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S.C. SUPREME COURT

ATTACHMENTS

1. ECF No. 15-2 at 15-26
2. JA 1169-1337; 1445-1446; 1468; 1481-1484; 1534-1537; 1706; 1724-1725
3. ROA 2066-2081
4. SCDC Inmate Search Detail Report

ATTACHMENT NO. 1

[ECF No. 15-2 at 15-26]

1 EACH OTHER AND TAKEN TOGETHER POINT CONCLUSIVELY TO
2 THE GUILT OF THE ACCUSED TO THE EXCLUSION OF EVERY
3 OTHER REASONABLE HYPOTHESIS. IT IS NOT SUFFICIENT
4 THAT THEY CREATE A PROBABILITY THOUGH A STRONG ONE AND
5 IF ASSUMING THEM TO BE TRUE THEY MAY BE ACCOUNTED FOR
6 UPON ANY REASONABLE HYPOTHESIS WHICH DOES NOT INCLUDE
7 THE GUILT OF THE ACCUSED, THE PROOF HAS FAILED.

8 NOW, CRIMINAL INTENT IS A STATE OF MIND THAT
9 OPERATES JOINTLY WITH AN ACT OR OMISSION IN THE
10 COMMISSION OF A CRIME. CRIMINAL INTENT IS A MENTAL
11 STATE OF CONSCIOUS WRONGDOING.

12 INTENT INCLUDES THOSE CONSEQUENCES WHICH
13 REPRESENT THE VERY PURPOSE FOR WHICH AN ACT IS DONE OR
14 ARE KNOWN TO BE SUBSTANTIALLY CERTAIN TO RESULT
15 REGARDLESS OF DESIRE. CRIMINAL LIABILITY IS NORMALLY
16 BASED UPON THE OCCURRENCE OF TWO FACTORS, AN EVIL
17 MEANING MIND AND AN EVIL DOING HAND. THE REQUIRED
18 MENS REA FOR A PARTICULAR CRIME CAN BE CLASSIFIED INTO
19 A HIERARCHY OF CULPABLE STATES OF MINDS IN DESCENDING
20 ORDER OF CULPABILITY SUCH AS PURPOSE, KNOWLEDGE,
21 NEGLIGENCE AND RECKLESSNESS. A PERSON WHO CAUSES A
22 PARTICULAR RESULT IS SAID TO ACT PURPOSEFULLY IF HE
23 CONSCIOUSLY DESIRES THAT RESULT WHATEVER THE
24 LIKELIHOOD OF THAT RESULT HAPPENING FROM HIS CONDUCT.

25 A PERSON IS SAID TO ACT KNOWINGLY IF HE IS

1 AWARE THAT THE RESULT IS PRACTICALLY CERTAIN TO FOLLOW
2 FROM HIS CONDUCT, WHATEVER HIS DESIRE MAY BE TO THAT
3 RESULT.

4 NOW, IN THE FIRST INDICTMENT THAT WE HAVE IN
5 THIS CASE INDICTMENT NUMBER 98-GS-23-5218, "THE
6 DEFENDANT, FREDDIE EUGENE OWENS, IS CHARGED WITH THAT
7 HE DID IN GREENVILLE COUNTY ON OR ABOUT NOVEMBER 1ST,
8 1997 WHILE ARMED WITH A DEADLY WEAPON, TOWIT A
9 HANDGUN, FELONIOUSLY TAKE FROM THE PERSON OR PRESENCE
10 OF IRENE GRAVES BY MEANS OF FORCE OR INTIMIDATION
11 GOODS OR MONIES OF THE SPEEDWAY STORE, SUCH GOODS OR
12 MONIES BEING DESCRIBED AS US CURRENCY WITH INTENT TO
13 DEPRIVE THE OWNER PERMANENTLY OF SUCH PROPERTY. THAT
14 BEING AN OFFENSE CALLED ARMED ROBBERY."

15 NOW, ROBBERY IS THE FELONIOUS TAKING AWAY OF
16 THE GOODS OF ANOTHER AGAINST THE OWNER'S WILL AND
17 WITHOUT HIS CONSENT BY FORCE, INTIMIDATION OR
18 VIOLENCE. THIS IS ESSENTIALLY LARCENY BY FORCE.

19 THE CRIME OF ROBBERY INCLUDES EACH OF THE FOUR
20 ELEMENTS THAT CONSTITUTE THE CRIME OF LARCENY WHICH
21 MUST BE PRESENT AND ESTABLISHED BEYOND A REASONABLE
22 DOUBT. THEY ARE: FIRST THAT THERE WAS A TAKING;
23 SECOND, THAT THE TAKING WAS OF THE PERSONAL PROPERTY
24 OF ANOTHER; THIRD, THAT AFTER BEING TAKEN THE
25 PROPERTY WAS CARRIED AWAY; AND, FOURTH, THAT THE

1 TAKING AND CARRYING AWAY OF THE PROPERTY WAS DONE
2 WITHOUT THE CONSENT OR AGAINST THE WILL OF THE OWNER
3 AND WAS DONE WITH THE INTENT TO STEAL.

4 TO MAKE OUT THE OFFENSE OF LARCENY IT IS
5 NECESSARY TO SHOW THAT THE PERSONAL PROPERTY OF
6 ANOTHER HAS BEEN TAKEN AND CARRIED AWAY. THIS
7 ELEMENT OF THE OFFENSE IS COMPLETE WHEN THE ACCUSED
8 ASSUMES CONTROL OVER THE GOODS AND ACTUALLY CARRIED
9 THEM AWAY NO MATTER HOW SHORT A DISTANCE. IN
10 ADDITION, IT MUST BE SHOWN THAT THIS TAKING AND
11 CARRYING AWAY WAS WITHOUT THE CONSENT OR WILL OF THE
12 OWNER OR PROPERTY. THE STATE MUST PROVE THAT THE ONE
13 TAKING THE PROPERTY AT THE TIME OF TAKING AND CARRYING
14 AWAY HAD THE INTENT TO STEAL. THIS IS THE INTENT TO
15 FELONIOUSLY PERMANENTLY DEPRIVE THE OWNER OF SUCH
16 PROPERTY. THERE CAN BE NO CONVICTION OF LARCENY IF
17 THERE IS A BONA FIDE CLAIM OF RIGHT FOR THE PERSON
18 TAKING THE PROPERTY.

19 LARCENY IS THEREFORE THE FELONIOUS TAKING AND
20 CARRYING AWAY BY ANY PERSON OF PERSONAL PROPERTY OR
21 THINGS OF ANOTHER WITH INTENT TO APPROPRIATE THEM TO
22 ONE'S OWN USE AND DEPRIVE THE OWNER PERMANENTLY OF HIS
23 PROPERTY.

24 NOW, IN ADDITION TO THOSE FOUR ELEMENTS THAT
25 CONSTITUTE THE CRIME OF LARCENY TWO OTHER ELEMENTS ARE

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1 REQUIRED TO CONSTITUTE THE CRIME OF ROBBERY. THOSE
2 ELEMENTS ARE THAT THE PROPERTY MUST BE TAKEN FROM THE
3 PERSON OF ANOTHER OR IN HIS PRESENCE AND THAT THE
4 TAKING AND CARRYING AWAY OF THE PROPERTY MUST HAVE
5 BEEN ACCOMPLISHED BY PLACING THE PERSON IN FEAR BY
6 THREATS OF VIOLENCE SO AS TO MAKE THAT PERSON
7 SURRENDER THE PROPERTY WITHOUT HIS CONSENT AND WITHOUT
8 HIS WILL.

9 AS I HAVE CHARGED YOU, ROBBERY IS LARCENY FROM
10 THE PERSON OR IMMEDIATE PRESENCE OF ANOTHER BY
11 VIOLENCE OR INTIMIDATION. TO CONSTITUTE ROBBERY, IN
12 ADDITION TO THE ELEMENTS OF LARCENY, MUST BE ADDED TWO
13 ADDITIONAL ELEMENTS, THAT IS, THE PROPERTY MUST BE
14 TAKEN FROM THE PERSON OF ANOTHER OR IN HIS PRESENCE
15 AND THAT NOT ONLY MUST BE THE TAKING WITHOUT THE
16 CONSENT OF THE OWNER, IT MUST BE ACCOMPLISHED BY THE
17 VIOLENCE OF PUTTING THE PERSON IN FEAR.. THIS
18 VIOLENCE MUST BE ACTUAL PERSONAL VIOLENCE OR THE
19 THREAT OF IT. THE DEGREE OF FORCE USED IS IMMATERIAL
20 AS LONG AS SUCH FORCE OR THREATS IS ACTUALLY
21 SUFFICIENT TO OVERCOME THE VICTIM'S RESISTANCE. THIS
22 VIOLENCE OR INTIMIDATION MUST EITHER PRECEDE OR BE
23 CONTEMPORANEOUS WITH THE TAKING.

24 UNDER THE INDICTMENT THE DEFENDANT IS CHARGED
25 WITH A VIOLATION OF SECTION 16-11-330(A) OF THE SOUTH

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1 CAROLINA CODE OF LAWS, WHICH PROVIDES, "A PERSON
2 CONVICTED OF THE CRIME OF ROBBERY WHILE ARMED WITH A
3 PISTOL, DIRK, SLINGSHOT, METAL KNUCKLES, RAZOR OR
4 OTHER DEADLY WEAPON COMMITS ARMED ROBBERY."

5 NOW, THE CRIME OF ARMED ROBBERY INCLUDES ALL
6 OF THE ELEMENTS OF ROBBERY IN ORDER TO MAKE OUT THE
7 CRIME OF ARMED ROBBERY, HOWEVER, AN ADDITIONAL
8 ELEMENT MUST BE PROVED. THE ROBBERY MUST HAVE BEEN
9 COMMITTED WITH A DEADLY WEAPON. A PERSON COMMITTING
10 THE ROBBERY MUST HAVE HAD AND USED A DEADLY WEAPON
11 WITH WHICH HE OBTAINED POSSESSION OF THE PROPERTY OR
12 PLACED THE ONE POSSESSING THE PROPERTY IN FEAR IN
13 ORDER TO OBTAIN THE PROPERTY. A PISTOL OR GUN OR
14 RIFLE IS A DEADLY WEAPON.

15 WHEN A DEADLY WEAPON -- EXCUSE ME WHEN A
16 DEFENDANT COMMITS A ROBBERY WITHOUT A DEADLY WEAPON
17 BUT BECOMES ARMED WITH A DEADLY WEAPON BEFORE
18 ASPORTATION OF THE VICTIM'S PROPERTY, A CONVICTION OF
19 ARMED ROBBERY WILL STAND.

20 NOW, WHAT IS MURDER BY DEFINITION? IN THE
21 SECOND INDICTMENT, INDICTMENT NUMBER 98-GS-23-5220 IN
22 ITS FIRST COUNT THE DEFENDANT IS CHARGED WITH THE
23 COUNT ONE OF MURDER. AND IT STATES THAT, "FREDDIE
24 EUGENE OWENS DID IN GREENVILLE COUNTY ON OR ABOUT
25 NOVEMBER 1ST, 1997," AND THIS IS AN ALLEGATION,

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1 "WHILE AIDING, ABETTING AND ASSISTING STEVEN ANDRA
2 GOLDEN IN THE COMMISSION OF AN ARMED ROBBERY KILLED
3 ONE IRENE GRAVES BY MEANS OF SHOOTING HER AND THAT THE
4 SAID VICTIM DIED AS A PROXIMATE RESULT THEREOF. THIS
5 IS A VIOLATION OF SOUTH CAROLINA CODE OF LAWS
6 16-3-10."

7 "MURDER" MAY BE DEFINED AS THE WILFUL
8 FELONIOUS KILLING OF A HUMAN BEING BY ANOTHER HUMAN
9 BEING WITH MALICE AFORETHOUGHT. THAT MALICE BEING
10 EITHER EXPRESSED OR IMPLIED. SECTION 16-3-10 OF THE
11 SOUTH CAROLINA CODE DEFINES MURDER AS A KILLING OF ANY
12 PERSON WITH MALICE AFOREIHOUGHT EITHER EXPRESSED OR
13 IMPLIED. IN ORDER TO CONVICT A PERSON OF MURDER,
14 THE STATE MUST NOT ONLY PROVE THE KILLING OF THE
15 VICTIM BY THE DEFENDANT, IT MUST ALSO PROVE THAT
16 CRIMINAL INTENT THAT THE KILLING WAS DONE WITH MALICE
17 AFORETHOUGHT. ALL OF THESE FACTS MUST BE PROVED
18 BEYOND A REASONABLE DOUBT. IN OTHER WORDS, THERE
19 MUST BE A COMBINATION OF A PREVIOUS EVIL INTENT AND AN
20 INFLECTION OF AN INJURY CALCULATED AND INTENDED TO
21 PRODUCE DEATH.

22 NOW, MALICE IMPLICATES A FORMED PURPOSE AND
23 DESIGN TO DO A WRONGFUL ACT UNDER CIRCUMSTANCES THAT
24 EXCLUDE ANY LEGAL RIGHT TO DO IT. MALICE IS A TERM
25 OF ART THAT IMPARTS WICKEDNESS AND EXCLUDES A JUST

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1 CAUSE OR EXCUSE. IT IS SOMETHING THAT SPRINGS FROM
2 WICKEDNESS, FROM DEPRAVITY, FROM A DEPRAVED SPIRIT,
3 FROM A SPIRIT BENT ON MISCHIEF AT THAT TIME AND FROM
4 NOT THEN HAVING A REGARD FOR THE SOCIAL OBLIGATIONS OR
5 OBLIGATIONS WHICH REST UPON HUMAN KIND.

6 THE WORDS "EXPRESS" AND "IMPLIED" DO NOT MEAN
7 TWO DIFFERENT KINDS OF MALICE, RATHER THAT TERM
8 SIGNIFIES THE WAY THE MALICE MAY BE PROVED.
9 EXPRESSED MALICE IS WHERE A PERSON BY WORD OF MOUTH
10 EXPRESSED HATRED OR ILL WILL. WHERE THE STATE PROVES
11 BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS
12 MAKING A PREPARATION BEFORE THE EVENT TO ACCOMPLISH
13 THE EVENT. THE JURY MAY ALSO CONCLUDE BY DEDUCTED
14 REASONING THAT UNDER CERTAIN CIRCUMSTANCES MALICE MAY
15 ARISE EVEN THOUGH THERE IS NO EXPRESSED OR DIRECT
16 EVIDENCE OF AN INTENT TO KILL.

17 MALICE MAY BE IMPLIED OR INFERRED IF IT IS
18 PROVED BEYOND A REASONABLE DOUBT THAT THERE WAS A
19 WILFUL, DELIBERATE AND INTENTIONAL DOING OF AN
20 UNLAWFUL ACT WITHOUT JUST CAUSE OR EXCUSE. PROOF OF
21 THIS ACT, HOWEVER, IS MERELY A PIECE OF EVIDENCE
22 FROM WHICH THE INFERENCE MAY BE SIMPLY AN EVIDENTIARY
23 FACT TO BE TAKEN INTO CONSIDERATION BY YOU, THE JURY,
24 ALONG WITH OTHER EVIDENCE IN THE CASE. AND YOU MAY
25 GIVE IT SUCH WEIGHT AS YOU TERM IT SHOULD RECEIVE.

1 FURTHERMORE, EVEN WHERE THERE IS AN ABSENCE
2 OF SPECIFIC, FIXED AND DELIBERATE INTENT TO TAKE THE
3 LIFE OF A PARTICULAR PERSON OR THAT OF ANY PERSON THE
4 LAW SAYS THAT IF IT IS PROVED BEYOND A REASONABLE
5 DOUBT THAT ONE INTENTIONALLY KILLED ANOTHER WITH A
6 DEADLY WEAPON OR WITH A DANGEROUS INSTRUMENTALITY SUCH
7 AS A GUN, AN IMPLICATION OF MALICE MAY ARISE. USE
8 OF A DEADLY WEAPON PERMITS YOU TO INFER MALICE BUT
9 DOES NOT REQUIRE YOU TO INFER MALICE.

10 IF ONE INTENTIONALLY KILLS ANOTHER DURING THE
11 COMMISSION OF A FELONY AN IMPLICATION OF MALICE MAY
12 ARISE. IF FACTS ARE PROVED BEYOND A REASONABLE DOUBT
13 SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO YOUR
14 SATISFACTION, THIS INFERENCE WOULD BE SIMPLY AN
15 EVIDENTIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU
16 ALONG WITH OTHER EVIDENCE IN THE CASE. AND YOU MAY
17 GIVE IT SUCH WEIGHT AS YOU, THE JURY, DETERMINE IT
18 SHOULD RECEIVE. IF FACTS PROVE BEYOND A REASONABLE
19 DOUBT SUFFICIENT TO RAISE AN INFERENCE OF MALICE TO
20 YOUR SATISFACTION THIS MALICE WOULD BE AN EVIDENTIARY
21 FACT TO BE TAKEN BY YOU, THE JURY, ALONG WITH OTHER
22 EVIDENCE IN THE CASE AND YOU MAY GIVE IT SUCH WEIGHT
23 AS YOU FIND IT SHOULD RECEIVE.

24 YOU AS JURORS ARE FREE TO ACCEPT OR REJECT
25 THIS PERMISSIVE INFERENCE DEPENDING UPON YOUR VIEW OF

1 THE FACTS. IN OTHER WORDS, IF SUCH CONDUCT RESULTS
2 DIRECTLY IN THE DEATH OF ANOTHER AND IF SUCH CONDUCT
3 WAS SO CULPABLE AND INEXCUSABLE, SO AGGRAVATED AND
4 GROSSLY RECKLESS AS TO SHOW AN ACTIVE, INTENTIONAL
5 DISREGARD OF THE CONSEQUENCES OF HUMAN LIFE, THUS
6 DENOTING A MALIGNANT SPIRIT, A HEART DEVOID OF SOCIAL
7 DUTY AND FATALLY BENT ON MISCHIEF, AN IMPLICATION OF
8 MALICE MAY ARISE.

9 FURTHERMORE, IT IS NOT JUST CARELESSNESS, IT
10 IS NOT MERE RECKLESSNESS OR A PASSIVE INDIFFERENCE TO
11 THE SAFETY OF OTHERS. THIS CONDUCT WHEN IT SHOWS
12 DELIBERATE INTENTIONAL DESIGN TO SO USE OR EMPLOY OR
13 HANDLE A DEADLY WEAPON OR DANGEROUS INSTRUMENTALITY SO
14 AS TO ENDANGER THE LIFE OF ANOTHER OR OF OTHERS
15 WITHOUT JUST CAUSE OR EXCUSE MAY BE SUFFICIENT TO
16 RAISE THIS IMPLICATION. HOWEVER, IT IS FOR YOU,
17 THE JURY, TO DECIDE BEYOND ANY REASONABLE DOUBT
18 WHETHER UPON ALL THE FACTS AND CIRCUMSTANCES OF THIS
19 CASE THE DEFENDANT'S ALLEGED USE OF A DEADLY WEAPON
20 DEMONSTRATED SUCH AN INTENTIONAL DISREGARD FOR HUMAN
21 LIFE THAT MALICE MAY BE INFERRED OR IMPLIED FROM THE
22 USE OF THAT DEADLY WEAPON. IT IS FOR YOU, THE JURY,
23 TO DECIDE WHAT WEIGHT IF ANY TO GIVE THIS FACT.

24 FURTHER, THERE MUST BE MALICE AFORETHOUGHT,
25 WHICH MEANS THAT THE MALICE MUST BE CONCEIVED IN THE

1 MIND OF THE DEFENDANT PRIOR TO THE FACT PRODUCING THE
2 FATAL RESULT. HOWEVER, THE LAW DOES NOT REQUIRE
3 THAT THE MALICE MUST EXIST FOR ANY APPRECIABLE LENGTH
4 OF TIME BEFORE THE COMMISSION OF THE ACT. MALICE IS
5 A WORD SUGGESTING WICKEDNESS, HATRED AND
6 DETERMINATION TO DO WHAT ONE KNOWS TO BE WRONG WITHOUT
7 JUST CAUSE OR EXCUSE OR LEGAL PROVOCATION. MALICE
8 NEED NOT BE IN THE MIND OF THE ONE DOING THE KILLING
9 AT ANY PARTICULAR LENGTH OF TIME BEFORE THE ACT OF
10 KILLING IN ORDER TO RENDER THE KILLING MURDER. IF IT
11 IS PRESENT IN THE MIND OF THE ONE DOING THE KILLING
12 ANY LENGTH OF TIME BEFORE THE ACT IN ITS PRESENCE
13 WOULD BE SUFFICIENT TO RENDER THE KILLING MURDER.

14 MALICE IS SAID TO BE EXPRESSED WHERE THERE IS
15 MANIFESTED -- WHERE THERE IS MANIFESTED A VIOLENT,
16 DELIBERATE INTENTION UNLAWFULLY TO TAKE AWAY THE LIFE
17 OF ANOTHER HUMAN BEING. MALICE IS IMPLIED WHERE ONE
18 INTENTIONALLY AND DELIBERATELY DOES AN UNLAWFUL ACT
19 WHICH HE KNOWS TO BE WRONG AND IN VIOLATION OF HIS
20 DUTY TO ANOTHER AND WHERE NO EXCUSE OR LEGAL
21 PROVOCATION APPEARS AND WHEN THE CIRCUMSTANCES
22 ATTENDING A KILLING SHOW AN ABANDONED HEART, A
23 MALIGNANT HEART FATALLY BENT UPON MISCHIEF.

24 IF THE EVIDENCE SHOULD SHOW UNDER WHAT
25 CIRCUMSTANCES A SHOT WAS FIRED OR A BLOW DELIVERED

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1 THAT TOOK THE LIFE OF ANOTHER THEN YOU, THE JURY,
2 WOULD HAVE TO DETERMINE WHETHER UNDER SUCH
3 CIRCUMSTANCES OR WHETHER UNDER SUCH CIRCUMSTANCES THE
4 ACT WAS MALICIOUS.

5 NOW, IF SEVERAL PEOPLE AGREE OR CONSPIRE TO
6 COMMIT A FELONY SUCH AS GRAND LARCENY, ROBBERY, EACH
7 OF THESE PERSONS OR PEOPLE ARE CRIMINALLY RESPONSIBLE
8 FOR THE ACTS OF HIS ASSOCIATES OR CONFEDERATES DONE IN
9 FURTHERANCE OR IN PROSECUTION OF THIS COMMON PURPOSE
10 WHICH THEY COMBINE. COMMON PURPOSE MAY NOT HAVE
11 INCLUDED OR MAY NOT HAVE BEEN INVOLVED IN THE KILLING
12 OR MURDER OF ANYONE BUT IN EXECUTING THIS COMMON
13 DESIGN AND UNLAWFUL PURPOSE.

14 AS FOR INSTANCE IN BREAKING AND STEALING OR
15 ARMED ROBBERY, A HOMICIDE IS COMMITTED BY ONE OF THE
16 CONFEDERATES AND YOU, THE JURY, DETERMINE FROM THE
17 EVIDENCE BEYOND A REASONABLE DOUBT THAT THE HOMICIDE
18 WAS A PROBABLE OR NATURAL CONSEQUENCE OF THE ACT DONE
19 IN PURSUANCE OF THE COMMON DESIGN THEN ALL WHO ARE
20 PRESENT EITHER ACTUALLY OR CONSTRUCTIVELY AND
21 PARTICIPATING IN THE UNLAWFUL COMMON DESIGN ARE AS
22 GUILTY AS THE SLAYER HIMSELF. IF PERSONS KILL
23 ANOTHER IN DOING OR ATTEMPTING TO DOING AN ACT
24 AMOUNTING TO A FELONY, THE KILLING IS MURDER AND IF A
25 CULPABLE HOMICIDE RESULTS FROM THE PURSUANT COMMON

1 PURPOSE OR THE CONSPIRACY, ALL ARE ALIKE CRIMINALLY
2 RESPONSIBLE. THIS IS COMMONLY DESCRIBED AS THE HAND
3 OF ONE IS THE HAND OF ALL.

4 THE STATE IS NOT REQUIRED TO PROVE MOTIVE
5 ALTHOUGH THE PRESENCE OR ABSENCE OF THIS EVIDENCE OF
6 MOTIVE MAY BE CONSIDERED IN DETERMINING WHETHER THERE
7 WAS A CRIMINAL INTENT TO MURDER.

8 IN COUNT TWO OF THE SECOND INDICTMENT, THE
9 DEFENDANT IS CHARGED THAT, "THE DEFENDANT, FREDDIE
10 EUGENE OWENS, DID IN GREENVILLE COUNTY ON OR ABOUT
11 NOVEMBER 1ST, 1997 POSSESS OR VISIBLY DISPLAY A
12 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME,
13 TOWIT MURDER AND/OR ARMED ROBBERY. THIS IS A
14 VIOLATION OF SOUTH CAROLINA CODE 16-23-490."

15 NOW, SECTION 16-23-490 MAKES IT ILLEGAL TO
16 POSSESS A FIREARM OR VISIBLY DISPLAY WHAT APPEARS TO
17 BE A FIREARM DURING THE COMMISSION OF A VIOLENT CRIME.
18 SECTION 16-160 PROVIDES THAT A VIOLENT CRIME INCLUDES
19 THE OFFENSES OF MURDER AND ROBBERY.

20 NOW, FOR YOU TO FIND THE DEFENDANT GUILTY OF
21 THIS SEPARATE STATUTORY OFFENSE OF POSSESSING A
22 FIREARM DURING A VIOLENT CRIME YOU MUST FIND THAT THE
23 DEFENDANT IS GUILTY OF THE VIOLENT CRIME EITHER MURDER
24 AND/OR ARMED ROBBERY. IF YOU FIND THE DEFENDANT
25 GUILTY OF MURDER AND/OR ARMED ROBBERY, THEN YOU MUST

ATTACHMENT NO. 2

[JA 1169-1337; 1445-1446; 1468; 1481-1484; 1534-1537; 1706;
1724-1725]

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1 quickly as we could. And we stayed as late as we could for
2 the staff, but -- and I do appreciate it and I'm going to
3 excuse you, ladies and gentlemen, from your jury service in
4 this case. Thank you so much. Y'all can go out the back
5 way.

6 Do you need for them to do anything, Madam Clerk?

7 THE CLERK: They have been instructed to go to the
8 clerk's office if they need anything.

9 THE COURT: Okay. Very good.

10 (Whereupon, the Jury Venire Panel was discharged
11 and left the courtroom)

12 THE COURT: If these jurors are not in the
13 restroom or anything, we can bring them on back in the
14 courtroom.

15 (The following takes place in the presence of the
16 jury panel)

17 THE COURT: All right, ladies and gentlemen, you
18 are the jury in this sentencing proceeding. And as we
19 explained to each one of you individually, I hope, we talked
20 to a lot of people, that that is proceeding permitted under
21 our law.

22 The first proceeding was to determine the guilt or
23 innocence of Mr. Owens. He has been convicted of the crime
24 of murder.

25 And your duty would be to determine how he's going

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(1 to be sentenced, and we will go into that in more detail
2 with you, but the thing I want to tell you now and just -- I
3 hope this has been imprinted upon your minds, I want you to
4 be relaxed. I know that you will pay close attention to
5 this case, but do not talk to anyone about this case. Do
6 not permit anyone to talk to you about the case. And just
7 from experience and years, do not ask the SLED agents
8 questions about the case. They should not -- they know, I
9 hope, not to talk to you about the case. Just don't talk to
10 anyone about the case. Concentrate on the evidence and
11 testimony when you are in this courtroom.

(-- 12 I believe that the agents will take good care of
13 you until we complete this. If they don't, any time that
14 you want to communicate with the court, you can write
15 whatever your communication you want to tell me. If it's
16 something that maybe happening or whatever, you can write me
17 a note about that. If something is happening at night, or
18 whatever, in the motel rooms, or whatever, but I don't
19 anticipate any problems.

(20 What we are going to do -- and when you come to
21 court, let me emphasize this to you. Do not bring any
22 reading materials at all. Do not bring any pamphlets in
23 your pocket of any type, religious or secular. We cannot
24 have any extraneous materials in the jury room. Whatever
25 comes into evidence, we are going to send that back there.

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1 You will have that. It may be a good bit, I don't know, but
2 do not bring anything in your pockets or anything like that.
3 You have to have your normal stuff that's in your wallet or
4 whatever, but don't bring any testaments or secular reading
5 material or anything like that. We just cannot permit
6 anything to go into the jury room with you, except what's
7 been introduced into evidence.

8 And we are going to let you go to the motel and
9 then we are going to bring you back and start this trial.
10 You can go out and get into your rooms. The SLED agents
11 have the key and they will give you a key to your individual
12 room there, and y'all can kind of get relaxed and be ready
13 to come back. We will be here for a few days. I cannot
14 tell you how long it will be, but you and I will give this
15 whatever time it takes to make sure this is a fair trial.
16 And all of you told us that you could be fair and impartial
17 to both sides. We have been through that process.

18 If you would ask Mr. McCloud and his group of SLED
19 agents to come in, please.

20 Mr. McCloud, would you bring the group in, please?

21 Would each of you raise your right hand and be
22 sworn in regard to -- I will do that separately.

23 Madam Clerk, would you swear the SLED agents.

24 THE CLERK: You do solemnly swear that you will
25 keep the jury sworn and you will suffer no one to speak to

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1 them, neither speak to them yourself about this case, so
2 help you God?

3 SLED AGENTS: (Collectively said I would.)

4 THE COURT: Do not talk to any of them. I know
5 that y'all know this, but do not speak to them about this
6 case or answer any questions. I have instructed them not to
7 talk to you about it. Y'all will just take real good care
8 of them, okay?

9 Mr. McCloud, thank you so much. I'm going to turn
10 them over to you in just a second, okay.

11 SLED AGENT MCCLOUD: All right, sir.

12 THE COURT: If the bailiffs would come around,
13 please.

14 Would each of you raise your right hand.

15 THE CLERK: You do solemnly swear that you will
16 keep the jury sworn and you will suffer no one to speak to
17 them, neither speak to them yourself about this case, so you
18 help God?

19 THE BAILIFFS: (Collectively said yes)

20 THE COURT: All right. Ladies and gentlemen,
21 these people will take good care of you from now on. Every
22 day that you will be fed. The county will pay for your
23 meals. They will pay for your rooms. And, if necessary, we
24 will work out with Mr. McCloud, if the case goes that long,
25 for some scheduled visitation, if you need to do that. And

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1 we will have some instructions about people that may come
2 and go and speak with you. But at this time I'm going to
3 let them -- and Mr. McCloud, we told them that they could
4 drive their cars with their clothes in the cars and drive
5 their cars to the motel.

6 SLED AGENT MCCLOUD: All right, sir.

7 THE COURT: And if you would, I'm going to let
8 them go with you at this time, and then we will -- I believe
9 we could try to get back around one o'clock. Can you get
10 them to lunch and get them in their rooms and everything and
11 be back by then? If you can't, we will do it at 1:30.
12 Would that be better?

13 SLED AGENT MCCLOUD: 1:30 sounds good. We will
14 shoot for one.

15 THE COURT: Well, is 1:30 a problem?

16 MS. STROM: No problem.

17 MR. ARIAIL: No, sir. No, sir.

18 THE COURT: Mr. Godfrey?

19 MR. GODFREY: No, sir.

20 THE COURT: Well, let's -- so that you won't be
21 rushed up in what you are doing, let's do it at -- have
22 everybody back here at 1:30 and we will start the trial.

23 SLED AGENT MCCLOUD: All right, sir.

24 THE COURT: Thank you so much. Y'all just feel
25 free to go with this gentleman.

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1 (Whereupon, the Jury Panel and the SLED agents
2 left the courtroom)

3 MR. ARIAIL: I think -- how late did you plan?
4 Did you say six?

5 THE COURT: I think probably this evening we will
6 go to six.

7 MR. ARIAIL: Okay.

8 THE COURT: Any problem with that, Mr. Ariail?

9 MR. ARIAIL: No, I have no problem with that.

10 MR. GODFREY: No, Your Honor.

11 THE COURT: I know we have worked a little bit
12 later each night than I thought we would, but I would --
13 yeah, six o'clock. I think the normal hours would be like
14 nine to six because --

15 MR. ARIAIL: Well --

16 THE COURT: -- Mr. McCloud was telling me they
17 have to make arrangements to get these people out for dinner
18 and everything.

19 What we will do is try to bring in -- bring lunch
20 into here, and I will discuss with you how much time you are
21 going to need during lunch. If some days we can just take
22 an hour, we will do that. If not -- I'm going to work with
23 you on this case because this one -- all cases are special.

24 MR. ARIAIL: Well, I just want to keep the court
25 and defense sort of apprised. Depending upon how fast we

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1 get going this afternoon, we run until six?

2 THE COURT: We are getting started thirty minutes
3 later.

4 MR. ARIAIL: But we may be -- we may be through by
5 lunch tomorrow.

6 THE COURT: Okay.

7 MR. ARIAIL: So I just want to -- so that we are
8 not. So everybody can kind of -- I'll know better this
9 afternoon, but based on the speed that we will go, I think
10 that there would be a good chance of that happening.

11 THE COURT: If we run into Sundays, I will kind of
12 leave it up to the jury if they want to work Sunday morning.

13 You got a problem with that, Mr. Godfrey?

14 MR. GODFREY: I got a problem with my hip, judge.
15 It wasn't anything about your comment.

16 THE COURT: Okay. No, I thought that you might
17 have a problem with Sunday morning.

18 MR. GODFREY: No, Your Honor.

19 THE COURT: Okay. If the jury wants to work,
20 since they are sequestered and in the motel, I would be
21 inclined to go with whatever their decision is.

22 And usually I do not appoint a foreman until we
23 get well along into the trial or something. I just haven't
24 had a chance to look over the list or anything.

25 Thank y'all very much and we will -- I'm sure they

1 will have the jury back because I thought it would be a
2 little bit rushed to get in the motel and back by one, so
3 1:30 we ought to be ready to go.

4 My opening comments are not going to be very long.
5 I don't -- I don't want to repeat too much of what the three
6 of us, or five of us have -- six of us have said to the
7 jurors already, and we just keep going over and over that.
8 They probably think that -- wonder what we are doing
9 sometime, but I'll see y'all back at 1:30. Thank you.

10 MS. STROM: Thank you.

11 MR. ARIAIL: Thank you, judge.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 (Autopsy Drawing marked as State's Exhibit No. 1
15 for identification)

16 (DVD marked as State's Exhibit No. 2 marked
17 identification)

18 (Projectile marked as State's Exhibit No. 3 for
19 identification)

20 (Photograph marked as State's Exhibit No. 4 for
21 identification)

22 (Scene Diagram marked as State's Exhibit No. 5 for
23 identification)

24 (Scene Diagram marked as State's Exhibit No. 5-A
25 for identification)

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1 (Scene Diagram marked as State's Exhibit No. 5-B
2 for identification)

3 (Photograph marked as State's Exhibit No. 6 for
4 identification)

5 (Photograph marked as State's Exhibit No. 7 for
6 identification)

7 (Photograph marked as State's Exhibit No. 8 for
8 identification)

9 (Photograph marked as State's Exhibit No. 9 for
10 identification)

11 (Photograph marked as State's Exhibit No. 10 for
12 identification)

13 (Photograph marked as State's Exhibit No. 11 for
14 identification)

15 (Photograph marked as State's Exhibit No. 12 for
16 identification)

17 (Photograph marked as State's Exhibit No. 13 for
18 identification)

19 (Photograph marked as State's Exhibit No. 14 for
20 identification)

21 (Photograph marked as State's Exhibit No. 15 for
22 identification)

23 (Photograph marked as State's Exhibit No. 16 for
24 identification)

25 (Photograph marked as State's Exhibit No. 17 for

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(1 identification)
2 (Photograph marked as State's Exhibit No. 18 for
3 identification)
4 (Photograph marked as State's Exhibit No. 19 for
5 identification)
6 (Videotape marked as State's Exhibit No. 20 for
7 identification)
8 (DVD marked as State's Exhibit No. 21 for
9 identification)
10 (Waiver of Rights form marked as State's Exhibit
11 No. 22 for identification)
12 (Photograph marked as State's Exhibit No. 23 for
E 13 identification)
14 (Photograph marked as State's Exhibit No. 24 for
15 identification)
16 (Photograph marked as State's Exhibit No. 25 for
17 identification)
18 (Advisement of Rights Form marked as State's
19 Exhibit No. 26 for identification)
20 (Written Statement marked as State's Exhibit No.
21 27 for identification)
22 (Autopsy Drawing marked as State's Exhibit No. 28
23 for identification)
24 (Autopsy Drawing marked as State's Exhibit No.
C 25 28-A for identification)

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1 (DVD marked as State's Exhibit No. 29 for
2 identification)

3 (Summary of SCDC Records marked as State's Exhibit
4 No. 30 for identification)

5 (Summary of SCDC Records marked as State's Exhibit
6 No. 31 for identification)

7 (Off the record)

8 (Back on the record)

9 THE COURT: The news media, y'all are aware that
10 you cannot identify the jury or put the jury on camera or
11 tape them. I'm sure that you have all done this before.

12 All right, are we are ready to begin?

13 MS. STROM: The State is, Your Honor.

14 THE COURT: Defense ready?

15 MR. GODFREY: Defense is ready, Your Honor.

16 THE COURT: Okay.

17 We were just talking about it's a little bit
18 different in this sentencing proceeding than what she
19 normally gives in the standard trial on the indictment.

20 (The following takes place in the presence of the
21 jury panel)

22 THE COURT: Okay. Ladies and gentlemen of the
23 jury, we are about to begin this criminal proceeding and I
24 would ask you to stand and raise your right hand, please.
25 The clerk will administer the oath to you in regard to this

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1 matter and would you respond by saying I will when you take
2 the oath. If you would raise your right hand, please.

3 THE CLERK: You do solemnly swear that you shall
4 well and truly try the issues of sentencing according to the
5 law and the evidence in 98-GS-23-5220, the State versus
6 Freddie Eugene Owens, so help you God?

7 THE JURY: (Jury collectively said I will)

8 THE COURT: Thank you. Y'all maybe seated.

9 Okay, ladies and gentlemen of the jury, the
10 defendant, Freddie Eugene Owens, was convicted on February
11 the 15th of 1999, of murder in this case.

12 Under our Code of Laws, Section 16-3-20 of the
13 South Carolina Code of Laws, provides that upon a conviction
14 of a defendant of murder, the court shall conduct a separate
15 sentencing proceeding to determine how the defendant should
16 be sentenced. So that is our purpose here in conducting
17 this proceeding which we are now engaged in, is to determine
18 how the defendant, Freddie Eugene Owens, should be sentenced
19 for murder in this case that occurred on November the 1st,
20 1997, in Greenville County at a Speedway on Laurens Road.
21 The victim was Mrs. Irene Graves.

22 Now, ladies and gentlemen, in this case it is your
23 job to determine the facts and the issues in this case.
24 You, ladies and gentlemen, are the sole judges of the facts
25 and circumstances surrounding this murder, and you determine

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1 those issues; any aggravating or mitigating circumstances,
2 you determine what those are, and any particular
3 characteristics of the defendant in this case.

4 Now, before you can determine a sentence of life
5 imprisonment or death, the State must prove to you beyond a
6 reasonable doubt that this murder was committed while the
7 defendant committed a statutory aggravating circumstance.
8 In this case the State alleges that this murder was
9 committed while the defendant was committing a robbery and
10 that he was armed with deadly weapon, possessed a deadly
11 weapon, and that a larceny was committed by the defendant at
12 the time of this murder while he possessed a deadly weapon.

13 Now, the burden is on the State to prove one, or
14 both, of those statutory aggravating circumstances beyond a
15 reasonable doubt. There is no burden of proof upon the
16 defendant in this criminal proceeding.

17 Now, ladies and gentlemen, I know that you will
18 pay close attention to this case. As I said, you are the
19 sole judges of the facts of the case and the circumstances.
20 You bring into this courtroom your good judgment, your
21 common sense, your every-day experiences in life. You,
22 ladies and gentlemen, can determine the facts as well as
23 anyone that applies to the issues in this case. You
24 determine the credibility and the believability of the
25 testimony of any witness, regardless of who that witness may

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1 be.

2 Now, I cannot discuss the facts with you and I
3 would not do that. If I do anything that might cause you to
4 believe that I have a feeling about this case, one way or
5 the other, you disregard that, because if I do anything it
6 would be a mistake on my part and I wouldn't intentionally
7 do that. I appreciate you, the jury, being here more than
8 any person in this courtroom to determine the issues in this
9 case and write a verdict in this case. It's my
10 responsibility to explain the law to you in regard to these
11 matters.

12 Now, ladies and gentlemen, it's very important, as
13 I told you before, and I have to tell you again, that you
14 cannot discuss this case with anyone. Do not discuss the
15 case with each other. Do not permit anyone to discuss this
16 case with you outside the courtroom, at the motel, at lunch,
17 or at dinner, or at any other time. I would give you
18 instructions as to what you can do when the case is over in
19 that regard.

20 And, ladies and gentlemen, keep an open mind
21 throughout this proceeding. You have to evaluate this case
22 as we go along. Do not determine in your mind what the
23 verdict should be until all the evidence is in and the
24 prosecution and the defense have had a chance to make
25 statements to you at the close of the case and I go over the

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1 law with you that applies to what we have heard. So don't
2 make up your mind conclusively or determine what the verdict
3 should be until you have heard everything and then you step
4 back into the jury room and begin deliberations with your
5 fellow jurors.

6 Now, at some point we will have to select a
7 foreperson, and we will do that, but I don't really know you
8 folks. We have met 70, or more, people this week about this
9 matter and a foreperson or forelady would be appointed at
10 some time during the proceeding, but it's an important thing
11 for you to understand is each of you have an equal input and
12 an equal voice into the verdicts in this case. And so when
13 you come in, you can sit pretty much where you want to,
14 except when the foreperson is appointed, I think the
15 foreperson will sit here and the alternates would sit
16 probably on the back left-hand side.

17 But now alternate jurors are jurors in this case,
18 just like the other jurors are. When we have a case or a
19 proceeding that extends over a few days, sometimes
20 emergencies arise or sometimes illnesses occur of close
21 family members and things like that and we have to use an
22 alternate. So consider yourselves as jurors in this case
23 just like the other jurors are until this case begins
24 deliberations.

25 Now, if there are no exceptions to anything that I

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1 said by the prosecution or the defense, we would begin this
2 trial.

3 Ladies and gentlemen, we will have the opening
4 statements by the parties, if they care to make opening
5 statements.

6 After that you will hear the evidence and
7 testimony from which you will determine the issues in this
8 case.

9 After that each side would have the opportunity to
10 address you at the conclusion of the case with summations or
11 closing statements as permitted by the law.

12 After that then I would go over with you again --
13 or at least really for the first time, probably, in many
14 instances the law that applies to this case. I have to
15 cover all the law that applies to the issues that you have
16 to decide and I would do that.

17 So without anything else, we will begin this trial
18 with opening statements, first by the State.

19 Ms. Strom.

20 MS. STROM: May it please the court.

21 THE COURT: Yes, ma'am.

22 MS. STROM: Good afternoon. I checked the clock
23 to make sure. I know that I have introduced myself to each
24 one of you at least probably more than once, but, again, my
25 name is Betty Strom and I'm the deputy solicitor here in

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(1 Greenville and Pickens Counties. And as I introduced to you
2 before, Solicitor Ariail and Leticia Verdin and I will be
3 prosecuting this case. We represent the State of South
4 Carolina. I think we talked to each one of y'all about that
5 in terms of you could equate it to the district attorney.
6 And, of course, you have met the defendant and his counsel
7 earlier on, Mr. Godfrey, Mr. Gibson, and then, of course,
8 Freddie Owens.

9 There are other people in the courtroom. Just to
10 kind of give a feel of who all is in here, because I know
11 this is new to most of you, if not all of you. So you have
12 already met your bailiffs. You met your SLED agents. And
13 we know that they are going to take very good care of you
14 during this time that you are with us.

15 Of course, we have. You have met Judge Patterson.
16 And then that's his law clerk with him.

17 And then we have the court reporter who takes down
18 everything that's being said.

19 And then we have members of the clerk's office.

(20 So I just want to kind of give you a rundown here
21 in opening statement about what the procedure is going to be
22 and what you can expect to hear. I know the judge briefly
23 went over with you a little bit of the process, but we are
24 up here for opening statement. When I sit down, defense
25 counsel has the opportunity to come up and give an opening

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1 statement. Obviously they are not required to. You will
2 remember the judge telling you that the defendant never has
3 the burden. The burden is always upon the State, so the
4 defense does not have to. They will be given the
5 opportunity to come up and give an opening statement.

6 Once opening statements are done, that's when you
7 start hearing the evidence, start calling witnesses. And
8 again, because the burden is on the State of South Carolina,
9 we go first. So you will hear from our witnesses.

10 And then at the close of our case the defense will
11 have an opportunity again to present any evidence that they
12 wish to present. Again, they do not have to, and His Honor
13 will charge you, and he's already told you in voir dire,
14 that if the defense chooses not to put up any evidence, the
15 defendant chooses not to testify, that's fine. That's his
16 right. You cannot hold that against him whatsoever, because
17 the burden is always upon the State. Okay.

18 After the defense puts up their evidence, if they
19 choose to, then the attorneys will come up here and give to
20 you what's called a closing argument, their view of what the
21 evidence has shown.

22 After the closing arguments of both sides, the
23 judge will tell you what the law is. You all stated that
24 you would accept the law as His Honor charges you. Even if
25 you think the law is something different, even if you think

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1 it should be something different, you will take the law as
2 His Honor charges it to you and apply that law to the facts
3 as you find in this case.

4 That's sort of a road map of what you can expect,
5 what the procedure is going to be.

6 Also I kind of give you an idea of what you can
7 expect to hear during that procedure. A couple of things,
8 and I know I'm probably repeating myself and I apologize to
9 you, but a couple of things that we need to all be clear on,
10 and His Honor has charged you, is that the issue of the
11 defendant's guilt of murder is not before you. Do you
12 remember, the judge has told you, Freddie Owens has already
13 been convicted of murder. He's already been found guilty of
14 murder. So that issue is not before you. The reason I tell
15 you that is because as far as the evidence that we are going
16 to present to you, that cuts down some of the evidence that
17 we are going to show you, because we don't have to show you
18 the individual evidence that links him to the murder. He's
19 already been convicted of the murder. What we are here to
20 show you is we are going to give you an overview of that
21 murder, because you are going to need to know the facts and
22 circumstances of the crime in order to determine what
23 punishment to impose.

24 One of the things that the judge also told you is
25 that before the jury can even consider what sentence to

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(1 impose, the person must find an aggravating circumstance.
2 He told you that the aggravating circumstances that the
3 State has alleged in this case are two. One is that the
4 murder was committed during the commission of a robbery
5 while armed with a deadly weapon, or that the murder was
6 committed while a larceny was committed while armed with a
7 deadly weapon. Those are the two statutory aggravating
8 circumstances that the State has submitted and will submit
9 to you that's in this case. So obviously you have to find
10 beyond a reasonable doubt that one, or both. We only have
11 to prove one, we can prove both, of those circumstances of
12 aggravation, statutory circumstances of aggravation exists.
C. 13 So we would, of course, bring you evidence to support the
14 fact that the murder was committed during an armed robbery
15 or robbery while armed with a deadly weapon, or that the
16 murder was committed during a larceny while armed with a
17 deadly weapon.

18 From the types of evidence that you -- let me step
19 back. We will use some legal terms. Obviously I have
20 already thrown out a couple of them - beyond a reasonable
21 doubt, robbed while armed with a deadly weapon. His Honor
22 at the end of the case will charge you what the law is.

23 To give you some idea, robbery while armed with a
24 deadly weapon is the taking of personal property, goods or
C. 25 monies, from the person or the immediate presence of that

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1 person, through force, intimidation, or violence. That's
2 what robbery is. Taking something of value either from that
3 person or from that person's immediate presence by the use
4 of force, intimidation, or violence.

5 For it to be a statutory aggravating circumstance,
6 you must add to that the fact that the defendant was armed
7 with a deadly weapon.

8 What is deadly weapon? It seems maybe sort of
9 redundant to say it, or whatever you want to call it, but
10 it's any type of weapon that can cause death.

11 We submit to you that you will see evidence in
12 this case that the defendant Freddie Owens was armed with a
13 pistol during the robbery and the murder.

14 In order to support those aggravating
15 circumstances --

16 Let's go back. Let me tell you what larceny was.
17 Larceny while armed with a deadly weapon. Larceny is
18 stealing. Stealing. It's a fancy word for stealing.

19 So larceny while armed with a deadly weapon again
20 is stealing something of value while armed with a deadly
21 weapon.

22 It may seem like they overlap a little bit, but
23 those are the two aggravating circumstances that are allowed
24 in the law, so we present both of them.

25 Like I said, we will bring you the evidence to

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1 support both of those aggravating circumstances.

2 I'm not going to go into what each witness is
3 going to testify to you. You will hear it and judge it for
4 yourself, but you are going to hear from police officers who
5 investigated it.

6 You are going to hear from the co-worker. Ms.
7 Graves was -- although she was alone in the building at the
8 time of the robbery and the murder, she had a co-worker
9 there. You will hear about why the co-worker who, in fact,
10 was not in the building at the time this happened, what she
11 was doing.

12 You will actually get to see the robbery, because
13 they had video cameras in the Speedway on Laurens Road and
14 it captured the robbery. So you will not only hear
15 witnesses testify about it, you will actually get to see it.

16 So that's the type of --

17 And you will also hear witnesses -- Mr. Owens
18 girlfriend at the time and the fact he admitted to her that
19 he had done this, that he had robbed the place.

20 That's the kind of evidence that you are going to
21 have to support these statutory aggravating circumstances.
22 That will be the only evidence that we bring you, though,
23 because do you remember the judge talked to you about
24 evidence of other crimes or bad acts of the defendant? And
25 he talked to you about the fact that you could not use that

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(1 to find an aggravating circumstance? What we are talking
2 about here, because the additional evidence we are going to
3 bring to you, in addition to the overview of the murder and
4 the armed robbery, is the character of the defendant: What
5 kind of person he is; what else has he done; because you
6 need to know these types of things in order to determine the
7 punishment. As I said, the judge told you his other bad
8 acts or other crimes can't be used to support the statutory
9 aggravating circumstance. In other words, you can't say
10 what he has done since November the 1st, 1997. You can't go
11 oh, well, then he must have done the armed robbery. You
12 have to decide the two separately. You look at the facts on
(13 November 1st, 1997, to determine if the murder was committed
14 during an armed robbery or a larceny with a deadly weapon.
15 But it doesn't mean that you disregard all the other
16 evidence that you are going to hear. We are going to bring
17 you other evidence.

18 We are going to bring you other evidence of how
19 he's behaved while he's been confined. We are going to
20 bring you evidence of how he has threatened and assaulted
21 correctional officers. We are going to bring you evidence
22 of how he's threatened and assaulted other inmates, to
23 include stabbing other inmates and beating other inmates.
24 We are going to bring you evidence of what Freddie Owens had
(25 to say after he was arrested on this crime, what he had to

1 say about it, to give a sense of what his character is,
2 what's his makeup.

3 You will also hear from other people about Freddie
4 Owens mental makeup, what's his mental makeup.

5 Those are the types of things that you will hear
6 to let you determine his character in order to aid you in
7 determining the appropriate punishment.

8 I will tell you up front that some of this
9 evidence is going to be difficult to hear. It's going to be
10 difficult to see, okay, but there is no soft way to give it
11 to you. It is what it is. And it is what Freddie Owens has
12 done. So I just wanted to tell you up front that it may be
13 difficult, but it is necessary for you to see that and it is
14 necessary for you to hear it in order for you to make the
15 decision that you are comfortable with at the end of this
16 case.

17 One of the things that I wanted to let you know
18 also is I know the judge told you to bring clothes for about
19 four or five days. On TV you see cases taking weeks and
20 months. We are not going to -- we are not going to do that
21 to you. Okay. It would be a few days. Now, obviously we
22 are going to take as long as that's necessary for both sides
23 to present everything that they possibly need to present to
24 you, but I can assure you it will not be the lengthiness
25 that you see in other cases.

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1 As I told you before, the defense attorney will
2 have an opportunity to come up here and talk to you after I
3 sit down. I do not know how they will classify or if they
4 will say anything about our request, because obviously we
5 are requesting the death penalty. I don't know what kind of
6 terms they are going to use in referencing our request to
7 seek the death penalty or our request for the death penalty.

8 I just want to put something in your head and
9 remind you that it is -- the death penalty is a lawful
10 punishment. It is a lawful punishment designed by our
11 legislature to be imposed for an unlawful act. Everyone in
12 this courtroom realizes that this is an awesome
13 responsibility on each and every one of you. We know that
14 none of y'all volunteered to be here, and we so appreciate
15 the fact that you are here willing to listen to all of the
16 facts and all of the evidence in the case and listen to His
17 Honor's charge and then impose the penalty that you believe
18 is appropriate for this defendant for his crime. Thank you.

19 MS. STROM: Thank you, Your Honor.

20 THE COURT: Mr. Godfrey.

21 MR. GODFREY: May it please the court. Solicitor.

22 Ladies and gentlemen, as you know from the last
23 two or three days my name is Bill Godfrey. Seated with me
24 is Ken Gibson and we represent Freddie Owens.

25 What we believe the evidence in mitigation will

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1 show, and you will hear testimony from our witnesses that
2 describe how it is that Freddie grew up; how he really
3 didn't have a home on a consistent basis; how he really
4 didn't have food on a consistent basis. You will hear
5 evidence of the violence that he has lived through his
6 entire life. And you will come to know him as a person,
7 basically from the time he was a young boy up to where he is
8 now.

9 Now, he stands convicted of murder and you all are
10 here for the sentencing procedure. We ask you to please
11 take the evidence in mitigation and listen to it very
12 carefully. You will hear from psychiatrists. You will hear
13 from psychologists.

14 One of the most important things that the evidence
15 will show is that within this past year while Freddie was in
16 the Department of Corrections he kept asking for help. He
17 needed help. He wanted help to control his actions. You
18 will hear from a witness, Dr. Thomas Cobb, who goes to
19 prison and provides psychiatric services at the prison. You
20 will hear from Dr. Cobb that he heard Freddie's crying. He
21 heard his plea for help. And Dr. Cobb sat down and
22 evaluated him and prescribed medication for Freddie. You
23 will hear evidence from Dr. Cobb that Freddie has been very
24 frank with him, that he has been faithful with taking his
25 medication, and that it has helped control his impulses.

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1 Dr. Cobb will testify that Freddie has an impulse control
2 disorder.

3 Basically the evidence is going to show that where
4 Freddie came from and everything that he went through,
5 nobody had ever really diagnosed or treated his underlying
6 problem.

7 You will hear other evidence from our witnesses
8 which indicates that Freddie's behavior in prison has
9 changed since he has been on the medication.

10 It's a terrible responsibility that all of you all
11 have to hear and consider all of this evidence. This whole
12 case is a tragedy. It's horrible. Freddie Owens and I and
13 Ken Gibson appreciate the fact that you all can be fair and
14 impartial and will listen to everything.

15 The mitigation in this case is not pretty either.
16 You hear things about -- from the evidence about things that
17 happened here in Greenville to a family that should never
18 happen. None of it pretty, but it happened. What you are
19 going to have to do, each and every one of you, each
20 individual person, you are going to have to fairly consider
21 all of the evidence that you hear. Not just from the State,
22 but also from the defense, from our psychiatric,
23 psychological and social history person, to arrive at what
24 the proper sentence is in this case.

25 We believe that you all will faithfully fulfill

1 your obligation. We believe that after you hear all of the
2 evidence, including all of the mitigation evidence from our
3 experts and other people, that you will return a verdict of
4 life. Thank you.

5 THE COURT: Ladies and gentlemen of the jury,
6 there was one point I meant to tell you. I do not believe
7 that I told you when you were under oath that everyone in
8 individual questioning, if the State proves a statutory
9 aggravating circumstance beyond a reasonable doubt, you will
10 determine the sentence of life imprisonment without the
11 possibility of parole until death, or the death penalty.
12 This is what I want you to understand. Whatever sentence
13 you determine will be the verdict. Whatever sentence that
14 you determine at that point, this court will impose that
15 sentence. I was going to tell you that now and I will
16 instruct you that again at the conclusion of this case.

17 And if you need to take a break, if you are
18 uncomfortable, back problems, you need to take a restroom
19 break or something, just raise your hand and it will not be
20 any problem. There is 15 of you and we do not want you to
21 be uncomfortable. We will be taking regular breaks for the
22 staff and everybody in the courtroom, but please don't
23 hesitate to slip up your hand if you need to.

24 We will go forward now with the first witness.

25 Mr. Ariail.

DR. JESSE RAY STAFFORD - DIRECT BY MR. ARIAIL

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1 MR. ARIAIL: Thank you, Your Honor.

2 The State calls Dr. Stafford.

3 DR. JESSE STAFFORD, having been first duly sworn,
4 testified as follows:

5 THE CLERK: State your name for the record,
6 please.

7 THE WITNESS: Jesse Ray Stafford.

8 THE CLERK: Thank you. Be seated.

9 DIRECT EXAMINATION BY MR. ARIAIL:

10 Q. Dr. Stafford, if you would, please, state your name for
11 the record.

12 A. Jesse Ray Stafford.

13 Q. Keep your voice up just like that so these last two
14 jurors down here can hear.

15 What is your profession?

16 A. I'm a pathologist.

17 Q. And by whom are you employed?

18 A. Pathology Associates of Greenville.

19 Q. And what is a pathologist?

20 A. A pathologist is a medical physician that receives
21 additional training in the field of pathology, which is the
22 study of disease.

23 Q. And what is your education and training for being a
24 pathologist?

25 A. I received a degree from Auburn University, University

DR. JESSE RAY STAFFORD - DIRECT BY MR. ARIAIL

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1 of Alabama School of Medicine; pathology residency in
2 anatomical pathology and clinical pathology at the
3 University of South Alabama.

4 I did a fellowship training at the Medical University
5 of South Carolina.

6 I'm board certified in anatomic and clinical pathology
7 and psychopathology.

8 Q. And you are presently in private practice?

9 A. That's correct.

10 Q. And as part of your private practice, in 1997, were you
11 associated with your -- practice associated with the county
12 for the purposes of performing autopsies?

13 A. That is correct.

14 Q. And what is the purpose of an autopsy?

15 A. The primary purpose of an autopsy is to define the
16 cause of death.

17 Q. And how many autopsies have you performed in your
18 career?

19 A. Many hundreds.

20 Q. Have you qualified as an expert in the field of
21 pathology in this state?

22 A. Yes.

23 Q. And have you previously testified and were you
24 qualified as an expert in the field of pathology in this
25 particular case?

DR. JESSE RAY STAFFORD - DIRECT BY MR. ARIAIL

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1 A. Yes.

2 MR. ARIAIL: Your Honor, we would submit Dr.
3 Stafford as an expert in the field of pathology.

4 MR. GODFREY: Without objection.

5 THE COURT: Without objection, he may testify as
6 to opinions in that field.

7 BY MR. ARIAIL:

8 Q. Did you have occasion to perform an autopsy on Ms.
9 Irene Graves?

10 A. Yes, that's correct.

11 Q. And as a practice when you perform an autopsy, do you
12 record and make notes of your findings?

13 A. Yes, that is correct.

14 Q. And if you need to refer to those notes, feel free to
15 do so during your testimony.

16 When did you have an occasion to perform the autopsy on
17 Ms. Irene Graves?

18 A. It was on November 1st, 1997.

19 Q. And what general information regarding Ms. Graves did
20 you determine, such as height, weight, age, etcetera?

21 A. She was a middle aged African American female,
22 approximately she stated as 41 years of age. She weighed
23 approximately 175 pounds. She measured about 5'7" in
24 height.

25 Q. And upon the autopsy were you able to determine her

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1 cause of death?

2 A. Yes, Ms. Graves died as a result of a single gunshot
3 wound to the head.

4 Q. As a regular part of the performance of autopsies, do
5 you prepare a diagram of the injuries that you find to be
6 relevant in terms of cause of death?

7 A. Yes, I usually do.

8 Q. Okay. And let me ask you if you recognize what has
9 been premarked as State's Exhibit No. 1 as being --

10 A. Yes.

11 Q. Is that -- do you recognize that?

12 A. Yes.

13 Q. Okay.

14 MR. ARIAIL: We would offer State's Exhibit No. 1,
15 Your Honor.

16 THE COURT: Without objection it's in evidence.

17 BY MR. ARIAIL:

18 Q. Doctor, what is this drawing?

19 A. It's really diagramming the entrance wound on the right
20 side of the head and the track of the bullet of the
21 projectile within the head.

22 Q. And did you prepare this contemporaneously with your
23 autopsy?

24 A. That is correct.

25 Q. And it's based on your findings at autopsy?

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1 A. Correct.

2 Q. And based on this drawing and for purposes of
3 illustration for the jury, did I request that you oversee
4 the preparation of a computer enhancement of the head wounds
5 described on State's Exhibit No. 1?

6 A. Yes, that is correct.

7 Q. Let me show you what we have already placed in the
8 presenter and ask if you are familiar with this particular
9 disc?

10 A. Yes.

11 Q. All right.

12 MR. ARIAIL: Your Honor, we would like to offer
13 this. It does not have a sticker, but it has a case which
14 was marked State's Exhibit No. 2, and we had provided
15 counsel with copy of this.

16 THE COURT: Okay. No objection, I would let it
17 in.

18 All right, sir.

19 MR. ARIAIL: All right. Thank you.

20 BY MR. ARIAIL:

21 Q. I'm going to slip this in and let you talk about the
22 DVD, Exhibit No. 2.

23 All right. Looking at the drawing or the image that's
24 reflected on there, as labeled impact, tell us what that is
25 showing.

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1 A. That is -- that is highlighting the area that was
2 struck on the side of the head by the bullet.

3 Q. All right. That's the entrance point?

4 A. Correct.

5 Q. Into Ms. Graves head?

6 A. Yes.

7 Q. Let me go to number two, which is the entry. What is
8 that showing?

9 A. That is highlighting the pathway of the bullet of the
10 projectile as it tracks across Ms. Graves head through her
11 brain. The track that it's taking is dominantly just from
12 the right side over to the left side, and it's slightly
13 upward and slightly towards the front of Ms. Graves' head.

14 Q. And did the projectile exit Ms. Graves' head?

15 A. No, it was retained inside the skull. It ricocheted
16 back along the track of the bullet.

17 Q. Let me show you a diagram of that.

18 A. And that's where I recovered the projectile, the
19 bullet.

20 Q. The green being the path that it ricocheted backwards?

21 A. That is correct.

22 Q. And did you actually recover the projectile during
23 autopsy?

24 A. Yes.

25 Q. What is the nature of the damage that is done when a

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1 projectile in this fashion enters and progresses through the
2 brain?

3 A. There is a tremendous amount of damage that takes place
4 within the brain, and it's not just the immediate zone that
5 the missile goes through, but there is a lot of extensive
6 injuries within the brain where it damages tissue around
7 that track as well. There was a lot of bleeding and a lot
8 of necrosis, dead tissue. Around that bullet track.

9 Q. And Ms. Graves survival would have been how long?

10 A. Seconds. I mean, she was essentially dead. I mean,
11 that's a nonsurvivable injury.

12 Q. She would have died almost instantaneously?

13 A. Yes.

14 Q. Did you recover the projectile?

15 A. Yes, I did.

16 Q. Let me show you what's been marked as State's Exhibit
17 No. 3 and ask you if that is the projectile with the
18 labeling on the top?

19 A. The labeling is correct. The projectile is wrapped up
20 inside.

21 Q. All right. The labeling is correct?

22 A. Yeah.

23 Q. Okay.

24 MR. ARIAIL: Your Honor, we would offer State's
25 Exhibit No. 3.

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1 MR. GODFREY: Without objection.

2 THE COURT: Without objection, it's in evidence.

3 BY MR. ARIAIL:

4 Q. Lastly, doctor, let me ask you to look and tell me if
5 you can identify this particular photograph as being an
6 accurate representation of the entry wound into Ms. Graves'
7 head at the time of autopsy?

8 A. Yes, that is correct.

9 Q. Okay.

10 MR. ARIAIL: Your Honor, this is marked as State's
11 Exhibit No. 4.

12 We would offer State's Exhibit No. 4.

13 THE COURT: Okay. Without objection?

14 MR. GODFREY: Without objection.

15 THE COURT: Without objection, it's in evidence
16 and admissible.

17 BY MR. ARIAIL:

18 Q. Doctor, let me -- I have a couple of questions that I
19 want to ask you. Let me get this focused.

20 The wound that you have been talking about with Ms.
21 Graves, were you able to determine the distance from Ms.
22 Graves' head that the shot -- from which the shot was fired?

23 A. All I was able to determine was that it was not a
24 contact type injury. In other words, the gun, weapon, was
25 not placed immediately up against her head. There is --

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1 there is a lot of hair -- there is scalp hair in that area,
2 which makes it difficult to determine the distance. All I
3 can tell you it was not pressed immediately up against her
4 head. It was some distance from that.

5 Q. And the scalp hair impacts or affects your ability to
6 determine distance for what reason?

7 A. It's because with closer -- with closer range gunshot
8 injuries you will have changes that take place on the skin,
9 but the hair -- the hair affects that and keeps those
10 changes from being detected in many cases.

11 Q. Thank you, doctor. Answer any questions that the
12 either defense counsel may have.

13 MR. GODFREY: No questions of this witness, Your
14 Honor.

15 THE COURT: All right. Doctor, you may come down.

16 THE WITNESS: Yes, sir.

17 MR. ARIAIL: Your Honor, may he be excused to
18 return to work?

19 MR. GODFREY: Without objection.

20 THE COURT: Without objection, doctor, you may be
21 excused, if you so desire. Thank you.

22 MR. ARIAIL: Call Larry Bellew.

23 LARRY BELLEW, having been first duly sworn,
24 testified as follows:

25 THE CLERK: State your name for the record,

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1 please.

2 THE WITNESS: Larry Bellew, B-E-L-L-E-W.

3 THE CLERK: Thank you. Be seated.

4 THE COURT: For the news that just came in, he's
5 aware of the protection of the jury and you are not to
6 expose them or identify them in any way.

7 DIRECT EXAMINATION BY MR. ARIAIL:

8 Q. State your name, please, sir?

9 A. Larry Bellew.

10 Q. And that's great. Keep your voice up just like that so
11 these last two jurors can hear you.

12 Mr. Bellew, what is your present employment?

13 A. I work for the U.S. Department of State Bureau of
14 Counselor Affairs in the Diplomatic Security Services.

15 Q. Where are you located?

16 A. In Charleston.

17 Q. And that's where you came from today?

18 A. Yes, sir.

19 Q. Prior to that previous employment, particularly on
20 November 1st of 1997, by whom were you employed?

21 A. The Greenville County sheriff's office.

22 Q. And in what capacity were you with the sheriff's office
23 at that time?

24 A. I was the supervisor of the violent crimes unit. I was
25 an investigative sergeant with them.

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1 Q. How long had you been employed with the sheriff's
2 office at that time?

3 A. At that time about twenty-four and a half years.

4 Q. And did you subsequently retire from the sheriff's
5 office and moved to Charleston?

6 A. Yes, sir.

7 Q. When was that?

8 A. I retired from the sheriff's office in 2000, in
9 October, I believe of 2000. I moved to Charleston shortly
10 thereafter.

11 Q. Did you have occasion on November the 1st, 1997, to
12 respond to the Speedway on Laurens Road here in Greenville
13 in regard to an investigation?

14 A. Yes, sir.

15 Q. This was part of your official duties with the
16 sheriff's office as an investigator?

17 A. Yes, sir.

18 Q. What time did you arrive?

19 A. Shortly after 4:30 in the morning.

20 Q. This was November the 1st: Would have been the morning
21 after Halloween evening?

22 A. Yes, sir.

23 Q. Who was with you, or when you arrived, who else was on
24 the scene?

25 A. Investigator Wes Smith was with me when we went to the

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1 scene.

2 When I arrived on the scene, then Lieutenant Brooks,
3 Sergeant Guy, several other uniformed patrol officers from
4 the sheriff's office were there. There were several -- or
5 there were two officers from the Greenville Police
6 Department there. EMS was there. A short time later the
7 coroner, Mr. Parks Evans, arrived. And the forensics
8 officer, Sergeant Labrash, arrived.

9 Q. And for the jury's information, why were both sheriff's
10 deputies and the Greenville police department officers at
11 the same place?

12 A. That is right on the line of the city-county line and
13 when the call first came in, no one was exactly sure whether
14 it was city or county, and the city was the closest
15 responder and they responded to it. They determined it was
16 in the county. They then contacted a sheriff's office and
17 we responded.

18 Q. All right. And forensics, you talk with Officer
19 Labrash, what is forensics, Greenville County forensics?

20 A. That's the crime scene investigators. They take
21 pictures, fingerprints, seize evidence, that type of thing.

22 Q. Okay. Process the crime scene?

23 A. Yes, sir.

24 Q. Now, was the victim still present when you arrived, Ms.
25 Graves?

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1 A. Yes, sir.

2 Q. And did you have occasion to examine her?

3 A. Yes, sir.

4 Q. And had you been involved in the investigation of
5 homicide cases previously?

6 A. Yes, sir, I have been in homicide about -- about 17, 18
7 years at the time.

8 Q. And you had an occasion then to investigate on-scene
9 victims and their cause of death?

10 A. Yes, sir.

11 Q. Could you describe for us what was her condition and
12 her apparent wounds that you could see?

13 A. Yes, sir. Her body was found inside the Starvin Marvin
14 store on Laurens Road. It was behind the counter. Her feet
15 were out in a little walkway area between the register and
16 the store room. The rest of her body her torso and head
17 were back in the store room area. She was dead.

18 She had had what appeared at the time to be a single
19 gunshot wound to the head. There was a lot of pooling of
20 blood around the head.

21 Q. But she was still in the same location as where she had
22 been shot?

23 A. Yes, sir, when we get a scene like that, it is sealed
24 off. No one goes in until forensics officer, the
25 investigating officers and the coroner arrive. We then do a

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1 quick walk-thru. The scene is then photographed and
2 videotaped sometimes by the forensics. We will do a diagram
3 of the scene and then we will go in and examine the body.

4 Q. Okay. Speaking of diagram, let me show you what is
5 your diagram labeled State's Exhibit No. 5 and ask you if
6 you are familiar with that?

7 A. Yes, sir, this is a rough diagram I did at the scene
8 that morning.

9 Q. Okay.

10 A. Later on at the office I redid it to make it a little
11 bit neater.

12 Q. Okay. Let me show State's Exhibit No. 5.

13 MR ARIAIL: We would offer it, Your Honor.

14 MR. GODFREY: Without objection.

15 THE COURT: Without objection. And it's not to
16 scale or anything?

17 A. Oh, no, sir, it's not to scale whatsoever. It's just a
18 rough diagram.

19 BY MR. ARIAIL:

20 Q. And you say you went back after preparing the rough
21 diagram. I want to show you State's Exhibit No. 5-A and ask
22 if you prepared that document and when?

23 A. Yes, sir, later on in the office. Probably later that
24 morning. I don't remember exactly when it was, but it was
25 probably later that morning. I would take a rough diagram

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1 while it was still fresh in my mind and draw another one.

2 Q. Okay.

3 A. A little neater.

4 Q. This is the neater drawing?

5 A. Yes, sir.

6 Q. And it too is not to scale?

7 A. No, sir, that is not to scale either.

8 MR. GODFREY: No objection.

9 THE COURT: Without objection.

10 MR. ARIAIL: 5-A.

11 BY MR. ARIAIL:

12 Q. Let me place 5-A on here for purpose of orienting.

13 All right. Let this focus a second.

14 Now, if you would, tell us -- going over that, just
15 orient the jury what we are looking at.

16 A. All right. This is just, like I say, a diagram of the
17 inside of the store and surrounding area.

18 To the bottom would be Laurens Road.

19 In between Laurens Road and the store would be the gas
20 pumps.

21 I had what's marked as the front door down here that's
22 near the counter that the clerk can stand behind.

23 On the other side there is another door going out to --

24 Q. Tell you what --

25 A. -- to the diesel pumps.

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1 Q. Let me give you this little pointer and it's on the
2 top.

3 A. Okay.

4 Q. Use that little pointer to --

5 A. I'll try not to hit you in the head.

6 All right. Laurens Road would be down in this area.

7 Then there would be the gas pumps.

8 The front door would be in this area.

9 This would be the counter where the registers are.

10 This is step up into this area of the walkway behind
11 it.

12 This is an office area behind it.

13 This is a storage room.

14 There is another door that goes out this side.

15 There is the diesel pumps where on this side of the
16 building.

17 And there are security cameras in the building. There
18 are two of them located that are approximately here on the
19 ceiling; one of them pointing towards that door, one of them
20 pointing towards this door.

21 There is a security camera behind the register, what we
22 call the diesel register, just to try and keep them straight
23 since this is the diesel pumps. The diesel register here
24 pointing outwards.

25 There is another one behind the gas register pointing

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1 outwards.

2 Q. Okay. And the two little things up there where it near
3 the candy boxes, are those the -- what are those right
4 there?

5 A. Those are just displays that I put in there.

6 Q. Okay.

7 A. Candy boxes, that kind of thing.

8 Q. And there is ceiling cameras?

9 A. Yes, sir. They are approximately in this area right
10 here, two cameras, one pointing towards each doorway.

11 Q. Now, so we can use the -- let me ask you if this
12 document, which is marked as 5-B, if this is an accurate
13 blowup or enlargement of that document, which is 5-A?

14 A. Yes, sir, it is.

15 Q. Okay.

16 MR. ARIAIL: Your Honor. We would like to offer
17 this for purposes of use, taking this off screen.

18 MR. GODFREY: Without objection.

19 THE COURT: Okay. I don't know if it would be in
20 evidence along with that other or just for demonstrative
21 purposes.

22 MR. ARIAIL: I have got it marked as 5-B. I can
23 put it in or just use either one.

24 THE COURT: Of course, the jury sees it without
25 objection, but it's in evidence.

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1 BY MR. ARIAIL:

2 Q. Now, looking at 5-B -- and you mentioned that as part
3 of the process that forensics and your investigation goes
4 through earlier before there was anybody on the scene is
5 photographing of the crime scene?

6 A. Yes, sir, we try and photograph it before it in any way
7 gets any evidence may get destroyed or moved or anything.

8 Q. I want to show you a selected group of photographs,
9 which have been marked as State's Exhibits 6 through 19, and
10 ask if you would review those and tell me if those are an
11 accurate representation of the crime scene as it existed at
12 the time that you arrived and investigated this case?

13 A. Yes, sir, they are.

14 MR. ARIAIL: Your Honor, we are going to offer
15 these, but I'll show them to defense counsel.

16 MR. GODFREY: Your Honor, I would object to
17 State's Exhibit 17, 18 and 19.

18 THE COURT: I viewed the exhibits as he was going
19 through them for the purposes of this proceeding. I would
20 admit those in evidence.

21 MR. ARIAIL: Your Honor, just for purposes, we
22 discussed this pretrial, but we placed new orange stickers.
23 Some of these will have double stickers. The orange sticker
24 is the current one that the court reporter is using for this
25 proceeding.

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1 BY MR. ARIAIL:

2 Q. All right. Let me --

3 MR. ARIAIL: We have admitted 6 through 19.

4 BY MR. ARIAIL:

5 Q. Let me go over a few of these so the jury can get an
6 understanding of the inside of that building.

7 Using what is enlargement of 5-B, State's Exhibit No.
8 6, where is that taken from and what does it show?

9 THE WITNESS: May I step down, Your Honor, and
10 point to this?

11 THE COURT: Yes.

12 Just speak up so everybody can hear you.

13 (Witness off the witness stand)

14 BY MR. ARIAIL:

15 Q. Just keep your voice up.

16 A. Okay. This is a picture from out in the parking area
17 going in this direction towards -- there is the drink
18 machine, the ice machine. I think there is an ashtray
19 there. You see Coke machines and the doorway on the Laurens
20 Road side of the building.

21 Q. Okay. And State's Exhibit No. 7?

22 A. Yes, sir, that's another shot, the same side of the
23 building coming from another angle showing the gas pumps
24 from Laurens Road towards what we call the front door.

25 Q. State's Exhibit 8?

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1 A. There again, that's just another picture showing the
2 gas pumps going in the front of the building. You can see
3 we have the crime tape up by that time.

4 Q. State's Exhibit No. 9?

5 A. All right, sir, that's a safe behind the counter. This
6 is the counter. And as I said, there were two different
7 registers, what we call the gas register and the diesel
8 register, just for clarifying on our part, and the safe was
9 located in this area behind the counter.

10 Q. Closest to the diesel pumps?

11 A. Yes.

12 Q. And furtherest away from Laurens Road?

13 A. Yes, sir, Laurens Road would be down here. The safe
14 was up in this area.

15 Q. Okay. That's the safe that we are looking at in
16 State's Exhibit No. 9.

17 State's Exhibit No. 10?

18 A. That's -- that would be from out in this area taking a
19 picture back towards the diesel pump, what we call the
20 diesel pump register, which would be on this end. That
21 would be from this area going back this way towards the
22 office over the registers.

23 Q. All right. And I would ask you, if you could, I was
24 trying to brighten it up, can you identify for the jury one
25 of the cameras that you talked about, pointed out with the

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1 red?

2 A. Yes, sir, that would be it right there. That's the
3 camera pointing over the register back out into the store.

4 Q. That's one of the video cameras?

5 A. Yes, sir.

6 Q. And State's Exhibit No. 11?

7 A. All right. That would be a picture from this end
8 behind the counter shooting back down this way. There was a
9 stool there with the victim's purse on it, and there was a
10 little storage area behind it.

11 Q. Can you also point out in that photograph the other
12 camera that was behind or on the counter behind the sales
13 counter?

14 A. Let me see.

15 Excuse me Your Honor.

16 I believe that's it right there. I'm not absolutely
17 positive. I believe that was it. There was one back there.

18 Q. All right. And then State's Exhibit No. 12 is?

19 A. That would be a picture from the front door, what we
20 call the front door, taking a look back -- on the outside of
21 the counter, taking a look back towards the back what we
22 call the back door where the diesel pumps were.

23 Q. Okay. State's Exhibit No. 13?

24 A. That's two of the security video cameras that were
25 located at in the ceiling, about this area. One of them is

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1 pointing back towards this door, and the other one is
2 pointing towards this door.

3 Q. State's Exhibit No. 14?

4 A. That's just another angle of the same two security
5 cameras up there.

6 Q. States Exhibit No. 15?

7 A. That would be a closer up showing the video camera over
8 the diesel pumps right here, and the camera would be mounted
9 about that area.

10 Q. That's the camera mounted on the door frame?

11 A. Yes, sir, right there.

12 Q. State's Exhibit 16?

13 A. That's just a close-up of the same camera.

14 Q. And you testified that Ms. Graves was still on
15 location. Let me show you State's Exhibit 19 and ask if you
16 can identify that?

17 A. Yes, sir, that would show -- here is the doorway going
18 back into the office area right there. She was laying with
19 her feet out in the walkway area, and the rest of her torso
20 and head in the other area. She's still had a Bic pen in
21 her hand there.

22 This equipment right here is EMS equipment. We had to
23 determine she was dead, obviously, so EMS went in to check
24 her to see if she was still alive. They would have taken
25 her to the hospital. Since they were dead, they just leave

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1 everything back out.

2 Q. And that was the way she was found?

3 A. Yes, sir.

4 Q. State's Exhibit No. 18?

5 A. That's another shot of Ms. Graves with her feet out in
6 this area and her torso back in that area. And you can also
7 see the pooling blood next to her head there.

8 Q. State's Exhibit 17?

9 A. It's just another angle showing Ms. Graves, the pooling
10 blood. I don't think that's a very good picture, but you
11 can see the entrance wound on some of them and the EMS
12 equipment still on her.

13 Q. All right.

14 MR. ARIAIL: You can get back to the stand and let
15 me put these back.

16 (Witness back on the stand)

17 BY MR. ARIAIL:

18 Q. You mentioned the video cameras that were in the
19 ceiling and behind the counter. Did you have occasion as
20 part of your investigation to secure a videotape that was in
21 these or was recording these -- from these cameras?

22 A. Yes, sir, back in the office area where Ms. Graves body
23 was, there was equipment there that we went back and the
24 videotape was back there and we observed it several times
25 there that night and then seized it.

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1 Q. Did you -- did you secure that on your own, or did you
2 need assistance from Speedway personnel?

3 A. No, we didn't want to accidentally do anything to the
4 tape to erase it or make any changes in it, so we got -- I
5 think his name was Mr. Sayer, come in and show us how to
6 video equipment worked and we replayed the tape then.

7 Q. And did you watch it on location, or did you take it
8 to -- back to your office?

9 A. Yes, sir, we looked at it several times at the scene to
10 try and get as much information as we could as quick as we
11 could right then. Then it was seized by Sergeant Labrash
12 and taken back to the office.

13 Q. Let me show you what's presently marked State's Exhibit
14 No. 20 and ask you if that is the video that you, in fact,
15 secured from the Speedway that morning and viewed?

16 A. Yes, sir, it is.

17 Q. All right.

18 MR. ARIAIL: And, likewise, Your Honor, it has two
19 stickers.

20 We offer State's Exhibit 20.

21 MR. GODFREY: Without objection.

22 THE COURT: Without objection, it's in evidence.

23 BY MR. ARIAIL:

24 Q. Now, I'm going to show you what is marked as State's
25 Exhibit 21. And by agreement of the parties, this is a DVD

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1 of that videotape for purposes of the court presentation,
2 marked State's Exhibit No. 21.

3 Have you had an opportunity to review what is marked
4 for identification as State's Exhibit No. 21, the DVD?

5 A. Yes, sir, I have.

6 Q. And is it an accurate representation of State's Exhibit
7 No. 20, the videotape?

8 A. Yes, sir, it is.

9 Q. Okay.

10 MR. ARIAIL: Your Honor, we would offer this.

11 MR. GODFREY: Without objection.

12 THE COURT: Without objection, it's in evidence.

13 BY MR. ARIAIL:

14 Q. Now, we have talked about the location of the various
15 cameras, and what I would like to do at this point is for
16 you to give the jury an overview of the images and how they
17 are going to be viewed on this DVD.

18 A. All right. When we observed the tape, and later the
19 DVD, it's not your usual video. It has all four cameras on
20 it at the same time. It's a split screen with all four
21 cameras on it. The top two are the two cameras from the
22 center of the store and the bottom two are the two cameras
23 behind the counter.

24 Q. Four cameras running at once?

25 A. Yes, sir, all four of them are taping at once and all

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1 four of them are on the video at once.

2 Q. All right. And to go over just a summary of what we
3 will see, can you see from which door the robbers come in?

4 A. Yes, sir, you can see them come in through the bottom
5 door -- or the front door. The Laurens Road door down
6 there. One of them goes in front of the counter. One of
7 them goes behind the counter.

8 Q. Are how are they dressed?

9 A. Both of them had on dark clothes.

10 One of them had on a hooded jacket and I believe a
11 homemade mask. That's the gentleman that goes in front of
12 the counter.

13 The other one had on dark jacket and a ski mask, and
14 both of them had weapons in their hands.

15 Q. So they both were armed?

16 A. Yes, sir.

17 Q. And where is Ms. Graves?

18 A. She was behind the counter.

19 Q. And you will see her on the video?

20 A. Yes, sir.

21 Q. And what happens to her during the course of the video?

22 A. She walks back. The register on this end of the
23 counter, the gas pump registers, there is money taken from
24 that. They go up towards the safe and then you see her get
25 shot.

LARRY BELLEW - DIRECT BY MR. ARIAIL

1076

1 Q. All right. Do you see the robbers exit?

2 A. Yes, sir, out the same exit through the Laurens Road
3 entrance.

4 Q. Then who comes in after that?

5 A. Mrs. Buehner, who was a co-worker of Ms. Graves. At
6 the time all this went on, she was out filling the ice
7 machines. I believe on those pictures that you can see the
8 cart with the bags of ice on it. She comes in right after
9 the other gentlemen leave, or shortly afterwards. She sees
10 what happened. She runs and locks the doors and then she
11 calls 9-1-1.

12 Q. All right.

13 MR. ARIAIL: Now, what I'm going to do, Your Honor
14 if, I'm just going to play the video without any comment all
15 the way through. And then we will stop it and come back and
16 let him talk a little bit about it.

17 (Whereupon, the videotape was played)

18 BY MR ARIAIL:

19 Q. Now, Mr. Bellew, what I would like to do is go through
20 here and just pause as we go along and let you go back and
21 identify, beginning with -- we will stop it when the people
22 come in, right there.

23 A. All right, sir. I would like to mention also it was
24 determined that date and time on this video were not
25 correct.

LARRY BELLEW - DIRECT BY MR. ARIAIL

1077

1 Q. Okay.

2 A. So --

3 Q. And we are looking at camera one is in the top. I
4 believe they are labeled. Two is in the top right. Three
5 bottom left, and four bottom right?

6 A. Yes, sir, camera one would be the ceiling camera
7 pointing towards the entrance of the Laurens Road entrance
8 that they entered from.

9 As you can see from when they come in, both of them
10 have on masks. Both of them have on dark clothes. One of
11 them has a hood up. The other doesn't.

12 Q. And then where do they go in regard to the counter?
13 Let's go forward a little bit more.

14 Pause it again.

15 A. All right. The gentleman with the hood on goes in
16 front of the counter out in the customer area.

17 Q. Okay.

18 A. The other one goes behind the counter where that
19 walkway is.

20 You can see the weapon in that one's hand at that time.

21 Q. Okay.

22 A. And in a minute you will be able to see the other
23 weapon in the lower right-hand corner. You will be able to
24 see the weapon in the other one's hand.

25 Q. What register is she at in number four?

LARRY BELLEW - DIRECT BY MR. ARIAIL

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1 A. Number four would be the gas register. It would be
2 towards the entrance at the lower part of this diagram.

3 Q. Uh-huh.

4 A. Then they go up. Number three is the diesel pump
5 register where the safe was.

6 Q. The individual in front of the counter is on the other
7 side of the counter?

8 A. Yes, sir, he's on the customer side of the counter.

9 Q. When do you see the weapon on the person behind?

10 A. After Ms. Graves moves over, then the other gentleman
11 walks behind her and you will be able to see the weapon in
12 his hand. Actually you could see it when they first came in
13 as you look close.

14 Q. Right here?

15 A. Right there.

16 Q. That's what you were referring to in camera vision
17 number four?

18 A. Yes, sir.

19 Q. All right. You mentioned earlier this photograph of
20 Ms. Graves pen in her hand?

21 A. Yes, sir.

22 Q. Is that shown in camera number three?

23 A. Yes, sir, you can see the pen in her hand there.

24 Q. And is her location at this juncture in camera three,
25 how is that related to where her body was found?

LARRY BELLEW - DIRECT BY MR. ARIAIL

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1 A. It's directly in front of where her body was found.
2 Almost directly in front. It's -- the body was behind and
3 slightly towards the other entrance from where she was
4 standing there. You can see when she gets shot, she goes
5 back and to the left, to her left.

6 Q. Her left and backwards?

7 A. Yes, sir.

8 Q. I want to go back to one other in camera two.

9 At any point during here do you see Ms. Buehner on the
10 outside of the building?

11 A. Yes, sir, you can see her outside going by with the ice
12 tray.

13 Q. In camera two?

14 A. I believe it was, yes, sir.

15 Q. Well, stop it when she goes by.

16 A. There she goes right there.

17 Q. Okay. And she's the lady that later reenters?

18 A. Yes, sir, she was the co-worker, the one that came in
19 and locked the door.

20 Q. Okay.

21 (Whereupon, the videotape was completed)

22 MR. ARIAIL: That's all I have of Mr. Bellew, Your
23 Honor. Please answer any questions that defense counsel may
24 have.

25 MR. GODFREY: I have no questions of Detective

OFFICER JOE WOOD - DIRECT BY MS. STROM

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1 Bellew.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Thank you.

4 MS. STROM: The State calls Joe Wood.

5 OFFICER JOE WOOD, having been first duly sworn,
6 testified as follows:

7 THE CLERK: State your name for the record,
8 please.

9 THE WITNESS: It's Joe G. Wood.

10 THE CLERK: Thank you. Be seated.

11 DIRECT EXAMINATION BY MS. STROM:

12 Q. Mr. Wood, if you would, please, state your full name
13 again for the record?

14 A. It's Joe G. Wood.

15 Q. You need to keep your voice up like that so all the
16 jurors and I can hear you.

17 A. Yes, ma'am.

18 Q. Thank you.

19 By whom are you employed?

20 A. Greenville County sheriff's office.

21 Q. How long have you been with the Greenville County
22 sheriff's office?

23 A. A little over 33 years.

24 Q. Okay. In what capacity do you work with the Greenville
25 County sheriff's office?

OFFICER JOE WOOD - DIRECT BY MS. STROM

1081

1 A. The violent crimes division in the criminal
2 investigation division.

3 Q. How long have you been in that division, approximately?

4 A. Probably about 25 years.

5 Q. I want to direct your attention back to Halloween
6 night, 1997, the early morning hours of November 1st, 1997.

7 A. Yes, ma'am.

8 Q. Do you recall the incident that occurred at the
9 Speedway gas station. I think it also has the Starvin
10 Marvin convenience store in it?

11 A. Yes, ma'am, I do.

12 Q. That's located in Greenville County?

13 A. It is.

14 Q. What was the nature of your participation in the
15 robbery murder that occurred there?

16 A. I was initially called in by who was then Sergeant
17 Bellew, my sergeant over the homicide unit, to assist in the
18 investigation. He had already gone to the scene and advised
19 that he needed some assistance.

20 Q. After the initial investigation of the crime scene, did
21 you have an occasion to speak with Freddie Owens, the
22 defendant in this case, after he was arrested?

23 A. I did.

24 Q. Do you recall when that was?

25 A. I believe it was the following day, or maybe a couple

OFFICER JOE WOOD - DIRECT BY MS. STROM

1082

1 days later.

2 Q. When you talked with -- did you talk with Freddie Owens
3 that one time? .

4 A. That's correct.

5 Q. When you talked with him, prior to talking to him, did
6 you advise him of his rights?

7 A. Yes, I did.

8 Q. And did you do that on a standard Greenville County
9 sheriff's office advise of rights form?

10 A. Yes, ma'am.

11 Q. I'm going to show you what's been marked as State's
12 Exhibit No. 22. Don't go into what it is, but do you
13 recognize that?

14 A. Yes, ma'am.

15 Q. Does that document bear your signature?

16 A. It does.

17 MS. STROM: Your Honor, at this time we are going
18 to offer State's Exhibit No. 22 into evidence.

19 MR. GODFREY: Without objection.

20 THE COURT: Without objection, it's in evidence.

21 BY MS. STROM:

22 Q. I'm going to take it from you so we can put it on the
23 projector, all right?

24 You stated that --

25 Well, first of all, go over this advise of rights form.

OFFICER JOE WOOD - DIRECT BY MS. STROM

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1 Would you have put the date on here that the date that you
2 talked with Freddie Owens?

3 A. Yes, ma'am.

4 Q. Do you sign that up in the corner?

5 A. Yes, ma'am.

6 Q. What date did you talk with Freddie Owens?

7 A. November the 11th, 1997. It's been a long time ago.

8 Q. I understand, sir.

9 And that was the first time that you spoke with him,
10 the only time that you spoke with him?

11 A. That's correct.

12 Q. So it was a few days after the incident?

13 A. That's correct.

14 Q. Could you please describe for this jury what you do
15 when you advise someone of their rights?

16 And let's start with the top right-hand corner. What's
17 going on on there.

18 A. That's where the date is entered and the time at which
19 the Miranda Rights are started.

20 Q. And what time is reflected there?

21 A. That is 10:30 a.m..

22 Q. Okay. And it's not showing there. So let me pull it
23 down just a little bit.

24 What is that in the very top right-hand corner?

25 A. That is the -- or one of the case numbers that's

OFFICER JOE WOOD - DIRECT BY MS. STROM

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1 assigned to this particular case.

2 Q. The file number that y'all have?

3 A. That's correct.

4 Q. If you would, please go over with this jury -- tell me
5 exactly how you went about advising Freddie Owens of his
6 rights. What exactly did you do?

7 A. Well, first of all, it's explained to him why he's
8 there and why the rights are being administered in this
9 case. It was explained to him why he was under arrest.

10 Q. Did you explain that to him?

11 A. I did.

12 Q. Go ahead.

13 A. I make sure or try to make sure as well as I can if
14 he's under the influence of any alcohol or drugs.

15 Q. And were you able to determine if he were under the
16 influence of any alcohol or drugs?

17 A. To the best of my knowledge, he was not, and he also
18 stated that he was not.

19 Q. Okay.

20 A. I also checked for any visible injuries, and there was
21 none noted.

22 And then the waiver of rights is gone through verbally
23 by myself. I read the rights to the individual.

24 Q. And I believe that someone is there present with you,
25 is that correct?

OFFICER JOE WOOD - DIRECT BY MS. STROM

1085

1 A. That's correct. At the time it was my captain, which
2 is Captain Ken Evett.

3 Q. Ken Evett.

4 And how are you and Captain Evett dressed?

5 A. Street clothes.

6 Q. Such as you are today, or --

7 A. No, it's just a little more -- a little more formal. I
8 think I had on blue jeans that day and maybe a sweatshirt or
9 something and a green jacket, which I thing I had taken off
10 when we got in the office.

11 Q. Were you armed?

12 A. I was.

13 Q. Was Captain Evett armed?

14 A. He was.

15 Q. Were the weapons that you had on, were they ever pulled
16 out and displayed or pointed at in any way to Mr. Owens?

17 A. No, ma'am.

18 Q. They remained in the holster at all times?

19 A. They did.

20 Q. Where did the advise of rights occur?

21 A. In my office inside the CID division, which is located
22 in the law enforcement center.

23 Q. Were y'all the only people in there?

24 A. Myself, Captain Evett and Freddie.

25 Q. And, again, I know I have cut you off a couple of

OFFICER JOE WOOD - DIRECT BY MS. STROM

1086

1 times. How is it that you go about advising him of his
2 rights? What did you do?

3 A. I read the rights aloud. The entire rights is read by
4 me out loud. And then I go back and go through each right
5 individually to make sure that each right is understood by
6 the person that is being administered to.

7 Q. So this advise of rights form you read out loud to him?

8 A. I did.

9 Q. All in one reading?

10 A. All in one reading, yes, ma'am.

11 Q. After you did that, what did you do?

12 A. I go back and go through each right separately. For
13 example, "you have the right on remain silent." I read that
14 aloud and then ask the individual "do you understand what
15 that means," and have them explain it to me.

16 Q. Is that what you did with Freddie Owens?

17 A. That's correct.

18 Q. And tell us what these markings are around the
19 individual rights.

20 A. I just bracket those off as I go through them to make
21 sure that I cover all of them.

22 Q. And there appears to be a checkmark out beside. What's
23 that?

24 A. When that's explained back to me satisfactorily, I
25 check it off.

OFFICER JOE WOOD - DIRECT BY MS. STROM

1087

1 Q. And so you explained to him these rights. Did you go
2 over those specifically and tell the jury what you advised?

3 A: "You have the right to remain silent.

4 "Anything that you say can be used against you in
5 court.

6 "You have a right to talk to a lawyer for advice before
7 we ask you any questions and to have him with you during
8 questioning.

9 "And if you have no money to pay a lawyer's fee, the
10 court will appoint one to represent you without costs, if
11 you wish.

12 "And if you decide to answer questions now without a
13 lawyer present, you will still have the right to stop
14 answering at any time.

15 "You also have the right to stop answering at any time
16 until you talk to a lawyer."

17 It goes on further as the waiver of rights, and it
18 states "I have read this statement of my rights and
19 understand what my rights are. I am willing to make a
20 statement and answer questions. I do not want a lawyer at
21 this time. I understand and know what I'm doing and no
22 pressure or threats have been made to me and no pressure or
23 coercion of any kind or promises of threats have been made
24 to me, and no pressure or coercion of any kind has been used
25 against me."

OFFICER JOE WOOD - DIRECT BY MS. STROM

1088

1 Q. You went over each and every one of these rights with
2 the defendant Freddie Owens?

3 A. I did.

4 Q. And did he indicate to you that he understood these
5 rights?

6 A. Yes, ma'am, he did.

7 Q. Out beside these rights "if you have no money to pay a
8 lawyer's fee," it appears to be another indication of some
9 sort. What's that?

10 A. When we do the rights, one of the things that we do is
11 we -- after all this is done, we give the rights form to the
12 individual and let them read it themselves. And in order to
13 do that, we have to make sure that they can read and right,
14 so we have them pick out a particular line, any line of
15 their choosing on that form, and read it aloud to us and
16 then they initial it that that is the line that they read.

17 Q. So that's the line that Freddie Owens read out loud in
18 your presence?

19 A. That's correct.

20 Q. Okay. Did he appear to have any trouble understanding
21 his rights?

22 A. No, ma'am.

23 Q. Did he ever indicate to you that he did not understand
24 his rights?

25 A. No, ma'am.

OFFICER JOE WOOD - DIRECT BY MS. STROM

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1 Q. Were all his responses indicative to you that he, in
2 fact, understood his rights?

3 A. Yes, ma'am.

4 Q. Was any pressure put upon Mr. Owens to get him to waive
5 his right?

6 A. No, ma'am.

7 Q. And did anyone promise him anything in any way
8 whatsoever to get him to waive his rights?

9 A. No, ma'am.

10 Q. Did anyone coerce him or threaten him or lay hands upon
11 him in any way during that session to get him to waive his
12 rights?

13 A. No, ma'am.

14 Q. I believe you talked about that you also went over the
15 waiver of the rights form?

16 A. Yes, ma'am.

17 Q. The last paragraph at the bottom.

18 Did Mr. Owens, in fact, sign that document waiving his
19 rights?

20 A. He did.

21 Q. Did you witness that waiver of rights form?

22 A. Yes, ma'am, I did, along with Captain Evett.

23 Q. There is a time at the bottom?

24 A. Yes, ma'am.

25 Q. What time is that?

OFFICER JOE WOOD - DIRECT BY MS. STROM

1090

1 A. 10:47 a.m..

2 Q. And what does that time indicate?

3 A. That's the time that the form was signed and that it
4 was completed.

5 Q. You began the advise of rights at 10:30 a.m. and
6 completed it at 10:47 a.m.?

7 A. That's correct.

8 Q. Okay. After you advised --

9 Let me ask you this. At any time while you were
10 advising Mr. Owens of his rights, did he ever indicate to
11 you that he wanted a lawyer?

12 A. No, ma'am, he did not.

13 Q. Did he ever indicate to you that he did not wish to
14 talk to you?

15 A. No, ma'am, he did not.

16 Q. After you advised Mr. Owens of his rights, did you, in
17 fact, ask him if he wanted to talk with you?

18 A. Yes, ma'am, I did.

19 Q. And did he indicate anything to you?

20 A. He said that he would talk with me, but he would not
21 put anything in writing at that time.

22 Q. And did you, in fact, talk to him at that time?

23 A. I did.

24 Q. And after talking with him about the incident, did you
25 at any time confront him or make any statements to him about

OFFICER JOE WOOD - DIRECT BY MS. STROM

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1 the strength of the case that you had on him?

2 A. Yes, ma'am, I did.

3 Q. What did you say?

4 A. We -- we had basically just been talking and going over
5 some details. And I explained to him that what he was
6 telling me did not particularly add up with what the
7 evidence and the witnesses had told us and that we had a
8 pretty strong case against him.

9 Q. And when you said that to him, what did he -- did he
10 respond?

11 A. Yes, ma'am, he did.

12 Q. What did he say?

13 A. I -- I can't do it verbatim. I don't have any notes
14 with me.

15 Q. Do you need your notes?

16 A. Please.

17 Q. So you took notes of this at the time that you were
18 talking with him?

19 A. Yes, ma'am, I did.

20 MS. STROM: Your Honor, for the record, Mr.
21 Godfrey has copies of these.

22 BY MS. STROM:

23 Q. These are your notes, correct?

24 A. Yes, ma'am.

25 Q. Okay. And again, if you need to refer to them, please

OFFICER JOE WOOD - DIRECT BY MS. STROM

1092

1 feel free.

2 A. Okay.

3 Q. We were at the point where you told Mr. Owens that what
4 he was telling you was not adding up, or something to that
5 effect?

6 A. That's correct.

7 Q. And did he say anything to you in response to that?

8 A. He did.

9 Q. What did he say?

10 A. He said "the only thing I'm here for is to eat, sleep,
11 shit and piss. I don't give a shit. I was born to be in
12 jail."

13 Q. After he made that comment, did you make any other
14 comment to him?

15 A. Yes, ma'am.

16 Q. What was that?

17 A. I asked him at that point if he was aware that his
18 mother was -- had indicated that she was going to turn him
19 in.

20 Q. Did he respond to that?

21 A. He did.

22 Q. What did he say?

23 A. He said "if my mom says anything, tell her I said
24 adios, to kiss her ass too. She can kiss my ass too. Tell
25 Ian and the rest of them assholes to fuck themselves. If I

OFFICER JOE WOOD - DIRECT BY MS. STROM

1093

1 go to jail, I go to jail. I don't give a shit."

2 Q. After he made that comment, did you say anything to him
3 or did he make any further comments to you about himself?

4 A. He was pretty much just talking and I was writing as
5 fast as I could, because I wanted to make sure that I got
6 everything written down. He pretty much just continued on
7 from that point and he said "people tend to think I have a
8 sick and evil mind, but I have a very educated mind. I
9 would like to take the blame for all of this, but I'm not
10 going to take it all myself. I made my mark on Hall Street
11 after I got out of jail selling lots of drugs. I made lots
12 of money. Yeah, I want to be remembered as the one who
13 killed the most people in Greenville. I'm a real menace."

14 Q. Mr. Wood, what was Freddie Owens demeanor during this
15 conversation that you had with him?

16 A. He was cocky. He had a don't-care attitude. He smiled
17 a lot when he was saying this.

18 Q. How did he make you feel?

19 A. He's one of two people out of probably 25 years in
20 homicide that I have interviewed that actually gave me cold
21 chills.

22 Q. Thank you.

23 MS. STROM: Court's indulgence, Your Honor.

24 (Off the record)

25 (Back on the record)

1094

1 BY MS. STROM:

2 Q. During your conversation with him, did you at any time
3 talk to him about the possibility of this case being a
4 capital case?

5 A. I did.

6 Q. Being a death penalty case?

7 A. Yes, ma'am.

8 Q. Did he have response to that?

9 A. He did.

10 Q. What did he say?

11 A. He said "I don't give a shit about that either."

12 MS. STROM: Thank you. Please answer any
13 questions that the defense may have.

14 THE COURT: Yes, ma'am.

15 MR. GODFREY: No questions of this witness.

16 THE COURT: Thank you, Detective Wood.

17 THE WITNESS: Thank you, judge.

18 MS. STROM: Thank you, Your Honor.

19 THE COURT: Okay. It's been about an hour and a
20 half or so. We will take a short recess and for everybody
21 to be comfortable. We will take 20 minutes instead of 10 or
22 15.

23 Remember, I don't have to tell you this, but do
24 not discuss the case with each other at this point or with
25 anybody until the case is over, as I told.

1095

1 We will take a break for this afternoon. Y'all
2 can step back and we got two rooms, maybe three. SLED also
3 will help you. Just step out for that and recess.

4 (The following takes place outside the presence of
5 the jury panel)

6 THE COURT: We will be in recess here and we won't
7 start back until twenty-five to.

8 MR. ARIAIL: Okay.

9 (Whereupon, proceedings were recessed)

10 (Whereupon, proceedings were reconvened)

11 THE COURT: I'm informing the attorneys I'm going
12 to make it part of the record a note from Mr. Asire asking
13 if he knew anyone in the courtroom. He had told us no, but
14 he recently met this young lady here in green and told us
15 that he did know somebody in the courtroom. When he
16 answered the other day he didn't see her, but she's not
17 going to be participating in the case. She's going to be
18 assisting Carolina.

19 Thank you. Bring them in.

20 (Juror Note marked as Court Exhibit No. 3 marked
21 for identification)

22 (The following takes place in the presence of the
23 jury panel)

24 THE COURT: Ms. Strom.

25 MS. STROM: Thank you, Your Honor.

MARY BUEHNER HALL - DIRECT BY MS. STROM

1096

1 The State calls Elizabeth Buehner Hall.

2 MARY BUEHNER HALL, having been first duly sworn,
3 testified as follows:

4 THE CLERK: State your full name for the record,
5 please.

6 THE WITNESS: Mary Buehner Hall.

7 THE CLERK: Thank you. Be seated.

8 DIRECT EXAMINATION BY MS. STROM:

9 Q. Ms. Hall, if you would, please state your full name for
10 the record.

11 A. Mary Buehner Hall.

12 Q. By whom are you employed?

13 A. Poole's Moving at this time.

14 Q. Back in October of 1997, and November of 1997, where
15 were you working?

16 A. Speedway Super America.

17 Q. Where was that located?

18 A. This particular location was on Laurens Road.

19 Q. You had worked at other Speedways?

20 A. Yes, ma'am.

21 Q. At other locations?

22 A. Yes, ma'am.

23 Q. On the evening of October 31st, in the early morning
24 hours of November 1st, you were working at the one on
25 Laurens Road?

MARY BUEHNER HALL - DIRECT BY MS. STROM

1097

- 1 A. Yes, ma'am.
- 2 Q. And I don't believe it's there any more, is it?
- 3 A. No, it's torn down.
- 4 Q. It's torn down. All right.
- 5 At the time of October 31st and November 1st, how long
- 6 had you been working for Speedway?
- 7 A. About six years.
- 8 Q. The night of October 31st, or early morning hours of
- 9 November 1st, who was working with you?
- 10 A. Irene Graves.
- 11 Q. What shift were y'all working?
- 12 A. Third shift.
- 13 Q. What hours?
- 14 A. Ten p.m. to six a.m..
- 15 Q. Were y'all the only two working that evening?
- 16 A. Yes, we were.
- 17 Q. Was it customary for two people to work in the evening?
- 18 A. Yes.
- 19 Q. I want you to go back to the early morning hours of
- 20 November 1st, and -- the jury has already seen the video. I
- 21 believe you were present when that was shown?
- 22 A. Yes, I was.
- 23 Q. Tell this jury what occurred. Why was it that you were
- 24 not in the store?
- 25 A. Throughout the night it gets quiet, reaches a certain

MARY BUEHNER HALL - DIRECT BY MS. STROM

1098

1 time that we have to do our work for the night so that the
2 next shift can start their shift without having a hard time.
3 We had been discussing who was going to do what for that
4 night.

5 We were completely out of ice in our fountain drink
6 machine. We were very low on ice on the bag machine where
7 we sell out of outside, and we was just going on about who
8 is going to go outside. I said "I don't want to go out in
9 the building," because it was just one of those types of
10 buildings next to the Waffle House that it was okay to get
11 there, but once you got inside of it, you closed the door to
12 feel protected. But then you had to come back out of the
13 door, which was kind of an odd thing to do. And we jokingly
14 went back and forth. And I said "okay, fine, I'll go get
15 some ice. I'm just getting enough to carry in for a little
16 while and to fill up the fountain drink machine."

17 Q. So this building that you are talking about that was
18 near the Waffle House, that's the ice house?

19 A. That's what we called it. We had kept supplies, fast
20 food supplies. Being a truck stop, diesel oil that we sold
21 in the store because we had to have an area to place to be
22 able to stock the shelves regularly.

23 Q. And so you decided that you would go?

24 A. Yes.

25 Q. And what occurred? What happened when you went out

MARY BUEHNER HALL - DIRECT BY MS. STROM

1099

1 there? What did you do?

2 A. I bagged about ten, twelve bags of ice. I just went
3 ahead and what I was going to put in the fountain drink
4 machine, I just bagged so that we could pour over into it,
5 because we generally fill buckets or something.

6 I may have been gone 15 to 20 minutes. And once I got
7 it bagged, come out of the ice house to pull it back up to
8 the store.

9 Q. When you pulled up to the store, what side did you pull
10 up to, the diesel pump side or the Laurens Road side?

11 A. The diesel pump side.

12 Q. All right. And what did you do?

13 A. I pulled -- you pull around to the end of the building.
14 On the front side is the ice box where we sell ice, and I
15 pulled all the way from the back side of the building to the
16 front to be able to put that into the box.

17 Q. When you are talking about the front side, that's the
18 Laurens Road side?

19 A. The gas pump side.

20 Q. You pulled around from the diesel side all the way
21 around to the front side?

22 A. Yes, ma'am.

23 Q. And what occurred?

24 A. I heard a noise.

25 Q. What kind of noise?

MARY BUEHNER HALL - DIRECT BY MS. STROM

1100

1 A. Like a balloon popping. It didn't really initiate
2 anything in my brain at the time as to what it really was.
3 I kept pulling. I pulled a little bit past where the ice
4 box is, which is probably about 30 feet from the front door,
5 and that's when, you know, two people come running out the
6 front door, and it just kind of hit me what it was, what the
7 sound could have been.

8 Q. When you saw the two people running out of the door,
9 tell me what you saw. What did you notice about them?

10 A. One was a little taller than the other. They was
11 taking off pretty fast. The one without the hood was like
12 trying to pull his mask off to see to run, I don't know, but
13 they were going really fast. I mean, they just -- they just
14 took off. And all I could really do was -- that's the
15 reason a few seconds you see -- they were going out and me
16 coming in, I couldn't even move because it was just like an
17 initial shock what just happened, is all I could think what
18 just happened in this store.

19 Q. After they run out of the store, they ran out towards
20 Laurens Road side?

21 A. Yes, towards Carolina Blouse, which was a business
22 straight in front of the Speedway.

23 Q. Across Laurens Road?

24 A. Right. I did not pay attention once they hit the road
25 exactly which side of the building they took to. I just

MARY BUEHNER HALL - DIRECT BY MS. STROM

1101

1 know they went through the middle of the gas pumps and was
2 headed across the street.

3 Q. And they ran past you or ran out the doors towards
4 Laurens Road, what did you do?

5 A. I went on inside the store.

6 Q. Tell us what you found when you went inside the store.

7 A. I went in. I said Irene one time, two times. I don't
8 know how many times. I stepped up behind the counter and
9 the only thing I could see was the lower half of her body at
10 the office area, which is right behind the diesel register,
11 and I at least knew she was hurt, so I went ahead and locked
12 the doors. I guess feeling safety for myself at that
13 particular moment, and went back around to see if I could do
14 anything for her. I called her name, leaned over, touched
15 her hand. At that point looking at her I could tell that
16 there was -- it just didn't seem like there was no life, and
17 I called 9-1-1.

18 Q. The officers arrived there at the scene and you talked
19 with them?

20 A. (Shaking head yes)

21 Q. How well did you know Irene Graves?

22 A. I helped her get the job there four, four and a half
23 years before that. She had worked at the Pantry right down
24 the road. And she come in as a customer and made jokes.
25 No, it wasn't jokes. I know how serious it probably could

MARY BUEHNER HALL - DIRECT BY MS. STROM

1102

1 have been about how she was getting robbed down at the
2 Pantry, and people coming in and bothering her and messing
3 with her, and we needed to get her a job there, and talked
4 to the manager, and "come on, she's been working down there.
5 You know she would be a good worker and she's willing to
6 work any hours," and they hired her.

7 Q. Do you know if working at the Speedway was her only
8 job?

9 A. At the particular time we was working together that
10 night, I knew she had three jobs.

11 Q. She had three jobs?

12 A. Three jobs.

13 Q. How did you know that?

14 A. Because we talked about it. We talked about how much
15 time she either did with jobs or her kids. I mean, that's
16 the main thing we talked about was her work, her kids,
17 because, you know, both single moms at the time.

18 Q. Did y'all work together often?

19 A. We had. Prior to this I had only been back in that
20 store for about two weeks to help the manager of that store.
21 She was a new manager and needed a little help and didn't
22 like working third shift, but I was willing -- I know how
23 hard it was when I started managing to not have somebody
24 there to kind of back you up and have to be there almost 24
25 hours a day to keep things going. But before that we had

MARY BUEHNER HALL - DIRECT BY MS. STROM

1103

1 worked together before I had taken a store probably about a
2 year, year and a half.

3 Q. Do you know how Ms. Graves got back and forth to work?
4 Did she own a car?

5 A. At one time she did. It didn't last too long. It was
6 a piece of junk. She rode bicycle sometimes. She asked for
7 us rides. Most of the time we offered the rides before she
8 would even ask for them.

9 At her apartment complex there were a few people she
10 could depend on from time to time if they were there to take
11 her to work, and whoever worked with her generally took her
12 home in the mornings.

13 Q. What type of worker was she?

14 A. She was a good worker. She did what was expected of
15 her. She was a good worker. She really was.

16 Q. What kind of person was she?

17 A. Funny. She had a sense of humor, but she also had a
18 harshness about her. You know, I guess I had a little bit
19 of that myself over the years going through a divorce,
20 raising kids by yourself, working all the time.

21 She was a little brazen sometimes with the way she put
22 things to people, the profanity she would use sometimes, but
23 she never meant any harm with it. I mean, she never
24 directed it towards anyone. It was more or less cutting up
25 than anything. But if somebody come in running their mouth,

MARY BUEHNER HALL - DIRECT BY MS. STROM

1104

1 wanting to act like they was wanting to start some trouble,
2 most of the time it was some of the guys we knew that come
3 in from Laurel Creek. They was harmless. She would kind of
4 tell them off in a more of a harsh mother type way than
5 anything, but she spoke what she felt.

6 Q. You said earlier that y'all talked about her kids. How
7 many kids did she have, do you recall?

8 A. Three.

9 Q. And did you ever have occasion to be around them?

10 A. Oh, yeah. There was times that she would stop by the
11 store when she was taking Insley to dance practice or
12 different things she was doing with the kids. She kept them
13 involved in things. She, you know, tried to do what was
14 right for them.

15 There was even one year that I cooked Thanksgiving
16 dinner for them, just for the mere fact that I knew her
17 trying to pay the bills, paying for dance practice and
18 everything else. She didn't ask me. She did not -- she
19 didn't ask me. I mean, she made comment about "you better
20 bring me a piece of that sweet potato pie." And, you know,
21 I just went and bought a few things and she very
22 appreciative. I mean, she cried when I took it to her.

23 Q. How did she interact with her children?

24 A. She loved her kids. She spent a lot of time working,
25 but she never spent any time with her for herself. She

MARY BUEHNER HALL - DIRECT BY MS. STROM

1105

1 would be sick at work.

2 Odd things, you know. I would tell her "you need to go
3 to the doctor." You could tell her she had an earache one
4 night and she asked me to blow smoke in her ear, an old
5 wives' tale or something, and I said "I'm not as doctor.
6 I'm not doing that for you," but she let herself go in order
7 to work and spent time with her kids. I do know that.

8 Q. Let me show you what's been marked as State's Exhibit
9 No. 23. Without going into what's in that, do you recognize
10 State's Exhibit No. 23?

11 A. Yes.

12 Q. Okay.

13 MS. STROM: Your Honor, at this time we would
14 offer State's Exhibit No. 23 into evidence.

15 MR. GODFREY: Without objection.

16 THE COURT: Without objection, it's in evidence.

17 BY MS. STROM:

18 Q. Ms. Hall, if you would please tell us who was reflected
19 in this photocopy of a photograph?

20 A. Irene, Insley and Jeremy.

21 Q. Those are two of her children?

22 A. Her two youngest. She has an older son also.

23 Q. And at the time of her murder, the oldest son, was he
24 an adult?

25 A. He was 18.

MARY BUEHNER HALL - DIRECT BY MS. STROM

1106

1 Q. Ms. Hall, would you consider yourself one of Ms.
2 Graves' friends?

3 A. I would.

4 Q. How has her death affected you?

5 A. I feel guilty sometimes because I'm so glad it wasn't
6 me, but at the same time I guess I worried about her
7 spiritual life.

8 Q. Had y'all talked about that?

9 A. We had. We had. She talked about her kids going to
10 church. And she said "I know you think bad about me because
11 I don't go to church." I said "Irene, I love God and God
12 loves me." And I don't feel like you have to go to church
13 to have him in your life, but I think her kids were just
14 coming to her with their feelings of God and it was actually
15 affecting the way she felt about things because it affected
16 her kids. I mean, it most definitely affected her.

17 My kids were four and seven at the time this happened.
18 They are 17 and 13 now. I thank God every day that I can
19 see them grow up, but it hurts me to think there is kids
20 that have grown up without a mother.

21 Q. Thank you, Ms. Hall. Please answer any questions that
22 defense may have.

23 MR. GIBSON: No questions. Thank you, Ms. Hall.

24 THE COURT: Thank you, ma'am.

25 MS. STROM: Your Honor, we would ask that she be

AISHA AUSTIN - DIRECT BY MR. STROM

1107

1 allowed to return home and to work.

2 MR. GIBSON: No objection.

3 THE COURT: Without objection, ma'am, you may be
4 excused, if you would like.

5 The State calls Aisha Austin.

6 AISHA AUSTIN, having been first duly sworn,
7 testified as follows:

8 THE CLERK: State your name for the record,
9 please.

10 THE WITNESS: Aisha Austin.

11 THE CLERK: Thank you. Be seated.

12 DIRECT EXAMINATION BY MS. STROM:

13 Q. Ms. Austin, please state your full name for the record.

14 A. Aisha Shaniqua Austin.

15 Q. I need you to keep your voice up so all these jurors
16 and I can hear you, all right?

17 A. Okay.

18 Q. Where do you live?

19 A. 200 Ashe Drive, apartment E-7.

20 Q. Is that in Greenville?

21 A. Yes.

22 Q. How old are you?

23 A. 28.

24 Q. How far did you go in school?

25 A. I graduated.

AISHA AUSTIN - DIRECT BY MR. STROM

1108

- 1 Q. From high school?
- 2 A. Uh-huh.
- 3 Q. Which high school?
- 4 A. J.L. Mann High School.
- 5 Q. J.L. Mann?
- 6 A. Uh-huh.
- 7 Q. Are you presently employed?
- 8 A. Yes.
- 9 Q. Where do you work?
- 10 A. I work at BMW.
- 11 Q. What do you do with BMW?
- 12 A. I inspect the car parts.
- 13 Q. You inspect the car parts?
- 14 A. Uh-huh.
- 15 Q. Do you know the defendant Freddie Owens?
- 16 A. Yes.
- 17 Q. How long have you known him?
- 18 A. A couple years.
- 19 Q. I want to direct your attention back to October 31st,
- 20 1997, November 1st, 1997. Do you recall that time?
- 21 A. Yes.
- 22 Q. How old were you at that time, approximately?
- 23 A. 18.
- 24 Q. How old was Freddie at that time?
- 25 A. The same age.

AISHA AUSTIN - DIRECT BY MR. STROM

1109

1 Q. Did you know him back then?

2 A. No, I had just met him of the year of 1997.

3 Q. You had met him in 1997?

4 A. Uh-huh.

5 Q. So on October the 31st and November 1st of 1997, what
6 was your relationship with Freddie Owens?

7 A. Boyfriend-girlfriend.

8 Q. How long had y'all been seeing each other?

9 A. Like about four months.

10 Q. On that Halloween night what did you do? Do you recall
11 what you did that night?

12 A. Yes.

13 Q. What did you do?

14 A. I went to a J.L. Mann football game.

15 Q. Who went with you?

16 A. My cousin.

17 Q. What's your cousin's name?

18 A. Brandy.

19 Q. How did y'all get there?

20 A. Her mother.

21 Q. Her mother took you?

22 A. Yes.

23 Q. Was Freddie Owens with you?

24 A. No.

25 Q. After the ball game did Brandy's mother pick you up?

AISHA AUSTIN - DIRECT BY MR. STROM

1110

- 1 A. Yes.
- 2 Q. Where did she take you?
- 3 A. To Freddie's house.
- 4 Q. You went to Freddie Owen's house?
- 5 A. Yes.
- 6 Q. Why was that?
- 7 A. That's where I -- that's where I go every night.
- 8 Q. So it's not unusual for you to go to his house?
- 9 A. Uh-uh.
- 10 Q. Okay. What time do you think that you got to Freddie
- 11 Owens house that night?
- 12 A. I would say around 10:30, something eleven.
- 13 Q. Was Freddie Owens there when you got there?
- 14 A. No.
- 15 Q. How long did you stay there?
- 16 A. Until the next morning.
- 17 Q. While you were there that evening, did Freddie Owens
- 18 come home?
- 19 A. No.
- 20 Q. When was the next time that you saw Freddie Owens?
- 21 A. The next morning.
- 22 Q. What time did you see him, approximately?
- 23 A. It was maybe like ten -- ten or eleven.
- 24 Q. What were you doing when you saw him, do you remember?
- 25 A. I was asleep. I had just woke up.

AISHA AUSTIN - DIRECT BY MR. STROM

1111

1 Q. When you woke up was he there?

2 A. Yes.

3 Q. Did you have any conversation with Freddie Owens while
4 he was there?

5 A. I asked him where he had been.

6 Q. What did he tell you?

7 A. He was out riding, him and Andre.

8 Q. I'm sorry?

9 A. Him and Andre was out riding.

10 Q. Did you have any other conversation with him at that
11 time?

12 A. No.

13 Q. Tell me what happened that day.

14 A. I got out of the bed. He came through there. I got
15 up. I asked him where he had been. He stated out riding.
16 I went outside. I went down the street a couple doors down.
17 I talked to a friend of mine named Sally. She was asking me
18 about --

19 Q. Don't go into what she said, okay, but after you talked
20 with Sally, did you come back to Freddie's house?

21 A. Yes. Yes, I came back to Freddie's house.

22 Q. What happened when you came back to Freddie's house?

23 A. I got a phone call from my sister. She asked me did I
24 know anything about --

25 MR. GIBSON: Objection.

AISHA AUSTIN - DIRECT BY MR. STROM

1112

1 BY MS. STROM:

2 Q. Don't go into what anybody else told you. You can only
3 talk about what you said and what Freddie said, okay?

4 Let me back you up. Before you went to your friend
5 Sally's house, did Freddie Owens receive a call there at his
6 house?

7 A. Oh, yes. Uh-huh.

8 Q. Okay. Not going into what the person on the other end
9 of the line said, but could you hear what Freddie was
10 saying?

11 A. Yes.

12 Q. What did Freddie say?

13 A. "I know you know I did it. Just keep quiet."

14 Q. "I know you know I did it."

15 A. "Just keep quiet."

16 Q. "Just keep quiet."

17 A. Uh-huh.

18 Q. Did you say anything to him about that?

19 A. No, I just asked him who he was talking to.

20 Q. What -- did he tell you who he was talking to?

21 A. Yes.

22 Q. What did he say?

23 A. Cornelius.

24 Q. Cornelius?

25 A. Yes.

AISHA AUSTIN - DIRECT BY MR. STROM

1113

1 Q. Do you know Cornelius' last name?

2 A. Uh-uh. No.

3 Q. After you went to Sally's house and came back, you said
4 that you were received a call from your sister?

5 A. Yes.

6 Q. Again, not going into what your sister said, but after
7 you talked to your sister, did you then talk with Freddie
8 Owens?

9 A. Yes.

10 Q. What did you say to Freddie Owens?

11 A. I just asked him about just riding. Just out riding
12 and where he had been.

13 Q. What did he say?

14 A. Just out riding. Went to -- just went -- just went
15 riding.

16 Q. And did he have an occasion to leave his house?

17 A. Yes.

18 Q. Where did he go?

19 A. He went to the store.

20 Q. Did you go with him?

21 A. No.

22 Q. Who went with him?

23 A. One of his friends.

24 Q. Do you remember who that was?

25 A. I think his name was James.

AISHA AUSTIN - DIRECT BY MR. STROM

1114

1 Q. When he came back from the store, what, if anything,
2 did he have?

3 A. He had a newspaper.

4 Q. A newspaper?

5 A. Yes.

6 Q. What happened with that newspaper? Tell me what
7 happened.

8 A. He came in the house with the newspaper, sat down and
9 read it. Everybody got to read it except me. I asked him
10 why I couldn't read it. He told me I didn't need to read
11 it. So I got the paper anyway and read it. It was telling
12 me about the lady at the store, how the two gunmen came in
13 robbed the store and shot the lady.

14 Q. Did you say anything to Freddie about that?

15 A. I asked him about it.

16 Q. What did he say?

17 A. He was saying "yeah, you know, he -- they went in the
18 store and the lady didn't open up the safe, so he just shot
19 her.

20 Q. Do you recall specifically what he said about how the
21 lady was shot?

22 A. He -- he say he went in and he kept asking her to open
23 the safe. She kept throwing up her hands and said she
24 couldn't open the safe, so he just said "I shot the bitch".

25 Q. He said "I shot the bitch"?

AISHA AUSTIN - DIRECT BY MR. STROM

1115

1 A. Yes.

2 Q. Did you say anything to him after he told you that?

3 A. I asked him why did he do it, because, you know, my mom
4 left me -- she left three kids, so -- and -- and I was
5 telling him basically that he wouldn't want nobody to do it
6 to his mother, and, you know, her kids would be left without
7 a mother.

8 Q. Did he say anything back to you?

9 A. No, uh-uh.

10 Q. Do you recall how -- do you recall if he said anything
11 to you about how he was dressed, or what he was wearing, or
12 anything other about the incident?

13 A. He said he was dressed in all black.

14 Q. Did he tell you who was with him?

15 A. Yes.

16 Q. Who did he say was with him?

17 A. Andre.

18 Q. Did he say how Andre was dressed?

19 A. In all black.

20 Q. Did he say anything about what he did with the clothes
21 or the gun?

22 A. Yes, he burnt the clothes at an old school.

23 Q. Aisha, has Freddie Owens ever said anything to you
24 about how he wants to be remembered?

25 A. Yes.

AISHA AUSTIN - CROSS BY MR. GIBSON

1116

1 Q. What has he said to you?

2 A. He said he wanted to go down in history for committing
3 the most murders in Greenville County without getting
4 caught.

5 MS. STROM: Court's indulgence, Your Honor.

6 (Off the record)

7 (Back on the record)

8 BY MS. STROM:

9 Q. Thank you, Ms. Austin. Please answer any questions
10 that the defense may have.

11 CROSS EXAMINATION BY MR. GIBSON:

12 Q. Good afternoon, Ms. Austin.

13 I'm Ken Gibson, one of Mr. Owens lawyers. I just want
14 to ask you a few questions if that's okay.

15 So let me get this straight. You -- at the time this
16 thing happened you were Mr. Owens girlfriend?

17 A. Yes.

18 Q. And you had been his girlfriend for four months, is
19 that correct?

20 A. Yes.

21 Q. And y'all were living together?

22 A. I was going over there and spending the night. It
23 wasn't like living together.

24 Q. Okay. All right.

25 Now, isn't it true that about the time this thing

AISHA AUSTIN - CROSS BY MR. GIBSON

1117

1 happened you found out that Freddie was cheating on you?

2 A. No, he wasn't cheating on me.

3 Q. Isn't it true that you found out he was cheating on
4 you?

5 A. Uh-uh, he wasn't cheating.

6 Q. Now, when this thing happened, you gave a statement to
7 the police, didn't you?

8 A. Yes.

9 Q. All right. And I'm going to show you this statement,
10 if that's okay.

11 A. Uh-huh.

12 Q. Take a look at that and tell if that's the statement
13 that you told the police about?

14 A. Yes.

15 Q. How many pages is that statement?

16 A. Four.

17 Q. A four page statement. All right.

18 And in that statement I presume that you were asked to
19 tell everything that you knew about this case, right?

20 A. Yes.

21 Q. Can you tell me in that statement, show me, where it
22 says "I shot the bitch"?

23 A. (Witness reviewing statement.)

24 Right here.

(25 Q. Okay. And I'm going --

AISHA AUSTIN - CROSS BY MR. GIBSON

1118

1 A. "And got some more and shot her in the head."

2 Q. Okay. So what it actually says is "he said they went
3 in and took the money and the lady behind the counter
4 started talking junk and got smart, so he shot her in the
5 head."

6 A. Right.

7 Q. It doesn't say "I shot the bitch," does it?

8 A. Uh-uh.

9 Q. Is that anywhere in there?

10 A. No.

11 Q. Now, don't you think that's a -- I mean, that's a
12 fairly important fact, don't you think? I mean, that's
13 pretty harsh language, don't you think?

14 A. Yeah, that was his attitude, though.

15 Q. And isn't that something that if that in fact happened,
16 you would have put in a four page statement that you gave to
17 the cops?

18 A. Yes.

19 Q. Isn't it in fact true that he really did cheat on you
20 and you are mad at him and now you are trying to get back at
21 him?

22 A. No, nothing like that.

23 Q. Thank you Ms. Austin.

24 A. Uh-huh.

25

AISHA AUSTIN - REDIRECT BY MS. STROM

1119

1 REDIRECT EXAMINATION BY MS. STROM:

2 Q. Ms. Austin, I just want to make sure. Do you have that
3 statement with you?

4 A. No.

5 Q. Okay. I believe it was on page three of your
6 statement, is that correct?

7 A. Where at? Right here, uh-huh.

8 Q. And after -- if you would start, "he said they went
9 in."

10 A. "He said they went in, took the money, and the lady
11 behind the counter started talking junk and got smart, so he
12 shot her in the head."

13 Q. And that's what you told the police?

14 A. Yes.

15 Q. What were the exact words that he told you?

16 MR. GIBSON: Objection. Asked and answered.

17 THE COURT: I would sustain the objection. She's
18 already testified to that.

19 BY MS. STROM:

20 Q. But he told you in the statement that she got smart
21 with him and that's why he shot her?

22 A. Yes.

23 THE COURT: I would sustain the objection.

24 MR. GIBSON: Thank you, Your Honor.

25 THE COURT: We have been over that.

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

1120

1 MS. STROM: I have no further questions.

2 THE COURT: Okay, ma'am, you may come down. Thank
3 you.

4 THE WITNESS: Uh-huh.

5 MS. STROM: Your Honor, the State would request
6 Ms. Austin be excused.

7 MR. GIBSON: Without objection, Your Honor.

8 THE COURT: Without objection.

9 MS. STROM: The State calls Tracy Hayes.

10 TRACY HAYES KNIGHT, having been first duly sworn,
11 testified as follows:

12 THE CLERK: State your name for the record,
13 please.

14 THE WITNESS: Tracy Hayes Knight.

15 THE CLERK: Thank you. Be seated.

16 DIRECT EXAMINATION BY MS. VERDIN:

17 Q. Ms. Knight, would you state your full name, please?

18 A. Tracy Aileen Hayes Knight.

19 Q. And where are you employed?

20 A. Little General convenience stores.

21 Q. Where were you employed on November 1st, 1997?

22 A. Speedway.

23 Q. Do you know how long you had been working there then?

24 A. Over a year, I believe.

25 Q. What was your job title?

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

1121

1 A. Manager.

2 Q. And what were your duties as manager of the Speedway?

3 A. Overseeing the store, basically.

4 Q. Okay. Did you work at a particular Speedway?

5 A. 626 on Laurens Road.

6 Q. What shift did you work?

7 A. Mostly first shift.

8 Q. Mostly first.

9 Now, through your employment at the Speedway did you
10 also know Irene Graves?

11 A. Yes, I did.

12 Q. Did she work there as well?

13 A. Yes, she did.

14 Q. And what was her job title?

15 A. Assistant manager.

16 Q. Do you know what shift Ms. Graves normally worked?

17 A. Third.

18 Q. So you worked the shift just after Ms. Graves, would
19 that be a correct statement?

20 A. Yes.

21 Q. Normally?

22 A. Yes.

23 Q. Did you have occasion to go to the Speedway on Laurens
24 Road on November 1st of 1997?

25 A. Yes, ma'am, I did.

TRACY HAYES KNIGHT - DIRECT BY MS.. VERDIN

1122

1 Q. What time do you think that you got there?

2 A. Probably a little after five a.m..

3 Q. And can you describe to us what you found when you
4 arrived?

5 A. The parking lot was still full of police cars. They
6 actually had it blocked off. It had to move for me to pull
7 my car in when they found out who I was.

8 Irene was still in the store, so nobody was allowed in
9 the store, and we could not stand directly in front of the
10 window because they did not want us seeing in the store.

11 Elizabeth was actually in the back of the police car
12 when I got there. She left shortly after I got there.

13 Q. In fact, Ms. Buehner we heard from.

14 A. Yes.

15 Q. Now, did you talk to the police when you were there?

16 A. Yes.

17 Q. And while you were there, did the police request that
18 you do anything?

19 A. They asked me to audit the registers to see if there
20 was any money missing.

21 Q. Now, how many registers were in that store?

22 A. Two.

23 Q. Two.

24 And what register did you go to first to audit?

25 A. The gas register, which was on Laurens Road side.

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

1123

1 Q. It would have been on the Laurens Road side.

2 Was there -- and there was another register in the
3 store. Did you have a name for it?

4 A. I believe that was POS-8.

5 Q. And we have heard some testimony earlier about the
6 diesel register?

7 A. Yes, diesel register.

8 Q. Okay. Just for purposes of being consistent then,
9 let's just call that one the diesel register.

10 Now, you have said the gas register is the one closest
11 to the Laurens Road side. Why did you decide to audit that
12 register first?

13 A. When I first went into the store and got behind the
14 counter, the diesel register, if you will notice in the
15 pictures, it had the keyboard flipped down, which
16 automatically told me it was not running a register. She
17 actually had a grocery order up on the screen, so I wouldn't
18 have been able to get into that register at that time.

19 Q. Okay. When you say a grocery order, she was doing that
20 on cash register? Explain that to me just a little bit.

21 A. She was ordering what needed to be ordered for our
22 truck to come in. What the vendors don't bring us, we order
23 from. I'm trying to think. McClain's I think was the
24 grocery vendor we had then. But she didn't -- she was using
25 her register instead of the back off computer.

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

1124

1 Q. So I'm taking it from that that you could use that
2 register sort of like a computer?

3 A. Yes.

4 Q. If she had wanted to open that register, would she have
5 been able to have done that?

6 A. No, not on that -- not with it being in the inventory.

7 Q. Not with it being in the inventory.

8 Could she have ever opened it? I mean, could she have
9 changed it over to register mode?

10 A. Yes, she could have, but it would have taken some time
11 to download what she had already entered in the inventory.
12 It would have taken time to download.

13 Q. And have you done grocery orders on one of the
14 registers before?

15 A. Yes.

16 Q. Do you know when you are in the middle of doing a
17 grocery order, about how long would it take you to open that
18 register up like if you were in the middle of doing a
19 grocery order?

20 A. A good five or ten minutes.

21 Q. Now, you said that you went ahead and audited what we
22 call the gas register, the one closest to the Laurens Road
23 side, but -- let me ask you a little bit about that
24 register. When you got there, was the drawer open or closed
25 on that register?

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

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1 A. It was closed.

2 Q. Closed.

3 And were you able to then open the drawer on the
4 register?

5 A. Yes.

6 Q. Was there any money in that drawer?

7 A. No, there was not.

8 Q. And when I asked that, was there any cash in the
9 drawer?

10 A. No.

11 Q. Was that unusual?

12 A. Yes.

13 Q. Now, do you -- normally would you keep any change or
14 just be cash in that drawer?

15 A. It would just be cash.

16 Q. Would there be an occasion that you would keep change?

17 A. Yes, those particular registers had change machines.

18 And if somebody got 5.01 in gas and they brought you in the
19 5.01, you might set the penny in your register until you get
20 some more -- enough to fill your change machine with. Do
21 you understand what I'm saying?

22 Q. I do. I do.

23 So just a little bit of change that you get every now
24 and again might be in that drawer as well?

25 A. Correct.

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

1126

1 Q. But mainly cash, is that fair to say?

2 A. Yes.

3 Q. What mode was the gas register in?

4 A. The register mode.

5 Q. And what is register mode mean?

6 A. That means that you are running a register on it.

7 Q. Okay. Would it be fair to say that might be something
8 like up for business?

9 A. Yes.

10 Q. Did Irene Graves have the capacity as an assistant
11 manager to open that register?

12 A. Yes, she did.

13 Q. Tell me what was Speedway's policy regarding cash in
14 the drawer? What was the maximum that you could keep in
15 that drawer?

16 A. \$200.

17 Q. Did you always keep \$200 in the drawer?

18 A. Not always.

19 Q. So you could keep less, but not more?

20 A. Right.

21 Q. Now, you said that you did an audit of that register.
22 Do you remember what that audit showed?

23 A. I remembered that it had no money in it. I didn't
24 remember the exact amount until I seen the copy of it, but I
25 knew it had very low amount of money missing out of it -- I

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

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1 mean, there was no money in it when I seen it, but it was a
2 low amount of money missing.

3 Q. When you did the audit on that register, did you get
4 any type of document from that audit?

5 A. Yes, I did.

6 Q. And what kind of document did you get from that?

7 A. A receipt showing what should have been -- or when you
8 did audits, you opened the drawer and you typed in what was
9 in the drawer moneywise and what was in the change drawer,
10 and there was nothing in the money drawer.

11 Q. Okay. Now, just to give us a little bit of
12 understanding here, is an audit of a register something that
13 you did regularly in your course of business?

14 A. Yes.

15 Q. And does the receipt generate for each audit that you
16 do of that register?

17 A. Yes.

18 Q. And do you remember if on November the 1st, 1997, did a
19 receipt generate when you did the audit?

20 A. Yes.

21 Q. And did you follow the same procedures that you always
22 follow when you do an audit and get a produced receipt?

23 A. Yes.

24 Q. Ms. Knight, I'm going to show you what's been
25 previously marked as State's Exhibit No. 32 and ask you to

TRACY HAYES KNIGHT - DIRECT BY MS. VERDIN

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1 identify this document?

2 A. That is the receipt from the audit.

3 Q. From the audit?

4 A. Yes.

5 Q. Did you actually do the audit? Did you generate this
6 receipt?

7 A. Yes, I did.

8 MS. VERDIN: Your Honor, at this time we would
9 move State's Exhibit No. 32 into evidence.

10 MR. GIBSON: Without objection.

11 THE COURT: Without objection.

12 (Receipt marked and admitted as State's Exhibit
13 No. 32)

14 BY MS. VERDIN:

15 Q. I just want to put this receipt up for so you can take
16 a look at it.

17 Ms. Knight, I see on this receipt it says cash drawer
18 zero. Did you say earlier that's what you enter, based on
19 what you see in the cash drawer?

20 A. That is correct.

21 Q. Okay. And the change machine, it says 74.64. The
22 change machine, is that what you are talking about when the
23 change comes out?

24 A. Yes.

25 Q. And then down here at the bottom the variant, it says

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1 negative \$37.29. Tell us what that means.

2 A. That mean that there was \$37.29 not accounted for.

3 Q. Not accounted for in that register. Okay.

4 Now, Ms. Knight, there has been some talk about the
5 safe that was I believe in the store, is that correct?

6 A. Uh-huh.

7 Q. Where was that safe located?

8 A. It was located underneath the diesel register.

9 Q. So back behind -- what I think of behind the registers,
10 is that correct?

11 A. Yes.

12 Q. Did Ms. Graves, as assistant manager, did she have the
13 authority to open that safe?

14 A. No, she did not.

15 Q. Would there have been any way she could -- let's not
16 even say authority. Did she have the ability to open the
17 safe?

18 A. No, she did not.

19 Q. Thank you, Ms. Knight.

20 MR. GIBSON: No questions, Your Honor.

21 THE COURT: Thank you, ma'am. You may come down.

22 MR. ARIAIL: Your Honor, before we call our next
23 witness, there is a matter we need to take up outside the
24 presence of the jury, a legal matter.

25 THE COURT: Okay.

1130

1 Ladies and gentlemen, I didn't tell you, but
2 occasionally during the proceedings, based on the rules and
3 everything you shouldn't be concerned with, the attorneys
4 have to object. That's their job, and they may do that, and
5 they may be some matters that -- matters of law. It's not
6 matters of fact, or anything of that nature, but just
7 matters of law that we have to take up. And we won't -- I'm
8 not one that keeps you in and out or has a lot of sidebar
9 conferences or whatever, like you see on TV, but there are
10 special matters that we have to do, and I need to see what
11 this one is, okay? Y'all just step out for just a minute.

12 (The following takes place outside the presence of
13 the jury panel)

14 MR. ARIAIL: Your Honor, the State's next witness
15 is Nakeo, also known as Kiko Vance.

16 Mr. Vance is currently a resident of the federal
17 penitentiary in Virginia that we have had transported here.
18 He testified in the first trial. He was a co-defendant with
19 Mr. Owens, who was an occupant in the vehicle, not in the
20 store. He now has indicated to me when I brought him down
21 that he did not wish to participate and testify. I told him
22 that he would need to appear before the judge and that the
23 judge would inquire as to whether or not he would testify,
24 if he was so ordered.

25 I explained to him about making himself

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1 unavailable as a witness and use of his prior testimony, so
2 he is fully versed in all that, and he still continues to
3 indicate he does not wish to testify, he did not wish he
4 didn't want to participate, and his exact words were that he
5 had put this behind him and he wanted it to stay behind him.

6 So what I would like to do at this point, we would
7 propose to call him, establish that he is, in fact, an
8 unavailable witness under 804. At that point let you
9 question him, or I'll be glad to question him as to his
10 understanding and that his unwillingness to testify.

11 And then we would move to publish his prior
12 testimony. I would read it. And I have given a copy to
13 Detective Paul Silvaggio with the sheriff's office and he
14 would be my responder.

15 THE COURT: Okay.

16 MR. ARIAIL: That is our plan.

17 And they have custody of Mr. Vance somewhere in
18 this building, is that correct?

19 OFFICER MCCALL: He's got him right here.

20 THE COURT: What's the defense position on that?

21 MR. GIBSON: Beg the court's indulgence.

22 Thank you, Your Honor.

23 (Off the record)

24 (Back on the record)

25 MR. ARIAIL: It would be under 804(a)(2).

1 THE COURT: Okay.

2 MR. ARIAIL: Bring him in.

3 Your Honor, could Ms. Knight be excused? She
4 drove down from West Virginia and plans to drive back.
5 Would that be all right?

6 THE COURT: If she would like to be excused, she
7 may.

8 MR. GIBSON: Your Honor, our position is that we
9 would be opposed to allowing his testimony from a prior
10 proceeding again, if he is not willing to testify. I mean,
11 we believe that former testimony was not, in fact, true. We
12 believe that we should have a right in this proceeding to
13 cross-examine him on it. I mean, given the stakes that we
14 are talking about, we believe that it would beg due process
15 to allow him to -- to allow the State to bring in what we
16 consider false testimony in this matter.

17 THE COURT: I do not have my book in front of me,
18 but I believe if a witness is unavailable, and I have run
19 into this once or twice -- one time it was in somebody
20 incarcerated in Columbia. If testimony has been given I
21 believe in a prior proceeding where he was subject to cross
22 examination by the defendant, I'm not sure how the rule
23 reads but --

24 MR. ARIAIL: Do you need --

25 THE COURT: I may -- let me give -- I'll give

NAKEO "KIKO" VANCE (IN-CAMERA) - DIRECT BY MR. ARIAIL

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1 everybody a five minute break. I hate to do that, but --
2 and then we will come right back. And you are beginning to
3 do this outside the presence of the jury?

4 MR. ARIAIL: Yes, sir.

5 THE COURT: Okay.

6 MR. ARIAIL: Well, however you instruct me. I'll
7 do it either way. I'm not sure. I mean, I don't know if
8 this is something that may be in front of the jury or not.
9 I have always done it outside.

10 THE COURT: That would be safest thing to do.

11 MR. ARIAIL: Okay.

12 THE COURT: Bring him on in. I'll put him under
13 oath.

14 NAKEO "KIKO" VANCE, having been first duly sworn,
15 testified as follows:

16 THE CLERK: What is your name?

17 THE WITNESS: Nakeo Vance.

18 THE COURT: Have a seat, Mr. Vance.

19 THE CLERK: Be seated.

20 THE COURT: All right, sir.

21 DIRECT EXAMINATION BY MR. ARIAIL:

22 Q. You are Mr. Nakeo Vance?

23 A. Yes, sir.

24 Q. And Mr. Vance, you and I have recently met on a couple
25 of occasions regarding your testimony in this proceeding, is

NAKEO "KIKO" VANCE (IN-CAMERA) - DIRECT BY MR. ARIAIL

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1 that correct?

2 A. Yes, sir.

3 Q. And, in fact, you testified previously in 1999, in
4 regard to the circumstances of the murder of Ms. Irene
5 Graves at the Speedway on Laurens Road?

6 A. Yes, sir.

7 Q. And your testimony -- you rendered your testimony, you
8 were subject to cross-examination at that time. And you are
9 presently incarcerated in the federal prison system in
10 Virginia, is that right?

11 A. Yes, sir.

12 Q. All right. I have indicated to the court that you have
13 advised me that you do not wish to testify in this case --

14 A. Yes, sir.

15 Q. -- at this time?

16 A. Right.

17 Q. That I advised you that the judge would want to hear
18 from you and hear your statement in regard to not willing to
19 testify. And that even if he ordered you to testify, you
20 would refuse to testify?

21 A. Yes, sir.

22 Q. And I also advised you in the meetings that we have had
23 that if you refused to testify pursuant to an order of the
24 court, that your prior testimony that has been recorded by
25 the court reporter could then be used in this proceeding?

NAKEO "KIKO" VANCE (IN-CAMERA) - DIRECT BY MR.. ARIAIL

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1 A. That's what you said.

2 Q. In your absence?

3 A. Yes, sir. I guess, yeah.

4 Q. And you are aware of that?

5 A. (Shaking head yes)

6 Q. Do you have any questions that you want to ask the
7 court or an attorney or is there anything that you do not
8 understand about what we are doing today?

9 A. No, sir.

10 Q. Are you under the influence of any alcohol or drugs?

11 A. (Shaking head no)

12 Q. And you have been incarcerated in Virginia -- well, how
13 long have you been incarcerated total?

14 A. Seven years.

15 Q. Seven years?

16 A. (Shaking head yes)

17 Q. And part of that is a result of a sentence that you
18 received as part of this case?

19 A. Yes, sir.

20 Q. And in addition to that you received a five year
21 sentence in addition to that from the federal system?

22 A. Yes, six and a half.

23 Q. How much?

24 A. Six and a half.

25 Q. Six and a half. All right.

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1 So you have been incarcerated for the last seven and a
2 half years.

3 Are you willing to answer anything today or to testify
4 in regard to the incidents that occurred on November the 1st
5 of 1997, in which Ms. Graves was killed at the Speedway?

6 A. No, sir.

7 Q. And even if the judge orders you to testify, do you
8 still intend to refuse to testify?

9 A. Yes, sir.

10 THE COURT: I'm ordering you to testify. Would
11 you -- will you answer his questions under my order?

12 THE WITNESS: No, sir.

13 THE COURT: That's six months in addition
14 consecutive to what you are serving right now when you get
15 released up there, okay?

16 THE WITNESS: Yes, sir.

17 THE COURT: You hold him and we may bring him back
18 tomorrow and see if we have to give him another order.

19 THE WITNESS: It won't make no difference.

20 THE COURT: I can keep giving you consecutive
21 times every time you disobey a court order.

22 THE WITNESS: I'll plead the Fifth. It don't make
23 no difference to me.

24 THE COURT: That is contempt of court. This is
25 prior testimony. You cannot --

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1 THE WITNESS: I plead the Fifth.

2 THE COURT: I'll get you an attorney. You can
3 discuss it with him in regard to pleading the Fifth
4 Amendment.

5 Before we go any further, any cross-examination?

6 MR. GIBSON: Just briefly, Your Honor.

7 (Off the record)

8 (Back on the record)

9 MR. GIBSON: No, nothing, Your Honor. Nothing.

10 THE COURT: All right, sir.

11 We will prepare an order to that.

12 Okay. I find that he is under 804(3)-- no, (2),
13 he persists in refusing to testify.

14 I find as a fact that he refused prior to coming
15 down here. The State knew about that.

16 I find that he refused in open court today after
17 an order of this court, and I have held him in contempt and
18 he says he will still not testify.

19 He is serving a lot of time. I don't know what.
20 The six months may not affect his feelings about it, but in
21 any event, he is not available under that rule at the
22 present time, and so former testimony under (a)(b)(1) would
23 not be hearsay. It would be a hearsay exception.

24 MR. GIBSON: Your Honor, I would -- given the
25 circumstances, I would ask that the jury be told that the

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1 reason why his testimony is being read to the record is
2 because he has, in fact, refused to testify.

3 THE COURT: I'll bring him back in here and let it
4 be done in front of the jury.

5 MR. GIBSON: Thank you.

6 MR. ARIAIL: Bring him in, or just tell them?

7 THE COURT: No, he wants me to tell the jury.
8 I'll tell them that, if that's --

9 MR. ARIAIL: That's fine.

10 THE COURT: Are y'all ready, or do you need any
11 time?

12 What was his name?

13 MR. ARIAIL: Nakeo, N-A-K-E-O. Last name is
14 Vance, V-A-N-C-E.

15 THE COURT: Okay.

16 MR. ARIAIL: And he goes by the name of Kiko.
17 K-I-K-O is his --

18 THE COURT: I know -- did he testify at both
19 trials?

20 MR. ARIAIL: No, sir, just the first trial.

21 THE COURT: Just the first trial.

22 I feel like that he will not testify. I think
23 he's just absolutely not going to do it, and I'll make that
24 finding on the record, from his demeanor and from the
25 questions he asked. And I would tell the jury that he's

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1 been brought in and he refuses to testify, but he's
2 testified -- did he testify -- did he testify at the guilt
3 phase?

4 MR. ARIAIL: Yes, sir.

5 THE COURT: That he testified in the prior
6 proceeding. And that's the testimony that you are going to
7 use?

8 MR. ARIAIL: Yes, sir.

9 THE COURT: Not testimony from the sentencing
10 phase?

11 MR. ARIAIL: He did not testify in the sentencing
12 phase.

13 THE COURT: Okay. And the testimony is relevant,
14 I assume? I hadn't heard it yet.

15 MR. ARIAIL: Yes.

16 THE COURT: But I can hear it as we go through it,
17 and I assume the defense has had an opportunity to read it.

18 MR. GIBSON: We have, Your Honor.

19 THE COURT: Let's take five and start back.

20 MR. ARIAIL: Then what I would plan on doing would
21 be putting Mr. Silvaggio on the stand and start in as soon
22 as you explain to the jury.

23 THE COURT: Yeah. How long will that take?

24 MR. ARIAIL: 30 minutes, maybe.

25 THE COURT: And then you got a couple more

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1 witnesses?

2 MR. ARIAIL: Oh, yes, sir.

3 And then they may -- I don't know if they want to
4 publish his cross-examination, but if they do --

5 THE COURT: Who did the cross, Mr. Rollins?

6 MR. ARIAIL: Either Mr. Rollins or --

7 MS. STROM: Karl Allen.

8 MR. ARIAIL: I believe Mr. Karl Allen.

9 THE COURT: Mr. Vance was represented at the time?

10 MR. ARIAIL: Yes, sir, by Mr. Larry Crane and Mr.
11 Barcroft, I believe. Both of those lawyers represented him
12 on those charges.

13 THE COURT: Okay.

14 MR. ARIAIL: He had both state charges and federal
15 charges pending at the same time.

16 THE COURT: Those charges were pending when he
17 testified?

18 MR. ARIAIL: Yes, sir.

19 THE COURT: So he's been sentenced since then? He
20 has not been sentenced at the time?

21 MR. ARIAIL: Not, and they go into -- all the
22 cross-examination they go into, are there any deals been
23 made, and, you know, all of that.

24 THE COURT: All right. Very good.

25 MS. STROM: It was Mr. Rollins.

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1 THE COURT: Let's take about five minutes or so
2 and we will start back and continue on until quitting time.

3 (Whereupon, proceedings were recessed)

4 (Whereupon, proceedings were reconvened)

5 THE COURT: He is in federal custody in Virginia?

6 MR. ARIAIL: Yes, sir, somewhere near Virginia
7 Beach, I believe.

8 (The following takes place in the presence of the
9 jury panel)

10 THE COURT: Ladies and gentlemen of the jury, it's
11 not permissible for parties to bring in statements that are
12 normally made by another person outside the presence of the
13 court. That's referred to as hearsay. Some hearsay is
14 admissible and some is not. If it's offered for the truth
15 of the matter asserted, it's hearsay.

16 An exception to that is under this rule. There is
17 a person, Nakeo Vance, called Kiko, I believe, Vance, who
18 has testified in the guilt or innocence proceeding, the
19 previous proceeding under our law heard by a jury to
20 determine if Mr. Owens was guilty or innocent of the crime
21 of murder. He testified in that offense. Since then he's
22 been sentenced and serving federal time. He was brought
23 down from prison in Virginia and he refuses to testify, even
24 though I have given an order of the court and can hold him
25 in contempt, but he will not testify.

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1 And if he has testified in a previous case, and he
2 was under oath, and he was subject to cross-examination by
3 the lawyers for Mr. Owens in that guilt or innocence
4 proceeding, then prior testimony under oath that has been
5 subject to cross-examination can come in. So the testimony
6 that he gave in the prior hearing will be admitted under the
7 rules.

8 And for the record that's 804(a)(2) and (b)(1).

9 And to do that the testimony will be -- the
10 questions will be asked by Mr. Ariail and the answers are
11 going to be read by Mr. Silvaggio. So you just assume that
12 Mr. Silvaggio is giving the testimony of Mr. Vance. He has
13 to read it exactly the way Mr. Vance stated it in court
14 under oath in the presence of the jury. Okay.

15 Does any side have any comments or statements you
16 want to make in that regard?

17 MR. ARIAIL: Nothing from the State.

18 MR. GODFREY: Nothing.

19 THE COURT: Mr. Godfrey, agree?

20 MR. GODFREY: No, Your Honor.

21 THE COURT: Detective Silvaggio, do you want to
22 come up.

23 MR. PAUL SILVAGGIO, having been first duly sworn,
24 testified as follows:

25 THE COURT: Ask him if he will read it correctly.

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1 THE CLERK: Do you solemnly promise that you will
2 correctly read the statement?

3 THE WITNESS: I do, ma'am.

4 THE COURT: Okay. Be seated, please.

5 You would swear or affirm that you would correctly
6 read the statement, wouldn't you?

7 THE WITNESS: That is correct, Your Honor.

8 THE COURT: Y'all have a copy of it?

9 THE WITNESS: Yes, Your Honor.

10 (Whereupon, Officer Paul Silvaggio read the
11 previously given testimony of Nakeo "Kiko" Vance into the
12 record)

13 DIRECT EXAMINATION BY MR. ARIAIL:

14 Q. Mr. Silvaggio, if you would, for purposes of the
15 record, identify yourself and your employment.

16 A. I am Paul Andrew Silvaggio, S-I-L-V-A-G-G-I-O. I'm an
17 investigator with the Greenville County sheriff's office
18 homicide unit.

19 Q. And how long have you been so employed?

20 A. 19 and a half years.

21 Q. We will proceed with the reading of this official court
22 transcript.

23 "The State calls Niko Vance.

24 Q. Now, Mr Vance, if you would, you and I have talked
25 previously, is that right?

1144

1 A. Yes, sir.

2 Q. You will need to keep your voice up. You have a very
3 low voice. You might want to slide a little closer to that
4 microphone just so it will pick you up. As we go along I'll
5 probably remind you to keep your voice up.

6 How old are you?

7 A. 23.

8 Q. And you are presently a resident of the detention
9 center?

10 A. Yes, sir.

11 Q. How long have you been at the detention center?

12 A. 15 months.

13 Q. How many months?

14 A. 15.

15 Q. Since you were arrested around November 13th?

16 A. Yes, sir.

17 Q. Of 1997?

18 A. Yes, sir.

19 Q. You are presently under charges at this time, correct?

20 A. Yes, sir.

21 Q. And let me read these charges to you and see if this is
22 correct. Charges that are pending against you, accessory
23 after the fact of murder?

24 A. Yes, sir.

25 Q. You are charged with conspiracy to commit armed

1145

1 robbery, two charges of that?

2 A. Yes, sir.

3 Q. You are charged with two armed robberies?

4 A. Yes, sir.

5 Q. You are charged with unlawful carrying of a pistol?

6 A. Yes, sir.

7 Q. Charged with possession of a firearm during a violent
8 crime?

9 A. Yes, sir.

10 Q. And you are charged with two other conspiracy counts to
11 commit armed robbery?

12 A. Yes, sir.

13 Q. And those charges are presently pending?

14 A. Yes, sir.

15 Q. And you have an attorney, Mr. Barcroft, seated right
16 here is your retained counsel, is that correct?

17 A. Yes, sir.

18 Q. Now, you and I have previously met, is that right?

19 A. Yes, sir.

20 Q. Did you give the police or the sheriff's office
21 investigators a statement on November 13 of 1997?

22 A. Yes, sir.

23 Q. At that time in November of 1997, had you ever met me
24 or talked to me or know even who I was?

25 A. No, sir.

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1 Q. And you gave that statement to actually the city police
2 officers?

3 A. Yes, sir, I guess.

4 Q. Well, two investigators, they were in street clothes or
5 coat and tie, didn't have uniform?

6 A. Yes, sir.

7 Q. And they asked you -- they were asking you about
8 certain crimes that have been committed about the City of
9 Greenville and County of Greenville?

10 A. Yes, sir.

11 Q. You gave them a full statement?

12 A. Yes, sir.

13 Q. They gave you a waiver of rights. They read you Waiver
14 of Rights Form?

15 A. Yes, sir.

16 Q. And went over the form with you?

17 A. Yes, sir.

18 Q. Did you understand it?

19 A. Yes, sir.

20 Q. And did you agree to talk to them?

21 A. Yes, sir.

22 Q. Were you willing to talk to them?

23 A. Yes, sir.

24 Q. Did you tell them what happened beginning on October
25 31st of 1997?

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1 A. Yes, sir.
2 Q. Okay. Now, since that time you and I have met?
3 A. Yes, sir.
4 Q. When is the first time we met, approximately?
5 A. I can't recall the certain date.
6 Q. How long ago would you say it was? I can't recall the
7 date either. Within the last two months?
8 A. Yes, sir.
9 Q. Okay. And when we first met, where did we meet?
10 A. In the office.
11 Q. Downstairs in the part of this building where the
12 detention center is?
13 A. Yes, sir.
14 Q. Who was present at that meeting, other than me and you?
15 A. My lawyer, my sister, and mother, and Betty Strom, and
16 what is the lady name right there?
17 Q. This lady right here, Ms. Reese?
18 A. Yes, sir.
19 Q. So your mother and your sister, your lawyer, Ms. Strom,
20 Ms. Reese and myself?
21 A. Yes, sir.
22 Q. And how long did that meeting take place?
23 A. About an hour.
24 Q. All right. And did we meet again?
25 A. Yes, sir.

1 Q. Where did we meet this time, the second time?
2 A. Right here in the courtroom.
3 Q. Right here in this courtroom?
4 A. Yes, sir.
5 Q. Who was present for that meeting?
6 A. Me, my lawyer, detective, Betty Strom and Ms. Reese.
7 Q. And me?
8 A. And you.
9 Q. And on those two occasions what did we talk about?
10 What did we go over in those meetings?
11 A. My statement.
12 Q. The statement that you had given police?
13 A. Yes, sir.
14 Q. And then when we went over that statement or before we
15 went over that statement, has anybody promised you anything,
16 and specifically have I promised you anything for rendering
17 your testimony in accordance with your statement?
18 A. No, sir.
19 Q. Has Ms. Reese, or Ms. Strom, or anyone with law
20 enforcement promised you anything?
21 A. No, sir.
22 Q. And you -- your decision to testify today is voluntary
23 on your part?
24 A. Yes, sir.
25 Q. Have you consulted with your attorney and received his

1149

1 advice on that?

2 A. Yes, sir.

3 Q. All right. Let me take you back then to October 31st,
4 1997, Halloween. Do you remember that day?

5 A. Yes, sir.

6 Q. Who were you -- who were you with on Halloween day?

7 A. Me, Freddie Owens, Andre Golden, Steven Golden, and
8 Lester Young.

9 Q. How long had you known Lester Young?

10 A. About all my life.

11 Q. And how about Andre Golden or Steven -- you call him
12 Steven?

13 A. Andre.

14 Q. His nickname he goes by 'Dre?

15 A. Yeah.

16 Q. How long have you known him?

17 A. About ten years.

18 Q. How about Freddie Owens?

19 A. About a year and a half.

20 Q. Where did y'all get together?

21 A. At my house.

22 Q. Where do y'all live?

23 A. I was staying at Roosevelt Apartments.

24 Q. The Roosevelt Apartments, where are they?

25 A. Behind Nicholtown.

1150

1 Q. And where do your parents live?
2 A. 801 Jacqueline Lane.
3 Q. Where is that located?
4 A. Laurel Creek.
5 Q. Laurel Creek.
6 And Laurel Creek is an area off of Fairforest Road?
7 A. Yes, sir.
8 Q. How far is Fairforest Road from the Speedway?
9 A. About a five minute walk.
10 Q. And had you lived in the Laurel Creek area and actually
11 walked on the Speedway before?
12 A. Yes, sir.
13 Q. How long had you been living at Roosevelt Apartments?
14 A. About four months.
15 Q. And prior to that where did you live?
16 A. Laurel Creek.
17 Q. With your parents?
18 A. Yes, sir.
19 Q. Your mother and father?
20 A. Yes, sir.
21 Q. Who also lived in that house with you?
22 A. My sister and brother.
23 Q. And how old were you when you moved out with your
24 parents?
25 A. 22.

1151

1 Q. And what is your father -- what does your father do?
2 A. Drive a truck.
3 Q. What does your mother do?
4 A. She drive a bus and work at a plant.
5 Q. Work where?
6 A. At a plant.
7 Q. At a plant?
8 A. Yes, sir.
9 Q. So both of them work?
10 A. Yes, sir.
11 Q. And when you moved down, were you working?
12 A. No, sir, not at the time, but I was off and on working
13 for temporary service.
14 Q. All right. Temporary service.
15 Now, while you were not working, are you a drug dealer?
16 A. No, sir.
17 Q. Are you a robber?
18 A. No, sir.
19 Q. And have you told the truth in your statement?
20 A. Yes, sir.
21 Q. Now, when y'all four got together on Halloween day,
22 what time of day did you get together?
23 A. Morning time.
24 Q. Morning time?
25 A. Yes, sir.

1152

1 Q. What time in the morning?

2 A. About nine o'clock, 9:30.

3 Q. And where -- once you got together, what did y'all
4 start to do?

5 A. Smoke blunts.

6 Q. And what is a blunt?

7 A. That's when you cut a cigar in half, pour out the
8 tobacco, put reefer in it.

9 Q. Reefer is what?

10 A. Marijuana.

11 Q. How many of those were did you smoke that morning?

12 A. About two or three.

13 Q. How long did it take you to smoke those?

14 A. About ten minutes. Five to ten minutes.

15 Q. After you smoked them, what did you do?

16 A. Talked, laughed and stuff.

17 Q. How long was it before you left your house at Roosevelt
18 Apartments?

19 A. We was doing that while we was riding.

20 Q. You were riding while you were smoking one?

21 A. Yes, sir.

22 Q. Whose car was you in?

23 A. Steven Golden's grandmother.

24 Q. What kind of car is it?

25 A. I don't know what model.

1153

1 Q. Do you know the color?
2 A. Yeah, burgundy.
3 Q. Who is driving?
4 A. Steven.
5 Q.. Who is in the front seat?
6 A. Freddie Owens.
7 Q. Who is in the back passenger's side seat?
8 A. Lester Young.
9 Q. Who is in the back behind the driver?
10 A. Me.
11 Q. And where did y'all drive?
12 A. Just riding around.
13 Q. And what were you riding around doing? Anything in
14 particular, or just riding around?
15 A. Scoping out stores.
16 Q. Scoping?
17 A. Yeah.
18 Q. What does that mean?
19 A. Looking at stores.
20 Q. For?
21 A. For robbery.
22 Q. For a robbery.
23 Before you started riding, did you know that is what
24 you were going to do?
25 A. Yes, sir.

1154

1 Q. How did you know that is what you were going to do?
2 A. Because we had planned it the night before.
3 Q. The Thursday night before the Friday?
4 A. Yes, sir.
5 Q. Where had y'all planned it?
6 A. We just planned to hit a bank.
7 Q. And who is we?
8 A. Me, Steven and Freddie.
9 Q. How about Lester?
10 A. No, sir.
11 Q. He wasn't part of the plan?
12 A. No, sir.
13 Q. And did y'all split up that night after you planned it
14 and go home?
15 A. Yes, sir.
16 Q. Got back together again at nine or ten?
17 A. Yes, sir.
18 Q. And while y'all are going around, did you scope out a
19 bank?
20 A. Yes, sir.
21 Q. Did you ride around? How long did you ride around
22 scoping out places?
23 A. For about two hours, I guess.
24 Q. Then what did you do after you scoped these places out
25 for a couple of hours?

1155

(1 A. Fixing to make an attempt to rob the bank.
2 Q. You didn't rob the bank?
3 A. No, sir.
4 Q. Didn't go in the bank?
5 A. No, sir.
6 Q. Just thought about it?
7 A. Yes, sir.
8 Q. Talked about it?
9 A. Yes, sir.
10 Q. Did you have guns?
11 A. Yes, sir.
12 Q. What kind of guns did you have?
13 Let me ask you this. What kind of gun did Andre Golden
14 have?
15 A. .32.
16 Q. What kind did Lester Young have?
17 A. .25 or .22.
18 Q. .25 or .22?
19 A. Yes, sir.
20 Q. And you -- what kind did you have?
21 A. .32.
22 Q. What kind did Freddie Owens have?
23 A. .25.
24 Q. What were y'all riding around -- after you decided
25 looking at this bank, where did you go?

1 A. To a jewelry store.
2 Q. Where was the jewelry store?
3 A. On Laurens Road.
4 Q. Do you know the name of it?
5 A. I think it's Anthony's.
6 Q. Had you ever been there before?
7 A. No, sir.
8 Q. Tell the jury where on Laurens Road this jewelry store
9 is.
10 A. By the pet shop.
11 Q. A pet shop?
12 A. Yes, sir, feed or seed store.
13 Q. What is noticeable about the feed and seed that is on
14 Laurens Road?
15 A. It has a big white horse out front.
16 Q. Big white horse out front.
17 Okay. When you went to Anthony's Jewelers, did anybody
18 get out of the car?
19 A. Yes, sir.
20 Q. Where did you park?
21 A. Across the street at a car wash.
22 Q. Who got out?
23 A. All of us.
24 Q. Where did you go?
25 A. Walked across the street to check it out.

1157

1 Q. Did you go in?
2 A. No, sir.
3 Q. How close to it did you get?
4 A. Right beside the washerette.
5 Q. And where is the washerette in relation to the jewelry
6 store?
7 A. Right beside it.
8 Q. Next door? They in the same building?
9 A. They are connected.
10 Q. Like a little strip shopping center?
11 A. Yes, sir.
12 Q. Did you do anything at that time about robbing that
13 jewelry store?
14 A. No, sir.
15 Q. What did you do?
16 A. Got back in the car and left.
17 Q. Where did you go then?
18 A. Back over to Freddie Owens' house.
19 Q. Where does he live?
20 A. Nicholtown.
21 Q. Had you been to Freddie Owens house before?
22 A. Yes, sir.
23 Q. Do you know the address or just know where it is?
24 A. Know where it is.
25 Q. Who was at Freddie Owens house when you went back over

1158

1 there, other than you four?

2 A. I don't know. We didn't go inside.

3 Q. What did you do?

4 A. Sit on the porch.

5 Q. Anybody on the porch with you, other than the four?

6 A. No, sir.

7 Q. How long did you stay there?

8 A. About 30 minutes to an hour.

9 Q. Then where did you go?

10 A. Decided to go back up to Anthony's Jewelers.

11 Q. Did you talk about that while you were sitting on the
12 porch?

13 A. Yes, sir.

14 Q. Did you smoke any more blunt?

15 A. Yes, sir.

16 Q. And did you go back to Anthony's Jewelers?

17 A. Yes, sir.

18 Q. What happened this time? Where did you park?

19 A. Beside Texaco. Right beside it.

20 Q. On the same side of Laurens Road?

21 A. At the store, at the jewelry store.

22 Q. But it is on the other side of the feed and seed?

23 A. Yes, sir.

24 Q. Anybody get out?

25 A. Yes, sir.

1159

(1 Q. Who?
2 A. Freddie Owens.
3 Q. Anybody beside Freddie?
4 A. No, sir.
5 Q. What kind of gun did he have?
6 A. My .32.
7 Q. Your .32?
8 A. Yes, sir.
9 Q. How had he gotten your .32?
10 A. I gave it to him.
11 Q. Was there any discussion about it, or you just reach
12 over and hand it to him?
13 A. Yeah, because it -- it's bigger than .25. It is
14 noticeable.
15 Q. Noticeable?
16 A. Yes, sir.
17 Q. Why was that important?
18 A. Because I guess he was going by himself.
19 Q. He was going in by himself?
20 A. Yes, sir.
21 Q. Okay. I'm sorry, did he go into Anthony's Jewelers?
22 A. I don't know. He went down towards the store.
23 Q. Did you lose sight of him?
24 A. Yes, sir.
25 Q. Did he come back?

1160

(1 A. Yes, sir.
2 Q. What did he tell you?
3 A. He said there was a man right there. He didn't get to
4 go in.
5 Q. How was he dressed?
6 A. I can't recall what he had on.
7 Q. Did he have anything on his head?
8 A. Yes, sir.
9 Q. What?
10 A. Ski mask.
11 Q. A ski mask?
12 A. Yes, sir.
C 13 Q. What color?
14 A. Black.
15 Q. Did it have any holes in it?
16 A. Yes, sir.
17 Q. What kind?
18 A. Eye holes, like it was bought.
19 Q. Like it was bought?
20 A. Ski mask.
21 Q. Now, after Anthony's Jewelers or Freddie came back,
22 what did y'all do?
23 A. Rolled back down 291.
24 Q. Everybody is in the car now and you are driving back
(25 down 291?

1161

(1 A. Yes, sir.
2 Q. Which way down 291?
3 A. Back toward Nicholtown.
4 Q. Is that towards 385 or towards Greenville Tech?
5 A. Towards Greenville Tech.
6 Q. And where did you go going down Laurens Road?
7 A. We stopped and we seen the Prestige.
8 Q. What is Prestige?
9 A. It is cleaners.
10 Q. Dry cleaners?
11 A. Yes, sir.
12 Q. Where is it located when you were going down Laurens
13 Road?
14 A. On the left. On the left-hand side. I don't know the
15 address.
16 Q. Where did you park?
17 A. Where did we park?
18 Q. Park the car.
19 A. Behind it right -- right there like a little garage.
20 Q. I'm sorry?
21 A. Parked behind it like a little garage section, right
22 behind it there.
23 Q. Where you parked, is it off 291? Did you turn off of
24 291 onto another road?
(25 A. Yes, sir.

1162

1 Q. Why did you stop at the Prestige Cleaners?
2 A. Steven Golden, he wanted to rob it.
3 Q. Is he the one that brought it up?
4 A. Yes, sir.
5 Q. Did y'all all agree that this was a good idea?
6 A. No, sir.
7 Q. Who disagreed?
8 A. I did.
9 Q. Anybody else?
10 A. Freddie Owens.
11 Q. He disagreed?
12 A. Yes, sir.
13 Q. Did y'all discuss this disagreement?
14 A. No, sir, not like discuss it. Told him it was stupid.
15 Q. Told him it was stupid?
16 A. Yes, sir.
17 Q. What did Steven Andre Golden say when you told him it
18 was stupid?
19 A. Said he was going to rob it anyway.
20 Q. Did he get out of the car?
21 A. Yes, sir.
22 Q. Anybody get out with him?
23 A. Yes, sir.
24 Q. Who?
25 A. Lester Young.

1163

1 Q. Lester didn't think it was stupid?
2 A. No, sir.
3 Q. Did you get out of the car?
4 A. No, sir.
5 Q. Did Freddie Owens get out of the car?
6 A. No, sir.
7 Q. And did you and Mr. Owens stay in the same seats in the
8 car that you had?
9 A. Yes, sir.
10 Q. How long did you see anybody go in? Did you see these
11 two go in?
12 A. No, sir.
13 Q. Did you see them come back?
14 A. Yeah, come back running.
15 Q. Came back running.
16 Did they have anything on their heads?
17 A. Yes, sir.
18 Q. What did they have?
19 A. Ski masks. I mean, like what you call it, like
20 stockings.
21 Q. Like ladies stockings?
22 A. Yes, sir.
23 Q. Did both of them have stockings?
24 A. I can't recall what Lester had. Andre had on one.
25 Q. Stockings?

1164

- 1 A. Yes.
- 2 Q. Did it have any holes in it?
- 3 A. Yes, sir.
- 4 Q. What kind?
- 5 A. Holes like you poke, like he tore them in there.
- 6 Q. And were they for his nose, mouth or eyes?
- 7 A. His eyes.
- 8 Q. They came back running. Anybody say anything?
- 9 A. No, sir, they jumped in the car.
- 10 Q. Could you tell if they had any money?
- 11 A. Yes, sir, they had a bag with them.
- 12 Q. What kind of bag?
- 13 A. Like a little grocery bag type.
- 14 Q. One of those plastic kind?
- 15 A. Yes, sir.
- 16 Q. Was there money in it?
- 17 A. Yes, sir.
- 18 Q. Do you know how much?
- 19 A. No, sir.
- 20 Q. Did you get any of that money?
- 21 A. Yes, sir.
- 22 Q. When you got back in the car, did you divide the money
- 23 up in the car or go somewhere?
- 24 A. Riding down the road dividing it up.
- 25 Q. Which way did you go down the road? Down 291, or going

1165

1 the other way?
2 A. Other way.
3 Q. Didn't get back on 291 right then?
4 A. Not right then.
5 Q. Where did you eventually get back on 291?
6 A. Yeah.
7 Q. Where?
8 A. Like on a little back road.
9 Q. A back road came out of 291?
10 A. Yes, sir.
11 Q. Now, how much money did you get out of it?
12 A. No lesser than \$13.
13 Q. No less than?
14 A. Yes, sir.
15 Q. And possibly more?
16 A. Yes, sir.
17 Q. In your statement you said I got \$15. Is that about
18 what you got, or did you get more?
19 A. That's about how much I got right there.
20 Q. Do you know how much anybody else got?
21 A. No, sir.
22 Q. Did anybody tell you why you were getting \$15?
23 A. Yes, sir.
24 Q. What did they tell you?
25 A. We didn't go in the store. We didn't do nothing.

1166

1 Steven said that.

2 Q. Do you think other people got more than you?

3 A. I don't know.

4 Q. You don't know how much anybody got?

5 A. Didn't care.

6 Q. Did you ask for any of the money?

7 A. No, sir.

8 Q. Now, after you left, where did you go when you got back
9 on 291?

10 A. Back to Freddie Owens's house.

11 Q. How long did you stay at Freddie Owens' house?

12 A. 30 minutes to an hour.

13 Q. Did you smoke any more blunts?

14 A. Yes, sir.

15 Q. How many more did you smoke?

16 A. About two.

17 Q. Is everyone smoking blunts -- everybody smoking blunts?

18 A. Yes, sir.

19 Q. Have you had anything to drink alcoholic?

20 A. Yes, sir.

21 Q. You were drinking too?

22 A. Yes, sir.

23 Q. Were you intoxicated?

24 A. Yes, sir.

25 Q. Could you tell if others were intoxicated?

1167

1 A. No, sir. I don't know what I can handle.
2 Q. You know what?
3 A. I just know my limit.
4 Q. Had you passed your limit?
5 A. Not right then. Not at that time.
6 Q. But you were intoxicated?
7 A. Yes, sir.
8 Q. What happens when you pass your limit?
9 A. I go home.
10 Q. Go home. So you hadn't gone past your limit. After
11 you stayed at Freddie's for about an hour or so and smoked
12 some blunts where did you go?
13 A. We were riding looking for girls.
14 Q. Where did you go?
15 A. Down Augusta Road.
16 Q. And did you find any girls?
17 A. No, sir.
18 Q. Did you do another robbery?
19 A. Yes, sir.
20 Q. Where did you go?
21 A. The Hot Spot.
22 Q. To a Hot Spot. Where is it located?
23 A. Beside Community Cash.
24 Q. And for those on the jury to know where it is, how far
25 out Augusta Road is that Community Cash located?

1168

1 A. Past Bellmeade.
2 Q. Past Bellmeade.
3 Is it all the way out Whitehorse Road on Augusta Road?
4 A. Just about. Not all the way.
5 Q. Where is it located, right or left going out Augusta
6 Road?
7 A. Right.
8 Q. Right side.
9 Did you go in the Conoco?
10 A. No, parked on the side.
11 Q. Side of the building?
12 A. Yes, sir.
13 Q. How close to the building?
14 A. Off the road right there.
15 Q. Is it dark now?
16 A. Yes, sir.
17 Q. What time of day are we talking about that you got to
18 the Conoco, do you think?
19 A. About nine.
20 Q. All right. Later on in the night?
21 A. Yes, sir.
22 Q. Okay. And after you parked on the side, who got out?
23 A. Freddie Owens, Steven Golden and Lester Young.
24 Q. The three got out?
25 A. Yes, sir.

1169

1 Q. Did you get out?
2 A. No, sir.
3 Q. You still in the back left seat?
4 A. Yes, sir.
5 Q. Had everyone been in the other seats just like they
6 were when we started?
7 A. Yes, sir.
8 Q. Got out at the Conoco. Did they all -- did they have
9 guns, all three of them?
10 A. Yes, sir.
11 Q. How many guns?
12 A. Excuse me, I think they had four.
13 Q. Four guns?
14 A. Yes, sir.
15 Q. For three people?
16 A. Yes, sir.
17 Q. Who had two guns?
18 A. I can't recall. One of them did. I'm not sure.
19 Q. Did you still have a gun?
20 A. No, sir.
21 Q. Did your gun go into the Conoco Hot Spot?
22 A. Yes, sir.
23 Q. Who did it go with?
24 A. I think Lester, but I'm not for sure.
25 Q. And who had had it before Lester? Who had had it

1170

1 earlier?

2 A. Freddie.

3 Q. And he took it at the I believe Anthony's the second
4 time?

5 A. Yes, sir.

6 Q. Had you gotten it back at that time?

7 A. No, sir.

8 Q. Lester had it?

9 A. Yes, sir.

10 Q. Now, what happened at the Conoco Hot Spot that you
11 observed?

12 A. They went around and robbed it.

13 Q. How long were they in there?

14 A. About five or ten minutes. I don't know if they were
15 in that -- in the store that long, but they were about five
16 or ten minutes.

17 Q. That they were gone?

18 A. Yes, sir.

19 Q. Did you stay in the same spot or get in the driver's
20 seat?

21 A. Same spot.

22 Q. Did anybody that night drive that car, other than Andre
23 Golden?

24 A. No, sir.

25 Q. You said in your statement 'I waited in the car because

1171

1 I wasn't with it'?

2 A. Yes, sir.

3 Q. What does that mean?

4 A. I wasn't down with it. I wasn't going to rob it.

5 Q. Were you scared or what was the reason?

6 A. Just didn't want to.

7 Q. I'm sorry?

8 A. Just didn't want to.

9 Q. When they came back after they had been gone five or

10 ten minutes, what happened?

11 A. They jumped in the car and we left.

12 Q. Everybody get in the same seats?

13 A. Yes, sir.

14 Q. Did they have any money?

15 A. Yes, sir.

16 Q. When they went in the Conoco Hot Spot, did they have --

17 the three of them have anything over their heads?

18 A. Masks and stockings.

19 Q. All of them had something over their heads?

20 A. Yes, sir. They didn't have it over. They had it right

21 there. They didn't have it pulled down yet.

22 Q. When they left, had it on top of their head?

23 A. Yes, sir.

24 Q. When they came back, where was it?

25 A. In their hands.

1172

1 Q. In their hands?
2 A. Yes, sir.
3 Q. Do you remember what Freddie Owens had, what kind of --
4 A. Black mask.
5 Q. Same one we talked about earlier?
6 A. Yes, sir.
7 Q. How about Lester?
8 A. I don't know what he had.
9 Q. And Steven Andre Golden?
10 A. Had the same, stocking.
11 Q. Same stocking mask that you talked about. When they
12 came back, how did they act?
13 A. Regular.
14 Q. What?
15 A. Regular.
16 Q. What do you mean by regular?
17 A. The same when they left. You know what I mean.
18 Q. No different?
19 A. No different.
20 Q. Did you get any money out of that robbery?
21 A. Yes, sir.
22 Q. How much did you get?
23 A. About \$40.
24 Q. How much?
25 A. \$40.

1173

1 Q. Then where did you go?
2 A. Went to Freddie Owens' house.
3 Q. Back to?
4 A. Nicholtown.
5 Q. Nicholtown?
6 A. Yes, sir.
7 Q. How long did you stay there?
8 A. About two hours.
9 Q. What were you doing during that period?
10 A. Sitting out there smoking blunts and talking.
11 Q. During this time that you are remembering how these
12 things go, are you keeping track of the time, or are you
13 just estimating?
14 A. Estimating.
15 Q. You got a watch you are looking at, or a clock, or
16 anything?
17 A. No, sir.
18 Q. And after you stayed at Freddie's for a couple of hours
19 where did you go?
20 A. Decided to go get a hotel room.
21 Q. Before you went to the hotel room, where did you go?
22 Anywhere else?
23 A. No, sir.
24 Q. During the course of the evening you have told us that
25 you went to Anthony's Jewelers, went to Conoco Hot Spot,

1174

1 went to Prestige Cleaners. Other than that, did y'all look
2 at any other places that you say scoping it out?

3 A. Yes, sir.

4 Q. How many others?

5 A. A lot of them. A lot of them.

6 Q. And did y'all discuss robbing other places?

7 A. Yes, sir.

8 Q. What was the reason you didn't want to rob those other
9 places?

10 A. Too many people around or either police or something.

11 Q. So when you got back to Freddie's and you stayed awhile
12 and you decided to go to the hotel, whose idea was that?

13 A. Everybody's.

14 Q. Where was the hotel that you went to?

15 A. Laurens Road beside Waffle House.

16 Q. What is the name of it?

17 A. Red Roof.

18 Q. The Red Roof?

19 A. Inn.

20 Q. And when you got to the Red Roof, how far is the Red
21 Roof from the Speedway?

22 A. About three minutes in walking.

23 Q. Right across the parking lot?

24 A. Yes, sir.

25 Q. And through the woods?

1175

1 A. Yes, sir.
2 Q. How far is that from where your parents live?
3 A. It's about five minutes, ten minutes.
4 Q. Did you get out at the -- who got out at the time Red
5 Roof Inn?
6 A. Steven Golden.
7 Q. What did he do?
8 A. Went and got the hotel.
9 Q. Did he go inside?
10 A. Yes, sir.
11 Q. Did he come back?
12 A. Yes, sir.
13 Q. Did y'all go to the room?
14 A. No, sir.
15 Q. Where did you go?
16 A. Went, parked behind this old restaurant closed down.
17 Q. And where was that closed restaurant?
18 A. Across the street from the Waffle House.
19 Q. Across Laurens Road?
20 A. Yes, sir.
21 Q. And why did you go over there?
22 A. Because we had planned to rob the Speedway and Waffle
23 House.
24 Q. When did you plan to rob the Speedway and the Waffle
25 House?

1176

- 1 A. At Freddie's house.
- 2 Q. At Freddie's house?
- 3 A. Yes, sir.
- 4 Q. Why did you decide to go to the Red Roof Inn to get a
5 room there, do you know?
- 6 A. Yeah, in case anything happened, we had an alibi.
- 7 Q. Alibi?
- 8 A. Yes, sir.
- 9 Q. You talked about alibi?
- 10 A. Yes, sir.
- 11 Q. You knew what that meant?
- 12 A. Yes, sir.
- 13 Q. And how was the Red Roof Inn going to be your alibi?
- 14 A. Because that is where we all had been all night.
- 15 Q. Going to say you have been there all night?
- 16 A. Yes, sir.
- 17 Q. Now, what was everybody wearing when you went over to
18 the -- well, when you parked your car over behind the hotel,
19 behind the closed down hotel, excuse me, closed down
20 restaurant across the road?
- 21 A. Yes, sir.
- 22 Q. Is there a hotel over there too?
- 23 A. Yes, sir.
- 24 Q. What did y'all decide to do at that time?
- 25 A. Me and Lester Young decided to rob the Waffle House.

1177

1 Steven Golden and Freddie decided to rob the Speedway.

2 Q. How did y'all come to the decision of who would go with
3 who?

4 A. Just said it like that. Just planned it. Just planned
5 it like that. No, I know the people in the Speedway, so I
6 couldn't do it.

7 Q. You know the people in the Speedway. How do you know
8 the people in the Speedway?

9 A. I stayed down there. My mother stayed down there. I
10 go in the store all the time.

11 Q. Did you know Ms. Graves?

12 A. Yes, sir.

13 Q. And you know you knew she would know you?

14 A. Yes, sir.

15 Q. You didn't want to go there?

16 A. That's right.

17 Q. So you walked -- excuse me, how did you get over to the
18 Waffle House?

19 A. Walked to Charlie T's. Charlie T's. That is right
20 next to the Waffle House.

21 Q. Charlie T's. Waffle House next door and Speedway next
22 door?

23 A. Yes, sir.

24 Q. Before y'all split into pairs?

25 A. Yes, sir.

1178

1 Q. Two each, did you rob the Waffle House?

2 A. No, sir.

3 Q. Well, let me go back one step. Had you scoped out the
4 Waffle House?

5 A. No, sir.

6 Q. What kind of gun did you have?

7 A. .25.

8 Q. When you went to the Waffle House?

9 A. .25 to Charlie T's parking lot.

10 Q. When you were heading to the Waffle House or left the
11 car, what kind of gun did you have?

12 A. .25.

13 Q. Was that your gun?

14 A. No, sir.

15 Q. Whose gun was it?

16 A. Freddie Owens.

17 Q. What kind of gun -- why did you have a .25? What kind
18 of gun was it?

19 A. .25 automatic.

20 Q. Why did you have that gun?

21 A. Because more people be at the Waffle House.

22 Q. And what did you need that gun for rather than your
23 gun?

24 A. Because you can cock it back, cock the hammer back, and
25 let everybody know it is a pistol.

1179

1 Q. All right. Did it have more bullets in it than your
2 gun?

3 A. No, sir, it just cocked back so they can hear it.

4 Q. They could hear it?

5 A. Yes, sir.

6 Q. Were you planning on shooting anybody?

7 A. I wasn't planning on shooting.

8 Q. Were you planning on robbing that place?

9 A. I had thought about it.

10 Q. All right. Now, when you got over to Charley T's, did
11 you or Lester Young go in the Waffle House?

12 A. My cousin.

13 Q. Cousin. Excuse me. Cousin.

14 A. No, sir.

15 Q. How far did you get?

16 A. To Charlie T's parking lot.

17 Q. Why did you stop there?

18 A. Just didn't feel right.

19 Q. What didn't feel right?

20 A. Robbing the store.

21 Q. You didn't feel right, or didn't feel like the
22 circumstances were right?

23 A. All of it. Didn't feel right. The circumstances,
24 nothing.

25 Q. So what did you and Lester do?

1180

1 A. Decided not to rob it.
2 Q. Did y'all talk about this?
3 A. Yes, sir.
4 Q. Who talked? What did you say?
5 A. I said I am not going to rob it and he agreed.
6 Q. You said that you were not going to rob it?
7 A. Yes, sir.
8 Q. How long did you stand there?
9 A. About five minutes, I guess, at the most.
10 Q. After you stood there, did you see Freddie Owens and
11 Steven Andre Golden?
12 A. Yes, sir.
13 Q. Where were they?
14 A. Running across the parking lot, Speedway parking lot.
15 Q. Where were they running towards?
16 A. Back to the car.
17 Q. What did you do and Lester Young do at that time?
18 A. We took off running too.
19 Q. Which way?
20 A. Towards the car.
21 Q. Towards the car?
22 A. Yes, sir.
23 Q. Who got to the car first?
24 A. Steven Golden -- Steven and Freddie.
25 Q. Who got there next?

1181

1 A. Me and Lester.
2 Q. Who got in the car first?
3 A. Steven and Freddie.
4 Q. Where did they get in the car, what position?
5 A. Back in the same spot.
6 Q. You and Lester got back in the same spots in the back
7 seat?
8 A. Yes, sir.
9 Q. When you got in the car, did Freddie Owens say anything
10 to you?
11 A. Yes, sir.
12 Q. What did he say?
13 A. 'Did y'all hear that gunshot?'
14 Q. Say that again.
15 A. 'Did y'all hear a gunshot?'
16 Q. And what did y'all say?
17 A. No.
18 Q. What did Freddie say?
19 A. He shot that bitch in the head.
20 Q. And what did Andre say?
21 A. 'Damn, I didn't get to shoot mines.'
22 Q. 'Damn, I didn't get to shoot mines'?
23 A. Yeah.
24 Q. What did Freddie say?
25 A. Said she wasn't opening the safe, so he shot the whore.

1182

1 Q. Said what?
2 A. Whore.
3 Q. He said she wouldn't open up the safe, so he shot the
4 whore?
5 A. Yeah.
6 Q. Did you know who he was talking about?
7 A. No.
8 Q. Where did you go then?
9 A. Down to my grandma's house.
10 Q. Let's talk about down at your grandma's house.
11 How did you get from behind the closed down restaurant
12 on Laurens Road to your grandma's house?
13 A. A road goes right through the hotel.
14 Q. Goes up where?
15 A. To the bridge right there by J.L. Mann.
16 Q. So when you are coming out is on that road, if you turn
17 right and go across 85 bridge, J.L. Mann would be on your
18 left?
19 A. Yes.
20 Q. If you kept on going, run into Parkins Mill Road?
21 A. Yes.
22 Q. Did you turn right?
23 A. No.
24 Q. Did you turn left?
25 A. Yes.

1183

1 Q. Where does that take you?
2 A. Back to Fairforest Road.
3 Q. Fairforest.
4 What is the name of that road that you were on?
5 A. I don't know.
6 Q. When you came to the intersection of the road with
7 Fairforest, is there a traffic light or a stop sign?
8 A. Yes, sir, blinking light.
9 Q. Blinking yellow light.
10 Where does your grandmother live?
11 A. On the left right there off the road.
12 Q. She lives on Fairforest Road?
13 A. Yes, sir.
14 Q. So where you went was within walking distance of the
15 Speedway?
16 A. Yes, sir.
17 Q. Did y'all all see any police cars?
18 A. Not at the time when we first got there we didn't.
19 Q. Did you see some later?
20 A. Yes, sir.
21 Q. When you first got there, did you go to your
22 grandmother's house or another house?
23 A. Grandmother's house.
24 Q. And what color is your grandmother's house?
25 A. Blue.

1184

1 Q. Blue house?
2 A. Yes, sir.
3 Q. And what did y'all do at the blue house?
4 A. Parked behind it.
5 Q. Did you get out?
6 A. Yes, sir.
7 Q. What did you do?
8 A. Got out and got my pistol and put it in.
9 Q. I'm sorry?
10 A. Got my .32 from Freddie Owens.
11 Q. Got your .32 from Freddie Owens?
12 A. Yes, sir.
13 Q. And what did you do with his .25?
14 A. Gave it back to him.
15 Q. And that took place in the yard?
16 A. Yes, sir.
17 Q. Y'all all standing outside the car?
18 A. Yes, sir.
19 Q. What did you do at that point after you got your gun
20 back?
21 A. Went and put it -- stashed it in some bushes.
22 Q. You went to stash it in some bushes?
23 A. Yes, sir.
24 Q. All right. How long did you stay there?
25 A. What do you mean?

1185

1 Q. At that location behind the car or at the car.
2 A. About five or ten minutes.
3 Q. Then where did you go?
4 A. Home.
5 Q. And while you are there behind the car, you are -- you
6 said that you took you the gun. Did you take anything else?
7 A. No, sir.
8 Q. Did you leave anything or take anything off of your
9 body?
10 A. No, sir.
11 Q. Let me go back. I forgot to ask you this one question.
12 When Freddie Owens and Andre Golden left you behind,
13 left y'all, y'all split up behind the restaurant to go to
14 rob the Waffle House and the Speedway, what kind of head
15 cover, if any, did they have on?
16 A. A ski mask.
17 Q. Who had that on?
18 A. Freddie Owens.
19 Q. And what did Andre have on?
20 A. Stocking.
21 Q. Same one?
22 A. Yes, sir.
23 Q. While you were over there at your grandmother's house,
24 you took the gun back, who stayed there?
25 A. What do you mean stayed there?

1186

1 Q. After you left, do you know did the rest of them stay
2 there or go with you?
3 A. They left.
4 Q. Where did they go?
5 A. Down to Steven's grandmother's house.
6 Q. To where?
7 A. Steven grandmother's house.
8 Q. Where is that?
9 A. That's on down the same in the neighborhood.
10 Q. Same neighborhood?
11 A. Yes, sir.
12 Q. And you say that you went home?
13 A. Yes, sir.
14 Q. Where are you talking about home?
15 A. Stayed behind my grandmother.
16 Q. Where?
17 A. 81 Jacqueline Lane.
18 Q. That is where your parents stay?
19 A. Yes, sir.
20 Q. That isn't where you stayed up until four months before
21 this?
22 A. Yes, sir, off and on, both of them.
23 Q. You didn't go back to Roosevelt?
24 A. No, sir.
25 Q. You went to your parents' home.

1187

1 Did y'all talk about going to the Red Roof Inn?

2 A. Yes, sir.

3 Q. When?

4 A. What do you mean? When we planned it?

5 Q. No, talking about after you got in the car and y'all
6 were heading to your grandmother's house, anybody talking
7 about let's go to the Red Roof Inn?

8 A. No, sir.

9 Q. When you got -- you put the gun in some bushes?

10 A. Yes, sir.

11 Q. What did you do with it after that?

12 A. The next day I got rid of it.

13 Q. The next day you got rid of it?

14 A. Yes, sir.

15 Q. Where did you get rid of it?

16 A. Conastee Road.

17 Q. Conastee. Where is that?

18 A. That is like in Donaldson like.

19 Q. I'm sorry?

20 A. Going towards Donaldson.

21 Q. Donaldson. And where did you get rid of it?

22 A. There is a bridge right there. Threw it off the
23 bridge.

24 Q. What is below the bridge?

25 A. A river.

1188

1 Q. Now, did you tell the police that in your statement?
2 A. No, sir.
3 Q. When is the first time that you told that to me?
4 A. Yesterday.
5 Q. Yesterday.
6 Why did you not tell that earlier?
7 A. Because it was my pistol used in the shooting.
8 Q. And what did you think that would do to you?
9 A. I don't know at that time.
10 Q. You just didn't want it discovered?
11 A. Didn't want it to come up.
12 Q. Did you shoot Ms. Graves?
13 A. No, sir.
14 Q. You knew Ms. Graves?
15 A. Yes, sir.
16 Q. Why did you think your pistol had been used to shoot
17 Ms. Graves?
18 A. Why?
19 Q. Uh-huh.
20 A. Because Freddie Owens say he shot her.
21 Q. And he had your gun?
22 A. Yes, sir.
23 Q. And that is why you threw it in the river?
24 A. Yes, sir.
25 Q. You believe him enough to throw your gun in the river?

1189

(1 A. I checked it.
2 Q. I'm sorry?
3 A. I checked it.
4 Q. You checked it?
5 A. Yes, sir.
6 Q. When you checked it, what did you find?
7 A. That a shell had been shot.
8 Q. A shell had been shot?
9 A. Yeah, bullet had been shot. Just a shell there.
10 Q. How many bullets were in it when it left?
11 A. Six.
12 Q. How many were in it when it came back?
13 A. Five.
14 Q. Did you see Freddie and Andre the next day?
15 A. Yes, sir.
16 Q. How did y'all get together?
17 A. Came down to my house.
18 Q. What were you doing?
19 A. Cleaning up, yard work.
20 Q. And what were they doing?
21 A. Nothing. In the car. Just you pulled up and talking
22 and stuff.
23 Q. Did you get with them?
24 A. No, sir.
25 Q. How long did they stay?

DR. DAVID BRUNETTI - DIRECT BY MR. ARIAIL

1296

1 of this case was that Mr. Owens had primarily, when he was
2 violent used a weapon, and that had been typically fairly
3 impulsive and in the midst of a conflict.

4 The description of this event that I read from the
5 statement first of all was not with a weapon. And by
6 weapon, I mean a handgun. This was hands on. He was -- had
7 his hands on the individual hitting, and so on. And my
8 understanding from the statement is that at the point where
9 the individual was incapacitated, he continued to inflict
10 harm on him. And I believe it was mentioned in the
11 statement, because he was moaning, that he had stabbed him
12 with a ballpoint pen, as well as -- his statement was that
13 he had stabbed him with the ballpoint pen, as well as burned
14 him with a lighter.

15 Q. How did that change your opinion?

16 A. That changed my opinion, because initially I was
17 thinking that, like I said before, Mr. Owens is an
18 individual who is likely to react very impulsively, very
19 quickly to see thing statements or actions as slights or as
20 insults, that the rest of us probably wouldn't see those as
21 insults. So my conception was is that he was fairly
22 reactive in terms of his aggression and typically using a
23 handgun.

24 After this incident, I started to feel that -- well, my
25 opinion changed to that this was a much more predatory type

DR. DAVID BRUNETTI - DIRECT BY MR. ARIAIL

1297

1 of aggression, that it wasn't as distant as using a handgun
2 where all that's required is pulling the trigger.

3 Q. What's the difference or explain the difference between
4 reactive and predatory?

5 A. These are -- these are two different ideas about the
6 intent or the factors that derive aggression. One is that
7 most aggression or most physical aggression verbal
8 aggression that we all have is reactive. There is something
9 that occurs and we react to it, whether it's real or not.
10 So we could perceive something that's inaccurate and react
11 to that circumstance and, say, lash out verbally or
12 physically.

13 Predatory aggression is a little bit different. There
14 is probably a number of different motivators for it, but
15 it's a type of aggression where an individual may actually
16 either plan harming someone or continue beyond what's
17 necessary essentially to stop what appears to them as an
18 insult or an attack on them.

19 Q. And are you familiar with the Department of Corrections
20 manner in which inmates are housed, and specifically are you
21 familiar with the difference between terms general
22 population, supermax, and solitary confinement?

23 A. Yes, I am.

24 Q. Based upon your evaluation of Mr. Owens back in 1999,
25 did you reach an opinion as to how Mr. Owens would have to

SLED AGENT GARY DEAN BROWN - DIRECT BY MR. ARIAIL

1336

1 jury panel)

2 CONT'D DIRECT EXAMINATION BY MR. ARIAIL:

3 THE COURT: The statement was offered and the
4 court has ruled that it may come into evidence.

5 MR. ARIAIL: The statement is in evidence.

6 If it please the court, could I publish the
7 statement to the jury?

8 THE COURT: Yes, sir.

9 MR. ARIAIL: The statement is entitled "I, Freddie
10 Owens, am not under arrest for nor am I being detained for
11 any criminal offenses concerning the events I'm about to
12 make known to Special Agent Elizabeth Corley and Special
13 Agent Dean Brown. I understand I'm free to walk away
14 without saying anything and I volunteer the following
15 information of my own free will for whatever purposes it may
16 serve.

17 "I am 20 years of age and I live at 11-A Hall
18 Street, Greenville, South Carolina. I can read and write
19 and completed the 10th grade in school. Date of birth
20 3-18-78.

21 "I, Freddie E. Owens, have been read my Miranda
22 Rights by Elizabeth Corley. I would like Dean Brown to
23 write this statement for me.

24 "At eleven p.m., on 2-15-99, myself and the other
25 inmates in my cell block watched the news and saw that I was

SLED AGENT GARY DEAN BROWN - DIRECT BY MR. ARIAIL

1337

1 found guilty. I then worked out and took a shower. I went
2 to bed and woke up whenever they came to get one of the
3 other inmates to take him to Perry. This was around three
4 a.m.. While they were getting the guy ready to go to Perry,
5 Christopher Lee said you won't be the only one because
6 Freddie is coming down there with you. I told him to shut
7 the fuck up. He told me his cousin was on the jury. I
8 asked him if he knew that they convicted me. He said fuck
9 you, I know because my cousin was on the jury. End quote.
10 I then walked into his cell and hit him in the eye. He fell
11 down on his back. I got on top and started hitting him
12 mostly in the face and throat. I took a pen from his right
13 hand and my right hand and stabbed him in his right eye. I
14 then tried to stab him in his chest but the pen would not go
15 in. I then stabbed him in his throat. I don't know if the
16 pen went into his throat or not. He started bleeding out of
17 his mouth. There was a sheet tied into a snare laying on
18 his bed. I reached and got it and put it over his head onto
19 his neck. I wrapped it around my left hand and pulled it
20 tight. I started hitting him in the face with my right
21 hand. Then I started choking him with my right hand and
22 pounding his head against the floor. He never fought back
23 after the first punch he was out of it. He was still
24 breathing and the stuff coming out of his mouth stunk, so I
25 stood up and stomped his head and body with my feet. I saw

SLED AGENT GARY DEAN BROWN - DIRECT BY MR. ARIAIL

1338

1 a black and blue lighter under the bunk. I grabbed it and
2 burned him around the eye and on the left side of his head.
3 I rammed his head into the wall. He was still moaning and
4 breathing. I walked out of the cell to leave him alone. I
5 heard the crazy moaning again, so I grabbed the pen off the
6 floor where I had thrown it and went back into his cell. I
7 got back over him and rammed the pen up his right nostril.
8 I closed his left nostril with my left hand and started
9 choking him with my right hand. The sheet was still around
10 his neck. I was choking him above the sheet. Throughout
11 all of the above he was moaning and breathing. I kept
12 checking him to see if he was dead. I would check his pulse
13 on his wrist, and I put my ear beside his neck and chest to
14 hear if he was breathing. I wanted him to be dead at that
15 time. I finally thought he was dead, so I threw him on his
16 bunk and covered him up. The first time I put him on the
17 bunk he fell off. I then packed my stuff and put my
18 mattress on the table and went to sleep. While I packed my
19 stuff, the black guy that had been on the top bunk of
20 Christopher's cell the whole time this went on got down and
21 put his mattress on the other table and sit down. Everyone
22 in the cell block was awake when I left Christopher. I woke
23 up when Hefner opened the door to bring in breakfast. When
24 I got in the line I was third in line and Sergeant McNeill
25 walked by and I told him to cuff me. He said he would not,

SLED AGENT GARY DEAN BROWN - CROSS BY MR. GIBSON

1339

1 and I told him he would if he with go into Christopher's
2 cell. He looked into the cell and Hefner went into the
3 cell. Sergeant McNeill told Hefner to cuff me, which he
4 did. Sergeant McNeill then called someone on the radio. I
5 really did it because I was wrongfully convicted of murder.
6 Signed Freddie E. Owens."

7 BY MR. ARIAIL:

8 Q. Thank you Mr. Brown. Answer any questions that the
9 defense counsel may have.

10 THE COURT: Mr. Gibson.

11 MR. GIBSON: Thank you, Your Honor.

12 CROSS EXAMINATION BY MR. GIBSON:

13 Q. Mr. Brown, I'm Ken Gibson. I just want to ask you a
14 few questions and I'm going to let you go, okay?

15 A. Okay.

16 Q. What was your involvement with this investigation?
17 What role did you play, other than taking a statement?

18 A. I was the case agent.

19 Q. So you were the head agent?

20 A. Yes, sir. I wasn't in charge. I was just the one
21 to -- the case agent gathers all of the paperwork.

22 Q. Okay. Are you --

23 A. Lieutenant Randall Stewart was in charge at the scene.

24 Q. Are you familiar with the Fred Walker, Jr.?

25 A. Yes, sir.

SLED AGENT GARY DEAN BROWN - CROSS BY MR. GODFREY

1323

1 Q. Were there any weapons in the room? Did Corley have a
2 weapon?

3 A. No, sir.

4 Q. Did you make any promises to him that if he cooperated,
5 that you all would speak to the solicitor for him?

6 A. No, sir.

7 Q. Corley didn't do nothing like that either?

8 A. No, sir.

9 Q. Did you threaten him in any way, like if you do not
10 cooperate with us now, we will make sure that you get the
11 maximum?

12 A. No, sir, none of that.

13 Q. So how did you begin the interview?

14 A. We -- Agent Corley simply asked him if he was willing
15 to talk to us about what happened last night.

16 Q. And his response was?

17 A. Yes, he was willing.

18 Q. Okay. Did he just say yes, or did he give yeah?

19 A. He just simply said yes.

20 Q. And, again, he was flat or had no expression when he
21 did it?

22 A. Basically, yes, sir. He -- he was very willing to
23 talk, almost bragging.

24 Q. He was almost what, sir?

25 A. In a bragging sense of wanting to talk with us.

MAJOR THIERRY NETTLES - DIRECT BY MS. STROM

1389

1 Exhibit No. 30 and ask you, do you recognize that?

2 A. Yes, ma'am.

3 Q. Is that an accurate summary of the records -- the
4 inmate records involving inmate Freddie Owens?

5 A. It is.

6 MS. STROM: Your Honor, at this time we would
7 offer State's Exhibit No. 30 into evidence.

8 MR. GIBSON: Subject to the earlier objection,
9 Your Honor.

10 THE COURT: All right. It's admissible subject to
11 the objection.

12 MS. STROM: May I publish to the jury now, Your
13 Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. STROM:

16 Q. Just to go through each of these, are you able to see
17 that from there? Can you read that?

18 A. Yes, ma'am.

19 Q. Okay. If you would, just go down -- I believe these
20 are in date order. So if you would just go down, beginning
21 with number 1?

22 A. April 13, 2001, breaks toilet, sink and sprinkler.

23 Continue all the way down?

24 Q. Yes, sir.

25 A. May 26, 2001, throws hot water on another inmate.

MAJOR THIERRY NETTLES - DIRECT BY MS. STROM

1390

1 May 27, 2001, had a six and a half inch shank made from
2 fencing and toothbrush.

3 June 14, 2001, spat on a correctional officer.

4 February 8, 2002, a 14 inch solid brass shank.

5 March 29, 2002, stabs correctional officer Smith in the
6 face with a shank.

7 June 12, 2002, stabs Undra Golden in the shower.

8 June 15, 2002, kicks an inmate who is restrained in a
9 restraint chair.

10 August 5, 2002, slaps a male nurse in the face.

11 August 17, 2002, throws a food tray and hits officer
12 Guess in the head.

13 August 23, 2002, struck officer in the face with his
14 fist.

15 October 22, 2002, hits officer Eaton in face with the
16 fist.

17 October 23, 2002, sets fire to cell.

18 December 22, 2002, shank made from fencing.

19 December 30, 2002, a ten inch made from a push rod of
20 the sink.

21 July 17, 2005, spits in the face of officer Jones.

22 August 26, 2005, slaps officer Henley in the face.

23 August 31, 2005, sets fire to cell.

24 September 11, 2005, threatens officer Jones.

25 January 1, 2006, a 12 inch homemade knife.

MAJOR THIERRY NETTLES - DIRECT BY MS. STROM

1391

1 January 3, 2006, breaks cell door window with broom
2 stick.

3 January 13, 2006, throws feces on officer Williams
4 hitting him in the face.

5 February 3, 2006, spits in the face of another inmate.

6 February 4, 2006, orally threatens officer Jones.

7 February 28, 2006, a 12 inch weapon hidden between the
8 mattresses.

9 April 4, 2006, an eight and a half inch shank made from
10 flat metal sharpened at the edge and wrapped with ace
11 bandage.

12 May 1, 2006, sets fire to his mattress.

13 May 20, 2006, throws coffee on officer Smith.

14 Q. Thank you Major Nettles.

15 In this summary of incidents involving Freddie Owens,
16 there were a number of things that you referred to or were
17 referred to on the exhibit as shanks. Tell us what is a
18 shank?

19 A. A shank is a homemade weapon within the penitentiary.
20 The two that -- say push rod actually comes out of the cell.
21 The rest are predominately made from fencing material off
22 the rec field.

23 Q. And what can shanks be made from?

24 A. You can make a shank out of anything. I have seen them
25 made out of toothbrushes, razors, lighters. Those

MAJOR THIERRY NETTLES - DIRECT BY MS. STROM

1392

1 facilities that allow canteen items, you can take a can of
2 tuna and turning it into a shank. Pencils, pens, paper.
3 You can roll up newspaper and wet it and let it get hard and
4 shape it. The same way with saran wrap.

5 Q. And where Mr. Owens has been housed, would you consider
6 that a very restrictive environment?

7 A. Yes, ma'am.

8 Q. And yet still within that restrictive environment he
9 has all of these infractions?

10 A. Yes, ma'am.

11 Q. Do you have personal dealings with Freddie Owens?

12 A. Yes, ma'am, I have.

13 Q. And as a major at Leiber, are you responsible for the
14 supervision of his housing?

15 A. Yes, ma'am.

16 Q. How did you classify Mr. Owens in terms of his behavior
17 within the Department of Corrections?

18 A. Normally I would refer to him as an ADD inmate. He's
19 assaultive, destructive, and damaging. He's -- he's, within
20 that housing unit, bar none, my most problematic inmate.

21 MS. STROM: Court's indulgence, Your Honor.

22 (Off the record)

23 (Back on the record)

24 BY MS. STROM:

25 Q. Thank you. Please answer any questions that the

1556

1 murder and his behavior are one of those cases.

2 Punishment and the death penalty are about
3 accountability and responsibility for choices made. I told
4 you earlier we are here because Freddie Owens acted the way
5 that he did. He is responsible for bringing us here. Now
6 is the time to talk about accountability.

7 Freddie Owens had a choice on November the 1st,
8 1997. He had a choice before him to kill or let Irene
9 Graves live. He made the choice, so we are here because
10 Freddie Owens made a terrible choice, a terrible choice. It
11 was an intentional and willful choice to kill her. He made
12 the intentional and calculated choice to kill and his
13 punishment should reflect the degree and the magnitude of
14 that choice. Bad decisions and bad judgment have
15 consequences, but intentional and premeditated acts or
16 violence carries severe consequences. We must hold people
17 accountable for their acts to the most severe punishment
18 when their acts are so atrocious as to justify that severe
19 punishment.

20 Freddie Owens had the ability to make choices. He
21 knew right from wrong. He could conform his behavior to the
22 law. Instead he chose evil. He chose brutality. He chose
23 unnecessary killing, and the punishment should reflect
24 accountability for that choice.

25 We must measure the extent of the culpability and

1574

1 relatively minor.

2 Now, some of you are saying to yourself now, wait
3 a minute, how is he just an accomplice? How is his
4 participation relatively minor? That piggybacks onto
5 another thing that you are allowed to consider, and that is
6 residual doubt. Well, residual doubt is this, ladies and
7 gentlemen. I have told many of you during voir dire that we
8 were stuck with the earlier jury's ruling, and we are to
9 some extent, but, ladies and gentlemen, you can consider
10 whether or not that earlier jury was right. That is
11 something that you are allowed to consider in your
12 deliberations.

13 Now, they didn't put on their whole case, but they
14 put on the best of it in this trial, and what you saw was a
15 jilted lover who was out to get him and a co-defendant who
16 very likely may have been gotten away with murder. Kiko
17 Vance. Why wouldn't he testify? In his first testimony, in
18 his first statement, the one that was read into the record
19 because he wouldn't testify this time, he says "I don't have
20 any kind of deal to testify. I'm only testifying because
21 it's the truth." If that's the case, why not get up on that
22 stand and say it again? Why not give the same testimony.
23 And if you look at his statement and you look -- and you
24 really remember what his testimony was, there were numerous
25 things which made no sense whatsoever. Kiko Vance, a .32

1575

1 revolver which killed Irene Graves, that belonged to Kiko
2 Vance. That was Kiko Vance's weapon. Kiko Vance said "I
3 didn't have it because I gave it to Freddie. And I didn't
4 get it back because when I was going in the Waffle House, I
5 wanted to have a gun that I could pull the hammer back so I
6 could scare the people." Now, ladies and gentlemen, I don't
7 know if you have ever been in the Waffle House, but you are
8 not going to hear a hammer being pulled back on a weapon in
9 a Waffle House, not with dishes clanging, not with food
10 frying, not with people talking. That's just not going to
11 happen. And he told you that that -- from his perspective
12 he said the reason why Freddie wanted the .32 was because it
13 was more noticeable. It would seem to me that if he was
14 going in the Waffle House, that he would want the most
15 noticeable gun. The fact of the matter is, ladies and
16 gentlemen, he never went in the Waffle House. He went in
17 the Speedway with Steven Golden, and that's -- those are the
18 two people who did that crime, and you are allowed to
19 consider that in your deliberations.

20 MR. ARIAIL: Your Honor, I'm going to have to
21 object to that argument. I mean, that's outside the scope
22 of any fact in this record.

23 THE COURT: I'll note that.

24 MR. GIBSON: Second -- third, rather, the murder
25 was committed while the defendant was under the influence of

ATTACHMENT NO. 3

[Record on Appeal – 2066-2081]

1 ANY OTHER CONVERSATION WITH THEM?

2 A. NO, SIR, NOT DURING THE SEARCH.

3 Q. AND FOLLOWING THE SEARCH TELL US WHAT HAPPENED
4 WHEN YOU WERE GETTING READY TO LEAVE.

5 A. INVESTIGATOR LEE HAD COMPLETED WHAT IS CALLED A
6 RETURN ON THE SEARCH WARRANT THAT WAS TURNED OVER TO
7 MS. MASON. THE FORENSIC TECHNICIAN WAS LEAVING AND
8 INVESTIGATOR SMITH AND I WERE STILL THERE. I ASKED
9 MS. MASON IF I COULD TALK TO HER FOR A SECOND, I
10 WANTED TO EXPLAIN TO HER BASICALLY WHAT WE HAD DONE
11 THERE AND WHY WE WERE THERE AND THAT KIND OF THING.

12 Q. AND WHERE WAS THIS CONVERSATION, WHERE DID IT
13 TAKE PLACE, INSIDE THE HOUSE OR OUTSIDE?

14 A. IT WAS OUTSIDE AT THE FOOT OF THE STEP AREA.

15 Q. AND WHAT WAS THIS CONVERSATION? TELL US WHAT
16 YOU TOLD HER.

17 A. BASICALLY JUST TOLD HER THAT A LOT OF TIMES
18 PEOPLE FEEL LIKE THAT WHEN SEARCH WARRANTS GO ON THAT
19 DRAWERS ARE DUMPED OUT AND THINGS ARE BROKEN AND
20 THINGS LIKE THAT. WE WERE VERY CAREFUL TO TRY NOT TO
21 TEAR UP THINGS, TRY TO TAKE THINGS THAT ARE NOT
22 RELATIVE. I TOLD HER ON THE SEARCH WARRANT THAT WAS
23 HERS TO KEEP WERE ITEMS THAT WE DID TAKE. I
24 EXPLAINED TO HER THAT MR. OWENS WAS UNDER ARREST FOR
25 MURDER AND THAT -- AND IT WAS A MURDER OF A CLERK AT

1 THE SPEEDWAY STATION ON LAURENS ROAD. EXPLAINED TO
2 HER HOW THE PROCESS OF HIS ARRAIGNMENT AND WHO WOULD
3 SET BOND AND THINGS LIKE THAT.

4 Q. WHAT WAS HER RESPONSE OR ATTITUDE AT THAT TIME?

5 A. SHE WAS VERY COOPERATIVE WITH ME, SHE WAS
6 APOLOGIZING TO ME ABOUT US HAVING TO BE THERE. SHE
7 EXPRESSED CONCERN ABOUT WHAT THE NEIGHBORS WOULD SAY
8 AND WAS VERY RELAXED CONVERSATION IN THE YARD. WE
9 EVEN TALKED ABOUT THIS WAS AFTER HALLOWEEN, WE EVEN
10 TALKED ABOUT KIDS TRICK OR TREATING IN THE
11 NEIGHBORHOOD, THERE WAS A SMALL CHILD THERE WHEN WE
12 WENT TO ARREST MR. OWENS AND WE TALKED ABOUT BEING
13 CAREFUL WHERE YOU TRICK OR TREAT AND STUFF LIKE THAT.

14 Q. AND WERE YOU PREPARING TO LEAVE?

15 A. YES, SIR.

16 Q. AND AT ANY TIME PRIOR TO THAT POINT HAD YOU
17 EVEN CONSIDERED THAT MS. MASON HAD ANY INFORMATION
18 ABOUT THIS CASE OR WOULD BE ABLE TO TALK TO YOU ABOUT
19 ANY EVIDENCE IN THIS CASE?

20 A. NO, SIR.

21 Q. WAS IT YOUR INTENTION WHEN YOU WERE LEAVING
22 THAT YOU WERE GOING TO ASK HER TO COME TO THE LAW
23 ENFORCEMENT CENTER?

24 A. NO, SIR.

25 Q. TELL US WHAT HAPPENED AT THAT POINT THAT

1 CHANGED YOUR MIND AND LED YOU TO ---

2 MR. ALLEN: JUDGE, I WILL HAVE TO OBJECT TO
3 THIS POINT TO THE LEADING NATURE.

4 THE COURT: ALL RIGHT. LET'S LET THE
5 WITNESS TESTIFY. ASK HIM IF HE KNOWS ANYTHING.
6 FIND OUT FROM HIS TESTIMONY. SUSTAINED ON THE
7 OBJECTION.

8 DIRECT EXAM CONTINUED BY MR. ARIAIL:

9 Q. DID YOU TAKE OR ASK HER -- DID YOU HAVE A
10 SUBSEQUENT CONVERSATION WITH HER AT THE SCENE?

11 A. YES, SIR, I DID.

12 Q. ON THE PORCH?

13 A. YES, SIR, THE FOOT OF THE STEPS.

14 Q. SUBSEQUENT TO THAT CONVERSATION, DID YOU ASK
15 HER TO COME DOWN TO THE LAW ENFORCEMENT CENTER WITH
16 YOU?

17 A. YES, SIR.

18 Q. WHAT WAS SAID IN THAT CONVERSATION BY HER?

19 A. AS I SAID, SHE BASICALLY APOLOGIZED TO ME THAT
20 THIS HAD ALL GONE ON. SHE STARTED TELLING ME THAT
21 SOME DAYS PRIOR FREDDIE HAD COME OR THE DEFENDANT, SHE
22 REFERRED TO HIM AS FREDDIE, HAD COME TO HER UPSET AND
23 CRYING AND TOLD HER THAT HE HAD KILLED A LADY. SHE
24 SAID HE TOLD HER HE WAS HIGH ON REEFER WHEN HE DID IT
25 AND THAT HE DIDN'T WANT HER TO HATE HIM FOR IT AND SHE

1 SAID THAT SHE TOLD HIM YOU ARE MY CHILD AND I WON'T
2 HATE YOU.

3 Q. AS A RESULT OF HER TELLING YOU THAT, WHAT DID
4 YOU DO?

5 A. I TOLD HER THAT I FELT LIKE WE NEEDED TO GO
6 DOWN TO THE LAW ENFORCEMENT CENTER TO DISCUSS SOME OF
7 THE DETAILS IN THAT.

8 Q. AND DID YOU GO TO THE LAW ENFORCEMENT CENTER OR
9 DID SHE NEED TO MAKE OTHER ARRANGEMENTS BEFORE SHE DID
10 OR WHAT HAPPENED?

11 A. AS I SAID, A SMALL CHILD THERE, I'M NOT SURE IF
12 IT WAS A RELATIVE OR SHE WAS BABY-SITTING. SHE
13 WANTED SOMEBODY TO TAKE CARE OF THE CHILD I TOLD HER
14 THAT WAS FINE. THE MAIN REASON WE WANTED TO GO TO
15 THE LAW ENFORCEMENT CENTER BECAUSE OF THE NEIGHBORS
16 WALKING AROUND SHE WAS HESITANT ABOUT THEM SEEING
17 POLICE CARS OUT THERE ANY LONGER THAN THEY HAD AND THE
18 OTHER FAMILY MEMBERS IN THE HOUSE. SO SHE MADE
19 ARRANGEMENTS FOR SOMEONE TO WATCH THIS CHILD AND WENT
20 DOWN TO THE LAW ENFORCEMENT CENTER WITH US.

21 Q. WHAT TYPE OF VEHICLE DID YOU GO IN?

22 A. DEPUTY SMITH TOOK HER DOWN AND HE WAS WORKING
23 IN CENTRAL VICE THEN AND HE HAD, I BELIEVE, A PICKUP
24 TRUCK AND DROVE HER DOWN IN THE TRUCK.

25 Q. IS THIS A MARKED PICKUP TRUCK OR UNMARKED?

1 A. UNMARKED.

2 Q. LOOKS LIKE A REGULAR PICKUP TRUCK?

3 A. YES, SIR.

4 Q. DOESN'T HAVE GREENVILLE COUNTY SHERIFF'S OFFICE
5 OR ANYTHING LIKE THAT ON IT?

6 A. NO, SIR.

7 Q. DID ANYONE ELSE GO WITH HER?

8 A. NO, SIR.

9 Q. JUST THOSE TWO?

10 A. YES, SIR.

11 Q. HOW DID YOU -- DID YOU GO TO THE LAW
12 ENFORCEMENT CENTER?

13 A. YES, SIR.

14 Q. HOW DID YOU GO?

15 A. INVESTIGATOR WOOD. I HAD RIDDEN OUT WITH MY
16 CAPTAIN, HE HAD LEFT HIS VEHICLE BEHIND SO I DROVE HIS
17 CAR BACK.

18 Q. DID YOU GO TO THE LAW ENFORCEMENT CENTER AND
19 WHAT PART DID YOU GO TO?

20 A. YES, SIR, WE WENT TO THE VIOLENT CRIMES OFFICE
21 WHICH IS ON THE SECOND FLOOR.

22 Q. AND AT THAT TIME -- WHAT IS THAT AREA LIKE?

23 A. IT HAS TWO -- IT IS A BIG ROOM BASICALLY AND
24 IT HAS FILE CABINETS AND COMPUTERS IN IT, THERE IS AN
25 OFFICE ON EACH SIDE AND THEN THERE IS SOME DESKS THAT

1 ARE SEPARATED BY THESE PANELS.

2 Q. PARTITIONS?

3 A. YES, SIR.

4 Q. ARE THEY CEILING HIGH OR JUST LOWER THAN THAT?

5 A. THEY ARE LOWER THAN THAT. THEY COME UP TO
6 ABOUT RIGHT HERE (INDICATING), ABOUT FIVE FEET HIGH.

7 Q. CENTRAL AREA DIVIDED BY PARTITIONS?

8 MR. ALLEN: JUDGE, I AM GOING TO HAVE TO
9 OBJECT AGAIN.

10 THE COURT: WELL, SOME LEADING IS PERMITTED
11 JUST TO SET THE STAGE. THE ONLY PROBLEM IS, MR.
12 ARIAIL ---

13 MR. ARIAIL: YES, SIR.

14 THE COURT: LET'S JUST ASK THE QUESTION WHERE
15 HE WAS AND DESCRIBE IT FOR HIM. I'M SURE THIS
16 GENTLEMAN KNOWS AS MUCH ABOUT THE AREA AS YOU DO.
17 LET HIM TESTIFY.

18 MR. ARIAIL: ALL RIGHT.

19 THE COURT: THANK YOU, SIR.

20 DIRECT EXAM CONTINUED BY MR. ARIAIL:

21 Q. WHEN YOU WERE IN THE OFFICE AREA, WAS ANYONE
22 ELSE PRESENT?

23 A. YES, SIR.

24 Q. WHO ELSE WAS PRESENT?

25 A. BEFORE WE GO INTO OUR OFFICE AREA, THE BIG

1 ROOM AREA, IT HAS A SWINGING GLASS DOOR WITH A SHADE
2 ON IT AND WHAT WE WOULD NORMALLY DO IF THERE IS A CASE
3 GOING ON POTENTIALLY SOMEBODY ELSE IN THERE WE WILL
4 ASK WHOEVER WE HAVE WITH US TO WAIT. WE OPEN THE
5 DOOR AND SAY IS EVERYTHING CLEAR FOR ME TO BRING THIS
6 PERSON IN. I KNEW THAT SERGEANT BELLEW WAS THERE
7 BECAUSE HIS DOOR WAS CLOSED AND I WAS TOLD BY SOMEONE
8 ELSE THAT HE HAD SOMEONE INTERVIEWING THEM IN THERE.

9 Q. THEN WHERE DID YOU GO?

10 A. I WENT INTO DIRECTLY ACROSS THE BACK OF THIS
11 ROOM ON THIS SIDE, THIS IS INVESTIGATOR WOOD'S
12 OFFICE, THAT IS WHERE I WENT WITH MS. MASON.

13 Q. DID YOU CLOSE THE DOOR OR LEAVE IT OPEN?

14 A. WE NORMALLY KEEP IT CLOSED, BUT IT WAS OPENED
15 AT POINTS DURING THAT, INVESTIGATOR WOOD WAS COMING IN
16 AND OUT WHILE I SPOKE TO HER.

17 Q. AND WAS ANYBODY IN THE ROOM OTHER THAN YOURSELF
18 WHEN YOU FIRST WENT IN?

19 A. NO, SIR.

20 Q. IT WAS YOU AND MS. MASON?

21 A. YES, SIR.

22 Q. ANYBODY COME IN AND STAY ANY APPRECIABLE LENGTH
23 OF TIME?

24 A. NO, SIR, OTHER THAN INVESTIGATOR WOOD.

25 Q. AND HOW LONG WAS HE IN THE ROOM?

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1 A. OFF AND ON THE WHOLE TIME THAT I TALKED TO HER
2 BUT HE WOULD STAY FIVE OR TEN MINUTES AND LEAVE.

3 Q. HOW LONG DID YOU STAY IN THE ROOM WITH HER
4 TALKING TO HER?

5 A. MAYBE FORTY-FIVE MINUTES OR AN HOUR.

6 Q. HOW DID THE PROCESS GO WHEN YOU WERE TALKING TO
7 HER, WERE YOU MAKING ANY NOTES OR RECORDINGS OF WHAT
8 SHE SAID?

9 A. YES, SIR. WHAT I LIKE TO DO IS GET A PAD IN
10 FRONT OF ME AND JOT DOWN THINGS, THE HIGH POINTS SO
11 THAT I CAN REMEMBER TO COME BACK TO THOSE WHEN WE
12 ACTUALLY TYPE IT OUT.

13 Q. DID YOU TAKE NOTES?

14 A. YES, SIR, I DID.

15 Q. AND AFTER YOU TOOK NOTES DID YOU ACTUALLY TYPE
16 IT OUT?

17 A. YES, SIR, I DID.

18 Q. AND WHILE YOU WERE TAKING THE NOTES THE --
19 WHILE YOU WERE TAKING THE NOTES WAS -- WERE YOU DOING
20 ANYTHING OTHER THAN TAKING NOTES?

21 A. NO, SIR.

22 Q. DID YOU EXPLAIN TO MS. MASON WHAT YOU WERE
23 DOING AND WHAT INFORMATION YOU WANTED TO TALK ABOUT?

24 A. YES, SIR.

25 Q. DID YOU ASK HER QUESTIONS OR DID SHE ASK

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1 QUESTIONS?

2 A. I WAS ASKING THE QUESTIONS.

3 Q. AND WHAT DID YOU DIRECT YOUR QUESTIONS
4 GENERALLY AT, WHAT SUBJECT?

5 A. THE MURDER OF THE CLERK AT THE SPEEDWAY STORE.

6 Q. AND DID YOU GET HER TO GIVE YOU A STATEMENT AS
7 TO WHAT SHE TOLD YOU IN REGARD TO WHILE SHE WAS
8 STANDING ON THE PORCH?

9 A. YES.

10 Q. DID YOU REDUCE YOUR NOTES OR REDUCE THE
11 CONVERSATION YOU HAD WITH HER TO WRITING?

12 A. YES, SIR, I DID.

13 Q. AND FOLLOWING REDUCING IT TO WRITING, DID YOU
14 GIVE IT TO HER?

15 A. YES, SIR.

16 Q. DO YOU KNOW WHO TYPED THE STATEMENT?

17 A. I DID.

18 Q. DID YOU TYPE IT IN THE SAME ROOM WITH HER?

19 A. YES, SIR.

20 Q. WAS SHE PRESENT WHEN YOU TYPED IT?

21 A. YES, SIR. I DON'T LIKE TO TAKE THE NOTES AND
22 TYPE THE WHOLE PAGE SO WHAT I WOULD DO IS DO IT LINE
23 BY LINE SO SHE WOULD TELL ME A LINE AND THEN WE WOULD
24 TYPE THAT AND THEN GO ONTO THE NEXT ONE.

25 Q. LET ME BACK UP. YOU HAD NOTES?

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1 A. YES, SIR.

2 Q. AND THEN WHAT WOULD YOU DO?

3 A. AFTER WE WENT THROUGH IT ONE TIME I PUT THE
4 NOTES TO THE SIDE, PUT THE STATEMENT FORM IN THE
5 TYPEWRITER AND SAID LET'S GO BACK THROUGH THIS ONE
6 MORE TIME, IT IS YOUR STATEMENT, I WILL TYPE IT AS
7 YOU TELL ME, TELL ME IT AGAIN, I CAN KIND OF KEEP
8 TRACK OF WHERE I AM.

9 Q. AND THE WORDS THAT WERE BEING TYPED, WERE THEY
10 HER WORDS OR YOUR WORDS?

11 A. HER WORDS.

12 Q. WOULD YOU DIRECT HER AS TO WHERE YOU WANTED TO
13 GO NEXT BASED ON YOUR NOTES?

14 A. NO, SIR. IT WAS JUST SORT OF FOR ME TO KEEP
15 IN MY MIND THAT I HADN'T MISSED ANYTHING.

16 Q. DID YOU REDUCE IT TO A TYPED STATEMENT?

17 A. YES, SIR, I DID.

18 Q. WAS SHE AT ANY TIME A SUSPECT IN THIS CRIME,
19 GIVEN ANY MIRANDA WARNINGS OR ANYTHING OF THAT NATURE?

20 A. NO, SIR.

21 Q. ANYBODY AT ANY TIME IN YOUR PRESENCE PLACE ANY
22 -- PUT HER IN FEAR OR MAKE ANY THREATS AGAINST HER AT
23 THE LAW ENFORCEMENT CENTER?

24 A. NO, SIR.

25 Q. ANYBODY PHYSICALLY TOUCH HER IN YOUR PRESENCE?

1 A. NO, SIR.

2 Q. DID SHE SEEM TO UNDERSTAND YOUR QUESTIONS?

3 A. YES, SIR.

4 Q. AND ONCE YOU GAVE HER THE STATEMENT OR ONCE YOU
5 PREPARED THE STATEMENT IN TYPING DID YOU GIVE IT TO
6 HER?

7 A. NO, SIR.

8 Q. AND DID YOU ASK HER TO READ IT?

9 A. YES, SIR, WE ALWAYS MAKE SURE THAT PEOPLE CAN
10 READ AND WRITE AND THEN I ASK THEM TO READ OVER THEIR
11 STATEMENT TO MAKE SURE THAT IT IS TRUE AND CORRECT
12 BECAUSE I ALWAYS MESS UP SOMEWHERE TYPING. I WILL
13 GET A LETTER OUT OF PLACE. ASK HER TO MAKE SURE IT
14 WAS TYPED THE WAY IT WANTED IT TO BE, TELL HER AGAIN
15 IT IS HER STATEMENT, MAKE SURE IT IS RIGHT, IF IT IS
16 WRONG WE CAN CHANGE IT.

17 Q. HOW DID YOU DETERMINE OR ASCERTAIN WHETHER SHE
18 COULD READ OR WRITE?

19 A. I ASKED HER IF SHE COULD READ OR WRITE.

20 Q. WHAT DID SHE SAY?

21 A. SHE SAID SHE COULD.

22 Q. DID YOU GIVE HER THE STATEMENT?

23 A. YES, SIR.

24 Q. DID SHE READ IT?

25 A. YES, SIR.

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1 Q. DID SHE TAKE TIME TO READ IT?

2 A. YES, SIR.

3 Q. HOW DID SHE READ IT? WAS IT LAYING ON THE
4 TABLE OR SHE PICK IT UP OR HOW DID SHE DO THAT?

5 A. WHEN I FINISHED TYPING IT, TOOK IT OUT OF THE
6 TYPEWRITER, SHE WAS SITTING ACROSS THE DESK FROM ME,
7 TOOK IT OVER SO SHE COULD PHYSICALLY HOLD IT, SEE IT,
8 I LEFT THE ROOM A FEW MINUTES GIVE HER TIME TO READ
9 OVER HER STATEMENT.

10 Q. YOU WALKED OUT OF THE ROOM?

11 A. YES.

12 Q. DID YOU LEAVE THE DOOR OPEN?

13 A. YES.

14 Q. DID YOU WALK OUTSIDE THE BIG OFFICE THAT IS
15 OUTSIDE THE ROOM?

16 A. NO, SIR.

17 Q. STAYED IN THE GENERAL AREA?

18 A. YES, SIR.

19 Q. DID YOU COME BACK IN THE ROOM?

20 A. YES, SIR.

21 Q. WHEN YOU CAME BACK INTO THE ROOM HAD SHE
22 FINISHED READING?

23 A. YES, SIR.

24 Q. AND DID SHE SUGGEST THAT SHE SIGNED IT OR WHAT
25 HAPPENED AT THAT POINT?

1 A. I ASKED HER IF THE STATEMENT WAS THE WAY THAT
2 SHE WANTED IT AND SHE SAID THAT IT WAS BUT I HAD
3 MISSPELLED A WORD IN THE STATEMENT.

4 Q. DID SHE POINT THE WORD OUT TO YOU?

5 A. YES, SIR, IT WAS A NAME.

6 Q. AND DID YOU MAKE THE CHANGE ON THE SPELLING OF
7 THE NAME OR DID SHE?

8 A. SHE DID. I BELIEVE IT WAS HER DAUGHTER'S
9 NAME, IT WAS UNUSUAL SPELLING ON THE NAME, SHE HAD TO
10 SPELL IT TO ME A FEW TIMES BEFORE I GAVE HER A PEN AND
11 ASKED HER IF SHE WOULD MAKE THE CORRECTION AND PUT HER
12 INITIALS BESIDE IT.

13 Q. DID SHE MAKE THE CHANGE HERSELF?

14 A. YES, SIR.

15 Q. DID SHE PLACE HER INITIALS ON IT?

16 A. YES, SIR, SHE DID.

17 Q. DID YOU PLACE YOUR INITIALS ON IT?

18 A. YES, SIR, I DID.

19 Q. IS THAT STANDARD PRACTICE?

20 A. YES, SIR.

21 Q. THEN DID YOU ASK HER OR DID SHE SIGN THIS
22 DOCUMENT?

23 A. YES, SIR.

24 Q. AND HOW MANY TIMES DOES SHE SIGN THE DOCUMENT?

25 A. THERE ARE TWO PLACES ON OUR STATEMENT FORMS FOR

1 AN INDIVIDUAL THAT YOU ARE TAKING A STATEMENT FROM TO
2 SIGN IT. ONE IS TO VERIFY THAT THAT IS YOUR
3 STATEMENT AND THE OTHER IS THAT YOU HAVE BEEN PROVIDED
4 A COPY OF THE STATEMENT SO THERE ARE TWO PLACES.

5 Q. DID YOU SO PROVIDE HER A COPY OF THE STATEMENT?

6 A. YES, SIR, I DID.

7 Q. AND THERE IS ALSO AN ADDITIONAL PROCEDURE I
8 THINK IN REGARD TO NOTARIZATION?

9 A. YES, SIR.

10 Q. WAS THIS STATEMENT NOTARIZED?

11 A. YES, SIR. WE LIKE TO GET AT LEAST ONE MORE
12 PERSON TO WITNESS IT AND THEN GET A NOTARY PUBLIC TO
13 NOTARIZE THE STATEMENTS FOR US.

14 Q. WHO NOTARIZED THIS PARTICULAR STATEMENT?

15 A. IT WAS MY SERGEANT, SERGEANT BELLEW.

16 Q. SERGEANT BELLEW IS SEATED RIGHT HERE
17 (INDICATING)?

18 A. YES, SIR.

19 Q. IN NOTARIZING THAT STATEMENT DID HE COME INTO
20 THE ROOM?

21 A. YES, SIR.

22 Q. DID HE ADDRESS ANY COMMENTS TO MS. MASON?

23 A. YES, SIR. HE ASKED HER IF THIS WAS HER
24 STATEMENT, IF THIS WAS HER SIGNATURE ON THE STATEMENT
25 AND SOMETHING TO DO WITH THE EFFECT IS THIS THE BEST

1 YOU CAN RECALL AS FAR AS CONTENT OF THE STATEMENT.

2 Q. ASKED HER ABOUT CONTENT AND SIGNATURE AND IF
3 SHE WAS MS. MASON?

4 A. YES, SIR.

5 Q. TO THOSE QUESTIONS WHAT DID SHE RESPOND?

6 A. SHE SAID IT WAS HER STATEMENT, THAT SHE WAS MS.
7 MASON, AND THAT THE CONTENT WAS TRUE AND CORRECT ON
8 THERE.

9 Q. ALL RIGHT. THEN SHE HAD SIGNED IT?

10 A. YES, SIR.

11 Q. LET ME SHOW YOU WHAT HAS BEEN MARKED AS
12 DEFENDANT'S 34 FOR IDENTIFICATION IF THAT IS THE
13 STATEMENT THAT MS. MASON SIGNED?

14 A. YES, SIR, IT IS.

15 Q. AND IS THAT STATEMENT WHAT SHE TOLD YOU AT THE
16 LAW ENFORCEMENT CENTER ON NOVEMBER 11, 1997?

17 A. YES, SIR.

18 Q. IF YOU WOULD, LOOK DOWN STARTING AT LINE 7,
19 COUNT DOWN TO LINE 7 WHERE IT STARTS "FREDDIE TOLD
20 ME."

21 A. OKAY.

22 Q. TELL ME WHAT MS. MASON TOLD YOU, START READING
23 AT THAT POINT AND TELL ME WHAT SHE TOLD YOU THAT YOU
24 REDUCED TO WRITING AND PRESENTED TO HER TO SIGN?

25 A. SHE TOLD ME THAT "FREDDIE TOLD ME HE DIDN'T

1 WANT ME TO HATE HIM BUT HE KNEW THAT I WOULD. I TOLD
2 HIM THAT I WOULD NOT HATE HIM HE WAS MY CHILD. HE
3 STARTED CRYING AND TOLD ME THAT HE HAD KILLED A WOMAN.
4 HE SAID HE WAS HIGH ON REEFER AND IT HAPPENED BEFORE
5 HE KNEW IT. HE SAID HE DIDN'T KNOW WHAT HE WAS
6 DOING. HE REACHED UP AND HUGGED ME."

7 Q. THAT'S IT. THAT IS ALL. IS THERE ANY DOUBT
8 IN YOUR MIND THAT THAT IS WHAT SHE TOLD YOU?

9 A. THAT IS WHAT SHE TOLD ME WORD-FOR-WORD.

10 Q. HAD YOU EVER MET MS. MASON BEFORE THIS TIME?

11 A. NO, SIR.

12 Q. DID SHE EVER TELL YOU ANYTHING ABOUT SHOOTING A
13 MAN WHO HAD MADE HOMOSEXUAL ADVANCES TOWARDS HIM?

14 A. AFTER SHE SIGNED HER STATEMENT WE HAD LEFT THE
15 LAW ENFORCEMENT CENTER SHE TOLD ME SOMETHING -- I'M
16 SORRY. I ASKED HER ABOUT THAT. SHE TOLD ME SHE
17 DIDN'T HAVE ANY KNOWLEDGE ABOUT THAT. WE DID DISCUSS
18 THAT AFTER WE HAD LEFT LAW ENFORCEMENT CENTER.

19 Q. ALL RIGHT. LET'S STOP AT THE STATEMENT.

20 AFTER SHE GAVE YOU THAT STATEMENT DID YOU LEAVE THE
21 LAW ENFORCEMENT CENTER?

22 A. YES, SIR, I DID.

23 Q. AND HOW DID YOU FEEL YOUR RELATIONSHIP WAS WITH
24 MS. MASON?

25 A. WE GOT ALONG WELL.

ATTACHMENT NO. 4

[SCDC Inmate Search Detail Report]

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)



INMATE DESCRIPTION		INMATE SENTENCE AND LOCATION	
SEX:	MALE	SCDC ID:	00005065
RACE:	BLACK	SID:	SC01130698
HEIGHT:	6' 01"	OFFENDER TYPE:	DEATHROW
WEIGHT:	252 lbs.	ADMISSION DATE:	02/18/2003
AGE:	46	LOCATION:	BROAD RIVER SECURE FACILI
CITIZENSHIP:	CITIZEN - NATIVE BORN	DORM-ROOM-BUNK:	EA-0146-A
BUILD:	SMALL	EWC LEVEL:	
COMPLEXION:	BLACK	EEC LEVEL:	
HAIR COLOR:	BLACK	PROJECTED RELEASE DATE:	NOT ELIGIBLE
EYE COLOR:	BROWN	PROJECTED PAROLE ELIGIBILITY:	NOT ELIGIBLE
PICTURE DATE:	02/07/2023	SUP. REENTRY ELIGIBILITY:	NOT ELIGIBLE

CURRENT OFFENSES

OFFENSE	SENTENCE TYPE	YRS	MOS	DYS	COUNTY	START DATE	V/NV	CAT	INDICT	STATUS
MURDER	DEATHROW	DEATH SENTENCE			GREENVILLE	02/17/1999	V	5	98GS235220	ACTIVE
ARMED ROBBERY	ADULT-STRAIGHT SENTENCE	30	0	0	GREENVILLE	02/17/1999	V	4	98GS235218	ACTIVE
FIREARMS PROVISION	ADULT-STRAIGHT SENTENCE	0	0	0	GREENVILLE	02/17/1999	N	3	98GS235220	SERVED
CRIMINAL CONSPIRACY	ADULT-STRAIGHT SENTENCE	5	0	0	GREENVILLE	02/17/1999	N	2	98GS235222	SERVED

ESCAPES

NO ESCAPES DURING CURRENT INCARCERATION

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
08/22/2023	STG AFFILIATION
	LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 17 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 90 DAYS
05/07/2019	POSS. OR/ATTEMPT TO POSSESS CELL PHONE
	LOSS OF CANTEEN PRIVILEGES FOR 120 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 120 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 120 DAYS
11/24/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 90 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 90 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 90 DAYS
09/05/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
08/23/2017	THROWING/EXPOSURE OF ANY SUBSTANCE
	LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
06/17/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
06/15/2017	POSSESSION OF A WEAPON
	LOSS OF CANTEEN PRIVILEGES FOR 110 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 110 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 110 DAYS
06/15/2017	A & B OF AN EMP, ETC W/INT KILL/INJURE
	LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
	DISC. DETENTION FOR 60 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
06/14/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
06/08/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
06/01/2017	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
03/14/2017	A & B OF AN EMP, ETC W/INT KILL/INJURE
	LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
	DISC. DETENTION FOR 60 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
	LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
12/28/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
12/10/2016	A & B OF AN EMP, ETC W/INT KILL/INJURE
	LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
	DISC. DETENTION FOR 60 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
09/21/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
06/07/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
04/14/2016	DAMAGE,DESTROY,PROP.VALUE AT \$100./MORE
	LOSS OF CANTEEN PRIVILEGES FOR 145 DAYS
	DISC. DETENTION FOR 40 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 145 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
04/10/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
03/03/2016	STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
02/28/2016	DAMAGE,DESTROY,PROP.VALUE AT \$100./MORE
	LOSS OF CANTEEN PRIVILEGES FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 45 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
	LOSS OF VISITATION PRIVILEGES FOR 45 DAYS
02/24/2016	A & B OF AN EMP, ETC W/INT KILL/INJURE
	LOSS OF CANTEEN PRIVILEGES FOR 240 DAYS
	DISC. DETENTION FOR 60 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 240 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 240 DAYS
02/23/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
02/23/2016	THROWING/EXPOSURE OF ANY SUBSTANCE
	LOSS OF CANTEEN PRIVILEGES FOR 225 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 225 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 360 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 225 DAYS
02/15/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 105 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 105 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 105 DAYS
01/31/2016	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 65 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 65 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 65 DAYS
01/30/2016	THROWING/EXPOSURE OF ANY SUBSTANCE
	LOSS OF CANTEEN PRIVILEGES FOR 135 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 135 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 135 DAYS
11/08/2015	THROWING/EXPOSURE OF ANY SUBSTANCE
	LOSS OF CANTEEN PRIVILEGES FOR 75 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 75 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 75 DAYS
11/03/2015	THREATENING TO INFLECT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 105 DAYS
	DISC. DETENTION FOR 30 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 105 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 105 DAYS

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
11/02/2015	INCITING/CREATING A DISTURBANCE
	LOSS OF CANTEEN PRIVILEGES FOR 65 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 65 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 65 DAYS
11/02/2015	DAMAGE, DESTROY, PROP. VALUE AT \$100./MORE
	LOSS OF CANTEEN PRIVILEGES FOR 65 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 65 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 65 DAYS
10/20/2015	POSSESSION OF A WEAPON
	LOSS OF CANTEEN PRIVILEGES FOR 110 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 110 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 110 DAYS
10/20/2015	THREATENING TO INFLICT HARM ON EMPLOYEE
	LOSS OF CANTEEN PRIVILEGES FOR 65 DAYS
	DISC. DETENTION FOR 20 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 65 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 65 DAYS
10/19/2015	STRIKING AN EMPLOYEE WITH/WITHOUT WEAPON
	LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 180 DAYS
10/19/2015	THROWING/EXPOSURE OF ANY SUBSTANCE
	LOSS OF CANTEEN PRIVILEGES FOR 180 DAYS
	DISC. DETENTION FOR 45 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 180 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 365 DAYS
	LOSS OF VISITATION PRIVILEGES FOR 180 DAYS
01/10/2014	EXHIBITIONISM AND PUBLIC MASTURBATION
	JUMPSUIT FOR 360 DAYS
07/23/2013	THREATENING TO INFLICT HARM ON EMPLOYEE
06/09/2013	THREATENING TO INFLICT HARM ON EMPLOYEE
06/05/2013	THREATENING TO INFLICT HARM ON EMPLOYEE
	DISC. DETENTION FOR 256 DAYS
05/22/2013	THREATENING TO INFLICT HARM ON EMPLOYEE
	DISC. DETENTION FOR 360 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 139 DAYS
	LOSS OF TELEVISION PRIVILEGES FOR 616 DAYS

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

DISCIPLINARY SANCTIONS

SANCTIONS NOT AVAILABLE IN THE AUTOMATED SYSTEM PRIOR TO JANUARY 2009

DATE	DESCRIPTION
12/12/2010	THREATENING TO INFLICT HARM ON EMPLOYEE
	DISC. DETENTION FOR 180 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS
07/24/2010	THREATENING TO INFLICT HARM ON EMPLOYEE
	DISC. DETENTION FOR 180 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS
05/30/2010	EXHIBITIONISM AND PUBLIC MASTURBATION
	DISC. DETENTION FOR 180 DAYS
	JUMPSUIT FOR 360 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS
10/22/2009	THREATENING TO INFLICT HARM ON EMPLOYEE
	DISC. DETENTION FOR 180 DAYS
	LOSS OF PROPERTY PRIVILEGES FOR 360 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS
10/05/2009	THROWING/EXPOSURE OF ANY SUBSTANCE
	DISC. DETENTION FOR 180 DAYS
	LOSS OF TELEPHONE PRIVILEGES FOR 360 DAYS

MOVEMENT

MOVEMENT DATE	TO LOCATION	STATUS	REASON
08/24/2021	BROAD RIVER SECURE FACILI	DEATH-ROW	ADMINISTRATIVE
07/11/2019	BROAD RIVER	DEATH-ROW	DEATH ROW
09/26/2017	KIRKLAND	DEATH-ROW	DEATH ROW
02/16/2017	LIEBER	DEATH-ROW	DEATH ROW
02/16/2017	GREENVILLE CO	DEATH-ROW	TO COURT
06/29/2016	LIEBER	DEATH-ROW	DEATH ROW
06/29/2016	OUTSIDE MEDICAL	DEATH-ROW	MEDICAL
06/02/2015	LIEBER	DEATH-ROW	DEATH ROW
06/02/2015	KIRKLAND	DEATH-ROW	MEDICAL
05/12/2015	LIEBER	DEATH-ROW	DEATH ROW
05/12/2015	OUTSIDE MEDICAL	DEATH-ROW	MEDICAL
04/13/2015	LIEBER	DEATH-ROW	MEDICAL
04/13/2015	OUTSIDE MEDICAL	DEATH-ROW	MEDICAL
07/20/2010	LIEBER	DEATH-ROW	RETURN FROM COURT
07/20/2010	GREENVILLE CO	DEATH-ROW	TO COURT
07/19/2010	PERRY	DEATH-ROW	RETURN FROM COURT
07/19/2010	GREENVILLE CO	DEATH-ROW	TO COURT
09/09/2009	LIEBER	DEATH-ROW	DEATH ROW
09/09/2009	KIRKLAND	DEATH-ROW	MEDICAL
03/24/2009	LIEBER	DEATH-ROW	RETURN FROM COURT
03/24/2009	GREENVILLE CO	DEATH-ROW	TO COURT
11/11/2006	LIEBER	DEATH-ROW	DEATH ROW
11/11/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/11/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
11/10/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/10/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT

INMATE SEARCH DETAIL REPORT

OWENS, FREDDIE EUGENE (00005065)

MOVEMENT			
MOVEMENT DATE	TO LOCATION	STATUS	REASON
11/09/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/09/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
11/08/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/08/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
11/07/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/07/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
11/06/2006	PERRY	INCARCERATED	RETURN FROM COURT
11/06/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
10/13/2006	PERRY	INCARCERATED	ADMINISTRATIVE
10/13/2006	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/29/2006	PERRY	INCARCERATED	ADMINISTRATIVE
09/29/2006	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/28/2006	PERRY	INCARCERATED	RETURN FROM COURT
09/28/2006	GREENVILLE CO	AUTH ABSENCE (AWL)	TO COURT
09/12/2006	PERRY	INCARCERATED	ADMINISTRATIVE
09/12/2006	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
09/08/2006	PERRY	INCARCERATED	ADMINISTRATIVE
09/08/2006	RICHLAND CO	AUTH ABSENCE (AWL)	MEDICAL
07/26/2006	PERRY	INCARCERATED	ADMINISTRATIVE
07/21/2006	UNK	RELEASE	RESENTENCED OTHER
04/27/2005	LIEBER	DEATH-ROW	DEATH ROW
04/12/2005	KIRKLAND	DEATH-ROW	DEATH ROW
04/12/2005	RICHLAND CO	DEATH-ROW	MEDICAL
02/18/2003	KIRKLAND	DEATH-ROW	DEATH ROW

EARNED WORK CREDITS

NO EARNED WORK CREDITS DURING CURRENT INCARCERATION

EARNED EDUCATION CREDITS

NO EARNED EDUCATION CREDITS DURING CURRENT INCARCERATION

CERTIFICATES

NO CERTIFICATES DURING INCARCERATION(S)

PROGRAMS

NO PROGRAMS DURING INCARCERATION(S)