

Mar 18 2025

Mahdi v. Stirling S.C. SUPREME COURT
Appendix to Petition for Writ of Habeas Corpus, filed 3/18/2025

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COPYSTATE OF SOUTH CAROLINA)
)COUNTY OF WILLIAMSBURG)
)
)THE STATE OF SOUTH CAROLINA,
PLAINTIFFSVS.)
)

GENERAL SESSIONS COURT

MIKAL D. MAHDI,
DEFENDANT

) JUNE 21, 2006

) ST. MATHEWS, S.C.

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

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

MR. DAVID M. PASCOE, JR.
SOLICITOR FOR THE STATEMR. DONALD N. SORENSON,
ASSISTANT SOLICITOR FOR THE STATEMR. CARL B. GRANT,
ATTORNEY FOR DEFENDANTMR. GLENN WALTERS,
ATTORNEY FOR DEFENDANTMARGARET T. SULLIVAN,
COURT REPORTER

1 (THEREUPON, THE FOLLOWING HEARING TAKES PLACE JULY
2 1, 2005.)

3 THE COURT: THIS IS THE MATTER OF STATE V. MIKAL
4 JAMES MAHDI. MR. -- I THINK, MS. HUDGINS.

5 MS. HUDGINS: THANK YOU, YOUR HONOR.

6 THE COURT: YES.

7 MS. HUDGINS: MAY IT PLEASE THE COURT, YOUR HONOR,
8 BEFORE YOU I HOPE YOU HAVE A COPY OF MY MOTION. IT IS A
9 MOTION TO BE RELIEVED AS COUNSEL. YOUR HONOR APPOINTED
10 ME TO BE CO-COUNSEL IN THIS CASE. AND LEAD COUNSEL IS
11 MR. CARL GRANT. YOUR HONOR, APPOINTED ME TO REPRESENT
12 MR. MAHDI. AS I WAS REVIEWING THE DISCOVERY IN MARCH OF
13 THIS YEAR, MARCH OF 2005, IT CAME TO MY ATTENTION THAT
14 SEVERAL OF WITNESSES THAT HAVE BEEN INTERVIEWED BY LAW
15 ENFORCEMENT, I KNEW. THESE ARE WITNESSES THAT WERE
16 INTERVIEWED AT THE WASHINGTON STREET UNITED METHODIST
17 CHURCH IN COLUMBIA, SOUTH CAROLINA, YOUR HONOR.

18 I HAVE A VERY CLOSE RELATIONSHIP WITH TWO
19 WASHINGTON STREET UNITED METHODIST CHURCH MEMBERS. I AM
20 A MEMBER OF THAT CONGREGATION. MY HUSBAND AND I WERE
21 MARRIED IN THAT CHURCH. BUT MORE IMPORTANTLY, THE
22 WITNESSES THAT WERE INTERVIEWED WERE EMPLOYEES OF THE
23 CHILD DEVELOPMENT CENTER THAT IS HOUSED THERE WITHIN THE
24 CHURCH BUILDING. YOUR HONOR, BOTH OF MY CHILDREN
25 ATTENDED THAT CHILD DEVELOPMENT CENTER. THEY WERE NOT

1 THERE AT THE TIME THIS ALLEGED INCIDENT TOOK PLACE. THEY
2 WERE THERE PREVIOUSLY. I HAVE SERVED ON THE BOARD OF
3 DIRECTORS FOR THAT CHILD DEVELOPMENT CENTER.

4 THE WITNESSES, AS I SAY, WERE EMPLOYEES. ONE OF
5 THEM IS AN EMPLOYEE THAT WORKED IN THE INFANT ROOM. SHE
6 CARED FOR BOTH OF MY CHILDREN. I KNOW HER VERY WELL. I
7 KNOW THE DIRECTOR VERY WELL AS A RESULT OF MY SERVING ON
8 THE BOARD OF DIRECTORS AT THE CHILD DEVELOPMENT CENTER.
9 YOUR HONOR, I BELIEVE THAT THERE IS ALSO A JANITORIAL
10 PERSON THAT HAS ALSO BEEN INTERVIEWED THAT WAS AN
11 EMPLOYEE OF THE CHURCH. I KNEW HER AS WELL. ANOTHER
12 WITNESS IS A MOTHER OF CHILDREN AT THAT DAY CARE CENTER,
13 AND AN ATTORNEY IN COLUMBIA YOU MIGHT KNOW. AND WE
14 CONSIDER A FRIEND.

15 YOUR HONOR, IN LIGHT OF THAT, I BECAME ALARMED AND
16 THOUGHT THAT THERE MAY BE A CONFLICT. I WASN'T CERTAIN.
17 SO WHAT I DID WAS, I GOT OUT THE RULE, I BELIEVE RULE
18 1.7. THE RULES OF PROFESSIONAL CONDUCT, YOUR HONOR. AND
19 I REVIEWED THOSE RULES IN TERMS OF CONFLICTS OF INTEREST
20 AND WHEN I COULD GO FORWARD IN REPRESENTING SOMEBODY, AND
21 I COULD NOT. THE RULES SEEM TO INDICATE OR IN CONFERRING
22 WITH THE RULES THAT IN A SITUATION LIKE THIS, IT IS
23 SOMETIMES BEST TO CONSULT OTHER MEMBERS OF THE BAR TO GET
24 THEIR FEEDBACK. I IMMEDIATELY CONTACTED LEAD COUNSEL
25 MR. GRANT, AND DISCUSSED THE CONFLICT WITH HIM.

1 I AT THAT POINT, WAS LEANING TOWARD THE FACT THAT I
2 THINK IT'S MISCONDUCT AND WOULD NOT BE ABLE TO -- I MEAN
3 IN MY REPRESENTATION. MR. GRANT AGREED WITH ME. I THEN
4 CALLED JOHN DELGADO WHOM I SHARE OFFICE SPACE. HE
5 AGREED THAT THERE WAS OBVIOUSLY A CONFLICT. AND IN
6 TALKING WITH MR. NETTLES WHO I ALSO SHARE OFFICE SPACE,
7 HE AGREED. AND THEN OUT OF AN ABUNDANCE OF PRECAUTION,
8 YOUR HONOR, I CONTACTED PROFESSOR FREEMAN AT THE
9 UNIVERSITY OF SOUTH CAROLINA, SCHOOL OF LAW. HE REMINDED
10 OF THE UTMOST IMPORTANCE THAT LAWYERS FACE ON
11 REPRESENTATION. PROFESSOR FREEMAN, I KNOW PROFESSOR
12 FREEMAN. HE WAS VERY GENEROUS WITH HIS TIME. HE SAT AND
13 TALKED WITH ME. AND I ASKED HIM, HE SAID THERE IS NO
14 QUESTION IN HIS MIND THAT I NEEDED TO MOVE BEFORE THIS
15 COURT TO BE RELIEVED.

16 I APOLOGIZE TO THE COURT FOR THE DELAY. THIS WAS
17 SOMETHING THAT CAME TO MY ATTENTION. AND AS I SOON AS IT
18 CAME TO MY ATTENTION, MY THOUGHT WAS TO DO WHATEVER I
19 NEEDED TO DO TO BRING IT TO THE COURT'S ATTENTION. I
20 JUST, I DON'T THINK THIS IS THE TYPE OF CONFLICT THAT
21 MR. MAHDI WOULD EVEN WAIVE. AFTER REVIEWING THE RULE 1.7
22 OF THE ETHICAL RULES, I THINK IT IS SUCH A PROBLEM WITH
23 MY RELATIONSHIP WITH THOSE WITNESSES, IT IS TO THE DEGREE
24 THAT I WOULD NOT BE ABLE TO EFFECTIVELY CROSS EXAMINE
25 THOSE WITNESSES. AND OBVIOUSLY MR. MAHDI NEEDS

1 REPRESENTATION OF TWO CAPABLE LAWYERS. SO AT THIS POINT,
2 YOUR HONOR, I WOULD MOVE TO RELIEVED.

3 THE COURT: MR. GRANT.

4 MR. GRANT: YES, YOUR HONOR. YOUR HONOR, MS.
5 HUDGINS, DID INDEED CONSULT WITH ME. AND AFTER HEARING
6 EVERYTHING SHE SAID TODAY, IN INDULGING WITH WHAT SHE
7 TOLD ME BEFORE THE HEARING BEGAN, WE JOIN IN THE MOTION.

8 THE COURT: MR. MAHDI, IF YOU WOULD STAND, PLEASE.
9 IF YOU WOULD RAISE YOUR RAISE YOUR RIGHT HAND TO BE SWORN.

10 (THEREUPON, THE DEFENDANT IS SWORN.)

11 THE COURT: NOW YOU HAVE HEARD WHAT MS. HUDGINS AND
12 MR. GRANT REGARDING HER DESIRE TO BE RELIEVED AS YOUR
13 LAWYER BASED ON THE CONFLICT THAT SHE BELIEVES EXISTS. IS
14 THAT CORRECT?

15 THE DEFENDANT: YES.

16 THE COURT: AND WHAT IS YOUR POSITION CONCERNING
17 THAT?

18 THE DEFENDANT: I FEEL HER CLAIMS HAVE A LOT OF
19 MERIT, AND I THINK SHE SHOULD BE RELIEVED.

20 THE COURT: AND YOU AGREE THAT SHE SHOULD BE RELIVED?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: THANK YOU VERY MUCH. AND WHAT SAYS THE
23 STATE?

24 MR. PASCOE: WE CERTAINLY HAVE NO OBJECTION TO HER
25 BEING RELIEVED, YOUR HONOR.

1 THE COURT: BASED ON EVERYTHING THAT I HAVE HEARD I
2 AGREE THAT IT APPEARS THAT MS. HUDGINS WOULD NOT PROVIDE
3 MR. MAHDI THE REPRESENTATION THAT HE DESERVES TO RECEIVE,
4 THAT HE IS TO RECEIVE, BASED ON THE FACTS AND
5 CIRCUMSTANCES THAT SHE HAS OUTLINED. I THEREFORE GRANT
6 HER MOTION TO BE RELIEVED AS HIS COUNSEL. AND NOW
7 CONCERNING REPLACEMENT OF MS. HUDGINS, MR. GRANT.

8 MR. GRANT: YES, YOUR HONOR. YOUR HONOR, MAY IT
9 PLEASE THE COURT. YOUR HONOR, I WOULD MOVE THE COURT TO
10 APPOINT ATTORNEY GLEN WALTERS OF THE ORANGEBURG BAR TO
11 SERVE AS CO-COUNSEL IN THIS CASE WITH ME. MR. WALTERS IS
12 A LAWYER WITH A WEALTH OF TRIAL EXPERIENCE.
13 PARTICULARLY, IN THE CRIMINAL DEFENSE EXPERIENCE. IN
14 FACT, MR. WALTERS RECENTLY COMPLETED A CAPITAL MURDER OUT
15 OF BARNWELL COUNTY WITH THE PRESIDING JUDGE PERRY
16 BUCKNER. AND I THINK HE AND I MAKE A GOOD TEAM. AND HE
17 WOULD BRING A WEALTH OF EXPERIENCE TO THE TEAM. AND I
18 ASK THE COURT TO APPOINT HIM AS CO-COUNSEL IN THIS CASE.

19 THE COURT: MR. WALTERS.

20 MR. WALTERS: MAY IT PLEASE.

21 THE COURT: WALTERS OR WALKER?

22 MR. WALTERS: MR. WALTERS.

23 THE COURT: MR. WALTERS.

24 MR. WALTERS: MAY IT PLEASE THE COURT, I WILL BE
25 HONORED TO SERVE WITH MR. GRANT AS CO-COUNSEL. I HAVE

1 ALSO CONSULTED WITH MR. MAHDI. AND HE SAID HE IS OKAY
2 WITH ME SERVING AS CO-COUNSEL WITH REGARD TO THIS CASE.

3 THE COURT: ALL RIGHT. AND CONCERNING THE CODE
4 SECTION, I THINK 16-3-26, THE RULES REGARDING BEING DEATH
5 PENALTY QUALIFIED. MR. WALTERS, WHAT IS YOUR EXPERIENCE?

6 MR. WALTERS: MAY IT PLEASE THE COURT, YOUR HONOR,
7 I'VE PRACTICED LAW SINCE 1990. AND SINCE 1990, I HAVE
8 TRIED CRIMINAL CASES. THAT INCLUDES MISDEMEANORS AND
9 FELONIES.

10 THE COURT: AND WHAT DEATH PENALTY EXPERIENCE DO YOU
11 HAVE?

12 MR. WALTERS: THAT INCLUDES A PREVIOUS PENALTY CASE
13 THAT WAS TRIED IN BARNWELL COUNTY, STATE VS. ALLEN
14 WALKER, WITH PERRY BUCKNER.

15 THE COURT: THANK YOU, SIR.

16 MR. WALTERS: THANK YOU.

17 THE COURT: MR. MAHDI, IF YOU WILL STAND, AGAIN,
18 PLEASE. WHAT IS YOUR POSITION CONCERNING MR. GLEN
19 WALTERS BEING APPOINTED TO REPRESENT YOU ALONG WITH CARL
20 GRANT, WITH MR. GRANT BEING THE LEAD COUNSEL?

21 THE DEFENDANT: I HAVE NO OBJECTION.

22 THE COURT: THANK YOU, SIR. DO YOU BELIEVE HE SHOULD
23 BE APPOINTED?

24 THE DEFENDANT: YES.

25 THE COURT: THANK YOU. WHAT SAYS THE STATE?

1 MR. PASCOE: THE STATE TAKES NO POSITION, YOUR
2 HONOR. WE HAVE NO OBJECTION.

3 THE COURT: IN THE ORDER THIS FROM THE SUPREME COURT
4 ATTACHED IN RE: ATTORNEYS IN DEATH PENALTY CASES, WHICH
5 SET FORTH THE GUIDELINES FOR ATTORNEYS CERTIFIED TO
6 HANDLE THE DEATH PENALTY CASES. THE LEAD COUNSEL, THE
7 SECOND COUNSEL IT SAYS: THAT LEAD COUNSEL MUST HAVE AT
8 LEAST 5 YEARS EXPERIENCE, A LICENSED ATTORNEY, AND AT
9 LEAST 3 YEARS EXPERIENCE IN THE ACTUAL TRIAL OF FELONY
10 CASES. SHALL BE CERTIFIED AND DESIGNATED BY THE SUPREME
11 COURT. THE SECOND COUNSEL SHALL HAVE AT LEAST 3 YEARS
12 EXPERIENCE AS A LICENSED ATTORNEY. AND WILL NOT BE
13 REQUIRED TO BE FURTHER CERTIFIED TO BE ELIGIBLE FOR
14 APPOINTMENT.

15 I FIND THAT MR. GLEN WALTERS IS CERTIFIED TO SERVE
16 AS SECOND COUNSEL. AND THAT MR. MAHDI IS IN AGREEMENT
17 WITH HIS APPOINTMENT. I FIND THAT IT IS APPROPRIATE TO
18 BE APPOINTED. AND I APPOINT YOU AS SECOND COUNSEL IN
19 THIS CASE, MR WALTERS.

20 MR. WALTERS: THANK YOU, YOUR HONOR.

21 THE COURT: ANY OTHER MATTERS THAT THE COURT SHOULD
22 CONSIDER AT THIS TIME, MR. SOLICITOR?

23 MR. PASCOE: YOUR HONOR, IT IS MY UNDERSTANDING THE
24 DEFENSE MAY HAVE A MOTION WITH REGARDS TO THE MENTAL
25 EVALUATION.

1

1 STATE OF SOUTH CAROLINA
2 COUNTY OF CALHOUN COURT OF GENERAL SESSIONS

5 STATE)
6)
6 V.) TRANSCRIPT OF RECORD
7)
7 MIKAL DEEN MAHDI) 04-GS-09-242
8) 04-GS-09-243
8 DEFENDANT.) 04-GS-09-244

11 JULY 7, 2006
12 NOVEMBER 20, 2006
NOVEMBER 27, 2006
SAINT MATTHEWS, SOUTH CAROLINA

~~14~~ B E F O R E:

15 THE HONORABLE CLIFTON NEWMAN, JUDGE; AND A
JURY.

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

19 DAVID M. PASCOE, JR., SOLICITOR
DONALD N. SORENSON, ASSIST. SOLICITOR
ATTORNEYS FOR THE STATE

21 GLENN WALTERS, ESQUIRE
JOSHUA KOGER, JR., ESQUIRE
22 ATTORNEYS FOR THE DEFENDANT

25 STACY L. SHEPPARD
CIRCUIT COURT REPORTER

ORIGINAL

I N D E X					
	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	7/7/2006 Hearing	20			
4	11/20/2006 Hearing	39			
5	Michael Cross				
6	By Mr. Sorenson	41			
6	By Mr. Walters		49		
7	Jury Qualification	154			
8	Patricia J. Favor				
9	By The Court	312		328	
9	By Mr. Pascoe	322			
10	By Mr. Walters	322			
11	Whittaker R. Williams				
11	By The Court	332			
12	By Mr. Pascoe	338			
12	By Mr. Koger	339			
13	Tiara D. Bochette				
14	By The Court	342, 1182			
14	By Mr. Walters	347		356	
15	By Mr. Pascoe	354			
16	Thomas R. Bowman				
16	By The Court	359			
17	By Mr. Koger	369			
17	By Mr. Pascoe	375			
18	Vernica W. Bonaparte				
19	By The Court	380		405, 454	
19	By Mr. Pascoe	391		403	
20	By Mr. Walters	393			
21	Brandon B. Dewitt				
21	By The Court	416			
22	James J. Howell				
23	By The Court	428			
23	By Mr. Koger	433			
24	Tami M. Huggins				
25	By The Court	438			
25	By Mr. Pascoe	444			

1	I N D E X cont.			
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
3	Annie W. Fritz			
	By The Court	467		
4	By Mr. Pascoe	473		
	By Mr. Walters	477		
5	Beatrice Whetstone			
6	By The Court	480		
	By Mr. Koger	488		494
7	By Mr. Pascoe	491		
8	Richard L. Rickenbaker			
	By The Court	498		
9	By Mr. Pascoe	506		510
	By Mr. Walters	507		
10	William C. Holman, III			
11	By The Court	515		
	By Mr. Koger	524		
12	Pearlie G. Brunson			
13	By The Court	528		553
	By Mr. Pascoe	532		
14	By Mr. Walters	534		
15	Karen Pund Hutto			
	By The Court	538		
16	Avia S. Gladden			
17	By The Court	542		
	By Mr. Pascoe	546		
18	By Mr. Koger	547		
19	Jack H. Crider			
	By The Court	555		
20	By Mr. Pascoe	559		
	By Mr. Walters	560		
21	Joann Green-Jackson			
22	By The Court	563		
	By Mr. Koger	566		
23	By Mr. Sorenson	568		
24	Irvin J. Mintz			
	By The Court	573		
25	By Mr. Walters	579		

1	I N D E X cont.				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Charles F. Kaiser				
	By The Court	583			
4	By Mr. Sorenson	586			
	By Mr. Koger	588			
5	Mary B. Gunter				
6	By The Court	591, 1194			
	By Mr. Walters	596			
7	By Mr. Koger	1197			
8	Theresa N. Huggins				
	By The Court	600			
9	By Mr. Sorenson	603			
	By Mr. Koger	607			
10	Marion B. Williams				
11	By The Court	612			
	By Mr. Sorenson	617			
12	By Mr. Koger	620			
13	Ronnie L. Bozard				
	By The Court	624			
14	By Mr. Walters	628			
15	Nathaniel J. Gladden				
	By The Court	632			
16	By Mr. Koger	637			
	By Mr. Sorenson	640			
17	Teresa McKnight				
18	By The Court	644			
	By Mr. Pascoe	649			
19	By Mr. Walters	653			
20	Sheryl B. Russell				
	By The Court	658			
21	By Mr. Koger	661			
	By Mr. Pascoe	664			
22	Catlin D. Craven				
23	By The Court	667			
	By Mr. Pascoe	671			
24	By Mr. Walters	674			
25					

1	I N D E X cont.			
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
3	James E. Cornelius			
	By The Court	684		
4	By Mr. Koger	685		
5	Linda I. Inabinet			
	By The Court	687		
6	By Mr. Walters	690		
7	Maxine B. Bonaparte			
	By The Court	694		
8	By Mr. Pascoe	696		
	By Mr. Koger	699		
9				
	Bobby J. Hicks			
10	By The Court	703		
	By Mr. Walters	705		
11	By Mr. Pascoe	709		
12	April A. Mills			
	By The Court	715		
13	By Mr. Pascoe	719		
	By Mr. Koger	722		
14				
	Jacqueline Culcleasure			
15	By The Court	726		
16	Monty S. Cochran			
	By The Court	732		
17				
	Crystal L. Bell			
18	By The Court	737		
19	Shirley E. Simmons			
	By The Court	739		754
20	By Mr. Sorenson	744		
	By Mr. Koger	750		
21				
	Tammy W. Gerringer			
22	By The Court	759		
	By Mr. Sorenson	763		
23	By Mr. Koger	765		
24	Pamela M. Fogle			
	By The Court	769		
25	By Mr. Pascoe	775		
	By Mr. Koger	777		

1	I N D E X cont.				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3					
4	Carroll H. Hudson, Jr.				
5	By The Court	780			
6	By Mr. Walters	784			
7	By Mr. Sorenson	788			
8	Alisha M. Hampton				
9	By The Court	792			
10	By Mr. Pascoe	797			
11	By Mr. Koger	802			
12	Francee M. Sams				
13	By The Court	805, 1177			
14	By Mr. Walters	811			
15	By Mr. Pascoe	816			
16	Sheena Cheeseboro-Staley				
17	By The Court	830			
18	By Mr. Pascoe	833			
19	By Mr. Koger	836			
20	Curtis L. Lake				
21	By The Court	852			
22	James H. Cornelius, Jr.				
23	By The Court	855			
24	Gwendolyn Snider				
25	By The Court	862			
26	By Mr. Pascoe	866		871	
27	By Mr. Koger	870			
28	Devin L. Caldwell				
29	By The Court	874			
30	By Mr. Walters	877			
31	By Mr. Pascoe	880			
32	Patricia A. Craig				
33	By The Court	886			
34	By Mr. Koger	890			
35	By Mr. Pascoe	892			

1	I N D E X cont.			
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u> <u>RECROSS</u>
3	Irene Shuler			
4	By The Court	897		909
	By Mr. Sorenson	899		
5	By Mr. Walters	905		
6	Thomas Haigler			
	By The Court	913		
7	By Mr. Sorenson	918		
	By Mr. Koger	921		
8	Ruby R. Keller			
9	By The Court	927		
	By Mr. Walters	932		
10	By Mr. Sorenson	935		
11	Alcojon Michael			
	By The Court	938		
12	By Mr. Sorenson	942		
13	Alfred Mack			
	By The Court	946		
14	By Mr. Walters	951		
	By Mr. Sorenson	956		
15	Jessica A. McKoy			
16	By The Court	962, 1188		
	By Mr. Sorenson	966		
17	By Mr. Koger	968		
	By Mr. Walters	1189		
18	Candace S. Haynes			
19	By The Court	971		
	By Mr. Walters	977		
20	By Mr. Sorenson	979		
21	Perry L. Jones			
	By The Court	989		
22	By Mr. Koger	994		
	By Mr. Sorenson	997		
23	Michael P. Walling			
24	By The Court	1001		
25				

1	I N D E X cont.				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Robert L. Greenwaldt				
	By The Court	1011			
4	By Mr. Sorenson	1015			
	By Mr. Koger	1016			
5	Bertha L. Fredrick				
6	By The Court	1020			
	By Mr. Walters	1023			
7	By Mr. Pascoe	1026			
8	Charlie R. Rucker				
	By The Court	1031			
9	Santana S. Favor				
10	By The Court	1035			
	By Mr. Sorenson	1039			
11	By Mr. Walters	1042			
12	Carolyn M. Wright				
	By The Court	1046			
13	By Mr. Sorenson	1049			
	By Mr. Koger	1052			
14	Patricia A. Mitchell				
15	By The Court	1057		1071	
	By Mr. Walters	1062			
16	By Mr. Sorenson	1067			
17	Jeremiah A. Backmon				
	By The Court	1075			
18	By Mr. Koger	1078			
	By Mr. Sorenson	1080			
19	Debra S. Brown				
20	By The Court	1088			
21	Clevis D. Harrison				
	By The Court	1093			
22	Arthur L. Mosley				
23	By The Court	1097		1109	
	By Mr. Koger	1101			
24	By Mr. Sorenson	1104			
25					

1		I N D E X cont.			
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Darren Frost				
4	By Mr. Sorenson	1293			
5	Amy Tripp Myers				
6	By Mr. Pascoe	1311			
7	James R. Woodley				
8	By Mr. Pascoe	1342		1350	
9	By Mr. Koger		1347		1351
10	Linda Lee Coulson				
11	By Mr. Pascoe	1351			
12	By Mr. Walters		1358		
13	Cindy Collins				
14	By Mr. Pascoe	1369			
15	Mike Koehler				
16	By Mr. Pascoe	1373			
17	By Mr. Walters		1378		
18	Moises Rivera				
19	By Mr. Pascoe	1387		1399	
20	By Mr. Walters		1394		
21	Joseph Parson Owen				
22	By Mr. Pascoe	1399			
23	By Mr. Koger		1409		
24	Amanda Jean Weaver				
25	By Mr. Sorenson	1414			
26	By Mr. Walters		1427		
27	Corey T. Pitts				
28	By Mr. Pascoe	1444			
29	By Mr. Walters		1448		
30	Stephen Curtis				
31	By Mr. Sorenson	1457			
32	By Mr. Koger		1479		
33	Mike S. Poe				
34	By Mr. Sorenson	1483			
35	By Mr. Walters		1497		

1		I N D E X cont.			
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3					
4	Richard M. Boone				
	By The Court	1112			
	By Mr. Sorenson	1114			
5	By Mr. Walters	1116			
6	Charles E. Jeffery				
	By The Court	1120			
7					
8	Kathleen A. Link				
	By The Court	1124			
	By Mr. Koger	1126			
9					
10	Evelyn M. Jackson				
	By The Court	1130		1141	
	By Mr. Sorenson	1133			
11	By Mr. Walters	1138			
12	William W. Crawford				
	By The Court	1145			
13					
14	Darius Murph				
	By The Court	1150			
15	Gregory M. Smith				
	By The Court	1152			
16	By Mr. Koger	1156			
17	Mary G. Loftis				
	By The Court	1162			
18	By Mr. Walters	1167			
19	Jacob Cheeseboro				
	By The Court	1175			
20					
21	Empaneling of Jury	1212			
22	Michael Cross				
	By Mr. Sorenson	1255			
	By Mr. Koger	1257			
23					
	Guilty Plea	1259			
24					
25					

1	I N D E X cont.				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Phillip Seats				
	By Mr. Sorenson	1498			
4	By Mr. Koger		1505		
5	Neal Morin				
	By Mr. Sorenson	1508			
6	William Alexander Cartwright, III				
7	By Mr. Pascoe	1513			
8	Michael Anthony Adams				
	By Mr. Pascoe	1516			
9	Barbara Ann Amos				
10	By Mr. Pascoe	1527			
11	Henry Lee Johnson				
	By Mr. Sorenson	1530			
12	By Mr. Koger		1534		
13	Wickliffe McPherson				
	By Mr. Sorenson	1536			
14	By Mr. Koger		1541		
15	Terrance Prioleau				
	By Mr. Sorenson	1543			
16	By Mr. Walters		1545		
17	Janet Driggers				
	By Mr. Sorenson	1547		1558	
18	By Mr. Walters		1550		
19	Annie Sellers				
	By Mr. Sorenson	1561			
20	By Mr. Koger		1565		
21	Gary Lane				
	By Mr. Sorenson	1567		1577	
22	By Mr. Walters		1574		1578
23	Thomas S. Summers, Jr.				
	By Mr. Pascoe	1579		1586	
24	By Mr. Walters		1584		
25					

1	I N D E X cont.				
2	<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Wendell Davis				
4	By Mr. Pascoe	1587			
5	Edward Myers				
6	By Mr. Pascoe	1594			
7	Meredith Myers Firestone				
8	By Mr. Pascoe	1602			
9	Janice Edwards Ross				
10	By Mr. Sorenson	1609			
11	James Evans Akin				
12	By Mr. Walters	1620			
13	By Mr. Sorenson		1643		
14	Marjorie Hammock				
15	By Mr. Koger	1655			
16	Closing Arguments				
17	By Mr. Pascoe	1686			
18	By Mr. Walters	1709			
19	Sentence of the Court	1726			
20	Certificate of Reporter	1743			
21					
22					
23					
24					
25					

1 the appropriate time.

2 Due to the lateness of the hour, we will not be
3 in a position to begin the case today. I've
4 instructed them that we'll need to give you an
5 opportunity to get where you are and get settled in
6 and to have you return at noon tomorrow. And they
7 will be on top of the schedule and in constant
8 contact with me as the situation might indicate.

9 So, Mr. Cockrell, they can go with you at this
10 time. And they're in your care.

11 MR. COCKRELL: Thank you.

12 (Jury was excused for the day.)

13 THE COURT: Ladies and gentlemen, we will deal
14 with all other matters that will need to be
15 discussed this afternoon and in the morning prior to
16 the jury being brought in. And court will be
17 recessed at this time until nine o'clock tomorrow
18 morning.

19 (The following proceedings were reported in
20 chambers.)

21 THE COURT: Let the record reflect that we're
22 having a chambers conference in the jury room after
23 the jury has been discharged for the day. And I
24 want the chambers conference to reflect that counsel
25 for the State and the defense came to chambers prior

1 to the swearing of the jury and the Solicitor
2 indicated that the defense counsel wanted to have an
3 ex parte conversation with me concerning this case
4 and a possible resolution of this case and indicated
5 that he was in agreement with the Court having an ex
6 parte conversation with defense counsel.

7 I indicated to the Solicitor and to Mr. Walters
8 and Mr. Koger that it's the Court's policy not to
9 discuss plea negotiations and/or possible sentences
10 in a case in chambers and to make no commitments
11 concerning either thing in chambers. Solicitor.

12 MR. PASCOE: That is a hundred percent
13 accurate, Your Honor.

14 THE COURT: Mr. Walters.

15 MR. WALTERS: That is completely accurate, Your
16 Honor.

17 THE COURT: And Mr. Walters -- first, Mr.
18 Solicitor, regarding the extent of the in chambers,
19 ex parte conversation with defense counsel, is there
20 any objection to that matter being a part of the
21 record outside of the presence of all parties except
22 defense counsel?

23 MR. PASCOE: No objection, Your Honor.

24 THE COURT: And we will do that. Obviously, at
25 this point, Mr. Mahdi has a right to be present

1 except for security issues. And, of course, the
2 security issues are at a heightened level at this
3 time based on the Sheriff's discovery of what
4 appears to be a key. And what was Mr. Mahdi
5 attempting to do with the key as far as you know,
6 Sheriff?

7 **SHERIFF:** We just found it subsequent to a
8 search after he met with his attorneys, but he did
9 indicate to us that he had attempted to use it in
10 Orangeburg, it did not work. And he just hadn't had
11 the opportunity to use it over here yet.

12 **THE COURT:** All right. And based on that, we
13 have security at a heightened level, but I will
14 either have the in chambers, ex parte conversation
15 present with a minimal amount of security present or
16 outside of the presence of Mr. Mahdi. What did you
17 say, Mr. Walters?

18 **MR. WALTERS:** Your Honor, we'll follow the
19 direction of the Court with regards to security.

20 **THE COURT:** Now, in the event we have an ex
21 parte conversation that's obviously outside of the
22 presence of the Solicitor, at a certain point, it's
23 no longer ex parte if you have other people present,
24 including possible witnesses for the State.

25 **MR. WALTERS:** Yes, sir, that's correct.

1 **THE COURT:** And who do you believe will be
2 needed to be present or would be acceptable to be
3 present?

4 **MR. WALTERS:** More than likely, Ms. Nancy
5 Burwell.

6 **THE COURT:** Who is she?

7 **MR. WALTERS:** She's the grandmother of the
8 defendant and she's one party that will be here
9 tomorrow morning. That's the only family member.
10 There may be one other family member that may appear
11 with Mr. Mahdi.

12 **THE COURT:** Of course, the Court will only have
13 an ex parte conversation with counsel not with any
14 other family members nor with the defendant. And
15 what I want to do is to have the ex parte
16 conversation capsulized for the record purposes in
17 this case, but not for public purposes.

18 **MR. WALTERS:** Yes, sir.

19 **THE COURT:** So, basically, either Mr. Mahdi
20 will need to waive his presence and go or someone
21 from law enforcement will have to stay here if he's
22 to stay, but you will need to summarize all that you
23 discussed with the Court in chambers earlier. So
24 which option do you prefer?

25 **MR. WALTERS:** I'd like for Mr. Mahdi to be

1 present. I don't want him in a position where he
2 feels as if we're hiding something from him. And,
3 certainly, I'll leave it to the Sheriff to direct
4 who should be present from his organization. I
5 certainly respect Sheriff Summers and whatever he
6 dictates.

7 THE COURT: For this conversation, Sheriff, it
8 should only take a few minutes, how many folks do
9 you think need to be here?

10 SHERIFF: Your Honor, one person is plenty.
11 I'll be glad to stay myself unless y'all have
12 another preference. The rest of the guys can be
13 right out in the hallway. They will be within
14 hearing distance if we need them, but not in the
15 general -- if that suits everybody.

16 THE COURT: Does that suit you, Mr. Walters?

17 MR. WALTERS: That's fine, Your Honor.

18 THE COURT: Mr. Solicitor?

19 MR. PASCOE: That suits me.

20 THE COURT: That will be fine, Sheriff.

21 (Pause.)

22 MR. PASCOE: If you want to place him under
23 oath not to say anything, it's up to you.

24 THE COURT: Place the sheriff under oath not to
25 say anything to anyone concerning the discussion?

1 MR. PASCOE: Sure.

2 MR. WALTERS: Yes, sir.

3 THE COURT: Very good. That will do it.

4 (The Solicitors and officers leave
5 chambers.)

6 THE COURT: Sheriff, do you solemnly swear that
7 this conversation taking place for purposes of
8 having the record clearly reflect any and all ex
9 parte conversations so that there will be no
10 communications outside of Mr. Mahdi's presence that
11 are not placed on the record and that you will
12 reveal the contents of this conference to no one?

13 SHERIFF: Yes, I do.

14 THE COURT: All right. Very good.

15 Mr. Walters.

16 MR. WALTERS: May it please the Court. Your
17 Honor, I've discussed with my client options that
18 are available with regards to this case. Mr. Mahdi
19 is very intelligent and in conveying the options to
20 him, of course, he's aware of the fact that there
21 are two phases to a trial, the guilt phase and also
22 the sentencing phase, if it should reach that point.

23 One option that was discussed with Mr. Mahdi
24 was with regards to the guilt phase. And, of
25 course, there's been a discussion with regards to

1 the balancing of options or the lesser of two evils
2 in that process.

3 What's been conveyed to Mr. Mahdi is, is that
4 there are no guarantees with regards to either
5 process. We have a jury that's been empanelled and
6 there are certain pluses and minuses with that jury.
7 And, of course, Mr. Mahdi's in a position where he's
8 saying, well, what about the Judge. And, of course,
9 Your Honor's conveyed from the beginning that there
10 is no policy by this Court that they will agree to a
11 plea or agree to a certain sentence being rendered.

12 So I've explained to him that there are no
13 guarantees wherever you go. And, of course, he's
14 pondering the issue of whether he should proceed
15 forward with trial or whether he should go in front
16 of Your Honor and plead guilty.

17 Of course, with the second phase with regards
18 to the sentencing phase, he has been informed that
19 the State will have to put up their case and
20 information and, of course, he'll be allowed to put
21 up information. The question is whether he will do
22 that in front of a jury or whether he will do that
23 in front of a judge. And, again, there are no
24 guarantees and there are pluses and minuses with
25 regards to either option that he pursues.

1 When this was presented to Mr. Mahdi today, he
2 was thinking over the issue. And I also informed
3 him that Ms. Nancy Burwell had been contacted today,
4 his grandmother was on her way. I believe that's
5 the closest person that you would have a
6 relationship with.

7 **DEFENDANT MAHDI:** And my brother.

8 **MR. WALTERS:** And his brother. And Celine is
9 in the military. He's in Germany. And Celine is
10 going to be discharged I believe -- or is he staying
11 in the Army?

12 **DEFENDANT MAHDI:** He's staying in the Army.

13 **MR. WALTERS:** He's staying in the Army. But
14 Ms. Burwell is sort of the matriarch of the family
15 and she will be here and she's greatly concerned
16 about her grandson.

17 And, of course, when Your Honor inquired about
18 where are we with this, I said, well, it's sort of
19 been sprung on him and I want him to have an
20 opportunity to talk to his grandmother and, of
21 course, that's someone he's close to. And I wanted
22 him to have an opportunity to think through all of
23 the issues and if he had any questions. When we
24 discussed this, I was present, along with Doctor
25 Emerson Smith and co-counsel, Joshua Koger, Junior.

1 So that's where he is at this time.

2 Subsequently, we had the unfortunate event with
3 regards to the key, which sort of threw us off track
4 in our discussions and things of that nature. I
5 would ask that Mr. Mahdi be given an opportunity, at
6 least tonight, to think matters through.

7 And wouldn't you like to see Ms. Burwell in the
8 morning?

9 **DEFENDANT MAHDI:** Yes.

10 **MR. WALTERS:** And he'd like to see Ms. Burwell
11 in the morning.

12 And, certainly, I know Your Honor has made it
13 clear that you have to move this case. And,
14 certainly, we do not want to delay or cause
15 problems, but with this issue developing later in
16 the day, being approached by the Solicitor and this
17 dialogue developing, we would like an opportunity
18 tomorrow morning, after Ms. Burwell is here, to sit
19 down and tell Your Honor where we are.

20 **THE COURT:** And, sir, do you understand that
21 the jury has been selected and not sworn, but once
22 the jury is sworn, the jury will decide the case?

23 **MR. WALTERS:** Yes, sir.

24 **THE COURT:** And we have the jury coming in and
25 they will be sworn at noon tomorrow for the case to

1 proceed.

2 MR. WALTERS: Yes, sir.

3 THE COURT: It's been my long-term policy...and
4 will continue to be that I never decide a case in
5 chambers. I always decide a case after listening to
6 all of the evidence and the -- in the instance of
7 any guilty plea to the defendant and to the victim
8 and to other victim's representatives, as well as
9 law enforcement and to ever signal what one thinks
10 that one might do as a result of a guilty plea in
11 chambers without hearing the evidence in open court
12 and hearing from law enforcement and victims and
13 others who have a constitutional right to be
14 present, I think does a disservice to the court and
15 to justice and I do not do that. And whatever
16 choices that are made, are made by the defendant as
17 a result of having representation.

18 And we'll be here tomorrow morning ready to
19 proceed with this case in whatever form or fashion
20 it might take.

21 MR. WALTERS: Yes, sir.

22 THE COURT: All right. Very well. Do you
23 understand all that has been said, Mr. Mahdi?

24 DEFENDANT MAHDI: Yes, sir.

25 THE COURT: All right very good.

1 (Whereupon, the proceedings were concluded
2 for November 29, 2006.)

3 (The following proceedings were held on
4 November 30, 2006.)

5 (State's Exhibit Numbers 13 through 66 were
6 marked for identification purposes.)

7 (The following proceedings were reported in
8 chambers with Defendant Mahdi and Mr. Walters and
9 Mr. Koger present.)

10 **THE COURT:** Good morning, Mr. Mahdi.

11 **DEFENDANT MAHDI:** Good morning.

12 **THE COURT:** This is a continuation of the ex
13 parte conference. And I wanted to come back early
14 this morning concerning this because the -- I want
15 it to be clear and make sure there was no
16 misunderstanding or misstatement concerning the law.

17 And the law provides that if the defendant
18 pleads guilty, the sentencing proceeding will be
19 conducted before the Judge. And that's statutory.
20 And that's the same as in any criminal proceeding
21 that if a person pleads guilty, the Judge does the
22 sentencing.

23 And I did not want the impression to be that
24 Mr. Mahdi was under any compulsion to plead guilty
25 before the start of the trial or before the swearing

1 of the jury because a person can plead guilty at any
2 point in time if they decide to do so.

3 And this is certainly not -- is not being
4 mentioned to suggest that that is advisable or not
5 advisable. It's simply the law. And I didn't want
6 the law to be misstated. And after more closely
7 reviewing the statute and also the case of State v.
8 Downs, it is clear that sentencing is conducted by
9 the Judge in any capital case where a defendant
10 pleads guilty.

11 Mr. Walters, any question regarding that?

12 **MR. WALTERS:** No, sir, Your Honor. What you
13 stated is clear. And I believe Mr. Mahdi
14 understands that also. If not, I will explain it to
15 him.

16 **DEFENDANT MAHDI:** Yes, sir, I understand.

17 **THE COURT:** All right. Very good.

18 (Whereupon, the hearing was concluded in
19 chambers.)

20 (The following proceedings were reported in
21 open court.)

22 **THE COURT:** I want to first deal with the issue
23 of the defendant's motion for a change of venue now
24 that we have selected a jury panel. Mr. Walters.

25 **MR. WALTERS:** May it please the Court, Your

1 Honor. Your Honor, I've discussed that matter with
2 my client. At this time, we would withdraw our
3 motion for a change of venue or venire.

4 THE COURT: Is that right, Mr. Mahdi?

5 DEFENDANT MAHDI: Yes, sir.

6 THE COURT: And that motion, therefore, is
7 withdrawn. The jury panel is scheduled to come in
8 at noon. Are there other matters, Mr. Walters?

9 MR. WALTERS: May it please the Court, Your
10 Honor. Your Honor, I've discussed the case
11 thoroughly with my client and counsel with him
12 during the latter part of yesterday and also this
13 morning. Your Honor, at this time, my client would
14 like to enter a plea of guilty.

15 THE COURT: And he would like to enter a plea
16 of guilty to what charges?

17 MR. WALTERS: All of the charges, Your Honor.

18 THE COURT: Is that your understanding as well,
19 Mr. Solicitor?

20 MR. PASCOE: Yes, Your Honor. Mr. Walters just
21 informed me of that.

22 THE COURT: Is that right, Mr. Mahdi?

23 DEFENDANT MAHDI: Yes, sir.

24 THE COURT: Prior to the trial in this case,
25 Mr. Mahdi was referred on a motion of the defense

1 for a competency examination. And the Court
2 conducted a Blair hearing. And I found, as a result
3 of the Blair hearing, that Mr. Mahdi was competent
4 to stand trial and to assist the lawyers with his
5 defense.

6 I believe that it would be appropriate, given
7 the magnitude of this decision by Mr. Mahdi, that we
8 have the doctors that gave their opinion concerning
9 competency to speak with him again to reaffirm their
10 opinion as to his competency to enter into a guilty
11 plea as well.

12 So we will -- and I would ask the Solicitor to
13 have that doctor come here for that purpose. Do you
14 know when he might be here?

15 **MR. SORENSON:** He had indicated, Your Honor,
16 that it would take him 45 minutes to an hour, and
17 that was probably right at about an hour ago I spoke
18 to him. So I suspect he should be here any moment.

19 **THE COURT:** And in the event that the Court
20 were to go forward with the guilty plea, does the
21 defendant have people who would want to be here for
22 that?

23 **MR. WALTERS:** May it please the Court. Your
24 Honor, it's my understanding that the -- Mr. Mahdi's
25 grandmother, Ms. Nancy Burwell, is on her way to the

1 courthouse, also.

2 THE COURT: All right. We will, therefore, be
3 in recess in anticipation of the arrival of Doctor
4 Cross. And we'll reconvene as soon as we can,
5 hopefully not beyond the hour that the jurors will
6 be here ready to start the case. And we'll be in
7 recess and come back on the record for that guilty
8 plea hearing. We'll be in recess.

9 MR. WALTERS: Thank you, Your Honor.

10 MR. PASCOE: Thank you, Your Honor.

11 (Brief Recess.)

12 THE COURT: Yes, sir, Mr. Solicitor.

13 MR. PASCOE: May it please the Court. It's my
14 understanding that Mr. Mikal Mahdi intends to plead
15 guilty to one count of murder, indictment 04-09-243,
16 one count of grand larceny over \$5,000, which is
17 indictment number 04-242, and one count of burglary
18 in the second degree violent, which is 04-GS-244.

19 Per Your Honor's instructions, Doctor Cross was
20 able to come here today and was able to reevaluate
21 Mr. Mahdi to determine his competency for the
22 purpose of this plea. And if the Court wants to
23 inquire into the defendant's competency, he is
24 available.

25 THE COURT: Is that correct, Mr. Walters, the

MICHAEL CROSS - DIRECT BY MR. SORENSON

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1 defendant wishes to plead guilty to murder, burglary
2 in the second degree and grand larceny of an amount
3 over \$5,000?

4 MR. WALTERS: That's correct, Your Honor.

5 THE COURT: Is that correct, Mr. Mahdi?

6 DEFENDANT MAHDI: Yes, sir.

7 THE COURT: Very well. We will receive some
8 testimony from Doctor Cross in regard to competency
9 to enter this guilty plea.

10 Doctor, if you'll come forward, please.

11 MICHAEL CROSS,
12 having been duly sworn, testified as follows:

13 THE CLERK: Please state your full name for the
14 record, please.

15 THE WITNESS: Michael Cross, C-r-o-s-s.

16 THE COURT: Solicitor, will you exam him,
17 please, or, Mr. Sorenson?

18 MR. SORENSON: Yes, sir. May it please the
19 Court, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. SORENSON:

22 Q Doctor Cross, thank you for coming this
23 morning. You had an opportunity, I guess, back on
24 November 20th to come testify before this court
25 during the Blair hearing; is that correct?

1 A Yes, I did.

2 Q And at that point in time, I believe it was
3 your opinion that Mr. Mahdi is competent to stand
4 trial?

5 A Yes.

6 Q Have you had an opportunity to further come and
7 evaluate him this morning with regards to his
8 competency to be able to enter a guilty plea?

9 A Yes, I did.

10 Q Okay. If you would, tell the Court what your
11 findings were this morning.

12 A Yes. Your Honor, I reevaluated him again, as
13 we discussed, about two weeks ago when we were here
14 during the Blair hearing. He demonstrated a good
15 understanding of the legal proceedings against him
16 and also had a factual knowledge of the legal
17 system.

18 Likewise today, he understood the, you know,
19 what a guilty verdict -- excuse me -- a guilty plea
20 means. He also understood the risks and benefits of
21 entering into this plea today and had a rational
22 understanding of both, what the possible
23 consequences for each might be.

24 Q Okay. And back on November 20th when you
25 testified, is your opinion he was competent at that

1 point in time to have also entered into a guilty
2 plea at that time?

3 A Yes.

4 Q And has anything changed from your evaluation
5 of him this morning?

6 A No. He essentially looked unchanged from when
7 I first saw him last year in December and when I saw
8 him a second time a few weeks ago and today.

9 Q So is your opinion then that he, within a
10 reasonable degree of medical certainty, that he
11 would be competent today to enter into a guilty
12 plea?

13 A Yes, that's my opinion.

14 MR. SORENSON: Thank you, Doctor Cross.

15 THE COURT: Mr. Koger.

16 CROSS-EXAMINATION

17 BY MR. KOGER:

18 Q Doctor Cross, just to reiterate, he had a good
19 understanding of the process?

20 A Yes.

21 Q And he had a factual knowledge of the legal
22 system?

23 A Yes.

24 Q And as of today, he knows what he is doing?

25 A Yes.

1 MR. KOGER: Okay. Thank you.

2 THE WITNESS: You're welcome.

3 THE COURT: I have no questions for you,
4 Doctor. Thank you very much.

5 THE WITNESS: Thank you, Your Honor.

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

7 MR. PASCOE: The State's position, he's
8 competent, Your Honor, to enter a plea.

9 THE COURT: And what is the defense's position?

10 MR. KOGER: That Mr. Mahdi's competent, Your
11 Honor.

12 THE COURT: And, Mr. Mahdi, what is your
13 position?

14 DEFENDANT MAHDI: That I'm competent.

15 THE COURT: And you wish to move forward with
16 this guilty plea?

17 DEFENDANT MAHDI: Yes, sir.

18 THE COURT: All right. Thank you. You may be
19 seated.

20 I find that the defendant is competent to
21 proceed with this guilty plea. He's been examined
22 now on several occasions by Doctor Cross and others,
23 Doctor Cross from the second exam and the present as
24 well and -- during the earlier examination and
25 reexamined today. And he is competent -- has

1 previously been found competent to stand trial and
2 he is competent to enter a guilty plea.

3 With regard to the guilty plea, if the
4 defendant will stand, Mr. Walters as well, if you'll
5 come forward next to the Sheriff, the defendant and
6 counsel.

7 MR. WALTERS: May it please the Court. Your
8 Honor, may I also have his grandmother present with
9 him?

10 THE COURT: That will be fine.

11 Mr. Mahdi, if you'll come before the Clerk,
12 Mr. Hasty, and be sworn, please.

13 Mr. Hasty, if you'll swear him, please, with
14 the Bible.

15 DEFENDANT MAHDI: That's not necessary.

16 THE COURT: Pardon me?

17 THE CLERK: He says it's not necessary.

18 THE COURT: Mr. Mahdi, if you'll raise your
19 right hand.

20 MIKAL DEEN MAHDI,
21 having been duly affirmed, testified as follows:

22 THE COURT: Mr. Mahdi, what's your full name?

23 DEFENDANT MAHDI: Mikal Deen Mahdi.

24 THE COURT: And you have been represented in
25 this case for the past several months now by

1 attorneys, Glenn Walters and Joshua Koger?

2 DEFENDANT MAHDI: Yes, sir.

3 THE COURT: And, Mr. Walters and Mr. Koger,
4 have you explained to Mr. Mahdi the charges
5 contained in the indictments against him?

6 MR. WALTERS: Yes, sir, Your Honor.

7 THE COURT: Have you explained to him the
8 possible punishment involved in this case, including
9 the possible punishment of either life imprisonment
10 without the possibility of parole or the death
11 penalty?

12 MR. WALTERS: Yes, sir, Your Honor.

13 MR. KOGER: Yes, sir.

14 THE COURT: And have you explained to him his
15 constitutional rights, including the right to have a
16 jury trial and the rights to have the jury determine
17 whether his sentence would be life without the
18 possibility of parole, if he were to be found guilty
19 during the guilt phase of the trial, or the jury
20 could return a verdict for death?

21 MR. WALTERS: Yes, sir, Your Honor.

22 THE COURT: In your opinion, does Mr. Mahdi
23 understand the charges against him, the possible
24 punishment and his rights?

25 MR. WALTERS: Your Honor, I believe Mr. Mahdi

1 fully understands.

2 THE COURT: And do you agree with his decision
3 to plead guilty?

4 MR. WALTERS: Yes, sir, Your Honor.

5 THE COURT: From your investigation of the
6 facts and circumstances of the case, do you feel the
7 State could produce sufficient evidence to convince
8 a jury beyond a reasonable doubt that if Mr. Mahdi
9 were to stand trial, his conviction would be
10 probable?

11 MR. WALTERS: Yes, sir.

12 THE COURT: Mr. Mahdi, before I can accept a
13 plea of guilty, it is necessary that I make sure
14 that your plea of guilty is made freely and
15 voluntarily. Therefore, I must ask you a series of
16 questions. If you do not understand a question,
17 please let me know and I will explain it to you.
18 You may consult with your lawyers about any matter
19 during this questioning. And I see you're here with
20 your grandmother?

21 DEFENDANT MAHDI: Yes, sir.

22 THE COURT: And, ma'am, what is your name?

23 MS. BURWELL: Sir, Nancy Thomas Burwell.

24 THE COURT: Nancy Thomas Burwell?

25 MS. BURWELL: From Lawrenceville, Virginia.

1 THE COURT: Mr. Mahdi, you may confer with your
2 lawyers and/or your grandmother, Ms. Burwell, at any
3 stage of this proceeding as well. Do you understand
4 that, sir?

5 DEFENDANT MAHDI: Yes, I do.

6 THE COURT: Mr. Mahdi, what is your age?

7 DEFENDANT MAHDI: Twenty-three.

8 THE COURT: And tell me your educational
9 background.

10 DEFENDANT MAHDI: I have a GED and some
11 community college.

12 THE COURT: A GED and some community college?

13 DEFENDANT MAHDI: Yes.

14 THE COURT: Do you have an occupational history
15 or a work history?

16 DEFENDANT MAHDI: Yes, sir.

17 THE COURT: And what is your occupational and
18 work history?

19 DEFENDANT MAHDI: Mostly roofing, brick laying.

20 THE COURT: Have you ever been treated for the
21 abuse of alcohol or drugs or for mental disease?

22 DEFENDANT MAHDI: No, sir.

23 THE COURT: Have you taken any medication,
24 drugs or alcohol within the last 24 hours?

25 DEFENDANT MAHDI: No, sir.

1 **THE COURT:** Are you aware of any physical,
2 emotional or a nervous problem that might keep you
3 from understanding what you're doing?

4 **DEFENDANT MAHDI:** I have none of those
5 problems, Your Honor.

6 **THE COURT:** And, Mr. Mahdi, are you pleading
7 guilty to the offenses of murder of James E. Myers?

8 **DEFENDANT MAHDI:** Yes, Your Honor.

9 **THE COURT:** Grand larceny of his 2003 Dodge Ram
10 Truck?

11 **DEFENDANT MAHDI:** Yes, Your Honor.

12 **THE COURT:** And, also, burglary in the second
13 degree involving the building belonging to Mr. Myers
14 and Amy Tripp Myers?

15 **DEFENDANT MAHDI:** Yes, Your Honor.

16 **THE COURT:** And, Mr. Mahdi, do you understand
17 that the possible sentence in this case, if I were
18 to accept your guilty plea, is a sentence of life
19 without the possibility of parole or the -- or a
20 sentence of death?

21 **DEFENDANT MAHDI:** Yes, Your Honor.

22 **THE COURT:** And, Mr. Mahdi, you do understand
23 that we have selected a jury to hear the case and
24 decide your guilt or innocence concerning these
25 charges?

1 **DEFENDANT MAHDI:** I'm fully aware of that, sir.

2 **THE COURT:** And do you understand that that
3 same jury, if they were to find you guilty, will
4 then, in a second phase of the trial known as the
5 penalty phase of a trial, would then hear additional
6 evidence and determine whether or not your sentence
7 should be death or life imprisonment without the
8 possibility of parole?

9 **DEFENDANT MAHDI:** I understand that, sir.

10 **THE COURT:** And do you understand that in order
11 for a jury to find you guilty, all 12 jurors must
12 unanimously agree?

13 **DEFENDANT MAHDI:** I understand that, Your
14 Honor.

15 **THE COURT:** And do you also understand that in
16 order for a jury to recommend a death sentence, that
17 all 12 jurors must agree to recommend the death
18 sentence?

19 **DEFENDANT MAHDI:** Yes, sir.

20 **THE COURT:** And do you understand that you have
21 the constitutional right to have the jury decide
22 your guilt or innocence and, also, you have the
23 constitutional right to have the jury determine your
24 sentence?

25 **DEFENDANT MAHDI:** I fully understand that, Your

1 Honor.

2 THE COURT: And do you understand that if I
3 were to accept your guilty plea today, the jury will
4 have no role in your sentencing and the decision as
5 to what sentence you will receive will be left
6 solely up to me?

7 DEFENDANT MAHDI: Yes, sir.

8 THE COURT: And do you voluntarily give up such
9 a right?

10 DEFENDANT MAHDI: Yes, sir, Your Honor.

11 THE COURT: And do you understand what waiving
12 that right means?

13 DEFENDANT MAHDI: I do, Your Honor.

14 THE COURT: And what does it mean?

15 DEFENDANT MAHDI: It means I've given up all of
16 my rights to a 12 party jury. And I just admitted
17 guilt to the crimes I'm being charged with.

18 THE COURT: Do you understand that if you were
19 to proceed with the jury trial, the State has the
20 burden of proving each and every element of each and
21 every offense against you beyond a reasonable doubt?

22 DEFENDANT MAHDI: I fully understand that, Your
23 Honor.

24 THE COURT: And do you understand that if you
25 were to have a jury trial, you will -- you have the

1 constitutional right to remain silent and that the
2 jury could not consider the exercise of that
3 constitutional right in any way in determining
4 whether or not you're guilty of the offense or
5 offenses?

6 DEFENDANT MAHDI: I understand that, Your
7 Honor.

8 THE COURT: And do you understand that prior to
9 any guilty plea, you're presumed to be innocent of
10 each and every charge?

11 DEFENDANT MAHDI: Yes, sir, Your Honor.

12 THE COURT: Do you understand that your rights
13 -- your lawyers will have the right to cross-examine
14 any witnesses against you; do you understand?

15 DEFENDANT MAHDI: Yes, sir.

16 THE COURT: Do you understand that your lawyers
17 will have the right to challenge any incriminating
18 statements that you may have made and challenge any
19 evidence that the State intends to offer against
20 you?

21 DEFENDANT MAHDI: Yes, I do.

22 THE COURT: And do you understand that you have
23 the right to have your lawyer subpoena any witnesses
24 that you may have to come and testify on your own
25 behalf?

1 **DEFENDANT MAHDI:** Yes, Your Honor.

2 **THE COURT:** And have you discussed with your
3 lawyers thoroughly the constitutional safeguards
4 that you have and the essential protections inherent
5 in a jury trial?

6 **DEFENDANT MAHDI:** I was made fully aware of
7 that by my attorneys.

8 **THE COURT:** Now, Mr. Mahdi, understanding all
9 of that, do you wish to waive your right to a jury
10 trial and plead guilty to these charges?

11 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

12 **THE COURT:** Has anyone promised you anything to
13 get you to plead guilty?

14 **DEFENDANT MAHDI:** No, sir, Your Honor.

15 **THE COURT:** Have you had enough time to discuss
16 your decision to plead guilty with your lawyers, as
17 well as your family?

18 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

19 **THE COURT:** Mr. Mahdi, do you know of any
20 defenses that you have to any of these charges?

21 **DEFENDANT MAHDI:** Very few, Your Honor.

22 **THE COURT:** And have you discussed any possible
23 defenses that you might have with your lawyers?

24 **DEFENDANT MAHDI:** Yes, sir.

25 **THE COURT:** And do you understand that when you

1 plead guilty, you give up your right to present any
2 defenses that you might have to these charges?

3 **DEFENDANT MAHDI:** I'm fully aware of that.

4 **THE COURT:** And is that what you want to do?

5 **DEFENDANT MAHDI:** That is what I want to do.

6 **THE COURT:** Are you satisfied with the services
7 of your attorneys in this case?

8 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

9 **THE COURT:** Do you believe that they have
10 represented you effectively?

11 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

12 **THE COURT:** Have you had an opportunity to talk
13 with them as often as you would like or as long as
14 you would like in order for them to properly
15 represent you?

16 **DEFENDANT MAHDI:** Yes, sir.

17 **THE COURT:** Do you need anymore time to talk to
18 your lawyers?

19 **DEFENDANT MAHDI:** Not at this moment, sir.

20 **THE COURT:** Have you understood your talks with
21 your lawyers?

22 **DEFENDANT MAHDI:** Yes, sir.

23 **THE COURT:** Have your lawyers done everything
24 for you that you feel they could or should have done
25 to assist you?

1 **DEFENDANT MAHDI:** I feel they've done
2 everything to the full extent of their power to
3 assist me and defend me, sir.

4 **THE COURT:** Have they done anything in this
5 case that you feel they should not have done?

6 **DEFENDANT MAHDI:** No, sir, Your Honor.

7 **THE COURT:** Are you completely satisfied with
8 the services of your lawyers?

9 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

10 **THE COURT:** Do you have any complaint that you
11 would want to make about your lawyers, the
12 Solicitor, any of the police officers involved in
13 this case?

14 **DEFENDANT MAHDI:** Yes, sir. I have one
15 complaint. I was kept in full body restraints all
16 night last night. And I was told that I was going
17 to be kept in full body restraints through the whole
18 trial all day, all night, Your Honor. And that's my
19 complaint.

20 While I'm in a secure cell at the detention
21 center, there is completely no need for me to be in
22 full body restraints while in the cell. That's my
23 only complaint, Your Honor.

24 **THE COURT:** And has that fact had any bearing
25 whatsoever on your decision to plead guilty?

1 DEFENDANT MAHDI: I'd be lying if I said I
2 didn't.

3 THE COURT: Sir?

4 DEFENDANT MAHDI: I'd be lying if I said it
5 didn't.

6 THE COURT: The fact that you have been placed
7 in a full body restraint, has --

8 DEFENDANT MAHDI: All night.

9 THE COURT: All night --

10 DEFENDANT MAHDI: Yes, sir.

11 THE COURT: Has that caused you to decide to
12 plead guilty?

13 DEFENDANT MAHDI: Your Honor, there wasn't no
14 -- it wasn't a very, you know, very big reasons.
15 It's a small like a slight diversion, you know.

16 THE COURT: A slight diversion?

17 DEFENDANT MAHDI: Yeah, a slight diversion, but
18 it's not nothing -- it's nothing major. There was
19 no major persuasive mood. It's mostly irritating,
20 extremely irritating. And I felt it was
21 unnecessary. I'm in a secure cell, a secure
22 location and it's just a means to hassle me, that's
23 what I felt it was.

24 THE COURT: Means to do what?

25 DEFENDANT MAHDI: It's a means to hassle me.

1 **THE COURT:** To hassle you?

2 **DEFENDANT MAHDI:** Yeah. Yes, sir, Your Honor.

3 But I, in no way, feel that that, you know, it's
4 almost petty, you know, it's childish to me that the
5 director of the Orangeburg Detention Center will
6 resort to that childish ways, you know.

7 Yeah, and I said that on television. The
8 Orangeburg director of the detention center is
9 childish. He resorted to childish ways, okay, Your
10 Honor, and -- but in no way, did that persuade me to
11 plead guilty. It's just irritating. And I feel
12 that -- I feel that it was unnecessary, Your Honor.
13 It was extremely unnecessary.

14 But as far as Calhoun County, they did not
15 mistreat me. I was not in coerced in any way by
16 this county to plead guilty.

17 **THE COURT:** Do you wish to proceed with the
18 guilty plea?

19 **DEFENDANT MAHDI:** Yes, Your Honor. I just felt
20 it was necessary to mention that.

21 **THE COURT:** Are you, in fact, guilty of the
22 charges against you?

23 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

24 **THE COURT:** Have there been any plea
25 negotiations in this case, Mr. Solicitor?

1 MR. PASCOE: No, Your Honor.

2 THE COURT: Mr. Walters?

3 MR. WALTERS: No, sir, Your Honor.

4 THE COURT: Mr. Mahdi?

5 DEFENDANT MAHDI: No, sir, Your Honor.

6 THE COURT: Understanding the nature of the
7 charges, the possible penalties, including the
8 possible penalty of a death sentence, the other
9 possible consequences of your guilty plea, as well
10 as having a full understanding of your
11 constitutional rights, how do you plead, Mr. Mahdi?

12 DEFENDANT MAHDI: I plead guilty, Your Honor.

13 THE COURT: And do you believe that the State
14 could produce sufficient evidence to convict you and
15 establish your guilt beyond a reasonable doubt and
16 that if you were to stand trial on these matters,
17 you would most probably be found guilty of these
18 charges?

19 DEFENDANT MAHDI: I feel that it's a likely
20 possibility, Your Honor, 85 percent possibility that
21 I would be found guilty.

22 THE COURT: Say it again, please.

23 DEFENDANT MAHDI: I feel it's a likely
24 possibility that I would be found guilty, Your
25 Honor, around 85, 90 percent.

1 **THE COURT:** All right. Mr. Solicitor, if you
2 will tell the Court the facts of this matter.

3 **MR. PASCOE:** May it please the Court, Your
4 Honor. And for the record, Mr. Mahdi is, and his
5 lawyers, have filled out the sentencing sheets.
6 I'll pass those to Mr. Hasty. They have been filled
7 out.

8 Your Honor, the victim in this case was
9 56-year-old Captain Jimmy Myers of Orangeburg Public
10 Safety. He had 31 years of public service both as a
11 fireman and as a police officer.

12 A number of his family members and friends are
13 here today. Among -- just a few of the family
14 members are his father, Mr. Ed Myers, his wife, Amy
15 Myers, his daughter, Meredith Firestone. They know
16 that today is not the appropriate time to address
17 the Court. They will wait until the sentencing
18 phase to address the Court.

19 As far as the facts of the case, Your Honor, as
20 you know, the defendant, Mr. Mahdi, is from
21 Virginia, Richmond, Virginia. Back in July of 2004,
22 he was living in Lawrenceville, Virginia.

23 We were going to prove that some time around
24 July 14th, July 15th of 2004, Mr. Mahdi came into
25 possession of a .380 caliber handgun, a stolen green

1 station wagon and some stolen license tags that
2 belonged to another vehicle in the State of
3 Virginia, stolen license tags from Virginia. He
4 headed south. He got to South Carolina.

5 We were going to be able to prove, in fact, we
6 have witnesses here today to testify that by late
7 Friday morning, July 16th, 2004, he was in downtown
8 Columbia, South Carolina. He had a little run in, a
9 fender bender, with a man by the name of Mr. Kinard,
10 who again is here to testify today. And Mr. Kinard
11 was going to testify that he had gotten out of his
12 vehicle to look at the damage of his car from when
13 Mr. Mahdi hit him with the station wagon. He
14 confronted Mr. Mahdi.

15 Mr. Mahdi told Mr. Kinard that he did not want
16 him to call the police. Mr. Kinard decided since
17 there was no damage to his vehicle, he wouldn't call
18 the police, but he wanted some information from
19 Mr. Mahdi first. And Mr. Mahdi gave him his
20 information, told him his name was Mikal Mahdi, gave
21 him an address in Richmond, Virginia. And
22 Mr. Kinard was able to write down the license tag
23 that was on that green station wagon. And all of
24 this was written down on paper by Mr. Kinard, which
25 would become relevant later.

1 Then we have witnesses that were going to place
2 Mr. Mahdi that afternoon, Friday afternoon, at the
3 Washington Street Methodist Church in downtown
4 Columbia on the corner of Washington Street and Bull
5 Street. This is relevant because we're going to be
6 able to prove that the defendant stayed there pretty
7 much in that parking lot in that area of Columbia
8 for the next day and a half, from that Friday
9 afternoon until the early morning hours of Sunday,
10 July the 18th, at approximately 3:30 that morning.

11 We have witnesses, Your Honor, a young man
12 named Corey Pitts who was here today who was going
13 to testify that at 3:30 in the morning, he was
14 driving down Washington Street, he had just dropped
15 a friend off, and he was driving down Washington
16 Street heading to another friend's house to go to
17 sleep. He stopped at the stoplight on Washington
18 and Bull Street just feet away from where
19 Mr. Mahdi's green station wagon was parked in the
20 parking lot at Washington Street Methodist Church.

21 Before I forget, one reason we were going to
22 prove that, he was telling people he had to stay
23 there and he was parked there because he was having
24 car trouble. The station wagon wasn't going
25 anywhere.

1 3:30 that morning while Mr. Pitts was at that
2 stoplight, Mr. Pitts was going to testify that the
3 defendant came up to him with a handgun, consistent
4 with the chrome .380 that he took from Virginia, and
5 car jacked Mr. Pitts from his red Ford Expedition.
6 Mr. Pitts got out of his Expedition. The defendant
7 got in the Expedition. Mr. Pitts went to Baptist
8 Hospital where he called the police, he wasn't
9 injured, but he called the police and reported the
10 carjacking. The defendant went off in the Ford
11 Expedition.

12 At some time while the defendant was in
13 possession of the Ford Expedition, he then took
14 those stolen Virginia license plate tags from the
15 green vehicle and put them on the Ford Expedition.

16 He then ended up, Your Honor, some time -- I'm
17 just going to use this exhibit right here that we
18 were going to use in court, State's Exhibit 1. At
19 some time around four o'clock in the morning or a
20 little after 4:00, he ended up at the Hess station
21 here in Calhoun County. It's a Hess station,
22 there's an Arby's next to it.

23 As you can see, Your Honor, this is I-26, which
24 is the way we were thinking the defendant probably
25 came down, got off of the exit here, which is

1 Road 22 to get gas at the Hess station.
2 We have two witnesses from the Hess station
3 that worked there, Your Honor, that were going to
4 testify that Mr. Mahdi was trying to put gas in the
5 red Ford Expedition using cards, credit cards either
6 from the inside of the vehicle or that were already
7 on Mr. Mahdi, but he was unsuccessful in getting
8 those cards to work and he couldn't get any gas in
9 the vehicle. At which time, they said that the
10 defendant at one point then took the red Ford
11 Expedition and parked it in the back of the Hess
12 station.

13 The women, after a while, started to get
14 concerned because they thought that Mr. Mahdi was
15 acting suspicious. At some time after five o'clock
16 that morning, those two women that worked at the
17 Hess station called the police and a deputy from the
18 Calhoun County Sheriff's Office arrived at the Hess
19 station to see what was going on.

20 When the deputy got there, Your Honor, his
21 testimony and the women's testimony is going to be
22 the defendant was in the bathroom, the deputy
23 decided to do his job, which was to go check on the
24 red Ford Expedition to see if there was anything up
25 with that. He checked on that, Your Honor. He

1 checked first on the license tag, the Virginia
2 license tag, that came back stolen from Virginia.
3 The deputy then checked the vin number of the red
4 Ford Expedition. The Expedition came back stolen in
5 a carjacking from Columbia and that person may be
6 armed and dangerous.

7 Well, unbeknown to the deputy, unfortunately,
8 Mr. Mahdi, we believe we were going to prove again
9 through the two witnesses at the Hess station, saw
10 that there was a deputy at the Hess station and the
11 defendant, according to the two witnesses exited --
12 while the deputy's back here (indicating), he exited
13 the side where the Arby's is and went this way
14 heading towards these woods.

15 Now, this is around some time after 5:30 in the
16 morning on July the 18th just 12 to 14 hours before
17 the murder of Captain Jimmy Myers.

18 Captain Myers' property, Your Honor, is less
19 than probably a half a mile from the Hess station
20 right up here where he has a shed, a number of acres
21 and a pond.

22 That night, Your Honor -- or we were going to
23 have SLED agents come in and testify, Your Honor,
24 that again some time the defendant found that shed.
25 There was forced entry to the shed. We believe

1 we're going to be able to prove that the defendant
2 used some type of instrument, such as a screw
3 driver, to enter one of the doors to get into the
4 shed.

5 Once inside the shed, he did a number of
6 things, such as taking a T.V., propping it up and
7 began to watch T.V. He took some items, some
8 weapons that were in the shed that belonged to
9 Captain Myers, such as a shotgun. He took the
10 shotgun and took the time to cut off the stock and
11 the barrel and spray paint the shotgun a different
12 color. He spray painted it black.

13 We're also going to be able to prove that the
14 defendant was able to break into a blue pick-up
15 truck that was at the scene. And once inside the
16 pick-up truck, was trying probably to get that truck
17 started so he could take off and he couldn't get it
18 started.

19 That evening, Your Honor, around seven -- about
20 6:30 now, July the 18th, Captain Jimmy Myers decided
21 he wanted to go out and visit his dad because it was
22 something he did and he tried to do everyday. He
23 went and saw his dad in Orangeburg. He left his
24 father's house around 6:55 and went out to his farm,
25 his property, which only took him about ten minutes

1 to get to from his dad's place.

2 We were going to prove that the defendant
3 confronted Captain Jimmy Myers and shot him, at
4 least eight times, but shot nine rounds at him. And
5 the weapon he used, Your Honor, was a .22 caliber
6 semiautomatic rifle that actually belonged to the
7 victim that the defendant was able to arm himself
8 with inside the shed. The weapon was already in the
9 shed when the defendant broke in.

10 The victim, Your Honor, suffered nine gunshot
11 wounds most of which by themselves were fatal. Three
12 of the gunshot wounds were to the head.

13 His body was on the floor, Your Honor. The
14 defendant then poured diesel fuel over the victim's
15 body, lit him on fire and other areas of the shed on
16 fire, we submit, to try to destroy evidence in this
17 case.

18 SLED got there and processed the scene later
19 that night. What happened was Ms. Amy Myers, the
20 victim's wife, began to get concerned that her
21 husband hadn't come home that night. He wasn't
22 returning any of her pages so she went out looking
23 for Captain Myers. And she's the one who discovered
24 his body that night around 9:30, Sunday, July the
25 18th.

1 SLED came out, Your Honor, processed the scene.
2 They found a number of items missing, of course,
3 such as the .22 caliber semiautomatic rifle. They
4 also -- most notably, everybody noticed that the
5 victim's white Dodge Ram truck was missing from the
6 scene and that was the truck that the victim had
7 drove to his shed. It was a city issued police
8 truck.

9 They also located a set of keys, Your Honor,
10 inside the shed that didn't belong there. They
11 learned that night that those keys that were found
12 in the shed not far from the victim's body were the
13 keys that belonged to the Ford Expedition that
14 Mr. Mahdi had car jacked earlier that morning that
15 was left at the Hess station.

16 SLED agents and officers from the sheriff's
17 department went to go reinterview those two women
18 that worked at the Hess station and they had those
19 women do a composite of the person that they saw in
20 that early morning before the murder. They did the
21 composite, and this is early Monday morning, July
22 19th less than 12 hours after Captain Myers' body
23 was discovered. That composite was faxed to the
24 State of Virginia, Lawrenceville, Virginia.

25 The authorities up in Lawrenceville, Virginia

1 recognized the composite. And the reason they knew
2 the facts up there is because of the stolen license
3 tags from Lawrenceville, Virginia on the red
4 Expedition. The officers up in Virginia then told
5 the SLED agents and Calhoun Sheriff's Office that
6 the man they might be looking for was Mikal Mahdi as
7 a result of that composite.

8 Sure enough, Your Honor, SLED agents then
9 tested the Expedition for fingerprints, lifted a
10 number of prints on the Expedition and a number of
11 prints off the license tag. Those fingerprints came
12 back to the defendant, Mr. Mikal Mahdi. A
13 nationwide BOLO was sent out to look for the
14 defendant, Mikal Mahdi, possibly driving the
15 victim's Dodge Ram, city issued police truck.

16 We were also going to put up witnesses, Your
17 Honor, Mr. Dickerson and some police officers from
18 Jacksonville, Florida, that not long after the 19th
19 of July when the defendant was down in Florida, he
20 sold the murder weapon, the .22 caliber
21 semiautomatic rifle to Mr. Dickerson. He also sold
22 the .380 caliber handgun he brought down with him
23 from Virginia to Mr. Dickerson.

24 Finally, Your Honor, on Wednesday, July 21st,
25 the defendant was spotted driving the victim's white

1 Dodge police truck in Satellite Beach, Florida. The
2 police tried to pull the truck over, the authorities
3 from Satellite Beach tried to pull the vehicle over.
4 The defendant exited the vehicle while it was still
5 moving. A short foot chase ensued where the
6 defendant was captured and finally brought back here
7 to South Carolina.

8 THE COURT: Are all of those facts true,
9 Mr. Mahdi?

10 DEFENDANT MAHDI: Most of them, Your Honor. It
11 was a little dramatized.

12 THE COURT: What facts stated by the Solicitor
13 is not true -- what facts are not true?

14 DEFENDANT MAHDI: It's so petty, they're
15 insignificant. Your Honor?

16 THE COURT: Yes, sir.

17 DEFENDANT MAHDI: I would like to say the facts
18 -- yes, the facts were true, sir.

19 THE COURT: Did you willfully, unlawfully and
20 with malice aforethought kill James E. Myers by
21 shooting him with a .22 caliber firearm here in
22 Calhoun County as alleged in the indictment and as
23 stated by the Solicitor?

24 DEFENDANT MAHDI: Yes, sir, Your Honor.

25 THE COURT: And did you, on or about July 18th,

1 2004, at around the same time and date as the
2 murder, enter the building belonging to James E.
3 Myers and Amy Tripp Myers without their consent,
4 with intent to commit a crime therein? And while in
5 the building or during the immediate flight or
6 leaving the building, were you armed with a deadly
7 weapon? And did you cause physical injury,
8 including the killing of Mr. Myers with the pistol
9 during this same burglary?

10 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

11 **THE COURT:** And did you steal the officer's --
12 the 2003 Dodge Ram truck in the possession of the
13 officer and owned by the City of Orangeburg?

14 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

15 **THE COURT:** I'll accept the guilty plea. The
16 case will proceed to the second phase of this trial,
17 the sentencing phase of the trial.

18 When will the State be ready to proceed?

19 **MR. PASCOE:** Monday, Your Honor.

20 **THE COURT:** And the defense?

21 **MR. WALTERS:** We're prepared for Monday, Your
22 Honor.

23 **THE COURT:** The sentencing phase will commence
24 at 10:00 a.m. on Monday morning.

25 **MR. WALTERS:** Thank you, Your Honor.

1 **MR. KOGER:** Thank you, Your Honor.

2 **MR. PASCOE:** Thank you, Your Honor.

3 **THE COURT:** Y'all may be seated.

4 Do we have the jury here?

5 **THE CLERK:** Yes, sir, Your Honor.

6 **THE COURT:** I understand the jury is at the
7 annex and ready to come over. We'll take a short
8 recess to give the sequestration team an opportunity
9 to bring the jurors over and have them to come into
10 the courtroom and discharge them.

11 (Brief Recess.)

12 **THE COURT:** Mr. Bailiff, if you will bring the
13 jury in please.

14 (The jury enters the courtroom at 12:55
15 p.m.)

16 **THE COURT:** Good afternoon. It's right at
17 almost one o'clock. How are y'all doing today?

18 (Jurors all answer affirmatively.)

19 **THE COURT:** Enjoying the accommodations?

20 We had one smile where we didn't have it
21 yesterday.

22 Ladies and gentlemen, the way court operates,
23 you never know the twist and turns that may occur
24 during the course of a trial just as you did not
25 know whether or not you would be selected to be the

1 jury in the trial of this case. There have been
2 some changes or developments in this case since you
3 were selected on yesterday. In fact, you have not
4 gotten an opportunity to be sworn.

5 But after you were selected, the defendant
6 decided to plead guilty to the charges in the
7 indictment and that plea of guilty means that you
8 will not have to decide the issue of guilt or
9 innocence, nor do you have to decide the sentence.
10 I have accepted the guilty plea. And under our law,
11 the Judge conducts the sentencing hearing and the
12 Judge determines the sentence. So all that that
13 means is that your stay at the fine accommodations
14 will come to an end and you all will be able to
15 return home to your families and to your lives.

16 In addition to all of that, you took the oath
17 of silence and the oath to not discuss this matter
18 with each other and be exposed to any information
19 concerning this case, I'm releasing you from that
20 oath. You're being released from further jury
21 service concerning this case.

22 And, certainly, I want to express thanks to you
23 for your willingness to serve, thanks to you for all
24 that you have done and appeared willing to do as far
25 as meeting your responsibility and obligations as

1 citizens of this county. And on behalf of the
2 Clerk, the Solicitor, defense counsel, the parties,
3 the Sheriff and other citizens of this county, I
4 want to thank you.

5 Mr. Hasty, would you like to address your
6 citizens?

7 THE CLERK: I would like to thank them for
8 their service and their diligence for this case.
9 And you will be promptly mailed a check for your
10 services. Thank you so much.

11 THE COURT: I hope the sequestration team -- I
12 don't know if y'all got a chance to know them.

13 JUROR: We would like to keep Mr. Buck.

14 THE COURT: Very good. Well, I'm glad that
15 they did a wonderful job. I knew that they would.
16 And rather than a ten day to two week stay, you'll
17 have a one night stay. So I'm sure that they will
18 do what is necessary to get you back to where you
19 need to go if you need any assistance.

20 Mr. Buck, as a result of the guilty plea, the
21 jurors will no longer need to be sequestered. What
22 do you do? Do you take them back or --

23 MR. COCKRELL: Take them back and get their
24 belongings and bring them back here.

25 THE COURT: All right. With that, ladies and

1 gentlemen, you are discharged from any further
2 responsibility in this case.

3 (The jury was excused.)

4 THE COURT: Are there any additional matters
5 that we need to address today, Mr. Solicitor?

6 MR. PASCOE: No, Your Honor.

7 THE COURT: All right. Court will be in recess
8 until 10:00 a.m. Monday.

9 MR. PASCOE: Thank you, sir.

10 MR. WALTERS: Thank you, Your Honor.

11 (Whereupon, the proceedings were concluded
12 for November 30, 2006.)

13 (The following proceedings were held on
14 December 4, 2006.)

15 (State's Exhibit Numbers 67 through 82 were
16 marked for identification purposes.)

17 THE COURT: The record will reflect that the
18 defendant pled guilty in this court on Thursday,
19 November 30th. The statutory -- mandatory 24-hour
20 statutory period has run and it's now time to
21 proceed into the sentencing proceedings in this
22 case.

23 Are you ready to proceed, Mr. Solicitor?

24 MR. PASCOE: Yes, Your Honor.

25 THE COURT: Mr. Walters?

1 **MR. WALTERS:** Yes, sir, Your Honor.

2 **THE COURT:** Solicitor, you may proceed.

3 **MR. PASCOE:** May it please the Court. I'm
4 going to be very brief, Your Honor, in my opening
5 remarks. I want to start by thanking this Court for
6 accepting the plea last week and more importantly
7 for accepting the awesome responsibility of
8 determining whether the defendant should be
9 sentenced to the death penalty or life in prison for
10 his horrendous act.

11 As the Court is well aware, the State alleged
12 four aggravating circumstances as to why we're
13 seeking the death penalty. First, the defendant
14 committed the murder during the commission of a
15 burglary; it was committed during the commission of
16 a larceny; it was committed during the commission of
17 a robbery while armed with a deadly weapon; and the
18 fourth one being that it was committed due to
19 Captain Myers' duties as a law enforcement officer.

20 As for the first three aggravating
21 circumstances, Your Honor, of course, they were
22 admitted to last week. Certainly, the first two
23 were admitted to last week in the guilty plea of the
24 burglary and the larceny. And it only takes one
25 aggravating circumstance to make the defendant

1 eligible for the death penalty.

2 As for the fourth circumstance that the State
3 alleges, Your Honor, we will present evidence that
4 the defendant may have known that Captain Myers was
5 a law enforcement officer and that that may have led
6 to Captain Myers' death.

7 But without a doubt, Your Honor, without a
8 doubt that the State will prove beyond any doubt
9 whatsoever is that the most important reason the
10 defendant, Mikal Mahdi, killed Captain Jimmy Myers
11 is because his heart and mind was full of hate and
12 malice. Mikal Deen Mahdi's actions in the last
13 several years, Your Honor, have been the epitome of
14 evil. We're going to present evidence in the next
15 two days to let this Court know the impact that
16 Mr. Mahdi's cold-blooded act has had on the victims
17 and friends of Captain Jimmy Myers.

18 We're also going to present evidence to give
19 you a full picture of who that man is right there.
20 This is a man, Your Honor, whose evil ways and whose
21 total disregard for human life did not begin on July
22 the 18th, 2004 and they didn't end three days later
23 with his arrest. This is a man, Your Honor, who has
24 attempted to kill in the past, who has killed in the
25 past and who, when given the opportunity, will kill

1 again. And it is for these reasons and more that at
2 the close of this case, I'm going to stand before
3 this Court and ask that you sentence the defendant,
4 Mikal Mahdi, to death. Thank you.

5 MR. KOGER: May it please the Court.

6 THE COURT: Yes, sir.

7 MR. KOGER: Solicitor Pascoe.

8 Your Honor, Mr. Mahdi stood before you on
9 Thursday and he admitted to you his guilt on these
10 particular charges. He took full responsibility on
11 Thursday for what he did back on July 18th, 2004.

12 Over the next two days, we, as the defense, are
13 going to offer mitigation evidence. We're going to
14 offer evidence that at the time of this particular
15 crime, that he was 21 years of age and very young.

16 We will also offer mitigation evidence that
17 Mr. Mahdi grew up in difficult circumstances.
18 Mother left him at age four, left him with his
19 father to raise he and his brother. And we will
20 offer evidence through our social worker expert that
21 his father was ill-equipped for this responsibility
22 and, therefore, for a significant portion growing
23 up, Mr. Mahdi was left to raise himself.

24 We're also going to offer evidence from a
25 prison adaptability expert that's going to state

1 that if Your Honor choose to show mercy in this
2 particular case, that Mr. Mahdi could adapt to
3 prison life for the rest of his life.

4 As far as the aggravating circumstances set
5 forth by the State, and they set forth four of them,
6 we will show that -- offer evidence that Mr. Mahdi
7 did not know, at the time of the commission of the
8 crime, that he -- that Mr. -- that he knew Mr. Myers
9 was a police officer. And even though the State has
10 set forth four aggravating circumstances, that is
11 the aggravating circumstance that has been the most
12 prominent in this particular case.

13 And, Your Honor, once we offer our mitigation
14 evidence and once you take into consideration the
15 aggravating circumstances that come from the State,
16 we would ask, at the close of this proceeding, we
17 will ask for mercy. And we will ask you to show
18 this mercy of giving Mr. Mahdi life in prison
19 without parole. Thank you.

20 **THE COURT:** All right. Solicitor, your first
21 witness.

22 **MR. PASCOE:** May it please the Court. With the
23 Court's permission, before we call the first
24 witness, I would ask that the guilty plea from last
25 week, the entire plea, be incorporated into the

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1 record for the purposes of this sentencing phase.

2 THE COURT: What says the defense?

3 MR. WALTERS: No objection, Your Honor.

4 THE COURT: All right.. The entire guilty plea
5 from last week will be incorporated into the
6 sentencing phase.

7 MR. PASCOE: And one more quick motion, Your
8 Honor, we would like to make a motion that if the
9 Court wants to at its own convenience, that it can
10 go visit the crime scene some time today or
11 tomorrow.

12 THE COURT: Very well.

13 MR. SORENSON: May it please the Court, Your
14 Honor. The State calls Sergeant Darren Frost.

15 DARREN FROST,
16 having been duly sworn, testified as follows:

17 THE CLERK: Please state your full name for the
18 record, please.

19 THE WITNESS: Sergeant Darren Frost.

20 DIRECT EXAMINATION

21 BY MR. SORENSON:

22 Q Good morning, Sergeant Frost.

23 A Good morning.

24 Q If you would, please tell the Court where it is
25 that you're employed.

1 A I work for the Satellite Beach Police
2 Department.

3 Q And how long have you been with the Satellite
4 Beach Police Department?

5 A Approximately six years.

6 Q And if you would, just tell the Court a little
7 bit about what your current duties are with
8 Satellite Beach.

9 A I'm a supervisor as level of sergeant and I'm a
10 canine officer for the department.

11 Q And if you would, tell the Court where exactly
12 is Satellite Beach located.

13 A Satellite Beach is located central Florida on
14 the east coast. It's just south of Coco Beach, just
15 south of Cape Canaveral area.

16 Q If you would, describe just briefly kind of
17 what kind of community that is in Satellite Beach.

18 A It's a residential community. It's a beach
19 side community. We have schools, hotels and mostly
20 residents in that community.

21 Q And how big is your department?

22 A Our department has, approximately, 20 sworn
23 officers. And our city has, approximately, 16 to
24 20,000 residents.

25 Q If I could, Sergeant, I want to turn your

1 attention back to Wednesday, July 21st of 2004.

2 Were you working as an officer with Satellite Beach
3 at that time?

4 A Yes, sir, I was.

5 Q Okay. And were you, in fact, involved in the
6 arrest of the defendant in this case, Mikal Mahdi?

7 A Yes, I was.

8 Q Okay. And if you would, just describe for the
9 Judge how that came about, him being arrested in
10 Satellite Beach.

11 A At, approximately, seven o'clock in the
12 evening, we received a call that there was possibly
13 an impaired driver on State Road A1A, which is the
14 major highway that runs through our community.
15 Sergeant Fuller was dispatched to that call. I was
16 close to the location where the complainant had
17 observed this vehicle.

18 As I started heading towards that direction, I
19 saw Sergeant Fuller with his emergency lights and
20 siren on behind the vehicle. I could hear his radio
21 traffic. The radio traffic indicated that the
22 vehicle wasn't stopping. It wasn't fleeing at a
23 high rate of speed, it just wasn't pulling over.

24 Q What kind of vehicle was that?

25 A It was a white pick-up truck. I believe it was

1 a Dodge pick-up truck.

2 Q What happened then?

3 A I was heading southbound. They were heading
4 northbound. I flipped around behind Sergeant
5 Fuller's vehicle, concerned that the driver, that
6 the only occupant of the white pick-up truck was an
7 impaired driver. I moved to the lane adjacent to
8 Sergeant Fuller so that vehicles couldn't pass us.
9 I was concerned that the -- there may be an
10 accident.

11 At that point, we continued northbound on A1A
12 for, approximately, half a mile to almost a mile.
13 There were numerous areas where the vehicle could
14 have pulled off, it didn't. It just kept on going
15 straight. It did make a right-hand turn onto a
16 beach access road. As it did, it made a wide,
17 right-hand turn. The vehicle struck a stop sign,
18 knocked over the stop sign.

19 Q Let me show you what's marked as State's
20 Exhibit Number 75 where you indicated that the truck
21 knocked over a stop sign and came to rest on that
22 beach access road.

23 A It finally came to a rest. It was still
24 moving.

25 Q Okay. I show you State's Exhibit Number 75.

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1 Is that a picture of the vehicle after it finally
2 did come to rest?

3 A Yes, it is.

4 MR. SORENSON: Your Honor, we'd offer State's
5 75 into evidence.

6 MR. WALTERS: No objection, Your Honor.

7 THE COURT: It's admitted without objection.

8 (State's Exhibit Number 75, photograph,
9 admitted into evidence.)

10 BY MR. SORENSON:

11 Q So you indicated as it came around the turn,
12 hit the stop sign, what happened then before the
13 vehicle came to rest?

14 A As the -- after it hit the stop sign, the
15 driver's door of the vehicle started to open prior
16 to the vehicle stopping. I put my patrol car in
17 park and exited my patrol car with the intention of
18 tackling the driver. As usually my experience and
19 training, when that door opens up like that,
20 somebody's usually going to attempt to flee on foot
21 from the police.

22 Q Of course, at that point in time, what did you
23 think you were dealing with?

24 A We thought we were dealing with the possibility
25 of an impaired driver. The radio traffic didn't

1 indicate that the tag on the vehicle was stolen at
2 the time of the vehicle not stopping. I don't know
3 if we realized whether or not the tag exactly
4 matched that truck. It came back on a truck, as I
5 recall, but not exactly that truck.

6 Q You indicated as you stopped your vehicle and
7 got out, did the driver of that white truck then
8 exit his vehicle?

9 A Yes. He was coming out of the vehicle as I was
10 getting out of my vehicle. I came around the
11 driver's door of my vehicle and started to run
12 towards the driver of the pick-up truck. And as I
13 did, the driver started to run away from the pick-up
14 truck. The pick-up truck was still moving, still in
15 drive and still moving and so the pick-up truck
16 separated from the driver and the driver started to
17 head towards the beach away from me.

18 Q If you would, describe what you observed as
19 that driver of that vehicle began to flee towards
20 the beach area.

21 A As I could see the back of the person, I could
22 see the barrel of what appeared to be a gun on his
23 left side as he was moving away from me.

24 Q Okay. And did he begin to turn towards you at
25 any point in time where you got a better look at

1 what he was holding?

2 **A** It was definitely a barrel of a gun, there was
3 no mistaking it. I started to yell, Gun, gun, he's
4 got a gun as the other officer, Sergeant Fuller, was
5 on the other side of the pick-up truck that was
6 still moving. And I drew my service gun, pointed it
7 at the defendant, gave him directions to stop and
8 drop the gun.

9 **Q** And how was he dressed at that point in time;
10 do you recall?

11 **A** Yes, sir. He was wearing no shirt, no shoes.
12 And, at the time, I thought it was blue shorts he
13 was wearing.

14 **Q** And as you gave him the orders to drop that
15 gun, what did Mr. Mahdi do?

16 **A** Mr. Mahdi started to turn towards me, I aimed
17 my gun at the center of his body mass and was
18 preparing to shoot. He continued to turn towards
19 me. The gun was pointed away from me as he turned.
20 And as he turned, I could see the front of his body
21 and he had the gun up close to the center of his
22 body and his hand was close to the trigger mechanism
23 on the handle of the gun. And as the gun started to
24 turn, I prepared to shoot and Mr. Mahdi dropped the
25 gun.

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1 Q And did you, at that point in time, were you
2 able to get a look and see what kind of weapon it
3 was that he had?

4 A I didn't take an inventory of it, but what
5 sticks in my mind is that I immediately recognized
6 it as an assault rifle and there was a magazine clip
7 that was in the bottom of the rifle and that -- that
8 he had dropped it and that he cont -- then he
9 started to run again towards the beach.

10 Q Okay. Let me stop you right there, Sergeant.
11 You indicated that he had dropped the weapon at that
12 point in time?

13 A Yes, sir.

14 Q Did you have an opportunity later on, when that
15 weapon was secured, to then see it?

16 A Yes, sir.

17 Q If I could show you State's Exhibit Number 77,
18 do you recognize that weapon?

19 A Yes, sir.

20 Q Is that the weapon that Mr. Mahdi had that day
21 when he exited that white pick-up truck?

22 A Yes, sir, it is. It's just absent the --

23 Q State's Exhibit Number 76?

24 A Correct.

25 Q So that clip was in the gun?

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1 **A** Yes, sir.

2 **Q** Was it loaded with all the projectiles in the
3 bag with it?

4 **A** I didn't remove the clip from the gun, but I
5 was told that it was fully loaded.

6 **MR. SORENSON:** Your Honor, at this time, we'd
7 offer State's 76 and 77 into evidence.

8 **THE COURT:** What says the defense?

9 **MR. WALTERS:** No objection, Your Honor.

10 **THE COURT:** It's admitted without objection.

11 (State's Exhibit Number 76, gun clip, and
12 State's Exhibit Number 77, gun, admitted into
13 evidence.)

14 **BY MR. SORENSON:**

15 **Q** Sergeant, you indicated after Mr. Mahdi dropped
16 that weapon, that he then ran towards the beach?

17 **A** Yes, sir.

18 **Q** How far were you from the beach at that point
19 in time?

20 **A** Very close, on top of it. It's a dead end, so
21 just a beach access road. There's maybe four or
22 five houses on it and it just dead ends right into
23 the beach.

24 **Q** And you had indicated earlier when I talked to
25 you about your current duties, that you are a canine

1 officer with Satellite Beach?

2 A Yes, sir.

3 Q Were you in that same capacity back then in
4 July of '04?

5 A Yes, I was.

6 Q And did you have your canine with you that day?

7 A Yes, I did.

8 Q What was your canine's name?

9 A Flex.

10 Q Flex. And did Flex get involved at all, at
11 that point in time, in attempting to apprehend
12 Mr. Mahdi?

13 A Yes, he did. As Mr. Mahdi ran towards the
14 beach, I used the remote door release from my patrol
15 car that's located on my patrol belt to activate
16 that release to release the canine from the back of
17 my patrol vehicle. Unfortunately, I was a little
18 bit too far away from my patrol vehicle for it to
19 instantaneously work. It allowed Mahdi to get over
20 the dune and get down onto the beach area. When I
21 was able to activate the door, the door release, the
22 dog was deployed. I gave the dog the command to
23 apprehend Mahdi.

24 Q And did Flex go after Mr. Mahdi at that point
25 in time?

1 A Yes, he did.

2 Q Was he able to catch him on the beach?

3 A No. He was recalled -- I had to recall him

4 prior to Flex apprehending Mahdi.

5 Q Okay. If you would, describe then for the

6 Judge what happened then as far as attempting to

7 track down and catch Mr. Mahdi.

8 A As the canine was deployed and went over the

9 dune onto the beach area, the dune -- the beach area

10 was very crowded with kids and adults. It's kind of

11 a busy little area right there. Plus, we have a

12 timeshare condominium that is the next condominium

13 down. Mahdi was able to get back up into the dune

14 area that was heavily vegetated and I lost sight of

15 him. And per our department policy, when I lose

16 sight of the suspect that the canine's been deployed

17 upon, I have to recall the canine unless that

18 suspect is in a fenced-in area, which he wasn't. So

19 I recalled the canine, hooked him up to a leash and

20 then tracked Mahdi.

21 Q Was he ultimately found?

22 A Yes.

23 Q Where was it that Mr. Mahdi was found?

24 A The canine tracked him to the south building of

25 a timeshare condominium complex called Las Olas.

1 Q How close was that to where he had abandoned
2 the white pick-up truck?

3 A About half a block.

4 Q And if you would, describe for the Judge the
5 circumstances surrounding -- was he taken into
6 custody in that condominium complex?

7 A Yes, he was.

8 Q If you would, describe for the Judge the
9 circumstances surrounding Mr. Mahdi being taken into
10 custody.

11 A As I was using the radio to radio for
12 assistance, further officers to set up a perimeter
13 in the general area, the canine tracked him to the
14 south building of the Las Olas Condominium Complex
15 through the underground parking garage and into a
16 stairwell. As soon as the dog -- at this point,
17 there were no additional officers, I had to enter
18 the building with the dog and myself with no backup
19 officer.

20 We went into a stairwell, which is kind of an
21 external stairwell, it's a concrete stairwell, and
22 immediately the dog's behavior changed, indicated to
23 me that he was in scent pool and that the suspect
24 was close at hand. I radio'd that information to
25 the perimeter officers as they were coming to the

1 area.

2 We then started to clear the condominium
3 complex one level at a time. And as I got to the
4 top floor, the fifth floor of the complex, one of
5 the perimeter officers radio'd and advised that they
6 saw a person matching the description that I'd given
7 of Mahdi running across what they thought was the
8 third floor of that condominium complex. I ran
9 down, used the stairwell to run down to the third
10 floor with the canine.

11 As I got to the third floor, the officer
12 corrected his assessment of the location and said it
13 was the fourth floor not the third floor. I ran
14 back up the stairwell with the dog to the fourth
15 floor. It was empty. I went up to the fifth floor
16 where I again made contact with the Defendant Mahdi.

17 Q Okay. And what was he doing when you got up on
18 to that fifth floor -- that's an external hallway?

19 A Yes, sir, it's an external hallway. And Mahdi
20 was running away from me, south, running away from
21 me. I deployed the dog to apprehend him. He jumped
22 up on to a walkway ledge facing the parking lot and
23 told me that he was going to jump if I let the dog
24 bite him.

25 Q What did you do at that point in time?

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1 A At this point in time, I had no idea who Mahdi
2 was. I recalled the canine. I put him in a down.
3 I had Mahdi at gunpoint. He was standing on the
4 ledge. At that time, I realized he wasn't wearing
5 blue shorts, he was wearing boxer shorts, just
6 underwear. I could see his hands. I could see the
7 majority of his waist. I felt confident that he
8 didn't have a weapon on him. If he did, it may have
9 been a knife. I holstered my weapon and then
10 attempted to talk him off the ledge and talk him out
11 of committing suicide.

12 Q Did he come down off of the ledge?

13 A Yes, he did. He came off the ledge. As he
14 came off the ledge, my uniform's a lit bit different
15 today than what I usually wear when I'm with the
16 dog, I have a tactical uniform in which my gun is on
17 my leg in a tactical holster, Mahdi's eyes went to
18 my gun and he started to walk towards me. I used my
19 department issued taser. I removed that from my
20 holster. It's got a laser sight. It emits a red
21 dot.

22 I put that on -- the laser sight, the red dot,
23 on Mahdi's chest, told him to stop, told him to get
24 on his knees. He hesitated. The dog started to get
25 up and bark. And as the dog started to approach

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1 Mahdi, Mahdi went down on his knees. I told him to
2 interlace his fingers behind his head and not to
3 move.

4 At that point, I approached Mahdi. There were
5 still not enough officers available yet for an
6 additional officer to come up. I felt confident,
7 though, with the dog being there and with Mahdi
8 being on his knees that I had a tactical advantage,
9 I took him into custody using handcuffs. I
10 handcuffed him behind his back and then started to
11 walk him out.

12 As we started to walk out down towards the
13 stairwell, he was wrestling around a little bit.
14 The dog took that as an aggressive movement on his
15 part, the dog wanted to try and bite him. I felt
16 Mahdi wanted to try and jump. I couldn't get to my
17 radio, I had both hands full. I was able to put
18 Mahdi up against a little alcove area and reach my
19 pack set to ask for another officer to come up, that
20 the suspect was in custody and he was walked out of
21 the condominium complex back to the patrol cars.

22 Q And you've been this whole time referring to
23 the person that you had apprehended that ran from
24 you and that you apprehended as Mr. Mahdi, do you
25 see him in the courtroom here today, Sergeant?

1 A Yes, I do.

2 Q Can you point him out for the Court?

3 A Mahdi is wearing the orange corrections
4 uniform, sitting on the far, as I'm facing,
5 left-hand side of the defense table.

6 Q That's the individual that you took into
7 custody down in Satellite Beach back on July 21st?

8 A Yes, it is.

9 Q Now, where was he taken after he was taken into
10 custody?

11 A He was walked out of the condominium complex.
12 He was walked back to the patrol cars -- at the
13 patrol car. He was placed into a patrol car at that
14 point. The vehicle that he was in had started to be
15 searched. They found an I.D. indicating that the
16 person we had in custody was Mahdi. That I.D. was
17 run through the NCIC computer data base that a hit
18 came back on Mahdi's name that he had active
19 warrants out of two states, I believe, on murder
20 charges, one of which was to a law enforcement
21 officer.

22 Q And that was in South Carolina that one?

23 A Yes, sir.

24 Q Was he ultimately taken back to your police
25 station, Satellite Beach?

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1 A Yes. At that point, he was removed from the
2 patrol car and shackled in addition to the
3 handcuffs. And he was transported back to our
4 police department awaiting transport to the county
5 jail.

6 Q And sitting back at the police station, was he
7 making any small talk with you as far as asking you
8 any questions about the area?

9 A He was. He would ask how much houses went for
10 in the area. I told him, you know, starting around
11 300,000 and then, you know, a million dollars up on
12 the beach. He made some statements as to that would
13 explain why he didn't see any homeless people.
14 Every time he pulled into a beach access, he would
15 see a police car. He made those types of
16 statements.

17 Q Did you then make any comment to him about what
18 had happened?

19 A I did. Approximately two months prior to the
20 arrest of Mr. Mahdi, I had -- was fortunate enough
21 to have the birth of my second son and I have his
22 picture in my patrol car. So as I was getting back
23 into my patrol car getting ready to go back to the
24 station, a picture of my family is there.

25 When I got back to the station, we were talking

1 about the houses and whatnot, I told Mahdi, I
2 thanked him for not using that weapon on me. That
3 weapon is a .223 round, it would have gone through
4 me, my vest and whoever, six people standing behind
5 me. It's a highly, lethal round. If I was actually
6 standing behind the door of my patrol car, that
7 bullet would have gone through the door, through my
8 vest, through me. So I thanked him for not using it
9 and complying with my commands to drop his weapon
10 when I requested him to do so and allowing me to go
11 home to my family that night. .

12 Q Did he say anything in response to that, to you
13 making that statement to him?

14 A He did. He looked at me, in very cold eyes,
15 said, The weapon was stuck on a three shot -- the
16 selector was stuck on a three shot and I don't think
17 I could have got you -- I couldn't have shot you,
18 the other cop, and excuse my language, that fucking
19 dog.

20 MR. SORENSON: Thank you, Sergeant. Please
21 answer any questions the defense has.

22 MR. WALTERS: We have no questions, Your Honor.

23 THE COURT: Thank you, Officer. You may step
24 down.

25 MR. PASCOE: May it please the Court. Can

AMY TRIPP MYERS - DIRECT BY MR. PASCOE

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1 Sergeant Frost be excused? We had to put him up
2 first because he's got a plane flight in the next
3 hour.

4 THE COURT: Any objection?

5 MR. WALTERS: No objection, Your Honor.

6 THE COURT: Thank you for coming, Officer.
7 You're excused.

8 MR. PASCOE: The State calls Amy Myers.

9 THE COURT: Ms. Myers, if you'll come forward
10 to be sworn.

11 AMY TRIPP MYERS,
12 having been duly sworn, testified as follows:

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

15 DIRECT EXAMINATION

16 BY MR. PASCOE:

17 Q Good morning, Amy.

18 A Good morning.

19 Q Speak up as loud as you can, at least so Judge
20 Newman and the court reporter can hear you and Mr.
21 Walters. Where do you live, Amy?

22 A First of all, my name is Amy Tripp Myers.

23 Q And where do you live?

24 A Orangeburg County.

25 Q How are you related to the victim, Jimmy Myers?

- 1 A His wife.
- 2 Q How long had you and Captain Jimmy Myers been
- 3 married as of July the 18th, 2004?
- 4 A Approximately, a year and two or three months.
- 5 Q And how long ago -- well, let me ask this.
- 6 What day did y'all get married?
- 7 A April the 26th, 2003.
- 8 Q How long had you known Jim Myers before you
- 9 even got married to him?
- 10 A We had been together for about -- a little over
- 11 six years.
- 12 Q Okay. Describe for Judge Newman just how close
- 13 a relationship you and Captain Jimmy Myers had?
- 14 A We were inseparable. We did everything
- 15 together.
- 16 Q And the two of you confided in each other?
- 17 A Yes, sir.
- 18 Q And, in fact, how much time did you and Jimmy
- 19 spend in that year and a half that you were married
- 20 to him?
- 21 A Well, it wasn't just the year and a half, it
- 22 was the six years that we were together. All of our
- 23 free time that we weren't working.
- 24 Q Talked to each other everyday, saw each other
- 25 everyday?

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1 A Yes, sir. I mean, we had a little system where
2 when I was away, I would page him a special code
3 that said I love you. I mean -- and I could do
4 that, and he would do that back to me, I could do it
5 many times a day.

6 Q And where was Jimmy working when you met?

7 A At the Orangeburg Department of Public Safety.

8 Q And, obviously, he was working there when you
9 were married as well?

10 A Yes, sir.

11 Q What were Jimmy's duties at the Orangeburg
12 Police Department?

13 A He was a captain with the special operations
14 division.

15 Q How long did he serve with the police
16 department?

17 A He was with -- he served under the department
18 of public safety, they combined in 1987 and from
19 that point on, he served in public safety for a
20 total of 17 years.

21 Q Specifically, how long was he a police officer?

22 A Well, I mean, it would have been the 17 years.
23 I mean, they -- everybody was considered a public
24 safety officer at that point.

25 Q And, in fact, what did he do even before he

1 became a public safety officer?

2 A He worked with the fire department for 14
3 years.

4 Q So how many years of public service in all did
5 Captain Jimmy Myers have with Orangeburg as a
6 fireman and a police officer?

7 A A little over 31 years.

8 Q Now, where were you working back in July of
9 2004?

10 A At the South Carolina State Law Enforcement
11 Division.

12 Q And what were your duties at SLED back then?

13 A I was a special agent assigned in the
14 investigative unit in the Low Country and I also
15 performed security detail as needed.

16 Q When did you leave SLED?

17 A September of this year.

18 Q This year, just a couple months ago?

19 A Yes, sir.

20 Q And why did you leave SLED?

21 A Many reasons, but one of the reasons was the
22 trial was coming up. And this has been a very
23 stressful time in my life and I needed to take some
24 time for myself and prepare for the trial and heal.

25 Q And where were you and Jimmy living back in

1 July of 2004? In Orangeburg?

2 A Yes, sir.

3 Q City of Orangeburg?

4 A Yes, sir.

5 Q Did he or the two of you own any property in
6 Calhoun County?

7 A Yes, sir.

8 Q And where was that property?

9 A It was close to -- it was close to the
10 intersection of Highway 21 and Road 22, right near
11 I-26.

12 Q I'm going to show you what's been marked as
13 State's Exhibit Number 1.

14 MR. WALTERS: No objection, Your Honor.

15 BY MR. PASCOE:

16 Q Just to give the Judge an idea of where the
17 property is. Does State's Exhibit 1 accurately
18 depict the area in Calhoun County where you could
19 actually point out where the farm is?

20 A Yes, sir.

21 Q It's an aerial of the area?

22 A Yes, sir.

23 MR. PASCOE: I ask that State's Exhibit Number
24 1 be admitted into evidence. I think without
25 objection, Your Honor.

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1 MR. WALTERS: Without objection.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 1, blowup
4 photograph, admitted into evidence.)

5 BY MR. PASCOE:

6 Q If you could, Amy, sitting right there, you
7 don't have to get up, okay, maybe just point out to
8 the Judge where I-26 is.

9 A I-26 is here.

10 Q And that's heading which direction?

11 A This is heading south towards Charleston. It's
12 going --

13 Q East?

14 A Or whatever. This is towards Charleston. This
15 is towards Columbia.

16 Q And what road is that right there?

17 A This is Road 22, Burke Road.

18 Q And what's that?

19 A This is the Hess Station, the Wilco Hess
20 Station.

21 Q Where is Highway 21 on State's Exhibit 1?

22 A It's right here. It would come and then
23 intersect right in here (indicating).

24 Q Where is -- point out for the Judge in this
25 area where your farm would be with Jimmy, where you

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1 and Jimmy's farm is?

2 A It would be right in here (indicating) -- well,
3 actually, it would go to the road at some point.

4 Q Okay. How would you enter your farm if you
5 were coming in from the road?

6 A There was a road on Highway 21 that we would
7 use to access our property.

8 Q Approximately, how many acres is the property?

9 A Thirty-seven.

10 Q And what's on the property?

11 A A pond, a shed, fields. We did stuff for
12 wildlife.

13 Q How long did Jimmy own that property?

14 A We bought the property in April of 2001.

15 Q And how often would he go out there?

16 A Hundreds of times, I mean, everyday that he was
17 there in town.

18 Q How often did you go out there?

19 A Not quite as many as him, but just about
20 everyday. I mean, there were periods of time when I
21 would go out everyday, sometimes numerous times of
22 day, hundreds of times.

23 Q And what types of things would the two of you
24 do when you go out -- together, when you go out on
25 that property?

1 A I mean, that's where our dreams were. We did
2 everything.

3 Q I want to ask you some specific questions about
4 that weekend, Friday, July 16th, okay? Where did
5 you and Jimmy end up going that Friday night?

6 A Edisto Island.

7 Q And why did you go to Edisto Beach?

8 A (No response.)

9 Q Are you okay?

10 A We went to celebrate.

11 Q Was that your birthday that week?

12 A Yes, sir. We went to celebrate his sister's
13 birthday, my birthday and his daughter's birthday.
14 We all had birthdays in July. And my birthday was
15 that Tuesday and his daughter's birthday was that
16 Friday.

17 Q Is that his daughter, Jan?

18 A Meredith.

19 Q Jan is his sister?

20 A Yes.

21 Q Was it her birthday as well?

22 A Her birthday was earlier in the month.

23 Q So Jan, Meredith and yourself?

24 A Yes, sir.

25 Q And where did y'all end up staying that Friday

1 night and Saturday night?

2 A At his sister's -- his sister had access to a
3 creek house, we stayed there.

4 Q And how long did you and Jimmy end up staying
5 down at the beach?

6 A Till Sunday.

7 Q That would be Sunday the 18th?

8 A Yes, sir.

9 Q And did y'all drive back together?

10 A Yes, sir.

11 Q And, approximately, what time did y'all get
12 home from the beach that Sunday?

13 A Approximately, four o'clock p.m.

14 Q And did Jimmy end up going anywhere eventually
15 that afternoon?

16 A Yes, sir.

17 Q And where did he end up going to?

18 A To his father's house.

19 Q Where does his father live in relation to
20 y'all?

21 A Approximately -- just a little over two miles
22 away.

23 Q So a pretty quick trip?

24 A Oh, yes, sir, six or seven minutes.

25 Q Okay. And, approximately, what time did Jimmy

1 go visit his dad that night?

2 A I don't remember the exact time, but somewhere
3 between 5:30 and six o'clock that evening.

4 Q Why did he go see his dad that night after
5 y'all got back?

6 A Two years earlier his mother had died and he
7 always -- every morning he went to see his dad to be
8 with his dad and drink coffee and to talk and just
9 kind of bond with his father and to help his father
10 with the loss of his wife, and he had not been to
11 see him that weekend and so he went there to see him
12 that evening.

13 Q And what vehicle did Jimmy take when he went
14 out to see his dad?

15 A His city owned vehicle.

16 Q His C-O vehicle?

17 A His city owned vehicle.

18 Q City owned vehicle. And was Jimmy on-call at
19 that time, that Sunday night?

20 A Yes, sir.

21 Q In the capacity as a captain with the
22 Orangeburg Police Department?

23 A Yes, sir.

24 (Pause.)

25 MR. WALTERS: No objection to State's 13, Your

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1 Honor.

2 BY MR. PASCOE:

3 Q Let me show you what's been marked, and we'll
4 come back to this later, State's Exhibit 13. Do you
5 recognize the vehicle in State's Exhibit 13?

6 A Yes, sir.

7 Q And what do you recognize it to be?

8 A That was the truck that the city issued to him.

9 Q The one that he drove to the shed that night?

10 A Yes, sir.

11 MR. PASCOE: And I don't believe there's any
12 objection to State's Exhibit 13 being admitted into
13 evidence, Your Honor.

14 THE COURT: It's admitted.

15 (State's Exhibit Number 13, photograph,
16 admitted into evidence.)

17 BY MR. PASCOE:

18 Q When he left your house to go to his dad's that
19 late afternoon, early evening, did you have a
20 specific time when you expected him to come home?

21 A No, sir.

22 Q When did you get concerned about Jimmy's
23 failure to return home that night?

24 A As I was cooking supper, I just glanced at the
25 clock and realized it was a little after 9:00 and

1 looked outside and it was dark. And I was just like
2 this isn't right, he should have been home by now.

3 Q And what did you end up doing when you started
4 getting concerned right after nine o'clock?

5 A I called him on his cell phone. I didn't get
6 an answer, so I called him on his pager thinking
7 that he might have been away from his cell phone and
8 I didn't get a response and that was very unusual
9 because Jim was very prompt with answering his
10 pagers, you know, when someone would page him, he
11 was very prompt at responding. So I called his
12 dad's to find out if he was still over at his dad's
13 because as far as I knew, that was the only place
14 that he was going. And I learned that he had left,
15 approximately, 6:45 that evening. So, obviously, I
16 became very worried. I got in the car and went to
17 his office to see if he was at his office and he
18 wasn't. I called --

19 Q And how did you know he wasn't in his office at
20 the time?

21 A The lights were out.

22 Q So what did you do next?

23 A I called the city dispatch to find out whether
24 he had been called out to any particular scene or
25 gotten caught up in a call and they said that they

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1 hadn't heard from him and so I went out to the farm.
2 On the way up, I called Lieutenant Bill Cartwright
3 and Captain Mike Adams, his best friend, and
4 realized that Mike was in Myrtle Beach.

5 Q That's Captain Mike Adams was in Myrtle Beach?

6 A Yes, sir. And I couldn't get in touch with
7 Bill, so I continued out to the farm.

8 Q Tell the Judge what you did when you got --
9 approximately, what time did you get to the farm,
10 first of all?

11 A I think it was, approximately, 9:15, right
12 around 9:15.

13 Q And what did you do when you first entered the
14 property itself?

15 A Well, I got there hoping that the gate was
16 going to be shut, that way I knew he wouldn't have
17 been down in there and it was open. So I knew that
18 he was down there. And I was -- I had been worried
19 other times about him, but that particular night I
20 was just really, really worried about him. I just
21 felt like he was hurt and needed my help when I saw
22 the gate open. So I drove down the road and pulled
23 into our driveway, which is a long driveway, and saw
24 that the light was on in the shed and -- but his
25 truck wasn't in front of the shed where he normally

1 parks.

2 Q The white, police, city issued truck?

3 A Correct, but it was not in front of the shed
4 where he normally parks, so I continued down that
5 road. There's a pond across from the shed, but
6 there's a -- the dam where we feed the ducks and
7 feed the fish and stuff, that was a little bit
8 further down, so I thought maybe he had driven down
9 there to maybe feed the ducks or something.

10 So I drove down there and saw that his truck
11 was not there and turned back around to go look for
12 him elsewhere. And as I was driving back, I noticed
13 that the door to the shed was open and I knew that
14 wasn't right at all. So I honked my horn thinking
15 that maybe he was around the pond somewhere and I
16 didn't hear any kind of response. So I thought,
17 well, I'll just take a quick peek in the shed to
18 make sure he's not there and -- before I go look for
19 him somewhere else.

20 Q And you went in the shed?

21 A Yes.

22 Q And tell the Judge what you observed when you
23 went in the shed.

24 A I found Jim lying face down.

25 Q Could you immediately tell his condition?

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1 A Yes, sir.

2 Q That he had died? He was dead?

3 A Yes, sir.

4 Q I want to show you what's been marked as
5 State's Exhibit 67. Do you recognize that?

6 A Yes, sir, except his shirt was on.

7 Q But does that accurately depict the way you had
8 to find your husband that night on July the 18th,
9 2004?

10 A Yes, sir, but I saw his face and that made it
11 worse.

12 MR. PASCOE: I'd ask that State's Exhibit 67 be
13 admitted into evidence, Your Honor.

14 THE COURT: Mr. Walters?

15 MR. WALTERS: No objection, Your Honor.

16 THE COURT: It's admitted without objection.

17 (State's Exhibit Number 67, photograph,
18 admitted into evidence.)

19 BY MR. PASCOE:

20 Q So other than Jim being in the casket, that's
21 the last image you have of your husband?

22 A Yes, sir. And, actually, that picture does not
23 accurately describe it in that it doesn't show his
24 face and that's what I saw was his face.

25 Q And can you even begin to describe how you felt

1 that night when you discovered Jim's body and what
2 you were going through?

3 A I knew that the man I loved was gone
4 immediately and all of the dreams that we had would
5 never be fulfilled.

6 Q What did you end up doing when you discovered
7 Jim's body lying in the shed like that? Who did you
8 call?

9 A I started screaming and screaming and
10 screaming. I couldn't stop. And, finally, I called
11 my lieutenant, Greg Whetstone, to let him know the
12 situation. I couldn't get in touch with him. So I
13 called city dispatch, who told me to call 911 and I
14 called 911.

15 Q And the EMT's and law enforcement arrived at
16 the scene while you were there?

17 A Yes, the EMT's. I went to the gate to escort
18 the EMT's and Calhoun County Sheriff's Office in.
19 And my lieutenant arrived a little while later and
20 then my captain arrived thereafter, some time
21 thereafter.

22 Q And, Amy, you had the -- have you had
23 opportunities after that night, and that night
24 unfortunately, to actually review items that were in
25 the shed that were out of place?

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- 1 **A** Yes, sir.
- 2 **Q** Okay. And I'm not going to go over every item
- 3 with you, but there are a few items I want to show
- 4 you first and go through for the Court, okay? I'm
- 5 going to show you State's Exhibits 5 and 4. Do you
- 6 recognize those?
- 7 **A** Yes, sir.
- 8 **Q** And what are those photos of?
- 9 **A** The back door where Mr. Mahdi broke in.
- 10 **Q** Were those marks to that back door there prior
- 11 to July 18th, 2004?
- 12 **A** No, sir.
- 13 **Q** And it accurately depicts the forced entry --
- 14 **A** Forced entry, yes, sir.
- 15 **MR. PASCOE:** I'd ask that State's Exhibits 4
- 16 and 5 be admitted into evidence, Your Honor.
- 17 **MR. WALTERS:** No objection Your Honor.
- 18 **THE COURT:** They're admitted without objection.
- 19 (State's Exhibit Numbers 4 and 5,
- 20 photographs, admitted into evidence.)
- 21 **BY MR. PASCOE:**
- 22 **Q** And maybe using, just to give the Court an idea
- 23 of which door we're talking about, I'm going to show
- 24 you, for demonstrative purposes, State's Exhibit 2,
- 25 okay?

- 1 A Yes, sir.
- 2 Q This is an accurate depiction of the shed and
- 3 the doors of the shed?
- 4 A Yes, sir.
- 5 Q Which door, if you can point on this exhibit
- 6 for the Judge, had those forced entry marks?
- 7 A This rear door (indicating).
- 8 Q And which door would you and Jimmy always go in
- 9 when you entered the shed?
- 10 A Pretty much all the time that door.
- 11 Q And y'all would park over here in this area
- 12 (indicating)?
- 13 A Correct.
- 14 Q And show the Judge where you found Jimmy lying
- 15 that night?
- 16 A Right here (indicating).
- 17 Q And, Amy, are there any other vehicles that are
- 18 at -- were at the shed that are always kept on the
- 19 property?
- 20 A Yes, sir.
- 21 Q And what vehicle was that?
- 22 A We kept his personal vehicle at the shed. We
- 23 didn't have room at my house.
- 24 Q Do you recognize the photos in State's Exhibit
- 25 15?

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1 A Yes, sir.

2 Q And what do you recognize those photos to be?

3 A That was Jim's truck.

4 Q That was always kept at the shed?

5 A Yes, sir.

6 Q Basically?

7 A Correct.

8 Q And it was kept out there on -- prior to July
9 18th and that night of July 18th?

10 A Correct.

11 MR. PASCOE: I'd ask that State's Exhibit 15 be
12 admitted into evidence, Your Honor.

13 MR. WALTERS: Without objection, Your Honor.

14 THE COURT: It's admitted without objection.

15 (State's Exhibit Number 15, photograph,
16 admitted into evidence.)

17 BY MR. PASCOE:

18 Q Was there any damage to the vehicle on the
19 night of July 18th that wasn't there prior to then?

20 A Yes, sir.

21 Q If you could, point it out for the Court.

22 A This lock had been drilled out. This is the
23 passenger door lock and the ignition switch had been
24 mauled up and was unable to be driven until it was
25 repaired and replaced.

1 Q Is there anything missing on the blue vehicle,
2 the blue truck?
3 A Yes, sir.
4 Q And what is that?
5 A His license plate.
6 Q And the license tag was on there prior to July
7 18th?
8 A Yes, sir.
9 Q Who had the keys to the blue truck at the shed?
10 A We both had a set of keys.
11 Q And where would Jim keep his set of keys to the
12 blue truck?
13 A Sometimes in his pocket. I didn't really keep
14 up with that.
15 Q Now, you testified already that you worked at
16 SLED at the time of Jim's murder?
17 A Yes, sir.
18 Q What did you keep at the shed with regards to
19 your employment?
20 A I was working on a case, an investigative case,
21 that I was trying to write a report on. I had
22 collected all of the information and was trying to
23 put together a final report.
24 Q And every piece of material or everything that
25 y'all document at SLED, basically your reports and

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1 everything, what's the caption up at the top?

2 A State Law Enforcement or For Law Enforcement
3 Only, definitely marked Law Enforcement.

4 Q And I want to show you what's been marked as
5 State's Exhibit number 7, okay?

6 A Yes, sir.

7 Q Do you recognize that photo?

8 A Yes, sir.

9 Q And what does that photo depict?

10 A The little area where I had made a little
11 makeshift desk so that I could work on the report.

12 Q Does this accurately depict the way the items
13 were after Jim's death when you discovered him on
14 July 18th, 2004?

15 A Yes, sir.

16 MR. PASCOE: I'd ask that State's Exhibit 7 be
17 admitted into evidence.

18 THE COURT: Mr. Walters?

19 MR. WALTERS: No objection, Your Honor.

20 THE COURT: It's admitted.

21 (State's Exhibit Number 7, photograph,
22 admitted into evidence.)

23 BY MR. PASCOE:

24 Q And explain for the Judge whether these items,
25 all of these SLED items, your notebooks and

1 everything, were out of place or in place that
2 night?

3 A They were out of place.

4 Q And how were they out of place?

5 A This notebook was closed and packed away, all
6 of these papers were -- and files were inside of
7 this box and...

8 Q So, obviously, somebody took the time to take
9 these items out and look at them?

10 A Yes, sir.

11 Q While inside the shed?

12 A Yes, sir.

13 Q Did Jim keep any weapons or firearms at the
14 shed?

15 A Yes, sir.

16 Q And what type of weapons did he keep at the
17 shed?

18 A He kept a .22 and a shotgun.

19 Q And the .22 is that a rifle?

20 A Yes, sir.

21 Q Did either you -- Jim or yourself ever alter
22 any of those weapons at all?

23 A No, sir.

24 Q Do you recognize the items in photograph 39?

25 A Yes, sir.

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1 Q And what do you recognize those to be?

2 A The butt of the shotgun and the barrel of the
3 shotgun.

4 MR. PASCOE: I'd ask that State's Exhibit 39 be
5 admitted into evidence, Your Honor.

6 THE COURT: What says the defense?

7 MR. WALTERS: No objection, Your Honor.

8 THE COURT: It's admitted without objection.

9 (State's Exhibit Number 39, photograph,
10 admitted into evidence.)

11 BY MR. PASCOE:

12 Q So that's -- again, just to reiterate, that's
13 the butt of the shotgun?

14 A Yes, sir.

15 Q Somebody had sawed off?

16 A Yes, sir.

17 Q And that's the barrel of it there?

18 A Yes, sir. And that's right -- this is the work
19 bench above there. So it's right under the work
20 bench and beside the work bench.

21 Q And the shotgun was originally brown?

22 A Correct.

23 Q Somebody spray painted it black?

24 A Correct. I found the bucket where the barrel
25 had been sprayed -- or the gun had been sprayed.

- 1 Q Now, those two items, the shotgun and the .22,
2 those weren't recovered on July the 18th, were they?
- 3 A No, sir.
- 4 Q They were taken?
- 5 A Yes, sir.
- 6 Q And as you're aware, you've heard the testimony
7 of course, the white truck was recovered in Florida
8 on July 21st?
- 9 A Yes, sir.
- 10 Q In State's Exhibit 13, was this damage to the
11 vehicle there prior to July the 18th?
- 12 A No, sir.
- 13 Q Is this the license tag that goes with Jim's
14 city issued police truck?
- 15 A No, sir.
- 16 Q Tell Judge Newman what that tag goes to.
- 17 A That goes to his personal truck.
- 18 Q The blue truck?
- 19 A The blue truck, yes.
- 20 Q In State's Exhibit 15?
- 21 A Yes, sir.
- 22 Q Okay. And what does the tag that was located
23 in the back seat go to?
- 24 A His city issued vehicle, the white truck.
- 25 Q What sorts of items did Jim routinely keep in

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1 his pockets?

2 A Stuff normal people keep, keys, change. He did
3 keep his badge in his pocket and a knife, a comb,
4 sometimes he had his badge.

5 Q So his badge, comb, change, stuff like that?

6 A You know, I mean, it varied from day-to-day.

7 Q You testified his pager was kept in his pocket,
8 too?

9 A Yes, sir.

10 Q I'm going to show you what's been marked as
11 State's Exhibit 9, okay? Do you recognize what's in
12 State's Exhibit 9?

13 A Yes, sir.

14 Q And what does that depict in State's Exhibit 9?

15 A The back portion of the shed.

16 Q Does it accurately depict the way it was that
17 night of July 18th after Jimmy's death?

18 A Yes, sir.

19 MR. PASCOE: I ask that State's Exhibit Number
20 9 be admitted into evidence, Your Honor.

21 THE COURT: Mr. Walters?

22 MR. WALTERS: No objection, Your Honor.

23 THE COURT: It's admitted.

24 (State's Exhibit Number 9, photograph,
25 admitted into evidence.)

1 BY MR. PASCOE:

2 Q And if you could, Amy, I want you to -- what
3 are the significance of the items that are on this
4 chair right here for the Court? What is that right
5 there?

6 A That's a little pocket knife.

7 Q And where did Jim keep that pocket knife?

8 A In his pocket.

9 Q And what else do you see on that chair?

10 A It looks like a penny or maybe some change or
11 something, a comb and that was a key to the Mule and
12 tractor.

13 Q Where did Jim keep all of those items?

14 A In his pocket.

15 Q What is this right here?

16 A It's his pager.

17 Q And where did Jim keep that?

18 A In his pocket.

19 Q Did you ever receive or recover Jim's badge
20 after July the 18th?

21 A No, sir.

22 Q The one that he would keep in his pocket?

23 A Uh...

24 Q You never recovered it?

25 A I mean, he didn't always keep it in his pocket.

1 Q But did you ever recover it?

2 A No, sir.

3 Q And, Amy, you didn't know the defendant, Mikal
4 Mahdi, back in July 18th, 2004?

5 A No, sir.

6 Q He never had permission to be on your property,
7 did he?

8 A No, sir.

9 Q Just a couple more questions, okay?

10 A Yes, sir.

11 Q Where were you and Jim married?

12 A At the shed.

13 Q The same area where you had to find your
14 husband dead?

15 A Yes, sir.

16 Q And at my request, did you get a few -- four
17 photos that we could share with the Court about the
18 importance of that area to you?

19 A Yes, sir.

20 Q I'm going to show you State's Exhibit 79, 80,
21 81 and 82. Are these the photographs that you
22 brought to court today of you and Jim?

23 A Yes, sir.

24 MR. PASCOE: I'd ask that these be admitted
25 into evidence, Your Honor.

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1 MR. WALTERS: No objection, Your Honor.

2 THE COURT: They are admitted.

3 (State's Exhibit Numbers 79 through 82,
4 photographs, admitted into evidence.)

5 BY MR. PASCOE:

6 Q I'm going to go over a couple of them with you,
7 okay?

8 A Okay.

9 Q I'm going to show them to the Court. That door
10 in State's Exhibit 81, what does that go to?

11 A Back side of the shed, the back room.

12 Q And, in fact, the whole back side of State's
13 Exhibit 82 where you and Jim are having that photo,
14 what area is that right there?

15 A The wing side, I mean, that's the door that we
16 normally entered. And then over here would be the
17 back door.

18 Q And, in fact, the door right here is the door
19 that you went in and found your husband dead?

20 A Yes, sir.

21 Q You testified earlier about the last image that
22 you'll ever have to have of your husband, Jim, in
23 the casket and, of course, in the shed. Did you
24 want to bring another image to the courtroom today?

25 A Yes, sir.

AMY TRIPP MYERS - DIRECT BY MR. PASCOE

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1 Q Do you recognize State's Exhibit 78?

2 A Yes, sir.

3 MR. PASCOE: I'd ask that State's Exhibit 78 be
4 admitted into evidence, Your Honor.

5 THE COURT: What says the defense?

6 MR. WALTERS: No objection, Your Honor.

7 THE COURT: It's admitted.

8 (State's Exhibit Number 78, photograph,
9 admitted into evidence.)

10 BY MR. PASCOE:

11 Q And, finally, Amy, although I think you've
12 really done it throughout your testimony today, but
13 if you could, describe for Judge Newman as best you
14 can just the impact that Jim's death has had on your
15 life.

16 A I'd like to read something that I've written.

17 MR. PASCOE: Do you want me to let you read it
18 first? Do you want to read what she's going to read
19 first?

20 MR. WALTERS: Yes.

21 MR. PASCOE: Can I have that, Amy? Give us one
22 minute, okay?

23 (Pause.)

24 MR. WALTERS: No objection, Your Honor.

25 THE COURT: It's admitted without objection.

1 BY MR. PASCOE:

2 Q Okay. You can go ahead and read that to the
3 Court, okay?

4 A Your Honor, the day that Jim and I bought the
5 farm on April 20th, 2001, the day after Jim's 53rd
6 birthday, we celebrated by camping out by the pond,
7 the pond where our dreams would become our reality.
8 We snuggled up to the warm fire and were sung to
9 sleep by the croaking frogs. The next morning we
10 awoke to the mist rising off the pond, our pond, the
11 same pond in which Mr. Mahdi threw Jim's favorite
12 fishing pole during his brief but much too long
13 visit.

14 Nearly a year later, the day after Valentine's
15 day 2002, Jim and I looked at the newly raised walls
16 of our shed, hugged each other and like giddy
17 children full of hope, scratched our names in the
18 freshly poured concrete just a few feet away from
19 the spot where Jim took his last breath.

20 About a year later on April 26th, 2003, Jim and
21 I, surrounded by our families and beaming with love
22 for each other, pledged our vows of love and
23 marriage just ten feet in front of the same door
24 that Mr. Mahdi used to break into our shed.

25 A little over a year later, the fateful evening

1 of July 18th, 2004, I found the love of my life, my
2 soulmate, the partner that my life revolved around
3 lifeless, lying in a pool of blood and his body
4 burned by someone who didn't even know him. As I
5 screamed those blood curdling screams of pain and
6 anguish, I instantly knew that the man with whom I
7 had just spent the last six years of my life
8 dreaming of a beautiful future was gone like a
9 vapor. I died that night and haven't been the same
10 person since.

11 Today, nearly two and a half years later, the
12 grounds that were our sacred paradise that we kept
13 so neatly manicured are grown up with dog fennel,
14 Polkberry plants and other various weeds. I have
15 yet to walk that once familiar ground between the
16 pond and the shed without my heart tearing apart
17 missing Jim and thinking about all of our
18 unfulfilled dreams.

19 Sir, we didn't have enough time together.
20 Thank you.

21 MR. PASCOE: Thank you, Amy.

22 MR. WALTERS: We have no questions, Your Honor.

23 THE COURT: You may step down.

24 We'll take a ten minute recess.

25 (Brief Recess.)

JAMES R. WOODLEY - DIRECT BY MR. PASCOE

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1 (State's Exhibit Number 83, receipt, and
2 State's Exhibit Number 84, photograph, were marked
3 for identification purposes.)

4 THE COURT: Solicitor, your next witness.

5 MR. PASCOE: Thank you, Your Honor. The State
6 would call Sheriff James Woodley.

7 JAMES R. WOODLEY,
8 having been duly sworn, testified as follows:

9 THE CLERK: State your full name for the record
10 please, sir.

11 THE WITNESS: Sheriff James R. Woodley.

12 DIRECT EXAMINATION

13 BY MR. PASCOE:

14 Q Good morning, Sheriff.

15 A Good morning.

16 Q I want to thank you for coming down here today.
17 And are you the sheriff for Brunswick County,
18 Virginia?

19 A Yes, sir.

20 Q How long have you been the sheriff at Brunswick
21 County?

22 A Next month will be 15 years.

23 Q And how long have you been in law enforcement
24 all together?

25 A Thirty-three years.

1 Q And if you could, tell the Judge where exactly
2 Brunswick County is in Virginia.

3 A Brunswick County is approximately 340 miles
4 north from here on 95 to 58, central part of
5 Virginia.

6 Q How large is Brunswick County?

7 A Five hundred seventy-nine square miles,
8 approximately, 18,600 population.

9 Q And how many deputies do you have on your
10 police force?

11 A At this time?

12 Q Yes, sir.

13 A Thirteen field deputies.

14 Q How many did you have back in 1998?

15 A Eight.

16 Q Are you familiar with the defendant, Mikal
17 Mahdi?

18 A Yes, sir. I've met him twice.

19 Q And tell the Judge about how you met him?

20 A The first time I met the gentleman was there
21 was some stolen property found at the residence he
22 was living in at the southern part of Brunswick
23 County east. And then I met him again when we had a
24 standoff. The --

25 Q I was going to ask you specifically about that

1 standoff on June 30th, 1998. Go ahead and if you
2 could, describe that for the Court. What happened?

3 **A** It was approximately -- I got the call around
4 11:15, between 11:15 and 11:30 that morning. The
5 deputy had a juvenile order to take the individual
6 back to the detention center. And we had a show
7 cause for his father for failure to appear.

8 The gentleman in question, he was convicted for
9 breaking and entering in a house in Mecklenburg
10 County and the day of sentencing, they failed to be
11 there. So the court sent a detention order for us
12 to pick him up and also a failure to appear for the
13 father because he was released to his custody.

14 **Q** And for clarification, the adjudication was for
15 the defendant, Mikal Mahdi, for the breaking and
16 entering?

17 **A** Yes, sir.

18 **Q** And that's why you went to go pick him up, as
19 well as the father for failure to show up in court?

20 **A** Yes, sir.

21 **Q** Where did you have to go to pick up the
22 defendant?

23 **A** At his grandmother's residence, which is about
24 a mile and a half out of town on Highway 46. We
25 call it the Mayfield section.

1 Q And what items had the defendant stolen in that
2 breaking and entering conviction?

3 A The report was auto -- like speakers, tape
4 player and also it was a handgun, a .44 caliber
5 magnum, that was stolen from the house in
6 Mecklenburg County.

7 Q And that weapon was never recovered?

8 A No, sir.

9 Q And did that give you some concerns on that
10 morning, in the afternoon?

11 A Yes, sir.

12 Q Tell the Judge what happened as you and your
13 deputies went to pick the defendant up, Mr. Mahdi --
14 Mikal Mahdi.

15 A I got on the scene approximately, like I said,
16 11:30. By me being familiar, knowing the
17 defendant's father, I went there and tried to talk
18 to him to get him to surrender. A deputy had gone
19 there prior and the father had came out. He
20 explained to him why he was on the scene and that's
21 when his father dropped the paper at his feet and
22 said, We're not going, and ran back in the house.

23 When I got the call and got on the scene, I
24 talked to the father through the window, no results.
25 And while I was standing between the living room

1 window and the door, the other officers was putting
2 on their gear, the bullet proof vests and getting
3 weapons out of the vehicle and I heard the
4 individual holler to his father, The MF's got guns
5 out there, and some liquid came out of the window.

6 Q Did he say MF's?

7 A No.

8 Q What did he say?

9 A He said, The mother fuckers got a gun.

10 Q And who said that?

11 A The individual, the defendant.

12 Q Mr. Mikal Mahdi sitting in the courtroom?

13 A Yes, sir.

14 Q Tell the Court what happened.

15 A At that time, some liquid came out of the
16 window over my shoulder. I exited back to my
17 vehicle.

18 Q And describe for the Judge how long this
19 standoff took place and what happened.

20 A I arrived on the scene, I'm saying we probably
21 started about 11:15 that morning. And at 8:30 that
22 afternoon, we went into the residence and subdued
23 the individual and his father and brought them out.
24 So close to eight hours.

25 Q And when you brought the defendant out, did he

JAMES R. WOODLEY - CROSS BY MR. KOGER

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1 say anything to you?

2 A He made a statement -- we had him in custody
3 and was bringing him out, two officers on each side,
4 he made the statement that, I'm going to kill a cop
5 before I die.

6 Q And, Sheriff, for clarification, the person who
7 told you, back on June the 30th, 1998, after he was
8 arrested, that he was going to kill a cop before he
9 died, do you see him in the courtroom today?

10 A Yes, sir.

11 Q Point him out for Judge Newman.

12 A The defendant over here dressed in orange,
13 sitting next to his attorney.

14 MR. PASCOE: Thank you, sir. Answer any
15 questions the defense counsel has for you.

16 CROSS-EXAMINATION

17 BY MR. KOGER:

18 Q Mr. Woodley, you testified to just having two
19 incidents in which you dealt with Mikal Mahdi?

20 A Yes, sir.

21 Q And on this particular incident with the
22 standoff, it was mainly with the father, correct?

23 A Sir?

24 Q This incident here with the standoff was with
25 the father, correct?

1 A No, sir, it was both of them. We had a
2 detention order to pick him up, the defendant, to
3 take him to the juvenile detention center. And we
4 had a show cause for the father for failure to
5 appear in court with the juvenile.

6 Q So his case was already adjudicated at that
7 particular point?

8 A Yes, sir.

9 Q It was already adjudicated. And what age was
10 Mr. Mahdi at that time?

11 A Fifteen.

12 Q Fifteen?

13 A Yes, sir.

14 Q And had you had any prior dealings with the
15 father before that time?

16 A Yes, sir.

17 Q Okay. I think you stated in your testimony
18 that you actually went to see -- and you attempted
19 to talk with him, correct?

20 A Correct.

21 Q All right. Prior to that incident, how long
22 had you known the father?

23 A We grew up together.

24 Q You grew up together?

25 A Yes, sir. We went to high school together.

1 Q All right. So you had a prior dealing with the
2 father as far as it relates to any type of charges
3 or anything?

4 A Yes, sir.

5 Q Okay. So other than you growing up with the
6 father, you had a law enforcement history -- well,
7 he had a law enforcement history with you, correct?

8 A I wouldn't say a history, just a couple of --
9 it was simple assault on family members.

10 Q And you felt comfortable enough, because you
11 grew up together, to try to talk with him?

12 A Correct.

13 Q What was his response, the father's response?

14 A He didn't respond to us. He didn't come out.

15 Q He didn't respond at all?

16 A No, sir.

17 Q Prior to that incident, did you have a good
18 relationship with his father?

19 A Just speaking to him when I see him, you know.
20 Like I said, we went to high school and elementary
21 school together, just speaking to him, that's all.

22 Q So he was never any problem with you speaking
23 -- y'all speaking back and forth during that time?

24 A No, sir.

25 Q Were you aware of the circumstances that his

1 father was bringing up Mr. Mahdi?

2 A Yes, sir.

3 Q Okay. Did he have a difficult time bringing up
4 Mr. Mahdi?

5 A No, sir.

6 Q Okay. Not -- the type of relationship that the
7 two of y'all had, would y'all -- you say speak, did
8 y'all ever get into any in-depth conversation, talk
9 to each other or anything?

10 A About his family?

11 Q About his family.

12 A No, sir.

13 Q Y'all didn't go out or anything?

14 A No, sir.

15 Q Okay. Y'all would just say hi and bye?

16 A Correct.

17 MR. ROGER: No further questions. Thank you.

18 THE COURT: Solicitor.

19 MR. PASCOE: Just one question, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. PASCOE:

22 Q Sheriff, in your capacity in law enforcement,
23 did you know of any occasions where there were any
24 allegations that the father had ever physically
25 abused his son, Mr. Mahdi?

JAMES R. WOODLEY - RECROSS BY MR. KOGER

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1 A No, sir. I would say, in law enforcement, that
2 his father was overprotective with the two boys when
3 he raised them.

4 MR. PASCOE: Thank you, Sheriff.

5 RECROSS-EXAMINATION

6 BY MR. KOGER:

7 Q But as Sheriff of Brunswick County, you
8 wouldn't have any access to any DSS records or
9 anything, would you?

10 A I didn't quite --

11 Q You wouldn't have access to any DSS records as
12 Sheriff of Brunswick County?

13 A No, sir.

14 MR. KOGER: Thank you. No further questions.

15 THE COURT: Thank you, Sheriff. You may step
16 down.

17 MR. PASCOE: Linda Coulson, Your Honor.

18 LINDA LEE COULSON,

19 having been duly sworn, testified as follows:

20 THE CLERK: Please state your full name for the
21 record please, ma'am.

22 THE WITNESS: My name is Linda Lee Coulson.

23 DIRECT EXAMINATION

24 BY MR. PASCOE:

25 Q Good morning, Ms. Coulson. I want to thank you

1 for coming down here today. Where do you currently
2 work, Ms. Coulson?

3 A I currently work for the Goochland Department
4 of Social Services in Goochland, Virginia.

5 Q How long have you worked there?

6 A I've worked there, approximately, eight years.

7 Q Where were you working back in 1997?

8 A I worked for the Reception and Diagnostic
9 Center, which is part of the juvenile justice
10 system.

11 Q In the State of Virginia?

12 A In the State of Virginia, in Bon Air, Virginia.

13 Q What years did you work with the Department of
14 Juvenile Justice?

15 A I worked there from, approximately, from
16 September of 1994 through the end of January 1998.

17 Q And what were your duties with the Reception
18 and Diagnostic Center at DJJ?

19 A I was a counselor at the center, which was part
20 of an assessment team to evaluate all juveniles
21 committed to the juvenile justice system in
22 Virginia.

23 Q Okay. And were you a counselor for a
24 defendant, Mikal Mahdi, back in December of 1997?

25 A Yes, sir, I was.

1 Q And what was the defendant committed to the
2 department of juvenile justice for back then?

3 A He was committed for two counts breaking and
4 entering and two counts grand larceny.

5 Q And how old was Mr. Mahdi at the time?

6 A He was age 14 years, nine months.

7 Q And as the defendant's counselor, did you
8 assist in preparing an evaluation on him while he
9 was committed at the Reception and Diagnostic
10 Center?

11 A Yes, sir, I did.

12 Q And you're actually using that to refresh your
13 memory right now?

14 A Yes, sir, I am.

15 Q And, also, do you have a copy of your
16 evaluation?

17 A Yes, sir, I do.

18 Q Can I see that evaluation?

19 A Uh-huh.

20 (State's Exhibit Number 85, evaluation, was
21 marked for identification purposes.)

22 Q I'm going to show you what's now been marked as
23 State's Exhibit 85. Is that your evaluation of
24 Mr. Mahdi when you were his counselor?

25 A Yes, sir, it is.

1 Q And does it accurately depict your entire
2 evaluation?

3 A Yes, sir.

4 MR. PASCOE: I'd ask that State's Exhibit 85 be
5 admitted into evidence, Your Honor.

6 THE COURT: What says the defense?

7 MR. WALTERS: Without objection, Your Honor.

8 THE COURT: It's admitted.

9 MR. PASCOE: Thank you, Your Honor.

10 (State's Exhibit Number 85, evaluation,
11 admitted into evidence.)

12 BY MR. PASCOE:

13 Q And, specifically, what were your duties as
14 Mr. Mahdi's counselor?

15 A My duties were to conduct an interview with
16 him, to do what is called a substance abuse
17 evaluation using an instrument called the Sassy and
18 to make treatment recommendations to the rest of the
19 staffing team on the day of his staffing.

20 Q And as his counselor, you were aware of his
21 range of intellectual functioning?

22 A Yes, sir. I was made aware of that at the time
23 of his staffing.

24 Q And what was his range of functioning,
25 intellectual functioning.

1 A In the juvenile justice system there in the
2 Reception and Diagnostic Center, he was tested to
3 have a full scale IQ of 108.

4 Q And that's the upper end range then?

5 A That was in his record considered to be in the
6 upper average range, yes, sir.

7 Q And when did Mr. Mahdi's evaluation begin with
8 you, ma'am?

9 A He was received at the Reception and Diagnostic
10 Center on December 2nd of 1997.

11 Q And when was your evaluation completed?

12 A And my evaluation was completed as of January
13 14th, 1998.

14 Q Now, the evaluation is in evidence so I don't
15 want you to go over the entire evaluation. The
16 Judge will have time to read it later. But I want
17 to highlight a few things with you, specifically on
18 page two of the socialization information. How did
19 Mr. Mahdi describe himself to you?

20 A He described himself as a quiet person who is
21 always up to something. He denied that he has any
22 strengths except for robbing people.

23 Q And now on page one of the community
24 information, how did the defendant describe himself
25 among his peers?

1 A He described himself as a leader among his
2 peers. He described himself as -- he stated, I'm my
3 own person.

4 Q Did you also document information he gave you
5 concerning substance abuse and the sell of drugs?

6 A Yes, sir. As far as substance abuse, he
7 admitted to regular use of marijuana. He reported
8 that he began smoking marijuana at age 12 and
9 admitted that he had been smoking heavily on a daily
10 basis since that time. He advised me that he had
11 been involved in selling crack cocaine since Spring
12 of that year, which would have been 1997.

13 Q And, again, this is all coming from 14-year-old
14 Mikal Mahdi?

15 A Yes, sir.

16 Q His strength is robbing people?

17 A Yes, sir.

18 Q As well as all of the other information you've
19 given. And as far as Mr. Mahdi, did he give you his
20 view as far as escapes and trying to elude law
21 enforcement? And, specifically, I'm looking at page
22 two of the community information.

23 A Yes, sir. He was describing some incidents
24 leading to an arrest. He advised me that the police
25 had stopped him and required that he sit in a police

LINDA LEE COULSON - DIRECT BY MR. PASCOE

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1 vehicle.

2 DEFENDANT MAHDI: Hey, I've never seen this
3 woman in my life.

4 THE WITNESS: He stated that he opened the seat
5 belt and left the car and began running, said that
6 it didn't feel good going to jail.

7 BY MR. PASCOE:

8 Q So he testified that escape was to be expected?

9 A Yes. He also stated, No one's just going to
10 say I'm going to go.

11 Q And what was your opinion as the defendant
12 is -- of the defendant as far as his respect for
13 others?

14 A His comments to me during the interview
15 suggested that he had little respect for the rights
16 and property of others. He expressed no remorse for
17 any of his incidents leading to the charges. And he
18 also expressed no empathy for the impact of his acts
19 upon others.

20 Q And did he exhibit any aggressive behavior
21 while he was at the diagnostic center? I'm looking
22 at the supervision information.

23 A According to records at the cottage he was
24 housed at, he was charged with assaulting another
25 youth in his cottage, which did result in bodily

1 injury, but I don't have the details other than
2 that.

3 Q And, finally, what were your recommendations
4 back in January of '98 as far as what to do with the
5 defendant?

6 A The evaluation team recommended that he be
7 housed at the Hanover Juvenile Correctional Center.
8 And I'm looking for -- the treatment recommendations
9 included substance abuse services, values
10 clarification, self-esteem, family services and
11 problem solving skills. It was recommended that he
12 receive treatment in those areas.

13 MR. PASCOE: Thank you again, Ms. Coulson.

14 THE COURT: Cross-examination.

15 MR. WALTERS: May it please the Court, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY MR. WALTERS:

19 Q Ms. Coulson, can I see the report you have
20 there, ma'am?

21 A (Witness complies.)

22 Q Now, this report that was prepared, you
23 prepared this report, ma'am?

24 A Yes, sir, I did.

25 Q And it's your testimony that you personally saw

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1 Mikal Mahdi?

2 A I do not remember Mr. Mahdi. I remember -- I
3 recognize my signature. I know I wrote that report.
4 It's been almost nine years since I worked at the
5 Reception and Diagnostic Center.

6 Q My question is, is that did you personally meet
7 with Mr. Mahdi --

8 A Yes, sir, I did.

9 Q -- and assess his condition?

10 A And my signature on that report would document
11 that I did in order to complete that report.

12 Q All right. Well, let's go through what it says
13 on the report. It essentially goes through and says
14 that you're the counselor; is that correct?

15 A Yes, sir, that is correct.

16 Q It also says that a gentleman named Lance
17 Burton is the person that was the cottage
18 supervisor?

19 A That's correct.

20 Q And, also, there was an educational evaluator
21 named Steve Holdron; is that right?

22 A That's correct.

23 Q And then there's a psychologist named Michael
24 Shoomate (ph); is that correct?

25 A That is correct.

1 Q All right. Now, the first report that you have
2 here is the evaluation profile and it goes through
3 the date of birth. And it gives an ESR staffing
4 date. Of course, it's a typed written report. And,
5 of course, in this report, it goes through your
6 assessment with regards to Mr. Mahdi. Now, I know
7 it was nine years ago. When were you contacted by
8 the Solicitor's office?

9 A The first time, earlier this year, back in
10 January I believe.

11 Q And then you went and you pulled out this
12 report; is that correct?

13 A Sir, I don't have copies of the department of
14 correction reports at my house. They were kept in
15 the juvenile justice office.

16 Q All right. But, nevertheless, you went back
17 and reviewed this report to prepare for today; is
18 that right?

19 A Yes, sir.

20 Q And it's your testimony that you personally met
21 with Mr. Mikal Mahdi?

22 A It would be my testimony, yes, sir, that I
23 personally met with him in order to complete that
24 report.

25 Q And did you talk with his father in regards to

1 his condition or anything of that nature?

2 A I don't recall talking to his father and
3 there's no documentation on the report.

4 Q Did you talk to his mother with regards to
5 Mr. Mahdi?

6 A No, sir.

7 Q So you didn't talk to his mother. You didn't
8 talk to his father. Did you talk to any other
9 family members?

10 A No, sir.

11 Q Now, most of the information that you have
12 obtained, you would draw that from other individuals
13 working within the system; is that right?

14 A No, sir. Most of the information actually that
15 I placed in my report was from my interviews with
16 Mr. Mahdi, information that he reported to me.

17 Q All right. So this child was 14 years old at
18 this time?

19 A Yes, sir.

20 Q And it's your testimony that this is
21 information you obtained from Mr. Mahdi?

22 A Yes, sir.

23 Q Now, you indicated that -- I want to make sure
24 I'm clear about your testimony. You said some
25 detrimental things. And the things that you related

1 to this Court, you've indicated that this was told
2 to you by Mr. Mahdi?

3 A Yes, sir.

4 Q Now, in discussing this issue with Mr. Mahdi,
5 did you go through his home life?

6 A There is a section in the report where we
7 discussed his family, yes, sir.

8 Q I understand that, but did you discuss his
9 mother and the absence of his mother?

10 A There is a reference in my report that he had
11 not had recent contact with his mother.

12 Q Well, I believe --

13 A He did not provide a lot of information to me.
14 The information in my report regarding his family
15 was information that he provided to me.

16 Q Well, I want to make sure we're clear because
17 His Honor is making a very important decision today.

18 A Yes, sir.

19 Q Your report simply states that the report
20 indicates that his mother is 34 years old and her
21 employment status is not reported; is that correct?

22 A That information would have come from the
23 committing juvenile record. I believe he was
24 committed from Brunswick. And juveniles, when
25 they're committed, usually come to the Reception and

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1 Diagnostic Center with reports completed by the
2 local probation department.

3 Q All right. Well, what I'm getting at is, is
4 that you don't rely on a 14-year-old kid to give you
5 all of the information, you draw upon other sources;
6 is that right?

7 A Any other information that is supplied to the
8 Reception and Diagnostic Center.

9 Q But in the process of preparing your report,
10 you gather information from other sources. You've
11 never talked to the parents. You never talked to
12 his mother. You never talked to his father. And
13 you had a conversation with the child; is that
14 right?

15 A Yes, sir, that's how the reports are completed.

16 Q So as far as having a complete picture of
17 what's going on with the kid, you just don't have
18 that, do you?

19 A I did not have access to talking to either his
20 mother or his father.

21 Q All right. Did you talk to his grandmother?
22 She's present in the courtroom. Do you remember
23 talking to her?

24 A No, sir. None of these individuals came to
25 talk to me or contacted me at the Reception and

1 Diagnostic Center.

2 Q But in the process of talking to this kid, did
3 you make an attempt to talk to any family members?

4 A Sir, that is not the way the reports are
5 completed at the Reception and Diagnostic Center.
6 We do not go into the field and interview anyone.

7 Q All right. So what you're telling this Judge
8 is, is that in order for you to draw a report
9 together, you rely on the previous reports that have
10 been submitted, is that correct, because that's your
11 testimony?

12 A Yes, sir.

13 Q All right. So whatever someone else has
14 written, you rely on that. And in addition to that,
15 you simply talk to the child?

16 A Yes, sir.

17 Q So between the child and the other reports, you
18 draw up an assessment and then you sign your name to
19 it?

20 A And also the behavior of the juvenile while at
21 the Reception and Diagnostic Center.

22 Q All right. Well, let's go into that. You
23 stated that you assess the behavior of a child while
24 they're there -- do you have a copy of your report?

25 A You have the copy of my --

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1 Q No. I'm asking -- you came here to testify
2 today.

3 A Yes, sir.

4 Q The Solicitor walked over and handed this to
5 me. What do you have with you today to testify in
6 this court about Mr. Mahdi? Do you have any
7 documentation? You're here testifying as an expert,
8 what documentation do you have with you?

9 MR. PASCOE: Objection, Your Honor, testifying
10 as expert, what documentation he's holding in his
11 hand.

12 THE COURT: You may answer the question. The
13 objection is overruled.

14 THE WITNESS: I had the report that you're
15 holding in your hand, which I wrote back in 1998.

16 BY MR. WALTERS:

17 Q All right. So what you're saying is, is that
18 this documentation that was handed to you from nine
19 years ago, as far as any other documentation with
20 you in regards to Mr. Mahdi and your assessment of
21 his condition, mainly remains the same, that you
22 relied on some reports that were written by other
23 individuals; is that right?

24 A Correct.

25 Q And you relied on information that was given to

1 you by a 14-year-old kid; is that right?

2 A Yes, sir.

3 Q And you never talked to his mother. You've
4 never talked to his father. You've never talked to
5 his grandmother. You've never talked to anybody in
6 his family; is that right?

7 A That is correct.

8 Q And you consider that to be a proper evaluation
9 of Mr. Mahdi?

10 A At the time we -- for what I was asked to
11 evaluate, yes. I was asked to evaluate his
12 perceptions of the criminal acts he'd been involved
13 in and what ideas he had about his future, that was
14 what my report was about.

15 Q You signed your name to this document, Linda L.
16 Coulson, Counselor, Reception and Diagnostic Center;
17 is that correct?

18 A Yes, sir.

19 Q Tell me, why should this Court take into
20 consideration what you said in any serious manner
21 when you never talked to the family, you never
22 talked to anyone with regards to this kid and you
23 relied on reports that were filed by other law
24 enforcement officials?

25 A My report was mainly on the acts that the

LINDA LEE COULSON - CROSS BY MR. WALTERS

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1 juvenile had been involved in and his comments about
2 those acts and most of my comments in my report
3 resulted from that.

4 Q Don't you consider this to be a biased report
5 because what you did was is -- you're a counselor
6 and what you're supposed to do is assess the child,
7 is that right, the home life, his academic life,
8 things of that nature? You determined his IQ, his
9 family and then you're supposed to make an
10 assessment; is that correct?

11 A My job was not to assess the whole life of
12 Mr. Mahdi, no, sir.

13 Q But the point I'm making is, is that the report
14 that you have before this Court today is biased
15 because it's written based on reports written by law
16 enforcement and, of course, your conversations with
17 a 14-year-old kid; is that correct?

18 THE COURT: Which question do you want her to
19 answer?

20 BY MR. WALTERS:

21 Q Is your report biased because you did not get
22 the full picture?

23 A Sir, I felt I did get the full picture on
24 Mr. Mahdi's comments about the criminal acts he had
25 been involved in.

1 Q But you were contacted over a year ago and this
2 is the only documentation that you have?

3 A Yes, sir, that's the only report I wrote while
4 at the Reception and Diagnostic Center in reference
5 to Mr. Mahdi.

6 MR. WALTERS: Your Honor, I have no further
7 questions.

8 MR. PASCOE: Thank you, Ms. Coulson.
9 We call Ms. Cindy Collins next, Your Honor.

10 THE COURT: Solicitor, you referenced some
11 report that I would be looking at, did you offer
12 that into evidence?

13 MR. PASCOE: Yes, sir, it's in evidence.

14 THE COURT: State's Exhibit Number...

15 MR. PASCOE: 85.

16 THE COURT: What says the defense?

17 MR. WALTERS: Your Honor, it's been admitted.
18 And under Rule 901, I believe she authenticated the
19 document and stated that she signed the document. I
20 just ask the Court to take into consideration my
21 cross-examination with regards to that document. I
22 don't think we can prohibit it under the rules of
23 evidence.

24 THE COURT: The exhibit is admitted.

25 *****

CINDY COLLINS - DIRECT BY MR. PASCOE

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1 CINDY COLLINS,
2 having been duly sworn, testified as follows:
3 THE CLERK: Please state your full name for the
4 record, please.
5 THE WITNESS: Cindy Collins.
6 DIRECT EXAMINATION
7 BY MR. PASCOE:
8 Q Good afternoon, Ms. Collins?
9 A Hello.
10 Q I want to thank you for coming down here. You
11 also live in the Richmond, Virginia area?
12 A Yes, I do. *
13 Q Where do you work?
14 A I work for the Virginia Department of
15 Corrections.
16 Q And how long have you worked at the department
17 of corrections in Virginia?
18 A Twenty-three years.
19 Q What are your duties there?
20 A I am the criminal records manager.
21 Q And have you testified before in your capacity
22 as a criminal records manager for the department of
23 corrections in Virginia?
24 A Yes, I have.
25 Q Both inside the State of Virginia and outside?

1 A Yes, sir.

2 Q Do you keep records of regularly conducted
3 business activity at the Virginia Department of
4 Corrections?

5 A Yes, I do.

6 Q And is it the regular practice of the
7 department of corrections in Virginia to have a
8 custodian or a qualified person, such as yourself,
9 compile those records?

10 A Yes, it is.

11 Q And you are one of those such persons, ma'am?

12 A I am.

13 Q And, Ms. Collins, did you receive a request
14 from my office for any and all records the
15 department of corrections has on the defendant,
16 Mikal Mahdi, date of birth 3/20/83, offender number
17 299449?

18 A Yes, I did.

19 Q And did you, as a qualified custodian of those
20 records, gather them and turn those copies over to
21 my office?

22 A Yes, sir.

23 Q And better yet, more importantly, did you also
24 gather those records up in Virginia and bring them
25 down with you last night?

CINDY COLLINS - DIRECT BY MR. PASCOE

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1 A Yes, sir, I did.

2 Q The documents are in this envelope right here?

3 A Yes, they are.

4 (State's Exhibit Number 86, records, were
5 marked for identification purposes.)

6 Q I hand you what is State's Exhibit 86. And,
7 again, you were the person that put those documents
8 together?

9 A Yes, I was.

10 Q And what are those documents?

11 A This is Mr. Mahdi's criminal record for his
12 incarceration period with the State of Virginia.

13 Q And those records are kept in the ordinary
14 course of business for the State of Virginia
15 Department of Corrections?

16 A Yes, sir.

17 MR. PASCOE: I'd ask that those documents be
18 admitted into evidence under 803(6), Your Honor.

19 MR. WALTERS: May it please the Court, Your
20 Honor. I believe under the rules, if she's a
21 custodian of records and she's testified they're
22 kept in the normal course, we have no objection.

23 THE COURT: They are admitted.

24 (State's Exhibit Number 86, records,
25 admitted into evidence.)

1 MR. PASCOE: That's the only question I have
2 for you. Thank you.

3 THE COURT: Any cross-examination?

4 MR. WALTERS: No questions, Your Honor.

5 THE COURT: Thank you, ma'am. You may leave
6 the records with me and you may step down.

7 MR. PASCOE: The State calls Officer Mike
8 Koehler, Your Honor.

9 THE COURT: Mr. Pascoe, other than family
10 members, are the witnesses sequestered?

11 MR. PASCOE: Yes, sir, they have been. We have
12 kept them in that back room.

13 THE COURT: Is that right, Mr. Walters?

14 MR. WALTERS: That's correct.

15 MR. PASCOE: Other than the victim impact
16 witnesses.

17 THE COURT: As it relates to expert witnesses
18 for either side, those witnesses are not
19 sequestered; is that right?

20 MR. WALTERS: Yes, sir, that's my
21 understanding. Our expert witnesses are here. And
22 we didn't make a motion to sequester and, of course,
23 the Solicitor agreed to it.

24 MR. PASCOE: We didn't make a motion to
25 sequester either, Your Honor. We just did it just

MICHAEL KOEHLER - DIRECT BY MR. PASCOE

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1 sort of in an abundance of caution.

2 MR. WALTERS: Two of our experts are present,
3 Mr. Akin and, I believe, also Ms. Hammock.

4 THE COURT: Defense expert witnesses are not
5 sequestered, nor are State expert witnesses.

6 MR. PASCOE: Thank you, Your Honor.

7 MICHAEL KOEHLER,
8 having been duly sworn, testified as follows:

9 THE CLERK: State your full name for the record
10 please, sir.

11 THE WITNESS: Officer Michael Koehler.

12 DIRECT EXAMINATION

13 BY MR. PASCOE:

14 Q Good afternoon, Officer Koehler?

15 A Good afternoon.

16 Q Where do you work, sir?

17 A Richmond City Police Department.

18 Q And how long have you been with the Richmond
19 City Police Department?

20 A About eight years now.

21 Q What are your duties at the city police
22 department in Richmond?

23 A I work patrol south side of Richmond off of
24 Jeff Davis.

25 Q And do you know the defendant, Mikal Mahdi?

1 A I know him from an incident that occurred back
2 in 2000.

3 Q And, sir, you've probably handled, what,
4 thousands of incidents since then, or hundreds
5 certainly?

6 A Yes.

7 Q Is there any reason why you can still remember
8 this defendant?

9 A It was a unique incident and a potentially very
10 serious one.

11 Q How old was the defendant back on November
12 23rd, 2000?

13 A He was 17.

14 Q Tell the Judge what led up to the incident with
15 the defendant on November 23rd, 2000.

16 A I was initially going to his house with another
17 officer in order to serve a summons on him for
18 slashing his mother's tires, as well as serve an
19 outstanding detention order and to place him in
20 custody for that.

21 Q And what ended up happening? How did you go
22 about approaching him?

23 A I asked the other officer to go with me and we
24 -- as we pulled into his parking lot of his home, he
25 and his father, Sareef Mahdi, saw us pull in and

1 they came out to meet us at the cars. At that
2 point, I issued Mikal Mahdi a summons for the
3 vandalism for slashing his mom's tires. And after
4 doing that, I advised him that he also had an
5 outstanding warrant, outstanding detention order and
6 that he needed to place his hands behind his back.

7 And when I attempted to then take hold of him,
8 he got upset. His dad, Sareef Mahdi, tried to calm
9 him down real quickly, did not work. He started to
10 pull away. We then had to wrestle him to the
11 ground. When we did that, at that point, I heard
12 the other officer yell at Mikal Mahdi to get his
13 hands off my gun. At that point, I saw that Mikal
14 Mahdi had his hands on the other officer's gun. The
15 officer, as we are trained to do, grabbed his own
16 gun and was holding it in his holster.

17 Mikal Mahdi's father, Sareef Mahdi, at that
18 point, jumped in and got in my way, yelling, Do not
19 hurt my son. I pushed him off of me. He pushed me
20 back. I then pulled out my pepper spray and sprayed
21 the father, Sareef Mahdi, and then turned to Mikal
22 Mahdi and sprayed Mikal Mahdi in the face with the
23 pepper spray. It did not seem to have any effect.

24 So I immediately went to my asp baton, it's an
25 expandable baton. And as we're trained with the asp

1 baton to avoid the trunk and the head and go for the
2 extremities and avoid the joints, I administered one
3 hit to the father, Sareef Mahdi, in his lower leg
4 and then proceeded to strike Mikal Mahdi several
5 times in the lower leg.

6 At which time, I heard and saw Mikal Mahdi say,
7 Stop, I'll put my hands behind my back, it hurts.
8 He let loose of the gun. And, at that point, we're
9 able to place him in custody.

10 Q And you testified now, now he's in custody,
11 that you were serving a summons for slashing tires.
12 Was he arrested for anything else after that
13 incident for that day?

14 A Yeah. Well, he also had the outstanding
15 warrant for him and we also charged him in addition
16 with obstruction with force, as well as assault on a
17 police officer.

18 Q And did you ever take a statement from the
19 defendant, Mikal Mahdi, concerning the incident that
20 day?

21 A Yes. After reading his Miranda rights, he
22 stated, he slashed his mother's tires because she
23 wouldn't come to the door when he knocked. I kind
24 of asked him why he would slash the tires just for
25 that and he referred to her as a crazy bitch and

1 that you don't know what she's like and that he
2 should have killed her.

3 As far as the gun, I asked him about why he
4 grabbed the officer's gun and he said, Just to pull
5 him off of me so I could get away. He was also
6 begging me and the other officer if we would shoot
7 him and what it would take to do that and that if we
8 could place the handcuffs in front so he could come
9 at us so we could shoot him.

10 Q And in the State of Virginia, at the age of 17,
11 are you an adult or a juvenile?

12 A He's a juvenile at 17.

13 Q And did you go to his court hearing on the
14 obstruction charge and the resisting arrest?

15 A Yes, there was a trial for that.

16 Q Tell the Court what happened during that trial.

17 A He was a little unruly. During the whole
18 proceeding, he kept pacing. And in juvenile court,
19 you stand before the judge, all the parties stand
20 there, he was pacing back and forth. He was huffing
21 and puffing. He was kind of going (indicating),
22 just getting extremely agitated. And his attorney,
23 as well as the judge had to calm him down and
24 admonish him several times that he needed to calm
25 down.

1 Q And the person that you had to arrest back on
2 that day, sir, November 20th, 2000, who said he
3 should have killed his mother after you arrested
4 him, do you see him in the courtroom?

5 A Yes, sir.

6 Q Could you point him out for Judge Newman?

7 A Yes. He's sitting right of counsel, defense
8 counsel, in the orange shirt.

9 MR. PASCOE: Answer any questions the defense
10 counsel has for you, sir.

11 MR. WALTERS: May it please the Court.

12 CROSS-EXAMINATION

13 BY MR. WALTERS:

14 Q Officer, I want to make sure I'm pronouncing
15 your name correctly. Is it Koehler?

16 A Yes, sir.

17 Q You indicated that -- let me go backwards here.
18 You stated that the young man was angry because his
19 mother wouldn't come to the door; is that correct?

20 A Right.

21 Q So, evidently, he wasn't at his home, he was at
22 his mother's home; is that correct?

23 A That was the original call that I had got was
24 there was a report to go to his mom's house about
25 the slashing of the tires. And, yes, she said, and

1 other witnesses said, he was at her door and --

2 Q And he was knocking on that door trying to
3 contact his mother?

4 A Right.

5 Q And she wouldn't answer the door?

6 A Right.

7 Q And, evidently, he became agitated because his
8 mother wouldn't open the door and he cut the tires
9 on her car; is that correct?

10 A Right, I would assume.

11 Q After you apprehended the young man, he gets
12 inside the vehicle and then he asked you to please
13 shoot him; is that correct?

14 A He was asking that while we were processing
15 him, heading towards --

16 Q Sort of a death by cop situation, Please shoot
17 me?

18 A Right.

19 Q And he asked you several times to shoot him; is
20 that correct?

21 A Yeah.

22 Q In your experience when a child is asking
23 someone to shoot them, you know they're in serious
24 trouble?

25 A It's not necessarily a good sign. He was

1 upset.

2 Q It wasn't a good sign. It shows there's
3 something wrong here. And, evidently, there's
4 something wrong with this child and his mother; is
5 that correct?

6 A (No response.)

7 Q That's the only assumption you can draw
8 implicitly from what happened?

9 A Right. He was upset and he -- yeah. I don't
10 know what he was upset about, but he was certainly
11 upset at the incident that had just occurred.

12 Q You would agree that it is different, it is
13 unique for a child to be angry with his mother and
14 to ask that, you know, someone please shoot me,
15 someone please kill me?

16 A You're asking about the psychology of them, I
17 really don't know. I can just tell you what he
18 said. And I really -- I can't read his mind. I
19 don't know what he was thinking or what he has going
20 on.

21 Q But you do make assessments based on someone's
22 behavior and that dictates how you act; is that
23 correct? You didn't pull the gun out to shoot him,
24 you just said the kid's sort of messed up in the
25 head and he's got some problems, didn't you?

1 A Well, I reacted to the situation that was
2 before me and that's the way I reacted and the tools
3 that I had on hand.

4 Q Yes, I understand. Now, let's also talk about
5 his father. His father was present when this
6 altercation occurred; is that correct?

7 A That's right.

8 Q And I believe that the father was standing
9 there -- and let's make sure we're clear on exactly
10 why you were there. You stated that there were two
11 issues really. You charged him with obstruction of
12 force, you know, obstruction with force on a police
13 officer after the incident occurred, but what were
14 the reasons why you were originally there?

15 A I was there to serve a summons for vandalism,
16 as well as to issue a detention order and place him
17 in custody for the detention order.

18 Q All right. So the kid is actually standing
19 there with his father. Is his father aware of what
20 he had been doing?

21 A Aware of what -- aware as what --

22 Q As a father, I'm standing there with my kid and
23 the police show up, evidently I know this kid has
24 been in trouble; isn't that correct?

25 A Right. I had talked to the father earlier that

1 day and so he was aware of the circumstance.

2 Q And what do you think of a father that's aware
3 that his kid's in trouble, knows the circumstances
4 surrounding that and he's standing there when the
5 police arrive and then he gets into the altercation?

6 A I'm sorry? What's your question?

7 Q What do you think of a father, after you talked
8 to him on the phone and told him, Your kid's in
9 trouble, you still have to go out and pick him up
10 and you go out to pick him up and his father gets in
11 the middle of the confrontation, what do you think
12 of that man as a father?

13 A I don't know what I think of him as a father.
14 I don't know him as a father.

15 Q My question is, is that if you call some
16 fathers on the phone and you say, your kid's in
17 trouble, they immediately grab the kid and they
18 bring them to the police and say, what can we do,
19 what's wrong; is that correct?

20 A Sareef Mahdi, Mr. Mahdi, when I talked to him,
21 was not very cooperative the first time and --

22 Q Well, let's talk about that. You stated he
23 wasn't cooperative. What type of person was he, on
24 a scale of one to ten, ten being very cooperative,
25 one being totally resistant, polarized in a

1 position, where would he fall?

2 A He was a bit resistant and he was --

3 Q Is he a one? Is he a ten?

4 A I don't know where to put it on that scale.

5 I've seen a lot worse. I've certainly seen a lot of
6 people that are way more cooperative. He was
7 cooperative enough to when I asked him to call me
8 when Mikal got home so I could deal with the
9 business at hand, he did call me. I had to -- I had
10 to kind of tell him that, you know, if he didn't, we
11 might have to go another route and that I suggest
12 that he call me, so I had to -- it wasn't exactly a
13 friendly conversation. He wasn't being completely
14 cooperative when I was talking to him at his home.
15 I asked if Mikal Mahdi was home and if I could look
16 in the house, he let me look, but he was obviously
17 upset at doing that. His other son was slamming
18 doors when I was in the house, so it wasn't exactly
19 a comfortable situation. He did not appreciate me
20 being there.

21 Q So when you say he wasn't completely
22 cooperative, this behavior within his home was
23 sanctioned by his father; is that correct? He
24 allowed the other kid to slam doors while you were
25 there, was that appropriate?

1 **A** That was not appropriate. He obviously didn't
2 appreciate me being there and he was perfectly --
3 felt comfortable in allowing anybody to show that
4 they were uncomfortable with me being there and
5 didn't want me there.

6 **Q** All right. So let's assess his father. First,
7 you call him on the phone and he's not completely
8 cooperative. Then when you go to the home, he
9 allows another child to slam doors and he's not
10 cooperative and let's you in the house, but he let's
11 you go around the house; is that correct?

12 **A** Right.

13 **Q** Then when you arrive and you say, Look, I've
14 got to pick this kid up, he actually gets in the
15 middle of the confrontation; is that right?

16 **A** He does. He initially was trying to calm down
17 his son.

18 **Q** And this is the man that's raising Mikal Mahdi;
19 is that right?

20 **A** I can only assume.

21 **Q** Now, when you arrived there, you stated that
22 there was an issue with regards to slashing the
23 tires. Did you ever talk to his mother?

24 **A** I did talk to his mom.

25 **Q** And what did she say?

1 A She just gave a report as to what happened.

2 Q So the mother was just passive as usual; is
3 that right?

4 A That's the first time I talked to her. I can't
5 say whether that's usual or not. She was just
6 giving a report for her vandalism.

7 Q But you would agree that if you were the mother
8 of a child and the child slashed your tires and
9 there's -- something bad has occurred in your home,
10 you would have a lot to say, wouldn't you? You've
11 got kids, suppose your kid slashed your tires, what
12 would you say?

13 A I don't have kids, but it was not an unusual
14 report. She simply gave a report that I take
15 thousands of times for, often times, family members
16 doing this kind of thing. It's a daily, hourly -- I
17 go on probably a domestic call an hour and it was
18 not any different than the thousands I've been on.

19 Q All right. But the point I'm making and the
20 picture I want to draw here is, is that, number one,
21 we've got a dad who's noncompliant, who begrudgingly
22 allows you to do your job; is that right?

23 A I guess that's a fair characterization.

24 Q And, two, we've got a mother who just simply
25 gives a report and she doesn't want anything else to

1 do with the whole situation; is that right?

2 A She was just giving a vandalism report for
3 insurance purposes, I assume, or what have you. She
4 was telling me what happened to her car.

5 Q Right. And we've got a little boy in the
6 middle of this that's saying, Kill me, please shoot
7 me, kill me; is that right?

8 A He wasn't so little, but, at some point, he did
9 say that. That was one of the things he said in our
10 process.

11 Q Yes or no, he said it?

12 A He did say it.

13 MR. WALTERS: Your Honor, I have no further
14 questions.

15 THE COURT: Redirect?

16 MR. PASCOE: Thank you, Officer Koehler. I
17 appreciate you coming down.

18 Do you want us to call the next witness, Your
19 Honor?

20 THE COURT: Yes, sir.

21 MR. PASCOE: Moises Rivera.

22 MOISES RIVERA,
23 having been duly sworn, testified as follows:

24 THE CLERK: Give us your full name for the
25 record please, sir.

1 **THE WITNESS:** Moises Rivera.

2 DIRECT EXAMINATION

3 BY MR. PASCOE:

4 **Q** Good afternoon, Mr. Rivera.

5 **A** Good afternoon, sir.

6 **Q** Where are you from, sir?

7 **A** Originally from Brooklyn, New York, came down
8 from Richmond, Virginia.

9 **Q** Where are you living now?

10 **A** Richmond, Virginia.

11 **Q** And how long have you lived in Richmond,
12 Virginia?

13 **A** Eleven years.

14 **Q** You've still got a lot of that Brooklyn accent,
15 though, don't you?

16 **A** Yes, sir.

17 **Q** Are you here under subpoena, sir?

18 **A** No, sir.

19 **Q** Did you come here willingly on your own free
20 will?

21 **A** Yes, sir.

22 **Q** Why is that?

23 **A** I just wanted to tell my story, what happened
24 to me.

25 **Q** Are you married, Mr. Rivera?

- 1 A Yes, sir.
- 2 Q Do you have any children?
- 3 A Three children.
- 4 Q What are their ages?
- 5 A Eighteen, 16 and 14.
- 6 Q What type of work do you do today, sir?
- 7 A I'm a maintenance and supervisor of a cleaning
- 8 crew.
- 9 Q And where are you in charge of that maintenance
- 10 crew?
- 11 A ACAC Fitness Center in Richmond.
- 12 Q And what did you do before you went into
- 13 maintenance work?
- 14 A I was a police officer.
- 15 Q Where were you a police officer?
- 16 A Richmond, Virginia.
- 17 Q What years were you in the police force?
- 18 A From 1995 until the end of 1999.
- 19 Q And why did you leave the police force?
- 20 A My kids were missing me. I was working
- 21 overtime, court time and regular shift.
- 22 Q Did you also serve any time in the military?
- 23 A Six years, sir.
- 24 Q Okay. In which branch and when were those
- 25 years?

MOISES RIVERA - DIRECT BY MR. PASCOE

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1 A Navy active from '84 to '88 and inactive from
2 '88 to 1990.

3 Q Mr. Rivera, I want to ask you some questions
4 now about April the 17th of 2001. Do you remember
5 that day pretty well?

6 A Yes, sir.

7 Q Did you know the defendant, Mikal Mahdi, before
8 that day?

9 A No, sir.

10 Q Where were you working on that day, April 17th
11 2001?

12 A Bethany Springs, Stratford Hills Apartments as
13 maintenance.

14 Q And where exactly is that in Richmond?

15 A It's south side on Forest Hill Avenue.

16 Q Does that involve Stratford Hills Apartments
17 and Bethany Springs Apartments?

18 A Yes, it's connected.

19 Q Tell Judge Newman what led up to your
20 confrontation with the defendant, Mr. Mahdi, that
21 day.

22 A I got a call from my supervisor stating that
23 there were teens or young people behind an apartment
24 building and I walked up there to see what was going
25 on and I saw a gentleman there at a window and I

1 said, What you doing? And he jumped me and we
2 started fighting. I picked him up, pulled him off
3 of me, he cut me on my arm. And what I thought he
4 was punching me in my back, he was stabbing me with
5 a knife in my back.

6 Q Tell the Judge what ended up happening when you
7 finally pulled him off.

8 A I pulled him off and I asked him, Why you
9 cutting me? And he took off running. I took three
10 steps, collapsed, started coughing up blood and I
11 was rushed to MCV.

12 Q And describe for Judge Newman the injuries that
13 you suffered as a result of those stabbings.

14 A I got my lung punctured. He stabbed me five
15 times in the back, one in my arm. I had to be in
16 the hospital for six days with a lung tube draining
17 blood. My body went into shock. They had to put an
18 I.V. in my neck to give me whatever they had to give
19 me.

20 Q And you testified you were in the hospital for
21 six days?

22 A Six days.

23 Q How much pain were you in?

24 A I couldn't even laugh or move.

25 Q And when you finally got out of the hospital

1 after almost a week, what kind of medications were
2 you on?

3 A I was on Percocet for two months when I was out
4 of work.

5 Q In fact, how long was it until you were able to
6 go back to work?

7 A Two months.

8 Q How close did you come to dying?

9 A I died. I died in the ambulance. They revived
10 me.

11 Q And do you still actually carry the scars?

12 A Yes, I do, plus some extra ones, one from the
13 lung tube and two of them in my belly because they
14 had to put a camera to see if I had any internal
15 bleeding from my stomach because I was coughing up
16 blood.

17 Q Now, the defendant, Mr. Mahdi, he was captured
18 that day for what he did to you?

19 A Yes.

20 Q And was he convicted?

21 A Yes.

22 Q What sentence did he get?

23 A Three years I think it was.

24 Q I'm going to show you what's been marked as
25 State's Exhibit 68 through 74. You've had an

1 opportunity to look at these?

2 A Yes.

3 Q Do you recognize all of those photographs?

4 A Uh-huh.

5 Q Do they accurately depict the scene and your
6 clothing from the day you were stabbed?

7 A Yes.

8 MR. PASCOE: Your Honor, I'd ask that State's
9 Exhibits 68 through 74 be admitted into evidence.

10 THE COURT: What says the defense?

11 MR. WALTERS: No objection, Your Honor.

12 THE COURT: They are admitted without
13 objection.

14 (State's Exhibit Numbers 68 through 74,
15 photographs, admitted into evidence.)

16 BY MR. PASCOE:

17 Q I'm just going to go over a few photographs for
18 the Court, okay? What do the photographs in State's
19 Exhibit 70, 71 and 72 depict?

20 A The apartment that he was at when I walked up
21 to him.

22 Q Okay. And what was wrong with the glass to the
23 apartment when you walked up on it?

24 A It was broken.

25 Q And State's Exhibit 73, that's just a good shot

1 of the apartment that he was trying to break into
2 where you were?
3 A Yes, sir.
4 Q Okay. And, finally, State's Exhibits 68, 69
5 and 74, do they depict your clothing from when you
6 were stabbed?
7 A Yes.
8 Q What's this on your shirt?
9 A Blood.
10 Q And what are these holes in your shirt?
11 A More blood and from where he stabbed me.
12 Q And these are all your clothes, too?
13 A Yes.
14 Q Obviously, the EMT's just stripped you of your
15 clothes at the scene?
16 A Yes. They stripped me. They cut it open.
17 Q So they had to revive you in the ambulance?
18 A Yes, sir.
19 Q Did you ever come into contact with the
20 defendant's father, Mr. Sareef Mahdi?
21 A Yes, I did.
22 Q And tell the Court about that.
23 A He came on to the property and he saw me and he
24 came up to me with his hand extended out apologizing
25 what happened to me.

1 Q And that was the defendant's father?

2 A Yes.

3 Q And, finally, sir, the man who stabbed you and
4 left you to die back on April 17th of 2001, do you
5 see him in this courtroom?

6 A There he goes in the orange.

7 Q Any doubt in your mind that's the man?

8 A No doubt.

9 MR. PASCOE: Thank you. Answer any questions
10 the defense has for you.

11 MR. WALTERS: May it please the Court.
12 Solicitor.

13 CROSS-EXAMINATION

14 BY MR. WALTERS:

15 Q Mr. -- is it Rivera?

16 A Yes, sir.

17 Q And what's your first name?

18 A Moises.

19 Q Moises. Okay, I want to make sure I pronounce
20 it right. Let's make sure we're clear about this in
21 your testimony to His Honor. Number one, you were a
22 police officer from 1995 through 1999; is that
23 correct?

24 A Yes.

25 Q So your tenure as a police officer ended in

1 1999?

2 A Yes, sir.

3 Q And this incident occurred in April of 2001?

4 A Yes, sir.

5 Q So you were a maintenance supervisor at this
6 apartment complex, but you were not a police
7 officer?

8 A No, sir, I was not a police officer.

9 Q Now, it's my understanding that in this
10 particular altercation, you had approached the
11 individuals that were there drinking and moving
12 around the apartment; is that correct?

13 A I only approached one individual.

14 Q All right. But let's make sure we're clear.
15 Number one, you were not a police officer when you
16 approached these individuals; is that correct?

17 A Yes, sir.

18 Q It's been several years, you were not
19 functioning in the capacity of a police officer?

20 A Yes, sir.

21 Q Number two, you didn't have authority to go in
22 and inquire and investigate as a police officer, did
23 you? You're the maintenance supervisor?

24 A Yeah, I wasn't inquiring anything. I just
25 asked him what he was doing there, that's all.

1 Q All right. Here's my point. You were trained
2 as a police officer. Once you get it in your blood,
3 you can't get it out your blood, all right?

4 A Okay.

5 Q You stopped being a police officer at the end
6 of 1999; is that correct?

7 A Yes, sir.

8 Q All right. But then once you found out there
9 was an altercation that was going on at the
10 apartments, that's when you approached these
11 individuals and, of course, you probably went into
12 your mode as a police officer who you are --

13 MR. PASCOE: Objection to the term individuals,
14 Your Honor. He's already testified he approached
15 one person, the defendant, so I would object.

16 THE COURT: The objection is sustained.

17 BY MR. WALTERS:

18 Q You approached an individual. And when you
19 approached that individual, you went into your mode
20 as a police officer. You said, Who are you, what's
21 going on; is that correct?

22 A All I asked him is what's going on. I didn't
23 go into no police mode. I just asked him what's
24 going on.

25 Q All right. Isn't it true that when you

1 approached him, you also had a wrench in your hand?

2 A No, it's not true.

3 Q Isn't it true that you also had your devices
4 that you use as a maintenance supervisor in your
5 hands?

6 A All I had in my pocket was a six in one
7 screwdriver.

8 Q But the fact remains that as far as making an
9 inquiry to find out what was going on and
10 investigating the process of what was going on with
11 these individuals, you didn't have authority to do
12 that?

13 A Yes, I did. My supervisor asked me to go check
14 out what's going on.

15 Q All right. Now, this altercation that occurred
16 between you and Mr. Mahdi, you were not functioning
17 as a police officer, we'll never know today, the
18 year 2006, what was said between the two of you; is
19 that correct?

20 A I told you what was said.

21 Q All right. But nevertheless, as far as the
22 altercation that occurred between the two of you,
23 your testimony is, is that Mr. Mahdi got the best of
24 the confrontation between the two of you; is that
25 right?

1 A Yes, he jumped me.

2 Q And then after that confrontation, it's my
3 understanding that Mr. Mahdi then ran away; is that
4 right?

5 A Yes.

6 Q And then his father came along and it's your
7 testimony that he apologized to you for what
8 happened; is that right?

9 A Yes, quite a few months later.

10 Q What was said by Mr. Mahdi?

11 A The father?

12 Q Yes.

13 A He said, I apologize for what my son did to
14 you.

15 Q All right. So the father arrived, he wanted to
16 apologize for what his son had done and you accepted
17 the apology; is that correct?

18 A Yes.

19 MR. WALTERS: Beg the Court's indulgence, Your
20 Honor.

21 (Pause.)

22 MR. WALTERS: Your Honor, we have no further
23 questions.

24 THE COURT: Solicitor?

25 MR. PASCOE: Very briefly, Your Honor.

MOISES RIVERA - REDIRECT BY MR. PASCOE

1399

1 REDIRECT EXAMINATION

2 BY MR. PASCOE:

3 Q The pictures that the Court has of those
4 apartments, who was working at those apartments?

5 A I was and my supervisor and other coworkers.

6 MR. PASCOE: That's all I have, Your Honor.

7 Thank you.

8 THE COURT: Anything further?

9 MR. WALTERS: No, sir, Your Honor.

10 THE COURT: All right. Thank you, sir.

11 MR. PASCOE: Do you want me to call one more
12 witness before lunch, Your Honor?

13 THE COURT: Proceed.

14 MR. PASCOE: The State calls Joseph Owen.

15 JOSEPH PARSON OWEN,

16 having been duly sworn, testified as follows:

17 THE CLERK: State your full name for the record
18 please, sir.

19 THE WITNESS: Joseph Parson Owen.

20 DIRECT EXAMINATION

21 BY MR. PASCOE:

22 Q Good afternoon, Agent Owen.

23 A Good afternoon.

24 Q Where are you from, Mr. Owen?

25 A I am from the State of Virginia, working out of

1 the employ of Virginia Probation Office.

2 Q And, specifically, you're a probation agent,
3 sir?

4 A That's correct.

5 Q And what are your duties as a probation agent
6 in Virginia?

7 A In the State of Virginia as an adult probation
8 officer, I monitor offenders who are released on
9 supervised probation by the courts or either are
10 ordered to serve a period of supervised probation
11 after released from incarceration.

12 Q And what area of Virginia are you a probation
13 agent for?

14 A The Sixth Judicial Circuit which covers
15 Brunswick County. And it also covers the counties
16 of Prince George, Sussex, Surry, the City of
17 Hopewell and the City of Emporia.

18 Q Do you know the defendant, Mikal Mahdi, in the
19 courtroom today?

20 A Yes I do.

21 Q And in what capacity do you know Mr. Mahdi?

22 A I was assigned as his probation officer upon
23 his release from incarceration in May of 2004.

24 Q What was he incarcerated for and placed on
25 probation for after his incarceration?

JOSEPH PARSON OWEN - DIRECT BY MR. PASCOE

1401

1 **A** A malicious wounding conviction received in the
2 Richmond Circuit Court, Richmond, Virginia Circuit
3 Court.

4 **Q** And is malicious wounding a felony or a
5 misdemeanor in Virginia?

6 **A** It is a felony.

7 **Q** And when was the defendant convicted for that
8 malicious wounding?

9 **A** He was convicted and sentenced on July 16th,
10 2001.

11 **Q** For the incident of April of 2001?

12 **A** That's correct.

13 **Q** What is the defendant's date of birth?

14 **A** His date of birth is 3/20/83.

15 **Q** So he was 18 at the time he committed this
16 offense in April of 2001?

17 **A** That's correct.

18 **Q** And, finally, in Virginia you are an adult at
19 the age of 18?

20 **A** That's correct.

21 **Q** What sentence did the defendant receive for
22 that malicious wounding conviction on Mr. Rivera?

23 **A** He received a 180 month sentence with 141
24 months suspended, conditioned upon a period of
25 supervised probation up to 15 years upon his

1 release.

2 Q So the defendant was given 39 months in prison,
3 that was his sentence on July 16th, 2001. When did
4 he get released from prison and start his probation?

5 A He was released May the 12th, 2004.

6 Q And do you have some forms with you today, sir,
7 specifically his conditions of release form and a
8 firearms form?

9 A Yes, I do.

10 Q Can I see those so I can show the defense?

11 A (Witness complies.)

12 (State's Exhibit Number 87, conditions of
13 probation, and State's Exhibit Number 88, felony
14 weapon form, were marked for identification
15 purposes.)

16 Q I'm going to show you now what's been marked as
17 State's Exhibit 87. Let me know if you recognize
18 that document.

19 A Yes, I do.

20 Q What do you recognize that to be?

21 A These are the conditions of supervised
22 probation that were signed with Mr. Mahdi on
23 5/17/04.

24 Q And is that an exact copy of the same form of
25 everything you went over with the defendant,

JOSEPH PARSON OWEN - DIRECT BY MR. PASCOE

1403

1 Mr. Mahdi, yourself on that day?

2 A Yes, it is.

3 MR. PASCOE: I'd ask that State's 87 be
4 admitted into evidence, Your Honor.

5 THE COURT: What says the defense?

6 MR. WALTERS: No objection, Your Honor.

7 THE COURT: They are admitted.

8 (State's Exhibit Number 87, condition of
9 probation form, admitted into evidence.)

10 BY MR. PASCOE:

11 Q And with regards to State's Exhibit 87, when
12 did the defendant's probation begin?

13 A Upon his release on 5/12/04.

14 Q And what were the terms of Mr. Mahdi's
15 probation? You can go over those 11 terms for the
16 Court.

17 A Condition one was to obey all federal, state,
18 local laws and ordinances. Condition two was to
19 report any arrest, including a traffic ticket within
20 three days to the probation officer. Condition
21 three is to maintain a regular employment and notify
22 my probation officer promptly of any changes in my
23 employment. Condition four, I'll report in person
24 by telephone and as otherwise instructed by my
25 probation officer.

1 Condition five, I will permit my probation
2 officer to visit my home and place of employment.
3 Condition six, I will follow my probation officer's
4 instructions and be truthful, cooperative and report
5 as instructed. Condition seven is I will not use
6 alcoholic beverages to the extent that it disrupts
7 or interferes with my employment or orderly conduct.
8 Condition eight, I will not unlawfully use, possess
9 or distribute controlled substances or related
10 paraphernalia.

11 Condition nine, I will not use, own, possess,
12 transport or carry a firearm. Condition ten, I will
13 not change my residence without permission of my
14 probation officer. I will not leave the State of
15 Virginia or travel outside of a designated area
16 without permission of my probation officer. Eleven,
17 I will not abscond from supervision. I understand I
18 will be considered an absconder when my whereabouts
19 are no longer known to my supervising officer.

20 Q And did the defendant understand each and every
21 one of these terms?

22 A Yes, he did. I went over each one
23 individually. And at the end of the form, there is
24 a signature blank where it says, I have read the
25 above or had the above read and explained to me and

JOSEPH PARSON OWEN - DIRECT BY MR. PASCOE

1405

1 my signature or remark below acknowledges the
2 receipt of these conditions and agree to the
3 conditions set forth.

4 Q Signed by both you and the defendant?

5 A That's correct.

6 Q While -- one of the terms of the defendant's
7 probation not to possess a firearm was also against
8 the law?

9 A Yes, it was.

10 Q And why is it against the law?

11 A Due to the felony status of Mr. Mahdi, his
12 conviction or felony.

13 Q And was the defendant made aware of that?

14 A Yes, he was.

15 Q Specifically, let me show you what's been
16 marked as State's Exhibit 88. Do you recognize that
17 document?

18 A Yes, I do.

19 Q What do you recognize that to be?

20 A This is a firearm form that we have convicted
21 felons who are placed on supervised probation sign
22 stating that as a felon, they realize they do not
23 have the privilege to hunt with a firearm and
24 certainly do not have the privilege to purchase, own
25 or carry a firearm.

1 Q And is that the exact same form that you went
2 over with the defendant, a copy of the form you went
3 over with the defendant?

4 A Yes, it is.

5 Q Same condition as it was in back on May the
6 17th, 2004?

7 A Yes, it is.

8 MR. PASCOE: I'd ask that that State's Exhibit,
9 Your Honor, be admitted into evidence.

10 MR. WALTERS: No objection, Your Honor.

11 THE COURT: It's admitted without objection.

12 (State's Exhibit Number 88, firearm form,
13 admitted into evidence.)

14 BY MR. PASCOE:

15 Q And, sir, did the defendant understand the
16 terms of that document?

17 A Yes, he did.

18 Q Who went over it with him?

19 A I did.

20 Q And what did you have the defendant do to
21 acknowledge that he understood that form, that
22 document?

23 A He signed the document and dated it 5/17/04.

24 Q Let me ask you this, Agent Owen. How long was
25 the defendant on probation?

JOSEPH PARSON OWEN -- DIRECT BY MR. PASCOE

1407

- 1 **A** Approximately, two months.
- 2 **Q** Were there any apparent problems or violations
- 3 in May or June of 2004, the first month and a half
- 4 to two months that he was out?
- 5 **A** Not that we were aware of.
- 6 **Q** When and how did the defendant first violate
- 7 his probation? When did you learn that he first
- 8 violated his probation?
- 9 **A** A urine screen was secured on July 14th of '04
- 10 that was later tested positive for marijuana.
- 11 **Q** And the date again on that, sir, is -- what was
- 12 it again?
- 13 **A** July 14th of 2004.
- 14 **Q** So less than two months after going on his
- 15 terms of probation, was the defendant in violation
- 16 of one of the terms?
- 17 **A** Yes, that would be a violation of condition
- 18 eight.
- 19 **Q** Did you ever even get to address that
- 20 violation, though?
- 21 **A** No, we did not.
- 22 **Q** And why not?
- 23 **A** Mr. Mahdi left the area before it could be
- 24 addressed.
- 25 **Q** And was leaving the State of Virginia a

1 violation of his probation?

2 A Yes, it was.

3 Q And let me show you from here, if the defendant
4 was in possession of State's Exhibit 84, a .380
5 caliber handgun, on July the 15th -- 16th of 2004,
6 was that a violation of his probation?

7 A Yes, it would be.

8 Q And was it a violation of probation to be in
9 possession of State's Exhibit 77?

10 A Yes, it would be.

11 Q And all together, sir, you know what the
12 defendant's violations were with regards to his
13 probation?

14 A Yes, I do.

15 Q And what are the defendant's violations up in
16 the State of Virginia after being on probation for
17 two months?

18 A At this point, he would be violation of
19 condition one for a news law violation. He would
20 also be in violation of condition eight for using
21 marijuana. He would also be in violation of
22 changing his residence without permission, which is
23 condition ten, as well as condition 11 because his
24 whereabouts were not known to our office from 7/15
25 until his arrest on 7/21/04.

JOSEPH PARSON OWEN - CROSS BY MR. KOGER

1409

1 Q And, sir, the man who took less than two months
2 to violate all of those terms of probation, do you
3 see him in the courtroom?

4 A Yes, I do.

5 Q If you could, point him out for the Court.

6 A He has an orange jumpsuit on beside two
7 attorneys at the table to my left.

8 MR. PASCOE: Thank you, Agent Owen. Answer any
9 questions the defense counsel has for you.

10 THE COURT: Mr. Koger.

11 CROSS-EXAMINATION

12 BY MR. KOGER:

13 Q Mr. Owen, what was the schedule of appointments
14 from the time he was released on May 12th?

15 A The appointments were set by me. The frequency
16 would be determined by our office. I was seeing
17 him, as well as a surveillance officer was also
18 editing the case for additional contacts, that was
19 due to the nature of the offense which he was placed
20 on supervision for, as well as his age.

21 Q Okay. So what you testified to that he was
22 released on May 12th?

23 A That's correct.

24 Q And he signed initial paperwork on May 17th?

25 A That's correct.

1 Q So, actually, did he come to the office or did
2 you go to his residence?

3 A He contacted our office to report that he had
4 been released, which we had also received
5 notification of his release. He was then seen at
6 the Brunswick County Sheriff's Department when his
7 opening paperwork was executed.

8 Q On May 17th?

9 A On May 17th, that's correct.

10 Q Okay. According to your file, what was his
11 next scheduled appointment after May 17th?

12 A I then met with him at his approved residence
13 on May the 19th.

14 Q And that was two days later?

15 A Yes. And his grandmother was also there.

16 Q And what was the approved residence? Do you
17 recall the address?

18 A The approved address was 18793 Christiana
19 Highway in Lawrenceville, Virginia.

20 Q That's the residence of the grandmother?

21 A That's correct.

22 Q Okay. And what was his next scheduled
23 appointment?

24 A His next time he was seen by someone from our
25 office was in late May. It was done by the .

1 surveillance officer. It was not done by me.

2 Q Okay. Now, you said surveillance officer, he
3 actually came into the office or he came --

4 A No. He went to the residence and visited with
5 him at his residence.

6 Q Okay. And let me ask you this here. When the
7 probation officer and the defendant are not actually
8 meeting, is there any type of telephone reporting or
9 anything that they have to call in?

10 A There's no telephone requirements, no.

11 Q All right. No telephone requirement?

12 A No.

13 Q So the next time your office and Mr. Mahdi met
14 was in late May, correct?

15 A That's correct.

16 Q Okay. And what was the next meeting between
17 the two of you?

18 A My next meeting with him was on June 16th of
19 2004.

20 Q June 16th. Did your surveillance officer meet
21 with him between late May and June 16th?

22 A I do not recall. I do not have his notes with
23 me, but he did meet with him also in June.

24 Q Before June 16th or after June 16th?

25 A I'm not sure. I don't have the notes with me.

1 Q Did you meet Mr. Mahdi anymore in June?

2 A No, I did not. I met with him on June the 16th
3 and that was my last contact with him.

4 Q Okay. And so you're testifying to that the
5 surveillance officer also met with him at least once
6 in June?

7 A To the best of my recollection, that's correct.

8 Q So what we actually have here is that Mr. Mahdi
9 complied at least five times to the reporting
10 function of probation and parole, correct?

11 A Yes, he did.

12 Q Okay. And during that time he was meeting with
13 you, did y'all discuss about potential gainful
14 employment and things of that nature?

15 A Yes, we did.

16 Q All right. Did he secure gainful employment
17 during that time?

18 A He did not secure full-time gainful employment.
19 It was reported that he was doing some construction
20 work on a home in Lawrenceville, that he was
21 basically doing the work in order to possibly be
22 allowed to reside there.

23 Q So he was attempting to get employment?

24 A Yes. At his initial session, of course,
25 employment was one of the goals that was stated for

1 him to try to secure and obtain full-time
2 employment. And in the short period of time we were
3 working with that, to our knowledge, that is what he
4 was trying to do.

5 Q Okay. And, of course, from your earlier
6 statement that the residence in which he was staying
7 with the grandmother, that was approved?

8 A Yes.

9 Q And at least for that period for the two
10 months, it was working out?

11 A That's correct.

12 Q So, actually, in the two months of supervision
13 that your office had with Mr. Mahdi, he was
14 complying with the mandates of probation and parole,
15 correct?

16 A That is correct with the exception of the urine
17 screen, which was secured on July 14th of '04.

18 Q Okay. But for May and June he was complying?

19 A He was complying.

20 MR. KOGER: Okay. Thank you.

21 MR. PASCOE: No, sir.

22 Thank you, Agent Owen.

23 THE COURT: All right. Thank you.

24 MR. PASCOE: With the Court's permission, can
25 we break for lunch? We have more witnesses coming

AMANDA JEAN WEAVER - DIRECT BY MR. SORENSON

1414

1 around 2:00, 2:30.

2 THE COURT: All right. We'll be in recess
3 until 2:15.

4 (Whereupon, there was a luncheon recess.)

5 (State's Exhibit Numbers 89 through 91,
6 photographs, were marked for identification
7 purposes.)

8 THE COURT: Solicitor, next witness.

9 MR. SORENSON: The State calls Amanda Weaver.

10 AMANDA JEAN WEAVER,
11 having been duly sworn, testified as follows:

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

14 THE WITNESS: My full name is Amanda Jean
15 Weaver.

16 DIRECT EXAMINATION

17 BY MR. SORENSON:

18 Q Good afternoon, Ms. Weaver.

19 A Good afternoon.

20 Q If you would, tell the Court where it is that
21 you live.

22 A In Brunswick County, 18811 Christanna Highway.

23 Q Is that in Lawrenceville, Town of
24 Lawrenceville?

25 A Yes, it is.

- 1 Q And how long have you lived there?
- 2 A I've lived at that address for approximately 13
- 3 years.
- 4 Q And do you know the defendant in this case,
- 5 Mikal Mahdi?
- 6 A Yes, I do.
- 7 Q And how long have you known Mr. Mahdi?
- 8 A Ever since, maybe -- it's been now maybe about
- 9 ten years or more.
- 10 Q Okay. And how is it that you knew him?
- 11 A Through his grandmother, we're neighbors.
- 12 Q His grandmother live -- does she still live
- 13 next door to you?
- 14 A Yes, she is.
- 15 Q And how long has she lived next door to you?
- 16 A I'm not sure because she's been residing there
- 17 before I moved there.
- 18 Q Okay. So when you moved there --
- 19 A She was already there, yes.
- 20 Q All right. Now, are you aware -- let me ask
- 21 you this, Ms. Weaver, are you aware of the fact that
- 22 the defendant was released from prison back in May
- 23 of 2004?
- 24 A Yes, I am.
- 25 Q And did he move back to Lawrenceville, Virginia

1 at that point in time?

2 A Yes, he did.

3 Q And in that time frame from May of 2004, when
4 he was released from prison, until July of 2004, do
5 you know what he was doing for a living during that
6 two month time period?

7 A Besides doing little odd jobs or whatever to
8 make whatever money he needed, I knew, through him,
9 that he was doing a little drug pedaling or pushing
10 or whatever.

11 Q What kind of drugs was he selling; do you know?

12 A Marijuana.

13 Q Marijuana. All right. And did he ever
14 actually talk to you about that, about selling
15 drugs?

16 A Yes, he did.

17 Q What did he tell you about his drug selling?

18 A In his words exactly, and I quote, he would
19 pretty much go out and knock off little, young drug
20 dealers around in Lawrenceville and show them how it
21 originally was supposed to be done as he knew how to
22 do it.

23 Q And by him -- did he use that term, Knocking
24 somebody off?

25 A Yes, he did.

1 Q What did you think he meant by that?

2 A Well, being an African-American and young, the
3 term that they use around the neighborhood for
4 knocking someone off is pretty much, as they would
5 say, picking them off, killing them.

6 Q During that time period from when he was
7 released from prison in May of '04 through July, did
8 you ever see Mr. Mahdi with a gun during that time
9 period?

10 A During that time period, not -- no.

11 Q Did you ever see him -- let me ask you this.
12 Did he ever have an opportunity to ask you to help
13 him put a gun back together?

14 A Yeah, but that was like -- it could have been
15 near the end of that couple of months period of
16 time. It was a black nine millimeter that had been
17 taken apart. I don't know who took it apart.

18 Q That's what I was talking about. During that
19 two month time period, did you have an opportunity
20 to see him with a gun?

21 A Yes.

22 Q If you would, tell the Court about that.

23 A I was -- actually, I had just gotten home from
24 doing an odd job for someone and he approached me in
25 my backyard with it in a little kind of black tin

1 case, like black or grayish like and it was all to
2 pieces. And he wanted to know whether I knew how to
3 put it together and I told him, yeah. And he wanted
4 to know if I would do it for him and I told him, no.
5 Because I pretty much lied to him and told him I
6 couldn't do it without having a book to do it with,
7 but I knew how to put it together.

8 Q Let me ask you this. Did you know that he was
9 on probation at that point in time?

10 A No, I didn't.

11 Q Now, let me ask you, did you, back in 2004, did
12 you own a gun at that time?

13 A Yes.

14 Q And what type of gun was that that you owned?

15 A It was a .380 semiautomatic.

16 Q And how long had you had that .380
17 semiautomatic pistol?

18 A I've had that gun ever since 1991.

19 Q And do you know the serial number to that gun?

20 A Not right off, no, I don't.

21 Q Let me ask you this. Was there a time back in
22 1999 when you asked the Brunswick County Sheriff's
23 Office to hold that gun for you?

24 A Yes, there was.

25 Q And did you ultimately get that gun back later

AMANDA JEAN WEAVER - DIRECT BY MR. SORENSON

1419

1 that year?

2 **A** Yes, I did.

3 **Q** Did you get a receipt documenting that gun, the
4 fact that they were holding it, with the serial
5 number on it?

6 **A** Yes.

7 **Q** Let me show you State's Exhibit Number 83. Is
8 that a copy of the receipt indicating when you had
9 turned that gun over to the sheriff's office and
10 when you got it back in 1999?

11 **A** Yes, it is.

12 **Q** And does that indicate the serial number to
13 that .380 pistol on it?

14 **A** Yes.

15 **MR. SORENSON:** Your Honor, at this time, we'd
16 offer State's 83 into evidence.

17 **THE COURT:** Any objection?

18 **MR. WALTERS:** No objection, Your Honor.

19 **THE COURT:** It's admitted without objection.

20 **MR. SORENSON:** Thank you, Your Honor.

21 (State's Exhibit Number 83, receipt,
22 admitted into evidence.)

23 **BY MR. SORENSON:**

24 **Q** If you would, just publish for the Court what
25 the serial number on that .380 pistol is.

1 A Yes. It's AP-157924.

2 Q Let me show you State's Exhibit Number 84. Do
3 you recognize those photographs?

4 A Yes, I do.

5 Q What are those photographs of?

6 A These are photographs of a gun that I purchased
7 in 1991.

8 Q Is that that same .380 pistol that you had
9 just --

10 A Yes, it is.

11 Q The same one that's documented on this receipt
12 right here?

13 A Yes, it is.

14 MR. SORENSON: Your Honor, at this time, we'd
15 offer those photographs into evidence. I think
16 they've just been marked for I.D. at this time.

17 MR. WALTERS: No objection, Your Honor.

18 THE COURT: It's admitted without objection.

19 MR. SORENSON: Thank you, Your Honor.

20 (State's Exhibit Number 84, photograph,
21 admitted into evidence.)

22 BY MR. SORENSON:

23 Q Now, Ms. Weaver, back in July of 2004, did
24 Mr. Mahdi know that you owned this .380 pistol?

25 A Well, yes, he did.

1 Q And tell the Court how it is that he knew that
2 you owned that pistol.

3 A He kind of frequented my house just to sit and
4 talk. And he happened to come over one day when I
5 had just finished cleaning it and was about to put
6 it away.

7 Q Okay. Does he actually -- so he saw you with
8 the gun?

9 A Yes, he did.

10 Q Did he see where you put the gun away, too?

11 A Well, at first, I didn't think he did, but then
12 later on, I realized, yeah, he did.

13 Q Where was it that you kept that gun in your
14 house?

15 A In my bedroom right in the bottom drawer of a
16 vanity table that I had.

17 Q And your bedroom, is that --

18 A It's adjacent to my kitchen. When you come in
19 through my back door, you enter my kitchen and you
20 can see my bedroom from there.

21 Q Okay. Now, I want to turn your attention, if I
22 could, Ms. Weaver, back to Tuesday, July 13th of
23 2004. Do you recall anything unusual happening that
24 day about your house when you got home?

25 A Yes, I do very clearly. I had just come from

1 over at my mother's taking my brother and my nephew
2 home from helping me do some yard work. And when my
3 daughter and I arrived back at home, I stopped her
4 in the kitchen because I noticed that my living room
5 window, the blind was up and I didn't recall leaving
6 it up. And then as I made her return to the car and
7 I proceeded to check close in the house, I noticed
8 that my inside window was down, but the storm glass
9 was up and the screen was out.

10 Q Now, did you have an opportunity, at that time,
11 on that Tuesday, July the 13th, to look to see if
12 your .380 pistol was in your bedroom in the vanity
13 drawer?

14 A No, I didn't because after proceeding through
15 the house and searching, I didn't notice anything
16 missing or anything pretty much disrupted, no more
17 than the items I had on my desk slid over or
18 whatever, but I pretty much thought I had did it
19 earlier that day, so I didn't have any alarm to, you
20 know, check that.

21 Q Let me ask you, was Mr. Mahdi, the defendant,
22 was he around your house that day or in your
23 neighborhood that day?

24 A Yes, he was, earlier that day when I proceeded
25 to leave to go take my brother and my nephew back to

1 my mom's.

2 Q Now, that would be Tuesday, July 13th of 2004?

3 A That's correct.

4 Q Did something happen the following week on that

5 Monday, the 19th, that caused you to go look and see

6 if your gun was in the vanity?

7 A Yes, it did. I was on the phone talking with

8 my mom and we were both commenting on different

9 things that we had seen on the news. And we had saw

10 this incident on there where a police officer had

11 been shot. And, at the time, we both assumed that

12 it was in Richmond.

13 Q Okay. Who was it that they were looking for at

14 that time --

15 A Mikal Mahdi.

16 Q Mr. Mahdi?

17 A Yes.

18 Q And as a result of seeing that information on

19 the news, did you then go check and see if your gun

20 was there?

21 A Yes. When they flashed his picture up, then I

22 let my mom know that I knew who he was. And like I

23 said, we both assumed it was done in the Richmond

24 area. She instructed me to get my gun out as a

25 protectionary (sic) cause for myself and my

1 daughter. And when I went to get the gun, I noticed
2 it was not where I put it. So I asked her to hold
3 on while I proceeded to look very closely to make
4 sure and we couldn't find it anywhere.

5 Q Did you ultimately end up contacting law
6 enforcement about --

7 A Yes. I called Officer Washburn and reported it
8 to him.

9 Q And he's with the Brunswick County Sheriff's
10 Office?

11 A Yes.

12 Q Now, you had said, ma'am, that you've known the
13 defendant for about ten years; is that correct?

14 A That's correct.

15 Q Let me ask you, during that ten year period of
16 time, has he ever had the opportunity to express to
17 you his opinion regarding white people?

18 A Yes, very clearly.

19 Q And what was that opinion that Mr. Mahdi
20 expressed to you?

21 A In his belief to him, all white people were
22 white devils.

23 Q White devils?

24 A That's correct.

25 Q That was a term that he used?

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1 A Very -- quite a few times.

2 Q How about his opinion regarding police officers
3 or law enforcement?

4 A He had a very strong dislike for police
5 officers.

6 Q And that is something he had expressed to you
7 over time, also?

8 A Yes.

9 Q And, Ms. Weaver, I want to -- one last thing I
10 want to do. If I could --

11 MR. SORENSON: And these are just marked for
12 I.D. at this point in time, Your Honor.

13 Q -- show you, Ms. Weaver, State's Exhibits
14 Number 89, 90 and 91. Do you recognize the
15 individual that's in those three photographs?

16 A Yes, I do.

17 Q And who is that that's in those three
18 photographs?

19 A This is Mikal Mahdi.

20 Q Is that gun that he's holding, does that appear
21 to be consistent with your .380 pistol that
22 disappeared at some time?

23 A It's exactly mine.

24 MR. SORENSON: Your Honor, at this time, we'd
25 offer these three into evidence.

1 **MR. WALTERS:** Your Honor, we would object. We
2 believe those pictures are highly prejudicial to my
3 client's case. And, of course, under the
4 circumstances of Your Honor being the fact finder,
5 we would again object because we believe they're
6 more prejudicial than probative.

7 The gun's already been admitted into evidence,
8 a picture of it has previously by the exhibit that
9 was submitted by Mr. Sorenson. There's no need for
10 an additional picture to be submitted of the gun
11 that she identified this time with regards to the
12 subsequent exhibits. You've already seen the gun
13 one time.

14 **MR. SORENSON:** Your Honor, I'll be glad, if
15 you'd rather, to hold off on offering these until we
16 have the witnesses from North Carolina here. That
17 may be the better time, if they're going to object
18 to all of that, to take that up.

19 **THE COURT:** Have them marked for identification
20 purposes at this time.

21 And on the issue, Mr. Walters, regarding the
22 testimony by this witness of knocking off some thugs
23 or juveniles or whatever the specific testimony was,
24 is there any objection to that testimony?

25 **MR. WALTERS:** Your Honor, of course, I was

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1 going to address it on cross-examination. Of
2 course, there's a great latitude that's allowed
3 within the sentencing phase as far as the testimony.
4 And, of course, she's testifying that somehow this
5 was communicated to her by the defendant in this
6 particular case. It has never been substantiated,
7 but, of course, we're going to address that on
8 cross-examination.

9 THE COURT: But there's no objection to the
10 testimony?

11 MR. WALTERS: We would object to it, Your
12 Honor. And, certainly, we're going to address it in
13 cross-examination, also.

14 THE COURT: I'll sustain the objection and
15 strike that testimony from the record.

16 MR. SORENSON: I believe that would be all that
17 I have at this time, Your Honor. These are just
18 marked for I.D. at this time?

19 THE COURT: Yes, sir.

20 Mr. Walters.

21 MR. WALTERS: May it please the Court.

22 CROSS-EXAMINATION

23 BY MR. WALTERS:

24 Q Ms. Weaver, what is your full name, please?

25 A Amanda Jean Weaver.

- 1 Q Where are you employed, ma'am?
- 2 A I'm not employed. I'm on disability.
- 3 Q And what's your disability that you suffer
- 4 from?
- 5 A I've had three back surgeries.
- 6 Q Three back surgeries?
- 7 A Yes.
- 8 Q Where were you employed before you were
- 9 disabled by your three back surgeries?
- 10 A Was I employed before?
- 11 Q Yes, ma'am. Have you ever worked?
- 12 A Yes.
- 13 Q How old are you?
- 14 A I'm 38.
- 15 Q You're 38. What was your first job?
- 16 A My first job was working at a nursing agency.
- 17 Q All right. And how long did you work there?
- 18 A I worked there for, approximately, nine years.
- 19 Q All right. And then where did you work after
- 20 that?
- 21 A I drove a tractor trailer truck.
- 22 Q How long did you do that?
- 23 A I did that for 12 years.
- 24 Q All right. And what did you do after that?
- 25 A After that, I just worked at an auto part

- 1 store.
- 2 Q All right. And how long did you work there?
- 3 A I worked there for three years.
- 4 Q All right. And after that?
- 5 A And after that, I worked nowhere.
- 6 Q All right. And then you were disabled with the
- 7 three surgeries; is that right?
- 8 A That's correct.
- 9 Q Now, you said you've known Mikal Mahdi for
- 10 about ten years; is that correct?
- 11 A That's correct.
- 12 Q All right. And you also testified -- do you
- 13 have a family member that's involved in law
- 14 enforcement?
- 15 A Do I have a family member that's -- no, I don't
- 16 have -- I no longer have a family member that's
- 17 involved in law enforcement.
- 18 Q But there was a brother or someone that was in
- 19 law enforcement; is that correct?
- 20 A No, you didn't hear me say that.
- 21 Q All right. So let me make sure I'm sure. You
- 22 don't have any family or friends that are in law
- 23 enforcement?
- 24 A They are no longer in law enforcement, no.
- 25 Q All right. Your testimony was, is that Mikal

1 Mahdi had been involved in some type of drug
2 peddling; is that correct?

3 A That is correct.

4 Q And your testimony was, is that he had
5 testified that somehow he'd knock someone off?

6 A No, he didn't testify, he told me that that's
7 what he was going to do.

8 Q Why didn't you pick up the phone and call the
9 police and tell them that I've got this information
10 this young man has told me and I believe it's
11 pertinent to the issue of drug peddling here in
12 where you live?

13 A Because during the time when he told me, this
14 young man had -- was kind of on the high side. When
15 I say on the high side, I witnessed him drinking
16 three or four quart bottles of Colt 45 beer, that's
17 malt liquor.

18 Q Let's back up because you just testified in
19 front of this Judge as if you were having a normal
20 conversation and that somehow Mr. Mahdi told you
21 that he had knocked off some drug dealers?

22 A No. He told me he was going to knock them off.

23 Q All right. So let's make sure we're clear on
24 your testimony. The Judge just asked me if I
25 objected to it, you indicated to Mr. Sorenson that

1 he had knocked off some drug dealers; isn't that
2 right?

3 A No. I indicated that that's what he said he
4 was going to do.

5 Q All right. So let's make sure we're clear on
6 your testimony.

7 A Exactly.

8 Q It never happened?

9 A What never happened?

10 Q He never knocked off any drug dealers?

11 A He never knocked them off is what you're
12 saying?

13 Q What I'm saying is the representation that you
14 made to this Judge is a lie?

15 A No. What I'm saying is he told me that that's
16 what he was going to do.

17 Q All right. So let's make sure we're clear. It
18 never happened?

19 A Well, I'm not -- you know --

20 Q You don't have --

21 A -- I can only tell you what he did --

22 Q -- any personal knowledge --

23 MR. SORENSON: Your Honor, I object.

24 THE WITNESS: I can tell you what he did.

25 THE COURT: Just a moment, ma'am. When there's

1 an objection, stop talking and let me rule on the
2 objection.

3 Mr. Sorenson, go ahead.

4 MR. SORENSON: Argumentative would be the main
5 basis of the objection, Your Honor. Also, I thought
6 you just struck all of this from the record.
7 Obviously, I guess, if he's going to go back into
8 it, I mean, that's fine, but, I mean, he objected,
9 you struck it and now suddenly he's gone back in and
10 he's basically arguing with -- not only
11 misrepresenting what she said, but arguing with her
12 about it.

13 MR. WALTERS: May it please the Court. Your
14 Honor, I not only objected, but I stated, on
15 cross-examination, I would clearly explore this
16 issue. I didn't state clearly explore this issue, I
17 said on cross-examination, we will address the
18 issue.

19 THE COURT: All right. The objection is
20 sustained as to being argumentative and also as to
21 not allowing the witness an opportunity to give an
22 answer prior to asking another question. You may
23 proceed.

24 BY MR. WALTERS:

25 Q He never knocked off anyone?

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- 1 A (No response.)
- 2 Q You have no personal knowledge of Mr. Mahdi
- 3 knocking off anyone, yes or no?
- 4 A Yes, I do.
- 5 Q What knowledge do you have?
- 6 A I know what he told me he was going to do.
- 7 Q Do you have any personal knowledge as to
- 8 whether he performed --
- 9 A If you're asking me if I stood there and
- 10 watched him do it, no, I didn't.
- 11 Q So you have no --
- 12 A But I can tell you what he sat in my house and
- 13 told me he was going to do.
- 14 Q And he told you that while he was drinking; is
- 15 that correct?
- 16 A Exactly, and I figured that just because he was
- 17 drinking, he was just flapping his gums off. Do you
- 18 think I would just, in my wildest dreams, think he
- 19 would just walk out there and do it after drinking?
- 20 No. He was just pretty much flapping his gums off,
- 21 that's what I believed that he was doing.
- 22 Q So as far as this line of testimony about him
- 23 knocking off someone, he was just flapping his gums?
- 24 A That's what he told me he was going to do so
- 25 that's all I can tell you is what he told me he was

1 going to do.

2 Q All right. Now, you also stated that he
3 brought to you a black nine millimeter that was in
4 pieces; is that correct?

5 A That's correct.

6 Q All right. And how old do you think he was at
7 that time; do you remember? Do you have an idea?

8 A No, I have no idea of how old the gun was, no,
9 I don't.

10 Q Okay. How old was he, Mr. Mahdi?

11 A Mr. Mahdi was 21 years old.

12 Q Okay. And how old were you at that time,
13 ma'am?

14 A Well, given to the point that that was just two
15 years ago, then I guess I was only 36.

16 Q All right. So it never occurred to you that
17 you should pick up the phone and maybe call the
18 police if this young man has a gun he's trying to
19 put together, you had previous conversation that he
20 said he was involved in some type of activity with
21 drugs? You never picked up the phone? You never
22 called anyone?

23 A No, I didn't because I didn't see any need to.
24 Like I told you, I thought he was just flapping his
25 gums off.

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- 1 Q Okay. So, again, this testimony that you've
2 given this Court is all because Mr. Mahdi was just
3 flapping his gums? It's not substantiated --
- 4 A I'm just telling you what he told me.
- 5 Q Now, you also testified that you had a .380; is
6 that correct?
- 7 A That is correct.
- 8 Q And then your testimony was, is that, you know,
9 you asked the sheriff to hold this gun for you; is
10 that right?
- 11 A That's correct.
- 12 Q I believe there was some type of domestic
13 dispute at your home; is that right?
- 14 A Yes, there was.
- 15 Q All right. And then you stated that he
16 frequented your home; is that correct?
- 17 A That's right.
- 18 Q All right. So let me get this straight now.
19 You've got a young man who's flapping off his gums
20 about possibly killing some people. He's also
21 brought you a gun and said, How do I put this
22 together? But then you allow this man to come in
23 your house and actually sit down and talk with you
24 and commune with you and come inside of your home?
- 25 A Well, he had been coming to my house and

1 sitting and talking and communing with me inside my
2 home before he started flapping his gums and before
3 he brought the nine millimeter to me to put
4 together.

5 Q Ma'am, your credibility is on the line. I'm
6 asking you a question.

7 A I'm answering your question.

8 Q He frequented your home after he told you that
9 he was going to kill someone and that he asked you
10 to put a gun together, you ask -- you're telling me
11 that you're going to tell this Judge that you
12 allowed --

13 A No, he frequented my home before that.

14 Q -- him to come in your house?

15 A He frequented my home before that. After
16 Mr. Mahdi had told me all of this and wanted me to
17 put this gun together, I didn't see Mr. Mahdi
18 anymore until I was leaving my home and I saw him
19 riding back up the street on a bicycle.

20 Q Let me ask you a question. Why should we
21 believe anything you have to say today --

22 A Well, that's up to you.

23 Q -- considering your actions?

24 A That's up to you because I'm only telling you
25 what he told me.

1 Q All right. So this individual that walked in
2 your home and talked about killing people, this
3 individual that comes in your home and says, I want
4 to put a gun together, this individual who sat in
5 your house and, evidently, he drank in your house,
6 all right, and he sat inside of your home, you
7 allowed him to continue to come in your home and
8 then you testify that Tuesday, July 13th, your house
9 was broken into; is that correct?

10 A That is correct.

11 Q All right. And, evidently, you didn't have any
12 idea who broke in your house; is that right?

13 A That's right.

14 Q All right. So you didn't call the police, did
15 you?

16 A Yes, I called the police when I realized my gun
17 was gone.

18 Q All right. And the impression we get is, is
19 that you never suspected that it was Mr. Mahdi, did
20 you?

21 A Did I ever suspect it was him? No, I didn't
22 suspect it was him.

23 Q Well, let me get this straight now. The man
24 that came in your home and told you he was going to
25 kill other people, the man that came in your home

1 and said, How do I put together a gun, the man that
2 came in your home that sold marijuana and was
3 knocking off or supposedly flapping his gums about
4 knocking off other drug dealers, you didn't suspect
5 that he was doing anything wrong, did you?

6 A If you're asking if I suspected he stole my
7 gun, no, I didn't. Now, as far as suspecting
8 whether he'd done anything wrong, I didn't follow
9 him like a blood hound everyday to know what he was
10 doing.

11 Q Why should this Judge believe anything you have
12 to say?

13 A Well, he's the Judge. I'm just telling you
14 what I know.

15 Q All right. Well, let's move on in your
16 testimony here. When you suspected that your house
17 had been broken into, you said you filed a report?

18 A That's correct.

19 Q Then there was a news flash. As I understand,
20 you said you were talking to your mama; is that
21 right?

22 A There was a news flash before I filed the
23 report about my gun being missing, that's what
24 prompted me to file the report.

25 Q Wait a minute now. You filed a report about a

1 domestic dispute. What was the domestic dispute
2 about?

3 A The domestic dispute was years before.

4 Q No. What was the domestic dispute about? Tell
5 the Judge.

6 A The domestic dispute was about a young man came
7 to my house, because his wife and her kids were out
8 in the dark and had nowhere to stay, so he came to
9 my house to try to abuse her and I made him get off
10 of my property. That's what the domestic dispute
11 was about. It had nothing to do with this.

12 Q So there was another young man that was in your
13 home that was married to someone else and there was
14 a dispute about him being at your house, what was
15 it?

16 A What young man in my home being married to
17 someone else?

18 Q Ma'am, I'm just asking you a question. You
19 said that there was a dispute?

20 A No, I didn't even recall anything about any man
21 being in my house married except for myself and my
22 husband, or ex-husband now.

23 Q Okay. But you got this news flash that came
24 up, okay?

25 A That's correct.

1 Q And, evidently, you saw Mr. Mahdi's face; is
2 that right?

3 A Exactly, after I saw the --

4 Q All right. You knew --

5 COURT REPORTER: I can only take one person at
6 a time.

7 BY MR. WALTERS:

8 Q When you saw the news flash, you said you
9 looked for your gun; is that right?

10 A After I conversated (sic) with my mom on the
11 phone and she encouraged me to pull my gun out for
12 protectionary (sic) purposes after what we seen
13 flashed on the news.

14 Q And, at that time, when you went to look for
15 your gun, you said the gun was missing?

16 A Exactly, it wasn't where I put it.

17 Q Okay. And then you contacted the police; is
18 that right?

19 A No. I proceeded to look further in the house
20 to see if I had put it somewhere else and it wasn't
21 there because I knew it was only one place that I
22 put it. And when I noticed it wasn't there and I
23 conversated (sic) with my mom again and then she
24 encouraged me to go ahead on and call the police and
25 file a missing report and that's what I did.

1 Q Okay. And so you filed a report stating that
2 your gun was missing?

3 A That's correct.

4 Q All right. Did you ever talk to the police and
5 say, I know who Mr. Mahdi is or I believe Mr. Mahdi
6 took my gun?

7 A No. I only identified Mr. Mahdi once I was
8 questioned by some investigators.

9 Q All right. And when the investigators
10 contacted you, that's when you had the discussion
11 about Mr. Mahdi; is that right?

12 A That is correct.

13 Q All right. So I want to make sure I'm clear
14 about your testimony. Mr. Mahdi was in your home,
15 he talked about drug peddling, but you say he was
16 flapping his mouth?

17 A That's what I figured because he'd been
18 drinking.

19 Q All right. And he was in your home and he
20 asked you how to put together a gun?

21 A No, he wasn't in my home when he asked me to
22 put the gun together.

23 Q He was in the yard?

24 A He was in my yard, that's correct.

25 Q And he was flapping his gums and you said, no,

1 I can't show you how to put the gun together?

2 A He asked me if I knew how to put it together
3 and I said, yeah. He asked me if I would do it for
4 him and I told him, no, because I had to have a book
5 to do it, which I didn't have to have a book, I just
6 didn't want to be involved with it.

7 Q All right. And it's my understanding that he
8 frequented your home even after he talked about
9 killing other people?

10 A No, he didn't. He came to my home before.
11 After he had discussed doing that and then asked me
12 about the gun, then I didn't see him anymore until I
13 saw him riding down the street on a bicycle.

14 Q But you never asked him, don't come back in my
15 home, don't be a part of my life, I believe
16 you're --

17 A Why? He didn't harm me in any kind of way. He
18 didn't pose a threat to me.

19 Q So it was okay to talk about killing other
20 people and it was okay to talk about the use of
21 marijuana and knocking people off and flapping your
22 gums as long as it didn't involve you?

23 A He did not pose a threat to me. He didn't pose
24 a threat to my child. Like I said, after drinking
25 the amount that I knew he had drink and saw him

AMANDA JEAN WEAVER - CROSS BY MR. WALTERS

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1 drink, he was intoxicated, so I pretty much figured
2 that the alcohol was making him talk.

3 Q You're going to sit here with a straight face
4 and tell us you didn't think this man was a threat
5 to your children?

6 A I have one child. No, I didn't. My child was
7 never at home when he came by my house. She was in
8 school.

9 MR. WALTERS: I have no further questions.

10 THE COURT: Any redirect?

11 MR. SORENSON: No, sir, Your Honor.

12 THE COURT: Thank you, ma'am. You may step
13 down.

14 MR. SORENSON: May she be excused, Your Honor?

15 THE COURT: Any objection to this witness being
16 excused?

17 MR. WALTERS: No, sir, Your Honor.

18 THE COURT: You're excused, ma'am. Thank you
19 for coming.

20 MR. PASCOE: The State calls Corey Pitts, Your
21 Honor.

22 COREY T. PITTS,
23 having been duly sworn, testified as follows:

24 THE CLERK: State your full name for the
25 record, please.

COREY T. PITTS - DIRECT BY MR. PASCOE

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1 **THE WITNESS:** Corey T. Pitts.

2 DIRECT EXAMINATION

3 BY MR. PASCOE:

4 Q Good afternoon, Corey.

5 A Good afternoon.

6 Q Where do you live, sir?

7 A 119 Pitts Road.

8 Q And what county is that in?

9 A Newberry.

10 Q Do you work?

11 A Yes.

12 Q Where do you work?

13 A South Carolina Employment Security Commission.

14 Q And how long have you worked there?

15 A Six years.

16 Q I want to direct your attention now to the
17 early morning hours of Sunday, July the 18th of
18 2004. What were you doing that morning?

19 A I was -- I had just left -- dropped a friend
20 off at home and I was heading to get some gas to
21 head back to my house.

22 Q Okay. And prior to that morning, Sunday, July
23 18th, did you ever know the defendant, Mikal Mahdi?

24 A No.

25 Q Ever had any dealings with him before that

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- 1 morning?
- 2 A No.
- 3 Q And what area of town were you? Where were you
- 4 after you dropped your friend off when you were
- 5 going to get gas?
- 6 A I was at the intersection of Washington and
- 7 Bull Street in Columbia, South Carolina.
- 8 Q Okay. And tell the Judge what happened to you
- 9 at, approximately, 3:25 that morning.
- 10 A I was sitting at a traffic light waiting to
- 11 make a left turn and I was carjacked at gunpoint.
- 12 Q And where exactly -- what road were you on?
- 13 A I was on Washington Street to make a left on to
- 14 Bull Street.
- 15 Q And what vehicle were you driving?
- 16 A 2000 Ford Expedition, red.
- 17 Q Do you recognize the vehicle in State's Exhibit
- 18 16?
- 19 A Yes.
- 20 Q And what do you recognize that to be?
- 21 A That's my Ford Expedition.
- 22 Q It's the same Expedition you were driving that
- 23 early morning on July 18th?
- 24 A That is the same Expedition.
- 25 MR. PASCOE: I ask that State's Exhibit 16 be

1 admitted into evidence, Your Honor.

2 MR. WALTERS: No objection, Your Honor.

3 THE COURT: It's admitted without objection.

4 (State's Exhibit Number 16, photographs,
5 admitted into evidence.)

6 BY MR. PASCOE:

7 Q Was anybody else with you when you were driving
8 the Expedition that morning, taking a left on Bull
9 Street?

10 A No, sir.

11 Q And before I forget, though, looking at State's
12 Exhibit 16, you can see from there, is that your
13 license tag on the front and back of State's Exhibit
14 16?

15 A No, sir.

16 Q Did you have South Carolina tags?

17 A I did, sir.

18 Q And if you could, Corey, tell the Judge exactly
19 what happened to you, how you got carjacked that
20 morning.

21 A I was at the traffic light waiting to make a
22 left turn and I was looking in my department -- my
23 -- I have a compartment in the center console,
24 looking for a C.D. and when I looked up, there was a
25 gun in my face, told me to get out get and walk --

1 get the F out and walk.

2 Q Exactly what did the person say to you?

3 A Get the fuck out and walk.

4 Q Were you scared?

5 A Definitely.

6 Q Had you ever felt like that before?

7 A Never in my life.

8 Q Did you get a good look at what the gun looked

9 like?

10 A I did, sir.

11 Q Let me show you what's been marked as State's

12 Exhibit 84. Do you recognize that?

13 A Yes, sir.

14 Q Is that gun consistent or inconsistent with the

15 one that the defendant used on you?

16 A Seems to be consistent.

17 Q In fact, what did you tell the police that

18 morning on July the 18th that the gun looked like?

19 A I saw chrome.

20 Q And after you got out of the vehicle, what did

21 you end up doing?

22 A I went to the left towards the sidewalk.

23 Q And where did you go?

24 A I walked up for about three blocks to the

25 Baptist Medical Center and called for help.

- 1 Q And who did you call?
- 2 A The police department.
- 3 Q And you told them what happened?
- 4 A I did.
- 5 Q Gave them a very good description of the
- 6 defendant, the person that did this to you?
- 7 A As best I could, sir.
- 8 Q When did you learn that the vehicle was
- 9 recovered?
- 10 A The next morning, I think, around nine o'clock,
- 11 I think.
- 12 Q And the person who put that gun to your face
- 13 and told you to get the F out of that red
- 14 Expedition, do you see him in the courtroom today?
- 15 A Yes, sir.
- 16 Q If you could, point him out for Judge Newman.
- 17 A (Indicating).
- 18 Q The man wearing the orange, Mikal Mahdi?
- 19 A He is wearing the orange, sir.
- 20 MR. PASCOE: Thank you. Answer any questions
- 21 defense counsel has for you.
- 22 CROSS-EXAMINATION
- 23 BY MR. WALTERS:
- 24 Q Good afternoon, Mr. Pitts.
- 25 A Good afternoon.

1 Q Now, Mr. Pitts, when you testified with regards
2 to where you were going that night, let's talk about
3 that. I believe you gave a statement to the police
4 and what the statement said was, is that you were
5 coming from Little Mountain; is that correct?

6 A No. I told them I was coming from a friend's
7 house.

8 Q All right. And I believe you went over to
9 Vista Commons, didn't you?

10 A Yes.

11 Q And I believe you were supposed to leave Vista
12 Commons and you were supposed to go over to Metts
13 Road; is that right?

14 A No. I left Vista Commons to go to get some gas
15 from the Hot Spot.

16 Q And then when you left Vista Commons, you were
17 headed to Metts Road; is that correct?

18 A No. When I left the Vista Commons, I went to
19 -- I was on my way to get some gas.

20 Q All right. And did you go get gas on Bull
21 Street?

22 A I was heading up Washington to make a left on
23 to Bull to get gas.

24 Q All right. But my question is, is that where
25 you were coming from when you say you were coming

1 from a friend's house?

2 A I was coming from the Vista Commons, sir.

3 Q All right. And where were you coming from
4 before you arrived at Vista Commons?

5 A I was coming from home, sir.

6 Q And that would be Little Mountain; is that
7 correct?

8 A That is correct.

9 Q All right. So answer my question. You were
10 coming from Little Mountain, you were going to Vista
11 Commons; isn't that right?

12 A That's correct.

13 Q All right. And then after you got your gas,
14 you were supposed to go back out on Metts Road; is
15 that correct?

16 A That is correct.

17 Q All right. So we're clear on where you were
18 supposed to travel; is that right?

19 A Yes.

20 Q All right. And the question I have is, and I
21 want to carefully just go through your testimony,
22 when you left Little Mountain and you left Vista
23 Commons, what sense did it make for you to go down
24 on Bull Street when you had to go back out on Metts
25 Road?

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1 MR. PASCOE: Objection, Your Honor. This is
2 argumentative. What sense do these questions make?

3 THE COURT: Who did the direct of this witness?

4 MR. PASCOE: I did, Your Honor.

5 THE COURT: All right. The objection is
6 overruled.

7 BY MR. WALTERS:

8 Q You stated that you were headed out to Metts
9 Road; is that correct?

10 A Yes.

11 Q And I believe you put that in your statement to
12 the police?

13 A I was headed to get some gas and then to Metts
14 Road, sir.

15 Q But could you explain to me, it doesn't make
16 any sense when you go through your testimony or
17 statement that you'd given to the police, you went
18 to Vista Commons and then you went downtown
19 Columbia; isn't that right?

20 A That's the way to get to Bull Street, sir.

21 Q All right. Could you tell the Judge and tell
22 the people here what you were doing down on Bull
23 Street at three o'clock in the morning?

24 A I was heading to get some gas, sir.

25 Q There isn't a gas station at 1400 Bull Street,

1 is there?

2 A There is not, but there is a traffic light and
3 Bull Street leads to the Hot Spot, sir.

4 Q Tell the Judge what people do down on Bull
5 Street at three o'clock in the morning.

6 A I have no idea, sir.

7 Q You don't know?

8 A No.

9 Q All right. Inside your vehicle they've shown
10 some pictures, inside that vehicle you had what?

11 A I had a checkbook, sir.

12 Q You had about 75 condoms, didn't you?

13 A Yes.

14 Q You also had tampons, too, didn't you?

15 A Yes, that were not mine, but -- well, not that
16 I know of.

17 MR. PASCOE: Objection.

18 THE WITNESS: I'm not sure of tampons, sir.

19 THE COURT: Sir, when there's an objection,
20 please don't talk any further.

21 MR. PASCOE: Object to relevance, Your Honor.
22 This is totally irrelevant the scope of this
23 cross-examination.

24 MR. WALTERS: May it please the Court. Your
25 Honor, the witness has testified, he's also given a

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1 statement to the police, I'm allowed to
2 cross-examine him with regards to what he was doing
3 there, why he was there. He's testified with
4 regards to the actions of my client. It's
5 probative, it's relevant and it's material.

6 If the prosecution didn't want to go into that,
7 they simply could have talked about the carjacking
8 itself. He claims that he was going down there to
9 get some gas and things of that nature and, of
10 course, I'm allowed to cross-examine him with regard
11 to the statement that he gave to the police.

12 In addition to that, when I talk about tampons
13 and condoms, these were pictures that were provided
14 by the Solicitor's office of his car, in this
15 vehicle and what was inside the vehicle. It's
16 probative, it's relevant and it's material. He's
17 painting the picture that says, I was just out for
18 the night, I was going to get some gas and someone
19 carjacked me and I'm saying that's totally not
20 correct.

21 THE COURT: Your objection is overruled.

22 You may proceed.

23 BY MR. WALTERS:

24 Q You had about 75 condoms in that car, you also
25 had tampons in that car?

1 A I did not have 75 -- there should not have been
2 75 condoms in that car.
3 Q Fifty?
4 A No, that is not correct.
5 Q Fifty?
6 A There could have been condoms in the car, yes,
7 sir.
8 Q Did you have about 50?
9 A I'm not sure how many it was.
10 Q All right. Tell the Judge you don't know what
11 goes on at like three o'clock in the morning down on
12 Bull Street, do you?
13 A That I do not.
14 Q And, in fact, when you were down on Bull
15 Street, you stopped your vehicle and you were
16 inquiring of other people what was going on?
17 A Did not, sir.
18 Q In fact, you were riding through on Bull Street
19 because you were looking for some action?
20 A No, I did not, sir.
21 Q Okay. And in this particular case, what
22 happened was, is that you're saying that you ran up
23 on Mr. Mahdi; is that right?
24 A I met Mr. Mahdi at the traffic light, sir,
25 waiting to make a left turn.

1 Q You pulled over at the traffic light, didn't
2 you?

3 A That is not correct, sir. I was waiting at the
4 traffic light to make a left turn.

5 Q You didn't have a dispute with Mr. Mahdi?

6 A Did not, sir.

7 Q Okay. And in this particular vehicle, when you
8 pulled over and you talked to Mr. Mahdi and you had
9 50 or so condoms and your tampons and you pull your
10 car over and you're talking to Mr. Mahdi, you're
11 saying that he pulled a gun out on you at that time?

12 A Sir, I met Mr. Mahdi at the traffic light
13 waiting to make a left turn.

14 Q Right. But, see, you were supposed to be going
15 out to Metts Road and you went downtown Columbia,
16 why did you do that?

17 A As I said, sir, I was heading to get some gas.

18 Q You're saying there isn't a gas station that's
19 closer to Vista Commons than other down -- other
20 than down on Bull Street?

21 A To my knowledge, sir, there is no gas station
22 that's open that late in that area.

23 Q Mr. Pitts, it's your testimony that something
24 bad happened to you, but, Mr. Pitts, you also
25 voluntarily went down Bull Street looking for some

1 action?

2 A I did not, sir.

3 Q All right. And after this event occurred, you
4 also stated that you went to the police; is that
5 correct?

6 A When I left -- I walked to the Baptist Hospital
7 and, yes, I called for the police.

8 Q Okay. And then that's when you gave a
9 description of the person that had taken your
10 vehicle; is that right?

11 A As best I could, sir.

12 Q Okay. And then, of course, you received
13 information that the vehicle had been recovered in
14 Calhoun County?

15 A I did the next day, sir.

16 MR. WALTERS: Your Honor, I have no further
17 questions.

18 THE COURT: Anything further, Mr. Solicitor?

19 MR. PASCOE: No questions.

20 Thank you very much, Mr. Pitts.

21 THE COURT: You may step down, sir.

22 MR. SORENSON: The State calls Stephen Curtis.

23 STEPHEN CURTIS,

24 having been duly sworn, testified as follows:

25 THE CLERK: State your full name for the

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1 record, please.

2 THE WITNESS: Stephen Curtis.

3 THE COURT: Solicitor, before you start,
4 everyone let's just stand for a moment.

5 (Pause.)

6 DIRECT EXAMINATION

7 BY MR. SORENSON:

8 Q Good afternoon, Agent Curtis.

9 A Good afternoon.

10 Q If you would, please tell the Court where
11 you're employed.

12 A I'm currently employed with the South Carolina
13 State Law Enforcement Division in Columbia.

14 Q And what are your duties and responsibilities
15 with SLED?

16 A Currently, I'm a lieutenant assigned to the
17 inspections unit at the headquarters, SLED.

18 Q Is that a recent promotion that you received?

19 A Yes, sir, it is.

20 Q Prior to that, what capacity were you employed
21 at SLED?

22 A I was an agent assigned to the latent print
23 crime scene unit.

24 Q And how long did you work in that capacity?

25 A A little over eight years.

1 Q And prior to that, where were you employed?

2 A I was a deputy sheriff at the Richland County
3 Sheriff's Office in Columbia.

4 Q Okay. And did you work in their crime scene
5 unit at Richland County for a period of time, also?

6 A Yes, sir. Over the course of ten years, I had
7 several different assignments from uniform patrol
8 officer to crime scene investigator to -- I ended up
9 being a sergeant over the robbery homicide unit.

10 Q And did you have an opportunity, Agent Curtis,
11 to respond out to the homicide scene of Captain
12 Myers back on July 18th of '04?

13 A Yes, sir, I did.

14 Q About what time did you get out there that
15 evening?

16 A We arrived, approximately, 11:30 p.m., I
17 believe it was.

18 Q And if you would, describe -- if you would,
19 describe for the Court the scene as it was when you
20 found it that evening.

21 A We had gotten directions to come to a dirt
22 road, I believe it was off of Burke Road off of
23 Highway 21. I was told this was the Saint Matthews
24 area. It was probably about two tenths of a mile
25 off of Burke Road down a dirt road when we came to a

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1 clearing where a metal fabricated building shack was
2 present and there were several police cars there and
3 the crime scene tape was up. They had some lights
4 set up and a lot of officers were there at the
5 scene.

6 Q Was, Captain Myers, still there, his body still
7 there?

8 A Yes, sir, it was.

9 Q And if I could, I'd like to show you -- if you
10 would, first of all, describe for the Judge what the
11 condition of Captain Myers was when you arrived out
12 there that evening?

13 A Well, after I was briefed by Lieutenant
14 Whetstone with SLED there at the crime scene, we
15 went inside just to take a quick look and a walk
16 through. Mr. Myers was laying face down in the
17 workshop area. The shed was actually divided into a
18 -- the larger portion was like a workshop area with
19 bench and tools and some machines and things like
20 that and then the back area was, I guess, being
21 converted to make a living quarters. So in the
22 front area, the workshop area, Mr. Myers was laying
23 face down on the cement next to the workbench there
24 near the front door.

25 Q Let me initially show you, Agent, if I could,

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1 State's Exhibits 20 and 21, ask you do those depict
2 the outside of the shed as you found it that
3 evening?

4 A Yes, sir. These are photographs of the
5 exterior from both sides of the building.

6 MR. SORENSON: Your Honor, we'd offer State's
7 20 and 21 into evidence.

8 MR. KOGER: Without objection, Your Honor.

9 THE COURT: Admitted without objection.

10 (State's Exhibit Numbers 20 and 21,
11 photographs, admitted into evidence.)

12 BY MR. SORENSON:

13 Q You had indicated the condition of Captain
14 Myers when you arrived out there. Let me show you
15 State's Exhibit Numbers 3, 61 and 60 and ask you to
16 take a look at those?

17 A Yes, sir. These are photographs of Mr. Myers
18 laying -- like I said, he was face down, head
19 towards the front door, laying in the workshop area.
20 I could tell, just by initial observation, he had
21 several gunshot wounds. And the shirt and parts of
22 his hair on the back of his head and stuff looked
23 like they had been burned.

24 Q In fact, were there several matches that were
25 found laying not only on Mr. Myers, but also around

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1 his body?

2 A Yes, sir. There was -- we collected those.
3 There were several matches on him, laying around him
4 and there was a heavy odor of gasoline or a
5 petroleum product you could smell when you stepped
6 inside the building.

7 Q The matches that were all collected from around
8 Captain Myers had all been -- had been struck?

9 A Yes, sir, they were spent matches, yes, sir.

10 MR. SORENSON: Your Honor, at this time, we'd
11 offer State's 3, 60 and 61 into evidence.

12 MR. KOGER: Your Honor, we would object to
13 entering of those three pictures in evidence. A
14 picture of Officer Myers had been entered earlier
15 and we object to it. The entering of those pictures
16 would be cumulative and highly prejudicial.

17 THE COURT: What says the State?

18 MR. SORENSON: Your Honor, can I see -- I'm not
19 sure I know what -- I know that there was another
20 picture we used, but I can't find it to be honest
21 with you. And it may be that one of these is
22 cumulative to that, but -- Your Honor, in looking at
23 -- this is State's Exhibit Number 67, I believe this
24 is in evidence?

25 THE COURT: Yes, sir.

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1 MR. SORENSON: We would withdraw State's
2 Exhibit Number 61.

3 THE COURT: 61 is withdrawn.

4 MR. SORENSON: The other two, Your Honor, I do
5 believe one of them indicates -- shows the matches
6 on Captain Myers' head area, which is not depicted
7 in the other photograph, and the other one helps
8 kind of relate to the body to where it is inside of
9 the shed area.

10 THE COURT: What says the defense?

11 MR. KOGER: Let me see those photos.

12 (Pause.)

13 MR. KOGER: Your Honor, we still would contest
14 entering of Exhibit Number 3 as evidence because it
15 is quite like the one that's already in, Number 67.

16 THE COURT: Exhibits are admitted over
17 objection.

18 (State's Exhibit Numbers 3 and 60,
19 photographs, admitted into evidence.)

20 BY MR. SORENSON:

21 Q Have you had an opportunity, Agent Curtis, to
22 review State's Exhibit Number 2, which, I think, has
23 been marked for I.D.?

24 A Yes, sir, I did.

25 Q Does that appear to accurately depict the

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1 interior, also, I guess, the exterior of the shed as
2 it was found that evening?

3 A Yes, sir, it does.

4 MR. SORENSON: Your Honor, at this time, I
5 would offer State's Exhibit Number 2 into evidence.

6 MR. KOGER: Without objection, Your Honor.

7 THE COURT: It's admitted.

8 (State's Exhibit Number 2, photograph,
9 admitted into evidence.)

10 BY MR. SORENSON:

11 Q Did you have an opportunity that evening, Agent
12 Curtis, to process that crime scene?

13 A Yes, sir, I did.

14 Q And were you able to -- in addition to the
15 matches and the parts of Captain Myers' body that
16 appeared to have been burned, were you able to find
17 any other areas inside the shed where it looked like
18 somebody had attempted to start something on fire?

19 A Yes, sir. The workbench area had some burn
20 marks on it as well, looked like one or two small
21 spots had maybe had something put on them or some of
22 the items had attempted to be set on fire.

23 Q Showing you State's Exhibit Number 43, does
24 that depict that?

25 A Yes, sir.

1 MR. SORENSON: Your Honor, we'd offer State's
2 43 in evidence.

3 MR. KOGER: Without objection, Your Honor.

4 THE COURT: It's admitted without objection.

5 (State's Exhibit Number 43, photograph,
6 admitted into evidence.)

7 MR. SORENSON: Your Honor, if I maybe could
8 have Agent Curtis to step down.

9 THE COURT: Yes, sir, you may.

10 (Witness leaves the witness stand.)

11 BY MR. SORENSON:

12 Q If you would, Agent, kind of going back to, I
13 guess, the photographs depicting Captain Myers'
14 body, if you could kind of show where he was located
15 at when you arrived there?

16 A All right. He was laying, approximately, in
17 this location here (indicating). Like I said, his
18 head was pointed towards this front door and his
19 feet towards the back room. This would have been
20 the shop area, as I called it, and then the back
21 room of the shed.

22 Q All right. And this is kind of the front of
23 the building here, I guess?

24 A Yes, sir.

25 Q And this is a roll up kind of garage type door?

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1 A Yes, sir.

2 Q And the area that was depicted in State's 43
3 that appeared to be burned, where was that located?

4 A That's going to be on top of this workbench
5 that's set up against the wall, approximately, in
6 the middle. Like I said, Captain Myers was here and
7 that area was up on top of the bench there.

8 Q Now, did you have an opportunity in processing
9 that crime scene, Agent Curtis, to recover any shell
10 casings out there?

11 A Yes, sir. We had several shell casings
12 recovered from the crime scene.

13 Q And, specifically, the casings that appeared to
14 be .22 caliber rifle casings, let me show you
15 initially State's Exhibit Number 33, does that
16 depict one of those shell casings?

17 A Yes, sir.

18 Q Okay. Actually, I'm going to let you look
19 through the whole stack, State's Exhibit Numbers 33,
20 34, 44, 52, 53, 54, 55, 56, 57, 58 and 59. If you
21 would, look through all those.

22 A These are all photographs of the shell casings
23 that we took inside the crime scene.

24 Q Were those all collected and taken into
25 evidence that night?

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1 A Yes, sir, they were.

2 MR. SORENSON: Your Honor, at this time, we'd
3 offer those photographs into evidence.

4 MR. KOGER: Without objection, Your Honor.

5 THE COURT: They are admitted without
6 objection.

7 (State's Exhibit Numbers 33, 34, 44 and 52
8 through 59, photographs, were admitted into
9 evidence.)

10 MR. SORENSON: Additionally, Your Honor, I'm
11 sorry, I missed two other photographs.

12 BY MR. SORENSON:

13 Q State's Exhibits Number 24 and 25, does that
14 depict one other shell casing that was found right
15 outside the shed.

16 A Yes, sir. The prior ones were all inside the
17 shed and then these last two photographs are of the
18 shell casing that was found outside.

19 MR. SORENSON: We would offer State's 24 and 25
20 also into evidence.

21 MR. KOGER: Without objection.

22 THE COURT: They're admitted without objection.

23 (State's Exhibit Numbers 24 and 25,
24 photographs, admitted into evidence.)

25 BY MR. SORENSON:

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1 Q If I could, I'm going to give these to you and
2 if you could, kind of just holding up each
3 photograph, just kind of point to -- show the Judge
4 on the diagram where that item would be located.

5 A In the crime scene photo, Your Honor, you can
6 see we've got several things marked here, but number
7 eight would have been the shell casing from outside
8 and that was under the awning to the right of the
9 shed and that one was actually outside in this
10 general area just outside the front door.

11 And going in the order of the photographs,
12 marker number 26 depicts a shell casing here and
13 that would have been down here, near the end of the
14 workbench here (indicating).

15 THE COURT: Where was the first one again,
16 please?

17 THE WITNESS: The first one was actually
18 outside on the exterior of the shed here. There's
19 an awning -- there was awnings on both sides, so
20 these vehicles are underneath the awning. And the
21 swing and everything, there's an awning over that.
22 So that shell casing would have been just generally
23 right here outside of the front door to the right a
24 little bit.

25 BY MR. SORENSON:

1 Q Was that door open when you got there?

2 A When I got to the scene, this door was open,
3 yes, sir. And then marker -- and this is my marker
4 26 in my photographs, Your Honor, but that shell
5 casing would have been located here outside of this
6 door from the back room area and to the end of the
7 workbench.

8 Twenty-five is another shell casing, that was
9 over here near the stove by this tub, somewhere in
10 that general area there.

11 Twenty-nine was a shell casing that was back
12 here near this air compressor that -- when I got
13 there, like I said, the door was open and it would
14 have been behind the door, between the door and the
15 air compressor.

16 Q I'm showing you State's Exhibit Number 31.
17 Does that show that air compressor with the door
18 open?

19 A Yes, sir. With the door pulled all the way
20 open, it sits right up against it. And that shell
21 casing was right there between the door and the
22 casing (sic).

23 MR. SORENSON: We'd offer Number 31 into
24 evidence also, Your Honor.

25 MR. KOGER: Without objection.

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1 **THE COURT:** It's admitted.

2 (State's Exhibit Number 31, photograph,
3 admitted into evidence.)

4 **THE WITNESS:** Photograph 21 depicts a shell
5 casing back here in the back room area on the floor
6 near this red wagon and the chair. Close up of that
7 same shell casing.

8 Twenty-two, another shell casing that was back
9 -- back in this area of the back room, a blow up of
10 item 22. Twenty-three was back here in the corner
11 in the back room. And then 30 was actually back in
12 this general vicinity right here. And 31 was back
13 up here near the table.

14 All of those were found in this back room area.
15 So I think it was a total of five back here and then
16 three more up here and then one outside here
17 (indicating) underneath the awning near the front
18 door.

19 **BY MR. SORENSON:**

20 **Q** And what type of shell casings were those that
21 were recovered?

22 **A** As I recall, they were all .22 caliber shell
23 casings.

24 **Q** Okay. Now, did you find any projectiles either
25 in or around the shed area?

1 A Yes, sir, we did.

2 Q Showing you State's Exhibit Number 48, what's
3 depicted in that photograph?

4 A This is a close up of a projectile or a bullet
5 hole in this door. And that door is going to be the
6 door that leads from the shop area to the back room.
7 And it's on the -- if you're in the back room, it's
8 on the inside of the door. So if that door were to
9 close, the projectile struck the door coming from
10 the back room out towards the shop area and it was
11 lodged in the door so it didn't go all the way
12 through.

13 Q You actually recovered that projectile out of
14 that door?

15 A Yes, sir. We cut a hole there in the door and
16 got it out.

17 MR. SORENSON: Your Honor, we'd offer State's
18 48 into evidence.

19 MR. KOGER: Without objection.

20 (State's Exhibit Number 48, photograph,
21 admitted into evidence.)

22 BY MR. SORENSON:

23 Q Showing you State's Exhibit Number 39, what's
24 depicted in that photograph?

25 A This item here is the end of a rifle or a

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1 shotgun stock or butt. And right here you can see
2 is the end of the barrel, a shotgun barrel or a
3 rifle barrel. These two items appeared to have been
4 recently cut just in looking at them. We located
5 those items here at the end of the workbench. There
6 was like a vice attached to the worktable here on
7 the end and they were on the floor laying there just
8 at the end of the table.

9 Q Showing you State's Exhibit Number 51, what's
10 depicted in that photograph?

11 A This is a photograph of the back room area back
12 from, approximately, this area (indicating) taken --
13 it shows the wagon. You can see some of the items.
14 There were several -- looked like pocket knives and
15 some stuff and some tools sitting on the chair, just
16 showing -- coming back towards, what we call, the
17 bath area.

18 MR. SORENSON: Your Honor, we'd offer State's
19 51 into evidence.

20 MR. KOGER: Without objection.

21 THE COURT: 51 is in.

22 (State's Exhibit Number 51, photograph,
23 admitted into evidence.)

24 BY MR. SORENSON:

25 Q Showing you State's Exhibit Numbers 4 and 5 and

1 these are in evidence I believe, but did you have an
2 opportunity to photograph some damage that was done
3 to one of the exterior doors?

4 A Yes, sir. This is going to be the locking area
5 of the rear door here, showed some scrape marks on
6 that door.

7 Q And show you State's Exhibit Number 6. What's
8 depicted in State's Exhibit Number 6?

9 A This is a set of keys and a door lock or alarm
10 system. We found those underneath the workbench up
11 against the wall, approximately in this area here
12 (indicating). We had to crawl up under the bench to
13 find those.

14 Q Are you aware of what those keys ended up going
15 to?

16 A I believe that there was a vehicle that was
17 left at another location, to my knowledge, that was
18 the keys from that.

19 Q The Ford Expedition over at the Hess Station?

20 A Yes, sir.

21 MR. SORENSON: Your Honor, at this time, we'd
22 offer State's Number 6 into evidence.

23 MR. KOGER: Without objection.

24 THE COURT: Admitted without objection.

25 (State's Exhibit Number 6, photograph,

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1 admitted into evidence.)

2 BY MR. SORENSON:

3 Q And then showing you State's numbers 40, 41 and
4 42, what's depicted in those photographs?

5 A These are photographs of some blood stains that
6 were present on the workbench.

7 MR. SORENSON: Your Honor, at this time, we'd
8 offer State's 40, 41 and 42 into evidence.

9 MR. KOGER: Without objection.

10 THE COURT: Admitted without objection.

11 (State's Exhibit Numbers 40 through 42,
12 photographs, admitted into evidence.)

13 BY MR. SORENSON:

14 Q Hold them up for the Judge, show him where
15 those are...

16 A Your Honor, this is a side view of the bench.
17 If you were standing in this area facing the
18 workbench, they were on the side of the top counter
19 portion here, approximately, and Mr. Myers' body was
20 here (indicating). Just kind of shows the direction
21 that the blood, as it struck the side of the
22 workbench, in which it flowed. We took those for
23 documentation.

24 Q What -- in looking at that blood spatter, what,
25 if anything, can you tell from that blood spatter as

1 far as in relation to where Mr. Myers' body was
2 found, also?

3 A Well, just in looking at the size and shape and
4 the direction of these stains just indicated to me
5 that perhaps as he moved forward, he started to fall
6 in this general vicinity and his body ends up here.
7 So that was some blood that had exited his body and
8 struck the side of the workbench and it was arching,
9 going in a downward and a forward direction,
10 consistent with him moving forward coming from the
11 back room towards the front door. And as he starts
12 to fall, that just kind of struck that side of that
13 bench going downward and forward.

14 Q You can have a seat, Agent.

15 A (Witness resumes the witness stand.)

16 Q Now, in searching that crime scene, did you
17 find any firearms at that scene?

18 A No, sir, I did not.

19 Q Did you have an opportunity several days later
20 on July 22nd to go down to Satellite Beach, Florida?

21 A Yes, sir, I did.

22 Q Okay. And did you have an opportunity at that
23 point in time to -- what was the reason you were
24 going down there?

25 A Mr. Myers' police vehicle had been recovered

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1 down there at Satellite Beach and myself and another
2 agent went down there to process the vehicle and
3 collect any evidence that we thought might be
4 connected with this incident.

5 Q And State's Exhibit Number 13, is that
6 photographs of the vehicle that you collected down
7 there in Satellite Beach?

8 A Yes, sir, it is. It was a large Dodge truck, a
9 white one.

10 Q Have pictures of other items that were found
11 inside the truck?

12 A Yes, sir. We went in there and photographed.
13 Prior to doing that and taking anything out of
14 there, we would have photographed it to show the
15 condition that it was in when we got to that scene.

16 Q And this tag that's on the truck here in the
17 photographs, that's the license tag that was on the
18 truck when you retrieved it?

19 A Yes, sir. When we got there, that's exactly
20 the way it was. They had it secured in a -- like a
21 sally port area that was locked. And we got there
22 and they took us in there and looked at it and we
23 opened it up and we started working on it there,
24 photographing it and processing it and going through
25 and inventorying items inside the truck.

1 Q And this municipal government tag, that was
2 found inside the truck?

3 A That was laying there on the seat when I opened
4 the door and started taking photographs, yes, sir.

5 Q Are you aware of whether that tag belonged on
6 this truck?

7 A It was my understanding that it was. I didn't
8 personally run any of the tags to see who the owners
9 of vehicles they were from, but it was my
10 understanding that was supposed to be on that truck.

11 Q Let me back you up. State's Exhibit Number 15,
12 did you take those photographs where they -- they
13 depict the scene out there and the blue truck that
14 was out there at the crime scene?

15 A Yes, sir, that was the truck on the side of the
16 shed there.

17 Q Did it have a license tag on it out there at
18 the scene?

19 A Later on, I was advised that it had had one.
20 At the time there at the crime scene, we didn't know
21 if it had one or not. It didn't appear to be
22 functioning, so I didn't know if it had one.

23 Q But it didn't have a tag on it out there --

24 A No, sir, not there. There was no tag on it
25 there when we looked at it.

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1 Q Did you bring that Dodge truck back to South
2 Carolina?

3 A Yes, sir, I did.

4 Q Now, when you were down in Satellite Beach, did
5 you retrieve any other weapons at that point in
6 time?

7 A They turned over a couple of firearms to us at
8 that scene, the Satellite Beach P.D. people did.

9 Q Let me show you State's Exhibit Number 77. Is
10 that one of the items that they turned back over to
11 you?

12 A Yes, sir. They turned in, I believe, it was a
13 Ruger Mini 14 and a shotgun that they had recovered
14 in the vehicle or with the defendant there when they
15 located him.

16 Q Let me show you this item. It's not marked
17 yet.

18 (State's Exhibit Number 92, shotgun, was
19 marked for identification purposes.)

20 Q Is this the shotgun that they turned over to
21 you, also?

22 A Yes, sir, it is.

23 MR. SORENSON: Your Honor, at this time, we'd
24 offer State's 92 into evidence.

25 MR. KOGER: Without objection, Your Honor.

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1 **THE COURT:** Admitted without objection.

2 (State's Exhibit Number 92, shotgun,
3 admitted into evidence.)

4 **BY MR. SORENSON:**

5 **Q** Was there ammunition from both of those weapons
6 also that was turned over that was found inside the
7 truck?

8 **A** Yes, sir. There was quite a bit of .223 and
9 shotgun cells in the vehicle themselves. And I
10 can't recall -- I believe there was some ammunition
11 with the guns that Satellite Beach had recovered in
12 the guns and stuff as well.

13 **Q** State's Exhibit Number 76 --

14 **A** I know there were several magazines.

15 **Q** Lastly, Agent Curtis, did you have an
16 opportunity to have a .22 rifle that was turned in
17 also that was recovered in Jacksonville, Florida?

18 **A** Yes, sir. Agent Ed Carroll turned that over to
19 me to be processed and then sent it to firearms for
20 analysis. I received that directly from him.

21 **Q** Is this the rifle that was matched up to the
22 shell casings that were found out there at the
23 scene?

24 **A** As I understand, yes, sir, that was the gun
25 that I got and turned over to firearms.

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1 **MR. SORENSON:** Your Honor, at this time, we'd
2 offer this into evidence, also.

3 **MR. KOGER:** Without objection.

4 **THE COURT:** Admitted without objection.

5 (State's Exhibit Number 93, rifle, admitted
6 into evidence.)

7 **MR. SORENSON:** Beg the Court's indulgence.

8 (Pause.)

9 **MR. SORENSON:** That would be all I have, Your
10 Honor. Thank you.

11 **THE COURT:** Mr. Koger.

12 **MR. KOGER:** May it please the Court.

13 CROSS-EXAMINATION

14 BY MR. KOGER:

15 **Q** Agent Curtis, did you do any follow-up
16 investigations at the scene other than the night of
17 the incident?

18 **A** Yes, sir. We went back out there, I believe,
19 twice more.

20 **Q** Twice more?

21 **A** Yes, sir.

22 **Q** When was the first time after you did the
23 initial investigation?

24 **A** Can't give you the exact date, but I think it
25 was -- I was originally called on the 18th and we

1 finished up the morning of the 19th. So I would
2 have gone to the autopsy in Newberry later on the
3 19th.

4 On the 21st, we went back out there because the
5 victim's wife had had a chance to walk through and
6 there were some items she said looked like they had
7 been moved, so we went back out there to see what
8 she was talking about.

9 And then we went back on the 22nd to look at
10 the blue truck and there was a couple of other items
11 that they felt like might have been disturbed that
12 we weren't aware of in the original crime scene.
13 And then later on the 22nd is when we went down to
14 Satellite Beach, Florida.

15 Q So the last time you went out to the scene on
16 the incident was July the 22nd of 2004?

17 A Yes, sir.

18 Q All right. And do you have any idea of what's
19 the arrangement of the items in the shed now?

20 A Currently, no, sir, not now. I haven't been
21 out there since 2004.

22 Q Okay. And these firearms right here were found
23 inside the truck down in Satellite Beach, correct?

24 A They had all of those -- well, they had the
25 shotgun and the Ruger in their custody. They were

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1 not inside the vehicle when I did my analysis and
2 examination of the vehicle. They were turned over
3 to me. And then the .22 rifle came in later. Agent
4 Ed Carroll had gotten that, I believe, from
5 Jacksonville and then turned that over to me.

6 Q Okay. But the ones that were found at
7 Satellite Beach is not alleged to have been the
8 murder weapon, correct?

9 A That's my understanding, yes, sir.

10 MR. KOGER: Thank you. No further questions.

11 THE COURT: Anything further?

12 MR. SORENSON: No, sir.

13 THE COURT: Thank you, Officer.

14 Next witness.

15 MR. PASCOE: May it please the Court. If it's
16 all right with the Court, we'd make a motion at this
17 time for the Court to go view the scene.

18 THE COURT: What says the defense?

19 MR. KOGER: Sir?

20 THE COURT: What says the defense, motion for
21 the Court to view the scene?

22 MR. KOGER: No objection, Your Honor.

23 THE COURT: All right. The Court will view the
24 scene. Does the defendant want to go to the scene?

25 MR. WALTERS: No, sir, Your Honor.

1 **THE COURT:** Mr. Mahdi, if you will stand for
2 me, please.

3 Mr. Mahdi, you have the right to be present at
4 every critical stage of these proceedings. And I've
5 determined that viewing the scene -- alleged crime
6 scene or the crime scene is a critical stage of the
7 proceeding and you have the right to go there if you
8 would like to go. Do you wish to go to the crime
9 scene?

10 **DEFENDANT MAHDI:** No, sir, Your Honor.

11 **THE COURT:** Do you waive your right to go to
12 the crime scene?

13 **DEFENDANT MAHDI:** Yes, I do, sir.

14 **THE COURT:** All right. The defendant has
15 waived his right to go to the crime scene. How many
16 miles away is that?

17 **MR. PASCOE:** I can tell you by minutes. It's
18 probably about ten minutes away.

19 **THE COURT:** So we'll be in recess about 45
20 minutes or so.

21 All right. The parameters of visiting the
22 crime scene is that no one will be permitted to
23 discuss the matter at the crime scene or to talk to
24 me about what is being observed or talk about it in
25 my presence other than viewing the scene that the

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1 witnesses have testified concerning. So we'll be in
2 recess.

3 (Brief Recess.)

4 (State's Exhibit Number 94, DVD, was marked
5 for identification purposes.)

6 **THE COURT:** Solicitor, next witness.

7 **MR. SORENSON:** May it please the Court, Your
8 Honor. The State calls Detective Mike Poe.

9 MICHAEL S. POE,
10 having been duly sworn, testified as follows:

11 **THE CLERK:** Please state your full name for the
12 record.

13 **THE WITNESS:** Michael S. Poe.

14 DIRECT EXAMINATION

15 BY MR. SORENSON:

16 **Q** Good afternoon, Detective Poe.

17 **A** Good afternoon.

18 **Q** If you would, tell the Court where it is that
19 you're employed.

20 **A** I'm a detective with the Winston-Salem, North
21 Carolina Police Department.

22 **Q** And how long have you been employed with
23 Winston-Salem Police Department?

24 **A** January will be 19 years.

25 **Q** And how long have you been employed as a

1 detective with them?

2 A I've been a detective two different times.
3 This last time since 2001.

4 Q So the last five or so years?

5 A Yes.

6 Q I want to turn your attention, if I could, back
7 to the evening of July 15th of 2004. Did you have
8 an opportunity that night to respond out to the
9 Exxon station -- to an Exxon station there in
10 Winston-Salem?

11 A Yes, I did.

12 Q Where exactly is that Exxon station located at?

13 A At 140 South Broad Street.

14 Q And what was the purpose of you responding out
15 there that night?

16 A Reported homicide.

17 Q And who was the victim in that case?

18 A Christopher Jason Boggs.

19 Q And if you would, when you got on the scene,
20 could you describe the scene for the Court?

21 A The scene was secured by officers conducting a
22 preliminary investigation that had responded to the
23 911 calls. We responded. It was roped off. We did
24 a briefing, contacted the person there from the
25 business. And at some point shortly thereafter, I

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1 spoke with personnel that were affiliated with the
2 business trying to determine who the victim would be
3 inside working there.

4 Q And was the victim who you identified as
5 Mr. Boggs was he present at the scene still there?

6 A Yes.

7 Q So he was dead on arrival of law enforcement
8 and EMS personnel?

9 A His body was still inside the store.

10 THE COURT: Mr. Sorenson, this evidence is
11 being offered under State v. Skipper?

12 MR. SORENSON: Yes, sir.

13 THE COURT: To show the defendant's
14 characteristics?

15 MR. SORENSON: Prior bad character, yes, sir.

16 THE COURT: All right. You may proceed.

17 MR. SORENSON: Thank you, Your Honor.

18 BY MR. SORENSON:

19 Q Did you then assist, Detective Poe, in
20 retrieving any items from the store that evening?

21 A I did.

22 Q Okay. And what was the item that you ended up
23 retrieving from that Exxon station?

24 A The store surveillance tape.

25 Q And this Exxon station, is it a gas station

1 slash convenience store?

2 A Yes, it is.

3 Q Okay. And when you enter the store, where is
4 the cashier located at?

5 A When you enter the store, the cashier is
6 located to the left behind a window and then there's
7 a door that you can go around to go in to get into
8 that area.

9 Q And is there a surveillance camera set up
10 somewhere in that cashier area to capture the front
11 counter there where transactions would take place?

12 A Yes.

13 Q And were you able to get a hold of the tape
14 from that surveillance camera that evening?

15 A Yes.

16 Q Okay. And what did you -- where did you go and
17 what did you do with that tape?

18 A After we -- two of us went in and secured the
19 tape, we went back out, briefed again, I took the
20 tape and went back to the public safety center.

21 Q And did you have an opportunity to view that
22 tape then back at your public safety center?

23 A I did.

24 Q And did it capture the homicide of Mr. Boggs?
25 Was it captured on that surveillance tape?

- 1 A Yes.
- 2 Q Okay. And if you would, just briefly describe
3 for the Court what you observed when you viewed that
4 tape back at your public safety center.
- 5 A It shows the defendant coming into the store.
6 He places a, what I believe, to be a 40 ounce beer
7 of some type on the counter. At some point, his arm
8 goes out of view and then I see him go up with a gun
9 and shoots the victim in the face with the gun. The
10 victim falls back.
- 11 And then I see the defendant, if I could show
12 you, come up on to the counter (indicating) with one
13 hand and the gun in the other hand and fire a second
14 shot at the victim. At that point, I immediately
15 called back to the crime scene and said, There's
16 some type of advertisement mat on the counter. I
17 said, The suspect put his hand all over the map,
18 make sure you seize the map.
- 19 Q Okay. Let me ask you, that tape, has a copy of
20 it been put on to DVD for us?
- 21 A Yes.
- 22 Q Have you had an opportunity to view that DVD
23 today?
- 24 A Yes, I did.
- 25 Q Does it accurately depict what you observed

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1 when you saw that surveillance tape back on July the
2 15th of 2004?

3 A Yes.

4 MR. SORENSON: Your Honor, and we've marked
5 that as State's Exhibit 94. It's actually in my
6 computer right now. But, Your Honor, we'd offer
7 State's 94 in evidence at this time.

8 MR. WALTERS: Your Honor, I would object.

9 THE COURT: And the basis for the objection?

10 MR. WALTERS: Your Honor, it's highly
11 prejudicial in this particular case. There's been
12 testimony by the officer with regards to the
13 occurrence and what happened. The tape itself would
14 be more prejudicial than probative with regards to
15 this issue. Moreover, it's cumulative. There's
16 been testimony already given with regards to this
17 issue.

18 Moreover, the finder of fact in this particular
19 case is sitting Circuit Court Judge. He doesn't
20 need to be educated on the process of what occurred.
21 The officer has given a graphic depiction by showing
22 what occurred in the station in North Carolina, so I
23 don't believe it's for the edification of the Court,
24 it's cumulative and highly prejudicial.

25 THE COURT: Mr. Sorenson.

1 **MR. SORENSON:** May it please the Court, Your
2 Honor. The State's position, Your Honor, is that
3 while it may be prejudicial, it's highly relevant.
4 We still have to prove to the Court that the
5 defendant did, in fact, commit this crime and it's
6 captured on video tape where it's pretty clear when
7 you look at it, there's no doubt about it, A, who it
8 is, so it gives you a clear look at the perpetrator
9 of the crime.

10 You also see where he touched on the counter,
11 which is going to be relevant with our next witness
12 that ends up lifting fingerprints off of an
13 advertisement off of that counter. It also shows
14 the gun, which is consistent with the gun that was
15 stolen from Amanda Weaver that she testified about
16 earlier. In that regard, we think it's highly
17 relevant, Your Honor, and that relevancy would
18 outweigh any prejudicial effect.

19 **THE COURT:** Mr. Walters.

20 **MR. WALTERS:** Your Honor, it's cumulative
21 again. There's already been testimony by Amanda
22 Weaver with regards to the .380 and she identified
23 the .380. The picture of the .380 was put into
24 evidence. In addition to that, this particular
25 detective has testified that Mikal Mahdi is the

1 individual that he saw in the video that was
2 shooting this individual.

3 So we have a gun identified by Amanda Weaver,
4 we have testimony by this particular officer not
5 only, you know, testimony that there was a shot
6 fired, he gets up or he stands up and said, If
7 you'll allow me, he gives you a graphic detail about
8 how the shots occurred. Moreover, he even gives you
9 an indication how they identified the defendant.

10 In this particular case, the video itself is
11 highly prejudicial. It's not probative. It's not
12 material. It doesn't further prove anything that's
13 before the Court. There's already been testimony
14 with regards to that particular issue.

15 Perhaps another approach should have been taken
16 by the prosecution in this case simply by stating
17 that we found a video and this is what it shows, but
18 that's not the case. The course of action that they
19 chose in this particular case is they've got
20 testimony by Amanda Weaver identifying the gun.
21 We've got a picture of the gun that's been entered
22 into evidence. In addition to that, we have
23 testimony of a detective who identified Mr. Mahdi,
24 states that Mr. Mahdi is the individual that shot
25 not only once, but shot twice and that his hand was

1 placed on the mat. And he identified him, said,
2 grab the mat so you can identify this particular
3 person.

4 What purpose does it serve and how does it
5 further advance the interest of what's being done
6 here? And when I say advance the interest of what's
7 being done here, that they have to prove aggravating
8 circumstances and we come forward with mitigating
9 circumstances. Once you've heard testimony once
10 with regards to a shooting and you've heard
11 testimony twice with regards to a shooting and
12 someone has identified a gun once and then they
13 identified the gun twice, what purpose does it serve
14 other than being cumulative?

15 This is a case of, you know, their reach is
16 exceeding their grasp. What they've got here is, is
17 that we want to put everything into evidence under
18 the circumstances and we want you to consider
19 everything under the sun, but under our rules, it
20 would be considered cumulative and highly
21 prejudicial to continue to go down this road.

22 **THE COURT:** Mr. Sorenson.

23 **MR. SORENSON:** Your Honor, additionally --
24 well, one other thing I thought of with regards to
25 that, first of all, I don't feel it's cumulative. I

1 mean, I feel if anything, it's corroborative of this
2 detective's testimony and the other testimony that
3 Your Honor is going to hear.

4 Additionally, Your Honor, this evidence is --
5 we're offering it to show the defendant's bad
6 character under State v. Skipper. And I think in
7 looking at that video, Your Honor, is that that will
8 go a long way towards supporting that bad character.
9 And having an officer testify about it or even
10 ultimately seeing still photos just doesn't quite
11 capture the malice that's present in this act, Your
12 Honor, that we're seeking to introduce.

13 **THE COURT:** At this stage, all evidence that I
14 would think that the State would offer would be
15 prejudicial and that's the purpose of the evidence
16 to attempt to persuade the Court on the issue. This
17 is offered for the Court to consider as to the
18 defendant's characteristics and it's not being
19 offered as proof of any alleged statutory
20 aggravating circumstance because that's not the
21 aggravating circumstance that is alleged. What is
22 the standard of proof, therefore, as you see it,
23 Mr. Walters?

24 **MR. WALTERS:** May it please the Court. Your
25 Honor, this entire proceeding, the question I

1 believe that's before the Court is could this man
2 survive in prison, does he have the ability to be
3 adaptable to live within the prison system or, in
4 this particular case, should he be put to death?

5 In this particular case, the testimony that's
6 been given with regards to Mr. Mahdi about his
7 behavior, it doesn't show a malice or a wicked
8 heart. We first had the testimony of one particular
9 officer and he testified that, well, they pulled a
10 weapon, and he said, if I didn't have three lugs
11 inside of here, I could have shot this particular
12 person and I didn't know what to do about the dog.

13 If he's incarcerated, he's not going to have a
14 weapon. He's not going to be able to shoot a dog.
15 He's not going to be able to shoot a police officer.

16 The second witness that testified was Amanda
17 Weaver. She testified that someone stole her .380
18 and there was possibly some talk where he was
19 drinking.

20 **THE COURT:** Are you going to give your closing
21 argument now as opposed to later?

22 **MR. WALTERS:** No, sir, I'm not.

23 **THE COURT:** Or are you just giving me a preview
24 of it or --

25 **MR. WALTERS:** I apologize, Your Honor. The

1 point is, is that the testimony that's being offered
2 is not relevant toward the issue of whether he could
3 -- the adaptability and the survivability of this
4 man in prison as opposed to putting him to death.
5 And, of course, once you have one witness testify
6 with regards to certain events, what purpose does it
7 serve to have five or six witnesses testify to the
8 same event over and over again?

9 THE COURT: I pose the same question then to
10 you, Mr. Sorenson. What's the test as to
11 admissibility of this evidence?

12 MR. SORENSON: Your Honor, I think there's some
13 cases that specifically say that it doesn't have to
14 be beyond a reasonable doubt. I think there's even
15 another case that indicated it doesn't have to be
16 clear and convincing, but I still think we have to,
17 Your Honor, prove to Your Honor, I mean, that is the
18 defendant. I mean, he hasn't conceded that, I don't
19 believe, that -- that it is him that, in fact, that
20 committed this crime.

21 THE COURT: At the beginning of the trial, the
22 Court inquired of the defendant as to whether the
23 defendant conceded anything as to evidence. And, of
24 course, anything that's conceded by the defendant
25 the State may not necessarily have to prove.

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1 And this is an issue that the Court ruled on
2 and ruled that it would be excluded from the jury
3 hearing during the guilt phase as being more
4 prejudicial than probative. Of course, when you get
5 to the sentencing phase, then the -- a separate
6 question is presented to the Court. And the
7 question before me now is as to whether or not this
8 evidence is of any possible benefit to the Court as
9 the Court considers the defendant's characteristics
10 as outlined in the case of State versus Skipper.
11 Over the objection of the defense, I'm going to
12 allow the item into evidence.

13 **MR. WALTERS:** Thank you, Your Honor.

14 (State's Exhibit Number 94, DVD, admitted
15 into evidence.)

16 **MR. SORENSON:** Your Honor, at this time, I
17 would like to publish State's Exhibit Number 94 for
18 the Court.

19 **THE COURT:** Yes, sir.

20 (Whereupon, State's Exhibit Number 94 was
21 played for the Court.)

22 (During the playing of State's Exhibit
23 Number 94, the following occurred.)

24 BY MR. SORENSON:

25 Q There's no sound; is that correct, Detective?

1 A Correct.

2 Q In the center of the counter there, Detective
3 Poe, is that -- that kind of the black outline, is
4 that the advertisement that you were referring to?

5 A Yes, it is.

6 (The playing of State's Exhibit Number 94
7 was completed.)

8 Q If I could, show you State's Exhibit 91. Is
9 that a still photograph off of the video?

10 A Yes, it is.

11 Q Does that indicate where Mr. Mahdi had placed
12 his left hand on that advertisement?

13 A Yes, it is.

14 MR. SORENSON: Move to offer State's Number 91
15 into evidence, Your Honor.

16 THE COURT: What says the defense?

17 MR. WALTERS: No objection, Your Honor.

18 THE COURT: It's admitted without objection.

19 (State's Exhibit Number 91, photograph,
20 admitted into evidence.)

21 BY MR. SORENSON:

22 Q And you had indicated, Detective, that --
23 earlier that after you had observed that portion up
24 to the point where you saw Mr. Mahdi, individual,
25 lean over the counter with his hand on the counter,

MIKE S. POE - CROSS BY MR. WALTERS

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1 that you then contacted other officers, crime scene
2 officers, that were at the scene?

3 A Yes, I did.

4 Q About collecting that advertisement?

5 A Yes.

6 MR. SORENSON: Thank you, Detective. Please
7 answer any questions Mr. Walters has.

8 MR. WALTERS: May it please the Court.

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. WALTERS:

12 Q I want to make sure I got your name correct.

13 Your last name is Pope?

14 A Poe, P-o-e.

15 Q Okay. I'm sorry. You've been a detective with
16 Winston-Salem Police Department for 19 years; is
17 that correct?

18 A Been employed by the Winston-Salem Police
19 Department. I haven't been a detective the entire
20 time.

21 Q All right. And this homicide occurred at the
22 Exxon station on Broad Street; is that right?

23 A Yes.

24 Q And I believe that the tape that we have is the
25 information that you reviewed that identified

1 Mr. Mahdi; is that correct?

2 A This is a DVD version of it.

3 MR. WALTERS: Your Honor, I have no further
4 questions.

5 THE COURT: Anything further from the State?

6 MR. SORENSON: Not from this witness, Your
7 Honor, no, sir.

8 THE COURT: Thank you, Officer. You may step
9 down.

10 MR. SORENSON: The State calls Phillip Seats.

11 PHILLIP SEATS,

12 having been duly sworn, testified as follows:

13 THE CLERK: State your full name for the
14 record.

15 THE WITNESS: Phillip Seats.

16 DIRECT EXAMINATION

17 BY MR. SORENSON:

18 Q Good afternoon, Investigator. If you would,
19 please tell the Court where it is that you're
20 employed.

21 A Winston-Salem Police Department in
22 Winston-Salem, North Carolina.

23 Q What are your current duties with the
24 Winston-Salem Police Department?

25 A I'm a crime scene supervisor.

1 Q And how long have you been employed in that
2 capacity?

3 A I have been a crime scene supervisor for six
4 years. I have been with the department for ten.

5 Q Okay. I want to turn your attention, if I
6 could, Investigator, back to the evening of July
7 15th, 2004. Did you have an opportunity to respond
8 out to the Exxon station on Broad Street in
9 Winston-Salem in reference to a homicide?

10 A Yes, I did.

11 Q And were you involved with other officers out
12 there in processing that scene that night?

13 A Yes.

14 Q If you would, describe for the Court what --
15 when you got there, what the condition of the scene
16 was out there.

17 A When I responded to the scene, the parking lot
18 area had been roped off with crime scene tape.
19 There were numerous detectives and officers and
20 other crime scene personnel there. The main crime
21 scene consisted of the interior of the business.
22 Upon entering the business, there's a counter area
23 to the left and the decedent was located behind the
24 counter area.

25 Q Were there any shell casings that were

1 collected from that area that evening?

2 A There were two shell casings.

3 Q Okay. And where were they collected from?

4 A One shell casing was located just inside of the
5 teller window on the counter. And a second shell
6 casing was located behind the counter area on the
7 ground at the decedent's feet.

8 Q Do you recall what caliber those shell casings
9 were?

10 A They were .380 automatic Remington and Peters.

11 Q .380 shell casings?

12 A Yes.

13 Q And how about any projectiles? Were there any
14 projectiles found out there at the scene?

15 A At the time, we located one projectile.

16 Q And where was that located at?

17 A It was in a package of BC Headache Powders on a
18 counter shelf behind the teller area.

19 Q Are you aware of whether another projectile was
20 recovered from the victim at the autopsy?

21 A Yes, there was one.

22 Q And are you aware if any other crime scene
23 personnel found another projectile at some later
24 date?

25 A Yes. On the following day, a second technician

PHILLIP SEATS - DIRECT BY MR. SORENSON

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1 was dispatched to the office area, which is
2 basically behind the teller counter. We had -- did
3 a preliminary search the day of the incident;
4 however, due to numerous papers, we were unable to
5 locate it. We secured the scene and the second unit
6 did locate the projectile.

7 Q Were you aware of how many times Mr. Boggs was
8 shot?

9 A To my knowledge, twice.

10 Q Twice. And those items, those shell casings
11 and those projectiles, were they submitted somewhere
12 for further testing?

13 A They were submitted to the North Carolina State
14 Bureau of Investigation.

15 Q Okay. Is that where they have a firearms
16 analyst there?

17 A Yes.

18 Q All right. Let me ask you, did you also -- was
19 there some other item that you were instructed to
20 collect because it had some significance in this
21 case?

22 A Yes.

23 Q And what was that item?

24 A My primary responsibility was latent prints.
25 In watching the crime scene video, I was instructed

1 and then also shown still photographs that the
2 suspect had placed his hand on the counter. There
3 was a, what I would call, a check writing mat, a
4 plastic advertisement and I was told to pay special
5 attention to that. As you could see, he placed his
6 hand on it.

7 Q Show you State's Exhibit 91. Does that
8 represent the person placing his left hand on that
9 black mat on the counter?

10 A Yes, it does.

11 Q And did you, in fact, collect that mat?

12 A Yes, I did.

13 Q And what did you do after collecting that mat
14 off the counter?

15 A I secured the mat and took it back to our
16 police department. The method I needed to process
17 it with was not available on scene. I took it back
18 to our lab area, at which time I used cyanoacrylate,
19 which is -- common term is super glue. The fuming
20 of the super glue adheres to the moisture of the
21 fingerprints. I was able to develop the
22 fingerprints by that method, as well as also black
23 fingerprint powder. I photographed and lifted the
24 prints.

25 Q Okay. Did you get what appeared to be some

1 usable latent prints off of that, that black mat?

2 A Yes, I got two identifiable latent prints.

3 Q Okay. Let me just go through just briefly with
4 you, Investigator. What kind of background have you
5 had with regards to fingerprint analysis?

6 A I've had training from the Federal Bureau of
7 Investigation, the State Bureau of Investigation,
8 North Carolina Justice Academy, as well as several
9 other classes. My position, basic entry is required
10 to obtain a 40-hour course in the identification and
11 classification of fingerprints, as well as thousands
12 of comparisons not only latent to known, but also
13 known to known.

14 Q And you've indicated that you've been a
15 supervisor with the crime scene unit there for six
16 years?

17 A Yes.

18 Q Okay. The prior four years, did you work in
19 the crime scene unit those prior four years, also?

20 A Yes.

21 Q Okay. So you've been, basically, lifting and
22 analyzing fingerprints for the last ten years?

23 A Yes.

24 Q Okay. Have you had an opportunity to testify
25 in court before?

1 A Yes, I have.

2 Q Approximately, how many times?

3 A Approximately, half a dozen to ten as an
4 expert.

5 Q Okay. Been qualified as an expert in
6 fingerprint analysis and comparison?

7 A Yes.

8 MR. SORENSON: Your Honor, at this time, we'd
9 offer Investigator Seats as an expert in the field
10 of fingerprint analysis and comparison.

11 THE COURT: Any voir dire on this issue?

12 MR. WALTERS: No objection, Your Honor.

13 THE COURT: No objection to his being
14 qualified?

15 MR. WALTERS: No voir dire.

16 THE COURT: He's qualified. There being no
17 objection, no voir dire, he is qualified.

18 MR. SORENSON: Thank you, Your Honor.

19 BY MR. SORENSON:

20 Q Did you then have an opportunity, Investigator
21 Seats, to take those two latent prints that you had
22 lifted off of that black advertisement and compare
23 them to the defendant, Mikal Mahdi's, known
24 fingerprints?

25 A Yes, I did.

1 Q And what were the results of that comparison?

2 A A positive match from one of the latent prints
3 was made to Mr. Mahdi's left ring finger. And a
4 second latent fingerprint was identified to the left
5 index finger of Mr. Mahdi.

6 Q So you matched his left ring finger and left
7 index finger?

8 A Yes.

9 Q To two of those lifts off of that mat. Is that
10 consistent with seeing the person touch that mat
11 with their left hand?

12 A Yes, it was.

13 MR. SORENSON: Beg the Court's indulgence.

14 (Pause.)

15 MR. SORENSON: Thank you, Investigator. Please
16 answer any questions that Mr. Walters (sic) might
17 have.

18 MR. KOGER: May it please the Court.

19 THE COURT: Yes.

20 CROSS-EXAMINATION

21 BY MR. KOGER:

22 Q Detective Seats, are you still working this
23 case in North Carolina?

24 A Yes.

25 Q Okay. So it's still open?

1 A Yes.

2 Q Okay. And this case has not gone to court yet,
3 correct?

4 A No, it has not.

5 Q So it's still pending?

6 A Yes.

7 Q And Mr. Mahdi has not gone to court and got
8 convicted on this matter, correct?

9 A No, he has not.

10 MR. KOGER: Thank you. No further questions.

11 MR. SORENSON: That'd be all that I have, Your
12 Honor. Thank you.

13 THE COURT: Officer, you may step down.

14 I find that the State has established by clear
15 and convincing evidence and perhaps more that the
16 offense did occur by this defendant in North
17 Carolina, that the evidence is relevant on the issue
18 of the defendant's characteristics as permitted by
19 State v. Skipper and other related cases and that
20 the evidence is properly admitted into this case to
21 be considered only as to defendant's characteristics
22 and not as proof of any alleged statutory
23 aggravating circumstances.

24 Your next witness.

25 MR. SORENSON: Your Honor, our next witness, I

1 just want to make sure that the Court's going to
2 allow us to call him, would be Agent Neal Morin, who
3 is the North Carolina Bureau of Investigations, the
4 firearm analyst on this Winston-Salem case. It will
5 be basically to link the .380 pistol that was stolen
6 from Ms. Weaver to this crime.

7 **THE COURT:** Mr. Walters.

8 **MR. WALTERS:** May it please the Court. Again,
9 Your Honor, this is cumulative and there's been a
10 finding by the Court already with regards to this
11 particular crime. We see no purpose of this.

12 **THE COURT:** You mentioned the particular weapon
13 and what's the...

14 **MR. SORENSON:** The purpose will be to link it.
15 He compares the two shell casings that are found,
16 along with the three projectiles from the Exxon
17 station, compares them to the .380 pistol that was
18 stolen from Ms. Weaver in Lawrenceville, Virginia.

19 **THE COURT:** That is in evidence?

20 **MR. SORENSON:** There are photographs of them in
21 evidence. They actually have them in evidence up in
22 their case in North Carolina.

23 **THE COURT:** I'll allow it over objection.

24 **MR. SORENSON:** Thank you, Your Honor. The
25 State calls Agent Neal Morin.

NEAL MORIN - DIRECT BY MR. SORENSON

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1 NEAL MORIN,
2 having been duly sworn, testified as follows:

3 THE CLERK: State your full name for the
4 record.

5 THE WITNESS: My name is Neal Morin. Last name
6 is M-o-r-i-n.

7 DIRECT EXAMINATION

8 BY MR. SORENSON:

9 Q Good afternoon, Agent Morin. If you would,
10 please tell the Court where it is that you're
11 employed?

12 A I work for the North Carolina State Bureau of
13 Investigation in Raleigh in the crime lab part.

14 Q Okay. And, specifically, what department do
15 you work in there at the crime lab?

16 A I work in the firearm and tool mark section as
17 a firearm and tool mark examiner.

18 Q If you would, just briefly give the Court, just
19 very briefly, your educational background.

20 A I have a Bachelors degree in Computer Science.
21 I've completed the North Carolina basic law
22 enforcement training, the North Carolina State
23 Bureau of Investigation Academy. And then we do a
24 two year structured and tested program in firearms
25 examination under the guidance of senior examiners

NEAL MORIN - DIRECT BY MR. SORENSON

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1 at the laboratory.

2 Q Okay. And how long have you been employed in
3 your current capacity?

4 A I've been with the bureau for about eight and a
5 half years. I've been an examiner now for about six
6 and a half years.

7 Q Okay. And as part of your duties, have you had
8 an opportunity obviously to examine probably
9 hundreds, if not thousands, of firearms?

10 A That's correct.

11 Q Okay. Have you had an opportunity to come
12 testify in court before about your findings with
13 regards to comparing shell casings and projectiles
14 to a specific firearm?

15 A Yes, I have.

16 Q You've been qualified as an expert before in
17 that regard?

18 A Yes, I have.

19 MR. SORENSON: At this time, we'd offer Agent
20 Morin as an expert in the field of firearm analysis.

21 THE COURT: What says the defense?

22 MR. KOGER: No objection, Your Honor.

23 THE COURT: He's admitted.

24 BY MR. SORENSON:

25 Q Very briefly, Agent, did you have an

1 opportunity to have several items submitted to you,
2 I guess, in reference to your lab number
3 R-2004-15622?

4 A Yes, sir, I did.

5 Q And, specifically, did you have a couple shell
6 casings, I believe looking at it, it's going to be
7 your lab numbers Q-1 and Q-2, two shell casings
8 submitted?

9 A Yes, sir, that's correct.

10 Q If you would, just describe for the Court what
11 those were, what type of shell casings.

12 A There were two, Remington was the manufacturer,
13 they were a caliber .380 auto fired cartridge cases.

14 Q And did you also have an opportunity, I believe
15 it's your items Q-3, Q-4 and Q-5, to have the three
16 projectiles submitted, also?

17 A Yes, sir, that's correct.

18 Q If you would, describe for the Court what those
19 three items were.

20 A They were two -- I'm sorry -- three
21 caliber .380 auto fired jacketed bullets.

22 Q Did you -- ultimately, were you submitted a
23 weapon to compare those two spent shell casings and
24 those three -- those three .380 rounds? Did you
25 have a weapon submitted to you to compare?

NEAL MORIN - DIRECT BY MR. SORENSON

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- 1 A Yes, sir, I was.
- 2 Q All right. And showing you State's Exhibits
- 3 84, which is two photographs, do you recognize the
- 4 item depicted in that photograph?
- 5 A Yes, sir.
- 6 Q And what is that item?
- 7 A This is a Davis caliber .380 auto,
- 8 semiautomatic pistol.
- 9 Q And is that the gun that was submitted to your
- 10 lab to compare those shell casings and projectiles?
- 11 A It looks like the firearm, yes.
- 12 Q And, specifically, do you have noted in your
- 13 report the make, model and serial number of the gun
- 14 that was submitted to you?
- 15 A Yes, sir, I do.
- 16 Q All right. And if you would, just publish that
- 17 for the Court.
- 18 A It's a Davis Industries caliber .380 auto,
- 19 semiautomatic pistol. The serial number is A-P, as
- 20 in able Peter, 157924 and it's a model P .380.
- 21 Q And showing you State's Exhibit Number 83, is
- 22 that the same model number and serial number that's
- 23 noted on that receipt right there?
- 24 A Yes, sir, it is.
- 25 Q Did you then have an opportunity to compare

1 that .380 semiautomatic pistol to those two spent
2 casings and those three projectiles?

3 **A** Yes, sir, I did.

4 **Q** If you would, tell the Court what your findings
5 were as regards to those comparisons.

6 **A** My findings were that the two fired cartridge
7 cases and three fired bullets were, in fact, fired
8 in and/or fired from that particular firearm.

9 **MS. SORENSON:** Thank you, Agent. Please answer
10 any questions the defense has.

11 **THE COURT:** Mr. Koger.

12 **MR. KOGER:** No questions, Your Honor.

13 **THE COURT:** All right. Officer, you may step
14 down.

15 **MR. SORENSON:** May he be excused, Your Honor?

16 **THE COURT:** You may be excused.

17 I find that this testimony is relevant and
18 probative on the issue of the defendant's theft of
19 the weapon from the victim, Weaver, or his
20 possession of the gun stolen from victim, Weaver.

21 **MR. SORENSON:** The State would call Lieutenant
22 Bill Cartwright, Your Honor.

23 **WILLIAM ALEXANDER CARTWRIGHT, III,**
24 having been duly sworn, testified as follows:

25 **THE CLERK:** State your full name for the

WILLIAM ALEXANDER CARTWRIGHT, III - DIRECT BY MR. PASCOE

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1 record.

2 THE WITNESS: William Alexander Cartwright, the
3 Third.

4 DIRECT EXAMINATION

5 BY MR. PASCOE:

6 Q Good afternoon, Lieutenant Cartwright. Where
7 do you work, sir?

8 A Calhoun County Sheriff's Office.

9 Q How long have you been with the Calhoun County
10 Sheriff's Office?

11 A Two years.

12 Q How long have you been in law enforcement all
13 together?

14 A Twenty-eight.

15 Q Where did you work before you worked at the
16 sheriff's office?

17 A Orangeburg Public Safety.

18 Q How well did you know Captain Jimmy Myers?

19 A Very well.

20 Q How did you meet him?

21 A At work.

22 Q How long --

23 A I was the lieutenant. He was the captain.

24 Q And how long had y'all been friends?

25 A About 14 years.

1 Q And tell the Judge how close a friendship you
2 had with Captain Myers?

3 A I sold him the land that he was murdered on. I
4 sold him 37 acres. He wanted to get out of
5 Orangeburg and get out into the country.

6 Q And, in fact, you mentioned the land that you
7 sold him. The aerial in State's Exhibit 1, does
8 that accurately depict that land where you sold him
9 right around here?

10 A Yes, sir, it does.

11 Q And what's the name of this road, in fact?

12 A Cartwright Road.

13 Q Who owns all of this property over here?

14 A I do, sir.

15 Q Do you know is there an easy way to get from
16 Cartwright Road to Jimmy's farm?

17 A Yes, sir, there's a fire break.

18 Q Right through the woods?

19 A Yes, sir.

20 Q Leads right to his farm?

21 A Yes, sir.

22 Q Tell Judge Newman what kind of person Jimmy
23 was.

24 A Jimmy was a very meticulous person. He was --
25 he paid great detail to attention -- attention to

1 detail. He loved the land. He farmed it. In fact,
2 he would help me from time to time do my wildlife
3 plots as well.

4 Q Where were you when you learned that Jimmy had
5 been murdered?

6 A I was in Georgia at that time.

7 Q And what did you do when you found out?

8 A I came back home the next morning.

9 Q And if you could, describe for Judge Newman the
10 impact that Jimmy's death has had on you in the last
11 two and a half years.

12 A In fact, this is the second friend that I've
13 had murdered in 28 years while doing this job. The
14 first one was Tommy Harrison and then Captain Myers,
15 or Jimmy, was murdered. I've had to go through
16 counseling, some counseling to get some things
17 straight for me.

18 Q As a result of Jimmy's death?

19 A Yes, sir.

20 MR. PASCOE: Thank you, sir. Answer any
21 questions the defense counsel has for you.

22 MR. WALTERS: No questions, Your Honor.

23 THE COURT: All right. Thank you. You may
24 step down.

25 MR. PASCOE: The State would call Captain Mike

MICHAEL ANTHONY ADAMS - DIRECT BY MR. PASCOE

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1 Adams, Your Honor.

2 MICHAEL ANTHONY ADAMS,

3 having been duly sworn, testified as follows:

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

6 THE WITNESS: Michael Anthony Adams.

7 DIRECT EXAMINATION

8 BY MR. PASCOE:

9 Q Good afternoon, Captain.

10 A Good afternoon.

11 Q Where do you work, sir?

12 A I'm employed with the Orangeburg Department of
13 Public Safety.

14 Q Okay. And how long have you worked with
15 Orangeburg?

16 A Twenty years.

17 Q And in law enforcement all together?

18 A Twenty years.

19 Q Just 20 years. How long did you know Jimmy
20 Myers?

21 A Jimmy and I started running together in the
22 early 1990's.

23 Q Okay. How close a friendship did you have with
24 Captain Jimmy Myers?

25 A Well, Jimmy was my best friend. Jimmy and I

1 had a lot of common interests. We both had a love
2 for hunting and fishing, scuba diving. He was an
3 avid scuba diver.

4 Q How often would y'all see each other?

5 A We saw each other everyday.

6 Q Everyday. Y'all worked together?

7 A Yeah, we worked together, talked together, ate
8 lunch together, you know, all those things that
9 friends do.

10 Q And did you ever go out to Jimmy's shed and
11 property here in Calhoun County?

12 A All the time.

13 Q In all that time, can you put a number on how
14 many times you've been out there?

15 A Well, since Jimmy and Amy set up shop out
16 there, I guess I'd been out there a hundred times or
17 better. I'd go out there to feed ducks, to fish, to
18 chat, plan our next hunting trip, plan our next
19 fishing trip, you know, whatever the case may be.
20 It was really a place to reflect and blow off a
21 little steam. The job was stressful at times, so it
22 was a sanctuary.

23 Q And were you -- since you've been out there
24 well over a hundred times, were you aware of the
25 items that Jimmy kept in the shed?

1 A I am. I'm aware of a lot of the tools and
2 other things he had in there because often times
3 there would be some wood working, he was an avid
4 wood worker. And, you know, he had antique tools
5 that I found very interesting. Hand drills and some
6 of the tools he had were well over a hundred years
7 old. And each tool had a history and we would often
8 discuss that. We would pull a hundred year old tool
9 off the wall and discuss the history behind it, what
10 it was used for and how it was made and things of
11 that nature.

12 Q I'm going to ask you about just a few weapons
13 real fast, okay? Do you recognize State's Exhibit
14 77?

15 A Yes, sir, I do recognize that. That is a Ruger
16 Mini 14 with a selected trigger group. Our agency
17 got four of those weapons. At one time, I was
18 issued one of those.

19 Q And whose weapon is that right there?

20 A That's Jimmy's weapon.

21 Q And that was his city issued weapon?

22 A Yes, sir.

23 Q Do you recognize -- and where would Jimmy keep
24 State's Exhibit 77?

25 A That was kept in his pick-up.

1 Q Okay. That was kept in his white, city issued
2 pick-up?

3 A Yeah. He had a white Dodge quad-cab with a
4 hemi.

5 Q Do you recognize State's Exhibit 92?

6 A I would like to take a look at it, please.

7 Q Okay.

8 A I do. That's a 12-gauge Ithaca pump shotgun.
9 It's got U.S. stamped on the side of it. That's
10 Jimmy's shotgun.

11 Q Is it altered in any way from the way Jimmy
12 kept it?

13 A It appears that the stock and barrel has been
14 shortened.

15 Q And is the color any different?

16 A Yeah. The -- originally, the wood was just
17 regular mat brown finish. It appears to have been
18 painted.

19 Q Did Jimmy do any of those changes?

20 A No, sir.

21 Q Where did Jimmy keep the shotgun?

22 A He kept them in his shed.

23 Q And do you recognize State's Exhibit 93?

24 A I'd like to look at it, please.

25 Q Sure.

1 A Yes, sir, I do recognize that. That's a
2 Remington .22 Speed Master. That's a .22 long
3 rifle.
4 Q And who did State's Exhibit 93 belong to?
5 A That was Jimmy's rifle.
6 Q Where did he keep this .22?
7 A Often times he kept it right by the door at his
8 shed.
9 Q Point out to the Judge on State's Exhibit 2
10 maybe where Jimmy kept that .22 rifle.
11 A He would often times have it right here by the
12 workbench right when you come in the door.
13 Q So it would be the first door, it would be
14 right over here?
15 A Yes, sir, the first door that you come into.
16 Q Is there a story behind that rifle that you're
17 familiar with?
18 A Ye, sir. Jimmy and I were diving in the Edisto
19 River. We'd, at often times, find old bottles. We
20 have huge collections of old bottles and artifacts,
21 everything from the Civil War to artifacts and
22 fossils from the Pleistocene and Oligocene period.
23 So this particular rifle, we were diving and
24 Jimmy came across the rifle. I found a, I think, a
25 tackle box and a fishing rod. And he brought it up

MICHAEL ANTHONY ADAMS - DIRECT BY MR. PASCOE

1521

1 and it really looked awful. I mean, it was just
2 covered in rust and the stock was wormy. And he's
3 like, Man, I think I can fix this thing up. I'm
4 like, Man, that's a lost cause right there. But he
5 said, no, he could do it.

6 He was such a talented individual when it came
7 to really just about anything. And he decided he
8 was going to undertake the restoration of that
9 rifle. We should have left it in the river.

10 Q Where were you when you learned of Jimmy's
11 murder?

12 A I was in Myrtle Beach.

13 Q And what were you doing in Myrtle Beach?

14 A I'm on the board of directors for the South
15 Carolina Law Enforcement Officer Association. I was
16 at a meeting.

17 Q And how did you end up finding out about
18 Jimmy's murder that night?

19 A I've relived this day a thousand times it
20 seems. I was laying in the bed with my wife at the
21 hotel. I had my children with me and the phone
22 rang, I was watching America's Deadliest Catch or
23 the Deadliest Catch about crab fishing, and it was
24 Chief Davis. And he's like, Mike, I guess you
25 heard. I'm like, Heard what? And he told me that

1 Jimmy was dead. And I said, Jimmy who? You know,
2 it didn't register. And he said, Jimmy Myers. And
3 I felt like my heart was going to come out of my
4 chest. I said, Jimmy Myers is dead?

5 And when I said that, my wife just immediately
6 started screaming. My daughter, oldest daughter was
7 16 at the time, she immediately broke down. My
8 four-year-old broke down. And it was just chaos in
9 that little motel room.

10 Q And what did you end up doing that night?

11 A Pardon?

12 Q What did you do that night after learning of
13 Jimmy's death?

14 A I managed to get up out of the bed and get my
15 clothes on and go outside and Mark Keil, who is the
16 assistant director of the State Law Enforcement
17 Division, happened to be there and he comes out and
18 Chief Davis comes out. And we get into a car and
19 we're driven back here to Calhoun County from Myrtle
20 Beach to the crime scene.

21 Q What was that drive like?

22 A It was indescribable.

23 Q What has the impact of Jimmy's death been upon
24 you personally?

25 A Mr. Pascoe, I don't worry about me so much,

MICHAEL ANTHONY ADAMS - DIRECT BY MR. PASCOE

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1 it's what it's done to my family. I have a
2 six-year-old that constantly asks me, Why did that
3 man kill Captain Myers? She didn't call him Jimmy,
4 she called him Captain Myers. She thought the sun
5 rose and set in Jimmy. I said, I can't explain that
6 to you. And I'll never be able to explain that.

7 I have fought for two years to hold myself
8 together and hold my family together knowing that
9 this was coming and it's been very difficult for me.
10 So my life, I don't really feel like it will ever be
11 the same. I feel robbed of a great friend, somebody
12 who taught me so much, but he still had so much more
13 to teach me and not only me, but other people
14 around.

15 He was a man that if you were to go home today
16 and your house would be leveled, let's just say some
17 natural event happened, he's a man that could look
18 at your property, he could grade it, he could fell a
19 tree and he could make lumber. He could build you a
20 house. He could make you furniture. He could plant
21 you food and he could get you on your feet. It's a
22 man that showed me how to make planks. I learned
23 how to make split rail fence. I learned how to make
24 wooden shingles. I learned wood working from him.
25 He was -- and the man was just so full of knowledge

1 and he taught me so much. And I'm grateful for the
2 time that I had with him. And I feel cheated that I
3 didn't have a lot more time with him.

4 **MR. PASCOE:** Thank you, Captain.

5 That's all I have, Your Honor.

6 **MR. WALTERS:** We have no questions, Your Honor.

7 **THE COURT:** All right. Captain, you may step
8 down.

9 **MR. PASCOE:** With the Court's permission,
10 that's all the State would have for today, Your
11 Honor.

12 **THE COURT:** Court will be in recess until ten
13 o'clock tomorrow morning.

14 **MR. PASCOE:** Thank you, Your Honor.

15 (Defendant leaves the courtroom.)

16 (Pause.)

17 **THE COURT:** On this discovery issue concerning
18 -- Mr. Sorenson, what is this?

19 **MR. SORENSON:** Your Honor, if you recall, it's
20 probably been a couple months ago, I don't have my
21 motions notebook with me, the defense had made a
22 motion, which the Court granted and instructed us to
23 inquire of any of the local law enforcement agencies
24 where we have witnesses that are involved of any
25 potential disciplinary matters or anything that

1 could potentially be impeachable and I had indicated
2 that I would do that.

3 And, in fact, we did send a letter to the
4 department of corrections, to the State Law
5 Enforcement, to Orangeburg Public Safety, Calhoun
6 Sheriff's Office, all of the South Carolina law
7 enforcement agencies. And that's the response we
8 got back in reference to -- the only, so to say,
9 positive response we got back regarding any
10 witnesses that we're going to call. We noticed
11 three, I believe it's Ms. Sellers, Ms. Driggers and
12 Officer Prioleau are three of our witnesses for
13 tomorrow.

14 **THE COURT:** Did you intend to call anyone from
15 the Columbia Police Department?

16 **MR. SORENSON:** We did. And we sent a letter to
17 them also, but we ended up not calling -- I mean, we
18 didn't have to call any of them, so.

19 **THE COURT:** All right. You do not plan to call
20 any of them?

21 **MR. SORENSON:** No, sir.

22 **THE COURT:** Well, regarding the folks in the
23 department of corrections that was sent to the
24 Solicitor's office and requesting that it be
25 submitted to me under seal for my ruling on the

1 admissibility, I find that it is proper to disclose
2 these things to defense counsel as they may bear
3 upon credibility. I order that they be provided a
4 copy of it.

5 MR. SORENSON: I don't have another copy, so I
6 can get that done right now.

7 THE COURT: Anything on this issue,
8 Mr. Walters?

9 MR. WALTERS: No, sir, Your Honor.

10 THE COURT: Back in recess until the morning.
11 (Whereupon, the proceedings were concluded
12 for December 4, 2006.)

13 (The following proceedings were held on
14 December 5, 2006.)

15 (State's Exhibit Numbers 95 through 103 were
16 marked for identification purposes.)

17 THE COURT: Good morning.

18 MR. WALTERS: Good morning, Your Honor.

19 MR. PASCOE: Good morning.

20 THE COURT: Mr. Solicitor, your next witness.

21 MR. PASCOE: Thank you, Your Honor. The State
22 calls Ms. Barbara Amos.

23 BARBARA ANN AMOS,
24 having been duly sworn, testified as follows:

25 THE CLERK: Please state your full name for the

BARBARA ANN AMOS - DIRECT BY MR. PASCOE

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1 record.

2 THE WITNESS: Barbara Ann Amos.

3 DIRECT EXAMINATION

4 BY MR. PASCOE:

5 Q Good morning, Ms. Amos.

6 A Good morning.

7 Q Where are you from, ma'am?

8 A Virginia.

9 Q I want to thank you for coming down here this
10 morning. Where do you work?

11 A I work for the Virginia Department of Juvenile
12 Justice.

13 Q And how long have you been with DJJ in
14 Virginia?

15 A For almost eight years, since February of '99.

16 Q And what are your duties with the department of
17 juvenile justice?

18 A I'm currently a counselor supervisor.

19 Q Okay. And what all does that entail?

20 A Supervising counseling services of my
21 counselors to the residents housed in our system.

22 Q Okay. Residents being the juveniles of the
23 department of juvenile justice?

24 A Yes, sir.

25 Q Were these your duties back in June of 1999

1 through May of 2000?

2 A No, sir. I was an actual counselor at that
3 time.

4 Q And as a counselor, what are your duties with
5 the juveniles? What would you do?

6 A Basically, I acted as a case manager. I
7 completed progress notes and case notes, met with
8 individuals for individual sessions, conducted
9 groups.

10 Q And during that time, ma'am, in 1999 and 2000,
11 did you counsel the defendant, Mikal Mahdi, while he
12 was at DJJ committed for contempt of court and
13 obstruction of justice?

14 A Yes, sir.

15 Q Okay. And did you take extensive notes in your
16 dealings with Mr. Mahdi while he was committed there
17 and while you were counseling him between,
18 specifically, August 9th of 1999 through April 27th
19 of 2000?

20 A Yes, sir.

21 Q And are these notes and documents, are they
22 kept at the department of juvenile justice in
23 Virginia during the regular course of business?

24 A Yes.

25 Q Let me show you what's been marked as State's

BARBARA ANN AMOS - DIRECT BY MR. PASCOE

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1 Exhibit 95, see if you recognize those.

2 A Yes, sir.

3 Q And what do you recognize those documents to
4 be, ma'am?

5 A These are our running case records that we keep
6 on individuals who are assigned to our case loads.

7 Q And, specifically, whose records are those?

8 A These were mine and others who dealt with
9 Mr. Mahdi.

10 Q Okay. And those are your specific notes
11 dealing with Mr. Mahdi?

12 A Yes, sir.

13 Q Do they fairly and accurately depict and
14 contain your notes from counseling Mr. Mahdi while
15 he was at DJJ from August 9th to April 27th?

16 A Yes, sir.

17 MR. PASCOE: I'd ask they be admitted into
18 evidence, Your Honor.

19 THE COURT: What says the defense?

20 MR. WALTERS: Without objection, Your Honor.

21 THE COURT: They are admitted without
22 objection.

23 (State's Exhibit Number 95, Culpeper
24 Department of Juvenile Justice records, admitted
25 into evidence.)

HENRY LEE JOHNSON - DIRECT BY MR. SORENSON

1530

1 MR. PASCOE: Thank you, Your Honor. Thank you,
2 Ms. Amos, for coming.

3 MR. KOGER: No questions.

4 THE COURT: Thank you, ma'am. You may step
5 down.

6 MR. SORENSON: State calls Henry Johnson.

7 HENRY LEE JOHNSON,
8 having been duly sworn, testified as follows:

9 THE CLERK: State your full name for the
10 record.

11 THE WITNESS: Henry Lee Johnson.

12 DIRECT EXAMINATION

13 BY MR. SORENSON:

14 Q Good morning, Officer Johnson. How are you?

15 A Fine.

16 Q If you would, please tell the Court where it is
17 that you're employed.

18 A Lee Correctional Institution in Bishopville,
19 South Carolina.

20 Q Lee Correctional Institution. What are your
21 current -- your current jobs at Lee Correctional
22 Institution?

23 A I'm a correction officer.

24 Q All right. And how long have you been employed
25 there?

HENRY LEE JOHNSON - DIRECT BY MR. SORENSON

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- 1 A Six years.
- 2 Q Six years, all right. And I want to turn your
3 attention, if I could, back, initially, to January
4 18th of 2005. Were you working that day at Lee
5 Correctional Institution?
- 6 A Yes, sir.
- 7 Q All right. And were you present during an
8 inmate disciplinary hearing involving safe keeper,
9 Mikal Mahdi, at the department of corrections?
- 10 A Yes.
- 11 Q Okay. And do you recall what that disciplinary
12 hearing involved, what it was for?
- 13 A Yes.
- 14 Q If you would, tell the Court what it was for.
- 15 A Striking an employee charge.
- 16 Q Striking an employee, that was another
17 correctional officer that was struck?
- 18 A Yes.
- 19 Q And do you recall any comments or any
20 statements that Mr. Mahdi made during that
21 disciplinary hearing regarding that correctional
22 officer that he allegedly struck?
- 23 A Yes.
- 24 Q Who was that correctional officer?
- 25 A Officer G. Tony.

1 Q Okay. And if you would, tell the Court --

2 MR. WALTERS: Excuse me, Your Honor. I'm
3 sorry. I can't hear the witness. Could you speak
4 up some, sir?

5 THE COURT: Sir, if you can pull the mike to
6 you a little bit, raise it up and pull it to you.
7 BY MR. SORENSON:

8 Q Who was that employee?

9 A Officer G. Tony.

10 Q G. Tony?

11 A Yes.

12 Q Okay. And if you would, tell the Court what
13 comments or statements Mr. Mahdi made in reference
14 to Officer Tony that day during that hearing.

15 A Well, he said, the next chance he get, he's
16 going to kill him, kill that mother fucking officer.
17 He was talking to G. Tony. The first chance he get,
18 he would finish him off.

19 Q He made those during that disciplinary hearing?

20 A Yes.

21 Q Now, the next incident I want to talk to you
22 about, if I could, Officer Johnson, on March the
23 10th of 2005, were you involved in a routine cell
24 search of Mr. Mahdi's cell out at Lee Correctional
25 Institution?

HENRY LEE JOHNSON - DIRECT BY MR. SORENSON

1533

- 1 A Yes.
- 2 Q What was he doing at Lee; do you recall? How
- 3 was he classified when he was there?
- 4 A Classified as a safe keeper.
- 5 Q Safe keeper. So he's not actually a state
- 6 inmate, he was there from Calhoun County?
- 7 A Yes.
- 8 Q And were you involved that day on March the
- 9 10th of 2005 with conducting a routine cell search
- 10 of Mr. Mahdi's cell?
- 11 A Yes.
- 12 Q Okay. And what, if anything, did y'all find in
- 13 his cell that day?
- 14 A Some rope and some metal, some pieces of metal.
- 15 Q Okay. If I could, I want to show you State's
- 16 Exhibit Number 96 and ask you if you recognize this
- 17 Polaroid photograph?
- 18 A Yes, sir.
- 19 Q Okay. And are those the items that were
- 20 recovered from Inmate Mahdi's cell that day?
- 21 A Yes.
- 22 Q And possibly how long was the rope that was
- 23 recovered from his cell?
- 24 A About three or four feet, could be longer.
- 25 Q Let me ask you, does it document that on the

1 photograph how long it was?

2 A Yeah, 13 feet.

3 Q Thirteen feet. And the pieces of metal, where
4 were the pieces of metal found?

5 A In a fixture inside of a light.

6 Q A light fixture?

7 A Yes.

8 MR. SORENSON: Your Honor, at this time, we'd
9 offer State's Exhibit Number 96 into evidence.

10 THE COURT: What says the defense?

11 MR. KOGER: No objection.

12 THE COURT: It is admitted.

13 (State's Exhibit Number 96, photograph,
14 admitted into evidence.)

15 BY MR. SORENSON:

16 Q And the cell where Inmate Mahdi is, is there
17 anybody else in that cell or is he housed by himself
18 in that cell?

19 A Housed by himself.

20 MR. SORENSON: Thank you, Officer Johnson.
21 Please answer any questions Mr. Koger has.

22 THE COURT: Yes, sir, Mr. Koger.

23 CROSS-EXAMINATION

24 BY MR. KOGER:

25 Q Were any other items found in that cell?

HENRY LEE JOHNSON - CROSS BY MR. KOGER

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- 1 A Not in that particular day.
- 2 Q Not in that particular day, okay. And did
3 y'all question Mr. Mahdi about what his intention
4 would have been with that rope?
- 5 A I didn't, my supervisor did.
- 6 Q Okay. And you testified, too, that Mr. Mahdi
7 threatened a G. Tony?
- 8 A Yes.
- 9 Q And this was at some type of disciplinary
10 hearing, correct?
- 11 A Yes.
- 12 Q Okay. And he was brought there because he
13 allegedly struck Mr. Tony?
- 14 A Yes.
- 15 Q What type of injuries did Mr. Tony suffer?
- 16 A He had a mild concussion. He had to get take
17 out by EMS the day before.
- 18 Q Is he currently still working at the department
19 of corrections?
- 20 A Yes.
- 21 Q Okay. And the comment was that he would finish
22 Mr. Tony off, correct?
- 23 A Yes.
- 24 Q Okay. How long after he made that comment did
25 Mr. Mahdi remain at Lee Correctional Institute?

WICKLIFFE MCPHERSON - DIRECT BY MR. SORENSON

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1 A I don't have no idea.

2 Q Okay. And you said Mr. Tony is doing fine
3 right now? I mean, he's working at the department
4 of corrections?

5 A Yes.

6 Q At Lee Correctional?

7 A Yes.

8 Q And he's doing fine?

9 A As far as I know.

10 Q Okay. So Mr. Mahdi didn't finish him off?

11 A No, sir.

12 MR. KOGER: Thank you. No further questions.

13 THE COURT: Mr. Sorenson.

14 MR. SORENSON: Nothing further, Your Honor.

15 THE COURT: Thank you, sir. You can step down.

16 MR. SORENSON: The State calls Officer

17 McPherson.

18 WICKLIFFE MCPHERSON,

19 having been duly sworn, testified as follows:

20 THE CLERK: State your full name for the
21 record, please, sir.

22 THE WITNESS: Wickliffe McPherson.

23 DIRECT EXAMINATION

24 BY MR. SORENSON:

25 Q If you could, spell your first name for us.

WICKLIFFE MCPHERSON - DIRECT BY MR. SORENSON

1537

- 1 A W-i-c-k-l-i-f-f-e.
- 2 Q And, Officer McPherson, where are you employed?
- 3 A At Lee Correction Institution.
- 4 Q Okay. And how long have you been employed at
- 5 Lee?
- 6 A Thirteen years.
- 7 Q And what are your current duties out there?
- 8 A Sergeant, oversee the officers, the inmates.
- 9 Q Okay. I want to turn your attention, if I
- 10 could, Officer McPherson, back to February 9th of
- 11 last year of 2005. Were you employed at Lee at that
- 12 point in time?
- 13 A Yes, sir.
- 14 Q Okay. And let me ask you, are you familiar
- 15 with the defendant in this case, Mikal Mahdi?
- 16 A Yes, sir.
- 17 Q And was he housed out at Lee at that point in
- 18 time?
- 19 A Yes, sir.
- 20 Q Okay. And what was his custody status out
- 21 there at Lee back in February of '05?
- 22 A He was a safe keeper.
- 23 Q A safe keeper. And, specifically, on that day,
- 24 had there been an occasion when he had been
- 25 interviewed in a conference room by some law

1 enforcement officers?

2 A Yes, sir.

3 Q Okay. And after that interview, had he been
4 left alone in that conference room for a short
5 period of time?

6 A Yes, sir, he was left there.

7 Q And did you have an opportunity, officers out
8 there, after he was escorted out of that conference
9 room to go in and search that room?

10 A Yes, sir.

11 Q Let me show you State's Exhibit Number 97.
12 When y'all went and searched that conference room,
13 did you find any damage had been done inside of that
14 conference room?

15 A Yes, sir.

16 Q Okay. And if you would, describe for the Judge
17 what that damage was.

18 A It was the wall socket being torn up and the
19 cover taken off and little pieces were missing from
20 it.

21 Q And showing you State's Exhibit Number 97, does
22 that depict that damage to that --

23 A Yes, sir.

24 MR. SORENSON: Your Honor, at this time, we'd
25 offer Number 97 into evidence.

WICKLIFFE MCPHERSON - DIRECT BY MR. SORENSON

1539

1 MR. KOGER: Without objection.

2 THE COURT: It's admitted.

3 (State's Exhibit Number 97, photograph,
4 admitted into evidence.)

5 BY MR. SORENSON:

6 Q And then you had indicated there were some
7 pieces missing from that socket or whatever that --
8 telephone jack or whatever that is in the wall; is
9 that correct?

10 A Yes, sir.

11 Q Did y'all have an opportunity then to search
12 the defendant, Mikal Mahdi, to see if he had any of
13 those items on him?

14 A Yes, sir. When we realized that there was
15 damage done to the socket, that's when we thought
16 about searching him and then we found those items on
17 him.

18 Q And showing you State's Exhibit Number 98, does
19 that depict the items that were found on Mr. Mahdi
20 then that day?

21 A Yes, sir.

22 MR. SORENSON: We'd offer State's Number 98
23 into evidence.

24 MR. KOGER: Without objection, Your Honor.

25 THE COURT: Admitted without objection.

1 (State's Exhibit Number 98, photograph,
2 admitted into evidence.)

3 BY MR. SORENSON:

4 Q And did y'all then have an opportunity,
5 subsequent to all of that, to then conduct a search
6 of his cell?

7 A Yes, sir. Before we took him back, then we
8 thought about, with him trying to get all of these
9 contraband, we thought about checking his cell, so
10 we went ahead and checked his cell.

11 Q Did y'all find any items in his cell that would
12 be considered contraband?

13 A Yes, sir. It was rope made with sheets and
14 blanket, a long rope about 15 feet or so long.

15 Q Okay. And showing you State's Exhibit Number
16 99, does that depict the item that was found in his
17 cell back on February 9th of 2005?

18 A Yes, sir.

19 MR. SORENSON: Your Honor, at this time, we'd
20 offer State's 99 into evidence.

21 MR. ROGER: Without objection, Your Honor.

22 THE COURT: It's admitted without objection.

23 (State's Exhibit Number 99, photograph,
24 admitted into evidence.)

25 BY MR. SORENSON:

WICKLIFFE MCPHERSON - CROSS BY MR. KOGER

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1 Q And, Officer McPherson, back at that time on
2 February 9th of 2005, was the defendant, Mikal
3 Mahdi, who was there as a safe keeper, was he housed
4 in a cell by himself?

5 A Yes, sir.

6 MR. SORENSON: Thank you, officer. Please
7 answer any questions the defense might have.

8 CROSS-EXAMINATION

9 BY MR. KOGER:

10 Q Officer McPherson, you stated he was placed in
11 a conference room for a period of time?

12 A Yes, sir.

13 Q What was the nature of him being placed in the
14 conference room for a period of time?

15 A Someone came there to interview him and after
16 the interview, he was left in the room in order for
17 us to get an officer to take him back to his cell.
18 So he was in there for a short period of time. And
19 by the time we --

20 Q Okay. And what would you consider a short
21 period of time?

22 A It shouldn't be anymore than about 15 minutes,
23 maybe.

24 Q Fifteen minutes. Is that standard for an
25 inmate of Mr. Mahdi's status to be kept in a

1 conference room by himself for 15 minutes?

2 A Well, it was a locked area, so it was okay for
3 us to keep him there.

4 Q So according to you, it was secure?

5 A Yes.

6 Q Okay. All right. And yet he -- but, yet, he
7 got these items out of the room?

8 A Yes, sir, the electrical plug on the wall.

9 Q Okay. But according to your testimony, you
10 were able to recover all of those items?

11 A Yes, sir.

12 Q All right. And any items that were left back
13 in his cell, you were able to recover those
14 contrabands, too?

15 A Yes, sir.

16 Q Okay. So once you did the necessary searches
17 and everything, everything was recovered?

18 A Yes, sir.

19 MR. KOGER: Thank you. No further questions.

20 MR. SORENSON: Nothing further, Your Honor.

21 THE COURT: Thank you, sir. You may step down.

22 MR. SORENSON: The State calls Officer Terrance
23 Prioleau.

24 *****

25 *****

TERRANCE PRIOLEAU - DIRECT BY MR. SORENSON

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1 TERRANCE PRIOLEAU,
2 having been duly sworn, testified as follows:

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

5 THE WITNESS: My name is Terrance Prioleau.

6 DIRECT EXAMINATION

7 BY MR. SORENSON:

8 Q Officer Prioleau, where are you employed?

9 A Lee County, Lee Correctional Institution.

10 Q Lee Correctional Institution. And how long
11 have you been employed there?

12 A About six and a half years.

13 Q And what are your current duties out there at
14 Lee?

15 A I'm a C.O., correctional officer.

16 Q I want to turn your attention, if I could, back
17 to May the 6th of 2005. Were you working there at
18 that time as a correctional officer?

19 A Yes, sir.

20 Q Okay. Were you involved in kind of a routine
21 shake down of the defendant in this case, Mikal
22 Mahdi's cell?

23 A Yes, sir.

24 Q And was a piece of metal found in his cell at
25 that point in time?

TERRANCE PRIOLEAU - DIRECT BY MR. SORENSON

1544

1 A Yes, sir.

2 Q And showing you State's Exhibit Number 100,
3 does that depict that piece of metal that was
4 recovered out of Mr. Mahdi's cell?

5 A Yes, sir.

6 MR. SORENSON: At this time, Your Honor, we'd
7 offer State's Exhibit Number 100 into evidence.

8 MR. WALTERS: No objection, Your Honor.

9 THE COURT: It's admitted.

10 (State's Exhibit Number 100, photograph,
11 admitted into evidence.)

12 BY MR. SORENSON:

13 Q Do you recall specifically where that was found
14 in his cell?

15 A Yes. It was found inside -- it used to be an
16 intercom, but it's just a blank hole.

17 Q So it's a hole where an intercom used to be in
18 the cell?

19 A Used to be at, yeah.

20 Q Inside the hole?

21 A Yeah.

22 Q And Mr. Mahdi, at that point in time, would he
23 have been in a cell by himself?

24 A Yes.

25 MR. SORENSON: Thank you, Officer Prioleau.

TERRANCE PRIOLEAU - CROSS BY MR. WALTERS

1545

1 Please answer any questions Mr. Walters has.

2 MR. WALTERS: May it please the Court.

3 Solicitor.

4 CROSS-EXAMINATION

5 BY MR. WALTERS:

6 Q Officer Prioleau, evidently, you located this
7 piece of metal inside the cell; is that correct?

8 A Yes, sir.

9 Q All right. But no one escaped from the jail,
10 did they?

11 A No, sir.

12 Q All right. And your institution, Lee
13 Correctional Institution, it's well equipped to
14 handle Mr. Mahdi; isn't that correct?

15 A Yes, sir.

16 Q You would agree, wouldn't you?

17 A Yes, sir.

18 Q You can perform your job?

19 A Yes, sir.

20 Q And you've got other C.O.'s that are trained to
21 perform their job?

22 A Right.

23 Q And you normally have problems with prisoners
24 within the jail; is that correct?

25 A Yes, sir.

1 Q And you normally have to check them all the
2 time to see if they've got something in their hand
3 or if they've removed something; is that right?

4 A Yes, sir.

5 Q So you have procedures and protocol and
6 logistical systems to deal with people in the jail;
7 is that right?

8 A Yes, sir.

9 Q Has this been a great burden on you because you
10 found a piece of metal inside of a cell?

11 A No, sir.

12 Q Not at all. In fact, when you incarcerate
13 people, sometimes you expect things like this to
14 happen, don't you?

15 A Right.

16 Q All right. But as far as Mr. Mahdi's stay in
17 the jail, he was incarcerated, he never escaped, did
18 he?

19 A No, sir.

20 Q Didn't have any problems, did you?

21 A No, sir.

22 Q The only thing you had to do was police this
23 man like you police any other inmate; is that
24 correct?

25 A Right.

JANET DRIGGERS - DIRECT BY MR. SORENSON

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1 **MR. WALTERS:** Your Honor, I have no further
2 questions.

3 **THE COURT:** Anything further?

4 **MR. SORENSON:** No, sir.

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

6 **MR. SORENSON:** The State calls Janet Driggers.

7 JANET DRIGGERS,

8 having been duly sworn, testified as follows:

9 **THE CLERK:** Please state your full name for the
10 record.

11 **THE WITNESS:** Janet Driggers.

12 DIRECT EXAMINATION

13 BY MR. SORENSON:

14 **Q** Good morning, Ms. Driggers.

15 **A** Good morning.

16 **Q** If you would, tell the Court where it is that
17 you're currently employed.

18 **A** I'm currently employed at Walden Correctional
19 in Columbia.

20 **Q** Okay. And what are your current duties at
21 Walden?

22 **A** I'm an administrative assistant to the warden.

23 **Q** And how long have you been in that position?

24 **A** That position only since the 2nd of November.

25 **Q** And prior to that, where were you employed?

1 A Prior to that, I was employed at Lee
2 Correctional.

3 Q Okay. And what were your duties at Lee
4 Correctional Institution?

5 A For ten years prior to the time I left there, I
6 was a grievance coordinator.

7 Q Okay. And if you would, just briefly describe
8 for the Judge what a grievance coordinator is.

9 A The grievance coordinator processes inmate
10 complaints. We try to resolve their issues at the
11 lowest level, basically try to keep staff following
12 policy and to, you know, resolve their concerns so
13 there won't be any lawsuits, everybody can stay
14 happy.

15 Q Okay. And as part of that, are there forms
16 that inmates have that if they have a grievance or a
17 complaint, that they can then file and send to you?

18 A Yes, they do.

19 Q Is that called an inmate grievance form?

20 A Yes, sir.

21 Q And turning your attention, if I could, ma'am,
22 back to June of '05, did you receive an inmate
23 grievance form from the defendant in this case,
24 Mikal Mahdi?

25 A Yes, sir, I did.

1 Q Okay. And was that a -- if you would, just
2 kind of characterize that grievance that you
3 received from him.

4 A The grievance that I received, we received it
5 June 7th in the grievance office. It's date stamped
6 by the designee. They're picked up by a designee,
7 logged into the system and numbered. And the
8 grievance, he was agitated. Basically, he said that
9 it had taken him over two months to get a response
10 to something. And he -- his exact words were, I
11 cannot be diplomatic with you people, so my last
12 action would be to kill you. Why not? You're no
13 good to anybody. I could easily get someone to
14 murder you. What is wrong with you, bitch? I bet
15 you'll respond quick to this, won't you? You people
16 think this shit is a game.

17 Q And showing you State's Exhibit Number 101, do
18 you recognize that document?

19 A Yes, sir. This is the original of that.

20 Q That you received back on June the 7th of 2005?

21 A Yes, sir, it is.

22 Q And did you then forward that on to your
23 supervisors for any disciplinary action?

24 A Yes, sir, I did. He was charged with
25 threatening to inflict harm on an employee.

JANET DRIGGERS - CROSS BY MR. WALTERS

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1 MR. SORENSON: Your Honor, at this time, we
2 would offer state's 101 into evidence.

3 MR. WALTERS: Without objection, Your Honor.

4 THE COURT: It's admitted.

5 (State's Exhibit Number 101, grievance form,
6 admitted into evidence.)

7 MR. SORENSON: Thank you, Ms. Driggers.

8 MR. WALTERS: May it please the Court.
9 Solicitor.

10 CROSS-EXAMINATION

11 BY MR. WALTERS:

12 Q Ms. Driggers, you stated that you're employed
13 now at Walden; is that correct?

14 A That's correct.

15 Q All right. And you stated you're the grievance
16 coordinator?

17 A I was the grievance coordinator at Lee. I got
18 a promotion when I went to Walden.

19 Q All right. I want to make sure we're clear on
20 something when you talk to the Judge and you tell
21 him what's going on. I want you to tell the Judge
22 the substance of the complaint that Mr. Mahdi had.

23 A The substance of the complaint, I stated that
24 he was agitated because he said that -- he said, The
25 attached form request complaint on 6/2, even though

JANET DRIGGERS - CROSS BY MR. WALTERS

1551

1 it's dated 4/5, why did it take over two months for
2 this to get back to me?

3 I can't respond to that because it was
4 forwarded back to him. I don't know why -- he says
5 it took that long, I don't know.

6 Q What was his complaint -- what event occurred
7 on 4/5?

8 A On when?

9 Q 4/5.

10 A On 4/4/05?

11 Q Yes, ma'am. What was his complaint?

12 A Looking at this form, I can't tell you.

13 Q Okay. You don't have any idea and you knew you
14 were supposed to testify today?

15 A I can look back in my notes here if you would
16 like me to do that.

17 Q Please look in your notes. Tell the Judge why
18 he filed the complaint.

19 A On April the 4th is that what he's saying?

20 Q Ma'am, it's your paperwork. Tell the Judge why
21 he was complaining.

22 A This one was from February. If you can tell me
23 specifically which grievance that he is talking
24 about, I mean, I honestly don't know from what he
25 told me.

1 Q Let's take the paperwork that the Solicitor put
2 into evidence that you looked at and affirmed. Can
3 I see the exhibit, please? It's a document you
4 signed. It says, The attached form request
5 complaint on 6/2/05, even though it's dated 4/4/05,
6 why did it take over two months for this to get
7 back?

8 Turn to the complaint that's dated 4/4/05,
9 ma'am.

10 A Okay.

11 Q What was his complaint?

12 A He had asked for a pair of size ten tennis
13 shoes.

14 Q Yes, ma'am.

15 A Okay.

16 Q Go for the complaint. Tell the Judge what the
17 complaint was and why he was upset.

18 A He says, I have waited for a pair of size ten
19 tennis shoes and I have not received anything other
20 than empty promises. Why am I being denied these
21 items that other safe keepers receive with no
22 problem? It has been made clear to me that the
23 responses of the request forms are nothing more than
24 false propaganda. All other forms of diplomacy have
25 failed.

JANET DRIGGERS - CROSS BY MR. WALTERS

1553

- 1 Q All right. I'm going to show you another
2 report that was submitted to you and your signature
3 is on it. This one is dated 3/30/05. Tell the
4 Judge what his complaint was at that time.
- 5 A He was grieving -- he wasn't grieving. This is
6 a request to staff form. It's not a grievance form.
- 7 Q All right, ma'am, well tell him what the
8 complaint was.
- 9 A He says he was assaulted by Sergeant McPherson,
10 Captain Rhodes, C.O. Howard and C.O. Durant in SMU
11 North while exercising his right to peaceful
12 protest, because he's saying he was not received --
13 had not received a shower for a week.
- 14 Q All right. Let's move to the next complaint
15 that he had.
- 16 A Well, can I state what my response was on here?
- 17 Q Ma'am, I didn't ask you that. Let's move to
18 3/28/05.
- 19 A Okay.
- 20 Q Tell me the next complaint that he had.
- 21 A And this was also a request to staff not a
22 grievance form.
- 23 Q Go ahead. Your name's at the bottom, isn't it?
- 24 A That's because he submitted it to me, sir.
- 25 Q That's exactly right, you have knowledge about.

1 it. What was his complaint?

2 A I am safe keeper, Mikal Mahdi, was present at a
3 SCDC hearing being charged with 817 and 901, which
4 are charges. Also present at this hearing, Major
5 Hughes, hearing officer, Annie Sellers Salome (ph)
6 and an unidentified young lady, I assume must have
7 been Ann Sellers' assistant because she was -- she
8 was no counsel substitute and no counsel substitute
9 was present at this hearing. While at this hearing,
10 Major Hughes asked me what room I am housed in. I
11 told her room 66. Major Hughes then says that we --
12 we, the C.O.'s, must have...

13 Q Ma'am, let's go back to the first report.

14 A Sir, I'm trying to read his writing.

15 Q Let's go back to the first report you read.

16 The complaint was that he was beaten; is that
17 correct?

18 A He said he was assaulted, yes.

19 Q That's exactly right. He was assaulted by the
20 same officer that appeared in this courtroom and
21 just testified against him, Officer McPherson. All
22 right? And his complaint was, is that the
23 department was nonresponsive; isn't that right?

24 A I wasn't nonresponsive. I told him if he
25 wished to grieve the issue, submit it on the correct

JANET DRIGGERS - CROSS BY MR. WALTERS

1555

1 form. I have attached the step one grievance form
2 for your use.

3 Q All right. Well, turn to the rest of your
4 reports. We've got a report on 4/15/05 that says
5 you were nonresponsive. We've got one on 1/6/05,
6 1/24/05.

7 A Okay. I don't know what you're looking at,
8 sir.

9 Q All right. Well, ma'am --

10 A I mean, you're quoting dates. I probably have
11 copies of it, but I don't know what you're looking
12 at.

13 Q Well, let me give you the paperwork.

14 A That will be fine.

15 Q All right. Here's my point --

16 A He received responses to everything I received
17 from him, sir.

18 Q But if he's incarcerated, and that's the three
19 I referred to, here's my question, if he's
20 incarcerated, he's complaining about the conditions
21 there as being beaten by the C.O.'s there, what
22 response do you expect to come from this man when he
23 has no relief other than filing those complaints
24 with you?

25 A Okay. The request to staff form I responded.

1 This is not a formal grievance form, okay? And if I
2 gave him a response -- I responded to. Okay, the
3 grievance form, this particular one about legal mail
4 envelopes, I followed policy because they are
5 allowed 15 days from the date of an incident to file
6 a formal complaint, okay? And he violated policy on
7 that one.

8 Q Ma'am, this is my question. Is it out of
9 ordinary for any individual that's incarcerated, say
10 any other places in the department of corrections,
11 if they file complaints, if they do these request to
12 a staff member forms and they don't get a response,
13 is it out of the ordinary for them to make comments
14 like Mr. Mahdi has made?

15 A In my capacity as a grievance coordinator, I
16 don't believe I was ever threatened to be killed,
17 no.

18 Q And you don't think that not responding to any
19 inmate that's there, you would --

20 A He received responses to everything I gave. He
21 had to follow policy in order to file a formal
22 complaint and I was following the guidelines of
23 policy.

24 Q What was done after he was beaten by Officer
25 McPherson and the two others?

1 A That, sir, I can't tell you because I sent him
2 a grievance form and told him to file the formal
3 complaint. If he filed the formal complaint, it
4 would have been investigated, but he had to put it
5 on the proper paperwork.

6 Q So it's my understanding that if it was not put
7 on the paperwork, then the department can't be
8 responsive to the inmate's needs?

9 A No, sir, I'm not saying that. It was a request
10 to staff form and I sent a form back to him and told
11 him to file the complaint. And just because he
12 alleged he was beaten, didn't mean he was.

13 Q If you had found a key inside of his cell, do
14 you have to fill out a form to go in and do the
15 right thing?

16 A No, sir, that's not what I'm saying.

17 Q Well, if he's beaten by some officers, are you
18 telling me that you turn around and tell the
19 inmates, you need to fill out the proper paperwork
20 because you've been beaten?

21 A In order to file a grievance about the issue,
22 yes, he had to.

23 Q May I have the paperwork back that I handed
24 you?

25 A It's all right here.

1 **MR. WALTERS:** Your Honor, we have no further
2 questions.

3 **THE COURT:** Mr. Sorenson.

4 **MR. SORENSON:** Just very briefly, Your Honor.

5 REDIRECT EXAMINATION

6 **BY MR. SORENSON:**

7 **Q** Just so I understand, Ms. Driggers, these
8 couple forms that Mr. Walters was referring to, one
9 of them that was filed, I believe it was the first
10 one he had you kind of read, that looks like you
11 received it back on April the 4th of 2005. Let me
12 show you this and see if that's the same one that
13 you were reading from. Is that correct?

14 **A** Yes, it is.

15 **Q** And that is on a request to staff member form?

16 **A** Request to staff form, yes.

17 **Q** Okay. And your testimony is that's not the
18 proper form to file if you want to file a grievance
19 with you; is that correct?

20 **A** No, sir, it's not.

21 **Q** Okay. And what was your response to that when
22 you received that from Mr. Mahdi?

23 **A** If you wish to grieve this issue, you must
24 submit it on the correct slash proper form. I have
25 attached a step one grievance form for your use.

JANET DRIGGERS - REDIRECT BY MR. SORENSON

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1 Q And that was sent back to Mr. Mahdi?

2 A Yes, sir, it was.

3 Q Okay. And did you ever receive a grievance
4 form from him alleging that he was assaulted by
5 these officers?

6 A Not that I'm aware of, no. I can look at the
7 ones that I have, but I don't believe I ever
8 received a grievance form from him regarding that
9 issue.

10 Q And, in fact, if you had, you would have
11 followed procedure and you would have had that
12 looked into; is that correct?

13 A It would have been investigated, yes, sir.

14 Q And, in fact, all of these request to staff
15 members that you received from Mr. Mahdi, did you
16 ever just ignore any of them?

17 A No, sir, I didn't.

18 Q Did you respond to him and tell him the
19 appropriate form or steps that he needed to take
20 to --

21 A Yes, sir, I did.

22 Q -- to accomplish whatever it was that he was
23 asking?

24 A Yes, sir, I did. As a matter of fact, even on
25 -- there were a couple of grievances that he filed

1 in regard to getting a coat and a pair of shoes and
2 they were -- he did not follow procedure and file
3 any grievances, but I have copies where I notified
4 staff and told them regarding his complaint. I went
5 above and beyond what I had to do.

6 Q And how long have you been a -- were you a
7 grievance coordinator?

8 A I was in the grievance office for ten years. I
9 was a grievance coordinator for eight of those
10 years.

11 Q And in those eight years, do you ever recall
12 receiving a letter anywhere as near as threatening
13 as that letter from Mr. Mahdi?

14 A No, sir.

15 MR. SORENSON: Thank you, Ms. Driggers.

16 THE COURT: Mr. Walters.

17 MR. WALTERS: I have no questions, Your Honor.

18 THE COURT: Thank you, ma'am. You may step
19 down.

20 MR. SORENSON: The State calls Annie Sellers.

21 ANNIE SELLERS,

22 having been duly sworn, testified as follows:

23 THE CLERK: State your full name for the
24 record, please.

25 THE WITNESS: Annie Sellers.

ANNIE SELLERS - DIRECT BY MR. SORENSON

1561

1 DIRECT EXAMINATION

2 BY MR. SORENSON:

3 Q Good morning, Ms. Sellers.

4 A Good morning.

5 Q If you would, please tell the Court where it is
6 that you're employed.

7 A I'm employed by the South Carolina Department
8 of Corrections. I'm presently assigned to Evans
9 Correctional Institution.

10 Q And what are your current responsibilities at
11 the department of corrections?

12 A Disciplinary hearing officer.

13 Q Disciplinary hearing officer. And back in June
14 of 2005, a little over a year -- almost a year and a
15 half ago, were you employed in that same capacity at
16 that time?

17 A Yes, sir.

18 Q Okay. And what institution or institutions
19 were you assigned to back in June of last year?

20 A I was assigned to Lee Correctional Institution
21 and Wateree.

22 Q And, ma'am, do you recall -- if I can turn your
23 attention back to June the 14th of 2005, did you
24 have an opportunity to conduct a disciplinary
25 hearing on the defendant, Mikal Mahdi, with regards

1 to some threats he had made towards a grievance
2 coordinator by the name of Janet Driggers?

3 A Yes, sir.

4 Q And was that hearing taped?

5 A Yes, it was.

6 Q You had -- showing you State's Exhibit 102, did
7 you have an opportunity to review this tape earlier
8 this morning?

9 A Yes, sir.

10 Q All right. And is that a tape of that
11 disciplinary hearing?

12 A Yes, it is.

13 Q All right. And does Mr. Mahdi make any
14 additional threats on this tape with regards to Ms.
15 Driggers?

16 A Yes, sir, he does.

17 MR. SORENSON: Your Honor, at this time, we'd
18 offer State's 102 into evidence.

19 THE COURT: What says the defense?

20 MR. WALTERS: May it please the Court. It's
21 cumulative, Your Honor. There's already been
22 testimony with regards to the threat itself.
23 There's no need for the tape.

24 THE COURT: Mr. Sorenson.

25 MR. SORENSON: This is a separate threat. It's

ANNIE SELLERS - DIRECT BY MR. SORENSON

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1 towards the same person, but it's a separate threat
2 from what was testified to by Ms. Driggers.

3 **THE COURT:** Mr. Walters.

4 **MR. WALTERS:** May it please the Court. Your
5 Honor, it's obvious that Ms. Driggers made it clear
6 to the Court that I was threatened. The substance
7 of what was said on that tape has no bearing here.
8 It's cumulative. She's already made it clear that
9 it occurred and it's also been substantiated by
10 another witness. What's happened here is, is that
11 it's a case of overkill.

12 **THE COURT:** Mr. Sorenson.

13 **MR. SORENSON:** It's a separate threat from what
14 Ms. Driggers testified to. I mean, it's made a week
15 later. I mean, Ms. Driggers didn't testify
16 regarding this. She wasn't there.

17 **THE COURT:** Objection is overruled. It's
18 admitted over objection.

19 **MR. SORENSON:** Permission to publish the tape.

20 **THE COURT:** Yes, sir.

21 (State's Exhibit Number 102, tape, was
22 admitted into evidence and was played for the
23 Court.)

24 BY MR. SORENSON:

25 Q Did you recess that hearing as you indicated at

1 that point in time?

2 A Yes, I did.

3 Q And was Mr. Mahdi, after that hearing, after
4 making those comments, was he allowed to remain in
5 your hearing room?

6 A No. He was removed from the area.

7 Q And after recessing that hearing and stopping
8 the tape, did Mr. Mahdi continue to make any other
9 comments with regards to Ms. Driggers?

10 A Yes, sir. As he was being removed from the
11 area and while he was out in the hallway, he was
12 still making threats towards her.

13 Q And did you then adjourn that hearing back to
14 make a ruling?

15 A Yes.

16 Q And was Mr. Mahdi allowed back in that hearing
17 office?

18 A No, he wasn't.

19 Q How come?

20 A Because of his behavior and the threats that he
21 had made towards Ms. Driggers.

22 Q And was he found guilty of making that threat
23 towards Ms. Driggers?

24 A Yes, sir.

25 MR. SORENSON: That would be all I have from

1 Ms. Sellers. Thank you, Your Honor.

2 THE COURT: Mr. Koger.

3 CROSS-EXAMINATION

4 BY MR. KOGER:

5 Q Ms. Sellers, it's obvious that Mr. Mahdi filed
6 a complaint?

7 A Yes, sir.

8 Q And it was obvious that some time lagged
9 between when the complaint was filed and the
10 response, correct?

11 A Okay, yeah.

12 Q All right. And I think you testified to that
13 it was approximately -- it was stated it was two
14 months before there was any type of response?

15 A That's what was written in his request.

16 Q That was written, okay. After the time of the
17 hearing, there was still no type of resolution to
18 the complaint, correct?

19 A I'm not sure on that. The only thing that I
20 dealt with was the fact that he had threatened her.
21 As far as the grievance, I didn't handle grievances.

22 Q You didn't handle any grievances?

23 A No.

24 Q So you don't know whether he got his size ten
25 shoes or anything?

1 A I don't know.

2 Q Okay. And it was -- it was apparent that at
3 the actual hearing, he was angry?

4 A Right.

5 Q Okay. He was angry because he felt that his
6 complaint, it was non -- that the department of
7 corrections did not respond properly?

8 A I don't know if that was the reason why he was
9 angry, but he was angry.

10 Q Okay. That he was angry because they did not
11 respond timely?

12 A Okay. That's what his request stated. As far
13 as whether they did or they didn't, I'm not sure.

14 MR. KOGER: Thank you. That's all I have.

15 MR. SORENSON: No redirect, Your Honor.

16 THE COURT: All right, ma'am, thank you very
17 much. You may step down.

18 MR. SORENSON: The State calls Captain Lane.

19 GARY LANE,

20 having been duly sworn, testified as follows:

21 THE CLERK: Please state your full name for the
22 record.

23 THE WITNESS: My name is Gary Lane, Captain
24 with Kirkland Maximum Security Unit.

25 ****

GARY LANE - DIRECT BY MR. SORENSON

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1 DIRECT EXAMINATION

2 BY MR. SORENSON:

3 Q Good morning, Captain. If you would, tell the
4 Court where it is that you're employed again.

5 A I work at the department of corrections in the
6 maximum security unit at Kirkland Correctional
7 Institution.

8 Q Kirkland is located in Columbia?

9 A Yes, sir.

10 Q Okay. And if you would, kind of describe what
11 the unit that you're the captain over what -- how
12 it's set up and what it's used for.

13 A Well, it's a 50 bed facility. Usually, we get
14 the worst of the worst inmates in the State of South
15 Carolina. When inmates come to my building at any
16 given point in time when they make a move, they're
17 in full restraints, belly chains, leg irons, black
18 box, led belt, with two officers escorting them at
19 all times.

20 Q And you indicated there are 50 cells in your --

21 A Yes, sir, 50 cells.

22 Q And they're individually housed in those cells?

23 A Yes, sir.

24 Q And your unit can hold up to 50 inmates?

25 A Yes, sir.

1 Q How many inmates are in the department of
2 corrections total, do you know, statewide?

3 A Statewide, we have, approximately, 23,000.

4 Q So your unit is set up for the, as you
5 indicated, the worst of the worst up to 50?

6 A That is correct, sir.

7 Q Now, how about within super max, are there any
8 cells that are more secure so to speak than the
9 others within super max?

10 A We have one wing and that's called High D Wing.
11 On that wing, the lights are kept on 24 hours a day,
12 seven days a week. Plus, we have cameras in those
13 cells.

14 Q So they're being monitored 24 hours a day with
15 the lights on 24 hours a day?

16 A Yes, sir.

17 Q And how many -- out of the 50 cells within
18 super max, how many of them are in that High D Wing?

19 A Approximately, six.

20 Q Okay. If you would, tell the Court are you
21 familiar with the defendant in this case, Mikal
22 Mahdi?

23 A Yes, sir.

24 Q Okay. And tell the Court where is Mr. Mahdi
25 being housed at this point in time?

GARY LANE - DIRECT BY MR. SORENSON

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1 A At this time, he is on High D Wing in cell 46.

2 Q So he is one of the six most secure inmates in
3 the whole department of corrections at this point in
4 time?

5 A That's correct, sir.

6 Q Okay. And have you become familiar with him as
7 the captain over that -- over super max?

8 A Yes, sir.

9 Q Okay. How long has he been with you out at
10 Kirkland in super max as a safe keeper?

11 A Approximately, a little bit over a year.

12 Q A little over a year?

13 A Yes, sir.

14 Q Okay. I want to turn your attention back to
15 March the 29th of 2006. Did y'all have an
16 opportunity to find an item in Mr. Mahdi's cell at
17 that point in time during a search of his cell?

18 A Yes, sir. It was a hammer-like weapon.

19 Q Showing you item 103, is that the item that was
20 found in Mr. Mahdi's cell?

21 A Yes, sir.

22 MR. SORENSON: Your Honor, at this time, we'd
23 offer State's 103 into evidence.

24 MR. WALTERS: No objection, Your Honor.

25 THE COURT: All right.

1 BY MR. SORENSON:

2 Q If you would, briefly describe for the Judge
3 what this item appears to be made of.

4 A The metal part, it's a piece of the drain cover
5 in their rooms, each inmate has a shower in their
6 room, looks like two toothbrushes. The string came
7 out of the mattress. And the paper is what we call
8 a request to staff, that's the way inmates
9 communicate with other staff members throughout the
10 institution.

11 Q And that was -- and when that item was found
12 back in March of 2006, where was he located at at
13 that point in time?

14 A He was on High C, room 37 or 38, I believe.

15 Q So he was in -- he had not been moved yet into
16 one of those six cells that are monitored 24 hours a
17 day with the lights on?

18 A That is correct.

19 Q So he was in one of the other 44 cells out
20 there; is that correct?

21 A That is correct.

22 Q Okay. And there are still, though -- those
23 other 44 cells, how do they, as far as
24 security-wise, relate to the rest of the department
25 of corrections?

1 **A** What we do is every 30 minutes, an officer will
2 go by and visually check inside the inmate's cell to
3 make sure that he's living and make sure that he's
4 not tampering with any of the items inside of his
5 room.

6 **Q** And as a result of finding that in his cell,
7 was he still kept in that same cell?

8 **A** No, sir. Once that weapon was found, I made
9 the decision to move him to High D Wing where I
10 could keep a closer eye on him because in his past,
11 he'd made more objects like that and I don't want to
12 take a chance of getting one of my staff members
13 really injured.

14 **Q** And I want to turn your attention then to a
15 couple months later to May the 19th of 2006. Did
16 you have an opportunity, you testified earlier about
17 them being monitored then in that High D wing 24
18 hours a day, did you actually have an opportunity to
19 observe the defendant in his cell appear to be doing
20 something that he wasn't supposed to be doing?

21 **A** Yes, sir. Throughout the day, you know, I have
22 a monitor in my room and I can look in all of the
23 inmate cells in High D. And on that given day, I
24 noticed him underneath where we keep the
25 televisions. So I went back and put it on

1 stationary hold and he must have heard the gate
2 opening because he stood up, walked to the
3 observation window and stood there for about maybe
4 two or three minutes, then noticed there were no
5 staff members coming down the hall, so he went back
6 under the tables doing something under there.

7 So, at that point, I told the shift lieutenant
8 -- excuse me -- the shift sergeant to go ahead and
9 get a shake down team and go to his room and search
10 it. Once the sergeant got down there, you know, Mr.
11 Mahdi stated to him, Why y'all messing with me? You
12 might as well go ahead and kill me. You're not
13 coming in my room.

14 So, at that point in time, I went down and
15 talked to Mr. Mahdi, Just go ahead, let me shake
16 your room down. We think you have contraband. We
17 ain't got to go through all of this.

18 So, at that point in time, he refused again.
19 So what I did was I had them go get the four cell
20 movement team equipment, which consists of a helmet,
21 shoulder pads and shin guards and so forth just in
22 case we had to go in forcibly and remove him from
23 his cell. In that meantime, some other inmates on
24 the wing talked to him, said, hey Mahdi, go ahead
25 and do the right thing, don't let them use force to

1 come in and shake your room down.

2 Once we pulled him out with no incident, that's
3 when they shook down his mattress, his jacket. And
4 in his jacket is where they found two pieces of a
5 metal, one sharpened to a point, and inside his
6 mattress, that's where they found about a two and a
7 half piece of rope, knotted rope.

8 Q Were those items collected at that point in
9 time from him?

10 A Yes, sir, they were collected and I dropped
11 them off in the contraband drop box personally.

12 Q Now, those items, have you attempted to try to
13 retrieve them out of the contraband office?

14 A Yes, sir. We think what might have happened
15 was when they were discarding older contraband
16 items, they might have gotten mixed up with them.

17 Q But you personally saw those items removed from
18 his cell and were put into your custody?

19 A Yes, sir, that's correct.

20 Q Do you see that individual that you dealt with
21 that's been on your wing now for over a year, do you
22 see him here in the courtroom?

23 A Yes, I do, sir.

24 Q Can you point him out for the Court?

25 A He's sitting right there in the orange

1 jumpsuit, sir.

2 MR. SORENSON: Thank you, Captain.

3 THE COURT: State 103 is in evidence without
4 objection. Cross-examination, Mr. Walters.

5 (State's Exhibit Number 103, hatchet,
6 admitted into evidence.)

7 MR. WALTERS: May it please the Court.
8 Solicitor.

9 CROSS-EXAMINATION

10 BY MR. WALTERS:

11 Q Captain Lane, how long have you been with the
12 department of corrections, sir?

13 A I've been with the department of corrections 17
14 years and I've been working the super max for over
15 two years.

16 Q All right. And as far as your education, I
17 believe you're a graduate of the University of South
18 Carolina; is that correct?

19 A I attended, yes, sir.

20 Q Okay. And, Captain Lane, in your capacity of
21 being over super max and in that capacity, you've
22 never had anyone escape, have you?

23 A No, sir, not under my watch.

24 Q Because you do a good job?

25 A We try to, sir.

GARY LANE - CROSS BY MR. WALTERS

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1 Q All right. And it's my understanding that in
2 serving your capacity as a captain of super max and
3 controlling High D, and is it also High C included
4 in super max?

5 A Yes, sir.

6 Q In your capacity of managing the inmates on a
7 daily basis, on a weekly basis, you have to check
8 people, you have to go in their rooms, you have to
9 see what they're doing; is that correct?

10 A That's correct, sir.

11 Q All right. And when you referred to the
12 equipment that the officers had to put together, the
13 helmet, the shin guards, they also have mace; is
14 that correct?

15 A That's correct.

16 Q And things of that nature. So the department
17 of corrections is well equipped to deal with someone
18 like Mikal Mahdi; is that right?

19 A Yes, sir.

20 Q In other words, you're not in this courtroom
21 saying, Judge, we just can't take it. What you're
22 saying is, Judge, we're well equipped to handle it?

23 A Yes, sir.

24 Q And as far as his adaptability and his presence
25 within the prison itself, let's talk about the

1 so-called weapon that was entered into evidence.

2 First of all, part of that so-called hatchet is made
3 from a drain cover; is that correct?

4 A Yes, sir.

5 Q Because you've got showers inside of the rooms?

6 A Yes, sir.

7 Q All right. And in addition to that, you also
8 have vents; is that correct?

9 A Yes, sir.

10 Q And sometimes it's expected that these things
11 happen where people break the drains or they break
12 the vents or they break the showers; is that right?

13 A That's correct.

14 Q All right. It happens on a daily basis?

15 A (No response.)

16 Q Yes or no?

17 A That's correct.

18 Q Right. So what you have to do in your capacity
19 of managing that area that we call super max is that
20 you have to be diligent and diligent in pursuing
21 your job; is that right?

22 A That's correct, sir.

23 Q All right. So you sit down and you watch the
24 monitors and you keep control of what goes on in
25 these 50 beds; is that right?

GARY LANE - REDIRECT BY MR. SORENSON

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1 A Well, it's six beds with the monitors.

2 Q But nevertheless, the department of corrections
3 does not have any problems with Mikal Mahdi; is that
4 right?

5 A What do you mean?

6 Q You monitor him just like you monitor any other
7 prisoner in those six beds; is that right?

8 A Yes, sir.

9 Q All right. And no one's ever escaped from
10 those six beds that you monitor; is that correct?

11 A That's correct.

12 Q All right. So in your capacity serving as the
13 captain over this facility and monitoring what goes
14 on within this facility, the department of
15 corrections is doing a good job, aren't they?

16 A Yes, sir.

17 MR. WALTERS: Your Honor, we have no further
18 questions.

19 REDIRECT EXAMINATION

20 BY MR. SORENSON:

21 Q And, of course, in High D, I mean, he's
22 obviously one of the six inmates that is monitored
23 unlike any of the other 23,000 inmates in the
24 department of corrections; is that correct?

25 A That is correct.

1 Q I mean, even -- you had indicated -- I mean,
2 that High D is that the most secure area in the
3 department of corrections?

4 A That is correct.

5 Q Even including death row?

6 A That is correct, sir.

7 MR. SORENSON: Thank you, Captain.

8 THE COURT: Anything further?

9 RECROSS-EXAMINATION

10 BY MR. WALTERS:

11 Q Captain Lane, the State of South Carolina is
12 well equipped to handle Mikal Mahdi, aren't they?

13 A Yes, sir.

14 MR. WALTERS: I have no further questions, Your
15 Honor.

16 THE COURT: Thank you, Captain. You may step
17 down.

18 Yes, sir, next witness.

19 MR. PASCOE: The State calls Thomas Summers,
20 Your Honor.

21 (State's Exhibit Number 104, key, was marked
22 for identification purposes.)

23 THOMAS S. SUMMERS, JR.,

24 having been duly sworn, testified as follows:

25 THE CLERK: State your full name for the

THOMAS S. SUMMERS, JR. - DIRECT BY MR. PASCOE

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1 record, please, sir.

2 THE WITNESS: Sheriff Thomas S. Summers,
3 Junior.

4 DIRECT EXAMINATION

5 BY MR. PASCOE:

6 Q Good morning, Sheriff.

7 A Good morning.

8 Q You are, of course, the Sheriff of Calhoun
9 County, sir?

10 A That's correct.

11 Q Been the sheriff since January of 2001?

12 A That's right.

13 Q How long have you been in law enforcement all
14 together?

15 A A little over 20 years.

16 Q And as the Calhoun County Sheriff, are you in
17 charge of the courthouse security for this trial of
18 Mikal Deen Mahdi?

19 A I am.

20 Q And I want to ask you about the security of
21 Mr. Mahdi, specifically on Wednesday, November the
22 29th just last week. What type of restraints were
23 on the defendant that day for the purpose of this
24 trial?

25 A Wednesday, November the 29th, I may be confused

1 on the dates, we started out with leg braces that go
2 under the clothing so that they can't be seen
3 outside and they actually strap on your legs and
4 lock into place.

5 Q And how long did he end up wearing those leg
6 braces?

7 A He wore those one day and made a request. We
8 did that for the purpose of not letting the jury see
9 leg irons or chains on him. He made the request
10 then to be switched back to the leg irons and take
11 the braces off. Well, we discussed it with his
12 attorney and actually with the Judge and changed the
13 braces for him.

14 Q And so on that Wednesday the 29th, which would
15 be the day you found State's Exhibit 104, he was
16 wearing what type of restraint?

17 A He was wearing leg irons, which is just
18 oversized handcuffs that fit around the ankles with
19 a chain in between.

20 Q And that was at his request?

21 A That was at his request.

22 Q What were the procedures as far as searching
23 the defendant last week during the course of the
24 trial?

25 A He was searched at the department of

THOMAS S. SUMMERS, JR. - DIRECT BY MR. PASCOE

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1 corrections before we got him and then we brought
2 him here and did another search and got him dressed
3 and then brought him into the courtroom. He was
4 subsequently searched each time that he was out of
5 our presence, which was only one time.

6 Q And was anything found on the defendant the
7 late afternoon, that Wednesday afternoon, while the
8 trial was still proceeding here in the courthouse?

9 A It was. We had just allowed him to have a
10 private meeting with his attorneys. After the
11 meeting was over, I instructed the security guys to
12 search him before we brought him back into the
13 courtroom and they found a homemade handcuff key.

14 Q Let me show you what's been marked as State's
15 Exhibit 104. Do you recognize that?

16 A Yes, I do.

17 Q What do you recognize that to be?

18 A This is the homemade handcuff key that the
19 deputies took off of Mikal Mahdi.

20 Q On the afternoon of last Wednesday, November
21 29th?

22 A That's correct.

23 MR. PASCOE: I'd ask that State's Exhibit 104
24 be admitted into evidence, Your Honor.

25 THE COURT: What says the defense?

1 MR. WALTERS: No objection, Your Honor.

2 THE COURT: It's admitted without objection.

3 (State's Exhibit Number 104, key, admitted
4 into evidence.)

5 BY MR. PASCOE:

6 Q And where was that taken off of the defendant?

7 A It was taken out of his coat pocket.

8 Q And where in the courthouse was the defendant
9 when that was taken from him?

10 A He was in the back holding cell area.

11 Q The same back holding cell area he's had for
12 the course of this trial?

13 A That's right.

14 Q Did you learn anything from the defendant
15 concerning that key, State's Exhibit 104?

16 A We did. When questioned about it, he indicated
17 that he had actually brought it to court in his
18 mouth and kept it in there for hours, maybe even a
19 couple of times couple of different days, but was
20 unable to get it out of his mouth into his hand to
21 use until he had the private meeting when the
22 deputies weren't present.

23 Q And did you learn where the defendant was able
24 to make the key or get the key from?

25 A He told us he made the key at the department of

1 corrections before we picked him up to bring him
2 down here for trial.

3 Q And that would be at super max?

4 A That would be super max.

5 Q High D cell?

6 A High D cell.

7 Q Now, have you, subsequent to taking that key
8 from the defendant -- it's been in your possession
9 since last Wednesday?

10 A That's correct.

11 Q And subsequent to taking it from him, in fact,
12 that day, did you test that key to see if it worked?

13 A I did. I actually tested it on a couple pair
14 of handcuffs. One pair I could not open, but I was
15 able to open two pair of handcuffs with it.

16 Q Two pair of handcuffs with it. And let me ask
17 you this final question. If the shackles, the
18 leg -- the cuffs on the ankles, if those had been
19 removed, what other physical restraints were on the
20 defendant on Wednesday the 29th to prevent him from
21 assaulting a guard or anybody else in this
22 courtroom?

23 A There was no other restraints on him.

24 MR. PASCOE: Thank you, sir. Answer any
25 questions the defense counsel has for you.

1 **MR. WALTERS:** May it please the Court.
2 Solicitor.

3 CROSS-EXAMINATION

4 **BY MR. WALTERS:**

5 **Q** Sheriff Summers, how many deputies do you have
6 working in the Calhoun County Sheriff's Department?

7 **A** About 30 with the volunteers.

8 **Q** And in handling Mr. Mahdi, you believe you've
9 done an excellent job; is that correct?

10 **A** Yes, sir.

11 **Q** In fact, you were able to discover a key that
12 someone had hid under their tongue; is that correct?

13 **A** That's correct.

14 **Q** So as far as Mikal Mahdi being a threat and
15 being able to escape from this courthouse, in your
16 opinion, it just wasn't going to happen; is that
17 right?

18 **A** It was not going to happen.

19 **Q** And as far as the key that was made and you
20 determined that he made it in the department of
21 corrections, what exactly was told to you that he
22 did in the department of corrections?

23 **A** That -- what did he make it out of or --

24 **Q** Yes.

25 **A** He indicated to us he'd made it out of a vent

THOMAS S. SUMMERS, JR. - CROSS BY MR. WALTERS

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1 and just ground it down on the floor basically.

2 Q All right. So the department of corrections
3 evidently is saying it's an air conditioning vent or
4 something of that nature where he was able to get
5 that piece of metal?

6 A That's what Mr. Mahdi said.

7 Q All right. But you sat in here and heard the
8 testimony from the department of corrections where
9 we've talked about this hatchet, we've talked about
10 a piece of metal, we've talked about a telephone
11 jack and now we're talking about a piece of metal
12 that you found that was fashioned to somehow form a
13 key, but he's failed in every attempt, hasn't he?

14 A He's failed so far.

15 Q So it looks as if the department of corrections
16 is well equipped to handle Mr. Mahdi and the Calhoun
17 County Sheriff's Department is well equipped to
18 handle him?

19 A Yes.

20 Q He's not an international threat and he's not
21 going anywhere?

22 A He's not going anywhere.

23 MR. WALTERS: Your Honor, we have no further
24 questions.

25 *****

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REDIRECT EXAMINATION

BY MR. PASCOE:

Q Yes, sir, Sheriff, as you testified to, you personally are not concerned about Mr. Mahdi escaping from this courthouse?

A Right, not from this courthouse.

Q You have concerns about him hurting someone in this courtroom, though?

A Right.

Q And why is that?

A Simply for the fact that he had that key, he could have easily taken it off and assaulted somebody.

MR. PASCOE: Thank you, sir.

THE COURT: Mr. Walters?

MR. WALTERS: I have no further questions, Your Honor.

THE COURT: Thank you, Sheriff.

MR. PASCOE: State calls Chief Wendell Davis, Your Honor.

WENDELL DAVIS,

having been duly sworn, testified as follows:

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

THE WITNESS: Wendell Davis.

WENDELL DAVIS - DIRECT BY MR. PASCOE

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1 DIRECT EXAMINATION

2 BY MR. PASCOE:

3 Q Good morning, Chief Davis.

4 A Good morning.

5 Q Where do you work, sir?

6 A Orangeburg Department of Public Safety.

7 Q And you're obviously the chief at the public
8 safety in Orangeburg?

9 A I am.

10 Q How long have you been the chief of police
11 there?

12 A About 13 years.

13 Q And how long have you been in law enforcement
14 all together?

15 A A little over 25 years.

16 Q Chief Davis, how long did you know Captain
17 Myers?

18 A I met Captain Myers in 1993, November of 1993,
19 when I was appointed as Chief in Orangeburg.

20 Q And in what capacity did you know him as?

21 A As an officer. He was a lieutenant at the
22 time. And we were undergoing a restructure. And I
23 recall that I made a point to individually speak
24 with each officer prior to going through the
25 restructure. And we had a mechanism set up that we

1 would schedule everybody to come through, but
2 Captain Myers was so anxious that he sort of broke
3 line so to speak so that he could speak with me
4 early on.

5 And when he spoke with me, he indicated to me,
6 at that point, what kind of commitment he had.
7 Because he had, on his own, decided to sell his boat
8 and he was a big fisherman, an ocean fisherman, and
9 that in itself told me that he was very dedicated to
10 moving forward with our agency because he wanted to
11 be able to spend all of the time that he needed to
12 help the agency move forward.

13 Q And did he also become a friend, as well as an
14 employee of yours?

15 A He was a very good friend, a confidant. In our
16 initial restructure, he was appointed captain. At
17 that time, we had three command staff people, three
18 captains, and he was made captain over special
19 operations at that point. And he turned out to be
20 the person that I would most often go to in regards
21 to getting things done and getting things done
22 properly.

23 Q And let me ask you this. How did you learn
24 about Captain Myers' death on Sunday, July 18th?

25 A I was down at the conference in Myrtle Beach.

WENDELL DAVIS - DIRECT BY MR. PASCOE

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1 I am a Vice President of the South Carolina Law
2 Enforcement Officers Association and required to
3 attend the conference. And I got a call from Major
4 Mark Keil, who is the chief of staff for SLED, South
5 Carolina Law Enforcement Division. He informed me
6 that he had gotten a call that Captain Myers had
7 been shot and killed. And, certainly, I was
8 devastated, at that point, very floored by the
9 information, did not want to believe the information
10 because it was -- it was just too shocking to get
11 your arms around.

12 At that point, I contacted Captain Adams, who
13 was also at the conference. I knew Captain Adams
14 was a very close friend of Captain Myers. And I
15 reluctantly, and, frankly, tried to gather myself
16 and determine how I would tell him because, again,
17 about their relationship. So I decided just to tell
18 him and put it pretty frankly. And it was
19 devastating to him as well.

20 Q And what did you end up doing that night, you
21 and Captain Adams?

22 A Well, we ended up getting back to Orangeburg as
23 quickly as possible. We thought we would have an
24 opportunity through SLED to use a helicopter and get
25 back pretty quickly, but because of the fog, there

1 was a terrible fog that night for whatever reason,
2 we had to drive. And I appreciate the fact that
3 SLED drove us back because, frankly, I do not
4 believe that we were in good condition to drive
5 back.

6 Q What was that drive back like for you?

7 A Well, it was really agonizing because, again,
8 we had the fog which meant that, you know, we
9 couldn't go very fast, so, you know, it turned out
10 that it seemed to be like a three or four hour ride.
11 And I would imagine it wasn't that long, but it
12 appeared to be that long.

13 Q Let me ask you, with you and Captain Adams both
14 at a conference on that Sunday, July 18th, 2004 in
15 Myrtle Beach, who then would be the acting chief or
16 the highest in command here in Orangeburg for the
17 police department?

18 A As I mentioned, Captain Myers was one of the
19 original captains that was appointed when I
20 restructured in 1994, January 1994, so he would have
21 been the senior captain and he would have been
22 responsible for administrative duties.

23 Q And solely with regards to Captain Myers'
24 ability as a law enforcement officer, can you
25 describe the kind of impact his death has had on

WENDELL DAVIS - DIRECT BY MR. PASCOE

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1 your office and on you professionally?

2 A Well, we run the gambit of emotions with it.
3 It's had a tremendous impact on the entire
4 department. Captain Myers turned out, and I like to
5 use the word, he was like the sage of the
6 department.

7 He would be a person that the young officers
8 would often go to to seek advice, be it professional
9 advice because he was over our training operation
10 for quite some time, but they would also seek
11 personal advice on little things, on how to hang a
12 door at their house, you know, any number of things
13 that he was, you know, I don't want to say it in a
14 disparaging way, but he was the sage old man of the
15 department actually that everybody would go to,
16 including me, to just get some advice.

17 Q And what's the impact been on you personally,
18 the loss of Captain Myers these last two and a half
19 years?

20 A Well, again, it's been tremendous. It's not
21 very often that I do not think about the loss of
22 Captain Myers. And as Chief, you know, I've had
23 opportunity to hire a number of people. A lot of
24 times in law enforcement you can be hired at 21
25 years old and I've had the opportunity to hire a

WENDELL DAVIS - DIRECT BY MR. PASCOE

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1 number of people and be very concerned about their
2 safety because we're obviously in a very dangerous
3 profession.

4 But in regards to Captain Myers, I had the
5 opportunity to become very close with him. And in
6 our profession, you don't believe, although you know
7 that you're in harms way all the time, but when you
8 get 31 years in, you feel as though that you have
9 sort of gone through the battle and that you're
10 getting ready to retire. And as we mentioned
11 before, we're able to sit back and look at the
12 harvest, reap the benefits of our work. And I think
13 Captain Myers had reached that point. And it was
14 just so sad to me that he had reached that point,
15 and he had gotten to a point that he was very proud
16 of his affiliation with our department.

17 He had mentioned to me some time before that,
18 at one point, he was embarrassed actually to wear
19 the uniform off duty, but he had gotten to a point
20 because of the work that he'd done and the work that
21 we've done within the department, he was very proud,
22 he was very proud to wear the uniform. And he had
23 instilled that proud actually to all kind of members
24 of the department, you know, new members and members
25 that had been there for quite some time. So he has

WENDELL DAVIS - DIRECT BY MR. PASCOE

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1 left a tremendous void that we have, frankly, not
2 overcome.

3 And it's -- this department has gone through a
4 great deal. I see Ms. Harrison back in the back.
5 We had another officer that was killed in 1993, so
6 to have this happen again was truly devastating and
7 something, frankly, that we have not recovered from.

8 MR. PASCOE: Thank you, Chief. Answer any
9 questions the defense counsel has for you.

10 MR. WALTERS: I have no questions, Your Honor.

11 THE COURT: All right. Thank you, Chief.

12 MR. PASCOE: Your Honor, with your permission,
13 can we take just a five minute break? We have three
14 more witnesses, two that we can call this morning
15 and then an expert who's out of town and can't be
16 here until two o'clock this afternoon.

17 THE COURT: All right. We'll be in recess for
18 about 15 minutes.

19 MR. PASCOE: Thank you, Your Honor.

20 (Brief Recess.)

21 (State's Exhibit Numbers 105 through 110
22 were marked for identification purposes.)

23 THE COURT: Yes, sir, Mr. Pascoe.

24 MR. PASCOE: May it please the Court. The
25 State calls Mr. Edward Myers.

EDWARD MYERS - DIRECT BY MR. PASCOE

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1 EDWARD MYERS,
2 having been duly sworn, testified as follows:
3 THE CLERK: State your full name for the
4 record, please.
5 THE WITNESS: Edward Myers.
6 DIRECT EXAMINATION
7 BY MR. PASCOE:
8 Q Good afternoon, Mr. Myers.
9 A Good afternoon.
10 Q Where do you live, sir?
11 A I live at 1526 Biltmore Street in Orangeburg,
12 South Carolina.
13 Q And you're from right here in Orangeburg
14 County, sir, or over there in Orangeburg County?
15 A Right, in Orangeburg County.
16 Q Did you serve your Country in World War II?
17 A Certainly did.
18 Q And what branch of service did you serve?
19 A Navy. I was a combat veteran.
20 Q Combat veteran in World War II?
21 A Right.
22 Q Exactly what did you do in the Navy?
23 A Everything. I was a gunner. Well, on a ship,
24 they teach you everything because if somebody gets
25 killed, you can do the other person's job. So there

1 wasn't too much I didn't do on the ship. I was with
2 submarines mostly.

3 Q How old were you at that time?

4 A When I went in, I was about 19, got out about
5 21 years old.

6 Q When did you marry Ms. Doris Bedenbaugh?

7 A After I got out, she made us go together for
8 another year to make sure I didn't change too much.
9 So I married her in 1947, I believe it was.

10 Q And you ended up having to court her for five
11 years before that?

12 A With the war, yeah, three years and the war.

13 Q And when did Ms. Doris pass away?

14 A She passed away in 2002.

15 Q And how did she pass away?

16 A She had Alzheimer's.

17 Q And how many children did you and Ms. Doris
18 have?

19 A Two.

20 Q And what are their names?

21 A Well, Captain James Edward Myers, but I always
22 called him Jimmy, and my daughter is Jan.

23 Q Jan is in the courtroom today?

24 A Yes, sir.

25 Q And so Jimmy was your only son?

1 A Yes, sir.

2 Q Tell Judge Newman a little bit about what kind
3 of son Jimmy was growing up.

4 A Well, he was perfect. He never smoked. He
5 never drank. We always knew where he was. We
6 always knew the people that he was with and just a
7 very obedient child.

8 Q And he grew up and lived right here in
9 Orangeburg County his whole life, too?

10 A His whole life, yeah.

11 Q The two of you are very close, Mr. Myers?

12 A Especially close after my wife passed away. I
13 imagine he visited me a thousand times.

14 Q I'm going to ask you about that, but before I
15 forget, let me ask you one thing, you're obviously
16 very proud of your son?

17 A Oh, yeah.

18 Q And I asked you just to bring something maybe
19 to show about how proud you were and something you
20 kept?

21 A Oh, yeah, that's one thing.

22 Q Let me show you what's been marked as State's
23 Exhibit 105. Do you recognize that, sir?

24 A Yes.

25 Q Is that the graduation exercise program for

EDWARD MYERS - DIRECT BY MR. PASCOE

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1 when Jimmy graduated from the academy?

2 A Right.

3 MR. PASCOE: I'd ask that State's Exhibit 105
4 be admitted into evidence, Your Honor.

5 MR. KOGER: Without objection, Your Honor.

6 THE COURT: Without objection, it is admitted.

7 (State's Exhibit Number 105, graduation
8 program, admitted into evidence.)

9 BY MR. PASCOE:

10 Q And who won the J.P. Strom award?

11 A Jimmy. He was the first person, as well as I
12 know, in Orangeburg that won that award. And since
13 that, several people have won it.

14 Q As the top graduate at the academy?

15 A Right.

16 Q That's something you're very proud of, sir?

17 A Yes.

18 Q And, Mr. Myers, I know that you and Jimmy were
19 always close as you alluded to. Did that
20 relationship change even more after Ms. Doris'
21 death?

22 A Yes.

23 Q And explain to the Judge how and why.

24 A Well, he started coming every morning, we had
25 coffee, and every afternoon.

1 Q And when he was in Orangeburg, the two years
2 after Ms. Doris' death, did he ever miss a morning
3 that he'd come and visit you and drink coffee?

4 A If he was on vacation or somewhere other than
5 that, no.

6 Q So he always came to see you?

7 A He come everyday.

8 Q And he'd come see you every afternoon?

9 A Every afternoon. Most of the time he would be
10 going out to his farm and he would stop by before he
11 would go.

12 Q Would you ever go out to the farm with Jimmy?

13 A Yes.

14 Q How often do you think you went out to the farm
15 with Jimmy?

16 A Probably once a month or so, whenever it was
17 convenient, might have been a little more.

18 Q Let me ask you this. When was the last night
19 you saw Jimmy? That July 18th, the night of his
20 murder?

21 A Yes.

22 Q Tell the Judge about that a little bit. What
23 time did he come to your house?

24 A Well, he loved boiled peanuts and he'd called
25 me about 20 minutes after 6:00 and wanted to know if

1 I had any and I told him, yeah, I had him some. So
2 he said, I'll be there in a little bit. So he got
3 there about 6:30. And he and I talked -- we always
4 talked about -- with that many visits, we talked
5 about everything over a period of time. And he left
6 my house about five minutes to 7:00 and had a lot of
7 peanuts.

8 Q Why didn't you go to the farm that night with
9 Jimmy?

10 A I already had my pajamas on, as a rule, he was
11 that considerate. If I hadn't of had my pajamas on,
12 he might have asked me to go that night with him.

13 Q And what's the last thing you remember about
14 Jimmy that night when he left your house?

15 A Well, I walked out to his car -- truck, and
16 when he drove off, he had a big smile, about the
17 only thing he carried. He was in shorts and T-shirt
18 and shoes and that was it and a big smile.

19 Q And that's your last image of Jimmy is that big
20 smile?

21 A That's right.

22 Q When was the next time you had planned to see
23 Jimmy?

24 A The next morning.

25 Q And, of course, he didn't show up that morning?

1 A Well, no, but, see, I'd heard about his murder.

2 Q That's what I want to ask you about. How did
3 you end up learning about Jimmy's murder?

4 A My daughter and his daughter and I think my
5 daughter's husband and all, it was some, came up
6 from Edisto Beach to tell me.

7 Q What time?

8 A Between two and three o'clock.

9 Q In the morning?

10 A In the morning.

11 Q And did you bring a picture today that was
12 special to you that you keep in your house, sir?

13 A Is that the one there?

14 Q Let me show you this one. Do you recognize
15 State's Exhibit 6?

16 A Yeah, that's the family.

17 Q That's you and the family.

18 MR. PASCOE: I'd ask that State's Exhibit 6 be
19 admitted into evidence, Your Honor.

20 THE WITNESS: Wife and my two children.

21 MR. WALTERS: No objection, Your Honor.

22 THE COURT: It's admitted.

23 MR. PASCOE: 106, I'm sorry.

24 (State's Exhibit Number 106, photograph,
25 admitted into evidence.)

1 BY MR. PASCOE:

2 Q And that's Ms. Doris?

3 A Uh-huh.

4 Q Your daughter, Jan?

5 A Right.

6 Q And, of course, Jimmy?

7 A Yes.

8 Q And, Mr. Myers, explain, as best you can, how

9 Jimmy's death and murder has impacted you personally

10 these last two and a half years.

11 A Well, my health has gone down quite bad. And I

12 don't sleep at night. I don't sleep good at night

13 and that's about the way it goes. I've just got so

14 much emotions tied up in me that I didn't have.

15 And, of course, like I said, I'm on oxygen now,

16 which I wasn't. And I had a lot of good plans for

17 Jimmy and me out at his farm, but all of that's

18 gone.

19 Q Anything ever worse than this ever happened in

20 your life?

21 A Well, you know, war, some bad things happen,

22 but I would say this is a lot worse than the war.

23 It's too personal. And there was a lot of bad

24 things during the war.

25 Q What's the one thing that keeps you going now?

MEREDITH MYERS FIRESTONE - DIRECT BY MR. PASCOE

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1 **A** The one thing, to see justice is done with this
2 man that took his life. I said man, excuse that. I
3 served in World War II with men, he will never
4 become a man. He'll never come into manhood. He'll
5 always be an adult boy.

6 **MR. PASCOE:** Thank you, Mr. Myers. Answer any
7 questions the defense has.

8 **MR. WALTERS:** Your Honor, we have no questions
9 for this gentleman.

10 **THE COURT:** Thank you, sir.

11 **MR. PASCOE:** Our next witness will be Ms.
12 Meredith Myers Firestone.

13 **MEREDITH MYERS FIRESTONE,**
14 having been duly sworn, testified as follows:

15 **THE CLERK:** Please state your full name for the
16 record, please, ma'am.

17 **THE WITNESS:** Meredith Myers Firestone.

18 **DIRECT EXAMINATION**

19 **BY MR. PASCOE:**

20 **Q** Good afternoon, Meredith. How are you related
21 to Captain Jimmy Myers?

22 **A** He was my father.

23 **Q** And you're his only child?

24 **A** Yes.

25 **Q** Describe the kind of relationship that you had

MEREDITH MYERS FIRESTONE - DIRECT BY MR. PASCOE

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1 with Jimmy Myers.

2 A Well, being that I was his only child and a
3 girl, growing up, I was definitely a daddy's girl.
4 He was a firefighter and so when I was small, he
5 worked 24 hours and would be off 48 hours, so I got
6 to spend a lot of time with him, probably a lot more
7 than some others growing up. And we were best
8 buddies, that's what he called me, his best buddy.

9 And he taught me a whole lot about wildlife and
10 plants and animals and taught me how to grow a
11 garden and how to hunt and fish and I was the boy he
12 never had. He just had such great wisdom and he was
13 eager to teach me and to share with me. And he had
14 taught me how to build the perfect fire in the
15 fireplace. We loved to have a fire at night in our
16 living room and just sit there and look at the fire
17 and listen to it crackle and listen to the clock
18 tick over the mantel. And we had some really
19 special, special times when I was growing up.

20 Q In fact, did you bring some pictures to court
21 today to share those times with the Court?

22 A I did. Well, once I got married, our
23 relationship changed a little bit. I had a child
24 and I was working on an adult relationship with my
25 father. And we were just getting closer and closer

1 over the last year of his life and I was really
2 starting to feel like I could call him a friend, as
3 well as my dad. And there's a picture there of him
4 at our wedding.

5 Q Let me show you what's been marked as State's
6 Exhibits 107 through 110. Do you recognize these?

7 A Yeah.

8 Q These are photographs you brought of your
9 father that are important to you?

10 A Very.

11 MR. PASCOE: I'd ask that these be admitted
12 into evidence, Your Honor, as State's Exhibits 107
13 through 110.

14 MR. WALTERS: No objection, Your Honor.

15 THE COURT: They are admitted without
16 objection.

17 (State's Exhibit Numbers 107 through 110,
18 photographs, admitted into evidence.)

19 BY MR. PASCOE:

20 Q Let you go through each photograph with the
21 Court and let him know the significance to you and
22 why they're important to you.

23 A Okay. Exhibit Number 109, that's me dancing
24 with my dad at my wedding and that was a very
25 special night for me. And he wasn't much of a

MEREDITH MYERS FIRESTONE - DIRECT BY MR. PASCOE

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1 dancer. And I was kind of scared, I didn't think he
2 wanted to dance with me, but I asked him to. And I
3 picked out a song that I remember him telling me
4 when I was a little girl that it reminded him of me
5 and it was called Forever Young. And we danced to
6 that and it was very special.

7 Here is -- he was present at the birth of my
8 first child and her name was LeLa. I named her
9 after my great-grandmother, which was his
10 grandmother. And she was a very important,
11 influential woman in his life, as well as mine.
12 This was a proud moment for him and myself.

13 About two months before he was killed, I took
14 my little girl to their farm and she caught her
15 first fish with her papa and that was one of the
16 last times that he ever got to see her and that was
17 a very special day. He gave me my
18 great-grandmother's clock that day and that was the
19 last thing that he ever gave me and I'll cherish
20 that forever.

21 And this was actually taken his last
22 Thanksgiving. Thanksgiving was his favorite meal
23 and he loved going down to Edisto where his sister
24 lives and eating Thanksgiving dinner. Matter of
25 fact, the weekend that I last saw him was -- my

1 birthday was July the 16th and Amy and Jan's had
2 been the week before that and I asked them to come
3 down to the beach, I had already been there, and I
4 asked them to come down to the beach that weekend
5 and let's get together and celebrate. And it was
6 Jan's idea to have Thanksgiving in July, so we did
7 that that Saturday night, the 17th. And we sat out
8 on the back porch and watched the sun set together.

9 And after we finished eating supper, my little
10 girl was getting kind of anxious and tired and I was
11 anxious to get back to where we were staying. And I
12 remember standing in the foyer at my aunt's house
13 and hugging him and had no idea that would be the
14 last time that I would ever see him.

15 Q How did you learn about your father's death?

16 A Well, I continued to stay on at the beach that
17 Sunday and I was going to plan on being there the
18 rest of the week with a friend. And that Sunday
19 night I was sitting out on the front porch of the
20 beach house and Jan drove up with her husband. It
21 was about 11 o'clock at night. And she asked my
22 friends to go inside and she proceeded to tell me
23 that daddy had been murdered. And I thought she was
24 just -- I mean, I thought she was joking. I thought
25 it was just an awful joke. And I remember just

MEREDITH MYERS FIRESTONE - DIRECT BY MR. PASCOE

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1 screaming and my legs went limp and I fell to the
2 floor.

3 And after that, it was pretty much a blur. We
4 had to pack LeLa up, my little girl, two years old,
5 she was sleeping, we had to wake her up and throw
6 some clothes and stuff into the car. And she and I
7 and the baby were in the back seat of the car just
8 crying all the way to Orangeburg. Her husband was
9 driving. And I remember praying in the car for God
10 to give us the strength to tell pop pop that his son
11 was dead and we arrived in Orangeburg about three
12 o'clock in the morning.

13 Q And you had to tell Mr. Edward that his son was
14 dead?

15 A Uh-huh.

16 Q Describe for the Judge as best you can how your
17 father's murder has impacted you in the last two and
18 a half years and your family.

19 A Well, the biggest thing is that, like I said,
20 he and I were just embarking on an adult
21 relationship, a strong friendship. I was just
22 feeling like I could call and confide in him and
23 everything, that I could draw from the wealth of
24 knowledge that he had. He had wisdom just beyond
25 his years. And he was so willing to give it to me

1 and it just took me a while to figure that out. And
2 we were just getting ready to start a wonderful,
3 wonderful relationship together as adults.

4 And he was just learning how to be a
5 grandfather. And he was so excited about teaching
6 my little girl how to hunt and fish and do all of
7 the things that he taught me as a little girl. And
8 I just -- I hate that they're never going to -- I
9 have another daughter now and I hate that they're
10 never going to get to see him or know him.

11 Q And, in fact, the second daughter you've had,
12 Captain Myers has never got to meet her?

13 A Never met. She looks just like him, though.

14 MR. PASCOE: Thank you.

15 MR. WALTERS: Your Honor, we have no questions
16 for this lady.

17 MR. PASCOE: Your Honor, we have one more
18 witness and she can't be here until 2:15.

19 THE COURT: We'll be in recess until 2:15.

20 (Whereupon, there was a luncheon recess.)

21 (State's Exhibit Number 111, diagram, was
22 marked for identification purposes.)

23 THE COURT: Continuing on with the State's
24 presentation, Mr. Pascoe.

25 MR. PASCOE: Thank you, Your Honor.

JANICE EDWARDS ROSS - DIRECT BY MR. SORENSON

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1 **MR. SORENSON:** May it please the Court, Your
2 Honor. The State calls Doctor Janice Ross.

3 JANICE EDWARDS ROSS,
4 having been duly sworn, testified as follows:

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

7 **THE WITNESS:** Janice Edwards Ross.

8 DIRECT EXAMINATION

9 BY MR. SORENSON:

10 **Q** Good afternoon, Doctor Ross.

11 **A** Good afternoon.

12 **Q** If you would, please tell the Court where it is
13 that you're employed.

14 **A** In Newberry, South Carolina, Newberry Pathology
15 Associates.

16 **Q** What do you do for a living?

17 **A** I'm a forensic pathologist.

18 **Q** Okay. And how long have you been employed with
19 Newberry Pathological Associates?

20 **A** Since May of 2000.

21 **Q** If you would, just briefly give the Court your
22 educational background and employment history, if
23 you would?

24 **A** Yes. I graduated from the University of South
25 Carolina and received my M.D. from Upstate Medical

1 Center in Syracuse, New York. I then did further
2 pathology training at Upstate Medical Center in
3 Syracuse, New York and been board certified in three
4 areas of pathology, including forensic pathology.
5 In New York, I served as a medical examiner, coroner
6 and a hospital pathologist. And here, of course, in
7 Newberry, hospital pathologist and a forensic
8 pathologist doing autopsies for several counties of
9 the State.

10 Q And how many -- over your career, about how
11 many autopsies do you think you've performed?

12 A At least 5,000.

13 Q Have you had an opportunity on multiple
14 occasions to come and testify in court before about
15 your findings?

16 A Yes.

17 Q And have you been qualified as an expert on
18 those occasions?

19 A Yes.

20 MR. SORENSON: Your Honor, at this time, we'd
21 offer Doctor Ross as an expert in the field of
22 forensic pathology.

23 THE COURT: What says the defense?

24 MR. KOGER: No objection, Your Honor.

25 THE COURT: She's admitted as an expert in the

JANICE EDWARDS ROSS - DIRECT BY MR. SORENSON

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1 field of forensic pathology.

2 MR. SORENSON: Thank you, Your Honor.

3 BY MR. SORENSON:

4 Q Doctor Ross, did you assist with another doctor
5 in your group in performing an autopsy on James
6 Myers?

7 A Yes.

8 Q And when was that performed?

9 A That was July 19th, 2004.

10 Q And that was in Newberry?

11 A Yes.

12 Q And how old was Mr. Myers at that time?

13 A He was 56.

14 Q And if you would, describe for the Judge your
15 initial observations of Mr. Myers when he arrived in
16 Newberry.

17 A Mr. Myers was partially clothed in a -- was
18 clothed and the shirt he was wearing was partially
19 burned and smelled of diesel fuel. He had on a pair
20 of shorts, some underwear and a pair of loafers and
21 a wedding band.

22 Q Did you have an opportunity then to perform a
23 kind of general examination of him as to what
24 injuries Mr. Myers may have had?

25 A Yes.

1 Q If you would, describe for the Court your
2 findings of that general observation.

3 A He had some singeing of the hair in the back of
4 the head and some thermal injury, burning of the
5 skin, on the back and around the sides of the
6 abdomen. He also had nine gunshot wounds.

7 Q Did he have any other contusions or anything
8 that you recall?

9 A No.

10 Q And showing you State's Exhibit Number 111, did
11 y'all have an opportunity on some forms that you
12 used there to document those nine gunshot wounds and
13 also the burns that were found on Mr. Myers?

14 A Yes.

15 MR. SORENSON: Your Honor, at this time, we'd
16 offer State's 111 into evidence.

17 MR. KOGER: No objection, Your Honor.

18 THE COURT: It's admitted.

19 (State's Exhibit Number 111, diagram,
20 admitted into evidence.)

21 BY MR. SORENSON:

22 Q You indicated to the Court that there were nine
23 gunshot wounds that you observed in your examination
24 of Mr. Myers?

25 A Yes.

JANICE EDWARDS ROSS - DIRECT BY MR. SORENSON

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1 MR. SORENSON: If I could, with permission,
2 Your Honor, for her to step down.

3 THE COURT: Yes, you may.

4 (Witness leaves the witness stand.)

5 BY MR. SORENSON:

6 Q If you would, His Honor has got your diagrams
7 in front of him, but I would like you to kind of,
8 using me, kind of illustrate for the Court those
9 gunshot wounds that you found on Mr. Myers.

10 A Okay. As you see in my report, we start from
11 top to bottom just for numerical purposes and
12 organization. It does not mean that's the order in
13 which they occurred. There was a gunshot wound that
14 went from the back of the head on the top and just
15 into the skull. There were two gunshot wounds that
16 went from top to bottom, from the top of the head
17 into the base of the skull -- towards the base of
18 the skull.

19 Q Did they both go in at the same trajectory?

20 A No. One went almost straight down, the other
21 one went slightly forward and to the right of those
22 two.

23 Q So that would be three of the nine?

24 A Yes. There was one that went into the left
25 upper chest, went downwards and backward and towards

1 the right. There were four that went basically from
2 right to left in the chest and downward. There was
3 one that went into the abdomen just underneath the
4 skin from just to the left of midline, but it went
5 -- it traveled to the left and went out.

6 Q So that exited his body?

7 A It exited, but it went just underneath the
8 skin. And then there was one from the left hand
9 that went all the way through the left hand, the
10 back of the hand and out, sort of, the index finger.

11 Q And were you able to potentially match that
12 wound to the left hand with one of the other wounds
13 to Mr. Myers' chest area?

14 A Yes. There was a wound in the chest just to
15 the right of midline that was -- the hole -- the
16 entrance wound was larger and was consistent with
17 what we call a reentry wound. In other words, this
18 bullet passed through the hand and then entered the
19 chest.

20 Q Causing the bullet not to be, I guess,
21 traveling perfectly --

22 A Not quite straight.

23 Q -- straight at that point in time. Okay, you
24 can have a seat. Thank you, Doctor.

25 A (Witness resumes the witness stand.)

JANICE EDWARDS ROSS - DIRECT BY MR. SORENSON

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1 Q Now, you had referenced besides the wound to
2 the hand, the wound to the abdomen area, that that
3 was an exit wound associated with that gunshot
4 wound?

5 A Yes.

6 Q As to the other, I guess, seven gunshot wounds
7 that you described, did you recover projectiles from
8 all seven of those wounds?

9 A Yes.

10 Q And they were turned over to the State Law
11 Enforcement Division?

12 A Yes.

13 Q Now, Doctor Ross, have you had an opportunity
14 to, obviously, not only review your findings, but
15 also to review some of the crime scene photos and
16 the crime scene report and things of that nature?

17 A Yes, I have.

18 Q Okay. And in looking at all of that, have you
19 come to an opinion as to the order that you feel
20 those gunshot wounds were received by Mr. Myers?

21 A Yes.

22 Q And if you would, describe for the Court what
23 your findings are.

24 A Okay. First of all, the wounds to the head,
25 the three wounds all hit the brain and they would

1 cause immediate unconsciousness, so there would be
2 no movement after that. The ones in the chest hit
3 lungs and two of them hit the heart causing internal
4 bleeding into the chest. And there was sufficient
5 blood there to make us recognize that circulation
6 was still continuing for several minutes in order to
7 get that much blood out of the organs and into the
8 chest cavity. In other words, the chest wounds
9 occurred first and they were at an angle such that
10 they were coming from front to back. So the victim
11 was facing his shooter and probably was in a bent
12 over position causing them to appear to be going
13 downward.

14 Q So he is hunched over and --

15 A Hunched over.

16 Q -- the wounds are going then into the body at
17 what appears, as you indicated, to be almost a
18 downward trajectory?

19 A Yes.

20 Q Because of the angle of Mr. Myers' body?

21 A Yes. And then, of course, at one point, the
22 hand was in front of the chest. It's probably a
23 defensive move.

24 The one wound going from the back of the head,
25 from the back to the front, obviously now the victim

1 was -- had his back to the shooter and that one did
2 cause some laceration of the brain. It also split
3 open the skin and could have caused some splatter.
4 That one would be enough to cause him to collapse.

5 Q So that wound to the back of the head you
6 indicated would have caused some blood spatter. So
7 the Court had heard earlier about there being some
8 blood spatter near the victim's body, that could
9 have been caused by that wound to the back of the
10 head?

11 A Yes.

12 Q And would that have incapacitated Mr. Myers,
13 that gunshot wound?

14 A Yes. It also bruised the brain, what we call a
15 contusion of the brain. Then the last two shots
16 were into the brain from the top of the head
17 downward.

18 Q Okay. And those two you had spoken earlier
19 about them being kind of a different trajectory, one
20 of them kind of being straight in, the other one
21 being in more of an angle?

22 A Yes.

23 Q What affect would that have, in your opinion,
24 as to the positioning of Mr. Myers when those two
25 shots were fired?

1 A His head was in two different positions when
2 those bullets were fired. He probably was looking
3 up somewhat. If he were on the floor and being shot
4 after he collapsed, he may have raised his head
5 somewhat for one shot and then his head was on the
6 floor for the second one.

7 Q Lying flat on the floor for that last, in your
8 opinion, final shot?

9 A Yes.

10 Q And do you have, within a reasonable degree of
11 medical certainty, Doctor Ross, an opinion as to the
12 cause of death for Mr. Myers?

13 A Yes.

14 Q And if you would, tell the Court please what
15 that is.

16 A Laceration of the brain due to gunshot wounds
17 of the head.

18 Q And as to those nine gunshot wounds that
19 Mr. Myers received, how many of them were either
20 fatal or potentially fatal wounds?

21 A All but two, so seven of them.

22 Q Wound to the hand?

23 A The wound to the hand and the one just
24 underneath the skin.

25 Q All of the other ones to the chest, neck and

JANICE EDWARDS ROSS - DIRECT BY MR. SORENSON

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1 head would have been either fatal or at least
2 potentially fatal by themselves?

3 A Yes.

4 MR. SORENSON: Thank you, Doctor Ross. Please
5 answer any questions Mr. Koger has.

6 MR. KOGER: No questions of the witness, Your
7 Honor.

8 THE COURT: Thank you, Doctor Ross.

9 MR. SORENSON: Beg the Court's indulgence one
10 moment, Your Honor. May she be excused?

11 THE COURT: She may.

12 (Pause.)

13 MR. SORENSON: Your Honor, at this time, the
14 State would rest.

15 THE COURT: The State has rested. Any matters
16 of law from the defense prior to presentation of the
17 defense's case?

18 MR. WALTERS: No, sir, Your Honor. We're
19 prepared to proceed forward.

20 THE COURT: You may proceed.

21 MR. WALTERS: May it please the Court. Your
22 Honor, at this time, the State would call Mr. Jim D.
23 Aiken.

24 *****

25 *****

JAMES EVANS AIKEN - DIRECT BY MR. WALTERS

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1 JAMES EVANS AIKEN,
2 having been duly sworn, testified as follows:

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

5 THE WITNESS: My name is James Evans Aiken,
6 A-i-k-e-n.

7 DIRECT EXAMINATION

8 BY MR. WALTERS:

9 Q I apologize, Mr. Aiken. I stated your middle
10 name incorrectly. It's James E. Aiken; is that
11 correct?

12 A That is correct, sir.

13 Q Mr. Aiken, could you, first of all, tell us a
14 little bit about your background? Where were you
15 born, sir?

16 A I was born in Camden, South Carolina.

17 Q How old are you, sir?

18 A I'm 57 years old.

19 Q And tell us about your education, please.

20 A I, of course, attended the public schools in
21 Camden, South Carolina and graduated from Camden
22 High. From there, I attended Benedict College in
23 Columbia, South Carolina and I also attended -- and
24 graduated from Benedict and attended the University
25 of South Carolina and obtained a Masters degree in

1 Criminal Justice from the university.

2 Q Your degree from Benedict was --

3 A Is a BA degree, yes, sir.

4 Q All right. And then you received a Masters
5 from the University of South Carolina?

6 A That is correct, sir.

7 Q All right. And after you graduated from the
8 University of South Carolina, what year was that,
9 sir?

10 A That was in 1986, if I remember correctly.

11 Q Okay. Could you please tell us where was your
12 first job? Where were you employed, sir?

13 A I was initially employed in 1971 in the
14 capacity of a counselor in a substance abuse program
15 at the Manning Correctional Institution in Columbia,
16 South Carolina.

17 Q And how long were you employed in that
18 capacity?

19 A For approximately one year, sir.

20 Q All right. And could you please tell His Honor
21 where were you employed next, sir?

22 A Yes, sir. I was promoted at that same facility
23 to the position of administrative assistant to the
24 warden at the Manning Correctional Institution,
25 which was a medium security prison. That means that

1 inmates could move from point A to point B in the
2 prison without very high security checks, even
3 though security checks were made, but the perimeter
4 of the prison was maximum security.

5 And in the capacity of administrative assistant
6 -- well, back in those days, you've got to do what
7 everybody else didn't want to do. I mean, you shook
8 down inmates, you broke up fights, contraband
9 control, criminal, as well as administrative
10 investigations, you were disciplinarian, et cetera.
11 From there, I was promoted to the rank of deputy
12 warden of the same facility to which I just
13 described. In that capacity, I was over all
14 security operations, emergency response, as well as
15 security, disciplinarian, policy and procedure
16 controls, as well as to ensure the problematic
17 activities and all the administrative activities at
18 that facility were conducted as dictated by policy
19 in sound correctional practice.

20 Q Sir, how long did you stay in that capacity?

21 A I stayed in that capacity from 1970 --
22 administrative assistant 1972 until 1974.

23 Q And could you tell us where were employed next?

24 A I was promoted at that same facility to the
25 rank of deputy warden.

JAMES EVANS AIKEN - DIRECT BY MR. WALTERS

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1 Q How long did you serve as deputy warden?

2 A From 1974 to 1976.

3 Q And after you served through '76, where were
4 you employed next, sir?

5 A I was promoted to the rank of deputy warden at
6 the Central Correctional Institution, the state
7 penitentiary in South Carolina. At that particular
8 time, it housed anywhere between 1800 to 2,000 of
9 the most dangerous predator, disruptive inmates in
10 the South Carolina criminal justice system.

11 Q You're referring to CCI?

12 A That is correct, sir.

13 Q And CCI doesn't exist anymore, does it?

14 A That is correct, sir.

15 Q All right. And how long were you in charge of
16 CCI?

17 A Well, I was deputy warden of that facility
18 through 1979.

19 Q And after your tenure there, where did you move
20 next, sir?

21 A I was promoted to the rank of warden of the
22 Women's Correctional Facility, which housed every
23 type of inmate, female inmate, from maximum security
24 down to minimum security.

25 Q And how long did you serve in that capacity?

1 A I served in that capacity from 1979 to 1982, if
2 I remember correctly, sir.

3 Q All right. And after serving, in charge of the
4 Women's Correctional Institution, WCI, where was
5 your next employment?

6 A My next employment was to the rank of warden of
7 CCI, the state penitentiary, which housed maximum,
8 super maximum, security inmates, safe keepers.
9 Those people that cannot be adequately secured
10 within county facilities were sent to us. It was
11 the end of the line so to speak and as well as
12 having predator inmate population, inmate
13 populations convicted of very serious crimes.

14 Q And how long did you serve in that capacity?

15 A I served there from 1982 to 1987, if I'm not
16 mistaken, sir.

17 Q After '87, where were you employed?

18 A I was promoted to the rank of deputy regional
19 administrator. In that capacity, I was the chief
20 administrator over 16 prisons and 16 wardens where I
21 reviewed all of the operational aspects, as well as
22 administrative policy interpretations, emergency
23 response, all aspects of a prison security
24 operation.

25 Q All right. And how long did you serve in that

JAMES EVANS AIKEN - DIRECT BY MR. WALTERS

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1 capacity?

2 A From 1987 to 1989.

3 Q And where were you employed next, sir?

4 A I was appointed Commissioner of Corrections for
5 the State of Indiana. I was a member of the
6 governors cabinet. I was a chief policy maker, as
7 well as administrator over all of the adult
8 institutions from super max down to work release
9 centers, as well as the juvenile correctional system
10 and parole system.

11 Q And this was for the State of Indiana?

12 A That is correct, sir.

13 Q And how long did you serve in that capacity?

14 A I served in that capacity from 1989 to 1992, if
15 I'm not mistaken sir.

16 Q And where were you employed next?

17 A I was appointed Director of Corrections for the
18 United States Virgin Islands, which encompassed
19 adult corrections, juvenile corrections, as well as
20 jail operations.

21 Q And how long did you serve in the Virgin
22 Islands?

23 A From 1992 to 1994.

24 Q And where were you employed next?

25 A Well, I opened and started full-time James E.

1 Aiken and Associates, Inc.

2 Q And is that your consulting firm?

3 A That is correct, sir.

4 Q All right would you tell the Judge carefully
5 what type of consulting you do?

6 A Well, it goes back, and I'll be as brief as I
7 can, to 1986, if I'm not mistaken, while I was
8 warden of the state penitentiary in South Carolina,
9 CCI, I was approached by the United States Justice
10 Department, our National Institute of Corrections,
11 as well as the National Academy of Corrections to
12 begin technical assistance and consultations with
13 correctional administrators and facilities and
14 systems throughout the United States, as well as to
15 provide some additional technical assistance to
16 representatives from other nations.

17 Part of that was involved with gang management.
18 I was involved with classification of inmates,
19 developing systems and authenticating and validating
20 those systems. I taught wardens how to be wardens,
21 taught experienced wardens how to be better wardens.
22 I've also taught wardens how to be wardens of super
23 maximum security facilities. I was involved with
24 security management managing security systems and
25 incorporating different approaches to improve the

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1 security delivery of high security prisons
2 throughout the United States.

3 Also, I provide expert testimony in civil and
4 criminal proceedings. Additionally, I had
5 leadership development, as well as to evaluate
6 critical events that occurred within correctional
7 facilities throughout the United States. I've been
8 in just about every jurisdiction or had someone from
9 those jurisdictions come to those academies and that
10 blossomed into James E. Aiken Associates, to which I
11 looked at everything from cost accountability to
12 evaluating the high level of security necessary for
13 the hard to manage violent inmate, as well as for
14 the violent youthful offender in adult facilities,
15 just examples of some of the things that I had to
16 deliver.

17 Q Could you give us examples of some of the
18 facilities that you've consulted with?

19 A Well, I've consulted for the Federal Bureau of
20 Prisons. I've consulted for the State of South
21 Carolina, the State of North Carolina, the State of
22 Georgia, the State of Florida, the State of
23 Tennessee, New York, all out west. I've also been
24 to Hawaii and Alaska and provided services to just
25 about every jurisdiction. I've also provided

1 technical consulting to the countries of Canada,
2 Puerto Rico, Costa Rica, as well as the Dutch
3 Kingdom.

4 Q Now, what about maximum security facilities?
5 What facilities have you consulted with?

6 A Well, for example, we saw -- see, there are
7 maximum security prisons and then there are super
8 maximum security prisons. And I -- for example,
9 teaching wardens how to be wardens of super maximum
10 security prisons, part of that was at a place called
11 ADX, it means administrative maximum. And it's, in
12 my opinion, the most secure prison on the face of
13 this earth. You have some very high profile, very
14 dangerous inmates confined in this facility. It's
15 located in Colorado. It's a facility that can
16 control any type of behavior. And those are people
17 not only convicted of federal crimes, but state
18 crimes to which state facilities can't manage, they
19 send them to ADX.

20 Q And do you often do assessments of different
21 prisoners?

22 A I have classified thousands and thousands of
23 inmates, as well as to evaluate people who evaluated
24 thousands and thousands of inmates, as well as to
25 help prison systems develop their internal

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1 classification systems, as well as their external
2 classification system in relationship to their
3 propensity towards violence, their ability to be
4 managed and controlled and their adaptability to
5 these environments.

6 Q Well, what factors do you consider when you are
7 asked to assess a prisoner?

8 A Well, there are a number of factors that take
9 place, some of them include the crime that was
10 committed, the type of sentence, the individual's
11 behavior, the individual's behaviors in the
12 community, as well as the type of behavior within a
13 correctional or confinement setting, as well as the
14 ability of the systems to control.

15 Another major factor that I look at is age.
16 Age is a very important variable in relationship to
17 this type of behavior pattern in assessment of this
18 type of behavior pattern. And I'm not talking from
19 a psychological standpoint, I'm talking from a
20 prison administrator's perspective of managing
21 people that are in prisons. And prisons are very
22 dangerous places containing some very dangerous
23 people.

24 Q Mr. Aiken, have you testified in court before?

25 A Yes, I have, sir.

1 **MR. WALTERS:** Your Honor, at this time, we
2 would offer Mr. Aiken as a prison adaptability
3 expert.

4 **THE COURT:** What says the State?

5 **MR. SORENSON:** No objection, Your Honor.

6 **THE COURT:** He is admitted as a prison
7 adaptability expert.

8 **THE WITNESS:** Thank you, Your Honor.

9 **BY MR. WALTERS:**

10 **Q** Now, Mr. Aiken, in this particular case, you've
11 had to consider the nature of the infractions with
12 regards to Mr. Mahdi and you also had to consider
13 the nature of the punishments that had been given
14 Mr. Mahdi and his behavior. Let's start at the
15 beginning. First of all, is the South Carolina
16 Department of Corrections equipped to handle someone
17 like Mikal Mahdi?

18 **A** Yes, sir. The department of corrections in
19 South Carolina like other correctional systems
20 throughout the United States, they have staff,
21 physical structures, systems to include
22 classification systems, high level security systems,
23 restraint systems in place and operational to
24 adequately maintain a proper level of security and
25 custody of an individual such as the defendant.

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1 Also, they have statutory authority to control and
2 manage the behaviors to include the application of
3 lethal and nonlethal force.

4 Q Well, let's carefully go back through that.
5 You've heard the testimony in this courtroom. I
6 think you've been sitting out there in the pews and
7 you've listened to the witnesses that were put up by
8 the State; is that correct?

9 A That's correct, sir.

10 Q All right. And one thing that His Honor's
11 aware of, but when you talk in terms of prison
12 adaptability, first of all, Mikal Mahdi is never
13 going to be out on the streets again; is that
14 correct?

15 A That's absolutely correct. Looking at the
16 sentencing structure is either death or life without
17 parole and that's a major variable, such as I talked
18 about the classification, that changes our mission.
19 We're not preparing him to be a good person in
20 society. There will always be a gun between him and
21 society as long as he's breathing. And one
22 additional thing is that the mission has changed to
23 one of incapacitation and that has many levels.

24 Q All right. Now, you heard the testimony with
25 regard to various items of contraband. You heard

1 Mr. Sorenson address this issue as to the items that
2 were found within his cell. Explain your position
3 with regards to contraband and what's found in the
4 cell and, specifically, with regards to Mr. Mahdi.

5 A Well, let me go back a little bit if you don't
6 mind, sir. In a prison setting, and it's so often
7 difficult to explain to people that have never been
8 a part of that system, everything is documented. If
9 it's not documented, it didn't happen. People are
10 watching you 24 hours a day, seven days a week, 365
11 days a year, to include Christmas and other
12 holidays. We know where you are. We know what
13 you're doing. And we constantly assess and reassess
14 every aspect about you as a maximum security inmate.

15 Number two is that we look at the contraband,
16 such as the contraband that was demonstrated this
17 morning. Yes, everything is serious, I take
18 everything serious, everything has a level, but the
19 point still remains is when you compare the
20 contraband issues and the behavior issues of the
21 defendant in relationship to the type of population
22 that we have to manage, it's fairly reduced.

23 Q Well, let's talk about that. You saw that the
24 prosecution pulled out the part of the drain that he
25 had put together, all right. And, first of all, I

1 want to know have you seen items such as this made
2 by prisoners?

3 A Yes, sir.

4 Q Could you tell the Court exactly what you have
5 seen?

6 A I've seen them make everything from swords to
7 different type of weaponry that would explode. I
8 have seen them develop different ways to cut through
9 fences and steel. I have seen them be involved with
10 operations to try to build liquor stills for that
11 matter. Everything conceivable, inmate populations
12 have attempted to do that, sir.

13 Q Well, specifically South Carolina, can they
14 handle someone like Mr. Myers?

15 A In my opinion, yes. They have managed him for
16 several years in an adequate manner. Things that
17 you see and hear about today in this courtroom are
18 routine, unfortunately, in high security areas.
19 Inmates are constantly trying to beat the system and
20 the system is constantly reevaluating itself to
21 better adapt their systems to control that behavior.

22 Q Now, you heard the testimony of several
23 officers from the prison system. I'll just
24 carefully, briefly go through each of those events
25 and I'd like your assessment of that. There was a

1 woman here that said that she was threatened and I
2 believe you were present for that testimony?

3 A That's correct, sir.

4 Q There was another officer that was present that
5 stated that he found a piece of metal?

6 A That's correct, sir.

7 Q There was another officer that was present that
8 said he found the hatchet?

9 A If you call it -- yes, sir.

10 Q And, of course, there was another officer that
11 was present that said there was a rope that was also
12 found within the cell?

13 A That's correct, sir.

14 Q It sounds pretty dramatic when you talk to the
15 crowd out here, but in terms of running a prison,
16 what's your assessment of that?

17 A Normal and routine, daily operations, and quite
18 honestly, a reflection of an immature boy in a big
19 prison system. And this individual is not
20 demonstrating the predator behaviors that I look at
21 and that I consider in managing this type of person
22 or a person that of -- is of a predator nature. I
23 don't see it.

24 Q Well, Mr. Myers was present in the courtroom,
25 he's here right now. He referred to him as a boy

1 that will never be a man. What is your assessment
2 of Mr. Mahdi?

3 **A** He's a boy that has gotten himself into some
4 big issues. And those issues are going to affect
5 him as long as he lives. And he doesn't even
6 realize the impact of his actions in relationship to
7 what it's going to be like in a prison setting.

8 **Q** In your assessment of Mr. Mahdi and your
9 experience in evaluating inmates and doing
10 assessments and the years that you spent in the
11 penal system, if you had to sit down here at this
12 time and draw certain conclusions about Mr. Mahdi's
13 stay in prison say five, ten years down the road,
14 what is your assessment? What can you tell the
15 public what happened to Mr. Mahdi if you had to sit
16 down and extrapolate upon the variables that have
17 been put before you?

18 **A** Well, the first thing is that he's going to get
19 older and as he gets older, he gets weaker. It
20 happened to me and it's going to happen to everybody
21 else. I'm not the person I was when I was 23 years
22 old. That's more intense in a prison environment.

23 Number two is that with that, his behavior,
24 immature behavior of disrespecting staff, making
25 these things that he calls weapons and trying to

1 beat the system, he will realize that the system
2 will beat him. And he will eventually -- and I
3 don't care how good he is or how bad he is, he's
4 always going to be in a maximum security environment
5 for what he did in the community, but that maximum
6 security environment is very dangerous.

7 Q How so?

8 A Example, I have reviewed his records. I don't
9 see any involvement with security threat groups.

10 Q What are security threat groups?

11 A Gangs, the Jamaican Posse, the Aryan
12 Brotherhood, the Dirty White Boys, the Texas
13 Syndicate, the other gangs that are operating within
14 prisons. Even in South Carolina, he's not hooked up
15 with Columbia versus Greenville and Greenville
16 versus Charleston. He doesn't have a following.
17 He's not a shot caller. He's not a person that can
18 control anything in the prison, but why? Because
19 how many people you got running around here from
20 Virginia that have murdered people in South Carolina
21 doing time? He doesn't have that backing in a
22 prison setting, in the hierarchy.

23 Number two, he's immature. He runs his mouth
24 all the time. If you don't believe me, listen to
25 the tape. Convicts see that, predator inmate

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1 population see that. And he's a perfect example of
2 people that will -- he's a perfect example of being
3 a victim of people that are predators. I'm talking
4 about sexual predators. I'm not saying homosexual,
5 I'm saying sexual predators. They don't do it for
6 sexual gratification. What they do it for is
7 dominance and control. He could be subjected to
8 something like that.

9 Another issue that I've looked at in looking at
10 his record, when he becomes -- when he realizes what
11 type of environment he's going to have to stay in
12 for the rest of his life, he will probably and
13 possibly become a self-mutilator or try to commit
14 suicide because he's going to run up against people
15 that are much more dangerous than he is in a prison
16 setting, people not singularly, but collectively.
17 So he can be a victim very easily as five years from
18 now when he starts winding down, as we call it, or
19 burning out in the system because the system is not
20 going to change for him.

21 He can run his mouth all he wants. He can play
22 those games all he wants. The point still remains
23 is that custody and control, incapacitation and
24 trying to survive in this dangerous environment will
25 become the priority.

1 Q Let's move to another issue that you talked
2 about. You talked about the policies and the
3 procedures and training that the South Carolina
4 Department of Corrections offices -- administrators
5 and officers, do they have appropriate means to deal
6 with Mr. Mahdi if he became someone who was unruly
7 and out of hand? What is the force continuum?

8 A Well, obviously -- and you see some of that in
9 this record where they use chemical monitions, that
10 is O.C. spray, tear gas as they call it, CNCS gas.
11 They can use electrical shocks with a stun belt.
12 They have a restraint chair. For immature
13 behaviors, such as throwing urine, which he has not
14 done, or doing anything of that nature, they can
15 control his movements. They can tie him down in a
16 bed where he cannot move if they have to do that to
17 control that behavior.

18 Q And serving as an administrator, have you used
19 all of these methods against prisoners?

20 A I have not only used those particular methods,
21 but I've also ordered inmates killed. And inmates
22 were killed by snipers, specially trained people
23 that -- that are specially trained tactics to use in
24 dangerous situations within a prison setting and
25 they can apply lethal force, if required. And I've

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1 ordered people to be killed -- person to be killed
2 and the person was killed.

3 Q Let's go into more of the prison setting
4 itself. Would you describe the cell that he would
5 have to stay in?

6 A Well, it's hard to describe the cell for two
7 reasons. The first reason is this, you're always
8 going to be in a maximum security environment. And
9 in that maximum security environment, you'll have a
10 different configuration of cells. Some cells may be
11 larger, some cells may be smaller, but cells will
12 contain you. They will restrict your movement as
13 necessary. We control the water. We control the
14 electricity. We even can control the air flow. And
15 we control who goes in and who goes out of that cell
16 and what you can and cannot have in that particular
17 cell.

18 Q You earlier stated that Mr. Mahdi is not being
19 -- going through any rehab program to return to
20 society; is that correct?

21 A That's correct, sir.

22 Q And as far as the role of the South Carolina
23 Department of Corrections, it will simply be a
24 monitoring process; is that correct?

25 A Not monitoring, incapacitation.

1 Q And in that capacity of the incapacitation of
2 Mr. Mahdi, Mr. Mahdi will be in this position for
3 the rest of his life?

4 A As long as he lives.

5 Q Now, in your assessment of prisons, there's
6 also something referred to as 23 and one. Would you
7 please tell Your Honor what that means.

8 A Your Honor, and it's hard to explain it from a
9 community person as, you know, it's not one of
10 saying, go to your room. It's one of saying, we
11 control everything about you. You get one hour out
12 in the dog run per day, if weather permits and if
13 your behavior dictates that. Other than that,
14 you're going to remain in this cell. And that's
15 what is meant by that. You can't walk around. You
16 can't go from point A to point B. You are
17 completely and absolutely controlled. And if we
18 tell you to back up and cuff up, handcuffs, to come
19 out of that cell so we can inspect it and you won't
20 do it, we spend -- we send in force cell movement
21 teams specially equipped to apply the necessary
22 force against you in order to control your behavior,
23 if necessary, and that also includes chemical
24 monitions.

25 Q Well, you heard the testimony from the officer

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1 about the dog that was used to apprehend Mr. Mahdi?

2 A Yes, sir.

3 Q Are dogs sometimes used at your facilities?

4 A Yes, sir. Specially trained dogs are two
5 types, contraband sniffing dogs, those dogs are not
6 necessarily aggressive. They go and search people
7 just like you have in airports now.

8 And then you have emergency response canine
9 corps. And what we do, if someone in general
10 population is to get out somewhere or lower security
11 inmate, we just let the dog loose in the area if
12 they don't come out. Also, we use it when you have
13 group demonstrations on the yard where gangs are
14 refusing to come off the yard, for example. We put
15 snipers up and we order them to remove themselves
16 from the yard or lethal force will take place. We
17 have second chemical monitions disbursement, what we
18 call, crowd control.

19 And, third, we have canines. And sometimes
20 those canines corps can range from ten to 20 dogs.
21 And they're specially trained and we give them an
22 order to leave the yard and if they don't leave the
23 yard, we unleash the dog and prepare the order to
24 attack.

25 Q Mr. Aiken, you've said a lot about your

1 assessment of Mr. Mahdi and the system being able to
2 handle Mr. Mahdi. If you can, briefly just state in
3 conclusion what conclusions have you drawn about
4 Mr. Mahdi and his stay in the penal system?

5 A Mr. Mahdi is an immature person that's done
6 some terrible things in the community and as a
7 result, he will remain in a prison environment for
8 the rest of his life. And that prison system can
9 adequately manage him with the type of security,
10 technology, rules, regulations, training, physical
11 structures, et cetera for the remainder of his life
12 without causing an undue risk to staff, inmates, as
13 well as the general public. And even if they deem
14 it appropriate that they don't want to supervise
15 him, there are other prison systems, such as the
16 federal level, that can adequately manage any type
17 of inmate.

18 Q And will he ever reach that level of being
19 someone removed to the federal prison?

20 A I don't see any indication that will cause
21 that, sir.

22 MR. WALTERS: Your Honor, we have no further
23 questions.

24 MR. SORENSON: Please the Court, Your Honor.

25 THE COURT: Yes, sir, Mr. Sorenson.

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1 CROSS-EXAMINATION

2 BY MR. SORENSON:

3 Q Good afternoon, Mr. Aiken.

4 A Good afternoon, sir.

5 Q My name is Don Sorenson. I'm with the
6 Solicitor's office.

7 A Mr. Sorenson, how are you doing?

8 Q I'm doing fine. I just have a few questions I
9 want to go back to and clarify a few things. Now,
10 you, obviously, as part of your consulting firm, Mr.
11 Aiken, are being paid for your testimony today?

12 A That's correct, sir.

13 Q And how much are you being paid to testify
14 today?

15 A One hundred and twenty-five dollars an hour.

16 Q And how many -- up to this point in time, how
17 many hours have you billed up to now?

18 A I have not evaluated that, sir, but I
19 understand it's a cap of 9,000.

20 Q So a cap of \$9,000. Do you think you'll reach
21 that cap?

22 A I would assume such. There was a lot of
23 material.

24 Q Yes, sir. And you indicated that you began
25 your consulting firm back in 1994, I believe; is

1 that correct?

2 A Technically, yes, but, realistically, back in
3 '86.

4 Q How many times have you testified in a capital
5 case for the defense?

6 A All of them and it was more than 45 times, sir.

7 Q More than 45 times. Is that all here in South
8 Carolina or is that throughout the country or the --

9 A That's throughout the country, state, federal
10 level, and I don't take every case.

11 Q Those 45 times have you always been asked to
12 come in and give your opinion regarding prison
13 adaptability?

14 A Prison adaptability or a classification
15 adjustment are all related matters.

16 Q And out of those 45 times or at least those
17 times out of those 45 that you've been asked to talk
18 about prison adaptability, have you ever found a
19 prisoner or a defendant who would not be adaptable
20 to prison?

21 A Well, I'll put it this way, and I want to be
22 very precise about it, I have given lawyers my
23 impression and my professional opinion and they
24 said, we don't want you anywhere near a courthouse.

25 Q So, obviously, you didn't end up testifying in

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1 those situations?

2 A No, sir.

3 Q You had talked about, and I want to make sure I
4 understand, you had talked earlier about --

5 Mr. Walters had asked you about classifying inmates?

6 A Yes, sir.

7 Q And you had talked about several factors that
8 go into classifying an inmate?

9 A That's correct, sir.

10 Q I believe you talked about the crime that was
11 committed?

12 A Yes, sir.

13 Q The type of sentence a person received?

14 A That is correct, sir.

15 Q Then you said something, the third one, and I
16 didn't catch that while I was writing, and maybe I
17 can -- I'll tell you what else I have and see if you
18 can fill in what I'm missing. The behavior out in
19 the community?

20 A Yes, sir.

21 Q Behavior within a confined setting?

22 A Yes, sir.

23 Q And then the person's age?

24 A Person's age.

25 Q Was there some other factor in there that I

1 missed?

2 A I don't know. There are a number of factors,
3 such as educational level, which I didn't go into,
4 the medical status of an individual, the
5 psychological status of an individual. There are
6 numerous factors, socialization history, social
7 history. I could go on and on.

8 Q And those -- and let me just make sure I
9 understand. Those factors you're talking about in
10 classifying an inmate, what -- tell me what you mean
11 by classifying an inmate with that regard?

12 A In layman's terms, sir, it's putting the right
13 inmate in the proper level of security, the proper
14 level of custody in order to protect the public.

15 Q Okay. Now, let me switch gears a little bit, I
16 think, here. But when you're talking about whether
17 somebody is adaptable to prison life, okay, and
18 that's something you've been asked to give an
19 opinion on before; is that correct?

20 A Yes, sir.

21 Q What factors go into determining whether
22 somebody is adaptable to prison life?

23 A Well, I look at the correctional system, the
24 prison systems and their ability to manage the
25 behavior, the type of behavior, as well as the

1 classification factors.

2 Q So you look at those factors that we talked
3 about a moment ago?

4 A Yes, sir.

5 Q But also look at the specific prison that
6 you're dealing with, in this case, the South
7 Carolina Department of Corrections. Then also look
8 at the behavior of the individual?

9 A The behavior of the individual, and, of course,
10 I have to apply my level of experience and expertise
11 in relationship to those variables.

12 Q In the South Carolina Department of
13 Corrections, what would a person have to do to be
14 unadaptable to prison life in the South Carolina
15 Department of Corrections? I mean, how bad would
16 they have to be?

17 A They would have to be pretty bad, but we're not
18 talking about in layman's terms. They would --
19 okay, you want some examples?

20 Q Well, I'm just curious. If you had somebody
21 that was threatening the staff, assaulting the
22 staff, somebody that was making weapons, somebody
23 that was making tools they could use to escape, such
24 as a handcuff key, rope, stuff of that nature,
25 making weapons, I mean, are those all factors that

1 go into whether that person would be adaptable to
2 prison life?

3 A Obviously, it would, but, sir, I'm not talking
4 on that context. What I'm talking about, you asked
5 me about a person in the South Carolina system what
6 would I have reservations for. I'm talking about
7 the inmate that has total control, total control to
8 call a signal and have an officer killed, the total
9 control of him making a signal on the yard and
10 causing a riot between two rival gangs.

11 I'm talking about a person with connections
12 with international terrorists that can call hits on
13 officials within the prison systems that have been
14 killed. And I'm not talking about hypothetical, I'm
15 talking about real. I'm talking about the type of
16 inmate that is such a predator that other inmates
17 are definitely afraid of him and staff, too.

18 And I don't find that in the South Carolina
19 system. I found it in other systems, but I have not
20 found that in the South Carolina system because they
21 have done a relatively, I'm not saying they're
22 perfect, but they have done a relatively good job of
23 managing inmates. But making weapons and
24 disrespecting people and doing those immature
25 behaviors, I'm talking about real dangerous people

1 that don't mind killing a warden, that don't mind
2 taking families hostage and they don't mind running
3 -- calling hits where you can pick up the phone and
4 an inmate in a prison five, I wouldn't say five, but
5 2,000 miles away comes up dead because they called a
6 hit. And you know what, if they don't kill him,
7 they would be killed. Those are the type of
8 predators I'm talking about.

9 Q And your opinion was that Mr. Mahdi is not a
10 predator?

11 A In relationship to those type of people, no.
12 Those type of people will be predators against him.
13 They will be the ones that's trying to rape him.
14 They're going to be the ones that are going to smack
15 him upside the head or put a shiv in him. Why?
16 Because he's got no backing.

17 I mean, give me his gang, give me his
18 affiliations with a terrorist organization. He's
19 not in that category, sir. He's immature and done
20 some very violent, stupid things.

21 Q Now, you're aware -- you had indicated that
22 you've reviewed all of Mr. Mahdi's records?

23 A All that was provided to me by counsel.

24 Q Okay. Let me just kind of go over just briefly
25 what they provided to you. Did you review his

1 records from when he was incarcerated up in the
2 State of Virginia?

3 A Yes, sir.

4 Q Okay. How about in their department of
5 corrections?

6 A Yes, sir.

7 Q How about when he was incarcerated as a
8 juvenile up there in their department of juvenile
9 justice?

10 A Uh-huh.

11 Q And, obviously, you've reviewed his records
12 since he's been a safe keeper at our department of
13 corrections?

14 A In this case status, yes, sir.

15 Q Basically, in looking at all that, I mean, he
16 has been incarcerated pretty much most of the time
17 since he was 14 years of age; is that correct?

18 A He's been familiar with the criminal justice
19 system.

20 Q I just want to talk to you just a few more
21 minutes, if I could, Mr. Aiken, just kind of about
22 how our department of corrections here is set up.
23 You had indicated back when you were the warden,
24 that CCI was, at that point in time, I think your
25 term was, the end of the line so to speak, that is

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1 where the worst of the worst went, that was your --

2 A Yes, sir. I guess, to go back a little bit, my
3 experience is one of fixing systems. I'm the person
4 that goes to make sure that systems are working
5 operationally, security-wise in a proper manner to
6 secure inmates, as well as to protect staff and the
7 community. And CCI was one of those projects, yes,
8 sir.

9 Q Now, obviously, CCI was torn down several years
10 ago?

11 A I was one of the biggest advocates for that,
12 sir.

13 Q You're aware now kind of how the department of
14 corrections is set up here; is that correct?

15 A Yes, sir.

16 Q Super max is that Kirkland in Columbia?

17 A Yes, sir.

18 Q And you're aware of how super max is set up?

19 A Basically, yes, sir.

20 Q So they have certain -- 50 cells, I believe is
21 the testimony?

22 A Fifty cells, high side, D side, C side, et
23 cetera, High C.

24 Q And High D would be then kind of where the
25 worst of the worst would go?

1 A Yes, sir, for the South Carolina system.

2 Q For South Carolina. So six cells would be --
3 where CCI used to have the worst of the worst, now
4 High D at super max is the worst of the worst?

5 A Well, yes, because at CCI, we had a prison
6 within a prison. We had what was known, and I guess
7 I'm telling my age, we had what was known as MDRC,
8 which was maximum detention retraining center, which
9 was what you got at Kirkland now.

10 Q So High D would essentially be now the end of
11 the line; is that correct? It doesn't get anymore
12 secure than that, being in a cell, monitored with
13 the light on, monitored 24 hours a day?

14 A Well, for the South Carolina system --

15 Q And that's what we're dealing with, that's
16 where we are?

17 A Right, but I'm not saying that that is the end
18 of the line for the type of control that he would
19 have to -- that he can be subjected to in High D
20 side.

21 Q So they can make it even worse in High D?

22 A Yes, sir, if they deem that appropriate and
23 necessary.

24 Q And you had indicated that if he were to
25 receive a life sentence, obviously, he would be in a

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1 maximum security unit for the rest of his life; is
2 that correct?

3 A That's correct, sir.

4 Q And, of course, there's no guarantee just
5 because you're serving a life sentence and you're in
6 a maximum security unit, there's no guarantee that
7 you're never going to escape; is that correct?

8 A You better believe there's no guarantee that
9 I'm going to make it to tomorrow.

10 Q But, specifically, as to even -- just because
11 you're in a maximum security unit, doesn't mean that
12 you're not -- if you have the means to make keys and
13 stuff of that nature, that you're not going to, at
14 some point in time, have an opportunity to escape?

15 A Everything is possible, but the probability is
16 nil.

17 Q But it has happened, has it not?

18 A As I told some people, nothing surprises me.
19 Disappoints me, yes, but nothing ever surprises me.
20 In this type of business, you have -- tomorrow has
21 nothing to do with what happened yesterday.

22 Q In fact, those inmates out there are constantly
23 scheming with ways to either get out or get away
24 with stuff; is that correct?

25 A Yes, sir. And we're constantly scheming, too.

1 And I'm very, very enhanced with the new
2 technologies that are coming out that I'm working
3 on.

4 Q Yes, sir. And just where you can obviously
5 never guarantee that Mr. Mahdi or any other inmate
6 would ever not be able to escape, you also can't
7 guarantee that he would never be a threat to other
8 staff, other inmates, other employees; is that
9 correct?

10 A That is correct, sir. I cannot absolutely
11 guarantee you at all levels of probability that this
12 would not happen, no way.

13 Q And just so I understand, Mr. Aiken, is your
14 conclusion, your opinion that the South Carolina
15 Department of Corrections has got the adequate means
16 to supervise and house Mr. Mahdi; is that correct?

17 A And secure him and control his behaviors as
18 necessary.

19 Q And, basically, your opinion was that -- that
20 with the type of inmates that are here in South
21 Carolina, they're pretty much adequate to house any
22 of those inmates, right.

23 A Yes, sir. They can manage just about every
24 type of behavior pattern or could make that
25 referral, which I've not even heard of South

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1 Carolina doing that.

2 MR. SORENSON: Thank you, Mr. Aiken.

3 THE WITNESS: Thank you, sir.

4 MR. WALTERS: Your Honor, we have no further
5 questions.

6 THE COURT: Okay. Mr. Aiken, good to see you.

7 THE WITNESS: Am I excused, sir?

8 THE COURT: Yes, sir.

9 Next witness, please.

10 MR. KOGER: Call Marjorie Hammock.

11 MARJORIE HAMMOCK,

12 having been duly sworn, testified as follows:

13 THE CLERK: State your full name for the
14 record.

15 THE WITNESS: My name is Marjorie Hammock.

16 DIRECT EXAMINATION

17 BY MR. KOGER:

18 Q And, Ms. Hammock, what is your current title?

19 A I'm an assistant professor of social work at
20 Benedict College in Columbia, South Carolina.

21 Q And how long have you been employed in that
22 position?

23 A Since 1999 is when I retired from the
24 department of corrections.

25 Q And what duties are associated with your

1 present position?

2 A I teach social work courses. I supervise
3 students who are in their field practicum placement
4 and I do occasional grant supervision for programs
5 that are going on on the campus.

6 Q And what is your educational background?

7 A I have a BA degree and a Masters degree in
8 social work from Howard University in Washington
9 D.C. and I have completed course work toward the
10 Ph.D. at the University of South Carolina for a
11 degree in philosophy and social work.

12 Q And prior to your current tenure at Benedict
13 College, what is your prior work experience?

14 A I've worked in almost ten or 12 different
15 social services and social work capacities. Most
16 recently and most significantly was 15 years at the
17 department of corrections, South Carolina, as the --
18 starting out as a supervisor at one of the
19 facilities and then becoming the chief of social
20 work and the mental health consultant for the
21 department.

22 Q And you mentioned that you worked in about ten
23 or 12 other capacities prior to your 15 years at the
24 department of corrections. What other capacities
25 did you work?

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1 **A** I served as a foster care social worker in the
2 department of social services. I've been a trainer
3 and a director of programs within Head Start. I've
4 worked on a federal level, as well as on a state
5 level in supervising programs that also were related
6 to poverty programs. I've worked in juvenile
7 detention facilities. And I've also had a private
8 practice in clinical social work, counseling
9 individuals and families.

10 **Q** And how long have you had that private
11 practice?

12 **A** I've had the private practice off and on since
13 1959.

14 **Q** So quite a while?

15 **A** Uh-huh.

16 **Q** Well, Ms. Hammock, what type of special
17 training do you have as far as criminal cases as far
18 as assessing defendants?

19 **A** Well, certainly, I conduct biopsychosocial
20 assessments and have been doing that both on a
21 criminal and a noncriminal population, but in the
22 department of corrections, I was responsible for
23 conducting these assessments for inmates who came
24 into the service, as well as those who required
25 additional care. We performed clinical work with

1 many of the inmates. As I said, the private
2 practice would include working with individuals and
3 families, treating for emotional and social
4 behavioral problems, looking at ways to strengthen
5 behaviors and improve behaviors, counseling --
6 currently, by the way, counseling students in some
7 of the problems that they may present that are
8 nonacademic.

9 Q Have you ever conducted these type of
10 assessments in death penalty cases?

11 A Yes, I have.

12 Q Okay. And how many death penalty cases have
13 you participated in?

14 A I've participated in about 25 death penalty
15 occasions and I have actually testified in court
16 around 14 -- for 14 cases.

17 Q Okay. And are you currently working on any
18 other death penalty cases?

19 A Yes. I'm working on about five cases, some
20 here in the state, some in Florida, one in Alabama.

21 Q Okay. And have you ever been certified or
22 qualified as an expert in the courts of South
23 Carolina or any other courts?

24 A Yes, and that's -- been certified as --
25 qualified as an expert is probably the number 25,

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1 actually testifying in cases is 14.

2 Q Okay. And what is a clinical social worker?

3 A A clinical social worker is a mental health
4 professional who practices at a masters level in
5 education and training and experience. And it's a
6 person who is trained to conduct diagnosis and
7 treatment for emotional social problems and issues
8 that people may present, also trained to understand
9 human development, family systems and the impact of
10 the -- on the -- of the social environment on human
11 behavior.

12 Clinical social workers diagnose and treat, as
13 I said before, particularly in the areas of
14 emotional and social behaviors and disorders. We
15 also educate on a college, university level, conduct
16 seminars and explain exactly what it is that we do
17 to the general public. Clinical social workers
18 provide about 65 percent of the mental health
19 services that go on in this Country.

20 Q And in what settings have you used your
21 clinical experience?

22 A Certainly in the correctional setting. I've
23 also used the clinical social work training in
24 private psychiatric hospitals, I've done per diem
25 work there, used it in assessing students in school

1 settings and certainly used it in foster care in
2 adoption for placement purposes.

3 Q And are you licensed?

4 A I'm licensed in the State of South Carolina at
5 the independent level.

6 Q And how long have you been licensed?

7 A I've been licensed since 1988.

8 Q Okay. And do you have any other certifications
9 or memberships to professional organizations?

10 A I belong to the National Association of Social
11 Workers, the Association of Black Social Workers and
12 also the Clinical Social Work Society of South
13 Carolina. I'm a diplomate in clinical social work
14 and I'm a member of the Academy of Social Workers.

15 Q Do you serve on any other local or national
16 committees?

17 A I'm a member of the local chapter of National
18 Association of Social Workers. And, also, I serve
19 -- I'm a Governor's appointment to the Board of
20 Social Work examining the licensing group.

21 Q And during your career, have you won any awards
22 or accommodations for your work?

23 A I've received accommodations for social work
24 services, particularly in the department of
25 corrections from the South Carolina House of

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1 Representatives and the Senate. And I was the
2 recipient of the Ernest Just Award for publication
3 of the -- at the Ph.D. level.

4 **MR. KOGER:** Your Honor, at this time, I would
5 like to offer Ms. Hammock as an expert in clinical
6 social work.

7 **THE COURT:** What says the State?

8 **MR. SORENSON:** No objection, Your Honor.

9 **THE COURT:** She's admitted as an expert in the
10 field of clinical social work.

11 BY MR. KOGER:

12 **Q** Ms. Hammock, did you conduct a biopsychosocial
13 assessment on Mikal Mahdi?

14 **A** Yes, I did.

15 **Q** And can you explain for the Court that type of
16 assessment?

17 **A** Okay. It's a method, a social work method
18 particularly for gathering information on a client
19 or, in this case, the defendant. And it's a way of
20 taking all of the social, the biological and the
21 clinical factors, the environmental factors about
22 the defendant and bringing them together to really
23 form a family or a social history. It examines at
24 every aspect of the life to present a picture,
25 particularly in this instance to give some

1 understanding as to why we are here and that
2 resulted in his being in this situation.

3 Q And how do you conduct such an assessment?

4 A By conducting interviews with family members,
5 reviewing records, interviewing the defendant
6 himself, taking information from anyone who would
7 give information about him, his life and his
8 development.

9 Q And in doing this assessment, was it in keeping
10 with standards for the clinical social work
11 profession?

12 A Yes.

13 Q Did you conduct any interviews, review records
14 and consult with other professionals, review study
15 and visit the home in this particular case?

16 A In this instance, yes, I interviewed, as I
17 said, the defendant and family members, that would
18 include his maternal grandmother, Rose Burwell, his
19 paternal -- I said paternal grandmother, his
20 paternal aunt and uncle, his paternal aunt-in-law,
21 and I'll give you those names, and I spoke with
22 someone who was a part of the community, though, she
23 didn't know much about him. That's Rose Burwell;
24 Nathan Burwell, the Third, his paternal uncle;
25 Carson Burwell, his paternal uncle; and Lawanda, his

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1 aunt -- his paternal aunt-in-law. And I spoke to
2 Vera, Tilea, his mother, Tilea Mahdi; and Corlis
3 Ardis, his maternal aunt; and Sophia Gee, his
4 maternal -- his other maternal aunt.

5 Q And along with interviewing these people, did
6 you review any records?

7 A I reviewed a synopsis of his school records and
8 I reviewed a report from his mental health and
9 voluntary admission in Virginia -- excuse me -- in
10 Baltimore.

11 Q And did you create some type of visual aid to
12 chart Mikal's experiences?

13 A Well, I didn't really create a visual aid, but
14 I do have a listing of his experiences in terms of a
15 time line and I do have a review of his school
16 records.

17 MR. KOGER: May I approach, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. KOGER:

20 Q Is that a copy of his time line?

21 A Yes, it is.

22 MR. KOGER: Your Honor, I'd like to enter this
23 time line as Defense Exhibit 1.

24 MR. SORENSON: Without objection, Your Honor.

25 THE COURT: It's admitted without objection.

1 COURT REPORTER: It will be Defendant's Exhibit

2 2.

3 MR. KOGER: 2.

4 (Defendant's Exhibit Number 2, time line,
5 admitted into evidence.)

6 BY MR. KOGER:

7 Q This time line, what does this time line
8 portray?

9 A Well, in this instance, it describes the
10 experiences that Mikal had, to some degree, the
11 composition of his family and what they looked like.
12 It gives a background on both his mother and his
13 father, though, somewhat limited in terms of their
14 experiences.

15 It describes a rather chaotic and different
16 kind of childhood that he experienced as a boy,
17 particularly highlighting the nature of the
18 transience, the changes in his living circumstances.
19 It goes on to talk about the inability really of his
20 parents to parent appropriately and correctly. It
21 demonstrates that he was, in fact, abandoned by his
22 mother at quite an early age and that his father
23 was -- had his own experiences which limited his
24 ability to parent effectively.

25 It gives a picture of his moves both in

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1 Virginia, in Richmond, and in Lawrenceville, as well
2 as his brief stay in Baltimore with his paternal
3 uncle and aunt. He was sent there simply because
4 his father was unable to care for him. His older
5 brother was also sent away. He was sent to another
6 relative in Texas.

7 So it really is just a chronological picture of
8 the kind of experiences that he had, including a
9 hospitalization and later on in his adolescent
10 years, his involvement with difficulty which
11 resulted in his incarceration.

12 Q And in preparing this time line when you do
13 your assessment, was that in keeping with the
14 professional social work standards?

15 A Yes, it is.

16 Q Now, you stated from your testimony that you
17 went over the background history of the family
18 members that are part of your assessment -- of your
19 assessment and it had an impact on the defendant.
20 Can you tell me what you learned from doing the time
21 line, from doing the assessment, what did you learn
22 about Mikal's life?

23 A Well, again, a lot of chaos in his life. And
24 if I may, let me go back and say that the father,
25 Mikal's father, also was extremely troubled as a

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1 child, had a lot of difficulties. He relates his
2 experiences in desegregating the local school there
3 in '50 -- well, actually he was born in 54, but
4 thereafter, five years or six years after, and how
5 traumatic that was for him. He was constantly in
6 conflict with those around him. He was considered
7 -- he considered himself unwanted.

8 And so his own childhood was difficult and he
9 grew up in a situation feeling alienated from
10 anybody else around him. He didn't finish school.
11 He was the only one in his sibling group that didn't
12 and that was a source of consternation between he
13 and his family members.

14 This looked like an intact family that he grew
15 up in, but they had their problems. There was
16 alcoholism in the family and there was some neglect
17 on the part of his father's father. And, again,
18 this also culminates in Mikal's father deciding to
19 become a Muslim, change his name, which also brought
20 some grief to the family.

21 So this gentleman then at the age of -- he goes
22 to the Marines, he gets out. And it's -- he says he
23 has an honorable discharge, but it was under some
24 circumstances that really kind of compromised the
25 nature of that discharge. And, as I said, he

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1 converts to -- and becomes a Muslim. He has odd
2 jobs, but he's not really able to function well.
3 There is some description of continuing depression
4 and a number of incidents with law enforcement
5 locally.

6 At the age of 27, he meets and participates in
7 an arranged marriage with a 16-year-old woman from
8 Richmond, whose mother helped to arrange the
9 wedding. The mother, Vera, or Tilea, is not
10 supportive of this, but she has no choice but to
11 join the marriage and that marriage was conflict
12 from the very, very beginning.

13 Mikal's older brother is born and then Mikal is
14 born into this family, which is very unstable and
15 chaotic. The father is not able to take care of his
16 family. They move several times, ultimately ending
17 back in Lawrenceville living with his mother and not
18 able to, again, sustain himself.

19 There is a great deal of conflict described
20 between Vera, or Tilea, and Mikal's father. And
21 this the children witnessed. Ultimately, the mother
22 leaves the family and she describes her trying to
23 get away from the abuse.

24 Q Let me stop you right there. At what age did
25 the mother leave the family, what was Mikal's age?

1 A He was five years old, four or five years old.

2 Q And the older brother?

3 A And the older brother is about 18 months older
4 than he is.

5 Q Okay. Continue.

6 A And again -- so, again, the chaos continues.
7 The father attempts to take care of the children.
8 The grandmother, Ms. Burwell, also attempts to
9 provide assistance in there, but it's very -- it's
10 constantly confrontational, the relationship between
11 Mikal's father and his grandmother and the other
12 members of the family.

13 There are significant -- there are different
14 moves in terms of schooling back into Richmond and
15 then back to Lawrenceville. And this is related, as
16 we'll probably get to, what's actually in the school
17 records.

18 At some point within a short period of time,
19 the mother is literally forced to return from
20 Richmond to Lawrenceville ostensibly to see the
21 boys, but that results in, again, some physical
22 conflict. And she leaves again not to see her son
23 for a number of years.

24 Mikal constantly has difficulty in school. He
25 is considered bright, but he just doesn't perform

1 and he particularly is a poor reader. He's
2 described as having poor self-esteem throughout his
3 academic time.

4 Ultimately, his father is unable to take care
5 of him at all. And that's -- at that point, in, I
6 think, it's '91, Mikal is sent to live with his aunt
7 and uncle in Baltimore and his older brother is sent
8 to another aunt in Texas.

9 Q Okay. So the two brothers are separated at
10 that time?

11 A They're separated at that point and they're
12 separated from their father.

13 Q Now, who did Mikal go to live with during that
14 period?

15 A Mikal goes to live with Carson and Lawanda
16 Burwell.

17 Q Okay. And I think you testified earlier to
18 speaking with those two during your assessment?

19 A I did meet with them and I had a chance to talk
20 to them. They described Mikal as being a bright and
21 energetic young boy, but very, very troubled, who
22 had difficulty in school. At that point as he came
23 to them, his uncle says he could not read. He
24 simply could not read even though he appeared to
25 have other kinds of skills.

1 And so, again, it was a -- it was constant
2 conflict in getting him to deal with the fact that
3 he had these academic limitations. And according to
4 some of those school records, it does seem that that
5 would -- that continued him throughout that period
6 of time.

7 Q Let me stop you since you mentioned some school
8 records. We have a school experience summary that
9 was part of your assessment, correct?

10 A That's correct.

11 MR. KOGER: Your Honor, I would like to place
12 this in evidence as Defense Exhibit Number 3. I
13 provided a copy to the Solicitor's office earlier.

14 MR. SORENSON: No objection, Your Honor.

15 THE COURT: It's admitted without objection.

16 (Defendant's Exhibit Number 3, school
17 experience summary, admitted into evidence.)

18 BY MR. KOGER:

19 Q Now, Ms. Hammock, since you mentioned about the
20 difficulty in school, can you go over that school
21 experience summary for us for Mr. Mahdi?

22 A Yeah. It appears that he's actually started
23 kindergarten, 1988, at the Sister Clara Muhammad
24 School in Richmond, Virginia where his mother and
25 father lived temporarily. No actual records are

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1 available for that experience, though, both his
2 mother and his father confirmed that that's where he
3 began his education. And the school records for the
4 Totaro Elementary School confirmed that they
5 received records, but there was nothing that we
6 could actually read. And he, in fact, did
7 kindergarten at the Totaro Elementary School.

8 And then he moved to the -- back to Richmond
9 and the Chamberlayne Elementary School for the first
10 part of the first term, but, again, narrative
11 records are not available. It's simply in the other
12 records. And then this is the point where he gets
13 sent to Baltimore.

14 So he spends the second and the third grade in
15 Scotts Branch Elementary School in Baltimore,
16 Maryland. And he has uneven skills. He's placed in
17 an average math program, but below reading -- below
18 average reading programs. And the narrative
19 indicates that he needs improvement in a number of
20 areas, including standards for behavior, showing
21 respect for authority. And his reading and writing
22 skills remained below grade level.

23 That continues in the third grade and he --
24 it's specially noted again the unneediness (sic) of
25 his performance because he is considered by his

1 teacher, in that year, that he was outstanding in
2 science; however, the reading and the vocabulary and
3 the spelling remain below average. It's also noted
4 several places where he clearly has poor self-esteem
5 and often has difficulty with relationships with
6 others.

7 Ultimately, he leaves school and is placed in,
8 voluntarily, in a mental health facility. And after
9 he is released from that, I'm just doing the school
10 part, after he's released from that facility, the
11 mental health facility, he stays only with his aunt
12 and uncle for a short period of time because he's
13 anxious to reunite with his father and his brother.

14 Q So in your professional opinion, his education
15 was disrupted many times?

16 A Yes, that's true. There are also some
17 notations of lateness and absences, but that's not
18 consistent through the whole record.

19 Q Now, you, of course, testified to the father
20 and then you started on the mother. Can you -- from
21 your assessment in this case, what did you learn
22 about the mother?

23 A I spoke to the mother. She was very, very
24 withdrawn, did not want to participate in the
25 interview at all, somewhat -- really almost

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1 frightened about being involved with the family
2 again.

3 She had had her experiences with the father.
4 As I said, she was 16 when she married, had two
5 children within a 24 month period of time, was in --
6 what she described, and others described, as an
7 abusive relationship and decided that she could no
8 longer stay even though it meant leaving her
9 children.

10 She did educate herself, joined the military.
11 And, at this point, works and takes care of herself,
12 but is totally isolated from her own family, as well
13 as from the Burwell family. Occasionally, she may
14 speak to some members, but there is a dislocation
15 there -- disconnection, excuse me, there.

16 Q So most of the information that you received on
17 the mother came from other family members, the
18 Burwell family?

19 A Came from the mother, her siblings and the
20 Burwell family. And it all somewhat -- it's all --
21 it all jives. I mean, what they say about her and
22 what she says about herself is the same.

23 Q Did she mention the lack of -- and, actually,
24 you did try to talk with her, between she and Mikal
25 before she left when he was age four, age five? Did

1 she --

2 A And she says that she was forced to leave and
3 that there was, in fact, considerable -- a period of
4 time before she had any contact with him again and
5 then almost no contact.

6 Q Now, Ms. Hammock --

7 A He does live with her, if I may, he does live
8 with her for a very short period of time when he's
9 released from the juvenile facility, but it was not
10 a good reunion. They did not get along at all.

11 Q Did she speak to that episode?

12 A Yes. She just simply talks about how they
13 could not get along and that they just simply had
14 very different kinds of ideas about his living with
15 her.

16 Q And to the best of your knowledge, that was the
17 last time the two of them had spoken?

18 A That's my understanding, yes.

19 Q Okay. Now, let's move to another portion of
20 your assessment here. What do clinical social
21 workers mean when they talk about child development?

22 A Well, taking a look at the whole developmental
23 period, the birth, the infancy, the periods of
24 development, latency adolescence and young adulthood
25 and the kinds of experiences that children have

1 going through those developmental phases.

2 Q And with the father, since he was primarily
3 rearing the two boys, how did he do, was he
4 specially trained or do you need to be specially
5 trained to --

6 A You don't need to be specially trained. You
7 don't need a degree, but you need to have a good
8 understanding of what children need to grow up
9 healthy, what kind of support they need, the
10 importance of consistency, reading, looking at
11 others, good solid role models can help you become a
12 good parent, but you need to -- children need to be
13 taken care of and they need to be supported. They
14 need to be treated positively. And they need to be
15 helped to understand social values in the community.
16 They need to know how to develop relationships with
17 others.

18 Q And from your assessment, did the father -- was
19 he equipped to do that?

20 A No, I don't think so.

21 Q Did he ever develop the tools to do that?

22 A No. He had his own -- what appears to be his
23 own issues that prohibited him from being a good
24 father.

25 Q In your assessment, what did you learn about

1 the infancy of Mr. Mahdi?

2 A Birth was considered normal, but, again, we
3 know that that environment was conflictual, even at
4 that point was full of conflict even at that point.
5 And so there are no records of any major health
6 issues or even developmental issues at that point.
7 He walked and talked, according to the reports, on
8 schedule.

9 Q And when we talk about infancy, what type of
10 period are we talking about, from birth until what
11 age?

12 A Birth until 12 months.

13 Q Twelve months?

14 A Eighteen months.

15 Q And did you learn anything about his early
16 childhood year at the present time?

17 A Early childhood year, again, we can only
18 speculate that it was full of a great deal of
19 conflict, that ultimately he loses his mother, but
20 that his mother and father are not really available
21 to him on any kind of consistent basis, and that
22 he's exposed to a lot of conflict and chaos.

23 Q And to progress further, how about his preteen
24 years as far as turmoil?

25 A Well, again, more chaos, more movement, more

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1 change, a lack of stability even in terms of his
2 attending school and it's reflected in the kinds of
3 reports that he received.

4 Q Okay. And to progress further, his adolescent
5 years, the same thing, chaos?

6 A Chaos. He's also exposed to his father's
7 outbursts and problems. His father was known to be
8 at odds with people in the community, with his own
9 family and with law enforcement.

10 Q And, Ms. Hammock, I'm pretty sure you will
11 touch upon this here, but just want to clarify as
12 far as how did Mr. Mahdi's relationship with his
13 father brought us to this point today?

14 A Well, again, he cares about his father, wanted
15 more than anything else an intact family and an
16 ongoing relationship, but that just didn't happen.
17 But what he did not receive from his mother or his
18 father was the consistent help in growing up and
19 developing good skills and developing a sense of
20 values. Even though folks tried, it just wasn't
21 consistent enough for him to learn how to do those
22 kinds of things.

23 Q And did that lack of those things from both his
24 mother and father lead to any type of emotional
25 trauma of any type?

1 A Well, again, we can consider that he has been
2 traumatized throughout his early life and that that
3 has had an impact on his inability to make good
4 choices, to have a good sense of himself and others
5 and to behave according to societal norms.

6 Q And, Ms. Hammock, during your assessment, you
7 assessed certain risk factors, correct?

8 A Yes.

9 Q And what risk factors did you assess in this
10 particular case?

11 A Well, we know, for instance, that this young
12 man has been abused and neglected, that he suffers
13 from abandonment, that he was never exposed to the
14 right kind of socialization. He has poor
15 self-esteem. He has a poor history of school
16 progress and a poor sense of himself.

17 Q And as far as those risk factors, what
18 conclusion did you come to as far as with Mr. Mahdi
19 and the type of life he lived?

20 A Again, someone who is neglected, was abandoned,
21 who suffers from poor parenting is likely to end up
22 in a situation where he's out of control and he does
23 damage to himself and others. This is -- we find
24 this profile all too frequently in people who end up
25 in this kind of situation. He never had really a

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1 chance to develop appropriately.

2 MR. KOGER: Ms. Hammock, thank you. Answer any
3 questions that the State would have.

4 MR. SORENSON: We don't have any questions,
5 Your Honor.

6 THE COURT: Thank you, ma'am. You may step
7 down.

8 MR. WALTERS: May it please the Court. Your
9 Honor, we have one witness that we would ask the
10 Court for a brief recess of maybe ten minutes to
11 talk to a witness. She's 83 and we would like to
12 have an opportunity to talk to her.

13 THE COURT: We'll take a break at this time, 15
14 minutes.

15 MR. WALTERS: Thank you, Your Honor.

16 (Brief Recess.)

17 THE COURT: Mr. Walters, your next witness.

18 MR. WALTERS: May it please the Court. Your
19 Honor, at this time, the defense would rest.

20 THE COURT: Mr. Mahdi, if you will stand for a
21 moment, please.

22 Mr. Mahdi, I need to examine you concerning
23 certain of your constitutional rights at this time,
24 including your right to testify or not to testify in
25 this case. Do you understand?

1 DEFENDANT MAHDI: Yes, sir.

2 THE COURT: Now, generally, when I engage in
3 this colloquy with a person regarding their right to
4 testify or not to testify, I place them under oath
5 and have them to swear on the Bible. The other day,
6 I believe, when the clerk presented the Bible to you
7 to be sworn, you said that it wasn't necessary?

8 DEFENDANT MAHDI: Yes, sir.

9 THE COURT: And so do you have some religious
10 belief against -- opposed to being sworn on the
11 Bible?

12 DEFENDANT MAHDI: No, sir.

13 THE COURT: Do you care to be sworn at this
14 time?

15 DEFENDANT MAHDI: I have no objection to it,
16 sir.

17 THE COURT: All right. Mr. Hasty.

18 MIKAL DEEN MAHDI,
19 having been duly sworn, testified as follows:

20 THE COURT: Mr. Mahdi, at this time, I'm going
21 to explain to you certain of your rights. If you do
22 not understand anything that I say, please let me
23 know. And if you want me to explain anything in
24 more details, let me know. Do you understand?

25 DEFENDANT MAHDI: Yes, sir.

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1 **THE COURT:** We have now reached the stage of
2 these proceedings where you have the right to
3 present testimony and to testify. Of course, this
4 is a personal right and no one can require you to
5 testify, but you have the right to testify. Do you
6 understand that, sir?

7 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

8 **THE COURT:** Now, of course, if you decide to
9 testify, you will be subject to the same rules that
10 govern other witnesses who testify and you may be
11 examined and cross-examined on any relevant issue in
12 this case. Do you understand that?

13 **DEFENDANT MAHDI:** Yes, sir.

14 **THE COURT:** Now, if you decide to testify, this
15 decision must be freely, voluntarily and
16 intelligently made by you with knowledge of the
17 rights afforded you to testify, as well as of the
18 consequences of your decision to testify. Now, this
19 is a matter that you may discuss with your family,
20 your lawyer and friends or anyone else that you
21 might want to discuss it with, but in the final
22 analysis, it must be your decision as to whether you
23 testify or not testify. Do you understand?

24 **DEFENDANT MAHDI:** Yes, sir, Your Honor.

25 **THE COURT:** And have you talked with your

1 lawyers about that?

2 DEFENDANT MAHDI: Yes, sir, Your Honor.

3 THE COURT: Do you need to talk with them
4 anymore about that?

5 DEFENDANT MAHDI: No, sir, Your Honor.

6 THE COURT: Have you decided whether or not you
7 should testify during the penalty phase of this
8 trial?

9 DEFENDANT MAHDI: Yes, sir, I have decided.

10 THE COURT: And what decision have you made?

11 DEFENDANT MAHDI: I decided not to testify,
12 sir.

13 THE COURT: All right. Thank you very much.

14 MR. WALTERS: Thank you, Your Honor.

15 THE COURT: Mr. Walters, you've indicated that
16 you have rested.

17 MR. WALTERS: Yes, sir, that is correct.

18 THE COURT: Anything further from the State at
19 this time?

20 MR. PASCOE: No, Your Honor.

21 THE COURT: Well, it's now after 5:00. The
22 next phase of the proceedings is for us -- for me to
23 hear closing arguments. Certainly, you all have put
24 in a full day, have worked hard today and I don't
25 want to have you -- or require you to engage in a

1 final argument without having an adequate time to
2 rest and prepare. Additionally, Mr. Mahdi has the
3 right to make the final argument to the Court as an
4 argument and not as testimony as he's elected not to
5 testify. So we're going to recess till ten o'clock
6 tomorrow morning.

7 Before we do that, however, I want to mention
8 to counsel that given the volume of materials that I
9 have to review and the statutory requirement that I
10 prepare a sentencing report, I'm going to request
11 and require that counsel for the State and the
12 defense present a proposed sentencing report to the
13 Court and to -- which would include what you contend
14 the facts to be, what you contend to be the -- what
15 the Court's finding should be concerning the facts,
16 the aggravating circumstances, the mitigating
17 circumstances or lack thereof, as well as the
18 sentence that you think the Court should impose, as
19 well as a consideration as to the -- statement as to
20 what consideration you believe the Court should give
21 to the aggravating circumstances and mitigating
22 circumstances presented.

23 The time line for receiving that by me, I would
24 like to have it by four o'clock on Friday to give me
25 an opportunity to review all of the testimony and

1 evidence and to prepare what you believe would be a
2 proper and adequate sentencing order. Any questions
3 about that?

4 MR. WALTERS: No, sir, Your Honor.

5 MR. PASCOE: No, Your Honor.

6 THE COURT: In stating that, I'm stating that
7 tomorrow will be closing arguments, the Court will
8 deliberate on the sentence, including receipt of
9 your proposed sentencing order, review all of the
10 evidence, as well as your proposed orders, then
11 assuming that within a matter of days beyond that,
12 the Court reaches a decision regarding a sentence,
13 then notice will be given and we will reconvene for
14 that purpose next week as opposed to this week.

15 And with that, we will adjourn for this day and
16 reconvene at 10:00 tomorrow morning. We'll be in
17 recess.

18 (Whereupon, the proceedings were concluded
19 for December 5, 2006.)

20 (The following proceedings were held on
21 December 6, 2006.)

22 THE COURT: Good morning to everyone. It's now
23 time for closing arguments. The State will go
24 first.

25 MR. PASCOE: Yes, sir. Does the defendant

1 (sic) want to take up the matter with the defendant
2 first, the waiver? Does that need to be done now or
3 later?

4 THE COURT: Mr. Walters?

5 MR. WALTERS: We're prepared, Your Honor.
6 We'll certainly have the defendant address the
7 Court.

8 THE COURT: Mr. Mahdi, you have the right to
9 make the final argument to the Court concerning what
10 you think the sentence should be in this case. Are
11 you aware of that, sir?

12 DEFENDANT MAHDI: Yes, sir.

13 THE COURT: And is it your desire to address
14 the Court?

15 DEFENDANT MAHDI: No, sir, it is not.

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

18 DEFENDANT MAHDI: Yes, sir, Your Honor.

19 THE COURT: And do you waive your right to make
20 the closing argument or closing statement or
21 argument to me regarding the sentence that you think
22 should be imposed?

23 DEFENDANT MAHDI: Yes, I do.

24 THE COURT: All right. Thank you, sir.

25 Anything further on this issue, Mr. Walters?

1 **MR. WALTERS:** No, sir, Your Honor.

2 **THE COURT:** Thank you very much.

3 Yes, sir, Mr. Solicitor.

4 **MR. PASCOE:** May it please the Court. Thank
5 you, Your Honor. Good morning, sir.

6 I want to start off by thanking this Court for
7 a couple of very important reasons. First, I know I
8 speak for -- or I know that both Mr. Walters and
9 Mr. Koger can echo my words when I speak on behalf
10 of my staff and probably the Clerk's office, all of
11 the bailiffs and law enforcement in here when I
12 thank this Court and let it know that it's been an
13 absolute honor to present this case in this
14 courtroom where we have all been treated with the
15 utmost respect and professionalism by this Court.
16 So thank you very much.

17 Second, I want to thank this Court for, as I
18 said in my opening statement the other day, for
19 accepting the awesome responsibility of determining
20 what sentence Mr. Mahdi should be sentenced to.

21 Quite frankly, I was thinking about it last
22 night, this is the responsibility that the vast
23 majority of your brethren, the other judges, will
24 never have to make sitting on that bench. So I want
25 to thank you for that.

1 And for these two reasons, the professionalism
2 of this Court and the fact that you're willing to
3 accept that responsibility, I can state without
4 hesitation that no matter what this Court's decision
5 is in this case, it will have the utmost respect
6 from me and my office and it should have the utmost
7 respect from everybody in this courtroom.

8 And I'm not going to stand before the Court
9 today and jump up and down and say that sentencing
10 the defendant, Mikal Mahdi, to death is an easy
11 decision. I think that's disingenuous. I mean, it
12 should never be an easy decision to sentence someone
13 to the death penalty, even someone as evil as that
14 man right there, Mikal Mahdi. It should never be an
15 easy decision.

16 But, Your Honor, the one thing we learn early
17 on in life is that the right decision isn't always
18 an easy decision. And the right decision in this
19 case is to sentence this defendant to our ultimate
20 penalty, the death penalty. It's the right decision
21 because this is a man who has absolutely no respect
22 for human life. It's the right decision because
23 this is a man who has shown he cannot adapt to
24 prison life. And it's the right decision because
25 this is a man who will always be a serious threat to

1 kill someone as long as he lives.

2 And what I want to do right now is I want to
3 start by very briefly addressing the statutory
4 aggravating circumstances in this case. I'm going
5 to be very brief because while the State alleges
6 four aggravating circumstances, as the Court knows,
7 the defendant has already admitted to two of them,
8 the larceny and the burglary during the murder and
9 basically has also admitted to the third one,
10 committing a robbery with a deadly weapon. And we
11 only need to have one aggravating circumstance to
12 prove -- to have the defendant given the death
13 penalty.

14 Again, his guilty plea is proof not just beyond
15 a reasonable doubt, but beyond any doubt that he
16 committed the larceny, the burglary and, I submit,
17 the robbery during the commission of the murder.

18 So what I want to talk about is the final, the
19 fourth aggravating circumstance which addresses that
20 Captain Myers may have been killed because of the
21 performance of his duties, because he was a police
22 officer. And, quite frankly, as I alluded to in my
23 opening the other day, I'm not sure of the fact that
24 Captain Myers was a police officer really mattered
25 to the defendant that day. I'm not sure that it

1 really mattered that he was taking the life of a
2 police officer that day.

3 The real reason he killed Captain Myers,
4 without a doubt, is because human life means
5 absolutely nothing to Mikal Mahdi. All you have to
6 do to know about that is look at the video that we
7 showed in this courtroom the other day just to see
8 firsthand how little value he places on a human
9 life. He killed Christopher Jason Boggs over a
10 beer. He stuck a bullet in his eye over a beer.
11 There's no wonder that he would kill Captain James
12 Myers for a truck and some guns. He has absolutely
13 no respect for human life.

14 But let me tell you what's not a coincidence
15 with regards to killing Captain Myers, a law
16 enforcement officer. I don't think it's a
17 coincidence that on June the 30th, 1998 in a
18 standoff with the Brunswick County Sheriff's Office,
19 Sheriff Woodley came to testify on Monday that
20 15-year-old Mikal Mahdi stated, I'm going to kill a
21 cop some day before I die, 15 years old.

22 And you know what else isn't a coincidence?
23 That when the defendant was in that shed, Your
24 Honor, and I'm now showing the Court State's Exhibit
25 7, it's not a coincidence that those SLED files were

1 taken out of place and opened up, I submit, for the
2 defendant to look through. He knew when he was
3 going through those SLED files, those law
4 enforcement in State's Exhibit 7, that a law
5 enforcement officer owned that shed.

6 What else isn't a coincidence, Your Honor?
7 State's Exhibit 51. When he was robbing, right
8 before he pulled the trigger of that .22 caliber
9 semiautomatic rifle on Captain Jimmy Myers, when he
10 was robbing him at gunpoint, Captain Myers' items,
11 his comb, his pocket knife, his change, his keys,
12 all laid out on that chair, his pager, which he kept
13 in his pocket is on the floor. Where is his badge?
14 The testimony is he usually kept his badge in his
15 pocket. Where is his badge? That man took his
16 badge as a souvenir.

17 What else do we know? Amanda Weaver, what did
18 she tell us? He hates the police. He hates the
19 police.

20 I'll say one thing about this defendant, 15
21 years old, his lifelong goal is to kill a police
22 officer. And at the age of 21, he has fulfilled his
23 lifelong goal, 21 years old. And he's proud of it.
24 He's sitting there proud of it, no matter how cruel
25 that goal is.

1 And I also want to dispute one more thing, Your
2 Honor, that the defense said in their opening trying
3 to allude to the fact that we're here primarily
4 because Captain Myers was a police officer, that's
5 not true. Yes, Captain Myers, as you heard, he was
6 a law enforcement officer with 31 years of
7 experience. He is going to be very missed in the
8 law enforcement community.

9 But as great a man as Captain Myers was, we're
10 not here because of Captain Myers, we're here
11 because of that man right there. We're here because
12 of who Mikal Mahdi is and what Mikal Mahdi did. And
13 whether the defendant killed Jimmy Myers solely
14 because he was a police officer or just because his
15 life meant absolutely nothing to him, the fact of
16 the matter is aggravating circumstances exists to
17 sentence that man to the death penalty. And, Your
18 Honor, it's the right decision.

19 It's the right decision when you look at this
20 man's character, when you look at this man's risk of
21 future danger and his failure to adapt to prison
22 life. And it's the right decision when you look at
23 the impact that this man's cold-blooded acts have
24 had on the family and friends of Captain Jimmy
25 Myers.

1 And what I want to do right now is I want to
2 talk about the defendant's character. To start
3 with, to understand this man's character, all you
4 really have to do is look at what he did to Captain
5 Myers, the malice and in the malicious way that he
6 killed Captain James Myers. He didn't have to kill
7 him over a truck and over some guns. Your Honor, he
8 shot him nine gunshot wounds, many of them to the
9 front as he's looking him in the eye, looking him in
10 the eye, blasting him away just like he did
11 Christopher Jason Boggs.

12 And then he took -- when Captain Myers is on
13 the floor dying, probably begging for his life, that
14 man takes that .22 caliber weapon and puts three
15 more shots in his head, one while his head is flat
16 on the ground. How much more malicious can you get
17 than that, killing another human being over a
18 vehicle, stealing guns? Unbelievable.

19 And is he done, Your Honor? No. His criminal
20 mind, which I'm going to talk about in a little bit,
21 and as you saw, he's always thinking of ways how to
22 escape, how to get away with things, how to cover
23 evidence, what does he do that night? He then takes
24 diesel fuel, pours it over the victim's body and
25 lights it on fire, the matches are still on the

1 victim's body for you to see in those pictures,
2 lights it on fire to destroy that body, to destroy
3 that shed, to destroy evidence and get away with
4 this crime.

5 Malice? You can't get anymore reckless and
6 more malicious than that. If the defendant had
7 never done anything else wrong in his life, he
8 deserves the death penalty for what he did to James
9 Myers, but he's done a whole lot in his life.

10 You also have the murder of Christopher Boggs
11 to look at, Your Honor, the North Carolina video
12 just to see how dangerous this man is, just to see
13 how evil he is. When he walks in that store, and
14 like me pointing to a Clerk of Court, he lifts that
15 gun and shoots Jason Boggs right in the face. When
16 Jason Boggs is on the ground, didn't even have time
17 to beg for his life, the defendant reaches over and
18 shoots him one more time.

19 He ends up taking that man's life over a beer
20 because, as Your Honor remembers from the video, the
21 defendant goes around as nonchalant as I am walking
22 to this table right here and takes his shirt, again
23 trying to think of ways, don't leave evidence, I'm a
24 career criminal, don't leave evidence, of course, he
25 had forgot, in the heat of the moment, that he did

1 put his hand on that mat, so he's using his shirt to
2 try to open up the register not to leave
3 fingerprints. And he can't open it up and take the
4 50 or 60 bucks that's probably in there and he walks
5 out with a beer. That's what Jason Boggs' life was
6 worth to that defendant.

7 You heard from Sergeant Darren Frost, Your
8 Honor. He arrested the defendant in Satellite Beach
9 with the defendant in possession of State's Exhibit
10 77, the semiautomatic rifle that belonged to the
11 victim, Captain Jimmy Myers, his city issued rifle.
12 And in what I think is a very unusual moment,
13 Sergeant Frost, a law enforcement officer, actually
14 thanked that man for letting him go home to his
15 family because in Sergeant Frost's opinion, this
16 would have killed him. He actually thanked that
17 man.

18 And what was the defendant's reaction? Did he
19 put his head down and nod? Did he say, you're
20 welcome? Did he say, I never would have done that?
21 No. He said what was in his heart, which is, That
22 gun was on a three shot burst and I didn't think I
23 could get you, the other guy and that F'ing dog.

24 It should never be an easy decision to give
25 somebody the death penalty, but he's making it easy.

1 Then you heard, Your Honor, from Corey Pitts.
2 And let me say one thing on the record about
3 Mr. Pitts. I appreciate the courage that he had to
4 get in this courtroom, get on that witness stand and
5 have to endure the questions that he had to go
6 through.

7 I mean, this man is a victim. He had a gun
8 shoved in his face. The defendant stuck a gun in
9 his face the morning of July the 18th and took his
10 vehicle. And, again, the criminal mind of Mikal
11 Mahdi, how to get away with this crime, how to cover
12 it up, he switches the tags of that truck when he
13 takes it.

14 But the amazing thing about Corey Pitts is that
15 as serious a crime as this is, and you don't get
16 much more serious than sticking a gun in another
17 human being's face to rob them, what he did to
18 Mr. Pitts is inconsequential compared to the other
19 things that this man has done in his life. Sticking
20 a gun in another man's face just to rob him, to
21 Mr. Mahdi isn't that big a deal. That tells you how
22 dangerous he is, how evil he is.

23 You heard from Ms. Janet Driggers just
24 yesterday, Your Honor. She said that the defendant
25 sent her the worst threat that she's ever received

1 in her ten years at the department of corrections.

2 And what was the defendant's -- according to
3 Ms. Driggers, what was the defendant's biggest
4 complaint? What was his biggest complaint? He
5 didn't have a size ten shoes. The department of
6 corrections wasn't giving him his size ten shoes.

7 Would he kill a woman over not getting a pair
8 of size ten shoes? Absolutely, if he got the
9 opportunity, absolutely. He'll kill a man over a
10 beer, he'll kill a man over a car, absolutely he'll
11 do it.

12 And let me -- one more thing I want to get
13 straight. This stuff about him being assaulted in
14 prison, first of all, consider the source. It's all
15 from Mr. Mahdi. And second of all, it ain't true.
16 None of it was founded, none of it.

17 And not only do we have the piece of paper
18 where he threatens her life, Your Honor, but then
19 you got to listen to an audio tape on June the 14th,
20 2005, when this man, who had an opportunity of a
21 couple of weeks to maybe calm down a little bit,
22 what does he say about Ms. Driggers? Quote, Yeah, I
23 will kill her if I get the chance.

24 And we know he will. And all you have to do is
25 look at a time line of who this man is and that's

1 what I want to do right now is start to look at a
2 time line of who he is and how he can never adapt
3 and how dangerous Mr. Mahdi is.

4 January 1998, you remember the testimony of Ms.
5 Linda Coulson. She was his DJJ counselor while at
6 the diagnostic center just to evaluate him. Then 14
7 year old nine month -- 14-year-nine-month-old Mikal
8 Mahdi says, who is committed by the way for
9 burglaries and larcenies at the age of 14, says, My
10 only strength is robbing people. He's been selling
11 crack since the age of 14. The defendant, we also
12 learn, has an above average IQ. His IQ is in the
13 upper end of average.

14 He gets committed to the department of juvenile
15 justice, but we know he's not there too long, Your
16 Honor, because on June the 30th, 1998, he's in a
17 standoff with the Brunswick County Police. Remember
18 the police went to go serve not just warrants on
19 him, but a pickup order because now he's been
20 convicted in family court, or juvenile court, for
21 auto breakings and larceny.

22 What was the larceny? Stealing a gun.
23 Fifteen-year-old Mikal Mahdi already has an infinity
24 for handguns and firearms. And during that
25 standoff, he states, I'm going to kill a cop one day

1 before I die. Unfortunately for us, he would.

2 Then you heard the testimony -- or you have the
3 documents, I should say, from Ms. Barbara Amos,
4 because the defendant was committed on those charges
5 for the standoff in Brunswick County. She was his
6 counselor from the times of August 1999 to May of
7 2000.

8 And, again, you have the records yourself.
9 You're going to be able to look at those records, so
10 I'm not going to go into them that much other than
11 to say, what did she find overall? She says the
12 defendant's overall progress is plagued by
13 maladaptive behavior. He is disrespectful to
14 others.

15 But you know what's really important about Ms.
16 Amos' notes and Ms. Coulson's report and even the
17 defendant's mitigation testimony that they put up
18 yesterday, which I'm going to talk about in a
19 minute? What's really important is what's not
20 there. There's never any evidence of sexual abuse,
21 no evidence of physical abuse, no evidence of a
22 diminished mental capacity or a mental defect.

23 Quite the opposite, the above average IQ. The
24 only thing that you find is a lack of supervision.

25 And no matter what this man's past is, nothing

1 can mitigate what he did to Captain James Myers.

2 But even their own expert, Ms. Marjorie
3 Hammock, who testified yesterday, their own expert,
4 who gets paid to testify in death penalty trials,
5 State's Exhibit 2 -- Defense Exhibit 2 is the best
6 and only thing they could come up with regards to
7 getting any mitigation on this defendant's life.

8 And I'm not knocking Ms. Hammock, because I'm
9 sure she does a fine job. I'm sure she does an
10 outstanding job, but this is all that anybody can
11 get with regards to presenting mitigation for this
12 defendant. A lot of it is just when people are
13 born.

14 And, again, what's not in here? He was never
15 physically abused, sexually abused, no mental
16 defects.

17 And, Your Honor, yeah, he was shuffled around a
18 lot, just like his brother was. Your Honor, he was
19 raised predominantly by his father, just like his
20 father was, but you know what, his brother somehow
21 managed to graduate from school. His brother,
22 according to that report, somehow managed to get a
23 job and is in the United States Army. And the
24 defendant's brother, apparently, isn't breaking into
25 sheds and murdering people with a .22 caliber

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1 semiautomatic rifle. The defendant's brother,
2 apparently, isn't walking into Exxon stations and
3 murdering people over a beer.

4 This is the worst excuse of a sob story that
5 you're ever going to have because nothing in this
6 report lessens what the defendant did and nothing in
7 this report explains his malicious and evil acts.

8 One thing I definitely agree with Ms. Amos
9 about is when she said, this was her quote, This
10 defendant is likely to do damage to others. There's
11 no question about that.

12 Now, I want to go back to the time line.
13 Again, the defendant and Ms. Amos -- you'll have
14 those records to look at. He was released from the
15 department of juvenile justice in May of 2000, May
16 4th, 2000.

17 Your Honor, just six months later after being
18 released from the department of juvenile justice,
19 Officer Mike Koehler of the City Police in Richmond
20 is going to go serve a warrant on the defendant for
21 slashing his mother's tires. He gets in a fight
22 with the police officers. He reaches and grabs the
23 officer's gun, his partner's gun. Remember, he
24 wants to kill a cop. When he's finally subdued and
25 taken into custody, the defendant says to Officer

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1 Koehler that he slashed his mother's tires for not
2 opening the door. I should have killed that crazy
3 bitch.

4 Mad at his mother because she wouldn't open the
5 door. Who can blame her for not wanting to open the
6 door for that man (indicating)? Nobody would want
7 to open the door for that man.

8 Seventeen-year-old Mikal Mahdi, of course, in
9 South Carolina, he would have been treated as an
10 adult, but in Virginia, the testimony was, he was a
11 juvenile, wants to kill his mother. He's reaching
12 for a police officer's gun. And he is, again,
13 committed -- or goes on trial and is found guilty
14 for that obstruction of justice and slashing his
15 mother's tires.

16 Whatever time he got for that, obviously wasn't
17 enough either, Your Honor, because on April the
18 17th, 2001, five months later, just five months
19 after that incident, 18-year-old Defendant Mikal
20 Mahdi decides that he wants to break into an
21 apartment.

22 And you heard the testimony of Mr. Moises
23 Rivera, a former police officer, who also served his
24 Country in the United States Navy, married with
25 three children, working at this apartment complex as

1 a maintenance worker. He approaches the defendant,
2 the defendant turns around, as the defendant's
3 trying to break into this apartment, the defendant
4 turns around, a struggle ensues and he repeatedly
5 stabs Moises Rivera because life means nothing to
6 him. He could care less if Moises Rivera has three
7 children and a wife at home. He stabs him at least
8 five times puncturing his lungs.

9 The defendant runs from the scene. The victim
10 collapses. The victim dies in the ambulance. He
11 flat lines in the ambulance and they have to revive
12 him. The defendant is arrested near the scene. The
13 victim has to spend -- Mr. Rivera has to spend six
14 days in the hospital with tubes draining his lungs
15 because of what that man did. Three children almost
16 fatherless because of Mikal Mahdi. And the victim
17 was out of work for two months.

18 We know that because of that charge, he was
19 finally committed to the department of corrections
20 as an adult on July the 16th, 2001. And he received
21 a suspended sentence, something like 15 years
22 suspended upon 39 months and 15 years probation
23 after that. And Your Honor has his prison records
24 from DOC in Virginia, which I'll talk about in just
25 a second, but you'll have those to read as well.

1 He is released on those charges from prison on
2 May the 12th, 2004 and he's placed on probation.
3 The terms of his probation, just like anywhere else,
4 can't possess a firearm, State's Exhibit 87, can't
5 do drugs, can't leave the State.

6 Well, for two whole months, two whole months,
7 Mr. Mahdi didn't get caught for any violations, two
8 whole months. I say caught because we know he was
9 violating his probation. Amanda Weaver testified
10 that he tried to put together a nine millimeter
11 weapon and that he was pedaling marijuana. But for
12 two whole months, congratulations, he hadn't gotten
13 caught for a probation violation.

14 But then we know that on July the 14th, 2004,
15 two months into probation, the defendant violates it
16 by testing positive for drugs. The very next day,
17 July the 15th, the defendant leaves the State of
18 Virginia armed with a .380 caliber handgun and he
19 kills Christopher Boggs. The defendant's reign of
20 terror and violence begins on that day, two months
21 of being on probation.

22 This is the character of a man who deserves our
23 ultimate penalty. If he doesn't deserve it, who
24 does? The defendant's character alone, Your Honor,
25 is enough to sentence this man to the death penalty.

1 But now I want to look at his future
2 dangerousness and his lack of adaptability, how he
3 cannot adapt to prison life. And I want to start by
4 addressing their own expert, Mr. Aiken. And, first,
5 I submit that Mr. Aiken, he's a hired gun. He gets
6 paid \$9,000. We finally got it out of him that he
7 hopes to get paid \$9,000 for his testimony
8 yesterday. This is what he does. He testifies in
9 death penalty cases.

10 But there's a huge flaw in Mr. Aiken's
11 testimony. His testimony seems to be more about how
12 prison can adapt to the defendant than how the
13 defendant can adapt to prison. Well, that's not how
14 it works. That's not how it works, with all due
15 respect.

16 Keeping someone in super max, the High D Wing,
17 because he is one of the six worst inmates in the
18 department of corrections is not the definition of
19 adaptability. It is the exact opposite of
20 adaptability. He is one of the worst of the worst,
21 one of the worst six inmates, I'm sure it's
22 something he's proud of, one of the worst six
23 inmates out of 23,000 in the department of
24 corrections. That is not adaptability.

25 And you know where Mr. Aiken really loses

1 credibility is when he says, Oh, quote, the
2 defendant is just immature. The defendant just
3 makes stupid decisions. He's not really a danger.

4 Tell that to the families of Christopher Boggs
5 and Jimmy Myers.

6 I'll agree with one thing that Mr. Aiken said,
7 and the same thing Mr. Myers said, that's not a man.
8 He's not a man. That's a man (indicating). His
9 father's a man. He's (indicating) a cold-blooded
10 killer.

11 To say that the defendant can adapt to prison
12 life is an absolute joke. All you have to do is
13 look at his history. Your Honor, you have some of
14 his DJJ records from Virginia, they're absolutely
15 horrendous.

16 Then again, remember he was committed to the
17 Virginia Department of Corrections after stabbing
18 Mr. Rivera, he has an absolutely atrocious prison
19 record in the State of Virginia. And you have every
20 one of those documents to look at. And I'm not
21 going to go over all of those atrocities that he
22 committed in prison, but there's one -- but what do
23 you expect from a man who, during his intake
24 information with the Virginia Department of
25 Corrections, says he quit school because he made

1 more money robbing people? What do you expect from
2 a man who refers to crime as an occupation?

3 And then as you look through those documents,
4 all of his infractions, one really stood out to me,
5 the fact that he likes to threaten and he will kill
6 correctional employees. Even in the department of
7 corrections in Virginia, he said to one correctional
8 employee, Read this, bitch, the day you die, thugged
9 (ph) out killer. Absolutely no respect for
10 authority. And if he gets a chance to kill a guard,
11 he's going to do it.

12 The defendant has spent most of his life, Your
13 Honor, since the age of 14, incarcerated. And he's
14 shown absolutely no signs of adaptability
15 whatsoever. And now that he knows that he can never
16 get out, he has absolutely nothing to lose.

17 Look at what he's done with nothing to lose in
18 our department of corrections in South Carolina.
19 He's made hatchets with State's Exhibit 108. He's
20 woven 30 feet of rope. He's made shanks and he's
21 threatened to kill employees.

22 All this and more is why he's the worst of the
23 worst. All this and more is why he's one of the six
24 worst inmates in the department of corrections here
25 in South Carolina.

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1 Then just last week in this very courtroom,
2 just like week in this very courtroom, the defendant
3 was able to manipulate law enforcement to take off
4 his leg braces, his leg irons. He told them that
5 they hurt him, but he was willing to wear shackles.
6 Now we know why the defendant wanted to wear
7 shackles last week.

8 Thanks to the Calhoun County Sheriff's Office
9 doing thorough searches on the defendant, they found
10 State's Exhibit 104 that he concealed in his mouth
11 and on his person for at least two days.

12 Your Honor, what was he going to do when he
13 took the shackles off? Who was he going to assault
14 in this courthouse? Because he was going to assault
15 somebody. Whose gun was he going to go for to
16 escape?

17 And what else did we learn about State's
18 Exhibit 104? Where did he make it or where did he
19 get it? At super max where he was last week, the
20 High D cell. Super max, where the worst of the
21 worst is and he was still able to get a key to take
22 off shackles.

23 The department of corrections has a very
24 appropriate setting for this man and it's called
25 death row. That's where he needs to go.

1 Your Honor, the defendant's character, his lack
2 of adaptability, his future dangerousness cry out
3 for the death penalty. The impact that this
4 defendant's cold-blooded acts have had on the family
5 and friends of Captain Jimmy Myers cries out for
6 justice.

7 And, finally, all I ask for is when you
8 determine your sentence, your verdict this week, is
9 that you remember the friends who have forever lost
10 the companionship and wisdom of James Myers. I ask
11 that you remember the wife, Amy, Amy Myers, whose
12 last image of her husband and best friend is State's
13 Exhibit 67, ten feet away from where she married
14 him. I ask that you consider his daughter,
15 Meredith, who now has two daughters of her own who
16 will never know their grandpa. And I ask that you
17 consider the testimony of a World War II veteran, a
18 father, Mr. Edward Myers, who's never going to have
19 his son visit him for coffee in the morning again.

20 On behalf of the State of South Carolina, as
21 the Solicitor for Calhoun County, I respectfully ask
22 that you sentence the defendant, Mikal Deen Mahdi,
23 to death for the murder of Captain James E. Myers.
24 Thank you.

25 **THE COURT:** Thank you, Solicitor.

1 Mr. Walters.

2 **MR. WALTERS:** May it please the Court.
3 Solicitor.

4 Your Honor, I would carefully go through what
5 the law says. The law says that you may recommend
6 life for any reason, for no reason or for simply
7 mercy. And if you carefully look at the facts, the
8 aggravating and mitigating circumstances that have
9 been presented, we believe this case warrants life.

10 First of all, I'll deal with the Solicitor's
11 arguments. And, of course, I'll address this with
12 the mitigating circumstances. The Solicitor has
13 alluded to the fact that, in this particular case,
14 that somehow Mr. Mahdi was aware of the fact that
15 Mr. Myers, Officer Myers, was a police officer.
16 There has been no testimony put before this Court to
17 substantiate that claim.

18 What has been placed before this Court? Let's
19 carefully review the evidence and the testimony
20 that's been given. Number one, the Solicitor
21 presented before this Court a set of documents, a
22 set of documents that they allude to and they say
23 that there was the name or the abbreviation SLED,
24 the South Carolina Law Enforcement Division, on
25 those documents. The documents they have presented,

1 Officer Myers, he did not even have jurisdiction
2 over those documents. His wife, Amy Myers, those
3 were her documents as an officer for SLED.
4 Moreover, in this particular case, the defendant is
5 from Virginia.

6 The Solicitor goes on and alludes to the fact
7 that someone read these documents and somehow packed
8 these documents together that allude to the South
9 Carolina Law Enforcement Division. If you carefully
10 review the evidence and the testimony that's been
11 presented before this Court, they have not
12 substantiated who would read those documents and
13 pack those documents away.

14 I ask that the Court draw upon its own common
15 sense. In this particular case, if a burglary is
16 occurring, a civilian burglary is occurring, what
17 sense would it make for a defendant to stop and read
18 the documents of Officer Amy Myers, an officer of
19 SLED? And in this particular case, there's been no
20 other testimony to substantiate that Mr. Myers was a
21 police officer.

22 In addition to that, Your Honor, the
23 prosecution, and we have to give them credit for the
24 creative arguments that they've put before this
25 Court, but they simply fail. Their second argument

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1 is, is that, well, we believe that Mr. Myers
2 somehow, every time he would come home, he would
3 empty his pockets and he would place his keys on the
4 table. He would place his change on the table. And
5 in addition to that, he would place his pager there.
6 And in addition to that, he sometimes, he carried
7 his badge in his pocket.

8 There has been no testimony presented by the
9 Solicitor's office to substantiate that he was
10 carrying a badge in his pocket on that particular
11 night. In addition to that, there's been no
12 testimony that a badge was somehow taken or it
13 disappeared.

14 The point I'm making, Your Honor, is, is that
15 the speculation and the conjecture it sounds good
16 and it feels good before this Court, but it has not
17 been substantiated by the Solicitor's office. They
18 have offered no proof to show that anyone read those
19 documents that belonged to Ms. Myers. They have
20 offered no proof, no evidence before this Court to
21 substantiate that a badge was taken on that
22 particular night or that the badge that Officer
23 Myers, Mr. Myers, had in his possession, he was
24 somehow carrying that night in his pocket.

25 The second issue I bring before the Court is,

1 is that the vehicle that was stolen in this
2 particular case was an unmarked vehicle. It was a
3 white Dodge truck. The Solicitor's office has
4 failed to produce any evidence to substantiate that
5 Mikal Mahdi somehow knew that Mr. Myers was a police
6 officer, that he had taken his badge, that he had
7 somehow read some documents from SLED and that he
8 somehow knew that the vehicle that he was taking
9 belonged to a law enforcement officer. There's been
10 no testimony.

11 And if you carefully go through the witnesses
12 that they presented before this Court, they brought
13 Ms. Myers before the Court. And Ms. Myers can only
14 substantiate that my husband emptied his pockets in
15 this particular place and that is a document --
16 those are documents that are my documents, that was
17 her testimony, with regards to an investigation and
18 a report that I'm writing up for SLED.

19 This young man was 23 years old at the time,
20 was younger at the time of this incident, he's from
21 Virginia and somehow the Solicitor's office wants
22 you to believe that he had knowledge of the South
23 Carolina Law Enforcement Division and for some
24 reason that he read a file with regards to an
25 investigation of Ms. Myers and that he neatly packed

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1 it away. I believe that they fail on all fronts
2 with regards to the issue of substantiating that
3 there was somehow knowledge that a police officer
4 was being robbed at that time.

5 Now, in addition to that, Your Honor, the
6 prosecution in this case made a motion. And their
7 motion was, Your Honor, since you're the finder of
8 the facts, we want you to go out and see the scene.
9 And we had to stop court. Everybody got in a car
10 and we drove down there toward 139. We went past
11 the Wilco station. And Your Honor was allowed to
12 simply walk through the shed. All of us were
13 present.

14 The shed, when you walk inside of it, there's
15 no paraphernalia that indicates a police officer
16 lived here. There's no paraphernalia that indicates
17 that law enforcement is present. What was in the
18 shed was, is that it denoted what Mr. Myers was
19 about. He worked on wood. He worked with his
20 hands. He engaged in farming. He was an
21 outdoorsman.

22 But if you go through that shed, if Your Honor
23 will remember, there were fishing poles. There were
24 different devices in order to plow the ground. It
25 appeared he had everything neatly stacked and placed

1 together. It was obvious that he was a very
2 educated man and knew how to use his hands, but
3 still, there was no paraphernalia indicating that
4 anyone was a police officer.

5 I think the State, in this particular case, has
6 failed miserably to substantiate that somehow Mikal
7 Mahdi killed a police officer with knowledge that he
8 was a police officer. They failed to show a report
9 that they somehow say was stacked together. They
10 failed to show it by a badge that they claim
11 disappeared. They failed to show it by a vehicle
12 that was unmarked. And, of course, they allowed
13 Your Honor, on their motion, to go to the scene and
14 it was never substantiated.

15 Now, Your Honor, in this particular case, I'd
16 ask that you pay close attention to two witnesses
17 that tower above all others. There was testimony
18 given by numerous people with regards to different
19 incidences that occurred and I'll address each one
20 of those particular witnesses.

21 The first witness I'd ask that you seriously
22 take into consideration is the testimony of
23 Mr. Myers, the decedent's father. He got on that
24 stand, he had a very kind spirit. He talked about
25 his son. He talked about his life after his wife

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1 died. He talked about how it affected him, but he
2 made a very important observation while sitting on
3 that stand. He looked over at Mr. Mahdi and what
4 did he say? This is a boy, a boy that will never be
5 a man. Very astute observation.

6 At the same time, there's one other individual
7 that testified before the Court that had the same
8 perception and the same analysis and that was
9 Mr. Aiken, the prison adaptability expert. And what
10 he said on that stand, he simply stated that this is
11 a boy who made terrible decisions, but he's a boy.
12 He went on and testified about his actions. And he
13 carefully went through each of the incidents that
14 occurred at the South Carolina Department of
15 Corrections.

16 But before I go there and talk about Mr. Myers'
17 observation and Mr. Aiken's observation, I would
18 like to carefully address each of the witnesses that
19 the Solicitor alluded to in this particular case.
20 Your Honor, in this particular case, the issues in
21 North Carolina will be addressed by that court
22 system. There's testimony from Mike Poe, Phil Seats
23 and Agent Morin. They presented a tape with regards
24 to that particular incident. And Mr. Mahdi has been
25 charged with that offense. And Mr. Mahdi will have

1 to appear before the courts in North Carolina.

2 I ask that you consider the testimony of
3 Barbara Amos, Linda Collins (sic) and Marjorie
4 Hammock. There's (ph) consistent with the testimony
5 that has been given that this is a troubled child.

6 Sheriff Woodley walked into the courtroom and
7 what did he state? He stated there was a standoff
8 with the police and the young man's father. As a
9 young boy, he's being taught defiance. As a young
10 boy, he's being taught to rebel against authority.
11 This is the home, the trappings, that he's growing
12 up in. And, of course, Sheriff Woodley stated that
13 he stated, I'm going to kill a cop.

14 In addition to that, we have the testimony of
15 Officer Koehler. There's a confrontation where
16 there's a use of pepper spray and things of that
17 nature. And what does the young man state at that
18 time? Please shoot me, please shoot me.

19 It is consistent throughout his life and his
20 behavior that this young man has continuously looked
21 for a family structure with his mother, with his
22 father, the trappings that you need in order to grow
23 and become a productive citizen in society. It
24 appears that he never received that. That's no
25 excuse for murdering anyone.

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1 We heard the testimony of Marjorie Hammock.
2 And there was a mood that came over this courtroom.
3 And the mood over this courtroom simply was this,
4 just because your childhood is bad, that doesn't
5 give you the right to go out and kill. And the
6 Solicitor is right when he says that. He's right
7 when he says that. He says, look at the excuse they
8 give you. They give you this list and it's a time
9 line. And they say, it's a poor excuse, it's a poor
10 excuse for his behavior.

11 But what has Mr. Mahdi done under these
12 circumstances? He's come before this Court. He's
13 admitted his wrong and he has accepted
14 responsibility for what he has done. The Solicitor
15 didn't have to plow people in here and put them on
16 the stand and drag the Myers' family through a trial
17 and try to prove that he was guilty. This defendant
18 has come before the Court, he stated, I accept
19 responsibility for what I have done. At this time,
20 we're asking the Court to make a decision.

21 Mr. Pascoe sat down and said, well, this prison
22 adaptability expert, he's a joke. What he has to
23 say has no credibility.

24 Well, I beg to differ. And I wouldn't use the
25 word joke. The testimony of Mr. Aiken is consistent

1 with Mr. Myers that this is a boy that has made some
2 terrible mistakes, but he's not going to face some
3 country club where he's going to walk around and
4 just be incarcerated with four walls around him.

5 Mr. Aiken's testimony, let's carefully go
6 through it. We asked about the issues with Henry
7 Johnson, Officer McPherson, Terrance Prioleau, Janet
8 Driggers, Annie Sellers, Captain Lane. His
9 testimony is consistent with all of those officers.
10 This is a boy that has continuously, on a continuous
11 basis, attempted to trick and deceive, but each time
12 he's attempted to do so, when he makes a hatchet,
13 he's busted. They send him back to his cell. When
14 he makes a key, he's busted. He's sent back to the
15 cell. When he makes a rope, he's busted. He's sent
16 back to the cell, over and over and over and over
17 and over and over again.

18 These witnesses were presented to show some
19 type of evil. What these witnesses show is that
20 this is a kid that is silly. And again and again
21 and again and again, he fails over and over again.

22 Even with our law enforcement, with our Sheriff
23 sitting here, we're in Calhoun County, he comes in
24 with a key under his tongue and what happens? He
25 fails again.

1 Mr. Mahdi, in this particular case, has
2 accepted responsibility for what he has done, but he
3 still lacks any maturity, as Mr. Aiken stated and as
4 Mr. Myers stated, but he has accepted responsibility
5 for what he has done.

6 The Solicitor's office has painted a picture
7 that somehow if he's free, he will cause problems
8 all throughout this county. This testimony is not
9 given as a form of rehabilitation. There's no
10 rehabilitating Mikal Mahdi. He can never be
11 rehabilitated. He will never be free again.

12 They want to paint a picture that says somehow
13 he's going to get out, somehow he's going to go out
14 and strike again. By Mr. Mahdi coming before this
15 Court and saying, I accept responsibility for what I
16 have done, he's accepted his fate that he will be
17 incarcerated for the rest of his life. There's no
18 rehab here. There's no counseling that's going to
19 go on and say, we're going to make you a better
20 person.

21 And the question was, can he survive within the
22 prison? The adaptability expert. Now, I want to
23 carefully go through what the Solicitor said with
24 regards to the adaptability expert. His testimony
25 was -- or the statement by the Solicitor was, Prison

1 can adapt to the defendant and how the defendant
2 adapted to the prison should be the issue.

3 The bottom line is this, is that Mr. Mahdi, as
4 Mr. Aiken stated, he has no support basis. He has
5 no one to draw upon. He is from the State of
6 Virginia. He does not have any gang affiliation.
7 He's not a gangster disciple. He's not a Crip.
8 He's not a Blood. He's certainly not a member of
9 the Aryan Brotherhood, Texas Mafia, Dixie Mafia,
10 Texas Syndicate. He has no affiliation and no one
11 he can draw upon for support. And somehow they want
12 to paint a picture that says this man is out of
13 control. The South Carolina Department of
14 Corrections can't handle him.

15 But you heard Captain Lane, he said, I saw him
16 on the film. He was messing around under the T.V.,
17 told him to come out of his cell. You can quietly
18 come out of the cell or I'll send a team in. And
19 the continuum force goes up. He stated, we can go
20 get the mace, we can go get the helmets, we can deal
21 with you, but why don't you just come on out.

22 Each and every time that this boy has engaged
23 in this type of foolish behavior, he has been caught
24 over and over and over again. His past is
25 indicative of what he will do in the future, but the

1 bottom line is, is that he will never be released.

2 This testimony with regards to the department
3 of corrections and what went on in Virginia,
4 testimony with regards to Linda Collins (sic) and
5 what he said, I rob people and that's my profession
6 and these are the things that I do, this talk is as
7 if this man's going to be walking around tomorrow.
8 He will never walk around again. He will never be
9 released again. He will never, ever walk freely
10 within any community in the United States of
11 America.

12 But Mr. Aiken went on and what did he state?
13 What was the testimony about Mr. Mahdi if he is
14 incarcerated? He said Mr. Mahdi, number one, will
15 burn out. He said he's hard now and he thinks he's
16 tough, but the bottom line is he's going to burn
17 out.

18 The second issue was, is that, well, after he
19 burns out, guess what may happen? He may be
20 sexually molested. He may become the victim of a
21 predator. He also stated, We will give him 23 and
22 one, 23 hours in the cell, one hour in the dog run.

23 Under the circumstances, the observation by
24 Mr. Aiken and the observation by Mr. Myers that this
25 is a boy who has made terrible mistakes and now he

1 must pay for those mistakes is exactly accurate.

2 We have statements that are made and let's
3 carefully go through those witnesses. The Solicitor
4 alluded to Amanda Weaver. And Amanda Weaver on
5 cross-examination -- let's go through her direct
6 first.

7 She stated that he said he'd knocked off drug
8 dealers. On cross-examination, we said, Ms. Weaver,
9 when did he say this? You allow a man in your home
10 to do this? And what was her testimony? Well, he
11 was drinking at the time and he was just flapping
12 his gum.

13 We went on with Ms. Weaver and we said, Well,
14 Ms. Weaver, you stated that he came up to your house
15 and he had a gun and it was taken apart and he
16 wanted to know if you could put the gun back
17 together. And her testimony was, I told him I
18 couldn't put it back together.

19 I then went on and asked Ms. Weaver, I said,
20 Well, Ms. Weaver, you would allow a man like this in
21 your home? Well, not after this certain date or not
22 after that certain date.

23 It all sounds good. It all feels good. But
24 the bottom line is, is that Mikal Mahdi has accepted
25 responsibility. He's accepted responsibility of

1 everything that has happened in his life. He's 23
2 years old standing before this Court and the law
3 says that Your Honor can recommend life for a reason
4 or no reason at all or simply out of mercy.

5 The fate that he has to face, if Your Honor
6 should send him to jail, no one wants to face that.
7 When Mr. Aiken was testifying, you could feel our
8 skin crawl the way he talked about what goes on
9 inside of a jail. The South Carolina Department of
10 Corrections is well equipped to address any issues
11 that Mr. Mahdi may bring forward.

12 Now, Your Honor, you have a heavy burden on you
13 today. And, in this particular case, I ask that you
14 consider his youth, also. He's 23 years old.

15 Now, maybe you would say, well, Mr. Myers is
16 not here today, so age really doesn't matter.
17 Mr. Myers is away from his family and they'll never
18 see him again. But under the circumstances, Your
19 Honor, this boy, this immature boy, as the
20 prosecution and defense witnesses have characterized
21 him, comes before the Court and accepts
22 responsibility for what he has done. He has
23 admitted his guilt.

24 We ask that you consider mercy. He will never,
25 ever be free again. He will never harm anyone

1 again. He'll simply go to the department of
2 corrections. As Mr. Aiken stated, there is a
3 continuum of force to deal with him.

4 And if he is someone that gets out of hand, as
5 Mr. Aiken stated, I've ordered the execution of two
6 different people. And he went on to state that the
7 South Carolina Department of Corrections has the
8 policies, procedures and administrators in place
9 that can carefully deal with Mr. Mikal Mahdi. But
10 as he stated, Mr. Mikal Mahdi is not a major player.
11 Mikal Mahdi's life is essentially over. He will
12 simply sit in jail and he'll go through that same
13 process that Mr. Aiken referred to.

14 Were evil things done? Yes. Were bad things
15 done? Yes. Did he hurt this family? Yes. He's
16 accepted full responsibility for that.

17 His childhood, the events that occurred is bad,
18 but he stood before this Court and said, I accept
19 responsibility for what I've done. There's no
20 excuse. We ask that the Court consider mercy under
21 the circumstances, strongly consider the fact that
22 he did not know this man was a police officer and
23 his prior behavior, as the prosecution and defense
24 have stated, he is a boy that made some terrible
25 mistakes, but he will never, ever, ever walk the

1 streets of America again. We simply ask for mercy,
2 Your Honor. We ask for life. Thank you.

3 **THE COURT:** Thank you, Mr. Walters.

4 I'm going to schedule a sentencing hearing in
5 this case -- schedule this case for sentencing on
6 this Friday at 4:00 p.m.

7 And I'll modify what I stated to counsel
8 yesterday and clarify it as well, I do not want
9 counsel to submit a proposed sentencing order,
10 obviously, the sentencing is for the Court. I would
11 like counsel to submit a sentencing memorandum, each
12 counsel to submit a sentencing memorandum and
13 particularly having the defense to list all
14 statutory and nonstatutory mitigating factors that
15 the defense believes to have been established by the
16 evidence and to provide a basis for the Court to
17 consider and the manner in which the defense
18 contends that the State should consider them.

19 In addition, the prosecution will outline the
20 aggravating circumstances and lack of mitigating
21 circumstances and a discussion of the two things.

22 If I can have those e-mailed to me by 4:00 p.m.
23 tomorrow, I'll review them, along with all of the
24 other evidence submitted in the case, consider it
25 all and we'll come back Friday at 4:00 p.m. for

1 sentencing. Court will be in recess until that
2 time.

3 MR. PASCOE: Thank you, Judge.

4 MR. WALTERS: Thank you, Your Honor.

5 THE COURT: Mr. Mahdi, if you will stand for
6 me, please.

7 Mr. Mahdi, having heard the closing arguments
8 by the State and the defense counsel, I want to once
9 again give you an opportunity to address the Court
10 concerning any closing argument or statement that
11 you would like to make, if you care to make one.

12 DEFENDANT MAHDI: No, sir, Your Honor.

13 THE COURT: All right. You do not wish to
14 address the Court regarding sentencing?

15 DEFENDANT MAHDI: No, sir, Your Honor.

16 THE COURT: All right. Thank you very much.

17 (Whereupon, the proceedings were concluded
18 for December 6, 2006.)

19 (The following proceedings were held on
20 December 8, 2006.)

21 THE COURT: Mr. Walters, Mr. Koger, anything
22 before we proceed?

23 MR. WALTERS: No, sir, Your Honor.

24 THE COURT: If the defendant will come forward
25 for sentencing.

1 First, I want to commend Solicitor Pascoe and
2 Deputy Solicitor Sorenson, as well as defense
3 counsel, Mr. Walters and Mr. Koger, for your
4 professional advocacy and the efficient manner in
5 which you have handled this case.

6 I also thank Mr. Hasty, the Clerk, and the
7 courthouse staff, law enforcement and all of the
8 witnesses for the courtesies and respect shown to
9 the Court during this arduous proceeding.

10 I especially thank the, approximately, 400
11 citizens of Calhoun County who were summoned to jury
12 duty and responded by appearing for this extremely
13 important and essential civic responsibility.

14 Now, I advise all present against any outbursts
15 of expression because some will agree and some will
16 disagree with the Court's decision. The decorum of
17 the Court, however, must be maintained at all times.

18 The defendant, Mikal Deen Mahdi, was indicted
19 by the Grand Jury of Calhoun County for murder,
20 burglary second degree and grand larceny of a motor
21 vehicle, valued in excess of \$5,000. Pursuant to
22 South Carolina Code Section 16-3-26, the Solicitor
23 timely notified the defendant that he intended to
24 seek the death penalty as punishment for the murder
25 of James E. Myers.

1 On November 30th, 2006, the defendant waived
2 his right to a jury trial and pled guilty to all
3 charges after the jury was seated, but not yet
4 sworn. Mr. Mahdi acknowledged that he understood
5 that as a consequence of his guilty plea to murder
6 while in the commission of burglary and grand
7 larceny, that the Court would conduct a separate
8 sentencing proceeding and determine whether he
9 should be sentenced to life imprisonment without the
10 possibility of parole or death.

11 From December 4th through 6th, 2006, the Court
12 heard additional evidence in extenuation, mitigation
13 or aggravation of the punishment. The Court also
14 heard the arguments of counsel for or against the
15 sentence to be imposed. Mr. Mahdi waived his right
16 to testify and to have the final closing argument
17 regarding the sentence to be imposed.

18 On December 6th, 2006, the Court requested and
19 subsequently received memoranda from both counsel
20 for the State and counsel for the defense listing
21 all statutory and nonstatutory aggravating and
22 mitigating factors believed to have been established
23 by the evidence.

24 This order that I am publishing today is as a
25 result of the guilty plea and the separate

1 sentencing proceeding to determine whether the
2 sentence of the defendant, Mikal Deen Mahdi, for the
3 murder of James E. Myers should be life imprisonment
4 without the possibility of parole or death.

5 The facts are that in the early morning of July
6 18th, 2004, after carjacking a vehicle in Columbia,
7 South Carolina, the defendant pulled into the Wilco
8 Travel Plaza off Interstate 26 in Calhoun County and
9 attempted to use stolen credit or check cards --
10 and/or check cards. Employees at the Travel Plaza
11 called the Calhoun County Sheriff's Office reporting
12 that the defendant was acting in a suspicious
13 manner.

14 When the sheriff's deputy arrived at the Travel
15 Plaza, the defendant fled into the woods and
16 eventually entered upon the land owned by James E.
17 Myers and Amy Tripp Myers. Mr. Myers was an
18 Orangeburg Department of Public Safety captain who
19 was off duty, but on-call at the time.

20 Mr. Mahdi forcibly entered a shed located on
21 the land. When Captain Myers arrived at his
22 property, Mr. Mahdi was lying in wait.

23 Early that afternoon, Captain Myers and his
24 wife, Amy, returned to their home in Orangeburg
25 County from Edisto Beach after celebrating the

1 birthdays of Amy, his sister and his daughter.
2 After returning home, he visited his father, who
3 lived a short distance away. Captain Myers left his
4 father's home and stopped by his farm in Calhoun
5 County. He went to the shed located on the farm as
6 he had done many times before.

7 The shed was where he and his wife were
8 married. The shed was where their -- was their
9 place of peace and serenity. And this shed held
10 treasured memories and dreams of Captain Myers and
11 his wife.

12 On the premises was Mikal Deen Mahdi who shot
13 Captain Myers nine times with a .22 caliber
14 semiautomatic rifle that was stored in the shed.
15 Three of the bullets were to the head. The
16 defendant poured diesel fuel over Captain Myers'
17 body and lit him on fire. The defendant then stole
18 Captain Myers' city issued truck and rifles and fled
19 to Florida.

20 On July 21st, 2004, the police department in
21 Satellite Beach, Florida apprehended the defendant
22 after a chase. He was driving Captain Myers' truck.

23 Based upon the defendant's guilty plea,
24 testimony presented and other evidence in this case,
25 the Court finds and concludes as follows:

1 The State alleges the following statutory
2 aggravating circumstances: One, that the murder of
3 Captain James E. Myers was committed while in the
4 commission of burglary in the second degree. Two,
5 the murder of Captain James E. Myers was committed
6 while in the commission of larceny with the use of a
7 deadly weapon. Mikal Deen Mahdi pled guilty to
8 murder, burglary in the second degree and grand
9 larceny.

10 The State presented additional evidence during
11 the sentencing proceedings concerning the manner in
12 which the murder of James E. Myers occurred while
13 the defendant was committing these crimes. Further
14 evidence was presented indicating that the defendant
15 stole from the victim his police issued vehicle and
16 two rifles, one of which was used to kill the
17 victim. I find that these two aggravating
18 circumstances were proven beyond a reasonable doubt.

19 The State alleges the following as additional
20 statutory aggravating circumstances: Three, that
21 the murder of Captain James E. Myers was committed
22 while in the commission of a robbery while armed
23 with a deadly weapon. Four, the murder of Captain
24 James E. Myers occurred during or because of the
25 performance of his official duties.

1 There is strong evidence to suggest that items
2 were taken from the person of Captain Myers,
3 particularly since his police badge has never been
4 recovered. The evidence also suggests that a South
5 Carolina Law Enforcement Division investigative file
6 on the premises being worked on by Amy Tripp Myers,
7 then a SLED agent, had been disturbed during the
8 time the defendant was alone in the shed. This is
9 evidence that the defendant knew or should have
10 known that he was on the premises of a person or
11 persons involved in law enforcement.

12 I conclude, however, that the State has failed
13 to prove these two aggravating circumstances beyond
14 a reasonable doubt; therefore, I have neither
15 considered nor given any weight to these two
16 allegations as aggravating circumstances.

17 The State also alleges the following
18 nonstatutory aggravating circumstances. The State
19 presented compelling evidence of prior and
20 subsequent bad acts of the defendant, which are
21 relevant to show his bad character, evil nature and
22 malignant heart. These incidents covered a period
23 of over eight years showing the defendant committing
24 a series of crimes, including housebreaking,
25 stealing guns, robbing people, selling crack

1 cocaine, vandalism and malicious wounding.

2 These bad acts are summarized as follows: On
3 January 7th, 1998, while in the Virginia Department
4 of Juvenile Justice for grand larceny and breaking
5 and entering, Mr. Mahdi, then 14 years of age,
6 conveyed to a counselor doing an evaluation profile
7 that his only strength was robbing people.

8 On June 30th, 1998, Mr. Mahdi, then 15 years
9 old, was involved in an over nine-hour standoff with
10 the Brunswick County, Virginia Sheriff's Department
11 who was attempting to execute an order on the
12 defendant to return him to a juvenile detention
13 facility when Mr. Mahdi made the comment, according
14 to Brunswick County Sheriff James Woodley, that, I'm
15 going to kill a cop before I die.

16 On November 23rd, 2000, the defendant, then 17
17 years of age, attempted to grab the gun of a
18 Richmond, Virginia Police Officer who was attempting
19 to arrest Mr. Mahdi on a vandalism charge for
20 slashing his mother's automobile tires. During this
21 arrest, Mr. Mahdi commented, according to Officer
22 Mike Koehler, that he should have killed that crazy
23 bitch, referring to his mother.

24 On April 17th, 2001, then 18 years old, while
25 attempting to break into an apartment in Richmond,

1 Virginia, Mr. Mahdi stabbed Moises Rivera, a
2 maintenance supervisor, five times, resulting in a
3 felony conviction for malicious wounding. Mr. Mahdi
4 received a 15 year prison sentence suspended to the
5 service of 39 months to be followed by 15 years of
6 probation.

7 During each of these periods of incarceration,
8 Mr. Mahdi's behavior was maladaptive, assaultive and
9 demonstrated an utter disrespect for authority,
10 including threatening the life of a detention
11 officer.

12 Following Mr. Mahdi's release on probation on
13 May 12th, 2004, his criminal activities escalated
14 during a crime spree that resulted in his killing
15 Christopher Jason Boggs during a robbery of an Exxon
16 Station in Winston-Salem, North Carolina on July
17 15th, 2004.. Mr. Mahdi shot Mr. Boggs twice in the
18 face at pointblank range with a weapon that had been
19 stolen from his grandmother's neighbor's house in
20 Lawrenceville, Virginia.

21 On July 18th, 2004, three days later at
22 approximately 3:30 a.m., Mr. Mahdi carjacked Corey
23 Pitts' automobile in Columbia, South Carolina using
24 a chrome plated handgun.

25 Following his murder of Captain Myers,

1 Mr. Mahdi was apprehended on July 21st, 2004 in
2 Satellite Beach, Florida, after jumping out of
3 Captain Myers' city issued truck armed with a Ruger
4 .223 assault rifle belonging to the Orangeburg
5 Department of Public Safety.

6 Following his arrest, Mr. Mahdi stated that,
7 according to Sergeant Darren Frost of the Satellite
8 Beach Police Department, that he did not shoot
9 Sergeant Frost only because the gun was stuck in a
10 three shot burst and he did not think he could shoot
11 him, the other cop, referring to the other police
12 officer, and the F'ing dog.

13 While in safekeeping in the South Carolina
14 Department of Corrections awaiting this trial,
15 Mr. Mahdi made numerous threats to kill various
16 department employees.

17 I find that the State has established by clear
18 and convincing evidence the defendant's bad
19 character and propensities. This evidence is an
20 important consideration to the Court in assessing
21 the defendant's characteristics, but not as proof of
22 any alleged statutory aggravating circumstances.

23 I have considered all of the mitigating
24 circumstances and nonmitigating circumstances argued
25 by the defense, as well as other mitigating

1 circumstances supported by the evidence. Defense
2 counsel argues that the defendant's youth should be
3 considered by the Court in determining the
4 appropriate sentence to be imposed.

5 Mikal Deen Mahdi was 21 years old at the time
6 of the murder of Captain Myers. When last tested at
7 age 14, the defendant's IQ was 108, slightly above
8 average. While this is a young age for such a
9 serious crime, Mikal Deen Mahdi began his criminal
10 career at an early age having entered the Virginia
11 Department of Juvenile Justice at age 14. He is
12 experienced in the world of crime. By the time he
13 committed these crimes, Mr. Mahdi was well aware of
14 the severity of his crimes and the possible
15 consequences.

16 I have considered the defendant's young age,
17 but I have not afforded it great weight in reaching
18 my decision. There is nothing about Mr. Mahdi's age
19 or mentality that in any way mitigates, excuses or
20 lessens his culpability and neither should it be
21 given any significant weight in the Court's ultimate
22 decision as to his sentence.

23 I have also given consideration to what the
24 defense contends to be the defendant's turbulent and
25 transient childhood and upbringing. In reviewing

1 the testimony of Marjorie Hammock, the defense's
2 clinical social worker expert, there's no reference
3 to physical or sexual abuse suffered by the
4 defendant. In addition, records of the Virginia
5 Department of Juvenile Justice indicates that the
6 defendant's father, brother and grandmother
7 continually expressed great care and concern for his
8 well-being.

9 While Mr. Mahdi's family life may have been
10 less than ideal, particularly without the presence
11 of a loving and caring mother, I do not believe that
12 his difficult childhood and family life contributed
13 in any significant way to his senseless criminal
14 activities; therefore, while I have considered this
15 statutory -- this nonstatutory mitigating
16 circumstance, I do not believe that it should be
17 given any significant weight in the Court's ultimate
18 decision as to the sentence to be imposed.

19 The defense presented testimony from Mr. James
20 Akin, a prison adaptability expert. Mr. Akin, a
21 highly credential expert, testified concerning Mr.
22 Mahdi's potential adaptability to prison life.

23 I have considered and reviewed Mr. Mahdi's
24 records regarding his prior behavior in various
25 correctional institutions. He has consistently been

1 disruptive and uncooperative and has threatened to
2 kill prison employees. Officers have repeatedly
3 found homemade weapons, ropes and other contraband
4 in the defendant's cell.

5 During this trial, the defendant brought a
6 homemade handcuff key into the courthouse with the
7 intent of using it, if possible, to escape, thus,
8 posing a serious threat to courtroom security. The
9 Sheriff of Calhoun County testified that Mr. Mahdi
10 stated to him that he made the key while being
11 housed and monitored at the State's highest security
12 level facility.

13 While Mr. Akin gave impressive testimony, based
14 on Mr. Mahdi's behavior in correctional institutions
15 throughout his adolescence and adult years, I do not
16 believe that he is sufficiently adaptable to prison
17 life for this nonmitigating circumstance to be given
18 any significant weight in the Court's ultimate
19 decision as to the sentence to be imposed.

20 The defense further argues a nonstatutory
21 mitigating circumstance -- argues as a nonstatutory
22 mitigating circumstance that the Court should
23 consider the defendant's guilty plea in determining
24 the appropriate sentence to be imposed.

25 The defendant's guilty plea occurred during the

1 fourth day of his trial following jury selection,
2 but prior to the jury being sworn. This was one day
3 following his attempted escape through the use of a
4 homemade key. In addition, Mr. Mahdi has failed to
5 demonstrate any remorse for his actions at any point
6 in time known to this Court. Therefore, I conclude
7 that no significant weight should be given to this
8 nonstatutory mitigating circumstance and the Court's
9 ultimate decision as to the sentence to be imposed.

10 As to victim impact, Mikal Deen Mahdi murdered
11 a husband, a father, a grandfather, a son and a
12 friend of many. Captain Myers was a well-respected
13 police officer, an outdoorsman, a mentor and a
14 treasured jewel of humanity. Mikal Deen Mahdi
15 burglarized Captain Myers' farm shed and stole his
16 family's sense of security and serenity. He robbed
17 the Myers' family and their many colleagues and
18 friends of their right to peaceful enjoyment of
19 life.

20 In considering the appropriate sentence to be
21 imposed, I'm acutely aware that I am being called
22 upon to determine what few of my brethren and
23 sisters on the bench have been called upon to do.
24 It is being the sole judge of whether Mr. Mahdi
25 should be sentenced to life imprisonment without the

1 possibility of parole or death by electrocution or
2 lethal injection. It is an awesome task, which I do
3 not take lightly.

4 United States Supreme Court Justice Potter
5 Stewart referred to the penalty of death in the case
6 of Furman versus Georgia as being different from all
7 other forms of criminal punishment, not in degrees,
8 but in kind. It is unique in its total
9 irrevocability. It is unique in its rejection of
10 rehabilitation as a basic purpose of criminal
11 justice. And it is unique, finally, in its absolute
12 renunciation of all that is embodied in our concept
13 of humanity.

14 My challenge and my commitment throughout my
15 judicial career has been to temper justice with
16 mercy and to seek to find the humanity in every
17 defendant that I sentence. That sense of humanity
18 seems not to exist in Mikal Deen Mahdi.

19 The State pleads for justice. Mr. Mahdi's plea
20 is for mercy. In evaluating these two ideals, I am
21 reminded of my duty-sworn oath to preserve, protect
22 and defend the Constitution of this state and of the
23 United States of America. The obligation that I
24 have applies not only to Mikal Deen Mahdi, but as
25 importantly, it is an obligation that I have to all

1 of the citizens of the State of South Carolina. The
2 State and the defendant are entitled to justice.

3 Today, the defendant also seeks mercy, the same
4 mercy that perhaps Captain James E. Myers sought for
5 an instant before Mikal Deen Mahdi fired nine
6 bullets into Captain Myers' body from one of Captain
7 Myers' prized weapons before setting his body on
8 fire with matches and diesel fuel belonging to
9 Captain Myers. In extinguishing the life, hope and
10 dreams of Captain Myers in such a wicked, depraved
11 and consciousnessless manner, the defendant, Mikal Deen
12 Mahdi, also extinguished any justifiable claim to
13 receive the mercy he seeks from this Court.

14 In considering all of the evidence in this
15 case, I have concluded that the only appropriate
16 punishment for the murder of Captain James E. Myers
17 is death. As to burglary second degree and grand
18 larceny, the sentence is 15 years and ten years
19 respectively, consecutive to the sentence for murder
20 and consecutive to each other.

21 I find, as an affirmative fact, that the
22 evidence in this case warrants the imposition of the
23 death penalty and that its imposition is not a
24 result of prejudice, passion or any other arbitrary
25 factor. It is, therefore, the judgment of the law

1 and the sentence of the Court that you, the
2 defendant, Mikal Deen Mahdi, be taken to the South
3 Carolina Department of Corrections, henceforth, to
4 be kept in close and safe confinement until the 8th
5 day of February 2007, upon which day, between the
6 hours of 6:00 a.m. and six o'clock p.m., that you,
7 the defendant, Mikal Deen Mahdi, shall suffer death
8 in the manner provided by law. May God have mercy
9 on your soul.

10 The execution of his sentence will be stayed
11 pending the automatic appeals and reviews as
12 required by law. This court is adjourned.

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15 END OF PROCEEDINGS
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