

Volume II of III

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J Michelle Childs, Circuit Court Judge

RECEIVED

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S C Supreme Court

ORIGINAL

FRANCIS O CAMPBELL,

PETITIONER,

V

STATE OF SOUTH CAROLINA

RESPONDENT

APPENDIX

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1 GOT A RIGHT TO ASK HIM, IF HE SAYS, NO, THAT'S IT, PERIOD
2 YOU CAN'T GO FURTHER INTO ANY CHARGES, PERIOD THAT PAR-
3 TICULAR ANSWER IS JUST LIKE IT IS IS THAT THE WAY YOU
4 UNDERSTAND IT?

5 MR VERMONT YES, SIR, I DON'T THINK
6 I'VE HEARD THE COURT ADDRESS THE THRESHOLD ISSUE OF WHETHER
7 OR NOT FRAUDULENT CHECKS, IN THIS CASE, ARE CRIMES OF
8 MORAL TURPITUDE

9 THE COURT I'LL GET THAT IN A MOMENT

10 MR VERMONT YES

11 THE COURT I AM JUST TRYING TO GET THIS
12 ISSUE OVER

13 MR VERMONT YES, I UNDERSTAND

14 THE COURT THEY HAD A CASE NOT LONG
15 AGO CAME DOWN SETTING OUT, AND I'VE GOT IT HERE SOMEWHERE
16 WHAT INVOLVES MORAL TURPITUDE WELL, GIVE ME ABOUT HALF
17 A MINUTE UNLESS YOU ALL HAVE A COPY OF IT?

18 MR VERMONT NOT THAT WE WANT TO GIVE
19 UP, YOUR HONOR

20 MR MABRY YOUR HONOR, I DON'T HAVE
21 A COPY BUT I JUST HAVE A REFERENCE TO IT

22 THE COURT I WOULD RATHER READ IT

23 MR MABRY I CAN GO TO THE LIBRARY
24 AND GET IT FOR YOUR HONOR

25 THE COURT LET ME SEE IF I HAPPEN TO
HAVE IT THIS, WOULD IT EFFECT ANYTHING IF YOU PUT YOUR

1 DEFENDANT UP AND GO THROUGH YOUR QUESTIONING AND WE QUIT
2 AT ONE, AND THEN I WILL LOOK INTO IT? BEFORE YOU QUIT ON
3 HIM, OF COURSE?

4 MR VERMONT WELL, IT MAY, YES, SIR,
5 THAT IS WHAT WE WANT TO GO INTO IT MAY EFFECT OUR
6 POSITION OR DECISION

7 THE COURT WHAT I'M TALKING ABOUT IS
8 YOU GO THROUGH THE OTHER QUESTIONING UNTIL ONE, IF YOU CAN
9 THEN WE'LL STOP, YOU ARE STILL QUESTIONING AND, IN FACT,
10 AND THAT'D GIVE ME TIME TO FIND THIS CASE

11 MR VERMONT WELL, WHAT I AM SAYING,
12 YOUR HONOR, THE JUDGMENT OR DECISION ON THIS ISSUE, AND
13 ANOTHER WE HAVEN'T REACHED YET MAY EFFECT WHETHER WE PUT
14 HIM UP YOU HAVE ALREADY SAID ONCE I PUT HIM UP I CAN'T
15 CALL HIM BACK

16 THE COURT YES, I HAVE ALREADY RULED
17 THAT OUT OKAY, OKAY

18 MR VERMONT YES, SIR, MORE THAN ONCE

19 THE COURT ALL RIGHT I GUESS THAT
20 IS WHERE IT IS (MR MABRY HANDED PAPERS TO THE COURT)
21 YOU COULDN'T FIND THE CASE I WANTED VERY RECENT?

22 MR VERMONT I DON'T HAVE THAT IN
23 THE COURT, YOUR HONOR MAY WE APPROACH THE BENCH, YOUR
24 HONOR?

25 THE COURT YES, SIR (OFF THE RECORD)

1 DISCUSSION) ALL RIGHT, I HAVE EXAMINED A NUMBER OF CASTS,
2 IN PARTICULAR CITING OF STATE VERSUS HORTON, WHICH STATES
3 THAT AN ACT IN WHICH FRAUD IS AN INGREDIENT OF A CHARGE
4 DOES INVOLVE MORAL TURPITUDE SO, I WOULD RULE THAT A
5 CRIME OF THAT NATURE WOULD INVOLVE MORAL TURPITUDE AND
6 CAN BE BROUGHT OUT NOW, JUST A BAD CHECK IN AND OF ITSELF,
7 NO FRAUD, NO THAT'D BE A DIFFERENT SITUATION I THINK
8 FRAUD INVOLVES, YOU KNOW, EVEN THE SALE OF BOOTLEGGED
9 LIQUOR DECIDED BY THE FEDERAL COURT TO BE MORAL TURPITUDE,
10 NOT BECAUSE YOU ARE SELLING IT, BUT BECAUSE YOU DIDN'T
11 SUPPORT THE TAXES IT ABOUT THAT WAY ALL RIGHT AND
12 I WOULD ALSO RULE ANYTHING THAT IS TOO REMOTE IN TIME
13 COULDN'T BE BROUGHT OUT

14 AND I AM GOING ON A POSSIBLE PERIOD
15 OF SAY, TEN YEARS, BEYOND THAT TO ANY GREAT EXTENT, NO

16 MR VERMONT YES, SIR, AND THAT WOULD
17 COVER THE COUPLE OF MATTERS THAT WE DISCUSSED AT THE
18 SIDE BOARD CONFERENCE?

19 THE COURT YES, SIR

20 MR VERMONT ALL RIGHT, THANK YOU
21 (JURY RETURNS TO THE JURY BOX AT 12 45

22 P M)

23 THE COURT ALL RIGHT, PROCEED

24 'R VERMONT WE CALL OWENS CAMPBELL,
25 YOUR HONOR?

1 FRANCIS OWENS CAMPBELL, AFTER
2 BEING DULY SWORN, TESTIFIES AS FOLLOWS

3 DIRECT EXAMINATION

4 BY MR VERMONT

5 Q STATE YOUR FULL NAME FOR US PLEASE?

6 A FRANCIS OWENS CAMPBELL

7 Q YOU GO BY OWENS CAMPBELL, IS THAT RIGHT?

8 A YES, SIR

9 Q YOU ARE THE DEFENDANT IN THIS CASE?

10 A YES, SIR

11 O YOU HAVE BEEN CHARGED IN A WARRANT IN THE INDICTMENT
12 OF THE MURDER OF OLIN D WILSON, IS THAT CORRECT?

13 A YES, SIR

14 Q YOU ARE A RESIDENT OF RICHLAND COUNTY, OWENS?

15 A YES, SIR

16 Q WHERE DO YOU LIVE, WHAT AREA ARE YOU FROM?

17 A EASTOVER

18 Q IS THAT WHERE YOUR FAMILY IS FROM?

19 A YES, SIR

20 Q BEEN DOWN THFRE AWHILE?

21 A YES, SIR, ALL MY LIFE

22 Q THERE ARE SOME OF YOUR FAMILY DOWN HERE? YOUR MOTHER
23 AND FATHER?

24 A YES, SIR, MOTHER, FATHER, BROTHERS, SISTFRS, GIRLFRIEND

25 O ALL RIGHT, YOU KNOW THAT AREA PRETTY WELL DOWN THERE?

1 A YES, SIR
2 O GREW UP IN THE AREA?
3 A YES, SIR
4 Q DID YOU GO TO SCHOOL DOWN THERE?
5 A YES, SIR
6 Q WHAT HAVE YOU BEEN DOING THESE LAST FEW YEARS DOWN
7 THAT WAY?
8 A PUTTING UP STEEL BUILDINGS, ENGINEERING WORK, BUILDINGS
9 IN THE AREA
10 O ALL RIGHT, WHO DO YOU WORK FOR DOING THAT KIND OF
11 WORK?
12 A I WORK FOR BILLY BALLENGER, I WORK FOR MYSELF, I WORK
13 FOR WILLY WINDFIELD
14 Q WHERE HAVE YOU BEEN LIVING DURING THAT TIME?
15 A WITH MY MOTHER, FAMILY, MY SISTERS
16 Q ALL RIGHT, YOU KNOW JAMIE OWENS?
17 A YES, SIR
18 O WHAT RELATION IS HE TO YOU?
19 A HE'S MY FIRST COUSIN
20 Q HOW ABOUT JOHNNY OWENS?
21 A HE'S MY FIRST COUSIN
22 Q HOW ABOUT OLIN D WILSON?
23 A HE'S JUST A, A FAR RELATIVE
24 O HOW WERE THE WILSONS RELATED TO THE CAMPBELLS?
25 A THROUGH MY GRANDMOTHER'S SIDE

1 Q IS SHE IS A WILSON?

2 A YES, SIR

3 Q ALL RIGHT, DO YOU REMEMBER THE LAST TIME THAT YOU
4 SAW OLIN D WILSON ALIVE?

5 A YES, SIR, IT WAS ABOUT A WEEK BEFORE HIS DEATH

6 Q ALL RIGHT, CAN YOU TELL US ABOUT THAT, DO YOU REMEMBER
7 EXACTLY THE DATE?

8 A NO, SIR

9 Q BRING YOU BACK A LITTLE BIT? ALL RIGHT, YOU SAY IT
10 WAS A WEEK BEFORE HIS DEATH WHAT WAS GOING ON, HOW'D
11 YOU ALL HAPPEN TO SEE EACH OTHER AT THAT TIME?

12 A MF AND MY GIRLFRIEND WAS DOWN AT MR PEDAM SERVICE
13 STATION IT IS A LITTLE SERVICE STATION BUT YOU GO IN
14 AND SIT DOWN AND DRINK BEER AND HE IS SORT OF AN ELDERLY
15 MAN

16 Q ALL RIGHT, WHERE IS THAT, WHERE IS THAT LOCATED?

17 A IT IS LOCATED ABOUT TWO BLOCKS FROM MY HOME IT IS
18 RIGHT IN THE MIDDLE OF EASTOVER

19 Q ALL RIGHT, AND WHAT HAPPENED?

20 A ME AND MY GIRLFRIEND WERE SITTING DOWN THERE TALKING,
21 DRINKING BEER, JUST TALKING TO MR PETE AND OLIN D WILSON
22 CAME IN

23 Q UH HUH?

24 A AND, AS USUAL HE ALWAYS INSISTED ON BUYING EVERYBODY
25 A BEER WHEN HE WALKS IN IF HE DRINKS A BEER YOU DRINK

1 A BEER

2 Q WELL, YOU KNEW HIM WHEN HE WALKED IN, IS THAT RIGHT?

3 A YES, SIR

4 O WHAT--GO AHEAD?

5 A WE HAD SIT DOWN AND HE BROUGHT UP THE SUBJECT ABOUT
6 COONS, HE WANTED TO KNOW IF MY BROTHER STILL HAD HIS
7 COON BECAUSE MY BROTHER HAD A PET COON AT THE TIME

8 O UH HUH?

9 A AND WE SIT DOWN THERE AND WE TALK ABOUT TWENTY, THIRTY,
10 THIRTY-FIVE MINUTES AND THEN HE WANTED TO GO UP THERE
11 AND SEE THE COON

12 Q WHERE WAS THE COON LOCATED?

13 A IT WAS LOCATED IN MY MOTHER'S BACKYARD

14 Q ALL RIGHT, IN A CAGE OR SOMETHING?

15 A SIR?

16 Q IN A CAGE OR SOMETHING?

17 A YES, SIR

18 Q ALL RIGHT, SO THEN WHAT HAPPENED?

19 A AT THAT TIME ME AND MY GIRLFRIEND ANNA DODSON GOT IN
20 OLIN, OLIN D WILSON'S TRUCK AND WENT IN MY MOTHER'S HOUSE,
21 AND WE, WE WERE IN THE BACKYARD, AND HE TOOK MY BROTHER'S
22 COON OUT AND PLAYED WITH IT FOR ABOUT FIFTEEN, TWENTY
23 MINUTES AND AFTER THAT WE RETURNED BACK TO MR PETE AM'S
24 SERVICE STATION AND WE DRANK A FEW MORE BEERS AND MY
25 GIRLFRIEND, SHE HAD TO GO HOME, WHICH HER STEPFATHER HAD

1 CANCER AT THE TIME AND SHE WAS NURSING HIM

2 Q UH HUH?

3 A AND I WENT, AND THAT'S THE LAST TIME I SEEN OLIN D
4 WILSON UNTIL THE NIGHT OF HIS DEATH

5 O ALL RIGHT, HOW LONG WERE YOU WITH HIM ON THAT PARTICULAR
6 NIGHT THAT YOU WERE TALKING ABOUT?

7 A I WOULD SAY ABOUT AN HOUR

8 Q ANYTHING UNUSUAL HAPPEN THAT NIGHT?

9 A NO, SIR

10 Q NORMAL CONVERSATION?

11 A YES, SIR, NORMAL CONVERSATION, HE WAS A GREAT COON
12 HUNTER

13 Q YOU KNEW HIM BEFORE THAT, DID YOU NOT?

14 A YES, SIR, I HAVE

15 Q DID YOU KNOW WHETHER HE WAS BUILDING A HOUSE DOWN
16 THERE IN EASTOVER BACK IN '78?

17 A YES, SIR, I DID

18 Q HOW'D YOU KNOW ABOUT THAT?

19 A BECAUSE I USE TO GO UP TO MR LEROY WILSON'S, I USE
20 TO AND HIS MOTHER AND FATHER WAS, UH, I THOUGHT WELL OF
21 THEM BECAUSE I USE TO GO UP THERE ALL THE TIME, THE WILSON'S

22 Q WHO WAS LEROY WILSON, LET'S GET THAT STRAIGHT?

23 A HE IS DECEASED BROTHER

24 Q ALL RIGHT?

25 A JUST SIT DOWN AND TALK TO HIM AND SIT AROUND AND

1 DRINK, AND TALK TO TALLY WILSON HE USED TO GET ON ME
2 AND ROCKY ABOUT THE WAY WE USED TO CARRY ON FIGHTING ALL
3 THE TIME TOLD US WE OUGHT TO STRAIGHTEN OURSELVES UP AND
4 ALL

5 O ALL RIGHT, WHO IS TALLY WILSON?

6 A HE'S ALSO A BROTHER

7 O HE WAS THE GENTLEMAN WHO WAS IN COURT EARLIER THIS
8 WEEK?

9 A YES, SIR

10 Q NOW, WHO IS ROCKY?

11 A HE IS DECEASED, UH, 'R M C WILSON

12 O UH HUH WHAT WAS YOUR RELATIONSHIP TO ROCKY?

13 A JUST A FAR RELATIVE

14 Q OKAY, UH HUH, HOW DID YOU GET ALONG WITH HIM?

15 A WE WAS JUST LIKE BROTHERS BUT WE ALWAYS HAD TO FIGHT
16 EACH OTHER, THEN WE'D GET UP AND SHAKE HANDS AND THEN
17 GO OUT AND PARTY

18 Q KIND OF LIKE YOU AND YOUR OWN BROTHER?

19 A YES, SIR

20 Q ALL RIGHT SO YOU KNEW MOST OF THE WILSONS, IS THAT
21 RIGHT?

22 A YES, SIR, I KNEW ALL OF THEM

23 Q KNEW WHERE THEY LIVED DOWN THERE?

24 A MOST OF THEM, YES, SIR

25 O DID YOU KNOW WHERE OLIN D WAS BUILDING HIS HOUSE?

1 A YES, SIR, I SEEN WHERE HE WAS BUILDING TALLY WILSON
2 WAS BUILDING HIS HOME I WFNT UP THERE AND, ONCE, BECAUSE
3 WHEN I BOUGHT MY AUTOMOBILE I WANTED TO SHOW LEROY BECAUSE
4 IT WAS AN ANTIQUE AT THE TIME 'T WAS TWENTY YEARS OLD
5 AND IT HAD ON THERE ABOUT FORTY-FIVE THOUSAND MILES AND
6 I WANTED TO SHOW HIM WHAT KIND OF A GOOD DEAL I GOT OFF
7 OF HIM BECAUSE I ONLY PAID \$600 00 FOR THE AUTOMOBILE
8 AND AT THE TIME THEY WAS ALSO DOING CONSTRUCTION ON OLIN
9 D WILSON'S HOUSE

10 Q ALL THOSE WILSONS LIVED DOWN THERE TOGETHER?

11 A YES, SIR

12 Q ALL RIGHT, YOU INDICATED YOU SAW HIM YOU THINK ABOUT
13 A WEEK, THE LAST TIME YOU SAW OLIN D ALIVE WAS ABOUT A
14 WEEK BEFORE HIS DEATH? WHEN WAS THE NEXT TIME YOU SAW HIM?

15 A ON JULY THE TENTH AT THE INTERSECTION OF HARMON AND
16 DEER RIDGE ROAD

17 Q ALL RIGHT, WHAT YEAR ARE WE TALKING ABOUT THERE?

18 A 1978

19 Q ALL RIGHT WHAT HAD YOU BEEN DOING THAT DAY?

20 A UH, MOSTLY JUST BROWSING AROUND EASTOVER, JUST SITTING
21 AROUND THE HOUSE, ARGUING WITH MY GIRLFRIEN'D ANVA DOTSON-
22 ON THE TELEPHONE

23 Q ALL RIGHT, WHERE WERE YOU ARGUING WITH HER ON THE
24 TELEPHONE?

25 A IN MY MOTHER'S HOME

1 Q ALL RIGHT, PICK UP ANYTIME YOU LIKF, SOMETIME THAT
2 AFTERNOON, THAT EARLY EVENING AND TELL US WHAT YOU DID
3 THAT DAY, JULY NINETEENTH?

4 A WELL, THAT, LATER ON THAT AFTFRNOON I GOT IN MY CAR
5 AND THEN I WENT TO MY SISTER'S HOUSE

6 Q WHAT SISTER WOULD THAT BE?

7 A THAT WOULD BE DELORES MOCK'S HOUSE

8 Q ALL RIGHT?

9 A AND I GOT ON, WELL, WAS TALKING ABOUT, I WALKED IN
10 AND WAS JUST TALKING TO MY SISTER AND THFN I GOT ON THE
11 TELEPHONE THERE AND WE STARTED ARGUING ON THE TELEPHONE
12 THERE

13 Q NOW, WHO WAS "WE" YOU WERE ARGUING WITH?

14 A ME AND MY GIRLFRIEND ANNA DOTSON

15 Q ALL RIGHT?

16 A AND JUST ONE THING LED TO ANOTHER SO I JUST SLAMMED
17 THE PHONE DOWN AND I GOT IN MY CAR AND I RODE UP ON THE
18 SAME STREET THAT SHE LIVES ON, WHICH IS HAZELWOOD DRIVE

19 Q ALL RIGHT, NOW HOW LONG HAD YOU TALKED TO HER ON THE
20 PHONE? DO YOU HAVE ANY IDEA?

21 A I STAYED AT MY SISTER'S HOUSE ABOUT AN HOUR, AN HOUR
22 AND A HALF SOMEWHERE ALONG IN THERE

23 Q AND WHAT TIME OF DAY WAS THAT, DO YOU KNOW?

24 A IT WAS AROUND, WELL, WHEN I LEFT THERE IT WAS ABOUT
25 5 30, 6 00

1 Q DO YOU KNOW FOR SURF OR JUST GUESSING?

2 A JUST GUESSING

3 Q ALL RIGHT WHAT DID YOU DO AFTER YOU LEFT DELORES'
4 HOUSE?

5 A THERE'S TWO POOLHALLS OUT THERE, LIQUOR STORE AND A
6 MAJIK MARKET THERE WAS A TURN IN ON HAZEL DRIVE

7 Q ALL RIGHT, LET ME ASK YOU TO SHOW US ABOUT WHERE THAT
8 STUFF IS ON THE MAP? CAN YOU DO THAT ON THIS MAP? DO YOU
9 WANT TO COME ON DOWN HERE, WE'LL SET IT UP? (WITNESS
10 STEPS BEFORE THE JURY) ALL RIGHT, THE AREA THAT YOUR
11 SISTER LIVES IN HER TRAILER, WOULD THAT BE THIS YELLOW
12 PIN RIGHT HERE? RIGHT ALONG THERE?

13 THE COURT YOU ARE GOING TO HAVE TO
14 GET A MICROPHONE SO EVERYBODY CAN HEAR?

15 MR. VERMONT HE WON'T BE UP HERE BUT
16 A SECOND, YOUR HONOR I WILL SPEAK OUT

17 Q WHERE IS THE AREA YOU LEFT AND WHERE IS THIS HAZELWOOD
18 DRIVE AREA THAT YOU ARE TALKING ABOUT?

19 A (NO RESPONSE, LOOKING)

20 Q IS HAZELWOOD DRIVE ON THE MAP THAT YOU CAN SEE?

21 A YES, SIR I CAN'T SEE IT

22 Q IS IT BACK TOWARD TOWN?

23 A YES, RIGHT ALONG IN HERE

24 Q THIS AREA THAT YOU ARE INDICATING, THAT WOULD BE
25 BETWEEN SUMTER HIGHWAY AND LEESBURG ROAD?

1 A YES, SIR

2 Q ALL RIGHT, TAKE YOUR SEAT THERE (WITNESS RETURNS
3 TO THE WITNESS STAND)

4 Q ALL RIGHT, SIR, TELL US WHAT YOU DID DO'N IN THAT
5 AREA?

6 A I JUST STOPPED AT THE POOLHALL RIGHT THERE ON
7 HAZELWOOD DRIVE I DON'T KNOW THE NAME OF IT, IT'S HAD
8 ABOUT TEN DIFFERENT NAMES IN THE PAST THREE OR FOUR YEARS
9 AND JUST WALKED, WELL AT THE TIME I WAS DRINKING I AM
10 AN ALCOHOLIC.

11 Q AND HOW MUCH HAD YOU HAD TO DRINK?

12 A I DON'T KNOW, ABOUT HALF A PINT OR A PINT OF, UH,
13 WHISKEY

14 Q ALL RIGHT?

15 A AND, AT THE TIME I WAS, UH, JUST WALKING IN THERE,
16 I WAS JUST DRINKING A FEW BEERS I DON'T KNOW IF I SHOT
17 POOL THERE OR NOT, I'M NOT TOO SURE

18 Q UH HUH?

19 A AND I BELIEVE, I'M NOT SURE, I THINK I WALKED OVER
20 TO THE MAJIK MARKET AND CALLED HER AGAIN APPARENTLY
21 SHE HAD TOOK THE PHONE OFF THE HOOK OR SOMETHING

22 Q ALL RIGHT?

23 A AND IF I AM NOT MISTAKEN, WHENEVER I LEFT THERE I
24 WENT TO, UH, BACK UP THE LEESBURG ROAD UP TO BIG TIMES

25 Q ALL RIGHT, NOW WHAT IS BIG TIMES?

1 A BIG TIMES IS A POOLHALL AND A LOUNGE
2 Q ALL RIGHT, WHAT DID YOU DO THEN?
3 A I STAYED IN THERE AND I DRANK FOUR OR FIVE BEERS OF
4 SEVERAL BEERS, I'M NOT FOR SURE HOW MANY THERE, THEY HAVE
5 DRAFT BEER AND BOTTLED BEER AND THEN JUST GETTING ABOUT
6 9 00, SOMEWHERE ALONG IN THERE AND I LEFT THERE AND THERE
7 WAS ANOTHER POOLHALL ON DOWN THE ROAD THAT'S BY A FLEA
8 MARKET, IT BURNED DOWN BUT IT IS REBUILT NOW
9 Q ON FURTHER DOWN, WHAT ROAD ARE WE TALKING ABOUT?
10 A LEESBURG ROAD
11 Q ALL RIGHT, YOU GO IN THERE?
12 A YES, SIR, I WENT IN THERE AND I DRANK AND I CAME,
13 CAN'T RECALL IF I SHOT POOL BUT I THINK I DID
14 Q HOW MUCH DID YOU HAVE TO DRINK THERE? DO YOU KNOW?
15 A A BEER OR SO
16 Q UH HUH?
17 A AND, WHENEVER I LEFT THERE I GOT IN MY CAR, IT WAS
18 AROUND TEN OR 10 15, SOMETHING LIKE THAT
19 Q DO YOU KNOW FOR SURE?
20 A NO, SIR
21 Q ALL RIGHT, WERE YOU WEARING A WATCH AT THAT TIME?
22 A NO, SIR
23 Q JUST GUESSING?
24 A YES, SIR
25 Q AND?

1 A AND I LEFT THERE AND I WENT TO THE MAJIK MART AND
2 I GOT ME SOME GAS, AND I GOT A PINT OF WINE
3 Q WHERE IS THIS MAJIK MARKET, IS THAT THAT SAME AREA?
4 A YES, SIR, IT'S ABOUT MAYBE A QUARTER OF A MILE UP
5 THE STREET FROM IT
6 Q UP LEESBURG ROAD?
7 A YES, SIR
8 Q OKAY, WHAT DID YOU DO AFTER YOU GOT THE GAS?
9 A WELL, WHENEVER I GOT MY GAS AND GOT WINE, THEN I
10 GOT IN THE AUTOMOBILE AND I COME BACK UP THE LEESBURG ROAD
11 AND I MADE A LEFT HAND TURN, I MADE A RIGHT HAND TURN ON
12 LEESBURG
13 Q UH HUH?
14 A WENT TO 601
15 Q THAT IS GOING AWAY FROM TOWN OR TOWARD TOWN?
16 A AWAY FROM COLUMBIA
17 Q UH HUH?
18 A AND WHENEVER I MADE THE RIGHT HAND TURN, THE REASON
19 I TOOK THAT ROUTE CAUSE AT THE TIME I WAS PRETTY WELL
20 INTOXICATED
21 Q UH HUH? WOULD YOU SAY YOU WERE PERHAPS DRIVING UNDER
22 THE INFLUENCE AT THAT TIME?
23 A YES, SIR
24 Q ALL RIGHT, SIR, WHERE DID YOU GO?
25 A I WAS RIDING DOWN LEESBURG ROAD AND I WAS GOING TO

1 TURN SHORT, WHEN YOU COME THERE AND THEN YOU COME BACK
2 OUT ON SUMTER HIGHWAY AND I GOT, I DIDN'T CAUSE I WAS
3 TRYING TO DODGE THE MAIN HIGHWAY GOING HOME

4 Q WHAT WAS THE MAIN HIGHWAY GOING HOME?

5 A THE MAIN HIGHWAY WOULD BE SUMTER HIGHWAY

6 Q ALL RIGHT?

7 A I NORMALLY WOULD GO HOME

8 Q SO WHERE DID YOU GO INSTEAD?

9 A I TURNED ON DEER RIDGE ROAD, WHICH THEY CALL OLD
10 LEESBURG ROAD

11 Q YOU WANT TO COME DOWN AGAIN AND SHOW US ABOUT WHERE
12 YOU TURNED? COME ON UP?

13 A (WITNESS STEPS DOWN BEFORE THE JURY)

14 Q CAN YOU SAY ABOUT WHERE YOU TURNED?

15 A YES, SIR, BE RIGHT ABOUT IN HERE

16 Q ALL RIGHT, CAN YOU ALL SEE IT ALL RIGHT? ALL RIGHT,
17 NOW IN TERMS OF DISTANCE, SAY FROM THIS RED PIN OR THE
18 AREA LOCATED, INDICATED BY THIS RED PIN, HOW MANY MILES
19 TO TOWN WOULD THAT BE?

20 A FROM?

21 Q FROM THIS AREA REPRESENTED HERE BY THE RED PIN?

22 A IT WOULD BE ABOUT SEVEN MILES, EIGHT MILES DOWN THERE

23 Q ALL RIGHT, BACK TOWARD TOWN?

24 A YEAH

25 Q ALL RIGHT, HAVE A SEAT? (WITNESS RESUMES THE WITNESS

1 STAND) AND SO YOU DID NOT TAKE LEESBURG ROAD OUT TOWARD
2 THAT RED PIN, IS THAT RIGHT?

3 A YES, SIR

4 Q WHERE DID YOU GO? HOW DID YOU GO?

5 A I MADE A RIGHT ON LEESBURG ROAD AND THEN BACK TO YOUR
6 LEFT AND THAT HITS, WELL, YOU CAN GO TWO DIFFERENT WAYS,
7 TWO ROADS LEAD INTO LEESBURG ROAD, OLD LEESBURG ROAD

8 Q EXCUSE ME JUST A MINUTE

9 THE COURT JUST ONE MINUTE MADAM
10 FORELADY, LADIES AND GENTLEMEN OF THE JURY, A SMALL
11 EMERGENCY HAD COME UP NOT WITH THIS CASE AT ALL BUT
12 IT IS TIME TO EAT ANYWAY SO, I WILL INVITE YOU TO GO
13 EAT I WILL LET YOU GO EAT IT IS 1 00 WE CAN START
14 FIFTEEN AFTER TWO GIVE YOU AN HOUR AND FIFTEEN MINUTES,
15 GIVE YOU TIME TO TAKE CARE OF EVERYTHING YOU'VE GOT TO
16 TAKE CARE OF HAVE A NICE LUNCH

17 AND THEN THE SAME INSTRUCTIONS I TOLD
18 YOU ALL ALONG EVERYONE ELSE REMAIN SEATED UNTIL THE
19 JURORS ARE GONE

20 (RECESS AT 1 00 P M)

21
22 (RESUME AT 2 25 P M)

23 (WITNESS RESUMES THE STAND, FRANCIS
24 OWENS CAMPBELL, DIRECT EXAMINATION CONTINUES)

25 THE COURT DOES THE STATE WAIVE

1 POLLING?

2 MR MABRY THE STATE WAIVES POLLING
3 THE COURT THE DEFENSE WAIVE POLLING?

4 MR VERMONT YES, SIR

5 THE COURT PROCEED

6 DIRECT EXAMINATION CONTINUES BY MR VFRMONT

7 Q ALL RIGHT, NOW, OWENS, BEFORE LUNCH YOU WERE TELLING
8 US ABOUT THE NIGHT OF JULY 10, 1978, YOU TOLD US YOU HAD
9 BEEN OUT TO A NUMBER OF POOLHALLS, BEER ESTABLISHMENTS
10 IN THE HAZELWOOD DRIVE, LEESBURG ROAD AREA, IS THAT CORRFCT?

11 A YES, SIR

12 Q YOU HAD HAD SOMETHING TO DRINK, RIGHT?

13 A YES, SIR

14 Q AND NOW YOU WERE HEADING ON ONE OF THESE ROADS
15 AWAY FROM TOWN, IS THAT RIGHT?

16 A YES, SIR

17 Q ALL RIGHT, WHERE WERE YOU GOING EXACTLY, WHAT ROAD
18 WERE YOU ON, DO YOU REMEMBER?

19 A I WAS ON LEESBURG ROAD

20 Q ALL RIGHT TAKE UP ALONG IN THERE YOU WERE HEADED
21 OUT LEESBURG ROAD?

22 A I WAS HEADED OUT LEESBURG ROAD AND I WAS ON THE CUT UP,
23 WAS GOING TO CUT UP DEER RIDGE AND THEN WILSON MILL ROAD
24 WHICH COMES OUT ABOUT FOUR MILES FROM MY MOTHER'S HOME
25 YOU HAVE TO CROSS 76 HIGHWAY

1 O ALL RIGHT, NOW--

2 A BUT--

3 Q WHEN YOU SAY WILSON MILL AND DEER RIDGE, WHAT DOES
4 THAT MEAN TO YOU? IS THAT THE SAME ROAD?

5 A NO, SIR, DEER RIDGE RUNS INTO WILSON MILL

6 Q THEY BECOME THE SAME ROAD AT THE INTERSECTION WE
7 HAVE BEEN TALKING ABOUT, IS THAT CORRECT?

8 A NO, SIR

9 O ALL RIGHT, THEN EXPLAIN WHAT YOU MEAN?

10 A DEER RIDGE ROAD IS OLD LEESBURG ROAD, CROSSES HARMON
11 ROAD, RUNS PARALLEL WITH WHAT YOU CALL WILSON MILL ROAD

12 Q ALL RIGHT?

13 A THAT'S OLD WILSON MILL ROAD OR WILSON POND ROAD, OR
14 HOWEVER IT'S AND IT GOES THERE, I DON'T KNOW THE NAME
15 OF THE ROAD

16 Q WHERE WERE YOU IN RELATION TO, SAY, LEESBURG HIGHWAY?

17 A I WAS RUNNING ASIDE LEESBURG HIGHWAY

18 Q ALL RIGHT, PARALLEL TO IT?

19 A YES

20 Q ALL RIGHT, GOING AWAY FROM TOWN, IS THAT RIGHT?

21 A YES

22 Q ALL RIGHT, WHERE DID YOU TURN ONTO OLD LEESBURG, OR
23 TO WHAT YOU ARE CALLING DEER RIDGE?

24 A IT'S ABOUT SIX OR SEVEN MILES DOWN LEESBURG ROAD

25 O OKAY, DO YOU REMEMBER EXACTLY WHERE YOU GOT ON IT?

1 A NO, SIR

2 Q THERE ARE A NUMBER OF WAYS TO GET ACROSS TO IT FROM--

3 A YES

4 Q FROM LEESBURG TO OLD LEESBURG, IS THAT RIGHT?

5 A YES

6 Q ALL RIGHT, WHAT HAPPENED WHEN YOU WERE HEADED UP THAT
7 WAY?

8 A I WAS HEADED THAT WAY, JUST RIDING SLOWLY DRINKING
9 MY WINE, JUST IN A DAZE

10 Q ALL RIGHT?

11 A JUST TAKING MY TIME HOME

12 Q DO YOU HAVE ANY IDEA ABOUT WHAT TIME ALL THIS
13 OCCURRED?

14 A IT WAS AROUND TEN, 10 30

15 Q ALL RIGHT, WHAT HAPPENED, WHAT WAS THE NEXT THING
16 THAT CAUGHT YOUR ATTENTION?

17 A I HEARD A, SOUNDED LIKE A GUNSHOT, SHOTGUN BLAST
18 THAT WENT OFF, AND AT THE TIME I DIDN'T REALLY PAY
19 ANY ATTENTION TO IT

20 Q ALL RIGHT, IN LIGHT OF WHAT LATER HAPPENED, DID YOU
21 RECOGNIZE AT THAT TIME WHERE YOU WERE WHEN YOU HEARD THE
22 GUNSHOT BLAST?

23 A IT WAS ABOUT MAYBE FOUR OR FIVE HUNDRED YARDS, SIX
24 HUNDRED YARDS FROM THE STOP SIGN OF HARMON ROAD

25 Q ALL RIGHT, UH, DO YOU WANT TO COME AROUND HERE AGAIN,

1 LET'S LOOK AT THIS THING? (WITNESS STEPS DOWN BEFORE
2 THE JURY) NOW, I WILL DIRECT YOUR ATTENTION TO THIS
3 HIGHWAY MAP, WHICH IS STATE'S EXHIBIT NO 1, THE RED
4 PIN HAS ALREADY BEEN PLACED AT THE INTERSECTION OF HARMON,
5 DEER RIDGE AND WILSON MILL ROAD, AS WE HAVE BEEN CALLING
6 IT YOU WERE WHERE IN RELATION TO THAT INTERSECTION?

7 A SOMEWHERE BETWEEN HERE--

8 Q SPEAK UP?

9 A SOMEWHERE IN THERE

10 Q ALL RIGHT, YOU HAD NOT--HAVE A SEAT AGAIN (WITNESS
11 RESUMES THE WITNESS STAND) YOU HAD NOT YET REACHED THE
12 INTERSECTION, IS THAT CORRECT?

13 A NO, SIR

14 Q ALL RIGHT, THERE MAY BE SOME CONFUSION ABOUT THAT,
15 WHAT ROAD WERE YOU ON?

16 A I WAS ON DEER RIDGE ROAD

17 Q YOU WERE NOT ON HARMON ROAD?

18 A NO, SIR

19 Q YOU WERE RUNNING PARALLEL TO LEESBURG, IS THAT
20 CORRECT?

21 A YES, SIR

22 Q ALL RIGHT, WHAT HAPPENED AFTER YOU HEARD THE SHOT?
23 WHAT WAS YOUR REACTION, WHAT DID YOU SEE, WHAT DID YOU DO?

24 A WHENEVER I CAME TO THE STOP SIGN AND THEN I TURNED,
25 I SEEN A MAN RUNNING WITH A SHOTGUN

1 O ALL RIGHT, HOW DID YOU SEE HIM?

2 A BY MY HEADLIGHTS

3 O OKAY, THEN WHAT HAPPENED WHEN YOU SAW HIM?

4 A I STOPPED MY CAR, WASN'T, I WAS JUST REALLY CREEPING
5 WHENEVER I TURNED THE STOP SIGN I WASN'T RUNNING THAT
6 FAST ABOUT MAYBE THREE OR FOUR MILES PER HOUR

7 Q DOES THIS, NOW ARE YOU FAMILIAR WITH THIS REPRESENTA-
8 TION HERE IN STATE'S EXHIBIT 2?

9 A YES, SIR

10 Q ALL RIGHT, WHAT DOES THAT APPEAR TO BE?

11 A THAT'S AN INTERSECTION OF DEER RIDGE AND HARMON

12 Q OKAY, NOW, IF THIS IS HARMON ROAD HERE, AS THE MAP
13 INDICATES AND THIS IS DEER RIDGE, COME ON DOWN HERE--
14 (WITNESS STEPS BEFORE THE JURY) NOW, SHOW US ON THE MAP,
15 ON THIS DIAGRAM, RATHER, THE DIRECTION OF WHICH YOU WERE
16 COMING?

17 A I'D BE COMING FROM THIS WAY RIGHT HERE

18 O NOW, THIS IS DEER RIDGE, RUNNING UP AND DOWN, NORTH
19 AND SOUTH?

20 A YES, SIR

21 Q THIS IS GOING TO THE SUMTER HIGHWAY BACK TO THE RIGHT?

22 A YES, SIR

23 Q LEESBURG IS OUT TO THE LEFT, THIS IS HARMON ROAD?

24 A YES, SIR

25 O FINE, YOU WERE COMING FROM WHAT IS THE LOWER END OF

1 THIS PICTURE, IS THAT CORRECT?

2 A YES

3 Q THAT IS IN THE COLUMBIA DIRECTION? THIS WOULD BE
4 IF YOU GO BACK THIS WAY YOU WOULD GET TO COLUMBIA?

5 A YES

6 Q ALL RIGHT, NOW, SHOW US WHAT YOU DID WHEN YOU GOT
7 INTO THE INTERSECTION, WHAT YOU SAW WHAT YOU OBSERVED?

8 A WHENEVER I WAS COMING UP DEER RIDGE AT THE STOP SIGN
9 RIGHT HERE, I WAS STILL RUNNING SLOW AND WHEN I MADE THE
10 TURN RIGHT HERE I SEEN THE MAN RIGHT UP IN HERE

11 Q ALL RIGHT?

12 A APPROXIMATELY, MAYBE FIFTY, SEVENTY-FIVE, ONE HUNDRED
13 FEET, I COULDN'T REALLY SAY

14 Q AWAY FROM YOU?

15 A NO, SIR, AWAY FROM DEER RIDGE ROAD, LEESBURG ROAD

16 Q WHAT WAS HE DOING?

17 A RUNNING WITH A SHOTGUN

18 Q HOW COULD YOU TELL IT WAS A SHOTGUN?

19 A IT LOOKED LIKE A SHOTGUN IT WAS, IT WAS A GUN

20 Q YOU COULD SEE HIM IN YOUR LIGHTS, IS THAT CORRECT?

21 A YES

22 Q ALL RIGHT, WHAT KIND OF MAN WAS IT, CAN YOU DESCRIBE
23 HIM?

24 A HE WAS A, HE WAS ABOUT MY SIZE I COULDN'T SAY IF
25 HE HAD BROWN HAIR BUT I KNOW IT WAS DARK HAIR IT COULD

1 HAVE BEEN BLACK I COULDN'T REALLY SAY AT THE TIME
2 Q COULD YOU TELL IF IT WAS A WHITE MALE OR A BLACK MALE?
3 A HE LOOKED WHITE TO ME
4 Q DID YOU PAY ANY ATTENTION TO HOW HE WAS DRESSED?
5 A NO, SIR, NOT REALLY
6 O ALL RIGHT, AFTER YOU SAW HIM RUNNING WHAT DID YOU SFE
7 AND WHAT DID YOU DO?
8 A I SEEN OLIN D WILSON'S TRUCK ON THE, WOULD BE THE
9 LEFTHAND SIDE OF THE ROAD, IN THE WOODS
10 Q AND WHERE WOULD THAT BE ON THE MAP?
11 A (POINTING) THAT WOULD BE RIGHT IN HERE
12 Q ALL RIGHT, ALL RIGHT, NOW WHAT, WHAT DID YOU SEE
13 THE MAN DO?
14 A THE MAN RUN, AND HIS CAR WAS PARKED ON LEESBURG ROAD
15 HEADED TOWARD 601
16 Q NOW, WHICH DIRECTION WOULD THAT BE? DOES IT SHOW
17 ON THIS MAP ACTUALLY?
18 A NO, SIR
19 O ALL RIGHT, BUT IT WAS WHERE IN RELATION TO HARMON
20 ROAD AND LEESBURG ROAD?
21 A (INDICATING)
22 Q AND WHERE, WHERE WAS HIS CAR, WHAT ROAD WAS IT ON?
23 A HIS CAR WAS ON LEESBURG ROAD HEADED TOWARD 601
24 Q WHERE EXACTLY ON LEESBURG, COULD YOU TELL?
25 A IT WAS ON THE SHOULDER OF THE ROAD

1 Q ALL RIGHT, AND HOW COULD YOU SEE HIS CAR?
2 A BY MY HEADLIGHTS
3 Q OKAY, AND WHAT DID YOU SEE HIM DO?
4 A RUNNING, GOT IN HIS AUTOMOBILE
5 Q ALL RIGHT, AND WHAT DID HE DO AFTER THAT?
6 A HE JUST DISAPPEARED
7 Q ALL RIGHT, DID YOU ATTEMPT TO FOLLOW HIM AT THAT TIME?
8 A NO, SIR
9 Q WHAT DID YOU DO?
10 A I GOT OUT OF MY AUTOMOBILE AND WENT OVER TO OLIN D
11 WILSON'S TRUCK AT THE TIME I DIDN'T KNOW IT WAS OLIN D
12 WILSON'S TRUCK AND I DIDN'T KNOW IT WAS OLIN D WILSON
13 Q WHAT DID YOU DO WITH YOUR CAR?
14 A IT WAS PARKED IN THE MIDDLE OF THE ROAD
15 Q WHERE ABOUTS, CAN YOU SHOW US AGAIN ON THE MAP?
16 A (INDICATING)
17 O AND THE MIDDLE OF WHICH ROAD ARE YOU INDICATING?
18 A HARMON ROAD,
19 Q ALL RIGHT, YOU ARE JUST UP IN THE MIDDLE?
20 A YES, SIR
21 Q THEN WHAT DID YOU DO WHEN YOU STOPPED YOUR CAR?
22 A I GOT OUT OF MY AUTOMOBILE AND I WALKED OVER TO THE
23 TRUCK AND ALL I SEEN WAS A MAN LAYING OVER HE WAS, HE
24 DIDN'T, HE WASN'T MAKING ANY NOISE, HE WASN'T MOVING OR
25 ANYTHING AT THE TIME I DIDN'T KNOW WHAT, I WAS SCARED

1 Q UH HUH, WHAT DID YOU DO?

2 A I GOT IN THE BACK OF MY AUTOMOBILE AND I WENT BACK
3 UP LEESBURG ROAD

4 Q ALL RIGHT, LET ME ASK, LET ME STOP YOU FOR JUST A
5 SECOND DID YOU ATTEMPT TO SPEAK TO THE MAN?

6 A NO, SIR

7 Q DID YOU OPEN THE DOOR?

8 A NO, SIR

9 Q DID YOU PUT YOUR HANDS ON HIM IN ANYWAY?

10 A NO, SIR

11 Q COULD YOU TELL AT THAT TIME WHO THE MAN WAS?

12 A NO, SIR, NOT REALLY

13 Q COULD YOU TELL WHAT HAD HAPPENED?

14 A NO, SIR

15 Q DID YOU REALLY KNOW WHAT HAD HAPPENED?

16 A NO, SIR, NOT REALLY

17 Q WHAT DID YOU SEE IN THE TRUCK?

18 A NOTHING BUT A MASS OF BLOOD

19 Q ALL RIGHT, ALL RIGHT, NOW YOU SAY YOU LATER GOT BACK
20 IN YOUR CAR? IS THAT CORRECT AFTER YOU SAW THIS?

21 A YES, SIR

22 Q HOW LONG WERE YOU OUT OF YOUR CAR, DO YOU HAVE ANY
23 IDEA?

24 A NO, SIR, I COULDN'T REALLY SAY, MAYBE FORTY-FIVE
25 SECONDS NOT MANY

1 Q WHAT DID YOU DO WHEN YOU GOT BACK IN THE CAR?

2 A I JUMPED BACK IN MY AUTOMOBILE AND WENT UP LEESBURG
3 ROAD

4 Q ALL RIGHT, WHERE DID YOU GO THEN?

5 A I MADE A LEFTHAND TURN, AND THEN I TURN'D, THERE'S
6 ANOTHER HIGHWAY THAT GOES OUT TO, UH,--

7 Q WELL, WHICH DIRECTION DID YOU TRAVEL?

8 A TOWARDS COLUMBIA

9 Q ON LEESBURG, IS THAT CORRECT?

10 A YES, SIR

11 Q ALL RIGHT, THEN WHERE DID YOU CUT BACK, DO YOU KNOW?

12 A THERE'S A STORE ON THE TOP OF THE HILL CALLED THE
13 COUNTRY TAVERN I THINK THAT IS THE NAME OF IT, IT IS
14 A LITTLE POOLHALL

15 Q OKAY, AND YOU WERE STILL DRIVING AT THAT TIME?

16 A YES, SIR

17 Q OKAY, HAVE YOUR SEAT BACK IF YOU WOULD? (WITNESS
18 RETURNS TO THE WITNESS STAND) WHEN YOU GOT BACK IN YOUR
19 CAR AND YOU LEFT THE SCENE, DID YOU ATTEMPT TO CONTACT
20 ANYONE?

21 A NO, SIR

22 Q DID YOU CALL THE POLICE?

23 A NO, SIR

24 Q DID YOU CALL AN AMBULANCE?

25 A NO, SIR

1 O A WRECKER SERVICE?

2 A NO, SIR

3 Q ANYBODY LIKE THAT?

4 A NO, SIR

5 Q WHAT IS THE REASON FOR THAT?

6 A I WAS SCARED AT THE TIME AND I DIDN'T KNOW WHAT TO
7 DO AND BECAUSE OF MY PAST, BEING ACCUSED OF THINGS I
8 DIDN'T DO

9 Q BEING ACCUSED OF THINGS YOU DIDN'T DO, WHAT DO YOU
10 MEAN BY THAT?

11 A I COME FROM A TOWN CALLED EASTOVER AND WHEN I WAS
12 GROWING UP EVERYTHING HAPPENED SEEMED LIKE ME AND MY
13 BROTHER WAS THE ONE THAT DONE IT WE WAS THE ONLY, ONLY
14 REALLY BOYS IN EASTOVER AND EVERYTHING THAT ANYTHING THAT
15 GOT BROKE INTO OR ANYTHING CAUGHT ON FIRE OR SOMETHING,
16 THEY ALWAYS COME LOOKING AT US THEY'D PUT US IN JAIL
17 FOR INVESTIGATION, FIND OUT IT WASN'T US AND THEN THEY'D
18 TURN US LOOSE

19 Q WERE YOU EVER COMMITTED OF BREAKING INTO ANYTHING
20 OR SETTING ANYTHING ON FIRE?

21 A NO, SIR, I WASN'T

22 Q ALL RIGHT, YOU DIDN'T CALL ANYBODY WHAT DID YOU DO?

23 A I JUST, I JUST WENT ON HOME I WENT AND GOT--

24 Q WHERE WERE YOU LIVING AT THAT TIME?

25 A I WAS LIVING WITH MY MOTHER IN EASTOVER

1 Q OKAY, ABOUT WHAT TIMES WAS IT WHEN YOU GOT HOME, HAVE
2 YOU GOT ANY IDEA?

3 A NO, SIR, IT WAS AROUND 11 30, 12 00, 12 15

4 Q ALL RIGHT, WAS IT IMPORTANT AT THAT TIME?

5 A NO, SIR, NOT REALLY

6 Q WHAT DID YOU DO WHEN YOU GOT HOME?

7 A I WENT TO A BOOTLEGGERS HOUSE AND GOT ME A HALF
8 PINT OF LIQUOR

9 Q ALL RIGHT, AND THEN WHAT DID YOU DO?

10 A I DIDN'T KNOW WHAT TO DO I WAS JUST NERVOUS SITTING
11 THERE DRINKING

12 Q UH HUH, ALL RIGHT, DID YOU EVER TELL ANYBODY, LET'S
13 SAY BEFORE, ABOUT 1980, DID YOU TELL ANYBODY WHAT YOU'D
14 SEEN?

15 A NO, SIR

16 Q DID YOU EVER DISCUSS THIS WITH ANYBODY?

17 A NO, SIR, I NEVER HAVE

18 Q WHAT WAS THE REASON FOR THAT?

19 A BECAUSE I WAS SCARED TO BECAUSE BOUT A DAY AND A
20 HALF, FOUR MONTHS AFTER THE ACCIDENT HAPPENED, UH, THE
21 TALK WAS GOING AROUND THAT I DID KILL OLIN D WILSON

22 Q WHY DO YOU THINK THAT TALK WAS GOING AROUND? DO YOU
23 KNOW IT?

24 A BECAUSE AT THE TIME THAT I HAD BEEN TO ANN, TO MRS
25 ANN WILSON'S HOUSE WAS TO, THE DECEASES WIDOW

1 Q ALL RIGHT, DID YOU KNOW MS 'WILSON, LET ME ASK YOU
2 THIS, DID YOU KNOW MS 'WILSON BEFORE JULY THE TENTH OF '78?

3 A YES, SIR

4 Q HOW DID YOU KNOW HER?

5 A I KNEW HER THROUGH MY SISTER

6 Q THEY WERE FRIENDS?

7 A YES, SIR, THEY HAD A GARDEN TOGETHER AND SHE COME UP
8 THERE AND THEY'D PICK THINGS AND PLANT THINGS

9 Q ALL RIGHT, SO YOU HAD SEEN HER ON SEVERAL OCCASIONS?

10 A YES, SIR

11 Q DID YOU HAVE A SPEAKING KNOWLEDGE, I MEAN, WOULD YOU
12 SPEAK TO HER, HEY, WHAT ARE YOU DOING AND THAT SORT OF
13 THING?

14 A YES, SIR

15 Q ALL RIGHT, THAT WAS THE EXTENT OF YOUR RELATIONSHIP
16 WITH HER PRIOR TO THAT TIME, IS THAT CORRECT?

17 A NO, SIR, I SEEN HER ONCE BEFORE THE ONLY TIME I
18 COULD REMEMBER WAS WHEN I NEED, MY SISTER WAS GOING TO
19 BUY ME AN AUTOMOBILE?

20 Q UH HUH?

21 A BECAUSE I WAS WORKING WITH MR BILLY BUILDING STEEL
22 BUILDINGS

23 Q STAND BACK FROM THE MIKE A LITTLE SO WE DON'T GET
24 THE FEEDBACK, OKAY?

25 A I WAS PUTTING UP STEEL BUILDINGS WITH BILLY BELTON

1 AND I NEEDED SOME TRANSPORTATION AND MY SISTER SAID THAT
2 MRS VIRGINIA ANN WILSON HAD A STATION WAGON THAT THEY
3 WAS GOING TO SELL AND WE WERE GOING THERE TO TALK ABOUT IT
4 WITH HER HUSBAND OLIN D WILSON AND WE WENT UP THERE AND
5 DELORES WAS TALKING TO ANN AND ME AND OLIN D WILSON AND
6 KEITH WILSON GOT IN THE STATION WAGON AND WENT DOWN TO
7 TWIN LAKES GROCERY, I BELIEVE, AND GOT A COUPLE OF SIX
8 PACKS OF BEER AND WE RODE AROUND FOR ABOUT MAYBE THIRTY,
9 THIRTY-FIVE MINUTES DRINKING BEER AND WE WENT BACK TO
10 HIS HOME AND THEN DELORES WAS OUT IN THE YARD AND I ASKED
11 HER WHAT KIND OF DEAL DID SHE WORK OUT WITH ANN WILSON
12 ABOUT THE STATION WAGON AND SHE SAID THAT SHE WOULD TRY
13 TO FIND ME ANOTHER CAR

14 Q SO, THE CAR WAS NOT PURCHASED ON THAT OCCASION?

15 A NO, SIR

16 Q DO YOU HAVE ANY IDEA ABOUT WHEN THAT WAS, THE DATE
17 OF THAT INCIDENT?

18 A NO, SIR, IT WAS ABOUT A YEAR OR SO BEFORE THAT

19 Q IT WAS ABOUT A YEAR OR SO BEFORE JULY OF '78?

20 A YES, SIR

21 Q OKAY, AND DURING THAT INTERVENING TIME YOU HAD SEEN
22 MS WILSON A FEW TIMES, IS THAT CORRECT? AT YOUR SISTER'S
23 AND SO FORTH?

24 A YES, SIR, AT MY SISTER'S HOUSE, YES, SIR

25 Q OKAY, WHEN WAS THE NEXT TIME YOU SAW MS WILSON AFTER

1 THIS TIME?

2 A AFTER THIS NIGHT I SEEN HER AT HER HOME WHEN I WAS
3 AT THE FUNERAL

4 Q ALL RIGHT, WHY DID YOU GO THERE?

5 A BECAUSE I WAS JUST GOING TO THE FUNERAL HOME AND I
6 WAS JUST GOING TO PAY MY RESPECTS TO THE FAMILY BECAUSE
7 I HAD KNOWN THEM ALL MY LIFE

8 Q OKAY, WHEN WAS THE NEXT TIME YOU SAW HER AFTER THAT,
9 DO YOU RECALL?

10 A I SEEN HER AFTER THE FUNERAL THAT DAY, I BELIEVE, AND
11 AFTER THAT I SEEN HER AT MY SISTER'S TRAILER ABOUT MAYBE
12 TWO OR THREE WEEKS LATER

13 Q LET ME ASK YOU AGAIN, STAY BACK A LITTLE BIT FROM
14 THE MICROPHONE ALL RIGHT, WHAT WAS THE OCCASION LIKE
15 WHEN YOU SAW HER A FEW WEEKS LATER AT YOUR SISTERS?

16 A NOTHING, I JUST SPOKE TO HER HER AND MY SISTER
17 WERE TALKING

18 Q ALL RIGHT, WHEN WAS THE NEXT TIME YOU SAW HER AFTER
19 THAT? DO YOU HAVE ANY IDEA?

20 A YES, SIR, I WENT TO HER HOUSE

21 Q ALL RIGHT, HOW LONG WOULD THAT HAVE BEEN AFTER HER
22 HUSBAND WAS KILLED, DO YOU KNOW?

23 A IT COULD HAVE BEEN ABOUT TWO MONTHS, TWO AND A HALF
24 MONTHS, THREE MONTHS I'M NOT SURE

25 Q YOU DON'T KNOW?

1 Q YOU DON'T KNOW?

2 A NO, SIR

3 Q ALL RIGHT, WHAT HAPPENED ON THAT OCCASION, DO YOU KNOW,
4 DO YOU REMEMBER?

5 A YES, SIR 'VE BEEN SITTING UP THERE TALKING AND I
6 ASKED HER WHO KILLED, WHO KILLED OLIN D WILSON AND SHE
7 JUST LOOKED AT ME LIKE I WAS CRAZY AS HELL OR SOMETHING

8 Q UH HUH?

9 A AND I WAS SITTING THERE DRINKING AND I PASSED OUT ON
10 THE COUCH AND I STAYED THERE THAT NIGHT AND I GOT UP

11 Q WHERE DID YOU SLEEP?

12 A ON THE COUCH IN THE LIVING ROOM

13 Q ALL RIGHT, WHO ELSE WAS THERE, DO YOU KNOW?

14 A YES, SIR, HER DAUGHTER DEE DEE, HER BROTHER DINKY
15 TAYLOR, HER OLDEST SON OLIN D WILSON AND HER SMALLEST
16 SON RODNEY

17 Q ALL RIGHT AND YOU LEFT THE NEXT MORNING?

18 A YES, SIR

19 Q ANYTHING PARTICULARLY UNUSUAL HAPPEN ON THAT OCCASION?

20 A NO, SIR

21 Q ALL RIGHT, WHEN WAS THE NEXT TIME YOU SAW HER AFTER
22 THAT? DO YOU RECALL?

23 A IT WAS A FEW WEEKS LATER, THREE OR FOUR, FIVE WEEKS
24 I DON'T KNOW, I DON'T RECALL

25 Q ALL RIGHT, AND WHAT WAS, WHAT HAPPENED NEXT?

1 A I SPENT THE NIGHT AT HER HOUSE

2 O ALL RIGHT, WHY DID THAT HAPPEN, DO YOU HAVE ANY IDEA?

3 A WELL, AT THAT TIME I WAS DRINKING AND WE WERE JUST
4 SITTING THERE TALKING AND ONE THING LED TO ANOTHEP

5 Q YOU SPENT THE NIGHT WITH HER, IS THAT RIGHT?

6 A YES, SIR

7 Q IN THE SAME BED?

8 A YES

9 O WHO ELSE WAS AT THE HOUSE THEN?

10 A HER DAUGHTER DEE DEE AND HER BROTHER DINKY AND HER
11 OLDEST SON OLIN D AND HER YOUNGEST SON RODNEY

12 Q ALL RIGHT, DID YOU START SEEING HER ON A FAIR REGULAR
13 OR FREQUENT BASIS AFTER THAT?

14 A IT WAS ABOUT, MAYBE ONCE, TWICE, THREE TIMES A WEEK

15 Q WHAT WAS THE NATURE OF YOUR RELATIONSHIP AT THAT TIME?

16 A AT THAT TIME, WELL, AT ALL TIMES IT WAS JUST REAL
17 GOOD FRIENDS

18 Q ALL RIGHT, AND WHAT WOULD YOU ALL DO WHEN YOU WERE
19 TOGETHER?

20 A MOSTLY JUST PARTY, DRINK, GO OUT TO NIGHT CLUBS, DANCE
21 THINGS OF THAT NATURE

22 O OTHER PEOPLE GO WITH YOU?

23 A YES, SIR

24 Q LIKE WHO FOR INSTANCE?

25 A JESSE RABON, HIS WIFE

1 Q UH HUH?

2 A HICKS, JUST DIFFERENT PEOPLE, I CAN'T RECALL THEM ALL

3 Q RELATIVES OF HERS, RELATIVES OF YOURS?

4 A YES, SIR

5 Q OKAY, NOW, DO YOU REMEMBER A TRANSACTION WHERE YOU
6 TRADED YOUR CAR FOR A MOTORCYCLE?

7 A YES, SIR

8 Q WHEN WAS THE FIRST TIME YOU DID THAT, DO YOU KNOW?

9 A NO, SIR, NOT EXACTLY IT WAS ABOUT FIVE OR SIX
10 MONTHS AFTER THE DEATH

11 Q ALL RIGHT, AND WHERE DID THAT OCCUR?

12 A IT OCCURRED ON, AT COLUMBIA CHRYSLFR ON SUMTER HIGHWAY

13 Q ALL RIGHT, LET ME, UH, LET ME HAVE THE CHALK BOARD,
14 WOULD YOU GIVE US THE DETAILS OF THAT TRANSACTION? WHAT
15 HAPPENED, WHAT YOU TRADED, WHAT YOU GOT, WHO PAID WHAT?
16 DO YOU RECALL?

17 A YES, SIR I WAS RIDING AROUND THE CAR LOTS JUST
18 LOOKING, I REALLY DIDN'T WANT TO GET RID OF MY CAR AND I
19 SEEN THIS MOTORCYCLE AND WANTED A MOTORCYCLE BEFORE AND
20 THEY HAD A '79 YAMAHA, THAT IS A JAPANESE BIKE 750, SADDLE
21 BAGS AND WINDJAMMER AND ALL THAT ON IT

22 O UH HUH?

23 A AND I WENT IN THERE AN I TALKED TO THE DEALER AND
24 THEY MADE ME A GOOD OFFER ON MY AUTOMOBILE WHICH I DIDN'T
25 PAY \$500 00 AND SOMETHING ON MY CAR, AND HE GIVE ME, I

1 THINK, \$2,000 00 BECAUSE IT WAS AN ANTIQUE CAR IT LOOKED
2 LIKE IT HAD COME OUT OF A SHOWCASE AT ONE TIME AND HE
3 SAID THAT IF I WOULD GIVE HIM MY AUTOMOBILE FOR, IF I
4 WOULD GIVE HIM, IF IT WAS \$1800 00 OR \$1600 00 DIFFERENCE
5 THAT HE WOULD GIVE ME THE MOTORCYCLE

6 Q UH HUH?

7 A AND, ANN WAS MY FRIEND AT THE TIME AND I ASKED HER
8 IF SHE WOULD LOAN ME THE MONEY UNTIL I GOT MY MONEY FROM
9 MR JOHN MAHAN ON AN ACCIDENT ON THE CAR WRECK THAT I
10 WAS IN, THAT I HAD EMPLOYED HIM SHE SAID SHE WOULD LOAN
11 ME THE MONEY

12 Q DID SHE DO THAT?

13 A YES, SIR

14 Q ALL RIGHT, I WANT TO GET THE DETAILS OF THIS TRANSACTION
15 STRAIGHT? ALL RIGHT, YOU HAD A CAR, COLUMBIA CHRYSLFR
16 HAD A BIKE?.

17 A YES, SIR

18 O CORRECT, THAT YOU WANTED ALL RIGHT, I WILL CALL
19 THAT BIKE NUMBER ONE YOU GAVE THEM THAT CAR ON THAT BIKE,
20 IS THAT RIGHT?

21 A YES, SIR

22 Q WHAT KIND OF CASH WAS INVOLVED IN THE TRANSACTION?

23 A IT WAS, TO THE BEST OF MY KNOWLEDGE, IT WAS \$1600 00
24 EITHER \$1800 00 DIFFERENCE

25 Q ALL RIGHT, AND WHO PAID THAT?

513

1 A MRS VIRGINIA ANN WILSON

2 Q AND YOU GOT THE BIKE?

3 A YES, SIR

4 O OKAY, WHAT WAS IT UNDERSTOOD BETWEEN YOU AND MRS
5 WILSON, THE NATURE OF THAT \$1600 00?

6 A YES, SIR, THE NATURE OF IT WAS THAT WHENEVER I GOT
7 MY SETTLEMENT IF SHE WOULD GIVE ME THE TITLE OF THAT
8 MOTORCYCLE IN MY NAME

9 O NOW, WHAT SETTLEMENT ARE YOU TALKING ABOUT?

10 A I'M TALKING ABOUT THE WRECK THAT I HAD IN JACKSONVILLE,
11 FLORIDA

12 O ALL RIGHT, AND YOU WERE GOING TO PAY HER BACK AND
13 SHE WAS GOING TO GIVE YOU TITLE? IS THAT RIGHT?

14 A YES, SIR

15 Q OKAY, WHAT HAPPENED TO THIS BIKE NUMBER ONE?

16 A I HAD A MOTORCYCLE WRECK ON IT ABOUT MAYBE A MONTH
17 AND A HALF LATER

18 Q UH HUH?

19 A AND I BROKE THE WINDJAMMER ON IT AND THE INSURANCE
20 COMPANY PAID FOR THAT, BUT AT THE TIME I THOUGHT MY FRAME
21 WAS WARPED ON THE MOTORCYCLE, WHICH IT WAS WARPED SO,
22 I WENT TO KERBY'S OVER THERE ON 48 HIGHWAY, HARLEY DAVISON
23 SHOP

24 Q ALL RIGHT, NOW, THAT IS MR KERBY POU?

25 A YES, SIR

1 O WAS HE THE FELLOW WHO WAS HER EARLIER?

2 A YES, SIR

3 O ALL RIGHT, WHAT WAS THE NATURE OF YOUR TRANSACTION
4 THERE WITH HIM?

5 A HE HAD THE FLH HARLEY DAVISON EARLY SERIES 1345CCS
6 HARLEY DAVISON IN THERE

7 Q HE CALLED IT A BIG BIKE, IS THAT WHAT IT WAS?

8 A YES, SIR

9 Q ALL RIGHT, WHAT DID YOU DO?

10 A I ASKED MR KERBY HOW MUCH WOULD YOU GIVE ME FOR MY
11 MOTORCYCLE IN APPRECIATION FOR THE NEW ONE? HE SAID ABOUT
12 \$1800 00

13 O SO WHAT HAPPENED?

14 A BEFORE THAT I HAD DISCUSSED IT WITH ANN ABOUT SWAPPING
15 MOTORCYCLES WHICH THE MOTORCYCLE WASN'T ANY MORE GOOD YOU
16 COULD NEVER KEEP IT IN LINE IT WAS JUST LIKE RIDING ON
17 A WEAPON OR SOMETHING, AND YOU KNOW, THAT I WAS GOING TO
18 SWAP IT AND SHE SAID IF YOU FIND A GOOD DEAL GO AHEAD
19 AND SWAP IT

20 Q IS THAT WHAT YOU DID HERE?

21 A YES, SIR

22 Q ALL RIGHT, IS THIS, I WANT TO SHOW YOU STATE'S
23 EXHIBIT 33, DOES THAT APPEAR TO BE THE RECEIPT FROM THAT
24 TRANSACTION?

25 A YES, SIR

1 Q ALL RIGHT, HOW MUCH DID MR KERBY GIVE YOU IN TRADE-IN
2 ON YOUR BIKE?

3 A HE GIVE ME \$1800 00

4 O ALL RIGHT, YOU GAVE HIM THE BIKE, HE GAVE YOU \$1800 00
5 CREDIT, RIGHT, IS THAT RIGHT?

6 A YES, SIR

7 O ALL RIGHT, WHAT WAS THE DIFFERENCE THAT WAS LEFT OVER?

8 A \$3120 00

9 Q ALL RIGHT, AND WHO PAID THAT?

10 A MRS VIRGINIA ANN WILSON

11 Q AND YOU GOT, WE'LL CALL THAT THE BIG BIKE, BIKE
12 NUMBER TWO ALL RIGHT?

13 A YES, SIR

14 Q ALL RIGHT, WHAT HAPPENED WITH THAT BIKE?

15 A I RODE THE BIKE ABOUT MAYBE FIVE OR SIX MONTHS AND
16 THEN I GOT MY SETTLEMENT FROM MR JOHN MAHON FROM THE
17 AUTOMOBILE ACCIDENT THAT I WAS IN FOR \$10,000 00

18 O MR MAHON WAS THE MAN WHO WAS HERE TODAY, IS THAT
19 CORRECT?

20 A YES, SIR

21 Q AND THEN, OKAY?

22 A AND THEN WHEN I WENT BACK TO ANN, ANN HAD GOTTEN A
23 \$1720 00 FROM MR JOHN MAHON

24 Q WHY DID SHE GET THAT CHECK?

25 A THAT WAS A PAYMENT ON, THE INITIAL PAYMENT ON THE

1 MOTORCYCLE, THE DIFFERENCE THAT I OWED HER

2 Q OKAY, NOW, WHAT ABOUT THIS BIKE NUMBER TWO? WHAT
3 HAPPENED ON THAT ONE?

4 A WELL, AT THE TIME I HAD ABOUT \$3,700 00 LEFT SO I
5 ASKED ANN WOULD IT BE ALL RIGHT IF I SWAPPED THAT MOTORCYCLE
6 AND GET ME A LOW RIDER

7 Q UH HUH?

8 A AND I SWAPPED IT AND THE DIFFERENCE ON IT WAS \$1900 00
9 SO I GIVE IT TO MR KERBY

10 Q ALL RIGHT, WHERE DID YOU GET THAT \$1900 00?

11 A FROM MY INSURANCE SETTLEMENT

12 Q THAT WAS THE SAME ACCIDENT THAT MR MAHON HAD
13 REPRESENTED YOU, IS THAT CORRECT?

14 A YES, SIR

15 Q SO MS WILSON DIDN'T PAY ANYTHING ON THAT TRADE, IS
16 THAT RIGHT?

17 A NO, SIR

18 Q SO YOU SWAPPED BIKE NUMBER TWO FOR A THIRD BIKE, IS
19 THAT RIGHT?

20 A YES, SIR

21 Q ALL RIGHT, AT WHAT POINT DID THAT HAPPEN, HOW'D
22 THAT GO?

23 A THAT HAPPENED IN, WELL, THE THIRD BIKE WAS AT KERBY'S
24 THAT I WANTED WAS A LOW RIDER

25 Q ALL RIGHT, SO WHAT HAPPENED, DESCRIBE THAT TRANSACTION?

1 A WELL, I GIVE MR KERBY THE \$1900 00, I WENT TO MY
2 SAVINGS ACCOUNT AND GIVE HIM \$1900 00 FOR IT AND I RODE
3 THE BIKE FOR OVER A WEEKEND, IT WAS ABOUT A WEEK, I DON'T
4 KNOW, THREE OR FOUR DAYS AND IT STARTED LEAKING OIL

5 Q UH HUH?

6 A AND I TOOK IT BACK TO MR KERBY AND I ASKED HIM COULD
7 I HAVE MY OLD MOTORCYCLE BACK AND HE SAID, YES, IT WOULD
8 COST ME SOME MONEY, THE DEPRECIATION FOR THE NEW MOTOR
9 CYCLE

10 Q SO WHAT DID YOU DO, TRADE IT BACK, BIKE NUMBER THREE
11 FOR BIKE NUMBER TWO, YOU TRADED THEM BACK?

12 A YEAH, I TRADED THE NEW LOW RIDER THAT I HAD ON MY
13 OLD ONE, MOTORCYCLE NUMBER TWO

14 Q ALL RIGHT, WHAT KIND OF MONEY WAS INVOLVED IN THAT?

15 A HE DEPRECIATED THE NEW MOTORCYCLE \$500 00 AND GIVE ME
16 A CHECK FOR, I BELIEVE, \$1400 00

17 Q ALL RIGHT, SO ON THIS TRANSACTION YOU GAVE HIM BIKE
18 NUMBER THREE AND HE GAVE YOU BACK YOUR OLD BIKE NUMBER
19 TWO AND SOME CASH?

20 A YES, SIR

21 Q AND HOW MUCH CASH WAS THAT?

22 A I BELIEVE IT WAS \$1400 00

23 Q ALL RIGHT, AND WHAT DID YOU DO WITH THAT MONEY?

24 A WELL, AT THE TIME THE WHOLE PROCESSING, AND MRS
25 VIRGINIA ANN WILSON HAD TO BE THERE BECAUSE THE MOTORCYCLE

1 WAS IN HEP NAMT

2 Q UH HUH?

3 A AND I COULDN'T DO ANY TRANSACTION WITHOUT HER BEING
4 THERE

5 Q OKAY?

6 A AND HER AND WAYNE STONE WAS IN THE CAR TOGETHER AT
7 ANDY KERBY'S WHENEVER I BOUGHT THE MOTORCYCLE AND SHE HAD
8 TO BE THERE WHENEVER I TOOK IT BACK AND SIGNED THE PAPERS
9 AND WHENEVER MR KERBY GIVE ME THE \$1400 00 CHECK I TOLD
10 HER THAT I WOULD GIVE HER \$500 00 MORE DOLLARS ON WHAT
11 I OWED HER

12 Q DID YOU DO THAT?

13 A YES, SR, I GIVE HER THE CHECK AND I SIGNED AND I ASKED
14 HER WOULD SHE TAKE IT TO THE BANK AND HAVE HER CASH IT
15 BEFORE THE BANKS CLOSED BECAUSE I WANTED TO HAVE MR KERBY
16 PUT ON A NEW CHAIN AND A TUNE-UP ON MY OLD ONE, TOO

17 Q SO, YOUR BIKE NUMBER TWO YOU WERE GETTING BACK?

18 A YES, SIR S

19 Q SO YOU GOT SOME MONEY AND SHE GOT SOME MONEY OUT OF
20 THAT AND YOU GOT BIKE NUMBER TWO BACK, IS THAT RIGHT?

21 A YES, SIR

22 O NOW, LET'S PURSUE THIS ON OUT WHAT ULTIMATELY
23 HAPPENED ON THAT BIKE?

24 A WELL, THAT, AFTER THAT I WENT TO NORTH CAROLINA

25 Q WHAT WERE YOU DOING UP IN NORTH CAROLINA?

1 A I WAS DOING STEEL WORK AT APEX, NORTH CAROLINA FOR
2 DANIEL CONSTRUCTION

3 Q UH HUH OKAY?

4 A AND IN THE PROCESS ANOTHER GUY NAMED BOWMAN WAS
5 GOING TO SWAP HIM MOTORCYCLE HE HAD AN 80 SERIES
6 SPORTSTER AND WE WENT TO FAYETTEVILLE, NORTH CAROLINA
7 WE RODE UP TO WIMBLETON, NORTH CAROLINA

8 Q UH HUH?

9 A AND HE HAD A DEAL AT THIS HARLEY DAVISON SHOP IN
10 FAYETTEVILLE, NORTH CAROLINA IS WHERE HE GOT HIS MOTORCYCLE
11 ON, WHERE I SWAPPED THAT MOTORCYCLE

12 Q ALL RIGHT, BACK UP JUST A LITTLE BIT FROM THE MIKE
13 AGAIN IT CAUSES STATIC, OKAY? OKAY, YOU SWAPPED IT UP
14 THERE IN NORTH CAROLINA?

15 A YES, SIR, I SWAPPED IT WITH THE OLD HARLEY DAVISON

16 Q ALL RIGHT, SO LET'S PUT THIS ON HERE, THAT WOULD BE
17 BIKE NUMBER FOUR?

18 A YES, SIR

19 Q ALL RIGHT, WHAT, DID MS WILSON HAVE ANYTHING TO DO
20 WITH THIS TRANSACTION WHATSOEVER?

21 A YES, SIR

22 Q ALL RIGHT, WHAT DID SHE HAVE TO DO WITH IT?

23 A THEY WOULD NOT LET ME SWAP THE MOTORCYCLE BECAUSE IT
24 WAS NOT IN MY NAME AND I DID NOT HAVE A TITLE TO IT MS
25 VIRGINIA ANN WILSON HAD THE TITLE TO IT AND IT WAS IN HER

1 NAME AND MR DEAL IS HIS NAME

2 O UH HUH?

3 A AND HE SAID IF I COULD GET IN CONTACT WITH MRS
4 VIRGINIA ANN WILSON AND HAVE MRS VIRGINIA ANN WILSON
5 SEND HIM THE TITLE THAT HE WOULD GO THROUGH WITH THE DEAL

6 Q AND, OKAY, DID THAT HAPPEN?

7 A YES, SIR

8 Q SO, SHE SENT YOU THE TITLE ON THAT BIKE NUMBER TWO?

9 A NO, SIR, SHE DID NOT SEND ME THE TITLE, SHE SENT IT
10 TO MR DEAL HIMSELF

11 Q OKAY, ALL RIGHT, DID ANY CASH FLOW WITH THAT TRANSACTION?

12 A YES, SIR, IT WAS A HUNDRED AND TWENTY-FIVE DOLLARS
13 PAYMENT PROCEEDS, I GUESS

14 Q ALL RIGHT, WHO PAID THAT?

15 A I DID

16 Q OKAY NOW, WHAT ULTIMATELY HAPPENED TO THAT BIKE
17 NUMBER FOUR?

18 A I SOLD THE MOTORCYCLE

19 Q ALL RIGHT, WHO DID YOU SELL IT TO, DO YOU REMEMBER?
20 WHERE DID YOU SELL IT, DO YOU REMEMBER THAT?

21 A YES, SIR, I SOLD IT IN SUMTER

22 O ALL RIGHT, AND YOU SOLD IT TO A FELLOW DOWN IN SUMTER,
23 IS THAT RIGHT?

24 A YES, SIR

25 Q NOW WAS THAT THE SUBJECT OF THE LAWSUIT?

1 A YES, SIR, IT WAS

2 O YOU WERE THE FELLOW DOWN IN SUMTER?

3 A YES, SIR

4 Q WHAT DID YOU GET FOR THAT BIKE, DO YOU REMEMBER?

5 A I SOLD IT FOR A LITTLER THAN THAT I NEEDED THE
6 MONEY AT THE TIME I SOLD THE MOTORCYCLE FOR \$1200 00 IT
7 WAS REALLY ABOUT A \$5,000 00 MOTORCYCLE

8 O MS WILSON HAVE ANYTHING TO DO WITH THAT TRANSACTION?

9 A NO, SIR

10 Q ALL RIGHT, NOW, SHE LATER SUED YOU ABOUT THAT, HOWEVER,
11 AND SUED THE OTHER MAN, IS THAT CORRECT?

12 A YES, SIR

13 Q ALL RIGHT, NOW, AS YOU TALKED, AS YOU NOTICED, I
14 HAVE WRITTEN THESE THINGS ON THE BOARD IN MY SO CALLED
15 HANDWRITING WOULD THIS BE A FAIR REPRESENTATION OF WHAT
16 YOU TOLD ME, TOLD US, THESE TRANSACTIONS?

17 A YES, SIR

18 Q OKAY, CAN YOU TELL US WHAT OTHER KIND OF THINGS,
19 WHAT OTHER KIND OF MONEY OR WHAT OTHER KIND OF GIFTS OR
20 WHAT OTHER ITEMS YOU EVER GOT FROM MRS WILSON? DO YOU
21 REMEMBER?

22 A YES, SIR, I GOT A DOBERMAN PINCHER, WHICH I BOUGHT
23 FROM A GOOD FRIEND OF MINE AND HE WAS, WELL, IT WAS
24 HIS DOG AND HE WAS SELLING IT TO ME UNTIL I BORROWED SOME
25 MONEY FROM HER WHICH WAS ABOUT \$150 00 TO SEND HIM TO THIS

1 OBEDIENCE SCHOOL OVER ON HUGER STREET, IT IS A DOG
2 TRAINING SCHOOL

3 Q SO WHAT WAS THE TOTAL AMOUNT ON THE DOG IF YOU
4 RECALL?

5 A IT WAS AROUND \$400 00, \$450 00

6 Q ALL RIGHT, HOW MUCH DID YOU PAY FOR HIM, DO YOU
7 REMEMBER EITHER IN YOUR STATEMENT OR INDEPENDENTLY?

8 A NO, SIR, IT WAS AROUND, ALL TOTAL \$500 00

9 Q ALL RIGHT, FOR THE DOG AND THE TRAINING, IS THAT
10 RIGHT?

11 A YES, SIR

12 Q OKAY, WHAT OTHER KIND OF MONEY OR GIFTS OR ITEMS
13 DID YOU EVER GET FROM MS WILSON? DID SHE EVER BUY YOU
14 ANYTHING IN CONNECTION--

15 A YES, SIR, SHE BOUGHT ME A DIAMOND RING, IT WAS AT
16 CHRISTMAS TIME AND, FROM BOBBY ELLIS, SHE BOUGHT IT
17 FROM HIM IT WAS A CHRISTMAS PRESENT

18 Q WHAT CHRISTMAS WAS THAT, DO YOU RECALL?

19 A THAT WAS IN '79

20 Q ALL RIGHT, DO YOU HAVE ANY IDEA WHAT THE VALUE OF
21 THE RING WAS?

22 A EXCUSE ME, THAT WAS IN '78

23 Q THAT WOULD HAVE BEEN THE FIRST CHRISTMAS AFTER OLIN
24 D 'S DEATH, IS THAT RIGHT?

25 A YES, SIR

1 Q DO YOU HAVE ANY IDEA WHAT THE VALUE OF THAT RING WAS?

2 A NO, SIR IT WAS A VERY BEAUTIFUL DIAMOND RING IT
3 WAS A HORSESHOE DIAMOND RING IT LOOKED TO BE ABOUT
4 \$800 00 I DON'T KNOW, COULD HAVE BEEN A HUNDRED DOLLARS,
5 TWO HUNDRED DOLLARS

6 Q DID YOU EVER GIVE AN ESTIMATE OF THAT TO CONNIE
7 LEWIS?

8 A YES, I BELIEVE I TOLD HIM

9 Q WHAT DID YOU TELL HIM?

10 A AROUND \$800 00

11 Q OKAY, WHAT, ANYTHING ELSE EVER FLOW FROM MS WILSON
12 TO YOU IN CONNECTION WITH YOUR BIKES OR ANYTHING ELSE?

13 A CAN I LOOK AT MY STATEMENT?

14 Q CERTAINLY

15 A NO, SIR JUST SHE WOULD SPEND MONEY ON ME WHENEVER
16 I'D GO OUT IF SHE, SHE'D NEVER JUST STRAIGHT OUT JUST
17 HAND ME WADS OF MONEY

18 Q ALL RIGHT, WHAT ABOUT INSURANCE FOR YOUR BIKES?

19 A YES, SIR, SHE GOT THE INSURANCE ON MY BIKES AT AMICKS
20 INSURANCE COMPANY

21 Q UH HUH? HOW MUCH WAS THAT, DO YOU REMEMBER?

22 A NO, SIR I DON'T REMEMBER BUT I KNOW HOW MUCH INSURANCE
23 COSTS ON MY MOTORCYCLE

24 Q WELL, DID YOU TELL CONNIE LEWIS, DID YOU GIVE HIM
25 AN ESTIMATE?

1 A YES, SIR, AROUND \$400 00, \$450 00 FOR LIABILITY AND
2 COLLISION

3 O ALL RIGHT, DID YOU TELL HIM ANYTHING ELSE IN CONNECTION
4 WITH THE BIKES? DO YOU RECALL? YOU CERTAINLY MAY REFER
5 TO YOUR STATEMENT THAT YOU GAVE TO INVESTIGATOR LEWIS?

6 A NO, SIR

7 O HOW ABOUT A WINDJAMMER? DID YOU EVER TELL HIM SHE
8 GAVE YOU A WINDJAMMER?

9 A NO, SIR I DON'T RECALL WELL, THE WINDJAMMER WAS
10 PUT ON THE MOTORCYCLE BUT THE INSURANCE COMPANY PAID FOR
11 THAT

12 Q OKAY, OKAY NOW, DO YOU RECALL APPROXIMATELY THE
13 DATE OF WHICH THE CHECK WAS PAID TO MRS WILSON? JUST
14 APPROXIMATELY, IT IS NOT IMPORTANT, THE EXACT DATE

15 A IT WAS IN '79

16 Q ALL RIGHT, WHEN DID YOU GET SUED BY MS WILSON?

17 A IT WAS IN 1980

18 Q WAS IT THE SAME YEAR OR WAS IT 1980? DO YOU RECALL?

19 A NO, SIR, I BELIEVE IT WAS THE FIRST PART OF 1980

20 Q ALL RIGHT, THE CHECK WAS FOR \$1720 00, IS THAT RIGHT?

21 A YES, SIR

22 Q AND, THE LAW SUIT WAS FOR HOW MUCH?

23 A FOR \$10,000 00

24 O WHAT WAS THE ACTUAL JUDGMENT THAT WAS RECOVERED ON
25 THAT, DO YOU RECALL?

1 A NO, SIR

2 Q ALL RIGHT, HAVE YOU EVER SEEN THAT? DOES THAT APPEAR
3 TO BE THE JUDGMENT THAT WAS RENDERED AGAINST YOU?

4 A YES, SIR

5 Q CAN YOU TELL BY LOOKING AT THAT WHAT THE AMOUNT WAS?

6 A YES, SIR, IT WAS \$5048 50

7 Q WHAT WAS THE NATURE OF THE UNDERSTANDING YOU HAD WITH
8 MS WILSON ABOUT THE AMOUNTS OF MONEY THAT SHE HAD SPENT
9 ON YOU?

10 A IN THE, IN THE STATEMENT IT WAS, IT WAS \$10,000 00
11 THAT I SAID

12 Q ALL RIGHT, THAT WAS THE TOTAL AMOUNT, YOU THINK? THAT
13 IS WHAT YOU TOLD CONNIE LEWIS YOU ESTIMATED, IS THAT CORRECT?

14 A YES, SIR

15 Q BUT WHAT I AM ASKING, WHAT WAS THE NATURE OF YOUR
16 UNDERSTANDING WITH HER ABOUT THE NATURE OF THAT MONEY THAT
17 WAS FLOWING FROM HER TO YOU? MOSTLY, WHAT KIND OF UNDER-
18 STANDING DID YOU HAVE ABOUT THAT MONEY?

19 A THAT ONCE I GOT MY INSURANCE SETTLEMENT, THAT HFR
20 MONEY WOULD COME OFF THE TOP BEFORE I EVEN GOT MINE

21 Q ALL RIGHT, AND HOW MUCH HAS SHE ACTUALLY GOTTEN
22 ACCORDING TO YOU?

23 A SHE GOT \$2350 00

24 Q ALL RIGHT, THAT WOULD BE \$1720 00 FROM THE CHECK AND
25 \$500 00 THAT YOU PAID HER IN CASH, IS THAT RIGHT?

1 A YES, SIR

2 Q YOU STILL OWE HER SOME MONEY?

3 A YES, SIR

4 Q ALL RIGHT, LET ME JUMP AHEAD A LITTLE BIT YOU WENT
5 TO SEE CONNIE LEWIS IN 1980 AND IT RESULTED IN THAT
6 STATEMENT, DID IT NOT?

7 A YES, SIR

8 Q TELL US ABOUT THE CIRCUMSTANCES THAT LED UP TO THAT?
9 HOW DID YOU GET IN TOUCH OR HOW DID CONNIE LEWIS GET IN
10 TOUCH WITH YOU, OR WHICH WAY DID IT GO?

11 A WELL, THE FIRST TIME I EVER TALKED WITH CONNIE LEWIS
12 OR SEEN MR CONNIE LEWIS WAS AT MY, UH, BROTHER'S OLD
13 HOUSE DOWN IN EASTOVER AND MY BROTHER COME AROUND TO
14 MY MOTHER'S HOME ONE MORNING AND I WASN'T DOING ANYTHING,
15 I WAS POLISHING MY MOTORCYCLE AND, UH, MY BROTHER SAID
16 LET'S GO AROUND THE OLD HOUSE AND HAVE A FEW DRINKS SO,
17 UM, I GOT IN HIS AUTOMOBILE AND WENT AROUND TO, WE WENT
18 TO THE LIQUOR STORE FIRST AND WE GOT, I THINK, TWO OR THREE
19 HALF PINTS, LIKE WE USUALLY DO AND JUST SIT AT THE OLD
20 HOUSE AND TALK AND I DIDN'T KNOW MY BROTHER WAS WIRED
21 AT THE TIME AND MY BROTHER WAS ASKING ME ALL KINDS OF
22 QUESTIONS ABOUT DID I KNOW WHO KILLED OLIN D WILSON? DID
23 I KNOW THAT MS VIRGINIA ANN WILSON HAD ANYTHING TO DO
24 WITH HIS DEATH? AND I JUST, AND JUST QUESTIONS LIKE THAT
25 AND I GOT CURIOUS OF HIM AND I WALKED OUT ON THE PORCH,

1 AND I SEEN THIS STRANGE CAR BEHIND THE HIGHWAY, BEHIND THE
2 FIRE DEPARTMENT

3 O THIS WAS AT TOMMY'S HOUSE, IS THAT RIGHT?

4 A YEAH, YES, SIR

5 O WHERE WAS THAT LOCATED?

6 A IT IS LOCATED RIGHT IN THE MIDDLE OF EASTOVER

7 Q OKAY, OKAY, WHAT DID YOU DO WHEN YOU SAW THE CAR?

8 A I TOLD MY BROTHER THAT I HAD TO GO I WAS GOING BACK
9 HOME AND HE SAID, ALL RIGHT AND SO I SAID, NEVER MIND I
10 WILL JUST WALK HOME BECAUSE MY MOTHER DON'T LIVE BUT ABOUT
11 TWO BLOCKS FROM THERE SO, I STARTED WALKING HOME AND,
12 UH, I JUST CUT BACK THROUGH BEHIND THE OLD HOUSE AND
13 THAT'S WHENEVER I SEEN MR CALHOUN AND MR CONNIE LEWIS
14 DRIVE UP IN MY BROTHER'S YARD AND PICK HIM UP

15 O ALL RIGHT, WHO WAS MR CALHOUN?

16 A TO THE BEST OF MY KNOWLEDGE MR CALHOUN IS AN FBI
17 AGENT

18 Q AND MR CONNIE LEWIS IS INVESTIGATOR LEWIS WHO HAS
19 BEEN AT THIS TRIAL, IS THAT RIGHT?

20 A YES, SIR

21 O ALL RIGHT, AND WHAT HAPPENED AFTER THAT?

22 A MR CONNIE LEWIS AND MR CALHOUN AND MY BROTHER CAME
23 UP TO MY MOTHER'S HOUSE

24 O UH HUH?

25 A AND THAT'S WHEN WE HAD THE ARGUMENT IN MY YARD ABOUT

1 WIRING MY BROTHER AND ASKING MY BROTHER QUESTIONS LIKE
2 THAT OR GETTING MY BROTHER TO ASK ME QUESTIONS LIKE THAT

3 Q STAY BACK FROM THE MICROPHONE SO, IS THAT THE
4 FIRST TIME YOU HAD EVER SEEN CONNIE LEWIS, TO YOUR
5 KNOWLEDGE?

6 A YES, SIR, TO MY KNOWLEDGE THAT IS THE FIRST TIME

7 Q DID YOU HAVE CONTACT WITH HIM ON OR OFF AFTER THAT?

8 A NO, SIR

9 Q YOU NEVER HAD PHONE CALLS FROM HIM OR ANYTHING LIKE
10 THAT?

11 A NO, SIR, HE WOULD INFORM MY BROTHER FOR ME TO CALL
12 HIM AND I NEVER WOULD RETURN HIS CALLS

13 Q OKAY WHEN DID YOU FIRST MEET UP WITH HIM?

14 A FIRST TIME I MET WITH MR CONNIE LEWIS WAS IN THE
15 RICHLAND COUNTY JAIL

16 Q ALL RIGHT, NOW WHAT WERE YOU DOING IN THE RICHLAND
17 COUNTY JAIL?

18 A I WAS IN JAIL FOR CHECK CHARGES, FRAUDULENT CHARGES
19 CHECK

20 Q ALL RIGHT, AND YOU HAVE, DURING YOUR LIFETIME PLED
21 GUILTY TO TWELVE OR SO COUNTS OF FRAUDULENT CHECKS, IS
22 THAT RIGHT?

23 A YES, SIR

24 Q AND YOU HAVE ACTUALLY DONE SOME TIME FOR THEM, IS
25 THAT RIGHT?

1 A YES, SIR

2 Q AND YOU HAVE ACTUALLY BEEN CHARGED WITH SOME OTHER
3 COUNTS, IS THAT RIGHT?

4 A YES, SIR

5 Q SO YOU WERE IN JAIL ON ACCOUNT OF THOSE FRAUDULENT
6 CHECKS?

7 A YES, SIR

8 Q DID YOU ASK FOR CONNIE LEWIS OR DID HE ASK FOR YOU,
9 OR HOW'D YOU GET IN TOUCH WITH HIM?

10 A NO, SIR MR CONNIE LEWIS SENT OVER TO THE JAIL AND
11 HAD ME BROUGHT OVER TO HIS OFFICE

12 Q AND WHAT WAS THE RESULT? WHAT HAPPENED?

13 A HE KEPT TELLING ME THAT HE KNEW THAT I KNEW SOMETHING
14 ABOUT THIS CASE, AND WHY DIDN'T I GO AHEAD AND TELL HIM?
15 AND, THAT WENT ON FOR ABOUT, MAYBE A WEEK, WEEK AND A HALF,
16 TWO WEEKS WHILE I WAS INCARCERATED AT THE RICHLAND COUNTY
17 JAIL

18 Q ALL RIGHT, AND--

19 A AND HE KEPT TELLING ME THAT HE COULD CLEAR MY RECORD,
20 HE COULD PUT A WHITE SHEET OF PAPER IN MY RECORD HE
21 COULD GET ME OUT OF ALL OF THIS AND I COULD BE IN THE
22 STREET WITHIN A DAY OR SO IF I WOULD JUST HELP HIM ON
23 THIS CASE

24 Q ALL RIGHT, SO, WHAT DID YOU DO AS, FINALLY AS A RESULT
25 OF THAT?

1 A I GAVE HIM THIS STATEMENT

2 Q SO THAT IS YOUR STATEMENT, IS THAT CORRECT?

3 A YES, SIR

4 Q AND THAT IS YOUR SIGNATURE ON THAT STATEMENT, IS
5 THAT CORRECT?

6 A YES, SIR

7 Q ALL RIGHT, AND WHAT HAPPENED AS A RESULT OF YOUR
8 GIVING THAT STATEMENT FOR MR LEWIS?

9 A WELL, WHENEVER I GIVE THE STATEMENT TO MR. CONNIE
10 LEWIS THEN HE TOOK ME TO, UH, A HOTEL OR A MOTEL ON
11 ASSEMBLY STREET

12 Q UH HUH?

13 A AND I STAYED THERE FOR TWO DAYS AND AT THE TIME
14 I WAS TRYING TO HELP MR CONNIE LEWIS AFTER I DONE TOLD
15 MR CONNIE LEWIS ABOUT THE STATEMENT AND THAT WAS THE
16 HONEST TRUTH

17 Q UH HUH?

18 A AND THEN I WAS GOING TO GO ALL THE WAY AND HELP MR
19 CONNIE LEWIS AND FIND OUT WHO DID KILL OLIN D WILSON

20 Q WERE YOU ABLE EVER TO DO THAT?

21 A NO, SIR, BUT I TRIED

22 Q ALL RIGHT, WHAT DID YOU DO FOR HIM?

23 A UH, I KEPT TALKING TO MY SISTER HE SAYS DO YOU
24 THINK THAT YOUR SISTER DELORES KNOWS ANYTHING ABOUT KILLING
25 OLIN D WILSON? I SAID, I DON'T KNOW, MR CONNIE AND

1 HE SAYS, WELL, JUST BEAT ON HER FOR A WHILE AND SEE IF YOU
2 CAN FIND OUT WHAT I MEAN ABOUT BEATING IS JUST PRESSURING
3 HER

4 Q UH HUH?

5 A AND SO, I WAS IN THE MOTEL, I CALLED MY SISTER UP
6 AND SAID TO DELORES, I SAYS, MR CONNIE LEWIS AND THEM
7 IS GOING TO GET ME FOR KILLING MR OLIN D WILSON, AND
8 AND SHE SAID, WHY? SHE SAID YOU WASN'T NOWHERE AROUND
9 AND, UT UN, WE KNOW YOU BETTER THAN THAT

10 MR MABRY OBJECT

11 MR VERMONT DON'T GO INTO WHATEVER

12 SHE SAID

13 Q IS THAT OKAY?

14 A YES

15 Q AS A RESULT OF THAT DID YOU EVER HELP HIM SOLVE THIS
16 CASE?

17 A NO, SIR

18 O HE SOLVED IT ON YOU, DID HE NOT?

19 A YES, SIR

20 Q IS THAT WHAT HE SAYS?

21 A YES

22 Q ALL RIGHT, LET'S TAKE A LOOK AT YOUR STATEMENT THERE?
23 THIS IS, UH, THIS IS STATE'S EXHIBIT 32, THAT IS YOUR
24 STATEMENT?

25 A YES, SIR

1 Q NOW, LOOK AT THE BOTTOM OF THE FIRST FULL PARAGRAPH
2 IN YOUR STATEMENT AND LET ME READ TO YOU FROM YOUR STATEMENT
3 AND YOU TELL ME IF THIS IS WHAT IT SAYS?

4 A RIGHT

5 Q "NOW, I SAW, A WHITE MALE I SAW RUNNING THAT NIGHT
6 WITH A SHOTGUN IN HIS HAND WAS APPROXIMATELY 5'10",11"
7 INCHES, DARK BROWN HAIR AND ABOUT THIRTY-SEVEN, FORTY
8 YEARS OLD " IS THAT RIGHT?

9 IS THAT THE DESCRIPTION YOU GAVE INVESTIGATOR LEWIS
10 AT THE TIME?

11 A YES, SIR

12 Q DO YOU REMEMBER, WAS IT EXACT OR APPROXIMATE OR--

13 A NO, SIR, I WAS, I WAS GUESSING

14 O ALL RIGHT, BASED ON WHAT?

15 A BASED ON WHAT I THOUGHT I HAD SEEN

16 Q WHAT DID YOU COMPARE HIM TO?

17 A I COMPARED HIM TO A PERSON THAT THOUGHT I HAD SEEN
18 IN ANN WILSON'S HOUSE

19 Q ALL RIGHT, TELL 'E ABOUT THAT? WHEN DID YOU THINK
20 YOU SAW THIS PERSON AT ANN WILSON'S HOUSE?

21 A IT WAS, I DON'T KNOW, IT WAS AROUND MAY--TWO OR THREE
22 MONTHS AFTER I HAD BEEN KNOWING ANN

23 Q UH HUH?

24 A AND THIS MAN CAME IN AT THE TIME AND HIM AND MS
25 VIRGINIA ANN WILSON WENT IN THE BACK AND THEY WERE TALKING

1 ABOUT THE MONEY

2 Q NOW WHOSE HOUSE WAS THIS NOW? LET'S GET THAT CLEAR?

3 A THIS WAS AT MS VIRGINIA ANN WILSON'S HOUSE

4 Q AND YOU WERE ALREADY THERE WHEN HE CAME?

5 A YES, SIR

6 Q OKAY?

7 A AND THEY WENT IN THE BACK AND THEY WAS TALKING ABOUT
8 SOME MONEY AND I OVERHEARD A LARGE AMOUNT OF MONEY

9 Q ALL RIGHT, DID YOU MAKE OUT EXACTLY WHAT THEY WERE
10 TALKING ABOUT?

11 A NO, SIR, BECAUSE I DIDN'T REALLY THINK IT WAS ANY
12 OF MY CONCERN

13 Q ALL RIGHT, HAD YOU SEEN THAT MAN BEFORE?

14 A NO, SIR, I THOUGHT I HAD SEEN HIM BEFORE

15 Q HUH? DID YOU TELL INVESTIGATOR LEWIS IN YOUR STATE-
16 MENT IT WAS THE SAME MAN?

17 A I TOLD HIM?

18 Q IS THAT WHAT YOU TOLD HIM IN YOUR STATEMENT?

19 A YES, SIR

20 Q YOU SAID IT WAS THE SAME MAN, DID YOU NOT?

21 A NO, I SAID IT LOOKED LIKE THE SAME MAN IN MY STATEMENT

22 Q NOW, IN YOUR STATEMENT IT SAYS IT IS THE SAME MAN,
23 ISN'T IT?

24 A YES, SIR

25 Q AND WHAT DID YOU TELL INVESTIGATOR LEWIS WHAT DID YOU

1 ACTUALLY TELL HIM?

2 A I ACTUALLY TOLD MR CONNIE LEWIS THAT I THOUGHT IT
3 LOOKED LIKE THE MAN FROM THE BACK AND THE SIDES AND ALL

4 Q TO THIS DATE DO YOU KNOW IF IT WAS THE SAME MAN?

5 A NO, SIR

6 Q COULD YOU BE SURE IF HE WALKED IN THIS COURTROOM?

7 A NO, SIR

8 Q WHY NOT?

9 A BECAUSE I DIDN'T SEE HIS FACE AND AT THE TIME THAT
10 I SEEN HIM I WAS DRINKING

11 Q ALL RIGHT LET ME ASK YOU ABOUT ONE MORE THING IN
12 YOUR STATEMENT? YOU SAID IN YOUR STATEMENT, AND I REFER
13 YOU DOWN TO THE BOTTOM OF THE SECOND PAGE THERE WITH
14 THE TWO MOTORCYCLES, DIAMOND RING AND OTHER THINGS ANN
15 BOUGHT FOR ME ALONG WITH CASH MONEY SHE SPENT OR GAVE ME,
16 APPROXIMATELY \$10,000 00 OR MORE " WAS THAT YOUR FIGURE?

17 A NO, SIR, IT WASN'T

18 O WHERE DID THAT FIGURE COME FROM?

19 A THAT COME FROM MR LT CONNIE LEWIS

20 Q WAS THAT JUST A ROUGH ESTIMATE?

21 A YES, SIR

22 Q DID YOU TELL HIM SHE HAD GIVEN YOU THAT MONEY?

23 A NO, SIR, I DID NOT I WAS TRYING TO EXPLAIN IT TO
24 MR CONNIE LEWIS BUT HE WAS TOO ANXIOUS TO GET MY STATEMENT
25 KNOWING THAT IT MIGHT HELP HIM SOLVE THIS CASE HE WOULD'VE

1 FIND OUT WHO DID KILL OLIN D WILSON

2 Q AND YOU WERE ANXIOUS TO GIVE IT, WERE YOU NOT?

3 A YES, SIR

4 O WHY WAS THAT?

5 A I WAS ANXIOUS TO GIVE IT WAS TO GET IT OFF MY CHEST,
6 BUT REALLY I WAS ANXIOUS TO GET OUT OF JAIL

7 Q AND IN FACT, THAT HAPPENED, DID IT NOT?

8 A YES, SIR

9 Q ALL RIGHT, DID YOU READ YOUR STATEMENT BEFORE YOU
10 SIGNED IT?

11 A NO, SIR NOT REALLY

12 O BUT YOU DID SIGN IT?

13 A YES, SIR

14 Q EXCUSE ME, JUST A MINUTE DID YOU HAVE TO PAY ANY
15 FINES WHEN YOU CAME OUT OF JAIL, WHEN YOU GOT OUT OF JAIL
16 AFTER MAKING YOUR STATEMENT?

17 A YES, SIR, CAPTAIN MAC CAULEY AND MR CONNIE LEWIS
18 PAID SOME FINES FOR ME TO GET OUT OF JAIL

19 Q DO YOU KNOW ABOUT HOW MUCH THAT WAS?

20 A ABOUT, AROUND \$75 00

21 Q OKAY DO YOU KNOW WHERE THE MONEY CAME FROM?

22 A YES, SIR IT COME OUT OF CAPTAIN MAC CAULEY'S
23 POCKET

24 Q OKAY, DO YOU KNOW WHERE HE GOT IT?

25 A NO, SIR, I DON'T

1 Q NOW, YOU SPENT A GOOD DEAL OF TIME WITH MS 'WILSON,
2 DID YOU NOT? FROM THE FALL OF '78 ON INTO '79, IS THAT
3 CORRECT?

4 A WELL, I WOULDN'T SAY IT WAS LIKE AN EVERYDAY THING
5 AND YES, I SEEN HER

6 Q DID YOU LIVE DOWN THERE WITH HER AT HER HOUSE?

7 A NO, SIR, I WASN'T LIVING, I WOULD JUST STAY THERE
8 AT TIMES

9 Q DID YOU EVER KEEP CLOTHES DOWN THERE, KEEP ANY OF
10 YOUR PERSONAL BELONGINGS?

11 A NO, SIR, JUST ALWAYS GOT MY CLOTHES IN MY CAR

12 Q ALL RIGHT, BUT YOU WERE WITH HER ENOUGH TO KNOW HER
13 PRETTY WELL AT THAT TIME, WERE YOU NOT?

14 A YES, SIR

15 Q WHAT WAS SHE LIKE TOWARD OTHER PEOPLE WITH HER MONEY?

16 A SHE WAS A VERY NICE LADY AND IF SHE COULD DO YOU
17 A FAVOR SHE WOULD DO YOU A FAVOR

18 Q UH HUH?

19 A SHE, LIKE HER SON BOUGHT A NEW AUTOMOBILE, A NEW
20 TRANS AM, HELPING HER SISTER OUT AND HER BROTHER-IN-LAWS
21 WITH A HOME LOAN AND THEN MONEY TO FINISH BUILDING THEIR
22 HOME I THINK SHE BOUGHT THE MOTHER A MOTEL

23 Q WHERE WAS THAT?

24 A THAT WAS IN GEORGIA

25 Q DID YOU EVER GO DOWN TO SEE IT?

1 A YES, SIR

2 Q UH HUH? WAS SHE GENEROUS WITH HER MONEY THEN?

3 A YES, SIR

4 O ALL RIGHT DO YOU RECALL, LET'S GO BACK AGAIN TO
5 THE SUMMER OF 1978? A FEW DAYS AFTER JULY THE TENTH? DO YOU
6 RECALL HAVING A CONVERSATION WITH JAMIE AT EITHER DELORFS
7 OR AT YOUR MOTHER'S HOUSE, AROUND A PICNIC TABLE?

8 A NO, SIR, I NEVER TALKED TO JAMIE ABOUT THIS

9 Q DID YOU EVER TELL HIM DON'T SAY ANYTHING ABOUT THIS,
10 THAT WE WERE NIGHT HUNTING THAT NIGHT OR ANYTHING LIKE
11 THAT?

12 A NO, SIR, I NEVER HAVE

13 Q DID YOU EVER HAVE A CONVERSATION WITH HIM AT THE
14 COUNTY JAIL ABOUT THAT, SOMETHING TO THAT NATURE?

15 A NO, SIR, THE ONLY CONVERSATION WE HAD WITH HIM AT
16 THE COUNTY JAIL WAS ABOUT HIM GOING TO COURT FOR HOUSE-
17 BREAKING AND GRAND LARCENY THE NEXT DAY

18 O ALL RIGHT, WHO WAS WITH HIM AT THE JAIL WHEN THEY
19 CAME TO VISIT YOU?

20 A MRS MADINE FRENCH

21 Q OKAY, DURING THE SUMMER, LET'S JUMP AHEAD NOW TO THE
22 SUMMER OF, WELL, THE LAST SUMMER 1981, DID YOU SEE JAMIE
23 ANY DURING THAT SUMMER?

24 A YES, SIR

25 O WHERE DID YOU RECALL SEEING HIM?

1 A HE WAS LIVING WITH MY MOTHER

2 O ALL RIGHT, THAT WAS, WHERE WAS THAT DOWN IN EASTOVER?

3 A YES

4 O DID HE ALSO STAY WITH ONE OF YOUR SISTERS AT ONE
5 TIME?

6 A HE STAYED WITH ALL THREE OF MY SISTERS HE STAYED
7 WITH DEBBI FOR A WHILE, DELORES FOR A WHILE AND KATHERINE--
8 ELAINE, TOO, FOR A WHILE

9 Q OKAY DURING THE TIME HE WAS STAYING WITH DEBBI,
10 DID YOU EVER SEEN HIM AT THE HOSPITAL WITH HER?

11 A YES, SIR

12 Q TELL US ABOUT THAT?

13 A WELL, THE TIME BEFORE I SEEN HIM AT THE HOSPITAL HE
14 WAS ON GERVAIS STREET

15 Q UH HUH?

16 A THEY DONE PICKED HIM UP PRIOR TO THAT FOR VAGRANCY
17 AND LOITERING ON THE STREETS HIM AND HIS BROTHER AND HIS
18 FATHER GOT HIM OUT OF JAIL AND HE WAS NASTY, HE HAD
19 AN ODOR ABOUT HIM AND AT THE TIME I WAS STAYING AT
20 THE TOWNHOUSE

21 Q UH HUH?

22 A I HAD A ROOM UP THERE BECAUSE IT WAS JUST RIGHT
23 ACROSS FROM THE ODESSY CLUB AND I TOLD JAMIE TO COME
24 OVER THERE AND TAKE A BATH AND SHAVE AND PICK HISSELF UP,
25 AND HE DID AND THE NEXT DAY I WENT TO MY SISTER'S WHICH

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1 WAS DEBBI FAITH HICKOX AND SHE WAS IN THE HOSPITAL AND
2 I WAS DRINKING AND GOOD BIT AND I SAYS, JAMIE, LET'S GO
3 BUY YOU SOME CLOTHES AND HE SAYS, OKAY SO, I TOOK HIM
4 DOWNTOWN AND I ASKED HIM WHAT KIND OF CLOTHES DID HE WANT
5 AND HE SAID ALL I WANT IS A PLAYBOY SUIT

6 Q THAT TYPE SUIT?

7 A YES, SIR

8 Q DID YOU BUY IT FOR HIM?

9 A YES, SIR, I DID

10 Q AND THE SHOES?

11 A I BOUGHT HIS SHOES, BELT, PANTS, UNDERWARE, SOCKS,
12 AND HE WENT AND CHANGED, TOOK A BATH AND CHANGED AND ALL
13 AND THAT NIGHT HIS DADDY AND MYSELF TOOK HIM OUT TO THE
14 VFW

15 Q ALL RIGHT, WAS THAT THE SAME SUIT OF CLOTHES HE HAD
16 ON EARLIER THIS WEEK, HE TALKED ABOUT, RIGHT?

17 A YES, SIR

18 Q ALL RIGHT, WHERE WAS JAMIE LIVING ABOUT THE TIME
19 HE GAVE HIS STATEMENT TO INVESTIGATOR LEWIS, DO YOU REMEMBER?
20 NOW, THAT WOULD HAVE BEEN, WHAT, LOOK AT THE DATE ON THE
21 STATEMENT AND TELL ME WHAT THAT WAS?

22 A JAMIE WAS IN THE PENITENTIARY

23 Q WHERE WAS HE STAYING LATER WHEN HE GOT OUT?

24 A HE WAS STAYING WITH MY MOTHER

25 Q ALL RIGHT, AND YOU WERE STAYING IN THAT AREA AT THE

1 SAME TIME?

2 A YES, SIR

3 Q WHERE WERE YOU STAYING?

4 A I WAS STAYING WITH MY MOTHER

5 Q ALL RIGHT, DO YOU KNOW IF HE EVER HAD AN OCCASION TO
6 SEE THE STATEMENT THAT YOU GAVE TO INVESTIGATOR LEWIS?

7 A YES, SIR, HE HAD TO SEE THE STATEMENT BECAUSE WHENEVER
8 MR CONNIE LEWIS LET ME OUT OF JAIL, AND I WENT HOME AND
9 MY MOTHER AND ALL READ THE STATEMENT THEY SEEN IT AND
10 I TOLD THEM ABOUT IT AND HE WAS THERE AT MY MOTHER'S
11 HOUSE HE HAD TO HEAR IT AND SEE IT

12 Q THAT WAS YOUR COPY OF THE STATEMENT THAT YOU ARE
13 TALKING ABOUT?

14 A YES, SIR

15 Q ALL RIGHT, I BEG THE COURT'S INDULGENCE FOR ONE
16 MOMENT, YOUR HONOR? (PAUSE)

17 MR VERMONT MAY WE APPROACH THE
18 BENCH, YOUR HONOR?

19 (ALL ATTORNEYS AT THE BENCH, OFF THE
20 RECORD DISCUSSION)

21 MR VERMONT CAN WE HAVE A FEW MINUTES
22 THEN, YOUR HONOR?

23 THE COURT ALL RIGHT DON'T DISCUSS
24 THE CASE

25 (JURY LEAVES THE JURY BOX AT 3 20 P M)

1 THE COURT ALL RIGHT, IT IS ABOUT
2 AN HOUR ANYWAY, AND MR VERMONT NEEDED A FEW MINUTES, SO,
3 I GRANTED IT, 'E WILL TAKE A LITTLE BREAK YOU ALL LET
4 ME KNOW WHEN WE ARE READY

5 (RECESS AT 3 20 P M)
6

7 (RESUME AT 4 05 P M)
8

9 THE COURT BRING THE JURY BACK
10 (JURY RETURNS TO THE COURTROOM AT 4 05

P M)

11 THE COURT ALL RIGHT

12 (MR CAMPBELL RESUMES THE WITNESS

13 STAND)

14 DIRECT EXAMINATION CONTINUES BY MR VERMONT

15 Q OWENS, LET'S GO BACK OVER HERE SINCE WE HAVE TAKEN,
16 I HAVE TAKEN THE LIBERTY TO ADD THESE FIGURES UP I JUST
17 WANT TO GO THROUGH AGAIN WITH YOU THE \$1720 00 WAS ACTUALLY
18 PAID TO MS WILSON BY MR MAHON, IS THAT RIGHT?

19 A YES, SIR

20 Q YOU PAID \$500 00 IN CASH, IS THAT RIGHT?

21 A YES, SIR

22 Q THAT IS \$2220 00? \$2200 00 ACTUALLY PAID BACK OF
23 THE MONEY YOU OWED HER, IS THAT RIGHT?

24 A YES, SIR

25 Q SHE HAS GOT A JUDGMENT AGAINST YOU FOR \$5,000 00?

1 A YES, SIR

2 Q NOW, I TOOK THESE FIGURES HERE, \$1600 00 WAS ON THE
3 CAR AND BY TRANSACTION SHE PAID FOR YOU WITH COLUMBIA
4 CHRYSLER, IS THAT RIGHT?

5 A YES, SIR

6 Q \$3120 00 AND SHE PAID IN THE SECOND, OR RATHER THE
7 FIRST BIKE DEAL, BIKE NUMBER ONE FOR BIKE NUMBER TWO FROM
8 MR KERBY, IS THAT RIGHT?

9 A YES, SIR

10 Q \$3120 00 SHE PAID FOR YOU, \$500 00 YOU THOUGHT, WAS
11 FOR THE DOG APPROXIMATELY?

12 A YES, SIR

13 Q \$800 00 WAS, I GUESS, ON THE RING YOU DON'T
14 REALLY KNOW, IS THAT RIGHT?

15 A YES, SIR

16 Q ALL RIGHT, \$400 00 IS FOR INSURANCE, I THINK YOU
17 SAID IS THAT RIGHT?

18 A YES, SIR

19 Q THAT APPROXIMATELY ADDS UP TO \$6400 00, WOULD YOU
20 TRUST MY MATH, AM I RIGHT? CLOSE ENOUGH?

21 A YES, SIR

22 Q ALL RIGHT, YOU OWE HER SOME MONEY?

23 A YES, SIR

24 Q CAUSE YOU ACTUALLY PAID HER \$2200 00 OUT OF \$6400 00,
25 OR WHAT MAY BE A LITTLE MORE, A LITTLE LESS, IS THAT RIGHT?

1 A YES

2 Q YOU INTENDED TO PAY THE REST BACK TO HER?

3 A YES, SIR

4 Q HOW ARE YOU PLANNING TO DO THAT?

5 A WELL, AT THE TIME I SWAPPED THAT THIRD MOTORCYCLE AND
6 IN FAYETTEVILLE, NORTH CAROLINA?

7 Q UH HUH?

8 A I SWAPPED THAT BIG MOTORCYCLE FOR THE LAST MOTORCYCLE
9 I HAD, JUST BEFORE I SWAPPED IT, BEN BOUMAN--

10 Q THE FELLOW UP THERE IN FAYETTEVILLE?

11 A YES, SIR HE WAS GOING TO SWAP, OR HE SWAPPED HIS
12 MOTORCYCLE ON A NEW LOW RIDER 80 SERIES

13 Q UH HUH?

14 A AND I LEFT MY MOTORCYCLE UP THERE BECAUSE I DONE
15 CALLED ANN AND ASKED HER COULD I SWAP AND, UH, YOU KNOW,
16 JUST WAITING ON THE TITLE FOR IT

17 O OKAY?

18 A AND I GOT ON THE BACK OF THE, HIS MOTORCYCLE BACK TO
19 WILMINGTON, NORTH CAROLINA AND BEFORE WE GOT OUT OF
20 WIMBLETON A LADY RUN A STOPLIGHT AND WE HIT HER AND HE
21 GOT KILLED AND IT THREWED ME ACROSS THE BACK AND TORE ME
22 ALL TO PIECES AND BUSTED MY BACK UP AND MY HIP AND ALL
23 THAT

24 Q UH HUH?

25 A I WAS IN THE HOSPITAL FOR A WHILE ON THAT AND THAT

1 WAS A CIVIL SUIT

2 Q AND WHAT WAS THE RESULT OF THAT CIVIL SUIT?

3 A IT IS SUPPOSE TO BE SETTLE IN MAY OR NEXT MONTH

4 Q OF THIS YEAR?

5 A YES

6 Q SO YOU ARE TALKING ABOUT NEXT MONTH? SO IT IS STILL
7 PENDING AND YOU ARE DUE TO GET SOME MONEY WITH THAT?

8 A YES, SIR

9 Q WHAT WERE YOU GOING TO DO WITH THAT MONEY?

10 A I WAS GOING TO PAY MRS ANN WILSON THE BALANCE OF
11 IT

12 Q ALL RIGHT, SIR, SO THAT WOULD HAVE EVENED YOU ALL OUT,
13 IS THAT RIGHT?

14 A YES, SIR

15 Q OKAY, NOW LET'S GO BACK TO THE RELATIONSHIP OBVIOUSLY,
16 YOU HAD YOUR RELATIONSHIP WITH HER, IT HAD A FINANCIAL
17 SIDE TO IT? THIS WHO BLACKBOARD IS COVERED WITH IT?

18 A YES, SIR

19 Q WHAT WAS YOUR RELATIONSHIP WITH HER LIKE GENERALLY?

20 A WELL, MY RELATIONSHIP WAS, GENERALLY, SHE WAS JUST
21 A, A VERY GOOD FRIEND I NEVER HAD A FRIEND LIKE THAT
22 BEFORE, WOULD TRUST ME AND LOAN ME MONEY AND THINGS LIKE
23 THAT AND THAT'S HOW COME I MADE IT TO THIS I WAS GOING
24 TO PAY HER BACK REGARDLESS AND THERE WAS, THERE WAS NO
25 LOVE AFFAIR AT ALL BECAUSE, AS FAR AS HAVING A LOVE AFFAIR

1 OR SOMETHING, IT'S, I LOST MY MANHOOD WHEN I WAS IN SERVICE
2 NOW, CAUSE I'M STERILE AND THE FACTS IS SEX JUST DOESN'T
3 INTEREST ME CAUSE I CAN'T HAVE ANY CHILDREN, I CAN'T
4 HAVE A FAMILY OR SOMETHING THAT'S CAUSE AND ALL I WAS
5 SO CLOSE TO HER, HER TWO BOYS OLIN D AND RICK

6 Q ALL RIGHT?

7 A WE NEVER BEEN ENGAGING IN WHAT THEY SAY, SEX OR LOVERS
8 OR SOMETHING BECAUSE WE NEVER WERE DOING SEX

9 Q YOUR, YOU KNOW ALL THE PEOPLE WERE TALKING ABOUT IT,
10 RIGHT?

11 A YES, SIR

12 Q WAS IT TRUE?

13 A NO, SIR

14 Q ALL RIGHT, LET ME TALK TO YOU A LITTLE BIT ABOUT
15 JAMIE DID YOU EVER GO NIGHT HUNTING WITH JAMIE?

16 A YES, SIR

17 Q WHAT SORT OF CIRCUMSTANCE? DID YOU EVER NIGHT HUNT
18 WITH ED, YOUR BROTHER-IN-LAW?

19 A YES, SIR

20 Q ANY OF THE REST OF YOUR CLAN DOWN THERE?

21 A MY BROTHER

22 Q TOMMY?

23 A YES, SIR A BLACK FRIEND OF MINE, A REAL GOOD FRIEND
24 HE USED TO, WE USED TO, ALL FOUR OF US USED TO GET
25 TOGETHER AND GO NIGHT HUNTING

1 Q JUST YOU AND JAMIE EVER GO NIGHT HUNTING?

2 A YES, SIR, I THINK IT COULD HAVE BEFN A WEFK BEFORE
3 THIS INCIDENT OR A COUPLE OF WEEKS BEFORE, 'MAYBE THREE
4 WEEKS BEFORE 'MAYBE TWICE JUST RIDING AROUND BECAUSE I'M
5 NOT A NIGHT HUNTER TO START WITH ALL I DO IS DRIVE THE
6 CAR FOR THEM AS FAR AS SHOOTING A SHOTGUN OR SOMETHING,
7 I NEVER DID SHOOT A SHOTGUN

8 Q YOU WEREN'T MUCH GOOD?

9 A NO, SIR, I JUST, AFTER I GOT OUT OF THE SFRVICE I
10 WOULDN'T HAVE ANYTHING TO DO WITH GUNS

11 Q ALL RIGHT, YOU HUNTED IN VARIOUS COMBINATIONS WITH
12 THOSE THREE, FOUR, FIVE PEOPLE THAT YOU ARF TALKING ABOUT,
13 RIGHT?

14 A YES, SIR

15 Q ON THE NIGHT OF JULY TENTH, 1978 WERE YOU NIGHT
16 HUNTING WITH JAMIE?

17 A NO, SIR

18 Q YOU SURE ABOUT THAT?

19 A YES, SIR, 'M POSITIVE AS GOD IS MY WITNESS ON
20 THAT

21 Q ALL RIGHT, WHAT ABOUT HIS BROTHER JOHNNY? WHAT IS
22 YOUR RELATIONSHIP WITH JOHNNY LIKE?

23 A UH, MINE AND JOHNNY'S RELATIONSHIP IS HE GOT OUT OF
24 THE SERVICE AND--

25 Q ABOUT WHEN WAS THAT DO YOU REMEMBER?

1 A I BELIEVE IT WAS IN '79, I BELIEVE, SOMEWHERE ALONG
2 IN THERE

3 Q UH HUH? HAS HE BEEN AROUND THESE FEW YEARS, HAS HE
4 BEEN AROUND THE AREA?

5 A YES, SIR

6 Q ALL RIGHT, HOW DID YOU GET ALONG WITH HIM?

7 A TO START OFF WITH WE GOT ALONG WELL

8 Q HOW ABOUT LAST YEAR, DID YOU GET ALONG WITH HIM LAST
9 YEAR?

10 A NO, SIR, WHY WERE YOU HAVING TROUBLE YOU AND HIM?

11 A BECAUSE WE WAS HAVING TROUBLES

12 Q STAY BACK A LITTLE BIT FROM THE MICROPHONE

13 A BECAUSE WE WAS HAVING TROUBLES JAMIE WAS STAYING
14 AT MY MOTHER'S HOUSE AND MY MOTHER WASN'T ABLE TO TAKE
15 CARE OF HIM AND JAMIE AND MYSELF AND MY BROTHER AND ALL
16 AND I KNEW SOME GIRLS THAT HAD AN APARTMENT IN COLUMBIA,
17 AND THEY WANTED SOMEONE TO STAY WITH THEM SO I INTRODUCED
18 JOHNNY TO THEM

19 Q NOW, WHEN WAS THIS, WHEN ARE YOU TALKING ABOUT?

20 A THIS WAS, THIS WOULD BE IN JUNE, JULY, AUGUST

21 Q OF LAST YEAR?

22 A OF LAST YEAR, YES

23 Q AND, ALL RIGHT?

24 A AND I INTRODUCED HIM TO THE GIRLS, HE STAYED OVER
25 THERE HE STARTED STAYING OVER THERE AND IT COME UP IS

1 WHERE THEY WAS MISSING THEIR RINGS, PISTOLS, MONEY, THINGS
2 IN THAT NEIGHBORHOOD AND HE NEVER DID GO BACK OVER THFRE
3 AND I SEEN THE GIRLS AT THE ODDESSY CLUB IN COLUMBIA AND
4 THEY SAID, WHERE IS THAT TALL, AND THEY USED PROFANE
5 LANGUAGE BEHIND THERE

6 O UH HUH?

7 A AND I SAID I HAVEN'T SEEN HIM MYSELF AND, UH, THEY
8 SAID, DO YOU KNOW THAT HE STOLE MY RINGS, HE STOLE MY
9 PISTOL, HE STOLE MY MONEY AND HE BROKE INTO MY BOYFRIEND'S
10 APARTMENT, WHICH IS ANOTHER APARTMENT AND HE STOLE HIS
11 BINOCULARS AND CLOTHES OUT OF HIS HOME AND--

12 Q SO WHAT DID YOU DO AS A RESULT OF ALL OF THAT?

13 A HIS FATHER WAS STAYING UP, 'WELL, HIS FATHER WAS MARRIED
14 AND HE WAS LIVING OVER IN WEST COLUMBIA

15 Q NOW, WHO IS HIS FATHER?

16 A JOHN CHARLES OWENS

17 Q IS HE IN THE COURTROOM?

18 A YES, SIR

19 Q ALL RIGHT?

20 A AND THE GIRLS WERE GOING TO SIGN A WARRANT AGAINST
21 HIM AND HIS FATHER WAS CONCERNED ABOUT HIM BECAUSE HE
22 WAS ALREADY ON FIVE YEARS PROBATION AND SO ME AND HIS
23 FATHER GOT IN THE CAR AND WENT OVER TO THE GIRLS' APARTMENT
24 AND HIS FATHER SAID IF WE JUST DON'T SIGN A WARRANT, HE
25 SAYS, I'LL TRY TO GET HIM TO BRING THOSE THINGS BACK FOR

1 YOU EITHER THAT OR I'LL PAY YOU FOR THE RINGS SO WE
2 SIT THERE AND WE TALKED TO THE GIRLS AND THEY DROPPED
3 THE WARRANT AND THEN WE WENT AND TRIED TO FIND THE RINGS
4 BUT WE COULDN'T FIND THE RINGS

5 Q UH HUH?

6 A AND, AND AT THAT TIME THEN THE GIRLS WERE STILLING
7 LOOKING FOR JOHNNY AND THEY NEVER COULD FIND HIM IN NIGHT-
8 CLUBS OR NOTHING THAT'S WHEN IT BEGAN AND HE BROKF MY
9 SISTER'S MARRIAGE UP WHICH HE STILL IN THE PROCESS OF HIM
10 STEADY BREAKING IT UP

11 Q UH HUH?

12 A HE WAS THE CAUSE OF THAT CONFUSION YESTERDAY WITH
13 MY SISTER IN THE COURTROOM HERE

14 O ALL RIGHT ALL RIGHT, WHAT IS THE NATURE OF YOUR
15 RELATIONSHIP WITH HIM AS A RESULTS OF ALL THIS?

16 A HE WOULD HAVE A POSITIVE ATTITUDE OR A REASON TO
17 GET HIS BROTHER JAMIE OWENS TO SAY THIS ABOUT ME

18 Q WHEN WERE YOU FIRST AWARE THAT JAMIE HAD GIVEN A
19 STATEMENT AGAINST YOU?

20 A IT WAS IN OCTOBER

21 Q ALL RIGHT, HOW DID THAT COME TO YOUR ATTENTION?

22 A ABOUT A WEEK BEFORE THAT

23 Q A WEEK BEFORE WHAT?

24 A OCTOBER, A WEEK BEFORE THE WARRANT WAS SERVED ON ME

25 Q FOR THIS OFFENSE?

1 A YES, SIR

2 Q OKAY, WELL, A WEEK BEFORE THAT WHAT HAPPENED?

3 A THE RICHLAND COUNTY SHERIFF'S DEPARTMENT CAME AND
4 GOT ME AND THEY TOOK ME DOWN TO MR LIEUTENANT CONNIE
5 LEWIS, MR HARPOOTLIAN--

6 O WHO IS MR HARPOOTLIAN?

7 A HE IS A DEPUTY SOLICITOR

8 Q UP HERE IN THIS CIRCUIT?

9 A YES, SIR, IN RICHLAND COUNTY

10 Q ALL RIGHT?

11 A AND MR HARPOOTLIAN, HE STARTED READING OFF SOMETHING
12 OFF OF A PAPER, I MEAN, AT THE TIME I DIDN'T KNOW WHAT
13 KIND OF PAPER IT WAS AND HE WAS SAYING THAT JAMIE OWENS
14 SAID THAT HE WAS WITH ME ON THE NIGHT THAT I WAS SUPPOSE
15 TO HAVE COMMITTED THE MURDER OF OLIN D WILSON AND I
16 JUST LAUGHED AT HIM AND HE SAID, WHAT IN THE HELL ARE YOU
17 LAUGHING ABOUT? AND I SAID BECAUSE, BECAUSE THAT IS FUNNY
18 AS HELL THAT'S THE EXACT WORDS I USED, THEN HE SAID,
19 WELL, IS IT FUNNY BECAUSE THIS IS, THIS IS JAMIE OWENS'
20 STATEMENT

21 Q WAS IT, IN FACT, WHAT YOU LATER FOUND OUT TO BE HIS
22 STATEMENT?

23 A YES, SIR

24 Q THAT WAS READ TO YOU? ALL RIGHT?

25 A AND I TOLD MR HARPOOTLIAN, I SAYS, YOU CAN GO AHEAD

1 AND SIGN THE WARRANT AND ALL BUT I SAYS, I'LL TAKE ANY
2 KIND OF TESTS, SODIUM PENTOTHAL OR ANYTHING

3 O WELL, NOW DON'T GO INTO THAT WHAT HAPPENED AS
4 A RESULT OF THAT?

5 A ABOUT THREE DAYS LATER THEY SERVED THE WARRANT ON
6 ME, LT CONNIE LEVIS

7 Q AND THAT IS WHY YOU ARE HERE?

8 A YES, SIR

9 Q WHY WOULD JAMIE WANT TO GIVE A STATEMENT ON YOU, DO
10 YOU HAVE ANY IDEA?

11 A YES, SIR, ME AND JAMIE HAD A RUN IN

12 Q OKAY?

13 A HIM AND MY BROTHFR TESTIFIED ON ME ABOUT A BANK
14 ROBBERY ABOUT, IT WAS ABOUT TWO WEEKS, TWO WEEKS PRIOR
15 TO ME GETTING LOCKED UP FOR FRAUDULENT CHECKS

16 Q THIS WAS WHEN, LAST SUMMER SOME TIME?

17 A YES, SIR, THIS WAS IN AUGUST

18 O ALL RIGHT, TELL US ABOUT THAT?

19 A THERE WAS A BANK ROBBED ON SUMTER HIGHWAY A "CAN DO",
20 I BELIEVE, IT WAS A "CAN DO"--

21 MR MABRY YOUR HONOR, I OBJECT, THIS
22 IS IRRELEVANT

23 MR VERMONT I'M SORRY, I DIDN'T
24 HEAR YOUR RULING, YOUR HONOR?

25 THE COURT I JUST WANTED TO WAIT TO

1 WHAT YOUR REACTION YOU WOULD HAVE?

2 MR VERMONT HF IS TRYING TO INDICATE
3 WHY HE THINKS ALL THIS HAS HAPPENED, YOUR HONOR, AND I
4 THINK THAT IS RELEVANT

5 THE COURT I THINK HE HAS GOT A RIGHT
6 IF HE IS TESTIFYING THAT IS THE REASON WHY, IF ANY, HE
7 MIGHT WANT TO EXPLAIN BUT DON'T GET TOO FAR AFIELD

8 MR VERMONT YES, SIR
9 DIRECT EXAMINATION CONTINUES BY MR VERMONT

10 Q ALL RIGHT, GO AHEAD AND TELL US ABOUT THAT OWENS?

11 A MY BROTHER THOMAS HAYNES CAMPBELL AND JAMIE OWENS,
12 IN THE FBI OFFICE AND MR CALHOUN

13 'R MABRY OBJECTION, YOUR HONOR, NOW
14 HE IS TRYING TO IMPEACH OUR WITNESS IMPROPERLY AND IT
15 IS IRRELEVANT BESIDES NOW, HE DIDN'T ASK HE DIDN'T
16 ASK MR OWENS WHETHER OR NOT HE HAD ANYTHING TO DO WITH
17 A VAGRANCY CHARGE OR ANYTHING LIKE THAT

18 THE COURT WELL, I DON'T WANT YOU
19 TO GO TOO FAR INTO ANYTHING, SIR, IS WHAT I AM TRYING TO
20 SAY IF HE HAS GOT A REASON THAT HE WANTS TO SAY, EXPLAIN
21 WHY HE THINKS WHAT IT IS, GET TO THAT HE IS DESCRIBING
22 SOME ACT BETWEEN TWO OTHER PEOPLE SOMEWHERE IF HE HAS
23 GOT A REASON TO THINK THAT, HE WANTS TO EXPLAIN AS FAR
24 AS HE IS CONCERNED, GET HIM TO DO THAT

25 MR 'ABRY YOUR HONOR, MY POINT IS

1 THERE IS NO VAGRANCY CHARGE ON THIS BOYS RECORD, NO
2 BANK ROBBERY CHARGE ON THIS BOY, ON HIS RECORD HE IS
3 GIVING ME THE IMPRESSION THAT THERE IS

4 MR VERMONT THAT IS CERTAINLY NOT
5 THE DIRECTION THE TESTIMONY IS GOING TO GO NO CHARGE
6 OF BANK ROBBERY AGAINST THIS YOUNG MAN

7 THE COURT OF COURSE, WE DON'T WANT
8 TO GET TOO FAR AFIELD WITH IT BUT IF HE WANTS TO GIVE
9 A REASON LET HIM GIVE HIS REASON LET HIM, BUT DON'T
10 GO INTO THE OTHERS

11 DIRECT EXAMINATION CONTINUES BY MR VERMONT

12 Q WHO WERE THEY TRYING TO PUT THE BANK ROBBERY CHARGE
13 ON?

14 A THEY WERE TRYING TO PUT IT ON ME

15 Q DID YOU ROB ANY BANK?

16 A NO, SIR, I NEVER STOLE NOTHING

17 Q DID THEY EVER PUT THE BANK ROBBERY CHARGE ON YOU,
18 AS A RESULT?

19 A NO, SIR

20 Q WHAY HAPPENED, HOW DID YOU GET INVOLVED IN ALL THAT
21 MESS?

22 A JAMIE, MY BROTHER, I MEAN, JAMIE, MY COUSIN, JAMIE
23 OWENS AND THOMAS HAYNES CAMPBELL THEY HAD A BANK PICTURE
24 WITH A MASKED MAN AND A PAIR OF BLUE JEANS ON OR SOMETHING,
25 I NEVER SEEN THE PHOTOS AND THEY TOOK THEM DOWN TO MY

1 MOTHER'S HOUSE

2 MR ELLIOTT OBJECTION, YOUR HONOR
3 HE DOESN'T HAVE ANY PERSONAL INFORMATION, PERSONAL
4 KNOWLEDGE ABOUT THIS HE IS TESTIFYING HE NEVER SEEN THE
5 PICTURE I DON'T THINK HE IS TESTIFYING ON THE BASIS OF
6 SOME PERSONAL KNOWLEDGE I THINK HE IS JUST SPECULATING
7 OR TESTIFYING AS TO HEARSAY

8 THE COURT YOU HAVE GOT TO KEEP IT
9 PROPER IN WHAT HE KNOWS

10 DIRECT EXAMINATION CONTINUES BY MR VERMONT

11 Q YOU AND TOMMY AND JAMIE WERE IN A BIG TANGLE ABOUT
12 A BANK ROBBERY IN AUGUST, IS THAT RIGHT?

13 A YES, SIR

14 MR MABRY YOUR HONOR, HERE WE GO
15 AGAIN, I WANT TO OBJECT

16 THE COURT YES, SIR, I AM GOING TO
17 LET HIM GO THAT FAR

18 MR VERMONT I AM JUST GOING TO SUMMAR-
19 IZE, YOUR HONOR, AND MOVE ON

20 THE COURT WELL, HE SAID THAT IS WHAT
21 THEY DID NOW IF HE WANTS TO TESTIFY AS TO ANYTHING ELSE,
22 FINE, BUT KEEP IT TO THAT ONE THING AND THAT ONE THING
23 ONLY

24 DIRECT EXAMINATION CONTINUES BY MR VERMONT

25 Q ANYTHING BUT BAD FEELINGS EVER COME OF THAT INCIDENT?

1 A NO, SIR, NOT ON MY BEHALF ON JAMIE'S IT DID

2 Q ALL RIGHT, JUST BAD FEELINGS, IS THAT RIGHT?

3 A YES, SIR

4 O OKAY, AND YOUR RELATIONSHIP WITH JOHNNY WAS WHAT AT
5 THE TIME?

6 A BAD

7 O YOUR RELATIONSHIP WITH BOTH OF THEM WAS BAD?

8 A YES, SIR

9 O AND THEY ARE WHAT RELATIONSHIP TO YOU?

10 A THEY ARE MY TWO FIRST COUSINS

11 Q ALL RIGHT LET ME ASK YOU THIS? DID YOU SHOOT OLIN
12 D WILSON?

13 A NO, SIR

14 O YOU KNOW THAT FOR A FACT?

15 A YES, SIR I KNOW FOR A FACT, AND GOD KNOWS IT FOR
16 A FACT THAT I DID NOT KILL OLIN D WILSON

17 O DO YOU HAVE ANY IDEA WHO DID?

18 A NO, SIR, I DON'T

19 O ALL RIGHT, THAT IS ALL THE QUESTIONS I HAVE PLEASE
20 ANSWER ANY QUESTIONS MR TERRY OR MR ELLIOTT MIGHT HAVE
21 FOR YOU

22

23 CROSS EXAMINATION

24 BY MR ELLIOTT

25 Q MR CAMPBELL?

1 A YES, SIR

2 Q NOW, YOU HAVE GROWN UP IN EASTOVER, IS THAT RIGHT?

3 A YES, SIR

4 Q AND GROWING UP IN EASTOVER, YOU USED TO GO HUNTING
5 AND FISHING I WOULD IMAGINE, IS THAT RIGHT?

6 A NO, SIR, I NEVER DID GO HUNTING, I WASN'T A HUNTER

7 Q YOU DIDN'T JUST TESTIFY THAT YOU WOULD GO NIGHT HUNTING
8 THAT YOU WENT NIGHT HUNTING ON TWO OCCASIONS WITH JAMIE
9 OWENS?

10 A SIR, WHAT I MEANT BY THAT, I WASN'T A CONTINUOUS
11 HUNTER LIKE MY BROTHER AND MOST OTHER PEOPLE IN GAME,
12 BOW HUNT AND SQUIRREL HUNT AND LIKE THAT

13 Q HAVE YOU HUNTED BEFORE, SIR?

14 A SIR?

15 Q HAVE YOU HUNTED BEFORE, SIR?

16 A YES, SIR

17 Q YOU KNOW THIS AREA PRETTY WELL, DO YOU NOT?

18 A YES, SIR

19 Q YOU ARE THIRTY YEARS OLD NOW, APPROXIMATELY?

20 A YES, SIR

21 Q AND FOR ALL BUT ABOUT SEVERAL YEARS OF YOUR LIFE
22 YOU HAVE GROWN UP HERE, IS THAT CORRECT?

23 A YES, SIR

24 Q WOULD YOU STEP DOWN HERE PLEASE SIR?

25 A (STEPS DOWN BEFORE THE JURY)

1 Q THIS DOT HERE REPRESENTS FASTOVER, THE RED PIN,
2 DOESN'T IT?

3 A YES, SIR

4 Q AND WHAT COUNTY IS THIS?

5 A (NO RESPONSE)

6 Q WHAT DOES THAT SAY?

7 A SUMTER COUNTY

8 Q ALL RIGHT, SIR, AND WHAT IS THIS AREA IN HERE?

9 A CALHOUN COUNTY

10 Q ALL RIGHT, AND THE SWAMP, WHAT SWAMP IS THAT?

11 A THAT'S THE CONGAREE SWAMP

12 Q AND ALL RIGHT, SIR, WHAT RIVER IS THIS OVFR HERE?

13 A THAT'S THE WATEREE RIVER

14 Q ALL RIGHT, SIR, IS THIS A SWAMP HERE ALONG THE RIVER,
15 IS IS SWAMPY ALONG HERE?

16 A YES, SIR

17 Q NOW, YOUR PARENTS LIVE HERE IN EASTOVER, DO THEY NOT?

18 A YES, SIR

19 Q AND YOUR SISTER DELORES MOTT, MOCK, SHE LIVES RIGHT
20 HERE AT THE HORRELL HILL TRAILER PARK, IS THAT RIGHT?

21 A YES, SIR

22 Q AND WHO LIVED, WHO, LIVING IN THE TRAILER BEHIND HER
23 WAS DEBBIE FAY, IS THAT NOT RIGHT? DOESN'T DEBBIE FAY
24 LIVE IN THE TRAILER NEXT TO YOUR SISTER, NEAR YOUR SISTER?

25 A DEBBIE FAY LIVES IN FRONT OF HER

1 O ALL RIGHT, SIR, YOU AND DEBBIE FAY, YOU'RE PRFTTY
2 CLOSE?

3 A I'M CLOSE TO ALL MY SISTERS

4 THE COUPT ALL RIGHT, NOW YOU ARE
5 GOING TO HAVE TO GET THE MICROPHONE OVER HERE SO YOU CAN
6 TALK INTO IT SO THE COURT REPORTER CAN HEAR YOU

7 'R ELLIOTT STEP OVER HERE, PLEASE
8 STAND RIGHT OVER HERE

9 CROSS EXAMINATION CONTINUES BY MR ELLIOTT

10 Q YOUR SISTERS ARE CLOSE TO YOU AND YOU ARE CLOSE TO
11 YOUR SISTERS, IS THAT RIGHT?

12 A YES, SIR

13 O NOW, WHAT HIGHWAY IS THIS ALONG THROUGH HERE THIS
14 YELLOW DOT BETWEEN THIS YELLOW DOT AND THAT BLUE DOT?

15 A THAT IS 76 HIGHWAY

16 Q THAT IS ALSO KNOWN AS THE SUMTER HIGHWAY?

17 A YES, SIR

18 Q ALL RIGHT, SIR, WHAT ROAD IS THIS RUNNING FROM THIS
19 BLUE DOT DOWN TOWARDS EASTOVER?

20 A THAT IS SEVEN MILES ROAD

21 Q ALL RIGHT, SIR, ISN'T THERE A LITTLE STORE RIGHT
22 HERE WHERE SEVEN MILES ROAD IS?

23 THE COURT CAN YOU ALL SEE? (TO THE
24 JURY) (JURY RESPONDS BY NODDING AFFIRMATIVELY)

25 A YES, SIR, THAT USE TO BE FRFADICKS GROCERY

1 Q ALL RIGHT, SIR, AND ALL ALONG EACH SIDE OF SEVEN
2 MILE HIGHWAY, SEVEN MILE ROAD ARE SOME FIELDS, RIGHT?

3 A YES, SIR, THERE IS ONE FIELD

4 Q THERE IS ONE FIELD, THAT'S ALL? WHY DO THEY CALL
5 IT SEVEN MILE ROAD?

6 A IT IS JUST AN OLD COUNTRY ROAD

7 Q ISN'T IT ABOUT SEVEN MILES FROM HERE TO EASTOVER?

8 A YES, SIR

9 Q AND THERE IS ONLY ONE FIELD ALONG THIS WHOLE SEVEN
10 MILE STRETCH, IS THAT YOUR TESTIMONY?

11 A THERE IS ONE FIELD, THE REST OF THEM IS BY THE TRIPPET
12 BARN I THINK IT RUNS ALL THE WAY INTO EASTOVER, AND
13 THAT'S FOR SOY BEANS AND COTTON

14 Q SO THEY GROW SOY BEANS AND COTTON ALL ALONG THIS
15 ROAD, RIGHT?

16 A YES, SIR

17 Q YOU MAY RESUME THE STAND (WITNESS RETURNS TO THE
18 WITNESS STAND) NOW, YOU HAVE GONE HUNTING WITH OTHERS,
19 PEOPLE OTHER THAN JAMIE OWENS, HAVEN'T YOU?

20 A YES, SIR I BEEN WITH JAMIE

21 Q AND YOU TAKE A SHOTGUN WHEN YOU WENT HUNTING, WOULDN'T
22 YOU?

23 A I'VE NEVER OWNED A SHOTGUN, THE PEOPLE THAT I WENT
24 WITH HAD SHOTGUNS

25 Q AND YOU'D USE SOMEBODY ELSE'S SHOTGUN WHEN YOU WENT

1 HUNTING?

2 A YES, SIR, WHEN I WENT HUNTING

3 Q AND YOU KNOW WHAT A SHOTGUN SHELL LOOKS LIKE, DON'T
4 YOU?

5 A YES, SIR

6 Q I WOULD LIKE YOU TO PICK THAT UP IF YOU WOULD, AND, UH,
7 PULL IT OUT OF THE JAR AND LOOK AT IT? WHAT IS IT? IT'S
8 A SHOTGUN SHELL, ISN'T IT?

9 A YES, SIR

10 Q DO YOU KNOW WHAT KIND IT IS?

11 A YES, SIR, IT'S A DOUBLE OO BUCKSHOT MAGNUM

12 Q SO, YOU AT LEAST ARE FAMILIAR ENOUGH WITH SHOTGUNS
13 AND SHELLS TO KNOW THAT IS A MAGNUM SHELL, IS THAT CORRECT?

14 A YES, I CAN READ IT RIGHT ON THE SHELL

15 Q NOW, YOU ALSO ARE FAMILIAR WITH WEAPONS BECAUSE YOU
16 WERE IN THE SERVICE, IS THAT CORRECT?

17 A YES, SIR

18 Q WHEN WERE YOU IN THE SERVICE?

19 A IN NOVEMBER OF 1968 TIL JANUARY THE 2, 1972

20 Q AND WHILE YOU WERE IN THE SERVICE THEY TRAINED YOU
21 TO USE WEAPONS, DIDN'T THEY?

22 A YES, SIR

23 Q AND, WHILE YOU WERE IN THE SERVICE YOU WERE STATIONED
24 IN VIET NHAM, WEREN'T YOU?

25 A YES, SIR

1 Q AND IN VIET NHAM YOU SAW WAR TIME SERVICE, DIDN'T
2 YOU?

3 A YES, SIR

4 Q NOW, I BELIEVE YOU TESTIFIED THAT AFTER THE MURDER
5 OF OLIN D WILSON YOU WENT TO HIS FUNERAL TO PAY YOUR
6 RESPECTS, IS THAT WHAT YOU TESTIFIED TO?

7 A YES, SIR

8 Q AND THEN SOMETIME AFTER THAT YOU SAW ANN WILSON ONCE,
9 AND THEN YOU SAW HER AGAIN SEVERAL MONTHS LATER YOU
10 TESTIFIED, AND THEN MAYBE AGAIN SEVERAL WEEKS LATER AFTER
11 THAT, IS THAT ABOUT RIGHT?

12 A YES, SIR

13 Q AND, I BELIEVE YOU TESTIFIED THAT AFTER A POINT ONE
14 NIGHT WHEN YOU WERE AT HER HOUSE YOU WERE SITTING AROUND
15 DRINKING AND ONE THING LED TO ANOTHER AND YOU SLEPT OVER,
16 IS THAT CORRECT?

17 A YES, SIR, WELL, REALLY I PASSED OUT ON THE COUCH

18 Q ALL RIGHT, SIR, AND YOU SOMETIME AFTER THAT BEGAN
19 STAYING OVER MORE AND MORE OFTEN, DIDN'T YOU?

20 A YES, SIR, OCCASIONALLY BECAUSE I SPENT A LOT OF TIME
21 WITH HER BOYS, HER TWO SONS

22 Q AND, I THINK YOU TESTIFIED THAT YOU WOULDN'T KEEP
23 CLOTHES OVER THERE, IS THAT CORRECT?

24 A YES, SIR

25 Q WHEN DID YOU START, WHEN DID YOU START SLEEPING OVER

1 THERE, MR CAMPBELL?

2 A IT WAS ABOUT, I WOULD SAY, THREE MONTHS, MAYBE THRFE
3 AND A HALF, FOUR, FOUR AND A HALF I'M NOT FOR SURE

4 Q AND, YOU TESTIFIED THAT YOU KEPT YOUR CLOTHES IN
5 THE TRUNK OF YOUR CAR?

6 A NO, SIR, THE ONLY THING I WORE WAS BLUE JEANS AND I
7 DIDN'T HAVE TOO MANY PAIR OF THOSE

8 Q SO, YOU DIDN'T TAKE A CHANGE OF CLOTHES?

9 A I ALWAYS KEPT A CHANGE OF CLOTHES IN MY AUTOMOBILE

10 Q ALL RIGHT, SIR, WELL, DIDN'T YOU TESTIFY ON DIRECT
11 THAT YOU SOLD YOUR AUTOMOBILE AND YOU WERE DRIVING A
12 MOTORCYCLE?

13 A YES, SIR

14 Q WELL, HOW COULD YOU KEEP YOUR CLOTHES IN THE TRUNK OF
15 YOUR CAR WHEN YOU WERE RIDING A MOTORCYCLE AT THE TIME
16 WHEN YOU SOLD YOUR CAR?

17 A I DON'T UNDERSTAND THE QUESTION, SIR?

18 Q YOU TESTIFIED YOU STAYED OVER, SPENT THE NIGHT AT
19 ANN WILSON'S HOUSE, IS THAT CORRECT?

20 A YES, SIR

21 Q YOU TESTIFIED THAT ANN WILSON LENT YOU MONEY SO THAT
22 YOU COULD TRADE IN YOUR CAR ON A MOTORCYCLE, IS THAT
23 CORRECT?

24 A YES, SIR

25 Q YOU TESTIFIED THAT WHEN YOU STAYED OVER WITH ANN

1 WILSON YOU KEPT YOUR CLOTHES IN THE TRUNK OF YOUR CAR,
2 DIDN'T YOU?

3 A I NEVER DID STAY THERE THAT MUCH TO HAVE MY CLOTHES
4 IN THE TRUNK OF MY AUTOMOBILE

5 O WHAT KIND OF A CAR WAS THAT, SIR?

6 A IT WAS A 1968 FORD FAIRLANE 500

7 Q WHAT COLOR WAS IT, SIR?

8 A IT WAS RED WITH CHROME UNDERSKIRTS

9 Q ON JULY TENTH YOU TESTIFIED THAT YOU WENT OVER TO
10 YOUR SISTER'S HOUSE ABOUT 5 30, 5 00, 6 00, IS THAT CORRECT?

11 A YES, SIR, SOMEWHERE IN THERE

12 Q ALL RIGHT, YOUR SISTER, SHE WAS A PRETTY GOOD HUNTER,
13 WASN'T SHE, DELORES?

14 A TO THE BEST OF MY KNOWLEDGE SHE WAS

15 O AND SHE KEPT GUNS OUT HER HOUSE IN A GUN CABINET,
16 DIDN'T SHE?

17 A YES, SIR

18 Q AND SHE KEPT SHELLS IN THE DRAWER IN THE BOTTOM OF
19 THAT GUN CABINET, DIDN'T SHE?

20 A I DON'T, REALLY DON'T KNOW WHERE SHE KEPT HER SHELLS
21 AT

22 Q SHE HAD A GUN CABINET, DIDN'T SHE THOUGH?

23 A YES, SIR

24 O AND YOU AND YOUR SISTER ARE CLOSE, ISN'T THAT CORRECT?

25 A YES, SIR, I'M CLOSE WITH MY WHOLE FAMILY

1 Q AND YOU'D VISIT HER A GOOD BIT, WOULDN'T YOU?

2 A YES, SIR

3 Q NOW, YOU TESTIFIED THAT YOU STAYED AT DELORES' HOUSE,
4 WHAT, ABOUT AN HOUR, HOUR AND A HALF?

5 A YES, IT WAS SOMEWHERE ALONG IN THERE, BUT I GOT ON
6 THE TELEPHONE AND TALKING TO DELORES, TOO

7 Q WHAT TIME DID YOU LEAVE HER HOUSE?

8 A UH, IT WAS AROUND 7 30, 8 00, SOMEWHERE IN THAT
9 NEIGHBORHOOD

10 Q AND YOU WENT OVER TO THE LEESBURG ROAD AREA, OVER TO
11 HAZELWOOD ROAD, IS THAT RIGHT?

12 A YES, SIR, THAT IS THE SAME STREET THAT MY GIRLFRIEND
13 LIVES ON

14 Q AND YOU STOPPED AT A POOLHALL?

15 A YES, SIR

16 Q AND YOU HAD HOW MANY BEERS?

17 A THREE OR FOUR, I DON'T REALLY KNOW AT THE TIME I
18 WAS DRINKING BEFORE I EVEN GOT THERE AND WHEN I LEFT
19 EASTOVER I WAS DRINKING

20 Q WHAT WERE YOU DRINKING, WHISKEY?

21 A YES, I WAS DRINKING WHISKEY, YES, SIR

22 Q HAD A HALF PINT OR A PINT BEFORE YOU GOT TO THE
23 POOLHALL?

24 A YES, SIR

25 Q AND THEN YOU HAD FOUR OR FIVE BEERS AT THE POOLHALL,

1 LEFT THAT POOLHALL AND WENT TO ANOTHER ONE, IS THAT
2 CORRECT?

3 A YES, SIR

4 Q HAD SOME MORE BEER THERE, I BELIEVE YOU TESTIFIED TO?

5 A YES

6 Q THEN YOU LEFT THERE AND WENT TO THE MAJIK MARKET AND
7 BOUGHT A HALF PINT OF WINE OR A PINT OF WINE?

8 A NO, SIR, WINE COMES IN PINTS NOW

9 Q WERE YOU DRINKING THAT AS YOU WERE DRIVING ALONG YOUR
10 WAY DOWN LEESBURG ROAD?

11 A YES, SIR

12 Q NOW, YOU TESTIFIED YOU DROVE DOWN LEESBURG ROAD A
13 WAYS AFTER YOU HAD A HALF A PINT OR A FULL PINT OF WHISKEY,
14 FOUR TO SIX TO SEVEN BEERS, YOU DON'T KNOW HOW MANY, REALLY
15 AND YOU WERE DRINKING A PINT OF WINE, IS THAT CORRECT?

16 A YES, SIR

17 Q AND YOU CUT OVER TO DEER RIDGE ROAD, I BELIEVE YOU
18 TESTIFIED, SO YOU COULD GO DOWN THE BACK WAY, IS THAT RIGHT?

19 A YES, SIR

20 Q NOW, YOU WERE CONCERNED THAT YOU DRIVE DOWN THE ROAD
21 THAT YOU WOULD GET STOPPED BY A POLICEMAN DRIVING UNDER
22 THE INFLUENCE, IS THAT WHAT YOU TESTIFIED TO?

23 A YES, SIR

24 Q SO, YOU SAY YOU WERE DRIVING, DRIVING AS CAREFULLY
25 AS YOU COULD, I IMAGINE SO YOU WOULDN'T GET NOTICED BY

1 A POLICE OFFICER, IS THAT RIGHT?

2 A YES, I WAS DRIVING AS CAREFUL AS I COULD BUT I WAS
3 ALSO TRYING TO GET OFF THE MAIN HIGHWAY

4 Q I BELIEVE YOU TESTIFIED YOU WERE DRIVING VERY SLOWLY
5 ONCE YOU PULLED OFF OF LEESBURG ONTO DEER RIDGE ROAD, IS
6 THAT CORRECT?

7 A YES, SIR, I WAS JUST KILLING TIME

8 Q HOW FAST WERE YOU GOING, SIR?

9 A WELL, I DON'T REALLY KNOW IT COULD HAVE BEEN
10 THIRTY-FIVE, FORTY-FIVE, FIFTY

11 Q WELL, IS IT, IS THAT WHAT YOU CALL DRIVING VERY
12 SLOWLY?

13 A YES, SIR, IT IS

14 Q NOW, YOU TESTIFIED THAT YOU WEREN'T PAYING A LOT OF
15 ATTENTION TO WHAT WAS GOING ON AHEAD OF YOU AT THAT POINT,
16 AS YOU DROVE DOWN DEER RIDGE ROAD, IS THAT CORRECT?

17 A YES, SIR

18 Q AND, WHEN YOU GOT ABOUT FOUR HUNDRED TO SIX HUNDRED
19 YARDS FROM THE INTERSECTION OF DEER RIDGE ROAD AND
20 HARMON ROAD, THIS INTERSECTION RIGHT HERE? YOU HEARD A
21 SHOT, IS THAT YOUR TESTIMONY?

22 A YES, SIR

23 Q NOW, FOUR HUNDRED YARDS WOULD BE THE LENGTH OF ABOUT
24 FOUR FOOTBALL FIELDS, IS THAT RIGHT?

25 A YES, SIR

1 Q SIX HUNDRED YARDS WOULD BE THE LENGTH OF ABOUT SIX
2 FOOTBALL FIELDS, IS THAT RIGHT?

3 A YES, SIR

4 Q BUT FROM THAT DISTANCE YOU HEARD A SHOT EVEN THOUGH
5 YOU WEREN'T PAYING ATTENTION, IS THAT CORRECT?

6 A I WASN'T PAYING ATTENTION TO WHAT? I WAS, I DIDN'T
7 HAVE NOTHING ON MY MIND AT THE TIME I WAS JUST RIDING
8 WITH THE WINDOW DOWN

9 Q AND YOU HEARD A SHOT?

10 A YES, SIR

11 O YOU DIDN'T TESTIFY THAT YOU SAW THE BLAST OR SAW THE
12 TRUCK, DID YOU?

13 A NO, SIR

14 Q AND I THINK YOU TESTIFIED THAT WHEN YOU GOT UP HERE
15 TO THE STOP SIGN YOU SAW A MAN, A WHITE MAN RUNNING DOWN
16 TOWARDS LEESBURG ROAD, IS THAT RIGHT?

17 A NO, SIR

18 O WHAT DID YOU TESTIFY TO?

19 A I TESTIFIED THAT WHENEVER I GOT TO THE STOP SIGN I
20 WAS TURNING ON HARMON ROAD OFF OF DEER RIDGE ROAD, I
21 WAS MAKING THAT TURN RIGHT THERE IS WHEN I, 'Y LIGHTS
22 TURNED ON HARMON ROAD I SEEN A MAN RUNNING TOWARDS
23 LEESBURG ROAD

24 O ALL RIGHT, SIR, SO YOU HEARD THE BLAST FROM ABOUT
25 FOUR HUNDRED TO SIX HUNDRED YARDS, IS THAT RIGHT?

1 A YES, SIR

2 Q AND, DID YOU SPEED UP OR SLOW DOWN AS YOU APPROACHED
3 THE STOP SIGN?

4 A NO, SIR, NOT REALLY

5 Q DID YOU STOP AT THE STOP SIGN?

6 A YES, SIR

7 Q AND YOU TURNED LEFT, IS THAT CORRECT?

8 A NO, SIR, I WASN'T TURNING LEFT

9 Q WHERE--STEP DOWN PLEASE? (WITNESS BEFORE THE JURY)
10 WHERE WERE YOU WHEN YOU SAW THE MAN?

11 A I WAS RIGHT IN, I WAS RIGHT IN ABOUT HERE I'D SAY
12 IN HERE

13 Q THIS IS DEER RIDGE, IS THAT CORRECT? YOU ARE COMING
14 FROM THIS DIRECTION?

15 A YES, SIR

16 Q AND YOU ARE RIGHT HERE WHEN YOU SAW THE MAN RUNNING?

17 A WELL, MY LIGHTS CAUGHT HIM RIGHT ABOUT ALONG IN HERE

18 Q LET ME INTERRUPT YOU FOR A SECOND, BUT I SEE THERE
19 ON THE TOP OF YOUR HAND?

20 A IT'S A TATOO

21 Q OWENS AND ANNA, WHAT'S THAT? STEP OVER HERE IF YOU
22 WOULD? NOW, THAT'S TWO HEARTS AND I GUESS THERE IS AN
23 ARROW THROUGH THERE? AND I THINK I'VE NOTICED ONE HERE ON
24 THE OTHER HAND, RIGHT? WHAT'S THAT?

25 A IT'S JUST A TATOO OF A WOMAN

1 O IS SHE DRESSED?

2 A NO, SIR

3 Q I THINK YOU TESTIFIED THAT YOU DON'T HAVE ANY INTEREST
4 IN SEX, IS THAT CORRECT?

5 A YES, SIR

6 Q ALL RIGHT, SIR?

7 A THIS IS JUST A PENITENTIARY TATOO

8 O NOW, YOU WERE COMING DOWN THIS ROAD BUT YOU DIDN'T
9 TURN LEFT?

10 A NO, SIR I, I WAS HITTING ABOUT HERE WHEN I SEEN
11 THE MAN RAN, RUN UP THERE FROM MY LIGHTS TURN ABOUT HERE,
12 AND THAT'S WHEN ABOUT I TURNED, RIGHT ABOUT ALONG IN HERE
13 WELL, I STOPPED MY CAR RIGHT IN HERE

14 Q SO YOU DID TURN LEFT?

15 A YES, SIR, I WOUND UP TURNING LEFT

16 Q BACK TOWARDS LEESBURG ROAD?

17 A YES, SIR

18 Q BUT YOU TESTIFIED THAT YOU WERE TRYING TO STAY OFF
19 LEESBURG ROAD BECAUSE YOU WERE UNDER THE INFLUENCE, IS
20 THAT CORRECT?

21 A YES, SIR WELL, I SEEN THIS MAN IN MY LIGHTS RIGHT
22 HERE AS I WAS COMING UP TO THE STOP SIGN I SEEN HIM IN
23 MY FLASH RIGHT HERE I TURNED TO SEE WHO IT WAS, WHAT IT
24 WAS?

25 Q YOU THOUGHT HE MIGHT HAVE BEEN THE MAN WHO FIRED THE

1 GUN THAT YOU HEARD THE SHOT?

2 A NO, SIR, THAT WASN'T EVEN ON MY MIND

3 Q YOU WERE DRIVING DOWN THE ROAD, YOU SAW A MAN OUT
4 OF YOUR LINE OF TRAVEL OVER HERE AND YOU THOUGHT YOU WOULD
5 JUST TURN LEFT TO SEE WHO IT IS?

6 A YES, SIR

7 Q NOW, IF YOU WILL STEP OVER HERE? I SHOW YOU STATE'S
8 EXHIBIT NO 7? NOW, THIS IS A PICTURE OF DEER RIDGE ROAD
9 LOOKING FROM THE STOP SIGN, RIGHT UP HERE THERE IS A
10 PICTURE LOOKING DOWN THAT WAY, IS IT NOT?

11 A YES, SIR

12 Q OKAY, NOW, YOU SEE A LITTLE LINE RIGHT THERE ABOUT
13 MY THUMB?

14 A YOU MEAN RIGHT THERE?

15 Q YES, SIR?

16 A YES, SIR

17 Q THAT'S SGT KEN MC KARN'S DRIVEWAY, ISN'T IT?

18 A I DON'T KNOW WHO THAT HOUSE BELONGS TO

19 Q THAT IS A DRIVEWAY, THOUGH, ISN'T IT? DOES IT LOOK
20 LIKE A DRIVEWAY?

21 A YES, SIR, IT LOOKS LIKE A DRIVEWAY

22 Q HOW FAR AWAY FROM THIS INTERSECTION WOULD YOU SAY
23 THAT DRIVEWAY WAS? TWO HUNDRED YARDS?

24 A NOT IN A PHOTO, I CAN'T TELL IT COULD BE TWO HUNDRED,
25 COULD BE A HUNDRED, COULD BE FIFTY

1 O NOW, SGT MC KARN WHO LIVED IN THERE TESTIFIED THAT
2 WAS ABOUT TWO HUNDRED METERS, TWO HUNDRED YARDS, YOU
3 WOULDN'T DENY THAT, WOULD YOU?

4 MR VERMONT YOUR HONOR, HE CAN'T
5 PIT THIS WITNESS AGAINST THE OTHER LIKE THAT

6 'R ELLIOTT I AM JUST ASKING, YOUR
7 HONOR, IF THAT IS A FAIR REPRESENTATION OF THE DISTANCE
8 THAT IS SHOWN IN THE PHOTOGRAPH

9 'R VERMONT HE JUST SAID HE CAN'T
10 TELL IN THE PHOTOGRAPH

11 THE COURT IF HE CAN'T TELL, HE CAN'T
12 TELL

13 CROSS EXAMINATION CONTINUES BY MR ELLIOTT

14 Q I SHOW YOU STATE'S EXHIBIT NO 6, THAT IS AN AERIAL
15 PHOTOGRAPH OF THE AREA DO YOU RECOGNIZE THE ROADS AND
16 STREETS THERE? THIS IS LELSBURG ROAD, THIS IS WHAT YOU
17 CALL DEER RIDGE, THIS IS HARMON ROAD?

18 A YES, SIR

19 O DOES THAT LOOK FAIR? I BELIEVE YOU TESTIFIED YOU
20 WERE COMING UP THIS WAY ON DEER RIDGE, DEER RIDGE ROAD?

21 A YES, SIR

22 Q WHEN YOU HEARD THE BLAST? NOW, WHERE DID OLIN D
23 WILSON'S PICKUP TRUCK HAVE BEEN WHEN HE WAS SHOT?

24 A WHERE DID I SEE IT AT? I DIDN'T SEE IT WHEN IT GOT
25 SHOT

1 Q THERE IS A STOP SIGN RIGHT HERE, ISN'T THERE?

2 A YES, SIR, WHENEVER I SEEN HIS TRUCK HIS TRUCK WAS
3 RIGHT ALONG IN HERE

4 O ALL RIGHT, SIR, NOW, SHOW ME AGAIN WHERE THE TRUCK
5 WAS WHEN YOU SAW IT?

6 A THIS IS DEER RIDGE COMING DOWN RIGHT HERE, RIGHT?
7 THIS IS DEER RIDGE COMING UP THIS WAY?

8 Q THIS IS THE WAY YOU ARE GOING, SIR

9 A RIGHT

10 THE COURT KEEP YOUR VOICE UP

11 A WHENEVER I SEEN THE TRUCK THE TRUCK WAS ABOUT--
12 YOU COULD SAY, ABOUT MAYBE 1 30, 2 00 THAT-A-WAY

13 Q AND HOW FAR FROM THE INTERSECTION?

14 A I DON'T KNOW ABOUT FIFTY FEET TO SEVENTY-FIVE FEET,
15 TWENTY-FIVE I DON'T KNOW, I DIDN'T STEP IT OFF

16 Q I SHOW YOU STATE'S EXHIBIT NO 20 AND ASK YOU IF YOU
17 RECOGNIZE THAT?

18 A I DON'T RECOGNIZE THAT TRUCK, IT WAS THAT WAY AT NIGHT

19 Q YOU RECOGNIZE THAT TRUCK?

20 A YES, SIR

21 Q WHOSE TRUCK IS IT?

22 A IT'S OLIN D WILSON'S TRUCK

23 Q WAS IT POINTED IN THE WOODS IN THAT BASIC POSITION
24 ON THE NIGHT IN QUESTION?

25 A IT WAS IN THE WOODS, I DON'T KNOW WHAT DIRECTION IT

1 WAS POINTING

2 Q AND YOU HAD RIDEN IN OLIN D WILSON'S TRUCK THE WEEK
3 BEFORE, IS THAT CORRECT?

4 A YES, SIR

5 Q AND YOU RECOGNIZE THAT AS BEING HIS TRUCK, IS THAT
6 CORRECT?

7 A AT THAT PRESENT TIME, WHENEVER I WALKED UP TO THE
8 TRUCK, NO, SIR I DID NOT KNOW IT WAS OLIN D WILSON'S
9 TRUCK AND I DID NOT KNOW IT WAS OLIN D WILSON IN THAT
10 TRUCK IF I HAD BEEN SOBER THAT NIGHT WHERE I HAD MY
11 STATE OF MIND I WOULD HAVE STAYED THERE AND ALL THIS
12 TRIAL WOULDN'T HAVE BEEN COMING UP RIGHT NOW,

13 Q ALL RIGHT, SIR, I SHOW YOU THIS AERIAL PHOTOGRAPH
14 AGAIN POINT OUT WHERE THIS WHITE MAN, ABOUT YOUR SIZE,
15 ABOUT YOUR HEIGHT, THIS FELLOW, WHERE HE, WHERE HE WAS
16 WHEN YOU SAW HIM?

17 A THE FLASH OF HIM WAS RIGHT ALONG IN HERE, GOING THIS
18 WAY BUT THAT'S, WHENEVER I TURNED MY CAR THIS WAY HE
19 WAS RUNNING THIS WAY

20 THE COURT FIX IT SO EVERYONE CAN SEE
21 SOME JURORS CANNOT SEE

22 A AND, THIS WAY WHENEVER I COME HERE MY LIGHTS CAUGHT
23 HIM RIGHT IN HERE HE WAS RUNNING LIKE THIS, RUNNING
24 TOWARDS LEESBURG ROAD THAT'S WHEN I TURNED IN RIGHT
25 HERE AND I STOPPED MY CAR RIGHT ALONG IN HERE, RIGHT PAST

1 IT AND HE WAS RUNNING THIS WAY AND THAT'S WHERE 'THEN,
2 I SAID, I SEEN THE TIP OF HIS CAR, HALF OF HIS CAR AND
3 THE COLOR OF IT BUT THEN, YET, I COULD NOT, I COULDN'T
4 SAY THAT HE WAS A 'WHITE MAN OR IF HE WAS A BLACK MAN I
5 CAN'T HONESTLY SAY THAT HE WAS THIRTY-FIVE OR FORTY YEARS
6 OLD I TRIED TO EXPLAIN THAT TO LT CONNIE LEWIS WHEN I
7 WAS GIVING MY STATEMENT BUT HE WASN'T INTERESTED IN THAT
8 Q AND HOW FAR DID HE HAVE TO RUN DOWN THAT STREET TO
9 HIS CAR AS YOU SAT THERE AND WATCHED HIM?
10 A I DON'T KNOW, IT WASN'T BUT ABOUT FIFTY YARDS DOWN
11 THERE, ABOUT FIFTY YARDS, SEVENTY-FIVE, I DON'T KNOW I
12 DON'T KNOW THE EXACT DISTANCE OF IT
13 Q AND, SHOW ME AGAIN WHERE YOUR CAR WOULD HAVE BEEN
14 WHEN YOU HEARD THE BLAST?
15 A MY CAR WOULD HAVE BEEN BACK UP IN HERE
16 Q INDEED, WOULDN'T IT HAVE BEEN OFF THE PICTURE?
17 A YES, SIR
18 O TAKE YOUR SEAT, SIR (RETURNS TO THE WITNESS STAND)
19 NOW, YOU TESTIFIED FAIRLY EXTENSIVELY, SIR, FROM YOUR
20 STATEMENT OF APRIL TWENTY-SECOND ON DIRECT AND I THINK
21 YOU COVERED IT PRETTY WELL, BUT I THINK YOU LEFT OUT ONE
22 THING YOU TESTIFIED ON DIRECT A MOMENT AGO THAT YOUR
23 CAR WAS FOUR HUNDRED TO SIX HUNDRED YARDS FROM THE INTER-
24 SECTION OF DEER RIDGE ROAD AND HARMON ROAD WHEN YOU HEARD
25 THE SHOTS, IS THAT CORRECT?

1 A YES, SIR, I SAID, I COULDN'T SAY EXACTLY HOW FAR IT
2 WAS AT NIGHT TIME I SAID SOMETHING LIKE THAT THIS WAS
3 JUST WILD GUESSES MAKING TO CONNIE LEWIS, TRYING, TRYING
4 TO GIVE HIM THE STATEMENT

5 Q WELL, WHEN YOU GAVE THAT STATEMENT WHAT HAD YOU HEARD
6 ABOUT A REWARD OFFERED FOR THE MURDERER IN THIS CASE?

7 A I HEARD THAT THERE WAS A REWARD THROUGH MY BROTHER

8 Q SO YOU CAME DOWN AND SIGNED THE STATEMENT, DIDN'T
9 YOU WHEN YOU HEARD THERE WAS A REWARD?

10 A NO, SIR

11 Q YOU SAID IN THIS STATEMENT, AND I WILL READ IT TO YOU
12 "I DROVE UNTIL I CAME TO A ROAD BEFORE, BEFORE I GOT TO
13 HARMON ROAD I BELIEVE THAT THERE ARE ABOUT TWO OR THREE
14 CHURCHES ON LEESBURG ROAD BEFORE YOU GET TO THAT ROAD I
15 THEN MADE A LEFT ON DEER RIDGE ROAD WHEN I GOT TO THE
16 END OF DEER RIDGE ROAD, THAT COMES INTO HARMON ROAD, THAT'S
17 WHEN I HEARD ONE GUNSHOT AND SAW THIS WHITE MAN RUN WITH
18 A SHOTGUN IN HIS HAND TOWARDS 601 HIGHWAY ON LEESBURG
19 ROAD " WOULD YOU CARE TO LOOK AT THAT, SIR?

20 A YES

21 Q IT IS ABOUT HALFWAY THROUGH THE FIRST PARAGRAPH, SIR

22 A YES, SIR, I MADE THIS STATEMENT THIS WAY IT'S LIKE
23 I SAID BEFORE, I WAS JUST GIVING THIS STATEMENT TO LT
24 CONNIE LEWIS AND HE WASN'T INTERESTED IN HOW FAR, DETAILS
25 OR HOW MANY FEET EXACTLY, HOW MANY FEET IT WAS AND THE

1 ONLY THING MR LT CONNIE LEWIS WAS INTERESTED IN WAS
2 THIS STATEMENT RIGHT HERE HE DIDN'T CARE HOW HE WORDED
3 IT OR NOTHING ELSE

4 Q IS IT YOUR TESTIMONY NOW THAT THAT PART OF THE
5 STATEMENT IS UNTRUE?

6 A YES, SIR

7 Q WHOSE SIGNATURE IS THAT RIGHT THERE?

8 A THAT'S MY SIGNATURE, FRANCIS OWENS CAMPBELL

9 Q WHOSE SIGNATURE IS THAT RIGHT THERE?

10 A THAT'S MY SIGNATURE

11 Q WHOSE INITIALS ARE THESE?

12 A THOSE ARE MINE AS I SAY, THOSE ARE MINE AS I SAY--

13 Q FOC?

14 A MINE

15 Q FOC, FOURTH?

16 A MINE, FOC

17 Q WHOSE SIGNATURE IS THAT?

18 A THAT'S MY SIGNATURE FRANCIS OWENS CAMPBELL

19 Q READ WHAT THAT SAYS?

20 A WHERE, RIGHT HERE?

21 Q YES, SIR?

22 A "SWORN TO AND SUSCRIBED BEFORE ME THIS THIS TWENTIETH
23 DAY OF APRIL, 1980 "

24 Q IT SAY "SWORN TO AND SUSCRIBED BEFORE ME" DOESN'T IT?

25 A YES, SIR

1 Q HOW LONG WERE YOU IN VIET NHAM, SIR?

2 A BOTH OF MY TOURS I WAS IN VIET NHAM, FIFTEEN MONTHS

3 Q YOU GOT OUT OF THE TRUCK, YOU GOT OUT OF YOUR CAR
4 AND WENT OVER TO THE TRUCK, IS THAT CORRECT?

5 A YES, SIR

6 O YOU LOOKED IN THE TRUCK AND WHAT DID YOU SEE?

7 A I SEEN A MAN SLUMPED OVER THE SEAT FULL OF BLOOD

8 O WAS THERE ANY MOON THAT NIGHT?

9 A SIR, I CAN'T RECALL THERE WAS, OR WAS A FULL MOON OR
10 HALF MOON OR WHAT

11 Q YOU DIDN'T CALL OUT TO THE MAN, DID YOU?

12 A NO, NOT AS I REMEMBER, I DIDN'T CALL OUT TO HIM AT
13 THE TIME I WAS JUST STUNTED I MEAN, I, I JUST WENT BLANK
14 FOR A MOMENT

15 O YOU DIDN'T CALL FOR HELP, DID YOU?

16 A NO, SIR

17 Q NOW, IF YOU HAD BEEN IN VIET NHAM AND ONE OF YOUR
18 BUDDIES WOULD HAVE BEEN HURT WOULD YOU HAVE CALLED FOR
19 HELP?

20 A SIR? WELL, VIET NHAM, YES, SIR, I WOULD HAVE, I
21 WOULD HAVE TENDED HELP FOR HIM AND CALLED A MEDIVAC IN
22 FOR HIM BECAUSE AT THE TIME I WOULD HAVE HAD A STRAIGHT
23 HEAD IN VIET NHAM I DIDN'T DRINK IN VIET NHAM AND I DIDN'T
24 DRINK, PERIOD, IN VIET NHAM

25 Q YOU WOULD HAVE BEEN SCARED IN VIET NHAM, WOULDN'T YOU?

1 A ANYONE IS SCARED WHO GOES INTO WAR, SIR

2 Q YOU DIDN'T CALL FOR HELP IN THIS CASE BECAUSE YOU
3 WERE SCARED TO TESTIFY, ISN'T THAT CORRECT?

4 A SIR, I DIDN'T HEAR THE QUESTION

5 Q YOU WERE SCARED ON JULY TENTH, YOU TESTIFIED, IS THAT
6 CORRECT? THAT'S WHY YOU DIDN'T CALL FOR HELP?

7 A YES, SIR

8 Q YOU DIDN'T REACH IN THERE FOR A PULSE, TRY TO ADMIN-
9 ISTER ANY HELP TO OLIN D WILSON THAT NIGHT, DID YOU?

10 A NO, SIR

11 Q BECAUSE YOU WERE SCARED OF THE LAW, IS THAT RIGHT?

12 A NO, SIR, NOT AT THAT TIME I WASN'T SCARED OF THE
13 LAW I JUST DIDN'T KNOW WHAT TO DO

14 Q YOU DIDN'T TESTIFY ON DIRECT THAT THE POLICE WERE
15 ALWAYS ACCUSING YOU AND YOUR BROTHER IN EASTOVER OF DOING
16 THINGS, STUFF YOU DIDN'T DO, AND YOU WEREN'T GOING TO LET
17 THEM ACCUSE YOU OF THIS?

18 A AFTER I GOT TO MY MOTHER'S HOME, AND GOT TO EASTOVER,
19 AND GOT MY HEAD HALFWAY STRAIGHTENED OUT, AND THEN STARTED
20 THINKING ABOUT IT TO REPORT IT OR NOT REPORT IT

21 Q AND YOU GOT SCARED OF THE LAW, IS THAT CORRECT?

22 A YES, SIR, I DIDN'T KNOW WHETHER THEN TO PICK THE
23 PHONE UP AND CALL THE LAW OR WHAT

24 Q SOMETIME IN NOVEMBER OF LAST YEAR YOU CAME DOWN TO
25 THE SOLICITOR'S OFFICE TO TALK TO MR HARPOOTLIAN, DIDN'T

1 YOU? DIDN'T YOU TESTIFY IN NOVEMBER OF LAST YEAR YOU
2 CAME DOWN, OR IN OCTOBER OF LAST YEAR YOU CAME DOWN AND
3 TALKED TO DICK HARPOOTLIAN?

4 A NO, SIR, THEY BROUGHT ME DOWN MR HARPOOTLIAN AND
5 LT CONNIE LEWIS

6 Q AND MR HARPOOTLIAN IS THE DEPUTY SOLICITOR HERE,
7 ISN'T HE?

8 A YES, SIR, I BELIEVE HE IS

9 Q HE IS A PROSECUTOR, ISN'T HE?

10 A YES, SIR

11 Q AND HE TOLD YOU WHAT JAMIE OWENS WAS ACCUSING YOU
12 OF, DIDN'T HE?

13 A YES, SIR

14 Q AND YOU LAUGHED, DIDN'T YOU?

15 A YES, SIR, BECAUSE AT THE TIME HE DID NOT HAVE
16 SCRIPTURE OF THE TESTIMONY THAT JAMIE MADE TO HIM HE
17 WAS HOLDING UP A PIECE OF PAPER, LEANING BACK IN THE
18 CHAIR WHEN I WALKED IN HE WAS GRINNING AT ME

19 Q YOU WEREN'T SCARED THEN, WERE YOU? YOU LAUGHED IN
20 HIS FACE, DIDN'T YOU?

21 A BECAUSE AT THE TIME I DIDN'T KNOW WHAT JAMIE HAD
22 SAID ABOUT ME UNTIL MR HARPOOTLIAN STARTED READING
23 THE WARRANT ON TO ME AND THEN I SAID, WELL, YOU GO AHEAD
24 AND SIGN THE WARRANT BECAUSE I'M NOT GUILTY OF NOTHING
25 CAUSE I DID NOT KILL OLIN D WILSON AND THEN MR HARPOOTLIAN,

1 UH, HE SAID, OWENS, HE SAID, I THOUGHT THAT YOU WAS A
2 BETTER MAN THAN THAT, AND YOU HAD BETTER SENSE THAN THAT
3 TO TAKE THE WHOLE LOAD ON YOURSELF AND I SAID, WHAT YOU
4 TALKING ABOUT, 'R HARPOOTLIAN HE SAYS, MR HARPOOTLIAN
5 TELLS ME, HE SAYS, OWENS, HE SAYS, I KNOW THAT YOU KNOW
6 SOMETHING ELSE ABOUT IT I SAID, MR HARPOOTLIAN, I DON'T
7 KNOW WHO KILLED THE MAN IF I KNEW WHO KILLED THE MAN
8 I WOULD TELL YOU BECAUSE I'VE TRIED TO HELP YOU SOLVE
9 THIS CASE I HAVE TO TRY TO HELP MR LT CONNIE LEWIS
10 I HAVE EVEN TRIED TO MIX WITH THE FAMILY TO FIND OUT
11 ANYTHING ABOUT THIS HERE I'VE EVEN BEEN WIRED BY CONNIE
12 LEWIS I TOLD MR CONNIE LEWIS IF HE WOULD SIGN A PHONEY
13 WARRANT ON ME MAYBE IT MIGHT PROVIDE INFORMATION TO THE
14 SERVICE OR SOMETHING HE SAID HE COULDN'T DO THAT

15 Q YOU WENT HOME ON JULY TENTH, 1978 AND YOU BEGAN
16 TO THINK ABOUT IT THEN, YOU GOT SCARED, IS THAT CORRECT?

17 A YES, SIR

18 Q BUT NOW, WHY DIDN'T YOU TURN TO YOUR FATHER?

19 A SIR, BECAUSE ME FATHER IS A RETIRED CHIEF OF POLICE
20 AND HE IS, HE HAD AN INCIDENT WHERE SOME PEOPLE GOT KILLED
21 AND HE WAS CHASING A MAN AND TWO LITTLE GIRLS, HE WAS
22 IN PURSUIT AFTER ANOTHER CAR AND THEY HAD A WRECK AND
23 KILLED THIS SCHOOL TEACHER AND TWO LITTLE GIRLS ACCIDENTALLY
24 AND MY FATHER STARTED DRINKING AND MY FATHER HASN'T STOPPED
25 DRINKING AND MY FATHER IS AN ALCOHOLIC

1 Q YOUR FATHER IS A FORMER CHIEF OF POLICE AND YET
2 YOU'PE SCARED OF THE POLICE, IS THAT CORRECT?

3 A YES, SIR

4 Q YOUR FATHER IS A FORMER CHIEF OF POLICE, YOU COULD
5 HAVE TOLD HIM? YOU TRUST YOUR FATHER, DON'T YOU?

6 A YES, SIR, I TRUST MY FATHER

7 Q IF YOU WOULD STEP DOWN HERE ONE MORE TIME, PLEASE?
8 I SHOW YOU STATE'S EXHIBIT NO 7 AGAIN AND ASK YOU IF IT
9 IS NOT THE SAME PICTURE THAT YOU LOOK DOWN DEER RIDGE
10 ROAD THAT YOU LOOKED DOWN A MINUTE AGO?

11 A YES, SIR (STEPS BEFORE THE JURY)

12 Q AND THERE ARE SOME DRIVEWAYS DOWN HERE WE POINTED
13 OUT A MOMENT AGO, AREN'T THEY?

14 A YES, THEY ARE DRIVEWAYS, YES

15 Q ALL RIGHT, SIR, AND BEYOND THE DRIVEWAYS THERE'S
16 A HILL IN THIS PICTURE, ISN'T THERE?

17 A YES, SIR

18 Q AS A MATTER OF FACT IT STARTS IMMEDIATELY BEHIND
19 THE DRIVEWAY, DON'T IT?

20 A ACCORDING TO THAT PICTURE IT DOES, YES

21 Q THIS PICTURE IS AN ACCURATE REPRESENTATION OF THAT
22 SCENE, YES?

23 A YES, AS FAR AS I KNOW IT IS

24 O YOU'VE BEEN THERE BEFORE, HAVEN'T YOU?

25 A YES, SIR, I'VE NEVER PINPOINTED IT JUST TO TAKE A

1 PICTURE OF IT MYSELF

2 Q HAVE A SEAT PLEASE? (WITNESS RESUMES THE WITNESS
3 STAND) SO, ACCORDING TO YOUR TESTIMONY, ON JULY 10, 1978
4 YOU WERE JUST BROWSING AROUND EASTOVER, IS THAT CORRECT?

5 A WELL, YES, SIR, YOU CAN CALL IT BROWSING AROUND
6 EASTOVER, JUST SITTING AROUND, WELL, NOT SITTING JUST
7 RIDING AROUND EASTOVER, TALKING TO SOME OF MY FRIENDS IN
8 EASTOVER

9 Q NOW, NOW, MR CAMPBELL, YOU CALLED IT BROWSING
10 AROUND EASTOVER, IF YOU RECALL I--

11 A WELL, YES, SIR, THAT'S WHAT I CALL BROWSING

12 Q AND DURING THE COURSE OF THE EVENING YOU HAD A PINT
13 OF WHISKEY, THEN YOU HAVE ABOUT FOUR TO SIX BEERS, AND
14 A PINT OF WINE, IS THAT CORRECT?

15 A YES, SIR

16 Q YOU DROVE HOME THE BACK WAY SO YOU WOULDN'T GET
17 PULLED FOR DUI, IS THAT CORRECT?

18 A YES, SIR

19 Q WHILE ON YOUR WAY HOME YOU HEARD A SHOTGUN BLAST,
20 RIGHT?

21 A YES, SIR

22 Q SAW A MAN ABOUT YOUR HEIGHT, WITH YOUR HAIR, FITTING
23 YOUR DESCRIPTION, RUNNING AWAY FROM A PICKUP TRUCK IN
24 THE WOODS WITH A SHOTGUN? IS THAT CORRECT?

25 A YES, SIR

1 Q YOU JUMPED OUT OF YOUR CAR ABOUT FORTY-FIVE SECONDS
2 TO A MINUTE, LOOKED AT THE BODY AND GOT BACK IN YOUR
3 CAR, AND WENT HOME AND HAD ANOTHER DRINK, IS THAT YOUR
4 TESTIMONY?

5 A YES, SIR, I GOT HOME AND I DIDN'T KNOW WHAT TO DO,
6 TO CALL THE LAW, CALL AN AMBULANCE OF DO WHAT

7 O I DON'T HAVE ANYTHING FUTHER

8 MR VERMONT I DON'T HAVE ANYTHING
9 FURTHER, PLEASE COME DOWN

10 THE COURT THANK YOU, SIR, YOU MAY
11 COME DOWN

12 MR VERMONT ONE MOMENT, YOUR HONOR
13 (PAUSE) WE CALL DEBBIE FATTH HICKOX, YOUR HONOR

14 DEBBIE FAITH HICKOX, AFTER
15 BEING DULY SWORN, TESTIFIES AS FOLLOWS

16 DIRECT EXAMINATION

17 BY MR VERMONT

18 THE CLERK STATE YOUR FULL NAME AND
19 SPELL YOUR LAST NAME?

20 MS HICKOX MY NAME IS DEBBIE FAITH
21 HICKOX

22 Q DEBBIE, YOU ARE OWENS' SISTER, IS THAT CORRECT?

23 A YES, SIR, I AM

24 O SAME FAMILY MEMBER THAT HAS BEEN POINTED TO SEVERAL
25 TIMES BY THESE OTHER FELLOWS, IS THAT RIGHT?

1 A YES, SIR

2 Q YOU LOVE YOUR BROTHER?

3 A YES, SIR, I DO I LOVE MY OTHER BROTHER AND ALL MY
4 OTHER SISTERS, TOO,

5 O YOU ARE CLOSE TO THE OWENS SIDE?

6 A I AM CLOSE TO ALL MY FAMILY, TRY TO BE

7 O WOULD YOU COME HERE AND LIE FOR HIM?

8 A NO, SIR, I WOULD NOT

9 O ALL RIGHT, LET ME ASK YOU ABOUT A COUPLE OF THINGS?
10 UH, LAST SUMMER DID JAMIE STAY WITH YOU SOME AT YOUR
11 TRAILER?

12 A JAMIE STAYED WITH ME JUNE AND JULY

13 O NOW, WHO IS JAMIE IN RELATION TO YOU?

14 A HE IS MY FIRST COUSIN

15 Q ALL RIGHT, DID HE COME TO SEE YOU WHEN YOU WERE IN
16 THE HOSPITAL?

17 A YES, SIR, HE DID

18 Q WHAT WERE THOSE CIRCUMSTANCES?

19 A HE HAD, HE HAD CAME UP THERE OWENS HAD CAME IN
20 LATER

21 O UH HUH?

22 A AND SOMETHING ABOUT CLOTHES CAME UP JAMIE, HE
23 LOOKED, HE LOOKED LIKE HE HAD NOT HAD A BATH--

24 MR ABRY OBJECTION, YOUR HONOR, IT
25 IS IRRELEVANT

1 THE COURT WHAT WAS THE QUESTION?

2 MR MABRY OBJECT TO THE SAME THING
3 TRYING TO IMPEACH THE CREDIBILITY OF THE WITNESS BY SOME-
4 THING THAT IS IMPROPER THEY KNOW AND THEY SHOULDN'T
5 BE ALLOWED

6 THE COURT JUST MAKE THE OBJECTION
7 I DON'T WANT THE ARGUMENT

8 MR MABRY I AM OBJECTING BECAUSE IT
9 WAS NOT RELEVANT AND IMPROPER

10 THE COURT FINE DO YOU WANT TO BE
11 HEARD?

12 MR VERMONT I DON'T THINK IT NEEDS
13 TO BE, YOUR HONOR, I WOULD JUST LIKE TO CONTINUE

14 THE COURT WAIT A MINUTE, I JUST
15 BETTER HEAR YOU ON IT DON'T DISCUSS THE CASE, I WILL
16 SEND FOR YOU IN A MINUTE

17 (JURY LEAVES THE JURY BOX AT 5 00 P :)

18 (OFF THE RECORD DISCUSSION, ATTORNEYS
19 AND COURT, AT THE BENCH)

20 (RECESS AT 5 00 P M)

21
22 (RESUME AT 5 13 P M)

23 (WITNESS RESUMES THE WITNESS STAND)

24 THE COURT ALL RIGHT, ARE YOU READY
25 TO PROCEED?

1 MR MABRY YES, SIR

2 MR VERMONT YES, SIR

3 (JURY RETURNS TO THE JURY BOX AT 5 15

4 P M)

5 DIRECT EXAMINATION CONTINUES BY MR VERMONT

6 Q ALL RIGHT, DEBBIE, YOU WERE IN THE HOSPITAL LAST
7 SUMMER, IS THAT RIGHT?

8 A YES, SIR

9 Q YOU SAW JAMIE IN THERE?

10 A YES, SIR

11 Q OWENS WAS THERE, TOO, AT THE SAME TIME?

12 A JAMIE WAS THERE, OWENS CAME IN LATER

13 Q OKAY, WHAT HAPPENED THERE?

14 A OWENS WAS DRINKING

15 Q UH HUH?

16 A AND JAMIE, HE LOOKED LIKE HE HAD NOT HAD A BATH FOR

17 A COUPLE OF DAYS AND, UH, HE WAS TALKING ABOUT CLOTHES

18 SO OWENS HISSELF WAS NOT DRESSED TOO GOOD AND, UH, JAMIE

19 WAS TELLING HIM HOW HE WANTED A HUMPHREY BOGART SHOES AND

20 A HUMPHREY BOGART SUIT, SOME KIND OF A HUMPHREY BOGART SUIT

21 AND OWENS ASKED HIM IF HE WANTED A SUIT HE WOULD BUY HIM

22 A SUIT AND THEY WENT DOWNTOWN,

23 Q THEY LEFT, IS THAT RIGHT?

24 A YES, SIR

25 Q YOU WEREN'T WITH THEM, YOU WERE STILL IN THE HOSPITAL?

1 A YES

2 Q AND THEN THEY CAME BACK?

3 A YES, SIR

4 O AND WHAT HAPPENED THEN?

5 A JAMIE HAD CHANGED CLOTHES IN MY HOSPITAL BATHROOM
6 AND HE LEFT HIS CLOTHES THERE AT THE HOSPITAL, THE ONES
7 HE HAD TAKEN OFF AND HE AND OWENS LEFT TOGETHER

8 Q ALL RIGHT, LOOK LIKE THE SAME SUIT WE HAVE BEEN
9 TALKING ABOUT?

10 A YES, SIR, THAT IS THE SAME SUIT

11 Q OKAY, YOU HAD A CONVERSATION WITH JAMIE LATER ON
12 IN THE FALL?

13 A YES, SIR, I DID

14 Q DID HE CALL YOU OR YOU CALL HIM OR HOW DID IT START?

15 A JAMIE CALLED ME

16 Q UH HUH, AND WHAT DID HE SAY?

17 MR MABRY OBJECTION, HEARSAY

18 MR VERMONT NO, SIR, I ASKED HER
19 ABOUT, I ASKED HER IF HE HAD A PHONE CONVERSATION WITH
20 DEBBIE FAITH HICKOX

21 Q WHAT DID HE SAY WHEN HE CALLED YOU?

22 A JAMIE CALLED ME, HE WAS HIGHLY UPSET

23 Q UH HUH?

24 A HE SAID THAT HE HAD, THAT HE HAD, WELL, FIRST OF ALL,
25 HE SAID THAT JOHNNY AND ELAINE HAD CAME OVER TO NADINES

1 AND HE SAID HE HAD STAYED DOWN TO THE SHERIFF'S DEPARTMENTS
2 OFFICER FOR EIGHT HOURS

3 O UH HUH?

4 A AND HE SAID THAT CONNIE LEWIS AND THEM HAVE THREATENED
5 HIM AND HAD HOLLERED AT HIM AND HE ALSO CUSSED JOHNNY AT
6 THE TIME HE WAS MADE WITH JOHNNY

7 Q UH HUH, DID HE SAY WHY?

8 A WELL, WHENEVER HE WAS STAYING WITH ME AND HE WAS
9 STILL MADE, IT WAS SOMETHING ABOUT, UH, JOHNNY HAD SAID
10 SOMETHING ABOUT TAKING A LIFE INSURANCE POLICY OUT ON HIS
11 DADDY AND GETTING HIS--

12 Q THAT'S ALL RIGHT, DON'T WORRY ABOUT WHAT ANYBODY
13 ELSE SAID, OKAY, WHO HASN'T BEEN IN COURT JUST TELL
14 ME WHAT HE SAID ON THE PHONE NOW? DID HE SAY ANYTHING
15 ABOUT MONEY ON THE PHONE?

16 A YES, SIR, HE DID

17 Q WHAT DID HE SAY?

18 A HE SAID THAT JOHNNY GOT \$3700 00 HE SAID ELAINE
19 WAS GOING TO GET SOME MONEY

20 Q THAT'S ALL THE QUESTIONS PLEASE ANSWER ANY
21 QUESTIONS MR MABRY MIGHT HAS FOR YOU

22 MR MABRY YES, SIR

23
24 CROSS EXAMINATION

25 BY MR MABRY

1 Q MS HICKOX, YOU ARE TALKING ABOUT ELAINE CAMPBELL
2 TAYLOR, YOUR SISTER?

3 A YES, SIR

4 Q AND IS IT, SHE AND YOUR FIRST COUSIN JOHNNY OWENS
5 HAD BEEN LOVERS, IS THAT CORRECT?

6 A I CANNOT PROVE THAT, NO, SIR I AM NOT ACCUSING
7 NOBODY OF SUCH A THING AS THAT

8 Q ALL RIGHT, AT ANY RATE THERE HAS BEEN TESTIMONY
9 HERE TO THAT FACT, HASN'T THERE BEEN?

10 A SOMETHING LIKE THAT, YES, SIR

11 Q IN FACT, HER OWN SON HAS SAID THAT, IS THAT CORRECT?

12 A YES BUT I CANNOT SWEAR TO THAT

13 Q BUT, YES, MA'AM?

14 A I MEAN, I WOULD NOT CALL NOBODY'S EYE BLACK, NOT
15 UNLESS I SEE IT WITH MY OWN TWO EYES

16 O YES, MA'AM, I THINK YOU TESTIFIED, ONE OF THE THINGS
17 YOU TESTIFIED TO ON DIRECT EXAMINATION, IS YOU WOULD NOT
18 LIE FOR YOUR BROTHER?

19 A YES, SIR, THAT IS EXACTLY TRUE, FOR HIM OR NOBODY

20 Q AND YOU WOULD NOT LIE FOR YOUR FLESH AND BLOOD?

21 A THAT IS TRUE

22 O YOU WOULD NOT LIE FOR YOUR BROTHER TO SAVE HIM?
23 WOULD YOU?

24 A NO, SIR, I WOULD NOT

25 Q MS HICKOX, LET ME ASK YOU SOMETHING, IF YOU KNEW

1 THAT YOUR BROTHER KILLED OLIN D WILSON WOULD YOU TELL US?
2 ANSWER ME YES OR NO?

3 A YES, I WOULD

4 Q THANK YOU, 'A'AM, NO FURTHER QUESTIONS

5 MR VERMONT THAT'S ALL, 'A'AM, NO
6 FURTHER QUESTIONS

7 WE REST, YOUR HONOR

8 THE COURT ANYTHING IN REPLY?

9 MR. 'ABRY NO REPLY, YOUR HONOR

10 THE COURT SOMEBODY MOVE THIS DOWN

11 SO I CAN SEE THANK YOU

12 'MADAM FOREMAN AND LADIFS AND GENTLEMEN

13 OF THE JURY, WE ARE NEAR THE CONCLUSION OF THIS TRIAL

14 THERE IS NOT BUT A FEW THINGS LEFT TO DO IN EVERY CASE

15 IN THIS STATE AT THIS STAGE I WOULD HAVE TO HEAR MOTIONS

16 OUT OF YOUR PRESENCE THERE IS NO NEED TO KEEP YOU IN

17 THE JURY ROOM WHILE I DO THAT, THE NEXT WOULD BE THE

18 ARGUMENTS OF COUNSEL, THE CHARGE OF THE LAW BY THE COURT

19 AND THEN THE DELIBERATION BY THE JURY THEN YOU RETURN

20 A VERDICT THAT SPEAKS THE TRUTH YOU DON'T KNOW THESE

21 PROCEDURES SO I AM TELLING YOU SO YOU'LL KNOW THAT WE

22 ARE NEAR THE CONCLUSION OF THE TRIAL IT WOULD TAKE LONGER

23 THAN I AM SURE YOU WOULD LIKE TO STAY TONIGHT BECAUSE I

24 DON'T KNOW HOW LONG WE WILL HAVE TO PROCEED IN THE MOTION

25 PERIOD I WILL LET YOU GO ON HOME BUT I WANT YOU BACK AT

1 9 00 IN THE MORNING I HAVE ALREADY CHECKED MY SCHEDULE,
2 I DON'T THINK ANYTHING CAN COME NOW THAT WOULD SLOW ME
3 DOWN 9 00, THAT IS DIFFERENT FROM 9 30 NOT A LOT OF
4 DIFFERENCE, I AM DOWN HERE AT 8 30 EVERY MORNING I AM
5 SURE YOU ALL DON'T WANT TO BE HERE AT 8 30, DO YOU? SO
6 WE WILL SAY 9 00

7 MY SAME INSTRUCTIONS, OF COURSE, I
8 WILL ASK MY USUAL MORNING QUESTION OF YOU WHEN YOU GET
9 BACK I HOPE YOU HAVE A NICE EVENING AND I WILL SEE YOU
10 IN THE MORNING AT 9 00 I AM GOING TO ASK YOU TO PLEASE
11 LEAVE WHEN YOU LEAVE SO I CAN HEAR THE MOTIONS

12 (JURY LEAVES THE COURTROOM FOR THE
13 EVENING AT 5 21 P M)

14 THE COURT ALL RIGHT, PROCEED

15 MR VERMONT YES, SIR, AT THIS TIME
16 I WANT TO RENE W THE MOTION I MADE AT THE PREVIOUS JUNCTURE
17 FOR A DIRECTED VERDICT, YOUR HONOR, ON THE GENERAL GROUNDS
18 OF THE INSUFFICIENCY OF THE EVIDENCE, NOW THAT IT IS ALL
19 FOR THIS CASE TO GO TO THE JURY, AS A MATTER OF LAW?

20 THE COURT DENIED NOW, I CAN ONLY
21 SEE TWO FORMS OF THE VERDICT I WILL BE GLAD TO SEE, HEAR
22 BEFORE ME THE FORM OF A VERDICT TO BE SUBMITTED TO THE JURY
23 TWO FORMS BEING "GUILTY OF MURDER" AND "NOT GUILTY"

24 ANYONE DISAGREE WITH THAT?

25 MR VERMONT NO, SIR

1 THE COURT I JUST DON'T SEE ANY OTHER
2 EVIDENCE THAT WOULD BRING ABOUT ANY OTHER OF THE LESSER
3 DEGREES CONTAINED THEREIN

4 NOW, DO YOU HAVE ANY SPECIFIC REQUESTS
5 FOR CHARGING? I WILL HAVE MY USUAL CHARGE I WILL CHARGE
6 DIRECT AND CIRCUMSTANTIAL EVIDENCE CHARGE, ALIBIS AREN'T
7 INVOLVED BECAUSE HE WAS SEEN THERE, HE PLEAS NOT GUILTY
8 AND THE STATE WOULD HAVE TO PROVE IT SO I SEE NO ALIBI
9 HOW ABOUT THE STATEMENT OF THE DEFENDANT--NOW I HAVE RULED
10 THAT I FOUND, NOW IT HASN'T GOT A THING TO DO WITH THE
11 JURY BUT I FOUND THAT BEYOND A REASONABLE DOUBT THAT HE
12 WAS NOT ACCUSED, HE WAS NOT A SUSPECT AT THAT TIME AND
13 THAT HE FREELY AND VOLUNTARILY MADE THAT STATEMENT

14 NOW, WHAT REQUESTS TO CHARGE, IF ANY?

15 MR. VERMONT ON THAT ISSUE, YOUR
16 HONOR, I THINK WE PRETTY WELL CONCEDED A VOLUNTARY
17 STATEMENT BY THE PRESENTATION OF OUR CASE OF COURSE, WE
18 WANTED TO TEST IT AT THE TIME

19 THE COURT WELL, HE SAID IT WAS THE
20 TRUTH WHAT HE WAS RELYING ON

21 MR. VERMONT I SEE NO NEED FOR THE
22 COURT--

23 THE COURT I SEE NO NEED FOR ME TO
24 GO INTO IT WHAT IS THE POSITION OF THE STATE, ALSO?

25 (MR. MABRY NODS IN AGREEMENT)

1 THE COURT ALL RIGHT, ANYTHING ELSE?

2 MR VERMONT WE WOULD LIKE THE EVENING
3 TO WORK ON THE FIFTH AMENDMENT ISSUE I NEED TO SORT OF
4 THINK ON THAT AND SEE HOW I MIGHT REQUEST THE COURT TO
5 TREAT IT? WHETHER THERE WOULD BE A CHARGE ON THAT OR NOT?

6 THE COURT HOW ABOUT DOING THAT? I
7 THINK IT SHOULD BE LOOKED INTO AND I WILL BE HERE ABOUT
8 8 30 IN THE MORNING, AND YOU MAY NOT BE THAT EARLY BUT
9 THAT'S ALL RIGHT, GET IT TO ME A LITTLE EARLIER SO THAT
10 THE STATE CAN SEE THE CHARGE, TOO AS TO THE WITNESS
11 CLAIMING THE PRIVILEGE, FIFTH AMENDMENT, I WILL CHARGE,
12 OF COURSE, THE NEW LAW, THE PRESUMPTION OF INFERENCE, THE
13 USE OF FIREARMS, SHOTGUN IS A DEADLY WEAPON HANG IN
14 WAIT, I THINK IS AN ELEMENT THEY MAY, IF THEY WANT TO
15 AS AN INFERENCE, IF THEY WANT TO, IF THEY WANT TO IS AN
16 INFERENCE NOT ONLY OF PRESUMPTION I CAN'T THINK OF ANYTHING
17 ELSE

18 MR VERMONT NO, SIR

19 THE COURT NOW, HOW MANY ARGUMENTS?

20 MR MABRY YOUR HONOR, THE STATE WILL
21 OPEN AND CLOSE

22 THE COURT ONE?

23 MR VERMONT YES, THAT'S ALL--

24 THE COURT THAT SOLVES THE PROBLEM
25 RIGHT QUICK

1 MR. MABRY I WOULD JUST LIKE TO MAKE
2 A REFERENCE, I AM SURE AN INADVERTENT REFERENCE BY
3 DEFENSE COUNSEL IN OPENING STATEMENT, OF THE CONSEQUENCE
4 OF CONVICTION THE STATE'S POSITION WOULD BE--

5 THE COURT I ALWAYS CHARGE IF THERE
6 IS A SENTENCE TO BE INVOLVED, THEY ARE NOT GOING TO BE
7 CONCERNED WITH THE SENTENCE

8 MR. MABRY WHAT I AM SAYING IS IT WOULD
9 NOT BE PROPER ARGUMENT, THE CONSEQUENCES OF CONVICTION OR
10 PUNISHMENT OR ANYTHING LIKE THAT

11 MR. VERMONT I THINK YOUR HONOR HAS
12 HEARD ME BEFORE, YOU KNOW I DON'T ARGUE THAT

13 THE COURT HE DOESN'T HE DOESN'T
14 ARGUE THAT, I HAVE HEARD HIM BEFORE HE LEAVES IT ALONE,
15 PROPERLY SO ANY OTHER PROBLEMS? IF YOU WOULD THEN,
16 CHECK THE CHARGE OPINION ON THE FIFTH AMENDMENT I WOULD
17 APPRECIATE IT IF YOU WOULD

18 MR. VERMONT I WILL TAKE IT FROM MY
19 POINT OF VIEW, YOUR HONOR

20 THE COURT I REALIZE THAT I WOULD
21 EXPECT YOU TO I EXPECT YOU TO AND IF THEY WANT TO CHECK
22 A LITTLE BIT, I AM SURE IT WILL COME FROM THEIR VIEWPOINT
23 IF I CAN GET BOTH OF YOU TO DO THAT, I COULD DIVIDE IT BY
24 HALF AND ADD THEM BACK UP AND IT WILL PROBABLY COME OUT
25 TO SOMETHING PRETTY GOOD WOULDN'T HURT IF YOU GET AN

1 OPPORTUNITY

2 MR MABRY YES, SIR

3 THE COURT TO EXAMINE THAT A LITTLE
4 BIT ALL RIGHT, THEN IF NOTHING ELSE, WE WILL START THE
5 TRIAL, UNLESS SOMETHING COMES UP THAT I DON'T KNOW ABOUT,
6 AND I HAVE HAD THAT ALL WEEK BUT, I HAVE TRIED TO CHECK
7 AND I COULD FIND NOTHING THERE THAT I THOUGHT WAS COMING
8 UP UNUSUAL THAT I THINK WE SHOULD BE ABLE TO START AT
9 NINE SHARP I DON'T KNOW WHO YOU HAVE TO TELL TO HAVE
10 THE DEFENDANT HERE AT 9 00 INSTEAD OF 9 30 BUT LET SOME-
11 BODY KNOW SOMETIMES WE GET MIXED UP WITH THE TIMES
12 ALL RIGHT, 9 00, THAT'S IT

13 (RECESS FOR THE EVENING AT 5 30 P M)

14
15 (RESUME AT 9 47 A M --APRIL 30, 1982)

16 THE COURT ALL RIGHT, ANY MATTERS
17 TO BE PLACED IN THE RECORD?

18 MR VERMONT IF YOUR HONOR PLEASE, I
19 WOULD LIKE TO PUT INTO THE RECORD OR HAVE THE COURT
20 PUT INTO THE RECORD, OR I COULD DO IT WITH THE COMMUNI-
21 CATION WE HAVE RECEIVED FROM THE FORELADY, JUST SO THE
22 RECORD REFLECTS THAT? WOULD THE COURT LIKE TO DO THAT?

23 THE COURT THAT WOULD BE FINE I HAD
24 INFORMED BOTH SIDES THAT THE FORELADY HAS ASKED A CONFERENCE
25 WITH ME ABOUT A MATTER I DIDN'T KNOW WHAT IT WAS AND THE

1 DEFENSE ATTORNEY AGREED I COULDN'T FIND YOU ALL AND I
2 WENT AHEAD AND DID IT ANYWAY SHE JUST WANTED ME TO
3 KNOW THAT SHE HAD PERSONAL KNOWLEDGE OF THIS AREA THAT
4 SHE KNOWS THE AREA AND SHE HAS BEEN BY IT MANY TIMES I
5 DID NOT ASK FOR THE PURPOSE BUT SHE DID MENTION THE FACT
6 THAT SHE AND HER HUSBAND GET ON THE RIVER AND FISH UP
7 IN THERE SO I GUESS THE RIVER IS CLOSE THERE I DON'T
8 KNOW, SOMEWHERE IN THERE THAT SHE HAS EVEN BEEN BY THERE
9 THIS WEEK, MAYBE EVEN YESTERDAY I THINK THE CONCERN
10 WAS THAT SHE MIGHT HAVE FELT THAT THE PHOTOGRAPHS THAT
11 HAVE BEEN INTRODUCED MIGHT NOT ACCURATELY PORTRAY IN HER
12 MIND THE DISTANCES TO THE BEST DEGREE I DID ASK HER DID
13 HER KNOWLEDGE OF THAT AREA, DID HER KNOWLEDGE OF WHAT
14 SHE IS TELLING ME, WOULD IT IN ANYWAY EFFECT HER ABILITY
15 TO BEING A FAIR AND JUST JUROR TO BOTH SIDES SHE INDICATED
16 TO ME THAT IT WOULD NOT SHE IS OPENED MINDED, SHE ALSO
17 INFORMED ME SHE HAD NOT DISCUSSED THIS CASE WITH ANYBODY
18 INCLUDING HER HUSBAND, READ OR ANYTHING ELSE ABOUT THE
19 CASE SHE INSURED ME THAT SHE STILL IS A FAIR AND
20 IMPARTIAL JUROR I DON'T THINK THAT THE MERE FACT THAT
21 A JUROR KNOWS THE LOCATION WOULD DISQUALIFY ONE, THAT I
22 KNOW OF AND SHE DID INSURE ME THAT SHE WAS FAIR AND JUST
23 AND SHE HAD NOT REACHED ANY OPINION, WHATSOEVER SO I
24 INFORMED YOU ALL OF THAT SITUATION

25 IT IS MY UNDERSTANDING THAT BOTH OF

1 THEM WERE PLEASE CORRECT ME, BOTH THE STATE AND THE
2 DEFENSE DID NOT OBJECT FOR HER CONTINUING TO BE A JUROR

3 MR. LABRY THE STATE HAS NO OBJECTION

4 MR. VERMONT NO OBJECTION

5 THE COURT I THINK SHE WAS JUST
6 REALLY CONCERNED IN TRYING TO BE AN EXCELLENT JUROR AND
7 SINCE I HAVE BEEN HANDLING THIS ALL WEEK ABOUT TALKING TO
8 THEM AND EVERYTHING, THAT SHE DOES KNOW THIS LOCATION WELL
9 I DON'T EVEN KNOW HOW CLOSE SHE LIVES, DON'T KNOW ANYTHING
10 I DO KNOW SHE SAID THEY FISH DOWN THAT WAY A LOT AND
11 I UNDERSTAND THAT, HOW FAR IS THAT RIVER, THE CONGAREE,
12 OR SOMETHING?

13 MR. CAMPBELL IT IS ABOUT EIGHTEEN
14 MILES FROM THERE ACCORDING TO WHICH WAY YOU GO ALONG THE
15 SIDE

16 THE COURT I DIDN'T GO INTO THOSE
17 FACTS, I DIDN'T WANT TO QUESTION HER ON IT BUT SHE
18 WANTED ME TO KNOW THAT SHE HAD KNOWLEDGE OF THAT AREA AND
19 SHE HAS EXAMINED THOSE PHOTOGRAPHS, I GUESS, AND HER
20 OPINION IS THAT THEY DID NOT ACCURATELY IN AND OF THEMSELVES
21 DOWN TO A FINE POINT SHOW DISTANCES SHE HAS THAT
22 KNOWLEDGE FINE

23 MR. VERMONT THANK YOU, YOUR HONOR,
24 I THINK THAT IS IMPORTANT IN THE LIGHT OF OUR REQUEST TO
25 CHARGE NUMBER FIVE, AND THAT IS WHY I ASKED THAT TO BE IN

1 THE RECORD

2 THE COURT WELL, I AM JUST GOING TO
3 TELL THEM THEY CAN CONSIDER ANY EVIDENCE AND THAT
4 INCLUDES EXHIBITS AND PHOTOGRAPHS AND ANYTHING ELSE,
5 WITH ANY AND ALL KNOWLEDGE THEY HAVE THAT IS ALL I KNOW
6 AND THAT GIVES THEM THE RIGHT TO DISCUSS THEIR KNOWLEDGE
7 IF THEY WANT TO THERE MAY BE OTHERS THAT GO OUT THAT
8 WAY, FINE I HAVE NO IDEA I DO KNOW AS I MENTIONED TO
9 YOU ALL, IF IT IS THE MATTER OF MAIN STREET IN COLUMBIA
10 THE PHOTOGRAPHS, PRACTICALLY EVERY JUROR WOULD HAVE SEEN
11 IT AND KNOW SOMETHING ABOUT IT AND IT COULD BE, OUT OF
12 THE TWELVE JURORS THERE COULD BE ANY NUMBER THAT KNOW THAT
13 AREA I HAVE NO IDEA BUT I WILL CHARGE THE FACT THAT
14 THEY WILL HAVE THE RIGHT TO CONSIDER ALL OF THAT

15 MR VERMONT YES, SIR, I DO HAVE A
16 COUPLE OF OTHER MATTERS I WOULD HAND UP TO THE COURT AGAIN
17 OUR ORIGINAL AND NOW THE COURT'S COPY OF OUR REQUEST TO
18 CHARGE AND ASK THAT THAT BE MADE A PART OF THE RECORD WITH
19 THE COURT REPORTER SO IT WILL FULLY REFLECT WHAT WE HAVE
20 REQUESTED WE HAVE DISCUSSED MOST OF THOSE MATTERS AND
21 I THINK WE ARE CLEAR ON JUST WHAT YOUR HONOR INTENDS TO

22 THE COURT I THINK IF IT DOESN'T, YOU
23 CAN EXCEPT TO IT WHEN WE ARE THROUGH

24 MR VERMONT YES

25 THE COURT AS FAR AS CIRCUMSTANTIAL,

1 I THINK MY CHARGE IS PROBABLY BETTER THAN YOURS AT LEAST
2 I THINK SO, NUMBER FOUR

3 NUMBER FIVE, I THINK I'LL HAVE TO WORK
4 ON IT FOR A WHILE, THAT IS WHAT WE WERE DISCUSSING

5 NUMBER SIX, I'LL HAVE TO WORK ON IT
6 A LITTLE BIT AS TO TESTIMONY OF CERTAIN PERSONS I WOULD
7 RATHER, I LIKE THE SENTENCE "YOU SHOULD JUDGE ALL WITNESSES'
8 TESTIMONY REGARDLESS OF THEIR TITLES, POSITIONS, OR
9 POLICE OFFICERS, ALL TESTIMONY SHALL BE JUDGE" TELL THEM
10 TO JUDGE THEM, "SHALL BE JUDGED BY THE SAME STANDARD" OR
11 WORDS TO THAT EFFECT

12 MR VERMONT YES

13 THE COURT BUT I AM GOING TO LOOK
14 A LITTLE MORE I FEEL LIKE SOMEWHERE, SINCE IT IS IN MY
15 CIRCUMSTANTIAL EVIDENCE CHARGE AND NOT ON THE REASONABLE
16 DOUBT CHARGE NOW, MY CIRCUMSTANTIAL I TOLD MS GOODWIN
17 THIS MORNING, I DO CHARGE THE JURY THAT THERE ARE TWO
18 KINDS OF EVIDENCE, TYPES, DIRECT AND CIRCUMSTANTIAL
19 DIRECT EVIDENCE, OF COURSE, IS WHAT YOU PERCEIVE BY YOUR
20 SENSES, SIGHT, FEELING, SOUND, TOUCH AND THOSE THINGS THE
21 OTHER WOULD BE CIRCUMSTANTIAL THAT THE STATE HAS THE
22 RIGHT TO PROVIDE IN ANY CASE ON SOLELY DIRECT AND THEY
23 HAVE A RIGHT TO RELY SOLELY ON CIRCUMSTANTIAL THEY
24 HAVE A RIGHT TO RELY ON A COMBINATION OF BOTH AND THEN
25 I CHARGE WHAT CIRCUMSTANTIAL IS AND SHOW THE DIFFERENCE

1 BETWEEN IT AND THE DIRECT AND GIVE THE CIRCUMSTANTIAL
2 CHARGE

3 I THINK THAT IT WILL PASS MUSTEP, BUT
4 I DO GIVE THEM THE KNOWLEDGE OF WHAT EACH WOULD BE

5 NUMBER EIGHT IS IN MY CHARGE

6 NUMBER NINE I THINK I COVER FULLY IN
7 MY CHARGE IF I DON'T YOU CAN EXCEPT TO IT

8 MR VERMONT YES, SIR, MY LAST MATTER,
9 YOUR HONOR, IS A MOTION CONCERNING THE SUBJECT MATTER OF
10 OUR REQUEST TO CHARGE NUMBER ONE WE DO MAKE A MOTION
11 AT THIS TIME IN LINE WITH WHAT WE PERCEIVE WOULD BE THE
12 PROPER APPLICATION

13 THE COURT WELL, IN SOME WAY I AGREE
14 WITH YOUR REQUEST TO CHARGE AND AS I SAID, THE SUPREME
15 COURT MAY AGREE WITH YOU FULLY BUT I DO NOT KNOW THEY MAY
16 AGREE WITH ME, THEY MAY AGREE WITH YOU THE CHARGE
17 AND THE WAY IT IS WRITTEN IS FINE BUT IN MY CONSIDERATION
18 IT MIGHT, FOR INSTANCE "IN YOUR DELIBERATION YOU MAY GIVE
19 NO CONSIDERATION TO SUCH WITNESS TAKING THE FIFTH AMENDMENT,
20 DON'T EVEN DISCUSS IT " WELL, A WITNESS MAY TAKE, CLAIM
21 THE PRIVILEGE OF THE FIFTH AMENDMENT TO CERTAIN QUESTIONS
22 AND NOT TO OTHERS I AM NOT GOING TO TELL THEM NOT TO
23 CONSIDER THE WITNESS ALTOGETHER BECAUSE THEY DID HAVE,
24 THEY DID ANSWER SOME OF THE QUESTIONS, A GOOD MANY OF
25 THEM THEY HAVE A RIGHT TO IN ANY WITNESS DETERMINE THE

1 DEMEANOR OF A WITNESS, EVERYTHING YOU'RE RIGHT, AND
2 THE LAWS ARE TO ANY PERSON, A WITNESS, TO TESTIFY WHEN
3 THEY HAVE SOMETHING THAT MIGHT INCRIMINATE THEM, THEY
4 TAKE THE FIFTH AND WHEN THAT PERSON EXERCISES THAT RIGHT
5 NO PRESUMPTION TOWARDS THAT PERSON MAY BE DRAWN AND NO
6 INFERENCE TOWARDS THAT PERSON MAY BE RAISED AS TO THEIR
7 GUILT OR INNOCENCE THAT IS THE FIFTH, THEY TAKE THE
8 FIFTH I ALSO, WHEN STATED ON MY OWN, I DON'T THINK THE
9 STATE COULD JUST OUT AND STATE IN ANY CASE, NOT JUST THIS
10 ONE, THE DEFENDANT IS GUILTY BECAUSE THE WITNESS TOOK
11 THE FIFTH AMENDMENT AND THAT PHRASE ALONE, I CAN'T
12 RESTRICT THEM FROM DISCUSSING OTHER EVIDENCE, THAT EVIDENCE
13 SHE HAS A RIGHT NOT TO INCRIMINATE HERSELF SHE DOESN'T
14 HAVE THE RIGHT TO TAKE IT BECAUSE IT MIGHT INCRIMINATE
15 SOMEBODY ELSE AT ALL THAT IS NOT THE FIFTH AMENDMENT
16 I'LL DO THE BEST I CAN

17 MR. VERMONT YES, SIR, MAY I COMPLETE
18 MY MOTION, YOUR HONOR, FOR THE RECORD?

19 THE COURT YES, SIR

20 MR. VERMONT MY MOTION IS FOR THE
21 COURT TO INDICATE EXACTLY AS INDICATED, BECAUSE MRS. MOCK,
22 THE DEFENDANT'S SISTER TOOK THE FIFTH THAT ANY INFERENCE
23 MAY BE DRAWN AS TO THE DEFENDANT'S GUILT OR AN ARGUMENT
24 HERE IN THOSE WORDS EXACTLY, OR BEATING AROUND THE BUSH

25 THE COURT I THINK I HAVE ALREADY

1 TOLD HIM NOT TO DO THAT

2 MR VERMONT I JUST WANTED TO MAKE
3 SURE MY MOTION WAS CLEARLY ON THE RECORD

4 MR MABRY WE HAVE A RIGHT TO ARGUE
5 REASONABLE INFERENCES OF THE EVIDENCE, OF THE WITNESSES'
6 DEMEANOR ON THE STAND, AND HOW THEY BEHAVE ON THE STAND

7 THE COURT YES, SIR, BUT--

8 MR MABRY HE IS TRYING TO PRECLUDE
9 US FROM ARGUMENT

10 THE COURT NOT, SIR, I AM GOING TO,
11 NOT HIM I'M TELLING YOU THAT YOU CAN'T ARGUE THE FACT IN
12 AND OF ITSELF, THAT SHE CLAIMED THE PRIVILEGE OF FIFTH
13 AMENDMENT PROVES THAT HE IS GUILTY

14 MR MABRY ALL RIGHT, SIR

15 THE COURT IT IS NOT AN INFERENCE
16 THAT HE IS GUILTY THAT IS THE ONLY THING I'M SAYING,
17 AND I THINK THAT IS PROPER IF IT WASN'T ALL YOU HAVE
18 GOT TO DO, HAVE A WITNESS WHO IS GOING TO TAKE THE FIFTH
19 AND PUT HIM UP AND TAKE THE FIFTH AND SAY HE IS GUILTY
20 BECAUSE THE WITNESS, BECAUSE THE WITNESS TOOK THE FIFTH
21 THAT IS NOT A PROTECTION OF HIS RIGHTS, THOUGH, IT IS
22 A PROTECTION OF HER RIGHTS OTHERWISE SHE COULDN'T--
23 I'LL DO THE BEST I CAN AND EITHER SIDE CERTAINLY HAS A
24 RIGHT, AS I UNDERSTAND IT NOW, TO APPEAL

25 MP MARRY SIR?

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1 THE COURT YOU HAVE A RIGHT TO APPEAL
2 NOW

3 MR MABRY NO, SIR

4 THE COURT NO? FINE ANYTHING ELSE?

5 MR MABRY NOTHING FURTHER, YOUR
6 HONOR

7 MR VERMONT NO, SIR

8 THE COURT I AM SURE YOU WILL USE
9 WHATEVER TIME YOU FEEL NECESSARY IN YOUR ARGUMENTS TO
10 THE JURY BUT I WILL REMIND YOU THEY HAVE HEARD EVERYTHING
11 ALREADY, TWICE ONCE FROM THE STATE AND ONCE FROM THE
12 DEFENSE I AM NOT RESTRICTING YOUR TIME BUT MAKE IT
13 AS BRIEF AS YOU CAN, AND CONCISE AND BRILLIANT AND UNDER-
14 STANDABLE

15 (JURY RETURNS TO THE JURY BOX AT 10 05
16 A 1')

17 THE COURT THE JURY IS PRESENT DOES
18 THE STATE WAIVE POLLING?

19 MR MABRY THE STATE WAIVES POLLING

20 THE COURT DOES THE DEFENSE WAIVE
21 POLLING?

22 MR VERMONT YES, SIR

23 THE COURT ALL RIGHT, AS USUAL, THE
24 STANDARD MORNING QUESTION HAVE ANY OF YOU HAVE DISCUSSED
25 THE CASE WITH ANYONE OR LISTENED TO ANYONE DISCUSS IT OR

1 READ ANY NEWS MEDIA, WATCHED OR LISTENED TO ANY NEWS
2 MEDIA, I WOULD ASK YOU TO PLEASE STAND? NOW, THE NEXT
3 PROCEEDING WILL BE, AS I TOLD YOU YESTERDAY, THE STATE
4 WILL OPEN WITH WHAT IS CALLED THE ARGUMENTS OF THE PARTIES
5 THE DEFENSE WILL THEN PRESENT THEIR ARGUMENT AND THEN
6 THE STATE WILL CLOSE THEIR ARGUMENT ALL RIGHT PROCEED

7 MR ELLIOTT IF IT PLEASE THE COURT?

8 MR ELLIOTT OPENS, NO OBJECTIONS

9 MR VERMONT ARGUES, NO OBJECTIONS

10 MR MABRY CLOSSES OBJECTION HEARD

11 MR MABRY NOW, IT JUST BOILS DOWN

12 TO WHO YOU WANT TO BELIEVE DO YOU WANT TO BELIEVE JAMIE

13 WHOSE STATEMENT WAS WRITTEN DOWN BY POLICE POLYGRAPH MAN?

14 DOESN'T THAT TELL YOU SOMETHING?

15 MR VERMONT OBJECTION, YOUR HONOR

16 I REQUEST TO STRIKE, YOUR HONOR I MOVE TO STRIKE, YOUR

17 HONOR

18 THE COURT ALL RIGHT, PROCEED

19 MR MABRY CONTINUES WITH NO FURTHER

20 OBJECTIONS

21 THE COURT I WANT TO SPEAK TO ALL THE

22 ATTORNEYS (OFF THE RECORD DISCUSSION AT THE BENCH, OUT

23 OF THE HEARING OF THE COURT REPORTER AND THE JURY)

24 THE COURT ALL RIGHT, MADAM FORELADY,

25 YOU HAVE BEEN HERE FOR A WHILE, THE CHARGE IS GOING TO BE

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1 LFNGTHY I DON'T KNOW WHETHER YOU WANT A BREAK OR NOT
2 I AM GOING TO ASK YOU, WOULD YOU LIKE TO TAKE A BREAK?
3 WE'LL DO IT BUT IT WILL TAKE ME A WHILE TO DO IT

4 MADAM FORELADY CAN WE TAKE A VERY
5 SHORT BREAK, SIR?

6 THE COURT WHATEVER YOU WANT, YOU
7 ALL CAN DO WHATEVER YOU WANT I AM GOING TO INSTRUCT YOU
8 AT THIS TIME OF COURSE, ALL ARGUMENTS OF COUNSEL ARE NOT
9 EVIDENCE I WANT YOU TO LISTEN TO THEM CLOSELY, CONSIDER
10 ALL THEY HAVE SAID, BUT ARGUMENTS OF ANY ATTORNEY IS NOT
11 EVIDENCE I WANT YOU TO KNOW THAT I WILL FURTHER
12 INSTRUCT YOU THAT THE TITLE OF ANY PERSON, THE TITLE IN
13 AND OF ITSELF HAS NO EFFECT WHATSOEVER ON YOUR CONSIDERA-
14 TION OF ANY OF THE EXHIBITS OR EVIDENCE THAT YOU ARE TO
15 CONSIDER AND YOU ARE TO CONSIDER AS THOUGH WHATEVER
16 TITLE OF THE PERSON WAS, HE IS JUST A WITNESS I SO INSTRUCT
17 YOU AT THIS TIME

18 IF YOU WANT COFFEE OR A COLD DRINK I
19 WOULD LIKE FOR THEM TO ORDER IT AS SOON AS YOU GET THERE
20 YOU HAVE BEEN IN HERE A GOOD WHILE ORDINARILY I WOULD
21 LET YOU GO ANYWAY FOR A SHORT BREAK HOW ABOUT YOU LETTING
22 US KNOW WHEN YOU ALL COME BACK FINE GO AHEAD

23 (JURY LEAVES THE COURTROOM AT 11 39
24 A M)

25 THE COURT I TRIED MY BEST TO FOLLOW

1 AS YOUR, YOUR STATEMENT AS, AS WELL AS I COULD, SIR NOW
2 IT IS ALL YOUR PROBLEMS

3 MR VERMONT I WOULD LIKE TO AT THIS
4 TIME MOVE FOR A MISTRIAL BASED ON DELIBERATE PROSECUTORY
5 MISCONDUCT BRINGING IN REFERENCE TO THE POLYGRAPH
6 OPERATOR AND THE STATEMENT, REFERENCE TO THAT, SIR

7 THE COURT I DON'T KNOW OF ANY
8 REFERENCE THAT IN AND OF ITSELF HAD ANY EFFECT HE IS
9 SAYING THE MAN MADE A STATEMENT BEFORE TWO PEOPLE AND
10 THAT IT NOW, GOING BACK INTO THE EVIDENCE, I HAVE
11 ALREADY NOTED THIS, THAT ONE DAY I BELIEVE ON CROSS
12 EXAMINATION THAT WORD WAS BROUGHT OUT THREE TIMES

13 MR MABRY FOUR, YOUR HONOR

14 THE COURT IT COULD HAVE BEEN BUT I
15 KNOW OF THREE OR SOME NUMBER NO OBJECTION, NO INSTRUCTION
16 ON THE SECOND DAY, I BELIEVE, IT WAS BROUGHT OUT AGAIN
17 IN SOME MANNER AND I BELIEVE YOU DID MOVE AT THAT TIME
18 FOR SOMETHING

19 MR VERMONT YES, SIR, WE HAD DISCUSSED
20 IN CAMERA IN BETWEEN THE TWO, DID WE NOT?

21 THE COURT I CAN'T, AND IT IS NOT
22 YOUR FAULT AT ALL, DON'T GET THAT IDEA BUT WHEN YOU
23 INSIST "WHO WAS THERE WHEN YOU MADE THIS STATEMENT? WHO
24 WAS PRESENT? WHO SIGNED IT?" FINE, I CAN'T HELP WHAT
25 YOU SAY

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1 MR VERMONT YES, SIR, I DID NOT
2 INSIST THAT MR MABRY SAY "WHAT DOES THAT TELL YOU?" IT
3 IS CLEAR AND DELIBERATE, YOUR HONOR, FLAGRANT

4 THE COURT FINE, FINE, YOU ASKED ME
5 TO STRIKE IT AND I, IN FACT, HAVE DONE SO, SIR YOUR
6 MOTION IS DENIED WE WILL HAVE A SHORT BREAK PRIOR TO MY
7 CHARGE ON THE LAW THE COURT WILL BE AT EASE

8 (RECESS AT 11 45 A M)
9 - - - - -

10 (RESUME AT 12 00 P M)

11 (JURY RETURNS TO THE JURY BOX AT 12 00
12 P M)

13 THE COURT WE NOW APPROACH THE
14 CONCLUSION OF THIS CASE THERE ARE ONLY TWO THINGS LEFT
15 ONE IS FOR ME TO CHARGE YOU THE LAW AS THE PRESIDING JUDGE
16 THEN FOR YOU TO RETIRE TO YOUR JURY ROOM AND DELIBERATE
17 AND REACH A VERDICT THAT SPEAKS THE TRUTH AND, IN DOING
18 THAT YOU ARE SUPPOSE TO APPROACH THE CONSIDERATION OF
19 THIS CASE AS FAIR AND IMPARTIAL JURORS YOU DO WITHOUT
20 SYMPATHY ON THE ONE HAND AND WITHOUT THE PREJUDICE ON THE
21 OTHER YOU HAVE NO ENEMIES TO PUNISH IN THIS CASE AND
22 NO FRIENDS TO REWARD YOUR CHARGE UNDER THE LAW IS TO
23 RENDER A VERDICT THAT SPEAKS THE TRUTH IN THIS MATTER YOU
24 DO IT ACCORDING TO YOUR FINDINGS FROM THE EVIDENCE AND
25 ACCORDING TO THE LAW THAT I AM CHARGING TO YOU

1 YOU HAVE BEEN ON THE JURY, YOU STOOD,
2 YOU RAISED YOUR HAND AND SAID UNDER OATH THAT YOU WOULD
3 TRULY TRY THIS CASE AND A TRUE VERDICT RENDER WHEN YOU
4 DO THAT NO ONE CAN COMPLAIN WHATEVER YOUR VERDICT MAY BE

5 NOW, IN ANY CASE IF SENTENCING IS A
6 PART OF ANY PROCEEDING, ANY POSSIBLE SENTENCE, IT IS NOT
7 YOUR CONCERN IN ANY CASE YOUR DUTY IS TO RETURN A VERDICT,
8 WHATEVER IT IS, THAT SPEAKS THE TRUTH

9 NOW, IN THIS CASE THE STATE OF SOUTH
10 CAROLINA CHARGES THE DEFENDANT FRANCIS OWENS CAMPBELL
11 DID WITH MALICE AFORETHOUGHT, IN RICHLAND COUNTY, ON OR
12 ABOUT THE TENTH DAY OF JULY, 1978 KILL ONE OLIN D WILSON
13 BY MEANS OF LYING IN WAIT, AND AMBUSHING OLIN D WILSON
14 WITH A SHOTGUN AND THAT THE SAID, OLIN D WILSON DID
15 DIE IN RICHLAND COUNTY AS A PROXIMATE RESULT THEREOF, ON
16 OR ABOUT THE TENTH DAY OF JULY, 1978 AGAINST THE PEACE
17 AND DIGNITY OF THE STATE

18 THIS IS NOT EVIDENCE NO INDICTMENT
19 IS ANY EVIDENCE IT MERELY SETS OUT THE CHARGES THAT HAVE
20 BEEN MADE AGAINST THE DEFENDANT NOW, I CHARGE YOU THAT
21 YOU, THE JURY, ARE THE SOLE JUDGES OF THE FACTS IN THIS
22 CASE

23 I CANNOT SUGGEST OR INTIMATE TO YOU
24 IN ANY MANNER, ANY OPINION THAT I MAY HAVE AS TO WHAT THE
25 TRUE FACTS IN THIS CASE ARE THIS IS RESERVED EXCLUSIVELY

1 FOR THE FUNCTION OF YOU THAT CONSTITUTES THE JURY IN THIS
2 CASE IF DURING THE COURSE OF THIS TRIAL, IF I HAVE HAD
3 TO RULE ON ANY MATTERS AT ALL, ADMISSION OF EVIDENCE OR
4 ANY OTHER MATTER OR IN GIVING THIS CHARGE TO YOU, INTIMATES
5 ANY FEELING I HAVE IN THIS CASE, YOU WOULD DISREGARD THAT
6 OPINION BECAUSE I HAVE NO OPINION TO EVEN SUGGEST TO YOU
7 ANY OPINION OR TO SUGGEST THAT YOU SHOULD FIND THE FACTS
8 WOULD BE A VIOLATION OF THE CONSTITUTION OF THIS STATE,
9 WHICH PROHIBITS A TRIAL JUDGE FROM DOING SO

10 OF COURSE, THIS SAME CONSTITUTION
11 PLACES UPON ME THE DUTY AND THE RESPONSIBILITY OF DECLARING
12 THE LAW TO YOU SO THAT WHEN YOU HAVE MADE A DETERMINATION
13 OF THE FACTS YOU APPLY THE LAW AS I GIVE IT TO YOU, TO
14 THOSE FACTS AND YOU WOULD WRITE THE VERDICT YOUR VERDICT
15 MUST BE UNANIMOUS AND ALL TWELVE OF YOU MUST AGREE, IT
16 MUST BE A VERDICT THAT SPEAKS THE TRUTH ACCORDING TO
17 YOUR FINDING OF FACT APPLIED IN THE LAW AS I AM CHARGING
18 IT TO YOU

19 AND WHEN I SAY YOU ARE THE SOLE JUDGES
20 OF THE FACTS IN THIS CASE, THAT MEANS OF THE WITNESSES WHO
21 TESTIFY AND OF THE EXHIBITS THAT HAVE BEEN PRESENTED
22 YOU SHOULD EXAMINE, AS I INSTRUCTED YOU AT THE BEGINNING
23 OF THE TRIAL, LISTEN CAREFULLY, WATCH, EXAMINE ALL
24 EVIDENCE BE IT BY A WITNESS OR BY EXHIBIT IN ANY CASE
25 YOU ARE THE SOLE JUDGES OF THE MATTER, YOU ARE THE SOLE

1 JUDGES OF CREDIBILITY OR BELIEVABILITY OF THE VARIOUS
2 WITNESSES WHO HAVE TESTIFIED IN THIS CASE NOW, ALL
3 WITNESSES REGARDLESS OF THEIR POSITION OR THEIR WORK, YOU
4 WOULD, IN FACT, YOU ARE THE SELF JUDGES OF THOSE THF
5 SAME STANDARD SHALL BE USED BY YOU ON ALL WITNESSES
6 REGARDLESS OF WHATEVER POSITION THEY MAY OR MAY NOT HOLD

7 IT BECOMES YOUR DUTY TO ANALYSE THIS
8 TESTIMONY, EXHIBITS, DETERMINE WHAT YOU CONSIDER TO BE
9 TRUE TESTIMONY THROUGH THESE METHODS, AND NECESSARILY
10 WHAT THE FACTS ARE FROM THAT TESTIMONY

11 NOW, WHAT DO WE MEAN BY THE CREDIBILITY
12 OR BELIEVABILITY OF THE WITNESS? THAT IS A DETERMINATION
13 OF WHAT TESTIMONY YOU DEEM TRUE AND WHAT TESTIMONY YOU
14 DEEM UNTRUE AS GIVEN FROM THE WITNESS STAND IN THAT
15 CONNECTION YOU HAVE THE RIGHT TO TAKE INTO CONSIDERATION
16 THE INTEREST OF ANY WITNESS THEY HAVE IN THIS CASE, THE
17 BIAS OF ANY WITNESS, OR THE PREJUDICE OF ANY WITNESS, THE
18 DEMEANOR OF A WITNESS UPON THE WITNESS STAND, ANYTHING
19 THAT IS IN THE RECORD THAT WOULD AID YOU OR ASSIST YOU
20 IN MAKING THIS DETERMINATION ANY OF THESE FACTS YOU MAY
21 CONSIDER IN DETERMINING THE CREDIBILITY OR THE BELIEVABILITY
22 OF THE WITNESSES TESTIMONY YOU MAY BELIEVE ONE WITNESS
23 AS AGAINST SEVERAL, YOU MAY BELIEVE SEVERAL AS AGAINST ONE
24 YOU MAY BELIEVE A PORTION OR PART OF A WITNESS' TESTIMONY
25 AND REJECT ANOTHER PART OF THE SAME PORTION, PART OR PORTION

1 OF THE SAME WITNESS' TESTIMONY YOU MAY BELIEVE A WITNESS'
2 TESTIMONY IN ITS ENTIRETY OR YOU MAY REJECT IT IN ITS
3 ENTIRETY IF THERE IS SOUND REASON IN YOUR JUDGMENT FOR
4 SO DOING

5 I CHARGE YOU AGAIN, THAT YOU ARE THE
6 SOLE JUDGES OF THE EVIDENCE IN THIS CASE AND THE EVIDENCE,
7 THE TESTIMONY AND EXHIBITS JUST AS YOU ARE THE SOLE
8 JUDGES OF THE FACTS IN THE CASE, I AM THE SOLE JUDGE OF
9 THE LAW IN THE CASE YOU ARE REQUIRED TO TAKE THE LAW
10 AS I GIVE IT TO YOU WHETHER YOU HAVE SOME PRECONCEIVED
11 IDEA OF WHAT THE LAW IS IN A CASE LIKE THIS OF COURSE,
12 YOU LAY THAT ASIDE AND TAKE THE LAW AS I GIVE IT TO YOU

13 NOW, THIS INDICTMENT CHARGES THIS
14 DEFENDANT WITH MURDER AND TO THIS INDICTMENT AND CHARGE
15 THE DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY AS I
16 HAVE TOLD YOU BEFORE, YOU WILL HAVE THE INDICTMENT WITH
17 YOU IN THE JURY ROOM, BUT IT IS NOT EVIDENCE YOU HAVE
18 IT IN THERE, YOU CAN READ IT BUT IT IS NOT EVIDENCE IT
19 SIMPLY IS A STATEMENT OF THE CHARGES THE STATE HAS MADE
20 AGAINST THE DEFENDANT

21 NOW, THE CHARGE, I CHARGE YOU THE
22 DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY THE LAW
23 PRESUMES HIM TO BE INNOCENT OF THE CHARGE CONTAINED IN
24 THE INDICTMENT THAT PRESUMPTION OF INNOCENCE ACCOMPANIES
25 HIM THROUGHOUT THE TRIAL OF THIS CASE AND WHEN YOU LEAVE

1 THE JURY ROOM TO GO DELIBERATE, THIS PRESUMPTION FOLLOWS
2 HIM ALONG WITH YOU AND IT ENTITLES HIM TO A VERDICT OF
3 NOT GUILTY AT YOUR HAND UNTIL SUCH TIME AS YOU ARE CONVINCED
4 THAT THE STATE OF SOUTH CAROLINA HAS PROVEN HIS GUILT
5 TO YOUR SATISFACTION BEYOND A REASONABLE DOUBT AND IF
6 THE STATE HAS SATISFIED YOU OF HIS GUILT BY THE MEASURE
7 OF PROOF THEN THAT PRESUMPTION OF INNOCENCE DISAPPEARS
8 AND YOU WOULD WRITE A VERDICT THAT SPEAKS THE TRUTH IN
9 THIS CONTROVERSY

10 NOW, I AM CHARGING YOU THAT THE BURDEN
11 IS UPON THE STATE TO PROVE THE DEFENDANT GUILTY BEYOND
12 A REASONABLE DOUBT WHAT IS A REASONABLE DOUBT? SUSPICION
13 OR POSSIBLE OR PROBABLE GUILT, OF COURSE, WILL NOT SUSTAIN
14 CONVICTION THAT DOESN'T MEAN BEYOND ALL DOUBT, THOUGH,
15 OR BEYOND EVERY DOUBT REASONABLE DOUBT IS AS YOU HEAR
16 IT BEYOND A REASONABLE DOUBT

17 I CHARGE YOU THAT A REASONABLE DOUBT
18 IS NOT A SLIGHT DOUBT, NOT A FANCIFUL DOUBT, NOT A WHIM-
19 SICAL DOUBT OBVIOUSLY WE CAN HAVE THOSE DOUBTS ABOUT
20 ANYTHING THERE IS IN THE WORLD BUT IT IS A REASONABLE
21 DOUBT, A DOUBT THAT IS WELL FOUNDED, A SERIOUSLY STRONG
22 DOUBT WHICH ARISES OUT OF THE TESTIMONY OR THE LACK OF
23 THE TESTIMONY IF YOU HAVE SUCH A DOUBT IN YOUR MIND,
24 WHETHER OR NOT THE STATE HAS PROVEN THE GUILT OF THE
25 DEFENDANT CONSIDERING THE EVIDENCE, YOU SHOULD RESOLVE THAT

1 IF IT IS A REASONABLE DOUBT, IN FAVOR OF THE DEFENDANT
2 AND WRITE A VERDICT OF NOT GUILTY AND ACQUIT HIM

3 I CHARGE YOU THAT IF YOU FIND THAT
4 THE STATE HAS PROVEN THE GUILT OF THE DEFENDANT BEYOND
5 A REASONABLE DOUBT IT WOULD BE IN SUCH CIRCUMSTANCES
6 THE EQUAL DUTY OF YOU, THE JURY, TO WRITE A VERDICT OF
7 GUILTY THAT YOU MAY FIND FROM THE EVIDENCE

8 NOW, IN GETTING DOWN TO THE SPECIFIC
9 CHARGE IN THIS INDICTMENT, AND THAT IS THE CHARGE OF
10 MURDER OF COURSE, I MUST CHARGE YOU WHAT ARE THE
11 ELEMENTS OF MURDER MURDER IS THE UNLAWFUL OR FELONEOUS
12 KILLING OF ANY PERSON WITH MALICE AFORETHOUGHT, EITHER
13 EXPRESSED OR IMPLIED

14 HENCE, IN ORDER TO CONVICT ON MURDER
15 THE STATE MUST NOT ONLY PROVE THE KILLING OF THE
16 DECEASED BY THE DEFENDANT, BUT IT MUST BE PROVEN TO HAVE
17 BEEN DONE WITH MALICE AFORETHOUGHT AND SUCH PROVE MUST
18 BE BEYOND A REASONABLE DOUBT

19 WELL, THE TERM MALICE, MUST BE DONE
20 WITH MALICE AFORETHOUGHT WHAT IS MALICE? WELL, THE
21 LAW HAS DEFINED MALICE AS A TERM OF ART THAT IS A
22 TECHNICAL TERM WHICH IMPORTS WICKEDNESS AND EXCLUDES
23 JUST CAUSE OR EXCUSE IT IS SOMETHING WHICH SPRINGS
24 FROM WICKEDNESS AND DEPRAVITY, FROM A DEPRAVED SPIRIT,
25 FROM A HEART WHICH IS DEVOID OF SOCIAL DUTY AND IS

1 FATALLY BENT ON MISCHIEF IT IS A WRONGFUL ACT DONE
2 INTENTIONALLY WITHOUT JUST CAUSE OR EXCUSE

3 AND WHEN I SAY EXPRESSED OR IMPLIED
4 MALICE THAT DOES NOT MEAN DIFFERENT KINDS OF MALICE
5 BUT MERELY THE MANNER IN WHICH THE OTHER, ONLY KIND
6 KNOWN IN THE LAW MAY BE SHOWN TO EXIST

7 NOW IT IS EITHER BY DIRECT EVIDENCE
8 OR THE INFERENCE MALICE MAY BE INFERRED WHEREIN
9 PREVIOUS THOUGHTS OR OPINIONS HAVE BEEN MADE BY LYING
10 IN WAIT OR OTHER CIRCUMSTANCES WHICH SHOW DIRECTLY THAT
11 AN INTENT TO KILL HAS BEEN ENTERTAINED BY A DEFENDANT

12 MALICE MAY ALSO BE IMPLIED AS WELL
13 WHEN THERE HAS BEEN NO PROOF OF EXPRESSED INTENT TO
14 KILL BY DIRECT EVIDENCE, IT IS INDIRECTLY BUT NECESSARILY
15 INFERRED FROM THE CIRCUMSTANCES AND THE FACTS WHICH
16 ARE PROVED

17 I CHARGE YOU THAT MALICE IS INFERRED
18 FROM THE WILLFUL DELIBERATE INTENTIONAL COMMISSION OF
19 A FELONY AND MURDER IS A FELONY OR AN UNLAWFUL ACT
20 WITHOUT JUST CAUSE OR EXCUSE IN OTHER WORDS, IN ITS
21 GENERAL APPLICATION MALICE MEANS DOING OF A WRONGFUL
22 ACT INTENTIONALLY WITHOUT JUST CAUSE OR EXCUSE

23 I CHARGE YOU THAT EVEN IF THE FACTS
24 ARE PROVEN OR SUFFICIENT TO RAISE AN INFERENCE OF MALICE,
25 SUCH INFERENCE WOULD BE A REBUTTABLE ONE AND IF AN

1 INFERENCE MAY BE CONSIDERED BY YOU ALONG WITH ALL OF THE
2 OTHER EVIDENCE, IT IS FOR YOU, THE JURY, TO DETERMINE
3 FROM ALL THE EVIDENCE WHETHER OR NOT MALICE HAS BEEN
4 PROVEN BEYOND A REASONABLE DOUBT

5 I CHARGE YOU THAT MALICE MAY BE
6 INFERRED FROM THE USE OF A DEADLY WEAPON IT DOES NOT
7 REQUIRE A JURY TO INFER MALICE BUT ONLY PERMITS A JURY
8 TO CONSIDER, IF THEY CONSIDER, AND THEY MAY CONSIDER
9 IT AS EVIDENCE OF MALICE

10 THE INFERENCE OF MALICE FROM THE
11 USE OF A DEADLY WEAPON, AND I CHARGE YOU, OF COURSE,
12 THAT A SHOTGUN IS A DEADLY WEAPON, IS SIMPLY AN EVIDEN-
13 TIARY FACT TO BE TAKEN INTO CONSIDERATION BY YOU, THE
14 JURY, ALONG WITH ALL OTHER EVIDENCE IN THE CASE AND
15 TO BE GIVEN SUCH WEIGHT AS YOU, THE JURY, DETERMINES
16 IT SHOULD RECEIVE

17 THE INFERENCE OF MALICE MAY BE
18 DRAWN FROM PROOF OF THE USE OF A DEADLY WEAPON IF YOU,
19 THE JURY, CONCLUDE THAT SUCH IS PROPER AFTER CONSIDERING
20 ALL THE FACTS AND CIRCUMSTANCES IN EVIDENCE

21 NOW, YOU WILL, OF COURSE, OBSERVE
22 THAT I CHARGE YOU THAT THE DEFINITION OF MURDER INCLUDED
23 THAT THERE MUST BE MALICE AFORETHOUGHT NOW, WHILE
24 THE LAW DOESN'T REQUIRE THAT MALICE SHALL EXIST FOR
25 ANY PARTICULAR LENGTH OF TIME BEFORE THE COMMISSION OF

1 THE ACT ALLEGEDLY MADE, AND IT MAY BE CONCLIVED AT
2 THE VERY MOMENT OF THE COMMISSION OF THE ACT, HOWEVER,
3 IT MUST BE A FORFTHOUGHT IN OTHERWORDS, THERE MUST
4 BE A COMBINATION OF THE PREVIOUS EVIL INTENT AND THE
5 ACT WHICH PRODUCES THE FATAL RESULTS

6 I CHARGE YOU THAT THE STATE IS NOT
7 REQUIRED TO PROVE A MOTIVE FOR A KILLING

8 I CHARGE YOU THAT ANY WITNESS HAS
9 THE RIGHT IN THEIR TESTIMONY TO CLAIM THE PRIVILEGE OF
10 THE FIFTH AMENDMENT, WHICH STATES THAT A WITNESS MAY
11 NOT BE REQUIRED OR CANNOT BE REQUIRED TO TESTIFY TO A
12 QUESTION IF IT MIGHT TEND TO INCRIMINATE THEM

13 WHEN A WITNESS EXERCISES THAT FIFTH
14 AMENDMENT RIGHT NOT TO TESTIFY, NO PRESUMPTION TOWARD
15 THAT PERSON, THAT WITNESS, MAY BE DRAWN AND NO INFERENCE
16 MAY BE RAISED SO YOU WOULD GIVE NO CONSIDERATION TO
17 ANY INFERFNCE OR PRESUMPTION DRAIN TO THAT WITNESS
18 FROM THE RIGHT TO CLAIM THIS PRIVILEGE AND HAS NOTHING
19 ELSE, ANY OTHER PRESUMPTION OR INFERENCE FOR YOU TO
20 CONSIDER

21 NOW I CHARGE YOU THAT THERE ARE TWO
22 KINDS OF EVIDENCE, DIRECT EVIDENCE AND CIRCUMSTANTIAL
23 EVIDENCE BY DIRECT EVIDENCE OF A FACT IS MEANT THE
24 TESTIMONY OF PERSONS WHO HAVE PERCEIVED ITS EXISTENCE
25 BY MEANS OF THEIR SENSES SMELLING, TASTING, FEELING,

1 SIGHT, HEARING IS DIRECT INDIRECT, OF COURSE, WOULD
2 BE FROM THE EVIDENCE AND BY INDIRECT OR CIRCUMSTANTIAL
3 EVIDENCE IS MEANT THE PROOF OF SOME OTHER FACT OR FACTS
4 FROM WHICH TAKEN EITHER SINGLY OR COLLECTIVELY, DID
5 EXISTENCE OF THE PARTICULAR FACT IN QUESTION MAY BE
6 INFERRED AS A NECESSARY CONSEQUENCE

7 NOW THE STATE HAS THE RIGHT IN ANY
8 CASE TO RELY SOLELY ON DIRECT EVIDENCE AND I CHARGE
9 YOU THAT ON THAT THEY MUST PROVE IT BEYOND A REASONABLE
10 DOUBT THEY HAVE THE RIGHT, FOR INSTANCE, IN ANY CASE
11 TO RELY SOLELY ON CIRCUMSTANTIAL EVIDENCE AND I WOULD
12 CHARGE YOU WHAT THAT IS IN A MOMENT, THE BURDEN

13 AND OF COURSE, THEY WOULD HAVE THE
14 RIGHT TO RELY ON A COMBINATION OF BOTH, IF THEY EXIST

15 NOW, IN USE OF CIRCUMSTANTIAL EVIDENCE,
16 CIRCUMSTANTIAL EVIDENCE IS GOOD PROVIDED IT MEETS THE
17 LEGAL TEST TO THE EXTENT THAT THE STATE RELIES ON THE
18 CIRCUMSTANTIAL EVIDENCE, IT MUST PROVE ALL THE CIRCUMSTANCES
19 RELIED ON BEYOND A REASONABLE DOUBT THEY MUST BE
20 WHOLLY IN EVERY PARTICULAR, PERFECTLY CONSISTENCE WITH
21 ONE ANOTHER, AND THEY MUST POINT CONCLUSIVELY, THAT IS
22 TO A MORAL CERTAINTY TO THE GUILT OF THE ACCUSED, TO THE
23 EXCLUSION OF EVERY OTHER REASONABLE HYPOTHESIS THAT
24 IS, THEY MUST BE ABSOLUTELY INCONSISTENT WITH EVERY
25 OTHER REASONABLE HYPOTHESIS THAN THE GUILT OF THE ACCUSED

1 IN OTHER WORDS, IN THE CONSIDERATION
2 OF CIRCUMSTANTIAL EVIDENCE, THE JURY MUST SEEK SOME
3 REASONABLE EXPLANATION THEREFORE OTHER THAN THE GUILT
4 OF THE ACCUSED AND IF SUCH REASONABLE EXPLANATION
5 CAN BE FOUND YOU CANNOT CONVICT ON SUCH CIRCUMSTANTIAL
6 EVIDENCE

7 I CHARGE YOU FURTHER THAT THE MERE
8 FACT THAT THE CIRCUMSTANCES ARE STRONGLY SUSPICIOUS
9 AND A DEFENDANT'S GUILT PROBABLY IS NOT SUFFICIENT TO
10 SUSTAIN A CONVICTION BECAUSE THE PROOF OFFERED BY THE
11 STATE MUST EXCLUDE EVERY REASONABLE HYPOTHESIS EXCEPT
12 THAT OF GUILT IT MUST SATISFY YOU, THE JURY, BEYOND
13 REASONABLE DOUBT

14 NOW, THERE ARE TWO PHRASES, BEYOND
15 A REASONABLE DOUBT AND PROOF TO A MORAL CERTAINTY ARE
16 SYNONYMOUS AND THE LEGAL EQUIVALENT OF EACH OTHER
17 THESE PHRASES HOWEVER CONNOTE A DEGREE OF PROOF
18 DISTINGUISHED FROM AN ABSOLUTE CERTAINTY

19 I CHARGE YOU THAT MERE PRESENCE AT
20 THE SCENE OF A CRIME IS NOT, OF THIS CRIME IS OR IS NOT
21 OF COURSE, IS NOT IN AND OF ITSELF SUFFICIENT TO ESTABLISH
22 GUILT UNLESS YOU FIND BEYOND A REASONABLE DOUBT THAT THE
23 PARTICULAR DEFENDANT WAS A PARTICIPANT AND NOT MERELY
24 A SPECTATOR

25 I CHARGE YOU AS FOLLOWS THAT YOU

1 ARE THE SOLE JUDGES, AS I HAVE STATED BEFORE, NOT ONLY
2 OF THE EVIDENCE AND TESTIMONY BUT OF ALL THE EXHIBITS
3 EXHIBITS ARE NOTHING BUT TESTIMONY IN A DIFFERENT FORM
4 THAT YOU MUST EXAMINE CLOSELY AND MAKE A DETERMINATION
5 OF HOW MUCH YOU WILL OR WILL NOT CONSIDER SUCH EVIDENCE

6 I CHARGED YOU BEFORE AND I CHARGE
7 YOU AGAIN THAT THE TITLE OF THE POSITION OF THE WORK
8 OF A WITNESS IN AND OF ITSELF WOULD NOT ENTITLE MORE
9 WEIGHT BE GIVEN TO ANY TESTIMONY ALL WITNESSES, WE
10 USE THE SAME STANDARD MAKING THE DETERMINATION OF THE
11 CREDIBILITY OR BELIEVABILITY

12 NOW, THERE ARE ONLY TWO FORMS OF
13 VERDICT YOU CAN USE IN THIS CASE THE WAY I LIST THESE
14 AND THE ORDER IN WHICH I LIST THEM MEANS NOTHING BECAUSE
15 WHEN YOU HAVE MORE THAN ONE THING TO LIST SOMETHING
16 MUST COME FIRST AND SOMETHING COME SECOND, AND THEN
17 SO ON

18 ON THE BACK OF THE INDICTMENT YOU
19 WILL SEE THE PRINTED WORD VERDICT I HAVE ALREADY
20 INSTRUCTED YOU THAT COMES FROM A LATIN PHRASE MEANING
21 TO SPEAK THE TRUTH AND BELOW THAT IS A BLANK LINE
22 AND THEN AT THE BOTTOM IS A PRINTED WORD FOREMAN WE
23 HAVE JUST NOT GOTTEN AROUND TO SAY FORELADY THEY ARE
24 ALL PRINTED FOREMAN NOW, WHATEVER FORM OF THE VERDICT
25 YOU USE, ALL TWELVE OF YOU MUST AGREE ON THAT FORM OF

1 THE VERDICT

2 NOW THE TWO FORMS ARE, ONE, THE ONE
3 WORD "GUILTY" IF THAT SHOULD BE YOUR FORM OF THE
4 VERDICT, ALL TWELVE AGREEING, MADAM FOREMAN, YOU WOULD
5 WRITE THAT ONE WORD ON THE BLANK LINE BELOW THE
6 PRINTED WORD VERDICT, THE ONE WORD "GUILTY" AND ONLY
7 YOU WOULD SIGN YOUR NAME ABOVE THE PRINTED WORD FOREMAN

8 THE OTHER FORM HAS TWO WORDS "NOT
9 GUILTY" AND IF THAT SHOULD BE YOUR FORM OF VERDICT,
10 ALL TWELVE AGREEING, AGAIN, MADAM FOREMAN, YOU WOULD
11 WRITE THE TWO WORDS "NOT GUILTY" BELOW THE PRINTED
12 WORD VERDICT AND AGAIN, ONLY YOU WOULD SIGN YOUR
13 NAME AS FORELADY BUT ALL TWELVE OF YOU MUST AGREE ON
14 EITHER FORM OF THE VERDICT THAT YOU RETURN

15 NOW, I AM GOING TO ASK THE TWO
16 ALTERNATES, IF YOU WOULD PLEASE, TAKE YOUR SEATS BACK
17 IN THE AUDIENCE AT THIS TIME

18 I AM GOING TO SEND YOU TO YOUR JURY
19 ROOM BUT DO NOT START YOUR DELIBERATION AS YET I WILL
20 SEND YOU WORD, UPON RECEIVING WORD START YOUR DELIBERATION
21 YOU HAVE THEN REACHED THAT TIME AT THIS TRIAL THAT YOU
22 WILL DISCUSS IT AMONG YOURSELVES AND UPON ARRIVING
23 AT A VERDICT THAT SPEAKS THE TRUTH, YOU THEN USING ONE
24 OR OTHER OF THE TWO FORMS I'M GIVING YOU, PLACING IT
25 ON THE INDICTMENT YOU WILL KNOCK ON THE DOOR AND LET

1 US KNOW THAT YOU HAVE REACHED, ^RRIVED AT A VERDICT
2 SO DON'T START YOUR DISCUSSION YET I WILL SEND YOU
3 WORD IF YOU WOULD PLEASE, FOLLOW THE BAILIFFS TO THE
4 JURY ROOM

5 (JURY LEAVES THE COURTROOM AT 11 30
6 A M)

7 THE COURT ANY EXCEPTIONS TO THE
8 CHARGE FROM THE STATE OR ANY REQUESTS FOR ADDITIONAL
9 CHARGE?

10 MR MABRY NO, YOUR HONOR

11 THE COURT FROM THE DEFENSE?

12 MR VERMONT YES, SIR, FOR THE
13 RECORD, YOUR HONOR, I TAKE EXCEPTION TO THE COURT'S
14 FAILURE TO CHARGE IN FACT, ALL NINE OF OUR REQUESTS
15 EXCEPT FOR NUMBER FOUR I THINK THAT IS THE ONLY ONE
16 YOU DID VERBATIM

17 THE COURT THANK YOU VERY MUCH
18 I WILL HAND THOSE OVER TO THE COURT REPORTER AT THIS
19 TIME

20 MR VERMONT FINE, THANK YOU OUR
21 SECOND GROUND, YOUR HONOR, I TAKE EXCEPTION TO THE
22 COURT CHARGING A REASONABLE DOUBT IS A SERIOUS AND
23 STRONG DOUBT I FEEL THAT IS AN IMPROPER USE OF A
24 SYNONYM I DON'T FEEL LIKE THAT IS A PROPER EXPLANATION
25 OF IT

1 THE COURT YOU DO, FINE I AM
2 GLAD YOU DID AS FAR AS I KNOW IT IS IN THERE, I DON'T
3 KNOW WHAT YOU REQUESTED? DO YOU HAVE ANYTHING ON THAT?

4 MR VERMONT NO, SIR, WE DON'T
5 MAKE A SPECIFIC REQUEST

6 THE COURT YOU DON'T WANT ME TO
7 CHARGE THEM IT IS A WEAK DOUBT?

8 MR VERMONT NO, SIR, IT IS JUST
9 A REASONABLE DOUBT I DON'T THINK THE NORMAL CHARGE
10 USES THAT

11 THE COURT YES, SIR, BUT I AM JUST
12 ASKING FOR MY OWN INFORMATION, WHAT DO YOU CONSIDER
13 THAT I CHARGE THAT IS BEYOND A SERIOUS DOUBT IS MORE
14 STRONGLY IN YOUR FAVOR THAN THE OTHER? I JUST WANT TO
15 KNOW

16 MR VERMONT QUITE FRANKLY THE
17 WHOLE AREA CONFUSES ME I HAVE SEEN SOME OF THE MOST
18 RECENT CASES, I DO PARTICULAR DISAGREE WITH BUT--

19 THE COURT I AM JUST TRYING TO FIND
20 OUT THEY CONSIDER THE USE OF BEYOND STRONG SERIOUS
21 DOUBT IS MORE IN YOUR FAVOR I JUST WONDER

22 MR VERMONT IF IT COMES UP IN
23 THAT CONTEXT, IF YOU SAY BEYOND A SERIOUS DOUBT, BEYOND
24 A STRONT DOUBT

25 THE COURT I SAID THAT

1 MR VERMONT IF YOU SAY YOU HAVE
2 GOT TO HAVE A STRONG DOUBT, YOU HAVE GOT TO HAVE A SERIOUS
3 DOUBT--

4 THE COURT EXACTLY WHAT I SAID OF
5 WORDS TO THAT EFFECT PUT IT IN THE RECORD AND YOU
6 WILL BE PROTECTED I HAVE OFTEN WONDERED

7 MR VERMONT YES, SIR MY FINAL
8 ONE, YOUR HONOR, I TAKE EXCEPTION TO THE COURT CHARGING
9 IN I THINK EXACTLY THESE WORDS "THE STATE IS NOT
10 REQUIRED TO PROVE A MOTIVE FOR KILLING " I UNDERSTAND
11 THAT IS THE LAW, BUT I THINK IN THE CONTEXT HERE AND
12 ESPECIALLY IN LIGHT OF MR MABRY'S ARGUMENT, THE
13 DEFENDANTS HAVING MADE NO ARGUMENT ON THAT POINT AND
14 MR MABRY SPECIFICALLY ARGUING THEY ARE NOT REQUIRED TO
15 GIVE A MOTIVE IS A COMMENT ON THE FACTS

16 THE COURT FINE HE MAY HAVE SAID
17 I AM GOING TO CHARGE REASONABLE DOUBT, THAT IS A COMMENT
18 ON THE FACTS HOWEVER, YOU MAY BE RIGHT THAT IS THE
19 STANDARD CHARGE, THOUGH

20 MR VERMONT THAT IS ALL
21 THE COURT NOW COULD I HAVE SOMEONE
22 DETERMINE IF THEY WOULD LIKE TO EAT IN THE JURY ROOM
23 AND CONTINUE THEIR DELIBERATIONS?

24 MR VERMONT YOU DON'T WANT THEM
25 TO START?

1 THE COURT WELL WE CAN ASK THEM
2 WE HAVE TO TAKE TIME TO DO THAT WE WILL ASK THEM IF
3 THEY WANT LUNCH

4 MR VERMONT CERTAINLY, THAT IS FINE
5 THE COURT WELL, IF THEY WANT
6 LUNCH WOULD THEY LIKE FOR IT TO BE BROUGHT IN? THEN WE
7 WILL GET THE ORDER OR A VAN OR WHATEVER IT IS A LOT
8 BETTER THAN SENDING THFM OUT TO LUNCH BECAUSE IF THEY
9 GO OUT THEY HAVE GOT TO STOP DELIBERATING, PERIOD HERE
10 THEY CAN CONTINUE BECAUSE NOBODY HEARS THEM

11 ALL RIGHT, IF THERE IS NO OBJECTION
12 TO MAKING THAT DETERMINATION?

13 MR VERMONT NO, SIR

14 THE COURT YOU UNDERSTAND I WANT
15 TO FIND OUT IF THEY WANT TO EAT OR NOT, AND IF THEY
16 DO WOULD IT BE ALLRIGHT TO SEND IT IN, ANY PLACE THEY
17 CAN FIND IT AND FIND OUT WHAT THEY WANT? LET HER DO
18 THAT BEFORE YOU TAKE THE STUFF IN HERE IS THE INDICTMENT

19 ALL RIGHT, WE WILL BE AT EASE UNTIL
20 WE HEAR OR SOMETHING COMES UP

21 (JURY DECIDED TO EAT IN THE JURY ROOM,
22 BEGIN DELIBERATION AT 12 35 P M)

23 MR MABRY HAS THE JURY BEGUN THEIR
24 DELIBERATIONS, YOUR HONOR?

25 THE COURT I TOLD THEM TO WAIT TIL

626A

1 SHE CAME OUT AND THEN TOLD THFM TO GET STARTED

2 (AT EASE)

3
4 (RESUME AT 2 30 P M)

5 THE COURT THERE HAS BEEN A VERBAL
6 REQUEST THAT THEY BE ALLOWED TO SEE THE SCENE?

7 MR MABRY IN ADDITION TO THE TAPES,
8 YOUR HONOR?

9 THE COURT YES, SIR

10 MR MABRY WE HAVE NO OBJECTIONS

11 MR VERMONT I NEED A MINUTE FOR THIS,
12 YOUR HONOR (PAUSE) I GUESS I HAVE NO OBJECTIONS TO
13 THIS AT ALL, YOUR HONOR, EITHER

14 THE COURT WELL, FINE THAT IS UP
15 TO YOU ALL NOBODY, NO DISCUSSION

16 (JURY RETURNS TO THE COURTROOM AT
17 2 30 P M)

18 THE COURT MADAM FOREMAN, I HAVE
19 THE JURY'S REQUEST FIRST I THINK THERE WAS A REQUEST
20 FOR THE STATEMENT OF JAMIE OWENS I CHECKED THIS
21 DOCUMENT, IT WAS NOT PLACED IN EVIDENCE THEREFORE, IT
22 IS NOT AVAILABLE IF THE EXHIBIT IS NOT IN EVIDENCE IT IS
23 NOT AVAILABLE NOW, I UNDERSTOOD THERE WAS A REQUEST
24 FOR THE JURY TO HAVE A VIEW OF THE SCENE I DISCUSSED
25 IT WITH THE STATE AND DEFENSE AND THEY SAID, FINE, IF

1 THAT IS WHAT THE JURY WANTS TO DO WE WILL MAKE
2 ARRANGEMENTS FOR THE JURY FOR THAT PURPOSE

3 NOW, NEXT YOU HAVE REQUESTED TO HEAR
4 THE TESTIMONY OF FIVE WITNESSES DEBBIE FAY HICKOX,
5 DELORES MOCK, OWENS CAMPBELL, CONNIE LEWIS, JAMIE
6 OWENS THAT'S FINE, BUT DURING THIS TIME I HAVE HAD
7 OUR COURT REPORTER ESTIMATE THE TIME NECESSARY TO HEAR
8 THE TESTIMONY AND IT COMES TO FIVE HOURS AND FIVE MINUTES
9 PLUS ANOTHER ADDITIONAL TWENTY TO THIRTY MINUTES OF
10 HAVING TO WORK THE MACHINERY, CHANGING AS YOU ALL
11 WELL KNOW I SENT YOU OUT A NUMBER OF TIMES FOR MATTERS
12 NOT YOUR CONCERN WHATSOEVER NOW, WHAT I AM GOING TO
13 DO IS HAVE THE CARS HERE IMMEDIATELY SO THAT YOU CAN GO

14 WE WILL BE READY IF YOU WANT TO HEAR
15 THAT TESTIMONY, FINE BUT I WANT YOU TO KNOW HOW LONG
16 IT WILL TAKE AND IF YOU KNOW THAT AND WANT TO HEAR
17 IT, FINE BUT I AM SAYING THE BEST ESTIMATE WE CAN GIVE
18 IT WOULD BE FIVE HOURS AND FIVE MINUTES OF LISTENING
19 AND, OF COURSE, I WOULD HAVE TO GIVE YOU A BREAK OR TWO,
20 ALSO, DURING THE FIVE HOURS AND FIVE MINUTES, PLUS THE
21 TIME OF OPERATING THE MACHINERY ON AND OFF SO GIVE
22 THAT SOME CONSIDERATION, THOUGHT AND THEN, FINE, LET
23 ME KNOW WHAT YOU THINK YOU FIND TO BE NECESSARY AS YOU
24 WANT TO DO THEY HAVE GONE TO MAKE THE ARRANGEMENTS
25 FOR THE TRANSPORTATION NOW, YOU WILL HEAR, I ALWAYS

1 WANT YOU TO HEAR THE OATHS GIVEN TO THE BAILIFFS AND
2 THE DRIVERS WHO ARE TAKING YOU THERE SO THAT YOU WILL
3 KNOW WHAT TO DO AND WHAT NOT TO DO WHEN YOU COME OUT
4 OF THE JURY ROOM AND LEAVE YOU DO NOT DELIBERATE ANY
5 FURTHER AT THAT TIME AT THAT POINT YOU DO NOT DISCUSS
6 IT WHEN YOU GO THERE NO ONE WILL POINT ANYTHING OUT
7 TO YOU I GUESS THE NAMES OF THE STREETS ARE AVAILABLE,
8 I'M NOT SURE I DON'T KNOW

9 MR MABRY YOUR HONOR, THERE ARE
10 NO STREET SIGNS AT THE INTERSECTION THE ONLY IDENTIFYING
11 SIGN IS, AND I WENT OUT THERE, THE ONLY IDENTIFYING
12 SIGN THAT I KNOW OF IS THAT SHADY REST PET SIGN

13 IF YOU GO OUT LEESBURG THERE IS
14 A SIGN FOR HARMON ROAD

15 THE COURT WELL, LET ME MAKE SURE
16 THEY KNOW WHAT ROAD THEY ARE LOOKING AT

17 MR VERMONT WE CAN ALL DISCUSS THAT
18 AMONGST OURSELVES

19 THE COURT WELL, YOU OBSERVE, YOU
20 LOOK AND SEE WHAT YOU WANT TO LOOK AT NOBODY IS GOING
21 TO POINT OUT ANYTHING, ANY ITEM OR ANYTHING OUT TO YOU
22 BUT ALL OF YOU LOOK ANYWAY YOU WANT TO LOOK YOU CAN
23 WALK TOGETHER I WOULD RATHER YOU STAY TOGETHER AND
24 LOOK ANYWHERE YOU WANT OR YOU CAN STAY IN THE CAR,
25 WHATEVER YOU WANT TO DO ALL OF YOU AND THEN WHEN YOU

1 GET BACK YOU WILL DISCUSS IT

2 NOW, WHAT I AM GOING TO DO IS SEND
3 YOU BACK TO THE JURY ROOM SO THAT YOU WILL BE PREPARED
4 TO TAKE THIS TRIP I AM GOING TO BRING YOU BACK OUT
5 TO LISTEN TO THE OATH THAT IS GOING TO BE GIVEN YOU
6 WILL KNOW WHAT THF WILL HAVE TO DO, AND I WILL SEND FOR
7 YOU IN A FEW MINUTES

8 (JURY LEAVES THE JURY BOX)

9 THE COURT NOW, I AM GOING TO ANNOUNCE
10 NOW THAT I AM SENDING THE JURY OUT TO VIEW THE SCENE
11 THERE IS NO REASON FOR ANYBODY ELSE IN THIS COURTROOM
12 TO BE THERE, THAT I KNOW OF SO, I DON'T EXPECT ANYBODY
13 TO GO OUT THERE UNLESS YOU HAVE GOT A REASON TO BE THERE
14 THIS IS ONLY FOR THE JURY TO DO, NOT ANYBODY ELSE I
15 KNOW NO ONE IS GOING I JUST WANTED TO TELL YOU THAT
16 GENTLEMEN, ON THE FIVE HOURS AND
17 FIFTEEN MINUTES YOU CAN ALSO ADD FORTY-FIVE MINUTES FOR
18 JURY BREAK

19 I WILL SEND THE TWO YOUNGER MEMBERS
20 OF EACH SIDE TO GO THAT INCLUDES YOU AND YOU

21 MR MABRY I THINK THESE GENTLEMEN
22 ARE TAKING THE OATH, THEY ARE JUST GOING TO DRIVE AND
23 NOT SAY ANYTHING

24 THE COURT I DON'T MIND THESE TWO
25 GOING THAT WILL BE FINE I JUST WANT TO MAKE SURE

1 EVERYTHING IS FINE YOU GO YOU ALL CAN'T TELL THEM
2 ANYTHING EITHER, YOU CAN'T SHOW THEM ANYTHING

3 MR MABRY THEY DON'T KNOW WHERE THEY
4 ARE GOING YET THE COURT MIGHT INFORM THEM WHERE THEY
5 ARE SUPPOSE TO GO TO

6 THE COURT I THOUGHT YOU ALL WERE
7 GOING TO HANDLE THAT SITUATION I WOULDN'T KNOW HOW
8 TO GET THERE DO WE HAVE ANY OBJECTIONS IN TELLING
9 THEM WHERE THEY ARE GOING?

10 MS GOODWIN YOUR HONOR, MR VERMONT
11 SAYS HE HAS NO OBJECTIONS HE IS THE LEAD COUNSEL IN
12 THE CASE I WITHDRAW MY OBJECTION

13 THE COURT YOU DON'T WANT TO GO?

14 MS GOODWIN HE DOESN'T THINK IT
15 IS NECESSARY

16 THE COURT WELL, YOU NEED SOMEONE
17 TO POINT OUT TO THE OFFICERS WHERE TO DRIVE TO OR YOU
18 ALL TELL THEM SOMEHOW YOU ALL WORK OUT SOMETHING

19 MR MABRY I AM SURE THEY CAN FIND
20 HARMON AND WHATEVER IT IS IF NECESSARY THEY CAN GET
21 A RICHLAND COUNTY MAP WOULD THERE BE AN OBJECTION
22 IF CONNIE LEWIS, LT LEWIS DROVE OUT TO THE SCENE AND
23 POINTED IT OUT AND LEFT?

24 MR VERMONT YES, THAT IS OBJECTION-
25 ABLE

1 THE COURT WELL, I AM REITERATING
2 I AM GOING TO, UNLESS THERE IS SOME STRENUOUS, I AM
3 REITERATING THAT YOU AND THE PRFTTY DEFENSE ATTORNEY
4 TO GO, THE SOLE PURPOSE IS GETTING THEM TO THIS AREA
5 NOW, I DON'T KNOW HOW MANY ROAD ARE OUT THERE ALL THE
6 EXHIBITS WERE FACING THE WRONG WAY I HAVE NO MORE
7 IDEA OF WHAT IT LOOKS LIKE THAN ANYTHING ALL I SAW
8 WAS EVERYBODY'S BACKS AND THE BACKS OF EVERYTHING

9 WOULD IT BE ALL RIGHT JUST FOR TWO
10 ATTORNEYS TO TELL THEM THIS IS SUCH AND SUCH ROAD AND
11 THIS IS SUCH AND SUCH ROAD AND THAT IS ALL LET THEM
12 LOOK WHERE THEY WANT TO LOOK? BECAUSE IF THEY DON'T
13 KNOW THE NAMES OF THE ROADS, I DON'T KNOW WHAT THEY
14 WOULD BE LOOKING AT ALL RIGHT

15 NOW, UNDER THE OATH YOU ALL ARE NOT
16 SUPPOSE TO LET ANYBODY TALK TO THEM OR TALK TO THEM
17 YOURSELVES, OR TALK AMONG THEM OF COURSE, THEY CAN
18 TALK TO EACH OTHER, THEY CAN WALK AS A GROUP AND LOOK
19 AT ANYTHING THEY WANT TO IF THEY WANT TO GO AS A
20 GROUP I AM GOING TO TELL THEM THAT THEY CAN WALK AND
21 LOOK THE TWO YOUNG ATTORNEYS WILL DIRECT HOW TO GET
22 OUT THERE, AND THEY WILL TELL THEM WHILE THEY ARE
23 TOGETHER THAT THIS IS SUCH AND SUCH HIGHWAY OR ROAD,
24 THIS IS SUCH AND SUCH, AND THIS IS SUCH AND SUCH, AND
25 THAT'S IT

1 ALL RIGHT, BRING THEM IN PLEASE?

2 (JURY BACK)

3 THE COURT ALL RIGHT, 'E HAVE AN
4 AUTOMOBILE READY TO TAKE YOU ALL OVFR TO THE PROPERTY
5 DESCRIBED IN THIS CASE JUST THE TWO YOUNG ATTORNESY
6 ARE GOING ALONG AND ALL THEY ARE GOING TO SAY IS THIS
7 IS HIGHWAY OR ROAD SO AND SO AND THIS IS HIGHWAY SO AND
8 SO YOU PEOPLE WILL KNOW ANYWAY, IN ORDER TO LOCATE IT
9 ONLY THAT IS ALL THEY ARE GOING TO TELL YOU AND YOU
10 HAVE THE RIGHT TO LOOK AT ANYTHING THAT YOU WANT OUT
11 THERE I WOULD STAY TOGETHER, GO AS A GROUP, WALK
12 AROUND AND LOOK OR YOU CAN RIDE BY AND LOOK, WHATEVER
13 YOU WISH TO DO AND AS I SAY, LOOK AT ANYTHING YOU WANT
14 TO, IN ANY DIRECTION, ANY PLACE, ANY THING DO NOT
15 DISCUSS THIS CASE IT IS ALL RIGHT FOR YOU ALL TO LOOK
16 AT ONE THING, LOOK AT THIS, BUT JUST TO LOOK AT THIS,
17 DON'T DISCUSS THE CASE, YOU KNOW AS A MATTER OF FACT,
18 THE OATH THAT IS GOING TO BE IN JUST A MOMENT FOR THE
19 PEOPLE WHO DRIVE TO GO OUT THERE, NOT NOT TO TALK TO
20 YOU OR ALLOW YOU TO TALK TO ANYBODY ELSE NOW, THEY
21 CAN SAY NOT TALK TO YOURSELF, I DON'T KNOW, BUT I SEE
22 NOTHING WRONG WITH SAYING IT IS A BEAUTIFUL DAY IF THE
23 WEATHER IS GOOD-- THOSE TYPE THINGS JUST DON'T DISCUSS
24 THIS CASE SEE, YOU ARE ONLY SUPPOSE TO DO THAT WHILE
25 YOU ARE IN THE JURY ROOM

1 NOW, YOU ARE READY TO GO AND, YOU
2 TWO GO IN THE LEAD CAR, SOMEHOW UNLESS THEY KNOW HOW
3 TO GET THERE SOME OF THE JURORS MAY KNOW THE PLACE
4 BETTER THAN ANYBODY, HOW TO GET THERE I DON'T KNOW
5 BUT MAKE SURE THEY GET OUT TO WHERE WE ARE GOING LET
6 THEM HAVE FULL OPPORTUNITY TO SEE WHAT THEY WANT TO SEE
7 AND JUST BRING THEM BACK THEN I WILL TAKE UP WITH YOU,
8 AT THAT TIME, THE TESTIMONY, IF ANY, THAT YOU WANT TO
9 HEAR

10 OKAY, SWEAR THEM IN, PLEASE
11 (DEPUTIES AND BAILIFFS ARE SWORN)
12 THE COURT ALL RIGHT, THEY ARE
13 READY TO GO

14 (JURY LEAVES THE COURTROOM TO VIEW
15 THE SCENE AT 3 15 P M)

16 (JURY RETURNS FROM THE SCENE ALL
17 ATTORNEYS AGREE TO ALLOW THE COURT REPORTER TO ENTER
18 THE JURY ROOM WITH THE JURY TO PLAY BACK THE TESTIMONY
19 OF JAMIE OWENS TESTIMONY IS PLAYED AND COMPLETED AT
20 7 00 P M , DELIBERATIONS RESUME)

21 (AT 8 00 THE COURT REPORTER REENTERS
22 THE JURY ROOM AND PLAYS BACK THE TESTIMONY OF THE
23 DEFENDANT FRANCIS OWENS CAMPBELL, ALL ATTORNEYS AGREE
24 WITHOUT OBJECTIONS)

25 DINNER RECESS FROM 9 25 TIL 9 55 P M

1 AND THEN I RESUMED PLAYBACK OF TESTIMONY AT 10 45 P M
2 I COMPLETED TESTIMONY READ BACK AND JURY CONTINUES
3 THEIR DELIBERATIONS)

4 (RESUME AT 11 25 P M)

5 THE COURT THE JURY HAS DECIDED
6 THEY WANTED THE CHARGE AGAIN ON REASONABLE DOUBT SINCE
7 THEY DECIDED THEY WANTED THAT CHARGE AGAIN, I THINK THE
8 CHARGES COME FROM A CASE--I'LL FIND IT FOR YOU
9 ORDINARILY YOU WOULD FIND IT "A DOUBT WELL FOUNDED, A
10 STRONG DOUBT WHICH ARISES OUT OF THE TESTIMONY OR THE
11 LACK OF TESTIMONY " THERE IS A CASE THAT USES THE
12 WORD SERIOUS, ALSO, BESIDES STRONG AND STRONG IS
13 THE USUAL CHARGE BUT I WILL FIND THE CASE FOR YOU
14 TOMORROW BUT I HAVE ALREADY DECIDED THAT I WASN'T GOING
15 TO USE SERIOUS SINCE YOU DIDN'T LIKE IT ANYWAY
16 STRONG, YOU MAY NOT LIKE IT EITHER BUT I AM GOING TO,
17 THAT'S IN IT BRING THEM IN

18 I'R VERMONT YOUR HONOR, WE WILL
19 REQUEST SINCE YOU ARE GOING TO CHARGE REASONABLE DOUBT
20 YOU ALSO CHARGE THE BURDEN OF PROOF AT THE SAME TIME
21 WILL YOU GO INTO THAT?

22 THE COURT YES, SIR, I'LL ALWAYS
23 DO THAT

24 MR MABRY YOUR HONOR, THE JURY
25 HAS REQUESTED THE CHARGE THE DEFENSE HAD AN OPPORTUNITY

1 TO REQUEST ADDITIONAL CHARGES AT THE END OF REGULAR
2 CHARGES NOW, THIS REQUEST FROM THE JURY, I WOULD
3 OBJECT TO ADDITIONAL CHARGE UNLESS THE JURY ASKED FOR
4 IT

5 THE COURT FINE I HAVE ALWAYS
6 CHARGED AGAIN THAT THERE IS A PRESUMPTION, THE STATE
7 MUST OVERCOME IT BY THE BURDEN OF REASONABLE DOUBT
8 AND A REASONABLE DOUBT IS SUCH AND SO I ALWAYS HAVE
9 NOW, BRING THEM IN PLEASE

10 (JURY RETURNS TO THE JURY BOX AT
11 11 35 P M)

12 THE COURT ALL RIGHT, MADAM FOREMAN,
13 I HAVE A REQUEST I BELIEVE YOU WOULD LIKE FOR ME TO
14 CHARGE REASONABLE DOUBT TO YOU AGAIN IS THAT CORRECT?

15 FORELADY YES, SIR, PLEASE?

16 THE COURT ALL RIGHT, AS I TOLD YOU
17 BEFORE IN THIS STATE, ANY DEFENDANT COMES INTO THIS
18 COURT THE BURDEN IS ON THE STATE, OF COURSE, TO PROVE
19 ANY DEFENDANT GUILTY BEYOND A REASONABLE DOUBT BECAUSE
20 OF THE PRESUMPTION OF INNOCENCE THAT ANY DEFENDANT HAS
21 IN ANY CASE SO, NEXT WOULD BE, WHAT IS A REASONABLE
22 DOUBT I TELL YOU THE BURDEN ON THE STATE IS TO PROVE
23 THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT
24 SUSPICION OF POSSIBLE OR PROBABLE GUILT WILL NOT SUSTAIN
25 CONVICTION BUT REASONABLE DOUBT DOES NOT MEAN BEYOND

1 ALL DOUBT OR BEYOND EVERY DOUBT, BUT BEYOND A REASONABLE
2 DOUBT

3 I CHARGE THAT A REASONABLE DOUBT, OF
4 COURSE, 'S NOT A SLIGHT DOUBT, IT IS NOT A FANCIFUL DOUBT,
5 IT IS NOT A WHIMSICAL DOUBT OBVIOUSLY WE CAN HAVE
6 THOSE KIND OF DOUBTS ABOUT EVERYTHING THERE IS IN THE
7 WORLD BUT IT IS A REASONABLE DOUBT, A DOUBT THAT IS
8 WELL FOUNDED, A STRONG DOUBT WHICH ARISES OUT OF THE
9 TESTIMONY OR THE LACK OF THE TESTIMONY

10 IF YOU HAVE SUCH A DOUBT IN YOUR
11 MINDS AS TO WHETHER OR NOT THE STATE HAS PROVEN THE
12 GUILT OF THE DEFENDANT, CONSIDERING THE EVIDENCE, YOU
13 SHOULD RESOLVE THAT DOUBT, IF IT IS A REASONABLE ONE,
14 IN FAVOR OF THE DEFENDANT AND WRITE A VERDICT OF NOT
15 GUILTY AND ACOUIT HIM

16 I CHARGE YOU THAT IF YOU FIND THE
17 STATE HAS PROVEN THE GUILT OF THE DEFENDANT BEYOND A
18 REASONABLE DOUBT, IT WOULD BE IN SUCH CIRCUMSTANCE
19 EOUAL DUTY FOR YOU, THE JURY, TO WRITE A VERDICT OF
20 GUILTY AS YOU MAY FIND FROM THE EVIDENCE

21 THAT IS THE CHARGE OF REASONABLE
22 DOUBT

23 (JURY LEAVES THE COURTROOM AT 11 40

24 P M)

25 THE COURT ANY EXCEPTIONS?

1 MR MABRY NO, SIR
2 MR VERMONT YES, SIR, TO THE WORD
3 STRONG

4 THE COURT THANK YOU VERY MUCH
5 THE HOUR IS LATE I HAVE GOT TO FINALLY DETERMINE WHAT
6 TO DO IT MIGHT BE BETTER TO, EVENTUALLY, IF THEY
7 ARE STILL WORKING, TO LET THEM GO HOME AND START AGAIN
8 IN THE MORNING AT 9 00 THAT IS SOMETHING FOR YOU ALL
9 TO CONSIDER WHILE WE WAIT LONGER IF YOU HAVE GOT
10 ANY SUGGESTIONS, I WOULD LIKE TO HEAR THEM, OF COURSE
11 ALL RIGHT, WE WILL BE AT EASE UNTIL
12 WE HEAR SOMETHING OR DECIDE WHAT TO DO

13 (RECESS AT 11 00 P M)

14
15 (RESUME AT 12 20 P M)

16 THE COURT NOW, I HAVE BEEN INFORMED
17 THAT THE JURY HAS ARRIVED AT A VERDICT OF COURSE, I
18 DO NOT KNOW WHAT THE VERDICT IS AND WON'T KNOW UNTIL
19 THEY PUBLISH IT BUT WHATEVER THE VERDICT IS THERE
20 WILL BE ON AUDIENCE PARTICIPATION WHATSOEVER IN THIS
21 MATTER NOT IN THIS COURTROOM

22 ALL RIGHT, IS THE STATE READY?

23 MR MABRY THE STATE IS READY, YOUR
24 HONOR

25 THE COURT DEFENSE READY?

1 MR VERMONT YES, SIR
2 THE COURT BRING THEM IN
3 (JURY RETURNS WITH A VERDICT AT
4 12 23 P M)

5 THE CLERK MADAM FORELADY, HAVE
6 YOU REACHED A VERDICT?

7 FORELADY YES

8 THE CLERK CAN I HAVE IT PLEASE?
9 (HANDED TO THE COURT, HANDED BACK AND READ)

10 VERDICT 82-GS40-0537, THE STATE
11 VERSUS FRANCIS OWENS CAMPBELL, AN INDICTMENT FOR MURDER
12 AND THE VERDICT IS "GUILTY", SIGNED BETTY J ORTEGA
13 AS FORELADY

14 MADAM FORELADY, IS THIS YOUR VERDICT
15 AND THE VERDICT OF THIS JURY?

16 FORELADY YES, IT IS

17 THE CLERK THANK YOU

18 THE COURT POLL?

19 MR VERMONT EXCUSE ME?

20 THE COURT DO YOU REQUEST THE JURY TO
21 BE POLLED?

22 MR VERMONT YES, SIR, PLEASE

23 (JURY IS POLLED AND ALL ANSWER IN
24 THE AFFIRMATIVE)

25 THE COURT ARE YOU READY?

1 MR VERMONT YES YOUR HONOR,
2 PLEASE, I HAVE ONE MOTION ON A NUMBER OF GROUNDS, IF
3 THE COURT PLEASES FOR A JUDGMENT NOTWITHSTANDING THE
4 VERDICT FOR THE JURY OR IN THE ALTERNATIVE FOR A NEW
5 TRIAL BASED ON A NUMBER OF GROUNDS, WHICH I GUESS I
6 SHOULD ENUMERATE AT THIS TIME

7 ON THE FIRST GROUND FOR THE REFERENCE
8 TO THE POLYGRAPH MADE ON A NUMBER OF OCCASIONS I
9 THINK THEY WERE PROPERLY EXCEPTED TO, AT LEAST ON
10 SEVERAL OF THOSE OCCASIONS, ON THE FIFTH AMENDMENT ISSUE
11 CONCERNING MRS MOCK THE FAILURE TO ALLOW US TO MAKE
12 AN OFFER OF PROOF ALSO THE FAILURE ON THE STATE'S
13 ASKING THE QUESTIONS ONCE IT WAS ASCERTAINED WHAT WE
14 FELT LIKE THE FIFTH AMENDMENT PRIVILEGE WAS BEING
15 INVOKED ON THE COURT'S ALLOWING SGT MCKARN, I BELIEVE
16 IT WAS, TO TESTIFY AS TO THE DISTANCE ON A SHOTGUN
17 BLAST, WHO HAD NOT BEEN QUALIFIED AS AN EXPERT IN SUCH
18 A FIELD ON THE FAILURE OF THE COURT TO GRANT A MISTRIAL
19 FOLLOWING WHAT WE FEEL LIKE WAS THE STATE'S DELIBERATE,
20 WILLFUL AND FLAGRANT PROSECUTORIAL MISCONDUCT DURING
21 CLOSING ARGUMENTS IN REFERENCE TO THE POLYGRAPH IN
22 FAILURE TO GIVE THE REQUEST TO CHARGE AS REQUESTED AND
23 OTHER GROUNDS THAT WE OBJECTED TO DURING THE COURSE OF
24 THE TRIAL

25 THE COURT DENIED BRING THE

1 PRISONER AROUND PLEASE?

2 MR 'ABRY DO YOU WANT TO DISMISS
3 THE JURY OR DO YOU WANT--

4 THE COURT THEY HAVE DONE THEIR
5 JOB NOT NECESSARILY, THEY HAVE DONE THEIR JOB AND NOW
6 THEY CAN SEE ME DO MINE

7 ANYTHING FURTHER FROM THE STATE?

8 MR 'ABRY NO, YOUR HONOR YOUR
9 HONOR HAS HEARD THE TESTIMONY

10 THE COURT ANYTHING FURTHER FROM
11 THE DEFENSE?

12 MR VERMONT NO, SIR, GIVE THE
13 LIMITATIONS ON YOUR HONOR'S SENTENCING IN THIS SITUATION,
14 I HAVE NOTHING FURTHER

15 THE COURT DO YOU HAVE ANYTHING TO
16 SAY TO ME BEFORE I SENTENCE YOU SIR?

17 MR CAMPBELL YES, I HAVE I WOULD
18 LIKE TO TELL YOU AND I WOULD LIKE TO TELL THE WORLD
19 AND THE WIDOW WITH THE LITTLE CHILDREN, AND I WOULD
20 LIKE TO TELL HER BROTHERS, WHICH THEY KNOW I DIDN'T
21 KILL THEIR BROTHER AND I KNOW FOR A FACT CONNIE LEWIS
22 HAD THIS SET UP WITH MY COUSINS JAMIE OWENS AND JOHNNY
23 OWENS BECAUSE WHEN I MADE THAT STATEMENT I MADE THAT
24 STATEMENT TO HELP LT CONNIE LEWIS AND I DONE THAT
25 IN EVERYWAY UNTIL I COULD HELP HIM NO MORE OR HE COULD

1 USE ME NO MORE AND THEN HE PUT ME BACK IN THE
2 PENITENTIARY I OPENED THE CASE UP FOR HIM, THAT THE
3 ONLY THING FOR HIM TO DO IS JUST FIND ANYBODY THAT WOULD
4 JUST COME AND JUST STICK TO THE STORY AND GET A
5 CONVICTION OF ME

6 AS THEY TALKED ABOUT POLYGRAPH TESTS
7 AND ALL, I ALSO TOOK TESTS, TOO I TOOK JUST AS MANY
8 TESTS OR MORE TESTS THAN HE TOOK I WANT THE BROTHERS
9 AND THE WIFE AND ALL TO KNOW THAT, SIR I PASSED ALL
10 OF MY TESTS I TOOK SODIUM PENTOTHAL AND EVERYTHING
11 TO PROVE MY INNOCENCE BUT YET I COULDN'T AND GOD
12 IS STILL MY WITNESS TODAY I DID NOT KILL OLIN D
13 WILSON BUT ONE DAY I WILL GET OUT THE PENITENTIARY

14 THE COURT YES, SIR

15 MR CAMPBELL AND I JUST HOPE AND
16 PRAY TO GOD THAT THIS COURT FINDS THE MAN WHO DID KILL
17 OLIN D WILSON FOR ME BECAUSE THEY WILL OWE ME AN
18 APOLOGY

19 THE COURT ANYTHING ELSE?

20 MR CAMPBELL NO, SIR

21 THE COURT YOU HAVE THE INDICTMENT?

22 THE CLERK YES, SIR

23 THE COURT THANK YOU ALL RIGHT,
24 IF THERE IS NOTHING FURTHER, THE SENTENCE OF THE COURT IS
25 YOU FRANCIE OWENS CAMPBELL BE CONFINED IN THE STATE

1 DEPARTMENT OF CORRECTIONS FOR AND DURING THE TERM OF
2 YOUR LIFE

3 UNDER THE CURRENT STATUTORY PROVISION
4 WE HAVE YOU WILL BE ELIGIBLE FOR PAROLE IN TWENTY YEARS
5 YOU ALSO HAVE THE RIGHT TO APPEAL, WHICH YOUR ATTORNEY
6 WILL TAKE CARE OF YOU DO THAT WITHIN TEN DAYS? THAT
7 IS RIGHT I HOPE YOU DO WELL, SIR

8 MR MABRY THANK YOU, YOUR HONOR

9 THE COURT THANK YOU

10 NOW LADIES AND GENTLEMEN OF THE JURY,
11 THE CLERK SUGESTED THAT IF HE COULD TALK TO ANYONE,--
12 IF YOU CAN FIND A ROOM YOU CAN DO THAT NOW

13 LADIES AND GENTLEMEN, AS I TOLD YOU
14 BEFORE, THE SENTENCE IN ANY CASE IS NOT YOUR CONCERN
15 IT DOESN'T MATTER YOUR CONCERN IS TO RETURN A VERDICT
16 THAT SPEAKS THE TRUTH AND WHEN YOU DO YOU DO NOT HAVE
17 TO ANSWER TO ANYBODY ACTUALLY, IT HAS BEEN A GOOD
18 WHILE SINCE I HAVE SEEN JURORS LISTEN AS CLOSELY AS YOU
19 ALL DID, HEAR MORE EVIDENCE AGAIN SO, YOU HAVE DONE
20 THE JOB THAT A JUROR IS SUPPOSE TO DO NO ONE LIKES
21 TO HAVE THIS DUTY, IT'S HARD BUT SOMEONE HAS GOT TO
22 DO IT SOME GOOD TWELVE PEOPLE FROM THIS COURT, AND
23 YOU ARE TWELVE GOOD PEOPLE NOW, IF THERE IS ANY
24 ERROR MADE, I MADE IT UH, I AM GLAD WE HAVE A SUPREME
25 COURT WHERE THEY CAN TAKE MATTERS DOWN THERE AND LOOK

1 AT THEM IF THEY HAVE TO BE REVERSED IF NOT, THEY
2 WON'T BUT I JUST WANTED YOU TO KNOW THAT YOU HAVE
3 DONE YOUR DUTY THAT IS WHAT YOU ARE SUPPOSE TO DO
4 AND I APPRECIATE THE ATTENTION YOU HAVE GIVEN IN THIS
5 CASE

6 NOW, YOU WILL BE FREE TO DISCUSS
7 THIS CASE ANYWAY YOU LIKE YOU CAN GO BACK TO READING
8 THE NEWSPAPER ARTICLES, ANYTHING YOU WANT I WOULDN'T
9 TALK TOO MUCH OF WHAT GOES ON IN THE JURY ROOM BECAUSE
10 THAT'S SECRET AS A MATTER OF FACT I COULDN'T EVEN
11 MAKE YOU TELL ME WHAT WENT ON IN THERE UNLESS I HAD A
12 PROPER COURT ORDER AND I HAVE NEVER SEEN THE CIRCUMSTANCES
13 THAT WOULD BRING ABOUT A PROPER COURT ORDER BUT IF
14 YOU DO WANT TO DISCUSS THE CASE, YOURSELF, WITH ANYBODY
15 YOU HAVE GOT THAT RIGHT IF YOU DON'T WANT TO YOU HAVE
16 GOT THE RIGHT NOT TO

17 YOU HAVE GOT THE RIGHT TO BE--THIS
18 CASE IS NO DIFFERENT, I ALWAYS EXPLAIN TO EVERYBODY THE
19 SAME THING I EXPLAIN TO YOU NO ONE WILL BOTHER YOU
20 IF THEY SHOULD, LET US KNOW BECAUSE WE CAN'T LET OUR
21 COURT SYSTEM BE HURT WE CAN'T DO THAT WITH PEOPLE WHO
22 HAVE TO COME, HAVE TO LISTEN AND HAVE TO MAKE THE
23 DECISION YOU MADE GOOD JURORS, EXCELLENT JURORS
24 I APPRECIATE YOUR BEING HERE ALL WEEK IT HAS BEEN A
25 LONG HARD TRIAL WE HAD A NUMBER OF MATTERS I HAD TO

1 TAKE UP OUT OF YOUR PRESENCE IT TOOK A GOOD WHILE
2 IF YOU CAN, ORIGINALLY, WHEN IT WAS ORIGINALLY BROUGHT
3 I BELIEVE, IT WOULD HAVE TAKEN A WEEK AND A HALF I
4 THINK THE ATTORNEYS ON BOTH SIDES DID AN EXCELLENT JOB
5 I DON'T KNOW OF ANY BETTER JOB OF ANY ATTORNEYS OF
6 ANY CASE, OF ANYBODY IN THIS COUNTY IT IS A WONDERFUL
7 SYSTEM THESE TWO YOUNG PEOPLE OVER HERE AT THE TABLE
8 TO MY LEFT ARE PUBLIC DEFENDERS THEY HAVE A HARD JOB
9 THEY DON'T GET TO PICK ANY OF THEIR CASES I AM NOT
10 REFLECTING ANYTHING ON THIS CASE NOW BUT THEY DON'T
11 GET TO SELECT CASES BUT THEY COME IN, THEY TRY AS
12 HARD AS THEY CAN I THINK THAT'S WONDERFUL AND THEY
13 HAVE DONE AN EXCELLENT JOB IT MIGHT BE CLEARLY ABLE
14 TO SHOW SOME ERROR ON MY PART I DON'T KNOW, THEY MAY
15 NOT BUT THEY MAY

16 THEY HAVE YOUR PAY VOUCHERS FOR YOU
17 IT IS NOT ENOUGH TO MAKE UP YOUR LOSSES OF COMING HERE
18 BUT IT IS THE BEST THEY COULD DO, I GUESS BUT IT IS
19 A DUTY TO SERVE YOU SHOULDN'T MAKE MONEY SERVING, BUT
20 IT IS A DUTY TO SERVE I TOLD YOU ALL AT THE BEGINNING
21 OF THE WEEK, I GUESS, ABOUT THE DUTY ONCE YOU HAVE,
22 ONCE YOU FAIL TO DO WHAT YOUR DUTY IS THEN YOU LOSE
23 YOUR FREEDOM I APPRECIATE YOUR COMING IN AND DOING
24 YOUR DUTY AS JURORS WHATEVER VERDICT IS RETURNED, FINE
25 IT IS A GOOD VERDICT THAT MAKES IT A GOOD VERDICT IT

1 IS A HARD JOB TO BE THE FINDERS OF FACT

2 YOU MIGHT WONDER, I KNOW NOTHING ABOUT
3 THE LAW, WHY SHOULD I BE UP HERE WHY AM I UP HERE,
4 I DON'T KNOW ANYTHING ABOUT THE LAW WELL, YOU WERE
5 NOT PICKED FOR YOUR KNOWLEDGE OF THE LAW YOU WERE
6 PICKED BECAUSE YOU ARE GOOD COMMON SENSE, EXPERIENCED,
7 AND THAT IS WHAT WE WANT

8 I AM GOING TO, I DO THIS IN EVERY CASE,
9 THIS CASE IS NO DIFFERENT NOBODY IS GOING TO BOTHER
10 ANYBODY BUT IN EVERY CASE AFTER DARK I HAVE THE OFFICERS
11 OR SOMEBODY ACCOMPANY THE LADIES TO YOUR AUTOMOBILE, MAKE
12 SURE IT CRANKS UP AND YOU ARE ON YOUR START HOME

13 DO ALL OF YOU HAVE YOUR OWN TRANS-
14 PORTATION? DOES ANYBODY NEED A RIDE HOME? ALL RIGHT,
15 I HAVE TWO THAT NEED RIDES HOME WHERE IS YOUR AUTOMOBILE
16 PARKED?

17 JUROR IT IS PARKED IN THE MUNICIPAL
18 PARKING BUILDING

19 THE COURT AND YOURS? AND YOURS?
20 AND YOURS?

21 WELL, MOST OF THESE FINE GENTLEMEN,
22 SOME OF THE WITNESSES HAVE THEIR CARS THERE, TOO I
23 AM GOING TO SEND SOMEONE WITH YOU TO MAKE SURE I
24 AM SURE EVERYTHING WILL BE ALL RIGHT, BUT YOU, IT MIGHT
25 MAKE YOU FEEL BETTER COME BACK TO VISIT ANYTIME YOU

1 LIKE BE GLAD TO HAVE YOU YOU HAVE DONE AN EXCELLENT
2 JOB I WANT YOU TO KNOW THAT, AS JURORS

3 AS I HAVE SAID BEFORE, THE SENTENCE
4 IS NOT YOUR CONCERN SO DON'T WORRY ABOUT THE SENTENCE
5 IF ANYBODY WORRIES ABOUT THE SENTENCE, I AM SUPPOSE TO
6 DO THAT, NOT YOU

7 HOW MANY OF YOU ALL, I WAS JUST
8 CHECKING, JUST FOR INFORMATION I DON'T KNOW WHAT I DID
9 WITH IT YOU HAVE MORE PEOPLE HERE, BUFORT MAY BE
10 HEADING THAT WAY, BUT IN RICHLAND I HAVE FOUND MORE
11 PEOPLE ON JURIES WHO WERE NOT BORN IN THIS COUNTY

12 (OFF THE RECORD DISCUSSION)

13 IF YOU WOULD LIKE, YOU CAN GO BACK IN
14 THE JURY ROOM AND THEY WILL BRING THE VOUCHERS TO YOU
15 THERE IS NO NEED TO SIT RIGHT HERE

16 (ADJOURNED AT 12 40 P M)

17
18
19 (AT THAT POINT THIS HEARING IS
20 ADJOURNED)

21
22
23
24
25

1 CERTIFICATION OF THE COURT REPORTER

2
3 I, THE UNDERSIGNED, SUZANNE J BARCZAK, OFFICIAL
4 COURT REPORTER OF THE STATE OF SOUTH CAROLINA, FOR THE
5 FIFTH JUDICIAL CIRCUIT, DO HEREBY CERTIFY THAT THE
6 FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT
7 OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE
8 INTRODUCED IN THE TRIAL OF THE CAPTIONED CAUSE, RELATIVE
9 TO APPEAL, IN THE COURT OF GENERAL SESSIONS, COUNTY OF
10 RICHLAND, STATE OF SOUTH CAROLINA, ON THE 26, 27, 28,
11 29, 30, 31ST DAYS OF APRIL, 1982

12 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
13 COUNSEL NOR INTEREST TO ANY PARTIES HERETO
14

15 November 12, 1982
16 NOVEMBER 12, 1982
17

18
19 Suzanne J Barczak
20 SUZANNE J BARCZAK
21 OFFICIAL COURT REPORTER FOR
22 THE FIFTH JUDICIAL CIRCUIT
23

24 COLUMBIA, SOUTH CAROLINA
25

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Honorable Howard H Ballenger, Judge

THE STATE,

RESPONDENT,

vs.

FRANCIS OWENS CAMPBELL,

APPELLANT.

BRIEF OF APPELLANT

TARA D SHURLING
Assistant Appellate Defender

South Carolina Office
of Appellate Defense
1401 Calhoun Street
Columbia, SC 29201

ATTORNEY FOR APPELLANT

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STATEMENT

The Appellant was indicted at the March, 1982 term of the Richland County Court of General Sessions for the crime of murder [Tr 1 - Tr 4] This charge arose from the killing of Olin D Wilson with a shotgun on July 10, 1978 At trial the State's chief witness was James Owens a first cousin to the Appellant It was his testimony, [Tr. 5, 1 4 - Tr 163, 1. 21], which tied the Appellant to the death of the deceased thus making his credibility a major factor at trial

The Appellant was ultimately convicted of murder and sentenced to imprisonment for the remainder of his lifetime He now appeals that conviction

QUESTIONS PRESENTED

I Did the lower court err in denying the Appellant's Motion for a Mistrial subsequent to an assertion by the State's chief witness that he had taken polygraph examinations?

II Did the lower court err in denying the Appellant's Motion for a Mistrial subsequent to a blatantly improper closing argument by the State which sought to bolster the credibility of the State's chief witness by referencing the fact that the witness had taken a polygraph examination and by inviting the jury to draw inferences from inadmissible evidence?

III. Did the lower court err in denying the Appellant's Motion to withdraw the witness, Delores Campbell Mock, after it became apparent that the witness was going to invoke her Fifth Amendment right against self-incrimination?

IV Did the lower court err in denying the Appellant's request to charge number one where the requested instruction on the law as it relates to an individual's decision to invoke their Fifth Amendment privilege against self-incrimination where this instruction was necessary to insure that the Appellant was not prejudiced by the jury drawing improper inferences from the witness, Delores Campbell Mock's refusal to testify?

ARGUMENT I

The lower court erred in denying the Appellant's Motion for a Mistrial subsequent to the witness Jamie Owens' assertion in testimony that he had taken polygraph examinations in connection with his statement (Exception V)

During the testimony of the State's chief witness, Jamie Owens, the word polygraph was mentioned four times. The Appellant would assert that the first three of these references were not objected to due to trial counsel's desire not to call attention to the testimony by making an objection to testimony which constituted so vague a reference to polygraph testing as to almost certainly not constitute grounds for a mistrial. For example, in the initial reference to polygraph use, the following colloquy can be found:

Q Who was there when you made the statement?

A Lt. Lewis and the polygraph man.
I don't know his name. (Emphasis added) [Tr. 34, lines 12-14]

Later this witness again used the term "polygraph man" as a means of referencing a person present during (and in fact operating as stenographer during) the interview at which he gave his statement to the police. Note the following questions and answers:

Q Did you write this thing out in your own handwriting or did Connie Lewis just take notes and have it typed for you?

A. Um, No, the polygraph man wrote it out
[Tr. 56, lines 12-15]

And shortly thereafter,

Q Were there people that you knew?

A Lt Lewis and the polygraph man
[Tr 56, lines 23-24]

Trial counsel did not object to these vague allusions to the polygraph. However, when the witness, in his fourth reference, asserted that he had actually submitted himself to polygraph examination trial counsel immediately made a motion for a mistrial. The following reference lead to the Appellant's request for a mistrial.

Q It didn't seem important to Connie Lewis?

A Yeah, But, uh, I had to take more polygraphs (Emphasis added) (Tr 74, lines 20-21)

The Appellant would argue that the lower court erred in concluding that counsel's decision not to object to the witness's earlier references to "the polygraph man" stood as a waiver of any objection to the subsequent testimony which actually informed the jury that the witness had taken a polygraph test [Tr 75, 1 6 - Tr 76, 1 9]

It is clear that evidence arising from polygraph examinations is inadmissible in South Carolina. State v Britt, 111 S E 2d 669 (1959). It is widely held that evidence may not be introduced to show a defendant was either willing or unwilling to take a "lie detector" test. 29 Am Jur 2d 341, Evidence §296. In State v McGuire, 272 S C 547, 253 S E 2d 103 (1979), a murder and an armed robbery conviction were reversed and remanded because the record disclosed that one could infer from the testimony at trial that the accused was offered a polygraph examination. Noting that such testimony might have lead to improper speculation that the defendant had refused a polygraph

examination, this Honorable Court reversed the convictions in McGuire. In so ruling this Court went on to state

Mention of a polygraph test might arise in any one of many ways. The safer course would normally be to avoid any mention of a polygraph exam. If such is brought out in testimony, the trial judge should be meticulous to see that no improper inference is created.

In the case at bar the State's main witness made three peripheral references to having made his statement in the presence of a polygraph operator. Clearly such slight references to the term polygraph would not have provided a sound basis for a mistrial. Recognizing the obvious danger in drawing the jury's attention to the witness' allegedly inadvertent comments about a polygraph examiner, trial counsel elected not to make what was destined to be a futile motion for a mistrial. Once the witness directly asserted that he had submitted his statement to verification vis-a-vis polygraph examination trial counsel determined that a motion for a mistrial was not only appropriate but imperative. The State's case rested almost exclusively on the credibility of this witness' testimony. This witness asserted the fact that he had taken polygraph examinations as support for his testimony. Surely the reference to polygraph examination of a key witness to such an end is equally as damaging as an inference that a defendant was offered and refused polygraph examination.

The Appellant would submit that he objected to the first direct reference to examination by polygraph of the State's chief witness. Inasmuch as the witness' earlier references to the term "polygraph" directed themselves to the "operator" as opposed

to any inference that a test was actually taken by the witness, trial counsel's election not to object to the comments should not have stood as a bar to his subsequent objection to move clearly inadmissible evidence. Reversible error in admission of improper testimony is dependant on the existence of probable prejudice to the accused. State v Craig, 267 S C 262, 227 S E 2d 306 (1976). Where, as in the Appellant's case, an accused's fate rests entirely on the credibility of one witness, it would be ludicrous to argue that a suggestion to the jury that the witness took several polygraph examinations was anything but damning.

For all the above reasons, the Appellant now argues that the lower court committed error of reversible magnitude in refusing to grant Appellant's Motion for a Mistrial based on the prejudicial impact of the testimony discussed alone.

ARGUMENT II

The lower court erred in denying the Appellant's Motion for a Mistrial subsequent to a blatantly improper closing argument by the State which sought to bolster the credibility of the State's chief witness through the use of inadmissible evidence and invited the jury to draw inferences therefrom (Exception VI).

During the State's closing argument before the jury the following statements were made and objected to

Now, it just boils down to who you want to believe Do you want to believe Jamie, whose statement was written down by police polygraph man? Doesn't that tell you something? [Tr 125, lines 11-14]

In response to this highly improper line of closing argument trial counsel immediately objected to the statements and made the appropriate Motion for a Mistrial [Tr 125, l 15 - Tr 126, l 6] The lower court took the position that, since the fact that Jamie Owens' statement was written down by a polygraph man had gone into evidence unobjected to, the subsequent reference by the prosecutor to the same information was harmless Appellant would respectfully submit that this ruling represented a grave abuse of discretion for two reasons First, the lower court failed to discern any distinction between inadvertent references by a witness and comments made by a prosecutor charged with a duty to perform his role in a fair manner Second, the lower court ignored the probable impact of the prosecutor's last statement in the objectional portion of his argument Clearly the question, 'Doesn't that tell you something?', was improper in that it invited the jury to draw an inference

from polygraph examination. Such an invitation creates the obvious inference that the witness not only submitted to polygraph examination but that the results of the test established the truthfulness of his statement.

While there were early references to "the polygraph man" in this witness' testimony, nowhere in the record were the results of a polygraph test introduced.

The results of polygraph examination are not admissible in South Carolina. State v. Britt, 235 S. C. 395, 111 S. E. 2d 669 (1959). In Britt, supra, this court stated:

When it is made to appear that anything has occurred which might have improperly influenced action of the jury, the accused should be granted a new trial, though he may appear to be ever so guilty, since it may be said that his guilt has not been ascertained in the manner prescribed by law. Id. at 111 S. E. 2d 685.

It is well recognized in South Carolina law that it is the duty of the prosecutor to see that justice is done not to convict the accused. It is his responsibility to prosecute vigorously, but fairly. State v. Durden, 264 S. C. 86, 212 S. E. 2d 587 (1975). In Berger v. United States, 295 U. S. 78, 88, 55 S. Ct. 629 (1935), Justice Sutherland provided a description of the prosecutor's role in a criminal action:

in a criminal prosecution [his interest] is not that [he] shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor — indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper

methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one

Where a prosecutor makes an improper argument before the jury which materially prejudices a defendant's right to obtain a fair and impartial trial a new trial should be granted where a timely objection was interposed and the lower court did not sufficiently counteract the effect of the argument State v. White, 246 S C 502, 144 S E 2d 481 (1965) Appellant recognizes that the granting of a mistrial on the ground that an improper argument has been made is a matter within the discretion of the trial judge and that his rulings thereabout will not be disturbed unless there has been an abuse of discretion State v. Homewood, 241 S C 231, 128 S E 2d 98 (1962) The test for whether or not a mistrial should have been granted because of improper closing arguments is whether the defendant was prejudiced to the extent that he was denied a fair trial State v. Durden, 264 S C 86, 212 S E 2d 587 (1975) The prosecutor himself characterized the critical nature of this issue when he stated, "it just boils down to who do you believe " [Tr 125, lines 11-12] The credibility of Jamie Owens as a witness was the single most important factor in the Appellant's trial The prosecutor knew how important it was for the jury to believe Jamie Owens and he therefore invited them to believe that Jamie Owens, not only took a lie detector test, but that he passed it.

The principle that a prosecutor is a quasi-judicial officer with a responsibility to justice before conviction allows ample leeway for reasonable and adequate representation of the State

Vouching for the veracity of his witness, and implying that the defense was lying, on the basis of something as misunderstood, unreliable, and prejudicial as a polygraph examination went beyond vigorous prosecution

The American Bar Association, Standards for Criminal Justice, address themselves to the Prosecution Function They provide as follows

Standard 3-5 6 Presentation of evidence

(b) It is unprofessional conduct for a prosecutor knowingly and for the purpose of bringing inadmissible matter to the attention of the judge or jury to offer inadmissible evidence, ask legally objectionable questions, or make other impermissible comments or arguments in the presence of the judge or jury ABA, Standards for Criminal Justice, 3-5 6

Standard 3-5 8 Argument to the jury

(a) The prosecutor may argue all reasonable inferences from evidence in the record It is unprofessional conduct for the prosecutor intentionally to misstate the evidence or mislead the jury as to the inferences it may draw

(b) It is unprofessional conduct for the prosecutor to express his or her personal belief or opinion as to the truth or falsity of any testimony or evidence or the guilt of the defendant

(c) The prosecutor should not use arguments calculated to inflame the passions or prejudices of the jury

(d) The prosecutor should refrain from argument which would divert the jury from its duty to decide the case on the evidence, by injecting issues broader than the guilt or innocence of the accused under the controlling law, or by making predictions of the consequences of the jury's verdict

(e) It is the responsibility of the court to ensure that final argument to the jury is kept within proper, accepted bounds (Emphasis added) ABA, Standards for Criminal Justice, 3-5 8

ABA, Code of Professional Responsibility DR 7-106(C) (1) (7)
provide

(C) In appearing in his professional capacity
before a tribunal, a lawyer shall not

(1) State or allude to any matter that
he has no reasonable basis to believe
is relevant to the case or that
will not be supported by admissible
evidence

* * *

(7) Intentionally or habitually violate
any established rule of procedure
or of evidence

Surely a prosecutor should be charged with knowledge of
fundamental evidence law Polygraph test results are not
admissible in this State The use of such information in closing
argument is clearly improper The Appellant had no opportunity
to rebutt the prosecutor's inference that this witness' testimony
had been proven truthful vis-a-vis a lie detector test He could
not cross examine the mysterious "polygraph man" nor could
present evidence that he himself had taken similar tests In
short the Appellant had no means of attacking this damning evidence
or of producing the only evidence that could have outweighed
the prejudice created by the prosecutor's actions The
Appellant has been denied his essential right to a fair trial
The minds of the jurors, and their ability to render a thoughtful
finding of fact as to guilt were irreparably overshadowed by
the implications of the prosecutor's misconduct in this closing
argument For that reason the lower court should have granted
the Appellant a mistrial The Appellant now asserts that he is
entitled to have his conviction and sentence reversed.

ARGUMENT III

The lower court erred in denying defense counsel's motion to withdraw as a witness the Appellant's sister, Delores Campbell Mock, after both the State and the defense were put on notice of her intention to invoke her right to remain silent under the Fifth Amendment to the United States Constitution (Exceptions I and III)

During the Appellant's trial the defense called as a witness Delore Campbell Mock, the Appellant's sister [Tr 81, lines 21-22] During Ms Mock's initial testimony she answered questions concerning such preliminary matters as her name, her address and her relationship to the Defendant [Tr 82, 1 1 - Tr 83, 1 3] This witness's responses to subsequent questions revealed however that she was extremely frightened of testifying and was "scared of going to jail and scared of being got for conspiracy" [Tr 83, lines 4-23] As a result of this revelation the trial judge sent the jury out of the room and called in an attorney to represent Ms Mock's interests [Tr 84, 1 13 - Tr 89, 1 23]

When the Appellant's trial was resumed the following day Ms Mock's appointed counsel, Mr Jack Swerling, made a motion that Ms Mock be withdrawn from the stand as a witness It was Mr Swerling's position that his client had presented no testimony concerning any substantive issues in this case inasmuch as the questions addressed to her concerned merely preliminary issues It was his request that Ms Mock be allowed to withdraw as a witness rather than having to exercise her rights under the Fifth Amendment to the United States Constitution [Tr. 93,

line 19 - Tr 94, l 4] Defense counsel likewise made a motion that Ms Mock be withdrawn as a witness [Tr 94, lines 23 - Tr 95, l 5] In addition defense counsel asked that the State be prohibited from any cross-examination of this witness [Tr 95, lines 11-14]. The lower court denied both motions to have Ms Mock withdrawn as a witness and denied defense counsel's request that the State be prohibited from cross-examination [Tr 95, l 11-24] It was defense counsel's position at trial that it was improper for the court to allow Ms Mock to be questioned in the presence of the jury where all parties concerned were on advance notice of her intention to invoke her privilege to remain silent under the Fifth Amendment to the United States Constitution [Tr 96, l 21 - Tr 100, l 18]

The Appellant would now respectfully submit that the trial court erred in denying defense counsel's motion that he be allowed to withdraw as a witness the Appellant's sister, Delores Campbell Mock. In addition the Appellant would argue that where the lower court refused to allow the defense to withdraw Ms Mock as a witness it was incumbent upon the lower court to safeguard the rights of the defendant by holding an in-camera hearing to determine whether or not Ms Mock in fact intended to invoke her Fifth Amendment privilege to remain silent It is the Appellant's position that the lower court gravely erred in placing the defense in the position of having its witness invoke the Fifth Amendment privilege against self-incrimination in the presence of the jury As noted by Ms Mock's court-appointed attorney, Mr Jack Swirling, this witness had testified

to nothing of substance at the point in time where her testimony was interrupted by the lower court. It is apparent from the evidence law in South Carolina that even relevant evidence may be excluded upon the practical ground that its probative value is significantly outweighed by one or more dangers inherent in it, (1) that it may unduly arouse the jury's prejudice, (2) that it, together with the evidence that would have to be admitted to answer it, may consume an unreasonable amount of time, (3) that it, with its answering proof, may create a side issue which would divert the jury's attention from the main issue, and (4) that it may unfairly take the adversary by surprise. Peagler v A C L Ry Co, 234 S C 140, 107 S E 2d 15 (1959). "The balancing of value against potential danger is one of the more delicate decisions which the trial judge has" Dreher, A Guide to Evidence Law in South Carolina, p 34. Where, as in the case at bar, the trial court knew that the witness in question intended to invoke her privilege to remain silent when questioned concerning the crime for which the Appellant was on trial, the evidence to be obtained through her testimony was destined to have absolutely no probative value. Not only did the testimony in question have no potential for probative value it clearly created a side issue which would divert the jury's attention from the main issue of the Appellant's guilt or innocence to the mystery of what incriminating information was being withheld from their deliberation and consideration.

The Appellant would respectfully submit that under the facts and circumstances of this case the trial court's refusal to allow the withdrawal of this witness resulted in the denial

of a fair trial and therefore in a violation of the Appellant's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution Mr Justice Black writing for the court in In re Oliver, 333 U S 257, 273 (1948), noted the following as among the minimum essentials of a fair trial

A person's right to reasonable notice of a charge against him, and an opportunity to be heard in his defense - a right to his day in court - a basic in our system of jurisprudence, and these rights include, as a minimum, a right to examine the witnesses against him, to offer testimony, and to be represented by counsel

In Chambers v. Mississippi, 410 U S 284 (1973) the United States Supreme Court acknowledged that strict application of given rules of evidence should not be allowed to interfere with an individual's fundamental right to a fair trial In the case at bar the trial judge denied counsel's motion to withdraw the witness in question because he knew of "no procedure to do it that way in the State courts " [Tr. 94, lines 6-7]. The Appellant would submit that the defense witness in question had testified to nothing of substantive value in the case before the trial court Inasmuch as the court knew that the witness intended to invoke her privileges under the Fifth Amendment if questioned the court erred in not protecting the Defendant's right to a fair trial under the Due Process Clause of the Fourteenth Amendment by allowing the defense to withdraw Ms Mock as a witness.

ARGUMENT IV

The lower court erred in denying the Appellant's request to charge number one, which if issued would have protected the Appellant from the probability that the jury would draw impermissible inferences from the fact that his sister invoked her Fifth Amendment privilege against self-incrimination (Exception II)

After the lower court ruled that it would not allow the witness, Delores Campbell Mock to be withdrawn as a witness, she was subjected to cross-examination by the State [Tr 110, 1 1 - Tr 121, 1 8] During said cross-examination this witness invoked her Fifth Amendment Privilege against self-incrimination three times The defense subsequently submitted a written request to charge concerning a witness's assertion of the Fifth Amendment Right against self-incrimination [Tr 128, Defendant's Proposed Instruction Number One] The Appellant specifically requested that the lower court instruct the jury as follows

"The law does not compel any person or witness to testify in a criminal case where the person's testimony might subject him to prosecution for any violation of the law When a person exercises that Fifth Amendment right not to testify, no presumption for that person may be drawn, and no inference may be raised In your deliberations, you may give no consideration to such witness taking the Fifth Amendment nor may you even discuss it "

The lower court declined to give defense counsel's proposed instruction concerning the law as it relates to the indication of the Fifth Amendment by a witness The lower court in its charge however did address the Fifth Amendment issue as follows

16

I charge you that any witness has the right in their testimony to claim the privilege of the Fifth Amendment, which states that a witness may not be required or cannot be required to testify to a question if it might tend to incriminate them

When a witness exercises that Fifth Amendment right not to testify, no presumption for that person, that witness, may be drawn and no inference may be raised. So you would give no consideration to any inference or presumption drawn to that witness from the right to claim this privilege. And has nothing else, any other presumption or inference for you to consider [Tr 127, lines 8-20]

The South Carolina Constitution, Article 5, §26 requires that the trial judge "shall declare the law". This constitutional requirement has been interpreted to mean that the trial judge should explain so much of the criminal law as is applicable to the issues made by the evidence adduced on trial. State v White, 211 S C 276, 44 S E 2d 741 (1947). It is reversible error for a trial judge to fail to charge upon all material issues raised by the indictment and the evidence presented at trial. State v Fair, 209 S C 439, 40 S E 2d 634 (1947). In the case at bar the Appellant's sister's testimony took on critical significance when it became obvious that she was going to invoke her rights under the Fifth Amendment to the United States Constitution and refuse to testify concerning any knowledge surrounding the incident for which the Appellant was on trial. As a result of this unexpected factor in the Appellant's trial it became critical that the jury understand not only that the law does not allow any presumption towards the person invoking the Fifth Amendment to be drawn but that in the case at bar it would not be appropriate for the jury to draw any inferences concerning the Appellant's guilt or innocence from

the fact that his sister invoked her Fifth Amendment privileges. Clearly the sister might have invoked her privilege against self-incrimination based on knowledge which bore no relationship to the issue of the Appellant's guilt or innocence. For this reason it was imperative that the jury be instructed that they were to draw no inference of the Appellant's guilt or innocence from the sister's decision to invoke her privileges under the Fifth Amendment to the United States Constitution. The Appellant would respectfully submit that the instruction as issued by the lower court failed to protect his constitutional privilege not to have his ability to receive a fair trial prejudiced by his sister's decision to claim a constitutional right not to testify. The instruction as issued by the lower court clearly informs the jury that they were not legally allowed to draw any inference or presumption "to that witness" from her exercise of this constitutional privilege. The instruction as given however, did not inform the jury that they were equally prohibited from drawing any inferences or presumptions concerning the Appellant's guilt based on his sister's decision to invoke her Fifth Amendment privilege. For this reason the Appellant would now respectfully submit that the trial court erred in denying the Defendant's request to charge number one which would have insured that the Appellant was not prejudiced by the jury drawing improper presumptions based on the sister's refusal to testify.

CONCLUSION

For all the foregoing reasons the Appellant would ask that his conviction and sentence be reversed and his case remanded to the Richland County Court of General Sessions for a new trial

Respectfully submitted,


TARA D SHURLING
Assistant Appellate Defender

ATTORNEY FOR APPELLANT

This 26th day of April, 1983

Carl Robert

THE STATE OF SOUTH CAROLINA
In The Supreme Court

The State,

Respondent,

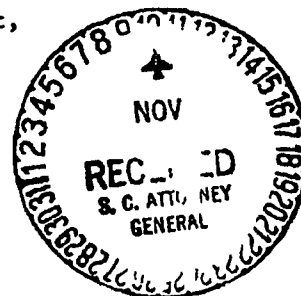
v

Francis Owens Campbell,

Appellant

Appeal From Richland County
William H Ballenger, Judge

Memorandum Opinion No 83-MO-283
Filed November 8, 1983



AFFIRMED

Assistant Appellate Defender Tara D Shurling, of S C
Commission of Appellate Defense, of Columbia, for appellant

Attorney General T Travis Medlock, Assistant Attorney
General Harold M Coombs, Jr, Staff Attorney Carlisle
Roberts, Jr, and Solicitor James C Anders, all of Columbia,
for respondent

PER CURIAM Appellant Francis Owens Campbell was convicted of murder
by a Richland County jury and sentenced to life imprisonment

After a careful consideration of the record, briefs, and oral
arguments, we are of the opinion that no error of law is present, and that a full
written opinion would be without precedential value

Accordingly, the judgment of the trial court is affirmed under Rule 23
of the Rules of Practice of this Court

s/ J Woodrow Lewis C J

s/ Bruce Littlejohn A J

s/ J B. Ness A J

s/ George T Gregory, Jr A J

s/ David W Harwell A J

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Francis Owens Campbell*Full name and prison number (if any) of Applicant*

vs

State of South Carolina*Name of Respondent***85CP405431****APPLICATION FOR
POST-CONVICTION RELIEF**BARBARA A SCOTT
C O C
REC 4 4 39 PM '85

FILED

INSTRUCTIONS — READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make it clear to which question any such continued answer refers.

Since every application must be sworn to under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken *in forma pauperis*, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which applicant was convicted.

- 1 Place of detention Central Correctional Institute, 1515 Gist Street, Columbia,
South Carolina
- 2 Name and location of Court which imposed sentence Richland County General Sessions,
Richland County Court House, 1701 Main Street, Columbia, South Carolina
- 3 The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed
 - (a) 82-65-40-0537
 - (b) _____
 - (c) _____
- 4 The date upon which sentence was imposed and the terms of the sentence
 - (a) May 1, 1982
 - (b) _____
 - (c) _____

5 Check whether a finding of guilty was made

- (a) after a plea of guilty _____
(b) after a plea of not guilty X _____
(c) after a plea of nolo contendere _____

6 Did you appeal from the judgment of conviction or the imposition of sentence?

yes

7 If you answered "yes" to (6), list

(a) the name of each Court to which you appealed

i South Carolina Supreme Court

ii _____

iii _____

(b) the result in each such Court to which you appealed

i Conviction Confirmed

ii _____

iii _____

(c) the date of each such result

i November 8, 1983

ii _____

iii _____

(d) if known, citations of any written opinion or orders entered pursuant to such results

i Opinion # 83-MO-283

ii _____

iii _____

8 If you answered "no" to (6), state your reasons for not so appealing

(a) N/A

(b) _____

(c) _____

9 State concisely the grounds on which you base your allegation that you are being held in custody unlawfully

(a) See Attached

(b) _____

(c) _____

10 State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) See Attached

(b) _____

(c) _____

11 Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? No

(b) any petitions in State or Federal Courts for habeas corpus or post convictions relief? No

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? No

(d) any other petitions, motions or applications in this or any other Court?
No

12 If you answered "yes" to any part of (11), list with respect to each petition, motion or application

(a) the specific nature thereof

i N/A

ii N/A

iii N/A

iv N/A

(b) the name and location of the Court in which each was filed

i N/A

ii N/A

iii N/A

iv N/A

(c) the disposition thereof

i N/A

ii N/A

iii N/A

iv N/A

(d) the date of each such disposition

i N/A

ii N/A

iii N/A

iv N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition

i N/A

ii N/A

iii N/A

iv N/A

13 Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal in any petition, motion or application which you have filed?

No

14 If you answered "yes" to (13), identify

(a) which grounds have been presented

- i N/A
- ii N/A
- iii N/A

(b) the proceedings in which each ground was raised

- i N/A
- ii N/A
- iii N/A

15 If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented

- (a) New and after discovered evidence
- (b) _____
- (c) _____

16 Were you represented by an attorney at any time during the course of

- (a) your arraignment and plea? yes
- (b) your trial if any? yes
- (c) your sentencing? yes
- (d) your appeal, if any from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? yes

17 If you answered "yes" to one or more parts of (16), list

(a) the name and address of each attorney who represented you

- i Venable Vermont, then Assistant Richland County Public Defender,
now practicing in State of Alaska
- ii Tara Shurling, Office of Appellate Defense, Columbia, South Carolina
- iii Michael J Thompson, 1728 Main Street, Columbia, South Carolina

(b) the proceedings at which each such attorney represented you

- i Trial
- ii Appeal to South Carolina Supreme Court
- iii Post-Conviction Relief

18 State clearly the relief you seek in filing this application

New Trial

19 Are you now under sentence from any other court that you have not challenged?

No

APPLICATION FOR POST-CONVICTION RELIEF

Re Francis Owens Campbell vs State of South Carolina

9 Petitioner alleges herein that he is being detained unlawfully upon the following grounds

- a At time he was denied effective assistance of counsel as guaranteed him by the Sixth Amendment to the Constitution of the United States
- b New and after discovered evidence since his trial exists which is material and likely to change the outcome of another trial if granted
- c New and after discovered evidence in the form of hypnosis, polygraph, and chemical tests of the Petitioner to establish that he was not the assailant

- 10
- a My attorney failed to properly investigate the case to uncover certain evidence, failed to present certain available witnesses who could testify as to material facts surrounding the case, namely Thomas Campbell, failed to properly investigate and present evidence regarding the financial interests, i.e. motive, of others to commit the crime as, well as to the background of certain state witnesses to the to discredit them
 - b These items include statements of witnesses to the effect that the wife of the deceased, Ann Wilson, was involved in the theft of guns from the residence of the Defendant's sister prior to the murder of her husband and statements made to witnesses admitting to the murder of the deceased by one other than the Petitioner



APPLICATION FOR POST-CONVICTION RELIEF

Re: Francis Owens Campbell vs State of South Carolina

10. b.) These items include statements of witnesses to the effect that the wife of the deceased, Ann Wilson, was involved in the theft of guns from the residence of the Defendant's sister after the murder of her husband prior to the trial of the Petitioner and statements made to witnesses admitting to the murder of the deceased by one other than the Petitioner. Ann Wilson, the wife of the deceased, did hire individuals to enter the Defendant's sisters residence, to commit a Felony, by stealing the gun collection in which was used against the Petitioner; Petitioners sister had nothing to do with the stealing of the gun collection, Petitioner can present material evidence to prove this.

s/ Francis Owens Campbell
Francis Owens Campbell
Applicant

s/ Wendell L. Cassey
Witness

s/ _____
Witness

SWORN or Affirmed to and subscribed before me this

20th day of Nov. 1985

James J. [Signature]
Notary Public

My Commission Expires December 15, 1992

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Francis Owens Campbell, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application, and that the matters and allegations therein set forth are true

X Francis Owens Campbell

SWORN to and subscribed before me this 20th

day of Nov-

19 85

John C. [Signature]
(L.S.)
Notary Public

My Commission Expires December 15, 1992

My Commission Expires _____

**APPLICATION TO PROCEED WITHOUT PREPAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Francis Owens Campbell, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true

- (1) I am the applicant in this action and I believe I am entitled to redress
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security therefor

X Francis Owens Campbell
Applicant

SWORN or affirmed to and subscribed before me this

20th day of Nov 19 85

John C. [Signature]
Notary Public

My Commission Expires My Commission Expires December 15, 1992

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Francis Owens Campbell,
Applicant,

vs

State of South Carolina,
Respondent.

DOCKET NO 85-CP-40-5431

NOTICE OF INTENT TO APPEAL

TO Honorable Travis Medlock
Attorney General

Honorable Frank L. Valenta
Assistant Attorney General
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211

Sirs

YOU WILL PLEASE TAKE NOTICE that the above-referenced Applicant herein serves notice of his intent to appeal from the denial of his Circuit Court Petition for Post-Conviction Relief before the Honorable Owens T. Cobb, Jr., dated October 10, 1987


Michael J. Thompson
Attorney for Applicant
1527 Richland Street
Columbia, South Carolina 29201
(803) 252-2375

October 20, 1987

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT

Francis Owens Campbell,
Applicant,

vs

State of South Carolina,
Respondent

DOCKET NO 85-CP-40-4431

CERTIFICATE OF SERVICE BY MAIL

BAKERS
CITY
AUG 11 1987
SCOTT

I, Michael J Thompson, Attorney for the Applicant
in the above-captioned matter hereby certify that I have served
the Notice of Intent to Appeal on Respondent by mailing a copy
of same postage prepaid and return address clearly indicated
on said envelope on October 20, 1987 at the following address

The Honorable Travis Medlock
Attorney General
The Honorable Frank L. Valenta
Assistant Attorney General
State of South Carolina
Post Office Box 11549
Columbia, South Carolina 29211



Michael J Thompson
Attorney for Applicant

Columbia, South Carolina

October 20, 1987

The State of South Carolina



Office of the Attorney General

T TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA S C 29211
TELEPHONE 803 734-3737

June 16, 1987

Honorable Barbara A Scott
Clerk of Court, Richland County
Post Office Box 1781
Columbia, SC 29202

Re Francis Owens Campbell, 111197 v State
85-CP-40-5431

Dear Ms Scott

Enclosed please find the original Telephone
Deposition of Venable Vermont, Jr in the above case for
filing in your office

Sincerely,

A handwritten signature in cursive script that reads "Frank L. Valenta, Jr.".

Frank L. Valenta, Jr
Assistant Attorney General

 Jvh
Enclosure

cc Michael J Thompson, Esquire
1527 Richland Street
Columbia, SC 29201

FILED
87 JUN 17 AM 9 35
BARBARA A SCOTT
C CC & GS

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Francis Owens Campbell,)
111197)

85-CP-40-5431

Applicant,)

-vs-)

RETURN

State of South Carolina,)

Respondent,)

FILED
FEB 25 10 00 AM '86
BARBARA A. SCOTT
Clerk of Court

The Respondent, making its Return to the Application for Post-Conviction Relief dated November 20, 1985, would show this Court

I

The Applicant is presently confined in the Central Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the March 1982 term of the Court of General Sessions for Richland County for murder. He was represented by Venable Vermont, Jr., Assistant Richland County Public Defender. A jury trial was held on April 26 - May 1, 1982, at the conclusion of which the Applicant was found guilty of murder. He was sentenced by the Honorable William Howard Ballenger to confinement for a period of his natural lifetime.

The Applicant filed a timely Notice of Intent to Appeal, and an appeal was perfected by the Office of Appellate Defense. Following the submittal of briefs by both sides and following oral arguments, the South Carolina Supreme Court affirmed the conviction pursuant to Rule 23 of the Rules of Practice of that Court State v Campbell, Memo Op. No 83-MO-283 (filed November 8, 1983)

Attached herewith and incorporated herein by reference are the records of the Richland Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, the appellate briefs and the Supreme Court opinion

II

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons

- 1 He was denied effective assistance of trial counsel
 - a Failed to properly investigate the case to uncover certain evidence
 - b Failed to present certain available witnesses, namely, Thomas Campbell
 - c Failed to properly investigate and present evidence regarding the financial interests (i.e., motive) of others to commit the crime.

- d. Failed to properly investigate and present evidence regarding the background of certain of the State's witnesses, to discredit them
- 2 New and after-discovered evidence exists which is material and likely to change the outcome of another trial if granted
- a Such new evidence exists in the form of hypnosis, polygraph and chemical tests of the Applicant to establish that he was not the assailant
 - b. Statements of witnesses to the effect that the deceased's wife, Ann Wilson, was involved in the theft of guns from the residence of the Applicant's sister prior to the murder of the deceased
 - c Another person has confessed to the murder of the deceased

III

The Respondent submits that the Application is totally without merit. However, the Applicant joins with the Respondent in his request for a hearing, so as to allow a full airing of his allegations of ineffective assistance and of after-discovered evidence

III-A

In his first allegation, the Applicant alleges that he was denied effective assistance of trial counsel. The Respondent submits that the extensive trial record

speaks for itself as to the competency of counsel. The Respondent contends that the attorney for the Applicant was diligent in his representation of the Applicant, performed well within the range of competence demanded of attorneys in criminal matters and performed within the wide range of reasonable professional assistance. State v Pendergrass, 270 S C 1, 239 S E 2d 750 (1977), Marzullo v Maryland, 561 F.2d 540 (4th Cir 1977); Strickland v Washington, 466 U S 668, 104 S Ct 2052 (1984), Butler v State, ____ S C ____, 334 S E 2d 813 (1985)

In Strickland v. Washington, supra (which the South Carolina Supreme Court adopted in Butler v State), the United States Supreme Court held that a convicted defendant's claim that counsel's assistance was so defective as to require a reversal of a conviction requires that the defendant show, first, that counsel's performance was deficient and, second, that the deficient performance prejudiced the defense so as to deprive the defendant of a fair trial. Strickland v Washington, 104 S Ct at 2064. The Respondent submits that the Applicant's attorney's performance was not deficient nor was the Applicant prejudiced in any way by his attorney's performance.

Nevertheless, the allegation of ineffective assistance of counsel probably raises questions of fact which cannot be conclusively refuted by the record presently

before this Court. Therefore, the Respondent requests that an evidentiary hearing be held in order to fully resolve this issue. Sharper v State, 279 S C 264, 305 S E 2d 247 (1983)

III-B.

In his second allegation, the Applicant alleges that there exists "new and after discovered evidence." In particular, the Applicant alleges that the deceased's wife, Ann Wilson, was involved in a conspiracy to steal guns from the Applicant's sister's home (apparently with the implication that the deceased's wife committed or obtained the murder of her husband) and that he can produce witnesses to whom another (unnamed) individual has admitted committing the murder. In addition, he alleges that he can prove his innocence by polygraph tests, etc.

First, polygraph tests and other such tests are not admissible evidence. Second, he took (and presumably passed) such tests prior to trial. (See TR p 640)

As to the Applicant's other allegations of after-discovered evidence, the Respondent submits that the Applicant has not raised a prima facie case, in that he has not shown at all that his "new evidence" meets the requirements of after-discovered evidence, as outlined in Hayden v State, 278 S C 610, 299 S E 2d 854 (1983)

A party requesting a new trial based on after-discovered evidence must show that the evidence (1) Is such as would probably change the result if a new trial was had, (2) Has been discovered since the trial, (3) Could not by the exercise of due diligence have been discovered before the trial, (4) Is material to the issue of guilty or innocence, and (5) Is not merely cumulative or impeaching

Nevertheless, the Respondent acknowledges that the allegation of after-discovered evidence probably cannot be conclusively refuted by the record presently before this Court. Therefore, the Respondent joins in the Applicant's request for a hearing, and the Respondent demands that the Applicant be held strictly to his burden of proof that he is entitled to a new trial.

IV

The Respondent therefore requests that this Court convene an evidentiary hearing to be held solely on the issues of whether the Applicant received effective assistance of trial counsel and whether he is entitled to a new trial because of after-discovered evidence. As to all other allegations, the Respondent moves for summary dismissal pursuant to Code §17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V

Each and every allegation contained within the Application not hereinbefore either expressly admitted, qualified or explained is hereby denied

WHEREFORE, having made its Return, the Respondent requests that a hearing be held

T TRAVIS MEDLOCK
Attorney General

DONALD J ZELENKA
Chief Deputy Attorney General

FRANK L VALENTA, JR
Assistant Attorney General

By Frank L. Valenta
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February 24, 1986

The State of South Carolina



Office of the Attorney General

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ATTORNEY GENERAL

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POST OFFICE BOX 11549
COLUMBIA, S C 29211
TELEPHONE 803-758-2887

February 24, 1986

Honorable Barbara A Scott
Clerk of Court, Richland County
Post Office Box 1781
Columbia, SC 29202

Re Francis Owens Campbell, 111197 -vs- State
86-CP-40-5431

Dear Ms Scott

Enclosed please find the original Return of the
Respondent in the above-captioned case for filing in your
office

Sincerely,

Val Valenta

Frank L Valenta, Jr
Assistant Attorney General

jvh
Enclosure

cc Michael J Thompson, Esquire
1728 Main Street
Columbia, SC 29201

Francis Owens Campbell, 111197

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF RICHLAND) COURT OF COMMON PLEAS 699

3
4 FRANCIS OWENS CAMPBELL,)
5 Petitioner,) TRANSCRIPT
6 -vs-) OF
7 STATE OF SOUTH CAROLINA,) RECORD
8 Respondent) 85-CP-40-5431

9
10 February 25, 1987
11 Columbia, South Carolina

12 B E F O R E

13 HONORABLE OWENS T COBB, JR , Judge

14 A P P E A R A N C E S

15 MICHAEL J THOMPSON
16 Esquire
Attorney for the Plaintiff

17 FRANK L VALENTA, JR
18 Assistant Attorney General
Attorney for the Defendant

19
20
21 PAMELA C EARGLE
22 Circuit Court Reporter
23 Seventh Judicial Circuit
24
25

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>

TALLY WILSON

Mr Thompson	3			

Mr Valenta		23		

ANN WILSON

Mr Thompson	31			

Mr Valenta		48		

DELORES MOCK

Mr Thompson	54			

Mr Valenta		67		

RONNIE WILSON

Mr Thompson	69			

Mr Valenta		73		

Mr Thompson			75	

WALTER WILSON

Mr Thompson	75			

Mr Valenta		85		

Mr Thompson	87			

CONNIE LEWIS

Mr Thompson	88			

Mr Valenta		100		

Mr Thompson			104	

Mr Valenta				108

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I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS

SCOTT ELLIOTT

Mr Valenta 111

Mr Thompson 114

E X H I B I T S

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
P-1	Statement		94

SF 2094 PENDING/MDY MURKIE IN 47302

P R O C E E D I N G S

.. 702

1
2
3 THE COURT All right Bring the petitioner on
4 in

5 (The petitioner comes into the courtroom)

6 THE COURT. All right The matter before the
7 Court is 85-CP-40-5431, Francis Owens Campbell versus
8 State of South Carolina This is an application for
9 post conviction relief

10 Mr Campbell is in the courtroom

11 MR THOMPSON Yes, sir

12 THE COURT. Is that you?

13 (Petitioner Campbell nods head affirmatively)

14 THE COURT And his attorney is Michael Thompson,
15 and the State's represented by Mr Valenta All right
16 The Court is ready to proceed

17 MR THOMPSON Thank you Would you call Tally
18 Wilson Mr Wilson, come around here, please, and take
19 the witness stand

20 TALLY WILSON, being first
21 duly sworn, testified as follows

22 DIRECT EXAMINATION BY MR THOMPSON

23 Q Thank you Mr Wilson, would you state your name
24 for the record, please

25 A Tally Wilson

1 Q All right And where do you reside?
2 A Eastover
3 Q All right Do you know Mr Campbell?
4 A Yes, sir
5 Q All right And what is your relationship to the
6 deceased, Olin D Wilson?
7 A Brother.
8 Q All right Is he older or younger than you?
9 A Older
10 Q All right And can you give us some idea of
11 where -- how many brothers are there?
12 A Seven brothers
13 Q All right How many -- where did Olin D live
14 when he was killed?
15 A Well, he lived in a house next to me Route 1,
16 Eastover
17 Q All right And you live right beside of him
18 then?
19 A Yes, sir
20 Q Okay Who owned that house, his house?
21 A Sir?
22 Q Who owned his house? Excuse me
23 A Oh, his wife's been staying there now with her
24 boys
25 Q All right Now, by wife, are you referring to

1 Ann Wilson?

2 A Uh huh (Affirmative) Yes, sir

3 Q All right And at the time of his death, was
4 your brother, Olin D , actually married to Ann Wilson?

5 A No, sir

6 Q Do you know how long they were divorced?

7 A I'm sure it was over a year A year or two

8 Q All right So, they were---

9 A Oh, yes, sir, it was over a year

10 Q All right But they had moved back together?

11 A Yes, sir

12 Q All right Do you recall the date that your
13 brother was killed?

14 A Well, I remember the night when his wife came up
15 to my house You know, it was -- I know it was right
16 up to the Fourth of July About the 11th

17 Q All right

18 A I think it was about the 11th of July

19 Q Going back to the Fourth of July, six days prior
20 to his death, let the record show the 10th of July
21 Did your family do anything in particular on that July
22 the 4th?

23 A No, mine didn't

24 Q What about Olin D's?

25 A Yes, sir, they had a barbecue down to his house

1 for his wife's family

2 Q All right Was there any trouble at that
3 barbecue?

4 A Yes, sir, they had a little argument and a little
5 fight

6 Q Who had the fight?

7 A Well, my brother, Olin, and one of Ann's brothers

8 Q Did your brother, Olin, ever hit or beat up Ann
9 Wilson?

10 A Yes, sir, they traded licks a few times

11 Q All right What about on that particular date,
12 do you recall that?

13 A Well, I don't know about him and her But the
14 night we had the barbecue that Olin hit her brother
15 They had a fight

16 Q What was her brother's name?

17 A I don't remember which one it was About the one
18 I know mostly is Jimmy, one of the older boy's, and
19 Dinkey

20 Q Jimmy and who?

21 A Dinkey

22 Q Jimmy and Dinkey

23 A I reckon That's the only thing I know is
24 Dinkey

25 Q And Dinkey's last name would be what?

1 A Taylor 706
2 Q All right So, Olin D and Dinkey Taylor had a
3 fight on July the 4th?
4 A No, sir, I don't think it was Dinkey It was one
5 of the older boys But like I say, I just know, you
6 know, the -- Jimmy by a couple times, and the only one
7 I know anything really about or saw all the time was
8 Dinkey
9 Q All right During the six days after that
10 difficulty, did you see your brother and talk to him?
11 A Yes, sir
12 Q All right What was his state of mind during
13 that week?
14 MR VALENTA Your Honor, I object to whether he
15 knew the victim's state of mind
16 THE COURT He can describe his condition I
17 don't know how he can give his state of mind
18 Q Do you know of any particular worry he had?
19 MR VALENTA Your Honor, same objection I
20 don't know how he would know, and what his worries
21 were
22 Q Well, let me ask you this Did your brother---
23 THE COURT Well, some event You can ask him
24 about the event
25 Q Did your brother talk to you during that week

1 about how he felt?

707

2 A Well, we talked out by the garden

3 Q I beg your pardon?

4 A We talked out by the garden in the afternoon, and
5 -- after he had the party, and he was kind a -- kind a
6 moody He was in a bad mood So, we were talking, and
7 I knew about they had the little scuffle down there. I
8 asked him about it He said, yeah---

9 MR VALENTA Your Honor, I object---

10 A ---said they had a little fight

11 MR VALENTA ---to hearsay

12 MR THOMPSON Your Honor?

13 THE COURT I don't think it's offered for the
14 truth of the matter asserted to whether they were
15 fighting or no fight It's offered to show state of
16 mind as I understand it Is that right, Mr Thompson?

17 MR THOMPSON That's right, Your Honor

18 THE COURT Objection overruled Proceed

19 A And he said that they had a little fight down
20 there, and said that Ann and her mother and them had
21 threatened to get rid of him So, he told me said, if
22 anything happened to me, don't let them get away with
23 it I said, ah, they just mad and talking

24 Q That's what you told him?

25 A Uh huh (Affirmative)

1 Q All right Do you happen to know where Ann's
2 mother lives?
3 A Well, she was living in Sylvania, Georgia at that
4 time
5 Q. In Sylvania, Georgia?
6 A Yes, sir
7 Q Do you know if she's still alive?
8 A Still alive?
9 Q Yes, sir
10 A Yes, sir, she's outside the door Oh, Ann's
11 mother No, sir She's alive But she's -- I didn't
12 see her
13 Q Okay All right Did -- did this conversation
14 that your brother had or what Ann Wilson had told him,
15 did it appear to you that that upset him?
16 A Yeah, he was upset about it
17 Q All right Did he ever indicate any particular
18 fashion in which he feared something may happen to him?
19 A. No, he just said that they told him they was
20 gonna get rid of him But they didn't -- they didn't
21 say how
22 Q All right All right Mr Wilson, let me show
23 you -- let me show you this statement, and see if you
24 recognize it as the statement that you prepared
25 A Well, I didn't bring my glasses on out Yes,

1 sir

2 Q All right, sir Did your brother ever indicate
3 to you that he had any fear from Owens Campbell?

4 A No, sir

5 Q All right Now, going back to the night of July
6 the 10th when your brother was shot, how did you find
7 out about it?

8 A Well, she came to the house hollering See, at
9 first---

10 Q Who -- when you say she, you mean---

11 A Oh, Ann

12 Q Ann Wilson?

13 A We was watching a movie that night, and it come
14 on late So, me and my wife went in and laid down in
15 the bed, and cut the T V on So, I heard Olin when he
16 cranked up to go to work, his car He wanted to watch
17 the movie He talked about watching the movie

18 I said, well, you'll miss it tonight And it
19 wasn't too long we cut the T V off, and somebody -- a
20 car pulled up in the yard, and -- well, she had called
21 me and told me that something had happened to Olin
22 That he hadn't made it to work That they had called
23 he at work and said he hadn't made it Wanted me,
24 said, will you go around and check He might of had a
25 flat tire

C. 710

1 I said, well, I said, if he did, Ann, I said,
2 he's got a spare tire on his truck I said, in that
3 length of time, he was an hour to two late then, 'cause
4 he usually leave about over an hour early to go to
5 work, and he done been there later about an hour and a
6 half

7 I said, he done changed the tire, and been there
8 by now So, she said, all right So, after awhile,
9 they come running in the yard in my house a little
10 later, and brought her The red headed I think it
11 was lieutenant or somebody

12 Q When you say them, you mean Sheriff's deputies?

13 A I imagine it was the Sheriff's deputy It was a
14 red headed fellow

15 Q Policeman though I mean?

16 A Yes, sir, it was policeman I think it was a
17 lieutenant or something That's what I think it were
18 Short, red hair

19 Q Derwood Barton?

20 A Yes, sir, anyway, they pulled up in the yard, and
21 the door opened, and I heard somebody -- I heard --
22 well, I knew it was Ann screaming I told my wife, I
23 said, oh, my God I said, something's happened So, I
24 jumped out the bed, and went to the door to let them
25 in And she was screaming talking about oh, Olin's

1 dead Olin's dead Said, he's been shot
 2 So, then, I called my brother, and he came down,
 3 and I told my wife to go on down to her house with her
 4 And I told her, I said, make a pot of coffee We'll be
 5 on down after awhile
 6 Q All right Did you ever go to the scene where
 7 his body was found?
 8 A No, sir
 9 Q All right You just talked to the police
 10 officers?
 11 A Well, he was at my house---
 12 Q All right
 13 A ---with her
 14 Q And did you learn from them how your brother had
 15 been killed?
 16 A Well, not at the time 'cause they just said that
 17 they wouldn't let anybody over there We was going
 18 And my brother came by, and he talked with one of the
 19 policeman, and he told him what happened That he got
 20 shot
 21 Q All right In this statement that you prepared,
 22 Mr. Wilson, let me direct your attention if I could---
 23 A All right
 24 Q ---to this statement of Ann Wilson I've underlined
 25 A Uh huh (Affirmative)

1 MR VALENTA Your Honor, could I ask counsel
2 what he's shown to the witness?

3 MR THOMPSON Yeah Sorry

4 (Mr Thompson shows the document to Mr Valenta
5 at this time)

6 Q All right Mr Wilson, in this statement, you
7 quote Ann Wilson as saying, oh, my God---

8 MR VALENTA Your -- Your Honor?

9 THE COURT Yes, sir

10 MR VALENTA I object to counsel reading from a
11 statement that has not been identified by the witness
12 and all We have no idea what counsel is reading from
13 or what the date is or whether the witness made this
14 statement or anything

15 MR THOMPSON I thought he already identified it
16 as the statement that you prepared

17 A. Yes, sir

18 Q Is that correct?

19 THE COURT Well, he identified some piece of
20 paper

21 MR VALENTA This document is---

22 THE COURT But we haven't marked it for
23 identification and we haven't received it into evidence
24 So, what do you want to do, Mr Thompson?

25 MR THOMPSON I just want to ask him about this

1 statement, Your Honor, right now rather than the
2 document

3 THE COURT I think perhaps it should go in
4 evidence then

5 MR THOMPSON All right Do you have any
6 objection?

7 MR VALENTA Yes, Your Honor I object to it
8 being put in evidence We have no testimony of when
9 this was made or whether, in fact, this is something
10 that was typed by the witness or whether it's got his
11 signature on it or any information like that I ask
12 that counsel lay a proper groundwork

13 Q Let me -- without the document, Mr Wilson, let
14 me ask you this Did Ann Wilson make a statement to
15 you, oh, my God, I didn't know it was going to be like
16 that?

17 A That was after we went down to the house to drink
18 coffee

19 Q All right How much later after the police
20 arrived did she make that statement?

21 A I'll say it must of been around thirty or forty
22 minutes, forty-five minutes

23 Q All right And was that statement made in
24 response to her finding out the details of how he was
25 shot?

1 A Yes, sir.
2 Q. And where he was shot?
3 A Yes, sir
4 Q Do you have any doubt that she made such a
5 statement?
6 A Do I have any doubt she made it?
7 Q Right
8 A No, sir, I was sitting there when she made it
9 Q I didn't know it was gonna be like that---
10 A That's right
11 Q ---is that correct?
12 A That's correct
13 Q Did you -- did you see any insurance policies
14 that night?
15 A Yes, sir
16 Q Were -- where were you when you saw them?
17 A In Ann's house and Olin's
18 Q All right And these were insurance policies on
19 who? On your brother?
20 A Yes, sir, she had -- she had one with the Navy
21 from where he retired He had one out to Fort Jackson
22 from the -- from where he was working at the boiler,
23 and she asked -- she asked my brother and me -- my
24 brother, Ed, just retired from the Fort And she asked
25 him, said, I've got some policies here I need to cash

1 in at the Fort Who to see? And he told her who to go ⁷¹⁵
2 see at Fort Jackson to get it straightened out And
3 she said, I got a couple more checks that Olin didn't
4 know anything about She said that -- on him So, we
5 sat around and talked a little bit and drank coffee

6 And my brother looked at the checks he was -- the
7 insurance policies from the government, and told her
8 where to go at Fort Jackson to get the people to handle
9 it for her And we were drinking coffee, and we was
10 talking

11 My other brother came in Shorty, my oldest
12 brother And I never had saw the body We went over
13 there We went on down there And I asked him, I
14 said, did you get to see him He said, a little bit
15 He said, they wouldn't let me get up there He said,
16 kept us all back

17 But he said, blowed the side of his face off and
18 his mouth, and said one of his teeth or something was in
19 the road And whenever he was over there, said, he
20 came on back in the house, and Ann was talking about
21 it

22 And I told her my brother, Ed, how it happened
23 I said, they shot the side of his face off And Ann
24 wanted to know, said she -- whenever I told her that
25 I said they shot the whole -- my brother said they

1 shot the whole side of his face off and teeth out She
2 said, oh, my God I didn't know it would be like that
3 And then I told my brother, Ed, I said, well, she knows
4 something

5 Q You told your brother, Ed, what?

6 A My brother, Ed I told him, I said, well, she
7 knows something She said, it wouldn't be -- she
8 didn't know it would be like that

9 Q All right And this is five or six days after
10 your brother told you he was afraid for his safety?

11 A What?

12 Q After -- after the fight on July 4th

13 A Yes, sir, he said that they had threatened him
14 But he was worried alot But he's one that didn't talk
15 alot about his feelings or anything But he was real
16 worried He didn't want to talk or have much to say

17 Q All right What -- what, to your knowledge, was
18 the relationship between Ann Wilson and your mother as
19 terms of good or bad or---

20 A Not too good. My mother didn't particularly like
21 her

22 Q And was that common knowledge?

23 A Yes, sir, I think about all them knew it

24 Q All right When was your mother's birthday?

25 A My mother's got a -- it must of been about the

1 9th if I'm not mistaken or the 10th It's right --
2 right in the same neighborhood I think it was the day
3 after my mother's birthday
4 Q All right And, Mrs Wilson, that's Ann Wilson,
5 live beside you right now, is that correct?
6 A Yes, sir
7 Q All right Do you know who she lives with?
8 A A fellow by the name of Wayne Stone, and I think
9 her brother, Dinkey, is living in there most -- most
10 the time He and his wife are separated And her two
11 sons
12 Q All right Dinkey Taylor is Ann Wilson's
13 brother, correct?
14 A Yes, sir Yes, sir
15 Q All right Did you testify at the first trial of
16 Mr Campbell?
17 A Yes, sir
18 Q All right And at that time, had you been
19 interviewed by Mr Campbell's attorney?
20 A No, sir, I hadn't
21 Q All right Who called you as a witness, the
22 State or the defense?
23 A I believe it was with the State
24 Q All right Do you recall your testimony at trial,
25 Mr Wilson?

1 A Well, not exactly I remember the things I was
2 trying to say, and the Judge wouldn't let me say

3 Q All right

4 A. They just asked me a few questions more or less

5 Q All right, sir And did anyone ask you anything
6 at that time about the fight on July the 4th, and the
7 threats against your brother or your brother's concerns
8 or anything like that?

9 A No, sir

10 Q. All right And did anyone at that time ask you
11 about the State's -- statement made by Ann Wilson, I
12 didn't know it was gonna be like that?

13 A No, sir

14 Q What caused you to recall that statement, and
15 prepare anykind of notes to refresh your memory or---

16 A You mean why did I remember that was said?

17 Q Right

18 A Well, my brother was just killed, and I knew that
19 he told me they threatened to get rid of him And
20 whenever she said that, I told my brother, I said,
21 well, I said, she just told on herself I says I think
22 they had it done

23 Q Have you had any further contact with Ann Wilson
24 in talking to her about this?

25 A No, sir, I hadn't

1 MR THOMPSON One moment, Your Honor 719

2 Q Mr Wilson, do you know of a man who lives in

3 that area by the name of Herman?

4 A Yes, sir, I know a Herman He lived with Ann's

5 mother in Georgia

6 Q He lived with Ann's mother?

7 A. Yes, sir

8 Q All right Has he ever been back to the Lower

9 Richland area near where you live?

10 A. Yes, sir, he stayed down -- he and Ann's mother

11 stayed with her awhile below my house next door

12 Q All right Do you know Herman's last name?

13 A. No, sir, I don't The only thing I know is

14 Herman

15 Q. All right About how long did he stay in the

16 house?

17 A I guess they stayed down a few weeks with Ann

18 Q All right Did you ever have an occasion to talk

19 to him?

20 A Yes, sir, I talked to him---

21 Q Did -- do you know that he---

22 A ---one -- one Saturday afternoon---

23 Q Did he---

24 A ---when it was dark

25 Q Do you know if he's related to Ann Wilson?

- 1 A No, sir
- 2 Q. He's not or you don't know?
- 3 A. He's not
- 4 Q All right And do you know where Herman is
- 5 today?
- 6 A No, sir, I haven't hear anything from Herman or
- 7 saw him since we had a talk that afternoon and night
- 8 Q All right What was that talk about?
- 9 A Well, it was about my---
- 10 MR VALENTA Your Honor, I object to the hearsay
- 11 that might be coming out He has not made any hearsay
- 12 statement yet But I see it coming I would object
- 13 Q All right. Just -- what -- what was the topic of
- 14 the conversation you had?
- 15 A Oh, about my brother, Olin, being killed
- 16 Q All right And did anyone overhear that conver-
- 17 sation?
- 18 A My brother-in-law, Steve McCafrey
- 19 Q All right And how long did you talk to Herman
- 20 about that?
- 21 A I imagine it was about thirty minutes
- 22 Q And did he claim to have any knowledge about it?
- 23 MR VALENTA Your Honor, I object to the
- 24 implicit hearsay in that
- 25 Q Did---

1 THE COURT I would have to sustain that

2 Q All right Did anything happen to Herman that
3 afternoon?

4 A Yes, sir, he and I were having a conversation,
5 and Ann's mother heard him talking in my front yard He
6 was fixing to go back down to their house, which is
7 just -- just a step---

8 MR VALENTA Your Honor, I can see hearsay
9 coming out We object to this

10 MR THOMPSON He hasn't said---

11 Q. Don't say what Herman said All I want---

12 A. Okay

13 THE COURT The question was what happened to
14 Herman You can say what happened to Herman But you
15 can't say what anybody said

16 A All right

17 MR VALENTA Or what Ann's mother said

18 A Well, Herman and I were talking in the front
19 yard, and he was fixing to go home And Ann's mother
20 came up across the terrace There's a terrace right
21 between our house She came up over it She heard us
22 talking

23 She had a telephone that you talk out in the yard
24 with She walked up and slapped Herman side the head
25 of it And told him, said, you big mouth drunk You

1 run your mouth---

2 MR VALENTA Your Honor, I object hearsay

3 Q All right Don't say what she said

4 THE COURT All right Sustained

5 A All right She -- anyway, she slapped him with
6 the---

7 THE COURT She hit him with the telephone

8 A She slapped him with the phone, and he said don't
9 hit me again, and she slapped him again with the phone,
10 and he left and went home

11 Q All right How long has he been gone to the --
12 that area or how long has it been since you've seen
13 him?

14 A I don't know exactly I imagine it's going on a
15 year

16 Q Okay Other than overhearing part of the
17 conversation, do you know -- do you -- are you aware of
18 any other reason he was hit with the phone?

19 A No, sir, that was the reason

20 Q All right Mr Wilson, if you would, please
21 answer any questions Mr Valenta may have

22 A All right, sir

23 CROSS-EXAMINATION BY MR VALENTA

24 Q Mr Wilson, you knew about this death from the
25 night it happened, right?

1 A. Yes, sir 723
2 Q Okay And how long was it from the death until
3 the time of trial?
4 A Oh, it'd taken them a couple years working on it
5 a little better
6 Q All right From July 10, 1978, that was the date
7 of death, right?
8 A Yes, sir
9 Q Until April, 1982, when the trial was?
10 A Yeah, it'd taken them a few years on it I don't
11 know the exact date
12 Q Now, did Lieutenant Connie Lewis ever talk to you
13 about this case?
14 A Yes, sir
15 Q And how many times?
16 A Oh, hard to tell Quite a few He'd stop by
17 pretty often
18 Q Can you give me a number?
19 A No.
20 Q One, ten?
21 A Oh, I'd say it was -- I guess in the length of
22 time, it would be more like ten
23 Q All right And did you tell him everything he
24 knew about the case?
25 A Well, everything I knew at that, yes, sir, I did

1 Q All right Did you tell him the truth when you
2 were talking to him?

3 A I did

4 Q Did you tell him about Ann's statement that
5 you're now -- you're now saying that she made?

6 A I did

7 Q You told him that she said, my God, I didn't
8 know---

9 A Yes, I did

10 Q All right And did you tell him that your
11 brother, Ed, reaction had been she knows something
12 about it?

13 A Pardon

14 Q. Did you tell Lieutenant Lewis that your brother,
15 Ed, reaction was she knows something about what
16 happened?

17 A Ann's reaction---

18 Q Ed -- didn't your -- didn't you testify a little
19 bit ago that your brother's reaction was that she knew
20 something?

21 A No, mine

22 Q Oh, your reaction was---

23 A I told my brother, whenever she said that, I
24 said, well, she just told on herself She had something
25 to do with it

1 Q All right And you related that to Lieutenant
2 Lewis, correct?

3 A Uh huh (Affirmative) Yes, I did

4 Q Okay Now, did you ever talk to Owens Campbell
5 between the time of the shooting and the time of trial?

6 A Yes.

7 Q Okay Did you relate to him what Ann had said?

8 A No, we never did talk about that part He come
9 to the house to tell me that whenever trying to get him
10 to say that he didn't do it He said, I want you to
11 know that I didn't do it

12 Q All right

13 A They was trying to pin it on him In talking, he
14 said, I want you to know that I didn't do it

15 Q Did you tell -- did you tell him that you knew
16 what Ann had said and that you could help him prove
17 that he didn't do it?

18 A Well, I told him I'd tell Lieutenant Connie Lewis
19 everything I knew

20 Q Did you tell---

21 A But at that time, I didn't know who she had to do
22 it I don't know She was just a hanging thing You
23 didn't know who done it But it was done

24 Q Did you tell Owens Campbell that she had made
25 such a statement, and that you knew she was involved?

1 A Not at that time

2 Q You say not at that time When did you tell him?

3 A Well, it was a year or so ago whenever he was
4 trying to get his -- another hearing on it

5 Q Now, you say a year or so ago Can you point
6 down when's the first time you said anything to
7 somebody about it?

8 A Well, to him, it was after he called my trying to
9 get a trial But I told Connie Lewis about it to start
10 with But the reason I didn't tell Owen Campbell
11 anything is because I didn't know who had anything to
12 do with it, and he was messing around with Ann some at
13 the time before the trial So, I didn't want to tell
14 him anything that would get back to her I knew anything,
15 and I was telling Lieutenant Connie Lewis whatever I
16 knew And he told me to listen out for talk If I
17 found out anything to let him know

18 Q Okay So, for all you knew, if she was involved,
19 it could of been Owens Campbell who helped her do it?

20 A It could of been anybody Like I said, at that
21 time, I didn't know who done it

22 Q Okay

23 A But I do know that Owen Campbell and she came to
24 my house one afternoon I was watching the fights on
25 T V And said that my brother had had some talk out

1 about it, and that they didn't like it And I told Ann
2 and him in my house, I said, well, I don't know who
3 done it, and I'm not gonna accuse anybody I said,
4 because when I have proof to accuse them, I said, I'm
5 gone do them just like they did my brother, and she got
6 up and left And Owens stayed and talked with me and
7 then he left

8 Q Now, did anybody from the Public Defender's
9 Office talk to you about this case before the trial?

10 A No, not before his trial

11 Q Or during the trial?

12 A No, I don't think I talked to anybody at Public
13 Defender's

14 Q All right When you saw how the trial was going
15 -- you were at the trial, right?

16 A Yes, sir

17 Q When you saw how the trial was going, did you go
18 to Owens Campbell, and say let me tell you what I know
19 about Ann's involvement?

20 A Not during the trial I didn't

21 Q Why not?

22 A Well, I was waiting for them to get the rest of
23 them involved in it I was sure that she had it done
24 So, I was just waiting on the trial to see who they'd
25 get in it And when the sister made the statement and

1 the Judge stopped her and so on and that went out So,
2 I -- I didn't have any reason to go talk to him I was
3 waiting for the other people, and like I say, I been
4 talking to Lieutenant Connie Lewis So, I didn't go to
5 him and talk to him

6 Q Okay So, you didn't think it was important for
7 him to know that?

8 A Well, at that time, I didn't know whether he was
9 guilty or not So, I couldn't be telling him

10 Q All right Now, did you ever write this in a
11 letter to anybody?

12 A I think I wrote out one on a paper before I
13 think

14 Q And what did---

15 A Me and my brother, three or four of us wrote out
16 some statements of what we knew

17 Q Okay And why did you do that?

18 A Well, he was trying to get another hearing in
19 the---

20 Q Now, wait a minute Who is he?

21 A Owen Campbell And we had a meeting We was
22 called up to have a meeting We went down to the jail
23 a couple of times Went in to have a hearing to tell
24 what we knew, and I wrote it out

25 Q. Okay

1 A My statement was wrote out on a piece of---

2 Q Who called the meeting?

3 A. Sir?

4 Q Who called the meeting?

5 A I imagine it was his attorney had it done

6 Q What do you mean you imagine? Don't you know who
7 contacted you?

8 A Well, he had called me, and said they was having
9 a meeting

10 Q All right

11 A And wanted us to be there to have another trial
12 to get him under -- get the ones that really done it
13 Because I'm pretty sure he's the one that not -- didn't
14 do it

15 THE COURT You're pretty sure what?

16 A I'm pretty sure that he's -- he's not the one
17 that did it from talk I've heard around, and from Ann's
18 brother, which -- which gave me that impression. And
19 I've knowed Owen all my life We ve run around
20 together, and I just didn't think he would do it But
21 I'm sure she had something to do with it from what she
22 said, and -- and the checks that she had on him, you
23 wouldn't pay that kind of insurance on a man you was
24 looking to live sixty more years

25 Q All right Mr Wilson, of your own personal

1 knowledge and not of -- from what other people have
2 told you, do you know anything now that you didn't know
3 at the time of trial?

4 A Well, nothing I could prove

5 MR VALENTA All right No further questions,
6 Your Honor

7 MR THOMPSON Thank you, Mr Wilson We call
8 Ann Wilson

9 THE COURT This your witness?

10 MR THOMPSON Yes, Your Honor

11 ANN WILSON, being first duly
12 sworn, testified as follows

13 DIRECT EXAMINATION BY MR THOMPSON

14 Q Would you state your name for the record, please?

15 A Virginia Ann Wilson

16 Q Speak a little closer to the microphone if you
17 could, Mrs Wilson

18 A Virginia Ann Wilson

19 Q And what is your relationship to Olin D Wilson?

20 A He was my husband

21 Q When were you married?

22 A It's been so long now August 7, 1960

23 Q All right And were you -- were you living with
24 Mr Wilson when he was killed?

25 A Yes, I was

1 Q All right Do you recall the date he was killed?

2 A Yes July 10, 1978

3 Q All right Going back to July the 4th before
4 that, do you recall that date?

5 A Yes

6 Q What happened on that day?

7 A We had a family reunion

8 Q. And where was that reunion?

9 A In our house

10 Q Did you have any trouble with Mr Wilson on that
11 day?

12 A No, sir

13 Q Had you ever had any trouble with Mr Wilson?

14 A Well, Olin dranked alot. Yeah, we had our
15 problems

16 Q Do---

17 A But that's been -- that's only marriage problems

18 Q Did he ever hit you?

19 A Yes, sir, many times

20 Q All right It's your testimony he did not hit
21 you on that date?

22 A No, sir

23 Q All right Did he have any trouble with your
24 brother on that date?

25 A No, not that I know of Oh, we barbecued a

1 whole hog that day for the Fourth

2 Q. All right And you didn't see anykind of
3 trouble?

4 A No, sir

5 Q Does your husband own a shotgun?

6 A Yes, sir

7 Q What kind was it?

8 A He owned two shot guns He owned a 12 gauge and a
9 20 gauge

10 Q All right Do you know where those guns are?

11 A Yes, sir

12 Q Where are they?

13 A They at the house

14 Q Did you ever give those guns to Lieutenant Connie
15 Lewis?

16 A I did

17 Q And for ballistics checks?

18 A I did

19 Q All right Were there any other guns?

20 A No, sir Well, now, there's a rifle Had a 22
21 rifle

22 Q But those are the only two shotguns?

23 A Yes, sir

24 Q Where was Dinkey Taylor living during this time,
25 Mrs Wilson?

1 A With me 33
2 Q Did he often drive your -- Mr Wilson's car?
3 A Every once in awhile he'd drive if he went
4 hunting His truck -- and then sometimes he'd drive my
5 car to the store or see his girlfriend
6 Q All right
7 A Even if he didn't have no license
8 Q This particular night, July the 10th, was your
9 husbands first night back to work at Fort Jackson after
10 he'd been off awhile, is that correct?
11 A If I can remember Now, it's been almost nine
12 years I think their schedule had changed 'cause he
13 was on a rotating schedule
14 Q All right
15 A And it had just changed, and he had to go -- he
16 was suppose to go in at 11 00 to 7 00 or 12 00 to 8 00
17 I forgot which one of those It was a midnight shift
18 Q Third shift?
19 A Yes, sir
20 Q All right And who would know he was suppose to
21 go back to work that night?
22 A Where we worked I guess, and us at the house, and
23 unless someone he told or whoever he talked to I
24 don't know. I mean---
25 Q. But you knew it?

1 A Alot of people Because he had been doing this
2 now ever since he'd been out the Navy

3 Q I beg your pardon?

4 A He been doing -- on rotating shift ever since
5 he'd been out the Navy down there---

6 Q Well,

7 A ---at Fort Jackson

8 Q But did you keep up with what shift he was
9 working?

10 A Well, not really 'Cause I know he was at home
11 when he wasn't working, and he was gone when he was
12 working So, I mean, and I worked, too

13 Q Did you know the route he would take to work?

14 A Yes, sir

15 Q How did you find out something had happened to
16 him?

17 A I think the man, they called him Thomas C ,
18 worked out there with him He called the house, and --
19 about -- close to about twelve o'clock I'm not sure
20 of the time And asked me -- he called him Willie
21 That's what he called Olin Nickname I guess He says is
22 Willie coming to work tonight. I says, yes, he's
23 already gone He's been gone In fact, he ought to be
24 there by now

25 Q All right What did you find out next?

1 A Well, I told him that if he hadn't gotten there
2 pretty soon to call me 'cause he probably had car
3 trouble -- his truck had trouble or a flat tire or
4 something, and I'd go see about him

5 Q All right And then what happened?

6 A Well, I waited awhile, and I didn't hear anything
7 So, I just thought I'd call just to be sure he made it
8 to work So, I called Tommy C , Thomas C , or whatever
9 his name is, and he told me he'd never come to work,
10 that he hadn't gotten there yet

11 Q All right

12 A So, then I got in my car, and got the kids, and
13 we went down the road to see if we could find if he had
14 a flat tire or something

15 Q All right And then what -- did you go any place
16 else before you got in the car?

17 A No

18 Q You got in the car and went down the road?

19 A Yeah

20 Q And what did you find when you went down the
21 road?

22 A I found an officer in the middle of the road with
23 a flashlight to start off with I run up on a police
24 officer---

25 Q All right

1 A ---in the road with a flashlight

2 Q Was he a uniformed officer?

3 A He had -- he was a deputy sheriff Had a white
4 shirt on and blue pants

5 Q. All right And what did you do at that time?

6 A I asked him what was wrong He asked me who I
7 was, and I told him, and then went on down to the
8 scene

9 Q All right Did he ask you what you were doing
10 there?

11 A At the time, he didn't, no

12 Q All right Do you---

13 A I can't remember I say he didn't I don't
14 remember to be honest with you It's been so long

15 Q What did he do -- what did you do at the scene
16 then?

17 A Well, when I saw Olin's truck over there in the
18 woods, I assumed he had a wreck, and I jumped out the
19 car and was gone run to the truck, and they grabbed me,
20 and told me I couldn't go to the truck

21 Q All right

22 A And they put me back in the car, and asked me to
23 go home

24 Q And what did you find out then, that he was dead
25 at that time?

1 A Well, they told me that he was dead

2 Q All right During this particular time, Mrs
3 Wilson, had you been having an affair with a man in
4 Georgia?

5 A Not during that time I had when he and I were
6 separated Olin D was -- we were separated for
7 awhile, and I went to Georgia, and I was seeing this
8 guy in Georgia, yes

9 Q That would be Horace Lee?

10 A Right

11 Q All right Have you ever reviewed your long
12 distance telephone records to Mr Lee?

13 A Have I what?

14 Q. Ever looked back at your long distance phone
15 records to Mr Lee?

16 A No, sir

17 Q Did Lieutenant Lewis ever ask you anything about
18 those phone records?

19 A I believe he did I'm not certain

20 Q. Do you know how frequently you called that man?

21 A Well, I talked to him I wasn't having an affair
22 with him I talked to him several times Because I
23 thought alot of him

24 Q Did you call him that night?

25 A To my knowledge, I didn't I don't remember

1 Q Would you be in a position to disagree with
2 telephone records that would show you called at 10 52
3 p m ?

4 A 10 52 p.m on the night Olin was killed?

5 Q Yes, ma'am, July 10th

6 A No, I wouldn't Because I mean I may have and I
7 might -- I don't know I don't remember Like I say,
8 it's been a long time

9 Q Did you ever tell anybody that you wanted to get
10 rid of your husband, Mrs Wilson?

11 A No, you know, when you're -- during life, when
12 you go through life, alot of times you may get bad with
13 them, and you'd say I'd wish you'd die or either if --
14 you know, things like this But, no, I never wished I
15 could get rid of him 'cause I'd never been back with
16 him We had -- we had three kids

17 Q Did you get a divorce from Mr Wilson?

18 A Yes.

19 Q When did you get a divorce?

20 A I don't even remember

21 Q You know how many years you've been divorced
22 approximately?

23 A How many we were?

24 Q. (Mr Thompson nods affirmatively)

25 A Probably about four

1 Q Did you ever remarry him?

2 A. No, we never did go back before the -- we went to
3 -- we just -- he just came and got me, and we were
4 going back and get remarried the same place But we
5 never did go back down to Moncks Corner

6 Q I beg your pardon?

7 A We never did go back down to Moncks Corner
8 That's where we got married

9 Q Okay. You were the administrator of Mr Wilson's
10 estate, is that correct?

11 A Yes, sir

12 Q All right And you signed all those documents as
13 his wife, isn't that---

14 A Yes, sir.

15 Q Your relationship with him being his wife, is
16 that correct?

17 A Yes, sir Yes, sir

18 Q All right The insurance policies on Mr Wilson,
19 do you know how much they totaled?

20 A Just right off -- right now I don't remember He
21 had one that -- I can't -- I can't -- twenty-three
22 thousand or twenty-four thousand or something like
23 that I'm not sure One And then there was another
24 one I can't remember I really can't remember It's
25 on -- it's at Probate Court

1 Q Would one for twenty thousand and one for fifty-
2 fou. thousand---

3 A That was double -- that's 'cause it's double
4 indemnity, yes, sir, I guess so

5 Q All right And what happened to those monies?

6 A What happened to the money?

7 Q Yes, ma'am

8 A I paid bills, and I've used it, and I've loaned
9 people money, and---

10 Q Were you the beneficiary on the policy?

11 A Yes

12 Q Do you know when the policies were taken out?

13 A No, just right off hand, I don't I remember we
14 took them out But I don't remember the date

15 Q Did -- did you take them out before or after your
16 divorce?

17 A We had probably -- I don't even remember to be
18 honest with you Before -- I don't remember to be
19 honest 'cause he paid the policies He had one that he
20 paid the Navy, and then I think we'd taken another one
21 out But I don't remember when we took it out

22 Q Did you loan Mr Campbell seven thousand dollars
23 out of that?

24 A Not in cash money, no

25 Q All right But in credits---

1 A Yes

2 Q ---extended, is that correct?

3 A Yes

4 Q. Did he pay that money back out of the wreck
5 settlement?

6 A No, sir

7 Q Did---

8 A Not all of it

9 Q ---you ever receive the money?

10 A No, sir

11 Q Did you ever buy anything for Pam Cassidy?

12 A Well, he -- me -- really buy anything for her.

13 She wanted a water bed for her birthday I gave her a
14 water bed for her birthday Just no headboards or
15 nothing with it Just plain water bed No dresser or
16 anything for her birthday

17 Q Is she related to you?

18 A No, she -- her and my brother been going together
19 several years

20 Q That's Dinkey Taylor?

21 A Right.

22 Q And they were dating at this time?

23 A Yes, sir

24 Q How old were they?

25 A I don't know how old Pam was But Dinkey was

1 fifteen

2 Q Was she about fifteen years old?

3 A I -- to really be honest with you, I don't know
4 how old Pam is

5 Q But you bought her a water bed?

6 A Yes, sir, for her birthday

7 Q What else did you give her?

8 A That's all

9 Q And they'd been dating several years at this
10 point?

11 A Yes, sir, I assumed they were going to get
12 married They kept talking about it

13 Q Where did the water bed go?

14 A I don't know I never asked her whether she's
15 still got it or not I don't even know

16 Q Did you ever see it?

17 A No, not since I had it to call In fact, I
18 didn't I just called down, and told them to -- if
19 they would, deliver one for her birthday to her
20 momma's

21 Q Do you know where you called?

22 A She was staying at her momma's Probably The
23 Junction Water Bed Junction. I'm not sure

24 Q All right Was the house paid for at that time?

25 A No, sir.

1 Q How much was owing on it?

2 A. It still ain't paid for I don't know how much
3 was owed on it then from, you know, when he got killed
4 But it's probably about twenty-four thousand still owed
5 on it

6 Q All right Did you just make payments on it at
7 that time?

8 A I still make payments on it

9 Q Do you know a man by the name of Johnny Bradwell?

10 A Yes, sir

11 Q What is your relationship to him?

12 A To Johnny?

13 Q Yes, ma'am

14 A He was just a kid that hung around the -- with
15 the kids around the house

16 Q All right Did he ever get shot in your house?

17 A He did

18 Q Do you know who shot him?

19 A Yes, sir

20 Q Who was it?

21 A Shot his self

22 Q He shot himself?

23 A Yes, sir. He was -- well, I had missed my
24 pistol I couldn't find it, and I was in the process of
25 searching for it before I called the Sheriff's Department

1 and report it missing In fact, I believe I did report
2 it missing And then Johnny was upset, and he went in
3 the bathroom and locked the bathroom door And I heard
4 the gun shoot -- the pistol fire, and then I -- we
5 busted in, and he had -- he had my pistol He said he
6 stole it and hid it

7 Q All right Did you call the police?

8 A. Yes, sir, the police were there

9 Q All right Were any threats made to Mr Bradwell
10 at that time by you or Mr Dinkey Taylor?

11 A No, sir.

12 Q Did you testify at the first trial?

13 A No, sir

14 Q All right. Were you ever notified that you were
15 a suspect in this case?

16 A. Yes, sir, on many occasions

17 Q. Who notified you of that?

18 A. Lieutenant Lewis

19 Q Did anyone else?

20 A Richland County Sheriff's Department I guess I
21 mean, I knew I was a suspect Everybody was until
22 somebody was proven guilty

23 Q All right Did being a suspect prevent you from
24 procuring the insurance policies or receiving the
25 money?

1 A No, sir.

2 Q You never had any difficulty getting the money?

3 A Well, no, sir, only through the government

4 Q I beg your pardon

5 A. Only through the government at one time I had
6 problems

7 Q That was the fifty-four thousand dollar policy?

8 A Oh, I didn't have any problem with the insurance
9 policy, no, sir

10 Q What kind of problem did you have with the
11 government?

12 A On my checks from the government

13 Q The social security checks or retirement checks?

14 A Yes, sir

15 Q How much were they?

16 A It's 374 00

17 Q All right What kind of problem did they give
18 you?

19 A Well, they didn't -- they didn't want to release
20 anything until I was proven not a suspect

21 Q All right How were you proven not a suspect?

22 A Well, it was after they had convicted Owens

23 Q All right You did not receive any government
24 check whatsoever until after Mr Campbell's conviction?

25 A No, sir

1 Q And you had no difficulty whatsoever in receiving
2 the insurance proceeds?

3 A No, sir

4 Q All right

5 A All I had to do was---

6 Q Send a death certificate?

7 A Right

8 Q So, they were paid immediately?

9 A Well, I -- you said immediately, I don't know
10 Probably, what, three or four weeks, months, or
11 something like that

12 Q All right Do you recall looking at the insurance
13 policies the night your husband was killed?

14 A No, sir

15 Q Not at any point?

16 A No, sir

17 Q All right Mrs Wilson, let me ask you again Is
18 it still your testimony that you did not receive any
19 money from Mr Campbell to pay you back?

20 A He didn't pay me back all the money I re -- I
21 think I received a thousand dollars or some I'm not
22 sure exactly It was a small amount that I had
23 received I did not receive all the money, no

24 Q Did you---

25 A. 'Cause he was suppose to -- it was a motorcycle

1 involved He was suppose to sold the motorcycle if I
2 would sign it over to him, and give me the money
3 Instead, he didn't

4 Q How -- how did you receive this money from Mr
5 Campbell? Did he give it to you?

6 A I really can't even remember

7 Q Did a lawyer send you any money?

8 A I can't remember All I know that he had talked
9 to his lawyer one time about sending me some money
10 But whether or not he -- he did or how I got, I can't
11 remember Like I say, it's been nine years, and I
12 can't -- I just can't

13 Q All right Mrs Wilson, if you would, answer any
14 questions Mr Valenta has

15 A Yes, sir

16 CROSS-EXAMINATION BY MR VALENTA

17 Q Mrs Wilson, are you here voluntarily to testify
18 today?

19 A No, sir, I was suspended I was subpoenaed
20 Well, I got a paper last night about 9 30

21 Q Do you know what the purpose of this hearing is?

22 A Well, I didn't know until I called Mr. Campbell --
23 Owens' lawyer this morning His number was on the
24 bottom of the paper I got And asked him, you know,
25 'cause I was working, and I wanted to know how much

1 time to take off from work And he told me it was to
2 take some statements to see whether or not they had
3 enough evidence to give Owens another trial

4 Q And did he tell you what the basis of such
5 evidence would be?

6 A No, sir

7 Q Did he tell you that they were trying to show
8 that you were the one who actually conspired and
9 brought about the murder?

10 A No, sir

11 Q Do you remember much about the night of the
12 murder?

13 A I been trying Some.

14 Q You testified about going up to the scene of the
15 crime?

16 A Right

17 Q And then you went back to your house?

18 A Well, someone drove me back to the house, and I
19 think we dropped -- stopped by his brother's house I
20 made every -- Dinkey was driving Somebody I think
21 Dinkey or one of the kids drove me back to the house,
22 and made them stop by Dinkey -- Tally's so I could tell
23 Tally what had happened, and we went on down to the
24 house

25 Q All right While you were at Tally's or -- or

1 at your house that night, did you look at insurance
2 policies?

3 A. No, sir

4 Q Did anybody come and tell you what actually had
5 happened to Olin Wilson that night?

6 A No, sir, I had -- I didn't know. I thought he
7 got killed in a wreck still I didn't know he was shot
8 even when I got back to the---

9 Q When did you find out he was shot?

10 A Well, I called a friend of mine whose husband is
11 a detective I mean a deputy sheriff, and asked her if
12 she could find out if, you know, he died the instant or
13 whether or not he, you know, how bad he was hurt or if
14 he was just hurt You know, 'cause they didn't let me
15 get to him And then that's when she called me back,
16 and the information she gave me was wrong 'cause she
17 told me that he didn't die from a wreck That somebody
18 had blowed his head off, and next thing I know, I had
19 fainted in the floor I didn't -- I don't know

20 Q. Do you remember making the statement something to
21 the effect of oh, my God, I didn't know it was going to
22 be like that?

23 A No, sir

24 Q. Would there have been any reason for you to have
25 made a statement that you didn't understand he was

1 going to die that violently?

2 A No, sir

3 Q Did you have any reason to know he was going to
4 die that night?

5 A No sir

6 Q Had you conspired with anybody -- well, let me
7 rephrase that Had you talked with anybody about
8 having your husband killed?

9 A No, sir

10 Q Did you have him killed---

11 A No, sir

12 Q ---for the insurance money?

13 A No, sir

14 Q. Did you ever ask your brother, Dinkey Taylor, to
15 kill Olin Wilson for you?

16 A No, sir

17 Q. Did you ever tell Delores Mock that you had
18 arranged for somebody to take care of Olin Wilson?

19 A No, sir

20 Q If Mrs Mock testified to that today, would you
21 deny it?

22 A I will

23 MR VALENTA One moment, please, Your Honor I
24 have no -- just a moment

25 Q (Mr Valenta) Mrs Wilson, did your husband own

1 a Ithica shotgun?

2 A It was -- it was a 12 gauge Ithica, yes

3 Q And is that one of the shotguns---

4 A. Yeah

5 Q ---that you gave to Connie Lewis?

6 A Yes, sir I've still got it

7 Q. He only owned the two shotguns?

8 A Yes, sir

9 Q The 12 gauge and the 20 gauge?

10 A Yes, sir

11 Q I have no further questions

12 REDIRECT EXAMINATION BY MR. THOMPSON

13 Q Mrs Wilson, do you know how long your husband
14 had had that shotgun, the Ithica?

15 A No, sir, 'cause he coon hunted alot, he and his
16 brother And he had went out and bought it I don't
17 know how long he had it.

18 Q Was there a recent purchase, one old one, one new
19 one?

20 A Well, no, sir The old -- the 20 gauge is the
21 one we bought from Sears I think was Sears or K-Mart
22 one a long time ago But the Ithica, he had bought
23 his self

24 Q All right You say the 20 gauge was a long time
25 ago But about how long was the Ithica?

1 A Oh, I really -- to be honest with you, I don't
2 know He never used it too much The only thing he'd
3 ever use it for, 'cause he working, and before that, he
4 was in the Navy After he got out the Navy, he went
5 out to Fort Jackson He took off a year, I think it
6 was, and he went on to Fort Jackson and went to work
7 'cause he loved to coon hunt

8 Q All right Mrs Wilson, that's all the questions
9 I have for you right now

10 A All right

11 Q Thank you

12 THE COURT All right She can step down

13 A Thank you, sir

14 MR THOMPSON Your Honor, may she be excused
15 from a witness? Do you have any objection to that
16 excusing her?

17 MR VALENTA. Yes, sir, I request that she
18 remain

19 A Okay

20 THE COURT You're still under subpoena So,
21 just remain outside the courtroom

22 A Yes, sir

23 MR THOMPSON Delores Mock

24 DELORES MOCK, being first
25 duly sworn, testified as follows

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1 DIRECT EXAMINATION BY MR THOMPSON

2 Q Would you state your name for the record, please?

3 A My whole name or just name?

4 Q Your whole name

5 A Willie Delores Campbell Mock

6 Q All right And your last name is spelled M-O-C-K,
7 right?

8 A Yes, it is

9 Q All right. Mrs Mock, what is your relationship
10 to Mr Campbell?

11 A He's my brother

12 Q All right And do you know Virginia Ann Wilson?

13 A Yes, sir

14 Q How long have you known Mrs Wilson? Approximately
15 I won't ask you to be exact

16 A I met her when I was working at Quick Way
17 Grocery

18 Q All right Do you remember about when that was?

19 A Tell you the truth, I can't.

20 Q. All right Did you know her for two or three
21 years before Olin D Wilson was killed?

22 A I don't want to lie I think so, yes, sir

23 Q All right

24 A I don't remember how long it was

25 Q Were you a good friend or a casual friend of

1 hers?

2 A I -- I thought a good friend

3 Q. Did you ever take trips with her?

4 A Yes, sir

5 Q And those trips were to Georgia?

6 A Only one -- one trip, and that was before

7 Q All right But these would be -- you were not
8 married at that time, were you?

9 A. Well, see, I've been married for like -- I don't
10 know Since 1971 or '72 But my husband and I, we're
11 married In other words, I do everything for him But
12 it's like he was living one place, and I live another
13 place

14 Q When you say you thought you were good friends,
15 what did you mean by that statement?

16 A I -- I thought -- I just thought we were good
17 friends until all this happened And ever since this
18 happened, it's been a nightmare

19 Q Did Mrs Wilson talk to you during this time,
20 I'm talking about before Olin D Wilson was killed,
21 about her relationship with Olin D Wilson?

22 A I don't quite understand that one

23 Q Well, did she ever tell you how they got along?

24 A Yes, sir

25 Q Did she ever tell you whether or not they fought?

1 A. Yes, sir

2 Q. Did she ever tell you any complaints she had
3 about him?

4 A Yes, sir

5 Q Did she ever make threats about him in your
6 presence?

7 A Yes, sir, when they was fussing and fighting

8 Q Did she ever tell you she was gonna do anything
9 to him?

10 A. You'd have to understand, and it's like, at the
11 -- at the time, I thought I understood She was always
12 saying things, you know, like when she was angry at
13 Olin D. or something like that, yes

14 Q She ever tell you that she knew a man who would
15 take care of Olin D ?

16 A All this is very scary

17 Q. Well, first, did she ever tell you that?

18 MR VALENTA Your Honor, if I might alert the
19 Court to the fact that Mrs Mock was appointed an
20 attorney at the time of trial, and that that attorney
21 advised her that she had a Fifth Amendment right not to
22 testify We're not in criminal hearing But I don't
23 know that counsel takes the position that the facts
24 have changed

25 I have the page if the Court -- if Your Honor

1 wanted to read from it I lost the exact page number.

2 But it's---

3 THE COURT. Well, I'll take your word for it

4 MR VALENTA It's around four hundred and
5 thirty

6 THE COURT Thank you for the advice Continue
7 with the direct examination

8 MR THOMPSON Thank you, Your Honor

9 Q (Mr Thompson) Did she ever tell you that she
10 could have -- e had a man who would take care of Olin
11 D ?

12 THE WITNESS Your Honor, can I say something?
13 Ever since all this happened, I've been threatened
14 All kind of things has happened to me And then right
15 after this happened, I had a telephone call, and they
16 told me not to open my mouth about Virginia Ann Wilson,
17 and it was a man

18 And then he reminded me of the fact that I had
19 two children And just like -- just like before the
20 last Court, it's like the telephone calls all night,
21 and people will riding and doing things like that And
22 that's the same thing that happened last night, and I
23 been -- I've been -- everybody keeps saying that I'm
24 gonna go to jail for perjury, and I haven't done
25 anything

1 The only thing I'm guilty of is knowing Ann
2 Wilson, and Owens being my brother But then I keep --
3 people keep saying that I'm gonna go to jail for
4 conspiracy

5 THE COURT. Well, you're a witness now, and, as
6 a witness, you have to answer these questions

7 MR VALENTA Your Honor, if I could request that
8 Your Honor assure Mrs Mock she has a Fifth Amendment
9 right whether this is civil procedure or criminal or if
10 Mr Thompson would warn her

11 THE WITNESS Your Honor, when I took the Fifth
12 Amendment the last go round, I went through nothing but
13 hell ever since I took the Fifth Amendment.

14 THE COURT- Well, you know what your Fifth
15 Amendment rights are then

16 THE WITNESS That it might incriminate me?

17 THE COURT Well, you don't have to answer any
18 question if the answer would incriminate you in any
19 crime

20 THE WITNESS But I didn't -- I haven't committed
21 any crime I haven't done anything

22 THE COURT Well, you don't have to answer any
23 question if it would -- if the answer would intimidate
24 -- would tend to incriminate you in a crime That's
25 your right You can take the Fifth or not if that

1 questions asked to you It's entirely up to you

2 All right Let's go ahead with the questioning

3 Q (Mr Thompson) Mrs Mock, did Virginia Ann
4 Wilson ever tell you to be quiet about this case?

5 A When I had confronted Ann with what she had said,
6 she told me that I was like making a mountain out of a
7 molehill

8 Q Did Dinkey Taylor ever threaten you?

9 A No, sir, Dinkey didn't threaten me

10 Q Did you recognize -- when you say you received a
11 call shortly after this happened, how soon after the
12 murder are we talking?

13 A I had got back from Ann Wilson's that morning I
14 hadn't been -- I hadn't got in the house -- been in the
15 house five minutes or so when the telephone call came

16 Q Did you go over to her house?

17 A Yes, sir, I went over to her house that night

18 Q The night of the killing?

19 A Yes, sir, she called And then I went to
20 Tally's house And then from Tally's house to Ann's
21 house

22 Q Did you see any insurance policies?

23 A Yes, sir

24 Q Who had them?

25 A Everybody was sitting around the table It was

1 like -- it was like Ed, that was Olin's brother, and it
2 was Ann Anyway, Ann went and got this box, and it had
3 some insurance policies in it Just a -- two or three
4 insurance policies It was just a couple, and she give
5 the insurance policies to Ed

6 Q Mrs Mock, let me show you this statement dated
7 November 13, 1981 Can you -- have you seen that
8 before?

9 A Yes, sir

10 Q Did you see it in 1981?

11 A Yes, sir

12 Q Did you sign it?

13 A Yes, sir, I guess I did.

14 Q Do you know who you made that statement to?

15 MR VALENTA Your Honor, I -- I -- if we're in a
16 point of identifying this document, I object to the
17 answer that she guesses she did I think if she's
18 identified the document, she needs to answer it one way
19 or the other

20 A Yes, sir.

21 THE COURT Well, just have to go to the weight
22 of the testimony I suppose

23 Q. Do you know who you gave that statement to?

24 A Steve Brown

25 Q And where was Mr Brown when you gave him the

1 statement?

2 A In his office

3 Q In the Solicitor's Office?

4 A Yes, sir

5 Q And how did you happen to get the Solicitor's
6 Office?

7 A I was told to come

8 Q And were you asked at that time whether or not
9 Owens Campbell, your brother, came by your house, and
10 got shotgun shells?

11 A Yes, sir

12 Q All right And on the night of the murder?

13 A Yes, sir, I said I couldn't remember

14 Q. All right At the trial, did you testify that ne
15 did come by, and get the shotgun shells?

16 A I don't know I truly don't know

17 Q Where were you prior to your testimony?

18 A Where was I?

19 Q I mean did you -- Mr Brown wasn't handling the
20 case at that point, was he?

21 A. I -- I don't know

22 Q Do you know a man by the name of Buford Mabry?

23 A Yes, sir, I do

24 Q All right Did you ever go to his office and
25 talk to him?

1 A Yes, sir, I went every time they called me They
2 told me---

3 Q All right And what did they question you about?

4 A My brother

5 Q. And did they question you about the shotgun
6 shells?

7 A Yes, sir.

8 Q And did he or did he not that night come by your
9 house and get shells?

10 A I -- I can't remember Because they were all
11 getting shotgun shells from the house

12 Q What do you mean all? Who you talking about?

13 A Tommy and all of them Because at that time,
14 they were doing alot of night hunting

15 Q. All right Mrs Mock, at -- at the first trial
16 after giving some testimony, you took the Fifth
17 Amendment, correct?

18 A Yes, sir

19 Q All right Why did you take the Fifth Amendment?

20 A Because I'm scared to death

21 Q Of what?

22 A Of what's gonna happen to me, what's gonna happen
23 to my family, of the judicial system period, of going
24 to jail.

25 Q Why would you think you could possibly go to

1 jail, Mrs Mock?

2 A Because I've had conspiracy throwed at me even
3 before this trial constantly

4 Q You mean people talked to you about conspiracy?

5 A Yes, sir

6 Q Like who?

7 A Mr Connie Lewis for one

8 Q Anyone else?

9 A Different people

10 Q All right Other than that conversation, is
11 there anything else that scares you? Other than the
12 talk about conspiracy, does anything else scare you?

13 A Well, here's a man that's been cold bloodedly
14 murdered I mean, who am I that the same thing's not
15 gonna happen to me or my kids

16 Q Mrs Mock, after Mr Wilson was killed, was there
17 a break-in of your trailer or your home?

18 A Yes, sir, I've had two robberies

19 Q What was taken?

20 A Okay It s like -- Mr -- Mr Lewis, I don't
21 know who came there, but they had, I guess, a search
22 warrant of my house, and they went through my house
23 Just like, they took what they wanted They took the
24 guns that -- that they wanted Mr Lewis knew that I
25 took pride in my guns I was -- you know, I was proud

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1 of my guns

2 Well, anyway, they took some of my guns And
3 then when I got my guns back, there was like grooves
4 cut in the -- you know, in the gun barrel

5 Q Identification marks Well, they're marks---

6 A And there was scratch places on -- and he knew
7 that I was very upset, you know, about that And then,
8 it's -- it's things I can't understand Because they
9 had already been in my house, and they had got what
10 they wanted In other words, I didn't stop them from
11 getting what they wanted I mean, they had the full --
12 you know, the full run of the house, you know, to get
13 what they wanted

14 And then in October, now this was like -- I can't
15 remember I think months after they had got my guns
16 and everything, the Sheriff's Department and all, and a
17 whole bunch of us went to Ocean Lake Campground Mr
18 and Mrs Artis They had the monogram shop there at
19 the Terrace And Ralph Drum, and Jack Bowyer

20 Q While -- while you were gone, was your house
21 broken into?

22 A My house was broken into, and Ralph's house was
23 broken into, and then Ann Wilson said her house was
24 broken into

25 Q On the same night?

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1 A Supposedly being the same identical time Now,
2 this is the part that was so scary And I called Ann
3 I hadn't called her before that And I called her, and
4 I told her that it was really a coincidence that
5 everyone of our houses was broke into, you know, the
6 same time I mean, it -- it just don't seem right

7 Q Were guns taken from your house?

8 A My guns was taken, microwave, coin collection,
9 you know, money, just stuff like that

10 Q Were the guns ever recovered?

11 A No

12 Q All right If you would, answer any questions
13 Mr Valenta may have

14 A And then there was another -- in other words, I
15 want to tell you what else happened Now, this was in
16 May or June right after this had happened I had my
17 sister's jewelry in my pocketbook. She was in the
18 hospital I had about -- I'd say over ten thousand
19 dollars worth of diamonds, and, you know, rubies in --
20 in my pocketbook

21 And my pocketbook was stolen with all my credit
22 cards, and, you know, money and stuff like that in
23 there Well, anyway, when ever that happened and the
24 Sheriff came out, well, they -- they made a report of
25 it And I asked him to tell me right then, I guess the

1 Sheriff had an idea of who was doing the stealing, you
2 know, in that area at the time, and I begged the
3 Sheriff to tell me who these people were, and to show
4 me where this one particular boy lived

5 Q What boy was that?

6 A I -- I can't think There was Setzlers, and
7 Rabons, and I can't think of this other boy's name
8 But I can -- I can show you where he lives

9 Q Was it Johnny Bradwell?

10 A No, he was blond headed, and he had -- I tell you
11 who can tell you It was the investigator In fact, I
12 -- I got the investigator to promise me that he would
13 give me twenty-four hours before he done anything. You
14 know, let us have twenty-four hours to try to recover
15 that, you know, the diamonds and all. Because I -- I
16 couldn't replace this stuff

17 Q Did you ever get them back?

18 A The investigator found my credit cards and all
19 over there on Hazelwood Drive, and then -- just before
20 the twenty-four hours was up, well, I had put out a
21 reward to fifteen hundred dollars I would not press
22 any charges whatsoever if they would -- I said, you can
23 keep the money Keep everything But just give me my
24 sister's, you know, jewelry back And just before the
25 twenty-four hours was up, I -- I got the rings back

1 One of the rings was messed up But I got all the
2 jewelry back But the money and all they kept Plus,
3 I had to pay extra, and then my credit cards and my
4 Aigner---

5 Q Who gave you the rings back?

6 A Pardon.

7 Q Who gave you the rings back?

8 A It -- like it was the Setzlers and this other
9 guy I really can not think of his name And then they
10 -- all right Now, in this twenty-four hour period,
11 they all told me that -- that this stuff was going to
12 Ann

13 Q Ann who?

14 A Ann Wilson And then right after I got the stuff
15 back, I got a telephone call from Ann telling me that
16 she had pictures of my grand daughter if I wanted them
17 And, you know, with all this stuff, it's -- I can't
18 explain to anybody how scary this is

19 Q All right Delores, answer Mr Valenta's
20 questions if he has any

21 CROSS-EXAMINATION BY MR VALENTA

22 Q Mrs Mock, did you have any reason to believe
23 that Lieutenant Connie Lewis was behind these break-
24 ins?

25 A Behind the break-ins?

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1 Q Right That he had -- that he or anybody in the
2 Sheriff's Department had broken into your house?

3 A No. But I couldn't understand alot of things
4 I told Mr Lewis that, too

5 Q Did you ever meet and talk with Venable Vermont,
6 Mr Campbell's attorney?

7 A Yes, sir, he came to my house

8 Q Okay Did you tell him everything you knew about
9 this case?

10 A Yes, sir

11 Q Other than what happened at the trial about your
12 finally not testifying, were you trying to cooperate
13 with Mr Vermont in his case?

14 A. Yes, sir, and Mr Mabry and Mr Lewis.

15 Q All right And do you know anything now about
16 this case of your own personal knowledge tnat you
17 didn't know at the time of trial?

18 A Do I know anything about it?

19 Q Anything at all Anything more that you didn't
20 know then of your own personal knowledge Not what
21 somebody told you

22 A No, sir, only the things that's happened to me

23 Q All right

24 A Like being run off the road and stuff like that

25 Q All right Thank you No further questions,

1 Your Honor

2 MR THOMPSON Nothing further

3 THE COURT Step down

4 MR THOMPSON Your Honor, could I have about ten
5 minutes?

6 THE COURT The Court will be in a short recess

7 MR THOMPSON Thank you

8 (A short recess was taken at this time)

9 MR THOMPSON We would call Ronnie to the stand,
10 please.

11 RONNIE WILSON, being first
12 duly sworn, testified as follows

13 DIRECT EXAMINATION BY MR THOMPSON

14 Q Mr Wilson, state your name for the record if you
15 would?

16 A Ronald Monroe Wilson

17 Q All right How old are you, Mr Wilson?

18 A Thirty-four

19 Q And what is your relationship to the deceased,
20 Olin D Wilson?

21 A He was my uncle

22 Q. All right Where do you work?

23 A I work on hot rods for myself, drag cars

24 Q All right Mr Wilson, do you know a person by
25 the name of Johnny Alan Bradwell?

1 A Yes, sir

2 Q How long have you known Mr Bradwell?

3 A Ever since he was about three years old.

4 Q All right And about how often do you see him?

5 A Well, I hadn't seen him now in the last month

6 But before that, he use to -- he drives -- I use to

7 work on his car a good bit, stuff like that

8 Q All right. Has he ever told you anything about
9 the break-in of Delores Mock's trailer?

10 A Yes, sir

11 Q When was this?

12 A It was awhile after -- after the trial of my
13 uncle's death I was -- we was all together, and we was
14 just talking, and he just started telling me that---

15 MR VALENTA Your Honor, I object to hearsay

16 MR THOMPSON Well, Your Honor, I'm gonna submit
17 that this is an exception to the hearsay rule
18 Because it would be in the form of a admission by Mr
19 Bradwell against his own penal interest, and, therefore
20 it has all the conditions of reliability to bring it
21 within that exception that he, in fact -- the testimony
22 will be that he, in fact, broke into Mrs. Mock's
23 trailer, and is the perpetrator of the crime

24 THE COURT Any comment from you?

25 MR VALENTA There's been no showing that, under

1 that exception, Mr Bradwell is not available as a
2 witness I believe that's the category that that
3 exception fits in If the witness is not available,
4 then the statement against interest is not hearsay

5 MR THOMPSON Your Honor, I have attempted to
6 subpoena Mr Bradwell last night I have a subpoena
7 I have a statement from Mr Lucious Anderson as well as
8 a further detailed statement -- he -- I may be able to
9 reach him in the courthouse now, indicating that he
10 tried to serve the subpoena, and was unable to last
11 night

12 In that Mr Bradwell talked to him on the phone
13 but would not give his whereabouts so we could serve
14 him I think that would make him unavailable for the
15 present purpose

16 THE COURT Well, Lucious Anderson is -- use to
17 be with the Public Defender's Office as an investigator
18 Is he still in that capacity?

19 MR THOMPSON He is, Your Honor

20 THE COURT Well, I'll accept your statement
21 about the matter, Mr Thompson I think this is
22 sufficient reasons to allow the testimony We have
23 Mrs. Mock's testimony the trailer was broken into, and
24 I'll accept it Objection overruled

25 MR THOMPSON Thank you

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1 Q All right Did you discuss with Mr Bradwell the
2 break-in of Delores Mock's trailer?

3 A Yes, sir

4 Q All right

5 THE COURT Well, you need to say when, where,
6 and who else was present Lay all these foundations

7 Q All right Tell me to the best of your recol-
8 lection when that conversation occurred?

9 A About '80 -- around '84, '85

10 Q Do you have any -- do you know what prompted the
11 statement?

12 A No, sir, we were just talking, and I just asked
13 him He stayed around a good bit, and he just started
14 talking And he said that he had -- that he was the
15 one that broke into Owens sister's house and took the
16 guns, and had took them back to Ann's

17 Q He took them to where?

18 A To Ann Wilson's house He was staying with Ann
19 Wilson at the time

20 Q All right His statement to you is that -- is
21 that he took them back -- when he took the guns back to
22 Ann Wilson, was he living with Ann Wilson then?

23 A Yes, sir

24 Q Did -- did he make any statement as to why he
25 broke into the trailer?

1 A No, sir, he didn't He didn't tell me why

2 Q All right Has he made this statement one time
3 or has he stated it to you more than once?

4 A I think we've talked about it maybe more than --
5 about twice

6 Q All right. And did -- did he give -- did he give
7 any other reason as to why he would make that statement
8 to you?

9 A No, sir, he didn't make -- he didn't tell me why
10 he was telling me He just -- he just told me

11 Q. All right Did you tell him anyone about that?

12 A Yes, sir, I told my father

13 Q. And what is your father's name?

14 A Walter Wilson, Jr

15 Q All right And it's clear in your mind that he
16 says he took guns from Delores Mock's trailer to Ann
17 Wilson---

18 A Yes, sir

19 Q ---as a result of his break-in?

20 A Yes, sir

21 Q All right Ronnie, if you would, answer any
22 questions that Mr Valenta may have

23 CROSS-EXAMINATION BY MR VALENTA

24 Q Mr Wilson, would you repeat again when this was
25 told to you?

- 1 A It was around '84, '85 It's been so long ago
- 2 Q. And are you willing to sign an affidavit---
- 3 A Yes, sir
- 4 Q. ---to the effect that -- that Mr. Bradwell told
- 5 you this?
- 6 A Yes, sir
- 7 Q. And are you willing for that affidavit to be
- 8 attached to an arrest warrant for his arrest?
- 9 A Yes, sir
- 10 Q And are you willing to testify at his criminal
- 11 trial?
- 12 A Yes, sir
- 13 Q All right And will you also sign an affidavit
- 14 that you told your father about this information?
- 15 A. Yes, sir, I sure will
- 16 Q And will you also be willing to have that arrest
- 17 -- that affidavit attached to an arrest warrant for
- 18 your father for hiding the information about the
- 19 felony?
- 20 A My father didn't hide that information He told
- 21 Mr Lewis about it
- 22 Q When did he tell Mr Lewis about it?
- 23 A I don't -- I wasn't present when he told Mr
- 24 Lewis
- 25 Q. How do you know your father told Mr Lewis?

1 A 'Cause he told me he told Mr Lewis

2 Q All right If Mr Lewis disputes that and there
3 is a trial on your father for hiding a felony, are you
4 willing to testify as you testified today?

5 A Yes, sir

6 Q All right I have no further questions

7 REDIRECT EXAMINATION BY MR THOMPSON

8 Q This information, as far as you heard it, came to
9 you without question after Mr Campbell's trial, is
10 that correct?

11 A Yes, sir

12 Q All right I have no further questions

13 MR THOMPSON We call Mr Walter Wilson

14 WALTER WILSON, being first
15 duly sworn, testified as follows

16 DIRECT EXAMINATION BY MR THOMPSON

17 Q Would -- would you state your name for the
18 record, please?

19 A Walter Wilson, Jr

20 Q All right And what is your relationship to the
21 deceased, Olin D Wilson?

22 A Brother

23 Q All right And do you have a son by the name of
24 Ronnie Wilson?

25 A Yes, sir.

1 Q All right And did you just pass him leaving the
2 courtroom?

3 A Yes, sir

4 Q All right Mr Wilson, do you know a young man
5 by the name of Johnny Bradwell?

6 A Yes, sir

7 Q How long have you known him?

8 A Well, quite a long time I couldn't -- it's been
9 a number of years I really wouldn't tell you 'cause
10 it's been, I don't know, since about '77, '78,
11 somewhere along in there

12 Q. All right Have you ever had a conversation with
13 Mr Bradwell concerning the break-in of Delores Mock's
14 trailer?

15 A Yes, sir

16 Q And the theft of guns from those trailer?

17 A Yes

18 Q That trailer

19 A Yes, sir

20 Q What did Mr Bradwell tell you?

21 MR VALENTA Your Honor, the same objection to
22 hearsay

23 THE COURT All right I've overruled the
24 objection But lay your foundation as to day, time, and
25 place

1 Q All right Can you recall approximately when you
2 talked with Mr Bradwell about this?

3 A I'm -- not exactly 'cause I can't keep up with
4 time that well But then it was---

5 Q Well, let me ask it this way.

6 A No, I can't really recall the time that we talked
7 about it But it's been awhile

8 Q Was it before or after Mr Campbell was tried for
9 your brother's murder? Before or after.

10 A To the best of my knowledge, I think it was
11 before he was tried

12 Q All right Do you remember where you talked to
13 him?

14 A Well, in -- in our apartment at one time, and
15 then another time I believe we was in Lieutenant Connie
16 Lewis's car

17 Q In his car?

18 A Yes, sir

19 Q All right

20 A I'm sorry I -- I -- I'm sorry about that It
21 was not about the break-in in -- in the trailer in Mr
22 Lewis's car I have to apologize for that That
23 wasn't it It was just in the apartment about this

24 Q Just in the apartment?

25 A Yes, sir.

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1 Q Would that be your apartment?

2 A Yes, sir

3 Q Your apartment?

4 A Yes, sir

5 Q All right What did Mr Bradwell tell you
6 regarding the break-in of the trailer?

7 A Well, he told me that he was the one that went in
8 the trailer He was the one that got the guns, and he
9 was telling -- he was sitting there talking to me about
10 it, and he said that he was in the trailer, and the
11 phone was steady ringing to be sure nobody was there
12 but him

13 And Mrs Campbell, which is Owens Campbell wife --
14 I mean, mother came into the trailer and he had to
15 get into one of the closets and wait until she left
16 Then, he got the guns and ever -- ever what he took out
17 and left with them

18 Q Did he say what he did with the guns?

19 A Yes, sir

20 Q What was that?

21 A He said I gave them -- he gave them to Ann
22 Wilson.

23 Q Did you ever communicate any of that to Mr
24 Lewis?

25 A I don't believe I did

1 Q All right

2 A And I'm not sure if I did or I didn't But I
3 really don't believe I did

4 Q Would there be any reason that you didn't?

5 A Well, evidently it didn't cross my mind or you
6 know it didn't come up in conversation or he didn't ask
7 me or some -- something to that

8 Q All right Did you ever talk to any defense
9 attorney for Mr Campbell or any representative of Mr
10 Campbell's defense about this?

11 A. I remember I did talk to Mr Campbell about it at
12 C C I , and I really don't remember if I talked -- I
13 did talk to someone else, a representative down there,
14 too, about it

15 Q All right That was after the trial, correct?

16 A That was after the trial, yes, sir

17 Q All right Before the trial, did you talk to
18 anyone?

19 A No, sir

20 Q Did you sit through the trial?

21 A I sit through it except for the day that Mr
22 Campbell was sentenced I was not at the trial

23 Q All right And during the course of sitting
24 through the trial, did you hear testimony about what
25 happened to the weapons or had -- or whether or not any

1 weapons had disappeared?

2 A. I can't remember, sir, if I did or didn't

3 Q. All right, sir Did you ever provide Lieutenant
4 Lewis with any other information?

5 A Yes, sir, I was with Lieutenant Lewis when we
6 took Johnny Bradwell down and gave his statement, and I
7 had also -- Johnny Bradwell had brought me a book with
8 the names and telephone numbers in it, and a tape, a
9 telephone message tape that was made, and I turned it
10 over to Lieutenant Lewis at my apartment

11 Q All right Would that have been before or after
12 the trial?

13 A. I believe that was before the trial

14 Q All right What kind of -- what kind of book was
15 it now? It had names and phone numbers?

16 A Well, it was just, like you say, a little
17 message, telephone book just like you write down
18 people's names and telephone numbers, and --

19 Q Do you know whose it was?

20 A Well, after Johnny gave it to me I knew who it
21 was. It belonged to Ann Wilson

22 Q All right What about the tape recording you're
23 talking about, was it on a cassette tape?

24 A Well, well, yes, sir, I even played the tape
25 before I gave it to Lieutenant Lewis.

1 Q And it's a phone conversation?

2 A Yes, sir

3 Q Did you recognize any of the voices of people on
4 the phone conversation?

5 A Yes, sir

6 Q Who was on it?

7 A Ann Wilson and Wayne Stone's mother, Mrs Stone

8 Q Did that conversation have anything to do with
9 your brother's death?

10 A No, sir

11 Q All right Do you know what the purpose of him
12 bringing it to you was?

13 A. Well, no, sir He said he hadn't played it But
14 he knew the tape was there with the phone conversation,
15 and he brought it to me with the book And I told him
16 that I would turn it over to Lieutenant Lewis, and I
17 did the day that we went to give -- to get Johnny's
18 statement

19 Q All right You're talking about the day that --
20 did you go with Johnny Bradwell to the Sheriff's
21 Department?

22 A Yes

23 Q Did you drive him down there?

24 A No, sir Lieutenant Lewis drove us to the
25 Sheriff's Office and back

1 Q And while you were at the Sheriff's Department,
2 were -- were you with Mr Bradwell when he gave the
3 statement?

4 A Yes

5 Q And who did he give the statement to?

6 A Lieutenant Lewis

7 Q. All right Do you know what the statement was
8 about?

9 A It was about -- about Dinkey Taylor What Johnny
10 told me that Dinkey had opened the trunk of his car
11 and---

12 MR VALENTA Your Honor, I object to the hearsay
13 testimony

14 A Well---

15 THE COURT It sounds like it might be some
16 hearsay, Mr Thompson

17 Q This statement concerned Dinkey Taylor, is that
18 correct?

19 A Yes, sir, Johnny Bradwell was making the statement
20 to me

21 Q All right. And then to Lieutenant Lewis about
22 Dinkey Taylor?

23 A Yes, sir.

24 Q. And Dinkey Taylor is Ann Wilson's---

25 A. Brother

1 Q. ---brother, is that correct?

2 A As far as my knowledge, yes, sir.

3 Q All right Now, did you hear Mr Bradwell tell
4 Mr Lewis about the break-in of the trailer?

5 A No, sir

6 Q. All right Did you ever hear him tell Mr Lewis
7 about the theft of the guns?

8 A Well, no, sir

9 Q All right So, once you got to the -- did you
10 ever tell Mr Lewis about that, about the break-in of
11 the trailer and the theft of guns?

12 A No, sir, I don't think I did

13 Q All right Well, once you took Mr Bradwell to
14 the Sheriff's Department, the purpose of that statement
15 was to be a statement about Dinkey Taylor?

16 A Yes, sir

17 Q All right And he gave a statement at that
18 time, is that correct?

19 A Yes, he did

20 Q Do you know where Mr Bradwell lives?

21 A Well, yes, sir

22 Q I mean precisely enough that you could tell
23 someone exactly?

24 A Well, he lives on [REDACTED] Road off Leesburg Road
25 I've -- I've -- I've only went there once, and to get a

1 part off a car And, in fact, I take -- took -- 783
2 believe I went there with my son, Ronnie, to get a part
3 off the car

4 Q All right The---

5 A But it's on the right side of [REDACTED] Road like
6 you turn on to Leesburg -- off Leesburg Road and [REDACTED]
7 Road, and go, I don't know, about a mile or so down
8 there It's on -- be on the right hand side

9 Q All right, sir. To your knowledge, did you ever
10 tell Lieutenant Lewis the story about the break-in and
11 the theft of the guns at any time?

12 A I don't think -- I don't think I did

13 Q All right Did you---

14 A I mean I'm not sure at this point But I really
15 don't think I did I talked to Lieutenant Lewis about
16 alot of things about my brother's death But I really
17 can't recall that.

18 Q All right At the time you heard that, did you
19 attach any particular significance to the fact that
20 Delores Mock's trailer had been broken into?

21 A Well, I didn't even know it was broken into until
22 Bradwell told me about it himself

23 Q And he said he took the weapons to Ann Wilson?

24 A He told me that he broke into the trailer for Ann
25 Wilson and gave her the guns, and she transported them

1 to Georgia

2 Q He broke into the trailer for Ann Wilson?

3 A That's the words he told me

4 Q And took the guns to Georgia?

5 A He -- he took the guns back to Ann Wilson And
6 he told me she took them to Georgia

7 Q All right If you -- if you would, Mr Wilson,
8 answer any questions that Mr Valenta may have for you

9 A Yes, sir

10 CROSS-EXAMINATION BY MR VALENTA

11 Q Mr Wilson, you're not certain at all whether
12 this was before or after the trial, are you?

13 A Now, what are you talking about?

14 Q About Mr Bradwell telling you about any break-in

15 A Well, I'm pretty sure the break-in of the trailer
16 was after the trial I mean -- I mean what he told me
17 after the trial I'm not saying it was after the
18 trial But he told me after the trial

19 Q Okay He told you about -- about it after the
20 trial?

21 A The break-in of Mrs Mock's trailer

22 Q Okay So, the statement that Mr Bradwell gave
23 to Mr Lewis, that was before the trial, right?

24 A Right Yes, sir

25 Q So, there would be no way for the two subjects to

1 of come up at the same time?

2 A I don't think so

3 Q All right Now, are you willing to sign an
4 affidavit to the effect that Mr Bradwell admitted to
5 you committing this break-in?

6 A Yes, sir

7 Q. And you're willing to have that affidavit
8 attached to an arrest warrant---

9 A Yes, sir

10 Q ---for his arrest?

11 A Yes, sir

12 Q And will you testify at his trial for the break-in
13 exactly as you've testified today?

14 A Yes, sir, I will

15 Q Now, you knew -- you knew that Mr Bradwell told
16 you about this break-in, correct?

17 A Yeah

18 Q I mean that's what you've just talked about And
19 you knew that Ronnie had been told about it?

20 A Yes, sir, I talked to Ronnie about it, and Ronnie
21 talked to me about it

22 Q All right And what law enforcement agency did
23 you contact at that point?

24 A Well, tell you the truth, I don't -- I don't think
25 I did I was trying to get -- what I was told -- what

1 we were trying to do was get a -- a re-trial for Owens,
2 and to get him up here to get the whole thing straight-
3 ened out once and for all to get the right people in
4 jail, and I was trying to get -- to get it all at one
5 time

6 And I don't know -- well, I was back and forth to
7 trying -- talking to Owen and his representatives

8 Q But you knew that Mr Bradwell had committed a
9 crime?

10 A Yes, sir

11 Q And you did nothing to bring that to the attention
12 of any law enforcement agency, did you?

13 A Yes, sir, I was trying

14 Q How were you trying to bring it to the attention
15 of a law enforcement agency?

16 A By -- by trying to get a re-trial for Mr
17 Campbell there so we could have it all at one time, and
18 then he'd -- he'd be -- been punished for his crime

19 MR VALENTA I have no further questions, Your
20 Honor

21 REDIRECT EXAMINATION BY MR THOMPSON

22 Q Mr. Wilson, do you know of an Investigator Wicker
23 with the Sheriff's Department?

24 A The name doesn't sound familiar I don't know
25 I might I might know him or someone I don't --

1 Q All right Do you -- do you know of any investi⁷⁸⁷
2 gator from the Sheriff's Department recently talking to
3 you or your son about this break-in?
4 A It seems to me like somebody did But I can't
5 remember exactly who it was or where it was
6 Q. All right
7 A Now, I'm not trying hard to get along with But
8 I just can't remember right now
9 Q All right All right I have no further
10 questions
11 MR VALENTA Nothing further, Your Honor
12 MR THOMPSON You can come down. At this time,
13 Your Honor, we call Lieutenant Lewis to the stand
14 CONNIE LEWIS, being first
15 duly sworn, testified as follows.
16 DIRECT EXAMINATION BY MR THOMPSON
17 Q Would you state your name for the record, please?
18 A Lieutenant Connie Lewis
19 Q All right And by whom are you now employed, Mr
20 Lewis?
21 A Assistant Warden at Richland County Detention
22 Center
23 Q All right You only took that job recently, is
24 that correct?
25 A July -- June of '86

1 Q All right. And prior to that, you were an
2 investigator with the Richland County Sheriff's
3 Department?

4 A Yes, sir, I was

5 Q All right And were you the chief agent or
6 investigator working the homicide of Olin D Wilson?

7 A Yes, I did take over the case

8 Q All right, sir Did you ever question, in the
9 course of your investigation, Dinkey Taylor?

10 A Yes, sir, I did

11 Q. All right Did you obtain a statement from him?

12 A No, sir At this -- at the time this incident
13 happened, Dinkey Taylor was a juvenile, and I had to go
14 to Mrs. Wilson in order to talk to Dinkey

15 Q By Mrs Wilson, you mean---

16 A His sister Mrs Ann Wilson

17 Q All right And as his guardian?

18 A Yes, sir

19 Q Did she give you permission to talk to Dinkey
20 Taylor?

21 A At first, no, sir Later, she did She was
22 reluctant to me talking to him But later she did

23 Q All right And did you then obtain a statement?

24 A No, sir I -- well, I took an oral statement
25 from him Not a written statement

1 Q But you have no written signed statement?

2 A Not to my knowledge.

3 Q. All right Did you---

4 A. I may have. I'm not sure

5 Q The oral statement that you took from him, did
6 you reduce that to notes?

7 A I believe I do have a -- we did a written
8 statement from him Because I remember him telling me
9 where -- I mean where was his whereabouts that particular
10 night this incident happened

11 Q All right If you didn't take a written statement,
12 would you then have notes regarding this oral statement?

13 A Yes, sir, I probably have it in the follow up

14 Q All right, sir. Without asking you to dig
15 through the file at this moment to produce that, would
16 you be willing to produce, if there's no objection from
17 the attorney general, either a statement from Mr
18 Taylor or your notes regarding that statement?

19 A No, sir, I have no objection to that at all I
20 don't

21 Q. All right How about Pam Cassidy or Pam Douglas,
22 the same girl, did you take a statement from her?

23 A Again, she was a juvenile, and in order to talk
24 to her, I had to go through her father Again, I'm not
25 sure if I took a statement from her But I do remember

1 talking to her And if I did, it probably in the 790

2 follow up

3 Q All right, sir During the course of this
4 investigation, there is a period of -- correct me if
5 I'm wrong, but let's say an approximate period of two
6 and a half years after the homicide before Mr Campbell
7 is arrested, is that correct?

8 A Somewhere in the neighborhood of two to three
9 years, yes, sir

10 Q Two to three years?

11 A Yes, sir

12 Q All right And during that time, did you talk
13 with Mr Campbell?

14 A Yes, I did Several times

15 Q All right Did you ever place a electronic wire
16 on him and seek to have him record conversations with
17 Ann Wilson or -- or anyone else?

18 A Yes, sir, I did With Mr Campbell and several
19 other people

20 Q All right Did you place wire recordings on
21 Thomas Campbell?

22 A Yes, sir, I did

23 Q Delores Mock?

24 A Yes, sir

25 Q Ann Wilson?

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1 A. No, sir

2 Q All right. In your---

3 A I remember giving Mrs Wilson one time a tape
4 recorder to record a conversation that she was gone go
5 by the hospital and talk to a lady But as far as
6 wiring her up, no, sir

7 Q All right, sir Do you know what happened to any
8 of the actual recordings of those conversations?

9 A I have several tapes in the case jacket I
10 haven't played them in so long I really don't know what
11 all they are now But we -- I do have some in the case
12 jacket

13 Q All right Did you ever turn those over to Mr
14 Vermont?

15 A I'm not sure if Mr Vermont had access to them or
16 not

17 Q All right You don't recall that?

18 A He could of gotten them if he requested them

19 Q Do you recall any request for those tape recordings?

20 A. No, sir

21 Q All right Do you know who is on those recordings
22 at the present time?

23 A Well, I have several tapes that have different
24 people voice and things on it

25 Q Dinkey Taylor?

1 A No, I don't think so with Dinkey
2 Q Do you have any of Ann Wilson?
3 A Yes, I may have Yes, sir
4 Q Pam Cassidy?
5 A No, sir
6 Q. All right Lieutenant Lewis, I want to show you
7 this copy of a statement here, a photo -- photostatic
8 copy It purports to be a statement of Johnny Alan
9 Bradwell Do you recognize that?
10 A Yes, sir, I do
11 Q And was that a statement given to you?
12 A I have two statements from him One was given to
13 investigator that I had help me on the case
14 Q William Thompson?
15 A Yes, sir
16 Q All right
17 A This one July 24th, I took this statement
18 Q You took that particular statement, is that
19 correct?
20 A Yes, sir
21 Q. All right Now, did you provide that statement
22 to Mr Vermont?
23 A Well, it was in the case jacket I'm not sure if
24 Mr Vermont got it or not But it was made available
25 to him to get if he wanted

1 Q All right Mr Lewis, in -- in that particular
2 statement -- can we introduce this as -- into evidence?
3 You got an objection?

4 MR VALENTA I don't have any objection to the
5 document I just think, for the record, it should be
6 introduced as to what it is I think it probably has
7 been sufficiently identified

8 THE COURT All right

9 MR. VALENTA If Mr Thompson's satisfied it's
10 sufficiently identified, I have no objection

11 THE COURT Well, you believe it to be what it
12 is, Mr Thompson?

13 MR THOMPSON Mr Bradwell's statement, yes,
14 sir

15 THE COURT Received into evidence, Petitioner's
16 Exhibit Let the court reporter mark it

17 (At this time, the statement was marked as
18 Petitioner's Exhibit No 1 in evidence at this time)

19 THE COURT All right Go ahead

20 MR THOMPSON All right

21 Q All right Mr Lewis, that particular statement
22 from Mr. Bradwell, in that statement, he says that
23 Dinkey Taylor used a shotgun and told him that he had
24 killed a man in a truck I believe that's near the
25 bottom of the statement I might have to look at that

1 again to point it out to you Went out in the road and
2 shot a man in a truck, is that correct?

3 A Yes, sir, this is what in the statement

4 Q All right Is that the statement that was given
5 when Walter Wilson brought Mr Bradwell over to your
6 office?

7 A Well, as you know, counsel, we have two statement
8 from Mr Bradwell, and I'm not sure exactly this is the
9 time that he was brought to my office or not by Mr --
10 well, actually, I brought he and Mr Wilson to my
11 office at one time or another But this is the one I
12 took from him, and I would think this is the statement
13 that I got from that day when I transported he and Mr
14 Wilson down to the Sheriff's Department

15 Q All right And that statement would of been
16 taken prior to the trial, is that correct?

17 A Yes, sir

18 Q All right Now, after receiving that statement,
19 did you ever receive any confirmation in any of your
20 tape recordings as to any of the things described in
21 that statement? Any of the events other than -- other
22 than the single statement that Dinkey Taylor had taken
23 a shotgun and killed a man in a truck?

24 A After I got this statement from Mr Bradwell, I
25 contact various people in this statement that he talked

1 abou' And all these kids in here was fourteen,
2 fifteen, and maybe the oldest one probably be about
3 sixteen years old -- of age

4 I was never able to confirm from either one of
5 these people that they had told Dinkey this or Dinkey
6 had told them that other than just what Mr Bradwell
7 I contacted each individual or -- I talked to Jeff. I
8 talked to Burt Cunningham and Stacy Cunningham, which
9 is two brothers, and I remember one of these -- I think
10 John David was the black male approximately fourteen or
11 fifteen years old

12 He would not confirm that Dinkey had told him
13 anything about this So, the only thing I had was just
14 what Mr Bradwell told me Because I was very interested
15 in trying to see if I could link anyone else to this
16 case I was unable to do so

17 Q All right Did you -- that was Mr Bradwell's
18 statement about Dinkey Taylor?

19 A Yes, sir.

20 Q When did you -- was today the first time you've
21 ever heard that Mr Bradwell had said he was the one
22 who broke in the trailer and stole the guns?

23 A Yes, sir The -- I was told by Mr Wilson or
24 some of the Wilson people that a Mrs Martin house had
25 been broken into But I knew about Mrs Mock house

1 being broke into But I didn't know who had broke into
2 it.

3 Q Mrs. Martin house?

4 A Delores Campbell Mrs Mock

5 Q Mock?

6 A Yeah

7 Q Okay They did tell you about her trailer being
8 broken into?

9 A No, sir

10 Q I'm sorry

11 A Well, I mean I knew it had been broken into But
12 I didn't know who had broken into it

13 Q All right. When is the first time you heard the
14 statement about Bradwell being the one who broke into
15 the trailer?

16 A Just a few minutes ago in this courtroom

17 Q Had you ever connected the break-in of the
18 trailer, even though you knew about it, with having
19 anything to do with the murder of Olin D Wilson?

20 A No, sir

21 Q If, as is testified to, the break-in of the
22 trailer was at the instigation of Ann Wilson and guns
23 were stolen after Mr Wilson was killed, would you then
24 connect that break-in to the murder of Olin D. Wilson?

25 A No, sir To be honest with you, I don't see what

1 bearing it have on Mrs Mock house being broken into
2 connected to this case Because as she stated on the
3 witness stand, I got a search warrant, and I searched
4 her house, and got all of her weapons out of there I
5 took the---

6 Q You did do that, is that correct?

7 A. Sir?

8 Q You knew that That you had gotten the search
9 warrant, is that correct?

10 A Yes, sir, I got the search warrant, and I helped
11 search the house This was prior to the break-in, and
12 we took all of her guns to SLED, and had them test
13 fired to see if they matched up with the shell we had
14 They did not match up So, we kept her guns about
15 forty-five -- thirty to forty-five days, and we gave
16 her gun back to her

17 Q All right Mr Lewis, can you tell me whether or
18 not Mr Vermont ever asked you about that statement?

19 A Which statement, sir?

20 Q The Bradwell statement that I have introduced
21 into evidence

22 A I'm not sure if he did or not I can't say
23 But it's been in the case jacket all the time

24 MR THOMPSON One moment, Your Honor

25 Q (Mr Thompson) Lieutenant Lewis, have you had --

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1 have you ever seen telephone conversations from Owens
2 Campbell?

3 A Sir?

4 Q Have you received phone calls from Owens Campbell
5 since he's been sent to C C I ?

6 A Yes, sir, I've talked to Mr Campbell several
7 times on the telephone

8 Q All right Does he call you?

9 A Yes, sir

10 Q All right

11 A He has my home phone number So, he can call me
12 when ever he feel like it

13 Q. All right Has he reported to you information
14 about these break-ins on guns, whether it be rumor or
15 hearsay or whatever, does he report items like that to
16 you?

17 A Well, he told me that he had heard who broke into
18 his sister trailer He's be able to prove it in Court,
19 and it was connected to the case, and all this stuff
20 like that But Mr Owens never told me who broke in
21 his sister case that I can recall I mean, in her
22 trailer.

23 Q All right, sir All right Lieutenant Lewis, if
24 you would, answer any questions that Mr Valenta may
25 have for you

1 A Yes, sir

2 CROSS-EXAMINATION BY MR VALENTA

3 Q Mr Lewis, how long did you spend, not minutes or
4 hours, but the overall period of time investigating
5 this case?

6 A. Approximately five years

7 Q. Did -- I think you testified at trial you
8 interviewed something like two hundred and fifty
9 potential witnesses?

10 A Quite a few, yes, sir I travelled in and out
11 around the state, to Georgia, and different other
12 places working this case

13 Q And you looked into -- I think the transcript
14 reflects you looked into telephone conversations or
15 phone calls from Mrs Wilson to Georgia?

16 A. Yes, sir

17 Q Did you interview Mr Lee---

18 A Yes, sir

19 Q ---at Georgia?

20 A Yes, sir, I did Twice

21 Q And your -- the transcript kind of reflects you
22 got to be a pain in a tail to alot of people, isn't
23 that right?

24 A Yes, sir, I said that Yes, sir

25 Q Were you willing to let the case go just -- you

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1 -- just as soon as you found one potential guilty
2 party?

3 A No, sir I'm still not satisfied with the way
4 this -- the outcome of this case

5 Q All right. Were you willing to prosecute Owens
6 Campbell just because you could get him?

7 MR THOMPSON Objection Mr Lewis did not
8 prosecute Mr Campbell Attorney General's Office did

9 Q Were you willing to provide information to the
10 Attorney General's Office, and assist in the prosecution
11 of Mr Campbell just because you thought the State
12 could prove it's case whether or not he was guilty?

13 A Well, based on the information that I had, I felt
14 that Mr Campbell knew something about this incident,
15 and based on the statement that he gave me and so
16 forth But I still felt that that was more people
17 involved or possible other people involved

18 Q Would you of developed cases on those individuals
19 if you could have?

20 A Yes, sir

21 Q You're familiar with the case -- the Brady case,
22 aren't you?

23 A Yes, sir, I've heard about the Brady case, yes,
24 sir

25 Q And there was a Brady motion filed in this case

1 by Mr Vermont?

2 A Yes, sir

3 Q Did you hide anything from this -- Mr Vermont?

4 A No, sir No, sir, my file has been opened to him
5 or anyone else that wanted to look at it

6 Q. Is that your standard policy, an open file
7 policy?

8 A Yes, sir, definitely Anything that they want,
9 they can get it out of there as long as they don't
10 destroy anything If they want to make copies, it's
11 certainly okay with me

12 Q Were you willing to talk to Mr Vermont any time
13 he wanted about implications of what was in the file or
14 just your thoughts and so on?

15 A Yeah, I was willing to talk to him any time he
16 wanted to talk to me or Mr Thompson either one I
17 have nothing to hide

18 Q. Have you been able to back up Johnny Bradwell's
19 claim about Dinkey Taylor with some hard evidence,
20 would you of been willing to assist in prosecution of
21 Dinkey Taylor?

22 A Sir, he would of been in jail

23 Q If you had been able to come up with any substan-
24 tial evidence on Ann Wilson implicating her in this
25 crime, would you of pursued that and assisted with the

1 prosecution?

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2 A She would of been in jail, yes, sir

3 Q Other than the claim about Johnny Bradwell having
4 confessed to breaking into Mrs Mock's trailer after
5 the trial, have you heard anything today that you
6 didn't know prior to trial?

7 A Well like I said, the only thing I knew that Mrs
8 Mock trailer was broken into, and I understand there's
9 some guns and things taken out of there But I didn't
10 have knowledge of who did it

11 Q I understand that But I'm saying has anything
12 else that you've heard today come as a big surprise to
13 you?

14 A No, sir Other than the fact that Mr Ronnie
15 Taylor said that his father had told me about the
16 break-in, which was not the case

17 Q You don't recollect---

18 A He did not tell---

19 Q ---either of them telling you about that?

20 A No, sir, he did not tell me about that case of
21 anyone who broke in or gave me the name

22 Q What would of you have done if either of those
23 gentleman had told you about it?

24 A Well, first of all, I wasn't working the case
25 But I would of passed it on to the investigator that

1 was working the case I would of had him to get Mr
2 Taylor -- Mr Wilson down to the Sheriff's Department, 803
3 take a sworn statement from him, and based on that, we
4 would of probably drawed up a warrant, and charged Mr
5 Bradwell with house breaking or burglary Whatever
6 time it happened at If it happened at night, we would
7 of charged him with burglary

8 MR VALENTA I have no further questions, Your
9 Honor

10 REDIRECT EXAMINATION BY MR THOMPSON

11 Q Lieutenant Lewis, did you ever, whether you did
12 it personally or not, do you know if the Sheriff's
13 Department ever paid any money to Thomas Campbell?

14 A Well, let me say, I never paid him any money, and
15 I don't think the Sheriff's Department ever paid him
16 any money as far as the Olin Wilson case is concerned

17 Q All right. Do you know if they ever -- the
18 Sheriff's Department ever put him up in a motel prior
19 to trial---

20 A The only person---

21 Q as far as Jamie Owens?

22 A The only person that we put up in the motel was
23 Mr Campbell Owens Campbell

24 Q This Mr Campbell?

25 A Yes, sir

1 Q. Were you aware of whether or not Ann Wilson 804
2 undertook any efforts to have herself ruled out as a
3 suspect at any point in this case?

4 A Yes, sir, I think I got several letters from an
5 attorney, Mr Beadle or whatever, stating that he had
6 wrote, I think, the Solicitor's Office or someone like
7 that wanting to know if Mrs Wilson was a suspect
8 Because of that, she could not receive her benefits,
9 insurance benefits or something like that And I think
10 when I did receive several letters, I had been question-
11 ing Mrs Wilson

12 Q All right Did you ever---

13 A And at that time, I had not ruled her out
14 Because still haven't

15 Q All right Did you ever rule her out as a
16 suspect?

17 A No, sir

18 Q Or Mr Taylor?

19 A No, sir

20 Q All right When Mr Valenta was questioning you,
21 you made the statement that you felt Mr Campbell knew
22 something about the murder

23 A Based on Mr Campbell's statement that the night
24 this incident happened when he drove up, he saw Mr
25 Wilson when he was shot, and he saw this white male

1 running from the truck, which is about eleven o'clock
2 pitch dark at night He was able to give me a color of 807
3 this man hair He was able to give me his size,
4 weight, and so forth And he described to me exactly
5 how the incident happened

6 I felt that Mr Campbell had been there And, of
7 course, I did further investigation on this man that
8 Mr. Campbell gave me He did not give me a name But
9 based on the description he gave me, I was able to find
10 this same person that he was talking about in Orangeburg
11 But---

12 Q What was his name?

13 A Mr Valentine

14 Q Mr who?

15 A Valentine Valentine

16 Q Does he go by the name Catfish?

17 A No No, Catfish is another person

18 Q. Mr Valentine?

19 A Let me make sure

20 Excuse me, Judge, a minute, please, sir

21 Mr James -- James Valentine

22 Q Mr James Valentine?

23 A Yes, sir

24 Q You determined that that was the man running from
25 the scene?

1 A Well, actually, this man was never there Mr 806
2 Campbell saw this man at Mrs Wilson house after Mr
3 Wilson had been shot and killed. This man was never
4 there at the crime scene It's just a person that he
5 picked up, and I'm not sure if Mr Campbell knew that I
6 was going to find this man or not But I were able --
7 after talking to Mrs Wilson, I was able to find this
8 man in Orangeburg, and I brought him back to Columbia,
9 and interviewed him Also, I got a search warrant and
10 searched his house

11 Q Mr Lewis, was that file you're looking at
12 provided to the Attorney General's Office?

13 A Sir, this whole file was given to the Attorney
14 General's Office, and they went through and picked out
15 what they want for the trial Also, it was made
16 available to Mr Vermont if he would of wanted it

17 Like I said before, that file was opened to
18 anyone that wanted to look in it that had any authority
19 with this case

20 Q All right Well, I understand, Mr Lewis I'm
21 not saying that you hid anything One of the issues
22 here is whether or not Mr Vermont found the things

23 A Uh huh (Affirmative) But what I'm saying, sir,
24 it was in the case jacket

25 Q And the case jacket went to the Attorney General's

807

1 Office, is that correct?

2 A Yes, sir, I took the case jacket up there, and
3 gave it to Mr Vermont, and he went through it, and so
4 forth

5 Q. In the Attorney General's Office?

6 A Yes, sir

7 Q All right Lieutenant Lewis, that's all the
8 questions I have for you right now Thank you

9 MR VALENTA Just briefly, Your Honor

10 RECROSS-EXAMINATION BY MR VALENTA

11 Q Mr Lewis, you were talking about Mr Campbell's
12 statement to you having raised your suspicion about it,
13 and having been there or knowing something about the
14 case

15 A Uh huh (Affirmative)

16 Q And you mentioned that he had described everything
17 very minutely Did it raise your suspicion at all that
18 that description disagreed to strongly with the U S
19 Army man's description of how dark it had been that
20 night? Did you take that into account?

21 A Well, that's why I figured Mr Campbell couldn't
22 of seen this Because I went back out there myself
23 several nights after that, and I could not see my hands
24 in front of me It was pitch black dark out there
25 So---

1 Q Do you know whether there was a moon on the night
2 of the murder?

3 A It's my understanding that there was not a moon
4 in the -- no moon or anything shining back on July the
5 10th in 1978

6 Q I have no further questions

7 REDIRECT EXAMINATION BY MR THOMPSON

8 Q Mr. Lewis, obviously you're not testifying that
9 you could not see your hand in front of your face with
10 your headlights on?

11 A No, no I -- what I'm saying it was so dark that
12 unless you had artificial light, you could not see your
13 hand in front of your face

14 Q All right Well, Mr Campbell never said he was
15 walking that night, did he?

16 A No, sir, he said the man was running

17 Q All right. Thank you I have no further
18 questions of Lieutenant Lewis

19 THE COURT: You may step down, Mr Lewis

20 MR THOMPSON Your Honor, at this time, I have
21 Mr Anderson in the courtroom I would like to request
22 one opportunity tonight to see if we can, once again,
23 serve a subpoena on Mr Bradwell in order to bring him
24 into the courtroom

25 He has, in the past, told us, and, in fact,

1 rather explicitly told us that Dinkey Taylor, on more
2 than one occasion, had told him that he shot Olin D
3 Wilson, and I think that's a critical bit of evidence

4 Last night, as I indicated to the Court, we
5 talked to him by phone We could not get him I think
6 there's been sufficient testimony about him today to
7 make him important, and I would like an opportunity to
8 -- I don't know if the State intends on finding him or
9 not But I would like to be able to try to find him
10 tonight in order that I could present this testimony at
11 -- at some point during this term In the next two
12 days, too, Your Honor, if not, in the morning

13 THE COURT From what I've heard so far, it sounds
14 like he ought to be arrested

15 MR THOMPSON I agree, Your Honor

16 THE COURT Well, I'll give you an opportunity to
17 get him I'll be here Friday We can find some time
18 for that

19 MR. THOMPSON Thank you, Your Honor

20 THE COURT Somebody else will have to get him in
21 custody to get him to the courthouse

22 MR THOMPSON I think -- I think perhaps we can
23 get a subpoena on him I do not think at this time,
24 Your Honor, that we---

25 THE COURT You think a subpoena will get him to

1 courthouse? People up here won't take warrants out for 810
2 him.

3 MR THOMPSON Well, he's gonna end up here
4 sooner or later in that case Hopefully we can
5 persuade him by reaching his father That may be a
6 solution We will try

7 Beyond that, Your Honor, I do not anticipate, at
8 this time, that we would present any further witnesses
9 other than Mr Bradwell

10 THE COURT All right What do you want to do,
11 Mr Valenta?

12 MR VALENTA Your Honor, I -- if we might go
13 ahead and place Mr Elliott on the stand I don't
14 think his testimony will be very long

15 THE COURT All right

16 SCOTT ELLIOTT, being first
17 duly sworn, testified as follows

18 DIRECT EXAMINATION BY MR VALENTA

19 Q Would you state your full name and occupation?

20 A Scott Elliott I'm a lawyer here in Columbia

21 Q You in private practice now?

22 A Yes, sir

23 Q. And you use to be with the Attorney General's
24 Office?

25 A Yes, sir

1 Q And you were one of two prosecutor's in this 811
2 case?

3 A That's correct.

4 Q How did you and Mr Buford Mabry split work on
5 the case?

6 A My recollection is that Buford was lead counsel,
7 and I did much of the leg work Took half the witnesses

8 Q In your work getting ready for trial, did you
9 ever talk about the case with Venable Vermont?

10 A Yes, it seems like we talked to Venable at our
11 office, on the tele -- in person I'm pretty sure that
12 I talked with him on the telephone about it It seems
13 like we had several conversations

14 Q What was your policy as far as his having access
15 to the police files or your files?

16 A My recollection is we invited him over to look
17 at the file Gave him copies of statements

18 Q Essentially an open file policy?

19 A Yes, sir

20 Q There was a hearing -- well, let me ask you was
21 there a hearing on a Brady motion -- on Brady motions?

22 A I really can't remember I frankly -- I haven't
23 reviewed the transcript, and I haven't reviewed the
24 proceeding

25 Q All right Is it your recollection that if there

1 was a Brady motion that you and Mr Mabry complied with
2 that?

3 A. Yeah, I'm certain of that We saw no reason to
4 hide anything We saw no reason to be difficult. We
5 simply laid the case open for him so as to give him
6 every opportunity It's my recollection that he took
7 every opportunity to follow up on our conversations
8 He -- I thought he was well prepared at trial I

9 thought he investigated the case You know, I think
10 that he had every opportunity to represent his client

11 Q How did -- well, let me phrase it this way If
12 in your work on the case you felt that you could put
13 together a case against other individuals, were you and
14 Mr Mabry willing to go forward to prosecute anyone
15 else?

16 A Right We -- we suspected, at least, Mrs
17 Wilson's complicity in the matter We considered it
18 As I recall, we talked it over with the -- Lieutenant
19 Lewis on a number of occasions, and we made a conscious
20 decision that we did not have sufficient evidence to
21 indict anyone else but Mr Campbell

22 Q Did you have evidence that would have directed
23 you away from this prosecution and towards someone else
24 having conspired with Mrs Wilson?

25 A I think your answer to that question would have

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1 to -- have to be yes There -- there was conflicting
2 evidence here. There was evidence that would lead one
3 to suspect a number of other individuals But in our --
4 our mind, at least, the -- the clearest most reasonable
5 inference was that Mr Campbell shot and killed the
6 deceased

7 Q Were you comfortable in your role as an officer
8 of the Court with prosecuting Mr Campbell and leaving
9 the decision to the jury?

10 A Yes

11 MR VALENTA One moment, please, Your Honor I
12 have no further questions, Your Honor

13 CROSS-EXAMINATION BY MR THOMPSON

14 Q Mr Elliott, do you recall listening to any tape
15 recordings?

16 A I think so, yes

17 Q All right Do you know if Mr Vermont listened to
18 them?

19 A I do not know

20 Q That's all the questions I have

21 MR VALENTA Nothing further, Your Honor

22 THE COURT Step down, Counselor

23 A Thank you

24 MR VALENTA At this point in the case, Your
25 Honor, pending the possible future testimony of Johnny

1 Bradwell, as Your Honor is aware since this matter came
2 before you last March I believe it was, and at that
3 time there was a continuance in trying the case in
4 attendance of Mr Venable Vermont And then it was
5 again continued in September of 1986 on the same basis

6 Mr Vermont has been in and out of town But is
7 again in Alaska I would move that we be allowed to
8 take Mr Vermont's deposition by telephone, and I would
9 like to make a little bit extraordinary request in that
10 regard, and that is that -- after the taking of Mr
11 Bradwell's testimony, if there is such, that we be
12 allowed to obtain a transcript of today's hearing, and
13 Mr Bradwell's testimony, and send that to Mr Vermont
14 so that he understands the voluminous testimony that
15 was taken today so that he can address why he represented
16 Mr Campbell in the way he did

17 And I realize that that would cause some delay
18 But I think this matter has -- will not be inordinately
19 delayed any further by waiting for the transcript, and
20 we would request permission in doing that in that
21 fashion

22 MR THOMPSON Your Honor, at first, I objected
23 to a telephone deposition of Mr Vermont because I kept
24 thinking he would come back to town, and he -- he skips
25 through so fast we can't catch him So, I will consent

1 to a telephone deposition at this time And addition-
2 ally, I would have no objection to Mr Vermont viewing
3 the transcript prior to testifying

4 I agree that it is important to get to the bottom
5 of exactly why he handled the case in the way he did,
6 and there is evidence probably in existence now that
7 may not of been in existence then, which he may need to
8 reflect upon

9 So, I would not oppose the motion

10 THE COURT Well, I would have to retain juris-
11 diction, and all this would have to be done, and then
12 we would have to get back together on my docket to
13 finalize it

14 Now, that being the obvious case, I would want
15 this man to understand that that's gone take several
16 months, Mr Campbell

17 THE DEFENDANT Yes, sir

18 THE COURT And I know you've consented, Mr
19 Thompson But I want Mr Campbell, you know, to
20 understand that---

21 MR THOMPSON All right, sir

22 THE COURT ---these things take time I can not
23 give you an exact time I see no reason that it should
24 be delayed at all It should be right at the top of
25 the nonjury docket So, the motion being made and

1 being consented to, I'll certainly agree to it, and 816
2 will so order

3 MR THOMPSON Thank you Your Honor, one other
4 request I don't know if the Court has power to do
5 this or not But Mr Anderson advises me that during
6 the telephone conversation last night, Mr Bradwell
7 said if a subpoena was delivered to him, he would not
8 obey it

9 My request for the Court is whether or not that
10 is a sufficient basis for the Court to issue a bench
11 warrant and arrest Mr Bradwell to compel his attendance
12 in Court if he has presently indicated he does not
13 desire to obey the subpoena

14 THE COURT If Mr Lucious Anderson tells me that
15 Mr Bradwell said that, I will issue a bench warrant
16 We will put him in jail, and he'll be available

17 MR ANDERSON That was the information he gave
18 me last night when I talked to him at 9 30 p m from
19 the telephone booth at the Amoco Station on 76 at
20 University Drive I called him from that to get an
21 address where he was, and he would not give me his
22 address, and his instruction was he would be hard to
23 find, and would not give me an address as to where I
24 could locate him

25 I came back to the office this morning, and

1 looked in the city directory, and the city directory
2 gave me an address of [REDACTED] I had 817
3 not been to the address But the telephone number
4 that we got and I dialed the number was the telephone
5 number listed in the city directory listed to a Miss
6 Davis at that address

7 THE COURT All right Well, counsel, you made a
8 motion for a bench warrant?

9 MR THOMPSON Yes, Your Honor

10 THE COURT All right Motion granted So, if
11 you'll get me up the necessary bench warrant, I'll sign
12 it, and pick him up, and put him in jail, and hold him
13 as a witness We'll have to get to him in a reasonable
14 period of time or I'll have to put him under a bond

15 MR THOMPSON I understand that.

16 THE COURT I'll consider a bond after he's
17 arrested Let me be notified Then, I will consider
18 the question of a bond

19 MR THOMPSON Thank you, Your Honor

20 THE COURT Anything further today?

21 MR THOMPSON Nothing further, Your Honor

22 THE COURT All right Then, we'll recess pending
23 all these matters

24 - - -END OF REQUESTED TRANSCRIPT OF RECORD- - -
25

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF RICHLAND)

Francis Owens Campbell, 111197,) CA #85-CP-40-5431
)
)
 Applicant,)
)
 vs) TELEPHONE DEPOSITION OF
)
 The State of South Carolina,) VENABLE VERMONT, Jr.
)
 Respondent.)

Deposition of Venable Vermont, Jr , taken on behalf of Respondent before Eric B. Gore, a Notary Public in and for the State of South Carolina, commencing at the hour of 4 15 p m., on Friday, June 5, 1987, at the office of the South Carolina Attorney General, 1000 Assembly Street, Columbia, South Carolina, pursuant to Notice of Taking Deposition de bene esse.

APPEARANCES

Michael J. Thompson, Esquire, 1527
 Richland Street, Columbia, South
 Carolina, Attorney for Applicant.

Frank L. Valenta, Jr , Esquire,
 Assistant Attorney General, The State
 of South Carolina, 1000 Assembly St.,
 Columbia, South Carolina, Attorneys
 for Respondent

 Eric B. Gore, Reporter.

ANNETTE B GORE

COURT REPORTER

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STIPULATIONS

It is stipulated by and between
counsel for the respective parties
that all objections are to be stated
during the course of the taking of
the deposition. The reading and
signing of the deposition by the
deponent is waived by the deponent and
counsel for the respective parties.

I N D E X

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EXHIBITS

(There are no exhibits to the deposition.)

PRELIMINARIES

MR. VALENTA Hello, Venable,
this is Val Valenta, I'm in the
Deposition Room with Mike Thompson
and with Owens Campbell, and a
Court Reporter. Have you got a
Notary there who can swear you in
over the phone?

MR. VERMONT She's just up the hall
it'll take me just a minute to get her
Hang on.

(Off the record.)

MR. VERMONT Okay, I'm back and
we're ready. Do you want me to
identify her or have her identify
herself and---

MR. VALENTA If she would identify
herself and that she is a Notary
Public in the State of Alaska?

MR. VERMONT All right, her name is
Alice Redding, and I'll put her on.

MS. REDDING This is Alice Redding
and I'm a Notary Public for the
State of Alaska.

2 (b)

PRELIMINARIES (con't)

MR. VALENTA And when does your
Notary expire?

MS. REDDING 3-17-91.

MR. VALENTA And how do you spell
your last name?

MS. REDDING R-e-d-d-i-n-g.

MR. VALENTA All right, if you'd
please administer the oath, and then
hand the phone to Mr. Vermont.

Mr Vermont was duly sworn by Ms. Redding
in the State of Alaska, and recorded by
speaker telephone by Eric B. Gore, a
Notary Public in and for the State of
South Carolina, said deposition having
been recorded in the Office of the Attorney
General for the State of South Carolina,
at Columbia, South Carolina

WHEREUPON,

VENABLE VERMONT, JR., HAVING BEEN
DULY SWORN AND CAUTIONED TO SPEAK
THE TRUTH, THE WHOLE TRUTH, AND
NOTHING BUT THE TRUTH, TESTIFIED
AND DEPOSED AS FOLLOWS

DIRECT EXAMINATION BY

MR. VALENTA

Q All right, Venable, did you receive a copy of the
transcript of the Post Conviction Relief Hearing
which took place in this case on February 25, 1987?

A I did.

Q And have you had a chance to review it?

A I have

Q I'll just put on the record that I called the office
of the Public Defender here in Richland County and
requested that you be sent a copy of your file from
this case Have you received that?

A No, I have not

Q All right

A And of course haven't had any contact with that
file in probably five or six years

Q Have you been able to refresh your memory somewhat
from reading the Post Conviction and Relief Hearing

1

4

2

transcript?

3

A Yes, I have a very qualified somewhat.

4

Q All right, how did you first come to work on this case?

5

6

A I was Public Defender in Richland County and it was assigned to me in the normal course of my duties.

7

8

Q Do you have some kind of feel for how long prior to trial you were able to investigate it or work on it?

9

10

A No, I don't. I know that things move so much slower down there so I'm sure it was a number of months. We did spend a lot of time on it and it was a fairly lengthy trial by South Carolina standards as well. I know I worked on it for quite a while but the terms of the actual period of time I could not say.

11

12

13

14

15

16

Q Did you have access to the assistance of an investigator at that time?

17

18

A Yes, our office routinely employed investigators and we had inhouse investigators. And I did a lot of the work on this myself because it was so complicated

19

20

21

Q Did you also have the opportunity to talk to Connie Lewis or anyone else at the Sheriff's Department about the case?

22

23

24

A I did. I had a number of telephone conferences and even personal consultations with Mr. Lewis.

25

1

5

2 Q And did you have an opportunity prior to trial to
3 discuss the case with Buford Mabry and Scott Elliott
4 from the Attorney General's Office?

5 A Yes, I did, a number of conversations with them again
6 and I recall at least once going to their office to
7 go over the case.

8 Q Do you remember ever hearing about any statement
9 from Johnny Allen Bradwell in which he said that
10 Dinky Taylor had admitted to the killing?

11 A Yes, I do I remember---I couldn't say that that was
12 the name but I remember there was a person who said
13 that Dinky Taylor had admitted---we either had a police
14 report summarizing that or we had a copy Mr. Bradwell's
15 statement about it. I can't remember, but I knew
16 that that statement had been made, yes.

17 Q And do you recollect if you were ever able to follow
18 through or investigate anything about that?

19 A I'm sure we followed through and investigated it
20 The question I think you want to ask is whether or
21 not it was successful, but I don't remember I know
22 we checked it out as best we could because obviously
23 that would on the face of it appear to be a fairly
24 important piece of exculpatory evidence. We looked
25 into it the best we could. What results we came up

1 6
2 with obviously we didn't call him at trail, either
3 Mr. Bradwell or Mr. Dinky Taylor, so we didn't come
4 up with anything in that regard. It was unsuccessful,
5 but I know we did pursue it and I was especially
6 interested in pursuing it and I think Mr. Lewis was
7 too. I know I talked to him about it a number of
8 times.

9 Q What was your---the final defense strategy that you
10 developed as you were coming toward trial? Do you
11 recollect?

12 A The defense strategy that we developed I think was
13 made clear by Mr. Campbell's testimony which was that
14 he had come along on the scene and discovered it as
15 I recall, but had not been the person who precipitated
16 it, had not himself done the killing. He testified
17 at length himself, and I think that defense strategy
18 would have been pretty much embodied in his testimony.

19 Q What about using Tommy Campbell as a defense witness,
20 did you consider that?

21 A It was considered and rejected. This case was real
22 difficult because it had been at the time I got it
23 the killing had occurred some four years before and
24 there were all sorts of rumors flying around about
25 Tommy Campbell. I talked---I spent a lot of time

with Mr. Campbell and with his mother, especially with his sister Delores Mock, various other people related to the family and Tommy Campbell was something of an outcast at the time and was not trusted by members of the family because he had been in some capacity an informant for Mr. Lewis and had been himself involved in a number of cases, and our primary concern approaching the trial was that Tommy Campbell himself would be used as a witness by the State. We didn't know what he would say. We felt sure that it would not be truthful whatever it was, but we didn't know if we could get at it or not because he was such a---seemed to be such a shifty and mercurial kind of a person. We were greatly relieved when in fact Tommy Campbell was not called as a witness by the State and in fact by the time the trial came around he was firmly within the Campbell family fold and was friendly to our side but still viewed by all of us as fairly unstable and we had no intention of putting him up there as a defense witness and opening the door to whatever he might have said because none of us fully trusted him. So we did consider it but were grateful not to have to confront him either on direct or cross examination, in any status because he was just seen

8

as such a loose cannon on the deck we weren't sure what he would say or what he would do

Q Do you know anything about a possible defense strategy of tying Ann Wilson in to a theft of guns from Delores Mock's trailer?

A No, I don't. I read testimony that seemed to lead in that direction but we were never able to---I say testimony in the previous hearing, the transcript of which you sent me, but we were never able to take it that far. I knew that there had been a breakin at Delores Mock's house, but that's all we knew at the time and we didn't know anything about who was behind it. We didn't know exactly what had happened or why or anything like that. On the other hand there was always the possibility of trying to tie Ann Wilson and somebody else into the case, but in terms of putting those two things together, the burglary and Ann Wilson, no There was never any such connection that we were able to establish or that we even suspected or knew about. I never heard it rumored even that I recall

Q Do you recollect considering as a defense strategy tying in or somehow using Ann Wilson's financial interests in her husband's death as a motive for her to having secured the murder?

1
2 A Yes, that was something that was there all along and
3 probably right on the surface, not even very deep
4 below the surface. That was there, but in terms of
5 again in establishing it there wasn't anything that
6 we could do beyond it I mean our investigation didn't
7 turn up anything else. It probably would have been and I
8 don't recall if it came out or not, easy enough to
9 show her financial gain but the question of course
10 was whether or not we could show that she had engineered
11 the death in order to get the gain and we never had
12 anything we could tie in that way at all.

13 Q Did you ever---you said you had an opportunity to read
14 the testimony at the Post Conviction Relief Hearing,
15 in Tally Wilson's testimony he discussed the fight
16 that had occurred at the barbeque on July 4th, if
17 I remember right. Did you see that that could be
18 used as a defense somehow?

19 A We looked into it because I remembered talking about
20 it as I read about here I remembered that it had
21 come up but I cannot remember without my file what the
22 results of our investigation were, if we got anything
23 out of that or not. As I recall we didn't use it
24 at trial in anyway although we could have. I just
25 don't have a specific remembrance of it. We must not

1 10
2 have come up with anything particularly concrete.
3 Again you can have that particular fact and you may
4 suspect that it fits in well with the defense theory
5 but unless you can show some connection, which we
6 weren't able to do, it wouldn't in and of itself as a
7 fact be particularly helpful. So we didn't have anything
8 that would tie it in.

9 Q Did you ever hear one way or the another anything about
10 Ann Wilson having made a statement to the effect of
11 "Oh, no, I didn't know it was going to be like that."
12 And did you have anyway to bring that in at trial?

13 A I don't remember. I saw that statement in the trans-
14 cript and I don't remember. I knew there was something
15 about---people talked about reactions of Ann Wilson
16 or they talked about her going over insurance policies
17 the very night of the death, or something like that,
18 but I don't recall if we had that specific statement
19 or not. I know we didn't in fact call Ms. Wilson as
20 a witness, but whether that particular piece of
21 information or that particular statement was known
22 to me, again without my file I just can't say, sorry.

23 Q Have you thought about this trial much since it
24 occurred?

25 A I have actually, not the details of it, just sort of

emotional feelings about it because I felt---I was very upset that Mr. Campbell was convicted and you know it's bothered me ever since because in my mind the case is not solved.

Q What is your self evaluation as far as trial strategy and your performance at trial? Do you have any regrets or different way you would have tried it?

A No, I don't think so. We were at a disadvantage in that we were working four years after the killing had supposedly occurred and people that we talked to---the thing had been known and talked about for such a long time in that small community down in the county there, down toward Eastover, that it was hard to get concrete facts at that late date. It was just impressions, speculations about peoples character, and the motive. It was very difficult to go back and get to the real heart of the matter, but I thought we did the best we could under the circumstances. We talked to a lot of people. I did myself personally, and I spent a lot of time driving around down there and talking to people and trying to pursue things, but at that point the passage of time had made the trail fairly cold and it was crossed with all kinds of innuendo and speculation and hearsay, and it was real

1 12
2 difficult to come up with anything solid. I thought
3 we did the best we could and I would always like to
4 think that I do that but in terms of my actual effec-
5 tiveness I don't know. By one standard I was not
6 because he was convicted, but that's not really the
7 standard. We did the best we could with what we had
8 I think. And I had, as I recall, Joy Goodwin sat in
9 with me during the trial because it was a complicated
10 case and took all of a week to try.

11 MR. VALENTA I don't have any
12 other questions at this time. I'll
13 turn this over then to Mike Thompson
14 for Cross Examination.

15 CROSS EXAMINATION BY

16 MR THOMPSON

17 Q H1, Venable.

18 A H1, Mike, how are you doing?

19 Q Fine. Can you hear me fine?

20 A I can hear you I'll let you know if you fade

21 Q All right. Do you know if you or anyone in the office
22 ever actually interviewed Ann Wilson?

23 A Yeah, I did.

24 Q All right, and obviously that's prior to trial?

25 A Right, yes.

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Q Did you ever interview Jamie prior to trial?

A Jamie was the cousin who testified?

Q Right.

A 'No, and that was one of the biggest problems. We couldn't find him. There were always rumors that the State had stashed him away somewhere.

Q Right.

A We weren't able to substantiate it. He was a---he was difficult to locate and we never did locate him, and he of course was the---he was the linch pin of their whole case as he claimed to be essentially an eye witness, and we didn't know what he was going to say. I think we had a copy of his Statement maybe, but we could never find him.

Q All right.

A That was a problem.

Q Okay, regarding your statement that he was the linch pin, he actually claimed to be present at the shooting, correct?

A He claimed to have been right there in the area. I think his story was that he and Owens had ridden out there and Owens took off through the woods and said, "I've got to go do something, wait here in the car." And then he hears some shots, Jamie does, and Owens

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comes running back and said something like, "Let's get out of here." So he didn't actually see the shooting but was the closest thing they had to an eye witness.

Q All right. Did you ever discover at that time---and I'm talking about prior to your Cross Examination of Jamie, any kind of either State Hospital or Columbia Area Mental Health records relating to his background or commitments for drug use?

A I can't say, Mike I don't remember if we found them or not. People told us about those things for sure. I think he had a prior conviction of some kind and I think people---in fact I'm pretty sure that he did and I think people talked about---because he was a cousin, you know, he was known to the family and his problems were known too, and people talked about him in that regard, but what we actually found I can't say. I don't remember.

Q Okay, you don't have a recollection of whether or not you ever actually subpoenaed any records from any sort of institution then?

A I do not. I just don't have a recollection.

Q All right I know you talked a number of times with Lt. Lewis.

A Right

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2 Q And in the Post Conviction Relief Hearing, I think it's
3 around Page---I don't know if you've got it in front
4 of you or not.

5 A I do, I have it in front of me.

6 Q All right, starting around Page 91, on line 20---

7 A Okay.

8 Q ---did Mr. Lewis ever reveal the existence of tape
9 recordings of these people to you? That's Delores
10 Mock---

11 A Ann Wilson and Tommy Campbell?

12 Q Right.

13 A I remember that people talked about Tommy Campbell
14 having worn a wire and I had talked to Tommy and I
15 think that was confirmed. I don't have a current
16 recollection of whether or not I had discussed with
17 Ann Wilson and Delores Mock their wearing of a wire
18 and I don't recall if I'd gotten that information
19 from Investigator Lewis. I just don't remember. I
20 knew that wires had been worn and the recollection I have
21 is that it was Tommy Campbell, but I don't remember
22 the others. That's not to say I didn't have that
23 knowledge but I just don't remember it And I certainly
24 never heard the tapes or saw the tapes, or had them
25 offered to me.

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2 Q All right, so you never heard any tapes at all?

3 A No, I never did that I can recall.

4 Q Your recollection of the trial transcript may be
5 fresher than mine, but at the trial do you recall
6 whether or not Lt. Lewis told you that he did not
7 have tape recordings?

8 A I don't recall. No, I don't know that I ever saw
9 a trial transcript. I think the Appellate---let's
10 see, what do they call --- the Public Advocate---no,
11 the Office of Appellate Defense was in place by then
12 and I think the case went over to them. So it was not
13 an appeal. It was handled inhouse by the Columbia
14 Office.

15 Q Did you ever have any knowledge regarding whether or
16 not Jamie had ever told the FBI that Owens had
17 committed a bank robbery in the Lower Richland area?

18 A There was some talk about that, that's right, because
19 I think---and that may have even been---I wanted to
20 say Tommy was connected in some way with all of that
21 talk and speculation, but I seem to recall---yes,
22 there was something about that and in fact I think I
23 talked with Investigator Lewis about that, that they
24 had, you know, questioned him about it or maybe I
25 talked with somebody from the FBI. Yes, there was

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2 talk. I can't remember if it came from Jamie or
3 Tommy, or somebody else.

4 Q Do you know if you ever substantiated through any kinds
5 of records or reports or witnesses whether or not
6 Jamie had previously accused Owens of a crime?

7 This bank robbery I'm specifically talking about

8 A No, I don't. I remember the thing about the bank
9 robbery and I looked into it to my satisfaction that
10 it couldn't come in as prior bad acts, or it wasn't
11 substantiated enough to where they could use it in any
12 way. But as to whether Jamie was the source of that
13 accusation or any others I don't think it became an
14 issue. I didn't go any further with it.

15 Q All right, let me get more specific on it then?

16 A All right.

17 Q Rather than it coming in as a prior bad act against
18 Owens Campbell, did you ever have knowledge that Jamie
19 viewed a photograph, this would be a bank camera
20 photograph, of the robber and identified the robber
21 as Owens Campbell, and have it later turn out that
22 another man completely unrelated to the case was
23 arrested and entered a plea of guilty that he is the
24 one actually who committed that bank robbery? In
25 other words the import of it---

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2 A I see what you're saying using it for Cross Examination
3 on Jamie.
4 Q Right. Did you ever have that information?
5 A Since you are saying those things it's coming back
6 to me that in fact I think that was the case, but in
7 terms of using it I just don't remember. I don't
8 remember if I knew that stuff came from Jamie. I just
9 don't remember.
10 Q All right. Obviously we're starting---we would get
11 down to this point then that if you had a recollection
12 that that kinda was the case, that he had blamed another
13 crime on Owens which he obviously did not commit, and
14 you did not use it for Cross Examination, do you have
15 any recollection right now as to why that kind of thing
16 would not have been brought out before the jury?
17 A No, I don't and in fact in the way that you phrase it
18 it clearly should have been if in fact that information
19 came from Jamie it seems to me that that would have
20 been relevant to his bias and it seems certainly that
21 I would have pursued it if I'd had the knowledge that
22 it came from Jamie. And whether I did or not I just
23 can't say without my file I'm sorry, I'm at a bad
24 disadvantage.
25 Q All right. Repeatedly throughout the trial Ann Wilson

---well, let's get back to Ann for a second. When you interviewed her did you know about the fight on, I think, July the 4th preceding Olin D's murder?

A I can't remember, Mike, you're asking me to put something in an order that's just too old. I knew about the fight and I interviewed Ann Wilson, but in what order those things came and what questions I asked, again I couldn't say without my notes. But I do remember I went out to her house one time and talked to her.

Q All right. Did you ever know at any point during the case that Ann Wilson was not the wife of Olin D. Wilson all the way during the trial as everyone was led to believe?

A I don't know if I did or not. I think we assumed that or at the very least they were in the common law situation. I saw the record that was developed concerning that at your February 25th hearing, or whenever it was, but I just don't remember. We assumed for functional purposes that they were husband and wife, but whether they technically were I don't remember it being issue. I just don't have a specific recollection.

Q Do you know if you ever interviewed Tally Wilson?

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2 A I can't remember and that obviously would have been
3 an important thing to do. I can't remember if we
4 couldn't find him or we tried to interview him, or
5 ---and did or didn't. I don't remember.

6 Q Do you recall if you ever received a written statement
7 from Tommy Campbell or either made notes of a state-
8 ment that---in which he would have retracted previous
9 statements he made against Owens? I think Tommy
10 being the one who testified initially at the Preliminary
11 Hearing?

12 A That's right. I seem to recall, and that's why we
13 were afraid of Tommy because he had testified and
14 seemed to be a State's witness and fairly eager to
15 please whoever was a representative of the State at
16 the time, and then as I say by the time of the trial
17 he had actually come around, and I think he had told
18 me, and I don't remember if he made a written statement
19 or he just told me, you know, that he had made that
20 stuff up, or he had lied, or it wasn't as true as
21 he'd made it appear to be. Because he was fairly
22 well neutralized and our fears about Tommy had sub-
23 sided by the time the trial actually started. Whether
24 that's in writing or from him or in my notes, again
25 I don't remember. The thing about Tommy was that he

was just not trustworthy. He made so many statements about anything. At the time Tommy would have said anything about anything I think.

Q Well, the record I guess would speak that you made no motion to have him declared a hostile witness or the Court to call him, but---

A No, I didn't do those things and as I said in answering Mr. Valenta's questions, I didn't want Tommy Campbell near that Court Room. I just didn't know what he would do

Q All right Getting back to the timing of the case, at the time of this trial had you undertaken at that point to leave the Richland County Public Defenders Office?

A I don't remember. If you could tell me when the case was tried I could tell you a little bit more about that.

Q Well, the recollection I'm working on is that there were a certain number of cases you were trying to finish up and this may have been the last case that you tried, or next to the last case you tried before you left the Public Defenders Office. Does that ring any bells with you?

A No, I know that's not true because I tried two women

1 22
2 murder defendants as the last cases I tried in May
3 of 1983. The first or second week of May. As I'm
4 thinking about this this case probably was tried in
5 the spring of '82.

6 Q Given the complications of the case did you feel any
7 need for further investigation or that you had sufficient
8 time to investigate the case?

9 A I think---well, you can always do more, especially
10 looking back, but I think we felt satisfied with it
11 as far as it had gone, and especially given the time
12 delay and the fact that I had talked to so many people
13 and was coming up with so little in the way of concrete
14 information. I suppose if there had been a delay of
15 some kind we could have always made more efforts to
16 find Jamie or he would have sooner or later surfaced
17 in some fashion that we could have interviewed him
18 prior to trial. But I don't recall making a Motion
19 For Continuance in order to prepare further or anything
20 of that nature I think we were fairly much ready
21 when we actually went to trial.

22 Q As I understand it your statements today would be that
23 you were---you were under the impression that you were
24 aware that either Johnny Bradwell or someone had made
25 the statement that Dinky Taylor had shot Olin D. Wilson?

1 Had confessed to them?

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2 A That's not just an impression. I know that someone
3 had made that statement because we had it. We either
4 had a copy of the statement that Mr. Bradwell had made
5 or we had a copy of the notes where Investigator Lewis
6 summarized. We had one or the other, and that was
7 obviously a major factor. I mean we wanted to run
8 that down if possible and we ultimately weren't able
9 to get anything out of it.

10 Q Did you ever offer that statement into evidence being
11 in the form a confession from someone else that they
12 had committed the crime?

13 A I don't remember. My feeling is no, I don't think we
14 did, but again I don't know. I'm sure the trial
15 record would reflect whether that occurred.

16 Q All right, assuming it didn't---

17 A Assuming it did not, is that what you said?

18 Q Right.

19 A - Okay

20 Q ---would you have any reason for not having offered
21 the confession of someone else to the murder that you
22 could state today?

23 A That I can state today, no, other than---no, I would---
24 I mean I guess I just wouldn't have had anything else
25 to back it up, but no, I don't have any particular

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recollection why about strategic or tactical decisions concerning that statement. I just don't know.

Q All right. Did you ever make contact with or have an interview with Dinky Taylor to your recollection?

A I think you asked me that and I don't remember. I just don't remember. We talked to so many people and of course it was a long time ago. And again my notes would be fairly specific on that. If I did have contact with Mr. Taylor it would be there and if I did not there wouldn't be any notes on it, or there might be some notes to the effect that I tried, but---

Q Did you ever have any information given to you that Dinky Taylor was rather than the brother of Ann Wilson the son of Ann Wilson?

A I don't remember Mike, again that's too fine a point for so long ago. Exact relationships with people, no, I don't have any recollection of it one way or the other.

Q Did you---let me just run through these. There are four or five items here. Did you---were you ever able to checkout through any source whether or not Ann Wilson had a child by Horace Lee, that being---

A The man in Georgia?

Q The man in Georgia.

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2 A No. I don't recall hearing that allegation. I don't
3 recall checking it or not checking it. That's just not
4 a fact that rings any kind of bell with me.

5 Q Okay. What about any other information, were you able
6 to determine that Ann Wilson was involved in any drug
7 dealings or usage, break-ins, or anything like that?
8 Do you recall developing anything along those lines?

9 A No, I do not. Again there may have been some allega-
10 tions about that, about drug usage, but in terms of
11 developing it, no, I don't recall actually developing
12 it.

13 Q Okay, do you recall there being a shooting in Ann
14 Wilson's home?

15 A That sort of set off a little blinking light when you
16 said that but that's all. I don't remember anything
17 about it. There may have been previously but I don't
18 know. I don't remember.

19 Q All right, let me ask you this This is kind of a
20 lengthy question and I don't want to narrow you down
21 to these factors if there's some others you can put
22 into it. But, one of our allegations is based upon new
23 or after discovered evidence and if we could now
24 establish more extensively the July the 4th fight in
25 which Olin D assaulted or beat up Ann Wilson, that

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2 they were in fact not married, that she'd claimed to
3 be the wife and put out these insurance policies, that
4 she---as opposed to her statement that she merely knew
5 Horace Lee had actually had a child by Horace Lee, that
6 she was tied in to Johnny Bradwell in directing him to
7 commit break-ins and specifically the break-in of
8 Delores Mock's trailer for the theft of the guns along
9 with some money and other items, that Jamie had drug
10 or mental instability, I don't know what else---that
11 he had previously falsely accused Owens of a crime,
12 that is a bank robbery, and that Dinky Taylor had
13 actually made a statement that he had shot Olin D
14 Wilson, if we could establish those things and they
15 were not previously brought out at the trial, do you
16 think that there's a chance that would have materially
17 affected the outcome, that being the verdict in the
18 case?

19 A Well, it's hard to say. All of the first things that
20 you mentioned except for the last three go to Ann
21 Wilson, and it's not likely those things would have
22 affected the verdict because the things that you
23 mentioned would have only served to draw Ann Wilson
24 into it in some fashion, but they would not have been
25 exculpatory necessarily toward Owens Campbell. The

last three things that you mentioned concerning Dinky Taylor and concerning---well, the last three things that you mentioned, I'm sorry I wasn't writing them down, would seem to be highly exculpatory concerning the instability of Jamie and his prior false accusations against Owens. Those things would seem to be highly exculpatory for Mr. Campbell and it's hard to second guess, but it's possible that they could have affected the outcome. I know that Jamie was obviously the key witness as he claimed to be an eye witness or semi-eye witness and there wasn't much we could do to shake him from that. There wasn't much we could do to tarnish his character particularly. And those things might have done that in such a fashion that he would become disbelievable. And placed in conjunction with Ann Wilson's activities could have conceivably altered the outcome

Q All right. Do you see as a logical theory blaming the murder is just a retaliatory act by Ann Wilson or either her brother or son Dinky Taylor occurring shortly after this fight as a reasonable hypothesis? Verable. It sounds like we got cut off
(Off the record.)

Q What I was asking you is/was would that be a resonable

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hypothesis to you that Ann Wilson in anger over being beat up possibly for one too many times and either her brother Dinky or son Dinky simply went out and killed Olin D.?

A I don't know how to respond to that. I guess I would have to say yes, if you assume that people are capable of murder for those kinds of reasons, and yes, if you assume all of those facts that you have hypothesized?

Q All right.

A It certainly would be the kind of thing that I would be capable as a Defense Attorney of taking and turning into a defense, that's for sure.

Q All right. Just bear with me for one second. I'm just looking at a couple of notes here, Venable. If you were able to yet receive a copy of your Public Defenders file along with the transcript of this hearing today, do you think that it might refresh your memory as to any of these questions and would be worth the time to review it, because obviously after all this time there are a lot of things you can't recall?

A Right, oh, yeah, I could definitely recollect things a lot better and I would definitely have been able to give you specific yes or no answers to most of your questions to which I have today answered, "I don't remember."

I did try to keep good notes and I've always made that my practice so hopefully a lot of these things would be reflected specifically and I could remember the things that weren't.

Q All right. Was there ever anything that came of just the fact that Solicitor Anders recused himself from the prosecution of the case in your investigation? I'm talking about anything you might recall or know that you did not present to the jury if it was relevant?

A I don't know that he ever actually recused himself I guess that's how it occurred though, wasn't it, since Mr. Mabry was the Prosecutor from the AG's office?

Q Right.

A I don't remember how that occurred I remember that there was something about Mr. Anders having written some letters perhaps to help ---

Q Ann Wilson get the insurance?

A Ann Wilson get the insurance in order to establish at the time she wasn't a suspect or something to that effect, but as to the actual reasons why he didn't take the case I don't recall what they were. I just don't recall.

Q All right. Do you know if you ever saw any letters

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that Solicitor Anders wrote indicating that Ann Wilson was not a suspect in the case?

A Yes, I seem to remember finding a copy of that and I can't remember if that came from Coroner Barron's files or if that came from the material I got from the Police Department, or from the Sheriff's Department and Investigator Lewis, or if I ultimately got it from Mr. Mabry and Mr. Elliott. But I do have some recollection of actually seeing the letter. I'm sure a copy of that letter would be in my file somewhere.

Q All right Were you ever able to establish or did you ever hear that Horace Lee was in Columbia on the night of the murder and was taken to the airport by Delores Mock to be flown, presumably to Georgia, maybe either Athens or Atlanta?

A No, nothing that specific. Obviously Horace Lee was one of the people that Investigator Lewis was interested in and therefore I was interested in Mr. Lee if he could provide either information or could provide a possible defense in some way, an exculpatory type of defense, but as to the particular information that you've just given me, no. We knew there had been contacts, maybe phone calls or something like that back and forth, but in terms of establishing something

as concrete as Mr. Lee having been in Columbia on the night of whatever it was, July 10th, 1978, no, I don't think we had anything concrete like that.

Q Let me ask you just a couple of other things right now then? One is I think Val asked you how you viewed your job as the Defense Attorney and was there anything else you could have done and so on. Let me advise you that there are two other grounds we're proceeding on. One is new or after discovered evidence. And the third is a category within the Statute which allows a trial---a new trial to be granted in the interest of justice, which is not really well defined by case law or even interpreted maybe. Would you feel that if we can establish this outline of things that we've indicated it would be justified to grant Mr. Campbell a new trial in the interest of justice and let a new jury hear all of this stuff?

A You're obviously asking me to put on a black robe and decide it as if I were a Judge because a Judge is going to have to establish what exactly that standard means, but certainly I would be intrigued by it because of my personal dissatisfaction with the way the case came out and my perplexity. I guess I should say that all the unanswered questions about that case, nobody

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would like to see it more than I would, except perhaps Mr. Campbell himself. Whether it meets the legal standard, I wouldn't or couldn't say because as you say that decision hasn't been made about what that entails and it's highly speculative as to a lot of the things that you've said. But sure if they were concrete I'd love to see it just because of my personal feelings and involvement with the case, but whether it would meet the legal standard, I wouldn't even hazard a guess. I don't know what the legal standard would be, how they would define it.

Q All right. Now this is something just for future reference because this matter is before Judge Cobb, Venable, and we've been waiting on this transcript for some time and then to get in touch with you. If we were to go back to Judge Cobb and ask him to let us reconvene this Deposition at some time when you could get the Public Defenders file and review it, what would your schedule---what's your schedule look like about times that we could find you or set this up as much at your convenience as possible in the next few weeks?

A I've got two weeks more that I will be working. I've got a number of hearings and one or two possible

1 trials in the next two weeks, things that I'm trying
2 to finish up. I'm going on another four---this time
3 about four and a half months Leave of Absence with
4 my last day being June the 19th. And I'll be essentially
5 incommunicado for the first three months of it or
6 so, well into mid September. I'll be out in the
7 bush here beyond reach of anybody including the long
8 arm of the law. Carolina in October.

9 (Off the record.)

10
11 Q What about then the possibilities of then say June 19th
12 reconvening provided some one at the Public Defenders
13 Office can get your file to you?

14 A It's kind of marginal that day. That is the last day
15 itself and I have hearings about every hour or half
16 hour all through the morning and the afternoon. The
17 judges, knowing that I was leaving, tried to get as
18 many things done as possible, sentencings and that
19 sort of thing, that they had filled up because they
20 were trying to get as much time as possible for the
21 Presentence Report But actually I'd have a better
22 chance in the morning or at this hour, the noon hour,
23 earlier in that week. The week of the 15th, 16th,
24 17th or 18th, somewhere in there if I'm not in trial.
25 Our trial schedule is 8 30 to 1 30.

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1 Q When do you anticipate being back in South Carolina?

2 A Sometime in late September, early October. I'll be
3 there for the month and then back to work here on
4 the 2nd or 3rd of November.
5

6 Q All right.

7 A I'll actually be Anchorage for one or two days at a
8 time but I don't know what dates those will be.
9 Later in, you know, July, August and September.

10 Q Okay. Is there any other information that you can
11 recall I haven't asked you about or Val has not asked
12 you about that you feel could lead to new evidence or
13 give us anywhere else to go in this case?

14 A No, I don't think so, not without looking at the file
15 my memories are not specific enough. I mean I remember
16 and you were all over the areas that I remember as
17 being the troublesome, is what I want to say, areas
18 Especially the testimony of Jamie.

19 Q Okay. Let me give you back to Val now to see if he
20 has some kind of follow up at this point.

21 MR. VALENTA No, I have no further
22 questions.

23 FURTHER DEPONENT SAYETH NOT

24 (Signing Waived.)
25

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) CERTIFICATE

This is to certify that the foregoing is the deposition of Venable Vermont, Jr., taken on behalf of Respondent before me, Eric B Gore, a Notary Public in and for the State of South Carolina, duly commissioned and qualified as such, commencing at the hour of 4 15 p m., on Friday, June 5, 1987, at the office of the South Carolina Attorney General, 1000 Assembly Street, Columbia, South Carolina, pursuant to Notice of Taking Deposition de bene esse

I do further certify that the said witness was first duly sworn and was cautioned to speak the whole truth, that he was examined as per the foregoing, that notes were taken by me of the questions propounded and the answers given, and that the foregoing thirty-four (34) typewritten pages represent a true, accurate, and complete transcription of said testimony to the best of my skill and ability

I do further certify that the reading and signing of the deposition by the deponent was waived by the deponent and counsel for the respective parties

I do further certify that I have sealed up and delivered the original of said deposition to Frank L. Valenta, Jr., Assistant Attorney General, 1000 Assembly Street, Columbia, South Carolina, who shall retain the said deposition in

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his possession and become custodian thereof until such time as it shall be needed at trial.

I do further certify that I am not of counsel or attorney for any of the parties to the said action nor in any way interested in the event of the said cause

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 8th day of June, 1987

Eric B. Gore
Eric B. Gore

Notary Public for South Carolina

My Commission expires 3/11/97

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Francis Owens Campbell,)
111197)

85-CP-40-5431

Applicant,)

-vs-

ORDER OF DISMISSAL

State of South Carolina,)
Respondent,)

BARBARA
C. C. * C. S.

87 OCT 13 AB 42

FILED

This matter comes before the Court by way of an Application for Post-Conviction Relief dated November 20, 1985. After being continued several times, at the request of the Applicant, hearings were held on February 25, 1987 and July 27, 1987. In addition, a deposition was conducted by telephone on June 5, 1987.

The Applicant is presently confined in the Central Correctional Institution of the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the March 1982 term of the Court of General Sessions for Richland County for murder. He was represented by Venable Vermont, Jr., then Assistant Richland County Public Defender (now with the Public Defender's Office in Anchorage, Alaska). A jury trial was held on April 26, 1982 through May 1, 1982, at the conclusion of which the Applicant was found guilty of murder. He was sentenced by the Honorable William Howard Ballenger to confinement for life.

OTC
P.1

The Applicant appealed and his appeal was perfected by the Office of Appellate Defense Following the submittal of briefs by both sides and following oral arguments, the South Carolina Supreme Court affirmed the conviction pursuant to Rule 23 of its Rules of Practice State v Campbell, Memo Op No 83-MO-283 (filed November 8, 1983).

The Applicant then filed an Application for Post-Conviction Relief, dated November 20, 1985 In his Application, the Applicant alleged that he was being held in custody unlawfully for the following reasons

1. He was denied effective assistance of trial counsel, in that counsel
 - a. Failed to properly investigate the case to uncover certain evidence
 - b Failed to present certain available witnesses, namely, Thomas Campbell
 - c. Failed to properly investigate and present evidence regarding the financial interests (i e , motive) of others to commit the crime.
 - d Failed to properly investigate and present evidence regarding the background of certain of the State's witnesses, to discredit them
2. New and after-discovered evidence exists which is material and likely to change the outcome of another trial if granted
 - a Such new evidence exists in the form of hypnosis, polygraph and chemical tests of the Applicant to establish that he was not the assailant

- b Statements of witnesses to the effect that the deceased's wife, Ann Wilson, was involved in the theft of guns from the residence of the Applicant's sister prior to the murder of the deceased
- c Another person has confessed to the murder of the deceased.

The Respondent made its Return on February 24, 1986, requesting that a hearing be held. After several continuances, an evidentiary hearing was held on February 25, 1987, at which time the Applicant was present and represented by his retained attorney, Michael J. Thompson, Esquire, of the Richland County Bar. The Respondent was represented by Frank L. Valenta, Jr., Assistant Attorney General. That hearing was recessed (1) to allow the Applicant to obtain the presence of a desired witness and (2) to allow the Respondent to take a telephone deposition of the Applicant's trial attorney. The Applicant's missing witness was never brought before this Court. The telephone deposition was taken on June 5, 1987. Once the deposition had been transcribed and submitted to this Court, counsel for both sides appeared before this Court on July 27, 1987, for the purposes of making legal argument.

During the evidentiary hearing, the Applicant called Tally Wilson, Ann Wilson, Delores Mock, Ronnie Wilson, Walter Wilson and Connie Lewis as his witnesses. The Respondent called Scott Elliott to testify in behalf of the State. As noted above, the telephone deposition of

BOOK **KX** PAGE 344

Venable Vermont, Jr , was taken on June 5, 1987, in the presence of the Applicant and of counsel for both sides As noted above, counsel again appeared before this Court on July 27, 1987, for summarization and final argument. During all proceedings, this Court had the entire file before it, which included the records of the Richland Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, the appellate briefs, the Supreme Court opinion and the transcript of Mr Vermont's telephone deposition, as mentioned above

This Court has had the opportunity to review the record in its entirety and has heard the testimony presented at the post-conviction relief hearing This Court has further had the opportunity to observe the witnesses presented at the hearing and to pass upon their credibility and demeanor and has weighed the testimony accordingly Set forth below are the relevant findings of fact and conclusions of law as required pursuant to §17-27-80 of the Code of Laws of South Carolina (1976)

OTJh
P4

As to the overall allegation of ineffective assistance of counsel made in the Application and at the hearing, this Court finds that the matters raised either have been refuted by the record, do not indicate any deficiency on the part of trial counsel, or are not sufficient to show prejudice to the Applicant's case Strickland v.

Washington, 466 U S 668 (1984) Courts must be wary of second-guessing the trial tactics of counsel, Goodson v United States, 564 F 2d 1071 (4th Cir 1977), and where counsel can articulate a valid reason for pursuing a course of action, his or her conduct will not be considered ineffective assistance of counsel Further, this Court specifically finds that the representation provided to the Applicant by Mr Vermont, both prior to and during his trial, was well within the standards of competence demanded of attorneys in criminal matters and was within the wide range of reasonable professional assistance. State v Pendergrass, 270 S C 1, 239 S E 2d 750 (1977), Marzullo v Maryland, 561 F 2d 540 (4th Cir 1977), Strickland v Washington, supra, Butler v State, 286 S C 441, 334 S E 2d 813 (1985)

OTY
P.5

The principal reason that this Court must rule that the Applicant's trial attorney was effective is that the Applicant has not shown otherwise The burden of proof in a post-conviction relief case rests on the applicant, and this Applicant has not in any way carried his burden of proof The Applicant did not show this Court any reason why further action on the part of his attorney would have benefitted him or why his attorney should have acted in any other way than he did.

In his first, third and fourth specific allegations of ineffective assistance of counsel, the Applicant

alleged that Mr Vermont did not properly investigate the case This Court finds that the Applicant has not shown that Mr Vermont should have done anything further in the way of investigation. Further, though the Applicant has thrown out for the Court's consideration all sorts of allegations, rumors and innuendos about the credibility and moral character of the victim's friends and relatives, the Applicant did not establish either (1) that Mr Vermont could or should have found out such information or (2) that such information presented at trial would have probably resulted in a different jury verdict At most, the evidence presented by the Applicant supports the Sheriff Department's theory that the Applicant did not commit this crime alone (see the post-conviction relief hearing testimony of Lt Connie Lewis)

OTG
PK
In his second specific allegation of ineffective assistance of counsel, the Applicant alleged that Mr Vermont should have called Thomas Campbell, Johnny Bradwell and "Dinky" Taylor as defense witnesses Since the Applicant did not even see fit to call these persons as his own witnesses at the post-conviction relief hearing, he certainly did not prove to this Court that their testimonies would have been relevant or that their testimonies would have been beneficial to the defense In fact, the Applicant's decision not to call these persons at the post-conviction relief hearing certainly implies that he was not willing to vouch for their credibility

In his second main allegation, the Applicant alleged that "new and after-discovered evidence" would show that the Applicant was innocent. First, this Court specifically finds that no evidence presented to it met the elements of after-discovered evidence, as set out by the South Carolina Supreme Court in cases such as Hayden v State, 278 S C 61, 299 S E 2d 854 (1983) and State v Allen, 276 S C 417, 279 S E 2d 365 (1981). The Applicant has argued to this Court that Thomas Campbell, Johnny Bradwell and "Dinky" Taylor should have been called at trial, to see what their testimony would have been. He further argued that, even if this Court finds that no after-discovered evidence has been presented, that this Court should grant a new trial "in the interest of justice" [§17-27-20(4) of the Code of Laws of South Carolina (1976)], so that the testimony of all available witnesses can be presented to a jury, to see if they come up with a different decision. This Court refuses to grant that request. The judicial process does not consist of the State or a defendant winning the best two out of three trials. There has been no showing at all that justice was not done at the first trial.

This Court has attempted to address all allegations raised in the post-conviction relief proceeding. In case any allegation was not specifically addressed above, this Court rules here that no constitutional violation was

shown, the trial was not shown to have been unfair and no reason has been shown to grant a new trial

In conclusion, after a full review of the record in this matter and having heard all testimony, this Court cannot find any merit to the allegations that have been made. Therefore, this Court finds that the Application for Post-Conviction Relief must be dismissed

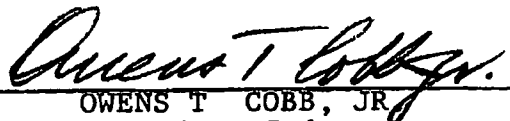
IT IS THEREFORE ORDERED

- 1 That the Application for Post-Conviction Relief be denied and dismissed with prejudice, and
2. That the Applicant be remanded to the custody of the Respondent

AND IT IS SO ORDERED this 10th day of October,

1987

P8


OWENS T COBB, JR.
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina



THE CIRCUIT COURT OF SOUTH CAROLINA

OWENS T COBB JR
JUDGE

RICHLAND COUNTY JUDICIAL CENTER
1701 MAIN STREET
COLUMBIA SOUTH CAROLINA 29201
REPLY TO P O BOX 192
COLUMBIA SOUTH CAROLINA 29202
(803) 748 4742

October 12, 1987

The Honorable Ralph King Anderson, Jr
Chief Administrative Judge
Fifth Judicial Circuit
Richland County Judicial Center
Columbia, South Carolina 29201

Attention Mrs Audrey King

In Re Francis Owens Campbell, Applicant,
-vs-
State of South Carolina, Respondent
Case No 85-CP-40-5431

Dear Judge Anderson

Pursuant to procedures in Richland County, I am enclosing an original Order signed by me October 10, 1987, in the above entitled case for processing and ultimately filing with the Clerk of Court for Richland County

I am sending counsel copies of this Order, and this letter, by regular mail this date

Yours very truly,

Owens T Cobb, Jr
Owens T Cobb, Jr /m.e

OTCjr me

Enclosure

CC Michael J Thompson, Esquire
Frank L Valenta, Jr , Assistant Attorney General

BARBARA A. J. J.
CCCCP * 6 S

87 OCT 13 AM 10

FILED

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Francis Owens Campbell, # 111197)

Full name and prison number (if any) of Applicant)

v)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

J006 e P 400 - 0 402

APPLICATION FOR

POST-CONVICTION RELIEF

2006 JAN 18 AM 2 21
 CLERK OF COURT
 RICHLAND COUNTY
 SOUTH CAROLINA

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

- 1 Place of detention Broad River Correctional Institution, 4460 Broad River Road, Columbia, South Carolina 29210
- 2 Name and location of Court which imposed sentence Richland County General Sessions, 1701 Main Street, Columbia, South Carolina 29201
- 3 Name(s) of co-defendant(s) (if any) None
- 4 The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed
 - (a) Indictment No 82-GS 40-357 - Murder
 - (b) _____
 - (c) _____
- 5 The date upon which sentence was imposed and the terms of the sentence

Revised 3/2003

- (a) April 21, 1982 - Life
- (b) _____
- (c) _____
- 6 Check whether a finding of guilty was made
- (a) after a plea of guilty _____
- (b) after a plea of not guilty X
- (c) after a plea of nolo contendere _____
- 7 Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
- 8 If you answered "yes" to (7), list
- (a) the name of each Court to which you appealed
- 1 South Carolina Court of Appeals
- 11 _____
- 111 _____
- (b) the result in each such Court to which you appealed
- 1 Appeal denied
- 11 _____
- 111 _____
- (c) the date of each such result
- 1 1984 or 1985
- 11 _____
- 111 _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results
- 1 _____
- 11 _____
- 111 _____
- 9 If you answered "no" to (7), state your reasons for not so appealing
- (a) _____
- (b) _____
- (c) _____

10 State concisely the grounds on which you base your allegation that you are being held in custody unlawfully

(a) Newly discovered evidence

(b) _____

(c) _____

11 State concisely and in the same order the facts which support each of the grounds set out in (10)

(a) Eyewitness previously unknown has come forward with information regarding the crime

(b) _____

(c) _____

12 Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law? Yes

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? Yes

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No

(d) any other petitions, motions or applications in this or any other Court? No

13 If you answered "yes" to any part of (12), list with respect to each petition, motion or application

(a) the specific nature thereof

i Application for Post Conviction Relief

ii _____

iii _____

iv _____

(b) the name and location of the Court in which each was filed

i Richland County Common Pleas, 1701 Main Street, Columbia, South Carolina,

29201

ii _____

iii _____

IV _____

(c) the disposition thereof

1 Unknown, the Richland County Clerk's Office could not find a record of this PCR

Application

II _____

III _____

IV _____

(d) the date of each such disposition

I _____

II _____

III _____

IV _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition

I _____

II _____

III _____

IV _____

14 Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15 If you answered "yes" to (14) identify

(a) which grounds have been presented

I _____

II _____

III _____

(b) the proceedings in which each ground was raised

I _____

II _____

III _____

16 If any ground set forth in (10) has not previously been presented to any Court, State or

Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented

(a) Evidence has been newly discovered

(b) _____

(c) _____

17 Were you represented by an attorney at any time during the course of

(a) your arraignment and plea? Yes

(b) your trial, if any? Yes

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? Yes

18 If you answered "yes" to one or more parts of (17), list

(a) the name and address of each attorney who represented you

i Venable Vermont, Esq , address unknown

ii Tara Shurling, Esq , 3614 Landmark Dr , Ste D, Columbia, SC 29204

iii Michael Thompson, Esq , address unknown

(b) the proceedings at which each such attorney represented you

i Trial

ii Appeal

iii Post Conviction Relief

19 State clearly the relief you seek in filing this application

New trial

20 Are you now under sentence from any other court that you have not challenged?

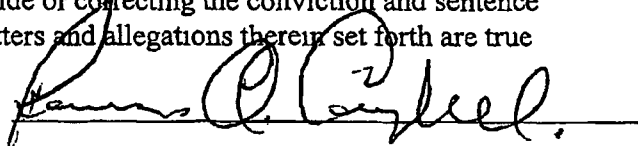
No

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, Francis Owens Campbell, #111197, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application, that I know the contents thereof, that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application, and that the matters and allegations therein set forth are true



SWORN to and subscribed before me this 19th
day of December, 2005

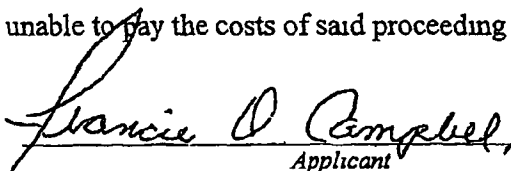
Elizabeth War (L S)
Notary Public

My Commission Expires July 29 2007

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Francis Owens Campbell, #111197, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true

- (1) I am the applicant in this action and I believe I am entitled to redress
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof


Applicant

SWORN or affirmed to and subscribed before me this

19 day of December, 2005


Notary Public

My Commission Expires

July 29, 2007

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Richland	)	06-CP-40-0402
	)	
FRANCIS OWEN CAMPBELL,	)	
	)	
APPLICANT,	)	
	)	
vs	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

December 17th, 2008
Columbia, South Carolina

BEFORE

THE HONORABLE J MICHELLE CHILDS, JUDGE

APPEARANCES

CHARLES T BROOKS, III, ESQ
Attorney for the APPLICANT

BRIAN PETRANO, ASSISTANT ATTORNEY GENERAL
Attorney for the RESPONDENT

Also present

Tricia Blanchette

KAREN TRACY
Official Court Reporter

C O N T E N T S
INDEX OF WITNESSES

TALLY WILSON

Direct By Ms Blanchette 29

Cross By Mr Petrano 32

> > > < < <

(No exhibits were introduced)

CERTIFICATE OF REPORTER 34

1 MR PETRANO May it please the Court This is
2 2006-CP-40-00402, Mr Francis Owen Campbell We're here
3 with a -- we re at a motion at this juncture

4 If I may add, and if I get something a little bit
5 wrong, I do apologize as far as the procedural history
6 here This is a successive P C R application However,
7 the allegations are it's newly discovered evidence

8 An attorney was appointed That's -- I believe and I
9 may be missing one, but I think Mr Brooks is the fourth
10 appointed P C R attorney for this application I believe
11 there's a motion to be relieved, and I would like an
12 opportunity to respond once that's made Thank you, Your
13 Honor

14 THE COURT Okay

15 MR PETRANO I'll turn it over to Mr Charles T
16 Brooks, III, Applicant's current counsel of record

17 THE COURT Okay

18 MR BROOKS May it please the Court, Judge My
19 client has filed a motion to have me relieved We got
20 some very extensive and complicated issues, and I -- I
21 agree with him

22 He's in the process of -- been talking to
23 Ms Blanchette, who I understand is willing to accept an
24 appointment and be Mr Campbell's P C R counsel, which I
25 certainly do not have any problem with, so

1 THE COURT Okay

2 MR BROOKS We would just ask the Court to go ahead
3 and make it so

4 THE COURT Okay Well, the Supreme Court is very
5 cautious about us allowing people to just get out So I'm
6 going to have to have a little further information

7 Mr Campbell, raise your right hand please

8 FRANCIS CAMPBELL, after being duly
9 sworn, testified as follows

10 THE COURT What is the reason that you need to
11 relieve Mr Brooks?

12 MR CAMPBELL Well, I seen Mr Brooks one time and
13 -- around March of 2007, and I've called his office -- I
14 mean I couldn't call his office because I sent a phone
15 thing, but they never filled it out so I could talk to
16 them

17 My family has contacted him, his office, probably 15,
18 20 times I've written him letters and everything else
19 Since the first newly discovered evidence, there has been
20 more discovered evidence of someone going to the family
21 members, which is sitting back there in front of you
22 admitting to witnessing this murder and watching a man
23 pull the trigger

24 This is the second person that had made the statement
25 to this effect They have been to Senator Jake Knotts,

1 which was the investigator on this case 30 years ago with
2 the Solicitor's Office, Mr Jim Anders

3 THE COURT Yes

4 MR CAMPBELL The Solicitor met with the family
5 members at S L E D They gave a statement to S L E D , as
6 well as giving a statement to him

7 They didn't want a written statement They said that
8 they would look into this, just look into it The family
9 members knows who killed their loved one

10 I have done everything that a human being can do to
11 prove my innocence Sodium Pentothal, the truth serum
12 paying \$5,000 for a lie detector test by forensics
13 experts paying 5,000 -- almost \$10,000 for sodium
14 Pentothal by Dr Harold Morgan taken sodium Pentothal,
15 the truth serum, at the Veteran's Hospital

16 I have nothing to hide I have challenged the system
17 in every way that a man can challenge the system to prove
18 his innocence

19 I was convicted totally on circumstantial evidence by
20 the Attorney General's Office I was tried by the
21 Attorney General's Office because the Solicitor's Office
22 could not try this case because they said they was
23 affiliated with the family members

24 The brothers of the loved one that they lost said
25 that Jim Anders was no friend of theirs He was friends

6

1 of their brother's wife, which has never taken the witness
2 stand or anything else This is a multimillion dollar
3 murder that took place 30 years ago

4 THE COURT Yes

5 MR CAMPBELL I have asked Mr Brooks to take
6 statements from these people I have called his office
7 My family members has carried him stuff to his office

8 He has yet to even talk to any of these family
9 members, call any of these family members His secretary
10 told my family that Mr Brooks did not take statements
11 from people that that was not his job

12 All I'm asking is for the truth and justice to be
13 done Twenty-four -- 22 years ago I came into this
14 courtroom, not in this same one, in this courthouse for a
15 P C R hearing

16 There were ten people subpoenaed Three of them took
17 the witness stand That man right there took the witness
18 stand for one of them

19 When the judge called for another man, which was the
20 newly discovered evidence of Johnny Bradwell, the
21 constable came in and said Mr Bradwell ran from him

22 The judge then ordered a continuance He ordered for
23 Mr Bradwell to be locked up and put in jail until the
24 next term of court I had a paid lawyer, which was
25 Michael Thompson Several weeks later, Mr Thompson

1 notifies me that my case has been dismissed for lack of
2 merit

3 Johnny Bradwell was never picked up and put in jail
4 I ve never been back to a courtroom in front of a judge to
5 continue my P C R that he asked for a continuance on him
6 This case has been swept under the rug ever since it
7 happened No one wants to see justice in this case, Your
8 Honor

9 THE COURT Had you actually gone through the appeal
10 process, direct appeal process yet?

11 MR CAMPBELL Ma'am?

12 THE COURT Have you gone through a direct appeal
13 process?

14 MR CAMPBELL Yes, ma'am

15 THE COURT Okay

16 MR CAMPBELL Ms Tara Shurling is handling my
17 direct appeal

18 THE COURT Okay

19 MR CAMPBELL And right after that I hired Tommy
20 Thomas and Michael Thompson for my P C R

21 THE COURT Okay

22 MR CAMPBELL I went to the courtroom for my P C R
23 The judge asked for a continuance after we was into our
24 P C R because one of the witnesses run (sic)

25 THE COURT Okay

1 MR CAMPBELL I've never been back to my P C R
2 hearing yet

3 THE COURT So essentially, when --

4 MR CAMPBELL It was dismissed for lack of merit for
5 some reason

6 THE COURT But -- so essentially, with your current
7 and prior lawyers, you re just saying that people have not
8 fully investigated certain issues?

9 MR CAMPBELL They will not even talk to the family
10 members They won't even take statements from these
11 people who has came forward saying, Look, I was there the
12 night this man got killed

13 THE COURT And those people could have been
14 potential witnesses at your trial --

15 MR CAMPBELL Yes ma'am

16 THE COURT -- is what you re saying?

17 MR CAMPBELL Yes, ma'am

18 THE COURT Okay And that you're willing for the --
19 they were not called at your trial, obviously?

20 MR CAMPBELL No, ma'am

21 THE COURT But you re saying that they should be
22 called --

23 MR CAMPBELL Yes, ma'am

24 THE COURT -- in reference to your P C R ? Okay

25 MR CAMPBELL Yes, ma'am

1 THE COURT Ms Blanchette?

2 MS BLANCHETTE Yes

3 THE COURT Can you tell me what your potential
4 involvement is?

5 MS BLANCHETTE Your Honor, I actually met
6 Mr Campbell when I worked at Tommy Thomas' office He
7 handled his parole several times

8 Actually, Brian got in contact with me and asked me
9 if I would be willing to come today and make you aware
10 that I had been involved with his case somewhat

11 I talked to Investigator Pete Skidmore He s
12 actually been working on the case He's the reason why
13 the victim's family members are here today

14 If I am appointed, just as Mr Brooks informed him, I
15 can't take a statement because it could be biased if he
16 came to my office, sat down and gave me a statement

17 I would like to ask the Court if the victim's family
18 member could give a statement on the record today so that
19 we would have that issue taken care of

20 THE COURT Okay Mr Petrano?

21 MR PETRANO Your Honor, if I may, I d like to reply
22 to the motion to relieve counsel

23 THE COURT Sure

24 MR PETRANO I support that However, the State
25 does oppose any new counsel being appointed If may

10

1 explain, that's kind of an awkward statement

2 This was originally filed as newly discovered
3 evidence We take those very serious, and we try to order
4 the old P C R , if it's a successive one, and we set it
5 for a hearing

6 There has been an order of discovery granted
7 Mr Brooks took care of that For this P C R , some
8 issues are trying to be flushed out, obviously, according
9 to the motion to be relieved, not to the satisfaction of
10 the Applicant

11 With that being said, after 15 years, generally
12 speaking, the old archived files are destroyed So I am
13 unable to get the old P C R hearing matters

14 However, as we just heard, one of the main
15 allegations of the newly discovered evidence, and I'm
16 making an air quote sign, for the record, is Johnny
17 Bradwell -- that was all addressed at the prior P C R

18 I was able to find -- that did go up to -- on a
19 P C R appeal, and the decision to dismiss the P C R was
20 ultimately affirmed

21 It s the State's position that none of this is newly
22 discovered I realize that I'm making this claim for the
23 first time now I wanted to do that on the record in
24 front of everybody simply because I have only just
25 received portions of the P C R appeal

1 I only have portions of the record Most of it has
2 been destroyed but what I did get was a deposition of the
3 original trial counsel, Mr Vermont

4 He was the Alaskan -- and I'm sorry for all the
5 information here, Your Honor

6 THE COURT Sure

7 MR PETRANO I'm just trying to explain everything
8 He was a P D in Alaska at the time of the first P C R ,
9 and so he was unavailable to testify

10 From what I understand, they took his testimony via
11 deposition I have that That's all I have from the
12 prior P C R as far as the record goes I have all the
13 orders and everything obviously, but no transcript, even
14 though there was a P C R appeal That has since been
15 destroyed

16 I think that all of this this quote newly
17 discovered evidence has been totally flushed out, and I
18 don't think qualifies as newly discovered evidence in the
19 sense that it could not have been discovered either at the
20 time of trial or the last P C R

21 THE COURT What do you mean by not --

22 MR PETRANO Also, there's been some kind of --

23 THE COURT -- could not have been discovered at the
24 time of trial? They're talking about the victim's
25 family's statements?

12

1 MR PETRANO I believe so I haven't seen anything
2 that's new in the sense that could not have been
3 discovered --

4 THE COURT I see

5 MR PETRANO -- with due diligence either at the
6 time of the trial or at the prior P C R because for newly
7 discovered evidence for a successive P C R it would have
8 to have been unavailable not only at the trial but as far
9 as --

10 THE COURT But is it situation of whether the
11 victims would speak with the defense counsel? Because,
12 you know, a lot of times in the heat of passion of, you
13 know, what you're going on, and you have got a murder case
14 here they just tend to not align themselves at all with
15 the defendant

16 MR PETRANO Absolutely, Your Honor, and I agree
17 with that I'm sorry if I didn't articulate myself
18 properly

19 If given the opportunity, I would like to propose
20 a -- I can draft a proposed motion to dismiss this

21 I believe there's some case law, and I don't have it
22 at my fingertips, that says a potential witness's refusal
23 to cooperate at the time is not newly discovered evidence
24 simply because they changed their mind later I don't
25 have that case off the top of my head, but there is one

1 out there For there --

2 THE COURT Is there any evidence in the record that
3 the defense counsel at that time subpoenaed these people
4 or anything?

5 MR PETRANO Yes This -- I believe everything
6 revolves around -- it's my opinion, and I'm sure that the
7 other side is going to try to explain it better and say
8 how I get everything wrong, but it all revolves around
9 some witnesses to the murder

10 Nothing, no statements from the actual supposed other
11 triggerman himself -- or trigger person, excuse me, but
12 ultimately, the involvement of Mr Bradwell, but I -- it's
13 paramount, and I think that's a great issue However,
14 that was all addressed at the prior P C R --

15 FEMALE SPECTATOR No, it's not

16 MR PETRANO -- and that does not qualify as newly
17 discovered evidence, and that's the State's position I
18 -- if I didn't articulate myself properly, I do apologize
19 I just wanted to explain we did set this for a hearing
20 We did appoint counsel

21 It's only recently now that I've gotten everything,
22 about the last two or three weeks, that I was able to get
23 all of the old archived files and try to piece everything
24 together that it's come to our attention that all of this,
25 in the State's position, has been flushed out for -- what

14

1 has not does not qualify as newly discovered evidence
2 Therefore this P C R should be dismissed as successive

3 Thank you, Your Honor

4 MR BROOKS While me and my client are at odds, I do
5 have a little bit better take on this on Mr Campbell's
6 behalf

7 We came actually before you because I think it was
8 you that signed the actual order It was an open
9 discovery order, and Rob Brown was still with the Attorney
10 General's Office at the time because he had told the Court
11 that it would be very, very difficult because of the age
12 of the case, and that's why you signed the open discovery
13 order

14 Subsequent to that Mr Brown left the A G 's Office,
15 and this is a file that Mr Petrano inherited, and I did
16 write to try to get copies of those things Evidently,
17 there's -- nothing has been found

18 Now, we ve never had another hearing to address that
19 issue whether or not these files are in existence or
20 anything like that So in Mr Campbell's defense, he
21 hasn t really had an opportunity to see what s out there
22 pursuant to your order

23 THE COURT Okay

24 MR BROOKS So therefore, any type of motion to
25 dismiss would be premature, and it would be -- I take it

1 out of term My client is at odds with me, but I would
2 assume that his position is -- like I said, his motion to
3 dismiss is premature and that he be allowed to obtain this
4 information

5 He got an investigator He's got Ms Blanchette
6 ready to take on the case I would say to the Court to go
7 ahead and relieve me, appoint her, and let her have the
8 opportunity with Mr Skidmore, the investigator, to
9 continue to probe this matter

10 THE COURT Okay

11 MR PETRANO And just very briefly, if I may reply
12 What he's saying is correct, except for -- as I said, I
13 think that the discovery motion was what was premature in
14 the sense that this file had been destroyed

15 We got a P C R application that said newly
16 discovered evidence We take those very serious We went
17 ahead and set a hearing, and that's why the discovery
18 motion went ahead and went forward without objection I
19 think we might have even drafted it as far as the --

20 MR BROOKS That's correct

21 MR PETRANO Right We take those very serious
22 However, we since have gotten the file If we had that at
23 the time, we would have moved to have dismissed this as
24 successive right then and there as soon as we got the
25 application, you know, within a few weeks

16

1 We did not have that file Agree, they don't have a
2 copy of it Now, the Applicant was there, but that being
3 said, this often happens with life sentences

4 I don't know if they know it gets destroyed after 15
5 years, but we'll get a new P C R that says newly
6 discovered, and when we -- everything comes back in, it
7 ends up being that newly discovered evidence was
8 everything that was flushed out at the prior P C R
9 Now --

10 MS BLANCHETTE Your Honor, if I may, I actually
11 filed the P C R application, so it wasn't -- I didn't
12 calculate that it was 15 years

13 He was a parole client of my boss and we noticed
14 that there was all this newly discovered evidence So we
15 filed it based upon that, not such that it's 15 year--- I
16 actually didn't know that until Brian told me yesterday

17 MR PETRANO And then if I may just continue, I'm
18 sorry

19 MS BLANCHETTE Go ahead

20 MR PETRANO And as far as Ms Tara Shurling, I
21 think that I received a letter, I think everyone else did,
22 and I only got it a couple of days ago, that she indicated
23 that she had been contacted by the family and that she
24 does not take P C R appointments but that she would be
25 willing to accept an appointment by you for this case

1 I only wanted to indicate on the record that the
2 State opposes Ms Shurling being appointed for -- as
3 P C R counsel 'A , we oppose anybody being appointed
4 We think this is a motion to dismiss and there should not
5 be an attorney because there is no genuine issue of
6 material fact

7 That aside, Ms Shurling was the -- was the
8 Applicant's attorney for his direct appeal back in the
9 '80s when she worked at the Office of Appellate Defense, I
10 think 1986 or seven

11 I think that there's a conflict there that would
12 force him to waive any issues of ineffective assistance of
13 appellate counsel, not that there are any I m not trying
14 to make this a clinch for them but I think that that's an
15 issue, and we would oppose that on that basis

16 As far as Ms Shurling handling the -- any parole
17 issues and/or prior P C R or anything like that or work
18 in that office, I don't think that's a conflict because
19 there are -- there is no ineffective assistance of P C R
20 counsel so that can't be a conflict And thank you for
21 allowing me to get everything out

22 THE COURT Sure

23 MR PETRANO I appreciate it, Your Honor

24 THE COURT Okay Ms Blanchette?

25 MS BLANCHETTE Your Honor, this is Pete Skidmore

18

1 here He's been investigating the case I didn't know if
2 you'd like to hear from him because he's actually the one
3 who has been working the case, more than Mr Brooks or
4 myself

5 THE COURT Okay

6 MS BLANCHETTE So I didn't know if he could kind of
7 fill in some of the gaps since I don't have any
8 paperwork --

9 THE COURT Sure

10 MS BLANCHETTE -- and they've had an issue as far
11 as communicating I thought maybe that would be easiest

12 THE COURT Sure, that would be fine

13 MS BLANCHETTE Okay

14 INVESTIGATOR Your Honor, if you would, understand
15 that I'm not an attorney So you may have to ask me
16 specific questions I can tell you what my investigation
17 has turned up

18 THE COURT Sure

19 INVESTIGATOR John Blume --

20 MR PETRANO Excuse me, can he be sworn?

21 THE COURT Yes Just -- you can stand from there
22 That s fine Okay

23 THE BAILIFF Place your left hand on the bible, sir

24 Raise your right hand Face the judge

25 PETE SKIDMORE, after being duly sworn,

1 testified as follows

2 THE COURT Okay

3 THE BAILIFF Take the witness stand Speak into the
4 microphone for me, please watch your step

5 THE WITNESS Your Honor, I was retained by John
6 Blume by the family to work on this case for an upcoming
7 parole hearing

8 During my investigation I ran across two subjects,
9 and I'm sorry I don't have my notes I wasn't prepared to
10 testify, but one subject that led me to a Mr Bradwell

11 Mr Bradwell and I had a conversation after numerous
12 attempts to get in touch with him and he indicated to me
13 that he was there when Mr Wilson's brother was shot and
14 killed and that Owen Campbell was not there

15 He was not as direct as a Richard Blizzard I was
16 not there when Mr Blizzard told the family just months
17 ago -- this just came up probably about three to six
18 months ago where the Wilson family was having a family
19 reunion and at that family reunion, Mr Blizzard
20 indicated to Tally Wilson, who is here today that he was
21 there and was sitting on the bank when a Dinky Taylor
22 who --

23 MR PETRANO I'm sorry, Your Honor

24 INVESTIGATOR -- Mr Bradwell also --

25 MR PETRANO I have to object This is an obvious

20

1 hearsay Thank you, Your Honor, I'm sorry

2 THE COURT Okay

3 MR BROOKS Judge, this is an exception to the
4 hearsay This is not -- it's not considered hearsay
5 because it's not being offered for the proof or -- to
6 prove the truth of the matter asserted

7 THE COURT Okay

8 MR BROOKS He's just offering it as far as what his
9 investigation has uncovered

10 THE COURT Right And I -- and we're here for the
11 limited purpose of proceeding about the motion to be
12 relieved and whether or not I'm going to allow him to have
13 other counsel, but this isn't proving the case itself

14 MR PETRANO Thank you Your Honor I m sorry

15 THE COURT That s okay

16 THE WITNESS I m sorry, I forgot where I was at

17 MR BROOKS Family reunion

18 THE WITNESS Family reunion and Mr Blizzard
19 indicated to Tally Wilson, who is here today, that his
20 brother was shot and killed by a Dinky Taylor

21 This is the individual that Mr Bradwell indicated to
22 me when I interviewed him that also committed this crime
23 I went to the parole hearing, Your Honor, and he was
24 denied parole

25 At that point in time, John Blume did not go to the

1 parole hearing, but Susan -- and I'm sorry what's Susan's
2 last name?

3 MALE SPECTATOR Hackett

4 FEMALE SPECTATOR Hackett

5 THE WITNESS Hackett was his attorney at the parole
6 hearing Susan Hackett had also been appointed at that
7 time to represent Mr Campbell in the P C R hearing

8 Their intent was to hire me to continue this
9 investigation into newly discovered evidence and try to
10 nail down some of these statements

11 Since then, I believe either the Attorney General's
12 Office or Mr Brooks indicated that there had been four
13 different attorneys since then I have not been retained
14 again by the family, nor by appointment, to continue my
15 investigation

16 South Carolina Law Enforcement Division says that I
17 either have to have a contract or an order through the
18 court to continue the investigation, so I have not
19 interviewed Mr Blizzard, which I would love to do and
20 continue my investigation So the newly discovered
21 evidence with Blizzard probably could not have been found
22 out up until six months ago

23 There's a case that I worked on, Sterling v Spann,
24 who -- he was a gentleman that had been on death row for
25 17 years and the South Carolina Supreme Court unanimously

1 overturned his case based on newly discovered evidence,
2 and I was the investigator on that case

3 This case appears to me to have more newly discovered
4 evidence than Mr Spann's case, and I think would be wise
5 to continue the investigation at this point, and I would
6 love the opportunity to do that

7 THE COURT Okay All right I did receive that
8 letter from Tara Shurling So I need to ask Mr Campbell
9 about that

10 Did you request that Ms Shurling represent you at
11 all?

12 MR CAMPBELL Well, I -- I talked to her When I
13 got out of prison, I was still trying to pursue my --

14 THE COURT No I'm talking about for purposes of
15 the P C R , if I was to grant a new attorney in the case

16 MR CAMPBELL Ma'am?

17 THE COURT I'm trying to figure out if -- for
18 purposes of this P C R , if I was to grant a new attorney
19 in the case, are you interested in Ms Shurling
20 representing you or Ms Blanchette?

21 MR CAMPBELL Ms Blanchette, if you would grant
22 that

23 THE COURT Okay All right I've heard enough from
24 everybody and do believe that at this juncture, it does
25 not promise you what the outcome of any of this would be,

1 but at this juncture, I've heard sufficient information to
2 grant your motion to relieve Mr

3 MR BROOKS Brooks

4 THE COURT Brooks, thank you I'm sorry Of
5 course, I know you very well, but it's been a long day --

6 MR BROOKS I hear you

7 THE COURT -- your counsel and then to appoint
8 Ms Blanchette as your counsel over the State's noted
9 objection, but based on the Court's prior order and the
10 information that I've received here

11 It's only at that time that when this case actually
12 comes up for the hearing will a judge make a ruling on
13 whether or not such information is actually newly
14 discovered, and I m not making that ruling right now
15 because I think you all have to factor that out

16 You have presented me enough information to indicate
17 that you may have some newly discovered information, but
18 that other judge is going to make a final ruling of the
19 merits whoever has the case for the purposes of the
20 P C R

21 Do you all understand that? Okay

22 MS BLANCHETTE Your Honor, while we're here today
23 with Mr Skidmore here, I didn't know if you could also
24 appoint him as an investigator in this case --

25 THE COURT Absolutely

24

1 MS BLANCHETTE -- in order for indigent funds to be
2 provided for that I don't know how much he would need
3 That's --

4 THE COURT Okay, absolutely Then I would,
5 Ms Blanchette, have you do the order --

6 MS BLANCHETTE Okay

7 THE COURT -- to proceed with it That takes care
8 of all that paperwork

9 MS BLANCHETTE Okay

10 MR PETRANO If I may, I would just like to object
11 to any type of open ended -- I'm not trying to --

12 THE COURT Oh, absolutely

13 MR PETRANO -- disagree with your ruling, and I
14 have --

15 THE COURT I wouldn't have open ended on any case

16 MR PETRANO But if we could narrowly tailor
17 whatever investigation would be going on

18 THE COURT Right And it would be as to the newly
19 discovered evidence

20 MS BLANCHETTE Right

21 THE COURT I mean, he has already been through his
22 appeal process So we're not trying to reinvent the wheel
23 on the case or just go over the same things

24 I mean, some of it is going to overlap, but the focus
25 needs to be on what is the newly discovered information

1 and errors in prior counsel's representation with respect
2 to trial Basically, the P C R issues

3 MS BLANCHETTE And to complete his investigation
4 that he has already started

5 THE COURT Absolutely

6 MS BLANCHETTE Okay

7 MR PETRANO So once again, just so I can tell my
8 Victim Services Department, from what I understand some
9 of the potential witnesses that are going to be
10 interviewed now were victims, family of the victim? And
11 so we're now going to have an investigator going to go
12 talk to the victim's family is that correct?

13 MS BLANCHETTE Well, the --

14 MR PETRANO Am I getting that correctly?

15 MS BLANCHETTE The victim s family is his brother
16 He's actually here today Because of health
17 considerations and the fact that he's actually here today
18 I didn't know if we could take a statement from him on the
19 record Then the State would have that, and they would
20 know -- and there wouldn't be a victim service's issue

21 THE COURT Okay All right, sir If you'll step
22 down

23 MR PETRANO Thank you

24 THE COURT Okay

25 THE WITNESS Thank you, Your Honor

1 THE BAILIFF Watch your step, please

2 MR PETRANO Oh, and if I may, I scanned everything

3 I will send a C D ROM to you, Ms Blanchette

4 MS BLANCHETTE Okay

5 MR PETRANO That has everything I will also print

6 it for you, and if I may, I'll be drafting the motion to

7 dismiss and will get that to you in a few weeks

8 MS BLANCHETTE Your Honor, should the motion to

9 dismiss be submitted before the discovery is completed?

10 THE COURT Excuse me?

11 MS BLANCHETTE He just mentioned that he s going to

12 send in a motion to dismiss I assume that would be held

13 in abeyance until the discovery was resolved?

14 MR PETRANO Yes

15 THE COURT Yeah I mean, you noted all of your

16 objections on the record so I think --

17 MR PETRANO I'm not going to file with the court

18 MS BLANCHETTE Oh, okay

19 MR PETRANO I'm just going to make sure she --

20 MS BLANCHETTE Okay

21 MR PETRANO -- has everything that --

22 THE COURT Okay

23 MR PETRANO -- so she can address that I --

24 MS BLANCHETTE I just didn't know if we needed to

25 respond again

1 MR PETRANO We had been talking I wanted to make
2 sure we had -- and I apologize I wasn't trying to
3 suggest anything

4 THE COURT Oh no that's okay

5 MS BLANCHETTE Your Honor, I'd call Tally Wilson to
6 the stand

7 THE BAILIFF Place your left hand on the bible,
8 raise your right hand, face the judge for me

9 TALLY WILSON, after being duly sworn,
10 testified as follows

11 THE COURT Okay

12 THE BAILIFF Watch your step for me Speak into the
13 microphone

14 MS BLANCHETTE Your Honor just as a preliminary
15 matter, since I do not have any paperwork, I would ask
16 that I be allowed to recall this witness at a later date,
17 if needed

18 MR PETRANO No objections And we don't have to
19 proceed with this right now My only concern was I just
20 didn't want -- and I hesitate to use the word, I didn't
21 want victims to be harassed by an investigator for a 20
22 30-years-old murder

23 THE COURT Absolutely

24 MR PETRANO And that's all I was trying to explain,
25 and I'm not trying to put the victim on the stand --

1 THE COURT Ms Blanchette has taken that concern
2 into consideration due to this gentleman's health issues,
3 but as well to place on the record at this time what he
4 might be willing to state

5 MR PETRANO Thank you, Your Honor I'm sorry to
6 interrupt

7 THE COURT Not at all You're protecting the
8 record That's fine

9 DIRECT EXAMINATION

10 BY MS BLANCHETTE

11 Q Could you please state your name?

12 A Tally Wilson

13 Q Okay Can you spell your first name?

14 A T-A-L-L-Y

15 Q Okay And you were related to the victim in this
16 case is that correct?

17 A My brother

18 Q Okay And what is your brother -- what was your
19 brother's name?

20 A Olan D Wilson

21 Q Okay And when did he pass away?

22 A Well, they killed him July the 10th, my mother's
23 birthday

24 Q Okay And now, you were -- that was some time ago,
25 correct?

Wilson - direct (Blanchette)

29

1 A 78

2 Q Okay And you had attended -- have you attended
3 parole hearings?

4 A All of them

5 Q Okay And you testified at the last P C R is that
6 correct?

7 A Yes, ma'am

8 Q Okay But you recently become aware of new
9 information at a family reunion is that correct?

10 A Yes I did

11 Q Okay And who did you speak with at the family
12 reunion?

13 A Well, Blizzard He was there, Richard Blizzard the
14 whole family, a couple hundred people

15 Q Okay And who is Richard Blizzard?

16 A Well, he's a -- my oldest brother's wife's -- that's
17 his aunt

18 Q Okay

19 A He's through the family, marriage

20 Q Okay So that's why he was at the reunion?

21 A Yes Yeah, the whole family

22 Q Okay And during that reunion, did -- did you ask
23 him a certain question?

24 A Yes We were all out talking, and we loved to hunt
25 and fish I hunted and fished all the time, my brother

Wilson - direct (Blanchette)

30

- 1 did, all of us did We was talking about my brother,
2 Olan I said, Well, I wish he was here
3 Richard, he went to crying He called me Uncle
4 Tally ' He said, I've got something to tell you "
5 Q Now, you can't tell me what he said, but did you ask
6 him anything?
7 A Yeah I told him, I said, I want to know the truth
8 about who killed my brother
9 Q Okay Because you believed that he was present when
10 it had happened?
11 A He was present
12 Q Okay And based upon that conversation with him,
13 what was your understanding of what occurred when your
14 brother was murdered?
15 A Well, he was riding around with Dinky Taylor They
16 were smoking pot cranking, pulled up, parked on the bank,
17 on the ditch, sitting down My brother went to work at
18 night He said he pulled up, he got out his shotgun,
19 blowed his head off
20 Q And who is the 'he who got out the shotgun?
21 A Dinky Taylor
22 Q Okay And this information that you know was relayed
23 to you by whom? Who told you this?
24 A Richard Blizzard
25 Q Okay If I could beg the Court's indulgence for just

1 one moment

2 (Pause)

3 And do you recall approximately the date that you had
4 this conversation at the family reunion?

5 A It was in April, gone

6 Q So it was in April of '08, 2008?

7 A Uh-huh

8 Q Okay

9 A That's when we first started going to S L E D and
10 everybody else trying to get something done

11 Q Okay And now ever since then you have been trying
12 to give this statement and tell somebody this information?

13 A Everybody We ve done been to everybody trying to
14 get something done

15 MS BLANCHETTE Okay I have no further questions
16 at this time

17 THE COURT Mr Petrano?

18 CROSS-EXAMINATION

19 BY MR PETRANO

20 Q Just one in reply, Your Honor, or

21 And I may have the two people mixed up here Who was
22 drunk and high, smoking marijuana, Blizzard and Taylor?

23 A Uh-huh, five of them

24 Q And they were all running around drinking and smoking
25 marijuana?

Wilson - cross (Petrano)

32

1 A That afternoon
2 Q All right And these are the witnesses that are
3 missing?
4 A Huh?
5 Q These are the new witnesses? Not you?
6 A No
7 Q You weren't there You didn't see anything, right?
8 A Richard did Oh I didn't see them, but they lived
9 next door to me They was living next door to me
10 Q So you're saying the people that did see everything
11 were all driving around with the supposed murderer
12 drinking and getting high, right?
13 A Well, they didn't know he was the murderer They
14 wasn't but 16 year (sic) old
15 MR PETRANO Thank you Nothing further
16 MS BLANCHETTE I have nothing on redirect, Your
17 Honor That's all
18 THE COURT Okay Thank you, sir You can step
19 down
20 All right Ms Blanchette, if you'll submit the
21 order
22 MS BLANCHETTE Okay Thank you
23 MR PETRANO Thank you, Your Honor
24
25 (Whereupon, the proceedings were concluded)

1 CERTIFICATE OF REPORTER

2

3 STATE OF SOUTH CAROLINA)
4 COUNTY OF RICHLAND)

5

6

7 I, Karen Tracy, Official Court Reporter for the 5th
8 Judicial Circuit of the State of South Carolina, do hereby
9 certify that the foregoing is a true, accurate and
10 complete Transcript of Record of the proceedings had and
11 evidence introduced in the trial of the captioned case,
12 relative to appeal in the Court of Common Pleas for
13 Richland County, South Carolina on the 17th day of
14 December 2008

15

16

17 January 21st, 2009

18

19

20 Karen Tracy, Court Reporter

21 My Commission Expires 04/01/14

22

23

24

25

VHA Core Values Trust - Respect Commitment - Compassion - Excellence



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Veterans Integrated Service Network #7
3700 Crestwood Parkway, NW
Suite 500

In Reply Refer To: 544/116-D

March 25, 2010

Francis Campbell #111197
 BRCI Murray Dorm RM #272
 4460 Broad River Rd.
 Columbia, S C 29210



Dear Mr Campbell,

I spoke with medical records again and they informed me that they did not see your test in the system and that they require a court order to receive medical records from the archives. I called someone I know in medical records and they will try to see if they are able to find the paperwork for your test and if they can obtain them. I have enclosed another release because they will not be able to start the process without another one. I can only call and check I do not have access to medical records except the ones in the current system and I also do not have the authority to release or print any records. I would also suggest your lawyer contacting the VA and trying to obtain the records through legal matters.

Sincerely,

Harrell Jamison

Harrell Jamison LMSW
 VISN 7 Re-entry Specialist
 Dorn VA Medical Center
 6439 Garners Ferry Rd. (MC116-D)
 Columbia, S C. 29209
 (803)776-4000 ext 5818

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
Francis O Campbell,	)	2006-CP-40-0402
Applicant,	)	
v	)	ORDER TO RELIEVE COUNSEL AND
	)	APPOINT NEW COUNSEL, ORDER TO
State of South Carolina,	)	APPOINT AN INVESTIGATOR AND
Respondent	)	FOR DISCLOSURE OF DISCOVERY

This matter comes before this Court pursuant to an Application for Post Conviction Relief, which was filed on January 18, 2006. The State submitted a Return and Motion for More Definite Statement on January 29, 2007. On December 17, 2008, a motion hearing was held in front of the Honorable J Michelle Childs at the Richland County Courthouse. The State made a motion to dismiss and appointed counsel made a motion to be relieved, have new counsel appointed, and have an investigator appointed. This Order follows.

Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. The Applicant was indicted at the March 1982 term of the Court of General Sessions for Richland County for murder. He was represented by Venable Vermont, Jr, Esquire. On April 26, 1982, the Applicant proceeded to trial after which he was found guilty of murder. He was sentenced by the Honorable William Howard Ballenger to confinement for a period of life.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Supreme Court affirmed Applicant's conviction and sentence. State v Campbell, Op No 1983-MO-283 (filed November 8, 1983).

que

2009 FEB -3 PM
RICHLAND COUNTY
FILED

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RICHLAND COUNTY
FILED

The Applicant subsequently filed an application for post-conviction relief (PCR) on November 20, 1985. The State filed its Return on February 24, 1986. An evidentiary hearing was convened on February 25, 1987 and July 27, 1987, at the Richland County Courthouse, at which the Applicant was present and represented by Michael J. Thompson, Esquire. At the evidentiary hearing, Applicant proceeded on the following allegations:

- 1) He was denied effective assistance of trial counsel, in that counsel
 - a Failed to properly investigate the case to uncover certain evidence
 - b Failed to present certain available witnesses, namely, Thomas Campbell
 - c Failed to properly investigate and present evidence regarding the financial interests (i.e., motive) of others to commit the crime
 - d Failed to properly investigate and present evidence regarding the background of certain of the State's witnesses, to discredit them
- 2) New and after-discovered evidence exists which is material and likely to change the outcome of another trial if granted
 - a Such new evidence exists in the form of hypnosis, polygraph and chemical tests of the Applicant to establish that he was not the assailant
 - b Statement of witnesses to the effect that the deceased's wife, Ann Wilson, was involved in the theft of guns from the residence of the Applicant's sister prior to the murder of the deceased
 - c Another person has confessed to the murder of the deceased

29 June

The Honorable Owens T Cobb, Jr , denied and dismissed Applicant's application by written Order on October 10, 1987 Upon information and belief, the Applicant filed a notice of appeal which was denied

Findings of Fact and Conclusion of Law

At the motion hearing, Charles T Brooks, Esquire explained to this Court that his client had filed a motion for him to be relieved Transcript p 3 The Applicant explained that Mr Brooks had failed to investigate and properly prepare his case Transcript p 5-8 This Court also questioned Tricia A Blanchette, Esquire, as to her willingness to accept the appointment in this case Transcript p 9

In response, Brian Petrano, Assistant Attorney General, stated that he did not oppose Mr Brooks being relieved but he did oppose the appointment of new counsel Transcript p 9-10 Mr Petrano went on to argue that it was the State's position that the evidence at issue did not meet the standard for newly discovered evidence Transcript p 10 The State requested the opportunity to submit a proposed Order to Dismiss Transcript p 12

Thereafter, Mr Brooks explained to the Court that a motion to dismiss would be premature since there was a pending Order for Discovery Transcript p 14 After the State acknowledged the discovery issue, Mr Petrano informed this Court that Tara Shurling, Esquire, had sent a letter volunteering to accept the court appointment He further informed the Court that the State opposed any appointment, specifically, Ms Shurling since she was the Applicant's appellate counsel Transcript p 17 In response this Court asked the Applicant if he would prefer to go forward with Ms Shurling or Ms Blanchette, and the Applicant elected Ms Blanchette Transcript p 22

39nd

To better answer the issues regarding discovery and the investigation, Pete Skidmore was called to the stand to explain the investigation he had done and proposed to do for the Applicant Transcript p 18 At the close of his testimony, this Court found sufficient information to grant the motion to be relieved, to appoint Ms Blanchette as counsel and to appoint Pete Skidmore as investigator This Court also found sufficient evidence for the case to move forward for a full hearing on the merits and to leave discovery open for a period of thirty days Transcript p 23

At the conclusion of hearing, this Court also took testimony from Tally Wilson, regarding the crime at issue, to preserve his testimony due to his medical condition Transcript p 27 Counsel requested that she be allowed to recall Mr Wilson at a later date if he was available and if his testimony was needed Transcript p 27 This request was granted Transcript p 27-28

Based upon the foregoing and for good cause being shown, this Court concludes that Charles T Brooks, Esquire, is relieved and Tricia A Blanchette, Esquire, is appointed as counsel for the Applicant This Court also finds that the State's Motion to Dismiss is premature and dismissed for good cause being shown This Court further finds that disclosure of discovery shall be left open for thirty days from the date of this Order and that Pete Skidmore is appointed as an investigator, and he is authorized to incur reasonable fees and expenses not to exceed Five Thousand Dollars (\$5,000 00), without further Order of this Court, and such services be paid by the Office of Indigent Defense upon submission of the necessary documents

IT IS THEREFORE ORDERED

A handwritten signature in black ink, appearing to be "JWC", is located at the bottom center of the page.

- 1 This Court relieves Charles T Brooks, Esquire, and Tricia A Blanchette, Esquire, is appointed as counsel for the Applicant
- 2 The State's Motion to Dismiss is premature and dismissed for good cause being shown
- 3 This Court orders that disclosure of discovery shall be left open for thirty days from the date of this Order
- 4 This Court appoints Pete Skidmore as an investigator, and he is authorized to incur reasonable fees and expenses not to exceed Five Thousand Dollars (\$5,000 00), without further Order of this Court, and such services be paid by the Office of Indigent Defense upon submission of the necessary documents

AND, IT IS SO ORDERED this 31st day of January, 2009


 Honorable J Michelle Childs
 Circuit Court Judge
 Fifth Judicial Circuit

Columbia, South Carolina

1 STATE OF SOUTH CAROLINA

CIRCUIT COURT
2006-CP-40-0402

2 COUNTY OF RICHLAND

3
4 FRANCIS OWENS CAMPBELL,
5 Applicant,

6 -vs-

TRANSCRIPT OF RECORD

7 STATE OF SOUTH CAROLINA,
8 Respondent

9 Post Conviction Relief Hearing

10 Heard on Monday, April 12, 2010

11 Columbia, South Carolina

12 BEFORE

13 THE HONORABLE J MICHELLE CHILDS

14
15 APPEARANCES

16 Counsel on Behalf of the Applicant
17 Tricia Blanchette, Esq

18 Counsel on Behalf of the Respondent, State of SC
19 Brian Petrano, Esq

20
21
22
23 Cheri L Young, RPR
Circuit Court Reporter
24 P O Box 1154
Aiken, SC 29802-1154
25

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1 ON MONDAY, APRIL 12, 2010 AT 10 27 A M

2 THE COURT Are the parties ready to proceed in
3 the matter of the State of South Carolina, County of
4 Richland, Francis Owens Campbell, Applicant, versus State
5 of South Carolina, Respondent?

6 MS BLANCHETTE Your Honor, I'm just waiting for
7 my client and one witness to be brought up And then we
8 had a witness that was subpoenaed for nine a m He's
9 supposed to be here in the next 30 minutes I didn't know
10 if when he comes in if I could have a brief moment to
11 speak with him before I call him

12 THE COURT Absolutely

13 MS BLANCHETTE Okay Thank you

14 THE COURT For the record, would you indicate
15 who you're representing?

16 MS BLANCHETTE Your Honor, I'm Tricia
17 Blanchette I represent the Applicant, Francis Owens
18 Campbell

19 MR PETRANO And, Your Honor, this is 2006-CP-
20 40-0402, Mr Francis Owens Campbell On behalf of the
21 State, I'm Assistant Attorney General Brian Petrano

22 THE COURT Are there any preliminary matters or
23 any issues that the Court can take up while we're waiting
24 on Mr Campbell?

25 MR PETRANO I was just going to kind of --

1 THE COURT Is that a male or female? I
2 apologize

3 MS BLANCHETTE A male, Your Honor

4 MR PETRANO I was going to just to do a brief
5 recap of the procedural history but I'll wait for
6 Mr Campbell

7 THE COURT Okay That's fine

8 (Court stood at ease from 10 29 a m , until
9 10 32 a m , and the hearing resumed)

10 THE COURT Are the parties ready to proceed?

11 MS BLANCHETTE Yes, Your Honor

12 MR PETRANO Thank you, Your Honor Just as a
13 brief recap The murder was in July 1978 The victim,
14 Mr Olin Wilson The Applicant here was indicted by the
15 March 1982 term of the Richland County Grand Jury for
16 murder It was a jury trial with Judge Ballinger On
17 April 26, 1982 he was found guilty and sentenced to life

18 His direct appeal was denied, I believe, on
19 November 8th, 1983 That was 1983-MO-283 I believe at
20 that time he was represented by Ms Tara Dawn Shurling of
21 the, I think it was the Office of Appellate Defense but it
22 might have been called something different back then

23 There was a PCR, his first PCR That hearing was
24 on February 25th, 1987 And it seems to be continued
25 until July 27, 1987 I have no firsthand knowledge of

1 that Obviously I'm just going by the order denying that
2 PCR by Judge Cobb That order was dated August 10th,
3 1987 The appeal from that prior PCR, cert was denied on
4 September 21st, 1988 That remittitur was dated October
5 4th, 1988

6 The second PCR application, the one we're here
7 for today, that was filed on January 18th, 2006 The
8 State filed a motion for a more definite statement
9 sometime around January 2007 and there was a hearing
10 before Your Honor

11 You granted limited discovery That was on
12 December 17th, 2008 I believe, Your Honor, in your
13 packet, you should have all the materials we were able to
14 collect

15 Basically our file, the Attorney General's Office
16 file had been destroyed We destroy those after 15 years
17 as a matter of course unless there's something pending
18 Obviously the death penalty cases are entirely different
19 procedure

20 But with that being said the clerk's record here
21 in Richland County also was unavailable and at the time
22 the Supreme Court, their offices were being renovated or
23 something about asbestos and they basically told me to
24 come back Eventually they were able to find some
25 microfilm We painstakingly copied every single page from

1 that prior PCR appeal appendix

2 That's what we have In there, I believe it
3 encapsulates the trial transcript, the prior PCR, the
4 direct appeal, some briefs back and forth and a lot of the
5 clerk's records Also the prior PCR, part of that was,
6 the record was held open to get a deposition I think it
7 was via telephone, is that correct?

8 MS BLANCHETTE That's correct

9 MR PETRANO It appears to be via telephone
10 because the Applicant's original defense attorney from the
11 trial was at the time of the first PCR a public defender
12 in Alaska So that record was supplemented I think
13 you've got everything, Your Honor

14 And it's the State's position that this matter
15 should be dismissed, that it's not newly discovered
16 evidence and the application is untimely and successive
17 Thank you, Your Honor

18 THE COURT That what is not now newly
19 discovered?

20 MR PETRANO The claims themselves

21 THE COURT The claims themselves

22 MR PETRANO We were not able to refute that but
23 it's the State's position that the materials here clearly
24 refute that In fact, I specifically direct your
25 attention to page six of the prior order of dismissal from

1 Judge Cobb I think page six just sums this up I'm not
2 going to read it into the record, but if I was to do a
3 closing argument after what I believe we're going to hear
4 today, I would just read that into the record, Your
5 Honor Judge Cobb seems to address everything

6 MS BLANCHETTE Your Honor, if I can just add
7 some procedural notes for the record This application
8 was filed January 18th, 2006 I'm not sure how many
9 attorneys were appointed but I know that Mr Charles
10 Brooks was appointed And he was relieved at a hearing
11 that you held in December of 2008 You issued an order
12 dated January 31st, 2009 in which you appointed myself and
13 appointed Investigator Pete Skidmore who is here today

14 On or about February 24, 2009, Pete Skidmore and
15 I went to the Attorney General's Office because
16 Mr Petrano was able to locate, I believe it was one or
17 two boxes at the Attorney General's Office that had
18 documents in it And we reviewed those at that time at
19 the Attorney General's Office

20 Following that I contacted and the State
21 contacted the Richland County Clerk of Court's Office and
22 the sheriff's department looking for the records I spoke
23 with the attorney at the Richland County Sheriff's
24 Department several times and he informed me that they do
25 not have any records even though I provided him a personal

1 discovery order

2 About a month ago Brian and I also went to the
3 clerk of court's office here and discovered that the
4 microfilm is missing and Brian can correct me if I'm wrong
5 and the PCR appears to no longer be in the computer

6 After that I got a call indicating that records
7 had been found at the Supreme Court And that was
8 approximately on March 15th of this year On March 30th,
9 which was late in the afternoon, I received a box that had
10 all the documents in it I read all those documents over
11 the next day and went to meet with my client on April
12 1st

13 That was the first notice we had of the trial
14 transcript, the PCR transcript And since then I have
15 given him all those documents to review and talked with
16 him on Friday and he indicated he did review them

17 But I just wanted the Court to have notice that
18 we've only had those documents about two weeks at this
19 point

20 THE COURT Are you prepared to go forward?

21 MS BLANCHETTE We are, Your Honor And I had
22 talked with the State I have not prepared a more
23 specific amendment at this point because of the limited
24 time in having these documents but there are just seven
25 limited issues that I wanted to go into briefly with my

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1 client on the stand, and then we have three very, very
2 brief witnesses that we would allege would amount to
3 newly-discovered evidence in this case but I'd like to
4 call my client first to be able to put that evidence into
5 context

6 THE COURT Sure

7 MS BLANCHETTE Your Honor, at this time I call
8 Francis Owens Campbell to the stand

9 THE COURT If would you step around, sir

10 FRANCIS OWENS CAMPBELL, having been duly sworn,
11 was examined and testified as follows

12 THE COURT Please take a seat right there
13 State your full name for the record and spell your last
14 name

15 THE WITNESS My name is Francis Owens Campbell,
16 C A M P B E L L

17 DIRECT EXAMINATION

18 BY MS BLANCHETTE

19 Q Mr Campbell, have you filed the present PCR
20 application that was actually filed back in January 2006?

21 A Yes, ma'am

22 Q And where are you currently incarcerated?

23 A Broad River Correctional Institution

24 Q Are you alleging today that there's newly-discovered
25 evidence in your case?

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1 A Yes, ma'am

2 Q And as a result, what are you asking this Court for?

3 A I'm asking for a new trial, my case be vacated

4 Q And you understand that by asking for a new trial the
5 only thing this Court can do is vacate your current
6 conviction and your original indictment will be
7 reinstated, is that correct?

8 A Yes, ma'am

9 Q And knowing that, you do want to go forward today?

10 A Yes, ma'am

11 Q And as I just put in the record, we received the trial
12 transcript and the PCR transcript on March 30th Is that
13 what you recall?

14 A Yes, ma'am

15 Q And I met with you on April 1st to go over those
16 documents that I had received?

17 A Yes, ma'am You and Mr Pete Skidmore

18 Q And as a basis of those documents that we received,
19 there's two points that we're going to go forward on
20 today?

21 A Yes, ma'am

22 Q And the first being that there was unreliable
23 testimony that was the basis for your arrest and
24 indictment, is that correct?

25 A Yes, ma'am

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1 Q And the second is that there were other individuals
2 directly involved in this case and that information was
3 given to law enforcement and withheld from you, is that
4 correct?

5 A Yes, ma'am

6 THE COURT What was the first one again?

7 MS BLANCHETTE That unreliable testimony was
8 the base for his arrest and the indictment

9 THE COURT Thank you

10 BY MS BLANCHETTE

11 Q Now going back to the very beginning of this case,
12 were you originally charged and/or accused in a bank
13 robbery prior to this murder?

14 A Yes, ma'am

15 Q Could you just briefly explain that to the Court to
16 put your claims into context today?

17 A Me and my brother was talking one day, and Mr Connie
18 Lewis and Mr Calhoun And they had my brother why -- he
19 was talking to me about a murder and all of that And
20 then I found out my brother had a Y on him and then my
21 brother got a call from Mr Calhoun and Mr Connie Lewis

22 We got into an argument at my mother's home and they
23 left After that I was, I went to prison for fraudulent
24 checks in 1979 I got out of prison Mr Connie Lewis
25 kept saying that I knew something about this crime, I knew

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1 something about this crime

2 And I had some more bad checks coming in This is the
3 same, it wasn't writing more bad checks It was just the
4 same check-writing ordeal from the beginning

5 I was at my girlfriend's house one, one morning and
6 her two, two sons came running in and they said there's a
7 bunch of deputy sheriffs at the top of the hill I felt
8 that they was after me for fraudulent checks

9 So I went up in the loft of her house, Anna Dobson,
10 that lives on [REDACTED] Drive --

11 Q Let me stop you there Are you talking about this
12 murder charge or the bank robbery charge?

13 A I'm talking about the bank robbery charge

14 Q Just for all of us, if you could explain was your
15 brother's name?

16 A Thomas Haynes Campbell

17 Q Could you explain who Mr Lewis and Mr Calhoun were?

18 A Lieutenant Connie Lewis was the lieutenant of the
19 homicide for the Richland County Sheriff's Department
20 And I don't know what Mr Calhoun's position was

21 Q Okay

22 A I don't know if he was with SLED or Richland County

23 Q Okay You can continue on I just wanted to clarify
24 those things

25 A I was at my girlfriend's house Then they come in

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1 They knocked at the door They really didn't knock They
2 just pushed the door open They asked was Owens Campbell
3 here I heard Anna say no he's not here They went all
4 through her house, ram shacking through her house,
5 plundering through her house Went in through her room,
6 through the beds, through the closets and all of that

7 He come back out He said, if you know where Owens
8 is, tell us where Owens is because if you don't if we see
9 him, if he even flinches we're going to kill him because
10 he robbed a bank

11 They left there and I think they went to my mother's
12 house which is in Eastover, South Carolina And they told
13 my mother that I'd robbed a bank My mother -- and they
14 showed my mother a bank photo My mother said, that is
15 not my son

16 My brother Thomas Haynes Campbell was there My
17 cousin Jamie Owens was there My brother says, I'm sorry,
18 but that's my brother Jamie Owens said, I'm sorry but
19 that is Owens

20 They looked for me and they looked for me and they
21 couldn't find me because I'd jumped off the 601 bridge and
22 went into the swamp

23 Q And, Owens, were you eventually arrested for that
24 armed robbery charge?

25 A On the robbery charge? No, ma'am I turned myself in

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1 to Mr Tom Riley He came to pick me up in Eastover He
2 was a deputy sheriff at the Richland County Sheriff's
3 Department He took me to the sheriff's department where
4 Mr Calhoun was

5 They jerked me around in the sheriff's department
6 Fingerprinted me, rolled my hands and everything else and
7 then put me back over there in the county jail is where
8 they put check charges against me And after that I never
9 heard no more about it

10 Q What happened with the bank robbery that your brother
11 implicated you in?

12 A They said that he was a escapee or something from a
13 prison upstate and that they caught him somewhere in
14 Charleston or Myrtle Beach or something robbing another
15 bank or something like that

16 Q So your brother and Jamie Owens indicated that you
17 were involved in a bank robbery that later it was
18 discovered somebody else was actually involved, is that
19 correct?

20 A Yes, ma'am

21 Q Okay Now speaking of Mr Jamie and Tommy Owens, did
22 they also provide statements implicating you in the murder
23 charge that's at issue today?

24 A Yes, ma'am I went back to prison in 1981 for
25 fraudulent checks, the same checks that I was -- that they

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1 had written to start with And my max out date of prison,
2 which my record would have been clear with no more charges
3 against me, was April 1st

4 And I think Jamie Owens or my brother -- my brother
5 made a statement against me and I think around August he
6 got the true indictment against me My brother went to
7 the courtroom and said that I'd showed him money in my
8 glove compartment of my automobile And that I told him
9 that was hit money that I was showing him

10 And in September of 1981, Jamie Owens made a statement
11 saying that he was in my automobile the night that I was
12 supposed to have committed this murder

13 Q And did Jamie Owens end up testifying at your trial?

14 A Yes, ma'am

15 Q And did Tommy Owens testify at your trial?

16 A Tommy Campbell No, ma'am

17 Q I mean Tommy Campbell I'm sorry

18 A No, ma'am

19 Q At your trial on page 357 through 358, do they
20 actually acknowledge that some city charges were dismissed
21 against Jamie for his testimony at your trial?

22 A Yes, ma'am

23 Q And is it your understanding that it was typical for
24 Jamie to testify to work off charges or something of that
25 nature?

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1 A Yes, ma'am

2 Q And what, if anything, do you know about that?

3 A Ma'am?

4 Q What, if anything, do you know about Jamie testifying
5 to work off charges?

6 A Well, he was out on bond is whenever he testified
7 against me, was on the witness stand And he just got out
8 of prison for criminal conspiracy And he had two counts
9 of bank robbery pending against him, the same Pizza Hut he
10 said he worked out There was two counts of armed robbery
11 pending against him

12 Q And are you alleging to this Court today that
13 unreliable testimony of Jamie Owens and Tommy Campbell was
14 the basis for your arrest and indictment?

15 A It was totally the basis for me being arrested and
16 found guilty

17 Q And do you feel that this matter has been previously
18 properly presented to the Court and addressed, or is this
19 a matter that you're asking the Court to address today?

20 A That's why I waited all those years to try and get
21 back in this courtroom

22 MR PETRANO I'm sorry What were the names
23 again?

24 MS BLANCHETTE Tommy Campbell and Jamie Owens

25 MR PETRANO Thank you

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1 BY MS BLANCHETTE

2 Q Now there's another individual involved in this case
3 and that was the victim's widow And what was her name?

4 A Her name was Virginia Ann Wilson, I believe

5 Q And she testified at the prior PCR, is that correct?

6 A Yes, ma'am

7 Q Did she testify at trial?

8 A No, ma'am

9 Q Okay And is it your understanding and it was
10 actually stated at trial that Ms Ann Wilson was a suspect
11 in this case?

12 A Yes, ma'am

13 Q And specifically at your PCR, your prior PCR on page
14 105, did Investigator Lewis indicate that she was never
15 ruled out as a suspect?

16 A Yes, ma'am

17 Q So therefore it's your understanding that she remained
18 a suspect?

19 A Yes, ma'am According to Lieutenant Lewis, but not
20 according to Mr Jim Anders

21 Q Would you like to explain that to the Court?

22 A Mr Jim Anders signed insurance policies years before
23 my trial even -- I mean, this investigation was steady
24 going on up until 1981 But Mr Jim Anders then had done
25 wrote letters saying that she wasn't a suspect and so she

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1 could collect money from the insurance policies that she
2 had on him

3 Mr Frank Barron was trying to help me all the way
4 through this case right here He says every time he went
5 to the Attorney General's Office or the solicitor's office
6 to get something, they would say that it had been
7 misplaced or they couldn't find it

8 But he said that he even had seen the letters that
9 Mr Anders wrote for Ann Wilson to collect her insurance
10 money saying that she was not a suspect

11 Q And, Mr Campbell, do you recall at your last PCR that
12 Mr Lewis actually testified on page 101 that he was still
13 not satisfied with the outcome?

14 A Yes, ma'am When I was at CCI I used to call
15 Mr Lewis And Mr Lewis, he even give me his home phone
16 number He said, Owens, he said, you call me any time
17 He says, there's a big doubt in this right here I said,
18 Mr Lewis, I says, you know that I did not commit this
19 murder I've done everything that you asked me to do

20 Even Frank Barron, he says, Owens, will you take
21 sodium pentathol and truth serum I said, yes, sir, I
22 will I went and admitted myself into the Veterans
23 Hospital and took sodium pentathol I even went and took
24 sodium pentathol from Dr Harold Morgan that my family
25 paid \$5,000 for

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1 Then I went and paid \$2,500 to Ralph Vault at SLED to
2 give me a lie detector test And I signed all of my
3 rights away saying that if anybody can hook anything in my
4 veins to make me say that I had any knowledge of this
5 crime or if I committed this crime to put me on death row
6 and let me be executed because I don't deserve to live

7 MS BLANCHETTE Your Honor, may I approach the
8 witness?

9 THE COURT Yes, you may

10 BY MS BLANCHETTE

11 Q Mr Campbell, you've recently been trying to obtain
12 those records of the sodium pentathol tests?

13 A Yes, ma'am,m

14 Q Could you identify these documents for the Court?

15 A These are the documents from my VA counsel and this is
16 a request that I request for my records to be turned over
17 and sent to me so I can present them to the Court

18 Dr Harold Morgan gave my attorney a tape That's where I
19 took the sodium pentathol at

20 I don't know if Mr Skidmore was able to get the
21 records from SLED That's where I took the polygraph
22 test, from Ralph Vault, that I paid \$2,500 for to prove my
23 innocence

24 MS BLANCHETTE Your Honor, at this time I'd
25 move in these as Applicant's Number One

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1 THE COURT Any objection?

2 MR PETRANO What's the relevance?

3 MS BLANCHETTE Your Honor, just introducing
4 these to support his testimony that he's been attempting
5 to try to get a copy of this from the VA Hospital

6 THE COURT Okay That's fine

7 MS BLANCHETTE Okay

8 (Thereupon, Applicant's No 1, VA Hospital
9 records, received into evidence)

10 THE COURT You may continue

11 MS BLANCHETTE And, Your Honor, if I may, I did
12 receive the tape from Dr Harold Morgan If the Court
13 would like to review that, I can provide to the Court I
14 have that in my office

15 THE COURT It's a tape that says what?

16 MS BLANCHETTE It's a tape of one of the -- that
17 was of the sodium pentathol test?

18 THE APPLICANT Yes, ma'am

19 MS BLANCHETTE He took a number of polygraphs
20 and the sodium pentathol to prove his innocence, that he
21 had no involvement in this crime

22 THE COURT Okay So the tape is reflecting a
23 negative result or what?

24 MS BLANCHETTE The tape -- I listened to it
25 sometime back It's a cassette tape And that's why I

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1 didn't bring it today because I didn't know if we could
2 listen to a cassette tape But it's just the course of
3 the test pretty much

4 THE COURT Okay Is there any conclusion on
5 it?

6 MS BLANCHETTE I can re-review it for the Court
7 and let you know

8 THE COURT Okay

9 MS BLANCHETTE I have my notes It's actually
10 back at the office

11 THE COURT That's okay

12 BY MS BLANCHETTE

13 Q Now, Mr Campbell, in this case the victim's family
14 actually supports your innocence also, is that correct?

15 A Yes, ma'am They've supported me from the day I
16 walked in the courtroom in 1982 They even went to the
17 judge's chambers, Judge Ballinger, and told Judge
18 Ballinger that they was fixing to convict the wrong man
19 for killing their loved one because I did not kill their
20 loved one

21 Q They have come to your parole hearings to support you
22 also, is that correct?

23 A Yes, ma'am Every time

24 Q Mr Talley Wilson who's the victim's brother testified
25 at your hearing back in December, is that correct?

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1 A Yes, ma'am He's on my phone list, he's on my
2 visiting list The Wilsons all on my visiting list at
3 prison and all

4 Q He's here today to support you, is that correct?

5 A Yes, ma'am

6 Q Now at your last PCR specifically on page 80 was --
7 did Walter Wilson testify?

8 A Yes, ma'am

9 Q And who was Walter Wilson?

10 A Walter Wilson is Mr Talley Wilson's brother who is
11 deceased

12 Q And Mr Wilson testified at your last PCR, on page 80,
13 that he brought an individual named Johnny Bradwell in to
14 give a statement prior to trial stating that an individual
15 named Dinky committed this murder Is that what you
16 recall?

17 A Yes, ma'am

18 MS BLANCHETTE Your Honor, may I approach the
19 witness with the statement that's in the record?

20 THE COURT Yes, you may

21 BY MS BLANCHETTE

22 Q Now at the trial, on page 345 through 346, Mr Lewis
23 actually admitted that he got a statement indicating that
24 Dinky committed this murder and he investigated it Is
25 that your understanding?

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1 A Yes, ma'am

2 Q Okay And that statement is actually a statement
3 given by a Johnny Allen Bradwell, is that correct?

4 A Yes, ma'am

5 Q Dated August 7th, 1980?

6 A Yes, ma'am

7 Q And that is part of the record in this case?

8 A Yes, ma'am

9 MS BLANCHETTE Your Honor, do you need a copy
10 of the statement?

11 THE COURT I would like to see it

12 MS BLANCHETTE (Hands document to the Judge)

13 THE COURT Thank you

14 BY MS BLANCHETTE

15 Q Now at your prior PCR, specifically on page 102, when
16 Mr Lewis was testifying, he indicated that there was no
17 evidence to back up this statement, is that correct?

18 A Yes, ma'am

19 Q And he further indicated that if he had any evidence
20 to back up this statement, Dinky would be in jail for this
21 murder?

22 A Yes, ma'am

23 Q And then the statement was introduced, is that
24 correct?

25 A Yes, ma'am

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1 Q And in this statement it references a Jeff Do you
2 now know who that Jeff is?

3 A I know now who it is

4 Q Who is that?

5 A It's Jeff McDonald Sitting right there

6 Q We plan to call him today as a witness, is that
7 correct?

8 A Yes, ma'am

9 Q And just as matter for the record, Mr Lewis isn't
10 here today And what's the reason for that?

11 A He's deceased

12 Q So we have to rely on his testimony from the last PCR,
13 is that correct?

14 A Yes, ma'am

15 Q Also at that PCR we mentioned that Walter Wilson and a
16 Ronnie Wilson testified Is that what you recall?

17 A Yes, ma'am

18 Q Now they both testified that they were willing to sign
19 an affidavit indicating that Johnny Bradwell that gave
20 that statement was involved in a robbery at the trailer of
21 your sister?

22 A Yes, ma'am

23 Q Would you like to explain that?

24 A About the robbery?

25 Q What occurred regarding that robbery

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1 A Just what he told me?

2 Q What your understanding is regarding that robbery

3 A ~~My~~ understanding is that it's a robbery that Ann Stone
4 and Wayne Stone -- Ann Wilson and Wayne Stone set it up
5 Wayne Stone was at the golf course and Ann Wilson was at
6 the Handy Hut And as long as the telephone was ringing
7 the coast was clear

8 Johnny Bradwell and another one of his friends went to
9 my sister's house He was told exactly what to get, where
10 it was at, which was a gun collection, which was coins,
11 gold coins, and some rod and reels and a microwave oven

12 They then took it and took it back to Ann Wilson where
13 Ann Wilson took the stuff, sold some of the guns Tommy
14 Bullock is one who bought some of the guns and the rest of
15 the guns Ann Wilson kept or done away with or sold to
16 someone else

17 Johnny Bradwell told me that Ann Wilson then paid him
18 off in drugs and all, and then he left

19 Q Your sister's trailer that was robbed, what is her
20 name?

21 A Deloris Mock

22 Q Did she testify at the trial?

23 A Yes, ma'am

24 Q Did she end up taking the fifth amendment on a number
25 of questions?

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1 A Yes, ma'am

2 Q Was she appointed Jack Swerling as her temporary
3 counsel at that trial?

4 A Yes, ma'am

5 Q At at the PCR she testified and then she testified
6 about threats and being scared for her life, is that
7 correct?

8 A Yes, ma'am

9 Q And that is reflected in your prior PCR transcript?

10 A Yes, ma'am

11 Q At the prior PCR Ann Wilson also testified, is that
12 correct?

13 A Yes, ma'am

14 Q And when she was asked about Johnny Bradwell and these
15 allegations, she did admit that he was shot in her home,
16 is that correct?

17 A That's what I understood, yes, ma'am

18 Q And that's on page 44 of your PCR, she says that
19 Johnny Bradwell was shot in her home at or around the same
20 time that all of this was going on?

21 A Just before my trial, yes, ma'am

22 Q What is your understanding regarding that shooting
23 that occurred in her home?

24 A Well, just that Johnny Bradwell has made these
25 statements against her brother or either her son I don't

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1 know who Dinky Taylor is They just say that it might be
2 her son

3 And Dinky Taylor broke into my sister's house for her
4 and stoled my sister's gun collection for her And here's
5 my trial coming up And Dinky Taylor knows all of this so
6 he had an intimidation put out on him or either he was
7 shot in her house to keep his mouth shut

8 Whenever I approached Johnny Bradwell when I was out
9 of prison coming being backwards and forwards across the
10 state line illegally trying to prove my innocence I even
11 had a lawyer in Orlando, Florida trying to help me, a
12 retired lawyer

13 Whenever I came backwards and forwards I finally found
14 Johnny Bradwell's boss man He called Johnny up on his
15 cell phone and asked Johnny if he would talk to me
16 Johnny said yes So I met his boss man the next day,
17 Johnny Bradwell's boss man which his name's Brian Taylor,
18 took me to where Johnny Bradwell was

19 Johnny Bradwell was -- he told me, he says, Owens, he
20 says, I'm sorry He said, I was there the night that
21 Dinky Taylor killed Olin D Wilson Pam Cassidy was
22 there Richard Blizzard was there He says, and once
23 Dinky killed -- shot Olin D Wilson, he said he went to
24 Ann's car to get a pistol He said if he wasn't dead he
25 was going to finish killing him

FRANCIS OWENS CAMPBELL - DIRECT

1 Then he comes up to me, he says, Owens, I was in the
2 courtroom He said, I was sitting beside Ann Wilson He
3 said, I was so scared, he said, I wanted to open my mouth
4 and tell them that you wasn't the one who killed Olin D
5 Wilson, he said, but I was in fear of my life and my mama
6 and daddy's life

7 The boy was crying He had tears in his eyes and he
8 hugged my neck He says, Owens, I'll do anything for you
9 to help you prove your innocence

10 Q Now at your last PCR, he was under subpoena but he
11 didn't show up, is that correct?

12 A Ma'am?

13 Q At your last PCR your attorney attempted to subpoena
14 Mr Bradwell but he was not present at your PCR?

15 A No, ma'am

16 Q And your attorney actually asked for time to locate
17 him, is that correct?

18 A Yes, ma'am

19 Q And then after the Wilsons testified he actually asked
20 the Court for a bench warrant for his arrest, is that
21 correct?

22 A He asked for a bench warrant for Mr Bradwell to be
23 put in the Richland County jail and held for the next term
24 of court

25 Q Now on page 117 through 118, does the PCR judge

FRANCIS OWENS CAMPBELL - DIRECT

1 actually indicate that he thinks there's enough evidence
2 for him to have a bench warrant for his arrest for the
3 robbery of your sister's trailer?

4 A Yes, ma'am

5 Q And as far as you know, was he ever picked up on that
6 bench warrant?

7 A No, ma'am That case has never been solved because I
8 went to the Richland County Sheriff's Department And I
9 talked to the captain there and he says, Owens, he says
10 your files is right behind me back here He says, and
11 this case is still open He says, I'm going to tell you,
12 he says, everybody at this sheriff's department knows that
13 you did not kill Olin D Wilson

14 He says but the only thing we're trying to do is get
15 enough evidence to put the whole clan in jail, Ann Wilson
16 and all of them That's what Captain Wilson said

17 I'll take a lie detector test for it or anything I
18 came from Florida illegally and made a appointment and
19 went to the Richland County Sheriff's Department to talk
20 to him

21 Q Now going back to this Bradwell statement, it
22 references Jeff And you've indicated today that it's
23 your understanding now that that's Jeff McDonald, is that
24 correct?

25 A Yes, ma'am

FRANCIS OWENS CAMPBELL - DIRECT

1 Q And in this statement Mr Bradwell is implicating that
2 Dinky was the one who committed this murder?

3 A Yes, ma'am

4 Q Now, prior to this current PCR, did you know the
5 identity of Jeff in this statement or have a way of
6 locating Mr McDonald?

7 A No, ma'am

8 Q You are alleging today that his testimony is in fact
9 newly-discovered evidence?

10 A Yes, ma'am

11 Q Did you ever receive in connection with your trial or
12 your PCR any information regarding a statement
13 Mr McDonald gave to law enforcement?

14 A No, ma'am

15 Q Did you ever discuss it with your trial counsel or PCR
16 counsel, Mr McDonald?

17 A No, ma'am

18 Q Now let's turn to an issue that was raised at your
19 December 2008 hearing and that's a family reunion that
20 took place And that took place -- when did that take
21 place?

22 A I think it took place in April of -- April the 17th
23 19 -- 2008, I think

24 Q And at your last PCR hearing on December of 2008
25 Talley Wilson testified Is that correct?

FRANCIS OWENS CAMPBELL - DIRECT

1 A Yes, ma'am

2 Q And Talley also testified at your trial?

3 A Yes, ma'am

4 Q And at your trial on page 380, he testified that he
5 saw Ann Wilson, the widow, calmly reviewing insurance
6 policies shortly after Mr Wilson's death, is that
7 correct?

8 A Yes, ma'am

9 Q He also testified at your prior PCR, is that correct?

10 A Yes, ma'am

11 Q There he testified that he had witnessed a fight
12 between the victim and one of Ann Wilson's brothers on the
13 4th of July shortly before his murder, is that correct?

14 A Yes, ma'am

15 Q And what, if anything, did you know about that fight
16 that occurred?

17 A It was over -- well, they was having a barbecue and I
18 think Olin -- I think Olin had told them that he did not
19 want Ann's family down there And one thing led to
20 another and they had a fight

21 And several days after that Olin went to Talley, his
22 brother right there, and said that they're planning on
23 killing me And if they kill me, do not let them get by
24 with it

25 Q And at your prior PCR, on pages 14 and 27, do you

FRANCIS OWENS CAMPBELL - DIRECT

1 recall that Mr Talley Wilson also testified that Ann made
2 the statement that she did not know it was going to be
3 like that?

4 A Yes, ma'am

5 Q And he informed the PCR Court that he hadn't told
6 anyone about this statement before and he was bringing it
7 forward that day so that you could get a new trial?

8 A Yes, ma'am

9 Q And regarding his testimony back in December of 2008,
10 he indicated to this court on page 29 of that transcript
11 that he spoke with a Richard Blizzard at a family reunion
12 in April of 2008 Is that what you recall?

13 A Yes, ma'am

14 Q And he also testified that Mr Blizzard had
15 information about the murder of Olin Wilson, is that
16 correct?

17 A Yes, ma'am

18 Q And he testified that Mr Blizzard informed him that
19 Dinky blew the victim's head off, is that correct?

20 A Yes, ma'am

21 Q And that's all reflected in your hearing from December
22 of 2008?

23 A Yes, ma'am

24 Q Okay Now, Mr Campbell, I've gone through everything
25 that we have prepared together over the last, almost year

FRANCIS OWENS CAMPBELL - DIRECT

1 and a half Is there anything else that you would like to
2 present to the Court at this time?

3 A It's just that I would like to tell Judge Childs that
4 I appreciate her giving me this moment on this witness
5 stand I've been waiting for 27 years to get back up
6 here I've done everything that a human can do

7 I don't know what the prosecutor there thinks or
8 whatever, but I can tell you that I'm an innocent man
9 sitting in front of you right here I did not commit no
10 murder And I do not know who committed this murder until
11 I found all of this out through the Wilsons since I've
12 been in prison

13 I've challenged the system in every kind of way I can
14 and I'll still challenge it If you think I'm wasting the
15 tax peoples' money, you get any forensics expert to put
16 anything in my veins and if I tell you I had any knowledge
17 of this crime before it happened or while it was being
18 conducted, stop the test and I waive all of my rights of
19 ever appealing this case ever in my life again

20 And I'm crying out to this Court to grant me death by
21 lethal injection or either electrodes (sic) or take me to
22 super max and let me spend the rest of my life in maximum
23 security because I did not commit this crime

24 Q Mr Campbell, just one question in follow up to that
25 Did you testify at your last PCR?

FRANCIS OWENS CAMPBELL - CROSS

1 A Yes, ma'am

2 Q At the last PCR that --

3 A Oh No, ma'am, I did not I was -- the Judge called
4 for a continuance and I didn't get a chance Of course,
5 he ordered a warrant for Mr Bradwell to be picked up and
6 put in jail

7 Q Did you want to testify at your last PCR?

8 A Yes, ma'am, I did

9 Q And you wanted to proclaim your innocence at that last
10 PCR?

11 A Yes, ma'am I did

12 MS BLANCHETTE Your Honor, at this time I have
13 no further questions

14 CROSS-EXAMINATION

15 BY MR PETRANO

16 Q Who killed him?

17 A Dinky Taylor

18 Q Now you testified at the trial, right, didn't you?

19 A Yes, sir

20 Q And you said that -- well, you got a great memory
21 You've talked about going up and hiding in the lofts and
22 hiding in the swamps Tell us what you said at trial

23 A Basically what I said at my trial was that I was
24 driving that night and I was drunk Drinking, driving,
25 going from bar to bar, place to place And I drove up at

FRANCIS OWENS CAMPBELL - CROSS

1 the scene of the crime and when I got to the stop I heard
2 a gunshot just about 600 yards before I got there And
3 when I got to the stop sign I seen a man running to my
4 left goings towards Leesburg Road with a gun

5 Q How many yards?

6 A Four- to 600 yards

7 Q Six hundred yards or feet?

8 A Yards

9 Q That's what you said at trial?

10 A Yes, sir

11 Q So you actually saw the killer?

12 A No I seen someone running

13 Q And you were there driving your car That was the '68
14 Ford Fairlane?

15 A Yes, sir

16 Q And was that a convertible or fastback?

17 A Fastback Fairlane 500 Excuse me

18 Q Now you said you didn't know who the Jeff was in the
19 Johnny Bradwell statement until recently, right?

20 A Right I didn't -- I didn't know the statement
21 existed until recently

22 Q How recent?

23 A About, maybe a year

24 Q And so you didn't see it at the trial?

25 A No, sir

FRANCIS OWENS CAMPBELL - CROSS

1 Q And you didn't see it at the prior PCR?

2 A No, sir

3 Q And on it it says who the Jeff is It says Jeff
4 McDonald, right?

5 A It says --

6 Q Third line

7 A -- Jeff McDonald Yes, sir

8 Q Okay And what's the date of that again?

9 A August 7th, 1980

10 Q Now the polygraph and truth serum stuff that you were
11 talking about just a few minutes ago, that was all
12 addressed at your prior PCR, too, wasn't that? Wasn't
13 that part of your argument?

14 A Part of it, yes, sir -- no, sir The truth serum
15 was Not the polygraph The polygraph was at Wateree
16 Correctional Institution before I made parole

17 Q Okay Tell us, and tell me here, I got confused with
18 all the facts and all the claims and all the people dead
19 or alive, just walk me through What is new that wasn't
20 covered at the last PCR?

21 A Jeff McDonald for one is new

22 Q How is that? We have him in the affidavit from 1980

23 A Mr Lewis just said Jeff at my PCR hearing He never
24 went into anything He never give us no statement He
25 never gave us anything

ULYSSES FLEMMING - DIRECT

1 And Mr Lewis knows that Dinky Taylor, he knew that
2 Dinky Taylor was the murderer but he just couldn't prove
3 it

4 MR PETRANO Nothing further Thank you, sir

5 THE COURT Okay

6 MS BLANCHETTE I have nothing, Your Honor
7 Just if I may recall this witness if any other issues come
8 up with any of the other witnesses, I'd appreciate that

9 THE COURT Sure You can step down

10 THE APPLICANT Thank you, Your Honor

11 MS BLANCHETTE Your Honor, I call Ulysses
12 Flemming to the stand

13 ULYSSES FLEMMING, having been duly sworn, was
14 examined and testified as follows

15 THE COURT Take a seat and state your full name
16 for the record

17 THE WITNESS My name is Ulysses Flemming

18 DIRECT EXAMINATION

19 BY MS BLANCHETTE

20 Q Mr Flemming, could you inform the Court where you're
21 currently residing? Just city and state would be fine

22 A I reside in Eastover, South Carolina 106 South
23 Monroe

24 Q You're here today under a subpoena that was issued by
25 the Applicant's side or by myself, is that correct?

ULYSSES FLEMMING - DIRECT

1 A Yes, ma'am

2 Q And where were you previously employed, Mr Flemming?

3 A I worked for the Department of Natural Resources which
4 is the wildlife department, law enforcement sector

5 Q Do you recall what years you were there?

6 A I started in 1970 and throughout 2008

7 Q Okay And during your time there, did you have any
8 involvement with Tommy Campbell that was referenced by the
9 Applicant during his testimony?

10 A Yes, ma'am Several times

11 Q Did you have any involvement with Mr Jamie Owens?

12 A No, ma'am Not Jamie Owens Tommy Campbell and James
13 Hickcock

14 Q And did there come a time when you charges pending
15 against Mr Tommy Campbell?

16 A Yes I caught Tommy Campbell night hunting for deer

17 Q And what charges was it that you brought against him?

18 A We brought charges on him for night hunting deer We
19 confiscated the weapon, the vehicle, and we also locked
20 him up

21 Q Do you remember approximately what year that might
22 have been?

23 A If I can recall, it was sometime in the mid 80's or I
24 would say somewhere between '84, '85, somewhere in that
25 area

ULYSSES FLEMMING - DIRECT

1 Q And do you know what happened with those charges, or
2 do you have a memory of what happened with those charges?

3 A Those charges was eventually dropped prior to going to
4 general session court

5 Q And what was the reason that those were dropped, do
6 you know?

7 A I was -- we received a, I guess you call it an order
8 from the solicitor office to return Mr Campbell personal
9 belongings which was his, I think, handgun involved and I
10 think he'd already purchased the Jeep back for a certain
11 amount of money But all the lights and stuff that we had
12 took, all that equipment was returned back to him

13 And we was told the reason why because they didn't ask
14 us, they just told what us what we had to do And the
15 reason why, he testified against another guy for, in a
16 murder case

17 Q Now do you know if that was the murder case that we're
18 talking about today involving the Applicant, Francis Owens
19 Campbell?

20 A No, ma'am It wasn't referred to that one It was
21 another one

22 Q And did you have any personal knowledge of the murder
23 trial of Mr Francis Owens Campbell?

24 A Yes

25 Q What, if anything, did you know about it at that time?

ULYSSES FLEMMING - CROSS

1 A Well, what I hear from Tommy Campbell, he always brag
2 and said that he helped convict his brother

3 Q And is it your understanding that Tommy Campbell was
4 commonly involved as a witness in trials in Richland
5 County?

6 A Often heard that, you know, when he in trouble for
7 some violation that he always get out because he'll
8 testify against someone else

9 MS BLANCHETTE Your Honor, just one moment's
10 indulgence (Pause)

11 Your Honor, I have no further questions

12 THE COURT Okay

13 CROSS-EXAMINATION

14 BY MR PETRANO

15 Q What's the penalty for night hunting back in '84, '85,
16 do you know?

17 A Well, it all depends on, in a way from a thousand and
18 up

19 Q Any time?

20 A Yes, at night

21 Q No, no I'm sorry Any potential incarceration as a
22 result of a conviction?

23 A Well, it could be a \$1,000 fine plus 30 days

24 Q And typically -- well, let me go back Was that the
25 only time you ever charged someone with night hunting?

ULYSSES FLEMMING - REDIRECT

1 A No

2 Q About how many other people did you charge with night
3 hunting in your career?

4 A Several of them, cases for night hunting

5 Q And typically then, what was the average sentence?

6 A Most of them was pled guilty and was fined \$500 and
7 put on one year's probation

8 MR PETRANO Nothing further Thank you

9 MS BLANCHETTE Your Honor, just briefly

10 REDIRECT EXAMINATION

11 BY MS BLANCHETTE

12 Q Now was the case involving Tommy Campbell a little
13 different because he was a felon, is that correct?

14 A Yes

15 Q Was he as a felon allowed to be carrying that 357
16 magnum?

17 A No, he was not

18 Q Did you attempt to report that to any authorities
19 beyond Richland?

20 A To the ATF people we -- I reported it, about him being
21 that he was a felon, had a felony charge against him and
22 that he wasn't allowed to have a handgun Hunting gun,
23 yes, but not a handgun

24 Q Were those charges ever pursued that you attempted to
25 report?

ULYSSES FLEMMING - RECROSS

1 A No, they was not

2 Q Do you know why those weren't pursued?

3 A I have no earthly idea why

4 MS BLANCHETTE Your Honor, I have no further
5 questions

6 MR PETRANO We went a little beyond direct
7 there If I could just follow up

8 THE COURT Okay

9 RECROSS-EXAMINATION

10 BY MR PETRANO

11 Q You're saying that the solicitor ordered you to give a
12 handgun back to a convicted felon?

13 A All his -- I was ordered to give all his equipment
14 back to him

15 Q And you said he was charged with a felony or
16 convicted?

17 A He was -- as far as I know and understand he was
18 charged with one and convicted for a felony

19 Q So he had a felony conviction, yet you were ordered to
20 return his handgun?

21 A Yes, sir

22 MR PETRANO Thank you, sir

23 MS BLANCHETTE Your Honor, I have nothing
24 further from this witness I ask that he be released from
25 his subpoena

JOHN JEFFREY McDONALD - DIRECT

1 THE COURT Okay You can step down and you're
2 excused Thank you for coming

3 MS BLANCHETTE Your Honor, at this time I call
4 John Jeffrey McDonald

5 JOHN JEFFREY McDONALD, having been duly sworn,
6 was examined and testified as follows

7 THE COURT Take a seat on the witness stand and
8 state your full name

9 THE WITNESS John Jeffrey McDonald

10 MS BLANCHETTE Your Honor, may I approach the
11 witness with a copy of this statement?

12 THE COURT You may

13 DIRECT EXAMINATION

14 BY MS BLANCHETTE

15 Q Mr McDonald, are you currently incarcerated?

16 A Yes, ma'am

17 Q And where are you incarcerated at?

18 A Manning Correctional Institute

19 Q And you have heard the testimony today regarding a
20 statement that a Johnny Allen Bradwell gave back in August
21 of 1980 Is that what you heard today?

22 A Yes, ma'am

23 Q And do you know Johnny Allen Bradwell or did you know
24 him?

25 A Yes, ma'am I know him

JOHN JEFFREY McDONALD - DIRECT

1 Q How did you know him?

2 A He was one of my friends during the time all of this
3 happened and that's how I knew him

4 Q Did you also know an individual named Dinky that we've
5 been referring to here today?

6 A Yes, ma'am

7 Q And did you know him by another name or know his
8 proper name?

9 A I believe his name is Donald Evan Taylor

10 Q Okay And following the murder of Olin Wilson, did
11 you receive any information from Mr Taylor regarding that
12 murder?

13 A Yes, ma'am We were riding in a car together And I
14 have tried since I've been talking to the private
15 investigator, Pete, to remember the exact time but I can't
16 for the life of me

17 But I do know that it was before this statement was
18 given Dinky and I were riding in a car together and he
19 pulled over We had been drinking And he told me that
20 he had some information that he wanted to get off his
21 chest

22 And that's when he told me that him and Pam were the
23 ones that killed Olin

24 Q And at that time Dinky was a friend of yours, is that
25 correct?

JOHN JEFFREY McDONALD - DIRECT

1 A Yes, ma'am

2 Q And could you explain to the Court who Pam is?

3 A Pam was his girlfriend at the time Pam Cassidy

4 Q Approximately what age were you at that time?

5 A Oh, 19

6 Q And were some of these individuals you're referring
7 to, were they minors? Were they just teenagers?

8 A Oh, yes, ma'am

9 Q You have a copy of the statement that Johnny Allen
10 Bradwell gave back in August of 1980, is that correct?

11 A Yes, ma'am

12 Q In that statement it indicates that there was a
13 confrontation between you and Dinky Taylor, is that
14 correct?

15 A Yes, ma'am

16 Q And what do you recall regarding that confrontation or
17 conversation y'all had?

18 A Well, what I recall is being over at Johnny Bradwell's
19 where he was living at the time It was his stepfather's
20 house And we were all out there together And Dinky --
21 and I know what this thing says, but I can't remember
22 exactly who came up

23 But I would venture to say that this statement is
24 correct They came up and Dinky jumped out He was
25 making the statement that it says on here, you know, that

JOHN JEFFREY McDONALD - DIRECT

1 he wanted to know who I told that he shot somebody

2 And I told him exactly what was on here and then it
3 really wasn't anything else said about it and that was the
4 end of it

5 Q Now you've heard today that Investigator Lewis is no
6 longer alive but he testified at the last PCR And he
7 testified at that PCR that if he had any information to
8 back up this statement Dinky would be in jail

9 Do you recall ever speaking with Lieutenant Lewis?

10 A Yes, ma'am I do

11 Q And he actually said, on page 96 at the last PCR, that
12 he spoke to a Jeff And that would be yourself?

13 A Yes, ma'am

14 Q Do you recall -- if you'd just explain to the Court
15 how it was that you spoke to him and what information you
16 gave him

17 A My mother spoke to me about what was going on because
18 she became aware of the situation And I had told her the
19 conversation that Dinky and I had And she told me that
20 the right thing to do would be to go down and talk to the
21 sheriff's department

22 And that's what we did We went down there and I sat
23 in front of his desk They put a tape recorder out there,
24 cassette recorder that recorded everything And Connie
25 Lewis indicated to me from what I could gather that he

JOHN JEFFREY McDONALD - DIRECT

1 thought that Dinky was the one that shot Olin

2 Q And you gave him information to confirm that, is that
3 correct?

4 A I told him exactly what I just told you, the
5 conversation we had in the car

6 Q So you wouldn't agree with his statement at the last
7 PCR that he had no evidence to back up Mr Bradwell's
8 statement?

9 A No, ma'am

10 Q And you didn't testify at the last PCR, did you?

11 A No, ma'am

12 Q Did you testify at trial?

13 A No, ma'am

14 Q Has anyone ever contacted you regarding this case
15 since you spoke to Mr Lewis?

16 A No, ma'am

17 Q Is the first person that you've spoken with since then
18 Mr Pete Skidmore?

19 A Yes, ma'am

20 Q And you spoke with him since he's the appointed
21 private investigator working for Mr Campbell?

22 A Yes, ma'am

23 Q And you've provided him with this information that
24 you've testified to here today?

25 A Yes, ma'am

JOHN JEFFREY McDONALD - CROSS

1 MS BLANCHETTE Your Honor, just one moment's
2 indulgence (Pause) I have no further questions

3 CROSS-EXAMINATION

4 BY MR PETRANO

5 Q I see your uniform, sir Where are you currently
6 located?

7 A Manning

8 Q And what are you in for?

9 A CDV

10 Q How old would Dinky have been at the time?

11 A Approximately the same age We were in high school
12 together

13 Q So 18? 19?

14 A I think this was '79 I graduated in '80 So, yeah,
15 this was -- yeah

16 Q And then the actual murder, when was that?

17 A Well, to tell you the truth, I didn't know these
18 people when the murder happened but after hearing y'all
19 talk I believe you said 1978

20 Q And so you became friends with them after that?

21 A Yes, sir

22 Q And you were talking to who in the car?

23 A To Dinky

24 Q And who else was in the car?

25 A He and I

1 Q Okay He said it was him and Pam?

2 A He said that he did it and that Pam was the driver

3 Q And did you ever talk to Pam about this or hear Pam
4 talk about it?

5 A No

6 Q And you went with your mom and talked to Lieutenant
7 Lewis about this?

8 A Yes, sir

9 Q You told him everything you told us today?

10 A Yes, sir

11 MR PETRANO Nothing further Thanks

12 MS BLANCHETTE Your Honor, I have no further
13 questions And I believe -- I'm not sure if he's here by
14 himself, but he can go back to Manning

15 THE COURT Okay Certainly Thanks for
16 coming You're excused

17 THE WITNESS Yes, ma'am

18 MS BLANCHETTE Your Honor, my final witness is
19 the one who showed up a little bit late I didn't know if
20 I could have a couple moments to speak with him outside
21 before I called him

22 THE COURT You can We can take a short break

23 MS BLANCHETTE Okay Thank you, Your Honor

24 (Thereafter, Court stood in recess from

25 11 26 a m , until 11 40 a m , when the trial resumed as

RONALD WILSON - DIRECT

1 follows)

2 THE COURT Thank y'all Please take your
3 seats

4 MS BLANCHETTE Your Honor, I have one final
5 witness, Ronnie Wilson

6 RONALD WILSON, having been duly sworn, was
7 examined and testified as follows

8 THE COURT Thank you You can take a seat

9 DIRECT EXAMINATION

10 BY MS BLANCHETTE

11 Q Could you please state your name for the record?

12 A Ronald Wilson

13 Q Mr Wilson, where do you currently reside?

14 A [REDACTED], [REDACTED], South Carolina

15 Q And, Mr Wilson, are you related to the victim in this
16 case?

17 A Yes, ma'am

18 Q And how are you related to the victim in this case?

19 A He's my daddy's brother

20 Q And you are here today in support of Mr Francis Owens
21 Campbell, is that correct?

22 A Yes, ma'am

23 Q And you're here today to tell the truth and nothing
24 but the truth, is that correct?

25 A Yes, ma'am

RONALD WILSON - DIRECT

1 Q Now, did you testify at the prior PCR back in 1987?

2 A Yes, ma'am I think so

3 Q But it's been sometime and you have trouble
4 remembering?

5 A Yes, ma'am It's been a long time

6 Q Do you remember testifying or giving information that
7 Johnny Bradwell was involved in a robbery of Deloris
8 Mock's trailer?

9 A Yes, ma'am

10 Q And as a result, a bench warrant was issued for
11 Mr Bradwell?

12 A I don't know if a warrant was issued or not

13 Q Okay But that's the extent of your memory, is that
14 correct?

15 A Yes, ma'am

16 Q Now going back to 2004, did you have some contact with
17 Mr Bradwell?

18 A Yes, ma'am I've had contact with Johnny throughout
19 the years Johnny's always been around I was at work in
20 Asheville, North Carolina, and he called me up Told me
21 that Owens was coming around and looking for him and he
22 was scared And that he wanted to tell me something and I
23 said, what's that

24 And he started telling me about the murder of my
25 uncle And I told him, I said, Johnny, I said, you don't

RONALD WILSON - DIRECT

1 need to be calling me I said, you need to be calling law
2 enforcement, I said, or either, you know, call one of my
3 uncles I said, they'll go down with you and get this
4 thing straight And he was real scared

5 And then when I come back into town, you know, to try
6 to get in touch with Johnny I couldn't, couldn't find
7 him

8 Q Is Mr Bradwell easy to locate as far as you know?

9 A He's not easy When he wants not to be found, he
10 can't be found

11 Q Have you tried to locate him for Mr Campbell and for
12 myself in connection with today's case?

13 A Yes, ma'am Many times

14 Q Have you been able to do that?

15 A No, ma'am

16 Q In 2004 when he called you, what was your
17 understanding of the information that he gave you?

18 A He told me about Dinky shooting Olin and he said Pam
19 was there He said he was there And he just went on
20 telling me that

21 And I stopped him I told him, I said, man, I said,
22 you need to go tell it to someone else I said, you need
23 to be telling law enforcement You don't need to be
24 telling me

25 And he indicated then that he was scared for his life

RONALD WILSON - CROSS

1 Q And you conveyed this information to Mr Pete Skidmore
2 in connection with this case, is that correct?

3 A Yes, ma'am I did

4 Q Then later in 2008, did something occur at a family
5 reunion?

6 A Yes, ma'am We were all at the family reunion, Uncle
7 Talley, my brother Greg, my son, a couple of my nephews,
8 cousins were all there And we were doing the usual thing
9 at a family reunion after all the kids had left We were
10 just having a good time talking

11 They had a campfire And the conversation come up
12 with Richard Blizzard And Richard Blizzard told my uncle
13 the exact same thing Johnny Bradwell had told me, that
14 they had sat there and waited on Uncle Olin come by and
15 when Uncle Olin came by and stopped, that Dinky shot him

16 Q And this confirmed the conversation you had with
17 Mr Bradwell?

18 A Yes, ma'am It did

19 MS BLANCHETTE Okay Your Honor, just one
20 moment's indulgence (Pause) Your Honor, I have no
21 further questions

22 THE COURT Okay Thank you

23 CROSS-EXAMINATION

24 BY MR PETRANO

25 Q Who's Blizzard?

RONALD WILSON - CROSS

1 A Richard Blizzard?

2 Q Yeah Who's he?

3 A He's, I think he's some kin to Timmie Wilson He's a
4 nephew or a cousin or something

5 Q All right And so, he confessed to murdering your
6 uncle?

7 A No, sir He said Dinky Taylor did it He was there

8 Q So according to Blizzard he was there --

9 A He said --

10 Q -- in the car?

11 A I don't know if he said he was in the car He said he
12 was there and that Dinky pulled the trigger and shot Uncle
13 Olin

14 Q And then who else was there?

15 A Pam and Johnny Bradwell

16 Q So that's four?

17 A I guess

18 Q What do you mean you guess?

19 A I'm just going by what he told me Yeah

20 Q Who is Dinky to you?

21 A He's nothing to me

22 Q Not a relative at all?

23 A No

24 Q Do you know where he is?

25 A No

1 Q Have you seen him since you've testified at the last
2 PCR?

3 A I haven't seen Dinky since my uncle passed away

4 Q So in the late 70's?

5 A Well, I guess

6 MR PETRANO Nothing further

7 MS BLANCHETTE Your Honor, I just ask that this
8 witness be released

9 THE COURT You can be released

10 THE WITNESS Thank you

11 THE COURT Thank for coming

12 MS BLANCHETTE Your Honor, I have very brief
13 argument, but that concludes our witnesses

14 THE COURT Thank you For a moment, just give
15 me a moment to recap my notes

16 (Pause) You can conclude with your argument

17 MS BLANCHETTE Your Honor, there are just a few
18 points I'd like to bring to the Court's attention out of
19 the testimony and witnesses we presented today

20 First I think is the most unique and rare that I
21 have seen as an appointed attorney in this case is the
22 support of the family The victim's family is here
23 today They've been standing by this man's side since
24 1978, trying to proclaim his innocence

25 I believe the State has reviewed some of the

1 parole tapes where they have gone to his parole hearings
2 also proclaiming his innocence and their support

3 The other unique characteristic is the unreliable
4 testimony and the basis of that, came from Mr Tommy
5 Campbell And Mr Flemming testified that he was a known
6 informant And that he was known to be an informant to
7 work off charges And it would be our position that his
8 testimony in this case was unreliable And the motive in
9 testifying against Mr Francis Owens Campbell was to work
10 off charges

11 A very important detail that was throughout our
12 presentation today is the implication of another suspect
13 And that would be Dinky that we've been discussing today

14 We have number of admissions from Mr Bradwell,
15 Mr McDonald, Mr Blizzard, that have all been referenced
16 today throughout the testimony that Mr Campbell was not
17 the murderer, that Dinky committed this crime and informed
18 a number of individuals that he committed this crime

19 And Investigator Lewis went into it in detail at
20 the PCR saying that that if he ever had any evidence that
21 Dinky committed this crime he would have locked him up

22 And I would present to this Court today that we
23 have given this Court evidence that Dinky committed this
24 crime and he should be the one locked up for this crime,
25 not Mr Francis Owens Campbell

1 Finally, the most important point since -- due to
2 the age of this case, I understand that we have to have
3 newly-discovered evidence to prevail today I think our
4 newly-discovered evidence is peppered through our
5 presentation but most importantly it was embodied in the
6 testimony Mr John Jeffrey McDonald

7 I would allege today that his testimony amounts
8 to a Brady violation He said that he spoke to Mr Lewis,
9 gave him information implicating Dinky in this crime
10 Mr Lewis stated at the last PCR that no one gave him
11 information substantiating Dinky's involvement in the
12 crime

13 The problem here is all the records have been
14 destroyed So I can't go back to Richland County and get
15 his statement or the recording of his statement But he
16 testified here today under oath that he gave that
17 statement and the Applicant testified that he never saw
18 that statement

19 So in support of our argument regarding the Brady
20 violation, I would just like to hand up to the Court a
21 copy of Riddle versus Osmint and Kyles versus Whitley

22 We would ask that this Court see fit to finally
23 review everything, look at all these issues that have been
24 presented over the years, and we can see these have been
25 presented over the years, but finally serve justice in

1 this case and allow Mr Francis Owens Campbell to have a
2 new trial He's not afraid to face that because he's
3 proclaimed here today that he is an innocent man

4 Thank you, Your Honor

5 THE COURT Thank you Anything from the State?

6 MR PETRANO Thank you, Your Honor

7 If you turn, if you have or if you want to, page
8 795 of the prior PCR transcript and I'm using when I say
9 795 that's the Bates numbering because this came from the
10 PCR appeal It's page 96 if you're using the actual prior
11 PCR transcript

12 That's where Lieutenant Lewis talks about talking
13 to Jeff, the McDonald we heard here today Now, if that's
14 a Brady claim, that was in -- let's see -- 1987 The
15 State's submitted that it's not new Jeff could have been
16 found at any time

17 Now some of the suggestion Was here earlier
18 that we didn't know who Jeff was Well, we knew who Jeff
19 was since 1980, seven years before Mr Lewis testified
20 It's Jeff McDonald in the Bradwell affidavit

21 Now we are fortunate enough here to have these
22 records The Applicant's waited until they were destroyed
23 filed to file the second PCR Now, we're lucky enough to
24 have the trial transcript where this Bradwell advocates
25 that it is specifically discussed So we know at that

1 point he at least had it He must have known McDonald's
2 last name If he didn't he didn't even bother to look at
3 his own discovery materials

4 That being said, he had a prior PCR He had a
5 direct appeal All of these issues were discussed And I
6 said I wasn't going to do it, you know, but here we go
7 I'm quoting from page six of the prior PCR order of
8 dismissal Further, though the Applicant has thrown out
9 for the Court's consideration all sorts of allegations,
10 rumors, and innuendoes about the credibility and moral
11 character of the victim's friends and relatives, the
12 Applicant did not establish either, one, that his trial
13 counsel could or should have found out such information
14 or, two, that such information presented at trial would
15 have probably resulted in a different verdict At most,
16 the evidence presented by the Applicant supports the
17 sheriff's department's theory that the Applicant did not
18 commit this crime alone

19 And that's all throughout the prior PCR The
20 State never claimed that the Applicant did this alone
21 And then take that into consideration with the Applicant's
22 own testimony that we're fortunate enough to have, that
23 these records, even though everything else was destroyed,
24 the South Carolina Supreme Court did have some microfilm

25 He testified at the trial and we have not only

(1 his testimony, we have a couple statements, I think one or
2 two, of his that he wore a wire, all sorts of other
3 stuff He says he saw the killer This is at the other
4 trial He puts himself there That's in the red Ford
5 Fairmont 500 fastback

6 Let's see Paragraph two on page six The
7 Applicant alleged that Mr Vermont, his trial counsel,
8 should have called Thomas Campbell, Johnny Bradwell and
9 Dinky Taylor as defense witnesses Since the Applicant
10 did not even see fit to call these persons as his own
11 witnesses -- as his own witnesses at the post conviction
12 relief hearing, he certainly did not prove to this Court
13 that their testimony would have been relevant or that
14 their testimonies would have been beneficial to the
15 defense

16 Your Honor, all we've got here is a very shadowy
17 third-party guilt, but nothing really eliminates the
18 Applicant as a component of the murder Dinky may have
19 been there Bradwell may have been there Blizzard may
20 have been there Pam, and then there's all the talk about
21 the robberies of the trailers and charges that were
22 dismissed and who was working for the State Your Honor,
23 all of that was addressed at the prior PCR

(24 Now, if I could go back to our hearing about a
25 year ago, maybe 13 months Even if we didn't have the

1 prior PCR transcript, the trial transcript, because this
2 is a 30-year old case, the State still submits that these
3 allegations could have or should have been presented and
4 that the claims should fail there They should be
5 summarily dismissed

6 We are fortunate enough to be able to expose that
7 this would have all been presented before, that this
8 application was, with all due respect, incorrect that none
9 of this had been addressed before

10 He had a PI Discovery has been granted We
11 take claims of newly-discovered evidence very seriously as
12 we should All of this has been addressed before

13 Where's Bradwell? Where's Dinky? Where's
14 everyone else who supposedly did this? And then, get them
15 all here and eliminate the Applicant None of that's been
16 established, Judge The conviction should stand

17 Thank you

18 THE COURT Let me ask you this When the prior
19 case was tried, it was tried under what theory? Was it
20 that this Applicant was the trigger person? Was it that
21 this Applicant is guilty by hand of one, hand of all?

22 MR PETRANO I think it's --

23 THE COURT And if so, does the theory matter in
24 terms of his, what was before that particular jury in
25 terms of what was their consideration?

1 MR PETRANO I would say both in the sense that
2 they were allowed to agree with portions -- because I
3 don't know what the jury found I mean, I wasn't back
4 there But if you look at all the evidence you can go
5 both ways there, with the direct --

6 THE COURT No, I'm talking about the
7 presentation of the evidence

8 MR PETRANO Yeah I'm trying to articulate
9 that

10 THE COURT Okay

11 MR PETRANO You had the cousin, I think it was
12 Jamie, who said, yeah, I saw him come back after I heard a
13 shotgun blast and he comes back So that would kind of
14 put him as the trigger person

15 But then you have the Applicant's own statement
16 and some other evidence that puts him there at the scene
17 with some other folks He alluded that he heard a shot
18 and the car sped off or something like that

19 So I don't know what part the jury picked,
20 whether it was hand of one, hand of all or trigger
21 person That would have been something they covered
22 throughout their own discussions I don't think that was
23 ever an issue as far as specifically what, either at the
24 closing arguments or on direct appeal or at the prior PCR
25 but --

1 THE COURT But I also ask this because the
2 charge is murder and would any of this information that we
3 have that the Applicant contends is newly discovered,
4 potentially put this at another charge or another crime
5 based on what might be newly-discovered evidence?

6 MR PETRANO Well, sure, you could have
7 accessory after the fact or before the facts to the other
8 people, but nothing takes away from the Applicant and
9 especially --

10 THE COURT In the terms of murder --

11 MR PETRANO Absolutely

12 THE COURT -- you're saying that what we have
13 now still puts him on the charge of murder as opposed to
14 accessory after the fact or accessory before the fact and
15 his testimony today has just been at the scene

16 MR PETRANO Your Honor, I don't even know what
17 we have today I guess we're supposed to take his
18 testimony here now and take away all his other prior
19 statements

20 THE COURT No, no, no He doesn't seem to be
21 inconsistent with his testimony in terms of his
22 involvement from today, what he's doing is adding on
23 certain statements that apparently weren't before the
24 Court or at that trial before and then either contending
25 that there might be third-party guilt to the extent that

1 somebody else was totally involved or that even if he were
2 at the scene that he may not have necessarily needed to be
3 charged with murder, it could have been some other
4 offense

5 MR PETRANO I don't know about the charging
6 differences I would certainly seem that murder would be
7 supported here, but to answer your question directly --

8 THE COURT I'm asking that because the newly-
9 discovered evidence at a minimum doesn't potentially guide
10 the Court to a different outcome based on what he should
11 have been charged with

12 MR PETRANO No All it is is a shadowy third-
13 party guilt defense It doesn't eliminate him

14 THE COURT As a murderer You get what I'm
15 saying? As opposed to accessory after the fact or some
16 other crime

17 MR PETRANO It's the State's position that it
18 does not eliminate him as the murderer It's a self-
19 serving statement that --

20 THE COURT If that's your argument, I just
21 needed to hear that to be definitive

22 MR PETRANO Sorry, ma'am

23 THE COURT That's okay

24 MS BLANCHETTE Your Honor, may I make one
25 clarification just for the record?

1 Regarding that point, in the trial transcript
2 that we have, both closing arguments are omitted So we
3 don't have the privilege of reading either closing
4 arguments,

5 But it would be my position on behalf of my
6 client that if you review Connie Lewis's testimony, he
7 makes it very clear that the Applicant was the man, he was
8 the murderer He was the trigger man

9 He actually, on pages 346 and --

10 THE COURT Whose testimony again?

11 MS BLANCHETTE Connie Lewis's He was the lead
12 investigator

13 On pages 345 through 347 he goes through the fact
14 that he investigated 250 people He gives names of other
15 people And the defense is actually given leeway to go
16 into third-party guilt as a part of that statement but he
17 makes it clear in his testimony that he was going after
18 Mr Francis Owens Campbell as the murderer

19 He was the murder suspect It wasn't a lesser
20 degree of murder, not that he was there with other
21 people

22 And I'd also like to clarify it's my
23 understanding from reading the transcript that
24 Mr Campbell wasn't stating he was there with other people
25 and some people sped off His testimony was actually that

1 he came upon the scene and saw other people speeding off
2 He wasn't involved with others being at the scene He
3 testified to no relation to whomever committed this
4 crime He wasn't there with them

5 THE COURT That's the trial testimony?

6 MS BLANCHETTE That's his trial testimony which
7 I assumed you were asking about

8 THE COURT Right

9 MS BLANCHETTE The State has mentioned that he
10 may have been there with three or four other people I
11 did not see that in his trial testimony

12 And I appreciate the opportunity to respond to
13 those points

14 MR PETRANO And you have his statements as well
15 that were also introduced at the trial

16 THE COURT All right Of course, as I do with
17 all my files, I will read every line that you all have
18 submitted because it is a very serious offense on both
19 sides

20 And the Court, just as well as the State, will
21 take seriously any potential claims of newly-discovered
22 evidence What I'd like to do in this regard is, I know
23 what the State's position would be because you have
24 thoroughly outline it in your memorandum to the Court On
25 the files that I have, essentially has the -- and plus I

1 already have the dismissals from the direct appeal as well
2 as from the PCR, the original claim, correct?

3 MR PETRANO Yes And I believe you have
4 materials from the PCR appeal

5 THE COURT Okay

6 MR PETRANO Now while that may have just been
7 cert denied, on that denial you have those arguments of
8 the Court so I think those --

9 THE COURT Exactly But my point is that I'll
10 have everything that you intend to say plus what happened
11 here

12 MR PETRANO Oh yeah And just the caveat is
13 everything here could have happened then

14 THE COURT Sure I say that to say that I'm
15 going to only ask that the Applicant draft a proposed
16 order because I'd like to see her outline the law and
17 outline what she's relying on because I know what you were
18 going to say

19 It does not mean I'm ruling with him I have to
20 review everything that's been submitted, the prior trial
21 transcript and all of that But I just think I'd like it
22 articulated and see what the law guides us to for this
23 particular issue knowing that have all your arguments and
24 then of course no order is final until I sign it It does
25 not mean that he has won, but I'd like to see her outline

1 everything for me as well and then of course I'll do my
2 own research as well

3 MS BLANCHETTE Your Honor, is there a certain
4 time you'd like me to submit that by?

5 THE COURT I know you've got a lot to read so
6 within 30 days

7 MS BLANCHETTE Okay

8 THE COURT Okay Anything else?

9 MS BLANCHETTE Nothing further, Your Honor

10 THE COURT Thank you All thank you all for
11 coming I've got the exhibit, but this --

12 MS BLANCHETTE It was my understanding it's
13 part of the record

14 THE COURT It's already in

15 END OF PROCEEDINGS 12 08 P M

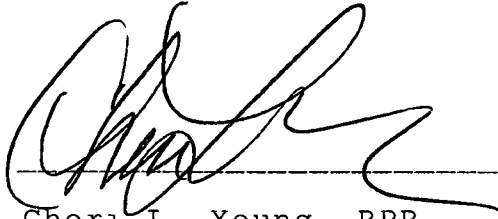
16 * * * *

17 CERTIFICATE OF REPORTER

18 I, Cheryl L Young, Registered Professional Reporter,
19 and Official Court Reporter for the State of South
20 Carolina, do hereby certify that the foregoing transcript
21 of proceedings heard on Monday, April 12, 2010, in
22 Columbia, South Carolina, was reported by me using machine
23 shorthand and realtime computer-aided translation and is a
24 true, accurate and complete transcript of the proceedings
25 had and evidence introduced in the hearing of the matter

(
1 I do further certify that I am neither of kin, counsel
2 nor interest to any party hereto

3 I have hereunto set my hand this Saturday, the 23rd
4 day of October, 2010

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Cheri L. Young, RPR
Official Court Reporter

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STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)

Francis O Campbell,)

Applicant,)

v)

State of South Carolina,)

Respondent)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No 2006-CP-40 0402

ORDER

RICHLAND COUNTY
 FILED
 2010 JUN 23 AM 9 01
 JEANETTE W McBRIDE
 C C P & C S

PROCEDURAL HISTORY

This matter comes before the Court pursuant to an Application for Post-Conviction Relief ("PCR") filed on January 18, 2006. The State submitted a Return and Motion for More Definite Statement on January 29, 2006. A hearing on the Motion for More Definite Statement was held before the Circuit Court on December 17, 2008. At that hearing, the State moved to dismiss the application. Defense counsel moved to be relieved and for the Court to appoint new counsel and an investigator. By Order dated January 31, 2009, the Court ordered counsel to be relieved and new counsel appointed. The Court also appointed an investigator.

On April 12, 2010, the matter came before the Court for an evidentiary hearing. Present at the hearing were Applicant, represented by Tricia A. Blanchette, Esquire, and Assistant Attorney General Brian T. Petrano, Esquire, representing the State of South Carolina. During the course of the hearing, Applicant testified, along with Ulysses Fleming, John Jeffery McDonald, and Ronnie Wilson. Applicant also admitted one exhibit. The State did not call any witnesses to testify at the hearing.

1 *gmc*

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO 2006CP4000402

Francis Owen #111197 Campbell

vs

State of South Carolina

Plaintiff

Defendant

CHECK ONE

- ☐ **JURY VERDICT** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON)** ☐ Rule 12(b), SCRCP, ☐ Rule 41(a), SCRCP (Vol Nonsuit), ☐ Rule 43(k), SCRCP (Settled), ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON)** ☐ Rule 40(j) SCRCP ☐ Bankruptcy
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award
- ☐ Other _____

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX)**☐ Affirmed, ☐ Reversed, ☐ Remanded, ☐ Other

NOTE ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED

☒ See attached order,☐ Statement of Judgment by the Court

Dated at Columbia, South Carolina, this _____ day of _____, 2010

PRESIDING JUDGE

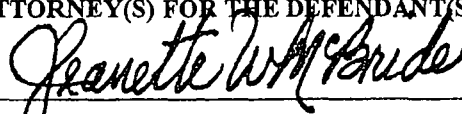
This judgment was entered on the _____ day of _____, 2010, and a copy mailed first class this 24th day of June, 2010, to attorneys of record or to parties (when appearing pro se) as follows

Tommy A Thomas
 Kathrine Haggard Hudgins
 Ian Christopher Deysach
 Susan Barber Hackett
 Charles T Brooks III
 Tricia A Blanchette

Robert L Brown

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Clerk of Court

Applicant is presently incarcerated in the South Carolina Department of Corrections ("SCDC") pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted for murder during the March 1982 term of the Court of General Sessions for Richland County. At the time of his indictment, Venable Vermont, Jr., Esquire represented Applicant. On April 26, 1982, Applicant proceeded to trial and the jury found him guilty of murder. The Honorable William Howard Ballenger sentenced Applicant to confinement for a period of life.

Attorney Vermont filed a timely Notice of Appeal on Applicant's behalf and an appeal was perfected. The South Carolina Supreme Court affirmed Applicant's conviction and sentence. See State v. Campbell, Op. No. 1983-MO-283 (filed November 8, 1983).

Applicant subsequently filed an application for PCR on November 20, 1985. The State filed its Return on February 24, 1986. Evidentiary hearings were convened (on February 25, 1987 and July 27, 1987), during which Michael J. Thompson, Esquire, represented Applicant. At the evidentiary hearings, Applicant proceeded on the following allegations:

- 1) He was denied effective assistance of trial counsel, in that his counsel
 - a. Failed to properly investigate the case to uncover certain evidence
 - b. Failed to present certain available witnesses, namely, Thomas Campbell
 - c. Failed to properly investigate and present evidence regarding the financial interests (i.e., motive) of others to commit the crime
 - d. Failed to properly investigate and present evidence regarding the background of certain of the State's witnesses and to discredit them

² JMC

- 2) The following new and after discovered evidence exists which is material and likely to change the outcome of another trial, if granted
 - a Evidence in the form of hypnosis, polygraph, and chemical tests of Applicant, which establish that he was not the assailant
 - b Statement of witnesses to the effect that the deceased's wife, Ann Wilson, was involved in the theft of guns from the residence of Applicant's sister prior to the murder of the deceased
 - c Another person has confessed to the murder of the deceased

By Order dated October 10, 1987, The Honorable Owens T Cobb, Jr , Circuit Court Judge, denied and dismissed Applicant's application Applicant subsequently filed a notice of appeal which was denied

The Court now has before it (1) records of the Richland County Clerk of Court regarding the subject convictions, (2) Applicant's records from the SCDC, (3) the trial transcript, (4) the prior PCR Appendix from the Supreme Court of South Carolina, (5) the Statement of Johnny Allen Bradwell dated August 7, 1980, (6) the current Application, (7) the State's Return and Motion for More Definite Statement, (8) the Order to Relieve Counsel, Appoint New Counsel, Appoint an Investigator, and for Disclosure of Discovery, and (9) the exhibit introduced by Applicant at the evidentiary hearing

LEGAL DISCUSSION

In a PCR Action, the "burden of proof is on the applicant to prove his allegations by a preponderance of the evidence " Frasier v State, 351 S C 385, 389, 570 S E 2d 172, 174 (2002) (citing Rule 71 1(e), SCRCPP) The Uniform Post Conviction Procedure Act provides that

3 

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

S C Code Ann § 17-27-90 (2003) Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in the previous application. Aice v State, 305 S C 448, 409 S E 2d 392 (1991), Foxworth v State, 275 S C 615, 274 S E 2d 415 (1981)

Applicant now alleges that his new application is based on after-discovered evidence. To prevail on this claim, Applicant must establish that the after-discovered evidence “(1) is such that it would probably change the result if a new trial were granted, (2) has been discovered since the trial, (3) could not in the exercise of due diligence have been discovered prior to the trial, (4) is material, and (5) is not merely cumulative or impeaching.” State v Spann, 334 S C 618, 619, 513 S E 2d 98, 99 (1999) (citing State v Prince, 316 S C 57, 447 S E 2d 177 (1993)), see also Hayden v State, 278 S C 610, 299 S E 2d 854 (1983)

SUMMARY OF THE TESTIMONY AND EVIDENCE PRESENTED AT THE EVIDENTIARY HEARING

At the beginning of the evidentiary hearing, the State provided this Court with the procedural history and renewed its motion for dismissal. In response, Applicant's counsel provided the Court with an explanation of the events that had transpired since the issuance of the Order in January 2009, which granted Applicant's request for an

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