE. THERE WAS TIMES WHEN I THOUGHT ABOUT THE CERTAIN BARS WHERE SHE WOULD GO OUT TO DRINK AT. I THOUGHT ABOUT WAITING AT THOSE. UH, THERE IS THIS GUY WHO WAS - SHE WAS SEEING AT THE TIME WHEN WE SPLIT UP, I THOUGHT ABOUT YOU KNOW DOING SOMETHING TO HIM OR AND UH -

PC: WHAT DID YOU THINK ABOUT DOING TO HIM?

CW: UH, NOTHING LIKE WHAT HAPPENED TODAY. JUST SOME THINGS THE WAY THAT - THAT UH, I MEAN NOT THAT SHE'S NOT GOING TO GET AWAY WITH IT BUT, YOU KNOW, THAT YOU KNOW THAT I GUESS I'M STILL AROUND AND STILL WATCHING YOU.

PC: SO DID YOU PLAN ON GOING TO HER HOUSE - HOW FAR DID YOU GET ON ANY ONE OF THESE PLANS? WHAT IS THE FURTHEREST YOU GOT ON ANY ONE OF THESE PLANS?

CW: I THOUGHT ABOUT GOING TO HER HOUSE BUT THAT WOULD HAVE BEEN, UH, THAT'S THE ONE I LEAST WANTED TO DO BECAUSE THAT WOULD INVOLVE ALL OF HER FAMILY MEMBERS AND THEY DIDN'T NEED TO GET INVOLVED WITH IT. WELL I DIDN'T WANT TO GET THEM INVOLVED OR END UP HURTING ONE OF THEM.

PC: RIGHT.

CW: AND THEN I WOULD THINK ABOUT LIKE GOING OUT MAYBE LIKE WHEN SHE WAS AT A BAR LEAVING. SOMETIMES BUT

MOST OF THE TIMES WHEN SHE DID THAT SHE WOULD GO WITH A LOT OF FRIENDS AND AGAIN I DIDN'T WANT TO - I MEAN, PEOPLE ARE GOING TO GET INVOLVED REGARDLESS BUT I DIDN'T WANT ANYBODY PHYSICALLY HARMED.

PC: JUST HER?

CW: YEAH.

PC: DID YOU THINK ABOUT - DID YOU GO AS FAR AS TO THINK ABOUT IF SHE WAS DEAD, IF SHE WAS HARMED, DID YOU GO AS FAR AS THINKING ABOUT THAT?

CW: SOMETIMES BUT NOT LIKE, I MEAN, I WOULD SIT BACK AND THINK, YOU KNOW, MAYBE I'LL DO THAT BUT NEVER SO FAR AS I'M GOING TO DO THIS.

PC: DID YOU THINK WHAT YOU WANTED TO SAY TO HER WHILE YOU WERE DOING THIS?

CW: OH YEAH, I THOUGHT, IT'S LIKE, I HAD EVERYTHING PRETTY MUCH I GUESS YOU COULD SAY LINED UP.

PC: TELL ME HOW MANY - WHAT YOU HAD LINED UP?

CW: LIKE I JUST TOLD HER LIKE ABOUT THAT I DIDN'T KNOW HOW SHE COULD DO THAT TO SOMEBODY. AND THEN SHE WOULD TELL ME, SHE WAS LIKE WELL THERE'S JUST CERTAIN THINGS IN LIFE THAT YOU DON'T NEED TO TELL PEOPLE AND I MEAN, JUST THINGS LIKE THAT.

PC: AND THEN YOU WOULD SHOOT HER?

CW: NO, NO, NOT AFTER THAT. I MEAN, NOT DIRECTLY AFTER THAT. WHAT I MEAN IS JUST OVER, I MEAN, ALL THE CONVERSATIONS THAT WE HAD.

PC: OKAY SO DID YOU THINK ABOUT TALKING TO HER FOR A WHILE AND THEN KILLING HER?

CW: WELL, SEE, LIKE TODAY, LIKE I WASN'T REALLY SURE WHAT I WAS GOING TO DO - I MEAN, I HADN'T COMPLETELY MADE UP MY MIND AND TO SAY WELL, I'M GOING TO WALK IN THERE AND SHOOT HER. BUT, LIKE, I DON'T KNOW, IT'S JUST, I MEAN, I DIDN'T THINK THINGS WOULD TURN OUT LIKE THEY DID.

PC: WHY?

CW: I DIDN'T WANT TO - WANT TO - WANT IT TO TURN OUT THAT WAY. BUT THAT KIND OF FELT CONCERNED LIKE I DIDN'T HAVE ANY CHOICE.

PC: TELL ME WHY?

CW: BECAUSE IT WAS SOMEWHAT LIKE SHE WAS GETTING AWAY WITH SOMETHING AND THEN IT WAS ALMOST LIKE IF I LET HER GO I'M GOING TO BE IN JAIL FOR PROBABLY THE REST OF MY LIFE.

PC: IF YOU LET HER GO?

CW: YEAH, IF I LET HER GO.

PC: WHY?

CW: HUH?

PC: WHY? WHY IF YOU LET HER GO WOULD YOU BE IN JAIL FOR THE REST OF YOUR LIFE?

CW: BECAUSE, I MEAN, LIKE TODAY IF I WOULD HAVE LEFT AND LET HER LEAVE THEN SHE WOULD HAVE JUST, YOU KNOW, PRETTY MUCH, LIKE, THE ADVANTAGE THERE, I MEAN SHE WOULD JUST GO AND I WOULD PROBABLY, YOU KNOW, IT'S LIKE, I DON'T WANT TO BE, LIKE ONE OF THESE GUYS AND SHE TOLD ME SO MANY STORIES ABOUT, YOU KNOW, HE'S JUST THIS GUY I MET AND BLAH, BLAH, BLAH. AND I JUST MEAN MAINLY I DIDN'T WANT TO LET HER GET AWAY WITH THAT.

PC: OKAY. SO PART OF KILLING HER WAS IF YOU HADN'T KILLED HER YOU WOULD HAVE GONE TO JAIL AND SHE WOULD HAVE GONE BACK TO HER LIFE?

CW: UM, YEAH, YEAH, I GUESS YOU COULD LOOK AT IT THAT WAY TOO. IT WAS MORE OF JUST HER NOT GETTING AWAY WITH, I MEAN -

PC: DID SHE NEED TO BE PUNISHED FOR WHAT SHE HAD DONE?

CW: RIGHT.

PC: OKAY SO YOU - SO YOU DECIDED - WHEN DID YOU DECIDE TO KILL HER?

CW: I'VE BEEN THINKING - I'VE BEEN THINKING ABOUT IT FOR PROBABLY THE PAST MONTH NOW.

PC: OKAY.

CW: AND I JUST, I GUESS YOU COULD SAY, WHEN I FINALLY DECIDED I WAS GOING TO - AND SEE I DIDN'T HAVE ANYTHING TO DO WITH HER.

PC: SO LAST NIGHT YOU DECIDED TO KILL HER?

CW: YEAH.

PC: I DON'T WANT TO PUT WORDS IN YOUR MOUTH.

CW: NO, YOU DIDN'T.

PC: AND WHEN YOU WERE IN THE STORE YOU HAD PRETTY MUCH MADE UP YOUR MIND WHAT YOU WERE THERE FOR?

CW: UH, YEAH, PRETTY MUCH. I MEAN, THERE WOULD HAVE BEEN I MEAN, I ALWAYS WOULD TELL MYSELF, YOU KNOW, IT JUST DEPENDS ON WHAT HAPPENS. I MIGHT LET HER LEAVE BUT I MEAN, PRETTY MUCH, IT WAS ALMOST A HUNDRED PERCENT SURE.

PC: AND SO WHEN THE GUYS WERE TALKING TO YOU ON THE PHONE AND TRYING TO GET YOU TO LET HER GO AND ALL THAT, WHAT WERE YOU THINKING THEN?

CW: I WAS THINKING THAT THIS WAS THE WORST SITUATION I'VE EVER - WORST POSITION I'VE HAD IN MY LIFE.

PC: OKAY. AND DID YOU - BUT YOU WERE STILL PRETTY SET ON KILLING HER?

CW: YEAH.

PC: AND THAT'S IMPORTANT TO KNOW ABOUT BECAUSE AND THE REASON WHY I THINK IT'S IMPORTANT IS THAT THE GUYS THAT TALKED TO YOU, IF YOU HAD ALREADY MADE UP YOUR MIND, THAT'S GOING TO BE HELPFUL FOR THEM TO KNOW. YOU KNOW WHAT I'M SAYING? IF THAT'S TRUE. THAT THEY DIDN'T SAY THE WRONG THING TO SET YOU OFF OR SOMETHING.

CW: YEAH, I MEAN, HE WAS, I MEAN, HE - FROM MY POINT HE WAS

GOOD. YOU KNOW HE DID GOOD.

PC: SO YOU WEREN'T GOING TO LET HER OUT?

CW: UH, NOT, NOT, NOT ONCE. AND THE THING ABOUT IT TOO, IS LIKE THEY KEPT PRESSURING ME TO LET HER GO SOONER AND SOONER AND I TOLD THE GUY ON THE PHONE, I ASKED HIM FOR FORTY-FIVE MINUTES AND I WOULD HAVE LET HER WALK OUT OF THERE. AND, AND HE WOULD CALL BACK LIKE EVERY FIVE MINUTES AND SAY OH WE'VE GOT ALL THESE PEOPLE OUTSIDE WAITING, ALL THESE -- HER PARENTS ARE OUT HERE AND IT'S LIKE, I MEAN, TALKING ABOUT BI-LO'S AND I'M GOING WHAT'S MORE IMPORTANT, HER GETTING OUT OF HERE OR BI-LO LOSING TEN OR FIFTEEN THOUSAND DOLLARS?

PC: BUT YOU SAID YOU WEREN'T GOING TO LET HER GO OUT.

CW: YEAH.

PC: SO WERE YOU GOING TO LET HER GO?

CW: UH, NO, I WASN'T GOING TO LET HER OUT.

PC: WAS SHE PLEADING WITH YOU?

CW: YEAH, SHE STARTED TO AFTER -- ALMOST IN THE END.

PC: OKAY WHAT WAS SHE SAYING?

CW: SHE WAS SAYING LIKE, I HAVEN'T DONE ANYTHING TO YOU AND PLEASE DON'T HURT ME AND UH --

PC: WHAT WOULD YOU SAY?

CW: YOU KNOW I JUST KEPT TELLING HER I'M SORRY.

PC: WHAT DID YOU SAY?

CW: I WAS SORRY, YOU KNOW, IT HAD TO END UP BEING LIKE THIS.

PC: DID YOU TELL HER I'M GOING TO KILL YOU?

CW: YEAH, WELL SHE KEPT ASKING ME, SHE ASKED ME LIKE THREE OR FOUR TIMES, AND I DIDN'T SAY ANYTHING AND

SHE WOULD ASK ME ARE YOU GOING TO KILL ME. AND I DIDN'T SAY ANYTHING. I JUST SAT THERE.

PC: WHEN DID YOU FINALLY DECIDE TO SHOOT HER?

CW: WHEN I FINALLY DECIDED TO SHOOT HER, LIKE IS WHEN WE WERE LEAVING TO GO OUT - WE WERE WALKING OUT OF THE MANAGERS OFFICE, IN THE DOOR ACTUALLY SHE GRABBED THE FRONT OF THE BARREL OF THE SHOTGUN.

PC: WHY WERE YOU WALKING OUT OF THE MANAGERS?

CW: WE WERE GOING TO GO INTO THE DELI-BAKERY AREA BECAUSE SHE WAS COMPLAINING ABOUT ALL THE SMOKE IN THE MANAGERS OFFICE. AND SHE SAID THE SMOKE WAS BOTHERING HER. AND WE WERE TALKING TO THE - I WAS TALKING TO THE GUYS ON THE PHONE, AND WE WERE WALKING OUT FRONT AND SHE GRABS THE FRONT OF THE BARREL. AND I KIND OF THREW MY ARMS AROUND HER AND LAYING ON TOP OF HER ON THE GROUND. AND I'M TRYING TO PULL THE SHOTGUN AWAY FROM HER AND SHE CLICKS THE SAFETY OFF AND SHE'S GOT IT POINTED RIGHT TOWARDS THE WALL. AND I MEAN I SEE HER PUT, YOU KNOW WHEN SHE PULLS IT AND I HEARD A GUNSHOT AND ONE THING I WAS WORRIED ABOUT I THOUGHT SHE WAS GOING TO GET IT AWAY AND TURN IT AROUND ON ME. AND SO WE WRESTLED, I MEAN WE, I MEAN, I GUESS WHEN THEY TALK ABOUT SOMEBODY WHO'S LIKE GOT THEIR LIFE IN DANGER THEY ARE LIKE TEN TIMES STRONGER - I NEVER, I NEVER IN A MILLION YEARS WOULD IMAGINE A GIRL THAT SMALL WOULD HAVE BEEN THAT STONG.

PC: UH-HUH (AFFIRMATIVE).

CW: BUT I WOULD SAY SHE WAS FIGHTING FOR HER LIFE.

PC: AND THEN WHAT HAPPENED?

CW: AND WE STRUGGLED AND I KEPT TRYING TO PULL - KEPT GRABBING THE GUN AND PULLING IT AWAY FROM HER AND LIKE, UH, LIKE WE WERE JUST KIND OF BASICALLY GOING AROUND IN CIRCLES WRESTLING WITH EACH OTHER. AND WHEN I TRIED TO GRAB HER SHOULDERS WHEN SHE WAS TRYING TO RUN OUT THE DOOR I GRABBED HER SHIRT AND IT'S LIKE THE DELI-BAKERY SHIRTS THEY WEAR ARE KIND OF LIKE LITTLE SHIRTS LIKE THIS AND THEY JUST PULL -- SKIN RIGHT OFF OF YOU AND I PICKED UP THE GUN OFF THE

FLOOR AND I WALKED OUT AND SHE STARTED - SHE WENT THROUGH THE DOUBLE DOORS AND RAN AROUND THE LITTLE I GUESS LIKE THE TABLES THAT THEY HAVE RIGHT THERE. AND SHE WAS JUST ABOUT TO MAKE RIGHT AND GET, UH, GO OUT INTO THE FLOOR AND THAT'S WHEN I SHOT HER.

PC: OKAY, NOW, IF YOU HAD IT YOUR WAY AND THAT HADN'T HAPPENED, WHEN WOULD YOU HAVE SHOT HER?

CW: I DON'T KNOW, I KEPT TELLING ONE OF THE NEGOTIATORS IT WAS GOING TO BE FORTY-FIVE MINUTES BECAUSE I WANTED TO TO KIND OF DRAG THIS OUT AS LONG AS POSSIBLE.

PC: WHY?

CW: I GUESS JUST TO - (INAUDIBLE) AS POSSIBLE.

PC: AND SO AND THEN YOU WERE GOING TO SHOOT HER?

CW: YEAH.

PC: AND HOW WERE YOU GOING TO SHOOT HER? WERE YOU GOING TO PUT HER FACE DOWN AND SHOOT HER THROUGH THE HEAD?

CW: WELL, I TOLD HER WHILE WE WERE SITTING IN THAT ROOM, I ASKED HER - UH, WHAT SHE WANTED TO DO (CLEARS THROAT) AND EVERYTIME I ASKED HER THAT SHE JUST STARTED CRYING AND BEGGING, PLEADING AND ALL THIS GOOD STUFF.

PC: UH-HUH.

CW: SO AND I TOLD HER, I SAID, LIKE, UH, THAT I COULD, YOU KNOW SHOOT YOU IN THE BACK OF THE HEAD. AND SHE WASN'T SAYING MUCH.

PC: SO YOU OFFERED TO KILL HER DIFFERENT WAYS?

CW: YEAH.

PC: WHAT OTHER WAYS DID YOU OFFER HER?

CW: UH, YOU KNOW I TOLD HER THAT I COULD EITHER SHOOT HER OR STRANGLE HER.

PC: OKAY AND WHAT DID SHE SAY?

CW: UH, AT FIRST SHE TOLD ME SHE WANTED ME TO STRANGLE HER.

PC: OKAY.

CW: AND THEN AND UH, THAT'S WHEN THE FIRST, I GUESS FIGHT BETWEEN THE TWO OF US BROKE OUT IN THERE.

PC: OKAY.

CW: AND SHE STARTED FIGHTING BACK. AND THAT'S WHEN THE GUY CALLED ON THE PHONE AND SHE WAS JUST SCREAMING HE'S TRYING TO KILL ME, HE'S TRYING TO KILL ME, AND THEN THAT'S WHEN -- THIS WAS LIKE A FEW SECONDS BEFORE LIKE I HAD RIPPED HER SHIRT OFF AND --

PC: RIGHT.

CW: THE FIRST GUNSHOT WAS HEARD.

PC: OKAY.

CW: THAT WAS LIKE A FEW SECONDS BEFORE THAT.

PC: OKAY AND SHE SAID SHE WOULD RATHER YOU STRANGLE HER.

CW: YEAH. AND THEN WHEN I WAS -- BEFORE I WAS ABOUT TO I HAD MY ARM AROUND HER NECK AND THAT'S WHEN SHE STARTED FIGHTING. SHE GOT UP -- SHE LIKE STOOD UP ALMOST WITH ME ON HER BACK AND WE JUST STARTED WRESTLING WITH EACH OTHER AND I GRABBED THE GUN AND SO --

PC: SO DID SHE -- DID THE STUFF WITH THE GUN HAPPEN BECAUSE YOU WERE LOOKING FOR A DIFFERENT AREA OR DID IT HAPPEN BECAUSE YOU STARTED TO STRANGLE HER?

CW: YEAH. NO -- THAT LIKE WHEN I TRIED TO STRANGLE HER WE HAD STARTED FIGHTING.

PC: OKAY.

CW: AND THEN THE GUY CALLED ON THE PHONE AND I WAS -- THE GUY HAD CALLED AND SHE WAS SAYING THAT HE'S TRYING TO KILL ME, HE'S TRYING TO KILL ME.

PC: BUT YOU HAD ALREADY STARTED STRANGLING HER?

CW: YEAH AND SHE - THAT'S WHEN WE STARTED FIGHTING AND THEN WE STOPPED.

PC: OKAY.

CW: AND SHE WAS STARTED SAYING DON'T KILL ME, DON'T KILL ME I HAVE A BABY DON'T KILL ME, BLAH, BLAH, BLAH ON AND ON AND ON AND THAT'S WHEN WE - THAT WAS RIGHT BEFORE WE WALKED OUT.

PC: THAT'S BEFORE YOU WALKED OUT, OKAY AND SO WHAT DID - OKAY SO SHE SAID - WERE YOU STARTING TO STRANGLE HER AFTER YOU GAVE HER THE OPTION?

CW: YES.

PC: AND SHE SAID I'D RATHER BE STRANGLER.

CW: YEAH.

PC: ALL RIGHT WAS SHE CRYING?

CW: BEFORE IT I MEAN SHE WASN'T LIKE POURING TEARS BUT SHE WAS KIND OF LIKE I GUESS YOU COULD SAY SOBBING, KIND OF LIKE, YOU KNOW DON'T DO THIS I HAVE A BABY. AND WHY ARE YOU DOING THIS AND JUST THINGS LIKE THAT.

PC: AND WHAT WERE YOU THINKING THEN?

CW: THAT SHE WON'T EVER DO THAT ANYMORE. WHAT SHE DID.

PC: WERE YOU HURTING HER?

CW: I MEAN LIKE PHYSICALLY HURT HER? NO I GUESS BY THE TIME I GOT MY ARM AROUND HER I MAY HAVE PUT A LITTLE BIT OF PRESSURE ON HER BUT NOT ENOUGH TO LIKE TO HAVE PAIN. I MEAN SURE THERE WAS PAIN BUT NOT ENOUGH TO YOU KNOW.

PC: SO THERE WAS SOME PAIN DID YOU WANT TO TORTURE HER?

CW: NO I DIDN'T WANT TO TORTURE HER.

PC: WHY?

CW: BECAUSE I MEAN WHAT SHE DID WAS BAD BUT NOT THAT BAD.

PC: BUT BAD ENOUGH THAT SHE NEEDED TO BE KILLED?

CW: YEAH BUT I MEAN KILLED BUT NOT TORTURED.

PC: AND SO OKAY SO SHE - YOU FELT PRETTY CLEARLY THAT SHE WAS BEGGING FOR HER LIFE. DID YOU KILL HER RIGHT STRAIGHT OFF WHEN YOU SHOT HER?

CW: NO I DON'T THINK SO. BECAUSE WHEN THE FIRST TIME I SHOT HER SHE WAS MAYBE PROBABLY LIKE TEN FEET AND I SAW HER RUN AROUND THE CORNER I JUST RAISED THE GUN AND FOLLOWED HER. AND I PULLED MY TRIGGER AND I SAW HER FALL. AND SHE FELL ON THE GROUND AND THEN I WALKED UP BEHIND - AROUND THE COUNTER FROM WHERE SHE WAS AND I COCKED THE GUN AND SHE GOT UP KIND OF LIKE ON HER HANDS AND KNEES ABOUT TO STAND UP AND THAT'S WHEN I SHOT HER THE SECOND TIME. AND SHE FELL JUST FLAT ON THE GROUND.

PC: HOW DID IT FEEL TO SHOOT HER?

CW: NOT LIKE I THOUGHT IT WOULD.

PC: HOW DID YOU THINK IT WOULD FEEL?

CW: I THOUGHT IT WOULD BE JUST EXHILARATING A PLEASANT FEELING BUT IT WASN'T.

PC: WHAT WAS IT LIKE?

CW: UH, I RUINED MY LIFE OVER A GIRL.

PC: SO THAT WAS THE MAIN FEELING?

CW: YEAH.

PC: WHAT DID YOU -

END OF SIDE TWO/TAPE ONE

SIDE ONE/TAPE TWO

CW: - YEAH, THAT I DIDN'T WANT TO BE INCARCERATED FOR THE

REST OF MY LIFE, SO I COCKED THE SHOTGUN AND UH, I PUT THE BARREL (INAUDIBLE) AND I PULLED THE TRIGGER AND IT CLICKED AND IT SURPRISED ME SO AND THEN I REMEMBER THAT SHE - BECAUSE I HAD THE FIVE SHELLS TO THE GUN, AND UH, SO THEN I DROPPED THE GUN AND I WENT THROUGH THE BACK OF THE STORE. I DON'T KNOW WHY, I WAS JUST KIND OF, I WOULDN'T SAY WALKING BUT KIND OF MAYBE JOGGING A LITTLE BIT THROUGH THE BACK OF THE STORE AND THE GUY THE NEGOTIATOR CALLED ME ON THE PHONE BUT I GUESS AT THAT SAME TIME THE SWAT GUYS WERE COMING IN, SO HE HUNG UP THE PHONE. SO I WALKED TO THE OTHER END OF THE STORE AND THEN CAME BACK AND AS SOON AS I CAME AROUND THE CORNER THERE WAS, YOU KNOW, PROBABLY FIVE OR SIX OF THEM WAITING FOR ME AROUND THE CORNER.

PC: HOW DO YOU FEEL ABOUT HER BEING DEAD NOW?

CW: I DON'T LIKE IT AT ALL.

PC: AND WHY IS THAT?

CW: BECAUSE, I MEAN, EVEN THOUGH WHAT SHE DID WAS WRONG, I MEAN, THERE'S - THERE'S VERY FEW THINGS THAT IT SEEMS LIKE SHE DID OR COULD DO THAT SHE DESERVED TO BE KILLED OVER.

PC: OKAY SO THAT IS DIFFERENT FROM HOW YOU FELT LAST NIGHT?

CW: YEAH, I MEAN, LIKE LAST NIGHT I WAS ALL EXCITED ABOUT I'M GOING TO DO THIS, YOU KNOW, IT'S GOING TO BE THE BEST THING IN THE WORLD.

PC: OKAY WHY DID YOU THINK IT WAS GOING TO BE THE BEST THING IN THE WORLD?

CW: BECAUSE I THOUGHT THAT HER SUFFERING LIKE THAT WOULD MAKE, NOT EVERYTHING BETTER, BUT I MEAN, WELL, I DIDN'T REALLY, YOU KNOW, SITTING BACK AND LOOKING AT IT.

PC: AND WHAT WERE YOU PLANNING - WERE YOU PLANNING ON KILLING YOURSELF? THE NIGHT BEFORE WHEN YOU THOUGHT ABOUT IT?

CW: YEAH. I HAD PRETTY MUCH MADE UP MY MIND TO DO THAT. AND I WOULD HAVE, I WOULD HAVE BEEN DEAD, BUT IF SHE WOULD, IF IT WASN'T FOR THAT ONE SHOT THAT WAS FIRED.

PC: DID YOU SLEEP THE NIGHT BEFORE?

CW: (NO AUDIBLE ANSWER).

PC: HOW HAS YOUR SLEEP BEEN RECENTLY?

CW: SPORADIC.

PC: TELL ME WHY?

CW: JUST I DON'T KNOW IT WAS LIKE, I THINK IF I JUST, I WAS THINKING OF WHAT I WAS GOING TO DO ABOUT THE WHOLE SITUATION JUST TWENTY-FOUR HOURS A DAY. IT NEVER STOPS.

PC: WELL, WHEN DID THAT START? RIGHT AFTER YOU GOT ARRESTED?

CW: NO THAT STARTED, UH, LIKE, NOT THAT THE INTENTIONS WERE TO HURT HER OR KILL HER STARTED BUT LIKE THE FEELINGS OF LIKE HATRED TOWARDS HER AFTER WE BROKE UP. THEY STARTED AFTER BEING ARRESTED AND THAT LED TO THE WANTING TO UH YEAH.

PC: SO THINKING ABOUT KILLING HER STARTED ABOUT A MONTH AND A HALF OR SO BEFORE?

CW: UM -

PC: A COUPLE OF MONTHS?

CW: I DIDN'T, I DIDN'T WANT TO KILL HER LIKE AFTER WE BROKE UP BUT AFTER WE UH, LIKE, I WAS WILLING, KIND OF WILLING TO LET IT GO UNTIL THE WHOLE - ME BEING ARRESTED AND THAT JUST IGNITED EVERYTHING OVER AGAIN.

PC: AND SO WOULD YOU SAY IT WAS A COUPLE OF WEEKS BEFORE YOU WERE THINKING ABOUT KILLING HER?

CW: YEAH.

PC: AND DID YOU BUY THE SHOTGUN FOR THAT REASON?

CW: NO I HAD THAT, YOU KNOW, I BOUGHT THAT IN OCTOBER LAST YEAR.

PC: WELL, WHY DID YOU THINK STRANGLING VERSUS

SHOOTING, WHAT WAS THAT ABOUT?

CW: WELL, I HAD ASKED HER AND, UH, AND SHE SAID SHE WOULD RATHER HAVE IT, I DON'T SEE WHY. I MEAN WHY ANYBODY WOULD WANT TO, (CLEARS THROAT), EXCUSE ME, BE STRANGLERED OVER JUST BEING SHOT, I MEAN.

PC: AND WHAT DID, UH, WHAT DID YOU, WHY DID YOU GIVE HER A CHOICE?

CW: UM, I DON'T KNOW. I DON'T KNOW THAT'S KIND OF HARD TO SAY, I MEAN, I GUESS IT WOULD HAVE MADE IT WORSE FOR HER IF SHE HAD TO PICK THE WAY THAT SHE DIED. BUT THEN -

PC: DID YOU THINK ABOUT DOING ANYTHING SEXUAL WITH HER?

CW: NO, I WAS - NEVER THOUGHT OF ANYTHING LIKE THAT. I KNOW BECAUSE HER SHIRT, YOU KNOW, (INAUDIBLE)

PC: WHAT ELSE DID YOU SAY THAT YOU CAN REMEMBER AND WHAT ELSE DID SHE SAY?

CW: UH, WE TALKED ABOUT A LOT OF STUFF. LIKE I MEAN, REALLY ABOUT EVERYTHING THAT I'VE BEEN WANTING TO SAY TO HER OVER THE TIME THAT WE'VE BEEN APART. PRETTY MUCH, YOU KNOW, LIKE EVERYTHING, I MEAN, LIKE YOU KNOW WHY, WHY THINGS HAPPENED THE WAY THEY WERE AND JUST WHY SHE WOULD ACT LIKE THAT, WHY CERTAIN THINGS WERE SO IMPORTANT TO HER AND UH, I MEAN, IT WENT ON AND ON AND I COULDN'T TELL YOU EXACTLY EVERYTHING BUT JUST, AND SHE WOULD ASK ME WELL WHY ARE YOU DOING THIS, YOU KNOW, I HAVEN'T DONE ANYTHING TO YOU THINGS LIKE THAT.

PC: OKAY. WELL HAVE YOU BEEN FEELING ANY OTHER WAY IN THE LAST FEW DAYS, DEPRESSED, SPEEDED UP, JUST YOUR NORMAL SELF?

CW: I WAS MORE, I WOULDN'T SAY DEPRESSED BUT IT WAS MORE WITHDRAWN I GUESS.

PC: AND WERE YOU HAVING THOUGHTS ABOUT KILLING YOURSELF?

CW: UH, NOT, NO, NOT BEFORE. NOT BEFORE.

PC: DID YOU THINK ABOUT TALKING TO ANYBODY ABOUT ALL

THIS?

CW: NO. I KNEW BETTER THAN TO SAY ANYTHING ANYWAY.

PC: AND YOU WEREN'T SLEEPING TOO WELL, HOW ABOUT YOUR APPETITE?

CW: UH, ACTUALLY, EVER SINCE THAT HAPPENED I'VE BEEN EATING MORE THAN EVER.

PC: OKAY. SO YOUR APPETITE'S BEEN OKAY?

CW: YEAH.

PC: HAVE YOU EVER MADE A SUICIDE ATTEMPT BEFORE?

CW: YEAH.

PC: WHEN WAS THAT?

CW: THIS WAS ON I THINK IT WAS THE 15TH OR 16TH OF JUNE.

PC: OKAY. WHAT DID YOU DO?

CW: OH, I'D TAKEN, MY MOM TAKES THESE, I FORGOT THE NAME FOR THEM, BUT THEY'RE THESE NERVE PILLS.

PC: OKAY AND HOW MANY DID YOU -

CW: AND, UH -

PC: OKAY, GO AHEAD.

CW: IT WAS PROBABLY LIKE FIFTEEN OF THEM OR TWENTY OF THEM.

PC: AND WHAT THEN?

CW: ALL I REMEMBER, REMEMBER CALLING MY FRIEND THAT NIGHT. AND I WAS TELLING HIM WHAT WAS GOING ON AND HE CALLED THE AMBULANCE. AND BY THE TIME THE AMBULANCE GOT THERE, MAYBE, FIFTEEN OR TWENTY MINUTES LATER, I STARTED TO FEEL THE EFFECTS. AND, UH, THEN BY THEN THE COPS HAD KNOCKED ON MY PARENTS DOOR AND THEY CAME OUT AND THEY TOLD THEM WHAT HAPPENED AND MY MOM STARTED GOING CRAZY, YOU KNOW, SAYING HE'S DOING THIS BECAUSE OF THIS GIRL.

PC: UH-HUH

CW: ALL THIS OTHER STUFF. AND THEN I REMEMBER GETTING IN THE AMBULANCE AND THE GUY WAS STRAPPING MY ARMS DOWN AND THE NEXT THING I - WAKE UP TWO AND A HALF DAYS LATER AND I WAS BACK AT HOME.

PC: WOW.

CW: SO -

PC: DID THEY TAKE YOU TO THE HOSPITAL?

CW: YEAH THEY TOOK ME TO THE HOSPITAL AND THEY PUMPED MY STOMACH AND HAD GIVEN ME LIKE A FEW IV's I GUESS.

PC: WHICH HOSPITAL DID YOU GO TO?

CW: GREENVILLE MEMORIAL.

PC: AND DID THEY SET YOU UP WITH MENTAL HEALTH?

CW: THEY SAID THAT, LIKE, MY MOM TOLD ME ACCORDING TO WHAT THE DOCTOR SAID THEY SAID THAT I DID TRY TO KILL MYSELF BUT I HAD DECIDED THAT I DIDN'T WANT TO DIE AND THAT'S WHY THE AMBULANCE WAS CALLED. BECAUSE I GUESS, AND I DIDN'T CALL BUT I PROBABLY WOULD HAVE EVENTUALLY.

PC: OKAY SO THEY DIDN'T THINK YOU NEEDED TO GO TO MENTAL HEALTH?

CW: THEY SAID IF IT HAPPENED AGAIN THAT I WOULD BE IN MARSHAL PICKENS FOR A YEAR.

PC: OKAY BUT YOU DIDN'T GO TO THE MENTAL HEALTH CENTER OR ANYTHING?

CW: NO.

PC: ALL RIGHT IS THAT THE ONLY TIME YOU'VE TRIED TO KILL YOURSELF?

CW: YEAH.

PC: AND WERE YOU PRETTY SERIOUS ABOUT IT?

CW: UH, ACTUALLY THE MAIN REASON WHY I DID IT WAS BECAUSE IT WAS BECAUSE OF HER. I MEAN, IT WASN'T BECAUSE OF HER, I THOUGHT, LIKE IF SOMETHING LIKE THAT WERE TO HAPPEN UH, YOU KNOW, SHE MIGHT FEEL LIKE SHE LOST SOMETHING. OR LIKE I THOUGHT IT WAS A WAY KIND OF LIKE, I GUESS TO GET HER TO HAVE HER FEELINGS BACK THE SAME WAY THEY WERE BEFORE.

PC: OKAY. SO YOU THOUGHT IF SHE HEARD ABOUT IT THAT SHE MIGHT FEEL DIFFERENT ABOUT YOU?

CW: YOU KNOW, SHE MIGHT, YOU KNOW COME AROUND AND WANT TO TALK TO ME OR SOMETHING LIKE THAT.

PC: DID SHE FIND OUT ABOUT IT?

CW: YEAH SHE FOUND OUT. MY MOM CALLED HER THE SAME NIGHT.

PC: AND WHAT DID SHE DO?

CW: AND, (CLEARS THROAT) MY MOM TOLD ME SHE TALKED TO HER ON THE PHONE AND I DIDN'T HEAR FROM HER UNTIL THAT DAY, WELL I WENT TO THE BI-LO IN JULY. AND I HAD ASKED HER ABOUT IT AND SHE WAS LIKE, WHAT DO YOU EXPECT ME TO - I WAS LIKE YOU DIDN'T EVEN COME SEE ME IN THE HOSPITAL. AND SHE WAS LIKE, WHAT WAS SHE SUPPOSED TO DO, FEEL SYMPATHETIC FOR YOU. ALL YOU DID WAS JUST TRY AND GET MY ATTENTION.

PC: AND SHE WAS RIGHT ABOUT THAT?

CW: YEAH.

PC: HAVE YOU EVER HEARD VOICES?

CW: UH, NO.

PC: ARE YOU SURE? YOU WERE HESITATING.

CW: I MEAN, I MEAN, DEPENDING ON LIKE WHAT YOU MEAN BY VOICES. LIKE, THINK STUFF OR LIKE HEARING SOMEBODY ELSE TELL ME WHAT TO DO, NOT REALLY.

PC: IT'S NOT LIKE YOU HEAR VOICES AND YOU TURN AROUND

AND SOMEONE'S TALKING TO YOU?

CW: NO.

PC: OKAY BUT YOU THINK YOUR THOUGHTS ARE REAL STRONG?

CW: YEAH BUT I HAVE, LIKE, NOT EVEN MY OWN THOUGHTS, IT'S LIKE SOMEBODY SAYS THAT. I NEVER THOUGHT OF MYSELF TO EVEN THINK ABOUT THESE KIND OF THINGS. AND THEN EVEN MY SISTER SHE'S ALWAYS BEEN THE ONLY ONE TO REALLY NOTICE IT SHE WOULD ALWAYS TELL ME, YOU KNOW, YOU NEED TO GO SEE A COUNSELOR AND MY MOM TRIED TO GET ME TO GO SEE A PSYCHIATRIST AND I NEVER WOULD.

PC: (INAUDIBLE)

CW: WELL, JUST DOING, YOU KNOW THE KIND OF CRUELTY I GUESS THAT I SHOW TO PEOPLE MORE THAN KIND OF, UH -

PC: YOU FELT LIKE IT WASN'T YOU THINKING THAT? THAT IT WAS PUT IN YOUR HEAD? OR WHAT DO YOU MEAN?

CW: YEAH, KIND OF. LIKE I MEAN NOT SO MUCH AS LIKE A VOICE TELLING ME WHAT TO DO BUT JUST, I DON'T KNOW, IT'S KIND OF LIKE SOMEBODY ELSE'S BODY HAD INVADDED MINE. SOMEBODY'S PUTTING THOUGHTS IN MY HEAD.

PC: OKAY AND DID YOU FEEL LIKE SOMEBODY REALLY WAS PUTTING THOUGHTS IN YOUR HEAD?

CW: I MEAN NOT LIKE ANYBODY ELSE WOULD BE TELLING ME TO DO STUFF LIKE THAT, BUT IT JUST FELT LIKE SOMEBODY ELSE'S MIND HAD INVADDED MY BODY.

PC: OKAY HOW LONG HAVE YOU FELT THAT WAY?

CW: UH FOR A LONG TIME.

PC: AND IS IT BECAUSE YOU COULDN'T CONTROL THE THOUGHTS?

CW: YEAH KIND OF.

PC: I MEAN THEY WOULD JUST KEEP GOING AND GOING AND GOING?

CW: YEAH.

PC: IS THAT RIGHT?

CW: YEAH, I MEAN, IT'S LIKE SOME THINGS, IT'S KIND OF LIKE I WAS EXCESSIVE WITH THINGS.

PC: AND THAT'S WHAT I'M WONDERING IF THAT'S WHAT YOU'RE TALKING ABOUT. YOU JUST CAN'T STOP THINKING ABOUT IT. EVEN IF YOU TRY AND DISTRACT YOURSELF.

CW: AND I'VE TRIED THAT BEFORE AND I WOULD TELL MYSELF YOU KNOW I HAD TO STOP THINKING ABOUT IT FOR TODAY. I'M GOING TO HAVE FUN TODAY. I'M GOING TO GO OUT AND DO SOMETHING. AS SOON AS I WOULD, - MY MIND WOULD BE THINKING OFF ON SOMETHING IT WOULD GO RIGHT BACK TO THINKING ABOUT IT AGAIN.

PC: AND SO THERE WASN'T REALLY ANYTHING TO BREAK THAT UP?

CW: NO. I MEAN, LIKE I WOULD TRY AND I WOULD GO OVER TO MY FRIEND'S HOUSE. I WOULD DO ANYTHING I COULD TO TAKE MY MIND OFF IT. AND I COULDN'T BE AROUND SOMEBODY OR HAVE SOMEBODY OCCUPY ME ALL DAY. SO THEN LIKE MOST OF THE TIME I WAS BY MYSELF.

PC: WOULD YOU GET VERY ANXIOUS FOR HER THEN?

CW: YEAH.

PC: WOULD YOU FEEL BETTER ONCE YOU DO WHAT YOU WERE SUPPOSED TO OR MEANING TO DO? WERE THE EXCESSIVE THOUGHTS JUST ABOUT HER OR WERE THEY LIKE OTHER JUST KIND OF TRIVIAL THINGS?

CW: NO JUST ABOUT HER.

PC: JUST ABOUT HER. HAD YOU EVER HAD EXCESSIVE THOUGHTS ABOUT COUNTING OR HANDWASHING OR THINGS LIKE THAT?

CW: NO.

PC: KEEPING CLEAN?

CW: I MEAN, I WANTED TO KEEP THINGS NEAT BUT NOT ANYTHING LIKE MY MOM, SHE'S DEFINITELY EXCESSIVE COMPULSIVE

PROBLEM WITH KEEPING THE HOUSE CLEAN.

PC: OKAY BUT YOU'VE NEVER HAD - HAVE YOU EVER HAD EXCESSIVE THOUGHTS LIKE YOU DID ABOUT THIS GIRL?

CW: NO. NEVER.

PC: EVEN AS A KID.

CW: NO.

PC: AND SO DID YOU THINK ABOUT ASKING FOR HELP FOR IT?

CW: MY PARENTS, MY MOM HAD OFFERED ME ONE OF THE COUNTLESS TIMES, BUT I WOULD ALWAYS TELL HER THAT I WOULD GET OVER IT.

PC: WHAT DID YOU THINK? DID YOU THINK THAT NOBODY COULD HELP YOU - OR ?

CW: NOT THAT NOBODY COULD HELP ME BUT JUST THAT I COULD HELP MYSELF BETTER THAN ANYBODY ELSE.

PC: AND YOU COULD - AND DID YOU THINK THAT IT WOULD STOP WITH THE KILLING?

CW: YEAH.

PC: HOW WOULD THOSE THOUGHTS HELP?

CW: UH, WELL NOW JUST, I MEAN IF I COULD, I WOULD MUCH RATHER IT BE ME THAN HER NOW IN THIS SITUATION.

PC: WERE YOU GOING TO KILL YOURSELF?

CW: UH, MORE THAN LIKELY.

PC: OKAY HOW ARE YOU PLANNING ON DOING IT?

CW: ACTUALLY TODAY WHEN I—I DIDN'T HAVE ENOUGH TIME, I HAD A BUNCH OF SLEEPING PILLS, PROBABLY ABOUT EIGHTY SLEEPING PILLS THAT I WAS GOING TO BRING BUT I FIGURED LIKE, WITH THIS DEGREE OF CRIME, YOU KNOW, I WAS PROBABLY GOING TO BE STRIP SEARCHED AND THINGS LIKE THAT SO I WOULDN'T HAVE GOT AWAY WITH THAT. BUT LIKE I DIDN'T TRY IT SO -

PC: HAD YOU PRETTY MUCH MADE UP YOUR MIND TO KILL YOURSELF?

CW: YEAH, CAUSE I DON'T WANT TO GO TO JAIL.

PC: DO YOU THINK ANYBODY CAN HELP YOU AT THIS POINT? DO YOU WANT ME TO TALK TO SOMEBODY AND SEE IF YOU CAN GET SOME HELP OR SOME MEDICINE OR SOMETHING?

CW: YEAH, I MEAN, YEAH, THAT WOULD PROBABLY BE THE BEST THING BUT REALLY I WOULD HONESTLY DO ANYTHING I COULD TO GET OUT OF HERE WHETHER IT BE (INAUDIBLE).

PC: HAVE YOU TALKED WITH YOUR FOLKS OR ANYBODY SINCE THIS HAPPENED?

CW: NO, NOBODY.

PC: ARE YOU GOING TO?

CW: PROBABLY NOT. I DON'T WANT TO CALL MY MOM BECAUSE I KNOW SHE KNOWS WHAT'S GOING ON AND I KNOW THAT SHE IS PROBABLY HYSTERICAL AND STUFF LIKE THAT.

PC: NOW YOU TOLD - I WAS LOOKING AT YOUR STATEMENT EARLIER AND YOU GAVE KIND OF A DIFFERENT STATEMENT TO THE POLICE. YOU WERE SAYING THAT YOU HADN'T MEANT TO KILL HER. BUT NOW IT SOUNDS LIKE YOU REALLY HAD MEANT TO KILL HER.

CW: YEAH. IT'S LIKE, I DON'T KNOW, IT'S LIKE, LIKE IN MY MIND I WANTED HER TO PAY FOR WHAT SHE DID. BUT, SO I, I DON'T KNOW IT'S KIND OF HARD TO EXPLAIN. IT'S LIKE I KNOW, I MEAN, I KNOW A LOT OF STUFF. I MEAN WE TALKED ABOUT A LOT OF STUFF I MEAN THAT ME AND HIM DIDN'T TALK ABOUT.

PC: SURE.

CW: BUT -

PC: NO, I'M JUST SAYING - I'M SAYING, I MEAN, BECAUSE IT SOUNDS LIKE YOU REALLY DID PLAN TO KILL HER. IT PROBABLY WASN'T MUCH TO STOP YOU.

CW: I MEAN YEAH YOU COULD DEFINITELY SAY IT WAS PREMEDITATED.

PC: YEAH AND YOU WERE GOING TO GO AHEAD WITH IT.

CW: YEAH. CAUSE I MEAN THERE WAS LIKE IF I WOULDN'T HAVE WENT INSIDE THE STORE, OR IT'S LIKE ONCE I CROSSED THAT LINE IT WAS LIKE THERE WAS NO TURNING BACK. IT WAS EITHER ALL OR NOTHING.

PC: DID YOU FEEL SORRY FOR HER AT ALL?

CW: (NO AUDIBLE ANSWER).

PC: WHEN SHE WAS PLEADING FOR HER LIFE?

CW: NO CAUSE, (CLEARING THROAT) THAT, I MEAN, AS SOON AS I WAS STARTING TO FEEL SORRY FOR HER I WOULD THINK ABOUT SOME OF THINGS SHE DID. AND THEN ALL THOSE THOUGHTS WERE STILL THERE.

PC: HAD YOU EVER THOUGHT ABOUT KILLING ANYBODY BEFORE?

CW: NO, I MEAN, NOT, NOT AS SERIOUSLY AS HER. I MEAN I'VE GOTTEN IN FIGHTS YOU KNOW LIKE WITH PEOPLE AND ARGUMENTS BUT I DIDN'T FEEL LIKE THAT. I MEAN, I MEAN NOT MEANING IT LIKE I DID WITH HER BUT I MEAN, SO FAR AS. BUT UH, I'VE NEVER BEEN LIKE GONE THIS FAR WITH ANYBODY ELSE BEFORE. BUT I HAVE THOUGHT ABOUT, YOU KNOW, YEAH I WOULD LIKE TO KILL HER, YOU KNOW, BUT.

PC: IF SOMEBODY HAD GOTTEN IN YOUR WAY WOULD YOU HAVE KILLED THEM TOO?

CW: YEAH, LIKE THE GIRLS IN THE DELI-BAKERY TODAY. I HAD TOLD MYSELF THAT YOU KNOW I WOULD GIVE THEM ONE CHANCE TO LEAVE AND THEY DID LEAVE. AND WHEN I WALKED AROUND THERE I HAD THE GUN IN MY HAND AND I WAS POINTING FOR HER TO GET OUT. AND THEY ALL LEFT. AND, I MEAN, I WASN'T GOING TO JUST WALK IN THERE AND JUST START SHOOTING EVERYBODY. THAT WAS - THERE WAS NOBODY ELSE IN THERE WHO I HAD MY HEART SET ON BESIDES HER.

PC: YEAH.

CW: AND I MEAN SO FAR AS LIKE IF ANYBODY LIKE PHYSICALLY

TRIED TO STOP ME I PROBABLY WOULD HAVE.

PC: WHY DON'T WE STOP FOR RIGHT NOW.

CW: OKAY.

PC: DO YOU HAVE ANY QUESTIONS FOR ME AT THIS POINT?

CW: NO.

PC: OKAY. WHY DON'T WE STOP AND THE TIME IS -

CW: FIVE THIRTY OR SOMETHING LIKE TWENTY MINUTES TO SIX.

PC: TWENTY MINUTES TO SIX OKAY.

END OF CONVERSATION

END OF TAPE TWO/SIDE TWO
TAPE THREE

PC: AGAIN THIS IS DOCTOR PAM CRAWFORD AGAIN NOTHING THAT YOU TELL IS CONFIDENTIAL. YOU CAN TALK TO A LAWYER IF YOU WANT. YOU DON'T HAVE TO TALK TO ME. ANYTHING CAN COME UP IN COURT THAT YOU TELL ME.

CW: OKAY.

PC: OKAY?

CW: YEAH.

PC: A COUPLE OF THINGS THAT I WANTED TO ASK YOU ABOUT. I WAS LOOKING, THEY SAID THEY HAD YOUR RECORD AND IT WAS LIKE BURGLARY OR GRAND LARCENY OR SOMETHING.

CW: YEAH.

PC: TELL ME ABOUT THAT.

CW: THAT HAPPENED LAST YEAR.

PC: OKAY.

CW: ME AND THREE FRIENDS OF MINE HAD GOT THIS BRIGHT IDEA (CLEARS THROAT) TO GO THEY WANTED TO BREAK INTO THIS

PAINTBALL STORE

PC: OKAY.

CW: IT'S A - AND SO I WENT ALONG WITH THEM. AND IT WAS ME, ROY, (INAUDIBLE)

PC: UH-HUH (AFFIRMATIVE).

CW: AND TWO OF US STAYED OUTSIDE AND TWO OF THEM WENT INSIDE AND THEY HAD GOT CAUGHT BECAUSE THEY LIKE ON THE WAY RUNNING OUT THE (INAUDIBLE) THEY DROPPED. THEY WIPE THE FINGERPRINTS OFF THE OUTSIDE OF IT BUT SEE THEY DIDN'T WIPE IT OFF THE BATTERY SO THEY GOT CAUGHT. AND THEN I GUESS WHEN MAULDIN POLICE DEPARTMENT GOT THERE, I MEAN, I GUESS THEY TOLD ON US. NOT REALLY TOLD ON US BUT TOLD THEM ABOUT US.

PC: OKAY.

CW: AND THE NEXT THING I KNOW THE DETECTIVE COMES OVER TO BI-LO AND PUTS ME IN HANDCUFFS AND TAKES ME DOWN TO THE POLICE STATION FOR QUESTIONING.

PC: OKAY.

CW: AND HE SAID JUST BECAUSE WE WERE THERE WE WERE LIKE ACCESSORIES OR SOMETHING LIKE THAT AND THEY CHARGED ME WITH BREAKING AND ENTERING AND GRAND LARCENY. BUT I TOOK I WENT TO COURT WITH THAT I GOT INTO PTL

PC: OKAY NOW YOU WERE GOING - BUT YOU WERE PART OF IT?

CW: YEAH, I MEAN, YEAH I WAS THERE, I MEAN, YEAH I WAS A PART OF THE, I GUESS THE ROBBERY.

PC: WHY DID YOU DO THAT?

CW: I WAS JUST, LIKE SOME FRIENDS HAD GOTTEN (INAUDIBLE)

PC: HAD YOU DONE ANYTHING LIKE THAT BEFORE?

(TAPE FADES OUT ONLY PARTS AUDIBLE)

CW: THEY KNEW ABOUT IT BUT -

TAPE FOUR/SIDE ONE

PC: TELL ME ABOUT THAT.

CW: IT WAS JUST LIKE, I GUESS, TIMES WHEN I WOULD GET ANGRY. AND THEN I WOULD THINK ABOUT IT AND YOU KNOW IT'S NOT REALLY WHAT I WANTED TO DO AND THEN, IT'S KIND OF LIKE ONE OF THOSE, LIKE AN IRRATIONAL DECISION THAT YOU MAKE AND THEN YOU WISH, I MEAN, EVEN WHEN I DIDN'T DO IT, IT WAS LIKE, YOU KNOW AT THE TIME I THOUGHT IT WOULD HAVE BEEN, NOT APPROPRIATE BUT I THOUGHT THAT'S WHAT I WANTED TO DO. BUT THEN I THOUGHT ABOUT IT AND IT WAS LIKE -

PC: AND AT THE TIME, MEANING WHEN YOU WENT INTO THE STORE?

CW: NO, I MEAN, JUST BEFORE. LIKE WHEN THIS WHOLE THING WAS JUST, I GUESS, TURNING INTO A, I MEAN SNOWBALL EFFECT. IT WAS GETTING BIGGER AND BIGGER. IT WAS LIKE MY MIND CHANGED EVERYDAY OR NOT EVERYDAY BUT EVERY FEW MINUTES OR ONE THING OR ANOTHER.

PC: OKAY. NOW, DID YOU HAVE HER READ THESE LETTERS?

CW: NO.

PC: CAUSE IN HERE, THE ONES YOU WROTE THAT MORNING YOU WERE TALKING ABOUT HAVING SEX WITH HER.

CW: YEAH, YEAH. NO, SHE WAS, THEY WERE IN MY WALLET THE WHOLE TIME.

PC: AND WHAT DID YOU DECIDE NOT TO TRY AND - OR DID YOU ASK HER?

CW: I NEVER - I NEVER SAID, SHE KEPT ASKING ME, WHAT DO YOU WANT, WHAT DO YOU WANT AND I KNOW IT LOOKS BAD BECAUSE YOU KNOW, WHEN, CAUSE HER SHIRT WAS OFF BUT I MEAN, WHEN YOU WATCH THE VIDEO TAPE -

PC: YEAH.

CW: IT'S LIKE, I MEAN WE GOT INTO, I MEAN, THAT WAS THE BIGGEST FIGHT THAT I'VE EVER HAD, I MEAN, YOU KNOW BEING WITH A GIRL AND HER SHIRT GOT TAKEN OFF.

PC: RIGHT, RIGHT, OH I UNDERSTAND.

CW: BUT -

PC: WELL I JUST WONDERED BECAUSE YOU HAD BEEN THINKING ABOUT IT. I WONDERED IF YOU MIGHT HAVE TRIED -

CW: NO, I MEAN, NO, I MEAN, IT'S NOT LIKE I SAT THERE AND JUST SLOWLY PULLED HER SHIRT OFF IT WAS LIKE I GRABBED HER SHOULDERS AND MY HANDS JUST GRABBED THE SLEEVES AND SHE -

PC: RIGHT.

CW: AND SHE WAS PULLING THIS WAY (DEMONSTRATING) TO GET BACK AND IT JUST CAME OFF.

PC: DID YOU OFFER HER THE OPPORTUNITY TO HAVE SEX?

CW: NO, IT WAS NEVER EVEN -

PC: YOU NEVER EVEN BROUGHT IT UP?

CW: NO I NEVER EVEN BROUGHT IT UP BECAUSE THAT WASN'T MY INTENTION.

PC: THAT WASN'T YOUR INTENTION?

CW: YEAH.

PC: OKAY. AND SO AGAIN LIKE HAD YOU BEEN THINKING ABOUT IT FOR A WHILE, NOW, WHY DO YOU THINK YOU CHOSE THEN, YESTERDAY TO DO THIS?

CW: UM - REALLY, LIKE ONE OF THE, ANOTHER FACTOR TOO, WHAT HAPPENED WHEN ME AND HER WERE WRESTLING, THE SHOTGUN WENT OFF THE FIRST TIME WHEN SHE PULLED THE TRIGGER. I'M SURE IT WASN'T BY ACCIDENT BECAUSE I SAW HER PUSH THE SAFETY OFF AND PULL THE TRIGGER. BUT THE FIRST THOUGHT THAT WENT THROUGH MY HEAD IS THOSE GUYS ARE GOING TO THINK I SHOT HER.

PC: UH-HUH (AFFIRMATIVE).

CW: AND NO MATTER WHAT THEY ARE GOING TO COME RUNNING IN HERE AND I THOUGHT THEY WERE JUST GOING TO - IF SHE WOULD HAVE BEEN FINE IF NOT SHE WOULD HAVE TOLD

THEM THAT SHOT THAT HE SHOT AT ME, BUT HE MISSED AND I GOT AWAY. YOU KNOW, THAT'S WHAT I THOUGHT SHE WAS TRYING TO DO. AND I WAS THINKING TO MYSELF THE WHOLE TIME, LIKE, IF IT WOULDN'T HAVE BEEN FOR THAT, THEN I MEAN, I'M NOT SAYING FOR SURE, THERE MIGHT HAVE BEEN A CHANCE THAT SHE COULD HAVE GOT OUT OF THERE. BUT -

PC: BUT YOU SAID YOU HAD PRETTY MUCH MADE UP YOUR MIND.

CW: LIKE I WAS TELLING THE LIEUTENANT YESTERDAY IT'S LIKE, I MEAN, IT WOULD HAVE BEEN PRETTY MUCH LIKE, SEALED THE DEAL.

PC: YEAH.

CW: BECAUSE I MEAN, REALLY AFTER THAT I HAD NO CHOICE, NOT, NOT NO CHOICE BUT I WAS LIKE, I HAD ANOTHER CHOICE THERE.

PC: OKAY. SO, OKAY. SO YOU THOUGHT YOU PROBABLY WERE, BECAUSE YESTERDAY YOU WERE SAYING ONCE YOU WENT INTO THAT STORE YOU KNEW THAT IT WAS GOING TO HAPPEN.

CW: YEAH AND LIKE ONCE I WENT IN THERE AND I HAD ALREADY CROSSED A CERTAIN LINE AND THERE'S NO GOING BACK AND, AND THEN WHEN WE WENT BACK THERE, LIKE SHE WAS, I MEAN IT WAS LIKE, IT JUST KEPT CHANGING SO OFTEN BECAUSE SHE WOULD BRING UP SOMETHING, SHE WOULD SAY YOU KNOW, PLEASE DON'T KILL ME, PLEASE DON'T HURT ME I HAVE A BABY. AND I THINK ABOUT IT AND THEN ONE SECOND I WOULD BE LIKE, YOU KNOW, OKAY I'LL TAKE THAT INTO CONSIDERATION AND THEN THE NEXT MINUTE, THEN WE WOULD START TALKING ABOUT SOMETHING BAD THAT HAPPENED TO OUR RELATIONSHIP LIKE ALL THE SYMPATHY WAS JUST GOING DOWN THE DRAIN.

PC: RIGHT.

CW: SO I MEAN, IT WAS JUST KIND OF LIKE THAT BACK AND FORTH.

PC: RIGHT, RIGHT. YOUR CALL, BUT THAT MORNING GOING IN THERE YOU THOUGHT IT WOULD PROBABLY HAPPEN BUT THEN -

CW: YEAH, I MEAN, I WAS, I MEAN NINETY-NINE PERCENT SURE IT WAS GOING TO HAPPEN.

PC: I GOT YOU.

CW: I MEAN I DIDN'T WANT TO YOU KNOW, TO GO IN THERE IN A HURRY AND SAY THAT YOU KNOW HER DAUGHTER DIED AND ALL THIS OTHER STUFF THAT HAPPENED AND YOU KNOW, I MEAN, JUST REALLY KIND OF LIKE IT DEPENDS ON WHAT KIND OF MOOD SHE HAD OR (INAUDIBLE)

PC: OKAY. NO WHAT WAS THE, WHAT WAS THE (INAUDIBLE) ABOUT? WAS THAT TO SEND TO HER?

CW: I WAS GOING TO ACTUALLY I DON'T KNOW WHAT HAPPENED. I THINK, DID YOU FIND THAT IN THE CABINET WHERE THE GLASSES -

PC: I DON'T KNOW WHERE THEY FOUND IT I WASN'T IN THE ROOM WHEN THEY FOUND IT. THIS WAS, LET ME SAY FOR THE PURPOSE OF THE TAPE, THIS IS THE THING WITH LETTERS PASTED, WHEREIN BY ONES SINS I BRING DEATH TO ALL.

CW: YEAH. I FORGET, I THINK, IT WAS IN MY, ACTUALLY I WAS GOING TO THROW IT AWAY BECAUSE I WAS BORED ONE NIGHT AND I THOUGHT I WAS GOING TO SCARE HER BUT THEN I REALIZED THAT WASN'T THE SMARTEST THING TO DO.

PC: I GOT YOU.

CW: AND I PUT IT IN MY CABINET AND I WAS GOING THROW IT AWAY AND I THOUGHT THAT MY MOM HAD FOUND IT AND SO I DIDN'T KNOW WHAT HAPPENED TO IT BUT OTHERWISE I WAS JUST GOING TO THROW IT AWAY.

PC: BECAUSE I WAS LOOKING IN YOUR JOURNAL AND YOU WERE LOOKING AT LIKE MAYBE DOING CODES OR -

CW: YEAH.

PC: OR STUFF TO FREAK HER OUT. (PAUSE) I GUESS. THAT'S WHAT I WAS THINKING. WHAT - WHEN DID THAT, WHEN DID YOU DO IT?

CW: IT'S HARD TO SAY. OH, NO, THAT'S NOT CODES. IT'S LIKE WHEN I WAS, TO KNOW LIKE HOW MANY LETTERS I NEEDED OUT - FOR EACH SPACE.

PC: OH, OH, I GOT YOU.

CW: LIKE TWO OF THESE AND TWO (INAUDIBLE).

PC: OH, I TOTALLY GOT YOU. OKAY I THOUGHT MAYBE YOU WERE GOING TO COME UP WITH SOME KIND OF CODE.

CW: UH-UH (NEGATIVE).

PC: OKAY, NOW, WHY DID YOU GO IN THE CAMOUFLAGE?

CW: WELL SEE ACTUALLY IT HAD CHANGED A LOT FROM BEFORE. I HAD, I HAD A JACKET AND I HAD THE CAMOUFLAGE PANTS BUT I JUST DECIDED TO WEAR THE BLUE JEANS AND I HAD A SKI MASK BUT I DIDN'T WEAR THAT AND I JUST PUT THE JACKET ON, I GUESS, I GUESS FOR INTIMIDATION I WOULD SAY.

PC: OKAY BECAUSE YOU DETAILED THE STUFF - WHAT ARE THERE THINGS WITH ALL THESE -

CW: OH THAT'S UH -

PC: WITH NUMBERS AND PRICES.

CW: OH THAT'S FROM A, A WOMAN'S (CHAIR SQUEAKING) CATALOG. LIKE KIND OF I GUESS AN IMAGINARY CAMPING TRIP THAT I WAS GOING TO GO ON AND ALL THE STUFF THAT I GET TO TAKE WITH ME.

PC: REALLY? WHAT WERE YOU THINKING ABOUT GOING? WHERE DID YOU WANT TO GO?

CW: I ACTUALLY HAD THOUGHT THE BEST TIME I COULD HAVE IN MY LIFE WAS TO TAKE ALL THOSE THINGS AND JUST TO GO BE OUT IN THE MIDDLE OF THE WOODS BY MYSELF FOR A FEW MONTHS.

PC: WELL, I MEAN, THERE'S THINGS IN HERE LIKE, TATICAL SOMETHING SYSTEMS, TATICAL HOLSTER, SHARPSHOOTER HIGH CAL, I MEAN THERE'S A LOT OF WEAPONS STUFF.

PAUSE

CW: YEAH, THAT'S A, YEAH. AND - (PAUSE) I CAN'T ARGUE.

PC: SO WHAT WERE YOU THINKING ABOUT?

CW: NO, I MEAN, THOSE WERE JUST LIKE THE THINGS THAT I WOULD TAKE. I MEAN, WHEN I THOUGHT ABOUT, I MEAN THAT WAS

REALLY JUST ONE OF THE THINGS THAT I DID ALL THE TIMES.
TO GET HER AND ALL THIS OTHER STUFF OFF MY MIND. IT WAS
LIKE I WOULD GET THAT BOOK AND I WOULD GET LIKE A
CATALOG OR A MAGAZINE AND LIKE ALL THE STUFF THAT I
WOULD LIKE TO HAVE.

PC: I'VE GOT YOU.

CW: AND IT WOULD MAKE ALL THIS STUFF GO AWAY FOR
A WHILE.

PC: AND SO THE FANTASY IS TO, YOU COULD GET OUT, LEAVE, I
MEAN YOU WOULD BE ONE OF THESE SURVIVALIST TYPES
OR SOMETHING?

CW: I MEAN, NOT, NO, YEAH, I GUESS SO, JUST, I MEAN, JUST TO BE,
JUST TO GET AWAY FROM EVERYTHING.

PC: AND YOU WERE LIKE CALCULATING HOW MUCH IT WOULD
COST AND STUFF?

CW: YEAH, YEAH.

PC: NOW, I THINK THAT SOMEBODY WAS TELLING US THAT THEY
ACTUALLY THOUGHT THAT YOU GOT THAT GUN IN THE PAST
COUPLE OF WEEKS.

CW: I'VE HAVE THAT - I BOUGHT THAT GUN AT WALMART IN
OCTOBER.

PC: YOU BOUGHT IT IN WALMART IN OCTOBER?

CW: I MEAN, THEY JUST HAVEN'T SEEN THE - MY MOM HAS SEEN
IT, I MEAN, MONTHS AND MONTHS AGO.

PC: OH, SHE DID. SHE DOESN'T REMEMBER THAT.

CW: NO.

PC: NOW -

CW: SHE DOESN'T REMEMBER ANYTHING THESE DAYS.

PC: DID YOU -

CW: CAN YOU SEE WHAT I'M TALKING ABOUT?

PC: UH-HUH (AFFIRMATIVE).

CW: GOOD AND SHE'S GOING TO LIVE WITH THAT FOR TWENTY YEARS.
AND TRY AND NOT END UP DEAD.

PC: I'M WITH YOU. DID - WHAT DID YOU PAY FOR IT WITH?

CW: CASH.

PC: CASH, BECAUSE I WAS ASKING YOUR DAD AND HE SAID HE
DIDN'T THINK YOU HAD CASH BACK THEN.

CW: THAT WAS IN OCTOBER.

PC: OH, YOU HAD CASH THEN?

CW: WELL, THE LAST FEW, ACTUALLY I BOUGHT IT WITH MY FRIEND
MAX DODSON, HE WAS WITH ME.

PC: THAT'S THE OTHER GUY WE ARE GOING TO TRY AND TALK TO.

CW: YEAH.

PC: SO MAX WAS WITH YOU?

CW: YEAH HE WAS WITH ME THAT DAY WHEN I BOUGHT IT.

PC: OKAY. ALL RIGHT. AND YOUR MOM HAD SOME IDEA THAT YOU
TRADED YOUR COMPUTER TO MAX FOR IT.

CW: NO, THE COMPUTER I HAD BOUGHT FROM JONATHAN.

PC: HE TOLD US THAT.

CW: AND IT WAS, HE MADE IT OUT TO BE THIS BIG HIGH-TEC
COMPUTER AND IT'S NOT SO I JUST GAVE IT BACK TO HIM.

PC: THAT'S WHAT HE SAID. SO MAX, WAS MAX INVOLVED IN THE
(INAUDIBLE).

CW: YEAH.

PC: HE WAS.

CW: YEAH.

PC: OKAY BUT YOU, JONATHAN WAS SAYING THAT YOU STOPPED
KIND OF BEING REAL GOOD FRIENDS WITH HIM AFTER.

CW: SEE IT WAS LIKE, REALLY WHAT HAPPENED, LAST - NOT THIS
SATURDAY BUT THE STAURDAY BEFORE LAST, ME AND MAX
DON'T, WE DON'T GET ALONG ANYMORE. WE STOPPED TALKING
AND WHAT HAPPENED IS LIKE BECAUSE ME AND MAX AND
EVERYBODY FROM THE BILO WHERE I USED TO WORK, WE USED
TO HANG OUT IN THE PARKING LOT.

PC: RIGHT.

CW: AND AFTER ALL THIS STUFF WITH THE PAINTBALL AND EVERY-
THING GOT - I GOT IN TROUBLE FOR THAT AND I JUST QUIT
HANGING OUT UP THERE. SO MAX, I WOULD ALWAYS HEAR
MAX AND JONATHAN ALWAYS SAYING STUFF ABOUT ME.
ALL THE TIME.

PC: OH.

CW: AND SO I WOULD, I MEAN, AND EVERY TIME I WOULD SEE HIM
OUT SOMEWHERE LIKE EITHER HE WOULDN'T SAY
ANYTHING HE WOULD COMPLETELY IGNORE ME OR HE
WOULD COME UP TO ME AND SAY HEY, HOW ARE YOU
DOING, HOW ARE YOU DOING, BLAH, BLAH. SO, TWO
SATURDAYS AGO I CALLED JONATHAN AND HE WAS LIKE
HEY GUESS, GUESS WHO CAME BY MY HOUSE LAST NIGHT.
AND IT'S, I MEAN, I LIKE JONATHAN A LOT BUT -

PC: YEAH.

CW: IT SEEMS LIKE HE, HE'LL TURN ON YOU AT, YOU KNOW -

PC: JONATHAN WILL?

CW: YEAH. BECAUSE IT'S LIKE, HE WOULD ALWAYS TELL ME,
YOU KNOW, I HATE MAX, I CAN'T STAND HIM.

PC: SO HE WAS LIKE STIRRING IT UP?

CW: YEAH, HE WOULD ALWAYS BE LIKE, YEAH, I CAN'T STAND
HIM. I'D NEVER LET HIM IN MY HOUSE. SO THEN THAT
SATURDAY I CALLED HIM AND HE WAS LIKE GUESS WHO
CAME BY LAST NIGHT. AND I WAS LIKE MAX AND BRAD.
AND HE WAS LIKE, YEAH THEY CAME OVER. AND I ALREADY

KNEW SO I WAS LIKE WHAT DID THEY SAY ABOUT ME. AND HE WAS LIKE, OH YOU DON'T WANT TO KNOW. AND THEN THIS HAD HAPPENED BEFORE AND JONATHAN HAD TALKED TO MAX OR HE CALLED HIM AND JONATHAN HAD WRITTEN DOWN A LIST OF THINGS THAT MAX HAD SAID ABOUT ME. LIKE THIS WHOLE LIST OF STUFF. AND I JUST BLEW IT OFF AND -

PC: SOUNDS LIKE EIGHTH GRADE GIRL STUFF (LAUGHING).

CW: AND THE THING IS LIKE I WILL SAY SOMETHING ABOUT MAX MAYBE EVERY NOW AND THEN LIKE HE IS STUPID OR I DON'T BOTHER WITH HIM ANYMORE. BUT I MEAN TO GO SO FAR AS TO WRITE A LIST ABOUT SOMEBODY.

PC: YEAH.

CW: AND THEN WHEN HE TOLD ME THAT IT WAS LIKE THAT SATURDAY I MEAN, ME AND HIM HAVE BEEN REALLY, I MEAN, PRETTY GOOD FRIENDS SO FAR. UP UNTIL THAT POINT AND -

PC: YOU AND MAX OR YOU AND JONATHAN?

CW: ME AND JONATHAN. AND HE SAID HE WAS GOING DOWNTOWN WITH HIS FRIEND ON SATURDAY AND HE SAID HE WOULD CALL ME BACK SATURDAY AND SO I WAITED FOR HIM BUT I NEVER HEARD FROM HIM AND I WENT BY HIS HOUSE ONE DAY AND CALLED TUESDAY BUT NOBODY WAS HOME.

PC: THAT WAS LAST WEEK?

CW: YEAH LAST WEEK.

PC: OKAY. YOU HAVEN'T TALKED TO HIM YOU SAID IN ABOUT A WEEK?

CW: YEAH IT WAS, THE LAST TIME I SEEN HIM WAS LAST SATURDAY.

PC: WHAT MADE YOU DECIDE TO DO THIS ON YESTERDAY AS OPPOSED TO MONDAY OR WHAT WAS YESTERDAY, WEDNESDAY?

CW: YEAH, WEDNESDAY.

PC: WHAT MADE YOU -

CW: ACTUALLY, IT WAS PRETTY IRONIC HOW THINGS HAPPEN. LIKE WHEN I GOT THERE WHEN I FINALLY PULLED MY

CAR INTO BILO IT WAS KIND OF LIKE SOMETHING DIDN'T WANT ME TO LEAVE BECAUSE AS SOON AS I PULLED UP FRONT MY CAR RAN OUT OF GAS.

PC: OH, YOU'RE KIDDING.

CW: AND I COULDN'T BELIEVE IT WHEN THAT HAPPENED. AND SO IT WAS, THAT SCARED ME RIGHT THERE AT THAT POINT.

PC: WHY IS THAT?

CW: BECAUSE THERE WAS LIKE, YOU KNOW, AND SHE COMES OUTSIDE AND SEES MY CAR OUT THERE SHE'S GOING TO CALL THE COPS AND I'M GOING TO BE IN JAIL.

PC: RIGHT.

CW: FOR I GUESS TRESPASSING OR BREAKING THE RESTRAINING ORDER. AND I MEAN I COULDN'T PUSH THE CAR BACK TO MY HOUSE.

PC: SURE.

CW: AND I COULDN'T PUSH IT TO A GAS STATION.

PC: SURE.

CW: AND I MEAN I HAD THE GUN INSIDE THE CAR SO IF IT'S PARKED IN THE FIRE LANE PEOPLE ARE GOING TO LOOK IN THE CAR AND THEY'RE GOING TO SEE IT.

PC: ABSOLUTELY.

CW: AND I CAN'T, YOU KNOW, RUN WITH IT THROUGH THE PARKING LOT AND GO HIDE IT IN A TRASHCAN OR SOMETHING LIKE THIS. SO, THAT WAS ONE OF THE, I MEAN NOT THE MAIN THING, BUT THAT WAS ONE OF THE THINGS.

PC: (INAUDIBLE)

CW: YEAH.

PC: NOW, HAD YOU GONE THERE BEFORE?

CW: I HAD BEEN THERE A LOT OF TIMES.

PC: WITH THE WHOLE, ALL THE EQUIPMENT AND EVERYTHING?

CW: ONE TIME. ONE TIME BEFORE WITH THE, ALL THE STUFF
BUT NEVER --

PC: WHEN WAS THAT?

CW: UH, I THINK THAT WAS -- TWENTY-ONE DAYS AGO.

PC: TWENTY-ONE DAYS AGO. AND WHAT STOPPED YOU THAT TIME?

CW: I HAD GOTTEN THERE AT ABOUT TEN IN THE MORNING.
AND I THOUGHT SHE WOULD GET OFF AT 3:30 IN THE
AFTERNOON LIKE USUAL. I ENDED UP SITTING IN THE CAR
ALL DAY UNTIL LIKE SIX O'CLOCK AND I HAD MY CAR
PARKED LIKE A FEW SPACES AWAY FROM WHERE HER CAR
WAS. AND I REMEMBER I WAS THINKING WELL, YOU KNOW,
SHE MIGHT BE CLOSING, I DON'T KNOW WHAT TIME SHE'S
GETTING OFF AND RIGHT BEFORE SHE WALKS OUT, I MEAN
ABOUT A MINUTE BEFORE SHE WALKS OUT I PUT MY CAR IN
REVERSE AND I MOVED TO LIKE THE OTHER SIDE OF THE
PARKING LOT. AND AS I'M LIKE DRIVING MY CAR, LIKE IN
THE OPPOSITE DIRECTION, SHE'S WALKING OUT AND GETTING
IN HER CAR. AND GETTING IN TRAFFIC AND LEAVING AND THAT'S
THE ONLY REASON --

PC: OKAY.

CW: SO.

PC: AND WHAT WERE YOU GOING TO DO THAT TIME?

CW: I WAS GOING TO SHOOT HER.

PC: AND THAT WAS THREE MONDAYS AGO?

CW: YEAH.

PC: AND YOU WERE JUST GOING TO SHOOT HER, YOU WEREN'T
GOING TO TALK TO HER. WHAT WERE YOU GOING TO DO?

CW: YEAH, THAT'S WHEN, LIKE I REALLY DIDN'T HAVE ANYTHING
TO SAY TO HER. SO.

PC: SO THAT WAS DIFFERENT FROM WHAT YOU PLANNED?

CW: YEAH, YEAH IT WAS. AND THAT WAS MORE LIKE A, LIKE A SPUR OF THE MOMENT THING RIGHT THERE.

PC: OKAY, OKAY. AND THAT WAS AT 3:00 IN THE MORNING OR 3:00 IN THE AFTERNOON?

CW: THREE IN THE AFTERNOON.

PC: OKAY. HOW DID - I SAW YOU HAD HER SCHEDULE FOR THIS WEEK.

CW: YEAH.

PC: HOW DID YOU GET THAT?

CW: UH, TUESDAY NIGHT I WENT INTO BILO AND GOT IT OFF OF - BECAUSE THAT'S HOW I KNEW WHAT TIME TO COME UP THERE.

PC: SO TUESDAY NIGHT WHERE DID YOU GET IT?

CW: IT WAS LAYING ON THE - YOU WALK BACK INTO THE DELI-BAKERY AND GO THROUGH THOSE DOUBLE DOORS AND IN THE MANAGERS OFFICE THERE'S A, IT WAS LAYING ON THE TABLE.

PC: SO YOU WENT IN THE MANAGERS OFFICE?

CW: YEAH.

PC: OKAY HOW DID YOU GET IN WITHOUT ANYBODY NOTICING?

CW: IT WAS SNEAKY I GUESS. I MEAN, IN A WAY, IT WAS ALMOST, I WAITED CLOSE TO CLOSING TIME TOO.

PC: YEAH.

CW: I MEAN IT TOOK ME FORTY-FIVE MINUTES OF WAITING FOR LIKE EVERYBODY NOT TO BE IN THAT SAME SPOT AT THE SAME TIME.

PC: HERE'S THE SCHEDULE, HER SCHEDULE, HE WENT TO BILO THE NIGHT BEFORE AND GOT HER SCHEDULE AND WE WERE TALKING ABOUT THAT. SO, YOU WERE ABLE TO GET IN, IN THERE WITHOUT - IN AND OUT, SO HAD YOU BEEN WATCHING HER FOR A WHILE?

CW: YEAH, I'VE BEEN WATCHING HER FOR, I MEAN, AFTER I GOT OUT OF JAIL ON THE SIXTEENTH.

PC: UH-HUH.

CW: I HAD WATCHED HER PRETTY ADAMANTLY FOR ABOUT THREE WEEKS, I MEAN, DEDICATING ALL MY TIME TO THAT. I MEAN, FOLLOWING HER TO WORK, I WAS GOING AND FOLLOWING HER HOME FROM WORK AND I MEAN, I WOULD GO AND I WOULD SIT OUTSIDE. SEE, LIKE HERE'S HER HOUSE. SHE LIVES IN RIVER ROAD OUT IN PIEDMONT AND THERE'S LIKE KIND OF A WOODED AREA AND BUSHES. AND I HAD LIKE ANOTHER JACKET, I DON'T KNOW IF YOU SAW IT IN MY ROOM OR NOT BUT IT'S GOT LIKE A HOOD ON IT AND I WOULD GET YOU KNOW, ALL CAMOUFLAGE AND I WOULD WEAR, PUT THE BOOTS ON AND THE GLOVES AND I WOULD GO AND I WOULD SIT IN THE BUSHES. IT WAS MAYBE ABOUT FIFTEEN YARDS AWAY. AND I WOULD WATCH HER AND SHE WOULD GO OUT TO HER CAR AND SMOKE A CIGARETTE AND SHE WOULD TALK ON THE PHONE AND SHE WOULD GO BACK INSIDE. I DID THAT FOR ABOUT THREE WEEKS.

PC: OKAY, WOW, EVERYDAY. BECAUSE YOUR MOM SAID YOU WOULD BE GONE A LOT. IS THAT WHERE YOU WERE GOING?

CW: AND I WOULD ALWAYS TELL HER I'M GOING TO JONATHAN'S HOUSE AT 2 IN THE MORNING AND AFTER A WHILE SHE GOT - SHE GOT -

PC: BUT YOU WERE GOING TO WATCH HER?

CW: YEAH.

PC: WAS SHE UP AT 2:00 IN THE MORNING?

CW: NO, NOT NECESSARILY I MEAN, SOME NIGHTS I WOULD GO TO WATCH HER. LIKE THE MAIN REASON I WAS FOLLOWING HER AROUND IS I WAS WAITING FOR A TIME THAT I COULD GET HER WITHOUT ANYBODY KNOWING. SO I MEAN A LOT OF THE TIME WAS GOING AND I WOULD RIDE BY HER HOUSE TO SEE IF SHE WAS THERE AND IF SHE WASN'T THERE THERE WAS LIKE FOUR OR FIVE MAIN SPOTS THAT I KNEW SHE COULD BE AT. AND I WOULD GO CHECK THOSE PLACES. AND THEN IF THEY WEREN'T THERE THEN I WOULD CHECK LIKE TWO OR THREE MORE AND THEN I WAS ALMOST SURE SHE WOULD BE BACK AT HER HOUSE. BY THAT TIME.

PC: DID SHE KNOW YOU WERE WATCHING HER?

CW: UH-UH (NEGATIVE).

PC: YOU WERE GOOD.

CW: I TOLD HER; WELL WE WERE TALKING ABOUT THAT TODAY. NOT TODAY, YESTERDAY. I WAS TELLING HER IT WAS LIKE, I WAS TELLING HER HOW MANY TIMES I HAD SAT OUTSIDE YOUR HOUSE AND WATCHED YOU AND FOLLOW YOU FROM WORK. AND SHE WAS LIKE JONATHAN CALLED ME ONE NIGHT AND WAS WONDERING WHERE I WAS. AND HE WAS WONDERING WHERE I WAS AND HE STARTED TALKING AND HE TOLD ME THAT YOU WERE WATCHING ME FROM SOMEWHERE. AND, WHAT HAD HAPPENED, SHE WAS AT A, I DON'T KNOW IF YOU GO DOWNTOWN THAT MUCH.

PC: I'M NOT EVEN FROM HERE. I 'M FROM COLUMBIA.

CW: OH, YEAH. OKAY.

PC: GO AHEAD, IT'S ALL RIGHT.

CW: SHE WENT TO THIS PLACE CALLED THE CORNER POCKET. AND I MEAN I COULDN'T GO ANYWHERE NEAR THE PUBLIC PLACES BECAUSE SHE WOULD HAVE PROBABLY HAD ME ARRESTED IN A HEARTBEAT.

PC: UH-HUH.

CW: BUT I MEAN JUST THINGS LIKE THAT. I WOULD FOLLOW HER AROUND AND I WOULD NEVER LET HER KNOW THAT I WAS DOING IT.

PC: DID YOU HAVE YOUR GUN WITH YOU?

CW: UH-UH (NEGATIVE).

PC: BUT YOU SAID YOU WERE WAITING FOR A TIME TO GET HER. WOULD YOU JUST PUT HER IN THE CAR?

CW: YEAH, YEAH, I WAS GOING TO TRY AND DO THAT.

PC: AND DO WHAT WITH HER?

CW: UH, I DON'T KNOW. I COULDN'T HAVE TAKEN HER BACK TO HER HOUSE BECAUSE THAT WOULD HAVE BEEN - HER PARENTS WOULDN'T LET ME BRING HER TO THE HOUSE SO, I DON'T

KNOW IT PROBABLY WOULD HAVE ENDED UP DRIVING OUT TO THE MIDDLE OF NOWHERE IN AIKEN COUNTY OR SOMEWHERE.

PC: AND DOING WHAT?

CW: PROBABLY JUST - KILLING HER AND DIGGING A HOLE AND PUTTING HER IN IT.

PC: OKAY SO YOU STILL - YOUR MOM STILL THINKS Y'ALL WERE DATING AND TALKING ON THE PHONE.

CW: ME, NO. WE DIDN'T, SHE TOLD ME YESTERDAY, SHE WAS LIKE YOU KNOW BETWEEN THE TIMES THAT WE, BETWEEN THIS HAPPENING AND IN JULY THE 16TH SHE WAS LIKE, I CALLED YOUR HOUSE ONE NIGHT TO, SHE WAS LIKE I CALLED YOUR HOUSE BUT NOBODY ANSWERED THE PHONE. AND I WAS LIKE WHY DID YOU CALL AND SHE WAS LIKE WELL YOU KNOW I DON'T HOLD GRUDGES. AND I JUST WANTED TO TALK TO YOU. AND SO I MEAN THAT KIND OF SURPRISED ME TOO. CAUSE I DIDN'T KNOW SHE CALLED. BECAUSE, AND I THOUGHT SHE WAS LYING TO ME AT FIRST CAUSE, IT WAS LIKE THE NIGHT AFTER I HAD GOTTEN ARRESTED. I HAD CALLED HER BECAUSE EVERYBODY WAS SAYING SHE WAS IN THE HOSPITAL WITH ALL THESE TRAUMATIC PROBLEMS AND I JUST WANTED TO SEE IF SHE WAS OKAY. AND I CALLED HER CELL PHONE AND THE CONVERSATION DIDN'T LAST FIVE SECONDS. SHE PICKED UP THE PHONE BECAUSE I CALLED FROM A PAY PHONE AND USED LIKE STAR 67.

PC: UH-HUH, RIGHT.

CW: AND SHE PICKED UP THE PHONE AND SHE SAID HELLO AND I DIDN'T SAY ANYTHING THE FIRST TIME AND SHE WAS LIKE, HELLO. AND I SAID, HEY CAN I TALK TO YOU FOR A SECOND AND SHE GOES, IF THIS CHRIS, IF THIS IS CHRIS I DON'T HAVE ANYTHING TO SAY TO YOU. YOU NEED TO STOP CALLING ME. YOU NEED TO LEAVE ME THE FUCK ALONE.

PC: UH-HUH.

CW: YOU BEAT MY ASS AND SHE HUNG UP THE PHONE AND THAT WAS IT. AND IT KIND OF SURPRISED ME AND I TOLD HER ABOUT THAT AND SHE WAS LIKE, I DON'T REMEMBER SAYING THAT. I DIDN'T SAY THAT. I WAS LIKE; YOU CUSSED ME OUT ON THE PHONE. AND IT JUST KIND OF SURPRISED ME THAT SHE SAID SHE HAD CALLED ME.

PC: WHY?

CW: ESPECIALLY IF IT WAS AFTER THAT.

PC: YEAH. THAT IS, THAT'S VERY ODD.

CW: I DON'T KNOW IF IT'S TRUE OR NOT.

PC: WHEN SHE WAS TALKING WITH YOU BEFORE YOU SHOT HER, WAS SHE TALKING ABOUT GETTING BACK TOGETHER WITH YOU OR ANYTHING LIKE THAT?

CW: NO, WELL WE WERE GOING ON, WE WERE TALKING ABOUT, AND I WAS ASKING HER, I WAS LIKE, WHY DID YOU HAVE TO BE LIKE THIS. I WAS LIKE NONE OF THIS STUFF WOULD BE HAPPENING IF YOU WOULDN'T HAVE BEEN SO STUBBORN AND SO JUST CLOSE MINDED.

PC: UH-HUH.

CW: AND SHE WAS LIKE, I TOLD YOU WHEN I WAS AT THE BEACH, WHEN I WAS AT THE BEACH, THIS WAS, SHE WENT TO THE BEACH FROM THE 10TH TO THE 14TH OF JULY. AND THIS WAS LIKE AT THAT TIME WE WERE TALKING ABOUT GETTING BACK TOGETHER. AND REALLY IT WAS MY FAULT BECAUSE SHE WAS LIKE, SHE WAS LIKE, YEAH, I'M GOING TO GO TO THE BEACH AND WHEN WE GET BACK WE'LL TALK ABOUT IT SO THE WHOLE TIME SHE WAS AT THE BEACH I WAS CALLING HER LIKE EVERY HOUR OR TWO (TAPE FADES OUT).

END SIDE ONE/TAPE FOUR
TAPE FOUR/SIDE TWO

PC: OKAY, SHE WAS LIKE, QUIT DOING THIS?

CW: YEAH, SHE WAS LIKE, THIS IS, SHE WAS LIKE, JUST GIVE ME SOME TIME TO THINK ABOUT IT, YOU KNOW, WHEN I GET BACK IN GREENVILLE, SHE SAID, SHE WAS JUST WANTING TO LIKE JUST START OVER.

PC: UH-HUH.

CW: AND REALLY, I GUESS, IF I HAD LEFT IT ALONE AND JUST LET HER GO OR TALK TO HER WHEN SHE GOT BACK SHE PROBABLY WOULD HAVE BEEN, A LOT OF THESE THINGS

PROBABLY WOULDN'T HAVE HAPPENED RIGHT NOW.

PC: RIGHT, I GOT YOU.

CW: AND SHE -

PC: SO - GO AHEAD.

CW: SHE TOLD ME THAT YESTERDAY. SHE WAS LIKE, YOU KNOW I TOLD YOU JUST TO LEAVE IT ALONE AND LET ME THINK ABOUT IT FOR A FEW DAYS, JUST GIVE ME SOME TIME BUT NO, YOU COULDN'T DO THAT, YOU CALL ME ALL DAY LONG AND YOU, BLAH, BLAH, BLAH, AND IT'S DRIVING ME CRAZY AND I JUST GOT SICK OF IT, SO.

PC: SO THAT MADE YOU FEEL -

CW: I MEAN, IT WAS MY FAULT THOUGH BECAUSE I'M - AND SHE'S LIKE, YOU KNOW IF YOU WOULDN'T HAVE - SHE WAS LIKE, ON TOP OF THAT, YOU KNOW, JUST SPITE US GETTING IN THAT FIGHT, SHE WAS LIKE WE WOULD PROBABLY BE FRIENDS RIGHT NOW.

PC: IT SOUNDS LIKE SHE WAS PRETTY CALM IN THERE WITH YOU LIKE SHE WASN'T SURE YOU WERE GOING TO KILL HER.

CW: AT FIRST WHEN WE FIRST GOT IN THERE SHE WAS LIKE, WHEN I FIRST WALKED IN THERE, SHE TRIED TO LIKE RUN AWAY, AND I GRABBED HER, NOT REAL HARD, ON THE BACK OF THE NECK BUT ENOUGH TO MAKE HER GO BACK IN THE OFFICE. AND SHE WAS LIKE, WHY ARE YOU DOING THIS? WHAT DID I DO TO YOU? WHAT DID I DO? JUST, YOU KNOW, AND I GUESS SHE WAS JUST IN A STATE OF SHOCK.

PC: SURE. CAUSE THE PEOPLE WHO WERE NEGOTIATING WERE SAYING THAT OR TALKING WITH YOU SAID THAT. THAT THEY THOUGHT SHE SEEMED PRETTY CALM AT CERTAIN POINTS.

CW: YEAH, I MEAN AT FIRST WHEN SHE WAS IN THERE SHE WAS, HER HANDS WERE SHAKING AND EVERYTHING AND THEN AFTER THAT SHE STARTED CALMING DOWN AND IT WAS JUST LIKE WE, LIKE NOTHING WAS GOING ON.

PC: WHEN DID SHE REALIZE THAT YOU REALLY WERE GOING TO KILL HER?

CW: AFTER ABOUT THE THIRD OR FOURTH TIME SHE ASKED ME. SHE

KEPT SAYING SO ARE YOU GOING TO KILL ME. AND LIKE THE FIRST FEW TIMES THAT SHE ASKED ME I JUST LOOKED AT HER. AND LIKE THE FOURTH TIME SHE ASKED ME I TOLD HER I SAID, I'M SORRY. AND SHE WAS LIKE SO YOU ARE GOING TO KILL ME. AND SHE WAS LIKE, MY GOSH; I HAVEN'T DONE ANYTHING TO YOU. SHE WAS LIKE, THE NEXT TIME SHE STARTED GETTING ALL EMOTIONAL AND EVERYTHING AND SHE STARTED CRYING AND SHE WAS LIKE PLEASE DON'T HURT ME, PLEASE DON'T KILL ME. I HAVE A BABY. YOU KNOW. AND ALL THIS KIND OF STUFF AND I JUST KEPT ON SAYING I'M SORRY.

PC: OKAY AND THEN, IS THAT WHEN YOU OFFERED HER THE CHOICE? WHAT EXACTLY DID YOU SAY TO HER ABOUT HOW YOU WERE GOING--

CW: I MEAN I CAN'T TELL YOU WORD FOR WORD.

PC: OH, YEAH, I KNOW.

CW: BUT I TOLD HER, LIKE I TOLD HER LIKE I COULD EITHER SHOOT HER OR STRANGLE HER AND SHE CHOSE, SHE SAID SHE WANTED TO BE STRANGLER, WHY I DON'T KNOW.

PC: AND YOU SAY YOU STARATED STRANGLING HER?

CW: YES, SHE GOT DOWN ON HER KNEES AND I GUESS LIKE AT THIS POINT SHE HAD LIKE GIVEN UP. THAT SHE FIGURED THAT SHE WAS GOING TO DIE ANYWAY. SO I LIKE BARELY HAD MY ARM AROUND HER AND STARTED TO PUT A LITTLE BIT OF PRESSURE ON HER AND THAT'S WHEN SHE STARTED FIGHTING.

PC: OKAY.

CW: AND THAT'S WHEN THE NEGOTIATOR CALLED AND SHE PICKED UP THE PHONE AND WE WERE FIGHTING BACK AND FORTH WITH EACH OTHER BECAUSE I WAS TRYING TO GET A HOLD OF HER AND SHE STARTED YELLING, HE'S TRYING TO KILL ME, HE'S TRYING TO KILL ME. AND SO WE MAYBE FOUGHT FOR A MINUTE OR TWO AND THEN WE JUST STOPPED. AND SHE WAS LIKE, ARE YOU GOING TO LET ME GO? ARE YOU GOING TO LET ME GO? AND RIGHT AFTER THAT, THAT'S WHEN WE STARTED TO WALK OUT AND THAT'S WHEN SHE GRABBED THE SHOTGUN.

PC: WELL, WHY DID YOU DECIDE TO WALK OUT AT THAT POINT?

CW: I THINK WE WERE GOING, I TOLD HER THAT WE WERE LEAVING.

BUT WE WERE JUST GOING TO GO OUT TO THE DELL-BAKERY.

PC: BECAUSE?

CW: SHE WAS COMPLAINING ABOUT LATELY BECAUSE I'D BEEN SMOKING IN THE ROOM AND SHE SAID, AND SO WE JUST WENT OUT THERE.

PC: RIGHT. AND THAT'S ONE OF THE THINGS THAT WENT BAD. NOW, AT ONE POINT IN ONE OF THOSE LETTERS YOU TALKED ABOUT BRANDING A NAME ON HER - HER INITIAL, DID YOU DO THAT?

CW: YEAH.

PC: WHERE IS THAT?

CW: IT'S ON MY LEFT ARM.

PC: CAN YOU SHOW ME?

CW: YEAH.

PC: OH, MAN! YOU REALLY DID BRAND YOURSELF. WHAT DID YOU USE?

CW: UH, IN MY GARAGE, I TOOK A PIECE OF WIRE, IT WAS MAYBE ABOUT AN EIGHTH OF AN INCH THICK AND I TOOK TWO PLIERS AND A TORCH.

PC: MY GOSH! WHAT MADE YOU WANT TO DO THAT?

CW: I WAS - JUST ANGRY AND MAD ALL THESE OTHER THINGS AND I KNOW MY MAMA ASKED ME ABOUT IT ONE NIGHT BECAUSE I HAD FALLEN ASLEEP ON MY BED AND I THINK I HAD MY SHIRT OFF, AND SHE'S THE SNOOPY TYPE. SHE WOULD GO AROUND AND JUST LOOK AT STUFF AND SHE ASKED ME THE NEXT DAY, WHAT HAPPENED TO YOUR ARM AND I SAID NOTHING AND SHUT THE DOOR.

PC: GOLLY, I MEAN THAT'S SOME SERIOUS STUFF ON THAT ARM. LET'S SEE - WE FOUND A BUNCH OF MAPS, LIKE MAPQUEST MAPS.

CW: YEAH, THAT WAS - YEAH THOSE CAME FROM RIGHT OUTSIDE THE END OF JUNE.

PC: ALL RIGHT. AND WHAT WAS THAT FOR?

CW: THOSE - THAT'S HOW I FOUND HER HOUSE.

PC: OKAY. BECAUSE YOU HADN'T KNOWN WHERE SHE LIVED BEFORE?

CW: I HAD KNOWN HER ADDRESS BUT I DIDN'T KNOW EXACTLY WHERE SHE LIVED.

PC: OKAY.

CW: I HAD DRIVEN DOWN THERE TO TRY TO FIND IT BUT THE HOUSE ADDRESS I HAD WAS WRONG.

PC: OKAY. WHEN DID YOU BUY ALL THAT AMMUNITION?

CW: I HAD THAT. ACTUALLY THE LAST TIME I BOUGHT ALL THAT WAS I WAS WITH RON CHAPMAN BACK IN I THINK DECEMBER OF LAST YEAR. HE WAS WITH ME AND I BOUGHT THAT - ALL THAT STUFF WAS BOUGHT AT WALMART. AND HE WAS WITH ME THAT DAY BECAUSE ALL THE GUYS WERE TELLING ME WHERE TO BUY ALL THE AMMUNITIONS. LIKE WE WOULD GO TO ONE STORE AND THEN WE WOULD GO TO ANOTHER STORE AND BUY MORE. BUT THAT WAS THE LAST TIME. I HAVEN'T BOUGHT ANY.

PC: WHY WERE YOU BUYING ALL THAT AMMUNITION?

CW: BECAUSE AT FIRST LIKE WHEN AND MAX WERE STILL TALKING WE WOULD GO OVER TO HIS HOUSE AND WE WOULD SHOOT CLAYS AND STUFF LIKE THAT. AND I MEAN WE WOULD SHOOT OLD RADIOS AND EVERYTHING LIKE THAT AND I BOUGHT ALL THAT TO - CAUSE IT WASN'T ALL THAT EXPENSIVE TOO. I THINK IT WAS MAYBE TWENTY OR THIRTY DOLLARS. AND I BOUGHT ALL THAT BECAUSE HE'S GOT LIKE THIRTY, WELL THE HOUSE THAT HE USED TO LIVE AT HAD LIKE THIRTY ACRES OF LAND.

PC: OKAY.

CW: AND WE WOULD JUST GO OUT THERE AND DO THAT. AND I BOUGHT ALL THAT BECAUSE I FIGURED WE WOULD GO THROUGH IT IN A DAY OR TWO ANYWAY. BUT WE ENDED UP STOPPED TALKING AFTER THAT.

PC: WHEN DID YOU BUY THE CAMOUFLAGE STUFF?

CW: I BOUGHT THAT I THINK TWO DAYS AFTER, I THINK ON THE 18TH OF JULY, MAYBE.

- PC: OKAY AND THAT WAS FOR THE PURPOSE OF?
- CW: ACTUALLY IT WAS ON, YEAH, IT SHOULD BE, YEAH THE 18TH, IT WAS ON A FRIDAY. AND I GOT IT FROM THE ARMY/NAVY STORE.
- PC: OKAY AND THAT WAS FOR THE PURPOSE OF DOING THIS?
- CW: YEAH.
- PC: OKAY SO YOU HAD BEEN THINKING ABOUT DOING THIS SINCE THE 18TH?
- CW: YEAH.
- PC: THIS WHOLE GENERAL IDEA?
- CW: YEAH.
- PC: NOW THE REASON YOU WEREN'T SLEEPING, WAS IT BECAUSE YOU WERE OUT FOLLOWING HER AROUND?
- CW: YEAH.
- PC: OKAY BUT WHEN YOU HIT THE HAY AT HOME WOULD YOU FALL ALSEEP?
- CW: I WOULD GO TO SLEEP OR I MEAN IT DEPENDS, I MEAN, SOMETIMES I WOULD GET HOME AT 1:00 AND SOMETIMES I WOULD COME HOME AT 6:00 IN THE MORNING AND IT JUST ALL DEPENDS ON HOW LATE SHE WAS OUT.
- PC: OKAY WERE YOUR THOUGHTS EVER RACING REAL QUICKLY? OR WAS IT PRETTY NORMAL?
- CW: OH YEAH DEFINITELY, I REMEMBER ONE NIGHT IT WAS MAYBE TWO DAYS AFTER WE BROKE UP AND I HAD CALLED HER AT BILO'S TO SEE IF SHE WANTED TO DO SOMETHING. IF SHE WANTED TO GO OUT THE EAT AFTERWARDS. AND THE GIRL SAID NO THAT SHE HAD LEFT ALREADY. AND LIKE I WAS SAYING YOU KNOW SHE WAS ALWAYS INTO DRUGS AND DRINKING AND THERE'S THIS BAR RIGHT DOWN THE STREET. I DIDN'T MIND WHEN SHE WORKED AT THE OTHER STORE, 273, BECAUSE THE BAR ALLEY GATORS IS REALLY FAR AWAY. BUT THIS IS NOT EVEN HALF A MILE FROM THERE. AND I CALLED AND THEY SAID SHE HAD LEFT ALREADY AND SO I CALLED HER PARENTS. HER MOM ANSWERED THE PHONE

AND SHE SAID SHE WASN'T THERE AND SHE WASN'T ANSWERING HER CELL PHONE SO I KNEW AUTOMATICALLY THAT SHE WAS THERE SO I DROVE BY THERE AND SURE ENOUGH THERE SHE IS. HER CAR IS SITTING RIGHT THERE. AND I'M NOT OLD ENOUGH TO GET IN THERE BUT EVERYTIME I GO WITH HER THE GUYS WOULD LET ME IN THERE BUT I FIGURED IN OUR SITUATION THEY MIGHT NOT LET ME ANYMORE.

PC: RIGHT.

CW: SO I GO WAIT IN THE PARKING LOT AND I WASN'T WAITING TO DO ANYTHING BAD I WAS JUST WAITING FOR HER TO COME OUT SO I COULD TALK TO HER. SO, I ENDED UP WAITING ABOUT TWO HOURS. AND SHE COMES OUT AND GOES TO HER CAR AND ALL OF A SUDDEN THESE TWO, I GUESS THERE WAS ONE GREENVILLE COUNTY COP AND THEN ONE OF THE SECURITY GUARDS COMES OUT THERE AND THEY WERE TELLING ME YOU NEED TO GET BACK IN THE CAR AND LEAVE. THE OWNER WANTS ME TO TELL YOU YOU'VE GOT TO GET OFF HIS PROPERTY. AND I WAS LIKE I JUST NEED TO TELL HER SOMETHING. AND HE WAS LIKE WELL JUST TURN AROUND AND GO BACK TO YOUR CAR I DON'T WANT TO HAVE TO TAKE YOU TO JAIL. AND HE HAD TO TELL ME THAT PROBABLY EIGHT OR NINE TIMES BEFORE I FINALLY JUST TURNED AROUND AND WALKED AWAY.

PC: REALLY?

CW: AND YEAH FINALLY HE WAS LIKE IF YOU DON'T LEAVE I'M GOING TO ARREST YOU.

PC: AND WHEN WAS THAT?

CW: THIS WAS LIKE - IT WAS ON A WEDNESDAY BECAUSE WE BROKE UP ON A MONDAY. I WOULD SAY PROBABLY THE 14TH OR 15TH OF JUNE. AND SO I LEFT AND I WENT BACK TO MY HOUSE AND I CALLED HER CELL PHONE A FEW TIMES AND SHE DIDN'T ANSWER SO I GOT IN MY MOM'S CAR AND I DROVE BACK AND I WENT AND WAITED ACROSS THE STREET AT THESE APARTMENTS. BECAUSE I WAS - AT THIS TIME NONE OF THESE BAD THOUGHTS HAD STARTED HAPPENING. AND I WASN'T GOING TO DO ANYTHING I WAS JUST GOING TO, BECAUSE THE MAIN REASON I WAS THERE IS BECAUSE I KNEW SHE HAD WAY TOO MUCH TO DRINK AND IT'S NOT THE FIRST TIME I'VE HAD TO GO GET HER AND DRIVE HER HOME. AND SO I WAITED AND WAITED AND FINALLY AT ABOUT 3:30 I JUST GAVE UP AND WENT HOME. AND RIGHT BEFORE I WENT TO SLEEP I SAID WELL I'LL CALL HER ONE MORE TIME. AND SHE PICKED UP THE

PHONE AND I SAID WHERE ARE YOU AT AND SHE SAID YOU KNOW WHERE I'VE BEEN, YOU KNOW WHERE I AM. WHY ARE YOU ASKING ME THAT ARE YOU FOLLOWING ME AROUND. I MEAN SHE WASN'T REALLY MAD BUT I COULD TELL SHE WAS KIND OF LIKE WEIRDED OUT I COULD SAY A LITTLE BIT. AND SHE WAS LIKE YOU KNOW YOU CAN'T BE DOING THAT. AND THE THING, THE ONLY REASON WHY I DID THOSE THINGS, AND LIKE ANOTHER REASON, TOO, LIKE WHY LIKE THE RELATIONSHIP WENT BAD ESPECIALLY ON HER PART IS BECAUSE SHE SAID SHE COULDN'T DEVOTE OR SPEND AS MUCH TIME WITH ME ANYMORE.

PC: RIGHT.

CW: AND I TOLD HER THIS YESTERDAY I WAS LIKE YOU KNOW HOW WOULD YOU FEEL IF I TOLD YOU I COULDN'T SPEND ANY TIME WITH YOU THAT I HAVE TO GO HOME AND TAKE CARE OF MY KID. I CAN'T DO ANYTHING ELSE BUT DO THAT. BUT THEN YOU GO OUT TO A STRIP CLUB AND THERE I AM? AND IT'S LIKE, YOU KNOW, MY POINT OF VIEW FROM HER CHANGED IT'S LIKE GOING FROM SHE CAN'T TO SHE DOESN'T WANT TO ANYMORE.

PC: EXACTLY.

CW: SO.

PC: SO YOU WERE GETTING THAT MESSAGE LOUD AND CLEAR?

CW: YEAH, I MEAN, AND I TOLD MYSELF YOU KNOW AND I TOLD HER YESTERDAY I WAS LIKE THAT NIGHT AND IT HAPPENED A FEW MORE TIMES AFTER THAT EVEN IF IT WAS FIFTEEN MINUTES OR TWENTY MINUTES JUST TO BE AROUND US TO BE AROUND EACH OTHER FOR A LITTLE WHILE AND SHE WAS LIKE I DIDN'T ANSWER THE PHONE BECAUSE I DIDN'T WANT YOU TO BE MAD AT ME FOR GOING UP THERE. AND I MEAN IT'S NOT THE FIRST TIME I MEAN EVEN LIKE YOU KNOW I WAS STAYING AT THE BEACH IN CHARLESTON AND I TALKED TO HER ONE NIGHT AND I THINK IT WAS ON THE 4TH OF JULY AND SHE WAS OUT WITH HER FRIENDS DRINKING AND SHE WAS LIKE WELL, AFTER THIS I'M GOING BACK TO COREY'S HOUSE AND BLAH, BLAH, BLAH AND I WENT OFF ON HER AFTER THAT I WAS LIKE - SO, I MEAN THAT'S JUST, I MEAN ALL SHE HAD TO DO WAS JUST REALLY BE TELLING ME I DON'T WANT ANYTHING TO DO WITH YOU AND THAT'S A LOT EASIER THAN -

- PC: SO YOU FELT LIKE THAT SHE WAS KIND OF PLAYING YOU ALONG?
- CW: YEAH AND EVERYBODY WAS TELLING ME THAT AND MY MOM WAS TELLING ME YOU KNOW SHE'S JERKING YOU AROUND. AND I WAS SAYING, NO, NO, NO SHE WOULD NEVER DO THAT TO ME.
- PC: RIGHT. NOW YOU WERE TALKING ABOUT RACING THOUGHTS WHAT WERE THOSE?
- CW: WELL, LIKE THAT NIGHT WHEN I WENT BY ALLEY GATORS TO SEE IF SHE WAS THERE. I WAS LIKE THINKING OF EVERY DIFFERENT PLACE SHE COULD BE AND LIKE ON MY WAY THERE I WAS LOOKING AND SHE WAS NOT HERE, I'M GOING TO GO HERE AND HERE AND HERE AND HERE AND THEN I MEAN SO JUST KIND OF LIKE THAT.
- PC: HOW ABOUT THE LAST COUPLE OF WEEKS?
- CW: NOT REALLY NOT THAT BAD.
- PC: HOW ABOUT MOOD SWINGS?
- CW: NO I WOULDN'T SAY, REALLY MY MOOD HASN'T CHANGED. I JUST I MEAN IN THE PAST FEW WEEKS I GOT REALLY QUIET.
- PC: SO YOU WOULDN'T DESCRIBE YOURSELF AS REALLY HIGH AT ONE TIME AND -
- CW: NO I MEAN I WOULD GET LIKE IN A LITTLE BIT OF A BETTER MOOD BUT NOT EXHILARATED OR SOMETHING LIKE THAT.
- PC: AND NOT SO DEPRESSED?
- CW: NO.
- PC: SO NO REAL CHANGES. AND YOU DIDN'T THINK PEOPLE WERE TRYING TO HURT YOU OR HARM YOU IN ANYWAY?
- CW: I THOUGHT SHE WAS BUT NOBODY ELSE.
- PC: WHAT DID YOU THINK SHE WAS TRYING TO DO TO YOU?
- CW: I THOUGHT SHE WAS TRYING TO LIKE AND SHE WAS ALWAYS TELLING ME I'M NOT TRYING TO HURT YOU INTENTIONALLY

AND IT'S LIKE WELL IF YOU'RE NOT TRYING TO HURT ME WHY ARE YOU DOING THIS STUFF? AND I JUST THOUGHT SHE WAS REALLY TRYING TO GET SOME KIND OF PAY BACK OUT OF YOU KNOW PUNISHING ME FOR SOMETHING I HAD DONE TO HER BEFORE.

PC: OKAY SO DID YOU THINK SHE WAS PHYSICALLY GOING TO TRY TO HURT YOU?

CW: NO, NO, NO JUST LIKE EMOTIONAL.

PC: JUST EMOTIONAL.

CW: I MEAN BECAUSE PHYSICALLY I MEAN YOU KNOW -

PC: PLAY GAMES WITH YOU.

CW: YEAH.

PC: BUT YOU DIDN'T THINK LIKE THE KLAN WAS AFTER YOU, THE FBI

CW: NO, NO.

PC: ANY OF THOSE KIND OF THINGS?

CW: NO. NO.

PC: I MEAN I'M NOT GETTING THAT SENSE. I JUST WANTED TO MAKE - AND YOU'RE NOT HEARING VOICES?

CW: NO.

PC: SO DID YOU HEAR VOICES OUTSIDE YOUR HEAD TELLING YOU TO KILL HER?

CW: NO.

PC: AND YOU WEREN'T SEEING THINGS. HOW ABOUT DRINKING. HOW MUCH DID YOU DRINK IN THE LAST COUPLE OF WEEKS?

CW: YEAH, AFTER YEAH IT REALLY STARTED, I MEAN NOT AS MUCH AS I DID WITH HER BECAUSE IT WASN'T READILY AVAILABLE. I MEAN I COULDN'T GO, ME AND HER WOULD GO OUT AND BUY IT ALL AT A TIME. I WOULD BUY IT AND BRING IT HOME BUT NOT AS MUCH AS SHE DID.

PC: RIGHT.

CW: WHENEVER IT WAS THERE I WOULD DEFINITELY DRINK A LOT.

PC: DID YOU DRINK BEFORE THIS INCIDENT YESTERDAY?

CW: NO.

PC: OKAY WHEN WAS THE LAST DRINK THAT YOU HAD?

CW: PROBABLY TWO NIGHTS BEFORE I HAD LIKE A GLASS OF
WELL NOT EVEN A GLASS OF I WOULD SAY A CUP OF WINE.

PC: OKAY.

CW: AND THEN I DIDN'T EVEN LIKE THE WINE BY ITSELF SO I
JUST PUT LIKE HALF COKE AND HALF WINE.

PC: AND THAT WAS SO YOU WEREN'T DRINKING WAS THE MOST
YOU HAD TO DRINK IN THE PAST FEW WEEKS.

CW: I WOULD SAY THE MOST I DRANK IN THE PAST FEW WEEKS WAS
PROBABLY TWO (INAUDIBLE).

PC: AND YOU WEREN'T USING DRUGS AND WHAT YOU DID OVER
AT YOUR STEPDAD'S TRANQUILIZERS AND PAIN PILLS, NOTHING
LIKE THAT THE LAST COUPLE OF WEEKS.

CW: NO AFTER THE THING HAPPENED WITH THE HOSPITAL THEY
PROBABLY COUNTED EVERY SINGLE ONE. TO MAKE SURE
I DIDN'T USE THEIRS.

PC: SO THAT WAS NEVER SOMETHING? THERE ARE SOME HOSPITALS
LISTED HERE.

CW: YEAH THAT'S WHEN I CALLED I WROTE THEM DOWN TO CALL
THE HOSPITALS TO SEE, THAT WAS THE DAY AFETER ME AND HER
GOT IN A FIGHT UP THERE AND THEY TOLD ME THEY COULDN'T
TELL ME BECAUSE OF SOME HIPPA LAW.

PC: OKAY, YES.

CW: THEY TOLD ME THEY COULDN'T RELEASE ANY INFORMATION
ABOUT HER. SO.

PC: THERE WAS SOMETHING ABOUT, NOW YOUR FOLKS DIDN'T KNOW

ABOUT YOU WORKING AT A TEMP AGENCY. THEY JUST DIDN'T KNOW ABOUT THAT?

CW: NO THEY DIDN'T KNOW. THEY DIDN'T KNOW WHERE I WAS.

PC: IT SOUNDS LIKE IT. WAS THERE TALK ABOUT TAKING YOUR CAR AWAY?

CW: YEAH. RONNIE AND THEM WAS TRYING TO BECAUSE I REALLY HAVEN'T HAD THE MONEY RECENTLY I MEAN EVER SINCE BILO I MEAN I MADE PRETTY DECENT MONEY AT BILO.

PC: RIGHT.

CW: BUT EVER SINCE THAT IT'S LIKE FUNDS WEREN'T AVAILABLE TO PAY FOR THE CAR SO HE WAS GOING TO SELL IT.

PC: WHEN WAS HE GOING TO TAKE THE CAR?

CW: HE HAD PUT IT IN THE NEWSPAPER ALREADY.

PC: WOW.

CW: AND ME AND HIM MAYBE TWO WEEKS AGO WE GOT IN A BIG ARGUMENT ABOUT IT. AND BECAUSE HE WANTED, HE ASKED ME FOR THE CAR KEYS AND I'M LIKE I ASKED HIM I SAID WHY AND HE SAID WELL HE PUT IT IN THE NEWSPAPER AND WHAT IF SOMEBODY WANTS TO BUY IT AND I SAID WELL IF SOMEBODY WANTS TO BUY IT JUST SET UP A TIME WHERE THEY CAN COME TO THE HOUSE AND BE HERE WHILE I'M HERE. AND SO WE STARTED GOING ON AND ON ABOUT THIS.

PC: DID THAT HAVE ANYTHING TO DO WITH WHY YOU ASKED HIM WHAT HE DID BECAUSE YOU MIGHT LOSE THE CAR?

CW: YEAH. AND THAT WAS DEFINITELY ANOTHER THING TOO.

PC: TELL ME.

CW: ACTUALLY A WOMAN HAD CALLED AND WANTING TO BUY THE CAR AND I JUST TOLD HER IT WASN'T EVEN FOR SELL.

PC: WHEN DID SHE CALL?

CW: ABOUT A WEEK AGO.

PC: SO YOU FELT LIKE YOU HAD TO ACT MORE QUICKLY?

CW: YEAH I FELT MORE PRESSURE. AND THEN THAT EVERYTHING ELSE THAT WAS HAPPENING WITH THIS OTHER COURT DATE COMING UP AND THEN ALL THE OTHER STUFF IT WAS JUST LIKE IT'S GOT TO BE NOW OR NEVER.

PC: YOU WOULDN'T HAVE BEEN ABLE TO FOLLOW HER OR STALK HER ANYMORE BECAUSE YOU DIDN'T HAVE YOUR CAR.

CW: NO.

PC: THAT WAS GONNA BE A BIG THING.

CW: A BIG THING IN MY PLANS.

PC: I GOT YOU. I'M GOING TO TALK TO YOUR SISTER TODAY. IS THERE ANYTHING YOU WANT ME TO ASK HER OR TELL HER?

CW: I GUESS JUST TELL HER THAT I'M DOING OKAY OR --

PC: OKAY DO YOU THINK YOU CAN SAFELY GET OFF THE SUICIDE WATCH?

CW: I MEAN I'D LIKE TO I MEAN IT'S GONNA CAUSE MORE PROBLEMS THAN IT IS DOING GOOD.

PC: OKAY TELL ME WHY IT'S GOING TO CAUSE MORE PROBLEMS?

CW: BECAUSE I MEAN IT'S I MEAN I HAVE TO SIT AND JUST SITTING ON THAT FLOOR I MEAN ALL (INAUDIBLE) I MEAN I WAKE UP AND THE WHOLE SIDE OF MY BODY IS ICE COLD AND I HAVE TO ROLL OVER ON THE OTHER SIDE OF MY BODY TO GET FEELING BACK IN IT. AND THE LEAST THEY COULD DO IS GIVE ME A MATTRESS.

PC: NOW YOU SAID YOU MIGHT START ACTING UP WHAT ARE YOU THINKING ABOUT DOING?

CW: NO, I JUST THAT, YOU KNOW, THE LEAST THEY HAVE TO DO IS GIVE ME A MATTRESS AND I'LL BE FINE.

PC: RIGHT.

CW: BUT I TOLD THE GUY TODAY I SAID THIS IS GOING TO GET OLD AFTER A WHILE, I MEAN, AFTER A WEEK OR TWO OF SLEEPING ON THIS CONCRETE FLOOR IS GOING TO BE JUST ABOUT OLD.

PC: OKAY. I BELIEVE THAT. OKAY, THAT'S ALL I HAVE FOR RIGHT NOW.

CW: OKAY.

PC: I MAY NEED TO TALK TO YOU AGAIN. WE'RE GOING TO GO SEE YOUR SISTER TODAY.

CW: OKAY.

PC: AND WE'LL JUST TAKE IT FROM THERE.

CW: OKAY.

PC: HAVE YOU GOT ANY QUESTIONS?

CW: NO NOT REALLY.

PC: OKAY.

CW: HAVE YOU TALKED TO HER PARENTS YET?

PC: NO I'LL TALK TO THEM TODAY.

CW: OKAY.

PC: ANYTHING YOU WANT TO PASS ALONG TO THEM?

CW: OH IT'S NOT THAT, WELL YEAH I GUESS THAT I DON'T FEEL SO MUCH AS SORRY FOR HER THE PERSON THAT I SYMPATHIZE WITH THE MOST IS HER DAUGHTER.

PC: DO YOU FEEL SORRY FOR HER MOM? NOT SO MUCH?

CW: NO BECAUSE HER PARENTS WERE PART OF THE PROBLEM TOO. WERE A THING TOO THAT MADE US KEEP BREAKING UP BECAUSE HER PARENTS SAID WE WERE SPENDING TOO MUCH TIME TOGETHER. AND I MEAN LIKE YOU KNOW, I GUESS HER MOM IS LIKE A I DON'T KNOW WHAT WORD I SHOULD USE I WOULDN'T SAY WASTELESS BUT THEY THOUGHT WE --

PC: (INAUDIBLE)

CW: I MEAN, YEAH, SHE WOULD ALWAYS TELL MANDY LIKE SHE DOESN'T SEE WHY SHE WOULD WANT TO PUT (INAUDIBLE) THROUGH THAT GROWING UP WITH, LIKE TO SAY IF ME AND HER

WERE TO GET MARRIED SHE WAS LIKE YOU KNOW I DON'T SEE WHY YOU WOULD WANT TO PUT HER THROUGH THAT, YOU KNOW. THAT STUFF AND YOU KNOW HER DAD WASN'T LIKE THAT.

PC: OKAY IT SOUNDS LIKE AGAIN THAT YOU DON'T FEEL TOO BAD ABOUT WHAT YOU DID BUT YOU FEEL BAD FOR THE DAUGHTER.

CW: YEAH. I MEAN FOR HER, I MEAN I DO FEEL BAD ABOUT IT A LITTLE BIT. BUT NOT NEAR AS MUCH AS FOR HER DAUGHTER THOUGH.

PC: OKAY. AND HOW ABOUT FOR HER? DO YOU FEEL LIKE SHE DESERVED IT?

CW: NOT AS MUCH AS I DID REALLY, I MEAN, I WOULD MUCH RATHER ME BE AT HOME RIGHT NOW AND HER BE OUT DOING WHATEVER SHE, I MEAN, BECAUSE NOTHING THAT SHE WAS DOING AFTER THAT WAS SO BAD THAT SHE DESERVED TO DIE BUT I MEAN -

PC: YOU FELT LIKE IT BEFORE?

CW: YEAH.

PC: YOU APPARENTLY WERE TELLING ONE OF THE OFFICERS THAT IT'S LIKE BEING A KID OR SOMETHING THAT YOU WAIT FOR SOMETHING YOU THINK IS GOING TO BE -

CW: YEAH, IT'S LIKE YOU KNOW LIKE WHEN YOU'RE A KID, WELL NOT EVEN, YEAH, WELL MOSTLY, PRIMARILY LIKE A KID, IT'S LIKE SOMETHING THAT YOU WANT TO GET SO BAD AND YOU CAN'T WAIT TO GET IT AND WHEN YOU FINALLY GET IT IT'S NOT ALL IT'S CRACKED UP TO BE.

PC: WE'RE GOING TO STOP IN JUST A MINUTE. YOU MEAN KILLING HER WASN'T AS MUCH AS AN ENJOYMENT?

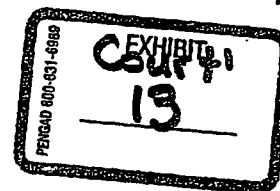
CW: YEAH.

PC: IS THAT RIGHT?

CW: YEAH.

PC: WE'RE READY TO STOP AND THE TIME IS 9:53.

END OF TAPE FOUR

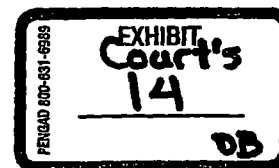


STATE V. CHARLES CHRISTOPHER WILLIAMS

REQUEST FOR JURY INSTRUCTION

"Allen" Charge

By law I cannot tell you where to go from here, but I suggest that you continue deliberations in an attempt to reach a verdict. I can tell you that each of you have a duty to consult with one another and to deliberate with a view to reaching an agreement that does not do violence to any one of your individual judgments. Each of you as jurors must decide the case for yourself after impartial consideration of the evidence with your fellow jurors. During the course of your continued deliberations each of you should not hesitate to re-examine your own views and change your opinion if convinced that your opinion is erroneous. Each juror who finds himself or herself to be in the minority should consider their views in light of the opinions of the jurors of the majority. Those in the majority must consider their views in light of the minority. No juror should surrender their honest conviction for the mere purpose of returning a unanimous verdict.



JUDGE NICHOLSON,

JURY IS AT 9 PM DEATH IMPOSITION, 3 FOR LIFE
IMPRISONMENT. PLEASE REFER TO INSTRUCTION ABOUT
WHAT PROCEDURE TO FOLLOW TO RESOLVE.

For the

Robert C. [Signature]

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

INDICTMENT FOR
COUNT ONE - MURDERCOUNT TWO - POSSESSION OF A WEAPON DURING
THE COMMISSION OF OR THE ATTEMPT TO COMMIT
A VIOLENT CRIMEAt a Court of General Sessions, convened on MARCH 23, 2004 the

Grand Jurors of Greenville County present upon their oath:

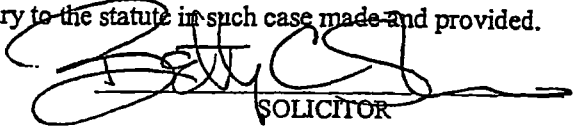
COUNT ONE - MURDER

That CHARLES CHRISTOPHER WILLIAMS did in Greenville County, on or about the 3rd day of September, 2003, unlawfully and with malice aforethought kill Maranda Williams by means of shooting her, and that Maranda Williams died as a proximate result thereof. This is in violation of §16-3-10 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION
OF OR THE ATTEMPT TO COMMIT A VIOLENT CRIME

That CHARLES CHRISTOPHER WILLIAMS did in Greenville County, on or about the 3rd day of September, 2003, possess or visibly display a shotgun during the commission or attempted commission of a violent crime, to wit: Murder. This is in violation of §16-23-490 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

296

WITNESSES

AGGIO / S

O

3/03

ARREST WARRANT NUMBER

H 360518

H 360520

ACTION OF GRAND JURY

TRUE BILL

Rich G. Sandlin

FOREMAN GRAND JURY

erson of Grand Jury

VERDICT

Guilty
John C. [unclear]

erson of Petit Jury

Date:

2/15/05

BC5

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

MARCH TERM 2004

THE STATE

vs.

GUILTY

CHARLES CHRISTOPHER WILLIAMS

Indictment for

0116 MURDER

VIOLATION § 16-3-10

0549 POSSESSION OF A WEAPON DURING
THE COMMISSION OF OR THE ATTEMPT TO
COMMIT A VIOLENT CRIME

VIOLATION § 16-23-490

81

ENTERED
ACCT.
mfb

STATE OF SOUTH CAROLINA)

INDICTMENT FOR
KIDNAPPING

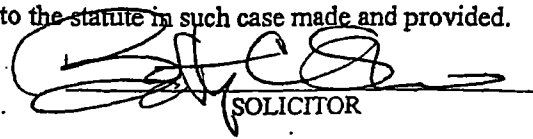
COUNTY OF GREENVILLE)

At a Court of General Sessions, convened on MARCH 23, 2004 the

Grand Jurors of Greenville County present upon their oath:

That CHARLES CHRISTOPHER WILLIAMS did in Greenville County, on or about the 3rd day of September, 2003, unlawfully seize, abduct, confine, inveigle, decoy or carry away Maranda Williams, without the authority of law. This is in violation of §16-3-910 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

296

AGGIO / 5

30

3/03

ARREST WARRANT NUMBER
H 360517

ACTION OF GRAND JURY

TRUE BILL

Rich G. Spradling

FOREMAN GRAND JURY

erson of Grand Jury

VERDICT

Guilty
2/15/05

erson of Petit Jury

Date:

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

MARCH TERM 2004

THE STATE

vs.

CHARLES CHRISTOPHER WILLIAMS

GUILTY

Indictment for

0095

KIDNAPPING

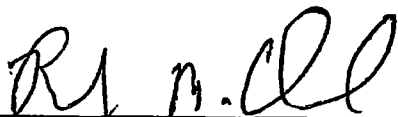
VIOLATION § 16-3-910

80

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.

April 14th, 2008

A handwritten signature in black ink, appearing to read 'R. M. Dudek', written over a horizontal line.

Robert M. Dudek
Deputy Chief Appellate Defender for Capital Appeals

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

In the Court of Common Pleas

County of Greenville

2010 NOV 30 P 4: 26

ENTERED COMPUTER

CHARLES CHRISTOPHER WILLIAMS, #6018

APPLICATION FOR

v.

POST-CONVICTION RELIEF

THE STATE OF SOUTH CAROLINA

2010-CP-23-

9792

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly, handwritten, or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicant should, therefore, exercise care to assure that all answers are true and correct.

If the applicant is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

1. Place of detention Leiber Correctional Institution, P.O. Box 205, Ridgeville, South Carolina 29472.
2. Name and location of Court which imposed sentence Greenville County.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2004-GS-23-1745
 - (b) 2004-GS-23-1746
 - (c) 2003-GS-23-6677
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) November 1, 2004; death penalty was imposed.
 - (b) _____
 - (c) _____
5. Check whether a finding of guilty was made
 - (a) after a plea of guilty _____

- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere
6. Did you appeal from the judgment of conviction or the imposition of sentence? Yes.
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. South Carolina Supreme Court
 - ii. United States Supreme Court
 - iii.
- (b) the result in each such Court to which you appealed:
- i. Affirmed
 - ii.
 - iii.
- (c) the date of each such result:
- i. February 8, 2010.
 - ii. October 4, 2010.
 - iii.
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. State v. Williams 386 S.C. 503 390 S.E.2d 62 (2010)
 - ii. Williams v. South Carolina, 2010 WL 2629843, 79 U.S.LW 3201 (October 4, 2010).
 - iii.
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a)
- (b) _____
- (c)
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel. (See Attachment)
- (b) _____
- (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) See Attachment.

(b) _____

(c) _____

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law ?

No.

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

No.

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7) No.

(d) any other petitions, motions or applications in this or any other Court?

No.

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Not Applicable.

ii. _____

iii. _____

iv. _____

(b) the name and location of the Court in which each was filed:

i. Not Applicable.

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

i. Not Applicable.

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. Not Applicable.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. Not Applicable.

ii.

iii.

iv.

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? No.

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i.

ii.

iii.

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

(a) Not Applicable.

(b)

(c)

16. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence?

Yes

(e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? Yes

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. John Mauldin, Esquire, P.O. Box 10264, F.S., Greenville, South Carolina 29603
- ii. William Nettles, Esquire, 1401 Main Street, Columbia, South Carolina 29201
- iii. Robert M. Dudek, Esquire, P. O. Box 11589, Columbia, South Carolina 29211-1589

(b) the proceedings at which each such attorney represented you:

- i. Trial and Sentencing
- ii. Trial and Sentencing
- iii. Direct Appeal

18. State clearly the relief you seek in filing this application.

New trial and new sentencing proceeding.

19. Are you now under sentence from any other court that you have not challenged?

No.

ATTACHMENT

- (a) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving various objections to the confession given by petitioner to Dr. Pamela Crawford, where Dr. Crawford told petitioner she would help him get treatment as a psychiatrist where she was in reality a law enforcement officer intent on obtaining a damaging confession.
- (b) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving the objection to Dr. Crawford being allowed to testify before the jury, by agreeing Dr. Crawford could testify but not as an expert, since the trial judge's proposed ruling on the matter was erroneous and it led to great confusion for the jury as Dr. Crawford began what was expert testimony.
- (c) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to effectively move for a mistrial based on Dr. Crawford's cumulative testimony, and by failing to effectively object to the trial judge's curative instruction that this Court found solved any need for a mistrial.
- (d) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to present available evidence in mitigation regarding the extreme difficulties between petitioner's mother and father and available mitigating evidence about petitioner's extremely troubled childhood, teenage, and young adult years.
- (e) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for arguing the trial judge had to declare a mistrial and sentence petitioner to relief imprisonment where the jury revealed its division since defense counsel should have argued the trial judge's distinction between a jury revealing its division upon request from the trial judge, and a jury reporting its division on its own, introduced an arbitrary factor into the case as it related to the trial judge's discretion to give an Allen charge rather than declare a mistrial and sentence petitioner to life imprisonment.
- (f) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to argue that certain portions of petitioner's journal should have been excluded under Rule 403, SCRE due to their tendency to confuse the jury, and because their probative value was substantially outweighed by their unduly prejudicial effect.

STATE OF SOUTH CAROLINA)

COUNTY OF Greenville)

VERIFICATION

I, Charles Christopher Williams, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Charles Williams

Sworn to and subscribed before me

This 19th day of Nov., 2010.

Wanda J. Ferguson L.S.
Notary Public for South Carolina

My Commission Expires Sept. 22, 2018

APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

I, Charles Christopher Williams, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of proceeding or give security therefor.

Charles Williams
Applicant

Sworn to and subscribed before me

This 19th day of Nov., 2010.

Wanda J. Ferguson L.S.
Notary Public for South Carolina

My Commission Expires: Sept. 22, 2018



SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

2010-CP-23- 9792

Division of Appellate Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201-3332
Post Office Box 11589
Columbia, South Carolina 29211-1589
Telephone: (803) 734-1330
Facsimile: (803) 734-1397

Robert M. Dudek, Chief Appellate Defender
Wanda H. Carter, Deputy Chief Appellate Defender
Joseph L. Savitz, III, Senior Appellate Defender

November 22, 2010

ENTERED COMPUTER

Paul B. Wickensimer
Clerk of Court
305 E. Northeast St.
Greenville County Courthouse
Greenville, SC 29601

Re: Charles Christopher Williams

Dear Mr. Wickensimer:

Enclosed are an original PCR application and two copies. Please file the original application and send me back two clocked filed applications for my file and my client. I have enclosed a stamped self-addressed envelope for your convenience. Since this is a capital PCR case Judge Welmaker will assign counsel. Thank you.

Should you have any questions, please do not hesitate to contact our office.

Sincerely,

Robert M. Dudek
Chief Appellate Defender for Capital Appeals

RMD/kam

Enclosure

Capital
PCR

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

CHARLES CHRISTOPHER)
WILLIAMS, #6018)

Applicant,)

v.)

THE STATE OF)
SOUTH CAROLINA)

Respondent.)

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2010-CP-23-9792

**ORDER ON APPOINTMENT OF
POST-CONVICTION RELIEF COUNSEL
AND SCHEDULING ORDER**

ENTERED COMPUTER

This matter came before this Court pursuant to the November 17, 2010 Order of the Supreme Court of South Carolina staying the order of execution of Greenville County death row inmate Charles Christopher Williams to allow him to pursue potential state post-conviction relief. The Order assigned this Court with continuing jurisdiction regardless of assignment and with the authority to schedule such hearings as may be necessary. The Order directed this Court to conduct a hearing on Mr. Williams' request within thirty (30) days of that date pursuant to In Re Stays of Execution, 321 S.C. 544, 471 S.E.2d 140 (1996). This Court scheduled a hearing on December 16, 2010 in Pickens County after consultation with various parties, to resolve this issue and appoint state post-conviction relief counsel, if appropriate.

The Petitioner, Charles Christopher Williams, was indicted at the March 23, 2004 term of the Court of General Sessions for Greenville County, for murder involving the September 3, 2003 shooting death of Maranda Williams and for possession of a weapon during the commission of a violent crime, both on Indictment 2004-GS-23-1746, and for



kidnapping on Indictment 2004-GS-23-1745. The Petitioner was represented by John Mauldin and William Nettles of the South Carolina Bar. He was also represented by Mark MacDougall and Colleen Coyle of Washington, D.C.

The State gave notice of intent to seek the death penalty on August 30, 2004. Motion hearings were held May 25, 2004; November 1, 2004; December 15, 2004; January 13, 2005; and January 26, 2005. The matter was called to trial February 7, 2005 before the Honorable J. C. "Buddy" Nicholson. The State was represented by Solicitor Robert Ariail and Deputy Solicitor Betty Strom. On February 15, 2005, the jury found the Petitioner guilty of kidnapping, murder, and possession of a firearm during a violent crime. R.p., Tr. 2069.

On February 17, 2005, the penalty phase began. R.p., Tr. 2072. On February 18, 2005, the jury was charged to consider the existence of the following aggravating factor:

"Murder was committed while in the commission of kidnapping."

R.p., Tr. 2399. The jury was also charged to consider the following statutory mitigating circumstances:

1. Murder was committed while the defendant was under the influence of mental or emotional disturbance.
2. The age or mentality of the defendant at the time of the crime.

R.p., Tr. 2403. The jury was also charged to consider non-statutory mitigating circumstances:

1. Any testimony as to whether the defendant's mental illness was treatable with medication.
2. Any testimony regarding the defendant's adaptability to prison.

3. Any testimony regarding the defendant's future capability of violence in prison.
4. Any testimony that the defendant is loved and supported by his sister, Maureen, and her family, and that they have and will continue to encourage, sustain, and assist him in the future.
5. Any other testimony, or any other reason or reasons which the jury may consider.

R.p., Tr. 2404-05.

On February 19, 2005, the jury returned a verdict finding the existence of the statutory aggravating circumstance "murder was committed while in the commission of kidnapping." R.p., Tr. 2417. The jury entered a recommendation of a sentence of death. R.p., Tr. p. 2417, l. 7. Judge Nicholson then sentenced the Petitioner to death. R.p., Tr. 2420.

Post-trial motions were filed on February 28, 2005 and heard on April 6, 2005. R. 2842-2867, April 6, 2005 Tr. p. 1-26. The Court denied the motions.

On May 19, 2005, a notice of appeal was filed from the written order denying the post-trial motions. In the appeal, the Petitioner was represented by Robert M. Dudek of the South Carolina Office of Indigent Defense. On February 8, 2010, the South Carolina Supreme Court entered its opinion affirming the judgment of conviction and death sentence. *State v. Williams*, 386 S.C. 503, 690 S.E.2d 62 (S.C. 2010). The Petitioner made a timely petition for rehearing on February 23, 2010. The petition was denied, with dissent, on March 25, 2010. The remittitur was issued the same date.

On June 23, 2010, the Petitioner, through counsel Dudek, mailed a petition for *writ of certiorari* to the United States Supreme Court. The petition was docketed on June

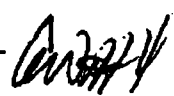
-3- 

29, 2010. On October 4, 2010, *certiorari* was denied. Williams v. State of S.C., 2010 Westlaw 2629843 (Oct. 4, 2010).

The Petitioner made a petition for stay to seek an application for post-conviction relief on October 13, 2010. The State responded on October 15, 2010. On November 17, 2010, the South Carolina Supreme Court issued its order in the matter, assigning this Court to address Williams's desire to proceed on a PCR action and have counsel appointed.

On November 30, 2010, the Applicant filed an application for post-conviction relief. The application was received by Respondent on December 14, 2010. The Applicant, through appointed appellate counsel Robert M. Dudek, asserted the following proposed grounds for post-conviction relief:

- (A) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving various objections to the confession given by petitioner to Dr. Pamela Crawford, where Dr. Crawford told petitioner she would help him get treatment as a psychiatrist where she was in reality a law enforcement officer intent on obtaining a damaging confession.
- (B) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving the objection to Dr. Crawford being allowed to testify before a jury, by agreeing Dr. Crawford could testify but not as an expert, since the trial judge's proposed ruling on the matter was erroneous and it led to great confusion for the jury as Dr. Crawford began what was expert testimony.
- (C) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to effectively move for a mistrial based on Dr. Crawford's cumulative testimony, and by failing to effectively object to the trial judge's curative instruction that this court found solved any need for a mistrial.
- (D) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to present available evidence in mitigation regarding the extreme difficulties between petitioner's mother

-4- 

and father and available mitigating evidence about petitioner's extremely troubled childhood, teenage and adolescent years.

- (E) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for arguing that the trial judge had to declare a mistrial and sentence the petitioner to life imprisonment where the jury revealed its division since defense counsel should have argued the trial judge's distinction between a jury reporting its division on its own, introduced an arbitrary factor into the case as it related to the trial judge's discretion to give an Allen charge rather than declare a mistrial and sentence petitioner to life imprisonment.
- (F) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to argue that certain portions of petitioner's journal should have been excluded under Rule 403, SCRE due to their tendency to confuse the jury, and because their probative value was substantially outweighed by their unduly prejudicial effect.

Application for Post-conviction relief, p. 7. Pursuant to Section 17-27-160, Respondent's Return is due January 13, 2011 pursuant to S.C. Code Section 17-27-160.

I.

On December 16, 2010, this Court convened a hearing in Pickens, South Carolina at the Pickens County Courthouse pursuant to the Order of the Supreme Court to determine the desires of Charles Christopher Williams regarding counsel. Mr. Williams was present at the hearing. The Respondent was represented by Donald J. Zelenka, Assistant Deputy Attorney General of the South Carolina Attorney General's Office. Present at the hearing, at this Court's request, was Derek Enderlin of the Greenville County Bar.

This Court made inquiry of Mr. Williams and found that he desired to have counsel appointed to represent him in his state post-conviction relief action. The Court further inquired of Mr. Williams and learned that he was satisfied with the appointment of Mr. Enderlin, after meeting with him that morning, and that Mr. Enderlin had been

recommended to him. Mr. Enderlin further advised this Court that he had contacted Mr. Richard Vieth of the Spartanburg Bar, and that Mr. Vieth was willing to accept an order of appointment in this matter.

A. Appointment of Qualified Counsel

Section 17-27-160 provides:

If the applicant is indigent and desires representation by counsel, two counsel shall be immediately appointed to represent the petitioner in this action. At least one of the attorneys appointed to represent the applicant must have previously represented a death-sentenced inmate in state or federal post-conviction relief proceedings or (1) must meet the minimum qualifications set forth in Section 16-3-26(B) and Section 16-3-26(F) and (2) have successfully completed, within the previous two years, not less than twelve hours of South Carolina Bar approved continuing legal education or professional training primarily involving advocacy in the field of capital appellate and/or post-conviction defense. The Supreme Court may promulgate additional standards for qualifications of counsel in capital post-conviction proceedings. The court may not appoint an attorney as counsel under this section if the attorney represented the applicant at trial or in a direct appeal unless the applicant and the attorney request appointment on the record or the court finds good cause to make the appointment.

(Emphasis added.)

This Court has considered the qualifications of Mr. Derek Enderlin. Mr. Enderlin has been a member of the South Carolina Bar since 1994. Mr. Enderlin has had an extensive criminal practice throughout his legal career in Oconee and Greenville Counties. The Court has been advised that Mr. Enderlin has previously represented a capital inmate in a recently completed PCR action. This Court finds that Mr. Enderlin meets the minimum qualifications of the prior experience pursuant to §17-27-160(B), to qualify as appointed counsel. This Court finds it appropriate to appoint Mr. Enderlin as qualified counsel in this matter.

-6- *DW*

This Court has also been presented with the qualifications of Richard Vieth. Mr. Vieth has been a member of the South Carolina Bar since 1975. A former prosecutor, he has had an extensive criminal practice since becoming a member of the bar, including felony trial experience. He has also handled death penalty matters in federal court and is currently representing another death sentence inmate, Marion Lindsey, pursuant to court appointment in a post-conviction proceeding. Mr. Vieth also meets the statutory qualifications for appointment.

Therefore, it is ordered that the following be appointed to represent Mr. Williams in the potential state post-conviction relief matter:

1. Mr. Derek Enderlin, Esq.
Enderlin and Ross, P.A.
330 East Coffee Street
Greenville, SC 29601
Office: (864) 527-5973
Facsimile: (888) 850-3522
derek@rossenderlin.com
2. Mr. Richard Vieth, Esq.
Henderson, Brandt & Vieth, P.A.
360 E. Henry Street, Ste. 101
Spartanburg, SC 29302
Office: (864) 582-2962
Facsimile: (864) 583-1894
rvieth@hbvlaw.com

B. Scheduling Order

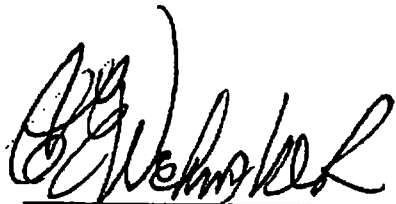
This Court further reminds newly appointed state post-conviction relief counsel of its obligation, pursuant to In Re Stays, 471 S.E.2d 140 (S.C. 1996), to provide to the Clerk of the South Carolina Supreme Court, with a copy to this Court and opposing counsel, Donald J. Zelenka of the South Carolina Attorney General's Office, a status letter every sixty (60) days to ensure the pending stay of execution is continued during

these proceedings. The Court further establishes the following *projected* schedule consistent with In Re Stays and Section 17-27-160, based upon the date of the Court's order of appointment of November 17, 2010:

1. Respondent's return shall be filed by January 13, 2011, thirty (30) days after the application for post-conviction relief.
2. Any amendments to the application shall be filed and served no later than January 31, 2011. Respondent shall have until February 15, 2011 to file and serve its amended answer, if needed.
3. Pursuant to statute, a status conference will convene at 2:00 p.m. on Wednesday, March 15, 2011, at the Greenville County Courthouse, in order to set a scheduling order.

WHEREAS, this Court has conducted the initial hearing of appointment as mandated by the Order of the Supreme Court and appointed the above-named counsel. This Court, consistent with the statutory law, has set forth a projected scheduling order in this matter.

IT IS SO ORDERED.



Honorable G. Edward Welmaker
Judge, Thirteenth Judicial Circuit

December 20, 2010

Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NO: 2010CP2309792

Charles Christopher Williams vs. South Carolina State Of

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),
SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy: ☐
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; ☐ Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter: _____

PRESIDING JUDGE -

This judgment was entered on the 21st day of Dec, 2010, and a copy mailed first class this 21st day of Dec, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Richard Vleth

Donald Zelenka

Derek Enderlin

cap. PCR



ALAN WILSON
ATTORNEY GENERAL

January 13, 2011

Paul B. Wickensimer
Clerk of Court, Greenville County
305 E. North Street, Suite 232
Greenville, SC 29601

RECEIVED
JAN 19 11 00 26
CLERK OF COURT
GREENVILLE CO. SC

Re: Charles Christopher Williams v. State
2010-CP-23-9792

Dear Mr. Wickensimer:

Enclosed please find the *Return to Application for Post-Conviction Relief* in the above-referenced matter for filing in your office. By copy of this letter, I am serving opposing counsel with this Return.

Sincerely,

Donald J. Zelenka
Assistant Deputy Attorney General

DJZ/lbb
Enclosure

cc: Derek J. Enderlin, Esquire
Richard W. Vieth, Esquire
Honorable G. Edward Welmaker
Sandi Wofford, Victims Assistance

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

CHARLES CHRISTOPHER)
WILLIAMS, #6018)

C/A No. 2010-CP-23-9792

Applicant,)

vs.)

THE STATE OF)
SOUTH CAROLINA)

Respondent.)

RETURN TO APPLICATION FOR
POST-CONVICTION RELIEF

FILED
CLERK OF COURT
GREENVILLE CO. SC
2011 JAN 19 10 00 AM
AD

3/1
This matter comes before this Court pursuant to the application for post-conviction relief filed November 30, 2010 through appellate counsel Robert Dudek. On November 14, 2010, a order of the Supreme Court of South Carolina stayed the order of execution of Greenville County death row inmate Charles Christopher Williams to allow him to pursue potential state post-conviction relief. The Order assigned the Honorable G. Edward Welmaker with continuing jurisdiction regardless of assignment and with the authority to schedule such hearings as may be necessary. A status and appointment hearing was held on December 16, 2010 in Pickens County and Derek Enderlin and Richard Vieth were appointed. Pursuant to the appointment order, the Respondent's return is due by January 13, 2011 and a status conference has been set for March 15, 2011 in Greenville Court at 2 PM for the purpose of scheduling an evidentiary hearing consistent with the time requirements of §17-27-160. Respondents would note at the outset that

they have requested under S.C. Rule of Civil Procedure, Rule 12(e), greater particularity and specificity. The Respondents would show this court the following: This Return follows:

I.

The Applicant, Charles Christopher Williams, was indicted at the March 23, 2004 term of the Court of General Sessions for Greenville County for murder involving the September 3, 2003 shooting death of Maranda Williams, and possession of a weapon during the commission of a violent crime on Indictment 2004-GS-23-1746 and kidnapping on Indictment 2004-GS-23-1745. The Petitioner was represented by John Mauldin and William Nettles of the South Carolina Bar. He was also represented by Mark MacDougall and Colleen Coyle of Washington, D.C.

M
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The State gave notice of intent to seek the death penalty on August 30, 2004. Motion hearings were held May 25, 2004, November 1, 2004, December 15, 2004, January 13, 2005, and January 26, 2005. The matter was called to trial February 7, 2005 before the Honorable J.C. "Buddy" Nicholson. The prosecution was represented by Solicitor Robert Ariail and Deputy Solicitor Betty Strom. On February 15, 2005, the jury found the Petitioner guilty of kidnapping, murder, and possession of a firearm during a violent crime. ROA 2069.

On February 17, 2005 the penalty phase began. ROA 2072. On February 18, 2005, the jury was charged to consider the existence of the following aggravating factor:

"Murder was committed while in the commission of kidnapping."

ROA 2399. The jury was also charged to consider the following statutory mitigating circumstances:

1. Murder was committed while the defendant was under the influence of mental or emotional disturbance.

2. The age or mentality of the defendant at the time of the crime.

ROA 2403. The jury was also charged to consider non-statutory mitigating circumstances:

1. Any testimony regarding the defendant's mental illness is treatable with medication.
2. Any testimony regarding the defendant's adaptability to prison.
3. Any testimony regarding the defendant's future violence in prison.
4. Any testimony the defendant is loved and supported by his sister, Maureen, and her family that have and will continue to encourage, sustain, and assist him in the future.
5. Any other testimony or any other reason or reasons which the jury may consider.

ROA 2404-05.

On February 19, 2005, the jury returned a verdict finding the existence of the statutory aggravating circumstance "murder was committed while in the commission of kidnapping."

ROA 2417. The jury entered a recommendation of a sentence of death. ROA p. 2417, l. 7.

Judge Nicholson then sentenced the Petitioner to death. ROA 2420.

Post-trial motions were filed on February 28, 2005 and heard on April 6, 2005. R. 2842-2867, April 6, 2005 Tr. p. 1-26. The Court denied the motions.

On May 19, 2005, a notice of appeal was filed from the written order denying the post-trial motions. In the appeal, the Petitioner was represented by Robert M. Dudek of the South Carolina Office of Indigent Defense. On February 8, 2010, the South Carolina Supreme Court entered its opinion affirming the judgment of conviction and death sentence. State v. Williams,

386 S.C. 503, 690 S.E.2d 62 (S.C. 2010). The Petitioner made a timely petition for rehearing on February 23, 2010. The petition was denied, with dissent, on March 25, 2010. The remittitur was issued the same date.

On June 23, 2010, the Petitioner, through counsel Dudek, mailed a petition for writ of certiorari in the United States Supreme Court. The petition was docketed on June 29, 2010. On October 4, 2010, certiorari was denied. *Williams v. State of S.C.*, 2010 Westlaw 2629843 (Oct. 4, 2010).

3
#4.
The Petitioner made a petition for stay to seek an application for post-conviction relief on October 13, 2010. The State responded on October 15, 2010. On November 17, 2010, the South Carolina Supreme Court issued its order in the matter assigning this Court to address Williams's desire to proceed on a PCR action and have counsel appointed and staying the death sentence pending completion of the state PCR proceedings.

The Crime

This case involves the planned murder of Maranda Williams on September 3, 2003 by the Petitioner. The record revealed that Maranda and the Petitioner met as co-employees at the Bi-Lo where they both worked. They initially had a dating relationship that lasted about three months. However, Maranda broke off the relationship. Evidence revealed that he had previously assaulted the victim on July 16, 2003 at the Bi-Lo and had an appointment with a lawyer on September 3.

On September 3, Maranda came to work at the Bi-Lo arriving around 8:15 to begin work at the Deli-Bakery. Shortly before 10 AM, the Petitioner arrived at the store, parked in the fire

lane wearing camouflage clothing, a toboggan knit hat and entered the store carrying a .12 gauge shotgun under his left arm. He was carrying ten rounds with him.

He went to the Deli area and went to the back where Maranda had gone. He proceeded through the area, grabbed her and took her into the deli-office. Two other employees arrived, the store manager and another employee, who attempted to intervene. Instead, Williams pointed the shotgun at them and they left. At that point the store was cleared of all people and the SWAT team arrived and surrounded the store.

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The victim placed a call to 911 from her cell phone and she spoke with an operator and described where in the store they were located. The call lasted a period of time until around noon. Attempts to communicate with the victim and negotiate with the Petitioner were made by the Hostage Negotiator Tony Lee of the Greenville County Sheriff Department to attempt to get Williams to release her for over one and one half hours. As revealed in the recorded call, around noon fearing she was to be killed, the victim attempted to escape. A struggle ensued with Williams and her blouse and apron are torn from her and she runs through the deli. The defendant follows her and shots five times at close range within 5 to 10 feet, striking her three times in the back, severing her spinal cord as revealed on the surveillance video. The SWAT team enters at that point and located the deceased on the floor unable to be revived.

Williams is located immediately in the store and arrested. He is taken to the law enforcement center where he is interviewed and gives a statement admitting the crime.

ATTACHMENTS

Respondent attaches and incorporates herein by reference the following:

1. Final Brief of Appellant.

2. Final Brief of Respondent.
3. Final Reply Brief of Appellant.
4. State v. Williams, 386 S.C. 503, 690 S.E.2d 62 (S.C. 2010).
5. Petition for rehearing, dated February 23, 2010.
6. Letter Order Denying Rehearing, March 25, 2010.
7. Remittitur letter, March 25, 2010.
8. Record on Appeal - 6 volumes.

II.

On November 30, 2010, the Applicant filed an application for post-conviction relief. The application was received by Respondent on December 14, 2010. The Applicant, through appointed appellate counsel Robert M. Dudek, asserted the following proposed grounds for post-conviction relief:

- (A) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving various objections to the confession given by petitioner to Dr. Pamela Crawford, where Dr. Crawford told petitioner she would help him get treatment as a psychiatrist where she was in reality a law enforcement officer intent on obtaining a damaging confession.
- (B) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for waiving the objection to Dr. Crawford being allowed to testify before a jury, by agreeing Dr. Crawford could testify but not as an expert, since the trial judge's proposed ruling on the matter was erroneous and it led to great confusion for the jury as Dr. Crawford began what was expert testimony.
- (C) Trial counsel was ineffective, in derogation of the Sixth Amendment to the United States Constitution, for failing to effectively move for a mistrial based on Dr. Crawford's cumulative testimony, and by failing to effectively object to the trial judge's curative instruction that this court found solved any need for a mistrial.

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- (D) Trial counsel was ineffective , in derogation of the Sixth Amendment to the United States Constitution, for failing to present available evidence in mitigation regarding the extreme difficulties between petitioner's mother and father and available mitigating evidence about petitioner's extremely troubled childhood, teenage and young adult years.
 - (E) Trial counsel was ineffective , in derogation of the Sixth Amendment to the United States Constitution, for arguing that the trial judge had to declare a mistrial and sentence the petitioner to life imprisonment where the jury revealed its division since defense counsel should have argued the trial judge's distinction between a jury reporting its division on its own, introduced an arbitrary factor into the case as it related to the trial judge's discretion to give an Allen charge rather than declare a mistrial and sentence petitioner to life imprisonment.
 - (F) Trial counsel was ineffective , in derogation of the Sixth Amendment to the United States Constitution, for failing to argue that certain portions of petitioner's journal should have been excluded under Rule 403, SCRE due to their tendency to confuse the jury, and because their probative value was substantially outweighed by their unduly prejudicial effect.

Application for Post-conviction relief, p. 7.

III.

Respondent submits that the entire application is without merit.

1,2,&3 - Dr. Crawford Issues.

In his first three allegations, he contends that trial counsel was ineffective in the manner they dealt with the testimony of Dr. Pamela Crawford. In particular, he contends that trial counsel was deficient when they waived objections to the testimony of the confession given to Dr. Crawford when Dr. Crawford stated she would help get him treatment when she was working for law enforcement at the time "intent on getting a damaging confession", waived an objection by agreeing that Dr. Crawford could testify, but not as an expert since the ruling was erroneous and led to confusion, and failed to move for a mistrial based upon Dr. Crawford's cumulative testimony and/or object to the curative instruction.

48. The record reveals that evidence from Dr. Pamela Crawford was presented in the penalty phase to address and rebut testimony and argument presented in the guilt phase by the defense to suggesting that the sole reason that Dr. Crawford was called by law enforcement was the belief by the police that Williams was mentally ill. To the contrary, as Solicitor Ariail was attempting to show, Dr. Crawford was not called in by law enforcement at all, but the Solicitor requested her assistance for him to assist in interviewing Williams to assist in his preparation of a case. ROA p. 2155-2156. Compare, ROA p. 1768, l. 6 - 1769, l. 24. (Testimony of Michael McNamara that Dr. Crawford had been sent up from SLED); p. 2039, ll. 13-20 (guilt closing by defense on reason why Dr. Crawford was present).¹

How the Issue Was Raised at Trial

¹It is firmly established that otherwise inadmissible evidence may be properly admitted when opposing counsel "opens the door" to that evidence. *State v. Young*, 364 S.C. 476, 485, 613 S.E.2d 386, 391 (Ct.App.2005) cert. granted, Jan. 2007; see also *State v. Curtis*, 356 S.C. 622, 632, 591 S.E.2d 600, 605 (2004) ("Given that [defendants] maintained that PPS did not allow pornographic materials or links on the website, it is patent that they opened the door to this line of inquiry."); *State v. White*, 361 S.C. 407, 415, 605 S.E.2d 540, 544 (2004) (ruling expert could testify that she believed the victim in this case because defendant opened the door by cross-examining expert about other cases in which she did not believe victim); *State v. Dunlap*, 353 S.C. 539, 541, 579 S.E.2d 318, 319 (2003) (holding defense counsel's opening statement "opened the door to the introduction of evidence rebutting the contention that [defendant] was merely an addict"); *State v. Taylor*, 333 S.C. 159, 175, 508 S.E.2d 870, 878 (1998) ("[B]ecause appellant 'opened the door' about his relationship with his wife, the solicitor was entitled to cross-examine him about the relationship, even if the responses brought out appellant's prior criminal domestic violence conviction.")).

Furthermore, an appellant cannot complain of prejudice resulting from admission of evidence to which he opened the door. See *State v. Foster*, 354 S.C. 614, 623, 582 S.E.2d 426, 431 (2003) (noting one who opens the door to evidence cannot complain of its admission); *State v. Robinson*, 305 S.C. 469, 474, 409 S.E.2d 404, 408 (1991) ("Since appellant opened the door to this evidence, he cannot complain of prejudice from its admission."); *State v. Beam*, 336 S.C. 45, 53, 518 S.E.2d 297, 301 (Ct.App.1999) ("Beam cannot complain about the admission of evidence where he opened the door to the evidence."); *State v. Rice*, 375 S.C. 302, 328-329, 652 S.E.2d 409, 422 (S.C.App.,2007) (same).

At the outset of the trial on February 7, 2005, Judge Nicholson denied the motion to suppress Dr. Crawford's testimony and the journal recovered as a result of the interview. ROA p. 6, ll. 10-11.² As earlier noted, the complete interview transcript was introduced by the defense in the guilt phase. Defendant's Exhibit 4, ROA, p. 2869-2963 [Court Exhibit 2]. ROA p. 1771, l. 18-20.

Prior to the beginning of the penalty phase, counsel Nettles raised the issue of Dr. Crawford. He asserted that if the State is allowed to bring in Dr. Crawford to testify as a psychiatrist as only a fact witness and saw him, an inference could be left that there was nothing wrong with him. He felt this would mislead the jury. ROA 2103.

Nettles asserted that identifying Crawford as a psychiatrist working with SLED was error because of the inference it would leave the jury that she is an expert. ROA 2104. Solicitor Ariail stated that they merely told the defense that they were not going to call her as an expert and were not going to offer it in the guilt phase. ROA 2104. He said he had no problem qualifying her as an expert.

The court asked counsel Nettles if he wanted to qualify her and that the Court would make a determination. ROA 2104.

² The issue concerning Dr. Crawford's potential testimony first developed at the January 13, 2005 pretrial hearing. At the hearing the defense asserted it intended to seek to suppress Williams' confession. Jan. 13, 2005 Tr. 82. Solicitor Ariail stated to the court that he had called Dr. Crawford and asked her to come and interview Williams after the crime. He stated it was taped and that she identified herself as a psychiatrist who works for SLED and gave Miranda. Id. 83.

On January 26, 2005, a motion and suppression hearing was held. During the hearing, testimony was received from Dr. Crawford concerning the circumstances of her interview. R. 2694-2756, Jan. 26, 2005 Tr. 48-109. During the hearing, questions were raised concerning the ethical standards of a psychiatrist participating in an interview of a criminal defendant who had waived his right to counsel. Id. ROA 96-158.

It was noted that the defense in the guilt phase had already put in evidence that she was an forensic psychiatrist. ROA 2105. It was further noted that during the earlier suppression hearing the court noted that Dr. Crawford was going to be offered as an agent of SLED that took a confession from the accused "and it was clarified that she would be offered as a state agent who took statements from the defendant. ROA 2107.

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Counsel Nettles was now concerned about whether she was going to be offered as a psychiatrist. Tr. 2107. He confirmed that it was already in evidence that she was a psychiatrist. He stated his concern was that she would give opinion testimony. He said he thought she was only going to be used as a lay witness and not an expert. ROA 2108.

Judge Nicholson concurred that was his understanding. Counsel Nettles then objected under "the best evidence rule" asserting the transcript is already in evidence. ROA 2108. The court declared she could sit up and read the whole transcript because it was in evidence. Counsel Nettles agreed. ROA p. 2109, ll. 1-6.

Solicitor Ariail then clarified: "I can ask her if she is a psychiatrist and her relationship with the Department of Mental Health and SLED." The court stated he could but not go into education, etc. ROA p. 2109, ll. 19-23.

In the penalty phase of the trial, Dr. Pamela Crawford, a forensic psychiatrist, was called as a fact witness concerning a confession given by the Appellant. In describing her involvement in Williams case, Dr. Crawford stated in her employment with the Department of Mental Health she would do a variety of things, including going on SWAT calls and assisting with negotiations and would be called into a case by a prosecutor to provide assistance. When asked what type of

assistance she was requested to provide by the Solicitor's Office on September 3, Dr. Crawford stated:

- A. In this particular case, and again I'm called by various solicitors throughout the State, and I'm only called when it's a case of a very serious nature. And typically it's when a death penalty is considered. And I'm asked to assess...

ROA p. 2152, ll. 10-20. At that point, counsel Nettles objected. ROA p. 2152, ll. 15-16.

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Counsel stated that this testimony had been ruled upon repeatedly. He said the State had stated she was going to come in and say "I'm a psychiatrist" and "I'm a fact witness" and now she states "I get brought in on death penalty cases." He claims this gives an impression that she is blessing the case. ROA p. 2153, ll. 8-11. Counsel focused upon the word "assess." ROA p. 2153, l. 17 - p. 2154, l. 7. He claimed that she was about to express an expert opinion that they had been previously advised she would not do and would only be a fact witness. Counsel Nettles stated that now she had self-qualified herself as an expert psychiatrist and that she gets brought in to help assess and "death is appropriate punishment or its appropriate for them to bring a death penalty in this case." ROA p. 2154, ll. 19-23.

Counsel Nettles clarified his motion was to object to the question and ask for a curative instruction. ROA p. 2155, ll. 10-13.

Judge Nicholson sustained the objection and stated he would give a curative instruction to disregard anything she said about the death penalty." ROA p. 2155, ll. 14-18.

The court inquired of the prosecution about the guidelines. Solicitor Ariail stated he understood that the court was striking Dr. Crawford's responsive answer as to the purpose she came there. He said he was going into it because the defense had told the jury over and over why

she came and the reason they stated was not true. ROA 2155-56. He noted that counsel MacDougall in his closing argument said the reason she came was because they knew something was wrong with the defendant. ROA p. 2156, ll. 3-5. See, ROA p. 2039, ll. 13-20 [MacDougall argument][“understand the role that mental illness play in this from the moment of the crime, within the hour the police knew, they arrest him between 11:45 and noon on September 3rd. About an hour later they’ve got a psychiatrist in, his confession hasn’t been taken. He’s being interviewed at the police station, and before anything else happens, let’s get a psychiatrist here.”]. The solicitor stated that the defense was factually wrong with their stated reason as to why Dr. Crawford came to interview Williams and that no communication was ever made to her on that basis. He stated that they were entitled to explain that to the jury.

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Judge Nicholson stated that he had no problem with that, but that they were going to phrase it “that she came to make a factual determination, investigated the facts for you to make a determination as to whether *you* were going to seek the death penalty or not, *not her*.” ROA p. 2156, ll. 12-17.

The court **sustained** the objection. ROA 2157. Counsel Nettles asserted that they had not been trying to mislead the jury based upon her initial questions to Williams about potential treatment and that she is not his doctor. ROA 2157.

The court inquired of both the solicitor and the witness who stated they understood. ROA 2157.

At that point, the jury returned and Judge Nicholson gave the following curative instruction: