VOLUME VII OF X

STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY

Roger L. Couch, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

RICKY LEE BLACKWELL,

APPELLANT

APPELLATE CASE NO. 2014-000610

REDACTED RECORD ON APPEAL
PURSUANT TO SUPREME COURT ORDER DATED MAY 20, 2015

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT: DEFENDANT'S EXHIBIT # 24 (PHOTOGRAPH); ATKINS HEARING EXHIBITS: DEFEDANT'S EXHIBIT # 9-A (NOTEBOOK); DEFENDANT'S EXHIBIT # 9-B (NOTEBOOK); DEFENDANT'S EXHIBIT # 10 (BOOK)

A Brittany Fowler is my brother's baby's mama.
Q Okay. And did there come a time where Brittany didn't have any place to go and Ricky took her in?
A Yes, sir, he did.
Q He took care of her?
A Yes, sir, he did.
Q And what was that relationship like that you could see, Ricky and Brittany?
A It was just a good relationship. They never fussed or fought or anything. They got along from the get go.
Q Okay. Did he love her?
A Yes, sir, he did.
Q She love him?
A Yes, sir, she did.
Q He took care of her little baby?
A Yes, sir, he did.
Q Sherry lived next door.
Did Ricky include her in family things?
A Always.
Q Was he generous with, with Sherry?
A Always.
Q Always looking after her?
A Always.
Q Loved her?
A Yes, sir.

Q She love him?
A Yes, sir.
Q Did Ricky love your mother?
A Yes, he did, very much.
Q Your mother is Angie who testified earlier?
A Yes, sir.
Q How did he treat Angie?
A Like a queen.
Q Who was the boss, Ricky or Angie?
A My mom.
Q Your mom, Angie?
A Yes.
Q You've got children?
A Yes, sir, I do.
Q How's Ricky with them?
A Great.
Q You love him?
A Yes, sir, he did.
Q What -- does he play with them?
A Yes, sir, he always played with them.
Q Okay. Like what, what would he do?
A He would play basketball with my boys or the video games with my boys, and then he would play around in the floor with little small toys with my daughter.
Q Your daughter suffers from Magenis Smith Syndrome?

A Magenis Smith Syndrome.
Q And that's a chromosomal disorder?
A Yes, sir, it is.
Q And she's sort of profoundly special needs?
A Yes, sir, she is.
Q She's seven years old now?
A Yes, sir, she is.
Q Does -- and Ricky gets on the -- use to get on the ground and roll around and play with her?
A Yes, sir.
Q Okay. Did Ricky ever buy a bouncy house for your boys?
A Yes, sir, he did. I still have the bouncy house in my building.
Q Is that one of those inflatable things you jump in?
A Yes, sir, it is.
Q Did he get in there and jump with the boys?
A No, he never got in there, but he would stay right by it and watch them in it.
Q Was he too big for it?
A Yes, he was.
Q Okay. Eventually your mom left your dad, right?
A Yes, sir, she did.
Q And she took up with a man, another man?
A Yes, sir.
Q And who is that?

A Bobby Centers.
Q And your dad had some -- based on some medical issues, some trouble in the bedroom?
A Yes.
Q Okay. And when your mom started her affair with Bobby, did she change?
A Yes, sir, she did.
Q And did, did your dad have to see the change?
A Yes, sir, he did.
Q Tell the jury how your mom changed.
A Well, she started drinking, she started smoking, she started dressing more inappropriately, and just things like that.
Q When you say dressing inappropriately, what do you mean?
A She wore short shirts and -- short shirts and she never did that when she lived with my father.
Q Okay. Bobby rode a Harley Davidson motorcycle?
A Yes, sir, he did.
Q Did your mom get a tattoo after she started hanging out with Bobby?
A Yes, sir, she did.
Q And what was the tattoo of?
A It was a Harley Davidson logo that said Harley in the middle of it.

Q And where is the tattoo?
A It's on her lower back.
Q And your dad's seen it?
A Yes, sir.
Q When your mom left, how did that affect your dad?
A It affected him really bad. It -- he took a big toll of it. He couldn't, he couldn't deal with it.
Q And what do you mean by that?
A He was always with her. I mean for 29 years they was always together. They never was apart until they, you know, on different jobs that they had. They was just separated then, but they always together and they was always loving parents.
Q Before your mom left, when y'all were growing up, was there love in the household?
A Yes, sir, there was.
Q It was a loving -- did you consider your, your upbringing a very loving upbringing?
A Yes, sir.
Q I think we have a little clip of some movies that are your home family movies and I want to ask you to watch them and then, then we'll talk about them and you can tell the jury about what we saw.
Okay?
A Yes, sir.

Q And I think Ms. Jurick is gonna start it for us.
A Okay.
THE COURT: Before it's published to the jury, is that something being put into evidence?
MR. McGUIRE: It will be, yes, sir. We've shown it to the State. My understanding if they have maybe a general object or no objection.
SOLICITOR BARNETTE: Your Honor, like I said, if he wants to enter it into evidence, we're gonna let him enter it into evidence.
THE COURT: All right. Okay. Then it will be made an exhibit to be marked after it's played.
MR. McGUIRE: And the actual physical thing that we'll mark in evidence, judge, just for the record, will be a electronic thumb drive.
THE COURT: All right.
(WHEREUPON, the video was played for the jury at this time.)
Q Heather, I'm gonna -- what we're gonna go do is I wanted everybody to hear the video. There was some audio in it. So, I didn't talk over it and I didn't want you to talk over it. So, what I'm gonna do is I'm gonna let it play again with no sound at all, and then you just tell us what we're seeing and who's in there and what's happening.
Okay?

A Okay.
Q And I might ask you a question or two.
A Okay.
Q All right. Heather, what are we looking at?
A That's my son's first birthday, my oldest son's first birthday party that we had over at my Nanny Irene's house.
Q Is that Angie in there?
A She's in there, but she's not in there right yet. There's my daddy with Caleb, there's my mama with Caleb, and his daddy holding him.
Q And Caleb's your little boy?
A Yes, sir.
Q Ricky's right there licking icing of his hand?
A Yes, sir.
Q And that's your mama, Angie, right next to him?
A Yes, sir.
Q Okay.
A And there's my nanny, my daddy's mama.
Q Uh-huh. (Affirmative).
A That's daddy with Caleb at the mountains when he was nine months old and he was holding him.
Q Looks like your daddy was always good with your kids?
A He was. He was great with my kids. My kids adore him.
Q They still miss him?
A Yes, sir, they do very much.

Q They talk about him?
A Yes, sir, they do. My oldest one does really a lot, talk about his papa, wanting to know where he's at, when he's gonna be home and this and that, and I have to talk to him, but he gets really upset when we talk to him.
That's daddy playing with Caleb on the swing set at the mountains at our, at our cabin that we was staying in.
Q Y'all don't, y'all don't own the cabin?
Y'all went up there for a little---
A Yes, sir.
Q ---vacation?
A We rented it.
That's Christmas 2002. That's my mom and my dad, and my nanny holding my son.
Q And is your dad giving Angie a ring here?
A Yes, sir, he is.
Q Is that because, when they got married, that he didn't have much money and he gave her a small ring?
A I guess. I don't know.
Q Is this when he finally got her a big ring?
A Yes, sir, it is.
Q When you look at his face, it looks like he's pretty proud of that moment?
A He was. He was very proud of that moment, and then, at that time, my mother and father loved each other. They was

happy right there. There's the ring he gave her.

That's me and my husband and our son, Caleb, on -- it's 2002. It snowed.

Q And I think they -- there's some talk about somebody wasn't there to be there with you.

Who, who was that?

A I---

Q You don't remember that?

A I don't remember that.

Q Okay.

A That's my Uncle Don's trailer. That's where we use to live and that's my daddy's house, and then the little house was Sherry's and the big house was Scott's.

That's Caleb on the pool table at the cabin.

My daddy was always a loving man. He always loved us all. He loved my son so much. Sometimes it was like he was just more than a papa to him.

Q Thanks, Heather.

Heather, did your dad have a relationship with God?

A Yes, sir, he did and he still does.

Q Does he work on his Bible?

A All the time.

Q Does he study his Bible?

A Yes, sir, he does.

Q Does he, does he still study his Bible today even

though he's in jail?
A Yes, sir, he sure does.
Q Do you, do you keep some of his, his scriptures and his Bible work?
A Yes, sir, I do.
Q Heather, I'm gonna show you what's been marked Defense Exhibit No. 9.

If you would, be kind of careful, but if you would, take those papers out of there and just tell me if you recognize them.
A Yes, sir, I do. They're all his Bible courses that he took and passed in the Bible correspondent that he was taking through the county jail.

MR. McGUIRE: Okay. Move No. 9 into evidence.

SOLICITOR BARNETTE: Just subject to the previous objection, Your Honor.

THE COURT: Subject to previous objections, you may -- I'll, I'll admit it.

(WHEREUPON, Defendant's Exhibit No. 9 was received into evidence at this time.)
Q There's -- Heather, there's so many of these that we're not gonna go through them individually. They're in evidence now and the jury will have them in the, the jury room. So, we're not gonna go through them all.

Okay?

A Yes, sir.
Q But your dad has a relationship with God?
A Yes, sir, he does.
Q And he still studies his Bible today?
A Yes, sir, he does.
Q Okay. And you keep his Bible work?
A Yes, sir, I've got all of his Bible work and his certificates where he passed.
Q Okay. I'm gonna go back, Heather, to some happier times. I want to -- Your Honor, if the witness could step off the stand?

THE COURT: You may step down.

SOLICITOR BARNETTE: Your Honor, he hasn't moved those into evidence yet.

THE COURT: You can't publish things you haven't---

MR. McGUIRE: Sure.

THE COURT: ---put into evidence. So, she can describe them and then we'll see if there's any specific objections to them.

Q Okay. What I'm gonna do is I'm gonna flash these in front of you, and you just tell me, when I get to the very end, if you recognize these things.
A Okay. I remember them.
Q And what are they?
A They're photos of me and my mom and dad when I was

little and of my kids with my daddy.

MR. McGUIRE: Okay. Move them all into evidence.

THE COURT: Just subject to previous objections?

SOLICITOR BARNETTE: Yes, sir.

THE COURT: All right. They'll be admitted.

I think they're previously marked?

MR. McGUIRE: They are previously marked, and, for the record, they are, some of them are a little bit out of order, they are 19, 18, 17, 16, 15, 14, 13, 12, 11, and 10.

THE COURT: They'll be admitted as marked.

MR. McGUIRE: Thank you, judge.

THE COURT: Yes, sir.

(WHEREUPON, Defendant's Exhibit Nos. 10 through 19 were received into evidence at this time.)

Q Heather, I'm gonna let you hold it. Just go ahead and just show that picture to the jury and just tell them what we're looking at.

A That's my daddy and that's me when I was first born, right after I was born.

Q Why don't we go to the end so everybody can see it, and then we can walk over to the other side.

I don't think there's any confusion as to who's you and who's your daddy there.

A No.

Q Okay. Walk over this way.

A (Witness complies.)
Q All right. Heather, I'm holding what's No. 11. I'll let you hold it.
Why don't you tell these people what we're looking at?
A That's my son, Caleb, and that's my daddy letting him ride a ride at the mountains.
Q Okay. Why don't you go down here?
A (Witness complies.)
Q Leave that one there and I want to give you what's been marked No. 12.
What are we looking at?
A That's my son, Caleb, that's my son, Alan, and my daddy's holding my son, Alan.
Q Let you walk down. Let everybody see it.
A (Witness complies.)
Q And I'm gonna hand you what's marked No. 13.
Why don't you tell everybody what we're looking at?
A That's my daddy letting my son, Caleb, get in his bouncy seat that he bought him to play in.
Q And I heard your dad described as kind of a big old jolly giant or a big kid.
Is he kind of like that with your kids?
A Yes, sir, he is.
Q And I show you what's marked No. 14.
Tell everybody what we're looking at.

A That's my daughter when she was first born at Spartanburg Regional Medical Center.
Q Is that McKenzie?
A Yes, sir.
Q And is she the one with the chromosome disorder?
A Yes, sir, she is.
Q And Ricky loved her just as much as everybody else?
A He loved her like he was her own daddy.
Q Hand you what's marked No. 15.
Tell the jury---
A That's my daddy holding my son, Alan, and holding my son, Caleb, and I think that it was Caleb's birthday and we was having cake.
Q Okay. Show everybody.
A (Witness complies.)
Q Hand you what's marked No. 16.
A That's my daddy and my daughter right after she was born.
Q Go ahead and move to this next section.
A (Witness complies.)
Q Now hand you what's marked No. 19.
Tell everybody what we're looking at.
A That's my mom, Angie. That's my little brother, Little Ricky, Junior, and that's my daddy and that's me on my brother's first birthday.

Q Show everybody.
A (Witness complies.)
Q I'm gonna hand you what's marked No. 18.
Tell the jury what we're looking at.
A That's me on my birthday with my mom and my dad.
Q If you would, go ahead and put it on that stack right there.
I'm gonna hand you what's marked No. 17.
Tell everybody what we're looking at.
A That's my daddy in the labor delivery triage with me when I was going into labor with my first child, Caleb.
Q Heather, you can go back onto the stand.
A (Witness returns to the stand.)
Q So, Heather, I think, I think all those pictures, we would all agree that it showed there was a lot of love in your home?
A Yes, sir.
Q And your dad did love your mom very much?
A Yes, sir, he did and he still does.
Q All right. I know.
He'd take her back today, wouldn't he?
A Yes, sir, he would.
Q I'm gonna go back now to that time period where Angie left your dad and took up with Bobby Center.
A Okay.

Q And do you remember a time around Christmastime when your daddy took all the pills?
A Yes, sir, I was the one who got the pills away from him.
Q Okay. I want you to tell the jury about, about that. How did that happen?
A Well, my mom came into my house, and she sat down in my chair, and my daddy was sitting on the top of the stairs going into the kitchen, and we was all talking, and getting along at the time, and daddy just brung up the thing about his insurance. He said Angie, I need to know about my insurance with the life insurance so if something happens to me, I can, you know, let that -- something that I can fall back on where I'll have it, and he just asked mama what was they gonna do, and my mama told him, she said I'm taking care of that.

Well, my daddy just asked her. He said I got one question I need to ask you, and she said what's that, Ricky. Daddy said are you intimate with Bobby Centers. My mother sat up in the chair, and she said yes, I am so much very intimate with Bobby Center, and I have no hard feelings about what I've done with Bobby. And when she said that, my daddy got up off the stairs, he walked out my door. I didn't see him for a few minutes. He was probably gone probably five to ten minutes. Then he come back.

I seen him standing outside on my porch and he had a bottle of pills in his hand, and I was like oh, gosh, and that's when I went running out my porch and he took off running out through the back of the yard, and that's when I caught up with him, and I reached my hand around and I popped the pills out his hand, and I got him and I walked him up to the picnic table and I sat him down and that's when my mother called 9-1-1, and me and mama got into a big disagreement over that because she caused that that day.

She caused him to use the Xanaxes and abuse them because of what she said to him when she said that she was very much intimate with Bobby Centers, and she did not have no hard feelings of what she was doing with Mr. Centers.

Q When, when Ricky and Angie would see each other after she left him and took up with Bobby, was your dad always trying to get your mom back?

A Yes, sir, he was.

Q And he would beg her to come back?

A Yes, sir, he would.

Q And cry?

A Yes, sir.

Q And sometimes she was mean to him?

A Yes, sir, she was very mean to him.

Q In that conversation they had when your dad took the pills, did she make a comment that she enjoyed having sex

with him?

SOLICITOR BARNETTE: Objection, Your Honor.

A Yes, sir.

SOLICITOR BARNETTE: Leading the witness.

THE COURT: We would ask you not lead the witness.

MR. McGUIRE: Sure.

THE COURT: Thank you.

Q Did, did Angie make a mean remark to your father regarding whether or not she enjoyed having sex with Bobby Center?

A Yes, sir.

Q And what was that?

A She just always bragged about having sex with Bobby. She said it was good.

Q And she would tell your dad that?

A Yes, sir.

Q And how did that affect your dad?

A It tore his nerves up. He, he couldn't handle it. He would come out to my house and he would just cry to me. He said why does she do me this way, what's wrong with her, and I'm like daddy, I don't know what's wrong with her.

Q When, when Angie left and was -- and took up with Bobby, did you ever tell her -- because your dad's house is right next door to where you and your kids were.

A Yes, sir.

Q Did you ever tell her don't come by or call before you come and don't bring Brooke?
A I always told her to always call me before she came up to my house, and I did tell her quite a few times mama, if you come up here, please do not bring Brooke or Dustin with you because it hurts daddy, and I don't want my daddy hurting no more than he's hurt, and she told me that she would not do that. And the day of the incident, when it happened, I had run to the grocery store and run to the pharmacy to pick up my son's seizure medicine and it all happened. It just all took place.
Q And did it hurt, did it hurt your dad to see Angie paying so much attention to Bobby's family and not you?
A Yes, sir, it did.
Q Your daddy knew that she was telling people Brooke's my new daughter?
A Yes, sir.
Q My perfect daughter?
A Yes, sir.
Q My angel?
A Yes, sir.
Q And Angie wasn't coming to see you and your grand -- your kids?
A No, she wasn't.
Q And it did hurt -- did it hurt Ricky to see that?

A Yes, sir, it did. Very much.
Q Heather, this is the time where you -- if you want to say anything to these people. They have your father's life in their hands.
Is anything that you, one final comment, or anything you want to tell them, now's the time.
A Just know that my daddy was always a kind, gentle, caring man. He was not the man that they're trying to make him out to be today. My daddy would of never done that. My daddy was pushed to the extinct (sic) to do what he did, and he regrets what he has done. He suffers from that everyday.
Q He cries about what he's done?
A Yes, sir.
Q That's all I have for you, Heather.
A Okay.
Q Thank you.
THE COURT: State may cross-examine.
SOLICITOR BARNETTE: Yes, sir, just a couple questions, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION
BY SOLICITOR BARNETTE:
Q Ms. Bryant, you weren't there that day, were you?
A No, sir, I wasn't.
Q Okay. And you have two boys and a girl, is that right?

A Yes, sir.
Q Okay. And the two boys were there with your husband?
A Yes, sir, and my daughter was too.
Q Yeah.
All three of them was there?
A Yes, sir.
Q Yes, ma'am.
And, matter of fact, the two boys witnessed it?
A Yes, sir, my oldest one witnessed it a little bit more than my youngest one did.
Q Okay. Matter of fact they had to receive counseling because of that, didn't they?
A Yes, sir, and they still are receiving counseling.
Q Yes, ma'am.
So, it still affects them to this day?
A Yes, sir, it does.
Q Matter of fact, they went to the Children's Advocacy Center?
They've been to different counseling to help them with that --
A Yes, sir.
Q -- on that?
And then I notice your dad, your dad played pool, is that right?
A Yes, sir, he did.

Q Matter of fact, he won several tournaments playing pool?
A Yes, sir.
Q He was really good at it?
A Yes, sir, he was a pool sharp (sic).
Q Yes, sir.
One moment, Your Honor, please.
THE COURT: Yes, sir.
(Pause.)
Q Thank you, ma'am, for answering my questions.
A You're very welcome.
THE COURT: Anything further?
MR. McGUIRE: No. No, sir.
THE COURT: All right, ma'am. You may step down.
MR. McGUIRE: May this witness be excused?
THE COURT: Any objection?
SOLICITOR BARNETTE: No objection, Your Honor.
THE COURT: You're free to go if you'd like, ma'am. Thank you.
Defense may call it's next witness.
MR. McGUIRE: Yes, sir, just for the record, we need to mark that home video.
THE COURT: That will be fine. Thank you.
Give her a chance to do that before you call your witness.

MR. McGUIRE: Yes, sir.

(WHEREUPON, the thumb drive was marked as Defendant's Exhibit No. 21 and received into evidence at this time.)

THE COURT: You may call your next witness.

MR. McGUIRE: Judge, if we could have a short break? I'm looking for my next witness.

THE COURT: All right. Ladies and gentlemen, I'll ask you to step back to the jury room. Don't begin any discussions about this case until such time as I've asked you to do so.

You may retire to the jury.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Before we take the break, I do want to caution people in the gallery that audible sobbing -- I realize this is a very, very emotional case, but audible sobbing could be taken by people to be an effort to influence the jury. If you can not control that, I'll ask you to step outside the courtroom.

Court's in recess briefly.

Just one second please before you leave.

I'm told the jury does have their lunch. So, I'm gonna allow them to go ahead and eat their lunch.

We will resume at 1:15 this afternoon.

So, we'll break for lunch at this time. We'll resume

at 1:15.

Court's in recess.

(WHEREUPON, Court was in recess for the lunch break.)

THE COURT: State ready to proceed?

SOLICITOR BARNETTE: State's ready, Your Honor. I, I don't know.

Are you gonna put the phone calls up?

MR. McGUIRE: No.

SOLICITOR BARNETTE: Okay. Whenever that comes up, the phone calls, we need to put a motion on the record.

THE COURT: We'll deal with it at that time.

Defense ready?

MR. McGUIRE: Defense ready, Your Honor.

THE COURT: Let's bring the jury in.

Mr. Allen, and just somebody from the State step up just a second.

(WHEREUPON, a bench conference was held at this time.)

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Thank you.

Well, when I sent you out I didn't know your lunch was here. So, we let you go ahead and do your lunch and I hope everybody had a good lunch period.

At this point in time we'll proceed with the evidence presented by the defense.

You may call your next witness.

MR. McGUIRE: Thank you, Your Honor.

Defense calls Brittany Fowler.

THE COURT: Come forward to be sworn, please.

BRITTANY FOWLER, having been first duly sworn, testified as follows:

THE COURT: Please have a seat.

(Witness complies.)

THE COURT: State your name please.

THE WITNESS: Brittany Fowler.

THE COURT: Thank you.

Mr. McGuire.

MR. McGUIRE: Thank you very much, judge.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q Brittany, do you know Mr. Ricky Lee Blackwell?

A I do.

Q And how do you know him?

A I have one of his grandsons.

Q Okay. Ricky has a son that goes by Bud?

A Uh-huh. (Affirmative).

Q And you and Bud were together for a while?

A Yes, sir.

Q And y'all had a child together?

A Yes, sir.
Q And suffice it to say, you and Bud had some problems and are not together?
A Yes.
Q Okay. When, when you found yourself a single mother with no place to go, who took you in?
A Ricky did.
Q And he didn't -- how did that work out?
Tell me about that.
A It actually worked very well. Like I said, Bud wasn't there. So, he was there for me. He helped with Bryson, which is my son. He did everything for him. He changed diapers, fed him, whatever there was to be done.
Q Okay.
A Uh-huh. (Affirmative).
Q And, and you love Ricky?
A I do. Very much.
Q And what kind of man is Ricky?
A Amazing. He's great. Very kind hearted. He'd give the shirt off his back.
Q Okay.
A I mean --.
Q Have you ever heard him say a mean word about anybody?
A No, sir, I've never heard him ever raise his voice.
Q Okay. In fact, I think, when you were talking to one

of our investigators, you made the statement and said I'm not even sure if he can get mad?
A Yeah, I don't think so. I didn't think it was possible.
Q Now, you lived -- after you lived with Ricky --
A Uh-huh. (Affirmative).
Q -- did you -- where did you move after that?
A With Irene Blackwell.
Q Okay. And Irene Blackwell is Angie Blackwell's mother?
A Yes.
Q And, at the time, Jerry Wayne Blackwell was, was alive and still there?
A Yes, sir.
Q Okay. And when, when, when Angie left Ricky --
A Uh-huh. (Affirmative).
Q -- and we all know she left him for Bobby Center.
A Yes, sir.
Q Did Ricky use to come around and play cards with Jerry Wayne?
A He did. He was there just about everyday.
Q Okay. And he was, he was sad that Angie left him?
A He was.
Q Wanted her back?
A He did.
Q When, when Ricky would talk about wanting Angie back,

was he sad?
A He was.
Q Sometimes he would -- and sometimes Angie would come over when Ricky was there?
A Yes, sir.
Q And, and he would beg her to come back?
A Yes. Yes, sir.
Q And would -- when, when Ricky did that, when he would beg and plead for her to come back, he -- it was always in a gentle voice?
A Yes.
Q He never yelled at her?
A No, sir.
Q But Angie could yell back sometimes?
A Yes, sir.
Q When -- in fact, you saw Ricky, I think, the day that Angie left him?
A I did.
Q And, and he was just crying and sobbing?
A Yes, he was very broken hearted.
Q When, when Angie left Ricky, did she change her---
A She did.
Q Tell me how.
A Her appearance.
Q Tell the jury how she changed.

A Her appearance changed. She started dressing more like she was a teenager with some short clothes, low cut shirts. She started drinking and things like that, going to the bars.
Q Was she like that when she was with Ricky?
A No, sir.
Q Would, would Angie come and flirt with Ricky and then go back to Bobby?
A She did a couple times.
Q How did that affect Ricky?
A It hurt him a lot because she, she gave him hope like she was gonna get back with him.
Q What's your general thought about Ricky, what kind of person is he?
A He's great. Like I said, he's very kind hearted. He'd give you the shirt off his back. He'll do anything for anybody. He took me in when he didn't have to, and he was there for me, and I mean, still to this day, I know he's there for me. So --.
Q When you heard about this, this incident, what did you think?
A I was shocked. I didn't believe it. He wouldn't hurt a fly. I mean, like I said, he never raised his voice. I never heard him argue with Angie, anything. I mean he's just a great person.

Q That's all I have for you. Thank you, ma'am.
A Thank you.
THE COURT: State may cross-examine.
SOLICITOR BULSA: We have no questions, Your Honor.
THE COURT: All right, ma'am. You may step down.
Do you wish to excuse---
MR. McGUIRE: We'd ask she be excused.
THE COURT: Any objection to her being excused?
SOLICITOR BULSA: No, sir.
THE COURT: You're free to go ma'am, if you'd like. Thank you very much.
State -- defense may call its next witness.
MR. McGUIRE: Defense calls Norm Uber.
THE COURT: Mr. Uber, come forward.
NORM UBER, having been first duly sworn, testified as follows:
THE COURT: Sir, have a seat in the witness stand, and once you're seated, state your name.
THE WITNESS: Norman Uber.
THE COURT: Thank you, sir.
Your witness, Mr. McGuire.
MR. McGUIRE: Thank you very much, judge.
THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q Mr. Uber, do you know Mr. Ricky Lee Blackwell?
A I do.
Q And how do you know him, sir?
How do you know him?
A He was part of our fellowship at the church. He put his children in our school. We had a day school, and so I knew him from those occasions.
Q And are you an assistant pastor or an ordained minister?
A I am an ordained minister.
Q Okay. And you know Ricky from the, from the church and the church school?
A Yes, I did.
Q Okay. And what kind of person is Ricky Blackwell?
A He's a good friend, kind of easy going, laid back, but deliberate in his speech. But I do count him as a friend, and never knew him to be other than easy to get along with.
Q Is he a gentle man?
A I would say so.
Q And did you know Angie, his wife?
A I did.
Q And when they were together in the early days, how did he treat her?
Did he love her?
A He treated her pretty much like I treat my wife. Very

gentle, very caring. I knew he loved her. You could tell that.

Q Okay. And did you know Ricky and Angie when they split up, when Angie left him?

A I did.

Q And did -- how did that -- how did Ricky take that?

A Well, the best I can tell you is he was in a parking lot one evening after our prayer meeting and telling me he didn't understand why this was happening, and he wept while he was telling me that, and it jerked on my heart strings. But I told him, I said, you know, God understands, and he said yes, I know that, but things weren't working out very well for him.

Q Do you -- even though Ricky has a lot of faith in God, and he prays to God to help him, do you think that Ricky's strong enough to pull through certain situations in terms of Angie and their relationship?

A Do I think God is strong enough or Rick is strong enough?

Q Rick.

A I really doubt it. I, I would, from my understanding of him and being with him, I, I really don't think he had the inner strength that he needed to deal with this situation.

Q And have you witnessed Ricky's relationship with God?

A I have, in church.
Q And what is it?
A Well, it -- in the beginning it was rather glowing. He did some things that we felt like the Bible required of him, and he did it willingly when he found out what the Bible taught. But I would say he was a good Christian believer in our midst.
Q When you heard about this incident, the crime we're here for, what did you think?
A Not Ricky. Ricky wouldn't do something like this. Just I was dumbfounded. I was shocked. I was in disbelief because in my relationship with him, I don't think I could of made him angry in my -- you know, if I tried to do something to him, I think he'd back up and laugh. So, when this happened, I just -- I couldn't believe it.
Q Okay. Now, I think you're having surgery soon?
A Monday.
Q What are you having?
A Yeah, I'm having my knee operated on on Monday.
Q Okay. And I asked you to come here despite the fact you're in a lot of pain and I appreciate you doing that.
A Yeah, I'm in pain, but God understands all that. So, I'm glad to do it for a friend. A friend gets in trouble, you stand by them.
Q That's all I have for you, sir. Thank you.

THE COURT: Any questions from the State?

SOLICITOR BULSA: Yes, sir, briefly.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Mr. Uber, what church do you belong to?

A Faith Bible Fellowship in Chesnee.

Q Okay. And how long was Mr. Blackwell a member of that church?

A Well, we don't have membership, we have fellowship, and he would of been a part of that fellowship. I don't have any records. I would say three years.

Q Three years.

Dating back to when?

A Pardon me?

Q When was he a member, a fellow?

A Dates?

Q Yeah, approximately?

A My pastor's back there. He would know that better than I, sir. I, I didn't try to familiarize myself with a date. But if we back up five years, and then the previous three would be close.

Q So, he was member of this fellowship back when this incident occurred?

A No membership, sir.

Q Well, fellowship.
A We're a fellowship.
Q Okay. Did he attend church with you back when this incident occurred?
A He did.
Q Okay.
A Quite regular.
Q Okay. So, he of would been attending back when he and Angie broke up?
A Yes, sir.
Q And what was his mental state?
A Anguish, why --
Q Okay.
A -- how to deal with this.
Q And how about when he was committed to the hospital?
A I can't answer that.
Q What did your fellowship do to assist him?
A Well, we offered him friendship, fellowship. We, we prayed with him and for him. There's not a whole lot you can do in those situations and we trust God to work out those situations.
Q And how did your fellowship help him when he was released from the hospital?
A Same thing. I don't know whether you're asking about monetary support, certainly moral support.

Q Anything.
A Spiritual support. We were right alongside him praying with him and --.
Q So, he had you available to go see if he had any issues?
A I'm sorry?
Q So, he had you available to go speak with you if he had any issues?
A Yes, sir.
Q So, if he -- did he ever come to talk with you about any questions or---
A He didn't to me. Our pastor's much more accessible, and he was in his home many many times.
Q Okay. Thank you, sir.
THE COURT: Anything in redirect?
MR. McGUIRE: No, sir.
THE COURT: Sir, you may step down. Take your time. I see you're having an issue.
THE WITNESS: Thank you, sir.
THE COURT: Any objection to his being excused by the State?
SOLICITOR BULSA: No, sir.
THE COURT: Sir, you're free to go if you'd like.
THE WITNESS: Thank you.
THE COURT: Thank you.

Defense may call its next witness.

MR. McGUIRE: Defense calls Cletus Blackwell.

THE COURT: Come forward, sir, to be sworn.

CLETUS BLACKWELL, having been first duly sworn, testified as follows:

THE COURT: Sir, have a seat please.

(Witness complies.)

THE COURT: State your name.

THE WITNESS: Cletus Blackwell.

THE COURT: Thank you, sir.

Mr. McGuire, jury witness.

MR. McGUIRE: Thank you very much, Your Honor.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q Mr. Blackwell, Ricky is your son?

A Yes, sir.

Q And I know you're a little hard of hearing. So, I'm gonna speak a little loud, okay, and if you can't hear me you just let me know.

Tell the jury a little bit about Ricky.

What kind of boy was he growing up?

A Ricky was a good boy when he was a kid. He never give us any trouble, and he, when he growed up, he was in school. He didn't give them any trouble, and that's about it.

Q Was Ricky a kind boy?
A Yeah, he was real humble. Ricky was good. He was real, a real good kid.
Q Ricky was kind of a, a big boy.
Did he ever pick on anybody or get in fights or be mean?
A He never did bother nobody. He was always humble.
Q Okay. And you had a, you had another son, Don?
A Yeah, Don.
Q And, and Don passed away?
A Yeah, Don passed away.
Q Okay. But, but Ricky loved Don?
A (Witness nods affirmatively.)
Q And Don was a good boy?
A Right.
Q Okay. When -- do you remember when Ricky married Angie?
A Yeah, Ricky loved Angie. He, he loved the ground that woman walked on.
Q Did he basically worship Angie?
A Yeah, he worshiped her. He, he didn't want you to say nothing about Angie.
Q And how did, how did Ricky treat Angie?
Was he always kind to her?
A He treated her good. He, he was real good to her.

Q Okay. And how was, how was Ricky with his own kids, Heather, Bud, his grandkids?
A Oh, he loved his grandkids. He got out and played with them.
Q Okay.
A Took them rides on the four wheeler.
Q Tell the jury what happened -- how, how was Ricky when Angie left him?
A He was -- he wasn't Ricky. He was real depressed, but me and the boys got on the four wheeler one time and rode down there to his house, and he was sitting out there at the pool. He, he didn't even -- he just wasn't Ricky.
Q Did he spend a lot of his days crying?
A Yeah, he did.
Q And he just wasn't the same man anymore?
A Yeah.
Q Do you remember, do you remember if Angie changed when she left?
Did Angie change?
A Did she what?
Q Did Angie act differently when she left Ricky and went to Bobby?
A Yes, she left and she'd come back around and they -- it would tear him up.
Q She came around after -- even after she took up with

Bobby, she'd come back and see Ricky?
A Yes, she'd come back.
Q And did that give him hope that maybe she would come back to him?
A Yup.
Q And then how did that affect him emotionally?
How did that affect Ricky?
A Oh, it, it tear him up. Ricky, it would tear Ricky up.
Q Okay. Cletus, when you heard about this, when, when you heard about the, the incident, when you learned about the shooting, what did you think?
A Oh, it, it, it tore me up. I just couldn't believe it.
Q Was that the Ricky you raised?
A Yeah, it sure was.
Q All right. No, what I mean is the, the Ricky, the Ricky that did this crime, is that the same boy you raised, the same Ricky you've known all your life?
A Yeah.
Q Okay. Okay. Cletus, what I'm, what I'm gonna do, Cletus, is get you to come off the stand if I could.
Judge, if Mr. Blackwell could come down here with me?
(Witness comes down from the stand.)
(WHEREUPON, fifteen photographs were marked as Defendant's Exhibit Nos. 22 through 36 for identification purposes only at this time.)

MR. McGUIRE: I've shown these photographs to the State and I think they have just a general objection.

SOLICITOR BARNETTE: Same objection.

THE COURT: The objections are noted. However, they'll be allowed should he identify them.

Q What I want to do, Mr. Blackwell, is I'm just gonna show you these and then I'm just gonna ask you if you recognize them.

Okay?

A Okay.

Q It seems silly cause these are your pictures, but that's the Court rule. I'm just gonna show them all to you.

Okay?

A Yeah. Yeah. Yup. Angie, yeah. There's the truck I bought him.

Q Just a second.

A The -- that's the other one. That's Ricky. That's it. That's me and Ricky and Don.

Q That's where we started.

Do you recognize all those?

A Yeah.

Q And are those all family photographs and photographs of things you recognize?

A Yeah.

MR. McGUIRE: Move them into evidence.

THE COURT: Subject to the prior objection they'll be admitted as marked.

(WHEREUPON, State's Exhibit Nos. 22 through 36 were received into evidence at this time.)

Q Cletus, I'm gonna ahead -- go ahead and hold this for you.

Okay?

A Yeah.

Q And you just tell these folks what we're looking at.

A You're looking at me and Ricky.

Q You can go ahead and keep your spot and I'll walk it down there.

Okay?

A Okay.

Q And this is No. 28.

Cletus, tell us what we're looking at.

A That's Ricky and my wife, Mildred, and Don.

Q And, and Don's the, the little boy?

A Yeah, he was little.

Q All right. No. 30, what are we looking at Cletus?

A That's Ricky and Don.

Q And, again, Don's the, the little fellow?

A Yeah, he's the little one.

Q You're fine. You're fine.

All right. Cletus, this is No. 32.

What are we looking at there?
A This is Ricky and Don.
Q And, again, Don's the---
A Yeah.
Q ---little baby?
A Little baby.
Q No. 29, Cletus.
A This is Ricky and my wife, Mildred, and me and Don.
Q And, Cletus, this is No. 26.
Is this one around Christmastime?
A This is Don. This is Ricky.
Q And, Cletus, were you a proud father of both Don and Ricky?
A Yeah, I loved them.
Q No. 31, Cletus.
A This is Don and this is Ricky.
Q They have their matching shirts on?
A Yeah.
Q This is No. 33, Cletus.
A This is Ricky.
Q And what's he, what's he doing there?
A He's opening his gift.
Q Looks pretty happy?
A Yeah, he was happy.
Q Now, Cletus, you live right down the road from where

Ricky and Angie and everybody lived, right?
A Right.
Q You're on Martin Camp Road?
A Martin Camp Road.
Q And they were on Ridings Road?
A Ridings Road.
Q And that's just like right around the corner?
A Right around the corner.
Q Okay. So, what we're looking at is No. 34.
A That's Caleb. That, that was Heather.
Q Great. It is Heather.
Is she on a motorcycle?
A Yeah.
Q And all these will be in the jury room, Cletus. So, the jury will have each and every one of these when they're talking about Ricky.
A This is Ricky.
Q About how old is he there?
A He was about six years old.
Q Cletus, this is No. 36.
What are we looking at?
A This is Angie and Heather.
Q Okay. When Heather was born were you a proud grandparent?
A Yes, I was.

Q Now, Cletus, you, you and I have talked about you being a trucker and driving, driving trucks for a long time.
How long you been doing that?
A About 32 years.
Q Okay. And you taught Ricky?
A Yeah, I taught Ricky.
Q This is No. 22.
What are we looking at?
A Yeah, this is Ricky and this is---
Q That looks like you?
A Cletus.
Q There's a big blue truck.
Who owns that?
A I bought it for Ricky.
Q Okay. No. 23.
What are we looking at there?
A That's Ricky.
Q And this is -- is this when you were driving for Belue Trucking?
A Yeah, Belue Trucking.
Q Okay. And the big red truck has Belue Trucking on the side, right?
A Right.
Q And that's Ricky running in front of it?
A Yup.

Q Now, when, when Ricky got older and wanted to be a truck driver, you're the one that taught him by letting him drive in your truck, the truck that you were using, right?
A I let him drive to --.
Q The other man's truck?
A Yeah, Hot Spot.
Q The Hot Spot trucks?
A That, that's one of the Hot Spot's that I bought.
Q Okay. And this is, this is a -- this is No. 24.
Do you recognize that?
A Yeah.
Q Okay.
A That's the one I bought him.
Q Okay. This is one of the trucks you bought Ricky?
A Yeah.
Q But then Ricky wrecked it?
A Ricky wrecked it.
Q Cletus, this is No. 25.
Who's that?
A This, this is me, Ricky, and Don.
Q All right. Cletus, you and I've talked about this before. This jury has Ricky's future, his life in their hands, and then this, this is the moment in time, if there's anything that you want to tell them, this is the time to do it.

THE COURT: I'd ask that he return to the witness stand.

MR. McGUIRE: Oh, yeah.

If you would. Cletus, if you would please.

THE COURT: Thank you.

(Witness returns to the stand.)

THE COURT: All right, sir. You may answer the question.

Q If this is the moment, Cletus, this, this jury is gonna decide Ricky's fate. If you have anything that you want to tell them about Ricky, about anything they need to know, this is, this is the time.

A Ricky was always a good boy. And as he growed up, he, he never did give nobody no trouble. And when he got in school, he was a good student in school, and he -- when he got married, he loved his family. He, he treated them good and Ricky wasn't Ricky when this happened. Ricky wouldn't hurt nobody if he's, if he was in his right mind.

And I ask y'all to spare his life cause Ricky wants to live till the Lord calls him home. I know it won't be no pleasant life, but he wants to live, and my sympathy goes out for the little girl's family.

Q All right. Cletus, that's all I have for you, sir. Thank you.

THE COURT: Any questions from the State?

SOLICITOR BARNETTE: Yes, sir.

THE COURT: Mr. Barnette.

Sir, keep your seat.

SOLICITOR BARNETTE: Keep your seat if you would, sir. Thank you, sir.

THE COURT: Thank you.

CROSS-EXAMINATION

BY SOLICITOR BARNETTE:

Q Mr. Blackwell, these are probably gonna be some of the toughest questions I'm gonna ask somebody, and I apologize ahead of time, but I need to ask them of you.

Do you understand?

A (Witness nods affirmatively.)

Q Let me show you what's been entered into evidence as State Exhibit No. 6.

Do you know that weapon, sir?

A Yeah.

Q Whose weapon was that?

A It's Ricky's.

Q Okay. And showing you State Exhibit 37.

Do you recognize that, sir?

A Yes, I do.

Q What was that, sir?

A That was the case the weapon was in.

Q So, this is the gun case for this weapon, is that

right, sir?
A Yeah.
Q Where was that gun locked at, sir, before this happened?
A I can't hear you.
Q I'm sorry.
Where was that gun and that case locked at before this happened?
A What was it?
Q Yes, sir.
Where was this gun -- and I'm assuming it's inside the case.
Where was it locked at before this happened, sir?
A Where was it was locked?
Q Yes, sir.
A He had it up at the house.
Q Do you know -- at whose house, sir?
A You gonna have to come up here.
Q I'm sorry. Maybe.
A I can't hear you.
Q I'll---
THE COURT: You can stay closer to him.
SOLICITOR BARNETTE: Okay. Thank you, Your Honor. I should of asked permission from the Court before I---
THE COURT: Normally lawyers aren't allowed to get too

close to the witnesses.

SOLICITOR BARNETTE: Yes, sir.

THE COURT: In this situation I think we're gonna have to.

Q Whose house was it at?

A It was at his house. He brought it up there at the house after they separated.

Q Okay. Do you know a fellow by the name of Reggie Frye, sir?

A About what?

Q Do you know Reggie Frye?

Do you know him?

A Who?

Q Reggie Frye.

Do you know him, sir?

A I don't know him.

Q You don't know Reggie Frye?

So, you're saying you do not know Reggie Frye or Reginald Frye or anything like that name, sir, or Mr. Frye?

A No, not as I know of.

Q I just need to ask you this question.

Isn't it true you locked this up in your gun cabinet at your house?

A I didn't lock it up. Ricky brought it up there and put it in there.

Q So, it was at your house in---
A Yeah.
Q ---the gun case?
A Yeah.
Q So, so, it was locked in the gun case at your house?
A Yeah.
Q Okay. And this was before this incident occurred, before the murder occurred?
A Yeah.
Q Isn't it true it was locked in there to keep him from hurting somebody else or himself?
A I don't -- no, I don't know that. I mean I don't -- he just brought it up there and left it.
Q Okay. So -- but it was at, but it was at your house in the gun case?
A Yes, sir.
Q Is that right, sir?
He didn't break into that gun case and take the gun?
A I don't know how he got it.
Q Okay. But -- it was before this happened.
It was in your gun case at your house?
A Yeah.
Q It was not at his house, was it?
A No.
Q So, he had to come get the gun to use it, is that

right, sir?
A Yeah.
Q And he went to your house to go get it?
A Yeah.
Q He didn't go to his house to go get it, did he?
A (No response.)
SOLICITOR BARNETTE: One moment, Your Honor, please.
THE COURT: Yes, sir.
(Pause.)
Q I apologize, sir, having to ask you those questions, but I thought I needed to ask you the questions of where that gun was. Thank you, sir.
THE COURT: Mr. McGuire.
REDIRECT EXAMINATION
BY MR. McGUIRE:
Q Cletus, hold your, hold your seat just one second.
THE COURT: Sir, sit down. He's gonna ask you some more questions, Mr. Blackwell.
Q The, the judge will let you know when you can go.
Okay. Cletus, I think I heard you say that, when Angie left Ricky, that was when he got the gun and took it back to his house?
A Yeah, took it, yeah.
Q Okay. And that was when Angie left?
A Right.

Q And that, I don't know, six months before this incident?

It was a while back?

It was a while before the shooting happened?

Do you remember how long before?

A No, I don't.

Q But it was -- but it's around the time Angie left?

A Right.

Q Okay.

SOLICITOR BARNETTE: Your Honor, he's trying to lead the witness.

THE COURT: He's already asked the question. It's answered now.

Do you wish to follow-up?

SOLICITOR BARNETTE: Yes, sir, I'd like to follow-up on that.

THE COURT: Okay.

SOLICITOR BARNETTE: Can I approach the witness, Your Honor, a second?

THE COURT: You may.

SOLICITOR BARNETTE: Yes, sir.

RECROSS EXAMINATION

BY SOLICITOR BARNETTE:

Q Mr. Blackwell, was Ricky living with you?

A He's staying up there, yeah.

Q He was living with you when this happened?
A Yeah.
Q When the murder happened?
A Yeah.
Q And the gun and the gun case was at your house?
A Yeah.
Q And it was in a gun case, is that right, sir?
If you don't understand me, please tell me.
A Yeah.
Q Okay. And you kept other guns in that gun case, didn't you?
A Yeah, I kept mine.
Q You kept yours.
What kind of guns did you have in the gun case, sir?
A I had, I had a .38, Smith & Wesson, and a couple of shotguns.
Q Okay. But none of those guns were taken, were they?
A No.
Q The one gun that was taken was this gun?
A Yes.
Q Thank you, sir. I'm sorry.
MR. McGUIRE: Nothing further.
THE COURT: You may step down now, Mr. Blackwell. Thank you, sir.
All right. We're gonna take a short break, ladies and

gentlemen. I'll ask you to step back to the jury room. As always, I'll instruct you not to begin any discussions until I've asked you to do so.

You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Does Mr. Blackwell need to leave the courtroom at this time during the break?

MR. McGUIRE: Yes, sir.

THE COURT: All right. We'll take a short break.

Please remain seated until the defendant's left the courtroom.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: State ready.

SOLICITOR BARNETTE: State's ready, Your Honor.

THE COURT: Defense is ready.

MR. McGUIRE: Ready, Your Honor.

THE COURT: Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The jury has returned to the courtroom.

The defense may call its next witness.

MR. McGUIRE: Thank you, Your Honor.

Defense calls Mr. James Hamrick.

THE COURT: Come forward, sir.

JAMES HAMRICK, having been first duly sworn, testified as follows:

THE COURT: Have a seat, sir, and once you're seated, state your name please.

THE WITNESS: James Hamrick.

THE COURT: Thank you.

Your witness, Mr. McGuire.

MR. McGUIRE: Thank you very much, judge.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q James, do you know Mr. Ricky Lee Blackwell?

A Yes, sir.

Q And how do you know him?

A He's my brother-in-law.

Q Okay. You, you, you're married to Lori?

A Yes.

Q And Lori's sister is Angie?

A Angie, yes.

Q And Ricky was married to Angie?

A Uh-huh. (Affirmative).

Q And that's how you are---

A That's correct.

Q ---related or use to be related?

A Yes.

Q And you use to spend time with Ricky, essentially, when y'all were younger?
A Oh, yeah. Yeah.
Q I mean when everybody first got married, right?
A Oh, yeah, we use to go on vacation together and all the families go out on the weekends to eat and stuff.
Q Okay. So, you got to know Ricky a little bit?
A Oh, yes.
Q And is he a good man?
A He was. He's always a really good person. Kind, gentle, like about everybody said. So, never think anything at all would happen like this.
Q Right.
Now, I met you and talked you out at your -- is it called -- I don't know what they call it nowadays.
Salvage yard, junk yard?
A It's salvage yard.
Q Salvage yard.
A Junk yard, whatever.
Q Okay. But you own, you own a salvage yard?
A Yes.
Q And part of it is a -- you also have a garage there. You do body, body work.
A Yes, sir.
Q And work on cars?

A Yes.
Q Okay. And when -- after Angie left Ricky, and took up with Bobby Center, was part -- was part of Ricky's routine to come visit you at the, the salvage yard?
A Oh, yeah, he'd come there and hang out.
Q Okay. And I think maybe you described him as sort of like the shop hound dog, kind of hanging out?
A Oh, yes. He'd come down and just hang out. He -- if they's something in the floor he'd push it over to the side or stand there and help you wipe a car down. So, he'd do---
Q Okay.
A ---anything.
Q And sometimes you-all go to auction sales?
A Yes.
Q And buy cars and resale them?
A Yes, sir.
Q Okay. And Ricky would always help you with that?
A Oh, yeah.
Q Was he always quick to volunteer to help?
A Oh, yeah. He loved going to the sales and just driving cars back and forth to the sale, and he just -- he always wanted to do it, something to past time away.
Q Okay. Everybody at the shop like him?
A Oh, yeah. Yeah.
Q Any, anybody have a mean word to say about him?

A No.
Q Ricky ever have a mean word for anybody?
A No, I never hear him saying anything mean.
Q Okay. And, of course, now part of -- when he, when he use to come to the shop, something he'd be -- sometimes he'd be very sad about Angie?
A Yes.
Q And he'd, he'd mope and cry?
A Uh-huh. (Affirmative).
Yes.
Q And I think, right around the time this happened, he was with your son, Jordan?
A Yes, sir.
Q And he was just moping and crying so bad---
A Yes.
Q ---I think Jordan told you about it?
A Yeah, they actually went to the, the car sale the night before or before that one, and Jordan said all he done was cried the whole time and talked about Angie and how he didn't know how his life could be so messed up now and all that, and they was actually suppose to go to Darlington with him the following Thursday, and Jordan said dad, I mean he cried so much and he just -- he messed me up so much I couldn't concentrate, and he just said I just -- I don't really know whether to let him go with me Thursday or what,

and I told Jordan he loved, loved him to death. He wanted him to go with him just to -- cause I wouldn't half the time go to them far away places. So --.

Q And Jordan, Jordan would love to have Ricky---

A Oh, yes. Yup. Yup. Sure would.

Q James, when you heard about this, when you heard about this shooting, what did you think?

A Unreal. Just couldn't believe it. Didn't think anything. Me and Jordan and Brandon, we all just jumped in the truck and took off up there. Didn't know, didn't know what happened, and, and, you know, didn't know it was the little girl. Didn't really know anything about it, and we got up there and they had the roads blocked. So, we turned around and went the other way to go in the back way and they had them blocked also. So, just couldn't believe it.

Q The Ricky that, that you knew, that you spent time with, the Ricky that you got to know, the fellow that committed this crime, is that same man?

A No, sir, it, it -- no, I mean if anybody knew him or they never -- I don't know what happened, and I mean he done a bad thing, but I don't know -- he -- it just wasn't not Ricky I mean. I don't -- it's hard to explain there, sir. It just wasn't him.

Q That's all I have for you.

THE COURT: Thank you.

SOLICITOR BULSA: We have no questions.

THE COURT: All right, sir. You may step down.

You wish to be excused or any objection to his being excused?

SOLICITOR BULSA: No, sir.

THE COURT: All right. You're free to go, sir, if you'd like. Thank you for coming.

THE WITNESS: Yeah.

THE COURT: Defense may call its next witness.

MR. McGUIRE: Your Honor, defense calls Ms. Mary Youmans.

THE COURT: Come forward please.

MARY YOUMANS, being first duly sworn, testified as follows:

THE COURT: Ma'am, have a seat, and once you're seated, state your name please.

THE WITNESS: My name is Mary Magdalene Youmans.

THE COURT: Thank you, ma'am.

THE WITNESS: You welcome.

THE COURT: Mr. McGuire, your witness.

MR. McGUIRE: Thank you very much, judge.

THE COURT: Yes, sir.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q Ms. Youmans, do you know Mr. Ricky Lee Blackwell?

A I certainly do.
Q And how do you know him?
A First met him at where we worked, and then just gradually became best buds.
Q Okay. And where did you work?
A Springs Industries.
Q Okay. And you were a supervisor there?
A Yeah, at a little, a little point in time.
Q Okay.
A Yeah.
Q And what did Ricky do there?
A He drove the forklift and anything they needed. He could do anything.
Q Okay. And y'all became friends there?
A Yeah, it grew into a me, and Ricky, and Angie, and me and Angie, Angie and a couple of people from work, we went to Biltmore House, and just gradually we had Tupperware parties and, and Pampered Chef parties, and they were family. You know, I loved that Ricky and Angie's youngins just like I do mine. I pray for mine. I pray for them---
Q Okay.
A ---grandkids. Just grew into -- they just good people.
Q And, and the Angie and the Ricky that you knew as a couple, they were a great couple?

A Very.
Q They seemed---
A Yeah.
Q They seemed to love each other?
A Too death, yup.
Q And, and, Ricky, how did he feel about Angie?
A He, he adored Angie. I mean if you saw one you saw the other, you know. They were inseparable at times. I'm sure that they -- you know, I didn't, I didn't live with them so I really don't, don't know about inside the doors, but never a cross word that I ever heard --
Q Okay.
A -- in my being there and I stopped there quite often, and we had -- like I say, we had Tupperware and Pampered Chef. She cooked all the time and brought food to work and everything was good.
Q Okay. But then there came a time when Angie left Ricky and you learned about that?
A Yeah, I heard about it through, through Ricky really and Heather.
Q And did you see Ricky sometime after Angie left him?
A I don't really know how much time had went by, but one day I was passing cause to get to where I lived you -- I, I just go by right where they lived, and then you go right on around and I live on Burnetts, and he was in the yard of

Heather's house, and he kind of, you know, was flagging me down like he wanted to talk, and he, he was real sad that day.

Q Did he---

A I said---

Q Did you stop and talk?

A I stopped in the road, and, and I told him that particular day, I said Ricky, I said, you know, I don't know what happened, but you got three beautiful grandchildren. You've got those -- that's -- they depend on you. You got to keep going.

Q How did, how did, how did Ricky appear?

Was he crying?

Was he---

A Yeah, he wasn't crying, but he was distraught, you know. He leaned in my window and just, just was pouring his heart out. He didn't know what he was gonna do, and you could just tell that he was just -- he was very distraught.

Q Now, you saw, you saw Angie the day of the shooting?

A Yes, I did. She came to my house.

Q Tell the jury about that.

A Well, I really honestly can't remember exactly what time it was.

Q Okay.

A But I know we were all in the pool. My daughter has a

pool behind her house, and it was myself, my sister, her two children, my daughter, Nancy, and my two little nieces and nephews. And before I knew what was happening, Angie came to the right -- around the right side of the pool.

SOLICITOR BULSA: Your Honor, I'm gonna object. I don't know what this has to do with mitigation. She's talking about Angie.

THE COURT: Intended to go toward mitigation?

MR. McGUIRE: Yes, sir.

THE COURT: It needs to get there.

MR. McGUIRE: Yes, sir.

A Anyway, she come around, and she had a little girl with her, and she introduced the little girl to me as her daughter. This is my daughter, Brooke, and I knew that that wasn't her daughter, but I didn't say anything, and she's a pretty little girl, had a pretty little shirt on, and she talked about how they'd been to Myrtle Beach and --.

Q When you say they'd been to Myrtle Beach, who are we talking about?

A Her and the little girl and she -- you know, I don't know who else.

Q Okay.

A And she said she bought the shirt at Myrtle Beach for her.

Q Okay. And she's talking about Brooke?

A Yeah.
Q She said---
A Pretty little girl, uh-huh. (Affirmative).
She stayed probably about 25 minutes, and she had asked me did I know her boyfriend, and I said no, I don't, and she said yeah, you know him because he worked at Springs.
SOLICITOR BULSA: Objection as to hearsay.
THE COURT: I'm gonna ask the witness not to quote what Angie said --
THE WITNESS: Okay.
THE COURT: -- related to the conversation that occurred, but please do not quote her.
THE WITNESS: Okay.
Well, anyway, she went to the car and got a picture and brought back a picture, and asked me did I have, did I know him. I said no, I don't. She said well, you do because he worked---
SOLICITOR BULSA: Objection.
THE COURT: Again, ma'am, I'm gonna caution you about quoting what she said.
Q Mary, let me help you.
A Oh, okay. Help me. Help me out.
Q During your visit with Angie, did you get the impression that she felt very strongly you knew Bobby?
A She felt very strongly, but I did not know him.

Q Okay. And, and she even showed you a photograph of Bobby?
A Showed it to myself and my daughter that what -- she worked there too.
Q Okay. And, of course, you said I don't know this person?
A No, I didn't. I really didn't recognize him.
Q Now, you remember Angie -- again, Angie and Ricky in the good times, and then you saw Angie after she left Ricky, and was there any kind of change in Angie's behavior or appearance?
A Oh, a big change in the appearance. She had lost weight. She -- her, her dress was different, her dressing, the manner of dressing.
Q What do you mean?
A She went from wearing slacks and jeans to Daisy Dukes and high wasted shirts and all -- you know and really funny painted fingernails that particular day. They looked like a rainbow.
Q Okay. And do you remember what she was wearing that day?
A She had shorts on and a, above the, above the bellybutton---
SOLICITOR BULSA: Your Honor, once again, we need to object. This has nothing to do with mitigation. It's just

poor mouthing Angie.

THE COURT: Overruled.

Q And I, and I think what you were describing is one of those mid-drift cut shirts?

A Yeah. Yeah, I'm not -- she was my friend. I'm not bad mouthing her. I'm just saying she went -- that was a different attire for her --

Q Right.

A -- that particular day.

Q Right.

You still like Angie?

A I like Angie. I ain't got nothing against Angie.

Q Okay. You're just describing the change she went on?

A Yeah.

Q Okay.

A From what, from what she was and her hair color was different.

Q Now, now, in your relationship with Ricky, he also had a relationship with your, your husband?

A Yeah, both of them did.

Q Okay.

A Yeah.

Q And, and your husband's since passed?

A Yes. Yes.

Q But can you tell the jury a little bit about how Ricky

would try to come and visit your husband and, and---
A Oh, Angie, Angie and Ricky, they, they couldn't have been no better to me the time my husband got cancer and found out he had cancer in '01, and she, she took up money at the plant, she brought food. Ricky and Angie would both come and visit all the time. Bought him some fishing equipment cause he loved to fish, and my husband loved Ricky, yeah. We -- and, you know, we were all just good friends.
Q And was Ricky there at the very end with your husband?
A Not the very end that he passed, but about -- he was there about a week before when I, when he was bedridden and was really sick.
Q Okay.
A Yeah.
Q When you heard about this, the shooting, what did you think?
A Well, like I say, she had been at the house and I didn't believe it. My -- the TV was on in the living room and when the news come on said, oh, no, not Ricky Blackwell, hu huh, he hadn't done this, and cause I, I mean she hadn't been very long at my house. I just didn't understand what had happened, and so I wanted to go up there, and my daughter wouldn't let me.
Q Okay.

A And I was very -- I was struggling with it because I knew not the, not the Ricky I knew would of hurt a little girl. Not, not him. I just couldn't fathom it. None of us could. My daughter's as close to him as I was. I don't know.

Q That's all I have for you, ma'am. Thank you.

A Okay. Thank you.

THE COURT: Just wait a second.

CROSS-EXAMINATION

BY SOLICITOR BULSA:

Q Ma'am, you said---

THE COURT: Do you have some questions?

You may proceed, Mr. Bulsa.

SOLICITOR BULSA: Thank you, Your Honor.

Q And you said that you didn't know what went on behind closed doors in their house?

A No, I mean I didn't, I didn't live there with them, no.

Q All right. And so nobody really knows why they broke up, do they?

A Not that -- I, I didn't really hear the reason.

Q Okay. And you said you met Brooke the day she died?

A She was at my house.

Q Okay. And what was your impressions of her?

A Oh, she's darling, sweetheart.

Q Thank you, ma'am.

A Yeah.

MR. McGUIRE: Nothing further.

THE COURT: All right, ma'am. You may step down.

Any objection to this witness being excused?

SOLICITOR BULSA: No, sir.

THE WITNESS: Thank you.

THE COURT: You're free to go, ma'am, if you'd like.

THE WITNESS: Thank you.

THE COURT: Thank you for coming.

You may call your next witness.

MR. McGUIRE: Defense calls Reverend Rice.

THE COURT: Come forward, sir.

KEN RICE, having been first duly sworn, testified as follows:

THE COURT: Have a seat, sir. Once seated, state your name.

THE WITNESS: Kenneth Rice.

THE COURT: Thank you, sir.

Your witness, Mr. McGuire.

DIRECT EXAMINATION

BY MR. McGUIRE:

Q Mr. Rice, are you a pastor?

A Yes, sir.

Q And where at?

A Faith Bible Fellowship, Cooley Springs near Strawberry

Hill.

Q And you know Mr. Ricky Lee Blackwell?

A I'm sorry?

Q Do you know Mr. Ricky Lee Blackwell?

A Yes.

Q And how do you know him?

A They started attending the church when they enrolled their son in our Christian school.

Q Okay. And, and you, you helped run this Christian school?

A Yes, sir.

Q Okay. So, you got to know Ricky and Angie a little bit?

A Yes, sir.

Q Tell the jury what are your thoughts about Ricky. What kind of man is he?

A Well, Ricky is -- I summarize his personality as being a phlegmatic maybe, laid back, easy going, did not like to be at any conflicts. He was always smiling, had a little grin all the time, easy going, very cooperative, gentle. Just a lot of good qualities.

Q Okay. You ever hear anybody say a mean word about Ricky?

A No, sir, no one in the community.

Q And any---

A Or my church.
Q You ever hear Ricky say a mean word about anybody else?
A No.
Q Everybody like him?
A As far as I know. We got a lot of people from our church here is all. That's whey they're here. They like him.
Q Sure.
Now, after Angie left Ricky, Ricky would come and see you very often?
A When she left he came everyday for three or four weeks all but Sunday, and he came to church on Sunday morning.
Q And, and you were his, his, his mentor or his -- sort of his counselor almost?
A I was his sounding board.
Q Okay.
A He came sobbing. He came pacing the floor, asking why did this happen, why would she leave us, what did I do wrong. It was the same, same stories everyday.
Q And we're obviously talking about Angie leaving him?
A Yes.
Q And did he ever get better or was he just, just---
A Emotionally got worse.
Q Okay.
A He, he wasn't eating right. He wasn't sleeping. In

fact, he was sleeping on the floor at his house, and I told him to go sleep at his mom and dad's. He was losing weight. Emotionally he was just upset.

Q And you would try to give him advice to help him get through this situation?

A I tried to tell him if this is what she wants to do you're not gonna win her back by chasing after her. She wanted money for rent, for an apartment that she had rented. He gave her money for food. I said you're just helping the matter along. I mean she's not gonna come back as long as you're paying her way, and he finally went to his mom and dad's to spend the night.

Q Okay. And he started, he started living with his mom and dad?

A Yes.

Q Okay. And his dad, his dad, Cletus, comes to church and you talk to Cletus?

A Yes.

Q How's he doing?

A Cletus?

Q Yes, sir.

A He's like I would be as a father. He's very, very distraught, but he comes faithfully every Sunday.

Q Okay. And is there an inaudible -- is there a prayer request for Ricky and Cletus?

A Yes, every service, every Sunday morning. Either I or someone from the congregation would ask we pray for Ricky and his spiritual condition.

Q I'm gonna show you something as soon as I get it marked.

Just for ID.

(WHEREUPON, the Bible study papers were marked as Defendant's Exhibit No. 37 for identification purposes only at this time.)

SOLICITOR BARNETTE: Your Honor, we got a matter of law I think we need to take up.

THE COURT: All right. Ladies and gentlemen of the jury, I'll ask you to step back to the jury room. Don't being any discussions until such time as I've asked you to do so.

You may retire to the jury room.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Yes, sir.

SOLICITOR BARNETTE: Your Honor, it's Defense Exhibit 37. I think they've marked it in this case, Your Honor. I'll let Mr. McGuire describe what they are, what, how they're gonna use them, and then I'll state my objection if that's okay depending on what it is.

MR. McGUIRE: If I could approach, judge?

THE COURT: Yes, sir.

MR. McGUIRE: What's been marked as Defense Exhibit No. 37 is a collection of papers that are actually handed out at Pastor Rice's church. Instead of having a, a little pamphlet describing the sermon or the order of the, the service that day, he'll hand out sheets that you have there in your hand and Ricky always filled this out, and what he'll testify to is that these are the sheets that he passes out for, for services and that these are Ricky's.

SOLICITOR BARNETTE: Your Honor, first, the reason I object, I hadn't seen them before, but obviously I think they don't have any relevance in this case. Obviously he can testify that he, you know, obviously has talked to him and everything from there. But to submit that would be bolstering, prejudicial. I know he says it comes from him. I don't know if it does or not from that standpoint. But, to me, it's just a bunch of Bible versus that's involved with it.

THE COURT: Any way of knowing when this was done?

MR. McGUIRE: It would of been in the time leading up to this incident.

THE COURT: Well, I don't see any dates on it.

MR. McGUIRE: They don't put dates on them.

THE COURT: Well, the time leading up could be from the time of the -- that the earth was created until the time the

incident occurred. I'm trying to get a little narrower, narrower idea as to when this might of been done.

MR. McGUIRE: Well, I can ask, I can ask Pastor Rice.

THE COURT: Okay. Please do. Let's find out when -- I don't know if this was something that was done years and years ago or let's find out when it was done.

MR. McGUIRE: Can I show them---

THE COURT: Yes, sir.

CONTINUED DIRECT EXAMINATION

BY MR. McGUIRE:

Q Pastor Rice, I want to hand you what's been marked Defense Exhibit No. 37.

If you could just thumb through those and tell me or tell the Court actually if you recognize them.

A These are Bible study notes and also messages that I would have on Sunday morning. We completed -- complete the Book of Jobs. That's in here. Some of the -- he got into some of the minor prophets. That's Zephaniah. That's in there. These are --.

Q And the incident that we're here in Court for happened July of '09.

Your, your best estimate as to when you were handing these out and Ricky was filling them out, when would that be?

A They, they quit coming to church at the end of the

Summer of '98.
Q Okay.
A In '98, end of the Summer of '98. They did not reenroll Heather in school that fall.
Q Okay.
A They quit coming back after that.
Q And---
A Ricky came -- Angie didn't come, but Ricky came about three Sundays by himself. Then he dropped out.
Q Okay. And that was when Heather left the Christian school?
A Yes.
Q And then Ricky started seeing you, when Angie left, and he became sort of inconsolable---
A Yes.
Q ---and he started going back to church?
A Yes.
Q Okay. And you think these are around 1998 or before?
A Yes.
Q Okay.
THE COURT: Now, is this documents that this witness kept or is he gotten them from some other source?
I'm, I'm trying to figure out how we knows those are Mr. Blackwell's.
MR. McGUIRE: Well, Mr. Blackwell's family gave these

back to Pastor Rice.

THE COURT: So, they came -- so, he didn't keep these records?

MR. McGUIRE: Oh, no, no. His -- Mr. Blackwell's family kept these records and they gave them to Pastor Rice saying Ricky kept all the, the---

THE COURT: So far there's been uncontroverted testimony that he attended church and was a Christian. I'm not sure -- is this just cumulative?

MR. McGUIRE: No.

THE COURT: Well, tell me how this is different.

MR. McGUIRE: This shows a man's active participation in service. This is what was passed out and this is his active participation.

THE COURT: Well, I said there's been uncontroverted testimony that he participated in church and went there.

MR. McGUIRE: So---

THE COURT: I hadn't heard anything that said he didn't.

MR. McGUIRE: Right. Well, I guess my response would be I can't understand the prejudice of putting in evidence of exactly what's been testified to.

THE COURT: Well, at some point in time we're -- it's proving things over and over again. It becomes cumulative. That's one of the things that concerns me.

SOLICITOR BARNETTE: Your Honor, and I just want to make sure I'm clear because I was listening to the witness. He said 1998?

THE COURT: Yes, sir.

SOLICITOR BARNETTE: I mean this happened 11 years after the fact of these letters, and if I heard the witness correct, and I want to make sure the jury's not present so I'd like to make sure I'm clear about this, he quit coming to church in 1998?

THE COURT: That was his testimony. You'll get a chance to cross-examine him.

SOLICITOR BARNETTE: I know.

THE COURT: You will get a chance, Mr. Barnette.

SOLICITOR BARNETTE: I just want to make sure I'm clear. I don't want to ask any improper -- cause the jury's not here.

THE COURT: If you have an objection, talk to me. You don't talk to the witness.

SOLICITOR BARNETTE: Oh, I know. I'm just trying to verify for the Court and everybody else I heard that correctly.

THE COURT: I'm gonna allow it in, Mr. McGuire. But this -- you know, proving things over and over again is not necessary in Court unless somebody is somehow challenged that. I haven't heard that yet. I'm gonna allow it in.

Bring the jury in.

Of course, you can cross-examine him on it.

SOLICITOR BARNETTE: Yes, sir, and I may have to ask these questions. I mean---

THE COURT: We'll get there.

SOLICITOR BARNETTE: Yes, sir.

THE COURT: You can bring them in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. You may proceed.

MR. McGUIRE: Thank you, Your Honor.

Move No. 37 into evidence.

THE COURT: Subject to the State's objections, it will be admitted.

(WHEREUPON, Defendant's Exhibit No. 37 was received into evidence at this time.)

CONTINUED DIRECT EXAMINATION

BY MR. McGUIRE:

Q Pastor Rice, I'm passing over to you some work that, that I think Ricky did in your church, is that right?

A I'm sorry. I didn't understand you.

Q Okay. What's been marked for ID -- in evidence as No. 37 I believe --

A Thirty-seven.

Q -- it looks like this is some church work that Ricky

did in your church?
A Yes.
Q Okay.
A Yes.
Q And my understanding is, instead of having a little pamphlet that describes your order of service that day, sometimes you hand out sheets and it's almost like a little test?
A I do this for every service, Sunday morning, Sunday evening. I have my outline. I give them my outline and I leave blanks so they can fill in it. That way I know they're not sleeping on me.
Q So, so, this is almost like a little quiz that people can take as the sermon goes along?
A I -- some -- several people asked me if I would do this and they take it home and use it in their devotions, discuss it, and everybody in the church has a little notebook.
Q And these, these are Ricky's?
A Yes.
Q And I think you told me about a story one time when you went to visit Angie and Ricky and Ricky was learning his Bible and Angie had a dictionary opened.
A Yes, sir.
Q And---
A I took some school material to them one evening and,

when I knocked on the door, Ricky said who's there and I told him, and he said come in, and Ricky was in his Lazy Boy with a big family Bible and Angie was propped up on the couch with a dictionary and a pad of paper.

Q Okay.

A They were reading scriptures and she was looking up words they didn't understand.

Q And, and when Ricky, when Ricky went to, to jail, I think you're the man that provided him a Bible?

A Yes, we tried -- our church sent him a Bible, and the jail wouldn't accept it because it wasn't from a publisher. It was from a distributor, and I finally got a hold of Zondervan and asked them if they would, if I sent the Bible back to them, would they send it and the man said he would if I'd paid postage, and we sent him a Children's Bible.

Q Why a Children's Bible?

A Because he had a hard time understanding what he was reading.

Q But he still tried?

A And he told me, he told me, while I visited him in jail, he said I read a Proverb everyday, and I read -- and I gave him references or books to read, and he said I still can't understand a lot of it.

Q Did Ricky talk to you about -- regarding this incident, and, and, and this shooting and what he did?

Has he talked to you about getting straight with God and forgiveness?

A Yes, the first time I went to the jail to talk with him, he honestly said, he said I did it, but I don't remember doing it. Said I only -- the first I remember of what happened I was in the hospital, and I talked to him about forgiveness. I told him that God forgave David for murder, and God can forgive him, and I took him down the road of repenting, and prayed with him, and he said he'd -- the burden of guilt was gone. The next time I went to see him he said I've -- God's forgiven me, but I can't forgive myself.

(WHEREUPON, a photograph was marked as Defendant's Exhibit No. 38 for identification purposes only at this time.)

MR. McGUIRE: Your Honor, if the witness could step down?

THE COURT: Yes, he may.

Q Pastor Rice, if you would, join me down here.

A (Witness comes down from the stand.)

Q I'm gonna hand you what's marked No. 38.

Do you recognize this?

A Yes, sir, that's when I dedicated Heather's and Mark's baby.

MR. McGUIRE: And move this into evidence.

THE COURT: Any objection?

SOLICITOR BARNETTE: Subject to the previous objection.

THE COURT: Subject to previous objections, it will be admitted.

(WHEREUPON, Defendant's Exhibit No. 38 was received into evidence at this time.)

Q Is that Ricky over here?

A That's Ricky.

Q And where is this taken?

A In the sanctuary of our church.

Q Okay. You can go back up to the stand.

A Yes, sir.

(Witness returns to the stand.)

Q Now, now, Angie and -- Angie and Ricky had Heather and Bud in your Christian school?

A Yes.

Q And after a while Heather left the school and she was the last child to leave, correct?

A Yes.

Q And that -- about that time, that's around 1998 or so?

A Right.

Q And, and the family stopped coming to church as a family at that time?

A Right.

Q But when Angie left Ricky, he started coming not only

to church but to see you almost everyday?
A Not when they left the church. He, he came back to church for several Sundays, but he didn't come to visit my home, no.
Q No, no, I mean -- not when, not when they took the kids out of the school.
When Angie, when Angie left Ricky, and started dating Bobby Center, that's when Ricky started to come back?
A He came, he came to my house everyday for three or four weeks between 3:00, 3:30, and leave about 5:30.
Q And when this happened, you were out of town?
A Yes, sir. Well, I wasn't out of town. I was out of town the week before.
Q Okay. And there was a little break in your counseling---
A Right.
Q ---Ricky?
A Right. I left on a Monday to go to a meeting in Alabama. I told him if he needed me to call me, that I'd be hard to contact. But if he'd call me I'd get back with him. He didn't call and I didn't contact him.
Q When you heard about this, when you heard about, about this incident, the shooting, what did you think?
A I was surprised. I knew he was emotionally disturbed. He wasn't the man that I first met, and -- but I couldn't

believe he did it. I just couldn't believe it.
Q That's all for you, sir. Thank you.
THE COURT: Any questions?
SOLICITOR BARNETTE: Yes, sir, just a couple on follow-up, Your Honor.
THE COURT: Yes, sir.
CROSS-EXAMINATION
BY SOLICITOR BARNETTE:
Q Reverend Rice, just wanted to ask you a few questions. I know, when the jury went out, we -- there's -- Mr. McGuire asked a few more questions. I just want to follow-up with those questions just to make sure it's clarified.
These items that they're introducing, this is prior to 1998?
A That's correct.
Q Right.
So, these items was given to the church -- I mean was at your church from 1998?
A Yes.
Q Or before that?
A Right.
Q Somewhere around that range.
And when Heather left, left y'all's school, they quit coming to your church in 1998---
A Yes.

Q ---is that right, as a family?
A (Witness nods affirmatively.)
Q So, you really -- I mean I guess you saw them off and on at different times obviously because did Mr. Blackwell, Cletus Blackwell, then continue---
A Yes.
Q ---to come to your church?
A Yes.
Q So, but they weren't coming to your church, Ricky and Angie, was not coming to your church --
A That's correct.
Q -- on a regular basis?
So, you didn't see Ricky until after -- when did you first see him come back to you I guess is the better question?
A When he, he knocked on my door and told me that Angie had left him.
Q So, that's when he came and talked to you?
A Yes.
Q That's when he -- did he start coming to church after that?
A Yes.
Q Okay. I just, I just wanted to clear that up cause I didn't quite understand it. I wanted to make sure the jury understands that too.

A Yes.
Q Thank you, sir.
SOLICITOR BARNETTE: Nothing further, Your Honor.
THE COURT: All right, sir. You may step down.
THE WITNESS: Thank you, sir.
THE COURT: You wish to excuse the witness?
Any objection to his being excused?
SOLICITOR BARNETTE: No, sir.
THE COURT: You're free to go if you'd like, sir. Thank you for coming.
MR. McGUIRE: Judge, could we approach on a matter of scheduling?
THE COURT: Yes, sir.
(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)
THE COURT: All right. Ladies and gentlemen, we're gonna have a short break. We've got a pause in the witnesses about fifteen minutes long. So, bare with us while we're doing that.
Now, I'm gonna put you to work a little bit while you're back there. It looks like we may go over to in the morning. I don't know for sure. But, at this point in time, I'm going to ask that you discuss among yourselves how you would like to handle tomorrow. Tomorrow is Sunday. You'll not be going to a formal church service. That would --

you'd be out in the public and people would be around, and then maybe things might be said there that you shouldn't hear.

So, at any rate, but if you'd like -- if any of you would like to have some time to perhaps get together, conduct a prayer service, or something of that nature, certainly would be happy to allow you to do that. We do plan to work tomorrow, if necessary. So, we could start a little later than nine o'clock if you'd like to do that. But I'm gonna leave that up to you folks as to how you'd like to handle that.

Talk it over. I'm sure the foreman will let me know how you wish to proceed. You can let me know by, by telling Sandy and he'll let me know how you'd like to do that, and we certainly respect your wishes. We're not trying to force anybody to have religious services, but we certainly don't want to prevent you as well. So, in that regard, we'll allow you sometime if you'd like to do that.

All right. I'm gonna ask you to step back to the jury room. Don't discuss the case unless I've asked you to do so.

You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Court will be in recess

briefly.

Please remain seated while the defendant retires.

(WHEREUPON, a short recess was taken at this time.)

(WHEREUPON, eight photographs were marked as Defendant's Exhibit Nos. 39 through 46. A notebook was marked as Defendant's Exhibit No. 47. All of the above exhibits were for identification purposes only at this time.)

THE COURT: Yes, sir.

SOLICITOR BARNETTE: Yes, sir.

Judge, they've shared some items with me that I have objections to. The first one I'll take up, I believe they have -- and there's some picture I have a general -- I mean I know the Court's gonna overrule me on it, the pictures of the family and so forth. I understand that.

They've handed up this Defendant's Exhibit No. 47, which is pictures -- I mean stuff from -- letters from the kids and everything. I turn around, the back of the first page, it says mercy walked in. I stood in the courtroom. The judge turned my way. It looks like you're guilty. Now what's my story say. I spoke up, Your Honor. I have no defense, but when mercy -- that's when mercy walks in. I mean I -- all these letters are---

THE COURT: What is that, what is that from?

SOLICITOR BARNETTE: It's a -- I'll hand it up to the

Court and it's on the back of the first page, and I mean I understand doing all that, but I think putting that back in the courtroom, I mean that's obviously their prerogative. They don't need to be told that. The Court will actually give that instruction to them, but I think it's a group of letters from their children or different people from them. Some of those folks have already testified I think. Heather has wrote a letter too and she's already testified.

So, I think it would be very cumulative. I think it's outside the proper mitigation. I mean it's even -- basically commenting on the law that the judge will give to the jury to rule in the case.

THE COURT: Yes, Mr. -- are you gonna argue it, Mr. Allen?

MR. ALLEN: Yes, Your Honor, I am. I am.

Essentially, the testimony's gonna be that he gets a number of letters or a lot of letters from a variety of people not only in the, the community, the church community, his family, and that's just a small sampling of some of the letters that he receives. Some of the people have testified such as Heather and Brittany Fowler.

THE COURT: Yes, sir, some of these people have already testified.

MR. ALLEN: Some have not. Well, it's just---

THE COURT: One of them in here is entitled life

lessons.

Have you reviewed all of them?

MR. ALLEN: I have not. I have not. They were---

THE COURT: I don't think I'm letting that in. If people are here they can testify and they can certainly state that they wrote letters to him and they're very friendly. But some of the information in there is, is information that I don't think would be proper mitigation evidence.

MR. ALLEN: Yes, sir.

THE COURT: I'm gonna exclude it.

MR. ALLEN: Very well.

THE COURT: Unless you want to go through and clean it up.

MR. ALLEN: Okay.

THE COURT: It's gonna take you reading every one of them and going through each one of them and picking them out.

MR. ALLEN: Yes, Your Honor.

MR. McGUIRE: Yeah, I think we request the time to, to pick out one or two that would be pertinent.

SOLICITOR BARNETTE: And, obviously, Your Honor, that's hearsay. I mean it's---

THE COURT: Well, again, I -- these people have been on the stand. They can testify as to what letters they sent.

They didn't.

MR. ALLEN: Yes, Your Honor. I will hand this back to my team to --.

THE COURT: All right. I'm not accepting it in that form.

MR. ALLEN: Yes, Your Honor.

THE COURT: You can take a look at it, but it's a -- it has a lot of personal impressions and beliefs and information in there that, that are theirs personally. Not necessarily Mr. Blackwell's. I know they were sent to Mr. Blackwell. They certainly can testify that they correspond with him regularly, but a great deal of that is basically testimony -- basically -- it's testimonial information from people who have already been witnesses in this case and could of been asked about those things if it was relevant.

So, I'm not gonna allow it in in that form.

SOLICITOR BARNETTE: The second thing, Your Honor, they showed me a box. They're not gonna enter this into evidence, but there's a box actually behind the lady sitting at the table there I believe, and it consists -- I'll let them pick it up because it's their exhibit or whatever. I don't know if it's even an exhibit. They haven't marked it. But it consists of -- it looks like a hundred letters, maybe more, from people that's just wrote him at the jail.

I don't think it has any relevance whatsoever. They just want to show it. Mr. McGuire may describe what he wants to do with it, but he mentioned it to me, which I appreciate, but obviously I think that would be totally improper just showing letters to start with that has no relevance to this.

THE COURT: Yes, sir.

MR. ALLEN: This is used -- to be used as demonstrative, Your Honor. The testimony from the next witness will indicate that Ricky gets a lot of, again, as I've indicated, a lot of mail and so much that he can't keep it all or not allowed to keep it all in his property in the jail. And so that he releases it to his mother, Mrs. Blackwell, and she has saved it. This is not all of it. This is a portion of it.

THE COURT: Well, are you just gonna point to it and say there's a box full of letters that he's gotten that we had to take?

MR. ALLEN: Yes, Your Honor.

THE COURT: Okay. All right. It's not -- if you're not putting it into evidence I don't need to rule on it. They can testify about it. But otherwise we'd have to go through -- if you try to put it in, we got to go through each letter and see what they all say and---

MR. ALLEN: No, I'm not doing that.

THE COURT: I don't -- and I don't intend to do that either.

MR. ALLEN: We're just really gonna use it as a demonstrative of an example of, a small sample of the letters he receives.

THE COURT: Okay. They don't plan to put that in, Mr. Barnette. So --.

SOLICITOR BARNETTE: Okay. I just -- I don't want any outside influence -- opinions basically. You know, it's still a jury trial. I think he can---

THE COURT: Well, I understand that and they said they're not putting that into evidence. It's simply to be used to show how many people are writing and how much correspondents he's been receiving. They have a right to testify about that --

SOLICITOR BARNETTE: Thank you, Your Honor.

THE COURT: -- without putting the letters themselves in.

All right. Anything else we need to talk about before we go forward?

MR. ALLEN: Yes, Your Honor.

With the next witness, I also intend to introduce the photograph that we had alerted the Court to before. I believe it's Defense Exhibit No. 20.

THE COURT: Uh-huh. (Affirmative).

MR. ALLEN: And so I wanted to alert the Court to it again that we intend to offer it into evidence.

THE COURT: Yes, Mr. Barnette.

SOLICITOR BARNETTE: Yes, sir, we would definitely object to it, Your Honor. I don't think it's proper mitigation evidence and obviously the inference they're doing with it is, it's a gentleman -- I'm assuming it's a grandfather in the casket. I don't know. It has the American flag on it. It has the defendant touching his hand. They're gonna put it in front of the jury to basically, you know, here's an individual. You're getting ready to put him in the exact casket.

I think it's totally improper, highly prejudicial, not proper mitigation evidence, and highly prejudicial---

MR. ALLEN: Your Honor, again, we believe that---

SOLICITOR BARNETTE: ---and not relevant.

THE COURT: Now, Mr. Allen.

MR. ALLEN: Okay.

SOLICITOR BARNETTE: I apologize.

MR. ALLEN: And I apologize if I cut Mr. Barnette off.

But we believe that it shows Mr. Blackwell at a tender moment. This is a photograph of, as I understand it, Angie's grandfather at his funeral, and we just believe it just shows Mr. Blackwell at a tender moment and we ask to put it in.

THE COURT: Well, there's been a lot of family photographs put in and, and video showing him in tender moments and as a family person. I do have a concern, since this is a death penalty case, that shows a corpse in a casket. I'm gonna exclude it as its prejudicial effect would outweigh it's probative value, and it would be cumulative.

I mean there is a large number of photographs already been allowed in by the Court which do show him in family moments and things of that nature, and I find the prejudicial effect of that would outweigh its probative value given the weight of the other evidence that's already gone in.

So, I'll exclude that. It's been marked for ID purposes.

MR. ALLEN: Yes, Your Honor.

And, also, with this witness, we'll put in the telephone calls as well as there's gonna be discussion about that. I'm not sure if they're gonna object to that or not.

SOLICITOR BARNETTE: Well, obviously I know about the phone calls. I won't object to, to -- obviously they're phone calls from the jail. I do agree with that. They are going to show a records keeper about that.

Of course, we have our general objection to it, Your Honor, being hearsay, not being proper mitigation evidence

and it's basically him talking, I believe, to Larry Blackwell and some of his other family members. We don't think that's relevant because, obviously, like Heather, I think on it or perhaps or maybe a grandchild or something like that, and those people could of been called as witnesses in this case.

THE COURT: Well, they were described. Now, I have not listened to them. They were described to me as photographs -- I mean not photographs, but telephone conversations with family members talking about family issues or just general discussions. They would serve, I would think, to show his relationship with his family. I'm told that they're not being offered for the truth of any matter asserted in them.

Is that correct, Mr. Allen?

MR. ALLEN: That's correct, Your Honor. Again, it's just to show Mr. Blackwell's relationship first with Jerry Wayne Blackwell, who was the, essentially the stepfather of his former wife, Angie Davis. Mr. Jerry Wayne Blackwell died within a days after that particular telephone conversation. I may stop that conversation at some point, but we are offering it to put the whole thing into evidence.

THE COURT: All right.

MR. ALLEN: The second phone call is primarily with his grandson, Caleb.

THE COURT: All right. And these are from the jail records, is that correct, Mr. Barnette?

SOLICITOR BARNETTE: Yes, sir, I'm not -- I don't object on that ground.

THE COURT: You're not objecting to their authenticity?

SOLICITOR BARNETTE: Correct. Yes, sir.

THE COURT: Okay. Well, since they are not being offered for the truth of the matter asserted, I do not find that they constitute hearsay and I will allow them in.

MR. ALLEN: Thank you, Your Honor.

THE COURT: All right.

MR. ALLEN: We're ready to proceed.

THE COURT: All right. Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. The record will reflect that the jury has returned to the courtroom.

The defense may proceed with its next witness.

MR. ALLEN: Thank you, Your Honor.

We call Mildred Blackwell to the stand.

THE COURT: Come forward, ma'am, to my left and be sworn.

MILDRED BLACKWELL, having been first duly sworn, testified as follows:

THE COURT: Ma'am, have a seat in the witness stand

please.

(Witness complies.)

THE COURT: State your name.

THE WITNESS: Mildred Blackwell.

THE COURT: Thank you, ma'am.

Mr. Allen, your witness.

MR. ALLEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY MR. ALLEN:

Q You, you are Ricky Lee Blackwell's mother?

A Yes, sir.

Q And I'm gonna show you some photographs. Specifically Defense Exhibits 39 and I'm gonna ask you, at the end of -- after I show you things, if you recognize these photographs.

Okay?

A (Witness nods affirmatively.)

Q Defense Exhibit 39, 40, excuse me, 41, 42, 43, 44, 45, 46.

Did you recognize -- do you recognize these photographs?

A Yes, sir.

Q And are they family photographs showing Ricky at various times?

A Yes, sir.

MR. ALLEN: Okay. May I offer these into evidence at

that time, Your Honor?

SOLICITOR BARNETTE: Subject---

THE COURT: Subject to your general objections?

SOLICITOR BARNETTE: Yes, sir.

THE COURT: All right. They'll be admitted as marked.

(WHEREUPON, Defendant's Exhibit Nos. 39 through 46 were received into evidence at this time.)

THE COURT: You may proceed.

MR. ALLEN: Thank you, Your Honor.

Q Okay. We're looking at -- I want to show this to you first.

Can you tell us what this photograph shows?

A That's Ricky.

Q At what age?

Do you know?

A He was about -- I'd say he's about five there.

Q Defense Exhibit 40.

A That's Ricky and Don.

Q That would be his brother, Don?

That's his brother?

A That's his brother.

Q Okay. Which, which one's the older one?

Which one?

A That's Ricky and that's Don, the one that died.

Q Okay. So, Donald looks like he's sitting on a tricycle

or a bicycle and Ricky's---
A Yes.
Q ---got the plaid shirt on?
Defense Exhibit 41.
A That's, that's my husband and me and Ricky and Don.
Q Defense Exhibit 42.
A That's Ricky.
Q And what is that car that's in this photograph?
A That there is my sister's husband's car. I don't know what kind it is.
Q I didn't mean what kind it was necessarily.
A Oh.
Q But it's your sister's husband's car?
A Uh-huh. (Affirmative).
Q Do you know where this was taken?
A Let me see. That's over there at my sister's I think.
Q Over at your sister's house.
Then---
A That's Ricky.
Q ---this is forty -- this is Defense Exhibit 43.
Is this a school picture?
A Yes, sir.
Q About what grade?
A Probably about sixth. Fifth or six.
Q Forty-four.

A That's my husband and myself and my two boys, Ricky and Don.
Q Okay. About how old are, are Ricky and Donald in this picture?
Do you know?
A Ricky was about -- I'd say he's about 17 there, and Don was probably about 15 or something like that.
Q Okay. Defense Exhibit 45.
A That's Ricky.
Q About how old?
A I'd say he's about seven or eight.
Q And Defense Exhibit 46.
A That's Ricky and the little McKenzie.
Q McKenzie?
A McKenzie, the baby, the little girl. Ricky's -- Heather's little girl.
Q Okay. And that's Heather's youngest child?
A Yes, it is, the baby girl.
Q And do you know approximately how old Heather was, I mean, excuse me, McKenzie was at this time?
A No, I don't.
Q Obviously very small.
Okay. Mr. Blackwell, since Ricky has been in jail, you've gone to visit him a lot, right?
A Twice a week till they cut us down to one time a week.

Q Okay. And do you, at times, pick up some items that are in his what the jail calls his personal property?
A Yes, sir.
Q Tell us about those items.
A Well, he, he's got -- he had about six or eight bags of letters and, and cards that people, friends and neighbors and all, they send him to the jail and I've got them.
Q Why do -- why does he release them to you?
Do you know?
A They have -- he can't keep them at the jail but so long, and then he has to let his parents pick them up.
Q And what have you done with those letters and cards and mail that you pick up?
A I've, I've had them in the closet.
Q Okay. Did you bring some to Court today?
A Yes, sir.
Q Are they contained in -- are they in this box, Mrs. Blackwell?
A Part of them. Part of them's still at home.
Q What kind of a -- is this the largest part or is there -- or what?
A No, they's -- they still more at the jail too.
Q Mrs. Blackwell, earlier I had you listen to a couple of phone calls.
Did you recognize the voices on those phone calls?

A Yes, sir.
Q And play -- that first one that I played for you, do you -- whose voices are on that?
A That's Jerry Wayne Blackwell.
Q And who is Jerry Wayne Blackwell?
A That's Angie's dad.
Q Okay. And -- Your Honor, we've had the envelope that the CD, which is in my computer---
THE COURT: Yes, sir.
MR. ALLEN: ---marked as Exhibit 48. We move that into evidence at this time.
THE COURT: All right. Subject to your prior objections, it will be admitted.
MR. ALLEN: Thank you, Your Honor.
(WHEREUPON, State's Exhibit No. 48 was received into evidence at this time.)
THE COURT: You may proceed.
MR. ALLEN: Thank you.
THE COURT: You may publish.
Q And the other voice you heard on the phone was Ricky?
A Was Caleb and Ricky.
Q Okay. Well, I'm talking about the first one first and then the second.
A Oh, that was Jerry Wayne Blackwell.
Q Jerry Wayne Blackwell?

A Uh-huh. (Affirmative).

Q Okay. I'm gonna play this first one.

(WHEREUPON, a portion of Defendant's Exhibit No. 48 was played for the jury at this time.)

THE COURT: Does she need some time to compose herself?

MR. ALLEN: Possibly, Your Honor.

THE COURT: Let's turn it off.

I'll ask the jury to step back to the jury room. Please don't discuss the case until such time as I've advised you or asked you to do so.

You may retire.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: We'll take a short recess to allow the witness to compose herself.

Ma'am, you may step down if you'd like.

SOLICITOR BARNETTE: Your Honor, I would make a motion to not have to sit there if we're gonna play the tapes and put her back on the stand until after the tapes are played cause I think it's highly -- I mean she's cried the whole time when the tape's going.

MR. ALLEN: We can---

THE COURT: She's been crying the whole time. I mean I, I don't know what purpose that serves.

MR. ALLEN: I'm not trying to make her cry, Your Honor,

but---

THE COURT: I didn't say you tried to. It's just what's happening.

MR. ALLEN: Yes, sir. What we could do, if the Court please, is if she can be removed from the stand. I'll have one question after I play both tapes. If you want to, we can do the tapes.

THE COURT: All right. Let's have her sit out in the gallery.

MR. ALLEN: Okay.

THE COURT: She's not testifying right now other than she's---

MR. ALLEN: No, sir.

THE COURT: ---demonstrating before the jury.

MR. ALLEN: That's correct. So, so, she can sit in the gallery while we play the tapes---

THE COURT: Yes, she can.

MR. ALLEN: ---or even outside.

THE COURT: Ma'am, if you'll step down and have a seat out in the gallery.

SOLICITOR BARNETTE: Thank you, Your Honor.

THE COURT: She -- apparently it's too much for her to be up here.

MR. ALLEN: Your Honor?

THE COURT: You want to talk with her to see if she's

gonna be able to resume?

MR. ALLEN: Right. That's what I'm gonna---

THE COURT: Please do.

MR. ALLEN: ---ask permission for us to do since she's---

THE COURT: I'm gonna stay on the bench. Just let us know when you're ready.

(Pause.)

MR. ALLEN: Your Honor, she tells me that she thinks she can be all right seated where she is. I took it upon myself to tell her that if she feels like she's gonna start crying again to step outside, even while it's playing, if she does so quietly.

THE COURT: I understand it's an emotional situation, but it's, you know, it's not for a demonstration in front of the jury.

MR. ALLEN: Right. I understand, Your Honor, but if she can step outside. But I did tell her that there was gonna be another question for her after I played both tapes.

THE COURT: All right.

MR. ALLEN: So, if she needs to compose herself.

THE COURT: All right. Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Ladies and gentlemen of the jury, I've

excused the witness from the witness stand for the playing of the tape.

You may proceed.

MR. ALLEN: Thank you, Your Honor.

(WHEREUPON, the remainder of State's Exhibit No. 48 was played for the jury at this time.)

MR. ALLEN: Beg the Court's indulgence for a moment.

THE COURT: Yes, sir.

(Pause.)

MR. ALLEN: If we may have Mrs. Blackwell to resume the stand.

THE COURT: She may.

(Witness returns to the stand.)

MR. ALLEN: May we approach, Your Honor?

THE COURT: You may.

(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)

CONTINUED DIRECT EXAMINATION

BY MR. ALLEN:

Q Mrs. Blackwell, I want to know if there's anything else you want to say to this jury about your son.

A He's a wonderful son, honey, and I just -- if you only knew my son like I have for 55 years that he's been here with me you would say that he's a wonderful son. I couldn't of asked for a better son than what I've got, and, and I, I

just love to ask you to spare his life because I know that something happened to him that day, and he would of never did that to that child cause he loved children too good and children love him too good, and I'd love for y'all to spare his life.

MR. ALLEN: Your Honor, with the exception of that---

THE COURT: All right. I'll ask the jury to retire to the jury room. Don't begin any discussions until I've asked you to do so. I have to take up something up with the lawyers.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Has the State seen what you're tendering?

MR. ALLEN: I've shown it to the State, but I'll save everybody a little bit of time. I consulted with Mr. McGuire just briefly and we'll withdraw the request to put that in.

THE COURT: All right. Thank you.

MR. ALLEN: And that would have been the last question I'm asking of this witness.

THE COURT: All right. I'll let you have those back.

MR. ALLEN: Thank you.

Can Mrs. Blackwell be excused from the stand?

THE COURT: Yes, she may step down.

Do you wish to ask questions?

THE WITNESS: Mr. Clay?
MR. ALLEN: Excuse me.
THE COURT: Does the State wish to ask questions?
SOLICITOR BARNETTE: No, sir.
THE COURT: Okay. Well, you can step down, ma'am.
MR. ALLEN: Well, I've forgotten about the cross-examination. I'm terribly---
THE COURT: They do have that right, yes, sir.
MR. ALLEN: I'm terribly sorry.
THE COURT: All right. You can step down, ma'am.
THE WITNESS: Could I say one thing?
THE COURT: No, sir, you can step down.
THE WITNESS: Okay.
THE COURT: Next witness is?
MR. ALLEN: I believe that's -- I believe we have no more witnesses, Your Honor.
THE COURT: All right. State ready to proceed?
SOLICITOR BARNETTE: Your Honor, we have a matter we need to take up. It probably would be a good time. We'd like to proffer something in front of the Court before it's actually put in front of the jury.
We'd like to call Cletus Blackwell to the stand again---
THE COURT: All right.
SOLICITOR BARNETTE: ---and clear up something from his

previous testimony.

MR. McGUIRE: And, judge, we just have to renew one motion before we formally rest in front of the jury, and that's the, the matter with Angie Blackwell's mental health records. We were prepared to also move them into evidence in penalty. I understand your ruling. I'm not arguing with your ruling. I'm just---

THE COURT: Well, I asked you for any information that you might be able to provide me with -- that would indicate that she has waived her privilege.

MR. McGUIRE: Yeah, I'm, I'm unable to do that. So, we would just move them, not just in the guile phase, but also the penalty phase. I understand your ruling. Our objection would be the same grounds.

THE COURT: All right. And I ruled she had a privilege in that information, and I'll still rule the same way.

MR. McGUIRE: And the only thing I would add to that is that we would also add an Eighth Amendment ground with regard to the chain -- our motion, our objection because it's the penalty phase.

THE COURT: Oh, I understand that. Now---

SOLICITOR BARNETTE: I'd like to proffer this, Your Honor. I think it's proper rebuttable in this situation or reply testimony in this way. I think we need to clear up a question that was asked to him earlier as to a certain

individual I asked him about.

THE COURT: All right. Well, now is it---

SOLICITOR BARNETTE: Mr. Blackwell, Cletus Blackwell, the father.

THE COURT: Cletus Blackwell.

Mr. Blackwell, return to the stand please, sir. The State wishes to make a proffer concerning your testimony.

SOLICITOR BARNETTE: And, Your Honor, I'd like to present this in front of the jury, but I think we need to be able to get---

THE COURT: I'm getting a lot of messages. Give me a second.

(Pause.)

THE COURT: Mr. Blackwell, you remain under oath at this time.

Mr. Blackwell, you remain under oath at this time.

You remember you're still sworn to tell the truth?

Do you understand that you're still sworn to tell the truth?

THE WITNESS: Yes, sir.

THE COURT: Okay. Have a seat.

(Witness returns to the stand.)

SOLICITOR BARNETTE: May I approach the witness, Your Honor, to be able to talk to him?

THE COURT: You may.

SOLICITOR BARNETTE: Thank you.

CLETUS BLACKWELL, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BARNETTE:

Q Mr. Blackwell, I asked you about if you knew a Reggie Frye earlier and you said no.

A Yeah.

Q But do you know him as Ritchie?

A Yeah, I know him.

Q You do know him?

A Yeah.

Q And---

A I met him out there just now.

Q Okay. That's what I wanted to clear up.

Is he the -- if you would, Mr. Frye, stand up.

(WHEREUPON, a gentleman in the courtroom stands.)

Q Is he -- is that the gentleman you know as Ritchie?

A Yeah, I know him, yeah.

SOLICITOR BARNETTE: Please be seated, sir.

(WHEREUPON, the gentleman complies.)

Q Isn't it true you talked to him about three weeks after this event happened, the murder happened in this case?

A I can't remember.

Q Okay. Isn't it true you told him that you hid -- you

locked up the gun from him because he was afraid he was gonna hurt somebody?

A No, I can't remember.

Q You can't remember?

A No.

Q So, you don't know if you did or not?

A No, I don't know.

Q You don't know?

You can't remember?

A No.

Q Let me make sure I asked it right.

Didn't you say to him that you'd taken up all the guns from Ricky because he was afraid he was gonna hurt somebody?

A I can't remember.

Q You can't remember?

A I -- no, I didn't -- I don't think I said that.

Q You don't think you said that, but you know Ritchie and you've talked to him before, is that right, sir?

How long have you known Ritchie?

A I knowed him down there at Mayo working.

Q Yeah.

You worked with him over the, over the years?

A Worked with him some down there, yes.

Q Yes, sir.

In the trucking industry and I think he works at Lowe's

now?
A Yeah.
Q He does.
So, you know him and you have talked to him in the past?
A (Witness nods affirmatively.)
Q Yes, sir.
Is it that you don't remember?
A I don't remember.
Q Okay. Thank you.
And, of course, that's been almost four and a half years ago?
A Yeah, been -- I can't remember.
Q Okay. Thank you, sir.
THE COURT: You wish to ask any questions?
MR. McGUIRE: No, sir.
THE COURT: All right. You may step down, Mr. Blackwell.
SOLICITOR BARNETTE: Your Honor, I'd like to proffer Mr. Frye at this time.
THE COURT: Well, are we gonna do this in front of the jury or are you gonna---
SOLICITOR BARNETTE: Well, if you'd like me to. I didn't know -- I was just being overly---
THE COURT: I don't know if there's any objection---

SOLICITOR BARNETTE: ---cautious.

THE COURT: ---to his testimony or not. I haven't heard that yet.

You plan to call him as a witness?

SOLICITOR BARNETTE: Yes, sir, I do.

THE COURT: Is there an objection to him being offered as a witness in rebuttable or reply?

I assume he's gonna testify concerning some kind of conversation he had with Mr. Cletus Blackwell.

MR. McGUIRE: I do have an objection. First off, this is, this is clearly guilt phase type evidence. Has nothing to, to do with the penalty phase of the case.

SOLICITOR BARNETTE: Yes, sir, it goes to premeditation.

MR. McGUIRE: Well, it's also hearsay.

SOLICITOR BARNETTE: No, sir, it will not be hearsay. It will be direct reply to Mr. Blackwell's testimony.

THE COURT: He never denied the statement. It's not a prior inconsistent statement. He never denied it. He hasn't admitted it.

MR. McGUIRE: Right.

THE COURT: The rule, the rule reads that he has to admit it before you can't bring in extrinsic evidence.

Isn't that the way the rule reads?

MR. McGUIRE: Well, he's certainly not -- he's

certainly not denied it and my understanding is he didn't have a memory of it, and, Your Honor, he did not admit it.

THE COURT: He did not admit it.

SOLICITOR BARNETTE: He did admit it at one point, but then he said he didn't remember.

THE COURT: Well, give me a second to look up the rule. I think I've got it right.

(Pause.)

THE COURT: I believe it's 613(b).

SOLICITOR BARNETTE: I think you're right, Your Honor. I think it's been used before in front of Your Honor. I believe -- I'm trying to remember the case. I think it was the Stokes case, State versus Stokes.

THE COURT: Uh-huh. (Affirmative).

SOLICITOR BARNETTE: I think the Supreme Court upheld, Supreme Court upheld, Your Honor.

THE COURT: Yes.

(Pause.)

THE COURT: Anything further, Mr. McGuire?

MR. McGUIRE: No, sir, I just noted my objection. It's, it's primarily guilt phase evidence. It should of been introduced in the guilt phase. It has very little, if anything, to do with penalty.

THE COURT: I understand the objection. I'll allow him to testify.

SOLICITOR BARNETTE: Your Honor, I think we need to call Mr. Blackwell just to establish---

THE COURT: I think you need to do that in front of the jury. So, we'll do that as soon as we call the jury back.

SOLICITOR BARNETTE: Yes, sir.

THE COURT: All right. Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. The jury has returned to the courtroom.

I believe the defense is not calling any other witnesses in this phase, is that correct?

MR. McGUIRE: That's correct, Your Honor. We'll rest.

THE COURT: All right. State wish to call witnesses in rebuttal?

SOLICITOR BARNETTE: Yes, sir, like to call Cletus Blackwell back to the stand please.

THE COURT: Mr. Blackwell, come back to the stand, sir.

Mr. Blackwell, Cletus Blackwell, come up, sir.

Mr. Blackwell, you remain under oath at this time. Please have a seat. I say you remain under oath at this.

Do you understand that?

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Mr. Barnette, your witness.

SOLICITOR BARNETTE: Thank you, Your Honor.

May I approach the witness to be able to talk to him?

THE COURT: You may. I think that was necessary last time.

SOLICITOR BARNETTE: Thank you, Your Honor.

CLETUS BLACKWELL, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY SOLICITOR BARNETTE:

Q Mr. Blackwell, I know I asked you about Reggie Frye earlier.

A Yes.

Q But I believe you know him as Ritchie Frye, is that right, sir?

A Right.

Q Okay. And he's the gentleman -- if you would, stand up, Mr. Frye.

(WHEREUPON, a gentleman in the courtroom stands.)

Q He's the gentleman right there?

A Yeah.

Q Is that correct, sir?

A I know him.

Q Thank you.

And you know Mr. -- you've worked with him before, is that right, sir?

A Yeah, I worked with him, yeah.
Q And he works at Lowe's now and you, you see him periodically -- I mean you've talked to him before in the past about things?
A Yeah, but I don't know where he works now.
Q Yes, sir.
Three weeks after the murder did you talk with Mr. Frye about this?
A I can't remember.
Q I understand.
Did you tell him, I want to make sure I read this right, did you tell him you had taken all the guns from Ricky cause you was afraid he was gonna hurt somebody?
A No, I don't. I can't remember. I don't think. I don't even remember discussing it with him.
Q I understand.
And that he broke into the gun cabinet and stole the guns or stole the gun?
Do you remember that, sir?
A He, he got them. I don't know how he got it.
Q And that was -- I know it's been four and a half years ago. I understand that --
A Yeah.
Q -- from there.
I'm sorry about asking you questions, but thank you for

taking the time to talk to me about it.

THE COURT: Defense wish to question Mr. Blackwell?

MR. McGUIRE: Yes, sir, Your Honor.

THE COURT: Yes, sir.

CROSS-EXAMINATION

BY MR. McGUIRE:

Q Cletus, do you remember when Ricky shot the hole in the trailer back in 1991?

A I can't remember that.

Q You don't remember that.

Do you remember, do you remember Ricky brought some guns to your house and he said I don't, I don't want these around me anymore, I want you to keep them?

Do you remember that?

Way -- this is a long time ago, 1991.

A I don't remember that.

Q Okay. And with regard to the pistol, the pistol that you were shown earlier, Ricky got that from your gun safe when Angie left him, right?

A Yup.

Q Okay. And that was---

SOLICITOR BARNETTE: Objection, Your Honor. He's leading the witness now.

THE COURT: Well, he is on cross. This is your witness---

SOLICITOR BARNETTE: Well, that's true.
THE COURT: ---at this point in time.
SOLICITOR BARNETTE: I apologize.
THE COURT: That's quite all right. We have switched roles.
SOLICITOR BARNETTE: Yes, sir.
THE COURT: All right. You may proceed.
Q So, Cletus, Angie left Ricky in November, around November, right?
A Somewhere along there, yeah.
Q Okay. And, and he got the gun somewhere around there back from your house, right, the, the pistol?
A I don't, I don't remember that.
Q Okay. Well, I know he didn't ask because he had his key -- remember he had Mildred's key to the gun cabinet?
A (Witness nods affirmatively.)
Q Okay. So, he didn't have to break into anything, did he?
A No.
Q He had Mildred's key?
A He had a key.
Q And some of the guns in there were his?
A Yeah. Right.
Q And he, and he took, he took, he took one when Angie left?

A Yeah, it was missing, yeah.
Q Okay. And he had, he had that for months before this happened?
A Yeah, a long time I'm sure.
Q Okay.
A I didn't even know it was gone.
Q Right.
But he had it for months, is that right?
A Right.
Q Okay. Thank you, Cletus.
SOLICITOR BARNETTE: No further questions of this witness, Your Honor.
THE COURT: All right. You may step down, Mr. Blackwell. You go have a seat in the back. You can step down, sir. Thank you.
THE COURT: State may call its next witness.
SOLICITOR BARNETTE: Like to call Mr. Frye to the stand, Your Honor.
THE COURT: Come forward, sir. If you'll come to my left, sir, and be sworn in.
REGGIE FRYE, having been first duly sworn, testified as follows:
THE COURT: Have a seat, sir, and once seated, state your name, sir.
THE WITNESS: My name's Reggie Frye.

THE COURT: Thank you.

Mr. Barnette, your witness.

SOLICITOR BARNETTE: Thank you, sir.

DIRECT EXAMINATION

BY SOLICITOR BARNETTE:

Q Mr. Frye, where do work at, sir?

A I currently work with Lowe's, Boiling Springs.

Q Okay. And what is your position there, sir?

A I'm a customer service.

Q Yes, sir.

And where do you live at, sir?

A I live inside of Chesnee City limits.

Q Yes, sir.

And what other work have you done in the past if you let the jury know?

A Well, I retired oh, eight years or so ago, and then I went to work for Mayo Global Transport.

Q Okay. And that---

A They run trucks all over the U.S.

Q Yes, sir.

And is that how you know Mr. Cletus Blackwell?

A That's where I met Cletus and took many many trips with Cletus.

Q And how many years did you know him from there?

A I've known him for the last six, seven years. Become

very fond of him.
Q Uh-huh. (Affirmative).
And I understand this is very hard for you?
A It, it is extremely hard.
Q I understand.
If you would, tell the jury about conversations, about three weeks after the murder, that Cletus had with you about what happened.
A Cletus and I had many discussions about Ricky, Ricky being in jail, his wife, you know, not sleeping, being upset. One occasion he told me that -- we were discussing what happened, how, and he said that Ricky had broke in and broke into his gun case, that they had got the guns from Ricky because he was afraid he was gonna hurt hisself or someone, and said that Ricky had broke into the gun case, got the gun, and bang, you know, the next day or so it happened.
SOLICITOR BARNETTE: One moment.
A That's it.
SOLICITOR BARNETTE: One moment, Your Honor, please.
THE COURT: Yes, sir.
(Pause.)
Q Thank you, sir, and I'm sorry that you had to testify. Please---
A It's the truth.

THE COURT: Keep your seat, sir.
Q Keep your seat. I'm just finished.
THE COURT: The defense may have some questions of you.
THE WITNESS: Oh.
Q I don't know if they have any questions or not.
THE COURT: Thank you.
Yes, sir, Mr. McGuire.
CROSS-EXAMINATION
BY MR. McGUIRE:
Q Is it Mr. Frye?
A Yes.
Q Mr. Frye, are you familiar with the incident in 1991 where Ricky, in a suicidal gesture, shot a hole in his ceiling?
A I don't know Ricky Blackwell except for after he killed the young little girl.
Q Do you know Cletus?
A I know Cletus.
Q Okay. Well, the guns went to Cletus' house in 1991.
Are you aware of that?
A No, sir.
Q You never talked to Cletus about that?
A He had made it sound like it was recent that they had gathered guns from Ricky, since his wife had left.
Q And you're not aware of Ricky taking a gun back after

his wife left?
A No, sir, Cletus never mentioned -- he only mentioned the gun case getting broke into, a gun taken. Never anything brought back.
Q Okay. Well, he says he didn't even know the gun was gone today.
A Yes, I heard that.
Q Okay. And do you know that Ricky had a key to the gun cabinet?
A All I know he said Ricky broke into it because, at that time, I am a grandfather. I am a father. Friendship means a lot to me. But when something happens to a child, I didn't want to say anything. It's eat on me for five years, and I know exactly because I went home and discussed it with my wife --
Q Well, Cletus---
A -- that day.
Q Cletus talks -- we've heard Cletus talk in Court. I can barely get him on the telephone and communicate with him, but you say this happened on the telephone?
A No, sir.
Q It was in person?
A Riding in a truck together. We took, we took trips as far as California. We went to Utah. We went all over Maine that way. We were together for many many hours at times.

Q Okay.
A And after this happened Cletus was very upset.
Q I'm sure.
A And he would confide in me.
Why -- but and I didn't want to repeat what he said.
Q Okay. Well, now you know, you know that there have been times where Ricky's been -- does Cletus talk to you about Ricky being hospitalized in the mental hospital?
A Yes.
Q Okay.
A Yes.
Q And you know that all -- you -- did he tell you or not tell you that all of Ricky's guns, in 1991, went to Cletus' house?
Do you know that or not?
A No, sir, he talked to me about Ricky's drug problems and taking the guns and his problems with his wife.
Q Well, you understand---
A It's -- you know -- but---
Q Do you---
A He didn't discuss anything Ricky had done prior to that.
Q Okay. You know the last time Ricky had any interaction with drugs was---
A I wouldn't know.

Q ---thirty-six years ago.
A I wouldn't know.
Q Is that---
SOLICITOR BARNETTE: Your Honor, I'm gonna object to that question. I don't think---
THE COURT: It's kind of away from the statement that he's here to prove -- extrinsic evidence that he was here to prove concerning the gun. We're into some other issues now and I---
MR. McGUIRE: Sure.
And, judge, my point is if Cletus is talking---
SOLICITOR BARNETTE: Objection, Your Honor.
If we want to approach the bench, I'll be glad to, but---
THE COURT: Yes, sir.
(WHEREUPON, a bench conference was held out of the hearing of the jury at this time.)
THE COURT: Ladies and gentlemen of the jury, I'm gonna ask you to step back to the jury room. Don't begin any discussions until I give you an opportunity or instruct you to do so.
You may retire.
(WHEREUPON, the following takes place outside the presence of the jury.)
THE COURT: The objection, Mr. Barnette, is?

SOLICITOR BARNETTE: Your Honor, the objection to the question was that he's talking about 36 years ago, drug use or whatever. But obviously, you know, that has nothing -- no relevance in this whatsoever. I mean this is a question of extrinsic evidence from that standpoint.

The other thing too. I don't know if that's a true statement from the question because obviously we have records and everything where he had drug use in 1990 I know because we've had Doctor Calloway talk about it from 23 years ago.

THE COURT: Well, there was a -- I think an allegation that, while he was in jail, that he was hoarding his drugs.

SOLICITOR BARNETTE: Yes, sir.

THE COURT: I think that came into evidence too.

SOLICITOR BARNETTE: I don't know if it's a proper question cause there's no foundation for it.

THE COURT: Anyway.

Yes, sir, Mr. McGuire.

MR. McGUIRE: And I think my math was a little bit off. I was thinking about 1991, around 1990. My recollection is, after '91, there's no evidence that we can find of any illicit drug use whatsoever. In fact, I think there's---

THE COURT: But this witness hasn't testified about drug use other than you asking what other things he talked about and he got into it because of your question. You took

him there.

MR. McGUIRE: Fine.

THE COURT: Well, I'm gonna let you go ahead and ask questions outside the hearing of the jury, and then I'll determine what are appropriate for this inquiry. His testimony has been about a discussion that he had with Mr. Blackwell, Cletus Blackwell, about the -- how the gun was obtained.

MR. McGUIRE: Yes, sir.

CONTINUED CROSS-EXAMINATION

BY MR. McGUIRE:

Q Sir, did Cletus ever talk to you about Ricky's cancer?

A No, sir.

Q So, you don't know anything about that?

A No, sir.

Q You said he talked about Ricky's relationship with his wife?

A Yes, sir.

Q And what did he tell you about that?

A He discussed a relationship with his daughter, his son, Cletus, Ricky's wife, that he was very possessive over her. He couldn't handle her leaving for another man, about how she brought that child to torment Ricky to go swimming that day, and it was her fault that the child was killed because she was getting back at Ricky. That's mainly what he

discussed with me on many occasions.
Q And what about this drug use?
What do you know about that?
A I have no idea. All he told me was he has a child on or child or grandchild on disability. Some of them had drug problems, and Ricky had drug problems. When, I didn't ask because the man was hurting enough without me -- I just listened. I didn't ask.
Q Did he talk to you about Ricky's employment?
A I think Ricky had been unemployed for a while, what I understood. Now maybe I got that wrong. But I, you know, I didn't ask.
Q Did he, did he tell you that Ricky carried the gun because he was afraid of Bobby Center?
A No, he never talked about Ricky being afraid of anyone.
Q Did he talk to you about that Cletus was afraid that his house was gonna burn down?
A No.
Q No?
A Never heard that.
Q Do you -- so, you don't know that, that---
SOLICITOR BARNETTE: Objection.
Q ---the Blackwell family---
SOLICITOR BARNETTE: He's already answered that question and he's going down that road.

THE COURT: Said -- he asked -- he's asked that he had no knowledge of anything about a house burning or---

MR. McGUIRE: Well, I---

THE COURT: ---or afraid about a house burning.

MR. McGUIRE: Well, I asked him about Cletus being afraid of his house burning.

THE COURT: Well, I don't know how this leads to any admissible evidence as to what Cletus may of said. That's all hearsay in this case. He's -- Cletus is not a party defendant.

MR. McGUIRE: I understand.

THE COURT: He was offered for impeachment purposes because Cletus did not admit that he made a prior statement.

MR. McGUIRE: I understand.

THE COURT: That makes his, that makes his testimony admissible under the rule.

MR. McGUIRE: I've got nothing further.

THE COURT: All right. Do you wish to examine him any further in front of the jury?

MR. McGUIRE: I don't know.

THE COURT: Well, now you---

MR. McGUIRE: Do you need to know now?

THE COURT: Well, I'm getting ready to call them back in. You -- are you -- am I calling on you for additional questions or not?

MR. McGUIRE: Call---
THE COURT: It's not, it's not a trick question.
MR. McGUIRE: Call on me and we'll go from there.
THE COURT: Bring the jury in.
(WHEREUPON, the following takes place within the presence of the jury.)
THE COURT: Now the jury has returned to the courtroom.
Mr. McGuire.
MR. McGUIRE: I don't have any more questions, judge.
THE COURT: All right, sir. You may step down.
THE WITNESS: Thank you.
SOLICITOR BARNETTE: We ask that the witness be excused, Your Honor.
SOLICITOR BARNETTE: Any objection to the witness being excused?
MR. McGUIRE: No objection.
THE COURT: You're free to go, Mr. Frye.
THE WITNESS: Okay.
THE COURT: State may call its next witness.
SOLICITOR BARNETTE: Your Honor, may we have a moment?
THE COURT: Yes, sir, you may talk.
(Pause.)
SOLICITOR BARNETTE: Your Honor, we don't have any more witnesses.
THE COURT: All right. Ladies and gentlemen -- ladies

and gentlemen of the jury, that completes the presentation of evidence in this matter in this phase of the trial. There's some things I do have to go over with the attorneys before we move to the next phase of the trial. I note that we're at five o'clock, and by the time I complete those discussions we may be substantially after five o'clock.

So, I'm gonna excuse you for the evening.

My understanding is, Mr. Foreman, that you've asked for us to convene at ten o'clock in the morning, is that correct?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. So, we'll be in recess until that time.

As always, my instructions are to you not to discuss any aspect of this case, even among yourselves or with anyone else until I advise you to begin your deliberations.

Hope you have a good evening. We'll see you in the morning at ten o'clock. You're free to go.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. There's some matters that I need to discuss with the attorneys in my chambers. I'll ask that you come back there.

We will be resuming in Court in the morning at nine o'clock. There's some matters we need to take up outside of

the jury's hearing before we can proceed.

Court is adjourned till nine o'clock in the morning.

Remain seated until the defendant leaves the courtroom.

(Whereupon, Court was in recess for the evening.)

Sunday, March 16th, 2014

THE COURT: All right. We're on the record in the State versus Ricky Lee Blackwell.

The evidence has been completed in the case, and I had a brief conference with attorneys yesterday evening concerning requests for charge. I provided attorneys, again, with copies of proposed verdict forms as well as information concerning my charge.

This morning I received a request at 8:35 this morning from the defense requesting 11 proposed instructions. However, the email indicated that these were matters that the defense may request. It didn't indicate that the defense, in fact, was requesting it.

So, what I'm gonna do, at this point, in time, I'll put on the record what is specifically being requested by both sides. We'll start with the State. I have not received any specific request from the State at this point this time.

SOLICITOR BARNETTE: No, Your Honor. We're fine with the normal charges that the Court was gonna present in this case and provided to us. The only issue we have is the mental retardation issue that the defense brought back up in chambers --

THE COURT: Uh-huh. (Affirmative).

SOLICITOR BARNETTE: -- and I requested the charge and

I'll let Mr. Ghent -- and the main, the main problem we've got is we're -- there's no law on it as you know I mean from that standpoint. They're looking at Laney and basically they're arguing mental retardation, once it's proved by a preponderance of the evidence, that it's a bar to the death penalty.

The concern we've got is they're placing a burden on the defense that the defense technically, by law, don't have any burden to show, and that's the only concern, and I understand the Court's mindset in there because I have seen what is reported in that case, but I'll let Mr. Ghent follow up on that, but that was just putting it in a nutshell.

THE COURT: Well, why don't we get the defense's position in regard to the, the question. Obviously they're two cases in South Carolina that have, to a certain extent, interpreted the meaning of Atkins on our state jurisprudence. That is the Franklin case, which was decided in December -- I guess it was decided in November of 2003 and then the Laney case touched on it in April of 2006. Both indicate -- Laney -- I think Laney, to, to a large extent, it confirms Franklin's position as regards to the issue of mental retardation.

The Franklin Court stated if the judge finds a defendant, in a capital case, to be mentally retarded by the preponderance of the evidence in a pretrial hearing, the

defendant will not be eligible for the death penalty. If, however, the judge finds the defendant is not mentally retarded, and the jury finds the defendant guilty of the capital charge, the defendant may still present mitigating evidence that he or she has a mental retardation at the time of the crime, and if the jury finds this mitigating circumstance, then a death sentence will not be imposed.

I took from that language that, at this stage of the proceeding, the defendant has the right to present mitigating evidence concerning mental retardation. Since the standard for the judge is by the preponderance of the evidence, I would assume -- I don't see anything that changes that standard to any higher level. In fact, that is the lowest level our prior Courts recognize.

I recognize that mitigation is -- mitigating evidence does not require any particular proof to be a mitigator, but to be a bar to the sentence, it would appear that that is still the standard, and I believe the defense would have the burden of presenting that evidence since it says the defendant may present, it's not required to present it, if he chose to present it.

So, at any rate, I'll be glad to hear you on it. I'm not aware -- I've not received any authority from other states that may have similar rules to ours as to how they've handled that. If that's available, I'll certainly consider

it, but I'll hear from the defense concerning this.

MR. ALLEN: Yes, Your Honor. Thank you.

For the record, I, I would like the Court to consider that the -- what we emailed you this morning. I can provide you hard copies at this time if the Court would like hard copies.

THE COURT: I've got them. I've copied it.

MR. ALLEN: Okay.

THE COURT: You want to present all three documents as proposals?

MR. ALLEN: Yes, Your Honor.

THE COURT: The charge, the -- I believe there's a copy of a verdict form.

MR. ALLEN: Right.

THE COURT: And the other document was?

MR. ALLEN: The proposed mitigating circumstance. They -- essentially what we're actually, and I didn't make it clear in the email, and asking for in the alternative, we've prepared the defendant's proposed mitigating circumstances findings based on a, a federal type model for specific findings concerning --

THE COURT: Yes, sir, that, that -- and I'd like for those to be marked as Court's Exhibits. So, if you would please do that for me---

MR. ALLEN: Yes, sir.

THE COURT: ---as part of the record.

MR. ALLEN: I will. The only change I made on these documents, Your Honor, from what was in the email is I added my signature and the date on the signature---

THE COURT: Okay. That's fine.

MR. ALLEN: ---block on the pages.

(WHEREUPON, the proposed jury instruction document was marked as Court's Exhibit No. 11. The proposed mitigating circumstances document was marked as Court's Exhibit No. 12. The verdict form was marked as Court's Exhibit No. 13. All of the above exhibits were for identification purposes only at this time.)

MR. ALLEN: They are Court's Exhibits. The proposed jury instruction is Court Exhibit 11. The defendant's proposed mitigating circumstances findings is exhibit -- Court Exhibit 12, and the finding of mental retardation that we're proposing is Court Exhibit 13, Your Honor.

THE COURT: All right. Now, let me ask a couple of questions of the defense.

On yesterday I gave you a copy of what I refer to in this statutory instructions. That is the aggravating circumstances that I find have been -- evidence has been presented concerning, and the mitigating circumstances that I find -- the statutory mitigating circumstances that I find that evidence has been presented on. I have not heard any

objections from either side as to either the aggravating circumstances or the mitigating circumstances that I indicate as statutorily involved.

Let me hear from the State.

Any objection -- the two mitigating aggravating circumstances I found were the murder of a child under the age of 11, and the fact that that crime was committed while in the process of a kidnapping, kidnapping charge.

So, any other -- any objections to those aggravators or any additional aggravators urged by the State?

SOLICITOR GHENT: None from the State, Your Honor.

THE COURT: All right. Now, for the defense I gave you a, a listing of those that I had found. I don't have -- let's see. I do have that in front of me. Just give a second, and I'll -- I'm gathering so much paper here it's hard to keep up with it all.

MR. ALLEN: I'm feeling the same way, Your Honor.

THE COURT: I've got it right here. I had proposed the following statutory mitigating circumstances:

Number one. The defendant has no significant history of prior criminal conviction involving the use of violence against another person.

Number two. The murder was committed while the defendant was under the influence of an emotional, excuse me, influence of mental or emotional disturbance.

Number three. The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired.

Number four. The age or mentality of the defendant at the time of the crime.

Number five. The defendant had mental retardation at the time of the crime. Mental retardation means significantly subaverage general intellectual functioning existing concurrent with deficits in adaptive behavior and manifested during the developmental period.

Those were the statutory mitigators that I found evidence to be presented on.

Does the defense urge any others?

MR. ALLEN: No, Your Honor, we do not.

THE COURT: Okay.

MR. ALLEN: As far as, as far as statutory mitigating circumstances.

THE COURT: Yes, sir, that's -- I'm, I'm talking about that right now.

MR. ALLEN: That's what I'm talking about too.

THE COURT: All right. Now, as to the -- let's see.

You have any objection to the two aggravators that I intend to charge?

MR. ALLEN: Your Honor, while we understand that he's

been convicted of both the kidnapping and the murder, we're viewing this as, as one -- essentially one incident and we feel it's sort of an unfair piling on of aggravating circumstances to have two aggravating circumstances coming out of one incident. We're urging the Court to charge them only on the aggravating circumstance of the murder of a child under the age of 11, but I can't cite you any authority---

THE COURT: I understand.

MR. ALLEN: ---on that, but that's our position.

THE COURT: Your position is noted. I will charge both aggravators.

Any -- wait a second.

Something else, Mr. McGuire?

MR. ALLEN: Yes, Your Honor. He was correcting me. Other than our statutory, our authority is under the, under the Eighth Amendment as applied to the, to the Eighth and the Fourteenth also.

THE COURT: I understand.

All right. My ruling will be the same. I will charge the two aggravators. I think they are provided for by statute, and while I realize they occurred in the same occurrence, the statute contemplates that. It states that the mitigator listed in -- I mean the aggravator mitigated in 16-3-20(c)(a)(10) as being that the murder occurred while

in the commission of a crime of kidnapping. So, it anticipates that and provides for that. So, I'll follow the law on that.

Now, the State, any objection to the statutory mitigators that I intend to charge?

SOLICITOR GHENT: None, Your Honor.

THE COURT: All right. Now, the, the question concerning nonstatutory mitigating circumstances, I have proposed evidence of the character of the defendant and evidence of the defendant's background, and I realize the defense has offered a large number of proposed mitigating circumstances in the Court's Exhibit 12 now. I believe the proposal is some 37 factors.

MR. ALLEN: Yes.

THE COURT: Is that what you're asking me to charge on the statutory charge, 37 factors?

And they go so -- they're pretty fact specific. I think -- my concern will be a charge of -- on the law on the facts by the Court if I went that fact specific.

MR. ALLEN: Well --.

THE COURT: But at any rate.

MR. ALLEN: Initially, yes, Your Honor, that's our first request. We've also got in our---

THE COURT: And I'm not limiting you from arguing those factors. You have the right to argue the factors.

Absolutely.

MR. ALLEN: Your Honor, I mean, additionally, we are requesting all those factors to be charged. However, if the Court would also -- I would draw the Court's attention to our proposed Instruction Number 5 in the previous Court's Exhibit. It is --.

THE COURT: Let me get there.

MR. ALLEN: Yes, sir.

THE COURT: Yes, sir.

MR. ALLEN: On the page following the heading of -- I think -- it's maybe two pages following.

THE COURT: Second page of Number five?

MR. ALLEN: I believe that's correct, Your Honor, yes, sir.

THE COURT: All right. I'm there.

MR. ALLEN: We're -- I'll reduce that list of non -- of nonstatutory aggravating -- or mitigating factors to, to the list of about seven -- a list of seven. Excuse me. We would ask you to consider charging as well as, you know, the character of the defendant, which the Court is already mentioned.

The -- there's a distinction I believe between the statutory mitigating factor of they're -- no significant history of criminal convictions involving violence against another person, the statutory mitigating factor. However, I

also believe, as I've pointed out in number three, that he has no significant history of prior criminal convictions. It's a little -- it's different.

THE COURT: I understand. I caught the difference. The seven you're urging are the defendant is remorseful, he has a relationship with God, he has no significant history of prior criminal convictions, is loved by his family and his life is important to them, the defendant has a history of continual employment, defendant has subaverage intellectual functioning, and the defendant does not pose a threat of future danger to others or to the community.

All of those, again, would be factors that I would certainly allow you to argue. I think there is some evidence in the record on those. I've never seen those charged in that detail in this state, and I think what I've included on my -- that you may consider any, any nonstatutory mitigating circumstances including -- but I'll be glad to add the word any evidence of the character of the defendant or any evidence from the defendant's background, and all of these things are contained in that.

MR. ALLEN: Yes, sir.

THE COURT: And certainly you have the right to argue them individually, but I don't intend to put them in a statutory charge to the jury. I'll -- I will leave the door open for you to argue those things though.

MR. ALLEN: Yes, Your Honor.

THE COURT: Certainly you have a right to.

MR. ALLEN: I understand, Your Honor. That was our request.

THE COURT: Okay.

All right. Now, any other matters specifically that I should consider?

MR. ALLEN: Yes, Your Honor. If I may go to the Atkins---

THE COURT: Yes, sir.

MR. ALLEN: ---issue or what I'm gonna call the Atkins issue, the mental retardation findings.

THE COURT: Yes, sir.

MR. ALLEN: Your Honor, we do appreciate and there's not a whole lot of difference between my proposed jury list or, or jury findings than the Court's. I mean the Court's proposed does give the option or allow for the situation when the jury can not make a unanimous finding one way or the other, which is essentially what I was trying to get at in my second finding. However, we do take issue with a couple of things.

First of all, as the Court would note in my request to charge number one, we are urging the Court consider language that I will readily admit has been disapproved by the State Supreme Court in State versus Laney. The only burden of

proof that I can think of for the defense is rather that the, that the prosecution or the State must prove, beyond a reasonable doubt, that someone is not, for example, insane. But, in this case, not mentally retarded.

But I'm gonna readily acknowledge that Laney speaks directly to that and has disapproved that language. However, I believe I need to cover the record on that. We still believe that it's a proper standard of proof for a defendant in a criminal case, and I'm not sure where the Laney case is or any other case is in the appellate review. But in the event, that decision by the Supreme Court gets changed by any other Court, I want to make sure we're covered on the record as well.

THE COURT: Sure. You have the right to preserve that. I just find that the Laney and Franklin talk in terms of the defendant offering the proof to -- for it to be a bar. I understand that this is, to a certain degree, a -- would appear to be burden shifting. However, I think the Supreme Court may have shifted the burden rather than the Court or the State arguing that it should be shifted.

We are in the sentencing phase of a trial. It's no longer a guilt or innocence question. It's the question of the appropriate penalty, which is a different circumstance than someone being proven guilty or not guilty of the offense, and the Atkins procedure is a special procedure.

They changed the burden of proof for the initial hearing. In other words, it's by the preponderance of the evidence, and all, most criminal settings, it's everything is beyond a reasonable doubt.

So, obviously the Courts have taken a different position concerning this particular issue, and there's not a lot of law on it, and they weren't very explicit in their instructions as to how to do this. But I understand your, your position. However, reading Laney and Franklin, a fair reading would indicate that the defense would have the burden of presenting the evidence if you choose to, and I believe that it would be to the, to the lowest standard that I know that you have in order for someone to find something would be simply tilt the scales ever so slightly in your favor.

MR. ALLEN: Yes, Your Honor, and I would like to be heard, if the Court please, a little bit more on a, on the burden of proof other than -- and I'm gonna argue. I think the Court has ruled on my first request, and that is -- so, I will, I will argue.

When I read the Franklin and the Laney cases --

THE COURT: Yes, sir.

MR. ALLEN: -- I viewed the requirement of the defense to prove to the preponderance of the evidence, the mental retardation, as a requirement in the pretrial hearing that

was also -- that procedure was set out in Franklin and, of course, authorized as well in the Laney situation. I view it simply -- very similarly to the defense's burden of proof in a -- in any other pretrial proceedings such as in a search and seizure type proceeding or in a confession, Jackson v. Denno type proceeding, where the defense has the burden of proof to a lower standard, preponderance of the evidence, to, to prove that the rights were violated and/or that the confession was obtained involuntarily.

THE COURT: Uh-huh. (Affirmative).

MR. ALLEN: However, of course, when you get in -- back into the -- in front of the -- if the issue goes in front of the jury, such as the voluntariness of a confession, then, of course, it must be proven to -- beyond a reasonable doubt that the confession was voluntarily given.

So, I, I do believe and I would object to the Court's charge concerning that we must prove to a preponderance of the evidence because I believe it is burden shifting. I understand the Court's comment.

THE COURT: Well, my charge -- and I'll go back and look at it. I think that I'm gonna charge that the jury has to make that finding by the preponderance of the evidence. I'm not gonna -- I don't see how it's -- a jury can, can decide -- in other words, if a question's presented to a jury, I don't know how they could make a finding based on

less than half the evidence. That's the lowest standard we have. I don't know that I would -- I don't know that the charge ought to say that you have a burden of proving it to that, but that's -- I think for the jury to find it, they have to find that level of proof. I don't know if that's a distinction without a real difference or not, but they, they talk in terms of the jury making a finding.

MR. ALLEN: Yes, sir.

THE COURT: I don't know how a jury makes a finding without at least having enough evidence upon which to make a finding. I, I don't know how you -- how they do that. Maybe you could explain that to me.

MR. ALLEN: Well, I mean I've been searching for a way to explain, explain that since this issue, you know, has been coming up.

THE COURT: And, again, I intend to, to leave the mental retardation as a mitigating factor, which doesn't require any particular level of proof. That's just a factor they can consider if they can't reach a decision as to it being a bar.

MR. ALLEN: Well, I certainly don't think that it should be any greater than preponderance of the evidence. We're certainly not arguing that, but---

THE COURT: Oh, I understand that, but---

MR. ALLEN: Yeah.

THE COURT: Again, again, I'm, I'm in a quandary as to how a jury could make a finding as to a fact existing without at least having a -- the lowest level of proof.

MR. ALLEN: I understand the Court's quandary.

THE COURT: It's, it's, it's a difficult question. I, I -- it'd be hard to charge a jury well, you know, you can make a finding on ten percent of the proof.

Do you see what I'm saying?

It's a---

MR. ALLEN: I understand, but---

THE COURT: Kind of flies in the face of reason to say that. So, it's a difficult question, I understand that, and they're not real clear. But they do say that the defense has the burden, if you wish to present evidence on that, you have to present it.

MR. ALLEN: We have to present evidence, but it doesn't say that -- and I understand the Court's not trying to argue -- to charge that we have the burden to prove it to a preponderance of the evidence. However, I think a -- if---

THE COURT: Because, again, it can be a mitigating factor. You don't have -- you can present that evidence and it serve as a mitigator. So, you know, I'm not saying you have to prove that beyond a reasonable doubt. I'll -- and I mean -- not beyond -- by the preponderance of the evidence, and I'll go back and check what I prepared, and, and I'll

take -- if that's in there, I'll take that out that you have a burden of proof.

MR. ALLEN: Yes, sir.

THE COURT: But I will -- I think the jury though does have to make that finding. If they're gonna make that finding, I think they would have to at least have the lowest level of proof to do so. The jury.

MR. ALLEN: No more than the lowest level.

THE COURT: That's right.

MR. ALLEN: That's for sure, and we appreciate that. But it's just that I'm struggling with the, the language in the case, in the -- in our case law that says if the jury finds. They didn't say, you know, to what level, and I understand the Court's issue, and I, I wish I could help the Court out better than the Court is also---

THE COURT: Well, again, I said if there's any cases that have similar -- any states that have similar rules to ours that have decided this, but I haven't seen that. I don't know that there are any. Nobody's offered that, that authority to me. So, I haven't seen it.

MR. ALLEN: I'm not aware of any, Your Honor.

THE COURT: Okay.

MR. ALLEN: And so -- but that's, at this point, if the Court's not gonna charge our initial charge, which is been, as I have conceded, struck down by Laney --

THE COURT: Uh-huh. (Affirmative).

MR. ALLEN: -- then I'm just thinking that the jury, like any other factor, should be just charged that if they find is essentially the language I would alternatively suggest. The -- if I may also go to another issue that the Court has raised or, or that is -- that we're raising, I'm gonna say that, that we're raising.

With respect to if the jury can not make a unanimous finding of mental retardation one way or the other --

THE COURT: Uh-huh. (Affirmative).

MR. ALLEN: -- and I do appreciate the Court's putting in an opportunity for the jury to report out to us they can not make a unanimous finding one way or the other, which could be interpreted -- the way I would interpret it would be that some make the finding and some do not make the finding. I believe it's a violation of Atkins and the Fifth, Eighth, and Fourteenth Amendment to our Constitution to allow jurors who make the finding that he is, individual jurors, to make the finding that he is mentally retarded, to vote in favor of the death penalty.

As the Court is indicated, the Court will certainly give the jury mental retardation or proposing to give mental retardation as a mitigating factor. But as has been pointed out, even though they may find any number of mitigating factors, they're, they're still free to vote for the death

penalty, and I believe Atkins is changed all that by essentially saying -- striking the death penalty for mentally retarded individuals as unconstitutional, excessive, and cruel and unusual punishment.

THE COURT: See but Atkins, Atkins left this process to the States specifically.

MR. ALLEN: They did.

THE COURT: And, again, in Laney or in Franklin, there's no indication that I saw that, if one juror found that as a mitigator, that that would bar their position of the penalty. I don't see that. And they don't get that detailed I'll, I'll grant you.

But we will charge to the jury that, that if they find any mitigating -- they can take any mitigating circumstances as a reason for not voting for the death penalty, and the law in this state is if someone has a strongly held view that he, in fact, is mentally retarded, and they refuse to vote for the death penalty, it will not be imposed.

So, they, to that extent, each juror does have a veto power over the death penalty being imposed, and so if something -- I think the result is, is still available to you if someone finds that.

So, I'm -- I understand what you're saying. But Atkins leaves it to the states and our State has not indicated that if one person were to find that as a mitigating factor --

what it says is if the jury makes a finding it's a bar, but that requires the jury, all of them acting together.

They didn't indicate -- and our state could of said if one juror finds, then it's a bar. They didn't say that. They said the jury, which is the group. I understand your argument.

MR. ALLEN: Yes, sir.

THE COURT: And I still think that's available to your client because, if, if one juror determines that he is mentally retarded and finds that as a mitigator, they're not required to vote for the death penalty. In fact, that can be a reason for them not doing so.

MR. ALLEN: But my---

THE COURT: And if they don't, it's unanimous, it's not imposed.

MR. ALLEN: Yes, sir. I mean -- yes, Your Honor. But I think, what I'm concerned about is the converse of what the Court is saying, which is that even though they're not required to vote for the death penalty, I'm talking about where they're not unanimous in the finding of mental retardation, but if the jury is not -- if a juror finds that he is mentally retarded, and they're not required to vote for the death penalty, but that's not the same thing as saying they're not allowed to vote for the death penalty if they find that he's mentally retarded.

So, if -- my concern is that an individual juror, if they're not unanimous in their finding of mental retardation, there could be individual jurors who find that he is mentally retarded and still vote for the death penalty.

THE COURT: Well, again, my ruling is to the effect that if the, if the Supreme Court had intended for one juror finding mental retardation to serve as a bar, in Franklin or in Laney, they could of said that. What they said was, for it to be a bar, there must be a finding by the jury, which is all 12.

MR. ALLEN: I understand the Court's---

THE COURT: And that's my ruling, and you put your position on the record. I understand where you are.

Is there something new about this position?

MR. ALLEN: No, Your Honor. If I can just state that I'm just making this -- the argument that I've just made, that the Court is ruled upon---

THE COURT: Yes, sir.

MR. ALLEN: ---but that I think the Court understands that I'm making it pursuant to Atkins versus Virginia and the Fifth and Fourteenth Amendments to the Constitution.

THE COURT: I understand. I understand all those things and then, again, I have considered it thoroughly and I guess this case may define it further.

MR. ALLEN: I hope not, but I---
THE COURT: I said may define it further.
MR. ALLEN: Yes, sir.
THE COURT: All right. Any other matters that I need to take up before I go back and consider the charge request, which are extensive?
MR. ALLEN: No, Your Honor.
THE COURT: All right.
SOLICITOR GHENT: None from the State.
THE COURT: We'll take a recess while I consider the charge request by the defense.
SOLICITOR BARNETTE: Your Honor, may we approach for one second?
THE COURT: Yes, sir.
(WHEREUPON, a bench conference was held at this time.)
(WHEREUPON, a short recess was taken at this time.)
THE COURT: All right. First of all, I'd like to go over some matters with Mr. Blackwell.
Mr. Blackwell, if you would please be sworn.
Please swear Mr. Blackwell for me.
(WHEREUPON, the defendant was placed under oath at this time.)
THE COURT: Thank you.
Mr. Blackwell, you can be seated.
(Defendant complies.)

THE COURT: Mr. Blackwell, I went over with you, at the close of the trial earlier in the guilt phase of this trial, that you had a right to participate in the closing arguments at that phase of the trial. We're at the stage, in this trial, where we're going to be conducting closing arguments as well, and the law does give you the right of allocution and that is a right to speak during the closing arguments.

Do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: And have you discussed that right with your lawyers?

THE DEFENDANT: Yes, sir.

THE COURT: Do you wish to discuss that right with them any further?

THE DEFENDANT: No, sir.

THE COURT: All right, sir. Do you intend to offer argument in this matter?

THE DEFENDANT: No, sir.

THE COURT: Okay, sir. Thank you very much.

Mr. Blackwell, that means that, just, just to be clear, you have waived your right to testify or you've asserted your right to remain silent in this case on two occasions. You waived your right of allocution in both instances, and I believe the only other waiver in the case was you waived the presentment of the, the indictments.

Is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: And have you agreed, in all of those decisions, in consultation with your lawyers?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. Thank you, sir.

Anything further concerning that matter?

MR. ALLEN: Not from the defense.

THE COURT: All right.

SOLICITOR BARNETTE: I just want to make sure I'm clear, Your Honor.

He will not be addressing the jury?

THE COURT: He's indicated that he does not intend to exercise his right of allocution.

SOLICITOR BARNETTE: Yes, sir.

THE COURT: That's my understanding.

Is that right, counsel?

MR. ALLEN: That's my understanding.

THE COURT: Okay.

All right. Now, I believe the State will be going first. Defense will be going second.

Is the State ready, Your Honor?

SOLICITOR BARNETTE: State's ready, Your Honor.

THE COURT: Defense ready?

MR. McGUIRE: Yes, sir.

THE COURT: All right. Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Thank you, Mr. Ruth.

All right. The record will reflect that the jury has returned to the courtroom.

I hope everyone had a good evening and I thought you'd probably be a little better off waiting at the, at the hotel than over here in the jury room this morning. So, thank you for your patience.

If any of you had any difficulty in complying with my instructions thus far, please stand.

(No response.)

THE COURT: It appears that all jurors have been able to comply with the Court's instructions thus far.

We've reached the stage of this proceeding in which the attorneys will be given an opportunity to directly address you concerning this matter and the State will be going first.

Mr. Barnette. Mr. Barnette.

SOLICITOR BARNETTE: May it please the Court, Your Honor?

THE COURT: Yes, sir.

SOLICITOR BARNETTE: Ladies and gentlemen, I sit here yesterday afternoon listening to the same things that you

listened to presented by the defense. I saw the pictures. I saw the video. I saw everything they introduced.

These two folks here will never have the opportunity to have another Christmas with Brooke. They'll never have another opportunity to take another picture with her, to have another video with her, have another birthday with her. They will never see her go to middle school. They'll never see her go on her first date. They won't see her go to her first prom. They won't see her go to -- graduate from high school.

How much would they pay to have one phone call with Brooke, to send a mail, a piece of mail to her?

They're not going to folks. It's not gonna happen and the man responsible for it is right there.

You heard -- we didn't call the family. The family's gonna say the best of everything about a person. That's just human nature. Blood's thicker than water. We called people that knew Brooke.

And where was it?

Elementary school.

Reidville Elementary was one of the most wonderful places you can imagine. We went out there and talked to Ms. Sima, Ms. Nunnary, and Ms. Alton, and I never dreamed in a million years that I would hear what I heard, what y'all heard in the courtroom the other day. What a wonderful

individual Brooke was.

You heard Ms. Sima talk about how she would work -- I mean basically she would do anything, and what's funny about Reidville, it's such a small school that everybody knows everybody. It's a situation where she knew about Brooke. She knew what her grades was. She knew she wanted to be in Rocket Club one day, which she'll never have that opportunity thanks to the defendant. She told you this -- that she talked with parents and all of them told you how wonderful the parents was, even through their rough time. Unfortunately divorces happen in our society today, and through that, that rough time, they worked with them.

This was her safe place. This is where -- and they, they were wonderful and everybody told you that in working through that situation.

You heard Ms. Nunnary, and the thing I'll never forget is her. Her daughter had asthma too just like Brooke did, and she, you know, related to that cause what -- she knows what her daughter went through, and Brooke had to go to -- obviously to the nurse more often than other people did because of that asthma, and she knew how hard it was for her to take that breath cause her daughter went through it. So, she had a special attachment with that girl. She knew Brooke.

She told you how hard it was when she heard about it.

She couldn't even go to the funeral home or the service, but she went to the grave site, and, at that grave site, she got wild flowers because that's something that Brooke loved to do, and she showed you. I was -- it was incredible to me. She had pressed the flowers and put her obituary in there with it, and she showed them to you.

That's how much that girl meant to her, and she told you about the story that her father painted his house yellow, a bright yellow, because that's her favorite color. That was a reminder everyday she goes to Reidville Elementary to remember that.

Then Ms. Alton talked to y'all, her second grade teacher, and the amazing thing to me was she kept writings. You got to remember this happened in July, a month after this school year had ended. She had kept a story that Brooke had written. She had kept letters that Brooke had written, and she read you the story about Snowy. She did, how she used the word glorious, and how proud she was to use big third grade words.

Something she'll never get to do. Then you remember she'll never get to see -- I remember Mr. Bulsa told you about the movie Frozen. She'll never get to see a movie, another Walt Disney movie.

Could you imagine?

She would of enjoyed that, the movie Frozen, from a

character like Snowy she made out of her story.

Then she brought out the American flag. The letter she had to an American solder thanking her for her liberties that we all share, for her choices to go to church she wants to, eat what she wants to. And what's amazing to me, the teacher kept all that. That's how special she was.

Like Mr. Bulsa told, we wanted to take the sheet from over Brooke so you can actually see her as a person, and you can see she was an absolutely wonderful person. She's gone. We're past that.

Let's look at this case. You have the defendant. Everything they rolled out yesterday, I mean I got mad. I tried to keep my composure over there, but here he is, he's saying he's mentally retarded.

Now, ladies and gentlemen, you look at the evidence. They paid this doctor to come from Raleigh, North Carolina to come down here to tell you he's mentally retarded, but no other doctor that is examined him, over all the medications -- I mean the medical treatments he's had, nobody, except her, found him mentally retarded after the death notice was given on him. I submit to you she wasn't credible at all. It's just a bunch of hocus pocus, a bunch of junk science they're trying to feed you.

Even when she was giving him the exam, she didn't even check what medications or the dosage or anything on him,

talk to the doctor, how it affects you. And, finally, after cross-examination, she admitted basically what he was staring blankly out there, that he just nodded.

Another thing too, they played these jail calls for you and I'm glad they did. I'll tell you why. Listen to them. He's not mentally retarded. You can just tell that by the voice, the way he talks on this, and the other thing I'll tell you is they picked two, two jail phones calls, and obviously there's more phone calls cause you hear him reference to try to call other people and the time's running out and everything. Not once, and, believe me, they would of played it for you I believe, not once did he cry about Brooke. Not once did he show any remorse for Brooke. Doesn't even show one concern about Brooke.

I mean it's an insult to people that had truly -- have a mental disability for them to bring this kind of defense up to try to spare his life trying to use that excuse. And you'll have his wallet in there. And, like I say, he had a commercial driver's license, and that's -- you have to take a test to get that. That's a special test you have to do to drive tanker trucks, and you can see on the back, I know I showed that to you earlier, but he had a trucker or tanker requirement that he could drive tanker trucks. You'll have his wallet back here.

He also has a Hazmat card inside of his wallet. I

didn't show that to you yet, and basically, ladies and gentlemen, that's to drive very dangerous materials in trucks. Gasoline, oil, anything like that it. You have to have training in that and be safe with it.

Do you imagine that Hess Corporation, y'all see Hess everyday with the gas stations, letting somebody that has mental retardation drive their trucks with dangerous materials in them?

Plus he drove -- and you'll see that he has an application here. Yeah. He drove tanker trucks to Texas, to New York, Oklahoma, New Jersey, and this is back in the eighties. I mean come on. I mean you got to drive through Atlanta.

Can you imagine?

It's tough enough in that we have GPS now thank goodness cause my wife uses hers every time, but back then we had maps. You got to keep track of your mileage. There's Fed regs that you have to follow in trucking, things like that. You can't be -- you got to know what you're doing driving these kind of trucks.

Then they bring up this ABIS test, and you'll have it back there with you. I want to introduce it into evidence. If you look at the first test or the first one that's done in here, there's so many blanks in there, and you can look at this.

I mean this is basically her opinion. She's asking the questions, and I asked her, I said, usually you have to use ten or twenty different people. She said well, you know, we can use five or seven. I can use one even.

Well, the five or six or seven she picked, most of them was family. He was -- she said that it showed tendencies of mental retardation. They could of went out and found other people. They didn't do it. They had investigators do it, like I pointed Investigator Curtis Jones out. No, she wanted to find what she wanted to find, what she was paid for.

They bring up his school records, and you'll have those back there with you. Look how he did in elementary school. He did, you know, much better than he did in high school like she said.

She kept saying well, it's -- this disability or whatever. He's not disabled, and, like I say, it's an insult to people that's mentally -- I mean that truly has that kind of condition.

They talk about IQ scores and everything, IQ score of 70. He had one -- I mean 87. He's not mentally retarded, and the reason why I'm going so much over this, and the judge is going to charge you about mental retardation, that if you make a finding that he is mentally retarded from there, it's a bar to the death penalty if it's by

preponderance of the evidence. They have to show it by that amount. Preponderance means by the greater weight of the evidence.

But I submit to you, ladies and gentlemen, they haven't done that, and, like I said, you can tell just by the information we have here, and they talk about 113 out of 113 off the school records.

Well, I submit to you, going to school myself, being involved in the school system myself, it's usually the last person that leaves is that number. So, if somebody would of left the next month, they'd be 112 out of 112. That doesn't show anything. The reason why he left school, he got mad because the credits wasn't adding up right, and you can see on the sheet, and I showed you that when we was talking to the doctor, they only gave him credit for 11 and he should of had 12.

And, like I said, you got this sheet back there. They introduced it. They only have insufficient, insufficient information on three of the people they did and in the five. Family or people so close to him.

They talk about his work history, and you'll have it, where he worked, and obviously he has to apply to these jobs. And I submit to you, Hess Industrial and all them, they wouldn't have him driving trucks. The civil liability is too great. And then he comes -- Milliken, BMW, Hess,

anybody like that is not gonna put anybody driving the kind of vehicle with that kind of materials on there and create that civil liability.

He drove forklifts. He had to take tests for the forklifts just like he did to drive the truck. He had to pass a safety test. Forklifts are not easy to take, ladies and gentlemen.

Another thing too, he played cards, played Rummy. He played pool and pool's a hard game. It's a hard game for me. You got to have angles you got to figure out all that there. He won numerous awards playing pool. His daughter even said he was a pool shark. I mean that's the type situation. That is not a mentally retarded person.

And, like I said, there was nobody else that ever said that, even through all the medical records. The doctor admitted nobody even diagnosed him or even said he had it. She was the first one after he received the death notice.

They called Doctor Schwartz-Watts. She said I don't answer that. I don't have anything to do with that question. The only thing she did was treated him for his depression. Said he was sad. That's all she said.

And the other thing about this case, ladies and gentlemen -- and you found already the two aggravating circumstances beyond a reasonable doubt. The amazing thing about this case is it's beyond any doubt. You know that

this is the man that killed Brooke . There is no question in any, anybody's mind of that. He kidnapped her. He shot and killed her. He did it with premeditation.

How do we know that?

Look at the evidence.

You had Angie Davis or Angie Blackwell as well as Irene Blackwell, her mother, come testify, and you got to remember, one of the jail phone calls they called was Larry Blackwell, Irene's husband, and supposedly he went over there almost everyday, played cards with him. While Angie's over there with Brooke and he comes in, and she's -- he says well, I got to talk to you about his insurance.

Well, you'll have this back there with you too, ladies and gentlemen, the two insurance cards, and you can look on one of them. The member is Angie Blackwell, and the dependent is Ricky Blackwell. So, he's on her insurance, and I know they make out she's a horrible horrible person, all this, but she kept insurance on him.

You got to remember the testimony was he had been -- not been working since May of 2008, and you look on his Social Security thing that they supplied to you, and his earnings dropped severely from 2007 to 2008. They dropped from 32,000 down to 9,000 in 2008. So, that shows he probably did stop working in May of 2008. But she maintained insurance on him until she got laid off, and then

she was still going to do it. They would just have to pay $100.00 a piece.

So, he went in there and he said you need to go see your grandkids. You remember Brooke spoke up and said yeah, we're gonna go take them swimming. So, he knew that they were coming over there.

And you got to remember, he's been living in his mom and dad's house. He hadn't been living at the house they use to live at, and, during that time, this gun was kept in this case at Cletus Blackwell's house, and you can see it fits in there. I hated asking Mr. Blackwell questions. I really did cause I don't like -- I mean a man's father. I just don't like to pick on him. I know how my father is. He's 79 years old and I know how he is now, and -- but I had to be very delicate, but I needed to ask him questions about this gun because I think it's so important in this case.

And Mr. Blackwell, the first time, couldn't remember Mr. Frye cause he knew him as Ritchie, not Reggie, and you can tell his memory is not what it use to be. There's no question about it. But he admitted this gun was in his house and then he said he just couldn't remember.

Mr. Frye told you that he put this gun away because he's afraid he's gonna hurt somebody, and he broke in and got it. And yet they admitted they, they kept, Mr. McGuire kept asking, well, you know, was it over at the house or

whatever.

I think Mr. Blackwell said one time at the house, but the only problem with that, if it was at the house where they use to live, why is the gun case in the truck?

Why is this in his truck instead of in the house?

I can tell you why it wasn't in the house he use to live in. It was his dad's house. He got it from his dad's house, took it, left the case in there, and took this and killed that wonderful girl with this weapon.

And remember, Angie went over and she said she went in the back way. And when she went in the back way, she said I drove by. Heather's car wasn't there and Heather testified that she had went to the store and the pharmacy store. So, she wasn't there. So, she was driving by.

Who stopped her?

Ricky Blackwell stopped her. He knows he did it. The evidence shows that.

He stopped her and tells her well, the kids are, the kids and Mark are still up there. So, she backs up and drives up in the driveway. He runs back, gets the gun, and Angie gets out and she sees the dog and she wants to make sure the dog won't bite Brooke. As she's picking the dog up, she turns around and sees Ricky Blackwell holding Brooke.

You got to remember, Doctor Wren said Brooke was about

55-inches tall. That's one of the reasons I got down on my knees to let Angie show you how she -- he held her Brooke, a little girl about this size, weighing 87 pounds. Ricky Blackwell, the man -- look at his hands. You know, one thing I noticed in all the pictures was his hands, how big they are. Grabbing ahold of her, putting this gun to her.

So, we don't know which shot was first, but the thing that was so amazing to me was Mark and Angie both said they heard two shots at first. Later on Angie heard the other shots, and doctor Wren said I don't -- you know, the four shots, I don't when they were fired. They could of been fired separately.

He meant to kill Brooke . He wanted that man right there to pay. He wanted to send a message to him. He could of easily grabbed Angie and took her, but no, he didn't. He took Brooke, as innocent as she was, and you'll have these pictures back with you too as well as the diagram of all the shots.

You'll have the pictures of her wounds from the angle, and the thing you got to remember is this. I mean he shoots her in the leg. He shoots her through the neck as blows -- basically it's a contact wound like Doctor Wren said blowing the neck out, going through the neck, hitting her arm, and the bullet stayed there as it was tumbling, and then he puts the gun to her head. It's a through and through shot right

through the brain from here. And the last shot, if that don't tell you he meant to kill her, no questions asked, he shoots her right in the back. Just the coward that he is. And I asked Doctor Wren, you can see the angle. Either she was falling down or she was literally laying on the ground and he shot her from up here.

Shoots an eight year old girl in the back. There's no accident.

You remember the SLED person and I've got the note. It takes at least ten pounds and three-quarters pounds of pressure to pull this trigger and that's double. Single is three, three and a half to four. But I submit to you it was double cause he ain't gonna take the time to pull this back and shoot her. He's just gonna shoot. This ain't a hair trigger. He pulled it hard. He pulled it steady four times in that poor girl's body. She was scared, scared to death.

The planning he showed in this case. He premeditated -- this, this premeditated murder, ladies and gentlemen. You had the officers that talked to him after the fact, and the thing was he had over a thousand dollars in his wallet. He hadn't worked since May of 2008, and he ran off, but I think the police got there so quickly when they heard a shot -- a child shot. They were over there within five to six minutes.

And you heard the 9-1-1 call. I don't want to tell you

the terror that was that day that was generated by this man, and the thing I want you to remember was there was other kids there. Two of his grandkids witnessed this. And you remember, I asked his daughter, she said well, they're still in counseling. After four and a half years, they're still in counseling. This still affects them, and probably will affect them the rest of their lives. I can't imagine seeing something like that. You saw what it did to Angie.

And they submit basically yeah, it's all about her, and then she grabbed her granddaughter. He just saw her kill a young eight year old girl. She didn't want to see another child dead. That's just human nature. A mother wants to protect her own, protect their children.

But then they get -- the police get there, thank goodness, as fast as they can. He comes out of the woods, they surround him, and he decides well, I'll just shoot myself in the stomach.

Well, ladies and gentlemen, if he really wanted to do it he'd just done it. He put a bullet right through a girl's head.

They talk about this time him shooting a gun into the air and they talk about him taking Xanax. Well, ladies and gentlemen, I'll tell you what it's all about. It's all about him just like it was yesterday. It's all about drawing attention to me. It's all about me. I'll do this

and I'll get the attention out of it.

Like taking the Xanax or whatever. Heather went out and said she slapped the bottle out of his hand. Well, let me tell you something. As big and as strong as that man was, there's no way Heather could knock those bottles out of her -- his hand if he didn't want to.

And why would he go over and show it to them?

No, he wants attention. This is all about him, just like it was yesterday.

Let me tell you, ladies and gentlemen, it's a lot more than that. There's a little girl that he left on that ground, and you saw the picture how he -- she was left. You saw -- and I apologize. I'm just checking my notes cause I don't want to forget anything to tell y'all cause my job is to represent her and this family, and make sure that y'all know everything or been told everything I can remember.

The police officers talked to him afterwards. You heard from Investigator Horton. You heard from Deputy Timmons. You heard from Investigator Lorin Williams.

Investigator Williams summed it up better than anybody I could see. He went in and he just -- he didn't really know what had happened cause, of course, he got the call. He's in another part of -- working on another case. Went and Mirandized him, did what he was suppose to do, and just asked him what happened.

He said I shot and killed Brooke . Didn't show any remorse. He said what, what would you of done differently. He said well, I would of just done a better job of shooting myself. That's how much he cared about Brooke . Believe me, on the jail tapes, if they had it, they would of played it for you. He cares now cause y'all are here. That's what he cares about.

Today, what I've done, on the right side here is retribution. On this side is mercy. If you notice I was standing in the center most of the time cause I want to talk to you from the rock of justice. That's what we're about.

You-all know, y'all got asked the questions, could you be fair. Y'all went through the same questioning. We got to know you a little bit through that. You got to know a little bit about us.

Can you consider both sides?

Well, there's retribution and there's mercy. But what I'm asking you for is justice. That's what this case needs.

I was looking at something here the other night. That was a quote and I read that quote and it's so true, and I'm sure you can read it, but it says there can be no keener revelation of a society's soul than the way in which it treats its children. Nelson Mandela said that.

Ladies and gentlemen, this is about our society's soul, is how we want to treat children in our society. They're

the most innocent of victims. They can't protect themselves. They've got to have our protection as a society.

And you saw, when the Reidville community came, this just didn't affect a family. This just didn't affect a school. It affected a community. It affected even his grandkids. It will affect them for the rest of their lives. It will affect everybody that testified in this case for the rest of their lives, and this stands at D-5 field today. That's how much they thought about her.

They did an annual. She would of been a third grader. They all use third grade words. She never will get the chance. They did a program. They put that on the back of their annual for the next year when she would of been in third grade. They let balloons loose to celebrate her life and the effect they have and will -- like I said, it will affect people for the rest of their lives as you saw them. They'll never forget get her.

And she even affected people that was across the ocean fighting for our freedom. She affected those people and now all she's got to show, her parents have got to show is a birth certificate and a death certificate, and you'll have those back there with you too.

Mr. McGuire, in his opening, kept talking to you about God. Let God take Ricky.

Ladies and gentlemen, God didn't take Brooke that day. This man took Brooke that day cause one thing I submit to you is the Lord gives us free will, and he made that decision to take that girl's life. She had nothing to do with this. Nothing.

He could of went after Bobby. He could of went after Angie. He could of went after somebody else, but he picked the most innocent person you could imagine to kill.

I'm mad. She played right field. That's where you put the most innocent person to try to keep them from getting hurt in a ballgame. Usually when they're that young. They tried to protect her cause you remember Coach Sloan telling you that she just enjoyed being there. She'd run and the first run she made she actually went to the wrong dugout. She was her, you know, his son's first girlfriend sort of. Like you know how it is, puppy love. Going out and holding hands in the outfield.

She never will be able to live her adult life because of this man. Our society can't have that. It speaks to the soul of our society and Nelson Mandela said it. Nobody can do this to a child.

They're asking you for life without parole. But, to me, ladies and gentlemen, if this don't speak to the death penalty I don't know what does cause you can't protect our kids, we don't protect them, nobody will.

The message needs to be sent out to people like him. You can't do premeditated murder on children in our life, and one other thing I want to leave you with.

It's hard for me. I had a daughter play ball. I had a son play ball. They had more fun on the ball field. They just enjoyed life on it, just like this little girl did. And Ricky Blackwell took that away from her, and took it away from her parents. They will never be able to see her on the ball field again. Never, never share anything with her again.

The only thing they get to do, look at the contrast of his picture. They get to go to her grave to visit her, but he gets to tell you and show you all this.

Yeah, he gets to live his life. He can still talk to his grandkids, and she will never be able to talk to her parents again. Never ever live the life that she should of deserved to live. Such a wonderful girl, such a wonderful individual.

And, ladies and gentlemen, for this crime, I'm asking you for the ultimate penalty. They keep talking about final options. This is the final option because, if we don't protect our kids -- we can't let people like him---

MR. McGUIRE: Your Honor, I'm gonna object to the protect our kids language. This is clearly objectionable. It -- in the case of State versus Northcutt, this language

is condemned. He needs to be admonished.

THE COURT: I'll sustain the objection.

Ask you not to make reference to that again, Mr. Barnette.

SOLICITOR BARNETTE: Yes, sir. Thank you, Your Honor.

THE COURT: The jury is to disregard that comment.

SOLICITOR BARNETTE: But I think the picture speaks a thousand words, ladies and gentlemen, and I'm gonna ask you for that sentence. I know it's gonna be tough to sign your name---

MR. McGUIRE: Your Honor, I'm going to object to the phrase I'm going to ask you for the sentence. It's interjecting the prosecutor's personal opinion. That language has been condemned in South Carolina as well.

THE COURT: Sustained.

SOLICITOR BARNETTE: I think you know. You've seen the evidence. You know what the evidence speaks in this case, ladies and gentlemen, and I ask you to give the appropriate verdict for this.

Thank you.

THE COURT: For the defense.

MR. McGUIRE: Judge, can we take a five second break?

THE COURT: Five what?

MR. McGUIRE: Five -- just a few seconds. I need to step out for one second.

THE COURT: Ladies and gentlemen of the jury, I'll ask you to step back to the jury room. Don't begin any discussion until I've asked you to do so.

You may retire to the jury room.

Everyone remain seated while the jury retires.

Be seated, Mr. McGuire. Thank you, sir.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Court will be in recess for a short period of time.

Everyone remain seated while the defendant retires.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: All right. State ready to proceed?

SOLICITOR BARNETTE: State's ready, Your Honor.

THE COURT: Defense ready?

MR. MCGUIRE: Yes, sir.

THE COURT: Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: The record will reflect the jury has returned to the courtroom.

At this time the defense has the right to make its closing argument.

Mr. McGuire, you may proceed.

MR. MCGUIRE: Thank you very much, Your Honor.

THE COURT: Yes, sir.

MR. McGUIRE: Good afternoon.

When we started this process I, I told you-all I, I was so sorry y'all had to be here. I am. I don't think we, as a government or society, should do this to you. I haven't seen my kids, my family since February. So, I know it's a hardship on y'all and, and I wish you didn't have to go through it, and also I told you I'm not the same man that I am when I started this work. I'm not. And you're not gonna be the same either. I'm sorry for that. We shouldn't have to show you these terrible pictures and try to get you angry and emotional. That's, I think, wrong and I'm sorry for all of you that you had to go through that.

And it -- I wish we could just talk. I wish you could just ask me questions right now, and I wish I could answer them for you, but we can't. So, I have to try to guess what your concerns are, your -- where is your heart, what are the questions you have, and I have to try to answer them all, and, and it weakens my knees to know that, that the future of Ricky, his, his fate, his future could hang on words that I might use.

So, if I take too long, if I say too much, blame me. I'm not -- I'm leaving it all on the field so to speak. I'm not -- I have to give it all to you. So, forgive me for that, if, if I go too long, if I tell you too much. I don't

mean to waste your time at all, but his life is in the balance.

And I'll tell you, I am, I am religiously and morally opposed to the death penalty. I hate it. I hate everything about it. And if I do something, in my anger, against that -- I lost my temper with an officer and that was wrong. That was my fault. But if I do something like that, y'all hold that against me and not Ricky. Please, if you would. It's not his fault if I do something that, that angers you-all in my effort to save his life.

Where we are right now is your verdict of guilt has guaranteed that Ricky Blackwell will go to prison and he will never ever get out. He will die in prison. He's 55 years old, he's in poor health, he won't be there long, and I am going to ask you to send him to prison and let him die there. I am asking you to punish him. I am not asking you to do anything, to let him go or be free, or even walk a second in freedom. He's going to prison for the rest of his life if we do nothing from here. Y'all could walk out right now and not come back, and that's where he's going. That's guaranteed. Your verdict has assured that.

If, if the death penalty, if, if electrocuting Ricky or, or putting poison in his body can do some good, if it could, if it could bring Brooke back I would be the first to say let him go, and I think, based on the evidence

that you've heard from his family, his pastor, people that talked about -- he is sorry. He's remorseful. He can't believe he did it. He hasn't forgiven himself. I, I think the evidence is clear. The kind of man that he grew up to be. Everybody said that he was kind and gentle and caring. If he had the opportunity to step into a time machine, knowing that his death was the fuel used to bring Brooke back, he'd open and shut the door.

But we can't, we can't bring Brooke back. We can't bring Brooke back. We can't.

So, so now what do we do?

What do we do?

And I think we stop right now and, right now, and we celebrate her life. Let's celebrate her life. Let's take a moment right now and think about the elementary school that she went to and the legacy that I heard was celebrated with flowers and balloons and love, and let's let that be Brooks's legacy. Let's let that be Brook's legacy.

You know, my boys go to an elementary school. I'm sure it's just like Brooke's, and they have the big sign out front, and it says, you know, PTA meeting Tuesday, 7:30, half day on Wednesday, stuff like big announcements, and I drive it by it everyday. And imagine passing this elementary school that, that I heard described as, you know, it's an elementary school where we hug, and when we hug we

care, and there's love there, imagine if the school sign said this Sunday, to honor Brooke, we killed a man.

That -- those words and that sign would be grotesque. Let love and flowers and balloons be Brooke's legacy. Not taking the life of another human being.

This isn't about -- and you heard the judge sustain my objection. This is not a vote to protect children. That's, that's an illegal argument.

Anybody feels like that?

Raise your hand. The judge will take you off the jury right now.

THE COURT: You don't have to respond to his request. Please don't.

You may proceed.

MR. McGUIRE: The judge was very adamant when we spoke to all of you in the questioning and when we all got to know you and asked you about your views, and, and I think you've learned, without any shadow of a doubt, to automatically vote for the death penalty based on the profound impact of the victim being a child is against our law in South Carolina. There's no doubt about that. That's the law.

The judge was very clear and very adamant that you have to look at the man's life, mitigation circumstances. That's our law. We don't just kill people automatically in South Carolina because of the emotional impact and of status of a,

of the victim. We don't do that. We don't do that. That would be a terrible society.

So, when we look at Ricky's life, when -- we have to. That's the law. We have to look at the man, look at who he is. I think you heard he's mentally challenged. There's no doubt about that. He's a tender, gentle good person. You couldn't find one person say a mean thing about him. He never had a mean word for anybody. He adored Angie. He adored his wife. He wanted to be a good father and a good grandfather.

Did you hear anything bad about Ricky?

Did you hear anything bad about Ricky?

I think he broke in, when he was, when he was in his late twenties, he, he, he was charged with taking some gas from a gas tank, and I don't have the resources and the energy to go back and find the boys he was hanging around with when he was in his twenties, but I think you'll -- your gut will you tell, he's probably the retarded guy that was following everybody around, and that's the only -- that's his only brush with doing something really wrong, and it was a minor, a minor thing.

So, ask yourself did you hear anything bad about Ricky Blackwell?

The answer is no. The answer is no. Not his whole life.

You know, I want you to listen to the phone calls. The prosecutor wants you to listen to them too apparently and we have a very, very, very different view of what they say.

First off, Ricky is able to use the phone a couple of hours a week. This case is four and a half years old, fifty weeks in a year. I don't have a battery of law clerks or interns to go through hundreds and hundreds and hundreds of hours of phone calls. I tell you how I picked those two.

I knew when Jerry Wayne passed away, and I -- cause I talked to Ricky about those things, and I knew that his heart went out to Jerry Wayne, and he wanted to make sure that Jerry Wayne knew that he loved him before he died. And you can hear how Jerry Wayne is weak and Ricky's concerned about him and talked to him about his heart and his breath and is he worn out and can he go to church. That's how I picked that -- those couple of days and, and that's how I picked it.

I can't go through thousands and thousands of phone calls. I just can't, but I picked that one cause I knew that he was gonna talk to Jerry Wayne or he did talk to Jerry Wayne and say Jerry Wayne, I love you.

But listen to the words. Listen to how many times you hear, I love you, I love you. You know, as men, we're not free with those words. We're not. And especially in the South. I mean I'm guilty of that. You know, I don't freely

throw out the phrase I love you to, to people that I should say it to all the time. I, I just don't.

But listen to how freely it comes out of Ricky. I love you. I love you, Jerry Wayne. When you listen to the second phone call with, with Caleb, Heather's little boy, Ricky's grand, grandson, listen to how many times they tell each other I love you, I love you. I sure miss you, papa. I love you. I love you too. How easily it flows out of him.

He is a man who, when you look into his soul and you look into his heart, he's a man of love. That's, that's who he is, and the prosecutor, the government lawyer wanted to say that it sounds like he's not retarded on the phone calls. I disagree. Listen to the language and how childish it is and how he repeats himself. He can barely keep the conversation going. He knows he's got 15 minutes to talk, and he just talks until the 15 minutes is over.

There's no agenda. There's no topic. There's no organized conversation. It's just hey, how you doing, I love you, and then it just goes for 15 minutes.

I -- you know, they say I'm trying to make this about Angie and I'm not, but it's important to understand how she factors into this. I think you all know that, that this is a mentally challenged man who found a woman who he treated like a queen, put on a pedestal, worshiped the ground she

walked on. She was the air that he breathed. She was the sun in his solar system. And not only did he just love her, she probably took care of him. And when she left, it cut him to his knees, and when he was on his knees he prayed, and he prayed, and he saw Pastor Rice, and he saw James Hamrick, and he saw, he saw -- you know, every time he saw Ms. Shook or Mary Youmans, every time you heard a person say I saw Ricky and he told me about Angie, they all described a distraught, in -- unconsolable man racked with grief that weighed -- Doctor Jackson's notes, Doctor Donna Schwartz-Watts testified. It was -- it was way out. It was grief beyond consolation. It -- this was intense. This is not I'm sad because my girlfriend left me. This is devastating.

He has a mental health issue. He's battled with major depression his whole life, and then you put this on it, and he's taken down to his knees, and he's praying to God. He's seeing Pastor Rice and he's going to Doctor Jackson and he's going to these people.

He was devastated and destroyed, and that's just with her leaving. That's just with her leaving. He tries to kill himself. He tries to kill himself.

Angie comes over to Heather's around Christmastime in December. Remember she left in November. She comes back around Christmastime, and Ricky -- and Heather testified to

this. Ricky got up the nerve to say have you been intimate with Bobby, and she, in a very mean and tactless way, said yes, I've been very intimate with Bobby. She said she enjoyed it. She made a comment about the frequency, and then made a comment, and regarding your life insurance, I have enough life insurance on you, if you die, I'll live, I'll retire on it, I'll live off of it or something like that, and---

SOLICITOR BARNETTE: Your Honor, I'm gonna object. I don't think that was in the evidence in the case.

THE COURT: I don't recall that being in the evidence. I'll strike the last comments concerning what was said.

MR. McGUIRE: Whenever I say it's not evidence, but what Heather said. You have the absolute right to come back in and say I'd like to hear Heather's testimony played back, and you can hear it again firsthand out of her mouth.

Okay. My recollection is that she was mean, that she said yes, I've been very intimate with Bobby Center, made a comment about enjoying it, and made the comment about him dying and her living off of the insurance. Come back and listen to that if you don't, if you don't recall that.

And the power this woman has over him, and the meanness of her words caused him to go outside, grab the pills, take the pills, and try to end his life. And he took, I think the medical call records said about 30, Xanax tablets.

Is that -- was that a show for Angie?

Maybe. Maybe. I mean maybe he wanted to go out some kind of martyr and to have his death on Angie's hands. I don't know. But she can move him to places that we don't go to, and you'll have to -- you'll have to decide what's more likely to have happened on that day, that day in July, when Brooke came over with Angie to Heather's house, and I -- that day was probably more like the suicide in December than it was Angie's versions.

Heather has charity in her heart for Angie. She wants a relationship with her mother. Ricky would take her back today. I think that's sad. I don't have a lot of charity in my heart for, for Angie.

Heather, Heather does blame Angie for this. I mean Angie's not totally responsible for this. Obviously. I would never say such a thing. But Heather blames her mama, and I think that became clear, and Angie said it to you. And to absolve herself of that responsibility, to step away from being fully responsible or as responsible as Heather thinks she is, Angie made some things up. She's trying to, she's trying to say this is not an act of fate, that it's not coincidence, it's not happenstance that Ricky tricked me or got me over there somehow. And I don't think the evidence supports that at all.

Angie was a -- Angie is not a credible witness. She's

not a credible witness. Heather -- you heard evidence from a number of people, Heather said please don't, please don't come around, call before you come, please don't bring Brooke, it's my daddy. It's hurting my daddy. Angie broke all the rules and showed up, and Heather blamed -- does blame her for that. She does.

And how do you know that Angie's not credible?

Well, she wanted to tell you that it -- Ricky was the one following her around. Oh, I couldn't go anywhere with Ricky being there. He's always following me around. But you heard from credible people to say she was the one coming back and flirting with him, giving him hope that the relationship might continue, reconcile, and getting money from him. The people that told you the truth told you that and that's truthful.

Angie's version that Ricky's trying to follow her around, he's the one always -- now, I think he obviously likes to see her, would love to see her at any opportunity. But she was the one actually coming back, from time to time, to flirt and get money.

You know, Angie said she was at her mom's house, Irene's house, before going over to Heather's that day, and but Mary Youmans testified and -- Angie was at Mary Youmans house that day talking about Bobby Center and Angie is insisting that Mary Youmans knew him, and getting a picture,

and talking about the outfits, and going to Myrtle Beach, and being at the swimming pool, and that was clearly a surprise to the government. You saw the shuffling around and the objections and the panic.

And you know why?

They didn't know about her.

And what's the only answer for that?

Angie didn't tell them. She won't even tell them the truth. Think about that. When she goes to create this, this is what happened that day, and she doesn't tell them the truth, I think y'all should have a real problem with that.

This was exactly as Heather said. This was Angie coming around. She broke Heather's rules. She brought Brooke. This was a chance, happenstance event.

I think what happened is what happened at the suicide. Ricky was himself, please, please come back, begging her, probably crying, tearful. Brooke was there. He probably grabbed Brooke to keep her from leaving, going away, and then he did, he did what they said he did, and then he goes and he runs away, and he comes back and he, he lays down on the ground on his back, looks up to the sky, and shoots himself.

If Brooke wasn't there that day, I don't know if he would of just gunned himself down in front of Angie. I just

don't know. That may of happened.

But Brooke wasn't a part of anybody's plan in his head or in his thoughts. When -- I don't know what he would of done. Probably just killed himself in front of Angie.

This was -- when he shoots himself, when he's under the swing set that he built for his grandkids, when he, when he lays down on his back and he shoots himself, that's his second suicide attempt over Angie in six months. It's about 20 something weeks out when he left the, the psychiatric ward.

And, you know, I listened to the police officers when they were talking about, when the government attorney said well, why didn't you shoot him, why didn't you, why didn't you kill him saying that why didn't y'all shoot him, didn't kill Ricky. Said well, our policy is, if he's not a danger to us, if he kept the gun pointed at, at the ground or at his stomach, he was not a danger to us, we don't employ lethal force when someone's not a danger to us, and I'm gonna ask you to treat Ricky the exact same way. If he's not danger to us, all of us, then don't use lethal force. I'm gonna ask you to treat him just like the police officers did that day.

There's some things in this case that are almost beyond dispute, that are obvious to me. Ricky's mentally retarded. He's scored, on IQ tests, in the sixties. That puts him at

the bottom two percent of the country meaning 98 percent of the country is smarter than Ricky and that's science. Those are reliable, valid standard individualized IQ tests, the kind that you would get by yourself in a room with a trained psychologist, and he's tested in the sixties. Ninety-eight percent of people are smarter than him, and that is science talking.

He was tested with regard to his academic level of achievement when he was 18, and he was at a fifth and sixth grade level. In his fifties he was tested again, the same thing, academic achievement, english, reading, writing, arithmetic. He was tested again in his fifties, and it was the exact same thing. Reading, math skills, at a fifth and sixth grade level. Puts you at about a 12 year old, about a 12 year old. That's science again. A standard valid test. Science is telling you where his mind is.

Now, the prosecutor wants to say it's impossible to be retarded cause he was able to get a driver's license and drive a truck, and if there was one expert in the world that believed that, they'd of gotten there and said it. If there was one psychologist, psychiatrist who would say it is impossible for a mentally retarded person to learn how to get a driver's license or to learn how to drive a truck, you'd of heard it because it, it doesn't exist.

You can be mentally retarded, you can score the bottom

two percent, you can be about a fifth, sixth grade level, about a 12 year old, but you can learn how to drive a truck by riding around with your dad, Cletus. You know, no one -- commercial driver's licenses weren't even required for years and years and years. I think until the nineties. He'd been driving a truck way before that, and he -- people can study. A 12 year old can pass a biology test or a math test, and a retarded person can get a driver's license and they can drive a truck. Of course, some of the pictures, he didn't drive it very well. He crashed.

But there's no witness from the State, no expert from the State that even cared to come up here and say it's my expert opinion he's not retarded. It's uncontroverted. I don't know why they didn't -- I guess they don't exist, but not -- the State did not call one expert witness qualified to come here and say he's not retarded. They just want you to -- they want you to apply your definition of mental retardation and they hope it doesn't square with science.

They hope that somebody on this jury says well, I don't think you can be retarded and drive a truck. Well, that's not a definition of mental retardation. And if you would of asked me about ten, fifteen years ago, before I had some experience in this, I would of said the same thing.

It's like you sure, driver's license, truck?

I don't know. I don't think so.

But now that I know the science and I know the definition, he clearly fits it, and it's uncontroverted. It's uncontroverted.

We can all agree, without any doubt, Angie can move this man to places that I would never go or you would never go. There's no doubt about that. She can, she can put him in a position of grief that is unimaginable apparently where he would be moved to kill himself. We know that. That's a fact.

I think we can all recognize what it must have been like to be thought of as half a man because you're having trouble in the bedroom, and then to see your wife be satisfied by another man. Much less the wife bragging about it to you. We all can recognize what that must do to a man, a human being, like Ricky.

And we all, I think, can recognize how painful it must have been for him to see all the reminders of that, that he couldn't satisfy her sexually, that she went into the arms of Bobby Center, that he could satisfy her sexually, and she actually changed, became into a different person. You heard everybody say she started drinking. She started smoking. I think Ms. Youmans used the phrase Daisy Dukes, shorts, which I believe are very very short shorts, wearing mid-drift cut tops, dressing sexually provocative.

Now, I don't say this to be disparaging on Angie or to

say that women can't dress however they want. But, for Ricky, these were reminders that she was becoming a different human being, a different person, a sexually, a sexual person, and she was being sexually satisfied by Bobby Center, and that he was thinking he was half a man for it. And I think we can all just recognize the pain that that can cause in a man.

I think we can all agree that Ricky is a Christian, that he has a relationship with God, that -- and you'll see different things in evidence about when he goes to church and fills out Bible verses, he takes a Bible college, and he has a relationship with Pastor Rice, and he's, he, he's been like that pretty much his whole life.

Does he go to church all the time?

No.

But does he go to church and he -- does he have a relationship with God?

Does he believe in God?

Is he a Christian man?

I believe there's absolutely no doubt the answer is yes.

And remember the story?

I think it was Pastor Rice who told you about he went over to visit because Heather, Heather and, and Bud, Ricky's children, were in the christian school, and he stopped by to

give them some homework that night, and he saw Ricky learning how to read his Bible and they had the dictionary out cause some of the words were, were big. That's his faith and his devotion to God despite his limitations to have that dictionary out and have his Bible out. And to try to learn it and read it I think says a lot of good about him. He has God in his heart and God in his soul.

But I think we can all agree that everybody he's touched in his life, everybody that knows him says he's caring, he's tender, he's gentle, he's nice, everybody likes him, he likes everybody. Not a mean word out there on him. A good man, a good man.

I'm gonna ask you to see him through their eyes, the people that have known him, that have spent time with him. See him through their eyes. If you do, you will say this is a good man, a kind man, a tender man, a gentle man, a Christian man.

He is sorry for what he has done. He is sorry for what he has done. Pastor Rice told you he says I'm, I'm getting right with God, and I think God has forgiven me, but I can't forgive myself, and Doctor Schwartz-Watts, who prescribes him medicine for, for flashbacks, and invasive memories, and nightmares said he can continues to ruminate about what he's done. He ruminates and ruminates about it, and he's remorseful. He's remorseful.

And that takes us, that takes us to, that takes us to the last bit, which is I think we can all agree that the man who did this is not the Ricky Blackwell that the world knows. Every person said, when you heard about it, what did you think, said no, not the Ricky I know. No. No. I can't believe it. I can't believe that Ricky could do that. That's not the Ricky we knew.

That takes us to the person who committed this, this six seconds of this crime, this little snippet of seconds in his life. The man who did that, where he was in his mind, where he was in his heart, and that's not the true Ricky Blackwell.

He was in, he was in a place, he was in a place that's the -- it was the perfect storm of events that, that took him, moved him to a place, a dark place that, an extreme place, that, that he would never -- that doesn't reflect who he is, and he would never return to. He would never return to.

The -- considering the, the killing of Ricky, should you kill Ricky Lee Blackwell?

To consider putting him in the death house, electrocuting him or pumping him with poison, that is, in our society, a last resort. It's a last resort and we all agreed on that when we were talking, and put another way, put another way, I think the question before you now, the

question before you now is do you, do you, as an individual human being, not as a group, but you individually, as a human being, do you have to kill Ricky Blackwell?

Do you have to kill him?

And answer the answer is no. The answer is no. We don't have to kill Ricky Blackwell.

Is he so, is he so far from redemption that he's pure black inside and we just say let him go, kill him?

The answer is no. You've seen that.

Is there not a spark of humanity or goodness in him where we just have to take him from the human race?

The answer is no. The answer is no. The answer's no.

Is he so dangerous, is he so dangerous that we have to kill him so he doesn't harm another person?

No. The answer is no.

Is his life a history of, of meanness and selfishness where this actually truly represents who he is?

The answer is no, no, no.

Do you have to kill Ricky Blackwell?

No, no, no. You don't.

The world will go on. He will go to prison and be punished severely for what he did.

You can't kill him cause you can't kill just the little six seconds of his life. You'll have to kill the whole man. You don't have an option of killing the six seconds. If you

did, I'd give it to you. I'd say do it. But you can't. You can't kill the six, the six seconds. You kill the little boy, the little mentally retarded boy that grew up in Cletus home and Mildred's home. You kill the, the man who, who adored Angie and raised kids with her, the big gentle giant who buys the bouncy house and rolls on the ground with his granddaughter.

You can't kill the six seconds. You kill the man who prays to God, has a relationship with God. You can't kill the six seconds. You have to kill all of Ricky Lee Blackwell, and there's so much goodness you'd be killing. So much love.

The judge will charge you that any individual, any one of you can vote for the life penalty sending him to prison for the rest of his life, to die there, for any reason, no reason, or mercy alone. And the no reason is really I think for you, so you can be gentle to each other and be good to each other. Be good to your fellow juror.

There is no doubt in my mind that, that all or some or a few of you, there's no doubt there are people who do not want to kill Ricky Blackwell. There's no doubt in my mind, and you have that right to just say I don't want to contemplate the rest of my life carrying the burden of having taken one of God's creatures, taking the life of a human being. I want to live my life and contemplate my

mortality and maybe go into St. Peter's gates myself without a black mark like that on my soul.

So, that's for you. That's so we can be good to you. It's wrong to -- nobody volunteer for this. That's why I keep telling you I'm so sorry you have to go through this. Nobody volunteered. You were conscripted by the government to come in here and be taken away from your family, and your, and your work---

SOLICITOR BARNETTE: Your Honor, objection. This is improper argument at this point.

THE COURT: I'll ask the jury to step back to the jury room. Don't begin any discussions until I've advised you to do so.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Mr. Barnette, please state your objection.

SOLICITOR BARNETTE: Yes, sir, my objection is this is improper argument. He's classifying us as government lawyers, and says the government is taken you from your homes equating us with the government and obviously the Court knows that it's obviously we're not part of this, of bringing them in, taking them form there, and I think it's very improper to classify us as a government that's took them from their homes and put them in this position.

THE COURT: I'll hear you.

MR. McGUIRE: It's factual -- well, factually it's accurate. They've not volunteered for this. They got a summons. They were required by our government to come here. It's true.

THE COURT: Well, but I think his point is that the Solicitor's Office doesn't summons jurors. The Clerk's office does.

MR. McGUIRE: I'll put---

THE COURT: Part of the same State of South Carolina.

SOLICITOR BARNETTE: He did say State of South Carolina or prosecutors, but he calls us government's lawyers. So, if he's gonna use government lawyers and equate us to the government, I got a real problem with that and I agree. I think the Court can see that, the problem of what he's equating us to. The jury don't know that. I know the difference. They don't.

THE COURT: Mr. McGuire.

MR. McGUIRE: I mean I can correct it and say the county, the county government.

How about that?

THE COURT: I'll ask you to do that.

MR. McGUIRE: Yes, sir.

THE COURT: Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: Mr. McGuire, you can proceed as we've agreed.

MR. McGUIRE: Yes, sir.

None of you volunteered for this. The, the county, county government, the Clerk of Court's Office sent you a summons, and you had to respond to it, and you had to come here.

Again, that -- just saying that you don't want to carry the burden of having killed another human being, and you can vote for the life penalty, you can vote against the death penalty for no reason at all, again, that is for you. That's for you.

It would be wrong for us to conscript people, make them come here, put them in this awful situation, and then make them vote to take another human being's life. That would be grotesque and wrong.

So, any person, if they just want to say it doesn't, it sits too heavy with me, it sits too heavy with me, it would sit too heavy on my heart, I don't want the burden, I don't want the black mark on my soul, if any one of you-all feel like that, just tell your other jurors, and they'll be good to you, and they will be gentle to you, and the sentence will be life and he will die in prison and the world will go on.

For whatever reason, anybody could vote -- one single

juror can just say I want to vote for life for any reason, or no reason, mercy alone. We've gone over that. That is, again, that, that -- we build that into the law so that, if one person just says I don't want to vote for the death penalty, the judge is going to take the case. He's going to sentence. The case will end. It will never have to be tried again.

We build that into the law because the State of South Carolina is always satisfied with a life verdict in this case, in any case, in the worst case. The State's always satisfied with a life verdict. Always.

What good can we -- could the death penalty possibly do today?

It can't bring Brooke back. If, if, if it could, I'd say do it. It can't. It doesn't add to her legacy. Let her legacy be flowers and balloons and love. You can't add to that. It's not gonna help any human being. It's not gonna -- killing another human being doesn't make people feel better. It just doesn't. Don't add tragedy upon tragedy and a killing upon killing.

But what -- it can hurt some people. It can hurt Cletus. He's one of the sweetest men I've ever met in my life. It can just maybe take his will to live away. He's lost one son, Donnie, and he loves his boy, and I'm gonna ask you let Cletus have Ricky, and his mother, Mildred. Let

Heather have her father.

Let all the people that he's touched and know he's a good person, just let them know that he can die.

How about Caleb, Heather's little boy?

Caleb, playmate and friend of Brooke he's the one on the phone call with so much love. I love you. I love you. I love you too. I love you too, Caleb. He's the one on the phone call with nothing but love for Ricky.

Let him have his grandfather. Let him have -- he calls him Papa Ricky. Let Caleb have that. Let Caleb have that.

You know some people believe in angels, and, and if Caleb was to pray to the angel that is Brooke, his friend, and playmate, and he said Brooke, I want to have my grandfather, can I have my grandfather, can I have Papa Ricky, she would say yes. She would say yes.

Thank you.

THE COURT: Ladies and gentlemen of the jury, that completes the arguments by counsel. I am informed that your lunch is to be delivered at one o'clock. So, that's about ten minutes from now. So, I'm gonna go ahead and let you start your lunch break at this point in time.

As always, when you're outside of the courtroom, I'll instruct you not to discuss any aspect of this case until such time as I've asked you to begin your deliberations. When you have completed lunch, we will resume the trial and

will be charging you concerning the law, and once that's completed, then I will be asking you to begin your discussion.

So, again, my instructions remain the same during the time that you're out of the, the courtroom. Don't begin any discussions about this matter, even among yourselves, until I've asked you to begin. I do intend to restart the trial by two o'clock this afternoon. So, when you get your lunch, you'll eat it as quickly as you can, and we'll try to get started on time.

So, at this time you may step back to the jury room.

Thank you very much.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Court will be in recess until two o'clock.

Please remain seated while the defendant retires.

(WHEREUPON, Court was in recess for the lunch break.)

THE COURT: State ready to proceed?

SOLICITOR BARNETTE: They're checking on one person, Your Honor.

Can we have one second?

THE COURT: Okay.

SOLICITOR BARNETTE: Let me check and see if she got in.

THE COURT: Sure.

(Pause.)

SOLICITOR BARNETTE: Your Honor, she's not here. We're waiting on the mother, but she's not here at this point.

THE COURT: All right. Otherwise, are you ready to go forward?

SOLICITOR BARNETTE: Yes, sir. Yes, sir.

THE COURT: Defense ready?

MR. ALLEN: Yes, Your Honor.

THE COURT: All right. Let's bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. The record will reflect the jury has returned to the courtroom.

Mr. Foreman, ladies and gentlemen of the jury, you have heard the testimony and the evidence and the arguments both by the State and by the defendant in this phase of the trial. It is now my responsibility to explain the law that applies to this case to you.

Under the Constitution and the laws of South Carolina -- of this state and of the United States, you are the finders of fact in this case. I do not have the right to pass upon the facts or even to express an opinion concerning them.

You are also the judges and the sole judges of the credibility and the believability of the witnesses who

testified in this case. And in passing upon their credibility, you may take into consideration such things as the demeanor of the witnesses or the manner in which they testified, whether the witnesses had a reason to be biased or prejudiced one way or the other, whether a witness' testimony was contradicted on one hand or supported or corroborated on the other hand.

You don't determine the credibility or believability of the witnesses who testified during this trial by counting the number of the witnesses for either side or the length of their testimony. You have the right, as the sole judges of the facts, to believe all of, part of, or none of what a witness may have testified to, and, on the contrary, you have right to believe one witness against several or several against one. All of these things you will consider bearing in mind that you should give the defendant the benefit of reasonable doubt.

Now, I'm going over, at this time, some concepts that we discussed even during the first trial since some of them apply to this particular proceeding as well, and I will instruct to you, again, as I instructed you earlier and emphasized that the fact that the defendant did not testify is not a factor to be considered by you in any way in your deliberations or your consideration of the questions in this case. It should not be considered by you at all in reaching

a verdict in this matter.

A defendant has the Constitutional right to remain silent and the assertion of this right must not be considered by you at all in your deliberations. You are to draw no conclusions whatsoever from the fact that the defendant did not testify in this matter and the fact that the defendant did not testify should not even be discussed by you in your deliberations. The burden of proof is upon the State, and that burden remains with the State.

Also, we've had witnesses who testified in this phase of the trial, as in the opening part of the trial, who were qualified as expert witnesses, and I explained to you a little bit about that. In other words, the ordinary rules of evidence do not allow witnesses to state opinions concerning matters. They're required to testify concerning facts within their knowledge.

An exception to that general rule exists for a witness who is called or qualified as an expert witness and, again, that's a witness who, because of their education or experience, has become an expert in some art, profession, calling, and those qualified witnesses, expert witnesses, are allowed to state their opinions concerning relevant matters and -- in which the witness claims to be an expert and can state the reasons why they hold those opinions.

Now, as the sole judges of the facts, you have the

right to consider opinions given by experts received in testimony like any other evidence. You give it the weight you think it deserves. Should you decide that the opinion of an expert witness is not based on sufficient education and experience or if you conclude that the reasons given in support of the opinion are not sound or that the opinion is outweighed by other evidence, you, as the sole judges of the facts, have the right to disregard an opinion in its entirety if you choose to do that.

I will tell you that an expert witness' testimony is to be given no greater weight than that of any other witness simply because the witness has been declared to be an expert. Again, you weigh it like you weigh any other evidence in the case, and you're not required to accept an expert's opinion even though it may not be contradicted by other evidence.

Now, the same Constitution and law that makes you the sole judges of the facts in this case makes me the sole, the sole judge and instructor of the law. You're required to accept the, the law as stated, which I charged to you, and apply it to the facts and evidence as you find those facts and evidence to be. I charge you, in this regard, that you should not be concerned with what you think about the law or what you think the law ought to be. You should only be concerned with the law as I charge it to you during this

charge.

As earlier, you have the right to consider two types of evidence in reaching a verdict in this matter. You have the right to consider what we refer to as direct evidence and the -- also you have the right to consider what we refer to as circumstantial evidence.

Direct evidence is testimony of a person who claims to have actual knowledge of facts about which the witness testifies. It's evidence which immediately establishes the main fact which is sought to be proven.

Circumstantial evidence is proof of a chain of facts or circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which a main fact may be inferred. So, circumstantial evidence is based upon inference and not upon personal knowledge or observation.

Now, the law doesn't make a distinction between the weight or value that you, the jury, can give to either type of evidence nor is there a greater degree of certainty required of circumstantial evidence than that of direct. I will tell you, as jurors, you should weigh all of the evidence presented to you in determining the issues that are before you in this matter.

Now, ladies and gentlemen of the jury, it's now your duty, in this phase of the trial, to decide what sentence

you will recommend and that, that the, the Court impose upon the defendant, Ricky Lee Blackwell. Now, in doing so, so, there is a threshold matter that I need to take up with you.

The defendant has presented evidence, during this trial, concerning the possible -- his possible mental retardation, and I'll tell you that mental retardation is defined in South Carolina, the South Carolina Code of Laws as mental retardation means significantly -- significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period. That's the definition for that, that condition under the statutes.

Now, in order to establish that the defendant suffered from mental retardation at the time of the crime, that fact must be found by you, the jury, by evidence that you find to be the preponderance of the evidence or the greater weight of the evidence. This is a different standard of proof then I've discussed with you in the past in this case. Normally, in a criminal proceeding, facts are to be proven beyond a reasonable doubt. That's not the standard as to this particular question or issue. The level of proof as to this question is lower than proof beyond a reasonable doubt.

Again, for a finding by you of -- for the jury on this matter, the level of proof must be by the great weight or preponderance of the evidence.

Now, you may ask yourself what is meant by the greater weight or the preponderance of the evidence, and I'll try to explain that to you at this time.

A preponderance of the evidence simply means the greater weight of the evidence. It's evidence which, as a whole, shows that the facts sought to be proven is more likely true than not true.

Now, I want you to imagine, in your mind, I think all of us have seen a statue of Lady Justice. That's the lady in a long robe. She's got a blindfold on. She's holding, in one hand, a set of scales and down by her side in the other hand there's a sword, and I want you to focus on the scales that she, she would be holding up.

I will tell you that, as you consider the evidence, that evidence will be placed on one side or the other of the question that you're considering, and I will tell you, after all of the evidence has been presented, if the scales remain dead even, dead even, or if they tip ever so slightly in favor of the negative of the question, then the negative would prevail. However, if the scales tip ever so far, slightly in favor of the positive side of the question, then that side would prevail. So, it depends on which way the scales tilt, one way or the other, as to how you decide the question that's been purported -- presented to you.

Now, the preponderance of the evidence is not

determined, again, by the number of witnesses or the length of their testimony. Instead, it's determined by the greater weight of all of the evidence. That's the weight that you, the jury, assign to the evidence as you consider it.

Now, you will be asked to write a separate verdict on this question, and I, at this time, I'm gonna pass some papers over to you.

Mr. Ruth, could you hand this over to Mr. Van Der Plaat for me.

(Bailiff complies.)

THE COURT: Mr. Van Der Plaat, I'm gonna ask that you leave those documents in the same order that I gave them to you because I'll be talking about these forms as we go through this process so that you and I will have an understanding as to what I'm talking about. Then you can be in a better position perhaps to answer questions for the jury that they may have.

You'll notice the very first paper in there says at this top, this is the first verdict form you'll consider, and it has the caption hundred of the case.

THE FOREMAN: Uh-huh. (Affirmative).

THE COURT: And then it poses the question as to this issue of whether or not the, the defendant was mentally retarded at the time of the commission of the crime.

Now, there's three choices under that. One is yes.

The other is no. And then the other is that the jury is unable to reach a decision as to that particular question. Not able to reach a decision.

Now, decision for the jury to make a finding on that question must be unanimous. That means each and every one of the jurors would have to agree with the finding in order for a finding to be reached.

So, do you understand the form?

THE FOREMAN: Yes, Your Honor.

THE COURT: And do you understand the choices below that?

THE FOREMAN: Yes, Your Honor.

THE COURT: Now, below -- even further below the choices, you'll see a statement to you and it says if the jury answers yes to the question, and that is the question if, if the defendant was shown to be mentally retarded at the time of the commission of the crime, as defined by the statute, if you answer yes, then that would end your deliberations. The defendant would not be death penalty eligible in that case, and you then would return that verdict to the Court.

If the jury finds no on that question or if the jury is unable to reach a finding as to that question, then you would consider -- continue with your deliberations into the matters I'm going to explain to you at this time.

So, do you understand the form?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. Now, I will tell you, tell you that, should the jury find that the defendant was not mentally retarded or should, after a full and thorough deliberations, the jury not be able to make a unanimous finding as to this question, the factor of mental retardation can -- is still a mitigating factor that the jury can consider along with other mitigating factors in this case. I'll explain that to you in more detail, and it can be given the weight that the members of the jury feel that that particular factor should have.

Now, in this particular case, if you get past the questions that I've asked concerning mental retardation, if your deliberations are to continue, there are two verdicts that you will consider in this case as to the sentencing. One is the death penalty, which, in this state, is by electrocution, electrocution or by lethal injection, at the option of the defendant, and the other is life imprisonment without the possibility of parole. I will advise you that your sentencing recommendation in this case would be followed -- will be followed by the Court.

The order in which I go over these with you, these two sentences, is, by no means, a recommendation by this Court as to which sentence you should choose to recommend. It's

simply that there are two choices and I must explain one first and then one second.

The first thing I'll go over with you will be the death penalty, and I'm going to ask you to flip in those forms down to the next to the last form in the package. Mr. Van Der Plaat, and that should be a form that requires signatures by all of the jurors.

Did you find that one?

THE FOREMAN: Yes, sir.

THE COURT: All right. Now, I'm gonna talk about that one.

This is the recommendation of sentence form in this case and it has to do with a recommendation for the sentence of death.

Now, please observe that, immediately below the body of that recommendation, there are 12 lines. This is where, should you decide to recommend the death penalty, each one of the jurors deciding that question would sign his or her name. It's the law of this state, Mr. Foreman, and members of the jury, that a recommendation for imposition of the death penalty must be unanimous, a unanimous recommendation and that each and every member of the jury must sign his or her name to the recommendation form.

Now, the form states, in part, that we, the jury, in the above entitled case, having found, beyond a reasonable

doubt, the existence of the following statutory aggravating circumstances, to wit, and at the top of the form there's some blank lines up there.

Do you see that, Mr. Van Der Plaat?

THE FOREMAN: Yes, sir.

THE COURT: Now, at, at this point in time, that's the place, that, those blank, would be the place where you would write any aggravating circumstances as found by the jury, and I'll go over those with you in just a minute. But before a recommendation of death can be made, there must have been found an aggravating circumstance and the jury would have to write in those blanks the aggravating circumstances that the jury has found.

Do you understand that part of the form?

THE FOREMAN: Yes, Your Honor.

THE COURT: Now, now, you may ask yourself just what is an aggravating circumstance, and I'm gonna ask you to go away from that form and go to the second form in that stack of papers, and on that that should be a statutory instruction.

Did you find that form?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. We'll be talking about that one in just a minute.

Now, you may ask yourself well, what is a statutory

aggravating circumstance.

I will tell you it is a fact, an incident, a detail, or an occurrence which the General Assembly, that's our Legislature, has declared, by statute, would make worse or that is aggravate the offense of murder. When the two occurred together, that is the offense of murder and the aggravating circumstances, in other words it's something which would increase the enormity or add to the injurious consequence of the offense.

Now, that statutory instruction sheet that I have given you contains the, the statutory aggravators which I have determined the jury, the jury can consider in this case, and that's what that says. The body of the form states that, in determining whether to recommend that the defendant, Ricky Lee Blackwell, be sentenced by the Court to life in prison or death, you may consider the following statutory aggravating circumstances.

The first one I have on there is that the defendant, Ricky Lee Blackwell, Senior, did murder Heather Brooke , which was the murder of a child 11 years of age or under.

Now, under that I have placed the statutory reference for that statutory aggravator. That's number one.

The second aggravator that the jury can consider is that the defendant, Ricky Lee Blackwell Center -- I mean,

excuse me, Blackwell, Senior did murder, murder Brooke while in the commission of the crime or act of kidnapping, and that has a statutory reference as well. That's to the two aggravators.

Do you see those two items?

THE FOREMAN: Yes, Your Honor.

THE COURT: Okay. Those are the statutory aggravating circumstances that you have the right to consider.

Now, let me emphasize to you that these are the only circumstances which you can consider as aggravating circumstances which you should find, and it must be a unanimous finding by the jury that the State has proven the aggravating circumstance that you find by proof beyond a reasonable doubt.

Now, one or more of the aggravating circumstances on the paper, if you find that they do, in fact, exist by beyond a reasonable doubt unanimously, then there is another form -- and if you'll flip under that. There's -- go down to one where you see some blanks, some blank lines on that one.

Do you see one where you can find the statutory aggravators?

THE FOREMAN: Aggravating circumstances.

Aggravating circumstances Form C?

THE COURT: Yes, sir, I believe that's it and it has

blank lines in the center.

THE FOREMAN: Yes, sir.

THE COURT: And it's to be signed by all the jurors.

THE FOREMAN: Yes, sir.

THE COURT: All right, sir. Now, that's what I -- that's what -- that's the form that you would fill out once you've determined if the statutory -- what statutory aggravators exist. You would write those on there, and, again, the jury must make that finding unanimously.

Do you understand that?

THE FOREMAN: Yes, sir.

THE COURT: Now, in this case, the State has to prove the existence of at least one of those aggravating circumstances by proof beyond a reasonable doubt.

Now, I'll explain that, beyond a reasonable doubt, to you again. We talked about it in the first trial, but I'll go over that concept with you as well.

A reasonable doubt is that kind of doubt which would cause a reasonable person to hesitate to act, and proof beyond a reasonable doubt is proof that would leave you firmly convinced of the evidence of one or more of the aggravating circumstances.

Now, there's few things in the world that we know could be proven to an absolute certainty, and, in a criminal case, the law doesn't require proof that overcomes every possible

doubt. I will tell you if, based on your consideration of the evidence, if you are firmly convinced that an aggravating circumstance existed, then you would be -- then you would be authorized, which is to say permitted, to consider recommending to this Court that the defendant be sentenced to death.

So, in other words, that's another qualifying factor. Before the defendant could be sentenced to death, at least one of those aggravated findings -- factors must be found by the jury before the case is death penalty eligible is the way I would put that.

So, do you understand that, sir?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. Now, now, that -- go back to Form A, which is the first one under the statutory instructions.

If you find -- if the jury finds that no aggravating circumstances exist at all, in other words, none were proven beyond a reasonable doubt, then the foreman would sign Form A and you would stop your deliberations because, again, unless an aggravating circumstance is found by the jury beyond a reasonable doubt, the case is not death penalty eligible.

Do you understand that, sir?

THE FOREMAN: Yes, sir.

THE COURT: You see the form you'd sign if that were---

THE FOREMAN: Yes.

THE COURT: ---were to occur.

Now, if you are unable to unanimously, unanimously agree as to the existence of any aggravating circumstance, go to the next form. That is Form B, and that form would indicate that you were unable to reach unanimous agreement as to an aggravating circumstance. And if you were unable to do that, then you would sign that form and you would stop your deliberations because, again, the jury has -- would of not found an aggravating circumstance.

Do you understand that---

THE FOREMAN: Yes sir, Your Honor.

THE COURT: ---situation?

All right. Now, if, however, you find the existence of an aggravating circumstance, go to C. That's the one we talked about just a minute ago. Please list the circumstances as found by the jury unanimously, and then, again, all 12 jurors would sign the form indicating that aggravating circumstances, one or more, had been found.

Do you understand that, sir?

THE FOREMAN: Yes, sir.

THE COURT: Okay. Now, please pay particular attention to this. You are never required to, to recommend the death penalty. Even if the jury should find that a statutory

aggravating existed at the time of the offense, you are not required to, to recommend the death penalty.

Now, the final form of those ones that I lettered is D. So, you'll go beyond -- below the one where you'd write down the aggravating circumstance.

Do you see that document, sir?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. Form D.

The final form concerning aggravating circumstances that will be available is the Form D. Should you conclude that a statutory aggravating circumstance does, in fact, exist, the third element you can consider is whether the defendant should be sentenced to life imprisonment for any reason or for no reason at all. This is what is traditionally been referred to as a recommendation of mercy, and you have the right to find what is on Form D, which would be a finding that you did find aggravating circumstances, but, nevertheless, the jury chose to recommend the sentence of life.

Do you see that form?

THE FOREMAN: Yes, Your Honor.

THE COURT: And look over it and be sure you understand that form.

Any questions about that one?

THE FOREMAN: No, Your Honor.

THE COURT: All right. Now, the aggravating circumstances that I went over with you that are in the, the statutory instructions that I showed to you, it refers to two crimes, and I know we went over these in the other trial, but I want to be sure we understand it. It refers to the act of murder and the act of kidnapping.

I'll remind you that murder is the killing of another person with malice aforethought, and malice is hatred, ill will, or hostility toward another person. It's the intentional doing of a wrongful act without just cause or excuse and with the intent to inflict an injury or under circumstances that the law would infer an evil intent.

Malice aforethought is not required that it exist for any particular time before the act is committed, but malice must exist in the mind of the defendant just before and at the time the act is committed. Therefore, there must be a combination of the previous evil intent and the act.

Malice aforethought can either be expressed or inferred. That means -- doesn't mean there's different kinds of malice. It means there's different ways of proving that malice occurred. That's either by direct evidence, which would be expressed malice, or by inference. That would be inferred malice.

Express malice is shown when a person speaks words which express hatred, ill will for another person or when a

person prepares beforehand to do the act which is later accomplished. Malice can be inferred from conduct showing a total disregard for human life. Inferred -- let's see here.

Now, kidnapping is the other crime that's mentioned in the statutory aggravating circumstances. We talked about it earlier in the trial. But, again, I want to be sure you understand what that crime entails.

The crime of kidnapping is defined as when a defendant knowingly and unlawfully seize, confine, inveigle, decoyed, kidnapped, abducted, or carried away another person without authority of law.

To do a thing unlawfully is to do it willfully against the law.

Knowingly means with knowledge, consciously, not accidentally.

Seize means to take hold of suddenly or forcibly.

Confine means to limit, restrict, or enclose within the bounds, imprison, shut, or keep in.

Kidnap is to remove a person against his or her will by unlawful force.

Abduct means to carry off by force for an illegal purpose.

Carry away means to remove.

Those are the -- I just wanted to be sure we had an understanding of, when you talk about those aggravating

circumstances, what is meant by those two crimes.

Now, should you find, beyond a reasonable doubt, that one of the aggravating circumstances listed on the statutory instructions existed at the time of the murder or during the commission of the crime of murder, then -- and you should then decide, after considering the elements in favor of a recommendation of life imprisonment, about which I'll instruct you later, that the recommendation of the jury is that the jury (sic) be sentenced to death, then it would be your duty, Mr. Foreman, to write the recommendation of death on the appropriate form and it would be signed by all of the jurors, and, again, it does require that each and every juror signing the recommendation -- the recommendation of death be signed by all jurors.

Now, I will tell you that, during this process, other facts about the defendant's criminal background and record were introduced by the State, and I will charge you that the evidence of these other crimes should not be considered as substantive evidence of any aggravating circumstance. But, if you're convinced that the defendant committed those crimes or any of them, then you may consider them as evidence of character. These may be considered, along with other evidence, and you may give it the weight that you deem proper under the circumstances of the case. But I will tell you, under no circumstances, may you consider those facts,

even if proven, as evidence of proof of any of the statutory aggravating circumstances.

Now, the very last form in the, in the package I gave you, let's talk about that one briefly. This is a recommendation of life imprisonment without the possibility of parole.

Now, by that form, the jury can recommend to this Court that the defendant be sentenced to life imprisonment. In reading the text of it, it will say that we, the jury, in the above entitled case, recommend to the Court that the defendant, Ricky Lee Blackwell, Senior, be sentenced to life imprisonment. Please note that, although you must unanimously agree to recommend life imprisonment, that only the foreman is required to sign that particular form. But the verdict in that case must be unanimous before the foreman would sign it.

At this time now I'm going to instruct you on what you can consider in making your decision as to which sentence to recommend. As I previously instructed you, if you find the existence, beyond a reasonable doubt, of a statutory aggravating circumstances -- circumstance, then you are permitted, but not required to, recommend the death penalty. There are three conditions which you can -- that you should consider in reaching your decision.

First. Whether the existence of statutory mitigating

circumstances are supported by the evidence.

Second. Whether the existence of any other mitigating circumstance was supported by the evidence.

Third. Whether, for any reason you can think of or for no reason at all, the defendant should be sentenced to life imprisonment.

I'm going to talk to you about statutory mitigating circumstances at this time.

Mr. Foreman, I'll ask you to go back to that statutory instruction form, which is the second form in the documents.

Are you there?

THE FOREMAN: Yes, Your Honor.

THE COURT: All right. Now, you may ask yourself, well, what is a statutory mitigating circumstance.

I will tell you it is a fact, an incident, a detail, or an occurrence which the General Assembly has declared by statute would reduce the severity of the offense of murder. In other words, it's a circumstance recognized by statute as one which, in fairness and mercy may be considered as extenuating or reducing the degree of moral culpability or the commission of the act of murder.

A mitigating circumstance is neither a justification or excuse for the crime of murder. It simply lessens the degree of one's guilt. That is, makes him less blameworthy or less culpable.

Now, the statutory circumstances you should consider in this case are listed on that same form that I just gave you.

Do you see where they're listed, Mr. Foreman?

THE FOREMAN: Yes, Your Honor.

THE COURT: And I'm going to go over those that I have placed on the form that you can consider in reaching a verdict in this case.

Number one. The defendant has no significant history of prior criminal conviction involving the use of violence against another person, and I give the statutory reference for that mitigator.

Number two. The murder was committed while the defendant was under the influence of mental or emotional disturbance.

Number three. The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired.

Number four. The age or mentality of the defendant at the time of the crime.

Number five. And this, again, is that one that we talked about earlier, the question of mental retardation. If you had gotten to this point in considering the matter, then you would of gotten past that threshold issue.

Do you understand that, sir?

THE FOREMAN: Yes Your Honor.

THE COURT: All right. This says that the defendant had mental retardation at the time of the crime. Again, mental retardation means simply -- significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, and I will tell you you may also consider any nonstatutory mitigating circumstances, and I've listed below that some examples of things that you could consider from the evidence. But you, the jury, have the right to consider anything from the evidence that you consider to be a mitigating factor in reaching a verdict in this case.

So, while there are statutory aggravating circumstances, and you must find at least one of those, there are statutory mitigating circumstances. You can use those statutory factors or you can use any other factor that you might wish to use.

Do you see those factors listed, the additional factors, Mr. Foreman?

THE FOREMAN: Yes, Your Honor.

THE COURT: And so you're, you're aware of where that is and you do -- you should consider those as well.

Do you understand that, sir?

THE FOREMAN: Yes, sir.

THE COURT: All right. Now, a nonstatutory mitigator is, is one which is not provided for by statute, but is one which the defendant claims serves the same purpose. That is to reduce, reduce the degree of his moral culpability or blame for the offense. While there must be some evidence which supports a finding by you that a statutory or nonstatutory mitigating circumstance exist, you need not find the existence of such a circumstance by proof beyond a reasonable doubt or any other level of proof. You may consider any mitigating circumstance supported by the evidence submitted to you, and you must determine whether the evidence exists and the significance to be given to that evidence.

In reaching your decision as to which sentence to recommend, you will consider both the aggravating and mitigating circumstances, and while a statutory aggravating circumstance must be found before you can even consider recommending the death penalty, once such a finding is made beyond a reasonable doubt, you still have the right to recommend the death sentence even though you may find the existence of a statutory mitigating circumstance. In other words, the existence of an alleged statutory mitigating circumstance, an alleged nonstatutory mitigating circumstance, or both is not a bar to the imposition of the death penalty.

If you should conclude that a statutory aggravating circumstance exist, the third element you may consider is whether the defendant should be sentenced to life imprisonment for any reason or no reason at all. This is been traditionally referred to as a recommendation of mercy, and should that be your decision, you would so indicate by returning the forms which I have shown you which is aggravating circumstance Form D.

So, if you'd go to that form. That is what's traditionally referred to as a recommendation of mercy.

(Foreman complies.)

THE COURT: In other words, you may choose to recommend life imprisonment even if you find a statutory or nonstatutory mitigating circumstance, circumstance, or you may choose to recommend life imprisonment as an act of mercy, and even if you find a statutory aggravating circumstance, you may still recommend life imprisonment without the possibility of parole.

In any instance, should you choose to recommend life imprisonment, your decision must be a unanimous one, and the foreman alone would be required to sign those recommendation forms.

Now, I'm going to summarize what I've gone over with you and what you'll have in the jury room, and probably be a good idea to keep those clipped in that order so you'll be

able to locate them as you go through them.

First of all, the first form, again, is the form that has to do with a finding of whether or not the defendant was mentally retarded at the time of the commission of the crime, and if the jury unanimously finds yes for that answer, that would be the end of our discussion because the defendant would not be death penalty eligible.

If the recommendation or the finding is no or if the jury's unable to make a finding, then you would consider the other factors after that.

So, do you understand that first form?

THE FOREMAN: Yes, Your Honor.

THE COURT: Then under that is the statutory instruction. I won't go over those again in detail. I think I have explained that to you.

Under that is the recommendation of -- there's the Forms A, B, C, and D, which is concerning the aggravating circumstances, and then below that is the recommendation of death penalty, and below that is the recommendation of life imprisonment without parole.

So, do you have, do you have all those forms?

THE FOREMAN: Yes Your Honor.

THE COURT: All right. Now, again, the first question you are to consider is the question concerning mental retardation. If you -- if that does not resolve the case,

then you would consider the statutory instructions. Those instructions state only aggravating circumstances, the only circumstance you should consider in this case. Should you fail to find, beyond a reasonable doubt, one of these circumstances existed at the time of the murder, you'd go no further and sign the appropriate form.

After your review of the statutory instructions, you will compete -- complete the appropriate verdict forms concerning findings of aggravating circumstances.

Now, again, if you find an aggravating circumstance, then you would be authorized to consider recommending the death penalty. In your deliberations, you will consider any statutory or nonstatutory mitigating circumstances which are supported by the evidence. You will consider the aggravating circumstance or circumstances you've found, and the mitigating circumstances, and you will decide then whether or not to recommend the death penalty or life imprisonment.

I've told you you may consider any other factor in mitigation of the offense and you can recommend a sentence of life imprisonment for any reason at all. If you decide to recommend the death penalty, again, I will inform you that you must complete the proper form indicating the aggravating circumstances found, and all 12 jurors must sign that recommendation. Should you, should you decide to

recommend life imprisonment, again, those forms would be signed by the foreman, and that can be done based on statutory, nonstatutory mitigating factors, or for no other reason than mercy.

Now, in considering whether to recommend, recommend -- considering whether the defendant is to be sentenced to death or life, life imprisonment, I charge you that, that, as jurors, you must decide the issues involved in this proceeding without bias and without prejudice to any party. You can not allow yourselves to be governed by sympathy, prejudice, passion, public opinion, or any other arbitrary factor. Both the State and the defendant have the right to expect that each of you will carefully and impartially consider all of the evidence in the case, and that you will follow the law as I've explained it to you.

Now, at this point in time, I'm going to ask that the jurors return to the jury room one last time.

Sir, if you'll leave those forms on the bar right there in front of you. Mr. Foreman, I'll instruct you again not to begin any discussions at this point in time. I've gone over a lot of information with you. I'll check with the attorneys to be sure I haven't misspoke about something. We're gonna gather the evidence and agree upon the evidence to be given to you for your consideration on the jury room -- in the jury room so that we're sure that only the

proper evidence goes back for your consideration during the, your deliberations.

So, there's -- we've got some housekeeping matters to take care of before I turn it over to you for your deliberations. So, don't discuss the case until I bring you back into the courtroom for your final instructions.

You may retire to the jury room at this time.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: Exception to the charge from the State?

SOLICITOR BARNETTE: None from the State, Your Honor.

THE COURT: From the defense?

MR. ALLEN: Your Honor, yes, sir. Take exception to the, as we previously had discussed earlier this morning concerning our request concerning the standard of proof I guess I should call it, and---

THE COURT: The Atkins issue?

MR. ALLEN: On the Atkins issue, yes, Your Honor.

THE COURT: All right.

MR. ALLEN: As well as -- and I, I don't know if the Court needs me to go over that in detail again, but I would---

THE COURT: No, I think you stated it earlier and I'd make the same ruling at this point in time. But your objection is noted on that.

MR. ALLEN: Yes, Your Honor, and one further matter. That's why -- it's still on the Atkins, but I just wanted to make sure, for the record, is that the exception to the, to the language of -- that the Court gave in its charge concerning that the existence of, of a finding of a mitigating circumstance is not a bar to the recommendation of the death penalty as that relates to the mental retardation statutory as well.

THE COURT: I understand your position on that as well.

MR. ALLEN: Thank you, Your Honor.

THE COURT: It's noted.

MR. ALLEN: All right.

THE COURT: All right.

MR. ALLEN: Other one thing.

THE COURT: Yes, sir.

MR. ALLEN: I'm not trying to cut the Court off, but---

THE COURT: No, that's quite all right.

MR. ALLEN: If I do, I apologize. It might be my ears, but when I was following along with the Court's charge, I notice that, in the Court's written charge that the Court provided us yesterday, that right above the final instructions, which you haven't gotten to yet, I realize that, but that there was a, another reminder in there that, not only that the recommendation must be unanimous, but that the final sentence of that upper paragraph that the

sentencing recommendation would be followed by this Court. I would ask the Court to -- I don't think the Court---

THE COURT: I did, I did state earlier in my charge that whatever their recommendation was that it would be followed by the Court.

MR. ALLEN: You did---

THE COURT: That' correct.

MR. ALLEN: ---earlier in the charge and I just was wondering if the Court could include essentially that paragraph---

THE COURT: I don't, I don't have any problem with telling them that whatever they recommend the Court will follow.

MR. ALLEN: Yes, sir.

THE COURT: All right.

MR. YOUNG: Appreciate it.

THE COURT: I'll ask you to come forward and look at the exhibits and let's have an agreement as to what exhibits are going back to the jury.

(Pause.)

THE COURT: Your Honor, while they're doing that, does the State have the clean computer that they can play things on back there?

SOLICITOR BARNETTE: We do, Your Honor. I think defense -- Mr. Allen also mentioned they had one.

THE COURT: Do you have one?

I mean if there's something they can use to play it on we can send that back to them.

MR. ALLEN: I know the calls work on that computer cause I tried it out on that computer before we admitted them. I don't know about the flash drive.

SOLICITOR BARNETTE: I can get our computer, Your Honor, if you want me to. Just go---

THE COURT: Why don't you---

SOLICITOR BARNETTE: ---just go upstairs and do that.

THE COURT: Why don't you do that just so that will be available to them.

SOLICITOR BARNETTE: Yes, sir, I know we've used it before. I don't think there's been any issue with it.

THE COURT: Okay.

(Pause.)

SOLICITOR BARNETTE: Your Honor, may we approach?

There's just one matter I, I thought of.

THE COURT: Yes, sir.

Mr. McGuire, maybe you should come up while Mr. Allen is otherwise occupied.

(WHEREUPON, a bench conference was held at this time.)

THE COURT: Do you agree on the exhibits?

MR. ALLEN: Yes, sir.

THE COURT: Let's go ahead and bring them in while

they're getting that.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. Ladies and gentlemen, we -- the attorneys have gone over the exhibits. We have those now segregated. They'll be sent back to the jury room with you for your consideration.

There are a couple of things in there that would require a player. There's some disks and I think a thumb drive that has some recordings on them. We'll provide you with a computer. It's a clean computer. Should just have devices on there whereby you could play those things if you'd like to listen to them. You're not required to review any particular evidence in any fashion. But if you would like to listen to those things again, that will be available to you. If you have any difficulty in operating that, just let the bailiff know outside the jury room and we'll get some means for you to listen to them. We can bring you back into the courtroom for that purpose if we need to do that. They can be played in the courtroom if you'd like to have that happen.

Now, during your deliberations, you have the right to pose questions to the Court. I would ask that jury determine the, the question that you'd like to -- in other words, agree on the question that you'd like to ask.

Once that's been agreed on, Mr. Foreman, you would write the question on a piece of paper, knock on the door, hand it to the bailiff. The bailiff would bring that to me and then would consider the appropriate answer.

I'm not allowed to answer every question you may have during your deliberations. I can't get involved in your decisions or discussions on factual matters, things like that. But you're the soul judges of the facts, but don't edit any question you may have. Just write them on a piece of paper and I'll determine whether I can answer them appropriately or not.

Now, we're about three o'clock in the afternoon. You have the right to continue your deliberations as long as you'd like to go today. If you look like you're going to be going beyond or during the dinner hour, let us know. We'll have dinner brought to the courthouse so you can continue your deliberations during that time. So, just let the bailiffs know outside the courtroom.

Now, for any reason someone from the Clerk's Office or the bailiff steps into the jury room, suspend your deliberations while that person is in the room. Don't discuss the case at all. Just discuss whatever business they have with you, taking orders for dinner, something like that. But suspend your deliberations until that person has left the jury room. So, don't be discussing the case except

among yourselves during deliberation.

Do you understand how that would work, Mr. Foreman?

THE FOREMAN: Yes, Your Honor.

THE COURT: So, if you have any needs or desires, you can let us know -- or needs, let us know through the bailiff and we'll do what we can in that regard.

I will tell you now that I'm going to ask you to retire to begin your deliberations, and when a recommendation is submitted to the Court, I will advise you that the Court will follow that recommendation.

Now, I'm gonna ask that the two alternates remain seated at this point in time or, ma'am, you may have to step up and let them get out. But anyway, don't, don't go back into the jury room.

I'll instruct the jury now to retire and begin your deliberations and you may take those forms with you.

(WHEREUPON, the following takes place outside the presence of the 12 deliberating jurors.)

(WHEREUPON, the alternate jurors were dismissed at this time.)

THE COURT: Any objections to my final instructions to the jury?

SOLICITOR BARNETTE: None.

THE COURT: From the State.

SOLICITOR BARNETTE: None from the State, Your Honor.

THE COURT: From the defense.

MR. ALLEN: No, Your Honor.

THE COURT: Okay. We'll be in recess until such time as a verdict's been reached in the case.

Thank you very much.

Everyone remain seated while the defendant retires.

(WHEREUPON, the jury began deliberations at 2:58PM and sent out a question at 2:59PM.)

(WHEREUPON, the note from the jury was marked as Court's Exhibit No. 14 and received into evidence at this time.)

THE COURT: All right. We're back on the record in the Blackwell case.

I received a request from the jury. May we have a whiteboard or a chalkboard in the jury room. The Clerk's Office has an easel with a pad they can write on, which is, I assume, would they would like. I've asked the parties to look at that and be sure there were no problem with it being sent to the jury room.

Does the State object to the easel going back?

SOLICITOR BULSA: No, Your Honor.

THE COURT: Does the defense object?

MR. ALLEN: No, Your Honor.

THE COURT: And my understanding is that you're waiving your client's presence for this matter?

MR. ALLEN: Yes, Your Honor, we are.
THE COURT: All right. Thank you very much.
Then I'll order that the bailiffs take that back to the room.
I believe there's a marker that goes with it?
THE CLERK: Yes, sir.
THE COURT: There we go.
And I'll direct that the communication from the jury be made Court's Exhibit No. 14.
We'll be in recess until a verdict is reached.
Thank you.
(WHEREUPON, the easel was sent back to the jury at this time.)
(WHEREUPON, the jury sent out another question at 4:40PM.)
THE COURT: All right. I've received a question from the jury. I'm gonna ask the bailiff to bring the jury in, and I'll go over the question with them.
(WHEREUPON, the following takes place within the presence of the jury.)
THE COURT: All right. Mr. Foreman, let me go over your question and then I'll attempt to answer it for you.
The question I've received from the jury is does the signing of Form C, aggravating circumstances, automatically result in a death penalty or do we need to sign Form D, I

think that's a D, even if there is unanimous agreement among the jurors.

First of all, let me explain Form C to you. Form C is the one that's entitled aggravating circumstances, and on that the jury is asked to determine whether or not any of the aggravating, the two aggravating circumstances has been found beyond a reasonable doubt by the entire jury. It has to be a unanimous verdict.

The reason that all the jurors have to sign that form is to indicate that, if any of those aggravators have been proven beyond a reasonable doubt, all jurors must agree on that and all must sign that, but that's a finding of aggravating circumstances. That does not automatically result in any penalty.

THE FOREMAN: Okay.

THE COURT: It still then would be up to the jury to decide the appropriate penalty, and even -- if you find aggravating circumstances, the jury still has the right to either give the -- they can't give the death penalty unless there are aggravating circumstances, but you're not required to do so.

THE FOREMAN: Uh-huh. (Affirmative).

THE COURT: You still have the right to decide between the death penalty or life imprisonment without parole even though Form C has been signed if -- even though aggravators

have been found and all jurors have signed that form.

Now, to, to give the death penalty, there's a separate verdict that is the only other one that requires all jurors to sign.

THE FOREMAN: Uh-huh. (Affirmative).

THE COURT: And then there are two other verdict forms where the jury could find for life. That is Form D or there's one that just absolutely says the jury finds for life.

THE FOREMAN: Yes, sir, Your Honor.

THE COURT: Do you want to look at those and be sure you understand what I'm saying?

THE FOREMAN: Yes.

THE COURT: All right. Form D finds that there -- that the jury did find aggravating circumstances. So, if the jury does determine unanimously that aggravating circumstances have been proven beyond a reasonable doubt, then form -- and but the jury still chooses to give life, then Form D would be the one that -- you'd find the aggravators.

THE FOREMAN: Uh-huh. (Affirmative.)

THE COURT: But you'd still choose life.

THE FOREMAN: Understood.

THE COURT: The other one is an absolute -- we described it as a mercy verdict. In other words, there's

just an absolute life, life sentence. That's the last form that was in the stack that you have there.

Do you see that one?

THE FOREMAN: Yes, sir.

THE COURT: And that one's only signed by the foreman as is the Form D is signed by the foreman.

THE FOREMAN: Uh-huh. (Affirmative).

THE COURT: But it must be a unanimous verdict.

THE FOREMAN: Yes, Your Honor.

THE COURT: It's just everybody doesn't have to sign this.

Do you understand that?

THE FOREMAN: Yes, I do now.

THE COURT: Have I answered your question?

THE FOREMAN: Yes, Your Honor.

THE COURT: Okay. Then you can return to the jury room. Continue your deliberations.

(WHEREUPON, the following takes place outside the presence of the jury.)

THE COURT: All right. Objections to the response from the State?

SOLICITOR BARNETTE: No objection, Your Honor. I just would like to read the question.

THE COURT: I'll be -- I'm gonna make it an exhibit.

Any objection?

MR. McGUIRE: No, sir.

THE COURT: All right. The question will be made an exhibit, court's Exhibit.

(WHEREUPON, the note from the jury was marked as Court's Exhibit No. 15 and received into evidence at this time.)

THE COURT: Court will be in recess until a verdict is reached.

Thank you.

(WHEREUPON, the jury returned to their deliberations at 4:45PM and returned with a verdict at 8:32PM.)

THE COURT: All right. I've been informed by the bailiffs that a verdict has been reached.

Is the State ready to receive the verdict?

SOLICITOR BARNETTE: Yes, sir.

THE COURT: Defense ready to receive the verdict?

MR. McGUIRE: Yes, sir.

THE COURT: I will caution those in the courtroom, I realize this can be an emotional time. Outbursts or demonstrations in the courtroom will not be tolerated. If you have any difficulty in controlling your emotions, please step outside at this point in time.

If anyone would like to leave, you may do so at this time.

Bring the jury in.

(WHEREUPON, the following takes place within the presence of the jury.)

THE COURT: All right. The jury has returned to the courtroom.

Mr. Foreman, I've been informed that a verdict has been reached.

Is that true?

THE FOREMAN: Yes, Your Honor.

THE COURT: Pass the forms to the bailiff.

(Foreman complies.)

THE COURT: Thank you, sir.

(Pause.)

THE COURT: Madam Clerk, you may publish the verdicts.

THE CLERK: The State of South Carolina, County of Spartanburg, versus Ricky Lee Blackwell, Senior.

Question one, we, the jury, unanimously find, by the preponderance of the evidence, that the defendant was mentally retarded as defined as significantly subaverage general intellectual functioning existing concurrent with defects in adaptive behavior and manifested during the developmental period at the time of commission of the crime of murder in this case, answer, no.

In the State of South Carolina versus Ricky Lee Blackwell, aggravating circumstances, we, the jury, in the above entitled case, find, beyond a reasonable doubt, the

following statutory aggravating circumstances:

The defendant, Ricky Lee Blackwell, Senior, did murder Brooke , which was the murder of a child 11 years of age or under, Section 16-3-20(c)(a)(10) of the Code of Laws of South Carolina, 1976, as amended.

Two. The defendant, Ricky Lee Blackwell, Senior, did murder Brooke while in the commission of the crime or act of kidnapping, Section 16-3-20(c)(a)(1)(b) of the Code of Laws of South Carolina, 1976 as amended, signed by the foreperson and the jurors, entire jury panel. Dated March 16th, 2014.

Recommendation of Sentence of death in the State of South Carolina of Ricky Lee Blackwell, Senior. We, the jury, in the above entitled case, having found by, beyond a reasonable doubt, that the existence of the following statutory aggravating circumstances to which the defendant Ricky Lee Blackwell, Senior, did murder Brooke , which was the murder of a child 11 years age or under, Section 16-3-20(c)(a)(10) of the Code of Laws of South Carolina, 1976, as amended, two, the defendant, Ricky Lee Blackwell, Senior, did murder Brooke while in the commission of the crime or act of kidnapping, Section 16-3-20(c)(a)(1)(b) of the Code of Laws of South Carolina, 1976, as amended.

Now, recommendations of the Court that the defendant, Ricky Lee Blackwell, Senior be sentenced to death. Signed

by the foreperson and the jury panel dated March 16th, 2014.

Ladies and gentlemen of the jury, is this your verdict and still your verdict?

THE COURT: Please raise your right-hand if that's true.

(WHEREUPON, all jurors raise their hands at this time.)

THE COURT: Thank you.

Anything further from the State before I release the jury?

SOLICITOR BARNETTE: Nothing further from the State.

THE COURT: Anything further from the defense?

MR. McGUIRE: Individual polling of the juror.

THE COURT: Madam Clerk, poll the jury.

THE CLERK: At this time I pose a question. The question being is this your verdict and still your verdict. When your juror number and name is called, please stand and respond to the question.

Juror Number 165, Eric McCraw, is this verdict and still your verdict?

THE JUROR: Yes, ma'am.

THE CLERK: Thank you.

Juror Number 192, Donald Patterson, is this your verdict and still your verdict?

THE JUROR: It is.

THE CLERK: Juror Number 43, Donna Champion, is this your verdict and still your verdict?

THE JUROR: Yes, it is.

THE CLERK: Can I have one second, judge?

THE COURT: Uh-huh. (Affirmative).

(WHEREUPON, a conference was held with the clerk and the judge at this time out of the hearing of the jury.)

THE CLERK: Juror Number 188, Stephanie Partridge, is this your verdict and still your verdict?

THE JUROR: It is.

THE CLERK: Thank you.

Juror Number 140, George Lamb, Junior, is this your verdict and still your verdict?

THE JUROR: Yes, it is.

THE CLERK: Thank you.

Number 29, Angela Bradley, is this your verdict and still your verdict?

THE JUROR: Yes, ma'am.

THE CLERK: Juror Number 61, Andrea Dendy, is this your verdict and still your verdict?

THE JUROR: Yes, ma'am.

THE CLERK: Thank you.

Juror Number 69, Ferrall Erickson, is this your verdict and still your verdict?

THE JUROR: Yes, it is.

THE CLERK: Juror Number 266, Willem Van Der Plaat, is this your verdict and still your verdict?

THE JUROR: Yes, it is.

THE CLERK: Juror Number 241, Robert Stephens, is this your verdict and still your verdict?

THE JUROR: Yes, ma'am.

THE CLERK: Juror Number 50, Barbara Collins, is this your verdict and still your verdict?

THE JUROR: Yes, ma'am.

THE CLERK: Thank you.

Juror Number 60, Todd Danielson, is this your verdict and still your verdict?

THE JUROR: Yes, it is.

THE CLERK: So say you-all.

THE COURT: Thank you, Madam Clerk.

Anything further from the defense before I release the jury?

MR. McGUIRE: No, sir.

(WHEREUPON, the jury was dismissed at this time.)

THE COURT: I'd ask that the counsel for the State prepare sentencing sheets. I'm gonna take a short recess. We'll resume shortly for sentencing.

SOLICITOR BARNETTE: Your Honor, I've already provided those to the defense.

THE COURT: All right. Thank you very much.

Court will be in recess for about five to ten minutes. Thank you.

SOLICITOR BARNETTE: Yes, sir.

(WHEREUPON, a short recess was taken at this time.)

THE COURT: All right. Do you have the sentencing sheets?

THE CLERK: Yes, sir.

THE COURT: Pass them up.

(The clerk complies.)

THE COURT: Thank you.

All right. Prior to issuing sentence, does the defense wish -- does the defendant wish to speak?

MR. McGUIRE: No, sir.

THE COURT: All right. As to the offense of kidnapping, it is the Sentence of this Court that, Mr. Blackwell, that you be confined in the State Department of Corrections for a period of 30 years. I have run that concurrent to the sentences in other cases, the other case.

Mr. Blackwell, having been found guilty by a jury of your peers of the offense of murder, the jury, in this case, has recommended that you should be sentenced to death. It is, therefore, the judgment of the law and the Sentence of this Court that the defendant, Ricky Lee Blackwell, Senior be taken to the county jail of Spartanburg County, and thence to the State Penitentiary. Henceforth to be kept in

close and safe confinement until the 14th day of June, 2014, upon which day, between the hours of six o'clock AM and six o'clock PM, the defendant, Ricky Lee Blackwell, Senior shall suffer death by electrocution or lethal injection in the manner provided by law.

Signed by me, judge.

That is the Sentence of the Court.

Court is adjourned.

MR. ALLEN: Your Honor, may we approach briefly?

THE COURT: Yes, sir.

(WHEREUPON, a bench conference was held at this time.)

(WHEREUPON, the note from the jury was marked as Court's Exhibit No. 15. Records of the jurors was marked as Court's Exhibit No. 16. The jury instruction was marked as Court's Exhibit No. 17. Both were received into evidence at this time.)

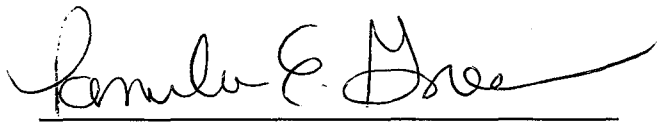
* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 3rd through 8th and the 10th through 19th day of March, 2014.

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

July 19th, 2014



PAMELA E. GREEN, Court Reporter

CASE# 2009070412 **VOLUNTARY STATEMENT** PAGE of

STATEMENT OF: Angela Blackwell | AGE: 44 | DATE: 7/8/09

ADDRESS: PO Box 52 Reidville SC

PHONE # 205-7891 | DOB: 1/9/65 | SSN:

Me + Brooke came to my Son in laws house on Ridings Rd. We Just pulled in. We were going to see if mark would let the boys spend the Night. I told Brooke not to get out because I did not know if the dog would bite, I told Brooke She could get out because I had the dog. Thats when I seen Ricky. He had his arm around her neck and the gun to her head. He said what is Bobby going to think about this. I told Ricky I would do anything, I would come home. He said NO it has gone to far Now. He Shot then, As he layed her on the ground he shot again. I went in the Trailor + Tried to lock the door. I called 911 + dropped the phone. I grabbed my grand baby and ran.

Statement written by J. Bryant at my request

ORIGINAL

Court Exhibit 3

I have read this statement consisting of 1 pages(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 4:16 P M. on the 8 day of 7 2009.

WITNESS: _____

Angela Blackwell
Signature of person giving voluntary statement

SWORN to before me this 8 day of July, 2009.

_____ (Seal)
Notary Public of South Carolina

Pleading # 11

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

MOTION FOR CHANGE OF VENUE BASED ON THE RETALIATORY ATTEMPTED MURDER OF THE DEFENDANT'S FAMILY MEMBERS AND THE POTENTIAL THREATS OF VIOLENCE AND INTIMIDATION FROM OTHERS, INCLUDING LOCAL BIKER GANGS

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court for a change of venue based on retaliatory attempted murder of Defendant's family and the potential threats of violence and intimidation from local biker gangs. This motion is predicated upon Mr. Blackwell's rights under the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, international law, as well as all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority.

FACTUAL BACKGROUND

1. Defendant is charged with first-degree murder and related offenses for the death of Brooke , a girl under age 11.

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2. Mr. Blackwell is on trial for his life as the State has announced its intention to seek the death of Mr. Blackwell by electrocution or lethal injection by filing a document entitled "Notice Seeking Death Penalty" on July 9, 2009.

3. Bobby Center, father of the victim, Brooke , is a known biker gang member. Evidence exists that threats of retaliation have been made.

4. In the case before this court, photographs taken at the funeral of the victim, Brooke , and at the one-year memorial biker ride in her honor show that multiple biker gangs were present at these events in great numbers.

5. There have been attempts to murder family members of the Defendant, Mr. Blackwell, and it is reasonable to conclude that Bobby Center or his fellow biker gang members are the most likely suspects regarding these murder attempts.

6. Mark Bryant's home, the husband of Mr. Blackwell's daughter, was firebombed with the phrase "For the girl" spray painted on the home. A second home belonging to Scott Blackwell, the cousin of Defendant was also firebombed.

7. On the Tuesday after the firebombs, Mildred Blackwell, mother of Defendant, received a threatening phone call from an unnamed caller indicating that further arson attempts would be made regarding Mr. Blackwell's family.

8. Upon information and belief, persons have informed Heather Bryant, the daughter of Mr. Blackwell, that someone, likely connected with a biker gang, has indicated that further murder attempts would be made regarding Heather's children.

9. Bobby Center's former girlfriend, Angie Blackwell, recently indicated to members of the Blackwell family that they "should not be around" during the July 8, 2012, weekend. July 8, 2012, was the four-year anniversary of this incident. Surveillance services were secured for the

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July 8, 2012, weekend. Shortly after the surveillance was lifted, as many as thirty bikers, interspersed in intervals and in groups of generally two or three drove slowly by the Defendant's family members residence.

10. Mr. Blackwell asserts that the mere physical presence of and any communication from any biker gang outside the courtroom during trial could be interpreted as a show of force designed to intimidate the jury, potential witnesses, Mr. Blackwell and his family.

11. A photograph of Mr. Blackwell shows that he wore a bulletproof vest to exit the courtroom on the day of his arraignment, a clear manifestation that law enforcement officers perceived a need to protect Mr. Blackwell from threats of violence outside the courtroom.

12. Additionally, in response to the publicity of this Spartanburg County prosecution, people have submitted blog entries in reaction to the killing of the victim which reflects the animosity they felt towards Defendant. Examples of this animosity from the blog postings include the following:

a. "I want to set this motherfucker on fire, watch him burn and then put him out before he dies and keep him conscious by any means necessary."

b. ". . . I was thinking of ways to make this asshole pay. Tie his ass up and beat him, beat him within an inch of his life and keep him alive to torment him for the rest of his disgusting life."

c. "You know those cheese slicers with the small roller and thin wire blade? How about removing all of this guy[']s skin using one of those and then stand back with a garden sprayer filled with alcohol and spray him every ten minutes to ward off infection so he does not die. Yeah I'm OK with that in this case. Donate that skin to burn victims for graphs."

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d. "He's a useless child killing piece of shit who needs to be burned like the piece of garbage he is."

e. "This useless POS should be executed; of course, I hope he gets a 'stay of execution' at the last minute, only to have it revoked on the next day. I know God will give him his reward for his deed, but it would be nice if we could get some satisfaction before he goes."

f. "Sociopathic scum, may his pathetic existence end quickly in jail, while the guards turn a blind eye."

g. "The death penalty is too good for him. I would prefer that he be subjected to psychological torture for the rest of his miserable life. Make him suffer. Bastard."

h. "[T]hey need to brand 'baby-killer' on his forehead and release him into general population, before the wound in his side is completely healed . . . [T]his sorry excuse for an ex husband and father should be shot in several areas such as groin, kneecaps, elbows and through the collarbone, only then will any kind of justice be given . . ."

i. "I'll tie the noose. I've always wanted to be an executioner. 'Short walk, and a long drop!"

j. "I WANT TO FUCKING SHOOT HIIIMMMMMMM!!!!!!!!!!!!!!! GIVE ME A GUN!!!!!!"

13. Taken together, these events demonstrate that biker gangs have maintained and will continue to maintain a presence in the local community which poses a substantial threat to Mr. Blackwell and his family. These events also show that the mere physical presence of and communication the biker gangs outside the courtroom would likely have a detrimental effect on

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the safety of numerous people during trial where there could be a reprisal of the threats or attacks on Mr. Blackwell and his family. The biker gangs, and others, continue to demonstrate strong animosity towards Mr. Blackwell and his family.

DISCUSSION

14. Pursuant to Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, Mr. Blackwell is entitled to a fair and impartial jury and to due process and a fair trial. To protect these rights, this Court is empowered to grant a change of venue for the convenience of the witnesses and to promote justice. *Whaley v. CSX Transp. Inc.*, 609 S.E.2d 286, 297 (S.C. 2005); *Durant v. Black River Elec. Co-op., Inc.* 248 S.E.2d 264 (S.C. 1978); *McKissick v. J.F. Cleckley & Co.*, 479 S.E.2d 67, 73 (S.C. Ct. App. 1996). The Court's decision to grant a change of venue for the convenience of the witnesses and to promote justice extends to the defendant's safety during trial, the impact of prejudicial comments on the potential jury in the local community, and preserving judicial economy. *Bennett v. Bally Mfg. Corp.*, 785 F.Supp. 559, 563 (D.S.C. 1992); *Sheppard v. State*, 594 S.E.2d 462, 467 (S.C. 2004); *State v. Thomas*, 18 S.E.2d 369, 371 (S.C. 1942). Granting a motion for change of venue is based on "judicial, and not an arbitrary, discretion" of the court. *State v. Mouzon*, 99 S.E.2d 672, 678 (S.C. 1957)(citing *State v. Jackson*, 96 S.E. 416 (S.C. 1918)). The defendant has the burden to show that both requirements are met. *McKissick*, 479 S.E.2d at 71. The burden then shifts to the state where it must provide sufficient evidence to overcome the defendant's burden. *Id.*

15. The South Carolina Supreme Court has established that threats to the defendant's safety during trial is an essential factor when ruling on a motion for change of venue. *Thomas*, 18 S.E.2d at 371; *State v. Davis*, 137 S.E. 139 (S.C. 1927); *State v. Goodwin*, 100 S.E. 496, 497

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(S.C. 1923). To prevail on a change of venue, the defendant must present evidence in the record that show "manifestation[s] of public feeling or [the] spirit of violence against [him]." *Thomas*, 18 S.E.2d at 371. Evidence presented to the court does not have to confirm that physical harm will inevitably occur, but, rather, the risk of harm is sufficient to support a change of venue. *Id.*; *U.S. v. Shipp*, 203 U.S. 563, 571 (1906)("the sheriff . . . had reason to believe, that an attempt would be made that night by a mob to murder the prisoner"). Thus, the possibility of a threat, such as mob violence initiated outside the courtroom, has a direct impact on the outcome of the defendant's trial. *Thomas*, 18 S.E.2d at 371; *State v. Francis*, 149 S.E. 348, 351-352 (S.C. 1929); *Davis*, 137 S.E. at 139. Instances of mob violence have often occurred where "the defendant was followed by intense excitement" in the county or when the defendant even faced death threats. *Thomas*, 18 S.E.2d at 371; *Davis*, 137 S.E. at 139.

16. Georgia courts offer compelling support for a defendant's safety during trial. The threat of violence against the defendant justifies defendant's request for change of venue. *Kennedy v. State*, 80 S.E. 1012, 1014 (Ga. 1914); *Coleman v. Georgia*, 79 S.E. 543, 546 (1913); *McGruder v. State*, 102 S.E.2d 54, 56 (Ga. Ct. App. 1958); *Wells v. State*, 16 S.E.2d 437 (Ga. Ct. App. 1941); *Hartley v. State*, 46 S.E.2d 71, 72 (Ga. Ct. App. 1948); *Etchison v. State*, 2 S.E.2d 673, 674 (Ga. Ct. App. 1939); *Ellis v. State*, 198 S.E. 121 (Ga. Ct. App. 1938); *Nix v. State*, 95 S.E. 534 (Ga. Ct. App. 1918). Georgia courts have maintained that if a reasonably probability exists that violence will be committed against the defendant, "it is **mandatory** for the presiding judge to grant the motion." *Ledford v. State*, 129 S.E.2d 555, 556 (Ga. App. Ct. 1963)(emphasis added); *Avery v. State*, 64 S.E.2d 589, 593 (Ga. Ct. App. 1951); *Frazier v. State*, 60 S.E.2d 253, 254 (Ga. Ct. App. 1950). Hence, the court's justification for granting a change of venue is definitive.

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17. Additionally, numerous federal and state courts in the Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Circuits have held that threats of violence are sufficient justifications for granting a change of venue. *Downer v. Dunaway*, 53 F.2d 586 (5th Cir. 1931); *Howard v. State*, 50 So. 954 (Ala. 1909); *Thompson v. State*, 23 So. 676 (Ala. 1898); *Hawes v. State*, 7 So. 302 (Ala. 1890); *Seams v. State*, 4 So. 521 (Ala. 1888); *Bass v. State*, 88 S.W.2d 74 (Ark. 1935); *People v. Suesser*, 64 P. 1095 (Cal. 1901); *Stephens v. People*, 111 P.2d 1057 (Colo. 1941); *Ex Parte Palakiko*, 39 Haw. 167 (Haw. 1951); *State v. Hoagland*, 228 P. 314 (Idaho 1924); *Price v. People*, 23 N.E. 639 (Ill. 1890; *State v. Read*, 49 Iowa 85 (Iowa, 1878); *Bissell v. Amrine*, 155 P.2d 413 (Kan. 1945); *Collins v. State*, 66 Kan. 201 (Kan. 1903); *Holmes v. Commonwealth*, 44 S.W.2d 592 (Ky. 1931); *Hall v. Commonwealth.* 270 S.W. 5 (Ky. Ct. App. 1925); *Winburn v. Commonwealth*, 203 S.W. 1073 (Ky. Ct. App. 1918); *Howard v. Commonwealth*, 26 S.W. 1 (Ky. Ct. App. 1894); *Dilger v. Commonwealth*, 88 Ky. 550 (Ky. Ct. App. 1889); *Johnson v. State*, 476 So.2d 1195 (Miss. 1985); *Stokes v. State*, 128 So. 2d 341 (Miss. 1961); *Dixon v. State*, 58 So. 5 (Miss. 1912); *Saffold v. State*, 24 So. 314 (Miss. 1898); *State v. Hamilton*, 85 S.W.2d 35 (Mo. 1935); *State v. Richardson*, 46 S.W.2d 576 (Mo. 1932); *State v. Waters*, 56 S.W. 734 (Mo. 1900); *State v. Dwyer*, 91 P. 305 (Nev. 1907); *State v. Diamond*, 202 P. 988 (N.M. 1921); *Roper v. Territory*, 7 N.M. 255 (N.M. 1893); *Hamilton v. State*, 259 P. 168 (Okla. Crim. App. 1927); *Scott v. State*, 233 P. 776 (Okla. Crim. App. 1925); *Green v. State*, 36 S.W. 700 (Tenn. 1896); *Poe v. State*, 78 Tenn. 673 (Tenn. 1882); *Williams v. State*, 170 S.W.2d 482, 489 (Tex. Crim. App. 1943); *Benton v. State*, 300 S.W. 75 (Tex. Crim. App. 1927); *Ex Parte Martinez*, 145 S.W. 959 (Tex. Crim. App. 1912); *Cortez v. State*, 69 S.W. 536 (Tex. Crim. App. 1902); *Augustine v. State*, 52 S.W. 77 (Tex. Crim. App. 1899); *Roe v. State*, 8 S.W. 468 (Tex. Ct. App. 1888); *Evans v. Commonwealth*, 170 S.E. 756 (Va. 1933); *Commonwealth v. Thompson*, 109 S.E. 447 (Va.

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1921); *State v. Brady*, 140 S.E. 546 (W.Va. 1927)(overruled on alternative grounds); *State v. Lattimar*, 111 S.E. 510 (W.Va. 1922); *but see Wheeler v. State*, 63 N.E. 975 (Ind. 1902); *Hutsell v. Commonwealth*, 9 S.W.2d 132 (Ky. Ct. App. 1928); *Hutcherson v. State*, 136 S.W. 53 (Tex. Crim. App. 1911); *Reeves v. State*, 83 S.W. 803, 805 (Tex. Crim. App. 1904); *Alexander v. State*, 50 S.W. 716 (Tex. Crim. App. 1899); *Alexander v. State*, 123 P. 68 (Wyo. 1912); *U.S. v. Anderson*, No. 07-10143-01-JTM *et al.*, 2008 WL 4078784, at *10 (D. Kan. 2008).

18. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. *See* American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed "[t]he fundamental respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." *Johnson v. Mississippi*, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." *Gregg v. Georgia*, 428 U.S. 153, 187 (1976). This heightened standard of reliability is "a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986).

> Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

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Woodson v. North Carolina, 428 U.S. 280, 305 (1976). The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. *Eddings v. Oklahoma*, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). *See also Beck v. Alabama*, 447 U.S. 625, 637-38 (1980); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978); and *Gardner v. Florida*, 430 U.S. 349, 357-58 (1977).

Conclusion

Based on the multiple threats being made in this case, including attempted murder, and the vitriolic nature manifested in the public's reaction to the accusations against Mr. Blackwell, the Defendant moves that this case be tried in a foreign county.

#9

Dated this 13th day of July, 2012.

Respectfully Submitted,

for William Sean McGuire
State Bar No. 9722
Attorney, Capital Trial Division
SCCID
PO Box 11433
Columbia, SC 29211

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Pleading # 14

STATE OF SOUTH CAROLINA **IN THE COURT OF GENERAL SESSIONS**
SEVENTH JUDICIAL CIRCUIT

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

MOTION FOR CHANGE OF VENUE BASED ON PRE-TRIAL PUBLICITY AND POTENTIAL PRESENCE OF BIKER GANGS WHICH WILL INFLUENCE JURORS AND DENY THE DEFENDANT'S RIGHT TO A FAIR AND IMPARTIAL JURY

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court for a change of venue based on pre-trial publicity and the potential presence of biker gangs which will influence the jurors and prevent defendant's right to a fair and impartial jury. This motion is predicated upon Mr. Blackwell's rights under the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, international law, as well as all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority.

FACTUAL BACKGROUND

1. Defendant is charged with murder and related offenses for the death of Brooke , a girl under age 11.
2. Mr. Blackwell is on trial for his life as the State has announced its intention to seek the

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death of Mr. Blackwell by electrocution or lethal injection by filing a document entitled "Notice Seeking Death Penalty" on July 9, 2009.

3. Bobby Center, father of the victim, Brooke , is a known biker gang member. Evidence exists that threats of retaliation have been made.

4. In the case before this court, photographs taken at the funeral of the victim, Brooke , and at the one-year memorial biker ride in her honor show that multiple biker gangs were present at these events in great numbers. See (http://www.facebook.com/media/set/?set=a.141022105929598.18028.121423044556171&type=3)

5. There have been attempts to murder family members of the Defendant, Mr. Blackwell, and it is reasonable to conclude that Bobby Center or his fellow biker gang members are the most likely suspects regarding these murder attempts.

6. Mark Bryant's home, the husband of Mr. Blackwell's daughter, was firebombed with the phrase "For the girl" spray painted on the home. A second home belonging to Scott Blackwell, the cousin of Defendant was also firebombed.

7. On the Tuesday after the firebombs, Mildred Blackwell, mother of Defendant, received a threatening phone call from an unnamed caller indicating that further arson attempts would be made regarding Mr. Blackwell's family.

8. Upon information and belief, persons have informed Heather Bryant, the daughter of Mr. Blackwell, that someone, likely connected with a biker gang, has indicated that further murder attempts would be made regarding Heather's children.

9. Bobby Center's former girlfriend, Angie Blackwell, recently indicated to members of the Blackwell family that they "should not be around" during the July 8, 2012, weekend. July 8,

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2012, was the four-year anniversary of this incident. Surveillance services were secured for the July 8, 2012, weekend. Shortly after the surveillance was lifted, as many as thirty bikers, interspersed in intervals and in groups of generally two or three, drove slowly by the Defendant's family members residence.

10. Mr. Blackwell asserts that there has been a continuing pattern of intimidation and violence directed at his family members. Also, there has been a very strong showing of support for the victim's father, Bobby Center, the known biker gang member. It is likely that there could be an assembly of bikers outside the courthouse during trial. This assembly of bikers could be interpreted as a show of force designed to intimidate the jury, potential witnesses, Mr. Blackwell and his family.

11. A photograph of Mr. Blackwell shows that he wore a bulletproof vest to exit the courtroom on the day of his arraignment, a clear manifestation that law enforcement officers perceived a need to protect Mr. Blackwell from threats of violence outside the courtroom.

12. Additionally, in response to the publicity of this Spartanburg County prosecution, people have submitted blog entries in reaction to the killing of the victim which reflects the animosity they felt towards Defendant. Examples of this animosity from the blog postings include the following:

a. "I want to set this motherfucker on fire, watch him burn and then put him out before he dies and keep him conscious by any means necessary."

b. ". . . I was thinking of ways to make this asshole pay. Tie his ass up and beat him, beat him within an inch of his life and keep him alive to torment him for the rest of his disgusting life."

c. "You know those cheese slicers with the small roller and thin wire blade? How

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about removing all of this guy[']s skin using one of those and then stand back with a garden sprayer filled with alcohol and spray him every ten minutes to ward off infection so he does not die. Yeah I'm OK with that in this case. Donate that skin to burn victims for graphs."

d. "He's a useless child killing piece of shit who needs to be burned like the piece of garbage he is."

e. "This useless POS should be executed; of course, I hope he gets a 'stay of execution' at the last minute, only to have it revoked on the next day. I know God will give him his reward for his deed, but it would be nice if we could get some satisfaction before he goes."

f. "Sociopathic scum, may his pathetic existence end quickly in jail, while the guards turn a blind eye."

g. "The death penalty is too good for him. I would prefer that he be subjected to psychological torture for the rest of his miserable life. Make him suffer. Bastard."

h. "[T]hey need to brand 'baby-killer' on his forehead and release him into general population, before the wound in his side is completely healed . . . [T]his sorry excuse for an ex husband and father should be shot in several areas such as groin, kneecaps, elbows and through the collarbone, only then will any kind of justice be given . . ."

i. "I'll tie the noose. I've always wanted to be an executioner. 'Short walk, and a long drop!"

j. "I WANT TO FUCKING SHOOT HIIIMMMMMMMMMMMMMMMM GIVE ME A GUN!!!!!!"

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13. Taken together, these events indicate that biker gangs will continue to maintain a presence in the local community which poses a substantial threat to Mr. Blackwell and his family. The mere physical presence of and communication the biker gangs outside the courtroom would likely have a detrimental effect on the safety of numerous people during trial where there could be a reprisal of the threats or attacks on Mr. Blackwell and his family. The biker gangs, and others, continue to demonstrate strong animosity towards Mr. Blackwell and his family.

14. Mr. Blackwell asserts that the presence of the biker gangs outside the courtroom will undoubtedly influence the impartiality of the jury. The jury's awareness of the biker gang's physical presence, show of authority and threats will taint the jury and prevent it from delivering a fair verdict. If this Court grants Defendant's request for change of venue, the motion will ensure that this capital trial adheres to Defendant's constitutional right to a fair and impartial jury. *See Sheppard v. Maxwell*, 384 U.S. 333, 362 (1966)("[g]iven the pervasiveness of modern communication and the difficulty of effacing prejudicial publicity from the minds of the jurors, the trial courts must take **strong measures** to ensure that the balance is never weighed against the accused . . . the courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences").

15. In *Bryant*, police officers contacted members of the jury pool to conduct a background check and ask if they could vote for the death penalty. *State v. Bryant*, 581 S.E.2d 157, 158-59 (S.C. 2003). The court held that police detectives' decision was sufficient to taint an impartial jury. *Id.* at 161. The influence on the jury in Defendant's case is more prominent than in *Bryant*. Unlike *Bryant*, this court must consider the influence of the biker gang directly on the members of the jury rather than second hand from family members of the jurors. While questions asked of jurors in *Bryant* were seemingly innocuous, the biker gang has a blatant objective to intimate Mr.

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Blackwell and his family which will influence jurors. Thus, the court's argument in *Bryant* bolsters Mr. Blackwell's more dire need for change of venue to have a fair jury trial in this case. *See Sheppard v. Maxwell*, 384 U.S. 333, 363 (1966)(Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate [the jury's] function"); *Stroud v. U.S.*, 251 U.S. 15, 18-19 (1919)(stating that the standard was low to show that the jury was "influenced more or less by the prejudice existing in that county against [the defendant]" for change of venue).

16. Additionally, the publicity surrounding the recent election of Representative Trey Gowdy, the former Solicitor for the Seventh Circuit, has a negative impact on influencing the jury in Mr. Blackwell's case. Jurors in Spartanburg County will unquestionably be aware of Representative Gowdy's involvement in his recent election and political impact that Mr. Blackwell's case had on his campaign. Numerous articles from local newspapers and blog postings show that the timing of Mr. Blackwell's indictment and Representative Gowdy's desire for election were clearly intertwined.

17. Pursuant to Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, Mr. Blackwell is entitled to a fair and impartial jury and to due process and a fair trial. To protect these rights, this Court is empowered to grant a change of venue for the convenience of the witnesses and to promote justice. *Whaley v. CSX Transp. Inc.*, 609 S.E.2d 286, 297 (S.C. 2005); *Durant v. Black River Elec. Co-op., Inc.* 248 S.E.2d 264 (S.C. 1978); *McKissick v. J.F. Cleckley & Co.*, 479 S.E.2d 67, 73 (S.C. Ct. App. 1996). The Court's decision to grant a change of venue for the convenience of the witnesses and to promote justice extends to the defendant's safety during trial, the impact of prejudicial comments on the potential jury in the local

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community, and preserving judicial economy. *Bennett v. Bally Mfg. Corp.*, 785 F.Supp. 559, 563 (D.S.C. 1992); *Sheppard v. State*, 594 S.E.2d 462, 467 (S.C. 2004); *State v. Thomas*, 18 S.E.2d 369, 371 (S.C. 1942). Granting a motion for change of venue is based on "judicial, and not an arbitrary, discretion" of the court. *State v. Mouzon*, 99 S.E.2d 672, 678 (S.C. 1957)(citing *State v. Jackson*, 96 S.E. 416 (S.C. 1918)). The defendant has the burden to show that both requirements are met. *McKissick*, 479 S.E.2d at 71. The burden then shifts to the state where it must provide sufficient evidence to overcome the defendant's burden. *Id.*

18. The Sixth and Fourteenth Amendments of the United State Constitution guarantee a capital defendant the right to a fair trial before a panel of impartial and indifferent jurors. *Morgan v. Illinois*, 504 U.S. 719, 728 (1992); *Ross v. Oklahoma*, 487 U.S. 81, 85 (1988); *Duncan v. Louisiana*, 391 U.S. 145, 147-158 (1968); *Turner v. Louisiana*, 379 U.S. 466, 471-473 (1965); *Irwin v. Dowd*, 366 U.S. 717, 722-723 (1961). In capital cases, this right embraces the concomitant "right to an impartial jury drawn from a venire that has not been tilted in favor of capital punishment . . . ." *Uttecht v. Brown*, 551 U.S. 1, 9 ((2007) (citing *Witherspoon v. Illinois*, 391 U.S. 510, 521 (1968).

19. The Fourth Circuit has held that communication with jurors, whether direct or indirect, as a great impact on their ability to maintain impartiality. Any "communication, contact, or tampering, directly or indirectly, with a juror during a trial about the matter pending before the jury is, for obvious reasons, deemed presumptively prejudicial." The presumption is not conclusive, but the burden rests heavily upon the Government to establish, after notice to and hearing of the defendant, that such contact with the juror was harmless to the defendant. *U.S. v. Cheek*, 94 F.3d 136, 140-41 (4th Cir. 1996)(citing *Remmer v. U.S.*, 347 U.S. 227, 228 (1954) (establishing that there is a presumption of prejudice against the defendant unless proven

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otherwise); *see also U.S. v. Bradshaw*, 281 F.3d 278, 288 (1st Cir. 2002)(the *Remmer* presumption is applicable "only where there is an egregious tampering or third party communication which directly injects itself into the jury process") (citation omitted); *U.S. v. Greer*, 285 F.3d 158, 173 (2d Cir. 2002)(stating that "[i]t is well-settled that any extra-record information of which a juror becomes aware is presumed prejudicial" and that "[a] government showing that the information is harmless will overcome this presumption"); *U.S. v. Lloyd*, 269 F.3d 228, 238 (3d. Cir. 2001)(applying presumption of prejudice when a jury is exposed to extraneous information "of a considerably serious nature"); *U.S. v. Moore*, 641 F.3d 812, 828 (7th Cir. 2011)(same); *Mayhue v. St. Francis Hosp. of Wichita, Inc.*, 969 F.2d 919, 922 (10th Cir. 1992)(" A rebuttable presumption of prejudice arises whenever a jury is exposed to external information in contravention of a district court's instructions."); *U.S. v. Rhonda*, 455 F.3d 1273, 1299 (11th Cir. 2006)("prejudice is presumed [against the defendant] and the burden shifts to the government to rebut the presumption").

20. Pursuant to the impartial jury clause of the Sixth Amendment, [p]rivate communications, possibly prejudicial, between jurors and third persons, ... are absolutely forbidden, and invalidate the verdict, at least unless their harmlessness is made to appear." *U.S. v. Basham*, 561 F.3d 302, 319 (4th Cir. 2009)(internal citations omitted); *State v. Bryant*, 354 S.C, 390, 395 (S.C. 2003). "[I]n order to fully safeguard this protection, it is required that the jury render its verdict free from outside influences whatever kind and nature." *Bryant*, 3544 S.C. at 395 (citing *State v. Cameron*, 428 S.E.2d 10, 12 (S.C. Ct. App. 2003); *Smith v. State*, 654 S.E.2d 523, 529 (S.C. 2007).

21. The defendant needs only to show that there is a **reasonable** possibility of extrajudicial communication influencing the jury. *Basham*, 561 F.3d at 319; *U.S. v. Lawson*, ---F.3d--- (4th

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Cir. 2012); *see also State v. Caldwell*, 388 S.E.2d 816, 821 (S.C. 1990)(emphasizing that the defendant must show a casual link between the jurors and actual prejudice, and whether the jurors "have the ability to lay aside any impressions or opinions" that would affect the verdict). The defendant must provide evidence showing that "the extrajudicial communications or contacts were more than innocuous interventions." *Basham*, 561 F.3d at 319 (quoting *Cheek*, 94 F.3d at 141). Whether the communication or contact is innocuous if these errors "so fatally infect the trial that they violate[ ] the trial's fundamental fairness." *Basham*, 561 F.3d at 330 (internal citations omitted). Once the defendant presents sufficient evidence, the burden then shifts to the state to prove that improper communication will influence the jury. *Id.* at 319. The court considers all of these elements including other factual circumstances and their impact on the jury. *Id.*

22. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. *See* American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed "[t]he fundamental respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." *Johnson v. Mississippi*, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." *Gregg v. Georgia*, 428 U.S.

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153, 187 (1976). This heightened standard of reliability is "a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." *Ford v. Wainwright*, 477 U.S. 399, 411 (1986).

> Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976). The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. *Eddings v. Oklahoma*, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). *See also Beck v. Alabama*, 447 U.S. 625, 637-38 (1980); *Lockett v. Ohio*, 438 U.S. 586, 604 (1978); and *Gardner v. Florida*, 430 U.S. 349, 357-58 (1977).

Wherefore, the Defendant moves for a change of venue based on the fore going grounds.

Dated this 13th day of July, 2012.

Respectfully Submitted,

William Sean McGuire
State Bar No. 9722
Attorney, Capital Trial Division
SCCID
PO Box 11433
Columbia, SC 29211

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STATE OF SOUTH CAROLINA)) COUNTY OF SPARTANBURG)	IN THE COURT OF GENERAL SESSIONS FOR THE SEVENTH JUDICIAL CIRCUIT
The State,)) v.)) Ricky (Rickey) Lee Blackwell, Sr.,)) Defendant.)	**STATE'S RETURN TO DEFENDANT'S MOTIONS FOR CHANGE OF VENUE** Indictment No(s): 2009-GS-42-3609-10 Warrant No(s): M088424 and 434

Under Article V, Section 23, both the Defendant and the State "shall have the same right to move for a change of venue." The Defendant claims he cannot receive a fair and impartial trial in Spartanburg due to circumstances that he claims occurred over four (4) years ago.

The Defendant has offered virtually nothing in support of motions other than his bare claims that pre-trial publicity or other circumstances will prevent or even hinder his ability to receive a fair and impartial trial in Spartanburg County. In considering such a motion, the trial judge should first seek to empanel a jury and put the moving party to their respective burden of proof of showing they cannot receive a fair trial in the county where venue would otherwise lay based upon the results of those efforts. *See State v. Manning, 329 S.C. 1, 495 S.E. 2nd 191 (SC 1997); State v. Ingram, 266 S.C. 462, 224 S.E. 2nd 711 (SC 1976); State v. Robinson, 305 S.C. 469, 409 S.E.2nd 404 (SC 1991).*

The issue of changing venue should be addressed only after the Defendant has been held to his burden of proving a basis for same and only after attempts to seat a fair and impartial jury have failed. The issue is one for the sound discretion of the trial judge.

The motion should be denied pending the exhaustion of proper procedural requirements as to the issue.

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
October 23, 2013

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Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
February 17, 2014

SCANNED

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNT Y OF SPARTANBURG	)	
The State,	)	
	)	
v.	)	**FOIA OBJECTIONS;**
	)	**MOTION FOR PROTECTIVE OR MODIFYING**
	)	**ORDER UNDER SCRCrP 5(d)(1), AND FOR**
Ricky Lee Blackwell, Sr.,	)	**REMEDIES**
	)	Indictment No(s).: 2009-GS-42-3609-10
Defendant.	)	Warrant No(s).: M088424 & 434
	)	

THIS is a death penalty case involving a murder which took place within the jurisdiction of the Seventh Judicial Circuit on July 8, 2009. This Motion seeks an Order from the Honorable Roger L. Couch (assigned per Order of Chief Justice Jean Toal dated July 17, 2009) curtailing further discovery abuse, in this case, by the Office of the Public Defender for the Seventh Circuit and the Capital Trial Division for the South Carolina Commission on Indigent Defense.

BACKGROUND

The South Carolina legislature has determined that, in light of *Furman v. Georgia*, this state shall continue to have a death penalty in cases of certain aggravating circumstances. *SC Code Ann.* 16-3-20, et seq. Under this statute, the Solicitor is given discretion as to those cases in which a sentence of death may be sought upon conviction. *SC Code Ann.* 16-3-26(A); *State v. Shaw,* 273 SC 194,204, 255 SE 2nd 799(1979).

The Solicitor for the Seventh Judicial Circuit, upon review of the facts and circumstances of this case, has made a determination that it is appropriate that the State seek the death penalty against Defendant Blackwell, and has served Notice of same as required by statute. (*Notice attached hereto as Exhibit 1*).

The Defendant is indigent and has been duly provided counsel at State expense. *Gideon v. Wainwright*, 372 US 335, 83 S Ct 792 (1963). Under the South Carolina statutory scheme, the Defendant in a death penalty case is provided two attorneys, at State expense, who must satisfy certain prerequisites as to knowledge and experience in order to be qualified to serve. The South

Carolina statutory provisions provide the Defendant with certain fundamental guarantees to assure procedural justice in the state's prosecution of the Defendant. See e.g. SC Code Ann. Sec. 16-3-26 (provisions which authorize in camera, ex parte discussions with the presiding judge as to monies needed to pay for investigators, experts, etc., at State expense).

The South Carolina statutory scheme does not, however, provide any guarantee of a lack of prosecutorial zeal or effort in seeking justice for victims and their families; a lack of advocacy in preparation and trial of the case; nor a guarantee of an outcome which will satisfy those unalterably opposed to the statutory scheme or the legislative will that created it, or to the popular, political will that elected them to do so, or to those who still support the statute as a valid instrument of punishment, specific deterrence, retribution and justice. *See SC Const. Art. I, Sec. 1,* ("All political power is *vested in and derived from the people only*"), *and cfr. US Const. Amdt. IX* ("The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage *other rights retained by the people.*"); see also, *District of Columbia v. Heller*, 554 US 570, 580, 128 S Ct 2783, 2790-91(2008) ([I]n all six other provisions of the Constitution that mention 'the people,' the term unambiguously *refers to all members of the political community*, not an unspecified subset." (Scalia, J. writing for the majority)(Emphasis added).

The Defendant's attorneys began discovery in this case with service of a routine request under Rule 5 of the South Carolina Rules of Criminal Procedure. (*Exhibit 2).* The request was then withdrawn by Defendant's counsel. (*Exhibit 3*). The withdrawal was then followed by a request which sought to obtain discovery via a subpoena served on the Sheriff's Office, the primary investigating agency in the case. (*Exhibit 4*). This in turn was met with the State's Motion to Quash the subpoena. (Exhibit 5). This was in turn followed by yet another subpoena served on the Sheriff's Office, (*Exhibit 6*), which met with yet another Motion to Quash. (*Exhibit 7*). This was in turn followed by a request to the Solicitor's Office under the state's Freedom of Information Act (*FOIA*), (*Exhibit 8*), which in turn met with the State's timely notice of objections to use of same as a discovery tool, along with citation to precedent of the South Carolina Supreme Court which has expressly held that *FOIA* cannot be used as a substitute for the discovery process in a criminal proceeding. *State v. Robinson*, 305 SC 469, 409 SE 2nd 404 (1991) (*Exhibit 9*).

Not having satisfied themselves with a mere single abuse of *FOIA* under the discovery process, attorneys for Defendant on July 28, 2011, sent yet another *FOIA* request, seeking "the

sources and amounts of all funding provided to the Seventh Judicial Circuit Solicitor's Office for the last three fiscal years...identify each separate source and the amount of funding received from each source over this same period as authorized by the provisions of the Freedom of Information Act...*While I request this information as a citizen of South Carolina, my position as Chief Attorney of the Capital Trial division does force me from time to time to assess the discrepancies between the Public Defenders and Solicitors of this state... Please do not fear that I will take the position that your office is overfunded, or even adequately funded, as I know that is not likely to be the case.* I do seek to discover, however, just how underfunded the public defender system is, and one factor in that analysis is to discover if the public defender is provided a small fraction of the funds available to prosecutors." (*Exhibit 10, emphasis added*).

The request was not made on the private stationary of William S. McGuire, but rather on the letter head of the South Carolina Commission on Indigent Defense, a commission funded by the people of this state, and for which Mr. McGuire apparently serves as "Chief Attorney" for the "Capital Trial Division."

Notwithstanding his claim to be making yet another improper *FOIA* request as a mere "private citizen", the request was a communication made during the course of pending litigation, by extrajudicial means, and one made as a representative of the commission on which he serves as "Chief Attorney."

ARGUMENT

In this case, the Defendant, by and through his attorneys, has set out to posture his case, as with others similarly situated, as one in which rules governing lawyers in general do not apply to defense attorneys in the course of capital litigation. It is respectfully submitted that the rules apply to all, other than Rule *3.8* governing professional conduct of lawyers, (*Special Responsibilities of a Prosecutor*), and *Rule 4.1* (*Candor Toward the Tribunal*), (allowing defense counsel in criminal cases to "allow the accused to give a narrative statement if the accused so desires, even if counsel knows that the testimony or statement will be false"), both found under the South Carolina Rules of Appellate Procedure (*SCRAP*), *Rule 407*.

The rationale for the claim to "special exemptions" begins essentially with the premise that there are three types of litigation: (1) civil litigation; (2) criminal litigation; and (3) capital litigation.

From this, it has come to follow that attorneys in this last class of cases, a class of attorneys who make their living (and apparently a very good one) in service of defending the accused in this class of cases, this class of attorneys should be deemed to have the rules of conduct which are applicable to the first two classes of litigators either applied less rigorously to them, or suspended altogether.

This in turn is supported, it appears, from arguments routinely made and actions routinely pursued in such cases, recurring claims that what they do is justifiable based upon what is at stake, upon the finality of the punishment to be meted out, upon considerations which should weigh against a "tribal" sense of justice, and upon claims to a moral "high ground", one elevated (and thereby elevating those who make them as well) above the political, the legislative , the "people's" will.

However, it is respectfully submitted that other considerations must weigh into the calculus for justice in these cases, and for that reason if no other, a separate and less rigorous standard for capital defense attorneys cannot be acceptable, cannot be allowed, neither implicitly nor in fact.

The attorneys for the Defendant have filed a formal withdrawal of their original discovery request, accompanied by a series of boilerplate motions pertaining to discovery issues in the context of the death penalty. (*Exhibit 3*). The motions cite various amendments to the federal constitution and to federal case law, all of which bear upon the gravity of capital cases, and none of which supports an argument that the State of South Carolina is not entitled to compel all litigants, without exception, to abide by uniform rules of the state, rules promulgated and intended to apply to all classes of cases in criminal litigation.

The formal withdrawal ends by stating that "[a]n initial, albeit brief, investigation into this case, indicates that it is in the best interest of the Defendant, at this time, to not bind himself to reciprocal discovery as mandated by Rule 5, SCRCP. Because the prosecution has not responded to the previously filed Rule 5 request, there is no prejudice on the part of the state. The Defendant hereby gives notice to the Solicitor that Mr. Blackwell's previously-filed Rule 5 Motion is withdrawn and the Defendant proceeds, at this point, free from the demands of reciprocal discovery."

The "initial, albeit brief, investigation into this case" must have been brief, indeed; the Defendant's discovery request was signed on July14, 2009, filed with the Court on July 15,

2009, and the withdrawal was signed and filed on July 24, 2009. Both documents were filed by co-counsel for the Defendant, Clay Allen, the Spartanburg County Public Defender, though neither document is signed by Mr. Allen in that capacity.

It is respectfully submitted that fair play and substantial justice does not require that a Defendant accused of committing a murder under circumstances of special aggravation is not required to abide by the South Carolina Rules of Criminal Procedure, without consequences. The South Carolina Constitution requires that "[t]he Chief Justice of the Supreme Court *shall* be the administrative head of the unified judicial system... The Supreme Court *shall* make rules governing the administration of all courts of the State. Subject to the statutory law, the Supreme Court *shall* make rules governing the practice and procedure in all such courts." *SC Const. Art. V, Sec. 4.* (emphasis added). Furthermore, "[t]he provisions of the Constitution *shall* be taken, deemed, and construed to mandatory and prohibitory, and not merely directory, except where expressly made directory or permissory by its own terms." *SC Const. Art. I, Sec. 23.* (emphasis added).

These state constitutional provisions have given rise to rules of criminal procedure governing state criminal cases in South Carolina since September 1, 1988. As such, "[t]hey govern all proceedings in criminal actions brought after they take effect and also all further proceedings then pending." *SCRCrP 40.*

Rule 5 of these Rules governs discovery between the parties in criminal cases, and provides that the State is to provide specified discovery "*[u]pon request by a defendant*", *SCRCrP 5(a)(1)(A)*(emphasis added); that the state upon compliance with same is entitled to reciprocal discovery, *SCRCrP 5(b)(1)(A)* ("If the defendant requests disclosure...*upon compliance with such request by the prosecution, the defendant, on request of the prosecution shall permit*" reciprocal discovery)(emphasis added); to include "upon written request" a written notice of alibi which "shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense, and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi", *SCRCrP 5(e)(1)*; and to further include notice "in writing of the defendant's intention to rely upon the defense of insanity at the time of the crime or to enter a plea of guilty but mentally ill." *SCRCrP 5(f).*

The rule includes provisions which give a trial judge discretion to act reasonably to compel compliance, *SCRCrP 5(c); (d)(1),(2)*, and also allows that "[t]he court may, for good cause shown, waive the requirements of this rule." *SCRCrP5(g)*.

It is submitted that the provisions regulating discovery under the trial judge's discretion do not allow that a class of cases, even capital cases, may be deemed as "good cause shown," *per se*, so as to exempt a class of attorneys from compliance with rules which govern the conduct of all others. *See Spartanburg Co. Dept. Social Services v. Padgett*, 296 SC 79, 85, 370 SE 2nd 872 (1988) ("The purpose of these mandates... is, among other things, to insure that each participant in the judicial system, be he litigant, lawyer or judge, can find in the Constitution, statutes and rules of this Court a court system which is the same in each county of this state."(contempt citation of assistant solicitor for violating local administrative rule held abuse of discretion); *see also State v. Duncan*, 274 SC 379, 382, 264 SE 2nd 421, 423 (1980)(local circuit court rule regulating mutual discovery held unconstitutional and void).

In short, precedent strongly suggests that the supervisory powers of state trial and administrative judges in South Carolina are not so broad as to allow rewriting the rules governing criminal cases, nor to allow any Defendant nor his lawyers to do so unilaterally, without attendant consequences; the state constitution and the state's compelling interest in uniformity of justice rendered in *all* cases would require that such an exception come only from our Supreme Court.

Notwithstanding the many procedural safeguards which have been affixed to capital litigation since *Furman* , there has been no decision of which the State is aware which has determined that attorneys who serve in death penalty matters may engage in conduct which departs from standards generally expected of others who must give their clients effective assistance in other criminal proceedings, not through negligence, *see State v. Nance*, 358 SC 480, 596 SE 2nd 62 (SC 2004), nor by strategy and design. *See State v. Torrence*, 305 SC 45, 60, 64- 65, n. 11, 406 SE 2nd 315 (1991) (Toal, A.J., writing for the majority overruling the doctrine of *in favorem vitae* because, among other reasons, "the doctrine has become counterproductive to the administration of justice in some instances. **The primary danger associated with the doctrine is that a defendant will deliberately refrain from objecting to an error during trial. This is what is referred to by some as 'sandbagging'**... [i]t is true we have held that the doctrine of *in favorem vitae* is designed to allow this Court to review errors of law only, as

opposed to strategy decisions of trial counsel. *State v. Riddle,* 291 SC 232, 353 SE 2nd 138 (1987). However, the fact remains that there are very few cases in which we can determine, based on the record before us, whether the failure by defense counsel to object was a strategic decision.") (*emphasis in bold added*).

The *Torrence* case was a watershed moment in capital litigation in South Carolina. As a result of continuing and repetitive abuses by defense counsel, the Supreme Court determined that some recourse was necessary to protect the people, the State, the accused and the interests of the system as a whole. As a result, the Court acted in what should have been seen by the capital defense bar as a warning to curtail actions which abused the process and which tended to undermine public confidence in a system meant to protect the innocent, as well as to punish the guilty.

The abuses addressed in *Torrence became* visible at least in part because of recurring patterns which the Court could see at an appellate level. Because of the availability of a full and complete record which could be presented for review, over time it became apparent that what was taking place was *action taken collectively*, was *conduct which was apparent of record*, conduct which was *abusive per se* and which, taken as a whole, was detrimental to the quality of lawyer representation being rendered to defendants in capital cases, and most harmful of all, it was ultimately detrimental to the system of justice in its entirety.

The nature of discovery abuse is not conduct which lends itself as easily to being addressed at the appellate level. Legitimate concerns over the nature and orderly progress of all litigation, including capital litigation, weigh in favor of trial judges encouraging the parties to work out differences. The State's concerns over compliance with Brady, with Rule 5, with other state and federal procedural issues, all of these apply compelling reasons for the prudent prosecutor to more often than not go ahead and accommodate most defense requests, at least when they are arguably in line with a reasonable interpretation of the rules.

The problem here, and also in other capital cases now in progress, is that the impetus for the defense bar in capital litigation to conduct themselves in line with what is expected of other criminal defense lawyers is not present. They know that the nature of their undertaking is viewed as exceedingly important by both the prosecutor and the trial judge, as well as by appellate courts; they know that review at levels even beyond legitimate and compelling state interests is guaranteed for this class of cases, both by statute and by constitutional imperatives; and they

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know that patterns of discovery abuse on their part are something that will be difficult to demonstrate or to fully preserve on the record, and therefore will become essentially moot when and if convictions result.

In short, discovery abuses are usually seen as matters which should ordinarily lend themselves to being worked out between the attorneys. However, in the death penalty context, there is no impetus for the defense litigator to "cooperate" , reasoning that the circumstances will only reward his behavior by setting up yet another claim for post-conviction relief to undo a death sentence and conviction. There is simply no reason for the "abuser" to be reasonable, or to cooperate.

In the eyes of a defense attorney in death penalty cases, there is no apparent counterpart for wrongful or abusive conduct, none such as arises for the prosecutor under *Brady*, or under *State v. Parker*, or under SCRAP 407, Rule 3.8(*Special Responsibilities of a Prosecutor*); no language comparable to the oft-quoted *Berger v. United States*, 295 US 78, 55 S Ct 629 (1935); no sanction remotely as stringent as that of dismissal of an indictment, reversal of a conviction, or a further prosecution barred under double jeopardy. In short, as with so many instances where there is no apparent recourse, this is a class of litigants for whom all is "fair", and safe, for them to assume that rules of proper, responsible, and lawful behavior will not be applied to them, as they are applied to all others.

However, once in a great while, someone does go far enough beyond the pale to exceed even the worst expectations of what other overachievers might have considered, what others might have undertaken to abuse the rules and the system; the conduct herein does in fact present just such a case.

The exhibits in this case, taken together, clearly establish the Defendant's attorneys made a strategic decision to withdraw their request for discovery under SCRCrP 5; they have done so as a calculated plan to avoid the requirements of reciprocal discovery. In other words, *and in their own words, it is a strategic decision* which they have chosen to make, but which they now seek to circumvent by relentless and vexatious pursuit of other alternatives. And this sort of gamesmanship was also one of the very bases upon which in *favorem vitae* was finally overruled in South Carolina under *State v. Torrence*.

In this case, the murder of an eight year old girl took place on July 8, 2009. The defendant was arrested almost immediately. The defendant's attorneys made a discovery request

on July 14, 2009, filed it on July 15 and then withdrew it nine days later, July 25, 2009, following their "initial, albeit brief, investigation into this case." Since that time, there has been no further effort on their part to engage in discovery, nothing other than the now recurrent filings of subpoenas and FOIA requests.

It is submitted that the right to counsel is the right to the effective assistance of counsel. *Marzullo v. Maryland*, 561 F 2nd 540 (4th Cir. 1977), cert. denied, 435 US 1011 (1978). The right to counsel is triggered by the initiation of formal criminal proceedings, Kirby *v. Illinois*, 406 US 682, 92 S Ct 1877 (1961), and attaches at critical stages of a criminal proceeding. *Hamilton v. Alabama*, 368 US 218, 82 S Ct 157 (1961). A critical stage is *any* stage of the prosecution where the absence of counsel might deprive a defendant of a fair trial. Attachment does not depend upon the accused's request for counsel. *Brewer v. Williams*, 430 US 387, 97 S Ct 1232 (1977).

There is also a concomitant fundamental right under the Confrontation Clause of the Sixth Amendment and the Due Process Clause of the Fifth Amendment to the US Constitution *that a defendant be present at every critical stage* of the proceedings. *See Kentucky v. Spencer*, 482 US 730, 107 S Ct 2658 (1987); *US v. Rolle*, 204 F 3rd 133 (4th Cir. 2000), appeal from denial of post-conviction relief dismissed 22 Fed. Appx. 227, 2001 WL 1545913, cert. den. 123 S Ct 319, 537 US 925; *State v. Caldwell*, 300 SC 494, 388 SE 2nd 816 (SC 1990).

It is simply implausible that the attorneys for the Defendant in this case are not aware of these fundamental constitutional principles.

Under the circumstances presented, it could well be argued that the decision to forego discovery in a death penalty case is a "stage of the prosecution where the absence of counsel might deprive a defendant of a fair trial." Indeed, it could, would and will be argued how even the most intelligent or street smart defendant would not know how to file a formal request for discovery under SCRCrP 5, nor be able to make a knowing and intelligent waiver of it, without counsel's assistance.

In this case, the request for discovery appeared in the notice of appearance by Clay Allen, the Seventh Circuit Public Defender. Should the Defendant be convicted and sentenced to death, counsel's subsequent withdrawal of the request, and the failure of both he and Mr. McGuire, his co-counsel, their joint failure to properly request and pursue discovery will no doubt later be argued as "ineffective assistance", notwithstanding their strategic decision to so.

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There is nothing in the withdrawal which indicates the Defendant acceded to, nor was advised of, nor was ever "present" for this decision. There is nothing in the record at this time which preserves his involvement in the decision to forego discovery in his capital murder case. He should be questioned on the record to confirm his understanding and agreement in this decision.

The attorneys for the Defendant Blackwell are clearly resorting to the same means and tactics which our Supreme Court, in Torrence, held was intended to frustrate the goals of the criminal justice system, and had reached a point so acute as to cause "a breakdown of the traditional adversarial process". The intent for those pursuing such tactics is to win, without further qualification.

The result in this case, and in other cases where similar tactics are being pursued (and they are), is that the prosecutor, as a "minister of procedural justice" must act to ensure that the rights of the accused are being protected, protected even from the gamesmanship of his own attorneys; and the judge, normally the impartial arbiter, must "inject himself into ... a quasi-adversarial role... [And] do what is the defense counsel's job", *Torrence, further discussion supra*; both must take steps to ensure that the Defendant has knowingly and intelligently been made a party to the decision to forego discovery, under the rules, in his own case.

Here, the Defendant's attorneys having opted to pursue a given strategy in the case, they now choose to harass, coerce and finally to threaten the Office of the Solicitor if they are not allowed to pursue a course of conduct our Supreme Court has held is unavailable as a substitute for discovery in a criminal case. *State v. Noah Robinson*, 305 SC 469, 476-77, 409 SE 2nd 404 (1991).

A strategic decision to opt against formal discovery in a death penalty case is a potentially critical example of "sandbagging." No doubt, a defendant on post-conviction review could, would and will argue that the failure to pursue this most fundamental tenet of criminal defense practice is malpractice *per se*, is on its face a *prima facie* example of counsel's ineffectiveness, one which compels reversal and retrial, especially if he can complain that he was never even consulted nor present when that decision was made.

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In *State v Torrence*, the Supreme Court concluded that a case doctrine which had been extant for the protection of death penalty defendants, a case doctrine dating back almost two hundred years, *State v. Torrence*, 305 SC at p. 61, was after *Furman v. Georgia* no longer

needed, due to selective statutory limitations upon those defendants who can now even become "death eligible", *see Torrence*, 305 SC 61-62; and due to other protections now generally afforded an accused both before he may be punished, id. at 62-64, as well as specifically after he has been convicted in a death penalty case, including the right of automatic appeal in such cases as well as proportionality review, id. at 64, as well as through still further protections afforded under the post-conviction relief mechanism and the procedures available under federal habeas corpus. *Id* at pp. 63-64.

A significant goal of the Supreme Court in *Torrence* was to prevent *abuses* which the Court had come to recognize *were in fact taking place, were in fact happening in death penalty cases in South Carolina with enough frequency* to warrant overruling the doctrine of *in favorem vitae*, and to substitute a contemporaneous objection rule in its stead. *Id.* at pp. 64-65. ("[A] contemporaneous objection requirement to preserve legal errors operates to procedurally preclude a defendant from allowing error to occur at trial and then complaining on appeal. However, with *in favorem vitae* review, the appellate court searches the record for error without regard to whether an objection has preserved it. This encourages defense attorneys to purposefully allow error to occur (such as improper solicitor argument or erroneous charge by the judge) in a case they feel they are losing at trial, thereby tainting the trial, while taking the comfort that this Court will reverse a conviction based upon the unobjected-to error... This strategy *may* serve in some cases to make more probable the conviction of a defendant at trial, but the defense attorney finds solace in an *in favorem vitae* appellate reversal and, possibly years later, a new trial with evidence or witnesses missing. Common sense dictates that a defense attorney is more likely to employ this sandbagging tactic when he feels his client will be convicted anyway. Indeed, the argument that it is a defense attorney's duty as an advocate to employ this tactic does not lack force. Hence, those defendants who are *least likely* to be innocent of the charges against them are those *most likely* to receive the benefit of the operation of *in favorem vitae* review, since it is those defendants who must employ "sandbagging" tactics and the like in an attempt to avoid punishment for their actions. **This practice frustrates the goals of our criminal justice system – which is designed not only to protect the innocent but to punish the guilty.**") (Emphasis in bold added).

As the discussion above reveals, our Supreme Court undertook in 1991 a comprehensive review of a doctrine extant for two centuries, and concluded that procedural protections for the

accused in death penalty cases had advanced to such a degree as to warrant rethinking whether in favorem vitae had become a "rule [which] simply persists from blind imitation of the past." *Torrence*, 305 SC at p. 61, Toal C.J., quoting from Holmes, *The Path of the Law*, 10 Harv. L. Rev. 457, 468 (1897).

The Court then found that advancements in the substantive and procedural protections afforded in death penalty cases warranted reconsideration of in *favorem vitae*, and it also considered the dangers posed to the criminal justice system as a whole through the doctrine's continued application, and through manipulation and abuse which had developed surrounding it. The Court noted "sandbagging" as something which afflicted the goal of finality in the system.

However the Court also noted another more significant effect of *in favorem vitae,* one which abuses by defendants' counsel had also wrought, that of the effect it inevitably had upon a trial judge's ability to maintain the vital appearance of impartiality within her role in the system. See also Underwood, *The Constitution of South Carolina, and (Vol. I: The Relationship of the Legislative, Executive, and Judicial Branches),* p. 79("The effectiveness of the judiciary cannot rest upon the frequent use of overt force. To obtain credibility, the appearance and the reality of impartiality must be preserved.")

In *Torrence*, the Court went on to note that "[t]he purposeful failure to object because of the safety net provided by *in favorem vitae* also forces the trial judge to inject himself into certain situations in a quasi-adversarial role. The trial judge must, in order to avoid appellate reversal, do what is the defense counsel's job and prevent the State from making improper arguments and /or comments; from introducing improper evidence; or from asking improper questions. The trial judge is also put in a position at times of choosing to: (1) permit a defendant to strategically refrain from objecting and thereby benefit his client: or (2) refuse to allow the evidence in or argument to be made *ex mero motu* to prevent reversal by this Court on appeal via *in favorem vitae* review. **This is a breakdown of the traditional adversarial process we can no longer sanction.**" *Torrence*, 305 SC at p. 66. (Emphasis in bold added).

It is respectfully submitted that the discovery abuse at bar is not a unique example of death penalty practice in this circuit. However, to date and in this circuit, it is the most egregious, and the most abusive; and it is the only one that has misused the power of a state office in an effort to compel another state official to bend to the will of an adversary, in lawfully carrying out the requirements of his office.

Having failed to accomplish their ends via subpoena rather than formal discovery (twice), and having failed to do so via FOIA in their first effort, Defendant's counsel have tried yet again, this time including a thinly veiled threat to use a public office to affect funding for the Seventh Circuit Solicitor's Office.

It should be noted that the pretextual "reasons" for the information sought, as given by Mr. McGuire in his letters, vary materially. In his first request he states that he seeks information as to the Solicitor's funding "[t]o insure public confidence in death sentences...*to fully explore all information and issues, both direct and incidental, surrounding death penalty cases. Therefore, the public interest is served by a full and complete examination of all aspects of theses (sic) cases."* (Exhibit 8).

In his second letter, Mr. McGuire states that his request is made merely "as a citizen of South Carolina", but then again notes his position, the same one appearing on the letterhead of his request made as private citizen, and now claims a need for the information so as to make his own comparative analysis of funding between his agency and that of the Solicitor(s), and then returning to "[c]onfidence in the judicial system", "[o]versight of government functions", etc.

It is respectfully submitted that confidence in the judicial system is best served by following the rules set down by our Supreme Court.

It is further submitted that oversight of the government functions in the criminal justice system is constitutionally in the realm of our Supreme Court. SC Const. Art. V, Sec. 4 (" The Supreme Court shall make rules governing the administration of all the courts of the State...The Supreme Court shall have jurisdiction over the admission to the practice of law and the discipline of persons admitted.").

Attempting to have the defendant's counsel comply with procedures which apply to other attorneys in other classes of cases is consistent with procedural justice; attempting to engage in lawful discovery, rather than pandering to cat- and- mouse games played by adversaries is consistent with seeking to have guilt decided upon the basis of sufficient evidence. *SCRAP 407, Rule 3.8 (Special Responsibilities of a Prosecutor), and commentary thereunder.*

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The oft cited *Berger v. United States* seems to lose the other half of what is expected of the prosecutor when quoted only by the defense bar, when quoted by capital defense litigators, if a Solicitor does not take the time to clarify fully what is expected of him or her under that opinion: "[The Solicitor] is in a peculiar and very definite sense the servant of the law, **the**

twofold aim of which is that *guilt shall not escape* or innocence suffer. *He may prosecute with earnestness and vigor-indeed he should do so*. But, while *he may strike hard blows*, he is not at liberty to strike foul ones. *It is as much his duty* to refrain from improper methods calculated to produce a wrongful conviction as it is *to use every legitimate means to bring about a just [conviction]*." *Berger,* 55 S Ct. at p. 633 (emphasis added).

Berger was written in 1935. *Gideon v. Wainwright* was penned in 1963. *Furman v. Georgia* was decided in 1972. *State v. Torrence* was handed down in 1991. Through these decisions and as a result of them, the system has impartially and consistently recognized, reigned in and checked abuses taking place within itself, while regularly correcting, balancing and holding in check the abuses of other institutions as well.

It is submitted that a mere twenty years after *Torrence*, yet another form of abuse has now come to a point where corrective measures are needed to reign in abuses; especially so in this instance, in light of the fact the abuse is egregious, recurring and symptomatic of patterns which remain a problem in the trial courts and "under the radar" for appellate review. The attorneys committing these particular abuses are also state actors, like the Solicitor, attorneys paid by "the People", who have reasonable expectations that they will do their jobs properly and responsibly.

While a request under FOIA is meant to promulgate further transparency in government, the information sought in this case, at its worst can be seen as a further effort to thwart discovery, which it is; taken at its best, it can only be seen as an effort in furtherance of conduct to assist this Defendant, his attorney (acting in the course of this litigation, not as a "private citizen"), SCCID, and others similarly situated and aggrieved after either committing murders under statutorily aggravating circumstances, or being appointed to defend them, and to make economic arguments against a statutory scheme to which they are implacably opposed , against laws passed by those who were popularly elected to fulfill the public will ; i.e., arguments that the cost of funds expended outweighs the "benefit" of going forward under any statutory scheme for a death penalty.

The objections previously made to the FOIA request by the ACLU for such information appear to apply in this case as well The State objects to the requests on grounds that, although the Solicitor's Office is within the executive department of government under SC Code Ann. Sec. 1-30-10, it has been recognized by statute and Supreme Court precedent as being unlike

other executive departments for purposes of administration of those duties performed, due to its special quasi-judicial functions. SC Ann. Sec. 1-7-405: see also SC Const. Art. V, Sec. 24; *Anders v. County Council for Richland County*, 284 SC 142, 325 SE 2nd 538 (1984).

The Freedom of Information Act (FOIA) calls for "every meeting" of "public bodies" to be "open to the public", SC Code Section 30-4-60, to be conducted pursuant to public notice, SC Code Section 30-4-60, and to have written minutes "of all of their public meetings." SC Ann. Sec. 30-4-90.

The Solicitor's Office is an office for the trial and prosecution of criminal cases. These provisions make clear that the statute cannot have had as its intent to apply in its entirety to the Solicitor's Office, and not under circumstances such as this. Such records can be sought out elsewhere by SCCID, and Mr. McGuire should seek them through those channels, rather than making repetitive, pretextual, unlawful, and improper requests in this manner.

CONCLUSION

The State respectfully asks that the Court enter its order:

1. quashing the subpoenas previously issued by the Clerk at the behest of counsel for the Defendant Blackwell;
2. that Defendant's counsel be ordered to cease and desist from further discovery abuses in this matter;
3. that Defendant's counsel be ordered to comply with Rule 5 of the South Carolina Rules of Criminal Procedure, if in fact they do wish to engage in mutual discovery;
4. that Defendant's counsel McGuire be required to cease using his office and position to make threats against the Solicitor and contrary to the effective administration of justice for the Seventh Judicial Circuit, including abusive and pretextual FOIA requests as a "private citizen";
5. that Defendant's co-counsel be required to segregate and account for time and expense pertaining to these matters, for review by the Court at the conclusion of these proceedings;
6 that the Defendant be present at hearing on this matter to confirm to the Court his waiver of formal discovery on the record;
7. For other relief which is just and equitable in this matter.

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BY: _____

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

August 11, 2011
Spartanburg, South Carolina

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M. HOPE BLACKLEY

EXHIBIT 1

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA,	)	
	)	
V.	)	NOTICE SEEKING DEATH PENALTY
	)	
RICKY LEE BLACKWELL,	)	
	)	
DEFENDANT.	)	

TO THE DEFENDANT, Ricky Lee Blackwell:

YOU WILL PLEASE TAKE NOTICE, that the State of South Carolina, acting by and through the Solicitor for the Seventh Judicial Circuit, Harold W. Gowdy, III, hereby gives written notice pursuant to Section 16-3-26 of the Code of Laws of South Carolina (1976), as amended, that the State intends to seek the death penalty against the aforesaid Defendant on indictment number: 2009-GS-42-3610 and Warrant No.: M088424, charging him with the murder of r Brooke r.

The trial of the aforesaid defendant shall be set at a date and time thirty (30) days after the service of this notice on the said defendant and his attorney(s) have been provided with a written notice of the aggravating circumstances and evidence in support of aggravating circumstances that the State intends to rely upon in the case against the defendant.

Harold W. Gowdy, III, Solicitor
Seventh Judicial Circuit Solicitor's Office
Spartanburg County Courthouse
180 Magnolia Street
Spartanburg, South Carolina 29306
(864)-596-2575

Spartanburg, South Carolina
July 9, 2009

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EXHIBIT 2

THE STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF GENERAL SESSIONS SEVENTH JUDICIAL CIRCUIT
THE STATE OF SOUTH CAROLIA	)	INDICTMENTS: 2009-GS-42-3610
Vs.	)	WARRANTS: M088424; M088434
RICKY LEE BLACKWELL DEFENDANT	)	NOTICE OF APPEARANCE AND REQUEST FOR DISCOVERY

The Defendant respectfully requests that the Solicitor produce or otherwise make available to the Defense statements of the Defendant, the Defendant's prior record, all documents, tangible objects, reports of examination and tests, witness statements, physical evidence and any other information subject to disclosure pursuant to Rule 5 and 6 of the South Carolina Rules of Criminal Procedure.

The Defendant further requests the Solicitor to produce all evidence favorable to the Defendant subject to disclosure pursuant to Brady v. Maryland, 373 U.S. 83 (1963), Kyles v. Whitney, 514 U.S. 419 (1995), and their progeny. This includes all information which may tend to exculpate the Defendant and which may tend to mitigate any punishment should he be found guilty.

This request is a continuing request for all such discoverable information as it becomes known to the prosecution or any prosecution agents or which, by the exercise of due diligence, may become known to the prosecution.

The Defendant hereby asserts his Fifth Amendment right to remain silent and does not wish to be questioned in the absence of counsel, pursuant to McNeil v. Wisconsin, 111 S. Ct. 220 (1991) and Edwards v. Arizona, 451 U.S. 477 (1981).

Furthermore, pursuant to Rule 6 of the South Carolina Rules of Criminal Procedure, Defendant objects to the introduction of a chemist's or analyst's report without such person being personally present at trial. Defendant also requests the appearance in Court of all persons within the chain of custody of all physical evidence.

Respectfully Submitted,

Clay T. Allen
Bar Number: 328
SPARTANBURG COUNTY PUBLIC DEFENDER OFFICE

Spartanburg, South Carolina
Dated: July 14, 2009

A 09-00059078
Clay T. Allen

JUL 15 REC'D

EXHIBIT 3

Pleading # 1

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF GENERAL SESSIONS SEVENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s M088424,34

NOTICE OF WITHDRAWL OF PREVIOUSLY FILED RULE 5 MOTION

Comes now Ricky Blackwell, by and through counsel, and gives notice to the prosecutor that he is withdrawing his previously filed Rule 5 Motion. This motion is made pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the Constitution of the United States and to Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina.

In support of this motion, Ricky Blackwell shows as follows:

1. Mr. Blackwell is on trial for his life as the State has announced its intention to seek the death of Mr. Blackwell by electrocution or lethal injection. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed "[t]he fundamental respect for humanity underlying the Eighth

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CLERK OF COURT
SPARTANBURG COUNTY

Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." Johnson v. Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). Furthermore, when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." Gregg v. Georgia, 428 U.S. 153, 187 (1976). Our system of justice must go "to extraordinary measures to ensure that the prisoner [facing the possibility of being] sentenced to be executed is afforded process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice, or mistake." Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring) (emphasis added). These "extraordinary measures" must be taken at both stages of any capital trial. Beck v. Alabama, 447 U.S. 625, 638 (1980).

2. An initial, albeit brief, investigation into this case indicates that it is in the best interest of the Defendant, at this time, to not bind himself to reciprocal discovery as mandated by Rule 5, SCRCP. Because the prosecution has not responded to the previously filed Rule 5 request, there is no prejudice on the part of the state. The Defendant hereby gives notice to the Solicitor that Mr. Blackwell's previously filed Rule 5 Motion is withdrawn and the Defendant proceeds, at this point, free from the demands of reciprocal discovery.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by WSA

Clay Allen
Bar no. 328
Spartanburg, SC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has been hand delivered to The Office of the Solicitor for Spartanburg County this 24 day of July, 20 09.

morgan rea daniels

Morgan Daniels,
Mitigation Investigator
SCCID, Capital Trial Division

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MARC KITCHENS

Pleading # 2

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	

STATE OF SOUTH CAROLINA,	
Plaintiff,	Indictment No. 2009-GS-42-3610
v.	Warrant No. MO88424
RICKY LEE BLACKWELL,	
Defendant.	

MOTION FOR AN ORDER DECLARING THAT DEFENDANT'S DUE PROCESS RIGHTS AND RIGHT OF CONFRONTATION REQUIRE THAT THE DEFENDANT BE ALLOWED TO EXAMINE CRITICAL EVIDENCE IN POSSESSION OF THE STATE

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court for an order for the production of all crime scene evidence, including but not limited to video recordings, diagrams, photographs, and physical evidence. This motion is predicated upon the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, as well as the jurisprudential authorities cited below.

In support, counsel states:

Ricky Lee Blackwell is on trial for his life. The State has announced its intention to seek the death penalty by filing its "Notice Seeking Death Penalty" on July 9, 2009. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any

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CLERK OF COURT
SPARTANBURG COUNTY

subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution.

Factual Background

Defendant is accused of committing murder in Spartanburg County. The Defendant seeks access to all evidence originating from the crime scene, all evidence depicting the crime scene, and all evidence pertaining to the crime scene, such as notes or diagrams.

Legal Analysis

The Defendant's Fourteenth Amendment Right to Due Process and Sixth Amendment Right to Confrontation Requires that an Expert of His Choosing be Able to Examine All Critical Evidence in a Criminal Case and Requires the Production of the Above Referenced Crime Scene Evidence. White v. Maggio, 556 F.2d 1352 (5th Cir. 1977), State v. Barlowe, 157 N.C.App. 249, 257, 578 S.E.2d 660, 665 (N.C.App.,2003) .

1. A criminal defendant has an absolute right to discovery of critical evidence that is subject to varying expert opinion under the Due Process clause of the Fourteenth Amendment. The "critical evidence" standard was first established by the Fifth Circuit in White v. Maggio, 556 F.2d 1352 (5th Cir. 1977). The Court stated that "critical evidence, for purposes of the due process clause, is evidence that, when developed by skilled counsel and experts, could induce a reasonable doubt in the minds of enough jurors to avoid a conviction. In the capital context, this should be interpreted as evidence being capable of convincing a single juror that the death penalty is not the appropriate penalty. When the defense makes a specific request for such evidence, the request should be granted." White at 1357. The White Court noted that critical evidence does not mean evidence that is dispositive or the most important evidence, but instead

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"denotes the due process policy that the Fourteenth Amendment will compel production by the State only of evidence having substantial probative force... the proper definition of the word 'critical' must therefore reflect the policies and purpose of the due process clause." White at 1357. The Court focused on the fact that the defense had specifically requested the critical evidence, in that case, bullets, and stated that when there is a specific request, and the prosecutor refuses to turn over evidence that could have affected the judgment of the jury, then the defendant has been deprived of due process. White.

2. Since White, several courts have adopted the critical evidence standard in ensuring that defendant's due process rights are protected. see Gray v. Rowley, 604 F.2d 382, 384-385 (5th Cir. 1979)("for purpose of rule that fundamental fairness is violated when a defendant is denied the opportunity to have an expert of his choosing examine a piece of 'critical evidence' whose nature is subject to varying expert opinion" ... and "'critical evidence' is material evidence of substantial probative force that could induce a reasonable doubt in the minds of enough jurors to avoid a conviction"), Moore v. State, 240 Ga. 807, 243 S.E.2d 1 (1978)(holding that a criminal defendant, on trial for his liberty, is entitled to examine critical evidence whose nature is subject to varying expert opinion), Sabel v. State, 248 Ga. 10, 282 S.E.2d 61 (1981)(finding that paint samples were "critical evidence" and subject to varying expert opinion and therefore the defendant was entitled to a new trial after an expert of his own choosing had examined the paint samples).

3. To deny a Defendant the opportunity to have critical evidence examined by an expert of his choosing deprives him of the ability to challenge the prosecution's case and the prosecution's expert testimony. This deprivation would constitute a violation of the Defendant's state and federal constitutional right to confront his accusers, his right to effective assistance of

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counsel, and his right to due process. State v. Barlowe, 157 N.C.App. 249, 257, 578 S.E.2d 660, 665 (N.C.App.,2003) ([denial of defendant's motion to continue so that she could examine state's critical evidence of blood spatter] was error and violated her constitutional rights to confront her accusers, to effective assistance of counsel, and to due process of law)(citing U.S. Const., Amend. V, VI, and XIV), S.C. Const. Article I, sections 3, 14, and 15.

4. In the instant case, the evidence at issue is crime scene evidence, physical and otherwise. This critical evidence, coupled with expert testimony, could create a reasonable doubt in the minds of capital jurors with regard to penalty, and is certainly subject to varying expert opinions. Therefore, the crime scene evidence must be available to defense counsel and to defense experts for examination in order to protect defendant's due process rights. Denying this request to examine this critical evidence would render any conviction and sentence constitutionally infirm. Further, given the magnitude of the due process rights at issue, any error at the trial court level would almost certainly lead to reversal, and even a harmless error analysis would not operate to save any conviction from reversal. Barnard v. Henderson, 514 F.2d 744 (5th Cir. 1975)(granting a writ of habeas corpus to a prisoner because the State's refusal to permit the defense to examine tangible evidence before trial violated fundamental fairness).

Conclusion

5. The Court must allow defense counsel access to the crime scene evidence as it is "critical evidence," and material in nature and must be used to confront witnesses in the case. To hold otherwise would be a violation of the Defendant's state and federal constitutional right to confront his accusers, his right to effective assistance of counsel, and his right to due process.

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WHEREFORE, this Defendant respectfully requests that this Court

(a) grant him an evidentiary hearing on this motion;

(b) issue an order for the production of the crime scene evidence; and

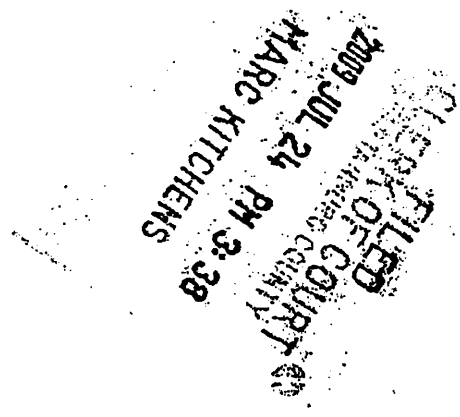
(c) grant such other and further relief consistent with this motion.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by wsh

Clay Allen
Bar no. 328
Spartanburg, SC



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has been hand delivered to The Office of the Solicitor for Spartanburg County this 24 day of July, 20 09.

Morgan Leá Daniels

Morgan Daniels,
Mitigation Investigator
SCCID, Capital Trial Division

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MARC KITCHENS

Pleading # 3

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	

STATE OF SOUTH CAROLINA,	
Plaintiff,	Indictment No. 2009-GS-42-3610
v.	Warrant No.s MO88424, 34
RICKY LEE BLACKWELL,	
Defendant.	

DEFENDANT'S ASSERTION OF FIFTH AND SIXTH AMENDMENT RIGHTS AND REVOCATION OF ANY PRIOR WAIVERS

1. Ricky Lee Blackwell, through undersigned counsel, hereby invokes his rights under the 5th and 6th Amendments to the U.S. Constitution and the rights protected by S.C. Const. art. I, §§ 12 and 14 relative to speaking with any person other than his attorneys about anything, including, but not limited to, his history and background, the facts underlying the current indictment, any alleged involvement in criminal activity, and his political, religious, or cultural views on any subject.

2. Mr. Blackwell hereby provides notice that any prior waiver of any of these rights is immediately revoked, and that any consent or permission granted that has the effect of waiving any of these constitutional rights is likewise hereby revoked. Mr. Blackwell hereby respectfully

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demands that any and all requests for any waiver of these constitutional rights be directed solely to his attorneys.

3. In support of this notice and declaration, Ricky Lee Blackwell relies upon the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10 1984, Art 14 and 16, 23 I.L.M. 1027 (Entry into force for the United States November 20, 1994), the Inter-American Convention on Human Rights, November 22 1969, Art 4 and 7, 1144 UNTS 123, 9 I.L.M. 673 (Entry into force July 18, 1978), the International Covenant of Civil and Political Rights, December 19 1966, Art 2(3) and 6 -7, 999 UNTS 171, 6 I.L.M. 368 (Entry into force for the United States September 8, 1992), the Second Optional Protocol to the International Covenant on Civil and Political Rights, December 15 1989, UN GAOR Supp. (No. 49) at 207, UN Doc. A/44/49 (1989) (Entry into force July 11, 1991), Article 18, Vienna Convention on the Law of Treaties, May 23 1969, Art 18, 1155 UNTS 331; 8 I.L.M 679 (Entry into force January 27, 1980), as well as statutory and jurisprudential authorities cited herein, and all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority. Defendant further asserts his right to a full and fair hearing on all issues according to both State and Federal Constitutional Law.

4. This assertion of rights regarding not speaking with any person on any of the above subjects shall include, but is not limited to, jailers and deputy jailers, members of the South Carolina Law Enforcement Division or South Carolina State Patrol, members of the County Sheriff's office, local city police officers, members of the Solicitor's office, members of

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the Attorney General's office, members of any other state, county, city, or government agencies, and any and all agents of the foregoing, including persons within the jail, fellow inmates and members of the print and broadcast media who may or may not be urged by law enforcement officials to engage defendant in conversations.

Respectfully Submitted,

Clay Allen by wsm 7/23/09

Clay Allen
Bar no. 328
Spartanburg, SC

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SPARTANBURG COUNTY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 2009.

I so certify,

morgan lea daniels

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division

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POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

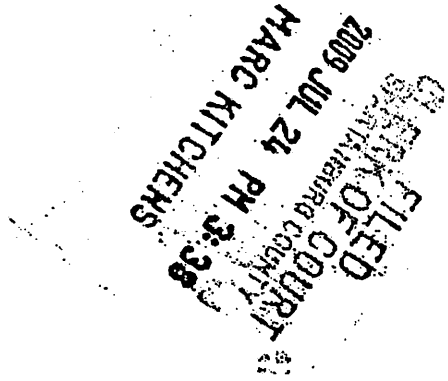
MOTION FOR PRELIMINARY HEARING

COMES NOW Ricky Lee Blackwell, by and through his attorney, and moves this court for a preliminary hearing to be set within ten days as required by law. This motion is made pursuant to the Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments to the Constitution of the United States, to Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, and to all other applicable state and federal law and case precedent. In support of this motion, Mr. Blackwell shows as follows:

1. Ricky Lee Blackwell is on trial for his life as the State has filed a "Notice Seeking Death Penalty" on July 9, 2009. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed '[t]he fundamental

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respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." Johnson v. Mississippi, 486 U.S. 578, 584, 108 S.Ct. 1981, 100 L.Ed.2d. 575 (1988) (quoting Gardner v. Florida, 430 U.S. 349, 363-64, 97 S.Ct. 1197, 51 L.Ed.2d 393 (1977) (White, J., concurring) (quoting Woodson v. North Carolina, 428 U.S. 280, 305, 96 S.Ct. 2978, 49 L.Ed.2d 944 (1976))). It is now well established that when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." Gregg v. Georgia, 428 U.S. 153, 187, 96 S.Ct. 2909, 49 L.Ed.2d 859 (1976). As this Court is acutely aware, the penalty of death is qualitatively and profoundly different from any other sentence. E.g., Ford v. Wainwright, 477 U.S. 399, 411, 106 S.Ct. 2595, 91 L.Ed.2d 335 (1986) ("In capital proceedings generally, this Court has demanded that factfinding procedures aspire to a heightened standard of reliability. This especial concern is a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." (citations omitted)); California v. Ramos, 463 U.S. 992, 998-99, 103 S.Ct. 3446, 77 L.Ed.2d 1171 (1983) (recognizing "the qualitative difference of death from all other punishments"); Eddings v. Oklahoma, 455 U.S. 104, 110, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982) ("the imposition of death by public authority is ... profoundly different from all other penalties"). For this reason, our system of justice must go "to extraordinary measures to ensure that the prisoner sentenced to be executed is afforded process that will guarantee, as much as is humanly possible, that the sentence was not imposed out of whim, passion, prejudice, or mistake." Eddings v. Oklahoma, 455 U.S. at 118 (O'Connor, J., concurring) (emphasis added). These



"extraordinary measures" must be taken at both stages of any capital trial. Beck v. Alabama, 447 U.S. 625, 638, 100 S.Ct. 2382, 65 L.Ed.2d 392 (1980).

2. Ricky Lee Blackwell was arrested on July 8, 2009, by the Spartanburg County Sheriff's Office and is being held in the Spartanburg County Jail with no bond for the offenses of Murder, M088424, and Kidnapping, M088434.

3. South Carolina law requires that any defendant charged with a crime above magistrate court jurisdiction be brought before a magistrate and given notice of his right to a preliminary hearing within twenty-four hours of arrest. Rule 2(a) SCRCrimP. See also S.C. Code Ann. § 22-5-510. Upon information and belief, the Defendant in this case was given notice on July 16, 2009. Defendant has ten days from the date of notice to request the hearing and the hearing must be held within ten days of the request. Rule 2(a) and (b) SCRCrimP. In this case Defendant requested the preliminary hearing on July 23, 2009.

WHEREFORE, Defendant respectfully requests that a preliminary hearing under the provisions of the South Carolina Rules of Criminal Procedure, Rule 2, be scheduled and held at the earliest practicable date or that this Court order the Solicitor to show cause why a preliminary hearing should not be granted.

This 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by WSM

Clay Allen
Bar no. 328
Spartanburg, SC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 2009.

I so certify,

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division

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Pleading # 5

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	IN THE COURT OF GENERAL SESSIONS SEVENTH JUDICIAL CIRCUIT
STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

MOTION FOR AN ORDER TO PRESERVE ALL EVIDENCE AND TO PRECLUDE ANY ADDITIONAL STATE TESTING OR EXAMINATION OF EVIDENCE THAT WOULD ALTER, REDUCE, OR DESTROY EVIDENCE WITHOUT NOTICE TO THE DEFENSE AND PRIOR COURT APPROVAL

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court for an order directing the Solicitor, the Police Department, the Sheriff's Department, the South Carolina Law Enforcement Division, and all other relevant agencies to preserve, retain intact, and not destroy or alter any evidence, tangible papers, objects, or other materials or items relating in any manner to this case. Ricky Lee Blackwell further requests that this Court order the State not to conduct any further tests or examinations that would alter, reduce, or destroy such evidence, without notice to the defense and prior court approval. This motion is predicated upon the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, international treaties and customary law, evolving international standards, and the jurisprudential authority cited herein.

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In support of this motion, counsel states:

2. Ricky Lee Blackwell is on trial for his life as the State has announced its intention to seek the death of Ricky Lee Blackwell by electrocution or lethal injection by filing a document entitled "Notice Seeking Death Penalty" on July 9, 2009.

3. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. The United States Supreme Court has repeatedly emphasized that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). See also Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); Gardner v. Florida, 430 U.S. 349, 357-58 (1977); and Woodson v. North Carolina, 428 U.S. 280, 305 (1976).

4. In 2008, the South Carolina legislature enacted a statute to insure the maintenance and custody of physical evidence collected in a criminal investigation, including evidence introduced in a criminal trial. See generally S.C. Code Ann. § 17-28-320. This legislation requires that a custodian of evidence preserve all physical evidence and biological material related to a person's conviction or adjudication for a number of enumerated offenses, including

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murder and criminal sexual conduct. Id. §17-28-320. This evidence is to be retained by the custodian until the person convicted is released, dies or is executed. Id. 17-28-330.

5. In California v. Trombetta, 467 U.S. 479 (1984), the United States Supreme Court considered two factors when examining the state's duty to preserve evidence: (1) whether the state agents acted "in good faith and in accord with their normal practice," 467 U.S. at 488, and (2) whether the evidence in question "might be expected to play a significant role in the suspect's defense." Id. For evidence to be "expected to play a significant role in the suspect's defense," it "must both possess an exculpatory value ..., and be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means." Id. at 489.

6. The procedural posture of this case, however, is very different than the situation the United States Supreme Court faced. Trombetta analyzed the situation where the evidence had already been destroyed and the trial had already been conducted. The Court noted:

> the difficulty of developing rules to deal with evidence destroyed through prosecutorial neglect or oversight. Whenever potentially exculpatory evidence is permanently lost, courts face the treacherous task of divining the import of materials whose contents are unknown and, very often, disputed. Moreover, fashioning remedies for the illegal destruction of evidence can pose troubling choices. In nondisclosure cases, a court can grant the defendant a new trial at which the previously suppressed evidence may be introduced. But when evidence has been destroyed in violation of the Constitution, the court must choose between barring further prosecution or suppressing -- as the California Court of Appeal did in this case -- the State's most probative evidence.

Id. at 486-87 (citation omitted).

7. The Trombetta court was unwilling to find a due process violation when confronted with these "troubling choices," since the value of the already destroyed evidence was unknown and the only available remedy would have been suppression of the state's evidence.

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The result is certainly different where, as here, the evidence still exists. See United States v. Bohl, 25 F.3d 904, 911 (10th Cir. 1994) (reversing and ordering the indictment dismissed because the trial court's finding of no due process violation, despite the fact that the defense had requested access to the evidence *before* it had been destroyed, was "clearly erroneous"); United States v. Cooper, 983 F.2d 928, 931 (9th Cir. 1993) (finding due process violation where evidence was destroyed in face of defendant's request that it be returned). Perhaps the most important difference from the Trombetta situation, however, is that the "remedy" here is simply to order the State not to destroy the evidence.

8. Ricky Lee Blackwell requests that *all* evidence, directly or indirectly relating to this case, whether inculpatory or exculpatory towards him, be preserved by the State. This request includes but is not limited to the following evidence:

a. all evidence which may be exculpatory towards Ricky Lee Blackwell on the issue of innocence or possible punishment;

b. all investigating officers' handwritten notes of witness interviews, including notes concerning any interviews with Ricky Lee Blackwell;

c. all evidence which may tend to be impeaching towards any possible witness;

d. all biological (blood, hair, semen, etc.) evidence;

e. all physical evidence recovered from the place at which the crimes are alleged to have occurred;

f. all physical evidence recovered from any place, area, or thing that the defendant or alleged victim are alleged to have occupied or spent time in close proximity to; and

g. all alleged weapons; and

h. all physical evidence recovered from this defendant.

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9. It is highly probable that the passage of time has already caused some of the above described items, particularly the biological specimens, to become altered from their original condition, damaged and/or deteriorated to the possible detriment of Ricky Lee Blackwell. Permitting the State to perform additional testing without requiring notice to the defense and prior court approval risks that the testing may take place without an independent assessment of the amount of physical sample suitable for testing. This testing could consume the remaining portion of sample and effectively preclude the defense from obtaining independent testing in violation of the independent state and federal constitutional guarantees to a fair trial, cross-examination and confrontation of adverse witnesses, the effective assistance of counsel, due process of law, and a reliable verdict and sentence. S.C. Const. art. I, §§ 3, 9, 10, 11, 12, 14 and 15; U.S. Const. amend. V, VI, VIII and XIV.

10. Without access to as much of the original evidence as is possible, Ricky Lee Blackwell will be unable to properly investigate this matter, fairly and competently examine the evidence, and adequately review the results of the various State experts. The independent state and federal constitutional guarantees to a fair trial, cross-examination and confrontation of adverse witnesses, the effective assistance of counsel, due process of law, and a reliable verdict and sentence require the State preserve all of the evidence in this case, and not conduct testing of the evidence that would alter, reduce, or destroy any evidence without prior notice to the defense and court approval. S.C. Const. art. I, §§ 3, 9, 10, 11, 12, 14 and 15; U.S. Const. amend. V, VI, VIII and XIV.

WHEREFORE, for the foregoing reasons and any others that may appear to this Court after a hearing, Ricky Lee Blackwell, respectfully requests this Court to order the State to

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preserve all evidence and not to conduct tests or examinations that would alter, reduce or destroy any evidence without notice to the defense and prior Court approval.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by wsh

Clay Allen
Bar no. 328
Spartanburg, SC

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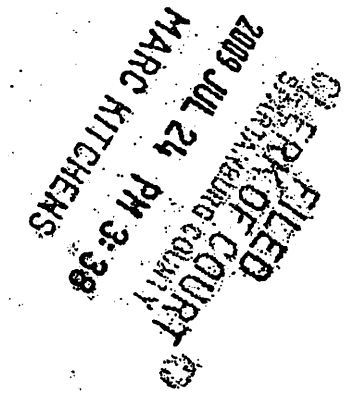
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 20 09.

I so certify,

morgan lea daniels

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division



Pleading # 6

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No.s: 2009-GS-42-3610 Warrant No.s M088424, 34

MOTION FOR THE COURT TO ORDER PRESERVATION OF COMPARATIVE JUROR ANALYSIS FOR ALL FUTURE COURT PROCEEDINGS, INCLUDING DIRECT APPEAL, POST CONVICTION RELIEF, STATE AND FEDERAL LEVEL HABEAS, OR OTHER POTENTIAL PROCEEDINGS GOVERNED BY THE FEDERAL ANTI-TERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, OR IN THE ALTERNATIVE TO ORDER THAT A TRANSCRIPT OF THE APPROPRIATE PROCEEDINGS BE PROVIDED TO COUNSEL BEFORE ANY ARGUMENT IS RECEIVED ON THIS ISSUE.

Comes now, the Defendant, by and through his attorneys, and respectfully requests that this Court order as preserved the issue of comparative juror analysis. Specifically, the Defendant requests that the issue of potential future comparative juror analysis be preserved with regard to direct appeal, post conviction relief, state and federal habeas, and any other future hearing, including those that may be governed by the Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA). In the alternative, the Defendant requests that a transcript of the appropriate proceedings be provided to counsel before any argument is taken on this issue.

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This motion is based on holdings of Miller-El v. Drake, 545 U.S. 231 (2005), and Reed v. Quarterman, __ F.3d __, 2009 WL 58903 (5th cir. 2009), and is made fifteen days after service of the charging warrants so that the state may have ample opportunity to brief this issue..

WHEREFORE, the Defendant respectfully requests the Court order:

(a) that the issue of comparative juror analysis be deemed preserved as to any future proceedings;

(b) that a transcript of the appropriate proceedings be provided to counsel before any argument on this issue is taken by the Court;

(c) that counsel have a reasonable time to research the transcript before argument is taken on this issue;

(c) a hearing be held to resolve this matter; and

(d) such other and further relief as this Court deems proper.

Dated this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by mss

Clay Allen
State Bar No. 328
Spartanburg, South Carolina

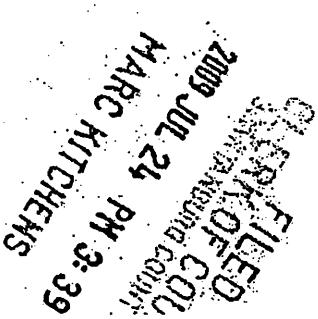
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MARC KITCHENS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has been hand delivered to The Office of the Solicitor for Spartanburg County this 24 day of July, 20 09.

morgan lea daniels

Morgan Daniels,
Mitigation Investigator
SCCID, Capital Trial Division



Pleading # 7

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA	IN THE COURT OF GENERAL SESSIONS SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

MOTION FOR AN ORDER REQUIRING THE SOLICITOR TO RESPOND IN WRITING TO EACH MOTION WHICH IS CONTESTED BY THE STATE

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court for an order directing the District Attorney to respond in writing to each motion filed by counsel for Mr. Blackwell which is to be contested by the State. This motion is predicated upon the Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, international treaties and customary international law, as well as statutory and jurisprudential authorities cited below.

In support of this motion, counsel states:

1. Mr. Blackwell is on trial for his life as the State has announced its intention to seek the death of Mr. Blackwell by electrocution or lethal injection by filing a document entitled "Notice of Seeking Death Penalty" on July 9, 2009. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of

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Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed "[t]he fundamental respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." Johnson v. Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). Furthermore, when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." Gregg v. Georgia, 428 U.S. 153, 187 (1976). This heightened standard of reliability is "a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." Ford v. Wainwright, 477 U.S. 399, 411 (1986).

> Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976).

2. The United States Supreme Court has repeatedly emphasized that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). See also Monge v. California, 524 U.S. 721, 732 (1998); Johnson v. Mississippi, 486 U.S. 578, 584 (1988); Ford v. Wainwright 477 U.S. 399, 411 (1986); Spaziano v. Florida, 468 U.S. 447, 456 (1984); Strickland v. Washington, 466 U.S. 668, 704 (1984); California v. Ramos 463 U.S. 992, 998-99 (1983); Estelle v. Smith, 451 U.S. 454, 463 (1981); Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); Gardner v. Florida, 430 U.S. 349, 357-58 (1977); Woodson v. North Carolina, 428 U.S. 280, 305 (1976).

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and Gregg v. Georgia, 428 U.S. 153, 187 (1976).

3. A motion is a request of the Court for a specific form of relief. Virtually every jurisdiction recognizes the use of the motion to address issues relevant to either the prosecution or defense of a criminal case. Several reasons exist for requiring the prosecution to respond in writing to each motion filed by the defense, and to require that the prosecution cite the authorities on which they rely.

4. Judicial Economy: First, there are considerations of judicial economy. There are many motions which will require evidentiary hearings. Should the State concede that the motion should be granted, much time will be saved, and the County will not bear the expense of witnesses who would otherwise be required to testify on the motion. Requiring the disputed issues in this case to be reduced to writing would focus the respective positions of the defense and the prosecution, thus enabling this Court to more easily and accurately rule on those issues. In addition, the State's response to each motion will also provide this Court with additional authority, putting the Court in a better position to decide the issues.

5. In civil actions, one party is uniformly required to respond in writing to the pleadings filed by the other party. It would be very odd to suggest that a rule which applies where a few thousand dollars or a widget are at stake should not apply where a life is at stake.

6. Notice to the defense: Additionally, Ricky Lee Blackwell has a right to notice as to the State's position regarding the issues in the case. See Lankford v. Idaho, 500 U.S. 110

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(1991). Counsel for Mr. Blackwell cannot prepare for hearings unless the defense knows what position the prosecution is going to take with respect to the issues raised in defense pleadings.

7. Unless the State is required to respond in writing to the issues raised by Mr. Blackwell's counsel through the defense motions, defense counsel will not know what the State's responses will be -- if any, until the oral argument at the motions hearing. Surely the mandates set forth in the Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the corresponding provisions of the Constitution of the State of South Carolina require more.

8. Procedural Default: For years, the prosecuting attorneys have urged upon the appellate courts various procedural defaults, in an effort to assure the execution of indigent defendants whose lawyers have failed to preserve their rights. It is clear, at this point in the development of the law, that procedural rules must be a two-way street: "What's sauce for the goose is sauce for the gander." Alcerte v. McGinnis, 898 F.2d 69, 72 (7th Cir. 1990). "[T]he Due Process Clause . . . forbids enforcement of . . . rules unless reciprocal rights are given to criminal defendants." Wardius v. Oregon, 412 U.S. 470, 472 (1973). For this reason, procedural rules have been applied with equal force against the prosecution as against the defense. See, e.g., Wilson v. O'Leary, 895 F.2d 378, 384 (7th Cir. 1990); Alcerte v. McGinnis, 898 F.2d at 71-72; Russell v. Rolfs, 893 F.2d 1033, 1038 (9th Cir. 1990); Francis v. Rison, 894 F.2d 353, 355 (9th Cir. 1990); Cole v. Young, 817 F.2d 412, 415 (7th Cir. 1987); Merlo v. Bolden, 801 F.2d 252, 255 (6th Cir. 1986); Barrera v. Young, 794 F.2d 1264, 1267-68 (7th Cir. 1986); Boykins v. Wainwright, 737 F.2d 1539, 1545 (11th Cir. 1984); see also Hitchcock v. Dugger, 481 U.S. 393, 399 (1987) (waiver of harmless error by failing to raise it).

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9. Therefore, unless the prosecuting attorneys announce what their position is, and why, they will be defaulted from arguing varying positions on any appeal. This is only fair – when the accused loses by default, he or she dies; when the prosecution loses by default, the State may still get to keep Mr. Blackwell in prison under a life sentence without the possibility of parole.

10. Citation of Authority: Courts require parties to "support propositions of law with reasons and authorities." Pate v. State, 419 So.2d 1324, 1325-26 (Miss. 1982). This not only ensures notice and fairness to the opposing party, but protects the Court from being misled into committing errors of law, especially reversible ones. The State must also provide authority in this case. Therefore, unless the prosecution cites authority in responses, this Court should rule that the prosecution waived their opportunity to argue to the Court that the motion should not be granted:

> [The] rules apply to the government as well as to defendants. [The State] has forfeited what would have been its best argument. If as a result a violent offender goes free, the [state prosecutor] must understand where the responsibility lies – with his own staff.

Wilson v. O'Leary, 895 F.2d at 384; accord Alerte v. McGinnis, 898 F.2d at 72 ("the state has only itself to blame for the defect that has undone this appeal").[1] Only in this way will the Court be able to assure itself that it is not committing legal errors.

[1]Obviously there is sometimes no authority for a specific proposition, in which case the parties must analogize. Additionally, precedent is frequently overruled, so the presence of seemingly "dispositive" precedent is not actually dispositive of any issue. Finally, it may appear that new issues arise when evidence is adduced at a hearing. Clearly, the parties are not barred from arguing – and, if necessary or ordered by the Court, briefing – such issues.

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11. The Prosecutor's Ethical Duty: A prosecutor has a duty to uphold the dignity of the court and respect its authority, as well as maintain public confidence in the judicial system and the legal profession. United States v. Alabama, 571 F.Supp. 958 (N.D. Ala. 1983); American Bar Association, Standards of Criminal Justice §3-1.2(b); Adams v. State, 198 So. 2d 255 (Ala. 1967) (the primary duty of the office of the District Attorney is to see that justice is done).

12. The role of the public prosecutor has long been recognized as a special one. A prosecutor has the responsibility of a minister of justice and not merely an advocate. South Carolina Rules of Professional Conduct, Rule 3.8, comment [1]. The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely to convict. The South Carolina Supreme Court has clearly declared:

> "The [prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor-indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

State v. Dawkins, 297 S.C. 386, 388, 377 S.E.2d 298, 299 (S.C.,1989)(Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 633, 79 L.Ed. 1314 (1935).

13. The Solicitor and his or her assistants have an obligation to respond to each defense motion if the State intends to oppose the relief requested therein. To wait until the motions hearings and then orally respond fails to satisfy the obligations placed upon the prosecutor to actively address Mr. Blackwell's appeals for relief from violations of his constitutional rights. If the State has a legitimate interest in objecting to a particular motion, then

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the prosecutor should set forth his opposition to those requests in such a timely manner that the defense may be prepared to respond to the State's argument and cited authority.

WHEREFORE, for the foregoing reasons and any others that may appear to this Court after a hearing, counsel for Mr. Blackwell, respectfully requests this Court issue an order directing the Solicitor to respond in writing, within a reasonable period of time, to all motions filed by the defense which the State contests; and grant such other relief which is consistent with the requests set forth herein.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by WSM

Clay Allen
Bar no. 328
Spartanburg, SC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 20 09.

I so certify,

morgan lea daniels

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division

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Pleading # 8

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS**
	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	
STATE OF SOUTH CAROLINA,	
Plaintiff,	Indictment No. 2009-GS-42-3610
v.	Warrant No.s MO88424, 34
RICKY LEE BLACKWELL,	
Defendant.	

MOTION FOR "GAG" ORDER

This matter comes before the Court by motion of the Defendant seeking to obtain an Order prohibiting extra-judicial statements of counsel, potential trial participants, law enforcement and any other persons involved in the investigation and possibly in the trial of the above-captioned matter.

The above captioned matter arises from the homicide death of Brooke in Spartanburg County, South Carolina on July 8, 2009. The investigation involving the death of Brooke and the subsequent arrest of the Defendant have created a tremendous amount of media coverage and publicity in Spartanburg County and other areas surrounding the county.

Under both the United States Constitution and the South Carolina Constitution, a defendant in a criminal prosecution is constitutionally guaranteed a fair trial by an impartial jury. U.S. Const. amend. VI; S.C. Const. art. I Section 14. This "most fundamental of all freedoms" must be maintained at all costs. Estes v. Texas, 381 U.S. 534, 540 (1965).

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In Patterson v. State of Colorado ex rel. Attorney General, 205 U.S. 454, 462 (1907), the United States Supreme Court interpreted the requirement of an impartial jury to mean that "the conclusions to be reached in a case will be induced only by evidence and argument in open court, and not by any outside influence, whether of private talk or public print." Subsequently, in Sheppard v Maxwell, 384 U.S. 333, 357 (1966), the Supreme Court ruled that a trial court erred by "holding that it lacked power to control the publicity about the trial." The Court specifically found that "the trial court might well have proscribed extrajudicial statements by any lawyer, party, witness, or court official which divulged prejudicial matters," noting that with the pervasiveness of modern communications and the difficulty of erasing prejudicial publicity from the minds of the jurors, the trial courts must take strong measures to ensure that the balance is never weighed against the accused." Sheppard, 384 U.S. at 361, 362.

This Court does have the power to issue an order directed at reducing the amount of pre-trial publicity in this case. As the Sheppard Court stated:

> reversals are but palliatives; the cure lies in those remedial measures that will prevent the prejudice at its inception. The courts must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between counsel and the press as to information affecting the fairness of a criminal trial is not only subject to regulation, but is highly censurable and worthy of disciplinary measures.

Id. at 363 (emphasis added).

Regarding the scope of this power, any order of the Court that directly prohibits or restrains publication of information already gained or commentary on judicial proceedings held in public is a prior restraint in violation of the First Amendment which must be justified by a clear and present danger that the defendants' right to a fair trial is in jeopardy. Nebraska Press Assoc. v. Stuart, 427 U.S. 539 (1976); Wood v. Georgia, 370

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U.S. 375 (1962). However, "the clear and present danger test does not apply when the Court issues an order ... which does not constitute a prior restraint on the press' or public's right to speak or publish but only restrains the trial participants from certain conduct thereby proscribing the flow of prejudicial information to be gained by a non trial participant." Central South Carolina Chapter, Society of Professional Journalists, Sigma Delta Chi v. Martin, 431 F.Supp. 1182, 1188 (D.S.C. 1977) aff'd 556 F.2d 706 (4th Cir. 1977), cert. denied 434 U.S. 1022 (1978). As the Martin Court stated, "The conclusion to be drawn from reading Nebraska is that proscriptions on trial participants' prejudicial statements in a criminal trial are not to be considered as prior restraints on non-trial participants' First Amendment rights to publish and comment upon judicial proceedings and that proscriptions on trial participants' prejudicial statements are to be judged by the Sheppard standard as it regulates the conduct of the participants in the trial." Id. at 1189.

The Defendant moves this Court to find that although in Sheppard, the Court identified numerous measures by which a trial court may "mitigate the effects of likely dissemination of unrestrained comment by the trial participants," only an order restricting trial participants from making extra-judicial statements of prejudicial information is likely to effectively accomplish this goal.

The Defendant moves that this Court further find that it is likely that there will continue to be inquiries made by media representatives and the statements and information are likely to be widely disseminated. At some point in the future, both a grand jury panel and a petit jury panel will be summoned to hear this matter, and as soon as these steps are taken the potential levels of interest in the media reports by these prospective jurors will be intensified. As such, without some restraint on the potential trial participants and those involved with the investigation of this

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case, "there is a substantial likelihood that the defendant may be denied a fair trial". In fact, there is a "clear and present danger that pre-trial publicity could impinge on the defendant's right to a fair trial". Nebraska Press Assoc. v. Stuart, 427 U.S. at 563; Sheppard, 384 U.S. at 263; Central South Carolina Chapter, et al v. Martin, F. Supp. at 1189.

The South Carolina Rules regarding pre-trial publicity are covered in, Appellate Court Rules, Rule 407 Professional Conduct, Rule 3.6 TRIAL PUBLICITY

> (a) A lawyer who is participating or has participated in the investigation or litigation of a matter ***shall not*** make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter
>
> Comment [1]: It is difficult to strike a balance between protecting the right to a fair trial and safeguarding the right of free expression. Preserving the right to a fair trial necessarily entails some curtailment of the information that may be disseminated about a party prior to trial, particularly where trial by jury is involved. If there were no such limits, the result would be the practical nullification of the protective effect of the rules of forensic decorum and the n exclusionary rules of evidence. . .
>
> Comment [5]: There are, on the other hand, certain subjects that are more likely than not to have a material prejudicial effect on a proceeding, particularly when they refer to a civil matter triable to a jury, a **criminal matter**, or any other proceeding that could result in incarceration. These subjects relate to:
>
> a) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or a witness, or the expected testimony of a party or witness;
> b) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;
> c) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;
> d) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

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e) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and that would , if disclosed, create a substantial risk of prejudicing an impartial trial, or;
f) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

Comment [6] Another relevant factor in determining prejudice is the nature of the proceeding involved. **Criminal jury trials will be most sensitive to extrajudicial speech.** . . The Rule will place limitations on prejudicial comments in these cases, but the likelihood of prejudice may be different depending on the type of proceeding.

And Rule 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR

The prosecutor in a criminal case **shall**: . . .

g) **except** for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, **refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.**

Comment [5] Paragraph (f) supplements Rule 3.6, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. In the context of a criminal prosecution, a prosecutor's extrajudicial statement can create the additional problem of increasing public condemnation of the accused. Although the announcement of an indictment, for example, will necessarily have severe consequences for the accused, a prosecutor can, and **should, avoid comments which have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused.** Nothing in this Comment is intended to restrict the statements which a prosecutor may make which comply with Rule 3.6(b) or 3.6(c).

[6] Like other lawyers, prosecutors are subject to Rules 5.1 and 5.3, which relate to responsibilities regarding lawyers and nonlawyers who work for or are associated with the lawyer's office. Paragraph (f) reminds the prosecutor of the importance of these obligations in connection with the unique dangers of improper extrajudicial statements in a criminal case. **In addition, paragraph (f) requires a prosecutor to exercise reasonable care to prevent persons assisting or associated with the prosecutor from making improper extrajudicial statements, even when such persons are not under the direct supervision of the prosecutor.** Ordinarily, the reasonable care standard will be satisfied if the

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prosecutor issues the appropriate cautions to law-enforcement personnel and other relevant individuals. (**Emphasis Added**)

This Court should recognize that pursuant to FOIA, there is a right to obtain or copy certain information that is held by the government. Evening Post v. City of North Charleston, 363 S.C. 452 (2005). However, in Evening Post, the issue of fairness to the Defendant did not arise. (fn. 6). The issue as to whether the exemptions stated under section 30-4-40(a)(3)(B) of the Code of Laws of South Carolina would have been proper to protect the rights of the Defendant was not before the Court and therefore, that issue was not decided. However, this Court should find that the particular facts of this case can be distinguished from Evening Post because of the Defendant's intervention and the reasons for his request to prohibit the dissemination of information. In addition to the findings above, the use of that exemption by law enforcement in this particular case would be proper to protect the fairness of these judicial proceedings.

The Defense requests a hearing on this motion as soon as possible, as timing is of the essence.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by WSR

Clay Allen
Bar no. 328
Spartanburg, SC

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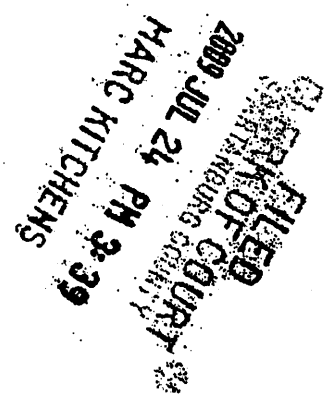
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 20 09.

I so certify,

Morgan Lea Daniels

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division



Pleading # 9

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA	**IN THE COURT OF GENERAL SESSIONS SEVENTH JUDICIAL CIRCUIT**
COUNTY OF SPARTANBURG	
STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

DEFENDANT'S ASSERTION OF FOURTH AMENDMENT RIGHTS AND REVOCATION OF ANY PRIOR WAIVERS

1. Ricky Lee Blackwell, through undersigned counsel, hereby asserts his 4th Amendment (U.S. Const. amend. IV) rights and rights protected under S.C. Const. art. I, § 10 relative to any searches of person, places, or things.

2. Mr. Blackwell hereby provides notice that any prior waiver of any of these rights is hereby immediately revoked, and any consent or permission granted waiving any of these Constitutional rights is likewise hereby revoked. Please direct any and all requests for any waiver of these Constitutional rights solely to his attorneys.

3. In support of this notice and declaration, Mr. Blackwell relies upon the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, December 10 1984, Art 14 and 16, 23 I.L.M. 1027 (Entry into force for the United States November 20, 1994;

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the Inter-American Convention on Human Rights, November 22 1969, Art 4 and 7, 1144 UNTS 123, 9 I.L.M. 673 (Entry into force July 18, 1978), the International Covenant of Civil and Political Rights, December 19 1966, Art 2(3) and 6 -7, 999 UNTS 171, 6 I.L.M. 368 (Entry into force for the United States September 8, 1992), the Second Optional Protocol to the International Covenant on Civil and Political Rights, December 15 1989, UN GAOR Supp. (No. 49) at 207, UN Doc. A/44/49 (1989) (Entry into force July 11, 1991), Article 18, Vienna Convention on the Law of Treaties, May 23 1969, Art 18, 1155 UNTS 331; 8 I.L.M 679 (Entry into force January 27, 1980), as well as statutory and jurisprudential authorities cited herein, and all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority. Defendant further asserts his right to a full and fair hearing on all issues according to both State and Federal Constitutional Law.

4. This assertion of rights regarding not permitting searches shall include, but is not limited to, jailers and deputy jailers, members of the South Carolina Law Enforcement Division or South Carolina State Patrol, members of the County Sheriff's office, local city police officers, members of the Solicitor's Office, members of the Attorney General's office, members of any other state, county, city, or government agencies, and any and all agents of the foregoing, including persons within the jail, fellow inmates and members of the print and broadcast media who may or may not be urged by law enforcement officials to engage defendant in conversations.

Dated this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by WSR

Clay Allen
Bar no. 328
Spartanburg, SC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing assertion of rights has been hand delivered to the Seventh Circuit Solicitor's Office this 24 day of July, 20 09.

I so certify,

morgan ka daniels

Morgan Daniels, Mitigation Investigator
SCCID, Capital Trial Division

POTENTIAL DEATH PENALTY CASE

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

STATE OF SOUTH CAROLINA, Plaintiff, v. RICKY LEE BLACKWELL, Defendant.	Indictment No. 2009-GS-42-3610 Warrant No.s MO88424, 34

MOTION TO REQUIRE INVESTIGATIVE AGENCIES TO PRESERVE NOTES ON ALL INTERVIEWS AND INVESTIGATIVE ACTIONS

Ricky Lee Blackwell, through undersigned counsel, respectfully moves this Court to require the South Carolina Law Enforcement Division, Spartanburg Sheriff's Office and all other agencies involved in the investigation of this case to preserve all notes, summaries, audio- and videotape recordings and any other record that documents any interview or other investigative activity. This motion is predicated upon Mr. Blackwell's rights under the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina, international law, as well as all other applicable constitutional, statutory, treaty, customary international law, evolving international standards, and jurisprudential authority.

In support, counsel states:

1. Mr. Blackwell is on trial for his life as the State has announced its intention to seek the death of Mr. Blackwell by electrocution or lethal injection by filing a document entitled "Notice Seeking Death Penalty" on July 9, 2009. The fact that the State has decided to pursue a sentence of death imposes an extraordinary burden upon the Court, the State, and defense counsel to ensure the

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fairness, accuracy, and reliability of the trial and any subsequent sentencing proceeding. See American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases, Guideline 10.2 (2003). The touchstone for these heightened protections is the Eighth Amendment to the United States Constitution and Article I, § 15 of the South Carolina Constitution. As the United States Supreme Court has observed "[t]he fundamental respect for humanity underlying the Eighth Amendment's prohibition against cruel and unusual punishment gives rise to a special 'need for reliability in the determination that death is the appropriate punishment' in any capital case." Johnson v. Mississippi, 486 U.S. 578, 584 (1988) (citations omitted). It is well established that when a defendant's life is at stake, a court must be "particularly sensitive to insure that every safeguard is observed." Gregg v. Georgia, 428 U.S. 153, 187 (1976). This heightened standard of reliability is "a natural consequence of the knowledge that execution is the most irremediable and unfathomable of penalties; that death is different." Ford v. Wainwright, 477 U.S. 399, 411 (1986).

> Death, in its finality, differs more from life imprisonment than a 100-year prison term differs from one of only a year or two. Because of that qualitative difference, there is a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.

Woodson v. North Carolina, 428 U.S. 280, 305 (1976). The United States Supreme Court has repeatedly emphasized the principle that because of the exceptional and irrevocable nature of the death penalty, "extraordinary measures" are required by the Eighth and Fourteenth Amendments to ensure the reliability of decisions regarding both guilt and punishment in a capital trial. Eddings v. Oklahoma, 455 U.S. 104, 118 (1982) (O'Connor, J., concurring). See also Beck v. Alabama, 447 U.S. 625, 637-38 (1980); Lockett v. Ohio, 438 U.S. 586, 604 (1978); and Gardner v. Florida, 430 U.S. 349, 357-58 (1977).

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2. Consistent with these general principles governing cases in which the death penalty could be imposed, this Court must make every practicable effort to ensure the integrity and reliability of the State's investigation and the accuracy and reliability of the testimony ultimately presented in court. Because the truth-seeking function of trial will be enhanced by the fullest possible preservation of the record of the pretrial statements of witnesses and other investigative activities, the Court should order that SLED and all other investigative agencies maintain all notes and other recordings of investigative activities in this case, and that such notes and other recordings be made a part of the State's files for discovery purposes. See United States v. Pelullo, 105 F.3d 117 (3rd Cir. 1997) (conviction reversed where government failed to disclose raw notes of FBI and IRS agents, which contained information supporting defendant's version of events and impeaching the testimony of the government agents, who provided the key testimony at defendant's trial).

3. Failure to require the State's investigators to preserve their notes would deprive Mr. Blackwell of the independent state and federal constitutional guarantees to a fair trial and right to present a defense, cross-examination and confrontation of adverse witnesses and evidence, the effective assistance of counsel, freedom from compulsory self-incrimination, due process of law, to compulsory process to secure witnesses, to equal protection of the laws, to freedom from cruel and unusual punishment, and a reliable verdict and sentence. Article I, §§ 3, 9, 10, 11, 12, 14 and 15 of the Constitution of the State of South Carolina; U.S. Const. amend. V, VI, VIII and XIV.

WHEREFORE, for the foregoing reasons and any others that may appear to this Court after a hearing, counsel for Mr. Blackwell, respectfully requests that this Court require the South Carolina Law Enforcement Division and other agencies involved in the investigation of this case

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CLERK OF COURT
RICHLAND COUNTY
2009 JUL 24 PM 3:39
MARC HITCHENS

to preserve all notes, summaries, audio- and videotape recordings and any other record that memorializes, describes or documents any interview or other investigative activity.

DATED this 24th day of July, 2009.

Respectfully Submitted,

Clay Allen by LWS

Clay Allen
Bar no. 328
Spartanburg, SC

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SPARTANBURG COUNTY
2009 JUL 24 PM 3:39
MARC KITCHENS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion has been hand delivered to The Office of the Solicitor for Spartanburg County this 24 day of July, 20 09.

morgan lea daniels

Morgan Daniels,
Mitigation Investigator
SCCID, Capital Trial Division

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2009 JUL 24 PM 3:40
MARC KITCHENS

EXHIBIT 4

INFO, INC.
Investigations

Post Office Box 5415
Columbia, SC 29250
phone (803) 331-1968
fax (803) 781-8597

April 27, 2011

Spartanburg County Sheriff's Department
Records & Investigations
8045 Howard Street
Spartanburg, South Carolina 29303

Re: The State v. Ricky Lee Blackwell
Warrant Nos.: M-088424 & 434

Dear Sir or Madam:

Please accept this correspondence as written notification that I have been retained by Mr. Blackwell's attorneys, Clay Allen and Bill McGuire, as an investigator to assist in preparing Mr. Blackwell's defense to criminal charges pending against him in Spartanburg County. As a portion of that defense, it is necessary that we obtain photocopies of the complete file, including, but not limited to, all Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, Statements, photographs, video, telephone records, records of telephone calls, etc..., concerning suspicious house fires on Ridings Road in Chesnee, South Carolina, on April 10, 2011, and April 11, 2011.

It should be noted that the Subpoena is for documentation only. It is not necessary for anyone to appear in Court on May 23, 2011, at 9:00 A.M. Simply provide the requested material prior to that date and time.

Should you have any questions, please do not hesitate to contact me.

With kind regards, I am

Yours very truly,

Lee T. Connelly
Info, Inc.

/ltc
Enclosures
cc: Bill McGuire, Esquire
Clay Allen, Esquire

STATE OF SOUTH CAROLINA)	**IN THE COURT OF GENERAL SESSIONS**
)	
COUNTY OF SPARTANBURG)	**SEVENTH JUDICIAL CIRCUIT**
The State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	**CERTIFICATE OF MAILING**
)	
Ricky Lee Blackwell,)	**Warrant Nos.: M-088424 & 434**
)	
Defendant.)	
)	
)	

I, Lee T. Connelly, of Info, Inc., do hereby certify that I have, this the 27th day of April, 2011, placed the original Subpoena in a Criminal Case (and correspondence) in connection with the above-captioned action in the United States Mail, postage pre-paid, and addressed, certified, return receipt requested, to:

Spartanburg Co. Sheriff's Office
Records/Investigations
8045 Howard Street
Spartanburg, South Carolina 29303

Lee T. Connelly

Columbia, South Carolina.

INFO, INC.
Investigations

Post Office Box 5415
Columbia, SC 29250
phone (803) 331-1968
fax (803) 781-8597

April 27, 2011

Spartanburg County Sheriff's Department
Records
8045 Howard Street
Spartanburg, South Carolina 29303

Re: The State v. Ricky Lee Blackwell
Warrant Nos.: M-088424 & 434

Dear Sir or Madam:

Please accept this correspondence as written notification that I have been retained by Mr. Blackwell's attorneys, Clay Allen and Bill McGuire, as an investigator to assist in preparing Mr. Blackwell's defense to criminal charges pending against him in Spartanburg County. As a portion of that defense, it is necessary that copies of all Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, Statements, etc..., concerning Ricky Lee Blackwell (W/M, DOB: [redacted] Angela Diane Blackwell (W/F, DOB: [redacted]), Bobby Alvin Center (W/M, DOB: [redacted]), Heather Blackwell Bryant (W/F, DOB: [redacted], Mark Anthony Bryant (W/M, DOB: [redacted]), Ricky "Bud" Blackwell (W/M, DOB: [redacted], [redacted] Road in Chesnee, South Carolina; and, [redacted]ings Road in Chesnee, South Carolina.

It should be noted that the Subpoena is for documentation only. It is not necessary for anyone to appear in Court on May 23, 2011, at 9:00 A.M. Simply provide the requested material prior to that date and time.

Should you have any questions, please do not hesitate to contact me.

With kind regards, I am

Yours very truly,

Lee T. Connelly
Info, Inc.

ltc
Enclosures
cc: Bill McGuire, Esquire
Clay Allen, Esquire

STATE OF SOUTH CAROLINA)	**IN THE COURT OF GENERAL SESSIONS**
)	
COUNTY OF SPARTANBURG)	**SEVENTH JUDICIAL CIRCUIT**
The State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	**CERTIFICATE OF MAILING**
)	
Ricky Lee Blackwell,)	**Warrant Nos.: M-088424 & 434**
)	
Defendant.)	
)	
)	

I, Lee T. Connelly, of Info, Inc., do hereby certify that I have, this the 14th day of April, 2011, placed the original Subpoena in a Criminal Case (and correspondence) in connection with the above-captioned action in the United States Mail, postage pre-paid, and addressed, certified, return receipt requested, to:

Spartanburg Co. Sheriff's Office
Records
8045 Howard Street
Spartanburg, South Carolina 29303

Lee T. Connelly

Columbia, South Carolina.

3358

Imp, Inc
PO Box 5415
Cola. SC 29250

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CERTIFIED MAIL™

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Spartanburg Co. Sheriff's Office
Records & Investigations
8045 Havenx Street
Spartanburg, SC 29303

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PO Box 5415
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CERTIFIED MAIL™

7010 3090 0000 2612 2205

Spartanburg Co Sheriff's Office
Legal
845 Howard Street
Spartanburg, SC 29303

29303$1861

EXHIBIT 5

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF GENERAL SESSIONS FOR THE SEVENTH JUDICIAL CIRCUIT
The State, v. Ricky Lee Blackwell, Sr., Defendant.	)	MOTION TO QUASH SUBPOENAS AND SUPPORTING AUTHORITY FOR ADDITIONAL SPECIAL REMEDIES Indictments: 09-GS-42-3609 and 3610

TO: CLAY ALLEN AND BILL MCGUIRE, ESQUIRES

YOU WILL PLEASE TAKE NOTICE that the State moves pursuant to South Carolina Rules of Criminal Procedure, Rule 4(a), to quash the subpoena issued herein by Defendant's Counsel, and asks to be heard within fifteen (15) days of the date of this Motion. The Motion seeks to quash the subpoenas filed on behalf of Defendant by the above-named attorneys, signed by date of April 27, 2011 and served upon the Spartanburg County Sheriff's Office, Records/Investigations Division, by mail posted for service through the United States mail on May 3, 2011.

The State would respectfully submit as grounds in support of the Motion, the following:

1. The subpoenas have been issued in a capital criminal case currently pending for trial in the Court of General Sessions for Spartanburg County, South Carolina, State v. Ricky Lee Blackwell, Sr., warrant numbers M-088424 and M-088434; as such, the South Carolina Rules of Criminal Procedure apply to this case. SCRCrP 37.
2. Under Rule 13 of the South Carolina Rules of Criminal Procedure, the rule states in pertinent part as to issuance that "[*u*]*pon the request of any party, the Clerk of Court shall issue subpoenas or subpoenas duces tecum for any person or person to attend as witnesses in any cause or matter in the General Sessions Court.*
3. The subpoena shall...*command each person to whom it is directed to attend and give testimony, or otherwise produce documentary evidence at time and place therein specified...*"
4. The subpoenas here at issue, attached hereto as Exhibit 1, were not requested for a person's attendance as a witness in a cause or matter in the General Sessions Court; it was not issued properly duces tecum for a "person" to appear at a designated courtroom "to attend and give testimony", nor was it properly issued for "each

person to whom it is directed to...otherwise produce documentary evidence at time and place therein specified." Rather the subpoenas order Records and Investigations personnel from the Spartanburg County Sheriff's Office to "appear in the above-named court at the place, date and time specified below to testify in the above-entitled case, specifying "Spartanburg Co. Courthouse, 180 Magnolia Street, Spartanburg, SC" as the place, "May 23, 2011 at 9:00 a.m." as the time; there is, however, no courtroom is specified because there is no proceeding scheduled nor is there one currently pending in the Court of General Sessions on that date, or in that place, at that time, or in that matter.

5. The subpoenas issued are an improper and unlawful use of the subpoena process in this criminal case to obtain discovery the Defendant and his attorney are not otherwise entitled to.
6. The South Carolina Rules of Criminal Procedure set forth the specifics of proper and lawful discovery to which a defendant in a state criminal case is entitled, in all criminal cases, those specifics to be provided "*[u]pon request* by a defendant." SCRCrP5 (a)(1)(A), (B), (C), (D) (Information Subject to Disclosure).
7. The rules do not require the surrender by the State of work product, internal prosecution documents, "or of statements made by prosecution witnesses or prospective prosecution witnesses *provided that* after a prosecution witness has testified on direct examination, the court shall, on motion of the defendant, order the prosecution to produce any statement of the witness in the possession of the prosecution which relates to the subject matter as to which the witness has testified; *and provided further* that the court may upon a sufficient showing require the production of any statement of any prospective witness prior to the time such witness testifies." SCRCrP 5(a)(2) (Information not Subject to Disclosure)
8. The Rules further provide, generally, that the prosecution shall respond to the defendant's discovery request within thirty (30) days. SCRCrP 5 (a) (3).
9. The Rules further provide that "[i]f the defendant requests [discovery under Rule 5]...upon compliance with such request by the prosecution, the defendant, on request of the prosecution, shall [provide reciprocal discovery]"; SCRCrP 5 (b); the Rules further provide for the defendant, subject to requirements of the rule, to provide the prosecution a written notice of alibi or an insanity defense or a plea of guilty but mentally ill. SCRCrP 5 (e) and (f).

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10. Through his attorneys, the Defendant seeks to circumvent the rules of discovery in order to obtain the State's entire case file, to which he is not entitled under the rules of discovery. He seeks to do so via an improper and unlawful use of the subpoena powers in criminal cases.

11. A defendant may not use other means to obtain discovery of information to which he is not otherwise entitled under the rules of discovery. *State v. Robinson, 305 S.C. 469, 409 S.E. 2nd 404, cert. den. 503 U.S. 937, 112 S. Ct. 1477 (1991).*

The State's Motion to Quash should be granted. The State further submits that the subpoenas issued by the Defendant's counsel are not a novel theory of law, nor one which lends itself to being anything other than an effort to improperly evade the discovery rules. The Rule applicable to discovery and the Rule which governs subpoenas are both part of the same uniform system of rule promulgated together, as to provide for the efficient administration of justice. The subpoenas issued are not therefore, within the tenets of *State v. Wright, 271 S.C. 534, 248 S.E. 2nd 498 (1978)*, and constitutes procedural abuse by counsel.

The State respectfully asks that the Court grant special remedies in regard to these subpoenas, remedies warranted and supported by the lack of any merit to justify Defense Counsel's having resorted to preparing, serving, and filing of same in this case.

The State asks the Court to take judicial notice of adjudicative facts pursuant to South Carolina Rules of Evidence Rule 201, facts which establish that studies have been done, or are ongoing, through the ACLU and other groups in this State, as well as in other states. (Exhibit 2). These studies seek to establish the cost of the death penalty as a financial burden on the taxpayers, one which is increasingly onerous and unwarranted during these economic times, one which outweighs its value to society as an instrument of punishment. The ultimate goal of such studies is that the death penalty should be repealed or otherwise declared unconstitutional in those states which have chosen to employ it under the Supreme Court's decision in *Furman v. Georgia, 408 U.S. 238, 92 S. Ct 2726 (U.S. 1972).*

Such studies require reliable data and information. The inclusion of time billed to the State by defense attorneys in pursuing procedures, motions and memos which are improper, if not frivolous, should be segregated from other proper filings and hearings which may in fact be appropriate for inclusion in those studies.

Furthermore, the time required of State prosecutors in responding to, and opposing such matters should also be included in these studies. Such information will serve to bear upon and ultimately improve upon the reliability of information now being prepared for

2011 MAY 13 PM 3:31

consideration by state legislatures and courts as to the continued viability of the death penalty in this and other states.

The State additionally asks that the Court order counsel for the defense to note and segregate for billing to the State time and expenses incurred for preparation, filing and hearing of this motion, to be provided to the Court under seal for its review and consideration before any Order is issued by the Court regarding payment of fees at the conclusion of this case.

Respectfully submitted,

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

May 13, 2011
Spartanburg, South Carolina

M. HOPE BLACKLEY
2011 MAY 13 PM 3:31
FILED

EXHIBIT 1

SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA General Sessions COURT	COUNTY Spartanburg
State of South Carolina V. Ricky Lee Blackwell	CASE NO. M-0884541434 SUBPOENA FOR ☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

TO: Spartanburg Co. Sheriff's Office
Records
180 Magnolia Street
Spartanburg, SC 29303

☐ YOU ARE HEREBY COMMANDED to appear in the above-named court at the place, date, and time specified below to testify in the above-entitled case.

PLACE Spartanburg Co. Courthouse 180 Magnolia Street Spartanburg, SC	COURTROOM DATE AND TIME May 23, 2011 at 9:00 AM

☒ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s).

LIST DOCUMENT(S) OR OBJECT(S) Clerk provide copies of all Incident Reports, Investigative Reports, tickets, warrants, statements, Supplemental Reports concerning Ricky Lee Blackwell (W/M, DOB: 11/18/58), Angela Diane Blackwell (W/F, DOB: 01/09/65), Bobby Alvin Center (W/M, DOB: 08/13/71), Heather Blackwell Bryant (W/F, DOB: 03/06/84), Ricky "Bud" Blackwell (W/M, DOB: 11/30/86), Mark Anthony Bryant (W/M, DOB: 02/04/77), 244 Rivers Road in Chesnee, SC; and 248 Rivers Road in Chesnee, SC.

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK OF COURT M. Hope Blackley	DATE 4/27/11
(BY) DEPUTY CLERK A. Shaw	
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT	ATTORNEY'S NAME AND ADDRESS Bill McGuire, Esquire PO Box 11433 Columbia, SC 29211 (803) 734-1434

SCCA 253 (JULY 1, 1993)

M. HOPE BLACKLEY
2011 MAY 13 PM 3:31
FILED

SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA General Sessions COURT	COUNTY Spartanburg
State of South Carolina V. Ricky Lee Blackwell	CASE NO. M-0884 24 & 434 SUBPOENA FOR ☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)

TO: Spartanburg Co. Sheriff's Office
Records + Investigations
8045 Thurman Street
Spartanburg, SC 29303

☐ YOU ARE HEREBY COMMANDED to appear in the above-named court at the place, date, and time specified below to testify in the above-entitled case.

PLACE Spartanburg Co. Courthouse 180 Magnolia Street Spartanburg, SC	COURTROOM DATE AND TIME May 23, 2011 at 9:00 AM

☒ YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s).

LIST DOCUMENT(S) OR OBJECT(S) Please provide copies of the complete file, including but not limited to Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, statements, photographs, video, telephone records, recordings of telephone calls, etc... concerning suspicious fires on Ridings Road in Greer, South Carolina on April 10, 2011 and April 11, 2011.

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK OF COURT M. Hope Blackwell	DATE 4/27/11
(BY) DEPUTY CLERK A. Deaver	

THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT	ATTORNEY'S NAME AND ADDRESS Bill McGuire, Esquire PO Box 11433 Columbia, SC 29211 (803) 734-1818

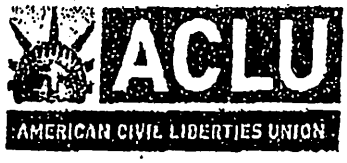
SCCA 253 (JULY 1, 1993)

2011 MAY 13 PM 3:31

FILED

May. 11. 2011 7:30PM Smith & Haskell Law Firm, L.L.P. NO. 0900 P. 1

EXHIBIT 2



ACLU South Carolina
P.O.Box 20998
Charleston, SC 29413-0998
www.aclusouthcarolina.org
843-720-1423
843-720-1428(fax)

January 19, 2011

Solicitor Harold Gowdy, III
Seventh Circuit
Spartanburg County Courthouse
Spartanburg, SC 29306

RE: Open Records Request

Dear Solicitor Gowdy:

I am writing to request a copy of the following records, pursuant to the South Carolina Freedom of Information Act, S.C. Code § 30-4-30:

1) A detailed account of the operating budget of your office, broken down by expense category, for each fiscal year from January 1, 2000 to present;

2) The total number of felony cases your office has prosecuted from January 1, 2000 to present, broken down by year.

3) The total number of homicide cases your office has prosecuted from January 1, 2000 to present, broken down by year.
   a) Of that number, the number of homicide cases in which your office has sought the death penalty, broken down by year.
   b) Of the cases in which your office sought the death penalty, the number of such cases which proceeded to trial, broken down by year.
   c) Of the cases in which your office sought the death penalty and proceeded to trial, the number of such cases which resulted in a death sentence, broken down by year.

4) The number of attorneys employed in your office from January 1, 2000 to present, broken down by year;
   a) Of that number, the number of attorneys in your office who have worked on homicide cases, broken down by year, and the approximate percentage of their time devoted to homicide cases, if not exclusively.
   b) Of that number, the number of attorneys in your office who have worked on homicide cases in which your office was seeking the death penalty, broken down by year, and the approximate percentage of their time devoted to cases in which your office was seeking the death penalty.

M. HOPE BLACKLEY
2011 MAY 13 PM 3:31

5) The total hours of attorney time spent in and out of court on all homicide cases prosecuted by your office from January 1, 2000 to present, broken down per case and by cases in which your office sought the death penalty and cases in which your office did not seek the death penalty.

6) The total hours of non-attorney staff time spent on all homicide cases prosecuted by your office from January 1, 2000 to present, broken down per case and by cases in which your office sought the death penalty and cases in which your office did not seek the death penalty.

7) A detailed accounting of all fees and expenses incurred in all homicide cases prosecuted by your office from January 1, 2000 to present, broken down per case and by cases in which your office sought the death penalty and cases in which your office did not seek the death penalty. These fees and expenses should include, but are not to be limited to: expert costs (mental health, medical examiners, forensic, and any other category of expert called at trial or consulted in course of the litigation); investigators; translators; consultants (media, jury, etc.); document and media replication costs; computer specialists; equipment and supplies (including computers, televisions, and courtroom technology); victim services; exhibit production costs; additional security costs; and travel and lodging costs.

8) A detailed accounting of hours and budget allotted for administrative support utilized on all homicide cases prosecuted by your office from January 1, 2000 to present, broken down by each case and divided into cases in which your office sought the death penalty and cases in which your office did not seek the death penalty.

If any of these records are available in electronic versions, we would appreciate receiving them in electronic format.

Under the South Carolina Freedom of Information Act, this request must be processed in fifteen days, by either providing all the requested information or providing a written response setting forth the specific legal authority on which you rely in failing to disclose each document.

Additionally, because the ACLU is a nonprofit civil rights organization and this information is in the public interest and will benefit the general public, we request that you waive or reduce the fees associated with this request, as provided by the Act. However, if you are unable to do so, the ACLU will reimburse your agency, as provided by the Act, for the lowest possible cost in obtaining the records. If you anticipate that the costs will exceed $100, please notify me prior to making the copies. If I can provide any clarification that will help expedite your processing of this request, please contact me at 843-720-1425 or sdunn@aclu.org.

Thank you for your time and attention to this matter.

Sincerely,

Susan Dunn
Staff Attorney
ACLU of South Carolina

M. HOPE BLACKLEY
2011 MAY 13 PM 3:31

EXHIBIT 6

INFO, INC.
Investigations

Post Office Box 5415
Columbia, SC 29250
phone (803) 331-1968
fax (803) 781-8597

May 26, 2011

Spartanburg County Sheriff's Office
Attn.: Chief Chuck Wright
8045 Howard Street
Spartanburg, South Carolina

Re: The State v. Ricky Lee Blackwell
Warrant Nos.: M-088424 & 434

Dear Chief Wright:

Please accept this correspondence as written notification that I have been retained by Mr. Blackwell's attorneys, Clay Allen and Bill McGuire, as an investigator to assist in preparing Mr. Blackwell's defense to criminal charges pending against him in Spartanburg County. As a portion of that defense, it is necessary that we obtain copies of all Incident Reports, Investigative Reports. Supplemental Reports, tickets, warrants, Statements. etc..., concerning Bobby A. Center, Jr. (W/M, DOB: A.), Angela Diane Blackwell (W/F, DOB: A.) and/or 981 Lightwood Knoll Road in Woodruff, South Carolina. Please also provide copies of all Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, Statements, etc..., concerning the motorcycle groups, the Warlocks and the Highway Dogs. To that end, you will please find enclosed a Subpoena in a Criminal Case requesting same.

It should be noted that the Subpoena is for records only. It is not necessary that anyone appear in Court, simply provide the requested material to me at the address above or to Mr. McGuire at the address listed on the bottom right-hand corner of the Subpoena.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Lee T. Connelly
Info, Inc.

/ltc
Enclosures
cc: Bill McGuire, Esquire
Clay Allen, Esquire

SUBPOENA IN A CRIMINAL CASE

SOUTH CAROLINA General Sessions COURT	COUNTY Spartanburg
State of South Carolina V. Ricky Lee Blackwell	CASE NO. M-088424 & 434
	SUBPOENA FOR ☐ PERSON ☒ DOCUMENT(S) OR OBJECT(S)
TO:Spartanburg County Sheriff's Office, Attn.: Chief Chuck Wright 8045 Howard Street, Spartanburg, SC	
☐ YOU ARE HEREBY COMMANDED to appear in the above-named court at the place, date, and time specified below to testify in the above-entitled case.	
PLACE Bill S. McGuire, Esquire Post Office Box 11433 Columbia, South Carolina 29211	COURTROOM DATE AND TIME Returnable Upon Service
☒YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s).	
LIST DOCUMENT(S) OR OBJECT(S) Please provide copies of all Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, Statements, etc..., concerning Angela Diane Blackwell (W/F, DOB:), Bobby A. Center, Jr. (W/M, DOB:) and/or Lightwood Knoll Road in Woodruff, South Carolina. Please also provide copies of all Incident Reports, Investigative Reports, Supplemental Reports, tickets, warrants, Statements, etc..., concerning the motorcycle groups, the Warlocks and the Highway Dogs.	
This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.	
CLERK OF COURT M. Hope Blackley	DATE
(BY) DEPUTY CLERK Tanya Camp	6/1/11
THIS SUBPOENA IS ISSUED UPON APPLICATION OF THE: ☐ SOLICITOR ☒ DEFENDANT	ATTORNEY'S NAME AND ADDRESS Bill S. McGuire, Esquire Post Office Box 11433 Columbia, South Carolina 29211 (803) 734-1358

SCCA 253 (JULY 1, 1993)

STATE OF SOUTH CAROLINA)	**IN THE COURT OF GENERAL SESSIONS**
)	
COUNTY OF SPARTANBURG)	**SEVENTH JUDICIAL CIRCUIT**
The State of South Carolina,)	
)	
Plaintiff,)	
)	
v.)	**CERTIFICATE OF MAILING**
)	
Ricky Lee Blackwell,)	**Indictment Nos.: 2009-GS-42-3609 & 3610**
)	
Defendant.)	
)	

I, Lee T. Connelly, of Info, Inc., do hereby certify that I have, this the 14th day of June, 2011, forwarded the original Subpoena in a Criminal Case (and correspondence), by placing in the United States Mail, postage pre-paid and addressed, certified, return receipt requested mail, to:

Spartanburg Co. Sheriff's Department
Attn.: Chief Chuck Wright
8045 Howard Street
Spartanburg, South Carolina 29303

Lee T. Connelly

Columbia, South Carolina.

3371

CERTIFIED MAIL™

P.O. Box 5415
Columbia, S.C. 29250

7010 2780 0002 8619 6793

COLUMBIA SC 292
17 JUN 2011

UNITED STATES POSTAL SERVICE

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JUN 17, 11
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JUN 20 2011

RETURN RECEIPT REQUESTED

Spartanburg County Sheriff's Department
Attn.: Chief Chuck Wright
8045 Howard Street
Spartanburg, South Carolina 29303

29303+1861 C032

State of South Carolina

EXHIBIT 7

Spartanburg County Court House
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386

Cherokee County Court House
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit

July 5, 2011

Info, Inc. Investigations
P.O. Box 5415
Columbia, SC 29250
Attention: Lee T. Connelly

RE: The State v. Ricky Lee Blackwell
Warrant Nos. : M-088424 &434

Dear Mr. Connelly:

Please be advised that our office has previously filed a Motion to Quash the Subpoena issued by Mr. Allen and Mr. McGuire. While the subpoena was subsequently reissued, deleting a date to appear and deliver records, the fundamental jurisdictional defects of the subpoena as set forth in our Motion to Quash the subpoena were left uncorrected, and the Motion was, therefore, not withdrawn.

I enclose a copy of the original Motion to Quash, and our Amendment to that Motion, incorporating the original as grounds for quashing the Subpoena; this procedure is outside the jurisdiction of discovery in criminal proceedings, and further is not allowed under the Freedom of Information Act, which exempts obtaining this information in this fashion. In short, a private attorney in a criminal case does not have the power under the Rules of Court, the statutory law, or the case law to obtain discovery in this fashion.

I am copying Mr. Allen and Mr. McGuire with a copy of this letter and our Amended Motion to clarify our position.

Sincerely,

Barry J. Barnette

CC. Clay Allen, Esq., Public Defender for the Seventh Judicial Circuit
Bill McGuire, Esq.
Spartanburg County Sheriff's Office

State of South Carolina County of Spartanburg	))	In the Seventh Judicial Circuit
The State, Vs. Ricky Lee Blackwell, Defendant.	))))))	 Amended Motion to Quash Subpoena Warrant Nos. : M-088424 & 434

To: Clay Allen, Esq., Public Defender for the Seventh Judicial Circuit
Bill McGuire, Esq.
Attorneys for the Defendant

YOU WILL PLEASE TAKE NOTICE the State hereby moves to Amend its Motion to Quash the Subpoena obtained by and issued through the offices of the Clerk of Court and the attorneys for the Defendant, amended now to quash the Subpoena(s) upon those grounds previously relied upon by the State in its Motion to Quash Subpoena filed and served herein, said Motion to Quash incorporated herein by reference, specifically paragraphs 1- 3; 5-11.

The State's Motion is based in whole or in part upon grounds that the Subpoena is jurisdictionally defective and the efforts by Defendant's counsel to obtain information from the State in this fashion, in a criminal proceeding, improperly seeks to avoid and go beyond the requirements of formal discovery as required by Rule 5 of the South Carolina Rules of Criminal Procedure.

By: Barry Barnette
Barry J. Barnette
Solicitor, Seventh Judicial Circuit

Spartanburg, South Carolina
July 5, 2011

2011 JUL -5 PM 4:48

3374

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

State of South Carolina)
)
)
Vs.)
)
Ricky Lee Blackwell,)
)
Defendant.)

SOLICITOR'S AFFIDAVIT OF SERVICE
Warrant No.: M088424; M088434

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUL -7 AM 9:39
H. HOPE AUDLEY

PERSONALLY appeared before me the undersigned deponent, who being duly sworn, says that he/she served the following materials:

1. _____Incident report
2. _____Detective notes
3. _____Defendants written statement
4. _____SLED reports
5. _____Co-Def. Statement
6. _____Rap Sheet
7. _____Sol. Rule 5 Request
8. _____Audio/Video Tape

9. __X__Other- Amended Motion to Quash Subpoena

in this action on William Sean McGuire,

(☐) by delivering _____personally

(☐) by delivering _____, a person of age and discretion residing at the residence of the defendant and being at said residence at the time of service

(☐) by delivering to _____at the place of business

(☑) by depositing in the United States Mail, postage paid, addressed to: William S. McGuire, Post Office Box 11433, Columbia, SC 29211-1433;

and leaving with him/her copies of the same at _____, Spartanburg, South Carolina, on the 6th day of July, 2011, and that the deponent Is not a party to this action and has no interest therein or connection therewith.

Cynthia J. Cassady
Seventh Judicial Circuit
Office of the Solicitor

SWORN to before me this 6
day of July, 2011
Notary Public for South Carolina
My Commission expires: 10-2-2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

State of South Carolina)
)
Vs.)
)
Ricky Lee Blackwell,)
)
Defendant.)

SOLICITOR'S AFFIDAVIT OF SERVICE
Warrant No.: M088424; M088434

PERSONALLY appeared before me the undersigned deponent, who being duly sworn, says that he/she served the following materials:

1. _____Incident report
2. _____Detective notes
3. _____Defendants written statement
4. _____SLED reports
5. _____Co-Def. Statement
6. _____Rap Sheet
7. _____Sol. Rule 5 Request
8. _____Audio/Video Tape

9. __X__Other- Amended Motion to Quash Subpoena

in this action on Spartanburg County Sheriff's Office,

(☑) by delivering Jac KC. Durham personally

(☐) by delivering _____, a person of age and discretion residing at the residence of the defendant and being at said residence at the time of service

(☐) by delivering to _____at the place of business

and leaving with him/her copies of the same at 180 Magnolia ST., Spartanburg, South Carolina, on the 6th day of July, 2011, and that the deponent Is not a party to this action and has no interest therein or connection therewith.

Regina Dixon
Seventh Judicial Circuit
Office of the Solicitor

SWORN to before me this 6th day of July, 2011
Cynthia Cassady
Notary Public for South Carolina
My Commission expires: 1/06/2015

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUL -7 AM 9:39
M. HOPE BLACKLEY

3376

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

State of South Carolina)
)
Vs.)
)
Ricky Lee Blackwell,)
)
Defendant.)

SOLICITOR'S AFFIDAVIT OF SERVICE
Warrant No.: M088424; M088434

PERSONALLY appeared before me the undersigned deponent, who being duly sworn, says that he/she served the following materials:

1. _____Incident report
2. _____Detective notes
3. _____Defendants written statement
4. _____SLED reports
5. _____Co-Def. Statement
6. _____Rap Sheet
7. _____Sol. Rule 5 Request
8. _____Audio/Video Tape

9. __X__Other- Amended Motion to Quash Subpoena

in this action on Clay Allen, Spartanburg County Public Defender's Office;

(☑) by delivering Donald Stepp personally

(☐) by delivering _____, a person of age and discretion residing at the residence of the defendant and being at said residence at the time of service

(☐) by delivering to _____at the place of business

and leaving with him/her copies of the same at 180 Magnolia St., Spartanburg, South Carolina, on the 6th day of July, 2011, and that the deponent Is not a party to this action and has no interest therein or connection therewith.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUL -7 AM 9:40
M. HOPE BLACKLEY

Regina D'Onofrio
Seventh Judicial Circuit
Office of the Solicitor

SWORN to before me this 6th day of July, 2011
Notary Public for South Carolina
My Commission expires: 1/26/2015

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

State of South Carolina)
)
Vs.)
)
Ricky Lee Blackwell,)
)
Defendant.)

SOLICITOR'S AFFIDAVIT OF SERVICE
Warrant No.: M088424; M088434

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 JUL -7 AM 9:39
M. HOPE BLACKLEY

PERSONALLY appeared before me the undersigned deponent, who being duly sworn, says that he/she served the following materials:

1. _____Incident report
2. _____Detective notes
3. _____Defendants written statement
4. _____SLED reports
5. _____Co-Def. Statement
6. _____Rap Sheet
7. _____Sol. Rule 5 Request
8. _____Audio/Video Tape

9. __X__Other- Amended Motion to Quash Subpoena

in this action on Info, Inc., Investigations;

(☐) by delivering _____personally

(☐) by delivering _____, a person of age and discretion residing at the residence of the defendant and being at said residence at the time of service

(☐) by delivering to _____at the place of business

(☑) by depositing in the United States Mail, postage paid, addressed to:
Info, Inc., Investigations, Post Office Box 5414, Columbia, SC 29250;

and leaving with him/her copies of the same at _____, Spartanburg, South Carolina, on the 6th day of July, 2011, and that the deponent Is not a party to this action and has no interest therein or connection therewith.

Cynthia J. Cassady
Seventh Judicial Circuit
Office of the Solicitor

SWORN to before me this 6th day of July, 2011

Notary Public for South Carolina
My Commission expires: 10.3.2012

SCCID

SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

EXHIBIT 8

Capital Trial Division
1330 Lady Street, Suite 401
Columbia, South Carolina 29201
Telephone: 803.734.7818
Facsimile: 803.734.1668
Email: BMcGuire@sccid.sc.gov
Email: BYoung@sccid.sc.gov
Email: CSecor@sccid.sc.gov

William S. McGuire, Chief Attorney
S. Boyd Young, Deputy Attorney
Casey Secor, Trial Attorney

July 11, 2011

Barry Barnette
7th Judicial Circuit Solicitor
Spartanburg County Courthouse
180 Magnolia St.
Spartanburg, SC 29306

RE: Freedom of Information Request

Dear Solicitor Barnette,

I am writing, pursuant to the Freedom of Information Act, S.C. Code §34-4-10 through 110, to request that you provide me with the sources of all funding for the Seventh Judicial Circuit Solicitor's Office for the last three fiscal years, as well as the amount of funding from each source for the last three fiscal years.

The release of this information from your agency will not reveal the identities of any informants, is not a premature release of information to be used in a prospective law enforcement action, will not disclose investigatory techniques, and will not endanger the life, health, or property of any person.

As you know, the FOIA allows you to reduce or waive search and/or copying fees when release of the requested information would be "in the public interest." At a minimum, the FOIA mandates, "The records must be furnished at the lowest possible cost to the person requesting the records." S.C. Code §30-4-30. If the fees will exceed $50.00, please inform me of the charge before you fill this request.

The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. The United States Constitution requires a "heightened scrutiny" of sentences of death. The public interest includes the oversight of government functions. National Association of Atomic Veterans v. Director, Defense Nuclear Agency, 583 F. Supp. 1483 (D.C. 1984). To ensure public confidence in death sentences, it is necessary to fully explore all information and issues, both direct and incidental, surrounding death penalty cases. Therefore, the public interest is served by a full and complete examination of all aspects of theses cases. Thus, I request that you comply with this request at your earliest convenience.

Thank you for your assistance. Please do not hesitate to contact me if you have any questions regarding this matter or if I can provide you with any additional information.

Sincerely,

Bill McGuire

BM/njh

EXHIBIT 9

State of South Carolina

Spartanburg County Court House
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386

Cherokee County Court House
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

BARRY J. BARNETTE
Solicitor, Seventh Judicial Circuit

July 14, 2011

William S. McGuire, Esquire
South Carolina Commission on Indigent Defense
1330 Lady Street, Suite 401
Columbia, South Carolina 29201

RE: Freedom of Information Request

Dear Mr. McGuire:

I have previously cited to you in response to your subpoena, State v. Robinson, in which the South Carolina Supreme Court expressly held that FOIA cannot be used as a substitute for the discovery process in a criminal proceeding. That precedent is over twenty years old and is still good law. The case was also a death penalty case.

I do agree that "[t]he public interest requires confidence in the judicial system that operates in the public's name and on its behalf." This works both ways. A death penalty case is brought by and on behalf of "the People" and to vindicate the murder of a member of the community under circumstances of aggravation. The South Carolina statute was passed after Furman v. Georgia, and its constitutionality has been upheld against challenges by the South Carolina Supreme Court and the United States Supreme Court. The statute does not reflect your will, nor my will, but the decision of the legislature who are duly elected by the People.

This is the third instance of your making an unfounded request for information which requires our response. You are not entitled to this information, not under FOIA nor under discovery in this ongoing criminal case. I attach copy of my Office's response when the ACLU made a similar request.

Please be advised that the lack of a legal basis for this is an example of those who are involved in death penalty litigation making groundless requests or motions, generically in the name of what is required by virtue of the fact that a potential sentence of death is involved. I support fully the right of all defendants having full and fair representation in criminal cases, and nowhere more than in capital cases. On the other hand, the public interest requires, the People require, that attorneys not make unfounded claims for information in a tactical effort to avoid the discovery process and thereby avoid the State's right to reciprocal discovery.

In light of the above, we ask that you provide us with the time you have put down for payment by the State, the People, for three requests made to avoid the discovery process and to obtain information which you are not entitled to from this Office. I also request that you comply with Rule 5 and serve us with your discovery request, so that we may comply with same and request

reciprocal discovery from you. This will, of course, allow you to argue that you are not, in fact, attempting to avoid participating in mutual discovery, which is most definitely in the public's interest.

Sincerely,

Barry J. Barnette
SOLICITOR

BJB:sop
Enclosure:

cc. Clay Allen, Esquire
Public Defender for the Seventh Judicial Circuit

Lisa Claxton, Esquire
Spartanburg County

COPY

State of South Carolina

Spartanburg County Courthouse
180 Magnolia Street
Spartanburg, S.C. 29306
Phone (864) 596-2575
Fax (864) 596-2386

Cherokee County Courthouse
Floyd Baker Blvd.
Gaffney, S.C. 29340
Phone (864) 487-2576
Fax (864) 487-2753

Office of Solicitor
Seventh Judicial Circuit

January 31, 2011

Ms. Susan Dunn, Esquire
ACLU South Carolina
Post Office Box 20998
Charleston, South Carolina 29413-0998

Dear Ms. Dunn:

This letter is in response to your FOIA request on behalf of the ACLU by letter dated January 19, 2011.

As to the information requested in general, I would ask for confirmation that your request is in fact for and in anticipation of intended litigation to challenge the South Carolina death penalty statute, apparently on its face and as it has been pursued in the various counties and circuits of South Carolina.

As the chief prosecuting officer for the Seventh Judicial Circuit, I believe I am entitled to know this, as it affects the extent to which you may be entitled to responses to your requests, if responses are required under FOIA. In the event of litigation filed by the ACLU, we will ask that the Attorney General, in defending us, file an answer accompanied by Requests for Admissions, to include the purpose for which you are seeking the information. Depending upon your responses to same, this may at least put us on equal footing insofar as attorneys' fees and costs incurred in that litigation. *See* SCRCP 36 and 37 (a) (4).

As information clearly sought in anticipation of litigation, it is our position that, as the party served with your request, we would be a named party in any suit filed for affirmative injunctive relief under SC Code Ann. § 30-4-100. As such, it will then be the duty of the South Carolina Attorney General to defend that action on our behalf. SC Code Ann. § 1-7-50. Materials prepared in anticipation of litigation would generally be considered work product information not otherwise subject to disclosure, or would otherwise be confidential. SC Code Ann. § 1-7-70; *Tobaccoville USA v. McMaster*, 387 SC 287, 692 S.E.2d 526 (2010).

What you are seeking in every request are not mere records to be produced, but rather ten year accountings, tabulations, summaries and categorizations, to be prepared by the Solicitor's staff, through time to be taken from their duties, serving the public interest in law enforcement, and at the public expense. This is not required under FOIA. SC Code Ann. § 30-4-20 (c).

Furthermore your request is not one seeking access "in accordance with reasonable rules concerning time and place of access." SC Code Ann. § 30-4-30 (a) and (b). Your suggested waiver of fees incurred in complying with your requests is especially unrealistic in light of the budget crises facing our county councils and state legislature during these economic times. County employees are at the moment facing the very real possibility of mandatory furlough days without pay due to budgetary shortfalls. In fulfilling their already considerable duties, county agencies, including the Solicitor's Office, are making due with less and will continue to do so for the foreseeable future. These additional considerations weigh into the unreasonable and overly burdensome nature of your request.

We also object to your requests on grounds that, although the Solicitor's Office is within the executive department of government under SC Code § 1-30-10, it has been recognized by statute and Supreme Court precedent as being unlike other executive departments for purposes of administration of duties, due to its special quasi-judicial functions. SC Code Ann. § 1-7-405; see also *Anders v. County Council for Richland County*, 284 SC 142, 325 SE 2d 538 (1984).

The information sought is without question intended to be used for litigation challenging the Solicitor's prerogative to seek the death penalty in appropriate cases under South Carolina law. The decision to reinstate the death penalty was made by the legislature after *Furman v. Georgia*, 408 U.S. 238, 92 S Ct 2726 (1972). This reflected the will of the people of South Carolina. The discretion to seek the death penalty is left in the hands of the Circuit Solicitors, who are elected by voters in their respective circuits. The South Carolina Supreme Court has recognized from its first opinion affirming the constitutionality of this statute that the decision to seek the death penalty, subject to the constraints found under the statute and the state and federal constitutions, is a matter for the Solicitor's discretion. *State v. Shaw*, 273 SC 194, 204, 255 SE 2d 799 (1979), overruled on other grounds by *State v. Torrence*, 305 SC 45, 406 SE 2d 315 (1991).

The statute under which you seek to have members of the Solicitor's office assist your agency in preparing your litigation also calls for "every meeting" of "public bodies" to be "open to the public" , SC Code § 30-4-60, to be conducted pursuant to public notice, SC Code § 30-4-90, and to have written minutes "of all of their public meetings". SC Code § 30-4-90. The Solicitor's Office is an office for the trial and prosecution of criminal cases. These provisions make clear that the statute cannot have had as its intent to apply in its entirety to the Solicitor's Office, nor can you compel our office to assemble and process materials for you in an effort to prepare for litigation. The Freedom of Information Act is not intended as a substitute for the discovery process. *State v. Noah Ryan Robinson, 305 SC 469, 476, 409 SE2d 404 (1991).*

We further object to your request in that some of the information you are asking that we gather for you is offered through another, simpler legal remedy. Your requests under #'s 2 and 3 may better be found through either the Clerk of Court Offices for Spartanburg and Cherokee Counties, or the South Carolina Offices of Court Administration in Columbia, or the South Carolina Office of Attorney General. The records of the Clerk of Court are open to the public and are as much within your province as within that of the Solicitor's Office. At any rate, they are not the public records of the Solicitor's Office.

As to Request #1, this is not a request for records, but a request that our office review 10 years of personnel and office information and compile and release further information from that and is not within the purview of the Freedom of Information Act (FOIA). For this and the reasons stated above, no further response and notification is required under the statute.

As to Request #4, this is not a request for records, but a request that our office review 10 years of personnel and office information, including employee salary information when read in conjunction with Requests #5, 6, 7 and 8, and compile and release further information from that and is not within the purview of FOIA. For this and the reasons stated above, no further response and notification is required under the statute.

As to Request #5, this is not a request for records, but a request that our office review 10 years of personnel and office information, including employee salary information when read in conjunction with Requests #4, 6, 7 and 8, and compile and release further information from that and is not within the purview of FOIA. For this and the reasons stated above, no further response and notification is required under the statute.

As to Request #6, this is not a request for public records, but a request that our office review 10 years of personnel and office information, including employee salary information when read in conjunction with Requests # 4, 5, 7 and 8 and compile and release further information from that and is not within the purview of FOIA. For this and the reasons stated above, no further response and notification is required under the statute.

As to Request #7, this is not a request for public records, but a request that our office review 10 years of personnel and office information, including employee salary information when read in conjunction with Requests #4, 5, 6 and 8 and compile and release further information from that and is not within the purview of FOIA. For this and the reasons stated above, no further response and notification is required under the statute.

As to Request #8, this is not a request for public records, but a request that our office review 10 years of personnel and office information, including employee salary information when read in conjunction with Requests #4, 5, 6 and 7 and compile and release further information from that and is not within the purview of FOIA. For this and the reasons stated above, no further response and notification is required under the statute.

If you would submit a proper request under FOIA, one which complies with the statute, we would of course be willing to revisit a request for such public documents as are defined and intended under FOIA.

Sincerely,

Barry J. Barnette
Acting Solicitor

BJB:sop

cc: Edwin Haskell
County Attorney

SCCID
SOUTH CAROLINA COMMISSION ON INDIGENT DEFENSE

Capital Trial Division
1330 Lady Street, Suite 401
Columbia, South Carolina 29201
Telephone: 803.734.7818
Facsimile: 803.734.1668
Email: BMcGuire@sccid.sc.gov
Email: BYoung@sccid.sc.gov
Email: CSecor@sccid.sc.gov

William S. McGuire, Chief Attorney
S. Boyd Young, Deputy Attorney
Casey Secor, Trial Attorney

July 28, 2011

Barry Barnette
7th Judicial Circuit Solicitor
Spartanburg County Courthouse
180 Magnolia St.
Spartanburg, SC 29306

RE: Freedom of Information Request

Dear Solicitor Barnette:

I hope this letter finds you well. Thank you for promptly responding to my previous letter requesting that you provide the sources and amounts of all funding provided to the Seventh Judicial Circuit Solicitor's Office for the last three fiscal years. If you would, please identify each separate source and the amount of funding received from each source over this same period as authorized by the provisions of the Freedom of Information Act, S.C. Code § 34-4-10 though 110.

As stated in my previous letter, the release of this information from your agency will not reveal the identities of any informant, is not a premature release of information to be used in a prospective law enforcement action, will not disclose investigatory techniques, and will not endanger the life, health, or property of any person. Therefore, none of the exclusions or provisions of the Freedom of Information Act prohibit the dissemination of the requested material.

The purpose of the FOIA, as you are aware, is to make certain "that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy." S.C. Code. § 34-4-15. As such, the General Assembly has made clear that the provisions of the FOIA "must be construed so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings." S.C. Code. § 34-4-15.

The cornerstone of the FOIA is that individuals are entitled to know what their government is doing. While I request this information as a citizen of South Carolina, my position as Chief Attorney of the Capital Trial Division does force me from time to time to assess the funding discrepancies between the Public Defenders and Solicitors of this state.

Please do not fear that I will take the position that your office is overfunded, or even adequately funded, as I know that is not likely to be the case. I do seek to discover, however, just how underfunded the public defender system is, and one factor in that analysis is to discover if the public defender is provided a small fraction of the funds available to prosecutors.

Confidence in the judicial system that operates to uphold and protect the rights of its citizens is required to ensure that the public interest is properly served. Oversight of government functions is required to serve the public interest.

In order to fully comply with your duties as acting Solicitor and, thus, as a minister of justice, it is imperative that the mandates of the FOIA are followed. I must remind you, "The FOIA creates an affirmative duty on the part of public bodies to disclose information. The purpose of the Act is to protect the public by providing for the disclosure of information." Bellamy v. Brown, 408 S.E.2d 219, 221 (S.C. 1991). Therefore, I respectfully request that you comply with my request at your earliest convenience. As a courtesie to you, I have attached another copy of my FOIA request and I agree to restart the clock, so to speak, regarding the time in which to reply.

Please do not continue to refuse to honor this most basic of requests. It would be a waste of time for anyone to initiate judicial action to force your government office to be transparent regarding the most fundamental of issues; specifically, how much taxpayer money is available to, and expended by, your office. Any attorney fees incurred as a result of judicial proceedings is, as you are aware, authorized by S.C. Code §30-4-100(b).

I encourage you to proceed with disclosing the relevant requested material as soon as is convenient to avoid litigation and accruing senseless costs to the taxpayer and to the Seventh Circuit Solicitor's Office. As the South Carolina Supreme Court recently made clear, "When a public body frustrates a citizen's FOIA request to the extent that the citizen must seek relief in the courts and incur litigation costs, the public body should not be able to preclude prevailing party status to the citizen by producing the documents after litigation is filed" to avoid payment of attorney's fees. Sloan v. Friends of the Hunley, Inc, 2011 WL 2321787 (S.C. June 13, 2011). Further, even in the event that your refusal to disclose the requested information is based on a good faith mistaken belief that you are not required to provide this information, the court has also made clear, "No good faith exception exists for an award of attorney's fees under FOIA." N.Y. Times Co. v. Spartanburg County School District No. 7, 649 S.E.2d 28, 31 (S.C. 2007). Thus, I, again, respectfully request that you comply with this request under the FOIA at your earliest convenience.

Thank you for your continued assistance in this matter. Please do not hesitate to contact me with any questions that may arise or if I can further provide you with any additional information.

Sincerely,

Bill McGuire

Bill McGuire

BM/njh



ZALIAS,SR, RICKY L
SPARTANBURG REGIONAL
INTERDISCIPLINARY PLAN OF CARE
FROM: 07/08/09 15:46 TO: 07/15/09 14:00
ROOM: *ICU-02* ADM: 07/08/09 19:54
AGE: 50Y SEX: M MD: ORR, RICHARD K
DOB: 11/18/1958 ID: 7709000243 MR: 000762108
REQUESTED:07/15/09 17:01
OPT OUT:
Page: 10

FLOWSHEET	07/13	07/14			07/15
Fall Precautions	EVES	NOCS	DAYS	EVES	NOCS
Goal		no falls 04:00			no falls 03:57
Progress to Goal		no falls AS EVIDENCED BY 04:00 &			no falls compliant/HRF AS EVIDENCED BY 03:57 &
Goal Status		shift goal met 04:00			shift goal met 03:57
07/14/09 04:00 Progress to Goal(DDW): Free from injury					
07/15/09 03:57 Progress to Goal(AMK): NO FALLS					
Pastoral Assess	EVES	NOCS	DAYS	EVES	NOCS
Type/Assessment	pastorl invtn/pt 17:43 &		pastorl invtn/pt 15:01		
Understand Diagn			partial 15:01		
Understnd Progn			unclear 15:01		
Emotional Status	in pain tearful sad suspicious working through 17:43		sad 15:01		
Preceptn/Future			no concept 15:01		
Faith Practice			somewht importnt 15:01		
07/13/09 17:43 Type/Assessment(AWM): was paged by desk nurse and police officer					
Pastoral Care	EVES	NOCS	DAYS	EVES	NOCS
Referral Base	other(see annot) 17:43 &		Chaplain 15:01		
Patient					
Pastoral Intervn			pastoral support prayer presence 15:01		
Interven Respons	effective other(see annot) 17:43 &		effective other(see annot) 15:01 &		
07/13/09 17:43 Referral Base(AWM): page					
07/13/09 17:43 Interven Respons(AWM): patient was struggling with guilt and with wanting to tell his grandchildren he loved them. He was struggling with his actions and what had been done.					
07/14/09 15:01 Interven Respons(VKH): was sad, had some prayers in his heart, asked for prayers for the family; we prayed Lord's prayer together					
CARE PROVIDERS	AWM	DDW	VKH		AMK

HESSE, VIRGINIA K(VKH)Chaplain
KNIGHT, AMY M(AMK)RN
MOON, ABIGAIL W(AWM)CHAPLAIN
WARD, DANIELLE D(DDW)RN

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF SPARTANBURG	)	INDICTMENT NOS.: 09-GS-42-3609 and 3610
STATE OF SOUTH CAROLINA	)	
	)	
	)	**NOTICE OF MOTION AND MOTION IN LIMINE (TO EXCLUDE ANY REFERENCE TO ANY MATTERS INVOLVING INCIDENTS OR INVESTIGATIONS IN THE NEIGHBORHOOD OF THE DEFENDANT THAT OCCURRED AFTER THE DATE OF THE MURDER OF THE VICTIM CONCERNING NON-RELATED INCIDENTS OR CRIMES, AND ANY FURTHER ATTACKS ON THE CHARACTER OF THE VICTIM'S FATHER UNDER SOUTH CAROLINA CASE LAW AND RULES 401, 402, 403, 801, 802, AND 804 OF THE SOUTH CAROLINA RULES OF EVIDENCE)**
v.	)	
	)	
Ricky Lee Blackwell, Sr.,	)	
	)	
Defendant.	)	

TO: THE DEFENDANT, RICKY LEE BLACKWELL, SR., AND HIS ATTORNEY(S), CLAY ALLEN AND WILLIAM MCGUIRE

YOU WILL PLEASE TAKE NOTICE, that the State of South Carolina will move in front of this Court on June 13, 2012 or when scheduled by this Court for an order to prevent the Defendants and their attorneys from making reference to any incidents involving incidents or investigations in the neighborhood of the defendant that occurred after the date of the murder and kidnapping of Brooke as well as attacks on the character of the father of the victim. The State makes this motion under the following grounds and reasons:

Under Rules 401 and 402 of the South Carolina Rules of Evidence, any evidence or testimony concerning these issues would be irrelevant involving any incidents or investigations concerning events that occurred after the Murder and Kidnapping of Brooke Mr. McGuire had made indications that he is interested in suspicious house fires on Riddings Road in Chesnee, South Carolina on April 10, 2011 and April 11, 2011. The State would argue that these matters or any other matters have absolutely no relevance to the Murder and Kidnapping of Brooke . The State would argue that any attacks on the character

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN 13 PM 12 27
MELODIE BAILEY

of the victim's father in this case would have to be irrelevant in this case. He was not even present during the Murder and Kidnapping of Brooke .

Under Rules 402 and 403 of the South Carolina Rules of Evidence, even if the Court would find this evidence or testimony relevant, the evidence should be excluded because the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or could mislead the jury. In State v. Alexander, 303 S.C. 377, 401 S.E.2d 146 (1991), the Court held that relevant evidence may be excluded where its probative value is substantially outweighed by the danger of unfair prejudice.

Our State Supreme Court held in State v. Brown, 321 S.C. 184, 467 S.E.2d 922 (1996), that the rule has long been established in South Carolina that evidence of other specific instances of violence on the part of the deceased (or any family members) are not admissible unless they were directed against the defendant, or if directed against others, were so closely connected in point of time or occasion with the homicide as reasonably to indicate the state of mind of the deceased at the time of the homicide, or to produce reasonable apprehension of great bodily harm. *See State v. Amburgey, 206 S.C. 429, 34 S.E.2d 779 (1945).* The State would also argue that under Rules 402 and 403 of the South Carolina Rules of Evidence as discussed previously would preclude any evidence concerning any subsequence violence to be introduced in this trial or any attack or reference on the victim's father's character.

Even if the Court would find this evidence or testimony relevant, the evidence should be excluded because the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or could mislead the jury as stated by the South Carolina Court of Appeals in the Lyle opinion and Rule 403 of the South Carolina Rules of Evidence. The South Carolina Supreme Court in State v. Boiter, 302 S.C. 381, 396 S.E.2d 364 (1990) stated that, "a court may prohibit cross-examination for impeachment purposes when the probative value of the evidence that the defendant seeks to elicit is substantially outweighed by the risk of prejudice." The South Carolina Court of Appeals in State v. Sprouse, 478 S.E.2d 871

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CLERK OF COURT
SPARTANBURG COUNTY
2015 JUL 13 PM 2
ANGIE BARNETT

(S.C. App. 1996) ruled that "[e]vidence, even if arguably relevant, must be excluded if its probative value is outweighed by the prejudicial impact of its admission." The Court further cited State v. Kelley, 319 S.C. 173, 460 S.E.2d 368 (1995) and State v. Alexander, 303 S.C. 377, 401 S.E.2d 146 (1991). Even if any of these subsequent incidents, held to be relevant by this Court, the prejudicial impact would outweigh any probative value and should be excluded under Rule 403 of the South Carolina Rules of Evidence.

The State would also argue that any testimony by any witness about any subsequence incidents on April 10, 2011 or April 11, 2011 or the character of the victim's father would be hearsay in this matter under Rules 801, 802, and 804 of the South Carolina Rules of Evidence. The State would request an *in-camera* review by the Court before any such evidence may be deemed relevant or admissible in this case under the grounds stated in this Motion.

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

June 13, 2012
Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 JUN 13 PM 1:28
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	
The State,)	
)	**STATE'S RETURN TO DEFENDANT'S**
v.)	**MOTIONS IN LIMINE**
)	**(Defendant's Pleadings #23 & 25)**
Ricky (Rickey) Lee Blackwell, Sr.,)	Indictment No(s): 2009-GS-42-3609-10
)	Warrant No(s): M088424 and 434
Defendant.)	

The State submits that the Defendant's request to admit evidence as to a fire of unknown origin is an attempt to attack the family of the victims and should be denied. (#23)

The State submits as to suppression of "certain physical evidence". The motion lacks sufficient specifics to allow a balancing of probative value against potential for undue prejudice and should be denied.

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
October 23, 2013

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 FEB 18 AM 10:12
M. HOPE BLACKLEY

M. HOPE BLACKLEY
2014 FEB 19 AM 11:20
FILED
CLERK OF COURT
SPARTANBURG COUNTY

Barry J. Barnette, Solicitor
Seventh Judicial Circuit

Spartanburg, SC
February 17, 2014

Rickie Lee Blackwell

2009GS4203609;3610

Name/Number		State	Defense	Court
Martin Kimmons	134		excused	
white male				
Lonny L Smith	237		excused	
white male				
Michael J. Estes, Jr.	70		excused	
white male				
Ronald E. Unger	264	excused		
white male				
Robert G. Martin	162		excused	
white male				
Eric J. McCraw	165			✓
white male				
Tommy L. Williams	290		excused	
black male				
Donald Lowe	154		excused	
white male				✓
Donald Patterson	192			
white male				
Donna Champion	43			✓
white female				
Diane M. Marcotte	160	excused		
white female				
Stephanie Partridge	188			✓
white female				
George M. Lamb, Jr.	140			✓
white male				
Angela N. Bradley	29			✓
white female				
Andrea R. Dendy	61			✓
black female				
Caroline D. Fritch	78		excused	
white female				
Richard A. Anderson	3		excused	
white male				
Ferrall W. Erickson	69			✓
white male				
Willem Van Der Plaat	266			✓
white male				
Robert B. Stephens	241			✓
white male				
Michael L. Mcintyre	168		excused	
black male				
Barbara J. Collins	50			✓
white female				

Rickie Lee Blackwell 2009GS4203609;3610

Name/Number	State	Defense	Court
Terrance Richardson 215		excused	
black male			
Laura G. Matherly 88	excused		
white female			
Cory J. Cheeks 45	excused		
black male			
Todd D. Danielson 60			✓
white male			
Stacy A. Fullenwinder 79	excused		
black male			
Ray L. Rothenburg 219		excused	
white male			
Karen G. Trejo 261		excused	
white female			
Keith N. Sanders 224			✓
white male			
Edward Grabarkiewicz 92		excused	
white male			
John C. Lindsey 147	excused		
black male			
Christopher Guenther 98		excused	
white, male			
Pamela R. Pruitt 208			2
white female			
David R. Blackstone 19			
white male			

Att 1

Att 2

79

LEMS.Web

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FROM: SCCH-400370 20140225 10:52:22

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-111954HC2 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

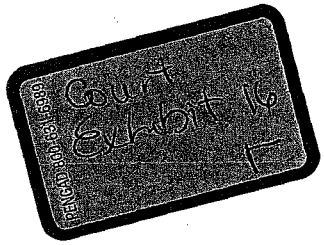
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REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC01604145 FBI-111954HC2
NAME-FULLENWINDER, STACY ANTONIO SEX-M RACE-B
HEIGHT-509 WEIGHT-148 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--01/09/2005 DATE OF LAST UPDATE--10/11/2006

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
[redacted]			[redacted]	

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
FULLENWINDER, STACY ANTONIO SC0420900 INMAN PD CASE-200412025 ATN-422000086999 WARR-72928DC CIT-56-5-2510-UNCLASSIFIED	12/30/2004	ARREST CHARGE 01-STOPPING,STANDING,PARKING OUTSIDE OF BUSINESS OFFENSE DATE-12/30/2004
WARR-72909DC ~ No Rec. Shown on pub. Idx CIT-16-23-490-FELONY		ARREST CHARGE 02-POSS WEAPON DURING VIOLENT CRIME* OFFENSE DATE-12/30/2004
FULLENWINDER, STACY ANTONIO SC0420000 SPARTANBURG CNTY SO CASE-2005061336 ATN-422100096098 WARR-H682512 -> SL -> GIBT 9/27/05 CIT-16-13-110(B)(1)-MISDEMEANOR	08/17/2005	



ARREST CHARGE 01-SHOPLIFTING
OFFENSE DATE-08/17/2005
PALM PRINTS AVAILABLE

WARR-H937536
CIT-44-53-370(B)(2)-FELONY

ARREST CHARGE 02-MANUFT,POSSE
SS OTHER SUB SCH I,II,III
WITD-1ST
OFFENSE DATE-08/17/2005

CIT-44-53-370(B)(2)-FELONY
DOC-00GS42
WARR-H937536

COURT CHARGE 01-MANUFT,POSSES
S OTHER SUB SCH I,II,III
WITD-1ST
COURT DISP-NON-CONVICTION;
DISM/NOL PROS/PROS ENDED
COURT DATE-11/28/2005
ATN-422100096098

FULLENWINDER, STACY ANTONIO 10/03/2005
SC0420000 SPARTANBURG CNTY SO
CASE-2005100105
ATN-422100098027
WARR-94187DF
CIT-44-53-370(D)(4)-MISDEMEANOR

ARREST CHARGE 01-POSS 28G OR
LESS MARIJ OR 10G OR LESS
HASH 1ST
OFFENSE DATE-10/03/2005
PALM PRINTS AVAILABLE

WARR-G811383 -> Carrying a Pistol: BP 7/17/07.
CIT-16-23-20-MISDEMEANOR

ARREST CHARGE 02-UNLAWFUL
CARRYING OF WEAPON
OFFENSE DATE-10/03/2005

CIT--MISDEMEANOR
WARR-94187DF

COURT CHARGE 01-POSS 28G OR
LESS MARIJ OR 10G OR LESS
HASH 1ST
COURT DISP-CONVICTED;30 565
STP
COURT DATE-11/22/2005
ATN-422100098027

FULLENWINDER, STACY ANTONIO 10/11/2006
SC0420000 SPARTANBURG CNTY SO
CASE-2006091087
ATN-422100112158
WARR-K164756 - Norec. shown
CIT-16-13-30(A)-MISDEMEANOR

ARREST CHARGE 01-PETTY LARCEN
Y
OFFENSE DATE-10/11/2006
PALM PRINTS AVAILABLE

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/111954HC2
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

LEMS.Web

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FROM:     NC2K-1951669   20140225 10:52:25
1L011D470001A62QWA
SC042015A

NO NCIC WANT FBI/111954HC2
NO NCIC WANT SOC/
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
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ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-FULLENWINDER, STACY A
SEX-M RAC-B DOB-[redacted]

DATE-02/25/2014 TIME-10:46 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-FULLENWINDER, STACY ANTONIO SEX-M RACE-B
HEIGHT-509 WEIGHT-148 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC: HENRY- NCIC-

SID-SC01604145 FBI-111954HC2

1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--01/09/2005 DATE OF LAST UPDATE--10/11/2006

BIRTH DATES-(

MARKS, ETC-

SOC SEC
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CC02 from III

SPTSL420
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TO: SPTSL420-492 20140225 10:51:05 003509CC02
FROM: III-642050 20140225 10:51:05
7L011D470001A42QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/FULLENWINDER,STACY A SEX/M RAC/B DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
FULLENWINDER,STACY ANTONIO	111954HC2	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	B	[redacted]	509	148	BRO	BLK	N

BIRTH PLACE
SOUTH CAROLINA

FINGERPRINT CLASS PATTERN CLASS
WU LS RS WU RS WU LS LS LS LS
RS WU WU
AU

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2006/10/11

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC01604145

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

LEMS.Web

ICHS 003F0625BD from SCCH

154

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ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-LOWE, DONALD W
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

3400

LEMS.Web

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SC042015A
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(III) FOR NAM/LOWE,DONALD W.SEX/M.RAC/W.DOB/      1.PUR/C.
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LEMS.Web

45

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ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-CHEEKS, CORY J
SEX-M RAC-B DOB-[redacted]

DATE-02/25/2014 TIME-09:44 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-CHEEKS, CORY JAMAL SEX-M RACE-B
HEIGHT-511 WEIGHT-180 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC: HENRY- NCIC-

SID-SC01747799 FBI-977636PC4

PALM PRINTS AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--03/25/2007 DATE OF LAST UPDATE--10/08/2013

BIRTH DATES-[redacted]

MARKS, ETC-

SOC SEC
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509C827 from III

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FROM: III-641063 20140225 09:48:49
7L011D470001592QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/CHEEKS,CORY J SEX/M RAC/B DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
CHEEKS,CORY JAMAL	977636PC4	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	B		511	180	BRO	BLK	N

BIRTH PLACE
SOUTH CAROLINA

FINGERPRINT CLASS PATTERN CLASS
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC

SOCIAL SECURITY
[redacted]

IDENTIFICATION DATA UPDATED 2013/10/08

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC01747799

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

LEMS.Web

ICHR 003F0618BC from SCCH

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FROM: SCCH-399548 20140225 09:49:34

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-977636PC4 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-09:45:02
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC01747799 FBI-977636PC4
NAME-CHEEKS, CORY JAMAL SEX-M RACE-B
HEIGHT-511 WEIGHT-180 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-

PALM PRINTS AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--03/25/2007 DATE OF LAST UPDATE--10/08/2013

ADDITIONAL IDENTIFIERS BIRTH
NAME DATES MARKS SOC SEC MISC NUM

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

CHEEKS, CORY JAMAL 03/25/2007
SC0420100 SPARTANBURG PD
CASE-381907
ATN-422100118567
WARR-35821DU
CIT-16-17-530-MISDEMEANOR
ARREST CHARGE 01-PUBLIC DISOR
DERLY CONDUCT
OFFENSE DATE-03/25/2007
PALM PRINTS AVAILABLE

WARR-K255264
CIT-16-25-20(A)-MISDEMEANOR
ARREST CHARGE 02-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-03/25/2007
ARREST INFO- DOCUMENT IN
JACKET

CHEEKS, CORY JAMAL 01/17/2009
SC0420000 SPARTANBURG CNTY SO

CASE-2009010858
ATN-422100146384
WARR-87502EK
CIT-16-11-620-MISDEMEANOR

ARREST CHARGE 01-ENTERING
PREMISES AFTER WARNING
OFFENSE DATE-01/17/2009
PALM PRINTS AVAILABLE

CIT--MISDEMEANOR
WARR-87502EK

COURT CHARGE 01-ENTERING
PREMISES AFTER WARNING
COURT DISP-CONVICTED
COURT DATE-02/05/2009
ATN-422100146384

CHEEKS, CORY JAMAL 11/17/2009
SC0420100 SPARTANBURG PD
CASE-11043509
ATN-422100159065
WARR-M420425
CIT-16-25-20(A)-MISDEMEANOR

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
OFFENSE DATE-11/17/2009
PALM PRINTS AVAILABLE

CIT--MISDEMEANOR
DOC-42
WARR-M420425

COURT CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 1ST
OFFENSE
COURT DISP-CONVICTED;30 days
jail
COURT DATE-01/19/2010
ATN-422100159065

CHEEKS, CORY JAMAL 10/08/2013
SC0420000 SPARTANBURG CNTY SO
CASE-20131008
ATN-422100210686
WARR-2013A4210203615
CIT-16-25-0020(A)-FELONY

ARREST CHARGE 01-CRIMINAL
DOMESTIC VIOLENCE 3RD OFF
W/I 10 YRS
OFFENSE DATE-10/08/2013
PALM PRINTS AVAILABLE

1/27/14 DISM PER V's REQUEST

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/977636PC4
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

LEMS.Web

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SC042015A

NO NCIC WANT FBI/977636PC4
NO NCIC WANT SOC/251673371
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
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LEMS.Web

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70

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FROM: NLETS-898203 20140225 10:40:35
CR.WVFBINF00
08:40 12213
02/25/2014 03946 SC042015A
*1D47000191
TXT
HDR/2L011D47000191 2QR
ATN/BBARNETTE
********** CRIMINAL HISTORY RECORD **********

********** Introduction **********

This rap sheet was produced in response to the following request:

FBI Number	151768JA4
Purpose Code	C
Attention	BBARNETTE

The information in this rap sheet is subject to the following caveats:

This record is based only on the FBI number in your request-151768JA4. Because additions or deletions may be made at any time, a new copy should be requested when needed for subsequent use. (US; 2014-02-25)
All arrest entries contained in this FBI record are based on fingerprint comparisons and pertain to the same individual. (US; 2014-02-25)
The use of this record is regulated by law. It is provided for official use only and may be used only for the purpose requested. (US; 2014-02-25)

********** IDENTIFICATION **********

Subject Name(s)

ESTES, MICHAEL JOHN-JR
ESTES, MICHAEL JOHN (AKA)
ESTES, MICHAEL JOHN JR (AKA)
ESTES, JOHN (AKA)

Subject Description

FBI Number	State Id Number
151768JA4	NC0887917A

Social Security Number
[redacted]

Miscellaneous Numbers
240170422

Sex	Race
Male	White

Height	Weight	Date of Birth
5'09"	173	

Hair Color	Eye Color	Fingerprint Pattern
Red Or Auburn	Hazel	AATT02AA04TT5202AA04 (FPC)

Scars, Marks, and Tattoos

Code	Description, Comments, and Images
TAT CHEST	, TATTOO ON CHEST

Place of Birth	Citizenship
MA	US

Fingerprint Images

********** CRIMINAL HISTORY **********

========== Cycle 1 ==========

Earliest Event Date 1988-04-11

Arrest Date 1988-04-11
Arrest Case Number
Arresting Agency USN000000 USN-ABSNT COLL INFO NORTH CHICAGO IL
Charge 01
Charge Literal DESERTI0N
Severity

Court Disposition (Cycle 1)
Court Agency Unknown
Charge 01
Charge Literal DESERTI0N
Severity
Disposition (; RETURNED T0 MILITARY CUST0DY)

********** INDEX OF AGENCIES **********

Agency FBI-CJIS DIV-CLRKSBG CLARKSBURG; WVFBINF00;
Address
1000 CUSTER HOLLOW RD
CLARKSBURG, WV 26306

Agency USN-ABSNT COLL INFO NORTH CHICAGO IL; USN000000;
Address
2834 GREENBAY RD
NORTH CHICAGO IL, DC 600643094

Agency USN-ABSNT COLL INFO NORTH CHICAGO IL; USN000000;

Agency Unknown; ;

* * * END OF RECORD * * *

LEMS.Web

CR 00080DB49E from NLETS

SPTSL420
.CR.00080DB49E.NLETS.20140225 10:40:37
TO: SPTSL420-471 20140225 10:40:37 00080DB49E
FROM: NLETS-898206 20140225 10:40:36
CR.NCIII0000
08:40 05220
02/25/2014 03950 SC042015A
*1D47000191
TXT
HDR/2L011D470001912QR
ATN/BBARNETTE

********** CRIMINAL HISTORY RECORD **********

********** Introduction **********

This rap sheet was produced in response to the following request:

Subject Name(s)	ESTES,MICHAEL JOHN-JR
FBI Number	151768JA4
State Id Number	NC0887917A (NC)
Request Id	UNKNOWN
Purpose Code	C
Attention	BBARNETTE

The information in this rap sheet is subject to the following caveats:

BASED ONLY ON SID NUMBER (NC)
THIS CRIMINAL HISTORY IS FOR A MULTI-STATE RECORD. (NC)
THIS RESPONSE CONTAINS ONLY NORTH CAROLINA CHARGES. (NC)
A MULTI-STATE NCIC RESPONSE WILL BE PROVIDED BY THE FBI. (NC)
THIS CRIMINAL HISTORY RECORD INFORMATION ON THE ABOVE-NAMED INDIVIDUAL IS A CERTIFIED COPY SUBSTANTIATED BY FINGERPRINTS, AS IT APPEARS IN THE SBI/DCI FILES. STATE/FEDERAL REGULATIONS REQUIRE A ONE-YEAR RECORD OF DISSEMINATION.* * * CAUTION * * *CHANGES TO THIS RECORD MAY OCCUR AT ANY TIME AND A NEW INQUIRY SHOULD BE MADE FOR SUBSEQUENT USE. THIS RECORD MUST NOT BE USED AFTER 2014-05-26 (NC)

********** IDENTIFICATION **********

Subject Name(s)

ESTES, MICHAEL JOHN
ESTES, JOHN (AKA)

Subject Description

FBI Number	State Id Number
151768JA4	NC0887917A (NC)

Social Security Number
[redacted]

Sex	Race	Skin Tone

Male	White	Medium
Height	Weight	Date of Birth
5'08"	205	[redacted]

Hair Color
Blonde or Strawberry

Eye Color
Hazel

Scars, Marks, and Tattoos

Code	Description, Comments, and Images
TAT CHEST	,

Place of Birth
Massachusetts

********** CRIMINAL HISTORY **********

========== Cycle 1 ==========

Tracking Number	01
Earliest Event Date	2000-09-06

Arrest Date	2000-09-06
Arrest Case Number	149721
Arresting Agency	NC092013Y CITY/COUNTY BU OF ID - RALEIGH
Subject's Name	ESTES,MICHAEL JOHN
Offender Id Number	AG4419X
Charge	01
Charge Literal	ASSAULT ON A FEMALE
Severity	Misdemeanor

********** INDEX OF AGENCIES **********

Agency	CITY/COUNTY BU OF ID - RALEIGH; NC092013Y;

* * * END OF RECORD * * *

3410

LEMS.Web

ICHS 003F061B60 from SCCH

SPTSL420
.ICHS.003F061B60.SCCH.20140225 10:39:30
TO: SPTSL420-466 20140225 10:39:30 003F061B60
FROM: SCCH-400224 20140225 10:39:30
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-ESTES, MICHAEL J JR
SEX-M RAC-W DOB[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CB50 from III

SPTSL420
.QH.003509CB50.III.20140225 10:39:34
TO: SPTSL420-467 20140225 10:39:34 003509CB50
FROM: III-641872 20140225 10:39:34
7L011D4700018F2QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/ESTES,MICHAEL J SEX/M RAC/W DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
ESTES,MICHAEL JOHN-JR	151768JA4	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	W	[redacted]	509	173	HAZ	RED	N

BIRTH PLACE
MASSACHUSETTS

FINGERPRINT CLASS	PATTERN CLASS
AA TT 02 AA 04	AU AU RS AU RS AU LS LS AU LS
TT 52 02 AA 04	LS LS LS RS AU LS
	AU AU

ALIAS NAMES
ESTES,JOHN
ESTES,MICHAEL JOHN
ESTES,MICHAEL JOHN JR

SCARS-MARKS-
TATTOOS
TAT CHEST

SOCIAL SECURITY

MISC NUMBERS
NS-240170422

IDENTIFICATION DATA UPDATED 2012/10/17

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
NORTH CAROLINA - STATE ID/NC0887917A
FBI - FBI/151768JA4

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

3412

LEMS.Web

ICHR 003F061B69 from SCCH

SPTSL420
.ICHR.003F061B69.SCCH.20140225 10:40:30
TO: SPTSL420-468 20140225 10:40:30 003F061B69
FROM: SCCH-400233 20140225 10:40:30

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-151768JA4 PUR-C
ATN-BBARNETTE

NO RECORD FOUND TO DISSEMINATE USING FBI/151768JA4
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

INQUIRY FORWARDED TO INTERSTATE IDENTIFICATION INDEX

** S C CJIS END OF RECORD **

LEMS.Web

QR 003509CB61 from III

```
SPTSL420
.QR.003509CB61.III.20140225 10:40:34
  TO: SPTSL420-469       20140225 10:40:34  003509CB61
FROM:      III-641889     20140225 10:40:34
FL011D470001912QR
SC042015A
THIS INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR
RECORD REQUEST FOR FBI/151768JA4. INDIVIDUAL'S RECORD WILL BE
COMPLETE WHEN ALL RESPONSES ARE RECEIVED FROM THE FOLLOWING SOURCES:
 FBI             - FBI/151768JA4
 NORTH CAROLINA - STATE ID/NC0887917A
END
```

3414

LEMS.Web

QH 003509D6F8 from III

147

```
SPTSL420
.QH.003509D6F8.III.20140225 14:23:26
  TO: SPTSL420-648       20140225 14:23:26  003509D6F8
FROM:      III-644856     20140225 14:23:26
NL011D470002342QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/LINDSEY,JOHN C.SEX/M.RAC/B.DOB/       3.PUR/C.
END
```

LEMS.Web

ICHS 003F06258B from SCCH

SPTSL420
.ICHS.003F06258B.SCCH.20140225 14:23:23
  TO: SPTSL420-647   20140225 14:23:23 003F06258B
FROM: SCCH-402827   20140225 14:23:23
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-LINDSEY, JOHN C
SEX-M RAC-B DOB-[redacted]

DATE-02/25/2014 TIME-14:18   PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE
MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-JONES, CALVIN   SEX-M RACE-B
HEIGHT-508 WEIGHT-160 EYES-BRO HAIR-BLK SKIN-   BORN-SC
FPC: HENRY-10 O 11 T   MO   NCIC-DOTTPMPOPO10TTPIPI12
              S 30 T   II 12
SID-SC00499715 FBI-145731EA1
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--08/26/1985   DATE OF LAST UPDATE--07/19/2013

ALIAS NAMES-JONES, KEVIN   JONES, KALVIN
            LINDSEY, JOHN   JONES, CALVIN KEVIN
            JONES, CLAVIN

BIRTH DATES-   0

SOC SEC
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION
PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN
CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS.
THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY
FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS
DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** END OF IDENT **

NAME-LINDSEY, JOHN SCOTT   SEX-M RACE-W
HEIGHT-510 WEIGHT-165 EYES-BLU HAIR-BRO SKIN-   BORN-SC
FPC: HENRY-16 M 21 W   IOO   NCIC-PMPI1615PODIPI151516
              I 23 W   IOO 16
SID-SC01228132 FBI-400113JB5
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

3416

DATE RECORD ENTERED--10/21/1998 DATE OF LAST UPDATE--05/17/2005

BIRTH DATES-

SOC SEC NUMBERS-
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

3417

19

LEMS.Web

ICHS 003F0575D8 from SCCH

SPTSL420
.ICHS.003F0575D8.SCCH.20140218 10:26:47
  TO: SPTSL420-260 20140218 10:26:47 003F0575D8
FROM: SCCH-357848 20140218 10:26:47
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-BLACKSTONE, DAVID R
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003508D75C from III

```
SPTSL420
.QH.003508D75C.III.20140218 10:26:50
  TO: SPTSL420-261       20140218 10:26:50  003508D75C
FROM:      III-579420     20140218 10:26:50
NL011D470000FE2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/BLACKSTONE,DAVID R.SEX/M.RAC/W.DOB/       ?.PUR/C.
END
```

3419

13-1

LEMS.Web

ICHR 003F061FC5 from SCCH

SPTSL420
.ICHR.003F061FC5.SCCH.20140225 12:02:28
TO: SPTSL420-609 20140225 12:02:28 003F061FC5
FROM: SCCH-401349 20140225 12:02:28

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI- 82419CB7 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-11:57:56
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC01045994 FBI- 82419CB7
NAME-KIMMONS, MARTIN KENNETH SEX-M RACE-W
HEIGHT-600 WEIGHT-215 EYES-GRN HAIR-BRO SKIN- BORN-SC
FPC-165204TT040952AA0113 HENRY-16 M 1 R-T- 4
S 1 RA--
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--02/16/1996 DATE OF LAST UPDATE--05/13/1996

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
KIMMONS, M KENNETH	[redacted]		[redacted]	

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
KIMMONS, MARTIN KENNETH	01/17/1996	
SC0420000 SPARTANBURG CNTY SO		
CASE-067526		
WARR-E150586 -> PL/Plr to Ref RP; Conv/Forf. 2/6/96		ARREST CHARGE 01-FAIL TO RETURN RENTAL VIDEO PHOTOGRAPH AVAILABLE

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/ 82419CB7
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

3420

LEMS.Web

QWA 00061DD087 from NC2K

```
SPTSL420
.QWA.00061DD087.NC2K.20140225 12:02:29
  TO: SPTSL420-610       20140225 12:02:29  00061DD087
FROM:     NC2K-1953927    20140225 12:02:28
1L011D470002132QWA
SC042015A

NO NCIC WANT FBI/82419CB7
NO NCIC WANT SOC/
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

LEMS.Web

ICHS 003F061FBF from SCCH

SPTSL420
.ICHS.003F061FBF.SCCH.20140225 12:01:34
TO: SPTSL420-607 20140225 12:01:34 003F061FBF
FROM: SCCH-401343 20140225 12:01:34
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-KIMMONS, MARTIN K
SEX-M RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-11:57 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-KIMMONS, MARTIN KENNETH SEX-M RACE-W
HEIGHT-600 WEIGHT-215 EYES-GRN HAIR-BRO SKIN- BORN-SC
FPC: HENRY-16 M 1 R-T- 4 NCIC-165204TT040952AA0113
S 1 RA--
SID-SC01045994 FBI- 82419CB7
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--02/16/1996 DATE OF LAST UPDATE--05/13/1996

ALIAS NAMES-KIMMONS, M KENNETH

BIRTH DATES-[redacted]

SOC SEC

SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D02B from III

SPTSL420
.QH.003509D02B.III.20140225 12:01:36
TO: SPTSL420-608 20140225 12:01:36 003509D02B
FROM: III-643115 20140225 12:01:36
7L011D470002112QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/KIMMONS,MARTIN K SEX/M RAC/W DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
KIMMONS,MARTIN KENNETH	82419CB7	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	W	[redacted]	600	215	GRN	BRO	N

BIRTH PLACE
SOUTH CAROLINA

FINGERPRINT CLASS	PATTERN CLASS
16 52 04 TT 04	UC UC UC UC UC UC UC UC UC UC
09 52 AA 01 13	UC UC UC UC UC UC UC UC UC UC
	UC UC UC UC UC UC UC UC UC UC

ALIAS NAMES
KIMMONS,M KENNETH

SOCIAL SECURITY
[redacted]

IDENTIFICATION DATA UPDATED 2013/12/27

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC01045994

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

237

ICHS 003F063878 from SCCH

SPTSL420
.ICHS.003F063878.SCCH.20140226 09:34:27
TO: SPTSL420-810 20140226 09:34:27 003F063878
FROM: SCCH-407672 20140226 09:34:27

DATE-02/26/2014 TIME-09:34 PAGE-02 OF 02
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-SMITH, LEO DALE SEX-M RACE-W
HEIGHT-509 WEIGHT-162 EYES-BLU HAIR-BRO SKIN-RUD BORN-SC
FPC: HENRY- 9 O 27 W OOO NCIC-DOPOPOPOPO09DICI1516
S 31 W IIO 16
SID-SC00083530 FBI- 802189H
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--02/19/1977 DATE OF LAST UPDATE--11/10/1993

ALIAS NAMES-SMITH, DALE

BIRTH DATES[redacted]

MARKS, ETC-TAT UR ARM TAT LF ARM SC BACK TAT L HND TAT R ARM
SC R CHK TAT R WRS TAT RF ARM SC R LEG

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

ICHS 003F063879 from SCCH

SPTSL420
.ICHS.003F063879.SCCH.20140226 09:34:28
TO: SPTSL420-811 20140226 09:34:28 003F063879
FROM: SCCH-407673 20140226 09:34:27
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-SMITH, LONNY L
SEX-M RAC-W DOB-[redacted]6

DATE-02/26/2014 TIME-09:34 PAGE-01 OF 02
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-SMITH, LARRY OLIVER SEX-M RACE-W
HEIGHT-509 WEIGHT-175 EYES-BLU HAIR-BRO SKIN- BORN-SC
FPC: HENRY-11 O 30 W IOM NCIC-DOPI11PMPODIPM15CIPI
I 24 W MOI
SID-SC00229451 FBI- 18665V9
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--03/09/1979 DATE OF LAST UPDATE--06/18/1986

BIRTH DATES-[redacted]

SOC SEC NUMBERS-249905549
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

NAME-NESBITT, LEE EARL SEX-M RACE-B
HEIGHT-511 WEIGHT-190 EYES-BRO HAIR-BLK SKIN-MED BORN-SC
FPC: HENRY-16 O 13 U OOO 14 NCIC-DO16POPO14PI1622DI16
I 26 U OOI
SID-SC00369225 FBI- 592700Y7
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--06/11/1982 DATE OF LAST UPDATE--10/08/2003

ALIAS NAMES-SMITH, EARL SMITH, LEE EARL
SMITH, PJ SMITH, P J

BIRTH DATES-[redacted]

SOC SEC
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

(MORE PAGES TO FOLLOW)

LEMS.Web

QH 003509F2CA from III

SPTSL420
.QH.003509F2CA.III.20140226 09:34:29
  TO: SPTSL420-812   20140226 09:34:29 003509F2CA
FROM: III-651978   20140226 09:34:29
NL011D470002CD2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/SMITH,LONNY L.SEX/M.RAC/W.DOB/   5.PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE
NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS
DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END

LEMS.Web

ICHS 003F0625E1 from SCCH

160

SPTSL420
.ICHS.003F0625E1.SCCH.20140225 14:31:14
TO: SPTSL420-663 20140225 14:31:14 003F0625E1
FROM: SCCH-402913 20140225 14:31:14
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-MARCOTTE, DIANE M
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D763 from III

SPTSL420
.QH.003509D763.III.20140225 14:31:16
TO: SPTSL420-664 20140225 14:31:16 003509D763
FROM: III-644963 20140225 14:31:16
NL011D470002442QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/MARCOTTE,DIANE M.SEX/F.RAC/W.DOB/ .PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE
NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS
DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END

188

DQ?
pend. chg.

ICHR 003F06278F from SCCH

SPTSL420
.ICHR.003F06278F.SCCH.20140225 15:00:59
TO: SPTSL420-719 20140225 15:00:59 003F06278F
FROM: SCCH-403343 20140225 15:00:59

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-728525WD7 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-14:56:27
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC02123916 FBI-728525WD7
NAME-PARTRIDGE, STEPHANIE MICHELLE SEX-F RACE-W
HEIGHT-505 WEIGHT-120 EYES-BRO HAIR-BRO SKIN- BORN-MI
FPC- HENRY-

PALM PRINTS AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--10/07/2013 DATE OF LAST UPDATE--10/07/2013

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
[redacted]		✓	[redacted]	✓

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

PARTRIDGE, STEPHANIE MICHELLE 10/07/2013
SC0420000 SPARTANBURG CNTY SO
CASE-13081512
ATN-422100210652
WARR-2013A4210103896 ~ Pend. (LKR/R. Worden)
CIT-16-13-230(B)(2)-FELONY

ARREST CHARGE 01-BREACH OF TRUST W/FRAUD INTENT >$200 0 <$10,000
OFFENSE DATE-10/07/2013
PALM PRINTS AVAILABLE

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/728525WD7
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

LEMS.Web

QWA 00061DE7A1 from NC2K

```
SPTSL420
.QWA.00061DE7A1.NC2K.20140225 15:01:03
  TO: SPTSL420-720       20140225 15:01:03  00061DE7A1
FROM:     NC2K-1959841   20140225 15:01:03
1L011D470002772QWA
SC042015A

NO NCIC WANT FBI/728525WD7
NO NCIC WANT
                              ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

LEMS.Web

ICHS 003F062779 from SCCH

SPTSL420
.ICHS.003F062779.SCCH.20140225 14:59:40
TO: SPTSL420-715 20140225 14:59:40 003F062779
FROM: SCCH-403321 20140225 14:59:39
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-PARTRIDGE, STEPHANIE M
SEX-F RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-14:55 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-PARTRIDGE, STEPHANIE MICHELLE SEX-F RACE-W
HEIGHT-505 WEIGHT-120 EYES-BRO HAIR-BRO SKIN- BORN-MI
FPC: HENRY- NCIC-

SID-SC02123916 FBI-728525WD7

PALM PRINTS AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--10/07/2013 DATE OF LAST UPDATE--10/07/2013

BIRTH DATES-[redacted]

MARKS, ETC-

SOC SEC

SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

ICHS 003F062779 from SCCH

SPTSL420
.ICHS.003F062779.SCCH.20140225 14:59:53
TO: SPTSL420-717 20140225 14:59:53 003F062779
FROM: SCCH-403321 20140225 14:59:39
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-PARTRIDGE, STEPHANIE M
SEX-F RAC-W DOB[redacted]

DATE-02/25/2014 TIME-14:55 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-PARTRIDGE, STEPHANIE MICHELLE SEX-F RACE-W
HEIGHT-505 WEIGHT-120 EYES-BRO HAIR-BRO SKIN- BORN-MI
FPC: HENRY- NCIC-

SID-SC02123916 FBI-728525WD7

PALM PRINTS AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--10/07/2013 DATE OF LAST UPDATE--10/07/2013

BIRTH DATES[redacted]

MARKS, ETC-

SOC SEC NUMBERS-
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D8F7 from III

SPTSL420
.QH.003509D8F7.III.20140225 14:59:53
TO: SPTSL420-718 20140225 14:59:53 003509D8F7
FROM: III-645367 20140225 14:59:41
7L011D470002752QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/PARTRIDGE,STEPHANIE M SEX/F RAC/W DOB/19670530 PUR/C

NAME	FBI NO.	INQUIRY DATE
PARTRIDGE,STEPHANIE MICHELLE	728525WD7	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
F	W	[redacted]	505	120	BRO	BRO	N

BIRTH PLACE
MICHIGAN

FINGERPRINT CLASS PATTERN CLASS
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC

SOCIAL SECURITY
[redacted]

IDENTIFICATION DATA UPDATED 2013/10/07

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC02123916

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

264

LEMS.Web

ICHS 003F0639D8 from SCCH

SPTSL420
.ICHS.003F0639D8.SCCH.20140226 09:52:48
TO: SPTSL420-848 20140226 09:52:48 003F0639D8
FROM: SCCH-408024 20140226 09:52:48
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-UNGER, RONALD E
SEX-M RAC-W DOB[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

ICHS 003F06261F from SCCH

162

SPTSL420
.ICHS.003F06261F.SCCH.20140225 14:34:13
TO: SPTSL420-669 20140225 14:34:13 003F06261F
FROM: SCCH-402975 20140225 14:34:13
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-MARTIN, ROBERT G
SEX-M RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-14:29 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-MARTIN, RAYMOND OLIVER SEX-M RACE-W
HEIGHT-511 WEIGHT-150 EYES-BLU HAIR-BRO SKIN-FAR BORN-AL
FPC: HENRY-12 O 17 W IOO 8 NCIC-POPI1214081515161311
M 17 U OOI
SID-SC00534051 FBI- 284768P6
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--05/01/1986 DATE OF LAST UPDATE--06/06/1986

ALIAS NAMES-MARTIN, RAY

BIRTH DATES-1 [redacted]

MARKS, ETC-SC L FT

SOC SEC

SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D790 from III

SPTSL420
.QH.003509D790.III.20140225 14:34:16
TO: SPTSL420-670 20140225 14:34:16 003509D790
FROM: III-645008 20140225 14:34:16
7L011D4700024A2QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/MARTIN,ROBERT G SEX/M RAC/W DOB/[redacted] PUR/C

NAME	FBI NO.	INQUIRY DATE
MARTIN,ROBERT MAHONE	21036EB6	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
F	W	[redacted]	506	190	BRO	BRO	N

BIRTH PLACE
VIRGINIA

FINGERPRINT CLASS	PATTERN CLASS
17 PI CO CO 14	RS WU RS UC RS WU LS LS LS LS
CI 08 07 13 11	WU WU

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2000/10/05

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
VIRGINIA - STATE ID/VA1098409L

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END



ICHS 003F062649 from SCCH

165

SPTSL420
.ICHS.003F062649.SCCH.20140225 14:37:23
TO: SPTSL420-673 20140225 14:37:23 003F062649
FROM: SCCH-403017 20140225 14:37:23
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-MCCRAW, ERIC J
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D7C2 from III

SPTSL420
.QH.003509D7C2.III.20140225 14:37:26
TO: SPTSL420-674 20140225 14:37:26 003509D7C2
FROM: III-645058 20140225 14:37:26
NL011D4700024E2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/MCCRAW,ERIC J.SEX/M.RAC/W.DOB/[redacted].PUR/C.
END

290

LEMS.Web

ICHS 003F063B86 from SCCH

SPTSL420
.ICHS.003F063B86.SCCH.20140226 10:18:33
TO: SPTSL420-910 20140226 10:18:33 003F063B86
FROM: SCCH-408454 20140226 10:18:32
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-WILLIAMS, TOMMY L SR
SEX-M RAC-B DOB-[redacted]

DATE-02/26/2014 TIME-10:18 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-WILLIAMS, MICHAEL SEX-M RACE-B
HEIGHT-506 WEIGHT-135 EYES-BRO HAIR-BLK SKIN- BORN-PA
FPC: HENRY- NCIC-

SID-SC00676352 FBI- 387526T4
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--03/07/1989 DATE OF LAST UPDATE--08/22/2005

ALIAS NAMES-LAWRENCE, JOSEPH GLEN
LAWRENCE, JOE
JOHNSON, JOSEPH
LAWRENCE, JOSEPH GLENN
JOHNSON, TONY
WILLIAMS, TONY
WILLIAM, TONY
JOHNSON, TONEY JR
SMITH, JOSEPH

BIRTH DATES-[redacted]

0

SOC SEC NUMBERS-[redacted]

SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

NAME-MURPHY, CLIFTON SEX-M RACE-B
HEIGHT-600 WEIGHT-150 EYES-BRO HAIR-BRO SKIN- BORN-SC
FPC: HENRY-13 M 27 W MII 13 NCIC-13PM09PI1313PIPMPI13
M 4 W IMI
SID-SC00142171 FBI- 264137R6
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--02/19/1977 DATE OF LAST UPDATE--08/15/2008

ALIAS NAMES-WILLIAMS, TONY
CLIFTON, MURPHY
MURPHY, CLIFTON LEON

BIRTH DATES-[redacted]

959

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY; A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F619 from III

SPTSL420
.QH.003509F619.III.20140226 10:18:35
TO: SPTSL420-911 20140226 10:18:35 003509F619
FROM: III-652825 20140226 10:18:35
3L011D470003262QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX MULTIPLE RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/WILLIAMS,TOMMY L SEX/M RAC/B
DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
WHEELER,LAVAUGHN	395131M5	2014/02/26

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	B	[redacted]	509	180	BRO	BLK	N

BIRTH PLACE
ILLINOIS

FINGERPRINT CLASS	PATTERN CLASS
PI DI 20 PO PO	WU WU RS WU WU WU WU WU WU WU
PO PO PI DM PM	WU

ALIAS NAMES

GAINES,TAJI	GAINS,SHON
GREEN,EDDIE	GREENE,EDDIE
JONES,EDWIN	PRICE,DANNY
PRICE,LA VAUGHN	PRICE,LAUAUGN
PRICE,LAVAUGHN	PRICE,RICHARD A
SUROT,RUSSELL	WATSON,MICHAEL
WHEELER,LA VAUGH	WHEELER,LAVAUGH
WHEELER,LAVAUGHN P	WHEELER,LAVAUGHN PRICE
WHEELER,PRICE	WILLIAMS,TOMMY
WILLIAMS,TOMMY L	

OTHER
BIRTH DATES SOCIAL SECURITY
[redacted]

IDENTIFICATION DATA UPDATED 2000/11/24

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
FBI - FBI/395131M5

END - 1ST NCIC III RECORD FOR MULTIPLE RESPONSE

NAME	FBI NO.	INQUIRY DATE
HYMAS,LEE	892811T10	2014/02/26

OTHER
BIRTH DATES SOCIAL SECURITY
[redacted]

IDENTIFICATION DATA UPDATED 2004/05/10

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
MARYLAND - STATE ID/MD215293

END - 3RD NCIC III RECORD FOR MULTIPLE RESPONSE

NAME	FBI NO.	INQUIRY DATE
FOSTER,RICHARD	463829P8	2014/02/26

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	B	[redacted]	602	160	BRO	BLK	N

BIRTH PLACE
NEW JERSEY

FINGERPRINT CLASS	PATTERN CLASS
16 09 05 04 03	UC UC UC UC UC UC UC UC UC UC
12 09 07 10 07	UC UC UC UC UC UC UC UC UC UC
	UC UC UC UC UC UC UC UC UC UC

ALIAS NAMES

FOSTER,ABDUL	FOSTER,RAHIM
FOSTER,RICHARD J	FOSTER,RICHARD JEROME
FOSTER,RICHARDS	FOSTER,RICKY
NATER,MARTIN	THOMAS,CHARLES
THOMAS,EDWARD	WILLIAMS,THOMAS

OTHER BIRTH DATES	SCARS-MARKS-TATTOOS	SOCIAL SECURITY
	NM L ARM	[redacted]
	SC ARM	
	SC L EYE	
	TAT L ARM	

4

IDENTIFICATION DATA UPDATED 2013/07/31

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
NEW JERSEY - STATE ID/NJ627229A
NEW YORK - STATE ID/NY2773053R

END - LAST NCIC III RECORD FOR MULTIPLE RESPONSE

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

192

LEMS.Web

QH 003509D931 from III

SPTSL420
.QH.003509D931.III.20140225 15:03:57
TO: SPTSL420-726 20140225 15:03:57 003509D931
FROM: III-645425 20140225 15:03:57
NL011D4700027D2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX (III) FOR NAM/PATTERSON,DONALD G.SEX/M.RAC/W.DOB/[redacted].PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END

LEMS.Web

ICHS 003F0627B8 from SCCH

SPTSL420
.ICHS.003F0627B8.SCCH.20140225 15:03:53
TO: SPTSL420-725 20140225 15:03:53 003F0627B8
FROM: SCCH-403384 20140225 15:03:53
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-PATTERSON, DONALD G
SEX-M RAC-W DOB[redacted]

DATE-02/25/2014 TIME-14:59 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-PATTERSON, DAVID WATSON SEX-M RACE-W
HEIGHT-510 WEIGHT-180 EYES-BLU HAIR-BRO SKIN-LGT BORN-NC
FPC: HENRY- 2 1AT 2 NCIC-AATT020202AA01TTCI02
2AUT--
SID-SC00344701 FBI- 248537X2
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--10/27/1981 DATE OF LAST UPDATE--06/15/1988

BIRTH DATES-[redacted]

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

43

LEMS.Web

QH 003509C7B2 from III

```
SPTSL420
.QH.003509C7B2.III.20140225 09:44:42
  TO: SPTSL420-402       20140225 09:44:42  003509C7B2
FROM:      III-640946     20140225 09:40:24
NL011D470001522QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/CHAMPION,DONNA P.SEX/F.RAC/W.DOB/        .PUR/C.
END
```

LEMS.Web

ICHS 003F061834 from SCCH

SPTSL420
.ICHS.003F061834.SCCH.20140225 09:44:24
TO: SPTSL420-400 20140225 09:44:24 003F061834
FROM: SCCH-399412 20140225 09:40:23
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-CHAMPION, DONNA P
SEX-F RAC-W DOB-19670831

DATE-02/25/2014 TIME-09:35 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-CHAMPION, DENISE SEX-F RACE-W
HEIGHT-505 WEIGHT-150 EYES-BLU HAIR-BRO SKIN- BORN-NC
FPC: HENRY- 6 O 30 W IIM NCIC-POPI06PMPIDI131517CI
I 21 U OOO
SID-SC01135776 FBI-198279FB8
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--10/30/1997 DATE OF LAST UPDATE--11/07/2007

ALIAS NAMES-CHAPMAN, DENISE DERANT, DENIS C
DURANT, DENISE CHAMPION DURANT, DENISE
ALLEN, DENISE

BIRTH DATES-[redacted]

SOC SEC NUMBERS-
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS. THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

ICHS 003F06252A from SCCH

140

SPTSL420
.ICHS.003F06252A.SCCH.20140225 14:16:00
TO: SPTSL420-629 20140225 14:16:00 003F06252A
FROM: SCCH-402730 20140225 14:14:51
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-LAMB, GEORGE M JR
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D68A from III

```
SPTSL420
.QH.003509D68A.III.20140225 14:16:05
  TO: SPTSL420-630       20140225 14:16:05  003509D68A
FROM:      III-644746     20140225 14:14:56
NL011D470002272QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/LAMB,GEORGE M.SEX/M.RAC/W.DOB/       !.PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE
NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS
DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END
```

29

LEMS.Web

ICHS 003F0576D8 from SCCH

SPTSL420
.ICHS.003F0576D8.SCCH.20140218 10:48:48
TO: SPTSL420-342 20140218 10:48:48 003F0576D8
FROM: SCCH-358104 20140218 10:48:48
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-BRADLEY, ANGELA N
SEX-F RAC-W DOB-[redacted]

DATE-02/18/2014 TIME-10:44 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-ROSS, ANGELA WESTINE SEX-F RACE-W
HEIGHT-503 WEIGHT-167 EYES-BRO HAIR-BRO SKIN- BORN-SC
FPC: HENRY- NCIC-

SID-SC01400812 FBI-485765VB9
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--01/18/2002 DATE OF LAST UPDATE--12/30/2010

ALIAS NAMES-ROSS, SISSY ROSS, ANGELA WESTON
BRADLEY, ANGELA WESTINE BRADLEY, ANGELA W
BRADLEY, ANGELA ROSS, ANGELA

BIRTH DATES-[redacted]

SOC SEC NUMBERS-[redacted]
SCLED CJIS RECORD INDICATES SUBJECT HAS OUT-OF-STATE ARREST INFORMATION

INDIVIDUAL PROHIBITED FROM POSSESSING OR ACQUIRING FIREARM OR AMMUNITION PURSUANT TO FEDERAL GUN CONTROL ACT OF 1968

INFORMATION SUBMITTED TO SLED CCH INDICATES THIS INDIVIDUAL HAS BEEN CONVICTED OF A FELONY ACCORDING TO THE SOUTH CAROLINA CODE OF LAWS. THEREFORE, THIS PERSON IS INELIGIBLE TO SHIP, TRANSPORT, OR RECEIVE ANY FIREARM OR AMMUNITION AFFECTED BY INTERSTATE OR FOREIGN COMMERCE, AS DEFINED BY THE GUN CONTROL ACT OF 1968 (18.USC 922(G)).

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003508D86D from III

```
SPTSL420
.QH.003508D86D.III.20140218 10:48:49
  TO: SPTSL420-343       20140218 10:48:49  003508D86D
FROM:      III-579693    20140218 10:48:49
NL011D470001182QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/BRADLEY,ANGELA N.SEX/F.RAC/W.DOB/        .PUR/C.
END
```

61

LEMS.Web

ICHS 003F061AB9 from SCCH

SPTSL420
.ICHS.003F061AB9.SCCH.20140225 10:25:42
TO: SPTSL420-438 20140225 10:25:42 003F061AB9
FROM: SCCH-400057 20140225 10:25:42
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-DENDY, ANDREA R
SEX-F RAC-B DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CA6B from III

```
SPTSL420
.QH.003509CA6B.III.20140225 10:25:44
  TO: SPTSL420-439       20140225 10:25:44  003509CA6B
FROM:      III-641643    20140225 10:25:44
NL011D470001772QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/DENDY,ANDREA R.SEX/F.RAC/B.DOB/       7.PUR/C.
END
```

78

ICHS 003F061BCD from SCCH

SPTSL420
.ICHS.003F061BCD.SCCH.20140225 10:49:57
TO: SPTSL420-489 20140225 10:49:57 003F061BCD
FROM: SCCH-400333 20140225 10:49:57
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-FRITCH, CAROLINE D
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CBEC from III

```
SPTSL420
.QH.003509CBEC.III.20140225 10:50:00
  TO: SPTSL420-490       20140225 10:50:00  003509CBEC
FROM:      III-642028     20140225 10:50:00
NL011D470001A22QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/FRITCH,CAROLINE D.SEX/F.RAC/W.DOB/        .PUR/C.
END
```

3

LEMS.Web

ICHS 003F0574C5 from SCCH

SPTSL420
.ICHS.003F0574C5.SCCH.20140218 10:08:05
TO: SPTSL420-224 20140218 10:08:05 003F0574C5
FROM: SCCH-357573 20140218 10:08:05
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-ANDERSON, RICHARD A
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003508D65D from III

```
SPTSL420
.QH.003508D65D.III.20140218 10:08:10
  TO: SPTSL420-225       20140218 10:08:10  003508D65D
FROM:      III-579165     20140218 10:08:10
NL011D470000DD2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/ANDERSON,RICHARD A.SEX/M.RAC/W.DOB/        .PUR/C.
END
```

69

LEMS.Web

ICHR 003F061B57 from SCCH

SPTSL420
.ICHR.003F061B57.SCCH.20140225 10:38:35
TO: SPTSL420-464 20140225 10:38:35 003F061B57
FROM: SCCH-400215 20140225 10:38:34

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-408267HA5 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-10:34:02
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC00600254 FBI-408267HA5
NAME-ERICKSON, FERRAL WESLEY SEX-M RACE-W
HEIGHT-600 WEIGHT-170 EYES-HAZ HAIR-BRO SKIN-FAR BORN-LA
FPC-1461COPO131166121414 HENRY-14 M 9 R OOO 13
S 9 R OOO
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--08/25/1987 DATE OF LAST UPDATE--05/17/1988

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
ERICKSON, FERRALL WESLEY		✓	—	✓
ERICKSON, F WESLEY				
ERICKSON, WES				

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
ERICKSON, FERRAL WESLEY SC0460300 ROCK HILL PD CASE-157977 WARR-B917267	08/10/1987	ARREST CHARGE 01-TRESPASSING OFFENSE DATE-08/05/1987 PHOTOGRAPH AVAILABLE ARREST INFO-RELEASED ON BOND OR RECOG
WARR-B917267		COURT CHARGE 01-TRESPASSING COURT DISP-CONVICTED;30D SUSP
ERICKSON, FERRALL WESLEY SC0460300 ROCK HILL PD CASE-157977 WARR-B917889	10/13/1987	ARREST CHARGE 01-TRESPASSING OFFENSE DATE-10/06/1987 PHOTOGRAPH AVAILABLE ARREST INFO-RELEASED ON BOND

OR RECOG
WARR-B917889 COURT CHARGE 01-TRESPASSING
COURT DISP-NON-CONVICTION;
NOT GUILTY
COURT DATE-10/23/1987

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/408267HA5
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

LEMS.Web

QWA 00061DC5C9 from NC2K

```
SPTSL420
.QWA.00061DC5C9.NC2K.20140225 10:38:36
  TO: SPTSL420-465       20140225 10:38:36  00061DC5C9
FROM:     NC2K-1951177   20140225 10:38:36
1L011D4700018D2QWA
SC042015A

NO NCIC WANT FBI/408267HA5
NO NCIC WANT SOC/
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

LEMS.Web

ICHS 003F061B51 from SCCH

SPTSL420
.ICHS.003F061B51.SCCH.20140225 10:37:45
TO: SPTSL420-462 20140225 10:37:45 003F061B51
FROM: SCCH-400209 20140225 10:37:45
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-ERICKSON, FERRALL W
SEX-M RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-10:33 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-ERICKSON, FERRAL WESLEY SEX-M RACE-W
HEIGHT-600 WEIGHT-170 EYES-HAZ HAIR-BRO SKIN-FAR BORN-LA
FPC: HENRY-14 M 9 R OOO 13 NCIC-1461COPO131166121414
S 9 R OOO
SID-SC00600254 FBI-408267HA5
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--08/25/1987 DATE OF LAST UPDATE--05/17/1988

ALIAS NAMES-ERICKSON, FERRALL WESLEY ERICKSON, F WESLEY
ERICKSON, WES

BIRTH DATES-(

SOC SEC NUMBERS-:
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **



QH 003509CB31 from III

SPTSL420
.QH.003509CB31.III.20140225 10:37:49
TO: SPTSL420-463 20140225 10:37:49 003509CB31
FROM: III-641841 20140225 10:37:49
7L011D4700018B2QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/ERICKSON,FERRALL W SEX/M RAC/W DOB/19640313 PUR/C

NAME	FBI NO.	INQUIRY DATE
ERICKSON,FERRAL WESLEY	408267HA5	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	W		600	170	HAZ	BRO	N

BIRTH PLACE
LOUISIANA

FINGERPRINT CLASS	PATTERN CLASS
15 62 CO PO 12	RS LS WU WU RS LS RS LS LS UC
11 66 13 15 12	WU WU WU WU

ALIAS NAMES
ERICKSON,F WESLEY
ERICKSON,FERRALL WESLEY
ERICKSON,WES

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2001/06/20

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC00600254

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

2966

LEMS.Web

ICHS 003F063A1F from SCCH

SPTSL420
.ICHS.003F063A1F.SCCH.20140226 09:56:46
  TO: SPTSL420-858 20140226 09:56:46 003F063A1F
FROM: SCCH-408095 20140226 09:56:46
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-VAN DER PLATT, WILLEM W
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F47B from III

```
SPTSL420
.QH.003509F47B.III.20140226 09:56:49
  TO: SPTSL420-859       20140226 09:56:49  003509F47B
FROM:      III-652411    20140226 09:56:49
NL011D470002F52QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/VAN,DER PLATT.SEX/M.RAC/W.DOB/        PUR/C.
END
```

LEMS.Web

241

QH 003509F35F from III

```
SPTSL420
.QH.003509F35F.III.20140226 09:42:24
  TO: SPTSL420-824       20140226 09:42:24  003509F35F
FROM:      III-652127     20140226 09:42:24
NL011D470002D72QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/STEPHENS,ROBERT B.SEX/M.RAC/W.DOB/.       ).PUR/C.
END
```

LEMS.Web

ICHS 003F06390C from SCCH

SPTSL420
.ICHS.003F06390C.SCCH.20140226 09:42:24
TO: SPTSL420-823 20140226 09:42:24 003F06390C
FROM: SCCH-407820 20140226 09:42:24
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-STEPHENS, ROBERT B
SEX-M RAC-W DOB-[redacted]

DATE-02/26/2014 TIME-09:42 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-STEPHENS, ROBERT V SEX-M RACE-W
HEIGHT-600 WEIGHT-185 EYES-GRN HAIR-BRO SKIN- BORN-XX
FPC: HENRY-12 M 5 R OII 9 NCIC-PM62CI0509CI10090708
I 25 U OII
SID-SC00398039
DOB & POB UNKNOWN 31 YEARS OLD
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--02/24/1983 DATE OF LAST UPDATE--02/28/1983

BIRTH DATES-00/00/0000

SOC SEC NUMBERS-

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

168

LEMS.Web

ICHS 003F062673 from SCCH

SPTSL420
.ICHS.003F062673.SCCH.20140225 14:41:44
TO: SPTSL420-681 20140225 14:41:44 003F062673
FROM: SCCH-403059 20140225 14:41:15
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-MCINTYRE, MICHAEL L
SEX-M RAC-B DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509D7F1 from III

```
SPTSL420
.QH.003509D7F1.III.20140225 14:41:44
  TO: SPTSL420-682       20140225 14:41:44  003509D7F1
FROM:      III-645105     20140225 14:41:16
NL011D470002562QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/MCINTYRE,MICHAEL L.SEX/M.RAC/B.DOB/        .PUR/C.
END
```

LEMS.Web

ICHS 003F06192F from SCCH

50

SPTSL420
.ICHS.003F06192F.SCCH.20140225 09:57:31
TO: SPTSL420-420 20140225 09:57:31 003F06192F
FROM: SCCH-399663 20140225 09:57:31
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-COLLINS, BARBARA J
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **



QH 003509C8B0 from III

```
SPTSL420
.QH.003509C8B0.III.20140225 09:57:34
  TO: SPTSL420-421       20140225 09:57:34  003509C8B0
FROM:      III-641200     20140225 09:57:34
NL011D470001652QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/COLLINS,BARBARA J.SEX/F.RAC/W.DOB/        .PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE
NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS
DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END
```

LEMS.Web

ICHS 003F061C91 from SCCH

88

SPTSL420
.ICHS.003F061C91.SCCH.20140225 11:05:49
TO: SPTSL420-513 20140225 11:05:49 003F061C91
FROM: SCCH-400529 20140225 11:05:49
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-GILBERT, LAURA A
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CCE2 from III

```
SPTSL420
.QH.003509CCE2.III.20140225 11:05:51
  TO: SPTSL420-514       20140225 11:05:51  003509CCE2
FROM:      III-642274     20140225 11:05:51
NL011D470001B82QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/GILBERT,LAURA A.SEX/F.RAC/W.DOB/        .PUR/C.
END
```

60

LEMS.Web

ICHS 003F061AB0 from SCCH

SPTSL420
.ICHS.003F061AB0.SCCH.20140225 10:24:58
TO: SPTSL420-436 20140225 10:24:58 003F061AB0
FROM: SCCH-400048 20140225 10:24:58
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-DANIELSON, TODD D
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CA5F from III

```
SPTSL420
.QH.003509CA5F.III.20140225 10:24:59
  TO: SPTSL420-437       20140225 10:24:59  003509CA5F
FROM:      III-641631    20140225 10:24:59
NL011D470001752QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/DANIELSON,TODD D.SEX/M.RAC/W.DOB/       !.PUR/C.
END
```

LEMS.Web

ICHS 003F06379D from SCCH

219

SPTSL420
.ICHS.003F06379D.SCCH.20140226 09:18:27
  TO: SPTSL420-777   20140226 09:18:27 003F06379D
FROM: SCCH-407453   20140226 09:18:27
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-ROTHENBURG, RAY L
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F1C9 from III

```
SPTSL420
.QH.003509F1C9.III.20140226 09:18:29
  TO: SPTSL420-778       20140226 09:18:29  003509F1C9
FROM:      III-651721     20140226 09:18:29
NL011D470002AE2QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/ROTHENBURG,RAY L.SEX/M.RAC/W.DOB/.        .PUR/C.
END
```

261

LEMS.Web

ICHS 003F0639C2 from SCCH

SPTSL420
.ICHS.003F0639C2.SCCH.20140226 09:52:02
  TO: SPTSL420-846 20140226 09:52:02 003F0639C2
FROM: SCCH-408002 20140226 09:52:02
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-TREJO, KAREN G
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F41B from III

```
SPTSL420
.QH.003509F41B.III.20140226 09:52:04
  TO: SPTSL420-847       20140226 09:52:04  003509F41B
FROM:      III-652315    20140226 09:52:04
NLO11D470002EC2QH
SCO42015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/TREJO,KAREN G.SEX/F.RAC/W.DOB/        .PUR/C.
END
```

224

LEMS.Web

ICHS 003F0637D1 from SCCH

SPTSL420
.ICHS.003F0637D1.SCCH.20140226 09:22:14
TO: SPTSL420-785 20140226 09:22:14 003F0637D1
FROM: SCCH-407505 20140226 09:22:14
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-SANDERS, KEITH N
SEX-M RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F20D from III

SPTSL420
.QH.003509F20D.III.20140226 09:22:14
TO: SPTSL420-786 20140226 09:22:14 003509F20D
FROM: III-651789 20140226 09:22:14
NL011D470002B62QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/SANDERS,KEITH N.SEX/M.RAC/W.DOB/ !.PUR/C.
END

92

LEMS.Web

ICHR 003F061CFE from SCCH

SPTSL420
.ICHR.003F061CFE.SCCH.20140225 11:12:22
TO: SPTSL420-526 20140225 11:12:22 003F061CFE
FROM: SCCH-400638 20140225 11:12:22

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-638590CA6 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-11:07:50
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC00439607 FBI-638590CA6
NAME-GRABARKIEWICZ, EDWARD ALBERT SEX-M RACE-W
HEIGHT-601 WEIGHT-145 EYES-BRO HAIR-BRO SKIN- BORN-DC
FPC-POPIPIPM1921PMPIPI18 HENRY-21 O 27 W IIM 19
L 28 W MII
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--03/05/1984 DATE OF LAST UPDATE--04/26/1989

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
GRABARKIEWICZ, EDWARD	[redacted]		[redacted]	
GRABARKIEWICZ, EDDIE			[redacted]	

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
GRABARKIEWICZ, EDWARD ALBERT	02/11/1984	
SC0420100 SPARTANBURG PD		
CASE-11366		
		ARREST CHARGE 01-SHOPLIFTING
		OFFENSE DATE-02/11/1984
		PHOTOGRAPH AVAILABLE
		COURT CHARGE 01-SHOPLIFTING
		COURT DISP-CONVICTED;BAIL FORFEITED;$100
		COURT DATE-02/13/1984

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/638590CA6
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **

LEMS.Web

QWA 00061DCA33 from NC2K

SPTSL420
.QWA.00061DCA33.NC2K.20140225 11:12:25
TO: SPTSL420-527 20140225 11:12:25 00061DCA33
FROM: NC2K-1952307 20140225 11:12:24
1LO11D470001C42QWA
SCO42015A

NO NCIC WANT FBI/638590CA6
NO NCIC WANT
ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.

ICHS 003F061CE7 from SCCH

SPTSL420
.ICHS.003F061CE7.SCCH.20140225 11:10:42
TO: SPTSL420-524 20140225 11:10:42 003F061CE7
FROM: SCCH-400615 20140225 11:10:42
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-GRABARKIEWICZ, EDWARD A
SEX-M RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-11:06 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-GRABARKIEWICZ, EDWARD ALBERT SEX-M RACE-W
HEIGHT-601 WEIGHT-145 EYES-BRO HAIR-BRO SKIN- BORN-DC
FPC: HENRY-21 O 27 W IIM 19 NCIC-POPIPIPM1921PMPIPI18
L 28 W MII
SID-SC00439607 FBI-638590CA6
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--03/05/1984 DATE OF LAST UPDATE--04/26/1989

ALIAS NAMES-GRABARKIEWICZ, EDWARD GRABARKIEWICZ, EDDIE

BIRTH DATES-(

SOC SEC
SCLED CJIS CCH FILE INDICATES SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CD3A from III

SPTSL420
.QH.003509CD3A.III.20140225 11:10:46
TO: SPTSL420-525 20140225 11:10:46 003509CD3A
FROM: III-642362 20140225 11:10:46
7L011D470001C22QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/GRABARKIEWICZ,EDWARD A SEX/M RAC/W DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
GRABARKIEWICZ,EDWARD ALBERT	638590CA6	2014/02/25

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	W	[redacted]/03/05	601	145	BRO	BRO	N

BIRTH PLACE
DIST OF COLUMBIA

FINGERPRINT CLASS	PATTERN CLASS
PO XI PI PO 21	UC UC UC UC UC UC UP UP UP UC
24 PM DI PI 19	UC UC UC UC UC UC UP UP UP UC
	UC UC UC UC UC UC UP UP UP UC

ALIAS NAMES
GRABARKIEWICZ,EDDIE GRABARKIEWICZ,EDWARD

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2012/01/31

THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC00439607

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

98

LEMS.Web

ICHR 003F061D7A from SCCH

SPTSL420
.ICHR.003F061D7A.SCCH.20140225 11:19:52
TO: SPTSL420-542 20140225 11:19:52 003F061D7A
FROM: SCCH-400762 20140225 11:19:52

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A SID-SC01407777 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/25/2014 TIME-11:15:20
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC01407777 FBI-
NAME-GUENTHER, CHRISTOPHER WAYNE SEX-M RACE-W
HEIGHT-510 WEIGHT-150 EYES-BLU HAIR-BLK SKIN- BORN-SC
FPC- HENRY-
PHOTOGRAPH AVAILABLE
1 FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--02/28/2002 DATE OF LAST UPDATE--02/28/2002

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS TAT BACK	SOC SEC	MISC NUM
			[redacted]	

CONTRIBUTOR/SUBJECT DOA/RCVD CHARGE/DISPOSITION/ETC

GUENTHER, CHRISTOPHER WAYNE 01/15/2002
SCSHP0400 SC HIWAY DEPT DIST 4
ATN-980000267458
WARR-A100897
CIT-56-5-1520(D)(2)-MISDEMEANOR

ARREST CHARGE 01-SPEEDING,
>10 BUT <15 MPH OVER THE
SPEED LIMIT
OFFENSE DATE-01/15/2002
PHOTOGRAPH AVAILABLE

WARR-A100898
CIT-56-3-1240-MISDEMEANOR

ARREST CHARGE 02-OPERATE
VEHICLE WITH MISSING LICEN
SE PLATE
OFFENSE DATE-01/15/2002

WARR-A100899
CIT-56-1-460-MISDEMEANOR

ARREST CHARGE 03-DRIVING
UNDER SUSPENSION
OFFENSE DATE-01/15/2002

BASED ON SEARCH OF SCLED CJIS CCH FILE USING SID/SC01407777
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

INQUIRY FORWARDED TO INTERSTATE IDENTIFICATION INDEX

** S C CJIS END OF RECORD **

LEMS.Web

QWA 00061DCB4B from NC2K

```
SPTSL420
.QWA.00061DCB4B.NC2K.20140225 11:19:55
  TO: SPTSL420-543       20140225 11:19:55  00061DCB4B
FROM:     NC2K-1952587    20140225 11:19:55
1L011D470001D32QWA
SC042015A

NO NCIC WANT SOC/        1
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

LEMS.Web

QR 003509CDD6 from III

SPTSL420
.QR.003509CDD6.III.20140225 11:19:56
TO: SPTSL420-544 20140225 11:19:56 003509CDD6
FROM: III-642518 20140225 11:19:56
NL011D470001D42QR
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX (III) FOR SID/SC01407777.PUR/C.
NOTICE -- THIS DOES NOT PRECLUDE THE POSSIBLE EXISTENCE OF MATCHING RECORDS IN LOCAL, STATE, OR FBI CJIS DIVISION FILES THAT ARE NOT INDEXED IN THE NCIC III. IF YOU DESIRE A SEARCH OF THE FBI CJIS DIVISION FILES, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END

ICHS 003F061D71 from SCCH

SPTSL420
.ICHS.003F061D71.SCCH.20140225 11:19:04
TO: SPTSL420-540 20140225 11:19:04 003F061D71
FROM: SCCH-400753 20140225 11:19:04
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-GUENTHER, CHRISTOPHER W
SEX-M RAC-W DOB-[redacted]

DATE-02/25/2014 TIME-11:14 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-GUENTHER, CHRISTOPHER WAYNE SEX-M RACE-W
HEIGHT-510 WEIGHT-150 EYES-BLU HAIR-BLK SKIN- BORN-SC
FPC: HENRY- NCIC-

SID-SC01407777
PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--02/28/2002 DATE OF LAST UPDATE--02/28/2002

BIRTH DATES-(

MARKS, ETC-TAT BACK

SOC SEC NUMBERS-

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509CDC3 from III

```
SPTSL420
.QH.003509CDC3.III.20140225 11:19:06
  TO: SPTSL420-541       20140225 11:19:06  003509CDC3
FROM:      III-642499     20140225 11:19:06
NL011D470001D12QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/GUENTHER,CHRISTOPHER W.SEX/M.RAC/W.DOB,         PUR/C.
END
```

208

LEMS.Web

ICHS 003F063690 from SCCH

SPTSL420
.ICHS.003F063690.SCCH.20140226 08:54:43
  TO: SPTSL420-756 20140226 08:54:43 003F063690
FROM: SCCH-407184 20140226 08:54:43
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-PRUITT, PAMELA R
SEX-F RAC-W DOB-[redacted]
NO RECORD FOUND TO DISSEMINATE USING:
   NAM (NAME), SEX, RAC (RACE), DOB (DATE OF BIRTH)
REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY
SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **

LEMS.Web

QH 003509F09C from III

SPTSL420
.QH.003509F09C.III.20140226 08:54:46
TO: SPTSL420-757 20140226 08:54:46 003509F09C
FROM: III-651420 20140226 08:54:46
NL011D470002992QH
SC042015A
NO IDENTIFIABLE RECORD IN THE NCIC INTERSTATE IDENTIFICATION INDEX
(III) FOR NAM/PRUITT,PAMELA R.SEX/F.RAC/W.DOB/ .PUR/C.
NOTICE -- A LARGE NUMBER OF RECORDS FOR PERSONS BORN PRIOR TO 1956 ARE
NOT AUTOMATED AT THE FBI. IF A SEARCH OF THE NONAUTOMATED FILES IS
DESIRED, A FINGERPRINT CARD SHOULD BE SUBMITTED.
END

215

LEMS.Web

ICHR 003F06375B from SCCH

SPTSL420
.ICHR.003F06375B.SCCH.20140226 09:15:12
TO: SPTSL420-771 20140226 09:15:12 003F06375B
FROM: SCCH-407387 20140226 09:15:12

ICHR REQUEST FOR RAP SHEET
ORI-SC042015A FBI-144487TC0 PUR-C
ATN-BBARNETTE

AUTHORIZED CRIMINAL JUSTICE AGENCY USE ONLY. CONTACT CONTRIBUTING AGENCY FOR SPECIFIC/MORE DATA ABOUT CHARGES AND/OR DISPOSITIONS. BECAUSE ADDITIONS OR DELETIONS MAY BE MADE AT ANY TIME, A NEW COPY SHOULD BE REQUESTED WHEN NEEDED FOR SUBSEQUENT USE.

PAGE-01 DATE-02/26/2014 TIME-09:15:05
REQ ORI-SC042015A 7TH JUDICIAL CIRCUIT
SID-SC01768953 FBI-144487TC0
NAME-RICHARDSON, TERRANCE JERRELL SEX-M RACE-W
HEIGHT-600 WEIGHT-150 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC- HENRY-

PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS

DATE RECORD ENTERED--07/21/2007 DATE OF LAST UPDATE--03/16/2013

ADDITIONAL IDENTIFIERS NAME	BIRTH DATES	MARKS	SOC SEC	MISC NUM
[redacted]		✓	[redacted]	✓

CONTRIBUTOR/SUBJECT	DOA/RCVD	CHARGE/DISPOSITION/ETC
RICHARDSON, TERRANCE JERRELL SC0260600 MYRTLE BEACH PD CASE-0107065154 ATN-261600013902 WARR-88358ED CIT-61-9-87-MISDEMEANOR	07/21/2007	ARREST CHARGE 01-OPEN CONTAIN ER OF BEER/WINE OFFENSE DATE-07/21/2007 PHOTOGRAPH AVAILABLE
RICHARDSON, TERRANCE JERRELL SC0420100 SPARTANBURG PD CASE-03-0409-13 ATN-422100204210 WARR-37278GB CIT-22-5-150,03-560-MISDEMEANOR	03/16/2013	ARREST CHARGE 01-BREACH OF PEACE OFFENSE DATE-03/16/2013 PALM PRINTS AVAILABLE

check county site

BASED ON SEARCH OF SCLED CJIS CCH FILE USING FBI/144487TC0
REQUESTED FOR CRIMINAL JUSTICE PURPOSES

SCLED CJIS RECORD INDICATES SUBJECT HAS NO OUT-OF-STATE ARREST INFORMATION

INQUIRY WILL BE FORWARDED TO: N C I C W A N T E D P E R S O N S

** S C CJIS END OF RECORD **



QWA 00061E31C1 from NC2K

```
SPTSL420
.QWA.00061E31C1.NC2K.20140226 09:15:16
  TO: SPTSL420-772       20140226 09:15:16  00061E31C1
FROM:     NC2K-1978817    20140226 09:15:16
1L011D470002A82QWA
SC042015A

NO NCIC WANT FBI/144487TC0
NO NCIC WANT
***MESSAGE KEY QWA SEARCHES ALL NCIC PERSONS FILES WITHOUT LIMITATIONS.
```

LEMS.Web

ICHS 003F06374C from SCCH

SPTSL420
.ICHS.003F06374C.SCCH.20140226 09:14:22
TO: SPTSL420-769 20140226 09:14:22 003F06374C
FROM: SCCH-407372 20140226 09:14:21
ICHS/QH INQUIRY OF SCLED CCH FILES USING:
ATN-BBARNETTE
ORI-SC042015A PUR-C
NAM-RICHARDSON, TERRANCE J
SEX-M RAC-B DOB-19871019

DATE-02/26/2014 TIME-09:14 PAGE-01 OF 01
ORI-SC042015A
SCLED IDENT RESPONSE TO ICHS/QH INQUIRY
THIS RESPONSE CONTAINS POSSIBLE HITS ONLY AND DOES NOT IMPLY A POSITIVE MATCH WITH THE INDIVIDUAL IN QUESTION

NAME-RICHARDSON, TERRANCE JERRELL SEX-M RACE-W
HEIGHT-600 WEIGHT-150 EYES-BRO HAIR-BLK SKIN- BORN-SC
FPC: HENRY- NCIC-

SID-SC01768953 FBI-144487TC0

PHOTOGRAPH AVAILABLE
1-FINGERPRINT IMAGES ON THIS SUBJECT ARE STORED ON SCAFIS
DATE RECORD ENTERED--07/21/2007 DATE OF LAST UPDATE--03/16/2013

BIRTH DATES-

MARKS, ETC-

SOC SEC

SUBJECT HAS NO OUT-OF-STATE ARRESTS

** END OF IDENT **

REQUESTED FOR CRIMINAL JUSTICE PURPOSES MAY OCCUR DAILY, A NEW INQUIRY SHOULD BE MADE AND NO SUBSEQUENT USE OF THIS RECORD IS ALLOWED.

FOR COMPLETE CRIMINAL HISTORY, PERFORM ICHR INQUIRY USING SID NUMBER OR FBI NUMBER.

REQUEST FORWARDED TO NCIC
ANY OUT-OF-STATE IDENT INFORMATION TO FOLLOW FROM NCIC VIA YOUR TERMINAL
** END OF MESSAGE **



QH 003509F174 from III

SPTSL420
.QH.003509F174.III.20140226 09:14:29
TO: SPTSL420-770 20140226 09:14:29 003509F174
FROM: III-651636 20140226 09:14:29
7L011D470002A62QH
SC042015A
THIS NCIC INTERSTATE IDENTIFICATION INDEX RESPONSE IS THE RESULT OF YOUR INQUIRY ON NAM/RICHARDSON,TERRANCE J SEX/M RAC/B DOB/ PUR/C

NAME	FBI NO.	INQUIRY DATE
RICHARDSON,TERRANCE JERRELL	144487TC0	2014/02/26

SEX	RACE	BIRTH DATE	HEIGHT	WEIGHT	EYES	HAIR	PHOTO
M	W	[redacted]	600	150	BRO	BLK	N

BIRTH PLACE
SOUTH CAROLINA

FINGERPRINT CLASS PATTERN CLASS
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC
UC UC UC UC UC UC UC UC UC UC

SOCIAL SECURITY

IDENTIFICATION DATA UPDATED 2013/03/16

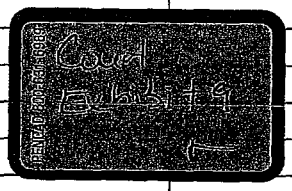
THE CRIMINAL HISTORY RECORD IS MAINTAINED AND AVAILABLE FROM THE FOLLOWING:
SOUTH CAROLINA - STATE ID/SC01768953

THE RECORD(S) CAN BE OBTAINED THROUGH THE INTERSTATE IDENTIFICATION INDEX BY USING THE APPROPRIATE NCIC TRANSACTION.

END

Rickie Lee Blackwell 2009GS4203609;3610

Name/Number		State	Defense	Court
Martin Kimmons	134			
Lonny L Smith	237			
Michael J. Estes, Jr.	70			
Ronald E. Unger	264			
Robert G. Martin	162			
Eric J. McCraw	165			
Tommy L. Williams	290			
Donald Lowe	154			
Donald Patterson	192			
Donna Champion	43			
Diane M. Marcotte	160			
Stephanie Partridge	188			
George M. Lamb, Jr.	140			
Angela N. Bradley	29			
Andrea R. Dendy	61			
Caroline D. Fritch	78			
Richard A. Anderson	3			
FerrallW. Erickson	69			
Willem Van Der Plaat	266			
Robert B. Stephens	241			
Michael L. Mcintyre	168			
Barbara J. Collins	50			



Rickie Lee Blackwell 2009GS4203609;3610

Name/Number		State	Defense	Court
Terrance Richardson	215			
Laura G. Matherly	88			
Cory J. Cheeks	45			
Todd D. Danielson	60			
Stacy A. Fullenwinder	79			
Ray L. Rothenburg	219			
Karen G. Trejo	261			
Edward Grabarkiewicz	92			
John C. Lindsey	147			
Christopher Guenther	98			
Pamela R. Pruitt	208			
David R. Blackstone	19			
Keith N. Sanders	224			

3498

#43

JUROR QUESTIONNAIRE

The following questionnaire is designed to assist the Court and you in reducing the time necessary for jury selection by providing certain information in advance of reporting. You are instructed to complete the questionnaire without assistance and without discussing this questionnaire or your responses with any person. **You should not attempt to gather any information from any source concerning any matter which may be pending before the Court in which you may participate as a juror.** The questions are designed simply to obtain relevant information relating to you to assist court officials in the jury selection process. It is important that your responses to each question be truthful, accurate, and complete and that the questionnaire be returned promptly to the Court. If you need additional space to completely respond to any question, use the back of the page, being sure to write the appropriate question number beside your response. **Please complete the questionnaire and return it to the Clerk of Court along with the juror information form by February 8, 2014.**

Thank you for your prompt attention and cooperation.

BIOGRAPHICAL INFORMATION

Name: Champion (Last) Donna (First) Marie (Middle) Ponder (Maiden (If applicable))

Sex: Female
Age: 46
Race: White

Birthdate: _ (Month Day Year)

Birthplace: Union (City/Town) Union (City/Town) SC (State)

Driver's License No.

Home Address: Orchard Spring Dr. (Number Street) Inman (City/Town) 29349 (Zip)

How long have you lived in Spartanburg County? 19 years

Where else have you lived, and how many years did you live in each location?
Union - 27 years

Do you own a home? ☑ Yes ☐ No If yes, how long: 19 years

Employer: BMW

Job title and duties (please be specific about your duties): P.A. - hand lay all the electrical wires on the X3 and install other small parts

How long employed there? 13 years

What other jobs have you held? Kohler - 12 years

Marital Status: (Check one) ☐ Widowed ☑ Married ☐ Separated ☐ Divorced ☐ Never Married

Spouse's name: Champion Paul Fredrick
Last First Middle Maiden (If Applicable)

Spouse's date of birth (Day/Month/Year): _

Spouse's occupational duties: Works on regulator station for Piedmont Natural Gas.

CHILDREN

	Full Name	Age	School or Occupation
	Champion	14	Landrum High School
2.			
3.			
4.			

PARENTS

	Full Name	Age	Occupation (Before Retirement)
1.	Mary Ann Ponder	81	Buffalo Mills in Union
2.	Thomas Lee Ponder	decease	construction

BROTHERS AND SISTERS

	Full Name	Age	School or Occupation
1.	none		
2.			
3.			
4.			

EDUCATION

Please name the schools you have attended and the grade or level completed:

Grade school 6th Buffalo elementary

Junior High 8th Sims Jr High

High school 12th Union High School

College/Vocational/Trade school

Professional school

Graduate school

Degrees/diplomas you hold

MILITARY SERVICE

Please list branch, years of service, duties (including duty as military police and service on any courts-martial, including the nature of the charges), rank, type of discharge and whether you served in combat:

Yourself: None

Spouse: None

RELIGIOUS, POLITICAL AND OTHER ACTIVITIES

Name and location of your church, synagogue or place of worship

Inman Mills Baptist, Inman

How often do you attend? _____

Other than attendance, what other activities are you involved in at your church?

None

Were you raised in some other faith or denomination? ☐ Yes ☑ No

If so, which one? _____

Have you, your spouse, any family member or close personal friend ever studied psychology, sociology, criminology or law (or worked for a person in one of these fields)?

☐ Yes ☑ No

If yes, please give details. _____

Please list all clubs, associations or civic groups to which you belong. These may include, but are not limited to, the American Civil Liberties Union, American Legion, NAACP, Kiwanis, League of Women Voters, National Rifle Association, Rotary Club, Veterans of Foreign Wars, or any other association:

None

What is/are your primary source(s) of news?

Radio ___ TV ✓ Newspaper ✓ Magazine ___ Other ___

What TV or radio shows do you regularly watch or listen to, what magazines and newspapers do you read regularly, and what websites do you regularly go to? Herald-Journal - WSPA-News Channel

Have you displayed one or more bumper stickers on your automobile(s) in the last twelve months?

Yes ___ No ✓

If yes, please list each bumper sticker: _____